ASPIRA Issue Brief December 1997

The United States and Puerto Rico Political Relations Act Background, Issues and Principles

José Garriga-Picó, Ph.D.
Department of Political Science
University of Puerto Rico

President's Note

As a non-partisan, non-political organization, ASPIRA does not normally address issues that are purely political in nature. Our focus has always been, and continues to be, on education, youth leadership and the development of the Puerto Rican and Latino community. However, there are issues of such historic importance -in this case, to the Puerto Rican community both in Puerto Rico and on the mainland- and where there is so little knowledge of these issues in and outside our communities, that we feel an obligation to present the facts to our community, policy-makers and the general public, for them to make informed decisions.

The political relationship between Puerto Rico and the United States, or the status issue, has been one of the most critical, hotly debated and divisive among Puerto Ricans for almost a century. This issue is one we feel we need to inform our communities about. As the United States Congress moves towards passage of legislation that would, for the first time, establish a U.S.-initiated process to resolve the issue of the Puerto Rico's status -beginning with a plebiscite to be held in Puerto Rico- next year, we have received many requests from across the country for information on this critical issues.

Because we are one of the main national Puerto Rican and Latino organizations in the country, we feel it is important to inform our communities about this issue in an objective, non-partisan way. Therefore, we decided to commission this *Issue Brief* to a prominent Puerto Rican political scientist and political commentator, Dr. José Garriga-Picó, currently Professor of Political Science at the University of Puerto Rico. His views and opinions in this *Issue Brief* are not necessarily those of ASPIRA or any ASPIRA Associate.

Ronald Blackburn-Moreno
President, ASPIRA Association

INTRODUCTION

Pending in the U.S. House of Representatives is (HR-856), the *United States and Puerto Rico Political Relations Act*. If approved by Congress and signed by `the President in its present form, the bill would mandate, for the first time, a congressionally-sponsored process of consultation of the Puerto Rican People regarding the future of its political relationship with the United States. As stated in the bill, its intent is "To provide a process leading to full self-government for Puerto Rico", a process that would lead to the definitive resolution of the highly controversial and emotional question of Puerto Rico's political status. vis-à-vis the United States which has dominated Puerto Rican politics for almost a century.

The **Young Bill**, as it is popularly known, is co-sponsored by sixty seven members of congress, including several members of the Congressional Hispanic caucus, Puerto Rico's Resident Commissioner and one of the three Puerto Rican members, Congressman Jose Serrano (D-NY). [1] It would mandate a plebiscite (or a series of plebiscites) in Puerto Rico to take place beginning as early as 1998, in which Puerto Ricans would express their preference for one of three political formulas: statehood, commonwealth (the current status.) or independence.[2] Yet commonwealth as it currently exists, although offered as an alternative in the ballot, is *not* recognized in the bill as a possible final status solution.[3] Once the Puerto Rican People express their preference for either statehood or independence through a majority of the popular vote, Congress and the President would submit and approve legislation that would enable Puerto Rico to make the transition from its current status to the one selected by popular vote.

The proposed legislation, as can be expected given the history of Puerto Rican politics, is highly divisive and passions tend to run high. In this paper I will present the most important historical facts, the main contended issues, and some indisputable principles that should be observed in the process of discussion of this bill or any substitute.

PUERTO RICO'S CURRENT STATUS

The popular view of the current legal status of Puerto Rico is that the Island is a "commonwealth" of the United States. Constitutionally, this is a misconception. The Supreme Court of the United States has decided that Puerto Rico is, in fact, a *non-incorporated territory* of the United States. In the early part of the century, the Supreme Court of the U.S. decided that, different from other territories, the United States Congress never intended Puerto Rico, as a territory of the U.S., to eventually become a State of the Union as it had in the case of other territories, such as, for example, Oklahoma, Montana or Louisiana. Therefore, the Supreme Court established three status categories: a) State of the Union; b) incorporated territory, where Congress has expressed intent for the territory to become a State; and c) unincorporated territory -where Congress has not expressed an intent to incorporate the territory as a State of the Union. The **Young Bill** is based on the conception that no major change has occurred in the status of Puerto Rico since these decisions by the Supreme Court, and hence, Puerto Rico remains an **unincorporated** territory of the U.S.

