THE LEGISLATIVE PROCESS

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"Law streams from the soul of a people like national poetry; it is as holy as the national religion, it grows and spreads like language . . ."

Whoever coined the expression "There ought to be a law" to voice his dissatisfaction over the lack of governmental control over anything, did not reckon with the intricacies of law-making. He must have thought, as countless other people probably think, that the legislative process is a simple one. Far from being so, statute-making is a complicated undertaking which becomes more complex and intricate as years unfold.

Changing socio-economic conditions demand modification of the rules governing society, and such modification is being sought and implemented primarily through legislation. As activities in all lines of endeavor increase, the field of legislative activity widens, since it is only through legislative action that such activities can be regulated or controlled, or new government organization can be set up or those existing can be adjusted to take care of the new problems that arise therefrom. With the expansion of the governmental organization and the inevitable increase in public expenditure, the legislative task of levying taxes and other sources of revenue becomes more burdensome and technical, and that of apportioning the public funds more time-consuming.

The initial task that confronts any legislator is the determination of the basic policy that must be pursued with reference to the contemplated piece of legislation. To determine and arrive at such a policy, the legislator must comprehend the situation for which a change is asked, not only from the point of view of the group seeking the change but also from other groups which will be affected thereby. He must likewise arrive at a decision as to whether, in the interest of the general public, the situation demands such a change. With the basic policy determined, the legislator then works out the form which the statute must take so that his purpose can be achieved.

Before we proceed to the mechanics of statute-making, let us consider first that group of expression of legislative will which, in dignity, occupies a position just below formally enacted laws—the

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resolutions. These legislative expressions are of three kinds: the simple, the concurrent, and the joint resolutions.

A simple resolution is essentially a formalized motion adopted by a single house of the legislature. It is used primarily by either chamber to designate certain of its members to perform specific tasks,[1] to express the opinion or sentiment of the house on any particular matter,[2] or the recognition by the house of certain outstanding service,[3] or on the occasion of the demise of one of its members, to express the sorrow of the house.[4] House rules of procedure [5] and amendments thereto are adopted by means of simple resolutions also.

The concurrent resolution is merely a simple resolution which speaks for both houses of the legislature. This resolution performs the same function for the entire legislature as a simple resolution does for either house.[6] A concurrent resolution is employed when congress expresses its concurrence with any presidential action requiring congressional approval,[7] or when the legislature desires to recall a bill already approved by it, but pending presidential action.[8]

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[1] Resolution providing for the creation of a special committee to be known as the Special Committee on Un-Filipino Activities, to conduct an investigation of the peace and order problems and its relation to the communist movement and to find ways and means to counteract the same. (Resolution No. 1, adopted February 17, 1950.)

[2] Resolution expressing the sense of the House of Representatives that the Government, through the National Trading Corporation and/or any other agencies, should purchase building materials to be resold to the public at cost. (Resolution No. 31, adopted May 22, 1947).

[3] Resolution expressing the high regard and appreciation of the House of Representatives for its illustrious Speaker, the Honorable Eugenio Perez, for the able, wise, fair and dignified manner in which he has conducted its business and deliberations. (Resolution No. 23, adopted May 18, 1950.)

[4] Resolution expressing the condolence of the House of Representatives over the death of the Honorable Benigno S. Aquino and providing that the House adjourns in token of mourning. (Resolution No. 39, adopted February 17, 1948).

[5] Resolution to adopt the Rules of Procedure of the House of Representatives. (Resolution No. 10, adopted February 8, 1950).

[6] Concurrent Resolution authorizing the appointment of a Joint Committee of both Houses to notify the President of the Philippines that the Congress is now in session and is ready to receive his message. (Concurrent Resolution No. 1, December 30, 1949).

[7] Concurrent Resolution concurring in proclamation numbered one hundred and sixty-four of the President of the Philippines dated the Fourth of January, nineteen hundred and fifty, granting amnesty to the leaders and members of the Batangas uprising which commenced on the nineteenth of November, nineteen hundred and forty-nine. (Concurrent Resolution No. 2, adopted January 4, 1950).

[8] Concurrent Resolution requesting the President of the Philippines to return House Bill numbered four hundred and sixty-six, entitled "An Act to make obligatory the employment of a physician and a nurse in certain vessels engaged in the coastwise trade." (Concurrent Resolution No. 19, adopted September 30, 1946).

A joint resolution is a more formal expression of the will of the entire legislature not expressed in statutory form which requires the approval of the Chief Executive. It has been used to extend the effectivity of the grant of certain powers to the Chief Executive [9] and to authorize the exercise by the President of certain acts.[10]

As an outgrowth of certain provisions [11] in our Constitution, we have evolved another class of resolutions—the resolutions of both houses of Congress which is neither concurrent nor joint. These resolutions do not require presidential approval for their effectivity.

After the canvass of the election returns for President and Vice-President, Congress declares the President-elect and the Vice-President-elect in a resolution denominated "Resolution of Both Houses in Joint Session." [12] The resolving clause of this resolution is: "Be it resolved by the Senate and House of Representatives of the Philippines in Special (this is omitted if adopted during a regular session) Joint Sessions assembled in the Hall of the Senate of the Philippines" (or House of Representatives, depending upon where the two chambers meet).

If Congress desires to propose amendments to the Constitution, it does so by means of a resolution denominated: "Resolution of Both Houses." [13] The resolving clause of this resolution is: "Resolved by the Senate and House of Representatives of the Philippines in joint session assembled, by a vote of not less than three-fourths of all the Members of each House, voting separately, To propose * * *."

The Preparation of Bills

As alluded to above, after the basic policy has been determined, the next step is the preparation of the bill. This task is now es-

[9] Joint Resolution extending the authority granted to the President of the Philippines to regulate the volume of imports by quota or license or permit by Republic Act Numbered Four hundred and twenty-six. (Joint Resolution No. 1, approved May 3, 1950).

[10] Joint Resolution authorizing the acceptance by the President of the Republic of the Philippines of the Constitution of the United Nations Educational, Scientific and Cultural Organization. (Joint Resolution No. 3, approved October 17, 1946).

[11] Art. VII, Sec. 2 and Art. XV, Constitution.

[12] Resolution to declare the result of the general elections held on the twenty-third day of April, nineteen hundred and forty-six, for the offices of President and Vice-President of the Philippines. (Resolution of Both Houses in Joint Session, adopted May 25, 1946).

[13] Resolution of both Houses proposing an amendment to the Constitution of the Philippines to be appended as an Ordinance thereto. (Resolution of Both Houses, adopted September 18, 1946).

sentially the work of the legislative draftsman. The average legislator with his numerous commitments to his constituents and his social obligations in the country's capital, can hardly be expected to do the actual drafting of his bills. More and more, legislators have come to depend upon the legislative reference service of their respective houses to do for them the drafting of bills and resolutions and the search for materials, statistics and arguments, pro and con, concerning any piece of legislation they may be interested in.

This phase of the legislative task has been claimed to be one of the "most difficult tasks that confronts the intellect." "I will venture to affirm that what is commonly called the *technical* part of legislation is incomparably more difficult than what may be called the *ethical.* In other words, it is far easier to conceive justly what would be useful law than so to construct that same law that it may accomplish the design of the law-giver." [14] It is not enough that the law-maker declares his will. "He has to consider how he can enable the simple to understand, and how he can deprive the knavish of the means of evading it." [15]

The proper preparation of legislative proposals requires a foresight of governmental problems, a skill in determining the limits of effective regulation, information concerning specific, social, and economic problems, and proficiency in the art of craftsmanship which from their very enumeration indicates the necessity of training of a high order. The task calls for mastery of language, lucidity of style, familiarity with technical significances, command of both constitutional and statutory law, logical capacity, and a knowledge of the field concerned that cannot be too extensive. Evidently, such qualifications are rarely found in one man. It does not suffice that he shall excel in one or two of them. He must, if possible, possess all of them.

In the performance of his task, the legislative draftsman assumes the role of legislator, administrator and judge. He is expected not only to translate the legislator's idea into the required statutory form but he must also visualize the operation of the law, anticipate its defects, loopholes and defenses and provide against them. He should draft the bill in such a manner that the judge, considering the accepted canons of statutory construction, can perceive the legislative intent without difficulty.

The draftsman, in putting down the legislator's idea into the correct legal phraseology, should never lose sight of the fact that

[14] John Austin, quoted by Robert Luce, Legislative Procedure, p. 566.
[15] Chamberlain, Legislative Process National and State, p. 15.

the efficacy of a statute is largely determined by what the court finds to be the legislative intent. This he can do by using simple, concise words to express what is sought to be accomplished by the law. Lord Bryce's admonition should serve well the practitioners of this legislative craft: "In point of form, the merit of law consists in brevity, simplicity, intelligibility, and certainty so that its provisions may be easily found, quickly comprehended, and promptly applied." [16]

The traditional though mistaken belief that statutes must express simple and direct statements in pompous, if not unintelligible, language heightens the common man's suspicion that laws are intentionally being made more confusing to benefit the members of the legal profession. The presence in our statute books of the expressions "hereinafter referred to", "unless otherwise specifically provided by law", "the said and aforesaid", "notwithstanding the provisions of any existing law", and other similar phrases add little or nothing to understanding, are frequently meaningless, and are never necessary to the efficacy of the statute.

