FACTS: De Leon, legally married to Marquez, prepared an affidavit wherein it was made to appear that he was permitted to take in another woman, one Balinon, whom he would respect as his true and lawful wife. De Leon subscribed said affidavit before Velayo, a notary public. In his answer to the complaint filed against him by the Sol.-Gen., Velayo claims that as a notary's duty is limited to ascertaining the identity of the affiant and the voluntariness of the declaration, he could not be held guilty of any violation of duty.

HELD: While the duty of a notary public is principally to ascertain the identity of the affiant and the voluntariness of the declaration, it is nevertheless incumbent upon him at least to guard against having anything to do with an illegal or immoral arrangement. (BALINON *v.* DE LEON, ADM. CASE No. 104, January 28, 1954.)

POLITICAL LAW

CONSTITUTIONAL LAW

Rule Forbiding Delegation of Legislative Powers not absolute; Exceptions.

FACTS: Petition for review of a decision of the Auditor General denying petitioner's claim for refund. Pursuant to C. A. 728 making unlawful the exportation of certain articles without a permit from the President and empowering the President to "regulate... and *prohibit* the exportation of materials abroad and *to issue rules and regulations*... through such department... as he may designate," the President issued an order prohibiting the exportation of scrap metals without a license being first obtained. Subsequently, the Cabinet approved a resolution fixing a schedule of royalty rates to be charged on metal exports. Petitioner paid ₱54,862.84 as royalty on its metal exports. Petitioner contends that the resolution fixing the schedule was undue delegation of legislative power because it creates an *ad valorem* tax.

HELD: The rule forbidding delegation of legislative power is not absolute. It admits of exceptions as when the constitution authorizes such delegation. In the present case, the Constitution empowers congress to authorize the President to fix tarrif rates. (Art. VI, sec. 22 [2]). Royalty rates take the form of tariff rates. (DONNELLY *v.* AGREGADO, G. R. No. L-4510, May 31, 1954.)

Reasonable Value Of Property Is Determined By Coeval Sales; Sales Made To Govt. To Avoid Legal Proceedings Are Not Coeval.

FACTS: During the war, the Japanese converted the land in question into an airfield. In 1946, after the war, the US army

turned it over to the PI Govt. Negotiations were undertaken for the purchase of the land and several landowners sold their properties to the govt. at the prices fixed by an Appraisal Committee. In this expropriation proceedings against the rest of the landowners, the Govt. presented, as evidence of the value of the land, the deed of sales between it and the landowners who had previously sold their properties.

HELD: The courts have consistently held as competent evidence *bona fide* sales of nearby parcels at times sufficiently equal to the taking as to exclude general changes of value; however the sales presented by the Govt. are "in the nature of a compromise' to avoid the risk of legal proceedings and are not prices (of land) obtained by one who desires but is not obliged to sell it, and is bought by one who is under no necessity for having it." (REPUBLIC OF THE PHILIPPINES *v.* LARA, ET AL., G. R. No. L-5080, November 29, 1954.)

Interest On Compensation Runs From Date Of Actual Taking And Ceases Upon Payment To Owner Or Deposit Of Money In Court.

FACTS: The Govt. took possession of the land in question, a converted airstrip, on July 4, 1946. On July 9, 1949, it filed a complaint for expropriation. On Aug. 5, 1949, the court fixed the provisional value of the land and the amount was duly deposited by the Govt. In its judgment, the court ordered the Govt. to pay interest on the amounts awarded from the date of the filing of the complaint.

HELD: Owners of expropriated lands are entitled to recover interest from the date that the plaintiff takes possession of the condemned lands, and the amounts granted by the court shall cease to earn interest only from the moment they are paid to the owners or deposited in court. Thus, the Govt. shall pay interest from July, 1946; however the amount deposited shall not earn interest from the date of deposit on Aug. 1949. (REPUBLIC OF THE PHILIPPINES *v.* LARA, ET AL., G. R. No. L-5080, November 29, 1954.)

TAXATION

Specific Taxes on Imported Articles May be Paid Either By Importer or Buyer; Sec. 125, National Internal Revenue Code Applied.

