

ESTRELLO T. ONG, PETITIONER, VS. THE COMMISSION ON ELECTIONS, PROVINCIAL BOARD OF CANVASSERS OF THE PROVINCE OF QUEZON AND LUIS S. ETCUBAÑEZ, RESPONDENTS.

G.R. No. L-28415. January 29, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Contenders in the November 14, 1967 elections for Lieutenant-Governor in the sub-province of Aurora, province of Quezon, were petitioner Estrello T. Ong and respondent Luis S. Etcubañez.

On December 4, 1967, respondent Etcubañez went to the Commission on Elections (Comelec). He there petitioned to suspend canvass of the election returns from Precinct 5, municipality of Dipaculao, and Precincts 2, 7 and 15, municipality of Maria Aurora, all of the sub-province of Aurora. Sole ground therefor is that alterations affecting the result of the election, were discovered to have been fraudulently made on said election returns in the hands of the provincial treasurer and Comelec. Etcubañez sued for time to enable him to seek a judicial recount under Section 163 of the Revised Election Code.

On the same day, December 4, 1967, acting upon the foregoing petition, Comelec wired respondent board of canvassers, ordering the latter to suspend the canvass of votes cast for Lieutenant-Governor in the aforementioned precincts and to suspend the proclamation of any winning candidate for the said office for a period of five days from December 4, to give respondent Etcubañez time "to go to court for [the] proper judicial remedy."

On December 6, 1967, respondent Etcubañez lodged a petition in court praying for a recount or, in the alternative, correction of the election returns heretofore adverted to, and for preliminary injunction.[1] His petition reiterated the alleged alterations fraudulently made. He attached thereto copies of official certifications of the municipal treasurers concerned and photocopies of the returns on file with the Comelec.

On the same day, December 6, 1967, the court came out with an order directing judicial recount and the issuance of a writ of preliminary injunction to stop respondent board of canvassers from canvassing the returns in the questioned precincts and from proclaiming the winning candidate for Lieutenant-Governor.

At about 8:30 p.m. of December 6, 1967, the ballot boxes for the three precincts of Maria Aurora were delivered to the court for purposes of recount. Deputy Clerk Andres G. Cadiz, who took possession from the municipal treasurer thru the deputy provincial sheriff, found them to have been tampered with, the bottoms thereof having been destroyed and soldered bank.

On December 11, 1967, candidate Ong asked the court to set aside said order of judicial recount and to dissolve the writ of preliminary injunction. Reason he gave was that the official certifications by the municipal treasurers, attached to the petition for recount, were not the authentic copies contemplated by Section 163 of the Revised Election Code. He challenged the court's jurisdiction to go into a recount of votes.

After hearing, at which both parties orally argued, the court, on the same day, December 11, 1967, made the

finding that "the requisites mentioned in Section 163 of the Revised Election Code" were not "complied with, as it is not alleged in petitioner's (herein respondent Etcubañez') petition that another copy or other authentic copies of the statements from the four (4) election precincts in question, which allegedly give to petitioner [Etcubañez] a different number of votes and the difference affects the results of the election, have been submitted to respondent Provincial Board of Canvassers." The court thereupon set aside its December 6, 1967 order directing the recount of votes cast in the disputed precincts and, consequently, dissolved the writ of preliminary injunction.

Still on the same day, December 11, 1967, Comelec, upon petition of candidate Etcubañez, wired another order directing respondent board of canvassers to again suspend the canvass and proclamation for forty-eight hours from receipt thereof, to enable Etcubañez to elevate to this Court the question of jurisdiction of the Court of First Instance of Aurora on the matter in dispute. This wire was received by the board on December 12, 1967.

