

TEODORO ABUEVA ET AL., PETITIONERS, VS. LEONARD WOOD ET, AL., RESPONDENTS.*G.R. No. 21327. January 14, 1924*

Ponente: JOHNSON, J.

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This is an original action commenced in the Supreme Court by the petitioners for the writ of mandamus, to compel the respondents to exhibit to the petitioners and to permit them to examine all the vouchers and other documentary proofs in their possession, showing the disbursements and expenditures made by them out of the funds of the Independence Commission. To the petition each of the respondents demurred. In order that there may be a clear understanding of the arguments in support of the demurder, a statement of the facts as they appear in the petition becomes necessary. They are:

- (1) That the petitioners are and have been for more than six months members of the Independence Commission, created by virtue of the Concurrent Resolution No. 20 (vol. 14, Public Laws, p. 343), adopted on the 7th day of November, 1918, by the Philippine Legislature; and that the creation of said Independence Commission had been confirmed and ratified by Joint Resolution No. 13 (vol. 14, Public Laws, p. 342), adopted by the Philippine Legislature on the 8th day of March, 1919;
- (2) That all and each one of the petitioners are actually members of the Philippine Legislature, elected at the general election held on the 6th day of June, 1922; that the first twenty-six of the petitioners are members of the House of Representatives and the last four are members of the Senate of the Philippine Islands; that they all belong to the democratic party;
- (3) That the respondent Leonard Wood is the Governor-General of the Philippine Islands, with his residence and office in the City of Manila; that Manuel L. Quezon and Manuel Roxas are Presidents of the Independence Commission; that Paciano Dizon is the Acting Auditor of the Philippine Islands; that Teodoro M. Kalaw is the Executive Secretary of the Independence Commission, with a salary of P12,000 per annum, and that Fernando Mariano Guerrero is the Secretary of the Independence Commission;
- (4) That by Act No. 2933 the Legislature of the Philippine Islands provided for a standing appropriation of one million pesos (P1,000,000) per annum, payable out of any funds in the Insular Treasury, not otherwise appropriated, to defray the expenses of the Independence Commission, including publicity and all other expenses in connection with the performance of its duties; that said appropriation shall be considered as included in the annual appropriation for the Senate and the House of Representatives, at the rate of P500,000 for each house, although the appropriation act hereafter approved may not make any specific appropriation for said purpose; with the proviso that no part of said sum shall be set upon the books of the Insular Auditor until it shall be necessary to make the payment or payments authorized by said act;
- (5) That the petitioners are citizens and taxpayers and persons interested in knowing how the public funds are expended; that as members of the Legislature they are entrusted with the honest investment, disposition, and

administration of the public funds of the Government; that as members of the Independence Commission they are legally obliged to prevent the funds of said Commission from being squandered, and to prevent any investments and illicit expenses in open contravention of the purposes of the law ; that the petitioners have verbally and by writing requested the respondents many times to exhibit to them and to permit them to see and examine the vouchers and other documentary proofs relating to the expenditures and payments made out of the funds appropriated for the use of the Independence Commission;

(6) That notwithstanding the fact that the original vouchers showing the expenses paid out of the Independence Commission fund are in the possession of the respondent Paciano Dizon, as Acting Insular Auditor, who is under the control and authority of the respondent Leonard Wood as Governor-General; and notwithstanding the fact that the duplicates of said vouchers are in the possession of the officers of the Independence Commission, Manuel L. Quezon, Manuel Roxas, Teodoro M. Kalaw, and Fernando Mariano Guerrero, said respondents taking advantage of all classes of pretexts and subterfuges, have denied and continue denying to permit the petitioners from examining said vouchers and documentary proofs of the expenditures of the funds of said Independence Commission, thus trampling upon and denying the rights of the petitioners in their capacity as citizens of the Philippine Islands, as members of the Legislature, and as members of the Independence Commission, and inflicting an unpardonable offense upon the electors of the Philippine Islands, who confided their votes and their representation in the petitioners;

(7) That the petitioners not only have a recognized right under the law, but also the important duty of knowing how the funds of the Commission are managed; that much of the funds of the Independence Commission is being used for purposes contrary to the Concurrent Resolution No. 20 of the 7th day of November, 1918;

(8) That the petitioners are without other plain, speedy, and adequate remedy.

