CONSTITUTIONAL LAW IN RETROSPECT

DEOGRACIAS EUFEMIO *

"In good truth, the Supreme Court *is* the Constitution."
—Mr. Justice Felix Frankfurter

I. INTRODUCTION

A. *The Constitution as the repository of national ideals.*

> "The Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty, and democracy, do ordain and promulgate this Constitution." [1]

The Philippine Constitution is the formal embodiment and noblest expression of the Filipino people's ideals of government, of their abiding faith in the democratic way of life, of their recognition of the primordial necessity of affording protection to cherished individual rights, and of their hopes and aspirations for a better Philippines under a "regime of justice, liberty, and democracy." To translate the interests and values so encapsulated in the text of the organic law into meaningful realities relevant to the current political, economic or social milieu and contemporaneous climate of thought is the herculean task that faces the nation at every stage of its history.

B. *Constitutional Law as the judicial gloss upon the bare text of the Constitution.*

The Constitution does not partake of the prolixity of a legal code;[2] it is rather a summation of general principles.[3] The text of the Constitution gives us the skeletal framework. But the flesh and blood of our constitutional corpus are found in the authoritative decisions of the Supreme Court,[4] published officially in the *Philippine Reports*, *Official Gazettes*, and in the advanced mimeographed copies issued

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* Chairman, Student Editorial Board, *Philippine Law Journal*, 1961-62.

[1] PHIL. CONST. Preamble.

[2] McCullough v. Maryland, 4 Wheat. 316 (U.S. 1819), 4 L.Ed. 579.

[3] Douglas, W. O., *In Defense of Dissent* in THE SUPREME COURT: VIEWS FROM INSIDE 51 (Westin ed. 1961)

[4] "Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." Art 8, Rep. Act No. 386 (Civil Code of the Philippines: enacted June 18, 1949; effective Aug. 30, 1950).

by the Court itself and commonly known to the students of law as the *G.R.'s*. Stated otherwise: "Hammered out on the anvil of empiric decision in the course of concrete controversies and litigations, our *constitutional law* is but a fabric of the strands woven and rewoven in these reports." [5] To this, we may add, that the *finesse* of the judicial embroidery [6] depends upon the caliber of the men who occupy the highest court of the land.[7]

It is reassuring to note that the Supreme Court has, on the whole, pursued a process of judicial review that is geared at preserving a balance between the cautious look backward and the bold look forward. When the circumstances demand, the Court has not hesitated to "pour new wine into old bottles". With a display of judicial statesmanship, it has faced the problem of resolving the head-on clash between new needs and revered liberties. Ever mindful that the Constitution is a living instrument, the Supreme Court has done its part in seeing to it that the constitutional mandates are not regarded as mere formless exhortations, but real, vigorous, and living commands which must be enforced without fear or favor.

II. SEPARATION OF POWERS

Under the Constitution, the principle of separation of powers obtains not by any explicit declaration to that effect, but by actual allocation of the functions of government among the three grand, coordinate and co-equal departments: the Executive,[8] the Legislature,[9] and the Judiciary.[10] The acts of one department in usurpation of the powers of the others, or in excess of the powers conferred upon it by the provisions of the Constitution, are invalid.[11]

A. *A Second Look at "Political Questions".*

It is disquieting to note that in times of political excitement, the delimiting landmarks of the Constitution are often forgotten, marred or eventually lost in the quagmire of power politics and in

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[5] KAUPER, P. G., FRONTIERS OF CONSTITUTIONAL LIBERTY 2 (1956).

[6] Douglas, W. O., *Judges and Legislators* in THE SUPREME COURT: VIEWS FROM INSIDE 65 (Westin ed. 1961).

[7] "It is asked with sophomoric brightness, does a man cease to be himself when he becomes a Justice? Does he change his character by putting on a gown? No, he does not change his character. He brings his whole experience, his training, his outlook, his social, intellectual and moral environment with him when he takes a seat on the Supreme Bench. But a judge worth his salt is in the grip of his function. The intellectual habits of self-discipline which govern his mind are as much a part of him as the influence of the interest he may have represented at the bar, often much more so." Frankfurter, F., *The Process of Judging in the Supreme Court* in THE SUPREME COURT: VIEWS FROM INSIDE 34 (Westin ed. 1961).

[8] PHIL. CONST. Art. VII, sec. 1. "The Executive power shall be vested in a President of the Philippines."

[9] *Ibid.* Art. VI, sec. 1. "The Legislative power shall be vested in a Congress of the Philippines, which shall consist of a Senate and a House of Representatives."

[10] *Ibid.* Art. VIII. sec. 1. "The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law."

[11] SINCO, V. G., PHILIPPINE POLITICAL LAW 131 (10th ed. 1954).

the concomitant clashing of interests. But it is heartening to note that the Supreme Court, as the final arbiter and vigilant guardian of the Constitution, has not countenanced any open or subtle violation of the constitutional mandates by the two political departments in *appropriate* cases brought before it for adjudication.

However, it is a settled principle of constitutional law that "political questions" do not fall within the judicial competence of the courts.[12] *But whether or not a question is "political" is, itself, a perplexing question to be ultimately decided by the Supreme Court.* The contours of a "political question" are not susceptible of precise delineation. In general, however, the phrase "political questions" is used to designate "all questions that lie outside the scope of the judicial questions, which, under the Constitution, are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government." [13] But "it emphatically does not mean that the Court may never decide a question having political implications in the sense that there is widespread interest in the outcome, and that this interest is closely interwoven with the interest that move voters as such; all the great constitutional questions put to the Court have been of this sort." [14] In the language of Mr. Justice Briones: "La escaramuza política es la de menos; el meollo juridico-constitucional es lo esencial e importante." [15]

1. *Constitutionality of Redistricting Law: not a political question.*

In the case of *Macias, et al. v. Commission on Elections, et al.*,[16] the constitutionality of the Redistricting Law [17] was squarely put into issue. The petitioners [18] assailed the constitutionality of said law on the following grounds: (1) it was passed by the House of Representatives without printed final copies of the bill having been furnished the Members at least three calendar days prior to its passage; (2) it was approved more than three years after the return of the last census of our population; and (3) it apportioned districts

[12] Osmeña v. Pendatun, G.R. No. L-17144, Oct. 28, 1960, motion for reconsideration denied by Resolution of the Court dated Jan. 16, 1961; Tañada v. Cuenco, G.R. No. L-10520, Feb. 28, 1957; Avelino v. Cuenco, 83 Phil. 68 (1949); Mabanag v. Lopez Vito, 78 Phil. 1 (1947); Vera v. Avelino, 77 Phil. 192 (1946); Alejandrino v. Quezon, 46 Phil. 83 (1924).

[13] 16 C.J.S. 418, cited with approval in Tañada v. Cuenco, G.R. No. L-10520, Feb. 28, 1957.

[14] BLACK, PEOPLE AND THE COURT 29 (1959).

[15] "The political struggle is one of least importance; what is essential and important is the juridical and constitutional substance." Avelino v. Cuenco, 83 Phil. 17 (1949).

[16] G.R. No. L-18684 (prohibition with injunction); the Court granted the writ of preliminary injunction by a Resolution dated Aug. 23, 1961; the extended opinion of the Court was promulgated on Sept. 14, 1961.

[17] Rep. Act No. 3040 (June 17, 1961).

[18] The petitioners were Reps. Lamberto Macias and Lorenzo Teves of Negros Oriental, Rep. Fausto Dugenio of Misamis Oriental, Rep. Rogaciano Mercado of Bulacan and Gov. Mariano Perdices of Negros Oriental.

without regard to the number of inhabitants of the several provinces. On the other hand, the respondents alleged that they were merely complying with their duties under the law, and contended (1) that petitioners have no personality to bring this action; (2) that a duly certified copy of the law creates the presumption of its having been passed in accordance with the requirements of the Constitution (distribution of printed bills included); (3) that the Director of Census submitted an official report on the population of the Philippines on November 23, 1960, which report became the basis of the bill; and (4) that the Act complies with the principle of proportional representation prescribed by the Constitution.

After due hearing and mature deliberation, the Court unanimously reached the conclusion that the statute contravened the constitutional provision on proportional representation in the apportionment of members of the House of Representatives,[19] and aware of the need of prompt action,[20] issued its resolution of August 23, 1961, without prejudice to the writing of a more extended opinion. Respondents filed a motion for reconsideration, arguing that since Rep. Act No. 3040 improved existing conditions,[21] the Court should, in the exercise of judicial statesmanship, consider the question involved as purely political and therefore non-justiciable. The Court, without any dissent,[22] denied the motion for reconsideration and promulgated its extended opinion on September 14, 1961.

Citing a formidable array of authorities,[23] the Court, with Mr. Chief Justice Bengzon as *ponente,* held that "the constitutionality of a legislative apportionment act is a judicial question, and not one which the court cannot consider on the ground that it is a political question." The mere impact of the suit upon the political situation does not render it political in nature.[24]

Mincing no words, the Court declared: "The alleged circumstance that this statute improves the present set-up constitutes no excuse for approving a transgression of constitutional limitations because the end does not justify the means . . . Needless to say, equality of representation in the Legislature [25] being such an essen-

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[19] PHIL. CONST. Art. VI, sec. 5.

[20] The various political parties had already put up their respective candidates in the different representative districts in accordance with the apportionment prescribed in Rep. Act No. 3040 and declaring the Act as unconstitutional must be made at once so as to afford ample time for "readjustments" among the candidates before the election on November 14, 1961 and to prevent confusion among the electorate.

[21] The Redistricting Law, in effect, increased the number of members of the House of Representatives from the present total of 104 to 120.

[22] Mr. Justice Bautista Angelo, who was on leave at the time, did not take part.

[23] Parker v. State ex rel. Powell, 32 N.E. 836 (1892); State ex rel. Morris v. Wrightson, 28 Atl. 56 (1893); Denney v. State, 42 N.E. 929 (1896); Harmison v. Ballot Comrs., 31 S.E. 394 (1893); Kentucky—Ragland v. Anderson, 100 S.W. 865 (1907); Marion County v. Jewett, 110 N.E. 553 (1915).

[24] Lamb v. Cunningham, 53 N.W. 35, 52 (1892).

[25] "lies at the foundation of representative government" 18 Am. Jur. 192.

tial feature of republican institutions, and affecting so many lives, the judiciary may not with a clear conscience stand by to give free hand to the discretion of the political departments of the Government."[26]

With respect to the other points raised in this case, the Court answered them in the following manner:

(1) *Personality of petitioners.* Petitioners as voters and as congressmen and governor of the aggrieved provinces have personality to sue. Citing American authorities,[27] the Court upheld the right of a citizen to question the validity of a redistricting statute.

(2) *The printed-form, three-day requirement.* The Constitution provides that "no bill shall be passed by either House unless it shall have been printed and copies thereof in its final form furnished its Members at least three calendar days prior to its passage, except when the President shall have certified to the necessity of its immediate enactment."[28] Petitioners presented certificates of the Secretary of the House of Representatives to show that no printed copies of the bill had been distributed three days prior to its passage and that no certificate of urgency by the President had been received in the House. Respondents, however, contended that a statute may not be nullified upon evidence of failure to print copies of the bill thereof because under the enrolled-bill theory, it is conclusively presumed that the details of legislative procedure leading to the enrollment have been complied with by the Legislature.[29]

The Court observed that the printed-bill requirement had a fundamental purpose to serve[30] and was inserted in the Constitution not as a mere procedural step; and that the enrolled-bill theory, if adopted, would preclude the courts from enforcing such requirement in proper cases. However, with due caution, the Court stated: "We do not deem it necessary to make a definite pronouncement on this question, because the controversy may be decided upon the issue of districts-in-proportion-to-inhabitants."

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[26] This courageous stand of the Court reminds us of the stirring words of Mr. Justice Briones: "Esta Corte Suprema no puede lavarse las manos en un ademán de inhibición pilatista; no puede continuar con la política de esconde-cabeza-en-la-arena-del-desierto estilo avestruz. El issue constitucional y legal es importante, muy importante. Tiene repercusiones directas y vitalísimas en la vida, libertad y hacienda de los ciudadanos. Es el negocio supremo de legislar lo que está en debate. Es, por tanto, una de las esencias de la misma república, el tema de la controversia. La escaramuza política es la de menos; el meollo jurídico-constitucional es lo esencial e importante." Avelino v. Cuenco, *supra* note 15.