In framing the legislative policy, simplicity of expression should be the first consideration. Simplicity may be attained not only by the exclusion of unnecessary words but also by following formalized methods of expression. Legislative style, unlike literary composition, should avoid variation in sentence form and structure and should use identical words for the expression of identical ideas in every instance.

For conciseness, the exact term called for by statute should be employed. This will involve the choice of a term which has a common or technical, or trade or commercial connotation. Where a term has more than one of these meanings, its use should, as much as possible, be avoided since multiple meanings only lead to confusion in interpretation.

However, there arises sometimes in the framing of certain statutes the necessity of providing standards flexible enough to insure the effective application of the legislative policy to changing conditions. On such occasions, the words "reasonable", "competent", "proper", "fair" and similar other terms are employed. To avoid the danger of having the statute declared unconstitutional on the ground of undue delegation of legislative power if administrative officials are granted too wide a field of judgment or discretion, or of unreasonable classification if over-enumeration is resorted to, the draftsman must maintain the proper balance between specification sufficient to en-

[16] Quoted in Horack, Cases and Materials on Legislation, p. 608.

lighten judges and administrative officials and expression which permits flexibility in the application of the law.[17]

Parts of a Bill

With this brief statement of the basic guides for billdrafting, a discussion of the component parts of a bill is now in order. But first a definition of the word "bill".

A bill is a form of a draft of a statute presented to a legislature for enactment. Until enacted by the legislative body and approved by the chief executive, the proposed legislation remains a bill; after approval it becomes a law.

The Title

No bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill.[18] Historically, bills introduced in the early English Parliaments bore no title, and any one who desired to acquaint himself with the general tenor of the proposed legislation had to read the entire bill. Later, it became customary for the legislative clerk to make marginal notations, concerning the subject matter of the various laws approved during the session. This practice drew the favorable comments of the members of the Parliament and after further improvement on the idea, titles came to be a permanent feature of bills. Up to this time, however, the title indicated the clerk's understanding of the contents or purpose of the bill, rather than that of the house. It was only later that the legislators came to the realization that it was as much their duty to frame properly the title, as the purview, of the bill.

While the necessity of giving a title to a bill came early, the requirement that the proposed measure should have only one subject which shall be expressed in the title was only conceived later when State legislatures were plagued with the so-called "hodge-podge" or "log-rolling" legislations. These measures embodied a multitude of totally different, unrelated ideas and bore an innocent-looking title or one which bears no relation at all to the subjects treated in the purview of the bill. "Log-rolling" legislation has been resorted to by state legislators to insure the enactment of their respective pet ideas which if embodied in independent legislative proposals were not certain of approval.

The manifest corrupting influence upon the lawmakers and the pernicious effects upon the State which the evil practice brought

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[17] Horack, *supra*, p. 779.

[18] Art. VI, sec. 21, (subsec. [1]), Constitution.

about, led to the incorporation in virtually all constitutions of this requirement of a single subject expressed in the title. Originally aimed against enactment of "hodge-podge" bills, this constitutional requirement prevents surprise or fraud upon the legislature by provisions in bills of which the titles give no intimation and which might as a consequence be overlooked and carelessly and unintentionally adopted. It likewise serves to apprise the people, in general, and the group most likely to be affected by the bill, in particular, of the subject of legislation pending before the legislature. The title of Act No. 1933, which reads:

> "AN ACT ADDING NEW MATTER TO SECTION SEVEN OF ACT NUMBERED ELEVEN HUNDRED AND TWENTY AND AMENDING SECTIONS NINE AND ELEVEN OF SAID ACT, AS AMENDED BY ACT NUMBERED EIGHTEEN HUNDRED AND FORTY-SEVEN, AND FOR OTHER PURPOSES,"

is a classic example of what a title should not be. It gives the reader no idea at all as to what the general subject of the act is.

While the weight of authority holds that this constitutional provision is mandatory and that failure of compliance therewith voids the enactment in whole or in part,[19] the provision is not to be strictly construed to cripple the legislative process.[20] The test to be applied is whether the language of the title is sufficient to give notice of the general subject of the bill and of the interests or groups likely to be affected thereby.

The title is not required to be an index to the contents of the bill[21] nor to disclose the means and instrumentalities provided in the body of the Act for accomplishing its object.[22] The constitutional provision is sufficiently complied with if the bill has but one general object, which is fairly indicated by its title.[23] An Act having a single general subject, indicated in its title, may contain any number of provisions, no matter how diverse they may be, so long as they are not inconsistent with or foreign to the general subject and may be considered in furtherance of such subject.[24] The constitu-

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[19] *Mobile Dry Docks Co. v. Mobile,* 146 Ala. 194, 40 So. 205; *Bell v. First Judicial District Court,* 28 Nev. 280; 81 Pac. 875; *State v. Haun,* 61 Kan. 146, 59 Pac. 340; *People v. Worhlford,* 61 Kan. 146; 59 Pac. 340.

[20] *Chicago, R. I. & P. R. Co. v. Excise Board of Stephens County,* 168 Okla. 519, 34 P (2d) 274.

[21] *Public Service Co. v. Rechtenwald,* 290 Ill. 314, 125 N. E. 271.

[22] *State v. Moore,* 76 Ark, 197, 88 S. W. 881; *Robinson v. Herrigan,* 151 Col. 40, 90 Pac. 129; *People v. Strassheim,* 240 Del. 279, 88 N. E. 821.

[23] *Carter County v. Sinton,* 120 U. S. 517, 30 L. ed. 701.

[24] *Public Service Co. v. Rechtenwald,* supra.

tional mandate does not contemplate that every end and means necessary or convenient for the accomplishment of the general object of the legislation should be provided for by a separate Act relating to that end or means alone. Such interpretation of this provision is not only unreasonable but would actually render legislation impossible, for such statutes, fragmentary as they necessarily must be, cannot adequately express and carry into effect the legislative will as expressed in the general subject.[25]

It has been uniformly held that provisions reasonably necessary for attaining the object of the Act as expressed in the title thereof are considered as included in the title.[26] Thus, the title need not indicate that the Act sets out penalties if the imposition of certain sanctions is necessary to carry out effectively the general objective of the Act.[27]

In forming the phraseology of the title, the draftsman should, therefore, strive to make the title as concise as possible, yet broad enough to indicate its scope with clearness. The following examples will serve to illustrate the idea:

> "AN ACT CREATING A PATENT OFFICE, PRESCRIBING ITS POWERS AND DUTIES, REGULATING THE ISSUANCE OF PATENTS AND APPROPRIATING FUNDS THEREFOR." [28]

> "AN ACT GRANTING THE BOLINAO ELECTRONICS CORPORATION A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE RADIO BROADCASTING STATIONS IN THE PHILIPPINES." [29]

> "AN ACT TO REVISE THE CHARTER OF QUEZON CITY." [30]

Legislation at present is mostly amendatory in form. The coverage of existing statutes is so wide and varied that there is hardly any phase or field of human activity that has not as yet been the subject of legislation. To provide governmental control for any seemingly new situation, a diligent legislator or draftsman has only to scan and study our statute books and he will find an existing law which if properly amended can adequately take care of the problem.

What has been stated previously about the attributes of a title (of original legislation) holds with equal force upon titles of amend-

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[25] *People v. Mahoney*, 13 Mich. 481.
[26] *State v. Moore*, supra.
[27] *Germantown Trust Co. v. Powell*, 265 Pa. 71, 108 Atl. 441.
[28] Republic Act No. 165.
[29] Republic Act No. 512.
[30] Republic Act No. 537.

atory statutes. But this is not all. To the requirement of one subject expressed in the title, reference to the prior legislation which is being amended must be made in said title. Insofar as reference to subject matter is concerned, the same standards apply to this class of legislation as applied in original statutes. The problem that arises in the former is the reference to the statutes being amended.

"Two theories have been used in testing the validity of the reference to the Act to be amended. The courts of most states insist that the reference be made to the original Act. The reason is because of the rule of construction that after an amendment the statute is to be read as though originally enacted in the amended form. One State has an unwieldy replacement theory of amendment, requiring that the reference be made to the last amendment, including its full title. The basis of this theory is the view that a section as amended supersedes and replaces the prior section, and the prior section is repealed and not subject to amendment. Under the replacement theory as the last amendment itself must have referred to the last prior act (title) and its full title, a hideous collection of titles heaped upon titles result. Thus the path of an intelligent understanding of the subject matter under consideration is blocked. *The true standard for amendatory titles should be, as for all others, to give notice of the contents of the Act. A reference that gives warning of the existence of prior legislation and its subject should not be complicated by an inclusion of the mechanical expression of that subject matter.*" [31] (underscoring supplied)

Legislative practice in the Philippines follows the first theory. The following titles of Acts found in our statute books will serve to illustrate the point:

> "AN ACT TO TAX ALL PUBLIC LANDS HELD BY PRIVATE INDIVIDUALS OR BY CORPORATIONS OR OTHER ASSOCIATIONS, WHETHER IN THE NATURE OF HOMESTEADS, CONCESSIONS OR CONTRACTS, AS TO ORDINARY TAXES, THEREBY AMENDING SECTION 115 OF COMMONWEALTH ACT NUMBERED ONE HUNDRED AND FORTY-ONE." [32]

> "AN ACT TO FURTHER AMEND ACT NUMBERED FORTY-ONE HUNDRED AND THIRTY, AS AMENDED, REGARDING THE APPORTIONMENT AND DISTRIBUTION OF THE PROCEEDS FROM SWEEPSTAKE RACES." [33]

> "AN ACT FOR THE REHABILITATION, LIQUIDATION, AND DISSOLUTION OF DELINQUENT INSURERS, AMENDING FOR THE

[31] Horack, *supra*, pp. 626-627.
[32] Republic Act No. 436.
[33] Republic Act No. 72.

