

PUBLIC CORPORATIONS

(Continued from the January Issue)

(§214) 2. *Statutory provisions as to "fiesta" in Philippine municipalities in regular provinces.*

"*Celebration of fiestas.* A fiesta may be held in each municipality not oftener than once a year upon a date fixed by the municipal council. A fiesta shall not be held upon any other date than that lawfully fixed therefor, except when, for weighty reasons, such as typhoons, inundations, earthquakes, epidemics, or other public calamities, the fiesta cannot be held in the date fixed, in which case it may be held at a later date in the same year, by resolution of the council."⁴¹

"*Changing date of fiesta.* A municipal council may, by resolution passed by two-thirds of all the members of the council, change the fixed date for the celebration of the fiesta; but when the date has been once fixed by the municipal council, it shall not be changed with greater frequency than one in five years."⁴²

"*Fixing date of fiesta.* In fixing or changing the date of the fiesta, the municipal council shall give preference to a date which, by reason of an important event in the municipality, the province, the Philippines, and in general, in the history of the Philippines, may be considered memorable and worthy of being commemorated by a local fiesta."⁴³

(§215) G. *Engaging in business enterprises.*

— 1. *In general.* "Some authorities have stated broadly that the state has no power to authorize a municipal corporation to engage in a business of a private nature. It is generally considered that in the absence of special circumstances it is not within the constitutional power of the legislature to authorize a municipal corporation to engage in a business which can be and ordinarily is carried on by private enterprise, without the aid of any franchise from the government, merely for the purpose of obtaining an income or deriving a profit therefrom. Although it might be designed and expected that the returns from the business would cover the expense, and perhaps produce a profit and thus reduce the burden of taxation, it would be impossible to foresee the actual result, and since, if the business should prove unsuccessful, the deficit would have to be made up by taxation, a statute authorizing a municipality to go into a private business is objectionable as bringing about the possibility of taxation for a purpose not public. Thus, it has been denied that a state legislature has power to authorize a municipality to maintain an elevator or warehouse for the public storage of grain; to conduct a municipal motion-picture theater; to engage in the plumbing business and the sale of plumbing supplies; or to establish manufacturing on its own account and operate them by public officers. A municipal corporation is allowed to go into business only on the theory that thereby the public welfare will be observed. So far as gain is an object, it is a gain to a public body and must be used for public ends. More recent cases, although reasserting the rule, indicate a tendency to broaden the scope of those activities which may be classed as involving a public purpose in which a municipal corporation may lawfully engage. A municipality exercising a part of the sovereign power of the state which the Constitution has not curtailed may, if the public interest so requires, constitutionally engage in a business commonly carried on by private enterprise, levy a tax to support it, and compete with private interest engaged in a like activity. The state may lawfully authorize municipal corporations to own and lease manufacturing enterprises for the purposes of relieving unemployment and utilizing the raw materials of the state, although under ordinary circumstances this power has been denied. Such a statute has been held not to violate due process under state and Federal Constitutions or to violate a constitutional provision that private property shall not be taken or damaged for public use except where compensation is first made to the owner.

"Under the view that a municipal corporation has only the powers expressly given or those implied powers which are neces-

sary or indispensable to the exercise of those expressly given, it has been held that a municipal corporation has no power to engage in any private business, however desirable or convenient it may seem to be, or to manufacture articles necessary for its lawful enterprises when they are in common use and are to be had in open market. The principle of strict construction of grants of municipal power is sometimes said to apply with special force to statutes enabling municipal corporations to enter into commercial activity. Under this view, it has been held that a municipal corporation cannot own or operate a stone quarry to furnish paving material for its streets, nor maintain a plant for the manufacture of brick to be used for paving its streets, nor operate or conduct a private garage business in the basement of one of its public buildings. A municipal corporation cannot engage in the business of buying and selling real estate, or in erecting buildings to gain an income by renting them. If a project of a municipal corporation is merely colorable under the pretense of actual authority, but is intended to promote some private or unauthorized purpose, it will be declared illegal. There is a recent authority, however, holding that a municipal corporation may erect property for rental purposes where the legislature has declared such activity to be a public purpose. On the other hand, under the view that implied powers need not necessarily be indispensable to the exercise of those expressly given, it has been held that the power to own and operate a stone quarry may be implied from the express power to grade and pave streets and to own and hold real estate. Likewise, the power of a municipal corporation to operate a nursery to provide trees and shrubs for its parks and public grounds may be implied from express power to acquire, improve, and maintain municipal parks and play-grounds, and to acquire land which is useful, or advantageous, or desirable for municipal purposes. Municipal power to engage in certain other enterprises is discussed under other titles and in other divisions of the present article.

"According to some authorities, where as a necessary result of carrying on a legitimate public enterprise in a reasonably prudent manner, a surplus of the material used or distributed is acquired or a by-product created, a municipal corporation may lawfully engage in the business of disposing of such surplus or by-product for profit, without special legislative authority.

"When a municipal corporation engages in an activity of a business nature, such as is generally engaged in by individuals or private corporations, rather than one of a governmental nature, it acts as a corporation, and not in its sovereign capacity."⁴⁴

(§ 216) 2. *State of commodities to public.* "It was, until very recently at least, looked upon as a well-established principle of law that a municipal corporation could not constitutionally be authorized by the legislature to engage in the business of selling and distributing to its inhabitants, at reasonable rates and without discrimination, the conveniences or even the necessities of life, if the business was of such a nature that it could be and ordinarily was carried on by private individuals without the aid of any franchise from the state. It was for this reason that it has been held that it is not within the power of the legislature to authorize municipal corporations to establish fuel yards and to purchase coal and wood to resell to their inhabitants, even at a time when fuel is scarce and the price are high, so that the cost to consumers might be expected to be reduced by such an undertaking on the part of the municipality; the manufacture of ice by a town and its distribution among the inhabitants has been held to be equally objectionable.

"There were, from the beginning, some exceptions recognized to the rule which made it unlawful for municipalities to engage in a business which could be and ordinarily was carried on by private citizens without any franchise from the state. Thus, the establishment of markets by municipalities, and the building of markets houses with a view to leasing the stalls therein to indi-

⁴¹ Sec. 2282, Rev. Adm. Code.
⁴² Sec. 2282, Rev. Adm. Code.
⁴³ Sec. 2284, Rev. Adm. Code.
⁴⁴ 37 Am. Jur. 746-748.

dual dealers in meat and provisions, has the sanction of almost immemorial usage, and it is now too late to contend that it is unconstitutional. Even the courts which deny the power of the legislature to establish municipal fuel yards concede that if a condition arose in which the supply of fuel would be so small, and the difficulty of obtaining so great, that persons desiring to purchase it would be unable to supply themselves through private enterprise, since it is conceivable that agencies of government might be able to obtain fuel when citizens generally could not, the government might constitute itself an agent for the relief of the community; consequently, the money expended for the purpose would be expended for public use. Some judges have taken an even more advanced view, and have insisted that when money is taken to enable a municipal body to offer to the public, without discrimination, an article of general necessity, the purpose is no less public when that article is wood or coal than when it is water, gas, electricity, or education, to say nothing of cases like the support of paupers and the taking of land for railroads or public markets. Other courts, while perhaps not going so far, nor conceding that a municipality might be authorized to engage in every form of commercial enterprise which involves the sale and distribution of a public necessity, have considered that such commodities as ice and coal, in the sale of which competition is necessarily not as free and untrammelled as in ordinary articles of commerce, on account of private control of the limited sources of supply, fall within the class of the proper subjects of municipal dealing and traffic. A municipal charter authorizing the city to engage in the business of selling gasoline and oil to its inhabitants has been held not to violate the Fourteenth Amendment to the Federal Constitution or the state constitutional provisions relating to the control of business affecting public welfare.⁴⁵

“(§217) 3. *Tourist or trailer camps.* “The operation of a tourist camp, whether the municipal corporation receives any compensation therefrom or not, especially where the inhabitants of the corporation are excluded, is not a public business, and the municipality cannot expend money in the purchase of land for such a camp. However, it has been held that maintenance of a tourist camp in a municipal park is not a diversion of property devoted to park purposes, and statutes authorizing the establishment and maintenance of tourist or trailer camps are becoming more frequent, and their validity in some instances has been assumed.”⁴⁶

(§ 218) *H. Fire regulations.* — *In general.* — a. Generally in the exercise of their police powers municipal corporations may enact such regulations as are necessary for the prevention of, and protection from fires.⁴⁷

“A *quaint statement of the rule* is that found in Bacon's Abridgment; it reads thus: 'so if a by-law be made in London, that none shall make a hot-press, nor use it within the city, under the penalty of 10, for the making thereof, and 5 for the use thereof, this is a good by-law; because the use of those presses is dangerous with regard to fire, and also deceitful, inasmuch as they make clothes and stuff look better to the eye than in truth they are.'” *2 A. bridg.* 147.⁴⁸

And it is the duty of municipal corporation to enact such regulations. “The corporate authorities may fix what is known as a fire district and forbid the erection of wooden buildings therein. No town or city, compactly built, can be said to be well-ordered or well-regulated which neglects precautions of this sort. It is its duty to the public to take such measures as may be practicable to lessen the hazard and danger of fire. The public good and safety are superior to the individual rights of the inhabitants, and under this principle such regulations are not the divestiture of the individual right of ownership and use, but is only conforming the use of individual property to the necessities, safety, and interests of the public. It is a regulation of its enjoyment.”⁴⁹

