

JESUS P. MORFE, PLAINTIFF-APPELLEE, VS. AMELITO R. MUTUC, AS EXECUTIVE SECRETARY, ET AL., DEFENDANTS-APPELLANTS.*G.R. No. L-20387. January 31, 1968*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/123b08fc0ceb/>**FERNANDO, J.:**

Congress in 1960 enacted the Anti-Graft and Corrupt Practices Act[1] to deter public officials and employees from committing acts of dishonesty and improve the tone of morality in public service. It was declared to be the state policy "in line with the principle that a public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto." [2] Nor was it the first statute of its kind to deal with such a grave problem in the public service that unfortunately has afflicted the Philippines in the post-war era. An earlier statute decrees the forfeiture in favor of the State of any property found to have been unlawfully acquired by any public officer or employee.[3]

One of the specific provisions of the Anti-Graft and Corrupt Practices Act of 1960 is that every public officer, either within thirty (30) days after its approval or after his assumption of office "and within the month of January of every other year thereafter", as well as upon the termination of his position, shall prepare end file with the head of the office to which he belongs, "a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year; * * *." [4]

In this declaratory relief proceeding, the periodical submission "within the month of January of every other year thereafter" of such sworn statement of assets and liabilities after an officer or employee had once bared his financial condition upon assumption of office was challenged for being violative of due process as an oppressive exercise of police power and as an unlawful invasion of the constitutional right to privacy, implicit in the ban against unreasonable search and seizure construed together with the prohibition against self-incrimination. The lower court in the decision appealed from sustained plaintiff, then as well as now, a judge of repute of a court of first instance. For it, such requirement of periodical submission of such sworn statement of assets and liabilities exceeds the permissible limit of the police power and is thus offensive to the due process clause.

We do not view the matter thus and accordingly reverse the lower court.

1. The reversal could be predicated on the absence of evidence to rebut the presumption of validity. For in this action for declaratory relief filed with the Court of First Instance of Pangasinan on January 31, 1962, plaintiff, after asserting his belief "that it was a reasonable requirement for employment that a public officer make of record his assets and liabilities upon assumption of office and thereby make it possible thereafter to determine whether, after assuming his position in the public service, he accumulated assets grossly disproportionate to his reported incomes, (sic) the herein plaintiff [having] filed within the period of time fixed in the aforesaid Administrative Order No. 334 the prescribed sworn statement of financial condition, assets, income and liabilities, * * *," [5] maintained that the provision on the "periodical filing of sworn statement of financial condition, assets, income

and liabilities after an officer or employee had once bared his financial condition, upon assumption of office, is oppressive and unconstitutional."[6]

As earlier noted, both the protection of due process and the assurance of the privacy of the individual as may be inferred from the prohibition against unreasonable search and seizure and self-incrimination were relied upon. There was also the allegation that the above requirement amounts to "an insult to the personal integrity and official dignity" of public officials, premised as it is "on the unwarranted and derogatory assumption" that they are "corrupt at heart" and unless thus restrained by this periodical submission of the statements of "their financial condition, income, and expenses, they cannot be trusted to desist from committing the corrupt practice defined * * *".[7] It was further asserted that there was no need for such a provision as "the income tax law and the tax census law also require statements which can serve to determine whether an officer or employee in this Republic has enriched himself out of proportion to his reported income."[8]

Then on February 14, 1962, came an Answer of the then Executive Secretary and the then Secretary of Justice as defendants, where after practically admitting the facts alleged, they denied the erroneous conclusion of law and as one of the special affirmative defenses set forth: "1. That when a government official, like plaintiff, accepts a public position, he is deemed to have voluntarily assumed the obligation to give information about his personal affair, not only at the time of his assumption of office but during the time he continues to discharge public trust. The private life of an employee cannot be segregated from his public life * * *".[9] The answer likewise denied that there was a violation of his constitutional rights against self-incrimination as well as unreasonable search and seizure and maintained that "the provision of law in question cannot be attacked on the ground that it impairs plaintiff's normal and legitimate enjoyment of his life and liberty because said provision merely seeks to adopt a reasonable measure of insuring the interest of general welfare in honest and clean public service and is therefore a legitimate exercise of the police power."[10]

On February 27, 1962, plaintiff filed a Motion for judgment on the pleadings as in his opinion all his material allegations were admitted. Then on March 10, 1962, an order was issued giving the parties thirty days within which to submit memoranda, but with or without them, the case was deemed submitted for decision the lower court being of the belief that "there is no question of facts, * * * the defendants [having admitted] all the material allegations of the complaint."[11]

The decision, now on appeal, came on July 19, 1962, the lower court declaring "Constitutional, null and void `Section 7, Republic Act No. 3019, in so far as it required periodical submittal of sworn statements of financial conditions, assets and liabilities of an official or employee of the government after he had once submitted such a sworn statement upon assuming office; * * *".[12]

In *Ermita-Malate Hotel and Motel Operators Association v. The Mayor of Manila*,[13] it was the holding of this Court that in the absence of a factual foundation, the lower court deciding the matter purely "on the pleadings and the stipulation of facts, the presumption of validity must pre-vail." In the present case likewise there was no factual foundation on which the nullification of this section of the statute could be based. Hence am noted the decision of the lower court could be reversed on that ground.