PURPOSE SECTION 175 OF ACT NUMBERED TWENTY-FOUR HUNDRED AND TWENTY-SEVEN, AS AMENDED BY ACT NUMBERED THIRTY-ONE HUNDRED AND FIFTY-TWO."[34]

Republic Act Numbered Four hundred and ninety-eight is a good example not only of what a title of an amendatory act should be but also of the strict compliance of the constitutional provision of one subject expressed in the title. This Act is entitled:

"AN ACT AUTHORIZING CITIES, MUNICIPALITIES, AND PROVINCES TO PURCHASE AND/OR EXPROPRIATE HOME SITES AND LANDED ESTATES AND SUBDIVIDE THEM FOR RESALE AT COST, AND TO USE THEIR OWN FUNDS OR TO CONTRACT LOANS FOR THE PURPOSE, AMENDING FOR SUCH PURPOSES R. A. NO. 267."

As will be observed the title of the Act meets all the requirements of a good title of an amendatory legislation, to wit: One general subject matter and reference to the statute being amended.

The amendments introduced by R. A. No. 498 consist in (a) the inclusion of "provinces" among the local political sub-divisions authorized to purchase and/or expropriate landed estates and (b) authorization to said political subdivisions "to use their own funds or contract loans for the purpose." In view of the fact that these new matters were sought to be included within the purview of R. A. No. 267, the original legislation on the subject, strict compliance with the constitutional requirement of subject matter expressed in the title constrained the legislators to amend even the title of R. A. No. 267 so as to include therein the two new related ideas. As thus amended, the title of the original legislation (Republic Act No. 267) now reads:

"An Act authorizing cities, municipalities and provinces to purchase and/or expropriate home sites and landed estates and subdivide them for resale at cost, and to use their own fund or contract loans for the purpose."

Titles of repealing statutes are only subject to the rules applicable to titles of original legislation. If the sole purpose of the Act is to repeal a prior Act or any section thereof, the title must give warning of the subject matter of the Act by making reference to the Act sought to be repealed and its subject matter. The following is an example of the title of a repealing statute:

[34] Commonwealth Act No. 697.

"AN ACT TO REPEAL SECTION TWO OF REPUBLIC ACT NUMBERED FOUR, TO TERMINATE THE AUTHORITY GIVEN THEREIN TO THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES FOR THE ISSUANCE OF TEMPORARY FIREARMS LICENSE, AND FOR OTHER PURPOSES." [35]

Titles of statutes containing a provision for the express repeal of inconsistent Acts on the same subject matter have been sustained even in the absence of warning of such repeal in the title of the repealer, on the theory that the repealer is fairly within the scope of the title of the repealing Act. Notwithstanding this, the better practice is to indicate in the title that the Act contains a repealing section, thus:

"AN ACT TO AMEND OR REPEAL CERTAIN SECTIONS OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND EIGHT, OTHERWISE KNOWN AS THE ARTICLES OF WAR AS AMENDED BY REPUBLIC ACT NUMBERED TWO HUNDRED AND FORTY-TWO." [36]

The Preamble

The preamble is an expression of legislative policy which follows the title but precedes the enacting clause of the statute. Its present day use in connection with statutes is very limited. Thus, of the more than five thousand laws in our statute books, not more than twenty Acts contain a preamble. In resolutions, however, the preamble finds ready employment. Being expressions of sentiment, opinion, appreciation or condolence, the legislative will is expressed with greater exactitude when prefaced with a preamble than without it.

"*Whereas,* in the present ideological conflict, it is necessary that the House of Representatives be placed in a position to directly act on the activities of persons connected with the propagation of the communist movement;

"*Whereas,* the rapid success of the communists in China have made patent the danger of communist infiltration in the Philippines; and

"*Whereas,* it is necessary for the preservation of our way of life and the democratic institutions ordained by the people that communism must not continue to spread in our country:" [37] and

"*Whereas,* the basic laws relative to provincial and municipal governments have undergone numerous changes since their enactment in 1917;

"*Whereas,* many provisions thereof have become obsolete and useless for all practical purposes; and

[35] Republic Act No. 486.
[36] Republic Act No. 516.
[37] Resolution No. 11, adopted February 17, 1950.

"*Whereas*, it is necessary that said laws be revised, brought up to date and codified: [38]

Its place has been taken by the explanatory note which accompanies the bill upon its introduction. While serving the same purpose as the preamble, the explanatory note, however, is not a part of the bill. The preamble, if used at all, is limited to a general statement of the legislative policy. It is usually expressed in two or three paragraphs.

The explanatory note, on the other hand, may, depending on the length and complexity of the bill, range from a few paragraphs to several pages of detailed exposition not only of the policy but of the important provisions of the bill. In case of ambiguity in the language of the purview, the explanatory note or the preamble may be resorted to to help clear the doubt. The settled rule in this connection is "that where the enacting part of a statute is not exactly coextensive with the preamble, the former, if expressed in clear and unequivocal terms, will override the latter, but if ambiguous or doubtful phraseology is used in the body of the Act, the preamble may be referred to to resolve the ambiguity." [39]

The preamble of two acts are reproduced hereunder:

"*Whereas*, a state of emergency exists in the Philippines by reason of the present war between the United States and the Japanese Empire;

"*Whereas*, it is imperative that the President of the Philippines be authorized to employ the entire resources of the Government for the defense of the Philippines in order to carry out its pledge of loyalty to and cooperation with the United States:" [40]

"*Whereas*, the value of Philippine coin and currency affects public interest and is subject to regulation by the Congress of the Philippines; and

"*Whereas*, it has been disclosed that the provisions of certain obligations contracted in the Philippines purport to give the obligee the right to require payment in gold or in a particular kind of coin or currency or in an amount in money of the Philippines measured thereby, thus obstructing the power of the Congress to regulate the value of the money of the Philippines and contravening the policy of the Congress, here declared, to maintain at all times the equal and stable power of every peso coined or issued by the Philippines, in the markets and in the payment of debts:" [41]

The Enacting Clause

The enacting clause is that portion of a statute that gives it jurisdictional identity by naming therein the body that enacts it.

[38] Resolution No. 20, adopted May 18, 1950.

[39] *Raj. Mal. v. Harnam Singh*, 1 L. R. 9, cited in Horack, *supra*, p. 648.

[40] Commonwealth Act No. 670.

[41] Republic Act No. 529.

Generally, it begins with the expression: "Be it enacted" and usually ends with the designation of the legislative body enacting it.

The Constitution of the Philippines, like the United States Constitution, does not specify the form of the enacting clause for statutes that may be enacted by the Congress. This lack, however, is supplied by section six of the Revived Administrative Code which provides:

> "The enactment clause of all statutes passed by the Congress of the Philippines shall be conceived on the following terms: *'Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:'*"

The enacting clause is written before the whole body or purview of the Act and is never repeated in each section of the statute.[42]

In jurisdictions where the Constitution specifies the form of the enacting clause, two views exist as to the operational effect of such constitutional provision. A majority of the states consider this requirement mandatory and the same is strictly enforced. Thus, where the legislation was expressed in the form of a resolution it has been held that it cannot be enforced as an enactment;[43] and where the clause purports to be an enacting clause but fails to follow exactly the prescribed wording of the constitutional provision, the statute was declared void.[44]

A few jurisdictions maintain the contrary view and consider the constitutional requirement directory only. Thus, it was held that a joint resolution passed in the form of a bill was valid—that the word "resolved" in the enacting clause was equally potent and authoritative as the word "enacted."[45] This stand is sought to be justified on the ground that provisions which relate only to form and not to the essence and substance of the thing to be done are merely directory and not mandatory.

While generally bills are introduced with enacting clause, nevertheless, there may be occasion when due to oversight the enacting clause is omitted. In this case, the legislature may supply the omitted clause even after final approval but before the chief executive's signature of the measure. The latter official, however, cannot himself supply the missing clause.

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[42] Sec. 8, Revised Administrative Code.

[43] *Montgomery Amusement Co. v. Montgomery Traction Co.* 139 Fed. 353.

[44] *State v. Rogers,* 10 Nev. 250; 21 Am. Rep. 738.

[45] *Swamn v. Buck,* 40 Miss. 268.

The Purview

The purview comprehends all matters following the enacting clause of the statute. In framing the phraseology of the purview the draftsman should always bear in mind that the statute is to be construed as a whole and he should, therefore, strive to harmonize all matters sought to be included therein. This he can accomplish by arranging the provisions in an orderly progression of the legislative policy from general statements to specific or particular instances. Except for the statutory requirement that every Act shall be divided into sections, each of which shall be numbered and shall contain, as nearly as may be possible, a single proposition,[46] the draftsman is at liberty to choose his own method of developing the legislative idea into effective legislation.

