

ANDRES BORROMELO, PLAINTIFF, VS. FERMIN MARIANO, DEFENDANT.

G. R. No. 16808. January 03, 1921

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7f5abb12fa19/>

MALCOLM, J.:

Quo warranto proceedings have been instituted in this court to determine the right of the plaintiff and of the defendant to the office of Judge of the Court of First Instance of the Twenty-fourth Judicial District.

The only facts, and these are undisputed ones, which need be noticed, are the following: Andres Borromeo was appointed and commissioned as Judge of the Twenty-fourth Judicial District, effective July 1, 1914. He duly qualified and took possession of the office on that date. On February, 25, 1920, he was appointed Judge of the Twenty-first Judicial District, and Fermin Mariano was appointed Judge of the Twenty-fourth Judicial District. Judge Borromeo has since the latter date consistently refused to accept appointment to the Twenty-first Judicial District.

Judges of First Instance are appointed by the Governor-General with the consent of the Philippine Senate to serve until they reach the age of 65 years. (Adm. Code, sees. 65, 66, 148.) One Judge of First Instance is commissioned for each judicial district, except the ninth. (Sec. 154.) The oath of office of the judge is "filed with the clerk of the court to which the affiant pertains and shall be entered upon its records." (Sec. 128.) Judges of First Instance may only be detailed by the Secretary of Justice to temporary duty in a district other than their own for the purpose of trying land registration cases and for vacation duty. (Sec. 155.) The concluding portion of section 155 of the Administrative Code, to which particular attention is addressed by the Attorney-General, is, "but nothing herein shall be construed to prevent a judge of first instance of one district from being appointed to be judge of another district." A Judge of First Instance can be removed from office by the Governor-General only if in the judgment of the Supreme Court sufficient cause shall exist involving serious misconduct or inefficiency in office. (Sec. 173.)

The cardinal rule of statutory construction requires the court to give effect to the general legislative intent if that can be discovered within the four corners of the Act. When the object intended to be accomplished by the statute is once clearly ascertained, general words may be restrained to it and those of narrower import may be expanded to embrace it, to effectuate the intent. Along with this fundamental principle is another, equally well-established, that such a construction is, if possible, to be adopted, as will give effect to all provisions of the statute. (2 Lewis' Sutherland, Statutory Construction, pp. 662, et seq.; In re Allen [1903], 2 Phil., 630; Code of Civil Procedure, sec. 287.)

Leaving out of consideration for the moment the last part of section 155 of the Administrative Code, the provisions of the Judiciary Law are plain and unambiguous. Judges of First Instance are appointed judges of the courts of first instance of the respective judicial districts of the Philippine Islands. They are not appointed judges of first instance of the Philippine Islands. They hold these positions of judges of first instance of definite districts

until they resign, retire, or are removed through impeachment proceedings. The intention of the law is to recognize separate and distinct judicial offices.

The concluding portion of section 155 of the Administrative Code, although not beginning with the usual introductory word, "provided," is nevertheless, in the nature of a proviso, and should be construed as such. The office of a proviso is to limit the application of the law. It is contrary to the nature of a proviso to enlarge the operation of the law. It should not be construed so as to repeal or destroy the main provisions of the statute. A proviso which is directly repugnant to the purview or body of an Act is inoperative and void. (See generally, 25 R. C. L., pp. 984, et seq.; and specifically, the leading cases of McKnight vs. Hodge [1909], 55 Wash., 289, 104 Pac. 504, 40 L. R. A. [N. S.], 1207; McCormick vs. West Duluth [1891], 47 Minn., 272, 50 N. W., 128; Idaho Power & Light Co. vs. Blomquist [1916], 26 Idaho, 222; 141 Pac., 1083, Ann. Cas. [1916 E], p. 282, where these principles concerning provisos are applied.)

