

MANUEL MARTINEZ Y FESTIN, PETITIONER, VS. THE HONORABLE JESUS P. MORFE OF THE COURT OF FIRST INSTANCE OF MANILA, AND THE CITY WARDEN OF MANILA, RESPONDENTS.*G.R. No. L-34022. March 24, 1972*

Ponente: FERNANDO, J.

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The question raised in these certiorari proceedings, one to which no authoritative answer has been yielded by past decisions, is the scope to be accorded the constitutional immunity of senators and representatives from arrest during their attendance at the sessions of Congress and in going to and returning from the same except in cases of treason, felony and breach of the peace.[1] Petitioners Manuel y Martinez y Festin[2] and Fernando Baustista, Sr.,[3] as delegates of the present Constitutional Convention would invoke what they consider to be the protection of the above constitutional provision, if considered in connection with Article 145 of the Revised Penal Code penalizing a public officer or employee who shall, during the sessions of Congress, "arrest or search any member thereof, except in case such member has committed a crime punishable under [such] Code by a penalty higher than prision mayor." [4] For under the Constitutional Convention Act,[5] delegates are entitled to the parliamentary immunities of a senator or a representative.[6] Both petitioners are facing criminal prosecutions, the information filed against petitioner Manuel Martinez y Festin for falsification of a public document and two informations against petitioner Fernando Bautista, Sr. for violation of the Revised Election Code. The Solicitor General, on behalf of the respondent Judges in the above proceedings,[7] would dispute such a contention on the ground that the constitutional provision does not cover any criminal prosecution being merely an exemption from arrest in civil cases, the logical inference being that insofar as a provision of the Revised Penal Code would expand such an immunity, it would be unconstitutional or at the very least inoperative. A careful study of the above constitutional provision, in the light of the proceedings of the Constitutional Convention, adopting the then well-settled principle under American law and of the purposes to be served by such an immunity, persuade us that the stand taken by the Solicitor General is correct. These certiorari proceedings cannot prosper.

The facts in both petitions for certiorari are not in dispute. Petitioner Martinez y Festin[8] alleged that on June 10, 1971, an information against him for falsification of a public document was filed. Its basis was his stating under oath in his certificate of candidacy for delegate to the Constitutional Convention that he was born on June 20, 1945, when in truth and in fact he knew that he was born on June 20, 1946. There was on July 9, 1971, a special appearance on his part questioning the power of respondent Judge to issue a warrant of arrest and seeking that the information be quashed. On the same day, there was an order from the lower court suspending the release of the warrant of arrest until it could act on such motion to quash. Then came on July 22, 1971 an omnibus motion from him, with previous leave of court, to quash the information, to quash the warrant of arrest, or to hold in abeyance further proceedings in the case. It was not favorably acted on. On August 21, 1971, respondent Judge rendered an order denying the petitioner's omnibus motion to quash. In his belief that the information and the warrant of arrest in this case are null and void, the petitioner did not post the required bond. He was arrested by the City Sheriff in

the afternoon of September 6, 1971. At the time of the filing of the petition, he was confined at the City Jail in the custody of respondent City Warden of Manila. He was on his way to attend the plenary session of the Constitutional Convention. Such arrest was against his will and over his protest. He was arraigned on September 9, 1971. There was at such a time a motion by petitioner to reconsider the court's order of August 21, 1971. It was denied in open court. On the very same day, he filed the petition for certiorari and habeas corpus, but having been released thereafter on bail on September 11, 1971, the petition is now in the nature solely of a certiorari proceeding.[9]

