STATUTORY CONSTRUCTION

LUIS J. GONZAGA *

Two significant trends are discernible from the decisions rendered by the Supreme Court during the past year on the subject of statutory construction. In at least two instances — in the *Salaysay*[1] and *Florentino*[2] cases — the Court has shown reluctance to be hemmed in by words. Indeed, courts are not always confined to the literal meaning of a statute; the real purpose and intent of the legislature will prevail over the literal import of the words, if the true intention, though obvious, is not expressed by the language employed. "Verba intentioni non e contra debent inservire" — Words ought to be more subservient to intent and not the intent to the words. This rule which authorizes departure from the words of a statute is necessary in view of the inherent difficulties and imperfection of the human language, the recognition of which in statutory construction finds expression in the familiar principle which states that "A thing that is within the intention of the makers of a statute is as much within the statute as if it were within the letter; and a thing which is within the letter of the statute is not within the statute unless it is within the intention of the makers."[3]

The Court has likewise shown an increasing reliance on the so-called legislative materials as an aid of first rate value to construction.[4] This is evident in the *International Autobus Company*,[5] *Salaysay*,[6] and *Florentino*[7] cases where the Court freely resorted to the statements and speeches made by legislators on the floor during the enactment of the statute in an effort to discover the real legislative intent. It must be observed that in the earlier cases the courts in the United States had refused altogether to consider these legislative materials. Several reasons were given for this rule. In the first

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[1] Nicanor G. Salaysay v. Hon. Fred Ruiz Castro et al., G.R. No. L-9669, January 31, 1956, 52 O.G. 809.

[2] Mariano B. Florentino et al. v. Philippine National Bank, G.R. No. L-8782, April 28, 1956, 52 O.G. 2522.

[3] Some authorities have echoed the warning against possible abuse of the rule as a convenient cloak for judicial legislation. See Pound, *Genuine and Spurious Interpretation*, 7 Am. Pol. Sc. Rev. 361; Cohen, Materials and Problems on Legislation 211.

[4] Aids to interpretation are classified into: (a) *intrinsic*, or those which are found in the statute itself—its phraseology, grammar, punctuation, context, title and the like, and (b) *extrinsic*, or those found outside the printed page, such as materials relating to the history of the statute which may be prior to, during or after its enactment, legal or standard dictionaries and textbooks. See GONZAGA, LUIS J., CASES AND MATERIALS ON STATUTES AND THEIR CONSTRUCTION 117, 128.

[5] International Autobus Co., Inc. v. Collector of Internal Revenue, G.R. No. L-6741, Jan. 31, 1956, 52 O.G. 791.

[6] *Supra.*

[7] *Supra.*

place, it has been said that legislative debates express only the views and motives of individual members and as such are not a safe guide in ascertaining the meaning and purpose of the lawmaking body.[8] Secondly, "it is impossible to determine with certainty what construction was put upon an act by the members of the legislative body that passed it by resorting to the speeches of individual members thereof. Those who did not speak may not have agreed with those who did; and those who spoke may differ from each other."[9] And, lastly, as one court has explained, "legislative debates can not be resorted to with any confidence as showing the true intent of Congress in the enactment of statutes since they partake of necessity very largely of impromptu statements and opinions..."[10] and are, therefore, in the main ill-considered. This attitude, however, has been gradually relaxed in later cases. Courts have now taken a more realistic view of the legislative process and have freely referred to these materials whenever they tend to the establishment of one and the same view in regard to the construction to be adopted.[11] They have been utilized not to explain the meaning of the words of the statute but rather to discover the purpose of the enactment and the evil or mischief sought to be remedied thereby, for from the statements of individual legislators as to the situation requiring legislation, it can be implied that the legislature had intended to remedy by the statute it has enacted the evils described.[12] Justice Frankfurter has amply justified this method of interpretation in his dissent in *United States v. Monia*,[13] when he said:

> "...a statute, like other living organisms, derives significance and sustenance from its environment, from which it cannot be severed without being mutilated. Especially is this true where the statute is part of a legislative process having a history and a purpose. The meaning of such a statute cannot be gained by confining inquiry within its four corners. Only the historic process of which such legislation is an incomplete fragment — that which it gave rise as well as that which gave rise to it — can yield its true meaning."[14]

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[8] Duplex v. Deering, 254 U.S. 443, 65 L. Ed. 349.

[9] Peckham, J., in United States v. Trans-Missouri Freight Assn., 166 U.S. 290, 41 L. Ed. 1007.

[10] Imhoff-Berk v. United States, 43 Fed. (2), 836.

[11] Boston v. United States, 278 U.S. 41, 73 L. Ed. 170, United States v. Dickerson, 310 U.S. 554, 84L. Ed. 1356.

[12] Federal Trade Commission v. Raladam Co., 283 U.S. 643, 75 L. Ed. 1324; See also LEGISLATIVE MATERIALS TO AID STATUTORY INTERPRETATION, 50 HARV. L. REV. 822.

[13] 317 U.S. 424, 431.

[14] Contra: Caminetti v. United States, 242 U.S. 490 61 L. Ed. 442, where the Court, applying the "plain meaning rule," refused to consider extrinsic legislative materials, holding, thru Mr. Justice Day, that "it has become a recognized rule that when words are free from doubt they must be taken as the final expression of the legislative intent, and are not to be added to or subtracted from by consideration drawn from titles or designating names, or reports accompanying their introduction, or from any extraneous source."

LITERAL AND GRAMMATICAL CONSTRUCTION.

It is a cardinal rule of stautory construction that the meaning and intention of the legislature must be sought first of all in the language of the statute itself, for it is presumed that the means employed by the legislature to express its will are adequate for the purpose and do express that will correctly. "Index animi sermo est" — Speech is the indication of intent. Conformably to this rule, a statute is to be interpreted according to the ordinary meaning of its words and the proper grammatical effect of their arrangement for the lawmaker is presumed to know the meaning of words and the rules of grammar and, consequently, that grammatical reading of the statute gives its correct meaning.[15] Usual tools employed in literal and grammatical construction are the doctrines of: "noscitur a sociis" or associated words, "ejusdem generis", "expressio unius est exclusio alterius", "reddendo singula singulis", and "last antecedent."

