

Opinion Of The Secretary Of Justice

FORCE AND EFFECT OF DECISIONS IN ADMINISTRATIVE CASES RENDERED DURING JAPANESE OCCUPATION

Opinion is requested as to whether or not decisions, in administrative cases, rendered during the Japanese occupation are to be considered valid, in view of the proclamation of General Douglas MacArthur of October 23, 1944.

It appears that Mr. Aniano Poliquit, a school teacher, and Mr. Venancio Nebriada were charged with improper conduct (kissing school girls) and immorality, respectively. Their cases were investigated, by the Commonwealth Government, in March, 1940, and decisions were rendered thereon, by the Executive Commission, in August, 1942.

In the case of Co Kim Cham vs. Valdez Tan Key et al. (G.R. No. L-5, promulgated September 17, 1945), it was held that the Republic of the Philippines and the Philippine Executive Commission, established during the belligerent occupation, were *de facto* governments and that judicial acts and proceedings thereof were good and valid, and remained good and valid after the restoration of the Commonwealth Government, *except those of a political complexion*.

The last part of the aforesaid proclamation of General MacArthur provides "that all laws, regulations and processes of any government in the Philippines other than that of the Commonwealth of the Philippines are null and void and without legal effect in the areas of the Philippines free of enemy occupation and control."

Inasmuch as, pursuant to well settled principles of international law, all judgments and judicial proceedings, which are not of a political complexion, of the *de facto* governments during the Japanese military occupation, were good and valid before and remained so after the occupied territory

had been liberated, it should be presumed that it was not, and could not have been, the intention of General MacArthur, in issuing said proclamation, to nullify judicial processes devoid of political complexion, in violation of said principles of international law. (C. Kim Cham vs. Valdez Tan Keh et al., *supra*.)

Similarly, therefore, it could not have been the intention of General MacArthur to invalidate ordinary administrative proceedings, of said *de facto* government, having no such *political complexion*, there being no substantial difference, from the point of view of public international law as well as of public interest, between the necessity of giving full faith and credit to judicial processes in general and that of upholding the validity of the aforementioned administrative proceedings and of the processes issued in connection therewith.

The connotation of the phrase "political complexion" has been discussed in the recent case of Alcantara vs. Director of Prisons, G. R. No. L-6 promulgated by the Supreme Court on November 29, 1945 thus:

"A punitive or penal sentence is said to be of a political complexion when it penalizes either a new act not defined in municipal laws, or acts already penalized by the later as a crime against the legitimate government, but taken out of the territorial law and penalized as new offenses committed against the belligerent occupant, incident to a state of war and necessary for the control of occupied territory and the protection of the army of the occupier. They are acts penalized for public rather than private reason, acts which tend, directly or indirectly, to aid or favor the enemy and are directed against the welfare, safety, and security of belligerent occupant. As examples, the crimes against national security, such as treason, espionage, etc., were crimes against the Commonwealth or United States Government under