

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-