However, in drafting original legislation of some length, the order of sections should, more or less, conform with the following sequence:

Definition Section
The Short Title
The Policy Section
Administrative Sections
Sections Prescribing Standards of Conduct
Sections Imposing Sanctions
The Separability Clause
Transitory Provision
Duration
Repealing Clause

Where the Act is only amendatory or is of a less comprehensive character, it is obvious that not all of these sections will be necessary, nor will the said sequence of sections be rigidly followed.

In the exercise of its functions, the legislature can properly define the terms used in the statute and prescribe rules for their interpretation. And when the legislature so defines the language it uses, such definition is binding upon the court, except where the definitions are arbitrary and result in unreasonable classification or are uncertain.[47]

Definition of terms should be couched in the fewest number of simple words or phrases as possible, otherwise the definition may serve only to confuse, rather than clarify, the legislative meaning. Legislative terms are usually defined in the beginning of the pur-

[46] Sec. 9, Revised Administrative Code.
[47] Sutherland, Statutes and Statutory Construction, 3rd Ed., p. 358.

view to enable the reader to grasp at once the meaning which the legislature intended the words to have. A definition section located elsewhere in the statute will give the reader an opportunity to form his own conclusion as to the meaning of the terms which may not coincide with that intended by the law-makers.

Reproduced hereunder is the definition section found in Republic Act No. 426:

"Sec. 1. As used in this Act:

(a) Definitions:

(1) "Import quota" refers to the total value of any item of import allowed for entry into the Philippines for any specified period.

(2) "Quota allocation" refers to the total value of imports of any particular item allowed to an importer, or that portion of the import quota granted to the importer.

(3) "Import license" refers to the permit issued by the Import Control Board to import any particular shipment of commodities.

(4) "Foreign exchange" refers to any medium for effecting international payments.

(5) "Old importer" refers to any person, whether natural or juridical, who imported a particular commodity in the years nineteen hundred forty-six, nineteen hundred forty-seven and/or nineteen hundred forty-eight.

(6) "New importer" refers to all other importers.

(7) "Board" refers to the Import Control Board.

(8) "Commissioner" refers to the Chief of the Import Control Administration.

(b) Appendices A, B, C, and D as attached, are hereby made an integral part of this Act."

Where the statute provides numerous specifications, rights, obligations or duties upon a particular class or group of persons or other subject matter of legislation, the practice is to define the persons belonging to each class or group and thereafter, refer to the class by a name or other designation. Thus sections 9 and 13 of the "Immigration Act of 1940," amended by Republic Act No. 590, define the terms "non-immigrants" and "immigrants" by enumerating the persons falling within the meaning of the said terms:

NON-IMMIGRANTS

"Sec. 9. Aliens departing from any place outside the Philippines, who are otherwise admissible and who qualify within one of the following categories, may be admitted as non-immigrants:

"(a) A temporary visitor coming for business or for pleasure or for reasons of health;

"(b) A person in transit to a destination outside the Philippines;

"(c) A seaman serving as such on a vessel arriving at a port of the Philippines and seeking to enter temporarily and solely in the pursuit of his calling as a seaman;

"(d) An alien entitled to enter the Philippines solely to carry on trade between the Philippines and the foreign state of which he is a national under and in pursuance of the provisions of a treaty of commerce and navigation, and his wife, and his unmarried children under twenty-one years of age, if accompanying or following to join him;

"(e) An accredited official of a foreign government recognized by the Government of the Philippines, his family, attendants, servants, and employees;

"(f) A student, having means sufficient for his education and support in the Philippines, who is at least eighteen years of age and who seeks to enter the Philippines temporarily and solely for the purpose of taking up a course of study higher than high school at a university, seminary, academy, college or school approved for such alien students by the Commisioner of Immigration;

"(g) An alien coming to prearranged employment, for whom the issuance of a visa has been authorized in accordance with section twenty of this Act, and his wife, and his unmarried children under twenty-one years of age, if accompanying him or if following to join him within a period of six months from the date of his admission into the Philippines as a non-immigrant under this paragraph.

"An alien who is admitted as a non-immigrant cannot remain in the Philippines permanently. To obtain permanent admission, a non-immigrant alien must depart voluntarily to some foreign country and procure from the appropriate Philippine consul the proper visa and thereafter undergo examination by the officers of the Bureau of Immigration at a Philippine port of entry for determination of his admissibility in accordance with the requirements of this Act."

NON-IMMIGRANTS

"Sec. 13. Under the conditions set forth in this Act, there may be admitted into the Philippines immigrants, termed 'quota immigrants' not in excess of fifty (50) of any one nationality or without nationality for any one calendar year, except that the following immigrants, termed 'nonquota immigrants,' may be admitted without regard to such numerical limitations.

"The corresponding Philippine Consular representative abroad shall investigate and certify the eligibility of a quota immigrant previous to his admission into the Philippines. Qualified and desirable aliens who are in the Philippines under temporary stay may be admitted within the quota, subject to the provisions of the last paragraph of section 9 of this Act.

"(a) The wife or the husband or the unmarried child under twenty-one years of age of a Philippine citizen, if accompanying or following to join such citizen;

"(b) A child of alien parents born during the temporary visit abroad of the mother, the mother having been previously lawfully admitted into the Philippines for permanent residence, if the child is accompanying or

coming to join a parent and applies for admission within five years from the date of its birth;

"(c) A child born subsequent to the issuance of the immigration visa of the accompanying parent, the visa not having expired;

"(d) A woman who was a citizen of the Philippines and who lost her citizenship because of her marriage to an alien or by reason of the loss of Philippine citizenship by her husband, and her unmarried child under twenty-one years of age, if accompanying or following to join her;

"(e) A person previously lawfully admitted into the Philippines for permanent residence, who is returning from a temporary visit abroad to an unrelinquished residence in the Philippines."

The short title of an Act provides an official designation of the law and identifies briefly the purpose and object of the statute. The short title should be drafted in as few words as possible, if it is to live to its name. As to its location in a statute, a short title may be placed at the beginning or at the end of the Act. But again, as its name implies, it should be placed as near the beginning of the Act as possible.

The following are some short titles adopted by our Congress:

"Home Financing Act" [48]

"Uniform Veterans Guardianship Act" [49]

"Dental Law" [50]

The so-called policy section of a statute assumes the role previously played by the preamble. It states the basis and the justification for the enactment of the statute.

In the situation contemplated by Sec. 26, Art. VI of the Constitution,[51] the policy section is projected into prominence, since there must first be a declaration of national policy before Congress can lawfully authorize the President to promulgate certain rules and regulations. The controversial emergency powers Acts each contain a policy section as follows:

"Section 1. The existence of war in many parts of the world has created a national emergency which makes it necessary to invest the President of the Philippines with extraordinary powers in order to safeguard the integrity of the Philippines and to insure the tranquility of its inhabitants, by suppressing espionage, lawlessness, and all subversive activities, by preventing or relieving unemployment, by insuring to the people ade-

[48] Republic Act No. 580.

[49] Republic Act No. 390.

[50] Republic Act No. 417.

[51] "In times of war or other national emergency, the Congress may by law authorize the President, for a limited period and subject to such restrictions as it may prescribe, to promulgate rules and regulations to carry out a declared national policy."

quate shelter and clothing and sufficient food supply, and by providing means for the speedy evacuation of the civilian population, the establishment of an air protective service, and the organization of volunteer guard units, and to adopt such other measures as he may deem necessary for the interest of the public . . ." [52]

"Section 1. The existence of war between the United States and other countries of Europe and Asia, which involves the Philippines, makes it necessary to invest the President with extraordinary powers in order to meet the resulting emergency." [53]

Republic Act No. 509, popularly known as the price control law has a policy section which reads as follows:

"Section 1. It is hereby declared to be the national policy during the effectivity of this act to prevent locally or generally, scarcity, monopolization, hoarding, injurious speculation, manipulation, and profiteering, affecting the supply, distribution and movement of both imported and locally manufactured or produced foodstuffs, textile, clothing, fuel, light and illuminations, footwear, drugs, medicine, medical, dental, and optical supplies, paper and paper products, school supplies, building materials, agricultural and industrial machinery, fuel and lubricants, and other articles, goods or commodities control of the price of which may be deemed essential to the public interests."

Administrative sections which usually follow the policy section become a necessity only when the statute is an incursion into a new governmental activity or seeks to control or regulate certain social or economic matters heretofore untouched by legislation. On many occasions the efficacy of a law depends upon a well-laid-out plan of administration, accurately and precisely formulated in the Act. If the administrative organization is loosely provided for in the statute, a robust and virile organization can hardly be expected and strict enforcement of the statute will not be achieved.

"In formulating administrative sections, care should be exercised to reduce the bulk and increase the number of sections as much as possible. Although this is always a good canon in drafting, it is particularly significant in the case of administrative provision because of the usual necessity for their amendment. Salaries must be changed, the number and duties of officers altered, and amendments made to the system itself. If these provisions all exist in a single section, the burden and risk of amendment is greatly enhanced." [54]

In providing for the administrative implementation of the statute, it is better to express in short separate sections each idea or phase of administrative action. Aside from presenting a precise picture of the frame-work of administrative control, this device

[52] Commonwealth Act No. 600, as amended by Commonwealth Act No. 620.
[53] Commonwealth Act No. 671.
[54] Sutherland, *supra*, p. 365.

lightens the work of the draftsman and the legislator when only one or two particulars in the set-up have to be amended.

