

**FRANCISCO I. CHAVEZ, PETITIONER, VS. HON. ALBERTO G. ROMULO, IN HIS CAPACITY AS EXECUTIVE SECRETARY; DIRECTOR GENERAL HERMOGENES E. EBDANE, JR., IN HIS CAPACITY AS THE CHIEF OF ...**

*G.R. No. 157036. June 09, 2004*

Ponente: SANDOVAL-GUTIERREZ, J.

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**SANDOVAL-GUTIERREZ, J.:**

The right of individuals to bear arms is not absolute, but is subject to regulation. The maintenance of peace and order[1] and the protection of the people against violence are constitutional duties of the State, and the right to bear arms is to be construed in connection and in harmony with these constitutional duties.

Before us is a petition for prohibition and injunction seeking to enjoin the implementation of the “Guidelines in the Implementation of the Ban on the Carrying of Firearms Outside of Residence”[2] (Guidelines) issued on January 31, 2003, by respondent Hermogenes E. Ebdane, Jr., Chief of the Philippine National Police (PNP).

The facts are undisputed:

In January 2003, President Gloria Macapagal-Arroyo delivered a speech before the members of the PNP stressing the need for a nationwide gun ban in all public places to avert the rising crime incidents. She directed the then PNP Chief, respondent Ebdane, to suspend the issuance of Permits to Carry Firearms Outside of Residence (PTCFOR), thus:

“THERE IS ALSO NEED TO FOCUS ON THE HIGH PROFILE CRIMES THAT TEND TO DISTURB THE PSYCHOLOGICAL PERIMETERS OF THE COMMUNITY – THE LATEST BEING THE KILLING OF FORMER NPA LEADER ROLLY KINTANAR. I UNDERSTAND WE ALREADY HAVE THE IDENTITY OF THE CULPRIT. LET US BRING THEM TO THE BAR OF JUSTICE.

THE NPA WILL FIND IT MORE DIFFICULT TO CARRY OUT THEIR PLOTS IF OUR LAW ENFORCEMENT AGENCIES CAN RID THEMSELVES OF RASCALS IN UNIFORM, AND ALSO IF WE ENFORCE A GUN BAN IN PUBLIC PLACES.

THUS, I AM DIRECTING THE PNP CHIEF TO SUSPEND INDEFINITELY THE ISSUANCE OF PERMIT TO CARRY FIREARMS IN PUBLIC PLACES. THE ISSUANCE OF PERMITS WILL NOW BE LIMITED ONLY TO OWNERSHIP AND POSSESSION OF GUNS AND NOT TO CARRYING THEM IN PUBLIC PLACES. FROM NOW ON, ONLY THE UNIFORMED MEN IN THE MILITARY AND AUTHORIZED LAW ENFORCEMENT OFFICERS CAN CARRY FIREARMS IN PUBLIC PLACES, AND ONLY PURSUANT TO EXISTING LAW. CIVILIAN OWNERS MAY NO LONGER BRING THEIR FIREARMS OUTSIDE THEIR RESIDENCES. THOSE WHO WANT TO USE THEIR GUNS FOR TARGET PRACTICE WILL BE GIVEN SPECIAL AND TEMPORARY PERMITS FROM TIME TO TIME ONLY FOR THAT PURPOSE. AND THEY MAY NOT LOAD THEIR GUNS WITH BULLETS UNTIL THEY ARE IN THE PREMISES OF THE FIRING RANGE.

WE CANNOT DISREGARD THE PARAMOUNT NEED FOR LAW AND ORDER. JUST AS WE CANNOT BE HEEDLESS OF OUR PEOPLE’S ASPIRATIONS FOR PEACE.”

Acting on President Arroyo’s directive, respondent Ebdane issued the assailed Guidelines quoted as follows:

“TO

:

All Concerned

FROM

:

Chief, PNP

SUBJECT

:

Guidelines in the Implementation of the Ban on the Carrying of Firearms Outside of Residence.

DATE

:

January 31, 2003

1.

Reference: PD 1866 dated June 29, 1983 and its Implementing Rules and Regulations.

2.

General:

The possession and carrying of firearms outside of residence is a privilege granted by the State to its citizens for their individual protection against all threats of lawlessness and security.

As a rule, persons who are lawful holders of firearms (regular license, special permit, certificate of registration or MR) are prohibited from carrying their firearms outside of residence. However, the Chief, Philippine National Police may, in meritorious cases as determined by him and under conditions as he may impose, authorize such person or persons to carry firearms outside of residence.

3.

Purposes:

This Memorandum prescribes the guidelines in the implementation of the ban on the carrying of firearms outside of residence as provided for in the Implementing Rules and Regulations, Presidential Decree No. 1866, dated June 29, 1983 and as directed by PGMA. It also prescribes the conditions, requirements and procedures under which exemption from the ban may be granted.

4.

Specific Instructions on the Ban on the Carrying of Firearms:

a.

All PTCFOR are hereby revoked. Authorized holders of licensed firearms covered with valid PTCFOR may re-apply for a new PTCFOR in accordance with the conditions hereinafter prescribed.

b.

All holders of licensed or government firearms are hereby prohibited from carrying their firearms outside their residence except those covered with mission/letter orders and duty detail orders issued by competent authority pursuant to Section 5, IRR, PD 1866, provided, that the said exception shall pertain only to organic and regular employees.

5.

The following persons may be authorized to carry firearms outside of residence.

a.

All persons whose application for a new PTCFOR has been approved, provided, that the persons and security of those so authorized are under actual threat, or by the nature of their position, occupation and profession are under imminent danger.

b.

All organic and regular employees with Mission/Letter Orders granted by their respective agencies so authorized pursuant to Section 5, IRR, PD 1866, provided, that such Mission/Letter Orders is valid only for the duration of the official mission which in no case shall be more than ten (10) days.

c.

All guards covered with Duty Detail Orders granted by their respective security agencies so authorized pursuant to Section 4, IRR, PD 1866, provided, that such DDO shall in no case exceed 24-hour duration.

d.

Members of duly recognized Gun Clubs issued Permit to Transport (PTT) by the PNP for purposes of practice and competition, provided, that such firearms while in transit must not be loaded with ammunition and secured in an appropriate box or case detached from the person.

e. Authorized members of the Diplomatic Corps.

