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regarding the absence of marriage of the parents of private respondent.

WHEREFORE, the decision of the Court of First Instance of Davao Oriental, 16th Judicial District, at Mati, allowing the correction of the entries in the Record of Birth of Samuel Yu, is hereby REVERSED and SET ASIDE. No costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, and *Melencio-Herrera, JJ.,* concur.

De Castro, J., took no part.

FIRST DIVISION

[G.R. No. L-38025. August 20, 1979]

DANTE O. CASIBANG, *petitioner, vs.* **HONORABLE NARCISO A. AQUINO, Judge of the Court of First Instance of Pangasinan, Branch XIV, and REMEGIO P. YU,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ELECTION LAWS; PROTEST; ELECTORAL PROTEST IS A JUSTICIABLE CONTROVERSY.— The only issue in the electoral protest case dismissed by respondent Judge on the ground of political question is who between protestant — herein petitioner — and protestee — herein respondent Yu — was the duly elected mayor of Rosales, Pangasinan, and legally entitled to enjoy the rights, privileges and emoluments appurtenant thereto and to discharge the functions, duties and obligations of the position. If the protestee's election is upheld by the respondent Judge, then he continues in office; otherwise, *it is the protestant, herein petitioner.* That is the only

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consequence of a resolution of the issue therein involved — a purely justiciable question or controversy as it implies a given right, legally demandable and enforceable, an act or omission violative of said right, and a remedy, granted or sanctioned by law, for said breach of right.

2. ID.; SEPARATION OF POWERS; POLITICAL QUESTION; DEFINITION AND NATURE.— The term "*political question*" connotes what it means in ordinary parlance, namely, a question of policy. It refers to those questions which under the Constitution, are to be decided by the people in their sovereign capacity; or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government. It is concerned with issues dependent upon the wisdom, not legality, of a particular measure." A broader definition was advanced by U.S. Supreme Court Justice Brennan in *Baker vs. Carr* (369 U.S. 186 [1962]): "Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of respect due coordinate branches of the government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question." And Chief Justice Enrique M. Fernando, then an Associate Justice, of this Court fixed the limits of the term, thus: "The term has been made applicable to controversies clearly non-judicial and therefore beyond its jurisdiction or to an issue involved in a case appropriately subject to its cognizance, as to which there has been a prior legislative or executive determination to which deference must be paid. It has likewise been employed loosely to characterize a suit where the party proceeded against is the President or Congress, or any branch thereof. If to be delimited with accuracy; 'political questions should refer to such as would under the Constitution be decided by the people in their sovereign capacity or in regard to which full discretionary authority is vested either in the President or Congress. It is thus beyond the competence of the judiciary to pass upon. . . ."

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APPEARANCES OF COUNSEL

Nicanor S. Bautista and *Agaton D. Yaranon* for petitioner.
Bince Sevilleja Agsalud & Associates for respondents.

DECISION

MAKASIAR, *J.*:

Respondent Remigio P. Yu was proclaimed on November 9, 1971 as the elected Mayor of Rosales, Pangasinan in the 1971 local elections, by a plurality of 501 votes over his only rival, herein petitioner, who seasonably filed on November 24, 1971 a protest against the election of the former with the Court of First Instance of Pangasinan, on the grounds of (1) anomalies and irregularities in the appreciation, counting and consideration of votes in specified electoral precincts; (2) terrorism; (3) rampant vote buying; (4) open voting or balloting; and (5) excessive campaign expenditures and other violations of the 1971 Election Code.

Respondent Yu filed on November 29, 1971 his answer and counter-protest which petitioner answered on December 10, 1971. However, respondent Yu withdrew his counter-protest after waiving the opening and revision of the ballot boxes specified therein.

Proceedings therein continued with respect to the election protest of petitioner before the Court of First Instance of Pangasinan, Branch XIV, presided by respondent Judge, who initially took cognizance of the same as it is unquestionably a justiciable controversy.

In the meantime or on September 21, 1972, the incumbent President of the Republic of the Philippines issued Proclamation No. 1081, placing the entire country under Martial Law; and two months thereafter, more or less, or specifically on November 29, 1972, the 1971 Constitutional Convention passed and approved a Constitution to supplant the 1935 Constitution; and the same was thereafter overwhelmingly ratified by the sovereign people

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of the Republic of the Philippines on January 17, 1973; and on March 31, 1973, this Court declared that "there is no further judicial obstacle to the new Constitution being considered in force and effect" (*Javellana vs. Executive Secretary*, 50 SCRA 30 [1973]).