On December 13, 1967, instead of proceeding to this Court, Etcubañez petitioned Comelec for an order directing: (a) the respondent board of canvassers to immediately suspend canvass of votes in the four (4) precincts in controversy and the proclamation of any winning candidate for Lieutenant-Governor; (b) the municipal treasurers of Dipaculao and Maria Aurora to immediately deliver to Comelec the election returns from Precinct 5 of Dipaculao and Precincts 2, 7 and 15 of Maria Aurora; (c) the municipal treasurer of Maria Aurora to immediately deliver to Comelec the ballot boxes from Precincts 2, 7 and 15 of Maria Aurora, whose bottoms were allegedly destroyed and contents tampered; (d) the Provincial Fiscal of Quezon, as chairman of the provincial board of canvassers of Quezon and the Provincial Treasurer of Quezon, to immediately deliver to Comelec the allegedly falsified election returns from the four disputed precincts; (e) a hearing before the Comelec on the question of which returns are genuine and correct, summoning for the purpose all the members of the boards of inspectors concerned, who should be required to testify; and (f) thereafter, the provincial board of canvassers to use the municipal treasurers' copies of the election returns from the four questioned precincts in the canvass of votes for Lieutenant-Governor of the sub-province of Aurora, and then, make the corresponding proclamation.

The votes for the two candidates appearing on the copies of the provincial treasurer and the Comelec, both allegedly falsified, as compared with the votes in the purportedly genuine copies of the municipal treasurers, are as follows:

Precinct 5, Dipaculao

Etcubañez

Ong

Per Municipal Treasurer's copy

138

94

Per Provincial Treasurer's and

Comelec's copies

38

194

Precinct 2, Maria Aurora

Etcubañez

Ong

Per Municipal Treasurer's copy

154

86

Per Provincial Treasurer's and

Comelec's copies

54

186

Precinct 7, Maria Aurora

Etcubañez

Ong

Per Municipal Treasurer's copy

77

102

Per Provincial Treasurer's and

Comelec's copies

17

162

Precinct 15, Maria Aurora

Etcubañez

Ong

Per Municipal Treasurer's copy

54

104

Per Provincial Treasurer's and

Comelec's copies

4

150

It is averred that in falsifying the copies for the provincial treasurer and the Comelec, words and figures were erased and added by a different hand to produce the results reflected above.[2]

Etcubañez has, from the beginning, consistently alleged that the vote difference in the discrepancies above shown affects the true result of the election. In his petition before the Comelec dated December 13, 1967, he specified that as per the returns furnished him and the municipal treasurers of the municipalities of Aurora sub-province by the different boards of inspectors thereof, he (Etcubañez) received 8,554 votes while petitioner Ong garnered 8,424 votes, or a majority of 130 votes in favor of Etcubañez. If the falsifications charged are true, Etcubañez illegally lost a total of 310 votes while Ong illegally gained a total of 306 votes. Thus, upon the provincial treasurer's copies of the returns in the four disputed precincts, Etcubañez would lose to Ong by 486 votes; whereas, if the municipal treasurer's copies were used for canvassing, Etcubañez would win over Ong by 130 votes, as heretofore stated.

On December 13, 1967, Comelec, entertaining Etcubañez' last named petition, promptly resolved as follows:

"1. To order, as it hereby orders the Provincial Board of Canvassers of Quezon at Lucena City to suspend canvass of the votes cast in Precinct No. 5 of Dipa-culao and Precincts Nos. 2, 7 and 15 of Maria Aurora, and the proclamation of any candidate for Lieutenant-Governor, until further orders of this Commission;

2. To order, as it hereby orders, the Municipal Treasurer of Dipaculao and the Municipal Treasurer of Maria Aurora, sub-province of Aurora, Quezon Province, to deliver under receipt of a representative of this Commission who will be properly authorized and identified, the election returns from Precinct No. 5 of Dipaculao and Precincts Nos. 2, 7 and 15 of Maria Aurora;

3. To order, as it hereby orders, the Municipal Treasurer of Maria Aurora to immediately deliver to this Commission under proper PC escort the ballot boxes from Precincts Nos. 2, 7 and 15 of Maria Aurora, for inspection and investigation by this Commission;

