

is conferred by the Articles of War, and by other enactments of Congress of similar character in pursuance to authority conferred upon that body by the Constitution. There can be no presumption of jurisdiction in favor of a court-martial beyond that which is delegated to it by statute, and unless constituted as provided for by law it is not a legal tribunal.

The indispensable conditions or requisites to show jurisdiction of every court-martial, and, hence, the validity of its judgements, are the following: (a) that it is convened by an officer empowered by law to appoint it; (b) that the persons sitting upon the court are legally competent to do so; (c) that the court thus constituted is invested by Acts of Congress with power to try the person and the offense charged; and (d) that the sentence imposed is in accordance with law. When the foregoing requisites are satisfied, the proceedings of a court-martial are not open to review or revision by civil courts, except for the purpose of determining whether the court-martial had jurisdiction over the person of the accused and subject matter or offense charged, and whether, though having such jurisdiction, it has exceeded its power in the sentence pronounced.

Persons amenable to the jurisdiction of courts-martial are grouped into two categories, namely, military personnel and civilians. The first is further classified into: (1) commissioned officers of the regular force; (2) reserve officers; and (3) enlisted men. Their amenability to the jurisdiction of courts-martial commences from the date of their entry into the service and terminates upon discharge without prejudice to court-martial proceedings pending at the time. Within the scope of the jurisdiction of courts-martial are the following civilians: (1) retainers to the camp; (2) persons serving with the Armed Forces in the field; and (3) those who accompany the Armed Forces, the last two being applicable only in time of war or when martial law is declared. Their amenability terminates upon passing the area of actual operation or upon the official declaration of the end of hostilities.

The article also contains a brief discussion on the concurrent jurisdiction of courts-martial and civil tribunals. (Lorenzo Andrada, *Amenability of Persons to the Jurisdiction of Courts-Martial*, X THE LAW REVIEW NO 2, at 116-117 (1959). ₱2.00 at the University of Santo Tomas, Manila. This issue also contains: Bautista Angelo. *The Supreme Court in Relation to Workmen's Compensation Cases*; Quiaoi, "Shoot to Kill." *It's Moral and Legal Aspects*.)

LEGISLATION

POLITICAL LAW: CITY GOVERNMENTS. — In American law the term "city" has no definite technical import. It may be territorially a political division of a town. It has been held to be a political division of a state. The Supreme Court of the United States once remarked the "city is a miniature state."¹ In the Philippines, chartered cities are political bodies corporate endowed with the attribute of perpetual succession and possessed of the powers which pertain to municipal corporations exercised in accordance with the provisions of their respective charters.²

For a country like the Philippines, chartered cities are mushrooming. We can print at least 30 in this report. These are Bacolod,³ Baguio,⁴ Basilan,⁵ Butuan,⁶ Cabanatuan,⁷ Cagayan de Oro,⁸ Calbayog,⁹ Cavite,¹⁰ Cebu,¹¹ Cotabato,¹² Dagupan,¹³ Davao,¹⁴ Dumaguete,¹⁵ Iligan,¹⁶ Iloilo,¹⁷ Legaspi,¹⁸ Lipa,¹⁹ Marawi,²⁰ Manila,²¹ Naga,²² Ormoc,²³ Ozamiz,²⁴ Pasay,²⁵ Quezon,²⁶ Roxas,²⁷ San Pablo,²⁸ Tacloban,²⁹ Tagaytay,³⁰ Trece Martires,³¹ and Zamboanga.³²

¹ MARTIN, PUBLIC CORPORATIONS (1958 rev. ed.) 236, citing I MC-QUILLIN. MUN. CORP., 34d ed. 488.

² *Id.*, at 238.

³ Com. Act No. 326.

⁴ Chap. 61, REV. ADM. CODE, as amended.

⁵ Rep. Act No. 288.

⁶ Rep. Act No. 523.

⁷ Rep. Act No. 526.

⁸ Rep. Act No. 521.

⁹ Rep. Act No. 328.

¹⁰ Com. Act No. 547.

¹¹ Com. Act No. 58.

¹² Rep. Act No. 2364.

¹³ Rep. Act No. 170.

¹⁴ Com. Act No. 51.

¹⁵ Rep. Act No. 327.

¹⁶ Rep. Act No. 525.

¹⁷ Com. Act No. 158.

¹⁸ Rep. Act No. 2234.

¹⁹ Rep. Act No. 162.

²⁰ Rep. Act No. 1552.

²¹ Rep. Act No. 409.

²² Rep. Act No. 305.

²³ Rep. Act No. 179.

²⁴ Rep. Act No. 301.

²⁵ Rep. Act No. 183, as amended by Rep. Act No. 437.

²⁶ Rep. Act No. 537.

²⁷ Rep. Act No. 603.

²⁸ Com. Act No. 520.

