

## PUBLIC CORPORATIONS

(Continued from the February Issue)

[§ 261] 5. *Particular regulations.* — a. *In general.* "While there is some conflict as to what grant of authority will justify particular regulations, under the power to regulate and control markets municipal corporations may enact and enforce all regulations which are desirable for the protection of public health, and they may adopt and enforce any reasonable and proper rules and regulations in regard to the market and the business transacted therein. The corporation may enact any reasonable regulation necessary to preserve the cleanliness of market places; may confine the sale of particular articles to certain designated stands or portions of the market and prevent their sale elsewhere; may limit the sales in a market to specific articles; may forbid delivering within the municipal limits meat that has not been exposed for sale in the public market; may prohibit the sale of groceries in meat and vegetable markets; may prohibit the sale of less than a specified quantity of meat outside of market stalls; may prohibit the standing wagons containing perishable produce within the market limits for over a specified period of time between specified hours unless permitted by a designated market official; may prohibit the selling of provisions at the public market which have been previously purchased within the municipal boundaries outside of the markets; may regulate market hours; or may require diseased or unwholesome articles to be removed. The corporation cannot prohibit the sale of perishable articles entirely within the municipal limits.

"The ordinary rules of construction apply to the construction of statutes and ordinances or regulations relating to the establishment and regulation of markets."<sup>128</sup>

*Illustration.* The municipal council of Daet, Province of Camarines Norte, passed Ordinance No. 7, which was duly approved by the provincial board on June 12, 1948, "prescribing the zoning of the public markets, and rules and regulations with regard to the rights to occupy space in the market buildings, and penalties therefor." The pertinent portions of said ordinance are as follows:

"Sec. 2. All occupants in the building publicly known as market proper, should observe strictly the regulations with regards to the zoningification in the following manner:

"Zone 1. Market Building No. 1. — Opposite Market Tiendas block A and B will be designated to all merchants or dealers of dry goods and general merchandise;

"Zone 2. Market Building No. 2. — Opposite Market Tiendas block C and D will be designated to all merchants dealing in 'Cafeterias,' 'Canderias' and 'Sari-Sari'; and

"Zone 3. Market Building No. 3 — New Market Building will be designated to all merchants of dry and fresh fishes, meat and vegetable vendors.

Sec. 3. It is hereby prohibited for any merchants or dealers in goods to sell his goods and wares in the zone not allocated for the purpose as regulated above.

It appears that prior to the passage of said Municipal Ordinance No. 7 and the approval of Resolution No. 104 of the municipal council of Daet, the public market of the municipality consisted of only two buildings designated as Nos. 1 and 2. A third building known as Building No. 3 having been completed, the municipal council passed the ordinance in question and by said Resolution No. 104 decided to enforce the provisions of said ordinance by requiring the merchants and vendors occupying the places in

Buildings Nos. 1 and 2 to transfer their places of business in accordance with the classification provided for in section 2 of the ordinance, so that "dealers or merchants of dry goods and general merchandise" shall be located in Zone 1 (Building No. 1); "merchants operating cafeterias, canderias and sari-sari" are assigned to Zone No. 2 or Market Building No. 2; and merchants dealing in "dry and fresh fishes, meat and vegetables" shall operate their place of business in Zone 3, known as Market Building No. 3. The above-quoted section 3 of the Ordinance expressly prohibits "any merchants or dealer in goods to sell his goods and wares in the zone not allocated for the purpose as regulated above."

Prior to the completion of Building No. 3 and the passage in 1948 of Municipal Ordinance No. 7, the petitioners, engaged in the business of canderia and cafeteria, were located in Building No. 1, and they contended that Municipal Ordinance No. 7 which required and compelled them to transfer to another building, is unconstitutional, illegal, null and void, because it is unjust, discriminatory, unreasonable and confiscatory in so far as it refers to the plaintiffs and their business in the market stall occupied by them in the Market Building No. 1 of the municipality of Daet. They filed a complaint against the municipality of Daet, praying that said Ordinance No. 7 be declared unconstitutional, illegal null and void, and that, pending the determination of this case, a writ of preliminary injunction be issued against the defendants, its instrumentalities, agents, officers and representatives, enjoining them from evicting, removing or throwing out the plaintiffs from their market stalls in Market Building No. 1 of Daet, and that after trial of said case the injunction be made permanent.