To the petition the Attorney-General, Antonio Villa Real, appeared as attorney for the respondents Leonard Wood, as Governor-General, Manuel L. Quezon and Manuel Roxas as Chairmen of the Independence Commission, and entered a special appearance for the purpose of objecting to the jurisdiction of the court over his clients, upon the ground, first, that Leonard Wood, as Governor-General of the Philippine Islands and head of the executive department of the Philippine Government, is not subject to the control or supervision of the courts, and second, that Manuel L. Quezon and Manuel Roxas, as Chairmen of the Independence Commission, are mere agents of the Philippine Legislature and cannot be controlled or interfered with by the courts.

The Attorney-General appeared on behalf of Paciano Dizon, as -Acting Auditor of the Philippine Islands, and demurred to the petition upon the ground: First, that the court has no jurisdiction of the subject of the action because section 24 of the Jones Law provides that: "The administrative jurisdiction of the Auditor over accounts, whether of funds or property, and all vouchers and records pertaining thereto, shall be exclusive;" and also because the determination of whether the accounts of the expenses of the Commission of Independence should be shown to the plaintiffs or not, is a question of policy and administrative discretion, and is therefore not justiciable; Second, that the complaint does not state a cause of action in that (a) there is no provision of law making it the duty of the Auditor to exhibit the vouchers of expenses of the Independence Commission to anybody that may ask for the privilege, and it is a well-established rule that mandamus will not issue if there is no legal duty to be enforced; (b) the work of the Independence Commission is largely of a political and confidential nature, so that the granting of the writ to compel the exhibition of its records to the plaintiffs or to the public in general would be contrary to public interest; (c) the plaintiffs have another plain, speedy, and adequate remedy at law, to wit: by addressing their petition to the Independence Commission or to the Philippine Legislature itself, of both of which bodies the said plaintiffs are members;

Third, the plaintiffs have no beneficial interest in the act which they seek to have performed, or any particular right to be protected thereby, independent of that which they hold in common with the public at large, to make them proper parties to these proceedings and to entitle them to maintain the same;

Fourth, that the complaint is ambiguous, unintelligible, and uncertain.

The Attorney-General appeared on behalf of the respondents Teodoro M. Kalaw and Fernando Mariano Guerrero, and demurred to the petition upon the following grounds:

First, that the court has no jurisdiction of the subject matter of the action, because (a) the Commission of Independence is a commission of the Philippine Legislature; that the funds appropriated by Act No. 2933 to defray the expenses of said Commission is, under the same law, deemed a part of the appropriation for the Legislature; that the vouchers and other documents relative to the disbursement of said funds form a part of the record of the Legislature, over which the Legislature has exclusive control; that it is for the Legislature to decide whether or not its record should be shown to the public, and that the courts cannot determine that question without encroaching upon the domain of a coordinate branch of the government; and (b) that said respondents are not officers with specific duties assigned by law but are acting as mere agents of the Philippine Legislature, and as agents of the Legislature their action cannot be controlled by the court;

Second, that the petitioners have no beneficial interest in the act which they seek to have performed, or any right to be protected thereby, independent from that which they hold in common with the public at large, to make them proper parties to the proceedings and to entitle them to maintain the same;

Third, that there is a misjoinder of parties defendant, in that the respondents are not proper parties to these proceedings for the reason that, as mere officers of the Commission of Independence, they have neither the right nor the power to exhibit the records of the said Commission without the authorization or consent of the latter; Fourth, that the complaint does not state facts sufficient to constitute a cause of action, in that: (a) there is no provision of law making it the duty of the Philippine Legislature, of the Commission of Independence, and much less of both or either of these respondents, to exhibit the records of the Commission to any person that may ask for the same; (b) the duties sought to be enforced by the petitioners, granting that they exist, are, by nature, discretionary and political, their performance being left to the judgment of these respondents or of their superiors; (c) that the plaintiffs have another plain, speedy and adequate remedy, to wit: by addressing their petition to the Commission of Independence or, to the Philippine Legislature itself. The complaint does not show that this has been done. The plaintiffs not having exhausted their remedy at law, they are not entitled to the extraordinary remedy of mandamus; (d) that the granting will be prejudicial to the public interest;

Fifth, the petition is ambiguous, unintelligible, and uncertain.

The particular defense presented by each of the respondents has been set out in full in order that their respective positions might be clearly shown. At the close of the argument each requested ten days in which to present a memorandum in support of his respective contention. Later, the Attorney-General presented an extensive memorandum for the respondents in support of his contention. The petitioners failed to present a memorandum in support of their contention.