²⁹ Rep. Act No. 760.

³⁰ Com. Act No. 338.

³¹ Rep. Act No. 981.

³² Com. Act No. 39.

The chief city officials are the Mayor, Vice-Mayor and Members of the City Council or Municipal Board. Prior to Republic Act 2259, their selection to office was not uniform. In some cities they were elected,³³ in others appointed,³⁴ and still in others some appointed and the rest elected.³⁵ Under Republic Act 2259 they are all made elective.³⁶ Other city officials include City Fiscals or Attorneys, Municipal Judges, City Engineers, City Treasurer, City Assessors, City Health Officers, Chiefs of Police, etc. Prior to the new law, some of them sat as *ex officio* members of the City Council or Municipal Board. Under the new law, only councilors elected at large are allowed to sit therein, and there are as many as there were *ex officio* members replaced.³⁷

Under the old set-up, succession to the office of Mayor in the event of the incumbent's inability to discharge the powers and duties of his office, or in the event of a permanent vacancy was an individual matter exclusively governed by the charter of the city affected. Republic Act 2259 has established a uniform rule: the Vice-Mayor will perform the duties and exercise the powers of the Mayor in the event of the latter's inability to discharge the powers and duties of his office. In the event of a permanent vacancy, he becomes Mayor for the completion of the unexpired term. If he himself is temporarily incapacitated for the performance of his official duties, the Councilor who received the highest number of votes in the last election will serve as Acting Vice-Mayor, or in case of vacancy in the latter's office, said Councilor will serve as Acting Mayor.³⁸

Before the new law, the minimum age and residence qualifications for Mayor, Vice-Mayor and Councilor were likewise not the same in all cities.³⁹ These are now uniformly fixed at 25 years and 1 year, respectively.⁴⁰

Other significant changes under the Act include provisions: (a) creating the position of Vice-Mayor in chartered cities without it by provisions of their corporate charters;⁴¹ (b) making the Vice-Mayor the presiding officer of the City Council or Municipal Board in all cities;⁴² (c) transferring the designation of the City Secretary to the City Council or Municipal Board;⁴³ and (d) safeguarding the tenure of appointive city officials by making them irremovable except for cause.⁴⁴

We commend the statute for liberating from the vicissitudes of political

³³ In the majority of cases.

³⁴ As in the case of Iligan (R.A. 1575).

³⁵ Especially respecting the councilors.

³⁶ Sec. 1.

³⁷ Sec. 4.

³⁸ Sec. 3, par. 2.

³⁹ Invariably fixed at 21, 23, 25 years as to age, 6 months, 1, 2 years as to residence.

⁴⁰ Sec. 6.

⁴¹ Sec. 3, par. 1.

⁴² *Ibid.*

⁴³ Sec. 5.

⁴⁴ *Ibid.*

fortune the choice of the city Mayor, Vice-Mayor and Councilors, and for simplifying matters common to all city governments and city officials. But we vehemently condemn it for respecting the charters of other cities by allowing the qualified voters therein to vote or not to vote for provincial officials as such charters may have provided, while absolutely barring voters in the cities of Iloilo and Dagupan from electing said officials.⁴⁵

[R. A. NO. 2259]

AN ACT

MAKING ELECTIVE THE OFFICES OF MAYOR, VICE-MAYOR AND COUNCILORS IN CHARTERED CITIES, REGULATING THE ELECTION IN SUCH CITIES AND FIXING THE SALARIES AND TENURE OF SUCH OFFICES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The offices of Mayor, Vice-Mayor, and members of the city council or municipal board in all chartered cities in the Philippines which are now filled by appointment are hereby declared elective.

SEC. 2. The Mayor, Vice-Mayor and Councilors shall be elected at large by the qualified voters of the city on the date of the elections for provincial and municipal officials in conformity with the provisions of the Revised Election Code: *Provided, however,* That the qualified voters of cities shall vote or shall not vote for provincial officials as their respective charters provide, except in the cities of Iloilo and Dagupan where the said voters shall not vote for provincial officials.

The newly elected city officials shall assume office on the first day of January following their elections, and upon qualifying, shall hold office for four years and until their successors shall have been duly elected and qualified, unless sooner removed or suspended for cause, as provided by law.

SEC. 3. The position of Vice-Mayor is hereby created in chartered cities which at present have no position for Vice-Mayor by provisions of their corporate charters: *Provided,* That the Vice-Mayor shall be the presiding officer of the City Council or Municipal Board in all chartered cities.

