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AN ANALYTICAL STUDY OF THE GRATUITY LAW OF THE PHILIPPINES

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PREFACE

In the nature of things, legislative assemblies must always look primarily to the interest of the people, the diverse constituencies that they represent. It is said that government, particularly democratic ones, has for its aim the good of the greatest number, and that the men and women who are drafted to the government service must be considered merely as public servants above whose interests the interest of the general public must be upheld.

In spite of this general rule, however, we cannot entirely lose sight of the fact that the men and women working in the government are human beings, who have their own welfare to look after, and who, like the mass of the population, may also become discontented and thereby be a source of disorder or violence against the government itself. It is for this reason that laws are passed, having in view the protection of the peculiar interests of government employees or their families.

Laws of this nature, of which the so called Gratuity Law (Act No. 4051) is one, can be properly called legislative attempts at social jurisprudence. Law is a growing thing; it is like a living organism that cannot afford to remain static or stagnant. It must always be in a state of progress or evolution for further development so that it may always be adjusted to and be in harmony with the other social forces at work in the community over which said laws govern. Although to a certain extent idealism pervades the task of legislatures, laws must always take into consideration actual and material conditions which guide the active biological and social life.

It is this characteristic of laws which has made the government look to the welfare of the government worker. The writer does not pretend to be an authority on social justice, but he will attempt, in the following brief discussion, to analyze the reasons

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for, the effects and the wisdom of Act No. 4051. Because of the exigencies of time and the scantiness of material available, this paper must necessarily be limited in scope.

A. *History of the Gratuity Law*

In the Philippine Islands, there are various laws by which the welfare of the government employees is looked after and their service rewarded. These laws take the form of pension laws and gratuity laws. We have for instance, the Teachers Pension Fund, the Gratuity for the disabled or dead members of the municipal police (Act No. 3787), the Retirement Gratuity Act (No. 2589), the Gratuity Act for judges of the Supreme Court and Justices of the Court of First Instance (Acts Nos. 3304 and 3360).

Act 4051, curiously enough, is only an incident of the Reorganization Act (No. 4007) approved by the Legislature on December 5, 1932. Section 42 of that law provides: "Officials and employees whose positions are abolished or who may be separated from the service as a consequence of the reorganization provided in this Act shall be retired with gratuities to be fixed by appropriate legislation on the basis of the highest salary received, and shall not lose their civil service eligibility for a period of 10 years from the date of their separation from the service. In case an office needs the service of additional personnel, preference in the appointment shall be given to the officials or employees who may be separated from the service as a result of this reorganization and in accordance with the recommendation of the Director of Civil Service; Provided, That the gratuities received by them under the law shall be discontinued from and after the date of their reinstatement into the service and any amount received by them corresponding to the portion of the term of the gratuity which has not yet elapsed upon the date of reinstatement shall be refunded to the government."

The Reorganization Act (No. 4007) was passed with the primary aim of reorganizing the departments, bureaus and offices of the Insular Government, to make their functioning more efficient as well as more economical. The Reorganization Act involved the abolition of certain offices and the removal from the service of several employees. Partially in recognition of the service rendered by those employees, and partially as a measure to indicate that the reorganization was expedient for the purpose of efficiency and economy, the gratuity law (Act No. 4051) was enacted.

This law was introduced as House Bill No. 2523 by Representatives Paredes, Domingo, Concon, Marabut, Vera, Bonifacio, Millar, Magsalin and Villanueva. It was approved on February 21, 1933, with the exception of section 7 which was vetoed by the Governor-General. The legality of this veto of section 7 will be discussed later.

B. *Meaning of Gratuity*

Gratuity means a free gift, a recompense, a present. The term may embrace not only tangible things, but service or any benefit of pecuniary value bestowed without claim or demand. (28 C. J. A-23.)

Act No. 4051 merely provides that "wherever it is necessary in carrying out the provisions of Act No. 4007 or any other provisions of law, department order or regulation adopted for the purpose of consolidating activities or reducing the personnel and the expenses of the government, to abolish a position or retire an officer or an employee in any bureau or office of the Insular Government on or before December 31, 1933, the officer or employee to be separated or retired from the service shall be entitled to a gratuity as follows. * * *" It will be noted that the law merely uses the term "gratuity" without giving a specific definition. It must, therefore, be understood in the sense of the word as has been defined in the preceding paragraph.

C. *Purpose of the Law*

In order to see the purpose of the law, one must always read it in connection with the Reorganization Act. The Reorganization Act was passed mainly for efficiency and economy and the Gratuity Law must be interpreted as having the same purpose. The Reorganization Act severes the connection of employees with the government service; the Gratuity Law gives a recompense to those employees. It seems paradoxical, therefore, that although the Gratuity Law in effect appropriates money its main purpose is economy.

It is still problematical whether the Gratuity Law really secured economy for the Philippine Government. It is difficult to state now whether the savings of the government arising from the dismissal of officials or employees under the Reorganization Law more than offset the amount to be paid by the treasury in the form of gratuity. This can only be seen after a number of years.

It is not disputed that the merging of bureaus and offices and the abolition of certain positions resulted in economy. If the

reorganization had stopped merely at reorganizing, without providing in Section 42 for the payment of gratuity by appropriate legislation, there would be no doubt that economy has been and will be achieved. But the provision for the payment of gratuity makes it problematical whether in the long run the amount of gratuity that will be paid to dismissed or retired employees will not ultimately exceed the aggregate total of their salaries, taking into account the benefit accruing from the services for which such salaries are given.

Although we are not now in a position to pass a verdict upon the question of whether economy has been achieved, we may state that the incidental purpose of the law is well served by the gratuity. As before stated in the preface of this work, pensions and gratuities have for their purpose the recompense of employees who have faithfully served the government. The gratuity law does not seem to be an exception, inasmuch as the officers and the employees benefited by it are those who are removed from the government not by reason of inefficiency, but because the dictates of economy in expenditures so demand. The gratuity serves to soothe the rancor that may arise in the hearts of those efficient employees who are reorganized out of the service for the sake of economy. This purpose at least the gratuity serves well.

If, however, this was not the purpose of the law, could not economy and efficiency have been achieved by merely discharging those officers and employees who are really inefficient and abolishing those offices which merely duplicate the work of government and administration without giving them any pension or gratuity, and at the same time reduce the salaries of those who would be left in the service? This, again, is a matter of appreciation, and in the opinion of the writer, it would have been more conducive to both economy and efficiency if the legislative body had followed the latter course; that is, reduction of personnel and salary without gratuities.