The petition calls upon the judicial department of the Government to direct some of the officials of the executive and legislative departments to permit the petitioners to see and examine the vouchers showing the various expenditures of the "Independence Commission," out of the appropriation authorized by Act No. 2933. The petition presents no question concerning the legality of said appropriation. That would be quite a different question from the one which we are considering. The petition presents but one question and that is: Has the

judicial department of the Government jurisdiction or authority to direct either or both of the other departments of the Government to do or to perform any duty which pertains particularly to those departments of the Government?

The question presented is not a new one, and this is not the first time that it has been presented to the courts for solution. Neither is it the first time it has been presented to the courts here.

The Government of the United States in the Philippine Islands is divided under its charter or constitution (the Organic Act) into three great, separate, distinct, and independent departments; the executive, the legislative, and the judicial. The duties of each department are well defined and limited to certain fields of governmental operation. This government is modeled after the Federal or state governments of the United States, and 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.

We shall consider the questions in the order in which they have been argued by the respondents.

First. Have the courts of the Philippine Islands jurisdiction to issue the writ of mandamus against Leonard Wood, as Governor-General, to compel him to permit the petitioners to see and examine the vouchers in question? In the first place section 222 of Act No. 190 provides generally when courts may issue the writ of mandamus. Said section provides that "when the complaint in an action in a court of first instance alleges that any inferior tribunal, corporation, board, or person unlawfully neglects the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes the plaintiff from the use and enjoyment of a right or office to which he is entitled and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person, and the court, on trial, finds the allegations of the complaint to be true, it may, if there is no other plain, speedy, and adequate remedy in the ordinary courts (course) of law, render a judgment granting a peremptory order against the defendant, commanding him, immediately after the receipt of such order, or at some other specified time, to do the act required (by law or resulting from an office, trust, or station) to be done to protect the rights of the plaintiff." Section 515 of Act No. 190 confers upon the Supreme Court the same powers and duties conferred upon the courts of first instance by section 222.

It will be noted from said section 222 (and 515) that in order for the courts to issue the extraordinary remedy of mandamus, it must be shown that the persons mentioned therein have unlawfully neglected "the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station," or unlawfully excluded "the plaintiff from the use and enjoyment of a right or office to which he is entitled, etc."

There is no allegation in the petition in the present case that Leonard Wood, as Governor-General, has unlawfully neglected the performance of an act which the law specially enjoins as a duty upon him resulting from his office, trust, or station, or has unlawfully excluded the plaintiffs from the use or enjoyment of a right or office to which they are entitled. The only allegation in the complaint relating to the duty or the neglected duty on the part of Leonard Wood as Governor-General is, "that the original of said vouchers are in possession of the respondent Paciano Dizon as Acting Insular Auditor, who is under his authority and high general inspection as Governor-General." There is no allegation or intimation in the petition that Leonard Wood, as Governor-General, has neglected the performance of an act which the law specially enjoins upon him as a duty resulting from an office, trust, or station or has unlawfully excluded the petitioners from the use or enjoyment of a right or office to which they are entitled.

The failure of sufficient allegations in the complaint might therefore be sufficient reason for denying the right prayed for. The demurrer, however, is not based upon that ground. It is based upon the ground that this department of the Government, even though the allegations of the petition were sufficient, is without authority or jurisdiction to grant the remedy prayed for. The Attorney-General preferred to place his objection upon broader

grounds than the mere failure of allegations in the petition.

The Attorney-General challenges the attention of the petitioners upon the question of jurisdiction. The petitioners accepted the challenge and the cause was argued upon the theory that the courts have no jurisdiction at all in the premises to grant the remedy prayed for as against the Governor-General of the Philippine Islands. The question whether or not the courts have jurisdiction to control the official acts of the executive and legislative departments of the Government has come before the courts a great many times. The courts in the United States have not always been uniform in their conclusion.

The question was presented to this court in 1910 in the case of *Severino vs. Governor-General* (16 Phil., 366). In that case an original petition was presented in the Supreme Court, praying for the writ of mandamus against the Governor-General of the Philippine Islands to compel him to call a special election for the purpose of electing a municipal president in the town of Silay. After a very careful consideration of the question and the power of this court to control the action of the Governor-General by mandamus, the court announced, through a very extended opinion by Mr. Justice Trent, that we could not and should not entertain a complaint which seeks to control or interfere with the official duties of the Governor-General. In the course of that decision practically every case which had been decided up to that time, pro and con, was carefully considered by the court. After a full consideration of all of the decisions pro and con, the conclusion was reached that the better doctrine to be adopted in the Philippine Islands was, that which the court then adopted, to the effect that the judicial department would not interfere by mandamus or otherwise for the purpose of controlling or directing the action of the officials of a coordinate department of the Government.

