

# CONSTITUTIONAL LAW

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## EFFECTIVITY OF THE CONSTITUTION

The Constitution adopted twenty-five years ago<sup>1</sup> for the Commonwealth Government when the Philippines was preparing for independence, continues to be the fundamental law of the present Republic. However, its operation in Philippine territory was suspended when hostile forces occupied the country.<sup>2</sup> The Supreme Court made reference to this suspension of effectivity in the recent case of *Gillego v. Government Service Insurance System*.<sup>3</sup> This case involved the application of a statute granting gratuity to members of the judiciary provided certain requisites were satisfied. One of these requisites was that the judge seeking its benefits should have been separated from the service after reaching the age of seventy years prior to the adoption of the law. The deceased, Gillego, was justice of the peace until his death in 1944 at the age of seventy-one years. His heirs applied for his gratuity and the Supreme Court held that since the decedent satisfied all the other requisites, it would hardly be just or in accordance with the purposes of the statute to deny the gratuity merely because the decedent had not been separated from the service when he reached the age of seventy years in 1943. If he had continued to serve until his death a year later, it was because the Constitution was not then in force; otherwise, the provision on compulsory retirement of members of the judiciary upon reaching the age of seventy years would have applied to him.<sup>4</sup> The court said that the contingency that the Constitution was not effective in 1943 could not be blamed on the decedent.

## SUITS AGAINST THE STATE

Suits against state agencies were decided with varying results during the year under review. In *Tan v. Veterans Backpay Commission*<sup>5</sup> the Supreme Court issued mandamus against the respondent saying that the statute granting backpay rights and imposing duties to be performed by the Commission necessarily embodies the consent of the state to an action against the officers entrusted with its implementation in those cases of unjustified refusal to recognize the rights of applicants entitled to backpay. But in *Roldan v. Philippine Veterans Board*<sup>6</sup> an action to recover back salaries, moral damages, and attorney's fees was dismissed because the court found

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1 Adopted by the Constitutional Convention on February 8, 1935, approved by the President of the United States on March 23, 1935, and ratified by the people at a plebiscite held on May 14, 1935.

2 *Peralta v. Director of Prisons*, 75 Phil. 285; *Cabauatan v. Uy Hoo*, G. R. No. L-2207, January 23, 1951.

3 G. R. No. L-13211, October 16, 1959.

4 Sec. 9, Art. VIII, Constitution.

5 G. R. No. L-12944, March 30, 1959.

6 G. R. No. L-11973, June 30, 1959.

that this was a suit against the state without its consent since the Board was not a juridical person and the suit would result in a financial charge against the government. In a third case<sup>7</sup> involving the taking of private property to be made part of a national road, a chartered city indicated that the proper party to the suit was the national government. On the owner's contention that this would amount to a suit against the state without its consent, the court pointed out that under existing laws suit may be brought on the basis of such a money claim.

#### COMMISSION ON ELECTIONS

The Commission on Elections is a constitutional administrative agency given exclusive charge over the enforcement and administration of laws relative to the conduct of elections. The scope of its functions as provided in the Constitution and the election laws has gradually been delineated in the decisions of the Supreme Court. In *Lacson v. Commission on Elections*<sup>8</sup> the board of election inspectors of one precinct made a written statement to the effect that it had committed a mistake in its returns by inadvertently failing to indicate the number of votes obtained by one of the candidates. Representations were made with the municipal board of canvassers to suspend the canvass in order to give the prejudiced candidate a chance to have the mistake corrected. When these were denied and the canvass and proclamation were made, relief was sought in the Commission on Elections which declared the canvass and proclamation a nullity. The board of canvassers was ordered either to file an action in court for the correction or completion of the returns or to give the interested party a chance to file the action. The validity of this order was upheld by the Supreme Court.

#### ON FLAG SALUTE

For the first time in this jurisdiction the Supreme Court was asked to pass upon the constitutionality of requiring individuals to salute the flag against their objections that the salute violated their religious beliefs. *Gerona v. Secretary*<sup>9</sup> was an action brought by members of the religious sect known as Jehovah's Witnesses to restrain the enforcement against them of a Department of Education order prescribing the flag ceremony to be observed in all institutions of learning. The order was issued pursuant to Republic Act No. 1265 which requires the daily observance of this flag ceremony and gives the Secretary of Education authority to make all necessary rules and regulations for its enforcement. The order among other things provides:

"The assembly shall sing the Philippine National Anthem accompanied by the school band or without the accompaniment if it has none; or the anthem may be played by the school band alone. At the first note of the anthem, the flag shall be raised briskly. While the flag is being raised, all persons present shall stand at attention and execute a salute. Boys and men without hats may stand with their arms and hands down and straight at the sides. Those in military Boy Scout uniform shall give the salute prescribed by their regulations. The salute shall be started as the flag rises, and completed upon the last note of the anthem."