(a) *Doctrine of "last antecedent."* — This rule requires that "where the sentence contains several antecedents, the following qualifying or referential phrases must be taken to refer solely to the last antecedent." This interpretative tool was utilized in the *Florentino* case, *supra*. There, petitioner sued for mandamus to compel the Philippine National Bank to accept his backpay certificate in payment of his indebtedness, invoking for that purpose the provisions of section 2 of the Backpay Law (Rep. Act 897) which states:

> "...*Provided*, That upon application and subject to such rules and regulations as may be approved by the Secretary of Finance a certificate of indebtedness may be issued by the Treasurer of the Philippines covering the whole or a part of the total salaries or wages the right to which has been duly acknowledged and recognized, provided that the face value of such certificate of indebtedness shall not exceed the amount that the applicant may need for the payment of (1) obligations subsisting at the time of the approval of this amendatory Act for which the applicant may directly be liable to the Govenment or to any of its branches or instrumentalities, or the corporations owned or controlled by the Government, or to any citizen of the Philippines, or to any association or corporation organized under the laws of the Philippines, who may be willing to accept the same for such settlement."

The question presented is whether the clause "who may be willing to accept the same for such settlement" refers to *all* antecedents "the Government, any of the branches or instrumentalities, the corporations ownd or controlled by the Government, etc.," or *only* to the last antecedent "any citizen of the Philippines, or any association or corporation organized under the laws of the Philippines." Respondent bank contended that said qualiflying clause refers to all

[15] BLACK, STATUTORY INTERPRETATION 148-149.

antecedents and, therefore, it is discretionary on its part to accept the backpay certificate of petitioner in payment of his obligations.

It was held that the qualifying clause refers only to the last antecedent. The Court arrived at this conclusion after it has resorted to the grammatical reading of the statute. It declared:

> "Grammatically, the qualifying clause refers only to the last antecedent, that is, 'any citizen of the Philippines or any association or corporation organized under the laws of the Philippines.' It should be noted that there is a comma before the words 'or to any citizen, etc., which separates said phrase from the preceding ones."[16]

DEPARTURE FROM LITERAL AND GOVERNMENTAL INTERPRETATION.

Although the primary rule requires that the meaning must be sought first of all from the words of the statute itself, there are occasions when the meaning of the legislature is not plainly or articulately expressed that the literal import of the words may be departed from or even disregarded. For, as we have intimated earlier, the courts are not confined to the four corners of the statute; they may resort to every relevant aid to construction in an effort to bring out its true meaning.

(a) *History of legislation.*—This extrinsic aid to construction was one of the tools used by the Court in deciding the main question in the *Salaysay* case which involved the interpretation of section 27 of the Revised Election Code (Rep. Act 180), providing as follows:

> "Sec. 27. *Candidate holding office.*—Any elective provincial, municipal, or city official running for an office, other than the one which he is actually holding, shall be considered resigned from his office from the moment of the filing of his certificate of candidacy."

It appeared that petitioner was the duly elected Vice-Mayor of San Juan, Rizal. He acted as Mayor, pursuant to section 2195 of the Revised Administrative Code,[17] when the duly elected Mayor was suspended from office upon the filing of administrative charges

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[16] Like other technical tools of grammatical construction, the doctrine of "last antecedent" should be applied only when its use is consistent with the legislative intention. As Prof. Lenhoff has pointed out, "in practice, this canon is, in itself, more honored by non-use than the contrary. Courts might quote it, but they do so after they have arrived at the result they believe is in accord with the legislative intent." (CASES AND MATERIALS ON LEGISLATION 895) It was for this reason that the Court in the instant case had to resort to other, more reliable, means of ascertaining the legislative intent. See our discussion under *Legislative Materials* and *Presumption in favor of constitutionality of a statute, infra.*

[17] This article provides: "Sec. 2195. *Temporary disability of mayor.* Upon the occasion of the absence, suspension, or other temporary disability of the mayor, his duties shall be discharged by the vice-mayor, or if there be no vice-mayor, by the councilor who at the last general election received the highest number of votes."

against him. While acting as Mayor, petitioner filed his certificate of candidacy for the same office of Mayor. The question, of first impression, is whether the action of petitioner in running for Mayor constitutes an automatic resignation from his office as Vice-Mayor under said section of the Election Law, as a consequence of which he no longer had authority to continue acting as Mayor. Petitioner contended that his case does not come under section 27 of the Election Code for the reason that when he filed his candidacy for the office of Mayor, he was *actually holding* said office. On the other hand, it is claimed by respondent that the office petitioner was actually holding when he filed his certificate of candidacy for the office of Mayor was that of Vice-Mayor, the one to which he had been duly elected, and that he was not *actually holding* the office of Mayor but was merely acting as such during the temporary disability of the regular incumbent. More specifically, the question resolved itself as to whether or not a Vice-Mayor, by acting as Mayor, can be regarded as actually holding said office of Mayor within the contemplation of section 27 of the Election Law. This in turn required the interpretation of the phrase "actually holding office," as used in said section.