A more extended consideration is not inappropriate however, for as likewise made clear in the above *Ermita-Malate Hotel* case "What cannot be stressed sufficiently is that if the liberty involved were freedom of the mind for the person, the standard for the validity of governmental acts is much more rigorous and exacting, but where the liberty curtailed affects at the most rights of property, the permissible scope of regulatory measure is wider."

Moreover, in the Resolution denying the Motion for Reconsideration in the above case, we expressly affirmed:

"This is not to discount the possibility of a situation where the nullity of a statute, executive order, or ordinance may not be readily apparent but the threat to constitutional rights, especially those involving the freedom of the mind, present and ominous,"[14] In such an event therefore, "there should not be a rigid insistence on the requirement that evidence be presented." Also, in the same Resolution Professor Freund was quoted thus: "In short, when freedom of the mind is imperiled by law, it is freedom that commands a momentum of respect; when property is imperiled, it is the lawmakers' judgment that commands respect. This dual standard may not precisely reverse the presumption of constitutionality in civil liberties cases, but obviously it does set up a hierarchy of values with the due process clause."[15]

2. We inquire first whether or not by virtue of the above requirement for a periodical submission of sworn statement of assets and liabilities, there is an invasion of liberty protected by the due process clause.

Under the Anti-Graft Act of 1960, after the statement of policy[16] and definition of terms[17] there is an enumeration of corrupt practices declared unlawful in addition to acts or omissions of public officers already penalized by existing law. They include persuading, inducing, or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense; requesting or receiving directly or indirectly any gift, present, share, percentage, or benefit, for himself, or for any other person, in connection with any contract or transaction between the government and any other party, wherein the public officer in his official capacity, has to intervene under the law; requesting or receiving directly or indirectly any gift, present, or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in a manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given; accepting or having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or within one year after its termination; causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence; neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby; having directly or indirectly financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interests; becoming interested directly or indirectly, for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercises discretion in such approval, even if he votes against the same or does not participate in such action; approving or granting knowingly any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled and divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized release date.[18]

After which come the prohibition on private individuals,[19] prohibition on certain relatives,[20] and prohibition on Members of Congress.[21] Then there is this requirement of a statement of assets and liabilities, that portion requiring periodical submission being challenged here.[22] The other sections of the Act deal with dismissal due

to unexplained wealth, reference being made to the previous statute,[23] penalties for violation,[24] the vesting of original jurisdiction in the Court of First Instance as the competent court,[25] the prescription of offenses,[26] the prohibition against any resignation or retirement pending investigation, criminal or administrative or pending a prosecution,[27] suspension and loss of benefits,[28] exception of unsolicited gifts or presents of small or insignificant value as well as recognition of legitimate practice of one's profession or trade or Occupation,[29] the separability clause,[30] and its effectivity.[31]

Nothing can be clearer therefore than that the Anti-Graft Act of 1960 like the earlier statute[32] was precisely aimed at curtailing and minimizing the opportunities for official corruption and maintaining a standard of honesty in the public service. It is intended to further promote morality in public administration. A public office must indeed be a public trust. Nobody can cavil at its objective; the goal to be pursued commands the assent of all. The conditions then prevailing called for norms of such character. The times demanded such a remedial device.

The statute was framed with that end in view. It is comprehensive in character, sufficiently detailed and explicit to make clear to all and sundry what practices were prohibited and penalized. More than that, an effort was made, so evident from even a cursory perusal thereof, to avoid evasions and plug loopholes. One such feature is the challenged section. Thereby it becomes much more difficult, by those disposed to take advantage of their positions to commit acts of graft and corruption.

While in the attainment of such public good, no infringement of constitutional rights is permissible, there must be a showing, clear, categorical, and undeniable, that what the Constitution condemns, the statute allows. More specifically, since that is the only question raised, is that portion of the statute requiring periodical submission of assets and liabilities, after an officer or employee had previously done so upon assuming office, so infected with infirmity that it cannot be upheld as valid?

