

PHILIPPINE CONSTITUTION ASSOCIATION, INC., PETITIONER, VS. ISMAEL MATHAY AND JOSE VELASCO, RESPONDENTS.*G. R. No. 25554. October 04, 1966*

Ponente: REYES, J.B.L., J.

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The Philippine Constitution Association, a non-stock, non-profit association duly incorporated and organized under the laws of the Philippines, and whose members are Filipino citizens and taxpayers, has filed in this Court a suit against the former Acting Auditor General of the Philippines and Jose Velasco, Auditor of the Congress of the Philippines, duly assigned thereto by the Auditor General as his representative, seeking to permanently enjoin the aforesaid officials from authorizing or passing in audit the payment of the increased salaries authorized by Republic Act No. 4134 (approved June 10, 1964) to the Speaker and members of the House of Representatives before December 30, 1969. Subsequently, Ismael Mathay, present Auditor General, was substituted for Amable M. Aguiluz, former Acting Auditor General.

Section 1, paragraph A, of Republic Act No. 4134 provided, inter alia, that the annual salary of the President of the Senate and of the Speaker of the House of Representatives shall be P40,000.00 each; that of the Senators and members of the House of Representatives, P32,000.00 each (thereby increasing their present compensation of P16,000.00 and P7,200.00 per annum for the Presiding officers and members, respectively, as set in the Constitution). The section expressly provides that "the salary increases herein fixed shall take effect in accordance with the provisions of the Constitution". Section 7 of the same Act provides "that the salary increase of the President of the Senate and of the Speaker of the House of Representatives shall take effect on the effectivity of the salary increase of Congressmen and Senators.

The Appropriation Act (Budget) for the Fiscal Year July 1, 1965 to June 30, 1966 (Republic Act No. 4642) contained the following items for the House of Representatives:

"SPEAKER

"1. The Speaker of the House of Representatives at P16,000 from July 1 to December 29, 1965 and P40,000 from December 30, 1965 to June 30, 1966-----P29,129.00

"MEMBERS

"2. One hundred three Members of the House of Representatives at, P7,200 from July 1 to December 29, 1965 and P32,000 from December 30, 1965 to June 30, 1966 -----P2,032,866.00"

while for the Senate the corresponding appropriation items appear to be:

1. The President of the Senate-----P16,000.00

2. Twenty-three Senators at P7,200-----165,600.00

Thus showing that the 1965-1966 Budget (R. A. No. 4642) implemented the increase in salary of the Speaker and members of the House of Representatives set by Republic Act No. 4134, approved just the preceding year 1964.

The petitioners contend that such implementation is violative of Article VI, Section 14, of the Constitution, as amended in 1940, that provides as follows:

"SEC. 14. The Senators and the Members of the House of Representatives shall, unless otherwise provided by law, receive an annual compensation of seven thousand two hundred pesos each, including per diems and other emoluments or allowances, and exclusive only of traveling expenses to and from their respective districts in the case of Members of the House of Representatives, and to and from their places of residence in the case of Senators, when attending sessions of the Congress. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase. Until otherwise provided by law, the President of the Senate and the Speaker of the House of Representatives shall each receive an annual compensation of sixteen thousand pesos." (Emphasis supplied)

The reason given being that the term of the eight senators elected in 1963, and who took part in the approval of Republic Act No. 4134, will expire only on December 30, 1969 ; while the term of the members of the House who participated in the approval of said Act expired on December 30, 1965 .

From the record we also glean that upon receipt of a written protest from petitioners (Petition, Annex "A"), along the lines summarized above, the then Auditor General requested the Solicitor General to secure a judicial construction of the law involved (Annex "B"); but the Solicitor General evaded the issue by suggesting that an opinion on the matter be sought from the Secretary of Justice (Annex "C", Petition). Conformably to the suggestion, the former Acting Auditor General endorsed the PHILCONSA letter to the Secretary of Justice on November 26, 1965; but on or before January, 1966, and before the former Justice Secretary could act, respondent Aguiluz, as Acting Auditor General, directed his representative in Congress, respondent Velasco, to pass in audit and approve the payment of the increased salaries within the limits of the Appropriation Act in force; hence the filing of the present action. The answer of respondents pleads first the alleged lack of personality of petitioners to institute the action, for lack of showing of injury; and that the Speaker and Members of the House should be joined parties defendant. On the merits, the answer alleges that the protested action is in conformity with the Constitutional provisions, in so far as present members of the Lower House are concerned, for they were elected in 1965, subsequent to the passage of Republic Act 4134. Their stand, in short, is that the expiration of the term of the members of the House of Representatives who approved the increase suffices to make the higher compensation effective for them, regardless of the term of the members of the Senate.

The procedural points raised by respondent, through the Solicitor General, as their counsel, need not give pause. As taxpayers, the petitioners may bring an action to restrain officials from wasting public funds through the enforcement of an invalid or unconstitutional law (cf. PHILCONSA vs. Gimenez, G.R. No. L-23326, December 18, 1965; Tayabas vs. Perez, 56 Phil. 257; Pascual vs. Sec. of Public Works, G.R. No. L-10405, December 29, 1960; Pelaez vs. Auditor General, G.R. No. L-23825, December 24, 1965; Iloilo Palay & Corn Planters Asso. vs. Feliciano, G.R. No. L-24022, March 3, 1965). Moreover, as stated in 52 Am. Jur., page 5:

"The rule that a taxpayer can not, in his individual capacity as such, sue to enjoin an unlawful expenditure or waste of state funds, is the minority doctrine."