[27] 18 Am. Jur. 199. See Stiglitz v. Schardien, 40 S.W. (2d) 315 (1931); Jones v. Freeman, 146 P. (2d) 564 (1943). According to the Court, the case of Colegrove v. Green, 328 U.S. 549 (1946), cited by respondents, "appear to be inconclusive: three against three. The seventh justice concurred in the result even supposing the contrary was justiciable."

[28] PHIL. CONST. Art. VI, sec. 21, par. 2.

[29] Under the enrolled-bill theory, the rule is that once a bill is enrolled and authenticated by the signatures of the presiding officers of the Legislature and approved by the Chief Executive, it constitutes conclusive evidence of its passage and validity, and no evidence is admissible to impeach it. 82 C.J.S. 136.

[30] To prevent fraud, trickery, deceit and subterfuge in the enactment of bills, 59 C.J.S. 54.

(3) *Population Census.* The Constitution requires that "Congress shall by law, make an appointment (of Members of the House) within three years after the return of every enumeration, and not otherwise." [31] It is admitted that the bill, which later became Rep. Act No. 3040, was based on an official report submitted to the President by the Director of Census on November 23, 1960. Petitioners alleged that the report was merely "preliminary" and "may be subject to revision". But the Court declared that "this issue does not clearly favor petitioners, because there are authorities sustaining the view that although not final, and still subject to correction, a census enumeration may be considered *official*, in the sense that governmental action may be based thereon even in matters of apportionment of legislative districts." [32]

(4) *Appointment of Members.* The Constitution provides that "the House of Representatives shall be composed of not more than one hundred and twenty Members who shall be apportioned among the several provinces *as nearly as may be according to the number of their respective inhabitants,* but each province shall have at least one Member." [33]

The Court emphatically held that Rep. Act No. 3040 contravened this constitutional provision because in several instances,[34] the statute disproportionately apportioned the one hundred and twenty Members of the House of Representatives among the several provinces. Citing American authorities,[35] the Court declared that "such disproportion of representation has been held sufficient to avoid apportionment laws in States having constitutional provisions similar to ours."

The Supreme Court, however, expressed the hope that "aware of the existing inequality of representation, and impelled by its sense of duty, Congress will opportunely approve remedial legislation in accord with the precepts of the Constitution."

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[31] PHIL. CONST. Art. VI, sec. 5.

[32] Cahill v. Leopold, 103 Atl. (2d) 818 (1954); Herndon v. Excise Board, 295 Pac. 223 (1931); Holcomb v. Spikes, 232 S.W. 891 (1921)

[33] PHIL. CONST. Art. VI, sec. 5.

[34] Rep. Act No. 3040 violated the principle of proportional representation because it allotted 7 members to Cebu, while Rizal with a bigger number of inhabitants got 4 only; Manila had 4 members, while Cotabato with a bigger population, got 3 only; Pagasinan, with less inhabitants than both Manila and Cotabato, got 5 members; Samar (871, 857 inhabitants) was allotted to 4 members, while Davao (903, 224 inhabitants) got 3 only; Negros Oriental (598, 783 inhabitants) and Bulacan (557, 691 inhabitants) got 2 members each, while Albay (515, 691 inhabitants) was allotted 3 members; Misamis Oriental was given 1 member only, while Cavite, with less inhabitants, got 2; Mountain Province had 3, while Isabela, Laguna and Cagayan, with more inhabitants, got 2 each; Capiz, La Union and Ilocos Norte got 2 each, while Sulu, with more inhabitants, got 1 only; Leyte (967, 323 inhabitants) got 4 only, while Iloilo, with less inhabitants, was allotted 5 members.

[35] Houghton County v. Blacker, 52 N.W. 951 (1892); Giddings v. Blacker, 52 N.W. 944 (1892); Stiglitz v. Schardien, 40 S.W. (2d) 315 (1931); Jones v. Freeman, 146 P. (2d) 564 (1943).

2. *Exercise of discretion by the President not subject to judicial review.*

Where the performance or non-performance of an act is discretionary on the part of the President, the courts are without authority to interfere therewith.[36]

(a) Under Sec. 260, par. 2 of the Revised Administrative Code, payment of salary accruing during the period of suspension is discretionary.

Section 260, par. 2 of the Revised Administrative Code provides:

> *"Payment of salary accruing pending suspension:*
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> *"In case of a person suspended by the President of the Philippines,* no salary shall be paid during suspension unless so provided in the order of suspension; but *upon subsequent reinstatement* or exoneration of the suspended person, *any salary so withheld may be paid in whole or in part, at the discretion of the officer by whom the suspension was effected."*

In the case of *Abuda v. Auditor General,*[37] the Supreme Court held that under the above-quoted statutory provision, where a justice of the peace was suspended and subsequently reinstated by the President, "it is discretionary with the President to order or not the payment of the suspended official's salary during the period of suspension. That discretion having been exercised, this Court is without power to substitute its own for it." Thus, petitioner was not entitled to recover back salaries accruing during his period of suspension because the President, in his Administrative Order No. 182, dated March 6, 1956, directed petitioner's reinstatement but without right to salary accruing during the period of suspension.

(b) The President's power to certify a labor dispute to the Court of Industrial Relations, under Sec. 10, Rep. Act No. 875.

In the case of *Pampanga Sugar Development Co. v. CIR, et al.,*[38] the Supreme Court declared that under Section 10, Rep. Act No. 875,[39] "when in the opinion of the President a labor dispute exists in an industry indispensable to the national interest and he certifies it to the Court of Industrial Relations, the latter acquires jurisdiction to act thereon in the manner provided for by law. Thus, the CIR may take either of the following courses: it may issue an order forbidding the employees to strike or the employer to lockout its em-

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[36] Abuda v. Auditor General, G.R. No. L-16071, April 29, 1961; Pampanga Sugar Development Co. v. CIR, et al., G.R. No. L-13178, March 25, 1961; Juat v. LTA, et al., G.R. No. L-17080, Jan. 28, 1961.

[37] G.R. No. L-16071, April 29, 1961.

[38] G.R. No. L-13178, March 25, 1961.

[39] Approved, June 17, 1953. This Act has been amended by Rep. Act No. 3350 (June 17, 1961).

ployees, or failing in this, it may issue an order fixing the terms and conditions of employment. It has no other alternative. It cannot throw the case out on the assumption that the certification was erroneous." For certification is *"a power that the law gives to the President, the propriety of its exercise being a matter that only devolves upon him.* The same is not the concern of the Industrial Court." And since the law did not prescribe in what form the Chief Executive should certify an industrial dispute to the CIR, so a letter signed by the Executive Secretary "by authority of the President" officially referring the controversy to the CIR, is sufficient.[40] The mere fact that in previous cases, the President personally signed the letters certifying the labor disputes to the CIR, is *not* controlling.[41]

(c) Disposition of lands acquired pursuant to Com. Act No. 539.

Section 1 of Com. Act No. 539 provides:

> "The President of the Philippines is authorized to acquire private lands or any interest therein, through purchase or expropriation, and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their *bona fide* tenants or occupants or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines."

But Section 10 of the same Act states:

> "The President may sell to the provinces and municipalities portions of lands acquired under this Act of sufficient size and convenient location for public squares or plazas, parks, streets, markets, cemeteries, schools, municipal or town hall, and other public buildings."

In the case of *Juat v. L.T.A.*,[42] the Supreme Court, in harmonizing these two provisions of Com. Act No. 539, held that since there is no express provision which excludes the lots that may be acquired under Section 1 from sales under Section 10, "it follows as a logical conclusion that the choice or discretion to sell lands under either section is with the President whose choice, once exercised, becomes final and binding upon the government." Thus, the Court declared that the act of the Secretary of Agriculture in executing a deed of sale covering a lot which formed part of the Tambobong Estate,[43] in favor of the province of Rizal,[44] despite plaintiffs' claim that they

[40] GSISEA, et al. v. CIR & GSIS, G.R. No. L-18734, Dec. 30, 1961.
[41] *Ibid.*
[42] G.R. No. L-17080, Jan. 28, 1961.
[43] The Tambobong Estate was purchased by the Philippine Government in 1949 thru the defunct Rural Progress Administration.
[44] The province of Rizal intended to use the lot as the site for a vocational school.

were entitled to preference as *bona fide* tenants or occupants,[45] was valid and had the same effect as if done by the President himself by virtue of the legal truism that the acts of a department secretary are presumed to be the acts of the Chief Executive.

B. *The Executive Department may not modify existing laws and regulations governing admission to the practice of law in the Philippines.*

The Constitution emphatically provides:

> "The *Supreme Court* shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law . . . *Congress* shall have the power to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines." [46]

As a necessary corollary to the above-quoted constitutional provision, "the Executive Department may *not* encroach upon the constitutional prerogative of the Supreme Court to promulgate rules for admission to the practice of law in the Philippines, the power to repeal, alter, or supplement such rules being reserved only to the Congress of the Philippines." [47] Thus, in In re: *Petition of Arturo Efren Garcia for admission to the Philippine Bar without taking the bar examinations,*[48] the Supreme Court denied the petition of the applicant (a Filipino citizen who had finished law and was allowed to practice law in Spain) on the ground, among others, that the Treaty on Academic Degrees and the Exercise of Professions between the Republic of the Philippines and Spain, entered into by the Executive Department on behalf of the Philippines, "could *not* have intended to modify the laws and regulations governing admission to the practice of law in the Philippines." [49] The Court intimated that the Executive Department is devoid of any authority to enter into a treaty or executive agreement which would have the effect of altering or amending the existing laws and regulations on admission to the practice of law in the Philippines.

C. *Independence of the Judiciary.*

The independence which the Constitution secures to the judiciary includes not only freedom from interference in the discharge

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[45] The Court found that plaintiffs were not even *bona fide* tenants since they were not up-to-date in the payment of rentals.

[46] PHIL. CONST. Art. VIII, sec. 13. See *In re* Cunanan, et al., 50 O.G. 1602 (1954).

[47] *In re* Arturo Efren Garcia, Aug. 15, 1961.

[48] *Ibid.*

[49] Under Rule 127 of the Rules of Court, applicants for admission to the bar are required to take and successfully pass the bar examinations, unless they fall under the special groups mentioned in Secs. 3 & 4 thereof.

of its strictly adjudicative functions, but also freedom from encroachment in the exercise of other inherent or incidental powers which are reasonably necessary to the administration of justice.[50]

1. *Power of appointment of clerk of JP court lodged in the respective justice of the peace and not in the municipal mayor.*

Section 75 of Rep. Act No. 296 [51] specifically provides:

> "SEC. 75. *Clerks and employees of justice of the peace courts.*—The municipal or justice of the peace courts of the several chartered cities and of the provincial capitals and first-class municipalities shall have such clerks of courts and other employees as may be necessary at the expense of the said cities and municipalities.
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> "In other municipalities, the municipal councils may allow the justices of the peace one clerk each, at the expense of the respective municipalities, with a salary not to exceed seven hundred and twenty peson *per annum*.
>
> "With the exception of the clerks and employees of the Municipal Court of the City of Manila,[52] *all employees mentioned in this section shall be appointed by the respective justice of the peace.*"

However, Section 1 of Rep. Act No. 1551,[53] provides:

> "Hereafter, all employees whose salaries are paid out of the general funds of the municipalities shall, subject to the civil service law, be appointed by the municipal mayor upon the recommendation of the corresponding chief of office: Provided, That in case of disagreement between the chief of office concerned and the municipal mayor, the matter shall be submitted for action to the proper provincial department head whose decision shall be final . . ."

It is admitted that the salaries of the clerks of the justices of the peace are paid out of the general funds of the respective municipalities. The pressing question is: Did Rep. Act No. 1551, in effect, repeal Sec. 75 of Rep. Act No. 296, in the sense that the power of appointment of clerks of justices of the peace should now be lodged in the municipal mayors and not in the justices of the peace?

