

## 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

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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 . . . .

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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.*

—oO—

## 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.*

—oO—

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