6.

Requirements for issuance of new PTCFOR:

a. Written request by the applicant addressed to Chief, PNP stating his qualification to possess firearm and the reasons why he needs to carry firearm outside of residence.

b. Xerox copy of current firearm license duly authenticated by Records Branch, FED;

c.

Proof of actual threat, the details of which should be issued by the Chief of Police/Provincial or City Directors and duly validated by C, RIID;

d. Copy of Drug Test Clearance, duly authenticated by the Drug Testing Center, if photocopied;

e. Copy of DI/ RIID clearance, duly authenticated by ODI/RIID, if photocopied;

f. Copy of Neuro-Psychiatric Clearance duly authenticated by NP Testing Center, if photocopied;

g. Copy of Certificate of Attendance to a Gun Safety Seminar, duly validated by Chief, Operations Branch, FED;

h. NBI Clearance;

i.

Two (2) ID pictures (2" x 2") taken not earlier than one (1) year from date of filing of application; and

j.

Proof of Payment

7.

Procedures:

a.

Applications may be filed directly to the Office of the PTCFOR Secretariat in Camp Crame. In the provinces, the applications may also be submitted to the Police Regional Offices (PROs) and Provincial/City Police Offices (P/CPOs) for initial processing before they are forwarded to the office of the PTCFOR Secretariat. The processors, after ascertaining that the documentary requirements are in order, shall issue the Order of Payment (OP) indicating the amount of fees payable by the applicant, who in turn shall pay the fees to the Land Bank.

b.

Applications, which are duly processed and prepared in accordance with existing rules and regulations, shall be forwarded to the OCPNP for approval.

c.

Upon approval of the application, OCPNP will issue PTCFOR valid for one (1) year from date of issue.

d.

Applications for renewal of PTCFOR shall be processed in accordance with the provisions of par. 6 above.

e.

Application for possession and carrying of firearms by diplomats in the Philippines shall be processed in accordance with NHQ PNP Memo dated September 25, 2000, with Subj: Possession and Carrying of Firearms by Diplomats in the Philippines.

8.

Restrictions in the Carrying of Firearms:

a.

The firearm must not be displayed or exposed to public view, except those authorized in uniform and in the performance of their official duties.

b.

The firearm shall not be brought inside public drinking and amusement places, and all other commercial or public establishments."

Petitioner Francisco I. Chavez, a licensed gun owner to whom a PTCFOR has been issued, requested the Department of Interior and Local Government (DILG) to reconsider the implementation of the assailed Guidelines. However, his request was denied. Thus, he filed the present petition impleading public respondents Ebdane, as Chief of PNP; Alberto G. Romulo, as Executive Secretary; and Gerry L. Barias, as Chief of the PNP-Firearms and Explosives Division. He anchored his petition on the following grounds:

**“I**

THE PRESIDENT HAS NO POWER OR AUTHORITY – MUCH LESS BY A MERE SPEECH – TO ALTER, MODIFY OR AMEND THE LAW ON FIREARMS BY IMPOSING A GUN BAN AND CANCELING EXISTING PERMITS FOR GUNS TO BE CARRIED OUTSIDE RESIDENCES.

**II**

OFFICIALLY, THERE IS NO PRESIDENTIAL ISSUANCE ON THE GUN BAN; THE PRESIDENTIAL SPEECH NEVER INVOKED POLICE POWER TO JUSTIFY THE GUN BAN; THE PRESIDENT’S VERBAL DECLARATION ON GUN BAN VIOLATED THE PEOPLE’S RIGHT TO PROTECT LIFE AND THEIR PROPERTY RIGHT TO CARRY FIREARMS.

**III**

THE PNP CHIEF HAS NO POWER OR AUTHORITY TO ISSUE THE QUESTIONED GUIDELINES BECAUSE:

- 1) THERE IS NO LAW, STATUTE OR EXECUTIVE ORDER WHICH GRANTS THE PNP CHIEF THE AUTHORITY TO PROMULGATE THE PNP GUIDELINES.
- 2) THE IMPLEMENTING RULES AND REGULATIONS OF PD 1866 CANNOT BE THE SUBJECT OF ANOTHER SET OF IMPLEMENTING GUIDELINES.
- 3) THE PRESIDENT’S SPEECH CANNOT BE A BASIS FOR THE PROMULGATION OF IMPLEMENTING GUIDELINES ON THE GUN BAN.

**IV**

ASSUMING ARGUENDO, THAT THE PNP GUIDELINES IMPLEMENT PD 1866, AND THE AMENDMENTS THERETO, THE PNP CHIEF STILL HAS NO POWER OR AUTHORITY TO ISSUE THE SAME BECAUSE –

- 1) PER SEC 6, RA 8294, WHICH AMENDS PD 1866, THE IRR SHALL BE PROMULGATED JOINTLY BY THE DOJ AND THE DILG.
- 2) SEC. 8, PD 1866 STATES THAT THE IRR SHALL BE PROMULGATED BY THE CHIEF OF THE PHILIPPINE CONSTABULARY.

**V**

THE PNP GUIDELINES VIOLATE THE DUE PROCESS CLAUSE OF THE CONSTITUTION BECAUSE:

- 1) THE RIGHT TO OWN AND CARRY A FIREARM IS NECESSARILY INTERTWINED WITH THE PEOPLE’S INHERENT RIGHT TO LIFE AND TO PROTECT LIFE. THUS, THE PNP GUIDELINES DEPRIVE PETITIONER OF THIS RIGHT WITHOUT DUE PROCESS OF LAW FOR:
  - A) THE PNP GUIDELINES DEPRIVE PETITIONER OF HIS MOST POTENT, IF NOT HIS ONLY, MEANS TO DEFEND HIMSELF.
  - B) THE QUESTIONED GUIDELINES STRIPPED PETITIONER OF HIS MEANS OF PROTECTION AGAINST CRIME DESPITE THE FACT THAT THE STATE COULD NOT POSSIBLY PROTECT ITS CITIZENS DUE TO THE INADEQUACY AND INEFFICIENCY OF THE POLICE FORCE.

- 2) THE OWNERSHIP AND CARRYING OF FIREARMS ARE CONSTITUTIONALLY PROTECTED PROPERTY RIGHTS WHICH CANNOT BE TAKEN AWAY WITHOUT DUE PROCESS OF LAW AND WITHOUT JUST CAUSE.

