CONSTITUTIONAL LAW

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THE COURT AND THE CONSTITUTION

The responsibility of safeguarding the Constitution rests not only on one branch of the government but on all the three major branches. The question of the validity of every statute is first determined by the legislative department of the government itself and finally comes before the courts sustained by the sanction of the executive. This is even more so because the members of the legislature and the Chief Executive have taken an oath to support the Constitution.[1]

Under the Constitution, however, the branch of government that is principally relied on as the guardian of the Constitution is the Supreme Court.[2] The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It, therefore, belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body.[3]

It is in the area of constitutional law that the court performs its most distinctive function.[4] Rightly said, "Constitutional Law is the judicial gloss upon the bare text of the Constitution. The text of the Constitution gives us the skeletal framework. But the flesh and blood of the constitutional corpus are found in the authoritative decisions of the Supreme Court."[5]

In 1965, the Supreme Court was again called to decide on constitutional issues. During the year under review, few cases involving the exercise of its function as interpreter of the Constitution were brought before it. However, it was able to come out in some cases with clarifications on theretofor hazy questions of law and in others it was afforded the chance to reaffirm its former rulings.

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[1] People v. Vera, 65 Phil. 95 (1937). See also: Section 7, Article VII, Philippine Constitution: Sec. 1, Art. IX of the Constitution which provides: "The President, the Vice President, the Justices of the Supreme Court and Auditor General shall be removed from office on impeachment for and conviction of, culpable violation of the Constitution, x x x;" Section 2, Art. XIV, Phil. Const., and Section 23, Revised Administrative Code.

[2] Sec. 1 and Sec. 2, Article VIII; Phil. Constitution.

[3] Hamilton, *The Federalist Papers*, No. 78.

[4] Freund, Paul A., *The Supreme Court of the United States*, 1961, p. 78.

[5] Eufemio, "Constitutional Law in Retrospect," *Philippine Law Journal*, Vol. 37, No. 1, January 1962, p. 1. In this regard, Article 8 of the Philippine Civil Code provides: "Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines."

SEPARATION AND DELEGATION OF POWERS

The government of the republican state of the Philippines[6] is composed of three major departments: the Legislative,[7] the Executive,[8] and the Judiciary.[9] This division is in consonance with the principle of separation of powers which is a basic feature of the government of the Philippines under the present Constitution.[10]

Under this constitutional set-up, the powers of government are distributed among three coordinate and substantially independent organs. Each of these departments of the government derives its authority from the Constitution which in turn, is the highest expression of popular will. Each has exclusive jurisdiction and is supreme within its own sphere.[11]

The Philippine Legislature may not escape its duties and responsibilities by delegating that power to any other body or authority. Any attempt to abdicate the power is unconstitutional and void, under the principle that *potestas delegata non delegare protest.* This principle which is said to have originated with the glossators, was introduced into English law through a misreading of Bracton, there developed as a principle of agency, was established by Lord Coke in the English public law in decisions forbidding the delegation of judicial power, and found its way into America as an enlightened principle of free government. It has since become an accepted corollary of the principle of separation of powers.[12]

This does not mean though that no delegation is allowed. Congress manifestly is not permitted to abdicate nor to transfer to others the essential legislative functions with which it is thus vested. Undoubtedly, legislation must often be adapted to compel conditions involving a host of details with which the national legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicability, which will enable it to perform its function in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply. Without capacity to give authorizazations of that sort we should have the anomaly of legislative power

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[6] Sec. 1, Art. II, Phil. Const.

[7] "The Legislative power shall be vested in a Congress of the Philippines, which shall consist of a Senate and a House of Representatives." Section 1, Art. VI, *Phil. Const.*

[8] "The Executive power shall be vested in a President of the Philippines." Sec. 1, Art. VII, *ibid.*

[9] "The Judicial power shall be vested in one Supreme Court and in such other inferior courts as may be established by law." Sec. 1, Art. VIII, *ibid.*

[10] Sinco, *Philippine Political Law,* 11th ed., p. 128.

[11] People v. Vera, *op. cit.*

[12] *Ibid.,* p. 115.

which in many circumstances calling for its exertion would be a futility. But the constant recognition of the necessity and validity of such provisions and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate if our constitutional system is to be maintained.[13]

Thus, the rule does not involve a blanket prohibition of delegation of all kinds of authority. What it prohibits is delegation of "power to make the law," which is necessarily "the exercise of discretion as to what the law shall be."[14]

Validity of Section 68, Revised Administrative Code

The Supreme Court declared section 68 of the Revised Administrative Code, in the case of *Pelaez v. Auditor General,*[15] as constituting an undue delegation of power and therefore unconstitutional. This case relates to the power of the President under section 68 of said Code to create municipalities. Pursuant to this provision during the period from September 4 to October 29, 1964, the President of the Philippines issued Executive Orders Nos. 93 to 121, 124 and 126 to 129, creating thirty-three municipalities.

