

# The LOCAL GOVERNMENT REVIEW

Approved by the Secretary of Finance, the Director of Public Schools, the Director of Private Schools, the Director of Public Libraries and the Department of the Interior.

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ONE PESO

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GOVERNORS, MAYORS, TREASURERS, AUDITORS, FISCALS, DIVISION SUPERINTENDENTS OF SCHOOLS, DISTRICT ENGINEERS, DISTRICT HEALTH OFFICERS, AND AGRICULTURAL SUPERVISORS — *Contributing*

## TEN COMMANDMENTS FOR MODERN PARENTS

1. Give your children the support of love and confidence, with appreciation of the individuality of each. This will provide for them a firm foundation of faith in you, in themselves and in life.
2. Plan for good times with your children and try always to realize how things seem to a child. This will create a pleasant home atmosphere and a pattern for happy family life.
3. Give your children a share in the tasks, plans and creative activities of the home. Through taking responsibilities in accordance with their strength they will grow in character and increase in resourcefulness.
4. Look for good which you can praise more than for faults which you must condemn. Children generously encouraged try to improve still more, but those too much condemned lose heart and expect little good of themselves.
5. Value curiosity in your children and stimulate in them the love of all things true and beautiful. By rewarding their inquiries and developing their appreciations you inspire them to a larger growth.
6. Teach your children to convert obstacles into opportunities. Strength develops by firm purpose and by creative conquest of difficulty.
7. Develop in yourself such qualities as you want your children to have. Honesty, consideration, courage — such virtues come mainly by example and contagion. You want vital growth not mere conformity.
8. Share with your children in the fellowship of the church. This will give them the sustaining strength of a community of faith and love which extends across the ages and embraces all peoples.
9. Lead your children into faith in God through discipleship to Jesus Christ that they may be workers with God in overcoming evil and promoting the good. This will be aided by thought-sharing religious interpretation and worship in the Home, and by living in the great purposes of the kingdom of God.

(Mrs.) TRINIDAD F. LEGARDA  
*Chairman, Home Day*

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## THANK YOU

by the Editor

*This number completes a year of pioneering publication service in the field of local government in the Philippines. It has been a service accompanied by courage, faith, a little pride, and a purpose.*

*That we have accomplished something indicative of a dynamic purpose is shown by the early approval given to this magazine by the Department of the Interior, by the Department of*



### THE EDITOR

*now in the University of Wisconsin Graduate School as pensionado of the Republic of the Philippines on "Municipal Government Administration"*

*val of Bataan, Provincial Governor Perfecto Faypon of Ilocos Sur, Provincial Governor Cesar Nepomuceno and Provincial Secretary Ramon H. Villamin of Marinduque, Provincial Governor Gedeon Quijano of Misamis Occidental, and Mayor Bienvenido Marquez of Padre Burgos, Quezon Province, for their financial support of this venture. The interest manifested by all the other Provincial Governors and all the Provincial and City Treasurers in bringing home to their colleagues and personnel the impor-*

*Finance, by the Director of Public Schools, by the Director of Private Schools, by the Director of Public Libraries, and by more than two thousand five hundred provincial, city, and municipal officials who have responded to the urge of a publication service such as this one that, in the words of His Excellency, the President of the Philippines, "can distill practical knowledge and wisdom out of the experience of our local administrators and contribute substantially to good government and good citizenship." Thanks are due to all these authorities and officials.*

*We are grateful to Provincial Governor Jose U. del Gallego of Camarines Sur, Provincial Governor Emilio Na-*

1—See Message of President Elpidio Quirino at page 3, Vol. 1, No. 1, L.G.R.

2—From the essay, "Study of Public Administration" by Woodrow Wilson, 2. Pol. Sci. Q. 197 (1887).

tance of this magazine in the discharge of their duties and functions has been gratifying indeed. The support that came spontaneously from nearly all municipal mayors and municipal treasurer, from a good number of Superintendents of Schools, Provincial Fiscals, City Attorneys, District Engineers, Provincial Auditors, Judges of Courts of First Instance, Municipal Judges, Justices of the Peace, District Health Officers, and Agricultural Supervisors, and from many municipal councilors, municipal secretaries, and policemen speak well of the reception met by the The Local Government Review in the different sections of the Philippines, for which we are certainly glad.

It has been an inspiration to us to have received the patronage of the Archbishop of Cebu, of several Mother Superiors, of many principals of schools and directors of colleges, of some heads of libraries, of certain Consuls of foreign countries, and of hundreds of high school and collegiate students, businessmen and private citizens. Our hats off to all. It is satisfying to know that after all there are groups in our country who watch over the public service, who study and learn the feasibility and wisdom of official doings, and who follow the development of public policy in relation to the governance of local affairs.

We are confident that the continued support and patronage of all the foregoing subscribers will encourage us "to straighten the paths of government, to make its business less unbusiness-like, to strengthen and purify its organization and to crown its duties with dutifulness."<sup>2</sup> In pursuing these ends, we will find strength in the fact that we have secured the cooperation of the American Society for Public Administration in the United States, in which we have been honored with membership, by granting us authority to reprint in the The Local Government Review articles from its Public Administration Review which may advance public management in the Philippines. We assure our reading public that we are prepared to furnish them with adequate and current information about the local governments and their administration, to assist them in foreseeing problems and planning future programs, to protect the citizens against hasty or ill-considered actions, and to guide them secure means of ensuring compliance with established policy and official duties.

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## THE OLD AND THE NEW

It is done, all the year could do for us.

Its mixture of shadow and sun,  
Its smiles and its tears, its hopes and  
its fears,

Its labors and duties, all done.  
We stand face to face with the new  
year,

Nor know what it hides from our  
sight;

God grant that it be kind to you, and  
to me ,

That it lead us in ways that are  
light.

*The Old and the New.*

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# Opinion Of The Secretary Of Justice

## PLAYING OF "MAH-JONG" MAY BE RESTRICTED AND REGULATED.—

"Sir: This is with reference to your request for opinion as to whether or not the game of "Mah-Jong" may be prohibited under the Gambling Law.

"Gambling" is defined as "any game of monte, jueteng, or any other form of lottery, policy, banking, or percentage game, for money or any other representative of value or valuable consideration or thing, the result of which depends wholly or chiefly upon chance or hazard wherein wagers consisting of money, articles of value or representative of value are made; . . ." (Art. 195, par. 1, Rev. Pen. Code).

"Whether or not a particular game is a game of chance or hazard must be determined from the method by which it is played.

"In the game of "Mah-Jong" as described by the Brigadier General, Chief of the Constabulary, in his 4th indorsement, dated December 16, 1939, the element of ability and skill in the discarding and taking of the blocks is the predominant factor in order to win the game. It results, therefore, that "Mah-Jong" is a game of skill and not of chance. (See U. S. vs. Liongson, 39 Phil., 457, 460.)

Nevertheless, cities or municipalities, in the exercise of their police power may restrict and regulate the playing of "Mah Jong" (U. S. vs. Salaveria 39 Phil., 104; see also opinions of the Atty.-Gen., July 11, 1904; July 25, 1904; October 10, 1905; and September 7, 1911; Opinion of the Executive Secretary, July 6, 1909; Opinion No. 273 series of 1937)." —*Letter dated Feb. 14, 1940 of Secretary of Justice to the Undersecretary of the Interior, being Opinion No. 59, series 1940.*

## APPOINTMENT OF LOCAL POLICE OFFICERS NOT SUBJECT TO ACTION OF MUNICIPAL COUNCIL.

—"Section 2259 of the Revised Administrative Code which, in part, provides that "the Chief of Police and other members of the force shall be appointed

by the Mayor, with the consent of the Municipal Council," was impliedly repealed by Commonwealth Act No. 88, which organized and consolidated the police forces in all municipalities and cities into a state Police under the immediate charge and direction of the Department of the Interior. Under Section 2 of this Act, "appointment to the State Police force and removal therefrom shall be made in accordance with civil service rules and regulations, by the Commissioner of Public Safety with the approval of the Department Head x x x." Said Commonwealth Act No. 88, however, was later expressly repealed by Commonwealth Act No. 343, which abolished the State Police force and reorganized the Philippine Constabulary into a National Police Force. Does this repeal of Commonwealth Act No. 88, which impliedly repealed Section 2259 of the Revised Administrative Code, revive the latter?

In the case of U. S. vs. Soliman (36 Phil. 5), it was held that: "x x x when a law which repeals a prior law, not expressly but by implication, is itself repealed, the repeal of the repealing law revives the prior law, unless the language of the repealing statute provides otherwise."

Section 6 of Commonwealth Act No. 343 provides, in part:

"Upon the approval of this Act, x x x all provincial, city or other local fire and police bodies or provincial guards as may have been wholly or partially removed from the control of local officials by the provisions of Commonwealth Act Numbered Eighty-eight shall be reorganized under such regulations governing appointment, organization, and administration as the corresponding head of department with the approval of the President may prescribe, and returned to the control, to be exercised under the supervision of the corresponding Department Head, of appropriate

municipal, city and provincial officials”.

As may be noted above, the appointment of local police officers shall be governed by such rules and regulations as may be prescribed by the corresponding department head, with the approval of the President. In the face of this clear mandate, Section 2259 of the Revised Administrative Code cannot be considered revived by the express repeal of Commonwealth Act No. 88.

In conformity with such mandate, the President promulgated Executive Order No. 175, dated November 11, 1938, revising the rules and regulations relative to the administration and supervision of local police forces. Paragraph 14, of said Executive Order, in part, reads:

“Hereafter, appointments to and promotions in the municipal, city, and provincial police service shall be made in accordance with Civil Service Rules and Regulations by the respective city or municipal mayor or governor, with the approval of the President of the Philippines, pending the designation of the Department Head, who is to exercise supervision over local police force, except in the case of Chiefs of Police of chartered cities which is governed by special provisions of law.”

The Secretary of the Interior, under Executive Order No. 176, dated December 1, 1938, was designated as the Department Head to exercise supervision over local police forces, as contemplated in the above cited provision of Executive Order No. 175.

It is clear, therefore, that the appointment of the Chief of Municipal Police shall be made, in accordance with civil service rules and regulations, by the Municipal Mayor, with the approval of the Secretary of the Interior. Hence, said appointment is not subject to the action of the municipal council.—*3rd Ind., June 1, 1946, of Sec. of Justice to the Sec. of the Int.*

**LICENSE TAX MAY BE IMPOSED UPON THE OCCUPATION OR BUSINESS OF OPERATING FISHPOND.**

—Opinion is requested on the question of whether or not the municipality of Hinigaran, Province of Occidental Negros, may legally impose the license tax of P3 a hectare on fishpond owners as provided in Ordinance No. 7, series of 1931, of the Municipal Council of said municipality, taking into account the fact that realty tax is already being collected on the land in which the fishponds are located.

The pertinent portion of the ordinance in question reads:

“De acuerdo con el artículo 2309 del Código Administrativo Revisado, el consejo municipal de Hinigaran, Provincia de Negros Occidental, I. F., por la presente decreta:

“Por cada dueño de vivero de peces pagaran P3 anual por cada hectarea.”

It is clear that what is imposed by and under the ordinance is a tax upon the occupation or business of operating a fishpond. Consequently this Office believes and, therefore, holds that the tax which the ordinance imposes is authorized under section 1 of Act No. 3422, as amended by Act No. 3790. (See Op. Atty. Gen., Aug. 14, 1929.)

It is intimated that the imposition of a tax on fishponds, when real estate tax is already being collected on the land whereon the fishpond is located, may amount to double taxation. Such fear, however, is unfounded, for these taxes are imposed upon different species of property and for distinct purposes. To constitute double taxation in the prohibited sense, the second tax must be imposed upon the *same property* for the *same purpose*, by the same state or government during the taxing period.” (61 C. J., 137.) Besides there is no double taxation where one tax is imposed by the State and the other is one imposed by the city (Cooley, Taxation, 4th Ed., p. 492.)

In view of the foregoing, the undersigned answers the query in the affirmative.—*3rd Ind., Feb. 24, 1937 of Undersecretary of Justice to Aud. -Gen.*

**COOPERATIVE MARKETING ASSOCIATIONS—ACTIVE PARTICIPATION**

PATION OF MUNICIPAL OFFICIALS IN ORGANIZATION ALLOWED.—Respectfully returned to the Honorable, the Undersecretary of the Interior, Manila, inviting attention to section 22 of Act No. 3425, otherwise known as "The Cooperative Marketing Law" which reads as follows:

"SEC. 22. *Government officers and employees may become officers.*

—Upon the recommendation of a Bureau chief, the Secretary of the Department concerned may grant written authority to any officer or employee of the Philippine Government to take an active part in the organization and operation of any association created thereunder, and to occupy and perform the duties of any position in the same, outside of Government office hours, and to receive the salary or emoluments thereof."

It is believed that the foregoing provision has not been repealed or modified by the Constitution insofar as municipal officials are concerned.—*2nd Ind., June 17, 1936 of Undersecretary of Justice.*

EFFECT OF FISCAL YEAR ON SECTION 2309, ADMINISTRATIVE CODE—Sir: This is in reply to your 5th indorsement, dated Feb. 10 1941, requesting opinion on the question raised by the provincial board of Batangas, as to the effect of Commonwealth Act No. 373 which changed the official fiscal year from January 1st to December 31st of each calendar year to July 1st to June 30 of the next calendar years, on section 2309 of the Revised Administrative Code which provides in part that "a municipal license tax already in existence shall be subject to change only by an ordinance enacted prior to the fifteenth of December of any year for the next succeeding years."

Municipal license taxes accrue on the first of January of each year as regards persons then liable therefor (Sec. 2310, Rev. Adm. Code). Bearing this fact in mind, it becomes obvious that the intention of the first sentence of Section 2309, quoted above, is to afford persons affected by the tax sufficient notice of

the modification in the license taxes which are imposed upon them, and a reasonable opportunity to prepare for the payment of the same. The reference, therefore, to the "next succeeding year" in said provision, is none other than to a calendar year which commences on January first. To hold that the phrase refers to the official fiscal year as prescribed in Commonwealth Act No. 373 would mean that no change in an existing municipal license tax may take effect except after *six and a half months* from the date of its enactment. Such a construction would be detrimental to public interests in its effects, absurd in its implications, and could not have been intended (See Sec. 2230, Rev. Adm. Code).

Commonwealth Act No. 373 applies "wherever in any law of the Philippines any word or expression is used which hitherto has been construed to mean or to refer to a *fiscal* year ending with the thirty-first day of December (Sec. 2). It is not intended to affect all other dates or periods previously fixed by law having reference to the calendar year. Thus, on a previous occasion, I gave the opinion that the said Act has not affected the provisions of Sections 2002 and 2022 of the Revised Administrative Code insofar as those sections refer to the calendar, as distinguished from the fiscal year. (Op. No. 97, series 1939). Similarly, it might be mentioned that tax laws enacted by the National Assembly subsequently to Commonwealth Act No. 373 invariably fix the accrual of the taxes on the basis of the calendar, and not of the fiscal year (See Com. Acts Nos. 465, 466 and 470).

I am therefore of the opinion that Commonwealth Act No. 373 which changed the official fiscal year did not affect the provisions of Section 2309 of the Revised Administrative Code.—*Letter dated Feb. 21, 1941, of Sec. of Justice to the Acting Prov. Fiscal of Batangas, being Opinion No. 55 Series 1941, Sec. of Justice.*

RETIREMENT UNDER ACT NO. 4183 SHOULD ARISE FROM A REORGANIZATION OF THE SERVICE.

—Sir: In reply to yours of September 24, requesting my comment and recommendation on the interpretation and application of Act No. 4183, as amended by Commonwealth Act No. 623, in relation to the proposed retirement of Mr. Sisenando Ferriols, Administrative Deputy in the office of the Provincial Treasurer of Batangas, I beg to say:

Section 1 of Act 4183, as amended by Commonwealth Act No. 623, provides:

“In order to grant a gratuity to provincial, municipal and city officer and employees who resign or are separated from the service *by reason of a reorganization thereof*, the provincial boards, municipal and city boards or councils may, with the approval of the Secretary of the Interior, retire their officers and employees, granting them, in consideration of satisfactory service rendered, a gratuity. . . .”

Series 1940.

Referring to these provisions, as well as to Act No. 4270, authorizing the retirement, under similar conditions, of officers and employees of the City of Manila, this Department has consistently held that the retirement gratuity provided in said Acts “may be demanded *only if the claimant is retired or separated from the service as a result of the reorganization*” of the local government. (Op. No. 150, series 1941, Op. No. 46, series 1939, of the Sec. of Justice.)

Thus, in one case this Office stated:

“Having been separated from the service by his death which took place before the approval of Commonwealth Act No. 623—and *not by the reorganization* of the Government of the City of Manila, Mr. Revilla is *not entitled* to the retirement gratuity provided in said Act.” (Op. of Sec. of Justice, July 15, 1946; underscoring supplied.)

You state that in approving Act No. 4183 the then Governor General laid down the policy that no local official or employee shall be allowed to retire

unless his position is abolished and that no position so abolished shall be recreated, and cautioned against the conversion of the said Act into a pension law, inasmuch as this legislation was passed apparently for the purpose of facilitating the reorganization of the local governments with the retrenchment policy in view.

Conformably to that policy and to the opinions of this Department herein before mentioned, I recommend that no provincial, municipal, or city officer or employee be retired with gratuity unless his retirement or separation from the service should arise from or should become necessary by reason of a reorganization of the service.—*Letter dated Oct. 16, 1946, of Sec. of Justice to the Chief of the Executive Office.*

UNAUTHORIZED USE OF SCHOOL BUILDING AND PREMISES.—Sir: This is with reference to your letter of May 4, 1940, wherein you request my opinion as to what action may be instituted against the unauthorized use of school buildings and premises by the Socialists of Pampanga.

This Department has already held (Opinion of the Sec. of Justice, Feb. 3, 1938) that the unauthorized entry by a private individual into properly closed school building constitutes a violation of Article 281 of the Revised Penal Code which punishes as guilty of trespass to property any one “who shall enter the closed premises or the fenced estate of another while either of them is uninhabited, if the prohibition to enter be manifest and if the trespass has not secured the permission of the owner or caretaker thereof.” The term “premises” has been held to mean “buildings” (49 C. J. 1328, sec. 3).

