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THE COMMONWEALTH STATUS OF PUERTO RICO*

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One of the agreeable perquisites of membership on the United States Court of Appeals for the First Circuit is our annual visit to San Juan, Puerto Rico. In 1915 the Congress for the first time gave this court a certain intermediate appellate jurisdiction over the United States District Court for the District of Puerto Rico and the Supreme Court of Puerto Rico.[1] When I was appointed circuit judge in 1939, the court of appeals had never held a session in San Juan, though it was authorized by law to do so. It took me several years to realize that this would be a constructive thing to do, and an altogether proper manifestation of respect for the people of Puerto Rico and their local bar. Since 1950 the United States Court of Appeals for the First Circuit has held an annual sitting in San Juan in the month of February.

These pilgrimages have awakened in the court a lively interest in the hospitable people of the island, who are very proud of their American citizenship, and who have shown an extraordinary capacity for responsible self-government under gifted and statesmanlike political leadership. They have not been content to subsist inertly on handouts from the United States, but with energy and enthusiasm have embarked upon a local program of economic and educational development, which has significantly raised the level of their standard of living. With a population of over two and a quarter million in an island 100 miles long by 35 miles wide, and a meager endowment of natural resources, this has been no mean task.

This paper is a discussion of the unique constitutional status which Puerto Rico has achieved in the progressive evolution of its relationships with the United States since the island was ceded to the United States by the Treaty of Paris at the conclusion of the Spanish-American War. In making this choice of topic, I have assumed that the people of the United States are vitally interested in the manner in which the United States has dealt with

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* Taken from an address by the Honorable Calvert Magruder at the University of Pittsburgh School of Law, April 30, 1953.

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1. 38 STAT. 803 (1915), 28 U.S.C.A. § 41 (1949).

its dependent territories. The outcome of the present "cold-war" struggle for the good opinion and support of mankind will be of profound consequence to us all. It is important to have an informed answer to the glib propaganda charges of imperialism and colonialism, which the Kremlin and its satellites, day in and day out, direct at the Western Powers, including the United States. Actions speak louder than words. The record of our dealings with the people of Puerto Rico affords an eloquent and favorable contrast to the rough treatment which Soviet Russia has given to helpless peoples within its power and grasp—a contrast which will not be lost upon the rest of the world, particularly upon our Latin-American neighbors in Central and South America, if they but learn the facts.

Puerto Rico for several centuries was under the jurisdiction of the Kingdom of Spain. Spaniards settled the island, subdued and absorbed the Indian and imported the Negro. The island became a colony of the Spanish Crown. Through the ensuing centuries Puerto Rico progressed from this subordinate colonial status, and at the outbreak of the Spanish-American War it had gained a great deal in political status, and had become an autonomous, or semi-autonomous, overseas province of the Kingdom of Spain. Under the Spanish constitution of 1876 the island was entitled to full-fledged voting representation in the Spanish Cortes.[2] By royal decree in 1897 a charter of self-rule was granted to it.[3] The charter gave to the insular government the power to govern in most matters of insular concern. If the 1897 charter had had time to become fully operative, it may be that some of the apparent grant of autonomy to the insular government would have proved to be illusory in view of the important reservations of royal power through the functions conferred upon the Governor-General of the island, who was appointed by the King on the nomination of the Council of Ministers. However that may be, the Puerto Ricans thought they had something at the time, and it was also provided in the 1897 charter that when approved by the Cortes of the Kingdom it should not be amended "except by virtue of a law and upon the petition of the insular parliament."[4]

From the standpoint of international law, the island of Puerto Rico remained, of course, subject to the jurisdiction of the Kingdom of Spain; and the provisions of the 1897 charter for self-rule were merely arrangements for internal administration within the Kingdom, and thus could be superseded by an exercise of the sovereign power of the Kingdom to cede the island to another nation. That is what occurred at the close of the Spanish-American War. In the Treaty of Paris,[5] Spain ceded to the United States the island of

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2. SPAIN CONST. Art. 89 (1876).

3. Royal Decree of November 25, 1897, *Constitution Establishing Self-Government in the Island of Puerto Rico by Spain in 1897*, DOCUMENTS ON THE CONSTITUTIONAL HISTORY OF PUERTO RICO (1948).

4. *Id.* at 45.

5. 30 STAT. 1754 (1899).

Puerto Rico, as well as the Philippine Islands. The treaty further provided: "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."[6]

In 1950 our court of appeals had before it an appeal from the United States District Court for the District of Puerto Rico, in a case[7] in which a Puerto Rican had been convicted and sentenced for failing to register under the Selective Service Act of 1948.[8] There is no doubt that this Act of Congress, by its express terms, was made applicable to Puerto Rico. However, appellant advanced the contention that the Treaty of Paris was null and void in so far as Spain purported therein to cede Puerto Rico to the United States. For the reason above indicated, we did not have much difficulty in rejecting this contention. The treaty, when ratified by the Senate, became the law of the land, binding upon the courts of the United States. In an unbroken line of cases dealing with the legislative powers of Congress over Puerto Rico, the courts had recognized that by force of the Treaty of Paris, Puerto Rico had become territory of the United States. As we said in our opinion, "Appellant could hardly expect us, as an intermediate appellate court, to undertake to overrule a half-century of history."[9]

However, it is understandable that the people of Puerto Rico experienced a certain sense of frustration when the political status of considerable dignity within the Kingdom of Spain which they had achieved in 1897 was obliterated at a stroke of the pen, and they had to start again from scratch in their aspiration to self-rule. Under the Treaty of Paris their civil rights and political status under the American flag were left to be "determined by the Congress."[10] The present Puerto Rican Resident Commissioner to the United States, Hon. Antonio Fernós-Isern, has written that the Puerto Rican people deemed it inescapable that the new political status to be determined by the Congress "would be predicated on no less autonomy than they already possessed"[11] and that the Congress would legislate in the matter only as a result of agreement with the people of Puerto Rico.

In the early days the Supreme Court of the United States had considerable difficulty in defining the status of Puerto Rico under the Treaty of Paris. Theretofore, only two basic types of status had been recognized under the American flag: (1) The States of the Federal Union, and (2) the territories destined for ultimate statehood, which were regarded as fully incorporated in the United States, and to which the Constitution of the United States was fully applicable. In *De Lima v. Bidwell*,[12] in a five-to-four decision

6. 30 STAT. 1759 (1899).
7. Ruiz Alicea v. United States, 180 F.2d 870 (1st Cir. 1950).
8. 62 STAT. 604 (1948), 50 U.S.C.A. APP. 451 *et seq.* (1952).
9. Ruiz Alicea v. United States, 180 F.2d 870, 871 (1st Cir. 1950).
10. See note 5 *supra*.
11. Fernós-Isern, *From Colony to Commonwealth*, 285 ANNALS 16, 18 (Jan. 1953).
12. 182 U.S. 1 (1901).

(which you see is not entirely a present-day phenomenon), the Court held that with the ratification of the Treaty of Paris, Puerto Rico ceased to be a "foreign country" within the meaning of the tariff laws of the United States. The Court stated that under the powers to make war and to make treaties, the federal government possessed incidental power to acquire territory, and that the Congress had plenary legislative power under Art. IV, § 3, of the Constitution over territories so acquired. By the ratification of the Treaty of Paris, the Court said, Puerto Rico "became territory of the United States—although not an organized territory in the technical sense of the word."[13] In *Downes v. Bidwell*,[14] the Court had to deal with the Foraker Act[15] which made temporary provisions for a civil government in Puerto Rico. The question was whether merchandise brought into New York from Puerto Rico was exempt from duty, notwithstanding a provision of § 3 of the Act which required the payment of 15 per cent of the duties which were levied upon like articles of merchandise imported from foreign countries. The contention was that this provision of the Act was in conflict with Art. I, § 8, of the Constitution declaring that "all Duties, Imposts and Excises shall be uniform throughout the United States." A majority of the Court, though they could not agree upon the reasons (filing three separate concurring opinions), concluded that although Puerto Rico had become a territory of the United States, it had not been made an incorporated part of the "United States" within the meaning of that provision of the Constitution. Thus was introduced a new territorial concept, namely, that a territory might be acquired by the United States by conquest or treaty, without being incorporated as an integral part of the United States, but remaining in the subordinate status of a possession or dependency. Just what was necessary to manifest an intention by the Congress to incorporate a territory into the United States remained somewhat obscure. The Philippine Islands were not so incorporated.[16] On the other hand, in *Rassmussen v. United States*,[17] it was held that under the treaty with Russia, and subsequent congressional legislation, the Territory of Alaska had been incorporated into the United States. In *Balzac v. People of Porto Rico*,[18] it was held that the Jones Act,[19] the new Organic Act which superseded the Foraker Act, did not have the effect of incorporating Puerto Rico into the United States; and therefore that the guaranty of trial by jury in the Sixth Amendment to the Constitution was inapplicable to the territory. The Court intimated that even though the territory was not technically "incorporated"

13. 182 U.S. at 196.
14. 182 U.S. 244 (1901).
15. 31 STAT. 77 (1900) (Foraker Act).
16. Dorr v. United States, 195 U.S. 138 (1904).
17. 197 U.S. 516 (1905).
18. 258 U.S. 298 (1922).
19. 39 STAT. 951 (1917), 48 U.S.C.A. §§ 731 *et seq.* (1952) (Jones Act).

into the United States, nevertheless the Federal Constitution was applicable to the island in respect of "certain fundamental personal rights,"[20] as, for example, that no person could be deprived of life, liberty or property without due process of law. Just what provisions of the Bill of Rights thus became applicable to Puerto Rico turned out to be somewhat academic, since by the second section of the Organic Act of 1917,[21] Congress enacted a bill of rights for the island including therein substantially all the guaranties of the Federal Constitution except those relating to indictment by a grand jury and the right of trial by jury in civil and criminal cases.

It may be noted here that the failure of Congress to "incorporate" Puerto Rico into the United States is really of little significance as a forecast of what its ultimate status may become. The Philippine Islands, which were never incorporated, went on to complete independence. Puerto Rico, which has never been incorporated, has moved in a different direction. Its present commonwealth status is unprecedented in our American history and has no exact counterpart elsewhere in the world. Clearly that status precludes neither ultimate statehood nor ultimate independence.

