

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS. THE HONGKONG & SHANGHAI BANKING CORPORATION, THE NATIONAL CITY BANK OF NEW YORK, THE CHARTERED BANK OF IND...

G.R. No. 44257. November 22, 1938

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The appellees are banking institutions doing business in this country. This action was brought by the appellant to determine the liability of the appellees under section 11 of Act No. 4007. All the appellees demurred to the complaint upon the ground that it did not state facts sufficient to constitute a cause of action, in that the statutory provision relied upon by the appellant was unconstitutional. The National City Bank of New York alleged further, in support of the demurrer filed by it, that there was a misjoinder of parties defendant, and that section 11 of Act No. 4007 did not impose any tax upon national banking associations, in which class it belonged. The court below sustained the demurrers filed by the appellees, on the sole ground that the complaint did not allege a cause of action, because the statutory provision involved was unconstitutional.

The question now presented is the constitutionality of section 11 of Act No. 4007, which reads as follows:

"Sec. 11. The provisions of existing law to the contrary notwithstanding, the total annual expenses of the Bureau of Banking shall be reimbursed annually to the Government by assessment levied upon all banking institutions subject to inspection by the Bank Commissioner. The proportion of expenses of the Bureau of Banking to be assessed against each such banking institution shall be the same as the proportion which its average total assets bear to the average total assets of all such banking institutions during the year in which the expenses were incurred."

- Appellees contend that the subject matter contained in this section is not embraced in the title of the Act, in violation of section 3 of the Jones Law which provides, among other things: "That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill." This provision is similar to those found in the constitutions of most of the States of the Union. It has been said that the purpose of such a provision is to prevent the evils of so-called "omnibus bills" and surreptitious or unconsidered legislation. "The mischief sought to be remedied by the requirement of a single subject or object of legislation was the practice of bringing together in one bill matters having no necessary or proper connection with each other but often entirely unrelated and even incongruous. By the practice of incorporating in proposed legislation of a meritorious character provisions not deserving of general favor but which, standing alone and on their own merits, were likely to be rejected, measures which could not have been carried without such a device and which were sometimes of a pernicious character were often incorporated in the laws; for, to secure needed and desirable legislation, members of the legislature were, by this means, often induced to sanction and actually vote for provisions which, if presented as independent subjects of legislation, would not have received their support. It was also the practice to include in the same bill wholly unrelated provisions, with the view of combining in favor of

the bill the supporters of each, and thus securing the passage of several measures, no one of which could succeed on its own merits. To do away with this hodge podge or 'log rolling' legislation was one, and perhaps the primary, object of these constitutional provisions. Another abuse that developed in legislative bodies was the practice of enacting laws under false and misleading titles, thereby concealing from the members of the legislature, and from the people, the true nature of the laws so enacted. It is to prevent surreptitious legislation in this manner that the subject or object of a law is required to be stated in the title. While the objects of these constitutional provisions are variously stated, the authorities are agreed that they were adopted to remedy these and similar abuses. The purposes of these constitutional provisions have been summarized as follows: (1) to prevent 'log rolling' legislation; (2) to prevent surprise, or fraud, in the legislature by means of provisions in bills of which the titles give no intimation; and (3) to apprise the people of the subject of legislation under consideration." (25 R. C. L., pp. 834-836.)

Constitutional provisions relating to the subject matter and titles of statutes should not be so narrowly construed as to cripple or impede proper legislation. In *Detroit vs. Detroit Citizens' Street R. Co.* (184 U. S., 368, 392; 46 Law. ed., 592, 609), the Supreme Court of the United States quoted with approval the following language of Judge Cooley: "We must give the constitutional provision a reasonable construction and effect. The Constitution requires no law to embrace more than one object, which shall be expressed in its title. Now, the object may be very comprehensive and still be without objection, and the one before us is of that character. But it is by no means essential that every end and means necessary or convenient for the accomplishment of the general object should be either referred to or necessarily indicated by the title. All that can reasonably be required is that the title shall not be made to cover legislation incongruous in itself, and which by no fair intendment can be considered as having a necessary or proper connection."

The requirement that the subject of an act shall be expressed in its title should receive a reasonable and not a technical construction. (*Carter County vs. Sinton*, 120 U. S., 517, 522; 30 Law. ed., 701, 702.) It is sufficient if the title be comprehensive enough reasonably to include the general object which a statute seeks to effect, without expressing each and every end and means necessary or convenient for the accomplishing of that object. Mere details need not be set forth. (*Knights Templars' & Masons' Life Indemnity Co. vs. Jarman*, 187 U. S., 197; 47 Law. ed., 139.) The title need not be an abstract or index of the act. In *Mahomet vs. Quackenbush*; (117 U. S., 508; 29 Lew. ed., 982), the General Assembly of the State of Illinois passed an Act entitled: "An Act to Amend the Articles of Association of the Danville, Urbana, Bloomington and Pekin Railroad Company, and to Extend the Powers of and Confer a Charter upon the Same." The body of the Act provided that incorporated towns or townships in counties along the railroad route may subscribe to its capital stock, and further provided the manner of holding elections in regard to the subscription. The Supreme Court of the United States held that the title of the act covered the provisions in its body within the purpose of section 23 of article 3 of the Illinois Constitution of 1848 which provided that: "And no private or local law which may be passed by the General Assembly shall embrace more than one object, and that shall be expressed in the title." In the course of its decision, the court said: "The point now made is that the statute, so far as it undertakes to authorize municipalities to subscribe to the capital stock of the corporation, is unconstitutional because it embraces two distinct subjects, one the incorporation of the railroad company, and the other an enlargement of the corporate powers of municipal corporations, the first of which alone is expressed in the title. This objection, it seems to us, is fully disposed of by the case of *Supervisors of Schuyler Co. vs. Rock Island, etc. R. R. Co.* (25 111, 182), decided by the Supreme Court of Illinois in 1860. There the title was 'An Act to Incorporate the Rock Island & Alton Railroad Company,' and the Act, besides incorporating the company, authorized counties to subscribe to the stock. As to this the court said, speaking through Chief Justice Caton: 'We think the title of this Act sufficient to embrace the whole of the law, and that it is a compliance with the constitutional requirement. All the provisions of the Act are appropriately

designed to carry out the object of the corporation. If it was proper to authorize subscriptions to the stock, it was certainly proper to enable individuals or counties to subscribe and specify the terms and conditions on which they might subscribe, and the mode of making the subscription.'

"In States where constitutional provisions like that now under consideration have been decided to be mandatory, and not directory only, it has generally been held that the requirement is satisfied if the law has but one general object, and that is clearly expressed in the title. It is enough if the body of the Act is germane to the title."

The title of Act No. 4007 is: "An Act to reorganize the departments, bureaus and offices of the Insular Government, and for other purposes." At the time of the passage of this Act, the Bureau of Banking was already in existence as one of the bureaus of the Insular Government. (Act No. 3519.) It seems clear therefore that that bureau is embraced in that title. On the other hand, the contents of section 11 are germane to and connected with the organization and maintenance of said bureau.

- It is now beyond question that the banking business is so affected with a public interest as to justify its regulation and control under the police power of the state. (Noble State Bank vs. Haskell, 219 U. S., 104; 55 Law. ed., 112.) "Since banks are indispensable agencies through which the industry, trade and commerce of all civilized countries and communities are carried on, the business which they transact, though for private profit, is of a preeminently public nature, and is therefore universally recognized as a proper subject of legislative regulation under the police power of the state." (3 R. C. L., 379.) The legislature may establish such reasonable and general regulations of banking institutions as may be essential to the public safety, and provide for the enforcement of such regulations by a board or bureau supported by moderate assessments upon those engaging in the banking business. (Oxford vs. Love, 250 U. S., 603; 63 Law. ed., 1165.)

