

THE PROCESS OF IMPEACHMENT AND ITS APPLICABILITY IN THE PHILIPPINE LEGAL SYSTEM

RENATO V. PUNO*

INTRODUCTION

On January 27, 1982, a local national newspaper carried a report that a complaint for impeachment against four Justices of the Supreme Court had been summarily dismissed. The complaint, which was filed with the Batasang Pambansa on February 19, 1981, sought to charge Chief Justice Enrique Fernando, and Associate Justices Antonio Barredo, Ramon Aquino, and Hermogenes Concepcion, Jr. with culpable violation of the Constitution, total disregard of the provisions of the law, and acts amounting to graft and corruption.

The complainant, Andres L. Chua, general manager of Security Industrial Co., Inc. had suspended and later dismissed Faustino Meracap, a laborer, for repeated absences and failure to report for work after his suspension. The High Court, through a decision penned by Chief Justice Fernando, and concurred in by the three associate justices, had ruled that Chua's company had violated Meracap's right to security of tenure. Chua questioned this ruling, alleging that the equal protection clause of the 1973 Constitution and the provision of the Labor Code had been ignored in the decision.

The Batasan Committee on Justice, Human Rights, and Good Government found that the facts alleged in each charge did not constitute a legal ground for impeachment under the Constitution, and summarily dismissed the complaint.¹

In a related development, a second complaint for impeachment against Supreme Court Associate Justice Antonio Barredo was dismissed for insufficiency of evidence. The second complaint was filed by Camilo Sabio, counsel for sugar plantation workers in the Victorias Milling district in Negros Occidental.

Sabio charged Barredo with repeated culpable violation of the Constitution, graft and corruption, and other high crimes, for reversing the Court of Appeals decision on the 19 year old class suit awarding P212 million to the

workers. Sabio had alleged that Barredo in setting aside the findings of facts of the Appellate Tribunal, had reduced to P 30 million, the just share of the plantation workers from the yearly sugar production of the Victorias milling district. Barredo had also absolved of all liabilities the defendant, Victorias Milling Co., and its American owners.²

The emergence of these two complaints has revived the interest in the applicability of the doctrine of impeachment in the Philippine legal system. In both the 1935 and the 1973 Philippine Constitutions, provisions on impeachment were included to provide a process by which high officials could be properly removed from office and held liable for culpable violations of the Constitution. In spite of these provisions, however, no single complaint for impeachment has resulted in the actual removal of an official. In an effort to present an overview of the process of impeachment, this paper shall touch on the various aspects of impeachment; its original inception and application, its history and development in the Philippines, and the present scope of the Batasang Pambansa's power to initiate impeachment proceedings, and the procedure under Resolution 167 promulgated by the Batasang Pambansa on December 7, 1981.

I. Impeachment: Definition, Origin, History and Development

Definition

Impeachment in its general sense is defined as a "calling to account for some high crime or offense before a competent tribunal"³.

Origin

Impeachment had its origin in England but has been in disuse there for the last century and a half since the last impeachment proceedings held in 1806.⁴

In England

Originally in England every person, whether a public official or a pri-

² Bulletin Today, February 27, 1982, p. 1.

³ Webster's Third New International Dictionary, 1967 edition, G & C Merriam Company.

⁴ Sinco, Philippine Political Law: Principles and Concepts, 11th edition, 1962 edition, p. 277.

*Junior Law Student, Ateneo College of Law.

¹ Bulletin Today, January 27, 1982, p. 1.

vate individual, was subject to impeachment. The House of Commons had the power of impeachment, and the House of Lords the power to try it. In case of conviction the person impeached was punishable by death, forfeiture of property, or corruption of the blood. This system led to many abuses. Impeachment was oftentimes resorted to by the ruling party to eliminate rivals who were charged of any crime or misdemeanor and sentenced to death with forfeiture of property and corruption of the blood in legislative trials, because the impeachers knew that they could not be convicted in ordinary courts of law for the acts imputed to them. The evils of the system were demonstrated by Lord Canarvon when during the impeachment trial of the Earl of Danby, he said:

"My Lords, I understand but little of Latin, but a good deal of English and not a little of English history from which I have learned the mischiefs of such kinds of prosecutions as these, and the ill-fate of the prosecutors I could bring many instances, and those ancient; but my lords I shall go no further than the latter and of Queen Elizabeth's reign, at which time the Earl of Essex was run down by Sir Walter Raleigh. My Lord Bacon, he ran down Sir Walter Raleigh, and your lordships know what became of my Lord Bacon, and your lordships know what happened to the Duke of Buckingham. Sir Thomas Wentworth afterwards Earl of Strafford, ran down the Duke of Buckingham and you all know what became of him. Sir Harry Vane, he ran down the Earl of Strafford and your lordships know what became of Sir Harry Vane. Chancellor Hyde (Lord Claredon) ran down Sir Harry Vane and your lordships know what became of the Chancellor. Sir Thomas Osborn, now Earl of Danby, ran down Chaancellor Hyde; but what will become of the Earl of Danby your lordships best can tell. But let me see what man dare run the Earl of Danby down and we shall soon see what will become of him."⁵

Subsequently, impeachment was given the limited signification that it still holds today as a "method of national inquest into the conduct of public men."⁶

By means of impeachment the (British) Parliament, after a long and

⁵ Report of the Special Committee on the Impeachment of President Quirino, IV Congressional Records, House of Representatives, 1949, pp. 1552-1553, citing 11 Howell S. T., 632, 633.