<sup>7</sup> *Miranda v. City of Bacolod*, G. R. No. L-12606, June 29, 1959.

<sup>8</sup> G. R. No. L-16261, December 28, 1959.

<sup>9</sup> G. R. No. L-13954, August 12, 1959.

The order also provides that after the flag is raised a patriotic pledge is to be recited.

Petitioners do not question the constitutionality of the statute under which the order was issued, but they challenge the legality of the department order as applied to their children who were expelled from a public school for refusing to salute the flag, sing the national anthem, and recite the patriotic pledge. The petitioners assert that their religious belief includes a literal version of the command: "Thou shalt not make unto thee a graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; thou shalt not bow down thyself to them, nor serve them." (Exodus, Chapter 20, verses 4 and 5) They consider the flag an "image" within this command and for this reason refuse to salute it.

The Secretary of Education had been requested to allow the petitioners and their children attending public schools to remain silent during the flag ceremony and just stand at attention with arms and hands straight down at the sides. When this request and that for the reinstatement of the expelled school children were denied, the present action was brought. The lower court dismissed it, but the Supreme Court pending a determination of the case on appeal issued an injunction restraining the respondent from banning the members of the Jehovah's Witnesses from admission in the public schools solely on account of their refusal to salute the flag or preventing their return to school should they have already been banned.

The issue presented involves the constitutional guarantee of freedom of religious belief and the right to practice it as against the power and authority of the State to limit or restrain the same. Emphasizing the distinction between the freedom to believe and the freedom to practice that belief the Supreme Court declared:

"The realm of belief and creed is infinite and limitless bounded only by one's imagination and thought. So is the freedom of belief, including religious belief, limitless and without bounds. One may believe in most anything, however strange, bizarre and unreasonable the same may appear to others, even heretical when weighed in the scales of orthodoxy or doctrinal standards. But between the freedom of belief and the exercise of said belief, there is quite a stretch of road to travel. If the exercise of said religious belief clashes with the established institutions of society and with the law, then the former must yield and give way to the latter. The government steps in and either restrains said exercise or even prosecutes the one exercising it."

On the contention that the flag is an image and a salute to it had religious significance the Court went further to say:

"The flag is not an image but a symbol of the Republic of the Philippines, an emblem of national sovereignty, of national unity and cohesion and of freedom and liberty which it and the Constitution guarantee and protect. Considering the complete separation of church and state in our system of government, the flag is utterly devoid of any religious significance. Saluting the flag consequently does not involve any religious ceremony. The flag salute, particularly the recital of the pledge of loyalty is no more a religious ceremony than the taking of an oath of office by a public official or by a candidate for admission to the bar. In said oath, taken while his right hand is raised, he swears allegiance to the Republic of the Philippines, pro-

mises to defend the constitution and even invokes the help of God; and it is to be doubted whether a member of Jehovah's Witness who is a candidate for admission to the Philippine Bar would object to taking the oath on the ground that it is a religious ceremony.

"After all, the determination of whether a certain ritual is or not a religious ceremony must rest with the courts. It cannot be left to a religious group or sect, much less to a follower of said group or sect; otherwise, there would be confusion and misunderstanding for there might be as many interpretations and meanings to be given to a certain ritual or ceremony as there are religious groups or sects or followers, all depending upon the meaning which they, though in all sincerity and good faith may want to give such ritual or ceremony."

Neither did the court find anything objectionable from the religious point of view in reciting the patriotic pledge or singing the national anthem.

The court pointed out that no compulsion was involved in the enforcement of the flag salute for if the petitioners or their children refused to comply with the order, they could not be criminally prosecuted. They merely lost the benefits of education maintained at public expense.

