

JULIO AGCAOILI, PLAINTIFF AND APPELLANT, VS. ALBERTO SUGUITAN, DEFENDANT AND APPELLEE.

G.R. No. 24806. February 13, 1926

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-24806/>

JOHNSON, J.:

This action was commenced in the Court of First Instance of the Province of Ilocos Norte. Its purpose was to obtain the extraordinary legal writ of quo warranto. The petition was denied by the trial court and the plaintiff appealed. The questions presented by the appeal are:

(a) Is the provision of Act No. 3107, in so far as it provides that "justices of the peace shall be appointed to serve until they have reached the age of 65 years," valid and constitutional, when applied to justices of the peace appointed under Act No. 2041, section 1, to serve "during good behavior?" And,

(b) Is the present action barred by the statutes of limitations?

The facts involved in the decision of those questions are as follows:

(a.) That the said Julio Agcaoili was appointed as justice of the peace of the municipality of Laoag, of the Province of Ilocos Norte, by His Excellency, Francis Burton Harrison, on the 25th day of March, 1916, with authority "to have and to hold the said office with all the powers, privileges, and emoluments thereunto of right appertaining unto him, subject to the conditions prescribed by law."

"The conditions prescribed by law" to which the appointee was "subject" at the time of his appointment, are found in section 1 of Act No. 2041 (vol. 8, Public Laws, 153). Said section is an amendment to section 67 of Act No. 136, and provides among other things for the "appointment and term of justices of the peace." It provides that one justice of the peace and one auxiliary justice shall be appointed by the Governor-General, etc., for each municipality organized according to the Municipal Code. Said section further provides that "All justices of the peace and auxiliary justices shall hold office during good behavior * * *." Said Act No. 2041 took effect on the 1st day of July, 1911. At the time Act No. 2041 was adopted, the Philippine Legislature was composed of the United States Commission and the House of Representatives.

(b) That on the 17th day of March, 1923, the Philippine Legislature, composed of the Senate and House of Representatives, adopted Act No. 3107, which was "an Act to amend and repeal certain provisions of the Administrative Code relative to the judiciary in order to reorganize the latter; increasing the number of judges for certain judicial districts; increasing the salaries of judges of Courts of First Instance; vesting the Secretary of Justice with authority to detail a district judge temporarily to a district or province other than his own; regulating the salaries of justices of the peace; abolishing the municipal court and justice of the peace court of the City of Manila and creating in lieu thereof a municipal court with three branches; regulating the salaries of clerks of court and other subordinate employees of Courts of First Instance, and for other purposes."

Notwithstanding the fact that the title of said Act (3107), so far as the same relates to justice of the peace,

provides only for "regulating the salaries of justices of the peace," said Act in section 203 provides for "the appointment and distribution of justices of the peace" with the proviso in said section "* * * That justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years" Attention is here called to the fact again that there is nothing in the title of the Act, which, in the slightest degree, indicates that said Act contains provisions for "the appointment of justices of the peace" nor as to the period during which they may serve after appointment. Attention is also invited to the fact that the same section (203) contains provisions for the jurisdiction of justices of the peace while section 207 contains provisions denning the "qualifications for justices of the peace." Section 210 of said Act provides for the "filling of vacancies in the office of justices of the peace." There is nothing in the title of the Act which in any way indicates that the Act contains said provisions. Attention is here called to the provision of the Act of Congress of the 29th day of August, 1916, and to section 3 thereof, which provides "That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill" The effect of a violation of said provision of said Act of Congress will be discussed later.

(c) That on the 9th day of April, 1923, the Undersecretary of Justice sent the following letter to the said Julio Agcaoili, through the Judge of the Court of First Instance of the Third Judicial District, of the Province of Ilocos Sur. Said letter is in the words and figures following:

"MANILA, April 9, 1923

"SIR: In view of the provision of section 203 of the Administrative Code as amended by section 1 of Act No. 3107, which, in part, provides that 'justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years,' and in view of the fact that the record shows that you are over sixty-five years of age already, I have the honor to hereby advise you that, upon receipt hereof, you cease to be a justice of the peace by operation of said amendment of the Administrative Code.

"Respectfully,

(Sgd.) "Luis P. Torres

"Undersecretary of Justice"

Said letter was received by Julio Agcaoili, the justice of the peace, on the 26th day of April, 1923. It was handed to him by the clerk of the Court of First Instance of the Province of Ilocos Norte.

(d) It will be noted that in the letter of April 9, 1923, the Secretary of Justice directed or ordered Julio Agcaoili, then justice of the peace, "upon receipt of said letter, to cease to be a justice of the peace." Against the order contained in said letter of April 9th, Julio Agcaoili entered a protest dated April 28, 1923, in the following language: "

JUSTICE OF THE PEACE COURT OF LAOAG, ILOCOS NORTE "P. I.

"April 28, 1923

"The Hon. LUIS TORRES

"Undersecretary of Justice of the Philippine Islands

"SIR: The undersigned, Julio Agcaoili, justice of the peace of Laoag, capital of the Province of Ilocos Norte, has the honor to state that on April 26, 1923, he received, through the clerk of the Court of First Instance of Ilocos Norte, your communication of April 9, 1923, informing the undersigned that, having attained the age of 65 years, he ceased to be justice of the peace of Laoag under the provision of section 1 of Act No. 3107, amending section 203 of the Administrative Code, which is Act No. 2711 enacted in the year 1919, and which section 1 of said Act No. 3107 provides in part that the justices of the peace and auxiliary justices of the peace shall be appointed to serve until they attain the age of 65 years.

