

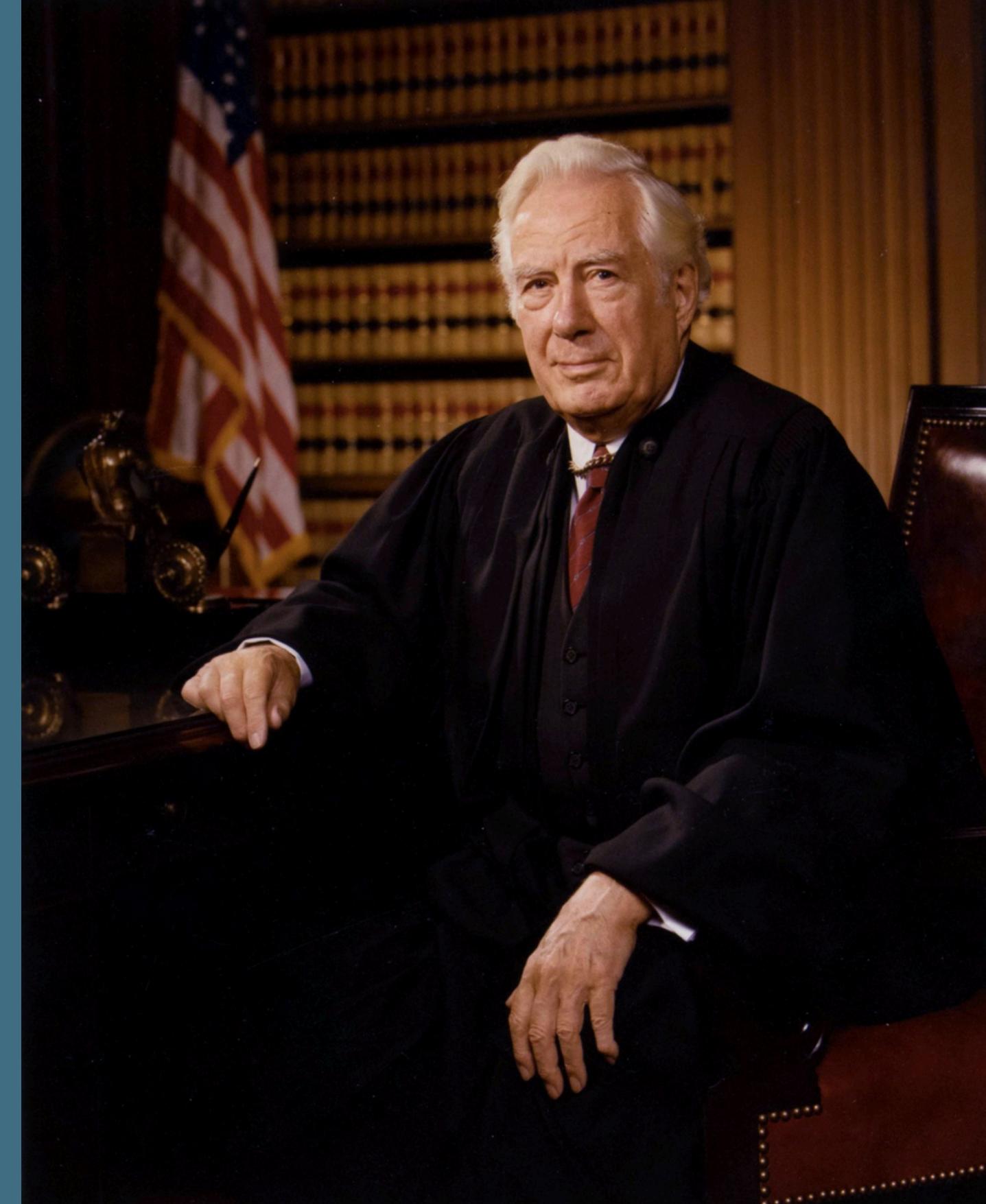
# Equal Protection from Colony to Commonwealth

## SETTING THE SCENE

In 1898, at the end of the Spanish-American War, Spain was forced to cede Puerto Rico to the United States as a result of the Treaty of Paris in July of that same year. Ever since the acquisition of Puerto Rico, the United States has debated what would become of the island, using it for strategic military operations to defend the gateway to the Americas.

