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QUESTIONS AND ANSWERS REGARDING THE CONSTITUTION OF THE
COMMONWEALTH OF PUERTO RICO

This paper is intended to anticipate some of the questions which may be asked and allegations which may be made in connection with United Nations consideration of the Puerto Rican case and to indicate suggested lines of reply. In general, these possible questions and allegations may be expected to relate either to (A) the process by which the Constitution was adopted and the Commonwealth established, (B) the constitutional position and status of Puerto Rico under the Commonwealth or (C) other aspects of the present situation in Puerto Rico. In each case the anticipated question or allegation is set out and is immediately followed by a suggested line of reply.

(A) Process by which the Constitution was adopted and the Commonwealth established.

1. The Puerto Rican people were not given an opportunity to choose freely the form of government which they desire. The referendum of June 4, 1951, should have presented a genuine choice of alternatives including continuance of the existing relationship between Puerto Rico and the United States, statehood, some form of association with the United States and independence.

In answering allegations of this type it is well to remember that the Government of the United States has consistently supported the principle of self-determination. A clear statement of that policy with regard to the people of Puerto Rico is found in the message of October, 1945, of the President of the United States to the Congress.

"It is the settled policy of this Government to promote the political, social, and economic development of people (sic) who have not yet attained full self-government and eventually

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to make it possible for them to determine their own form of government***. It is now time, in my opinion, to ascertain from the people of Puerto Rico their wishes as to the ultimate status which they prefer, and, within such limits as may be determined by the Congress, to grant to them the kind of government which they desire."

This policy was again forcibly stated in another Presidential message to the Congress, in January, 1946:

"This Government is committed to the democratic principle that it is for the dependent peoples themselves to decide what their status shall be."

The general elections of 1948 in Puerto Rico demonstrated unequivocally the wishes of the Puerto Rican people with regard to their status. The three main political parties confronted the electorate with three alternatives. The idea that Puerto Rico should become a federated state like the other forty-eight of the United States was advocated by the Statehood party and received 86,189 votes. The choice of separate independence was favored by the Puerto Rican Independence party, which obtained 66,141 votes. The idea of self-governing status, based on a free and voluntary association with the United States as determined by compact was advocated by the Popular Democratic party, which received 392,033 votes. In response to the overwhelming support given by the people of Puerto Rico to this last alternative, the Resident Commissioner, their elected representative, introduced in Congress the measure which eventually resulted in the enactment of Public Law 600, embodying the terms of the compact offered to the people of Puerto Rico to create the type of association they desired. The referendum of June 4, 1951 was held

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held for the purpose of submitting Public Law 600 to the people for its acceptance or rejection; the referendum was not held in order to submit to the people of Puerto Rico the alternatives of federated statehood or separate independence which they were not asking for and in fact had recently already rejected. It should be stressed, however, that the people of Puerto Rico were at the elections of 1948, perfectly free to express their wishes with regard to these or other alternatives. They could then, and still can, elect representatives pledged to a different course of action. This they evidently did not wish to do in 1948. In this connection, attention might be called to the following statements by Governor Muñoz Marín in his letter of January 17, 1953, to the President of the United States:

"... for some years, as our democratic institutions developed and became firmly established, the people considered and debated the matter of their status.

"Specifically, the people of Puerto Rico discussed three choices: independence, statehood within the Federal Union, or association with the United States as a free Commonwealth. At no time did we consider that our choice was restricted, or that any alternative was foreclosed to us or could not be achieved by peaceful means; and it should be said that at no time did the United States attempt, directly or indirectly, to interfere with our choice....."

"Each of the alternatives of independence, statehood, and association has been represented in Puerto Rico by a political party which favored it, and which actively campaigned for the support of the electorate and nominated candidates for the legislature and the governorship. In the 1948 elections the three alternatives were fully presented to the electorate by the three main political parties. The preference of the people, expressed in an election which was as democratic as any in the world, was unmistakably expressed

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in favor of the third alternative: a free Commonwealth associated with the United States on the basis of mutual consent. Their choice is aptly summed up in the Spanish name of the new body politic, "Estado Libre Asociado."

