law and not with findings of fact supported by evidence." [62] Decisions thus indicate what is reviewable and what is not reviewable, but fail to explain clearly the basis for so acting. Rarely, if ever, do justices discuss what are questions of law and questions of fact, why they are so-called and why courts review only questions of law and never "findings of facts supported by evidence."

That is the line of inquiry to which the remaining portion of this brief survey is devoted.

CONCLUSION

The extent of judicial inquiry in any case depends not only upon legal formulas and theories but also upon judicial attitude at the moment.[63] A large degree of discretion is vested in the courts. And this discretion permits the courts to determine their own attitude towards administrative agencies whether it be judicious self-restraint or officious interference and substitution of judgment. The result is apt in on small measure to turn upon whether the reviewing court is blessed with more intellectual pride than humility and also where the question presented for review appeals particularly to the sympathy and interest of the court.[64] Sometimes the courts may have doubts about certain issues and would find it necessary to substitute judgment.

The scope of judicial inquiry is not rigidly held to a fixed standard but varies according to the needs and nature of particular cases. The exercise of judicial power glides from one extreme to the other—sometimes drawing close to a judicial usurpation of the fact-finding task and sometimes approaching a seemingly indiscriminate acceptance of ill-supported findings. The doctrine of judicial review cannot establish a wooden mold where all the governing rules can be fitted.

—ERLINDA O. VILLATUYA

LIMITATIONS UPON THE EXPENSES OF CANDIDATES DURING ELECTIONS

> "That he who pays the piper calls the tune is often said to be the entire story of party finance in a democracy. But in politics different pipers compete for power and pay; people with divergent tastes in tunes often pay the same piper. The repertoire of the pipers is limited, and there are arias beyond purchase; but no performer likes an empty house, and the piper may choose to be governed by the tastes of his impecunious

[62] *Halili v. Balane*; G. R. No. L-3364, prom. April 11, 1951.
[63] DAVIS, *op, cit., supra* note 1, at 905.
[64] Brown, *loc. cit., supra* note 15, at 899.

listeners. Undoubtedly the parable of the payer and the piper correctly describes a recurring tendency, but campaign finance is more complex than the saying would indicate."—*V. O. Key Jr.*

Politics and finance are twins with an ancient lineage.[1] But, in the different stages of history, the degree to which they combined with each other have been varied and diverse, although the general tendency has been from simplicity to ever increasing complexity. So, it was not until comparatively recent times, that together with the birth of political parties,[2] the problems of corrupt practices during elections became a matter of public concern which should be minimized at least, if not completely eradicated.[3] Within the sphere of corrupt practices during elections is included the problem of limitations on the expenses of candidates.

The problem of limiting expenses of candidates during elections assumes special importance when attention is focused on the financial needs of a modern political campaign.[4] It is commonplace to observe

[1] BULLOCK, POLITICS, FINANCE, AND CONSEQUENCES (1939), p. 1:
"This study of the relations between politics and finance will begin with the centralized kingdom which King Menes is credited with creating in Egypt some three thousand four hundred years before the Christian Era.
Financiers have always known that politics and finance are closely related, but they have sometimes appeared to differ in their statements concerning the nature of the relationship."

[2] FINER, THEORY AND PRACTICE OF MODERN GOVERNMENT (Rev. ed., 1949), p. 294: "It is significant that intervention began in a serious measure only after parties had developed a nation-wide organization and had begun to face each other as substantial and responsible rivals. Not until 1883 was there a comprehensive and stringent law passed on this subject in Great Britain; not until after 1890 in the U.S.A., while in France and Germany legislation is very recent."

[3] MERRIAM AND GOSNELL, THE AMERICAN PARTY SYSTEM (3rd ed., 1940) p. 371: "At the outset regarded as purely private affair, the cost of elections has become increasingly a matter of public concern. On the one hand the expense of elections has been made more and more a public charge, and on the other hand the expenditures of and on behalf of candidates have been more and more closely subjected to public supervision and regulation. Public supervision has taken the following forms:
(a) Requirements of publicity as to campaign revenues and expenditures.
(b) Restrictions on sources of expenditures.
(c) Restrictions on the character of the expenditures.
(d) Limitation on the amounts to be expended."
BROOKS, POLITICAL PARTIES AND ELECTORAL PROBLEMS (1923), p. 335: "Perhaps the greatest evil of the system is that it discourages the candidacy of men of high character and public spirit who are unable themselves to make the large financial sacrifices required, or unwilling to assume the obligations, tacit or express, involved when others make them in their behalf."