"On the alleged non-joinder of the members of the Lower House of Congress as parties defendants, suffice it to say that since the acts sought to be enjoined were the respondents¹ passing in audit and the approval of the payment of the Representatives' increased salaries, and not the collection or receipt thereof, only respondent

auditors were indispensable or proper parties defendant to this action.

These preliminary questions out of the way, we now proceed to the main issue: Does Section 14, Art. VI, of the Constitution require that not only the term of all the members of the House but also that of all the Senators who approved the increase must have fully expired before the increase becomes effective? Or, on the contrary, as respondents contend, does it allow the payment of the increased compensation to the members of the House of Representatives who were elected after the expiration of the term of those House members who approved the increase, regardless of the non-expiration of the terms of office of the Senators who, likewise, participated in the approval of the increase?

It is admitted that the purpose of the provision is to place "a legal bar to the legislators yielding to the natural temptation to increase their salaries. Not that the power to provide for higher compensation is lacking, but with the length of time that has to elapse before an increase becomes effective, there is a deterrent factor to any such measure unless the need for it is clearly felt" (Tañada & Fernando, Constitution of the Philippines, Vol. 2, p. 867).

Significantly, in establishing what might be termed a waiting period before the increased compensation for legislators becomes fully effective, the constitutional provision refers to "all the members of the Senate and of the House of Representatives" in the same sentence, as a single unit, without distinction or separation between them. This unitary treatment is emphasized by the fact that the provision speaks of the "expiration of the full term" of the Senators and Representatives that approved the measure, using the singular form, and not the plural, despite the difference in the terms of office (six years for Senators and four for Representatives), thereby rendering more evident the intent to consider both houses for the purpose as indivisible components of one single Legislature. The use of the word "term" in the singular, when combined with the following phrase "all the members of the Senate and of the House", underscores that in the application of Article VI, section 14, the fundamental consideration is that the terms of office of all members of the Legislature that enacted the measure (whether Senators or Representatives) must have expired before the increase in compensation can become operative. Such disregard of the separate houses, in favor of the whole, accords in turn with the fact that the enactment of laws rests on the shoulders of the entire Legislative body; responsibility therefor is not apportionable between the two chambers.

It is also highly relevant, in the Court's opinion, to note that, as reported by Aruego (Framing of the Constitution, Vol. 1, p. 296, et. seq.), the committee on legislative power in the Constitutional Convention of 1934, before it was decided that the Legislature should be unicameral in form, initially recommended that the increase in the compensation of legislators should not take effect until the expiration of the term of office of all members of the Legislature that approved the increase. The report of the committee read as follows:

"The Senators and Representatives shall receive for their services an annual compensation of four thousand pesos including per diems and other emoluments or allowances and exclusive of travelling expenses to and from their respective residences when attending sessions of the National Legislature, unless otherwise fixed by law: Provided. That no increase in this yearly compensation shall take effect until after the expiration of the terms of office of all the Members of the Legislature that approved such increase." (Emphasis supplied)

The spirit of this restrictive proviso, modified to suit the final choice of a unicameral legislature, was carried over and made more rigid in the first draft of the constitutional provision, which read:

"Provided, That any increase in said compensation shall not take effect until after the expiration of the term of office of the Members of the National Assembly who may be elected subsequent to the approval of such increase." (Aruego, 1, p. 297)

As recorded by the Committee on Style, and as finally approved and enacted, Article VI, section 5, of the Constitution of the Commonwealth, provided that:

"No increase in said compensation shall take effect until after the expiration of the full term of the Members of the National Assembly elected subsequent to the approval of such increase."

Finally, with the return to bicameralism in the 1940 amendments to our fundamental law, the limitation assumed its present form:

"No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase."

It is apparent that throughout its changes of phraseology the plain spirit of the restriction has not been altered. From the first proposal of the committee on the legislative power of the 1934 Convention down to the present, the intendment of the clause has been to require expiration of the full term of all the members of the Legislature that approved the higher compensation, whether the Legislature be unicameral or bicameral, in order to circumvent, as far as possible, the influence of self-interest in its adoption.

The Solicitor General argues on behalf of the respondents that if the framers of the 1940 amendments to the Constitution had intended to require the expiration of the terms not only of the Representatives but also of the Senators who approved the increase, they would have just used the expression "term of all the members of the Congress" instead of specifying "all the members of the Senate and of the House". This is a distinction without a difference, since the Senate and the House together constitute the Congress or Legislature. We think that the reason for specifying the component chambers was rather the desire to emphasize the transition from a unicameral to a bicameral legislature as a result of the 1940 amendments to the Constitution.

It is also contended that there is significance in the use of the words "of the" before "House" in the provision being considered, and in the use of the phrase "of the Senate and of the House" when it could have employed the shorter expression "of the Senate and the House". It was grammatically correct to refer to "the members of the Senate and (the members) of the House", because the members of the Senate are not members of the House. To speak of "members of the Senate and the House" would imply that the members of the Senate also held membership in the House.

The argument that if the intention was to require that the term of office of the Senators, as well as that of the Representatives, must all expire the Constitution would have spoken of the "terms" (in the plural) of the members of 3 the Senate and of the House", instead of using "term" in the singular (as the Constitution does in section 14 of Article VI), has been already considered. As previously observed, the use of the singular form "term" precisely emphasizes that in the provision in question the Constitution envisaged both legislative chambers as one single unit, and this conclusion is reinforced by the expression employed, "until the expiration of the full term of ALL the members of the Senate and of the House of Representatives approving such increase".