4. To order, as it hereby orders, the Provincial Fiscal of Quezon as chairman of the Provincial Board of Canvassers of Quezon or his duly authorized representative and the Provincial Treasurer of Quezon or his duly authorized representative to immediately deliver to the Commission the election returns from Precinct No. 5 of Dipaculao and Precincts Nos. 2, 7 and 15 of Maria Aurora, provincial treasurer's copy;

5. To set, as it hereby sets, this matter for hearing on Wednesday, December 20, 1967 at 10:00 A.M. in the session hall of this Commission located at Intramuros, Manila;

6. The Commission FURTHER RESOLVED to direct the Executive Officer to designate two (2) lawyers of the Commission to go to Dipaculao and Maria Aurora, respectively, to take delivery from the respective

municipal treasurers of said municipalities, the municipal treasurer's copies of the election returns aforementioned;

7. The Commission FINALLY RESOLVED to direct the Chairman of the Action Group to make proper representations with the Chief PC as regards the PC escort to be provided the Municipal Treasurer of Dipaculao and the Municipal Treasurer of Maria Aurora, both of the sub-province of Aurora, Quezon, aforementioned;

x x x."

From the foregoing resolution of Comelec sprang the present original petition, lodged in this Court on December 19, 1967, for certiorari, prohibition, and mandamus, with a prayer for the issuance of a writ of preliminary injunction.

At the December 20 Comelec hearing, upon motion of Estrello T. Ong, petitioner herein, the former suspended the proceedings until December 22, 1967 at 9:00 a.m., pending resolution by this Court of said petitioner's prayer for a writ of preliminary injunction.

On December 21, 1967, this Court denied Ong's prayer for preliminary injunction, but issued a restraining order directing Comelec to refrain from ordering respondent board of canvassers to canvass the votes cast for Lieutenant-Governor in the disputed precincts and to refrain from ordering the proclamation of the winning candidate for the said post. Hearings at the Comelec have thus, in the meantime, continued.

On January 17, 1968, Comelec, after taking evidence and upon finding: (a) that the copies of the election returns for the municipal treasurers of Dipaculao and Maria Aurora from the four precincts in dispute are authentic, whereas the copies for the provincial treasurer of the returns from the said precincts were falsified; and (b) that the three ballot boxes for Precincts 2, 7 and 15 of Maria Aurora examined by the Commission appeared to be patently tampered, the bottom of each box having been opened and closed by soldering, promulgated its resolution, the dispositive part of which reads:

"Considering all the foregoing, the Commission finds, and RESOLVES to declare, as it hereby declares, that the copies of the election returns for the Provincial Treasurer of Precinct No. 5 of the municipality of Dipaculao and Precincts Nos. 2, 7 and 15 of the municipality of Maria Aurora are falsified and that the copies of the election a returns of the Municipal Treasurer of the four Precincts are the true and correct copies of the returns.

The Commission RESOLVES FURTHER that no further action will be taken in this case until after the Supreme Court has decided the petition^[3] filed by respondent Candidate Estrello T. Ong, for Certiorari, Prohibition and Mandamus, in view of the preliminary injunction issued by the Supreme Court in said case already mentioned earlier in this resolution."

This case now stands submitted for decision.

The focal point is this: In a case like the present, where copies of election returns were alleged to have been tampered with and falsified after they have left the hands of election inspectors, where should an aggrieved party seek his remedy, before proclamation - the Comelec or the Court of First Instance?

The time has come, we believe, when we should take a hard look at the limits of the authority of a court of first instance to take jurisdiction under the provisions of Sections 163 and 168 of the Revised Election Code vis-a-vis Comelec's power over election returns, A policy statement becomes necessary to avoid confusion. There should be an expositor of the law for the guidance of all concerned.