Referring to two United States Supreme Court decisions dealing with the same problem, the Philippine Supreme Court said that it was more inclined to the *Minersville v. Gobitis*<sup>10</sup> decision as more in keeping with the Constitution of the Philippines than the later *West Virginia State Board of Education v. Barnette*<sup>11</sup> decision which reversed the former. The court pointed out that in the latter case the children and their parents found themselves in a serious dilemma for refusing to salute the flag. The children were expelled and their absence was considered unlawful. Because of the law on compulsory school attendance of children of school age, they were considered truants and the school authorities threatened to send them to reformatories for criminally inclined juveniles. Their parents could be prosecuted. Under the Philippine laws there is no penal sanction either for the pupil who fails to attend school or is expelled for failure to comply with school regulations, or their parents.

The Supreme Court in upholding the administrative order held that the State was merely carrying out the duty imposed by the Constitution which charges it with supervision over and regulation of all educational institutions, to establish and maintain a complete and adequate system of public education and see to it that all schools aim to develop among other things civic conscience and the duties of citizenship.<sup>12</sup> The court pointed out that to exempt the petitioners from participation in the flag ceremony would disrupt school discipline and demoralize the rest of the school population; and that compliance with non-discriminatory and reasonable rules and regulations and school discipline is a prerequisite to attendance in public schools.

In a cogent concurring opinion Mr. Justice Barrera pointed out two fundamental features distinguishing the *Barnette* case on which the peti-

<sup>10</sup> 310 US 586, 60 S. Ct. 1010, 84 L. Ed. 13575

<sup>11</sup> 319 US 624, 63 S. Ct. 1178, 87 L. Ed. 1628

<sup>12</sup> "All educational institutions shall be under the supervision of and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizens." Sec. 5, Art. XIV, Constitution.

tioners heavily relied, from the present case. One was the compulsory nature of the order of the State Board of Education making non-compliance virtually unlawful, and the other was that the Virginia law required the "stiff-arm" salute. In the present case the salute could be executed by standing at attention with arms and hands straight down at the sides to which the petitioners had no objection.

### EXPROPRIATION

The taking of private property upon payment of just compensation may be undertaken under three different provisions of the Philippine Constitution: *First*, by the exercise of the inherent power of eminent domain which is recognized and limited by the Bill of Rights thus, "Private property shall not be taken for public use without just compensation."<sup>13</sup> *Second*, pursuant to the provision that "Congress of the Philippines may authorize, upon payment of just compensation the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals."<sup>14</sup> *Third*, in accordance with the express authority granted to the state in the interest of national welfare and defense and upon payment of just compensation to transfer to public ownership utilities and other enterprises to be operated by the Government.<sup>15</sup>

In two cases the Supreme Court vindicated the right of property owners against unlawful taking. The first<sup>16</sup> involved a proceeding brought by the province of Rizal to expropriate land of about sixty-six hectares for the purpose of selling and distributing it to the occupants. The land, originally part of an hacienda, was purchased by the Archbishop of Manila and leased by him to a number of individuals. Later he offered to sell the land to the occupants but none of them bought. Subsequently the respondent purchased the property and subdivided it for resale in smaller lots. Believing that the lots could be obtained at a lesser price if expropriated by the government, the occupants asked the province of Rizal to expropriate the land. The Supreme Court in upholding the lower court's decision dismissing the petition for expropriation declared that the property was not landed estate and reiterated the rule that once a landed estate has been broken up into parcels of reasonable areas it is no longer subject to expropriation for the purpose of subdivision and resale. In this particular case the court pointed out that there was no agrarian unrest and that the occupants of the land had been given opportunity to buy it.

The second case offers an interesting study in the property rights of municipal corporations and the exercise of the powers of the national government over them. *City of Baguio v. National Waterworks and Sewerage Authority*<sup>17</sup> was an action for declaratory relief seeking the construction of Republic Act No. 1383 creating the National Waterworks and Sewerage Authority for the purpose of consolidating and centralizing all waterworks, sewerage, and drainage systems in the Philippines. The plaintiff is a municipal corporation maintaining a waterworks system. The law provides among other things that all existing government-owned waterworks and sewerage

<sup>13</sup> Sec. 1(2), Art. III.

<sup>14</sup> Sec. 4, Art. XIII.

<sup>15</sup> Sec. 6, Art. XIII.

<sup>16</sup> *Province of Rizal v. San Diego, Inc.* G R. No. L-10802 January 22, 1959.