I shall state now, very summarily, the major trends of the series of legislative acts by the Congress for the government of the island. Whatever may have been the expectation of the people of Puerto Rico that the Congress would exercise its new-found authority under the Treaty of Paris[22] only after consultation with and agreement with the people of Puerto Rico, the Congress did not fulfill that expectation in its passage of the Foraker Act.[23] Congress proceeded in the exercise of what it regarded as an absolute sovereignty over the island, and established a governmental structure and political, economic and fiscal relationships between Puerto Rico and the United States Government without any formal consultation with the Puerto Rican people. A strong executive authority was vested in a governor appointed by the President of the United States.[24] The heads of the chief executive departments were to be appointed by the President.[25] Local legislative powers were granted to a legislative assembly consisting of the Executive Council, all eleven members of which were appointed by the President,[26] and a house of delegates which was to be chosen by popular vote of a somewhat restricted electorate.[27] The judges of the Supreme Court of Puerto Rico were to be appointed by the President with the consent of the United States Senate,[28] while the governor appointed the insular district

20. 258 U.S. 298, 312 (1922).
21. 39 STAT. 951 (1917).
22. See note 4 *supra*.
23. 31 STAT. 77 (1900) (Foraker Act).
24. *Id.* at 81.
25. *Ibid.*
26. *Ibid.*
27. *Id.* at 82f.
28. *Id.* at 84.

judges with the consent of the Executive Council.[29] The Foraker Act also established a federal district court,[30] the judge of which was to be appointed by the President,[31] subject to Senate confirmation,[32] for a term of years.[33] Provision was made for the election of a Resident Commissioner to the United States.[34] The inhabitants of the island were given their choice of remaining Spanish subjects or becoming "citizens of Puerto Rico"; they were not made American citizens.[35] On paper, at least, the people of Puerto Rico were accorded a lesser degree of autonomy than they had achieved under the 1897 charter from Spain. The result was that the early enthusiasm of the people of Puerto Rico for their new political affiliation with the United States was considerably dampened, and complete separation and independence became a romantic aspiration of many.

In 1917 Congress passed a new Organic Act,[36] which contained some important amendments in the direction of greater local autonomy. In place of the presidentially appointed Executive Council as the upper house of the legislature, an elective senate was provided.[37] But the governor,[38] two of the executive department heads,[39] and the judges of the Supreme Court of Puerto Rico[40] continued to be appointed by the President. The remaining department heads were to be appointed by the presidentially appointed governor.[41] The legislature was not given final power to pass a bill over the veto of the governor.[42] If, upon such veto, a bill were repassed by two thirds of all the members of each house, the bill had then to be transmitted to the President, who had final authority to approve or disapprove it.[43] All laws enacted by the legislature were to be reported to the Congress, which reserved the power to annul the same.[44] The provision for a Resident Commissioner to the United States, who was now enabled to sit as a delegate in the House of Representatives of the United States Congress, but without a vote therein, was retained.[45] Citizens of Puerto Rico were declared to be citizens of the United States,[46] which gave them unrestricted freedom to

29. 31 STAT. 84 (1900).
30. *Ibid.*
31. *Ibid.*
32. *Ibid.*
33. *Ibid.*
34. *Id.* at 86.
35. *Id.* at 79.
36. 39 STAT. 951 (1917), 48 U.S.C.A. §§ 731 *et seq.* (1952) (Jones Act).
37. *Id.* at 958f, 48 U.S.C.A. § 812.
38. *Id.* at 955.
39. *Ibid.*
40. *Id.* at 965, 48 U.S.C.A. § 861.
41. *Id.* at 955.
42. *Id.* at 950f, 48 U.S.C.A. § 825.
43. *Ibid.*
44. *Id.* at 961, 48 U.S.C.A. §§ 826, 842.
45. *Id.* at 961, 48 U.S.C.A. §§ 891ff.
46. *Id.* at 953, 48 U.S.C.A. § 733b.

migrate to the United States with full citizenship rights. Important fiscal provisions were contained in the new Organic Act. There was to be free trade between Puerto Rico and the mainland,[47] but this advantage has been considerably qualified by congressionally imposed quota restrictions on the export of sugar to the United States.[48] There were to be collected into the insular treasury the internal revenue taxes paid on Puerto Rican products brought to the mainland and customs duties collected in Puerto Rico on foreign imports.[49] The federal income tax law was inapplicable to Puerto Rico.[50] The people of Puerto Rico were thus not to be taxed for the support of the general government in Washington, so it could not be said that there was "taxation without representation."

Notwithstanding these gains, Puerto Ricans were still not happy with what they regarded as their subordinate, or colonial, status. Important strings of control over local affairs were still held in Washington. A new political party, the Popular Democratic Party, was founded during the period 1938-1940. This is now the dominant political party in the island, and is under the acknowledged leadership of Governor Munoz. From its founding, the Popular Democratic Party was much concerned with the political status of the island. At one point its leaders felt that the Congress should be pressed to authorize a plebiscite in which the people of Puerto Rico would be permitted to choose between entire independence or federated statehood. The party, however, came to recognize that under either of these two alternatives Puerto Rico would have to sacrifice the existing good economic treatment accorded it by the United States; that these existing fiscal arrangements were vital to the continued economic development of the Puerto Rican people, if not indeed to their survival. The party, therefore, sought to devise some new form of association with the United States, in order not to be impaled upon the horns of a dilemma in a romantic quest for a dignified political status. Out of this striving was born the commonwealth idea.

Meanwhile, the United States made two further significant gestures in the direction of recognizing the aspirations of the Puerto Rican people. In 1946 the President appointed Jesus T. Pinero as governor of Puerto Rico. This was the first time a native-born Puerto Rican had been appointed to that post. By the Act of August 5, 1947[51] the people of Puerto Rico were given the right to choose their own governor by popular suffrage—a right never before accorded to a territory of the United States; and at an election held in November, 1948, Luis Munoz-Marin was chosen Governor.

In 1950 Congress passed Pub. L. 600[52] to provide for the organization of a

47. 39 STAT. 953, 48 U.S.C.A. § 741.
48. 48 STAT. 673 (1934), 7 U.S.C.A. § 608a (1952).
49. 39 STAT. 953 (1917), 48 U.S.C.A. §§ 740, 741 (1952).
50. Rivera v. Buscaglia, 146 F.2d 461 (1st Cir. 1944).
51. 61 STAT. 770 (1947), 48 U.S.C.A. § 771 (1952).
52. 64 STAT. 319 (1950), 48 U.S.C.A. §§ 731 *et seq.* (1952).

constitutional government by the people of Puerto Rico. After reciting that "the Congress of the United States by a series of enactments has progressively recognized the right of self-government of the people of Puerto Rico," it was enacted "That, fully recognizing the principle of government by consent, this Act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption."[53] It was provided that there should be an island-wide referendum in which the people of Puerto Rico could vote for acceptance or rejection of the terms of the "compact" offered in Pub. L. 600. Upon approval by a majority of the voters, the legislature of Puerto Rico was authorized "to call a constitutional convention to draft a constitution"[54] for the island. As to the content of the constitution, the only requirement was that it should provide a republican form of government and include a bill of rights.[55] Upon the adoption of such constitution by the people of Puerto Rico, the President was authorized to transmit the constitution to the Congress if he found that it conformed to the applicable provisions of Pub. L. 600 and of the Constitution of the United States.[56] It was provided that upon approval by the Congress, the constitution should become effective in Puerto Rico in accordance with its terms.[57] Pub. L. 600 further provided that upon the coming into effect of the new constitution of Puerto Rico there would be an automatic repeal of a large number of sections of the pre-existing Organic Act of 1917, as amended.[58] In general, these repealed sections related to matters of purely local concern, including the structure of the insular government. The remaining sections of the Organic Act were to be continued in effect as the Puerto Rican Federal Relations Act.[59] These sections, again speaking generally, had to do with the relations between Puerto Rico and the federal government, including the beneficial economic and fiscal provisions previously referred to,[60] the grant of American citizenship to Puerto Ricans,[61] the extension to Puerto Rico of general Acts of Congress not locally inapplicable,[62] the position of the Resident Commissioner to the United States with a seat, but not a vote, in the lower house of Congress,[63] the United States District Court for the District of Puerto Rico,[64] the relations of the insular and federal judicial systems,[65] etc.

53. 64 STAT. 319 (1950), 48 U.S.C.A. §§ 731 *et seq.* (1952).
54. *Id.* at 319, 48 U.S.C.A. § 731c.
55. *Ibid.*
56. *Id.* at 319, 48 U.S.C.A. § 731d.
57. *Ibid.*
58. *Id.* at 320, 48 U.S.C.A. § 731e.
59. *Id.* at 319, 48 U.S.C.A. § 731e(n).
60. See notes 46-49 *supra.*
61. See note 45 *supra.*
62. See note 102 *infra.*
63. See notes 34 and 44 *supra.*
64. See note 30 *supra.*
65. 39 STAT. 966 (1917), 48 U.S.C.A. § 864 (1952).

On June 4, 1951, at a referendum of the registered voters of Puerto Rico, the terms of the "compact" offered by Pub. L. 600 were approved by a vote of 387,016 to 119,169. In estimating the significance of this vote, it may be objected that the choices open to the voters were limited. They were not offered the alternatives of federal statehood or independence, but had to choose between approval or disapproval of the political arrangement expressed in Pub. L. 600. Possibly some voters were reluctant to vote against the greater measure of self-rule contained in Pub. L. 600, even though, ideally, they preferred some other status for the island. But it is clear that the dominant political party, the Popular Democratic Party, took the position in the election campaign of 1948 that neither statehood nor independence was a satisfactory or feasible alternative status under the existing conditions. Approval of Pub. L. 600 was opposed by the Republican Party, favoring ultimate statehood, and by the Independence Party (not to be confused with the insignificant group of extremists who recently sought to assassinate the governor and forcibly seize the government). Their opposition was based upon the estimate that acceptance of Pub. L. 600, and removal of the question of status from the current preoccupation of the people, might have the psychological tendency of postponing, if not of frustrating, the ultimate achievement of statehood, or independence. The compact idea of Pub. L. 600 was the brain child of Governor Munoz and of the Resident Commissioner to the United States; in fact, the Resident Commissioner introduced into the House of Representatives the bill which became Pub. L. 600. There is really no doubt that the people of Puerto Rico have freely accepted the compact offered to them. Whereas the power of the United States exercised over Puerto Rico previously had been based upon the force of conquest from Spain, the new political status of the island within the American system rests upon the consent of its people.

