

76TH CONGRESS
1ST SESSION

S. 2780

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 1939

Mr. BURKE introduced the following bill; which was read twice and referred to the Committee on Territories and Insular Affairs

A BILL

To enable the people of Puerto Rico to form a constitution and State government and be admitted into the Union on an equal footing with the States.

Whereas it has been the intention of the United States of America to prepare the people of Puerto Rico for statehood as is evidenced by the several Acts of Congress applicable to Puerto Rico and more specially by the Act of Congress approved March 2, 1917, granting United States citizenship to the people of Puerto Rico, the first step toward that end; and

Whereas by concurrent resolution of the Legislature of Puerto Rico, approved April 15, 1934, it declared that the final status of Puerto Rico should be statehood and that the people of Puerto Rico desire that Puerto Rico become a State, forming a part of and associated with the federation of the United States of America; and

Whereas by virtue of said resolution the people of Puerto Rico desire to petition the Congress of the United States of America for legislation authorizing the people of Puerto Rico to adopt their own State constitution for its approval by the Congress of the United States of America: Therefore

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That the inhabitants of all that part of the area of the United
4 States now constituting the Territory of Puerto Rico, as at
5 present described, may become the State of Puerto Rico as
6 hereinafter provided.

7 SEC. 2. All citizens of the United States who have the
8 qualifications of voters for representatives of the insular
9 Legislature of Puerto Rico are hereby authorized to vote for
10 and choose delegates to form a convention in said Territory.
11 Such delegates shall possess the qualifications of such elec-
12 tors; and the aforesaid convention shall consist of thirty-nine
13 delegates apportioned among the several representative
14 districts within the limits of the proposed State as follows:
15 One delegate for each of the thirty-five representative dis-
16 tricts and four delegates at large to be chosen by said thirty-
17 five representative districts.

18 The Governor of said Territory shall, within thirty days
19 after the approval of this Act, issue a proclamation order-
20 ing an election of the delegates as aforesaid in said Terri-
21 tory to be held at a time to be designated in the proclamation

1 within six months after the approval of this Act which pro-
2 clamation shall be issued at least thirty days prior to the time
3 of holding said election of delegates. The election for dele-
4 gates shall be conducted, the returns made, the result ascer-
5 tained, and the certificates of persons elected to such conven-
6 tion issued, in the same manner as is prescribed by the laws
7 of said Territory regulating elections therein of members of
8 the legislature. Persons possessing the qualifications en-
9 titling them to vote on the ratification or rejection of the
10 constitution may do so under such rules or regulations as
11 said convention may prescribe, not in conflict with this Act.

12 SEC. 3. The delegates to the convention thus elected
13 shall meet at the seat of the government of said Territory
14 on the second Tuesday after their election, excluding the
15 day of election in case such day shall be Tuesday, but they
16 shall not receive compensation for more than sixty days of
17 service, and, after organization, shall declare on behalf of
18 the people of said proposed State that they adopt the Con-
19 stitution of the United States, whereupon the said conven-
20 tion shall be, and is hereby, authorized to form a constitu-
21 tion and State government for said proposed State.

22 The constitution shall be republican in form, and make
23 no distinction in civil or political rights on account of race
24 or color, and shall not be repugnant to the Constitution of
25 the United States and the principles of the Declaration of

1 Independence. And said convention shall provide, by ordi-
2 nance, irrevocable without the consen. of the United States
3 and the people of said State—

4 First. That perfect toleration of religious sentiment shall
5 be secured, and that no inhabitant of said State shall ever
6 be molested in person or property on account of his or her
7 mode of religious worship.

8 Second. The State of Puerto Rico shall retain all the
9 public property, vacant and unappropriated lands lying
10 within its limits now ceded, transferred, and in possession
11 of the United States, except such as are in the possession
12 of and used by a department of the United States, and may
13 dispose of the same as the said State may direct.

14 Third. That the debts and liabilities of said Territory
15 of Puerto Rico shall be assumed and paid by said State and
16 all debts and assets owed to said Territory of Puerto Rico
17 shall be assumed and collected by said State.

18 Fourth. That provision shall be made for the establish-
19 ment and maintenance of a system of public schools, which
20 shall be open to all the children of said State and free from
21 sectarian control.

22 SEC. 4. In case a constitution and State government
23 shall be formed in compliance with the provisions of this
24 Act, the convention forming the same shall provide by
25 ordinance for submitting said constitution to the people of

1 said State for its ratification or rejection, at an election to
2 be held at a date to be fixed by said convention, which
3 shall be not more than sixty days from the date of its ad-
4 journment, at which election the qualified voters of said
5 proposed State shall vote directly for or against the proposed
6 constitution, and for or against any provisions separately
7 submitted. The return of said election shall be made to
8 the secretary of Puerto Rico, who shall cause the same to
9 be canvassed, and if a majority of the votes cast on that
10 question shall be for the constitution, the Governor of the
11 Territory of Puerto Rico shall certify the result to the Presi-
12 dent of the United States, together with a statement of the
13 votes cast thereon, and upon separate articles or proposi-
14 tions, and a copy of said constitution, articles, propositions,
15 and ordinances. If the constitution and government of said
16 proposed State are republican in form, and if all the provi-
17 sions of this Act have been complied with in the formation
18 thereof, it shall be the duty of the President of the United
19 States to issue his proclamation announcing the result of said
20 election, and thereupon the proposed State of Puerto Rico
21 shall be deemed admitted by Congress into the Union, under
22 and by virtue of this Act, on an equal footing with the rest
23 of the forty-eight States from and after the date of said
24 proclamation.