- The National City Bank of New York, one of the herein appellees, being an agency of the United States, was not subject to taxation by the Philippine Government except as permitted by Act of Congress. The form of taxation imposed under section 11 of Act No. 4007 was not permitted by any act of Congress. (Posadas vs. National City Bank, 296 U. S., 497; 80 Law. ed., 351.)

Our conclusion is that section 11 of Act No. 4007 is constitutional. It does not, however, apply to the appellee, the National City Bank of New York.

The judgment appealed from is affirmed with regard to the appellee, the National City Bank of New York, and reversed as to the other appellees; and the case is remanded to the court below for further proceedings in conformity with this opinion. So ordered.

Avanceña, C. J., Villa-Real, and Imperial, JJ., concur.

CONCURRING AND DISSENTING

LAUREL, J.:

In so far as the court upholds the power of the Legislature to impose the tax on banks generally, I agree. The provision here involved was taken from section 21 of the Federal Reserve Act of the United States. (December 23, 1913, c. 6, sec. 21, 38 Stat., 271; See also for other acts sec. 482 of Title 12, U. S. C. A.) The imposition is within the taxing power of the State. In so far also as the decision of the majority implies the rejection of the contention that the levy is in violation of section 29 of the Jones Law, my coincidence likewise goes. But, I dissent from so

much of the majority opinion as holds that section 11 of Act No. 4007 does not conflict with paragraph 17 of section 3 of the Jones Law which provides "That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill." Upon this point, I concur in the conclusion of Justice Concepcion.

To set aside a law because of repugnancy to the fundamental law is a serious matter. It is a power which, in the language of Judge Cooley (Const. Lim., 7th ed., chap. VII, 227, 228), a judge "conscious of the fallibility of the human judgment, will shrink from exercising in any case where he can conscientiously and with due regard to duty and official oath decline the responsibility." I have no hesitancy in saying that, when the instant case was submitted for deliberation, my immediate reaction was to take for granted the validity of the challenged statute. In the first place, there is the almost time-honored presumption in favor of the validity of legislative acts. It is only proper, and a merited respect for the judgment of a coordinate department of the government requires, that we should sustain a legislative act whenever it is possible to do so. It must be presumed, as courts have always said, that the legislators and the Executive have been true to their oath to support and respect the Constitution and that in enacting and approving a particular statute they did not intend to violate that fundamental law. If there is any doubt as to the validity of a law that law should be sustained. So vital is this principle that the new Constitution of the Philippines, while recognizing the power of the courts, particularly this court, to set aside legislative acts in contravention thereof, provides for two safeguards against hasty invalidation of statutes. Section 10 of Article VIII reads: "All cases involving the constitutionality of a treaty or law shall be heard and decided by the Supreme Court in banc, and no treaty or law may be declared unconstitutional without the concurrence of two-thirds of all the members of the court." In other words, an act of the legislature may be declared unconstitutional only if (1) after consideration of all the members of this court (2) two-thirds thereof should agree to take such action. In the second place, the courts, whenever possible, must give life to the sovereign will as expressed by the political departments of the government. As stated in the case of *Angara vs. Electoral Commission* [1936], 35 Off. Gaz., 23, "the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government." The responsibility for the preservation of our institutions is not the exclusive concern of the courts. The legislators, as a great jurist has once said, are the guardians of the liberties and welfare of the people in quite as great a degree as the courts. (Holmes, X, in *Missouri, Kansas, & T. R. Co. vs. May* [1904], 194 U. S., 267, 270; 48 Law. ed., 971, 973.) I have not overlooked the contemporary historical fact that in the United States, the imputed failure of the Ugliest court to react to popular will as expressed by the representatives of the people in Congress has given rise to criticism and the submission of various proposals aimed at the "rejuvenation" of that court, or calculated to alter entirely the system of judicial authority or organization provided in the Federal Constitution. Respect for the legislature, however, or a desire to effectuate the legislative will, cannot be carried to the extent of sanctioning a constitutional breach. A statute may be wise, its purpose may be good, but if it violates the fundamental law it is bad. As I proceeded to a more careful examination of the facts and went deeper into fundamental principles, I came to the conclusion that section 11 of Act No. 4007 is unconstitutional because it violates paragraph 17, section 3, of the Jones Law, which was the organic law then in force. It is true that constitutional provisions relating to the subject matter and titles of statutes should be construed liberally to uphold, rather than to cripple or impede proper legislation, but such provisions should be so construed as to prevent trickery or evasion and to guard against the evils intended to be prevented (59 C. J., pp. 794, 795).

Historically, the requirement that the title of a bill should give intimation of its contents was known in England and practised there, long before there were parliamentary bodies in America; but this arose merely from custom and no bill which Parliament enacted in disregard of the requirement could be set aside by the courts. Just as the first written constitution was framed in America, so, too, it was there that for the first time a requirement as to the

particularity of the title was inserted in a constitution. The Constitution of Georgia of 1789 declared, "nor shall any law or ordinance pass containing any matter different from what is expressed in the title thereof." This provision was copied in other states of the Union. In the course of time, another principle was embodied in state constitutions, to wit, that the bill shall treat of only one subject. Sometimes, as in Michigan, New Jersey, Louisiana, and West Virginia, the word "object" is substituted for "subject". In Idaho, Illinois, Indiana, Montana, New Mexico, North Dakota, Oregon, Iowa, Oklahoma and Wyoming, it is specifically provided that so much of the act as is not expressed in the title is void. A typical provision is to be found in Article IV, section 19, of the Constitution of Indiana of 1851, as follows:

"Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title."

In the Federal Constitution and in the state constitutions of Arkansas, North Carolina and most New England states, there are no title requirements. In Mississippi, the committee of the legislature to which a bill is referred is required by the constitution to "express in writing its judgment of the sufficiency of the title." In some states, including Missouri and Montana, exception is made of general appropriation bills, general revenue bills, or bills adopting codes or revisions of statutes. In New York and Wisconsin, the provisions apply only to local or private bills. This was the case under the Philippine Bill of July 1, 1902 which provided "That no private or local bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill." (Sec. 5, par. 17.) The scope of the prohibition was broadened in the Jones Law by the omission of the words "private or local." The provisions of the Jones Law were incorporated in the new Constitution of the Philippines almost verbatim. And, instead of placing the prohibition on the bill of rights, as was done in the Philippine Bill and the Jones Law, the framers of the new Constitution placed it under Article VI which treats of the Legislative Department, the prohibition being essentially a restriction upon legislative procedure.

The insertion of the prohibition in constitutions was motivated by a desire to correct certain evils. These evils are described by the Supreme Court of Michigan in *People vs. Mahaney* ([1865], 13 Mich., 481, 494, 495). Said the court:

"The history and purpose of this constitutional provision are too well understood to require elucidation at our hands. The practice of bringing together into one bill subjects diverse in their nature and having no necessary connection, with a view to combine in their favor the advocates of all, and thus secure the passage of several measures, no one of which could succeed upon its own merits, was one both corruptive of the legislator and dangerous to the state. It was scarcely more so, however, than another practice, also intended to be remedied by this provision, by which, through dexterous management, clauses were inserted in bills of which the titles gave no intimation, and their passage secured through legislative bodies whose members were not generally aware of their intention and effect. There was no design by this clause to embarrass legislation by making laws unnecessarily restrictive in their scope and operation, and thus multiplying their number; but the framers of the Constitution meant to put an end to legislation of the vicious character referred to, which was little less than a fraud upon the public, and to require that in every case the proposed measure should stand upon its own merits, and that the legislature should be fairly notified of its design when required to pass upon it." (See also *Central Capiz vs. Ramirez* [1920], 40 Phil., 883; *Agcaoili vs. Suguitan* [1926], 48 Phil., 676.)

