

## The 'New Compact' revisited



BY RAFAEL HERNÁNDEZ COLÓN

My son José Alfredo Hernández Mayoral, and his son Pablo José Hernández Rivera have just edited a book titled “*Hacia la Meta Final—El Nuevo Pacto—Un Paso Adelante*” (Toward the Final Goal—The New Compact—A Step Forward). This book, now in bookstores, is a well-researched compilation of documents on the “New Compact” drafted by the ad hoc committee appointed by then-President Richard Nixon and myself in 1973 to implement the mandate of the plebiscite held in 1967, in which 60% of island voters voted to develop the Commonwealth to a maximum of autonomy in permanent union with the U.S.

The members of the ad hoc committee appointed by the president were Sens. Marlow Cook, Bennett Johnston and James Buckley, and on the House side, Reps. Thomas Foley and Don Clausen. My appointees were former Gov. Luis Muñoz Marín, Resident Commissioner Jaime Benítez, Secretary of State Víctor Pons, Senate President Juan Cancel Ríos, House Speaker Luis Ernesto Ramos Yordán, Sen. Justo Méndez and Ángel Rivera, a private citizen.

The ad hoc committee held hearings in Puerto Rico, sought opinions from the federal agencies, drafted the New Compact and rendered a report to the president and to me. The New Compact was presented to Congress in the form of a bill, which was approved by the House Subcommittee on Insular Affairs on Aug. 23, 1976. Unfortunately, the next Congress was unable to act upon it because I and the Popular Democratic Party lost the general election in November of that year.

The book, which begins with a prologue by José Alfredo, contains a richness of materials regarding the issues that arose in an effort by the U.S. and Puerto Rico to arrive at a more perfect union through a revision of the 1952 compact that brought about Commonwealth. It includes the New Compact itself, its report, statements before the committee, reports from the federal agencies, the proceedings in Congress, etc. Also included is the section of the second volume of my memories—a work in progress—dealing with the New Compact.

The book provides information and insights quite useful regarding the exercise in self-determination in which we will find ourselves as 2011 unfolds. Although the New Compact was not approved by Congress because we lost the 1976 election, the determinations made by the ad hoc committee and the House Subcommittee on Insular Affairs, and the expressions of the federal agencies, are indicative of the constitutional

nature of the structure and the potential for development of the Commonwealth, and the bureaucratic or political resistance that this will encounter.

Many questions that fester unanswered in our political debate, such as the sovereign nature of the Commonwealth within the Union, the legal capacity of Puerto Rico to enter into a compact with Congress, the binding nature of the compact on the Congress and Puerto Rico, and the dynamic nature of Commonwealth as an evolving relationship were answered by the ad hoc committee, the U.S. Justice Department and the House Subcommittee. These answers retain their validity today.

politic organized by their own free and sovereign will and in common agreement with the United States...The right of the people of Puerto Rico to govern themselves according to their own Constitution and laws, and to have a compact with the United States is hereby recognized.”

The obligatory nature of the New Compact is also made abundantly clear: “In order to respect the right of self-government guaranteed by this Compact, the United States agrees that the provisions of this Compact may be modified only by mutual agreement between the Government of the United States and the Government of Puerto Rico.”

This assertion was supported by an opinion

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The question as to the validity of permanent union by means of Commonwealth is answered in the title of the compact: “Compact of Permanent Union between Puerto Rico and the United States.” This is supported by the following language in the compact: “The people of Puerto Rico, a cultural community of Hispanic language and tradition, citizens of the United States as well as citizens of Puerto Rico, have repeatedly affirmed in their Constitutional Convention, in referendum and in a plebiscite specifically held to that effect, their purpose to live in permanent union with the United States upon mutually satisfactory and just bases.

“In fulfillment of the terms of that plebiscite and subject to the approval of the Congress of the United States and the ratification in referendum by the people of Puerto Rico, it is hereby agreed to reaffirm, to consolidate and to improve the relationship already established, by means of this Compact of Permanent Union between Puerto Rico and the United States.”

The second question answered relates to the source of power that ordains our Constitution and the capacity of Puerto Rico to enter into the compact. The source of power is not Congress, as the detractors of Commonwealth would have us believe. It is the sovereign will of the people of Puerto Rico. Sections 1 & 2 speak to this, and to our capacity, as follows: “The people of Puerto Rico constitute an autonomous body

from the Justice Department signed at that time by none other than current Senate Minority Leader Mitch McConnell.

The dynamic nature of the relationship found expression in several sections of the compact. One of these was the provision on foreign relations: “Except as the President of the United States may determine on a case-by-case basis and advise the Governor of Puerto Rico that such action is inimical to the foreign relations of the United States, Puerto Rico may make educational, cultural, health, sporting, professional, industrial, agricultural, financial, commercial, scientific, or technical agreements with foreign countries and may participate in specialized agencies of international organizations dealing with the foregoing matters.”

If our status debate is to emerge from the morass of arguments that are never adjudicated, sapping all vitality from the will of our people, it is about time that we hold these truths to be self-evident. ■

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*Rafael Hernández Colón is a three-term (12-year) former governor of Puerto Rico (1973-76 and 1985-92). He served as Justice secretary (1965-67) and Senate president (1969-72). He was president of the Popular Democratic Party for 19 years. Comments on this article are welcome at [caribbeanbusinesspr.com](http://caribbeanbusinesspr.com). Go to **Sign in** link on the homepage. Emails also may be sent to [column@caribbeanbusinesspr.com](mailto:column@caribbeanbusinesspr.com).*