"It was at the request of the officials of the Puerto Rican government acting pursuant to the mandate of the people that the Congress of the United States initiated the series of actions which resulted in the creation of the Commonwealth. On July 3, 1950, the 81st Congress enacted Public Law 600. This was, in effect, an offer by the Congress to the people of Puerto Rico, which we might accept or reject, to enter into a compact defining the status of Puerto Rico and the relationships between the respective communities. The compact offered the people of Puerto Rico an opportunity to establish our own government and to remain in association with the United States on defined terms. It was the precise formula that the people, through their elected representatives, had requested."

2. It cannot be claimed that a true compact has been created between the United States of America and the people of Puerto Rico since the terms of the so-called compact embodied in Public Law 600 were formulated unilaterally by the United States Congress and offered to the people of Puerto Rico on a "take it or leave it" basis.

In refuting allegations concerning the unilateral character of Public Law 600, it might be stressed that:

(a) Public Law 600 was introduced in the United States Congress by the Resident Commissioner of Puerto Rico pursuant to the clearly expressed will of the people of Puerto Rico in the elections of 1948. It was on this platform that he was elected. For him to ask for anything else would be contrary to the mandate of the people. For Congress to offer other formulas it would have to ignore the express wishes of the people. The Resident Commissioner actively participated in all subsequent

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subsequent stages leading up to the enactment of the law.

(b) Public Law 600 expressly recognized the principle of government by consent, and declaring that it was "adopted in the nature of a compact" required that it be submitted to the people of Puerto Rico for acceptance or rejection. It follows that in accepting Public Law 600, they accepted it as offered: "in the nature of a compact."

(c) In the referendum of June 4, 1951, the people of Puerto Rico voted to accept the provisions of Public Law 600. If the people had chosen to reject it, they could have brought again, if they so desired, other proposals to the Congress through their elected representative.

The letter of January 17, 1953, from Governor Muñoz Marín to the President (see above) makes these points in a conclusive manner.

3. Conditions of near martial law, mass arrests and the persecution and intimidation of Puerto Ricans sympathetic to the cause of independence did not permit the people of Puerto Rico to express their will freely in the referendum of June 4, 1951, on Public Law 600.

There was no intimidation or persecution on the part of the Puerto Rican Government in connection with the referendum of June 4, 1951, or any of the subsequent elections or referenda. An outbreak of terrorism and violence on October 30, 1950, on the part of the Nationalists, an extremist group favoring independence, obliged the Government to arrest approximately 500 Nationalists. The outbreak involved a series of armed attacks on the Governor's residence in San Juan and at police stations and other public buildings at a number of other places in Puerto Rico. An attempt at President Truman's life

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life was also made by two Nationalist terrorists. Most of those arrested were released after interrogation; approximately 175 were held for trial on various charges such as murder, armed assault, carrying firearms or explosives illegally, or conspiring to overthrow the Government by force in violation of Public Law 53 of the Puerto Rican Legislature. Neither martial law was declared nor the writ of habeas corpus suspended. This outbreak occurred a few days before there was to be a special registration of voters for the referendum and was, in fact, designed to frighten prospective voters from registering. In spite of this the registration proceeded as scheduled on November 4 and 5, 1950, and the people of Puerto Rico registered as heavily as usual.

It should also be pointed out that, according to official estimates of both federal and Commonwealth authorities, the number of Nationalists does not reach one thousand, out of a total population of 2,250,000. The Nationalists refuse to participate in elections in Puerto Rico. They have refused to organize and register as a political party under the laws of Puerto Rico since 1932 the only election year when they registered as a party and polled 5,257 out of a total of 383,722 votes cast. Their avowed aim is the overthrow of the Government by intimidation and violence.

The referendum on Public Law 600 was completely fair and democratic. Congressman Frank Bow of Ohio, speaking in the House of Representatives

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on May 28, 1952, concerning that referendum, declared:

"I was in Puerto Rico at the time of that campaign, and I knew what the interest of the people was in a Constitution and in holding this Constitutional Convention. Charges were made then by some of the people in Puerto Rico, who today are charging that this is an improper document; that there were not fair elections; that it was not a fair campaign. I had the opportunity to make that investigation at that time and found that there was no undue influence on the part of the insular Government. It was a fair campaign and all issues were discussed freely and openly on whether or not Law 600 should be adopted."

