POLITICAL LAW — PART TWO

LAW ON LOCAL GOVERNMENTS

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I. *Creation*

The power to create municipalities is exclusively vested in the legislative branch of the government, and save for the restrictions imposed by the Constitution, municipal corporations have been referred to as "creatures of statutes". As a political function, this power has been traditionally considered to be unlimited within the confines of Constitutional standards.[1]

The *Pelaez* ruling[2] has re-asserted these generalities in concrete sharpness as against the claim of the executive branch based upon some color of legislative authority. Section 68 of the Revised Administrative Code of 1917, which had been the basis of the Presidential power to create municipalities, is now a thing of the past. This provision, the Supreme Court has ruled, has already been nullified by the Constitutional limitation that the President shall only "exercise general supervision over all government as may be provided by law."[3] A creative act cannot be derived from a supervisory power.

In 1967, the *Siva* case[4] occasioned the first instance of invoking the *Pelaez* precedent. Here the Court struck down Executive Order No. 436 (1961), which created the municipality of Lawigan out of 21 barrios of San Joaquin, Iloilo. It issued a prohibition, preventing the respondents from assuming office as officers of the new municipality.

Municipality of Malabang v. Benito[5] provides fresh heat to the Pelaez controversy. What appears merely as a procedural technicality in this case proves to be a probing point for a more fundamental question in the face of which the pragmatism of the Court's reasoning appears indeed crude.

To escape from the coverage of the *Pelaez* ruling, the respondents (officials of a new municipality created by Executive Order No. 836 of 1960)

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1 Unson v. Lacson (100 Phil. 695, 700 (1957)): [M]unicipal corporations in the Philippines are creatures of Congress;...as such, said corporations may possess, and may exercise, only such powers as Congress may deem fit to grant thereto..."

2 Pelaez v. Auditor General, G.R. No. 23825, December 24, 1965, 64 O.G. 4781 (May, 1968).

3 CONST. art. VII, sec. 10(1). See also Hebron v. Reyes, G.R. No. 9124, July 28, 1957, 104 Phil. 175 (1958); Querubin v. Castro, G.R. No. 9779, July 31, 1958.

4 Municipality of San Joaquin v. Siva, G.R. No. 19870, March 18, 1967.

5 G.R. No. 28113, March 28, 1969.

put forward the argument that the new municipality of Balabagan is a *de facto* corporation, "having been organized under color of a statute before this was declared unconstitutional, its officers having been either elected or appointed, and the municipality itself having discharged its corporate powers for the past five years preceding the institution of this action". They reasoned that since Balabagan is a *de facto* corporation, its existence could not be questioned in a collateral manner by the petitioner (who was mayor of the municipality of Malabang, from which the new municipality was parcelled out), but only directly by the State in an appropriate *quo warranto* suit.

The Court held: Balabagan is not a *de facto* corporation; hence the legality of its existence may be attacked collaterally or directly. In keeping with the *Pelaez* ruling, the Court declared Executive Order No. 386 void and issued a prohibition against the respondents, restraining them from performing their functions as municipal officers of Balabagan.

The question presented to the Court is of utmost importance if only for the fact that quite a number of Executive Orders have created municipalities on the basis of Section 68 of the Revised Administrative Code. How much retroactivity should be accorded the application of the *Pelaez* ruling? How many municipal corporations are affected by the nullification of Section 68? Should the ruling call into question the legal existence of every municipality created by the President by authority of Section 68, at least, let us say, since the effectivity of the Constitution in 1935? Should a time boundary be observed in the retroactive application of the *Pelaez* ruling? Upon what principle should this be based? The ruling in *Benito* attends the status of such municipal corporations with so much uncertainty, now that their *de facto* existence would likely be denied and they are therefore susceptible to any collateral attack.

The Court's opinion in *Benito* is hardly a guide in this respect, but it gives enough basis for raising points which have escaped the attention of the Court.

The Court's logic is far from elegant, but it goes something like this: The new municipality in question is not a *de facto* corporation for the reason that its enabling law has been declared unconstitutional. This must be the result because, as can be implied from the Court's quotation from the American case of *Norton v. Shelby County*,[6] "an unconstitutional act is not a law; it confers no rights; it imposes no duty; it affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed". More specifically, the Court said, "Executive Order 386 'created no office' ".

