bronn Company v. National Labor Union, G. R. No. L-6454, Nov. 29, 1954.)

WORKMEN'S COMPENSATION LAW: AN INDEPENDENT CONTRACTOR WHO IS FREE TO DO THE WORK ACCORDING TO HIS OWN METHOD WITHOUT BEING SUBJECT TO CONTROL BY THE COMPANY WITH WHOM HE MADE A CONTRACT FOR THE PERFORMANCE OF SUCH WORK IS LIABLE FOR THE DEATH OF A LABORER EMPLOYED BY SUCH CONTRACTOR, WHO DIED WHILE PERFORMING THE WORK UNDER WHICH HE WAS EMPLOYED.

The Philippine Manufacturing Company entered into a contract with one Garcia for the painting of a water tank. Under the same contract the supervision of the work was to be taken care of by Garcia. For this purpose, he employed a laborer who died as a result of a fall while painting the water tank.

There is now a controversy as to whether the compensation due was recoverable from the Philippine Manufacturing Co. or from Garcia as an independent contractor. The deputy commissioner[26] decided in favor of the contractor and ordered the company to pay the compensation due. Upon a denial of its motion for reconsideration, the company filed this present petition for *certiorari.* Garcia contends that he is not an independent contractor.

HELD: It is clear that Garcia was an independent contractor, for while the company prescribed what should have to be done, the performance and supervision thereof was left entirely to him; he was therefore free to do the job according to his own method without being subject to control by the company. The deceased was working for an independent contractor and met his death while doing work which was not in the usual course of the business of the company.[27] Hence, such payment rests with his employer, Garcia. (*Philippine Manufacturing Co. v. Eliano Garcia et al., G. R. No. L-6968,* Nov. 29, 1954.)

[26] The Workmen's Compensation Commissioner has exclusive jurisdiction to hear and decide claims for compensation under the Workmen's Compensation Act, subject to appeal to the Supreme Court in the same manner and in the same period as provided by law and the Rules of Court for appeal from the Court of Industrial Relations to the Supreme Court. (Sec. 46, Act No. 3428, otherwise known as the *Workmen's Compensation Act.*) But the hearing of the claim may be delegated to and held before any referee or deputy commissioner. (Sec. 49, *Id.*)

POLITICAL LAW

CONSTITUTIONAL LAW: A LAW WHICH IMPOSES AN OBLIGATION UPON A BUILDER TO REQUIRE HIS CONTRACTOR TO FILE A BOND TO SECURE THE PAYMENT OF WAGES TO LABORERS IS NOT AN IMPAIRMENT OF THE FREEDOM TO CONTRACT BUT A VALID EXERCISE OF POLICE POWER BY THE STATE.

The Standard Vacuum Company engaged the services of one Jose Cabigao as contractor for the building of a service station. The contractor was paid in full after the construction of the service station but the former, in his turn, did not fully pay the wages of the laborers. The laborers brought this action to recover from the contractor and the company the sum due them, with interests. The company questions the constitutionality of Act 3959 upon which the plaintiffs based their claim.

Said Act imposes upon any person, firm, or corporation carrying on any construction or work the obligation to require the contractor to furnish a bond in a sum equivalent to the

[27] "In other words, when the law makes the owner of the factory the employer of the laborers employed therein notwithstanding the intervention of an independent contractor, it refers to laborers engaged in carrying on the usual business of the factory, and not to the laborers of an independent contractor doing work separate and distinct from the usual business of the owner of the factory.

"The reason for the distinction and the rule is easy to understand. If the owner of a factory were not liable for the injuries sustained by the employee of an independent contractor engaged in the usual business of the owner, the owner of the factory by the mere subterfuge of an independent contractor could relieve himself of all liability and completely defeat the purposes of the law. On the other hand, to make the owner of the factory liable for injuries to the employees of an independent contractor not engaged in the usual business of the owner would be to make him liable for injuries to workmen over whom he has no control." (*De los Santos v. Javier,* 58 *Phil.* 82).

cost of labor, and authorizes them not to pay such contractor the entire cost until the latter shall have shown that he first paid the wages of the laborers by means of an affidavit executed by him;[28] and for failure to require such affidavit before paying the full cost of the work, the person, firm or corporation shall be held jointly and severally liable with the contractor for the unpaid wages of the laborers.[29] The lower court gave judgment for plaintiffs, from which defendants appealed.

HELD: The joint and several liability of the company arises only from its failure to require the contractor to execute such affidavit. It does not arise from the failure of the contractor to furnish a bond. Such affidavit to be executed by the contractor does not affect the company's freedom to contract because it is required *after* the job has been accomplished. Even if it were an interference of a person's right to contract, such restraint is a reasonable and valid exercise of the police power of the state, affecting as it does, the general welfare of a great number of people, the wage earners. (*David et al. v. Standard Vacuum Oil Co., G. R. No. L-5538*, Nov. 27, 1954.)