1 SEC. 5. The sum of \$200,000, or so much thereof as
2 may be necessary, is hereby authorized to be appropriated,
3 out of any money in the Treasury of the United States not
4 otherwise appropriated, for defraying the expenses of the
5 elections provided for in this Act and of the convention, and
6 for the payment of the members thereof, under the same
7 rules and regulations and at the same rates as are now pro-
8 vided by law for the payment of the Territorial Legislature
9 of the Territory of Puerto Rico, and the disbursements of
10 the money appropriated by this section shall be made by
11 the secretary of the Territory of Puerto Rico.

12 SEC. 6. Until the next general census, or until other-
13 wise provided by law, said State shall be entitled to two
14 Representatives in the House of Representatives of the
15 United States, which Representatives, the two Senators of
16 the United States, together with the Governor and other
17 officers provided for in said constitution, shall be elected on
18 the day of the election for the adoption of the constitution;
19 and until said State officers are elected and qualified under
20 the provisions of the constitution, and the State is admitted
21 into the Union, the Territorial officers shall continue to dis-
22 charge the duties of the respective offices in said Territory.

23 SEC. 7. Said State when admitted as aforesaid shall
24 constitute one judicial district, to be known as the "District
25 of Puerto Rico." The District Courts for the District of

1 Puerto Rico shall be held one term at San Juan and one
2 term at Ponce each year, and special terms may be held at
3 such times and places in said district as the said judges may
4 deem expedient. And the said district shall, for judicial
5 purposes, until otherwise provided, be attached to the first
6 judicial circuit. There shall be appointed for said district
7 two district judges, one United States attorney, and one
8 United States marshal. There shall be appointed two clerks
9 for said district who shall keep their offices at San Juan
10 and Ponce respectively. The regular term of said court
11 shall be held at the place designated in this Act, at San
12 Juan on the first Monday in January and at Ponce on the
13 first Monday in March in each year, and one grand jury
14 shall be summoned in each year in each of said district
15 courts. The district court for said district, and the judges
16 thereof, respectively, shall possess the same powers and
17 jurisdiction and perform the same duties required to be
18 performed by other district courts and judges of district
19 courts of the United States and shall be governed by the
20 same laws and regulations. The marshal, district attorney,
21 clerks, and stenographers of the district courts of said district,
22 and all other officers and persons performing duties in the
23 administration of justice therein, shall severally possess the
24 powers and perform the duties lawfully required to be per-
25 formed by similar officers in other districts of the United

1 States, and shall, for the services they may perform, receive
2 the fees and compensation now allowed by law to officers
3 performing similar service for the United States in other
4 districts of the United States.

5 SEC. 8. The laws in force in the Territory of Puerto
6 Rico, as far as applicable, shall extend over and apply to
7 said State until changed by the legislature thereof.

8 SEC. 9. All appeals or writs of error taken from the
9 Supreme Court of the Territory of Puerto Rico to the
10 Supreme Court of the United States or the United States
11 Circuit Court of Appeals for the First Circuit, previous to
12 the final admission of such State, shall be prosecuted to final
13 determination as though this Act had not been passed.
14 And all cases in which final judgment has been rendered
15 in such territorial appellate courts which appeals or writs
16 of error might be had except for the admission of such
17 State may still be sued out, taken, and prosecuted to the
18 Supreme Court of the United States or the United States
19 circuit court of appeals under the provisions of existing
20 laws, and there held and determined in like manner, and in
21 either case the Supreme Court of the United States, or
22 the United States circuit court of appeals, in the event
23 of reversal shall remand the said cause to either the State
24 supreme court or other final appellate court of said State,
25 or the United States district court for said district, as the

1 case may require: *Provided*, That the time allowed by
2 existing law for appeals and writs of error from appellate
3 courts of said Territory shall not be enlarged hereby, and
4 all appeals and writs of error not sued out from the final
5 judgments of said courts at the time of the admission of such
6 State shall be taken within six months from such time.

