

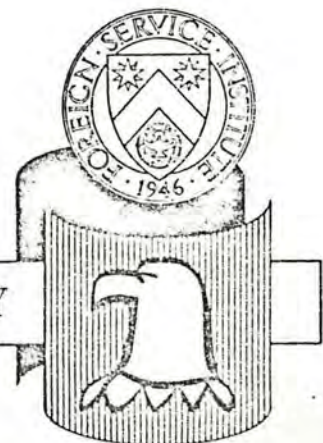
THE PROBLEM OF PUERTO RICO'S POLITICAL STATUS

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Assume for a moment that a certain large metropolitan power: 1) acquires a colony roughly 900- plus miles from the metropole; 2) confers the metropole's citizenship on all the colony's inhabitants; 3) nevertheless extends sufficient powers of self-government to permit the local government to be certified by the United Nations as an "autonomous political entity"; and 4) undertakes concomitantly a massive program of aid and investment which results in the possession's per capita income rising to a level far higher than that of its more immediate independent neighbors.

If such a chain of events were actually to occur, one could also fairly assume that the vast majority of the metropole's citizens would be well aware of what was transpiring in the colony -- and one would be wrong, in at least one notable case. For this is precisely what the United States has done in Puerto Rico, and except for a very small percentage of mainland Americans who have vested interests in the island -- economic, governmental, intellectual -- the average citizen's appreciation of Puerto Rico is likely to be confined to historical tidbits such as the humor-laden polling of the island's three-man delegation at the 1952 Republican Convention, or to more significant -- but not well understood -- phenomena such as the mass exodus of Puerto Ricans to the City of New York in recent years.

No one should really be surprised, of course, at the absence of public attention given to the question of Puerto Rico during the 77 years that it has been under the American flag. The United States is so big, and Puerto Rico so small, that in the absence of some dramatic or crisis-filled situation which might serve to focus attention -- and keep it focused -- the island is an inevitable object of public ignorance or indifference, if not outright condescension. It is true that there have been brief flurries of excitement when small groups of Puerto Rican terrorists have gone into action on the mainland -- for example, the attempt to gun down Harry Truman in front of Blair House in 1950 and the recent bombing incidents in New York City claimed to have been perpetrated by the self-styled "Armed Forces of Puerto Rican Liberation" -- but these have been seen as isolated and essentially insignificant events which have not called into serious question the nature of the relationship which has gradually evolved since 1898 between the United States and Puerto Rico.

What is rather disconcerting -- if not surprising -- is the absence of a purposeful or adequately coordinated approach to basic Puerto Rican policy questions on the part of those American officials who bear responsibility for formulating various aspects of the policy. Although the extent of its authority is ambiguous in certain respects, the U.S. Congress clearly bears the principal responsibility. And yet, as one extremely knowledgeable Congressional staffer has observed privately, the Congress as a whole is "ignorant" about Puerto Rico. Policy affecting the island, he says, "is made by default". Another source on the Hill has gone even further by observing trenchantly that the Consultant to one Committee which has important responsibilities for Puerto Rican affairs "couldn't find Puerto Rico on the map." On the other hand, there appear to be a number of Congressmen who are knowledgeable about the island's affairs, but who, for a variety of reasons, have essentially opted out of a policy-making role. With regard to the over-arching question of the future political status of Puerto Rico, Herman Badillo of the Bronx (who represents a largely

Puerto Rican constituency) has insulated his District from the question by taking the position that "the status [of the island] should be determined by those who remain in Puerto Rico." Philip Burton of California, who wears several hats in the 94th Congress including chairmanship of the House Subcommittee on Territorial and Insular Affairs, is "strictly for self-determination" for Puerto Rico, which means -- in the words of a member of his staff -- that "they [the Puerto Ricans] have to figure out what they want." There is no doubt that a few Congressmen, including Senator Henry Jackson and Tom Foley of Washington, take an active as well as informed interest in Puerto Rican affairs, but their number seems small indeed.

The Executive Branch boasts of a small number of officials -- primarily in the Departments of State and Defense -- who have expert knowledge of the policy aspects of the U.S. - Puerto Rico relationship, but these individuals deal primarily with operational matters of particular importance to their respective offices, and they do not interact closely or coordinate their positions effectively on a continuing basis. Thus, State pays particular attention to Puerto Rico's activities vis-a-vis third countries and the necessity to deal effectively with the next Cuban tirade in the United Nations about U.S. "colonialism" in Puerto Rico. Defense, on the other hand, devotes its attention primarily to the functioning of its base facilities at Roosevelt Roads, Culebra and Vieques. There is a certain policy focus at the level of the National Security Council, but this appears to be of an ad hoc nature on specific issues not resolved elsewhere. Most important of all -- as has been confirmed to the writer by both State Department and Congressional sources -- there is no working relationship at all between those two bodies on the question of Puerto Rico.

The Puerto Rican political leadership -- under the brilliant (and authoritarian) guidance of Luis Munoz Marin from the beginning of the 1940s to the present day -- has taken due account of Washington's fragmented policy-making machinery and has learned well the lesson of how to lobby successfully for political and economic largesse for the island. (Munoz's own rise to power was facilitated by his astute lobbying activities with Franklin Roosevelt in the 1930s and early 1940s, leading to an amendment in 1947 of the Jones Act of 1917 to permit the Puerto Rican people to elect their own governor as from 1948. To no one's surprise, Munoz became the first elected governor and remained in office until he turned it over to his hand-picked successor in January 1965.) The lobbying technique, according to one well-placed Puerto Rican source, has embodied the Napoleonic tactic of divide-and-conquer; it has succeeded particularly well in recent years because the Puerto Rican representation in Washington has been well-led, cohesively organized and capable of keeping the Federal bureaucracy compartmentalized while the Puerto Ricans seek benefits. Thus, former Resident Commissioner Cordova Diaz's approach to Congressman Foley five years ago with regard to bringing Puerto Rico into the Food Stamp Program led last year to Puerto Rico's inclusion in the program (for which roughly half of the Puerto Rican people are eligible). By way of contrast, problems involving the U.S. Navy and Marine Corps utilization of training bases in and around Puerto Rico are -- at least on a day-to-day basis -- handled through the Assistant Secretary of the Navy for Installations and Logistics.