The writ of mandamus was originally a prerogative writ and issued only by the King or the representative of the Sovereign. It was called a prerogative writ from the fact that it proceeded from the King himself in his Court of King's Bench, superintending the police and preserving the peace of the realm, and it was granted where one is entitled to an office or function and there was no other remedy. (Opinion of Lord Mansfield, Chief Justice, in the case of *King vs. Barker*, 1 Black. W., 352.)

Blackstone terms the writ of mandamus "a high prerogative writ of a most extensive remedial nature" (3 Blackstone Commentaries, 110) and it is uniformly referred to in the earlier decisions as a prerogative remedy,, and spoken of by many judges as one of the flowers of the King's Bench. It is remedy of very ancient origin, so ancient that Dr. High in his work on Extraordinary Legal Remedies says that its early history is involved in obscurity and has been the cause of much curious research and of many conflicting opinions. It seems, originally, to have been one of that large class of writs or mandates by which the Sovereign of England directed the performance of any desired act by his subjects. It finally, in the time of the reigns of Edward II and Edward III, came to be known as a judicial writ and was issued by authority of the courts. In the United States, however, and in all of the states of the Union the writ of mandamus has never been regarded as a prerogative writ. It has always been regarded as a judicial remedy. It is now generally considered as an ordinary action obtained by petition, demurrer, and answer, as any other remedy is obtained through the courts.

One of the first cases, and perhaps the first which came before the Supreme Court of the United States in which the writ of mandamus was prayed for against an officer of the executive department of the Government, was that of *Marbury vs. Madison* (1 Cranch, U. S.f 137-172). In that case Marbury had been appointed as a justice of the peace for the City of Washington, D. C, by President Adams, as one of his last official acts as President of the United States. The commission of the appointee was properly executed, but had not been delivered at the time when President Adams ceased to be President of the United States and Mr. Jefferson became President. Mr. Jefferson directed that the commission appointing Mr. Marbury should not be delivered. As a result, an action was commenced against Mr. Madison to obtain the writ of mandamus, requiring him to deliver said commission. The

Supreme Court, after due deliberation and consideration of its own powers in the premises, throughfi a very able and learned opinion of Chief Justice Marshall, reached the conclusion that it had no power or jurisdiction to issue the writ of mandamus, and that, in the face of the fact that the Congress of the United States had provided for the appointment of said justice of the peace and the issuing of a commission of appointment. To have required Mr. Madison to deliver the commission of appointment, would have been an interference with the discretion and duties of the executive department of the Government, which the Supreme Court of the United States positively refused to do upon the ground that the different departments of the government were separate and independent, and that one department had no right, authority or jurisdiction to intervene in the performance of the duties of the other for the purpose of directing and controlling those duties. The delivery of the commission of appointment to Mr. Marbury was entirely within the discretion of the executive department of 'the government.

Among the numerous cases which have been brought before the courts, involving the question of the right of the courts to intervene in the administration of the other independent departments of the government, we find one of the best-reasoned cases in that of Sutherland vs. Governor (29 Mich., 320). The decision in that case was rendered by Mr. Justice Cooley, one of the greatest and ablest jurists who ever sat upon any of the courts in the United States. In that case the Legislature of the State of Michigan had by statute authorized the Governor of the state to issue a patent to certain public lands when certain improvements had been made thereon by any citizen of the state. Mr. Sutherland claimed that he had complied with the law and requested the Governor to issue to him a patent for the particular land. The Governor refused for reasons which were sufficient for himself. A petition for the writ of mandamus was presented in the Supreme Court, which was denied upon the ground that the court was without jurisdiction to direct the Governor of the state in the performance of any duty which pertained to his particular department. In the course of that opinion, Mr. Justice Cooley, speaking for the court, said:

"There is no very clear and palpable line of distinction between those duties of the governor which are political, and those which are to be considered ministerial merely; and if we should undertake to draw one, and to declare that in all cases falling on one side the line the governor was subject to judicial process, and in all falling on the other he was independent of it, we should open the doors to an endless train of litigation, and the cases would be numerous in which neither the governor nor the parties would be able to determine whether his conclusion was, under the law, to be final, and the courts would be appealed to by every dissatisfied party to subject a coordinate department of the government to their jurisdiction. However desirable a pcwer in the judiciary to interfere in such cases might seem from the standpoint of interested parties, it is manifest that harmony of action between the executive and judicial departments would be directly threatened, and that exercise of such power could only be justified on most imperative reasons. Moreover, it is not customary in our republican government to confer upon the governor duties merely ministerial, and in the performance of which he is to be left to no discretion whatever; and the presumption in all cases must be, where a duty is devolved upon the chief executive of the State rather than upon an inferior officer, that it is so because his superior judgment, discretion, and sense of responsibility were confided in for a more accurate, faithful, and discreet performance than could be relied upon if the duty were devolved upon an officer chosen for inferior duties. * * *

"We are not disposed, however, in the present case, to attempt on any grounds to distinguish it from other cases of executive duty with a view to lay down a narrow rule which, while disposing of this motion, may leave the grave question it presents to be presented again and again in other cases which the ingenuity of counsel may be able to distinguish in some minor particulars from the one before us. If a broad general principle underlies all these cases, and requires the same decision in all, it would scarcely be respectful to the governor, or consistent with our own sense of duty, that we should seek to avoid its application and strive to decide each in succession upon some narrow and perhaps technical point peculiar to the special case, if such might be discovered."

The Government of the United States in the Philippine Islands is one whose powers have been carefully apportioned between three distinct departments which have their powers alike limited and defined, and are of equal dignity and within their respective spheres of action equally independent. It is a maxim, under the Government of the United States, that the legislature cannot dictate to the courts what their judgments shall be, or set aside or alter such judgments after they had been duly considered and rendered. If it could, says Mr. Justice Cooley, constitutional liberty would cease to exist; and if the legislature could in like manner override executive action also, the government would become only a despotism under popular forms. On the other hand, it would be readily conceded that no court can compel the legislature to make or to refrain from making laws, or to meet or adjourn at its command, or to take any action whatsoever, though the duty to take it be made ever so clear by the constitution or the laws. If the courts could intervene in the administration of the other independent departments of the government or vice versa, they would break away from those checks and balances of government which were meant, under our system of government, to be checks of cooperation and not of antagonism or mastery, and would concentrate in their own hands something at least of the power which the people, either directly or by the action of their representatives, decided to entrust to the other departments of the government.

Under the form of government established by the United States in the Philippine Islands, one department of the government has no power or authority to inquire into the acts of another, which acts are performed within the discretion of the other department. That doctrine has been uniformly maintained from the very commencement of the government, not only in the Government of the United States in the Philippine Islands, but as well in the Government of the United States and that of the States. The absurdity of any other rule is manifest upon the slightest meditation. By the organic law of the Philippine Islands the Governor-General is invested with certain important political powers, in the exercise of which he is to use his own discretion and is accountable only to his country in his political character and to his own conscience.

The judicial and executive departments of the government are distinct and independent, and neither is responsible to the other for the performance of its duties and neither can enforce the performance of the duties of the other. The dangers and difficulties which would grow out of the adoption of a contrary rule are, by Chief Justice Taney in the case of *Luther vs. Borden* (7 Howard, U. S., 1, 44), clearly and ably pointed out.

No government past or present, under the American flag, has more carefully and safely guarded and protected by law the individual rights of life and property of its citizens, than the Government of the United States and of the various States of the Union. Each of the three departments of the government has separate and distinct functions to perform in this great labor. The history of the United States covering nearly a century and a half discloses the fact that each department has performed its part well. No one department of the government can or ever has claimed, within its discretionary power, a greater zeal than the others in its desire to promote the welfare of the individual citizen and to protect his rights. They are all joined together in their respective spheres, harmoniously working to maintain good government, peace, and order, to the end that the rights of each citizen be equally protected. No one department can claim that it has a monopoly of these benign purposes of the government. Each department has an exclusive field within which it can perform its part within certain discretionary limits. No other department can claim a right to enter these discretionary limits and assume to act there. No presumption of an abuse of these discretionary powers by one department will be considered or entertained by another. Such conduct on the part of one department, instead of tending to conserve the government and the rights of the people, would directly tend to destroy the confidence of the people in the government and to undermine the very foundations of the government itself, and lead to disaster, confusion, and uncertainty. (*Barcelon vs. Baker and Thompson*, 5 Phil., 87.)