It may be also said that one purpose of the gratuity law is to provide the retired or dismissed officers and employees with a certain amount of money to tide them over until they are able to engage in some business or secure other employments. Is this other purpose achieved? A cursory glance over existing economical and social conditions will reveal the sad fact that only a few of the retired employees really make any effort to invest their gratuities in some stable and profitable business. The great majority prefer to remain idle and depend upon their

gratuities until exhausted. The result is not very salutary, because degeneration supervenes. There is degeneration in the sense that the dismissed or retired employees acquire a frame of mind that is dependent upon and resigned to actual conditions. There is degeneration also because the standard of living of the retired or dismissed employees is reduced. This is a necessary consequence of the fact that their income is much smaller than the regular salary received by the employees while in the service.

Leaving aside the question of economy which is hard to determine at present, we may therefore conclude that although the law mitigates the pain of dismissal and acts like oil upon troubled waters, still there is a more subtle effect which is in its nature detrimental both to the individual and to the society to which he belongs.

D. *The Law by Sections*:

"SECTION 1. WHENEVER IT IS NECESSARY, IN CARRYING OUT THE PROVISIONS OF ACT NUMBERED FOUR THOUSAND AND SEVEN OR ANY OTHER PROVISION OF LAW, DEPARTMENT ORDER, OR REGULATION ADOPTED FOR THE PURPOSE OF CONSOLIDATING ACTIVITIES OR REDUCING THE PERSONNEL AND EXPENSES OF THE GOVERNMENT, TO ABOLISH A POSITION OR RETIRE AN OFFICER OR EMPLOYEE IN ANY BUREAU OR OFFICE OF THE INSULAR GOVERNMENT ON OR BEFORE DECEMBER THIRTY-FIRST, NINETEEN HUNDRED AND THIRTY-THREE, THE OFFICER OR EMPLOYEE TO BE SEPARATED OR RETIRED FROM THE SERVICE SHALL BE ENTITLED TO A GRATUITY AS FOLLOWS:

"(a) REGULARLY APPOINTED OFFICERS AND EMPLOYEES SHALL BE ENTITLED TO GRATUITY AT THE RATE OF ONE MONTH'S SALARY OR ITS EQUIVALENT IN THE CASE OF THOSE PAID BY THE DAY OR BY THE WEEK FOR EACH YEAR OF SERVICE AND THE PROPORTIONATE AMOUNT OF ANY FRACTION THEREOF, BUT NOT TO EXCEED TWENTY-FOUR MONTHS IN THE CASE OF THOSE WHOSE COMPENSATION EXCEEDS TWELVE HUNDRED PESOS A YEAR: *PROVIDED*, THAT IN THE CASE OF THOSE WHO RECEIVE TWELVE HUNDRED PESOS A YEAR OR LESS THE TOTAL RETIREMENT GRATUITY TO WHICH THEY MAY BE ENTITLED SHALL NOT EXCEED TWENTY-FOUR HUNDRED PESOS.

"(b) TEMPORARY OFFICERS AND EMPLOYEES WHO HAVE SERVED THE GOVERNMENT FOR AT LEAST FIVE YEARS BEFORE THE APPROVAL OF THIS ACT, SHALL BE ENTITLED TO GRATUITY AT THE RATE OF ONE MONTH'S SALARY OR ITS EQUIVALENT IN THE CASE OF THOSE PAID BY THE HOUR, BY THE DAY OR BY THE WEEK FOR EACH YEAR OF SERVICE AND THE PROPORTIONATE AMOUNT OF ANY FRACTION THEREOF, BUT NOT TO EXCEED TWENTY-FOUR MONTHS IN THE CASE

OF THOSE WHOSE COMPENSATION EXCEEDS TWELVE HUNDRED PESOS A YEAR: *PROVIDED*, THAT IN THE CASE OF THOSE WHO RECEIVE TWELVE HUNDRED PESOS A YEAR OR LESS THE TOTAL RETIREMENT GRATUITY TO WHICH THEY MAY BE ENTITLED SHALL NOT EXCEED TWENTY-FOUR HUNDRED PESOS.

"(c) TEMPORARY OFFICERS AND EMPLOYEES WHO HAVE SERVED THE GOVERNMENT LESS THAN FIVE YEARS BEFORE THE APPROVAL OF THIS ACT, SHALL BE ENTITLED TO A GRATUITY AT THE RATE OF HALF A MONTH'S SALARY OR ITS EQUIVALENT IN THE CASE OF THOSE PAID BY THE HOUR, BY THE DAY OR BY THE WEEK FOR EACH YEAR OF SERVICE AND THE PROPORTIONATE AMOUNT OF ANY FRACTION THEREOF.

"PERSONS SERVING ON A PART TIME BASIS SHALL NOT BE ENTITLED TO THE GRATUITIES AUTHORIZED IN THIS ACT."

Although Act No. 4007 refers to the passage of a gratuity law, it is evident that Act 4051 is not limited to officers and employees dismissed under said law, because aside from Act 4007, the gratuity law provides: "any other provision of law, department order, or regulation adopted for the purpose of consolidating activities or reducing the personnel and expenses of of the government." Although this enumeration in section 1 is broad enough to include any legislative or executive act having for its purpose the consolidation of activity or reduction of the personnel or expenses of the government, the same section imposes a rigid limitation, in that the officers or employees, in order to receive the benefit of gratuity, must be separated or retired from the service on or before December 31, 1933.

It is evident that the law is applicable only to officers and employees of the Insular Government. The terms "officers" and "employees" are not specifically defined in this law. Hence, they must be construed according to the meaning given them by the Administrative Code. The Code provides:

"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.

"Officers," 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 function 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 art or exercise the function in question." (Revised Administrative Code, Section 2.)

Thus, it has been decided that the President of the University of the Philippines is not an officer or employee of the Insular Government. This was held in an opinion rendered by Secretary of Justice Quirico Abeto, dated October 31, 1933 upon the application of former President Rafael Palma to the benefits of Act No. 4051. The opinion follows in full:

"Opinion is requested as to whether or not the President of the University may be retired under the Gratuity Act No. 4051.