SOME HISTORICAL FACTS

Origins of American Sovereignty over Puerto Rico and Early U.S. Rule

The Treaty of Paris and Congressional Authority - After the invasion of Puerto Rico in 1898 by American troops during the Spanish-American War, congressional sovereignty over Puerto Rico was established by the Treaty of Paris between the U.S. and Spain, proclaimed on April 11, 1899. The treaty provided:

> **Article II**: Spain cedes to the United States the Island of Puerto Rico and the other islands in the West Indies presently under its sovereignty and the Island of Guam in the Marianas or Ladrones Archipelago.
>
> **Article IX**: (paragraph 2) The civil rights and the political status of the native inhabitants of the territories hereby ceded to the United States will be determined by Congress.

Based on these provisions of the Treaty of Paris, the United States Congress has exercised plenary powers over Puerto Rico for almost 100 years. Moreover, according to Article IX of the Treaty, Congress must ultimately determine the status of civil rights and political status of the native inhabitants of Puerto Rico.

---

1 The bill is known for its main sponsor, Congressman Don Young (R-AL).

2 The definition of these formulas is a major issue of contention and is discussed in further detail in this paper.

3 In the bill, in the case a majority of Puerto Ricans did not vote for either statehood or independence, plebiscites would be held regularly until either statehood or independence gained a majority vote.

These provisions are at the center of the present status conundrum. Since the signing of the Treaty of Paris in 1899, all laws providing for civil government for Puerto Rico -such as the Foraker Act of 1900, the Jones Act of 1917, and Law 600 in 1950- were approved *without* formal consultation of natives of Puerto Rico by Congress about their preferences among the constitutionally possible -and politically viable- status options. If HR-856 were approved, it would be the first time in the almost 100 years that Congress -which has been sovereign over the Island and which has been entrusted to determine the "civil rights and the political status of the native inhabitants of the territories…"- would formally consult the People of Puerto Rican regarding their preferences among status options.

The Foraker Act of 1900 - Following the Spanish-American War, The United States established a military government in Puerto Rico, which lasted between 1898 and 1900. In 1900, Congress approved the first *Organic Law* (The Foraker Act) to end military rule in Puerto Rico and to establish a civil government in Puerto Rico for local affairs. The native inhabitants of the Island were *not* made American citizens but *Citizens of Puerto Rico*. No civil rights were enumerated in the law and Puerto Ricans had very limited participation in government.

It must be noted, however, that the Foraker Act was intended to formalize the sovereignty over the Island that Congress had acquired through the Treaty of Paris and to establish a civil government for local affairs, thus ending military rule. However, it failed to provide a clear-cut definition of the status of the Island. Such definition had to await judicial interpretation of the Act.

The Court Decides the Status of Puerto Rico - In a series of cases decided in the early part of the century, known collectively as the *Insular Cases*, the U.S. Supreme Court interpreted the Foraker Act asserting that it had made Puerto Rico an *unincorporated* territory of the United States, a concept especially elaborated to convey the idea that the Island was a possession, but not a part of, the United States.

The Jones Act of 1917 - In 1917, Congress approved the second Organic Law (The Jones Act) which made Puerto Ricans citizens of the United States. However, the civil rights of Puerto Ricans were limited to those enumerated in the law. Puerto Rican participation in local affairs was increased but the Congress and the President still controlled two of the branches of government of the Island. Puerto Rico was exempted from the personal and income tax provisions of the recently approved Internal Revenue Code. Again, Congress established a new form of civil government in Puerto Rico, but did not change the fundamental status of the Island as an unincorporated territory as it was interpreted by the U.S. Supreme Court.

Establishment of the Commonwealth of Puerto Rico

Between 1950 and 1952, the Commonwealth of Puerto Rico or "Free Associated State" (*Estado Libre Asociado)*, as it is called in Spanish- was created by a process that included three bills approved by Congress, several referenda held in Puerto Rico, and a local Constitutional Convention.

Public Law 600 and the Federal Relations Act - In 1950, Congress approved a process to allow Puerto Ricans to convene a Constitutional Convention to establish a local government. The law also ordered that, once the Constitution was approved, all the articles of the Jones Act that had to do with local government would stand repealed. The remaining articles of the Jones Act, those having to do with United States sovereignty and governance over Puerto Rico in international and domestic affairs, remained in effect under the name of the **Federal Relations Act.** This Act is still in effect and it defines the relationship between the United States and Puerto Rico.

Regarding personal and income taxes, Puerto Rico remained exempted from the internal revenue provisions. Puerto Rican workers, however, were covered by the Social Security law and pay wage taxes as any other American worker.