After hearing, the Court of First Instance of Camarines Norte upheld the constitutionality and legality of the ordinance in question and declared that the municipal council of Daet, being empowered to enact said ordinance and the same having been enacted for the good of the public, the same is not null, void and unconstitutional and confiscatory as contended by the petitioners. The court, therefore, dismissed the complaint without pronouncement as to costs.

In the appeal, the plaintiffs-appellants, besides assailing the constitutionality and legality of the ordinance, contend that the court should have found that the plaintiffs are entitled to continue in the occupancy of their stalls in the market of Daet in accordance with Republic Act No. 37 and should have perpetually enjoined the defendant, its officers and representatives, from evicting and throwing them out from their market stalls in Building No. 1.

There is no dispute as to the facts. It has been established at the hearing that these appellants were occupants of stall in Building No. 1 of the market of the municipality of Daet, and were engaged in the business of conducting cafeterias and canderias prior to the passage of Resolution No. 104, series of 1948, whereby the municipal council of Daet seeks to enforce the provisions of Municipal Ordinance No. 7.

With reference to the contention of appellants that Republic Act No. 37 is applicable to them, our perusal thereof shows that it can not be of any help to their case, because said act has for its purpose the "granting preference to Filipino citizens in the lease of public market stalls." In the case at bar, the issue of the nationality of the stallholders has not been raised by appellants, and is not at all mentioned in the provisions of Ordinance No. 7 and Resolution No. 104 of the municipal council of Daet, and under the provisions of said ordinance the appellants are not divested of the

128 43 C. J. 396-397.

None

possible, and the provisions of this article have this policy in mind.

3. There may be cases where a person intends to have property which he may acquire subsequent to the making of his will to be distributed according to his own personal wishes.

Section 615 of the Code of Civil Procedure contains the same provisions although on *real estate only*. (See also Article 596, Lower Canada).

### ARTICLE 891

This Article provides for the "Reserva Troncal" which was eliminated from the original draft of the Code Commission, but inserted by the House of Representatives.

The Code Commission would be glad to see this Article eliminated and repealed as recommended in the House Bill No. 1019. The presence of this article in the new Civil Code contravenes the fundamental philosophy of the law on succession — socialization of ownership of property, economic stability, and elimination of feudalistic hierarchy, as explained in the Report of the Commission, p. 116-117.

Respectfully submitted,  
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Member, Code Commission

Manila, February 20, 1951.

possession of their stalls in the market.

**Held:** Regarding the alleged unconstitutionality and illegality, etc., of the ordinance in question, upon close scrutiny of its provisions, its wording and its purpose, we find nothing that would support the contentions of appellants. They can not deny that under the general welfare clause contained in section 2238 of the Revised Administration Code, the municipal council of Daet, is empowered to "enact ordinances and make regulations, not repugnant to law, as may be necessary and proper to carry into effect and discharge the powers and duties conferred upon it by law and such 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."

"Ordinance No. 7 provides for the good, comfort, and convenience of the public and the market vendors as well. By the zoning and classification provided for by its provisions, the public, the consumers, can easily locate the place where they can find the particular goods or commodities they want to buy. Even the merchants and vendors occupying the stalls are likewise benefited by the zoning and classification provided for in the ordinance, in that they will be placed where they should belong, instead of being mingled in the same building with vendors or merchants dealing in goods or merchandise or foodstuffs or goods in which they are dealing. To be sure, these appellants who according to the petition, are dealing in cafeterias and candelarias, and consequently their customers, will not feel happy to be among fish vendors or the like.

"That the act performed by the municipality of Daet in enacting Municipal Ordinance No. 7, is entirely within the power of the municipal corporation, is decided by the Supreme Court in various similar cases (Seng Kee & Co. vs. Earnshaw, 56 Phil., 204). In U.S. Salaveria (39 Phil. 102) which holds that the presumption is all in favor of the validity of the ordinance, the Supreme Court held:

"Although such regulation often interferes with an owner's desire as to the use of his property and hamper his freedom in regard to it, they have generally been sustained as valid exercise of the police power, provided that there is nothing arbitrary or unreasonable in the laying out of the zones, and that no uncontrolled discretion is vested in an officer as to the grant or refusal of building permits.