**VI**

ASSUMING ARGUENDO, THAT THE PNP GUIDELINES WERE ISSUED IN THE EXERCISE OF POLICE

POWER, THE SAME IS AN INVALID EXERCISE THEREOF SINCE THE MEANS USED THEREFOR ARE UNREASONABLE AND UNNECESSARY FOR THE ACCOMPLISHMENT OF ITS PURPOSE – TO DETER AND PREVENT CRIME –THEREBY BECOMING UNDULY OPPRESSIVE TO LAW-ABIDING GUN-OWNERS.

#### VII

THE PNP GUIDELINES ARE UNJUST, OPPRESSIVE AND CONFISCATORY SINCE IT REVOKED ALL EXISTING PERMITS TO CARRY WITHOUT, HOWEVER, REFUNDING THE PAYMENT THE PNP RECEIVED FROM THOSE WHO ALREADY PAID THEREFOR.

#### VIII

THE PNP GUIDELINES VIOLATE THE EQUAL PROTECTION CLAUSE OF THE CONSTITUTION BECAUSE THEY ARE DIRECTED AT AND OPPRESSIVE ONLY TO LAW-ABIDING GUN OWNERS WHILE LEAVING OTHER GUN-OWNERS – THE LAWBREAKERS (KIDNAPPERS, ROBBERS, HOLD-UPPERS, MNLF, MILF, ABU SAYYAF COLLECTIVELY, AND NPA) – UNTOUCHED.

#### IX

THE PNP GUIDELINES ARE UNJUST, OPPRESSIVE AND UNFAIR BECAUSE THEY WERE IMPLEMENTED LONG BEFORE THEY WERE PUBLISHED.

#### X

THE PNP GUIDELINES ARE EFFECTIVELY AN EX POST FACTO LAW SINCE THEY APPLY RETROACTIVELY AND PUNISH ALL THOSE WHO WERE ALREADY GRANTED PERMITS TO CARRY OUTSIDE OF RESIDENCE LONG BEFORE THEIR PROMULGATION.”

Petitioner’s submissions may be synthesized into five (5) major issues:

First, whether respondent Ebdane is authorized to issue the assailed Guidelines;

Second, whether the citizens’ right to bear arms is a constitutional right?;

Third, whether the revocation of petitioner’s PTCFOR pursuant to the assailed Guidelines is a violation of his right to property?;

Fourth, whether the issuance of the assailed Guidelines is a valid exercise of police power?; and

Fifth, whether the assailed Guidelines constitute an ex post facto law?

The Solicitor General seeks the dismissal of the petition pursuant to the doctrine of hierarchy of courts. Nonetheless, in refutation of petitioner’s arguments, he contends that: (1) the PNP Chief is authorized to issue the assailed Guidelines; (2) petitioner does not have a constitutional right to own and carry firearms; (3) the assailed Guidelines do not violate the due process clause of the Constitution; and (4) the assailed Guidelines do not constitute an ex post facto law.

Initially, we must resolve the procedural barrier.

On the alleged breach of the doctrine of hierarchy of courts, suffice it to say that the doctrine is not an iron-clad dictum. In several instances where this Court was confronted with cases of national interest and of serious implications, it never hesitated to set aside the rule and proceed with the judicial determination of the cases.[3] The case at bar is of similar import as it involves the citizens’ right to bear arms.

#### I

Authority of the PNP Chief

Relying on the principle of separation of powers, petitioner argues that only Congress can withhold his right to bear arms. In revoking all existing PTCFOR, President Arroyo and respondent Ebdane transgressed the settled principle and arrogated upon themselves a power they do not possess – the legislative power.

We are not persuaded.

It is true that under our constitutional system, the powers of government are distributed among three coordinate and substantially independent departments: the legislative, the executive and the judiciary. Each has exclusive cognizance of the matters within its jurisdiction and is supreme within its own sphere.[4]

Pertinently, the power to make laws – the legislative power – is vested in Congress.[5] Congress may not escape its duties and responsibilities by delegating that power to any other body or authority. Any attempt to abdicate the power is unconstitutional and void, on the principle that “*delegata potestas non potest delegari*” – “delegated power may not be delegated.”[6]

The rule which forbids the delegation of legislative power, however, is not absolute and inflexible. It admits of exceptions. An exception sanctioned by immemorial practice permits the legislative body to delegate its licensing power to certain persons, municipal corporations, towns, boards, councils, commissions, commissioners, auditors, bureaus and directors.[7] Such licensing power includes the power to promulgate necessary rules and regulations.[8]

The evolution of our laws on firearms shows that since the early days of our Republic, the legislature’s tendency was always towards the delegation of power. Act No. 1780,[9] delegated upon the Governor-General (now the President) the authority (1) to approve or disapprove applications of any person for a license to deal in firearms or to possess the same for personal protection, hunting and other lawful purposes; and (2) to revoke such license any time.[10] Further, it authorized him to issue regulations which he may deem necessary for the proper enforcement of the Act. [11] With the enactment of Act No. 2711, the “Revised Administrative Code of 1917,” the laws on firearms were integrated.[12] The Act retained the authority of the Governor General provided in Act No. 1780. Subsequently, the growing complexity in the Office of the Governor-General resulted in the delegation of his authority to the Chief of the Constabulary. On January 21, 1919, Acting Governor-General Charles E. Yeater issued Executive Order No. 8[13] authorizing and directing the Chief of Constabulary to act on his behalf in approving and disapproving applications for personal, special and hunting licenses. This was followed by Executive Order No. 61[14] designating the Philippine Constabulary (PC) as the government custodian of all firearms, ammunitions and explosives. Executive Order No. 215,[15] issued by President Diosdado Macapagal on December 3, 1965, granted the Chief of the Constabulary, not only the authority to approve or disapprove applications for personal, special and hunting license, but also the authority to revoke the same. With the foregoing developments, it is accurate to say that the Chief of the Constabulary had exercised the authority for a long time. In fact, subsequent issuances such as Sections 2 and 3 of the Implementing Rules and Regulations of Presidential Decree No. 1866[16] perpetuate such authority of the Chief of the Constabulary. Section 2 specifically provides that any person or entity desiring to possess any firearm “shall first secure the necessary permit/license/authority from the Chief of the Constabulary.” With regard to the issuance of PTCFOR, Section 3 imparts: “The Chief of Constabulary may, in meritorious cases as determined by him and under such conditions as he may impose, authorize lawful holders of firearms to carry them outside of residence.” These provisions are issued pursuant to the general power granted by P.D. No. 1866 empowering him to promulgate rules and regulations for the effective implementation of the decree.[17] At this juncture, it bears emphasis that P.D. No. 1866 is the chief law governing possession of firearms in the Philippines and that it was issued by President Ferdinand E. Marcos in the exercise of his legislative power.[18]

