

BARA LIDASAN, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 28089. October 25, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The question initially presented to the Commission on Elections¹ is this: Is Republic Act 4790, which is entitled "An Act Creating the Municipality of Dianaton in the Province of Lanao del Sur", but which includes barrios located in another province - Cotabato - to be spared from attack planted upon the constitutional mandate that "No bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill"? Comelec's answer is in the affirm Live. Offshoot is the present original petition for certiorari and prohibition.

On June 18, 1966, the Chief Executive signed into law House Bill known as Republic Act. 4790, now in dispute. The body of the statute reproduced in haec verba, reads:

"SECTION 1. Barrios Togaig, Madalum, Bayanga, Langkong, Sarakan, Kat-bo, Digakapan, Magabo, Tabangao, Tiongko, Colodan, Kabamakawan, Kapatagan, Bongabong, Aipang, Dagowan, Bakikis, Bungabung, Losain, Matimos and Magolatung, in the Municipalities of Butig and Balabagan, Province of Lanao del Sur, are separated from said municipalities and constituted into a distinct and independent municipality of the same province to be known as the Municipality of Dianaton, Province of Lanao del Sur. The seat of government of the municipality shall be in Togaig.

SEC. 2. The first mayor, vice-mayor and councilors of the new municipality shall be elected in the nineteen hundred sixty-seven general elections for local officials.

SEC. 3. This Act shall take effect upon its approval."

It came to light later that barrios Togaig and Madalum just mentioned are within the municipality of Buldon, Province of Cotabato, and that Bayanga, Langkong, Sarakan, Kat-bo, Digakapan, Magabo, Tabangao, Tiongko Colodan, and Kabamakawa, are parts and parcel of another municipality, the municipality of Parang, also in the Province of Cotabato and not of Lanao del Sur.

Prompted by the coming elections, Comelec adopted its resolution of August 15, 1967, the pertinent portions of which are:

"For purposes of establishment of precincts, registration of voters and for other election purposes, the Commission, RESOLVED that pursuant to R.A. 4790, the new municipality of Dianaton, Lano del Sur shall comprise the barrios of Kapatagan, Bongabong, Aipang, Dagowan, Bakikis, Bungabung, Losain, Matimos and Magoletung situated in the municipality of Balabagan, Lanao del Sur, the barrios of Togaig and Madalum situated in the municipality of Buldon, Cotabato, the barrios of Bayanga, Langkong, Sarakan, Kat-bo, Digakapan, Magabo, Tabangao, Tiongko, Colodan and Kabamakawan situated in the municipality of Parang, also of Cotabato."

Doubtless, as the statute stands, twelve barrios - in two municipalities in the province of Cotabato - are transferred to the province of Lanao del Sur. This brought about a change in the boundaries of the two provinces,

Apprised of this development, on September 7, 1967, the Office of the President., through the Assistant Executive Secretary, recommended to Comelec that the operation of the statute be suspended until "clarified by correcting legislation."

Comelec, by resolution of September 20, 1967, stood by its own interpretation, declared that the statute "should be implemented unless declared unconstitutional by the Supreme Court."

This triggered the present original action for certiorari and prohibition by Bars Lidasan, a resident and taxpayer of the detached portion of Parang, Cotabato and a qualified voter for the 1967 elections. He prays that Republic Act 4790 be declared unconstitutional; and that Comelec's resolutions of August 15, 1967 and September 20, 1967 implementing the same for electoral purposes, be nullified.

1. Petitioner relies upon the constitutional requirement afore-stated, that "[n]o bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill." [2]

It may be well to state, right at the outset, that the constitutional provision contains dual limitations upon legislative power. First. Congress is to refrain from conglomeration, under one statute, of hetero-geneous subjects: Second. The title of the bill is to be couched in a language sufficient to notify the legislators and the public and those concerned of the import of the single subject thereof.