To arrive at a correct decision with reference to the proviso before us, let it first be recalled that the law is emphatic in its specification that, save when judges of first instance are detailed to try land registration cases or when assigned to vacation duty, "no judge of first instance shall be required to do duty in any other district than that for which he is commissioned." The keyword to the proviso which follows is "appointed." This word should here be given its usual signification. Many of the decisions follow the definition of "appoint" found in the Century Dictionary and Encyclopedia. "Appoint" is there defined as "to allot, set apart, or designate; nominate or authoritatively assign, as for a use, or to a position or office." All the authorities unite in saying that the term "appoint" is well-known in law and whether regarded in its legal or in its ordinary acceptance, is applied to the nomination or designation of an individual. Appointment signifies no more than selection for public office. (4 C. J., 1402, 1404, citing numerous decisions.)

The effect to be given to the word "appoint" is corroborated by the principles of the law of public officers. Appointment and qualification to office are separate and distinct things. Appointment is the sole act of those vested with the power to make it. Acceptance is the sole act of the appointee. Persons may be chosen for office at pleasure; there is no power in these Islands which can compel a man to accept the office. (22 R. C. L., 423.) If, therefore, anyone could refuse appointment as a judge of first instance to a particular district, when once appointment to this district is accepted, he has exactly the same right to refuse an appointment to another district. No other person could be placed in the position of this Judge of First Instance since another rule of public officers is, that an appointment may not be made to an office which is not vacant. (29 Cyc, 1873.) In our judgment, the language of the proviso to section 155 of the Administrative Code, interpreted with reference to the law of public officers, does not empower the Governor-General to force upon the judge of one district an appointment to another district against his will, thereby removing him from his district.

Returning again to the principle of statutory construction that a proviso should not be given a meaning which would tend to render abortive the main portions of the law, it should further be recalled that judges of first instance are removable only through a fixed procedure. Moreover, impeachment proceedings, as conducted by the Supreme Court, may be in the nature of jurisdiction, conferred upon the Supreme Court by ratification of the Congress of the United States, which, it has uniformly been held, cannot be diminished. (We make no ruling on this point because unnecessary for the resolution of the case.) But, certainly, if a judge could be transferred from one district of the Philippine Islands to another, without his consent, it would require no great amount of imagination to conceive how this power could be used to discipline the judge or as an indirect means of removal. A judge who had, by a decision, incurred the ill-will of an attorney or official, could, by the insistence of the disgruntled party, be removed from one district, demoted, and transferred to another district, at possibly a loss of salary, all without the consent of the judicial officer. The only recourse of the judicial officer who should desire to

maintain his self-respect, would be to vacate the office and leave the service. Unless we wish to nullify the impeachment section of the Administrative Code, and thus possibly to encroach upon the jurisdiction conferred upon the Supreme Court by the Organic Law, section 155 must be interpreted so as to make it consistent therewith.

What we have said is reenforced by the authorities most directly in point. In the early decision of *Marbury vs. Madison* ([1803], 1 Cranch, 137), the Supreme Court of the United States, in unmistakable terms, explained the powers of the Judiciary in enforcing the Constitution as the Supreme Law of the Land and held that the President of the United States had no power to remove a justice of the peace of the District of Columbia from office. Mr. Chief Justice Marshall said that "When the officer is not removable at the will of the executive, the appointment is not revocable, and cannot be annulled: it has conferred legal rights which cannot be resumed. The discretion of the executive is to be exercised, until the appointment has been made. But having once made the appointment, his power over the office is terminated, in all cases where, by law, the officer is not removable by him. The right to the office is then in the person appointed, and he has the absolute unconditional power of accepting or rejecting it." The great jurist further on observed that "It is, emphatically, the province and duty of the judicial department, to say what the law is."

In *State of Louisiana vs. Dowries* ([1869], 21 La. Ann., 490), the Supreme Court of Louisiana said that a judge of a court could, under the Constitution of that State, only be removed from office by impeachment, by address of the Legislature, or by proceedings under the intrusion act. It was held that the appointment and commissioning by the Governor of the State of a party to an office which has legally been filled, without the vacancy being first declared according to law, was an absolute nullity.