Emmanuel Pelaez, as Vice-President of the Philippines and as taxpayer, instituted a special civil action, for a writ of prohibition with preliminary injunction against the auditor general. Petitioner alleged that said Executive Orders are null and void, upon the ground that said section 68 constitutes undue delegation of legislative power.

The pertinent portion of section 68 of said Code provides:

> "The President of the Philippines may by Executive order define the boundary, or boundaries, of any province, sub-province, municipality, municipal district, or other political sub-division, and increase or diminish the territory comprised therein, may divide any province into one or more sub-provinces, separate any political division other than a province, into such portions as may be required, merge any of such sub-divisions so created, and may change the seat of government within any subdivision to such place therein as the public welfare may require...."

Deciding the case, the Court held that although the Congress "may delegate to another branch of the government the power to fill in the details in the execution, enforcement or administration of a law, it is essential, to forestall a violation of the principle of separation of powers, that said law (a) be complete in itself—it must set forth therein the policy to be executed, carried out or implemented by the delegate and (b) fix a standard — the limits of which are sufficiently determinate or determinable — to which the delegate

[13] Panama Refining Co. v. Ryan, 293 U.S. 388 (1935).
[14] Sinco, *op. cit.*, p. 542.
[15] G.R. No. L-23825, December 24, 1965.

must conform in the performance of his functions. Indeed, without a statutory declaration of policy, the delegate would, in effect make or formulate such policy, which is the essence of every law; and, without the aforementioned standard, there would be no means to determine, with reasonable certainty, whether the delegate has acted within or beyond the scope of his authority. Hence, he could thereby arrogate upon himself the power, not only to make the law, but, also — and this is worse — to unmake it, by adopting measures inconsistent with the end sought to be attained by Act of Congress, thus nullifying the principle of separation of powers and the systems of checks and balances, and, consequently, undermining the very foundation of our Republican system.

"Section 68 of the Revised Administrative Code does not meet these well settled requirements for a valid delegation of the power to fix the details in the enforcement of a law. It does not enunciate any policy to be carried out or implemented by the President. Neither does it give a standard sufficiently precise to avoid the evil effects above referred to."

EQUAL PROTECTION OF LAWS

The Constitution provides ". . .nor shall any person be denied the equal protection of the laws."[16] The import of this provision is to secure that the "egalitarian principle"[17] is protected by the Constitution. This constitutional guaranty of the equal protection of the laws has been interpreted to mean "that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and in like circumstances."[18]

The problem in equal protection is one merely of classification. It is a well settled rule in constitutional law that a legislation which affects with equal force all persons of the same class and not those of another, is not a class legislation and does not infringe said constitutional guaranty of equal protection of laws, if the division into classes is not arbitrary and is based on differences which are apparent and reasonable.[19] What may be regarded as a denial of equal protection of laws is a question not easily determined. No rule that will cover every case can be formulated. Class legislation discriminatory against some and favoring others is prohibited. But classification on a reasonable basis, and not made arbitrarily or capriciously, is permitted. The classification, however, to be reasonable must be based on substantial distinctions which make real differences,

[16] Sec. 1, Art. III, Phil. Const.
[17] Sinco, *op. cit.*, p. 629.
[18] *Ibid.*
[19] The Manila Electric Co. v. Public Utilities Employees Association, 79 Phil. 409 (1947).

it must be germane to the purposes of the law, it must be limited to existing conditions only, and must apply equally to each member of the class.[20]

The Supreme Court in the case of *Philippine Constitutional Association, et al. v. Jimenez, et al.*,[21] applied these tests in determining the constitutionality of Republic Act 3836. In this case, Congress passed a law entitled, "An Act Amending Subsection (c), Section Twelve of Commonwealth Act Numbered One Eighty-Six, as Amended by Republic Act Numbered Thirty Hundred Ninety-Six." The particular provision questioned was paragraph 2, Subsection c, Section 1, of the Law which provides:

> "Retirement is also allowed to a senator or a member of the House of Representatives and to an elective officer of either House of Congress, regardless of age, provided that in the case of a Senator or Member, he must have served at least twelve years as a Senator and/or as a member of the House of Representatives, and in the case of an elective officer of either House, he must have served the government for at least twelve years not less than four years of which must have been rendered as such elective officer: *Provided,* That the gratuity payable to a retiring senator, member of the House of Representatives, or elective officer, of either House shall be equivalent to one year's salary for every four years of service in the government and the same shall be exempt from any tax whatsoever and shall be neither liable to attachment or execution nor refundable in case of reinstatement or reelection of the retiree.
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> "This gratuity is payable by the employer of office concerned which is hereby authorized to provide the necessary appropriation or pay the same from any unexpended items of appropriation or savings in its appropriations.
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> "Elective or appointive officials and employees paid gratuity under this subsection shall be entitled to the commutation of the unused vacation and sick leave, based on the highest rate received, which they may have to their credit at the time of retirement."

