

## COMMENTS

### THE MAKILING NATIONAL PARK: TRANSFER OF ITS ADMINISTRATION TO U.P. BY EXECUTIVE PROCLAMATION

Mount Makiling was declared a forest reserve on November 21, 1910 by the Governor-General of the Philippines.<sup>1</sup> On November 30, 1920, the Makiling Forest Reserve was made the Makiling National Botanic Garden.

On February 1, 1933, the Parks and Wildlife Law was approved by the President of the United States.<sup>2</sup> In accordance with this law, the Makiling National Botanic Garden was converted into what is presently known as the Makiling National Park, and it was, furthermore, provided that all national parks shall be under the immediate direction and administration of the Director of Forestry, subject only to the general supervision and control of the Secretary of Agriculture and Commerce.<sup>3</sup>

By virtue of Republic Act No. 826,<sup>4</sup> the administration of all national parks was transferred from the Bureau of Forestry to the Commission on Parks and Wildlife, this commission having been created by this same law. And, finally, pursuant to section 110 of Executive Order No. 216<sup>5</sup> which provides for the implementing details of Reorganization Plan No. 30-A (Reorganization of the Department of Agriculture and Natural Resources), the Commission on Parks and Wildlife was abolished and the Parks and Wildlife Office was created under the Department.

As things now stand, therefore, the administration of national parks is lodged in the Parks and Wildlife Office of the Department of Agriculture and Natural Resources.

Recently, the expanding activities of the University of the Philippines have created a felt need for the transfer to it of the administration of the Makiling National Park to help carry out its educational program on a more effective basis, particularly the training of students in forestry. To this end, it has been suggested that the transfer be effected by an executive proclamation of the President of the Philippines.

Question: Would such contemplated transfer and the procedure for effectuating the same be valid, considering the positive provisions of Republic Act No. 826 which confers the administration of national parks on the Commission on Parks and Wildlife (now the Parks and Wildlife Office)?

<sup>1</sup> Proclam. No. 106.

<sup>2</sup> Act No. 8915 entitled "An Act Providing for the Establishment of National Parks, Declaring Such Parks as Game Refuge and for Other Purposes."

<sup>3</sup> Proclam. No. 552 (Feb. 23, 1933).

<sup>4</sup> Approved Aug. 14, 1952.

<sup>5</sup> Dated Nov. 17, 1956.

It may be necessary to note that from the broad language used in Republic Act No. 826, i.e., *national parks* (and Mt. Makiling was and is one such national park under the terms of Proclamation No. 552, *supra*),<sup>6</sup> it is obvious that the changes in administration brought about by the enactment of Republic Act No. 826 and the promulgation of Executive Order No. 216 directly affected the Makiling National Park, culminating in the administration of this Park by the present Parks and Wildlife Office of the Department of Agriculture and Natural Resources.

Accordingly, the question calls for an interpretation of Republic Act No. 826 in the light of pertinent provisions of the Revised Administrative Code and the Public Land Law on the powers of the President of the Philippines relative to national parks and forest reserves.

The totality of the provisions of Republic Act No. 826 conveys no other idea than that, aside from the creation of the Commission on Parks and Wildlife, all that it seeks to achieve is the transfer of the administration of national parks, among others, from the Bureau of Forestry, to the said commission.<sup>7</sup> Thus, the law is entitled "An Act Creating the Commission on Parks and Wildlife, Defining Its Powers, Functions, and Duties." No provision thereof expressly enumerates the specific parks covered, their particular metes and bounds, much less contain any prohibition on the President of the Philippines from adding new parks to the commission's administration or, in the alternative, withdrawing from it any parks that it now administers (in this case, parks administered by the Parks and Wildlife Office of the Department of Agriculture and Natural Resources).

On the other hand, the pertinent provisions of the Revised Administrative Code and the Public Land Law are more explicit on what the powers of the President are in this respect:

"Revised Administrative Code, sec. 64. *Particular powers and duties of (Governor-General) President of the Philippines.*—In addition to his general supervisory authority, the (Governor-General) President of the Philippines shall have such specific powers and duties as are expressly conferred or imposed on him by law and also, in particular, the powers and duties set forth in this chapter.

"Among such special powers and duties shall be:

"(d) To reserve from settlement or public sale and for specific public uses any of the public domain of the (Philippine Islands) Philippines the use of which is not otherwise directed by law, the same thereafter remaining subject to the specific public uses indicated in the executive order by which such reservation is made, until otherwise provided by law or executive order."<sup>8</sup>

<sup>6</sup> "A park may be primarily for the benefit of the inhabitants of the municipality in which it exists, and there are statements to the effect that it is intended for the use of the people of the city or town in or near where it is located, but it is immaterial whether it is designed for the use of the people of a town, city, or county, or state, or for the people of the nation, and it has been said that a national park is as much a public park as any other park." 67 C.J.S. Park 67.

<sup>7</sup> Secs. 1, 2, *et seq.*

<sup>8</sup> Another provision of the Revised Administrative Code in point: "(e) To reserve from sale or other disposition and for specific public uses or service, any land belonging to the private domain of the Government of the (Philippine Islands) Philippines, the use of which is not otherwise directed by law; and thereafter such land shall be used for the specific purposes directed by such executive order until otherwise provided by law."

The Public Land Law<sup>9</sup> embodies the following provision:

"Sec. 83. Upon the recommendation of the Secretary of Agriculture and Commerce, the President may designate by proclamation any tract or tracts of land of the public domain as reservations for the use of the Commonwealth of the Philippines or of any of its branches, or of the inhabitants thereof, in accordance with regulations prescribed for this purposes, or for quasi-public uses or purposes when the public interest requires it, including reservations for highways, rights of way for railroads, hydraulic power sites, irrigation on systems, communal pastures or *leguas comunales*, public parks, public quarries, public fishponds, workingmen's village and other improvements for the public benefit."

The proper interpretation which can be given to Republic Act No. 826, without doing violence to any of its provisions, is that said law has reference only to the creation of the Commission on Parks and Wildlife and the transfer to it of the administration of parks, among others, without in any way watering down the expressly-conferred powers of the President of the Philippines to define what those parks shall be, either by including new parks, or withdrawing parks, like the Makiling National Park, from the coverage of the Commission's administration or that of its successor, the Parks and Wildlife Office. Well known is the rule in statutory construction that unnecessary changes and implied repeal of laws are to be avoided.<sup>10</sup>

As thus construed, the validity of the transfer of the administration of the Makiling National Park by executive proclamation, from the present Parks and Wildlife Office, to the Board of Regents of the University of the Philippines may be legally sustained.

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The Code declares furthermore: "Sec. 1826.—Upon the recommendation of the Director of Forestry, with the approval of the Department Head, the President of the Philippines may set apart forest reserves from the public lands, and he shall by proclamation declare the establishment of such reserves and the boundaries thereof, and thereafter such forest reserves shall not be entered, sold, or otherwise disposed of, but shall remain as such for forest uses, and shall be administered in the same manner as public forests."

"The President of the Philippines may in like manner by proclamation alter or modify the boundaries of any forest reserve from time to time, or revoke any such proclamation, and upon such revocation such forest reserve shall be and become part of the public lands as though such proclamation had never been made."

<sup>9</sup> Com. Act No. 141 (Nov. 7, 1938).

<sup>10</sup> See BLACK, INTERPRETATION OF LAWS 849-851 quoted in GONZAGA, CASES AND MATERIALS ON STATUTES AND THEIR CONSTRUCTION 152-153.

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