FACTS: Petitioners imported 238 cases of cigarettes, which were stored in a bonded warehouse pending payment of ₱52,360 as specific taxes theron. While still in storage, the same was sold by petitioners to Isleta, on condition that the latter would pay the taxes within 15 days. Upon Isleta's failure to do so, petitioners rescinded the sale and made an initial payment of ₱8,800 representing taxes on 40 cases. Eventually, the Bureau of Internal Revenue accepted certificates of indebtedness tendered by the buyer as payment of the taxes and authorized the release of the shipment to him. Petitioner then obtained a refund of the ₱8,800 from the Collector of Internal Revenue. Pursuant to an Executive Order, the action of the Collector was automatically brought before the respondents, who not only disapproved the refund but also rejected the certificates tendered by the buyer and ordered petitioner to pay the remaining balance on the ground that, since the petitioner was the importer, he alone could pay taxes. Hence, this certiorari proceeding.

HELD: Under Sec. 125 of the Revenue Code, specific taxes on imported articles may be paid by the owner or importer. If the sale by petitioners was valid, then the buyer became the owner of the shipment and could pay the specific taxes thereon. (GOOD DAY TRADING CORP. *v.* BOARD OF TAX APPEALS, G. R. No. L-6574, July 31, 1954.)

ADMINISTRATIVE LAW

EXECUTIVE DEPARTMENT

Extent of President's Supervisory Authority over Local Governments under the Constitution; Power of General Supervision by the President and Department Secretaries Interpreted.

FACTS: Action for certiorari. The Provincial Board of Pangasinan passed a resolution abolishing the positions of the special counsels in the province. Upon being informed of this action, the provincial fiscal communicated with the Secretary of Finance to have the resolution disapproved. Consequently, the Secretary of Finance disapproved the resolution.

HELD: The supervisory authority of the President over local governments is limited by the phrase "as provided by law" but since there is no law in accordance with which said authority is to be exercised, general principles of law govern. Consequently, the power of general supervision may not generally be interpreted to mean that the President, or his *alter ego*, the Secretary of Finance, may direct or even control the form and manner in which local officials shall perform or comply with their duties. Such supervision may only be exercised in case of maladministration, abuse, or violation of law; the resolution of the provincial board, not being any of these, may not, therefore, be effectively disapproved by the Secretary. (RODRIGUEZ ET AL *v.* MONTEMAYOR ET AL, G. R. No. L-5689, May 14, 1954.)

Acts of Cabinet are Presumptively Acts of Presidents

FACTS: The President, pursuant to proper statutory authority, issued an Executive Order prohibiting the exportation of scrap metals without a license being first obtained. Subsequently, the Cabinet approved a resolution fixing a schedule of royalty rates to be charged on metal exports. Petitioner paid ₱54,862.84 as royalty which it now seeks to recover on the ground of the invalidity of the resolution.

HELD: C. A. 728 makes a valid delegation of legislative power to the President. The fact that the resolution imposing the royalty rates was approved by the Cabinet does not invalidate it because, as this Court held in Villena v. Secretary of Interior (67 Phil. 451), acts of secretaries are presumptively acts of the Chief Executive. With regard to acts of the Cabinet, this conclusion gains added force since the Cabinet is deemed to be presided over always by the President himself. (DONNELLY *v.* AGREGADO, G. R. No. L-4510, May 31, 1954.)

Executive Orders, Being Administrative In Nature, Cannot Generally Confer Any Right Nor Impose An Enforcible Legal Duty.

FACTS: Petitioners are landless war veterans and recognized guerillas. Relying on directives, rules and regulations promulgated by the President, they claim that they are entitled to an award of the lands in their possession and, in this petition for mandamus, they seek to compel the respondent NAFCO to execute the documents to give effect to their rights.

