

color,⁴⁹ nationality,⁵⁰ or creed,⁵¹ it is difficult to concede that he can be stripped of the same rights, including the right to counsel, by reason of political belief.

—LUIS R. MAURICIO

FINANCIAL ORGANIZATION OF THE CITY OF MANILA

Public Finance has been said to be concerned with the income of public authorities, and the adjustment of one to the other.¹ It is as much a concern of local governments as of the national government. A municipal corporation, like the national government, must have financial resources in order to exist and discharge its service functions. Public finance may very well be termed the lifeblood of government operation and service.²

The problems of municipal finance increase as the demands of the community multiply. Essential community services which were once private responsibilities are today supported by the municipal government.³ There is, therefore, a consequent increase in municipal expenditures, and necessarily there is need for more revenues

⁴⁹*Plessy v. Ferguson* (1896), 163 U. S. 537, 16 S. Ct. 1138, where Justice Harlan, dissenting, at p. 1146, said that "our Constitution is color-blind."

⁵⁰*Ohio ex rel Clarke v. Deckebach* (1927), 47 S. Ct. 630, 631, 274 U. S. 392, where Justice Stone said, at p. 396, that the equal protection clause prohibits "plainly irrational discrimination against aliens . . ."; *Colyer v. Skeffington*, see note 36; *Yu Cong Eng v. Trinidad* (1925), 47 Phil. 385; *Takahashi v. Fish and Game Commission* (1948), 334 U. S. 410, 68 S. Ct. 1138; *Truax v. Raich*, see note 13.

⁵¹ Constitution of the Philippines, Art. III, Sec. 1, par. 7; 2 COOLEY, CONSTITUTIONAL LIMITATIONS (1927), 8th Ed., 960; *U. S. v. Ballard* (1944), 322 U. S. 78, 64 S. Ct. 882.

¹ DALTON, H., PRINCIPLES OF PUBLIC FINANCE (3rd., 1949), p. 304.

² 15 McQUILLIN, MUNICIPAL CORPORATIONS (3rd., 1950), p. 3: "A municipal corporation, like the general government and the state, must have power to raise money to enable it to perform its public functions, since otherwise it would be a body without life, incapable of acting and serving no useful purpose."

³ *Ibid.*, at p. 4: "The rapid development of community service and the steady expansion of community functions, has rendered the equitable raising and distribution of funds for public purposes of prime importance. The financial problem, therefore, is among the most serious. As the activities of the city grow, the cost of municipal service rapidly advances. Many things essential to urban life, which were formerly in private hands, are now being gradually socialized, and as a result are becoming customary municipal functions. City expenditures expand far beyond the increase of the community in wealth and production, and with rare exceptions administrative expenses increase year by year by leaps and bounds."

to finance new governmental functions.⁴ This is a major problem of local governments with restricted taxing powers. The matter is of particular moment in thickly populated centers like the City of Manila, for as population increases, government services must be made available to more. More revenue must be raised without however going beyond the limits imposed by law. Inadequacy of funds may compel a policy choice between "spreading thin" what is available and the discontinuance of some functions.

The following is a brief attempt at analysis of the finances of the City of Manila, having in mind the city charter provisions pertinent thereto and the applicable judicial decisions. Certain specific conditions and problems affecting the city finances have also been taken into consideration.

1. *The Administrative Structure*

The charter of the City of Manila⁵ provides, as one of eight departments to carry on government operations, a Department of Finance.⁶ In this department are centralized the financial functions of the city government, such as accounting, budget-making, revenue administration, the custodial function, purchasing and debt administration.⁷ The city treasurer, who is the chief fiscal officer and financial adviser of the city has charge of this department.⁸ He is appointed by the President of the Philippines with the consent of the Commission on Appointments.⁹ His department is under the direct supervision and control of the city mayor,¹⁰ who may recommend the treasurer's suspension or removal to the President of the Philippines.¹¹

The General Auditing Office, through the City Auditor, serves as the national agency which receives and audits all accounts of the city.¹² Both pre-auditing and post-auditing functions¹³ are performed by said office. The question of whether or not a disbursement was authorized by an appropriation ordinance of the city is properly within the jurisdiction of the General Auditing Office.