[4] KEY JR., POLITICS, PARTIES, AND PRESSURE GROUPS, (3rd ed., 1952), p. 562: "Those who are critical of large expenditures by political parties often overlook the hard fact that large sums are necessary to carry on a modern political campaign. Even without the use of money for veiled purchase of voters or support of organization leaders who in turn can deliver votes, enormous sums legitimately may be spent to inform, persuade, and manipulate the electorate. The dissemination of party propa-

that huges sum of money are, and possibly have to be, spent in the course of nation-wide political campaigns.[5] Money is a lubricant that makes a political machine run smoothly. Candidates' pockets constitute one of the sources of the necessary wealth. This gives rise to the problem of recoupment of campaign expenses on the part of successful candidates the moment they assume office. More accurately, the problem is to diminish forseeable tendencies to recover campaign expenses through illegal utilization of the power and influence attendant to public office. Another problem raised by huge campaign expenses is the inequality between candidates due to differences in financial resources.[6]

The following is a brief study on how far the foregoing problems relating to the limitation of election expenses have been met by sections 43, 45 and 48 of the Revised Election Code, together with a comparison with other pertinent provisions of corrupt practices statutes in the United States, having in mind applicable judicial decisions. Mention will be made of the recent controversy between the Nacionalista Party and the Democratic Party respecting a sup-

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ganda in a national campaign is a large-scale advertising job and accordingly necessitates large expenditures."

PENNIMAN, SAIT'S AMERICAN PARTIES AND ELECTIONS (5th ed., 1952), p. 461: "What do party leaders imply by 'enough money to present the issues'? No one has ventured to define such a minimum in terms of dollars. Politicians overrate the importance of money and of the propaganda with which money enables them to deluge the electorate. * * * The size of campaign fund, however, does possess some significance. It indicates the attitude of the more affluent classes, which the treasurers of both major parties always try to tap. * * * People of wealth are not numerous. But commercial and industrial leaders in particular exert great influence, both because of their character and attainments, and because of the dependence of the working class upon business prosperity. Their political views go far in determining the result of an election. The size of the campaign funds may serve, in a limited way, as a barometer."

BROOKS, *op. cit., supra* note 3 at p. 334: "Increasing commodity costs must also be taken into account in comparing recent with earlier campaign funds. * * * Of recent years most of the money has gone for necessary publicity, for propaganda of an educational character regarding public men and measures."

[5] BROOKS, *op. cit., supra* note 3 at p. 333: "In defense of large campaign expenditures the plea is sometimes made that they are rendered necessary by the size of the country."

[6] FINER, *op. cit., supra* note 2 at pp. 295-297:

"Great Britain: * * * It was the general sentiment that the maxima should be reduced to give poor candidates a clear chance of election, and, following the recommendation of the Speaker's Conference of July 20, 1944, the Representation of the People Act, 1948 (Part III) reduced the legal maximum expenses per candidate to £450 plus 1*d* for each borough elector and 1 ½*d* for each country elector. This roughly halves the legal maxima hitherto prevailing.

"France: * * * Laws designed to produce equality of opportunity among candidates and to reduce election expenses were passed * * * On the whole, candidates for the French Chambers are poor men. They do not spend much on election campaign. A large number are outside the parties which can afford to give help; hence the importance attached to equality."

posed violation of section 48 of the Revised Election Code by the former.