HELD: Petitioners have no specific legal right and the respondent no specific legal duty enjoined by law. Going over the provisions of the directives referred to in the petition for mandamus, we fail to find any which confers upon petitioners such a right or imposes a duty on respondent enforcible by mandamus. And it must be so because executive orders or directives of the President are administrative in nature and they cannot generally confer any right, because this is only conferred by law. (MAGLUNOB ET AL. *v.* NATIONAL AND OTHER FIBERS CORPORATION, G. R. No. L-6203, February 26, 1954.)

Mere Plea Of Filipino Citizenship Does Not Deprive Deportation Board Of Jurisdiction; Board Has Jurisdiction To Determine Question Of Citizenship.

FACTS: Petitioners were charged before the Deportation Board with having entered the PI through misrepresentations of being children of a Filipino. Petitioners moved to quash claiming that the Board had no jurisdiction, first, because they were Filipino citizens, and, second, because the case cannot be decided without passing on their citizenship — a question which pertains exclusively to ordinary courts of law.

HELD: While the Board's jurisdiction to deport undesirable aliens exists only when the person arrested is an alien, the mere plea of citizenship does not divest the Board of its jurisdiction. Petitioners should make a showing that their claim is not frivolous and must prove their citizenship by sufficient evidence. If that is the duty of petitioners, then the Deportation Board has the necessary power to pass upon the evidence that may be presented and determine in the first instance if

petitioners are Filipinos or not. This is inherent in the efficient exercise of its powers. It is not therefore correct to say that the question of citizenship should be determined *exclusively* by the courts. (MIRANDA ET AL. *v.* DEPORTATION BOARD, G. R. No. L16784, March 12, 1954.)

Final Order Of Collector Of Customs Forfeiting Goods Divests Importer Of Ownership Thereof.

FACTS: The Collector of Customs declared forfeited in favor of the government certain goods. The owner having failed to appeal, said order became final. In a subsequent criminal action against the owner, the court acquitted said owner after payment of the corresponding duties.

HELD: The lower court improperly ordered the return of the goods to the owner. Before the criminal complaint was filed, the order of forfeiture had already become final and from thence the goods ceased to belong to the previous owner and hence the lower court cannot decree the return of the goods to one who no longer was owner thereof. (COLLECTOR OF CUSTOMS *v.* ENCARNACION, G. R. No. L-7598, July 26, 1954.)

Determination of Party's Liability Involves Exercise of Judicial Power Which Cannot Be Validly Delegated By Congress To An Executive Officer.

FACTS: Relying on C.A. 3038 which grants to the Auditor General the power to pass upon any moneyed claim involving liability arising from contract, express or implied, P.O., Inc. filed a claim against the government in the amount of ₱70,000, representing the value of lumber which the government agreed but failed to deliver, and ₱30,000, representing damages arising from the breach. Decision having been rendered against it, the govt. filed this petition contesting the Auditor's authority, claiming that the Auditor's power was limited to liquidated claims.

HELD: "Moneyed claims" used in C.A. 3038 does not include unliquidated claims or cases where the liability or nonliability of the govt. is in issue since in these cases the most important qustions to be determined are judicial in nature, involving the examination of evidence and the use of judicial discretion. To assume otherwise is not warranted for it would amount to an illegal act on the part of the legislature, a delegation of judicial power to an executive officer. (PHILIPPINE OPERATIONS, INC. *v.* AUDITOR GENERAL, G. R. No. L-3659, April 30, 1954.)

Power To Issue Zoning Regulations Cannot Be Validly Delegated To An Administrative Body Without Specific Standards And Limitations To Guide The Exercise Of Its Discretion.

FACTS: In its application for a building permit, the UE submitted plans which were not in conformity with the Zoning Regulations promulgated by the National Planning Comission pursuant to an Executive Order empowering the commission to "draft uniform regulations for the construction, repair and alteration of buildings... (setting) the minimum performance standards for building materials and methods of construction for the purpose of... promoting public safety and welfare." For failure to amend its plans accordingly, the UE's application was refused. On UE's petition for mandamus, the Commission's regulations were declared void. Hence, this appeal.

