

SURVEY OF 1962 LEGISLATIONS

FOREWORD * †

The *Philippine Law Journal* is undertaking a new project: the annual survey of the enactments of the Congress of the Philippines, to be carried out in the same manner and with the same comprehensiveness that the *Philippine Law Journal* carries out its annual survey of the decisions of the Supreme Court.

The objective of this new project is to make the law students aware of the important legislative enactments. A number of these laws seldom appear in the study materials of the law students not really because they do not partake of the significance of say, an amendment to some codal provision, but due to their isolated nature or to the fact that they do not have an immediate relevance to the student's general study of law.

It is unfortunate, however, that on the very year the *Philippine Law Journal* has embarked on this kind of survey, the 1962 enactments of Congress are not as substantial and as significant as one would want them to be. A great many of them are private in nature, either changing the name of some forsaken town, or granting a franchise to some up-and-coming businessman or firm.

But the *Philippine Law Journal* has already decided to start this new project with this issue. It is hoped that this and the succeeding surveys will be of some use and benefit to the law student, the bench and the bar.

[REPUBLIC ACT No. 3452]
(H. No. 339)

AN ACT TO ADOPT A PROGRAM TO STABILIZE THE PRICE OF PALAY, RICE AND CORN, TO PROVIDE INCENTIVES FOR PRODUCTION, AND TO CREATE A RICE AND CORN ADMINISTRATION TO IMPLEMENT THE SAME, AND TO PROVIDE FUNDS THEREFOR.

Congress in its last session enacted Rep. Act No. 3452,¹ more popularly known as the Rice and Corn Stabilization Act. It seeks to accomplish two major purposes: (1) to stabilize the price of palay, rice and corn by directly purchasing these basic cereals from the

* For the convenience of the readers, the laws treated in this survey have been included in the Recent Legislations department.

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¹ The law took effect on June 14, 1962.

farmers and producers at a price that will afford them a fair and just return for their labor and capital investment and sell and dispose of these commodities to the consumers at areas of consumption at a price within their reach,² and (2) to regulate the level of supply of basic cereals, to accumulate stocks as national reserves to meet any natural or artificial contingency by selling them to the consumers at a price that is within their reach.³

This policy declaration assumes great significance considering that the Act constitutes one of the cornerstones of the Five-Year Socio-Economic Development Program of the Macapagal Administration. First, it recognizes the necessity of giving our rice and corn producers incentives sufficient to induce them to engage in a more intensified and scientific production. And, second, it implies the failure of our various government agencies to stabilize the price of rice and corn, and a recognition of the urgent need of creating a super-body that can effectively implement the program.⁴

Because of the great dependence on rice and corn of the greater bulk of our population, the attainment of self-sufficiency in these cereals and stabilization of their prices so as to put them within the reach of the consumers had been foremost in the mind of all the past administrations. Several laws have been passed and various agencies have been created⁵ by the government, but none had achieved any substantial success in implementing the laudable objectives of the government. Rep. Act No. 3452 which embodies the various bills⁶ filed last year in Congress is the latest attempt to meet the challenge posed by the rice and corn industry.

I. SALIENT FEATURES OF THE LAW

A. *Establishment of a Floor Price in the Direct Procurement of Rice and Corn.*

The law eliminates the inefficient and graft-ridden "middlemen system" in the procurement of rice and corn which contributed largely to the failure of the past stabilization programs by providing that these staple commodities shall be directly purchased from the tenants, farmers, growers and producers in the Philippines.⁷ This direct procurement program is further made *mandatory* in order to give the rice and corn producers the fullest benefits of the law.

² Sec. 1, Rep. Act No. 3452. The sections referred to in the subsequent footnotes refer to Rep. Act No. 3452 unless otherwise indicated.

³ Sec. 3.

⁴ Explanatory note to H.B. No. 339 which became Rep. Act No. 3452.

⁵ NARIC (purchase of rice and corn from producers), RICOB (enforcement of Rice and Corn Nationalization Law), ACCFA (extension of credit facilities to the farmers).

⁶ H.B. Nos. 19, 94 and 530.

⁷ Sec. 1.

Thus, Congress intends that should the rice and corn production exceed the national consumption, the RCA shall export its excess stocks.⁸

Congress has also incorporated two other provisions that show its determined effort to plug the loopholes in the previous procurement systems. While the old National Rice and Corn Corporation (NARIC) merely aimed at the maintenance of a stable price that is consistent with the purchasing power of the people and the national policy of the Government,⁹ Rep. Act No. 3452 fixes a floor price that will afford the producers a fair and just return for their labor and capital investment.¹⁰ And to give the producers the full advantage of the floor price, the RCA is required to announce any change on the floor price at least two months before the regular rice and corn planting season, which announcement shall be given the widest possible publicity.¹¹

To supplement further this paternalistic provision for the benefit of the small farmers, the law requires the RCA that in buying rice and corn it shall give priority to the farmers and tenants with a production below 100 cavanos, but limits its authority to buy not more than 25% of the excess of the 100 cavanos from those whose production exceeds 100 cavanos.¹² Thus, Congress authorizes the RCA to take production records of big producer-sellers for a two-fold purpose: (1) to determine the number of cavanos that it can lawfully purchase under this provision, and (2) to minimize tax evasion by big producers by authorizing the RCA to take production records which shall be the basis of collectible taxes.¹³

B. *Accumulation of Stocks as a National Reserve.*

Section 3 authorizes the RCA to accumulate stocks as a national reserve in such quantities as it may deem proper and necessary to meet any contingencies. The buffer stock held as national reserve shall be deposited by the RCA throughout the country under appropriate dispersal plans in bonded warehouses, either government or privately owned. And with a view to regulate the level of supply of rice and corn, throughout the country, the national reserve shall be released only upon the occurrence of calamities or emergencies, or when there is a spiralling of local prices, or if a declared surplus is announced by the government agencies concerned in which case the same may be exported.

⁸ Sec. 3. Congressional Record (House), 5th Congress, First Session, March 29, 1962, Vol. 47, p. 170.

⁹ Sec. 2b(1), Rep. Act No. 663 (NARIC Charter).

¹⁰ Secs. 1 and 8 (1 & 2).

¹¹ Sec. 8.

¹² Sec. 8(2).