⁴ *Ibid.*, at p. 6: "Continuously increasing pressure for more and better service, including the socialization of much service hitherto in individual hands, the extension of municipal activities and the increase of city officers and servants and bureaucratic complications entailed by it, have involved great and increasingly greater expenditures. Hence fresh sources of revenue must be found. The imposition of taxes on new subjects, and the increase on old ones necessarily results. * * *"

⁵ Republic Act No. 409.

⁶ Sec. 20, *id.*

⁷ Sec. 52, *id.*

⁸ Sec. 52, *id.*

⁹ Sec. 22, *id.*

¹⁰ Sec. 20, *id.*

¹¹ Sec. 22, *id.*

¹² Sec. 25, *id.*

¹³ FORDHAM, J. B., *LOCAL GOVERNMENT LAW* (1949), pp. 432-433: "An important adjunct of budget execution is so-called current or pre-audit. The minimum

2. Accounting Function

The accounting function is patently vital to good management.¹⁴ With respect to the expenditure side of the city budget, accounting is done on the cash rather than on the accrual basis.¹⁵ In general, it may be said that city expenses are incurred only when there are sufficient funds therefore. For the purpose of insuring a constant supply of cash, the city has established a credit line with its government depository, the Central Bank of the Philippines.¹⁶ Revenues are generally considered to pertain to the fiscal year during which they are actually collected. The accounting period coincides with the fiscal period, i.e., one fiscal year.¹⁷ Obligations of the city may be spread over a number of years according to the terms of the contract it may have entered into. This is true in cases of heavy capital expenditures.

3. Budget-Preparation

The budget of the City of Manila is a detailed plan of estimated expenditures within the estimated receipts of the city for a fiscal year. Said budget is incorporated into an appropriation ordinance. This appropriation ordinance constitutes the legal basis of expenditures by the city.¹⁸ Without further action by the Municipal Board, disbursements of municipal funds may be made by the city treasurer, out of the authorized appropriations, upon properly executed vouchers bearing the approval of the chiefs of the departments concerned.¹⁹

The charter provides an automatic extension of an appropriation ordinance or budget of a particular year, for another year or years, in case of failure of the Board to pass an appropriation ordinance for any year before the end of the previous year.²⁰ This provision was thought necessary to prevent paralization of city government functions, which was not too unlikely should partisan political considerations outweigh, in the minds of the councilors, the urgency of

required of the comptroller or other responsible financial officer in performing this function is to determine that the particular item is an approved claim covered by an appropriation under which there are funds available for payment. Post-audit, in principle is an aid to the legislative branch in checking upon executive and administrative performance and thus, should be done by hands not under executive control. Not uncommonly it is done by a state agency or by accountants engaged in private practices who are retained for the purpose."

¹⁴ *Ibid.*, at p. 427.

¹⁵ *Cf. ibid.*

¹⁶ McQUILLIN, *loc. cit.*, *supra* note 2 at p. 4: "The question of the establishment of a working cash fund plan, as a means by which it should be made certain that the municipalities would be able to meet ordinary expenses as they become due, either in lieu of or in connection with the use of tax-warrants, is a question of sound business judgment."

¹⁷ See FORDHAM, *loc. cit.*, see note 13, at p. 427.

¹⁸ Republic Act No. 409.

¹⁹ Sec. 16, *id.*

²⁰ Sec. 53, *id.*

passing the budget. In such a case, essential expenses peculiar to the year or years not originally covered by the budget, may be left unprovided for. These would apparently be proper subjects of supplemental budgets.²¹

The preparation of the budget is primarily the duty of the city mayor.²² In the process, however, of budget-making, the city treasurer plays an indispensable part. As the chief fiscal officer of the city, he is the one most cognizant of city finances as a whole. A week to week and month to month checkup of expenses and income is done by him. Any change, therefore, in financial condition is necessarily known to him. No one knows better than he whether there is or will be enough revenue for appropriation purposes. This is recognized in the city charter where a proviso is found stating that in no case shall the aggregate amount of appropriations exceed the estimate of revenues and receipts submitted by the city treasurer.²³