Or, in traditional terminology, is this requirement a valid exercise of the police power? In the aforesaid *Ermita-Malate Hotel* decision,[33] there is a reaffirmation of its nature and scope as embracing the power to prescribe regulations to promote the health, morals, education, good order, safety, or the general welfare of the people. It has been negatively put forth by Justice Malcolm as "that inherent and plenary power in the state which enables it to prohibit all things hurtful to the comfort, safety and welfare of society." [34]

Earlier Philippine cases refer to police power as the power to promote the general welfare and public interest;[35] to enact such laws in relation to persons and property as may promote public health, public morals, public safety and the general welfare of, each inhabitant;[36] to preserve public order and to prevent offenses against the state and to establish for the intercourse of citizen with citizen those rules of good manners and good neighborhood calculated to prevent conflict of rights.[37] In his work on due process, Mott[38] stated that the term police power was first used by Chief Justice Marshall.[39]

As currently in use both in Philippine and American decision then, police power legislation usually has reference to regulatory measures restraining either the rights to property or liberty of private individuals. It is undeniable however that one of its earliest definitions, valid then as well as now, given by Marshall's successor, Chief Justice Taney does not limit its scope to curtailment of rights whether of liberty or property of private individuals. Thus: "But what are the police powers of a State? They are nothing more or less than the powers of government inherent in every sovereignty to the extent of its dominions. And whether a State passes a quarantine law, or a law to punish offenses, or to establish courts of justice, or requiring certain instruments to be recorded, or to regulate commerce within its own limits, in every case it exercises the same power; that is to say, the power of sovereignty, the power to govern men and things within the limits of its domain." [40] Text writers like Cooley and Burdick were of a similar mind.[41]

What is under consideration is a statute enacted under the police power of the state to promote morality in public service necessarily limited in scope to officialdom. May a public office claiming to be adversely affected rely on the due process clause to annul such statute or any portion thereof? The answer must be in the affirmative the police power extends to regulatory action affecting persons in public or private life, then anyone with an alleged grievance can invoke the protection of due process which permits deprivation of property or liberty as long as such requirement is observed.

While the soundness of the assertion that a public office is public office trust and as such not amounting to property in its usual sense cannot be denied, there can be no disputing the proposition that from the standpoint of the security of tenure guaranteed by the Constitution the mantle of protection afforded by due process could rightfully be invoked. It was so implicitly held in *Lacson v. Romero*,^[42] in line with the then pertinent statutory provisions^[43] that procedural due process in the form of an investigation at which he must be given a fair hearing and an opportunity to defend himself must be observed before a civil service officer or employee may be removed. There was a re-affirmation of the view in even stronger language when this Court through Justice Tuason *Lacson v. Roque*,^[44] declared that even without express provision of law, "it is established by the great weight of authority that the power of removal or suspension for cause can not, except by clear statutory authority, be exercised without notice and hearing." Such is likewise the import of a statement from the then Justice, now Chief Justice, Concepcion, speaking for the Court in *Meneses v. Lacson*,^[45] "At any rate, the reinstatement directed in the decision appealed from does not bar such appropriate administrative action as the behaviour of petitioners herein may warrant, upon compliance with the requirements of due process."

To the same effect is the holding of this Court extend-ing the mantle of the security of tenure provision to employees of government-owned or controlled corporations entrusted with governments functions when through Justice Padilla in *Tabora v. Montelibano*,^[46] it stressed: "That safeguard, guarantee, or feeling of security that they would hold their office or employment during good behavior and would not be dismissed without justifiable cause to be determined in an investigation, where an opportunity to be heard and defend themselves in person or by counsel is afforded them, would bring about such a desirable condition." Reference was there made to promoting honesty and efficiency through an assurance of stability in their employment relation. It was to be expected then that through Justice Labrador in *Unabia v. City Mayor*,^[47] this Court could categorically affirm: "As the removal of petitioner was made without investigation and without cause, said removal is null and void ** *."

It was but logical therefore to expect an explicit holding of the applicability of due process guaranty to be forthcoming. It did in *Cammayo v. Viña*,^[48] where the opinion of Justice Endencia for the Court contained the following unmistakable language: "Evidently, having these facts in view, it cannot be pretended that the constitutional provision of due process a law for the removal of the petitioner has not been complied with."

Then came this restatement of the principle from the pen of Justice J. B. L. Reyes: "We are thus compelled to conclude that the positions formerly held by appellees were not primarily confidential in nature so as to make their terms of office co-terminal with the confidence reposed in them. The inevitable corollary is that respondents-appellees, Leon Piñero, et al., were not subject to dismissal or removal, except for cause specified by law and with due process * * *."^[49] In a still later decision, *Abaya v. Subido*,^[50] this Court, through Justice Sanchez, emphasized "that the vitality of the constitutional principle of due process cannot be allowed to weaken by sanctioning cancellation" of an employee's eligibility or "of his dismissal from service - without hearing - upon a doubtful assumption that he has admitted his guilt for an offense against Civil Service rules" Equally emphatic is this observation from the same case: "A civil service employee should be heard before he is condemned. Jurisprudence has clung to this rule with such unrelenting grasp that by now it would appear trite to make

citations thereof."

