ANNUAL SURVEY OF 1958 SUPREME COURT DECISIONS

CONSTITUTIONAL LAW—1958

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Relatively fewer constitutional issues were raised in the cases decided by the Supreme Court last year. On the exercise of governmental powers the validity of action taken by the President and by the Commission on Elections was tested by the constitutional provisions defining and limiting their functions. The individual right to property was vindicated against unwarranted interference by a municipal corporation; and rights guaranteed the accused in criminal cases were asserted though not always successfully invoked. Decisions on citizenship have been included in this survey not because they directly deal with particular constitutional problems but because the constitution includes "Those who are naturalized in accordance with law" among its enumeration of citizens of the Philippines. The subject of "state liability to suit" ordinarily made part of this annual survey yields one decision involving a foreign state. The rule in actions against the Philippine government was applied.[1]

THE PRESIDENT'S POWER OF SUPERVISION AND CONTROL

The constantly recurring problem of defining the extent of the President's power over local governments was again before the Supreme Court in cases involving action taken by the President against local municipal and city officials.

In *Hebron v. Reyes*[2] the Office of the President designated a special investigator to conduct an administrative inquiry on charges of oppression, grave abuse of discretion, and serious misconduct filed against an elective municipal mayor. Pending investigation the mayor was suspended and the suspension continued while the special investigator's report awaited the President's action. Meantime the vice-mayor discharged the functions of mayor and the expiration of the term for which the mayor was elected approached. This proceeding in quo warranto was instituted by the mayor disputing the vice-mayor's right to hold office and questioning the validity of the President's order of investigation and suspension.

The principal issue is whether a municipal mayor may be removed or suspended directly by the Office of the President regardless of the provisions of the Revised Administrative Code setting out with minuteness and care the procedure to be followed in investigating and suspending municipal officials. In deciding this the Supreme Court took into account the provisions of the constitution and applicable statutes, reviewed the history and philosophy behind our system of local government, and reconsidered some of its pronouncements in previous cases. The court declared that the action taken against the petitioner directly by the Office of the President was unwarranted.

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[1] Harry Lyons, Inc. v. the United States of America (651 United States Naval Supply Depot, U.S. Navy, Philippines), G. R. No. L-11786, Sept. 26, 1958. The case was dismissed for failure of the plaintiff to exhaust available administrative remedies, but the Supreme Court citing Santos v. Santos, 48 O. G. No. 11, 4815 (1952) said that the defendant was not immune from suit because by entering into a contract "the sovereign state has descended to the level of the citizen and its consent to be sued is implied."

[2] G.R. No. L-9124, July 28, 1958. The same issue was raised in Querubin v. Castro, G.R. No. L-9779, July 31, 1958.

Proceeding from the usual starting point in testing the validity of any disciplinary measure taken by the President against local officials, the Supreme Court first referred to the provision of Article VII section 10 (1) of the Constitution which the constitutional convention adopted as a compromise in order to grant a limited degree of local autonomy without weakening the central government. This provision which has been most productive of controversy in the relation of local governments to the national government, reads:

> "The President shall have control of all executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed."

The President has no inherent power to remove or suspend local officials. Under the above provision he is limited to the exercise of general supervision over local governments, a power which the Supreme Court pointed out, as previously construed in an earlier case [3] is not self-executing but requires legislative implementation.

In the present petition the court directed attention to the Revised Administrative Code [4] which in three long paragraphs prescribes in detail the procedure to be followed in the suspension and investigation of municipal officials. These provisions, the Supreme Court said, are mandatory and must be followed strictly. It is true that the same code gives the President power to remove officials conformably to law and to order the investigation of any person in the government service when the good of the public service so requires [5] but these provisions are general in character and cannot prevail over those which particularly set out the manner of proceeding against municipal officials.