In view thereof, I am of the opinion that prosecution would lie against the offending parties for violation of the aforementioned Article provided the prohibition to enter was manifest and the authority and permission of the division superintendent of schools was not secured (See Sec. 605, Service Manual [1927], Bur. of Education).—



# Culture Of Vegetables, Prepared By The Bureau Of Plant Industry

*Ampalaya*.—Ampalaya grows on ordinary garden soil, but thrives better on a soil rich in humus. Plants 4—5 seeds per hill 5 cm. deep in rows 120 cm. apart and 80 cm. between hills in the row. Later on thin the plants to 2—3 per hill. Provide trellis for the rainy season crop; the dry season plants, however may be allowed to creep on the ground. Cultivate with hand tool or animals-drawn cultivator when the vines begin to climb or creep, as the case may be, and plow between the rows a week later. A hectare of land requires about 6—8 kilos of seeds.

*Batao*.—Batao succeeds on ordinary garden soil, but grows best on loam soil.

*Beans (Bountiful and Kentucky Wonder)*.—Plant these beans during the cold season from October to November or later during the rainy season. The seeds should be sown direct in well-prepared furrows, about 80 cm. to 1 meter apart in the case of field planting. For backyard planting, the soil should be well dug and pulverized. Under both conditions, the distance of planting should be 50 cm. apart, depending upon the richness of the soil and the method of cultivation employed. Weeding and cultivation are done when the weeds begin to appear and every now and then before the plants begin to bloom. The *Kentucky Wonder* needs trellis, while the *Bountiful* can be grown without trellis or pole. Usually, from 6 to 8 kilos of seeds are needed to plant a hectare and from 2 to 3 seeds are allowed per hill.

*Cabbage*.—The soil and cultural requirements of cabbage are similar to those of pechay. The distance of planting should be 70 cm. by 60 cm. Dressing with 250-300 kgm. of ammonium sulphate is necessary. Early measures for the prevention of insect and disease attacks should be taken.

*Chayote*.—Plant the chayote fruits on seedbed. After about 3 weeks trans-

plant them in the field at a distance of 2 m. by 2 m. Provide lattice or trellis for the vine to climb. The fruits may be harvested in 3 months or so from planting. This vegetable is best grown in cold regions.

*Cowpeas*.—Cowpeas succeed well on well-drained loam or clay loam soil. Plant the seeds in a thoroughly prepared land in rows 30-50 cm. apart in the row. Cultivate the field when the plants are about 30 cm. high with a 5-tooth cultivator and plow between the rows after a week or so. A hectare of land requires 7-9 kilos of seeds.

*Eggplant*.—A rich soil or one that is light, porous, fertile and well drained, is better for eggplant culture. Sow the seeds in the seedbeds or seedboxes, cover with fine sandy soil, and then water sufficiently. About the fifth day after germination, prick the plants in another seedbed. In about one month from pricking transplant in a well-prepared plot or field at 60 cm. by 80 cm. Cultivate, weed, and water occasionally. If the plants grow stunted, apply a liberal amount of well-rotted manure or nitrogenous fertilizer. The seed requirement per hectare is 500-700 grams.

*Garlic*.—Plant direct in a thoroughly prepared field with a sandy loam or clay loam soil. Use the small-sized bulbils as planting material. Plant the seeds in rows 30-40 cm. apart and 10-15 cm. between hills in the row. Set the bulbils with their tips above the surface and press the soil gently around the base. Weeding, cultivation, and regular watering should be done, with application of fertilizer during the growing period. Allow the bulbs to mature in the field before harvesting for drying and curing.

*Kibal*.—This legume does well on loam or clay loam soil with good drainage. Plant in hills 80 cm. apart in the row and one meter apart between rows at the rate of 3-4 seeds per hill. Allow

the plant to creep on the ground. Cultivate with a 5-tooth cultivator or hand tool when the plants are about 20 cm. tall, and plow between the rows a week or so thereafter. To plant a hectare of land, 6-7 kilos of seeds are needed.

*Lettuce*.—Same as mustard. Planting should be in drills or holes, either by directly sowing or by transplanting the seedlings. Transplant at a distance of 20 cm. by 30 cm.

*Mustard*.—Same as pechay.

*Onion*.—Onion thrives well on any kind of soil with sufficient supply of moisture and good drainage, but a porous, mellow and friable soil with an adequate supply of available plant food is ideal.

Onion (big bulb) is usually propagated by seeds. A hectare of land requires 3-4 kilos of seeds. The distance of planting is 15-20 cm. in the row, the distance between rows or ridges for single-double-row system being 40-50 cm. for hand cultivation, and the distance for animal cultivation 60-80 cm. The seedlings are transplanted at the age of 5-7 weeks. The plants should be cultivated whenever necessary. Watering should be more frequent in the light, sandy soils than in heavy or clay soils. Rice paddies may also be planted to onions after the rice crop has been harvested by cutting the rice stubbles close to the ground and by using straw (7-10 cm. in thickness) as mulch to minimize the use of irrigation water and to control the growth of weeds.

The crop matures in 3-4 months after transplanting. Matured bulbs are recognized by their shriveled tops or softened necks.

*Native onion*.—Same as garlic.

*Patani*.—Patani grows on well-drained ordinary garden soil, but thrives best on rich loam or clay loam soils. Prepare the land and plant in furrows 1-1.2 m. apart each way. Provide stakes for support. Weed and cultivate occasionally. Hill the rows of plants before putting trellis. A hectare of land requires 5-6 kilos of seed.

*Patola*.—Patola grows best on well-drained clay loam soils, although ordinary garden soil if well-drained will also

do. Plant in hills 1-1.5 m. apart. Weed the field whenever necessary. In field planting during the rainy season crop should be provided with trellis. About 6-8 kilos of seeds are needed per hectare.

*Peas*.—Plant peas direct in furrows 80 cm. apart and 50 cm. between hills in the furrow. Cover the seeds with fine soil about 5 cm. thick and press them lightly so that the soil will be compact about them. As the seedlings develop, hilling should be done around the plants. When the vines begin to form provide trellis between every two rows for the plants to climb over. Keep the soil well cultivated and irrigated. Avoid the use of too much nitrogenous fertilizers to obtain a high yield of pods. Planting should be done during the cold season (November to January). The crop is ready for harvest in 2 months or so from planting. Around 6-8 kilos of seeds are needed for 1 hectare.

*Pechay*.—For pechay culture, a rich and well-drained soil is preferable. Beds in the open garden must be raked or the soil sifted until it is worked into a fine tilth. Mix thoroughly rotted manure before planting. Either broadcast or drill in furrows in a well-prepared land or in seedboxes under half-shade. Transplant in a bed 50 cm. by 1 m. at 40 cm. by 30 cm. Weed and cultivate regularly with a hoe or plow. A regular application of nitrogenous fertilizers at the rate of 300 kilos of ammonium sulphate per hectare twice a month should be made. Watering should be done every day during dry weather. The seedage per hectare is 0.8 to 1 kilo.

*Radish*.—Radish thrives best on rich, well-drained loam soil with an ample supply of moisture. Drill thinly in shallow furrows and cover very lightly with fine soil. Planting should be about 20 cm. by 50 cm. Ridge the soil along the rows if big roots are desired. Radish must have ample moisture, otherwise the roots will be tough and stringy. Cultivate and weed occasionally. Matures in 20-50 days from planting. A hectare of land needs 14-20 kilos of

seeds.

*Sitao*.—Sitao thrives on well-drained garden soils but a rich loamy soil is to be preferred. Plant 3-4 seeds at 1 m. by 0.75 m and later on thin to 2 plants. About 5-6 kilos of seeds are needed per hectare. Pole the rainy season crop. The dry season planting may be allowed to creep on the ground. When the plants are about 20 cm. high, cultivate and weed them with a hoe or a 5-tooth cultivator. A week thereafter ridge the soil at the base of the plants.

*Squash*.—Squash grows best on well-drained and rich loam soils. Plant 3-4 seeds per hill at 1 m. by 1.5m., and later on thin to 2 plants, which should be allowed to creep on the ground. About 4-5 kilos of seeds are needed to plant a hectare of land.

*Seguidillas*.—Seguidillas succeed on ordinary soil but a loam soil is to be preferred. Plant in hills 1 meter apart in the row and 1.5 m. between rows, at the rate of 2-5 seeds per hill. Provide poles or trellis to support the plant. A hectare requires 6-8 kilos of seeds.

*Talinum*.—Talinum can be grown both from cuttings and seeds, but cuttings are preferable. It will grow on any kind of well-drained soils but a loamy soil is preferable. Prepare cuttings 10-15 centimeters long and plant in well-drained land at 40 cm. by 60 cm. The first crop may be harvested in two weeks or so after planting.

*Tavilan*.—This legume requires a well-drained loam soil. Prepare the land properly and plant 4-5 seeds per hill 40-50 cm. apart in the row and 60 cm. apart between rows, or drill thinly in well-prepared furrows 70-80 cm. apart. Weed, cultivate occasionally, and water. When the vines are formed, hill the rows of the plant. About 5-7 kilos of seeds are needed to plant a hectare.

*Tomatoes*.—The soil and cultural requirements of tomatoes are similar to those of eggplants. About 300-400 grams of seeds are necessary to plant a hectare. The distance of planting is 50 cm. by 80 cm.

*Upo*.—Same as squash in field planting.

## Beautiful Words for Christmastide

EXTENSION OF REMARKS

of

HON. MAURICE J. SULLIVAN

of Nevada

IN THE HOUSE OF

REPRESENTATIVES

Tuesday, December 19, 1944

Mr. SULLIVAN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following letter published in the Washington Star of December 13, 1944:

To the EDITOR OF THE STAR:

The following lines were written by Fra Giovanni in 1513:

"I salute you. I am your friend, and my love for you goes deep. There is nothing I can give you which you have not got; but there is much, that while I cannot give it, you can take. No heaven can come to us unless our hearts find rest in today. Take heaven. No peace lies in the future which is not hidden in this precious little instant. Take peace. The gloom of the world is but a shadow. Behind it yet within our reach is joy. There is radiance and glory in the darkness, could we but see, and to see we have only to look. I beseech you to look.

"Life is so generous a giver, but we, judging its gifts by their coverings, cast them away as ugly or heavy or hard. Remove the covering and you will find beneath it a living splendor, woven of love, by wisdom, with power. Welcome it, grasp it, and you touch the angel's hand that brings it to you. Everything we call a trial, a sorrow, or a duty, believe me, that angel's hand is there; the gift is there, and the wonder of an overshadowing presence. Our joys, too: Be not content with them as joys. They, too, conceal diviner gifts.

"Life is so full of meanings and purpose, so full of beauty beneath its covering that you will find earth but cloaks your heaven. Courage then to claim it; that is all. But courage you have; and the knowledge that we are pilgrims together, wending through unknown country our way home. And so at this Christmas time I greet you.

—FRED E. THOMPSON.

## EXECUTIVE DETERMINATIONS

**MUNICIPAL COUNCILORS, ACTUAL AND NECESSARY EXPENSES OF.**—The last paragraph of Section 2187 of the Administrative Code provides that “when absent from their permanent stations on official business other than attendance at the session of the council, vice-mayor and councilors shall be allowed their actual expenses of travel with the approval of the provincial governor.” Under this provision of the law, municipal councilors may claim actual and necessary expenses, incurred in connection with the inspection of their district if the places visited are other than the location of their official residence.—*1st Ind., Oct. 31, 1947 of the Under-secretary of the Interior to the Municipal Council of Hinatuan, Surigao.* . . . . .

**MUNICIPAL LIBRARY, REQUIREMENTS FOR THE ESTABLISHMENT OF.**—The amount of ₱5,000.00 asked by the Municipal Council of Bacuit, Palawan in its Resolution No. 40 for the construction of a library building and for the purchase of good books and other good reading materials, if granted, will sufficiently meet the requirements of this bureau for establishing a Municipal Library. Under the said requirements, a municipality desiring to have a Municipal Library has to provide, among others, the following: (1) a building or room appropriate for library purposes, (2) at least ₱200 with which to subscribe newspapers and magazines, (3) a Library Custodian, (4) at least a long reading table with chairs and (5) bookshelves.

On the part of this bureau, books, printed forms, technical assistance, etc. are given to operate the Municipal Library. Ordinarily, this bureau provides from 100 to 300 books acquired by purchase if the municipality has at least 100 books of its own. Publications acquired free by this bureau are also furnished depending upon the capacity of the bookshelves placed by the municipality in the library. In several cases, this bureau has provided up to 500 each of these free books to Municipal Libraries.

As may be noticed from the require-

ments under Municipal Library, there is no specific amount for library building and for books. For the establishment of a Municipal Library, this bureau will be contented if its requirements are complied with by the municipality concerned.—*3rd Ind., Dec. 14, 1948, of Dir. of Public Libraries to the Sec. of Education.*

**CONSTRUCTION OF TOLL BRIDGE BY PRIVATE INDIVIDUAL NOT AUTHORIZED BY LAW.**—This Office is not aware of any provision of law which authorizes private individuals to construct temporary bridge on any navigable waterway and to collect from the traveling public tolls for the use thereof. On the other hand, attention in this connection is invited to the provisions of Section 2102 (g) of the Revised Administrative Code which makes it a duty of the Provincial Board to order, in its discretion, upon the recommendation of the District Engineer, the construction, repair, or maintenance of roads, bridges and ferries and the making of provincial public works and improvements in accordance with law.

In view of the foregoing this Office does not see its way clear to recommend favorably the within petition.—*3rd Ind., Dec. 3, 1946, of Dir. of Public Works to Sec. of Pub. Works and Communications; B. P. W. File No. 403.12 Occ. Negros.*

**MUNICIPAL AID FOR ATHLETIC MEET.**— . . upon the recommendation of the Secretary of the Interior, the appropriation of the amount of ₱200 as aid of that municipality to the province in connection with the Bicol Athletic Meet, is hereby approved under the provisions of Section 2248 of the Administrative Code, provided that full provision has been made for all essential services and mandatory obligations of that municipality in accordance with the provisions of Section 4 of Republic Act No. 304.—*Letter dated May 30, 1949, of Undersecretary of Finance to Mun. Council of Casiguran, Sorsogon.*

**RENTALS ON FOREST LANDS NOT LAND TAXES.**—The Commonwealth Act No. 703 of November 1,

1945 provides, among other things, the remission of land taxes due and payable for the years 1942, 1943 and 1944 and 50% of the tax due for 1945. But rentals on forest lands, fixed by Forest Regulations promulgated by the Department Secretary under Section 79 (b) and 1817 of the Revised Administrative Code are not, this Office believes, land taxes.

The payment of rentals is one of the prerequisites to the issuance or renewal of special use permits or leases by this Bureau and obligation to pay such rentals arises for a contract or agreement embodied in said permits or leases.

In view of the above, the condonation of land taxes referred to in the basic communication does not apply to rentals on Nipa-bacauan plantations under Bureau of Forestry permits and the collection of the unpaid rentals corresponding to the enemy-occupation period is in order according to the opinion of the Auditor General, dated December 7, 1945.—*3rd Ind., Oct. 30, 1946, of Dir. of Forestry to Sec. of Agriculture and Commerce; Concurred in by the Department of Agriculture and Commerce in its 4th Ind., Nov. 2, 1946—Editor.*

**POWER PUMPS FOR IRRIGATING RICE FIELDS.**—One of the means of solving immediately the country's recurrent rice shortage is the use of irrigation pumps. With the use of power pumps for irrigating rice fields, immediate results are not only possible but very probable. While funds have recently been released for the repair of damaged irrigation systems and the construction of new ones, yet results thereof cannot be expected immediately.

The communal irrigation systems using power pumps in the Province of Rizal in which the PACSA has extended financial assistance, have so far been a success. If similar systems could be installed in other municipalities with the financial assistance of that Office, it is believed that the project would likewise be a success and the farmers benefited thereby.—*From letter dated June 8, 1949, of Undersecretary of Agriculture and Natural Resources to the Chairman, President's Action Com-*

*mittee on Social Amelioration.*

**PER DIEMS OF COUNCILORS — MAY BE PAID ONLY FOR REGULAR SESSION ACTUALLY ATTENDED.**—In its accompanying Resolution No. 3, current series, the Municipal Council of Dapitan has requested that the vice-mayor and councilors of said municipality be allowed to claim payment of per diems for attending the regular session of the Council, which, because of lack of quorum, has not been held. Pertinent portion of Section 2615(f) of the Administrative Code provides the following:

“The Municipal Council of a municipality of specially organized province or of a municipal district of any province may, with the approval of the Provincial Board and the Department of the Interior, grant to the vice-mayor and each councilor a per diem not to exceed two pesos for each day of regular session of the Council *actually attended* by them.”

From the foregoing provisions of law, it is clear that no payment of per diem to the vice-mayor and municipal councilors can be made without any session having been actually attended by them. In view thereof, it is regretted that the within request can not be favorably considered by this Department.—*2nd Ind., June 11, 1949, of Sec. of the Int. to Provincial Board of Zamboanga.*

**MEMBERS OF PROVINCIAL BOARDS, CITY AND MUNICIPAL VICE-MAYORS AND COUNCILORS ENTITLED TO HOLD FIREARMS UNDER CERTIFICATE OF REGISTRATION.**—There is quoted hereunder for the information and guidance of all concerned, an excerpt from the 2nd Indorsement dated May 24, 1948, of the Office of the President:

“ \* \* \* members of provincial board, vice-mayors and city and municipal councilors are hereby authorized to possess fire-arms on certificate of registration during their term of office subject to the conditions that firearm applications of these officers are made in the regular form and requirements relating to character and other qualifications are strictly complied with.”