<sup>17</sup> G R. No. L-12032, August 31, 1959.

systems in cities, municipalities and municipal districts including springs and other water sources, shall be transferred to the NAWASA and the net values of the properties and assets of such government-owned waterworks and sewerage systems shall be received by the authority "in payment for an equal value of the assets of the National Waterworks and Sewerage Authority." The President by an Executive Order outlined the procedure for the transfer of waterworks systems to the authority at the earliest time possible, and the defendant issued a memorandum to implement the executive order.

The plaintiff contends that the Act if applied to the Baguio Waterworks System is unconstitutional because it has the effect of depriving the city of the ownership, control, and operation of its waterworks systems without compensation and without due process of law. On the other hand the NAWASA contends that the act should be considered as a legitimate exercise of police power and no more than a transfer of government property from one government agency to another.

The Supreme Court held that the law in so far as it takes the waterworks system from the City of Baguio without providing for an effective payment of just compensation, violates the Constitution. It found that the waterworks system was not property held in trust by the city for the benefit of the public, but held by the city in its proprietary capacity. Under the Constitution the state may in the interest of national welfare transfer to public ownership any private enterprise upon payment of just compensation. The law involved here directs the transfer to the NAWASA of waterworks belonging to cities and other entities and provides for the payment of an equivalent value of assets, but it does not specify what assets of the NAWASA are to be used in payment. Nothing has been done about paying compensation to the plaintiff.

Passing upon the question of whether the taking envisioned by the law constitutes the exercise of the power of eminent domain or police power, the court said:

"The contention that Republic Act No. 1383 constitutes a valid exercise of police power rather than a directive to expropriate the waterworks of the appellant by the exercise of the power of eminent domain cannot be entertained. This is far from the intent and purpose of the Law. The Act does not confiscate, nor destroy, nor appropriate property belonging to the appellee. It merely directs that all waterworks belonging to cities, municipalities, and municipal districts in the Philippines be transferred to the National Waterworks and Sewerage Authority for the purpose of placing them under the control and supervision of one agency with a view to promoting their efficient management, but in so doing it does not confiscate them because it directs that they be paid with an equal value of the assets of the National Waterworks and Sewerage Authority. This is clearly inferred from the context of the law."

#### PROTECTION TO LABOR

It is a declared policy of the Constitution to promote social justice and afford protection to labor. To carry out this policy numerous statutes have been enacted and special agencies for their enforcement and administration have been created. The volume of cases decided by these various agencies and reviewed by the Supreme Court grows from year to year. Sometimes these

cases involve constitutional issues. In *Caltex v. Philippine Labor Organization*<sup>18</sup> for example, the Supreme Court in reversing the decision of the court of Industrial Relations finding the employee guilty on three separate counts but ordering his reinstatement because the administrative tribunal considered dismissal too severe, the Supreme Court said:

"The protection afforded by the Constitution to labor does not mean the capitalist should be deprived of its right to due process of law.. Labor deserves our sympathy in cases where its demands are not abusive. Where there is doubt, we resolve it in favor of labor; where there is no doubt and in its stead, there is clear evidence that an employee is not an asset to the mangement, but a liability that delays production and sets a bad example to his co-workers, we do not only concur in his dismissal but will insist in an order to that effect."

#### RIGHTS OF THE ACCUSED

The last year yields some interesting cases involving the rights of the accused in criminal cases. The decisions on double jeopardy are specially noteworthy. The double jeopardy provision of the constitution reads: "No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."<sup>19</sup> This provision deals with two kinds of double jeopardy. The first sentence prohibits double jeopardy of punishment for the same offense whereas the second contemplates double jeopardy for the same act. Under the first sentence, a person may be twice put in jeopardy for the same act, provided that he is charged with different offenses, or the offense charged in one case is not included in, or does not include the offense charged in the other case. The second sentence applies even if the offenses charged are not the same owing to the fact that one constitutes a violation of an ordinance and the other a violation of a statute. If the two charges are based on one and the same act, conviction or acquittal under the law or the ordinance shall bar a prosecution under the other. Such conviction or acquittal is not indispensable to sustain the plea of double jeopardy of punishment for the same offense under the first sentence. So long as jeopardy has attached under one of the informations charging the offense, the defense may be availed of in the other case.<sup>20</sup>

The case of *Yap v. Lutero*<sup>21</sup> was a case of double jeopardy falling under the second sentence. Two informations were filed against an individual. The first charged that on the date and place stated he had driven and recklessly operated an automobile in violation of city ordinances. The second, that on the date and place stated in the first information he had driven the automobile described in a reckless and negligent manner causing serious physical injuries to a party mentioned, in violation of the Revised Motor Vehicles Law and existing city ordinances. He was acquitted on the first information and the court upheld his plea of double jeopardy as a defense in the second.