The Court found after examining the language of section 27 that it does not accurately express the legislative intent. It declared:

> "All these doubts about the meaning and application of the phrase 'actually holding office' could perhaps have been avoided had the intention of the legislature been phrased differently. It could perhaps have more happily used the term 'incumbent' to refer to those provincial and municipal officials who were holding office either by election or by appointment, and so had a legal title and right thereto. As a matter of fact, this term 'incumbent' was actually used by then Congressman Laurel in explaining the idea of the committee that drafted this amendment to section 2, Commonwealth Act 666, of which committee he was the Chairman. The deliberations of the lower House as quoted by the very counsel for petitioner reads as follows:
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> > 'Mr. Roy. What must be the reason, then, Mr. Chairman of the Committee for deleting the words 'has been lastly elected'?
> >
> > "Mr. Laurel. The idea is to cover the present *incumbents* of the local offices." (II Congressional Record 1143.)
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> In this connection, a happier phraseology of another portion of section 27 could have been used for purposes of precision. For instance, the first part of said section reads thus: 'Any *elective* provincial, municipal or city official running for an office', and yet as we have already said, the Legislature intended said section to refer to officials who were appointed by President Roxas to fill vacancies in provincial, municipal and city offices. In other words, those officials were not really elected or elective officials but they were officials occupying or holding local elective offices by appointment."

"All this," said the Court, "goes to show that we should not and cannot always be bound by the phraseology or literal meaning of a law or statute but at times may interpret, nay, even disregard loose or inaccurate wording in order to arrive at the real meaning and spirit of a statute intended and breathed into it by the lawmaking body."

The Court then proceeded to ascertain the intent and purpose of the legislature in promulgating the law by referring to its history and background. The law before the enactment of section 27 was section 2 of Com. Act 666, which provided:

> "Any elective provincial, municipal or city official running for an office, other than the one for which he has been lastly elected, shall be considered resigned from his office from the moment of the filing of his certificate of candidacy."

The purpose of this law, the Court declared, "was to allow an elective provincial, municipal, or city official, such as a Mayor, running for the same office to continue in office until the expiration of his term." It further stated:

> "The legislative intention as we see it was to favor re-election of the incumbent by allowing him to continue in his office and use the prerogatives and influence thereof in his campaign for re-election, and to avoid a break in or interruption of his incumbency during his current term, and provide for continuity thereof with the next term of office if re-elected."

But the law extended only to officials who hold or occupy elective provincial and municipal offices by election and did not include those who hold such offices by appointment. Consequently, when the 1947 elections came up it was found deficient by the followers of President Roxas who wanted to extend to the presidential appointees to local offices the same privilege of office retention hitherto given by section 2 of Com. Act 666 to local elective officials. It was to remedy this defect that the Congress, which was then controlled by the Liberal Party, had decided to amend the law by substituting the phrase "for which he is actually holding," for the phrase "for which he has been lastly elected" found in section 2 of Com. Act 666. The amendment is now found in section 27 of the Revised Election Code.

It is evident from this legislative history, according to the Court, that the purpose of the amendment "was to give the benefit or privilege of retaining office not only to those who have been elected thereto but also to those who have been appointed; stated differently, to extend the privilege and benefit to the regular incumbents having

the right and title to the office either by election or by appointment." It further observed:

> "There can be no doubt, in our opinion, about this intention. We have carefully examined the proceedings in both Houses of the Legislature. The minority Nacionalista members of Congress bitterly attacked the amendment, realizing that it was partisan legislation intended to favor those officials appointed by President Roxas; but despite their opposition the amendment was passed."

(b) *Legislative materials.*—The history of the statute during its enactment, that is, from its introduction as a bill down to its final passage, has generally been the first aid to which courts have turned in construing an ambiguous act. They are the extraneous materials that accompany the statute, as it were, in the process of lawmaking, and are found recorded in the legislative journals (Congressional Record) of each House of Congress. In another case, *Florentino v. Philippine National Bank, supra,* it was used by the Court to bolster the conclusion it had reached from the grammatical reading of the statute. For that purpose, it referred to the pertinent portion of the Congressional Record which says:

> "Mr. Tible: On page 4, line 17, between the words 'this' and 'that', insert the word 'amendatory'.
> 'Mr. Zosa: What is the purpose of the amendment?
> "Mr. Tible: The purpose of the amendment is to clarify the provision of section 2. I believe, gentleman from Cebu, that section 2, as amended in this amendatory bill, permits the use of backpay certificates as payment for obligations and indebtedness in favor of the government." (Congressional Record No. 64, 2nd Congress, 4th Regular Session, May 11, 1953, page 41; quoted in Appellants' brief, p. 15.)

UT RES MAGIS VALEAT QUAM PEREAT.

According to this maxim, a law should be interpreted with a view to upholding rather than destroying it. From this principle arises the rule that in construing a statute, that interpretation is to be adopted which will give force and effect to every word, clause and sentence of the enactment. The statute must be taken and construed as a whole. This principle, according to Black, "rests upon the presumption that the legislature cannot have intended to have used words in vain, or to leave part of its enactment without sense or meaning, or to introduce into the same statute clauses or provisions which annul or mutually destroy each other."[18]

The rule was applied by the Court in the *Araneta*[19] and *Salaysay* cases.

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[18] *Op. cit.* pp. 322-325.
[19] Luis Ma. Araneta v. Hon. Hermogenes Concepcion et al., G.R. No. L-9667, July 31, 1956, 52 O.G. 5165.

In the first case, the issue turned on the interpretation of Article 103 of the Civil Code, which reads as follows:

> "Art. 103. An action for legal separation shall in no case be tried before six months have elapsed since the filing of the petition."

It appeared that an action was brought by petitioner against his wife for legal separation on the ground of adultery. After the filing of the action but before the expiration of the six month period, the wife filed an omnibus petition to secure custody of their minor children, a monthly support for herself and said children and for payment by her husband of the fees of her counsel. The respondent judge, against plaintiff's objection, granted the petition without admitting evidence from the parties. His reason for not allowing the introduction of evidence is the prohibition contained in Artcle 103 of the Civil Code. Interpreting said article, the trial judge says:

> "This provision is mandatory. This case cannot be tried within the period of six months from the filing of the complaint. The Court understands that the introduction of any evidence, be it on the merits of the case or an any incident, is prohibited. The law up to the last minute, exerts efforts at preserving the family and the home from utter ruin.... Admitting evidence now will make reconciliation difficult, if not impossible...."