1. *Constitutionality of Statutes Limiting Campaign Expenses of Candidates*

A distinction should be made between offices created by the Constitution and statutory offices. There is the rule that constitutional qualifications are exclusive, and, that a method of impeachment prescribed in a Constitution must be followed in cases of offices created by the Constitution. The rule is otherwise in case of statutory offices.[7] Nndoubtedly, statutes limiting campaign expenses of candidates for statutory offices are valid. A more difficult question would be the constitutionality of such statutes as applied to constitutional offices. In the case of *State ex rel. La Follette v. Kohler*,[8] the statute was held valid on the ground that it did not create a new cause for removal from office but rendered the election itself void. The decision was, however, severely criticized as inaccurate and of doubtful utility.[9] Another court, on the other hand, has given a more plausible reason for upholding such a statute: that no express grant of power is required to enable (a state) legislature to legislate on any subject and the mere constitutional enumeration of qualifications for office should not be allowed to restrict its activity unless the new requirement has "so little relation to the regulation of fair and honest elections that it would properly constitute a test of elegibility to office." [10]

2. *Construction of Statutory Provisions Limiting Expenses of Candidates*

Obedient to the constitutional behest for free, orderly and honest elections [11] the law-makers retained in the Election Law the prohibition against corrupt practices, which are now embodied in article III therein.[12] Encompassed within article III of the Revised Election Code is section 48 limiting the expenditures of candidates. This section was lifted bodily from section 42 of the old Election Law.[13] This

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[7] See 30 *Col. L. Rev.* 888, 889, (1930).

[8] 200 Wis. 518, 228 NW 895, (1930).

[9] *Loc. cit., supra,* note 7 at p. 889: "But a successful candidate who has violated the act holds office until action is brought to remove him. Were the effectiveness of his acts while in office be attacked, there is little question that the court would extend the *de facto* doctrine in order to give them validity. And aside from this inaccuracy, the rationale of the court's opinion is of doubtful utility. For the opinion clearly points to the danger that if a statute were to reach the same result by slightly different wording, with its provisions focused on the candidate rather than the election, it would have been held invalid."

[10] *Saari v. Gleason* (1914), 126 Minn. 378, 148 NW 293, at 295.

[11] Article X, sec. 2, Constitution of the Philippines.

[12] FERNANDO AND QUISUMBING-FERNANDO, BRIEF SURVEY OF ADMINISTRATIVE LAW INCLUDING LAW OF PUBLIC OFFICERS AND ELECTION LAW, (1950), p. 69.

The Revised Election Code uses the term "contributions and other practices" rather than "corrupt practices."

[13] Commonwealth Act No. 357.

old Election Law had in turn replaced the election provisions of the Revised Administrative Code, which contained no definite limitation of campaign expenses of candidates.[14]

These corrupt practices provisions were incorporated in the Election Law to insure the exercise of free suffrage.[15] They represent the aspiration for, if not the actuality of free elections.[16] But these provisions are both remedial [17] and penal [18] in their nature and fiber. Their violation may give rise to serious or less serious offenses thereby rendering violators subject to punishment,[19] or for disqualification from continuing as a candidate, or if elected, from holding office.[20] As remedial measures, they should be liberally construed in the public interest to carry out their purpose of preserving the purity of elections.[21] As penal measures, they should be strictly construed, and nothing should be regarded as included in them which is not clearly and intelligently described in their very words.[22] They are salutary measures and courts should not hesitate to deprive the party benefited by their violations of the fruits thereof.[23] The provision regulating campaign expenses of candidates, being one of those included under corrupt practices, would, it may be expected, receive the same construction.

3. *Philippine Statutory Provision Governing Limitation of Expenses of Candidates*

Section 48 of the Revised Election Code provides:

> "No candidate shall spend for his election campaign more than the total amount of the emoluments for one year attached to the office for which he is a candidate."

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[14] Sec. 2657, Rev. Adm. Code. *Various Corrupt Practices.* No person in order to aid or promote his own election as a candidate for public office, shall promise, directly or indirectly, to secure or assist in securing the appointment, nomination or election of any other person to a public position or employment or to any position of honor, trust, or emolument.

No person shall pay any money to another for the purposes of the forthcoming election.

No person shall solicit, demand, ask, or invite from any person who is a candidate for election, or any electioneerer or agent of such candidate, any payment of money or valuable thing to be used in such election.