The court made an analysis of the relation of local governments to the state acting through the executive and legislative departments in answer to the argument that local governments being mere agencies of the state, are subject to the President's control. The court said that while it is true that local governments have only such autonomy, if any, which the state may deem fit to grant and that their powers may be increased, diminished, or altogether abolished by the state, it is the legislative department on behalf of the state and not the executive that can do this. In other words, while local governments are subject to the control of the state acting through the legislature, the President may only constitutionally exercise the "power of general supervision as may be provided by law." As contrasted with control "supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or steps as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter." [6] The Supreme Court in conclusion said that under the present law original jurisdiction is vested in the governor and the provincial board over administrative charges against municipal officials and the President may not assume these powers. But the executive department in the exercise of its general supervision may conduct investigations with a view to determining whether municipal officials are guilty of acts and omissions calling for disciplinary action and as a

[3] Lacson v. Roques, 49 O.G. No. 1, 93 (1953).
[4] Secs. 2188-2191. The provincial governor has the power to consider sworn complaints and if he finds that a penalty more serious than a reprimand should be imposed, he files written charges with the provincial board which conducts a hearing after notice to the official. The board's decision may be reviewed by the Department Head.
[5] Sec. 64 (b) and (c).
[6] Mondano v. Silvosa, 51 O.G. No. 6, 2884 (1955).

means of determining whether the provincial governor and the provincial board should take that action. If the latter neglect to do so, the President may compel them to act. In the present case the provincial authorities had no chance to act at all because the President directly assumed the powers vested in them.

On the other hand the President's power of investigation was upheld in *Ganzon v. Kayanan* [7] where the Executive Secretary acting on a complaint filed with the President designated the respondent to investigate charges filed against the mayor of the City of Iloilo. The complaint was that the mayor with his armed henchmen stormed into a radio station and forcibly stopped a radio-press interview program. The mayor in a petition for prohibition with preliminary injunction likewise challenged the authority of the President to order this investigation.

The charter of the City of Iloilo provides that the mayor "shall hold office for six years unless sooner removed." No provision is made for the causes or the procedure for removal. However, the Supreme Court held in a previous case also involving a city mayor [8] that the rights, duties, and privileges of municipal officials do not have to be embodied in the charter. They may be regulated by laws of general application. Under the applicable laws the President is vested with power to remove any official in the government service "conformably to law" and to declare vacant the office held by the removed official. To this end he may order an investigation of any action or the conduct of any person in the government service, and designate the official, committee, or person by whom such investigation shall be conducted.[9] Hence, the President had authority to designate the respondent investigator. As to the causes for which the mayor could be proceeded against, the court clarified its decision in the *Lacson v. Roque* [10] case by saying that all causes for removing or suspending an elective provincial governor are available against an elective city mayor.

In the three cases reviewed above the Supreme Court tested the validity of the President's action by simply inquiring into the existence of statutory authority justifying the President's action. Having located this, the Supreme Court stopped satisfied. But a few questions remain to be asked. Is the provision of the constitution giving the President "general supervision over all local governments as may be provided by law" intended as a limitation on the President's power only? Does it mean that Congress may vest in the President any statutory authority over local governments regardless of whether that authority exceeds general supervision and amounts to the exercise of control? Finally, if Congress has control over local governments may it not properly delegate the exercise of that control to any agency or official, the President included, provided sufficient standards are established by Congress itself?

In contrast with the limited power the President has over local governments is his control over executive departments, bureaus, or offices. This power was involved in *Negado v. Castro* [11] where the petitioner was administratively investigated and recommended for transfer although evidence against her was not conclusive. On appeal the Civil Service Board of Appeals exonerated her but the case was appealed by the chief of the bureau to the President. The Executive Secretary acting for the latter reversed the decision and ordered the petitioner's separation from the service. In a petition for certiorari she alleged lack of jurisdiction and abuse of discretion on the part of the Executive Secretary, but the Supreme Court held that the appeal taken by the bureau director

[7] G.R. No. L-11336, August 30, 1958.
[8] Lacson v. Roque, *supra*, note 3.
[9] Revised Administrative Code, sec. 64 (b) and (c).
[10] *Supra*, note 3.
[11] G.R. No. L-11089, June 30, 1958.

was proper and that the President in the exercise of his control over executive departments, bureaus, or offices could even *motu proprio* review the case.