In the case of *Garcia v. Pascual, et al.*,[54] the Supreme Court gave a *negative* answer. The justices of the peace of the respective municipalities have the power to appoint their clerks of court. Speaking through Mr. Justice Labrador, the Court declared: "The independence of the judiciary from the other departments of the government is one of the fundamental principles established by the

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[50] Radiowealth, Inc. v. Agregado, G.R. No. L-3066, May 22, 1950, 86 Phil. 429 (1950).
[51] Popularly known as the Judiciary Act of 1948 (June 17, 1948).
[52] In the City of Manila, the *clerk* of the Municipal Court is appointed by the President, with the consent of the Commission on Appointments of Congress. Sec. 22, Rep. Act No. 409, as amended.
[53] Approved, June 16, 1956.
[54] G.R. No. L-16950, Dec. 22, 1961 (Mandamus).

Constitution. This independence will be greatly hampered if subordinate officials of the courts (like clerks of court) are subject to appointment by the head of the municipality or province." [55] Moreover, "a cursory reading of the provisions of Rep. Act No. 1551 clearly shows that what is intended to be make subject to appointment by the municipal mayor are the subordinate officials in the municipality, like employees in the executive branch and employees in the municipal council or board." Furthermore, Rep. Act No. 1551, being a general law, cannot be lightly considered to have repealed the specific provisions of Sec. 75 of Rep. Act No. 296. *Generalia specialibus non derogant.*[56]

III. DELEGATION OF POWERS

Corollary to the principle of separation of powers is the rule against the delegation of powers. The rule is derived from the maxim *delegata potestas non potest delegari.*[57]

The rule, however, does not prescribe a blanket prohibition against the delegation of all kinds of authority.[58] Thus, with respect to the Legislature, what it prohibits is delegation of "power to make the law" which necessarily involves the exercise of discretion and judgment as to what the law shall be.[59] But it is legally permissible for the Legislature to delegate to executive officials or administrative agencies the power (a) to determine the existence of facts or conditions upon which the operation of a statute is made to depend, or (b) to issue rules and regulations, prescribing the details by which the essential requirements of a statute may be fulfilled or the right created therein enjoyed. Practical necessity demands that such powers be entrusted to administrative bodies.[60]

However, it is essential that such rules and regulations issued by an executive official or administrative agency, pursuant to a statutory delegation of authority, be canalized within the bounds of the powers so conferred, and also consistent with the Constitution.[61]

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[55] In this connection, it may be noted that the Supreme Court has previously held that the clerk of the court is an officer of the court entirely subordinate thereto and working under its orders. He has no functions independent of the court. Radiowealth, Inc. v. Agregado, *supra* note 50.

[56] It is an established rule in the construction of statutes that a subsequent statute, treating a subject in general terms, and not expressly contracting the provisions of a prior special statute on the same subject, is not to be considered as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.

[57] Originally a rule of agency, it has been elevated to the stature of a doctrine in constitutional law. Portugal, R. C., *A Second Look at Administrative Law*, 34 PHIL. L. J. 322 (1959). See Duff, P. W. and Whiteside, H. E., *Delegata Potestas Non Potest Delegari: A Maxim of American Constitutional Law*, 14 CORNELL L. Q. 173 (1929).

[58] SINCO, *op. cit., supra* note 11 at 536.

[59] Calalang v. Williams, 70 Phil. 726 (1940).

[60] SINCO, *op. cit., supra* note 11 at 536.

[61] UST v. Board of Tax Appeals, G.R. No. L-5701. June 23, 1953, 49 O.G. 2245 (1953)

A. *Validity of Reorganization Plan No. 20-A.*

1. *Grant of original and exclusive jurisdiction over all money claims of employees or laborers to Regional Offices is invalid.*

Rep. Act No. 997 [62] created the Government Survey and Reorganization Commission to conduct a study and investigation of the organization and methods of operation of all departments, offices, bureaus, agencies, and instrumentalities of the *Executive Branch of the Government,* and determine what change or changes are necessary to accomplish economy and efficiency of operations of the government to the fullest extent possible.[63] The Commission was authorized to group, coordinate, abolish, create and reorganize departments, bureaus, offices, agencies, positions and functions.[64] Purportedly in the exercise of the powers conferred upon it by the statute, the Commission prepared and promulgated Reorganization Plan No. 20 A.[65]

Under this reorganization plan, *Regional Offices* were *created* under the Department of Labor[66] and *vested* with the following authority:

> "Sec. 25. *Each regional office shall have original and exclusive jurisdiction over* (*a*) all cases falling under the Workmen's Compensation Law; (*b*) all cases affecting money claims arising from violations of labor standards on working conditions, unpaid wages, underpayment, overtime, separation pay and maternity leave of employees and laborers; and (*c*) all cases for unpaid wages, overtime, separation pay, vacation pay and payment for medical services of domestic help."

It must be noted that prior to the promulgation of Reorganization Plan No. 20 A, the adjudication of cases involving money claims of employees or laborers, except as to claims for compensation under the Workmen's Compensation Law,[67] falls within the jurisdictional competence of courts of justice.[68] The sweeping grant of original

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[62] Approved, June 9, 1954. This Act was amended by Rep. Act No. 1241 (June 9, 1955).
[63] Sec. 3 in relation to Sec. 2 (3), Rep. Act No. 997, as amended.
[64] Sec. 4, Rep. Act No. 997, as amended.
[65] This reorganization plan was submitted to the President, who transmitted the same to Congress on Feb. 14, 1956. Congress adjourned its sessions without passing a resolution adopting or rejecting the plan.
[66] Sec. 24 of the Reorganization Plan No. 20-A provides:
"There are established Regional Offices to function as administrative and coordinative units each to be under a Regional Administrator who shall be responsible for all labor services and activities in his region, subject to direct authority only from the Office of the Secretary (of Labor) through a Director of Field Operations x x x"
There is no question that the *creation* of Regional Offices is within the scope of the delegated authority granted to the Reorganization Commission.
[67] Claims for compensation under the Workmen's Compensation Law fall within the exclusive jurisdiction of the Workmen's Compensation Commission. Sec. 46, Act No. 3428, as amended by Act No. 3812, Com. Act No. 210, Rep. Act No. 772 and Rep. Act No. 839.
[68] To the Court of First Instance or to the Municipal or Justice of the peace court, depending upon the amount involved, pursuant to Rep. Act No. 602, Sec. 15(d) and (e) and Sec 16(a) in relation to Secs. 44(c) and 88 of Rep. Act No. 296, as amended; *or* to the Court of Industrial Relations, pursuant to Sec. 16(b) and (c), Rep. Act No. 602 in relation to Rep. Act No. 875. See also Com. Act No. 444; Rep. Act No. 1052, as amended by Rep. Act No. 1787.

and exclusive jurisdiction over cases involving money claims to the Regional Offices runs counter to the provisions of existing laws which conferred jurisdiction over such claims to the courts.

The pressing question, therefore, is whether the Government Survey and Reorganization Commission *exceeded* or *transcended* the limits of the authority conferred upon it by Rep. Act No. 997, when the Commission *vested* the Regional Offices with original and exclusive jurisdiction over all cases involving money claims of employees, laborers, and domestic help.

In the leading case of *Corominas, Jr. et al. v. Labor Standards Commission*,[69] the Supreme Court definitely held that the Government Survey and Reorganization Commission "overstepped" the bounds of its powers as conferred by the Act. Consequently, the Court declared that "the provision of Reorganization Plan No. 20-A. particularly Section 25, which grants to the Regional Offices original and exclusive jurisdiction over all money claims of laborers, is null and void." [70]

Speaking through Mr. Justice Labrador, the Court stated that a perusal of the provisions of Rep. Act No. 997 "will show that nowhere therein is there a grant of authority to the Government Survey and Reorganization Commission to grant powers, duties and functions to offices or entities to be created by it, which are not already granted to the offices or officials of the Department of Labor . . . Sec. 3 (of the Act) limits the powers of reorganization by the Commission to the offices, bureaus, and instrumentalities of the *Executive Branch* of the Government only. So that it was not the intention of Congress, in enacting Rep. Act No. 997, to authorize the transfer of powers and jurisdiction granted to the courts of justice, from these to the officials to be appointed or offices to be created by the Reorganization Plan." The Court positively declared that "Congress is well aware of the provisions of the Constitution that judicial powers are vested 'only in the Supreme Court and in such courts as the law may establish.' [71] The Commission was not authorized to create courts of justice, or take away from these their jurisdiction and transfer said jurisdiction to the officials appointed or offices created under the Reorganization Plan. The Legislature

[69] L-14837, June 30, 1961, decided jointly with the cases of MCU v. Calupitan, et al., G.R. No. L-15483, Wong Chun v. Carlim, et al., G.R. No. L-13940, and Baldrogan Co. v. Fuentes, et al., G.R. No. L-15015, June 30, 1961.

[70] It must be noted, however, that with respect to cases over claims for compensation under the Workmen's Compensation Law, the Regional Offices may still take cognizance thereof. Thus, in Miller v. Mardo, et al., G.R. No. L-15138, July 31, 1961, the Supreme Court precisely declared that "Reorganization Plan No. 20-A, insofar as it confers judicial powers to the Regional Offices over *cases other than those falling under the Workmen's Compensation Law*, in invalid and of no effect."

[71] PHIL. CONST. Art. VIII, sec. 1. "The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law."

could not have intended to grant such powers to the Reorganization Commission, an executive body, as *the Legislature may not and cannot delegate its power to legislate or create courts of justice to any other agency of the Government.*" [72]

The rule enunciated in the Corominas case was adhered to in a cluster of subsequent cases,[73] all involving the validity of Reorganization Plan No. 20-A, insofar as it conferred the Regional Offices with original and exclusive jurisdiction over all cases affecting money claims of employees, laborers, or domestic help.

The *rationale* for the decision in the Corominas case was elaborated in the case of *Miller v. Mardo, et al.*[74] The Court, with Mr. Justice Barrera as *ponente*, declared, thus:

> "It may be conceded that the legislature may confer on administrative boards or bodies quasi-judicial powers involving the exercise of judgment and discretion, as incident to the performance of administrative functions.[75] But in so doing, the legislature must state its intention in express terms that would leave no doubt, as even such quasi-judicial prerogatives must be limited, if they are to be valid, only to those incidental to or in connection with the performance of jurisdiction over a matter exclusively vested in the courts." [76]
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> "If a statute itself actually passed by Congress must be clear in its terms when clothing administrative bodies with quasi-judicial functions, then certainly such conferment cannot be implied from a mere grant of power to a body such as the Government Survey and Reorganization Commission to create 'functions' in connection with the reorganization of the Executive Branch of the Government."

It was argued, however, that the defect in the conferment of judicial or quasi-judicial functions to the Regional Offices, emanating from the lack of authority of the Reorganization Commission, had been cured by the non-disapproval of Reorganization Plan No.

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[72] Surigao Consolidated v. Collector of Internal Revenue, G.R. No. L-5692, March 5, 1954; Chinese Flour Importers' Asso. v. Price Stabilization Board, G.R. No. L-4465, July 12, 1951; U.S. v. Shreveport, 287 U.S. 77, 77 L. ed. 175 (1932); Johnson v. San Diego, 42 P. 249 (1895) cited in 11 Am. Jur. 921-922.