In *People v. Bonotan*<sup>22</sup> a criminal complaint for less serious physical injuries was filed. After the defendant had pleaded, the complaint was dis-

18 G. R. No. L-9915, May 27, 1959.

19 Sec. 1 (20), Art. III.

20 *People v. Diaz*, G.R. No. L-6518, March 30, 1954 cited in *Yap v. Lutero*, G.R. No. L-12669 April 30, 1959.

21 *supra*, note 20.

22 G.R. No. L-12235, June 2, 1959.

missed upon motion of the prosecution with the consent of the offended party on the ground that the offense charged did not conform with the crime actually committed. Later based on the same offense, an information for direct assault upon a person in authority with physical injuries was filed. The court held that the offense charged in the second case necessarily includes the offense charged in the first; hence, the dismissal of the first after the defendant had pleaded constitutes a bar to the second charge. Where after the prosecution had rested its case the accused obtained a dismissal of the case on the ground of variance between the allegations in the information and the evidence presented, a dismissal amounts to an acquittal. An appeal by the government would place the defendant in double jeopardy.<sup>23</sup>

In a couple of cases the guarantee of speedy and public trial was related to the protection against double jeopardy. In *People v. Tacneng*<sup>24</sup> an information for homicide was filed on October 16, 1953 against the defendants. Upon arraignment they pleaded not guilty and hearing was set for March 18, 1954; on that day the fiscal asked for postponement to March 29, 1954 because he could not get in touch with the witnesses for prosecution; called for hearing on the day set, once more the fiscal giving the same reason asked for postponement. A new date, April 24, 1954 was designated. On this day the fiscal was not ready for trial because none of his witnesses appeared. His motion for postponement was opposed and counsel for the defendant invoking the constitutional right of the accused to a speedy and public trial obtained dismissal of the information. One year and three months after this dismissal another information was filed against the same defendants and an additional party based on the same offense. The information was quashed on the plea of double jeopardy. The Supreme Court held that when the first case had been called for hearing for the third time and the fiscal was not ready for trial due to the absence of his witnesses, the defendants had a right to object to any further postponement and to ask for dismissal of the case by reason of their constitutional right to a speedy trial. The dismissal amounted to an acquittal. It will be noted that in this case the period involved between the filing of the first information and its dismissal after the three postponements was just a little over six months.

In another case<sup>25</sup> a criminal action was brought on May 12, 1950 but was provisionally dismissed upon motion of the prosecution with the consent of the accused in November of the same year. In January 1952 the case was revived. After preliminary investigation and arraignment it was set for trial on February 9, 1953 but the prosecution obtained a postponement. Once more called for hearing on March 19, 1953 another postponement was sought by the prosecution. The defense invoking the right to a speedy and public trial asked for dismissal, which was granted. When in 1956 another charge for the same offense was brought against the defendant; the court upheld the defense of double jeopardy saying that the dismissal upon motion of the defense after a series of postponements was an acquittal.

On the other hand if the court before which a criminal case is brought has no jurisdiction over the offense, a plea of "guilty" and service of the sentence will not bar a subsequent prosecution for the same offense in the proper

<sup>23</sup> *People v. Bao*, G.R. No. L-12102, September 29, 1959.

<sup>24</sup> G.R. No. L-12082, April 30, 1959.

<sup>25</sup> *People v. Robles*, G.R. No. L-12761, June 29, 1959.



court having jurisdiction. Thus a person who pleaded guilty before a justice of the peace court to a charge of homicide under exceptional circumstances defined and punished under Article 247 of the Revised Penal Code was sentenced to *destierro* and started serving his sentence, cannot raise the defense of double jeopardy to an action brought before the court of first instance for the homicide.<sup>26</sup> Neither is the defense available to a person who was previously acquitted of a charge for committing similar acts if the later action is for subsequent acts. Thus in *People v. Foster*<sup>27</sup> the defendant was prosecuted for operating a vocational school after her application for renewal of a temporary permit had been disapproved. One of her defenses was that of double jeopardy in that she had been previously acquitted of a charge for the same offense. The court held that since the acquittal involved acts committed during the period from 1948 to 1952, she could not rely on that acquittal as a defense in a prosecution based on acts committed from 1952 to 1954.