Under the rules, as amended, there-

fore, (please see Par. 25, Circular No. 16, dated February 19, 1945, Military Police Command and Department of the Interior Unnumbered Provincial Circular dated April 11, 1947) members of provincial boards, city or municipal mayors, vice-mayors, councilors and barrio lieutenants and municipal treasurers, desiring personal firearms for use in the performance of their official duties shall submit, thru the proper Department Head, the necessary application to purchase firearm if still they have none, to the Chief of Constabulary, for approval. Having purchased the firearm, certificate of registration shall be issued by the Provincial Commander concerned.—*PROVINCIAL CIRCULAR (Unnumbered), dated June 18, 1948, of the Undersecretary of the Interior.*

**CONSTRUCTIONS OWNED BY FOREIGN GOVERNMENTS SUBJECT TO BUILDING ORDINANCES; INSPECTION FEES MAY BE COLLECTED.**—Under query (a), information is requested on whether or not building constructions owned by the United States Government within the City of Manila are subject to the requirements of city building ordinances. This Department is of the opinion that, in the absence of specific provisions of law or treaty authorizing exemption therefrom, they are undoubtedly subject to the requirements of municipal regulations or ordinances governing building constructions within the city limits of Manila, which are designed for the protection of the general health, safety, order and welfare of the community. While it is true that foreign governments and their agencies and instrumentalities enjoy certain well-defined privileges and immunities from the jurisdiction of the territorial government, it is likewise a generally accepted principle of international law that the enjoyment of these privileges and immunities imposes upon them the obligation and responsibility of according scrupulous regard and obedience of the laws and regulations, both national and municipal, of the local government, which have been established in the interest of public health, safety, order and general welfare of the inhabitants with-

in its domain.

Paragraph 1, Article III, of the Consular Convention which grants to the United States the right to erect buildings that it needs "subject to local building regulations," is a recognition of this principle.

Queries (b) and (c) are also answered in the negative by what has already been said in the previous paragraph. While taxes, in the proper sense of the term are not to be imposed upon the United States Government in respect of land or buildings acquired, leased, or occupied by it, inspection fees which are in the nature of assessments for services rendered may be collected in view of the provisions of Article III, paragraph 2 of the Consular Convention with the United States.—*4th Ind., Sept. 4, 1947, of Undersecretary of Foreign Affairs to the City Engineer of Manila; File No. 27401.*

**HIGH SCHOOL SITE, FACTORS TO BE CONSIDERED IN THE SELECTION OF.**—In the choice of a high school site, the following are some of the important factors to be considered: (1) Relation with the "neighborhoods" which are to be served; (2) approaches and accessibility; (3) drainage; (4) area and character of the site—whether high, low, rugged or plain—and (5) existence of heavy traffic around the school grounds,—*9th Ind., dated Nov. 20, 1946, of the Adviser to the President on Planning, DIF 402.36, Nueva Ecija, Gapan.*

**WHEN ACTING PROVINCIAL GOVERNOR MAY BE DESIGNATED.**—Respectfully referred to the Provincial Governor, Bangued, Abra, with the advice that the within designation of Mr. Emilio Purugganan as Acting Provincial Governor to perform only such administrative duties as may pertain to the Office of Governor is without authority of law, as Section 2076 of the Revised Administrative Code under which he was designated has been repealed by Commonwealth Act No. 357 (Election Code). Under Section 16(a) of that Act, only in the case of a temporary vacancy in the office of the Provincial Governor may an Acting Governor be designated or

(Continued on page 615)

# Let Us Know Rizal, The Man

DR. PURA SANTILLAN-CASTRENCE

RIZAL loved life. There was no question about that. There was a robust throwing of himself into everything he did or said or wrote or thought as though every moment was for him fraught with meaning and had to be lived to its fullest.

No one but a man who cherished life and its offerings could have accomplished so much in so short a space of time. He worked at everything which came his way with verve, and a certain "joy of living" which was not mere youthful exuberance. For one feels that with such a man as he, there would never have been any death of this joy no matter how old or what problems he came up against.

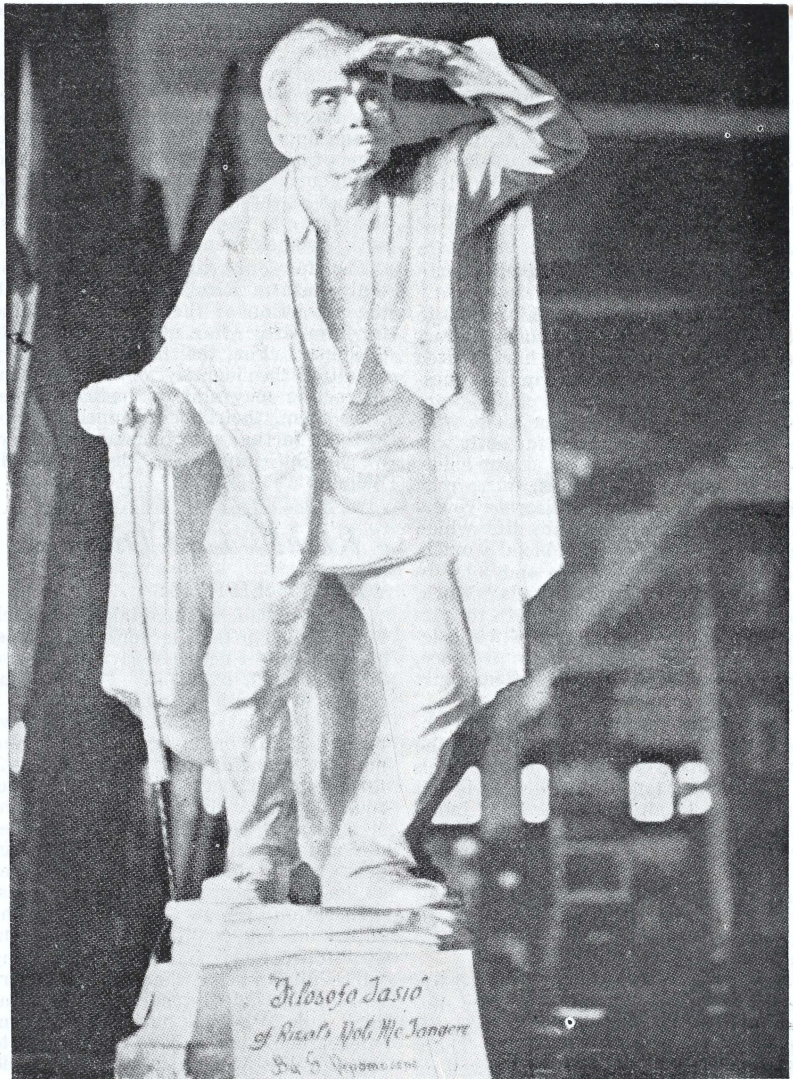
In his novels he shows this irresistible, irrepressible spirit, too. Somber as they are, they breathe an air of youthful ardor, as though the author would fain convince his readers that things, bad as they may seem, are not entirely hopeless. This certainly, paradoxical as the observation may sound, is not the wise-know-all pessimistic spirit of youth. There is a mellowness about it that seems of itself to portend tragedy. But it is a mellowness which is not accepting a grown-up understanding which at the same time challenges to action. In this optimism, this faith, this looking far into the future, Rizal transcends his younger years and becomes as old as the rocks. Only the rocks simply watch and witness in silent and passive wisdom, while Rizal watches, witnesses, acts, and urges action. The rocks wait in patient courage the turn in the lives of the men and the beasts whom they lord over. Rizal's courage is patient only within the limits wherein there is no danger of its fire dying out in its own ashes.

To such an ardent nature, the opposite sex cannot but be attractive. Rizal would be less the man for all of us that he was did he not find expression for himself in the approving glances and sweet words of fair women. There is a prudish tendency to hush this part of Rizal's life in an effort, so

the meticulous critics say, to present to his adoring people only the aspects of it worthy of emulation. Why, they say, "prostitute" his memory with details of his life which make him appear less the great and noble hero that history has succeeded in making completely of him? Why turn his people's eyes down to his feet of clay when they can look up admiringly at his noble bust of marble and feel that in worshipping him and establishing his cult, they worship too the ideals of Filipino-hood of which he is the epitome? Doubtless this secretive censorship is meant well, yet one cannot help wondering at the wisdom of such a move. Discretion carried too far can sometimes play the part of Folly and can easily assume the role of Hypocrisy. Debunking a hero is not a pretty game, specially if done for spite. But when the purpose is either to straighten out the facts revolving around him or get him close to earth and his fellowmen, thereby making emulation of him easier for the ordinary mortal, the purpose justifies the procedure.

The test of true love and of true worship is complete acquaintance and familiarity with its object. For while it is true that familiarity may breed contempt, it is equally certain that we love best what and whom we know best. Rizal we know as a patriot, a martyr, a linguist, a scientist, an artist; we know him as an ardent worker, a loving son, a deep thinker, a fearless idealist. For all these things we honor him and cherish his memory with warm gratitude. But because we are human, we would humanize him; we would want to know him not only in all his strength but in certain of his weaknesses; we would want to know these partly because we want to feel the common humanity that binds him and us together, and partly so that the admiration we bear for him could have at the same time the affectionate warmth of deep understanding.

No great man's memory has ever been desecrated by this humanizing touch. We know that Washington was



*Filosofo Jasio  
of Rizal's Noli Me Tangere  
By G. Nepomuceno*

*The famous character in Rizal's Noli Me Tangere lives in this remarkable statue of G. Nepomuceno — the mellow wisdom, the rebellious temper, and bitter cynicism.*



never a gracious man, taciturn and self-conscious as he always was; we know that Abraham Lincoln's home life was something of a tragedy; we know that Voltaire was mean and spiteful, that Rousseau was a hypocrite, and that La Fontaine, while writing children's fables, neglected his own offspring; we know that Dante, for all his mighty anger at the lustful, was himself guilty of the sins of the flesh and that Wagner was wayward, capricious, and irresponsible. Yet none of these things could seriously count in the evaluation of the intrinsic worth of these famous men.

I have given time and attention to the analysis of Rizal's women-characters, an analysis which has invited again and again these intriguing questions: Were they real? Who were they in Rizal's life? Did he write with his heart in his pen? As far as it was possible, I have tried to draw aside, ever so gently, the curtain of secrecy which screens away in discrete reverence the chapter of Rizal's life which had to do with flesh-and-blood women, in order to give more life and color to the personages of his novels. Much, however, had to be justly left to surmises and conjectures, which while legitimate enough within their province, could naturally be biased and humanly erring.

That Rizal relished doing his women-characters is apparent in the over-subjective touch the reader feels in his delineation of them. He is not impersonal about them, nor is he indifferent to them. Always present in his description is the sense that there is a warm relationship between creator and his creatures, be these lovable and to be admired, loathsome and to be hated, or ludicrous and to be mocked at.

For as has been said, Rizal loved life intensely. And life meant every living thing, man and woman, trees and flowers, and soft, green grass. There has been many an occasion to dwell on this deep ineffable love for Nature of the youthful author of the *Noli*. And occasion, too, to show his admiration for man's strength, and woman's sweetness, as well as indignation at and reproach for the weakness of God's

creatures.

There is a shyness of approach when he deals in his novels with the more choice representatives of the fair sex indicative of a youthful worship of loveliness and feminine charm, so that the reader cannot but feel that somehow there is something deeply personal and appealing in these open declarations of admiration and affection. And indulgently he wonders who the prototypes of these girls could be that had the power to inspire the young idealist with such eloquence.

Perhaps our careful guardians of that phase of Rizal's life dealing with the attraction of the eternal feminine for him are, after all, wise, in their prudence. For the haze of mystery clouding the identity of his women-characters may add to, instead of detract from, their poetic appeal, if not to their factual significance. Mystery, we might improvise, thy name is Woman.

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## *Rizal's Life Decision*

### TO THE FILIPINOS:

The step which I have taken or which I am about to take is very hazardous, no doubt, and I need not say that I have thought much about it. I know that almost everybody is against it: but I know also that almost nobody knows what is going on in my heart. I cannot live knowing that many are suffering unjust persecutions on my account; I cannot live seeing my brother, sisters, and their numerous families pursued like criminals; I prefer to face death, and I gladly give my life to free so many innocents from such unjust persecution. I know that at present, the future of my country to some extent gravitates about me; that if I die, many will exult, and that therefore many are longing for my destruction. But what shall I do? I have duties to my conscience above all, I have obligations to the families which suffer, to my old parents, whose sighs pierce to my heart; I know that I alone, even with my death, am able to make them happy, permitting them to return to their native land and to the tranquility of their

*(Continued on page 631)*

# Supreme Court Decision- Extent of Supervisory Power Over Local Government

*Carmen Planas, petitioner, vs. Commissioner of Civil Service, respondent,*  
G. R. No. 46440, January 18, 1939, LAUREL, J.

1. CONSTITUTIONAL LAW; SEPARATION OF POWERS; JUDICIAL REVIEW OF OFFICIAL ACTS OF PRESIDENT.—The acts of the Chief Executive performed within the limits of his jurisdiction are his official acts and courts will neither direct nor restrain executive action in such cases. The rule is non-interference. But from this legal premise, it does not necessarily follow that the Court is precluded from making an inquiry into the validity or constitutionality of his acts when these are properly challenged in an appropriate legal proceeding.
2. ID.; ID.; INTERDEPENDENCE BETWEEN DEPARTMENTS.—There is more truism and actuality in interdependence than in independence and separation of powers, for as observed by Justice Holmes in a case of Philippine origin, the Court cannot lay down “with mathematical precision and divide the branches into watertight compartments” not only because “the great ordinances of the Constitution do not establish and divide fields of black and white” but also because even the more specific of them are found to terminate in a penumbra shading gradually from one extreme to another.”
3. ID.; ID.; ALLOCATION OF CONSTITUTIONAL POWER; DUTY OF SUPREME COURT.—As far as the judiciary is concerned, while it holds “neither the sword nor the purse” it is by constitutional placement the organ called upon to allocate constitutional boundaries, and to the Supreme Court is entrusted expressly or by necessary implication the obligation of determining in appropriate case the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation. (Sec. 2 (1), Art. VIII, Constitution of the Philippines.) In this sense and to this extent, the judiciary restrains the other departments of the government and this result is one of the necessary corollaries of the “system of checks and balances” of the government established.
4. PARTIES; ADMINISTRATIVE INVESTIGATION; PLEA OF HAVING ACTED UNDER SUPERIOR ORDER: CONCLUSIVENESS UPON COURTS.—A mere plea that subordinate officer of the government is acting under orders from the Chief Executive may be an important averment, but is neither decisive nor conclusive upon the Court.
5. ID.; ID.; ID.; ID.;—Like the dignity of his high office, the relative immunity of the Chief Executive from judicial interference is not in the nature of a sovereign passport for all the subordinate officials and employees of the Executive Department to the extent that at the mere invocation of the authority that it purports the jurisdiction of the Court to inquire into the validity or legality of an executive order is necessarily abated or suspended.
6. PROHIBITION; CONTROL OF JUDICIAL OF QUASI-JUDICIAL FUNCTIONS; ISSUANCE.—While, generally prohibition as an extraordinary legal writ will not issue to restrain or control the performance of other than judicial or quasi-judicial functions, its issuance and enforcement are regulated by statute and in this jurisdiction it may issue to any inferior tribunal, corporation, board, or person, whether exercising functions judicial or ministerial, whose acts are without or in excess of jurisdiction.
7. WORDS AND PHRASES; “JU-

- DICIAL" AND "MINISTERIAL", SCOPE OF TERMS.—The terms "judicial" and "ministerial" used with reference to "functions" in the statute are undoubtedly comprehensive and include investigation which, if unauthorized and is violative of the Constitution, is a *fortiori* without or in excess of jurisdiction.
8. PROHIBITION; SCOPE OF OPERATION OF WRIT.—The statutory rule in this jurisdiction is that the writ of prohibition is not confined exclusively to courts or tribunals to keep them within the limits of their own jurisdiction and to prevent them from encroaching upon the jurisdiction of other tribunal, but will issue, in appropriate cases, to an officer or person whose acts are without or in excess of his authority. Not infrequently, "the writ is granted, where it is necessary for the orderly administration of justice, or to prevent the use of the strong arm of the law in an oppressive or vindictive manner, or a multiplicity of actions."
  9. CONSTITUTIONAL LAW; POWERS OF THE CHIEF EXECUTIVE; EXTENSIVE GRANT UNDER CONSTITUTION.—Extensive authority over the public service is granted the President of the Philippines. Article VII of the Constitution begins in its section 1 with the declaration that "The Executive power shall be vested in a President of the Philippines." All executive authority is thus vested in him, and upon him devolves the constitutional duty of seeing that the laws are "faithfully executed."
  10. ID.; ID.; IMPLIED POWERS.—In addition to these specific and express powers and functions, he may also exercise those necessarily implied and included in them.
  11. ID.; ID.; NATIONAL ASSEMBLY WITHOUT POWER TO DIMINISH AUTHORITY.—The National Assembly may not enact laws which either expressly or impliedly diminish the authority conferred upon the President by the Constitution.
  12. ID.; ID.; EXECUTIVE POWER OF CONTROL AND SUPERVISION; EXERCISE THRU DEPARTMENT HEADS.—The Constitution provides that the President "shall have control of all the executive departments, bureaus and offices" (Art VII, sec. 11 (1), first clause) and shall "exercise general supervision over local governments as may be provided by law" (Ibid, second clause). This power of control and supervision is an important constitutional grant. The President in the exercise of the executive power under the Constitution may act through the heads of the executive departments.
  13. ID.; ID.; ACTS OF SUBORDINATE OFFICIALS; PRESUMPTION.—The heads of the executive departments are the President's authorized assistants and agents in the performance of his executive duties, and their official acts, promulgated in the regular course of business, are presumptively his acts.
  14. ID.; ID.; ADMINISTRATIVE CONTROL THROUGH POWER OF REMOVAL.—The power of removal which the President may exercise directly and the practical necessities of efficient government brought about by administrative centralization easily make the President the head of the administration.
  15. ID.; ID.; POWER TO ORDER INVESTIGATION; BASIS OF POWER.—Independently of any statutory provision authorizing the President to conduct an investigation of the nature involved in this proceeding, and in view of the nature and character of the executive authority with which the President of the Philippines is invested, the constitutional grant to him of power to exercise general supervision over all local governments and to take care that the laws be faithfully executed must be construed to authorize him to order an investigation of the act or conduct of the petitioner herein.