[73] The ruling in the Corominas case was reiterated in the following cases: Equitable Banking Corporation, et al. v. Regional Office No. 3 of the Dept. of Labor, et al., G.R. No. L-144442, June 30, 1961; Sebastian v. Gerardo, et al., G.R. No. L-15849, June 30, 1961; Miller v. Mardo, et al., G.R. No. L-15138, July 31, 1961, and the companion cases of Chin Hua Trading v. Mardo, et al., G.R. No. L-16781, Raganas v. Sen Bee Trading, et al., G.R. No. L-15377, Romero v. Hernando, et al., G.R. No. L-16660, and Wilson & Co. v. Parducho, G.R. No. L-17056; De Vera v. Supitran, G.R. No. L-13945, July 31, 1961 and the companion cases of Cu Bu Liong v. Estrella, G.R. No. L-14212, Berja v. Fernandez, G.R. No. L-14757, PASUDECO v. Fuentes, G.R. No. L-14738, Liwanag v. Central Azucarera Don Pedro, G.R. No. L-15371, Lectura v. Regional Office No. 3, Dept. of Labor, G.R. No. L-15582, Leung v. Fuentes, G.R. No. L-16061, Regina, Inc. v. Arnado, G.R. No. L-16685, Pitogo v. Sen Ben Trading, G.R. No. L-15693; Philippine Tobacco Flu-Curing & Redrying Corp. v. Sabago, G.R. No. L-16017, Aug. 31, 1961; San Miguel Brewery v. Sobremesana, G.R. No. L-18730, Sept. 16, 1961; Tan v. De Leon, et al., G.R. No. L-15254, Sept. 16, 1961; Cagalawan v. Customs Canteen, et al., G.R. No. L-16031, Oct. 31, 1961; Everlasting Pictures v. Fuentes, G.R. No. L-16512, Nov. 29, 1961; Tiberio v. Manila Pilots Asso., G.R. No. L-17661, Dec. 28, 1961.

[74] G.R. No. L-16781, July 31, 1961.

[75] 16 C.J.S. 866.

[76] Zurich General Accident & Liability Ins. Co. v. Industrial Accident Commission, 218 P. 563 (1923).

20-A by Congress under the provisions of Sec. 6(a) of Rep. Act No. 997, as amended by Rep. Act No. 1241.

> "SEC. 6 (a). The provisions of the reorganization plan or plans submitted by the President during the Second Session of the Third Congress shall be deemed approved after the adjournment of the said session, and those of the plan or plans or modifications of any plan or plans to be submitted after the adjournment of the Second Session, shall be deemed approved after the expiration of the seventy session days of the Congress following the date on which the plan is transmitted to it, unless between the date of transmittal and the expiration of such period, either House by simple resolution disapproves the reorganization plan or any modification thereof. The said plan of reorganization or any modification thereof may, likewise, be approved by Congress in a concurrent resolution within such period." [77]

In effect, it was contended that "Reorganization Plan No. 20-A is not merely the creation of the Commission, exercising its delegated powers, but is in fact an Act of Congress itself, a regular statute of the Legislature, enacted by *non-action* on its part, pursuant to the above-quoted provision."

The Supreme Court found this argument to be untenable. The Court categorically held that "such a procedure of enactment of laws by legislative inaction is not countenanced in this jurisdiction." A comparison between the procedure of enactment provided in Sec. 6 (a) of the Act and that prescribed by the Constitution [78] will show that the former runs counter to the latter. Under the first, approval is to be manifested by silence, adjournment or concurrent resolution—in either case, it violates the constitutional provisions requiring positive and separate acton by either House of Congress. Moreover, the Court observed that "Sec. 6(a) of the Act would dispense with the passage of any measure, as that word is commonly used and understood [79] . . . In a sense, the section, if given the effect suggested . . . would be a reversal of the democratic processes required by the Constitution, for under it, the President would propose the legislative action to be taken by Congress. Such a procedure would constitute a very dangerous precedent opening the way, if Congress is so disposed, because of weakness or indifference, to

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[77] The Commission submitted the said reorganization plan to the President, who, in turn, transmitted the same to Congress on Feb. 14, 1956. Congress adjourned its sessions without passing resolution adopting or disapproving the said plan. Hence, it was argued that independently of the question of delegation of legislative authority, said plan became a law by non-action of Congress, pursuant to the above-quoted provision.

[78] PHIL. CONST. Art. VI, secs. 20(1) and 21(a).

[79] Even in the United States and in England, the procedure outlined in Sec. 6(a) of the Act, is but a technique adopted in the *delegation of the rule-making power*, to preserve the control of the legislature and its share in the responsibility for the adoption of proposed regulations. The procedure has never been intended or utilized or interpreted as another mode of passing or enacting any law or measure by the legislature. LANDIS, THE ADMINISTRATIVE PROCESS 76 (1938).

eventual abdication of its legislative prerogatives to the Executive who, under our Constitution, is already one of the strongest among constitutional heads of state. To sanction such a procedure will be to strike at the very root of the tri-departmental scheme of our democracy."

2. *The grant of authority to the W.C.C. to issue writs of execution is null and void.*

In the case of *Pastoral v. Commissioners of the Workmen's Compensation Commission, et al.*,[80] it appears that one Silvino Cervantes filed a claim with the W.C.C. for alleged injury while in the employ of Pastoral, and obtained an award in his favor. The award having become final and executory, the Commission issued a writ of execution addressed to the Sheriff who thereby advertised to sell the properties of Pastoral. Hence, Pastoral filed this action for certiorari and prohibition to restrain the Commission from executing its decision. Petitoner contended that under Sec. 51 of the Workmen's Compensaton Law,[81] the W.C.C., by itself, has no authority to enforce its award by issuing a writ of execution; that such authority pertains only to the regular courts. Respondents, on the other hand, relied on Sec. 12, Art. 3 of the Reorganization Plan No. 20-A [82] which conferred upon the W.C.C. the authority to issue writs of execution to enforce its awards or decisions which had become final and executory.

The Supreme Court upheld petitioner's contention. It decided that the W.C.C. has *no* power to issue writs of execution to enforce its awards or decisions. Under Sec. 51 of the Workmen's Compensation Law, the interested party may file in any *court* of record in the jurisdiction of which the accident occurred, a certified copy of

[80] G.R. No. L-12903, July 31, 1961.

[81] "Sec. 51. *Enforcement of award.*—Any party in interest may file in any court of record in the jurisdiction of which the accident occurred a certified copy of a decision of any referee or the Commissioner, from which no petition for review or appeal has been taken within the time allowed therefor, as the case may be, or a certified copy of a memorandum of agreement duly approved by the Commissioner, whereupon the Court shall render a decree or judgment in accordance therewith and notify the parties thereof.

"The decree or judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though the decree or judgment had been rendered in a suit duly heard and tried by the Court, except that there shall be no appeal therefrom.

"The Commissioner shall, upon application by the proper party or the court before which such action is instituted, issue a certification that no petition for review or appeal within the time prescribed by section forty-nine hereof has been taken by the respondent."

[82] Sec. 12, Art. 3 of the Reorganization Plan No. 20-A provides:

"A decision of a Regional Office or of the Commission (W.C.C.) from which no appeal has been taken, and which has become final and executory, shall be enforced like a final decision of a court of justice by writ of execution issued by the Regional Administrator concerned or by the Commission as the case may be, which writ of execution shall be carried out by the Sheriff or other proper official in the same manner as writs of execution issued by the court."

Sec. 1, Rule 11 of the Rules of the W.C.C. states:

"As soon as a decision, order or award has become final and executory, the Regional Administrator or Commission, as the case may be, shall *motu proprio* or on motion of the interested party issue a writ of execution requiring the Sheriff or other proper officer to which it is directed to execute said decision, order or award, pursuant to Rule 39 of the Rules of Court in the Philippines."

the referee's or Commissioner's award or decision, and the court will issue a *judgment* based upon said award; and *it is this judgment of the court that can be enforced by a writ of execution to be issued by the said court*, in accordance with Sec. 8, Rule 39 of the Rules of Court.

Speaking through Mr. Justice Paredes, the Court emphatically stated that "the powers given to the W.C.C. by the Reorganization Acts, cannot validly include the power to amend Sec. 51 of the Workmen's Compensation Law, for to do so would be to diminish the jurisdiction and the judicial power and functions vested by law on the courts of record, by virtue of said section, to issue or order a writ of execution upon the promulgation of a judgment, which power or authority the Workmen's Compensation Commission never had, before the Reorganization Acts had been passed." [83]

The Court proceeded to declare that —

> ". . . where the inquiry to be made involves questions of law as well as facts, where it affects a legal right, and where the decision may result in terminating or destroying that right, the powers to be exercised and the duties to be discharged are essentially *judicial*; [84] and being judicial, such powers are granted to or vested upon a court or judicial tribunal. And there is no gainsaying the fact, that under this concept, an order for the execution of a decision or award of the Workmen's Compensation Commission is essentially a judicial power or function of the court."

IV. SUFFRAGE AND THE COMMISSION ON ELECTIONS

"The Philippines is a republican state. Sovereignty resides in the people and all government authority emanates from them." [85]

The Filipino people concretely manifest their sovereign will during periodic elections, wherein they choose the elective officials to whom the reins of the Government are to be entrusted for the time being. Clean, peaceful and honest elections are the operating mechanisms for the expression of the people's verdict to retain or change the incumbent Administration, and for keeping the Government constantly responsive to the elemental needs of the people.

It is to the credit of the Filipino nation that the national election held last November 14, 1961 was, by and large, peacefully and hon-

[83] The ruling in the Pastoral case was reiterated in the following cases: Community Sawmill v. W.C.C., G.R. No. L-17937, Dec. 28, 1961; Divinagracia v. CFI, G.R. No. L-17690, Dec. 28, 1961; "Y" Shipping Corp. v. Borcelis, G.R. No. L-16538, Oct. 27, 1961; La-Mallorca Pambusco v. Isip, et al., G.R. No. L-16485, Oct. 19, 1961; Famorca v. W.C.C., G.R. No. L-16921, Sept. 27, 1961.

[84] 11 Am. Jur. 904.

[85] PHIL. CONST. Art. II, sec. 1.

estly conducted. It is indicative of the growing political maturity of our electorate.

A. *Meaning of "qualified voter."*

One of the qualifications for an elective office is that the candidate must be a "qualified voter," [86] or "qualified elector." [87] The point of inquiry, therefore, is when is a person considered a "qualified voter"?

The Constitution specifically provides:[88]

> "Suffrage may be exercised by (male) citizens of the Philippines not otherwise disqualified by law,[89] who are twenty-one years of age or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality wherein they propose to vote for at least six months preceding the election."

On the other hand, Sec. 98 of the Revised Election Code reads as follows:

> "SEC. 98. *Qualifications prescribed for a voter.*—Every citizen of the Philippines, whether male or female, twenty-one years or over, able to read and write, who has been a resident of the Philippines for one year and of the municipality in which he has *registered* during the six months immediately precering, who is not otherwise disqualified, *may vote in the said precinct at any election.*"

Is *registration* as a voter a condition precedent before one can be considered a "qualified voter"? The answer is in the *negative*. "Registration is essential to the *exercise* of the right of suffrage, *not* to the *possession* thereof." [90] If a person possesses all the qualifications specified in Art. V of the Constitution and none of the disqualifications provided by law, then he is considered a "qualified voter" as that term is used in our Constitution and statutes, even if he has not actually registered as a voter. The clause "in which he had registered" in Sec. 98 of the Revised Election Code cannot

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[86] PHIL. CONST. Art. VII, sec. 3 (President and Vice-President); Secs. 4 & 5-A, Rep. Act No. 2264 in relation to Sec. 2071, Revised Administrative Code as amended by Rep. Act No. 1095 (Governor, Vice-Governor and Members of the Provincial Board); Sec. 2174, Revised Administrative Code (elective municipal officials).

[87] PHIL. CONST. Art. VI, secs. 4 (Senator) & 7 (Member of the House of Representatives); Sec. 8, Rep. Act No. 2370 (Members of Barrio Council).

[88] PHIL. CONST. Art. V, sec. 1.

[89] The Revised Election Code provides:

"Sec. 99. *Disqualifications.*—The following persons shall not be qualified to vote:

(a) Any person who has been sentenced by final judgment to suffer one year or more of imprisonment, such disability not having been removed by plenary pardon.

(b) Any person who has been declared by final judgment guilty of any crime against property.

(c) Any person who has violated his allegiance to the Republic of the Philippines.

(d) Insane or feeble-minded persons.

(e) Persons who cannot prepare their ballots themselves."