In an attempt to evade the application of the above-mentioned laws and regulations, petitioner argues that the “Chief of the PNP” is not the same as the “Chief of the Constabulary,” the PC being a mere unit or component of the newly established PNP. He contends further that Republic Act No. 8294[19] amended P.D. No. 1866 such that the authority to issue rules and regulations regarding firearms is now jointly vested in the Department of Justice and the DILG, not the Chief of the Constabulary.[20]

Petitioner’s submission is bereft of merit.

By virtue of Republic Act No. 6975,[21] the Philippine National Police (PNP) absorbed the Philippine Constabulary (PC). Consequently, the PNP Chief succeeded the Chief of the Constabulary and, therefore, assumed the latter’s licensing authority. Section 24 thereof specifies, as one of PNP’s powers, the issuance of licenses for the possession of firearms and explosives in accordance with law.[22] This is in conjunction with the PNP Chief’s “power to issue detailed implementing policies and instructions” on such “matters as may be necessary to effectively carry out the functions, powers and duties” of the PNP.[23]

Contrary to petitioner’s contention, R.A. No. 8294 does not divest the Chief of the Constabulary (now the PNP Chief) of his authority to promulgate rules and regulations for the effective implementation of P.D. No. 1866. For one, R.A. No. 8294 did not repeal entirely P.D. No. 1866. It merely provides for the reduction of penalties for illegal possession of firearms. Thus, the provision of P.D. No. 1866 granting to the Chief of the Constabulary the authority to issue rules and regulations regarding firearms remains effective. Correspondingly, the Implementing Rules and Regulations dated September 15, 1997 jointly issued by the Department of Justice and the DILG pursuant to Section 6 of R.A. No. 8294 deal only with the automatic review, by the Director of the Bureau of Corrections or the Warden of a provincial or city jail, of the records of convicts for violations of P.D. No. 1866. The Rules seek to give effect to the beneficent provisions of R.A. No. 8294, thereby ensuring the early release and reintegration of the convicts into the community.

Clearly, both P.D. No. 1866 and R.A. No. 6975 authorize the PNP Chief to issue the assailed guidelines.

Corollarily, petitioner disputes President Arroyo’s declaration of a nationwide gun ban, arguing that “she has no authority to alter, modify, or amend the law on firearms through a mere speech.”

First, it must be emphasized that President Arroyo’s speech was just an expression of her policy and a directive to her subordinate. It cannot, therefore, be argued that President Arroyo enacted a law through a mere speech.

Second, at the apex of the entire executive officialdom is the President. Section 17, Article VII of the Constitution specifies his power as Chief Executive, thus: “The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.” As Chief Executive, President Arroyo holds the steering wheel that controls the course of her government. She lays down policies in the execution of her plans and programs. Whatever policy she chooses, she has her subordinates to implement them. In short, she has the power of control. Whenever a specific function is entrusted by law or regulation to her subordinate, she may act directly or merely direct the performance of a duty.[24] Thus, when President Arroyo directed respondent Ebdane to suspend the issuance of PTCFOR, she was just directing a subordinate to perform an assigned duty. Such act is well within the prerogative of her office.

## II

Right to bear arms: Constitutional or Statutory?

Petitioner earnestly contends that his right to bear arms is a constitutionally-protected right. This, he mainly anchors on various American authorities. We therefore find it imperative to determine the nature of the right in light of American jurisprudence.

The bearing of arms is a tradition deeply rooted in the English and American society. It antedates not only the American Constitution but also the discovery of firearms.[25]

A provision commonly invoked by the American people to justify their possession of firearms is the Second Amendment of the Constitution of the United States of America, which reads:

“A well regulated militia, being necessary for the security of free state, the right of the people to keep and bear Arms, shall not be infringed.”

An examination of the historical background of the foregoing provision shows that it pertains to the citizens’ “collective right” to take arms in defense of the State, not to the citizens’ “individual right” to own and possess arms. The setting under which the right was contemplated has a profound connection with the keeping and maintenance of a militia or an armed citizenry. That this is how the right was construed is evident in early American cases.

The first case involving the interpretation of the Second Amendment that reached the United States Supreme Court is *United States vs. Miller*.<sup>[26]</sup> Here, the indictment charged the defendants with transporting an unregistered “Stevens shotgun” without the required stamped written order, contrary to the National Firearms Act. The defendants filed a demurrer challenging the facial validity of the indictment on the ground that the National Firearms Act offends the inhibition of the Second Amendment. The District Court sustained the demurrer and quashed the indictment. On appeal, the Supreme Court interpreted the right to bear arms under the Second Amendment as referring to the collective right of those comprising the Militia – a body of citizens enrolled for military discipline. It does not pertain to the individual right of citizen to bear arm. *Miller* expresses its holding as follows:

“In the absence of any evidence tending to show that possession or use of a ‘shotgun having a barrel of less than eighteen inches in length’ at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense.

The same doctrine was re-echoed in *Cases vs. United States*.<sup>[27]</sup> Here, the Circuit Court of Appeals held that the Federal Firearms Act, as applied to appellant, does not conflict with the Second Amendment. It ruled that:

“While [appellant’s] weapon may be capable of military use, or while at least familiarity with it might be regarded as of value in training a person to use a comparable weapon of military type and caliber, still there is no evidence that the appellant was or ever had been a member of any military organization or that his use of the weapon under the circumstances disclosed was in preparation for a military career. In fact, the only inference possible is that the appellant at the time charged in the indictment was in possession of, transporting, and using the firearm and ammunition purely and simply on a frolic of his own and without any thought or intention of contributing to the efficiency of the well regulated militia which the Second amendment was designed to foster as necessary to the security of a free state.”