HELD: The issuance of zoning regulations affecting valuable property rights throughout the country cannot be delegated to an administrative commission without specific standards and limitations to guide the commission in the exercise of its discretion. The variety of cases on delegation of power to administrative bodies show that the rationale revolves around the presence or absence of a standard or rule of action—or the sufficiency thereof—to aid the delegate in exercising the granted discretion. (UNIVERSITY OF THE EAST *v.* CITY OF MANILA, G. R. No. L-7481, December 23, 1954.)

PUBLIC OFFICERS

Detectives are Considered Members of Police Force and May not be Summarily Dismissed Without Investigation; R. A. 557 applied.

FACTS: Petitioner, a detective in the secret service of Cebu, was summarily dismissed by Respondent on the ground of loss of confidence in the former. Petitioner, invoking R. A. 577 requiring investigation before dismissal of members of the police force, instituted mandamus proceedings to compel his reinstatement. Respondent contends that a detective in the secret service is not a member of the police force and hence R. A. 557 is not applicable.

HELD: Under the charter of the city, both policemen and detectives perform common functions and duties and both belong to the police department. Thus, legally, detectives are members of the police force and may only be dismissed in accordance with R. A. 557. (ABELLA *v.* RODRIGUEZ, G. R. No. L-6867, June 29, 1954.)

Membership In Police Force Cannot Be Forfeited Thru Change In Administration Or Of "Policy", Or For Causes Other Than Those Specified in R. A. 557.

FACTS: Petitioners, members of the police force of Salay, received letters of dismissal advising them to resign upon receipt of the same, because of "the new policy of the present administration." Petitioners contest the validity of their removal claiming that the cause therefor was not one of the causes mentioned in R.A. 557.

HELD: As the record stands, the petitioners appear to have been dismissed in accordance "with the new policy of the present administration" as avowed in the letters of dismissal, thereby disregarding R.A. 557, inasmuch as not one of the causes specified in said Act has been charged and proven against them. In said statute, the legislature expressed its desire that membership in the police force shall not be forfeited through changes of administration, or fluctuations of "policy." (PALAMINE ET AL. *v.* ZAGADO ET AL., G. R. No. L-6901, March 5, 1954.)

Employee Retains Status As Such Even After Suspension Pending Administrative Investigation; Reinstatement Unnecessary.

FACTS: Garcia, employee of NLSA, was suspended pending

administrative investigation. After his acquittal, the auditor recommended his reinstatement but no action thereon was taken by the board of directors. Later, the board laid off Garcia and other employees, for lack of funds, at the same time adopting Resolution 570 entitling said employees to all privileges granted to laidoff employees of government corporations. Subsequently, NLSA was abolished, the LASEDECO taking its place. The laid-off employees sued the LASEDECO for the payment of the cash value of their unenjoyed vacation and sick leaves. The CIR granted the claims except that of Garcia, claiming that, since his reinstatement was not approved by the Board, he lost his status of employee and could not enjoy the benefits of Resolution 570.

HELD: When Garcia was suspended pending investigation, he did not cease to be an employee; otherwise he could not have been subjected to administrative investigation by the committee which acquitted him. The board was therefore not called upon to approve a reinstatement that had produced no change in the status of the employee. (GARCIA *v.* LAND SETTLEMENT & DEVELOPMENT CORPORATION, G. R. No. L-6259, August 31, 1954.)

Mere Filing Of Information For Serious Slander Against A Public Officer Is Not Ground For Suspension Of Said Officer.

FACTS: A criminal complaint for serious slander was filed against Burgete, a municipal mayor. Later, the governor suspended Burgete supposedly in consonance with the policy of the administration to suspend any elective official against whom a criminal case involving moral turpitude is pending befor a competent court.

HELD: In Lacson v. Roque, 49 O. G. 93, we held that the mere filing of an information for libel is not sufficient ground for the suspension of a mayor. The same is true with regard to serious slander, which is but another form of libel. Libel does not necessarily involve moral turpitude. (BURGETE *v.* MAYOR *et al.*, G. R. No. L-6338, May 10 1954.)

Appointments To Elective Offices In New Political Division

Are Permanent And Appointees Are Removable Only For Cause.

