

The responsibility of those who have power

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Last week, the U.S. Court of Appeals for the First Circuit rejected the invitation of the New Progressive Party (NPP) to intervene in the democratic processes of the Commonwealth of Puerto Rico. In doing so, the court vindicated the faith of the people of Puerto Rico in the rule of law as applied by the federal courts, and the autonomy of Puerto Rican democracy within the federation of the U.S.

During the past weeks, when the will of the people of Puerto Rico was held hostage by the NPP through a frivolous proceeding in federal Court, I never had a doubt about the final outcome of this matter. But to the vast majority of Puerto Ricans, this experience was nerve-wracking and at times humiliating. I began to sense anger in certain sectors that felt the NPP leadership was trying to steal the election in broad daylight.

The most offensive moment came when it was discovered the Manual of Instructions prepared by the office of the NPP's electoral commissioner plainly instructed the NPP poll watchers to count the split ballots (*voto mixto*) in the manner that the NPP leadership was alleging in federal court violated protected voting rights. The ensuing events brought to my mind an expression I had heard in my youth when I was watching the McCarthy hearings.

These hearings, investigating dozens of decent citizens for alleged communist affiliations, were held in the early '50s by Sen. Joseph McCarthy. Hauled before the Senate Permanent Committee on Investigations were movie stars, college professors, and ordinary folks. Even the Army had to face the inquisitorial self-righteous defender of a nation supposedly at risk from the evil snares of international communism. McCarthy was riding and inflaming the wave of anticommunism existing in U.S. public opinion at the time. The reputations of many honorable men and women were destroyed. In the hearings searching for communist infiltration in the Army, McCarthy viciously questioned a witness from the Army subpoenaed to testify before the committee. Joseph Welch, chief attorney for the Army, in direct confrontation with McCarthy, concluded a scathing remark with the well-known phrase: "Senator, have you no sense of decency?"

I was reminded of this incident when the Manual of Instructions was exposed by one of our dailies for I was president of the Popular Democratic Party for almost a quarter of a century and ran for governor five times. I know manuals such as this one are prepared under the supervision of the electoral commissioner, in this case, Thomas Rivera Schatz. I know they are used to prepare a cadre of instructors who in turn impart instructions to thousands of poll watchers as to the proper way of counting and adjudicating the votes. We all know the NPP poll watchers all over the island adjudicated the *pivazo* split ballots in favor of Anibal Acevedo.

When Rivera Schatz, who was the key witness in the NPP's case in federal court, denied having anything to do with the Manual of Instructions to the NPP poll watchers, and the NPP leadership also reneged from it, I had the same feeling as Welch in the McCarthy hearings.

I asked myself: Have they no shame or decency?

The NPP's venture into federal court, trying to overturn the election under such pretenses, will go down in history as shameless act, contemptuous of our democracy, directed to thwart the will of our people as expressed in the polls.

But let us not confuse those who brought this case in federal court with statehooders in general. Judge Torruella is a statehooder. His status preference didn't cloud his judgment. He knows what has made the U.S. into a great nation is respect for the rule of law, and that the rule of law rests upon respect for the truth to which the law must apply. And he had a message for the NPP leadership in his concurring opinion. To communicate it, he chose to use a quotation from an opinion by Justice Frankfurter, one of the most distinguished justices of the U.S. Supreme Court. It reads as follows:

"The responsibility of those who exercise power in a democratic government is not to reflect inflamed public feelings but to help form its understanding."

This message also applies to the Puerto Rican Independence Party leadership, which tried to capitalize on the turbulence in public opinion to make the point that the intervention of the local federal court was demonstrative of the alleged colonial nature of commonwealth. The specious argument, with which they tried to poison the minds of their Puerto Rican brothers and sisters, was that we have a colonial democracy because the federal courts had the final word in this matter and not the people of Puerto Rico.

The truth is that federal courts don't start federal cases. Federal cases are begun by plaintiffs who rightly or wrongly claim their rights have been violated. No one can prevent an NPP venture into federal court to claim protection under the U.S. Constitution. That is their right as it is of every U.S. citizen on this island.

When they abuse this right by bringing a bogus, frivolous claim before the court, that claim must be rejected, as did the Court of Appeals last week. This doesn't mean the court decides the election; it merely dismisses the unfounded claim, and the electoral results stand on their own under Puerto Rican law, quite independent of the federal judgment.

The court in Boston was emphatic on the point that the jurisdiction over our electoral process belongs to the local State Elections Commission and ultimately to the courts of the commonwealth. Federal law doesn't provide for our democratic processes. The rule of law over our elections is the rule of Puerto Rican law.

Our electoral system has functioned well. We have been proud of our democracy. Our people have had faith in our system. They have participated in our elections in record numbers. They have trusted in the results.

The system is precious to us not only because through it we elect our government every four years, but also because through it we decide important matters by referenda and ultimately we will decide our political destiny through it.

Unfortunately, there are those who don't hesitate to avail themselves of every opportunity to tear apart our electoral system when it doesn't suit their interests. They tear apart not only the electoral system but every institution of the commonwealth from our Supreme Court on down. They fail to understand and to make their followers understand that notwithstanding their status utopias, commonwealth is what we have, we are all in the same boat, and we must all seek our progress and well-being with it or lose our ventures.