No well-organized government or business even, can be managed if one department can enter upon the field of

another and attempt to administer or interfere with the administration of the other. Suppose, for example, the chief of one department of the government, whose duties are well defined and whose field of operation is well delimited, should attempt to enter upon the field of another coordinate and equal department and to interfere with the administration of that department and to direct its affairs, disorder and confusion would immediately arise. This illustration of the interference« of one department with another in any branch of the government fully demonstrates what would result from an interference by one of the great departments of the government with the administration of another.

Of course, nothing which has been said here can be construed to mean that the Governor-General might not, if the circumstances justified it, exhibit and deliver to the petitioners the vouchers in question if in his judgment he thought it was wise to do for the best interest and highest welfare of the people of the Philippine Islands. Whether such inspection and examination should be granted, lies within the absolute discretion of the Governor-General. If he should deem it important and advisable to exhibit the vouchers in question to the petitioners or to the public in order that the taxpayers might know in what manner their contributions to the government are expended, that is a question for him to decide. It is purely a political question, and lies within the breast of the Governor-General. The responsibility to decide that question rests with him and his conscience to act as he deems wise in accordance with the best interest and the highest welfare of the people. It was argued at the hearing of the present case that the Philippine Government was a government of laws and not of men, and that no individual or officer within the state was above the law, and to deny the petitioners the right which they claim would be to recognize the doctrine that some officials of the government are not governed by the law.

It was urged by the petitioners that in the 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. As a legal proposition, that contention has much weight. But, as was said in the case of *People ex rel. vs. Bissell* (19 I11., 229) : "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 (the executive and legislative departments) must, in order to make this Utopian system perfect, have the power to compel us (the courts) to do right in every case. May it not be as well supposed that we (the courts) 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."

In the performance of those independent duties assigned to each department of the government, a discretion was given. Such duties were assigned to the respective departments upon the theory that by reason of the machinery of government furnished to each department, they could be better and more efficiently performed by the particular department to which they had been assigned. Under the theory of the three distinct and independent departments of the government, it was not intended that one should encroach upon the field of duty of the other. It was not intended by the framers of the theory of our government that the duties which had been assigned to the executive should be performed by the legislative, nor that the duties which had been assigned to each of them should be performed and directed by the judicial department. The reason why the courts will not entertain jurisdiction to control or direct the action of the executive or legislative departments of the government, is not that either of said departments or the officers thereof are above the law, but because the people, in the organization of their government, deemed it wise to impose such duties upon those departments. If the courts should take jurisdiction for the purpose of controlling the acts of the executive and legislative departments of the government, then the courts might become the ruling and directing power of the government and deprive those departments of their legal functions, contrary to the very fundamental idea of a republican form of government.

The courts exercise no functions of sovereignty. The courts cannot even execute their judgment except by contempt proceedings. When a judgment is rendered and becomes final, its execution depends upon the executive department of the government. The courts can only pronounce what the law is, and what the rights of the parties thereunder are. When the courts pronounce an act of the executive or legislative department of the government illegal and contrary to the fundamental laws of the land, it is because the act of the executive department of the government or the law adopted by the legislative department of the government, falls within some of the inhibitions of the fundamental law of the state. The wisdom or advisability of a particular act of the legislative department or of a particular statute, is not a question for the courts to determine. If a particular act or statute of the other departments of the government is within the constitutional power of said departments, it should be sustained by the courts whether they agree or not in the wisdom of the act or the enactment. If the act of the executive department or the enactment of the legislative department of the government covers subjects not authorized by the fundamental laws of the land, or by the constitution, then the courts are not only authorized to take jurisdiction to consider the same, but are justified in pronouncing the same illegal and void, no matter how wise and beneficent they may be. Courts are not justified in measuring their opinions with the opinions of the other departments of the government as expressed in their acts, upon questions of the wisdom, justice, and advisability of a particular act.

In exercising the high authority conferred upon the courts to pronounce valid or invalid a particular act of the other departments of the government, they are only the administrators of the public will as expressed in the fundamental law of the land—the law of the people. If an act of either of the other departments is to be held illegal, it is not because the judges or the courts have any control over them, but because the act is forbidden by the fundamental law of the land and because the will of the people, as declared in their law—the fundamental law of the land—is paramount and must be obeyed even by the other departments of the government. In pronouncing an act of the other departments of the government illegal, the courts are simply interpreting the meaning, force, and application of the fundamental law of the state.