#### CITIZENSHIP AND NATURALIZATION

Of the five classes of citizens enumerated in the Constitution we have "Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship."<sup>28</sup>

The question of whether this requirement to elect Filipino citizenship applies to an illegitimate child of a Filipino woman was raised in the case of *Zamboanga Transportation Co. Inc., v. Lim*<sup>29</sup> where in connection with Lim's applications for the operation of an ice plant and a transportation service, his citizenship was made an issue. Lim was born in the Philippines out of wedlock to a Filipino mother and a Chinese father. He was registered as a Chinese national with the Bureau of Immigration, but later asked for a cancellation of this registration. He elected Filipino citizenship at the age of twenty-nine years. The Supreme Court held that the illegitimate child of a Filipino woman by an alien father, follows the citizenship of its mother, the only legally recognized parent. It is, therefore, unnecessary for that child to choose Philippine citizenship upon his coming of age.

The other class of citizens are those who may be naturalized in accordance with law. In *Lee Suan v. Galang*<sup>30</sup> the Supreme Court reiterated the rule that the marriage of a Filipino citizen to an alien woman does not automatically confer Philippine citizenship on her.

The numerous cases involving applications for naturalization raised no new issues. While the Supreme Court adhered to the rule of strict construction of the naturalization laws, the rule was not followed with unreasonable inflexibility. In one case where all necessary moral, educational, and language qualifications had been established but the applicant failed to prove in court certain matters stated under oath in her petition for naturalization because her lawyer had failed to ask the pertinent questions, the Supreme Court ordered a remand.<sup>31</sup>

<sup>26</sup> *People v. Araquel*, G.R. No. L-12629, December 9, 1959.

<sup>27</sup> G.R. No. L-12828, April 13, 1959.

<sup>28</sup> Sec. 1 (4), Art. IV.

<sup>29</sup> G.R. No. L-10975, May 27, 1959.

<sup>30</sup> G.R. No. L-11853, Dec. 23, 1959.

<sup>31</sup> *Trinidad Tian v. Republic*, G.R. No. L-11873, May 30, 1959.

A remand was likewise made when the trial court denied naturalization because the alleged birth of the petitioner in Manila was not proved by presenting a birth certificate and no clearance from the Armed Forces was given because of suspected subversive activities. The Supreme Court said that the fact of birth may be proved by other evidence in the absence of the certificate of birth and naturalization may not be denied on mere suspicion of the armed forces. There should be supported by facts of record and the applicant should be given opportunity to examine and refute them.<sup>32</sup> In *Chee Ng v. Republic*<sup>33</sup> a lower court's decision granting an application for naturalization was upheld in spite of the objection that a theft case and a prosecution for interfering with police duties against the applicant were only provisionally dismissed and could be reopened. The court held that these charges could not be considered as tainting the applicant's character. In another case during the hearing conducted pursuant to Republic Act 530, it was shown that the petitioner had been illegally using aliases. The Supreme Court held that this was a minor transgression which involved no moral turpitude or wilful criminality and was not done during the intervening two year period contemplated by the law.<sup>34</sup>

The applicant is not required to enumerate his compliance with the laws of the country as in a bill of particulars, and his failure to register his wife and children as aliens will not taken by itself be sufficient to disqualify him.<sup>35</sup> While an applicant is required to know the principles underlying the constitution, a high degree of knowledge is not expected. The court points out that he is not being tested on his proficiency in political science<sup>36</sup> and his knowledge may be found sufficient even if he failed to answer some of the questions asked by the trial court.<sup>37</sup>

Applications for citizenship were denied because of the failure to satisfy some requirements of the law. In some cases the denial resulted because the applicant did not have the necessary qualifications, in others because he had some disqualifications.