"Section 42 of Act No. 4007, which reorganized the Departments, bureaus and offices *of the Insular Government,* provides that 'officials and employees whose positions are abolished or who may be separated from the service as a consequence of the reorganization provided in this Act shall be retired with gratuities to be fixed by appropriate legislation.' Section 1 of Act No. 4051 (the Gratuity Act) provides that an officer or employee 'in any bureau or office of the Insular Government,' whose position is abolished or who is separated or retired from the service as a consequence of the reorganization provided by said Act No. 4007 or by any other law, department order, or regulation, should be entitled to a gratuity. As is seen, the benefits of the Gratuity Act are limited to officers and employees in the bureaus and offices of the Insular Government.

"Is the University of the Philippines a bureau or office of the Insular Government? Sections 81-86 of the Administrative Code, as amended by Act No. 4007, enumerate the different bureaus and offices which are under the six executive departments of the Government, but no mention is made in any of said sections of the University of the Philippines. Neither is there any mention of it in any other sections of Act No. 4007.

Act No. 1870, which is the charter of the University declares in its section 1 that the University of the Philippines shall be organized as a corporation under that name. Section 5 of said Act, as amended, provides that the University shall have the general powers set out in Section 13, of Act No. 1459 (the Corporation Law). The President of the University is not appointed like regular officers and employees in the Insular Government, but, according to section 4 of Act No. 1870, as amended, 'the president of the University shall be elected and his compensation shall be fixed by the Board of Regents.' Section 14 of Act No. 1870, in providing that apparatus may be loaned to an employee detailed for duty in the University by heads of bureaus and offices of the Insular Government, makes it clear that the University is not an office or bureau of said government.

"Certain it is that some officers of the Insular Government have to do with the functioning of the University. For instance, under section 4 of Act No. 1870, as amended, certain officers are members of its Board of Regents; under section 15, the Governor-General and the presiding officers of both Houses of the Legislature constitute a board of visitors of the University; under section 13, the Insular Treasurer is the ex-officio treasurer of the University; and its accounts and disbursements are subject to rules and regulations prescribed by the Insular Auditor. The University is also supported by aids and contributions from the Insular Government (Subs. [a], Sec. 6, Act 1870; Acts Nos. 2040, 2095, 2730, 3043,

3377, 3667 and 3803). Acts Nos. 2672, 2787 and 2935 provide for a scale of salaries of officers, professors and instructors of the University. But this legislative intervention only shows that this institution, as a creature of the Legislature, is under the Government control but, of course, it by no means makes the University a bureau or office of the Insular Government. The University is a branch of the Government of the Philippine Islands, but is not a part of the Insular Government (see sec. 2, Adm. Code).

"Let us suppose, however, that the University is a bureau or office of the Insular Government and that an officer of the University may be granted the benefits of the Gratuity Act. The Gratuity Act requires, as a condition precedent to the retirement of an officer or employee, that his bureau or office be so reorganized that *it becomes necessary* to retire him. The University—assuming that it is an Insular bureau or office—has not up to the present been reorganized in such a manner as to make it imperative that its President be retired. All that has been done so far is to reduce the salary of his position. If the President of the University resigns because of such reduction or for any other cause, he is not entitled to gratuity not only because it is so expressly provided in section 9 of the Gratuity Act but also because resignation is no sufficient cause for retirement.

"It is therefore the opinion of the undersigned that the President of the University of the Philippines may not, under the present circumstances, be retired under the Gratuity Act."

It must be remembered, however, that this opinion of the then Secretary of Justice is administrative in nature and must be taken to have only persuasive authority. It is not binding upon the courts of justice and it may happen that when a similar case is presented squarely for a decision before our Supreme Court, this tribunal may render a different judgment or interpretation of the law.

Certain cases have also arisen under this law. Some of them have been decided upon as fully within the law; others as outside the law. Thus, former Secretary Filemon Perez of the then Department of Commerce and Communications was granted a gratuity, because the department of which he was head was abolished and in its stead were organized the Department of Agriculture and Commerce and the Department of Communications and Public Works.

Another case which came up also was that of Professor Austin Craig who applied for gratuity under this law; but it was denied him, because he was separated from the government long before the Reorganization Act was passed. Insular Purchasing Agent, Francisco Cegado, also applied for gratuity, but it was refused on the ground that certain administrative charges against him were pending. In the face of these administrative

charges he resigned and his separation from the government was not by reason of consolidation of activities or reduction of personnel and expenses of the government. It was held that he was not entitled to the Gratuity Law benefits. A similar case was that of Assistant Insular Purchasing Agent Antonio Aquino. The case of former President Rafael Palma of the University of the Philippines has been made clear in the opinion of Secretary Abeto quoted above.

"SEC. 2. IN SEPARATING OR RETIRING EMPLOYEES UNDER THE PROVISIONS OF THIS ACT, DEPARTMENT HEADS SHALL GIVE PREFERENCE TO OFFICERS OR EMPLOYEES WHO, ON ACCOUNT OF THEIR ADVANCED AGE OR OF ANY PHYSICAL OR MENTAL DEFECT, ARE NOT FIT TO RENDER FURTHER EFFICIENT SERVICE IN THE POSITIONS THEY OCCUPY: PROVIDED, HOWEVER, THAT THE APPOINTEES OF THE GOVERNOR-GENERAL MAY BE RETIRED BY THE DEPARTMENT HEAD CONCERNED WITH THE APPROVAL OF THE GOVERNOR-GENERAL."

This section shows clearly the intention of the Legislature to help those employees who are handicapped in their ability to work and, therefore, would find it hard to eke out a livelihood upon their separation from the government. In some way, it also reveals that efficiency is sought to be attained by the weeding out of those who are already advanced in age or who are afflicted with some physical or mental defect.

An interesting legal point may be seen in the proviso of this section "that the appointees of the Governor-General may be retired by the Department Head with the approval of the Governor-General." The Governor-General has the power of removal as an incident of his power of appointment which is inherent in his office. Therefore, as chief of the administration, he may retire from office all other appointed employees and officers of the executive departments. The section under consideration empowers a Department Head to retire appointees of the Governor-General. Ordinarily, this power rests only with the Chief Executive. It may be doubted whether the legislature can constitutionally grant a Department Head power to remove an appointee of the Governor-General. The appointing power arises from the Organic Law and the removal of his appointees may likewise be said to be his constitutional right. To grant a Department Head the power to exercise the Governor-General's power of removal over the latter's appointees would be to usurp and encroach upon the constitutional prerogative of the Chief Executive. It is, therefore, proper that the law

should have provided that the appointee of the Governor-General may be retired by the Department Head only with the approval of the Governor-General.