The city charter lays down the specific procedure of budget preparation. The head of each department is required to propose and present to the mayor, on or before March first of each year, for submission to the municipal board an estimate of the receipts and appropriations necessary for the operation of his department during the ensuing year. The city treasurer, however, has to submit more than just budget proposals for his department. He is required, in addition, on or before the first day of April, to present to the Mayor a certified detailed statement, by departments, of all receipts and expenditures of the city pertaining to the preceding fiscal year and to the current fiscal year up to and excluding March thirty-first together with an estimate of the receipts and expenditures for the remainder of the current fiscal year. He is also required to submit with this statement a detailed estimate of the revenues or receipts of the city from all sources for the ensuing fiscal year. Upon receipt of this statement and estimate, and the estimates of the other department heads, the mayor formulates and submits to the Municipal Board, before the fifteenth day of April next following, a detailed budget covering the estimated expenditures.

By an executive order, the former Mayor Manuel de la Fuente created a Budget Committee in which the mayor, the municipal board, the city auditor, and city assessor, were represented, with the city treasurer as chairman. The budget proposals of the different departments of the city were referred to the department of finance. The budget was made by said committee, making use of the facilities of the department of finance. This practice has been discontinued. The procedure in the city charter is followed to the letter by the present mayor.

²¹ Sec. 11(j), *id.*

²² Sec. 52, *id.*

²³ Sec. 52, *id.*

The estimate of receipts made by the city treasurer makes possible the estimate of expenditures. Said estimate is based on actual collections for a period of five years previous to the time it is made. It is not the result of a mere mechanical procedure. It takes into consideration the factors which, in the sound judgment of the treasurer, may affect actual collections of each item of revenue.²⁴

The total estimated revenue is not wholly appropriated. The treasurer deducts five per cent as reserve in accordance with the Manual of Instructions to Treasurers (Sec. 311) of the General Auditing Office, and certifies the balance as the total available for appropriation. The reserve is in anticipation of budget adjustments which may become necessary in the course of the fiscal year because of inaccuracies in the estimates of income or expenditures.

An important consideration in the preparation of the budget is the balancing of estimated revenues against estimated expenditures. In arriving at a balance, adjustments between particular items of expenditures may become necessary. Economy in particular government operations may be required without, however, a reduction in the number of essential government services. This may be illustrated by the recurrent problem of providing for educational facilities for school children in the City of Manila. The school fund²⁵ is not sufficient for this purpose and part of the general fund has to be utilized. It need not be pointed out that this will result in the laying off of some city employees whose services are more or less expendable.

Whether or not a budget should be balanced every year has been discussed by some writers on public finance.²⁶ A "reasonable" budget deficit for a year is not considered a great disaster, particularly where it makes possible the pursuit of "larger aims."²⁷ The city of Manila, as a general rule, provides for a balanced budget of *estimates* each year. Whether or not a balance is actually attained at the end of the fiscal year is a different matter. Although the municipal board provides for forced savings (a certain percentage of the total expenditures estimated), a deficiency may actually result in the long run. Not all expenses of government are known before hand. Then also the city, as purchaser of necessary supplies, is affected by the rise and fall of price levels. Political patronage in the administrative

²⁴ Thus in the estimate made for the fiscal year 1953-54, the treasurer called attention to closing of "talipapas" which may affect the item Receipts from Markets; to the judicial decisions under which sales heretofore taxed as wholesale under Ordinance No. 3420 are now taxed as retail sales, which decisions may reduce actual collections under the item Wholesale Dealers in general merchandise. In the same way he made a reduced estimate of rentals because of the ejection of squatters from city government lots and of receipts from cemeteries because cemetery lots and niches are already sold out and no new construction is proposed.

²⁵ The school fund is mainly derived from the real estate taxes, tuition fees, marriage license fees and a part of internal revenue allotments.

²⁶ See Dalton, *Unbalanced Budgets, a Study of the Financial Crisis in Fifteen Countries*.

²⁷ See DALTON, *op. cit.*, see note 1 at p. 304 *et seq.*

scheme of government may impose a burden on public funds. When deficiencies do result, supplemental budgets may be employed if there are funds to be appropriated. Otherwise there is a budget deficit which must be carried over to the succeeding year or years. This deficit may be satisfied out of unexpected revenues which are actually realized, if any, apparently without further appropriation. Otherwise a new appropriation seems to be required if payment is to be made out of revenues of succeeding years.