The Court rejected this interpretation and held that while "the period of six months fixed therein is evidently intended as a cooling off period to make possible a reconciliation between the spouses,... this practical expedient, necessary to carry out legislative policy does not have the effect of overriding other provisions such as the determination of the custody of the children and alimony *pendente lite* which, according to Article 105 of the Civil Code, "should be determined by the court according to the circumstances. ...Evidence of all these disputed allegations should be allowed that the discretion of the court as to the custody and alimony *pendente lite* may be lawfully exercised."

It declared: "The rule is that al the provisions of the law, even if apparently contradictory, should be allowed to stand and given effect by reconciling them if necessary."

> "The practical inquiry in litigation is usually to determine what a particular provision, clause or word means. To answer it one must proceed as he would with any other composition — construe it with reference to the leading idea or purpose of the whole instrument. A statute is passed as a whole and not in parts or sections and is animated by one general purpose and intent. Consequently, each part or section should be construed in connection with every other part or section so as to produce a harmonious whole. Thus it is not proper to confine interpretation to the one section to be construed. (Sutherland, Statutory Construction, section 4703, pp. 336-337.)"

In the *Salaysay* case, the Court applied the rule to confirm its interpretation of section 27 of the Election Law. It declared that to apply said section to petitioner in that case would render ineffective the other provision of said section about resignation. It explained:

> "Section 27 of Republic Act 180 in providing that a local elective official running for an office other than the one he is actually holding, is considered resigned from his office, must necessarily refer to an office which said official can resign, or from which he could be considered resigned, even against his will. For instance, an incumbent Mayor running for the office of Provincial Governor must be considered as having resigned from his office of Mayor. He must resign voluntarily or be compelled to resign. It has to be an office which is subject to *resignation* by the one occupying it. Can we say this of a Vice-Mayor acting as Mayor? Can he or could he resign from the office of Mayor or could he be made to resign therefrom? No. As long as he holds the office of Vice-Mayor to which he has a right and legal title, he cannot resign or be made to resign from the office of Mayor because the law itself requires that as Vice-Mayor he must act as Mayor during the temporary disability of the regular or incumbent Mayor. If he cannot voluntarily resign the office of Mayor in which he is acting temporarily, or could not be made to resign therefrom, then the provision of section 27 of the Code about resignation, to him, would be useless, futile and a dead letter. In interpreting a law, we should always avoid a construction that would have this result, for it would violate the fundamental rule that every legislative act should be interpreted in order to give force and effect to every provision thereof because the legislature is not presumed to have done a useless act."[20]

LEGISLATIVE APPROVAL BY RE-ENACTMENT

It is a familiar principle in statutory construction that "a statute literally or substantially re-enacting a prior statute, after its words have received a judicial interpretation, must be regarded as adopted with knowledge of such construction and with the intention that it should thereafter be interpreted in the same way."[21] The rule is applicable not only with respect to judicial construction of the reenacted statute but also to previous administrative inter-

[20] Justice J. B. L. Reyes, dissenting from the majority opinion, "failed to see how the majority can hold that the Vice-Mayor acting as Mayor, can not be *considered resigned* from the mayoralty, because 'it has to be an office which is subject to resignation by the one occupying it'. According to him "that conclusion would only be true if the law required the candidate to resign voluntarily from his office. But the law does not require him to resign; it considers him resigned, treats him *as if* he had resigned; and that is altogether a different thing. In order that an official can be *considered resigned* all that is needed is that the office be one that he could *forfeit* or *lose*. And the mayoralty is certainly an office that can be lost or forfeited by petitioner, even if he could not resign from it. The trouble, I suppose, is that the structure of our language is such that (as semanticists have pointed out) it enables us not only to use words about realities but also to use words about words."

[21] BLACK, LAW OF JUDICIAL PRECEDENTS, SEC. 75.

pretation or ruling. This principle was re-affirmed in *International Autobus Co. v. Collector of Internal Revenue, supra.* In that case, plaintiff sought to recover the amount defendant had assessed and collected as documentary stamp tax on the freight receipts or bills of lading it had issued from 1936 to 1940. The value of the goods transported under these freight receipts could not somehow be ascertained but defendant, relying upon Department of Finance Regulation No. 26, dated September 16, 1924, assumed that the value of such goods were more than ₱5 and, accordingly, assessed a documentary stamp tax of ₱0.04 on each receipt. The pertinent portion of the disputed regulation provided:

> "...Bills of lading are exempt from the documentary tax...when the value of the goods shipped is ₱5 or less. Unless the bill of lading states that the goods are worth ₱5 or less, it must be held that the tax is due, and internal revenue officers will see to it that the tax is paid in all cases where the bill of lading does not state that the shipment is worth ₱5 or less."

The plaintiff challenged the validity of the above-quoted regulation for being contrary to law and in violation of the right of a taxpayer. The Court upheld the validity of the regulation and declared:

> "The regulation is not only useful, practical and necessary for the enforcement of the law on the tax on bills of lading and receipts, but also reasonable in its provisions.
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> "The regulation...falls within the scope of the administrative power of the Secretary of Finance, as authorized in section 79(b) of the Revised Administrative Code, because it is essential to the strict enforcement and proper execution of the law which it seeks to implement. Said regulations have the force and effect of law."

Another cogent reason given by the Court for sustaining the validity of the regulations is based on the principle of legislative approval by re-enactment. These regulations, which were promulgated by the Department of Finance on September 16, 1924, were re-enacted without substantial change by the Legislature when it passed the National Internal Revenue Code on February 18, 1939. According to the Court, "there is a presumption that the Legislature re-enacted the law on the tax with full knowledge of the contents of the regulations then in force regarding bills of lading and receipts, and that it approved or confirmed them, because they carried out the legislative purpose." Elaborating further on this well-known principle of statutory construction, the Court quoted pertinent portions of some leading American cases on the subject:

> "The law, I believe, is now settled that substantial re-enactment of legislation which has been construed by Treasury regulations is at least strong evidence of legislative approval of such construction. It is pre-

sumed that Congress knew of the existing administrative interpretations of the statute...." (Cargill v. United States, 46 F. Supp. 712, 716.)