"Not only the State effectuates its purpose through the exercise of the police power, but the municipalities do also. Like the State, the police power of a municipality extends to all matters affecting the peace, order, health, morals, convenience, comfort, and safety of its citizens — the security of social order — the best and highest interests of the municipality. The best considered decisions have tended to broaden the scope of action of the municipality in dealing with police offenses. The public welfare is rightly made the basis of construction."<sup>129</sup>

[§ 262] 6. Sales outside markets. "As a general rule a municipal corporation may prohibit by ordinance or by-law the sale of marketable articles within certain limits or during certain hours except at the established market. And it is within the power of the legislature to authorize municipal corporations to do so. While there are decisions which deny the right of a municipal corporation to prohibit selling outside of the public markets, under a general power to regulate and control markets, it is ordinarily held that such restrictive regulations as to selling outside of market limits may be made under a general power to establish and regulate markets, and that, where adequate market facilities are furnished, such regulations are not unreasonable or in restraint of trade but a proper regulation of it, although the rule is otherwise where market facilities are not furnished. In some cases such ordinances or by-laws have been held void on the ground that they were unreasonable and in restraint of trade. The validity of such ordinances and by-laws as being in restraint of trade obviously depends very largely upon the extent of the prohibition or regulation contained in the particular ordinance or by-law, it being well settled that such ordinances or by-laws must be reasonable. The ordinance or by-law must fall within the scope of the power granted. More particularly municipal corporations may, when duly au-

thorized, regulate private markets, prohibit the maintenance of private markets within certain distance of a public market, prohibit the sale of anything but fruit by keepers of fruit stands within two thousand one hundred feet of the market, or prescribe such regulations as to the time and place of selling outside of the market limits as the general welfare of the municipality may demand. It seems to be uniformly held that under a power to regulate the vending of meats, etc., a municipality may prevent their being retailed outside of the public markets. A municipality may also, under a power to prevent the obstruction of streets, prohibit the standing of wagons for the sale of market produce within certain limits, or prevent any street vending without a permit. It may prescribe that huckster wagons shall not stand in the market place longer than a prescribed time."<sup>130</sup>

**Illustration.** A woman and two other persons were prosecuted and convicted in the Court of First Instance of Samar for having sold meat at a place other than the public market in violation of a municipal ordinance of Catarman, Samar.

They appealed, contending that the said ordinance was discriminatory, unreasonable and oppressive; discriminatory, because its provisions applied exclusively to the defendant Maria Vda. de Sabarre as may be seen from a reading of article 1, which prohibited butchers and any other person from selling meat in any place except the public market; and from that of article 2, which prohibited fishermen or any other person from selling fresh fish and other commodities in the public streets of the *poblacion*, thereby permitting their sale in other places; because the public market of Catarman was located in an unsanitary place, in the outskirts of the town and amidst muddy, dirty, and obnoxious surroundings to which nobody went to sell foodstuffs. The municipality having failed to keep it in proper condition for lack of funds, and its location not being easily accessible to the health authorities for their inspection; and oppressive because the prohibition to sell meat in any place other than the public market compelled the meat vendors to offer their goods for sale in one determined place without taking into account the peculiar conditions prevailing in the small town of Catarman, the insanitary condition of its market, and, above all, the absence of vendors and buyers therein, thus forcing said meat vendors to move their business to another place where there were no people, no other vendors, merchants or customers.

**Held:** "Although the ordinance in question makes a distinction by prohibiting in its article 1 butchers and meat vendors from selling meat outside of the public market and in article 2 the fishermen and fish vendors from selling fish in the public streets of the *poblacion*, said distinction is not unreasonable because in so far as the public health is concerned there is a great difference between meat and fish in their susceptibility to decay, especially where no ice is used to preserve them.

"In the case of *People vs. Montil* (53 Phil., 580), this court laid down the following doctrine:

"1. MUNICIPAL CORPORATION MAY PROHIBIT. — As a general rule, a municipal corporation may prohibit by ordinance the sale of marketable articles within certain limits or during certain hours outside of an established market.

"2. WHAT MAY BE DONE UNDER A GENERAL POWER. — Under a general power to regulate and control markets, restrictive regulations as to selling outside the market limits may be made under a general power to establish and regulate markets, and where adequate market facilities are furnished, such regulations are not unreasonable or in restraint of trade, although the rule is otherwise where market facilities are not furnished."

"The ordinance in question, therefore, is not unconstitutional inasmuch as the classification is based on a substantial distinction, which constitutes a real difference; is germane to the purposes of the ordinance; is not confined to existing conditions only; and applies equally to all fishermen and fish vendors and to all butchers and meat vendors (*People vs. Chan*, 38 Off. Gaz., 1539; 12 Corpus Juris, 1123, sec. 855.)