It is finally urged that to require the expiration of the full term of the Senators before the effectivity of the increased compensation would subject the present members of the House of Representatives to the same restrictions as under the Constitution prior to its amendment. It may well be wondered whether this was not, in fact, the design of the framers of the 1940 constitutional amendments. For under either the original limitation or the present one, as amended, a maximum delay of six (6) years and a minimum of four(4) is necessary before an increase of legislators' compensation can take effect.

If that increase were approved in the session immediately following an election, two assemblymen's terms, of 3 years each, had to elapse under the former limitation in order that the increase could become operative, because the original Constitution required that the new emolument should operate only after expiration of the term of assemblymen elected subsequently to those who approved it (Art. VI, sec. 5), and an assemblyman's term was then 3 years only. Under the Constitution, as amended, the same interval obtains, since Senators hold office for

six (6) years.

On the other hand, if the increase of compensation were approved by the legislature on its last session just prior to an election, the delay is reduced to four (4) years under the original restriction, because to the last year of the term of the approving assemblymen the full 3-year term of their successors must be added. Once again, an identical period must elapse under the 1940 amendment: because one-third of the Senators are elected every two years, so that just before a given election four of the approving Senators' full six-year term still remain to run.

To illustrate: if under the original Constitution the assemblymen elected in, say, 1935 were to approve an increase of pay in the 1936 sessions, the new pay would not be effective until after the expiration of the term of the succeeding assemblymen elected in 1938; i.e., the increase would not be payable until December 30, 1941, six years after 1935. Under the present Constitution, if the higher pay were approved in 1964 with the participation of Senators elected in 1963, the same would not be collectible until December 30, 1969, since the said Senators' term would expire on the latter date.

But if the assemblymen elected in 1935 (under the original Constitution) were to approve the increase in compensation, not in 1936 but in 1938 (the last of their 3-year term), the new compensation would still operate on December 30, 1941, four years later, since the term of assemblymen elected in November of 1938 (subsequent to the approval of the increase) would end in December 30 of 1941.

Again, under the present Constitution, if the increase is approved in the 1965 sessions immediately preceding the elections in November of that year, the higher compensation would be operative only on December 30, 1969, also four years later, because the most recently elected members of the Senate would then be Senators chosen by the electors in November of 1963, and their term would not expire until December 30, 1969.

This coincidence of minimum and maximum delays under the original and the amended constitution can not be just due to accident, and is proof that the intent and spirit of the Constitutional restriction on Congressional salaries has been maintained unaltered. But whether designed or not, it shows how unfounded is the argument that by requiring members of the present House to await the expiration of the term of the Senators, who concurred in approving the increase in compensation, they are placed in a worse position than under the Constitution as originally written.

The reason for the minimum interval of four years is plainly to discourage the approval of increases of compensation just before an election by legislators who can anticipate their reelection with more or less accuracy. This salutary precaution should not be nullified by resorting to technical and involved interpretation of the constitutional mandate.

In resume, the Court agrees with petitioners that the increased compensation provided by Republic Act No. 4134 is not operative until December 30, 1969, when the full term of all members of the Senate and House that approved it in June 20, 1964 will have expired. Consequently, appropriations for such increased compensation may not be disbursed until December 30, 1969. In so far as Republic Act No. 4642 (1965-1966 Appropriation Act) authorizes the disbursement of the increased compensation prior to the date aforesaid, it also violates the Constitution and must be held null and void.

IN VIEW OF THE FOREGOING, the writ of prohibition prayed for is hereby granted, and the items of the Appropriation Act for the fiscal year 1965-1966 (Republic Act No. 4642) purporting to authorize the disbursement of the increased compensation to members of the Senate and the House of Representatives even prior to December 30, 1969 are declared void, as violative of Article VI, section 14, of the Constitution of the Republic of the Philippines; and the respondents, the Auditor General and the Auditor of the Congress of the

Philippines, are prohibited and enjoined from approving and passing in audit any disbursements of the increased compensation authorized by Republic Act No. 4134 for Senators and members of the House of Representatives, before December 30, 1969. No costs.

Barrera, Dizon, Regala, Makalintal and Sanchez, JJ., concur.

Concepcion, C.J., concurs in the foregoing opinion and in the concurring opinion of Bengzon, J. P., Zaldivar and Ruiz Castro, JJ..

CONCURRING OPINIONS:

BENGZON, J.P., J.:

Fully concurring with the ponencia of Justice J.B.L. Reyes, I should like only to mention a few thoughts related to some points contained therein.

As stated in the majority opinion, it is argued by respondents that if it was intended that the increase should take effect at the same time, the provision of the Constitution could have been phrased as follows:

"No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Congress approving such increase."

They maintain that in specifying "the Senate" and "the House" instead of just using the word "the Congress" the body obviously considered that inasmuch as the terms of the Representatives and Senators under the legislature provided for, would not necessarily coincide, the effective date of the increased salary of the Representatives could also be different from that of the Senators

The fact that "Congress" is not used in the provision in question, in my opinion, is rather an argument for the petitioner herein. "Congress" is not used, obviously because after every four years the Congress is dissolved. On the other hand, the term of a member of the Senate, being six years, goes beyond the duration of one Congress and extends to that of the next Congress. In other words, while the term of the members of the House of Representatives coincides with the lifetime of the Congress, the term of a member of the Senate goes beyond the existence of one Congress.