Referendum and the Constitution - In Puerto Rico, the people consented to Law 600 by means of referendum. A Constitutional Convention was called, a Constitution was written and it was approved by the People of Puerto Rico.

Public Law 447 - In 1952, after mandating several

amendments to the Constitution developed by the Constitutional Convention, Congress approved the Constitution through Public Law 447 (1952). Before the Constitution came into effect, however, Public Law 447 mandated changes be made to limit its Bill of Rights contained in the Constitution. Much more constricting were the limitations it placed on the power of the people of Puerto Rico to amend their Constitution. No amendment would be valid if it was interpreted by U.S. courts to be at variance with provisions of the Federal Constitution, Public Law 600, the Federal Relations Act or Public Law 447 itself. Hence, no constitutional convention convened by the Puerto Ricans could alter, or even pretend to negotiate, changes in the relation between the Island and the United States. In other words, Congress retained for itself the power it received in the Treaty of Paris to define the political status and civil rights of the Puerto Ricans.

It should be noted that, contrary to the way the term it is generally used, "commonwealth" refers to the local structure of Government in Puerto Rico and not to the status of the Island in relation to the U.S. The Commonwealth is a part of, but not the totality of that relationship.[4] However, for lack of a less controversial term, I also will call "Commonwealth" the present relationship between Puerto Rico and the United States.

Puerto Rico and the United Nations

Since 1945, the United States had been submitting annual reports to the United Nations on its exercise of sovereignty over Puerto Rico under U.N. provisions for decolonizing territories by colonial powers around the world. In 1953, on the basis of the establishment of a constitutional local government on the Island and the promise by the United States to further refine the relationship between the U.S. and Puerto Rico, the United Nations agreed that the U.S. was no longer obligated to submit the annual reports.

Refinements of the U.S.-PR Relations Thwarted

There were several early attempts to refine the relationship between Puerto Rico and the United States after the establishment of the Commonwealth.

Fernós-Murray Bill - In 1959, The Popular Democratic Party in Puerto Rico, which held both the governorship and the legislature, requested refinements to U.S.-P.R. relations in a bill proposed by Puerto Rico's Resident Commissioner, Antonio Fernós Isern, called the Fernós-Murray Bill. The bill, however, died in committee.

Joint Status Commission - During the mid 1960's, a *Joint Congressional-Puerto Rico Status Commission* was established to develop a process by which Puerto Ricans would be consulted about the Island's status. However, Congress evaded passing legislation to formally consult Puerto Ricans on the issue.

The 1967 Plebiscite - Since Congress did not approve legislation to consult Puerto Ricans on the status question, local legislation was approved to conduct a plebiscite in which Puerto Ricans would vote on the three formulas - statehood, commonwealth, and independence. However, the formulas were defined by the majority party -the pro-Commonwealth Popular Democratic Party- leading to the minority parties to abstain from the plebiscite. Moreover, there was no commitment by Congress to honor the results of the plebiscite.

With the main pro-statehood and pro-independence parties abstaining from the plebiscite, Commonwealth won with 60% of the vote. Statehood, led by a pro-statehood group that would later become the New Progressive Party, obtained 39%, and Independence -whose followers boycotted the event- received less than 1%.

The 1970's and 80's

The Popular Democratic Party (PDP) was defeated in the 1968 election. Therefore, they could request no real refinements to the Commonwealth, and none were sought by the pro-statehood Governor, Luis A. Ferré of the New Progressive Party (NPP). Given this unexpected turn of events on the Island, Congress, which was embroiled in the Vietnam War debate and later in the Watergate investigations, neglected to promote any refinements to the Commonwealth, except to increase transfer payments to

[4] See the discussion on Puerto Rico as a non-incorporated territory if the United States, above.

the Island (payments for federal programs in areas such as transportation, housing, health, education, and welfare, authorized specifically by Congress for Puerto Rico).

Because of Congressional inaction during the 1970's and 1980's, the U.N. Committee on Decolonization kept the case of Puerto Rico under consideration and, since, has consistently affirmed Puerto Rican's right to self-determination. Yet Cold War tensions at the time allowed the U.S. to fend off demands for the self-determination of Puerto Rico that came from both inside and outside the Island. These demands were branded as being instigated by the enemies of the U.S. Hence, the internationalization of the debate on Puerto Rico impeded, rather than promoted, any effective changes -or even small refinements- in the relation between the U.S. and Puerto Rico.