The Attorney-General brings to our notice an obsolete law which had escaped us, and which, if any lingering doubts exist, would serve to remove them. This law is Act No. 396, enacted by the Philippine Commission in 1902. Section 4 thereof, separate and distinct from the other provisions of the Act, and not tacked on as a proviso, provided that "any judge of a Court of First Instance * * * may be transferred from one judicial district to another by order of the Civil Governor, with the advice and consent of the Commission. Any judge so transferred shall, upon such transfer, cease the performance of judicial duties in the district to which he was originally appointed, and shall be the regular judge thereafter in the judicial district to which he has been so assigned." But Act No. 396 was thrice repealed by the Philippine Legislature; the first time, impliedly by the enactment of Act No. 2347, the Judiciary Reorganization Act, and subsequently, expressly by the Administrative Code of 1916 and the Administrative Code of 1917. Instead, also, of continuing the phraseology of section 4 of Act No. 396, the Legislature merely included the proviso to which we have alluded. It cannot, therefore, admit of doubt that the members of the Philippine Legislature had before them the Act of the Philippine Commission and preferred, not to perpetuate the old law, but to insert language of their own. The purpose of the Philippine Legislature was clearly to safeguard the interests of the judiciary, and this laudable purpose, it is for us now to effectuate.

Far more convincing than precedent or argument are great and basic principles long inherent in popular government intended to create an independent judiciary. A history of the struggle for a fearless and an incorruptible judiciary prepared to follow the law and to administer it regardless of consequences, can be perused with ever-recurring benefit. Since the early days of the Republic, the judicial system in the United States, with certain exceptions which only served to demonstrate more fully the excellence of the whole, has been viewed with pride, and confidently relied upon for justice by the American people. The American people considered it necessary "that there should be a judiciary endowed with substantial and independent powers and secure against all corrupting or perverting influences; secure, also, against the arbitrary authority of the administrative heads of the government." (Woodrow Wilson, *Constitutional Government in the United States*, pp. 17, 142.) It was such a

conception of an independent judiciary which was instituted in the Philippines by the American administration and which has since served as one of the chief glories of the government and one of the most priceless heritages of the Filipino people.

The Attorney-General in the argument in support of his motion for reconsideration, quotes the last preceding sentence and says that he dissents therefrom. The number of authoritative replies to the proposition advanced by the law officer of the government relative to the intention to establish an independent judiciary in these Islands, is limited only by space in which to quote them. Possibly we can do no better than to make our own the language of Mr. Justice Trent, speaking for a unanimous court, in *Severino vs. Governor-General and Provincial Board of Occidental Negros* ([1910], 16 Phil., 366, 384), when he said: "This government, being modelled after the Federal and State governments in the United States, now possesses a complete governmental organization, with executive, legislative, and judicial departments, which are exercising functions as independent of each other as the Federal or State governments." (For the legislative version of the same idea, see Administrative Code, sec. 17.)

On occasion, the Supreme Court of the Philippine Islands has applied the accepted theory of the division of powers, termed by the United States Supreme Court as "one of the chief merits of the American system of written constitutional law" (*Kilbourn vs. Thompson* [1881], 13 Otto, 168), and has unhesitatingly refused to interfere with the official acts of the Governor-General or to intrude on the rights and privileges of the Philippine Legislature. (In *re Patterson* [1902], 1 Phil., 93; *Severino vs. Governor-General and Provincial Board of Occidental Negros*, supra) In *re McCulloch Dick* [1918], 38 Phil., 41; *U. S. vs. Bull* [1910], 15 Phil., 7; *U. S. vs. Ten Yu* [1912], 24 Phil., 1; *Veloso vs. Boards of Canvassers of Leyte and Samar* [1919], 39 Phil., 886.) As an instance of this class of decisions, in *Veloso vs. Boards of Canvassers of Leyte and Samar*, supra, this court, in considering the right of the Philippine Senate to be the judge of the elections, returns, and qualifications of its elective members, said:

"The grant of power to the Philippine Senate and the Philippine House of Representatives, respectively is full, clear, and complete. * * * The judiciary, with its traditional and careful regard for the balance of powers, must permit this exclusive privilege of the legislature to remain where the sovereign authority has placed it. Since, therefore, the Philippine Senate is made the sole judge of the elections, returns, and qualifications of its elective members, this tribunal neither can, nor ought, to take jurisdiction of the case."