THE COMMISSION ON ELECTIONS

The Commission on Elections is an administrative tribunal established by the constitution. It has the "exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions, affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials. All law enforcement agencies and instrumentalities of the Government, when so required by the Commission, shall act as its deputies for the purpose of insuring free, orderly, and honest elections. . . ." [12] The extent of this grant of power was explored in two cases decided last year when the Commission rejected certificates of candidacy for national offices filed with it.

In *Abcede v. Imperial* [13] the petitioner filed his certificate of candidacy for the office of President of the Philippines in the general elections of 1957. After a hearing the Commission decided not to give due course to the certificate on the ground that it had not been filed in good faith. Among other things the Commission in support of its order, said: ". . . a certificate of candidacy is not *bona fide* when it is filed, as a matter of caprice or fancy, by a person who is incapable of understanding the full meaning of his acts and true significance of election and without any political organization or visible supporters behind him so that he has not even the tiniest chance to obtain favorable indorsement of a substantial portion of the electorate, or when the one who files the same exerts no tangible effort, shown by overt acts, to pursue to a semblance the success of his candidacy." The Commission said that Congress could not have meant to make it a ministerial duty of the Commission to give due course to every certificate no matter how senseless the certificate may be and thus in effect authorize the meaningless expenditure of considerable funds.

In this petition for certiorari and mandamus the question squarely presented is whether the Commission on Elections has any discretion to give or not to give due course to the petitioner's certificate of candidacy. The Supreme Court answered in the negative. Neither the constitution nor the Revised Election Law justified the Commission's action. The latter imposes on the Commission the ministerial duty of receiving certificates of candidacy filed with it and of preparing and distributing copies of the certificates to all election precincts.[14] The constitution fixes the qualifications for the presidency and all those who have the necessary qualifications are deemed legally fit to aspire for the position provided they file their certificates within the time and in the manner provided by law.

Passing upon the nature and extent of the functions of this constitutional body, the Supreme Court stated:

> "Lastly, as the branch of the executive department—although independent of the President—to which the Constitution has given the 'exclusive charge' of the 'enforcement and administration of all laws relative to the conduct of elections,' the power of decision of the Commission is limited to purely 'administrative questions' (Article X, sec. 2, Constitution). It has no authority to decide matters 'involving the right to vote.' It may not

[12] Constitution, Art. X, sec. 2, par. 1.
[13] G.R. No. L-13001, March 18, 1958.
[14] Secs. 86 and 87, Republic Act No. 180.

> even pass upon the legality of a given vote (Nacionalista Party v. Commission, 47 Off. Gaz. 2851). We do not see, therefore, how it could assert the greater and more far reaching authority to determine who among those possessing the qualifications prescribed in the Constitution—who have complied with the procedural requirements relative to the filing of certificates of candidacy—should be allowed to enjoy full benefits intended by law therefor. The questions whether in order to enjoy those benefits—a candidate must be capable of 'understanding the full meaning of his acts and the true significance of election' and must have—over a month prior to the election (when the resolution complained of was issued) 'the tiniest chance to obtain the favorable indorsement of a substantial portion of the electorate,' is a matter of policy not of administration and enforcement of the law, which policy must be determined by Congress in the exercise of its legislative functions. Apart from the absence of specific statutory grant of such general, broad power as the Commission claims to have, it is dubious whether, if so granted—in the vague, abstract, indeterminate, and undefined manner necessary in order that it could pass upon the factors relied upon in said resolution (and such grant must not be deemed made, in the absence of clear and positive provision to such effect, which is absent in the case at bar)—the legislative enactment would not amount to undue delegation of legislative power. (Schechter v. U.S., 295 U.S. 495, 79 L. ed. 1570)" (1934).