The Vice-Mayor shall perform the duties and exercise the powers of the mayor in the event of the latter's inability to discharge the powers and duties of his office. In the event of a permanent vacancy in the office of mayor, the vice-mayor shall become mayor for the completion of the unexpired term. If the Vice-Mayor is temporarily incapacitated for the performance of his official duties, the councilor who received the highest number

⁴⁵ Sec. 2.

of votes in the last election shall serve as acting Vice-Mayor; and in the event of such inability of the elected Mayor, the Vice-Mayor is, for any reason temporarily incapacitated for the performance of the duties of the Mayor, or the office of the Vice-Mayor is vacant, the Councilor who received the highest number of votes in the last election, shall serve as Acting Mayor and while so serving shall not perform any duty as a member of the council but shall continue to hold the office of Councilor. In such event, the remaining members of the Council shall elect from among themselves the presiding officer. For service as Acting Mayor or Acting Vice-Mayor, the Vice-Mayor or Councilor shall receive a total compensation equivalent to the salary of the Mayor or Acting Vice-Mayor, as the case may be, during such period.

SEC. 4. In chartered cities, where the City Treasurer, City Engineer, and/or any other head of office in a province or city are *ex-officio* members of the City Council, such officials shall cease from acting as *ex-officio* members of the City Council upon the election and qualification of their successors: *Provided*, That as many elective offices of city Councilors as there are such officers who are *ex-officio* members of the Council are hereby created in order to maintain the present number of Councilors in the City Council or Municipal Board: *Provided, further*, That in the City of Baguio there shall be six Councilors.

SEC. 5. The incumbent appointive City Mayors, Vice-Mayors and Councilors, unless sooner removed or suspended for cause, shall continue in office until their successors shall have been elected in the next general elections for local official and shall have qualified. Incumbent appointive city secretaries shall, unless sooner removed or suspended for cause, continue in office until an elective city council or municipal board shall have been elected and qualified; thereafter the city secretary shall be elected by majority vote of the elective city council or municipal board. All other city officials now appointed by the President of the Philippines may not be removed from office except for cause.

SEC. 6. No person shall be a City Mayor, Vice-Mayor, or Councilor unless he is at least twenty-five years of age, resident of the city for at least one year prior to his election and is a qualified voter.

SEC. 7. The Mayor, Vice-Mayor and Members of the Municipal Board shall, subject to the availability of funds, receive the salary rates hereinafter set forth in accordance with the classification of cities provided for in Republic Act Numbered Eight hundred and forty: *Provided*, That for purposes of classification of chartered cities the provisions of Republic Act Numbered Eight hundred and forty to the contrary notwithstanding, Quezon and Baguio Cities shall be classified according to the provisions of their respective charters as amended.

(a) In class one chartered cities, the Mayor shall receive a salary of not less than seven thousand two hundred but not more than eight thousand four hundred pesos *per annum*; the Vice-Mayor shall receive a salary of not less than five thousand four hundred but not more than six thousand eight hundred pesos *per annum*; and the members of the Municipal Board shall receive an annual salary of not more than five thousand four hundred pesos each;

(b) In class two chartered cities, the Mayor shall receive a salary of not less than six thousand but not more than seven thousand two hundred pesos *per annum*; the Vice-Mayor shall receive a salary of not less than four thousand eight hundred but not more than five thousand four hundred pesos *per annum*; and the members of the Municipal Board shall receive an annual salary of not more than four thousand eight hundred pesos each;

(c) In class three chartered cities, the Mayor shall receive a salary of not less than four thousand eight hundred nor more than six thousand pesos *per annum*; the Vice-Mayor shall receive a salary of not less than three thousand nor more than four thousand eight hundred pesos *per annum*; and the members of the Municipal Board shall receive an annual salary of not more than three thousand pesos each;

(d) In class four chartered cities, the Mayor shall receive a salary of not less than three thousand six hundred nor more than four thousand eight hundred pesos *per annum*; the Vice-Mayor shall receive a salary of not less than three thousand nor more than three thousand four hundred pesos *per annum*; and the members of the Municipal Board shall receive an annual salary of not more than two thousand four hundred pesos each; and

(e) In class five chartered cities, the Mayor shall receive a salary of not less than two thousand eight hundred nor more than three thousand six hundred pesos *per annum*; the Vice-Mayor shall receive a salary of not less than two thousand four hundred but not more than two thousand eight hundred pesos *per annum*; and the members of the Municipal Board shall receive an annual salary of not more than one thousand eight hundred pesos each.

If the revenues of the City cannot support the salaries provided for in sub-sections a, b, c, d and e thereof, the City Council for the next fiscal year shall make the corresponding proportional reduction in the salaries of the Mayor, Vice-Mayor and members of the Municipal Board of said city to the rates of salaries or compensation fixed for the same officials in any city of a lower class, and, in the case of the lowest class, to such lesser rates as the City council thereof shall determine but in no case shall the salary of the Mayor, Vice-Mayor or members of the Municipal Board be reduced below the minimum fixed by the Minimum Wage Law.

SEC. 8. This Act shall not apply to the cities of Manila, Cavite, Trece Martires and Tagaytay.