Thereafter or on October 10, 1973, at which time petitioner had already completed presenting his evidence and in fact had rested his case, respondent Yu moved to dismiss the election protest of petitioner on the ground that the trial court had lost jurisdiction over the same in view of the effectivity of the 1973 Constitution by reason of which — (principally) Section 9 of Article XVII [Transitory Provisions] and Section 2 of Article XI — a political question has intervened in the case. Respondent Yu contended that "x x x the provisions in the 1935 Constitution relative to all local governments have been superseded by the 1973 Constitution. Therefore, all local government should adhere to our Parliamentary form of government. This is clear in the New Constitution under its Article XI." He further submitted that local elective officials (including mayors) have no more four-year term of office. They are only in office at the pleasure of the appointing power embodied in the New Constitution, and under Section 9 of Article XVII.

Petitioner vigorously opposed the motion to dismiss, and, relying mainly on Sections 7 and 8 of Article XVII (Transitory Provisions) of the New Constitution and G.O. No. 3, contended that the New Constitution did not divest the Court of First Instance of its jurisdiction to hear and decide election protests pending before them at the time of its ratification and effectivity; that the ratification of the New Constitution and its effectivity did not automatically abolish the office and position of municipal mayor nor has it automatically cut short the tenure of the office, so as to render the issue as to who is the lawfully elected candidate to said office or position moot and academic; that election protests involve public interest such that the same must be heard until terminated and may not be dismissed on mere speculation that the office involved may have been abolished, modified or reorganized; and that the motion to dismiss was filed manifestly for delay.

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Respondent Yu replied pointing out, among others, that petitioner failed to refute the issue of political question; and reiterated his stand, expanding his arguments on the political question, thus:

"It is an undeniable fact that this case has its source from the 1971 elections for municipal mayoralty. Unsatisfied with the counting of votes held by the Board of Canvassers, the herein protestant filed this present case. And before the termination of the same and pending trial, the Filipino people in the exercise of their free will and sovereign capacity approved a NEW CONSTITUTION, thus a NEW FORM OF GOVERNMENT-PARLIAMENTARY IN FORM was enforced. We find this provision under Article XI of the New Constitution, which provides:

> 'SEC. 2. The National Assembly shall enact a local government code which may not thereafter be amended except by a majority vote of all its members, defining a more responsive and accountable local government structure with an effective system of recall, allocating among the different local government units their powers, responsibilities, and resources, and providing for the qualifications, election and removal, term, salaries, powers, functions, and duties of local officials, and all other matters relating to the organization and operation of the local units. However, any change in the existing form of local government shall not take effect until ratified by a majority of the votes cast in a plebiscite called for the purpose.'

It is respectfully submitted that the contention of the protestant to the effect that the New Constitution 'shows that the office of the Municipal Mayor has not been abolished . . .,' is not ACCURATE. Otherwise, the provisions of Section 9 of Article XVII, is meaningless.

> 'All officials and employees in the existing Government of the Republic shall continue in office until otherwise provided by law or decreed by the incumbent President of the Philippines, x x x.'

In the above-quoted provision is the protection of the officials and employees working in our government, otherwise, by the force of the New Constitution they are all out of the government offices. In fact, in the case abovecited (Javellana) we are all performing our duties in accordance with the New Constitution.

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"Therefore, election cases of the 1935 Constitution being interwoven in the political complexion of our new Constitution should be dismissed because only those incumbent official and employees existing in the new government are protected by the transitorial provisions of the New Fundamental Law of the Land. The protestant, we respectfully submit, is not covered by the provisions of Section 9 Article XVII of the Constitution. And in case he will win in this present case he has no right to hold the position of mayor of the town of Rosales, Pangasinan, because he was not then an official of the government at the time the New Constitution was approved by the Filipino People. His right if proclaimed a winner is derived from the 1935 Constitution which is changed by the Filipino people."