"SEC. 3. THE GRATUITY PROVIDED IN SECTION ONE HEREOF SHALL BE BASED ON THE HIGHEST BASIC RATE OF SALARY RECEIVED AND SHALL BE PAID MONTHLY AT THE RATE OF THIRTY-THREE AND ONE-THIRD PER CENTUM OF THE MONTHLY SALARY OF THE OFFICER OR EMPLOYEE, WITH THE EXCEPTION OF THOSE WHO WILL BE ENTITLED TO A GRATUITY OF ONE MONTH'S SALARY OR LESS WHO SHALL TOTALLY BE PAID IMMEDIATELY UPON SEPARATION: *PROVIDED*, HOWEVER, THAT WITH THE APPROVAL OF THE HEAD OF THE DEPARTMENT IN WHICH SUCH OFFICER OR EMPLOYEE WAS SERVING UPON SEPARATION OR RETIREMENT, THE SAID OFFICER OR EMPLOYEE MAY, SUBJECT TO SUCH RULES AND REGULATIONS AS MAY BE APPROVED BY THE SECRETARY OF FINANCE, SELL, TRANSFER OR CEDE HIS RIGHT TO THE GRATUITY PAYMENTS, TO ANY INVESTMENT FUND UNDER THE CONTROL OF THE INSULAR GOVERNMENT, OR TO ANY BANK DULY AUTHORIZED TO TRANSACT BUSINESS IN THE PHILIPPINE ISLANDS: *PROVIDED, FURTHER*, THAT THE GRATUITY PROVIDED FOR IN THIS ACT SHALL NOT BE ATTACHED OR LEVIED UPON EXECUTION."

This section provides for the periodical payment of gratuity to retired employees. The wisdom of this provision is evident when we consider the fact that many persons unaccustomed to receiving large amounts will be tempted to squander their gratuities after this is paid to them in full at once. To provide against such contingencies and prevent misery among the retired officers and employees, this section has been inserted.

However, the law also takes into account cases of officers and employees who may want to engage in business and who must, therefore, have the necessary capital to start said business. They are thus empowered to "sell, transfer or cede his right to the gratuity payments to any investment fund under the control of the Insular Government or to any bank duly authorized to transact business in the Philippine Islands." But, in order that this right may not be abused to the consequent detriment of the officer or employee, the law also provides that it shall be exercised "subject to such rules and regulations as may be approved by the Secretary of Finance."

The last proviso in this section states that the gratuity provided for in this section shall "not be attached or levied upon execution." This in one way is a statement of a well recognized principle of public administration. The salary of a public officer and employee cannot be garnished or attached on order of execution, or seized before being paid to him and appropriated

to the payment of his debts. One reason is that, while the money is still on the hands of the disbursing officers, it belongs to the government. Another reason, that public policy forbids such practice since it would prove fatal to public service. The third reason is that, garnishment or attachment of an officer's salary is tantamount to a suit against the state in its own courts which is prohibited without its express consent. (Director of Commerce and Industry vs. Concepcion, 43 Phil. 384.) The proviso under consideration follows this general principle of the law of public officers and governmental administration.

There is another legal principle which apparently is not, however, followed by this section: an assignment by way of anticipation of the salary to become due to public officers is void. This rule is based on public policy. If such assignments are allowed, then the assignors, by mere notice to the government would on ordinary principle be entitled to receive pay directly and to take the place of their assignors in respect to the emoluments, leaving the duties of the office a barren charge to be borne by the assignors. It does not need much reflection or imagination to understand that such a condition of things could not fail to produce results disastrous to the efficiency of public service. (Bleese vs. La 58 New York 4482.)

An examination of the first proviso of the section under consideration shows that it allows the selling, transfer or cession of the employee's or officer's rights to the gratuity payments. As we said there is only an apparent deviation from the principle prohibiting assignment of salaries. It is only apparent, because the assignment under the section we are commenting upon does not bring the disastrous results which are sought to be avoided by the prohibition on assignment of anticipated salaries. Here, there is no service or work that will constitute "a barren charge to be borne by the assignors." Hence, the law can well allow such assignment without danger to the public service.

It may be stated although it is already obvious, that the gratuity law added another number to the list of exemptions from attachment or execution already provided for in the Code of Civil Procedure. There is an exemption similar to that enjoyed by homestead patents within the five years immediately after the issuance of said patents.

One serious question may, however, arise under this section. It provides that the gratuity shall not be attached or levied upon execution. It also provides that the rights to the gratuity may

be sold to any investment fund under the control of the government or to any bank duly authorized to transact business in the Philippine Islands. Now, supposing that a retired officer sells his right to his gratuity to a bank authorized to do business in the Philippines and gets the full amount of his gratuity with some discount. Then, he invests this money in business as a "Hat Store" for instance. May the creditors of this retired employee attach or levy upon execution the "Hat Store" which has been purchased by money constituting the gratuity of the employee? If the purpose of the law is to be followed, the writer is of the opinion that said store cannot be levied upon execution. However, exemptions must be strictly construed and the person claiming the exemption must show a clear specific provision of the law granting that exemption. The employee in our example can not point to any provision in the Gratuity Law which will cover his store purchased by his gratuity. Then the letter of the law, strictly construed by the rules governing exemptions, will show that such store or business cannot be exempted.

This is one situation which the writer believes should merit the consideration of the legislature. If the gratuity itself is protected, similar protection must be given to the property which is acquired in exchange for or in substitution of said gratuity.