[15] *People v. Bayona* (1935), 61 Phil. 181, 184.

[16] FERNANDO AND QUISUMBING-FERNANDO, *op. cit., supra* note 12 at 70.

[17] *Smith v. Higinbothom* (1946), 187 Md. 115, 48 A 2d 754, 762.

[18] *State ex rel. Crow v. Bland.* (1898), 144 Mo. 534, 46 SW 440, 444.

[19] Sections 183 and 185, Revised Election Code.

[20] Section 29, *id.*

[21] *Smith v. Higinbothom, supra*; also *Skewes v. Bliss* (1921), 58 Utah 51, 196 P 850, 852; *Taylor v. Nuetzel* (1927), 220 Ky. 510, 295 SW 873, 882.

[22] *State ex rel. Crow v. Bland, supra*; also *Hayes v. Abney* (1939), 186 Miss. 208, 188 So. 533, 537.

[23] *Manning v. Lewis* (1923), 200 Ky. 732, 255 SW 513, 514.

A thoughtful reading of the provision gives rise to the query: Is the prescribed spending limited only to spending by the candidate?

Mr. Justice Pitney had occasion in his concurring opinion in the case of *Newberry v. U.S.*[24] to discuss this particular question. He said:

> "Of course it does not mean that he must be alone in expending or causing to be expended the excessive sums of money; if he does it through an agent or agents or through associates who stand in the position of agents, no doubt he is guilty; *qui facit per alium facit per se;* but unless he is an offender as principal, there is no offense."

If it is conceded that the limited spending is confined solely to that effected by the candidate himself or his agent or agents or through associates standing as agents, then it would seem that Congress, in passing the Revised Election Code as it is, did not intend to limit spontaneous contributions and expenditures for a candidate or candidates by others. It would follow that, while a candidate may not himself or through agent or agents spend an amount in excess of that allowed by law, yet others may spend it for him.[25] This would seem specially true in cases where the spending by others was done without the knowledge and consent of the candidate.[26] Otherwise,

> "no man, however honest or law-abiding, would ever have a safe tenure of office; for, if he can be ousted because of the acts of others done without his knowledge, then, in order to accomplish this purpose, it would only be necessary for some evil-minded or designing person to spend enough money, added to the amount the officer had legitimately spent, to exceed the limit, and the innocent officer would lose the office to which the people had elected him." [27]

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[24] 256 U.S. 232, 41 S. Ct. 469, 487 (1821). The provision construed was:
"No Candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procurring his nomination and election any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, use, or promise under the laws of the state in which he resides: Provided, that no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding $5,000 in the campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding $10,000 in any campaign for his nomination and election."

[25] See *In re Wilhelm* (1933), 111 Pa. Super 133, 169 A 456, 457; also *State ex rel. Crow v. Bland, supra* note 18.

[26] See *Manning v. Lewis, supra* note 23; *Charles v. Flanary* (1921), 192 Ky. 511, 233 SW 904; *Hardin v. Horn* (1919), 184 Ky. 548, 212 SW 573; *Graham v. Alliston* (1918), 180 Ky. 687, 203 SW 563; *Van Meter v. Barns* (1917), 176 Ky. 153, 195 SW 470; *Beauchamp v. Willis* (1945), 300 Ky. 630, 189 SW 2d 938; *Scalf v. Pursifull* (1933), 250 Ky. 447, 63 SW 2d 504; *Tackett v. Mayo* (1925), 211 Ky. 30, 276 SW 974; *Bingham v. Smith* (1925), 210 Ky., 771, 276 SW 838.

[27] *State ex rel. Crow v. Bland,* 46 SW at 445.

A candidate should not be disqualified from continuing as such, or, if elected, from holding the office for an act he did not himself commit, or which was done without his knowledge or consent, at least where the integrity of the voters' will was not violated, or the legality of the election itself was not questioned.

But suppose, however, that knowledge about the excessive spending by another person is brought home to the candidate. Will that knowledge qualify the spending as his or that of his agent or agents such that it would constitute a violation of the law?