16. ID.; ID.; NATURE OF POWER OF SUPERVISION.—Supervision is not a meaningless thing. It is an active power. It is certainly not without limitation, but it at least implies authority to inquire into facts and conditions in order to render the power real and effective. If supervision is to be conscientious and rational, and not automatic and brutal, it must be founded after careful study and investigation.
17. ID.; ID.; SUPERVISORY POWER OVER THE LOCAL GOVERNMENTS; EXTENT.—General *supervision* referred to in the Constitution is distinct from the *control* given to the President over executive departments, bureaus and offices.
18. ID.; ID.; EXTENT OF EXECUTIVE POWERS; DELIBERATION OF CONSTITUTIONAL CONVENTION AS GUIDE IN INTERPRETATION.—The deliberations of the Constitutional Convention show that the grant of the supervisory authority of Chief Executive was in the nature of a compromise resulting from the conflict of views in that body, mainly between the historical view which recognizes the right of local self-government and the legal theory which sanctions the possession by the state of absolute control over local governments.
19. ID.; ID.; EXECUTIVE POWER UNDER SECTION 64 OF ADMINISTRATIVE CODE HELD IN FORCE.—Section 64 of the Administrative Code of 1917 which was in existence before the taking effect of the Constitution, still subsists. It is not inconsistent with the Constitution and has not been abrogated or repealed by the National Assembly.
20. ID.; ID.; CHARGES INVOLVING MATTERS OF PUBLIC INTEREST; POWER OF PRESIDENT TO ORDER INVESTIGATION; BASIS OF POWER.—Under the facts of the case, held: The investigation of the petitioner in the case at bar would still be in order if for no other purpose than to cause a full and honest disclosure of all the facts so that, if found proper and justified, appropriate action may be taken against the parties alleged to have been guilty of the illegal acts charged. This is essential to render effective the authority vested in the President by the Constitution "to take care that the laws be faithfully executed."
21. ID.; ID.; DUTIES TO PRESERVE AND DEFEND CONSTITUTION AND TO FAITHFULLY EXECUTE THE LAW; SCOPE.—The declaration that the President should "take care that the laws be faithfully executed" is more an imposition of an obligation than a conferment of power. His oath requires him to "faithfully and conscientiously fulfill" his duties as President, "preserve and defend" the Constitution and "execute" the law. This duty of the Executive to see that the laws be faithfully executed is not limited to the enforcement of legislative acts or the express terms of the Constitution but also includes the due enforcement of rights, duties, obligations, prerogatives and immunities growing out of the Constitution itself and of the protection implied by the nature of the government under the Constitution.
22. ID.; FREEDOM OF SPEECH; EXTENT AND LIMITATIONS OF PRIVILEGE.—An investigation ordered to enable petitioner to substantiate charges involving public interest is not a denial of the right of free speech nor is such investigation ordered because of her exercise of that right. Petitioner has a perfect right to criticize the Government, its administration, its policies and officials, but she may not, on the plea of freedom of speech and of the press, impute violations of law and the commission of frauds and thereafter hold her arms and decline to face an investigation conducted to elicit the truth or falsity of the charges formulated by her. Otherwise, the guarantee which, in the language of Wendell Phillips, is "at

once the instrument and the guarantee, and the bright consummate flower of all liberty" would degenerate into an unbridled license, and render the Government powerless to act.

#### ORIGINAL PROCEEDINGS. Prohibition.

The facts are stated in the opinion of the court.

*Juan Sumulong, Godofredo Reyes, Vicente Sotto, Lorenzo Sumulong, Wenceslao Q. Vinsons and Jose de Leon* for petitioner.

*Solicitor-General Roman Ozaeta* for respondent.

#### DECISION

This is an original action of prohibition instituted in this Court by which the petitioner seeks to enjoin the respondent Commissioner of Civil Service from conducting the investigation ordered by authority of the President of the Philippines. The case arose as a result of the publication in one of the local dailies of a statement in which the petitioner, then and now a member of the Municipal Board of the City of Manila, criticized the acts of certain government officials in connection with the general election for Assemblymen held on November 8, 1938. The statement as published in the issue of *La Vanguardia* of November 17, 1938, is translated as follows:

"All opposition efforts in the country are useless just as all movement toward the unification of the opposition as long as in the opposition group there are people who present their candidacies and then speculate on these candidacies, offering them to the highest bidder. In Manila, the opposition should have won the November 8 elections, but lost instead because of a disastrous division due to people who commercialized their candidacies.

"The Constitution prohibits the reelection of the President precisely so that the President may devote all his time to the administration of public affairs for the welfare of the people, but the President was the first to play politics, publicly expressing his preference for candidates of his liking; and with the President all other officials of the government also moved, taking part in electoral campaigns.

"With the government machinery feverishly functioning to flatten the opposition and prevent candidates supported by the people

from going to the National Assembly, and with frauds and violations of all rules of the civil service to push to victory the candidates of the Nacionalista Party and the administration, all constructive opposition in the country is useless. In past elections, all the municipal and city mayors have been mobilized to insure the victory of the candidates of the administration, depriving the people of their right to vote for the candidates of their own choosing.

"Even members of the cabinet moved, one of them, the Hon. Eulogio Rodriguez going to the extent of speaking at meetings in the province of Rizal to counteract the avalanche of votes for the opposition, instead of staying in his office in the government. The opposition is struggling within the law, but the party in power uses means that are not worthy of gentlemen in order that it may predominate in the government forever, never has it tried to fight fairly.

"It may be said that the President of the United States is also making electoral campaigns, but the situation in the United States is different. There the President is allowed to run for reelection while in the Philippines the Constitution wisely provides against the reelection of the President. It is reasonable to believe that the President is from this moment paving the way for his reelection. It is to be feared that the new National Assembly will change this wise provision of our Constitution to permit the reelection of President Manuel L. Quezon."

On November 18, 1938, the day following the publication of the foregoing statement, the petitioner received a letter, Annex A, signed as follows: "By authority of the President: Jorge B. Vargas, Secretary of the President," in which letter the statement is quoted in full and the petitioner is informed thus:

"In the above statement, you appear to make the following: (1) That the President of the Philippines has violated the Constitution in that he has taken part in politics, expressing his preference for the candidates of the Nacionalista Party; (2) That the whole government machinery has been put in action to prevent the election to the National Assembly of the candidates of the people; (3) That the candidates of the Nacionalista Party and of the administration have won the election through frauds and violations of the civil service rules;

(4) That the administration does not permit the people to freely elect the candidates of their choice.

"You are hereby directed to appear before the Commissioner of Civil Service either alone or accompanied by counsel, at 9:00 o'clock a. m., on November the 22nd to prove the statements made by you. Failure to sustain your charges or to prove that they have been made in good faith will be considered sufficient cause for your suspension or removal from office."

At the appointed time, the petitioner, accompanied by her counsel, appeared at the Office of the respondent and delivered to him a letter, Annex B, in which she voiced objection to the authority of the respondent to conduct the investigation. The respondent Commissioner did not desist from proceeding with the investigation, but announced before adjourning the hearing of November 22nd that he would decide the question raised as to his jurisdiction on November 26, 1938. It was at this state of the investigation that the petitioner filed in this Court her original petition for prohibition of November 25, 1938, in which she at the same time prayed for the issuance of a writ of preliminary injunction enjoining the respondent Commissioner from continuing with the investigation. The petition for the issuance of a writ of preliminary injunction was denied by resolution of this Court dated November 25, 1938. The next day the petitioner requested the respondent, in writing (Annex D), to refrain from making any ruling on the question of his jurisdiction to investigate the petitioner and to abstain from taking any further step in connection with said investigation until the jurisdictional issue could be finally passed upon by this Court. On the same day, the request of the petitioner was denied and the respondent ruled that he had jurisdiction to proceed with the investigation (Annex E). The respondent also notified the petitioner to appear before him on Saturday, December 3, 1938, and to testify in her behalf and produce such other evidence as she might desire to present in support of the charges contained in her statement of November 17, 1938. The original petition of November 25th was amended by another

of December 2nd. The amendment was allowed by this Court. The Solicitor-General filed his amended answer accordingly.

Petitioner contends in her amended petition:

"(a)—That the respondent is absolutely without jurisdiction to investigate petitioner with a view to her suspension or removal in connection with her statement of November 17th;

"(b)—That the said investigation with a view to petitioner's suspension or removal is against Art. VII, sec. 11(1) of the Constitution of the Philippines and is not warranted by any statutory provision;

"(c)—That even under the statutes in force before the approval of the Constitution of the Philippines, petitioner, as councilor of the City of Manila, cannot be investigated administratively with a view to her suspension or removal except for acts or conduct connected with the discharge of her official functions;

"(d)—That petitioner as an elective official, is accountable for her political acts to her constituency alone, unless such acts constitute offenses punishable under our penal laws, and not to executive officials belonging to a party opposed to that to which petitioner is affiliated;

"(e)—That petitioner's statement of November 17th made by her as a private citizen and in the exercise of her right to discuss freely political questions cannot properly be the subject of an administrative investigation had with a view to her suspension or removal, and is only cognizable by our courts of justice in case the contents of said statement infringe any provision of our Penal Code;

"(f)—That if petitioner's statement of November 17th, as asserted in the Vargas letter of November 21st Annex 'C', constitute sedition or any other criminal offense in that said statement 'tends to create general discontent, and hatred among the people against their government, to make them lose faith in the effectiveness of lawful processes to secure a change in the control of the government, and to present the next National Assembly as an illegal body, constituted by men who have been elected through wholesome frauds and violations of the civil service rules, 'then petitioner's responsibility is a matter that should be heard and decided by the competent courts in a trial publicly and impartially conducted, and should not be the subject of an administrative investigation with

a view to suspension or removal held behind closed doors, with the power of final decision resting in the hands of the very officials imputing seditious or other criminal utterances to the petitioner;

"(g)—That the authority sought to be conferred on respondent by means of the two letters Annexes 'A' and 'C' both signed 'By authority of the President: Jorge B. Vargas, Secretary to the President' is without any force or effect, since the powers and prerogatives vested in the President of the Philippines by our Constitution and by our laws can be exercised by the President alone, and cannot be delegated to Mr. Jorge B. Vargas or to any other person;

"(h)—That the proposed investigation with a view to petitioner's suspension or removal by this Honorable Court, would constitute an exercise of arbitrary, inquisitorial unlawful, and oppressive powers on the part of respondent, tending to the suppression of the constitutional right of petitioner, as a citizen, to express freely and without fear of political persecution her honest opinions concerning the policies and political conduct of government officials."

Petitioner prays:

"(1)—That a writ of preliminary injunction be forthwith issued directing the respondent Commissioner of Civil Service to desist from the investigation sought to be conducted by him of petitioner, with a view to her suspension or removal, in connection with her statement published November 17th, until further orders of this Honorable Court;

"(2)—That upon due hearing the respondent be permanently prohibited from proceeding further in connection with said investigation;

"(3)—That the orders contained in the two letters of Mr. Jorge B. Vargas (Annexes 'A' and 'C' and the respondent's resolution dated November 26, 1938 (Annex 'E'), under which respondent seeks to undertake the investigation so many times referred to herein, be declared arbitrary and unconstitutional and therefore without any force or effect;

"(4)—For costs of the petitioner and for such other remedy as to this Honorable Court may seem just and equitable."

Upon the other hand, the Solicitor-General contends in his amended answer:

(a) That respondent not only has jurisdiction but is in duty bound to investigate the charges contained in the petitioner's statement published on November 17, 1938,

by virtue of and pursuant to the order of His Excellency, the President of the Philippines (par. 3);

(b) That the power to order an investigation is vested in the President of the Philippines by section 11(1) of article VII of the Constitution and section 64 (c) of the Revised Administrative Code (Id.);

(c) That the question of whether or not the good of the public service requires the investigation in question is a matter on which the opinion of the Chief Executive is conclusive and not subject to review by the courts (par. 4, (b) );

(d) That an administrative investigation of any act or conduct of any person in the government service is independent and exclusive of any judicial action that the interested parties may institute arising from the same act or conduct (par. 4, (c) );

(e) That petitioner's theory that an elected provincial or municipal official is accountable to his or her constituency alone and is not subject to any administrative investigation but only to a criminal prosecution in court, has no basis either in law or in precedent (par. 5, (a) );

(f) That such investigation is neither arbitrary nor unlawful nor inquisitorial because it is sanctioned by the Constitution and statutory provisions (par. 5, (b) );

(g) That the petition does not state a cause of action nor does it appear that petitioner has suffered any grievance that calls for the Court's intervention, for it is not alleged that petitioner has been removed or suspended from office or that she has in any way been deprived of any civil or political right par. 7, (a) );

(h) That the present action is premature and that there is no justification for the Court to entertain the same (par. 9); and

(i) That this Court has no jurisdiction over the case under the doctrine of separation of powers (par. 10).

The Solicitor-General under the last paragraph (par. 10) of his amended answer, raises the question of jurisdiction of this Court over the acts of the Chief Executive. He contends that "under the separation of powers marked by the Constitution, the Court has no jurisdiction to review the orders of the Chief Executive, evidenced by Annex 'A' and Annex 'C' of the petition, which are of purely administrative character."

Reliance is had on the previous decisions of this Court: *Severino v. Governor-General* (1910) 16 Phil. 366; *Abueva v. Wood* (1924) 45 Phil. 612; and *Alejandrino v. Quezon et al.* (1942) 46 Phil. 83. Although this is the last point raised by the Government in its answer, it should, for reasons that are apparent, be first to be considered. If this Court does not have jurisdiction to entertain these proceedings, then, the same should be dismissed as a matter of course; otherwise, the merits of the controversy should be passed upon and determined.

It must be conceded that the acts of the Chief Executive performed within the limits of his jurisdiction are his official acts and courts will neither direct nor restrain executive action in such cases. The rule is non-interference. But from this legal premise, it does not necessarily follow that we are precluded from making an inquiry into the validity or constitutionality of his acts when these are properly challenged in an appropriate legal proceeding. The classical separation of governmental powers, whether viewed in the light of the political philosophy of Aristotle, Locke, or Montesquieu, or of the postulations of Mabini, Madison, or Jefferson is a relative theory of government. There is more truism and actuality in interdependence than in independence and separation of powers, for as observed by Justice Holmes in a case of Philippine origin, we cannot lay down "with mathematical precision and divide the branches into watertight compartments" not only because "the great ordinances of the Constitution do not establish and divide fields of black and white" but also because "even the more specific of them are found to terminate in a penumbra shading gradually from one extreme to another." (*Springer v. Government* (1928) 277 U. S. 189; 72 L. ed. 845, 852.) As far as the judiciary is concerned, while it holds "neither the sword nor the purse" it is by constitutional placement the organ called upon to allocate constitutional boundaries, and to the Supreme Court is entrusted the determination of the constitutionality or

in appropriate cases the constitutionality or validity of any treaty, law ordinance, or executive order or regulation. (Sec 2 (1), Art. VIII, Constitution of the Philippines.) In this sense and to this extent, the judiciary restrains the other departments of the government and this results is one of the necessary corollaries of the "system of checks and balances" of the government established.

In the present case, the President is not a party to the proceeding. He is neither compelled nor restrained to act in a particular way. The Commissioner of Civil Service is the party respondent and the theory is advanced by the Government that because an investigation undertaken by him is directed by authority of the President of the Philippines, this Court has no jurisdiction over the present proceeding instituted by the petitioner, Carmen Planas. The argument is far-fetched. A mere plea that a subordinate officer of the government is acting under orders from the Chief Executive may be an important averment, but is neither decisive nor conclusive upon this Court. Like the dignity of his high office, the relative immunity of the Chief Executive from judicial interference is not in the nature of a sovereign passport for all the subordinate officials and employees of the Executive Department to the extent that at the mere invocation of the authority that it purports the jurisdiction of this Court to inquire into the validity or legality of an executive order is necessarily abated or suspended. The facts in *Severino v. Governor-General*, *supra*, *Abueva v. Wood*, *supra*, and *Alejandrino v. Quezon*, *supra*, are different, and the doctrines held down therein must be confined to the facts and legal environment involved and whatever general observations might have been made in elaboration of the views therein expressed but which are not essential to the determination of the issues presented are mere *obiter dicta*.

While, generally prohibition as an extraordinary legal writ will not issue to restrain or control the performance of other than judicial or quasijudicial



jurisdiction. (Secs. 516 and 226, C. C. P.) The terms "judicial and ministerial" used with reference to "functions" in the statute are undoubtedly comprehensive and include the challenged investigation by the respondent Commissioner of Civil Service, which investigation if unauthorized and is violative of the Constitution as contended is a *fortiori* without or in excess of jurisdiction. The statutory rule in this jurisdiction is that the writ of prohibition is not confined exclusively to courts or tribunals to keep them within the limits of their own jurisdiction and to prevent them from encroaching upon the jurisdiction of other tribunal, but will issue, in appropriate cases, to an officer or person whose acts are without or in excess of his authority. Not infrequently, "the writ is granted, where it is necessary for the orderly administration of justice, or to prevent the use of the strong arm of the law in an oppressive or vindictive manner, or a multiplicity of actions." (*Dimayuga & Fajardo v. Fernandez* (1922) 43 Phil. 304, 307; *Aglipay v. Ruiz* (1937) XXXV O. G., No. 121, p. 2164.) This Court, therefore, has jurisdiction over the instant proceedings and will accordingly proceed to determine the merits of the present controversy.

As is seen from the foregoing relation of facts, various legal questions are propounded. Reducing, however, the issues to what is considered as the fundamental legal proposition presented, we are asked in these proceedings to prohibit the respondent Commissioner of Civil Service from conducting or continuing with the investigation ordered by authority of the President of the Philippines. It is not denied that the President did authorize the issuance of the order, but it is contended "that the said investigation with a view to petitioner's suspension or removal is against Art. VII, sec. 11(1) of the Constitution of the Philippines and is not warranted by any statutory provision." (Par. XV (b), amended petition.) It, therefore becomes necessary to inquire into the constitutional and legal authority of the President to order the investigation which has given rise to the present controversy.