On December 18, 1973, the trial court, presided by respondent Judge, sustained the political question theory of respondent Yu and ordered the dismissal of the electoral protest. Thus:

"There is no dispute that the Filipino people have accepted and submitted to a new Constitution to replace the 1935 Constitution, and that we are now living under its aegis and protection. x x x

x x x x x x x x x

"Under Section 9, Article XVII, of the new Constitution, above-quoted, only those officials and employees of the existing Government of the Republic of the Philippines like the protestee herein, are given protection and are authorized to continue in office at the pleasure of the incumbent President of the Philippines, while under Section 2 of Article XI of the new Constitution, also above-quoted, the intention to completely revamp the whole local government structure, providing for different qualifications, election and removal, term, salaries, powers, functions, and duties, is very clear. These present questions of policy, the necessity and expediency of which are outside the range of judicial review. With respect to the fate of incumbent officials and employees in the existing Government of the Republic of the Philippines, as well as to the qualifications, election and removal, term of office, salaries, and powers of all local officials under the parliamentary form of government - these have been entrusted or delegated by the sovereign people or has reserved it to be settled by the incumbent Chief Executive or by the National Assembly with full discretionary authority therefor. As if to supplement these delegated powers, the people have also decreed in a referendum the suspension of all elections. Thus, in the United States, questions relating to what persons or organizations constitute the lawful government of a state

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of the Union (*Luther vs. Borden*, 7 How. 1, 12, L. Ed. 58), and those relating to the political status of a state (*Highland Farms Dairy vs. Agnew*, 57 S. et. 549, 300 U.S. 608, 81 L.ed. 835), have been held to be political and not for the judiciary to determine.

"To the mind of the Court, therefore, the ratification and effectivity of the new Constitution has tainted this case with a political complexion above and beyond the power of judicial review. As fittingly commented by Mr. Justice Antonio in a separate opinion in the Javellana, *et al.* cases, 69 O.G. No. 36, September 3, 1973, p. 8008:

> 'The essentially political nature of the question is at once manifest by understanding that in the final analysis, what is assailed is not merely the validity of Proclamation No. 1102 of the President, which is merely declaratory of the fact of the approval or ratification, but the legitimacy of the government. It is addressed more to the frame-work and political character of this government which now functions under the new Charter. It seeks to nullify a Constitution that is already effective. In other words, where a complete change in the fundamental law has been effected through political action, the Court whose existence is affected by such a change is, in the words of Mr. Meville Fuller Weston, 'precluded from passing upon the fact of change by a logical difficulty which is not to be surmounted,' as the change relates to the existence of a prior point in the Court's 'chain of title' to its authority and 'does not relate merely to a question of the horizontal distribution of powers.' It involves a matter which 'the sovereign has entrusted to the so-called political departments or has reserved to be settled by its own extra-governmental action.' The present Government functions under the new Constitution which has become effective through political action. Judicial power presupposes an established government and an effective constitution. If it decides at all as a court, it necessarily affirms the existence and authority of the Government under which it is exercising judicial power.'

"The Court is not unaware of provisions of the new Constitution, particularly Sections 7 and 8, Article XVII (Transitory Provisions) decreeing that all existing laws not inconsistent with the new Constitution shall remain operative until amended, modified, or repealed by the National Assembly, and that all courts existing at the time of the ratification of the said new Constitution shall continue and exercise their jurisdiction until otherwise provided by law in accordance with

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the new Constitution, and all cases pending in said courts shall be heard, tried and determined under the laws then in force. Again, to the mind of the Court, these refer to matters raised in the enforcement of existing laws or in the invocation of a court's jurisdiction which have not been 'entrusted to the so-called political department or has reserved to be settled by its own extra-governmental action.'"

Hence, this petition.

WE reverse.

The thrust of the aforesaid political question theory of respondent Yu is that the 1973 Constitution, through Section 9 of Article XVII thereof, protected only those incumbents, like him, at the time of its ratification and effectivity and are the only ones authorized to continue in office and their term of office as extended now depends on the pleasure of, as the same has been entrusted or committed to, the incumbent President of the Philippines or the Legislative Department; and that Section 2 of Article XI thereof entrusted to the National Assembly the revamp of the entire local government structure by the enactment of a local government code, thus presenting a question of policy, the necessity and expediency of which are outside the range of judicial review. In short, for the respondent Judge to still continue assuming jurisdiction over the pending election protest of petitioner is for him to take cognizance of a question or policy "in regard to which full discretionary authority has been delegated to the Legislative or Executive branch of the government."

