THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. RAFAEL DINGLASAN, JUDGE OF FIRST INSTANCE OF MANILA, AND CONRADO PIRING Y MENDOZA, RESPONDENTS.

L-878. November 21, 1961

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TUASON, J.:

The sole question presented in the three above entitled cases has to do with the authority of Gregorio T. Lantin to sign informations as assistant city fiscal of Manila. Two judges have rendered two divergent views on the matter. Judge Fernando Jugo, in cases Nos. L-831 and L-876, upheld the affirmative theory while Judge Rafael Dinglasan, in case No. L-878, sustained the defendant's contention in an elaborate ruling.

It appears that Gregorio T. Lantin, a doctor of medicine and lawyer, Acting Chief, Medico-Legal Section, Division of Investigation, Department of Justice, was given an assignment by Acting Secretary of Justice Ramon Quisumbing in a letter dated October 8, 1945, which reads:

"SIR:
"Pursuant to the request of the City Fiscal of Manila and in accordance with the provision of section 1686 of the Revised Administrative Code, you are hereby temporarily detailed to this office effective today, to assist him in the discharge of his duties with the same powers and functions of an assistant city fiscal."

Following his detail, Doctor Lantin signed and filed informations in the aforesaid cases after, presumably, conducting preliminary investigations. Thereafter, the attorneys for the defendants filed motions to quash on the ground already stated. When two of these motions were denied and one was sustained, the losing parties instituted the instant proceedings for certiorari.

Section 1686 of the Revised Administrative Code, as amended by section 4 of Commonwealth Act No. 144, provides :

"Sec. 1686. Additional counsel to assist fiscal. —The Secretary of Justice may appoint any lawyer, being either a subordinate from his office or a competent person not in the public service, temporarily to assist a fiscal or prosecuting attorney in the discharge of his duties, and with the same authority therein as might be exercised by the Attorney General or Solicitor General."

It will be noted that the law uses general terms. It is a general rule of statutory interpretation that provisions should not be given a restricted meaning where no restriction is indicated. Just as the express enumeration of persons, objects, situations, etc., is construed to exclude those not mentioned, according to a well-known maxim, so no distinction should be made where none appears to be intended. This is not an arbitrary rule but one founded on logic. Was it the purpose of the legislature to confine the work to be performed by the lawyer appointed to assist the fiscal to certain duties in the fiscal's office and deny him others? If it was, the law does not say so, and one would be at a loss to know what duties were conferred and what were not. It is fair to presume that if the legislature had wanted to forbid the lawyer appointed to assist the fiscal, to sign informations, make investigations

and conduct prosecutions, it would have said so or indicated its intention by clear implication.

We need to be reminded that of all the functions of the fiscal, those referred to are the most important and outstanding and the ones in which the fiscal usually needs aid.

There is nothing so sacrosanct in the signing of complaints, making of investigations and conducting of prosecutions that only an officer appointed by the President or one expressly empowered by law may be permitted to assume these functions. Certainly a lawyer who is invested with the same authority as might be exercised by the Attorney General or Solicitor General is presumed to be competent to be entrusted with any of the duties, without exception, devolving on a prosecuting attorney. That the person designated in a particular instance does not measure up to the educational specifications imposed by law is beside the point. It does not detract from the conclusion that, in the light of the high standard of training and experience required, there is no anomaly and no injustice is committed in lodging on the person designated by the Secretary of Justice those powers of the prosecuting attorney which we have named.

Laws must receive sensible interpretation to promote the ends for which they were enacted. The duties of a public office include all those which truly lie within its scope, those which are essential to the accomplishment of the main purpose for which the office was created, and those which, although incidental and collateral, are germane to, and serve to promote the accomplishment of the principal purposes. (43 American Jurisprudence, 68, 70.) The authority to sign informations, make investigations and conduct prosecutions is within the inferences to be gathered from the circumstances which prompted the passage of section 4 of Commonwealth Act No. 144 and its predecessors.

The historical background of section 1686 of the Revised Administrative Code as amended and the construction placed on its precursors confirm our opinion.