The frame-work of the administrative provisions for the organization of the Bureau of Internal Revenue as contained in the National Internal Revenue Code [55] is an ideal presentation of the subject. For the purpose of giving the reader an idea of what is meant above, we are reproducing hereunder the sections and section headings of the pertinent provisions, omitting for the sake of brevity the body of the sections:

> Sec. 2. *Chief officials of Bureau of Internal Revenue.*—* * *
> Sec. 3. *Powers and duties of Bureau.*—* * *
> Sec. 4. *Specific provisions to be contained in regulations.*—* * *
> Sec. 5. *Forms, certificates, and appliances supplied by the Collector of Internal Revenue.*—* * *
> Sec. 6. *Agents and deputies for collection of national internal revenue.*—* * *
> Sec. 7. *Expenses of collection to be borne by provinces and cities.*—
> Sec. 8. *Internal revenue inspection districts.*—* * *
> Sec. 9. *Duties of provincial revenue agents and other internal revenue officers.*—* * *
> Sec. 10. *Authority of agent's assistant or examiner.*—* * *
> Sec. 11. *Assignment of storekeepers or secret service agents.*—* * *
> Sec. 12. *Assignment of internal revenue agents and other employees to other duties.*—* * *
> Sec. 13. *Reports of violations of law.*—* * *
> Sec. 14. *Authority of internal revenue officers to make arrests and seizures.*—* * *
> Sec. 15. *Power of Collector of Internal Revenue to make assessments.*—
> Sec. 16. *Authority of officers to administer oaths and take testimony.*—* * *
> Sec. 17. *Contents of Collector's annual report.*—* * *

The sections prescribing standards of conduct is the meat of the purview. It is the substantive portion of the statute and it is here that rights and privileges are granted, obligations imposed and offenses defined. The principal problem that confronts the draftsman in making the purview is the choice between exact and specific prescription of action or conduct and general prohibitions or regulations. The former facilitates administration and enforcement of the statute for it simplifies the determination of violations, but in the same breath its exactitude renders evasion easy and enforcement problematical. On the other hand, if the standards set up are couched generally the statute may be voided for uncertainty and if they are too specific and particular they may be constitutionally objectionable on grounds of the equal protection of the law and due process

[55] Commonwealth Act No. 466.

clauses. So the choice of the proper language confronts once more the draftsman.

In prescribing any standard of action or conduct, it is inevitable that certain exceptions to the rule established will be made. Certain persons, acts or situations which normally would be included in the operation of the statute are excepted therefrom by reason of certain special circumstances. The exclusion from the established standard is accomplished by the use of provisos, exceptions and saving clauses.

As a general rule, provisos remove special cases from the general enactment and provide for them especially. Exceptions restrict the enacting clause to a particular case, and saving clauses preserve from loss or destruction certain rights, remedies or privileges which would otherwise be destroyed by the general enactment.[56]

An example of a proviso is that found in section 24 of the National Internal Revenue Code, as amended by Republic Act No. 590 which reads as follows:

> "Sec. 24. *Rate of tax on corporations.*—There shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding taxable year from all sources by every corporation organized in, or existing under the laws of the Philippines, no matter how created or organized, but not including duly registered general copartnerships (*compañias colectivas*), a tax of sixteen per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding taxable year from all sources within the Philippines by every corporation organized, authorized, or existing under the laws of any foreign country: *Provided, however, That Building and Loan Associations operating as such in accordance with section one hundred and seventy-one to one hundred and ninety of the Corporation Law, as amended, shall pay a tax of nine per centum on their total net income: And provided, further,* That in the case of dividends received by a domestic or resident foreign corporation from a domestic corporation liable to tax under this Chapter, only twenty-five per centum thereof shall be returnable for purposes of the tax imposed by this section."

An exception is exemplified by the following provisions:

> "No accredited official of a foreign government recognized by the Republic of the Philippines, or member of his official staff and family, shall be required to be registered." [57]

The underscored portion of the section reproduced hereunder is an example of a saving clause:

> "Sec. 4. The authority granted in this Act shall terminate on December 31, 1948, or upon any prior date which the Congress, by concurrent

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[56] Sutherland, *supra*, pp. 376-377.

[57] Republic Act No. 562, sec. 1, par. 3.

resolution, or the President, may designate; *except that as to offense committed, or rights or liabilities incurred prior to such date, the provisions of this Act and of the rules and regulations issued thereunder shall be treated as remaining in effect for the purpose of sustaining any suit, act, or prosecution with respect to such right, liability or offense.*" [58] (underscoring supplied)

A statute is useless if its observance is left to the discretion of the group to whom it is addressed. In the absence of a coercive force which will compel compliance therewith, a statute will remain an empty expression of the legislative will. The sanction which the statute may provide may either be criminal, civil or administrative. In the first case, fine, imprisonment or other form of punishment is provided, in the second, civil liability, and in the third case, the sanction may consist of licensing, supervision, inspection or reporting.

It is a cardinal rule of statutory construction that courts will sustain the constitutionality of statute whenever possible. Because of this, judges look kindly upon sections which express the legislative intention that should any part of the Act be declared unconstitutional, the rest shall be enforced. This is again subject to another rule of construction that enough of the Act should remain to make a complete statute in itself, otherwise the entire Act will be declared void.

The separability clause is usually expressed in the following language:

"Sec. 10. *Separability clause.*—If any clause, sentence, paragraph or part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the *remainder of this Act, but shall be confined in its operation to the clause,* sentence, paragraph or part thereof directly involved in the controversy."[59]

Temporary provisions provide for special situations which arise between the time an old law passes out of existence and the new legislation becomes effective. Temporary or transitory sections are especially necessary in the case of codes where an entire branch of the legal system of a country may be affected by the enactment of a new code. Thus the new Civil Code (Republic Act No. 386) contains transitory provisions embraced in eighteen articles (Arts. 2252 to 2269, inclusive).

Occasionally, statutes are enacted to meet and remedy situations which have been brought about by abnormal conditions temporary in character. Such abnormal situation may be war, economic de-

[58] Commonwealth Act No. 728.
[59] Republic Act No. 55.

pression, scarcity of goods, or other equally compelling factors. When hostilities terminate and the wounds of war heal, or business picks up and prosperity reigns, or when abundance returns, the reason for the law ceases and so must the law.

Termination of the effectivity of statutes enacted to remedy abnormal situations is usually provided for in a separate section. This gives sufficient publicity of the limitation on the effectivity of the law and renders easy any amendment which seeks to extend the Act beyond the time originally intended by the legislature.

> "Sec. 7. This Act shall take effect upon its approval but, unless otherwise expressly extended by Congress, the increased rates of tax provided for in this Act shall continue in force and effect until December thirty-first, nineteen hundred and fifty-two, after which period the actual rates of tax shall again be in force." [60]
>
> "Sec. 5. The authority granted in this Act shall terminate at the end of the next regular session of Congress unless sooner terminated by concurrent resolution of said Congress, * * *." [61]

The repealing clause of an Act serves notice of the abrogation of laws or parts of laws which conflict or are inconsistent with the provision of the law containing the repealer. Repealing clauses may be either specific or blanket repealers. The former mentions specifically the law or laws which are sought to be repealed. Blanket repeals, on the other hand, make no mention of any particular statute but declares all Acts or parts of Act in conflict with the provision of the Act containing the repealer, repealed.

Blanket repealers are expressed in the following language:

> "All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed." or
>
> "Any Act, presidential proclamation, executive order, or regulation inconsistent with this Act is repealed."

An example of specific repealing clause is the following:

> "Sec. 4. Sections fourteen, fifteen and seventy-seven and paragraph numbered nineteen and twenty of section one hundred and forty-nine of the same Code are hereby repealed." [62]

Sometimes a repealing clause mentions not only the specific laws sought to be repealed but also includes a blanket repeal.

> "Sec. 20. Republic Act Numbered Four Hundred and twenty-six and Executive Orders Numbered Three Hundred and eighty-four and Three Hundred and eighty-eight, series of 1950 and 1951, respectively, as well as any other law or order contrary to the provisions of this Act are hereby repealed." [63]

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[60] Republic Act No. 589.
[61] Republic Act No. 613.
[62] Republic Act No. 599.
[63] Republic Act No. 650.