A perusal of our Constitution will show that extensive authority over the

public service is granted the President of the Philippines. Article VII of the Constitution begins in its section 1 with the declaration that "The Executive power shall be vested in a President of the Philippines." All executive authority is thus vested in him, and upon him devolves the constitutional duty of seeing that the laws are "faithfully executed." (Art. VII, sec. 11, subsec. 1, last clause.) In the fulfillment of this duty which he cannot evade, he is granted specific and express powers and functions. (Art. VII, sec. 11.) In addition to these specific and express powers and functions, he may also exercise those necessarily implied and included in them. (*Myers v. United States* (1926) 272 U. S. 52, 71 L. ed. 160, 47 Sup. Ct. Rep. 21; *Willoughby*, Constitution of the United States, sec. 953, citing *Taft's Our Chief Magistrate and His Powers*, 139.) The National Assembly may not enact laws which either expressly or impliedly diminish the authority conferred upon the President by the Constitution. (*Cf. Concepcion v. Raredes* (1921) 42 Phil. 599.) The Constitution provides that the President "shall have control of all the executive departments, bureaus and offices" (Art. VII sec. 11 (1), first clause) and shall "exercise general supervision over local governments as may be provided by law" (*Ibid*, second clause). This power of control and supervision is an important constitutional grant. The President in the exercise of the executive power under the Constitution may act through the heads of the executive departments. The heads of the executive departments are his authorized assistants and agents in the performance of his executive duties, and their official acts, promulgated in the regular course of business, are presumptively his acts. (*Runkle v. United States* (1887) 122 U. S. 543, 30 L. ed., 1167, 7 Sup. Ct. Rep. 1141; See also *U. S. v. Eliason* (1839) 16 Pet. 291, 10 L. ed. 968; *Jones v. U. S.* (1890) 137 U. S. 202, 34 L. ed. 691, 11 Sup. Ct. Rep. 80; *Wolsey v. Chapman* (1880) 101 U. S. 755, 25 L. d. 015; *Wilcox v. Jackson* (1836) 13 Pet. 498, 10 L. ed. 264). The power of removal which the President may exercise directly and the practical necessities of efficient government brought about by administrative cen-

trallization easily make the President the head of the administration. (Willoughby, Constitution of the United States, Vol. II, 2nd ed. sec. 959.) Independently of any statutory provision authorizing the President to conduct an investigation of the nature involved in this proceeding, and in view of the nature and character of the executive authority with which the President of the Philippines is invested, the constitutional grant to him of power to exercise general supervision over all local governments and to take care that the laws be faithfully executed must be construed to authorize him to order an investigation of the act or conduct of the petitioner herein. Supervision is not a meaningless thing. It is an active power. It is certainly not without limitation, but it at least implies authority to inquire into facts and conditions in order to render the power real and effective. If supervision is to be conscientious and rational, and not automatic and brutal, it must be founded upon a knowledge of actual facts and conditions disclosed after careful study and investigation.

Viewed from the totality of powers conferred upon the Chief Executive by our Constitution, we should be reluctant to yield to the proposition that the President of the Philippines who is endowed with broad and extraordinary powers by our Constitution, and who is expected to govern with a firm and steady hand without vexatious or embarrassing interference and much less dictation from any source, is yet devoid of the power to order the investigation of the petitioner in this case. We should avoid that result.

Our attention has been directed to the fact that, with reference to local government, the Constitution speaks of general *supervision* which is distinct from the *control* given to the President over executive departments, bureaus and offices. This is correct. But, aside from the fact that this distinction is not important insofar as the power of the President to order the investigation is concerned, as hereinabove indicated, the deliberations of the Constitutional Convention show that the grant of the supervisory authority to Chief Executive in this regard was in the nature of a compromise resulting from the con-

flict of views in that body, mainly, between the historical view which recognizes the right of local self-government (People Ex rel. Le Roy v. Hurlbut et al. (1871 24 Mich. 44) and the legal theory which sanction the possession by the state of absolute control over local governments. (Booten v. Pinson, L. R. A. (N.S.) 1917-A, 1244; 77 W. Va. 412 (1915)). The result was the recognition of the power of supervision and all its implications and the rejection of what otherwise would be an *imperium in imperio* to the detriment of a strong national government.

Apart from the constitutional aspect, we find that section 64 of the Administrative Code of 1917 provides as follows:

"In addition to his general supervisory authority the Governor-General (President) shall have such specific powers and duties as are expressly conferred or imposed on him by law and also, in particular, the powers and duties set forth in this chapter.

"Among such special powers and duties shall be:

\* \* \*

(c) To order, when in his opinion the good of the public service so requires, an investigation of any action or the conduct of any person in the Government service and in connection therewith to designate the official, committee, or person by whom such investigation shall be conducted."

This provision of the law, in existence before the taking effect of the Constitution, still subsists. It is not inconsistent with the Constitution and has not been abrogated or repealed by the National Assembly. (See sec. 2, Art. XV, Constitution.)

It is next urged that assuming the power of the President to order the investigation, that investigation should be in accordance with law; that the petitioner as an elective official can be proceeded against administratively only on the grounds specifically stated in the law, namely, disloyalty, dishonesty, oppression, misconduct, or maladministration in office; and that as an elective official she is responsible for her political acts to her constituency alone. At the risk of repetition, it should be observed that in the letter addressed by Secretary Vargas, by authority of the President, to Miss Planas, the latter is informed as

follows: "In the above statement, you appear to make the following charges:

(1) That the President of the Philippines has violated the Constitution in that he has taken part in politics, expressing his preference for the candidates of the Nacionalista Party; (2) That the whole government machinery has been put in action to prevent the election to the National Assembly of the candidates of the people; (3) That the candidates of the Nacionalista Party and of the administration have won the election through frauds and violations of the civil service rules; (4) That the administration does not permit the people to freely elect the candidates of their choice"; and in that letter she is directed to appear before the Commissioner of Civil Service to prove the statement made by her. In the letter designating the respondent Commissioner as investigator of the petitioner, it is stated: "The charges contained in the foregoing statement tend to create general discontent, and hatred among the people against their government, to make them lose faith in the effectiveness of lawful processes to secure a change in the control of the government, and to present the next National Assembly as an illegal body, constituted by men who have been elected through wholesale frauds and violations of the civil service rules. The interest of the public service requires that these charges be investigated, so that, if found to be true, appropriate action may be taken against the parties alleged to have been guilty of illegal acts, and if found untrue and made without justifiable motives, the party making them may be proceeded against in accordance with Section 2440, in connection with Section 2078, of the Revised Administrative Code." Assuming that this is not one of the grounds provided by law for which the petitioner may be investigated administratively (Sec. 2078, Rev. Adm. Code), there is weight in the argument that the investigation would still be in order if for no other purpose than to cause a full and honest disclosure of all the facts so that, if found proper and justified, appropriate action may be taken against the parties alleged to have been guilty of the illegal acts charged. This is essential to

render effective the authority vested in the President by the Constitution "to take care that the laws be faithfully executed." (Sec. 11, par. 1, Art. VII.) The enforcement of the law and the maintenance of peace and order are primarily an executive obligation. The declaration that the President should "take care that the laws be faithfully executed" is more an imposition of an obligation than a conferment of power. His oath requires him to "faithfully and conscientiously fulfill" his duties as President, "preserve and defend" the Constitution and "execute" the law. This duty of the Executive to see that the laws be faithfully executed is not limited to the enforcement of legislative acts or the express terms of the Constitution but also includes the due enforcement of rights, duties, obligations, prerogatives and immunities growing out of the Constitution itself and of the protection implied by the nature of the government under the Constitution. (Cunningham vs. Neagle, 135 U. S. 1, 34 L. ed. 55.)

Petitioner contends that she has not abused the right of free speech, and in this connection directs our attention to the provisions of section 1 (pars. 1 & 8) of the bill of rights. She also urges that "in the supposition that the statement in question is libelous \* \* \*—, the corresponding criminal or civil action should be brought in the courts of justice at the initiative, not of the government, but of the individuals claiming to have been defamed by the state ments." (p. 11, printed memorandum of the petitioner.) We are vigilantly alive to the necessity of maintaining and protecting the constitutional guaranty of freedom of speech and of the press, no less than the right of assembly and petition which, according to Stimson (*The American Constitution As It Protects Private Rights*, 152), is its origin rather than its derivation. We do not forget that when repression of political and religious discussion became intense --when censorship of the press was resorted to most vigorously by the Long Parliament in England—John Milton, the great historiographer of Cromwell, in his *Areopagitica*, denounced the suppression of truth and appealed for "the liberty to know, to utter, and to argue freely accordingly to conscience, above

all liberties (Areopogitica, 73, 74, Am-  
bler's Reprint). And this Court has  
had occasion to vindicate this right,  
and it is not a settled doctrine that the  
official conduct and the policies of pub-  
lic officials can be criticized (U. S. v.  
Bustos, 37 Phil. 731), and that criticism  
of the Constitution and legislation, of  
government measures or policies cannot  
be suppressed or prevented (U. S. v.  
Perfecto, 43 Phil., 225), unless the in-  
tention be to incite rebellion and civil  
war (Cooley, Constitutional Limita-  
tions, 614). In the present case, how-  
ever, the petitioner is not denied the  
right, nor is she being investigated be-  
cause she had exercised that right. She  
has a perfect right to criticize the Gov-  
ernment, its administration, its policies  
and officials, but she may not, on the  
plea of freedom of speech and of the  
press, impute violations of law and the  
commission of frauds and thereafter  
fold her arms and decline to face an  
investigation conducted to elicit the  
truth or falsity of the charges formu-  
lated by her. Otherwise, the guaran-  
tee which, in the language of Wendell  
Phillips, is "at once the instrument, and  
the guarantee, and the bright con-  
summate flower of all liberty" would  
degenerate into an unbridled license,  
and render the Government powerless  
to act.

The petition is hereby dismissed, with  
costs against the petitioner.

So ordered.

JOSE P. LAUREL

WE CONCUR: *Ramon Avanceña, An-  
tonio Villa-Real, Carlos A. Imperial,  
Anacleto Diaz, Pedro Concepcion.*

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## Executive . . . .

(Continued from page 601)

appointed, the power to make such ap-  
pointment being vested in the Presid-  
ent. The absence of the Provincial  
Governor from the province on official  
business, as in this case, does not  
create a temporary vacancy and, there-  
fore, there is no vacancy to fill. Be-  
fore going out of the province on of-  
ficial business, the Governor should,  
however, authorize a provincial offi-  
cial or employee, pursuant to standing  
instructions, preferably the Provincial  
Secretary, to dispatch routine matters  
in his office and should designate a  
member of the Provincial Board to pre-  
side over such regular and/or special  
meetings as may be held by the Board  
during his absence. Please be guided  
accordingly.—*1st Ind., May 31, 1946,  
of Undersecretary of the Interior; DIF  
147.02, Abra.*

—————oOo—————

## TRUST THYSELF

TRUST thyself: every heart vibrates  
to that iron string. Insist on your-  
self; never imitate. That which each  
can do best, none but his Maker can  
teach him. There is a time in every  
man's education when he arrives at the  
conviction that imitation is suicide;  
that he must take himself for better,  
for worse, as his portion. The power  
which resides in him is new in Nature,  
and none but he knows what that is  
which he can do, nor does he know un-  
til he has tried.—*Ralph Waldo Emer-  
son.*

—————oOo—————

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# REVISED ADMINISTRATIVE CODE OF THE PHILIPPINES

ACT No. 2711

Approved March 10, 1917

(As amended by the Congress of the Philippines)

Edited by

JUAN F. RIVERA

(Member of the Philippine Bar And Pensionado of the Republic of the Philippines in the University of Wisconsin U. S. A. on "Municipal Government Administration")

## FOURTH (PHILIPPINE LEGISLATURE

First Session

begun and held at the City of Manila on Monday the sixteenth day of October, one thousand nine hundred and sixteen

## AN ACT AMENDING THE ADMINISTRATIVE CODE

Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

For the purpose of adapting it to the Jones Law<sup>1</sup> and the Reorganization Act,<sup>2</sup> Act Numbered Two thousand six hundred and fifty-seven, known as the Administrative Code, is hereby amended in certain particulars; and said Act shall hereafter read as follows:

1. The Act of Congress of the United States of August 29, 1916.

2. Reorganization Act No. 2656 of the Philippine Legislature; see Executive Order No. 94, s. 1947.

## BOOK I

## ORGANIZATION, POWERS, AND GENERAL ADMINISTRATION OF PHILIPPINE GOVERNMENT

### Title I.—MATTER OF GENERAL NATURE

Preliminary Chapter.—Title of Act

SECTION 1. *Title of Act.*—This Act shall be known as the Administrative Code.

[2657—1.]

## Chapter 1. — DEFINITIONS AND GENERAL PROVISIONS

### ARTICLE I.—Definitions

SEC. 2. Words and phrases defined

### ARTICLE II.—General principles

SEC. 3. Relation of Administrative Code to prior laws.

SEC. 4. Authority of officer to act through deputy.

SEC. 5. Exercise of Administrative discretion.

### ARTICLE III.—Form and effect of laws in general

SEC. 6. Form of enacting clause.

SEC. 7. Form of resolving clause.

SEC. 8. Clauses not to be repeated.

SEC. 9. Numbering and frame of sections.

SEC. 10. Manner of referring to statutes.

SEC. 11. When laws take effect.

SEC. 12. Ignorance of law.

SEC. 13. Computation of time.

SEC. 14. No implied revival of repealed law.

SEC. 15. Language that should prevail in the interpretation of laws.

### ARTICLE IV.—Jurisdiction and distribution of powers of Government

SEC. 16. Territorial jurisdiction and extent of powers of Philippine Government.

SEC. 17. Distribution of powers of government.

### ARTICLE V.—Arm and Great Seal

SEC. 18. Arms and Great Seal of the Commonwealth of the Philippines.

SEC. 19. Custody and use of Great Seal.

### ARTICLE VI.—Administration of oaths in general

SEC. 20. Solemn affirmation in lieu of oaths.

SEC. 21. Officials authorized to administer oaths.

SEC. 22. Duty to administer oaths.

### ARTICLE VII.—Oaths of office

SEC. 23. Oath of office for (insular) national and provincial employees.

SEC. 24. Oath of office of municipal official.

SEC. 25. Occasions for administration of official oath.

SEC. 26. By whom oath of office may be administered.

SEC. 27. Preservation of oaths.

SEC. 28. Swearing of interpreters and stenographers.

#### ARTICLE VIII.—*Legal holidays*

SEC. 29. Legal holidays.

SEC. 30. Special holidays declared by (Governor-General) President of the Philippines.

SEC. 31. Pretermission of holiday.

#### ARTICLE IX.—*Weights and measures*

SEC. 32. Standard weights and measures in (Philippine Island) Philippines.

SEC. 33. Requirement as to use of metric system.

#### ARTICLE X.—*Official Gazette*

SEC. 34. Reporter of Supreme Court as editor of Official Gazette.

SEC. 35. Contents of Official Gazette.

SEC. 36. English and Spanish issues of Official Gazette — Printing and distribution.

#### ARTICLE I.—*Definitions*

SEC. 2. *Words and phrases defined.*

—The following expressions shall be taken in the sense herein below indicated, except as a different meaning for the word or phrase in question may be given in a particular statute or is plainly to be collected from the context or connection where the term is used:

“The Government of the (Philippine Island) Philippines”<sup>1</sup> is a term which refers to the corporate governmental entity through which the functions of government are exercised throughout the (Philippine Islands) Philippines, including, save as the contrary appears from the context, the various arms through which political authority is made effective in (said Islands) the Philippines, whether pertaining to the central Government or to the provincial or municipal branches or other form of local government.

“(Insular) National Government” refers to the central government as distinguished from the different forms of

local government. “Philippine Government” refers to the Government of the (Philippine Islands) Philippines.

“Specially organized province” includes Batanes, (Mindoro,) Mountain Province, Nueva, Vizcaya, and Palawan.<sup>2</sup>

“Regularly organized province” includes all provinces except the specially organized provinces and the provinces of the Department of Mindanao and Sulu.<sup>3</sup>

“Municipality” refers to municipalities proper and except as otherwise specially provided does not include chartered city, (township) <sup>4</sup> municipal district, or other local political division.<sup>5</sup>

“Chartered city,” “city incorporated under special charter,” and similar expressions refer to cities, like Manila and Baguio, incorporated under special laws.<sup>6</sup>

“Citizen of the (Philippine Island) Philippines” includes not only those who acquire the status of citizens of the (Philippine Islands) Philippines by birth or naturalization, but also persons who have acquired the status of Filipinos under Article IX of the Treaty of Paris, on the tenth of December, one thousand eight hundred and ninety-eight.<sup>7</sup>

“Employee,” when generally used in reference to persons in the public service, includes any person in the service of the Government or any branch thereof of whatever grade or class.

“Officer,” as distinguished from “Clerk” or “employee” refers to those officials whose duties, not being of a clerical or manual nature, may be considered to involve the exercise of discretion in the performance of the functions of government, whether such duties are precisely defined by law or not.

“Officer,” when used with reference to a person having authority to do a particular act or perform a particular function in the exercise of governmental power, shall include any Government employee, agent, or body having authority to do the act or exercise the function in question.

The word "person" includes both natural and artificial persons.

[2657—2.]

1. The term "Government of the Philippines" is used in subsection 2, Section 1, Article XVII, Constitution of the Philippines.

2. Section 1 of Act 2824, as amended by section 1 of Act 2887, extended the provisions of Chapters 63 and 64 of the Revised Administrative Code to Batanes, Mindoro, and Palawan. Later Mindoro was made a regularly organized province by Act 2964. The same chapters of said Code have been extended by Act 2798, as amended by Act 2913, to the Mountain Province and the Province of Nueva Vizcaya.