"Regulations promulgated by the Commissioner of Internal Revenue under authority of the Revenue Act of 1928 acquired the effect of law by substantial re-enactment of provision of the 1928 Act in the 1932 Revenue Act...." (S. Slater & Sons, Inc. v. White, etc., 32 F. Supp. 329, 330.)

EXCEPTION TO BE CONSTRUED STRICTLY

Another rule the court applied in the *Salaysay* case is that which requires that exceptions in a statute should be strictly construed.[22] According to the majority opinion in that case, the authority or privilege to keep one's office when running for the same office, as provided by section 27 of the Election Law, is an exception to the general rule that all government officials running for office must resign.[23] It explained:

> "Section 26 of the Revised Election Code provides that every person holding an appointive office shall *ipso facto* cease in his office on the date he files his certificate of candidacy. Then we have section 27 of the same Code as well as section 2 of Commonwealth Act 666 which it amended, both providing that local elective officials running for the same office shall be considered resigned from their posts, except when they run for the same office they are occupying or holding. It is evident that the general rule is that Government officials running for office must resign. The authority or privilege to keep one's office when running for the same office is the exception."

The Court, then, declared that, "It is a settled rule of statutory construction that an exception or a proviso must be strictly construed especially when considered in an attempt to ascertain the Legislative intent."

DOCTRINE OF "IN PARI DELICTO"

One of the most useful rules of construction is the doctrine of implications which states that "that which is implied in a statute

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[22] One reason for the rule may be found in the inequality which is apt to occur, the presumption being always in favor of equality of rights. Consequently, "where a general rule is established by statute with exceptions, the courts will not curtail the former (the general rule) or add to the latter (the exceptions) by implication, and ordinarily an express exception excludes all others (82 C.J.S., p. 891).

[23] The dissenting Justices, on the other hand, believe that "the *general rule* is that an elective official shall remain in office for the full term for which he was elected, although he may have filed a certificate of candidacy. The *exception* is that he shall be deemed to have resigned from his office, from the time of the filing of said certificate of candidacy, if (1) he is a provincial, municipal or city official, and (2) the office or which he runs is other than the one he is actually holding. *If he runs for the office he is actually holding, the general rule applies*— he shall not be deemed to have resigned from his office. In other words, the provision implying a resignation from the filing of the certificate of candidacy is the exception, which should be construed strictly."

is as much a part of it as that which is expressed." It is intended to fill in the so-called "gaps" in the law that are unavoidable in every legislation. One instance of implications is the presumption of illegality arising from violation of a statutory prohibition. Otherwise stated, where a statute prohibits anything to be done, any act or contract done in contravention of the prohibition is by implication void and inoperative. This is so because the statute must be made effectual to accomplish the object intended by its enactment.[24] The rule rests upon the fundamental principle of public policy that is embodied in the maxim: "Ex dolo malo non oritur actio" — No man is allowed to found a claim upon his own wrong or inequity, or "Nullius commodum potest de injuria sua propia" — No man is allowed to take advantage of his own wrong. Counterpart of this rule in the law of contracts is the doctrine of "in pari delicto" which declares that a contract made in violation of a mandatory or prohibitory law is void,[25] and, if such contract is executed in spite of the prohibition, the law will leave the parties where it finds them.

(a) *Application of the rule.*—By virtue of this principle, the Supreme Court, in a long line of cases starting with *Cabuatan v. Uy Hoo*,[26] has consistently denied the seller the right to recover back the property sold to aliens in violation of the constitutional prohibition as construed in the *Krivenko* case.[27]

This ruling was again reaffirmed in *Dinglasan v. Lee Bun Ting*.[28] In that case, petitioners sought to recover the land which they sold to respondent, a Chinese citizen. They contended that as the sale to respondent "is prohibited by the Constitution, the title to the land did not pass to said alien because the sale did not produce any juridical effect in his favor and that the constitutional prohibition should be deemed self-executing in character, in order to give effect to the Constitutional mandate." In rejecting their claim, the Court held that the doctrine of "in pari delicto" bars petitioners from recovering the title to the property. It declared:

> "...granting the sale to be null and void and can not give title to the vendee, it does not necessarily follow therefrom that the title remained in the vendor, who had also violated the constitutional prohibition, or that he (vendor) has the right to recover the title of which he had divested himself by his act in ignoring the prohibition. In such contingency another principle of law sets in to bar the equally guilty vendor from re-

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[24] BLACK, *op cit.*, pp. 87-89.

[25] Under Article 5 of the Civil Code, "Acts executed against the provisions of mandatory of prohibitory laws shall be void, except when the law itself authorizes their validity."

[26] G.R. No. L-2207.

[27] 44 O.G. 471.

[28] G.R. No. L-5996, June 27, 1956, 52 O.G. 3566.

covering the title which he had voluntarily conveyed for a consideration, that of *pari delicto*...."

(b) *Exceptions to the rule.*—The doctrine of "pari delicto" is, however, not absolute in its application. One exception is when public policy is considered advanced by allowing either party to sue for relief against the transaction.[29] Another exception was recognized in *Mortel v. Aspiras*,[30] which was a proceeding against a lawyer. The Court held that the defense of "in pari delicto" put up by the respondent in that case is unavailing because the case is not a proceeding to grant relief to the complaint, but one to purge the profession of unworthy members, to protect the public and the courts, so much so that where evidence is sufficient to warrant disciplinary action, the matter may not be dismissed, even at the behest of the complaining party.[31] Other exceptions to the rule are: contracts which are prohibited for the protection of one of the parties, such as usurious contracts, those for the protection of laborers and Sunday contracts; when one of the parties to an illegal contract is a minor, and contracts in fraud of creditors.[32]

RULE AGAINST RETROACTIVE OPERATION OF STATUTES.