Recent Events

As the Cold War came to a close, however, things began to change. In 1989, the presidents of the three principal political parties in Puerto Rico -Rafael Hernández Colón of the Popular Democratic Party (favoring Commonwealth); Baltazar Corrada del Río of the New Progressive Party (favoring Statehood); and Rubén Berríos of the Puerto Rican Independence Party (favoring Independence)- sent a joint letter to President Bush asserting that Congress had never formally consulted the People of Puerto Rico regarding the status of the Island and requesting that such consultation occur.

HR-4765 - As a result of this request, legislation was presented to the 102nd Congress. The U.S. House of Representative approved HR-4765, which provided for a plebiscite in Puerto Rico in which voters would choose between a refined Commonwealth status, Statehood or Independence. The bill, however, did not clearly commit Congress to the definitions of the options to be voted upon, nor did it specify the processes for a transition to a new status. Moreover, the bill contained no strong commitment by Congress to abide by the results of the plebiscite. Hence, the proposal was seen as a beauty contest among three alternatives, that were in fact empty labels that would have little impact on Congress.

S-712/244 - The Energy Committee in the U.S Senate took another route. In bill S-712, it rejected the House's approach and began negotiating with the parties of Puerto Rico to elaborate detailed definitions of the formulas that would be acceptable to all parties, a monumental task, indeed. Moreover, the bill specified a process that would bind Congress to the results of a plebiscite in Puerto Rico.

This self-executing approach, as it was called, became very time-consuming and even aggravating to the Senators, their staff and the political parties in Puerto Rico. In the end, the effort was even more futile than the House's initiative since the bill was not even approved by the Committee. In the 103rd Congress, the Senate Energy Committee continued considering the bill, now called S-244, but again failed to approve it.

The net result was that after more than two years of congressional debate on the status of Puerto Rico, no plebiscite was approved.

The 1993 Plebiscite - Frustrated by Congressional inaction -and with a new Governor in Puerto Rico who had promised that he would tackle the status issue- a plebiscite was held in 1993 under local legislation and without any commitment from Congress to abide by the results.[5] In this case, the definition of the status options in the ballot were developed by the party that defended each option. Needless to say, the definitions were tailored to win votes. There was little regard for what Congress would be willing to grant.

According to the definitions set forth by the parties, Puerto Ricans would be guaranteed:

- *Under Statehood* - Puerto Rican culture and Spanish language.
- *Under Commonwealth* - equal treatment as a state in Supplemental Social Security Incomes and Food Stamps without paying taxes and keeping Section 936 benefits; and
- *Under Independence* - American citizenship for all who wanted to retain it while also having Puerto Rican citizenship.

Even when the parties defined the formulas -which

[5] Governor Pedro Rosselló of the New Progressive Party (NPP)

were geared at attracting voters, and which contained provisions that would be difficult to pass in Congress, none of the formulas received a majority vote. The Commonwealth formula won by a plurality of 48.4%, vs. 46.6% for Statehood, and 4.6% for Independence.

Since the pro-statehood New Progressive Party (NPP) –which was in control of both the legislative and executive branches- did not like the results of the plebiscite, it did not request that Congress implement the winning formula. The pro-Commonwealth Popular Democratic Party (PDP), which defends the *status quo*, did not request any change in the preliminary status by Congress either. Thus, Congress, obligingly, took no action on the issue in 1993.

The Young Bill

In 1994, after the Republican victory in the U.S. congressional elections, the Legislature of Puerto Rico approved a Resolution requesting that Congress once again take up the question of U.S.-P.R. relations. The Resolution asked Congress to declare which elements of the definition of Commonwealth -which won in the 1993 plebiscite- were actually feasible.

The Senate again neglected the issue. However, in the House, the Resources Committee began considering a bill introduced by Congressman Don Young (I-AK) to have Congress formally consult the People of Puerto Rico regarding their political destiny in a plebiscite in which they would choose among alternatives considered to be viable according to Congress, and consistent with international law.

The Young initiative, in its present form, is wholeheartedly supported by the New Progressive Party (NPP), NPP Governor Rosselló, and Resident Commissioner Romero-Barceló (D-PR) -both of whom are Democrats- as well as by Republican leader and former NPP Governor of Puerto Rico, Luis A. Ferré. It is furiously opposed by the Popular Democratic Party (PDP), its President and legislator Aníbal Acevedo-Vilá, by former PDP Governor Rafael Hernández-Colón, and by Miguel Hernández-Agosto, former President of Puerto Rico's Senate -all Democrats. The Puerto Rican Independence Party (PIP), including its President, Rubén Berríos, its Vice President, Fernando Martín, and Manuel Rodríguez-Orrellana, the PIP's main Washington Lobbyist (none of whom are affiliated with U.S. parties), favors the bill with reservations.