"SEC. 4. IF AN OFFICER OR EMPLOYEE SEPARATED OR RETIRED UNDER THE PROVISIONS OF THIS ACT IS ENTITLED TO THE BENEFITS OF ACT NUMBERED TWENTY-FIVE HUNDRED AND EIGHTY-NINE, AS AMENDED, OR TO THE BENEFITS OF ANY LAW OR SPECIAL PENSION FUND CREATED BY AUTHORITY OF THE PHILIPPINE LEGISLATURE, SUCH AS THE TEACHERS' RETIREMENT AND DISABILITY FUND BY VIRTUE OF ACT NUMBERED THREE THOUSAND AND FIFTY, AS AMENDED, THE PENSION AND RETIREMENT FUND OF THE PHILIPPINE HEALTH SERVICE UNDER ACT NUMBERED THIRTY-ONE HUNDRED AND SEVENTY-THREE, AND THE PENSION AND RETIREMENT FUND OF THE PHILIPPINE CONSTABULARY UNDER ACT NUMBERED SIXTEN HUNDRED AND THIRTY-EIGHT, HE SHALL HAVE THE PRIVILEGE TO CHOOSE BETWEEN THE BENEFITS PRESCRIBED IN SAID ACTS AND THOSE HEREIN PROVIDED FOR; BUT IN NO CASE SHALL THE PAYMENT OF GRATUITY UNDER MORE THAN ONE ACT BE AUTHORIZED. IF HE CHOOSES THE BENEFITS GRANTED BY THE SPECIAL PENSION OR RETIREMENT ACT, HE SHALL BE RETIRED UNDER THE PROVISIONS OF SAID ACT IF HE IS ENTITLED TO ITS BENEFITS; IN CASE HE PREFERS THE GRATUITY PROVIDED FOR IN THIS ACT, HE SHALL BE GRANTED SUCH GRATUITY, AND THE AMOUNTS DEDUCTED FROM HIS SALARY AS CONTRIBUTIONS TO THE TEACHERS' RETIREMENT AND DISABILITY FUND, THE PENSION AND RETIREMENT FUND OF THE PHILIPPINE HEALTH SERVICE, OR

THE PENSION AND RETIREMENT FUND OF THE PHILIPPINE CONSTABULARY, AS THE CASE MAY BE, SHALL BE REFUNDED TO HIM, AND IN THE CASE OF THE TEACHERS' RETIREMENT AND DISABILITY FUND, SAID FUND SHALL ALSO RETURN TO THE GENERAL FUNDS OF THE INSULAR GOVERNMENT THE CORRESPONDING DIRECT CONTRIBUTIONS MADE TO SAID SPECIAL FUND BY THE INSULAR GOVERNMENT: PROVIDED, HOWEVER, THAT JUDGES AND AUXILIARY JUDGES OF FIRST INSTANCE AND PUBLIC SERVICE COMMISSIONERS WHO MAY BE RETIRED UNDER THE PROVISIONS OF THIS ACT, SHALL BE ENTITLED TO THE BENEFITS PROVIDED FOR IN ACT NUMBERED TWENTY-FIVE HUNDRED AND EIGHTY-NINE, AS AMENDED, THE PROVISIONS OF THIS ACT OR ANY OTHER ACT TO THE CONTRARY NOTWITHSTANDING.

"SEC. 5. IN CASE OF THE DEATH OF AN OFFICER OR EMPLOYEE AFTER SEPARATION OR RETIREMENT FROM THE SERVICE UNDER THE PROVISIONS OF THIS ACT, ANY GRATUITY OR PART THEREOF DUE TO HIM SHALL BE PAID TO HIS LEGITIMATE HEIR OR HEIRS, OR, IF DISCOUNTED UNDER THE PROVISIONS OF SECTION THREE HEREOF, THEN TO THE INVESTMENT FUND OF THE INSULAR GOVERNMENT OR TO THE BANK TO WHICH THE RIGHT TO SUCH GRATUITY MAY HAVE BEEN CEDED."

This section further evidences the intention of the Legislature to provide not exactly for the individual retired employees, but for his families dependent upon him for support.

Under ordinary principles, a public officer or employee is entitled to compensation only so long as he is connected with the government and performs the public function incident to his office or employment. So that, where a public officer is separated from the government either by resignation, by removal, or by death, his right to compensation ceases. If he dies in office, his family does not have any right to receive any amount from the government unless his case falls within any of the Pension Laws enacted by legislative authority.

This law, however, provides that the gratuity shall pass to the heirs of the deceased. Just what is comprised within the term "heir" or "heirs" is not made clear in this law. The term must therefore be interpreted to have their ordinary meaning under the civil law enforced in the Philippines. Heirs are the persons who would inherit in case the retired officers or employees die intestate. The order of succession to our mind will also be the same as that provided in the Civil Code.

This interpretation, however, may at once run counter to the aim and purpose of the Gratuity Law. The purpose here is to provide for the needs of those dependent upon the officers or

employees. It may happen then that an employee, having only a wife and a father may be in such situation, that his father is independent of him, while his wife has no means of support but him. If this employee is retired and given a gratuity and before the same has been fully paid to him, he dies, under the law of succession, his father and not his wife would be entitled to inherit the gratuity, leaving his wife nothing but her usufructuary right. It is evident from this example which is far descriptive of many families that the letter of the law may bring about a situation contrary to its spirit.

In view of all the foregoing, we believe that it should have been better if the Gratuity Law, instead of saying "legitimate heir or heirs," had followed the Workingman's Compensation Law and used the words "dependent" or "dependents" or "wife or children." Such phraseology will not involve legal technicalities and consequent difficulties on the part of those dependent upon the retired employee for support, but who are not heirs under the order of legal succession.

"SEC. 6. A PERSON SEPARATED OR RETIRED UNDER THE PROVISIONS OF THIS ACT MAY BE REAPPOINTED TO ANY POSITION IN THE INSULAR GOVERNMENT BUT BY ACCEPTING SUCH REAPPOINTMENT HE SHALL FOREVER WAIVE ALL FUTURE GRATUITY PAYMENTS AND/OR CLAIMS UNDER THE PROVISIONS OF THIS ACT. SIMILARLY, A RETIRED PERSON WHO, UNDER THE PROVISIONS OF SECTION THREE HEREOF, HAS DISCOUNTED THE GRATUITY PAYMENTS TO WHICH HE IS ENTITLED SHALL, UPON HIS REAPPOINTMENT TO ANY POSITION IN THE INSULAR GOVERNMENT, FIRST REFUND TO THE INVESTMENT FUND OR THE BANK TO WHICH HE HAS CEDED HIS RIGHTS TO THE GRATUITY THE TOTAL DISCOUNTED VALUE OF ALL THE GRATUITY PAYMENTS WHICH HE WOULD NOT YET HAVE RECEIVED HAD THESE BEEN MADE TO HIM IN MONTHLY INSTALLMENTS."

This section provides for cases in which the government officer or employee may have been separated from the service, not on account of inefficiency, but for the sake of economy. The efficient employee so separated from the service may again be redrafted into the governmental force. In such cases it would be highly prodigal on the part of the government to continue paying gratuity to the officers and employees who would again be on the payroll of the government.