I

There is an imperative need to re-state pronouncements of this Court on the new Constitution which are decisive in the resolution of the political question theory of respondent Yu.

WE ruled:

1. That Section 9 of Article XVII of the 1973 Constitution did not render moot and academic pending election protest cases (*Santos vs. Castañeda*, 65 SCRA 114 [1975]; *Equipilag vs. Araula*, 60 SCRA 211 [1974]; *Nuñez vs. Averia,* 57 SCRA 726 [1974]; *Paredes vs. Abad*, L-36927, *Sunga vs. Mosqueda,* L-37715, *Valley vs. Caro*, L-38331, 56 SCRA 522, [1974]).

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2. That "the constitutional grant of privilege to continue in office, made by the new Constitution for the benefit of persons who were incumbent officials or employees of the Government when the new Constitution took effect, cannot be fairly construed as indiscriminately encompassing every person who at the time happened to be performing the duties of an elective office, albeit under protest or contest" and that "subject to the constraints specifically mentioned in Section 9, Article XVII of the Transitory Provisions, it neither was, nor could have been the intention of the framers of our new fundamental law to disregard and shunt aside the statutory right of a candidate for elective position who, within the time-frame prescribed in the Election Code of 1971, commenced proceedings beamed mainly at the proper determination in a judicial forum of a proclaimed candidate-elect's right to the contested office."' (*Santos vs. Castañeda, supra*); and We rationalized that "the Constitutional Convention could not have intended, as in fact it did not intend, to shielf or protect those who had been unduly elected. To hold that the right of the herein private respondents to the respective offices which they are now holding, may no longer be subject to question, would be tantamount to giving a stamp of approval to what could have been an election victory characterized by fraud, threats, intimidation, vote buying, or other forms of irregularities prohibited by the Election Code to preserve inviolate the sanctity of the ballot." (Paredes, Sunga and Valley cases, *supra*).

3. That "the right of the private respondents (protestees) to continue in office indefinitely arose not only by virtue of Section 9 of Article XVII of the New Constitution but principally from their having been proclaimed elected to their respective positions as a result of the November 8, 1971 elections. Therefore, if in fact and in law, they were not duly elected to their respective positions and consequently, have no right to hold the same, perform their functions, enjoy their privileges and emoluments, then certainly, they should not be allowed to enjoy the indefinite term of office given to them by said constitutional provision" (Paredes, Sunga and Valley cases, *supra*).

4. That "until a subsequent law or presidential decree provides otherwise, the right of respondent (protestee) to continue

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as mayor rests on the legality of his election which has been protested by herein petitioner. Should the court decide adversely against him the electoral protest, respondent (protestee) would cease to be mayor even before a law or presidential decree terminates his tenure of office pursuant to said Section 9 of Article XVII of the 1973 Constitution" (Equipilag, *supra*).

5. That "there is a difference between the 'term' of office and the 'right' to hold an office. A 'term' of office is the period during which an elected officer or appointee is entitled to hold office, perform its functions and enjoy its privileges and emoluments. A 'right' to hold a public office is the just and legal claim to hold and enjoy the powers and responsibilities of the office. In other words, the 'term' refers to the period, duration of length of time during which the occupant of an office is entitled to stay therein whether such period be definite or indefinite. Hence, although Section 9, Article XVII of the New Constitution made the term of the petitioners indefinite, it did not foreclose any challenge by the herein petitioners, in an election protest, of the 'right' of the private respondents to continue holding their respective office. What has been directly affected by said constitutional provision is the 'term' to the office, although the 'right' of the incumbent to an office which he is legally holding is co-extensive with the 'term' thereof," and that "it is erroneous to conclude that under Section 9, Article XVII of the New Constitution, the term of office of the private respondents expired, and that they are now holding their respective offices under a new term. We are of the opinion that they hold their respective offices still under the term to which they have been elected, although the same is now indefinite" (Paredes, Sunga and Valley cases, *supra*).

