

sions of section 2233 of the Revised Administrative Code.—*1st Ind., Oct. 24, 1947, of Sec. of Finance to Prov. Board of Cavite.*

MUNICIPAL PUBLIC WORKS, EXECUTION OF; WHEN SUBJECT TO BIDS.—Under the provisions of Section 1912 of the Revised Administrative Code, municipal public works can be executed by the municipal council concerned without the intervention of this Office. The District Engineer, however, acts in an advisory capacity to the municipal council and shall undertake the construction or repair of municipal public works upon request of the municipal council. Pursuant to Section 1919 of the Administrative Code, municipal public works involving an estimated expenditures of three thousand pesos or more shall be advertised for bids and contract therefor shall be awarded to the lowest responsible bidder.

Inasmuch as the work contemplated in the attached Resolution No. 162, current series, of the Municipal Council of Pasay is a municipal project, this Office will interpose no objection to the request that it be done by the Municipality. It should be stated however that the District Engineer will not be authorized by this Office to approve vouchers covering payments unless the work is to be done under his supervision.—*2nd Ind., Feb. 17, 1947, of the Director of Public Works to the RFC.*

SCALE OF SALARIES FOR MUNICIPALITIES IN SPECIAL PROVINCES; BASIS OF SALARIES OF MUNICIPAL OFFICIALS IN CAPITALS.—With reference to your letter dated April 22, 1947, requesting information as to whether or not Section 2184 of the Administrative Code is applicable to the municipalities in the specially organized provinces, please be advised that our reply thereto is in the negative. Said law is applicable only to the municipalities in the regularly organized provinces. However, the scale established therein may be the basis of fixing salaries in municipal capitals in the specially organized provinces pursuant to Section 2607 (t) of the Administrative Code. The cor-

responding section of said Code that governs the municipalities, like Maluko, in the specially organized provinces is 2615. That municipality having been classified as fourth class and not being the capital of the province, the salary of the mayor thereof is fixed under Section 2615 (d) of the Administrative Code at ₱600 per annum only. The salary of ₱960 per annum for said position as provided for in the budget and plantilla of personnel of that municipality and allegedly approved by the Provincial Treasurer cannot, therefore, be authorized.—*Letter dated May 28, 1947, of Undersecretary of the Interior to Municipal Mayor of Maluko, Bukidnon.*

MUNICIPAL INCOME FROM FISHING AND FISHERIES; POLICY ON DEEP-SEA FISHING. — Resolution No. 2, series of 1947, of the Municipal Council of Madridejos, Cebu, seeks to divert to the Municipal Government the income or revenue which the Insular Government derives from fishing and fisheries.

The Fisheries Law (Act 4003 as amended) recognizes the dual authority and control by the National and the Municipal Governments over Philippine fishing and fisheries. In fact, Section 16 of Act 4003 classifies fisheries according to their government and disposition into Insular, Municipal and Reserve fisheries. The National Government charges a nominal license fee of ₱5.00 for "basnig" and "iwag" outfits. The actual revenue from fishing licenses accruing to the National Government from the operators of fishing boats using Madridejos as their base of Fishing Operation is ₱217 annually. It can thus be seen that the income from this source of revenue is very nominal. This is so because the National Government is committed to the policy of promoting and developing the deep-sea fishing operations. The more deep-sea fishing operators are, the better for the National as well as for the Municipal Government as this would not only tend to exploit and develop the fishery resources of the nation but would also add more income to the latter entity, the Municipal Government. Under the provisions of the Fisheries Law (Sec. 67-70), **Municipal**

governments are authorized to issue licenses to qualified fishing operators using vessels of three tons or less. Other municipal fishery income may be derived from the lease of baños fry grounds, municipal fishponds, fisherman's licenses, taxes on fishing gears, aside from the indirect revenue being derived from market fees and fish-drying establishments doing business in the municipality. In the execution of the Fisheries Law, the National Government is particularly taking care of the protection and conservation of the fishery wealth of the nation and even for these alone, the National Government should be allowed to share in the revenue derived from fishing and fisheries.

In view of the foregoing, this Office cannot recommend favorable consideration of Resolution No. 2, series of 1947 of the Municipal Council of Madridejos, Province of Cebu.—*2nd Ind., Feb. 28, 1947, of Undersecretary of Agriculture and Commerce to Sec. to the President.*

PROVINCIAL BOARD NOT EMPOWERED TO REGULATE EXPORTATION OF LUMBER NOR TO IMPOSE FEE ON BUSINESSES.—Resolution No. 145, current series, of the Provincial Board of Negros Occidental, provides for the collection of a permit fee of ₱5 for every 1000 board feet of lumber obtained from that province and exported to other provinces and for the apportionment of the proceeds thereof between the province (75%) and the municipality (25%) where the lumber is loaded for export. Resolution No. 146, current series, of the same Provincial Board provides for the collection of a fee of ₱5 for every 1000 board feet of lumber mill or forest concessionaire, the proceeds to accrue to the province and the municipality where the factories are located on the basis of 60% and 40%, respectively.

As the provincial governments are not vested with the power to regulate the exportation from the province of lumber or any other article, and/or the power to impose a fee on businesses and occupations either for regulatory or revenue purposes, it is evident that the said resolutions are *ultra vires* and,

therefore, null and void *ab initio*. In connection with Resolution No. 145, attention is invited to the fact that even the municipalities are prohibited under Section 2287 of the Revised Administrative Code to impose a tax in any form whatever upon goods and merchandise carried into the municipality, or out of the same.

In view of the foregoing, this Department will instruct the Provincial Treasurer of Negros Occidental to refrain from collecting the fees provided in the said resolutions.—*3rd Ind., Nov. 11, 1946, of Undersecretary of Finance to Sec. of the Int.*

DESIGNATION OF PROVINCIAL BOARD MEMBER AS ACTING PROVINCIAL GOVERNOR—WHAT HE MAY CLAIM.—It is desired to state that in accordance with the Provincial Circular (Unnumbered) dated August 20, 1947, of this Department on the subject: "Acting Governor in a specially organized province, Designation of", such designation should be without pay. However, Mr. Dacuycuy may collect the usual per diems as Board Member for attendance at the sessions of the Provincial Board. If Memebr Dacuycuy is not a resident of the City of Davao, he may be reimbursed of his actual expenses for subsistence and lodging during his stay in the provincial capital in his capacity as acting Provincial Governor, at the rate not exceeding ₱8.00 a day during the period he actually acted as such Acting Governor of Davao, except on days when the Provincial Board held sessions in which case, Mr. Dacuycuy may be entitled only to his regular per diems as Board Member.—*From letter dated July 18, 1949, of Undersecretary of Interior to Provincial Governor of Davao.*

PERCENTAGE OF SALARIES ALLOWABLE FOR FIFTH CLASS MUNICIPALITIES.—While sub-section (d) of Section 2614 of the Revised Administrative Code divides the municipalities in the specially organized provinces into five classes, namely, 1st, 2nd, 3rd, 4th, and 5th, the same Code