As for petitioner Fernando Bautista, Sr.,[10] it was alleged that he is a duly elected and proclaimed delegate to the 1971 Constitutional Convention. He took his oath of office and assumed the functions of such office on June 1, 1971. He has continued since then to perform the duties and discharge the responsibilities of a delegate. Two criminal complaints, docketed as Criminal Cases Nos. 146(57) and 148(58), were directly filed with the Court of First Instance of Baguio and Benguet by a certain Moises Maspil, a defeated delegate-aspirant who placed 15th in the order of votes garnered, against the petitioner, and his co-accused for alleged violation of Section 51 of the Revised Penal Code in that they gave and distributed free of charge food, drinks and cigarettes at two public meetings, one held in Sablan and the other in Tuba, both towns being in the Province of Benguet. Respondent Presiding Judge conducted the preliminary investigation of said criminal complaints. Thereafter on August 7, 1971, he issued an order for the filing of the corresponding informations. Before a warrant of arrest in said criminal cases could be issued, petitioner in a motion of August 14, 1971 invoked the privilege of immunity from arrest and search, pursuant to Section 15 of Republic Act No. 6132, otherwise known as the 1971 Constitutional Convention Act, in relation to Sec. 15, Article VI of the Constitution and Article 145 of the Revised Penal Code. Respondent Judge, on the very same day, issued an order, holding in abeyance the issuance of a warrant of arrest and setting the hearing of said Motion on August 23, 1971. As scheduled on August 23, 1971, there was a hearing on such motion. Petitioner however did not prevail notwithstanding his vigorous insistence on his claim for immunity, a warrant of arrest being ordered on the same day. On September 11, 1971, there was a motion to quash such order of arrest filed by petitioner. He was unsuccessful, respondent Judge, in an order of said date, ordering his immediate arrest. His petition for certiorari and prohibition was filed with this Court on September 15, 1971.[11]

What is thus sought by petitioners Martinez y Festin and Bautista, Sr. is that the respective warrants of arrest issued against them be quashed on the claim that by virtue of the parliamentary immunity they enjoy as delegates, ultimately traceable to Section 15 of Article VI of the Constitution as construed together with Article 145 of the Revised Penal Code, they are immune from arrest. In the case of petitioner Martinez y Festin, he is proceeded against for falsification of a public document punishable by prision mayor.[12] As for petitioner Bautista, Sr., the penalty that could be imposed for each of the Revised Election Code offense, of which he is charged, is not higher than prision mayor.[13]

The respondents in the above petitions were required to answer by resolutions of this Court issued on September 10 and September 20, 1971, respectively. An answer on behalf of respondent Judge Jesus P. Morfe in the case of petitioner Martinez y Festin was filed on September 20, 1971 with an answer in intervention filed by respondent Executive Sheriff of Manila and the Chief of Warrant Division likewise filed on the same date. His petition was duly heard on September 14, 1971, Delegate Estanislao A. Fernandez vehemently pressing his claim to immunity. Thereafter on October 29, 1971, a memorandum, comprehensive in scope and persuasive in its analysis of the constitutional question presented, was filed on behalf of respondent Judge Morfe by Solicitor General Felix Q. Antonio, two Assistants Solicitors General Bernardo P. Pardo and Rosalio A. de Leon as well as Solicitor Vicente V. Mendoza. A memorandum on behalf of President Diosdado Macapagal of the Constitutional Convention, who was given permission to submit such a pleading, was submitted on March 8, 1972 by the Committee on Legal

Affairs of the Constitutional Convention.[14]

As for the petitions of Bautista, Sr., the answer on behalf of respondent Judge was filed on September 29, 1971. When the matter was heard on October 14, 1971, he appeared through counsel, Delegate Juanito R. Remulla, while respondent Judge was represented by Assistant Solicitors General Rosalio A. de Leon and Solicitor Vicente V. Mendoza. With the submission, on October 30, 1971, of an able memorandum on behalf of respondent Judge, again by the same counsel from the office of the Solicitor General as well as a carefully-prepared memorandum of petitioner Bautista, Sr., on December 1, 1971, the matter was deemed submitted for adjudication.

As noted at the outset, certiorari does not lie to quash the warrants of arrest issued against petitioner Martinez y Festin as well as petitioner Bautista, Sr. Their reliance on the constitutional provision which for them should be supplemented by what was provided for in the Revised Penal Code is futile. There is no justification then for granting their respective pleas.

No other conclusion is allowable consistently with the plain and explicit command of the Constitution. As is made clear in Section 15 of Article VI, the immunity from arrest does not cover any prosecution for treason, felony and breach of the peace. Treason exists when accused levies war against the Republic or adheres to its enemies giving them aid and comfort.[15] A felony is act or omission punishable by law.[16] Breach of the peace covers any offense whether defined by the Revised Penal Code or any special statute. It is a well-settled principle in public law that the public peace must be maintained and any breach thereof renders one susceptible to prosecution. Certainly then from the explicit language of the Constitution, even without its controlling interpretation as shown by the debates of the Constitutional Convention to be hereinafter discussed, petitioners cannot justify their claim to immunity. Nor does Article 145 of the Revised Penal Code come to their rescue. Such a provision that took effect in 1932 could not survive after the Constitution became operative on November 15, 1935. As will be shown, the repugnancy between such an expansion of the congressional immunity and the plain command of the Constitution is too great to be overcome, even on the assumption that the penalty to which a public officer will be subjected in the event that he did arrest one entitled thereto for an offense punishable by less than reclusion temporal suffices to widen its scope. This is so considering not only the history of such a constitutional grant of immunity but also its basic purpose and objective.