While some decisions consider or refer to this power as inherent in municipal corporations, it, nevertheless, usually exists by reason of an express grant or a necessarily implied statutory or constitutional delegation. The reasonable view is that, like

other municipal powers, it may be implied. But the corporation cannot exceed the authority given or granted by statute or charter. Fire municipal regulations must be reasonable and not arbitrary; but the courts will not declare such regulations unreasonable, unless in clear cases of abuse. The power to prevent fire carries with it the right to employ the most effective means to that end. In the exercise of the power the erection or use of buildings for the purpose of a more or less dangerous character may be prohibited. Where the statute or charter enumerates the means by which the municipal authorities may provide for the prevention of, and protection from, fires, and also authorizes for the regulation by other means of preventing and extinguishing fires as the municipal authorities may direct, it is held that the means particularly specified are not exclusive, and that the residuary clause is not to be construed according to the rule *ejusdem generis* as limited to things of the same kind as those specified. The specific right conferred by statute to regulate and restrain the erection of wooden buildings is not a limitation upon the municipal power to take reasonable means for the prevention of fire by exercising supervision over the erection of other buildings. Statutes empowering municipalities for the prevention of fires to regulate buildings and to prescribe penalties for violation of such regulations are considered as penal and in derogation of the common law, and, as a general rule, are strictly construed.⁵⁰

Under charter giving power to insure safety of the public from conflagrations, a municipal council may require by ordinance that buildings for theatrical and cinematograph performances and exhibitions to be built of concrete, reinforced with steel and to be equipped with not less than six exits.⁵¹

[§ 219] *b. Statutory statement as to Philippine municipal corporations.* — (1) *Municipalities in regular provinces.* “The municipal council shall have authority to exercise the following discretionary powers:

“* * * * *
“(c) To establish fire limits in populous centers, prescribe the kinds of buildings that may be constructed or repaired within them...
“* * * * *”⁵²

[§ 220] (2) *Municipalities in specially organized provinces.* “The municipal council shall have power by ordinance or resolution:

“* * * * *
“(i) *Building regulations.* — To establish fire limits, and prescribe the kind of buildings and structures that may be erected within said limits, and the manner of constructing and repairing the same.
“* * * * *

“(k) *Lights, fires, and fireworks.* — To regulate the use of lights in stables, shops, and other buildings and places, and to regulate or restrain the building of bonfires and the use of firecrackers, fireworks, torpedoes, and pyrotechnic displays.
“* * * * *

[§ 221] (3) *City of Manila.* “The Municipal Board shall have the following legislative powers:

“* * * * *
“(h) To establish fire limits, determine the kinds of buildings or structures that may be erected within said limits, regulate the manner of constructing and repairing the same, and fix the fees for permits for the construction, repair, or demolition of buildings and structures.
“* * * * *

“(j) To regulate the use of lights in stables, shops, and other buildings and places, and to regulate and restrict the issuance of permits for the building of bonfires and the use of firecrackers, fireworks, torpedoes, candles, skyrockets, and other pyrotechnic displays, and to fix the fees for such permits.
“* * * * *

“* * * * *”⁵³
125 45 C.J. 395.
130 43 C.J. 369-369.
51 *Bastida v. City Council of Baguio*, 53 Phil. 555. For facts and ruling, see 132, supra.
52 Sec. 2243, Rev. Adm. Code.
53 Sec. 2625, Rev. Adm. Code.
54 Sec. 15, Rep. Act No. 499.

[§ 222] 2. *Fire limits.* "One of the usual methods by which the power may be, and is, exercised is by the enactment of ordinances or regulations establishing fire limits, and forbidding the use of inflammable materials in buildings or other structures, or in the erection thereof, within such limits. The limits of a fire district largely rest within the sound discretion of the administrative or legislative body which is authorized to create it. Ordinances establishing fire limits and regulating the construction of buildings therein should be strictly enforced. That a wooden structure ceases to be such when encased with iron has been held by some courts, but this view has not been generally accepted."⁵⁵

"*Method of enforcing regulations.* Although the ordinance may provide a penalty for the violation of a fire limit regulation, such remedy is not exclusive; and the municipal corporation may in civil action enjoin the erection of a proposed building in violation of the regulation, and ask for the removal of a building or structure in violation of the regulation. Such fine or penalty is not considered as a full, complete, and adequate remedy so as to prevent a court of equity from exercising its jurisdiction."⁵⁶

[§ 223] 3. *Fire hazards; storage or accumulation of inflammable materials.* "When the province or municipality is infested with outlaws, the municipal council, with the approval of the provincial governor, may authorize the mayor to require able-bodied male residents of the municipality, between the ages of eighteen and fifty years, to assist, for a period not exceeding five days in any one month in apprehending outlaws or other lawbreakers and suspicious characters, and to act as patrols for the protection of the municipality, not exceeding one day in each week.

"Nothing herein contained shall authorize the mayor to require such service of officers or employees of the National Government, or the officers or servants of companies or individuals engaged in the business of common carriers on sea or land, or priests, ministers of the gospel, physicians, *practicantes*, *druggists* or *practicantes de farmacia* actually engaged in business, or lawyers when actually engaged in court proceedings."⁵⁷

[§ 224] 4. *Fiscal management, debts and securities.* The power of municipal corporations to incur debts and expenditures is treated in a subsequent chapter.

[§ 225] J. *Businesses and occupations.*⁵⁸ — 1. *In general.*—

(a) *Generally.* "While an individual has an inherent or natural right to engage in any lawful business, occupation, or trade, and may use his property for that purpose, yet the nature of the business, occupation, or trade sought to be carried on may be such as to render it subject to regulatory control by municipal corporations, in the exercise of their police powers, or authority delegated to them by the legislature or constitution, as under authority granted or to restrict or prohibit nuisances. Such regulation is permitted in the interest of the public peace, health, morals, and general welfare of the municipality. The authority of the corporation in the premises must be granted by the state either expressly or by obvious implication; it is not inherent. Ordinances regulating business or occupations are strictly construed. A regulation providing that in any building or premises any lawful use existing thereat at the time of the passage of the regulation may be continued, although not conforming to the regulations, does not authorize the conducting of another business which might prior to the enactment of the regulation have been lawfully conducted in such building, although it could not, subsequent to the enactment, be originally established there."⁵⁹

[§ 226] b. *Statutory provisions as to Philippine municipal corporations.* — (1) *Municipalities in regular provinces.* "The municipal council shall have authority to exercise the following discretionary powers:

"(d) To provide for the numbering of houses and lots; the naming of streets, avenues, and other public places and; subject to the approval of the Secretary of the Interior, the changing of the names thereof; and for the lighting of streets, and the sprink-

ling of the same.

"(n) To regulate the establishment and provide for the inspection of steam boilers within the municipality.

"(q) To regulate any business or occupation subject to a municipal license tax...

[§ 227] (2) *Municipalities in specially organized provinces.* "The municipal council shall have power by ordinance or resolution:

"(e) *Regulations for conducting business.* — To make regulations for the conducting of the business of the persons and places named in subsection (d) of this section [namely, Hawkers, peddlers, hucksters, not including hucksters or peddlers who sell only native vegetables, fruits or foods, personally carried by the hucksters or peddler, auctioneers, plumbers, barbers, tailor shops bakeries manicuring establishments massage parlors, embalmers, collecting agencies, mercantile agencies, transportation companies and agencies, advertising agents, tattooers, hotels, clubs, restaurants, lodginghouses, livery stables, boarding stables, laundries, cleaning and dyeing establishments, establishments for the storage of highly combustible or explosive materials, public warehouses, bicycles, dealers in secondhand merchandise, junk dealers]. To regulate the business and fix the location of blacksmith shops, foundries, steam boilers, steam engines, lumber yards, sawmills, and other establishments likely to endanger the public safety by giving rise to conflagrations or explosions; to regulate the storage and sale of gunpowder, tar, pitch, resin, coal, oil, gasoline, benzine, turpentine, nitroglycerin, petroleum, or any of the products thereof and of all other highly combustible or explosive materials.

[§ 228] (3) *City of Manila.* "The Municipal Board shall have the following legislative powers:

"(1) To regulate... the following: hawkers, peddlers, hucksters, not including hucksters or peddlers who sell only native vegetables, fruits, or foods, personally carried by the hucksters or peddlers; barbers, collecting agencies, manicurists, hairdressers, tattooers...

"(m) To... regulate the business of hotels, restaurants, refreshment places, cafes, lodginghouses, boardinghouses, brewers, distillers, rectifiers, laundries, dyeing and cleaning establishment, beauty parlors, physical or beauty culture and schools, clubs, livery garages, public warehouses, pawnshops... and the letting or subletting of lands and buildings, whether used for commercial, industrial or residential purposes; and further to fix the location of... and regulate the business of, livery stables, boarding stables, embalmers... dealers in secondhand merchandise, junk dealers... the sale of intoxicating liquors, whether imported or locally manufactured.

"(q) To regulate the method of using steam engines and boilers, other than marine or belonging to the National Government; to provide for the inspection thereof, and for a reasonable fee for such inspection, and to regulate and fix the fees for the licenses of the... engineers engaged in operating the same.

"(ii) To... regulate any business, trade, or occupation being conducted within the City of Manila not otherwise enumerated in the preceding subsections...

[§ 229] (2) *Extent and limits.* — a. *In general.* "The power must be exercised reasonably, within constitutional limitations, not arbitrarily or in restraint of trade, without discrimination, fair to all alike, and with some reasonable reference to the public peace, health, morals, safety, or general welfare of the municipality. The question whether a limitation upon the conduct of business or trade has a reasonable relation to the accomplishment of a legitimate public purpose is one that must be decided upon a view of the

⁵⁵ 43 C.J. 369-370.