Of relevance here is the second directive. The subject of the statute must be "expressed in the title" of the bill. This constitutional require-ment "breathes the spirit of command." [3] Compliance is imperative, given the fact that the Constitution does not 'exact of Congress the obligation to read during its deliberations the entire text of the bill. In fact, in the case of House Bill 1247, which became Republic Act 4790, only its title was read from its introduction to its final approval in the House of Representatives, [4] where the bill, being of local application, originated. [5]

Of course, the Constitution does not require Congress to employ in the title of an enactment, language of such precision as to mirror, fully index or catalogue all the contents and the minute details therein. It suffices if the title should serve the purpose of the constitutional demand that it inform the legislators, the persons interested in the subject of the bill, and the public, of the nature, scope and consequences of the proposed law and its operation. And this, to lead them to inquire into the body of the bill, study and discuss the same, take appropriate action thereon, and, thus, prevent surprise or fraud upon the legislators. [6]

In our task of ascertaining whether or not the title of a statute conforms with the constitutional requirement, the following, we believe, may be taken as guidelines:

"The test of the sufficiency of a title is whether or not it is misleading; and, while technical accuracy is not essential, and the subject need not be stated in express terms where it is clearly inferable from the details set forth, a title which is so uncertain that the average person reading it would not be informed of the purpose of the enactment or put on as to its contents, or which is misleading, either in referring to or indicating one subject where another or different one is really embraced in the act or in omitting any expression or indication of the real subject or scope of the act, is bad,

x x x

In determining sufficiency of particular title its substance rather than its form should be considered and the purpose of the constitutional requirement, of giving notice to all persons interested should be, kept in mind by the

court.[7]

With the foregoing principles at hand, we take a hard look at the disputed statute. The title - "An Act Creating the Municipality of Dianaton, in the Province of Lanao del Sur"[8] - projects the impression that solely the province of Lanao del Sur is affected by the creation of Dianaton. Not the slightest intimation is there that communities in the adjacent province of Cotabato are incorporated in this new Lanao del Sur town. The phrase "in the Province of Lanao del Sur," read without subtlety or contortion, makes the title misleading, deceptive. For, the known fact is that the legislation has a two-pronged purpose combined in one statute: (1) it creates the municipality of Dianaton purportedly from twenty-one barrios in the towns of Butig and Balabagan, both in the province of Lanao del Sur; and (2) it also dismembers two municipalities in Cotabato, a province different from Lanao del Sur.

The baneful effect of the defective title here presented is not so difficult to perceive. Such title did not inform the members of Congress as to the full impact of the law; it did not apprise the people in the towns of Buldon and Parang in Cotabato and in the province of Cotabato itself that part of their territory is being taken away from their towns and province and added to the adjacent Province of Lanao del Sur; it kept the public in the dark as to what towns and provinces were actually affected by the bill. These are the pressures which heavily weigh against the constitutionality of Republic Act 4790.

Respondent's stance is that the change in boundaries of the two provinces resulting in "the substantial diminution of the territorial limits" of Cotabato province is "merely the incidental legal results of the definition of the boundary" of the municipality of Dianaton and that, therefore, reference to the fact that portions in Cotabato are taken away "need not be expressed in the title of the law." This posture - we must say but emphasizes the error of constitutional dimensions in writing down the title of the bill. Transfer of a sizeable portion of territory from one province to another of necessity involves reduction of area, population and income of the first and the corresponding increase of those of the other. This is as important as the creation of a municipality. And yet, the title did not reflect this fact.

Respondent asks us to read *Felwa vs. Salas* L-26511, October 29, 1966, as controlling here. The *Felwa* case is not in focus. For there, the title of the Act (Republic Act 4695) reads: "An Act Creating the Provinces of Benguet, Mountain Province, Ifugao, and Kalinga-Apayao." That title was assailed as unconstitutional upon the averment that the provisions of the law (Section 8 thereof) in reference to the elective officials of the provinces thus created, were not set forth in the title of the bill. We there ruled that this pretense is devoid of merit "for, surely, an Act creating said provinces must be expected to provide for the officers who shall run the affairs thereof" - which is "manifestly germane to the subject" of the legislation, as set forth in its title. The statute now before us stands altogether on a different footing. The lumping together of barrios in adjacent but separate provinces under one statute is neither a natural nor logical consequence of the creation of the new municipality of Dianaton. A change of boundaries of the two provinces may be made without necessarily creating a new municipality and vice versa.