7 SEC. 10. All causes pending in the Supreme Court
8 of the Territory of Puerto Rico and in the United States
9 courts arising under the Constitution, laws, or treaties of the
10 United States or affecting ambassadors, ministers, or consuls
11 of the United States or of any other country or State, or
12 of admiralty or of maritime jurisdiction, or in which the
13 United States may be a party, or between citizens of the
14 same State claiming lands under grants from different States;
15 and in all cases where there is a controversy between citi-
16 zens of said Territory prior to admission and citizens of dif-
17 ferent States, or between citizens of different States, or
18 between a citizen of any State and citizens or subjects of any
19 foreign state or country, and in which cases of diversity of
20 citizenship there shall be more than \$2,000 in controversy
21 exclusive of interest and costs, shall be transferred to the
22 proper United States district court for final disposition:
23 *Provided*, That said transfer shall not be made in any case
24 where the United States is not a party except on application
25 of one of the parties in court in which the cause is pending,

1 at or before the second term of such court, after the admission
2 of said State, supported by oath, showing that the case is
3 one which may be so transferred the proceedings to affect
4 such transfer, except as to time and parties, to be the same
5 as are now provided by law for the removal of causes from
6 State court to a district court of the United States; and
7 in causes transferred from the appellate courts of said Ter-
8 ritory the district court of the United States in such State
9 shall first determine such appellate matters as the successor
10 of and with all the power of said Territorial appellate courts,
11 and shall thereafter proceed under its original jurisdiction
12 of such causes. All final judgments and decrees rendered in
13 such district court in such transferred cases may be reviewed
14 by the Supreme Court of the United States or by the United
15 States circuit court of appeals in the same manner as is
16 now provided by law with reference to existing United States
17 district courts.

18 SEC. 11. All cases pending in the Supreme Court of
19 said Territory of Puerto Rico not transferred to the United
20 States District Court in said State of Puerto Rico shall be
21 proceeded with, held, and determined by the supreme or
22 other final appellate court of such State as the successor of
23 said Territorial supreme court and appellate court subject
24 to the same right to review upon appeal or error to the
25 Supreme Court of the United States or by the Circuit Court

1 of Appeals of the United States not allowed from the
2 supreme or appellate courts of a State under existing laws.
3 Jurisdiction of all cases pending in the courts of original
4 jurisdiction in said Territory not transferred to the United
5 States district court shall devolve upon and be exercised
6 by the courts of original jurisdiction created by said State.

7 SEC. 12. The supreme court or other court of last
8 resort of said State shall be deemed to be successor of said
9 Territorial appellate courts and shall take and possess any
10 and all jurisdiction as such, not herein otherwise specifically
11 provided for, and shall receive and retain the custody of
12 all books, dockets, records, and files, not transferred to other
13 courts, as herein provided subject to the duty for furnishing
14 transcripts of all book entries in any specific case transferred
15 to complete the record thereof.

16 SEC. 13. The courts of original jurisdiction of such
17 State shall be deemed to be the successor of all courts of no
18 original jurisdiction of said Territory and, as such, shall take
19 and retain custody of all records, dockets, journals, and files
20 of such courts except in causes transferred therefrom, as
21 herein provided; the files and papers in such transferred
22 cases shall be transferred to the United States district court,
23 together with a transcript of all book entries to complete
24 the record in such particular case so transferred.

1 SEC. 14. All cases pending in the insular district
2 courts of the Territory of Puerto Rico at the time said Terri-
3 tory becomes a State not transferred to the United States
4 district court in the State of Puerto Rico shall be proceeded
5 with, held, and determined by the courts of said State, the
6 successors of said insular district courts of the Territory of
7 Puerto Rico with the right to prosecute appeals or writs of
8 error to the supreme court of said State, and also with the
9 same right to prosecute appeals or writs of error from the
10 final determination in said causes made by the supreme
11 court of said State of Puerto Rico to the Supreme Court of
12 the United States, as now provided by law for appeals and
13 writs of error from the supreme court of a State to the
14 Supreme Court of the United States.

15 SEC. 15. The constitutional convention shall by ordi-
16 nance provide for the election of officers for a full State
17 government, including members of the legislature, two
18 United States Senators, and two Representatives in Con-
19 gress. Such State government shall remain in abeyance
20 until the State shall be admitted into the Union and the
21 election for State officers held as provided for in this Act.
22 The Governor and secretary of said State shall certify the
23 election of the Senators and Representatives in the manner
24 required by law; and said Senators and Representatives
25 shall be entitled to be admitted to seats in Congress and

1 to all the rights and privileges of Senators and Representa-
2 tives of other States in Congress of the United States. And
3 the officers of the State government formed in pursuance
4 of said constitution, as provided by said constitutional
5 convention, shall proceed to exercise all the functions of
6 such State officers; and all the laws in force in the Territory
7 of Puerto Rico at the time of admission of said State into
8 the Union shall be in force throughout said State, except as
9 modified or changed by this Act or by the constitution of
10 the State, and the laws of the United States not locally
11 inapplicable shall have the same force and effect within
12 said State as elsewhere within the United States.

13 SEC. 16. All Acts or parts of Acts in conflict with
14 the provisions of this Act, whether passed by the Legis-
15 lature of said Territory or by Congress, are hereby repealed.

A BILL

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By Mr. BURKE

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