[90] Aportadera v. Sotto, G.R. No. L-16876, Nov. 30, 1961; Larena v. Teves, 61 Phil. 36 (1934); Vivero v. Murillo, 52 Phil. 694 (1929); Yra v. Abaño, 52 Phil. 880 (1928).

be invoked to bolster the claim that registration is a necessary requisite to be considered a "qualified voter." It must not be overlooked that registration in a given precinct is mentioned in said provision, in order that a person *"may vote in said precinct."* In any event, said Sec. 98 cannot be construed as adding registration to the original requirements of a "qualified voter" as prescribed by the Constitution.[91]

B. *The Commission on Elections.*

The main purpose behind the creation of the Commission on Elections as a constitutional body[92] was "to place the supervision and control of the conduct of elections and the enforcement of the election laws in the hands of an independent body, composed of public-spirited men, who, with the consciousness of the high dignity of performing the duties of a constitutional office, shall administer the law justly, impartially, without any partisanship, and never countenance for any reason or consideration an illegality."[93]

Powers of the Commission on Elections:

It is axiomatic that the law is the definition and limitation of power.[94] Hence, the powers of the Commission are defined in the Constitution as supplemented by the Revised Election Code.[95] Powers not expressly or impliedly granted are deemed withheld.[96]

However, the exact specification of the fields of competence of the Commission must be gradually ascertained by "the process of inclusion and exclusion" in the course of the decision of cases as they arise.

Thus, it has been held that the Commission *has* power: to annul an illegal registry list of voters;[97] to annul an illegal canvass and proclamation made by a municipal board of canvassers based upon incomplete returns and may order such board of canvassers to reconvene and make a new canvass,[98] or it may order such board either to file an action in court for the correction or completion of the election returns or give any interested party an opportunity to file said action in court within five days from receipt of the resolution of the Commission.[99] In the case fo *Chiongbian v. Com. on Elec-*

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[91] *Ibid.*
[92] PHIL. CONST. Art. X.
[93] Cortez v. Com. on Elections, 79 Phil. 352 (1947).
[94] Yick Wo v. Hopkins, 118 U.S. 356 (1886).
[95] Rep. Act No. 180, as amended by Rep. Act Nos. 599, 867 and 2242.
[96] De Leon v. Imperial, G.R. No. L-5758, March 30, 1954.
[97] Feliciano v. Lugay, G.R. No. L-6756, Sept. 16, 1953.
[98] Mintu v. Enage, G.R. No. L-1834, Dec. 31, 1947; Avendante v. Relato, G.R. No. L-6813, Nov. 5, 1953.
[99] Lacson v. Com. on Elections, G.R. No. L-16261, Dec. 28, 1959.

tions,[100] the Supreme Court promulgated a resolution declaring that the Commission on Elections acted correctly in annulling the proclamation of the elected representative of Misamis Oriental, and in ordering the Provincial Board of Canvassers to reconvene and proceed to complete its canvass. However, the Court held that the Commission has *no* authority to order the Provincial Board of Canvassers to use in such recanvassing the election returns in the possession of the Commission. Inasmuch as there is a discrepancy between the copy of the election returns in the possession of the Provincial Board of Canvassers and that on file with the Commission, the Court stated that the Board shall meet to make the canvass and proclamation *after* giving the parties opportunity to thresh out in the court the correctness or incorrectness of the returns in the precincts involved, and to use in its recanvassing such results as the court may determine in the proper proceedings for correction of the said election returns.

When a new municipality has been duly organized by the appointment and assumption of office of its officials, including the members of the municipal council, said council should act as the municipal board of canvassers in connection with the first election therein, and the Commission has power to annul the canvass and proclamation made by the Provincial Board whose members are all running for re-election and hence disqualified to act on election matters under Sec. 28 of the Revised Election Code.[101]

On the other hand, the Commission has *no* power: to annul an election which might not have been free, orderly and honest,[102] nor to order a new election or postpone the holding of election in any political division or subdivision on account of typhoons.[103] Neither does it have the power to decide the validity or invalidity of votes cast in an election.[104] It cannot order the *correction* of a certificate of canvass after a candidate had been proclaimed and had assumed his office.[105] It has no power to reject a certificate of candidacy filed in due time by a qualified candidate except when its purpose is to prevent a faithful determination of the true will of the electorate.[106] Neither may it require a candidate to submit not less than 140,000 copies of his certificate of candidacy for distribution among the polling places throughout the country,[107] nor may it can-

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[100] G.R. No. L-19202, Resolution of the Court dated Dec. 11, 1961.
[101] Salcedo, Jr. v. Com. on Elections, G.R. No. L-16360, Jan. 29, 1960.
[102] N.P. v. Com. on Elections, G.R. No. L-3521, Dec. 13, 1949.
[103] Ocampo v. Com. on Elections, G.R. No. L-13158, Dec. 6, 1957.
[104] N.P. v. Com. on Elections, *supra* note 102.
[105] De Leon v. Imperial, *supra* note 96.
[106] Abcede v. Imperial, G.R. No. L-13001, March 18, 1958; Garcia v. Imperial, G.R. No. L-12930, Oct. 22, 1957. See discussion on validity of Rep. Act No. 3036, *infra*.
[107] Alvear v. Com. on Elections, G.R. No. L-13066, April 30, 1958

cel a certificate of candidacy on the ground that the candidate was not actively campaigning because "a candidate may feel it below his dignity to engage in common forms of campaigning; this feeling is not inconsistent with good faith." [108] It has no power to punish for contempt when it is exercising or performing a ministerial function or duty, and not a quasi-judicial function.[109]

In the case of *Sanchez v. Del Rosario*,[110] the Supreme Court made the observation that "the question of eligibility or ineligibility of a candidate for *non-age* is beyond the usual and proper cognizance of the Commission on Elections and could not have consequently been litigated therein." [111]

1. *Validity of Rep. Act No. 3036.*

The enactment of Rep. Act No. 3036 [112] has a two-fold purpose: (1) to curb the unscrupulous practices of "nuisance candidates," or candidates who file their certificates of candidacy in bad faith, or merely to cause confusion among the electors by the similarity of their names and surnames with those of the other registered candidates; and (2) to provide for a rule on the appreciation of ballots, where there are several candidates having the same surname and only the surname is written on said ballots.

(a) Section 1 of Rep. Act No. 3036 provides:

> "SECTION 1. Section thirty-seven of Republic Act Numbered One hundred eighty, otherwise known as the Revised Election Code, is amended to read as follows:
>
> "'SEC. 37. *Ministerial duty of receiving and acknowledging receipt.*— The Commission on Elections, the secretary of the provincial board, the secretary of the municipal board in chartered cities, and the municipal secretary, in their respective cases, shall have ministerial duty to receive the certificates of candidacy referred to in the preceding section and to immediately acknowledge receipt thereof: *Provided*, That in all cases the said Commission may, *motu proprio* or upon petition of an interested party, refuse to give due course to a certificate of candidacy if it is shown that said certificate has been presented and filed to cause confusion among the electors by the similarity of the names of the registered candidates or by other means which demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.'"

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[108] Reyes v. Com. on Elections, G.R. No. L-13069, May 28, 1958.
[109] Guevara v. Com. on Elections, G.R. No. L-12596, July 31, 1958.
[110] G.R. No. L-16878, April 26, 1961.
[111] Note that under Sec. 32 of the Revised Election Code the candidate need not state in his certificate of candidacy his exact age; the statement that he is eligible for office being sufficient.
[112] Approved, June 17, 1961.

In the case of *Racuyal v. Garcia, et al.*,[113] it appears that on Oct. 1, 1961, petitioner filed an urgent petition for certiorari and mandamus with the Supreme Court to compel the Commission on Elections to give due course to his certificate of candidacy for the office of President of the Philippines. He alleged that he had been a perennial candidate since 1935; that in connection with the election on Nov. 14, 1961, he filed his certificate of candidacy for the office of President on *April 13, 1961;* that the Commission on Elections refused to give due course to his certificate of candidacy; that Sec. 1 of Rep. Act No. 3036, which took effect on *June 17, 1961,* cannot be retroactively applied to him; and that he acted in good faith in filing his certificate of candidacy.

In its answer, the Commission contended that it was authorized under Sec. 37 of the Revised Election Code, as amended by Rep. Act No. 3036, to refuse to give due course to petitioner's certificate of candidacy because it was *not* filed in good faith; that petitioner's certificate of candidacy has been consistently rejected in 1949, 1953 and 1957, the last on the ground that "he had been and still is a psychiatric case." The Commission also argued that the amendatory provision is applicable notwithstanding the fact that petitioner's certificate of candidacy was filed before the effectivity of said amandatory law because the prohibition on retroactive legislation applies only to constitutional limitations like ex post facto laws or bill of attainder and the "due process" clause; considering that Rep. Act No. 3036 was enacted purposely to *cure* an existing defect in our election law, and that the new law, as a *curative act,* is intended to be enforced beginning with the elections on Nov. 14, 1961, the Commission acted within its authority.

On Nov. 8, 1961, the Court unanimously resolved to deny the petition in this wise:

> "Upon consideration of the petition in G.R. No. L-19011, 'Pascual B. Racuyal vs. Gaudencia Garcia, Sixto Brilliantes and Genaro Visarra,' praying for the reasons therein given, for a writ of certiorari annulling a resolution of respondents herein, as Chairman and members of the Commission on Elections, dated Oct. 5, 1961, refusing to give due course to petitioner's certificate of candidacy for the Office of President of the Philippines, in connection with the elections scheduled to be held on Nov. 14, 1961, and for a writ of mandamus commanding said respondents to give due course to the aforementioned certificate of candidacy, and it appearing that, by a resolution dated Oct. 4, 1957, from which no appeal had been taken, said Commission on Elections had refused to give due course to a similar certificate of candidacy of petitioner herein for the

[113] G.R. No. L-19011, petition dismissed by Resolution of the Court dated Nov. 8, 1961; motion for reconsideration denied on Nov. 16, 1961.

> same office, in connection with the presidential elections held in November 1957, *upon the ground that he had been confined in the Psychopatic Hospital and that he was still a psychiatric case; and that satisfactory evidence to the effect that petitioner's mental condition has materially improved since then has not been introduced before the aforementioned Commission,* the Court RESOLVED, without prejudice to rendering an extended opinion, to deny said petition and dismiss the same, without costs."

The Court denied the motion for reconsideration filed by petitioner. In its resolution dated Nov. 16, 1961, the Court stated that "the elections having already been held, the question is moot." The Court did not deem it necessary to promulgate any extended opinion.

In the case of *Abcede v. Com. on Elections,*[114] petitioner sought the review of a resolution of the Commission on Election denying to give due course to his certificate of candidacy for the Office of President of the Philippines. He alleged that he has all the qualifications and none of the disqualifications provided by law; that he filed his certificate of candidacy in good faith; that to give due course to his certicate would not cause confusion among the electorate nor prevent the faithful determination of the true will of the electorate. On the other hand, the Commission argued that petitioner's certificate of candidacy was not filed in good faith; that "when a person, with no organization or visible supporters behind him, with not even a ghost of a chance of success to obtain the favorable endorsement of a substantial number of voters, files a certificate of candidacy for the Office of President . . . and exerts no efforts or wages no campaign on a national level, he *cannot* be considered in any sense a *bona fide* candidate."

In a resolution dated Nov. 8, 1961, the Supreme Court resolved in favor of the petitioner, and ordered the Commission on Elections to forthwith give due course to petitioner's certificate of candidacy for the Office of President of the Philippines. The Court took into consideration the following points:

> 1. That, by resolution dated Oct. 5, 1961, said respondents, invoking the provisions of Sec. 37 of the Revised Election Code, as amended by Rep. Act No. 3036, had refused to give due course to petitioner's certificate of candidacy, upon the ground that the same had not been filed in good faith;
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> 2. That this finding of lack of good faith was based upon respondents' theory, set forth in their resolution of Oct. 25, 1961, to the effect that the provisions of Sec. 37, as amended
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> ". . . give the Commission on Elections the authority not to give due course to certificates of candidacy in two cases: (1) Where the certifi-

[114] G.R. No. L-19093, Resolution of the Court dated Nov. 8, 1961.

cate of candidacy has been filed solely to cause confusion among the electors and the boards of inspectors by the similarity of names of the registered candidates; and (2) Where by any other means it is shown that the candidate has no *bona fide* intention to run for the office for which he files his certificate of candidacy . . ." and that

". . . when a person, with no organization or visible supporters behind him, with not even a ghost of a chance of success to obtain the favorable indorsement of a substantial number of voters, files a certificate of candidacy for the office of President . . . and exerts no efforts or wages no campaign on a national level, he cannot be considered in any sense a *bona fide* candidate . . ."