[6] 118 U.S. 425, 6 S. Ct. 1121, 30 L. Ed. 178 (1886).

But this mode of reasoning through abstraction creates its own difficulties. Does this mean that all rights and duties arising from the questioned existence of the municipal corporation are wiped out altogether with the judicial declaration of nullity of the enabling statute? Here the Court has to make a twist to avoid the absurdity of its own way of generalizing. So it said now, "For the existence of Executive Order 386 is 'an operative act which cannot justly be ignored' ". And to strengthen its position, the Court brought in the American federal ruling in *Chicot County Drainage v. Baxter State Bank*:

> It is quite clear, however, that such broad statements [referring to the Norton v. Shelby County ruling cited above] as to the effect of unconstitutionality must be taken with qualifications. The actual existence of a statute, prior to such a determination, is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of subsequent ruling as to invalidity may have to be considered in various aspects — which respect to particular relations, individual and corporate and particular conduct, private and official. Questions of rights claimed to have become vested, of status, or prior determinations deemed to have finality and acted upon accordingly, of public policy in the light of the nature both of the statute and of its previous application, demand examination. . .[7]

And the Court's opinion all too suddenly concludes that the right to office of the respondent officials is not one of those rights which are saved despite the declaration of nullity.

Doctrines are formulated in the service of those "particular relations, individual and corporate, and particular conduct, private and official", and not the other way around. To be more specific, it is submitted that the doctrine of *de facto* existence has been precisely developed for the protection of those rights, and hence the more useful approach is not through the statement of abstract principles on de facto corporations but through the close scrutiny of the nature of the rights affected. Here the most important factor — absent in the Court's opinion — is the specific standards by which to determine what rights are cancelled, and concomitantly, what rights are saved, by the judicial declaration of nullity of the enabling statute. In this light, we have the right to ask why the Court's opinion sees the particular right to office on the part of the respondent officials as adversely affected by the repeal of Section 68. As *against other rights* arising from the questioned legal existence of Balabagan, why must this specific right be considered nullified? What is in the nature of these rights that could be made the basis for the formulation of such standards? The ruling in the *Chicot County District* case, quoted above, does not settle the controversy but merely re-states the basic question. Without a clarification of such standards, judicial reasoning could give much room to arbitrariness.

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[7] 308 U.S. 371, 374, 60 S. Ct. 317, 84 L Ed. 329 (1940).

II. *Relations with National Government*

The ruling in *Province of Pangasinan v. Secretary of Public Works and Communications*[8] is that a province cannot question the legality of a department order, issued by the Secretary of Public Works and Communications, effecting the division of that province into three engineering districts and accordingly distributing the personnel and equipment of the district engineer's office. It cannot be argued that the Department Head is bereft or in excess of jurisdiction in so acting, despite Section 1909 of the Revised Administrative Code which expressly vests the power to create engineering districts in the Director of Public Works. Even so, the law is clear on the authority of the Department Head on the matter. Section 37 of Act No. 4007 is explicit. "Provisions of the existing law to the contrary notwithstanding, whenever a specific power, authority, duty, function, or activity is entrusted to a chief of bureau, office, division or service, the same shall be understood as also conferred upon the proper Department Head who shall have authority to act directly in pursuance thereof, or to review, modify or revoke any decision or action of said chief of bureau, office, division or service". Besides, the Secretary's power of control and supervision as set forth in Section 79(C) of the Revised Administrative Code includes the authority to modify or nullify the acts of subordinate officials. Complementarily, under Section 550 of the Code, the Director or other chief official of each Bureau or office performs his functions subject to "the immediate executive control, direction, and supervision of the proper Department Head".

The Local Autonomy Act (Republic Act No. 2264) cannot be invoked on the side of the petitioner province. While Section 3 of the Act gives authority to local governments to execute public works projects, such authority is expressly limited to "provincial, city, or municipal public works projects". This provision does not relate to operation and management of engineering districts which have to do with national roads and highways.