As we canvass the authorities on this point, our attention is drawn to *Hume vs. Village of Fruitport*, 219 NW 648, 649. There, the statute in controversy bears the title "An Act to Incorporate the Village of Fruitport, in the County of Muskegon." The statute, however, in its Section 1 reads: "The people of the state of Michigan enact, that the following described territory in the counties of Muskegon and Ottawa, Michigan, to wit: x x x be, and the same is hereby constituted a village corporate, by the name of the Village of Fruitport." This statute was challenged as void by plaintiff, a resident of Ottawa, county, in an action to restrain the Village from exercising jurisdiction and control, including taxing of his lands. Plaintiff based his claim on Section 20, Article IV of the Michigan State Constitution, which reads: "No law shall embrace more than one object, which shall be expressed in its title." The Circuit Court decree voided the statute and defendant appealed. The Supreme Court of Michigan voted to uphold the decree of nullity. The following, said in *Hume*, may well apply to this case:

"It may be that the words, 'An act to incorporate the village of Fruitport,' would have been a sufficient title, and that the words, 'in the county of Muskegon,' were unnecessary; but we do not agree with appellant that the words last quoted may, for that reason, be disregarded as surplusage.

x x x Under the guise of discarding surplusage, a court cannot reject a part of the title of an act for the purpose of saving the act. *Schmalz vs. Wooly*, 56 N.J. Eq. 649, 39 A. 539.

A purpose of the provision of the Constitution is to challenge the attention of those affected by the act to its provisions. *Savings Bank vs. State of Michigan*, 228 Mich. 316, 200 NW 262.

The title here is restrictive. It restricts the operation of the act to Muskegon country. The act goes beyond the restriction ill was said in *Schmalz vs. Wooly*, supra: 'The title is erroneous in the worst degree, for it is misleading.'[9]

Similar statutes aimed at changing boundaries of political subdivisions, which legislative purpose is not expressed in the title, were likewise declared unconstitutional.[10]

We rule that Republic Act 4790 is null and void.

2. Suggestion was made that Republic Act 4790 may still be salvaged with reference to the nine barrios in the municipalities of Butig and Bala-bagan in Lanao del Sur, with the mere nullification of the portion thereof which took away the twelve barrios in the municipalities of Buldon and Parang in the other province of Cotabato. The reasoning advocated is that the limited title of the Act still covers those barrios actually in the province of Lanao del Sur.

We are not unmindful of the rule, buttressed on reason and of long standing, that where a portion of a statute is rendered unconstitutional and the remainder valid, the parts will be separated, and the constitutional portion upheld. *Black*, however gives the exception to this; rule, thus:

"x x x But when the parts of the statute are so mutually dependent and connected, as conditions, considerations, inducements, or compensations for each other, as to warrant a belief that the legislature intended them as a whole, and that if all could not be carried into effect, the legislature would not pass the residue independently, then, if some parts are unconstitutional, all the provisions which are thus dependent, conditional, or connected, must fall with them."[11]

In substantially similar language, the same exception is recognized in the jurisprudence of this Court, thus:

"The general rule is that where part of a statute is void, as repugnant to the Organic Law, while another part is valid, the valid portion, if separable from the invalid, may stand and be enforced. But in order to do this, the valid portion must be so far independent of the invalid portion that it is fair to presume that the Legislature would have enacted it by itself if they had supposed that they could not constitutionally enact the other. x x x Enough must remain to make a complete, intelligible, and valid statute, which carries out the legislative intent. x x x. The language used in the invalid part of the statute ran have no legal force or efficacy for any purpose whatever, and what remains must express the legislative will independently of the void part, since the court has no power to legislate, x x x."[12]

Could we indulge in the assumption, that Congress still intended, by the Act, to create the restricted area of nine barrios in the towns of Butig and Balabagan in Lanao del Sur into the town "of Dianaton, if the twelve barrios in the towns of Buldon and Parang, Cotabato, were to be excluded therefrom? The answer must be in the negative.