The Supreme Court found the main features of the Act "patently discriminatory and therefore violate the equal protection clause of the Constitution."

In the first place, the Court stated, "while the said law grants retirement benefits to Senators and Members of the House of Representatives who are elective officials, it does not include other elective officials such as the governors of provinces and the members of the provincial boards, and the elective officials of the municipalities and chartered cities." The fact that the law applies only to elected members of Congress makes it unreasonable.

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[20] People v. Vera, *op. cit.*, pp. 56, 126.
[21] G.R. No. L-23326, December 18, 1965.

Secondly, all members of Congress under Republic Act 3836 are given retirement benefits after serving twelve years not necessarily continuous, whereas, most government officers and employees are given retirement benefits after serving for at least twenty years. In fact, the original bill of Act 3836 provided for twenty years of service.

In the third place, all government officers and employees are given only one retirement benefit irrespective of their length of service in the government, whereas, under R.A. 3836, because of no age limitation, a senator or Member of the House of Representatives upon being elected for 24 years will be entitled to two retirement benefits or equivalent to six years' salary.

Lastly, it is peculiar that Republic Act 3836 grants retirement benefits to officials who are not members of the Government Service Insurance System. Most grantees of retirement benefits under the various retirement laws have to be members or must at least contribute a portion of their monthly salaries to the system.

EXPROPRIATION

One primordial consideration in the exercise of the power of eminent domain or the express power of the Legislature granted by the Philippine Constitution to expropriate, is the "payment of just compensation."[22]

In an expropriation case[23] decided during the year under survey, the Supreme Court had the opportunity to lay down some guidelines in the valuation of property sought to be expropriated and on agency of government which has authority to execute expropriation laws.

This expropriation case was commenced by the Land Tenure Administration against Lichauco, et al., defendants and appellants. Defendants argued that plaintiff as represented by the Land Tenure Administration has no authority to expropriate the hacienda in question and that the price fixed by the trial court cannot be the fair market value of the hacienda.

The Supreme Court considered the first question academic it appearing that the Land Tenure Administration has already been abolished and superseded by the Land Authority which took over its functions under section 73 of Republic Act No. 3844 which came into effect on August 8, 1963. This government agency is given express

[22] "Private property shall not be taken for public use without just compensation." (Sec. 1, par. 2, Art. III, Phil. Const.); "The Congress may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals." (Sec. 4, Art. XIII, *ibid.*).

[23] Republic v. Lichauco, et al., G.R. No. L-18001, July 30, 1965.

authority to expropriate private agricultural lands where one-third of the tenants working thereon file a petition for their expropriation. There can, therefore, be no doubt as to the authority of the Republic, as there has been substitution of its representative in the present action for expropriation.

Bases of Setting Value of Land

The value of adjacent lands is often used to arrive at the price of the land to be expropriated. In the present case, the Supreme Court ruled, in effect, that the adjacent lands to be used as gauge should be near the land being expropriated and that must be of the same nature. The Court considered it improper to use as basis the value of three haciendas mentioned in the decision, not only because their nature are not similar to the hacienda in question but their location is quite far to come within the vicinity of the property to be expropriated. Thus, it appears that the Hacienda de Leon is about 70 kilometers away from the hacienda in question and the Hacienda Ongsiako is even worse for it is nearly 100 kilometers distant from the hacienda in question, and the other hacienda which is nearer is so small that its price can hardly be taken as basis for determining the value of a big hacienda.

Another factor that was considered improper by the Court is the buying power of the tenants in the hacienda to be expropriated on their petition. Reasoning out its decision, the Court stated that what should be taken into consideration is the "value to the owner, or the loss caused to him, and not the value to the condemnor. Neither should the fact that the land is desired for a particular public use be considered, for the main factor involved in an expropriation is that the owner is entitled to a just compensation."