FACTS: Petitioner was appointed by the President mayor of the new municipality, Sapao, but was later removed by the appointment of respondent as acting mayor. Respondent contends that petitioner, not having a fixed term of office, may be removed at the pleasure of the appointing power.

HELD: Where the President fills elective offices in a new political division by appointment, the appointees hold office until the next regular election, not in an acting capacity but permanently until their successors are chosen at the next regular election, and they may not therefore be removed except for cause. (COMETA *v.* ANDANAR, G. R. No. L-7662, July 31, 1954.)

An Officer Assigned To A Position Which He Could Not Assume Cannot Be Deemed To Have Abandoned It By His Refusal Of The Assignment.

FACTS: Innocente was deputy warden of the Baybay jail. Later he was separated from the service by the Gov. A month later, he was notified that he would be retained in the service but only as sergeant in the Maasin jail and that such assignment was to take effect on the date one Tualla would assume the office of Deputy Warden vacated by Innocente. Innocente refused the assignment and filed this petition for reinstatement. The court held that Innocente could not be reinstated to his former position, having been validly separated therefrom, nor could he assume his new position as sergeant since he had abandoned the same by his refusal to be transferred thereto.

HELD: It was not shown that Tualla has assumed the position of deputy warden, a condition required before Innocente could assume his new office as sergeant. Thus, Innocente cannot be deemed to have refused a transfer to a position which he could not assume. Thus, there is no basis for the pronouncement that he abandoned a position which he has not assumed; an office cannot be abandoned by one who has not occupied it. (INNOCENTE *v.* RIBO, G. R. No. L-4989, March 30, 1954.)

ELECTION PROTESTS AND CONTESTS

Mere Absence From One's Residence And Registration As Voter In Another Place Does Not Constitute Abandonment Of Residence; Burden Of Proof Rests On Him Who Claims Loss Thereof.

FACTS: This is a petition for quo warranto against Quirino on the ground of his ineligibility for the office of Governor. Faypon, petitioner, claims that at the time of election, Quirino lacked the required 1-year-residence, having abandoned his residence in Ilocos Sur. Faypon showed that from 1919 Quirino stayed in Manila as editor of several publications and resided at present in Quezon City. Furthermore, Faypon proved that Quirino registered as voter in Pasay in 1946-47 and insists that such fact implies that Quirino had abandoned his residence in Ilocos Sur.

HELD: Mere absence from one's residence to pursue studies, engage in business etc. is not sufficient to constitute abandonment or loss of residence. Neither does previous registration in a place other than that in which he is elected constitute abandonment. The determination of a person's residence depends largely on intention and the party claiming that a person has abandoned his residence of origin must show and prove preponderantly such abandonment or loss. (FAYPON *v.* QUIRINO, G. R. No. L-7068, December 22, 1954.)

Under Sec. 154, Revised Election Code, Unanimity Of All Members Of The Board Of Inspectors In The Request To Correct Election Returns Is Not Required To Bring The Matter To Court.

FACTS: After the elections, candidate Tizon brought an action challenging the correctness of certain election returns, claiming that the number of votes originally appearing therein in his favor was reduced while the number in favor of his opponent was increased. Not all the membrs of the Board of Inspectors asked for the correction of the returns. A motion to dismiss on the ground of lack of jurisdiction having been denied, this present petition for certiorari was instituted.

HELD: There need not be unanimity on the part of the

inspectors in their desire to seek the correction of an election return from the court under Sec. 154. The majority of them would suffice to bring the matter to court. (TIZON *v.* DOROJA ET AL., G. R. No. L-7312, February 26, 1954.)

Once The Officers-Elect Have Been Proclaimed, Only The Court Can Authorize A Correction Of An Error, Clerical Or Otherwise, In The Statements Of Election.

FACTS: De Leon was proclaimed elected as councilor with 3,160 votes. Later, Gutierrez, an opposing candidate, filed a petition with the Commission On Elections praying that the municipal board of canvassers be ordered to make a new canvass, claiming that while he received 3,198 votes, or a majority of 38 votes over De Leon, he was only credited with 3,060 votes. The petition was granted and after the recanvass, the board of canvassers proclaimed Gutierrez elected. Hence, this petition challenging the authority of the Commission to order the recanvass.

