

## SURVEY OF THE 1960 DECISIONS ON CONSTITUTIONAL LAW

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There was a dearth of Supreme Court decisions involving constitutional issues in 1960. During this period no new rules were promulgated, no established rules disturbed. This is not to say that no constitutional questions of significance were raised. One particular controversy involving the suspension of a member of the House of Representatives aroused a great deal of public interest; the Supreme Court decided the case with remarkable dispatch.<sup>1</sup>

This survey will take up the 1960 decisions under two headings: (1) exercise of governmental powers, and (2) constitutionally protected rights.<sup>2</sup>

### EXERCISE OF GOVERNMENTAL POWERS

Public issues having been discussed in other forums, may ultimately reach the courts of justice; and whether the judicial remedies sought are granted or not, the adjudication in the legal forum will have helped to define the issues and to raise the level of the public debate. This is illustrated in the case of *Osmeña v. Pendatun*<sup>3</sup> which arose out of a privileged speech delivered on June 23, 1960 before the House of Representatives by Congressman Sergio Osmeña, Jr. in which he made serious imputations of bribery against the President of the Republic. The House by Resolution No. 59 on July 8, 1960 created a committee to investigate the truth of the charges. After summons by the committee Mr. Osmeña instead of producing evidence to prove his charges presented in the Supreme Court a petition for declaratory relief, certiorari, and prohibition with preliminary injunction to restrain the committee from proceeding with the investigation. The Supreme Court took jurisdiction of the petition but refused to issue injunction. In the meantime, the committee after giving Mr. Osmeña a chance to be heard went on with its inquiry and on July 18, 1960 submitted its report to the House. On the same date and just before the adjournment of its session the House on the basis of the committee report declared the congressman guilty of serious misbehavior and suspended him from office for fifteen months.

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<sup>1</sup> *Osmeña v. Pendatun*, G.R. No. L-17144, filed on July 14, 1960; decided on October 28, 1960, and motion for reconsideration denied on January 16, 1961.

<sup>2</sup> The cases on citizenship and naturalization as well as those on double jeopardy have been left out to avoid repetition. These have been included under the headlines *Civil Law* and *Criminal Procedure* of the annual survey. See 36 Philippine Law Journal No. 1.

<sup>3</sup> *Supra*, Note 1.

Mr. Osmeña challenged the validity of the action taken against him on the following grounds: (1) that the constitution gives him parliamentary immunity, and so, for words spoken in the House he ought not to be questioned; (2) that his speech constituted no disorderly behavior for which he could be punished; (3) supposing that he could be questioned and disciplined therefor, the House had lost the power to do so because it had taken other business before approving House Resolution No. 59, and (4) that the House has no power under the Constitution to suspend one of its members.

The Supreme Court passed upon each of the four issues raised but in an eight-to-two decision with one abstention, concluded that it had no jurisdiction to interfere. Falling back on the principle of separation of powers the court through Mr. Justice Bengzon said:

"Our refusal to intervene might impress some readers as a subconscious hesitation due to discovery of impermissible course of action in the legislative chamber. Nothing of the sort: We merely refuse to disregard the allocation of constitutional functions which it is our special duty to maintain."

On the claim of complete parliamentary immunity the court pointed out that section 15 of Article VI of the Constitution does not exempt a member of Congress from being held responsible by the House to which he belongs for any speech he makes therein. The provision exempts him from being "questioned in *any other place*." This exempts from criminal prosecution or civil action based on words uttered in Congress but not from being questioned in Congress itself.<sup>4</sup>

The petition relied heavily on the argument that since the House had taken up other matters after Mr. Osmeña's speech it could no longer question him on what he said because according to House Rule No. XVII: "If it is requested that a Member be called to order for words spoken in debate, the member making such request shall indicate the words excepted to, and they shall be taken down in writing by the Secretary and read aloud to the House; but the member who uttered them shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened." The majority of the court held that parliamentary rules are merely procedural and with their observance the courts have no concern. They are subject to revocation, modification or waiver at the pleasure of the body adopting them. Two justices dissented principally on this point. Mr. Justice J. B. L. Reyes said that under the express provision of the House rule Mr.