1. Even if the provision granting the legislative immunity of freedom from arrest were clothed in language less clear, its history precludes any other interpretation. As submitted to the Constitutional Convention of 1934, the draft proposal was worded as follows: "The Members of the National Assembly shall in all cases except treason, open disturbance of public order, or other offense punishable by death or imprisonment of not less than six years, be privileged from arrest during their attendance at the sessions of the National Assembly, and in going to and returning from the same." On December 4, 1934, upon its being considered by the Convention, an amendment was proposed by Delegate Aldeguer so that it would read: "The Members of the National Assembly shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of the National Assembly, and in going and returning from the same." What was sought by him was to retain the provision of the Philippine Autonomy Act of 1916, with phraseology identical to that found in the American Constitution.

He defended his proposal thus: "My amendment is not new. It is the same phrase granting parliamentary immunity to the members of the Parliament of England. It is the same phrase granting parliamentary immunity to members of Congress. It is the same phrase granting parliamentary immunity to members of the various state legislatures of the Union. Now, in reading the draft proposed by the Sub-Committee of Seven, I found out that it is a broad rule. Mr. President, the question is not whether we should grant privilege of immunity to the members of the National Assembly * * *." [17] He was interrupted by a point of order raised, but he was allowed to

continue. He went on: "As I was saying, Mr. President and Gentlemen of the Convention, the draft gives to the members of the National Assembly more privileges than what the nature of the office demands. My question is that if the members of the Congress of the United States, if the members of the Parliament, if the members of the various State Legislatures were able to perform their functions as members of law-making bodies with the privileges and immunities granted by the phrase 'breach of peace,' I wonder why the members of the future National Assembly cannot perform their duties with the same limitations and with the same privileges. Mr. President and members of the Convention, the history of parliamentary immunity shows that it was never intended to exempt members of the National Assembly from criminal arrest. When American sovereignty was implanted into these Islands, a new theory of government was implanted too. This theory of government places every man equal before the eyes of the law. The grant of certain privileges to any set of persons means the abrogation of this principle of equality before the eyes of the law. Another reason, Mr. President and Members of the Convention, is this: The State Legislature is the agent of the State. The power or the right of the Legislature to claim privileges is based on the right of self-preservation. The right of the State to claim privileges is due to the fact that it has the right to carry its function without obstacle. But we must also remember that any Legislature is but the agent of the State. The State is the principal. Any crime committed, whether such crime is committed by a colorum or by a gangster, endangers the State. Giving more privileges to an agent, which is the Legislature, at the expense of the principal, which is the State, is not a sound policy. So that, Mr. President, and Members of the Convention, believing that under the phrase 'breach of peace,' our future members of the Assembly can very well perform the duties incumbent upon them. I submit my amendment for the consideration of this Convention." [18]

Delegate Manuel Roxas on behalf of the sub-committee of seven did not object. As a matter of fact, he was for such amendment. He considered it "well-founded" and he was for such immunity complying "with the wording of the [Philippine Autonomy Act] in this particular." [19] The Convention readily approved the amendment by acclamation.

It does not admit of doubt therefore that the immunity from arrest is granted by the Constitution was understood in the same sense it has in American law, there being a similar provision in the American Constitution. [20] Its authoritative interpretation in the United States was supplied by the Williamson case, a 1908 decision. [21]