Municipal corporations perform twin functions. Firstly. They serve as an instrumentality of the State in carrying out the functions of government. Secondly. They act as an agency of the community in the administration of local affairs. It is in the latter character that they are a separate entity acting for their own purposes and not a

subdi-vision of the State.[13]

Consequently, several factors come to the fore in the consideration of whether a group of barrios is capable of maintaining itself as an independent municipality. Amongst these are population, territory, and income. It was apparently these same factors which induced the writing out of House Bill 1247 creating the town of Dianaton. Speaking of the original twenty-one barrios which comprise the new municipality, the explanatory note to House Bill 1247, now Republic Act 4790, reads:

"The territory is now a progressive community; the aggregate population is large; and the collective income is sufficient to maintain an independent municipality.

This bill, if enacted into law, will enable the inhabitants concerned to govern themselves and enjoy the blessings of municipal autonomy."

When the foregoing bill was presented in Congress, unquestionably, the totality of the twenty-one barrios not nine barrios - was in the mind of the proponent thereof. That this is so, is plainly evident by the fact that the bill itself, thereafter enacted into law, states that the seat of the government is in Togaig, which is a barrio in the municipality of Buldon in Cotabato. And then the reduced area poses a number of questions, thus: Could the observations as to progressive community, large aggregate population, collective income sufficient to maintain an independent municipality, still apply to a motely group of only nine barrios out of the twenty-one? Is it fair to assume that the inhabitants of the said remaining barrios would have agreed that they be formed into a municipality, what with the consequent duties and liabilities of an independent municipal corporation? Could they stand on their own feet with the income to be derived in their community? How about the peace and order, sanitation, and other corporate obligations? This Court may not supply the answer to any of these disturbing questions. And yet, to remain deaf to these problems, or to answer them in the negative and still cling to the rule on separability, we are afraid, is to impute to Congress an undeclared will. With the known premise that Dianaton was created upon the basic considerations of progressive community, large aggregate population and sufficient income, we may not now say that Congress intended to create Dianaton with only 9 - of the original 21 - barrios, with, a seat of government still left to be conjectured. For, this unduly stretches judicial interpretation of congressional intent beyond credibility point. To do so, indeed, is to pass the line which circumscribes the judiciary and tread on legislative premises. Paying due respect to the traditional separation of powers, we may not now melt and recast Republic Act 4790 to read a Dianaton town of nine instead of the originally intended twenty-one barrios. Really, if these nine barrios are to constitute a town at all, it is the function of Congress, not of this Court, to spell out that congressional will.

Republic Act 4790 is thus inseparable and it is accordingly null and void in its totality.[14]

3. There remains for consideration the issue re raised by respondent, namely, that petitioner has no substantial legal interest adversely affected by the implementation of Republic Act 4790. Stated differently, respondent's pose is that petitioner is not the real party in interest.

Here, the validity of a statute is challenged on the ground that it violates the constitutional requirement that the subject of the bill be expressed in its title. Capacity to sue, therefore, hinges on whether petitioner's substantial rights or interests are impaired by lack of notification in the title that the barrio in Parang, Cotabato, where he is residing has been transferred to a different provincial hegemony.