Puerto Rico's lobbying activities in Washington have been facilitated by the astute use of influential local law firms, such as Covington &

Burling and Arnold & Porter. (Munoz's relationship with the latter has been so close that partner Abe Fortas was at one point only half-facetiously referred to as the "de facto Resident Commissioner.") Some reports have it that as many as 13 different firms have been involved in providing a variety of legal services to the Puerto Ricans.

Puerto Rico's official activities in Washington are complicated -- but only to a minor degree -- by virtue of the fact that it has two separate offices in the city: that of the Resident Commissioner, who has had a seat in the U.S. House of Representatives from the time that civil government was instituted in Puerto Rico in 1900 (but who cannot vote -- except in Committees, of which he may be a member), and the Office of the Commonwealth of Puerto Rico, which was established after Puerto Rico was removed from the aegis of the Interior Department as a consequence of attaining Commonwealth status in 1952. Puerto Rican sources note that there have been "traditional" frictions between the two offices, but these appear attributable to occasional personality conflicts, normal bureaucratic rivalries, and to the fact that the Commonwealth Office is responsible to the Governor of Puerto Rico while the present Resident Commissioner is extremely close to now-elder-statesman Munoz Marin. Whatever frictions may exist, have not deterred one Washington source from extending to the Puerto Rican representation the supreme accolade of the Federal bureaucracy: "they are well plugged-in in this town." The same source summed up the Puerto Rican operation in these terms: "If they can't see a prohibition [on an intended action], they do it until they are pulled up short... They generally get away with it, since no one is looking that closely and we feel awkward about intervening."

One may fairly ask whether it really makes much difference if U.S. officialdom is not efficiently organized to make basic policy decisions bearing on Puerto Rico and its future. After all, the argument might run, the fact that the Puerto Ricans have lobbied successfully on a pragmatic basis for political and economic gains is an eminently justifiable response to the U.S. takeover of the island from Spain by force of arms. The U.S. thereby assumed an open-ended obligation to promote the well-being of the island's inhabitants, and it has met this obligation by raising the islanders' standard of living in a strikingly successful manner and by granting them a very large measure of internal political autonomy. All that is required, following this line of thought, is for the U.S. to continue responding favorably to Puerto Rican desires for further advancement.

There can be no doubt about the magnitude of the economic advance that Puerto Rico has enjoyed over the past 35 years. In his 1969 book The Modernization of Puerto Rico, Professor Henry Wells has eloquently described the process, which essentially began with Franklin Roosevelt's fortunate selection of Rexford Guy Tugwell as Governor of Puerto Rico in 1941, was followed by the formation of the Industrial Development Company ("Fomento") in 1942; and bore fruit in Fomento's successful campaign to attract private investors to the island by means of tax exemptions and other attractive services ("Operation Bootstrap"). The results have been impressive: Per capita net income has risen from the subsistence level of \$121 in 1940 to \$2,000 in 1974. (The increase in the last 10 years alone has been on the order of 140%.) With an island population close to 3 million, the GNP at current prices reached the level of \$7.2 billion in 1974.

Puerto Rico's economic advance has been paralleled by improvements in the governance of the island, culminating in the establishment of the Commonwealth of Puerto Rico in 1952. The way-stations to Commonwealth status reflect to a large extent the political maturation of the United States in the 20th Century:

1898 Treaty of Paris - Article 9 of this treaty provided merely that "The civil rights and political conditions of the territories here ceded to the United States will be determined by Congress."

1900 Foraker Act - This Act replaced the military government with a civil government and, as noted by Michael Reisman in his just-published study on Puerto Rico and the International Process, gave powers to the U.S. President which were almost caudillan in scope; including appointment of the Governor, the Executive Council (which also constituted the upper house of the Puerto Rican legislature), and all of the justices of the insular Supreme Court. The Act reserved to Congress the right to annul any law passed by the Puerto Rican legislature, and also declared that all Federal legislation, except internal revenue laws and other measures "not locally inapplicable," would have the same force and effect in Puerto Rico as in the U.S.

1917 Jones Act - This Act granted U.S. citizenship to Puerto Ricans, promulgated a bill of rights for the island, and provided that the upper house of the Puerto Rican legislature was to be elected.

Public Law 362, 1947 - This was the law which provided for an elective Governor.

Public Law 600, 1950 - This was the basic law which led to the establishment of the Commonwealth, by stating that "fully recognizing the principle of government by consent... the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption." The Law was adopted "in the nature of a compact" -- about which more will be said later. The law provided that when the constitution became effective, there would be automatic repeal of certain sections of the Jones Act (relating primarily to matters of local concern). The remaining sections of that Act, as amended (termed the Organic Act), were renamed the Puerto Rican Federal Relations Act.

The process set in train in 1950 reached fruition in July 1952, with the formal establishment of the Commonwealth under its own Constitution. A key question arising from the legislative actions of 1950-52 has important relevance for the future: what was the nature of the change in the relationship between the U.S. and Puerto Rico occasioned by the Commonwealth's establishment, and what are the U.S. and Puerto Rican perceptions of that change?