SEC. 9. All Acts or parts of Acts, Executive Orders, rules and regulations inconsistent with the provisions of this Act, are hereby repealed.

SEC. 10. This Act shall take effect upon its approval.
Approved, June 19, 1959.

POLITICAL LAW: BARRIO GOVERNMENTS. — In line with its policy of gradual decentralization exemplified in the Local Autonomy Act,¹ Congress passed in its last session Republic Act 2370, otherwise known as the Barrio Charter. Under this Charter, barrios are categorized as quasi-municipal corporations endowed with powers for the performance of particular government functions to be exercised by and through their respective barrio governments.² These territorial units are thus elevated from mere geographical divisions of municipalities, so sectioned for administrative convenience,³ into distinct and potent political entities with ample powers of government. Like townships, they are competent in their proper corporate name to sue and be sued, to contract and be contracted with and to acquire and hold real and personal property for certain purposes.⁴

A synopsis of the organizational plan of each barrio: there are two ruling bodies, the Barrio Assembly and the Barrio Council. The first consists of all qualified electors, who are duly registered in the list of barrio assembly members kept by the Secretary thereof, and have resided in the barrio for at least six months.⁵ The second is formed by a barrio lieutenant, a barrio treasurer, four council members, and vice barrio lieutenants, in such number as there are sitios in the barrio, or where there are no sitios, one vice barrio lieutenant for every two hundred inhabitants,⁶ all of whom are elected at a meeting of the Barrio Assembly.⁷

Qualifications for election to the Barrio Council are: (a) qualified elector and resident of the barrio for at least 6 months prior to the election,⁸ and in the case of vice barrio lieutenants, of the sitio he is to represent;⁹ and (b) not convicted of a crime involving moral turpitude or of a crime carrying a penalty of at least one year's imprisonment.¹⁰

The barrio Assembly wields the following powers: (a) to elect members of the barrio council; act upon their resignation, if presented, and

¹ Rep. Act No. 2264, IX ATENELO L. J. 50 (1959).

² Sec. 2, par. 1.

³ See sec. 2166, REV. ADM. CODE.

⁴ Sec. 2, par. 2.

⁵ Sec. 4.

⁶ Sec. 6. Under sec. 2219 1/2, REV. ADM. CODE, as amended by Rep. Act No. 1408, the barrio treasurer was elected by and from among the barrio councilmen.

⁷ Sec. 7.

⁸ Sec. 8(a).

⁹ Sec. 6.

¹⁰ Sec. 8(b).

fill vacancies therein by election; (b) to provide for reasonable compensation of barrio council members; (c) to adopt measures for raising barrio funds and for the good of the barrio; (d) to decide on measures submitted to it; and (e) to enter into contracts for and in behalf of the barrio and to authorize the barrio council so to do.¹¹

The barrio lieutenant has the following duties to discharge: (a) maintain public order in the barrio and assist the municipal councilor in the performance of his duties in such barrio; (b) preside over barrio assembly and barrio council meetings; (c) organize a fire brigade, and emergency groups when the peace and order condition of the barrio demands; (d) approve disbursements of barrio funds; (e) attend conventions of barrio lieutenants; and (f) enforce all laws and ordinances operative within the barrio and enter into contract with the approval of the barrio council.¹²

The vice barrio lieutenant designated by the barrio council discharges the same functions in the absence or inability of the barrio lieutenant. Vice barrio lieutenants are also peace officers and as such take charge of the maintenance of public order in their respective sitios.¹³

The barrio treasurer takes charge of the collection of all taxes existing (except real property taxes), fees and contributions due the barrio treasury,¹⁴ and he may be deputized by the municipal treasurer to collect real estate taxes.¹⁵

The barrio councilors have the duty to attend the meetings of the barrio council and cooperate with the barrio lieutenant and vice barrio lieutenants in the discharge of their duties.¹⁶

The powers of the Barrio Council as a body are detailed in sections 12 and 14 of the statute. They include the power to promulgate barrio ordinances, the power of eminent domain, and the power of taxation.

For efficient service to their constituents, barrio lieutenants are granted certain rights and privileges preferential in nature.¹⁷ These special grants may attract abler men to the ranks of the barrio's topmost position, but will they not disinterest others from running in the lower ranks? Will they not water down the zeal of these inferior officers to exert their utmost in the exercise of their functions? It is here proposed that to lure the more qualified men to enter barrio public life and thereby attain maximum efficiency in the conduct of barrio government affairs, the statute should be amended so as to extend the same privileges to all members of the Barrio Council alike.

¹¹ Sec. 5.

¹² Sec. 10.

¹³ *Ibid.*

¹⁴ Sec. 16, par. 2.

¹⁵ Sec. 14(g).

¹⁶ Sec. 10, par. 3.