The initial legislation on assistance to provincial fiscals is to be found in section 45 of Act No. 136, paragraph (e) of which provides that "he (Attorney General) shall, when required by the public service, or when directed by the Chief Executive, repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties, and shall assist the provincial fiscal in any prosecution against an officer of the Government." This provision was amended by Act No. 300, section 1, by adding at the end thereof the following words:

"But, whenever it is impracticable for either the Attorney General or Solicitor General personally to repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties, or in any prosecution against an officer of any branch of the Government, in accordance with the provisions of subsection (e) of section forty-five, it shall be lawful for the Attorney General, with the prior approval of the Civil Governor, to appoint some person who may be eligible to the office of Attorney General temporarily to represent him in such prosecution. The person so appointed shall have all the power of the Attorney General or Solicitor General in conducting the prosecution for which he may have been especially appointed as in this section provided. The compensation of the person so appointed shall be fifteen dollars per day for the time necessarily employed in the service of the Government, and actual traveling expenses necessarily incurred in performance of the duties."

Act No. 325, section 1, amending section 47 of Act No. 136, created the position of supervisor of provincial fiscals, whose duty it was "to assist the Attorney General and under der his direction to prepare rules for the guidance of all provincial fiscals, and when required by the public service or directed by the Attorney General, he shall repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties."

The last measure passed on this subject was section 17 of Act No. 867 which reads:

"Sec. 17. Fiscals may be aided by lawyers appointed by Attorney General; duties of such appointees;

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compensation. —It shall be lawful for the Attorney General to appoint any lawyer, either a subordinate from his office, or, with the approval of the Secretary of Finance and Justice, a competent person not in the public service, temporarily to assist the fiscal of a province or district in the discharge of his duties and to represent the Attorney General in such matters. The person so appointed shall have all the powers of the Attorney General or Solicitor General in the conduct of causes in which the Government is interested and to which he may be assigned. * * *"

When the administrative laws were reorganized and systematized, some of the foregoing provisions were eliminated and the rest were condensed into two paragraphs and embodied in the First Administrative Code as section 1686. The latter section was reproduced in the Eevised Administrative Code, also as section 1686, which in turn was amended by section 4 of Commonwealth Act No. 144. There has been no material alteration in the law since the administrative laws were codified, except that, whereas under the former Administrative Code the Attorney General was the officer authorized to designate a lawyer to assist a fiscal, under the Revised Administrative Code it was the Solicitor General who made the detail, and by Commonwealth Act No. 144 the authority to designate was put in the hands of the Secretary of Justice.

It will be seen that in the original enactment —section 45 of Act No. 136—the Attorney General himself was called upon to assist a provincial fiscal in the discharge of bis duties. We have no knowledge of whether the persons assigned by the Attorney General to assist fiscals under the subsequent legislation signed informations; but it is a fact, of which we may take judicial notice, that the Attorney General signed such informations. And he did it not by virtue of any express legal provision but on the strength, as we may suppose, of his authority to assist provincial fiscals. This was a practice that continued for a considerable length of time.

As contemporaneous construction this practice should carry great weight in the operation of the enactment in question. The fact that it was the chief law officer and legal adviser of the government who put it into effect and that he did it in the discharge of his duties lends added force to the interpretation. As has been well said, "interpretations by the Attorney General and the legal department of a state have important bearing upon statutory meaning, since the Attorney General and his office are required by law to issue opinions for the assistance of the various departments of the government administering the law." (2 Sutherland's Statutory Construction, Third Edition, 517.)

It is not to the point to inquire whether the Solicitor General has now the power to sign informations. Granting that he does not retain such power, a question which we do not decide, this circumstance nevertheless does not alter the result at which we have arrived. The reason is that the power to sign informations, make investigations and conduct prosecutions is inherent in the power "to assist" a prosecuting attorney, as these words are used in the Administrative Code. It does not emanate from the powers of the Attorney General or Solicitor General conferred upon the officer designated by the Secretary of Justice; it is ingrained in the office or designation itself. The powers of the Solicitor General bestowed on the appointee to assist the fiscal must be held as cumulative or an addition to the authority to sign informations, which is inherent in his appointment.

In other words, the clause "with the same authority therein as might be exercised by the Attorney General or Solicitor General" does not exclude the latter authority. The former practice of the Attorney General to which we have alluded portrays a distinction between and separation of the two powers or sets of powers. The power of the Attorney General to sign informations, as we have pointed out, owed its being, not to the powers legitimately pertaining to his office as Attorney General but to the special provision authorizing him to assist fiscals. And it may be pertinent to know that when the Attorney General's power to assist provincial fiscals ceased, he stopped signing informations. The phraseology of section 17 of Act No. 867 before cited also affords an illustration of the idea that the authority to assist is separate and apart from the general powers of the Attorney General. In the language of this section, the person appointed was (1) to assist the fiscal in the discharge of his duties and (2) to

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represent the Attorney General in such matters. If the two phrases meant the same thing, then one of them would be superfluous.