An alien applying for naturalization must have resided in the Philippines for the prescribed number of years. To be able to show this residence, he has to prove lawful entry for permanent residence.<sup>38</sup> Residence means legal residence or domicile and not necessarily physical presence and actual continuous stay.<sup>39</sup>

In *Dargani v. Republic*<sup>40</sup> the petition for naturalization was denied because of the lack of residence for the statutory period. The petitioner came to the Philippines in 1936 and became a salesman in his uncle's business. In 1941 he left for India, married there, and raised a family. He returned to the

32 Romulo Qua, G.R. No. L-12279, June 30, 1959.

33 G.R. No. L-10956, May 27, 1959.

34 Hao Bin Chicug v. Republic, G.R. No. L-13526, November 24, 1959.

35 Boon Bing Ng Lin v. Republic, G.R. No. L-11642, November 28, 1959.

36 Id.

37 Manuel So v. Republic, G.R. No. L-11189, April 30, 1959.

38 En Eng Bun Phek v. Republic, G.R. No. L-13303, Dec. 10, 1959 the Supreme Court reiterated the rule that if the landing certificate of residence can no longer be produced other evidence may be presented i.e. the immigration certificate of registration, alien certificate of registration, a certificate of the Bureau of Immigration that the petitioner is included in the master list of registered aliens.

39 Republic v. Tan Bee Chiu, G.R. No. L-12409, April 1, 1959, although in the case the petition was denied because citizenship in Nationalist China had not been proved.

40 G.R. No. L-11525, December 24, 1959.

Philippines in 1947. In 1952 he filed his declaration of intention and in 1955 the application for naturalization. He claimed that he was unable to return to the Philippines before 1947 because of the outbreak of World War. II. The Supreme Court held that his absence for six years from the Philippines broke the continuity of his residence. There was nothing in the case to show whether when he left the Philippines he ever intended to come back. He was away six years, he married and had children while out of the Philippines. There was no evidence that he left property here or was engaged in business.

As in the past years in a number of cases the failure to comply with the statutory condition regarding the education of minor children proved fatal to the application.<sup>41</sup>

The absence of good moral character disqualified an applicant whose declared yearly income did not tally with the returns made for tax purposes<sup>42</sup>. And in cases where an applicant had for years cohabited with a woman without benefit of wedlock, subsequent marriage to the same woman did not cure his lack of good moral character.<sup>43</sup>

Previous conviction was the basis for the denial of some petitions. In *Tak Ng v. Republic*<sup>44</sup> the Supreme Court declared that conviction for profiteering involved moral turpitude and was sufficient to disqualify the petitioner from admission to Philippine citizenship. Participation in local elections by taking part in political rallies, voting, or soliciting votes for some candidates, in violation of existing laws also disqualified some applicants.<sup>45</sup>

An application may be rejected if the character witnesses or their testimony do not satisfy legal requirements. Realizing the merit of an objection on this basis an applicant asked the Supreme Court to permit him to withdraw his petition without prejudice to his presenting another.<sup>46</sup> However, although the observations of a trial court as to the manner the witnesses testify is generally given much weight, where the whole evidence clearly establishes that the petitioner satisfies all the requisites for naturalization, the court cannot deny him his petition.<sup>47</sup> A witness is not necessarily discredited because of his lack of knowledge of certain matters regarding the applicant, if these are not of a fundamental character.<sup>48</sup>

41 *Yu soon Seng v. Republic*, G.R. No. L-11426, April 29, 1959; *Lim Siong v. Republic* G.R. No. L-12668, April 30, 1959; *Lee Cho v. Republic*, G.R. No. L-12408, December 28, 1959; *Lo Kio alias Antonio Manly*, G.R. No. L-13408, September 24, 1959; *Chan Lai v. Republic*, G.R. No. L-11803, September 23, 1959.

42 This was taken to be conclusive evidence of dishonesty in *Lim Siong v. Republic*, G.R. No. L-12668, April 30, 1959.

43 *Tak Ng v. Republic*, G.R. No. L-13017, Dec. 23, 1959; *Lo Kio alias Antonio Manly*, supra, note 41.

44 *Tak Ng v. Republic*, supra note 43.

45 *Ernesto Go v. Republic*, G.R. No. L-12101, Jan. 24, 1959; *Jesus Go. v. Republic* G.R. No. 11895, December 29, 1959.

46 *Delfin Go Kiam Lam v. Republic*, G.R. No. L-113571, January 31, 1959.

47 *Manuel So v. Republic*, supra, note 37.

48 *Chee Ng v. Republic*, supra, note 33.