On the other hand, a surplus may occur at the end of the fiscal year. A distinction should be made between "appropriated surplus" and "unappropriated surplus." The former is the unexpected balance of appropriations authorized in the previous fiscal year or years, remaining available to the respective departments to which the appropriations have been allocated until the purposes for which the appropriations were made are realized. The surplus may be appropriated for other purposes upon certification by the department head concerned that the specific project has been completed, in which event the surplus reverts to the general fund. It is also called continuing appropriations, and possible only where the surplus funds are in fact realized through actual collections of estimated revenues. The unappropriated surplus consists of funds which may be appropriated for any purpose except where law, ordinance or auditor's regulations has limited the power of the municipal board to appropriate such funds. Said surplus is carried over generally to the succeeding fiscal year or years. It results from the excess of actual collections over estimated receipts together with the five per cent reserve remaining at the end of the fiscal year.

4. *Revenue Administration*

The City of Manila has various sources of revenue. The principal sources, are internal revenue allotments for local governments, real estate taxes, municipal license taxes and taxes on wholesale dealers.²⁸ The first item obviously refers to grants-in-aid to local governments which are after all agencies of the national government. They vary according to the actual collections made by the city or municipality of internal revenue taxes imposed by the national government within their respective jurisdictions. The city treasurer of Manila, like a municipal treasurer, has the duty to collect and receive not only the moneys due to the city but also, except as otherwise especially provided, all other Government revenue collectible therein.²⁹ The other three sources of revenue are, for our present purpose, of greater importance. They are all evidences of the taxing power of the city government.

Legislative powers in regard to taxes and licenses are not inherent in municipal corporations but must be granted by statute either expressly or by necessary implication. Like other delegated powers, they are subject to strict construction.³⁰

²⁸ Other sources of revenues include agricultural products allotments, fines and surcharges, weights and measures taxes, business permits, and garbage collection fees.

²⁹ Sec. 52, Republic Act No. 409.

³⁰ *Cu-Unjieng vs. Patstone* (1922); 42 Phil. 818.

The real estate tax on all real estate in the city is explicitly authorized in the city charter.³¹ Certain classes of exempted properties are specified. Thus the city cannot collect real property tax on lands or buildings owned by the national government or the City of Manila. Nor can such taxes be a burden on burying grounds, churches and their adjacent parsonages, and convents, and lands or buildings used exclusively for religious, charitable, scientific, or educational purposes.³² The exemption of convents refers to the house of the priest who presides over the church and has to take care of himself in order to discharge his duties. It includes not only the land actually occupied by the church, but also the adjacent ground devoted to the ordinary incidental uses of man.³³ Lands or buildings which are the only real property of the owner, and the value of which do not exceed five hundred pesos, are also exempt.³⁴

Exemptions from taxation are highly disfavored, such that they may almost be said to be odious to the law. He who claims an exemption must be able to point to some positive provision of law creating the right. It cannot be rested upon a vague implication.³⁵

In this jurisdiction, real property, whether consisting of land or the improvements thereon, is assessable against the owner; and in the absence of special provision no liability for the tax attaches to any person than the owner.³⁶ Thus where the Government as owner of land leases it for a fixed rental, under a contract not containing a stipulation for the payment of taxes by the lessee, such land is exempt in the hands of the lessee. This rule must be understood to apply to all property which is exempt in the hands of the Government, whether it be of a public or patrimonial nature.³⁷ In case of doubt or dispute as to the ownership of real estate, the taxes shall be levied against the possessor or possessors thereof.³⁸ Improvements are taxable separately in this jurisdiction and there is neither difficulty nor injustice in allowing the tax laws to operate against the owner of the improvements, while relieving him from liability for the tax on the land.³⁹ The city charter provides that where it shall appear that there are separate owners of the land and the improvement thereon, a separate assessment of the property of each shall be made.⁴⁰ The personal responsibility for the tax remains in him who was the owner at the beginning of the year.⁴¹ Where all benefits

³¹ Sec. 64, Republic Act No. 409.

³² Sec. 54(a), *id.*

³³ *Bishop of Nueva Segovia vs. Provincial Board of Ilocos Norte* (1927), 51 Phil. 352.

³⁴ Sec. 54(b), Republic Act No. 409.