⁶ Martin, *Philippine Political Law*, 1970 edition, pp. 366-367 citing 'The Federalist, No. LXIV.'

bitter struggle, made ministers chosen by the King accountable to it rather than to the Crown, thus replacing absolutist pretensions with parliamentary supremacy. With the immense accretion of royal power during the Tudor period, however, parliamentary fires were dampened and impeachment fell into disuse.

In the United States

Profiting, no doubt, from the lessons to be derived from a study of impeachment trials in England, when the U.S. Constitution was made in the Philadelphia convention of 1787, its framers made several departures from the English system. Instead of making every person, whether a public official or a private individual, liable to impeachment in the U.S. Constitution, only public officers were made removable by impeachment and they were the President, the Vice-President, and all civil officers of the United States. Instead of making any crime or misdemeanor a ground for impeachment in the U.S. Constitution, the grounds for impeachment were limited to "treason, bribery, or other high crimes and misdemeanor." Instead of death, forfeiture of property, and corruption of the blood as punishment in case of conviction in an impeachment proceeding, removal and disqualification were provided. The House of Representatives by a majority vote may impeach, and the Senate may try and by a two-thirds vote convict the officer impeached.

As regards the impeachable offenses provided for in the U.S. Constitution, there never was a difficulty as to the meaning of treason and bribery. However, the phrase "or other high crimes and misdemeanors" has given rise to much difficulty and conflicting interpretations in several impeachment cases in the American history. The difficulty did not arise as to what is meant by "high crimes" as it was never seriously contended that there could be a high crime without a law forbidding and punishing it. The difficulty arose as to the meaning of high "misdemeanors", it being contended on the one hand that it refers only to indictable offenses and on the other hand that it may refer to any misconduct rendering an impeachable official unfit for the office he holds whether or not such misconduct be indictable. Much of the criticism against impeachment cases in American history is directed against impeachments initiated and tried in times of violent partisan quarrels

⁷ Fernando, *The Constitution of the Philippines*, 1974 edition pp. 459-460, citing 'Berger's Impeachment: The Constitutional Problems'.

or feverish public excitement when due to bitter personal or partisan differences public officials were impeached for non-indictable acts under the guise that they constitute "high misdemeanors."⁸

In the Philippines

Impeachment was first introduced into the legal and political system of this country by the Constitution of the Philippines.⁹

The provisions of the 1935 Philippine Constitution regarding impeachment differ from the U.S. Constitution in three material aspects. Firstly, instead of rendering every civil officer liable for impeachment, the 1935 Constitution limits the number of impeachable officials to the President, Vice-President, Justices of the Supreme Court, the Auditor General, and members of the Commission on Elections. Secondly, instead of "treason, bribery, or other high crimes and misdemeanors" being the grounds for impeachment said Constitution makes "culpable violation of the Constitution, treason, bribery, or other high crimes" the ground for impeachment. "Culpable violation of the Constitution" is thus made an additional ground for impeachment and from the phrase "or other high crimes and misdemeanors", the word "misdemeanors" was stricken out. The use of the term "culpable" clearly implies that not every violation of the Constitution constitutes an impeachable offense. To be ground for impeachment, the violation must be wilful and intentional. Thirdly, instead of a majority vote being sufficient for the House to impeach and a two-thirds vote for the Senate, to convict, in our Constitution, a two-thirds vote of the House is required for impeachment and a three-fourths vote of the Senate to convict.

The three points of difference between the 1935 Constitution and the U.S. Constitution, just pointed out, are of great significance. It is plain and evident that the intention of the framers of our (1935) Constitution was to impress upon the members of our Congress the gravity of their responsibility in initiating and trying an impeachment and the necessity of proceeding slowly and with the utmost caution in the filing of impeachment charges, considering that the impeachable officials occupy the highest constitutional positions in the land. It is likewise plain and evident that the framers of our (1935) Constitution wanted to discourage the filing of impeachment charges inspired solely by personal or partisan considerations, considering the two-thirds vote

⁸ Report of the Special Committee, Op. Cit., p. 1553.