The right of every citizen, taxpayer and voter of a community affected by legislation creating a town to ascertain that the law so created is not dismembering his place of residence "in accordance with the Constitution" is recognized in this jurisdiction.[15]

Petitioner is a qualified voter. He expects to vote in the 1967 elections. His right to vote in his own barrio before it was annexed to a new town is affected. He may not want, as is the case here, to vote in a town different from his actual residence. He may not desire to be considered a part of hitherto different communities which are formed into the new town; he may prefer to remain in the place where he is and as it was constituted, and continue to enjoy the rights and benefits he acquired therein. He may not even know the candidates of the new town; he may express a lack of desire to vote for anyone of them; he may feel that his vote should be cast for the officials in the town before dismemberment. Since by constitutional direction the purpose of a bill must be shown in its title for the benefit, amongst others, of the community affected thereby,[16] it stands to reason to say that when the constitutional right to vote on the part of any citizen of that community is affected, he may become a suitor to challenge the constitutionality of the Act as passed by Congress.

For the reasons given, we vote to declare Republic Act 4790 null and void and to prohibit respondent Commission from implementing the same for electoral purposes.

No costs allowed.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Castro and Angeles, JJ., concur.

Fernando, J., dissents in a separate opinion.

1 Hereinafter referred to as Commelec.

[2] Article VI, Sec. 21 (1), Philippine Constitution.

[3] *Stiglitz vs. Schiarden*, 40 SW 2d 315, 317, 320.

[4] Congressional Record, Vol. I, No. 40, p. 8; Vol. I, No. 50, pp. 40-41

[5] Section 18, Article VI of the Constitution, provides:

"SEC. 18. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills, shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments."

[6] *Vidal de Rocas vs. Posadas*, 58 Phil. 108, 111-112; *Ichong vs. Hernandez* 101 Phil. 1155, 1188-1190.

[7] 82 C.J.S., pp. 385, 370; emphasis supplied.

[8] Emphasis ours.

[9] Emphasis supplied.

[10] Examples: *Wilcox vs. Paddock*, 31 NW 609, where the statute entitled "An act making an appropriation of state swamp lands to aid the county of Gratiot in improving the channel of Maple river x x x" but the body of the act affected another county other than Gratiot.

State vs. Burr, 238 P 585, the statute entitled "An act to amend Secs. 4318 and 4327 of the Codes of Montana relating to changing the boundaries of Fergus and Judith Basin counties" was rendered void because the body of the act included the boundaries of Petroleum county.

Atchison vs. Kearney County, 48 P 583, where the title of the act purported to attach Kearney county to Finney county but the body of the act attached it to Hamilton county.

State vs. Nelson, 98 So. 715, the title of the act purporting to alter or rearrange the boundaries of Decatur city and the body of the act which actually diminished the boundary lines of the city were considered by the court as dealing with incongruous matters. The reading of the former would give no clear suggestion that the latter would follow and be made the subject of the act. Jackson, Clerk vs. Sherrod, 92 So. 481; City of Ensley vs. Simpson, 52 So. 81, cited.

Fairview vs, City of Detroit, 113 NW 368, where the title gave notice that the entire village of Fairview is annexed to Detroit when the body affected only a portion.

[11] Black, Interpretation of Laws, 2d. ed., p. 116.

[12] Barrameda vs. Moir, 25 Phil. 44, 47-48, quoted in Government vs. Springer, 50 Phil. 259, 292; emphasis supplied.

[13] I McQuillin, Municipal Corporations, 3d ed., pp. 456-464.

[14] In the case of Fuqua vs. City of Mobile, 121 So. 696, it was asserted that the portion of the statute excluding a territory from Mobile which was not expressed in the title "An act to alter and rearrange the boundary lines of the city of Mobile in the state of Alabama" should be the only portion invalidated. The court, using the test whether or not after the objectionable feature is stricken off there would still remain an act complete in itself, sensible, capable of being executed, ruled that there can be no segregation of that portion dealing with the excluded territory from that dealing with additional territory because these two matters are all embraced and intermingled in one section dealing with the corporate limits of the city.