This case was distinguished from that involving the rejection of the certificates of candidacy for the presidency filed by Ciriaco S. Garcia, a former chief of police who did not have property of his own; Carlos C. Garcia, a bartender; and Eulogio P. Garcia, a person who did not even give his own address. Unlike the petitioner, the three individuals did not appear before the Commission when summoned. The Commission found that they did not really aspire to be elected but filed their certificates as part of a plan to prejudice the incumbent President Carlos P. Garcia who was running for reelection. The rejection in the case of these three individuals was reduced to a question of administration and enforcement of election laws which is exclusively vested in the Commission. The Supreme Court agreed that confusion would have resulted if the certificates of the three "Garcia's" were allowed. Election officials all over the country would have been at a loss as to how to credit votes cast for "Carlos Garcia," "C. Garcia," "P. Garcia" and "Garcia." Election inspectors would have been laid open to complaints if they were to count the votes for any one of the "Garcia's" or to disregard them as stray votes. This could have caused disorder and prevented a faithful determination of the true will of the electorate. The action of the Commission was taken to insure free, orderly, and honest elections which is its main concern under the constitution and the election laws.

Whether or not the Commission should incur expense incident to the preparation and distribution of certificates of candidacy even of those who in its opinion have not the remotest chance of getting elected is a question of policy for Congress to settle. The law now imposes on the Commission a ministerial duty of receiving the certificates and preparing and distributing copies thereof. If the Commission believes the expense unnecessary, all it can do is call the attention of Congress on the matter and make its proposals or recommend amendments to the laws. The Commission has no authority to reject a certificate filed in due course because the candidate did not comply with its order to submit 140,000 copies of the certificate of candidacy. The duty of preparing such copies and distributing them is imposed by law on the Commission, not on the candidate.[15]

As an administrative agency the Commission on Elections performs quasi-judicial functions. Incident to these it may also punish for contempt. The Revised Election Code supplementing the constitution provides: "The Commission or any of the members thereof shall have the power to punish for contempts provided for in rule sixty-four of the Rules of Court, under the same

[15] Alvear v. Commission, G.R. No. L-18066, April 30, 1958.

procedure and with the same penalties provided therein." But the Commission performs functions which are merely administrative in character and it is difficult to draw the line between the "adjudicative" and the "administrative" functions. *Guevara v. Commission on Elections*[15a] illustrates this point. In this case the Commission cited for contempt the petitioner for publishing an article on the awards made by the Commission of contracts for the manufacture and supply of ballot boxes. At the time of the publication there was pending before the Commission a petition made by one of the dealers for the reconsideration of the Commission's awards of the contracts. The Supreme Court reviewed numerous cases involving the Commission's exercise of powers judicial in character and quoted with approval an enumeration made by the Commission of its ministerial duties. The court held that the requisition and preparation of ballot boxes were ministerial duties performed by the Commission in its administrative capacity and that the Commission could not punish the petitioner here for contempt. "In proceeding on this matter, it only discharged a ministerial duty; it did not exercise any judicial function. Such being the case, it could not exercise the power to punish for contempt as postulated in the law, for such power is inherently judicial in nature." Authorities were cited showing that an exercise by an administrative body of the power to punish for contempt in furtherance of its administrative function is invalid.

INDIVIDUAL RIGHTS

Right to Property

The constitution as a charter of individual liberties was invoked in a few cases decided in the last year. One interesting decision involved the validity of a municipal ordinance regulating the use of private property in order to assure the aesthetic appearance of the community. The ordinance required all persons who wanted to construct or repair buildings to secure a permit from the mayor and imposed a penalty for its violation. It also provided that "If said building destroys the view of the public plaza or occupies any public property, it shall be removed at the expense of the owner of the building or house." The defendant in the case of *People v. Fajardo*[16] had been denied a permit to construct a house on his property on the ground that the proposed building would destroy the view or beauty of the town plaza. After his repeated requests for the permit had been turned down, he proceeded to construct the house and was convicted for violating the ordinance. On appeal the Supreme Court reversed the conviction not only because the ordinance gave the mayor absolute discretion to grant or refuse the permit but also because, even considering as a standard for refusing permits the consideration that a building "detroys the view of the plaza or occupies public property" the court held that applied to this case the ordinance was still void because it is unreasonable and oppressive. It would operate to deprive the defendant permanently of the right to use his property and would, therefore, amount to a taking of property without the payment of just compensation. The Court said: "We do not overlook that the modern tendency is to regard the beautification of neighborhoods as conducive to the comfort and happiness of residents. But while property may be regulated in the interest of the general welfare, and in its pursuit, the state may prohibit structures offensive to sight, (Churchill and Tait v. Rafferty, 32 Phil. 580 [1915]) the State may not, under the guise of police power permanently divest owners of the beneficial use of their property and practically confiscate them, solely to preserve or assure the aesthetic appearance of the community."