Although much more reluctantly, and also much more infrequently we are happy to add, the court has had to defend the judiciary against legislative and executive encroachment. (*Ocampo vs. Cabangis* [1910], 15 Phil., 626; *In re Guarina* [1914], 24 Phil., 37; *Barrameda vs. Moir* [1913], 25 Phil., 44; and *Province of Tarlac vs. Gale* [1913], 26 Phil., 338.) As an instance of the latter class of decisions, in *Province of Tarlac vs. Gale*, supra, Mr. Justice Moreland, speaking for the court, said:

"The judiciary is one of the coordinate branches of the Government. (*Forbes vs. Chuoco Tiaco*, 16 Phil., 534; *United States vs. Bull*, 15 Phil., 7.) Its preservation in its integrity and effectiveness is necessary to the present form of Government * * * It is clear * * * that each department is bound to preserve its own existence if it live up to the duty imposed upon it as one of the coordinate branches of the government. Whatever a person or entity ought to do or must do in law, it has the power to do. This being true, the judiciary has the power to maintain its existence; and whatever is reasonably necessary to that end, courts may do or order done. But the right to live, if that is all there is of it, is a very small matter. The mere right to breathe does not satisfy ambition or produce results. Therefore, courts have not only the power to maintain their life, but they have also the power to make that existence effective for the purpose for which the judiciary was created. They can, by appropriate means, do all things necessary to preserve and maintain every quality needful to make the judiciary an effective institution of Government. Courts have, therefore, inherent power to preserve their integrity, maintain their dignity and to insure effectiveness in the administration of justice. This is clear; for, if the judiciary may be deprived of any one of its essential attributes, or if any one of them may be seriously weakened by the act of any person or official, then independence disappears and subordination begins. The

power to interfere is the power to control, and the power to control is the power to abrogate. The sovereign power has given life to the judiciary and nothing less than the sovereign power can take it away or render it useless. The power to withhold from the courts anything really essential for the administration of justice is the power to control and ultimately to destroy the efficiency of the judiciary. Courts cannot, under their duty to their creator, the sovereign power, permit themselves to be subordinated to any person or official to which their creator did not itself subordinate them."

A stirring plea has been made by the learned representative of the Government for a decision which will work for the public welfare. We agree that, under the peculiar conditions existing in the Philippines, it is sometimes well for a judge not to remain indefinitely in a particular district. But it is a far cry from this premise to the use of a method not sanctioned by existing law and savoring of military discipline. Our conception of good judges has been, and is, of men who have a mastery of the principles of law, who discharge their duties in accordance with law, who are permitted to perform the duties of the office undeterred by outside influence, and who are independent and self-respecting human units in a judicial system equal and coordinate to the other two departments of governments We are pleased to think of judges as of the type of the erudite Coke who, three centuries ago, was removed from office because when asked "if in the future he would delay a case at the King's order," replied: "I will do what becomes me as a judge."

For the reasons given, we are of opinion that the reasonable force of the language used in the proviso to section 155 of the Administrative Code taken in connection with the whole of the Judiciary Law, and the accepted canons of interpretation, and the principles of the law of public officers, leave room for no other construction than that a Judge of First Instance may be made a judge of another district only with his consent.

It is our holding that the plaintiff Andres Borromeo is lawfully entitled to the possession of the office of Judge of the Court of First Instance of the Twenty-Fourth Judicial District. It is our judgment that the defendant Fermin Mariano shall be ousted from the office of Judge of the Twenty-fourth Judicial District, and the plaintiff placed in possession of the same. The motion for reconsideration filed by the Attorney-General is denied. No costs shall be allowed. Let this be entered as the order of the court. So ordered.

Araullo, Street, and Avancena, JJ., concur.

Johnson, J., signed the original decision, but was not present when the motion for reconsideration was filed and when this decision was promulgated.