ELECTION LAW: REGISTRATION AS VOTER IN A PLACE OTHER THAN A PROVINCIAL CANDIDATE'S RESIDENCE OF ORIGIN IS NOT DEEMED SUFFICIENT TO CONSTITUTE ABANDONMENT OR LOSS OF RESIDENCE AS *Animus Revertendi* TO RESIDENCE OF ORIGIN NOT FORSAKEN BY SUCH REGISTRATION.[29a]

A petition for *quo warranto* under Sec. 173 of Republic Act No. 180, as amended,[30] was dismissed by the CFI of

[28] Sec. 1, Act No. 3959.

[29] Sec. 2, *Id.*

[29a] In order to effect a change of residence from one place to another there must be:
(1) An actual removal or actual change of domicile;
(2) A *bonafide* intention of abandoning the former place of residence and establishing a new one; and
(3) The acts of the parties must correspond with such purpose. (18 American Jur. 219-220.)

[30] Sec. 173 of R. A. No. 180 as amended: "When a person who is not eligible is elected to a provincial or municipal office, his right to the office may be contested by any registered candidate for the same

Ilocos Sur. The Court of Appeals affirmed the dismissal. A petition for a writ of *certiorari* under Rule 46 was filed with the Supreme Court.

The ground for the *quo warranto* petition was the respondent's ineligibility for the office of the Provincial Governor of Ilocos Sur to which he was proclaimed elected by the provincial board of canvassers in the elections held in 1951. It was alleged that he lacked the residence in the province required by Sec. 2071 of the Revised Administrative Code.

The crucial and pivotal fact upon which the petitioner relies to have the judgment under review reversed and set aside is the registration of the respondent as voter in Pasay City in 1946 and 1947. It is contended that under the law[31] the respondent's registration as voter in Pasay City in 1946 and 1947 implies he was a resident thereof during the six months immediately preceding such registration, and of the Philippines for one year; and that such being the case he was ineligible for the office to which he was elected because—

> "No person shall be eligible to a provincial office unless at the time of the election he is a qualified voter of the province, has been a *bonafide* resident therein for at least one year prior to the election and not less than thirty years." [32]

Did the respondent's registration as voter in Pasay City in 1946 and 1947 constitute an abandonment or loss of his residence of origin?

HELD: The determination of a person's legal residence or domicile largely depends upon intention which may be inferred from his acts, activities and utterances. If the meaning of a voter's oath[33] were to be taken literally, there is no doubt that the respondent, having registered in 1946 and 1947 in Pasay City, must have acquired residence in that city and

office before the Court of First Instance of the province within one week after the proclamation of his election, by filing a petition for *quo warranto*. The case shall be conducted in accordance with the usual procedure and shall be decided within thirty days from the filing of the complaint. A copy of the decision shall be furnished the Commission on Elections."

[31] Sec. 1, Article V of the Constitution; Secs. 98 and 109, Revised Election Code, Rep. Act No. 180, as amended.

[32] Sec. 2071, Revised Administrative Code.

[33] Sec. 109, Revised Election Code, Rep. Act No. 180, as amended.

must be deemed to have abandoned his residence of origin. But the rule laid down in several decisions [34] is to the effect that a previous registration as voter in a municipality other than that in which he is elected is not sufficient to constitute abandonment or loss of his residence of origin. A citizen may leave the place of his birth to improve his lot and that, of course, includes study in other places, practice of his avocation or engaging in business. When an election is to be held, the citizen who left his birthplace to improve his lot may desire to return to his native town to cast his ballot, but for professional or business reasons or for any other reasons, he may not be able to absent himself from the place of his professional or business activities; so there he registers as a voter since he has the qualifications of one and is not willing to give up or lose the opportunity to choose the officials who are to run the government, especially in national elections. Despite such registration the *animus revertendi* to his home, to his domicile or residence of origin has not forsaken him. This may be the explanation why the registration of a voter in a place other than his residence of origin has not been deemed sufficient to constitute abandonment or loss of such residence. It finds justification in the natural desire and longing of every person to return to the place of his birth. (*Perfecto Faypon v. Eliseo Quirino, G. R. No. L-7068*, Dec. 22, 1954.)

[34] *Yra. v. Abaño 52 Phil. 380,* where the protestee to the office of the municipal president of Meycauayan, Bulacan was upheld notwithstanding the fact that he had registered as a voter in Manila.

Vivero v. Murillo 52 Phil. 694, where the protestee had registered as a voter in the municipality of Burawan, Leyte, Held, that such registration had not caused the loss of his residence of origin (La Paz, same province) where he was elected municipal president.