"The fact that the public market is dirty and unsanitary and is located in a muddy and filthy place to which no people go to make purchases, does not render the ordinance oppressive and unreasonable. It being a duty of the municipality to maintain its public market in sanitary condition and the municipal council be-

<sup>129</sup> Ebona et als. vs. Mun. of Daet, 47 O.G. 3479-3482.

<sup>130</sup> 43 C.J. 397-398.



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

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

"(aa) *Nuisances.* — To declare, prevent, and abate nuisances.

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

"(cc) *Ringing of bells.* — To regulate and restrain the ringing of bells and the making of loud or unusual noises.

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

"(ee) To declare, prevent, and provide for the abatement of nuisances; to regulate the ringing of bells and the making of loud or unusual noises; to provide that owners, agents, or tenants of buildings or premises keep and maintain the same in sanitary condition, and that in case of failure to do so, after sixty days from the date of serving of a written notice, the cost thereof be assessed to the owner to the extent of not to exceed sixty per centum of the assessed value, which cost shall constitute a lien against the property . . .

[§ 272] 2. *What constitutes nuisance; determination by municipal authorities.* "The Civil Code defines and classifies nuisances.<sup>141</sup>

"For purposes of municipal regulation and suppression, as, generally speaking, in other instances, nuisances may thus be classified: (1) those which in their nature are nuisances per se, or are so denounced by the common law or by statute; (2) those which in their nature are not nuisances, but may become so by reason of their locality, surroundings, or the manner in which they may be conducted, managed, etc.; (3) those which in their nature may be nuisances, but as to which there may be honest differences of opinion in impartial minds. With reference to things which fall into the first and third classes — that is, things which in their nature are nuisances and are so recognized by the law, and things which are of such a character that in their nature they may be nuisances but as to which honest differences of opinion may exist among men of impartial minds as to whether they are actually nuisances — it is settled that a municipality may appropriately deal with them by legislative police ordinances and enactments under grant of power from the legislature. On the other hand, as to things which fall into the second class — that is, things which in their nature are not in themselves nuisances, but which may become such by reason of their locality, surroundings, or the manner in which they are conducted — a municipal corporation has no power conclusively to declare them to be nuisances, but can only declare such of them to be nuisances as are so factually, because general authority to define and abate nuisances does not empower a municipality to declare that to be a nuisance which is not a nuisance in fact, or which is not a nuisance per se and does not come within the common-law or a statutory definition of a nuisance. There has been a tendency in municipal councils to imagine that by declaring a certain use of property to be a public nuisance all discussion is foreclosed, and that by virtue of such declaration, the power of the municipality to suppress such use is unquestionable. Such a notion, however, rests upon a failure to distinguish between the different classes of subjects which may under some conditions fall within the category of nuisances."<sup>142</sup>

[§ 273] 3. *Method of abatement.* It would seem that the method of abating municipal nuisance is now governed by the new Civil Code.<sup>143</sup>

[§ 274] R. *Newspapers.* — 1. *In general.* "Municipal corporations may within reasonable limits regulate the sale of newspapers or similar publications. But such regulations must be reasonable."<sup>144</sup>

138 Sec. 2628, Rev. Adm. Code.  
139 Sec. 2628, Rev. Adm. Code.  
140 Sec. 18, Rep. Act No. 409.  
141 See Arts. 694 & 695 N. C. Code.  
142 37 Am Jur. 935-938  
143 See Art. 45 Sect. N.C. Code.  
144 43 C. J. 399.

ing made up of persons chosen by the people to administer their interests and safeguard the health of the inhabitants, the latter have a remedy, if their officials are neglectful in the discharge of their duties, by complaining to the higher authorities."<sup>131</sup>

[§ 265] c. *Inspection.* "A municipal corporation, in the exercise of its power now under consideration, may provide for the inspection of the quality of articles sold within the market and the weights and measures employed in making sales. It also may provide that the market itself shall be regularly inspected by designated public officials, and impose the cost of inspection upon the owner or operator of such markets. The governing body of the corporation exercises a wide discretion in determining the amount of the fee for inspection, but such fee cannot be unreasonable or arbitrary; the fee must be in proportion to the amount necessary to meet the expense and cost of the service."<sup>132</sup>