The Constitution, instead, uses (1) "Senate" and "House of Representatives" and (2) adds "all" before "the Members", clearly Intending that no increase in the compensation therein provided for shall take effect until after the expiration of the term of the most junior among the members of the Senate at the time the increase was approved. Precisely, therefore, because the Constitution speaks of "Senate" and "House of Representatives" instead of "Congress", the prohibition against effectivity continues even after the end of the Congress which approved the measure and, which amounts to the same thing, even after the end of the term of the members of the House of Representatives approving the increase. In specifying "the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase", the Constitution leaves no doubt that until after the condition is met as to the Senate, no Increase in the compensation laid down for Senators and Representatives shall take effect.

It is also contended by respondents that the Constitution in using "term" instead of "terms" shows the clear intention to consider the "term" of the Senators independently from that of the Representatives. The contention is untenable. The provision clearly uses "term" in the general sense. For, otherwise, even in referring to members of the Senate alone, it should have used "terms" since the Senators had originally different terms of office (two, four and six years), as provided for in Section 3 of Article VI of the Constitution, a provision contemporaneous with

the one involved herein. Yet just the same, the Constitution uses the word "term" (singular) to cover all these different terms of office.

I am of the opinion therefore that no other course is open to the Supreme Court in this case but to apply the provision of the Constitution restricting the increase of salaries of Senators and Representatives by subjecting it to a period of waiting. To forestall the view that the Supreme Court thereby offends equity, because the other Constitutional officers - including the members of said Court - are already receiving their increased salaries under Republic Act 4134, suffice it to bear in mind that it was within the hands of the legislators themselves, if they had so desired, to have provided that the salary increases of the aforesaid other Constitutional officers take effect at the same time as their own. In other words, if they had thought it would be inequitable to grant salary increases to others before they could receive their own salary increase - an argument which, I am glad to note, has not been advanced - they could have easily provided that the salary increases therein given be effective December 30, 1969* as in their case.

I consequently reiterate my concurrence.

RUIZ CASTRO, J.:

Republic Act 4134, increasing the salary of all the members of Congress was approved on June 20, 1964 . In the light of the constitutional prohibition or limitation embodied in section 14 of article VI of the Constitution, when does such increase in salary take effect? Shall effectivity be this year 1966 for the members of the House of Representatives, considering that the full term of the members thereof who participated in the approval of the salary increase has expired? Even if the full terms of all the members of the Senate, as composed in 1964, have not expired? Or shall effectivity be only on December 30, 1969 , after the expiration of the full term of the senators elected in 1963?

I fully adhere to and support the position taken by my esteemed brethren, Justices J. B. L. Reyes, Jose P. Bengzon and Calixto Zaldivar. Their thoroughgoing treatment of the issue effectively exploits logical, historical and empirical considerations leading quite Inevitably to the firm conclusion that the salary Increase provided for by Congress in 1964 can take effect, for any and all members of Congress, only after the expiration of the full term of the senators elected in 1963, that is to say, only after December 29, 1969.

There is, however, a vital aspect of the problem that, in my view, requires not only projection but emphasis as well. This is the language of the pertinent constitutional prohibition or limitation which by itself forcefully compels the very conclusion arrived at by the majority of the Court.

We cannot overemphasize the essential role of language. It is one of the distinctive qualities of man, especially of modern thinking man. Man does feel and analyze his intellectual and material experiences; but more than this, he has the ability to articulate, and through articulation he manages synthesis and brings forth the creation and evolution of culture, literature, science and law. In the process, the unceasing effort is to say what is meant and to mean what is said.

Now, then, is the constitutional prohibition or limitation on congressional salary increases stated? "No increase in said compensation shall take effect until after the expiration of the full term of all the members of the Senate and of the House of Representatives approving such Increase." This statement has a literal message of striking clarity. The phrase "No Increase in said compensation shall take effect" establishes the character of the provision as a prohibition or limitation, as can be seen from the unqualified words "no increase". The words "until after the expiration of the full term" impart the period of time during which the prohibition or limitation operates, after

which period the Increase in compensation can take effect. Whose full term must first expire before the increase can take effect? It is the full term "of the members of the Senate and of the House of Representatives approving such increase." The immediate as well as lasting Impact of these words is that what must first expire is the full term of the members of both houses of Congress approving the increase. It cannot be the full term of the members of either house, nor yet the full term of the members of the Senate, or that of the members of the House of Representatives.

The key word is the particle "and" "And" is a conjunction pertinently defined as meaning "together with," "Joined with" (Punk and Wagnalls New Standard Dictionary of the English Language, p. 105); "along or together with," "added to or linked to," used to conjoin word with word, phrase with phrase, clause with clause (Webster's New International Dictionary, p. 98). The word "and" does not mean "or"; it is a conjunction used to denote a joinder or union, "binding together," "relating the one to the other" (See 3 Words and Phrases, 569-571.).

As understood from the common and usual meaning of the conjunction "and," the expiration of the full term of all the members of the Senate is inseparable from the expiration of the full term of all the members of the House of Representatives. From the perspective of semantics, it is undeniably perceived that those who framed the constitutional provision, when they utilized the word "and," stated what they meant and meant what they stated.