¹³ Congressional Record (House), 5th Congress, 1st Session, March 29, 1962, Vol. 47, p. 117.

C. *Price Subsidy for the Consumers.*

In order to afford the consumers adequate supply of rice and corn at minimum prices, the RCA is directed during emergencies or spiralling of local prices, to dispose of and sell its stock in areas of consumption at a price within the reach of the consumers¹⁴ which shall not go below or above the price fixed by law.¹⁵

D. *Non-Rice Importation by the Government.*

Section 10 prohibits the RCA or any other government agency from importing rice and corn but allows importation by private parties upon payment of the corresponding taxes. This provision is intended to stop the tax-exempt rice importations authorized by the NARIC Charter which contradicted the government policy of protecting and developing the local rice industry.¹⁶

E. *Grant of Emergency Powers to the President.*

Another significant provision of Rep. Act No. 3452 which manifests the government's desire to put more teeth in the price stabilization program is the grant of power to the President of the Philippines to declare a rice and corn emergency any time he deems necessary in the public interest. The RCA, upon direction of the President, shall, subject to constitutional limitations, conduct raids, seizures and confiscation of rice and corn hoarded in any private warehouse. The RCA shall, however, pay such confiscated rice and corn at the prevailing consumer's price of the RCA.¹⁷ Congress believes that with this grant of authority, the President through the RCA can successfully control any artificial scarcity or spiralling of prices which aggravate the entire cereal problem. The RCA is further authorized to inspect and take records of palay, rice and corn stocks stored by any person, partnership or corporation and to enter premises where these commodities may be found for inspection and record.¹⁸

F. *Capitalization Scheme.*

To guarantee stability and success in the stabilization program, the sum of ₱100,000,000.00 is appropriated for the capitalization of the RCA provided that its annual operational expenses shall not exceed ₱3,000,000.00 of the said amount.¹⁹ But its capitalization scheme enjoys a distinct advantage over the NARIC or any other government agency. Since its ceiling price in the distribution sys-

¹⁴ Secs. 1 and 9.

¹⁵ Sec. 9.

¹⁶ Congressional Record (House), 5th Congress, 1st Session, March 29, 1962, Vol. 46, p. 113.

¹⁷ Sec. 12.

¹⁸ Sec. 11.

¹⁹ Sec. 14.

tem to the customers is less than the floor price in the procurement of rice and corn, the RCA subsidy program will definitely result to losses. Thus, at the end of each fiscal year Congress is authorized to pass a bill restoring the diminished capitalization at ₱100,000,000.00. On the contrary, the former NARIC was supposed to maintain its operating capital of ₱20,000,000.00 and thus it depended mostly on credit loans from government banks to carry on its procurement activities.²⁰

II. ORGANIZATION, POWERS AND ADMINISTRATION OF THE RCA

Rep. Act No. 3452 abolished the NARIC and transfers all its assets, liabilities, functions and powers not inconsistent with the provisions of the Act to a new super agency, the Rice and Corn Administration. All personnel of the NARIC are transferred to the RCA. The said agency is placed under the Office of the President to carry out the provisions of the Act.²¹ Unlike the NARIC, the RCA shall exercise broader powers to coordinate, supervise, direct and control the activities of all existing governmental agencies²² which participate in the development of the rice and corn industry and to provide incentives to farmers, growers and producers.²³

The powers of the RCA shall be vested in and exercised by a Board of Administrators to be composed of a Chairman and four members, two of whom shall be representatives respectively, of the rice and corn consumers and the other two respectively of the rice and corn producers, one of whom shall at the same time be a miller. They shall be natural-born Filipino citizens and shall possess unquestioned probity and wide experience in the rice and corn industry and shall hold office for four years unless sooner removed for cause. They shall receive a per diem of ₱25.00 for each meeting actually attended by them but in no case shall they receive more than ₱400.00 a month including privileges, allowances, and expenses.²⁴ It will be noted that while under the NARIC Charter, the members of the Board of Directors shall only be persons who profess a belief in the feasibility and wisdom of the Act,²⁵ Rep. Act No. 3452 sets a more stringent qualifications, more particularly on the director's knowledge of the rice and corn industry.

The management of the RCA shall be vested in a General Manager²⁶ and Assistant General Manager,²⁷ appointed by the Board.²⁸

²⁰ Sec. 7, Rep. Act No. 663 (NARIC Charter).

²¹ Secs. 13 and 2.

²² Sec. 10, See Note 5, *supra*.

²³ Sec. 10.

²⁴ Sec. 4.

²⁵ Sec. 9 (C), Rep. Act No. 663.

²⁶ Sec. 4.

²⁷ Sec. 6.

²⁸ Sec. 5.

Both shall be natural-born Filipino citizens, not less than 40 years of age and of proven honesty and integrity and with experience in the rice and corn business for not less than 5 years.²⁹

The General Manager shall direct and manage the affairs of the RCA in behalf of the Board of Administrators and shall be subject to its control and supervision. He shall fix the number and, subject to WAPCO salary plan allowed by the Civil Service, salaries of, and appoint, and subject to the Civil Service Law and with the consent of the Board of Administrators, such subordinate employees as may be necessary for the proper discharge of the duties of the RCA. He shall suspend or otherwise discipline, for cause and subject to Civil Service Law, any subordinate employee of the Rice and Corn Administration with the consent of the Board of Administrators and perform such other duties as may be assigned by the Board.³⁰

III. PENAL PROVISIONS

In order to fully complement all the changes made by this Act toward the better implementation of the rice and corn price stabilization program, Section 15 provides for stiff penal sanctions against violation of any provision of the Act or of any rule or regulation promulgated pursuant thereto. A fine of not more than ₱10,000.00 and imprisonment of not more than 5 years shall be imposed upon any person found guilty of any such violation. If the offender is a public official and/or employee the additional penalty of perpetual disqualification to hold public office is also imposed.

This Act also repeals or modifies accordingly all laws or parts thereof which are inconsistent with its provisions.³¹

[REPUBLIC ACT No. 3456]

(H. N. 484)

AN ACT PROVIDING FOR THE CREATION, ORGANIZATION AND OPERATION OF INTERNAL AUDIT SERVICES IN ALL DEPARTMENTS, BUREAUS AND OFFICES OF THE NATIONAL GOVERNMENT.