⁵⁶ *Id.* 370.

⁵⁷ 37 Am. Jur. 942-943.

⁵⁸ Various particular business and occupation discussed in other sections of this chapter.

⁵⁹ 43 C.J. 357-359.

⁶⁰ Sec. 2243, Rev. Adm. Code.

⁶¹ Sec. 2625, Rev. Adm. Code.

⁶² Sec. 19, Rev. Adm. Code.

particular legislation and the circumstances to which it is applied; the question is largely one of fact. The regulations of the kind under consideration cannot be applied to an occupation, employment, or business not carried on within the municipal boundaries."⁶³

[§ 230] b. *Place or location.* "In the exercise of municipal power to regulate business, trades, or callings, particular occupations may be excluded from certain parts of a municipal corporation, or may be required to be conducted within designated limits within the corporation. The power to regulate the carrying on of certain lawful occupations in a municipality includes the power to confine the carrying on of the same to reasonable limits, wherever such restrictions may reasonably be found necessary to subserve the ends for which the police power exists, namely, to protect the public health, morals, safety, and comfort. For example, under its police power a municipality may validly prohibit the maintenance of a particular enterprise within a specified distance of certain types of buildings, such as schools, churches, hospitals, etc. A municipality may also validly prohibit the carrying on of business activities in or on certain portions of the municipality directly under municipal control or supervision and involving specifically the public safety, as, for example, on municipal streets, highways, and sidewalks.

In determining the validity of municipal police regulations which forbid engaging in specified forms of activity thereof in particular areas of a municipality, it can make no difference that a trade was lawfully established prior to the prohibitory ordinance and that it has become offensive solely on account of the growing up of the municipality about it. A business which is lawful today may, in the future, — because of a changed situation, the growth of population, and other causes, — become a menace to the public health and welfare, and be required to yield to the public good. It cannot be argued as a contention against such an exercise of the police power that a municipality cannot be formed or enlarged against the resistance of an occupant of property, or that if it grows at all it can grow only as the environment of the occupations which are usually banished to the purlieus.

"There is not necessarily any valid distinction, in considering municipal regulations forbidding a business to be exercised in a particular part of a municipality, between businesses which are not affixed or dependent upon a particular municipal locality for their operation, which class it is admitted can be regulated, and business which it is claimed can be conducted from a financially advantageous position in only one particular place in a municipality because of the location in that place of the raw material from which a finished product is made. Regulation may also be had in the latter type of cases in spite of the fact that there has been an investment in property, where manufacture of the finished product will be injurious to the health and comfort of the community. So long as the prohibition of the business goes merely to the operations and manufacture of the raw materials in the particular place designated as forbidden, and there is no prohibition of the removal of the valuable material from such spot, so that it can be manufactured elsewhere, constitutional rights are not violated

"While police regulations of the character here considered are subject to judicial scrutiny upon fundamental grounds, yet a considerable latitude of discretion must be accorded to the lawmaking power; so long as the regulation in question is not shown to be clearly unreasonable and arbitrary, and operates uniformly upon all persons similarly situated in the particular district, the district itself not appearing to have been selected arbitrarily, it cannot be judicially declared that there is a deprivation of property without due process of law, or a denial of the equal protection of the laws within the meaning of the Fourteenth Amendment. On the other hand, municipal regulations as to the location of particular businesses within the municipality are invalid where, under the circumstances, they constitute an unreasonable regulation or interference not warranted in the public interest, where they unnecessarily or arbitrarily interfere with the property rights, and where they are indefinite and uncertain. It has also been stated that a grant of power to regulate lawful occupations and business places is certainly not an express grant of power to locate or prescribe

the limits of the carrying on of lawful occupations upon private premises."⁶⁴

[§ 231] c. *Time.* "No generalization can safely be stated as to the validity and reasonableness of municipal regulations of the time during which businesses may be conducted. The result depends largely on the nature of the business sought to be regulated.

"Regulations by municipalities of the hours during which specified businesses may be conducted have been declared reasonable and constitutional where there is a patent relationship between the regulations and the protection of the public health, safety, morals, or general welfare, as where the business is of such a character that the public health or morals are likely to be endangered if it is carried on during the late hours of the night. It has been held that under a general grant of power in a municipal charter to regulate business houses, the municipality has the power to close such places at midnight, or earlier.

"A municipality has no authority, under its police power, to regulate arbitrarily and unreasonably the hours of private business, conducted in a reasonable manner, under the guise of promoting the public health or general welfare of the community. Laws which regulate closing hours and do not in any manner directly or remotely tend to promote public health, good order and peace of the community cannot be justified as an exercise of municipal police power. Thus, a regulation of the hours of a particular business which is not explainable by a relation between the regulation and the protection of objects within the police power, but solely on the ground that there is a desire to discriminate unconstitutionally in favor of local dealers in the business, is unconstitutional. Ordinances attempting to regulate closing hours are also sometimes invalidated on the ground that they violate the principles that ordinances must be reasonable, consistent with general law, and not destructive of lawful business, or because they are found not to be within the authority granted to the particular municipality seeking to enact and enforce them."⁶⁵

[§ 232] d. *Prohibition.* "There are some businesses or commercial activities which are, or may be, so offensive, dangerous, and detrimental to the public health, safety, comfort, peace, morals, and welfare that municipal corporations, in the exercise of their granted police power, may prohibit them altogether within the municipality or its police jurisdiction. This principle, however, is subject to definite limitations. Municipal authorities cannot, under the claim of exercising the police power, substantially prohibit a lawful trade, unless it is so conducted as to be injurious or dangerous to the public health. Furthermore, a municipality cannot, under the general welfare clause of its charter, make it unlawful to carry on a lawful trade in a lawful manner. It has also been held that authority to 'license and regulate' a business does not confer power to prohibit it absolutely."⁶⁶

"The 14th Amendment [of the American Constitution] protects the citizen in his right to engage in any lawful business, but it does not prevent legislation intended to regulate useful occupations which, because of their nature or location, may prove injurious or offensive to the public. Neither does it prevent a municipality from prohibiting any business which is inherently vicious and harmful. But, between the useful business which may be regulated and the vicious business which can be prohibited lie many nonuseful occupations which may or may not be harmful to the public, according to local conditions, or the manner in which they are conducted."⁶⁷

"There is quite a difference between prohibition of a trade and the regulation of it. Indeed, 'a power to regulate seems to imply the continued existence of that which is to be regulated.' An ordinance which prescribes that certain persons shall not carry on their business, which would otherwise be legitimate, in a particular place, or on certain premises, is, as to such place, clearly prohibitive; and to authorize the passage of such an ordinance, where the power is undoubted, the injury to the public, which furnishes the justification for the ordinance, should proceed from the inherent character of the business when conducted at such place or upon such premises. Where, however, the business can be

⁶³ 37 Am. Jur. 969-962.

⁶⁴ 37 Am. Jur. 962.

⁶⁵ *Murray v. California*, 225 U.S. 623, 32 Sup. Ct. 697, 698, 56 L. ed. 1339,

41 L.RANS 153.

⁶⁶ C.J. 329-360.

⁶⁷ 37 Am. Jur. 957-960.

conducted there by proper persons without harm or inconvenience to the public, the prosecution of it should not be entirely prohibited, but such necessary police rules and regulations should be prescribed for carrying on such business in that particular locality as may be necessary for the public good."⁶⁸

"The test in every case is: Is the prohibition of a particular business or the sale of a particular article necessary to prevent the infliction of a public injury? It is not sufficient that the public sustains harm from a certain trade or employment as it is conducted by some engaged in it. Because many men engaged in the calling persist in so conducting the business that the public suffers and their acts can not otherwise be effectually controlled, is no justification for a law which prohibits an honest man from conducting the business in such a manner as not to inflict injury upon the public."⁶⁹

[§ 233] 3. *Copra warehouse.* Under the charter provision of a city authorizing it to regulate the business and fix the location of match factories, the storage and sale of gunpowder, oil, and other establishments likely to endanger the public safety or give rise to conflagrations or explosions, such city may regulate and fix the location of a warehouse for storing copra, because the same is an establishment likely to endanger the public safety or likely to give rise to conflagrations or explosions.⁷⁰

[§ 234] 4. *Gasoline filling and service stations.* "Gasoline filling stations located within the municipal boundaries may be proper subjects for regulation by the municipality."⁷¹

An ordinance prohibiting the installation of gasoline stations within the distance of 500 meters from each other, not only to prevent ruinous competition among merchants engaged in this kind of business but also to protect the public from any harm or danger that may be occasioned by said inflammable substance is valid.⁷²

Illustration. — The plaintiffs Francisco Javier and Roman Ozaeta commenced this action in the Court of First Instance of Manila to restrain the defendant Tomas Earnshaw, Mayor of the City of Manila from cancelling the permit or license issued by him for the installation and operation of a gasoline pump and underground tank at the corner of Kansas Avenue and Tennessee Street. They appealed from the judgment dismissing their complaint.