There is, to be sure, a specific rule of interpretation that would allow "or" to be interchanged with "and," in which event a negation of the concept of joinder would ensue. But this is the exception rather than the general rule. The exception is resorted to only when a literal Interpretation would pervert the plain intention of the writer or draftsman as gleaned from the overall context of the writing and/or from external factors. This does not obtain in the provision under discussion. Indeed, a departure from the general rule and a resort to the exception would pervert section 14 of article VI. Note the parity of compensation of the senators and the members of the House of Representatives. If the expiration of the full term of the members of the Senate would be considered as separable from the expiration of the full term of the members of the House of Representatives, despite the conjunction "and," then the result would be to allow members of the House of Representatives to enjoy the increase in compensation ahead of the senators, thereby producing a disparity of compensation. Furthermore, if the framers of the provision were concerned with the realities of the term of office of the senators and that of the representatives, more than with the reality of the parity of compensation, then they should have staggered the effectivity of entitlement to the increased salary and allowed the first group of senators elected after the approval of the increase to enjoy such increase.

The prohibition or limitation may be stated otherwise: "The full terms of all the members of the Senate and of the House of Representatives approving such Increase must first expire before an increase in compensation can take effect." Would the literal meaning of the provision still be in doubt?

The framers of the constitutional provision under discussion certainly were not wanting of competent legal stylists. With much more reason, then, must they be regarded as having achieved a unity of intention, statement and meaning. These experienced stylists could have so easily phrased the provision differently to conform to a different intention. For example, it could have been:

"x x x until after the expiration of the full term of all the members of the Senate or of the House of Representatives approving such increase, as the case may be," But this was not done, and we cannot deviate from what able stylists have plainly stated in the plain language.

ZALDIVAR, J.:

During the third regular session of the Fifth Congress of the Republic of the Philippines House Bill No. 6190 was approved, and this bill was signed into law on June 20, 1964 by the President of the Philippines and

became Republic Act 4134.

Section 1, paragraph A of Republic Act 4134 provides, among others, that the annual salary of the President of the Senate and of the Speaker of the House of Representatives shall be forty thousand pesos, and that of the Senators and Members of the House of Representatives shall be thirty-two thousand pesos each. The paragraph ends with this sentence: "The salary Increases therein fixed shall take effect in accordance with the provisions of the Constitution."

The pertinent provision of the Constitution as far as the effectivity of any law increasing the Compensation of the Senators and Members of the House of Representatives is concerned reads as follows:

"x x x No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase, x x x" (Article VI, Section 14 of the Constitution)

Inasmuch as House Bill No. 6190 was passed during the third regular session of the Fifth Congress of the Philippines, in 1964, said bill was approved by the House of Representatives whose members were elected in the elections of November, 1961 and whose term of office would expire on December 29, 1965; and by the Senate whose membership was composed of: eight Senators who were elected in November, 1959 and whose term would expire on December 29, 1965; eight Senators who were elected in November, 1961 and whose term would expire on December 29, 1967; and eight Senators who were elected in November, 1963 and whose term would expire on December 29, 1969.

Mr. Justice J. B. L. Reyes, writing the opinion of the Court in the case now before Us, interpreting the effectivity clause in paragraph A, Section 1 of Republic Act 4134 in relation to the pertinent provision of Article VI, Section 14, of the Constitution, hereinabove quoted, says that the increased compensation provided by Republic Act 4134 for the Senators and Members of the House of Representatives will not take effect until December 30, 1969. I concur with this opinion because it will not be until December 29, 1969 when the full term of all the Members of the Senate and of the House of Representatives that approved the increase in 1964 would expire. And I also agree with the opinion that in so far as Republic Act No. 4642 (Appropriation Law for the fiscal year 1965-1966) authorizes the disbursement of the increased compensation for the Members of the House of Representatives prior to December 30, 1960 violates the Constitution and must be held null and void.

My opinion in this regard is based upon a personal knowledge of how the constitutional proviso, Article VI, Section 14 of the Constitution, which is now in question, became a part of our present Constitution. It was the Second National Assembly which amended our original Constitution. I was a humble Member of the Second National Assembly, representing the province of Antique .

The three important amendments that were incorporated in our Constitution by the Second National Assembly in 1940 were the provisions regarding (1) the establishment of a bicameral legislature composed of a House of Representatives and a Senate, to take the place of the then existing unicameral legislature known as the National Assembly; (2) the change in the term of the office of the President of the Philippines, and the Vice-President, which formerly was for a period of six years, to that of four years, with the proviso that no person shall serve as President for more than eight consecutive years; and (3) the creation of the Commission on Elections.

It is regrettable that the deliberations of the Second National Assembly on the 1940 amendments to the Constitution were mostly done in caucuses behind closed doors, and the discussions were not recorded. It was during the first special sessions of the Second National Assembly in September, 1939 when discussions on proposed amendments to the Constitution were held. It was only after the proposed amendments had been approved in caucuses when the amendments were embodied in a resolution and submitted to the National

Assembly in open session. The amendments as approved in caucuses were embodied in Resolution No.38 and adopted on September 15, 1939 . However, during the second regular sessions in 1940 Resolution No. 38 was amended by. Resolution No. 73 which was adopted on April 11, 1940 . That is how the amendments came to be known as the 1940 Amendments. Those amendments were approved in a plebiscite that was held on June 18, 1940 .

I still have vivid recollections of the important points brought up during the deliberations in caucus over proposed amendments and of the agreements arrived at. I remember too the influences that worked, and the pressures that were brought to bear upon the Assemblymen, in the efforts to bring about agreements on very controversial matters and thus secure the- insertion of the desired amendments to the Constitution. The discussions on the proposed amendments affecting the legislative branch of the government were specially of interest to us then because we were in some way personally affected, as most of us were interested in running for reelection.