As the fund raising organ, it is the responsibility of Congress to see to it that public funds are correctly and honestly spent by the administrative officials charged with the keeping and disburse-

²⁹ Sec. 4.
³⁰ Sec. 6.
³¹ Sec. 16.

ment of these funds for the purposes to which they have been lawfully appropriated. Pursuant to this solemn responsibility and to the policy of the present administration to eliminate graft and corruption from the government, Congress enacted Rep. Act No. 3456.

I. PURPOSE OF THE LAW

The law seeks to establish internal audit services in all departments, bureaus and offices of the National Government in order to assist management to achieve an efficient and effective fiscal administration and performance of agency affairs and functions.¹ At present there are already 25 established internal audit units in many government agencies. The General Auditing Office has been responsible for their introduction into these agencies. Among others, these internal auditing units have been responsible for: (1) the discovery of fraudulent collections of commutation leave amounting to about half million pesos, and in connection thereto, the institution of measures to prevent further drain on the government coffers; (2) the bringing to light the laxity of officials in the collection of receivables amounting to almost a million pesos; (3) the discovery of malversation cases by various collecting and disbursing officers amounting to about a hundred thousand pesos; (4) the unearthing of payroll padding in some offices and the subsequent institution of measures to curtail further perpetration; (5) the institution of measures to correct and account accurately cash accountabilities of various collecting and disbursing officers of different agencies which for the past several years could not readily be determined; (6) the improvement of accounting and operational practices and procedures; and (7) the improvement of collection methods and increasing of income.² In establishing the internal audit services, the law therefore seeks to give legislative recognition to those already existing internal auditing units for their commendable services as well as to establish similar units in all the agencies of the government.

II. THE INTERNAL AUDIT SERVICES

A. *Functions.*

The law fails to define or enumerate specifically what the functions of the Internal Audit Services are but merely provides that it shall be responsible for instituting and conducting a program of internal audit for the agency³ and that it shall assist management to achieve an efficient and effective fiscal administration and

¹ Sec. 2, Rep. Act No. 3456.

² Explanatory note to H.B. No. 484 which became Rep. Act No. 3456.

³ Sec. 3, *id.*

performance of agency affairs and functions.⁴ But considering the purpose of the law, the following may be enumerated as among the functions of the Internal Audit Service:

- 1) Reviewing compliance and appraising performance under policies, regulations, plans, and procedures established by management for carrying out its responsibilities;
- 2) Examining financial transactions;
- 3) Testing the reliability and usefulness of accounting, financial, statistical data and reports produced in the agency;
- 4) Reviewing the effectiveness with which the agency assets are utilized, accounted for and safeguarded; and
- 5) Reviewing and appraising the adequacy of policies, plans and procedures.⁵

B. Organization.

The Internal Audit Service shall be organized as an independent staff unit and shall correspondingly perform staff functions. It shall be under the direct administrative supervision and control of the chief and/or assistant chief of the agency. The chief of the Internal Audit Service shall have the rank and salary equivalent to the third ranking official of the agency. He shall report directly to the chief or assistant chief of the agency.⁶

C. Authority of the Auditor General.

Section 4 specifies the role of the Auditor General in the installation and coordination of the internal audit services in the different agencies of the government. The said section also provides that the Auditor General shall be responsible for the promulgation and enforcement of general policies, rules and regulations on internal auditing. This is in conformity with the Constitutional provision which states—"the Auditor General shall examine, audit, and settle all accounts pertaining to the revenues and receipts from whatever source, including trust funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the Government of the provinces or municipalities thereof. . . ."⁷

III. COMMENT

By making the Internal Audit Service under the direct administrative supervision and control of the chief of the agency, we fear

⁴Sec. 1, *id.*

⁵Explanatory note to H.B. No. 484.

⁶Sec. 8, *id.*

⁷Art. XI, Sec. 2.

that the work of the service would be unduly hampered if not totally prevented especially in unearthing corrupt practices within the agency. Consider a situation where not only the employees but also the chief of the agency is involved in corrupt practices. In such a situation, the service would be practically helpless.

[REPUBLIC ACT No. 3463]
(H. No. 1505)

AN ACT TO EXEMPT THE PEOPLE'S HOMESITE AND HOUSING CORPORATION FROM THE PAYMENT OF ALL TAXES, DUTIES, FEES AND OTHER CHARGES.

The national government has been striving to supply its citizens with the three basic needs of man, to wit: food, clothing and shelter at the lowest price possible. To reduce the cost of foodstuffs, the government has granted tax exemptions to NAMARCO imports; to reduce the cost of clothing, the government has established incentives for local textile industries by granting them tax exemptions. Regarding shelter, the GSIS which grants home building loans to its members is likewise tax exempt, but ironically the PHHC which has supplied houses and/or homelots for 23,337 families in the low-income bracket has to pay all taxes under the provisions of Rep. Act No. 104.¹

It has thus become an imperative need that a law be passed granting a like tax exemption to the PHHC in order that the national government can best achieve its aim in giving the people their basic needs at the least expense. The passage of Rep. Act No. 3463 is the legislature's answer to this need, which took effect on June 16, 1962.

SALIENT FEATURES OF THE LAW

A. *Exemption from the Operation of Certain Laws.*

(1) Section 1 provides for the exemption of the PHHC from the payment of all fees and taxes of any kind, thus placing the PHHC outside the operation of Sec. 1 of Rep. Act No. 104.²

¹Section 1: All corporations, agencies or instrumentalities owned or controlled by the government shall pay such duties, taxes, fees and other taxes upon their transactions, business, industry, sale or income as are imposed by law upon individuals, associations or corporations engaged in any taxable business, industry or activity, except on goods or commodities imported or purchased and sold or distributed for relief purposes as may be determined by the President of the Philippines.

²*Ibid.*

The current and modern housing trends in foreign countries, such as the United States, the United Kingdom, France, and Formosa is for the national government to subsidize public housing directly, by giving cash aids, or indirectly, by providing tax exemptions. In the Philippines, the PHHC has been paying taxes generally imposed on all government owned or controlled corporations. During the last ten years, it has actually paid ₱10,878,791.89 to the government and is still liable for the payment of ₱4,543,627.98. If this entire liability were paid, the payments of the PHHC would amount to more than a million pesos a year. It would seem, therefore that in the Philippines, the PHHC is subsidizing the government contrary to the contemporary trend abroad.