"With all due respect, the undersigned has the honor to state that he believes that the aforecited part of the provision of section 1 of Act No. 3107 does not include those justices of the peace who had already been appointed justices of the peace, like the undersigned, before the passage and enactment of said Act No. 3107 and the amended Administrative Code, nor can this be the intention of the legislator, for if it were so, it should have so stated in order that the justices of the peace already appointed, who were discharging the functions of the office and who had attained the age of 65 years when said Act was passed and enacted, should cease from their office.

"The undersigned was appointed justice of the peace of Laoag on March 25, 1916, and therefore under Act No. 2041, enacted February 3, 1911. Section 1 of this Act, which amended section 67 of Act No. 136, was not amended by any subsequent Act and provides: 'All justices of the peace and auxiliary justices shall hold office during good behavior and those now in office who have not the qualifications required by this Act shall continue in office until their successors are appointed.'

"Has section 203 of the Administrative Code amended or repealed section 1 of Act No. 2041? The undersigned believes that it has not, judging from the context of both laws, nor was it repealed because if this were the case the Governor-General would have renewed the appointments of all the justices of the peace and auxiliary justices of the peace under said section 203 of the Administrative Code.

"The undersigned was appointed justice of the peace of Laoag on March 25, 1916, under the said Act No. 2041 and continues in the discharge of the duties of the office up to the present time, without the Governor-General having renewed his appointment under said section 203 of the Administrative Code.

"Then Act No. 3107 came, section 1 of which amends section 203 of the Administrative Code.

"Has this amendment retroactive effect? In the first place the legislature could not give or have given this Act such a character, and if it had intended to do so, it would have so stated; and in the second place, because not only is such express declaration lacking in the law but Act No. 3107 very clearly provides that the justices of the peace and auxiliary justices of the peace to be appointed shall hold office until they attain the age of 65 years.

"Very respectfully,

(Sgd.) "JULIO AGCAOILI

"Justice of the Peace of Laoag, Ilocos Norte"

A further protest against the said order of the Secretary of Justice was made by Julio Agcaoili on the 7th day of July, 1923, and is couched in the following language:

"I, Julio Agcaoili, Justice of the Peace of the Municipality of Laoag, Ilocos Norte, do hereby state that on this 4ay, July 7, 1923, Mr. Buenaventura Ocampo, Provincial Fiscal of Ilocos Norte, appeared at my office and thereupon showed me the telegram of Undersecretary of Justice Torres, addressed to said provincial fiscal. After reading said telegram I asked the provincial fiscal to furnish me a copy thereof and he furnished me a copy of the telegram.

"Said telegram of the Undersecretary of Justice in substance orders the provincial fiscal to cause me to deliver the office and all the documents and records thereof to the auxiliary justice of the peace, because according to said Undersecretary of Justice I must cease from the office under Act No. 3107, and that I be prosecuted for violation of article 370 of the Penal Code should I fail to comply with the telegram sent to me on the 2d instant by the same Undersecretary of Justice.

"I do also state that I have never had any malicious intention to disobey the orders of the Undersecretary of Justice, Hon. Torres, one given by telegram and the other By letter. I only desired to study the spirit of the law and this is the reason why I did not leave the office until the present time, because I was and am of the opinion

that I must not cease from the office of the justice of the peace under the provision of Act No. 2041 under which I was appointed justice of the peace of the capital, and which Act was not repealed by any subsequent one, nor by Act No. 3107, which Act No. 2041 provides that the justices of the peace to be appointed under it, should hold office during good behavior. This Act does not say anything as to limitation of age, and therefore I believe myself entitled to continue in, and retain the office.

"I do also state that lest the Undersecretary of Justice should think that I do not duly respect the constituted authorities, I now deliver under protest the office of the justice of the peace of Laoag and all its documents and records, as well as the furniture therein contained, to Mr. Alberto Suguitan, auxiliary justice of the peace, in the presence of the provincial fiscal, in compliance with the telegram of the Undersecretary of Justice, Hon. Torres, received by me through the provincial fiscal of Ilocos Norte. I make under protest the delivery of the office and its documents and records because I think, as I have stated, that I must not cease from the office of justice of the peace, and in order that my right may be defined, I shall institute an action in the proper court of justice to decide the case.

(Sgd.) "JULIO AGCAOILI

"I received the things of the office.

(Sgd.) "ALBERTO SUGUITAN

"In the presence of:

(Sgd.) "BUENAV. OCAMPO

"Provincial Fiscal"

Julio Agcaoili patiently waited in vain for a resolution by the Secretary of Justice of the protest which he presented on the 28th day of April and on the 7th day of July, 1923; and not having received any reply to his protest, filed a petition for a writ of quo warranto in the Court of First Instance of the Province of Ilocos Norte on the 23d day of April, 1925, which petition was amended by the filing of another petition in the same court on the 8th day of September, 1925.

A careful reading of the two protests (April 28, 1923, and July 7, 1923) shows that they contain arguments in support thereof which, in all equity and justice, demanded a reply, but no reply was forthcoming. The arguments in support of his protests find a counterpart and are fully supported in the decision of this court in the case of Segovia vs. Noel, of March 4, 1925 (47 Phil., 543), wherein the Supreme Court held that Act No. 3107 could not be applied to and enforced against justices of the peace who had been appointed prior to the 17th day of March, 1923. Had the Secretary of Justice answered said protest, the great injustice which has been done to Julio Agcaoili perhaps might have been avoided.

(e) That Julio Agcaoili being threatened with a criminal prosecution unless he turned his office over to the auxiliary justice of the peace, and to avoid scandal, disgrace and humiliation which might come to him by virtue of said prosecution, on the 7th day of July, 1923, still protesting, delivered the possession of his office, as justice of the peace, to the auxiliary justice of the peace of the municipality of Laoag. It is a matter of common knowledge that Julio Agcaoili had been entrusted with the highest office in his province which the people could confer upon him.