With the foregoing jurisprudence, it is erroneous to assume that the US Constitution grants upon the American people the right to bear arms. In a more explicit language, the *United States vs. Cruikshank*<sup>[28]</sup> decreed: “The right of the people to keep and bear arms is not a right granted by the Constitution. Neither is it in any way dependent upon that instrument.” Likewise, in *People vs. Persce*,<sup>[29]</sup> the Court of Appeals said: “Neither is there any constitutional provision securing the right to bear arms which prohibits legislation with reference to such weapons as are specifically before us for consideration. The provision in the Constitution of the United States that the right of the people to keep and bear arms shall not be infringed is not designed to control legislation by the state.”

With more reason, the right to bear arms cannot be classified as fundamental under the 1987 Philippine Constitution. Our Constitution contains no provision similar to the Second Amendment, as we aptly observed in the early case of *United States vs. Villareal*:<sup>[30]</sup>

“The only contention of counsel which would appear to necessitate comment is the claim that the statute penalizing the carrying of concealed weapons and prohibiting the keeping and the use of firearms without a license, is in violation of the provisions of section 5 of the Philippine Bill of Rights.

Counsel does not expressly rely upon the prohibition in the United States Constitution against the infringement of the right of the people of the United States to keep and bear arms (U. S. Constitution, amendment 2), which is not included in the Philippine Bill. But it may be well, in passing, to point out that in no event could this constitutional guaranty have any bearing on the case at bar, not only because it has not been expressly extended to the Philippine Islands, but also because it has been uniformly held that both this and similar provisions in State constitutions apply only to arms used in civilized warfare (see cases cited in 40 Cyc., 853, note 18); x x x.”

Evidently, possession of firearms by the citizens in the Philippines is the exception, not the rule. The right to bear arms is a mere statutory privilege, not a constitutional right. It is a mere statutory creation. What then are the laws that grant such right to the Filipinos? The first real firearm law is Act No. 1780 enacted by the Philippine Commission on October 12, 1907. It was passed to regulate the importation, acquisition, possession, use and transfer of firearms. Section 9 thereof provides:

“SECTION 9. Any person desiring to possess one or more firearms for personal protection, or for use in hunting or other lawful purposes only, and ammunition therefor, shall make application for a license to possess such firearm or firearms or ammunition as hereinafter provided. Upon making such application, and before receiving the license, the applicant shall make a cash deposit in the postal savings bank in the sum of one hundred pesos for each firearm for which the license is to be issued, or in lieu thereof he may give a bond in such form as the Governor-General may prescribe, payable to the Government of the Philippine Islands, in the sum of two hundred pesos for each such firearm: PROVIDED, HOWEVER, That persons who are actually members of gun clubs, duly formed and organized at the time of the passage of this Act, who at such time have a license to possess firearms, shall not be required to make the deposit or give the bond prescribed by this section, and the bond duly executed by such person in accordance with existing law shall continue to be security for the safekeeping of such arms.”

The foregoing provision was restated in Section 887<sup>[31]</sup> of Act No. 2711 that integrated the firearm laws. Thereafter, President Ferdinand E. Marcos issued P.D. No. 1866. It codified the laws on illegal possession, manufacture, dealing in, acquisition of firearms, ammunitions or explosives and imposed stiffer penalties for their violation. R.A. No. 8294 amended some of the provisions of P.D. No. 1866 by reducing the imposable penalties. Being a mere statutory creation, the right to bear arms cannot be considered an inalienable or absolute right.

### III

#### Vested Property Right

Section 1, Article III of the Constitution provides that “no person shall be deprived of life, liberty or property without due process of law.” Petitioner invokes this provision, asserting that the revocation of his PTCFOR pursuant to the assailed Guidelines deprived him of his “vested property right” without due process of law and in violation of the equal protection of law.

Petitioner cannot find solace to the above-quoted Constitutional provision.

In evaluating a due process claim, the first and foremost consideration must be whether life, liberty or property interest exists.<sup>[32]</sup> The bulk of jurisprudence is that a license authorizing a person to enjoy a certain privilege is

neither a property nor property right. In *Tan vs. The Director of Forestry*,<sup>[33]</sup> we ruled that “a license is merely a permit or privilege to do what otherwise would be unlawful, and is not a contract between the authority granting it and the person to whom it is granted; neither is it property or a property right, nor does it create a vested right.” In a more emphatic pronouncement, we held in *Oposa vs. Factoran, Jr.*<sup>[34]</sup> that:

“Needless to say, all licenses may thus be revoked or rescinded by executive action. It is not a contract, property or a property right protected by the due process clause of the Constitution.”

Petitioner, in arguing that his PTCFOR is a constitutionally protected property right, relied heavily on *Bell vs. Burson*<sup>[35]</sup> wherein the U.S. Supreme Court ruled that “once a license is issued, continued possession may become essential in the pursuit of livelihood. Suspension of issued licenses thus involves state action that adjudicates important interest of the licensees.”

Petitioner’s reliance on *Bell* is misplaced. This case involves a driver’s license, not a license to bear arms. The catena of American jurisprudence involving license to bear arms is perfectly in accord with our ruling that a PTCFOR is neither a property nor a property right. In *Erdelyi vs. O’Brien*,<sup>[36]</sup> the plaintiff who was denied a license to carry a firearm brought suit against the defendant who was the Chief of Police of the City of Manhattan Beach, on the ground that the denial violated her constitutional rights to due process and equal protection of the laws. The United States Court of Appeals Ninth Circuit ruled that *Erdelyi* did not have a property interest in obtaining a license to carry a firearm, ratiocinating as follows:

“Property interests protected by the Due Process Clause of the Fourteenth Amendment do not arise whenever a person has only ‘an abstract need or desire for’, or ‘unilateral expectation of a benefit. x x x Rather, they arise from ‘legitimate claims of entitlement... defined by existing rules or understanding that stem from an independent source, such as state law. x x x

Concealed weapons are closely regulated by the State of California. x x x Whether the statute creates a property interest in concealed weapons licenses depends ‘largely upon the extent to which the statute contains mandatory language that restricts the discretion of the [issuing authority] to deny licenses to applicants who claim to meet the minimum eligibility requirements. x x x Where state law gives the issuing authority broad discretion to grant or deny license application in a closely regulated field, initial applicants do not have a property right in such licenses protected by the Fourteenth Amendment. See *Jacobson*, supra, 627 F.2d at 180 (gaming license under Nevada law);”

Similar doctrine was announced in *Potts vs. City of Philadelphia*,<sup>[37]</sup> *Conway vs. King*,<sup>[38]</sup> *Nichols vs. County of Sta. Clara*,<sup>[39]</sup> and *Gross vs. Norton*.<sup>[40]</sup> These cases enunciated that the test whether the statute creates a property right or interest depends largely on the extent of discretion granted to the issuing authority.