If as is so clearly and unequivocally held by this Court, due process may be relied upon by public official to protect the security of tenure which in that limited sense is analogous to property, could he not likewise avail himself of such constitutional guarantee to strike down what he considers to be an infringement of his liberty? Both on principle, reason and authority, the answer must be in the affirmative. Even a public official has certain rights to freedom the government must respect. To the extent then, that there is a curtailment thereof, it could only be permissible if the due process mandate is not disregarded.

Since under the constitutional scheme, liberty is the rule and restraint the exception, the question raised cannot just be brushed aside. In a leading Philippine case, *Rubi v. Provincial Board*,^[51] liberty as guaranteed by the Constitution was defined by Justice Malcolm to include "the right to exist and the right to be free from arbitrary personal restraint or servitude. The term cannot be dwarfed into mere freedom from physical restraint of the person of the citizen, but is deemed to embrace the right of man to enjoy the facilities with which he has been endowed by his Creator, subject only to such restraint as are necessary for the common welfare." In accordance with this case therefore, the rights of the citizens to be free to use his faculties in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any avocation, are all deemed embraced in the concept of liberty. This Court in the same case, however, gave the warning that liberty as understood in democracies, is not license. Implied in the term is restraint by law for the good of the individual and for the greater good, the peace and order of society and the general well-being. No one can do exactly as he pleases. Every man must renounce unbridled license. In the words of Mabini as quoted by Justice Malcolm, "liberty is freedom to do right and never wrong; it is ever guided by reason and the upright and honorable conscience of the individual."

The liberty to be safeguarded is, as pointed out by Chief Justice Hughes, liberty in a social organization,^[52] implying the absence of arbitrary restraint not immunity from reasonable regulations and prohibitions imposed in the interest of the community.^[53] It was Linton's view that "to belong to a society is to sacrifice some measure of individual liberty, no matter how slight the restraints which the society consciously imposes."^[54] The above statement from Lipton, however, should be understood in the sense that liberty, in the interest of public health, public order or safety, of general welfare, in other words through the proper exercise of the police power, may be regulated. The individual though, as Justice Cardoso pointed out, has still left a "domain of free activity that cannot be touched by government or law at all, whether the command is specially against him or generally against him and others."^[55]

Is this provision for a periodical submission of sworn statement of assets and liabilities after he had filed one upon assumption of office beyond the power of government to impose? Admittedly without the challenged provision, a public officer would be free from such a requirement. To the extent then that there is a compulsion to act in a certain way, his liberty is affected. It cannot be denied however that under the Constitution, such a restriction is allowable as long as due process is observed.

The more crucial question therefore is whether there is an observance of due process. That leads us to an inquiry, into its significance. "There is no controlling and precise definition of due process. It furnishes though a standard to which governmental action should conform in order that deprivation of life, liberty or property, in each appropriate case, be valid. What then is the standard of due process which must exist both as a procedural and as substantive requisite to free the challenged ordinance, or any governmental action for that matter, from the imputation of legal infirmity sufficient to spell its doom? It is responsiveness to the supremacy of reason, obedience to the dictates of justice. Negatively put, arbitrariness is ruled out and unfairness avoided. To satisfy the due process requirement, official action, to paraphrase Cardoso, must not outrun the bounds of reason and result

in sheer oppression. Due process is thus hostile to any official action marred by lack of reasonableness. Correctly has it been identified as freedom from arbitrariness. It is the embodiment of the sporting idea of fair play. It exacts fealty 'to those strivings for justice' and judges the act of officialdom of whatever branch 'in the light of reason drawn from considerations of fairness that reflect [democratic] traditions of legal and political thought.' It is not a narrow or 'technical conception with fixed content unrelated to time, place and circumstances,' decisions based on such a clause requiring a 'close and perceptive inquiry into fundamental principles of our society.' Questions of due process are not to be treated narrowly or pedantically in slavery to form or phrases." [56]

It would be to dwell in the realm of abstractions and to ignore the harsh and compelling realities of public service with its ever-present temptation to heed the call of greed and avarice to condemn as arbitrary and oppressive a requirement as that imposed on public officials and employees to file such sworn statement of assets and liabilities every two years after having done so upon assuming office. The due process clause is not susceptible to such a reproach. There was therefore no unconstitutional exercise of police power.