Elections were held on August 27, 1951, to choose delegates to the constitutional convention authorized by Pub. L. 600. After five months' deliberation the convention voted final approval to a draft constitution, 88 to 3. Both in substance and form, the handiwork of the convention was admirable. In the preamble it is recited that the people of Puerto Rico "do ordain and establish this Constitution for the commonwealth which, in the exercise of our natural rights, we now create within our union with the United States of America." In accordance with American constitutional tradition, the constitution provided a structure of government in three departments, executive,[66] legislative[67] and judicial.[68] It contained a bill of rights,[69] with some guaranties broader in scope than those found in our federal and some of our state constitutions. I cannot stop to analyze the constitution in detail but

66. PUERTO RICO CONST. Art. IV (1952).
67. *Id.*, Art. III.
68. *Id.*, Art. V.
69. *Id.*, Art. II.

shall refer merely to two interesting provisions which show that the constitutional convention was not merely following in a slavish manner the existing American models. In the article on the legislative department is a detailed provision for assuring adequate minority representation.[70] In elections under the Organic Act it had been the experience that sometimes a dominant political party captured nearly all the seats in the legislature despite strong minority party opposition at the polls. Under a formula provided in the constitution, whenever the results of an election show that one party has gained two thirds or more seats in either house, enough additional representatives or senators are automatically added from the minority parties so as to make their strength in each house roughly proportionate to the strength shown by their respective candidates for governor. In the draft on the article dealing with the judiciary, perhaps reminiscent of our so-called Court-packing fight in 1937, it was provided that the Supreme Court of Puerto Rico shall be composed of a Chief Justice and four Associate Justices, and that the size of the Supreme Court "may be changed only by law upon request of the Supreme Court."[71]

It happened to be my good fortune to be present at the meeting of the constitutional convention on its closing day, when the delegates came up one by one to sign the document. The delegates manifested a spirit of Latin gaiety, combined with dignity and earnestness and a deep emotional fervor. There is no doubt they thought something great and significant was happening, as was indeed expressed in one of the concluding resolutions of the convention, as follows:[72]

> "Thus we attain the goal of complete self-government, the last vestiges of colonialism having disappeared in the principle of Compact, and we enter into an era of new developments in democratic civilization. Nothing can surpass in political dignity the principle of mutual consent and of compacts freely agreed upon. The spirit of the people of Puerto Rico is free for great undertakings now and in the future. Having full political dignity the commonwealth of Puerto Rico may develop in other ways by modifications of the Compact through mutual consent."

On this occasion I was proud of the United States, and of the wisdom and statesmanship of Congress as manifested in Pub. L. 600, under which this boon of local self-government was extended to the people of Puerto Rico. The thought then occurred to me that it would be an awful thing if this cup of freedom should be dashed from their lips by the refusal of the Con-

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70. PUERTO RICO CONST. Art. III, § 7 (1952).

71. *Id.*, Art. V, § 3.

72. Resolution No. 23, *Resolutions Approved by the Constitutional Convention Relating to the Constitution of the Commonwealth of Puerto Rico*, CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO, Dep't of Education Press, San Juan, Puerto Rico, p. 42.

gress to approve the constitution, as it had to do under Pub. L. 600. Fortunately this did not happen, though for a time it looked as though Congress might make a tragic blunder in this respect.

After approval of the constitution by an overwhelming vote of the people of Puerto Rico at another special election, it was transmitted to the President of the United States. The President, finding that the draft was in all respects in conformity with the requirements of Pub. L. 600, forwarded it to the Congress for approval.

The legislative history of the resolution of Congress approving the constitution is too long to be recited here. Two amendments were made which to me seem to have been superfluous and unnecessary, but which the Resident Commissioner acquiesced in for the Puerto Rican people because of the larger interest at stake in obtaining approval of the constitution as a whole. There was, however, one amendment proposed on the floor of the Senate which was adopted rather casually by the Senate without apparent recognition of its full significance. It had to do with Art. VII of the constitution, setting forth the procedures for amending it. The proviso adopted by the Senate was "that no amendment to the constitution of the Commonwealth of Puerto Rico shall be effective until approved by the Congress of the United States."[73] This proviso would have constituted a flagrant repudiation of the implied moral commitment in Pub. L. 600. Under it, if the people of Puerto Rico should in the future desire to amend their constitution, *e.g.*, by rearranging their senatorial or legislative districts, or by changing the size of the Supreme Court of Puerto Rico, or by providing that the governor should not be eligible for reelection, or by restricting the powers of the legislature, no such amendment could be effective until it had obtained the approval of the Congress of the United States. In other words, the people of Puerto Rico would not be accorded full freedom to determine the structure and detail of their local self-government. In effect all that they would be empowered to do would be to propose to the Congress amendments of the Organic Act covering their affairs (which indeed they could have done prior to the passage of Pub. L. 600); and if the Congress should choose to approve such proposals, then the structure of local self-government would be changed accordingly. Under such a limitation, it would be a misnomer to call the frame of local government adopted by the people of Puerto Rico a "constitution" of their own adoption. If Congress had insisted upon this proviso, our enemies would have chortled that Pub. L. 600, and the so-called "constitution" adopted thereunder, were mere window dressing, with no substantial change in the status of the people of Puerto Rico; that instead of "the last vestiges of colonialism having disappeared," the Congress had chosen to retain its grip over the local affairs of the people of Puerto Rico.

Luckily the conference committee appointed to iron out the differences

73. 98 CONG. REC. 8242 (1952).

between the House and Senate realized that the amendment adopted by the Senate would never do, and the committee reported a satisfactory formula which struck out this limitation upon the power of the people of Puerto Rico to amend their own constitution.[74] Approval of the amending clause of Art. VII of the constitution was conditioned upon the adoption by the people of Puerto Rico of an amendment to the said article adding the following sentence:

> "Any amendment or revision of this constitution shall be consistent with the resolution enacted by the Congress of the United States approving this constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-first Congress, adopted in the nature of a compact."[75]

Thus, within the area of local autonomy vested in them, the people of Puerto Rico were left free to amend their local constitution without approval of the Congress.

After formal acceptance by the constitutional convention and by the people of Puerto Rico of the conditions subject to which the Congress had approved the constitution, the existence of the Commonwealth of Puerto Rico under its new constitution was officially proclaimed on July 25, 1952.

In recognition of the new political status achieved by Puerto Rico, the United States has taken appropriate action in the United Nations. Under Art. 73 of the Charter of the United Nations,[76] the United States and other members which have assumed responsibilities "for the administration of territories whose peoples have not yet attained a full measure of self-government,"[77] accepted the obligation to insure just treatment to the inhabitants of such territories;[78] "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions."[79] The United States, and the other administering states, also accepted the obligation to transmit regularly to the Secretary-General, for information purposes, "statistical and other information of a technical nature relating to economic, social, and educational conditions"[80] in said non-self-governing territories. Hitherto, the United States had regularly transmitted to the Secretary-General of the United Nations information of the sort described in Art. 73 with reference to Puerto Rico. After the formal installation of the Commonwealth of

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74. H.R. REP. No. 2350, 82d Cong., 2d Sess. 1f (1952).
75. 66 STAT. 327 (1952).
76. 59 STAT. 1048 (1945).
77. U.N. CHARTER Art. 73.
78. *Ibid.*
79. *Id.*, ¶ b.
80. *Id.*, ¶ e.

Puerto Rico on July 25, 1952, Governor Munoz wrote to the President, in part as follows:

> "Puerto Rico became a Commonwealth in free and voluntary association with the United States, and its people have now attained a full measure of self-government. Accordingly, I respectfully suggest on behalf of the Commonwealth of Puerto Rico that the Government of the United States take steps to notify the United Nations of the status of Puerto Rico, that it is no longer a non-self-governing area, and that reports concerning it are no longer appropriate under Article 73(e) of the Charter."[81]

By letter from Senator Lodge, as Ambassador to the United Nations, dated March 20, 1953, the United States so notified the Secretary-General of the United Nations.[82] Accompanying Senator Lodge's letter was a memorandum from the United States Government expressing its recognition "of the full measure of self-government which has been achieved by the people of Puerto Rico,"[83] from which the conclusion followed that it was no longer appropriate for the United States to continue to transmit information to the United Nations concerning Puerto Rico under Art. 73(e) of the Charter.

Something important has taken place in Puerto Rico. It is not easy to characterize it in terms that would be accepted as accurate by a political scientist or by an expert in constitutional or international law.

In the joint resolution approving the Constitution of the Commonwealth of Puerto Rico,[84] the Congress recited that Pub. L. 600 had been "adopted by the Congress as a compact with the people of Puerto Rico, to become operative upon its approval by the people of Puerto Rico."[85] What is the nature of this "compact"? It can hardly by said to be a treaty between two nations exercising full sovereignty. It may be suggested that the constitutional government which has been set up in Puerto Rico pursuant to Pub. L. 600 is merely an internal administrative arrangement for the government of a territory subject to the sovereignty of the United States—an arrangement which, from the standpoint of international law, the United States might have sovereign power to undo through the subsequent exercise of plenary legislative power by Congress under the so-called territorial clause of Art. IV, § 3, of the Constitution. Such action, if it ever took place, might be comparable to the sovereign act of the Kingdom of Spain of ceding Puerto Rico to the United States in the Treaty of Paris, thereby supplanting the charter of self-rule which had been granted to Puerto Rico by royal decree in 1897.

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81. 28 DEP'T STATE BULL. 588 (1953).
82. *Id.* at 584-585.
83. *Id.* at 588.
84. 66 STAT. 327 (1952).
85. *Ibid.*

But what is the situation from the standpoint of the domestic law of the United States? In a sense it is true that one Congress cannot limit a succeeding Congress in the exercise of its legislative powers under the Constitution. But there are certainly instances of what amounts to a *fait accompli* pursuant to legislation, which subsequently cannot be undone by the repeal of the legislation. Thus the Congress could not, by the repeal of the Tydings-McDuffie Act[86] undo the grant of independence to the Philippine Islands. Again, when a territory has been admitted to statehood, the status thereby achieved by the people concerned cannot be undone by a repeal of the act of admission and the passage of a new organic act for the local government of the former territory.[87] Nor could a grant of private title to public lands under the homestead laws be recalled by a subsequent Act of Congress.[88] Likewise, it would not be within the power of a subsequent Congress to recall a grant of American citizenship duly and lawfully obtained under an existing naturalization act.[89] These are instances of vested rights, which Congress cannot constitutionally take away.[90] Is the "compact" with the people of Puerto Rico that sort of thing?

Pub. L. 600 authorized the people of Puerto Rico to organize a government "pursuant to a constitution of their own adoption."[91] What is a constitution? It is a constituent act of a people who have freely determined to organize themselves into a body politic and to prescribe for themselves a basic framework of self-government. That is just what the people of Puerto Rico have done, under authority of Pub. L. 600. Art. I of the Constitution, which the Congress has approved, declares:

> "The Commonwealth of Puerto Rico is hereby constituted.[92] Its political power emanates from the people and shall be exercised in accordance with their will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America."

Is this not another *fait accompli*? It is true that under the terms of the "compact," the people of Puerto Rico do not exercise the full sovereignty

86. 48 STAT. 456 (1934).