DISSENTING

VILLAMOR, J.,

I dissent. The interpretation, which the majority give to the last clause of section 155 of the Administrative Code, in the sense that it requires the consent of a judge of the Court of First Instance in order that he may be transferred from one judicial district to another, is an amendment of the law, an act which should be done only by the legislative branch of the government. I am not unaware of the possibility that the power of the Governor-General to effect such transfers of Judges of First Instance with the consent of the Senate may produce as a result the resignation of the judge thus transferred if he does not accept the transfer. However, this fact should be referred to the legislature in order that it may amend the law if it sees fit to do so. The provisions of the law being clear, the court should apply it in the manner and form in which it has been passed by the legislature, without attempting to attach thereto a condition, as that of the consent of the judge transferred, which the legislature did not see fit to require.

It is pretended that the appointment to a specific position in the Government requires, among other elements, the acceptance thereof, without which it would not produce any effect. However, with reference to the transfer of judges a new appointment is made only to distinguish a permanent transfer from a temporary assignment to sit in another district, which is forbidden by law, except for the purposes of land registration cases; and a new oath is taken only to attest the fact that the transfer has been effected and that the transferred judge has taken possession of the office in the new district for the purposes of jurisdiction. But, in reality, in this case there is no new employee, there is not a different office. The transferred judge continues being a judge as much as before his transfer, holds the same office with all the attributes and powers thereto annexed, and enjoys the same privileges, with the sole difference as to the place in which jurisdiction is exercised. In this case, according to the law, the prior consent of the judge is not necessary in order that he may be transferred to another district, for the good of the public service, which is the basis of the power to make such transfers, is over and above the personal interests of every citizen.

It is also contended that the last clause of section 155 is a danger to the independence of the judiciary. But if this legal provision is considered in relation to section 5 of the Administrative Code, which presumes that administrative discretion is exercised for the good of the service and the benefit of the public; and if it is furthermore considered that the executive power to effect transfers of judges is subject to the approval of a restraining body, that is, the Senate, it seems, in my opinion, that this legal provision is a prudent measure tending to protect the interest of good public service.

According to law, the Governor-General has the discretion to make transfers of judges from one district to another, with the consent of the Senate. Therefore, to the Governor-General and to the Senate, and not to the judges, is the power granted to determine how such discretion should be exercised. In the case at bar there is not even a single allegation that such discretion has been abused in disregard of the law, and therefore, there is no way by which this court may disapprove the transfer of the petitioner decided to be effected by the Governor-General in the exercise of the discretionary powers conferred upon him by law.

If the consent of a judge is an essential requisite to his transfer to another district, it must also be an essential requisite to his assignment to sit in another district to try land registration cases or as vacation judge, for in both cases, the same reason exists, that is, the danger to the independence of the judiciary, which is the foundation of the majority opinion. The result would be the complete repeal of section 155 of the Administrative Code through the interpretation given by this court. And an interpretation leading to such result should be discarded for it is contrary to the doctrines of statutory construction cited in the majority opinion, to wit: That the court should give effect to the general intention of the legislator, if it may be gathered from all the viewpoints from which the law is examined; and that, if possible, that construction should be adopted which gives effect to all the provisions of the law (2 Lewis' Sutherland, Statutory Construction, page 662 et seq.; In re Allen [1903], 2 Phil., 630; sec. 207 of the Administrative Code).

But what is the intention of the legislator in the legal provision now under consideration? The provisions of the law are clear and it is not necessary either to stretch the imagination or resort to other jurisdictions/to discover the intention of the legislator. Section 155 of the Administrative Code provides:

"For the purpose of trying land registration cases only, a judge of first instance may, if the public interests so require, be detailed by the Department Head to temporary duty in a district other than his own. Save when so detailed or when assigned to vacation duty, no judge of first instance shall be required to do duty in any other, district than that for which he is commissioned; but nothing herein shall be construed to prevent a judge of first instance of one district from being appointed to be judge of another district."

It is admitted by the authorities on the subject that the object of a saving clause or proviso is (1) to except

something from the legal provision in question, or (2) to restrict the provisions thereof, or (3) to exclude all possible reason for erroneously construing such provision so as to make it applicable to cases which the legislature did not intend to include therein.

In whatever sense the proviso in question is interpreted, there is no reason for requiring the consent of the judge for a temporary or permanent transfer to another district. The intention of the legislature, as gathered from the provisions of the law, is that no judge shall be required to render services in another district, except to try land registration cases or to act as vacation judge, but without prejudice to his being appointed by the Governor-General as judge of another district.