It is not my purpose here to impose on anyone my recollections of matters that were brought up during our caucuses then, but I only wish to emphasize the fact that my concurring opinion in the decision of the case now before Us has for its basis my honest and best recollections of what had transpired, or what had been expressed, during the caucuses held by the Members of the Second National Assembly in the deliberations which later brought about the 1940 amendments.

I distinctly remember that the proposed amendment to change the legislature from unicameral to that of bicameral, just as the proposal to change the term of office of the President from six years without reelection to that of four years with one reelection, at first met very strong opposition by a considerable group of Assemblymen. But somehow the opposition was finally subdued, so to say. In the case of the legislature, the basic idea of having two chambers of the legislature - one chamber serving as a check to the other - was accepted. It was then considered as a wise idea to have the Senate as the upper chamber, to be composed of members who would be elected at large, and it was expected that those who would be elected to the Senate would be men of national prestige; prestigious because of their known integrity, in their record and experience as a public servant, or in their prominence as a successful member of his profession. It was even said, then, that the Senate would be a training ground for future Presidents of the nation. And so, when it was agreed that a bicameral legislature would be provided in the Constitution, the next matter that had to be considered was the tenure of office of the members of each of the two chambers of the legislature. As far as the term of the members of the lower chamber, to be known as the House of Representatives, there was no disagreement over the idea that their term be for a period of four years, to coincide with the term of the President. But as far as the term of office of the members of the upper chamber, to be known as the Senate, there was at first a divergence of opinion. There was a group that supported the idea that the term of the members of the upper chamber be four years, similar to that of the House of Representatives, so that in the national elections that would take place every four years there would be elections for President, Vice-President, and all the members of the Congress of the Philippines. However, there was a very strong advocacy on the part of top political leaders at that time that the Senate should be made a continuing body, such that the complete membership of that chamber should not be elected during the national elections that would take place every four years.

Finally, it was agreed that the members of the Senate, which was decided to be composed of twenty-four, would have a term of six years, one-third of which number would be elected every two years. The idea of having elections of one-third of the membership of the Senate was adjusted to the situation that in between two national elections there were the elections for local officials. The question regarding the term of office of the Members of the first Senate to be elected under the Constitution as amended was settled by inserting a proviso that the first senators elected should, in the manner provided by law, be divided equally into three groups: the senators of the

first group to serve for a term of six years, those of the second group to serve for a term of four years, and those of the third group for a term of two years (Article VI, Section 3). And for the purposes of the first elections under the amended Constitution Commonwealth Act No. 666 was enacted by the National Assembly providing, as far as the first Senate was concerned, that "The Senate shall, within ten days after it shall have been organized with the election of its President, determine by lot which of the elected Senators shall belong to the group who shall serve six years, which to the group who shall serve for four years, and which to the group who shall serve for two years." (Section 9, Com. Act Ho. 666)

When the matter regarding the compensation of the members of both chambers came up for deliberation, there were proposals that the Senators be given more compensation than the Members of the House of Representatives, and a number of proposals were presented regarding the amount of compensation that would be paid to the Senators or to the Representatives, as the case may be. This matter was the subject of long discussions. It was finally agreed that the amount of compensation for the Senators and for the Members of the House of Representatives be the same, and it was fixed at P7,200.00 per annum each, including per diems and other emoluments, exclusive only of traveling expenses in going to and returning from the sessions. There was an increase of P2,200.00 over the P5,000.00 per annum that the Members of the National Assembly were receiving at the time. It is thus seen that in the matter of compensation the sense of the Members of the Second National Assembly who amended the Constitution in 1940 was to provide for an equal compensation for the Members of the Senate and to the Members of the House of Representatives.

When the matter regarding the increase in the compensation of the Senators and of the Representatives came up for consideration, there was unanimity among the Assemblymen in support of the idea that members of the Congress of the Philippines may approve a law increasing their compensation, but that no Member of the House of Representatives or of the Senate that approved the law increasing the compensation should receive the increased compensation, during their term of office when the increase was approved. I remember that the question as to when the increase of compensation as approved by the Members of the Congress of the Philippines should take effect was the subject of a prolonged and heated discussion. Many Members of the National Assembly wanted to continue with the provision of Article VI, Section 5 of the original Constitution that "No increase in said compensation shall take effect until after the expiration of the full term of the Members of the National Assembly elected subsequent to the approval of such increase." I have taken note that no less than eighteen members of the Second National Assembly in 1940 were members of the 1934 constitutional convention that drafted the original Constitution, and it was this group of Assemblymen that were zealous in maintaining the idea that one full term of a member of the legislature subsequent to the approval of the increase in compensation should be made to lapse before the increase shall take effect. But this idea could not be insisted upon because while that was feasible in the case of Members of the National Assembly which was a unicameral body, that idea could not be adopted in a bicameral body where the term of office of the members of one chamber was not the same as that of the members of the other chamber. I recall that it was finally agreed to simply adopt the constitutional precept that no Senator or Member of the House of Representatives may receive any increase in compensation, as approved by the House and the Senate of a particular Congress, before the expiration of the term of all the members of the House of Representatives and of the Senate that approved the increase. Inasmuch as the term of the Members of the House of Representatives is shorter than that of the Senators, it was understood that the expiration of the term of the Members of the Senate that approved the increase should be awaited before the increase in compensation would take effect. As finally worded by the Committee on Style of the Assembly, and that Committee on Style was headed by the illustrious and indefatigable Assemblyman Gregorio Perfecto, who later became a worthy member of this Court, that constitutional precept which be-came part of Section 14, Article VI of the amended Constitution was worded as follows:

"No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase."