Larena v. Teves, 61 Phil. 36, where the election of Pedro Teves to the office of municipal president of Dumaguete where he was born was upheld because he had not lost his residence of origin, which was Dumaguete, notwithstanding the fact that in the year 1919 he had registered in the Municipality of Bacong.

REMEDIAL LAW

CRIMINAL PROCEDURE: PROMULGATION OF JUDGMENT; THE REQUIREMENT IN SEC. 6. RULE 116,[35] THAT THE DEFENDANT MUST BE PRESENT WHEN THE JUDGMENT IS PROMULGATED IS APPLICABLE ONLY WHEN SUCH JUDGMENT IS ONE OF CONVICTION AND NOT WHEN IT IS A JUDGMENT OF ACQUITTAL.

The herein respondents were charged with malversation of public funds in four separate informations. After a joint hearing, during which numerous witnesses were presented both by the prosecution and by the defense, Judge Jose B. Rodriguez of the Court of First Instance of Leyte, rendered a decision dated June 28, 1951, acquitting the accused. Judge Rodriguez transmitted his decision from Laoang, Samar, to the clerk of the Court of First Instance of Leyte who made the corresponding entry in the criminal docket. No notices, however, were given to the accused requiring them to appear for the reading of the sentence. But copies of the decision were served upon each of them.

The prosecution filed a motion for reconsideration seeking to modify the decision of Judge Rodriguez of June 28, 1951, so as to condemn those acquitted. Respondents filed the corresponding opposition. The prosecution subsequently filed a memorandum in support of its motion for reconsideration, assailing the decision of June 28, 1951, on the ground, among others, that the said decision was not validly promulgated. So, on December 26, 1951, respondents received a notice from the clerk of court to the effect that the reading of the decision would take place on January 10, 1952. Upon inquiry, respondents were informed that the decision which would be promulgated on the latter date would be a new decision by Judge Sulpicio V. Cea. On January 4, 1952, counsel for respondents accordingly filed a motion alleging that Judge Cea had no jurisdiction or authority to render a new decision. This was

[35] "The judgment is promulgated by reading the judgment or sentence in the presence of the defendant and the judge of the court who has rendered it. The defendant must be personally present if the conviction is for a grave or less grave offense; if for light offense, the judgment may be pronounced in the presence of his attorney or representative. And when the judge is absent or outside of the province, his presence is not necessary and the judgment may be promulgated or read to the defendant by the clerk of the court."

overruled by Judge Cea. The new decision sought to be promulgated by Judge Cea is one of conviction.

The question in this case is whether the new decision sought to be promulgated by Judge Cea can validly replace the decision of Judge Rodriguez. Petitioners contend that the decision of Judge Rodriguez had not been duly promulgated because it was not read to the respondents, while the respondents argue that actual reading in the presence of the accused is indispensable only in case of conviction.

HELD: Section 6, Rule 116, Rules of Court, provides that a judgment is promulgated by "*reading*" it in the presence of the defendant. Since the presence of the defendant is required only in case of conviction for a grave or less grave offence, and "to read a writing or a document means to make known its contents," [36] there had been due promulgation of the decision of Judge Rodriguez after the clerk of the Court of First Instance of Leyte entered it in the criminal docket and after the respondents were served with copies of said decision. Indeed, "a statute providing that accused must be present for purpose of judgment, 'if the conviction be for an offense punishable by imprisonment,' applies only where he is found guilty and in case of an acquittal his presence is not necessary."[37] (*Cea et al. v. Cinco et al., G. R. No. L-7075*, Nov. 18, 1954.)

[36] Balentine's Law Dictionary, 48th Ed.
[37] 24 C. J. S. 79.

LEGISLATION

AGRICULTURAL TENANCY ACT

Unlike the indifferent attitude shown by the Spanish Government in the Philippines towards the fate of the laboring class — whether they were tillers of the land or earning their wages in a factory — even prior to the adoption of the Constitution, the Philippine Government, under the American regime, had, from time to time, shown its deep concern over the well-being of the wage earners. Our statute books are witness to that fact; they contained legislation enacted and intended to ameliorate the conditions of the laboring man. The administration, under the leadership of Manuel Quezon, became social justice minded, and implementing his strong advocacy of social justice, the framers of our Constitution, in section 5 of Article II of our fundamental law, adopted the principle that "the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State." Since then, the government has always been, by fast strides, drawing near its goal — the amelioration, the well-being of the conditions of the working man. — Vda. de Ongsiako v. Gamboa et al. (47 Off. Gaz. No. 11, p. 5613)

THIRD CONGRESS OF THE REPUBLIC OF THE PHILIPPINES
Special Session

S. No. 98
H. No. 2398

[REPUBLIC ACT No. 1199]

AN ACT TO GOVERN THE RELATIONS BETWEEN LANDHOLDERS AND TENANTS OF AGRICULTURAL LANDS (LEASEHOLD AND SHARE TENANCY).