Before addressing that question -- and the underlying question of Puerto Rico's future political status -- there remains the question

raised earlier as to whether U.S. governmental machinery can afford to continue responding to Puerto Rican requests on a largely ad hoc basis, and on the implicit assumption that the past and the present can be extrapolated into the future with relative ease on a controlled, gradualistic and acceptable basis. A number of considerations suggest that this may not be possible: ↓

Puerto Rico's economic progress has been made possible through large-scale private investment in industrial development -- with a recent heavy focus on tourism -- and through fairly generous doses of Federal aid. There is no reason to believe that the island will not continue to advance, but there are sufficient storm signals in the present atmosphere of inflation/recession to suggest the need for concern. The tax-exemption features of Operation Bootstrap cannot be as attractive to mainland businessmen when their profits are crunched by spiraling costs, and reports are already filtering in that a number of firms that had been contemplating manufacturing operations in Puerto Rico have decided to locate instead in Haiti or the Dominican Republic. (The average hourly wage rate in Puerto Rico in 1974 was \$2.44, an increase of almost 11% over the previous year.) Moreover, Puerto Rican industrial development has been at the cost of island agriculture; and while it would be an exaggeration to talk in terms of a dual society in Puerto Rico, the visitor cannot help but be struck by the sharp contrasts between the rural -- not to mention urban -- poor and the urban nouveau-riche. This situation, as well as the dislocations inevitable in a situation where the island serves as the fifth largest market for U.S. goods (\$2.68 billion in 1974), suggests to many observers how difficult it will be to develop the sort of broad-based, well-balanced economy that will be necessary to maintain the tempo generated by the beneficent influence of the U.S.'s postwar expansion.

The tool of Federal aid comes instantly to mind. Federal Assistance to Puerto Rico has risen markedly over the past 25 years, but is significantly below that extended to most of the states as a consequence of the Congressional policy of placing ceilings on welfare payments to the island and requiring 50-50 matching contributions from the insular government. (In fiscal year 1973, the ceilings for aid to families with dependent children, old-age and disability assistance, aid to the blind and MEDICAID came to a total of \$56 million.) Of course, Puerto Rico has received significant assistance in many fields other than welfare (e.g., development of utilities, urban housing, education assistance, public health services, hospital construction, and highway construction), but the fundamental fact remains that the U.S. Congress has understandably not been prepared to treat Puerto Rico precisely the way it treats the states. Thus, additional forms of assistance such as the Food Stamp Program seem to slip in on an ad hoc basis and often as a reflection of the success of Puerto Rican lobbying in Washington.

The prospect of a more difficult economic situation in Puerto Rico over the next few years might argue for the desirability of significantly increased Federal aid to help fill the gap, but this may be a slender reed on which to hang a hope. In the first place, the severe competition for available Federal resources makes it difficult for Puerto Rico to be singled out for special treatment. Public awareness of current Federal assistance to the island may be exceedingly low, but if attention were focused on sizeable new programs, there would be scant prospect of strong constituency support in Congressional Districts where the unemployment rate may now be as high as 25%.

The biggest stumbling block, however, may lie in a political rather than economic phenomenon: An attempt now under way on the part of the Puerto Rican leadership to define, if not re-define, the existing Commonwealth relationship in such a way as to provide the islanders with a significantly greater amount of autonomy than they now enjoy -- including a limited role in foreign affairs. Although the Puerto Rican desiderata are likely to be scaled down in the course of bargaining, any move for greater autonomy must be weighed realistically against the Congressional disposition in recent years to treat Puerto Rico almost as if it were a state for the purposes of assistance and many other Federal services. If sufficient attention is brought to bear on the longer-range aspects of this issue, policy makers may be less inclined to permit Puerto Rican policy to be established by default, and more inclined to take a hard (and better coordinated) look at the prospect of Puerto Rico eating one cake made out of the Federal relationship while enjoying another, more sovereign, cake made out of the Commonwealth relationship.

To understand the nature of the Commonwealth Government's current campaign for greater autonomy, one must have some appreciation of the long and tangled history of the political-status issue in Puerto Rico. The roots go back to the early 19th Century and came into this century under a variety of labels, but they gradually evolved into the presently perceived alternatives of statehood, commonwealth and independence. Professor Wells and Professor Gordon K. Lewis have highly readable accounts -- from widely different philosophical perspectives -- of this historical process, but it suffices to note here that the present Commonwealth came about in much the same way that decisions are often said to be taken in the State Department: if presented with a range of three options, the policy maker is drawn invariably to option #2 because options #1 and #3 are seen as too extreme or otherwise infeasible.

Although the options of statehood and independence have had varying amounts of support from the Puerto Ricans themselves over the past 75 years, the statehood movement did not have an aura of credibility early in this century because the U.S. Government did not perceive statehood as the eventual goal of the island. President Taft's annual message to the Congress in 1912, which included a proposal for extending U.S. citizenship to the Puerto Ricans, contained the observation that "... no substantial approved public opinion in the United States or in Puerto Rico contemplates statehood for the island as the ultimate form of relations between us." This sentiment was consonant with the earlier decisions of the U.S. Supreme Court in the so-called Insular Cases, which resulted in Puerto Rico's designation as an "unincorporated territory." This designation not only released a torrent of subsequent legal opinions and judicial decisions on the question of the extent to which the U.S. Constitution applies to Puerto Rico, but also led to the disputable school of thought that unincorporated territories are defined as those not intended for statehood.

The alternative of independence for Puerto Rico has always foundered on the economic rocks of life. It is interesting to recall that Munoz Marin was himself a supporter of independence until the early 1940s. The terms of the prospective independence of the Philippine Islands led him to realize, however, that similar terms for Puerto Rico would spell economic disaster for his island. In recent years,

independence has found support among only about 5% of the electorate in polls, referenda and elections -- although true support may well be in the area of 15% -- and the U.S. Congress has not given serious thought to this alternative.