<sup>4</sup> Appended to the majority opinion is an enumeration of disciplinary action taken by American legislative bodies against members.

Osmeña could no longer be held answerable for the remarks made. Fifteen days had transpired and other matters had been discussed by the House since the speech in question was delivered. Therefore, whatever liability the congressman incurred had been extinguished. This extinction according to the dissent constitutes a substantive right which could not be subsequently taken away from the congressman to his disadvantage; Resolution No. 59 which subjected him to punishment when he was not previously so subject violates the constitutional prohibition against *ex post facto* laws. Mr. Justice Labrador agreed that the rule of the House limiting the period for the imposition of a penalty for a speech delivered is substantive in character. He said that this is a limitation (in reference to time) on the liability for punishment. Stressing the principle of government of laws and not of men he said that it is the bounden duty of the court to point out that not even the legislature can ignore a rule it has promulgated.

On the question of whether the delivery of speeches attacking the Chief Executive constitutes disorderly behavior the court held that the House is the judge of what should be considered disorderly behavior. This is a matter committed by the Constitution to the exclusive jurisdiction of the House and the court cannot review it.

Finally, on the issue of whether the House could suspend a member, the petitioner invoked the *Alejandrino v. Quezon*<sup>5</sup> decision. The Supreme Court, however, said that the earlier case involved an appointive senator under the Jones Law which granted to the legislature only certain delegated powers. On the other hand the present Constitution vests in the Congress the full legislative powers and prerogatives of a sovereign nation. The suspension of a member of Congress for an extended period is not without precedent under this Constitution.<sup>6</sup>

That the Supreme Court will not hesitate to strike down a legislative Act in proper cases is shown in the case of *Pascual v. Secretary of Public Works and Communications*.<sup>7</sup> This was a petition for declaratory relief brought by the petitioner in his capacity as governor of the province of Rizal asking the court to pass upon the validity of an ₱85,000.00 appropriation made in Republic Act No. 920 for the construction of feeder road terminals. Among other things he alleged that at the time of the approval of the Act the feeder roads were nothing but projected subdivision roads within a real estate development owned by the respondent Jose C. Zulueta, then a member of the Senate; that to give a semblance of legality to

<sup>5</sup> 46 Phil. 83.

<sup>6</sup> In 1949 the Senate suspended one of its members for 12 months.

<sup>7</sup> G.R. No. L-10405, December 29, 1960.

the appropriation, after the approval of the Act Zulueta executed a deed of donation to the government covering four parcels of land constituting the feeder roads, which donation was accepted; and that the donation being subject of an onerous condition was a contract entered into in violation of the Constitution which prohibits any member of Congress from being directly or indirectly financially interested in any contract with the government. The petitioner sought a judicial declaration of invalidity of the contested item in the law and of the donation and asked for the issuance of an injunction to restrain the release of funds for the construction of the feeder roads.

The lower court held that since public interest is involved in the case the petitioner had the requisite personality to question the constitutionality of the disputed item and found that the appropriation was not for a public purpose; but it dismissed the petition on the ground that the petitioner could not contest the validity of the donation because his interests are not directly affected thereby.

The respondents did not deny the correctness of the lower court's conclusion that the appropriation was for a private purpose but contended that "a law passed by Congress and approved by the President can never be illegal because Congress is the source of all laws" and that there is no "law which makes illegal the appropriation of public funds for the improvement of what we, in the meantime, may assume as private property." The first proposition was rejected outright by the Supreme Court as inconsistent with the nature of the government established under the Constitution and refuted by numerous decisions invalidating legislative enactment. As to the legality of appropriating public funds for a private purpose, the Supreme Court cited authorities to support the view that "the legislature is without power to appropriate public revenue for anything but a public purpose" and "the taxing power must be exercised for public purposes only x x x money raised by taxation can be expended only for public purposes and not for the advantage of private individuals."