In the case of the referendum of March 3, 1952, Congressman Chester E. Mullen of Florida and Congressman Frank Bow of Ohio went to Puerto Rico to observe the balloting. In a hearing before the House Committee on Interior and Insular Affairs on April 24, 1952, both of these observers reported that they visited a number of polling places of their own choice, interviewed people before and while balloting was in progress and found no evidence in any quarter of coercion or intimidation of any kind. In this connection Congressman Bow declared:

"I should like to say further to the Committee that I made it a point to check with the judges of many of the colleges, particularly of the independents party which was opposed to this constitution, and asked them individually in each place that we visited, or I visited, whether or not it was a free election and they all said it was. The independents party said there had been no duress. There was no attempt to improperly influence the voters in voting either for or against the election, that although they were opposed to it they could not complain of an improper election. Now I find some material coming to us after the election, where certain groups of the independents party have objected that it was not a free election. I can say very definitely, even from the opposition, that I talked to there, there was no complaint on election day of any attempt to use duress or improper methods in the election."

Subsequently,

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Subsequently, in a hearing before the Senate Committee on Interior and Insular Affairs on May 6, 1952, Congressman Bow further declared:

"The president of the Independence party, I think Dr. Gilberto Concepcion, who has raised some question about this election, was present at one of the polling places where I had attended while I was there.

"I have every reason to assume he knew who I was and why I was there because there had been some publicity of the fact that we were coming down. He did not at that time raise any question with me about any irregularities in the election and he had full opportunity to do so if he desired at that time to call attention to it."

It is important to note that the legality of these referenda and elections was not challenged in the courts, although both federal and Commonwealth statutes provide the means to do so.

4. The results of the referenda and elections relating to the adoption of the Constitution and the establishment of the Commonwealth have been misinterpreted to the public. Actually, in these elections and referenda the Constitution and the Commonwealth received the implicit disapproval of the majority of the adult population of Puerto Rico. The Nationalists, for example, allege that at least 54% of the electorate abstained in the referendum of June 4, 1951; at least 65% in the election of August, 1951; and at least 59% in the referendum of March 3, 1952.

Allegations of this sort are not supported by statistical facts. They derive from several unwarranted or completely erroneous assumptions, viz., that 100% participation of the population of voting age is usual in an election, that failure to register constituted evidence of disapproval of the Constitution and the Commonwealth, and similarly that failure of a registered voter to vote constituted evidence of disapproval. The statistical facts are as follows: The percentage
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those voting on the referendum amounted to 65.08 of the total registered vote. The votes in favor of acceptance of Public Law 600 added up to 76.5 per cent of those voting. They added up to 49.76 per cent of the total number of qualified voters.

In the election of August, 1951 of delegates to the Constitutional Convention, the Popular Democratic party received 80.3 per cent of the votes cast and 45 per cent of the total number of qualified voters. In the referendum of March 3, 1952 for approval or rejection of the Constitution, 59% of the registered voters participated, out of which 81% of those voting and 47% of the total number of qualified voters favored approval of the Constitution. These figures are unusually high for special elections and referenda, where no change of government is at stake.

The voting record of the Puerto Rican people over the past 12 years shows that in a succession of free, secret and honest elections the parties advocating statehood or independence have consistently attained only a small minority vote.

In the general elections of 1940, the Statehood party, then called Republican Union, obtained 134,582 votes; in 1944, they had dropped to 101,779; in 1948, they received 88,189; and in the last elections of 1952 their votes added up to 85,172. The Independence party, which advocates independence by constitutional means, was not organized in 1940 nor 1944, and it attained 64,121 votes in 1948 and 125,734 votes

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in 1952. The Popular Democratic party, organized just before the elections of 1940, obtained 214,857 votes in 1940; in 1944, their voting strength reached 383,280, a new record for Puerto Rico; and since then it has steadily increased its voting strength to 392,033 in 1948 and 429,064 votes in 1952.

(B) Constitutional position and status of Puerto Rico under the Commonwealth.

1. What is meant by the term "Commonwealth"? Why is the expression "Estado Libre Asociado" used in Spanish since it is not a translation of the word "Commonwealth"? How does the constitutional status of the Commonwealth of Puerto Rico differ from that of a State of the Union?