87. See Coyle v. Smith, 221 U.S. 559 (1910).

88. See Reichert v. Felps, 6 Wall. 160 (U.S. 1867).

89. *Cf.* United States v. Wong Kim Ark, 169 U.S. 649 (1897).

90. For other instances, see Choate v. Trapp, 224 U.S. 665 (1912); Lynch v. United States, 292 U.S. 571 (1934).

91. See note 52 *supra*.

92. The term "Commonwealth of Puerto Rico" is the agreed upon English translation of the Spanish "El Estado Libre Asociado de Puerto Rico." The constitutional convention explained that the term should not be translated literally in English as "Associated Free State," inasmuch as the word "State" in its ordinary use in the United States means one of the states of the Union. See Resolution No. 22, *Resolutions Approved by the Constitutional Convention Relating to the Constitution of the Commonwealth of Puerto Rico*, CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO, Dep't of Education Press, San Juan, Puerto Rico, p. 40.

of an independent nation, since they do not have control of their external relations with other nations. But under the qualified sovereignty granted to them, within the area of freedom and autonomy vested in them pursuant to Pub. L. 600, is the Constitution of the Commonwealth of Puerto Rico really a "constitution"—which Congress says it is—if it is subject to recall or overriding by a power external to the people of Puerto Rico, namely, the Congress of the United States?

There is no doubt that the people of Puerto Rico believe that the status they have achieved is a vested right which cannot be revoked by unilateral action of the Congress. In the letter, above referred to,[93] which the Governor of Puerto Rico wrote to the President urging that reports by the United States concerning Puerto Rico are no longer appropriate under Art. 73(e) of the United Nations Charter, the Governor said: "Our status and the terms of our association with the United States cannot be changed without our full consent."[94] Senator Lodge forwarded to the United Nations a copy of this letter of the Governor in support of the action taken by the United States in discontinuing the making of these reports. Also, in the accompanying memorandum by the Government of the United States, the United Nations was informed as follows:[95]

> "By the various actions taken by the Congress and the people of Puerto Rico, Congress has agreed that Puerto Rico shall have, under that Constitution, freedom from control or interference by the Congress in respect of internal government and administration, subject only to compliance with applicable provisions of the Federal Constitution, the Puerto Rican Federal Relations Act and the acts of Congress authorizing and approving the Constitution, as may be interpreted by judicial decision."

Hon. Victor Gutiérrez-Franqui, a member of the insular senate, formerly attorney general of Puerto Rico, and second vice president of the Puerto Rican Constitutional Convention, has stated that "the compact represents on the part of Congress a voluntary and irrevocable vesting of power in the people of Puerto Rico with respect to the internal government of the island."[96]

On the other hand, Professor Helfeld[97] examines in minute detail the legislative history of the enactment of Pub. L. 600 and of the joint resolution approving the Puerto Rican Constitution, and comes to the conclusion that the members of Congress, upon the whole, did not understand that they were thereby committing the United States to an irrevocable delegation

93. See note 81 *supra*.
94. 28 DEP'T STATE BULL. 589 (1953).
95. *Id.* at 587.
96. *The Commonwealth Constitution*, 285 ANNALS 33 (Jan. 1953).
97. Professor of Law, University of Puerto Rico.

or release of the power of the Congress over Puerto Rico under Art. IV, § 3, of the Constitution of the United States.[98] But it may perhaps not be conclusive, and would not be the first time in history, that the Congress did not realize at the time the full significance of what it was doing.

I shall not at this time venture a definitive answer to the foregoing question, for one reason, among others, that the question really is of subordinate importance. The significant thing is the substance of freedom, and the feeling of freedom, which the people of Puerto Rico evidently possess as a result of having achieved their new constitutional status. In the realm of practical affairs, certain political acts are by their nature irreversible—such, for example, as the passage by the British Parliament of the North-America Act with reference to the Dominion of Canada. The Congress, even if it has the power, could not afford by a unilateral act to pass a new Organic Act for the internal government of Puerto Rico, supplanting the existing constitution of the commonwealth. That would be an act resting on naked power alone, without any basis of moral justification. It would convict the United States of hypocrisy and insincerity in "fully recognizing the principle of government by consent,"[99] as it professed to be doing in Pub. L. 600. One can imagine the disastrous effect which such action would have upon our standing in the good opinion of mankind and particularly in our relations with our Latin-American neighbors, as the powerful champion of democracy and of the rights of peoples not so strong, in a physical sense, as we are.

Without further reference, then, to the question of legal power, and assuming that the United States means to honor the obvious moral commitments of its "compact with the people of Puerto Rico," there still are certain unsolved points which assuredly will be worked out satisfactorily in an amicable evolution of the new relationship between the United States and Puerto Rico. As above stated,[100] under the terms of the compact, the unrepealed sections of the 1917 Organic Act remain in effect as the Puerto Rican Federal Relations Act. Senator Victor Gutiérrez-Franqui states his understanding that the compact

> "implies that relations between Puerto Rico and the United States are no longer matters to be determined unilaterally by Congress but have become subject to consultation between Congress and Puerto Rico and to determination on the basis of mutual agreement and consent."[101]

However, no mechanism has been provided for the manifestation of such consent by Puerto Rico, in case Congress should in the future desire to

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98. *Congressional Intent and Attitude Toward Public Law 600 and the Constitution of the Commonwealth of Puerto Rico*, 21 REVISTA JURIDICA DE LA UNIVERSIDAD DE PUERTO RICO 225 (1952).

99. See note 52 *supra*.

100. See note 59 *supra*.

101. *The Commonwealth Constitution*, 285 ANNALS 33 (Jan. 1953).

amend a section of the Puerto Rican Federal Relations Act. Such consent, of course, could be given by formal resolution of the legislative assembly of the commonwealth. Or perhaps it might be manifested by action of the Puerto Rican Resident Commissioner, who has the privilege of a seat in the lower house of Congress. But it seems clear that the existing provisions of the Puerto Rican Federal Relations Act form part of the compact to which the people of Puerto Rico have consented. If, for instance, the Congress by unilateral act, and without in some appropriate way obtaining the consent of the people of Puerto Rico, should repeal that section of the Puerto Rican Federal Relations Act providing that proceeds of customs collected on foreign merchandise entering Puerto Rico shall be covered into the insular treasury, it would seem that the basis of the compact would thereby be destroyed; and that the further exercise of power over Puerto Rico would no longer have "the principle of government by consent" as its basis and moral justification.

Section 9 of the 1917 Organic Act[102] remains in effect now as part of the Puerto Rican Federal Relations Act.[103] It provides, with exceptions not now relevant, that the statutory laws of the United States not locally inapplicable "shall have the same force and effect in Puerto Rico as in the United States."[104] Thus it is apparently recognized in the compact that Congress has reserved the power, without future amendment of the Puerto Rican Federal Relations Act, to enact general legislation applicable to Puerto Rico as well as to the rest of the United States. There seems here to be no implied moral commitment that the Congress will extend to Puerto Rico the provisions of such general legislation only after consultation and manifestation of consent by the people of Puerto Rico. An instance of this type of legislation is the Selective Service Act of 1948[105] which applies to the people of Puerto Rico in the same way as it applies to the people of the States of the Union. In enacting such legislation it would no more be necessary to obtain the consent of the Commonwealth of Puerto Rico than it would be to obtain the consent of the State of New York.

But there are other instances of general legislation which the Congress has given a wider application to the island of Puerto Rico than to the States of the Union, in virtue of its wider legislative power under the so-called territorial clause of Art. IV, § 3, of the Federal Constitution. Thus the White Slave Traffic Act, popularly known as the Mann Act, made it a federal crime to transport a woman for immoral purposes from one point to the other wholly within the island of Puerto Rico.[106] Likewise, Congress in extending the National Labor Relations Act to Puerto Rico has applied it to regulate

102. See note 20 *supra*.
103. See note 59 *supra*.
104. 64 STAT. 319 (1950).
105. See note 8 *supra*.
106. Crespo v. United States, 151 F.2d 44 (1st Cir. 1945).

unfair labor practices affecting purely intra-territorial commerce.[107] Public Law 600 did not expressly purport to repeal these intra-island applications of the Mann Act and of the National Labor Relations Act, though it does contain a general repealer of all laws or parts of laws inconsistent with it. As part of the compact, under the provision of the Puerto Rican Federal Relations Act to the effect that the general statutory laws of the United States "shall have the same force and effect in Puerto Rico as in the United States,"[108] may it possibly be contended that since the coming into effect of the Constitution of the Commonwealth of Puerto Rico, Acts of Congress like the Mann Act and the National Labor Relations Act can no longer be given any greater effect as applied to Puerto Rico than as applied to the States of the Union; that otherwise there would be continued regulation by Congress of purely local affairs confided to the exclusive jurisdiction of the Commonwealth of Puerto Rico?

In this connection it is interesting to note that the Fair Labor Standards Act[109] by its very terms applies to Puerto Rico only in the same way that it applies to the States of the Union. "Commerce" is defined in § 3 as meaning "trade, commerce, transportation, transmission, or communication among the several States or from any State to any place outside thereof." "State" is defined for the purposes of the Act as meaning "any State of the United States or the District of Columbia or any Territory or possession of the United States."

One point, bearing on the jurisdiction of the Court of Appeals for the First Circuit, deserves to be mentioned. Our court has jurisdiction of appeals from final decisions of the Supreme Court of Puerto Rico in all cases involving federal questions,[110] in all habeas corpus proceedings,[111] "and in all other civil cases where the value in controversy exceeds $5,000, exclusive of interest and costs."[112] Public Law 600 did not purport to affect our jurisdiction upon the coming into effect of the Constitution of the Commonwealth. On paper we have a continuing appellate jurisdiction over the Supreme Court of Puerto Rico, though the question at issue depends solely upon a point of local law. Considering the underlying basis of Pub. L. 600, in its grant of local autonomy to the people of Puerto Rico, it would seem logical that the decisions of the Supreme Court of Puerto Rico should have the same finality, as respect to questions of local law, as is accorded to a decision of the highest court of a State of the Federal Union upon a question of its local law. In a series of cases, long antedating the passage of Pub. L. 600, the Supreme Court of the United States has warned us that we are not to reverse a judg-

107. N.L.R.B. v. Gonzalez Padin Co., 161 F.2d 353 (1st Cir. 1947).
108. 39 STAT. 954 (1917), 48 U.S.C.A. § 734 (1952).
109. 52 STAT. 1060 (1938), 29 U.S.C.A. §§ 201 *et seq.* (1947).
110. 62 STAT. 929 (1948), 28 U.S.C.A. § 1293 (1949).
111. *Ibid.*
112. *Ibid.*

ment of the Supreme Court of Puerto Rico on a matter of local law unless the decision of that court is "inescapably wrong."[113] Under that criterion, the existence of this technical statutory jurisdiction in our court has been irksome to us. We have taken occasion to remark that while we might in a particular case have the feeling that the Supreme Court of Puerto Rico was probably wrong, it would require a touch of arrogance for us to say that it was "inescapably wrong"; and so, as a practical matter, our appellate jurisdiction in this class of cases has come to be pretty much of a dead letter. In *De Castro v. Board of Commissioners*,[114] the Supreme Court of Puerto Rico had held that a local statute providing that the city manager for San Juan "shall hold office during good conduct" meant that his tenure of office "is that of four years, provided that during the same he observe good behavior."[115] We thought that that decision of the Supreme Court of Puerto Rico was probably a wrong interpretation of the local statute; but nevertheless we affirmed the judgment, since we were unwilling to say that the decision was "inescapably wrong." On certiorari, the Supreme Court of the United States[116] in turn affirmed us, telling us that they really meant what they said as to the "inescapably wrong" criterion.