¹⁷ Sec. 11.

[R. A. NO. 2370]

AN ACT

GRANTING AUTONOMY TO BARRIOS OF THE PHILIPPINES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act shall be known as the Barrio Charter.

ARTICLE I. — *General Provisions*

SEC. 2. *Definition and general powers of barrios.*—Barrios are units of municipalities or municipal districts in which they are situated. They are quasi-municipal corporations endowed with such powers as are herein provided for the performance of particular government functions, to be exercised by and through their respective barrio governments in conformity with law.

It shall be competent for them in their proper corporate name to sue and be sued, to contract and be contracted with and to acquire and hold real and personal property for purposes herein specified, and generally to exercise the powers herein or otherwise conferred upon them by law.

ARTICLE II. — *Organization of Barrios*

SEC. 3. *The creation of new barrios.*—All barrios existing at the time of passage of this Act shall come under the provisions hereof.

Upon petition of a majority of the voters in the areas affected, a new barrio may be created, or the name of an existing one may be changed by the provincial board of the province, upon recommendation of the council of the municipality or municipalities in which the proposed barrio is situated. The recommendation of the municipal council shall be embodied in a resolution approved by at least two-thirds of the entire membership of the said council: *Provided, however,* That no new barrio may be created if its population is less than five hundred persons.

Barrios shall not be created or their boundaries altered nor their names changed except under the provisions of this Act or by Act of Congress.

Boundary disputes between barrios within the same municipality shall be heard and decided by the municipal council, subject to appeal within thirty days from receipt of notice of the decision by the barrio council concerned to the corresponding provincial board, whose decision shall be final.

Boundary disputes between barrios belonging to different municipalities shall be treated as boundary disputes between municipalities under existing provisions of law.

All property rights of the barrios whose boundaries are altered shall be

vested in the barrio in which the property is situated after the alteration has been made.

SEC. 4. *The barrio assembly.*— The barrio assembly shall consist of all persons who are qualified electors, who are duly registered in the list of barrio assembly members kept by the secretary thereof, and have been residents of the barrio for at least six months.

The barrio assembly shall meet at least once a year to hear the annual report of the barrio council concerning the activities and finances of the barrio.

It shall meet also when members of the barrio council are to be elected and/or at the call of the barrio council or upon written petition of at least one-fifth of the members of the barrio assembly.

For the purpose of conducting business and taking any official action in the barrio assembly, it is necessary for a quorum, which shall consist of at least one-third of the members of the barrio assembly, to be present. All actions involving the raising of taxes, payment of compensation and solicitation of voluntary contributions shall be by a two-thirds vote of those present at the meeting there being a quorum. All other actions may be by a majority vote of those present at the meeting there being a quorum.

No meeting of the barrio assembly shall take place unless notice is given one week prior to the meeting except in matters involving public safety or security in which case within a reasonable time shall be sufficient. The barrio lieutenant shall act as presiding officer at all meetings of the barrio assembly. The barrio council secretary shall be the secretary of the barrio assembly; and, in his absence or inability, the assistant barrio council secretary shall discharge the duties of secretary of the barrio assembly: *Provided,* That the barrio lieutenant may designate a temporary barrio assembly secretary before the election and qualification of a permanent barrio council secretary and assistant secretary.

SEC. 5. *Powers of the barrio assembly.*—The powers of the barrio assembly shall be as follows:

- (a) to elect members of the barrio council; act upon their resignation, if presented, and fill vacancies therein by election;
- (b) to provide for reasonable compensation of barrio council members when authorized by two-thirds vote of the barrio assembly;
- (c) to adopt measures for the raising of funds for the barrio by taxation and by voluntary contributions;
- (d) to adopt measures for the good of the barrio;
- (e) to decide on measures submitted to it in accordance with law, and
- (f) to enter into contracts for and in behalf of the barrio and to authorize the barrio council so to do.

SEC. 6. *The barrio council.*—In each barrio there shall be organized a barrio council which shall have as members the following:

- (a) a barrio lieutenant;
- (b) a barrio treasurer;
- (c) four council members;
- (d) vice-barrio lieutenants, in such number as there are sitios in the barrios; or where there are no sitios, one vice barrio lieutenant for every two hundred inhabitants of the barrio: *Provided*, That no person shall be elected vice barrio lieutenant unless he is a resident of the sitio he shall represent.

SEC. 7. *Election of the barrio council.* — The barrio lieutenant, the barrio treasurer, the vice barrio lieutenants, and the four council members shall be elected at a meeting of the barrio assembly.

The election shall be held on the second Sunday of January of even-numbered years: *Provided*, That if the meeting is not held on the second Sunday of January, it may be held on any day thereafter within the month of January to be determined by the barrio council. The meeting shall be called by the barrio lieutenant who shall preside over the meeting. The Assembly shall elect a board of three election tellers, one of whom shall be a school teacher who shall act as chairman, to conduct the election and count the votes.

