

ENRIQUE V. MORALES, PETITIONER, VS. ABELARDO SUBIDO, AS COMMISSIONER OF CIVIL SERVICE, RESPONDENT.

G.R. No. L-29658. February 27, 1969

Ponente: CASTRO, J.

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CASTRO, J.:

The petitioner's motions for reconsideration are directed specifically at the following portion of our decision:

"In the Senate, the Committee on Government Reorganization, to which House Bill 6951 was referred, reported a substitute measure. It is to this substitute bill that section 10 of the Act owes its present form and substance. ... The provision of the substitute bill reads:

'No person may be appointed chief of a city police agency unless he holds a bachelor's degree and has served either in the Armed Forces of the Philippines or the National Bureau of Investigation or police department of any city and has held the rank of captain or its equivalent therein for at least three years or any high school graduate who has served the police department of a city for at least 8 years with the rank of captain and/or higher.'

"....

"At the behest of Senator Francisco Rodrigo, the phrase 'has served as officer in the Armed Forces' was inserted so as to make the provision read:

'No person may be appointed chief of a city police agency unless he holds a bachelor's degree and has served either in the Armed Forces of the Philippines or the National Bureau of Investigation or police department of any city and has held the rank of captain or its equivalent therein for at least three years or any high school graduate who has served the police department of a city or who has served as officer of the Armed Forces for at least 8 years with the rank of captain and/or higher.'

"It is to be noted that the Rodrigo amendment was in the nature of an addition to the phrase 'who has served the police department of a city for at least 8 years with the rank of captain and/or higher,' under which the petitioner herein, who is at least a high school graduate (both parties agree that the petitioner finished the second year of the law course) could possibly qualify. However, somewhere in the legislative process the phrase ["who has served the police department of a city or"] was dropped and only the Rodrigo amendment was retained."

The present insistence of the petitioner is that the version of the provision, as amended at the behest of Sen. Rodrigo, was the version approved by the Senate on third reading, and that when the bill emerged from the conference committee the only change made in the provision was the insertion of the phrase "or has served as chief of police with exemplary record."

In support of this assertion, the petitioner submitted certified photostatic copies of the different drafts of House Bill 6951 showing the various changes made. In what purport to be the page proofs of the bill as finally approved by both Houses of Congress (annex G), the following provision appears:

"SEC. 10. Minimum qualifications for ap-ointment as Chief of a Police Agency. - No person may be appointed chief of a city police agency un-less he holds a bachelor's degree from a recognized institution of learning and has served either the Armed Forces of the Philippines or has served as chief of police with exemplary record or the Natio-nal Bureau of Investigation or the police depart-ment of any city and has held the rank of captain or its equivalent therein for at least three years or any high school graduate who has served the po-lice department of a city or has served as officer in the Armed Forces for at least eight years from the rank of captain and/ or higher."

It is unmistakable up to this point that the phrase, "who has served the police department of a city or," was still part of the provision, but according to the petitioner the House bill division deleted the entire provision and substituted what now is section 10 of the Police Act of 1966, which section reads:

"Minimum qualification for appointment as Chief of Police Agency. - No person may be ap-pointed chief of a city police agency unless he holds a bachelor's degree from a recognized institution of learning and has served either in the Armed For-ces of the Philippines or the National Bureau of In-vestigation, or has served as chief of police with exemplary record, or has served in the police de-partment of any city with the rank of captain or its equivalent therein for at least three years; or any high school graduate who has served as officer in the Armed Forces for at least eight years with the rank of captain and/ or higher."

The petitioner also submitted a certified photostatic copy of a memorandum which according to him was signed by an employee in the Senate bill division, and can be found attached to the page proofs of the bill, explaining the change in section 10, thus:

"Section 10 was recast for clarity. (with the consent of Sen. Ganzon & Congressman Montano)."

It would thus appear that the omission - whether deliberate or unintended - of the phrase, "who has served the police depart-ment of a city or," was made not at any stage of the legislative proceedings but only in the course of the engrossment of the bill, more specifically in the proofreading thereof; that the change was made not by Congress but only by an employee thereof; and that what purportedly was a rewriting to suit some stylistic preferences was in truth an alteration of meaning. It is for this reason that the petitioner would have us look searchingly into the matter.

The petitioner wholly misconceives the function of the ju-diciary under our system of government. As we observed expli-city in our decision, the enrolled Act in the office of the legisla-tive secretary of the President of the Philippines shows that section 10 is exactly as it is in the statute as officially published in slip form by the Bureau of Printing. We cannot go behind the en-rolled Act to discover what really happened. The respect due to the other branches of the Government demands that we act upon the faith and credit of what the officers of the said branches attest to as the official acts of their respective departments. Otherwise we would be cast in the unenviable and unwanted role of a sleuth trying to determine what actually did happen in the labyrinth of law-making, with consequent impairment of the integrity of the legis-lative process. The investigation which the petitioner would like this Court to make can be better done in Congress. After all, House cleaning - the immediate and imperative need for which seems to be suggested by the petitioner - can best be effected by the occupants thereof. Expressed otherwise, this is a matter wor-thy of the attention not of an Oliver Wendell Holmes but of a Sher-lock Holmes.

