

SAMUEL C. OCCEÑA, PETITIONER, VS. COMMISSION ON ELECTIONS, COMMISSION ON AUDIT, NATIONAL TREASURER, AND DIRECTOR OF PRINTING, RESPONDENTS.*G.R. No. 52265. January 28, 1980*

Ponente: ANTONIO, J.

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Petition for prohibition seeking to restrain respondents from implementing Batas Pambansa Blg. 51 (providing for the elective and/or appointive positions in various local governments), 52 (governing the election of local government officials scheduled on January 30, 1980), 53 (defining the rights and privileges of accredited parties), and 54 (providing for a plebiscite, simultaneously with the election of local officials on January 30, 1980, regarding the proposed amendment of Article X, Section 7, of the 1973 Constitution). The constitutional issues raised are: (1) whether or not the Interim Batasang Pambansa has the power to authorize the holding of local elections; (2) assuming it has such power, whether it can authorize said elections without enacting a local government code; (3) assuming it may validly perform the foregoing, whether it can schedule such elections less than ninety (90) days from the passage of the enabling law; and (4) assuming, further, that the proposed amendment to Article X, Section 7 of the Constitution is valid, whether the plebiscite can be legally held together with the local elections. The thrust of petitioner's arguments is that these issues should be resolved in the negative.

After deliberating on the memoranda and arguments adduced by both parties at the hearing on January 15, 1980, the Court finds no merit in the petition.

1. The legislative power granted by Section 1, Article VIII of the Constitution to the National Assembly has been explicitly vested during the period of transition on the Interim Batasang Pambansa by Amendment No. 2 to the Constitution. The only limitation is that it shall not exercise its treaty ratification powers provided in Article VIII, Section 14(1) of the Constitution. The legislative power has been described generally as being a power to make, alter and repeal laws.[1] It is the peculiar province of the legislature to prescribe general rules for the government of society. The essential of the legislative function is the determination of the legislative policy and its formulation and promulgation as a defined and binding rule of conduct.[2] It is a recognized principle in constitutional law that the legislative body possesses plenary power for all purposes of civil government. The legislative power of the Interim Batasang Pambansa is, therefore, complete, subject only to the limitation that the Interim Batasang Pambansa shall not exercise the power of the National Assembly in the ratification of treaties.[3] The power to regulate the manner of conducting elections, to prescribe the form of the official ballot, and to provide for the manner in which candidates shall be chosen is inherently and historically legislative. Petitioner has not cited any provision of the Constitution, as amended by the Amendments of 1976, which expressly or by implication deny to the Interim Batasang Pambansa the authority to call for local elections. It is a well established rule that where no exception is made in terms, none will be made by mere implication or construction. The wordings of a constitutional provision do not have a narrow or contracted meaning, but are used in a broad sense, with a view of covering all contingencies. Petitioner's invocation of the Report of the Committee

on Transitory Provisions of October 13, 1972 does not support his contention that the Interim Batasang Pambansa has no power to call local elections. The purported report refers to the interim National Assembly in Article XVII, the convening of which was rejected by the Filipino people. As We stated in *Peralta v. Commission on Elections*:^[4]

"It should be recalled that under the terms of the Transitory Provisions of the Constitution, the membership of the interim National Assembly would consist of the Incumbent President and Vice-President, the Senators and the Representatives of the old Congress and the Delegates to the Constitutional Convention who have opted to serve therein. The Filipino people rejected the convening of the interim National Assembly, and for a perfectly justifiable reason.

"By September of 1976, the consensus had emerged for a referendum partaking of the character of a plebiscite which would be held to establish the solid foundation for the next step towards normalizing the political process. By the will of the people, as expressed overwhelmingly in the plebiscite of October 15 and 16, 1976, Amendments Nos. 1 to 9 were approved, abolishing the interim National Assembly and creating in its stead an interim Batasang Pambansa. This was intended as a preparatory and experimental step toward the establishment of full parliamentary government as provided for in the Constitution." (at p. 61).

In the search for the meaning of the language of the Constitution, reference may be made to the historical basis of the provisions. The historical events and circumstances which led to the ratification of Amendments Nos. 1 to 9 of the Constitution show the manifest intent and desire of the people to establish, during the period of transition, a government that can effectively provide for the nation's peaceful and orderly transition from a crisis to a full parliamentary system of government.

2. Neither can We find in Section 1, Article XI of the Constitution any requirement that the enactment of a local government code is a condition sine qua non for the calling of the local elections by the Interim Batasang Pambansa. Indeed, the holding of local elections does not, in any manner, preclude the enactment of a local government code by the Batasang Pambansa at some later period. There cannot be any doubt that our local governments are basic and fundamental units in our democratic institutions. To strengthen these institutions, the election of local officials should be periodically held.^[5] Accordingly, this Court is not inclined to adopt such a technical or strained construction as will unduly impair the efficiency of the Interim Batasang Pambansa in meeting the challenges and discharging its responsibilities in response to the problems arising in a modernizing and dynamic society. The legislative decision to call for local elections in order to enable the Filipino people to exercise their sovereign right to choose their local officials cannot, therefore, be faulted as a violation of the Constitution.

3. Section 6 of Article XII of the Constitution does not fix an unalterable period of ninety (90) days for an election campaign. This provision must be construed in relation to Section 5 of Article XII thereof which grants to the Commission on Elections the power to supervise or regulate the operation of transportation, public utilities, media of communication, etc. during the "elections period". Section 6 fixes the "election period" by stating that unless fixed by the Commission in special cases, the election period shall commence ninety (90) days before the day of election and shall end thirty (30) days thereafter. In *Peralta v. Commission on Elections*, supra, We resolved, in effect, this issue by holding that the forty-five day period of campaign prescribed in Section 4 of the 1978 Election Code was not violative of Section 6 of Article XII of the Constitution.

4. Considering that the proposed amendment to Section 7 of Article X of the Constitution extending the retirement of members of the Supreme Court and judges of inferior courts from sixty-five (65) to seventy (70) years is but a restoration of the age of retirement provided in the 1935 Constitution and has been intensively and extensively discussed at the Interim Batasang Pambansa, as well as through the mass media, it cannot, therefore, be said that

our people are unaware of the advantages and disadvantages of the proposed amendment.

ACCORDINGLY, the petition is DISMISSED. This decision is immediately executory.

SO ORDERED.

Makasiar, Aquino, Concepcion, Jr., Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, C.J., concurs with the opinion insofar as the Court found no merit in the petition seeking to declare unconstitutional Batas Pambansa Blg. 51, 52 and 53 and takes no part as far as the challenge to Batas Pambansa Blg. 54 is concerned.

Teehankee, J., reserves his vote.

Barredo, Fernandez, and Guerrero, JJ., agree with the opinion of the Court penned by J. Felix Q. Antonio. and Chief Justice Fernando certifies.

[1] Fernando, The Constitution of the Philippines, p. 172.

[2] *Yakus v. United States*, 321 US 414, 88 L. ed. 834.

[3] Amendment No. 2, in relation to Article VIII, Section 14(1), Constitution of the Philippines.

[4] L-47771, March 11, 1978, 82 SCRA 30.

[5] "As long as popular government is an end to be achieved and safeguarded, suffrage, whatever may be the modality and form devised, must continue to be the means by which the great reservoir of power must be emptied into the receptacular agencies wrought by the people through their Constitution in the interest of good government and the common weal. * * *" (*Moya v. Del Fierro*, 69 Phil. 199, 204 (1939). (*Puñgutan v. Abubakar*, 43 SCRA 1, 11).

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