All members of the barrio assembly as defined in section four shall have the right to vote at such elections. Voting shall be by secret ballot: *Provided*, That open voting may be allowed if two-thirds votes of the qualified voters present in the meeting shall so decide. No votes may be cast by proxy.

Those who obtain the highest number of votes for the position for which they are candidates shall be declared elected by the election tellers and shall assume office immediately by taking the oath of office before any person authorized to administer oaths. In case of a tie, the same shall be decided by drawing lots and the winner shall be proclaimed.

All disputes as to procedure before the balloting shall be decided by the board of election tellers.

All disputes over barrio elections shall be brought before the justice of the peace court of the municipality concerned; in the determination and decision thereof, the court shall follow as closely as possible the procedure prescribed for inferior courts in Rule 4, Rules of Court. The decision of the justice of the peace court shall be appealable pursuant to the Rules of Court to the court of first instance whose decision shall be final on questions of fact.

The members of the barrio council shall hold office for two years from the time of their election and qualification or until their successors are duly elected and qualified. In no case shall a member of the council be

elected to the same position for more than three consecutive terms, but after two years shall have elapsed from the expiration of his last term he shall again be eligible for election to the same position.

SEC. 8. *Qualifications for election to the barrio council.*—Candidates for election to the barrio council:

- (a) Must be a qualified elector and must have been a resident of the barrio for at least six months prior to the election; and
- (b) Must not have been convicted of a crime involving moral turpitude or of a crime which carries a penalty of at least one year's imprisonment.

SEC. 9. The municipal mayor shall exercise the power of supervision over barrio officials. He shall receive and investigate complaints made under oath against barrio officers for neglect of duty, oppression, corruption or other form of misconduct in office, and conviction by final judgment of any crime involving moral turpitude. For minor delinquency, he may reprimand the offender; and if a more severe punishment seems to be desirable, he shall submit written charges touching the matter to the municipal council, furnishing a copy of such charges to the respondent either personally or by registered mail. The municipal mayor may in such case suspend the officer pending action by the council, if in his opinion the charge be one affecting the official integrity of the officer in question, but in no case shall the period of suspension exceed thirty days. Where suspension is thus effected the written charges against the officer shall be filed within five days with the municipal council, which shall adopt the procedure specified in sections twenty-one hundred eighty-nine to twenty-one hundred ninety of the Revised Administrative Code.

The decision of the council shall be appealable within ten days from notice thereof to the provincial board, whose decision shall be final.

ARTICLE III.—Powers, Rights and Duties

SEC. 10. *Rights and duties of members of the barrio council.*—The barrio lieutenant, or in his absence or inability, the vice barrio lieutenant designated by the barrio council, shall discharge the following duties:

- (a) To look after the maintenance of public order in the barrio and to assist the municipal councilor in the performance of his duties in such barrio;
- (b) To preside over the meetings of the barrio assembly and the barrio council;
- (c) To organize a fire brigade;
- (d) To organize and lead an emergency group whenever the same may be necessary for the maintenance of peace and order within the barrio;

- (e) To approve vouchers relating to the disbursement of barrio funds;
- (f) To attend conventions of barrio lieutenants; and
- (g) To enforce all laws and ordinances which are operative within the barrio and to sign and enter into contracts with the approval of the barrio council.

The vice barrio lieutenants shall be peace officers and as such shall take charge of the maintenance of public order in their respective sitios.

The council members shall attend the meetings of the barrio council and cooperate with the barrio lieutenant and vice barrio lieutenants in the discharge of their duties.

SEC. 11. *Rights and privileges of incumbent barrio lieutenants.* — In addition to the rights and privileges now granted by existing laws to barrio lieutenants, they shall, if they have served their constituents properly, as shown by a resolution of the barrio council, other qualifications being equal:

- (a) Have preference in appointments in and to any government office, agency, or instrumentality or in and to any government-owned or controlled corporation; and
- (b) Have preference to purchase public lands and government-owned or managed agricultural farms or subdivisions, to obtain homesteads, concessions and franchises, and other privileges for the exploitation of the natural resources which are permissible and made available by existing laws.

An incumbent barrio lieutenant who is permanently incapacitated from work owing to sickness, disease or injury incurred in line of duty shall receive the necessary hospitalization and medical care from government hospitals free of charge.

Incumbent barrio lieutenants having children attending public elementary and intermediate schools shall be exempted from paying the corresponding tuition fees.

SEC. 12. *Powers and duties of the barrio council.*—The barrio council shall have the power to promulgate barrio ordinances not inconsistent with law or municipal ordinances.