Act No. 4007 is entitled, "An Act to reorganize the departments, bureaus and offices of the Insular Government, and for other purposes." The purpose, then, of the Act is to reorganize the various departments, bureaus and offices of the Philippine Government. The constitutional requirement regarding the subject and title of bills is mandatory. A disregard thereof is fatal. It is only in this way that the purposes of the constitutional requirement may be accomplished. Thus, if the subject of an act is more than one, or if the subject though one is not expressed

in the title, the act is void in its entirety or in such parts thereof as violate the Organic Act. Only such portions of the Act as come reasonably within its title are valid. As we have seen, in Indiana and at least nine other states, there are constitutional provisions to this effect. But the absence in other constitutions of similar provisions have not prevented courts from arriving at the same conclusion. As the authorities uniformly hold, "nothing can validly be included in the body of a statute which is not expressed in or covered by the title, and all parts of an act which are not within its title are unconstitutional and void, even though such provisions might properly have been included in the act under a broader title." (59 C. J., pp. 811, 812.)

"Since these provisions are mandatory, a statute which does not comply with them must be void either in whole or in part. So much of the subject of a statute as is not expressed in the title, or is not germane to the subject expressed in the title, is invalid. In other words, where an act is broader than its title it can only be operative as to that part of it which is indicated by its title; for the title of an act defines its scope and it can contain no valid provision beyond the range of the subject or object there stated." (25 R. C. L., p. 840.)

Do the provisions of section 11 come reasonably within the title of Act No. 4007? The majority hold that they do. I disagree. Said section 11 provides as follows;

"The provisions of existing law to the contrary notwithstanding, the total annual expenses of the Bureau of Banking shall be reimbursed annually to the Government by assessment levied upon all banking institutions subject to inspection by the Bank Commissioner. The proportion of expenses of the Bureau of Banking to be assessed against each such banking institution shall be the same as the proportion which its average total assets bear to the average total assets of all such banking institutions during the year in which the expenses were incurred."

The foregoing section does not deal with reorganization. It treats of taxation or assessment for the purpose of taxation. It, therefore, is not covered by the title of the Act. It is, of course, sufficient if a general subject is stated in the title. All matters having a natural connection therewith and not foreign thereto are deemed embraced within it. (25 R. C. L., p. 856.) To require otherwise, to narrowly construe the constitutional provisions to make the title a complete index of the contents of an act, would make legislation difficult if not impossible. It would hamper legislation and place statutes under the constant danger of invalidation. It should be observed, however, that section 11 does not cover a matter germane to the general subject stated in the title of the Act. One who reads the title will not expect to find that section in the body of the Act. He would not be put on inquiry as to the contents of the Act. The Act, therefore, is misleading. It refers to one subject in the title but treats of another in the body.

"* * * 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 inquiry 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. (59 C J., pp. 804, 805.)

The words "and for other purposes," which close the title, are not sufficient to put any one on inquiry as to the contents of the Act. Those words do not justify the insertion of section 11. They cannot be used as a cloak to hide within them all possible legislation. They are meaningless surplusage. "Nothing which the act could not embrace without them can be brought in by their aid." (Cooley on Constitutional Limitations, 8th ed., vol. I., p. 302 and cases cited.)

Act No. 4007 is a reorganization act and should have limited itself to reorganization, like the similar acts which preceded it. An examination of all the reorganization acts prior to Act No. 4007 reveals that no provision is made for the support of maintenance of any bureau or office in the Insular Government, directly from the proceeds of taxes collected from private firms or individuals.

One of the early acts of the Philippine Commission was Act No. 222 entitled, "An Act providing for the organization of the Departments of the Interior, of Commerce and Police, of Finance and Justice, and of Public Instruction." It was approved by the Commission on September 6, 1901 and took effect on that same date. The various bureaus and offices were distributed among the four departments which, by order of the President of the United States of September 1, 1901, were headed by the four members of the Philippine Commission. A Bureau of Banks, Banking, Coinage, and Currency was to be placed under the executive control of the Department of Finance and Justice. There was no provision as to how that bureau or any other bureau or office was to be supported or maintained.

On October 26, 1905, the Philippine Commission enacted "The Reorganization Act" which was "An Act abolishing certain Bureaus of the Insular Government, reducing the number of Bureaus by consolidating certain Bureaus with others, prescribing the duties of the various Bureaus and certain officials thereof, fixing the salaries of Chiefs and Assistant Chiefs of Bureaus and certain other officials thereof, reorganizing the Departments of the Interior, Commerce and Police, Finance and Justice, and Public Instruction, assigning certain Bureaus to the immediate and direct executive control of the Governor-General, and for other purposes." The Act took effect on November 1, 1905. The list of Bureaus of the Insular Government did not include a Bureau of Banks, Banking, Coinage and Currency but the Department of Finance and Justice was given "general supervision of banks, banking, coinage, and currency." The Act provided for the salaries of the various heads of bureaus but did not contain the slightest intimation that any bureau was to be supported other than by Insular funds duly appropriated. The supplies furnished or services rendered to any branch of the Insular Government or any provincial or municipal government by the Bureau of Science, the Bureau of Supply or the Bureau of Posts were to be paid by the Bureau or local government concerned. But this does not indicate that the bureau furnishing the supplies or rendering the service shall be supported directly out of the income they were to receive. Besides, the income is not derived directly from private individuals. And where income is so derived, as in the case of sales made and services rendered by the Bureau of Science to the public, the income derived together with the incomes from branches or local political subdivisions of the Government were to be "deposited with the Insular Treasurer * * * and * * * considered as repayments to the appropriation for the Bureau of Science and * * * so credited on the books of the Auditor." In any event, what is notable is that the income is derived not from taxation but from sales made or services rendered, in some cases, to the public and, in most cases, to the various units and instrumentalities of the Government itself.

The action of the President of the United States and the Philippine Commission in establishing the four executive departments was ratified and confirmed by the Philippine Bill of July 1, 1902. Acts No. 222 and 1407 were responsible for the establishment of the executive departments and the different bureaus and offices thereunder, up to 1916 when the Jones Act of August 29, 1916 went into effect. Section 22 of this Autonomy Act authorized the Philippine Legislature to provide for the reorganization of the executive departments of the Philippine Government. Pursuant to this authority, the Philippine Legislature enacted Act No. 2666 which went into effect upon its approval on November 18, 1916. The Act was entitled simply, "An Act to reorganize the Executive Departments of the Government of the Philippine Islands." Six executive departments were created, to wit, the Department of the Interior, the Department of Public Instruction, the Department of Finance, the Department of Justice, the Department of Agriculture and Natural Resources, and the Department of Commerce and Communications. The former Department of Finance and Justice, as we see, was split into two. To the separate Department of Finance was placed, among other things, "the general supervision over banks, banking transactions, coinage, currency, and funds the investment of which may be authorized by law." No provision whatsoever, in this short significant act, authorized the imposition of a tax for the support of any department, bureau or office of the Insular Government.

Act No. 2666 was followed by Act No. 2803 entitled, "An Act to amend certain provisions of the Administrative Code, regulating certain details of the functions and authority of the Executive Departments, and for other purposes." The organization of the various executive departments and bureaus was not altered except by providing that, "For administrative purposes the Governor-General shall be considered the Department Head of the Bureau of Audits, the Bureau of Civil Service, and of all other offices and branches of the service not assigned by law to any Department." The powers of the Department Heads were amplified and specifically outlined, but there was no provision as to the way by which a bureau or office shall be supported.