It should be noted that the above-quoted portion of Section 14, Article VI of the Constitution talks of the "expiration of the full term of all the Members" then followed by the words "of the Senate and of the House of Representatives approving such increase." This proviso contemplates not the Representatives or the Senators who voted in favor of the increase, but the Senate and the House of Representatives as a body that approved the increase. And so, because the understanding of the amending Assemblymen was that the effectiveness of the increase should take place after the expiration of the term of the Senators with the longest term among the Members of the Senate that approved the increase the constitutional proviso was so worded "shall take effect until after the full term of all the Members of the Senate and of the House of Representatives approving such increase." It will be noted that this Section 14 starts with using the words "Senators and Members of the House of Representatives" in referring to the compensation to be received by each, they are considered individually, But in the matter of determining the time when the increase is to take effect they are considered as collective by the use of the phrase "all the Members of the Senate and of the House of Representatives approving such increase." The use of the word all includes every Member of the Senate and of the House of Representatives, regardless of whether or not he or she voted affirmatively for the increase. It is the House and the Senate that approved the increase. And so because the effectiveness of the increase depends on the expiration of the term of all the members of both chambers it stands to reason that all the members of the two chambers were taken into consideration, and because when the increase was approved by the Senate and the House of Representatives there were members of the Senate whose term of office was longer than that of some other Members of the Senate and of the Members of the House of Representatives it is the term of the Senators which was the longest that should first expire before the increase should take effect. That is how I understood then that portion of Section 14, Article VI of the Constitution, and I sincerely believe that that was also how most if not all of my colleagues understood it.

The question precisely was raised whether under that constitutional proviso, as above-quoted, the Members of the House of Representatives who are elected during the elections subsequent to the approval of the increase by the Congress of the Philippines could receive the increased compensation inasmuch as the term of those Members of the House that had approved the increase had already expired. I remember that it was the understanding of the Members of the National Assembly that those Members of the House of Representatives who would be elected subsequent to the approval of such increase could not immediately receive the increased compensation as approved during the preceding Congress; and neither could the eight Senators who would be elected along with those Representatives in the same elections. To allow those newly elected Representatives and Senators to receive the increased compensation would give rise to a situation whereby the Members of the House of Representatives and eight Senators would be receiving a compensation higher than that received by at least sixteen Members of the Senate, including the President of the Senate, as the case might happen. That would be inconsistent with the basic idea adopted by the Members of the National Assembly that the compensation of the Members of the House of Representatives and those of the Senate should be the same; and it is only logical that when we say that the compensation of the Members of the House and of the Members of the Senate is the same, that compensation should be the same not only in amount but also at the same time within their respective terms of office.

It was envisaged by the Members of the National Assembly that the salary increase, under the constitutional proviso now in question, would become effective after the lapse of two years, or four years, as the case may be, after the commencement of the term of office of those Members of the House of Representatives that are elected in the elections subsequent to the approval of the increase. In the case of the lapse of four years, which we have just stated, it would mean that it would be the Members of the House of Representatives who would be elected in

the second elections subsequent to the approval of the increase who would receive the increased compensation.

As I have stated, it was the sense of the Members of the Second National Assembly that approved the constitutional amendment in 1940 that the increase in the compensation for Members of the House of Representatives and of the Senate would take effect only until after the expiration of the full term of the senators who were Members of the Senate that approved the increase. It is my recollection that the main idea of the Members of the National Assembly in adopting the proviso in question was to maintain the equality of the compensation of the Members of the House of Representatives and of the Senate at all times.

Three situations were anticipated to happen by the amending Assemblymen under the constitutional proviso in question:

1. This is the first situation. Let us take the case of the First Congress of the Philippines which was elected in November, 1941 already under the Constitution as amended in 1940. This Congress was composed of a House of Representatives whose members were elected for a term of 4 years, to expire on December 29, 1945; and of a Senate composed of eight senators with a term of 6 years to expire on December 29, 1947; eight senators with a term of 4 years to expire on December 29, 1945, and eight senators with a term of 2 years to expire on December 29, 1943.

If a law increasing the compensation of Members of Congress was passed during the sessions in 1942, supposing that there was no war, the increase would take effect on December 30, 1947, after the expiration of the term of the eight senators who were elected in the elections in November, 1941 who served for a term of six years. The term of the eight senators who were elected in 1941 and who would have served for only two years would have expired on December 29, 1943; and the term of the eight senators who would have served for four years would have expired on December 29, 1945. The term (4 years) of the Representatives who were elected in November, 1941 would also have expired on December 29, 1945. But in November, 1943 elections for eight senators who would serve for a regular term of 6 years would have taken place; and likewise elections for a full House of Representatives and for another set of senators to serve for a full term of six years would have taken place in November, 1945. If the war did not upset the national affairs a new Congress would have convened in January, 1946, already composed of a House of Representatives and a Senate whose members would all have been elected for a term of six years each.

So, on December 30, 1947 when the increase in the compensation would take effect, the increased compensation would be uniformly enjoyed by all members of Congress (Senators and Representatives alike) - those Senators who were elected in the 1943, 1945 and 1947 elections, and by the Members of the House of Representatives who were elected in the 1945 elections. Under that situation, the Members of the House of Representatives who were elected in 1945 would have waited for two years before they could receive the increased compensation that was approved in the 1942 sessions of Congress. And this is so, because it is on December 29, 1947, when the six-year term of the eight Senators who were Members of the Senate that approved the increased compensation in 1942 (along with the then existing House of Representatives) had expired.