3. The Department of Mindanao and Sulu has been abolished and discontinued as a special political division. (See Sec. 1, Act 2878).

4. Abolished by Act 2824 Sec. 2.

5. See C. A. No. 581, re former special municipalities of Romblon.

6. Cities of Zamboanga (C. A. 39, as amended by C. A. 208 and 250; *Davao* (C. A. 51 as amended by C. A. 209 and 462); *Iloilo* (C. A. 57 as amended by C. A. 158 and Rep. Act (276); *Cebu* (C. A. 58 as amended by C. A. 129 and Rep. Acts 67, 244); *Bacolod* (C. A. 326 as amended by C. A. 404) *Tagaytay* (C. A. 338 as amended by C. A. 397); *Quezon City* (C. A. 502 as amended by C. A. 659); *San Pablo* (C. A. 520); *Cavite* (C. A. 547); *Lipa* (Rep. Act 162); *Dagupan* (Rep. Act 170); *Ormoc* (Rep. Act 179); *Rizal* (Rep. Act 183); *Basilan* (Rep. Act 288); *Naga* (Rep. Act 302); *Legaspi* (Rep. Act 306); *Dumaguete* (Rep. Act 327); *Calbayog* (Rep. Act 328);

7. The following are citizens of the Philippines: (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution; (2) Those born in the Philippine Islands of foreign parents who before the adoption of this Constitution, had been elec-

ted to the public office in the Philippine Islands; (3) Those whose fathers are citizens of the Philippines; (4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship; and (5) Those who are naturalized in accordance with law.—Sec. 1, Art. IV, Constitution of the Philippines; See Republic Act 106 providing for the ways in which Philippine citizenship may be lost or reacquired.

#### ARTICLE II.—*General principles*

SEC. 3. *Relation of Administrative Code to prior law.*—Such provisions of this Code as incorporate prior laws shall be deemed to be made in continuation thereof and to be in the nature of amendments thereto, without prejudice to any right already accrued.

[2657—3.]

SEC. 4. *Authority of officer to act through deputy.*—A ministerial Act which may be lawfully done by any officer may be performed by him through any deputy or agent lawfully created or appointed.

[2657—4.]

SEC. 5. *Exercise of administrative discretion.*—The exercise of the permissive powers of all executive or administrative officers and bodies is based upon discretion and when such officer or body is given authority to do any act but not required to do such act, the doing of the same shall be dependent on a sound discretion to be exercised for the good of the service and benefit of the public, whether so expressed in the statute giving the authority or not.

#### ARTICLE III.—*Form and effect of laws in general*

SEC. 6. *Form of enacting clause.*—The enacting clause of all statutes passed by the (Philippine Legislature) Congress of the Philippines shall be conceived in the following terms: *Be it enacted by the Senate and House of Representatives of the Philippines in (Legislature) Congress assembled:*

1. See Sec. 1, Art. VI, Constitution of the Philippines.

SEC. 7. *Form of resolving clause.*—The resolving clause of all (joint) resolutions passed by the (Philippine Legislature) Congress of the Philippines shall be conceived in the following term: *Be it Resolved by the Senate and House of Representatives of the Philippines in (Legislature) Congress assembled and by the authority of the same.*

[2657—2]

SEC. 8. *Clauses not to be repeated.*—The enacting clause shall be written before the whole body of the Act, and the resolving clause shall be written before the whole body of the (joint) resolution and neither shall be repeated in each section of the Act or resolution.

[2657—3.]

SEC. 9. *Numbering and frame of sections.*—Every Act shall be divided into sections, each of which shall be numbered and shall contain, as nearly as may be, a single proposition of enactment.

[2657—7.]

SEC. 10. *Manner of referring to statutes.*—Statutes passed by the (Philippines Legislature) Congress of the Philippines shall, for purposes of formal reference, be denominated Acts (Republic Acts) and may be identified by their respective serial numbers; but where a special title is supplied for a particular statute, it may also be referred to by such title.

[2657—8.]

SEC. 11. *When laws take effect.*—A statute passed by the (Philippine Legislature) Congress of the Philippines shall, in the absence of special provision, take effect at the beginning of the fifteenth day after the completion of the publication of the statute in the Official Gazette, the date of issue being excluded. For the purpose of fixing such date the Gazette is conclusively presumed to be published on the day indicated therein as the date of issue.

Resolutions will have effect from the date of passage, unless otherwise declared.

SEC. 12. *Ignorance of law.*—Ignorance of the law does not excuse from compliance therewith.

[2657—10.]

SEC. 13. *Computation of time.*—In computing any fixed period of time, with reference to the performance of an act required by law or contract to be done at a certain time or within a certain limit of time, the day of date, or day from which the time is reckoned, is to be excluded and the date of performance included, unless otherwise provided.

“Month” shall be understood to refer to a calendar month; “day,” to a day of twenty-four hours; and “night,” to the period from the setting to the rising of the sun.

[2657—11]

SEC. 14. *No. implied revival of repealed law.*—When a law which expressly repeals a prior law is itself repealed the law first repealed shall not be thereby revived unless expressly so provided.

[2657—12]

SEC. 15. *Language that should prevail in the interpretation of laws.*—In the interpretation of a law officially promulgated in English and Spanish, the English text shall govern, but in case of ambiguity, omission, or mistake, the Spanish may be consulted to explain the English text. The converse rule shall, however, be applied if so provided in the particular statute: *Provided, however,* That in the interpretation of laws enacted by the Philippine Legislature after October sixteenth, nineteen hundred and sixteen, the language of the text used by the House that finally passed the same shall prevail, and in case of ambiguity, omission, or mistake, the official translation filed in the office of the Secretary of said House may be consulted.

[2657—13; 2717—1.]

ARTICLE IV.—*Jurisdiction and distribution of powers of government*

SEC. 16. *Territorial jurisdiction and extent of powers of Philippine Government.*—The territory over which the Government of the Philippine Islands exercises jurisdiction consists of



the entire Philippine Archipelago and is comprised in the limits defined by the treaties between the United States and Spain, respectively signed in the City of Paris on the tenth day of December, eighteen hundred and ninety-eight, and in the City of Washington on the seventh day of November, one thousand nine hundred.]<sup>1</sup>

[2657—14.]

1. See Sec. 1, Art. 1 of the Constitution of the Philippines, published in Vol. 1 No. 7, L. G. R.

SEC. 17. *Distribution of powers of government.*—The executive, legislative, and judicial powers of the Philippine Government are distributed, respectively, among the executive, legislative, and judicial branches, severally exercising the functions and powers conferred on them by law.

The executive authority is vested in the following agencies: The (Governor-General of the Philippine Island) President of the Philippines, as Chief Executive; the several Departments and Bureaus of the (Insular) National Government, with their lawful instrumentalities; and the provincial and local government with their subordinate functionaries, in the exercise of the administrative powers conferred on them.

The legislative power is vested in the (Philippine Legislature) Congress of the Philippines, consisting of two Houses, to wit, the Senate and the House of Representatives.

The judicial power is vested in the Supreme Court, the Court of Appeals, Courts of First Instance, Courts of justices of the peace, and in such municipal and other inferior courts as may be created by law.

[2657—15; Constitution of the Philippines Art VI, sec. 1; Art VII, sec. 1; Art 1, Sec. 1.]

of our liberty, and we shall no longer be rulers in our native land.

Our religion is in danger and our prophetesses warn us not to let a Spaniard set foot on Philippine soil, for already they have given a name of their own to the country of the Bisayans.

## THE GRATITUDE OF AN ANCIENT MANILA KING

*(Speech to the men of Magellan's fleet, off the Bornean coast, July 29, 1521; according to Pigafetta and Aganduru Moriz.)*

You find me just returning from the punishment of a rebellious city which chose rather to pay tribute to the Maharajah of Java than to its rightful lord, the Sultan of Bruney, my grandfather, whose captain-general I am.

My father was ruler of the great island of Lusung to the north but after his death, while I was still a child, my mother was unable to guard the throne of Maynila for me against my powerful cousin who rules in nearby Tonduk. So she sent me here to Borneo and I have been learning war in my grandfather's service. The fleet which you mistakenly thought was intending to attack you has been gathered to recover my inheritance.

You captured my flagship but you have released me and my ship because of the kindness shown you at my grandfather's court. Let me show that we of this land are equally capable of gratitude. Here is the Koran, the sacred scriptures of my religion, and upon it, I, Mahomet-ben-Suleiman, swear that should at any future time you or any other Spaniards meet me I will remember this day and not make war upon you for any cause, but receive and treat you or them as friends who have been my benefactors.

---

## CEBU'S KING EXHORTS HIS FOLLOWERS TO DEFEND THEIR LIBERTY

*(From the address to the Cebuans, at Cebu, April 27, 1565; recorded by the Augustinian chronicler Medina)*

Let us, then, arm ourselves and repel these invaders. We must defend our country.

We can make an end of them as the men of Magtang did of their predecessors who came here in the days of our grandfathers.

Get a store of darts, prepare your lances, sharpen your kampilans, and bring forth your largest war shield, the kasarag. Here, in the boats and on the shore, we shall make our stand.

These strangers are not here to benefit us. Instead they will deprive us

# THE MUNICIPAL LAW

(Chapter 57 Title IX, Administrative Code of 1917 as amended up to 1949)

Edited by Juan F. Rivera

## PRELIMINARY ARTICLE.—*Title of Chapter*

SEC. 2164. *Title of chapter.*—This chapter shall be known as the Municipal Law.

## ARTICLE I.—*General provisions*

SEC. 2165 — *Corporate powers of municipalities.*—Municipalities are political bodies corporate, and as such are endowed with faculties of municipal corporations, to be exercised by and through their respective municipal governments in conformity with law.

It shall be competent for them, in their proper corporate name, to sue and be sued, to contract and be contracted with, to acquire and hold real and personal property for municipal purposes, and generally to exercise the powers hereinafter specified or otherwise conferred upon them by law.

[2657—2111; see Commonwealth Act No. 41.]

SEC. 2166. *Municipal subdivisions.*—The municipality shall be divided into barrios and for administrative purposes these may be grouped into districts. The number of districts in the municipality shall be equal to the number of councilors, including the vice-mayor.

[2657—2112; C. A. 233—3.]

SEC. 2167. *Municipal boundary disputes—How settled.*—Disputes as to jurisdiction of municipal government over places or barrios shall be decided by the provincial boards of the provinces in which such municipalities are situated, after an investigation at which the municipalities concerned shall be duly heard. From the decision of the provincial board appeal may be taken by the municipality aggrieved to the Secretary of the Interior, whose decision shall be final. Where the places or barrios in dispute are claimed by municipalities situated in different provinces, the provincial boards of the provinces concerned shall come to an

agreement if possible, but, in the event of their failing to agree, an appeal shall be had to the Secretary of the Interior whose decision shall be final.

[2657—21113.]

SEC. 2168. *Beginning of corporate existence of new municipality.*—Where provision is made for the creation or organization of a new municipality, it shall come into existence as a separate corporate body upon the qualification of the mayor, vice-mayor, and a majority of the councilors, unless some other time be fixed therefor by law.

When a township or other local territorial divisions is converted or fused into a municipality all property rights vested in the original territorial organization shall become vested in the government of the municipality.

[2657—2114; C. A. 233—3; see sec. 2, Act 2824.]

## ARTICLE II.—*Organization of municipal government*

SEC. 2169. *Chief officials of municipal government.*—The chief officials of the municipal government are the mayor, the vice-mayor, the treasurer, and the councilors.

With the exception of the treasurer, these officers shall be elected by the qualified voters of the municipality.

[2657—2115; C. A. 233—3.]

SEC. 2170. *Classification of municipalities—Number of councilors.*—Municipalities are divided into five classes, according to their receipts, as follows: Municipalities of the first class shall be those the annual receipts of which averaged fifty thousand pesos or more during the last three years, and shall have eight councilors; of the second class, those the annual receipts of which averaged thirty thousand pesos or more, but less than fifty thousand pesos, during the last three years, and shall have eight councilors; of the third class, those the annual receipts of

which averaged fifteen thousand pesos or more, but less than thirty thousand pesos, during the last three years, and shall have six councilors; of the fourth class, those the annual receipts of which averaged five thousand pesos or more, but less than fifteen thousand pesos, during the last three years, and shall have six councilors; of the fifth class, those the annual receipts of which averaged less than five thousand pesos during the last three years, and shall have four councilors; in case the class of a municipality is raised as herein prescribed, the first additional councilors needed to complete the number corresponding to its new class shall be appointed by the President of the Philippines. The persons so appointed shall hold office until their successors are duly elected at the regular election next following the change of class and have qualified. If a municipality is reduced in class all the councilors in office shall be allowed to serve out their full term. In case of death, resignation, or removal of any such councilor the vacancy thereby caused shall not be filled unless vacancy reduces the number of councilors below that prescribed for the new class, in which case the vacancy shall be filled in accordance with subsection (b) of section 16 of Commonwealth Act No. 357, known as the Election Code.

[2657—2116; 3261—1; C. A. 633; and Republic Act No. 80; see Republic Act No. 130, published at page 14, Vol. I, No. 1, Local Government Review.]

1. See sec 21 (6), Rep. Act 180 (The Revised Election Code).

SEC. 2171. *Change of amount of receipts as affecting classification of municipalities*—Beginning with the year nineteen hundred and twenty-five and for each period of three consecutive years after said date, the Secretary of Interior shall order the classification of the municipalities readjusted in accordance with the rules established in the last preceding section.

[2657—2117; 3261—2; See Republic Act No. 130, published at page 14, Vol. I, No. 1, Local Government Review.]

SEC. 2172. *Additional councilors for municipality passing to higher class.*—[Repealed by C. A. 357—184.]

SEC. 2173. *Reduction in number of councilors for municipality passing to lower class.*—[Repealed by C. A. 357—184.]

[2657—2119.]

ARTICLE III.—*Municipal offices and officers in general*

SEC. 2174. *Qualifications of elective municipal officer.*—An elective municipal officer must, at the time of the election, be a qualified voter in his municipality and must have been resident therein for at least one year; he must be loyal to the United States, and not less than twenty-three years of age. He must also be able to read and write intelligently either Spanish, English, or the local dialect.

[2657—2120.]

SEC. 2175. *Persons ineligible to municipal office.*—In no case shall there be elected or appointed to a municipal office ecclesiastics, soldiers in active service, persons receiving salaries or compensation from provincial or National funds, or contractors for public works of the municipality.

[2657—2121.]

SEC. 2176. *Inhibition against holding of pecuniary interest of municipal official, exceptions.*—It shall be unlawful for a municipal officer to possess a pecuniary interest, either direct or indirect, in any municipal contract work, or other municipal business, or to hold such interest in any cockpit or other game licensed by municipal authority, but the Vice-Mayor when not acting as or performing the duties of the Mayor, and the councilors when not attending sessions of the council, may be employed in National or provincial public works within the province in which they reside and may receive compensation therefrom in addition to the per diems authorized by section twenty-one hundred and eighty-seven of this Code.

[2657—2122; Rep. Act 383—1.]

SEC. 2177. *Term of elective officer.*—[Repealed by Commonwealth Act No. 357—184.]

[2657—2123; 3879—2; C. A. 233—1.]

1. See Sec. 7, Revised Election Code (1947)

SEC. 2178. *Term of appointive officer.*—An officer appointed by the mayor shall, in the absence of special provision, hold until the end of the term of the mayor making the appointment and until his own successor is appointed and qualified, unless prior thereto he shall resign or be removed according to law.

Other appointive municipal officer shall hold until resignation or removal from office according to law.

[2657—2124; C. A. 233—3.]

SEC. 2179. *Change of territory as affecting tenure of office.*—When a part of a barrio is detached from a municipality or to be added to an existing municipality any officer of the old municipality living in the detached territory may continue to hold this office and exert the functions thereof for the remainder of his term; but if he is resident of a barrio the whole of which is detached, his office shall be deemed to be vacated.

[2657—2125.]

SEC. 2180. *Vacancies in municipal office.*— [Repealed by Commonwealth Act No. 357—184.]

[2657—2126; C. A. 233—3.]

1. See Sec. 21, Revised Election Code (1947)

SEC. 2181. *Declaration of vacancy in elective municipal office.*—Should any elective municipal officer become permanently incapacitated for the proper discharge of his duties during his term of office, through accident or disease, his office may be declared vacant by the vote of a majority of all the members of the council.

[2657—2127.]

SEC. 2182. *Resignation of municipal officer.*—Any elective municipal officer who has qualified may be allowed to resign in the interest of the public service, with the approval of the provincial board.

[2657—2128.]

SEC. 2183. *Salaries of municipal*

*officer.*—The salaries of the mayor and municipal secretary shall be fixed by the council; that of the municipal treasurer by the provincial board.

[2657—2129; C. A. 233—3.]

SEC. 2184. *Maximum limit of salaries.*—

FIRST CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES

Second Session

H. No. 230

S. No. 77

[REPUBLIC ACT NO. 103]

AN ACT INCREASING THE MAXIMUM LIMIT OF THE SALARIES OF MAYORS, SECRETARIES AND TREASURERS OF MUNICIPALITIES IN REGULARLY ORGANIZED PROVINCES, AMENDING FOR THIS PURPOSE SECTION TWENTY-ONE HUNDRED AND EIGHTY-FOUR OF THE REVISED ADMINISTRATIVE CODE, AS AMENDED.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Section twenty-one hundred and eighty-four of the Revised Administrative Code, as amended, is further amended to read as follows:

“SEC. 2184. *Maximum limit of salaries.*—Except as otherwise specially provided, the annual salaries of municipal officers shall not exceed the amounts herein-below fixed:

“In municipalities of the first class: for the mayor, twenty-four hundred pesos; for the municipal secretary, fourteen hundred and forty pesos; and for the municipal treasurer, twenty-one hundred and sixty pesos, of which fourteen hundred and forty pesos shall be payable out of municipal funds in his capacity as municipal treasurer, and seven hundred and twenty pesos out of provincial funds in his capacity as deputy of the provincial treasurer.