The petitions presented by Julio Agcaoili in the Court of First Instance, the first on the 23d day of July, 1925, and the second on the 8th day of September, 1925, contain, in resume, the foregoing facts. To the petition the respondent Alberto Suguitan answered and set up the defense of prescription. Upon the issue thus presented, the Honorable Fermin Mariano, judge, sustained the defense of prescription and denied the petition for the

extraordinary legal remedy of quo warranto. From that judgment Julio Agcaoili appealed, and now contends in a vigorous and logical argument that his remedy has not prescribed.

Considering the first question suggested above, attention is again called to one of the provisions of section 3 of the Jones Law (Act of Congress, August 29, 1916, vol. 12, Public Laws of the Philippine Islands). The "Jones Law" is the constitution of the Philippine Islands providing a government therefor. Subparagraph 16 of section 3 of the Jones Law provides "That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill." Under said provision, may the legislature adopt a law which contains important provisions to which no reference is made in the title of the Act? The effect of violating said provision of the Jones Law has been brought before the courts many times. The effect of violating said provision has already been passed upon by this court. (*Central Capiz vs. Ramirez*, 40 Phil., 883, 889.)

In the case of *Central Capiz vs. Ramirez*, supra, it was decided that said provision of the Jones Law was mandatory and not directory and its violation was fatal to any provision of the law to which no reference was made in the title. In the decision of this court in the case of *Central Capiz vs. Ramirez*, the decisions of the courts of many of the states of the Union were followed. Many of the constitutions of the states of the Union contain similar provision to that quoted above from the Jones Law. Among such states may be mentioned Alabama, California, Georgia/Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Tennessee, Virginia, West Virginia, Wisconsin and Wyoming.

Mr. Justice Sutherland, now an Associate Justice of the Supreme Court of the United States, in his valuable work on "Statutory Construction," vol. 1, 2nd ed.) at section 111, states the reason and the purpose- of such a constitutional provision. He says:

"In the construction and application of this constitutional restriction the courts have kept steadily in view the correction of the mischief against which it was aimed. The object is to prevent the practice, which was common in all legislative bodies where no such restriction existed, of embracing in the same bill incongruous matters having no relation to each other, or to the subject specified in the title, by which measures were often adopted without attracting attention. Such distinct subjects represented diverse interests, and were combined in order to unite the members of the legislature who favor either in support of all. These combinations were corruptive of the legislature and dangerous to the state. Such omnibus bills sometimes included more than a hundred sections on as many different subjects, with a title appropriate to the first section, 'and for other purposes.'

"The failure to indicate in the title of the bill the object intended to be accomplished by the legislation often resulted in members voting ignorantly for measures which they would not knowingly have approved. And not only were legislators thus misled, but the public also; so that legislative provisions were stealthily pushed through in the closing hours of a session, which, having no merit to commend them, would have been made odious by popular discussion and remonstrance if their pendency had been seasonably announced. The constitutional clause under discussion is intended to correct these evils; to prevent such corrupting aggregations of incongruous measures, by confining each act to one subject or object; to prevent surprise and inadvertence by requiring that subject or object to be expressed in the title."

The Supreme Court of the State of Alabama, in discussing the effect of the violation of a similar provision of the constitution of that state in the cases of *Walker vs. State* (49 Ala., 329) and *Lindsay vs. United States Savings & Loan Association* (120 Ala., 156), had the following to say, quoting with approval, what Mr. Justice Cooley in his *Constitutional Limitations*, at page 143, had said upon that question:

"The object sought to be accomplished, and the mischief proposed to be remedied by this provision, are well

known. * * * Legislative assemblies for the dispatch of business often pass bills by their titles only, without requiring them to be read. A specious title sometimes covered a legislation which, if its real character had been disclosed, would not have commanded assent. To prevent surprise and fraud on the legislature is one of the purposes this provision was intended to accomplish. Before the adoption of this provision, the title of a statute was often no indication of its subject or contents. * * *

"An evil this constitutional requirement was intended to correct was the blending in one and the same statute of such things as were diverse in their nature, and were connected only to combine in favor of all the advocates of each, thus often securing the passage of several measures, no one of which could have succeeded on its own merits. Mr. Cooley thus sums up his review of the authorities, defining the objects of this provision: 'It may, therefore, be assumed as settled, that the purpose of these provisions was: First, to prevent hodge-podge, or log-rolling legislation; second, to prevent surprise or fraud upon the legislature, by means of provisions in bills of which the titles gave no information, and which might therefore be overlooked and carelessly and unintentionally adopted; and, third, to fairly apprise the people, through such publication of legislative proceedings as is usually made, of the subjects of legislation that are being considered, in order that they may have opportunity of being heard thereon, by petition or otherwise if they shall so desire.'" (49 Ala., 330, 331.)

"The purposes of the constitutional requirement must be borne steadily in mind, when it becomes necessary to determine whether there has been legislative observance of it. The exposition of these purposes, by Judge Cooley is accepted, we believe, in all the states in which a like limitation prevails. * * * " (120 Ala., 172.)

In the case of *People vs. Parks* (58 Cal., 624) the Supreme Court of the State of California had occasion to discuss the Question now before us and said:

"At the least, then, two heterogeneous subjects are embraced in the act, one of which is not expressed in the title, and they cannot be segregated. The title does not express the objects of legislation embodied in the provisions of the act. It is, therefore, narrower than the body of the act, and fails to impart that notice of the measures enacted, which the Constitution requires. To prohibit such legislation was the sole end and aim of the constitutional requirement. 'The practice,' says the Supreme Court of Missouri, 'of comprising in one bill subjects of a diverse and antagonistic nature, in order to combine in its support members who were in favor of particular measures, but neither of which could command the requisite majority on its own merits, was found to be not a corruptive influence in the Legislature itself, but destructive of the best interests of the State. But this was not more detrimental than that other pernicious practice, by which, through dexterous and unscrupulous management, designing men inserted clauses in the bodies of bills, of the true meaning of which the titles gave no indication, and by skillful maneuvering urged them on to their passage. These things led to fraud and injury, and it was found necessary to apply a corrective in the shape of a constitutional provision.' (City of St. Louis vs. Tiefel, 42 Mo., 590.) This provision has been framed in the constitutions of many of the States of the Union; and courts, whenever it has come before them, have liberally construed it as the will of the people in the interests of honest legislation."