[§ 264] 6. *Boards and officers.* "In the exercise of the power municipal corporations may create administrative offices for the enforcement of their market regulations, and may prescribe the duties of market officials, and their salaries. Ordinarily the selection of market officials, following the general rule, in the absence of provision to the contrary, is made by the municipal governing body. Market regulations are enforceable by, and only by, those officials or the board in whom the power to enforce such regulations has been vested. The fact that a board of health is authorized to regulate markets in regard to their 'cleanliness, ventilation and drainage,' and is the supreme authority in regard to matters affecting the public health, does not prevent the department having the general control of markets from making regulations in furtherance of the same objects; but a board of health invested only with powers necessary to the preservation of the public health and life cannot, irrespective of these considerations, order the removal of stands or stalls attached to the public market on the ground that they are obstructions upon the public street."<sup>133</sup>

[§ 265] P. *Needy; statutory statement as to Philippine municipal corporations.* — 1. *Municipalities in regular provinces.* "The municipal council shall have authority to exercise the following discretionary powers:

"(b) To make provisions for the care of the poor, the sick or persons of unsound mind.

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

"(f) To authorize the free distribution of medicine by the city physician to the employees and laborers of the city, and of fresh native milk, if available, to indigent mothers residing in the city.

[§ 267] Q. *Nuisances.* — 1. *In general.* — a. *Generally.* "It is definitely settled, without dissent, that a state legislature may lawfully delegate to municipal corporations, to be exercised within their corporate boundaries, the power to declare what shall constitute nuisances, and to prevent or abate them; such power is, as a matter of fact, generally given to the municipalities, either in their specific charters or general state statutes. The regulation and abatement of nuisances is one of the ordinary functions of the police power, and municipalities are generally considered as having been given the right, in connection with their exercise of such power, to suppress them. It has been held or stated on numerous occasions, however, that municipal corporations have no control over nuisances within their corporate limits except such as is conferred upon them by their charters or by general laws, and can exercise no powers in this regard beyond those expressly given or necessarily implied."<sup>136</sup>

[§ 268] 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:

"(h) To declare and abate nuisances.

131 People of the Philippines vs. Sabarre, 65 Phil. 634, 638-639.  
132 43 C.J. 399.  
133 43 C.J. 399.  
134 Sec. 2242, Rev. Adm. Code.  
135 Sec. 18 Rep. Act No. 409.  
136 37 Am Jur. 935-934.  
137 Sec. 2242, Rev. Adm. Code.

"Establishment of municipal gazette. It has been held within the powers of a municipal corporation to establish a paper or gazette for the purpose of giving information to its inhabitants upon matters of general interest affecting the municipal welfare."<sup>145</sup>

[§ 275] 2. *Prohibition.* "It is generally held that it is without the powers of municipal corporations to prohibit the publication of newspapers."<sup>146</sup>

*Reasons for, and discussion of, rule.* "The power to prohibit the publication of newspapers is not within the compass of legislative action in this State, and any law enacted for that purpose would clearly be in derogation of the Bill of Rights. 'The constitutional liberty of speech and of the press, as we understand it,' says Mr. Cooley, 'implies a right to freely utter and publish whatever the citizen may please, and to be protected against any responsibility for so doing, except so far as such publications, from their blasphe-my obscenity, or scandalous character may be a public offense, or as by their falsehood and malice they may injuriously affect the standing, reputation, or pecuniary interests of individuals. Or to state the same thing in somewhat different words, we understand liberty of speech and of the press to imply not only liberty to publish, but complete immunity from legal censure and punishment for the publication, so long as it is not harmful in its character, when tested by such standards as the law affords.' Cool, Const. Lim., 518. To prevent the abuse of this privilege as affecting the public, the Legislature has prescribed penalties to be enforced at the suit of the State, leaving the matter of private injuries to be determined between the parties in civil proceedings. We are not informed of any authority which sustains the doctrine, that a municipal corporation is invested with the power to declare the sale of newspapers a nuisance. The power to suppress one concedes the power to suppress all, whether such publications are political, secular, religious, decent or indecent, obscene or otherwise. The doctrine of the Constitution must prevail in this State, which clothes the citizen with liberty to speak, write, or publish his opinion on any and all subjects, subject alone to responsibility for the abuse of such privilege."<sup>147</sup>