The meaning of the terms "Commonwealth" and "Estado Libre Asociado" as used in connection with Puerto Rico is explained in Resolution 22 of the Puerto Rican Constitutional Convention. Resolution 22 states that the word "Commonwealth", as currently used, clearly defines the status of the body politic created under the terms of the compact existing between the people of Puerto Rico and the United States, i.e., "that of a State which is free of superior authority in the management of its own local affairs but which is linked to the United States of America and hence is a part of its political system in a manner compatible with its Federal structure." There being no single word in the Spanish language exactly equivalent to the English word "Commonwealth", the Convention decided that the translation into Spanish required a combination of words to express the concepts of state and liberty

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liberty and association and therefore chose the expression "Estado Libre Asociado".

With respect to the constitutional status of Puerto Rico it might be stressed that the "Commonwealth" represents a new concept in the United States system of government. It marks the achievement by the people of Puerto Rico of a full measure of self-government and the establishment of a free and voluntary association between them and the government of the United States. Congress has agreed that Puerto Rico shall within the terms of compact have freedom from control or interference by the Congress in all matters of internal government and administration. Therefore, the powers of self-government enjoyed by the Commonwealth of Puerto Rico within the constitutional system of the United States essentially parallel those enjoyed by state governments. The Commonwealth status differs from that of a State of the Union in that it does not entail full legislative representation in the United States Congress. On the other hand, the people of Puerto Rico enjoy substantial fiscal advantages, not enjoyed by the people of the States under the Constitution of the United States. These advantages are essential to the continued economic development of the people of Puerto Rico. United States revenue laws do not apply in Puerto Rico and the proceeds of United States excise taxes collected on articles produced in Puerto Rico and shipped to the United States continue to be covered into the Commonwealth Treasury.

Taxes

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Taxes paid in Puerto Rico are only those levied by the laws of the Commonwealth. Customs collections are also covered into the Commonwealth Treasury. It must also be stressed that such powers as shall continue to be exercised by the federal government with respect to Puerto Rico, which powers are no greater, and in tax matters are less, than those exercised under the Constitution with respect to the States, shall only be used with full regard to the principle of government by consent, an express recognition of which has been made in Public Law 600.

In this connection, Senator Butler, Chairman of the Senate Committee on Interior and Insular Affairs, and co-sponsor of P.L. 600, 81st Congress, has stated that the Commonwealth has been created by compact which may not be amended or abrogated unilaterally. Moreover, Congressman Miller, speaking as Chairman of the House Committee on Interior and Insular Affairs, said in part (Congressional Record, Extension of Remarks, March 25, 1953):

"In accordance with terms of compact the people of the Commonwealth of Puerto Rico have freely entered into voluntary association with the Government of the United States, while they enjoy a full measure of self-government, under a constitution of their own adoption, whereby the Commonwealth of Puerto Rico has been created. This means the culmination of a process of development and adjustment in the relations of the United States with the people of Puerto Rico since sovereignty over that island was ceded by the Crown of Spain to the United States in 1899."

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"In 1950 a compact was offered by the Congress to the people of Puerto Rico so that they would assume full authority

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and responsibility for their own government, a government created by themselves, while they continued to be not only citizens of the Commonwealth they created but citizens of the United States, represented internationally by the United States, and with full access as free citizens to the United States.

"Thus, Puerto Rico ceased to be a non-self-governing territory. It is not a mere territory any more. It is a Commonwealth, comperable in its political authority to any of the 48 Commonwealths which we know as the 48 States that form the Union, but under the terms of compact embodied in Public Law 600 of the 81st Congress, 1950, the Federal Government of the United States will do for them what it does for the 48 member States of the Union, while it will not interfere in any matter not normally reserved to a federal government in a federal system."

2. Does the United States Congress retain the power to change the constitutional status of Puerto Rico or the terms of its association with the United States without the full consent of the Government and people of Puerto Rico? May the Puerto Rican Federal Relations Act be amended unilaterally by the United States Congress?

As noted above, the present Chairman of the Congressional committees concerned with Puerto Rican affairs have both expressed the view that the new constitutional status of Puerto Rico and the terms of its voluntary association with the United States are the result of an agreement not to be rescinded or changed unilaterally by either party. However, under our constitutional system, these are questions to be determined ultimately by our courts, including the questions as to the relationship of this agreement to the United States Constitution.