All barrio ordinances shall be submitted within fifteen days after their approval to the municipal council. Barrio ordinances shall take effect thirty days after their approval, unless the municipal council finds that such ordinances are not in accordance with law, in which case, they shall be returned to the barrio council for adjustment, amendment or repeal. In case of disagreement between the barrio council and the municipal council the dispute shall be referred to the provincial fiscal for final action.

Any violation of barrio ordinances duly promulgated shall be punished

by a fine of not more than one hundred pesos or imprisonment of not more than fifteen days, or both such fine and imprisonment, in the discretion of the court.

The barrio council shall have the following powers, duties and responsibilities:

- (a) To construct and/or maintain within its boundaries the following public works: barrio roads, bridges, viaducts and sidewalks, playgrounds and parks, school buildings; water supply, drainage, irrigation, sewerage, and public toilet facilities, and other public works and facilities, and for this purpose, to exercise the power of eminent domain with the approval of the municipal council;
- (b) To undertake cooperative enterprises that will improve the economic condition and well-being of the barrio residents. Such enterprises may include stores for the sale or purchase of commodities and/or produce, warehouses, activities relating to agricultural and livestock production and marketing, fishing, and home and barrio industries, and other activities which may promote the welfare of the barrio inhabitants;
- (c) To accept in all or any of the foregoing public works and cooperative enterprises such cooperation as is made available by municipal, provincial and national governmental agencies established by law to render financial, technical and advisory assistance to barrios and to barrio residents: *Provided, however,* That in accepting such cooperation, the barrio council may not pledge sums of money for expenditure in excess of amounts currently in the barrio treasury or encumbered for other purposes;
- (d) To initiate and submit to the barrio assembly community programs of economic and social benefit to the inhabitants of the barrio;
- (e) To employ or contribute to the expenses of employing community development workers under terms of agreement made with the Office of the Presidential Assistant on Community Development or with any other bureau or agency of the government;
- (f) To submit to the municipal council such suggestions or recommendations as it may see fit for the improvement of its barrio and/or for the welfare of the inhabitants thereof;
- (g) To provide for the publication by town crier or such other means as they see fit, of laws, ordinances and/or matters of public interest;
- (h) To hold benefits in their respective barrios without having to secure permits from the Social Welfare Administration. The proceeds from such benefits shall be tax-exempt and shall go to the barrio general fund, unless previously set aside for a specific purpose;

- (i) To organize at least twice a month such lectures, programs and/or community assemblies as may serve to educate and enlighten the people on moral, civic, political, educational and other matters of public interest;
- (j) To regulate the use of cement palay or copra driers (patios), or similar projects constructed with government funds for public service within the jurisdiction of the barrio and to charge reasonable fees for such use;
- (k) To exercise any powers necessary to carry out the foregoing provisions;
- (l) To organize annually as soon after the barrio council shall have been elected and qualified, committees composed of men and women of high moral standing and integrity in the barrio to take care of the problem of juvenile delinquency, if the same exists, by providing spiritual help and guidance to the juvenile delinquents and by helping them secure wholesome occupations and entertainment in the barrios or elsewhere; and
- (m) To appropriate barrio funds to implement the decisions of the barrio assembly and for purposes herein specified.

SEC. 13. *Procedure in barrio councils.*—The barrio lieutenant shall be the presiding officer of the barrio council. In his absence or inability, the vice barrio lieutenant designated by the barrio council shall act as presiding officer.

Regular meetings of the barrio council shall be held at least once a month at the call of the barrio lieutenant. Special meetings may also be called by him and by any three members of the barrio council at any time.

In order to transact business, the barrio council must constitute a quorum of a majority of its members. All ordinances and resolutions must be approved by a majority vote of those present.

At the first meeting of the newly elected barrio council, the barrio lieutenant, with the approval of the majority of the council, shall name the chairman and members of the standing and special committees to study and report from time to time on various problems that come before the barrio council.

The barrio council may hold its sessions in the barrio hall or public school building of the barrio during hours when there are no classes, or in any house or lot in the barrio the provisional or permanent use of which may be granted for said purpose free of charge.

The barrio council shall elect from among its members a secretary and an assistant secretary. It shall be the duty of the secretary to keep simple minutes of the meetings of both the barrio assembly and the barrio council during his term of office, to keep a list of all qualified barrio assembly members, and be responsible for the custody of all barrio council and

barrio assembly records. The assistant secretary shall perform such duties as may be assigned by the barrio council and upon designation by the barrio council, shall act as secretary in case of absence or inability of the latter.