OBLIGATIONS OF CONTRACTS

The Constitution provides: "No law impairing the obligations of the contracts shall be passed."[24] This clause is intended to protect creditors, to assure the fulfillment of lawful promises, to guard the integrity of contractual obligations.[25] Laws and acts violative of this provision are without effect as being unconstitutional. In determining the observance or violation of this clause, it is necessary to investigate whether there is a valid contract, what obligations proceed from it, and what act has impaired the obligation.[26]

However, the prohibition in the contract clause is not absolute. In a case decided by the Supreme Court of the United States, it was expressed that "not only are existing laws read into contracts in

[24] Sec. 1, (10), Art. III, Phil. Const.
[25] Sinco, *op. cit.*, p. 640.
[26] *Ibid.*

order to fix obligations as between the parties, but the reservation of essential attributes of sovereign power is also read into contracts as postulate of the legal order. The policy of protecting contracts against impairment presupposes the maintenance of a government by virtue of which contractual relations are worthwhile — a government which retains adequate authority to secure the peace and order of society."[27]

In the case of *Uichanco, et al. v. Gutierrez, et al.*,[28] the Court reaffirmed the constitutional validity of section 14 of Republic Act 1199 by stating that it is a valid exercise of police power. This particular case relates to the demand of the tenants of petitioners to convert their relationship from "share tenancy to leasehold tenancy." The tenants invoked the right granted by section 14 of R.A. 1199. The petitioners questioned the constitutionality of said law on the grounds that, it interferes with the freedom of contracts, and it impairs contractual rights and that it deprives the landowner of his property in giving the tenant the right to impose a new legal relationship without the landowner's consent. The Court dismissed the petition and invoked its own decisions in *Ramas v. Court of Agrarian Relations*,[29] and *Macasaet v. Court of Agrarian Relations*,[30] where it was stated that:

> "The constitutional prohibition against state laws impairing the obligation of contracts does not restrict the power of the state to protect the public health, the public morale, or the public safety. One or more of these factors may be involved in the execution of such contracts. Rights and privileges arising from contracts are subject to regulations for the protection of the public health, the public morals, and the public safety, in the same sense and to the same extent as is all property, whether owned by natural persons or corporations. Not all police legislation which has the effect of impairing a contract is obnoxious to the constitutional prohibition as to impairment."

That section 14 of R.A. 1199 is a police regulation was made clear by the Court when it stated:

> "A police regulation, obviously intended as such, and not operating unreasonably beyond the occasions of its enactment, is not rendered invalid by the fact that it may affect incidentally the exercise of some right guaranteed by the Constitution. For example, it is said that the proper exercise of the police power is not subject to restraint by constitutional provisions designed for the general protection of rights of the individual life, liberty and property."

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[27] Home Building & Loan Assn. v. Blaisdell, 290 U.S. 231 (1934).
[28] G.R. Nos. L-20275-79, May 31, 1965.
[29] G.R. No. L-19555, May 29, 1964.
[30] G.R. No. L-19750, July 17, 1964.

RIGHT TO BAIL

The Constitution provides that "all persons shall before conviction be bailable by sufficient sureties, except those charged with capital offenses when evidence of guilt is strong. Excessive bail shall not be required."[31] The thought of the provision is expressed in the following words of Justice Douglas of the United States Supreme Court. "The fundamental tradition in this country is that one charged with a crime is not, in ordinary circumstances, imprisoned until after a judgment of guilt . . . . This traditional right to freedom during the trial and pending judicial review has to be squared with the possibility that the defendant may flee or hide himself. Bail is the device which we have borrowed to reconcile these conflicting interests."[32]

A reading of the provision just stated will reveal that in capital offenses, it is discretionary for the judge to allow the accused to bail or not. But he must base his discretion on the evidence presented at the time the accused applies for bail.[33] In a word, when there is strong evidence of guilt, the judge may deny bail. In *Magno v. Abbas*,[34] the respondent Judge denied bail to petitioner Magno on the ground that "the evidence presented during the hearing of the petition for bail shows that the accused Magno has participated in the commission of a capital offense. The least that can be said about the evidence on record is that the proof of guilt of the accused is presumptively strong." The Supreme Court held that the claim of the petitioner that the denial was only on the strength of a presumption is untenable. It was enough that evidence should show that the accused has "participated in the commission of the offense of which he is charged with other persons."

SUFFRAGE AND THE COMMISSION ON ELECTIONS

Democracy is the strong enemy of aristocracy.[35] For while aristocracy is a government of a class whose only claim to power is the fact that it is privileged by its possession of property, democracy is a government where the people without regard to their material possession share in directing the activities of the state. In a democracy, "all men are created equal"[36] and as they are equal they have the same rights to and should enjoy the same opportunities without regard to their properties. These are the postulates of democracy. To require that a citizen should satisfy a property

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[31] Sec. 1, par. 16, Art. III, Phil. Const.
[32] Bandy v. United States, 5 L. Ed. 2d. 218, 219 (1960).
[33] Sinco, *op. cit.*, p. 694.
[34] G.R. No. L-19361, February 26, 1965.
[35] *Columbia Encyclopedia*, New York, vol. 1, p. 97.
[36] Declaration of Independence, (United States), 1776.

qualification in order to run for a public office would be going against the very essence of democracy.