The evolution of "option #2" -- commonwealth status -- as the only feasible alternative up to now for Puerto Rico owes virtually everything to the political genius of Luis Munoz Marin. Professor Wells points out that: "As a concept, commonwealth status was nothing new. Since the 1820s ... various Puerto Rican leaders had been advocating a relationship with the metropolitan power that would be less binding than assimilation and less divergent than separation. In the times of Luis Munoz Rivera [Munoz Marin's father -- often called the George Washington of Puerto Rico] it had been called "autonomy"; in later years, "association" and "dominion status". Luis Munoz Marin's distinctive achievement was to revitalize this deep-seated status ideal, mobilize latent support for it among the Puerto Rican people, and at least partially realize it as a new form of relationship between Puerto Rico and the United States."

After World War II, Munoz began to search in earnest for a means of maximizing Puerto Rico's political dignity without sacrificing any of the island's existing economic benefits. His campaign, in the wake of his 1948 election victory, for a locally-drafted Puerto Rican constitution culminated in the passage of P.L. 600 in 1950, and it was to this law that Munoz applied his political genius. In effect, he developed a doctrine to construct -- at least in his own mind -- a new type of political entity which could serve as the basis for a permanent rather than temporary solution to the problem of Puerto Rico's political status. Immediately after passage of the law, he interpreted it to be far more than an act to enable the drafting of a constitution. He saw it, on the contrary, to be the foundation for a new autonomous entity, linked of its own free will with the United States in order to continue to enjoy the advantages of association with the latter. In a speech delivered two weeks after enactment of P.L. 600, Munoz articulated the basis for his new doctrine: The law, he said, established the principles of compact and consent. In approving the law and submitting it to the Puerto Rican people, Congress was asking them to consent to its taking effect. If they gave it their approval, the argument ran, the result would be that the Puerto Rican Constitution and the new Federal Relations Act would be legitimized by the consent of the Puerto Rican people.

By 1959 Munoz was saying that: "Puerto Rico is a new kind of state, both in the sense of the United States Federal system and in the general sense of a people organized to govern themselves ... it is a new manner of relationship to the United States, as it could be in the case of any large union or confederation of political societies The idea of 'compact' determines a basic change in the relationship. It takes away from the very basis of the relationship the nature and onus of colonialism. It cannot be revoked or changed unilaterally... . So, the political status of Puerto Rico is one of free association with the American Union." Professor Lewis observes cogently that the premises flowing from this line of argument, especially the premise of a limitation on the Federal legislative power with respect to Puerto Rico, would lead to a situation in which

the U.S.-Puerto Rican relationship had taken on the form of "a local status of 'democratic sovereignty', coexisting equally with the agencies of the Federal government as those agencies exercised the functions reserved to them by the agreement." Professor Lewis adds that the validity of this thesis obviously rests upon acceptance of the "compact" theory as preached by Munoz, i.e., that the Congress entered into a compact whereby it "knowingly made partial but irrevocably binding cessions of Congressional power to the island and knowingly agreed further that no element of the compact could be altered without the consent of both parties."

The fly in all of this doctrinal ointment is that any objective study of the legislative history of the passage of P.L. 600 must reach the conclusion that the Congress had no intention of using the law to make a fundamental change in Puerto Rico's relationship with the United States. As Professor Lewis notes: "At no time during ... [the P.L. 600] debates did any Congressional group conceive that it was seriously abrogating the Congressional review power ... or ... that it was doing anything more radical than merely engineering an enlargement of the local self-governing power, as it had done previously in 1917 and 1947 The compact they agreed to did not appear to them to be bilaterally binding in any legal sense (whatever its moral compulsions might be)."

Regardless of Congressional intent, however, it is clear that some sort of significant change has taken place in the U.S.-Puerto Rican relationship since 1952. The precise legal nature of the change remains a matter of dispute, and Constitutional experts still argue both sides of the question of whether Puerto Rico remained a territory after it became a commonwealth. That issue cannot be resolved here, although it is significant to note that in the House Foreign Affairs Committee's Report on the Foreign Assistance Act of 1974, the Committee expressed the view that both Article IV, Section 3 ("[C]ongress shall have the power to dispose of and make all needful Rules and Regulations respecting the territories) and Article I, Section 10 ("no State shall enter into any ... agreement ... with another State or a foreign power") of the Constitution made it necessary for Puerto Rico to receive congressional authorization in order to become a member of the Caribbean Development Bank.³

What is most curious about all of this is that there has been no real U.S.-Puerto Rican confrontation during the past 20 years over the clearly opposed conceptions of the nature of the relationship. It becomes even more curious when one studies Munoz Marin's own statements and realizes that during the entire period, he has been aiming toward a permanent type of "associated state" which would have political autonomy akin to that of a dominion but would preserve all of the economic and other benefits of common citizenship, common currency, common defense, and common market vouchsafed to it originally under the Organic Act. (Professor Carl Friedrich of Harvard University, who has given strong intellectual support to this conception, wrote a scenario in 1959 which saw 1975 as the "target year" for attaining the goal.) Munoz has adroitly finessed many of his critics by letting it appear that commonwealth status was not necessarily permanent and did not close the door either to statehood or to independence at a later date. Statehood supporters point particularly to that portion of the Preamble of the Puerto Rican Constitution which states that

"... The commonwealth which ... we now create within our union with the United States" as evidence that the statehood option is still open. Far more instructive, however, is the increased emphasis which the Commonwealth Government in recent years has placed on the literal translation into English of the Spanish translation of the word "commonwealth": Estado Libre Asociado literally means Free Associated State.