The authority of the Secretary of Finance to review decisions of the Board of Tax Appeals of Pasay City with respect to the listing and valuation of property under the Assessment Law is upheld in *Enriquez v. Secretary of Finance*.[9] Here the Secretary of Finance called back the listing and assessment of petitioner's property after the assessment had been reduced by the City of Board of Tax Appeals upon appeal by the petitioner pursuant to the charter of Pasay City. In questioning the authority of the Secretary of Finance to review the case, the petitioner held on to the view that the Secretary had been divested of such power by the creation of the Court of Tax Appeals, which under Republic Act No. 1125, has "exclusive appellate jurisdiction to review by appeal", among others, decisions of pro-

[8] G.R. No. 27861, October 31, 1969.
[9] G.R. No. 24402, April 30, 1969.

vincial or city boards of assessement appeals in cases of assessment and taxation of real property and related matters under the Assessment Law.

However, subsequent to the effectivity of Republic Act No. 1125 on June 17, 1961, came the enactment of Republic Act No. 3275 which amended the provisions of the charter of Pasay City with respect to listing and assessment of real estate and to proceedings before the City Board of Tax Appeals. Specifically, Section 42 of that charter, as amended by Republic Act No. 3275, is to the point: "The decision of the Board of Tax Appeals shall be final unless the Department Head declares the decision reopened for review, by him, in which case he may make such revision or re-evaluation as in his opinion the circumstances justify. Such revision when approved by the President of the Philippines shall be final".

At any rate, the two statutes are reconciled by the fact that the power of the Secretary under Section 42 of the charter of Pasay City relates to *administrative review* of decisions of the City Board of Tax Appeals, whereas Republic Act No. 1125 defines *judicial review* by appeal to the Court of Tax Appeals.

III. *Taxation*

Serafica v. Treasurer of Ormoc City[10] reiterates that under Section 2 of the Local Autonomy Act (Republic Act No. 2264) the taxing power of local governments is so broad as to encompass every subject of taxation, limited only by the exceptions enumerated in the same provision.

Accordingly, it is well within legal bounds for Ormoc City to impose "a city tax of five pesos (₱5.00) for every one thousand (1,000) board feet of lumber sold at Ormoc City by any person, partnership, firm, association, corporation or entity". The imposition of this tax cannot be barred by the argument that the business of lumber yard "is already regulated under said Charter [of Ormoc City] and the sale of lumber is a 'mere incident to the business of lumber yard' ", thus presenting a case of double taxation. Apart from the consideration that double taxation is not prohibited in the Philippines, it should be stressed "that regulation and taxation are two different things, the first being an exercise of police power, whereas the latter is not".

The tax in question does not fall within the exception in Section 2 of the Local Autonomy Act that "no city, municipality or municipal district may levy or impose . . . (e) Taxes on forest products or forest concessions". The Court's opinion points out: "Although lumber is a forest product, this limitation has no application to the case at bar, the tax in question being imposed, *not* upon *lumber*, but upon its *sale*. Said tax is not levied upon the *lumber* in plaintiff's sawmill and does *not* become due until after the lumber has been *sold*".

[10] G.R. No. 24813, April 28, 1969.

Neither does the case fall within the prohibition against the imposition of "any percentage tax on sales or other taxes in any form based thereon". Quitely, plainly, this is directed exclusively to "municipalities and municipal districts"; it does not apply to chartered cities.

De Leon v. Municipality of Calumpit and *De Leon v. Municipality of Hagonoy*[11] apply the rule enunciated in the *Butuan Sawmill* case,[12] that local governments cannot impose tax on electric light and power utilities which are already subject to franchise tax, unless their franchise allows the imposition of additional tax.

In these cases, the municipalities sought the enforcement of municipal license tax on persons engaged in the business of operating electric light, heat and power plants. The petitioners were holders of municipal franchises for the operation of electric plants. The respondent municipalities advanced the following interpretation of the Local Autonomy Act in justifying the ordinances imposing such municipal tax: Section 2(d) of the Act expressly withholds from local governments the power to tax persons operating waterworks, irrigation and other public utilities but at the same time excludes from this class of public utilities persons engaged in the business of operating electric light, heat and power plants. In aid of this interpretation, the rule of construction in Section 12 of the Act is cited; thus, the implied power of local governments shall be construed in their favor and any doubt as to the existence of the power should be resolved on the side of local governments.