4. The due process question touching on an alleged deprivation of liberty as thus resolved goes a long way in disposing of the objections raised by plaintiff that the provision on the periodical submission of a sworn statement of assets and liabilities is violative of the constitutional right to privacy. There is much to be said for this view of Justice Douglas: "Liberty in the constitutional sense must mean more than freedom from unlawful governmental restraint; it must include privacy as well, if it is to be a repository of freedom. The right to be let alone is indeed the beginning of all freedom." [57] As a matter of fact, this right to be let alone is, to quote from Mr. Justice Brandeis "the most comprehensive of rights and the right most valued by civilized men." [58]

The concept of liberty would be emasculated if it does not likewise compel respect for his personality as a unique individual whose claim to privacy and interference demands respect. As Laski so very, aptly stated: "Man is one among many, obstinately refusing reduction to unity. His separateness, his isolation, are indefeasible; indeed, they are so fundamental that they are the basis on which his civic obligations are built. He cannot abandon the consequences of his isolation, which are, broadly speaking, that his experience is private, and the will built out that experience personal to himself. If he surrenders his will to others, he surrenders his personality. If his will is set by the will of others, he ceases to be master of himself. I cannot believe that a man no longer master of himself is in any real sense free." [59]

Nonetheless, in view of the fact that there is an express recognition of privacy, specifically that of communication and correspondence which "shall be inviolable except upon lawful order of Court or when public safety and order" [60] may otherwise require, and implicitly in the search and seizure clause, [61] and the liberty of abode, [62] the alleged repugnancy of such statutory requirement of further periodical submission of a sworn statement of assets and liabilities deserves to be further looked into.

In that respect the question is one of first impression, no previous decision having been rendered by this Court. It is not so in the United States where, in the leading case of *Griswold v. Connecticut*, [63] Justice Douglas, speaking for five members of the Court, stated: "Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers 'in any house' in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the 'right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.' The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: 'The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.' After referring to various American Supreme Court decisions, [64] Justice Douglas continued: "These cases bear witness that the right of

privacy which presses for recognition is a legitimate one."

The Griswold case invalidated a Connecticut statute which made the use of contraceptives a criminal offense on the ground of its amounting to an unconstitutional invasion of the right of privacy of married persons; rightfully it stressed "a relationship lying within the zone of privacy created by several fundamental constitutional guarantees." [65] It has wider implications though. The constitutional right to privacy has come into its own.

So it is likewise in our jurisdiction. The right to privacy as such is accorded recognition independently of its identification with liberty; in itself, it is fully deserving of constitutional protection. The language of Prof. Emerson is particularly apt: "The concept of limited government has always included the idea that governmental powers stop short of certain intrusions into the personal life of the citizen. This is indeed one of the basic distinctions between absolute and limited government. Ultimate and pervasive control of the individual, in all aspects of his life, is the hallmark of the absolute state. In contrast, a system of limited government safeguards a private sector, which belongs to the individual firmly distinguishing it from the public sector, which the state can control. Protection of this private sector - protection, in other words, of the dignity and integrity of the individual - has become increasingly important as modern society has developed. All the forces of a technological age - industrialization, urbanization, and organization - operate to narrow the area of privacy and facilitate intrusions into it. In modern terms, the capacity to maintain and support this enclave of private life marks the difference between a democratic and a totalitarian society." [66]

Even with due recognition of such a view, it cannot be said that the challenged statutory provision calls for disclosure of information which infringes on the right of a person to privacy. It cannot be denied that the rational relationship such a requirement possesses with the objective of a valid statute goes very far in precluding assent to an objection of such character. This is not to say that a public officer, by virtue of a position he holds, is bereft of constitutional protection; it is only to emphasize that in subjecting him to such a further compulsory revelation of his assets and liabilities, including the statement of the amounts and sources of income, the amounts of personal and family expenses, and the amount of income taxes paid for the next preceding calendar year, there is no unconstitutional intrusion into what otherwise would be a private sphere.

5. Could it be said, however, as plaintiff contends, that in so far as the challenged provisions requires the periodical filing of a sworn statement of financial condition, it would be violative of the guarantees against unreasonable search and seizure and against self-incrimination?

His complaint cited on this point *Davis v. United States*, [67] In that case, petitioner Davis was convicted under an information charging him with unlawfully having in his possession a number of gasoline ration coupons representing so many gallons of gasoline, an offense penalized under a 940 statute. [68] He was convicted both in the lower court and in the Circuit Court of Appeals over the objection that there was an unlawful search which resulted in the seizure of the coupons and that their use at the trial was in violation of Supreme Court decisions. [69] In the District Court, there was a finding that he consented to the search and seizure. The Circuit Court of Appeals did not disturb that finding although expressed doubt concerning it, affirming however under the view that such seized coupons were properly introduced in evidence, the search and seizure being incidental to an arrest, and therefore reasonable regardless of petitioner's consent.

In affirming the conviction the United States Supreme Court, through justices Douglas emphasized that the Court was dealing in this case "not with private papers or documents, but with gasoline ration coupons which never became the private property of the holder but remained at all times the property of the government and subject to inspection and recall by it." [70] He made it clear that the opinion was not to be understood as suggesting "that officers seeking to reclaim government property may proceed lawlessly and subject to no restraints. Nor [does it]

suggest that the right to inspect under the re-regulations subjects a dealer to a general search of his papers for the purpose of learning whether he has any coupons subject to inspection and seizure. The nature of the coupons is important here merely as indicating that the officers did not exceed the permissible limits of persuasion in obtaining them." [71]

True, there was strong dissenting opinion by Justice Frankfurter in which Justice Murphy joined, critical of what it considered "a process of devitalizing interpretation" which in this particular case gave approval "to what was done by arresting officers" and expressing the regret that the Court might be "in danger of forgetting that the Bill of Rights reflects experience with police excesses."