Perhaps when Congress gives the matter some thought, it will withdraw this jurisdiction from the Court of Appeals for the First Circuit and provide that judgments in the Supreme Court of Puerto Rico shall be reviewable only in the Supreme Court of the United States, and then on the same basis as the jurisdiction presently given to the Supreme Court to review judgments of the highest court of a State. Meanwhile, the people of Puerto Rico will not be worried too much about this matter, for in substance, if not in form, the decisions of the Supreme Court of Puerto Rico have a present practical finality in matters of local law.

Of course, the status of the Commonwealth of Puerto Rico is still not the same as that of a State in the Federal Union,[117] though both have in common complete powers of local self-government. Puerto Rico does not have votes in the electoral college for the choosing of a president and vice president of the United States. It does not have two senators in the Senate of the United States, nor representation in the House of Representatives in proportion to population. Amendment of the Constitution of the United States would be necessary in order to extend these privileges to Puerto Rico. Congress could not do it, except by admitting Puerto Rico to statehood.

On the other hand, Puerto Rico possesses certain compensating advantages, chiefly of an economic or fiscal nature, which it would have to

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113. See Bonet v. Texas Co., 308 U.S. 463, 471 (1940), and cases cited.

114. 136 F.2d 419 (1st Cir. 1943).

115. *Id.* at 422.

116. 322 U.S. 451 (1944).

117. But Puerto Rico may be considered a "state" for some purposes. See the discussion of *Mora v. Mejias*, 206 F.2d 377 (1st Cir. 1953) at p. 170, *infra*.

forego if admitted to statehood. On balance, the Puerto Ricans justly feel that the status of the island under the compact, though different from that of a State of the Union, is one of no less dignity.

As to this matter of voting privileges, it is to be noted that there is no discrimination against Puerto Ricans as such. A Puerto Rican who exercises his right as an American citizen to migrate to a State of the Union and establish a domicil there, will as a citizen of his adopted State have the privilege of voting for representatives in Congress and for President of the United States. A citizen of New York who migrates to Puerto Rico, and establishes a domicil there, will no longer have the privilege of voting for representatives in Congress or for President.

On July 25, 1952, at the ceremonies in San Juan incident to the formal proclamation of the Commonwealth of Puerto Rico, Governor Munoz unfurled the flag of the people of Puerto Rico, and said this, in the course of his address to the people:

> "This act will mark the establishment of the Commonwealth in a voluntary association of citizenship and affection with the United States of America. We shall see in this flag the symbol of the spirit of our people facing its own destiny and that of America as a whole. The flag of the smallest community of the hemisphere will fly together with the flag of the United States and will proclaim to the world that Democracy declares all peoples, as all men, equal in dignity. Puerto Rico is honored to see its flag wave side by side with the flag of the great American Union; and the Union, with its great democratic conscience, must feel gratified that the flag of a vigorous-spirited people pays it the tribute of voluntary companionship on the flagstaff of liberty."

"Never" is a long time, but I now use the word advisedly. In conclusion I make bold to say that the United States will *never* take any action to crush or dampen the spirit of these eloquent words spoken by the chosen leader of the Puerto Rican people.

APPENDIX

CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO

We, the people of Puerto Rico, in order to organize ourselves politically on a fully democratic basis, to promote the general welfare, and to secure for ourselves and our posterity the complete enjoyment of human rights, placing our trust in Almighty God, do ordain and establish this Constitution for the Commonwealth which, in the exercise of our natural rights, we now create within our union with the United States of America.

In so doing, we declare:

The democratic system is fundamental to the life of the Puerto Rican community;

We understand that the democratic system of government is one in which the will of the

people is the source of public power, the political order is subordinate to the rights of man, and the free participation of the citizen in collective decisions is assured;

We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges; our loyalty to the principles of the Federal Constitution; the coexistence in Puerto Rico of the two great cultures of the American Hemisphere; our fervor for education; our faith in justice; our devotion to the courageous, industrious, and peaceful way of life; our fidelity to individual human values above and beyond social position, racial differences, and economic interests; and our hope for a better world based on these principles.

ARTICLE I
THE COMMONWEALTH

Section 1.—The Commonwealth of Puerto Rico is hereby constituted. Its political power emanates from the people and shall be exercised in accordance with their will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America.

Section 2.—The government of the Commonwealth of Puerto Rico shall be republican in form and its legislative, judicial and executive branches as established by this Constitution shall be equally subordinate to the sovereignty of the people of Puerto Rico.

Section 3.—The political authority of the Commonwealth of Puerto Rico shall extend to the Island of Puerto Rico and to the adjacent islands within its jurisdiction.

Section 4.—The seat of the government shall be the city of San Juan.

ARTICLE II
BILL OF RIGHTS

Section 1.—The dignity of the human being is inviolable. All men are equal before the law. No discrimination shall be made on account of race, color, sex, birth, social origin or condition, or political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality.

Section 2.—The laws shall guarantee the expression of the will of the people by means of equal, direct and secret universal suffrage and shall protect the citizen against any coercion in the exercise of the electoral franchise.

Section 3.—No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. There shall be complete separation of church and state.

Section 4.—No law shall be made abridging the freedom of speech or of the press, or the right of the people peaceably to assembly and to petition the government for a redress of grievances.

Section 5.—Every person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. There shall be a system of free and wholly non-sectarian public education. Instruction in the elementary and secondary schools shall be free and shall be compulsory in the elementary schools to the extent permitted by the facilities of the state. No public property or public funds shall be used for the support of schools or educational institutions other than those of the state. Nothing contained in this provision shall prevent the state from furnishing to any child non-educational services established by law for the protection or welfare of children. Compulsory attendance at elementary public schools to the extent permitted by the facilities of the state as herein provided shall not be construed as applicable to those who receive elementary education in schools established under non governmental auspices.

Section 6.—Persons may join with each other and organize freely for any lawful purpose, except in military or quasi-military organizations.

Section 7.—The right to life, liberty and the enjoyment of property is recognized as a fundamental right of man. The death penalty shall not exist. No person shall be deprived of his liberty or property without due process of law. No person in Puerto Rico shall be denied the equal protection of the laws. No laws impairing the obligation of contracts shall be enacted. A minimum amount of property and possessions shall be exempt from attachment as provided by law.

Section 8.—Every person has the right to the protection of law against abusive attacks on his honor, reputation, and private or family life.

Section 9.—Private property shall not be taken or damaged for public use except upon payment of just compensation and in the manner provided by law. No law shall be enacted authorizing condemnation of printing presses, machinery or material devoted to publications of any kind. The buildings in which these objects are located may be condemned only after a judicial finding of public convenience and necessity pursuant to procedure that shall be provided by law, and may be taken before such a judicial finding only when there is placed at the disposition of the publication an adequate site in which it can be installed and continue to operate for a reasonable time.

Section 10.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

Wire-tapping is prohibited.

No warrant for arrest or search and seizure shall issue except by judicial authority and only upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the persons to be arrested or the things to be seized.

Evidence obtained in violation of this section shall be inadmissible in the courts.

Section 11.—In all criminal prosecutions, the accused shall enjoy the right to have a speedy and public trial, to be informed of the nature and cause of the accusation and to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, to have assistance of counsel, and to be presumed innocent.

In all prosecutions for a felony the accused shall have the right of trial by an impartial jury composed of twelve residents of the district, who may render their verdict by a majority vote which in no case may be less than nine.

No person shall be compelled in any criminal case to be a witness against himself and the failure of the accused to testify may be neither taken into consideration nor commented upon against him.

No person shall be twice put in jeopardy of punishment for the same offense.

Before conviction every accused shall be entitled to be admitted to bail.

Incarceration prior to trial shall not exceed six months nor shall bail or fines be excessive. No person shall be imprisoned for debt.

Section 12.—Neither slavery nor involuntary servitude shall exist except in the latter case as a punishment for crime after the accused has been duly convicted. Cruel and unusual punishments shall not be inflicted. Suspension of civil rights including the right to vote shall cease upon service of the term of imprisonment imposed.

No *ex post facto* law or bill of attainder shall be passed.

Section 13.—The writ of *habeas corpus* shall be granted without delay and free of costs. The privilege of the writ of *habeas corpus* shall not be suspended, unless the public safety requires it in case of rebellion, insurrection or invasion. Only the Legislative Assembly shall have the power to suspend the privilege of the writ of *habeas corpus* and the laws regulating its issuance.

The military authority shall always be subordinate to civil authority.

Section 14.—No titles of nobility or other hereditary honors shall be granted. No officer or employee of the Commonwealth shall accept gifts, donations, decorations or offices from any foreign country or officer without prior authorization by the Legislative Assembly.

Section 15.—The employment of children less than fourteen years of age in any occupa-

tion which is prejudicial to their health or morals or which places them in jeopardy of life or limb is prohibited.

No child less than sixteen years of age shall be kept in custody in a jail or penitentiary.

Section 16.—The right of every employee to choose his occupation freely and to resign therefrom is recognized, as is his right to equal pay for equal work, to a reasonable minimum salary, to protection against risks to his health or person in his work or employment, and to an ordinary workday which shall not exceed eight hours. An employee may work in excess of this daily limit only if he is paid extra compensation as provided by law, at a rate never less than one and one-half times the regular rate at which he is employed.

Section 17.—Persons employed by private businesses, enterprises and individual employers and by agencies or instrumentalities of the government operating as private businesses or enterprises, shall have the right to organize and to bargain collectively with their employers through representatives of their own free choosing in order to promote their welfare.

Section 18.—In order to assure their right to organize and to bargain collectively, persons employed by private businesses, enterprises and individual employers and by agencies or instrumentalities of the government operating as private businesses or enterprises, in their direct relations with their own employers shall have the right to strike, to picket and to engage in other legal concerted activities.