That discharge is a different thing from transfer is a self-evident proposition requiring no proof. That a Judge appointed to another district may refuse to accept his transfer is not disputed by anyone. But if he leaves the office by abandonment or resignation, such result is not a necessary effect of the transfer but of his free will.

The majority decision tries to solve the proposition that if the remedy prayed for is not granted judges would lose their judicial independence. But we should remember, in this connection what Judge Cooley, one of the most eminent American jurists, in resolving the proposition that if it should be held that the Governor cannot be compelled to fulfill purely ministerial duties, those in possession of legal rights would, in many cases, be without remedy, said in the case of *Sutherland vs. Governor* (29 Mich., 320), to wit:

"Practically, there are a great many such cases, but theoretically, there are none at all. All wrongs, certainly, are not redressed by the judicial department. A party may be deprived of a right by a wrong verdict, or an erroneous ruling of a judge, and though the error may be manifest to all others than those who are to decide upon his rights, he will be without redress. A person lawfully chosen to the Legislature may have his seat given by the house to another, and be thus wronged without remedy. A just claim against the State may be rejected by the board of auditors, and neither the governor nor the courts can give relief. A convicted person may conclusively demonstrate his innocence to the governor, and still be denied a pardon. In which one of these cases could the denial of redress by the proper tribunal constitute any ground for interference by any other authority? The law must leave the final decision upon every claim and every controversy somewhere, and when that decision has been made, it must be accepted as correct. The presumption is just as conclusive in favor of executive action as in favor of judicial."

A case in which the court discussed the proposition that there can be no wrong whatever without any remedy is that of *People vs. Bissell* (19 111., 229). In that case the court said:

"It is urged upon us, that in a government of laws there must be an adequate remedy for every wrong, and that where a clear right exists, there must be some mode of enforcing that right. While human society is governed by so imperfect a being as man, this can be true only in theory. If we are to compel the Governor or the legislature to right every wrong which may arise from their omissions of duty, then surely they must, in order to make this Utopian system perfect, have the power to compel us to do right in every case. May it not be as well supposed that we will act perversely, and refuse to perform a duty imposed upon us, to the injury of the citizen, as that the Governor will do so? In the formation of the government, equal confidence was rightfully reposed in each department, to which appropriate and Independent duties were assigned."

The proceeding instituted in this case is entitled *Quo Warranto*, a proceeding for determining the right of a Judge of First Instance to sit in a determined judicial district. But there can be no doubt that in this question is involved the power of the Governor-General to appoint Judges of First Instance. While the petition in this case does not include the Governor-General as party respondent, nevertheless, the judgment of this court must in the same manner necessarily affect him who authorized the appointment now in dispute and the appointee, now respondent Judge Fermin Mariano. This conclusion is inevitable for the case deals with the appointment of a judge made by

the Governor-General in the exercise of his discretionary powers. Indeed this court cannot decide this case by granting the prayer of the petitioner without disapproving the manner in which this power of the Governor-General has been exercised. Has the court jurisdiction to do this?

Section 26 of the Jones Act provides, among "other things:

"The Judges of the Courts of First Instance shall be appointed by the Governor-General, by and with the advice and consent of the Philippine Senate."

In view of this legal provision and of section 155 of the Administrative Code, to maintain that a Judge of First Instance may not be transferred to another district without his consent amounts to judicially determining that the Governor-General cannot exercise the power conferred upon him by law to transfer a judge from one district to another without the consent of the judge concerned.

The question whether courts possess or do not possess jurisdiction to control the official acts of the Governor has been raised before many courts of the United States. And this Supreme Court, in the case of *Severino vs. Governor-General and Provincial Board of Occidental Negros* (16 Phil., 366, 387, 400, 402), after examining the various cases in which this question was raised in the United States, said:

"We think that the weight of authority, based upon legal principles and sound reasoning, supports the proposition that in the United States the supreme courts of the States do not have jurisdiction to control the official acts of the governor. For better reasons we conclude that this court has no jurisdiction, either by mandamus or injunction, to control the official acts of the Governor-General, inasmuch as we have seen that his duties, powers, and responsibilities are more comprehensive than those conferred upon any State Governor. When the Philippine legislative body confers upon the Governor-General powers and duties, it does so for the reason that he is in a better position to know the needs of the country than any other member of the executive department, and with the full confidence that he will perform such duties, under his official oath, as his best judgment dictates. If this had not been the intention of the legislature, they could have placed the duty upon some other official of the executive department. It no doubt is sometimes very necessary for the Governor-General to perform certain important executive duties without delay, and should this court attempt to distinguish between purely ministerial and discretionary duties, conferred upon him by law, and attempt to determine in each case which are purely ministerial, which are political, or which are discretionary, the Governor-General, to that extent would become subservient to the judiciary. To avoid this is why the three great coordinate departments of the Government were created and made independent of each other. President McKinley in creating civil government in this country took into consideration these fundamental principles of separate and independent departments, which have been demonstrated to be essential to a republican form of government, and conferred upon the Governor-General, as the Executive of the Philippine Islands, the power to execute the laws according to his best judgment, holding him responsible to the President of the United States, without interference on the part of the judiciary. In so doing he reposed in the Executive of this country great confidence, realizing that he, the Executive, acting independently of the judiciary, would be in a better position to carry out the great underlying principles of American institutions for the peace and happiness of the inhabitants of this country. The President realized that the final decision of every question in controversy must be left somewhere, and when such decision has been made it must be accepted as correct. The presumption is just as conclusive in favor of executive action, as to its correctness and justness, as it is in favor of judicial action."

In another part of this decision this court added:

"Inasmuch as the three coordinated departments of the Government, the executive, legislative, and judicial, have been established and are operating, as we have said, as independently of each other as the same three coordinated branches created under the constitution of the Federal and State governments are operating in the American Union, and in view of the fact that there have been conferred upon the Chief Executive of these

Islands more extensive powers, duties, and responsibilities than have been conferred upon the governors of the various States of the Union, we think the reason for the holdings of the courts of the United States, which have passed upon this question are worthy of consideration. We might here add that we have no doubt that the present incumbent of the office of Governor-General, a man who is ready and willing at all times to render obedience to the law, would follow the mandate of this court, but such willingness to be governed by the order of this court would not of itself give us jurisdiction. Nor should he manifest (which he has not done) his intention to not obey the mandate of this court, this would not be sufficient reason for us to abstain from requiring him to comply with such mandate in case we have jurisdiction."

And in the dispositive part of the decision the court among other things said: "That we can not and should not entertain a complaint which seeks to control or interfere with the official duties of the Governor-General."

In the case of Forbes vs. Chuoco Tiaco and Crossfield (16 Phil., 534), this court, adhering to the same principle announced in the case of Severino vs. Governor-General and Provincial Board of Occidental Negros, supra, established the following doctrine:

"In a government of separate and independent departments, executive, legislative, and judicial, with separate and distinct functions, one department will not attempt to interfere with the performance of the exclusive duties of another. To permit such an interference would destroy the independence of the separate departments and would make one subject to the control of the others. For the judiciary to interfere, for the purpose of questioning the manner of exercising the legal and political duties of the chief executive head of the Government or to control the action of the legislative department, would, in effect/ destroy the independence of the departments of the Government and would make all departments subject to the ultimate control of the judicial. Such a conclusion or condition was never contemplated by the organizers of the Government."

In deciding the present petition, ordering that the respondent judge Fermin Mariano should be ousted from the office of Judge of the Twenty-fourth District and that possession thereof should be surrendered to the petitioner Andres Borromeo, has not this court judicially determined that the appointment of the former to said district and that of the latter to the twenty-first, both made by the Governor-General, with the advice and consent of the Philippine Senate, are not well made and are contrary to the immovability of judges and should therefore be annulled by this court? What does the decision of the majority mean but that it is a real intrusion in the exercise of the powers conferred upon the executive and legislative departments of the Government? And is this not openly contrary to the doctrines established in the decisions cited of this Supreme Court itself, where the much-vaunted independence of the executive, legislative, and judicial departments is proclaimed?

The petition is denied.

The motion for reconsideration should be granted.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.