The tax exemption granted by this Act will achieve a two-fold purpose, to wit: (a) to house more families with money saved from tax exemption and (b) to reach low-income families through reduced rents and installments, thus resulting in the PHHC's ultimately achieving its main purposes.

(2) Section 2 exempts the PHHC from the payment of documentary stamp taxes thereby making Title VI of the National Internal Revenue Code⁴ inapplicable to it.

B. Condonation of Unpaid Taxes.

Section 3 of this Act provides that all taxes remaining unpaid by the PHHC up to the passage of this Act are condoned.

[REPUBLIC ACT No. 3469]

AN ACT AUTHORIZING THE CONSTRUCTION OF MULTI-STOREY TENEMENT BUILDING PROJECTS FOR THE POOR AND HOMELESS AND APPROPRIATING FUNDS THEREFOR.

One of the prime duties of the government is to help the people with the basic necessities of life. The law aims to provide adequate shelter for the poor and homeless who are unable to have it through no fault of their own. These are the people who live in subhuman conditions, exposed to disease, vice and criminality. They are entitled to decent housing facilities.¹

¹ Explanatory note to H.B. No. 1505 which became Rep. Act No. 3463.

⁴ Com. Act No. 466.

³ Explanatory Note to H.B. No. 340 which became Rep. Act No. 3469.

It is noteworthy that in the enactment of this law, Congress has recognized the limitations of the other agencies of the government like the People's Homesite and Housing Corporation (PHHC), Home Financing Commission (HFC), Land Tenure Administration (LTA), and National Resettlement and Rehabilitation Administration (NARRA), to provide homes for the homeless and lands for the landless. Rather than revamp these agencies or reinforce them by increasing their capitalization Congress has deemed it wiser to attack the problem directly.

The law envisions the construction of a multi-storey type of tenement buildings because it is economical to construct them and requires less space, considering the present real estate values.² Obviously, the buildings will be patterned after the multi-storey tenement buildings existing in Tokyo, Hongkong, London, New York with the difference that in some of these countries, the lessees are afforded the opportunity to buy the rooms they are occupying.

SALIENT FEATURES OF THE LAW

A. *Legislative Policy.*

It is the declared policy of Congress to alleviate the substandard living conditions of the masses by the construction of multi-storey tenement buildings for the poor and homeless family at nominal rental rates.³

It is also the declared policy of Congress to avoid the concentration of population in densely inhabited areas⁴ and to eliminate the slum areas from towns and cities.⁵

B. *Construction of the Tenement Buildings.*

The Department of Public Works and Communications is authorized to plan, design and call for public bidding for the construction of the tenement buildings.⁶ The sites where these buildings are to be constructed shall be determined by a special committee composed of the Auditor General, as chairman, and the Secretary of Public Works and Communications, the Chairman of the People's Homesite and Housing Corporation, the Director of the National Planning Commission and the Social Welfare Administrator, as members.⁷ In the determination of the proper sites, the special committee must be guided by the policy of avoiding concentration

² *Ibid.*

³ Sec. 1, Rep. Act No. 3469. The sections referred to in the subsequent footnotes refer to Rep. Act No. 3469.

⁴ *Ibid.*

⁵ Sec. 4.

⁶ Sec. 2.

⁷ Sec. 4.

of population in densely inhabited areas. It should also take into consideration the policy of Congress to eliminate the slum areas from towns and cities. Thus, it is clear that these tenement buildings may be constructed not only in Manila and Quezon City but also in other urban or rural areas. As originally proposed, the bill provided that the Department of Public Works and Communications is authorized to construct at least two multi-storey tenement building projects in Manila and Quezon City and such other places as the President may determine. As enacted the law left the determination of the proper sites to the special committee and does not specify that there should be constructed in Manila and Quezon City tenement buildings. The evident purpose of the law is to extend its benefits not only to the poor and homeless families residing in Manila and Quezon City but to all the indigent masses throughout the Philippines. The law also avoided a situation where people from the provinces would be tempted to come to Manila and Quezon City in the hope of finding a better place to live in only to be disillusioned by the existence of widespread unemployment in these areas, thereby making their life even more deplorable.

In the construction of the multi-storey tenement buildings, the Department of Public Works and Communications is given the discretion to plan and design the buildings as well as call for public bidding for their construction. The only limitation on this discretion of the Department is that at least 75% of the construction materials should be of Philippine origin or locally produced or manufactured as far as practicable. This is designed as an incentive to local industries.

C. Who May Take Advantage of the Law.

Since the primary purpose of the law is to alleviate the substandard living conditions of the masses, Congress provided that only the "poor and homeless" may take advantage of the law.⁸ Section 1 defined those who are "poor and homeless" as "any family head whose gross income together with that of the spouse shall not exceed ₱1,800.00 annually and shall also include any family head whose gross annual income together with that of the spouse exceeds such amount provided that the excess shall not be more than the number of immediate dependents times ₱120.00." The law, however, failed to specify the scope of the phrase "immediate dependent." But taking into consideration not only the purpose of the law but also the system of family relations in the Philippines, the phrase "immediate dependent" might be construed to mean not only the

⁸ Sec. 1.

children and the parents of the family head but also the relatives who actually live with him and depend on him for support.

In the determination of who may be prospective lessees, the special committee is given the power, subject to the approval of the President, to promulgate such guiding principles or set of rules and regulations to carry out the provisions of this Act. In the promulgation of these rules and regulations, one of the guiding factors to be considered is the "elimination of slums from our cities and towns and priority should be given to slum dwellers whenever this would facilitate the elimination of such slums."⁹ But these rules and regulations must be in conformity with the definition of the phrase "poor and homeless" found in Section 1. Otherwise the purpose of the law would be defeated.

D. Rentals.

The law specifically provides that the tenement buildings shall be available to the poor and homeless family at "nominal rental rates."¹⁰ The law did not specifically define what "nominal rental rates" means but leaves this matter to be determined by the special committee. What the rental should be on the 3rd, 4th or 5th floors is left to this committee to determine. Section 4 of the law provides the indicium to this problem. The special committee is called upon to determine "the most equitable and minimum rental which prospective lessees should pay."

