

Justice Fuster

By : RAFAEL HERNANDEZ COLON

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Last Monday, we received with shock and sorrow the news that Justice Jaime Fuster had passed away at the age of 66. During his 15 years on our Supreme Court, he wrote a good number of fundamental decisions on different areas of the law, but I would venture to say that his most important opinions were those in the fields of constitutional and civil law. I had the honor of appointing Fuster to the Supreme Court in 1992. At that time, he resigned his position as resident commissioner in Congress to accept the appointment. The fact that he was coming from Congress prompted some to raise the issue of judicial independence. His years on the court showed Fuster was a justice fully independent of political pressures, beholden in applying the law only to his conscience and his convictions.

Fuster was a graduate with high honors from Notre Dame and the University of Puerto Rico School of Law. He obtained a master's degree in law at Columbia and pursued graduate studies at Harvard. He was a law professor at the University of Puerto Rico and visiting professor in Georgetown and Harvard. He was dean of the Law School at the University of Puerto Rico and president of Catholic University in Ponce. During his academic career he authored various books on the law and numerous law review articles.

As a lawyer, he was assistant undersecretary of the federal Department of Justice, counselor to the Court's Administration of the Commonwealth, to the Civil Rights Commission, to the Environmental Board, to the Corporation for Legal Services to the Poor, to the Medical Association and to the Puerto Rico Association of Engineers & Agronomers.

He was also a member of numerous commissions that undertook important tasks on professional legal matters, such as the Commission on Judicial Ethics, the Commission on Legal Ethics, the Commission on Law School Evaluations and the Commission on the Reform of the Judicial System of Puerto Rico.

In 1984, after he had been president of Catholic University for a number of years, I recruited him to run for the post of resident commissioner to Congress. We had at that time important issues in Congress that demanded a person with the talents attendant to Jaime Fuster. One of these was the assault on Section 936 coming from the U.S. Treasury. The other, which would come down the road, was the enhancement of the Commonwealth through a plebiscite to be authorized by Congress. Fuster worked well with both of these issues but his forte was the Commonwealth matter about which he had written extensive legal articles and about which he had strong opinions.

The Commonwealth matter came up when, as governor of Puerto Rico, I invited the presidents of the statehood and independence parties in 1989 to join me in requesting legislation from Congress to resolve the status issue. Working together we secured the presentation of several bills in the Senate and we moved

the House Interior Subcommittee for Insular Affairs, in which Fuster was a member, to celebrate public hearings in Puerto Rico. These hearings lead the subcommittee to prepare H.R. 4765, a very well thought out bill to provide for the referendum.

Fuster worked intensely with Virgin Islands Delegate to Congress Ron de Lugo, the subcommittee chairman, in putting together this bill. The definition of Commonwealth that would be presented to the people of Puerto Rico was the following:

A new commonwealth relationship.

(A) “The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) “The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several states. The individual rights, privileges and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) “To enable Puerto Rico to govern matters necessary to its economic, social and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.”

It should be noted that the Commonwealth definition that Jaime Fuster fought for belies such matters as the alleged territorial nature of Commonwealth concocted by the highly partisan White House Report recently presented to Congress. It does so by stating the new Commonwealth would be joined in a union with the United States that would be permanent and that the relationship could only be altered by mutual consent. And also that the Commonwealth would be sovereign over matters governed by the Constitution of Puerto Rico. This was voted on by a unanimous House of Representatives.

H.R. 4765 provided for a fast track provision for the consideration by Congress of whatever decision was made between commonwealth, statehood or independence by the people of Puerto Rico. And it also contained a commitment from Congress to vote one way or the other on the decision of Puerto Rico.

This is the best bill on status that Puerto Rico has ever been able to obtain from the House or Senate since we have been dealing with the matter in Washington. It was the best bill for statehood, the best bill for independence and the best bill for commonwealth. The unanimous approval by the House of Representatives gave testimony to the skill of our resident commissioner and to the wisdom of joint action from our three political parties to obtain status legislation from Congress.

The loss of Jaime Fuster is tragic to the Supreme Court and to the people of Puerto Rico for whom he worked all his life in academia, in the Congress or on the court. His commitment to public service and to the values that nurture Commonwealth and our legal system should serve as an inspiration to the upcoming generations that aspire to raise Puerto Rico to higher levels of civilization.