The general reorganization laws above referred to were followed by Act No. 4007 which is involved in the present case. It is fitting to again observe that in those prior reorganization acts no provision whatsoever existed to the effect that a bureau shall be supported out of funds derived from taxation. Those acts properly limited themselves to the accomplishment of the purpose for which they were enacted, namely, the reorganization of the various departments and the several bureaus and offices under them. That practice was never departed from. It was only in Act No. 4007 that a deviation occurred. This Act did not limit itself to the accomplishment of the object stated in its title. It went further and provided in section 11 thereof for something which is not germane to the object of reorganization, namely, the reimbursement annually to the government by assessment, levied upon all banking institutions subject to inspection by the Bank Commissioner, of the total annual expenses of the Bureau of Banking. In so doing, the Act ran aground. I do not deny the authority of the Legislature to adopt such a provision. I concede the power of the Legislature in that regard. What I do not hold permissible, upon the facts of the present case, is the inclusion in a reorganization Act of a provision on the subject of taxation. In the majority opinion reference is made to *Mahomet vs. Quakenbush* (117 U. S., 508; 29 Law. ed., 982) as the principal authority relied upon in support of the view taken. There is, however, no analogy between that case and the case at bar. It is clear, under the doctrine of *Mahomet* case, that a company may be incorporated and at the same time the municipalities authorized to subscribe to its capital stock. These matters are one or at least wholly germane to each other. It is not the situation in our case. I have always been under the impression that to reorganize is not to tax and that to tax is not to organize and that reorganization and taxation are two different things. In no way can they be regarded as akin, so far and as far as I can see. Taxation is closer to police power and eminent domain than it is to reorganization.

The Legislature may reorganize bureaus and offices and do this as many times as it may desire but this power is subject to the constitutional limitation that the act of reorganization shall not contain matter foreign to the purpose. I am willing to admit that the Legislature, in creating bureaus and offices, may provide for the manner by which they are to be supported. Where a general purpose is stated in the title of an act, the means for the accomplishment of that general purpose may be provided for in that act. But from this premise to the conclusion reached by this court, there is, it seems to me, a wide gap. The provisions of section 11 are not necessary to render effectual the principal object of the statute which is to reorganize the different departments, bureaus and offices of the government. Besides, at the time of the passage of Act No. 4007, there was a separate law on the contribution of banks. That was Act No. 3519, which was one of a series of laws affecting banking institutions enacted by the Philippine Legislature during the special sessions of 1929. The Act accomplished the desire early expressed in Act No. 222 of creating an independent Bureau of Banking. A whole chapter (Chapter 41-A) was inserted in the Administrative Code. One of the sections covered by the chapter is section 1637 which provides:

"Examinations into condition of institutions.—It shall be the duty of the Bank Commissioner, personally or by deputy, at least once in every twelve months, and at such other times as he may deem expedient, to make an examination of the books of every institution within the purview of this chapter in order to ascertain its cash and available assets in the Philippine Islands, and its general condition and method of doing business, and to make report of the same to the Secretary of Finance, who will transmit a copy of said report to the

Governor-General.

" 'Every such institution shall afford to the Bank Commissioner, and to his authorized deputy, full opportunity to examine its books, its cash, its available assets, and general condition, at any time when requested so to do by the Commissioner: Provided, however, That none of the reports and other papers relative to the examination of banking institutions shall be open to inspection by the public insofar as such publicity shall be incidental to the proceedings hereinafter authorized or necessary for the prosecution of violations in connection with the business of the bank.

" 'The total annual expenses of the Bureau of Banking shall be reimbursed annually to the Government to the extent of one-half by assessment levied upon all institutions subject to inspection by the Bank Commissioner. The proportion of expenses of the Bureau of Banking to be assessed against each such banking institutions shall be the same as the proportion which its average total assets bear to the average total assets of all such banking institutions during the year in which the expenses were incurred, but the one-half of the total expenses of the Bureau of Banking assessed against all banking institutions in any one year shall not exceed sixty thousand pesos. The Bank Commissioner shall by regulation prescribe the form, manner, and time for the levying and payment of the assessment.' "

There are many other provisions and the means for their enforcement are also stated. The enactment of Act No. 3519, independently of any previous reorganization act, is a tangible proof that the members of the Legislature regarded the matters covered by it are foreign to reorganization.

It should also be observed that Act No. 4007 does not merely incorporate the Banking Law or a portion thereof, but amends a portion of that law. If a defect in Act No. 3519 was found by the members of the Legislature, the Act itself should have been amended.

In this connection, it will be advisable to examine the history of the bill which finally was enacted as Act No. 4007. It is a settled rule that in construing an Act, the proceedings of the legislature in reference to it may be inquired into and taken into consideration. If in determining the intention of the lawmaker, we are permitted to look to prior laws on the subject and to investigate the antecedents or the legislative history of the statute involved (*Director of Lands vs. Abaja* [1936], 35 Off. Gaz., 991; *Loewenstein vs. Page* [1910], 16 Phil., 84; 921 U. S. vs. *De Guzman* [1915], 30 Phil., 416, 419; *Tamayo vs. Gsell* [1916], 35 Phil., 953, 963; *Mitsui Bussan Kaisha vs. Hongkong and Shanghai Banking Corporation* [1917], 36 Phil., 27, 36; *Go Chioco vs. Martinez* [1923], 45 Phil., 256, 270, 276; *Portillo vs. Salvani* [1930], 54 Phil., 543, 546. See also *Kepner vs. United States* [1904], 195 U. S., 100; 24 Sup. Ct., 797; 49 Law. ed., 114; 11 Phil., 669, 692; *Serra vs. Mortiga* [1907], 204 U. S., 470; 27 Sup. Ct., 343; 51 Law. ed., 571; 11 Phil., 762, 766; *Alzua and Arnalot vs. Johnson* [1912], 21 Phil., 308, 331; *aff'd.* in 231 U. S., 106; 34 Sup. Ct. 27; 58 Law. ed., 142; *United States vs. Katz* [1925], 271 U. S., 354; 46 Sup. Ct., 513; 72 Law. ed., 986), we may also avail ourselves of the actual proceedings of the legislative body to assist in determining the construction of a statute of doubtful import (*U. S. vs. Pong*, 34 Phil., 729; *Palanca vs. City of Manila and Trinidad*, 41 Phil., 125. See also, 59 C. J., pp. 1077-1019; 25 R. C. L., pp. 271, 272; 11 *Lewis' Sutherland*, Statutory Construction, sec. 471, pp. 879-883). More than this "official acts of the Legislature" are matters judicially recognized (sec. 275, Code of Civil Procedure).

An examination of the proceedings which led to the enactment of Act No. 4007 shows that section 11 of that Act was not included in the body of the Act when it passed both the House of Representatives and the Senate of the Philippine Legislature. Act No. 4007 was originally House Bill No. 1934. It was drafted and introduced in the lower house of the Legislature by the Committee on Appropriations. The original draft did not contain the provisions now found in section 11. I have searched the whole records of the discussion of said bill by the lower house but said provisions were neither touched upon nor introduced by way of amendment. After passing the House on October 14, 1932, the bill was sent to the Senate, where, with slight amendments, it was approved on

November 4, 1932. The provisions of section 11 do not appear in the bill as approved by the Senate and which now appears in the Diario de Sesiones (Vol. VII, pp. 784-787). After such approval by the Senate, the records disclose the following proceedings to have transpired:

"NOVENA LEGISLATURA FILIPINA

"Segundo Periodo de Sesiones

"INFORME DE CONFERENCIA

"Habiendose reunido el comite de conferencia sobre los votos en discordia de las dos Camaras acerca de las enmiendas del Senado al proyecto de ley de la Camara de Representantes No. 1934 titulado;

" 'An Act to reorganize the Executive and Judicial Departments of the Philippine Government, by amending certain provisions of the Revised Administrative Code, as amended and for other purposes,'

y despues de una detenida y completa consideracion, ha acordado recomendar a sus respective camaras lo siguiente que sea aprobado en la forma siguiente:

(Sgd)

"J. Clarin

"Manuel Briones

"Juan Nolasco

"Conferenciantes por parte del Senado

(Sgd.)