It appears that the plaintiffs, being the owners of a parcel of land situated at the corner of Kansas Avenue and Tennessee Street, Manila, entered into a contract with the Asiatic Petroleum Co. (P.I.) Ltd., whereby the latter would provide them with a pump, underground tank and gasoline on the land in question, for the exclusive use of the motor vehicles of the Makabayan Taxiab Co., Inc., operated by the plaintiffs and would obtain the necessary license from the defendant mayor of Manila. The plaintiffs and the Asiatic Petroleum Co. (P.I.), Ltd., obtained the necessary permit to install a gasoline pump and an underground tank in the premises of the plaintiffs, for the exclusive use of the motor vehicles of the Makabayan Taxiab Co., Inc. One of the conditions imposed in the contract is that the permit was nontransferable and that it was revocable at the expiration of 30 days from notice of the concessionaire. The pump and the tank were installed and the plaintiffs used them for some time to provide gasoline exclusively for the motor vehicles of the Makabayan Co., Inc. Sometimes later, however, as the plaintiffs had succeeded in having the office of the city treasurer insert the word "sales" (which should read "sales") in the receipt issued by it for payment of the license tax, they began to sell gasoline to the public, thereby giving rise to protests from operators of the Socony Gasoline Station situated at the corner of Taft Avenue and Herran Street. The complaint was investigated and not only was it proven but the plaintiffs themselves also admitted that they were really selling gasoline to the public. The mayor, on June 9, 1934, sent a letter to the Asiatic Petroleum Co., (P.I.), Ltd., requiring it to show cause within five days why the license issued to it should not be cancelled for violation of the

condition not to sell gasoline to the public. The requirement was endorsed to the plaintiffs who gave their explanation in their letter of June 11, 1934. The explanations given by the plaintiffs not having been satisfactory, and they having admitted the violation of the condition by acknowledging that they have been selling gasoline to the public, the mayor, on July 16, 1934, sent a letter to the plaintiffs advising them that after 15 days from the receipt of said letter by them, he would order the cancellation of the permit, which he in fact decided to do, and the permit was cancelled. The court, upon the bond filed by the plaintiffs, issued the writ of the preliminary injunction applied for.

The ordinance in question which was violated by the plaintiffs was Ordinance No. 1985 of the City of Manila, and the pertinent provision pertaining to this case provides:

Sec. 1, (3) "That no gasoline station will be permitted to be installed within a distance of five hundred meters from any existing gasoline station."

The plaintiffs assailed the validity of the said provision of the ordinance as arbitrary, unreasonable and discriminatory.

The Supreme Court held that the municipal board of the City of Manila, in the exercise of the police power, may reasonably regulate professions and business enterprises within its territorial limits when the public health, safety and welfare so demand. Ordinance No. 1985 in question is of this nature and, therefore, is not illegal. The Municipal Board of the city of Manila, by virtue of the police power, may reasonably regulate the use of private property whenever such measure is required by the public health and safety, and the welfare of its inhabitants.

The ordinance under consideration prohibits the installation of gasoline stations within the distance of 500 meters from each other not only to prevent ruinous competition among merchants engaged in this kind of business but also to protect the public from any harm or danger that may be occasioned by said inflammable substance. The ordinance is not arbitrary, unreasonable or discriminatory because, it was enacted by the City of Manila in the exercise of the police power delegated to it by the Legislature, it tends to protect the inhabitants thereof from the dangers and injuries that may arise from the inflammable substance, and the measure is general and applicable to all persons in the same situation as the plaintiffs.

The appealed judgment is affirmed, and the writ of preliminary injunction issued by the trial court is set aside.⁷³

[§ 235] 5. *Laundries.* "Municipal corporations may regulate the establishment and operation of laundries, and may provide for a license fee to care for the additional expense incurred by the corporation for properly enforcing such regulation. The power to regulate laundries must be exercised within its scope, and the regulations must be reasonable. Municipalities may require as police regulations that laundries shall be confined to certain parts of the city, prohibit them from being carried on within a designated distance from a church, school, or hospital, and that they shall be carried on only in buildings of brick or stone. But it seems that an ordinance is invalid which requires the consent of a certain number of taxpayers and citizens of the vicinity for the establishment of the business."⁷⁴

"*Discrimination.* Municipal regulations dealing with laundries must not be discriminatory; for instance, the corporation cannot deny privileges to laundrymen allowed to similar operators of machinery. But the corporation may classify laundries on a natural and reasonable basis. A laundry regulation exempting domestic laundries from its operation is not discriminatory."⁷⁵

Under the general welfare clause, as well as under the power to "regulate" laundries, a municipal corporation may require laundries, dyeing and cleaning establishments to issue receipts for articles received in English and Spanish. Such ordinance is a reasonable exercise of the police power.⁷⁶

68 Cogswore v. Augusta, 102 Ga. 835, 837, 42 LRA 111.

69 Tolliver v. Blizard, 143 Ky. 773, 35 LRANS 890.

70 Uy Matino & Co., Inc. v. City of Cebu, et al., XVIII L.J. 394.

71 42 C.J. 380.

72 Javier and Ozaeta v. Earnshaw, *infra*.

73 Javier and Ozaeta v. Earnshaw, 64 Phil. 626-629, 631, 640.

74 42 C.J. 386.

75 42 C.J. 380.

76 Kwong Sing v. City of Manila, 41 Phil. 102. For facts and ruling, see 142 *supra*.

[§ 236] 5. *Lumberyards*. "The location of lumberyards within the municipal limits may be a subject of municipal regulation. The consent of the municipal council may be required as a condition precedent to their operation."⁷⁷

Under statutory authority to enact such ordinance and make such regulations as shall seem necessary and proper to provide for the health and safety, promote the prosperity, improve the morals, peace, good order, comfort, and convenience of the municipality and the inhabitants thereof, and for the protection of property therein, and to declare and abate nuisances, a municipality may prohibit the maintenance and operation of a sawmill and lumberyard within specified areas of the municipality, where such maintenance and operation would necessarily disturb residents and passers-by.⁷⁸

[§ 237] k. *Fraud in sale of commodities of prime necessity*. 1. *In general*. Municipal Corporations, under their properly delegated police powers, may enact regulations for the detection and preventions of imposition and fraud on the public in the sale and purchase of food and drink offered for sale to the public. It may regulate so as to secure honest weights and measures; it may enforce the keeping of proper legal weights and measures by all vendors; and provide for the inspection of such weights and measures. It may require that the true weight or measure be stated on the package or other container in which articles of food or drink are sold. Such regulations must be reasonable, and not arbitrary or discriminatory.⁷⁹

Public scales. "Under the usual municipal power, it is competent to provide that the standard weights and measures for coal, hay, cotton, corn and the like shall be observed in all sales within the corporate limits, by test upon the public scales provided by the municipality, and prescribe what fee shall be paid for weighing, and that the same shall be paid in halves by seller and buyer."⁸⁰

Opinion of Secretary of Justice. "I have the honor to comply with your request for opinion of July 22, 1940, as to the legality of Ordinance No. 9, series of 1939, of the Municipal Council of General Luna, Tayabas, requiring all merchants and dealers in articles and commodities of prime necessity, such as food stuffs, building construction materials, hardware and clothing, to label the same, stating therein the grade, kind, quality or class and the corresponding prices thereof.

"Obviously, the ordinance in question was enacted under and by virtue of the provision of general welfare clause of the Municipal Law (Sec. 2238, Rev. Adm. Code)

"The purpose of the ordinance is fairly evident to prevent deception and to promote fair dealing in the sale of commodities of prime necessity.

"A requirement that the contents of all packages containing articles of food must be shown by labels, brands or tags is obviously a most efficient method of insuring protection to the public from the sale of inferior and injurious articles of commerce. It is settled beyond question that statutes requiring the seller to disclose, by label or otherwise, the nature and quality of the articles offered, are valid as a legitimate exercise of the police power (11 R.C.L. p. 1106, par. 12 citing the cases of *Savage v. Jones*, 225 U.S. 501, 32 S. Ct. 715, 56 U.S. (L. ed.) 1182; *Standard Food Co. v. Wright*, 225 U.S. 540, 32 S. Ct. 784, 56 U.S. (L. ed.) 1197; *State v. 81 In. 642, 47 N.W. 777, 11 L.R.A. 355; State v. Aslesen, 50 Minn. 5, 52 N.W. 220, 36 A.S.R. 628; 50 L.R.A. Sherod, 80 Minn. 446, 86 N.W. 417, 18 A.S.R. 268; 50 L.R.A. 660; *Alcon Cotton Oil Co. vs. State*, 100 Miss. 299, 56 Ohio St. 236, 48 Am. Rep. 429; *Dorsey v. State*, 38 Tex. Crim. 527, 44 S.W. 514, 70 A.S.R. 762, 40 L.R.A. 201).*

"It is well recognized, that the legislative body in the exercise of its police power may regulate or restrict the sale of personal property within the state. It may impose reasonable requirements as to labelling commodities to prevent frauds and imposition on the public (23 R.C.L. p. 1190, par. 3). The authority to legislate on this matter has been invariably upheld by the courts. (See *National Fertilizer Association v. W.W. Bradley*, 301 U.S. 178, 81 L. ed. 990; *State v. Buck Mercantile Co.* 57 A.L.R. 675, 83 Wyo. 47, 264 Pac. 1023; *U.S. v. Ebreport Frain & Elevator Co.*, 286 U.S. 77, 77 L. ed. 175; *Evparte Beau*, 15 Pac. (2d) 489; 216 Cal. 536;

People v. Franch Bottling Works Inc., 180 N.E. 537, 529 N.Y. 4; *State v. Reiningen*, 239 N.W. 849; and *McDermott v. State*, 126 N.W. 888)

"In view of the foregoing, I am therefore of the opinion that there is very good authority for the conclusion that the ordinance in question which requires all merchants and dealers to label their commodities, is legal, it being a legitimate exercise of the police power conferred upon the Municipal Councils by the general welfare clause provision of the Revised Administrative Code.

