

RULINGS OF THE GENERAL AUDITING OFFICE

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

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

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

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

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

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

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

nent portion of section 2187 of the Revised Administrative Code provides:

"When absent from their permanent stations on official business *other than attendance at the session of the council*, vice-mayors and councilors shall be allowed their actual expenses of travel with the approval of the provincial governor." (Under-scoring supplied.)

In view of the aforementioned provision of law, and unless the same is amended, this Office cannot allow in audit the payment from government funds of the traveling expenses of municipal councilors in going to and returning from the sessions of the municipal council. However, in order to compensate municipal councilors, specially those residing in distant barrios, for their traveling expenses in attending sessions of the council, it is suggested that the Municipal Council concerned should avail of the provisions of the first paragraph of section 2187, supra, granting municipal councilors under certain conditions a per diem in an amount not exceeding ₱2.00 each, for every regular session of the council actually attended by them.—3rd., Ind., Jan. 9, 1940, of Aud. Gen. to Provincial Auditor of Rizal.

CLEANING OF BACKYARDS AND PRIVATELY-OWNED LOTS.—This Office will offer no objection to the approval of the appropriation of ₱5,000 proposed in the attached supplemental budget No. 31, general fund, of the City of Baguio, for the payment of wages of laborers engaged in the cleaning of backyards and privately-owned lots in said City, subject to the provisions of section 2553(r) of the Revised Administrative Code, authorizing the city council "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."—9th Ind., June 30, 1947 of Aud. Gen. to Sec of Int.

WAGES DURING OFFICIAL HOLIDAYS.—This Office is not aware of any law which authorizes payment of wages during official holidays to employees who are paid by the day, except in the cases where they are required and have actually rendered service during such holidays. Payment of wages on the daily basis requires or presupposes actual services. — 3rd Ind., April 16, 1946, of Aud. Gen. to Sec. of Finance: G.A.O.F. No. 3. 113 *Frinting*.

RICE PLANTING FESTIVAL, APPROPRIATION IN CONNECTION WITH.—This Office will offer no objection to the approval of the within Resolution No. 143, current series, of the Municipal Council of Calocan, Rizal appropriating the sum of ₱200 to defray the expenses incurred in connection with the celebration of "Rice Planting Festival" in said municipality on August 7, 1939, provided that the cost of drinks, cigars and cigarettes and other items not necessary in the celebration thereof shall not be charged against the said appropriation.—5th Ind., Dec. 23, 1939 of Aud. Gen. to Sec. of Finance; G. A. O. F. 14 Rizal.

MUNICIPAL COUNCILORS, TRAVELING EXPENSES OF OUTSIDE THEIR MUNICIPALITIES. — When traveling on official business outside of their municipalities, municipal councilors are entitled to reimbursement of their actual and necessary expenses of travel with the approval of the provincial governor, subject to the provisions of Executive Order No. 369, series of 1941, and 78, series of 1945, and the usual auditing requirements. If a municipal councilor goes out on official business to his barrio of which he is not a resident and it is impracticable for him to return to the poblacion or to his house for lunch, or will incur greater expenses for transportation than the cost of his meal in the said barrio if he returns to the poblacion or his house to take his lunch, he may be allowed to collect the cost of his meal or meals in addition to other actual and necessary travel expenses.—5th Ind., Feb. 19, 1947 of Aud-