"Leonardo Festin

"J. Alcazaren

"Eugenio Perez

"Juan Luna

"Felipe Buencamino

"P. Pecson

"E. Rodriguez

"Conferenciantes por

parte de la Camara

de Representantes"

To the foregoing report is attached the Act containing all the provisions now to be found in Act No. 4007, including its eleventh section.

By comparing Act No. 4007 as it is with Bill No. 1934 as finally approved by the Philippine Senate on November 4, 1932, we shall be able to notice that section 11 of the Act is one of the few portions of the Act which is not included in the bill as passed by the Senate. It, apparently, also, is the only provision in the Reorganization Act mentioned which treats of taxation. It is the only section which does not deal with reorganization.

The enacting clause of Bill No. 1934 passed by the Senate and that of Act No. 4007 are similar with slight variations.

Sections 1 to 3 inclusive of the Bill passed by the Senate are the same in all respects as sections 1 to 3 inclusive of Act No. 4007.

Section 4 of the Bill passed by the Senate and the same section of Act No. 4007 are similar because both deal with the bureaus and offices under the Department of Finance. Section 4 of the Senate Bill, however, differs from section 4 of Act No. 4007 in that the former includes the Board of Accountancy, Board of Examiners for Marine Officers, and Engineers. On the other hand, section 4 of Act No. 4007 includes the Division of Purchase and Supply.

Section 5 of the Bill and the equivalent section of Act No. 4007 are similar because both deal with bureaus and offices under the Department of Public Instruction. They differ, however, in that the Bill passed by the Senate includes the Board of Private Education, Boards of Medical, Pharmaceutical, Optical, Dental and Nurses Examiners.

Section 6 of the Bill and the same section of Act No. 4007 are similar because both refer to bureaus and offices under the Department of Justice with variations, however, in their provisions.

Section 7 of the Bill and the same section of the Act are similar. Both refer to bureaus and offices under the Department of Agriculture and Commerce, with slight variations.

Section 8 of the Bill and the same section of the Act are also similar. Both deal with the bureaus and offices under the Department of Public Works and Communications, with slight variations.

Section 9 of the Bill is the same as section 9 of the Act. Both refer to bureaus and offices under the Department of the Interior and Labor.

Section 10 of the Bill is similar to section 10 of the Act because both refer to the creation of the Bureau of Civil Service, with extensive variations.

Section 11 of the Bill which refers to Manila Harbor Board corresponds to the provisions of section 13 of Act No. 4007.

Section 11 of Act No. 4007 deals with the reimbursement of the total annual expenses of the Bureau of Banking to the Government. This section does not have any equivalent in or similarity to any of the provisions of the Bill passed by the Senate.

Section 12 of the Bill deals with the Philippine Health Service. This is similar to section 14 of the Act, with variations.

Section 12 of Act No. 4007 deals with the abolition of the Bureau of Supply.

Section 13 of the Bill deals with the repeal of certain sections of the Administrative Code. This section is similar to section 16 of Act No. 4007, with slight variations.

Section 13 of the Act deals with the Manila Harbor Board. This section is the same as section 11 of the Bill

passed by the Senate.

Section 14 of the Bill deals with the abolition of the position of Commissioner of Private Education. This section is similar to section 17 of Act No. 4007, with variations.

Section 14 of the Act deals with the Philippine Health Service. This is similar to section 12 of the Bill, with variations.

Section 15 of the Bill deals with the repeal of certain sections of the Administrative Code. This section is the same as section 18 of the Act.

Section 15 of Act No. 4007 deals with the Commissioner of Health and Welfare, with the rank and salary of under-secretary, in the office of the Secretary of Public Instruction. This section is similar to section 12 of the Bill passed by the Senate, with variations.

Section 16 of the Bill passed by the Senate refers to Judicial Districts for Courts of First Instance. This section is the same as section 20 of Act No. 4007.

Section 16 of the Act deals with the repeals of certain sections of the Administrative Code. This section is the same as section 13 of the Bill passed by the Senate.

Section 17 of the Bill refers to Judges of First Instance for Judicial Districts. This section is the same as section 21 of the Act.

Section 17 of the Act refers to the abolition of the Office of Commissioner of Private Education whose powers and duties are to be exercised by the Undersecretary of Public Instruction. This section is similar to section 14 of the Bill.

Section 18 of the Bill refers to Judges-at-Large. This section is similar to section 24 of the Act.

Section 18 of the Act deals with the repeal of certain sections of the Administrative Code. This section is the same as section 15 of the Bill.

Section 19 of the Bill refers to the repeal of certain sections of the Administrative Code. This section is the same as section 25 of the Act.

Section 19 of the Act deals with the Chief of the Bureau of Justice to be known as Solicitor-General.

Section 20 of the Bill passed by the Senate treats of the abolition of the General Land Registration Office as a Bureau.

Section 20 of the Act deals with the Judicial Districts for Courts of First Instance. This section is the same as section 16 of the Bill.

Section 21 of the Bill treats of the Bureau of Commerce. This section is similar to section 29 of the Act.

Section 21 of the Act treats of Judges of First Instance. This section is the same as section 17 of the Bill.

Section 22 of the Bill refers to the abolition of the National Museum as a separate Bureau. This section is similar to section 30 of the Act.

Section 22 of the Act refers to section 155 of the Administrative Code regarding detail of judges to another district or province.

Section 23 of the Bill treats of section 1771-G of the Administrative Code relating to the Fiber Standardization

Board—Transaction of Business. (See section 31 of the Act abolishing said Board.)

Section 23 of the Act deals with the permanent station of judges.

Section 24 of the Bill refers to the powers of the Bureau of Purchase and Supply. (See section 12 of the Act abolishing said Bureau.)

Section 24 of the Act refers to Judges-at-Large. This section is similar to section 18 of the Bill.

Section 25 of the Bill refers to the abolition of the Executive Bureau. This section is the same as section 33 of the Act.

Section 25 of the Act deals with the repeal of certain sections of the Revised Administrative Code. This section is the same as section 19 of the Bill.

Section 26 of the Bill refers to the creation of the Office of Commissioner of Labor. This section is the same as section 34 of the Act, with slight modifications.

Section 26 of the Act deals with the "Places and times of holding court."

Section 27 of the Bill treats of the transfer of the National Library from the Department of Justice to the Philippine Legislature. This section is similar to section 35 of the Act, with slight variations.

Section 27 of the Act deals with the qualifications for the Office of Justice of the Peace.

Section 28 of the Bill refers to the transfer of duties and functions of certain departments to the respective Departments as provided for said Bill. This section is similar to section 36 of the Act.

Section 28 of the Act deals with the office of register of deeds.

Section 29 of the Bill deals with the power, authority, duty, function or activity entrusted to a chief of Bureau, Office or Division and the power of review given to the proper Department Head. This section is the same as section 37 of the Act.

Section 29 of the Act deals with the Bureau of Commerce. This section is similar to section 21 (a) of the Bill.

Section 30 of the Bill refers to the power of the Governor-General or proper Head of Department to transfer an activity from one division to another and to consolidate offices. This section is similar to section 38 of the Act, with variations.

Section 30 of the Act refers to the abolition of the National Museum as a separate Bureau. This section is similar to section 22 of the Bill.

Section 31 of the Bill deals with the unexpended balances of funds or appropriations pertaining to bureaus, etc., abolished or terminated and the manner of their disposition. This section is the same as section 39 of the Act.

Section 31 of the Act refers to the Fiber Standardization Board. (See section 23 of the Bill.)

Section 32 of the Bill deals with the merger and transfer of the unexpended balances of funds or appropriations, equipment, etc., with the funds of the Department, bureau or office concerned. This section is the same as section 40 of the Act.

Section 32 of the Act refers to the powers and duties of the Bureau of Commerce and Industry with regard to the Marine Railway and Repair Shops, to be exercised by the Secretary of Public Works and Communications.