[15a] G.R. No. L-12596, July 31, 1958.
[16] G.R. No. L-12172, August 29, 1958.

In another case the court held that the amount of compensation to be paid in case of expropriation should be based on the reasonable value of the property at the time of the taking. Thus, agricultural land taken by the Japanese forces during the war and converted to an airstrip was considered still as agricultural land for the purpose of fixing the amount to be paid by the present government. The enhanced value resulting from its use as an airstrip was not taken into account.[17]

Ex Post Facto Law?

In two cases arising under the Nationalization of the Retail Trade Act[18] it was urged that the application of the penal provision of the law to the defendants was *ex post facto*, therefore, unconstitutional. The defendants[19] had been issued licenses to engage in retail trade before the approval of the law on June 19, 1954. One obtained a license on May 22 and the other on May 27, 1954. But the law provides that only aliens actually engaged in the retail trade business on May 15, 1954 may continue in the business, unless their license is forfeited, until their death or voluntary retirement. The defendants argued that their act of engaging in the retail trade valid at its inception was being penalized under a law passed subsequently. The Supreme Court rejected the argument saying that the defendants were not being penalized for what they had done prior to the approval of the law. What was being punished was their act of continuing in the retail trade business after the approval of the law, which had the effect of revoking all licenses except those issued on or before May 15, 1954. This date was selected by Congress to forestall the possibility of a last minute rush by aliens to engage in the retail trade and so render ineffective the purposes of the enactment.

Double Jeopardy

In cases where the defense of double jeopardy was raised the Supreme Court found for the defendant in two cases but held in a third that double jeopardy had not attached. In *People v. Segovia*[20] the defendant moved to quash the information against him in the municipal court but his motion was denied and the court convicted him. He appealed to the court of first instance where he was charged with the same offense. Reiterating his motion to quash on the ground that the information did not allege the necessary elements to constitute the crime charged, the court of first instance sustained him and dismissed the case. The government appealed. The Supreme Court found that the information was sufficient and that the trial court erred in dismissing the case. The defendant claimed that the government could not appeal from the judgment of dismissal without placing him in double jeopardy since he had previously been convicted in the municipal court. The Supreme Court, however, held that under the Rules of Court the perfection of an appeal from a judgment of the municipal court vacates that judgment and the case is tried *de novo* in the court of first instance. Since the latter court dismissed the information before arraignment or plea of the defendant, its dismissal is not a bar to the appeal made by the government. Mr. Justice Felix with whom Chief Justice Paras concurred, dissented on the ground that a trial *de novo* does

[17] Republic v. Garcellano, G.R. No. L-9556, March 29, 1958.
[18] Republic Act No. 1180 upheld as constitutional in Ichong v. Hernandez, G.R. No. L-7995, May 31, 1957.
[19] People v. Yu Bao, G.R. No. L-11324, March 29, 1958 and People v. Ong Tin, G.R. No. L-10067, April 28, 1958.
[20] G.R. No. L-11748, May 28, 1958.

not wipe out the proceedings in the municipal court, hence the defendant's previous conviction cannot be disregarded.

The opposite result was reached in *People v. Cabarlos*[21] where the justice of the peace, on motion of the defendant after the prosecution had rested its case, dismissed the information on the ground that the ordinance under which the defendant was charged, punished the act of letting loose of large cattle but the information charged that the defendant did "wilfully and criminally fail and refuse to pay the impounding fees . . ." On appeal to the court of first instance the dismissal was sustained. The Supreme Court held that this dismissal was upon the merits of the case and cannot be appealed without putting the defendant in double jeopardy. He had been discharged after the prosecution had presented evidence, at a proper trial, before a competent court, and on a valid information.