In reviewing the lower court's decision the Supreme Court looked into the following issues: (1) whether the donation, if valid, cured the constitutional infirmity of the appropriation, and (2) whether the appropriation may be annulled without a previous decision declaring the invalidity of the donation. On these points the Supreme Court held:

"The validity of a statute depends upon the powers of Congress at the time of its passage or approval, not upon events occurring, or acts performed, *subsequently* thereto, unless the latter consist of an amendment

of the organic law, removing, with retrospective operation, the constitutional limitation infringed by said statute. Referring to the P85,000.00 appropriation for the projected feeder roads in question, the legality thereof depended upon whether said roads were public or private property when the bill, which, later on, became Republic Act No. 920, was passed by Congress, or, when said bill was approved by the President and the disbursement of said sum became effective, or on June 20, 1953 x x x. Inasmuch as the land on which the projected feeder roads were to be constructed belonged to respondent Zulueta, the result is that said appropriation sought a private purpose, and, hence, was null and void. The donation to the government, over five (5) months after the approval and effectivity of said Act, made, according to the petition, for the purpose of giving a 'semblance of legality' or legalizing, the appropriation in question, did not cure its aforementioned basic defect. Consequently, a judicial nullification of said donation need not precede the declaration of unconstitutionality of said appropriation."

The core of the issue on appeal was the petitioner's standing to sue. The Supreme Court indicated its position on the question of whether a law providing for the disbursement of public funds may be nullified at the instance of a taxpayer. In *Custodio v. President of the Senate*<sup>8</sup> a taxpayer and employee of the government was not permitted to question the constitutionality of an appropriation for backpay, but in *Province of Tayabas v. Perez*<sup>9</sup> taxpayers were allowed to intervene for the purpose of contesting the price being paid to the owner of expropriated land; in *Rodriguez v. Treasurer and Barredo v. Commission*<sup>10</sup> the Supreme Court entertained the action of taxpayers<sup>11</sup> and invalidated the appropriations of public funds. Applying the rule laid down in these last two cases, the Supreme Court held that the petitioner here had standing to sue. Besides he was not suing merely as a taxpayer but as governor of one of the most populous provinces whose taxpayers bear a substantial portion of the tax burden of the country. Referring to the United States decisions the court noted that different rules obtain depending on whether a federal statute or a local one appropriating public funds is involved. Because of the peculiar nature of the relation of taxpayers to the Federal Government it has been held that a taxpayer does not have sufficient interest to enable him to impugn the validity of federal appropriations.<sup>12</sup> But the right of taxpayers to assail the constitutionality of legislation appropriating local or state funds is recognized.<sup>13</sup> The Supreme Court pointed out that the relation between taxpayers and the Republic of the Philippines is unlike that obtaining between taxpayers of the United States

<sup>8</sup> 42 O.G., 1243.

<sup>9</sup> 56 Phil. 257.

<sup>10</sup> 45 O.G. 4411.

<sup>11</sup> Petitioner Rodriguez sued in his capacity as taxpayer, elector, and president of the Nacionalista Party; Barredo, as taxpayer and on behalf of other taxpayers similarly situated.

<sup>12</sup> *Frothingham v. Mellon*, 262 U.S. 447.

<sup>13</sup> *Crampton v. Zabriskie*, 101 U.S. 601.

and the federal government. It is closer to that existing between taxpayers and the state or local government, hence the rule adopted as to the latter has greater application here.