In *Maquera v. Borra, et al.*,[37] and in *Aurea and Malabanan v. Commission on Elections*[38] cases brought before the Supreme Court to question the constitutionality of Republic Act No. 4421,[39] the Court held that to require all candidates for national, provincial, city and municipal offices to post a surety bond, is unconstitutional as it is contrary to a republican[40] system of government provided in the Constitution. The Court, moreover, stated: "Said property qualifications are inconsistent with the nature and essence of the republican system ordained in our Constitution and the principle of social justice underlying the same, for said political system is premised upon the tenet that sovereignty resides in the people and all government authority emanates from them, and this, in turn, implies necessarily that the right to vote and to be voted for shall not be dependent upon wealth of the individual concerned, whereas social justice presupposes equal opportunity for all, rich and poor alike, and that, accordingly, no person shall by reason of poverty, be denied the chance to be elected to public office."

The law in question was also declared unconstitutional as it has "the effect of disqualifying for provincial, city or municipal elective offices, persons who, although possessing the qualifications prescribed by law therefor, cannot pay said premium and/or do not have the property essential for the aforementioned counterbond."

Chief Justice Cesar Bengzon in a concurring opinion in the same case believed that the law "goes against the provision of the Constitution[41] which, in line with its democratic character, requires no property qualification for the right to hold said public office.

Justice Bengzon, moreover, considered the amount required by the law as unreasonable. He is of the opinion that if the amount is not prohibitive the law is constitutional. "Does the law," he asked, "operate to bar *bona fide* candidates from running for office because of their financial inability to meet the bond required?"

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[37] G.R. No. L-24761, September 7, 1965.

[38] G.R. No. L-24828, September 7, 1965.

[39] Republic Act No. 4421 provides: "All candidates for national, provincial, city and municipal offices shall post a surety bond equivalent to the one-year salary or emoluments of the position to which he is a candidate, which bond shall be forfeited in favor of the national, provincial, city, or municipal government concerned if the candidate, except when declared winner, fails to obtain at least ten per cent of the votes cast for the office to which he has filed his certificate of candidacy there being not more than four candidates for the same office."

[40] Section 1, Art. II, Phil. Const. provides: "The Philippines is a republican state. Sovereignty resides in the people and all government authority emanates from them."

[41] See Sections 4 and 7, Art. VI, and Sec. 3, Art. VII, Phil. Const.

The test must be the amount at which the bond is fixed. Where it is fixed at an amount that will not impose hardship on any person for whom there should be any desire to vote as a nominee for an office, and yet enough to prevent the filing of certificates of candidacy by anyone, regardless of whether or not he is a desirable candidate, it is a reasonable means to regulate elections. On the other hand, if it puts a real barrier that would stop many suitable men and women from presenting themselves as prospective candidates, it becomes unjustifiable, for it would defeat its very objective of securing the right of honest candidates to run for public office.

It is quite evident, therefore, that several or a considerable number of deserving, honest and sincere prospective candidates for that office could be prevented from running in the election solely due to their being less endowed with the material things in life. "The law places a financial burden on honest candidates that will in effect disqualify some of them who would otherwise have been qualified from *bona fide* candidates."

Another constitutional objection pointed out by the Chief Justice, is its disregard of the equal protection of law. In his words, "a candidate, however, has no less a right to run when he faces prospects of defeat as when he is expected to win. Consequently, for the law to impose on said candidate should he lose by the fatal margin, a financial penalty not imposed on others would unreasonably deny him equal protection of law."

Constitutional Power of Commission on Elections

The Constitution provides for an independent Commission on Elections[42] which shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections.[43]

The case of *Ututaulm v. Commission on Elections, et al.*,[44] delineated the proper functions of the Commission. The facts of the case are as follows: Upon petition filed by the Nacionalista Party on November 16, 1965, the Commission on Elections passed on November 20, 1965, a resolution ordering that "in Precincts Nos. 23, 25, 26 and 37 of the municipality of Tapul, Sulu, elections shall be

[42] Sec. 1, Art. X of the Constitution provides: "There shall be an independent Commission on Elections...."

[43] Sec. 2, Art. X, *ibid.*, provides: "The Commission on Elections shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions, affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials. All law enforcement agencies and instrumentalities of the Government, when so required by the Commission, shall act as its deputies for the purpose of insuring free, orderly, and honest elections. The decisions, orders, and ruling of the Commission shall be subject to review by the Supreme Court...."