Double jeopardy was also successfully pleaded in *People v. Revil.*[22] The defendant had been convicted for violating a circular issued by the Central Bank under Republic Act No. 265 penalizing the failure to sell to the Bank within one business day from their receipt, United States dollars, checks, money orders, and bills. The defendant pleaded guilty and was sentenced to a one-month imprisonment and a fine of ₱3,000. The trial court, however, reserved judgment on the defendant's petition for the return of his personal effects including the dollars. Subsequently, the trial court ordered their return but directed that the dollars be converted to Philippine currency. The government appealed on the ground that the dollars should have been forfeited to the government. The Supreme Court held that to uphold the appeal and to order forfeiture of the dollars after entry of the trial court's order that they be exchanged for Philippine currency would place the defendant in double jeopardy since it would increase the penalty already imposed on him.

Citizenship and Naturalization

The constitution enumerates who are citizens of the Philippines and provides that citizenship may be lost or reacquired in the manner provided by law.[23] Except for one case of first impression, the multitude of decisions last year established no new doctrines on citizenship. A shift in the points of objection raised in naturalization proceedings was, however, discernible.

The Supreme Court for the first time considered the effect of adoption on the nationality of the adopted. In *Ching Leng v. Galang*[24] the petitioner obtained a judgment in the court of first instance granting his petition for naturalization. Before the judgment became final, he legally adopted his illegitimate minor children. Subsequent to his taking of the oath of allegiance which made him a citizen, he asked the Commissioner of Immigration to cancel the alien certificates of registration of his adopted minor children stating that they had become Filipino citizens by virtue of his naturalization. This request was denied, hence the present action. The Supreme Court upheld the Commissioner's refusal as justified under the constitution and the laws on adoption and naturalization. The Civil Code enumerates the rights of legitimate children which are acquired by the adopted; citizenship not being a right but a privilege is not included among them. Furthermore, the Civil Code is not intended to regulate political questions and aside from repeating the constitutional provisions on

[21] G.R. No. L-10702, January 29, 1958.
[22] G.R. No. L-11061, Dec. 29, 1958.
[23] Article IV.
[24] G.R. No. L-11931, Oct. 27, 1958.

citizenship, refers naturalization and the loss and reacquisition of citizenship to special laws. Under the Civil Code a resident alien is permitted to adopt and if this were construed as vesting in the adopted person the citizenship of the adopter, the provision will be open to attack since it will be presuming to fix conditions for the acquisition of a foreign nationality. The court then inquired into the effect of naturalization on the adopted children of the naturalized citizen. The Naturalization Law expressly provides for the effect of naturalization on the "children" according to the time and place of their birth.[25] According to the court when the term "children" is used in the law, absent any clear intention to the contrary, it should refer only to legitimate children. If this particular provision were to be read so as to include adopted children, then the place and time of birth would be immaterial. Besides, one qualification for naturalization which has always been strictly applied is the requirement that the applicant must have enrolled his minor children of school age in the prescribed school.[26] This would be thwarted if children without the educational background contemplated can become citizens as a consequence of their adoption by a naturalized citizen.

In naturalization cases appealed to the Supreme Court in the year of this review, emphasis was shifted to the character witnesses offered by the applicant. The acid test was applied to the qualifications of the witnesses, the sufficiency of their affidavits, and their testimony on the stand.[27] Eight points, the court said in the case of *Ong v. Republic*[28] must be established by these witnesses. Naturalization was denied in this case and in many others because of the failure to establish through the witnesses presented one or more of the following requirements:

(1) That the character witnesses are citizens of the Philippines.

(2)) That they are credible persons, meaning that the witnesses must be of good standing in the community, known to be honest and upright, and reputed to be trustworthy and reliable.

(3) That they personally know the petitioner.