According to the then Justice, later Chief Justice, White who penned the opinion, "the term 'treason, felony and breach of the peace,' as used in the constitutional provision relied upon, excepts from the operation of the privilege all criminal offenses, * * *." [22] He traced its historical background thus: "A brief consideration of the subject of parliamentary privilege in England will, we think, show the source whence the expression 'treason, felony, and breach of the peace' was drawn, and leave no doubt that the words were used in England for the very purpose of excluding all crimes from the operation of the parliamentary privilege, and therefore to leave that privilege to apply only to prosecutions of a civil nature." [23] Story's treatise on the Constitution was likewise cited, his view on the matter being quite emphatic "Now, as all crimes are offenses against the peace, the phrase 'breach of the peace' would seem to extend to all indictable offenses, as well those which are in fact attended with force and violence, as those which are only constructive breaches of the peace of the government, inasmuch as they violate its good order." [24]

As far as American constitutional law is concerned, both Burdick [25] and Willoughby [26] could use practically identical language in appraising such immunity, the former stating that it "is not now of great importance" and the latter affirming that it "is of little importance as arrest of the person is now almost never authorized except for crimes which fall within the classes exempt from the privilege." The state of the American law on this point is aptly summarized by Cooley: "By common parliamentary law, the members of the legislature are privileged from arrest on civil process during the session of that body, and for a reasonable time before and after, to enable them

to go to and return from the same." [27] A prosecution for a criminal offense is thus excluded from this grant of immunity. So it should be in Philippine law, if deference were to be paid to what was explicitly agreed upon in the Constitutional Convention.

2. Would it make a difference however in the availability of the writs of certiorari sought by petitioners considering that Article 145 of the Revised Penal Code would impose upon any public officer or employee who shall, while the Congress is in regular or special session, arrest or charge any member thereof except in case such member has committed a crime punishable by penalty higher than prison mayor? [28]

The assumption here indulged is that the effect of the above in the Revised Penal Code was to expand the grant of parliamentary immunity under the Philippine Autonomy Act, although its literal language does not go that far. It is to be remembered, however, that it took effect on January 1, 1932 before the enforcement of the present Constitution in 1935. Considering that both under the then organic law, the Philippine Autonomy Act and equally so under the present Constitution, such a more generous treatment accorded legislators exempting them from arrest even if warranted under a penal law, the question as to whether it did survive becomes unavoidable. It is our opinion that the answer must be in the negative.

The Constitution is equally explicit on the following point: "All laws of the Philippine Islands shall continue in force until the inauguration of the Commonwealth of the Philippines; thereafter, such laws shall remain operative, unless inconsistent with this Constitution, until amended, altered, modified, or repealed by the Congress of the Philippines, and all references in such laws to the government or officials of the Philippines shall be construed, in so far as applicable, to refer to the Government and corresponding officials under this Constitution." [29] In *People vs. Linsangan* [30] decided in December, 1935, barely a month after the Constitution took effect, the continued applicability of Section 2718 of the Revised Administrative Code that would allow the prosecution of a person who remains delinquent in the payment of cedula tax, [31] this Court, in its opinion thru the pen of the then Justice, later Chief Justice, Abad Santos, after setting forth that the Constitution prohibits the imprisonment for debt on non-payment of poll tax, [32] held: "It seems too clear to require demonstration that section 2718 of the Revised Administrative Code is inconsistent with section 1, clause 12, of Article III of the Constitution in that, while the former authorizes imprisonment for non-payment of the poll or cedula tax, the latter forbids it. It follows that upon the inauguration of the Government of the Commonwealth, said section 2718 of the Revised Administrative Code became inoperative, and no judgment of conviction can be based thereon." [33]

So it was in *De los Santos vs. Mallare*. [34] Again under the provision of the Revised Administrative Code the President could remove at pleasure any of the appointive officials under the Charter of the City of Baguio. [35] Relying on such a provision, the then President Quirino removed petitioner De los Santos who was appointed City Engineer of Baguio on July 16, 1946, and chose in his place respondent Gil R. Mallare. The Revised Administrative Code was a legislation that dates back to 1917, [36] eighteen years before the Constitution prohibited any officer or employee in the civil service being removed or suspended except for cause as provided by law. [37] Again this Court, in the light of the aforecited provision in an opinion of Justice Tuason, held: "So, unlike legislation that is passed in defiance of the Constitution, assertive and menacing, the questioned part of section 2545 of the Revised Administrative Code does not need a positive declaration of nullity by the court to put it out of the way. To all intents and purposes, it is non-existent, outlawed and eliminated from the statute book by the Constitution itself by express mandate before the petitioner was appointed." [38] In the language of the constitutional provision then that portion of Article 145 penalizing a public official or employee who shall while the Congress is in regular or special session arrest or search any member thereof except in case he has committed a crime punishable under the Revised Penal Code by a penalty higher than prison mayor is declared inoperative.