Even this opinion however conceded that the constitutional guarantee against unreasonable search and seizure "does not give freedom from testimonial compulsion. Subject to familiar qualifications every man is under obligation to give testimony. But that obligation can be exacted only under judicial sanction's which are deemed precious to Anglo-American civilization. Merely because there may be the duty to make documents available for litigation does not mean that police officers may forcibly or fraudulently obtain them. This protection of the right to be let alone except under responsible judicial compulsion is precisely what the Fourth Amendment meant to express and to safeguard." [72]

It would appear then that a reliance on that case for an allegation that this statutory provision offends against the unreasonable search and seizure clause would be futile and unavailing. This is the more so in the light of the latest decision of this Court in *Stonehill v. Diokno*. [73] where this Court, through Chief Justice Concepcion, after stressing that the constitutional requirements must be strictly complied with, and that it would be "a legal heresy of the highest order to convict anybody of a violation of certain statutes without reference to any of its determinate provisions delimited its scope as "one of the most fundamental rights guaranteed in our Constitution," safeguarding "the sanctity of the domicile and the privacy of communication and correspondence * * *." Such is precisely the evil sought to be remedied by the constitutional provision above quoted - to outlaw the so-called general warrants.

It thus appears clear that no violation of the guarantee against unreasonable search and seizure has been shown to exist by such requirement of further periodical submission of one's financial condition as set forth in the Anti-Graft Act of 1960.

Nor does the contention of plaintiff gain greater plausibility, much less licit acceptance, by his invocation of the non-incrimination clause. According to the Constitution: "No person shall be compelled to be a witness against him self." [74] This constitutional provision gives the accused immunity from any attempt by the prosecution to make easier its task by coercing or intimidating him to furnish the evidence necessary to convict. He may confess, but only if he voluntarily wills it. He may admit certain facts but only if he freely chooses to. [75] Or he could remain silent, and the prosecution is powerless to compel him to talk. [76] Proof is not solely testimonial in character. It may be documentary. Neither then could the accused be ordered to write, when what comes from his pen may constitute evidence of guilt or innocence. [77] Moreover, there can be no search seizure of his house, papers or effects for the purpose of locating incriminatory matter. [78]

In a declaratory action proceeding then, the objection based on the guaranty against self-incrimination is far from decisive. It is well to note what Justice Tuason stated: "What the above inhibition seeks to [prevent] is compulsory disclosure of incriminating facts." [79] Necessarily then, the protection it affords will have to await, in the language of Justice J. B. L. Reyes, the existence of actual cases, "be they criminal, civil or administrative." [80] Prior to such a stage, there is no pressing need to pass upon the validity of the fear sincerely voiced that there is an infringement of the non-incrimination clause. What was said in an American State decision is of relevance. In that

case, a statutory provision requiring any person operating a motor vehicle, who knows that injury has been caused a person or property, to stop and give his name, residence, and his license number to the injured party or to a police officer was sustained as against the contention that the information thus exacted may be used as evidence to establish his connection with the injury and therefore compels him to incriminate himself. As was stated in the opinion: "If the law which exacts this information is invalid, because such information, although in itself no evidence of guilt, might possibly lead to a charge of crime against the informant then all police regulations which involve identification may be questioned on the same ground. We are not aware of any constitutional provision designed to protect a man's conduct from judicial inquiry, or aid him in fleeing from justice. But, even if a constitutional right be involved, it is not necessary to invalidate the statute to secure its protection. If, in this particular case, the constitutional privilege justified the refusal to give the information exacted the statute, that question can be raised in the defense to the pending prosecution. Whether it would avail, we are not called upon to decide in this proceeding." [81]

6. Nor could such a provision be nullified on the allegation that it constitutes "an insult to the personal integrity and official dignity" of public officials. On its face, it cannot thus be stigmatized. As to its being unnecessary, it is well to remember that this Court, in the language of Justice Laurel, "does not pass upon questions of wisdom, justice or expediency of legislation." [82] As expressed by Justice Tuason: "It is not the province of the courts to supervise legislation and keep it within the bounds of propriety and common sense. That is primarily and exclusively a legislative concern." [83] There can be no possible objection then to the observation of Justice Montemayor: "As long as laws do not violate any Constitutional provision, the Courts merely interpret and apply them regardless of whether or not they are wise or salutary." [84] For they, according to Justice Labrador, "are not supposed to override legitimate policy and * * * never inquire into the wisdom of the law." [85]

It is thus settled, to paraphrase Chief Justice Concepcion in *Gonzales v. Commission on Elections*, [86] that only congressional power or competence, not the wisdom of the action taken, may be the basis for declaring a statute invalid. This is as it ought to be. The principle of separation of powers has in the main wisely allocated the respective authority of each department and confined its jurisdiction to such a sphere. There would then be intrusion not allowable under the Constitution if on a matter left to the discretion of a coordinate branch, the judiciary would substitute its own. If there be adherence to the rule of law, as there ought to be, the last offender should be courts of justice, to which rightly litigants submit their controversy precisely to maintain unimpaired the supremacy of legal norms and prescriptions. The attack on the validity of the challenged provision likewise insofar as there may be objections, even if valid and cogent, on its wisdom cannot be sustained.