1. The jurisprudence of this Court thus far has established that the board of canvassers are to be guided by election

returns transmitted to it "which are in due form" and that they must "be satisfied of the genuineness of the returns - namely, that the papers presented to them are not forged and spurious" and "where the returns are obviously manufactured, x x x the board will not be compelled to canvass them." [4] And, if the board for one reason or another makes a wrong decision, or takes no immediate action whether to consider or shunt aside returns which appear to have been falsified or to be spurious, the matter may be elevated forthwith to the Comelec. Because time, the fourth dimension, is of the essence; it cannot be meaningless.

And, as we recently declared in *Espino vs. Zaldivar*, L-22325, December 11, 1967, it is "within the realm of Comelec's concerns to direct that only genuine returns be considered where x x x dastardly attempts were made to subvert the people's choice by a resort to patently doctored returns." [5] And this, because of the constitutional mandate that Comelec shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections, [6] and of insuring free, orderly and honest elections. [7]

2. Section 163 of the Revised Election Code, [8] upon the other hand, circumscribes the power of a court of first instance to direct a recounting. It says:

"SEC. 163. When statements of a precinct are contradictory. - In case it appears to the provincial board of canvassers that another copy or other authentic copies of the statement from an election precinct submitted to the board give to a candidate a different number of votes and the difference affects the result of the election, the Court of First Instance of the province, upon motion of the board or of any candidate affected, may proceed to recount the votes cast in the precinct for the sole purpose of determining which is the true statement or which is the true result of the count of the votes cast in said precinct for the office in question. Notice of such proceeding shall be given to all candidates affected."

We have said in *Lawsin vs. Escalona* [9] that a "judicial recount of votes under Section 163 - 'is a special authority conferred on the Court and must be restrictively construed, so as not to extend to other cases that may, more or less, bear some resemblance to the situation described in said section (s).'" We there further pronounced:

"The special nature and limited scope of the summary judicial recount provided by section 168 of the Election Code is admittedly aimed at delaying as little as practicable the proclamation of the winning candidate, without prejudice to a thorough revision of the election results in proper cases by means of the corresponding election protest, which is the normal process provided for the purpose. To multiply the grounds for a recount of votes before a proclamation by the board of canvassers is made has the effect of downgrading the election protest as a remedy, and to prolong the periods during which the contested positions will remain without an occupant, thereby provoking suspicion, conjecture, and unrest." [10]

Viewed in this light, the court's delimited power in Section 163 of the Revised Election Code may only be invoked where "it appears to the provincial board of canvassers that another copy or other authentic copies of the statement from an election precinct submitted to the board give to a candidate a different number of votes and the difference affects the result of the election." To be underscored is the concept of the term "another copy or other authentic copies." We pointed out in *Espino vs. Zaldivar*, *supra*, that -

"Implicit in the statute just quoted [Section 163] is that differences in the number of votes given a candidate should result from contradiction in the different returns, as prepared and signed by the inspectors. We do not discern in the law a purpose to throw the burden on courts where it is patent - as is the case here - that tampering of the returns occurred after they have left the hands of the election inspectors, just to pave the way for the proclamation of a candidate in whose favor falsification was resorted to."

3. Appropriately to be drawn then is the line that divides the powers of the boards of canvassers and the Comelec, on the one hand, and the Court of First Instance, on the other. We are unprepared to say that the election law intended that where, in a given precinct, some of the returns are authentic and others are falsified, both the

Comelec and the Court of First Instance will have concurrent jurisdiction - prior to proclamation. Such procedure breeds confusion. It detracts so much from the powers granted the boards of canvassers and Comelec to proceed with dispatch with the work of canvassing and proclamation.

Where before or during canvassing or before proclamation representations are made that returns are falsified, it becomes the primary duty, first of the board of canvassers, and then of the Comelec, to ascertain this fact.