In our jurisdiction, the PNP Chief is granted broad discretion in the issuance of PTCFOR. This is evident from the tenor of the Implementing Rules and Regulations of P.D. No. 1866 which state that “the Chief of Constabulary may, in meritorious cases as determined by him and under such conditions as he may impose, authorize lawful holders of firearms to carry them outside of residence.” Following the American doctrine, it is indeed logical to say that a PTCFOR does not constitute a property right protected under our Constitution.

Consequently, a PTCFOR, just like ordinary licenses in other regulated fields, may be revoked any time. It does not confer an absolute right, but only a personal privilege to be exercised under existing restrictions, and such as may thereafter be reasonably imposed.<sup>[41]</sup> A licensee takes his license subject to such conditions as the Legislature sees fit to impose, and one of the statutory conditions of this license is that it might be revoked by the selectmen at their pleasure. Such a license is not a contract, and a revocation of it does not deprive the defendant of any property, immunity, or privilege within the meaning of these words in the Declaration of Rights.<sup>[42]</sup> The

US Supreme Court, in *Doyle vs. Continental Ins. Co.*,<sup>[43]</sup> held: “The correlative power to revoke or recall a permission is a necessary consequence of the main power. A mere license by the State is always revocable.”

The foregoing jurisprudence has been resonating in the Philippines as early as 1908. Thus, in *The Government of the Philippine Islands vs. Amechazurra*<sup>[44]</sup> we ruled:

“x x x no private person is bound to keep arms. Whether he does or not is entirely optional with himself, but if, for his own convenience or pleasure, he desires to possess arms, he must do so upon such terms as the Government sees fit to impose, for the right to keep and bear arms is not secured to him by law. The Government can impose upon him such terms as it pleases. If he is not satisfied with the terms imposed, he should decline to accept them, but, if for the purpose of securing possession of the arms he does agree to such conditions, he must fulfill them.”

#### IV

##### Police Power

At any rate, assuming that petitioner’s PTCFOR constitutes a property right protected by the Constitution, the same cannot be considered as absolute as to be placed beyond the reach of the State’s police power. All property in the state is held subject to its general regulations, necessary to the common good and general welfare.

In a number of cases, we laid down the test to determine the validity of a police measure, thus:

- (1) The interests of the public generally, as distinguished from those of a particular class, require the exercise of the police power; and
- (2) The means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.

Deeper reflection will reveal that the test merely reiterates the essence of the constitutional guarantees of substantive due process, equal protection, and non-impairment of property rights.

It is apparent from the assailed Guidelines that the basis for its issuance was the need for peace and order in the society. Owing to the proliferation of crimes, particularly those committed by the New People’s Army (NPA), which tends to disturb the peace of the community, President Arroyo deemed it best to impose a nationwide gun ban. Undeniably, the motivating factor in the issuance of the assailed Guidelines is the interest of the public in general.

The only question that can then arise is whether the means employed are appropriate and reasonably necessary for the accomplishment of the purpose and are not unduly oppressive. In the instant case, the assailed Guidelines do not entirely prohibit possession of firearms. What they proscribe is merely the carrying of firearms outside of residence. However, those who wish to carry their firearms outside of their residences may re-apply for a new PTCFOR. This we believe is a reasonable regulation. If the carrying of firearms is regulated, necessarily, crime incidents will be curtailed. Criminals carry their weapon to hunt for their victims; they do not wait in the comfort of their homes. With the revocation of all PTCFOR, it would be difficult for criminals to roam around with their guns. On the other hand, it would be easier for the PNP to apprehend them.

Notably, laws regulating the acquisition or possession of guns have frequently been upheld as reasonable exercise of the police power.<sup>[45]</sup> In *State vs. Reams*,<sup>[46]</sup> it was held that the legislature may regulate the right to bear arms in a manner conducive to the public peace. With the promotion of public peace as its objective and the revocation of all PTCFOR as the means, we are convinced that the issuance of the assailed Guidelines constitutes a reasonable exercise of police power. The ruling in *United States vs. Villareal*,<sup>[47]</sup> is relevant, thus:

“We think there can be no question as to the reasonableness of a statutory regulation prohibiting the carrying

of concealed weapons as a police measure well calculated to restrict the too frequent resort to such weapons in moments of anger and excitement. We do not doubt that the strict enforcement of such a regulation would tend to increase the security of life and limb, and to suppress crime and lawlessness, in any community wherein the practice of carrying concealed weapons prevails, and this without being unduly oppressive upon the individual owners of these weapons. It follows that its enactment by the legislature is a proper and legitimate exercise of the police power of the state.”

V

Ex post facto law

In *Mekin vs. Wolfe*,<sup>[48]</sup> an ex post facto law has been defined as one – (a) which makes an action done before the passing of the law and which was innocent when done criminal, and punishes such action; or (b) which aggravates a crime or makes it greater than it was when committed; or (c) which changes the punishment and inflicts a greater punishment than the law annexed to the crime when it was committed; or (d) which alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense in order to convict the defendant.

We see no reason to devote much discussion on the matter. Ex post facto law prohibits retrospectivity of penal laws.<sup>[49]</sup> The assailed Guidelines cannot be considered as an ex post facto law because it is prospective in its application. Contrary to petitioner’s argument, it would not result in the punishment of acts previously committed.

WHEREFORE, the petition is hereby DISMISSED.

**SO ORDERED.**

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

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[1] Section 5, Article II of the 1987 Philippine Constitution.

[2] Annex “A” of the Petition, Rollo at 60-62.