The flavor of Munoz's thinking is set forth in a particularly revealing manner in a private memorandum which he provided to the U.S. Secretary of the Interior in 1949. In this memorandum he noted ingeniously that any form of permanent union between the U.S. and Puerto Rico "must imply a sense of equality" but that this equality "need not be sameness." He went on to note that he was seeking "a new kind of statehood" in which the laws of Congress would apply to Puerto Rico only after consent by the Puerto Rican legislature (with some exceptions, such as for matters of national security). He then expressed the hope that in a number of years "production will increase in Puerto Rico to the extent where it can afford to pay federal taxes without basic harm to its population." At that time, he said, "there could be no objection ... to becoming a classic Federated State." He questioned, however, whether that would be a desirable thing to do and noted that if Puerto Rico were able to "contribute its share" to the treasury, it should do so "whether it becomes a federated state or continues in this new status of equality without sameness." Munoz concluded that it was "possible, and perhaps probable, that maintaining this new political mutation in Puerto Rico would serve great mutual interests" and might be "a model for a world federating more and more dissimilar cultures into less and less [sic] great fraternal units."

Why, then, has there been no "great debate" with the U.S. Congress regarding Puerto Rico's status? Primarily, one must assume, due to an over-all lack of interest in the island's affairs and the understandable political instinct not to make waves where none need to be made. So long as the de facto situation has seemed under control, with Federal agencies acting pretty much as if nothing had been changed by the 1950-52 legislation, the Congress has been able to avoid taking official note of the Munoz pretensions. Its purposes appear to have been sufficiently served by occasional statements by Senator Jackson on specific U.S.-Puerto Rican issues as they arise.

It is true that the Executive Branch has given a certain amount of support to the Munoz doctrine in connection with United Nations activity on the colonialism issue. It seems equally true, however, that the State Department's prime interest during the 1953 U.N. debate was to have Puerto Rico removed from the category of non-self-governing territories, even if the action had to be at the cost of a General Assembly resolution which referred to the "compact" between Puerto Rico and the U.S. which had resulted in "attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity." In any event, as Professor Wells points out, official U.S. commitment to a particular interpretation of Puerto Rico's status would have to come from the U.S. Congress or the Supreme Court -- and neither has spoken.

Munoz's efforts to maintain momentum on the status issue led to the establishment in 1964 of a U.S.-Puerto Rican Status Commission. Its report, issued two years later, is particularly significant for the deliberate manner in which it holds open the status options of commonwealth, statehood and independence. The Commission's major conclusion was that all three "confer upon the people of Puerto Rico equal dignity with equality of status and of national citizenship. Any choice among them is to be made by the Puerto Rican people ...". It also observed that "An immediate or abrupt change in political status would involve serious economic risks and dislocations. These could be offset by special economic and financial arrangements which, in the case of Statehood, would clearly involve financial assistance well beyond the levels Puerto Rico is today receiving. In the case of Independence, the costs of an abrupt change could be much greater."

The Status Commission invited a Puerto Rican plebiscite on the status issue, and it took place in July 1967. The question may be raised -- and has been raised insistently by commonwealth opponents -- as to what the plebiscite determined. The ballot provided that a vote for Commonwealth involved: "The reaffirmation of the Commonwealth ... as an autonomous community permanently associated with the United States and for the development of Commonwealth to a maximum of self-government compatible with a common defense, a common market, a common currency and the indissoluble link of the citizenship of the United States." Both statehood and independence advocates charged that such a formulation lacked meaningful specificity, and a large proportion of independence supporters abstained from voting. In the event, the plebiscite showed 60.4% of the electorate in favor of commonwealth; 38.9% in favor of statehood, and 0.6% in favor of independence. It is this vote which has set the stage for subsequent island debate on the status issue, and which commonwealth supporters argue is a clear mandate to secure further "refinement" of the present Commonwealth.

The latest Munoz gambit was set in train after the Commonwealth party (Popular Democratic Party) returned to power in 1972, following four years in opposition as a consequence of a split in the party in 1968. A so-called U.S.-Puerto Rican Ad Hoc Advisory Group was designated in 1973 to "recommend improvements in the Commonwealth relationship" and, following extensive public hearings on the island, the Puerto Rican members of the Group were given the responsibility in June 1974 for "the preparation of a bill which would collect the recommendations as to how the Federal Relations Act of Puerto Rico should be structured." The Puerto Rican side, which includes Munoz himself as well as Resident Commissioner Jaime Benitez, published a first draft in February of this year which would replace the Federal Relations Act with a "Compact of Permanent Union between Puerto Rico and the United States." As indicated earlier, this latest attempt to define the commonwealth relationship is being subjected to an intensive bargaining process -- and cannot hope to survive in its present form -- but it nevertheless raises in the clearest form yet the fundamental question of whether the Congress will be prepared to give formal legislative assent to the compact theory, while simultaneously permitting Puerto Rico to retain all of the economic benefits it enjoys under its present somewhat ambiguous legal status.

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The initial draft of the proposed "Compact" has as its first sentence the statement that: "The people of Puerto Rico constitute an autonomous body politic organized by their own, free and sovereign will and in common agreement with the United States under the juridical structure and official name of the Free Associated State of Puerto Rico." It then goes on to set forth detailed provisions governing the U.S.-Puerto Rican relationship -- some not at all controversial but many highly so. There is no point here in attempting a detailed analysis of a document subject to much revision (the writer knows, for example, that a second draft of the proposed bill has already been prepared), but the scope of some of the proposals is of more-than-passing interest:

1. Puerto Rico would have the right to belong to international organizations and to make agreements with other countries "not of a political nature."
2. All property acquired in Puerto Rico by the U.S. in 1898, and to which the U.S. holds title, would become the property of Puerto Rico. The U.S. could, however, continue to use the property it now uses for public purposes.
3. Navigable waters and the adjacent islands and waters not reserved by the U.S. for public purposes would become the property of Puerto Rico. There is, however, a proviso to cover U.S. defense requirements.
4. The laws of the U.S. which provide loans and other aids in benefits of health, education, welfare, housing, opportunities for employment, and other social remedies to the citizens of the U.S. would be applicable to the citizens of the U.S. residing in Puerto Rico (i.e., no special ceilings for Puerto Rico).
5. A system of "contributory payments" to the U.S. Treasury would be initiated "at the appropriate time, in gradual ways" that would not impede Puerto Rico's development (i.e., no payment of Federal tax, as that would be inconsistent with non-statehood status).
6. All kinds of internal revenue taxes collected on articles transported from Puerto Rico to the U.S. would be paid into the Puerto Rican Treasury (i.e., not limited to excise taxes on rum and tobacco, as provided in the Organic Act).
7. There are provisions, with certain restrictions, for establishing different tariffs on the import into Puerto Rico of finished products or raw materials than are imposed for import into the U.S., and for Puerto Rico to negotiate "agreements and commercial treaties with foreign countries" to that effect. Moreover, the U.S. would take into account the commercial and industrial interests of Puerto Rico, as well as its stage of economic development, when concluding preference arrangements for less-developed countries. In addition, the U.S. would -- should Puerto Rico so desire -- undertake to have Puerto Rico accepted as an "associated state in the process of economic development" (which would give it the benefits of possible regional or world preferential arrangements).

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8. The Puerto Rican Government would be able to fix its own quota of aliens admissible to Puerto Rico.
9. Puerto Rico would have a representative in the Senate, as well as the House of Representatives, and both representatives would have "all the rights and privileges of ... members which are compatible with the Constitution..."
10. Except for laws which "directly affect the rights and duties of citizens and the security and common defense," new Congressional legislation would not be applicable to Puerto Rico over the "explicit and reasoned objection" of Puerto Rico. Puerto Rico would be able to go to court for an "adequate legal remedy against any action that tends to extend to Puerto Rico provisions approved in contravention of its explicit objection."
11. With reference to future regulation of existing and future Federal laws applicable to Puerto Rico, Federal authorities would have to submit a copy of the proposed regulation and consult with the Puerto Rican Government on the aspects affecting Puerto Rico. In the event of disagreements, they would be submitted to a permanent 6-member Joint Commission established elsewhere in the bill. (The Joint Commission would have the basic task of studying "the desirability of eliminating the extension to Puerto Rico of the laws which are applicable to it," for which procedures are established in the bill, as well as the secondary task of studying the possible transfer of Federal functions to Puerto Rican agencies.)
12. There is a provision making it possible, on the basis of Federal determination, for Puerto Rico to receive Federal assistance in the form of block grants, so that Puerto Rico could utilize specific appropriations "according to its own and particular needs and priorities."
13. The Puerto Rican Supreme Court would be the court of last recourse in all matters concerning the laws and Constitution of Puerto Rico, while the U.S. Supreme Court would be the court of last recourse concerning matters involving the U.S. Constitution, U.S. treaties and laws, and the Compact.
14. Proceedings and pleadings in the U.S. District Court for Puerto Rico would be conducted in Spanish rather than English. Its records would also be in Spanish. The Court would not intervene to prevent the establishing or collecting of any tax imposed by Puerto Rican law.
15. The minimum wage of employees in Puerto Rico who work in the fields of shipping and aviation, as well as whose products and services are sold substantially in the U.S., would be covered by U.S. law. In all other cases, however, the authority to fix minimum wages and working hours would lie in the Puerto Rican Government, although it would have the goal of reaching the U.S. minimum wage level "as soon as economic conditions" permitted. Puerto Rico would also have "exclusive jurisdiction" over all matters pertaining to

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labor-management relations and to the regulation of occupational health and safety (except in the fields of shipping and aviation).

16. Puerto Rico would have the "primary" authority to regulate the ecology and environmental quality in Puerto Rico.

Although the second draft of the proposed Compact has toned down some of the proposed provisions outlined above -- particularly with regard to the issues of immigration, procedures for applying Federal law, the bloc-grant principle, judicial review, labor matters and control of the environment -- the basic thrust for greater autonomy remains. One of the most serious Constitutional questions has to do with the permissible limits of a role for Puerto Rico in foreign relations. Richard Camaur's thoughtful study on this subject, which appeared in the George Washington Law Review of May 1974, concludes that Puerto Rico cannot have an autonomous role, but can develop an "identifiable" role with the consent and coordination of the Executive and Legislative branches of the United States. This role, he believes, should be consistent with Puerto Rico's interests derived from its cultural and geographic attributes, but could not legally be expanded in scope beyond foreign relations involvement available to the states. This writer would add only that Congressional sentiment is likely to be along the same lines, although perhaps out of political as much as legal considerations. (The Commonwealth Government is clearly hoping to take advantage of the provision in the recently signed Northern Marianas Covenant which will permit the Northern Marianas to "participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other territory or possession of the United States under comparable circumstances." The Puerto Rican Department of State would love to use this provision as a springboard to enhance its own role in the Caribbean area. However, the manner in which the Congress authorized Caribbean Development Bank membership for Puerto Rico indicates that the Congress will wish to keep a tight rein indeed on the matter of international organization membership.)

Washington sources with whom the writer has discussed the proposed Compact are virtually unanimous in the view that the Ad Hoc Group effort is doomed to failure, even though the Puerto Ricans emphasize the need for "reform" of the Commonwealth (particularly in the U.N. context) and might not be averse to hinting that Puerto Rico's 22 delegates to the 1976 Democratic Convention could be "useful" to a candidate like Senator Jackson. The basic fact is that the proposed Compact goes very far and, as one Senatorial aide has observed, "This is the worst possible time to mention a change in the status of Puerto Rico." An extremely knowledgeable Puerto Rican supporter of commonwealth status has told the writer that the Ad Hoc Group has been "playing outside the rules of the game" and might open up the Pandora's Box of aid vs. autonomy. It would be far better, he added, to "leave the Commonwealth alone, deal with practical questions, and stop playing with world concepts."