Retroactive legislation, as a rule, is looked upon with disfavor. Article 4 of the Civil Code provides that, "Laws shall have no retroactive effect, unless the contrary is provided." The reason for the rule is the tendency of retrospective legislation to be unjust and oppressive on account of their liability to unsettle vested rights or disturb the legal effect of prior transactions.[33] Hence, statutes are to be construed as having only a prospective operation unless the purpose and intention of the legislature to give retrospective effect is expressly declared, or is necessarily implied from the language

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[29] This exception was recognized in De los Santos v. Roman Catholic Church, G.R. No. L-6088, February 25, 1954, where the plaintiff was allowed to recover the land, covered by a homestead patent which he sold, although its sale to defendant, having been made before the expiration of the period of five years from the date of the issuance of the patent, was void, being prohibited by section 118 of the Public Land Act. The Court declared that although the plaintiff was "in pari delicto" he can maintain the action to set aside the sale and recover back the land, for it would be in furtherance of the fundamental purpose of the Homestead Law, which is "to preserve and keep in the family of the homesteader that portion of public land which the State has gratuitously given him."

[30] Administrative Case No. 145, December 28, 1956.

[31] The same rule applies in criminal cases where the action is prosecuted by the State. Moreover, the doctrine of "pari delicto," being in essence an equitable defense, can only be invoked against a party who is seeking an equitable relief—on the hypothesis that "he who comes to court for equity must come with clean hands." It would seem, therefore, that the rule of "pari delicto" is applicable only to civil cases.

[32] 17 C.J.S. 665-668.

[33] BLACK, *op. cit.* 380-381.

used. In every case of doubt, the doubt must be resolved against retrospective effect.[34]

STATUTES THAT CANNOT BE MADE RETROACTIVE.

Even when it is expressly so provided (Art. 4, Civil Code), a statute can not be made retroactive if (a) it would thereby become an *ex post facto* law[35] (b) it woud impair the obligation of contract, or (c) otherwise destroy vested rights.[36] Such statutes would be void as unconstitutional.[37]

(a) *What constitutes a vested right* is a question that will have to be determined by the courts as each particular issue is submitted to them for, indeed, no precise meaning can be assigned to the term.[38] There is no question, however, that a vested right is property which is protected by the Constitution from arbitrary interference. And the property interest need no more than the right to enforce a legal demand or exemption provided it is complete and unconditional, and not a mere expectancy.[39] Thus, a right which has accrued under a contract is considered a "vested right" protected by the contract clause of the Constitution.[40] But a pending action or one not yet reduced to final judgment is not considered a vested right.[41] Neither is a right, privilege or exemption conferred by law before it has been exercised or perfected, as was held in the recent case of *Benguet Consolidated Mining Co. v. Mariano Pineda.*[42] There, it appeared that the petitioner, the Benguet Consolidated Mining Company, was organized in 1903 as a *sociedad anonima* for a term of fifty years, under Articles 151 *et seq.* of the Spanish Code of Commerce of 1886, then in force in the Philippines. In 1906, the Philippine Commission enacted the Corporation Law (Act 1459) which repealed the Code of Commerce in so far as *sociedades anonimas* are concerned. It gave existing *sociedades anonimas* the option either to continue business as such or to reform and organize under the provisions of said Act. It further provided that existing *sociedades anonimas* which elected to continue their business as such instead of reforming and

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[34] In re will of Riosa, 39 Phil. 23.
[35] United States v. Diaz Conde, 42 Phil. 766.
[36] Asiatic Petroleum v. Llanes, 49 Phil. 466.
[37] Article III of the Constitution provides: Sec. 1, par. 1, "No person shall be deprived of his property without due process of law"; *id.*, par. 10 "No law impairing the obligation of contracts shall be passed;" id., par. 11, "No *ex post facto* law or bill of attainder shall be passed."
[38] *See* Report of the Code Commission on the New Civil Code of the Philippines 166.
[39] Sutherland, *op. cit.*, at 120-121.
[40] People v. Zeta, 52 O.G. 222.
[41] Peña v. Court, 43 O.G. 4102.
[42] G.R. L-7231, March 28, 1956, 52 O.G. 1961.

reorganizing under the provisions of the Act, "shall continue to be governed by the laws that were in force prior to the passage of this Act in relation to their organization and method of transacting business and to the rights of members thereof as between themselves, but their relations to the public and public officials shall be governed by the provisions of this Act."

The petitioner was a *sociedad anonima* which failed to reform and reorganize under the Corporation Law, and hence, it continued to be governed by the Code of Commerce. When its original fifty year term of existence was about to expire in 1953, it sought to extend said term to another fifty years, which respondent, Securities and Exchange Commissioner, denied in view of the prohibition of section 18 of the Corporation Law to the effect "that the life of said corporation shall not be extended by amendment beyond the time fixed in the original articles."

It is contended by petitioner that said restriction imposed by the Corporation Law can not be applied to *sociedades anonimas* already functioning when the said law was enacted because it would destroy their vested rights already acquired under the prior legislation. One such right, it alleged, was the possibility to extend its corporate life under the Code of Commerce which, unlike the Corporation Law, did not forbid such extensions.

The Court held that the alleged right of petitioner to extend its corporate life under the Code of Commerce was "merely a possibility *in futuro*, a contingency that did not fulfill the requirements of a vested right entitled to constitutional protection, defined by the Court in *Balboa v. Farrales*[42a] as follows:

> "Vested right is 'some right or interest in the property which has become fixed and established, and is no longer open to doubt or controversy.'"
>
> "A *vested* right is defined to be an immediate fixed right of present or future enjoyment, and rights are "vested"in contradistinction to be being expectant or contingnet." (Pearsall v. Great Northern Railway R. Co., 161 U.S. 646, 40 L. Ed. 838).

Applying this test to the facts of the case, the Court held:

> "Since there was no agreement as yet to extend the period of Benguet's corporate existence (beyond the original 50 years) when the Corporation Law was adopted in 1906, neither Benguet nor its members had any actual or vested right to such extension at that time. Therefore, when the Corporation Law, by section 18, forbade extensions of corporate life, neither Benguet nor its members were deprived of any actual or fixed right constitutionally protected.