"In this connection, your attention is called to an objectionable provision in section 4 of the ordinance that the Justice of the Peace of the municipality shall be a member of the Anti-Profiteering Law Enforcement Board. It seems that as a matter of good policy, the justice of the peace should not be made a member of said board."⁸¹

[§ 238] 2. *Statutory provision as to City of Manila*. — "The Municipal Board shall have the following legislative powers:

"(w) To regulate the inspection, weighing, and measuring of brick, lumber, coal and other articles of merchandise.

[§ 239] L. *Gaming or gambling*. — 1. *In general*. The passage of gambling laws is included within the police power of municipalities and although some games are not strictly games of chance or hazard and prohibited by the general gambling law, still in a general sense some games are a species of gambling, and the municipality can suppress or control them, in the exercise of its police power.⁸²

Illustration:

"At common law a common gaming house was a common nuisance and was indictable as such. Gambling and the keeping of gaming houses are usually punishable by statute, but several court have held (the decisions, however, are not uniform), that the fact that the offense is punishable by statute does not prevent the enactment, under due legislative authorization, of municipal ordinances upon the same subject and providing a penalty for the violation thereof. The power to suppress gambling is frequently conferred upon municipalities by express statutory provision, and it has been held that when the crime of gaming is defined by law statutory authority to a municipality to suppress is confined to the offense defined by statute. But express authority is not required to confer authority upon the municipality to suppress gaming and the keeping of gambling houses. Such authority has been implied from the general welfare clause, from general power to pass police ordinances, from power to regulate and preserve the good order and peace of the city, and from power to provide for the punishment of disorderly conduct and all practices dangerous to public order. Under the power to regulate establishments, they may be confined to prescribed limits. The act of setting up, keeping, and maintaining a gambling house is continuous in its nature in the absence of evidence of an interruption in the conduct of the house. Hence, for the maintenance of such a house only one penalty can be imposed, and separate penalties cannot be executed for each day. The prohibition of the ordinance may be directed not only against the keeping of gaming houses, but also against inmates and visitors to them."⁸³

The power given to regulate does not necessarily carry the power to suppress.⁸⁵

Power to license. "A municipal corporation which by its charter is authorized to prevent and suppress gaming and gambling houses is not authorized to make such places lawful by licensing them. The power to suppress is not authority to permit and regulate. A license fee on a tempin alley or the like cannot be imposed by ordinance without legislative authority. It has been held that, under the power to restrain gaming, municipal corporations have the power to license, and that such power repeals general statutes inconsistent therewith when such is the intention of the legislature."⁸⁶

Punishment. "While under express or implied power municipal corporations may make gambling a punishable offense,⁸⁷ it has been held that, under the mere power to suppress gambling, a municipal

81 Letter dated December 6, 1940, of Secretary of Justice, Jose A. Santos to the Undersecretary of Interior; Opinion No. 340, series 1940.

82 See, 18, Rep. Act No. 409.

83 *U.S. v. Salvatorelli*, 39 Phil. 192. For facts and rulings, see ss 135, 142.

84 2 Dillon, *Mun. Corp.*, 5th ed., 1109-1112.

85 *In re McKinnon*, 15 Nehr. 702, 106 NW 465; *State v. McMonies*, 75 Nehr. 448, 106 NW 454.

86 42 G.J. 376.

87 *U.S. v. Jason*, 26 Phil. 1; *U.S. v. Espiritusanto*, 23 Phil. 610.

77 48 C.J. 391.
78 Tan Chat v. Iloilo (Mun of 60 Phil. 466.
79 43 C.J. 374.
80 52 C.J. 374.

corporation has no power to provide for its punishment as a misdemeanor; nor has it power to impose fines or penalties for gambling or keeping gambling houses."⁸⁸

Inmates of gambling houses; frequenting gambling houses. "Within its express or implied powers a municipal corporation may punish inmates of gambling houses, suppress visiting at gambling houses, and may make it punishable to be found in gambling houses. On the other hand, it has been held that it is without the power of a municipal corporation to make it an offense to be found in a gambling house without regard to the purpose for which one was present."⁸⁹

Illustration. The seven defendants in this case were convicted in the justice of the peace of Davao, Davao, of violation of ordinance No. 394 of said municipality. On appeal, the Court of First Instance of Davao ordered the dismissal of the case on the ground that the ordinance aforementioned is null and void. The prosecution appeals from and challenges this order of dismissal of the court below.

Ordinance No. 394 of the municipality of Davao prohibited the playing of "jueteng", and provided various penalties for the violation of said ordinance.

The question to be decided is whether the ordinance in question is valid or not.

The municipal council of Davao is empowered by law to enact ordinance No. 394 of said municipality prohibiting the playing of jueteng. The suppression of gambling is within the police power of a municipal corporation and "Ordinances aimed in a reasonable way at the accomplishment of this purpose are undoubtedly valid." (U.S. vs. Salaveria, 39 Phil., 102, 108.) The various penalties imposed for the violation of the ordinance in question come within the limits of paragraph (ii) of the same section of the Revised Administrative Code.

It is admitted that jueteng is already prohibited and penalized in article 195 of the Revised Penal Code. But the fact that an act is already prohibited and penalized by a general law does not preclude the enactment of a municipal ordinance covering the same matter. The rule is well-settled that the same act may constitute an offense against both the state and a political subdivision thereof and both jurisdictions may punish the act, without infringing any constitutional principle. (See U.S. vs. Pacis, 31 Phil., 524.) Indeed, this principle is impliedly accepted in our Constitution by the limitation provided that "If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act." (Arts. III, sec. 1, par. 20.)⁹⁰

[§ 240] 2. *Statutory provisions as to Philippine municipal corporations.* — a. *Municipalities in regular provinces.* "It shall be the duty of the municipal council, conformably with law:

"(j) To prohibit and penalize . . . gambling . . ."⁹¹

The section in which this provision is to be found is entitled "Certain legislative powers of mandatory character."

"The municipal council shall have authority to exercise the following discretionary powers:

"(i) To regulate cockpits, cockfighting, and keeping or training of fighting cocks, or prohibit either."⁹²

[§ 241] b. *Municipalities in specially organized provinces.* "The municipal council shall have power by ordinance or resolution:

"(bb) *Cockfighting.* — To regulate and license or prohibit cockfighting and the keeping or training of fighting cocks, and to close cockpits subject to the provisions and restrictions of general law."⁹³

"(jj) *Gambling, riots, and breaches of the peace.* — To prevent and suppress . . . gambling . . ."⁹⁴

[§ 242] c. *City of Manila.* "The Municipal Board shall have

the following legislative powers:

"(r) To provide for the prohibition and suppression of . . . gambling house, gambling and all fraudulent devices for purposes of obtaining money or property . . ."

"(s) To . . . regulate the keeping or training of fighting cocks."⁹⁵

"(j) To . . . permit and regulate wagers or betting by the public on boxing, 'saira', bowling, billiards, pools, horse or dog races, cockpits, jai alai, roller or ice skating or any sporting or athletic contests, as well as grant exclusive rights to establishments for this purpose, notwithstanding any existing law to the contrary."⁹⁶

[§ 243] M. *Health and sanitation.* — 1. *In general.* — a. *General.* "Our municipal corporations are usually invested with express power to preserve the health and safety of the inhabitants. This is, indeed, one of the chief purposes of local government, and reasonable by-laws in relation thereto have always been sustained in England as within the incidental authority of corporations to ordain. In determining the validity of ordinances adopted to promote the health and comfort of the inhabitants it may be taken as firmly established that the State possesses, and therefore municipal corporations under legislative sanction may exercise, the power to prescribe such regulations as may be reasonably necessary and appropriate for the protection of public health and comfort, and that no person has an absolute right to be at all times and in all circumstances wholly freed from restraint; but person and property are subject to all reasonable kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the State, the public as represented by its constituted authorities taking care always that no regulation, although adopted for these ends, shall violate rights secured by the fundamental law nor interfere with the enjoyment of individual rights beyond the necessities of the case. It is equally well settled that if a regulation, enacted by competent public authority avowedly for the protection of the public health, has a real, substantial relation to that object, the courts will not strike it down upon grounds merely of public policy or expediency." 2 *Illon, Mun. Corp.* 5th ed., 1022-1023.

[§ 244] b. *Statutory provisions as to Philippine municipal corporations.* — (1) *Municipalities in regular provinces.* "It shall be the duty of the municipal council, conformably with law:

"(m) To prohibit the throwing or depositing of filth, garbage, or other offensive matter in any street, alley, park, or public square; provide for the suitable collection and disposition of such matter and for other public places of the municipality."⁹⁷

"(o) To require any land or building which is in an insanitary condition to be cleaned at the expense of the owner or tenant, and, upon failure to comply with such an order, have the work done and assess the expense upon the land or building."

"(p) To construct and keep in repair public drains, sewers and cesspools, and regulate the construction and use of private water-closets, privies, sewers, drains, and cesspools."⁹⁸

"(r) To provide for and regulate the inspection of meat, fruits, poultry, milk, fish, vegetable, and all other articles of food."

"(s) To adopt such other measures, including internal quarantine regulations, as may from time to time be deemed desirable or necessary to prevent the introduction and spread of disease."⁹⁹

The section in which these provisions are to be found is entitled "Certain legislative powers of mandatory character."⁹⁶

"Restriction upon measures relative to sanitation. Ordinances, regulations, and orders enacted or promulgated by a municipal council in the exercise of authority over matters of sanitation shall not be inconsistent with the regulations of the Bureau of Health."⁹⁷

[§ 245] (2) *Municipalities in specially organized provinces.* "The municipal council shall have power by ordinance or resolution:

"(o) *Streets; lighting, cleaning, care, and control.* — . . . to

88 43 C.J. 376.