In the case of Engle vs. Bonnie, 204 SW 2d 963, the statute involved was entitled "An Act relating to cities". Section 4 there of "requires the creation of a municipality on petition of a majority of voters or 500 voters." But some of the provisions were germane to the title of the law. This statute was declared void in toto. The Court of Appeals of Kentucky ruled as follows:

"The judgment declared only Section 4 [relative to the creation of a municipality on petition of the voters] to be void and the remainder valid. While some of the provisions of the act are germane to the title, since they deal with the classification of cities to be created, they seem merely to harmonize other sections of the statute which they amend with a new creation of cities other than sixth class towns. To remove only Section 4 would be like taking the motor of an automobile which leaves the machine of no use. We are quite sure that these provisions would not have been enacted without Section 4; hence, they too must fall."

[15] Macias vs. The Commission on Elections, 58 Off. Gaz. (51) 8388.

[16] Brooks vs. Hydorn, 42 NW 1122, 1123-1124; Fairview vs. City of Detroit, 113 NW 368, 370.

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DISSENTING OPINION

FERNANDO, J.:

With regret and with due recognition of the merit of the opinion of the Court, I find myself unable to give my assent. Hence these few words to express my stand.

Republic Act No. 4790 deals with one subject matter, the creation of the municipality of Dianaton in the province of Lanao del Sur. The title makes evident what is the subject matter of such an enactment. The mere fact that in the body of such statute barrios found in two other municipalities of another province were included does not of itself suffice for a finding of nullity by virtue of the constitutional provision invoked. At the most, the statute to be free from not insubstantial doubts about its validity must be construed as not including the barrios, located not in the municipalities of Butig and Balabagan, Lanao del Sur, but in Parang and Baldon, Cotabato.

The constitutional requirement is that no bill which may be enacted into law shall embrace more than one subject which, shall be expressed in the title of the bill.[1] This provision is similar to those found in the Constitution of many American States. It is aimed against the evils of the so-called omnibus bills, and log-rolling legislation, and against surreptitious or unconsidered enactments.[2] Where the subject of a bill is limited to a particular matter, the members of the legislature as well as the people should be informed of the subject of proposed legislative measures. This constitutional provision thus precludes the insertion of riders in legislation, a rider being a provision not germane to the subject matter of the bill.

It is not to be narrowly construed though as to cripple or impede proper legislation. The construction must be reasonable and not technical. It is sufficient if the title be comprehensive enough reasonably to include the general object which the statute seeks to effect without expressing each and every end and means necessary for the accomplishment of that object. Mere details need not be set forth. The legislature is not required to make the title of the act a complete index of its contents. The constitutional provision is satisfied if all parts of an act which relates to its subject find expression in its title.[3]

The first decision of this Court, after the establishment of the Commonwealth of the Philippines, in 1938, construing a provision of this nature, *Government v. Hongkong & Shanghai Bank*, [4] held that the inclusion of Section 11 of Act No. 4007, the Reorganization Law, providing for the mode in which the total annual expenses of the Bureau of Banking may be reimbursed through assessment levied upon all banking institutions subject to inspection by the Bank Commissioner was not violative of such a requirement in the Jones Law, the previous organic act. Justice Laurel, however, vigorously dissented, his view being that while the main subject of the act was reorganization, the provision assailed did not deal with reorganization but with taxation. While the case of *Government v. Hongkong & Shanghai Bank* was decided by a bare majority of four justices against three, the present trend seems to be that the constitutional requirement is to be given the liberal test as indicated in the majority opinion penned by Justice Abad Santos, and not the strict test as desired by the minority headed by Justice Laurel.

Such a trend has been reflected in subsequent decisions beginning with *Sumulong v. Commission on Elections*, [5] up to and including *Felwa v. Salas*, a 1966 decision, [6] the opinion coming from Chief Justice Concepcion.