“In municipalities of the second class: for the mayor, twenty hundred and forty pesos; for the municipal secretary, twelve hundred pesos; and for the municipal treasurer, sixteen hundred and eighty pesos, of which eleven hundred and twenty pesos shall be payable out of municipal funds in his capacity as municipal treasurer, and five

hundred and sixty pesos out of provincial funds in his capacity as deputy of the provincial treasurer:

"In municipalities of the third class: for the mayor, sixteen hundred and eighty pesos; for the municipal secretary, nine hundred and sixty pesos; and for the municipal treasurer, fourteen hundred and forty pesos, of which nine hundred and sixty pesos shall be payable out of municipal funds in his capacity as municipal treasurer, and four hundred and eighty pesos out of provincial funds in his capacity as deputy of the provincial treasurer.

"In municipalities of the fourth class: for the mayor, fourteen hundred and forty pesos; for the municipal secretary, seven hundred and twenty pesos; and for the municipal treasurer, twelve hundred pesos, of which eight hundred pesos shall be payable out of municipal funds in his capacity as municipal treasurer, and four hundred pesos out of provincial funds in his capacity as deputy of the provincial treasurer.

"In municipalities of the fifth class: for the mayor, twelve hundred pesos; for the municipal secretary, six hundred pesos; and for the municipal treasurer, nine hundred and sixty pesos, of which six hundred and forty pesos shall be payable out of municipal funds in his capacity as municipal treasurer, and three hundred and twenty pesos out of provincial funds in his capacity as deputy of the provincial treasurer.

"From the decisions of the provincial board with regard to salaries and per diems of municipal officers, the municipal officer or council concerned or any member of the provincial board having expressed his disconformity when the resolution objected to was passed, may appeal, and such appeal shall, within ten days after his receipt by the provincial board, be forwarded to the Secretary of the Interior or the Secretary of Finance, as the case may be, whose decision shall be final."

SEC. 2. Provincial boards and municipal councils that have already submitted their budgets for the current fiscal year may, for the purposes of this Act, recall said budgets to make the necessary adjustments in conformity with the scale of salaries provided for in

this Act.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 2, 1947.

[2657—2130; 3261—3; 4007—33; C. A. 233—3; Rep. Act, No. 103]

SEC. 2185. *Additional compensation for municipal treasurer acting as municipal secretary.*—The municipal council with the approval of the provincial board, may require that the municipal treasurer shall, in addition to the regular duties of his office, perform the duties of municipal secretary; in which case he may be paid additional compensation in an amount fixed by the municipal council, with the approval of the provincial board; but the compensation thus paid to the treasurer for his services in both capacities shall not exceed seventy-five per centum of the sum of the salaries attached to the two offices.

[2657—2131.]

SEC. 2186. *Additional compensation for treasurer in the capacity of deputy provincial treasurer.*—A municipal treasurer may receive, for his services in the capacity of deputy provincial treasurer, such additional compensation to be paid from provincial funds, as the provincial board may fix and the (Chief of the Executive Bureau) Secretary of Finance may approve.

[2657—2132; See act 4007—33, C. A. 78, and Executive Order No. 94, S. 19-47.]

SEC. 2187. *Compensation of vice-mayor and councilors.*—Full pay for sick mayor.—The municipal council may, with the approval of the provincial board and the Department of the Interior, grant to the vice-mayor and each councilor a per diem not to exceed two pesos for each day of regular session of the council actually attended by them; but when, by reason of absence, suspension, or other disability, the mayor ceases to discharge the duties of his office, the vice-mayor or councilor acting as mayor shall receive compensation equivalent to the salary of the mayor during the period of such service.

The mayor shall receive full salary

when absent from the municipality upon occasion of any meeting of mayors convoked by the provincial board or when absent therefrom upon any other business the performance of which is required of him by express provision of law or competent administrative authority or if the general funds of the municipality permit when he is absent from his office because of illness contracted through no fault of his own, provided the absence in the latter case does not exceed thirty days during the year, which fact must be attested by an affidavit of the interested party and by a medical certificate or, if there be no physician in the locality, by a health officer's certificate; and if during such authorized or justified absence the vice-mayor or a councilor temporarily discharges the local duties of mayor, the officer rendering such service may receive compensation in an amount to be fixed by the council, with the approval of the provincial governor, which amount shall not be in excess of the salary of mayor for the same period: *Provided*, That per diems for attendance of the sessions of the council shall not be paid to an officer rendering such service.

When absent from their permanent stations on official business other than attendance at the session of the council, vice-mayor and councilors shall be allowed their actual expenses of travel with the approval of the provincial governor.

[2657—2133; 3356—1; 3931—1 C. A. 233—3.]

(To be continued)

—o—o—

AURORA A. QUEZON — Sacrifice yourselves in the interest of the needy. Don't expect reward from those to whom you extend aid. The satisfaction of having done your duty is enough recompense.

## A HINT TO PROVINCIAL GOVERNORS AND MUNICIPAL MAYORS

When Mayor La Guardia of New York City was asked by reporters whether he would be a candidate for President of the U.S. in 1940, he replied:

"It is a bad thing for a man holding one office to think about obtaining another office. It impairs his usefulness. It is like necking in a closed car on a moonlight night, after a good dinner and champagne. Don't start it."

Could he be drafted? "Don't be silly. Nobody was ever drafted for any office any time, anywhere."—*From Time*.

MARCELO H. DEL PILAR — The education of the women stimulates and elevates that of the men . . . because of their influence in the family as daughter, sister, wife or mother . . . They are not only a balm to the hardships of life but also an element that influences and guides men along the path of virtue, perversity or cowardice.

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# Activities Of The Local Governments And Their Officials

Minutes of the Convention of Governors and City Mayors held at the  
Mansion House, Baguio City on May 5-6, 1949  
Continued from November

No. 24

WHEREAS, the Honorables, Manuel Cuenco, Governor of Cebu, Jose U del Callego, Governor of Camarines Sur, and Nicanor Roxas, Mayor Quezon City have during their incumbency as herein given manifested able leadership and shown deep concern and interest for the upliftment and welfare of the people of not only the political subdivision which they lead and represent but of the whole nation as well;

WHEREAS, in the interest of the people and the country such officials should not only serve the country in their present positions but they should be elevated to higher ones with more powers and greater responsibilities wherein they could serve better the interest and welfare of the people and country,

NOW, THEREFORE, the Conference of Provincial Governors and City Mayors, in convention assembled in the city of Baguio, with the foregoing considerations, has

Upon motion of Governor Jongko of Agusan

RESOLVED, as it is hereby resolved, to endorse the Candidacies of Governor Manuel Cuenco of Cebu, Governor Jose U. del Gallego of Camarines Sur, and Mayor Nicanor Roxas of Quezon City, for Senators of the Liberal Party in the forthcoming election of elective National Officials on November 8, 1949:

RESOLVED FURTHER, to forward this resolution to His Excellency the President of the Philippines and the Executive Committee of the Liberal Party, strongly recommending the candidacies of Honorables, Manuel Cuenco, Jose U del Gallego and Nicanor Roxas, for Senators in the forthcoming election on November 8, 1949, furnishing copies hereof to the President and Secretary of the Liberal Party, Manila, for their information.

Carried unanimously.

No. 25

WHEREAS, Article VI, Section 2 of the Constitution provides that the Senate, which constitutes the upper House of Congress, shall be composed of twenty-four Senators who shall be chosen at large by the qualified electors of the Philippines, as may be provided by law;

WHEREAS, while such procedure of choosing Members of the Senate may be advantageous in the sense that it helps in the building of National figures who may succeed to the highest Magistracy of the land, yet in a democratic government as ours, such a method of choosing representatives of the people is sometimes inconsistent in the sense that there is unequal distribution of representation in the Senate, two or three Senators being elected from a single province while so many other provinces are not represented;

WHEREAS, the procedure being adopted before the adoption of our Constitution, that of choosing Members of the Senate by districts proves a better way in keeping with the democratic principle of equal representation of the people in the legislative branch of the government than the present procedure of choosing Senators at large,

The Conference of Provincial Governors and City Mayors in Convention assembled in the City of Baguio, has

Upon motion of Governor Escudero of Sorsogon and seconded by Governor Ysalina of Misamis Oriental,

RESOLVED, as it is hereby resolved, to request the Congress of the Philippines, to amend Article VI, Section 2, of the Constitution, in the sense that instead of choosing Members of the Senate at large they should be selected by districts to effect equal representation in the upper House of Congress.

RESOLVED FURTHER, to forward copies of this resolution to both Houses of Congress thru their respective Secretaries, for their information and favorable consideration.

Carried unanimously.

No. 26

WHEREAS, the present practice of subjecting government owned cars on official duties to the payment of toll fees in certain toll bridges or ferries is quite embarrassing aside from causing unnecessary delay on the part of the traveling official;

WHEREAS, the amount spent by government-owned cars in the payment of such toll fees is borne by the office, bureau, province, city, municipality or government agency or entity to which the traveling official belongs and not from his personal money;

WHEREAS, such being the case as above cited, it would be more appropriate for toll collectors to just note in their record books the number of the car and the station of the official making the trip;

NOW, THEREFORE, the Conference of Provincial Governors and City Mayors in Convention assembled in the City of Baguio, has

of Zamboanga, unanimously

RESOLVED, as it is hereby resolved, to request the Honorables, the Secretaries of Public Works and Communications, Finance and Interior, to exempt all Government owned cars traveling

Upon motion of Governor Garrovillo on official business from paying toll gates fees in all toll bridges and ferries including those under the revolving fund.

RESOLVED FURTHER, to forward copies of this resolution to the Honorable, the Secretary of Public Works and Communications, the Honorable, the Secretary of Finance and the Honorable, the Secretary of the Interior, Manila, for their information and approval.

No. 27

WHEREAS, one of the main objectives of the present administration is to bring the government nearer to the people and to keep and strengthen their faith in the same;

WHEREAS, to properly attain this end it is necessary that the people should be afforded a fair knowledge of what is going on in the government and what the government is doing for their welfare;

NOW, THEREFORE, The Confer-

*(Continued on page 631)*

ence of Provincial Governors and City Mayors in convention assembled in the City of Baguio, with the foregoing considerations, has

Upon motion of Mayor Roxas of Quezon City, unanimously.

RESOLVED, as it is hereby resolved, to request all Department Secretaries and Heads of Government Agencies and Instrumentalities to issue circulars pertaining to the activities of their respective departments, offices, agencies and instrumentalities for the dissemination of the people;

RESOLVED FURTHER, to forward this resolution to His Excellency, the President of the Philippines, furnishing copies hereof to all Department Secretaries, Bureau Directors, and Heads of all Government, Agencies and Instrumentalities, Manila, for their information and appropriate action.

No. 28

WHEREAS, the occasional holding of National Carnival and Exposition is one way of promoting trade, commerce and industry, through the display therein of the various produce of the different regions of the country;

WHEREAS, it is also through the holding of National Carnival and Exposition that the people could obtain first hand knowledge of things produced in the different regions of the country;

WHEREAS, the last National Carnival and Exposition was held before the war;

NOW, THEREFORE, in view of the foregoing considerations, the Conference of Governors and City Mayors in convention, has

Upon motion of Mayor Roxas

RESOLVED, as it is hereby resolved, to request the Government Enterprise Council to hold yearly National Carnival and Exposition, the same to be sponsored by the Department of Commerce and Industry on a lot in Quezon City offered free of charge by Mayor Nicanor Roxas, with a view to promoting trade, commerce and industry.

RESOLVED FURTHER, to forward this resolution to the Government Enterprise Council, thru its Chairman, Manila, for its information and approval, furnishing copies hereof to the Honorable, the Secretary of Commerce and Industry, Manila, and Mayor Ni-



# Instructions Regarding Awards of Fishery Privileges

(Sec. 398, Compilation of Provincial Circulars)

The following instructions are hereby issued for the information and guidance of the officials concerned:

(1) All government-owned fisheries, unless weighty reasons are given to the contrary, shall be let to the highest and best bidder. (Section 2323 in connection with section 2319, Adm. Code.)

(2) The inhibition contained in section 2176 of the Administrative code against the holding of pecuniary interests in any municipal contract by municipal officials applies to lease contracts of the privilege of fishery or the right to conduct fish-breeding grounds.

(3) In every municipality where such fisheries exist, the municipal council thereof shall enact an ordinance classifying its fisheries by zones or by appropriate names, fixing the minimum price for which each fishery shall be let, and prescribing the procedure of conducting the auction. (Sections 2321 and 2323, Adm. Code.) The municipal treasurer as fiscal officer of the municipality shall first be consulted and his opinion thereon obtained before such ordinance is adopted.

(4) A privilege of fishery or right to conduct a fishbreeding ground may be let for a period of one year, beginning with the first day of the month of January, or, upon the previous approval of the provincial board and the Secretary of the Interior, for a longer period not exceeding five years. (Section 2323 in connection with section 2319, Administrative Code.)

(5) A new resolution or ordinance providing for the letting of fisheries effective in any year must be enacted by the municipal council in the month of October or earlier of the year immediately preceding it.

(6) Auction of fishery privileges shall be conducted not later than the end of the month of November prior to the year in which the lease should take effect and no auction shall be held unless sufficient publication of the same

has been made by the posting of notices at the municipal building, the market and other conspicuous places as the municipal council may determine and by a "bandillo" or town crier ten days before the date of the auction.

(7) In cases where fisheries are to be let for a period exceeding one year, the resolution of the council granting the privilege to the successful bidder shall be forwarded to the Secretary of the Interior for approval, through the provincial treasurer, the provincial board and this Office <sup>1</sup>soon after its passage, so as to enable the council to conduct the auction on or before the end of November as provided in the next preceding paragraph. In such cases, no auction shall be held pending advice of the approval of the Secretary of the Interior. Meanwhile, however, if the circumstances so require, to protect the interests of the municipality concerned, the notices and "bandillo" mentioned in the preceding paragraph may be published.

(8) In letting the privilege of fishery or fish-breeding ground in accordance with the provisions of law cited above, the municipal council must require of the successful bidder, to insure compliance with the terms and conditions of the contract, a bond in the sum double the amount of his liability under such contract due for one year to be executed by two or more persons possessing real property assessed at not less than the amount stated in the bond, and accompanied by a certificate from the municipal treasurer certifying to the sufficiency of the real property owned by the sureties on the bond. Municipal officials or employees hereby are prohibited from being sureties on the bonds.

(9) Based upon the conditions and circumstances obtaining in each locality and the customs or practices observed by fishery contractors and fishermen therein, the municipal council,

(1) *Former Executive Bureau*

before holding the public auction herein mentioned, may adopt an ordinance prescribing the maximum amount of fees the contractors or lessees shall exact upon fishermen, with the view to protecting the general public which may suffer from exorbitant prices of fish.

(10) In no case shall the payment due or to be due under the contract be remitted, and no request for extension of time for the payment thereof shall be granted except only in case of losses resulting from *force majeure* and provided that the previous approval of the Secretary of the Interior to the extension of time shall have been obtained.

(11) The privilege of fishing granted a private party by any local government should not be understood as to carry with it the privilege of fishing by unlawful means, such as dynamite and poison. Provincial governors are specially requested to see that the provisions of sections 1 and 2 of Act No. 1499, as amended by Act No. 1685, and section 1 of Act No. 2255 are enforced to the letter in order to avoid the practice of fishing by unlawful means. For this purpose, proper instructions should be issued to municipal officials who must be made to understand that any failure on their part to fulfill their duties in this regard will be severely dealt with. Provincial and municipal officials under the jurisdiction of the Executive Bureau (now Department of the Interior) are instructed to cooperate fully with the Constabulary and to do everything possible to prevent the continuance of this practice.

(12) In granting licenses for fishing by means of corrals or traps, municipal councils should make provisions in the ordinance for a free passage of fish by lifting that portion of the corrals or dam which contains the pen or traps, for at least twenty-four consecutive hours each week. This will enable a reasonable number of fish to reach their spawning grounds. Provisions should also be made to have a section of the trap so constructed that it can

readily be opened or closed to permit the passage of launches and boats.

*Prov. Cir. Nos. 153, 244, 245 and Unnumbered Prov. Cir., Oct 3, 1921; Apr. 13 1925; June 26, 1924.*

—oOo—

## EACH IN HIS PLACE

*by Angelo Patri*

Never before had a muskrat seemed beautiful—but then, the only ones I had ever seen had been removed far from their homes in the brookside. To be as lovely as it is in them to be, all nature's creatures must be free, must dwell in the place and the circumstances for which they were fitted in the beginning—bird in the sky, the fish in the sea, the man in his chosen field.

*My farmer friend* is a most unhappy creature when he is forced to attend a social function. He wiggles and squirms until he gets behind a sheltering door and makes his escape at the first possible moment. On the farm he is another person. He stands like a monarch surveying his kingdom. He is the man he was intended to be, in the place that he knows to be his own.

False ambition has not cheated him; greed has not blighted his soul; discontent has not robbed him of serenity; envy has not embittered him; peace has set the light of the Celestial City in his face, put power in his mind and grace in his being. He is a Man.

There is a place in this life where each of us fits. It is our mission to find it and glorify it.

*Compliments of*

**M. Greenfield, Inc.**

*Exporters of Philippine Hand made Embroideries*

94-100 Lamayan, Sta. Ana, Manila

*Compliments*

**Santos Trading Corporation**

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And accessories

629 Quezon Boulevard

# Ruling of the General Auditing Office

## MUNICIPAL POLICE FORCE WITHDRAWN TEMPORARILY FROM MUNICIPALITY FOR SERVICE ELSEWHERE, SALARY OF.—

When a member of the municipal police force is withdrawn or mobilized temporarily by the Provincial governor under section 2084 of the Administrative Code and Executive Order No. 175 of the President of the Philippines, from one municipality where he is regularly appointed for service in another part of the province, his salary during the period of such withdrawal or mobilization will be paid by the municipality where he has been duly appointed but his traveling expenses incident to or arising from, the said temporary withdrawal or mobilization will be paid by the province.