Section 33 of the Bill refers to the vacation of positions by specified officers. This section is similar to section 41

of the Act.

Section 33 of the Act refers to the abolition of the Executive Bureau as a separate Bureau. This section is the same as section 25 of the Bill.

Section 34 of the Bill deals with the gratuities to be awarded to officials and employees whose positions are abolished or separated as a consequence of the Reorganization Act. This section is the same as section 42 of the Act.

Section 34 of the Act deals with the creation of the Office of a Commissioner of Labor in the Office of the Secretary of the Interior. This section is similar to section 26 of the Bill.

Section 35 of the Bill contains its repealing clause. This section is the same as section 44 of the Act.

Section 35 of the Act deals with the transfer of the National Library from the Department of Justice to the Philippine Legislature. It corresponds to section 27 of the Bill.

Section 36 of the Bill deals with the time when said act shall take effect. This section is equivalent to section 45 of the Act.

Section 36 of the Act refers to the transfer of duties and functions of certain Departments to the respective Departments as provided for by the Act. This is similar to section 28 of the Bill.

Section 37 of the Act refers to the power, authority, duty, function, or activity entrusted to a chief of Bureau, Office or Division and the power of review of the proper Department Head. This section is equivalent to section 29 of the Bill.

Section 38 of the Act refers to the power of the head of the Department to transfer an activity from one Division to another or to suppress or reduce any activity under his Department. This section is similar to section 30 of the Bill.

Section 39 of the Act refers to the unexpended balances of funds or appropriation pertaining to bureaus, etc., abolished or terminated and the manner of depositing them. This section is similar to section 31 of the Bill.

Section 40 of the Act deals with the merger and transfer of the unexpended balances of funds or appropriation, equipment, etc. with the funds of Department, Bureau or Office concerned. This section is similar to section 32 of the Senate Bill.

Section 41 of the Act refers to the vacation of positions by specified officers. It is similar to section 33 of the Bill.

Section 42 of the Act treats of the gratuities to be awarded to officials and employees whose positions are abolished or separated as a consequence of the Reorganization Act. It is the same as section 34 of the Bill.

Section 43 of the Act refers to the power of the Department Head to require the Assistant Director or Assistant Chief of a Bureau or Office under him to act as chief of any Division. This section has no equivalent in the Bill passed by the Senate.

Section 44 of Act No. 4007 refers to its repealing clause. This is the same as section 35 of the Bill.

Section 45 of Act No. 4007 refers to the date of effectivity of the Act. It is similar to the provisions of section 36 of the Bill passed by the Senate.

I deny the propriety not only of inserting a tax provision in a general reorganization act but also of amending a portion of an existing law on taxation in such an act. The majority, in effect, does not only hold that the

Legislature may provide for the means by which a given bureau is to be supported but also that it may determine the rate of the tax to be imposed for that purpose. Carried to its logical conclusion, the Legislature may determine the tax itself because the power to determine the rate implies the power to determine the tax—as well as the sources and, ultimately, the numerous incidents thereof. Under the theory of the majority, in a reorganization act, the Legislature may, for instance, provide that the Bureau of Internal Revenue shall be supported out of the income tax and, for this purpose, amend the schedule of percentages now contained in the Income Tax Law; or that the Department of the Interior shall be supported out of the real property tax and, at the same time, increase that tax say from 7/8 of 1 per cent to 1 per cent. The instances may be multiplied. I am reluctant to believe that the majority would yield to this result and yet this is what the decision would lead to. It is not necessary to point out the disastrous results that will follow. The consideration and approval of omnibus bills would ensue. The detection of fraud and dexterity in legislation would be rendered difficult; the constitutional mandate turned into a dead letter, and the life and vigor of the entire Constitution seriously impaired.

This court has always been eager to give effect to the mandates of the fundamental law. During its entire period of existence, it has been able to set aside fourteen legislative acts. Of these, three were premised on the violation of the provisions of the Organic Law regarding the subject and title of bills. I wish to refer to these cases in support of the view I have taken in the case at bar.

In *Central Capiz vs. Ramirez* ([1920], 40 Phil., 883), the issue presented was whether Act No. 2874 is limited in its application to public agricultural lands, or whether its provisions also extend to agricultural lands privately owned, as certain provisions of the Act seemed to indicate. An examination of the entire Act revealed that the intention of the Legislature was to limit the application of the Act to public lands. Besides, the title of the Act was, "An act to amend and compile the laws relative to lands of the public domain, and for other purposes." According to this court, "Under the Act as entitled, any attempt by the Legislature to insert provisions in the body thereof relating to lands of private ownership would be in violation of the provisions of the Jones Law and, therefore, null and void." (At p. 889.) This statement applies with equal force to the case now before us.

In *Agcaoili vs. Suguitan* ([1926], 48 Phil., 676), this court, by a close vote, held void section 203 of Act No. 3107 which provided " * * that justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years", because the title of the Act gave no intimation thereof, in violation of the Jones Law. Act No. 3107 was entitled, "An Act to amend and repeal certain provisions of the Administrative Code relative to the judiciary in order to reorganize the latter; increasing the number of judges for certain judicial districts; increasing the salaries of judges of Courts of First Instance; vesting the Secretary of Justice with authority to detail a district judge temporarily to a district or province other than his own; regulating the salaries of justices of the peace; abolishing the municipal court and justice of the peace court of the City of Manila and creating in lieu thereof a municipal court with three branches; regulating the salaries of clerks of court and other subordinate employees of Courts of First Instance, and for other purposes." This court held:

"Considering that the great weight of authority is to the effect that the provision like the one above quoted from the Jones Law is mandatory; and considering that there is nothing in the title of Act No. 3107 which indicates in the slightest degree that said Act contains a provision 'that justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years,' we are forced to the conclusion that, that provision is illegal, void and contrary to the mandatory provision of the Jones Law, * * *."

I think that in the case at bar the violation of the Jones Law is clearer than in the *Agcaoili* case. As the dissenting justices in the latter case observed, "although the provisions of Act No. 3107 are various, they have this in common, that they deal with different parts of the judiciary establishment and are intended to effect changes in this system alone." According to them, the words, "An Act to amend and repeal certain provisions of the

Administrative Code relative to the judiciary * * *", are general and broad enough to include section 203 relating to the appointment of justices of the peace. Upon the other hand, in the case at bar, there is absolutely nothing in the title, as far as I can see, from which the insertion of section 11 in Act No. 4007 can be justified.

A still stronger case in support of my position is, perhaps, that of *Government of the Philippine Islands vs. El Hogar Filipino* ([1927], 50 Phil., 399). In that case, the validity of section 3 of Act No. 2792 was challenged on the ground that the subject matter contained in that section was not expressed in the title of the Act. The title of the Act was as follows:

"An Act to amend certain sections of the Corporation Law, Act Numbered Fourteen hundred and fifty-nine, providing for the publication of the assets and liabilities of corporations registering in the Bureau of Commerce and Industry determining the liability of the officers of corporations with regard to the issuance of stock or bonds, establishing penalties for certain things, and for other purposes."

The first two sections of the Act are amendatory to the Corporation Law (Act No. 1459), and the third section involved in that controversy is a new section added to the Corporation Law as section 190 (a), and provides as follows:

"Sec. 190. (A) Penalties.—The violation of any of the provisions of this Act and its amendments not otherwise penalized therein, shall be punished by a fine of not more than one thousand pesos, or by imprisonment for not more than five years, or both, in the discretion of the court. If the violation is committed by a corporation, the same shall, upon such violation being proved, be dissolved by quo warranto proceedings instituted by the Attorney-General or by any provincial fiscal, by order of said Attorney-General: Provided, That nothing in this section provided shall be construed to repeal the other causes for the dissolution of corporations prescribed by existing law, and the remedy provided for in this section shall be considered as additional to the remedies already existing."