(4) That they personally know him to be a resident of the Philippines for the period required by law. For this purpose it is enough if the witnesses testify that they have known the applicant personally "since boyhood" or "since he was a child."[29] A witness who has known the applicant for twenty years or more is not disqualified to vouch for him even if the witness was absent from the Philippines for a period of three years.[30] But where a witness has known the applicant for less than ten years, his testimony will not support the application.[31]

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[25] "Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof.

"A foreign born child, if dwelling in the Philippines at the time of the naturalization of the parent, shall automatically become a Philippine citizen, and a foreign-born minor child who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside permanently in the Philippines when still a minor, in which case, he will continue to be a Philippine citizen even after becoming of age.

"A child born outside of the Philippines after the naturalization of his parent, shall be considered a Philippine citizen, unless within one year after reaching the age of majority, he fails to register himself as a Philippine citizen at the Philippine Consulate of the country where he resides, and to take the necessary oath of allegiance." Sec. 15, Commonwealth Act No. 473.

[26] Tan. Lim v. Republic, G.R. No. L-10704, May 23, 1957 and Sy Chut v. Republic, G.R. No. L-10202, Jan. 8, 1958. In previous years the cases involving this point were more numerous.

[27] Chua Young v. Republic, G.R. No. L-11278, May 19, 1958.

[28] G.R. No. L-10642, May 30, 1958.

[29] Tan v. Republic, G.R. No. L-11364, May 28, 1958.

[30] Lim Ham Chiong v. Republic, G.R. No. L-10235, Feb. 28, 1958.

[31] Dy Tian Siong v. Republic, G.R. No. L-10200, April 18, 1958 and Sy Chut v. Republic, *supra*, note 26.

(5) That they personally know him to be a person of good repute.

(6) That they personally know him to be morally irreproachable. To testify on good repute and morally irreproachable conduct a witness is not required to have personally observed the applicant during the whole period of the latter's residence. "Character is something that develops in the community and is best evidenced by reputation. What a person does will get to the knowledge of his acquaintances even if the latter did not actually observe the act." [32]

(7) That he has, in their opinion, all the qualifications necessary to become a citizen of the Philippines.

(8) That he "is not in any way disqualified under the provisions of the Naturalization Law."

The applicant must prove by affirmative evidence before the trial court that he satisfies all the requirements of the law. The trial court's appraisal of the evidence is usually left undisturbed by the Supreme Court.[33] An application may be denied because of the testimony of the applicant himself. Thus, in *Sy Chut v. Republic* [34] the petition was rejected because an applicant stated in his declaration of intention that he had not been convicted of any crime and it was proved that he had ben convicted for the violation of a municipal ordinance. He disclaimed knowledge of the conviction but the court disregarded his pretensions and found another proof of his lack of veracity from his testimony regarding the amount of fine imposed on him. But not all convictions will result in a denial of citizenship. The court has said that minor transgressions involving no moral turpitude or wilful criminality do not destroy the otherwise satisfactory conduct of an applicant.[35] Criminal charges if dismissed will not rule out a finding of proper and irreproachable conduct since under the constitution and the Rules of Court, a defendant is presumed innocent until the contrary is proved.[36] No unfavorable reflection is produced on the good moral character of an applicat who causes to be made by the officer having custody of the original, a correction of an erroneous information in his residence certificate; [37] or who uses an alias where the use violates no law; [38] or who states in his income tax returns a bigger salary than that he declared in his application for naturalization.[39]

Besides proving that he has all the qualifications and none of the disqualifications for naturalization, an applicant must also show that he has complied with all the formal requisites of the law. A naturalization proceeding is *in rem*, hence, the non-compliance with the requirements relative to publication affects the jurisdiction of the court and constitutes a fatal defect regardless of who is to blame for not making the publication which the law requires. In *Celestino Co y Reyes v. Republic* [40] naturalization was denied because the petition was published only once in the Official Gazette. The Naturalization Law requires publication once a week for three consecutive weeks in the Official Gazette.[41]

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[32] Lim Ham Chiong, *supra*, note 30 and Antonio Te v. Republic, G.R. No. L-10805, April 23, 1958.