HELD: Secs. 154, and 163, Revised Election Code, clearly clearly postulate that any alteration or amendment in any of the statements of election, or any contradiction or discrepancy therein, whether due to clerical error or otherwise, cannot be made without the intervention of a competent court, once the announcement of the result of the election, or the proclamation of the winners, have been made. They reject the idea that such error can be ordered corrected by the Commission under its constitutional power to administer laws relative to the conduct of the elections. (DE LEON *v.* IMPERIAL, G. R. No. L-5758, March 30, 1954.)

Although Sec. 178, R. A. 180, Does Not So Provide, An Appeal Raising Purely Legal Questions May Be Taken From A Decision In An Election Protest Involving The Office Of Municipal Councilor.

FACTS: In the 1951 elections, Cruz was proclaimed municipal councilor-elect. Calano filed a quo warranto petition under Sec. 173, R. A. 180. Cruz filed a motion to dismiss which was granted. Whereupon, Calano perfected an appeal from the dismissal. Opposing said appeal, Cruz claims that

the lower court should not have given due course to the appeal since Sec. 178, R.A. 180, allows an appeal only from decisions in election protests over the offices of Governor, members of Provincial Board, City Councilors and City Mayor and not from decisions in protests over the office of municipal councilor.

HELD: Sec. 178 did not intend to bar an appeal to the S. Ct. in protests involving purely legal questions. Protests over offices of municipal councilor and the like may be appealed provided only questions of law are raised. Hence, the present appeal is proper. (CALANO *v.* CRUZ, G. R. No. L-6404, January 12, 1954.)

Writing Of The Name Of 1 Candidate In Block Letters Does Not Invalidate The Vote In Favor Of Said Candidate; However, Writing Of The Name In Gothic Letters Invalidates The Vote.

FACTS: The contested ballots are 32 and 257, which were counted in Bernado's favor. In ballot 32, all the names of the candidates were written in ordinary writing except that of Bernados which was in block-type letters. In ballot 257, all the names of the candidates were also written in ordinary writing except that of Bernados which was written in big Gothic letters with a flower drawn underneath.

HELD: Ballot 32 should be counted in Bernado's favor for the writing in block-type letters is only a mere variation of par. 18, of Sec. 149, which provides that "The use of 2 or more kinds of writing . . . shall be considered innocent and shall not invalidate the ballot." However, ballot 257 should not be admitted. Gothic lettering can no longer be considered a mere variation in the writing of the voter and constitutes a distinguishing mark which necessarily invalidates it. (HILAO *v.* BERNADOS, G. R. No. L-7704, December 14, 1954.)

The Writing Of The Name Of A Candidate Diagonally Does Not Invalidate the Ballot.

FACTS: The ballot in question was objected to as a marked ballot because the voter wrote the name "Jose P. Laurel" transversally or obliquely on the third and fourth spaces for senators.

The C.A. admitted the ballot holding that the same could not be considered marked.

HELD: The C.A. ruled that that is not an illegal mark because it merely shows that Laurel was the only senatorial candidate for whom the elector desired to vote. We believe that the ruling of that court is correct for there is no positive evidence that it was not the intention of the elector to identify his ballot. (HILAO *v.* BERNADOS, G. R. N. L-7704, December 14, 1954.)

Addition Of Epithets To Name, Written In The Ballot, Of A Person Not A Candidate Does Not Invalidate The Ballot.

FACTS: In the election protest by Bernados against Hilao, who had ben proclaimed elected, the lower court found Hilao duly elected. This decision however was reversed by the CA on appeal. In this petition for review in the S. Ct., Hilao contests the admission of 2 ballots in which the name of Tongohan, campaign manager of Hilao but who was not a candidate for any office, was written with the epithets: "Bakitong Pasikat" and "Baliw".