**Operation Bootstrap** was passed in 1947 with the goal of establishing economic progress and industrialization. The initiative was led by Governors Jesús T. Piñero and Luis Muñoz Marín. With Operation Bootstrap, the island experienced an influx of migration as people came to work in engineering fields to help push the island forward. However, despite the demand for engineers, one requirement held many legal residents back from advancing their careers. To practice civil engineering in Puerto Rico at that time, individuals had to be United States citizens.

In 1950, the **Puerto Rico Federal Relations Act** was passed, allowing for the creation of an independent constitution for Puerto Rico. In 1952, the United States gave Puerto Rico more autonomy by establishing the island's status as a Commonwealth.



Chief Justice Warren E. Burger led the U.S. Supreme Court in the case *Examining Board v. Flores de Otero* (1976)  
Collection of the Supreme Court of the United States

## THE CONSTITUTION'S ROLE

The Supreme Court's ruling in *Examining Board v. Flores de Otero* was based on several key constitutional clauses.

- The **Equal Protection Clause** in the **Fourteenth Amendment** states that no state shall make laws that take away people's rights to equal protection under the law. This clause was the main justification behind the Flores case, as it was argued that it violated the Fourteenth Amendment to limit professional opportunities for non-citizens.
- The **Due Process Clause** in the **Fifth Amendment** states that no person can be deprived of life, liberty, or property without fair legal procedures. In this case, the requirement of U.S. citizenship to practice engineering was seen as denying liberty without due process.
- The **Privileges and Immunities Clause**, found in **Article IV** and the **Fourteenth Amendment**, protects the rights of individuals under U.S. jurisdiction from discrimination between state or territorial governments. It supports the idea that residents of Puerto Rico should not face unequal treatment under the law.
- The **Supremacy Clause**, in **Article VI of the Constitution**, establishes that federal law takes precedence over state or local laws. In Flores, this supported federal intervention and the argument that the Civil Rights Act of 1871 overrules **Law 399**, even if the Fourteenth or Fifth Amendments were questioned in their application to Puerto Rico.

## PRECEDENTS LEADING TO FLORES

The Supreme Court's ruling on *Flores de Otero v. Examining Board* relied on a foundation of precedents regarding the application of constitutional rights in U.S. territories.

- **Downes v. Bidwell (1901)**: The Supreme Court ruled that certain constitutional provisions do not extend to unincorporated territories, including Puerto Rico.
- **Porto Rico v. Balzac (1922)**: Reinforced the Court's decision that rights such as trial by jury (6<sup>th</sup> Amendment) did not apply locally.
- **District of Columbia v. Carter (1973)**: Found that certain civil rights statutes did not cover jurisdictions outside the states.

Despite this legacy of limited protections, the Court in *Flores de Otero* took a different direction. It applied strict scrutiny and invalidated a Puerto Rican law that excluded non-citizens from practicing civil engineering. The Court held that alienage-based classifications are unconstitutional, shifting how the **Equal Protection Clause** applies in colonial contexts. It reaffirmed that territorial status does not diminish fundamental constitutional provisions.

## LEGAL STATUTES

- **Foraker Act (1900)** – set up a civil government in Puerto Rico after Spain ceded the island to the U.S.
- **Puerto Rico Public Relations Act (1952)** – allowed Puerto Rico to draft its local constitution and achieve more autonomy under its government, establishing the "commonwealth."
- **Law 399, Section 689** – set forth the qualifications for registration as licensed engineers, architects, or surveyors. These requirements included:
  - Completion of a prescribed educational program
  - Successful passage of a written examination
  - Fulfillment of a minimum period of practical experience
  - Possession of United States citizenship as a prerequisite for registration
- **Civil Rights Act (1964)** – prohibited discrimination on the basis of race, color, religion, sex, or national origin. Its enactment represented a pivotal advancement in the protection of civil liberties across the United States and its territories.



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