[33] Dionisio Sy v. Republic, G.R. No. L-10472, Feb. 26. 1968.

[34] *Supra*, note 26

[35] Ng Teng Lin v. Republic, G.R. No. L-10214, April 28, 1958, where the applicant had been fined for speeding; Chiong v. Republic, G.R. No. L-10976, April 16, 1958, where the applicant had been convicted for violating a municipal ordinance prohibiting the playing of mahjong for money without a permit.

[36] Ng Teng Lin v. Republic, *supra*, note 35.

[37] Arriola v. Republic, G.R. No. L-10286, May 23, 1958.

[38] Anselmo Lim Hok Albano v. Republic, G.R. No. L-10912, Oct. 31, 1958.

[39] Yap v. Republic, G.R. No. L-11187, April 28, 1958.

[40] G.R. No. L-10761, November 29, 1958.

[41] Although the weekly publication could not be made because at that time the Official Gazette was not published weekly, the Court said that the publication should have been made three times and consecutively. Two dissenting justices were of the opinion that when the requirement imposed by law became impossible of compliance, the condition ceases to be mandatory and may be dispensed with. (At present the Official Gazette is once more published weekly).

Another formal requirement is that a declaration of intention should be filed one year prior to the petition for naturalization with proof of lawful entry for permanent residence. The declaration of intention is dispensed with in certain cases but the applicant has to show that he "has given primary and secondary education to all his children in the public schools or private schools recognized by the government not limited to any race or nationality" and teaching certain specified subjects. This requirement was held to apply to the applicant's children who at the time of the application were already of age [42] but not to those children still too young to go to school.[43]

The rule is to apply the provisions of the Naturalization Law strictly against the applicant, but the Supreme Court does not expect the impossible [44] and objections based on unimportant or trivial points will not defeat the application.[45] Where the petitioner has successfully proved that he satisfies all the requirements imposed by law, a denial of the petition may not be made because he may have some expectations of benefits to be derived. In *Benito Co v. Republic* [46] the trial judge while admitting that the proof on record may under ordinary circumstances be considered sufficient, denied the petition and expounded on citizenship as a sacred heritage which should not be given to those who seek it for selfish reasons. The Supreme Court finding that the "outbursts of His Honor has (sic) no support in the record," said:

> "It may be true that the petitioner, aside from his sincere desire to become a Filipino citizen could have been moved by the expectation of benefits that he might derive from his naturalization as a Filipino citizen; but the same thing can be said of all aliens who have applied and been granted Filipino citizenship. It would be indeed quite unnatural to believe that any alien would apply for Philippine citizenship if it would not redound to his interest, benefit, or satisfaction. . . ."

In petitions for the correction of entries in the civil registry, the court held that where the correction sought involves an important matter like nationality or citizenship, it may only be effected through a proper suit wherein the state as well as all parties concerned are made parties.[47]

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[42] Lim Kim v. Republic, G.R. No. L-10420, January 10, 1958.
[43] Yu Neam v. Republic, G.R. No. L-10559. May 16, 1958.
[44] Gotauco v. Republic, G.R. No. L-10972, May 28, 1958 and Yu Neam v. Republic, *supra*, note 43.
[45] Tan Goan v. Republic, G.R. No. 11385, April 18, 1958; Maxwell Tong v. Republic, G.R. No. L-9728, Jan. 21, 1958; and William Ong v. Republic, G.R. No. L-11637, Oct. 31, 1958.
[46] G.R. No. L-11152, May 23, 1958.
[47] Ansaldo v. Republic, G.R. No. L-10226, Feb. 14, 1958 where the correction sought concerned the nationality of a child born out of wedlock to a Filipino mother and a Chinese father; Schultz v. Republic, G.R. No. L-10055, Sept. 30, 1958, a change from the entry on nationality from Filipino to American; and Black v. Republic, G.R. No. L-10869, Nov. 28, 1958, a change from Canadian to American.