

EXECUTIVE DETERMINATION

HOLDING OF SESSIONS OUTSIDE OF CAPITAL; RESPECTIVE FUNCTIONS OF PROVINCIAL AND MUNICIPAL GOVERNMENTS.

— With reference to your Resolution No. 105, series of 1948, proposing to hold sessions “in towns and places within the province as may be deemed necessary and expedient,” please be advised that the holding of sessions outside of the capital is not quite proper and advisable, and the matter of studying the problems of the people and of bringing “the Government closer to the inhabitants of the province” may be done in other various ways, such as frequent inspections to the municipal districts and barrios by provincial and municipal officials called upon by law to discharge such function. In this connection, it should be stated that under our system of local governments, the municipal governments, including those of the municipal districts, are supposed to attend to the immediate needs of their inhabitants, while the provincial governments are only to supervise the broad functions and policies of the municipal governments.—*Letter dated Jan. 11, 1949, of Sec. of the Int. to Prov. Board of the Mt. Prov.*

TAX ON MOTOR VEHICLES; MARKET FEES.—Section 50 of Ordinance No. 4, series of 1935, of the municipal council of Silang, imposes a fee of ₱1.00 for each time a motor vehicle enters the municipality for the purpose of selling merchandise or buying products and other articles of commerce. The amount being imposed can only be considered either as a tax on motor vehicles or as a tax on merchants. In either case it is illegal. In imposing it as a tax on motor vehicles, the ordinance in question violates section 70(b) of Act 3992, otherwise known as the Revised Motor Vehicle Law, which prohibits the imposition of any further fees other than those fixed in said Act, by any public authority in these islands” for the operation or use of any motor vehicles on any public highway, bridge, or ferry . . . or for the operation of any motor vehicle by the owner thereof,” except

as a property tax or toll fee for the use of any bridge or ferry. The tax being imposed under the ordinance in question certainly is neither a property tax nor a toll fee for the use of any bridge or ferry. As a tax on merchants, it is illegal for two reasons: first, because it violates section 2310 of the Revised Administrative Code which in effect requires the fixing of all municipal license taxes on the yearly basis and their payment within the first twenty days of each quarter, and second, because the maximum rate of ₱25.00 per annum which a municipal council may impose as municipal license tax on merchants, without approval of the Secretary of Finance, under section 2 of Act 3422, in accordance with paragraph 7(c), section 334 of the Compilation of Provincial Circulars of the former Executive Bureau, may be exceeded. Resolution No. 8, series of 1938 of the said municipal council declares as market zone all the streets of the poblacion of the said municipality for the purpose of collecting market fees from merchants. In effect this provision declares as part of the market premises the said streets. The municipal council has neither the power to declare the public streets as part of the market nor to collect fees therein. In collecting market fees the municipality will have to close the said streets to traffic or else the same will have to be collected from whomsoever the market collectors may believe to be liable for such fees in which case confusion and arbitrariness will surely prevail. The municipality has no right to do either. In the first case, the municipality has no power to withdraw from the general use of the public properties for public use, indefinitely, or for a limited time, simply for the purpose of collecting market fees. The second is a clear case of unreasonable and oppressive act on the part of the municipality and therefore illegal.

In view of the foregoing, it is requested that appropriate action be taken by that board on the municipal measures in question under the provi-

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**