[44] G.R. No. L-25349, December 3, 1965.

held on December 7, 1965 from 7:00 a.m. to 6:00 p.m.; and in Precincts Nos. 18, 19, 20 and 57 of the municipality of Siasi, elections shall be continued on December 7, 1965 from 12:00 noon to 6:00 p.m."

The resolution complained of was predicated upon the powers of the Commission under section 8 of Article X of the Constitution, pursuant to which the Commission "shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections." Respondents particularly stressed the penultimate sentence of said section, to the effect that "all law enforcement agencies and instrumentalities of the Government shall, when so required by the Commission, act as its deputies for the purpose of insuring free, orderly, and honest elections." They maintained that this provision suffices to uphold the validity of the resolution in question.

Ututalum, however, alleged that the Commission has no authority to direct the holding of elections in the precincts mentioned in said resolution.

On the constitutional question presented in the case, the Court held that "the functions of the Commission under the Constitution are essentially executive ('enforcement') and administrative ('administration') in nature. Indeed, prior to the creation of the commission as a constitutional body, its functions were discharged by the Executive Bureau, an office under the control of the then Department of the Interior, both of which had been created by statute, and were in turn under the control first of the Governor-General and later, under the Constitution, of the President of the Philippines. Our fundamental law has placed the agency charged with the enforcement and administration of all laws relative to the conduct of elections beyond the power of Congress to abolish it (the agency), in addition to adopting other measures tending to give thereto a reasonable degree of independence. This notwithstanding, the nature of the powers has remained essentially the same, namely, executive in character.

Upon the other hand, the authority to order the holding of elections in some precincts of Tapul and Siasi, Sulu, on any date other than the second Tuesday of November, 1965, which is the date fixed in our Revised Election Code, is merely incidental to, or an extension or modality of the power to fix the date of elections. This is, in turn, neither executive nor administrative, but legislative in character, not only by nature, but, also insofar as national elections are concerned, by specific provisions of the Constitution, for, pursuant thereto, the elections for Senators and Members of the House of Representatives and those for President and

Vice-President shall be held on the dates "fixed by law" (Article VI, Sec. 8[1] and Article VII, Sec. 4, Constitution), meaning an Act of Congress. Hence, no elections may be held on any other date, except when so provided by another Act of Congress, or upon orders of a body or officer to whom Congress may have delegated, either its aforementioned power, or the authority to ascertain or fill in the details in the execution of said power.

In short, the authority to pass the resolution complained of cannot be implied from the statement in the Constitution to the effect that the Commission shall seek to insure the holding of "free, orderly and honest elections" for these objectives merely qualify the power of the Commission to *enforce* and *administer* all laws relative to the conduct of elections. Said resolution cannot be valid, therefore, unless the Revised Election Code or some other act of Congress vests in the Commission the authority to order the holding of elections in the aforementioned precincts on December 7, 1965.

There is, however, no such statutory grant of authority.[45] What is more, the same is denied in section 8 of said Code, which provides that:

> "*Postponement of election.*—When for any cause the holding of an election should become impossible in any political division or subdivision, the President, upon recommendation of the Commission on Elections, shall postpone the election therein for such time he may deem necessary."

Indeed, under this section, the power to "postpone" an election is vested exclusively in the President, although "upon recommendation" of the Commission. Besides, the language of section 8 indicates that the power therein granted must be exercised before the election or not later than the date thereof. The provision that "when for any serious cause the holding of an election should become impossible, suggests that the nonholding of an election on the date fixed by law is beyond the realm of possibility, and, consequently not as yet an accomplished fact or a past event." Again, the verb "postpone" implies that the authority conferred in said section must be exercised before the date fixed by law for the election, or, at least, on that same date, not eleven (11) days later, as in the case at bar.

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[45] In the case of *Ocampo v. Commission on Elections* (G.R. No. L-13158, December 6, 1957), it was held that "the Commission on Elections has neither constitutional or statutory authority to order new elections even under the claim of continuing or completing the election throughout the Philippines. Such a situation is analagous to the contingencies contemplated under Section 8 of the Revised Election Code which provides that the President, upon recommendation of the Commission on Elections, can order the postponement of the election in any political subdivision thereof when for any serious cause the holding of an election is in effect a call of new elections whether or not it is called a continuation or completion of the election so that in effect, it is a postponement of the elections on the dates fixed by law."

