

COMMONWEALTH

"The word commonwealth does not have a single definite meaning.

In one sense, it means the public weal or welfare, but this cannot be regarded as a technical term of public law, although often used in political science. It generally designates when so employed, a republican frame of government, one in which the welfare and rights of the entire mass of people are the main consideration, rather than the privileges of a class or the will of a monarch; or it may designate the body of citizens living under such a government.

The word "commonwealth" is also defined to mean the body constituting a state or politically organized community; a body politic; hence a state, especially one constituted by a number of persons united by compact or tacit agreement under one form of government and systems of laws; the corporate entity, or the government of a jural society (or state) possessing powers of self-government in respect to its immediate concerns, but forming an integral part of a larger government or nation. In this latter sense, it is the official title of several of the United States, as Pennsylvania, Massachusetts, Virginia, and Kentucky, and would be appropriate to them all." 5

~~It is obvious then, that the future~~ "Commonwealth of Guam" escapes *relation to the Federal Gov. of the* the comparatively easy methodology employed in defining the future "State of Guam" or "Incorporated Territory of Guam". It is however, ~~equally obvious as well as~~ helpful to note the distinction being drawn between status as a "commonwealth" and status as an incorporated territory or as a state by the proceedings of the constitutional convention.

If this distinction is maintained and incorporated into the final report of the constitutional convention, it is possible that the relation to the Federal Government of this idealized "Commonwealth of Guam" will be, in some respects, similar to that of the "Commonwealth of Puerto Rico".

The Commonwealth of Puerto Rico has been defined as, "...a body politic which has received through a compact with the Congress of the United States, full sovereignty over its internal affairs in such a manner as to preclude a unilateral revocation, on the part of Congress, of that recognition of powers."³⁶ There can be no doubt that as a matter of political and legal theory, and practical effect, Puerto Rico enjoys a very different status from that of a totally organized but unincorporated territory as it formerly was. The government of the Commonwealth derives its powers not alone from the consent of Congress, but also from the consent of the people of Puerto Rico.³⁷

The passage of the Constitution of Puerto Rico had no effect on the fact that Puerto Rico is still considered a territory, at least within the meaning of certain acts of congress.³⁸ While Puerto Rico is still considered a territory, it is not a territory incorporated or unincorporated and its present status is not considered a preparatory step for statehood, though ~~there~~ they have gained the sovereign immunity of a state.

Under the compact between the United States and Puerto Rico created by the 1950 Act of Congress relating to organization of the Puerto Rican government and the Federal Relations Act incorporated therein, and the Puerto Rico Constitution, Congress cannot amend such Constitution and both parties must consent to amendment of the acts.

This is exemplified by Article VII Section 3, of the Constitution of Puerto Rico which states:

"No amendment to this constitution shall alter the republican form of government 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 Fed. Relations Act and with PL 600, Eighty First Congress, adapted in the nature of a compact."

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STATEHOOD

Under provisions of the Federal Constitution, new states may be admitted by Congress into the Union subject to prohibitions against impairment of the existence or integrity of existing states, and it is left to the discretion of Congress to determine the circumstances under which a state shall be admitted and the steps to be taken by the people to obtain admission. While the ⁹precedented procedure is the submission, to Congress, of a constitution, agreed to by the people of the territory seeking admission, ~~frequently~~ ^{frequently} in pursuance of prior congressional authorization in the form of an enabling act, and congressional assent to the proposals therein contained by means of an act providing for the admission of the proposed state, some only of the customary steps are essential and others have been dispensed with on particular occasions, such as the holding of a constitutional convention.

It seems this sentence would be clearer if revised

In determining the validity and efficacy of conditions of fixed by congress in the admission of states, there are three classes of conditions to be distinguished;

1. Provisions which are to be fulfilled by the admission of the state.
2. Complete or affirmative legislation intended to operate in future, which is within the scope of the conceded powers of congress over the subject.

3. Compacts or affirmative legislation which operates to restrict the powers of such new state in respect of matters which would otherwise be exclusively within the sphere of state power.

With respect to the first, ^{condition} congress may require, under penalty of denying admission, that the organic law of a new state at the time of admission shall be such as to meet its approval; thus, congress may require as a condition of its consent, that any provision which it thinks proper shall be embodied in the organic law of the proposed state at the time of admission, and, until altered or repealed by proper state action after admission, such a condition is to be taken as part of the fundamental law of ^{that} the state.

As to the second, ^{condition} the provisions, being only those which ^{it} ~~is~~ ^{are} already within the power of congress to enact, ^e derive their force from existing powers of congress under the provisions of the federal constitution, rather than from any compact or consent by the state, and are valid as, and in so far as they are proper federal legislation.

With respect to the third however, there is no power in congress to prescribe any such conditions, operating in the future to limit the legislative power of a new state over matters in their nature ^{entrusted} ~~confided~~ exclusively to the states as a part of their sovereign powers; then equality with the older states cannot be impaired in such matters by provisions of enabling acts or conditions otherwise imposed by congress on, and at the time of admission.

On the admission of a territory into the union as a state, the state government ^{accedes} succeeds to all the powers of sovereignty

previously enjoyed by congress and which belong to the original states, and only such powers with respect to the people of the new state remain in the federal government as, under the Constitution, it may exercise over the original states. All treaties, framed with refernece to the period before admission, and acts of congress affecting the rights, privileges and liberties of the people in matters within the reserved powers of the states cease to have any effect, on the admission of the new state, and such matters are regulated solidly by the constitution and law of the state.

The territorial government is totally ^{or}supceded when the state is admitted to the union, and no portion of such government or jurisdiction remains in force. The organization, measures, and proceedings of the territory cease to ~~exist~~ and operate upon the admission of the new state, except where they are continued by express adoption by the new state at the time of admission. When, however, it is so provided ^{by} as the enabling act or the state constitution, the laws of the territory remain in force, and the officers of the territorial government may continue in the exercise of their duties until changed or superceded under the authority of the state constitution.

By express provision of the enabling act or state constitution, the actions, judgements, private rights, claims, etc., may be preserved or continued after admission. A provision of this character saves only the right to enforce such matters, leaving the means and manner of enforcement subject to such changes as might be made by legislation or the constitution. Moreover, such provisions do not exempt contracts made prior to statehood from the operation of state laws enacted under the police powers (i.e. powers inherent in state government to protect the health, safety, and welfare of the people). In general, the new state ^{succeeds} ruceeds to

the rights and liabilities of the territory.