If finally the Comelec summarily finds that there was falsification of the copies to be used for canvassing purposes, then canvassing must be made upon the basis of authentic copies. Because a falsified return or spurious return amounts to no return at all.

If, on the other hand, the discrepancy in the returns was the result of honest mistakes of the board of inspectors, two courses of action are open in the court of first instance: (1) a petition for correction of returns with the consent of all the members of the board of inspectors under Section 154 of the Revised Election Code;^[11] and (2) a petition by the said board or any candidate affected for summary judicial recount under Sections 163 and 168 of the same code.

All the three remedies heretofore marked out are intended to be speedy. Resort to the board of canvassers and Comelec in cases of falsification should give rise to expeditious proceedings. Unanimity of the board of inspectors paves the way for immediate correction by court order of any mistakes in the returns. So also is judicial recount - on application of any candidate affected - summary in nature; Worth remembering at this point is *Cawa vs. Del Rosario*, L-16837-40, May 30, 1960, where we ruled that a summary judicial recount is merely for the purpose of counting the number of votes received by each candidate "as they appear on the face of the ballots." After all, ballot appreciation is proper in an election contest after proclamation.

4. The remedies thus delineated are explicit. They serve as guidelines. The right course to pursue given the fact of discrepancy -by reason of mistake or otherwise - is there.

We concede that there could be some delay in proclamation where the wrong step is taken. Mistakes are bound to happen. Lack of the required data compounded with pressure of time conceivably may induce an incorrect move. But to be accentuated is the cornerstone tenet in elections of public officers that the choice of the people expressed at the polls should not be frustrated by wrongful acts which can be remedied. And amongst these is falsification of returns resorted to by the unscrupulous. It is correct to say that these acts are punishable. It is not as easy, however, to pinpoint guilt therefor. Emboldened, malefactors falsify returns in the hope that the board of canvassers may take them for the genuine. A defeated candidate may grab proclamation, take his seat, while he keeps the victim out by a long drawn expensive election protest - if protest the latter can afford. It is because of all these that remedies before proclamation, within the limits set out by the law, must have to be exhausted. Important is that a canvass and proclamation be made on the basis of authentic returns. The end to be achieved more than compensates the effort, money, and time expended.

The remedies heretofore mentioned before proclamation, likewise offer a practical solution. Each of them far outweighs, in beneficent effects, a subsequent election protest as a mode of relief. First. Because they take away the inducement - proclamation - to falsify the genuine returns. Second. Prompt confirmation of the expression of the people's will - the overriding consideration - is effected. Third. Between the short delay in proclamation and the long delay in an election protest, the choice is clear. The first is preferred. It brings results more consonant with fairness and reason.

5. The other argument pressed upon us is that, by the series of steps which Etcubañez had previously taken he is barred from filing his last petition before Comelec praying, amongst others, for a ruling on the falsification of

returns charge These steps, petitioner points out, are: first, Etcubañez asked the Comelec to suspend canvass and proclamation for Lieutenant-Governor to enable him to file a petition for judicial recount, which Comelec did; second, Etcubañez then filed his petition for judicial recount in the Court of First Instance of the sub-province of Aurora, which was dismissed after hearing; and third, Etcubañez again asked Comelec to suspend canvass and proclamation for a period of forty-eight hours so that he can elevate the question of jurisdiction of the Court of First Instance of Aurora to the Supreme Court, which Comelec granted. But instead, respondent Etcubañez returned to Comelec and procured Comelec's order of December 13 now under review.