89 43 C.J. 376.

90 People vs. Chong Hong, 65 Phil. 625-628.

91 Sec. 2242, Rev. Adm. Code.

92 Sec. 2243 Id.

93 Sec. 2625 Rev. Adm. Code.

94 Sec. 18, Rep. Act No. 409.

95 Other statutory provisions in furtherance of the protection of the public health are set forth in connection with particular subjects.

96 Sec. 2242, Rev. Adm. Code.

97 Sec. 2247.

98 Sec. 2247 Rev. Adm. Code.

prohibit the throwing or depositing of offal, garbage, refuse, or other offensive matter [in streets and public places, and to provide for its collection and disposition . . .

"(u) *Insanitary property.* — To require any land or building which is in an insanitary condition to be cleansed at the expense of the owner or tenant, and, upon failure to comply with such order, have the work done, and assess the expense upon the land or buildings.

"(v) *Property below grade.* — To fill up or require to be filled up to a grade necessary for proper sanitation any and all lands and premises which may be declared and duly reported by health officer of the municipality as being insanitary by reason of being below such grade or which, in the opinion of the council, the public health or welfare may require.

"(w) *Drains, sewers, and so forth.* — To construct and keep in repair public drains, sewers, and cesspools, and regulate the construction and use of private waterclosets, privies, sewers, drains, and cesspools.

"(x) *Burial of dead.* — To prohibit the burial of the dead within the centers of population of the municipality and provide for their burial in such proper place and in such manner as the council may determine, subject to the provisions of the general law regulating burial grounds and cemeteries and governing funerals and the disposal of the dead.

"(y) . . . to provide for and regulate the keeping, preparation, and sale of meat, fowls, poultry, milk, fish, vegetables, and all other provisions or articles of food offered for sale.

"(z) *Enforcement of health laws and regulations.* — To enforce health laws and regulations, and by ordinance to provide fines and penalties for violations of such regulations; to adopt such other measures to prevent the introduction and spread or disease as may, from time to time, be deemed desirable and necessary."⁹⁸

[§ 246] (3) *City of Manila.* "The Municipal Board shall have the following legislative powers:

"(1) To regulate . . . the keeping, preparation, and sale of meat, poultry, fish, game, butter, cheese, lard, vegetable, bread, and other provisions . . .

"(2) Subject to the provisions of existing law, . . . to prohibit the placing, throwing, or leaving of obstacles of any kind, garbage, refuse, or other offensive matter or matter liable to cause damage, in the street and other public places and to provide for the collection and disposition thereof . . .

"(3) . . . to provide for or regulate the drainage and filling of private premises when necessary in the enforcement of sanitary ordinances issued in accordance with law.

[§ 247] 2. *Food.* "Municipal corporations may enact such regulations as may be required to insure the sanitary production, sale, and disposition of all articles of food offered for sale to the public. The corporation may require that food offered for sale should be protected from dust, dirt, etc.; for instance, that all fruits exposed for sale outside of a building, or in any wagon or cart, shall be protected from flies and dust."⁹⁹

"*Medical examination.* Municipal corporations may require that persons engaged in handling food products offered for sale subject themselves to medical examinations, and may prohibit the employment of persons suffering with infectious or contagious diseases."¹⁰⁰

"*Retailing meats from vehicles.* Under the power to regulate the sale of foodstuffs the corporation may prohibit the retailing of meats from vehicles. Such prohibition is not unreasonable, although no public market places have been provided for; also, such prohibition is not discriminatory, although it does not apply to wholesale sales."¹⁰¹

[§ 248] 3. *Garbage, offal, and other refuse matter.* "The removal and disposal of garbage, offal, and other refuse matter is recognized as a proper subject for the exercise of the power of a municipality to pass ordinances to promote the public health, com-

fort, and safety. The natural scope of an ordinance on this subject is confined to discarded and rejected matter, i.e., to such as is no longer of value to the owner for ordinary purposes of domestic consumption. If the matter in question has not been rejected or abandoned as worthless and is not offensive in any way to the public health, it does not come within the natural scope of such an ordinance. *Garbage matter and refuse* are regarded by the decisions as inherently of such a nature as to be either actual or potential nuisances. By reason of the inherent nature of the substance, it is therefore not a valid objection to an ordinance requiring disposal in a specified manner that garbage has some value for purposes of disposal, and that the effect of the ordinance is to deprive the owner of householder of such value. That the owner suffers some loss by destruction or removal without compensation is justified by the fact that the loss is occasioned through the exercise of the police power of the State, and the loss sustained by the individual is presumed to be compensated in the common benefit secured to the public.

"Founded upon the foregoing considerations, it is therefore within the power of the city not only to impose reasonable restrictions and regulations upon the manner of removing garbage, but also, if it sees fit, to assume the exclusive control of the subject, and to provide that garbage and refuse matter shall only be removed by the officers of the city, or by a contractor hired by the city, or by some single individual to whom an exclusive license is granted for the purpose. An exclusive right so created is not open to the objection that it is a monopoly.

"An ordinance of a city prohibiting, under a penalty, any person, not duly licensed therefor by the city authorities, from removing or carrying through any of the streets of the city and household refuse, offal, or filth," is not improperly in restraint of trade, and is reasonable and valid. Such a by-law is not in the nature of a monopoly, but is founded upon a wise regard for the public health. It was contended that the city could regulate the number and kind of horses and carts to be employed by strangers or unlicensed persons, as well as they could those of licensed persons; but practically it was considered that the main object of the city could be better accomplished by employing men over whom they have entire control, night and day, who are at hand, and able from habit to do the work in the best way and at the proper time."¹⁰²

[§ 249] 4. *Quarantine.* "While a municipal corporation has been held to have no power to establish quarantine unless such power is expressly granted or is implied as an incident to a power granted or is essential to the declared objects and purposes of the corporation, as a general rule it is competent for a municipal corporation to establish quarantine regulations, and to exclude, remove, or detain persons affected with, or who have been exposed to, contagious or infectious diseases, it being considered a proper exercise of the police power."¹⁰⁴

Harbors. "Authority by charter to pass ordinances respecting the harbors and wharves, and "every other by-law necessary for the security, welfare, and convenience of the city," gives to the city council power to pass a health ordinance requiring boats coming from infected places to anchor before landing and to submit to an examination, provided such ordinance be not repugnant to the general law of the state. And it was further held that a general law of the State, prohibiting "any person coming into the State from an infected place, and in violation of quarantine regulations," was not repugnant to, and did not render the ordinance invalid."¹⁰⁵

[§ 250] N. *Intoxicating liquors.* — 1. *In general.* "There is no natural or inherent right to manufacture or sell intoxicants, in any such sense as to remove it from the legitimate sphere of legislative control. Nor is there any vested right acquired by those already engaged in the liquor traffic when prevents it's being afterward forbidden by statute."¹⁰⁶

"Under their inherent police power, the several states (of the Union) had, prior to the Eighteenth Amendment, the right to prohibit, regulate, or restrain the manufacture and sale of intoxicants, and, in the exercise of this power, subject to the limitations and restrictions imposed by the constitution of the United States or of the state, had power to enact any and all laws for the suppression

98 Sec. 2625, Rev. Adm. Code.
99 Sec. 18, Rev. Act No. 409.
100 43 C.J. 371-372.
101 102 Id. 371-372.

102 2 Dillon, Mun. Corp., 5th Ed., 1023-1025.
104 48 C.J. 429.
105 2 Dillon Mun. Corp., 5th Ed., 1030.
106 33 C.J. 449.

of intemperance and the minimizing of the evils resulting from the traffic in intoxicating liquors by totally prohibiting or by restricting and licensing the manufacture and sale thereof, and to make such provisions to enforce and prevent evasion of such laws as seemed expedient to the several legislatures. To this end they may regulate or prohibit the transportation or shipment of intoxicants, or prohibit their importation, their manufacture, even for the use of the manufacturer, their gift, except for certain specified purposes, and their possession, when unlawfully acquired, or possession in excess of a specified quantity. But it has been held that the legislature may not prohibit a citizen from having in his possession intoxicants for his own use, or for keeping in his possession for another, intoxicants.¹⁰⁷

"In the exercise of its police power to regulate the traffic in intoxicating liquors, it was held that the legislature of a state might lawfully provide a system for the granting of licenses to sell such liquors, imposing proper conditions and restrictions upon the granting of such licenses, prescribing the qualifications necessary to secure them, making it a punishable offense to sell without a license, and providing for the forfeiture or revocation of licenses for due cause. Such statutes, it was held, did not violate the constitutional guaranties securing the just rights of the individual. But there must be no unjust or arbitrary discrimination as to the privileges granted by the license or the amount of the fee payable therefor between individuals of the same class or doing business in the same locality. Since the licensing of persons to sell liquor is not an exercise of the taxing power of the state to raise revenue, but of the police power, it follows that the fixing of the fees for licenses is not governed by the constitutional provisions regulating taxation, such as those requiring equality and uniformity."¹⁰⁸

The legislative authority to license or regulate the sale of intoxicating liquors does not authorize a municipality to prohibit it, either in express terms or by imposing prohibitive license fees. The general power granted in the general welfare clause does not authorize a Municipal Council to prohibit the sale of intoxicants, because as a general rule when a municipal corporation is specifically given authority or power to regulate or to license and regulate the liquor traffic, power to prohibit is impliedly withheld.¹⁰⁹

Illustration. The Municipal Council of Tacloban, Leyte, enacted Ordinance No. 4, series 1944, providing among other things that it shall be unlawful for any person, association, or firm, to manufacture, distill, produce, cure, sell, barter, offer or give or dispose of in favor of another, possess or to have under control any intoxicating liquor, drink or beverage, locally manufactured, distilled, produced or cured wine, whiskey, gin, brandy and other drink containing liquor including tuba.