There is no apparent reason for holding that one or the other was a surplusage.

Upon the foregoing considerations, the petitions in cases Nos. L-831 and L-876 are denied and dismissed, and the petition in case No. L-878 is sustained. Without costs.

Moran, C. J., Paras, Perfecto, Hilado, Bengzon, Briones, and Padilla, JJ., concur.

CONCURRING AND DISSENTING

FERIA, J.,

The issue involved in these three eases is whether or not the attorney detailed or appointed by the Secretary of Justice to assist the city fiscal of Manila in the discharge of the latter's duties, with the same authority therein as might be exercised by the Attorney General or the Solicitor General, according to the provision of section 1686 of the Revised Administrative Code, has authority to sign informations.

A cursory examination of the source or origin and history of section 1686 in connection with that of section 1661 of the Revised Administrative Code will show that the Attorney General and the Solicitor General have, and therefore the person appointed by the Secretary of Justice to. assist the city fiscal of Manila also has, the authority to sign an information.

Section 41 of the Organic Act No. 136, that created the courts of justice and the office of Attorney General in these Islands, provided:

"There shall be an officer learned in law * * * and the Attorney General may, whenever he deems it in the interest of the Philippine Government, either in person conduct and argue any case in any Court of the Philippines to which the Philippine Government is interested, or may direct the Solicitor General to do so."

And section 45 (a), (b), and (e) of the same Act No. 136 read in part as follows:

"Sec. 45. Duties of the Attorney General. —The Attorney General shall perform the following duties:

"(a) He shall attend the Supreme Court and prosecute or defend therein all causes, civil and criminal, to which the United States, or any officer thereof, in his official capacity, is a party;

"(b) He shall prosecute or defend therein all causes, civil and criminal, to which the Government of the Philippine Islands * * * is a party; * * *.

"(c) He shall, when required by the public service, or when directed by the Chief Executive, repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties, and shall assist the provincial fiscal in any prosecution against an officer of the Government;"

The above provisions are declaratory of the common-law powers of an Attorney General, among them to control and manage all litigation in behalf of the state, and to intervene in all prosecutions or proceedings for the enforcement of the laws of the state, the preservation of order, and the protection of public rights. (5 American Jurisprudence, pp. 234, 235.)

The language of the law indicates that it was the intention to grant plenary power to the Attorney General to protect public rights and redress public wrongs throughout the entire Philippine Islands, independent of the

attitude of provincial or local authorities who might be indifferent, incapable or even antagonistic, and to use all means afforded by the law to meet the requirements of any situation, and fully protect the interests of the Government, and thus make the authority of the latter felt through its chief law officer in every part of the Philippines. And that, when required by the public service, or directed by the Chief Executive, the Atorney General or Solicitor General repair to a province to appear and prosecute criminal proceeding there, he becomes the prosecuting attorney of that province in those proceedings, and have all the rights that any prosecuting attorney there may have, including those of signing information and prosecuting cases to final determination.

Said provisions of section 45, Act No. 136, were taken from similar ones found in many states. In Kansas the statute provided that "The Attorney General shall appear for the State, and prosecute and defend all actions and proceedings, civil or criminal in the Supreme Court, in which the State shall be interested or a party; and shall also, when required by the governor or any branch of the Legislature appear for the state and prosecute or defend, in any court, or before any officer, in any cause or matter, civil or criminal, in which the state may be a party or interested."

And the Supreme Court of Kansas, in construing that statute in the case of State vs. Bowles, (70 Kan., 821; 69 L. R. A. 179, held that "when directed by the governor or either branch of the legislature to appear and prosecute criminal proceedings in any county, he becomes the prosecuting attorney of that county in those proceedings, and has all the rights that any prosecuting officer there may have, including those of appearing before the grand jury. signing indictments, and pursuing cases to final determination." (42 American Jurisprudence, page 235.)

Said section 45 (e) of Act No. 136, was amended by section 1 of Act No. 300, by providing that "whenever it is impracticable for either the Attorney General or Solicitor General personally to repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties, or in any prosecution against an officer of any branch of the Government, in accordance with the provisions of subsection (e) of section forty-five, it shall be lawful for the Attorney General, with the prior approval of the Civil Governor, to appoint some person who may be eligible to the office of Attorney General temporarily to represent him in such prosecution. The person so appointed shall have all the powers of the Attorney General or Solicitor General in conducting the prosecution for which he may have been especially appointed as in this section provided."