WHEREFORE, the decision of the lower court of July 19, 1962 "declaring unconstitutional, null and void Section 7, Republic Act. No. 3019, insofar as it requires periodical submittal of sworn statements of financial conditions, assets and liabilities of an official or employee of the government after he had once submitted such a sworn statement * * * is reversed." Without costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Bengzon, J.P., Zaldivar, and Angeles, JJ., concur.

Dizon and Castro, JJ., in the result.

Sanchez, J., reserves his vote.

[1] Republic Act No. 3019, approved August 17, 1960.

[2] Section 1, Statement of Policy.

[3] Republic Act 1379, approved June 18, 1955.

[4] Sec. 7. Statement of assets and liabilities. - Every public officer, within thirty days after the approval of this Act or after assuming office, and within the month of January of every other year thereafter, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or chief of an independent office, with the Office of the President, or in the case of members of the Congress and the officials and employees thereof, with the Office of the Secretary of the corresponding Houses, a true detailed and sworn statement of assets and liabilities, including a statement of the accounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: Provided, That public officers assuming office less than two months before the end of the calendar year, may file their first statements in the following months of January.

[5] Complaint, Record on Appeal, p. 4.

[6] Complaint, Record on Appeal, p. 5.

[7] Complaint, Record on Appeal, par. 5, p. 5.

[8] Complaint, Record on Appeal, p. 7.

[9] Record on Appeal, p. 10.

[10] Answer pars. 4, 6 and 9, Record on Appeal, pp. 12, 14 and 15.

[11] Order of March 10, 1962, Record on Appeal, p. 18.

[12] Decision, of July 19, 1962, Record on Appeal, pp. 36-37.

[13] L-24693, July 31, 1967.

[14] Resolution denying Motion for Reconsideration, L-24693, October 23, 1967, p. 5.

[15] Freund, On Understanding the Supreme Court (1950) p. 11.

[16] Section 1. Rep. Act No. 3019.

[17] Section 2, Rep. Act No. 3019.

[18] Sec. 3, Id.

[19] Sec. 4, Id.

[20] Sec. 5, Id.

[21] Sec. 6, Id.

[22] Sec. 7, Id.

[23] Sec. 8, Id.

[24] Sec. 9, Id.

[25] Sec. 10, Id.

[26] Sec. 11, Id.

[27] Sec. 12, Id.

[28] Sec. 13, Id.

- [29] Sec. 14, Id.
- [30] Sec. 15, Id.
- [31] Sec. 16, Id.
- [32] Rep. Act No. 1379.
- [33] L-24693, July 31, 1967.
- [34] Rubi v. Provincial Board, 39 Phil. 660, 708 (1919).
- [35] U. S. v. Toribio, 15 Phil. 85, 94 (1910).
- [36] U. S. v. Gomez Jesus, 31 Phil. 218, 225 (1915).
- [37] U. S. v. Pompeya, 31 Phil. 245, 254 (1915).
- [38] Due Process of Law, 301.
- [39] Gibbons v. Ogden, 9 Wheat. 208 (1824) and Brown v. Maryland, 12 Wheat. 419 (1827).
- [40] License Cases, 5 How. 504, 583 (1847).
- [41] 2 Cooley, Constitutional Limitations, p. 1223 (1927), Burdick, The Law of the American Constitution (1922).
- [42] 84 Phil. 740 (1949).
- [43] Secs. 64, 694 Rev. Administrative Code.
- [44] 92 Phil. 456, 471 (1953).
- [45] 97 Phil. 857, 865 (1955).
- [46] 98 Phil. 800, 806 (1956).
- [47] 99 Phil. 253, 256 (1956).
- [48] 101 Phil. 1149, 1154 (1957).
- [49] Piñero v. Hechanova, L-22562, Oct. 22, 1966.
- [50] L-25641, December 17, 1966.
- [51] 39 Phil. 660 (1919).
- [52] West Coast Hotel v. Parrish, 300 U. S. 379 (1937).
- [53] Chicago, B. & O. Ry. Co. v. McGuire, 219 U. S. 549 (1910).
- [54] The Individual, Culture and Society, p. 17 (1945).
- [55] Paradoxes of Legal Science, p. 98 (1928).
- [56] Ermita-Malate Hotel, etc., et al v. Hon. City Mayor of Manila, L-24693, July 31, 1967.
- [57] Public Utilities Commission v. Pollak, 343 U. S. 451, 467 (1952). In this case the American Supreme Court rejected the claim that radio program on buses and street cars of a private company regulated by the District Columbia invaded the rights of privacy of passengers in violation of the due process clause. Mr. Justice Douglas

was the sole dissenter.