Decisions to the same effect are found in the following cases: *City of St. Louis vs. Tiefel* (42 Mo., 578); *Cannon vs. Mathes* (8 Heisk. [Tenn.], 504); *Ryerson vs. Utley* (16 Mich., 269) ; *Board of Public Education for the City of Americus vs. Barlow* (49 Ga., 232) ; *Spier vs. Baker* (120 Cal., 370).

Mr. Justice Sutherland, in a further discussion of the question, at section 112 of his work on *Statutory Construction*, said:

"The efficiency of this constitutional remedy to cure the evil and mischief which has been pointed out depends on judicial enforcement; on this constitutional injunction being regarded as mandatory, and compliance with it essential to the validity of legislation. The mischief existed notwithstanding the sworn official obligation of legislators; it might be expected to continue notwithstanding that the obligation is formulated and emphasized in this constitutional injunction, if it be construed as addressed exclusively to them, and only directory. It

would, in a general sense, be a dangerous doctrine to announce that any of the provisions of the constitution may be obeyed or disregarded at the mere will or pleasure of the legislature, unless it is clear beyond all question that such was the intention of the framers of that instrument. It would seem to be a lowering of the proper dignity of the fundamental law to say that it descends to prescribing rules of order in unessential matters which may be followed or disregarded at pleasure. The fact is this: That whatever constitutional provision can be looked upon as directory merely is very likely to be treated by the legislature as if it was devoid of moral obligation, and to be therefore habitually disregarded."

In the case of *Cannon vs. Matties*, supra, Mr. Chief Justice Nicholson, in discussing the effect of the violation of a constitutional provision like the one before us, said:

"* * * This is a direct, positive, and imperative limitation upon the power of the Legislature. It matters not that a bill has passed through three readings in each house, on three different days, and has received the approval of the Governor; still it is not a law of the State if it embraces more than one subject. * * *"

The Supreme Court of Alabama, in the case of *Walker vs. State*, supra, said:

"It is the settled law of this court, founded on reasoning which seems to us unanswerable, that this provision of the Constitution is not a mere rule of legislative procedure, directory to the general assembly, but that it is mandatory, and it is the duty of courts to declare void any statute not conforming to it. * * *"

Mr. Justice Cooley in his valuable work on *Constitutional Limitations* (pp. 179, 180) states that our courts have held, without exception, that such constitutional provision is mandatory.

Considering that the great weight of authority is to the effect that the provision like the one above quoted from the Jones Law is mandatory; and considering that there is nothing in the title of Act No. 3107 which indicates in the slightest degree that said Act contains a provision "that justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty- five years," we are forced to the conclusion that, that provision is illegal, void and contrary to the mandatory provision of the Jones Law, and that said law (3107) cannot be applied to justices and auxiliary justices of the peace who were appointed prior to the 17th day of March, 1923; and that when Julio Agcaoili was forcibly, by means of threats and intimidation, ordered to leave his office as justice of the peace, he was forced to do so illegally, without just cause, and should therefore be restored to his position as justice of the peace of the municipality of Laoag, without delay.

With reference to the second question above suggested, in re prescription or limitation of the action, it may be said that originally there was no limitation or prescription of action in an action for quo warranto, neither could there be, for the reason that it was an action by the Government and prescription could not be plead as a defense to an action by the Government. The ancient writ of quo warranto was a high prerogative writ in the nature of a writ of right by the King against any one who usurped or claimed any office, franchise or liberty of the crown, to inquire by what authority the usurper supported his claim, in order to determine the right. Even at the present time in many of the civilized countries of the world the action is still regarded as a prerogative writ and no limitation or prescription is permitted to bar the action. As a general principle it may be stated that ordinary statutes of limitation, civil or penal, have no application to quo warranto proceeding brought to enforce a public right. (*McPhail vs. People ex rel Lambert*, 160 111., 77; 52 Am. St. Rep., 306; *People ex rel. Moloney vs. Pullman's Palace Car Co.*, 175 111., 125; 64 L. R. A., 366.)

In all public matters a writ of quo warranto is a writ of right at the suit of the state, and issues as a matter of course upon demand of the proper officer (*State ex rel. Washington County vs. Stone*, 25 Mo., 555; *Commonwealth vs. Allen*, 128 Mass., 308), and the court has no authority to withhold leave to file a petition therefor.

If the statutes of limitation or prescription cannot run against the state, it is difficult to understand how in the same

action they may be used as a defense against a public officer who has been forcibly, with threats and intimidation, ousted from a public office by the Government itself as was done in the present case. The principle that acts of limitation do not bind the King (the State) or the people, applies to proceeding by quo warranto, the rule being that the representative of the state may file an information on behalf of the people at any time; and the lapse of time constitutes no bar to the proceeding, in conformity with the maxim *Nullum tempus occurrit regi*. (*Catlett vs. People ex rel. State's Attorney*, 151 HI., 16.) For the state to claim that the statutes of limitation do not apply to it and yet insist that it may plead such statutes to bar the action of quo warranto brought by one of its public officials whom it itself has ousted from office, appears to us to be unjust, unfair, unreasonable, and not within the contemplation of sound jurisprudence.

So much for the general rule concerning limitation of action in quo warranto proceedings. Is there a statute in the Philippine Islands of limitation, limiting the action of a public official of the Government who has been duly appointed and qualified, and who has, by force and intimidation, been ousted from such office, to defeat his action of quo warranto?