Subsequently, section 45 of Act No. 136 as amended by Act No. 300, was, so far as it authorized the Attorney General to appoint lawyers to aid the fiscals, further amended and superseded by section 17 of Act No. 867, which provides in part as follows:

"Sec. 17. Fiscals may be aided by lawyers appointed by Attorney General; duties of such appointees; compensation. —It shall be lawful for the Attorney General to appoint any lawyer, either a subordinate from his office, or, with the approval of the Secretary of Finance and Justice, a competent person not in the public service, temporarily to assist the fiscal of a province or district in the discharge of his duties and to represent the Attorney General in such matters. The person so appointed shall have all the powers of the Attorney General or Solicitor General in the conduct of causes in which the Government is interested and to which he may be assigned."

The above quoted provisions which superseded those of section 45 (e) of Act No. 136, as amended by section 1 of Act No. 300, contained substantially the same provisions, with the only modification that the Attorney General was given discretionary power to appoint a lawyer from his office, or a competent person not in the public service with the approval of the Secretary of Justice, temporarily to assist, not only a provincial fiscal according to Act No. 136 as amended, for this Act was enacted prior to the creation of the office of the city fiscal of Manila by Act No. 183, but also to the fiscal of a district, and therefore the City Fiscal of Manila or any other district.

When the administrative laws in force in the Philippines were compiled and codified, the above quoted provisions

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of section 41, and section 45 (e) as amended by Acts No. 300 and superseded by No. 867, were incorporated in sections 1280 and 1305, respectively, of the first Administrative Code (Act No. 2657), and later on in section 1661 and section 1686 respectively, of the Administrative Code, Act No. 2771. Said section 1661, as amended by Act No. 2781, provided that "As principal law officer of the Government, the Attorney General shall have authority to act for and represent the Government of the Philippine Islands, its officers, and agents in any official investigation, proceeding, or matter requiring the services of a lawyer." And section 1686 read as follows:

"sec. 1686. Additional counsel to assist fiscal. —The Attorney General may appoint any lawyer, being either a subordinate from his office or, with the approval of the Department Head, a competent person not in the public service, temporarily to assist a fiscal or prosecuting attorney in the discharge of his duties, and with the same authority therein as might be exercised by the Attorney General or Solicitor General."

Subsequently Act No. 4007 was enacted to amend the provisions of the said Administrative Code referring to the organization of the Departments, Bureaus, and Offices of the Insular Government. Section 6 of said Act provided that the Secretary of Justice shall be the Attorney General and legal adviser of the Government. And section 19 of same Act prescribed that "the chief and assistant chief of the Bureau of Justice shall hereafter be known, respectively, as the Solicitor General and Assistant Solicitor General, and except as herein otherwise provided, all the powers and duties conferred by law upon the Attorney General as head of the Bureau of Justice (that is, his powers and duties as chief public prosecutor and attorney of the Government in all causes, civil or criminal, in which the latter was interested) shall be exercised by the Solicitor General."

When the Revised Administrative Code was promulgated containing the provisions of the former Administrative Code, as amended, the provisions of the above quoted sections 1661 and 1686 of the former Code were incorporated verbatim as sections 1661 and 1686 in the Revised Administrative Code with the only modification that the Solicitor General was substituted for the Attorney General, and the Solicitor General was made the principal law officer of the Government, who has authority to act for and represent the Government of the Philippines in any official investigation, proceeding or matter requiring the services of a lawyer, and who may appoint a competent person to assist a fiscal or prosecuting attorney with the same authority therein as might be exercised by the Attorney General or the Solicitor General.

Lastly, section 1686 of the Revised Administrative Code was amended by Commonwealth Act No. 144, and said section 1686 as amended, under which the appointment of Dr. Lantin was made by the Secretary of Justice, reads as follows:

"Sec. 1 686. Additional counsel to assist fiscal. —The Secretary of Justice may appoint any lawyer, being either a subordinate from his office or a competent person not in the public service, temporarily to assist a fiscal or prosecuting attorney in the discharge of his duties, and with the same authority therein as might be exercised by the Attorney General or Solicitor General."