Following the well-established rule that the courts will avoid passing upon constitutional issues where the controversy can be settled on other grounds, the Supreme Court in *Cuyegkeng v. Cruz*<sup>11</sup> refused to pass upon the constitutional implications of the dispute. The case was a quo warranto proceeding challenging the validity of the reappointment of the respondent Cruz to the Board of Medical Examiners on the ground that while the petitioners' names were submitted by the Philippine Medical Association for appointment the respondent's name was not so submitted, hence, his appointment contravened section 13 of Republic Act No. 2382 which provides:

*"The Board of Medical Examiners, its composition and duties.—* The Board of Medical Examiners shall be composed of six members to be appointed by the President of the Philippines from a confidential list of not more than twelve names approved and submitted by the executive council of the Philippine Medical Association, after due consultation with other medical associations, during the month of April and October of each year. x x x The President of the Philippines shall fill any vacancy that may occur during the examination from the list of names submitted by the Philippine Medical Association in accordance with the provisions of this Act. x x x"

The members of the Supreme Court were split into three groups each upholding the validity of the respondent's appointment, but for different reasons. The first group considered the above provision mandatory in character and by confining the selection of six members of the Board to the list submitted, the provision amounts to an unconstitutional limitation on the power of appointment lodged in the President by the Constitution. It can be disregarded, hence the appointment of the respondent is valid. The second group considered section 13 merely directory, and so, constitutional. They agreed that the appointment of the respondent is valid. The third and largest group did not find it necessary to consider the constitutional angle. This group based its conclusion on section 15 of the statute which in part provides: "The members of the Board of Medical Examiners shall hold office for one year; *Provided*, That any member may be reappointed for not more than one year. x x x" This does not require that the person reappointed be included in the list mentioned in section 13. Furthermore, since not one of the seven petitioners can claim that he is entitled to the office in question, the quo warranto petition had to be denied.

<sup>11</sup> G. R. No. L-16263, July 26, 1960.

The exercise of governmental power may take the form of appearance in a suit before the courts. However, the immunity of the state from suit is not necessarily waived when the government intervenes in a controversy. Thus, in *Lim v. Brownell*<sup>15</sup> the claim for damages of the plaintiff against the Republic of the Philippines was denied on the ground that the intervention was made merely to join the Attorney General of the United States in resisting the plaintiff's claim, no affirmative relief was sought, and the intervenor incorporated all the affirmative defenses including the challenge of the court's jurisdiction because the state had not given its consent to the suit.

### CONSTITUTIONALLY PROTECTED INDIVIDUAL RIGHTS

There are fundamental political, civil, and economic rights which the Constitution guarantees to the individual, not only as a recognition of the dignity and worth of the human person but as a means of promoting the public good. Some of these rights may be waived, but the Philippine Supreme Court in the case of *Saura v. Sindico*<sup>16</sup> held that there are individual rights which may not be bargained away. The plaintiff and the defendant in this case vied for nomination as official candidate in a convention of the Nacionalista Party. They agreed in writing that "Each aspirant shall respect the result of the aforesaid convention, i.e., no one of us shall either run as a rebel or independent candidate after losing in said convention." The plaintiff was proclaimed official candidate, but in disregard of the written agreement, the defendant filed his certificate of candidacy for the same office and campaigned for election. The plaintiff brought action for recovery of damages. The defendant challenged the validity of the written agreement. *Held*: The agreement is a nullity. "Among those that may not be the subject matter (object) of contracts are certain rights of individuals, which the law and public policy have deemed wise to exclude from the commerce of man. Among them are the political rights conferred upon citizens, including, but not limited to, one's right to vote, the right to present one's candidacy to the people and to be voted to public office, provided, however, that all qualifications prescribed by the law obtain. Such rights may not, therefore, be bargained away or surrendered for consideration by the citizen nor unduly curtailed with impunity, for they are conferred not for individual or private benefit or advantage but for the public good and interest."

The due process of law clause in its application to a statute of limitations was invoked in the case of *Saladas v. Franklin Baker*

<sup>15</sup> G.R. No. L-8587, March 24, 1960.

<sup>16</sup> G.R. No. L-13403, March 23, 1960.