If knowledge is construed to mean "a showing that the candidate himself committed, consented to, or authorized others to commit, or personally observed the commission by others of excessive spending or spendings for the candidate's election campaign," [28] state courts are uniform in holding that under any of such situations there would be a violation.[29] To fasten liability on the candidate in such cases, reliance on the doctrine of imputed knowledge is not enough; actual knowledge is essential.[30] To show actual knowledge, there must be presented affirmative evidence of the illegal acts, which means that there must be something more than bare suspicion. The courts are not precluded however, from inferring actual knowledge from circumstantial evidence.[31]

On the other hand, to construe knowledge other than the species above mentioned as coming within the inhibition would entail great prejudice to a deserving public officer who is running for election or re-election and unduly curb the actions of a grateful electorate. Mr. Chief Justice White in his concurring opinion in the *Newberry case* said:

> "Under the construction given, in every case where there is knowledge of the candidate of a sum in excess of the amount limited by the statute contributed by citizens to the campaign, the candidate, if he failed to withdraw, would be subject to criminal prosecution and punishment. So also, contributions by citizens to the expenses of the campaign, if only knowledge could be brought home to them that the aggregate of such contributions would exceed the limit of the statute, would bring them, as illustrated in this case, within the conspiracy statute and accordingly subject to prosecution. Under this view the greater the public service, and the higher the character, of the candidate, giving rise to a correspondingly complete and self-sacrificing support by the electorate to his candidacy, the more inevitably would criminality and infamous punishment result both to the candidate and to the citizen who contributed." [32]

4. *American Statutory Provisions Limiting Campaign Expenses of Candidates*

In the legislation of the various states of the United States, the

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[28] *Howard v. Whittaker* (1933), 250 Ky. 836, 64 SW 2d 173 at 178.

[29] See note 26, *supra*.

[30] *Dyche v. Scoville* (1937), 270 Ky. 196, 109 SW 2d 581, 584.

[31] *Charles v. Flanary*, 233 SW at 907; see also *Turner v. Linton* (1937), 270 Ky. 297, 109 SW 2d 643, 645.

[32] 41 S. Ct. at 480.

limiting of the amount of campaign expenditures is common.[33] The specific forms of the limitation could be properly classified into three groups:[34]

(1) In some states, limitations are specified in terms of percentages of the salary of the office concerned. For example, in the state of Iowa, it is provided that in a primary or in a general election a candidate shall not spend more than fifty per cent of the annual salary attached to the office for which he is a candidate.

(2) In other states, however, the permitted amount of expenditures is expressed in definite lump sums. An example of this is Idaho, where the candidates are not allowed expenditures exceeding the amount of $5,000 for the office of United States Senator; $2,000 for Representative in Congress; and, $250 for county offices and membership in the state legislature.

(3) In still other states, there are provided in their state laws variable limitations which are made dependent primarily on the number of voters.

The Congress of the United States has likewise fixed a limitation on the amount to be spent by a candidate for the House or Senate in his election campaign.[35] Inferentially, expenditures in the primary campaign and those made by persons other than the candidate are not within the limitation. The limitations fixed by the federal law with the proviso saving cases where the law of the state sets a lower maximum, are "the sum of $10,000 if a candidate for Senator, or the sum of $2,500 if a candidate for Representative, Delegate, or Resident Commissioner." [36] But these maximums are not absolute. In order to cope with the greater expenses of candidates in the larger states, a sliding maximum has been established, which raises the above limits in the same states.[37] This flexible maximum operates thus:

> "An amount equal to the amount obtained by multiplying three cents by the total number of votes cast at the last general election for all the candidates for the office which the candidate seeks, but in no event exceeding $25,000 if a candidate for Senator or $5,000 if a candidate for Representative, Delegate, or Resident Commissioner." [38]

Far from being perfect, these American statutes limiting the amount of expenditures during elections have received considerable criticism. The federal statute, for example, has been criticized as limiting only expenditures "by a candidate" and also as limiting only specific kinds of expenditures such that other types of expenditures may be incurred over and above the maximum. In general, the defects could be summarized as follows:[39]

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[33] KEY JR., *op. cit., supra* note 4 at 559; see also OGG AND RAY, ESSENTIALS OF AMERICAN GOVERNMENT (4th ed. 1943), p. 130.