The section under consideration provides all gratuity that would accrue after the reappointment should be forever waived. A situation may arise, therefore, which may lead to an interesting legal question; for instance, employee X was separated from

the service by the operation of the Reorganization Act. Under this law, he is entitled to the gratuity provided under section 1 hereof. But, granting that he is reappointed to some other position in the government in about two months from is separation and later on, say, six months later he is removed again from office by the abolition of that office under a special law of the legislature. Here we have a case in which the employee was restored to the government service and removed again before the time for the payment of his gratuity has elapsed. The question arises: Is the employee entitled to receive the gratuity which should correspond to him had he not been reappointed from the date of his second removal? The law says that he shall forever waive all such gratuity payments. The intention of the Legislature, therefore, seems to be to deny the right to such later gratuity. This we can gather from the letter of section 6 of the law. But it is clearly the spirit of this law that employees who are separated from the government be given something with which to tide over until they find some other employment outside the government. There is, therefore, an apparent conflict between the letter and the spirit of the law. The writer believes that this conflict should have been solved by the Legislature by clearly expressing in the law that if a person separated or retired under the provision of this act is reappointed to any position in the insular government he thereby waives the right to gratuity payments only during the time that he is in the service, but that if he is separated later, when he should still be entitled to gratuity payments, for causes other than inefficiency or maladministration or misconduct he should be entitled to the gratuity payments accruing after the second removal from office.

The second provision of this section requires that the retired person who has discounted the gratuity payment to which he shall be entitled shall upon his reappointment to any position in the insular government first refund to the investment fund or the bank to which he has ceded his rights to the gratuity, the total discounted value of all the gratuity payments which he would not yet have received had this been made to him in monthly installments. By comparison with the first provision of this section it is clear that while the first provision makes the appointment ipso acto a permanent waiver of all future gratuity payments, the second provision makes the refund of the total discounted value of all gratuity payments which would not have been received a condition precedent. Thus the reappointment to office does not take legal effect until the refund

required by the law. In one way, this requirement of the law is good because it protects the investment fund or the bank which has bought the rights to the gratuity payments at a discount. At the same time it may prevent the reappointment to the government service of efficient and desirable officers and employees who are disabled by unfortunate and avoidable circumstances from making the refund required by the law.

"SEC. 7. THE JUSTICES OF THE PEACE WHO MUST RELINQUISH OFFICE DURING THE YEAR NINETEEN HUNDRED AND THIRTY-THREE IN ACCORDANCE WITH THE PROVISIONS OF ACT NUMBERED THIRTY-EIGHT HUNDRED AND NINETY-NINE, SHALL ALSO BE ENTITLED TO THE GRATUITIES PROVIDED FOR IN THIS ACT."

This section, although enacted by the Legislature, was vetoed by the Governor-General pursuant to the power granted him in section 12 of this act. The legality of this veto will be discussed under section 12.

"SEC. 8. THE OFFICES OR POSITIONS VACATED BY THE SEPARATION OR RETIREMENT OF OFFICERS AND EMPLOYEES WITH GRATUITIES PAID UNDER THE PROVISIONS OF SECTION ONE OF THIS ACT SHALL NOT BE FILLED AND SHALL BE CONSIDERED ABOLISHED *IPSO FACTO*, EXCEPT THOSE SPECIFICALLY CREATED BY LAW AND THOSE OF CHIEF CLERK, CHIEF OF DIVISION, AND LIGHTHOUSE KEEPER."

This section shows very clearly the intention of the Legislature of attaining efficiency and economy by the enactment of this law. It provides that the offices or positions vacated by the operation of this law cannot be filled and shall be considered abolished ipso facto, with certain exceptions. The use of the term "abolished" is indicative of the purpose of the lawmaking body to simplify the workings of the governmental administration. It is possible, however, that the letter of the law may, as charged by some, be only a cloak to comouflage a sinister intention of political boses to reorganize the government by vacating positions filled by officers or employees having a political affiliation different from theirs and then recreating the same positions and appointing to them persons belonging to their party. This violation of the spirit of the law is made possible by the exception provided by this section which states, "except those specifically created by law." This exception is broad enough to cover all possible cases of office abolition and subsequent recreation to accommodate political friends and followers.

"SEC. 9. NOTHING HEREIN PROVIDED SHALL BE CONSTRUED AS ENTITLING TO THE BENEFITS OF THIS ACT THOSE

OFFICERS AND EMPLOYEES OF THE INSULAR GOVERNMENT WHO VOLUNTARILY RESIGN FROM THE SERVICE DUE TO THE REDUCTION OF THEIR COMPENSATION OR TO TRANSFER FROM ONE OFFICE TO ANOTHER BY VIRTUE OF THE PROVISIONS OF ANY ACT, OR TO THE ABOLITION OF DOUBLE COMPENSATIONS TO WHICH THEY WERE FORMERLY ENTITLED, OR TO ANY CAUSE NOT PROVIDED HEREIN."

This section like the preceding one is strongly in harmony with the purpose and spirit of the law. Whereas simplification and economy are achieved by section 8, the section under consideration aims to discharge employees and officers from voluntarily giving up their service in the government for the mere purpose of becoming entitled to the benefits of gratuity.

The wisdom of the provision of this section is manifest. Government officers and employees are supposed to be in the service in a spirit of patriotism and self-abnegation for the common weal.

This section comprehends all possible cases of voluntary separation from the government. It enumerates the following as causes of voluntary separation: (1) Reduction of compensation; (2) Transfer from one office to another; (3) Abolition of double compensation; (4) Any cause not provided herein. The last—any cause not provided herein—sufficiently covers, not only the three preceding ones but all other possible causes other than those mentioned in section 1 of the law.

Even if this section had not been inserted in the law, the writer believes that the state of the law would not have been any different. Section 1 already states the cases, generally, which would come under the benefit of gratuity; section 9 merely excludes those which are not included in section 1. However, section 9 helps to make clearer the general provision in section 1. Government service is not a means for personal gain. Employees who are in the service for the compensation attached to the office would naturally be inclined to resign when their salary is reduced or they are transferred to a position of lower compensation; especially so, if by their separation from the service they can expect the benefit of gratuity payments. It is to guard against such possibilities that the legislators saw it fit to include the provision of section 9 in the law.