The last section of the statute is the effectivity clause. In the absence of any provision fixing the date of effectivity of the Act, a statute takes effect at the beginning of the fifteenth day after the completion of the publication of the statute in the Official Gazette, the date of issue being excluded. For the purpose of fixing such date the Gazette is conclusively presumed to be published on the day indicated therein as the date of issue.[64]

As a general rule, however, statutes expressly provide when they shall take effect which may either be:

(a) Upon approval, which is the most common:

Sec. —. This Act shall take effect upon its approval.[65]

(b) On a fixed date:

Sec. —. This Act shall take effect on July 4, 1946.[66]

(c) On a fixed date with retroactive effect:

"Sec. 16. This Act shall apply to income received from January first, nineteen hundred and fifty, except section twelve hereof which shall take effect on January first, nineteen hundred and fifty * * *."[67] (approved Sept. 27, 1950)

(d) Upon approval subject to certain specified condition:

"Sec. 20. This Act shall take effect upon its approval: *Provided*, That the President of the Philippines is hereby authorized to suspend the operation of any provision of this Act if and when the Congress of the United States approves the pending GI Bill of Rights applicable to the Philippines the provisions of which are identical or similar to the provisions of this Act."[68]

(e) After the lapse of a certain period:

"Sec. 4. This Act shall take effect on the sixtieth day after its approval."[69]

Course of a Bill in the Congress

Introduction of the Bill

After a bill with its explanatory note is prepared, its author or authors, who shall not exceed seven in number,[70] shall sign it and hand it to the Secretary of the House. This limitation on the number of authors, however, does not apply to bills resulting from a consolidation or substitution made by a committee, in which case all members of the House who signed as author any bill which has

[64] Sec. 11, Revised Administrative Code.
[65] Republic Act No. 88.
[66] Commonwealth Act Nos. 731 and 732.
[67] Republic Act No. 590.
[68] Republic Act No. 65.
[69] Republic Act No. 70.
[70] Rule XII, sec. 1, Rules of the House of Representatives.

been consolidated with others on the same subject matter or which has been substituted by a committee bill, shall be considered as authors of the consolidated or substitute bill.[71]

In actual practice, bills and resolutions are filed with the Bills and Index Division of the house where upon receipt thereof, bills are given a number and are designated as "H. No. —," if introduced in the House, or "S. No. —," if introduced in the Senate, and resolutions as: "H. R. No. —," or "S. R. No. —," or "H. Jt. R. No. —" or "S. Jt. R. No. —," or "H. Ct. No. —" or "S. Ct. No. —," depending on whether they are House or Senate, simple, joint, or concurrent resolutions.

Except for the constitutional provision that "all appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills, shall originate exclusively in the House of Representatives," [72] the members of either chamber are free to introduce any bill dealing with any conceivable subject matter under the sun. Indeed, the variety of bills being introduced in legislatures in general have been characterized by one wit as "ranging from the sublime to the ridiculous."

There is likewise no limit as to the number of bills that may be introduced by a member of the legislature. In this respect, members of our Congress and their American counterparts have more freedom in the introduction of bills. In England, members of Parliament can file bills only by leave of the House. This unlimited right to propose legislation accounts for the great number of bills being introduecd in our Congress, especially in the lower house.

Members, particularly the neophytes, vie with each other in the number of bills each introduces. This is especially true during the first session of a new Congress, when the new members are all very enthusiastic about their new position of responsibility and they have no idea as yet of how difficult it is to push a measure through the legislative mill and have it approved by the President.

The following figures will give the reader an idea of the number of bills being introduced by members of the House of Representatives:

Second Congress of the Republic of the Philippines

First Special Session	35
First Session	1,244

[71] *Id.*

[72] Art. VI, Sec. 18, Constitution.

Second Special Session	126
Third Special Session	96
Fourth Special Session	32
Second Session	637
Fifth Special Session	2
Third Session	1,006
Sixth Special Session	50

On the day following its introduction, a bill is included in the "Order of Business" under the heading "Bills on First Reading." Copies of the "Order of Business", bills on first reading and committee reports, all in mimeographed form, are distributed daily among the members of the house.

Reproduced below in abbreviated form is the "Order of Business" for March 7, 1952:

"ORDER OF BUSINESS"

"Manila, Friday, March 7, 1952 Session No. 30

"I. ROLL CALL

"II. READING AND APPROVAL OF THE JOURNAL

"III. REFERENCE TO COMMITTEES OF BILLS OR PROPOSED RESOLUTIONS.

"BILLS ON FIRST READING

By Congressman Abordo (H. No. 2584), entitled:

An Act to abolish the justice of the peace courts all over the Philippines to enable the Secretary of Justice to re-group them.

* * *

* * *

"RESOLUTIONS

By Congressman Amilbangsa (H. R. No. 185), entitled:

Resolution instructing the Committee on Ways and Means to investigate tax evasion cases.

"MESSAGES OF THE SENATE

Communication informing that the Senate on March 6, 1952, passed without amendment House Bill No. 1126, entitled:

AN ACT TO REGULATE THE EMPLOYMENT OF WOMEN AND CHILDREN, TO PROVIDE PENALTIES FOR VIOLATION HEREOF, AND FOR OTHER PURPOSES.

* * *

* * *

"COMMITTEE REPORTS

Report of the Committee on Provincial and Municipal Governments (C. Rpt. No. 1209—2nd C. P.) re H. No. 2338, entitled:

An Act creating the Municipality of San Pedro in the Province of Oriental Negros

recommending its approval.

Sponsors: Congressmen Medina, Alonzo, Cinco, Dimaporo, Perez (A. J.), and Abeleda.

* * *
* * *

"CALENDAR OF BUSINESS"

Manila, Friday, March 7, 1952 Session No. 30

"UNFINISHED BUSINESS

H. No. 1936

An Act to amend Republic Act Numbered Three hundred eighty-six, otherwise known as the "Civil Code of the Philippines."

Report No. 845
Committee on Codification of Laws
Sponsors: Congressmen de Leon (S.) and Tolentino.

* * *
* * *

"UNASSIGNED BUSINESS

The same as those of Session No. 2 (except H. Nos. 121, 395, 1107, etc.)

* * *

and the following:

"H. No. 2318

An Act providing for the nationalization of the teaching or instruction staff in schools, colleges, and universities in the Philippines.

Report No. 1207
Committee on Education
Sponsors: Congressmen Cases, Salonga, and Fernandez.

* * *
* * *

BILLS ON THIRD READING

The same as those of Session No. 2 (except H. Nos. 796, 1410, 1452, etc.)

and the following:

"H. No. 2373

An Act granting Celestino Martinez a franchise for an electric light, heat and power system in the municipalities of Kawayan, Boleno, and Aroroy in the Province of Masbate.

(Copies distributed on March 6, 1952).

* * *

On the day of the appearance of the bill in the "Order of Business" under the heading "Bills on First Reading", the bill undergoes its first reading by title only [73] when the Secretary of the House reads the Order for the day. Reading of bills was a necessity in the early legislative bodies because that was the only means of informing the members of the contents of any proposed measure. Printing was a problem then and even assuming that it were not so and copies of bills could have been distributed among the legislators, the average literacy of the members then was so low that the purpose of distributing copies of the bills would not have been accomplished just the same.

The requirement of multiple reading of bills arose later as a precaution against the passage of ill-considered legislation. It was thought that the interposition of sufficient time between introduction and final passage of a bill will produce a sobering effect upon hasty legislation.

Simultaneously with the first reading, the presiding officer refers the bill to the corresponding committee of the House for study.

Now a word about committees. The committee system is the legislature's idea of division of labor. By entrusting the preliminary work on any legislative proposal to small groups representing the majority and minority parties, bills are screened and the useless, impractical, and ridiculous ones are eliminated without wasting the time of the entire house. Aside from its usefulness to the legislature itself, committees provide interested parties opportunity to present their side which they cannot very well do before the entire House. Depending on the relative importance of bills pending before it, a committee may conduct public hearings and make its own investigation or research and thereafter submit an extensive and elaborate report to the House or it may simply recommend the bill for approval without any amendment.

Legislative committees are of two kinds, the standing committees and the special committees. The former is concerned with specific fields of legislation, considers basic question of legislative policy, "pigeon-holes" the unwanted bills, and paves the way for the passage of favored measures. Special committees on the other hand

[73] Rule XII, sec. 1, Rules of the House of Representatives.

are created for the purpose of performing special, specific functions not necessarily legislative in character.

In the House of Representatives there are thirty standing committees with membership varying from seven to seventeen members elected by the House on the basis of proportional representation of the parties represented in the said House.[74] The member elected whose name appears first on the list shall be the chairman, and the member whose name appears second shall be the vice-chairman. In case of the temporary absence of both, the member next in the order established in the election of the committee, and so on, as often as the case shall appear, shall act as chairman.[75] The Speaker *pro tempore* and the majority and minority floor leaders are *ex officio* members of all standing committees without any vote.[76] Likewise, any member who is the author of a bill referred to the committee, or if there are several authors the first two authors are also considered as members of said committees without any vote.[77] No member of the House shall be chairman of more than one standing committee. Neither may a member of the Commission on Appointments, of the Electoral Tribunal nor of the Committee on Rules be chairman of any committee.[78] Committees sit and perform their functions only during the period of session of the Legislature, unless otherwise authorized by the Speaker or by the House.[79] Committees meet regularly at least once a week but special meetings may be called by the chairman or by one-third of their members. One-third of the members of a committee constitutes a quorum for the transaction of business.[80]

After a bill has been referred to it, a committee may take it up for study any time and, thereafter, it submits to the House its report regarding the said bill. Unwanted bills are "killed" in the committee stage by not reporting them out. Committee members signify their concurrence or approval of the committee's action on any bill by signing the report. Such members are then precluded from opposing the bill when it is taken up on the floor on second reading, but they may offer amendments, or support, amend or oppose any such amendment as may be presented on the floor.[81]

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[74] Rule VI, Sec. 1, Rules of the House of Representatives.
[75] Rule VI, Sec. 2, Rules of the House of Representatives.
[76] Rule VI, Sec. 3, Rules of the House of Representatives.
[77] *Id.*
[78] Rule VI, Sec. 4, Rules of the House of Representatives.
[79] Rule VI, Sec. 5, Rules of the House of Representatives.
[80] Rule VI, Sec. 7, Rules of the House of Representatives.
[81] Rule VI, Sec. 10, par. 2, Rules of the House of Representatives.

