

Notebook

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CENTER HOSTS TWO SPECIAL DIALOGUES

On November 8 and 9 the Center for the Study of Federalism held the first two dialogues in a series designed to commemorate the tenth anniversary of the Center's founding. The series is intended to cover the major areas of work that the Center has concentrated on during the preceding decade. The topics dealt with in the first two dialogues were Comparative Federalism and Federal Theory.

The format of each dialogue consisted of presentations which summarized recent research in each of the two fields, raised important theoretical questions, and pointed to areas which deserve further work. Participants then responded to the presentations, clarifying, amending and expanding on the thrust of the initial remarks. In both cases, the proceedings were recorded and transcribed verbatim.

The presentation at the session on Comparative Federalism was made by Daniel Elazar. Alexandre Marc, Founder-Permanent Delegate, Centre International de Formation Europeene, Nice, France, and Vukan Kuic of the University of South Carolina, made presentations at the session dealing with Federal Theory.

Responding to the presentations and participating in the subsequent roundtable discussion at both sessions were Martin Heisler of the University of Maryland, Guy Peters of the University of Delaware, Jean Yarbrough of the University of Connecticut at Groton, and Gordon Reid of the University of Western Australia. Members of the audience actively participated in the proceedings on both days.

It is our feeling that the records from the two sessions will make an important contribution to both areas of scholarship. Once the current editing process is completed, they will be published in a suitable format and made available to Conference for Federal Studies members as well as other interested individuals. We are aiming for an early spring publication date. Future sessions of the CFS NOTEBOOK and special mailings will announce the availability of the transcripts.

The next set of dialogues is scheduled for February 1978. The topics will be Political Culture and The Practice of American Federalism. A dialogue on Medium-Sized Cities is scheduled for April 1978. Exact dates and places will be announced shortly. Conference members who would like to attend and/or participate in any of the future dialogues should contact Benjamin Schuster or Ellis Katz at the Center. A limited number of travel grants are available to Conference members. Anyone interested in such a grant should put a request in writing along with a budget of estimated travel expenses and send it to either one of the two people named above.

A REQUEST FOR COURSE SYLLABII

Over the last few months, the Conference for Federal Studies has received numerous requests for syllabii that have been used in courses on federalism and related topics. We would like to respond to those requests by publishing a group of syllabii in a forthcoming issue of the CFS NOTEBOOK. In order to do so, we need recent syllabii from Conference members who have taught undergraduate or graduate courses in any one of the following areas: federalism (American or comparative), intergovernmental relations, fiscal federalism, state government, state and local government, local or urban government, political culture, or any other course which has a strong federalism or intergovernmental dimension. Please send all such syllabii to Benjamin Schuster at the Center.

A REMINDER

This edition of CFS NOTEBOOK marks the end of another volume year for PUBLIUS and the NOTEBOOK. While renewal notices have been sent to all Conference members, we will take this opportunity to remind everyone who has not renewed their membership in the Conference to do so at their earliest convenience. We were very

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pleased with the contents of both publications during the previous year and look forward to future issues and articles of similar high quality. Several special issues of PUBLIUS are planned for the coming year. We hope that all present members, and many additional ones, will share these achievements with us in the year ahead.

RESEARCH NOTE

Statement of H.R. 11200, Proposing a Compact of
Permanent Union Between the United States and
Puerto Rico, Submitted to the Subcommittee on
Territorial and Insular Affairs*

by

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From a statutory and legal standpoint, the proposed changes in relationship between Puerto Rico and the federal government in Washington will be referred to by such phrases as "compact," "commonwealth relations," "insular affairs" and so on. In order to underline the basic reasons why these proposals are, potentially, of national and international importance, I would like to suggest that we talk about them rather as "the perfecting of the Puerto Rican political invention" or "the extension of the North American system of political independence..."

For, almost unrecognized, even by most of the people who themselves worked upon it, the commonwealth status of Puerto Rico was--and is--a significant political invention, a carrying-forward into broader and more generally applicable channels of the notion of federal government which was first worked out by the constitutional forefathers at Philadelphia.