*Company*<sup>17</sup> which was an action for recovery of overtime pay. At the time the services were rendered and for many years thereafter, the period allowed for the recovery of overtime compensation was six years. This was reduced to three years by Republic Act No. 1993 section 7-A of which provides: "Any action to enforce any cause of action under this Act shall be commenced within three years after the cause of action accrued, otherwise such action shall be barred: *Provided, however*, That action already commenced before the effective date of this Act shall not be affected by the period herein prescribed." This law was approved in June 1957. The cause of action of the plaintiff accrued in 1952 and he brought this suit in July 1957. The plaintiff argued that if the law be applied to him the period within which he could sue expired in 1955; therefore this law upon its approval in 1957 completely stripped him of any and all remedies and to that extent denied him of due process and impaired contractual obligations. The defendant on the other hand maintained that the plaintiff had a reasonable time within which to bring his action because between the time the measure was passed by Congress and the time it was approved by the President, there was a period of 45 days. The Supreme Court citing American authorities held that unless prohibited by the Constitution the legislature may constitutionally shorten the periods of limitation fixed by previously existing statutes and make the amendment applicable to existing causes of action, provided a reasonable time is left in which such actions may be commenced. The question as to what shall be considered a reasonable time is for the determination of the legislature, and is in no sense a judicial question. Unless the time allowed is so manifestly insufficient that it becomes a denial of justice, the court will not interfere with the legislative discretion. But the reasonable time must be given by the statute, not the proposed bill which is not yet law, hence can grant nothing. The court also declared that it is not within the power of Congress to cut off an existing remedy entirely and that a retroactive statute giving a party no reasonable opportunity to exercise his remedy will be unconstitutional as to said party. But in this case the court refrained from declaring the statute unconstitutional as to the party adversely affected; instead, following American precedents the action was allowed since it was filed less than a month after the approval of the Act. The party was found reasonably diligent in pursuing the judicial enforcement of his claim.

The defendant in *People v. Solon*<sup>18</sup> relied on the equal protection of the laws clause in his appeal from a judgment of conviction

<sup>17</sup> G.R. No. L-13419, May 30, 1950.

<sup>18</sup> G.R. No. L-14864, November 23, 1960.



under a municipal ordinance requiring drivers of animal-drawn vehicles to pick up, gather and deposit in receptacles the manure emitted or discharged by their vehicle-drawing animals in public highways, streets, plazas, parks or alleys of the city. The Supreme Court affirmed the conviction saying:

"The principle is well-recognized that the limited application of a statute, either in the objects to which it is directed or by the territory within which it is to operate, does not necessarily violate the guaranty of "equal protection of the laws." It is sufficient, for purposes of complying with this constitutional mandate, that the classification be reasonable, not arbitrary or capricious. And, for the classification to be considered reasonable, the same must be based on substantial distinction which make real differences; must be germane to the purposes of the law; must not be limited to existing conditions only, and must apply equally to each member of the class, under similar conditions."

In the present case, the ordinance in question is a measure designed to promote the health and well-being of the residents. Although it is directed only against vehicle-drawing animals, it cannot be said that the classification is without reasonable basis. The danger to the health of the inhabitants, posed by the animal discharges littering the city streets, cannot be minimized. It is possible that there may be non-vehicle-drawing animals that also traverse the city streets, but their number must be negligible and their appearance therein merely occasional, compared to the rig-drawing ones, as not to constitute a menace to health. The Court found no proof that in its application, the ordinance grants favors or imposes restrictions on certain owners of vehicle-drawing animals which are not accorded or enforced on others.

Contractual obligations are guaranteed against impairment under the Constitution, but like many other constitutional guarantees this is not absolute. Thus, in *Abe v. Foster Wheeler Corporation*<sup>19</sup> it was pointed out that the guarantee is limited by the exercise of police power of the state. Suit was brought to recover separation pay and other compensation. The plaintiffs were employed after the repeal of Article 302 of the Code of Commerce on *mesada* by the New Civil Code on August 30, 1960 but before the effectivity of Republic Act No. 1052 on June 12, 1954, reviving the said privilege. With a few exceptions the plaintiffs were separated without notice from the defendants' service after Act No. 1052 went into operation. The appellant companies contend that since the contracts of employment were entered into at a time when there was no law granting the workers one month separation pay, the application as to them of Republic Act No. 1052 constitutes an impairment