After deliberation, a committee submits its reports to the House. Such report may:

(a) Recommended that the bill be approved without amendment as in the following example:

"Second Congress of the Republic
of the Philippines
Sixth Special Session

HOUSE OF REPRESENTATIVES

COMMITTEE REPORT NO. 1728

Submitted by the Committee on Agriculture, on July 1, 1952.
R: H. No. 1305
Recommending its approval.
Sponsors: Congressmen Abeto, Feliciano and Rodriguez

Mr. Speaker:

The Committee on Agriculture, to which was referred the Bill (H. No. 1305—2nd C. R. P.), introduced by Congressmen Abeto, Feliciano, Rodriguez, Hernandez and Manguera, entitled:

AN ACT CREATING THE "NATIONAL RESEARCH INSTITUTE", PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND PROVIDING FOR THE RAISING OF THE NECESSARY FUND FOR ITS OPERATION,

has considered the same and has the honor to report it back to the House with the recommendation that said bill be approved without amendment.

Respectfully submitted,

(Sgd.) Augurio M. Abeto
Chairman
Committee on Agriculture

The Honorable
The Speaker
House of Representatives
Manila

(b) Recommend that the bill be approved with certain amendments, as in the following example:

(Heading omitted)

"Mr. Speaker:

The Committee on Chartered Cities to which was referred the Bill (H. No. 1847—2nd C.R.P.), introduced by Congressman Espinosa (P.), entitled:

AN ACT TO AMEND THE CHARTER OF THE CITY OF ILOILO BY MAKING ELECTIVE ALL MEMBERS OF THE MUNICIPAL BOARD AND BROADENING ITS TAXING POWER,

has considered the same and has the honor to report it back to the House with recommendation that said Bill be approved with the following amendments:

1. On page 1, line 8, between the first comma (,) and the word "and", insert the following:

"THE CITY ENGINEER AND THE CITY TREASURER, WHO SHALL ALSO BE EX-OFFICIO MEMBERS,"

2. On the same page, line 8, strike out the comma (,) appearing after the word "councilors."

etc.

Respectfully submitted," [82]

(c) Recommend the approval of a bill in consolidation with others relating to the same subjects, as the following:

"Mr. Speaker:

The Committee on Government Enterprises, to which were referred the Bills (H. No. 2617—2nd C. R. P.) introduced by Congressmen Confessor, Manguera, Viola Fernando, Abeleda, Ramos, and Rilloraza, Jr., entitled:

AN ACT TO REVISE REPUBLIC ACT NUMBERED SIX HUNDRED AND SIXTY-THREE, ENTITLED "AN ACT TO DEVELOP AND IMPROVE THE RICE AND CORN INDUSTRIES, TO STABILIZE THE PRICE OF RICE AND TO PROMOTE THE SOCIAL AND ECONOMIC CONDITIONS OF THE PEOPLE ENGAGED IN PRODUCTION OF THESE STAPLE FOODS."

(H. No. 2628—2nd C. R. P.), introduced by Congressman Feliciano, entitled:

AN ACT CHANGING THE COMPOSITION OF THE BOARD OF DIRECTORS OF THE NATIONAL RICE AND CORN CORPORATION BY AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SIX HUNDRED AND SIXTY-SIX,

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[82] Committee Report No. 965, 2nd Congress of the Republic of the Philippines (2nd C. R. P.)

and (H. No. 2644—2nd C. R. P.), introduced by Congressmen Abogado and Abad, entitled:

> AN ACT TO AMEND REPUBLIC ACT NUMBERED SIX HUNDRED AND SIXTY-THREE, ENTITLED "AN ACT TO DEVELOP AND IMPROVE THE RICE AND CORN INDUSTRIES, TO STABILIZE THE PRICE OF RICE, AND TO PROMOTE THE SOCIAL AND ECONOMIC CONDITIONS OF THE PEOPLE ENGAGED IN THE PRODUCTION OF THESE STAPLE FOODS," AND FOR OTHER PURPOSES,

has considered these Bills and has the honor to report them back to the House with the recommendation that H. No. 2617 be approved without amendment, in consolidation with H. Nos. 2628 and 2644, with Congressmen Feliciano, Abogado, and Abad as co-authors thereof.

Respectfully submitted," [83]

(d) Recommend the approval of a bill prepared by the Committee in substitution for bills referred to it, as in:

(Heading omitted)

"Mr. Speaker:

The Committee on Appropriations, to which was referred Bill (H. No. 2615—2nd C. R. P.), introduced by Congressman Macapagal, entitled:

> AN ACT APPROPRIATING THE SUM OF ₱33,798, 540.00 TO INCREASE THE "COUNTERPART FUND" AND TO PROVIDE FOR THE ADMINISTRATIVE AND OVERHEAD EXPENSES OF THE COUNTERPART PROJECTS;

has considered the same and has the honor to report it to the House with the recommendation that said bill be substituted by the attached Bill (H. No. 3124—2nd C. R. P.) prepared by the Committee, entitled:

> AN ACT APPROPRIATING THE SUM OF ₱33,750,750.00 FOR "COUNTERPART FUND" TO CARRY OUT THE PURPOSES OF REPUBLIC ACT NUMBERED SIX HUNDRED FOUR,"

and that this bill be approved without amendment, with Congressman Macapagal as author thereof.

Respectfully submitted,[84]

A committee which has failed to report back to the House a bill which has been pending before it for more than thirty days may

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[83] Committee Report No. 1428, (2nd C. R. P.)
[84] Committee Report No. 1575, (2nd C. R. P.)

be discharged from considering the said bill by a motion in writing filed by any member with the Secretary of the House. As soon as at least thirty-five members have signed the said motion, it shall be in order during any Monday thereafter to move for a consideration of said motion. If approved by the House, a motion shall be in order to proceed to the immediate consideration of the bill in question.[85]

Once reported back to the House, a bill is included in the calendar for unassigned business where it remains until such time as the Committee on Rules shall set it for discussion on the floor.[86] The Committee on Rules under the chairmanship of the Majority Floor Leader, decides which bills shall be calendared for discussion on the floor of the House. This power over the calendar of bills makes this committee the most potent in the House and virtually invests it with the veto power over all bills that do not meet the approval of the committee.

A bill set by the Committee on Rules for a certain date is taken up on the floor on that date or as soon thereafter as bills previously calendared are disposed. On such a date, the bill is read in full, with such amendments as the Committee concerned may have proposed, unless such second reading is dispensed with (as is always the case) by a majority vote.[87] Thereafter, the bill is subject to debate, amendment and all other proper parliamentary motions.

No bill, however, shall be considered on second reading in any regular session which has not been reported by the corresponding committee fifteen days in advance of adjournment. This prohibition does not apply to bills certified by the President of the Philippines as urgent.[88]

In the discussion of any measure, after three speeches for and two against it have been delivered, or only one speech for, there being none entered against it, except during the last fifteen days before adjournment when after two speeches for and one against it had been delivered or only one speech for, there being none entered against it, a motion to close the general debate shall be in order and if said motion is approved by a majority vote, the House shall proceed to the consideration of amendments under the five-minute rule. Then any member shall on request be allowed five minutes to explain such amendment as he may offer, after which the member first to obtain

[85] Rule XVI, secs. 6 and 7, Rules of the House of Representatives.
[86] Rule XI, sec. 1, Rules of the House of Representatives.
[87] Rule XII, sec. 6, Rules of the House of Representatives.
[88] Rule XII, sec. 5, Rules of the House of Representatives.

the floor to speak against it may have five minutes, and no further discussion shall be allowed on the subject. The same privilege to speak for or against any amendment that may be presented to an amendment shall be allowed.[89]

Amendments to the title of a bill is not in order until after the text or purview thereof has been perfected. Amendments to the title is decided without debate.[90]

After the general debate is closed and the amendments disposed of, the proposed bill is referred to the calendar of bills on third reading, and final voting thereon shall not take place until printed copies thereof shall have been distributed to the members at least three calendar days prior to its passage, except when the President shall have certified to the necessity of its immediate enactment.[91]

Upon the last (the third) reading of a bill no further amendment is allowed, and the question upon its passage shall be taken immediately thereafter and the *yeas* and *nays* entered on the Journal.[92] The third reading is accomplished by reading the title of the bill, followed by a roll call of the members of the House. As his name is called, the member answers *"yea"* or *"nay,"* as the case may be, depending on whether he votes for or against the measure. The constitutional provision requiring the *yeas* and *nays* to be entered in the journal is designed to compel each member present to assume as well as to feel his due share or responsibility in legislation and also to furnish a means of establishing definite and conclusive evidence that the bill has been passed by the required majority.[93]

A member can, in the course of casting his vote, explain the reason for his *"yea"* or *"nay"* vote. The fight over particularly controversial measures is virtually repeated at this late stage of the proceedings when proponents and opponents of the bills renew their defense or attack upon the measure. On such occasion the voting may drag on for hours as in the case of the third reading of the bill (H. No. 727) repealing the emergency powers Acts.