The application of this section was involved in the case of former president Rafael Palma of the University of the Philippines who applied for retirement under the gratuity law. It will be remembered that the Legislature reduced the salary of the President of the University of the Philippines and it happened

that former President Palma tendered his resignation at about that time, applying for the benefits of the Gratuity Act. The then Secretary of Justice, Quirico Abeto in an administrative opinion requested by the Board of Regents of the University of the Philippines stated:

"Let us suppose, however, that the University is a bureau or office of the Insular Government and that an officer of the university may be granted the benefits of the Gratuity Act. The Gratuity Act requires as a condition precedent to the retirement of an officer or employee that his bureau or office be so reorganized that it becomes necessary to retire him. The University—assuming that it is an Insular bureau or office—has not up to the present been organized in such a manner as to make it imperative that its President be retired. All that has been done so far is to reduce the salary of his position. If the President of the University resigns because of such reduction or for any other cause, he is not entitled to gratuity not only because it is expressly provided in section 9 of the Gratuity Act but also because resignation is no sufficient cause for retirement."

Instances of voluntary resignation due to "any cause not provided herein" may be found in the cases of Insular Purchasing Agent Francisco Cegado and Assistant Purchasing Agent Antonio Aquino. Both of them resigned because of certain administrative charges against them. They were not accorded the benefits of this law.

"SEC. 10. THE NECESSARY SUM TO CARRY OUT THE PURPOSES OF THIS ACT IS HEREBY APPROPRIATED OUT OF ANY FUNDS IN THE INSULAR TREASURY NOT OTHERWISE APPROPRIATED."

This section provides for the appropriation of the "necessary sum" for carrying out the purposes of the law. It will be noted that there is here no provision as to the exact amount of money appropriated from the treasury fund. Does this failure to provide for an exact amount in figures make the law incomplete?

"One essential element, however, must be present in any appropriation law. It must state the exact amount appropriated or the maximum sum from which the authorized expenses could be paid. This maximum limit may be specified either in the general appropriation bill or in the law authorizing the expenses in question. Failure to follow this requirement make the appropriation act uncertain and, consequently, void, for in such case legislative power over appropriations may be said to be delegated to the recipient of the funds so appropriated." (State vs. Aggers 16 L.R.A., N.S. 630, 641; State vs. La Crave, 41 Pac. 1,075;

Sinco, Philippine Government and Political Law, Second Edition page 129.)

From the doctrine lay down in the cases last cited it seems very evident that section 10 in itself is incomplete as not giving the exact amount or the maximum sum to be appropriated from the public funds. Not being complete, it constitutes an undue delegation of legislative power which is a violation of the constitution.

It may be stated, however, that section 1 of this law impliedly or indirectly provides the amount appropriated in section 10. Section 1 provides: "(a) Regularly appointed officers and employees shall be entitled to gratuity, etc. * * * of service and the proportionate of any fraction thereof." * * *

The gratuity of retired employees and officers is then determined by the salary they receive at the time of their separation from the government service. The salaries being fixed and determined, and the gratuity being a certain fraction of the salary, the former is thus indirectly determined by the law. It cannot be said, therefore, that the legislature has left to executive discretion the fixing of the gratuity or the amount of money appropriated by section 10.

Considered in isolation from the other portions of the law, this section thus may be said to be unconstitutional; but considering it in connection with section 1 and giving to it all the presumption of constitutionality afforded by the law of statutory construction, it can be held valid. The writer is of the opinion that the latter view is better and more in consonance with the spirit and ideals of good government and social justice. The reason for adopting this view is simple. In the nature of things, it would not be possible for the legislature to determine in advance the exact or even the approximate amount of money that would be paid in gratuities every year. Such determination will involve the tedious task of ascertaining who are those to be retired, with the amount of their salaries, and the computation of the gratuities according to the scale or proportions laid down in section 1. These are merely matters of detail and does not involve the exercise of legislative discretion. The delegation of the power to determine these matters does not, therefore, involve an unconstitutional delegation. Paraphrasing the Supreme Court, the proper regulation of such matters requires action of such a detailed character as not to permit the legislative body, as such, to take it efficiently. (Government of the P. I. vs. Binagonan, 36 Phil. Reports 547.)

The appropriation provided by section 10 is a continuing one and is not limited to any fiscal year.

"SEC. 11. THIS ACT SHALL TAKE EFFECT AS OF JANUARY FIRST, NINETEEN HUNDRED AND THIRTY-THREE: *PHOVIDED*. THAT THE PROVISIONS HEREOF SHALL BE APPLICABLE TO SUCH OFFICERS AND EMPLOYEES OF THE INSULAR GOVERNMENT AS WERE SEPARATED FROM THE SERVICE DURING THE YEAR NINETEEN HUNDRED AND THIRTY-TWO AS A RESULT OF THE OPERATION OF EXECUTIVE ORDER NO. 369 OF THE GOVERNOR-GENERAL AND OF HIS MEMORANDUM ORDER ISSUED ON APRIL EIGHT, NINETEEN HUNDRED AND THIRTY-TWO.

"SEC. 12. IF, FOR ANY REASON, ANY SECTION OR PROVISION OF THIS ACT IS DISAPPROVED BY THE GOVERNOR-GENERAL OR IS CHALLENGED IN A COMPETENT COURT AND IS HELD TO BE UNCONSTITUTIONAL OR INVALID, NONE OF THE OTHER SECTIONS OR PROVISIONS HEREOF SHALL BE AFFECTED THEREBY AND SUCH OTHER SECTIONS AND PROVISIONS SHALL CONTINUE TO GOVERN AS IF THE SECTION OR PROVISION SO DISAPPROVED OR HELD INVALID HAD NEVER BEEN INCORPORATED IN THIS ACT."

This section, in general, establishes for this particular law an exception to the usual rules of statutory construction. The general rule is that, when the different provisions of a law are so related that one is dependent upon another or that one cannot stand alone, the unconstitutionality or invalidity of one provision renders the other related provision also unconstitutional and hence, cannot be enforced by themselves.

Section 12 expressly prevent the application of the general rule of statutory construction, by providing that if any section or provision of this law should be declared unconstitutional or invalid, the other provisions shall remain unaffected.

A more interesting point, however, is that part of this section which says: "If, for any reason, any section or provision of this Act is disapproved by the Governor-General * * * none of the other sections or provisions hereof shall be affected thereby and such other sections and provisions shall continue to govern as if the section or provision so disapproved * * * had never been incorporated in this Act." Is this provision constitutional?

To answer this question an inquiry into the veto power of the Governor-General is proper. Section 19 of the Jones Law empowers the Governor-General to veto any bill for joint resolution passed by both houses of the Legislature. The same section further provides: "The Governor-General shall have the power to veto any particular item or items of an appropriation

bill, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided as to bills and joint resolution returned to the Legislature without his approval." The manner referred to in this latter provision is the repassage of the vetoed bill or joint resolution by a two-thirds vote of each house of the Legislature and the approval of the same by the President of the United States.