2. Now let us take the second situation. Let us take the case of a Congress that is normally constituted. When I say "normally constituted" I mean a Congress composed of a House of Representatives whose members had been elected for a term of four years, and a Senate that is composed of Members who had each been elected for a term of six years, although at different elections, as provided in the Constitution.

We make the Third Congress of the Republic of the Philippines as an example. This Congress covered the period of four years from January, 1954 to December, 1957, inclusive. During the first two years (or two regular sessions) this Congress was composed of the House of Representatives whose members were elected in the

elections of November, 1953 and whose term would expire on December 29, 1957; and twenty-four senators: eight who were elected in November, 1953 whose term would expire on December 29, 1959; eight who were elected in November, 1951 and whose term would expire on December 29, 1957; and eight who were elected in November, 1949 and whose term would expire on December 29, 1955.

If a law increasing the salary is passed, say in the first regular session of the Third Congress in May, 1954, then the increase provided for in this law would take effect on December 30, 1959 . Why? Because that law was approved by the House of Representatives (the term of whose members ended on December 29, 1957) and by a Senate at least eight of whose members were elected in November, 1953 and whose term of office would expire on December 29, 1959 . That means that the members of the House of Representatives who were elected in the elections of November, 1957 (many of whom may be members of the Third Congress who voted for the law in May, 1954) would have to wait for two years before they could receive the increased compensation. In other words, beginning December 30, 1959 , the Members of the House of Representatives and all the Members of the Senate (those elected in the 1955, 1957 and 1959 elections) would all be uniformly getting the increased salary.

3. Let us take the third situation. We still use the Third Congress of the Republic of the Philippines as an example. Let us suppose that the law increasing the compensation was passed in the third regular session of the Third Congress in May, 1956. This time the Third Congress is composed of the same members of the House of Representatives who were elected in November, 1953, but the Senate has a different composition. The Senate would already be composed of eight new Senators who were elected during the elections of November, 1955 and whose term of office would expire on December 29, 1961 , the remaining eight Senators elected in 1953 and eight Senators who were elected in 1951. If the law increasing the compensation is passed during the regular session of 1956 this law would be approved by the House of Representatives and by the Senate that had eight new members whose term would expire on December 29, 1961 . Since the term of these new eight Senators would expire on December 29, 1961 , then the increased compensation would take effect on December 30, 1961 .

In November, 1957 there were elections and a new House of Representatives was then elected, and the term of office of the members of the new House would expire on December 29, 1961 . Likewise, a new set of eight Senators were elected whose term would expire on December 29, 1953 . Those Members of the House of Representatives who were elected in November, 1957, among whom perhaps were Representatives who voted for the increase during the 1956 sessions, would not enjoy the increased compensation because their term would expire on December 29, 1961 - the very same date of the termination of the term of the eight Senators who were elected in 1955 and who were Members of the Senate that approved the increase during the session of 1956. In this case the increased compensation would be received by the Members of the House of Representatives who were elected in the elections of November, 1961, along with the Senators who were elected in November, 1961 and the remaining Senators who were elected in 1959 and 1957. They would all be receiving the same compensation and at the same time while they are in office during the term for which they were elected.

As far as the House of Representatives is concerned, the situation as portrayed in this third case is the same situation as that which was contemplated by the framers of the original Constitution of 1935 when it was provided in the Constitution as adopted that the increase in salary should not take effect "until after the expiration of the full term of the Members of the National Assembly elected subsequent to the approval of such increase." In the example we have given, the increase in salaries of the Members of the House of Representatives which was approved by the Members of the House in the third regular session of the Third Congress did not take effect until after the expiration of the full term of the Members of the House who were elected subsequent to the approval of such increase.

The case now before Us is similar to Case No. 3 that we have portrayed above. Republic Act 4134 was approved

during the regular session of the Fifth Congress of the Republic of the Philippines in May, 1964 and signed into law by the President on June 20, 1964 . As I have stated earlier, the increase provided in this law was approved by the House of Representatives whose members were elected in November, 1961, and whose term of office expired on December 29, 1965; and by the Senate composed of eight Senators who were elected in November, 1963 whose term would expire on December 29, 1969, eight Senators who were elected in November, 1961 whose term would expire on December 29, 1967, and eight Senators who were elected in November, 1959 whose term had expired on December 29, 1965. Inasmuch as the increase would take effect at the expiration of the term of the Senators who were elected in November, 1963 - which is on December 29, 1969 - the Members of the present House of Representatives cannot receive this increased compensation during their present term of office. It will be the Members of the House of Representatives who will be elected in November, 1969, along with the Senators elected in 1965, 1967 and 1969, who will receive this increased compensation. They will then all be receiving the same compensation during the time that they are in office.

I have endeavored to make a discourse of facts as I know them, because I sincerely believe that the interpretation embodied in the opinion penned by my esteemed colleague, Mr. Justice J.B.L. Reyes, of the pertinent provision of Article VI, Section 14 of our Constitution is in consonance with the facts and circumstances as I remember them, and as I know them. As I have stated at the early part of this concurring opinion, it is not my purpose to impose on anyone my recollection of what transpired, or of what had been discussed about, or of what had been agreed upon, by the Members of the Second National Assembly during the deliberations which brought about the 1940 amendments to our Constitution. My perception and my memory are as frail as those of any other human being, and I may have incurred myself in error. It just happened that the facts and the circumstances that I have herein narrated, as I remember them, have engendered in my mind an opinion, nay a conviction, which dovetails with the opinion of my illustrious colleague that has penned the opinion for the majority of the Court in this case.

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