³⁵ *Asiatic Petroleum Co. vs. Llanes* (1926), 49 Phil. 466.

³⁶ *Fairchild vs. Sarmiento* (1925), 47 Phil. 485 and *Asiatic Petroleum Co. vs. Llanes*, *supra*.

³⁷ *Asiatic Petroleum Co. vs. Llanes*, see note 35.

³⁸ Sec. 57, Republic Act No. 409.

³⁹ *Asiatic Petroleum Co. vs. Llanes*, see note 35.

⁴⁰ See note 38.

⁴¹ *City of Manila vs. Mitchell* (1928), 52 Phil. 138.

have been taken away (by the State) the corresponding burdens should be assumed by the State. Owners whose property was taken by expropriation proceedings are allowed to recover taxes paid to the City of Manila under protest, covering the period of time between the dispossession of the owners and the vesting of title in the city.⁴²

A distinction should be made between the power to license and the power to tax. The first is a police measure and the second a revenue measure. The terms "license" and "regulate" in a municipal charter may authorize licenses for the purpose of raising revenue if there be nothing antagonistic in the rest of the charter. Otherwise not.⁴³

Generally speaking, judicial decisions appear to recognize three classes of license fees: First, licenses for the regulation of useful occupations or enterprises; secondly, licenses for the regulation or restriction of non-useful occupations or enterprises, and thirdly, licenses for revenue only. The first two of these classes is based on the exercise of the police power and, though there are some conflict of authority on this point, the better rule seems to be that the conferred power to regulate and to issue such licenses carries with it the right to fix a license fee. In the absence of special authority to impose a tax for revenue, the fee for this class of licenses may only be of a sufficient amount to include the expenses of issuing the license and the cost of the necessary inspection or police surveillance, taking into account not only the expenses of direct regulation but also incidental consequences. The fee in the third class, those for revenue purposes, is, perhaps, not a license fee properly speaking but is generally so termed. It rests upon the taxing power as distinguished from the police power, and the power of the municipality to exact such fees must be expressly granted by charter or statute and is not to be implied from the conferred power to license and regulate merely.⁴⁴

In connection with the taxation of real property, the Department of Assessment of the City of Manila has the function of appraising and valuing all properties subject to the tax. The assessment made by this department is one of the basis of the estimate of revenues in budget-preparation made by the Department of Finance. To this end, the city assessor prepares and files with the city treasurer, before April first of every year, a list of the real estate valued which is exempt from taxation and a separate list of the taxable real estate. When a taxpayer desires to pay the tax before April first, the city assessor furnishes the city treasurer upon request a certified list of the assessed value of the real estates of such taxpayer pertaining to the year for which the tax is offered to be paid.⁴⁵

The Charter provides for the administrative procedure in the assessment of realty. There is an assessor to fix the value of the property in the first instance and a board of tax appeals to review the action of the assessor. Proceedings before this board are quasi-judicial in nature. To it the citizen must apply for relief against

⁴² *City of Manila vs. Roxas* (1934), 60 Phil. 215.

⁴³ *Pacific Commercial Co. vs. Romualdez* (1927), 49 Phil. 917.

⁴⁴ *Cu-Unjieng vs. Patstone*, see note 30.

⁴⁵ Sec. 53, Republic Act No. 409.

excessive and irregular taxation. Here must the aggrieved party go for the correction of errors in assessment. Administrative remedies must be exhausted before resort can be had to the courts. It is a condition precedent to the exercise of the taxpayer's right of action in a court of justice that previous and timely effort shall have been made on his part to have the board of tax appeals correct an alleged error while the matter was yet in their hands and under their control. Even when the courts assume jurisdiction, they will not presume to interfere with the intelligent exercise of the judgment of men especially trained in appraising property. However, where the tax itself is illegal, the taxpayer may bring an action directly in the courts to recover the tax.⁴⁶

To assure due process of law to taxpayers, it is a general rule that those provisions of a statute relating to the assessment of taxes, which are intended for the security of the citizen, or to insure the equality of taxation, or for certainty as to the nature and amount of each person's tax, are mandatory. Those designed merely for the information or direction of officers or to secure methodical and systematic modes of proceedings are merely directory.⁴⁷