The wrong proceedings taken by Etcubañez in this case cannot constitute estoppel. Here, that is reduced to a technicality which serves no purpose. Etcubañez has not adopted inconsistent positions. Right from the start, his assertion - which never changed - was that the election returns to be canvassed from the four precincts concerned, were fraudulently altered. No positive assertion of facts has been made from which he retreats. No party was misled. No fraud was foisted on anyone. In truth, the crux of the matter is in his honest misconception of the recourse furnished him by the law. Under the circumstances, no estoppel can attach. The authorities are clear on this point. In broad terms, an act or representation made through innocent mistake or misapprehension or induced by fraud is not a ground for estoppel.[12] More particularly, the assertion of a legal conclusion where the facts are all stated does not operate to estop the person making the assertion.[13] And this, because, as we have already confirmed, the rule on estoppel applies to questions of fact, not of law, about the truth of which the other party is ignorant.[14] We can derive, great profit from the statement that an "expression of opinion as to what the law is does not make the law other than it is, nor does it estop a party from relying on the law as it really is." [15]

And then, respondent's moves in swift succession constitute proof of diligence in the protection of his rights. He cannot be accused of laches.

The overriding consideration, of course, is that, above and beyond the narrow personal stakes of the opposing candidates, the rights of the electorate, not to say the people, are involved. To these rights we pay full respect. It is thus that the view is here expressed that before proclamation Comelec's hands should not be unduly shackled from deciding election matters the purpose of which is to ascertain the will of the people. Comelec should be given the opportunity in the first instance to try within its capabilities to approximate the people's will and thereby forestall the imminent probability that a wrong man may discharge a public trust. We should write off an unreasonable bridle upon Comelec's constitutionally ordained obligation of exclusively enforcing and administering the election laws and of insuring free, orderly, and honest elections, And this, if only to help stem the tide of illegal election practices, commission of electoral crimes, coercion of election officials, Abhorrence of the iniquity and injustice resulting from a public office being occupied by a candidate undeservingly proclaimed, is sufficient justification for our view that Comelec is not powerless to fashion the appropriate remedy - prevent the use in canvass of falsified returns.

6. Finally, we are asked to reexamine the doctrine laid down in the Espino case, supra. No compelling reason exists why we should break away therefrom. It is argued that in pronouncing that Comelec has power to direct rejection of patently doctored returns, we tend to less heavily on Comelec, which unlike a court of justice, does not observe procedural safeguards other than the bare requirement of due process. But this merely emphasizes the fact that the proceeding to determine which returns are genuine is summary; its purpose, to expedite canvassing and proclamation. To be stressed here is that really judicial recourse before proclamation may only be had in the limited cases provided by law, i.e., petition for correction and petition for recount.

Other drawbacks there are which deter us from giving the nod to the view that courts should be made to decide before proclamation whether returns are falsified or not. Necessarily summary in nature, the proceeding does not partake of a full-dress trial. Probability exists that the court's finding in such summary inquiry may, for lack of

time, be wanting in the desirable earmarks of contemplative wisdom. And, it may be conducive to an arbitrary prejudgment of the factual issue of falsification. For, the very same court later on may be called upon to go over the question in a criminal case for falsification or in an election contest. What if it draws a different conclusion? An embarrassing conflict of views by the same court, perhaps by the same judge, is not a remote possibility.

And if all the procedural safeguards attendant in regular court proceedings to determine falsification as a fact, are to be observed, undue delay in proclamation is not far from a certainty. Proclamation cannot wait for so long. Elected officials, by law, should sit at dates not far removed from election day. And yet, there is a necessity, to strike down falsified returns before they even begin to inflict damage.

True, the victim of a proclamation upon falsified returns may still go to court in an election protest. But adverted to elsewhere this opinion is the fact that election protests take a long time to decide. If the protestant turns out to be the actual winner in the elections, irreparable injury shall have been done. A grave injustice is caused to the winner, a great wrong to the people. Worth reading once again is the language of this Court, speaking thru Mr. Chief Justice Cesar Bengzon, in *Lagumbay vs. Climaco*, L-25444, January 31, 1966. It reads:

"The well-known delay in the adjudication of election protests often gave the successful contestant a mere pyrrhic victory, i.e., a vindication when the term office is, about to expire, or has expired. And so the notion has spread among candidates for public office that the 'important thing' is the proclamation; and to win it, they or their partisans have tolerated or abetted the tampering or the 'manufacture' of election returns just to get the proclamation, and then let the victimized candidate to file the protest, and spend his money to work for an empty triumph.