The Court's opinion in the *Butuan Sawmill* case, as re-affirmed in *De Leon,* takes note of Section 2(d) as it relates to the apparent power on the part of local governments to tax persons engaged in the business of operating electric light, heat and power plants. But it reads this provision together with a latter subsection, namely, Section 2(j) which denies local governments the power to impose taxes of any kind on banks, insurance companies and persons paying a franchise tax. "The logical construction of section 2(d) of Republic Act No. 2264, that would not nullify section 2(j)", says the *Butuan Sawmill* ruling, "is that the local government may only tax electric light and power utilities that are not subject to franchise taxes, unless the franchise itself authorized additional taxation by cities or municipalities". Quaere: Are there public utilities of this category which do not hold franchise and are not subject to franchise tax? If there are none, the effect of the ruling is that local governments in fact have no power to impose tax on persons engaged in the business of operating electric light, heat and power plants. In short, Section 2(d) is meaningless with respect to this class of public utilities, having been for all practical purposes superseded by Section 2(j). The reconciliation

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[11] G.R. Nos. 26906 & 26907, November 28, 1969.

[12] G.R. No. 21516, April 29, 1966. See Ilocos Norte Electric Co. v. Municipality of Laoag, G.R. No. 21058, November 23, 1966, 18 SCRA 703, for complementary ruling.

is an ingenious one, achieving the nullification of Section 2(d) proviso on electric utilities, without saying so.

In the *Enriquez* case, cited above, the taxpayer advanced the argument that Section 42 of the charter of Pasay City is unconstitutional because it constitutes class legislation insofar as the power of the Secretary of Finance to review decisions of the City Board of Tax Appeals is provided for only in the charter of Pasay City but absent in the charter of other cities. The Court's opinion takes such a power as relating merely to procedure which does not place taxpayers of Pasay City "in a more advantageous or disadvantageous position than taxpayers in other cities". The import of the Court's ruling drives home the point that a municipal corporation is purely a creature of Congress. Granted only such power as Congress may deem necessary to determine, a municipal corporation cannot invoke the equal protection clause "to complain against a lesser grant of jurisdiction and functions in its charter as against a larger grant of powers and autonomy by Congress in the charters of other municipal corporations".

IV. *Property and Contract*

The withdrawal of a portion of a city street from public use, occasioned by the leasing of the parcel of land of which it was made part, cannot be assailed as beyond the purview of municipal powers where, as in the case of the City of Baguio, there appears a clear legislative grant of authority to "provide for laying out, opening, extending, widening, straightening, closing up, constructing, or regulating, in whole or in part," any public plaza, square, street or sidewalk and where under the circumstances in *Favis v. City of Baguio*[13] there is no abuse of discretion in the exercise of such authority. The power thus granted is a discretionary one and is beyond judicial interference in the absense of a plain case of abuse fraud or collusion.

At any rate, the basic principle is that the power to vacate or withdraw a street from public use is not inherent in municipal corporations and it must be based on specific legislative grant.[13a]

Pursuant to Article 422 of the Civil Code, the property thus withdrawn from public use becomes patrimonial property of the municipal corporation, governed by the same principles as those applying to the State's own patrimonial property. Hence, as private property of the City of Baguio, there is no question that it may be leased for the benefit of the city, as expressly authorized in its charter.

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[13] G.R. No. 29910, April 25, 1969. *Cf.* Municipality of Cavite v. Rojas, 30 Phil. 602 (1915).

[13a] See also Unson v. Lacson, G.R. No. 7909, January 18, 1957, 55 O.G. 1374 (Feb., 1959), 100 Phil. 695 (1957).

[14] G.R. No. 22545, November 28, 1969.

Luque v. Villegas[14] simply adopts the earlier ruling in *Lagman v. City of Manila*[15] that an ordinance of the City of Manila rerouting traffic on city streets with respect to provincial buses and jeepneys is well within the powers of the City. *Luque* re-asserts this power as against the claim that such an ordinance is illegal because, besides being *ultra vires,* it effects an amendment to the certificate of public convenience, which only the Public Service Commission could legally do after due notice and hearing. While the Commission is expressly empowered to amend, modify or revoke certificates of public convenience under Section 16(m) of the Public Service Act, no provision of law vests in the Commission the authority to superintend, regulate or control the streets of the City of Manila; nor has the Commission the power to suspend the City's power to license or prohibit the occupancy of its streets. On the other hand, it is clear that this power is vested in the City under Section 18 (hh) of its charter. Even if it is insisted that these two statutes are irreconcilably conflicting, the Revised Charter of the City of Manila (Republic Act No. 409), being a special law and later in enactment, should be made to prevail over the Public Service Act (Commonwealth Act No. 146).