It seems clear from the above that the Organic Law empowers executive veto of parts of bills only in case of appropriation bills. It is only for appropriation bills that the Jones Law makes the special provision allowing veto of particular items. Since no such provision is made for other bills and joint resolutions, the Governor-General possesses no constitutional authority to veto parts of bills which are not appropriation bills.

Is act No. 4051 an appropriation bill? An appropriation bill is one the principal, if not the only, purpose of which is to provide for the setting aside of some portion of the public funds for expenditure for particular purposes. Tested by this very evident characteristic of an appropriation bill, Act No. 4051 cannot be said to be an appropriation bill.

The title of the law is: "An act * * * etc. * * * and for other purposes."

There is nothing in the title of this law to indicate that appropriation for a particular purpose or purposes to the principal aim of its enactment; rather, the appropriation provision in section 10 is only an incident to carry out the principal purpose of the law, that is, to provide that gratuity shall be given to those who are retired under the conditions mentioned in section 1. Section 10 alone is not sufficient to make this law an appropriation bill.

Not being an appropriation bill, the Governor-General cannot veto any part thereof under the grant of power contained in section 19 (b) of the Jones Law allowing the veto of particular items of appropriation bills. But, the Governor-General vetoed section 7 of this bill. Was the veto of said section valid?

The power to veto that section, as already stated, cannot be derived from the organic law, because no power to veto parts of bills which are not appropriation bills is given by the Jones Law. Bills which are not appropriation bills are approved or vetoed as a unit or whole. Now, can the veto of section 7 be justified under the legislative grant of power to veto in section 12 of this same law?

It must be admitted that although the Legislature cannot diminish the powers vested by the Organic Law in the Governor-General, it may add to those powers, provided always that the functions of the other branches of the government are not thereby encroached upon. The legislative grant of power to veto any part of this bill, as made in section 12 does not impair the powers or functions of the other departments of the government. It is, therefore, a valid grant of power to the chief executive.

But, was section 7 validly vetoed? Whatever power to veto any portion of this bill than can be exercised by the Governor-General must be derived from Section 12. Section 12 cannot become operative as to grant that power unless the whole bill is first approved by the Governor-General, because he has no constitutional authority to exclude any part of the bill from his approval. As soon as the bill is approved, every section thereof is approved and cannot be subsequently vetoed by the Governor-General. The veto of section 7, therefore, is not legal.

We may therefore conclude that although considered in the abstract the grant of the power to veto contained in section 12 is not unconstitutional, practically the grant is useless because the power granted cannot be exercised, under the present state of our constitution.

What is the effect of the Governor-General's veto of section 7? The Jones Law did not give him the power to veto that section. When he approved the bill which grants him the power in section 12, he thereby also approved section 7, which he could not constitutionally leave out. After such disapproval, he was without power to veto it. When he did veto section 7, it was, therefore, without any authority either in the organic or in the statute law. Not having the power to wield that veto, the exercise of the same does not produce any legal effect. His veto did not exist in law. This being so, section 7 is considered as not having been vetoed. It remains a living part of the Gratuity Law.

Even considering Act 4051 as an appropriation bill, the veto of section 7 would still be illegal. The Jones Law allows the veto only of "any particular item or items" of an appropriation bill. Only items of appropriation can be vetoed; therefore, provisions which are not items of appropriation cannot be vetoed. Section 7 is not an item of appropriation. It cannot, therefore, be vetoed, even granting that Act 4051 is an appropriation bill.

E. *Repealability of the Law:*

May the Philippine Legislature repeal this law even before all the gratuities payable under it have been paid to the retired employees and officers?

The power to change or repeal laws enacted by a legislative body or its predecessor is an inherent prerogative of legislation. A legislature is prohibited from passing irrepealable laws. (Duarte vs. Dade, 32 Phil. 36; Cooley, Constitutional Limitation, 6th edition page 147; Sinco, Philippine Government and Political Law, 2nd edition pages 141, 142.)

At the same time, the Jones Law provides that "no law impairing the obligation of contracts shall be enacted." (Jones Law, section 3.)

The question is narrowed down to this: Is the Gratuity Law a contract or not? If it constitutes a contract between the government and the retired employees it cannot be repealed until all gratuities due under its provisions have been paid. If it is not a contract, it can be repealed at any time.

The writer submits that the Gratuity Law is not a contract. The right of the retired employee to the gratuity provided for does not arise from consent of the government concurring with that of the employee. The payment of gratuity is rather only a gesture of grace dependent on the sole will of the government. There can be said to be no consent on the part of the employee because whether he consents or not he is retired by force of law. The retirement being forced or involuntary, there is no consent to give rise to a contract with the government as to the payment of gratuity.

The Gratuity Law not being a contract, it is easy to see that the Legislature may repeal it at any time.

F. *Conclusion*

We started this brief discussion bearing in mind the purpose of the enactment of the Gratuity Law. One of its avowed aims is economy. Whether economy can be achieved in the long run is still problematical. Another purpose of the law, not so evident, is the soothing of hurt-feelings which are to be expected from those who have to be retired under the Reorganization Law. It is submitted that such aim is only badly achieved because an employee even when given the gratuity provided for in this law, must naturally feel the pain of being out of work with a gloomy outlook into the future.

It is, therefore, submitted that a general reduction of salary would have been better than a gratuity law. A reduction, although it diminishes the income, gives the employee a sense of security and satisfaction that at least he is employed. It also achieves economy. If there is a weeding out because of inefficiency the cloak of retirement should not veil the true cause of the separation from the service, and no gratuity should at all be given. It is dangerous to the structure of administration to impliedly place a premium upon inefficiency.

The giving of gratuities should be discouraged. An individual's right to a governmental position is based on trust and merit. Government employees and officers should be made to feel that their service is a patriotic gesture on their part, and that if no longer necessary it should be dispensed with without further compensation than that actually given by the law during the period of service. The giving of gratuity makes the employee think that he has right to some pension of some kind when he separated from the government. The feeling of patriotic service is lessened.

The Philippine Government needs, and will need, money for important public purposes. So that these purposes, which will multiply as independence comes, may be all carried out with success, some sacrifice will be demanded of the people at large. Savings must be made in other items of expenditure. Patriotism will be needed. Because of these, the payment of gratuities and pensions should be discouraged and discontinued. Money thus to be paid out to retired employees and officers can very well be employed for more pressing public purposes.