

Opinion of Secretary of Justice—

Retirement under Act 4183

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:

"In order to grant a gratuity to provincial, municipal and city officers 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 . . ."

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 Secretary 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 reorganization, of the Government of the City of Manila, Mr. Revilla is not entitled to the retirement gratuity provided in said act." (Op. of the 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 government with the retrenchment policy in view.

Conformably to that policy and to the opinions of this Department hereinbefore 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 the Sec. of Justice to the Chief of the Executive Office.*

—oOo—

Provincial Affairs. . .

(Continued from page 449)

the province and neighboring provinces or islands or to dredge rivers and provide facilities for communication and transportation by river, and for establishing and operating telephone systems is subject to approval of Dept. Head. (Sec. 2113(c), Adm. Code.)

20. Expenditures for the benefit of non-Christian inhabitants are subject to approval of Secretary of the Interior. (Sec. 2114, Adm. Code. Note: Such expenditures now come from the general fund, the so-called Non-Christian inhabitants' fund having been disestablished inasmuch as the inhabitants concerned are no longer enumerated as non-Christians.—Ed.)

Compliments of

Del Mundo Welding Shop

Come and see our shop.

2321 Misericordia, Manila