[34] See KEY JR., *op. cit., supra,* note 4 at 559-560.

[35] 2 USCA 75-76.

[36] 2 USCA 75-76.

[37] See KEY JR., *op. cit., supra* note 4 at 559.

[38] 2 USCA 76.

[39] KEY JR., *op. cit., supra* note 4 at 559; cf. FINER, *op. cit., supra* note 2 at 299-300.

1. The amounts fixed as maximum expenditures are so low that no appreciable amount of campaigning is possible if expenditures are kept within the legal limit.

2. The limitation is applicable only to spending by the candidate solely, such that expenditures by political committees or other persons working for the candidate's election are not regulated.

3. The permitted spending is limited to specified kinds of expenditures only; and the list of permissible expenditures is not comprehensive enough to include other reasonable expenses in connection with the election of the candidate.

4. Under a scheme of party spending which is characteristic of the American electoral system, if one candidate on the ticket operates under a limit, the expenditures may be charged to the candidates having no statutory limitation, or otherwise allocated among candidates, to keep them within the letter of the law.

It is interesting to note a feature common to many American state statutes, the federal statute not excluding, which is not found in the Revised Election Code. This feature is the growing tendency in limiting statutes to regulate not only the amount to be expended but likewise the purpose of expenditure. While in earlier provisions the practice was to choose and prohibit specified kinds of expenditures believed to be corrupt, at present, the trend of limiting provisions is to enumerate specifically the objects for which money may be legitimately spent.[40] Some of the lawful purposes could be enumerated:

1. For the candidates' official filing fee.
2. For the preparing, printing, circulating, and verifying of nomination papers.
3. For the candidates' personal traveling expenses.
4. For rent and necessary furnishing of hall or rooms during such candidacy, for public meetings or for committee headquarters.
5. For payment of speakers and musicians at public meetings and their necessary traveling expenses.
6. For printing and distributing of pamphlets, circulars, newspapers, cards, handbills, posters, and announcements relative to candidates or political issues or principles.
7. For his share of the reasonable compensation of challengers at the polls.
8. For making canvasses of voters.
9. For clerk hire.
10. For conveying infirm or disabled voters to and from the polls.
11. For postage, expressage, telegraphing, and telephoning relative to candidacy.[41]

5. *Provisions Implementing Section 48 of the Revised Election Code*

As a measure designed to implement the provision limiting expenses of candidates, section 48 of the Revised Election Code requires certain statements to be filed by candidates.[42] This provision has

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[40] KEY JR., *op. cit., supra* note 4 at 558-559.

[41] See *Ibid.*

[42] Sec. 43: "Within thirty days after the holding of the election, every candidate shall file with the Commission on Elections, for such action as it may deem proper,

its counterpart in the federal statute of the United States with the difference that the latter has a broader scope.[43]

The records of the Commission on Elections on the 1951 elections reveal that, of about 24,000 candidates that year, only 2,000 or so candidates filed the statements required by section 43 on time. There were, therefore, about 22,000 candidates who violated the law. These violators were referred by the Commission to the proper city or provincial fiscals for prosecution. However, the fiscals were instructed, as a matter of temporary policy, to dismiss the charges if upon being summoned by *sub poena*, the erring candidates filed their respective statements required by section 43.

The records also show that those who failed to file statements were mostly candidates for municipal offices and some candidates for provincial positions. All the candidates for senator in the 1951 elections filed the required statement. On the other hand, of those who filed statements, none, as could be expected, filed an amount exceeding the limit fixed by section 48.[44] Some candidates even stated

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a statement, complete as of the date next preceding the date of filing, which shall contain (1) a list of the contributions received by him or by another with his knowledge and consent, from whatever source, to help or support his candidacy or to influence the result of his election together with the name and address of the contributor; (2) a statement of the expenditures made by him or by another with his consent, in aid or support of his candidacy or for the purpose of influencing the result of the election, together with the name of the person to whom such expenditure was made."