After a tally of the votes is taken by the Secretary, the presiding officer announces the result in the following formula:

"By —— affirmative vote, —— negative, and —— abstention, Bill No. —— is approved on third reading."

After approval of the bill by the House, the Secretary, thereof, transmits the same to the Senate for its concurrence. In the upper

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[89] Rule XII, sec. 7, Rules of the House of Representatives.
[90] Rule XIII, sec. 9, Rules of the House of Representatives.
[91] Rule XII, sec. 8, Rules of the House of Representatives.
[92] Art. VI, sec. 21, subsec. 2, Constitution.
[93] Sutherland, *supra*, p. 290.

house the bill undergoes the same procedure as in the House of origin.

If the Senate concurs with the House and offers no amendment to the bill, the measure is then sent by the House of origin to the Bureau of Printing for printing. Three copies of the bill are then signed by the Speaker of the House of Representatives and the President of the Senate together with an attestation from both the Secretary of the House and that of the Senate as to the date of passage of the bill in their respective houses. These signed copies, known as the "enrolled bill," are then transmitted to the President of the Philippines for whatever action he may take thereon.

If, however, the Senate in concurring with the House on any measure, offers amendments thereto, then a conference committee composed of an equal number of members of the House and of the Senate is created to thresh out the difference between the two houses.[94] Whatever is agreed upon by the Conference Committee is reported by the conferees to their respective houses for its acceptance. If the conference report is accepted by both houses, then the bill as finally amended by the Conference Committee becomes the approved bill and this is the one sent by the House of origin to the Bureau of Printing for printing.

It is absolutely indispensable that the conference report, if there is only one, or identical report, if there be more than one, or the identical report, if there be more than one, be accepted by both Houses, otherwise a case similar to that which happened to the original PNB notes redemption Act, Republic Act No. 734, will occur.

The facts surrounding the approval of this measure are as follows: During the latter part of the second session of the Second Congress, the House of Representatives approved H. No. 211 providing for the redemption of the illegally issued PNB circulating notes which have been registered and deposited with the proper authorities pursuant to the provisions of Republic Act No. 211. The Senate during the same session approved the bill, but with certain amendments which necessitated the creation of a conference committee. The conference committee met, threshed the differences between the two Houses, and prepared a conference report. In its session of April 23, 1951, the House of Representatives approved the said conference report. On May 3, 1951, the Secretary of the House, by a message addressed to the President of the Senate, informed the latter body of the approval by the House of the conference report.

For one reason or another, the Senate took no action on the said conference report. According to existing rules, the business

[94] Rule XII, sec. 11, Rules of the House of Representatives.

left unfinished in one session of a Congress is continued in the next regular session of the same Congress.[95] Accordingly, the conference report which was approved by the House, remained as unfinished business and pending in the Senate. If the Senate did not agree to the said report, a request for another conference on the said bill should have been transmitted to the House during the last regular session which terminated on May 22, 1952. No such request, however, was received by the House. But it appears that another conference report was in fact prepared and signed by the conferees of both Houses during the closing days of the third session. This last conference report was approved by the Senate and in a message transmitted by the Secretary of that body to the Speaker, the former official informed the House "that the Senate on May 22, 1952 approved the Report of the conference committee on the disagreeing votes of the two Houses to the amendments of the Senate to House Bill 211."

This particular report was, however, never presented to the House for its acceptance.

We have, therefore, two different conference reports: One containing the disputed graduated schedule of payment approved by the House, and another containing the so-called Recto amendment approved by the Senate. As far as the records of the respective Houses are concerned, there has been no meeting of the minds of two houses on the disputed amendments.

When the House received the message of the Senate informing the former that it has approved the conference report, the House could not have interpreted the said message except in the sense that the approval referred to the *only* report of the conference committee existing in the records of the House. The latter relying on its own records then sent to the Bureau of Printing a copy of the bill as amended by the conference committee in the form supported by the said records. It was, therefore, to be expected that the enrolled copy sent to the President would carry the graduated schedule of payment and not the Recto amendment.

Though the approved Act, Republic Act No. 734, did not in fact express the true legislative intent, it nevertheless was a valid law, and neither the journal of the House nor that of the Senate can be presented to impeach the enrolled bill.[96] Section 313 of the old Code of Civil Procedure, as amended, considers a copy of an act of the legislature signed by the presiding officers and secretaries of both

[95] Rule XXIV, sec. 1, Rules of the House of Representatives.

[96] This error was corrected during the last special session when Congress approved H. No. 3187. This bill is now pending presidential action.

houses as conclusive of the provisions of such Act and of the due enactment thereof.

Moreover, the weight of judicial authority favors the "enrolled bill theory." The United States Supreme Court, in the case of *Field v. Clark,* 143 U. S. 647, stated succinctly the reasons for this rule:

> "The signing by the Speaker of the House of Representatives, and by the President of the Senate, in open session, of an enrolled bill, is an official attestation by the two houses of such bill as one that has passed Congress. It is a declaration by the two houses, through their presiding officers, to the President, that a bill, thus attested, has received, in due form, the sanction of the legislative branch of the government, and that it is delivered to him in obedience to the constitutional requirement that all bills which pass Congress shall be presented to him. And when a bill, thus attested, receives his approval, and is deposited in the public archives, its authentication as a bill that has passed Congress should be deemed complete and unimpeachable. As the President has no authority to approve a bill not passed by Congress, an enrolled act in the custody of the Secretary of State, and having the official attestations of the Speaker of the House of Representatives, of the President of the Senate, and of the President of the United States, carries, on its face, a solemn assurance by the legislative and executive departments of the government, charged, respectively, with the duty of enacting and executing the laws, that it was passed by Congress. The respect due to coequal and independent departments requires the judicial department to act upon that assurance, and to accept, as having passed Congress, all bills authenticated in the manner stated: leaving the courts to determine, when the question properly arises, whether the act, so authenticated, is in conformity with the Constitution.
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> "It is admitted that an enrolled act, thus authenticated, is sufficient evidence of itself—nothing to the contrary appearing upon its face—that it passed Congress. But the contention is, that it cannot be regarded as a law of the United States if the journal of either house fails to show that it passed in the precise form in which it was signed by the presiding officers of the two houses, and approved by the President. It is said that, under any other view, it becomes possible for the Speaker of the House of Representatives and the President of the Senate to impose upon the people as a law a bill that was never passed by Congress. But this possibility is too remote to be seriously considered in the present inquiry. It suggests a deliberate conspiracy to which the presiding officers, the committees on enrolled bills and the clerks of the two houses must necessarily be parties, all acting with a common purpose to defeat an expression of the popular will in the mode prescribed by the Constitution. Judicial action based upon such a suggestion is forbidden by the respect due to a coordinate branch of the government. The evils that may result from the recognition of the principle that an enrolled act, in the custody of the Secretary of State, attested by the signatures of the presiding officers of the two houses of Congress, and the approval of the President, is conclusive evidence that it was passed by Congress, according to the forms of the Constitution, would be far less than those that would certainly result from a rule making the validity of Congressional enactments

depend upon the manner in which the journals of the respective houses are kept by the subordinate officers charged with the duty of keeping them."

With the transmittal to the President of the enrolled bill, the process of statute-making has entered its last stage.

If the Chief Executive approves the bill, he signs it, and it is then given a number, by which, thereafter, it shall be known. If he does not approve the bill, he returns it with his objections to the House of origin, which then enters the objections at large on its journal. The House may, if it desires to over-ride the veto, proceed to reconsider it. If after such reconsideration, two-thirds of all the members of such House shall agree to pass the bill, it shall be sent, together with the President's objections, to the other House by which it shall likewise be reconsidered. If approved by two-thirds of all the members of that House, then the bill becomes a law. In all cases of reconsideration, the voting in each House shall be determined by *yeas* and *nays,* and the names of the members voting for or against shall be entered on its journal.[97]

If the veto refers to a bill or any item of an appropriation bill which appropriates a sum in excess of ten per cent of the total amount voted in the appropriation bill for the general expenses of the government for the preceding year, or if it refers to a bill authorizing an increase of the public debt, the said bill shall not become a law unless approved by three-fourths of all the members of each house.[98]

There are bills which become laws without presidential approval. This happens if a bill is not returned by the President to the House of origin with his objections within twenty days, exclusive of Sundays, after it shall have been presented to him, unless Congress by adjournment prevents its return, in which case it shall become a law unless vetoed by the President within thirty days after adjournment.[99]

Of the three copies of the enrolled bill signed by the President and of such bills as become laws without his signature, one copy is kept in the Office of the President, the second in the Senate, and the third in the House of Representatives, for safe-keeping and preservation.

This completes the process of law-making.

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[97] Art. VI, sec. 20, subsec. 1, Constitution.
[98] Art. VI, sec. 20, subsec. 2, Constitution.
[99] Art. VI, sec. 20, subsec. 1, Constitution.