SEC. 14. *Taxing powers of the barrio council and the barrio assembly.*—The barrio council with the approval of a two-thirds vote of the barrio assembly as provided in section four hereof, may raise, levy, collect and/or accept monies and other contributions from the following sources:

- (a) Voluntary contributions annually from each male or female resident twenty-one years of age or over;
- (b) Licenses on stores, signs, signboards, and billboards displayed or maintained in any place exposed to public view except those displayed at the place or places where profession or business advertised thereby is in whole or in part conducted;
- (c) A tax on gamecocks owned by residents of the barrio and on the cockfights conducted therein: *Provided*, That nothing herein shall authorize the barrio council to permit cockfights.
- (d) Monies, materials and voluntary labor for specific public works and cooperative enterprises of the barrio raised from residents, landholders, producers and merchants of the barrio;
- (e) Monies from grants-in-aid, subsidies, contributions and revenues made available to barrios from municipal, provincial or national funds;
- (f) Monies from private agencies and individuals;
- (g) An additional percentage, not exceeding one-fourth of one per cent of the assessed valuation of the property within the barrio, collected by the municipal treasurer along with the tax on real property levied for municipal purposes by the municipality and deposited in the name of the barrio with the municipal treasurer: *Provided*, That no tax or license fee imposed by a barrio council shall exceed fifty per centum of a similar tax or fee levied, assessed or imposed by the municipal council.

SEC. 15. *Share in real estate taxes.*—Ten per cent of all real estate taxes collected within the barrio shall accrue to the barrio general fund, which sum shall be deducted in equal amounts from the respective shares of the province and municipality: *Provided*, That the municipal treasurer may designate the barrio lieutenant and/or the barrio treasurer as his deputy to collect the said taxes.

SEC. 16. *Financial procedure.*—All ordinances for raising barrio funds through taxes and voluntary contributions may be initiated in the barrio council, and submitted to the barrio assembly. Such ordinances may also

originate in the barrio assembly which may approve the same finally without further action by the barrio council.

The barrio treasurer shall collect all taxes existing (except real property taxes), fees and contributions due the barrio treasury for which he shall issue official receipts. The treasurer, who shall be bonded in any amount to be fixed by the barrio council not exceeding ten thousand pesos, shall be the custodian of the barrio funds and property and shall deposit all collections with the municipal treasurer within a period of one week after receipt of such fees and contributions. He shall disburse the same in accordance with resolutions of the council, upon vouchers signed by the payee and approved by the barrio lieutenant, and subject to the availability of funds in the barrio treasury, and all existing applicable auditing rules and regulations.

The barrio council may provide for necessary travel expenses for the barrio lieutenant or any member of the council on official business.

The financial records of the barrio council shall be kept in a simplified manner as prescribed by the municipal treasurer who shall annually audit such accounts and make a report of the audit to the barrio council and to the municipal council.

SEC. 17. *Extent of applicability.*—The above provisions shall be made applicable to all barrios within the jurisdiction of chartered cities.

SEC. 18. *Repealing clause.*—All existing legislation or regulations relating to barrio government in conflict or inconsistent with the provisions of this Act are hereby repealed.

SEC. 19. *Effectivity of the Act.*—This Act shall take effect January first, nineteen hundred and sixty.

Approved, June 20, 1959.

OPINIONS OF THE SECRETARY OF JUSTICE

On the Authority to Contract for the Construction of Government Buildings

OPINION NO. 250, s. 1959

Opinion is requested on whether it is the General Manager of the NAMARCO or the Director of Public Works who should sign the contract for the construction of the NAMARCO Tague Warehouse.

From your statement of facts, it appears that the NAMARCO has authorized the Bureau of Public Works to make the preliminary investigations, plans, and specifications for the construction of the said warehouse, and to obtain bids therefor. In its report, the said Bureau recommended to the NAMARCO management that the construction of the warehouse be awarded to Mr. Pancrasio Galvez for a total amount of ₱420,000.00. By Resolution No. 371, dated July 7, 1959, the NAMARCO Board of Directors awarded the same to Mr. Galvez and authorized the General Manager to "enter into contract with the awardee in behalf of the NAMARCO, with the Bureau of Public Works supervising the constructions."

In accordance with the said resolution, you requested the Director of Public Works to prepare the "contract documents for the said project" for the signature of Mr. Pancrasio Galves, the awardee, and of the General Manager in behalf of the NAMARCO. The Director of Public Works, however, states among other things, that the NAMARCO is "without authority to enter into contract for the construction of buildings for the use of the Corporation, even though built with its own funds;" and, that under the provisions of Section 1901 and 1917 of the Revised Administrative Code, as amended, "it is the function of the Bureau of Public Works to undertake... the construction of buildings of the Government, including corporations owned by the government," and "to enter into contract therefor."

The management of the NAMARCO, on the other hand, cites paragraphs (b), (c), (e) and (f), Section 4, of Republic Act No. 1345, to wit:

"SEC. 4—General Powers.—The NAMARCO is hereby authorized to exercise the following general powers:

x " x x x

"(b) To make contracts;

"(c) To purchase, hold, convey, sell, lease, let, mortgage, encumber and otherwise deal with such real and personal property as the purpose for