This ruling amends accordingly the provisions of section 633(a) of the Manual of Instructions to Provincial, City and Municipal Treasurers and revokes all previous rulings on the same subject which are in conflict herewith. *1st Ind., April 3, 1941, of Aud. Gen. to the Provincial Auditor of Pangasinan; see Provincial Division Circular No. 520, dated April 15, 1941, of the General Auditing Office.*

## ADDITIONAL COMPENSATION NOT AUTHORIZED FOR GOVERNMENT OFFICIAL GIVEN TEMPORARY DESIGNATION UNDER C. A. 588.—

Respectfully returned to the Honorable, the Secretary of Finance, Manila, inviting attention to the following excerpts of the letter of the Secretary to the President of the Philippines addressed to this Office under date of July 30, 1941:

"In connection with the aforementioned provisions of Section 1 of Commonwealth Act No. 588, His Excellency, the President, desires that any Government official given temporary designation under said Act shall, unless expressly authorized to receive additional compensation in his designation or in a subsequent order from the President, be allowed to draw only his regular compensation as usual in consonance with the provisions of Section 261 of the Administrative Code.

"It is requested that this instruction be circularized for the information and guidance of all officials and employees concerned in that office."

The above was embodied in General Circular No. 324 and Provincial Treasurers' Memorandum No. 581 of this Office.

Unless advised that the policy enunciated above by his Excellency, the President of the Philippines, has either been revoked or modified, this office will be constrained to continue its enforcement.—*3rd Ind., Dec. 19, 1946, of the Aud. Gen. to the Sec. of Finance.*

## DURATION OF AUTHORIZATION FOR AUTOMOBILE ALLOWANCES.

—There is no definite rule as to the length of the period authorizations for automobile allowances should be held valid. Years ago, the Department of the Interior, then exercising full authority in matters of provincial automobile allowances, established the rule that such authorizations should be renewed yearly; but since the decentralization of that authority among the different Departments that rule has not been consistently enforced. As a result there are now authorizations for indefinite periods subject only to the availability of appropriations.

It is, therefore, our opinion that authorizations for automobile allowances do not necessarily terminate with the fiscal year, unless the resolution of the provincial board or the Department approval or both so provide.—*1st Ind., July 17, 1939, of Aud. Gen. to the Provincial Auditor of Misamis Occidental; G.A.O.F. 13.1 Mis. Occ.*

## CAN MUNICIPALITY APPROPRIATE FUNDS FOR BENEFIT OF FEW INHABITANTS THEREOF?—

The Municipal Council of Loon, Bohol, in its Resolution No. 86, series of 1937, has set aside the sum of ₱100.00 from the general fund of the municipality for the relief of the four widows of Cabilao Island, Loon, whose husbands died at sea in the typhoon of November 17, 1937. According to the within papers, these widows are poor and indigent and have no means of livelihood and that they are in need of help.

This case presents the question: Can the municipal Council appropriate municipal funds for the benefits of a few inhabitants of the municipality?

We are not aware of any law authorizing the municipal council to appropriate municipals funds for the purpose stated above. In this connection, attention is invited to section 2288 of the Administrative Code which provides as follows:

*"Use of municipal funds.*—Except as allowed by law, municipal funds shall be devoted exclusively to local public purposes."

Taxation is the taking away of private property for public use. In the instant case, a portion of the taxes collected from the inhabitants of the municipality of Loon is being appropriated by the municipal council as relief aid to the four widows of Cabilao Island. This cannot be done because the "rule is well established, and supported by numerous well considered cases that municipal corporations have only such powers as are expressly granted in their charters or are necessary to carry into effect the powers so granted. It is a rule of public utility, and courts should recognize and enforce it as a safeguard against the tendency of municipalities to embark in enterprises not germane to the objects for which they are incorporated." (Dailey v. City of New Haven, 60 Wis. 314). "Taxation is the absolute conversion of private property to public use, and its validity rests on the use. In legislative grants of the power to municipal corporations, the public use must appear. The legislature can delegate the power to tax; and the validity of the delegation rests on the public purpose. Were this otherwise, as was said at bar, municipal taxation might well become municipal plunders." (Attorney General v. Claire, 37 Wis. 436). Public use "must be for the benefit and advantage of all the public and in which all have a right to share." (Smith v. Smythe, 197 N.Y. 457, 463; 90 1121; 44 Corpus Juris, p. 1109).

What is a local purpose? "The term 'local purpose'\*\*\* means a purpose the benefit of which is confined to a particular locality or limited district. A local purpose has reference to the citizens or interest of a particular locality." (Words and Phrases Judicially Construed). "A municipal council can-

not expend public funds for any purpose it may desire; in expending money municipalities are rigidly restricted to the purposes authorized by law. \* \* \*. A municipal corporation cannot expend its funds for private purposes, or make appropriations for donations." (44 Corpus Juris, pp. 1108, 1109).

In view of the foregoing, our answer to the question is in the negative, it appearing that the sum of ₱100.00 voted by the Municipal Council of Loon in its Resolution No. 86, series of 1937, as relief aid to the four widows of Cabilao Island, Loon, whose husbands died at sea in the typhoon of November 17, 1937, is not for a local public purpose or public use, and hence, not within the powers of the municipality to grant.—11th Ind., Sept. 22, 1938, of Aud. Gen. to Sec. of the Int.; G. A. O. File 120.

**Rizal** - - (Continued from page 604)  
home. I have only my parents, but my country has many sons besides myself who are able to take my place and are already taking my place successfully.

I desire, furthermore, to let those who deny our patriotism, see that we know how to die for our duty and for our convictions. What matters death if one dies for what he loves, for his motherland, and the beings he adores.

If I supposed that I was the only fulcrum of the policy of the Philippines, and if I were convinced that my fellow countrymen would utilize my services, perhaps I should hesitate to take this step; but there are still others who can, with advantage, take my place.

I have always loved my poor motherland, and am sure I shall love her to the last moment, even though perhaps men are unjust to me; and my future, my life, my joys, all have been sacrificed for my love of her. Whatever my fate may be, I shall die blessing her and longing for the dawn of her redemption.

Publish these letters after my death.—Jose Rizal. (Reprint from PANORAMA, Vol II, No. 12.

**Activities** - - -

(Continued from page 627)  
canor Roxas of Quezon City, for their information.

Carried unanimously.

# The Public Land Act

FIRST NATIONAL ASSEMBLY

First Session...B. NO. 366

(COMMONWEALTH ACT NO. 141)

AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN  
*Be it enacted by the National Assembly of the Philippines:*

## TITLE I

TITLE AND APPLICATION OF THE ACT, LANDS TO WHICH IT REFERS, AND CLASSIFICATION, DELIMITATION, AND SURVEY THEREOF FOR CONCESSION.

CHAPTER I.—*Short title of the Act, lands to which it applies, and officers charged with its execution*

SECTION 1. The short title of this Act shall be "The Public Land Act."

SEC. 2. The provisions of this Act shall apply to the lands of the public domain; but timber and mineral lands shall be governed by special laws and nothing in this Act provided shall be understood or construed to change or modify the administration and disposition of the lands commonly called "friar lands" and those which, being privately owned, have reverted to or become the property of the Commonwealth of the Philippines, whose administration and disposition shall be governed by the laws at present in force or which may hereafter be enacted.

SEC. 3. The Secretary of Agriculture and Commerce shall be the executive officer charged with carrying out the provisions of this Act through the Director of Lands, who shall act under his immediate control.

SEC. 4. Subject to said control, the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture and Commerce.

SEC. 5. The Director of Lands with the approval of the Secretary of Agriculture and Commerce, shall prepare and issue such forms, instructions, rules, and regulations consistent with this Act, as may be necessary and proper to carry into effect the provisions thereof and for the conduct of proceedings arising under such provisions.

CHAPTER II.—*Classification, delimitation, and survey of lands of the public domain, for the concession thereof*

SEC. 6. The President, upon the recommendation of the Secretary of Agriculture and Commerce, shall from time to time classify the lands of the public domain into—

- (a) Alienable or disposable
- (b) Timbers, and
- (c) Mineral lands,

and may at any time and in a like manner transfer such lands from one class to another, for the purpose of their administration and disposition.

SEC. 7. For the purposes of the administration and disposition of alienable or disposable public lands the President, upon recommendation of the Secretary of Agriculture and Commerce, shall from time to time declare what lands are open to disposition or concession under this Act.

SEC. 8. Only those lands shall be declared open to disposition or concession which have been officially delimited and classified and, when practicable, surveyed, and which have not been reserved for public or quasi-public uses, nor appropriated by the Government, nor in any manner become private property, nor those on which a private right authorized and recognized by this Act or any other valid law may be claimed, or which, having been reserved or appropriated, have ceased to be so. However, the President may, for reasons of public interest, declare lands of the public domain open to disposition before the same have had their boundaries established or been surveyed, or

may, for the same reason, suspend their concession or disposition by proclamation duly published or by Act of the National Assembly.

SEC. 9. For the purpose of their administration and disposition, the lands of the public domain alienable or open to disposition shall be classified, according to the use or purposes to which such lands are destined, as follows:

- (a) Agricultural.
- (b) Residential, commercial, industrial, or for similar productive purposes.
- (c) Educational, charitable, or other similar purposes.
- (d) Reservations for town sites and for public and quasi-public uses.

The President, upon recommendation by the Secretary of Agriculture and Commerce, shall from time to time make the classifications provided for in this section, and may, at any time and in a similar manner, transfer lands from one class to another.

SEC. 10. The words "alienation," "disposition," or "concession" as used in this Act, shall mean any of the methods authorized by this Act for the acquisition, lease, use, or benefit of the lands of the public domain other than timber or mineral lands.

#### TITLE II

### AGRICULTURAL PUBLIC LANDS CHAPTER III.—*Forms of concession of agricultural lands*

SEC. 11. Public lands suitable for agricultural purposes can be disposed of only as follows, and not otherwise:

- (1) For homestead settlement.
- (2) By sale.
- (3) By lease.
- (4) By confirmation of imperfect or incomplete titles:
  - (a) By judicial legalization.
  - (b) By administrative legalization (free patent).

#### CHAPTER IV.—*Homesteads*

SEC. 12. Any citizen of the Philippines over the age of eighteen years, or the head of a family, who does not own more than twenty-four hectares of land in the Philippines or has not had the

benefit of any gratuitous allotment of more than twenty-four hectares of land since the occupation of the Philippines by the United States, may enter a homestead of not exceeding twenty-four hectares of agricultural land of the public domain.

SEC. 13. Upon the filing of an application for a homestead, the Director of Lands, if he finds that the application should be approved, shall do so and authorize the applicant to take possession of the land upon the payment of five pesos, Philippine currency, as entry fee. Within six months from and after the date of the approval of the application, the applicant shall begin to work the homestead, otherwise he shall lose his prior right to the land.

SEC. 14. No certificate shall be given or patent issued for the land applied for until at least one fifth of the land has been improved and cultivated. The period within which the land shall be cultivated shall not be less than one nor more than five years, from and after the date of the approval of the application. The applicant shall, within the said period, notify the Director of Lands as soon as he is ready to acquire the title. If at the date of such notice, the applicant shall prove to the satisfaction of the Director of Lands, that he has resided continuously for at least one year in the municipality in which the land is located, or in a municipality adjacent to the same, and has cultivated at least one-fifth of the land continuously since the approval of the application, and shall make affidavit that no part of said land has been alienated or encumbered, and that he has complied with all the requirements of this Act, then, upon the payment of five pesos, as final fee, he shall be entitled to a patent.

SEC. 15. At the option of the applicant, payment of the fees required in this chapter may be made to the municipal treasurer of the locality, who, in turn, shall forward them to the provincial treasurer. In case of delinquency of the applicant, the Director of Lands may, sixty days after such delinquency,  
(To be continued)

REPUBLIC OF THE PHILIPPINES  
Department of Public Works and Communications  
BUREAU OF POSTS  
MANILA

SWORN STATEMENT  
(Required by Act No. 2580)

The undersigned, PETRA O. RIVERA managing editor, business manager, owner, publisher, of THE LOCAL GOVERNMENT REVIEW published monthly in English at 83 D. Tuazon Ave. Cor. 50 Laon-Laan, Q. C. after having been duly sworn in accordance with law, hereby submits the following statement of ownership, management, circulation, etc., which is required by Act No. 2580, as amended by Commonwealth Act No. 201:

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(Sgd.) PETRA O. RIVERA  
OWNER AND PUBLISHER

Subscribed and sworn to before me this 20th day of December, 1949, at Manila the affiant exhibiting her Residence Certificateo. A-264701 issued at Manila, on Jan. 12, 1949.

(Sgd.) EMILIANO ANONAS  
Notary Public  
My commission expires on Dec. 31, 1949

Doc. No. 750  
Page No. 22  
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Series of 948

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DECEMBER, 1949

## HOROSCOPE

### *Were You Born In December*

#### DECEMBER 1

A restless discontentment with location and associations must be overcome before your talent of self-expression and leadership can make itself felt. You should be more tolerant of people.

#### DECEMBER 2

Dwelling at too great length on things of trivial importance keeps you from handling big problems that your analytical mind qualifies you to master. Your mind is technical and could do well in engineering.

#### DECEMBER 3

You are one whom the emotions are apt to affect more than you know unless you have studied all that can happen in this department of life and pick your way. Be on guard against deceptions.

#### DECEMBER 4

Many sharp changes come to one born on this date but they are ever for the best, though you insist upon doubting. By systematic reading you can better prepare your mind for changes in work and location.

#### DECEMBER 5

You are adventurous but have a tendency to go to the extreme. At times you are very sarcastic, which creates much animosity toward you. Encourage the efforts of others and indications point to much happiness in later life.

#### DECEMBER 6

Memory is an outstanding qualification of one born of this date and it should be applied to some commercial use such as librarian or teacher. To make a success of life you must learn to forget grievances.

#### DECEMBER 7

Unhappy adventures await the explosive emotional nature that too quickly comes to conclusion. Stop, analyze and look before you leap. Take up art study or writing that will slow down your impulsive expression.

#### DECEMBER 8

The field of politics and club secretarial work finds a place for one born of this date, who is a great friend maker and gifted with strong thinking and force to express himself. You will always attempt too much.

#### DECEMBER 9

Born of this date is a fiery temperament that will interfere with good judgment unless it is curbed. You are apt to be overconfident and your aggressiveness misunderstood. Better to keep out of politics.

#### DECEMBER 10

If born on this date you will develop within you inclinations to live your life for yourself alone. Your powers will prove constructive when identified with someone besides yourself.

#### DECEMBER 11

The child born of this date develops physical power ahead of mental capacity, though better qualified to work with head than hands. Avoid secret agreements and shun speculation.

#### DECEMBER 12

The deep and earnest thinker born of this date is liable to get so wrapped in personal interests that he will be readily misunderstood. Your inclination to work within yourself calls for plenty of out-door exercise.

#### DECEMBER 13

Born of this date you are possessed of a rare intuition which if followed closely will lead to outstanding success. Suggestions are that your inclinations seem to fit for a professional life.

#### DECEMBER 14

Ambition to get ahead inclines one to hurry and slight the work of the moment. Live today for today and make today's accomplishments count. Be careful not to crowd others in your ambition to succeed.

#### DECEMBER 15

Eagerness to produce results and ambition for advancement can lead you to take on a larger burden of labor than either your physical or mental capacity will carry. Too much ambition is a dangerous thing.

#### DECEMBER 16

Born of this date is a careful student and a patient teacher with a great love of research that can do well in the study of psychology. Welfare or public service work has a place for such good talent.



#### DECEMBER 17

It is easy for one born of this date to go to extremes in most everything. You have a magnifying mind that usually thinks conditions worse than they are. Religious association will be most helpful.

#### DECEMBER 18

The day is unfavorable for speculation or any deal involving risks. It is essential that you be cautious in all matters that have to do with your personal life. You have a keen intelligence.

#### DECEMBER 19

Put a finish to the work at hand as training for an impulsive mind that chooses to rove. Consider the time element as important in all success and avoid all clerical work.

#### DECEMBER 20

You are very serious-minded, which will help you with your work. Your best efforts will come from your dealing with *materia medica*, law, or critical writings. Avoid friends you do not trust.

#### DECEMBER 21

A great friend is born this day with abundant energy and a quiet way of gaining the help of others. Your care in handling details and ability to get along with people fit you for business management.

#### DECEMBER 22

There is courage and conviction with a strong determination to see things through to a successful conclusion. Impatience to see results causes unhappiness. This person should be very good.

#### DECEMBER 23

Born of this date you are readily influenced by both comment and environment and are not an individualist. You are better at the carrying out of orders than dictating them and are well fitted for accounting work.

#### DECEMBER 24

Here is a struggle to follow ideals above the commonplace and some query whether it is worth while. Your best services can be rendered your fellowman in church or in public service work with happiness.

#### DECEMBER 25

You are highly sensitive and your interest in things continues long after they are forgotten by others. You love the out-of-doors and are keen for physical activities. Avoid homely women.

#### DECEMBER 26

Given to an undervaluation of your own ability you should seek the association of those who understand. Your retiring nature can be overcome by active work in some fraternal body.

#### DECEMBER 27

The keen, close-observing and attentive mind born of this date will go far in the banking world if there can be developed a sufficient patience that will let the elements of success mature.

#### DECEMBER 28

Peculiar circumstances hover around the child of this date, who is methodical and industrious. A great friend in time of trouble. This sympathy should be given to public welfare work.

#### DECEMBER 29

Born of this date are not given to detail work because they do not reach below the surface of situations. The love for travel should be subdued until proper patience and persistence develop.

#### DECEMBER 30

Here is an alert mind that is quick to see through propositions and people with a sound appreciation of real values. A bargainer by nature who should be identified with a purchasing department.

#### DECEMBER 31

One born of this date is inclined to take the events of the world too seriously and should find association with light-hearted people who insist upon getting more out of the world than they put into it.

*"One fact stands out in bold relief in the history of men's attempts for betterment. That is that when compulsion is used, only resentment is aroused, and the end is not gained. Only through moral suasion and appeal to men's reason can a movement succeed."*

—SAMUEL GOMPERS.

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