On the 7th day of August, 1901, the United States Philippine Commission adopted Act No. 190 which had been considered privately and publicly for several months theretofore. Its provisions were published throughout the Philippine Islands long prior to its adoption. While said Act was adopted on the 7th day of August, 1901, it did not take effect, even though it had been published, until the 1st day of October, 1901. (Act No. 121.) An examination of said Act (190) shows that it provides remedies for the usurpation of office or franchise, etc. (secs. 197-216). Said Act No. 190 was published in both English and Spanish. Section 216, in English, provided that "Nothing herein contained shall authorize an action against a corporation for forfeiture of charter, unless the same be commenced within five years after the act complained of was done or committed; nor shall an action be brought against an officer to be ousted from his office unless within one year after the cause of such ouster, or the right to hold the office, arose." The same section (216), as published in Spanish, reads as follows: "Ninguna de estas disposiciones facultar la iniciación de un juicio contra una corporación por la pérdida de sus derechos de concesión, a menos que el juicio se lleve a efecto dentro de los cinco años siguientes a la comisión u omisión del hecho objeto de la acción. Tampoco se podrá iniciar un juicio contra la persona que ejerza un cargo en una corporación para despojarla, a menos que se lleve a efecto dentro del año siguiente a la fecha de la comisión del hecho que dio motivo a su privación, o que se puso en duda su derecho para ocupar el cargo."

Said section (216), as published in Spanish and translated into English, reads as follows: "Nothing herein contained shall authorize an action against a corporation for forfeiture of its corporate rights, unless the same be commenced within five years after the commission or omission complained of took place. Neither may an action be brought against an officer to oust him from office, unless the same is commenced within one year after the commission of the act which caused the deprivation thereof, or after the right to hold the office arose."

Said section 216, as above quoted in Spanish, was published in vol. 1 of the Public Laws of the Philippine Islands and distributed to the public officers throughout the Philippine Islands. It is a fact of general information that even now, in 1926, the Spanish copy of the Public Laws are consulted by the people in remote parts of the Philippine Islands for the purpose of knowing what the law is. It is not strange, therefore, that the appellant did not believe that said section 216 applied to public officers; that it only applied to officers of corporations as it appeared in the Spanish translation. Is it just and fair and reasonable for the Government of the Philippine Islands to oust one of its officers from an office to which he had been legally appointed, by force and intimidation and without just cause, and then to defeat his action in quo warranto by invoking the provisions of a public statute, different from the one which the Government itself had furnished its public officers? The appellant is familiar with the Spanish but not with the English language. He naturally relied upon the Spanish version of the law for his information as

to what the law really was. Not only had the appellant the right to rely upon the provisions of section 216 as they appeared in Spanish in the Public Laws of the Philippine Islands, but the reading of the three or four sections immediately preceding section 216 will show that they refer specifically to corporations only. The appellant, therefore, was justified in believing that said section 216 as it appeared in Spanish was correct. At least the Government should give him credit with having acted in good faith.

But, even granting that the appellant is bound by the provisions of section 216 as it appears in English, is the same applicable to the appellant? By reference to said section above quoted in English, it will be seen that after the word "committed" there is a semicolon. Does that which follows the semicolon have reference to the same subject matter which precedes it? A semicolon is a mark of grammatical punctuation, in the English language, to indicate a separation in the relation of the thought, a degree greater than that expressed by a comma, and what follows the semicolon must have relation to the same matter which precedes it. What follows a semicolon always has relation to the same subject matter of that which precedes it. A semicolon is not used for the purpose of introducing a new idea. A semicolon is used for the purpose of continuing the expression of a thought, a degree greater than that expressed by a mere comma. It is never used for the purpose of introducing a new idea. The comma and semicolon are both used for the same purpose, namely, to divide sentences and parts of sentences, the only difference being that the semicolon makes the division a little more pronounced than the comma. The punctuation used in a law may always be referred to for the purpose of ascertaining the true meaning of a doubtful statute. It follows therefore that, Inasmuch as all of the provisions of said section 216 which precede the semicolon refer to corporations only, that which follows the semicolon has reference to the same subject matter, or to officers of a corporation.

But even granting, for the sake of the argument, that the word "officer" as used in the latter part of said section applies to public officers who have been ousted from their position, and not only to officers of corporations, then we have the question presented: Had the one year mentioned in said section expired on the 23d day of April, 1925, when the first complaint was filed in the present action? When did the year begin to run if said section is applicable to the appellant?

It will be remembered that on the 7th day of July, 1923, the appellant was ousted from his office as justice of the peace of the municipality of Laoag. Not only did he surrender his office on that date under protest, but also on the 28th day of April, 1923, when he was notified by the Secretary of Justice that he cease to be a justice of the peace of his municipality, he then protested and gave a long and lucid argument in support of his protest. In all justice to him, did he not have a right, without any legal action to protect his right, to await the solution of his protest of the 28th day of April, 1923? He had a right to believe that the grounds upon which his protest was based would be convincing to the Secretary of Justice and that he would not be removed. Until this very hour the record contains no reply from the Secretary of Justice and no answer whatever to the legal grounds presented by the appellant upon his right to continue as justice of the peace and not to be ousted.

In our opinion, even granting that section 216 is applicable to the appellant, the period of prescription had riot begun to run at the time of the commencement of the present action. He was justified in delaying the commencement of his action until an answer to his protest had been made. He had a right to await the answer to his protest, in the confident belief that it would be resolved in his favor and that action would be unnecessary.