[58] *Olmstead v. United States*, 277 U.S. 438, 478 (1928). In this case Justice Brandeis along with Justice Holmes dissented.

[59] Laski, *Liberty in the Modern State*, 44 (1949). Also "Secrecy nevertheless may be an important component of the core idea of privacy as a public-law concept, and to this probably should be added the factor of 'solitude' - freedom from certain social impositions and pressures. The meaning of privacy, as thus refined and separated from a generalized concept of freedom, may be fairly well encompassed by the twin ideas of secrecy, which protects the nondisclosure interest, and solitude, which protects against coercions of belief or, derivatively; against actions designed to make the holding of belief uncomfortable, or against any undue social intrusions on the intimacies and dignities of life. As already noted, however, these twin ideas are Janus-faced, because secrecy in the context of associational privacy is an activist concept supporting political action, whereas solitude in the context of nondisclosure of nonconformity is a passivist, right-to-be-let-alone concept." Dixon, *The Griswold. Penumbra*, 66 Mich. Law Rev. 197, 205. (1965).

[60] Art. III, Sec. 1, par. 5, Constitution.

[61] Art. III, Sec. 1, par. 3, Constitution.

[62] Art. III, Sec. 1, par. 4, Constitution.

[63] 381 U. S. 479, 484 (1965).

[64] *Boyd v. United States* 116 U. S. 616 (1886); *Breard v. City of Alexandria* 341 U. S. 622 (1951); *Public Utilities Comm. v. Pollak* 341 U.S. 451 (1952); *Frank v. Maryland* 359 U.S. 360 (1959); *Monroe v. Pape* 365 U. S. 167 (1961); *Mapp v. Ohio* 367 U. S. 643 (1961); *Lanza v. New York* 370 U. S. 139 (1962).

[65] *Id.* at p. 485.

[66] Emerson, *Nine Justices in Search of a Doctrine*, Mich. Law. R v. 219, 229 (1965). But compare the pungent observation of a knowledgeable and highly literate critic of the social scene: "Privacy? What's that? There is no precise word for it in Filipino, and as far as I know any Filipino dialect, and there is none because there is no need for it. The concept and practice of privacy are missing from conventional Filipino life. The Filipino believes that privacy is an unnecessary imposition, an eccentricity that is barely pardonable or, at best, an esoteric Western afterthought smacking of legal trickery." Guerrero-Nakpil, *Consensus of One*, Sunday Times Magazine, Sept. 24, 1967, at p. 18.

[67] 328 U.S. 582 (1946).

[68] 54 Stat. 676 as amended by the Act of May 31, 1940; 55 Stat. 236.

[69] *Weeks v. United States*, 232 U.S. 383 and *United States v. Lefkowitz*, 285 U. S. 452.

[70] *Id.* at p. 588

[71] *Id.* at p. 591.

[72] *Id.* at p. 596.

[73] L-19550, June 19, 1967.

[74] Art. III, Sec. 1, Clause 18.

[75] *People v. Carillo*, 77 Phil. 572 (1946).

[76] *U. S. v. Tan Teng*, 23 Phil. 145 (1912); *U. S. v. Ong Siu Hong*, 36 Phil. 735 (1917); *Villaflor v. Summers*, 41 Phil. 62 (1920); and *Jimenez v. Cañizares*, L-12790, Aug. 31, 1960.

[77] *Bermudez v. Castillo*, 64 Phil. 483 (1937).

[78] *Boyd v. United States*, 116 U. S. 616 (1886), but see *Warden v. Hayden*, 18 L. ed. 2d 182 (1967).

[79] *People v. Carillo*, 77 Phil. 572 (1946).

[80] *Suarez v. Tengco*, L-17113, May 23, 1961.

[81] *Ex parte Kneedler* 147 S.W. 983, 984 (1912).

[82] *Angara v. Electoral Commission*, 63 Phil. 139 (1936).

[83] *People v. Carlos*, 78 Phil. 535, 548 (1947).

[84] *Quintos v. Lacson*, 97 Phil. 290, 293 (1955).

[85] *Ichong v. Hernandez*, 101 Phil. 1155, 1166 (1957).

[86] L-28196, Nov. 9, 1967. There is nothing in the separate opinion of Justice Sanchez to which five other justices concurred that calls for a different conclusion, the point of disagreement being in the earnestly held conviction of this group that Congress exceeded its legitimate authority under the Constitution.

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