The above conclusion reached by this Court is bolstered and fortified by policy considerations. There is, to be

sure, a full recognition of the necessity to have members of Congress, and likewise delegates to the Constitutional Convention, entitled to the utmost freedom to enable them to discharge their vital responsibilities, bowing to no other force except the dictates of their conscience. Necessarily the utmost latitude in free speech should be accorded them. When it comes to freedom from arrest, however, it would amount to the creation of a privileged class, without justification in reason, if notwithstanding their liability for a criminal offense, they would be considered immune during their attendance in Congress and in going to and returning from the same. There is likely to be no dissent from the proposition that a legislator or a delegate can perform his functions efficiently and well without the need for any transgression of the criminal law. Should such an unfortunate event come to pass, he is to be treated like any other citizen considering that there is a strong public interest in seeing to it that crime should not go unpunished. To the fear that may be expressed that the prosecuting arm of the government might unjustly go after legislators belonging to the minority, it suffices to answer that precisely all the safeguards thrown around an accused by the Constitution, solicitous of the rights of an individual, would constitute an obstacle to such an attempt at abuse of power. The presumption of course is that the judiciary would remain independent. It is trite to say that in each and every manifestation of judicial endeavor, such a virtue is of the essence.

WHEREFORE, the petition for certiorari and habeas corpus by Delegate Manuel Martines y Festin in L-34022 and the petitions for certiorari and prohibition by Delegate Fernando Bautista, Sr. in L-34046 and L-34047 are hereby dismissed. Without pronouncement as to costs.

Reyes, J.B.L., Makalintal, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Concepcion, C.J., concurs in the result.

[1] According to Art VI, Sec. 15 of the Constitution: "The Senators and Members of the House of Representatives shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of the Congress, and in going to and returning from the same; and for any speech or debate therein, they shall not be questioned in any other place."

[2] L-34022, Manuel Martinez y Festin vs. The Honorable Jesus P. Morfe of the Court of First Instance of Manila, and the City Warden of Manila. His petition was likewise for a writ of habeas corpus, but after posting the bail bond, he was released on Sept. 11, 1971. Essentially then, the petition is for certiorari.

[3] L-34046 and 34047, Fernando Bautista, Sr. vs. Hon. Francisco Ma. Chanco, Presiding Judge, Court of First Instance of Baguio and Benguet, Second Judicial District, Branch III, et al.

[4] Art. 145 of the Revised Penal Code reads in full: "Violation of parliamentary immunity – The penalty of prision mayor shall be imposed upon any person who shall use force, intimidation, threats, or fraud to prevent any member of the National Assembly from attending the meetings of the Assembly or any of its committees or sub-committees, constitutional commissions or committees or divisions thereof, from expressing his opinions or casting his vote; and the penalty of prision correccional shall be imposed upon any public officer or employee who shall, while the Congress is in regular or special session, arrest or search any member thereof, except in case such member has committed a crime punishable under this Code by a penalty higher than prision mayor. (Amended by Com. Act No. 264)."

[5] Republic Act 6132 (1970).

[6] According to Sec. 15 of Republic Act 6132: "The laws relative to parliamentary immunity of the Members of Congress shall be applicable to the delegates to the Constitutional Convention, and the penalties imposed in Articles one hundred forty-three, one hundred forty-four and one hundred forty-five of the Revised Penal Code, as

amended, for offenses defined therein against the Congress of the Philippines, its committees or subcommittees, or its Members shall likewise apply if such offenses are committed against the Constitutional Convention, its committees or sub-committees, or the delegates thereto.

[7] Respondent Judge Jesus P. Morfe in L-34022 and respondent Judge Francisco Ma. Chanco in L-34046 and 34047.

[8] *Martinez y Festin vs. Morfe*, L-34022.

[9] Petition for the Writs of Habeas Corpus and Certiorari, pars. 1-8.

[10] *Fernando Bautista, Sr. vs. Hon. Francisco Ma. Chanco*, L-34046 and 34047.

[11] Petitioners in *Fernando Bautista, Sr. vs. Hon. Francisco Ma. Chanco* L-34046 and 34047, pars. 1-12.