In this connection, a question arises as to whether a lessee who is unable to pay the rental may be ejected therefrom considering that the purpose of the law is precisely to provide homes to the homeless. It is submitted that since the law is silent on the point, the existing general law should be applied. Therefore, pursuant to Art. 1673¹¹ of the Civil Code of the Philippines, the government may judicially eject the lessee if he fails to pay the rental.

A question may also arise as to whether a person who desires to rent on the ground floor in order to maintain a store¹² may claim the benefit of the nominal rental rates. We submit that he cannot. The purpose of the law is to provide adequate housing accommodations and facilities to the poor and homeless and not to aid merchants in their business. When the law allows the ground floor to be rented as stores, the legislators only had in mind the convenience of the lessees—to place the essential needs of life within

⁹ Sec. 4.

¹⁰ Sec. 1. See also Sec. 4.

¹¹ Art. 1673 of the Civil Code provides: "The lessor may judicially eject the lessee for any of the following causes: x x x Lack of payment of the price stipulated."

¹² Sec. 2.

their easy reach. Moreover, the rentals derived from this must necessarily go to the revolving fund for the maintenance and repair of the building.¹³ And to maintain a sufficient revolving fund, it would be logical that the lessees on the ground floor who is not a resident of the building but merely uses the same for business or commercial purposes should not be entitled to the "nominal rental rates." The losses which may result from the lease of the buildings at nominal rates should be compensated with the profits derived from the lease of the ground floor rented as stores.

E. Role of the PHHC.

According to Section 3, the PHHC shall be responsible for the maintenance, repair, improvement, expansion and administration of the buildings once the construction is completed and to this end, all the accruals derived from the rentals shall constitute a revolving fund which shall be used exclusively for such purposes.¹⁴ The PHHC is also granted the power to allocate by lottery the rooms of the tenement building¹⁵ but the exercise of this power must not be inconsistent with the rules and regulations promulgated by the special committee in the determination of the prospective lessees of the tenement.

F. Role of the Special Committee.

The primary functions of this special committee are to determine the proper sites of the building, the most equitable and minimum rental which the prospective lessees should pay and to promulgate rules and regulations which are necessary to carry out the provisions of the law in the determination of the prospective lessees of the tenement.¹⁶ May the special committee promulgate rules and regulations to protect the lessees in default of the payment of the rental from ejectment? It seems that it cannot do this because the law itself limits this power of the committee to promulgate rules and regulations only in the determination of the prospective lessees.

¹³ Sec. 5.

¹⁴ *Ibid.*

¹⁵ Sec. 3.

¹⁶ Sec. 4.

[REPUBLIC ACT No. 3472]
(S. No. 233 and H. No. 1919)

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC
ACT NUMBERED THREE THOUSAND EIGHTY-NINE
OTHERWISE KNOWN AS THE GOLD MINING INDUSTRY
ASSISTANCE ACT OF 1961.

In 1954 Congress passed Rep. Act No. 1164 designed to give a two-year assistance to gold producers in the country: to help them recover from the crippling effects of the last war on their properties and plants as well as to help them meet the rising costs of machinery and equipment brought about by the postwar inflation. As the two-year assistance period was not sufficient to bring about the desired recovery of the gold mining industry, the assistance program was extended for another year through the enactment of Rep. Act No. 1522.¹

But just when the mining industry was getting back on its feet, it suffered another set-back when the Central Bank began the implementation of the partial decontrol program. To meet the problem of a low gold price and increased cost of production, Congress passed Rep. Act No. 3089, otherwise known as the Gold Mining Act of 1961.² But then, when the problem of the gold producer seemed to be on the way to being solved by Rep. Act No. 3089, the Central Bank, early this year, abolished currency and import controls. The implementation of the administration's total decontrol program had an immediate telling effect on the gold mining industry. So, during the last session, Congress enacted Rep. Act No. 3472, amending certain provisions of the Gold Mining Act of 1961, in order to soften for three years, starting from 1961, the effects of decontrol on the gold mining industry.³

SALIENT FEATURES OF THE LAW

A. How the Assistance Is Affected

The assistance designed to be extended to gold producers by the Gold Mining Act, as amended, comes in the form of compulsory purchase on the part of the Central Bank of the entire production of newly-mined gold, whether produced as principal or by-product. And the Act fixes the official price at the equivalent in Philippine pesos of \$35 per ounce, the official world price of gold, based on the weighted banks, average buying rate of the US dollar on the date

¹ Explanatory Note to H.B. No. 5766.

² Sec. 3, Rep. Act No. 3089.

³ Explanatory Note to S.B. No. 233.

that the gold is delivered to the federal reserve bank for the account of the Central Bank.⁴ But the assistance does not end in giving the gold producer a constant buyer at a constant price. The Act also obliges the Government to give an additional assistance of ₱65.00 per ounce to a gold producer whose total net profit is less than the base profit,⁵ and ₱50.00 per ounce to a gold producer whose total net profit is equal to or more than the base profit.⁶

The only limitation is that no gold producer, whether mining gold as principal or by-product, can receive more than ₱200.00 per ounce of gold in official price and assistance. Neither can he receive less than ₱160.00. And the gold producer must, for as long as he receives assistance under the Act, declare a bonus equivalent to seven and one-half per cent of the assistance he receives, to be distributed among the employees whose salaries do not exceed ₱500.00 per month.⁷

B. Penalty for Violations of the Act

To qualify for assistance, the gold producer must sell his principal or by-product to the Central Bank and nowhere else. The Act gives him no alternative. Should he dispose of his gold in violation of the provisions of the Act, as amended, the entire production for the year the violation is committed is not entitled to assistance. And any assistance already given shall be refunded. Furthermore, the manager or person in charge of the mining corporation committing the violation, stands liable and may be slapped with a maximum fine of ₱5,000.00 or an imprisonment of not more than two years or both, at the discretion of the court.⁸

⁴Sec. 1, Rep. Act No. 3472.

⁵"Base profit" is that profit equal to the quotient of the total remaining capital investment divided by the anticipated remaining lifetime of the ore reserve plus ten per cent of the gross receipts, whichever is lower. (Sec. 2, Rep. Act No. 3089).

⁶Sec. 3, Rep. Act No. 3472.