3. That, contrary to the foregoing view, said Section 37, as amended, authorizes the Commission on Elections to refuse to give due course to a certificate of candidacy, *not* in two (2) cases, but in only *one* (1) case, namely—in the language of said Section 37, as amended—"*if it is shown that said certificate has been presented and filed to cause confusion among the electors* by the similarity of names of the registered candidates or by other means which demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed *and thus prevent a faithful determination of the true will of the electorate*";

4. That the resolutions complained of do not hold, and respondents herein do not claim, that petitioner's certificate of candidacy has been "presented and filed to cause confusion among the electors," or that his intention, in presenting and filing said certificate of candidacy, is to "prevent a faithful determination of the true will of the electorate";

5. That although respondents alleged that to give due course to petitioner's certificate of candidacy—in the light of his lack of "chance to obtain the favorable indorsement of a substantial number of voters"—"can prevent the faithful determination of the true will of the electorate," because it could allegedly lead to a tie in the highest number of votes cast for the candidate for President of the Philippines, this is a mere conclusion, which is highly speculative, not to say far-fetched, for admittedly the abstract and extremely remote possibility of such tie would exist even if petitioner's certificate of candidacy had not been filed or were not given due course, apart from the fact that a tie does not prevent a faithful *determination* of the true will of the electorate;

6. That the record fails to show a similarity between petitioner's name and that of other registered candidates for President;

7. That the record, likewise, fails to disclose any fact tending to show that confusion would be caused among the electors, or that, a faithful determination of the true will of the electorate would be prevented, should respondents give due course to petitioner's certificate of candidacy;

8. That although it is sound policy, as stated in respondents' resolution of Oct. 25, 1961, to avoid a "wanton wastage of public funds and a thoughtless disregard of the sanctity and dignity of democracy," this

> objective may and should be undertaken within the framework of our Constitution and laws, the limits of which have been transcended by the resolution complained of, insofar as petitioner herein is concerned.[115]

It seems that the glaring circumstance which accounted for the divergent results reached in these two cases was the disheartening fact that in the Racuyal case, the Commission on Elections and the Supreme Court found that petitioner therein had been confined in the Psychopatic Hospital; that he was still a psychiatric case; and that he had not introduced satisfactory evidence to show that his mental condition had improved. Presumably, the Court believed that petitioner was really not qualified to run for the office of President of the Philippines.

One of the qualifications for the office of President is that the candidate must be a "qualified voter," i.e., one who has all the qualifications and none of the disqualifications prescribed by law. One of the groups disqualified under Sec. 99 of the Revised Election Code refers to "those persons who are insane or feeble-minded."

It seems that the Commission on Elections and the Supreme Court were inclined to believe that petitioner was included within the aforesaid category of persons disqualified, *in the absence of satisfactory evidence that his mental faculties had improved.* On the other hand, in the Abcede case, no such circumstances were established.

In this connection, it may be noted that the tenor of the Supreme Court resolution in the Abcede case gives the impression that the amendment of Sec. 37 of the Revised Election Code by Rep. Act No. 3036, really did not confer any substantial authority upon the Commission on Elections different from what it could lawfully do under Sec. 37 prior to its amendment as previously construed in the cases of Garcia v. Imperial [116] and Abcede v. Imperial.[117] It seems that the law must state with more definiteness and particularity, the instances when a candidate shall be considered to have "no *bona fide* intention to run for the office for which the certificate of candidacy has been filed." By its resolution in the Abcede case, the Supreme Court, in effect, canalized the authority of the Commission to refuse to give due course to certificates of candidacy within the bounds of the doctrine enunciated in the aforesaid Garcia case. The hope

[115] The resolution in the Abcede case was the basis of, and reiterated in, subsequent cases of the same nature, to wit: Javinez v. Com. on Elections, G.R. No. L-19054, Nov. 9, 1961; Praxedes Floro v. Com. on Elections, G.R. No. L-19086, Nov. 10, 1961. Since the elections had already been held and the issue had become moot, the Court did not deem it necessary to promulgate any extended opinion on this matter.

[116] *Supra* note 106.

[117] *Ibid.*

of the Commission that with the amendatory law, it could now exercise more ample discretion in refusing to give due course to certificates of candidacy, was shattered. The authority conferred, as construed by the Court, proved to be less than expected.

(b) Sec. 2 of Rep. Act No. 3036 states:

> "SEC. 2. Subsection sixteen of Section one hundred forty-nine of the same Code is amended to read as follows:
>
> "16. When there are two or more candidates for an office with the same name and/or surname, the voter shall, in order that his vote may be counted, add the correct name, surname or initial that will identify the candidate for whom he votes: *Provided*, That when two or more candidates have the same surname and one of them is seeking reelection, a ballot wherein only such surname is written shall be counted in favor of the candidate seeking reelction."

In the case of *Manuel Cuenco v. Com. on Elections*,[118] petitioner alleged that he is a candidate for congressman for the Fifth Representative District of Cebu in the November 14, 1961 election; that Rep. Miguel Cuenco, the incumbent thereof, is also a candidate seeking reelection for the same office. He contended that Sec. 2 of Rep. Act No. 3036, particularly the proviso "that when two or more candidates have the same surname and one of them is seeking reelection, a ballot wherein only such surname is written shall be counted in favor of the candidate seeking reelection," is unconstitutional, on the following grounds: *First*, it denies other candidates (not incumbents seeking reelection), including petitioner, the "equal protection of the laws."[119] The questioned proviso partakes of class legislation because the classification of candidates seeking reelection as against all other candidates is unreasonable, arbitrary and not based on substantial distinctions; indeed, all candidates must stand before the electorate on equal footing. *Second*, the said provision subverts the right to vote. It presumes that the voter intended to vote for the reelectionist-candidate when the contrary may be the true intention.

On Sept. 11, 1961, the Supreme Court promulgated a minute resolution:

> "The petition for certiorari with a prayer for preliminary injunction in case L-18839 (Dr. Manuel Cuenco vs. The Commission on Elections) is DISMISSED; the legislative has power to promulgate rules on presumptions."

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[118] G.R. No. L-18839 (certiorari with injunction) dismissed by Resolution of the Court dated Sept. 11, 1961; motion for reconsideration denied on Oct. 2, 1961.

[119] PHIL. CONST. Art. III, sec. 1 (1). "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

In the absence of a more extended pronouncement by the Court, it is submitted that while the questioned proviso evidently favors the reelectionist-candidate, it cannot be denied that it has some reasonable basis. For, as *a general rule,* "the name of the candidate seeking reelection somehow becomes associated with the office sought. So, it is reasonable to assume that the writing of his surname alone in the ballot is an indication of the true and logical choice of the voter in favor of the reelectionist-candidate." [120]

V. EXPROPRIATION

The taking of private property upon payment of just compensation may be undertaken under three different provisions of the Constitution: *First,* by the exercise of the inherent power of eminent domain which is recognized and limited by the Bill of Rights, in this wise: "no person shall be deprived of life, liberty, or property without due process of law," [121] and "private property shall not be taken for public use without just compensation." [122] *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." [123] *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 private enterprises to be operated by the Government.[124]

A. *Requisites for the exercise of eminent domain.*

It is the rule in this jurisdiction that private property may be expropriated for *public use* and upon *payment of just compensation;* that condemnation of private property is justified only if it is for the public good and there is a *genuine necessity* therefor of a public character.[125]

In the case of *Republic v. La Orden de PP. Benedictinos de Filipinas,*[126] it appears that in order to relieve the daily traffic congestion on Legarda St., the Government drew plans to extend Azcarraga St. from its junction with Mendiola St., up to the Sta. Mesa Rotonda, Sampaloc, Manila. To carry out this plan, it offered to

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[120] Explanatory Notes, H. No. 3738. House Bills Nos. 3466, 3706, 3738, 3765, 3880, 3982 and 4096 were consolidated into House Bill No. 4729 which became Rep. Act No. 3036.
[121] PHIL. CONST. Art. III, sec. 1, par. (1).
[122] *Ibid.* par. (2).
[123] *Ibid.* Art. XIII, sec. 4
[124] *Ibid.* Art. XIII, sec. 6.
[125] Republic v. La Orden de PP. Benedictinos de Filipinas, G.R. No. L-12792, Feb. 28, 1961; City of Manila v. Chinese Community, 40 Phil. 349 (1919).
[126] G.R. No. L-12792, Feb. 28, 1961.

buy a portion of land (6,000 sq. m.) belonging to La Orden de PP. Benedictinos, a domestic religious corporation that owns the San Beda College, a private educational institution. Having failed to reach an agreement with the owner, the Government instituted expropriation proceedings. The religious corporation filed a motion to dismiss on the grounds that the property sought to be expropriated is already dedicated to public use, and that there is no necessity for the proposed expropriation. *Without receiving evidence* upon the questions of fact arising from the complaint, the motion to dismiss and the opposition filed thereto, the trial court issued the appealed order dismissing the case, upon the ground that such expropriation was not of extreme necessity.

The Supreme Court set aside the order of dismissal and remanded the case to the trial court for further proceedings. The Court re-emphasized that "the courts have the power to inquire into the legality of the exercise of the right of eminent domain and to determine whether or not there is a genuine necessity therefor." According to the Court: "whether or not the proposed opening of Azcarraga extension is a necessity in order to relieve the daily congestion of traffic on Legarda St. is a *question of fact* dependent not only upon the facts of which the trial court very liberally took judicial notice but also upon other factors that do not appear of record and must, therefore, be established by means of evidence." Hence, the parties should have been given an opportunity to present their respective evidence upon these factors and others that might be of direct or indirect help in determining the vital question of fact involved herein.

B. *Expropriation of lands to be subdivided into small lots.*

Consecrated in our Constitution is the principle that "the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State." [127] In line with this beneficient principle, the Constitution expressly provides 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." [128]

1. Under Com. Act No. 539.[129]

Com. Act No. 539 provides:

"SECTION 1. The President of the Philippines is authorized to acquire private lands or any interest therein, through purchase or expropriation,

[127] PHIL. CONST. Art. II, sec. 5.
[128] PHIL. CONST. Art. XIII, sec. 4.
[129] Approved, May 26, 1940.

> and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their *bona fide tenants or occupants* or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines."

The term *"bona fide tenant or occupant"* has been construed to mean one who is up-to-date in the payment of his rentals to the landowner.[130] The law intends to benefit law-abiding citizens who discharge their obligations promptly, not those who are negligent in complying with their duties.

2. Under Rep. Act No. 1162.[131]

Sec. 3 of Rep. Act No. 1162 states as follows:

> "The landed estate or haciendas expropriated by virtue of this Act shall be subdivided into small lots, none of which shall exceed one hundred and fifty square meters in area, to be sold at cost to the tenants, or *occupants*, of said lots, and to other individuals, in the order mentioned . . ."

In Republic v. Caliwan,[132] it was held that the word "occupant" as used in Rep. Act No. 1162, does *not* include "squatters."[133] The Court has previously declared[134] that the purpose of expropriation laws, like Com. Act Nos. 20 and 539, is to aid and benefit *lawful* occupants and tenants or those endowed with *legitimate* tenure, by making their occupancy permanent and giving them an opportunity to become owners of their holdings. Being in *pari materia* with said Acts, Rep. Act No. 1162 should be given the same interpretation and application. The absence of the term "bona fide" in qualifying "tenants or occupants" in the Act is of no significance, for it must be understood that, unless the contrary appears, only those in good faith are intended. Moreover, the explanatory note to House Bill No. 930 (which became Rep. Act No. 1162), as well as the entire record of the legislative deliberations on the proposed bill,[135] discloses no intent on the part of the lawmakers to benefit squatters in passing said measure, but that their purpose and intent appear to be to expropriate landed estates or haciendas within the City of Manila so that they may be subdivided into small residential lots and sold at cost on installment basis or leased on reasonable terms to their *lawful* occupants or tenants.