COMPENSATION OF MEMBERS OF CONGRESS

The Constitution, by express provision[46] limits the compensation of Senators and Members of the House of Representatives, and prohibits any increase taking effect during the term of all the members of both chambers approving said increase. The compensation that Senators and Members of the House of Representatives receive includes *per diems* and other emoluments or allowances.[47]

The purpose of such constitutional provisions against changing of compensation during term or incumbency is to establish definiteness and certainty as to the salary, etc., pertaining to the office, and to take from the public bodies mentioned the power to make gratuitous compensation to officers or legislators in addition to that established. It is deemed that as general proposition better service will be rendered if the matter of salary is laid at rest at the outset. In such situation, an incumbent and his friends have no incentive to attempt by improper means to bring about an increase.[48]

In the case of *PHILCONSA v. Jimenez, et al.*,[49] Republic Act No. 3836, insofar as it allows gratuity which is equivalent to one year's salary for every four years of service in the government, to be paid to the Senator or a Member of the House of Representatives who has served for at least twelve years as such Senator and/or as Member of the House of Representatives, was declared by the Supreme Court violative of the injunction imposed by the Constitution against increase in compensation of members of Congress.

The Court stated: "Republic Act No. 3836 provides for an increase in the emoluments of Senators and Members of the House of Representatives, to take effect upon the approval of said Act, which was on June 22, 1963. Retirement benefits were immediately available thereunder, without awaiting the expiration of the full term of all the members of the Senate and the House of Representatives approving such increase. Such provision clearly runs counter to the prohibition in Article VI, Section 14 of the Constitution."

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[46] The Senators and the Members of the House of Representatives shall, unless otherwise provided by law, receive an annual compensation of seven thousand two hundred pesos each, including per diems and other emoluments or allowances, and exclusive only of traveling expenses to and from their respective districts in the case of Members of the House of Representatives. and to and from their places of residence in the case of Senators, when attending sessions of the Congress. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and the House of Representatives approving such increase. Until otherwise provided by law the President of the Senate and the Speaker of the House of Representatives shall each receive an annual compensation of sixteen thousand pesos. (Sec. 14, Art. VI, Const.).

[47] *Ibid.*

[48] Am. Jur., 143.

[49] See note 26, *supra.*

On the question of whether other emoluments stated in the Constitution include retirement benefits as provided by R.A. 3836, the Court held that "the constitutional provision in the aforementioned Section 14, Article VI, includes in the term compensation "other emoluments."

The Court citing several cases held that "retirement benefit is a form or another species of emoluments because it is a part of compensation for services of one possessing any office." The Court defined emolument as the "profit arising from office or employment; that which is received as compensation for services or which is annexed to the possession of an office, as salary, fees and prerequisites."

Question of Sufficiency of Interest

For a court to inquire into the constitutionality of a statute there are three requisites that must be satisfied,[50] among these is that the party must have an interest, personal and substantial, in the validity of the law. He must be able to show that he has sustained, or is immediately in danger of sustaining, some direct injury to himself as the result of the enforcement of the statute in question.[51]

An individual taxpayer does not have sufficient interest to question the validity of a tax law. It was reasoned out that if one taxpayer may champion and litigate such a cause, then every other taxpayer may do the same, not only in respect of the statute here under review, but also in respect of every other appropriation act and statute whose administration requires the outlay of public money, and whose validity may be questioned.[52]

However, in the case of *PHILCONSA v. Jimenez*,[53] the Supreme Court held that the petitioner has a standing to institute this action. The Supreme Court in this regard cited the rulings in *Pascual v. Secretary*,[54] and *Gonzales v. Hechanova*,[55] where it held that "when the petitioner, like in this case, is composed of substantial taxpayers, and the outcome will affect their vital interests, they are allowed to bring the suit."

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[50] The other two requisites are that (1) there must be a bona fide case before the court in which the question of the validity of the law is necessarily involved, and (2) that it must appear conclusively that the case before the court may not be legally settled unless the constitutionality of the statute involved therein is determined. (Sinco, *op. cit.*, p. 524).

[51] *Ibid.*

[52] Massachussetts v. Mellon, 262 U.S. 447 (1923).

[53] See note 26, *supra.*

[54] G.R. No. L-10405, December 29, 1960.

[55] 60 O.G. 802.

Constitutional Requirement on Title of Bills

The other constitutional provision involved in *PHILCONSA v. Jimenez*[56] is that "No bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill."[57]

It is observed, said the Court in this case that under Republic Act 3836, amending the first paragraph of section 12, subsection (c) of Commonwealth Act No. 186, as amended by Republic Acts Nos. 660 and 3096, the retirement benefits are granted to members of the Government Service Insurance System, who have rendered at least twenty years of service regardless of age. This paragraph is related and germane to the subject of Commonwealth Act No. 186.

