

Déjà vu status bills before Congress

By : RAFAEL HERNANDEZ COLON

Volume: 35 | No: 10

Page : 31

Issued : 03/15/2007

Two bills on Puerto Rico's self-determination have been presented in the current session of the 110th Congress. H.R. 900 was presented Feb. 7, by Resident Commissioner Fortuño, Reps. Serrano, Rahall, Young and others. H.R. 1230 by Reps. Velázquez, Gutiérrez, Rangel, Faleomavaega and others.

H.R. 900 is the bill supported by the NPP. It is based on the controversial report issued by the Task Force appointed by President George W. Bush. This questionable report, which characterizes Puerto Rico as a territory, recommends a federally sanctioned plebiscite wherein the people of Puerto Rico would choose between remaining a territory or pursuing a "constitutionally viable path toward a permanent nonterritorial status."

H.R. 900 orders Puerto Rico's State Elections Commission to conduct a plebiscite not later than Dec. 31, 2009, wherein the people would choose "only" between the alternatives established in the Task Force's report. If a majority vote in the plebiscite favors the continuation of the "existing territorial status," additional plebiscites would be held at intervals of every eight years, submitting the same options to the people of Puerto Rico.

If the majority vote favors a permanent "nonterritorial" status, then a second plebiscite would be conducted wherein the people of Puerto Rico would choose "only" between statehood, independence or free association under an international agreement with the United States that preserves the right of each nation to terminate the association.

H.R. 1230 is favored by the PDP. Under this bill, Congress recognizes the inherent authority of the people of Puerto Rico to call a Constitutional Convention. The convention would be integrated by a number of delegates to be determined by legislation approved by the Commonwealth of Puerto Rico. It would propose to the people of Puerto Rico a Self-Determination Option which, if approved by the people of Puerto Rico in a referendum, would be presented to Congress by the Constitutional Convention as a Self-Determination Proposal.

Congress would then enact a joint resolution approving the terms of the Self-Determination Proposal, including the provisions necessary to implement the proposal. If Congress approves the Self-Determination Proposal with amendments, it shall be submitted in a referendum to the people of Puerto Rico for approval before it shall be effective. If a Self-Determination Proposal is rejected by Congress or by the people of Puerto Rico, the Constitutional Convention may reconvene for the purpose of deliberating to adopt another Self-Determination Option to propose to the people of Puerto Rico and Congress. The convention would remain in session until a Self-Determination Proposal is enacted by federal law.

Neither of these bills will be approved by Congress; neither will get out of committee. This is the message. It is not a message I have received from congressional sources. It is the message I derive from 41 years of history in which I have been involved in dealing with failed status proposals before Congress.

Why is the writing on the wall regarding these bills? Because they do not propose a procedure acceptable to both main parties in Puerto Rico. H.R. 900 and HR 1230 stem from two different and irreconcilable premises. The premise underlying HR 900 is that the Commonwealth as we know it is a territory of the United States under the plenary powers of Congress. I personally dispute this premise but this is not the place to enter into that discussion.

H.R. 900 goes even further; it is premised under the presumption that even enhanced Commonwealth, as we would like it to be, is not possible because it is contrary to the Constitution of the United States. Therefore Commonwealth is excluded from the proposed plebiscite as a permanent option for the people of Puerto Rico.

It should be obvious to the NPP leadership that there is no way the PDP will ever support a bill eliminating enhanced Commonwealth as an option in a referendum for self-determination. It should also be obvious that within the lifetime of the NPP or PDP leaderships, the PDP, in or out of power, will have sufficient strength to block such a proposal in Congress.

H.R. 1230, which is supported by the PDP, does not contain language that would exclude statehood or any other status alternative for self-determination. It does propose the Constitutional Convention as the mechanism for self-determination, a mechanism the NPP does not support, but it includes language consistent with the NPP's position and, for that matter, the PDP's position, that an enhanced Commonwealth shall not be under the plenary powers of Congress. Nevertheless, the NPP is intent on blocking this bill in Congress and it has the power to do so. It will have such power during the lifetime of its present leadership, and also in the lifetime of the PDP leadership.

So it is déjà vu. Once again, the status bills will face gridlock in Congress. Muñoz Marín and Luis Ferré thought they could resolve the status issue in their lifetime. They died without seeing that day. The generation to which I belong is bound not to see that day also.

In order that such a day may come at some time for Puerto Rico, we must raise status politics to a higher level. It can be done if we start from the proposition that each party has the right to propose to the people of Puerto Rico the terms and conditions of the status alternative that it represents and that it is for Congress—not for the other parties—to determine whether it accepts or rejects these terms and conditions.

This means that if the NPP, for example, proposes a transition period for federal taxes on exempt industry under statehood—a constitutionally debatable proposition—it should be up to Congress to decide, and not for the other parties to veto a priori as part of the terms of statehood in a referendum. The same with

“jíbaro” statehood or with dual citizenship for independence. On the other hand, the terms and conditions that the PDP places on enhanced Commonwealth should be up to Congress to decide, not for the other parties to veto a priori as an unconstitutional proposition in order to exclude this option from the ballot.

Self-determination is simple: Let the people decide what they want. If they want a relationship with the U.S., then the U.S. through Congress must decide whether it accepts or rejects the terms and conditions under which the people want that relationship. If it does not accept them, the people must either accept what Congress is willing to give or go back to the drawing board and propose another status alternative.

Under this premise we can sit down together in good faith to discuss the reasons why all efforts for Puerto Rico’s self-determination in Congress have failed in order to avoid the pitfalls; to identify the bottom line positions of the different parties in order to respect them; and to devise together a creative proposal that we can all support in Congress. Then we shall see the light of day.