It is generally admitted that the practice has prevailed in all previous elections. Never was the point pressed upon us in a more clear-cut manner. And without, in any way, modifying our stand as outlined in the *Nacionalista Party vs. Commission* decision, we feel the mores of the day require application - even extension - of the principle in the *Mitchell* decision, which is realistic and commonsensical even, as it strikes a blow at such pernicious 'grab-the-proclamation-prolong-the-protest' slogan of some candidates or parties." [16]

Our view, therefore, is that, in confirmation of the Espino doctrine, Comelec possesses full power to direct boards of canvassers, after investigation, to use genuine election returns for canvassing purposes.

Upon the view we take of this case, the petition herein for certiorari, prohibition and mandamus is, as it is hereby, denied; and the restraining order heretofore issued herein is hereby lifted.

Let a copy of this decision be forwarded to the Department of Justice and another to the Provincial Fiscal of Quezon for investigation of the alleged falsification of the returns herein involved and the prosecution, if warranted, of the parties appearing to be liable therefor.

Costs against petitioner.

SO ORDERED.

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

[1] Election Case 1, Court of First Instance of Aurora, entitled "Luis S. Etcubañez, Petitioner, vs. The Provincial Board of Canvassers of the Province of Quezon and Estrello T. Ong, Respondents."

[2] See: Answer of respondent Luis S. Etcubañez, and particularly its Annexes B to I.

[3] Refers to the present case.

[4] Nacionalista Party vs. Commission on Elections, 85 Phil. 149, 157, 158. See also: Lagumbay vs. Climaco, L-25444, January 31, 1966.

[5] Citing Cauton vs. Commission on Elections, 1967B Phil. 248, 255, where this Court pronounced that Comelec "has the duty to see to it that the action returns to be used for canvassing must be genuine and authentic, not falsified or tampered with" and "[w]here the election returns produced by the provincial treasurer have been shown to have been tampered, and all the other copies outside the ballot boxes have also been shown to have been tampered or falsified, it is certainly within the power of the Commission Elections to issue such order as would ascertain the existence of the genuine, authentic and untampered election returns, x x x."

[6] Section 2, Article X of the Constitution.

[7] Id.; Sumulong vs. Commission on Elections, 73 Phil. 288, 294.

[8] To be read in conjunction with Section 168, Revised Election Code, referring to canvass of election returns for municipal offices, which in part provides: "x x x. In case of contradictions or discrepancies between the copies of the same statements, the procedure provides in section one hundred and sixty-three of this Code shall be followed."

[9] L-22540, July 31, 1964, citing Parlade vs. Quicho, L-16259, December 29, 1959; emphasis supplied.

[10] Emphasis supplied.

[11] Section 154, Revised Election Code, reads: "Alterations in the statement. - After the announcement of the result of the election in the polling place, the board of inspectors shall not make any alteration or amendment in any of its statements, unless it be so ordered by a competent court." Unanimity of the board of inspectors has long been considered to be a requisite to correction under this provision. Estrada vs. Navarro, L-28340 & L-28374, December 29, 1967, and cases cited therein.

[12] Laguna vs. Levantino, 71 Phil. 566, 569; Palanca vs. Republic, 80 Phil. 578, 584; 19 Am. Jur., p. 656, citing cases.

[13] Sturm vs. Boker, 150 U.S. 312, 336, 37 L. ed. 1093, 1102.

[14] Tañada vs. Cuenco, L40520, February 28, 1957.

[15] 19 Am. Jur., pp. 660-661, at footnote 9, citing Aunt Jemima Mills Co. vs. Rigney & Co., 247 F. 407,409, writ of certiorari denied in 245 U.S. 672.

[16] Emphasis supplied.

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