Favis v. Municipality of Sabangan[16] re-affirms the rule that the doctrine of estoppel cannot be held to validate a contract which a municipal corporation has no power to make, or which was wanting in conditions or procedure prescribed by law. This rule holds true even if the municipal corporation has accepted the benefits of the contract and the other party has fully performed his part of the agreement. Otherwise, municipal corporations would be enabled to do indirectly what it cannot do directly.[17]

V. *Officers and Employees*

Luciano v. Provincial Governor of Rizal[18] rules that to the extent that Section 21(a) of the Revised Election Code conflicts with Section 7 of the Local Autonomy Act, the latter must prevail. Under Section 21(a), a temporary vacancy in any elective municipal office shall be filled by appointment by the provincial governor with the consent of the provincial board. On the other hand, Section 7 provides that in the "event of temporary incapacity of the mayor to perform the duties of his office on account of absence on leave, sickness, or any temporary incapacity", the vice-mayor, or the councilor who obtained the largest number of votes among the incumbent councilors in case of the vice-mayor's temporary incapacity, shall perform the duties of the mayor, except the power to appoint, suspend or dismiss employees.

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[15] G.R. No. 23305, June 30, 1966, 64 O.G. 2185 (March, 1968), 17 SCRA 579.

[16] G.R. No. 26522, February 27, 1969.

[17] For a fuller statement of the rule, see San Diego v. Municipality of Naujan, G.R. No. 9920, February 29, 1960 & April 28, 1960, 107 Phil. 118 (1960). See also San Buenaventura v. Municipality of San Jose, G.R. No. 19309, January 30, 1965; City of Manila v. Tarlac Development Corp., G.R. Nos. 24557, 24469 & 24481, July 31, 1968.

[18] G.R. No. 30306, June 20, 1969.

"Temporary incapacity" under the latter provision includes suspension of the mayor or the vice-mayor under the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019).

The rule that re-election bars prosecution for acts of a municipal officer committed during his previous term of office applies only to administrative cases;[19] it does not operate where, as in *Luciano*, the case involves criminal prosecution under the Anti-Graft and Corrupt Practices Act.

Sarcos v. Castillo[20] makes clear that the power to impose preventive suspension on a municipal mayor is vested in the provincial board, not in the provincial governor, in view of the Decentralization Act of 1967 (Republic Act No. 5185) which has superseded Section 2188 of the Revised Administrative Code on the matter. Section 5 of the Act specifies that its provisions shall exclusively govern the suspension and removal of elective local officials. This ruling is reaffirmed in *Malag v. De los Cientos*[21] and *Aves v. Joson*.[22]

Suspension under Section 5 of the Decentralization Act pertains to administrative proceedings. It should be distinguished from suspension under Section 13 of the Anti-Graft and Corrupt Practices Act, which relates to criminal proceedings. Both are separate and distinct. Section 5 itself makes clear that the penalty of suspension and removal of elective local officials as provided in the Act "shall not preclude the filing of criminal actions arising from the same charges as provided for under existing laws". Section 13 impliedly points out the same distinction when it provides that upon acquittal in an anti-graft case the accused shall be entitled to salaries and benefits he failed to receive during the suspension "unless in the meantime administrative proceedings have been filed against him."

The rule in *Sarcos* that preventive suspension is imposable on the municipal mayor by the provincial board under Section 5 of the Decentralization Act has to do with administrative investigations. Its application cannot be extended to suspension under Section 13 of the Anti-Graft and Corrupt Practices Act. On the other hand, *Luciano* emphasizes that the power of suspension under Section 13 belongs to the Court of First Instance which has taken jurisdiction over the case, and not to any administrative officials or body.