[§ 276] S. *Obscenity.* — 1. *In general.* "While municipal corporations may enact ordinances forbidding particular acts of obscenity which are unlawful or which tend to corrupt the public morals, the power to forbid particular acts of obscenity must be expressly granted or necessarily incident to a power expressly granted. By force of statute municipal corporations may prohibit the publication of obscene matter. A publication of articles in a paper, attacking the Jews as a race, is not indecent, obscene, or scandalous, within a municipal ordinance prohibiting the offering for sale of a publication containing indecent, obscene or scandalous articles. The limit of the power to enforce an ordinance prohibiting the sale of obscene or scandalous publications is to conduct a prosecution for the specific offense thus committed. The corporation cannot, by establishment of a censorship in advance of future publications, prohibit generally the sale thereof upon the streets."<sup>148</sup>

[§ 277] 2. *Statutory provisions as to Philippine municipal corporations.* — a. *Municipalities in specially organized provinces.* "The municipal council shall have power by ordinance or resolution:

"(gg) . . . to prohibit the printing, sale, or exhibition of immoral pictures, books, or publications of any description."

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

"(r) To provide for the prohibition and suppression of . . . the printing, circulation, exhibition or sale of obscene pictures, books, or publications, and for the maintenance and preservation of peace and good morals."

[§ 279] T. *Patrol service or duty from male residents; statutory provisions as to municipalities in regular provinces.* "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, *practientes*, *druggists* or *practicantes de farmacia* actually engaged in business, or lawyers when actually engaged in court proceedings."<sup>149</sup>

*Illustration.* A resident of the municipality of Iloilo was in 1914 charged with having criminally and without justifiable motive failed to render service on patrol duty, in violation of the municipal ordinance of Iloilo on the subject patrol duty.

The accused contended that the ordinance upon which the criminal complaint was based was unconstitutional, for the reason that it was contrary to the provisions of the then Organic Act of the Philippines, the Philippine Bill, which guaranteed the liberty of the citizens.

The said ordinance appeared to have been adopted in accordance with Act No. 1309, which amended section 40 of Act No. 82 ('5th Municipal Code at the time). The amendment empowered the municipal council, by ordinance, to authorize the president: (a) To require able-bodied male residents of the municipality, between the ages of 18 and 55, to assist, for a period not exceeding five days in any one month, in apprehending ladres, robbers, and other law breakers and suspicious characters, and to act as patrols for the protection of the municipality, not exceeding one day each week; (b) To require each householder to report certain facts, enumerated in said amendment.

*Held:* "Is there anything in the law, organic or otherwise, in force in the Philippine Islands, which prohibits the central Government, or any governmental entity connected therewith, from adopting or enacting rules and regulations for the maintenance of peace and good government? Do not the people be called upon, when necessary, to assist, in any reasonable way, to rid the state and each community thereof, of disturbing elements? Do not individuals whose rights are protected by the Government, owe some duty to such, in protecting it against lawbreakers, and the disturbers of the quiet and peace? Are the sacred rights of the individual violated when he is called upon to render assistance for the protection of his protector, the Government, whether it be the local or general Government? Does the protection of the individual, the home, and the family, in civilized communities, under established government, depend solely and alone upon the individual? Does not the individual owe something to his neighbor, in return for the protection which the law affords him against encroachment upon his rights, by those who might be inclined so to do? To answer these questions in the negative would, we believe, admit that the individual, in organized governments, in civilized society, where men are governed by law, does not enjoy the protection afforded to the individual by men in their most primitive relations.

"If tradition may be relied upon, the primitive man, living in his tribal relations before the days of constitutions and states, enjoyed the security and assurance of assistance from his fellows when his quiet and peace were violated by *malhechores*. Even under the feudal system, a system of land holdings by the Teutonic nations of Europe in the eleventh, twelfth, and thirteenth centuries the feudal lord exercised the right to call upon all his vassals of a certain age to assist in the protection of their individual and collective rights. (Book 2, Cooley's Blackstone's Commentaries, 44; 3 Kent's Commentaries, 487; Hall, Middle Ages; Maine, Ancient Law; Guizot, History of Civilization; Stubbs' Constitutional History of England; Chisholm vs. Georgia, 2 Dall. (U. S.) 419; DePeyster vs. Michael, 6 N. Y., 467.) Each vassal was obliged to render individual assistance in return for the protection afforded by all.

"The feudal system was carried into Britain by William the Conqueror in the year 1085 with all of its ancient customs and usages.

151 Sec. 2275, Rev. Adm. Code.

145 Id. 399-400.  
146 43 C. J. 400.  
147 Ex p. Neill, 32 Tex. Cr. 275, 22 SW 926.  
148 43 C. J. 410.  
149 Sec. 2825, Rev. Adm. Code.  
150 Sec. 18 Rep. Act No. 409.