Throughout history, men have faced the problem of how to reconcile the claims of authoritative, coordinated, centralized, effective governance with the ideal of local liberty and autonomy. The most successful resolution, at least for a large nation, up to that time of the conflict was *invented* by the North American constitutional forefathers at Philadelphia. It should, of course, be pointed out that, like all other inventions, this invention did not spring ready-made in a moment or a year, but was the product and consequence of many trials, many efforts, many improvements--until, finally, something workable and sensible was generally accepted. Most federal developments in the Western world since that time have followed the North American model--and they have done so in particular by stressing the equal membership of all member states--equality being interpreted as equality in form and kind and statutory and constitu-

*This article appeared in the *Congressional Record* (daily ed., Oct. 1, 1976) E5582.

tional claims, rather than as what Edmund Burke would have called virtual equality, equality in regard to needs, opportunities, and significant social characteristics. As myself a Canadian born, I can perhaps point out that the Dominion of Canada has followed this principle of formal equality between the provinces, in ways that have created some difficulties in the case of Quebec and Newfoundland; and Americans will recognize that Hawaii's admission to statehood was delayed long beyond what in some ways was a reasonable time, because Hawaii did (and indeed still does) differ in certain significant respects from the mainland states.

Puerto Rico's relationship to the mainland states resembled that of both Quebec and Newfoundland to the other Canadian provinces; the people of Quebec and the people of Puerto Rico, of course, do not have the dominant English language as their native tongue, and, what is more vital, both the Quebecois and the Puerto Ricans have a tradition of culture and civilization which is not oriented towards Britain, and which resisted the efforts of several generations of British-oriented schoolmasters to assimilate it to the dominant outlook. Puerto Rico, like Newfoundland, was and has been for several centuries, in effect, a military outpost of a great empire, neglected from an economic and commercial standpoint, by its rulers, and thus both islands were unable to fit, competitively and immediately, into the central North American marketplace economy.

But, fortunately, for it and perhaps also for the world, Puerto Rico did not find itself faced with the necessity of entering as a fullfledged state into the American union; to be sure, in the early territorial period, and indeed up to 1940, another outlook grew up. A new form of federalism came into being--the federalism of commonwealth relations. Under this system, as the members of this committee know better than I, certain rights, capacities, authorities, and powers were exercised chiefly by the central government at Washington. But the significant break with the earlier federal models was that the rights reserved to an autonomous Puerto Rico were not just the same as those reserved to the fifty states, nor was the relationship of Washington to Puerto Rico the same as its relationship to the fifty states.

Over the intervening years, custom and regulation have developed and made more specific the spelling out of the rights to be exercised chiefly or exclusively in San Juan, and of the rights to be exercised somewhat more in Washington. But the flexibility of the Puerto Rican invention has been such that this spelling out, to a considerable degree, has been able to take account of the particular situation of Puerto Rico and its particular relationship to the mainland--after more than twenty years experience, we can see and have seen that such flexibility can work effectively, without any threat to any major interest

either of the fifty states or of Puerto Rico. Wrangling there is and will, of course, be--but having spent several years in Massachusetts state government, I would be very reluctant to argue that there is any more wrangling between San Juan and Washington than between Boston and Washington. The advantage which San Juan has over Boston is that on those matters wherein there is a different cultural tradition or economic need, San Juan is at greater liberty, in many respects, to adapt to the local situation and needs than is Boston--or Honolulu or Denver. What we are here proposing is to rationalize that autonomy.

For, of course, the early provisions and arrangements were made with some justifiable trepidation, and with some doubt on each side, as to how it would work or what it would mean in practice. So, on good many matters, Puerto Rico is still restricted in ways which are exasperating or harmful to it, and do not serve any particular need of the fifty states. For instance, inevitably, ecological regulations devised chiefly for temperate areas, with certain industrial and social traditions, are not necessarily the most appropriate or necessary in a subtropical island, with other industrial and social traditions. (In fact, it could be argued that Hawaii is to some extent a special case in regard to Environmental Protection also). Or because of the probable practicality of controlling immigration to an island such as Puerto Rico, and because of its different needs, it might well wish to restrict some kinds of immigration more severely and to open its doors wider to other sorts of immigrants than the mainland fifty. The proposals before you of course cover a number of such items, and persons technically familiar with each one of them can and have presented the technical arguments for them better than I can.