Nothing herein contained shall impair the authority of the Legislative Assembly to enact laws to deal with grave emergencies that clearly imperil the public health or safety or essential public services.

Section 19.—The foregoing enumeration of rights shall not be construed restrictively nor does it contemplate the exclusion of other rights not specifically mentioned which belong to the people in a democracy. The power of the Legislative Assembly to enact laws for the protection of the life, health and general welfare of the people shall likewise not be construed restrictively.

ARTICLE III
THE LEGISLATURE

Section 1.—The legislative power shall be vested in a Legislative Assembly, which shall consist of two houses, the Senate and the House of Representatives, whose members shall be elected by direct vote at each general election.

Section 2.—The Senate shall be composed of twenty-seven Senators and the House of Representatives of fifty-one Representatives, except as these numbers may be increased in accordance with the provisions of Section 7 of this Article.

Section 3.—For the purpose of election of members of the Legislative Assembly, Puerto Rico shall be divided into eight senatorial districts and forty representative districts. Each senatorial district shall elect two Senators and each representative district one Representative.

There shall also be eleven Senators and eleven Representatives elected at large. No elector may vote for more than one candidate for Senator at Large or for more than one candidate for Representative at Large.

Section 4.—In the first and subsequent elections under this Constitution the division of senatorial and representative districts as provided in Article VIII shall be in effect. After each decennial census beginning with the year 1960, said division shall be revised by a Board composed of the Chief Justice of the Supreme Court as Chairman and of two additional members appointed by the Governor with the advice and consent of the Senate. The two additional members shall not belong to the same political party. Any revision shall maintain the number of senatorial and representative districts here created, which shall be composed of contiguous and compact territory and shall be organized, insofar as practicable, upon the basis of population and means of communication. Each senatorial district shall always include five representative districts.

The decisions of the Board shall be made by majority vote and shall take effect in the general elections next following each revision. The Board shall cease to exist after the completion of each revision.

Section 5.—No person shall be a member of the Legislative Assembly unless he is able to read and write the Spanish or English language and unless he is a citizen of the United States and of Puerto Rico and has resided in Puerto Rico at least two years immediately prior to the date of his election or appointment. No person shall be a member of the Senate who is not over thirty years of age, and no person shall be a member of the House of Representatives who is not over twenty-five years of age.

Section 6.—No person shall be eligible to election or appointment as Senator or Representative for a district unless he has resided therein at least one year immediately prior to his election or appointment. When there is more than one representative district in a municipality, residence in the municipality shall satisfy this requirement.

Section 7.—If in a general election more than two-thirds of the members of either house are elected from one political party or from a single ticket, as both are defined by law, the number of members shall be increased in the following cases:

(*a*) If the party or ticket which elected more than two-thirds of the members of either or both houses shall have obtained less than two-thirds of the total number of votes cast for the office of Governor, the number of members of the Senate or of the House of Representatives or of both bodies, whichever may be the case, shall be increased by declaring elected a sufficient number of candidates of the minority party or parties to bring the total number of members of the minority party or parties to nine in the Senate and to seventeen in the House of Representatives. When there is more than one minority party, said additional members shall be declared elected from among the candidates of each minority party in the proportion that the number of votes cast for the candidate of each of said parties for the office of Governor bears to the total number of votes cast for the candidates of all the minority parties for the office of Governor.

When one or more minority parties shall have obtained representation in a proportion equal to or greater than the proportion of votes received by their respective candidates for Governor, such party or parties shall not be entitled to additional members until the representation established for each of the other minority parties under these provisions shall have been completed.

(*b*) If the party or ticket which elected more than two-thirds of the members of either or both houses shall have obtained more than two-thirds of the total number of votes cast for the office of Governor, and one or more minority parties shall not have elected the number of members in the Senate or in the House of Representatives or in both houses, whichever may be the case, which corresponds to the proportion of votes cast by each of them for the office of Governor, such additional number of their candidates shall be declared elected as is necessary in order to complete said proportion as nearly as possible, but the number of Senators of all the minority parties shall never, under this provision, be more than nine or that of Representatives more than seventeen.

In order to select additional members of the Legislative Assembly from a minority party in accordance with these provisions, its candidates at large who have not been elected shall be the first to be declared elected in the order of the votes that they have obtained, and thereafter its district candidates who, not having been elected, have obtained in their respective districts the highest proportion of the total number of votes cast as compared to the proportion of votes cast in favor of other candidates of the same party not elected to an equal office in the other districts.

The additional Senators and Representatives whose election is declared under this section shall be considered for all purposes as Senators at Large or Representatives at Large.

The measures necessary to implement these guarantees, the method of adjudicating fractions that may result from the application of the rules contained in this section, and the minimum number of votes that a minority party must cast in favor of its candidate for

Governor in order to have the right to the representation provided herein shall be determined by the Legislative Assembly.

Section 8.—The term of office of Senators and Representatives shall begin on the second day of January immediately following the date of the general election in which they shall have been elected. If, prior to the fifteen months immediately preceding the date of the next general election, a vacancy occurs in the office of Senator or Representative for a district, the Governor shall call a special election in said district within thirty days following the date on which the vacancy occurs. This election shall be held not later than ninety days after the call, and the person elected shall hold office for the rest of the unexpired term of his predecessor. When said vacancy occurs during a legislative session, or when the Legislative Assembly or the Senate has been called for a date prior to the certification of the results of the special election, the presiding officer of the appropriate house shall fill said vacancy by appointing the person recommended by the central committee of the political party of which his predecessor in office was a member. Such person shall hold the office until certification of the election of the candidate who was elected. When the vacancy occurs within fifteen months prior to a general election, or when it occurs in the office of a Senator at Large or a Representative at Large, the presiding officer of the appropriate house shall fill it, upon the recommendation of the political party of which the previous holder of the office was a member, by appointing a person selected in the same manner as that in which his predecessor was selected. A vacancy in the office of a Senator at Large or a Representative at Large elected as an independent candidate shall be filled by an election in all districts.

Section 9.—Each house shall be the sole judge of the election, returns and qualifications of its members; shall choose its own officers; shall adopt rules for its own proceedings appropriate to legislative bodies; and, with the concurrence of three-fourths of the total number of members of which it is composed, may expel any member for the causes established in Section 21 of this Article, authorizing impeachments. The Senate shall elect a President and the House of Representatives a Speaker from among their respective members.

Section 10.—The Legislative Assembly shall be deemed a continuous body during the term for which its members are elected and shall meet in regular session each year commencing on the second Monday in January. The duration of regular sessions and the periods of time for introduction and consideration of bills shall be prescribed by law. When the Governor calls the Legislative Assembly into special session it may consider only those matters specified in the call or in any special message sent to it by him during the session. No special session shall continue longer than twenty calendar days.

Section 11.—The sessions of each house shall be open.

Section 12.—A majority of the total number of members of which each house is composed shall constitute a quorum, but a smaller number may adjourn from day to day and shall have authority to compel the attendance of absent members.

Section 13.—The two houses shall meet in the Capitol of Puerto Rico and neither of them may adjourn for more than three consecutive days without the consent of the other.

Section 14.—No member of the Legislative Assembly shall be arrested while the house of which he is a member is in session, or during the fifteen days before or after such session, except for treason, felony, or breach of the peace. The members of the Legislative Assembly shall not be questioned in any other place for any speech, debate, or vote in either house or in any committee.

Section 15.—No Senator or Representative may, during the term for which he was elected or chosen, be appointed to any civil office in the Government of Puerto Rico, its municipalities or instrumentalities, which shall have been created or the salary of which shall have been increased during said term. No person may hold office in the Government of Puerto Rico, its municipalities or instrumentalities and be a Senator or Representative at the same time. These provisions shall not prevent a member of the Legislative Assembly from being designated to perform functions *ad honorem*.

Section 16.—The Legislative Assembly shall have the power to create, consolidate or reorganize executive departments and to define their functions.

Section 17.—No bill shall become a law unless it has been printed, read, referred to a committee and returned therefrom with a written report, but either house may discharge a committee from the study and report of any bill and proceed to the consideration thereof. Each house shall keep a journal of its proceedings and of the votes cast for and against bills. The legislative proceedings shall be published in a daily record in the form determined by law. Every bill, except general appropriation bills, shall be confined to one subject, which shall be clearly expressed in its title, and any part of an act whose subject has not been expressed in the title shall be void. The general appropriation act shall contain only appropriations and rules for their disbursement. No bill shall be amended in a manner that changes its original purpose or incorporates matters extraneous to it. In amending any article or section of a law, said article or section shall be promulgated in its entirey as amended. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

Section 18.—The subjects which may be dealt with by means of joint resolution shall be determined by law, but every joint resolution shall follow the same legislative process as that of a bill.

Section 19.—Every bill which is approved by a majority of the total number of members of which each house is composed shall be submitted to the Governor and shall become law if he signs it or if he does not return it, with his objections, to the house in which it originated within ten days (Sundays excepted) counting from the date on which he shall have received it.

When the Governor returns a bill, the house that receives it shall enter his objections in its journal and both houses may reconsider it. If approved by two-thirds of the total number of members of which each house is composed, said bill shall become law.

If the Legislative Assembly adjourns *sine die* before the Governor has acted on a bill that has been presented to him less than ten days before, he is relieved of the obligation of returning it with his objections and the bill shall become law only if the Governor signs it within thirty days after receiving it.

Every final passage or reconsideration of a bill shall be by a roll-call vote.

Section 20.—In approving any appropriation bill that contains more than one item, the Governor may eliminate one or more of such items or reduce their amounts, at the same time reducing the total amounts involved.

Section 21.—The House of Representatives shall have exclusive power to initiate impeachment proceedings and, with the concurrence of two-thirds of the total number of members of which it is composed, to bring an indictment. The Senate shall have exclusive power to try and to decide impeachment cases, and in meeting for such purposes the Senators shall act in the name of the people and under oath or affirmation. No judgment of conviction in an impeachment trial shall be pronounced without the concurrence of three-fourths of the total number of members of which the Senate is composed, and the judgment shall be limited to removal from office. The person impeached, however, may be liable and subject to indictment, trial judgment and punishment according to law. The causes of impeachment shall be treason, bribery, other felonies, and misdemeanors involving moral turpitude. The Chief Justice of the Supreme Court shall preside at the impeachment trial of the Governor.

The two houses may conduct impeachment proceedings in their regular or special sessions. The presiding officers of the two houses, upon written request of two-thirds of the total number of members of which the House of Representatives is composed, must convene them to deal with such proceedings.