The defendants Timoteo Esquerre, Simplicio Sabandal, Teofilo Daacatoria, Vicente Uy, Uy Lawsing, Francisco Tan, Jose Chan, Victoriano Macariona, Miguel Galit, Eufrazio Gaspay, Rosalia Estolano, Felix Labordo, Pilar E. Pascual, Melcio Aguillos, and Victoriano Teriarpel, were accused in the Court of First Instance of Leyte for the violation of the above mentioned ordinance. The trial court, after hearing the arguments of the prosecution and the defense, declared the ordinance in question null and void, and dismissed the cases against the defendants.

The prosecuting attorney, in behalf of the plaintiff The People of the Philippines, appealed from the decision of the lower court. The appellant contends that the ordinance at bar was enacted by virtue of the police power of the Municipality of Tacloban conferred by the general welfare clause, section 2238 of the Revised Administrative Code, and is therefore valid.

Held: The lower court has not erred in declaring the ordinance No. 44, series 1944, ultravires and therefore null and void. Under the general welfare clause, Sec. 2238 of the Revised Administrative Code, a municipal council may enact such ordinances, not repugnant to law, as shall seem necessary and proper to provide for the health and safety, etc., of the inhabitants of the municipality. But

as the ordinance in question prohibiting the selling, giving away and dispensing of liquor is repugnant to the provision of Sec. 2242 (g) of the same Revised Administrative Code, the Municipal Council of Tacloban had no power under Sec. 2238 to enact the ordinance under consideration. The prohibition is contrary to the power granted by Sec. 2242 (g) "to regulate the selling, giving away and dispensing of intoxicating malt, vinous, mixed or fermented liquors at retail;" because the word "regulate" means and includes the power to control, to govern and to restrain; and can not be construed as synonymous with "suppress" or "prohibit." (Kowng Sing vs. City of Manila, 41 Phil. Rep., 103). Since the municipality of Tacloban is empowered only to regulate, it cannot prohibit the selling, giving away and dispensing of intoxicating liquors, for that which is prohibited or does not legally exist can not be regulated.¹¹⁰

[§ 251] 2. *Statutory statement as to Philippine municipal corporations.* — a, *Municipalities in regular provinces.* "It shall be the duty of the municipal council, conformably with law:

"(g) To regulate the selling, giving away, or dispensing of intoxicating, malt, vinous, mixed, or fermented liquors at retail.

The section in which the above-quoted provision is to be found is entitled "*Certain legislative powers of mandatory character.*"

[§ 252] b. *Municipalities in specially organized provinces.* "The municipal council shall have power by ordinance or resolution:

"(d) . . . to regulate . . . or prohibit . . . the selling, giving away, or dispensing, in any manner of any intoxicating, spiritous, vinous, or fermented liquors . . .

"But nothing in this section shall be held to repeal or modify the provisions of law prohibiting the sale, gift, or disposal of intoxicating liquors, other than native wines and liquors, to non-Christian inhabitants.

[§ 253] c. *City of Manila.* "The Municipal Board shall have the following legislative powers:

"(p) To . . . regulate the sale of intoxicating liquors, whether imported or locally manufactured.

[§ 254] O. *Markets and market places.* — 1. *In general.* — a. *Generally.* "The public sale of articles of food has been subject of police regulation and control from the early days of the common law. The right to conduct such sales, or to open a place where sales might be conducted by others, was treated in England as a franchise held under the kind to be supported by express grant or by prescription. In the United States the right to establish and regulate markets is an exercise of the police power of the states. And the right to open and conduct a market is usually derived from the municipal corporation within whose limits the market is kept. The police power of the states to establish and regulate markets may be delegated to municipal corporations and is a particularly appropriate subject for municipal regulation. This power may be exercised either under statutory or charter provisions relating expressly to the establishment and regulation of markets, or the vending of meat and other commodities usually sold at such places, or under the general police powers ordinarily possessed by municipal corporations. The power may be exercised whether the market is carried on by a corporation, an unincorporated association, or even a private individual. While in judging the reasonableness of such regulations the court will not look closely into mere matters of judgment where there may be a reasonable difference of opinion, and will not interfere with the exercise of the discretion granted to the municipal corporation upon the ground of unreasonableness ex-

107 *Ibid.*, 505-507.
108 *Ibid.*, 513-515.
109 *People of the Philippines vs. Esquerre et al.*, G. R. No. L-501, L-502, L-503, L-504, L-505, L-506, L-507, L-508, L-509, L-510, L-511, L-512, May 21, 1945, XIII, L.J., 417.

110 *People vs. Esquerre*, 13 L.J. 357-358.
111 Sec. 2242, Rev. Adm. Code.
112 Sec. 2625, Rev. Adm. Code.

107 *Ibid.*, 505-507.

108 *Ibid.*, 513-515.

109 *People of the Philippines vs. Esquerre et al.*, G. R. No. L-501, L-502, L-503, L-504, L-505, L-506, L-507, L-508, L-509, L-510, L-511, L-512, May 21, 1945, XIII, L.J., 417.

cept in a clear case, regulations relating to markets must be reasonable, and not arbitrary or discriminatory. The regulation must have its foundation on public necessity; it must have some rational tendency to promote the public health, safety, and welfare of the municipality. The right to establish and regulate public markets cannot be used to create a monopoly of the right to sell, or so as to deny the right of consumers and producers of market supplies to deal with each other directly. The power granted by statute must be exercised in the manner prescribed therein. Any ordinance relating to the regulation of markets is invalid if in conflict with a valid statutory provision, and a statute expressly limiting the powers of municipal authorities in regard to markets is not repealed by a general statute authorizing them to enact all ordinances necessary for the general welfare of the municipality."¹¹⁴

"¹¹⁴*Prohibition.* The power to regulate markets does not include the power to prohibit."¹¹⁵

"¹¹⁵*Construction of power.* The power conferred upon a municipal corporation to establish and control markets is, as a rule, to be liberally construed, unless such a construction will tend to produce a monopoly in favor of private individuals."¹¹⁶

"¹¹⁶*Surrender of power.* The municipal police power over markets cannot be surrendered."¹¹⁷

[§ 255] b. *Statutory statement as to Philippine municipal corporations.* — (1) *Municipalities in regular provinces.* "It shall be the duty of the municipal council, conformably with law:

"(q) To establish or authorize the establishment of . . . markets, and inspect and regulate the use of the same."¹¹⁸

The section in which the above-noted provision is to be found is entitled "*Certain legislative powers of mandatory character.*"

[§ 256] (2) *Municipalities in specially organized provinces.* "The municipal council shall have power by ordinance or resolution:

"(y) *Slaughterhouses and markets.* — To establish or authorize the establishment of . . . markets, and inspect and regulate the use of the same"¹¹⁹

[§ 257] (3) *City of Manila.* "The Municipal Board shall have the following legislative powers:

"(c) Subject to the provisions of ordinances issued by the Department of Health in accordance with law, to provide for the establishment and maintenance and fix the use of, and regulate . . . markets . . . and prohibit or permit the establishment or operation within the city limits of public markets . . . by any person, entity association, or corporation other than the city."¹²⁰

[§ 258] 2. *Delegation of power.* "In the absence of express authorization from the state or power necessarily implied from that granted, the discretionary power to control and regulate markets must be exercised by the municipal governing body and cannot be delegated to any board or official; it must be exercised by the board or official on whom the power has been conferred. Under delegated authority municipal corporations may provide that certain markets shall be established and operated subject to the regulations adopted by designated boards or officials. The fixing of rent of market stores has been held to be an administrative function

which may be delegated to designated officials or boards."¹²¹

[§ 259] 3. *Location; abandonment and removal.* "In the absence of any restriction as to place, the right to establish a market includes the right to fix its location; to shift that location from place to place when convenience or the necessity of the people requires it; and to abolish a previously existing market and establish another in a different locality within the municipal boundaries. The fact that the site was acquired for market purposes is immaterial. But a municipal corporation should not abolish a duly authorized and existing public market which is the only one within the municipal boundaries."¹²²

[§ 260] 4. *Leases and sales; stalls and privileges.* "The right to sell in public market stands or stalls is acquired by contract with the municipal or other authorities controlling the market. Municipal corporations have power to lease or sell stalls in public markets, or to prohibit the occupancy of a stall without procuring a lease. The precise rights of the occupant of a stall in the market will depend as a general rule upon the terms of the contract under which the stall is held."¹²³

"The purchase of these stalls in a public market, like the purchase of a pew in a church, does not confer on the purchaser an absolute property, but a qualified right only. The right acquired is in the nature of an easement in, not a title to, a freehold in the land; and such right or easement is limited in duration to the existence of the market, and is to be understood as acquired subject to such changes and modifications in the market, during its existence, as the public needs may require. The purchase confers an exclusive right to occupy the particular stalls with their appendages, for the purposes of the market and none other. If the owner be disturbed in the possession of the stalls, he may maintain case or trespass according to the nature and circumstances of the injury, against the wrongdoer. But he cannot convert them to any other use than that for which they were sold, and in this use of them he is required to conform to the regulations of the market as prescribed by the ordinances of the city."¹²⁴

The right to sell at a stall or stand in a public market is to be exercised by the lessee thereof subject to all qualifications and restrictions that the municipal corporation may impose; and this is so whether they are made part of the lease or contract or not. Such requirements or restrictions must be reasonable. His right is limited in duration to the existence of the market. The lessee of a market or its revenues also takes subject to the provisions of existing ordinances, and the rights of the municipality to make necessary public improvements. The lease of a market stall does not imply a contract on the part of the municipality to protect the lessee against competition by unlicensed vendors, nor does a lease of the revenues of an established market prevent the municipality from establishing another market and leasing it to a different person, or require it to protect the lessee against competition by unauthorized private markets, unless the contract so provides, or gives such lessee any right of action against a person maintaining a competing and unauthorized private market. A person in possession of the stall under a verbal lease from the market master, although the latter had no authority to make it, is not a trespasser so as to authorize a forcible seizure and removal of his property, nor can the lessee and collector of market revenues summarily eject the occupant of a stall admitted by his predecessor in office who has tendered the required dues and conformed to the market

114 43 C.J. 391-392.