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[130] Juat v. L.T.A., G.R. No. L-17080, Jan. 28, 1961.
[131] Approved, June 18, 1954.
[132] G.R. No. L-16927, May 31, 1961.
[133] According to the Court: "Squatters are individuals who, without necessarily employing violence, either physical or moral, and taking advantage of the absence or tolerance of landowners, succeed in occupying their properties for residential purposes."
[134] Enriquez v. Panlilio, G.R. No. L-7325, July 16, 1954; Bernardo v. Bernardo, G.R. No. L-5872, Nov. 29, 1954.
[135] Third Congress, Congressional Record, First Session, Vol. I, No. 36, pp. 967-993.

3. Under Rep. Act No. 1400 [136]

Sec. 2 of Rep. Act No. 1400 provides:

> "*Declaration of policy.*—It is the declared policy of the State to create and maintain an agrarian system which is peaceful, prosperous and stable, and to this end the Government shall establish and distribute as many family-sized farms to as many landless citizens as possible through the opening up of public agricultural lands and the division and distribution of private agricultural lands where agrarian conflicts exist, either by private arrangement with the owners or through expropriation proceedings."

In pursuance of the policy enunciated in this Act, the Land Tenure Administration is authorized to:

> "initiate and prosecute expropriation proceedings for the acquisition of private agricultural lands in proper cases, for the same purposes of resale at cost: *Provided,* That the power herein granted shall apply only to private agricultural lands *as to the area in excess of three hundred hectares of contiguous area if owned by natural persons* and as to the area in excess of six hundred hectares if owned by corporation: *Provided, further, That* land where justified agrarian unrest exists may be expropriated regardless of its area;" [137]

Sec. 6 (2) of Rep. Act No. 1400 as above quoted does not expressly state who is entitled to choose the "three hundred hectares of contiguous area" which is ordinarily exempt from expropriation, where no justified agrarian unrest exists. Does the choice fall on the landowner *or* on the Land Tenure Administration?

In *L.T.A. v. Ascue, et al.*,[138] the Supreme Court held that "whenever a law is silent, as Section 6 (2) of Rep. Act No. 1400 is, it is to be assumed that, if the parties concerned cannot agree thereon, the issue between them shall be settled by the courts of justice. This is particularly true in connection with the condemnation proceedings authorized by Rep. Act No. 1400, for the Rules of Court prescribe the procedure in cases of eminent domain, and we must presume that this is the procedure contemplated by the framers of the law, there being thereon nothing to indicate the contrary. In other words, the one seeking to exercise the right of eminent domain (L.T.A.) shall initially determine what property or portion thereof it wishes to be expropriated. The owner of the property may, in turn, object thereto for valid reasons, including the right to exclude an area of 300 hectares, in cases falling under Rep. Act No. 1400. Once the issues have been joined, the court shall settle the same in accordance

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[136] Approved, Sept. 9, 1955.
[137] Sec. 6 (2), Rep. Act No. 1400
[138] G.R. No. L-14969, April 29, 1961 (for declaratory relief as to the correct interpretation of Sec. 6[2], Rep. Act No. 1400).

with the spirit and purpose of the law and the demands of justice, equity and fair play."

4. Under Rep. Act No. 2616.[139]

In the case of *Tuason & Co. v. Ct. of Appeals*,[140] it appears that Tuason & Co., as owner of the Tatalon Estate in Quezon City, instituted ejectment proceedings against Rosete and Dizon, alleged occupants of said estate. It obtained a favorable judgment which was affirmed on appeal to the Court of Appeals. The decision having become final and executory, it prayed for writs of execution and orders of demolition of the houses of the evictees.

Moreover, it brought a separate action for prohibition in the CFI of Quezon City against the Land Tenure Administration, the Auditor General and the Solicitor General, to restrain them from instituting expropriation proceedings against the Tatalon Estate as expressly authorized by Rep. Act No. 2616. The Company contended that the said Act is unconstitutional, as legislation aimed at depriving it of its property for the benefit of squatters and occupants, even if the property had been actually subdivided and its lots were being sold to the public; and that respondents threatened to enforce said law by instituting expropriation proceedings. Judge Caluag of the CFI issued an *ex parte* writ of preliminary injunction, upon the filing of the required bond by the Company.

Meanwhile, the evictees petitioned the CFI to suspend the order of demolition of their houses, on the ground that they were tenants of the Tatalon Estate; that Rep. Act No. 2616, after specifically authorizing the expropriation of the Tatalon Estate, categorically provides:

> "Section 4. After the expropriation proceedings mentioned in section two of this Act shall have been initiated and during the pendency of the same, no ejectment proceedings shall be instituted or prosecuted against the present occupant of any lot in said Tatalon Estate, and no ejectment proceedings already commenced shall be continued and such lot or any portion thereof shall not be sold by the owners of said estate to any person other than the present occupant without the consent of the latter given in a public instrument."

Judge Yatco of the CFI denied the petition to suspend the order of demolition, inasmuch as no expropriation proceedings had been actually filed.

Whereupon, the evictees filed certiorari proceedings in the Court of Appeals, praying that Judge Yatco be enjoined from issuing the

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[139] This Act became a law without executive approval on Aug. 3, 1959.
[140] G.R. No. L-18128, Dec. 26, 1961.

orders of demolition in the ejectment cases; that Judge Caluag be enjoined from enforcing the preliminary injunction he issued in the prohibition case instituted by the Company; and that the Land Tenure Administration be ordered to institute the expropriation proceedings as authorized by Rep. Act No. 2616. The Court of Appeals gave due course to the petition for certiorari and issued an *ex parte* writ of preliminary injunction, which had the effect of dissolving the writ of preliminary injunction issued by Judge Caluag, "so that the Land Tenure Administration may thus properly file the complaint for expropriation." The Court of Appeals refused to lift the preliminary injunction, despite the Company's contention that said court had no jurisdiction since the writ of injunction was issued by the Court of Appeals *not* "in the aid of its appellate jurisdiction," as required by law.[141] Hence, the Company instituted this certiorari proceedings in the Supreme Court.

The Supreme Court upheld the Company's contention. It held that the writ of injunction issued by the Court of Appeals was null and void for want of jurisdiction. The authority of the Court of Appeals to issue writs of injunction, mandamus, prohibition, certiorari, habeas corpus and other auxiliary writs and processes is expressly limited to their issuance "in aid of its appellate jurisdiction." [142] The jurisdiction of the Court of Appeals to issue such writs must be based on the existence of a right to appeal to it from the judgment on the merits in the main case. Since the issuance of orders for execution and demolition, after the judgment in the ejection cases had become final and executory, is not appealable, and since the prohibition case instituted by the Company involved the constitutionality of Rep. Act No. 2616, an issue which falls within the appellate jurisdiction of the Supreme Court, the Court of Appeals has *no* authority to interfere by prerogative writ in either litigation.

The Court also held that the preliminary injunction issued by Judge Caluag was merely an incident to the main case for prohibition, and was intended to prevent such principal case and any remedy that may be granted therein from being rendered moot and nugatory by the filing of the expropriation proceedings.[143] That the alleged unconstitutionality of Rep. Act No. 2616 could be invoked as a defense in the expropriation proceedings does not alter the right of the Company to raise it as an issue in the prohibition case, without awaiting the institution of expropriation proceedings. The

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[141] The Court of Appeals shall have original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and process in aid of its appellate jurisdiction. Sec. 30, Rep. Act No. 296, as amended.

[142] *Ibid*

[143] The Court held that the issuance of the writ of preliminary injunction by Judge Caluag was authorized by Rule 67, Sec. 7, and Rule 124, Sec. 6, Rules of Court.

Court, speaking through Mr. Justice J. B. L. Reyes, declared that "the issue of constitutionality would be like a *prejudicial question* to the expropriation, as it would be a waste of time and effort to appoint evaluation commissioners and debate the market value of the property sought to be condemned if it turned out that the condemnation was illegal."

While the mere fact that a statute is alleged to be unconstitutional or invalid does not entitle a party to have its enforcement enjoined, such a rule is not without exceptions. For in a previous case,[144] the Court had already recognized that "an injunction will lie to restrain the threatened enforcement of an invalid law where the lawful use and enjoyment of private property will be injuriously affected by its enforcement." [145] The Court observed that the petition for the writ of prohibition pleads precisely this threatened injury to the proprietary rights of the Company, as owner of the Tatalon Estate.

Moreover, the Court stated that the *mere filing* of condemnation proceedings does *not* bar the landowner from enforcing final judgments of ejectment against the possessors of the land. The Court declared, thus:

> "We see nothing in the terms of Rep. Act No. 2616 to justify the belief that the Legislature intended a departure from the normal course prescribed for eminent domain cases, where the rights of the owner of the land may not be disturbed without previous deposit of the provisional value of the property sought to be condemned. The effectivity of section 4 of Rep. Act No. 2616, discontinuing ejectment proceedings against the present occupants, and restraining any act of disposition of the property is justifiable only if the Government takes possession of tht land in question by depositing its value. It needs no argument to show that by restraining the landowner from enforcing even final judgments in his favor to recover possession of his property, as well as from disposing of it to persons of his choice, he is deprived of the substance of ownership, and his title is left as an empty shell. The land owner would then be deprived of those attributes of ownership that give it value, and his property is virtually taken from him without compensation and in violation of the Constitution, particularly in view of the fact that R.A. 2616 (unlike previous Acts of similar character) does not even provide for a deposit of the current rentals by the tenants during the pendency of the proceedings . . . The Bill of Rights, in requiring that 'private property shall not be taken for public use without just compensation' and Article XIII, section 4, in prescribing that 'Congress may authorize, *upon payment of just compensation*, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals,' prohibit any disturbance of proprietary rights without coetaneous payment of just indemnity. Hence, the mere filing of the condemnation proceedings for the benefit of

[144] Co Chiong v. Dinglasan, 79 Phil. 122 (1947).
[145] 28 Am. Jur. 360-371.

tenants can not, by itself alone, lawfully suspend the condemnee's dominical rights, whether of possession, enjoyment, or disposition. And this is especially the case where final and executory judgments of ejectment have been obtained against the occupants of the property."

C. *Expropriation of municipal waterworks under Rep. Act No. 1383.*[146]

Sec. 6, Art. XIII of the Constitution provides:

"The State may, in the interest of national welfare and defense, establish and operate industries and means of transportation and communication, and upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government."

The recurring question of validity of the expropriation of municipal waterworks under Rep. No. 1383 was again paraded before the judicial eyes in the case of *Municipality of Lucban v. NAWASA.*[147] Since the "factual situation in this case is admittedly similar in all material respects" to that involved in previous cases,[148] the Supreme Court chose to reiterate its stand, to wit: that waterworks, being owned by a municipal corporation in its proprietary character, cannot be taken away without observing the safeguards set by our Constitution for the protection of private property, and that inasmuch as Rep. Act No. 1383 virtually takes away the ownership and operation of the waterwork systems from the municipality or city concerned and transfers the same to the NAWASA, without providing for an effective payment of just compensation, said Act violates the Constitution.

To the contention that a waterworks system is not a patrimonial property of the city or municipality but one for public use falling within the control of the Legislature, the Court re-stated that such argument "overlooks the fact that only those of the general public *who pay* the required rental or charge authorized and collected by the system, do make use of the water. In other words, the system serves all who pay the charges. It is open to the public (in this sense, it is public service), but only upon the payment of a certain rental which makes it proprietary."

To the persistent claim that the transfer of ownership of the waterworks to the NAWASA is a valid exercise of the police power of the State, the Court re-emphasized that while the power to enact

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[146] Approved, June 18, 1955.
[147] G.R. No. L-15525, Oct. 11, 1961.
[148] City of Cebu v. NAWASA, G.R. No. L-12892, April 30, 1960; City of Baguio v. NAWASA, G.R. No. L-12032, Aug. 31, 1959.

laws intended to promote public order, safety, health, morals and general welfare of society is inherent in every sovereign state, "such power is not without limitations, notable among which is the constitutional prohibition against the taking of private property for public use without just compensation."