[12] As provided for by Art. 171 of the Revised Penal Code: "Falsification by public officer, employee, or notary or ecclesiastic minister. — The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts: * * *."

[13] According to Sec. 185 of Republic Act 180, the Election Code enforced at the time the alleged offenses were committed: "Any one found guilty of a serious election offense shall be punished with imprisonment of not less than one year and one day but not more than five years; and any one guilty of a less serious election offense, with imprisonment of not less than six months but not more than one year. * * *."

[14] The members of the Committee on Legal Affairs follow: Emilio M. de la Cruz, Leonardo Siguion Reyna, Sedfrey A. Ordonez, Antonio T. Bacaloz, Jose Y Feria, Ramon A. Gonzales, Dakila F. Castro, Generoso A. Juaban, Mangotawar B. Guro, Pedro N. Laggui, Feliciano Jover Ledesma, Pacifico F. Lim, Juan R. Liwag, Antonio D. Olmedo, Felixberto M. Serrano, Godofredo P. Ramos, Arsenio B. Yulo, Jr., Numeriano G. Tanopo, Jr. and Gregorio R. Puruganan.

[15] As provided for in Article 114 of the Revised Penal Code.

[16] According to Article 3 of the Revised Penal Code: "Acts or omissions punishable by law are felonies."

[17] S. Laurel, ed., IV Proceeding of the Constitutional Convention p. 522 (1966).

[18] *Ibid*, pp. 523-524.

[19] *Ibid*, p. 524.

[20] According to Art. I. Sec. VI, par. I of the American Constitution "[Senators and representatives] shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from; and for any speech or debate in either house, they shall not be questioned in any other place."

[21] *Williamson vs. United States*, 207 US 425.

[22] *Ibid*, p. 446.

[23] *Ibid*, p. 438. Reference was made in the opinion of Justice White to Potter Dwarris on Statute, Blackstone Hatsell's Precedent, published in 1876, May's on the Law, Privileges Proceedings and Usage of Parliament published in 1844 and Bowyer's Constitutional Law of England.

[24] *Ibid*, p. 444, citing I Story on the Constitution, 3rd ed., p. 599 (1858).

[25] P. 175 (1922).

[26] 2nd ed., p. 613 (1929).

[27] I Cooley, A Treatise on the Constitutional Limitations, 8th ed., p. 274 (1927).

[28] Art. 145 of the Revised Penal Code insofar as pertinent reads as follows: "Violation of parliamentary immunity. — the penalty of prision mayor shall be imposed upon any person who shall use force, intimidation, threats, or fraud to prevent any member of the National Assembly from attending the meetings of the Assembly or of any of its committees or sub-committees or divisions thereof, from expressing his opinions or casting his vote; * * *."

[29] Art. XVI, Sec. 2 of the Constitution.

[30] 62 Phil. 646.

[31] Art. 2718 of the Revised Administrative Code reads: "A person liable to the cedula tax who remains delinquent in the payment of the same for fifteen days after June first of each year and who upon demand of the provincial treasurer fails thereafter to pay such tax as required by law shall be deemed to be guilty of misdemeanor; and the provincial treasurer may, in his discretion, cause the delinquent to be prosecuted before the justice of the peace of the municipality in which the delinquent shall be found, and upon conviction the person so delinquent shall be sentenced to imprisonment for five days for each unpaid cedula."

[32] According to Art. III, Sec. 1, clause 12 of the Constitution: "No person shall be imprisoned for debt or non-payment of poll tax."

[33] People vs. Linsangan, 62 Phil. 646, 650.

[34] 87 Phil. 289 (1950).

[35] Sec. 2545 of the Revised Administrative Code insofar as pertinent reads as follow: "The President of the Philippines shall appoint, with the consent of the Commission on Appointments of the Congress of the Philippines, the mayor, the vice-mayor, and one of the other members of the city council, the members of the advisory council, the city health officer, the city engineer, the chief of police, the city treasurer, the city assessor, the city attorney, and the assistant city attorney, and he may remove at pleasure any of the said appointive officers. * * *."

[36] It was approved by the then Governor-General on March 10, 1917.

[37] Art. XII, Sec. 4 reads as follow: "No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law."

[38] De los Santos vs. Madam, 87 Phil. 289, 299 (1950).

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