Conversations with a variety of informants lead to the conclusion that the proposed Compact is a "stalking horse," and that the only

realistic Puerto Rican aim can be to secure sufficient relatively non-controversial changes in the Federal Relations Act to carry a decent Popular Democratic Party image into the 1976 Puerto Rican elections. (It is also likely that the Popular Democratic leadership will, at an appropriate point, come out in support of obtaining the Presidential vote for Puerto Ricans, a 1971 recommendation of a previous Advisory Group which is strongly supported by statehood advocates as well as many commonwealth supporters.) Much of the present uncertainty will undoubtedly be removed when the Puerto Rican members of the present Ad Hoc Group meet with their U.S. counterparts, led by former Senator Marlow Cook, in Washington on May 8-11.*

What of the political situation in Puerto Rico itself if the Munoz scheme falls short of success? Statehood and independence supporters alike have long been looking for a way to "polarize" the political scene, i.e., to remove commonwealth status as a viable option and leave the electorate a choice only between statehood and independence. There is no doubt that both of these factions will feel emboldened if the Compact scheme fails, but it is not clear at this juncture how much additional support each group might be able to garner.

The Independence Party, under the leadership of Puerto Rican Senator Berrios -- a young, articulate, Yale-educated lawyer -- preaches a doctrinaire Socialistic sermon around the theme of "building wealth on the island or remaining an eternal pauper state." Berrios sets great store in the belief that nationalism is a very strong latent force in Puerto Rico, and that he will be an increasingly strong beneficiary of support from disaffected commonwealth supporters, students, and labor unions. He does not expect anything dramatic to happen, however, until Munoz Marin departs from the active political scene "in the late 1970s."

The New Progressive Party (statehood), on the other hand, considers that it has at least a reasonable chance to come to power next year and expresses confidence that it will have a clear majority of the electorate in favor of statehood at least by 1980. San Juan Mayor Carlos Romero Barcelo will be the party's 1976 gubernatorial candidate, and his popularity as mayor, as well as his effectiveness in preaching the message that "statehood is for the poor" (i.e., that the increased tax bite arising from statehood would adversely affect only the wealthy), gives promise of a fairly close election. Romero has also been the indirect beneficiary of the recent economic turn-down in Puerto Rico, primarily because there is widespread public acceptance of charges that the present Governor (Rafael Hernandez-Colon) has been guilty of "mismanagement" and "running away from his job."

External factors could also play a role in the 1976 election. As one senior Puerto Rican government official has commented, an increase in terroristic activities by Puerto Rican extremists could add to pressures for statehood on the grounds of law and order, i.e., the need for greater personal security. A vitriolic debate in the U.N. on Puerto Rico's status might also contribute an added impulse toward statehood. In any event, the 1972 election results reflect the fact that Puerto Rico is almost split down the middle on the status question (pro-Commonwealth: 51%; pro-Statehood: 44%; pro-Independence: 4%), and the election next year should be even closer.

* A certain amount of the uncertainty was removed by cancellation of the May 8 meeting subsequent to the preparation of this study. It now appears that the Puerto Rican Government will pursue its legislative aims directly with the Congress.

We now return full circle to the question raised at the outset: how important is all of this to the United States? How much do we care about Puerto Rico's future course, and how important is it that we be efficiently organized to deal with the problem? The writer would respectfully suggest that we should indeed care more about where the island is going, and should be at least somewhat less passive about our attitude toward its future political status.

The U.S. Government's position at the present time appears to be essentially that of the Status Commission Report of 1966: That the U.S. is prepared to support either commonwealth, statehood, or independence, depending upon the wishes of the Puerto Rican people. But this may be so only because perpetuation of commonwealth status has made it possible for our leadership to avoid considering what the consequences would really be if Puerto Rico were actually to opt for either statehood or independence. (Independence leader Berrios, for one, claims that the U.S. is not in reality prepared to grant independence to the island, and that an expression of readiness to do so would have a major impact.) A recent visit to Puerto Rico, with the opportunity to speak to a fairly broad spectrum of the island's leadership -- including the government, all the principal political parties, the business community and intellectuals -- has convinced the writer that the present situation is not a healthy one. X X

Puerto Rico has been on a bicentennial search of its own: a quest for dignidad, which may be translated as political and personal dignity. The nature of its 467-year colonial history may help to explain the island's preoccupation with the need for dignity, but what is most clear is that commonwealth is not adequately providing it. Pride, self-respect and a sense of responsibility cannot find full expression in a relationship which is so one-sided in its nature, and it is difficult to conceive how the present arrangement can continue to meet the political and psychological needs of the Puerto Rican people into the indefinite future. Additional elements of disquiet which complicate the picture are left-wing inroads into the Puerto Rican labor movement, student agitation for independence (a small but highly vocal factor), the prospect of continuing if not aggravated economic dislocations, the search for a "cultural" and "national" identity, the possibility of increased terrorist activity, and the vulnerability of commonwealth status to charges of "colonialism" leveled by our friends throughout Latin America.

Curiously enough, there appears to be no intrinsic reason why either statehood or independence could not satisfy Puerto Rico's need to achieve dignidad. These two alternatives proceed from diametrically opposed philosophic bases, but each offers the theoretical possibility of a healthy body politic in a way which commonwealth status does not. This is more obvious in the case of independence perhaps, but no less true in the case of statehood if the Puerto Rican people should decide that they really want "permanent union" with the United States. (Hardly anyone would suggest, for example, that Texans lack pride.) The economic problems posed for Puerto Rico in the event of either independence or statehood would necessitate transitional arrangements extending over a period of many years, but there is no fundamental reason why the problems could not be managed if the political will were present. One might well question the potential extent of economic viability of an independent Puerto Rico, but that is a matter which

the Puerto Rican people would have to weigh in the scales in making a decision about their future.

