

tory status. Instead, he means a non-territory status that the federal government does not recognize as possible.

In this historical context, it is not clear to most voters in Puerto Rico what a vote for "commonwealth" really means. Does it mean a vote for the current territory status? Does it mean a vote for the status quo but not as a territory? Does it mean a vote for Gov. Acevedo's "commonwealth" proposal for national government powers and greater federal economic benefits?

Statehood, independence, and free association are non-territory status options recognized under U.S. and international law. The federal government has rejected as legally and politically unrealistic over 15 formal proposals by Gov. Acevedo and his political predecessors for a non-territory "commonwealth."

The three steps recommended by the Task Force are intended to clarify the wishes of the people through self-determination based on real options rather than Gov. Acevedo's misinterpretation of the current status and impossible "commonwealth" proposal.

The first step is to conduct a federally-sanctioned vote on whether the voters want the current status to continue or to seek one of the non-territory status options.

It would be provided for both by the rouse bill sponsored with Rep. Serrano and 108 other House Members and by that the bill sponsored by Senators Martinez and Salazar and 13 other senators.

Under both bills, the process would not continue further unless a majority vote to seek a new status. Under the Martinez-Salazar bill, the next steps and the status options would be determined at that time. Under the Fortuño-Serrano bill, the next steps and options would be as proposed by the President's Task Force except that it would be clear that free association between Puerto Rico and the United States would be a nationhood option for the territory in addition to independence.

RESPONSE OF HON. LUIS G. FORTUÑO TO QUESTION FROM SENATOR MARTINEZ

Question 1. The Task Force identified Puerto Rico becoming a nation in a free association with the U.S. as a possible status option, saying that the decision of whether it should be an actual options be made by the Congress and the President. The last Administration and bills passed by the House and sponsored by a number of senators from both parties included free association as an option. A faction of the "commonwealth" party advocates free association.

Do you, favor the inclusion of free association as an option?

Answer. Yes. Free Association is one of the three non-colonial options for a territory in U.S. and international law. It is supported by a growing thoughtful faction of Puerto Rico's "commonwealth" party. It is the real status option closest in nature to Gov. Acevedo's impossible status proposal.

Full consideration of the option has been squelched by Gov. Acevedo's control of his party's organization and because of the confusion, that has emanated from his claim that Puerto Rico is already freely associated with the United States—as he asserted in his initial statement in the hearing.

Free association is non-colonial because it preserves the right of each party to independence. The U.S. precedents for it also involve separate nationality and citizenship as well as separate national sovereignty, although in the case of Puerto Rico this would presumably require a choice between U.S. and Puerto Rican nationality and citizenship for individuals born before free association and Puerto Rican nationality and citizenship for persons born after free association.

As explained to the Committee by the Clinton Administration, free association between Puerto Rico and the U.S. would also presumably include close economic, political and social relations in a non-territory context, including continuation of many federal programs and services normally provided only in domestic areas of the United States.

RESPONSE OF HON. LUIS G. FORTUÑO TO QUESTION FROM SENATOR LANDRIEU

Question 1. The Governor has proposed that we support Puerto Rico holding a convention to choose among options of statehood, independence, and a development of what he calls the current "association"—which is unincorporated territory status—that he hopes would be his "Development of the Commonwealth" proposal. Senator Berrios has supported the Task Force recommendation for a plebiscite between the current territory status and seeking a non-territory status but says that the choice among non-territory options should be made in a convention.

Why are you opposed to the Governor's proposal? What do you think of Mr. Berrios proposal?

Answer.

First with respect to Governor Acevedo's proposal for federal authorization for a local convention to choose among statehood, independence, and a new or amended form of what he misleadingly calls the current "association" between the U.S. and Puerto Rico

In 1989, the then governor, as president of the "commonwealth" party, was joined by the presidents of the other two major political parties, the parties favoring statehood and independence, in seeking federal action to enable the people of Puerto Rico to choose the territory's "ultimate status." In 1994 and again in 1997, the legislative Assembly of Puerto Rico formally petitioned Congress to either implement the proposal of the current Governor's party for a "commonwealth" that is not a territory, that is immune from federal law, and with greater economic concessions from the U.S., or to define the status options it was willing to consider, and, then, sponsor a status vote on the options.

As U.S. Senate Res. 279 of September 17, 1998 reminds us, status resolution for Puerto Rico will require changes to federal law and policy, and only Congress has the power to define the options for an ultimate future status.

The fundamental problem with the Governor's proposal is that it would invite Puerto Rico to choose a status proposal that is incompatible with the Constitution and basic laws and policies of the United States and, thus, is not a status option.

This proposal calls for the U.S. to be permanently bound to the terms of a Covenant with a nation of Puerto Rico that could nullify federal laws and court jurisdiction and enter into international agreements and organizations that States cannot while the U.S. grants an additional subsidy to Puerto Rico and new incentives for investment from the States and continues to grant all current assistance to Puerto Ricans, totally free access to any goods shipped from Puerto Rico, and citizenship.

The convention process is a tactic for delay of progress and for avoidance of accountability for the merits of Gov. Acevedo's status proposal. At best it would be an unproductive and wasteful bureaucratic duplication of the functions of the Legislative Assembly, which is duly-constituted to represent the residents of Puerto Rico with respect to federal affairs. More likely, it would raise expectations on the part of the people of Puerto Rico that cannot be fulfilled for the federal government to authorize the convention to choose a new or amended form of what Gov. Acevedo calls the current "association" when it is aware of what he proposes that new arrangement be.