[43] 2 USCA 74. See PENNIMAN, *op. cit., supra* note 4 at 481: "In most cases—speaking broadly, in two-thirds of the States that provide for publicity—campaign accounts must be filed within a certain number of days after the primary or election. The voter, therefore, when he casts his vote, does not know the facts, and yet the facts, if known beforehand, might affect his attitude toward a particular candidate or a particular party. In the presidential campaign of 1908 Mr. Bryan argued in favor of publicity of campaign accounts in advance of election. In reply Mr. Taft said that, if such a course were followed, contributors would be unfairly criticized and their motives misrepresented. Post-election publicity would be sufficient, he added, to prevent the making of campaign contributions with the hope of some returns in the shape of privileges and favors. As far as the Federal law is concerned, the controversy has been decided in favor of Mr. Bryan. It may perhaps be said that state legislations show a similar tendency."

[44] Tabulated contributions and expenses of candidates for governor during the 1951 elections:

(PARTIAL)

Name	*Contributions*	*Expenses*
L. Paredes (Abra)	Goods	₱ 3,694
A. Brillantes "	none	400
V. Ziga (Albay)	——	6,000
S. Jongco (Agusan)	——	6,100
F. Dagani "	——	5,234
J. Tordesillas (Antique)	——	4,200
C. Zaldivar "	₱5,500	7,404
A. Camacho (Bataan)	——	6,000

"none" to both contributions and expenses in the statements they filed.[45]

In connection with the filing of statements, section 45 of the Revised Election Code prescribes the form and provides for the preservation of such statements. The statements are required to be under oath to attest to the honesty of the contents thereof in an attempt to secure, as in so many proceedings of State, the truth by a special, if not a supernatural, solemnity.[46] This is also required by the federal statute.[47] A survey of the records of the Commission shows that some statements were filed without the required oath.

6. *The Nacionalista Party-Democratic Party Controversy*

On July 5, 1953, apparently inspired with the same enthusiasm that brought into being the Democratic Party, the same, by letter, denounced to the Commission on Elections the Nacionalista Party for an alleged violation of section 48 of the Revised Election Code.[48] The Nacionalista Party was reportedly requiring its senatorial candidates to contribute ₱25,000 each to their party for the election campaign.[49] To this denunciation, Atty. Leon Ma. Guerrero, legal counsel of the Philippine Senate, gave a sweeping answer that it was a wrong charge against the wrong party made at the wrong place at the wrong time.[50]

The Commission on Elections is not a court [51] but has jurisdiction under its broad powers granted to it by law to investigate charges

F. Leviste (Batangas)	2,700	5,200
C. Abad (Batanes)	——	2,925
J. Javier "	——	1,441
E. Agudo "	——	1,848.40
J. Borja (Bohol)	——	7,730
J. Pajo "	6,400	8,050
A. Santos (Bulacan)	——	6,889
E. Abalo (Capiz)	——	5,000
J. Carag (Cagayan)	4,000	6,650
W. Panotes (C. Norte)	——	5,500
J. Trivino (C. Sur)	2,500	4,020.
A. Usero (Catanduanes)	——	5,000
G. Santelices "	none	12,000
D. Camerino (Cavite)	——	1,000
M. Cuenco (Cebu)	——	5,850
S. Osmeña Jr. "	——	not exceeding amt. prescribed by sec. 48.
D. Samonte (I. Norte)	——	10,000

[45] For example: Villareal, Board member candidate in Capiz; Ramos, Board member candidate in Bataan; Sales, Gubernatorial candidate in Ilocos Norte.

[46] FINER, *op. cit., supra* note 2 at 299.

[47] 2 USCA 75.

[48] *The Sunday Times*, July 5, 1953.

[49] *The Sunday Times*, June 28, 1953.

[50] *The Evening News*, July 6, 1953.

[51] *Nacionalista Party v. Vera*, G. R. No. L-3474, Dec. 7, 1949.

of violations of the provisions of the Revised Election Code.[52] If the body finds the charge well-founded, it could refer the matter to the proper city or provincial fiscal for prosecution in court. The lodging of the charge with the Commission on Elections by the Democratic Party was, therefore, for purposes of investigation only.