6. That the New Constitution recognized the continuing jurisdiction of courts of first instance to hear, try and decide election protests: "Section 7 of Article XVII of the New Constitution provides that 'all existing laws not inconsistent with this Constitution shall remain operative until amended, modified or repealed by the National Assembly.' And there has been no amendment, modification or repeal of Section 220 of the Election Code of 1971 which gave the herein petitioners

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the right to file an election contest against those proclaimed elected," and "according to Section 8, Article XVII of the New Constitution 'all courts existing at the time of the ratification of this Constitution shall continue and exercise their jurisdiction until otherwise provided by law in accordance with this Constitution, and all cases pending in said courts shall be heard, tried and determined under the laws then in force.' Consequently, the Courts of First Instance presided over by the respondent-Judges should continue and exercise their jurisdiction to hear, try and decide the election protests filed by herein petitioners" (Santos, Equipilag, Nuñez, Paredes, Sunga and Valley cases, *supra*).

While under the New Constitution the Commission on Elections is now the sole judge of all contests relating to the elections, returns, and qualifications of members of the National Assembly as well as elective provincial and city officials (par. 2 of Sec. 2, Article XII-C of the 1973 Constitution), such power does not extend to electoral contests concerning municipal elective positions.

7. That General Order No. 3, issued by the President of the Philippines merely reiterated his powers under Section 9 of Article XVII of the New Constitution. The President did not intend thereby to modify the aforesaid constitutional provision (Equipilag, *supra*).

General Order No. 3, as amended by General Order No. 3-A, does not expressly include electoral contests of municipal elective positions as among those removed from the jurisdiction of the courts; for said General Order, after affirming the jurisdiction of the Judiciary to decide in accordance with the existing laws on criminal and civil cases, simply removes from the jurisdiction of the civil court certain crimes specified therein as well as the validity, legality or constitutionality of any decree, order or acts issued by the President or his duly designated representative or by public servants pursuant to his decrees and orders issued under Proclamation No. 1081.

8. That General Order No. 3 may not be invoked by the courts to avoid exercise of their jurisdiction because to do so

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"is nothing short of unwarranted abdication of judicial authority, which no judge duly imbued with the implications of the paramount principle of independence of the judiciary should ever think of doing. It is unfortunate indeed that respondent Judge is apparently unaware that it is a matter of highly significant historical fact that this Court has always deemed General Order No. 3 including its amendment by General Order No. 3-A as practically inoperative even in the light of Proclamation No. 1081 of September 21, 1972 and Proclamation No. 1104 of January 17, 1973, placing the whole Philippines under martial law. While the members of the Court are not agreed on whether or not particular instances of attack against the validity of certain Presidential decrees raise political questions which the Judiciary would not interfere with, there is unanimity among Us in the view that it is for the Court rather than the Executive to determine whether or not We may take cognizance of any given case involving the validity of acts of the Executive Department purportedly under the authority of the martial law proclamations" (*Lina vs. Purisima*, 3 PHILAJUR 605, 610-611, 82 SCRA 344 [1978]).

II

1. In the light of the foregoing pronouncements, We hold that the electoral protest case herein involved has remained a justiciable controversy. No political question has ever been interwoven into this case. Nor is there any act of the incumbent President or the Legislative Department to be indirectly reviewed or interfered with if the respondent Judge decides the election protest. The term "political question" connotes what it means in ordinary parlance, namely, a question of policy. It refers to those questions which under the Constitution, are to be decided by the people in their sovereign capacity; or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government. It is concerned with issues dependent upon the wisdom, not legality, of a particular measure" (*Tañada vs. Cuenco*, L-1052, Feb. 28, 1957). A broader definition was advanced by U.S. Supreme Court Justice Brennan in *Baker vs. Carr* (369 U.S. 186 [1962]): "Prominent on the surface of any case held to involve a political question

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is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of respect due coordinate branches of the government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question" (p. 217). And Chief Justice Enrique M. Fernando, then an Associate Justice, of this Court fixed the limits of the term, thus: "The term has been made applicable to controversies clearly non-judicial and therefore beyond its jurisdiction or to an issue involved in a case appropriately subject to its cognizance, as to which there has been a prior legislative or executive determination to which deference must be paid (Cf. *Vera vs. Avelino,* 77 Phil. 192 [1946]; *Lopez vs. Roxas,* L-25716, July 28, 1966, 17 SCRA 756; *Gonzales vs. Commission on Elections*, L-28196, Nov. 9, 1967, 21 SCRA 774). It has likewise been employed loosely to characterize a suit where the party proceeded against is the President or Congress, or any branch thereof (Cf. *Planas vs. Gil,* 67 Phil. 62 [1937]; *Vera vs. Avelino,* 77 Phil. 192 [1946]). If to be delimited with accuracy; 'political questions should refer to such as would under the Constitution be decided by the people in their sovereign capacity or in regard to which full discretionary authority is vested either in the President or Congress. It is thus beyond the competence of the judiciary to pass upon.x x x" (*Lansang vs. Garcia*, 42 SCRA 448, 504-505 [1971]).