MAIN ISSUES

Is there a problem to be fixed?

The first issue under contention in the debate over the Young Bill is the differing views of the nature of the present relationship between the United States and Puerto Rico. According to the proponents of the Young Bill, Puerto Rico lacks full self-government. Hence, Puerto Rico should move to gain full self-government through the process proposed in the Bill. Defenders of the Commonwealth status argue that this is only an imagined problem posited facetiously as a way of destroying the Commonwealth.

The bill, as its findings currently read, states that Puerto Rico is an unincorporated territory of the United States (a colony, in other words), and that such a status is not acceptable under international law, except as a transitional stage to full self-government. It is not a permanent solution to the status issue.

Proposed Alternatives: Statehood or Independence

The Young Bill proposes that Puerto Rico can only move towards full self-government in one of two ways:

1. *Under United States sovereignty*, by becoming an incorporated territory of the U.S. and, after a transition period, becoming a State of the Union, as all other states; or:
2. *Under a separate Puerto Rican Sovereignty*, as an independent or Sovereign Nation in free association with the United States.

In the latest version of the bill, voters would be allowed to vote for a third option –Commonwealth- defined as an unincorporated territory of the United States subject to plenary powers of Congress and only a temporary status. Because it is only a temporary status, if Commonwealth

were to win in a referendum, new referenda would be held at regular intervals until another, permanent, status option is chosen.

ISSUE I

Can Commonwealth be a Permanent Status for Puerto Rico?

The Popular Democratic Party (PDP) argues that the bill's description of the present relationship between Puerto Rico and the U.S. is incorrect. It misconstrues, they contend, the real changes that occurred in the 1950-1952 process (See *Establishment of the Commonwealth, above)* and that it eschews the consultation process in favor of Statehood and against Commonwealth. Specifically, the PDP argues that the present relationship between Puerto Rico and the U.S. is not territorial, but was established in the nature of a **compact** -as stated in Public Law 600 and the Constitution of Puerto Rico. In the 1950-52 process, Puerto Rico exercised self-determination and acquired elements of sovereignty, as the U.N. acknowledged in Resolution 748 (VIII). Congress cannot strip these elements of sovereignty. Indeed, they argue, the Young Bill also fails to mention that the U.N. recognized the current relationship between Puerto Rico and the U.S. as one of association based on the representation made by the U.S. ambassador to the General Assembly.

ISSUE II

Should Commonwealth be redefined?

If differences abound regarding the nature of the present relationship between Puerto Rico and the U.S., even more differences exist regarding the way in which the Commonwealth formula should be defined for a future plebiscite. The dominant position in the Popular Democratic (PDP) has been that if any definition of Commonwealth is going to be included in any bill, and later in a ballot, it should be the one that won the 1993 plebiscite. That definition, known as "the best of both worlds" formula, claimed that the Commonwealth was a permanent relationship based on the exercise of Puerto Rican sovereignty, and would, on the one hand, recognize a separate Puerto Rican identity and interests (*Con el ELA somos puertorriqueños primero*) and, on the other hand, assure U.S. Citizenship for Puerto Ricans now and in the future, and provide for equal participation in federal programs.

The majority position in the U.S. House Resources Committee has been that such relationship is not only politically indefensible in Congress, but is also unconstitutional. Hence, they have refused to accept this definition and have continued to offer the definition of Puerto Rico as an unincorporated territory.

More recently, there have been attempts by some supporters of Commonwealth to propose a new definition for Commonwealth. According to this definition, Commonwealth would be defined in a treaty (to be approved) between Puerto Rico and the United States. This definition -called the Associated Republic approach- is rejected by the PDP officials, but seems to be kept under study by congressional staff and may become a bargaining position later.

In any case, Popular Democratic Party (PDP) officials, including President Aníbal Acevedo Vilá and the prospective PDP candidate for Governor in the year 2000, San Juan Mayor Sila Calderón, do not seem to support this definition. It seems quite likely, moreover, that the process of negotiating a definition of Commonwealth could cause a division within the PDP.

ISSUE III

Are Applicable Principles of International Law Being Followed?

One of the differences between the present process and previous ones is that the applicability of international law is recognized by *all* parties. However, the parties differ on the way they see it applies.