What the first Mr. Justice Harlan said in *Harwood v. Wentworth*[1] might aptly be said in answer to the petitioner: "If there be danger, under the principles announced in *Field v. Clark*, 143 U.S. 649, 671, that the governor and the presiding officers of the two houses of a territorial legislature may impose upon the people an act that was never passed in the form in which it is preserved in the published statutes, how much greater is the danger of permit-ting the validity of a legislative enactment to be questioned by evidence furnished by the general

indorsements made by clerks upon bills previous to their final passage and enrolment, - indorse-ments usually so expressed as not to be intelligible to any one except those who made them, and the scope and effect of which cannot in many cases be understood unless supplemented by the re-collection of clerks as to what occurred in the hurry and confusion often attendant upon legislative proceedings." [2]

Indeed the course suggested to us by the petitioner would be productive of nothing but mischief.

Both *Marshall Field & Co. v. Clark* and *Harwood v. Wentworth* involved claims similar to that made by the petitioner in this case. In both the claims were rejected. Thus, in *Marshall Field & Co.* it was contended that the Tariff Act of October 1, 1890 was a nullity because "it is shown by the congressional records of proceedings, reports of committees of conference, and other papers printed by authority of Congress, and having reference to House Bill 9416, that a section of the bill as it finally passed, was not in the bill authenticated by the signatures of the presiding officers of the respective houses of Congress, and approved by the President." [3] In rejecting the contention, the United States Supreme Court held that the signing by the Speaker of the House of Representatives and by the President of the Senate of an enrolled bill is an official attestation by the two houses that such bill is the one that has passed Congress. And when the bill thus attested is signed by the President and deposited in the archives, its authentication as a bill that has passed Congress should be deemed complete and unimpeachable. [4]

In *Harwood* the claim was that an act of the legislature of Arizona "contained, at the time of its final passage, provisions that were omitted from it without authority of the council or the house, before it was presented to the governor for his approval." [5] The Court reiterated its ruling in *Marshall Field & Co.*

It is contended, however, that in this jurisdiction the journals of the legislature have been declared conclusive upon the courts, the petitioner citing *United States v. Pons*. [6] The case cited is inapposite as it does not involve a discrepancy between an enrolled bill and the journal. Rather the issue tendered was whether evidence could be received to show that, contrary to the entries of the journals, the legislature did not adjourn at midnight of February 28, 1914 but after, and that "the hands of the clock were stayed in order to enable the legislature to effect an adjournment apparently within the time fixed by the Governor's proclamation for the expiration of the special session." In answering in the negative this Court held that if the clock was in fact stopped, "the resultant evil might be slight as compared with that of altering the probative force and character of legislative records, and making the proof of legislative action depend upon uncertain oral evidence, liable to loss by death or absence, and so imperfect on account of the treachery of memory." [7] This Court "passed over the question" whether the enrolled bill was conclusive as to its contents and mode of passage.

It was not until 1947 that the question was presented in *Mabanag v. Lopez -Vito*, [8] and we there held that an enrolled bill "imports absolute verity and is binding on the courts." This Court held itself bound by an authenticated resolution, despite the fact that the vote of three-fourths of the members of the Congress (as required by the Constitution to approve proposals for constitutional amendments) was not actually obtained on account of the suspension of some members of the House of Representatives and of the Senate.

Thus in *Mabanag* the enrolled bill theory was adopted. Whatever doubt there might have been as to the status and force of the theory in the Philippines, in view of the dissent of three Justices in *Mabanag*, [9] was finally laid to rest by the unanimous decision in *Casco Philippine Chemical. Co. v. Gimenez*, [10] Speaking for the Court, the then Justice (now Chief Justice) Concepcion said:

"Furthermore, it is well settled that the enrolled bill - which uses the term 'urea formaldehyde' instead of 'urea and formaldehyde' - is conclusive upon the courts as regards the tenor of the measure passed by Congress and approved by the President (*Primicias vs. Paredes*, 61 Phil., 118, 120; *Mabanag vs. Lopez Vito*, 78 Phil., 1;

Macias vs. Comm. on Elections, G.R. No. L-18684, September 14, 1961). If there has been any mistake in the print-ing of the bill before it was certified by the officers of Congress and approved by the Executive - on which we cannot speculate, without jeopardiz-ing the principle of separation of powers and undermining one of the cornerstones of our democra-tic system - the remedy is by amendment or cura-tive legislation, not by judicial decree."

By what we have essayed above we are not of course to be understood as holding that in all cases the journals must yield to the enrolled bill. To be sure there are certain matters which the Constitution[11] expressly requires must be entered on the journal of each house. To what extent the validity of a legislative act may be affected by a failure to have such matters entered on the journal, is a question which we do not now decide.[12] All we hold is that with respect to matters not expressly required to be entered on the journal, the enrolled bill prevails in the event of any discrepancy.

ACCORDINGLY, the motions for reconsideration are denied.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.

[1] 162 U.S. 547 (1895).

[2] Id. at 562.

[3] Marshall Field & Co. v. Clark, 143 U.S. 649, 669 (1891).

[4] Accord, Leser v. Garnett, 258 U.S. 130 (1921).

[5] Supra note 1, at 557-558.

[6] 34 Phil. 729 (1916).

[7] Id. at 734.

[8] 78 Phil. 1 (1947).

[9] The decision adopting for this jurisdiction the enrolled bill theo-ry was 6 to 3, with Tuason, Moran, Hontiveros, Pablo, Bengzon, Padilla, JJ. voting for, and Perfecto, Briones and Feria, JJ. against.

[10] G.R. No. L-17931, Feb. 28, 1963.

[11] Art, VI, secs. 10(4), 20(1), and 21(1).

[12] Cf. e. g., Wilkes County Comm'rs v. Coler 180 U.S. 506 (1900).

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