[42a] 51 Phil. 498, 502.

It further declared:

> "To hold, as petitioner Benguet asks, that the legislative power could not deprive Benguet or its members of the *possibility* to enter at some indefinite future time into an agreement to extend Benguet's corporate life, solely because such agreements were authorized by the Code of Commerce, would be tantamount to saying that the said Code was irrepealable on that point. It is well settled rule that no person has a vested interest in any rule of law entitling him to insist that it shall remain unchanged for his benefit." (Citing several authorities)

(b) *The prohibition against ex post facto laws* applies only to criminal or penal matters and not to laws which concern civil matters. This principle was reiterated in *Testate Estate of Olimpio Fernandez*.[43] In that case, the Collector of Internal Revenue assessed a war profits tax on the estate of the deceased which the administratrix refused to pay on the ground, among others, that the War Profits Tax Law (Rep. Act No. 55) is unconstitutional because it acts retroactively. In disposing of this contention, the Court declared:

> "The doctrine of unconstitutionality raised by appellant is based on the prohibition against *ex post facto* laws. But this prohibtion applies only to criminal or penal matters or proceedings, generally, which affect or regulate civil or private rights." (Ex parte Garland, 18 Law Ed., 366; 16 C.J.S., 889-891).

(c) *Statutory requirements, substantive in nature, can not be given retroactive effect.*—As a general rule, statutes pertaining to procedure and legal remedies may be given retroactive effect and will be construed as applicable to causes of action accrued, and actions pending and undetermined at the time of their passage, unless such actions are expressly excepted or unless vested rights would be disturbed by giving them a retrospective operation.[44] But when the statutory requirements affecting these causes of action are not procedural but substantive in nature, they can not be given retroactive effect. This qualification of the rule was restated in *Tolentino v. Fernandez*.[45] In that case, a petition to dispossess some tenants of an agricultural land was filed with the Court of Industrial Relations on August 12, 1954, to enable its owners to introduce mechanized farming. While the petition was pending in court, Rep. Act 1191 was passed on August 30, 1954. Said Act recognized the mechanization of the farm as one of the causes whereby a tenant may be dispossessed of the land. But it provided that in order that the mechanization may be undertaken it is necessary that "the landholder shall, at least one year but not more than two

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[43] G.R. No. L-9141, September 25, 1956, 52 O.G. 6158.
[44] Black, *op. cit.*, at 408-409.
[45] G.R. No. L-9267, April 11, 1956, 52 O.G. 2511.

years prior to the date of his petition to dispossesses the tenant... file notice with the court and shall inform the tenant in writing in a language or dialect known to the latter of his intention to cultivate the land himself, either personally or through the employment of mechanical implements, together with a certification of the Secretary of Agriculture and Natural Resources that the land is suited for mechanization." (Section 50, paragraph a.)

It is contended by the tenants "that because the landlord had not complied with this requirement before filing the present petition for mechanization, the CIR has not acquired the requisite jurisdiction to proceed with the hearing of the case."

The Court found the claim to be without merit. It declared:

> "While it is true that under the new Act there is need to comply with the above procedural requirement in order that a landlord may dispossess a tenant and give jurisdiction to the industrial court to act on the matter, the same cannot be invoked in the present case it appearing that the petition herein was filed on August 12, 1954, or prior to the approval of Republic Act No. 1199. It is a well known rule that 'Laws shall have no retroactive effect, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication' (Segovia v. Noel, 47 Phil. 543). There is nothing in said Act which would make its provisions operate retroactively even with respect to the provisions regarding mechanical farming.
>
> "It may be contended that a statute which merely regulates court procedure may be given retroactive effect to the extent of applying it even to actions that are pending at the time of its passage (People v. Sumilang, 44 Off. Gaz., No. 3, p. 882), but the provision under consideration does not merely partake of a court procedure but refers to a requirement which must be compiled with before the case could be brought to court...."

Requisite of repeal by implication.—It is presumed that, in drafting and enacting a statute, the legislature had full knowledge and took cognizance of all existing laws on the same subject matter or relating thereto. Hence arises the rule that, in case of any doubt or ambuiguity, a statute is to be construed as not only to be consistent with itself throughout its whole extent, but also to harmonize with other laws relating to the same or kindred matters.[46] The presumption being against any intention to make unnecessary changes in the laws, it follows that there is also a presumption against repeals by implication. Furthermore, before a statute can be held to have repealed a prior statute by implication, it is necessary that the two statutes relate to the same subject matter, and that the latter statue is clearly repugnant to the earlier. And, conversely, where the two statutes can be applied to the same subject

[46] See BLACK, *op. cit.*, at 345.

matter at the same time without interferring with each other, they are not repugnant and the earlier statute is not repealed by the latter. This rule was reaffirmed in *Manila Electric Co. v. City of Manila.*[47] Plaintiff, in that case, sought to recover what it had paid to defendant as inspection fees of its steam boilers, pursuant to the provisions of Chapter 117, Tit. 15 o fthe Revised Ordinances of Manila. It contended that said provisions of the Revised Ordinances of Manila have been impliedly repealed by Com. Act 696 (1945) which direct that "for inspection of boilers and pressure vessels, the Secretary of Labor...shall fix and collect reasonable inspection fees." The Court held that there was no repeal by implication. It reasoned out:

> "In the first place, the City's power *to tax* steam boilers could not have been affected by the Department of Labor's power to *regulate* or inspect them: one is taxation, the other regulation. In the second place, the power of inspection of the Secretary of Labor does not necessarily conflict with that of the City authorities, because the former has particular relation to the 'safety of laborers and employees' (section 1) of industrial enterprises, whereas that of the City of Manila is not limited to such purpose, but is related to the safety and welfare of the inhabitants of he City, particularly of the neighborhood where the boilers are located (Smoke, noise, vibration, fire hazards, etc.). Different purposes are served by the two inspections."