The majority (Republican) staff in the Resources Committee and the supporters of statehood, emphasize that the present relationship is not recognized by international law. They contend that U.N. Resolution 1541 (XV) recognizes three alternatives for decolonization: a)

independence; b) integration to the metropolitan state (Statehood); and c) Sovereign Free Association. Hence, the staff argues, the present relationship should not be included in the ballot and if it is, as in the last version of the bill, it should be considered only as a transitory arrangement.

Supporters of independence concur with this view, but add other aspects. They argue, for instance, that the continued control by the U.S. Federal Government of political, economic, military, police, welfare, and other offices in Puerto Rico, would make a truly free choice in a plebiscite impossible. If dismantling these offices is not possible before a plebiscite, then at least international supervision should be allowed to insure that the U.S. does not manipulate the vote. Moreover, they contend, Puerto Rican political prisoners should be freed before the campaign begins so they can participate in the electoral process.

The Popular Democratic Party (PDP), which supports Commonwealth, argues that the present relationship is a form of Free Association established by a compact between the Congress and the People of Puerto Rico, and ratified by the U.N. From their point of view, those who wish to exclude the present status from the ballot are the ones intent on violating international law, since they do not recognize a valid, existing pact, and wish to limit the people's choice.

ISSUE IV

To what extent must Puerto Ricans adopt English as their language for the Island to Become a State?

The current Young bill specifically states that, should Puerto Rico become a State of the Union, English would become the official language on the Island to the extent it is in other states. As in other states, English would be used in all federal transactions, such as the federal courts and in federal offices. Moreover, the bill does provide that, under statehood, Puerto Rico would be encouraged to utilize English as the language of instruction in public schools.

This issues has created a great deal of controversy. Can Puerto Rico become a State and continue to be a society that preponderantly speaks Spanish? Can it keep Spanish as the language in which the business of government is conducted? Can it keep Spanish as the vehicle in which most education is imparted in schools?

Those who favor statehood argue that choosing the official language of a State of the Union is one of the few things still protected by the Tenth Amendment. Hence, no language requirement could be imposed on Puerto Rico more than it could on other state. In any case, they argue that it is a fictitious problem, since already both English and Spanish are official languages in Puerto Rico. In education, although most instruction is conducted in Spanish, English is extensively used in many educational activities and, at present, the pro-statehood government is promoting the teaching of English in order to produce "the bilingual citizen."

Puerto Ricans who oppose statehood contend that Spanish is the language of the Puerto Ricans who use it as a form of national identification, and of identification with Latin American -rather than Anglo-Saxon- cultural tradition.

Many in the U.S. and in Congress see Puerto Rican reticence to abandon the use of Spanish and to adopt English as an implicit rejection of American culture and a divisive influence in American society. Indeed, the language issue has brought up the question of whether admitting Puerto Rico to the Union would create a situation similar to Quebec in Canada.

Although English is not required for statehood, language differences may impede the formation of a majority coalition in Congress willing to offer Puerto Rico the opportunity to become a state unless specific language requirements are met before it is admitted to the Union.

ISSUE V

The Economic Impact of Status Changes

In a recent television appearance from Argentina -and at the prompting of a question from a Puerto Rican student- President Clinton joined the P.R. debate by arguing that Puerto Ricans should not base their decision among the status formulas on a need or desire to defend their Puerto

Rican culture and identity. He expressed that he felt that within the multi-cultural environment that he sees emerging in the U.S., Puerto Ricans should be assured that they could retain their identity and culture if they choose statehood. Thus, in his view, the choice among alternatives should be based in the perceived economic benefits of each choice. His words were understood by most people as a veiled endorsement of statehood for Puerto Rico.

The economic question, however, has at least two facets. One is the question of which status could provide Puerto Rico with a better platform for economic growth. Econometric studies done by the Congressional Research Service (CRS) in 1990, based on very restrictive assumptions, projected Commonwealth and Independence producing similar tendencies for economic growth while statehood, given the rise in the cost of doing business that it implied, would reduce the overall rate of growth by 10%. Statehood advocates criticized the study not only for its restrictive assumptions, but for its static nature that failed to recognize the new advantages that, according to them, Puerto Rico would enjoy by becoming a State, not the least of which be the increased flow of federal funds to the Island.