HELD: The CA did not err in admitting the ballots because the name of Leon Ka. Tongohan, with additional epithet, which appears on said ballots should only be considered as stray vote, since the writing of the name of one who is not a candidate is not considered a distinguishing mark. This should be distinguished from those cases where additional epithets are affixed to the names of persons who are candidates, which is not the case here since Tongohan is not a candidate. (HILAO *v.* BERNADOS, G. R. No. L-7704, December 14, 1954.)

Mere Addition Of Nickname Does Not Invalidate A Ballot.

FACTS: The ballot in question contained the words "Agnos" before the name of Teresa M. Jugo, a candidate for councilor.

HELD: Since Teresa M. Jugo was the lone woman candidate for councilor, the word "Agnos" might have been added only to her name as a mere nickname or appellation of friendship and the votes therein should be admitted for the candidates appearing therein since it cannot be considered as a distinguishing mark which invalidates the ballot. (HILAO *v.* BERNADOS, G. R. No. L-7704, December 14, 1954.)

The Fact That The Protestant Had Filed His Certificate And That He Was A Candidate For The Contested Office Need Not Be Expressly Stated; It May Be Inferred From Other Allegations.

FACTS: In his protest against the election of Sarcon as mayor, Jalandoni stated that he was a registered candidate voted for in the election. Sarcon now challenges the sufficiency of the protest, claiming that it failed to state that the protestant had filed his cerificate of candidacy and that he was a candidate for mayor.

HELD: Although the motion of protest does not in so many words state it, the facts that the protestant had presented his certificate of candidacy or that he was a candidate for the office of mayor are clearly inferred from the express statement that he was one of the registered candidatess voted for in the contested elections for the mayoralty. (JALANDONI *v.* SARCON, G. R. No. L-6496, January 27, 1954.)

The Terms Of Office Of Appointees To Elective Positions In New Political Subdivision Begin From Appointment And Until The Next Regular Election; Sec. 10, R. A. 180, construed.

FACTS: Following the creation of the new municipality of Sapao, Cometa was appointed mayor thereof by the President. Later, he was removed from office by the appointment of Andanar as acting mayor. Hence, this petition for *quo warranto* to question the legality of his ouster. Andanar claims that appointments to elective offices of new municipalities have no fixed terms and are effective only until their successors are appointed.

HELD: Under Sec. 10, R. A. 180, upon the creation of a new political division, the President may, at his discretion, appoint or call special election to fill the elective positions. If he chooses to fill them by appointment, then the appointees shall hold office until the next regular election. (COMETA *v.* ANDANAR, G. R. No. L-7662, July 31, 1954.)

MUNICIPAL CORPORATION

Provincial Governments Have No Authority To Collect Road Tolls, Without Recommendation Of Secretary and President's Approval.

FACTS: The Prov. Board of Bulacan passed resolution 383 declaring certain bridges as toll bridges. The same was approved by the Secretary of Public Works but not by the President. In denying A.T.Co.'s request for the discontinuance of the toll, the board explained that the money collected as tolls would be spent in maintaining certain provincial roads. A.T.Co. now contests the board's authority to impose said tells which it claims are not bridge tolls but actually road tolls.

HELD: The provincial government cannot collect road tolls, in the guise of bridge tolls, without the recommendation of the Secretary of Public Works and Communication and the authorization of the Presidnt nor can it make the continuance of their collection depend upon the discretion of the provincial board. (ABLAZA TRANSPORTATION CO., INC. *v.* PROVINCIAL GOVERNMENT OF BULACAN, G. R. No. L-4916, January 27, 1954.)

Road Tolls Voluntarily Paid Cannot Be Recovered Even If Its Collection Is Declared Illegal.

FACTS: The Prov. Board of Bulacan passed a resolution declaring certain bridges as toll bridges with the avowed purpose of using the sums collected for the maintainance of certain provincial roads. In this action by the Govt. against A.T.Co. for the collection of unpaid toll fees, A.T.Co. contests the authority of the Govt. to collect road tolls and further sets up a counterclaim for the refund of toll fees which it had already paid in the past.