[3] See *Buklod ng Kawaning EIIB vs. Zamora*, G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718; *Fortich vs. Corona*, G.R. No. 131457, April 24, 1998, 289 SCRA 624; *Dario vs. Mison*, G.R. No. 81954, August 8, 1989, 176 SCRA 84.

[4] *People vs. Vera*, 65 Phil. 56 (1937).

[5] Section 1, Article VI of the 1987 Constitution.

[6] Freund, Sutherland, Howe, Brown, *Constitutional Law Cases and Other Problems*, Fourth Edition, 1977, at 653.

[7] 51 Am. Jur. 2d § 51.

[8] 51 Am Jur 2d § 52.

[9] “AN ACT TO REGULATE THE IMPORTATION, ACQUISITION, POSSESSION, USE, AND TRANSFER OF FIREARMS, AND TO PROHIBIT THE POSSESSION OF SAME EXCEPT IN COMPLIANCE WITH THE PROVISIONS OF THIS ACT.”

[10] SECTION 11. An application for a personal license to possess firearms and ammunition, as herein provided

for, made by a resident of the city of Manila, shall be directed to the chief of police of said city, and it shall be the duty of the chief of the police to forward the application to the Governor-General with his recommendations. Any such application made by a resident of a province shall be directed to the governor of the province who shall make his recommendations thereon and forward the application to the senior inspector of the Constabulary of the province, who in turn shall make his recommendations thereon and forward the application, through official channels, to the Governor-General. The Governor-General may approve or disapprove any such application, and, in the event of the approval, the papers shall be transmitted to the Director of Constabulary with instructions to issue the license as hereinbefore provided. The Director of Constabulary, upon receiving and approving the bond, or receiving the certificate of deposit duly endorsed to the order of the Insular Treasurer, shall issue the license for the time fixed for such license as hereinafter provided, and the Director of Constabulary shall transmit the license direct to the applicant, and shall notify the chief of police of the city of Manila if the applicant resides in Manila, otherwise the senior inspector of Constabulary of the province in which the applicant resides. The Director of Constabulary shall file the certificate of deposit in his office. It shall be the duty of all officers through whom applications for licenses to possess firearms are transmitted to expedite the same.

[11] SECTION 30. The Governor-General is hereby authorized to issue executive orders prescribing the forms and regulations which he may deem necessary for the proper enforcement of the provisions of this Act.

[12] SEC. 882. Issuance of special hunting permits. – The Department Head may authorize the Chief of Constabulary to issue special hunting permits to persons temporarily visiting the Philippine Islands, without requiring a bond or deposit as a guarantee of security for their arms and ammunition. Such special hunting permit shall be valid only during the temporary sojourn of the holder in the Islands, shall be nontransferable, and shall be revocable at the pleasure of the Department Head.

SEC. 887. License required for individual keeping arms for personal use. – Security to be given. – Any person desiring to possess one or more firearms for personal protection or for use in hunting or other lawful purposes only, and ammunition thereof, shall make application for a license to possess such firearm or firearms or ammunition as hereinafter provided. Upon making such application, and before receiving the license, the applicant shall, for the purpose of security, make a cash deposit in the postal savings bank in the sum of one hundred pesos for each firearm for which the license is to be issued, and shall indorse the certificated of deposit therefor to the Insular Treasurer; or in lieu thereof he may give a bond in such form as the Governor-General may prescribed, payable to the Government of the Philippine Islands, in the sum of two hundred pesos for each such firearms.

SEC. 888. Mode of making application and acting upon the same. – An application for a personal license to possess firearms and ammunition, as herein provided, made by a resident of the City of Manila, shall be directed to the Mayor of said city, whose duty it shall be to forward the application to the Governor-General, with his recommendation. Applications made by residents of a province shall be directed to the governor of the same, who shall make his recommendation thereon and forward them to the Governor-General, who may approve or disapprove any such application.

SEC. 889. Duration of personal license. – A personal firearms license shall continue in force until the death or legal disability of the licensee, unless, prior thereto, the license shall be surrendered by him or revoked by authority of the Governor-General.

SEC. 899. Revocation of firearms license by Governor-General. – Any firearms license may be revoked at any time by order of the Governor-General.

SEC. 905. Forms and regulations to be prescribed by Governor-General. – The Governor-General shall prescribe

such forms and promulgate such regulations as he shall deem necessary for the proper enforcement of this law.

[13] “(Delegating the CPC to Approve/Disapprove Applications)

15. In carrying out the provisions of Sections eight hundred and eighty-one, eight hundred and eighty-two, eighty hundred and eighty-eight, as amended by Section two of Act two thousand seven hundred and seventy-four, eight hundred and ninety-one and eight hundred and ninety-two of the Administrative Code, empowering the Governor-General to approve and disapprove applications for personal, special, and hunting licenses to possess firearms and ammunition, the Chief of Constabulary is authorized and directed to act for the Governor-General.”

[14] Issued on December 5, 1924 by Governor-General Leonard Wood.

[15] “Pursuant to the provisions of Section 905, Administrative Code, as amended, empowering the President of the Philippines to prescribe regulations for the enforcement of the provisions of the law relating to the possession, use of firearms, etc., the following regulations are hereby promulgated.

SECTION 1. In carrying out the provision of Sections 881, 882 and 888 of the Revised Administrative Code, empowering the President of the Philippines to approve or disapprove applications for personal, special and hunting license to possess firearms and ammunition, the Chief of Constabulary or his representative is authorized and directed to act for the President.

SECTION 2. In carrying out the provisions of Section 899 of the Revised Administrative Code, empowering the President of the Philippines to revoke any firearm license anytime, the Chief of Constabulary is authorized and directed to act for the President.”

[16] “CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES.”

[17] Section 8 of P.D. No. 1866.

[18] Baylosis vs. Chavez, Jr., G.R. No. 95136, October 3, 1991, 202 SCRA 405.

[19] “AN ACT AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED “CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR RELEVANT PURPOSES.” Issued on June 29, 1983.

[20] Section 6 of R.A. No. 8294 provides:

“SECTION 6. Rules and Regulations. – The Department of Justice and the Department of the Interior and Local Government shall jointly issue, within ninety (90) days after the approval of this Act, the necessary rules and regulations pertaining to the administrative aspect of the provisions hereof, furnishing the Committee on Public Order and Security and the Committee on Justice and Human Rights of both Houses of Congress copies of such rules and regulations within thirty (30) days from the promulgation hereof.