Flow of federal funds is another facet of the economic questions that raises a whole host of subsidiary questions that have as much to do with empirical questions as with public policy decisions and political will as, to wit: By how much would federal transfers to Puerto Rico be increased under statehood? How much money would be collected in federal income taxes? What would be the net benefit to Puerto Ricans? To what extent is Congress willing to bear this added burden to the federal budget? How can Congress limit the benefits of Puerto Ricans during a transition period, of whatever length is needed, to pace the growth of the outlays to the increase in the size of the economy and the amounts collected in taxes? What extra benefits is Congress willing to offer to Puerto Rico under Commonwealth or independence to level the playing field between formulas, even if it means that Puerto Ricans, or the Government of Puerto Rico would make contributions to the Federal purse to offset the added costs to the federal budget?

A recent study by the CRS established that, at present, the total annual outlays of the federal government to Puerto Rico total $1.4 billion. Under statehood, after the transition period, Puerto Rico should receive around $14,000. Assuming present income distribution, Puerto Ricans would pay around $1.0 billion in federal taxes. The net benefits to Puerto Rico and cost to the federal budget would be somewhere around $2.5 billion, until increased economic growth increases tax revenues or transfer payments are reduced by Congress.

ISSUE VI

Is a Simple Majority Enough?

Others wonder whether Puerto Rico should be accepted to the Union if only 51% percent of the voters favor of Statehood, especially if a sector of the population, even if it is small, continues to intensely favor independence. Many believe that for Puerto Rico to be admitted to the Union, a super-majority should be required -probably of 60%- favoring statehood.

Those who favor statehood argue that the “American Way” is that 50% plus one is always a “winner”, and to allow a minority, however vocal and intense in their feelings, to impose its will on the majority, is tyranny.

ISSUE VII

Who Should be Allowed to Vote in the Plebiscite?

According to the Young Bill, the elections on status would be conducted in accordance with Puerto Rican electoral law. This means that all and only those who are presently eligible voters -or who qualify to register in Puerto Rico- would be eligible to vote. This excludes almost all the Puerto Ricans living on the U.S. mainland, and includes non-Puerto Rican Americans citizens -such as Cubans and Dominicans- who live and have a right to vote in Puerto Rico. This is seen by some as a way of tilting the decision in favor of statehood.

This is a critical issue, both in Puerto Rico and among Puerto Ricans residing on the mainland. The argument forwarded by mainland Puerto Ricans who favor participation of mainland Puerto Ricans in the election (as

well as by those who oppose allowing other, non-Puerto Rico U.S. citizens, to vote) is that the status issue is really an issue of nationality, to be resolved by "**nationals**" of the country. Some argue that this view has been recognized by the U.N. in other cases around the world, such as in the recent case of Poland. Citizenship -or residency- according to this view, is irrelevant. Therefore, Puerto Ricans on the mainland should be allowed to vote. Moreover, non-Puerto Rican nationals in Puerto Rico, should not be allowed to vote.

Those who feel that only those who currently have the right to vote in Puerto Rican elections should be allowed to participate in the plebiscite contend that, under the U.S. and Puerto Rico constitutions, only citizens residing in a jurisdiction have a right to decide on local issues. Hence, only U.S. citizens residing in Puerto Rico have a legitimate interest in the solution of the status question. Ethnic Puerto Ricans residing in the states have no legitimate interest in the outcome of a status plebiscite since, by leaving Puerto Rico, they have solved their individual status.

Those who feel that all Puerto Rican nationals, regardless of their place of residence, have a right to participate in the plebiscite, contend that the right of self-determination of a nation cannot be rightfully exercised by only a fraction of its members. In no case, moreover, should members of other ethnic groups be allowed to participate in the self-determination decision just because they reside on the territory of the nation as a natural or nationalized citizen of the metropolitan power.

There are serious legal, political and practical questions and arguments regarding both positions, not the least of which is the issue of achieving a consensus on the definition of: *who is a Puerto Rican national?*

Representatives Serrano, Nydia Velázquez (D-NY) and Luis Gutiérrez (D-IL), have made clear that they feel that Puerto Ricans residing in the states should be allowed to participate. They have also made clear their intention to introduce amendments to that effect when the bill is considered in the floor of the House. Congressman Serrano has favored the bill in general (and is a co-sponsor). Therefore, it is not considered that he would try to sink the bill with his amendment. Congressman Gutiérrez and Congresswoman Velázquez, on the other hand, have opposed the bill since it was introduced. Although they may choose not to present an amendment, if they do, it will probably be to try to kill the bill.