HELD: The fees collected are actually road tolls which the Board cannot validly impose without the President's approval. However, although the tolls had been illegally imposed, since the amount paid by A.T.Co. had been paid voluntarily and without question, it would be unfair to require the provincial government to refund the tolls collected, considering that it had been disposed of for public welfare and benefit and considering that the company had the benefit of the use of the roads and bridges. (ALBLAZA TRANSPORTATION CO., INC. *v.* PROVINCIAL GOVERNMENT OF BULACAN, G. R. No. L-4916, January 27, 1954.)

CITIZEN AND NATURALIZATION

Vocational Course Is Not Secondary Education; Vocational Graduate Not Exempt From Filing Declaration Of Intention.

FACTS: In his petition for naturalization, Ng testified that he finished his primary and elementary courses and the first and second years in high school and that, after his second year, he stopped and entered a vocational school from which he graduated. As his petition was not accompanied by a declaration of intention, the court denied the petition. In this appeal, Ng contends that, since he had finished his secondary education, he was exempt from filing such declaration in accordance with Sec. 6 of the Naturalization Law.

HELD: Although he graduated from a vocational school, and since he stopped after his second year in high school, he cannot be said to have finished the secondary education required by law for exemption from the filing of the declaration of intention. (NG *v.* REPUBLIC OF THE PHILIPPINES, G. R. No. L-5253, February 22, 1954.)

The Death Of An Applicant's Minor Children A Few Months Before Hearing Does Not Cure Non-Compliance With Requirement Of Par. 6, Sec. 2, Revised Naturalization Law.

FACTS: Following Chua's admission to citizenship, the Sol.-Gen. appealed, claiming that Chua had not complied with Par. 6, Sec. 2 of the Naturalization Law requiring the applicant to enroll his minor children in schools where PI history, govt. and civics are taught for the entire period of his residence prior to the hearing. Chua contends that, as his minor children died some 4 months before the hearing, he was excused from compliance with such legal requirement.

HELD: The death of petitioner's children in China cannot

be set up as an exemption, since there was already non-compliance on his part with the requirement of the law. Such non-compliance was not cured by his children's subsequent death. (CHUA *v.* REPUBLIC OF THE PHILIPPINES, G. R. No. L-6169, March 30, 1954.)

"Residence" Used In Sec. 7, C. A. 473 (Naturalization Law) Means Actual Residence.

FACTS: In 1950, petitioner filed a petition for naturalization. After filing the petition, he went to the U.S. to finish graduate studies. The petition was opposed on the ground that petitioner had not complied with Sec. 7 of C. A. 473 requiring an applicant to "reside continuously in the PI from the date of the filing of the petition up to the time of admission to PI citizenship." Petitioner contends that the residence referred to in the section only means domicile or legal residence and not actual residence.

HELD: When Sec. 7 of the Act imposes upon the applicant the duty to state in his sworn application that he will reside continuously in the PI in the intervening period of the filing of the petition and the admission to citizenship, it cannot merely refer to the need of uninterrupted domicile or legal residence, irrespective of actual residence, for said legal residence is obligatory under the law even in the absence of the requirement contained in said clause. To avoid making the sec. a surplusage, the clause must be construed as demanding actual residence. (UYTENGSU *v.* REPUBLIC OF THE PHILIPPINES, G. R. No. L-6379, September 29, 1954.)

Employment Which Pays ₱3,000, Avaliable As Advances On Account, Is A Lucrative Trade, Profession Or Calling.

FACTS: In the hearing of his petition for naturalization, Tiong was found by the court to be employed in his father's business with annual salary of ₱3,000. The petition having been granted, the Sol.-Gen. appeals claiming that Tiong was not employed in the business but was a mere helper without

any fixed salary and consequently Tiong cannot be deemed to have the requirement of a "lucrative" occupation.

HELD: Where the applicant was employed in his father's establishment, receiving an annual salary of ₱3,000, available to him in the form of advances an account, in addition to free board and lodging for himself and his family, he is deemed to have a "lucrative trade, profession or lawful calling." (TIONG *v.* REPUBLIC OF THE PHILIPPINES, G. R. No. L-6274, February 26, 1954.)