The real property tax assessed on realty is a debt in favor of the city.⁴⁸ Recovery of such debt may be done in three ways, namely, distraint of personal property,⁴⁹ sale of delinquent real estate,⁵⁰ and civil action to recover.⁵¹ These remedies are cumulative.⁵² The City of Manila may use its discretion, proceeding either against the personal property of the taxpayer or against the land upon which the tax has been levied.⁵³

The second method of recovering unpaid real property taxes is based on the notion of tax liens. Taxes and penalties assessed against realty constitute a lien thereon, superior to all other liens, mortgage, or incumbrances of any kind whatsoever.⁵⁴ The tax lien, once the real estate tax has accrued in favor of the city, remains on the property in spite of a transfer and is enforceable against the property whether in the possession of the delinquent taxpayer or of any other person.⁵⁵ Due process, however, requires that other persons who hold liens against the realty to be sold for tax delinquency should have notice and an opportunity to be heard before their liens can be nullified.⁵⁶

Proceedings for the collection of delinquent taxes upon land is an action in personam and the tax title issued thereunder is a purely

⁴⁶ *Viuda e Hijos de Roxas vs. Rafferty* (1918), 37 Phil. 957.

⁴⁷ *Ibid.*

⁴⁸ Sec. 75, Republic Act No. 409.

⁴⁹ Sec. 65, *id.*

⁵⁰ Sec. 69, *id.*

⁵¹ Sec. 75, *id.*

⁵² See Secs. 69, 75, *id.*

⁵³ *Lopez vs. Director of Lands* (1924), 47 Phil. 23.

⁵⁴ Sec. 68, Republic Act No. 409.

⁵⁵ *City of Manila vs. Mitchell*, see note 41; also see Sec. 68, *id.*

⁵⁶ *Lopez vs. Director of Lands*, see note 53.

derivative title. The purchaser at a tax sale gets no better title under his deed than that held by the person against whom the real property tax has been assessed.⁵⁷

A delinquent taxpayer in the case of distraint of personal property may redeem such property at any time after seizure and before sale by tendering the amount of the tax, penalty and the costs incurred up to the time of tender.⁵⁸ The same right of redemption is granted to the taxpayer in a tax sale of realty, where he is granted a period of one year from the date of sale within which to redeem.⁵⁹ The redeeming taxpayer is not, however, entitled to recover the fruits of the property sold, which accrued after title was vested in the government upon forfeiture for failure to pay the tax.⁶⁰

City revenues are for the financing of city government services. Revenue from taxes is not, however, sufficient to enable the city government to dispense with service charges. The city charter authorizes the fixing of the tariff of fees and charges for all services rendered by the city or any of its departments, branches, or officials.⁶¹ Until recently, garbage collection was a tax-supported service. Since August 23, 1953, however, by virtue of Ordinance No. 3526, garbage collection fees have been imposed. In the exercise of its regulatory powers, the city may impose reasonable charges in keeping with the cost of regulation.⁶²

The City of Manila, in the exercise of its corporate or business functions, maintains public utilities such as markets and slaughterhouses and receives income therefrom.⁶³ This income is classified by the city treasurer as income from operations.

Public improvements, specifically mentioned in the city charter, may be financed not only by general taxation but also exclusively or partly by special assessments.⁶⁴ Special assessments are laid for a special purpose, which is calculated to benefit the property burdened to a degree not enjoyed by property not so assessed. While jurisdiction to impose general taxes is conventionally made out by reference to the general benefits of government extended by the taxing unit, a special assessment is based upon benefits in a more exacting sense.⁶⁵

⁵⁷ *Ibid.*

⁵⁸ Sec. 67, Republic Act No. 409.

⁵⁹ Sec. 70, *id.*

⁶⁰ *Lucas vs. Municipality of Alcala* (1930), 55 Phil. 164.

⁶¹ Sec. 18(b), Republic Act No. 409.

⁶² *City of Manila vs. Manila Electric Co.* (1912), 23 Phil. 547.

⁶³ Sec. 18(c), Republic Act No. 409.

⁶⁴ Secs. 81 and 88, *id.*

⁶⁵ FORDHAM, *op. cit.*, see note 13, at p. 452:

"By reason of its distinctive character a special assessment is not considered to be affected by constitutional or statutory tax exceptions, rate limitations, and requirements such as property taxation in proportion to value and uniformity and equality."