On the other hand, the succeeding paragraph of Republic Act 3836 refers to members of Congress and to elective officers thereof who are not members of the Government Service Insurance System. To provide retirement benefits, therefore, for these officials, would relate to subject matter which is not germane to Commonwealth Act No. 186. In other words, this portion of the amendment (*re* retirement benefits for Members of Congress and elected officers, such as the Secretary and Sergeants-at-arms for each House) is not related in any manner to the subject of Commonwealth Act 186 establishing the Government Service Insurance System and which provides for both retirement and insurance benefits to its members.

The court concluded that in the light of the history and analysis of Republic Act 3836, the title of said act is void as it is not germane to the subject matter and is a violation of the aforementioned paragraph 1, section 21, Article VI of the Constitution. And the Court stated "It is the duty of the Court to declare void statutes not conforming to this constitutional provision."

CHURCH'S LIABILITY FOR TAXES

The Constitution provides that "Cemeteries, churches, parsonages or convents appurternant thereto, and all lands, buildings and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation."[58]

The case of *Lladoc v. Commissioner of Internal Revenue, et al.*,[59] defined the scope of the constitutional exemption provided in the above provision. In this case, the Supreme Court held that the exemption is only from the payment of taxes assessed on such prop-

[56] See note 26, *supra*.
[57] Sec. 21, par. 1, Art. VI, Phil. Const.
[58] Section 22, par. 3, Art. VI, *ibid.*
[59] G.R. No. L-19201, June 16, 1965.

erties enumerated, as property, as contra-distinguished from excise taxes. In the present case, what the Collector assessed was a donee's gift tax; the assessment was not on the properties themselves. It did not rest upon general ownership; it was an excise upon the use made of the properties, upon the exercise of the privilege of receiving properties. Manifestly, gift tax is not within the exempting provisions of the section just mentioned. A gift tax is not a property tax, but an excise tax imposed on the transfer of property by way of gift *inter vivos*, the imposition of which in property used exclusively for religious purposes, does not constitute an impairment of the Constitution. As well observed by the learned respondent Court, the phrase "exempt from taxation," as employed by the Constitution should not be interpreted to mean exemption from all kinds of taxes. And there being no clear, positive or express grant of such privilege by the law, in favor of petitioner, the exemption is denied.

PRESIDENT'S POWER OVER LOCAL GOVERNMENTS

The Constitution, it is seen, affords greater autonomy to our local governments than the Jones Law which granted to the Governor General not only supervision but also control over local governments,[60] for it provides that the President shall only "exercise general supervision over all local governments."[61]

Section 10(1) of Article VI of the Constitution ordains: "The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that all laws be faithfully executed."

The Supreme Court explaining this provision, held in *Pelaez v. Auditor General*,[62] "the power of control under this provision implies the right of the President to interfere in the exercise of such discretion as may be vested by law in the officers of the executive departments, bureaus, or offices of the national government, as well as to act in lieu of such officers. This power is denied by the Constitution to the Executive insofar as local governments are concerned. With respect to the latter, the fundamental law permits him to wield no more authority than that of checking whether said local governments or the officers thereof perform their duties as provided by statutory enactments. Hence, the President cannot interfere with local governments, so long as the same or its officers act within the scope of their authority. He may not enact an or-

[60] Malcolm and Laurel; *The Constitutional Law of the Philippines*, p. 410 (1936).
[61] Section 10(1), Art. VII, Phil. Const.
[62] See note 20, *supra*.

dinance which the municipal council has failed or refused to pass, even if it had thereby violated a duty imposed thereon by law, although he may see to it that the corresponding provincial officials take appropriate disciplinary action therefor. Neither may he veto, set aside or annul an ordinance passed by said council within the scope of its jurisdiction, no matter how patently unwise it may be. He may not even suspend an elective official of a regular municipality or take any disciplinary action against him, except on appeal from a decision of the corresponding provincial board."[63]

Upon the other hand, if the President could create a municipality, he could, in effect, remove any of its officials, by creating a new municipality and including therein the barrio in which the official concerned resides, for his office thereby becomes vacant. Thus, by merely brandishing the power to create a new municipality (if he had it), without actually creating it, he could compel local officials to submit to his dictation, thereby, in effect exercising over them the power of control denied by the Constitution.

In other words, section 68 of the Revised Administrative Code[64] does not merely fail to comply with the constitutional mandate above quoted. Instead of giving the President less power over local governments than that vested in him over the executive departments, bureaus or offices, it reversed the process and does the exact opposite, by conferring upon him more power over municipal corporations than that which he has over said executive departments, bureaus or offices.

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[63] This decisions is a reiteration of previous rulings. See Hebron v. Reyes, G.R. No. L-9124, July 28, 1958; Mondano v. Silvosa, 51 O.G. 2884 (1955); Rodriguez v. Montinola, 50 O.G. 4820 (1954); Querubin v. Castro, L-9779, July 31, 1958.

[64] See p. 4, *supra*.