A difficulty encountered in dealing with the denunciation is that at the time the charge was made, the supposed contributions were as then only being solicited and perhaps not as yet made, much less spent. It has been held that in case a special law does not in itself provide for punishment for attempts to violate its provisions, the Penal Code provisions relating to attempts are not to be given suppletory application.[53] Assuming, however, the hypothetical case that the contributions were already given to the political party and were already spent, would these facts constitute a violation of section 48 of the Revised Election Code?

Under a "strict" construction of the provision which would seem required by its penal character, it is doubtful if the assumed facts would come within the inhibition of the provision. As has already been pointed out section 48 uses the term "spend." It also provides that the spending must be for "his election campaign." The terms used could be no clearer. Under a "liberal" construction of the provision indicated by its remedial character, and, bearing in mind the possibility of unlawful recoupment of campaign expenses, there would seem to be sufficient ground to state that the assumed facts do constitute a violation. This is because, whether the spending be done by the candidate or by the party to which he belongs, as long as it is the money of the candidate that is spent either directly or indirectly, the illegal recoupment of excessive election expenses is distinctly probable. Precisely, section 48 was inserted to minimize inclinations to exploit public office and official position that may be insistent where the actual cost of getting elected is disproportionately high.

The labels *strict* and *liberal, penal* and *remedial,* do not of course solve anything. Certainly they cannot save a judge from the agony of a policy choice between the two possible constructions. The social values secured by the second construction are, it is submitted, sufficient to tip the scales in its favor.

7. *Recommendations*

Existing provisions limiting expenditures of candidates leave much to be desired. This is evident by the foregoing comparison of local limiting provisions with their American counterparts, bearing in mind that the latter too have many defects. The following recommendations are essayed.

As to amount, there is a need for a higher maximum amount of election expenses for senatorial candidates. They are elected at large unlike candidates for representatives who are elected by congressional

[52] See Article X, sec. 2, Constitution of the Philippines; also Section 5, Revised Election Code.

[53] *U.S. v. Basa* (1907), 8 Phil. 89, at 90.

districts. There apparently is no justification for providing equal election expenses for both senatorial candidates and candidates for representative.[54]

There, likewise, seems to be a need for a re-wording of the local limiting provision. The following could be suggested:

(1) The provision should include both contributing and spending by the candidate for his poll campaign. In both cases, it is the money of the candidate that is involved and it is he who feels the pecuniary pinch; the *ratio legis* is just as pressing in one as in the other.

(2) To avoid confusion, the provision should clarify what knowledge of contribution or spending by others for a candidate's election is necessary to impute the offense to the candidate.

(3) The limiting provision should enumerate specifically the objects for which money may be legitimately spent.

(4) The provision should not confine its prohibition to the candidate alone. Contributions to and expenses of political committees, and, contributions by and expenses of private individuals for a candidate or candidates should also be regulated.[55] At present there seems to be no limit on the amount which a political committee is allowed to receive and disburse, nor on the amount which an individual may contribute to a political committee or spend for a candidate's campaign.[56]

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[54] See Article VI, sec. 14, Constitution of the Philippines.

[55] See KEY JR., *op. cit., supra* note 4 at 560: "By a farcical provision Congress in 1940 halfheartedly attempted to limit the total amount spent in presidential campaigns. The Hatch Act provided: 'No political committee shall receive contributions more than $3,000,000, or make expenditures aggregating more than $3,000,000, during any calendar year.' The simple method of avoidance of this limitation is to organize several political committees to collect campaign funds."

[56] An ingenious proposal to discourage excessively large expenditure has been made by W. H. Young, who suggested a graduated privilege tax on gross campaign expenditures.—"Corrupt Practices in Elections in Wisconsin," (dittoed report, 1948), p. 13. For other proposals on how to cleanse party finance, see Lederle, J. W., Political Committee Expenditures and the Hatch Act (1945), 44 *Mich. L. Rev.* 294.

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