Another potent reason why the judicial department will not take jurisdiction of a case for the purpose of directing and controlling the action of the executive department of the government, is, first, that it is without the machinery or the power to enforce its processes. The Governor-General of the Philippine Islands, as the Chief Executive of the Government, is possessed with the only machinery by which and through which the orders of the court and the laws of the country are enforced. The courts are without power to enforce their orders except in contempt proceedings, and then only with the assistance of the officers of the executive department.

Second. What has been said with reference to the issuance of a writ of mandamus against the Governor-General, as the head of the executive Department of the Government, is equally applicable to the legislative department of the Government and its officers when the duty is one pertaining to that particular department of the Government. It may be asserted as a principle founded upon the clearest legal reasoning that the legislature or legislative officers, in so far as concerns their purely legislative functions, are beyond the control of the courts by the writ of mandamus. The legislative department, being a coordinate and independent branch of the government, its action within its own sphere cannot be revised or controlled by mandamus by the judicial department, without a gross usurpation of power upon the part of the latter. When the legislative department of the government imposes upon its officers the performance of certain duties which are not prohibited by the organic law of the land, the performance, the non-performance, or the manner of the performance is under the direct control of the legislature, and such officers are not subject to the direction of the courts. (High on Extraordinary Legal Remedies [3d edition], 150-152, and cases cited; *Turnbull vs. Giddings*, 95 Mich., 314; *Sinking Fund Cases*, 99 U. S., 700; 25 L. ed., 504; *Ex Parte Echols*, 39 Ala., 698.)

In the case of *Ex Parte Echols* the Speaker of the House of Representatives decided that a bill had not passed by a vote of two-thirds in that branch of the legislature, and an appeal was taken from his decision to the house and his decision was sustained. A member of the House of Representatives presented a petition for the writ of mandamus in the Supreme Court to require the Speaker of the House of Representatives to send said bill to the Senate of the State upon the theory that it had passed by a majority vote of the House of Representatives. In passing upon that question, the Supreme Court of Alabama said: "This court will not interfere with either of the other coordinate departments of the government, in the legitimate exercise of their jurisdiction and powers, except to enforce mere ministerial acts required by law to be performed by some officer thereof; and not then, if the law leaves it discretionary with the officer or department. To this extent, and no farther, do the decisions of this court go, upon this branch of the subject."

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"Each department of the government should be careful not to trench upon the powers of the others; and this court should be the more so, as its decisions are to be taken as the measure, in the last legal resort, of the powers which pertain to each department thereof; and while it will uphold its own jurisdiction and powers, it will be careful not to invade or usurp any that appropriately belongs to either of the other coordinate branches of the government." (*Miles vs. Bradford*, 85 Am. Dec, 643; *State ex rel., Davisson vs. Bolte*, 151 Mo., 362; *Greenwood Cemetery Land Co. vs. Routt*, 17 Colo., 156; 31 Am. St. Rep., 284.)

The petitioners in the present case, together with others, constitute a committee (commission) duly appointed by the Legislature for certain definite and defined purposes, under Concurrent Resolution No. 20, of November 7, 1918. The respondents Manuel L. Quezon, Manuel Roxas, Teodoro M. Kalaw, and Fernando Mariano Guerrero are officers of that committee (commission). While it has been decided in many cases that the courts will not interfere with the legislative department of the government in the performance of its duties, does that rule apply to the committees duly appointed by the legislative department of the government and its officers? The powers and duties conferred upon said committee by the Legislature, granting the legality of the object and purpose of said committee, and granting that the Legislature itself had the power to do and to perform the duties imposed upon said committee, then an interference by the courts with the performance of those duties by it would be tantamount to interfering with the workings and operations of the legislative branch of the government itself. An interference by the judicial department of the government with the workings and operations of the committee of the legislative department would be tantamount to an interference with the workings and operations of the legislative department itself. And, again, we are called upon to say, that one branch of the government cannot encroach upon the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule. (*Sinking Fund Cases*, 99 U. S., 700, 718; *Clough vs. Curtis*, 134 U. S., 361, 371; *Wise vs. Bigger*, 79 Va., 269.)