[21] “AN ACT ESTABLISHING THE PHILIPPINE NATIONAL POLICE UNDER A REORGANIZED DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT, AND FOR OTHER PURPOSES.”

Approved December 13, 1990.

[22] Under Section 2 (11), Chapter 1, Book 7 of Executive Order No. 292, the “Administrative Code of 1987,” the term licensing includes agency process involving the “grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification or conditioning of a license.”

[23] Section 26 of R.A. No. 6975.

[24] Chapter 7, Book IV of E.O. No. 292.

[25] Under the laws of Alfred the Great, whose reign began in 872 A.D., all English citizens, from the nobility to the peasants, were obliged to privately purchase weapons and be available for military duty.[25] This body of armed citizens was known as the “fyrd.”

Following the Norman conquest, many of the Saxon rights were abridged, however, the right and duty of arms possession was retained. Under the Assize of Arms of 1181, “the whole community of freemen” is required to possess arms and to demonstrate to the Royal officials that each of them is appropriately armed.

The Tudor monarchs continued the system of arm ownership and Queen Elizabeth added to it by creating what came to be known as “train bands” that is, the selected portions of the citizenry chosen for special training. These “trained bands” were distinguished from the “militia” which term was first used during the Spanish Armada crisis to designate the entire of the armed citizenry.

The militia played a pivotal role in the English political system. When civil war broke out in 1642, the critical issue was whether the King or Parliament had the right to control the militia. After the war, England, which was then under the control of a military government, ordered its officers to “search for and seize all arms” owned by Catholics, “opponents of the government,” or “any other person whom the commissioners had judged dangerous to the peace of the Commonwealth.”

The restoration of Charles II ended the military government. Charles II opened his reign with a variety of repressive legislation. In 1662, a Militia Act was enacted empowering officials to “search and to seize all arms in the custody or possession of any person or persons whom the said lieutenants or any two or more of their deputies shall judge dangerous to the peace of the kingdom.” Such seizures of arms continued under James I, who directed them particularly against the Irish population.

In 1668, the government of James was overturned in a peaceful uprising which came to be known as “The Glorious Revolution.” Parliament promulgated a Declaration of Rights, later enacted as the Bill of Rights. Before coronation, James’ successor, William of Orange, was required to swear to respect these rights. The Bill of Rights, as drafted in the House of Commons, simply provided that “the acts concerning the militia are grievous to the subject” and “it is necessary for the public safety that the subjects, which are protestants, should provide and keep arms for the common defense; And that the arms which have been seized, and taken from them, be restored.” The House of Lords changed this to a more concise statement: “That the subjects which are Protestant may have arms for their defense suitable to their conditions and as allowed by law.”

In the colonies, the prevalence of hunting as means of livelihood and the need for defense led to armament statutes comparable to those of the early Saxon times. When the British government began to increase its military presence therein in the mid-eighteenth century, Massachusetts responded by calling upon its citizens to arm themselves in defense. In September 1774, an incorrect rumor that British troops killed colonists prompted 60,000 citizens to take arms. A few months later, when Patrick Henry delivered his famed “Give me liberty or give me death” speech, he spoke in support of a proposition “that a well regulated militia, composed of gentlemen and

freemen, is the natural strength and only security of a free government...”

When the first Congress convened for the purpose of drafting a Bill of Rights, it delegated the task to James Madison. Madison did not write upon a blank tablet. Instead, he obtained a pamphlet listing the States’ proposals for a Bill of Rights and sought to produce a briefer version incorporating all the vital proposals of such States. Madison proposed among other rights: “The right of the people to keep and bear arms shall not be infringed; a well armed and regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service.” In the House, this was initially modified so that the militia clause came before the proposal recognizing the right. The proposal finally passed the House in its present form: “A well regulated militia, being necessary for the security of free state, the right of the people to keep and bear arms, shall not be infringed.” In this form it was submitted to the Senate, which passed it the following day.

**[26] 307 U.S. 174 (1939).**

[27] 131 Federal Reporter, 2d Series, 916.

[28] 92 U.S. 542, 23 L. Ed. 588.

**[29] 204 N.Y. 397, 97 N.E. 877.**

[30] 28 Phil. 390 (1914).

[31] Supra.

[32] Bzdzuich vs. U.S. Drug Enforcement Admin., 76 F 3d 738, 1996 FED App. 59P (6th Cir. 1996).

[33] G.R. No. L-24548, October 27, 1983, 125 SCRA 302. See also Pedro vs. Provincial Board of Rizal, 56 Phil. 123 (1931).

[34] G.R. No. 101083, July 30, 1993, 224 SCRA 792, penned by Chief Justice Hilario G. Davide, Jr.

**[35] 402 U.S. 535 (1971).**

[36] 680 F 2d 61 (1982).

[37] 01-CV-3247, August 2002.

[38] 718 F. Supp. 1059 (1989).

[39] 223 Cal. App. 3d 1236, 273 Cal. Rptr. 84 (1990).

[40] 120 F. 3d 877 (1997).

[41] Stone vs. Fritts, 82 NE 792 (1907) citing Calder vs. Kurby, 5 Gray [Mass.] 597; Freleigh vs. State, 8 Mo. 606; People vs. New York Tax, etc., Com’rs, 47 N.Y. 501; State vs. Burgoyne, 75 Tenn. 173, 40 Am. Rep. 60.

[42] Commonwealth vs. Kinsley, 133 Mass. 578.

[43] 94 U.S. 535, 540 24 L.Ed.148.

[44] 10 Phil. 637 (1908).

[45] Calvin vs. Superior Court of San Francisco, 70 Cal 2d 851, 76 Cal Rptr 642, 452 P2d 930; State vs. Robinson (Del Sup) 251 A2d 552; People vs. Brown, 253 Mich 537, 235 NW 245, 82 ALR 341.

**[46] 121 N.C. 556, 557, 27 S.E. 1004, 1005 (1897).**

[47] 28 Phil. 390 (1914).

[48] 2 Phil. 74 (1903).

[49] Lacson vs. The Executive Secretary, G.R. No. 128096, January 20, 1999, 301 SCRA 298.

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