The problem has, in fact, recently been passed upon by the United States District Court for Puerto Rico (a federal, not a Commonwealth court). The court clearly states that the relationship between Puerto Rico and the United States is now based on compact and cannot therefore be changed except by mutual consent. The court stated:

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"The government (of Puerto Rico) is no longer an agency of the Government of the United States nor does it exercise any longer its powers by way of delegation of the Federal Government. It is not now a dependency, possession nor territory of the United States

"A new type of relationship has been created

"Under that new relationship ... a compact has been established between the government of the United States and the people of Puerto Rico, by virtue of which the latter has adopted and approved its own Constitution, not subject to amendment by the Congress of the United States, and by virtue of which compact the people of Puerto Rico have accepted and approved Public Law 600 and the Puerto Rican Federal Relations Act, incorporated in and made a part of Public Law 600. As a necessary legal consequence of said compact, neither the Congress of the United States nor the people of Puerto Rico can unilaterally amend Public Law 600 nor the Puerto Rican Federal Relations Act without the consent and approval of the other party to the compact.

"Under the new relationship now existing, Puerto Rico enjoys the total substance of self-government and there is a plenitude of government by consent, which realities are incompatible with the previous status of Puerto Rico as a possession, dependency or territory."

A copy of this opinion, which contains an illuminating discussion of the basic legal position, is attached.

In affirming this decision, on July 24, 1953, the United States Court of Appeals for the First Circuit stated:

" Puerto Rico has thus not become a State in the Federal Union like the 48 States, but it would seem to have become a State within a common and accepted meaning of the word. Cf. Texas v. White, 74 U.S. 700, 721 (1868). It is a political entity created by the act and with the consent of the people of Puerto Rico and joined in union with the United States of America under the terms of the compact."

Reference

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Reference should also be made to the case of Ruis Alicea v. United States. 180 F.(2d) 870 where the United States Court of Appeals for the First Circuit, prior to the enactment of Public Law 600, indicates that the Constitution of the United States does not preclude the possibility of creating new types of relationship with the federal government, beyond the familiar state and territorial forms.

It might be pointed out, however, that these questions so far as they imply that the full measure of self-government now enjoyed by Puerto Rico might be diminished by future action of the United States Congress, would appear to be academic. In the entire period of United States administration over Puerto Rico prior to the establishment of the Commonwealth when the United States Congress had full authority to change the form of government of Puerto Rico or to alter its relationship to the United States, Congress used this authority solely for the purpose of extending self-government progressively to the people of Puerto Rico in response to their wishes, culminating in the adoption of the Constitution of the Commonwealth.

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3. Does Congress remain unrestricted in its authority to legislate in relation to the economic, social, educational and cultural affairs of Puerto Rico? If not, how and in what fields does Federal legislation apply to Puerto Rico? In what ways does this differ from the application of Federal legislation in the States of the Union?

By the various actions taken by the United States Congress and the people of Puerto Rico, Congress has agreed that Puerto Rico shall have, under the Constitution of the Commonwealth, freedom from control or interference by the Congress in respect of internal government and administration, subject only to compliance with the applicable provisions of the Federal Constitution, the Puerto Rican Federal Relations Act and the acts of Congress authorizing and approving the Constitution. The law which created a local government in Puerto Rico and those which directed or authorized interference with matters of local government by the Federal Government have been repealed. The people of Puerto Rico have complete autonomy in internal economic matters and in cultural and social affairs, under a Constitution of their own adoption.

The distribution of legislative powers as between the Federal and Commonwealth governments follows the basic pattern set by the United States Constitution as respects the States of the Union, with the main exception that United States internal revenue laws do not apply to Puerto Rico. As agreed in the Puerto Rico Federal Relations Act, federal laws other than revenue laws apply to Puerto Rico, but only as elsewhere in the United States; therefore, within the same constitutional limits as in the United States as such.

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In connection with the question of United States legislative authority and the applicability of Federal legislation to the Commonwealth, it might be appropriate to note the statement of Congressman Miller, Chairman of the House Interior and Insular Affairs Committee, that "under the terms of compact embodied in Public Law 600 of the 81st Congress, 1950, the Federal Government of the United States will do for them (Puerto Rico) what it does for the 48 member States of the Union, while it will not interfere in any matter not normally reserved to a federal government in a federal system."