Section 22.—The Governor shall appoint a Controller with the advice and consent of a majority of the total number of members of which each house is composed. The Controller shall meet the requirements prescribed by law and shall hold office for a term of ten years and until his successor has been appointed and qualifies. The Controller shall audit all the revenues, accounts and expenditures of the Commonwealth, of its agencies and instrumentalities and of its municipalities, in order to determine whether they have been made in

accordance with law. He shall render annual reports and any special reports that may be required of him by the Legislative Assembly or by the Governor.

In the performance of his duties the Controller shall be authorized to administer oaths, take evidence and compel, under pain of contempt, the attendance of witnesses and the production of books, letters, documents, papers, records and all other articles deemed essential to a full understanding of the matter under investigation.

The Controller may be removed for the causes and pursuant to the procedure established in the preceding section.

ARTICLE IV
THE EXECUTIVE

Section 1.—The executive power shall be vested in a Governor, who shall be elected by direct vote in each general election.

Section 2.—The Governor shall hold office for the term of four years from the second day of January of the year following his election and until his successor has been elected and qualifies. He shall reside in Puerto Rico and maintain his office in its capital city.

Section 3.—No person shall be Governor unless, on the date of the election, he is at least thirty-five years of age, and is and has been during the preceding five years a citizen of the United States and a citizen and *bona fide* resident of Puerto Rico.

Section 4.—The Governor shall execute the laws and cause them to be executed.

He shall call the Legislative Assembly or the Senate into special session when in his judgment the public interest so requires.

He shall appoint, in the manner prescribed by this Constitution or by law, all officers whose appointments he is authorized to make. He shall have the power to make appointments while the Legislative Assembly is not in session. Any such appointments that require the advice and consent of the Senate or of both houses shall expire at the end of the next regular session.

He shall be the commander-in-chief of the militia.

He shall have the power to call out the militia and summon the *posse comitatus* in order to prevent or suppress rebellion, invasion or any serious disturbance of the public peace.

He shall have the power to proclaim martial law when the public safety requires it in case of rebellion or invasion or imminent danger thereof. The Legislative Assembly shall meet forthwith on their own initiative to ratify or revoke the proclamation.

He shall have the power to suspend the execution of sentences in criminal cases and to grant pardons, commutations of punishment, and total or partial remissions of fines and forfeitures for crimes committed in violation of the laws of Puerto Rico. This power shall not extend to cases of impeachment.

He shall approve or disapprove in accordance with this Constitution the joint resolutions and bills passed by the Legislative Assembly.

He shall present to the Legislative Assembly, at the beginning of each regular session, a message concerning the affairs of the Commonwealth and a report concerning the state of the Treasury of Puerto Rico and the proposed expenditures for the ensuing fiscal year. Said report shall contain the information necessary for the formulation of a program of legislation.

He shall exercise the other powers and functions and discharge the other duties assigned to him by this Constitution or by law.

Section 5.—For the purpose of exercising executive power, the Governor shall be assisted by Secretaries whom he shall appoint with the advice and consent of the Senate. The appointment of the Secretary of State shall in addition require the advice and consent of the House of Representatives, and the person appointed shall fulfill the requirements established in Section 3 of this Article. The Secretaries shall collectively constitute the Governor's advisory council, which shall be designated as the Council of Secretaries.

Section 6.—Without prejudice to the power of the Legislative Assembly to create, re-

organize and consolidate executive departments and to define their functions, the following departments are hereby established: State, Justice, Education, Health, Treasury, Labor, Agriculture and Commerce, and Public Works. Each of these executive departments shall be headed by a Secretary.

Section 7.—When a vacancy occurs in the office of Governor, caused by death, resignation, removal, total and permanent incapacity, or any other absolute disability, said office shall devolve upon the Secretary of State, who shall hold it for the rest of the term and until a new Governor has been elected and qualifies. In the event that vacancies exist at the same time in both the office of Governor and that of Secretary of State, the law shall provide which of the Secretaries shall serve as Governor.

Section 8.—When for any reason the Governor is temporarily unable to perform his functions, the Secretary of State shall substitute for him during the period he is unable to serve. If for any reason the Secretary of State is not available, the Secretary determined by law shall temporarily hold the office of Governor.

Section 9.—If the Governor-elect shall not have qualified, or if he has qualified and a permanent vacancy occurs in the office of Governor before he shall have appointed a Secretary of State, or before said Secretary, having been appointed, shall have qualified, the Legislative Assembly just elected, upon convening for its first regular session, shall elect, by a majority of the total number of members of which each house is composed, a Governor who shall hold office until his successor is elected in the next general election and qualifies.

Section 10.—The Governor may be removed for the causes and pursuant to the procedure established in Section 21 of Article III of this Constitution.

ARTICLE V
THE JUDICIARY

Section 1.—The judicial power of Puerto Rico shall be vested in a Supreme Court, and in such other courts as may be established by law.

Section 2.—The courts of Puerto Rico shall constitute a unified judicial system for purposes of jurisdiction, operation and administration. The Legislative Assembly may create and abolish courts, except for the Supreme Court, in a manner not inconsistent with this Constitution, and shall determine the venue and organization of the courts.

Section 3.—The Supreme Court shall be the court of last resort in Puerto Rico and shall be composed of a Chief Justice and four Associate Justices. The number of Justices may be changed only by law upon request of the Supreme Court.

Section 4.—The Supreme Court shall sit, in accordance with rules adopted by it, as a full court or in divisions. All the decisions of the Supreme Court shall be concurred in by a majority of its members. No law shall be held unconstitutional except by a majority of the total number of Justices of which the Court is composed in accordance with this Constitution or with law.

Section 5.—The Supreme Court, any of its divisions, or any of its Justices may hear in the first instance petition for *habeas corpus* and any other causes and proceedings as determined by law.

Section 6.—The Supreme Court shall adopt for the courts rules of evidence and of civil and criminal procedure which shall not abridge, enlarge or modify the substantive rights of the parties. The rules thus adopted shall be submitted to the Legislative Assembly at the beginning of its next regular session and shall not go into effect until sixty days after the close of said session, unless disapproved by the Legislative Assembly, which shall have the power both at said session and subsequently to amend, repeal or supplement any of said rules by a specific law to that effect.

Section 7.—The Supreme Court shall adopt rules for the administration of the courts. These rules shall be subject to the laws concerning procurement, personnel, audit and appropriation of funds, and other laws which apply generally to all branches of the govern-

ment. The Chief Justice shall direct the administration of the courts and shall appoint an administrative director who shall hold office at the will of the Chief Justice.

Section 8.—Judges shall be appointed by the Governor with the advice and consent of the Senate. Justices of the Supreme Court shall not assume office until after confirmation by the Senate and shall hold their offices during good behavior. The terms of office of the other judges shall be fixed by law and shall not be less than that fixed for the term of office of a judge of the same or equivalent category existing when this Constitution takes effect. The other officials and employees of the courts shall be appointed in the manner provided by law.

Section 9.—No person shall be appointed a Justice of the Supreme Court unless he is a citizen of the United States and of Puerto Rico, shall have been admitted to the practice of law in Puerto Rico at least ten years prior to this appointment, and shall have resided in Puerto Rico at least five years immediately prior thereto.

Section 10.—The Legislative Assembly shall establish a retirement system for judges. Retirement shall be compulsory at the age of seventy years.

Section 11.—Justices of the Supreme Court may be removed for the causes and pursuant to the procedure established in Section 21 of Article III of this Constitution. Judges of the other courts may be removed by the Supreme Court for the causes and pursuant to the procedure provided by law.

Section 12.—No Judge shall make a direct or indirect financial contribution to any political organization or party, or hold any executive office therein, or participate in a political campaign of any kind, or be candidate for an elective public office unless he has resigned his judicial office at least six months prior to his nomination.

Section 13.—In the event that a court or any of its divisions or sections is changed or abolished by law, the person holding a post of judge therein shall continue to hold it during the rest of the term for which he was appointed and shall perform the judicial functions assigned to him by the Chief Justice of the Supreme Court.

ARTICLE VI
GENERAL PROVISIONS

Section 1.—The Legislative Assembly shall have the power to create, abolish, consolidate and reorganize municipalities; to change their territorial limits; to determine their organization and functions; and to authorize them to develop programs for the general welfare and to create any agencies necessary for that purpose.

No law abolishing or consolidating municipalities shall take effect until ratified in a referendum by a majority of the qualified electors voting in said referendum in each of the municipalities to be abolished or consolidated. The referendum shall be conducted in the manner determined by law, which shall include the applicable procedures of the election laws in effect when the referendum law is approved.

Section 2.—The power of the Commonwealth of Puerto Rico to impose and collect taxes and to authorize their imposition and collection by municipalities shall be exercised as determined by the Legislative Assembly and shall never be surrendered or suspended. The power of the Commonwealth of Puerto Rico to contract and to authorize the contracting of debts shall be exercised as determined by the Legislative Assembly.

Section 3.—The rules of taxation in Puerto Rico shall be uniform.

Section 4.—General elections shall be held every four years on the day of November determined by the Legislative Assembly. In said elections there shall be elected a Governor, the members of the Legislative Assembly, and the other officials whose election on that date is provided for by law.

Every person over twenty-one years of age shall be entitled to vote if he fulfills the other conditions determined by law. No person shall be deprived of the right to vote because he does not know how to read or write or does not own property.

All matters concerning the electoral process, registration of voters, political parties and candidates shall be determined by law.

Every popularly elected official shall be elected by direct vote and any candidate who receives more votes than any other candidate for the same office shall be declared elected.

Section 5.—The laws shall be promulgated in accordance with the procedure prescribed by law and shall specify the terms under which they shall take effect.

Section 6.—If at the end of any fiscal year the appropriations necessary for the ordinary operating expenses of the government and for the payment of interest on and amortization of the public debt for the ensuing fiscal year shall not have been made, the several sums appropriated in the last appropriation acts for the objects and purposes therein specified, so far as the same may be applicable, shall continue in effect item by item, and the Governor shall authorize the payments necessary for such purposes until corresponding appropriations are made.

Section 7.—The appropriations made for any fiscal year shall not exceed the total revenues, including available surplus, estimated for said fiscal year unless the imposition of taxes sufficient to cover said appropriations is provided by law.

Section 8.—In case the available revenues including surplus for any fiscal year are insufficient to meet the appropriation made for that year, interest on the public debt and amortization thereof shall first be paid, and other disbursements shall thereafter be made in accordance with the order of priorities established by law.

Section 9.—Public property and funds shall only be disposed of for public purposes, for the support and operation of state institutions, and pursuant to law.

Section 10.—No law shall give extra compensation to any public officer, employee, agent or contractor after services shall have been rendered or contract made. No law shall extend the term of any public officer or diminish his salary or emoluments after his election or appointment. No person shall draw a salary for more than one office or position in the government of Puerto Rico.