⁹ Sinco, Op. Cit., p. 273.

required for the House to impeach and the three-fourths vote of the Senate to convict.¹⁰

History of actual impeachment proceedings in the Philippines

In the Philippines, attempts to use impeachment for the removal of President Quirino were frustrated by partisan political reasons. In the House of Representatives charges were formulated by some members based on acts of the President considered as wilful violation of the Constitution. In point of fact, President Quirino had indeed committed transgressions of constitutional provisions, particularly in the exercise of the powers which he claimed to have been granted to him by emergency legislation even after the Supreme Court had declared in certain cases that the emergency was no longer effective. But the majority of the members of the House belonged to the President's party and, acting on party loyalty rather than on the merits of the accusation against the President, they overwhelmingly voted against the preliminary move for his impeachment.¹¹

There was likewise an impeachment proceeding against the then Justice Gregorio Perfecto, primarily resulting from his use of strong and harsh language in a concurring opinion. The Committee appointed to investigate the impeachment would recommend that he be impeached for using language highly unbecoming and for violation of Supreme Court confidence by supplying a newspaper editor with information on a pending case. Fortunately, the House adjourned before taking any action on the recommendation of the committee.¹²

II. GROUNDS FOR IMPEACHMENT

The purpose of impeachment as provided in the Constitution is to protect the people from official delinquency or malfeasance. Impeachment, therefore, is primarily intended for the protection of the state, not for the punishment of the offender. In this respect, it differs from an ordinary criminal prosecution under criminal statutes which is directed against the individual as a member of society who should be personally punished for the offense he has committed. The penalties attached to impeachment are

¹⁰ Report of the Special Committee, Op. Cit., p. 1553.

¹¹ Sinco, Op. Cit., p. 378.

¹² Fernando, Op. Cit., p. 460.

merely incidental to the primary intention of protecting the people as a body politic.¹³

Nature of Impeachment Proceedings

Impeachment proceedings are judicial in character. This is obvious from the fact that the national assembly (Batasang Pambansa) when called upon to decide an impeachment case is actually determining the guilt or innocence of an impeachable officer. The determination of guilt or innocence has always been conceded to be a function which is judicial in nature, which in almost all cases is normally exercised by courts of law. The only exception is the impeachment process which by express mandate of the Constitution is the Batasang Pambansa's exclusive prerogative. The framers of the 1935 Constitution must have implicitly recognized the judicial nature of impeachment proceedings because they provided that when "the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside." And both Constitutions (the 1935 and the 1973) in their respective provisions on impeachment use terms which have judicial connotations, like "conviction", "complaint", "judgments". Moreover, the 1973 Constitution provides in Section 3, Article XIII, that "when the National Assembly sits in impeachment cases, its Members shall be on oath or affirmation." The requisite of the oath or affirmation can only be explained by the fact that the National Assembly (the Batasang Pambansa) sits not as a legislative body but as a judicial one, a unique feature of many democratic constitutions.

Procedure and Grounds

Under the present Constitution, the President, the Members of the Supreme Court, and the members of the Constitutional Commissions, "shall be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, other high crimes or graft and corruption." The Batasang Pambansa possesses "the exclusive power to initiate, try, and decide all cases of impeachment by a vote of at least one-fifth of all its members. No impeachable officer shall be convicted without the concurrence of at least two-thirds of all the Members thereof. When the National Assembly sits in impeachment cases, its Members shall be on oath or affirmation." The President and the Justices of the Supreme Court continue to be removable by impeachment as they were under the 1935 Charter. At that time, there was no Commission on Audit and only the Auditor General then was mentioned. In the Articles creating the Commission on

¹³ Sinco, Op. Cit., p. 376.

Elections and describing its functions, its chairman and members are mentioned as among the public officials that could be impeached.¹⁴

The present Constitution does not provide for any specific procedure for impeachment. It is, therefore, discretionary on the part of the Batasang Pambansa to adopt the method it deems desirable provided it is reasonable and gives the accused full opportunity to be heard and to present his defenses. It has been held that impeachment is essentially a criminal prosecution and, therefore, the rules of evidence and the quantum of proof required in judicial proceedings should be substantially observed in an impeachment trial. This being so, a measure providing that an impeachment trial should be upon depositions taken before examiners appointed by the supreme court is unconstitutional and void.¹⁵

By virtue of Sec. 13, Article XII, the Constitution has conferred on the Batasang Pambansa the exclusive power to initiate, try, and decide all cases of impeachment. Once a case for impeachment is commenced in the Batasang Pambansa, no person may give his opinion or publicly discuss the merits of said case. The penalty for violation thereof is that the guilty parties can be cited for contempt by the Batasang Pambansa for attempting to influence the members thereof. The obvious reason for this is that the power to hold in contempt is essential to the effective execution of the power conferred by the Constitution to initiate, try and decide all impeachment cases.¹⁶

Impeachment and the Supreme Court's Accountability to the People

The members of the Supreme Court under Sec. 2 of Article XIII of the Constitution can be removed from office only by impeachment. This clearly shows that the accountability of any justice of the Supreme Court before the people can only be effected through the impeachment process outlined in Article XIII of our Constitution. This is so by express mandate of the people themselves who ratified the Constitution.