The Court found to be equally untenable the argument that the NAWASA has acquired the waterworks system through eminent domain. Rep. Act No. 1383 directs the transfer to the NAWASA of waterworks belonging to cities, municipalities or municipal districts 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. Neither has NAWASA actually done anything to pay such compensation.[149] As the Court emphatically stated in the case of *City of Baguio v. NAWASA*:[150]

> ". . . the law, insofar as it expropriates the waterworks in question without providing for an effectual payment of just compensation, violates the Constitution."

VI. POLICE POWER

Of the inherent powers of the State, police power is said to be the most positive and active, the most essential, the most often invoked justification for governmental measures intended for the promotion of general welfare. Especially is it so under a modern democratic framework where the demands of society and of nations have multiplied to unimaginable proportions; the scope of police power has become almost boundless, just as the fields of public interest and public welfare have become almost all-embracing.[151]

A. *The Social Security Law is a legitimate exercise of the police power of the State.*

In the case of *Roman Catholic Archbishop of Manila v. Social Security Commission*,[152] it appears that the Roman Catholic Archbishop of Manila filed with the Social Security Commission a request that "Catholic Charities, and all religious and charitable institutions and/or organizations, which are directly or indirectly, wholly or partially, operated by the Roman Catholic Archbishop of Manila," be exempted from compulsory coverage of Rep. Act No.

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[149] The trial court observed that inasmuch as under the Act, plaintiff will be credited by defendant NAWASA with *an equivalent value merely in the form of book entry*, payment not being in the form of money, the requirements for the valid exercise of the right of eminent domain were not complied with.

[150] *Supra* note 148.

[151] Ichong v. Hernandez, G.R. No. L-7995, May 31, 1957.

[152] G.R. No. L-15045, Jan. 20, 1961.

1161, as amended,[153] otherwise known as the Social Security Act of 1954, on the ground that said Act does not cover religious and charitable institutions but is limited to businesses and activities organized for profit. The Commission, in its resolutions, denied the request; hence, this appeal.

The Supreme Court, with Mr. Justice Gutierrez David as *ponente*, held that religious and charitable institutions or entities not organized for profit, like the Roman Catholic Archbishop of Manila, are embraced within the term "employer" as defined in Sec. 8 (c) of Rep. Act No. 1161, as amended.

In this precedent-setting case, the Court made the following pronouncements and observations:

1. The coverage of the Social Security Law is predicated on the existence of an employer-employee relationship of more or less permanent nature [154] and extends to employment of all kinds except those expressly excluded. It is true that under Rep. Act No. 1161 *as originally enacted*, services performed in the employ of institutions organized for religious or charitable purposes were by express provision of said Act excluded from the coverage thereof.[155] But that provision of the law was *deleted by express provision of Rep. Act No. 1792.*[156] This is clear indication that the Legislature intended to include charitable and religious institutions within the scope of the law.

2. The Social Security Law is a legitimate exercise of the police power of the State. It was enacted pursuant to the "policy of the Republic of the Philippines to develop, establish gradually and perfect a social security system which shall be suitable to the needs of the people throughout the Philippines and shall provide protection to employees against the hazards of disability, sickness, old age and death." [157] It affords protection to labor, especially to working women and minors, and is in full accord with the constitutional provisions on the "promotion of social justice to insure the well-being and economic security of all the people." [158] Being in fact a social legislation, compatible with the policy of the Church to

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[153] Rep. Act No. 1161 (June 18, 1954) was amended by Rep. Act No. 1792 (June 21, 1957) and Rep. Act No. 2658 (June 18, 1960).

[154] In the case of Insular Life Assurance Co. v. Social Security Commission, G.R. No. L-16359, Dec. 28, 1961, the Court held that so long as the requisite employer-employee relationship exists, the employer has to pay the required premiums to the System, even if the employee was actually on leave of absence without pay. Moreover, the Court stated: "We did not adopt the American method of collecting contributions to the System. Our method is different, for while in the United States, contributions are treated as taxes, collectible only when the employee is paid his salary or wage, in our country, we consider such contributions as premiums collectible even when the employee is not actually paid his wage or salary."

[155] Sec. 8(j), sub-par. 7, Rep. Act No. 1161 (June 18, 1954).

[156] Sec. 4, Rep. Act No. 1792 (June 21, 1957).

[157] Sec. 2, Rep. Act No. 1161, as amended.

[158] PHIL. CONST. Art. II, sec. 5.

ameliorate living conditions of the working class, appellant cannot arbitrarily delimit the extent of its scope to relations between capital and labor in industry and agriculture.

3. The inclusion of religious organizations under the coverage of the Social Security Law does not violate the constitutional prohibition against the application of public funds for the use, benefit or support of any priest [159] who might be employed by appellant. The funds contributed to the System created by the law are not public funds, but funds belonging to the members which are merely held in trust by the Government. Assuming that said funds are impressed with the character of public funds, their payment as retirement, death or disability benefits would not constitute a violation of the Constitution since such payment shall be made to the priest not because he is a priest but because he is an employee.

4. The enforcement of the Social Security Law does not impair appellant's right to disseminate information. All that is required of appellant is to make monthly contributions to the System for covered employees in its employ. These contributions are not "in the nature of taxes on employment." Together with the contributions imposed upon the employees and the Government, they are intended for the protection of said employees against the hazards of disability, old age, sickness and death, in line with the constitutional mandate to promote social justice.[160]

VII. PROHIBITION AGAINST ACQUISITION OF PRIVATE AGRICULTURAL LANDS BY ALIENS

The Constitution emphatically provides that "save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines." [161] This constitutional provision accentuates the nationalistic tone pervading the Constitution. It is in line with the policy that land and other natural resources constitute the heritage of the Filipino nation.

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[159] *Ibid.* Art. VI, sec. 23(3).

[160] In Tecson v. Social Security System, G.R. No. L-15798, Dec. 28, 1961, the Supreme Court declared that the Social Security Act is not a law of succession; hence, in case of death of the covered employee, the proceeds pertaining to such employee shall be paid to the beneficiary indicated by him in the records of the employer, even if such beneficiary indicated is not his wife and dependents. According to the Court, the purpose of the Act is to provide social security, "which means funds for the beneficiary, if the employee dies, or for the employee himself and his dependents, if he is unable to perform his task because of illness or disability, or is laid-off by reason of the termination of the employment, or because of temporary lay-off due to strike, etc."

[161] PHIL. CONST. Art. XIII, sec. 5.

A. *Ban against acquisition of lands as applied to naturalization cases.*

Scrupulous observance of the foregoing constitutional mandate is demanded not only from Filipinos themselves, but more specially from those desirous of acquiring Philippine citizenship by naturalization. Thus, where the circumstances leave serious doubt as to whether or not an applicant for naturalization really attempted to circumvent this constitutional inhibition by purchasing a lot thru his mother-in-law, a Filipino citizen, there being strong indications that the said lot was purchased with money furnished by him, and said lot being for his benefit and that of his wife, the application must be resolved adversely against the applicant.[162] In the case of *Tan Tiam v. Republic*,[163] it appears that on Oct. 22, 1956, the trial court issued an order declaring petitioner qualified to become a Filipino citizen. On Oct. 7, 1958, petitioner filed a petition to set a date for his oath-taking, alleging that the two-year probationary period would expire on Oct. 22, 1958. On this latter date, petitioner adduced evidence to show that he has complied with the provisions of Rep. Act No. 530 which prescribes the requisites before an alien could be allowed to take his oath of allegiance. On cross-examination, however, petitioner admitted that on Feb. 5, 1957, while still a Chinese citizen and well within the two-year probationary period, he entered into an *agreement to sell* with the Sta. Mesa Realty, Inc. involving a parcel of land payable in installments for ten years, and consented to the placing of his citizenship therein as "Filipino." The court denied his petition to take the oath of allegiance; hence, this appeal.

The issue is whether or not the execution by petitioner of the agreement to sell and his consenting to the placing of his nationality as "Filipino" thereon are acts "prejudicial to the interest of the nation or contrary to any Government announced policies," pursuant to Sec. 1 of Rep. Act No. 530.

The Court decided against petitioner-appellant. According to the Court, the inhibition against acquisition by aliens of private agricultural lands in the Philippnes embodied in the Constitution is undoubtedly a government-announced policy. Petitioner's actuations surrounding the execution of that document (agreement to sell) are contrary to such a policy and have cast doubt upon his sincerity. He has arrogated unto himself a prized attribute of citizenship which he has not yet possessed. Upon the execution of the document and

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[162] Fong v. Republic, G.R. No. L-15991, May 30, 1961.
[163] G.R. No. L-14802, May 30, 1961.

payment of the first installment, petitioner acquired a right over the property which he can immediately enforce. It is true that ownership is transferred to him only after 10 years, during which he expects to have already the status of a naturalized Filipino with all the privileges implicit in said citizenship, but he has nevertheless no right to presume that he would be admitted to Philippine citizenship upon the expiration of the two-year period prescribed by law. Strict compliance with the conditions is essential. Relaxation of these requirements to meet one's eagerness might lead to abuse and confusion and would sanction falsehood.

VIII. CONCLUSION

Decisions of the Supreme Court applying or interpreting the Constitution are like weather vanes showing which way the judicial wind is blowing.[164] For in general, the Court will stand by precedents in the adjudication of future similar or nearly similar controversies. However, while precedents are to be regarded as the great storehouse of experience,[165] their authority must often be tested by and subjected to the majestic force of reason, the compelling necessities of the times, and the paramount demands of justice. Moreover, the constant impact of new, varied and fluid circumstances poses as a continuing challenge to the survival of old patterns and principles. The influx of better ideas, the proliferation of needs and demands of a complicated society, eventually modifies or erodes away inch by inch what had hitherto been considered well-settled doctrines. The stubborn demand is that twentieth century problems require twentieth century solutions. Hence, the search for *static certainty* in constitutional law, like in any other branch of the law, is more or less illusory.

The Constitution is designed not to cope up with the passing exigencies of only one particular generation, but to endure the vicissitudes of events locked up in the inscrutable timetable of Providence. The resiliency of the Constitution has been preserved through the peculiar generalities of constitutional provisions, and by means of a process of judicial review which has steered a moderating course between the Charybdis of anachronism and slavish worship of precedents and the Scylla of radicalistic change. It is only through constant interpretation and searching re-examination that a Constitution acquires life and meaning.

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[164] Jackson, R. H., *The Supreme Court as a Unit of Government* in THE SUPREME COURT: VIEWS FROM INSIDE 17 (Westin ed. 1961).

[165] Torres v. Tan Chim, 69 Phil. 518, 531 (1940).

Standing at the apex of the judicial hierarchy of courts, the Supreme Court plays a great role, which carries with it a great responsibility, in the growing life of the nation. The Supreme Court, as the custodian of the "inner consciousness of the people," serves as a *stabilizing institution*—balancing the ingrained desires for permanence and continuity in the legal order and the crying need for progressive change. Considering the historic role of an independent judiciary, it behooves upon the Supreme Court, in the adjudication of cases brought before it, to insist upon a dispassionate discussion of legal issues, and to resist the heedless pressures of popular hysteria and the shifting winds of passing majorities. Indeed, judicial judgment must take deep account of the day before yesterday in order that yesterday may not paralyze today, and it must take account of what it decrees for today in order that today may not paralyze tomorrow.[166] For it cannot be denied that "the power peremptorily to define the Constitution is what makes the work of the Supreme Court of such consequence. It is not going too far to say that because of it, the Court is unique among contemporary governmental institutions. To it alone, in the last analysis, is assigned the function of guarding the ark of the Constitution." [167]

> May the Light of Reason and Righteousness eternally shine and forever guide our Justices of the Supreme Court to the end that they may blaze the trails in the vast fields of the Philippine Constitution with cautious promptness and legal certainty.

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[166] Frankfurter, F., *The Process of Judging in the Supreme Court* in THE SUPREME COURT: VIEWS FROM INSIDE 34 (Westin ed. 1961).
[167] SCHWARTZ, THE SUPREME COURT 5 (1957).