Section 37 of Act No. 4007 which provides that whenever a specific power or authority is entrusted to a chief of a bureau or office, the same shall be understood as also conferred upon the proper Department Head who shall have authority to act directly in pursuance thereof, can not be invoked in support of city fiscal's contention; because even assuming, without deciding, that the Secretary of Justice has the authority to sign an information and prosecute a criminal case to final determination, either because he is now the Attorney General and legal adviser (although the latter's authority to act and represent the Government in all proceedings was transferred to the Solicitor General), or because he is the Department Head of the city fiscal of Manila, the authority to sign information being a quasi-judicial function (42 Am. Jur., 234) can not be delegated by the Secretary of Justice to another person, without an express authority of law (Labiano vs. McMahon, 28 Phil., 168), and there is no law

authorizing such delegation. For that reason the law has to expressly provide that the person appointed by the Secretary of Justice to assist the prosecuting attorney shall have the same authority which might be exercised by the Attorney General or the Solicitor General.

The power conferred by law upon the Secretary of Justice to appoint a person to assist a fiscal or prosecuting attorney was the power formerly, conferred upon the Attorney General and subsequently upon the Solicitor General, and the person appointed by them to assist a fiscal or prosecuting attorney had the authority to sign information and prosecute criminal cases, not because of his appointment to assist, but because the former laws conferred upon the person so appointed all the powers of the Attorney General or the Solicitor General (section 18, Act No. 300, section 17, Act No. 867), and the later laws confer upon him the same authority as might be exercised by the Attorney General or the Solicitor General (section 1280 of the first and 1686 of the Revised Administrative Code), and consequently the authority to sign information in a criminal case, as above stated.

According to the majority opinion "it is a fact, of which we may take judicial notice, that the Attorney General signed such informations. And he did it, not by virtue of any express legal provision but on the strength, as we mav suppose, of his authority to assist provincial fiscals. This was a practice that continued for a considerable length of time." But "it is not to the point to inquire whether the Solicitor General has now the power to sign informations * * *" "The reason is that the power to sign informations, make investigations and conduct prosecutions is inherent in the power 'to assist' a prosecuting attorney, as these words are used in the Administrative Code. It does not emanate from the powers of the Attorney General or Solicitor General conferred upon the officer designated by the Secretary of Justice."

We disagree with this reasoning. The authority of the Attorney General to sign informations does not owe its being to his power to assist a prosecuting attorney. It emanates from his power "to act in person, conduct and argue any case in any court of the Philippines in which the Philippine Government is interested," conferred originally by section 41 of Act No. 136, and incorporated substantially in section 1280 of the first Administrative Code and 1661 of the Revised Administrative Code, which provides that "As a principal law officer of the Government, the Attorney General shall have authority to act for and represent the Government of the Philippines, its officers, and agents in any official investigation, proceeding, or matter requiring the services of a lawyer." As already stated, the above quoted provisions of sections 41 and 45 of Act No. 136, and consequently section 1661 of the Revised Administrative Code are but declaratory of the common law powers of the Attorney General to control and manage all litigations in behalf of the state and to intervene in all prosecutions or proceedings for the enforcement of the laws of the state and the preservation of order, independent of the attitude of local authorities which might be indifferent or even antagonistic, and thus further protect the interests of the state or Central Government. As it was held in the case of State vs. Bowles (supra) the power of the Attorney General to prosecute or defend in any court or before any officer, in any cause or matter civil or criminal in which the State may be a party or interested, carry with it the authority to sign indictments, informations and pursue cases to final determination.

The mere appointment of a person to assist a fiscal or prosecuting attorney does not authorize him to sign informations and prosecute criminal cases. As above stated, the prosecution of a criminal case and signing of the corresponding information is a quasi-judicial function, that must be exercised by the officer clothed by law with such function, and can not be delegated by him to another without an express authority by law. The power conferred by law upon the Secretary of Justice to appoint a person to assist a fiscal in the performance of his duties, is not an express and not even an implied authority for that person to sign an information, for to assist does not imply necessarily the authority to sign information. The fiscal may be assisted or aided in many other ways. In the case of People vs. Hayne (23 P. I., 3; 83 Cal., 11; 7 L. R. A. 348), it was held that a statute of California which

provided that the Supreme Court of California shall immediately, upon the expiration of the term of office of the present Supreme Court Commissioners, appoint five persons of legal learning and personal worth to assist the Court in the perfonnance of the Court's duties and in the disposition of numerous cases now pending in said Court undetermined, can not be construed as giving the Commissioner the right to appropriate the function of the Court, or to decide cases, or that they shall take part in the decision of the cases; it merely means to facilitate the court, to lessen its labors. The Supreme Court of California in said case said:

"But to our minds there is no doubt about the validity of the statute. In the language of the court below: 'The Act in question is not open to objection of a constitutional character. In order to bring it into conflict with the Constitution, a strained construction of its words becomes necessary, as well as an utter disregard of the natural import of those words. * * * The phrase assist the court must, for the purpose of creating a conflict, be understood not merely to facilitate the court, which is the natural import —to lessen its labors,—but, beyond this, to assume the exercise of, or a participation in the exercise of, the appropriate function of the court to decide causes; that the commissioners are to take part in that decision as the members of the court themselves take part in it; in short, it is necessary to say that assistance means supersession. Nothing in the language used, or in its context, will justify any construction which will bring the provisions of this Act in relation to the powers or duties of the commissioners in conflict with any provision of the Constitution." (People vs. Hayne, Lawyers Reports Annotated, Book 7, pp. 348, 350.)

If the authority to assist a fiscal confers the power to sign informations, it would not have been necessary for section 1, of Act No. 300, section 17 of Act No. 867, section 1305 of the first Administrative Code of 1916 (Act No. 2657), section 1661 of the Revised Administrative Code, and section 4 of Act No. 144 of the Commonwealth, to add or provide that the person appointed to assist the fiscal shall have all the powers or the same authority of the Attorney General or the Solicitor General.

In view of all the foregoing, it is clear that Dr. Lantin, who was appointed in the present case by the Secretary of Justice to assist the city fiscal of Manila, had authority to sign the information in the criminal cases herein involved.

Pablo, M.:

Concurro con esta opinion.

Petitions in L-831 and L-876 denied and dismissed; petition in L-878 sustained.

RESOLUTION ON MOTION FOR RECONSIDERATION

March 28, 1917

TUASON, J.:

This is a motion for reconsideration based on two grounds: "(1) That section 1686 of the Revised Administrative Code as amended by Commonwealth Act No. 144, is not applicable to the City of Manila, and (2) that even assuming that it so applies, 'the mere appointment of a person to assist a fiscal or prosecuting attorney does not authorize him to sign informations,' as Mr. Justice Feria stated in his concurring and dissenting opinion."

1. Section 1686 of the Revised Administrative Code falls under Art. II, Chapter 43 entitled "Bureau of Justice."

By its title, the Chapter is a law of general application. It will be noted that even though Art. III of the same Chapter is captioned "Provincial Fiscal", yet section 1673. which comes under that article, deals in one instance

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with the city fiscal and assistant city fiscals along with provincial fiscals and assistant provincial fiscals, fixing the maximum age limit for all of them. We further note that the classification or grouping of subjects in the Administrative Code has not been adhered to strictly.

2. The second ground of the motion has been specifically and extensively treated in the decision, and had been the subject of a thorough deliberation before that decision was rendered. We need not say anything more beyond reminding counsel that in expressing approval of the passage which he quotes from Mr. Justice Feria's concurring and dissenting opinion he failed to comment on those parts of the latter opinion by which Mr. Justice Feria reached the same conclusion to which he (counsel) takes exception.

Of course it is absurd to think, as counsel says, of a private prosecutor signing an information; but do private prosecutors and officers designated by the Secretary of Justice under section 1686 of the Administrative Code, as amended, stand on the same footing? In the failure to recognize the fundamental distinctions between the two positions lies the fallacy of the argument. An officer assigned to assist a fiscal under section 1686 of the Administrative Code, as amended, acts in representation of the State while a private prosecutor represents the complaining party. As his official designation indicates, a private prosecutor appears on behalf of his client and not of the People. If he sometimes conducts prosecution, he does so by special permission of the court. The sole justification for the private prosecutor's intervention in a criminal trial is the fact that on the defendant's conviction depends in most cases his client's right to recover pecuniary compensation for material damage sustained, and/or that there is private honor or reputation to vindicate.

The motion is denied.

Moran, C. J., Paras, Hilado, Bengzon, Briones, and Padilla, JJ., concur.

Feria and Pablo, JJ.:

We concur in the denial of the motion on the strength of our concurring and dissenting opinion.

Perfecto, J., concurs in the result. Motion denied.

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