III. THE ROLE OF THE JUDICIARY

The United States cases on impeachment notwithstanding, the judiciary

¹⁴ Fernando, Op. Cit., pp. 458-459.

¹⁵ Sinco, Op. Cit., pp. 376-377.

¹⁶ Please see the case of Anderson vs. Dunn, 6 Wheat. 204.

in this jurisdiction has almost nothing to do with impeachment cases. This is so because the Batasang Pambansa has been clothed with the constitutional power to exclusively initiate, try, and decide all cases of impeachment.

Where the Constitution confers exclusive jurisdiction in case of impeachment upon the legislature, it follows that in the absence of provisions to the contrary, courts have no jurisdiction over or power to interfere in cases of impeachment. Impeachment is beyond the power of the court except the court empowered to try the impeached and find his guilt or innocence.¹⁷

The writer, however, is of the opinion that the Supreme Court, as guardian of the Constitution, can take cognizance of a case wherein the impeached alleges non-compliance with Constitutional requirements. An instance would be when an impeached official complains that the requisite two-thirds concurrence of all the members of the Batasang Pambansa has not actually been obtained pursuant to Section 3 of Article XIII of the present Constitution. Thus, the Supreme Court, in expanding on the principle of separation of powers has held to wit:

"The Supreme Court has the power to assert its solemn and sacred duty assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the right which that instrument secures and guarantees to them."¹⁸

IV. Rules of Procedure in Impeachment Proceedings under Resolution No. 167

When the two complaints against the Supreme Court Justices mentioned in the beginning of this paper were filed with the Batasang Pambansa, the procedure by which it could initiate the impeachment proceedings had not yet been formulated. However, to enable it to act on such complaints, the Batasang Pambansa approved the Batasan Rules of Procedure in Impeachment Proceedings last December 7, 1981, by Resolution No. 167.

It appears to be the official view of the Batasang Pambansa in its Resolution No. 167 that, in addition to the impeachable officials mentioned in the Constitution, other public officers may be made removable by impeachment by special law.

In resume, the aforementioned resolution requires a complaint first to be filed with the Batasang Pambansa asking for the impeachment of an impeachable official by either a private individual or a Member of the Batasan itself. The said complaint is referred to the Committee on Justice, Human Rights and Good Government whose members determine whether a *prima facie* case exists or not. If the Committee finds that no *prima facie* case exists, it shall render a report setting forth its findings and conclusion and rejecting the charge. Such rejection shall be final. However, if the Committee finds that a *prima facie* case exists, the Batasang Pambansa votes whether to have an impeachment trial or not, which will need a vote of at least one-fifth of all the Members of the Batasan for the impeachment trial to proceed.

In the event that the required one-fifth vote of all the members of the Batasang Pambansa is mustered, trial will proceed with the Speaker presiding. Who has the power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, processes, and judgments, to preserve order, and to punish in a summary manner contempts of, and disobedience to, or obstruction of its authority, orders, mandates, writs, precepts, processes or judgments and to promulgate all lawful orders, rules and regulations which it may deem proper to serve the ends of justice. He also has the power to rule on all questions of reception and admissibility of evidence and incidental questions, unless some Members of the Batasan or the impeachable officer himself seasonably ask that a formal vote be taken thereon, in which case it shall be submitted to the Batasan for resolution.

The impeachable officer is given the opportunity to present his side of the case even when the complaint is still being assessed by the Committee on Justice, Human Rights, and Good Government. After the approval of the resolution of impeachment by the Batasang Pambansa, the impeachable officer is issued a writ of summons, reciting the Articles of Impeachment and notifying him of the day and time fixed by the Batasan to file his answer to said Articles of Impeachment. On the day set for the impeachment trial, the Presiding Officer administers the oath or affirmation to the Batasan Members. The Committee on Justice, Human Rights and Good Government shall designate from among the Batasan Members the managers (the prosecutors) and the impeachable officer's defense counsel. The impeachable officer (the accused) is not precluded from securing the services of counsel of his own choice. The impeachment managers (the prosecutors) shall first offer evidence in support of the Articles of Impeachment and then the person being impeached may offer evidence in support of his defense; the parties may afterwards respectively offer rebutting evidence. At the discretion of the Batasan, the parties may also offer additional evidence bearing upon the main issue or issues in question. In the final voting the *yays* and *nays* shall be

¹⁷ 43 American Jurisprudence, p. 29.

¹⁸ Angara vs. Electoral Commission, 6 Phil 139.