

## THE ELECTIONS AND THE PROBLEM OF GOOD GOVERNMENT

The concensus of post election analysis is that the incoming administration won its bid for the people's mandate on the issue of graft and corruption. The party of the united opposition concentrated its campaign strategy upon a detailed indictment of the personal actuations that appear to have governed the conduct of administration officials in the discharge of their public functions. The opposition campaigned on the theme that, under the Nacionalista administration, public office has been converted to private use, and responsibility was accordingly laid upon the Executive Department, embodied in the office and person of the Chief Executive.

The electorate crossed party lines. They voted for the men and women whom they deemed deserving of their trust. The elections resulted in a preponderance of Nacionalistas in the lower House. Two Nacionalistas were voted into the Senate. And we dare say that the President-elect, as well as his running mate, was voted to the executive stewardship of the land on the strength of a personal image which satisfied the people's want for integrity in government.

The immediate task before the incoming administration is to translate its campaign cry for good government into a meaningful, practical and enduring political philosophy. In the implementation of this task, the President-elect and his official family will labor under an auspicious and heartening beginning. Before them is the eloquent lesson of the elections. It is not politically expedient to misuse and misapply the trust that inheres in public office; that there is, after all, a promising future in political idealism and the old fashioned virtues.

To carry out the domestic and international policies of his administration the President-elect will need the undivided support of his party. He will need the party to insure organizational support in the implementation of specific policy objectives. And he will need political astuteness of the highest degree if he is to secure the co-operation of a Congress dominated by a rival, partisan organization.

Nation building is a national responsibility which must mutually be shared in the political field, by the Executive and Legislative branches of the government.

But on one vital aspect of nation building, on the one pledge which dominated the campaign platform of the President-elect, he and he alone will have to assume the burden of personal responsibility. This is his pledge to restore integrity in the running of government. This is the immediate task before him, for principally upon this pledge was he catapulted to the power, the glory and the promise of supreme political power.

How the President-elect will fare on this vital and particular mission will depend largely upon his understanding of the nature of the presidential office. His personal honesty constitutes only the starting point and minimum requirement of his mission.

From all appearances, however, the President-elect is a man sufficiently aware of the implications and consequences of the Presidency. He has pledged himself to the doctrine of Command Responsibility. While there is

nothing novel and original about this doctrine the President-elect, by invoking the same, has demonstrated the intellectual and moral orientation necessary to a faithful discharge of his high office.

A paper published in the last issue of the Journal amply showed that the doctrine of Command Responsibility is nothing more but the responsibility prescribed by the Constitution upon the presidency for the conduct of the Executive department which he personifies. This responsibility flows by necessary implication from the Constitutional provision which vests control "of all the executive departments, bureaus or offices" in the President. (Art. VII, sec. 10 (1) ). Since this provision makes the President the head of administration, he cannot escape responsibility for the behaviour and performance of those whom he has designated and accepted into his executive family.

Viewed in another light, the members of a President's official family are nothing more but the projection and extension of the presidential personality, and for whose actuations, performance and behaviour in the discharge of their public duties he must accept presidential responsibility.

The power of control which the Constitution has vested in the President is a constitutional function. Because it is a function, it is performe a duty. And if the Chief Executive has the duty to control all agencies of government which comprise the Executive Department he can not avoid assuming responsibility for them.

Official spokesmen of the Nacionalista administration rejected the doctrine of Command Responsibility by laughing it off. In this they showed a profound and irresponsible ignorance of a responsibility prescribed by the Constitution, and explains a basic cause of their failure to provide the nation with an honest and efficient administration.

A President who would deny responsibility for the actuations and behaviour of the members of his executive family cannot, by an equally necessary implication, be expected to provide a climate for sound government. Presidential responsibility is the price exacted by the Constitution from those who would aspire to exercise the vast powers of the Presidency. Presidential power without presidential responsibility can only mean dictatorship.

By enunciating the doctrine of Command Responsibility the President-elect was merely describing a constitutional reality which inheres in the function of the Presidency. By attempting to discredit the doctrine, the official spokesmen of the outgoing administration disclosed a revealing philosophy that may well account for the kind of administration which the people rejected during the last elections.

Precisely because the actuations and behaviour of the executive family is a presidential responsibility, it becomes imperatively necessary for the President-elect to appoint to office only those men and women who will do justice to the responsibility imposed by the Constitution upon the Presidency.