It is contended, however, that the question before us was answered and resolved against the contention of the appellant in the case of *Bautista vs. Fajardo* (38 Phil., 624). In that case no question was raised nor was it even suggested that said section 216 did not apply to a public officer. That question was not discussed nor referred to by any of the parties interested in that case. It has been frequently decided that the fact that a statute has been accepted as valid, and invoked and applied for many years in cases where its validity was not raised or passed on,

does not prevent a court from later passing on its validity, where that question is squarely and properly raised and presented. Where a question passes the court sub silentio, the case in which the question was so passed is not binding on the Court (*McGirr vs. Hamilton and Abreu*, 30 Phil., 563), nor should it be considered as a precedent. (*U. S. vs. Noriega and Tobias*, 31 Phil., 310; *Chicote vs. Acasio*, 31 Phil., 401; *U. S. vs. More*, 3 Cranch [U. S.], 159, 172; *U. S. vs. Sanges*, 144 U. S., 310, 319; *Cross vs. Burke*, 146 U. S., 82.) For the reasons given in the case of *McGirr vs. Hamilton and Abreu*, supra, the decision in the case of *Bautista vs. Fajardo*, supra, can have no binding force in the interpretation of the question presented here.

The present case is anomalous under American sovereignty. An officer was appointed in accordance with the law to the judiciary to serve "during good behavior." After he had faithfully and honestly served the Government for a number of years the legislature adopted a new law which arbitrarily, without giving any reason therefor, provided that said officer cease to be such when he should reach the age of 65 years. Said law contained no express provision or method for its enforcement. The Executive Department, through its Undersecretary of Justice, without any authority given in said law, notified the said officer that he was no longer an officer in the judicial department of the Government and must vacate his office and turn the same over to another, who was designated by said Undersecretary. When the officer protested against such arbitrary action, giving reasons therefor, and without answering said protest, he was threatened with a criminal prosecution if he did not immediately vacate his office. The history of this case reads more like a story of the Arabian Nights than like a procedure under a well-organized Government. It seems impossible to believe, and we could not believe it, were the facts not actually supported by the record.

Why the Undersecretary of Justice did not follow the orderly procedure marked out by Act No. 190 is not explained. The appellant was given no hearing. Even his protest, couched in most humble and respectful language, fell upon deaf ears. Absolute indifference was shown to the respectful protest and the able argument given in support thereof. The only answer to his protest was a threat of a criminal prosecution if he did not vacate his office. His humility was met with austereness. His humble petition was met with a threat. His patient waiting for a reply to his protest was ended by a demand that he be prosecuted for refusing to comply with an order by one who was not willing to follow the well-defined and well beaten road of "due process of law" by preferring charges and giving the appellant an opportunity to be heard and to defend his right. Nothing of that character took place. The whole procedure, from beginning to end, in ousting the appellant from an office to which he had been legally appointed and against whom no complaint has been made, is anomalous in the jurisprudence under the American flag.

Believing as I do, that the success of free institutions depends upon a rigid adherence to the fundamentals of the law, I have never yielded, and I hope that I may never yield, to considerations of expediency in expounding it. There is also some plausible reason for the latitudinarian constructions which are resorted to for the purpose of acquiring power—some evil to be avoided, or some good to be attained by pushing the powers of the Government beyond their legitimate boundary. It is by yielding to such influences that the courts and legislatures are gradually undermining and finally overthrowing constitutions. It is by yielding to such influences that constitutions are gradually undermined and finally overthrown. It has been, and is my purpose, so far as it is possible for me, to follow the fundamental law of the land regardless of consequences. If a particular law does not work well the people or the legislature may amend it. If, however, the legislature or the courts undertake to cure defects in the law by forced and unnatural constructions, they inflict a wound upon the constitution of the state which nothing can cure. One step taken by the legislature or the judiciary in enlarging the powers of the Government, opens the door for another which will be sure to follow; and so the process goes on until all respect for the fundamental law is lost and the powers of the Government are just what those in authority are pleased to call them. (*Oakley vs. Aspinwall*, 3 Comstock [N. Y.], 547, 568.) I cannot give my consent to a rule or doctrine which will permit a

Government to throw an honest and efficient official out of office without reason and without authority of law, refuse to consider a protest, and then permit the application of a law to prevent a recovery of that which he has lost illegally and without reason.

The judgment appealed from should be revoked, and a judgment should be entered ordering the restoration of the appellant to the office from which he was illegally ejected. We should follow the effect of the doctrine announced solemnly by this court in the case of Segovia vs. Noel (47 Phil., 543). So ordered.

Villamor, Romualdez, and Villa-Real, JJ., concur.

Johns, J., concurs in the result.

CONCURRING AND DISSENTING

MALCOLM, J.:

(1) I concur in so much of the opinion of Mr. Justice Johnson as relates to the legal issue presented in the lower court and here, pertaining to the question of whether or not the present action was barred by the Statute of Limitations, and am in entire accord with the reversal of the judgment and the reinstatement of Julio Agcaoili, the appellant, in his office as justice of the peace of Laoag, Ilocos Norte. My reasons are these:

(A) Act No. 3107, providing that justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of 65 years, should not be given retroactive effect. That was expressly decided in the analogous case of Segovia vs. Noel ([1925], 47 Phil., 543).

(B) Plaintiff's action is not barred by the provisions of section 216 of the Code of Civil Procedure. That section particularly confines itself to an action "against a corporation." Thereafter following a semicolon, comes the clause "nor shall an action be brought against an officer," which plainly relates back to "corporation." Otherwise, the new idea would either have been expressed in a separate section or in a separate sentence. That this is true is further borne out by the Spanish translation, making use of the phrase "la persona que ejerza un cargo en una corporacion," which we are privileged to consult to explain an ambiguity in the English text.