It is true of course that in *Philconsa v. Gimenez*, [7] one of the grounds on which the invalidity of Republic Act No. 3836 was predicated was the violation of the above constitutional provision. This Retirement Act for senators and representatives was entitled "AN ACT AMENDING SUBSECTION (c), SECTION TWELVE OF COMMONWEALTH ACT NUMBERED ONE HUNDRED EIGHT-SIX, AS AMENDED BY REPUBLIC ACT NUMBERED THIRTY HUNDRED NINETY-SIX." As we noted, the paragraph in Republic Act No. 3836 deemed objectionable "refers to members of Congress and to elective officers thereof who are not members of the Government Service Insurance System. To provide retirement benefits, therefore, for these officials, would

relate to a subject matter which is not germane to Commonwealth Act No. 186. In other words, this portion of the amendment (re retirement benefits for Members of Congress and appointive officers, such as the Secretary and Sergeants-at-arms for each house) is not related in any manner to the subject of Commonwealth Act No. 186 establishing the Government Service Insurance System and which provides for both retirement and insurance benefits to its members." Nonetheless our opinion was careful to note that there was no abandonment of the principle of liberality. Thus: "We are not unmindful of the fact that there has been a general disposition in all courts to construe the constitutional provision with reference to the subject and title of the Act, liberally."

It would follow therefore that the challenged legislation Republic Act No. 4790 is not susceptible to the indictment that the constitutional requirement as to legislation having only the subject which should be expressed in its title was not met. The subject was the creation of the municipality of Dianaton. That was embodied in the title.

It is in the light of the aforementioned judicial decisions of this Court, some of the opinions coming from jurists illustrious for their mastery of constitutional law and their acknowledged erudition, that, with all due respect, I find the citation from *Corpus Juris Secundum* unnecessary and far from persuasive. The State decisions cited, I do not deem controlling, as the freedom of this Court to accept or reject doctrines therein announced cannot be doubted.

Wherein does the weakness of the statute lie then? To repeat, several barrios of two municipalities outside Lanao del Sur were included in the new municipality of Dianaton of that province. That itself would not have given rise to a constitutional question considering the broad, well-nigh plenary powers possessed by Congress to alter provincial and municipal boundaries. What justified resort to this Court was the congressional failure to make explicit that such barrios in two municipalities located in Cotabato would thereafter form part of the newly created municipality of Dianaton, Lanao del Sur.

To avoid any doubt as to the validity of such statute, it must be construed as to exclude from Dianaton all of such barrios mentioned in Republic Act No. 4790 found in municipalities outside Lanao del Sur. As thus interpreted, the statute can meet the test of the most rigid scrutiny. Nor is this to do violence to the legislative intent. What was created was a new municipality from barrios named as found in Lanao del Sur. This construction assures precisely that.

This mode of interpreting Republic Act No. 4790 finds support in basic principles underlying precedents, which, if not precisely controlling, have a persuasive ring. In *Radiowearth v. Agregado*,^[8] certain provisions of the Administrative Code were interpreted and given a "construction which would be more in harmony with the tenets of the fundamental law." In *Sanchez v. Lyons Construction*,^[9] this Court had a similar ruling: "Article 302 of the Code of Commerce must be applied in consonance with [the relevant] provisions of our Constitution." The above principle gained acceptance at a much earlier period in our constitutional history. Thus in a 1913 decision, *In re Guariña*:^[10] "In construing a statute enacted by the Philippine Commission we deem it our duty not to give it a construction which would be repugnant to an Act of Congress, if the language of the statute is fairly susceptible of another construction not in conflict with the higher law. In doing so, we think we should not hesitate to disregard contentions touching the apparent intention of the legislator which would lead to the conclusion that the Commission intended to enact a law in violation of the Act of Congress. However specious the argument may be in favor of one of two possible constructions, it must be disregarded if on examination it is found to rest on the contention that the legislator designed an attempt to transcend the rightful limits of his authority, and that his apparent intention was to enact an invalid law."