2. The only issue in the electoral protest case dismissed by respondent Judge on the ground of political question is who between protestant — herein petitioner — and protestee — herein respondent Yu — was the duly elected mayor of Rosales, Pangasinan, and legally entitled to enjoy the rights, privileges and emoluments appurtenant thereto and to discharge the functions, duties and obligations of the position. If the protestee's election is upheld by the respondent Judge, then he continues

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in office; otherwise, it is the protestant, herein petitioner. That is the only consequence of a resolution of the issue therein involved — a purely justiciable question or controversy as it implies a given right, legally demandable and enforceable, an act or omission violative of said right, and a remedy, granted or sanctioned by law, for said breach of right (*Tan vs. Republic, 107 Phil. 632-633 [1960]*). Before and after the ratification and effectivity of the New Constitution, the nature of the aforesaid issue as well as the consequences of its resolution by the Court, remains the same as above-stated.

3. Any judgment to be made on that issue will not in any way collide or interfere with the mandate of Section 9 of Article XVII of the New Constitution, as it will merely resolve who as between protestant and protestee is the duly elected mayor of Rosales, Pangasinan; hence, entitled to enjoy the extended term as mandated by said provision of the New Constitution. As construed by this Court, the elective officials referred to in Section 9 of Article XVII are limited to those duly elected as the right to said extended term was not personal to whosoever was incumbent at the time of the ratification and effectivity of the New Constitution. Nor would such judgment preempt, collide or interfere with the power or discretion entrusted by the New Constitution to the incumbent President or the Legislative Department, with respect to the extended term of the duly elected incumbents; because whoever between protestant and protestee is declared the duly elected mayor will be subject always to whatever action the President or the Legislative Department will take pursuant thereto.

4. Neither does Section 2 of Article XI stigmatize the issue in that electoral protest case with a political color. For simply, that section allocated unto the National Assembly the power to enact a local government code "which may not thereafter be amended except by a majority of all its Members, defining a more responsive and accountable local government allocating among the different local government units their powers, responsibilities, and resources, and providing for their qualifications, election and removal, term, salaries, powers, functions and duties of local officials, and all other matters

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relating to the organization and operation of the local units" but "x x x any change in the existing form of local government shall not take effect until ratified by a majority of the votes cast in a plebiscite called for the purpose." It is apparent at once that such power committed by the New Constitution to the National Assembly will not be usurped or preempted by whatever ruling or judgment the respondent Judge will render in the electoral protest case. Whoever will prevail in that contest will enjoy the indefinite term of the disputed office of mayor of Rosales, Pangasinan in the existing set-up of local government in this country; subject always to whatever change or modification the National Assembly will introduce when it will enact the local government code.

III

The construction made by respondent Judge of Sections 7 and 8 of Article XVII of the New Constitution "x x x that these refer to matters raised in the enforcement of existing laws or in the invocation of a court's jurisdiction which have not been 'entrusted to the so-called political department or reserved to be settled by its own extra-governmental action,'" strained as it is, cannot be sustained in view of the result herein reached on the issue of political question as well as Our previous pronouncements as above restated on the same Sections 7 and 8 of the New Constitution.

WHEREFORE, RESPONDENT COURT'S ORDER OF DISMISSAL IS HEREBY SET ASIDE AND THE RESPONDENT COURT IS DIRECTED TO IMMEDIATELY PROCEED WITH THE TRIAL AND DETERMINATION OF THE ELECTION PROTEST BEFORE IT ON THE MERITS. THIS DECISION SHALL BE IMMEDIATELY EXECUTORY UPON PROMULGATION HEREOF. NO COSTS.

Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.,* concur.

Teehankee (Chairman), J., in the result.