(C) Even under the supposition that section 216 of the Code of Civil Procedure applies, still it is not clear that one year has elapsed "after the cause of such ouster, * * * arose." In reality, no cause for ouster has arisen since it was an erroneous interpretation of the law which met with the disapproval of the Supreme Court, which resulted in the attempt to force Mr. Agcaoili out of office and to place the auxiliary justice of the peace in office. The most that could be said of the attempted ouster is that the auxiliary justice of the peace merely became a justice of the peace de facto.

(2) I dissent from so much of the opinion of Mr. Justice Johnson as discusses the question of whether or not the provisions of Act No. 3107 are constitutional, as unnecessary to a decision, as not submitted for decision, and so as entirely uncalled for.

The complaint for quo warranto presented in the Court of First Instance contained the usual allegations without, however, making any reference at all to the constitutionality of Act No. 3107. The answer set up prescription. The trial judge announcing the theories of the parties said: "The defense of the defendant is that the action brought by the plaintiff has prescribed because since July 7, 1923, when he left his office, no complaint was filed until April 23, 1925, and, therefore, more than one year had elapsed. The plaintiff in turn alleges that there is no such prescription," and then proceeded to deny the petition. On appeal to this court, the errors assigned by Mr. Agcaoili as appellant are these:

"(1) The lower court erred in holding that the action of the petitioner had prescribed on account of the same not having been brought within one year from July 7, 1923, when by an illegal order of the Honorable, the Secretary of Justice, the petitioner forcibly ceased to discharge the duties of the office of justice of the peace of Laoag, Ilocos Norte, and the respondent assumed said office and began to act as such justice of the peace.

"(2) The lower court erred in applying to the instant case the provisions of section 216 of Act No. 190 (Code of Civil Procedure).

"(3) The lower court erred in finding that the period of prescription must be counted from July 7, 1923, instead of March 4, 1925.

"(4) The lower court finally erred in not granting the relief invoked by the petitioner; in not ousting the respondent from the office of justice of the peace of Laoag, Ilocos Norte, in not reinstating the petitioner in said office and in not sentencing the respondent to pay the costs and damages caused to the petitioner in the sum of P5,000."

There is not one word either in appellant's brief or in appellee's brief on the subject of the constitutionality of Act No. 3107.

Had not the constitutional question been discussed and decided without it being suggested anywhere in the bill of exceptions, in the assignments of error, or in the briefs, it would hardly be necessary to cite such well known principles as these:

"It must be evident to any one that the power to declare a legislative enactment void is one which the judge, conscious of the fallibility of the human judgment, will shrink from exercising in any case where he can conscientiously and with due regard to duty and official oath decline the responsibility. * * *

"* * * The task * * * is a delicate one, and only to be entered upon with reluctance and hesitation. - - -

"Neither will a court, as a general rule, pass upon a constitutional question, and decide a statute to be invalid, unless a decision upon that very point becomes necessary to the determination of the cause. 'While courts cannot shun the discussion of constitutional questions when fairly presented, they will not go out of their way to find such topics. They will not seek to draw in such weighty matters collaterally, nor on trivial occasions. It is both more proper and more respectful to a coordinate department to discuss constitutional questions only when that is the very *lis mota*.

* * *'" (Cooley's Constitutional Limitations, 7th ed., pp. 227, 228, 231.)

Street, J., with whom concur

Avanceña, C. J., and Ostrand, J., dissenting:

This is an action of quo warranto instituted in the Court of First Instance of Ilocos Norte by Julio Agcaoili for the purpose of securing his restoration to the office of justice of the peace of Laoag and to secure the removal of the defendant, Alberto Suguitan, from the present enjoyment of the same office. Upon hearing the cause the trial judge, while recognizing the theoretical right of the plaintiff to the office in question, nevertheless held that the plaintiff's right of action had been barred by the limitation prescribed in section 216 of the Code of Civil Procedure. He there- fore denied the writ, with half costs, and the plaintiff appealed.

It appears that on March 25, 1916, the plaintiff was appointed by the Governor-General to the office of justice of the peace of Laoag, in the Province of Ilocos Norte, effective from April 10, 1916, subject to the conditions prescribed by law. This appointment was approved by the Philippine Senate, and the plaintiff entered upon the discharge of his duties in due course. At that time there was no age limit upon the tenure of office of justices of the peace, but on March 17, 1923, Act No. 3107 of the Philippine Legislature went into effect. By this Act,

section 203 of the Administrative Code, covering the appointment of justices of the peace, was amended by the addition of a proviso to the first paragraph of said section to the effect: "That justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years."

In the year 1923 the plaintiff herein had attained the age of 65; and the Secretary of Justice, supposing that the new proviso to section 203 of the Administrative Code was applicable to the case, brought administrative pressure to bear upon the plaintiff, with the result that the plaintiff ceased to exercise the functions of justice of the peace for Laoag and the defendant, Alberto Suguitan, was duly appointed by the Governor-General to the same office. This appointment having been approved by the Senate, the said Suguitan entered upon the discharge of the duties thereof.

On March 4, 1925, this court promulgated the decision in the case of Segovia vs. Noel (47 Phil., 543), wherein we decided that the amendment contained in Act No. 3107 to section 203 of the Administrative Code should be given prospective application only, with the result that said provision is not applicable to a justice of the peace appointed prior to the enactment of the amendatory law. When this decision was promulgated it came to the attention of the plaintiff, and the present action was instituted by him shortly thereafter for the purpose of obtaining his restoration to the office. Practically the only defense insisted upon in the court below was to the effect that the action had prescribed under the one-year limitation contained in section 216 of the Code of Civil Procedure; and the only question made in this appeal arises upon the application of said section.