The writer confesses to being impressed with the logic and clarity of the arguments presented by Puerto Rican supporters of statehood. Baltasar Corrada del Rio, a leading theoretician of the New Progressive Party and a likely prospect as the next mayor of San Juan, is particularly effective in articulating the case for statehood. Corrada del Rio starts from the premise that "when different body politics decide to be permanently bound in a union whose underpinnings are as strong as common citizenship, common currency, common defense and common market, it is not conceived that any of the members of that union may expect or demand privileges or rights substantially different from those that could be recognized to any of the other members." He perceives statehood as providing a maximum of economic well-being for the Puerto Rican people as a whole, and believes Puerto Rico's political needs would be met by a full measure of self-government at the state level and full participation in the governmental process at the national level. Corrada del Rio is particularly persuasive in arguing that the principal weakness of the commonwealth position is that it "does not know where it is going." Not only does statehood mean "responsibility along with benefits," he observes, but it does know where it is going and "the worst thing for a people is not to have a sense of direction."

However, although the statehood position has the beauty of Cartesian logic, a visitor to Puerto Rico is constantly struck by the Hispanic nature of the island and its inhabitants. It is more than the question of speaking Spanish (although the language question is itself an issue for certain U.S. Senators and Congressmen), and statehood supporters must take into account the fact that Puerto Rico's cultural identity poses a different sort of problem for the Federal Union than does, for example, the Chicano culture on the mainland -- notwithstanding the view of Mayor Romero that "the U.S. needs a Spanish-speaking state." Corrada del Rio argues that the "melting-pot" syndrome has been reversed in the United States, and that cultural pluralism and ethnicity are "in"; however, it would clearly require a generous measure of vision and non-dogmatism on the part of the U.S. Congress to acknowledge the uniqueness of Puerto Rico and to be willing to provide for the preservation of its cultural autonomy if it were to become a state.

Moreover, it is inconceivable that the U.S. Congress would be prepared to support statehood for Puerto Rico in the absence of a clearly expressed island preference for that option. The Popular Democratic Party has suffered a decline in support in the past few years -- while the New Progressive Party has made gradual but consistent gains -- but statehood could not conceivably come about if almost one-half the island population were opposed. Statehood supporters argue that the 1967 plebiscite was not a fair test of public opinion: Corrada del Rio maintains that if voters were asked to choose between closer union with the U.S. as opposed to greater autonomy for Puerto Rico, roughly 70% would opt for the former. If that high a percentage could be mobilized in specific support of statehood, the Congress might well be prompted to take a new look at Puerto Rico -- especially since there seems to be rather broad sentiment among the liberal Democratic membership of the House in support of Puerto Rican statehood.

But we really cannot afford to leave this matter entirely to a process of the Puerto Ricans "figuring out what they want." The U.S. not only has obligations arising out of its takeover of the island in 1898, but it has real interests there which must be taken into account. There are commercial business and banking interests to which attention must be paid. There are also strategic interests arising out of Puerto Rico's geographic position in the Caribbean and the availability of portions of its real estate for military training. It would be beyond the scope of this paper to address in detail the question of U.S. base facilities in Puerto Rico, but it is clear that the island's political status must be consonant with the Defense Department's legitimate requirements in the Caribbean area. The huge (37,900 acres) Roosevelt Roads complex could be reduced greatly in size -- at great monetary cost -- but the port facilities are important and would assume particular significance if possible future diplomatic moves vis-a-vis Cuba should affect the status of Guantanamo.

Perhaps most important of all, there is an over-arching political interest in adhering to a course of action with respect to Puerto Rico which can best assure stability on the island and well-being for the islanders in the years ahead. It is unrealistic to expect that Puerto Rico will continue to remain largely "insulated" from the mainland, especially in the light of the increasing flow of people to and from the island and the potential for much greater interaction between Puerto Ricans on the island and Puerto Ricans on the mainland. The latter factor would be particularly important if it began to take on a strongly political coloration.

The purpose of this paper has been not to offer political prescriptions, but rather to call attention to the problems likely to arise out of the Commonwealth Government's current drive for a degree -- and quality -- of autonomy enjoyed by no state of the Union. There is, no doubt, a willingness on the part of the Congress to take some account of Puerto Rico's unique situation -- witness its sanctioning of Caribbean Development Bank membership -- but any change in the basic nature of the Congress's plenary power under the Constitution is another matter.

We need to have a better idea of where we think we are going in Puerto Rico and, as suggested at the outset, we need a more effective focal point in Washington for consideration of the problem. Location of such a focus for the Executive Branch in the State Department would imply a greater degree of Puerto Rican autonomy than we would wish to acknowledge. Location in the National Security Council staff machinery would be illogical in terms of the NSC role in the governmental process. One possibility which appears to have merit would be the designation of a full-time assistant to the President, with a small staff, who would serve in effect as Presidential Assistant for Puerto Rican Affairs. An individual with sufficient stature should be able to consult with the Congress on an effective basis, and would have the mandate to coordinate the activities of the various executive departments and agencies with regard to Puerto Rico policy formulation. He would be expected to take the initiative in searching for ways in which the U.S. can help to "steer" the Puerto Rican political-status question, rather than continuing to drift along in the illusory expectation that Puerto Rican "self-determination" will answer the question before we are confronted with real trouble on the island.

One possible initiative which comes to mind is a Presidential statement or Congressional resolution setting forth an updated public position on Puerto Rico's status; there is no doubt this would help greatly to clear the political air. But even if it were not possible to go that far, it should at least be possible to decide internally how far the thrust for greater Puerto Rican autonomy could be permitted to proceed before it placed too great a burden -- constitutionally or politically -- on the U.S.-Puerto Rican relationship. A prior conception of that limit would help us to decide whether we are really prepared to support commonwealth status in perpetuity, or whether we must prepare now for an eventual move to either statehood or independence.

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