The committee (commission) composed of the petitioners and others, of which the respondents Quezon, Roxas, Kalaw, and Guerrero are officers, is responsible to the Legislature itself in the performance of the duties conferred upon it. The Legislature may call upon it and demand from time to time reports of its work and its expenditures. It is alleged that all the members of the committee, except its secretaries, are members of the Legislature. The petitioners therefore have a remedy through the regular machinery of the Legislature for obtaining the information which they are now seeking. If any irregularity or illegality appears in the performance of the duties of either the Legislature or its committees, their responsibility is to the people and not to the courts. An appeal in case of illegality and irregularity on the part of the Legislature, as a body, or of its individual members, may be had to the people who commissioned them through the ballot and whose personal representatives they are. Each department of the government should be sovereign and supreme in the performance of its duties within its own

sphere, and should be left without interference in the full and free exercise of all such powers, rights, and duties which rightfully belong to it. Each department should be left to interpret and apply, within the constitutional powers conferred upon it, without interference, what may be termed its political duties. For one department to assume to interpret, or to apply, or to attempt to indicate how such political duties should be performed, would be an unwarranted, gross, and palpable violation of the duties which were intended by the creation of the separate and distinct departments of the government. (*Forbes vs. Chuoco Tiaco and Crossfield*, 16 Phil., 534, 574; *Barcelon vs. Baker and Thompson*, 5 Phil., 87.)

The executive and legislative departments of the government are frequently called upon to deal with what are known as political questions, with which the judicial department of the government has no intervention. In all such questions, in the first instance the courts have uniformly refused to intervene for the purpose of directing or controlling the actions of the other departments. Such questions are many times reserved to those departments in the organic law of the state. (22 *Harvard Law Review*, 132; *Parker vs. State, ex rel, Powell*, 133 Ind., 178; 18 L. R. A., 569; *Farrell vs. United States*, 110 Fed. Rep., 942; *Kelley vs. State*, 25 Ark., 392; *U. S. vs. Holliday*, 3 Wallace [U. S.], 407; Message of President Polk to the Congress of the United States, Apr. 20, 1846.)

And, in addition to all of the foregoing, the petitioners, as members of the Legislature, may, through the Legislature itself, require the Independence Commission to make a full and complete report of all of its operations, including an itemized statement of its expenditures and thereby obtain the very information which they are now seeking through the judicial department of the government.

Third. With reference to the jurisdiction of the court to compel the Acting Insular Auditor, Mr. Dizon, to comply with the prayer of the petition, it may be said that the Auditor of the Philippine Islands, under the law, has (a) exclusive jurisdiction over government accounts and records pertaining thereto, and (b) power and authority to audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to, or held in trust by the Government or the provinces or municipalities, and to preserve the vouchers pertaining thereto. The Jones Law further provides that the decisions of the Auditor shall be final and conclusive upon the executive branches of the government, except that appeal therefrom may be taken by the party aggrieved or the head of the department concerned, within one year, to the Governor-General, which appeal shall specifically set forth the particular action of the Auditor from which the exception is taken, with the reasons and authorities relied upon for reversing such decision. The law further provides that, in case of a disagreement between the Governor-General and the Auditor, a further appeal is permitted to the Secretary of War, whose decision upon the question presented shall be final and conclusive. (Act of Congress, August 29, 1916, sections 24 and 25, vol. 12, Public Laws, pp. 247-249.) Under said provisions of the Jones Law, the decision of the Auditor is final unless an appeal is taken within the time prescribed. The decision of the Auditor is final unless it is reversed or modified in the manner provided by law, and the courts are therefore without jurisdiction to intervene or to modify his decision in the premises. The administrative jurisdiction of the Auditor over accounts, whether of funds or property, and all vouchers and records pertaining thereto, shall be exclusive. The jurisdiction of the Auditor in auditing and settling accounts is exclusive, whether of funds or property, and all vouchers and records pertaining thereto, and his decision or his accounting of such revenues and receipts and expenditures is final and conclusive, unless an appeal is taken therefrom within the period of one year. The Auditor being possessed with exclusive and final jurisdiction, except on an appeal, to audit all accounts of expenditures of public funds of the Philippine Government, it would seem to be a reasonable conclusion to hold that he has, at least, certain discretionary powers in arriving at an uncontrolled and independent conclusion. The legislative department of the government of the United States in the Philippine Islands would not have made the decisions of the Auditor final, unless an appeal is taken therefrom, without intending to give him an uncontrollable discretion with reference thereto. (*Lamb vs. Phipps*, 22 Phil., 456; *State vs. Babcock*, 22 Neb., 38.)

Without a further discussion of the questions presented, we are of the opinion, and so decide, that we are without authority or jurisdiction to grant the remedy prayed for; and the petition is therefore hereby denied, without any finding as to costs. So ordered.

Street, Malcolm, Avancena, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

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