4. May the laws enacted by the Government of the Commonwealth be repealed or modified by the Federal Government?

In the more than 50 years of United States administration of Puerto Rico which preceded the establishment of the Commonwealth, Congress did not in any instance exercise the power, which it then clearly possessed, to annul or amend an act of the Puerto Rican legislature. It is entirely reasonable to assume that Congress would now be even less disposed to take action which would be at variance with the intent of Congress to confer on Puerto Rico a new status of dignity and equality within the Federal system of the United States. Such intent is further evidenced by the rejection on May 28, 1952, by the United States House of Representatives of an amendment to the Resolution approving the Constitution of Puerto Rico presented by Congressman Meader, to the effect that nothing in the Constitution should be interpreted as an

irrevocable

irrevocable delegation of the powers of Congress over Puerto Rico under the territorial clause of the Constitution of the United States.

In this connection also reference might be made to the statements of Congressman Miller of Nebraska in the House of Representatives on March 25, 1953, that the Commonwealth of Puerto Rico is "comparable in its political authority to any of the 48 Commonwealths which we know as the 48 States that form the Union" and that "under the terms of the compact embodied in Public Law 600" the Federal Government "will not interfere in any matter not normally reserved to a federal government in a federal system." And finally, the United States District Court for Puerto Rico has recently stated in this respect:

"Under Law 600 the previous power of the Congress to annul laws approved by the Legislature of Puerto Rico was expressly repealed and eliminated. Of course, such power, in general, may exist without any express proviso to that effect, but that power may be granted away . . . It was clearly the intention of Congress as to that clause to deprive itself of that power, and that deprivation was within the terms of the compact made with the people of Puerto Rico."

5. Why does Puerto Rico not have full representation in the United States Congress? Does this situation reflect the will of the majority of the people of Puerto Rico?

Under the United States Constitution Puerto Rico could obtain full legislative representation in the United States Congress only if it were a State like one of the 48, subject to all pertinent provisions of the Constitution of the United States. In that case, however, the people of Puerto Rico would lose the fiscal advantages which they now enjoy as a result of their present relationship to the United States.

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The Constitution of the United States would require this result. The people of Puerto Rico are exempt from Federal income taxes on the income they derive from sources within Puerto Rico and from all other internal revenue taxes. The proceeds of United States internal revenue taxes collected on articles produced in Puerto Rico and shipped to the United States are covered into the Treasury of the Commonwealth of Puerto Rico. Also, the proceeds of tariff and customs collected on foreign merchandise entering Puerto Rico are deposited into the Puerto Rican Treasury for appropriation and expenditure as the Puerto Rican Legislature may decide. These arrangements constitute substantial fiscal advantages of particular benefit to an area such as Puerto Rico whose natural economic resources are not, as yet fully developed. The admission into the Union under the terms of the Constitution of the United States, would entail the loss of these advantages and that the taxpayers of Puerto Rico would have to contribute over one hundred million dollars annually to the United States Treasury, a sum which represents ten per cent of the national income of Puerto Rico and nearly sixty per cent of its budget. For this reason the majority of the people of Puerto Rico prefer Commonwealth status, albeit it does not provide for full legislative representation in Congress, to statehood with membership in the Union of States and full legislative representation in Congress, and have expressed this preference emphatically in the election of 1948, the subsequent referenda on the new Constitution and the election on November 4, 1952.

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In this last election, the party in power received 429,064 votes out of 664,947 votes cast, a greater majority than ever before.

It might also be stressed that under the Commonwealth the people of Puerto Rico, besides being exempt from Federal taxes, enjoy the same advantages as their fellow citizens in the 48 States, i.e., protection by the national government, freedom to travel in United States territory and to resettle there, and participation in and protection and services of the federal civilian and military establishments. Many grants-in-aid and other federal legislation represent further benefits to the people of Puerto Rico.

6. May the Puerto Rican Constitution be amended without the consent of the United States Congress? What limitations exist on the power of the people of Puerto Rico to amend their Constitution?