⁷Under the original Gold Mining Act, the official price plus the assistance could not exceed ₱170.00 per ounce of gold in case of marginal gold mines and ₱150.00 in case of over-marginal gold mines. These ceiling prices were not in the original House and Senate Bills, both of which provided that the official price per ounce of gold should be based on the world price of \$35 per ounce multiplied by the prevailing rate of exchange between the peso and the dollar. The reason for this provision, which the gold producers strongly supported, was the prospect that the rate of exchange at some future time would increase from ₱3.00 to \$1.00 to ₱4.00 to \$1.00, or higher. Any upward revision of the exchange rate, as the experience of the gold producers have proven, will correspondingly increase their cost of production. Consequently, Congress thought that assistance to the gold industry, to be really effective, should take into account increases in the rate of exchange, with resultant higher cost of production.

When the Central Bank abolished controls, the rate of exchange immediately rose to ₱4.00 to \$1.00. Then it went down to ₱3.60 to \$1.00. However, this rate is still way above the ₱2.75 to \$1.00 which the gold producers were playing before decontrol for their importation of machinery, equipment, spare parts and supplies for use in their mines. The gold producers, therefore, were back in the same situation that they were in before Rep. Act No. 3089 was enacted, when they were operating at a loss because their production cost per ounce of gold exceeded the selling price per ounce. This amendment was therefore designed to increase the maximum amount payable to the gold producers to ₱200.00 per ounce and the minimum price to ₱160.00 per ounce. (Explanatory Note, S.B. No. 233).

⁸Sec. 4, Rep. Act No. 3089, as amended by Rep. Act No. 3472.

C. The Gold Mining Industry Board

To implement the provisions of the Gold Mining Act, the Gold Mining Industry Board was created late in 1961, composed of the Governor of the Central Bank, as chairman, and the Director of Mines and three others, one of whom is a representative of Labor, appointed by the President with the consent of the Commission on Appointments, as members.⁹ The Board, whose term runs for three years, is empowered to require the gold producers to submit quarterly reports on their mining operations,¹⁰ to examine and inspect mines property and plants, and books of account and records of any gold producer who is required by the Act to give the Board the necessary facilities to effectuate such examination.¹¹ The Board is also empowered to determine whether or not a gold producer, in the operation of his mine, is committing acts of discrimination against citizens of the Philippines and to disqualify such producer from assistance if in its opinion it is committing such discriminatory acts.¹²

But the decision of the Board is not final. Any aggrieved party may appeal the Board's decision to the President by filing a notice of appeal and a motion for reconsideration within fifteen days from notice. Neither is the decision of the President final. Because the Act gives the appellant thirty days from notice within which to seek recourse in the ordinary courts.¹³

D. The Gold Assistance Trust Fund

Under the Gold Mining Act, the Secretary of Finance and the Governor of the Central Bank are under obligation to make a regular estimate of the internal revenue taxes, dollar margin fee, special import tax, customs duties, compensating tax and other charges, payable by gold producers directly or indirectly (except those otherwise allocated by law for other purposes), as well as those arising from allocations of foreign exchange equivalent in value to gold sold to the Central Bank, and such estimates are to be certified by said officials. Upon certification, the Central Bank of the Philippines is authorized to charge the current account of the National Treasury in said Bank in an amount equivalent to such certification and the amount so charged is set aside in a trust fund known as the "Gold Assistance Trust Fund." If the amount available in the Fund is not sufficient to provide fully for the assistance to be given

⁹ Sec. 7, Rep. Act No. 3089.

¹⁰ Sec. 8, *id.*

¹¹ Sec. 9, *id.*

¹² Sec. 11, *id.*

¹³ Sec. 14, *id.*

to the gold mines under the Act, the Central Bank is authorized to charge the current account of the National Treasury in such amount as may be necessary to make for the deficiency.¹⁴

[REPUBLIC ACT No. 3470]
(H. No. 422)

AN ACT CREATING THE NATIONAL COTTAGE INDUSTRIES
DEVELOPMENT AUTHORITY (NACIDA) UNDER THE
DEPARTMENT OF COMMERCE AND INDUSTRY, PRE-
SCRIBING ITS DUTIES, POWERS AND FUNCTIONS, AND
APPROPRIATING FUNDS THEREFOR.

Cottage industries play a strategic role in bringing about the desired national economic growth especially in the development of rural areas, diminishing of unemployment and the raising of the standard of living. The economic policies and program pursued by other countries, notably Japan, India, Israel and Taiwan strongly attest to this fact. Economic growth, more employment and the consequent amelioration in the living standard of the masses are largely brought about through the maximum utilization and exploitation of the greatest possible spheres of economic activity, especially those that would need comparatively lesser capital requirements, and relatively simple forms of operation and entrepreneurial management. The creation of the National Cottage Industries Board would therefore enhance and induce effectively the achievement of the basic economic objectives of the country on the grass root level. It will further help in the broadening of the country's industrial base and the acceleration of development on a more rapid pace as a means of providing more employment and economic opportunities particularly in the rural areas.¹

I. CREATION AND ORGANIZATION OF THE NACIDA

With the proper authority from Congress, the National Cottage Industries Development Authority was created by the President of the Philippines² designed to effectuate among others the organization, revival, encouragement, and promotion of the cottage industries, the standardization of cottage industries products and the effective merchandizing of such products in domestic and foreign markets.³

¹⁴ Sec. 13, *id.*

¹ Explanatory Note to H.B. No. 422, which became Republic Act No. 3470.

² Sec. 1, Rep. Act No. 3470. The sections referred to in the subsequent footnotes refer to Rep. Act No. 3470.

³ Sec. 2.