But in looking at the technical arguments for or against proposals regarding local regulation--e.g. of radio or TV communications in Puerto Rico, our attention is apt to slip away from what are from an over-all standpoint the vital questions: Is there a particular virtue in the Congress or the federal government in Washington regulating the matter in question? Will the fifty states suffer in any significant way if Puerto Rico makes a mistake, from our standpoint, in regard to the issue? Of course, timidity can always tell us that, just possibly, anything done anywhere, if done contrary to the way we would prefer to do it, may have adverse consequences for us; but the bravery and nobility of spirit which made a workable democratic, federal government possible in the first place, should rather counsel us only to be alarmed in cases where there is genuine and serious interdependence. For example, although in many ways I agree with the proponents of these measures that Puerto Rico should have much more autonomy in regard to ecological and environmental matters than the states now possess, I would suggest that the U.S. Virgin Islands may in various ways be affected by

some environmental policies in Puerto Rico. In that case, interdependence should be allowed for. And, too, it is probably obvious, constitutionally, but it might well be spelled out, to avoid any future misunderstanding, in the legislative history that agreements involving the oceans, made by the United States as a sovereign entity, might affect Puerto Rico, because of the world interdependence of the oceans--but equally it should be spelled out, that Puerto Rico should be consulted on any such agreements, insofar as they foreseeably affect the island.

What I am urging is, simply, the recognition that in perfecting the Puerto Rican invention, we are proceeding further along the road whereon autonomy and effective governance can be reconciled. In approving, in essence, and in detail, the proposals before you, you might well signify that this is both a compact of interdependence and a statute of liberty and autonomy. The Puerto Rican invention may, in the future, help us cut between the strident claims for complete independence (something which in an interdependent world is impossible of achievement and very costly to try to achieve) and domineering insistence on centralized efficiency, at any cost. Here we have in very truth a contribution to *generic* federalism. The Congress, in adopting these proposals, with be taking an important step along the road from the old-fashioned federalism, which made full recognition of local differences hard to accomplish fully, to a newer type of federalism, which does not sacrifice any of the advantages of the old, but permits incorporating people of different languages, cultures, economic situations, and so on, within the same governmental arena of freedom and effective governance. A century and a quarter ago, many North Americans were concerned with what they called "manifest destiny..." which meant, to them, that all peoples, especially many Spanish-American peoples of this hemisphere, should be forced to adopt precisely and exactly the particular governmental institutions and forms and customs which worked in the United State of America. In its application, the idea was exceptionally odious; but the underlying ideal, that all peoples might work together in a climate of freedom, was, so far as it went, attractive and desirable. Our ancestors of that time failed to see that the only kind of unity of peoples that was worthwhile was for free nations freely to agree that they would share governmental powers on those matters where it is mutually useful and freely to agree on the maximum possible amount of local liberty and autonomy where they differ significantly. Now, in the Puerto Rican invention, there has been developed a kind of federalism which actually permits people of different backgrounds and traditions and needs freely to cooperate together, for as long as they choose, in the same governmental structure, but in varying fashions, each according to their situation.

With this approach as a criterion--autonomy and interdependence and the reconciliation of the tensions between the two--the specific proposals before you can be judged.

Many years ago, as a sardonic young journalist, writing in *The Nation*, that great statesman and poet whose influence is so important in all these matters, Luis Muñoz Marin, discouraged about his native island, said of it "it is a place where nothing grand ever happens but everything happens in a grand manner." Now, in ironic contrast, fifty years later we can rather acknowledge that one of the grandest political inventions of our time has happened in and to Puerto Rico--but so unobtrusively and quietly that most of the world hardly realizes what took place. Perhaps, in emphasizing that this relationship is a perfection of both the traditions of autonomy and of governance, we can begin to stress that we recognize the grandness of the Puerto Rican invention in developing a new system of political interdependence.