This is the reason why the President-elect must not  
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# CHANGES CAUSED IN GRANTING INFERIOR COURTS CONCURRENT JURISDICTIONS WITH THE COURT OF FIRST INSTANCE IN SOME CASES\*

By Judge DAMIAN L. JIMENEZ\*\*



Judge Damian Jimenez

Prior to the amendment made on the provisions of the Judiciary Law of 1948 by Rep. Act 2613, specifically Sections 86, 87, 88 and 90, questions on the extent of cases which may be taken cognizant of by courts of limited jurisdiction seem less unsettled than as now obtaining. However, though this is not saying that all the conceivable questions on the jurisdiction of such courts have fully passed judicial interpretative scrutiny, the fact remains, and fact it is that a number of issues raised from without the ex-

the appeal pertains to the Court of Appeals. These and other similar questions are not infrequent occurrences after the amenatory provisions became effective. Therefore, aware as we are of the motive behind the amendment, an outlook to obviate from these sad experiences should be as compelling as the inducement which, by legislative fiat, made the amendment possible. It is to this end that this paper is intended, without assuming that everything will be solved.

Under the Judiciary Reorganization Act of 1948 enacted and made effective upon its approval on June 17, 1948, the jurisdiction of the justices of the peace and Municipal Courts of chartered cities covers those expressly provided in Sections 86, 87, 88 and 90 thereof. In addition, such courts have jurisdiction concurrently with the Courts of First Instance and the Supreme Court "over cases affecting ambassadors, other public ministers and consuls" including, as advanced by some local commentators, the power of judicial review.<sup>3</sup>

Section 86 of Rep. Act 296 or better known as the Judiciary Law of 1948 as amended by Rep. Act 644, states that justices of the peace and judges of municipal courts of chartered cities have jurisdiction consisting of:

- (a) Original jurisdiction to try criminal cases in which the offense charged has been committed within their respective territorial jurisdiction;
- (b) Original jurisdiction in civil actions arising in their respective municipalities and cities, and not exclusively cognizable by the Courts of First Instance; and

press language of the Judiciary Act had been laid bare by decisions of the superior courts.<sup>1</sup> On August 1, 1959, when Judges of Municipal Courts and Justices of the Peace Courts of the capital of provinces began re-adjusting themselves to the conformity of Rep. Act 2613, jurisdictional issues which mostly are questions of first impression began asserting themselves in one form or another. A Fiscal, may for instance, file a case before a court only to be tossed back by the Judge on a claim that he is without jurisdiction to try it, or, a Judge of an inferior court after judgment of conviction in a case appealed against, transmits the records thereof to the Court of First Instance only to be remanded upon a resolution that

\* Speech delivered at the Convention of City Judges held in Baguio City last February 23, 1961.

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1. Uy Chin Hua vs. Dinglasan, 47 O.G. 233 (Supplement) No. 12. After holding that destierro though, of long duration than *arresto mayor* is a lighter penalty than the latter, the Supreme Court held that the inferior courts have jurisdiction of cases so penalized saying: "Thus there exists a gap in the law as to which court shall have original jurisdiction over offenses penalized with *destierro* or banishment. Until the law making body should fill that gap by expressly providing otherwise, the Court must do so by reasonable interpretation of the existing law."

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hesitate to cross party lines in considering the persons who would reflect his official personality. Virtue is never the monopoly of a political party. Nor, for that matter, is vice.

The President-elect has every right to demand loyalty to the announced policies of his administration. But in justice to himself, he cannot afford to demand political loyalty as a condition precedent to public service. For he, and not his party, will bear the brunt of the public scrutiny that will judge the calibre of the men and women he appoints to office. Responsibility is on him. Not on

2. Concurrent original jurisdiction in this class of cases should mean the sharing of the Supreme Court with the most inferior courts of cases affecting ambassadors, other public ministers and consuls such that the Supreme Court would have concurrent jurisdiction with the lowest courts in our judicial hierarchy, the justices of the peace courts, in a petty case involving for instance, the violation of a municipal ordinance affecting the parties just mentioned. (Concurring Opinion, Justice Laurel, Schneckenburger vs. Moran, 63 Phil. p. 267-268)

3. That lower courts have the power of judicial review is merely an incident of the power to decide actual cases before the court. Since the function of adjudication imposes on the court the duty of ascertaining the facts and applying the law to such facts and since the constitution where applicable overrides a statutory provision, executive order or municipal ordinance, it does follow that in deciding a case before it, a lower court may have to annul any legislative or executive act in contravention of the constitutional provision. (Constitution of the Philippines annotated, Tañada & Fernando, p. 775) Under Section 10, Art. VIII of the Philippine Constitution, the Supreme Court has the power to declare a law or treaty unconstitutional. There is however, nothing in said section from which it can be concluded that the power to declare a law unconstitutional belongs exclusively to the Supreme Court, this section pro-

his party. Appointments to executive and administrative positions in the government must transcend partisan considerations. The only political expedient criteria are competence and integrity, as the catastrophic experience of the outgoing president has indicated. This is the only way by which the President-elect can channel the nation's available intellectual and moral resources of the country into public service. This is the only way he can successfully shoulder the burden of presidential responsibility. He is no longer just the president of a political party. He is now the President of the Philippines, to which he owes, by his own choice, ultimate and supreme fidelity.