This court, in passing upon the constitutional question presented, held that the title of the Act was defective for failure to express the subject matter of section 3 thereof and declared said section invalid for repugnance to the constitutional requirement. This court, speaking through Justice Street, said:

"But section 3 of Act No. 2792 is challenged by the respondent on the ground that the subject matter of this section is not expressed in the title of the Act, with the result that the section is invalid. This criticism is in our opinion well founded. Section 3 of our Organic Law (Jones Bill) declares, among other things, that 'No bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill.' Any law or part of a law passed by the Philippine Legislature since this provision went into effect and offending against its requirement is necessarily void.

"Upon examining the entire Act (No. 2792), we find that it is directed to three ends which are successively dealt with in the first three sections of the Act. But it will be noted that these three matters all relate to the Corporation Law; and it is at once apparent that they might properly have been embodied in a single Act if a title of sufficient unity and generality had been prefixed thereto. Furthermore, it is obvious, even upon casual inspection, that the subject matter of each of the first two sections is expressed and defined with sufficient precision in the title. With respect to the subject matter of section 3 the only words in the title which can be taken to refer to the subject matter of said section are these, 'An Act * * * establishing penalties for certain things, and for other purposes.' These words undoubtedly have sufficient generality to cover the subject matter of section 3 of the Act. But this is not enough. The Jones Law requires that the subject matter of the bill 'shall be expressed in the title of the bill.'

"When reference is had to the expression 'establishing penalties for certain things,' it is obvious that these words express nothing; The constitutional provision was undoubtedly adopted in order that the public might be informed as to what the Legislature is about while bills are in process of passage. The expression 'establishing

penalties for certain things' would give no definite information to anybody as to the project of legislation intended under this expression. An examination of the decided cases shows that courts have always been indulgent of the practices of the Legislature with respect to the form and generality of title, for if extreme refinements were indulged by the courts, the work of legislation would be unnecessarily hampered. But, as has been observed by the California court, there must be some reasonable limit to the generality of titles that will be allowed. The measure of legality is whether the title is sufficient to give notice of the general subject of the proposed legislation to the persons and interests likely to be affected.

"In *Lewis vs. Dunne* (134 Cal., 291), the court had before it a statute entitled 'An Act to revise the Code of Civil Procedure of the State of California, by amending certain sections, repealing others, and adding certain new sections.' This title was held to embrace more than one subject, which were not sufficiently expressed in the title. In discussing the question the court said:

" '* * * It is apparent that the language of the title of the act in question, in and of itself, expresses no subject whatever. No one could tell from the title alone what subject of legislation was dealt with in the body of the act; such subject, so far as the title of the act informs us, might have been entirely different from anything to be found in the act itself. * * *

" 'We cannot agree with the contention of some of respondent's counsel—apparently to some extent countenanced by a few authorities—that the provision of the constitution in question can be entirely avoided by the simple device of putting into the title of an act words which denote a subject "broad" enough to cover everything. Under that view, the title, "An act concerning the laws of the state," would be good, and the convention and people who framed and adopted the constitution would be convicted of the folly of elaborately constructing a grave constitutional limitation of legislative power upon a most important subject, which the legislature could at once circumvent by a mere verbal trick. The word "subject" is used in the constitution in its ordinary sense; and when it says that an act shall embrace but "one subject", it necessarily implies—what everybody knows—that there are numerous subjects of legislation, and declares that only one of these subjects shall be embraced in any one act. All subjects cannot be conjured into one subject by the mere magic of a word in a title. * * *

"In *Rader vs. Township of Union* (39 N. J. L., 509, 515), the Supreme Court of New Jersey made the following observation:

" '* * * It is true, that it may be difficult to indicate, by a formula, how specialized the title of a statute must be; but it is not difficult to conclude that it must mean something in the way of being a notice of what is doing. Unless it does this, it can answer no useful end. It is not enough that it embraces the legislative purpose—it must express it; and where the language is too general, it will accomplish the former, but not the latter. Thus, a law entitled "An act for a certain purpose," would embrace any subject, but would express none, and, consequently, it would not stand the constitutional test.'

"The doctrine properly applicable in matters of this kind is, we think, fairly summed up in a current repository of jurisprudence in the following language:

" '* * * While it may be difficult to formulate a rule by which to determine the extent to which the title of a bill must specialize its object, it may be safely assumed that the title must not only embrace the subject of proposed legislation, but also express it clearly and fully enough to give notice of the legislative purpose.' (25 R. C. L., p. 853.)

"In dealing with the problem now before us the words 'and for other purposes' found at the end of the caption of Act No. 2792, must be laid completely out of consideration. They express nothing, and amount to nothing as a compliance with the constitutional requirement to which attention has been directed. This expression ('for other purposes') is frequently found in the title of acts adopted by the Philippine Legislature; and its presence in our

laws is due to the adoption by our Legislature of the style used in Congressional legislation. But it must be remembered that the legislation of Congress is subject to no constitutional restriction with respect to the title of bills. Consequently, In Congressional legislation the words 'and for other purposes' at least serve the purpose of admonishing the public that the bill whose heading contains these words contains legislation upon other subjects than that expressed in the title. Now, so long as the Philippine Legislature was subject to no restriction with respect to the title of bills intended for enactment into general laws, the expression 'for other purposes' could be appropriately used in titles, not precisely for the purpose of conveying information as to the matter legislated upon, but for the purpose of admonishing the public that any bill containing such words in the title might contain other subjects than that expressed in the definitive part of the title. But, when Congress adopted the Jones Law, the restriction with which we are now dealing became effective here and the words 'for other purposes' could no longer be appropriately used in the title of legislative bills. Nevertheless, the custom of using these words has still been followed, although they can no longer serve to cover matter not germane to the bill in the title of which they are used. But the futility of adding these words to the style of any act is now obvious. (Cooley, Const. Lim., 8th ed., p. 302.)

"In the brief for the plaintiff it is intimated that the constitutional restriction which we have been discussing is more or less of a dead letter in this jurisdiction; and it seems to be taken for granted that no court would ever presume to hold a legislative act or part of a legislative act invalid for non-compliance with the requirement. This is a mistake; and no utterance of this court can be cited as giving currency to any such notion. On the contrary the discussion contained in *Central Capiz vs. Ramirez* (40 Phil., 883), shows that when a case arises where a violation of the restriction is apparent, the court has no alternative but to declare the legislation affected thereby to be invalid."

It should be observed that in the case the following expression appears on the title of the bill: "establishing penalties for certain things." It should further be observed that in that case there is an express admission that the three matters contained in Act No. 2792 "all relate to the Corporation Law" and "might properly have been embodied in a single Act if a title of sufficient unity and generality had been prefixed thereto." All the matters contained in the law, therefore, were found to be germane to each other, and yet the court concluded that the expression "establishing penalties for certain things" did not express the subject matter contained in section 3 of Act No. 2792, and in the language of the court, although "These words undoubtedly have sufficient generality to cover the subject matter of section 3 of the Act. But this is not enough", because "The Jones Law requires that the subject matter of the bill 'shall be expressed in the title of the bill.' " There is, to be sure, more unity of the subject matter with reference to the three sections contained in Act No. 2792 than in section 11 of Act No. 4007, with reference to the rest of the sections of that Act. Section S of Act No. 2792 provides penalties for violation of the Corporation Law, as amended, whereas section 11 of Act No. 4007 deals with the contribution of banks, and increases the contribution originally provided in section 1639 of the Administrative Code. In the *Hogar* case, also, the title refers to penalties and the heading of section 190 (a) which is the additional section introduced bears the title "Penalties." Nevertheless, this court declared section 3 of Act No. 2792, containing said section 190 (a), as void, and observed, after referring to the case of *Central Capiz vs. Ramirez*, *supra*, that "when a case arises where a violation of the restriction is apparent, the court has no alternative but to declare the legislation affected thereby to be invalid." This court in the *Hogar* case found the violation of the constitutional inhibition apparent "Upon the facts and under the circumstances just mentioned," and I say that in the case at bar the constitutional infraction is more apparent than in the *Hogar* case.