Gov. Acevedo's convention proposal would also permit the convention to choose a status that did not represent the will of a majority of Puerto Rico's electorate—through a coalition or 'back-room' deal between delegates representing minority factions—and it would not give the voters a chance to consider that choice until after it is approved by the federal government. In fact, the formation of a coalition between supporters of Gov. Acevedo's "Development of the Commonwealth" proposal, advocates of free association, and advocates of independence in the convention is a goal of the proposal already stated by some of Gov. Acevedo's associates. Advocates of independence and free association would probably support Gov. Acevedo's "commonwealth" proposal in the convention to defeat the more popular option of statehood and recognizing that the "commonwealth" proposal would later be rejected by the federal government.

Gov. Acevedo's convention proposal is also flawed in other ways. First, the legislation purports to convey congressional recognition of an inherent right of the people of Puerto Rico to convene a constitutional convention on their political status. What does this really mean? The answer is that the bill was drafted to seek federal approval of a convention that is convened and operates in a manner less democratic than the constitutional convention procedure in the Constitution of the Commonwealth of Puerto Rico. Article VII, Section 2 of the constitution provides the procedure, and it requires a majority vote in a general election.

Additionally, Article VII, Section 3 of the constitution requires that any amendment be consistent with federal law. Another purpose of Gov. Acevedo's legislation is to circumvent this provision, which followed the federal law authorizing the constitution. The law provided the extent of the authority delegated to the territory with the constitution.

Since the 1989 petition of the three local party presidents, Congress has invested significant time and effort into devising a process and a mechanism for status resolution based on self-determination between options Congress can accept if approved locally. To adopt Gov. Acevedo's proposal would be to move backward, not go forward.

It is ironic that Gov. Acevedo claims the local constitution is part of a compact that cannot be unilaterally amended by Congress, and, at the same time, asks in the proposal for a unilateral amendment for a status convention.

Congress should keep its eye on the ball and continue to focus on what federal measures are required to ensure the U.S. citizens of Puerto Rico are able to exercise informed self-determination. This means self-determination that is informed by Congress as to legally-valid options,

That is what the Task Force report recommends, and Congress should carry out the recommendations of the report or in some other way act to ensure that disenfranchisement of U.S. citizens in Puerto Rico does not continue because Congress neglected its responsibilities under the Territory Clause of the U.S. Constitution.

Second, regarding Senator Berríos' convention proposal

The Independence Party's proposal is different from—and superior to—Gov. Acevedo's. Unlike Gov. Acevedo's proposal, it also is not incompatible with the Puerto Rico Democracy Act sponsored by Senators Martinez and Salazar and 13 other senators of the 111th Congress.

The critical difference between the proposals is that the Independence Party's proposal would limit its convention to choosing among the three statuses recognized by the Government of the United States and international law as legitimate—statehood and nationhood in free association with the U.S. as well as independence—and Gov. Acevedo's is intended to choose the 'developed Commonwealth' arrangement that I explained earlier, which has been rejected as impossible by the Bush Task Force as well as the Clinton Administration and every Member of Congress who has commented on it.

The Independence Party's proposal is, however, flawed in terms of democracy. A convention could choose a status not favored by a majority of the people through a coalition of convenience between advocates of statuses that have minority support. Puerto Rico's status choice—the territory's proposal to the United States—should be chosen by the people of Puerto Rico, not a limited group of representatives of the people, so that it is clear that the choice reflects the will of the majority of the people who would live under the status.

RESPONSES OF RUBÉN BERRÍOS MARTÍNEZ TO QUESTIONS FROM SENATOR DOMENICI

Question 1. The Task Force recommends a first plebiscite for the people of Puerto Rico "to state whether they wish to remain a U.S. territory subject to the will of Congress or to pursue a constitutionally viable path toward a permanent non-territorial status with the U.S." It seems appropriate that Congress should gauge the views of the people of Puerto Rico from time-to-time, but phrasing is important. Would you support a plebiscite that asked: Do you wish to continue the present relationship with the United State, Yes or No?

Answer. No. Since the nature of the present relationship is what is precisely at issue, the question should be as unambiguous as possible. The Popular Democratic Party in Puerto Rico favors the existing arrangement, but argues that it is non-colonial and non-territorial. We in the Puerto Rican Independence Party have argued for decades that the present relationship is both colonial and territorial. The statehood party does, too. In fact, the present relationship has been presented to the voters in recent times as "the best of both worlds" by those who favor its continuation, while at the same time denying its territorial nature under the U.S. constitution.

The phrasing referring to "a constitutionally viable path toward a permanent non-territorial status" is ambiguous as well, and can be misleading. There are those who would argue that an "incorporated territory"—one that has been promised statehood—is "constitutionally viable" toward such a permanent status, or that the current "unincorporated territory" could be a "constitutionally viable path" toward something else.

I agree with you, therefore, that phrasing is important. The question should leave no room for doubt. A clearer phrasing would be: "Do you wish to remain as a U.S. territory subject to the plenary powers of the U.S. Congress, Yes or No?" An unlikely "Yes" would, as you correctly point out, cause periodic referenda to gauge the views of the people of Puerto Rico. The most likely "No" vote would, on the other hand, leave no room for doubt as to the majority's desire for change in Puerto Rico.

Question 2. The Task Force Report identified the "free association" relationship that the U.S. has with three Pacific Island nations as a model for a third, permanent, non-territorial status option available to Puerto Rico. How much consideration has been given in Puerto Rico to the "free association" relationship the U.S. has entered into with these Pacific nations, and do you believe it is a model worth further exploration between the U.S. and Puerto Rico.

Answer. First off, let me point out that a non-colonial free association arrangement recognized by international law is, by definition, not a permanent status.