The NACIDA is under the Department of Commerce and Industry. It is composed of a Board of Directors which consists of a chairman and four members, one of whom shall be the Chief of the Division of Home Industries of the Bureau of Public Schools. Aside from this Board, there is also a Managing Head of the Technical Office to be known as the Administrator who will be provided with an assistant in the person of the Deputy Administrator. All of these officers shall be appointed by the President with the consent of the Commission on Appointments. Other officers and personnel of the NACIDA shall be appointed in turn by the Board of Directors and their compensation fixed in accordance with the Civil Service Law and Rules and Salary law.⁴ The power of enunciating the policies that shall guide the operations of the NACIDA shall lie in the Board of Directors.⁵

The project of "reviving, encouraging and promoting cottage industries," being nationwide, regional institutes shall be established which will specifically be charged with the functions of conducting research within their regions, determining which cottage industry products shall be produced in a commercial manner and the standardizing of products. These institutes shall be suitably located in Northern Luzon, Central Luzon, Tagalog Region, Bicol Region, Western Visayas, Central Visayas, Eastern Visayas, Western Mindanao and Eastern Mindanao. These nine institutes shall be headed each by a director who shall also be a presidential appointee on the recommendation of the Board of Directors. Besides those functions especially assigned to it by law, these institutes may perform such other functions as the Secretary of Commerce and Industry may fix in relation to the promotion of cottage industries.⁶

II. COVERAGE OF THE ACT

"Cottage industry," as used in the Act, means an economic activity in a small scale which is carried on mainly in the homes or other places for profit and which is mainly done with the help of the members of the family; and "cottage products" are those products produced by cottage industries and labeled as "cottage products—made in the Philippines."⁷ The activities covered by the Act may be classified generally into crafts, weaving, industries done in the home with the aid of electrical gadgets and/or by hand manipulation and those strictly home industries. Included in crafts are

⁴ Secs. 1 and 5. The chairman and the members shall hold office for 6 years unless sooner removed or separated from the service for causes provided by law, in which case a successor may be appointed for the unexpired term.

⁵ Sec. 4(c).

⁶ Sec. 7.

⁷ Sec. 11.

fiber crafts such as making of abaca ropes, twines and buntal fiber extracting and buri leaf braiding; woodcraft such as making of wooden shoes, wooden fans, walking sticks and wood carvings; and metal craft such as making of jewelries, knives, boloes, scissors, razors, silverware and brasswork, among others. In the classification of weaving are hat weaving such as Calasiao, buri, rafia, buntal and bamboo hats, salakots and helmets; mat weaving such as door, sleeping, buri, pandan, balilan and sabutan mats; and loom weaving such as making of fish nets, mosquito nets, weaving of Ilocano cloth, Igorot weaving, piña barong Filipino, jusi and sinamay. Among the industries done in the home with the aid of electrical gadgets are ceramics such as making of potteries, hollow blocks, tiles firebricks, clay stoves and other ceramic products; machine parts manufacture such as wheels and stone mortars; and small mining operations. As to strictly home industries, these include poultry including duck raising and "balut making"; home cigar making and food preservation and canning including the making of vinegar wine, "bagoong," "marzapan," "pili," "tostado compitado" de pili, and bucayo.⁸ It will thus be seen that the meaning of the terms "cottage industries" and "cottage industries products" have been very much enlarged and have been made to cover as broad a scope as will help bring about the desired economic growth and development especially in the rural areas.

The ownership and operation of cottage industries are limited to Filipino citizens and to corporations, partnership or cooperatives at least 75% of which capital is Filipino-owned or controlled. Such corporation shall furthermore provide for an all-Filipino board of directors.⁹ Before any such persons, corporations, partnerships or associations can avail of the benefits and assistance under the Act, he or it must register with the NACIDA and any such registered person or firm are furthermore enjoined to comply with the rules and regulations issued by the Board.¹⁰ All those failing to so comply shall not be entitled to the benefits and assistance which includes but is not limited to Section 10 of the Act extending loans to such persons and corporations.¹¹

III. SALIENT FEATURES OF THE LAW

A. *Simplicity and Practicality of the Legislation.*

The law provides for a simple but practical set-up for this newly created entity. There is created an organizational office in Manila

⁸ Sec. 11.

⁹ *Ibid.*

¹⁰ Sec. 12.

¹¹ *Ibid.* Sec. 17 further provides for a penalty for those who utilize or abstain from the utilization of the funds borrowed under this Act for any purpose or purposes other than those applied for in their loans.

with nine institutes suitably located in the different regions of the Philippines. Recognizing that each region may have its own potentialities for the development of cottage industries as well as its own peculiar problems, each institute is granted the power to determine for itself what is best for that region, making these bodies reasonably autonomous from the Organizational Office in Manila. This feature results in simplified and expeditious decision-making and proper channeling of resources and energy. Thus, each shall have charge of the determination of which cottage industry products shall be produced in their regions or localities in a commercial manner and the standardization of the products therein.¹² Furthermore, projects for the establishment, expansion and development of cottage industries now being undertaken by other governmental agencies or offices shall be transferred to the NACIDA and the personnel, know-how and technology from these governmental agencies shall be absorbed by the Board making possible concentration of functioning and duties necessary for its effective operations.¹³

B. Independence of the Members and Officers of the Board.

Experience has made it necessary to establish a set-up where the members and officers are ideally independent from outside influence as far as possible in order to best effectuate the policies of the body with the minimum of purely personal interests coming into play. Translated into law, actual prohibitions and disqualifications have to be provided for to keep the NACIDA out of the reach of the unscrupulous and scheming officers and members. Thus, a person appointed to the Board can not serve simultaneously as director of any government owned or controlled corporation; nor can one who is a candidate for a public elective office at the time of his appointment or was such a candidate at the general or special elections immediately preceding the same be eligible for appointment as Administrator, Deputy Administrator, member of the Board of Directors, or director of Regional Institutes.¹⁴ To safeguard the Board from the dictation and control by a single political party, the law has seen it fit to require that one of the members of the NACIDA must come from the minority party to be nominated by the President of said party.¹⁵ The independence of the NACIDA is further strengthened by extending the provisions of the Civil Service Law and the Rules and Salary Law to the other officers and personnel of the Board.¹⁶ All these measures are adopted to prevent the clash of two or more interests which might adversely

¹² Sec. 7.

¹³ Sec. 2(a).

¹⁴ Sec. 1.

affect the proper functioning of the NACIDA and deter the attainment of the objectives of the Act.

