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Liebowitz  
Lebowitz Article

The Commonwealth of Puerto Rico has argued that the 1950-1952 legislation authorizing its establishment created a new legal entity. This new entity is not a "territory" covered by the "territorial clause" of the Constitution. Rather, the judicial bounds are determined by a "compact" which cannot be changed without the consent of both Puerto Rico and the United States. (pp. 221-22.)

Public Law 600 passed in 1950 is the Puerto Rican Federal Relations Act.

In Moreno Rios v. United States, 256 F.2d 68 (First Cir. 1958), it was argued that "the power given to the President of the U.S. to designate one of the judges of the Supreme Court of Puerto Rico to discharge the duties of the United States District Court judge was in conflict with the power to appoint judges granted in the Puerto Rican Constitution." The Court decided that this was an administrative convenience only, and there was no power in the President to compel compliance." (p. 229)

Puerto Rico is considered a "territory" for purpose of the diversity statute. Detres v. Lyons Building Co., 234 F.2d 596, 600 (7 Cir. 1956).

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Author concludes that the Federal Government operates within the legal boundaries established by the Puerto Rican Constitution and the Puerto Rican Federal Relations Act and not from the territorial clause. (p. 233)

Jurisdiction of Federal Courts (p. 246 et seq.)

The current jurisdiction of the United States District Court in San Juan is similar to Federal District Courts in the States. Appeals are to the United States Court of Appeals for the First Circuit and then by certiorari or appeal to the Supreme Court. Appeals from the Supreme Court of Puerto Rico as in the case of the highest State court, are made directly to the Supreme Court of the United States. (28 U.S.C. Section 1258 (1964)). The United States District Court in San Juan has a special jurisdiction where the matter in controversy exceeds \$3000 and the parties are not domiciled in Puerto Rico. Such cases may be heard regardless of whether the parties have diversity of citizenship, or are aliens. 48 U.S.C. Section 853 (1964). (A Puerto Rican commentator has advocated the elimination of diversity jurisdiction for the Federal Court in Puerto Rico.) The major procedural difference between the United States District Court in San Juan and the Puerto Rican trial courts is the absence of jury trial and civil cases in the latter.

In addition, a doctrine has evolved in favor of Federal Court deference to local court construction of local law. See Fornaris v. Ridge Tool, 400 U.S. 41 (1970). In Bonet v. Texas Co. of Puerto Rico, 308 U.S. 463 (1940), it was held that Puerto Rican local court may not be reversed by the Circuit Court of Appeals unless "the error must be clear or manifest, the interpretation must be inescapably wrong; the decision must be patently erroneous." Id at 470-471.

The Supreme Court has the power to formulate criminal rules for all Federal Appellate Courts, United States District Courts, and the Supreme Court of Puerto Rico. 18 U.S.C. Sections 3771-72 (1964). The Federal Rules of Criminal Procedure have never been applied to the Puerto Rican Supreme Court. F.R.Crim. p. 54. District Court judges in San Juan now have life tenure and equal pay and retirement benefits with those of a United States District judge.

In addition, the President may designate a judge of the Supreme Court of Puerto Rico to sit as a United States District Court judge in San Juan in case of vacancy or disability. 48 U.S.C. Section 863. Puerto Rico Supreme Court justices have indicated unwillingness to accept such designations. Moreno Rios v. United States, 256 F.2d 68, 71 (1 Cir. 1958).