Section 11.—The salaries of the Governor, the Secretaries, the members of the Legislative Assembly, the Controller and Judges shall be fixed by a special law and, except for the salaries of the members of the Legislative Assembly, shall not be decreased during the terms for which they are elected or appointed. The salaries of the Governor and the Controller shall not be increased during said terms. No increase in the salaries of the members of the Legislative Assembly shall take effect until after the expiration of the term of the Legislative Assembly during which it is enacted. Any reduction of the salaries of the members of the Legislative Assembly shall be effective only during the term of the Legislative Assembly which approves it.

Section 12.—The Governor shall occupy and use, free of rent, the buildings and properties belonging to the Commonwealth which have been or shall hereafter be used and occupied by him as chief executive.

Section 13.—The procedure for granting franchises, rights, privileges and concessions of a public or quasi-public nature shall be determined by law, but every concession of this kind to a person or private entity must be approved by the Governor or by the executive official whom he designates. Every franchise, right, privilege or concession of a public or quasi-public nature shall be subject to amendment, alteration or repeal as determined by law.

Section 14.—No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation authorized to enage in agriculture shall by charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in agriculture.

Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title.

Corporations not organized in Puerto Rico, but doing business in Puerto Rico, shall be bound by the provisions of this section so far as they are applicable.

These provisions shall not prevent the ownership, possession or management of lands in excess of five hundred acres by the Commonwealth, its agencies of instrumentalities.

Section 15.—The Legislative Assembly shall determine all matters concerning the flag, the seal and the anthem of the Commonwealth. Once determined, no law changing them shall take effect until one year after the general election next following the date of enactment of said law.

Section 16.—All public officials and employees of the Commonwealth, its agencies, instrumentalities and political subdivisions, before entering upon their respective duties, shall take an oath to support the Constitution of the United States and the Constitution and laws of the Commonwealth of Puerto Rico.

Section 17.—In case of invasion, rebellion, epidemic or any other event giving rise to a state of emergency, the Governor may call the Legislative Assembly to meet in a place other than the Capitol of Puerto Rico, subject to the approval or disapproval of the Legislative Assembly. Under the same conditions, the Governor may, during the period of emergency, order the government, its agencies and instrumentalities to be moved temporarily to a place other than the seat of the government.

Section 18.—All criminal action in the courts of the Commonwealth shall be conducted in the name and by the authority of "The People of Puerto Rico" until otherwise provided by law.

Section 19.—It shall be the public policy of the Commonwealth to conserve, develop and use its natural resources in the most effective manner possible for the general welfare of the community; to conserve and maintain buildings and places declared by the Legislative Assembly to be of historic or artistic value; to regulate its penal institutions in a manner that effectively achieves their purposes and to provide, within the limits of available resources, for adequate treatment of delinquents in order to make possible their moral and social rehabilitation.

ARTICLE VII
AMENDMENTS TO THE CONSTITUTION

Section 1.—The Legislative Assembly may propose amendments to this Constitution by a concurrent resolution approved by not less than two-thirds of the total number of members of which each house is composed. All proposed amendments shall be submitted to the qualified electors in a special referendum, but if the concurrent resolution is approved by not less than three-fourths of the total number of members of which each house is composed, the Legislative Assembly may provide that the referendum shall be held at the same time as the next general election. Each proposed amendment shall be voted on separately and not more than three proposed amendments may be submitted at the same referendum. Every proposed amendment shall specify the terms under which it shall take effect, and it shall become a part of this Constitution if it is ratified by a majority of the electors voting thereon. Once approved, a proposed amendment must be published at least three months prior to the date of the referendum.

Section 2.—The Legislative Assembly, by a concurrent resolution approved by two-thirds of the total number of members of which each house is composed, may submit to the qualified electors at a referendum, held at the same time as a general election, the question of whether a constitutional convention shall be called to revise this Constitution. If a majority of the electors voting on this question vote in favor of the revision, it shall be made by a Constitutional Convention elected in the manner provided by law. Every revision of this Constitution shall be submitted to the qualified electors at a special referendum for ratification or rejection by a majority of the votes cast at the referendum.

Section 3.—No amendment to this Constitution shall alter the republican form of govern-

ment established by it or abolish its bill of rights. Any amendment or revision of this constitution shall be consistent with the resolution enacted by the Congress of the United States approving this constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-first Congress, adopted in the nature of a compact.

ARTICLE VIII
SENATORIAL AND REPRESENTATIVE DISTRICTS

Section 1.—The senatorial and representative districts shall be the following:

I.—SENATORIAL DISTRICT OF SAN JUAN, which shall be composed of the following Representative Districts: 1.—The Capital of Puerto Rico, excluding the present electoral precincts of Santurce and Río Piedras; 2.—Electoral zones numbers 1 and 2 of the present precinct of Santurce; 3.—Electoral zone number 3 of the present precinct of Santurce; 4.—Electoral zone number 4 of the present precinct of Santurce; and 5.—Wards Hato Rey, Puerto Nuevo and Caparra Heights of the Capital of Puerto Rico.

II.—SENATORIAL DISTRICT OF BAYAMÓN, which shall be composed of the following Representative Districts: 6.—The municipality of Bayamón; 7.—The municipalities of Carolina and Trujillo Alto; 8.—The present electoral precinct of Río Piedras, excluding wards Hato Rey, Puerto Nuevo and Caparra Heights of the Capital of Puerto Rico; 9.—The municipalities of Cataño, Guaynabo and Toa Baja; and 10.—The municipalities of Toa Alta, Corozal and Naranjito.

III.—SENATORIAL DISTRICT OF ARECIBO, which shall be composed of the following Representative Districts: 11.—The municipalities of Vega Baja, Vega Alta and Dorado; 12.—The municipalities of Manatí and Barceloneta; 13.—The municipalities of Ciales and Morovis; 14.—The municipality of Arecibo; and 15.—The municipality of Utuado.

IV.—SENATORIAL DISTRICT OF AGUADILLA, which shall be composed of the following Representative Districts: 16.—The municipalities of Camuy, Hatillo and Quebradillas; 17.—The municipalities of Aguadilla and Isabela; 18.—The municipalities of San Sebastián and Moca; 19.—The municipalities of Lares, Las Marías and Maricao; and 20.—The municipalities of Añasco, Aguada and Rincón.

V.—SENATORIAL DISTRICT OF MAYAGÜEZ, which shall be composed of the following Representative Districts: 21.—The municipality of Mayagüez; 22.—The municipalities of Cabo Rojo, Hormigueros and Lajas; 23.—The municipalities of San Germán and Sabana Grande; 24.—The municipalities of Yauco and Guánica; and 25.—The municipalities of Guayanilla and Peñuelas.

VI.—SENATORIAL DISTRICT OF PONCE, which shall be composed of the following Representative Districts: 26.—The first, second, third, fourth, fifth and sixth wards and the City Beach of the municipality of Ponce; 27.—The municipality of Ponce, except for the first, second, third, fourth, fifth and sixth wards and the City Beach; 28.—The municipalities of Adjuntas and Jayuya; 29.—The municipalities of Juana Díaz, Santa Isabel and Villalba; and 30.—The municipalities of Coamo and Orocovis.

VII.—SENATORIAL DISTRICT OF GUAYAMA, which shall be composed of the following Representative Districts: 31.—The municipalities of Aibonito, Barranquitas and Comerío; 32.—The municipalities of Cayey and Cidra; 33.—The municipalities of Caguas and Aguas Buenas; 34.—The municipalities of Guayama and Salinas; and 35.—The municipalities of Patillas, Maunabo and Arroyo.

VIII.—SENATORIAL DISTRICT OF HUMACAO, which shall be composed of the following Representative Districts: 36.—The municipalities of Humacao and Yabucoa; 37.—The municipalities of Juncos, Gurabo and San Lorenzo; 38.—The municipalities of Naguabo, Ceiba and Las Piedras; 39.—The municipalities of Fajardo and Vieques and the Island of Culebra; and 40.—The municipalities of Río Grande, Loíza and Luquillo.

Section 2.—Electoral zones numbers 1, 2, 3 and 4 included in three representative districts

within the senatorial district of San Juan are those presently existing for purposes of electoral organization in the second precinct of San Juan.

ARTICLE IX
TRANSITORY PROVISIONS

Section 1.—When this Constitution goes into effect all laws not inconsistent therewith shall continue in full force until amended or repealed, or until they expire by their own terms.

Unless otherwise provided by this Constitution, civil and criminal liabilities, rights, franchises, concessions, privileges, claims, actions, causes of action, contracts, and civil, criminal and administrative proceedings shall continue unaffected, notwithstanding the taking effect of this Constitution.

Section 2.—All officers who are in office by election or appointment on the date this Constitution takes effect shall continue to hold their offices and to perform the functions thereof in a manner not inconsistent with this Constitution, unless the functions of their offices are abolished or until their successors are selected and qualify in accordance with this Constitution and laws enacted pursuant thereto.

Section 3.—Notwithstanding the age limit fixed by this Constitution for compulsory retirement, all the judges of the courts of Puerto Rico who are holding office on the date this Constitution takes effect shall continue to hold their judicial offices until the expiration of the terms for which they were appointed, and in the case of Justices of the Supreme Court during good behavior.

Section 4.—The Commonwealth of Puerto Rico shall be the successor of the People of Puerto Rico for all purposes, including without limitation the collection and payment of debts and liabilities in accordance with their terms.

Section 5.—When this Constitution goes into effect, the term "citizen of the Commonwealth of Puerto Rico" shall replace the term "citizen of Puerto Rico" as previously used.

Section 6.—Political parties shall continue to enjoy all rights recognized by the election law, provided that on the effective date of this Constitution they fulfill the minimum requirements for the registration of new parties contained in said law. Five years after this Constitution shall have taken effect the Legislative Assembly may change these requirements, but any law increasing them shall not go into effect until after the general election next following its enactment.

Section 7.—The Legislative Assembly may enact the laws necessary to supplement and make effective these transitory provisions in order to assure the functioning of the government until the officers provided for by this Constitution are elected or appointed and qualify, and until this Constitution takes effect in all respects.

Section 8.—If the Legislative Assembly creates a Department of Commerce, the Department of Agriculture and Commerce shall thereafter be called the Department of Agriculture.

Section 9.—The first election under the provisions of this Constitution shall be held on the date provided by law, but not later than six months after the effective date of this Constitution. The second general election under this Constitution shall be held in the month of November 1956 on a day provided by law.

Section 10.—This Constitution shall take effect when the Governor so proclaims, but not later than sixty days after its ratification by the Congress of the United States.

Done in Convention, at San Juan, Puerto Rico, on the sixth day of February, in the year of Our Lord one thousand nine hundred and fifty-two.