C. Provisions for Incentives to the Cottage Industries.

To give impetus to any program instituted by the government or any other projects for that matter, enough incentives must be made available not only to start them off but to keep them going. Well aware of the fact that some of the most effective inducements are the availability of funds for expenditures and the facility of acquiring loans to finance it, Congress empowered by this law the Development Bank of the Philippines and the Philippine National Bank to allocate ₱50,000,000.00 respectively for loans to cottage industries, besides the appropriation of ₱4,000,000.00 as initial fund for the NACIDA. The acquisition of the needed loan by those engaged in the cottage industries has furthermore been facilitated by the following conditions: that real estate which has no Torrens Title shall be accepted as security with respect to loans made by the Philippine National Bank; that a guaranty of mortgage or pledge of cottage industries products shall be considered sufficient as to loans granted by the Development Bank of the Philippines; and that both kinds of loans shall bear interest not exceeding 4% annually.¹⁷

Further incentives are established by the prohibition of the exportation of local raw materials which may be needed for cottage industries until the local demand has been satisfied¹⁸ and the direction to the Reparations Commission that priority allocation be given for capital goods and fields of studies intended for cottage industry projects certified by the Board.¹⁹ This direction to the Reparations Commission is in line with some of the duties to be performed by the NACIDA, to wit: to render consultation services, provide technical know-how and field assistance to cottage industries producers,²⁰ and to undertake research and training programs designed to improve cottage industries products.²¹

In spite of all the above-mentioned incentives, persons otherwise interested in the cottage industries may be deterred from engaging therein because of the problem of the market for cottage industry products. Even for this contingency, the law has made provisions by directing the Board to stimulate the organization and establishment of marketing cooperatives in coordination with the

¹⁷ Sec. 1.

¹⁸ *Ibid.*

¹⁹ Sec. 10.

²⁰ Sec. 12.

²¹ Sec. 15.

²² Sec. 2(g).

²³ Sec. 2(h).

activities of the Cooperative Administration Office and to train and develop a competent management pool for the operation of producers and marketing cooperatives and cottage industries.²² To promote the effective merchandizing of cottage products in domestic and foreign market so that those engaged in such industries will be placed on a basis of economic security, the NACIDA itself may if necessary market the cottage products for the producers.²³ Furthermore, within one year after the organization of the NACIDA and from time to time thereafter, it shall furnish the Bureau of Supply with a list of samples of items produced by cottage industries and thereafter, the Bureau shall give priority in the procurement of these cottage products for government use.²⁴ It shall extend any other assistance to cottage industries producers in their problems relating to financing, producing and marketing.²⁵

Finally, in line with the reasoning that if a new industry would be given not only a reasonable chance but assisted as well in the form of tax exemption, or the like, any industry would benefit not only the investors but also the country as a whole by way of increased opportunities for employment, larger national income, and more tax revenues for the government.²⁶ The law under Section 16 has justly exempted the production, manufacture and sale of cottage industries from all taxes for a period of five years from the date of registration of the person or firm engaged in the production or manufacture of cottage products with the NACIDA. All these incentives taken together would dispel whatever misgiving persons or corporations may have about venturing into the cottage industries.

D. Nationalization of the Cottage Industries.

The development of the cottage industry in the Philippines is intended to hasten the economic growth of the country and to raise its standard of living through, but not exclusively, increased employment and utilization of more skills of the Filipinos. These are objectives which all Filipinos imbued with the nationalistic spirit would find laudable and worthy causes of endeavors but which would not be greeted with interest, in the least by foreigners. Not unaware of this, Rep. Act No. 3470 has rightly provided for the nationalization of the cottage industry in the following terms: ". . . The cottage industries shall be owned and operated by Filipino citizens or if a corporation, partnership or cooperative, at least 75%²⁷

²² Sec. 14.

²³ Sec. 2(c).

²⁴ Sec. 9.

²⁵ Sec. 2(f).

²⁶ Montilla Florendo, *Criticism in the Tax Exemption of New and Necessary Industries*, Vol. 1, U.E. Law Journal, No. 1, p. 25 (1961).

²⁷ This is even a more strict requirement than the 60% imposed by the Constitution as to public utilities (Art. 14, Sec. 8) and other Acts.

of its capital and its stockholders and all members of the Board of Directors shall be Filipino citizens." ²⁸ This feature of the law can be viewed as both a protective measure against alien control or domination and a recognizing act of the existing natural skills of the Filipinos for the activities comprehended within the term "cottage industries."

IV. POWERS AND DUTIES OF THE NACIDA

The NACIDA like all other government entities with a separate and independent existence has been granted broad general powers necessary for its existence and maintenance. It is granted contractual powers necessary for the performance of the duties imposed on it by law like granting small loans under such terms and conditions as it may prescribe, surveying and evaluating existing skills, machinery and equipment and raw materials available in industrial quantities, administering and maintaining a tool and dye development program responsive to the technological needs of the cottage industries ²⁹ all of which activities necessitate the entering into contracts with other persons, corporations and other associations. It is also granted the power to lease or own real and personal property, to sell or otherwise dispose of the same and to acquire and hold such assets resulting directly from operations authorized by the Act or as are essential or incidental to the proper conduct of such operations. ³⁰ Having such broad powers which may involve large liabilities in favor of or against the NACIDA, it is granted the right to sue and be sued. ³¹

Hand in hand with broad and extensive powers go responsibilities and duties. The NACIDA is no exemption. Within 60 days after the close of the fiscal year, the body through the Board of Directors is required to submit an annual report to the President and Congress, which report shall contain a detailed account of all activities, achievements, receipts and disbursements, financial condition of the institution, problems encountered, solved and unsolved, recommendations and a program of future activities. ³² This report will be a vivid account of how faithful the Board has performed the duties ³³ imposed on it by law. This will also be the gauge of both the President and Congress of the services rendered by the NACIDA,

²⁸ Sec. 11.

²⁹ Sec. 2.

³⁰ Sec. 3.

³¹ *Ibid.*

³² Sec. 6(d).

³³ Sec. 2.

the difficulties it is encountering and the solutions to these and, finally, the advisability of passing remedial laws or other laws of similar import which created the NACIDA.

COMMENT

There is much to be desired about the economic set-up of the country today. Laudable projects and programs have come and gone leaving the country in much the same shape as when the first crusading voice was heard and the fire of enthusiasm has caught up with the nobly imbued. Laws have either been ineffective or have become ineffective while in the hands of implementing officials. It is therefore the fervent hope that the law creating the National Cottage Industries Development Authority will prove to be a good law as actually implemented as it is a good one in paper. Considering the worthy objects of the legislation, the provision of adequate measures for its proper implementation, and the inclusion of enough safeguards and incentives to the people who are interested or otherwise involved in the cottage industries, it is not empty to predict that Rep. Act No. 3470 will go a long way in bringing about the desired national economic growth and development, especially in the rural areas.