Sec. 82, Republic Act No. 409: "* * * The Municipal Board shall not be required to fix one uniform rate per centum for all the taxable real estate in different parts or sections of the same, according as said property will derive greater or less benefit from the contemplated improvement."

Property exempted from tax under the constitution may be held liable for special assessment. A special assessment is commonly distinguished from a tax in that it can be levied only on land; it cannot be made a personal liability of persons assessed; it is based wholly on benefits; and it is exceptional both as to time and locality.⁶⁶ Special assessments, under the city charter, may be assessed not only for original construction but also for repairs.⁶⁷

The procedure for special assessment gives the owners affected the right to notice and hearing before levy thereof by the Municipal Board.⁶⁸ This requisite is in addition to the procedure laid down for the assessment of real estate taxes,⁶⁹ the added requirement being apparently due to the "unequal" burden imposed upon the real property affected.

Spending by the city is possible only where there are sufficient revenues. An increase in expenses, paradoxically, involves an increase in revenue. As Dalton put it:

"Broadly speaking, it is true to say that, while an individual's income determines the amount of his possible expenditures, a public authority's expenditures determines the amount of its necessary income. In other words, while an individual adjusts expenditures to income, a public authority adjusts income to expenditure."⁷⁰

An increase in real estate taxation may be accomplished by an increase in valuation and assessment.⁷¹ It may not be done by an increase in rate which is fixed by the charter. The charter also provides for maximum rates for certain license fees.⁷² Within these limits revenue increases may be made. Where a municipal corporation is vested under its charter with the power to tax, it may change, alter, reduce, or increase rates already in existence, provided it does not contravene any provision of its charter, the Constitution or the general law.⁷³

The City of Manila has no express power to borrow, other than that provided by Section 100 of the charter for the acquisition of landed estates. However, the power to borrow may be said to be a necessary implication from the powers expressly granted by the city charter. There are judicial decisions to the effect that a municipal corporation enjoys such powers as are expressly granted and such other powers as are necessarily implied from those so expressly granted.⁷⁴ If the power to borrow cannot be implied, the City of Manila may be seriously handicapped in its manifold operations and functions which cannot be said to have been intended by the legisla-

⁶⁶ *Apostolic Prefect vs. City Treasurer* (1941), 71 Phil. 547.

⁶⁷ Sec. 81, Republic Act No. 409.

⁶⁸ Sec. 83, *id.*

⁶⁹ Sec. 86, *id.*

⁷⁰ *Op. cit.*, see note 1 at 406.

⁷¹ Sec. 59, Republic Act No. 409.

⁷² *E.g.*, Sec. 18 (1), *id.*

⁷³ *Yap Tok Wing vs. Municipal Board* (1939), 68 Phil. 511.

⁷⁴ *U. S. vs. Ten Yu* (1912), 24 Phil. 1; *U. S. vs. Garing* (1914), 28 Phil. 199.

ture. The last world war brought with it destruction, and for the reconstruction of buildings money was necessary. For the reconstruction of a market destroyed during the war and one razed to the ground by a fire of unknown origin, the City of Manila obtained a loan from the Rehabilitation Finance Corporation. This loan was secured apparently in its corporate or proprietary capacity. The R.F.C., in extending the loan, considered the assets of the city and its earning capacity, requiring the latter to file a financial statement, just like any ordinary person or private corporation.

There is also one express mention of power to issue bonds in the city charter, that is, bonds for the acquisition of landed estates.⁷⁵ The city has actually issued public improvement bonds on the authority, not of the charter, but of special legislative enactments giving the city the express power to issue said bonds.⁷⁶ American court decisions on this matter, indicate that as a general rule municipal corporation have no implied power to issue bonds, and authorizations must consequently be found in state constitutions and enabling statutes.⁷⁷

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⁷⁵ Sec. 100, Republic Act No. 409.

⁷⁶ E.g., Acts Nos. 3051 (1920), 3352 (1928), 3456 (1929).

⁷⁷ See FORDHAM, *op. cit.*, see note 13 at 526-531; see also Antican, C.J., *Some Legal Aspects of Municipal Finance* (1952), 20 *U. of Kansas City L. Rev.* 15 at 27 *et seq.*

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