Amendments to the Puerto Rican Constitution do not require the consent of the United States Congress. The only limitations on the power of the people of Puerto Rico to amend their Constitution appear in Article VII of that Constitution. The United States Congress specifically rejected an amendment proposed by Senator Johnston to the effect that Congress retain power to approve amendments made by the people of Puerto Rico to their Constitution. The United States District Court for Puerto Rico has expressly stated that the people of Puerto Rico have, as do the people of the States of the Union, full power to amend their Constitution without

without approval by the United States Congress.

7. To what extent does the authority exercised by the Federal court system in regard to Puerto Rico differ from that exercised in regard to the States of the Union? What is the extent of the authority of Federal courts on the interpretation or constitutionality of legislation originating in Puerto Rico?

Within federal systems of government, the need for a coordinated judiciary is especially felt. Pursuant to the terms of the Federal Relations Act, judgments of the Supreme Court of Puerto Rico may accordingly be appealed on a limited basis and for limited purposes to the United States Court of Appeals. However, the important point to be emphasized in this regard is that decisions of the United States Supreme Court have established that the Supreme Court of Puerto Rico is the final authority on the meaning of a Puerto Rican law. A decision of the Supreme Court of Puerto Rico interpreting such a law may not be reversed by a Federal Court unless the interpretation is "inescapably wrong" and the decision "patently erroneous." It is not sufficient to justify reversal that the Federal Court merely disagrees with the interpretation of the Supreme Court of Puerto Rico.

For all practical purposes the Federal Court system bears the same relationship to the Commonwealth as it does to the States of the Union. A Federal District Court continues to function in Puerto Rico with jurisdiction similar to that of Federal District Courts functioning in the States. Quite recently, on July 24, 1953, the United States Circuit Court of Appeals for the First Circuit stated:

"... The terms of the compact, under which the Commonwealth government was established, did not disturb the jurisdiction of the federal courts, as provided in the Judicial Code (Title 28 U.S.C.). ..."

In cases where diversity of citizenship constitutes the basis for jurisdiction, the federal court in Puerto Rico must apply

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Commonwealth law and is bound by the interpretations of such law made by Commonwealth courts.

(C) Other Aspects of the Present Situation in Puerto Rico.

1. The leader of the Nationalists, Pedro Albizu Campos, and more than 200 other Nationalists who were arrested in the fall of 1950 on trumped up charges or flimsy pretexts because they favored the course of independence are still being held in prison. Moreover, Pedro Albizu Campos is being subjected to systematic torture.

The arrest and trial of the Nationalist leader, Pedro Albizu Campos, and approximately 175 of his followers were a direct consequence of their resort to acts of violence in October, 1950, which culminated in the attempted assassination of the Governor of Puerto Rico in San Juan and the President of the United States in Washington. The avowed object of these terrorist attacks was to frighten the new voters who were to register for the referendum to be held in connection with Public Law 600. Most of the Nationalists initially arrested were released within seventy-two hours of their arrest. Those held for trial were prosecuted for crimes such as murder, armed assault, carrying firearms or explosives illegally, or conspiring to overthrow the Government by force in violation of laws of Puerto Rico. (Public Law 53.) About 15 of those brought to trial were acquitted, some were released on bond or appeal and others were given short prison terms. Of these last, 40 had completed their sentences by October, 1952. At that time 93 were still incarcerated. It should be emphasized that those who received sentences were convicted of specific crimes or on charges of violating the Puerto Rican

anti-conspiracy

anti-conspiracy law. All of those arrested were allowed all of the protection and safeguards provided by the laws of Puerto Rico including writ of habeas corpus, representation by attorney, right of appeal, etc.

At no time before or after 1950, have Nationalists been arrested for favoring the cause of independence for Puerto Rico. As a matter of fact, there is in the island an Independence Party which freely and actively campaigns for the objective of total separation and has a minority representation of 15 members in the Legislative Assembly of the Commonwealth.

Albizu Campos' claim that he is subject to torture by death rays is a fantastic charge, clearly devised for propaganda purposes. As a prisoner, he has been accorded a fair treatment and his state of health has been examined by some of the outstanding specialists in the medical profession in Puerto Rico.