It appears from the record that the plaintiff was ousted from office on July 7, 1923, and that the defendant, as auxiliary justice of the peace, then entered upon the discharge of the duties of the office, by direction of Governor-General Wood, in the character of a temporary appointee to the vacancy. Later, as already stated, Suguitan entered upon the discharge of the duties of the office under commission from the Governor-General, approved by the Philippine Senate, effective from December 13, 1923. It is therefore apparent that more than a full year had elapsed between the removal of the plaintiff from office and the date of the institution of the present action; and more than a year had also elapsed after the defendant began the discharge of the duties of the office as a regularly commissioned justice of the peace.

The section of the Code of Civil Procedure, the application of which is here in question, reads, in English, as follows:

"SEC. 216. Limitations.—Nothing herein contained shall authorize an action against a corporation for forfeiture of charter, unless the same be commenced within five years after the act complained of was done or committed; nor shall an action be brought against an officer to be ousted from his office unless within one year after the cause of such ouster, or the right to hold the office, arose."

The same section as it stands in a current version of the Spanish translation differs somewhat, in the second member from the English version, as will be seen by comparing the Spanish version, which is as follows:

"ART. 216. De las limitaciones.—Ninguna de estas disposiciones facultara la iniciacion de un juicio contra una corporacion por la perdida de sus derechos de concesion, a menos que el juicio se lleve a efecto dentro de los cinco anos siguientes a la comision u omision del hecho objeto de la accion. Tampoco se podra iniciar un juicio contra la persona que ejerza un cargo en una corporacion para desposeerla, a menos que se lleve a efecto dentro del ano siguiente a la fecha de la comision del hecho que did motivo a su privacion, o que se puso en duda su derecho para ocupar el cargo."

Upon comparison of these versions it will be seen that the word office (cargo) in the second sentence of the Spanish version is qualified by the expression "en una corporacion" The plaintiff, relying upon the Spanish

version, insists that the provision is not applicable to a public office, like that of justice of the peace; and it is further insisted that the whole section deals exclusively with the subject of the writ of quo warranto as used against a corporation or against a person in possession of a corporate office.

I am unable to accede to this view of the law. Upon examination of sections 197 to 216, inclusive, of the Code of Civil Procedure, it will be found that two subjects are there treated, namely, usurpation of franchise by corporation and usurpation of office; and the evident purpose of this part of the Code is to define the conditions under which the writ of quo warranto may be used in both kinds of cases. Accordingly in the final section (sec. 216) dealing with the subject, a limitation is prescribed for both. The first member of the section, down as far as the semicolon in the English version, prescribes a limitation of five years upon any action instituted against a corporation for forfeiture of its charter. In the matter following the semicolon is found the limitation appropriate to the case where an office is involved and the action of quo warranto is instituted to oust the incumbent and to secure the office for the person unlawfully kept from the occupancy thereof. The prescription established for this case is one year.

A careful perusal of the section, in connection with related provisions of the Code, leaves no room for doubt that the second member of the section was intended to apply to actions over public offices as well as corporate offices; and in this sense said provision has been applied by this court. (*Bautista vs. Fajardo*, 38 Phil., 624.) The author, or authors, of the Code of Civil Procedure could hardly have intended for this provision to be applied only to corporate officers, since there is a public interest in public offices which requires there should be a prescriptive provision applicable to actions over these offices no less than to actions over the offices of corporations. The insertion by the translator into the Spanish version of the expression "en una corporacion" after the word "cargo" was evidently a mere mistake, resulting from a superficial attention to the context; and it will be found that in the Spanish edition of the Code of Civil Procedure edited by C. M. Recto this phrase has been dropped. It goes without saying that the English version of the Code of Civil Procedure is controlling, and in case of conflict the courts must be governed by this version. The suggestion contained in the opinion of the court that the Spanish version ought to be accepted as controlling in this case for the reason that the plaintiff knows only the Spanish language is novel and if followed by us in the future will be the source of much uncertainty in the interpretation and application of our statutes.

The opinion of the court contains a lengthy dissertation intended to demonstrate that the amendment of section 203 of the Administrative Code contained in Act No. 3107 is unconstitutional, for defect in the title of the Act. With this proposition I am also unable to agree. The title to Act No. 3107 begins with these words: "An Act to amend and repeal certain provisions of the Administrative Code relative to the judiciary." These words are general and in my opinion broad enough to include the amendment of section 203 relating to the appointment of justices of the peace. By examining the analysis of Title IV of the Administrative Code it will be found that justices of the peace are there treated as a part of the judiciary, as in fact they are; and although the provisions of Act No. 3107 are various, they have this in common, that they deal with different parts of the judiciary establishment and are intended to effect changes in this system alone. It will be noted that a pronouncement as to the constitutionality of the amendment in question was by no means called for in this case, not only because the point was not raised in the discussion of the case but for the further reason that we are all agreed that said amendment is not applicable to the plaintiff.

Judgment reversed.

RESOLUTION UPON PETITION FOR RECONSIDERATION

February 26, 1926

The Clerk having before it for consideration, (a) the motion of Alberto Suguitan for a reconsideration of the decision of the court promulgated on February 13, 1926, and (b) the motion of the Secretary of Justice, praying for leave to appear in said cause as amicus curiae; and after a careful review of said decision in relation with said motions, it is hereby ordered and decreed that said decision, heretofore announced, be modified, to the end that the decision of all the questions involved in said decision be limited to the following alone:

(a) That said Act No. 3107 can have no application to the petitioner herein, following the doctrine heretofore announced in the case of Segovia vs. Noel (47 Phil., 543) ; and,

(b) That the defense of limitation or prescription contended for by the respondent does not apply to the petitioner under the particular facts of this cause.

Modifying the decision heretofore announced, as herein indicated, and basing the decision upon the two grounds above-mentioned only and eliminating all remarks made about the action and conduct of the Acting Secretary of Justice, said motions are hereby denied. Avanceña, C. J., Street and Ostrand, JJ., adhering to the dissenting opinion heretofore promulgated, concur nevertheless in this resolution.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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