

Marianas

Puerto Rico

A constitutional court is one established under Article III, § 1 of the Constitution. A legislative or territorial court is one established under other constitutional authority, principally Article IV, § 3 Clause 2, which gives Congress power to make necessary rules respecting territories.

Under former 28 U.S.C. § 134(a) (1964) the district judge in Puerto Rico had tenure not for life but only for eight years. In 1966, Congress amended 28 U.S.C. § 134(a) to provide life tenure for the judges of the court appointed thereafter. Pub.L. No. 89-571, 80 Stat. 764 (September 12, 1966).

As late as 1967 it has been held that the Puerto Rico court is a territorial court. See United States v. Montanez, 371 F.2d 79 (1967), cert. denied 389 U.S. 884.

In Balzac v. Porto Rico, 258 U.S. 298 (1922), the Supreme Court stated

The United States District Court is not a true United States court established under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article IV, § 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts in offering an opportunity to non-residence of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court. 258 U.S. at 312.

The 1948 revision of the Judicial Code, did not alter the jurisdiction of the already-existing United States district court for Puerto Rico, but for the first time it placed provisions relating to that court in a general federal courts act. See 28 U.S.C. Sections 119, 133. The House Committee Report stated that Puerto Rico was included as a judicial district "since in matters of jurisdiction, powers and procedure" its court is "in all respects equal to other United States district courts." H.R.Rep. No. 308, 80th Cong., 1st Sess. 6(1947).

In Montanez the court declined to decide whether the Puerto Rico district court had become an Article III court by 1953.

In Gooden Co. v. Zdanok, 370 U.S. at 547-48, 585-89, the Supreme Court indicated that a change in time and circumstance may be a relevant consideration in characterizing a court as constitutional or territorial.

In Richie v. Heftler Construction Co. of Puerto Rico, Inc., 367 F.2d 358 (1966), it was held that amendment of 28 U.S.C. Section 1332 by the addition of subsection (c) relating to the citizenship of a corporation did not apply to the District Court of Puerto Rico just as the jurisdictional amount requirement does not apply, since the jurisdiction of that court is governed by a special statute (48 U.S.C. Section 863).

are citizens or subjects of a foreign State or States, or citizens of a State, Territory, or District of the United States not domiciled in Puerto Rico, wherein the matter in dispute exceeds, exclusive of interest or cost, the sum or value of \$3000, . . . " In 1970 by Pub.L. No. 91-272 Congress repealed 48 U.S.C. Section 863. The reason for the repeal was ["legislative history"]. Even though Section 863 had been made a part of the Federal Relations Act, it has been held that Congress could unilaterally repeal Section 863 and thereby withdraw the additional jurisdiction of the United States District Court for the District of Puerto Rico without violating the Compact:

When Congress before 1952 legislated to reserve a special jurisdiction to Puerto Rico, a right then emanating from Article IV of the Constitution of the United States, it did so unilaterally and in the exercise of those powers. At no time during the process which evolved between the years 1950 and 1952 did Puerto Rico and the United States agree that Congress or the Puerto Rican government were bound to maintain the jurisdiction of their respective systems of courts untouched.

Long v. Continental Casualty Company,
323 F.Supp. 1158, 1161 (D.P.R. 1970)

Thus, it would appear that Congress has power to unilaterally change the jurisdiction of courts established pursuant to Article IV, at least where there has been no agreement reflected between the United States and Puerto Rico limiting Congress power in this area. If the Marianas should

opt for the establishment of a federal court with some jurisdiction over local matters, then the Status Agreement should contain a provision which would limit Congress power to unilaterally alter the court's jurisdiction.

During the time that the First Circuit retained appellate jurisdiction to review decisions of the Supreme Court of Puerto Rico, it reversed a large number of cases on the basis of a different interpretation of local law. In 1940, in Bonet v. Texas Co. of Puerto Rico, 308 U.S. 463, 470071 (1940), the Supreme Court held that "to justify reversal in such cases, the error must be clear or manifest, the interpretation must be inescapably long; the decision must be patently erroneous." Since the establishment of the Commonwealth the Supreme Court has heard only one case from Puerto Rico and in that case it affirmed this doctrine. See Fornaris v. Ridge Tool Co., 400 U.S. 41 (1970).

The Supreme Court has exercised an extreme amount of judicial caution in avoiding defining the precise limits of federal power in Puerto Rico.

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Marianas

Sources of Congressional Power to Establish a Federal Court in the Marianas.

The sources of Congressional power to establish inferior federal courts and define their jurisdiction has given rise to complex questions, many of which have not been fully settled in the decisions. The complexity is manifested in the blurred distinction which has arisen between "constitutional courts" and "legislative courts". Briefly, and at the risk of over-simplification, a "constitutional court" is one created by Congress pursuant to Article III. ["The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." U.S. Constitution, ART. III, § 1.

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Marianas

Puerto Rico

Final judgments rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by appeal or by writ of certiorari on the same grounds that appeals and writs of certiorari may be taken from the final judgment of the highest court of the state. 28 U.S.C. Section 1258.

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Professor Moore states that the inclusion of the district courts in the Territories of Hawaii and Puerto Rico in Section 451 of the Judicial Code, defining "district court of the United States," did not transform those legislative, territorial courts into constitutional courts. 1 Moore's Federal Practice ¶ 0.4[2], p. 61, n. 4. At the time those courts were included in Section 451, however, their judges did not have life tenure. Upon the granting of life tenure to the judges of those courts, the references in Section 451 were deleted. It is now, of course, clear that the district court in Hawaii is an Article III court, and this is probably true of the district court in Puerto Rico as well.