American Supreme Court decisions are equally explicit. The then Justice, later Chief Justice, Stone, construed

statutes "with an eye to possible constitutional limitations so as to avoid doubts as to [their] validity." [11] From the pen of the articulate jurist, Frankfurter: [12] "Accordingly, the phrase 'lobbying activities' in the resolution must be given the meaning that may fairly be attributed to it, having special regard for the principle of constitutional adjudication which makes it decisive in the choice of fair alternatives that one construction may raise serious constitutional questions avoided by another." His opinion in the *Rumely* case continues with the above pronouncement of Stone and two other former Chief Justices: "In the words of Mr. Chief Justice Taft, '(i)t it our duty in the interpretation of federal statutes to reach a conclusion which will avoid serious doubt of their constitutionality'. *Richmond Screw Anchor Co. v. United States*, 275 US 331, 346, 48 S. Ct. 194, 198, 72 L. ed. 303. * * *. As phrased by Mr. Chief Justice Hughes, 'if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.' *Crowell v. Benson*, 285, 296, 76 L. ed 598, and cases cited." The pre-vailing doctrine then as set forth by Justice Clark in a 1963 decision, [13] is that courts "have consistently sought an interpretation which supports the constitutionality of legislation." Phrased differently by Justice Douglas, the judiciary favors "that interpretation of legislation which gives it the greater chance of surviving the test of constitutionally." [14]

It would follow then that both Philippine and American decisions unite in the view that a legislative measure, in the language of Van Deventer "should not be given a construction which will imperil its validity where it is reasonably open to construction free from such peril." [15] Republic Act No. 4790 as above construed incurs no such risk and is free from the peril of nullity.

So I would view the matter, with all due acknowledgement of the practical considerations clearly brought to light in the opinion of the Court.

[1] Art. VI, Sec. 21, par. 1, Constitution.

[2] *Government v. Hongkong & Shanghai Bank* (1938) 66 Phil.

[3] *People v. Carlos* (1947), 78 Phil. 535.

[4] 66 Phil. 433.

[5] 73 Phil. (1942) 288.

[6] L-26511, October 29, 1966. The other cases that may be cited follows *People v. Carlos* (1947) 78 Phil. 535; *Nuval v. de la Fuente* (1953) 92 Phil. 1074; *Ichong v. Hernandez* (1951) 101 Phil. 1155; *Cordero v. Cabatuando*, L-14542, Oct. 31, 1962; *Municipality of Jose Panganiban, v. Shell Company*, L-18349, July 30, 1966.

[7] L-23326, December 18, 1965.

[8] 86 Phil. 42 (1950).

[9] 87 Phil. 209 (1950), Cf. *City of Manila v. Arellano Law Colleges, Inc.* (1950), 85 Phil. 663.

[10] 24 Phil. 37. Justice Carson who penned the opinion cited *Black on Interpretation of Laws* to this effect: "Hence it follows that the courts will not so construe the law as to make it conflict with the constitution, but will rather put such an interpretation upon it as will avoid conflict with the constitution and give it full force and effect, if this can be done without extravagance. If there is doubt or uncertainty as to the meaning of the legislature, if the words or provisions of the statute are obscure, or if the enactment is fairly susceptible of two or more constructions, that interpretation will be adopted which will avoid the effect of unconstitutionality, even though it may be necessary, for this purpose, to disregard the more usual or apparent impact of the language

employed."

[11] *Lucas v. Alexander* (1928) 279 US 573, 577-578, citing *United States ex rel. Atty. Gen. v. Delaware & H. Co.* 213 US 366, 407, 408, 53 L ed 836, 848, 849, 29 Sup. Ct. Rep. 527; *United States v. Standard Brewery*, 251 US 210, 220, 64 ed 229, 235, 40 Sup. Ct. Rep. *Texas v. Eastern Texas R. Co.* 258 US 204; 217, 66 L ed 566, 572, 42 Sup. Ct. Rep. 231; *Bratton v. Chandler*, 260 US 110, 114, 67 L ed 157, 161, 43 Sup. Ct. Rep. 43; *Panama R. Co. v. Johnson*, 264 US 375, 390, 68 L ed 748, 754, 44 Sup. Ct. Rep. 391.

[12] *United States v. Rumely* (1953) 345 US 41, 45.

[13] *United States v. National Dairy Product Corp.* 373 US 29, 32.

[14] *Ex part Endo* (1944) 323 US 283, 299-300.

[15] *Chippewa Indians v. United States* (1937) 301 US 358, 376.

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