115 Id. 392.

116 Id. 393.

117 Id. 392.

118 Sec. 2242, Rev. Adm. Code.

119 Sec. 2625, Rev. Adm. Code.

120 Sec. 18, Rep. Act No. 499.

121 43 C.J. 393.

122 43 C.J. 393.

123 43 C.J. 395.

124 *Rose v. Baltimore*, 51 Md. 256, 270, 31 AmR 307 [quot *Fonte v. Fisher*, 138 Md. 663, 114 A 793, 704.

THE NATURAL LAW . . .

(Continued from page 65)

failed here dimly — there are millions still languishing in slave and labor camps, there are still people shipped in cattle cars and there will still be millions who will be cannon fodder at the whim of so-called leaders. On this level, the Declaration of Human Rights, approved by the United Nations Organization on December 10, 1948 is a modern

application of the natural law. It contains the harmony of ideas and agreement of views of so many United Nations representatives of widely different oblatives or cultures, philosophies and religions. That is not an accident of political agitation or propaganda and oratory or rhetoric. It is the conspicuous result of the presence in all men of the continuing protective postulates of natural law. Let us hope that policy makers and responsible government functionaries realize the useful role and function of the natural law in the legal order.

regulations. The occupant of a market stall who sells his rights to another is not bound in warranty to his vendee in case of an eviction or disturbance of the latter by the municipality itself, but would be liable only for his own acts which interfere with the enjoyment of what he sells."¹²⁵

A charter provision requiring that when any market belonging to a municipality is to be let to a private party the same shall, unless otherwise directed by a state official therein referred to, be let to the highest and best bidder refers to the leasing of a market in its entirety, and does not apply to distribution and award of spaces therein."¹²⁶

Illustration. This case is here on appeal by the plaintiffs Julia Lorenzo and her husband Mariano Estrella from a decision of the Court of First Instance of Cavite, dismissing their complaint against the Municipal Council of Naic, Cavite and Pilar Dinio. For purposes of the present decision, the following facts gathered from the record may be briefly stated.

Prior to February 15, 1948, it seems that the municipal market of Naic, Cavite was conducted and maintained without much attention as to the order and classification of the business done in it by the vendors and stallholders, and that furthermore, there was lack of light and ventilation in said market. To remedy this situation the municipal council of that town passed Resolution No. 20 on February 15, 1948, rearranging, zoning and otherwise putting in proper order the mercantile transactions and the market space according to a scheme or plan. This is partly stated and described in paragraph 1 of said Resolution No. 20 which reads as follows:

"7. That for purposes of unity, better zoning system and for aesthetic reasons, all market stores and stalls are hereunder classified as regards the kind of goods they are to sell or dispose to the public, and that, no store or stall should be allowed to sell products or goods other than specifically provided."

All the stores and stalls previously maintained in front of the market building up to the fence were ordered removed and the space declared "off limits," the owners of said stores and stalls to be given spaces within the market proper. The scheme was graphically embodied in a plan prepared by the District Engineer and amended by the municipal council, and is now marked as Exhibit D.

Prior to the rearrangement and re-planning of the Naic market, Julia Lorenzo, the appellant herein, was occupying a stall or market space, which is the very same space appearing as lot No. 4 (with a circle in red pencil), east block, center column A, in plan Exhibit D, and now occupied by her. R. Manalaysay who previously occupied a space or stall in the portion declared "off limits," and because of the strategic position of said stall, was awarded a corner lot. Lot No. 2 (with a circle in red pencil),

¹²⁵ Lorenzo et al. v. Mun. Council of Naic, Cavite, 47 Off. Gaz. 2380.

OUR SECRETARY

(Continued from page 57)

and Agusan. In a year, he was transferred to Ilocos Sur.

Promotion came in 1918. That was when he was designated assistant attorney in the Bureau of Justice. His merit was being recognized. In three years, he was acting Attorney General. It was while holding that position that he was nominated Under-secretary of Justice. Instead of getting his new promotion, he was kicked out — the Senate did not act on his appointment. His next job was that of general attorney for the Manila Railroad. The salary was much higher, but it lacked glamour and prestige.

Before long, he was designated judge of First Instance. For 12 years he was successively judge of Albay, Ambos Camarines, Tayabas, Rizal, and finally Manila, Branch I. In 1936, he was named Solicitor General. Two years later, he was elevated to the Court of Appeals where he sat quietly throughout the enemy occupation.

President Sergio Osmeña returned with the forces of liberation, swept the entire Court of Appeals out, then abolished it. Collaboration became a burning issue, a battle-cry. The appellate justices accepted their fate with becoming dignity. They rallied under the banner of Senate President Manuel Roxas who, they knew, would show them sympathy and understanding. He did. Elected President, he promptly named Justice Tuason chairman of a committee to investigate the Philippine Relief and Rehabilita-

east block, center column A, in the same Exhibit D. Pilar Dinio who was formerly occupying a space outside of the market was given lot No. 1 (with a circle in red pencil), east block, center column B, in the same exhibit. For reasons not known and not material to this case, and through a private agreement Manalaysay exchanged his lot No. 2 for lot No. 1 of Pilar Dinio. The award of lot No. 2 to R. Manalaysay, and his exchange of said lot for lot No. 1 of Pilar was protested by Julia, but the municipal council in its Resolution No. 28 overruled the protest. As a result, Pilar Dinio is now occupying lot No. 2 while R. Manalaysay occupies lot No. 1.

It should be stated in this connection so as to fully understand the reason why Julia brought this action, that before the zoning and rearrangement of the Naic market as per Resolution No. 20, the space occupied by Julia which is now lot No. 4 in Exhibit D was a corner lot or stall, lot No. 2 then being used as an alley. As a result of the rearrangement, Julia's lot No. 4 is no longer a corner lot, and according to her testimony, her daily sales had diminished by one-half, thereby materially reducing her gross income and her profits. Naturally, Julia is interested in lot No. 2 and she wants to have it or at least have a chance to get it.

Julia contends that the action of the Municipal Council of Naic in awarding lot No. 2 to R. Manalaysay was illegal and unconstitutional because it was not done thru public bidding and should have been done, and that furthermore, Resolution No. 28 of the same council approving the barter or exchange of lots 1 and 2 between Manalaysay and Pilar was equally illegal.

The trial court invoking section 2242 (q) of the Revised Administrative Code which imposes upon a municipal council the duty to establish or authorize the establishment of markets and inspect and regulate the use of the same, held that the municipal council of Naic was authorized to make the award of lot No. 2 to R. Manalaysay, which award the plaintiff could not very well question in the present case inasmuch as she did not include Manalaysay as party-defendant; and that furthermore, the alleged illegal exchange of lots 1 and 2 was clearly a private arrangement or agreement which concerns only the parties thereto. So, the trial court dismissed the complaint.

In her appeal Julia maintains that the trial court erred in not holding Resolution No. 20 illegal in so far as it approved the awarding of lot No. 2 to R. Manalaysay without any public bidding and without giving any chance to her to lease said lot, and that the lower occupying lot No. 2 for the reason that the exchange made between her and Manalaysay was illegal.

HELD: "The appellant does not question the right of the municipal council to dispose of a market space under the provisions of section 2242 (q) of the Revised Administrative Code. She insists, however, that under section 2319 of the same Code, a space in a municipal market should be let or awarded to the highest bidder.

Administration, some of whose officials seemed to have adopted the theory that to relieve and rehabilitate the country they must first relieve and rehabilitate themselves. Also due for investigation was the Emergency Control Administration, a number of whose officials were charged with having taken advantage of the emergency to place themselves, their relatives, and close friends, beyond control.

Before he could finish investigating the two administrations, he was elevated to the Supreme Court from which another President has recently taken him to head the Department of Justice. Asked which of the two positions he would prefer, he answered that the work of an associate justice was more suitable to his temperament, but that the secretaryship of justice was more interesting. In fact, he added, it is more important because it invests the occupant with tremendous powers for good or, or if he be so inclined, for evil.

Speaking of civil, Secretary Tuason thinks that the present high rate of criminality in the Philippines is due largely to the general disintegration of morals. Religious instruction, he feels, might help remedy the situation. It is for this reason that he is in favor of strict adherence to the constitutional provisions on religious teaching in the public schools. Unwilling to rush in "where angels fear to tread," he nevertheless believes that "any religion is better than no religion at all and that a man who believes in God becomes a better citizen."