BINDING EFFECT OF PREVIOUS ADMINISTRATIVE INTERPRETATION.

The interpretation which administrative officials who are charged with the enforcement and execution of the law has placed upon a statute is entitled to considerable weight.[48] Courts are reluctant to disregard such interpretation, especially if it has been observed and acted upon for a long period of time, except for the most satisfactory and cogent reason. This is deemed necessary for the maintenance of confidence not only in the certainty of law but in official action thereunder.[49] Such construction is not, however, absolutely binding on the courts. One reason is that the power to interpret a statute is essentially a judicial function. Another is that such interpretation or rulings, as one court has pointed out, "do not have the detachment of a judicial or semi-judicial deci-

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[47] G.R. No. L-8694, April 28, 1956, 52 O.G. 2519; See also Calderon v. Provincia del Santissimo Rosario, 28 Phil. 164; Valera v. Tuazon, 45 O.G. (Supp. No. 9) 443.

[48] With respect to its probative value, recent American decisions have made a distinction between two types of administrative interpretation: those made by officials charged with the enforcement of the law, and those handed down in adversary proceedings, otherwise known as decisions *inter partes*, by pointing out that while the latter is entitled to respectful consideration by the courts, the other is not regarded as authoritative. See Fishgold v. Sullivan, 154 F (2d) 785, affirmed in 328 U.S. 275, 90 L. Ed. 1230.

[49] United States v. Hill, 120 U.S. 169, 30 L. Ed. 627.

sion and may properly carry a bias."[50] Furthermore, where such ruling is based on an erroneous interpretation of the statute the courts will not hesitate to overrule it.[51] This principle was followed in the *Benguet* case, *supra*. The petitioner, in that case, stressed the fact "that the Compañia Maritima (like Benguet, a *sociedad anonima* established before the enactment of the Corporation Law) has been twice permitted to extend its corporate existence by amendment of its articles of association, without objection from the officers of the defunct Bureau of Commerce and Industry, then in charge of the enforcement of the Corporation laws," and argued that respondent is now estopped to deny its application because he is bound by the rulings of his predecessor. In overruling this contention, the Court held:

> "...it is a well established rule in this jurisdiction that the government is never estopped by mistake or error on the part of its agent (*Pineda v. Court of First Instance of Tayabas*, 52 Phil. 803, 807), and that estoppel can not give validity to an act that is prohibited by law or is against public policy (*Eugenio v. Perdido*, G.R. No. L-7083, May 19, 1955; 19 Am. Jur. 802); so that the respondent Securities and Exchange Commissioners, was not bound by the rulings of his predecessor if they be inconsistent with law. Much less could erroneous decisions of executive officers bind this Court and induce it to sanction an unwarranted interpretation or application of legal principles."

Presumption in favor of constitutionality of a statute. Legislators are bound to obey and support the Constitution and it is understood that they have considered the constitutional aspect of their enactments. Hence, the presumption is always in favor of the constitutionality of a statute and every doubt should be resolved by the courts in favor of such constitutionality. This presumption of great utility in statutory construction was applied by the Court in the *Florentino* case, *supra*, to confirm the interpretation it has adopted of the disputed provision of the Backpay Law. Said the Court:

> "But even disregarding the grammatical construction,...still there are cogent and powerful reasons why the qualifying clause should be limited to the last antecedent. In the first place, to make the acceptance of the backpay certificates obligatory upon any citizen, association, or corporation, which are not government entities or owned or controlled by the government, would render section 2 of Republic Act 897 unconstitutional, for it would amount to an impairment of the obligation of contracts by compelling private creditors to accept a sort of promissory note payable within ten years with interest at a rate very much lower than the current or even the legal one."

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[50] Fishgold v. Sullivan, *supra*.

[51] Philippine Trust Co. v. Mitchel, 59 Phil. 30; Halvering v. Hallock, 309 U.S. 106, 84 L. Ed. 604.

EFFECT OF UNCONSTITUTIONAL STATUTE.

The rule and its qualification on the effect of an unconstitutional statute was restated by the Court in *Manila Motor Company, Inc. v. Manuel T. Flores*,[52] under the following facts:

In May 1954, plaintiff filed a complaint to recover from defendant a certain amount which fell due in September 1941. Defendant pleaded prescription: 1941 to 1954. Plaintiff countered by claiming "that the moratorium laws had interrupted the running of the prescriptive period, and that deducting the time during which said laws were inoperative—three years and eight months—the ten-year term had not yet elapsed when complainant sued for collection in May 1954." The CFI sustained plaintiff's contention and defendant appealed, arguing that "the moratorium laws did not have the effect of suspending the period of limitation because they were unconstitutional as declared by this Court in *Rutter v. Esteban*.[53] He cited jurisprudence holding that when a statute is adjudged unconstitutional it is as inoperative as if it had never been passed, and no rights can be built upon it."[54]

The Court held that, "although the general rule is that an unconstitutional statute—

> 'confers no right, creates no office, affords no protection and justifies no acts performed under it,' (11 Am. Jur. pp. 828-829)

there are several instances wherein courts, out of equity have relaxed its operation (Notes in Cooley's Constitutional Limitations, 8th ed. p. 383 and Notes 53 A.L.R. 273) or qualified its effects 'since the actual existence of a statute prior to such declaration is an operative fact, and may have consequences which cannot justly be ignored' (Chicot County v. Baxter, 308 U.S. 371) and a realistic approach is eroding the general doctrine (Warring v. Colpoys, 136 Am. Law Rep. 1025, 1030)."

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[52] Manila Motor Co., Inc. v. Manuel T. Flores, G.R. No. L-9396, August 16, 1956, 52 O.G. 5804.

[53] G.R. No. L-3708 (1953).

[54] Norton v. Shelly, 118 U.S. 425-454; 11 AM. JUR. 827.