While the Anti-Graft and Corrupt Practices Act does not explicitly locate such power in the court, this interpretation finds support in the following considerations. Under Section 9 of the Act, the court is empowered to impose, under certain conditions, the penalty of perpetual disqualification from

[19] See Pascual v. Provincial Board of Nueva Ecija, 106 Phil. 466 (1959); Lizares v. Hechanova, G.R. No. 22059, May 17, 1966, 17 SCRA 58.
[20] G.R. No. 29755, January 31, 1969.
[21] G.R. No. 29684, March 28, 1969.
[22] G.R. No. 29922, August 29, 1969

public office, and Article 30 of the Revised Penal Code provides that this penalty involves the deprivation of public office and employment which the offender may have held, "even if conferred by popular election." This entails the power of the court to effect removal from office. Suspension is necessarily included in the greater power of removal. Moreover, it is required under Section 13 of the Act that a valid information be filed as a pre-requisite to suspension. The validity of information is a matter addressed to the discretion of the court and suspension is a sequel to the court's finding of validity. Suspension may be viewed then as "an incident to the criminal proceedings before the court". *Luciano* furthermore stresses this point in relation to legislative intent: "The Anti-Graft and Corrupt Practices Act, an important legislation, should not be artificially construed so as to exclude the courts from the power to suspend —a prime tool designed by Congress to prevent the power which an official wields from frustrating the purity and certainty of the administration of justice . . . . We should rather say that if the court's power of suspension incident to the court proceedings is to be withheld or narrowed by construction, Congress should have spelled it out in no uncertain terms".

Perez v. De la Cruz[23] rules that the vice-mayor of the City of Naga cannot be considered a *member* of the municipal board, as it appears that the charter of the City (Republic Act No. 305) does not provide at all for the position of vice-mayor and that under Republic Act No. 2259 the position of vice-mayor is created subject to the proviso that the vice-mayor "shall be the presiding officer of the City Council or Municipal Board in all chartered cities". Membership of the vice-mayor in the municipal board or council must be based on clear statutory terms making him a constituent member of that body; in addition to his being the presiding officer. The provision that he is the *presiding officer* of the council does not make him a *member* thereof.

Where, as in *Perez,* the mayor is specifically named as both member and presiding officer of the city council, his replacement by the vice-mayor makes the latter official only a presiding officer, not a member, of the council if the law simply provides that the vice-mayor shall be presiding officer of the council, without the mention of his membership. Consequently, the vice-mayor of Naga City cannot legally vote as a member of the city council in order to create a tie vote and cast another vote to break the tie. In that situation, the vice-mayor can only vote as a presiding officer, that is, in case of a tie.

Enciso v. Remo[24] occasions the ruling that where the municipal mayor in bad faith refused to reinstate the petitioner as sergeant of police after

[23] G.R. No. 29458, March 28, 1969.
[24] G.R. No. 23670, September 30, 1969.

the latter's leave of absence, upon a patently false pretext that the office had already been abolished and in defiance of the orders of the Office of the President and the opinion of the Secretary of Finance, he is deemed to have acted outside the scope of his official function and becomes liable for his tortious action like any private individual. He cannot seek legal protection upon the plea that he is a public agent acting under color of official authority. *Enciso* also reiterates the rule that municipal corporation may be held liable for the backpay of employees illegally separated from service, including those doing primarily governmental functions, such as policemen.

VI. *Fixing of Boundary*

Under Section 2167 of the Revised Administrative Code, a boundary dispute between municipal governments shall be decided by the provincial board after investigation at which the municipalities concerned shall be duly heard. The decision of the provincial board is appealable to the Office of the President. In the exercise of this power, the Provincial Board of Camarines Sur in *Municipality of Pasacao v. Provincial Board*[25] appointed a commissioner to conduct an investigation on the location of the disputed marine waters, but when it adopted the resolution deciding the dispute it failed to inform the petitioner municipality of the commissioner's report. This failure, according to the Court's opinion, constitutes a mere irregularity, not a grave abuse of discretion and, at best, is a ground for reconsideration or appeal to the proper authority, which the petitioner had all the opportunity to take but did not.

That the decision of the Provincial Board did not have the concurrence of the Governor cannot annul the board's resolution where it appears that the Governor was away on official business and one of the provincial board members in fact acted in his place as presiding officer of the session in which the decision was reached. The Governor himself is deemed to have ratified the board's action as he did not raise any question thereafter with respect to the authority of the board member to preside the session in his stead.

VII. *Payment of Legal Fees*

The exemption from payment of legal fees granted to the "Republic of the Philippines" under Section 16 of Rule 141 of the Rules of Court has been construed in *Favis v. Municipality of Sabangan*[26] as not applicable to local governments. It relates to the National Government which, under Section 2 of the Revised Administrative Code, is "distinguished from the different forms of local government".

[25] G.R. No. 21788, August 28, 1969.
[26] G.R. No. 26522, February 27, 1969.