2. By requiring the article on human rights, as originally drafted in the Puerto Rican Constitution, to be amended, United States Congress proved that it be considered that the Universal Declaration of Human Rights (on which the original draft was based) should not be permitted to apply in Puerto Rico.

The Universal Declaration of Human Rights is a statement of objectives and aspirations adopted by the General Assembly of the United Nations on December 10, 1948. The United States Congress was of the opinion that to incorporate these objectives and aspirations in the Puerto Rican Constitution could be interpreted to mean that legal obligations were created on the part of the Puerto Rican Government
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beyond its power to fulfill within a republican structure of government.

The Constitutional Convention decided to accept the deletion of the section on the understanding that such deletion in no way constituted a denial to the people of Puerto Rico of the human rights specified in it. Furthermore, the objectives and aspirations contained in draft section 20 were considered legitimate and proper objectives for the Puerto Rican people to pursue through their legislature within the framework of their Constitution and as such were proclaimed in a Resolution adopted by the Convention. The deletion of section 20 from the Constitution did not curtail the power of the Puerto Rican Legislature with respect to these objectives any more than the absence of similar provisions in State Constitutions has prevented State Legislatures from taking action in these fields from time to time. It is important to note that the objectives set forth in section 20 are vigorously pursued in Puerto Rico by positive programs for the promotion of better housing, job opportunities, education, health, and other conditions necessary for insuring to the people of Puerto Rico an adequate standard of living.

Constitution,

3. Under the Commonwealth of Puerto Rico's industry and commerce are kept dependent on the mainland by the application to Puerto Rico of the United States customs and navigation laws. These barriers impede the achievement of real economic advancement.

Under the Commonwealth status the economic and fiscal relationship established between Puerto Rico and the United States by the first

Organic

Organic Act in 1900 has been continued without change. This relationship constitutes an economic union, with clear advantages for Puerto Rico. It entails a customs, monetary and postal union, with no tariff barriers between the United States and Puerto Rico. It has assisted Puerto Rico not only in developing its sugar industry but also in initiating a diversified program of industrialization, the success of which has attracted the interest of underdeveloped areas throughout the world. Inclusion in the United States tariff system, with free trade with the mainland, far from being a barrier to economic advancement, has made possible the unimpeded access of Puerto Rican products to the great United States market.

Governor Muñoz Marín in his letter of January 17, 1953, to the President of the United States, comments on the remarkable economic development of Puerto Rico as follows:

"This political history (of Puerto Rico) has been accompanied by a mutually beneficial economic relationship. The people of Puerto Rico have received many services from the Government of the United States and have benefited by grants-in-aid. Puerto Ricans have not been subject to the payment of taxes and have been entirely free of imposts, duties or any form of exactions for the support of the Federal Government. At all times since the turn of the century we have enjoyed free trade with the United States, and since 1917 we have had the benefit of common citizenship. Despite the fact that our population has grown from 953,000 inhabitants in 1900 to 2,219,000 in 1950, our standard of living has substantially increased. For example, the average per capita income in 1930 was \$122.00 as compared with \$319.00 in 1950."

4. Since

4. Since the military service of Puerto Ricans is regulated by Federal law and since Puerto Ricans do not have voting representation in Congress, they are subject to military service without the opportunity of expressing their will in the matter. Puerto-Ricans are being made to serve in the Korean War against their will.

The military defense of the Commonwealth remains the responsibility of the Federal Government, as is the case with the States of the Union. Although there is a National Guard in Puerto Rico under the Supreme command of the Governor, the Commonwealth could not maintain an adequate military establishment for its defense without requiring heavy sacrifices from the people. The United States provides the military establishment for the defense of Puerto Rico without cost to the people of the Commonwealth. Puerto Ricans are subject to military service in the United States Armed Forces under the same laws and on the same terms as their fellow-citizens in the 48 States.

This has provided repeated opportunities for Puerto Rico to make a valuable contribution to the defense of freedom in the world.

5. How are foreign relations and matters of defense handled under the new status?

Matters of defense and foreign relations, as in the case of the States of the Union, continue to be entrusted to the federal government. Puerto Rico continues under its new relationship with the national government to be a part of the United States in the international sense. At no time during the constitutional process which led to the creation of the Commonwealth have the people of Puerto Rico requested any change in this respect.