<sup>19</sup> G.R. No. L-14785, November 29, 1960.

of their contractual obligations. The Supreme Court in affirming the appealed decision held that the freedom of contract under the present system of government is not meant to be absolute. The same is subject to reasonable legislative regulation aimed at promoting the public health, morals, safety and welfare. The question to be determined according to the court was whether Republic Act No. 1052 is a regulatory measure, not a substantive law, so that its enactment may properly be considered a valid exercise of police power. It was held that since the law merely prescribes the manner of terminating employment without a fixed period, by requiring that the employer or employee give notice to the other party before such termination the measure is regulatory, not substantive. The liability imposed on the employer in case of non-compliance therewith, consisting of the payment to the employee of one month's compensation partakes of the nature of a penalty for violation of the requirement, which is within the legislative power to impose.

The constantly recurring problem of determining when expropriation may be properly made under section 4 of Article XIII of the Constitution was again before the Supreme Court. This time it involved the application of a statute which specifically designated a particular parcel of land for expropriation, subdivision, and resale. Republic Act No. 1266 which became effective on June 12, 1955 expressly authorized the National Resettlement and Rehabilitation Administration (NARRA) "to expropriate within six months from the approval of this Act, the Hacienda del Rosario, situated at Valdefuente, Cabanatuan City, and pay the price of the land and the cost of such expropriation out of its funds. The hacienda shall be subdivided into lots not bigger than one hectare each and resold to bona fide occupants thereof. x x x" Pursuant to the statute the NARRA instituted expropriation proceedings<sup>20</sup> against the heirs of the original owner of the Hacienda and their subsequent vendees. Some of the heirs agreed to expropriation of their respective holdings amounting to some 390 hectares of the 669 hectare hacienda. But the Ciocon couple wanted to retain for their seven children and sixteen grandchildren some 85 hectares of their hereditary portion of the hacienda. The purchasers of the original hacienda who held areas ranging from one-half to thirteen hectares acquired before the enactment of Republic Act No. 1266 joined the Ciocons in opposing the expropriation.

Relying on the case of *Republic v. Baylosis*<sup>21</sup> the lower court held that the land of the defendants could not be expropriated be-

<sup>20</sup> National Resettlement and Rehabilitation Administration v. Francisco, G.R. No. L-1411, October 24, 1960.

<sup>21</sup> G.R. No. L-6191, June 31, 1955; 51 O.G. 722.

cause long before Republic Act No. 1266 was passed the Hacienda del Rosario had ceased to exist. It had been broken up and subdivided among various purchasers and heirs of the original owner. The Supreme Court in affirming the decision of the court *a quo* pointed out that in the Guido and Baylosis cases<sup>22</sup> it had already ruled that under the Constitution "the government may only expropriate landed estates with extensive areas, and that once a landed estate has been broken up and divided into parcels of reasonable extent, the resulting portions are no longer subject to further expropriation, the existence of tenancy troubles notwithstanding."

The NARRA relying on the case of *City v. Chinese Community*<sup>23</sup> maintained that where the legislature itself had directly determined the necessity for expropriating a piece of property for a particular public improvement at a specified location, the utility, necessity, and expediency of the improvement and the suitability of the location are questions for the legislature to determine and the courts have no power to interfere and substitute their own discretion. According to the Supreme Court "the doctrine thus invoked is entirely inappropriate, for the question now before the court is not the necessity of the expropriation but the power or authority to expropriate under Article XIII, section 4, of the Constitution. The validity of the statute directing the expropriation is certainly a judicial question."

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<sup>22</sup> Guido v. Rural Progress Administration, G.R. No. L-2089, October 31, 1949; Republic v. Baylosis, *supra*, note 21.

<sup>23</sup> 40 Phil. 350