

# RULINGS OF THE GENERAL AUDITING OFFICE

**REFUND OF TUITION FEE AND RENTAL OF TEXTBOOKS OF STUDENTS CALLED TO MILITARY TRAINING.** — As regards the first query herein presented by the Director of Education, this Office is of the opinion that a 20-year old student who enrolls in a public high school in June, pays the first installment of his tuition and is called to military training in July, should be required to pay the full year's tuition fee only when he returns to school upon completion of his military training or takes the special examinations provided in Commonwealth Act No. 131. Should he fail to avail of any of these privileges, the tuition fee which he has already paid may be refunded to him.

Under the same circumstances and answering the second query, this Office believes that the student may be allowed to use again during the same school year only, the rented textbooks which he voluntarily returned when called to military training, if, upon termination thereof, he returns to his classes or takes the special examination provided in Commonwealth Act No. 131. If he fails in the examination, he cannot use again the same books during the following school year without paying another rental. However, if the student decides not to avail of the privileges of Commonwealth Act No. 131 after military training and returns his books in July, he may be refunded the rental thereof. —*Ind., dated July 27, 1939, of Aud. Gen. to the Sec. of Public Instruction, Manila.*

**WHEN DE JURE OFFICER MAY NOT BE PAID SALARY.**—According to the attached letter of the Provincial Auditor, dated April 18, 1947, Mr. Juan Doctor, the elected vice-mayor of Lagonoy, Camarines Sur, at the outbreak of the war assumed office as vice-mayor immediately after liberation and upon the reconstitution of the government of said municipality under

the Commonwealth Government, and that he also acted as municipal mayor of Lagonoy during the period from September 19 to October 15, 1945, while the regular incumbent, Nicolas Rivero, was under suspension. In view hereof, and as it appears from the next preceding indorsement that Doctor was paid salary as municipal Mayor from September 19 to October 15, 1945, Mr. Quintin C. Aremea who claims to have also rendered services as acting mayor during the same period, cannot be paid salary for his alleged services even granting that he was the *de jure* incumbent in accordance with the following authority:

“But it is held that if payment of the salary or other compensation be made by the government, in good faith, to the officer *de facto*, while he is still in possession of the office, the government cannot be compelled to pay it a second time to the officer *de jure* when he has recovered the office, at least where the officer *de facto* held by color of title.” (Mechem, *The Law of Offices and Officers*, p. 222. )  
—*7th Ind., May 20, 1947 of Dep. Aud. Gen. to Sec. of the Interior.*

**BOYS TOWN, AID FOR OUT OF SWEEPSTAKE ALLOTMENT.** — As it appears herein that the “Boys Town” of the City of Iloilo is engaged in social welfare work in that City, this Office has no objection to the grant of P5, 000 to this organization out of the share of the sweepstakes funds allotted to the City of Iloilo as proposed in the within Resolution No. 515 dated April 22, 1947, under Section 4 of Commonwealth Act No. 301.—*2nd Ind., July 14, 1947, of Aud. Gen. to Sec. of Int.*

**MUNICIPAL COUNCILORS NOT ENTITLED TO TRAVELING EXPENSES IN GOING TO AND RETURNING FROM SESSIONS OF MUNICIPAL COUNCIL.**—The perti-