The majority of this court clearly depart from the principle laid down in previous cases, particularly the *Hogar* case. From the citations and references made, It is on the plea of liberal interpretation that they do so. I express the opinion, however, that there is neither occasion nor reason for any departure and that the doctrine laid down in

the Hogar case is as good today as it was when promulgated by this court ten years ago. If conditions have changed since then, the change rather points to the necessity of adhering to the doctrine than in departing therefrom. Our Constitution has substantially incorporated the provision contained in the Jones Law regarding the subject and title of bills. This means that this provision is a necessary requirement, to prevent the evils which otherwise would exist in legislation, and which evils I have already pointed out. In addition, our Constitution, to further surround legislative practice and procedure with the necessary guarantees against hasty, ill-considered legislation, requires the printing of bills at least three days prior to its consideration. The insertion of amendments is also expressly prohibited after the third reading of a bill. (Art. VI, sec. 12, par. 2.) The framers of our Constitution, therefore, not only considered the retention of the provision with reference to the requirement that bills should contain one subject matter and the matter expressed in the title thereof, but regarded that requirement insufficient, and, as a further guaranty, provided for the printing of bills three days before their consideration and, in addition, barred the insertion of amendments after the last reading of a bill. It may also be pointed out that our Constitution establishes a unicameral legislature. A one-chambered legislature is devoid of a second-chamber check. More strict adherence to constitutional mandate is thus required, particularly in times when the executive and legislative departments no longer check one another. If, then, a change has come to pass, it is one which points to the necessity and advisability of adhering to the principle announced in the Hogar and previous cases.

In the very language of this court in *McGirr vs. Hamilton and Abreu* (30 Phil., 563, 571, 572), it may not be out of place to close this dissent with the words of one of New York's greatest judges as found in the case of *Oakley vs. Aspinwall* (3 Comstock [N. Y.], 547, 568):

"It is highly probable that inconveniences will result from following the constitution as it is written. But that consideration can have no weight with me. It is not for us, but for those who made the instrument to supply its defects. If the legislature or the courts may take that office upon themselves; or if under color of construction, or upon any other specious ground, they may depart from that which is plainly declared, the people may well despair of ever being able to set a boundary to the powers of the government. Written constitutions will be worse than useless.

"Believing, as I do, that the success of free institutions depends on a rigid adherence to the fundamental law, I have never yielded to considerations of expediency in expounding it. There is always some plausible reason for the latitudinarian constructions which are resorted to for the purpose of acquiring power—some evil to be avoided, or some good to be attained, by pushing the powers of the government beyond their legitimate boundary. It is by yielding to such influences that constitutions are gradually undermined and finally overthrown. My rule has ever been to follow the fundamental law as it is written, regardless of consequences. If the law does not work well, the people can amend it; and inconveniences can be borne long enough to await that process. But, if the legislature or the courts undertake to cure defects by force and unnatural constructions, they inflict a wound upon the constitution which nothing can heal. One step taken by the legislature or the judiciary in enlarging the powers of the government opens the door for another, which will be sure to follow; and so the process goes on, until all respect for the fundamental law is lost, and the powers of the government are just what those in authority please to call them."

My conclusion is that the government is entitled to collect the percentage fixed in the original act but not that determined in section 11 of Act No. 4007 because that section is unconstitutional. I adopt the partial unconstitutionality rule stated in *Barrameda vs. Moir* ([1913], 25 Phil., 44), and other cases and hold that section 11 of Act No. 4007 is unconstitutional.

Diaz, J.; I concur in the dissenting opinion of Justice Laurel.

DISSENTING

CONCEPCION, J.:

I dissent from the majority opinion.

The Solicitor-General, in the name of the Government, filed a complaint against the Hongkong & Shanghai Banking Corporation and eight other banking institutions, for the recovery of certain sums by way of assessments, in conformity with the provisions of section 11 of Act No. 4007.

All the defendants demurred to the complaint The Hongkong & Shanghai Banking Corporation and the other defendants', with the exception of the National City Bank of New York, founded their demurrers on the ground that the law relied upon in the complaint is unconstitutional. The demurrer of the National City Bank of New York invoked the same ground and further alleged that there is a misjoinder of parties and that Act No. 4007, section 11, is not applicable to it because it is a national banking association.

The demurrers being sustained by the court, and the plaintiff failing to amend the complaint, judgment was rendered dismissing the same, to which exception was taken by the Solicitor-General who thereafter filed the bill of exceptions which was duly approved.

Every law must have the essential feature that it shall embrace only one subject and that subject shall be expressed in the title thereof. Such is the provision of section 8 of the Jones Law.

The same provision is contained in section 12 (1) of Article VI of our Constitution.

In the case of *Central Capiz vs. Ramirez* (40 Phil., 883, 889-891), in inquiring into the meaning and scope of the aforesaid Organic Law, this court said:

"The purpose of this legislative restriction, and the evils sought to be remedied thereby, are clearly stated by Sutherland in his valuable work on Statutory Construction. In section 111 he says that:

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

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

* * * * *

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

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

Sutherland,—this court continues,—in his work on Statutory Construction, section 122, says:

"The phrase "and for other purposes" expresses no specific purpose and imports indefinitely something different from that which precedes it in the title. It is, therefore, universally rejected as having no force or effect wherever, this constitutional restriction operates'." (Citing numerous cases.) (Page 895.)

See also *Agcaoili vs. Suguitan* (48 Phil., 676). Therefore, the first question requiring solution is whether the subject matter of section 11 of Act No. 4007 is embraced in the title thereof, as required by the Jones Law.

The title of the aforesaid Act No. 4007 is worded as follows: "An Act to reorganize the departments, bureaus and offices of the Insular Government, and for other purposes." Section 11 of the Act provides as follows:

"The provisions of existing law to the contrary notwithstanding, the total annual expenses of the Bureau of Banking shall be reimbursed annually to the Government by assessment levied upon all banking institutions subject to inspection by the Bank Commissioner. The proportion of expenses of the Bureau of Banking to be assessed against each of such banking institution shall be the same as the proportion which its average total assets bear to the average total assets of all such banking institutions during the year in which the expenses were incurred."

It is evident from what has been quoted that the provisions of section 11 of the said Act are absolutely foreign to the reorganization of the departments and offices of the Government, inasmuch as they refer exclusively to the levy of an assessment upon the banks. Section 11 is therefore null and without any effect, for being unconstitutional, in view of the fact that its subject matter is distinct from and in no way related to that of the law in question, which is the reorganization of the departments, bureaus and offices of the Government.

We have here not only variety of subjects, but failure to express the subject of section 11 in the title of Act No. 4007; and the deficiency is not supplied by the addition to the title of the Act of the phrase "and for other purposes", since, as we have seen, it has been repeatedly decided by the courts that said phrase does not signify anything.

But the majority contends that at the time of the passage of Act No. 4007 the Bureau of Banking was already in existence as one of the bureaus of the Government, and that, therefore, it is clear that said bureau is embraced in said title. To this I am agreeable. On the other hand,—the majority continues,—the contents of section 11 are germane to and connected with the organization and maintenance of said bureau. From this I dissent, because the reorganization of the Government is a subject clearly distinct from the revision of an assessment, of which section 11 treats, thereby amending, without previous notice, section 1637 of the Administrative Code.

The Solicitor-General argues that the court could have rendered judgment, if not under section 11 of Act No. 4007, under section 1637 of the Administrative Code, as amended by Act No. 3519. I believe that such change, which relates to the basis of the complaint, cannot be made except by an amendment of the complaint.

I therefore vote for the confirmation of the appealed decision.

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