SOME POLITICAL CONSIDERATIONS

The Young Bill did not reach the floor of the U.S. House of Representatives this year. However, the bill -or some form of it- may be considered again next year (1998) in the House. The arguments in favor and against the bill, whenever it comes up for consideration by the full House, and later in the Senate, will, however, be basically the same.

Although there is strong opposition in some quarters to offering statehood to a territory with a homogeneous. Hispanic population, the Speaker of the House and Republican Party officials seem to be very aware of possible backlash from the Hispanic community in the states if there is a perception of ethnic discrimination. It thus seems likely that some broad language can be drafted that will allow most Republicans to vote in favor of the bill.

On the Democratic side, most would vote for it if George Miller, the ranking Democrat on the Committee, backs it. It has already received the support of the House Democratic Leader Richard Gephardt. Although Miller does not favor the Commonwealth as it is currently in place, and does not see the "best of both worlds" definition as viable, he has developed a definition of Commonwealth which the PDP, however, has already rejected.

If some form of the Bill passes in the House, the battle will move to the Senate. Then it may become a national issue that will have an impact on all Hispanics in the U.S.

BASIC PRINCIPLES

In view of the importance of the issues related to the "Puerto Rico Debate" as the New York Post has labeled it, all Hispanics should be ready to join the discussion forcefully. Respecting every individual's and group's right to their position on this particular bill, or on the issue of Puerto

Rico's status generally, there are some basic principles that must be defended:

1. Puerto Ricans, as all other People's of the world, are entitled to self-determination.

2. Given the provisions of the Treaty of Paris and applicable international law, Congress has the responsibility to develop a viable process of self-determination.

3. Based on democratic principles and tradition, Congress has a duty to formally consult the Puerto Rican People regarding their preferences among viable status options.
4. In carrying out this consultation, Congress should respect all applicable principles of international law.

5. Accordingly, by means of this consultation, Congress should finalize its power under the terms of the Treaty of Paris to determine the civil rights and the political Status of the native inhabitants of Puerto Rico.

6. Congress should make all status options clear, should clearly define the terms it is willing to consider for Puerto Rico, and should make a firm commitment to abide by the choice of the people among the options that it may offer.

7. In the process of drafting legislation to define the options, Puerto Ricans from all the political parties in the Island -as well as Puerto Ricans in the several states- should be heard and their opinions taken into account.

ASPIRA Association

The ASPIRA Association is a confederation of independent statewide ASPIRA community-based organizations that currently have offices in the Latino communities in Connecticut, Florida, Illinois, New Jersey, New York, Pennsylvania, and Puerto Rico. Each associate office operates a variety of programs that grow out of the specific conditions and needs of their own communities. However, they share a common mission: *Promoting the development of the Puerto Rican and Latino community through the education and leadership development of its youth*. The **ASPIRA Process** is at the center of all ASPIRA activities. The ASPIRA Clubs, organized in over 500 schools and forming ASPIRA Club Federations in major cities, are the core of ASPIRA's organization. ASPIRA Associates, along with ASPIRA's broader network of 5,000 community-based organizations, school districts local and national policy makers, and corporate representatives, receive information and assistance from the **ASPIRA Association National Office** in Washington, D.C., which operates national model programs and serves as the national voice for the Association.

National Office
1444 I Street, NW, 8th Floor
Washington, DC 20005
202-835-3600
fax 202-835-3613
aspira1@aol.com
http://www.incacorp.com/aspira

ASPIRA of Connecticut, Inc.
1600 State Street
Bridgeport, CT 06605
203-336-5762
fax 203-336-5803

ASPIRA of Florida, Inc.
3650 N. Miami Avenue
Miami, FL 33137
305-576-1512
fax 305-576-0810

ASPIRA, Inc., of Illinois
2435 N. Western Avenue
Chicago, IL 60647
773-252-0970
fax 773-252-0994

ASPIRA, Inc., of New Jersey
390 Broad Street, 3rd Floor
Newark, NJ07104
201-484-7554
fax 201-484-0184

ASPIRA of New York, Inc.
470 Seventh Avenue

3rd Floor
New York, NY 10018
212-564-6880
fax 212-564-7152

ASPIRA, Inc., of Pennsylvania
2726 North Sixth Street
Philadelphia, PA 19133
215-229-1226
fax 215-229-0966

ASPIRA, Inc. de Puerto Rico
Apartado 29132
Estación 65 de Infantería
Rio Pedras, PR 00929
787-768-1985
fax 787-257-2725

ASPIRA Association, Inc.
National Office
1444 I Street, N.W. 8th Floor
Washington, DC 20005