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[G.R. No. 56022. May 31, 1985]

GEMILIANO C. LOPEZ, JR., for himself and all other interested parties similarly situated in Metropolitan Manila, *petitioner, vs.* **THE HONORABLE COMMISSION ON ELECTIONS,** *respondent.*

[G.R. No. 56124. May 31, 1985]

GEMILIANO C. LOPEZ, JR. and REYNALDO B. ARALAR, for themselves and all other interested parties similarly situated as themselves in Metropolitan Manila, *petitioners, vs.* **THE HONORABLE METROPOLITAN MANILA COMMISSION,** *respondent.*

SYLLABUS

1. CONSTITUTIONAL LAW; PRESIDENTIAL DECREE NO. 824; NOT TAINTED WITH CONSTITUTIONAL INFIRMITY; CREATION OF METROPOLITAN MANILA JUSTIFIED BY A PUBLIC NEED.— In the Whereas clauses of P.D. No. 824, it is pointed out that "the rapid growth of population and the corresponding increase of social and economic requirements in the contiguous communities referred to has brought into being a large area that calls for development both simultaneous and unified. For may public services then rendered by local governments separately for themselves ought to be administered more efficiently and more economically, to the common benefit of the cities and municipalities in the area, if they are integrated and harmonized, under a system of central planning treating as a common problem the separate municipal needs. It is vital to the survival and growth of the aforementioned Greater Manila Area that a workable and effective system be established for the coordination, integration and unified management of such local government services or functions therein. There is necessity for the unified metropolitan services or functions to be planned, administered, and operated based on the highest professional technical standards." The foregoing constitutes

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the justification for and the objective of such Presidential Decree.

2. **ID.; ID.; ID.; ARTICLE XI, SEC. 3, CONSTITUTION SUBSTANTIALLY COMPLIED WITH THE REFERENDUM-PLEBISCITE HELD ON FEBRUARY 27, 1975.**— Petitioners, in assailing the constitutionality of P.D. No. 824, rely on this provision: "No province, city, municipality, or barrio may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code, and subject to the approval by a majority of the votes cast in a plebiscite in the unit or units affected." It cannot be argued that the plebiscite held in the areas affected to constitute Metropolitan Manila in the referendum on February 27, 1975 was not a sufficient compliance with the constitutional provision. With the voters in such four cities and thirteen municipalities, now composing Metropolitan Manila, having manifested their will to authorize the President to restructure their local governments into an integrated unit of the manager or commission type of government, the constitutional provision relied upon by petitioners has been satisfied. It is to be noted likewise that at the time of such plebiscite in February, 1975, there was no Local Government Code.

3. **ID.; ID.; ID.; P.D. NO. 824 ISSUED PURSUANT TO THE PRESIDENT'S LAW-MAKING AUTHORITY.**— Nor is there any question as to the Presidential authority to issue Presidential Decree No. 824 creating Metropolitan Manila in 1975. There was at the time no *interim* Batasan Pambansa as yet. It was the President who was then entrusted with such responsibility. So it was held in *Aquino, Jr. v. Commission on Election*, L-40004, Jan. 31, 1975. The *ponencia* of Justice Makasiar dispelled "all doubts as to the legality of such law-making authority by the President during the period of Martial law, ..." As the opinion went on to state: "The entire paragraph of Section 3(2) is not a grant of authority to legislate, but a recognition of such power as already existing in favor of the incumbent President during the period of Martial law."

4. **ID.; ID.; ID.; *MANDAMUS* PETITION TO HOLD ELECTIONS FOR THE *SANGGUNIANG PANGLUNGSOD* AND *SANGGUNIANG BAYAN* IN METRO MANILA WILL NOT LIE.**— *Mandamus* to require respondent Commission on

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Election to order the elections for members of the *Sanguguniang Panglungsod* and *Sanguniang Bayan* in the four cities and thirteen towns of Metropolitan Manila will not lie, it being provided in Presidential Decree No. 824 that "the *Sangguniang Bayan* shall be composed of as many barangay captains as may be determined and chosen by the Commission, and such number of representatives from other sectors of society as may be appointed by the President upon recommendation of the Commission." The Solicitor General can, therefore, plausibly assert: This demonstrates that the petition's charge, that there is no duly constituted Sangguniang Bayan in Metro Manila Area is untrue, and that the citizenry therein do have a voice in decision-making, through the respective Sangguniang Bayans of each of the political units therein. The Decree itself thus supplies the refutation to the contention of petitioner. The Decree itself thus supplies the refutation to the contention of petitioner.

5. **ID.; ID.; ID.; ID.; ABSENCE OF ELECTION FOR THE SANGGUNIANG BAYAN, NOT A DENIAL OF THE EQUAL PROTECTION PROVISION OF THE CONSTITUTION.**— It is clear that under the equal protection clause, classification is not forbidden. As was so well put by Justice Laurel in the leading case of *People v. Vera*, 65 Phil. 56 (1937): "Class legislation discriminating against some and favoring others is prohibited. But classification on a reasonable basis, and not made arbitrarily or capriciously is permitted. . . . The classification, however, to be reasonable must be based on substantial distinctions which make real differences; it must be germane to the purposes of the law; it must not be limited to existing conditions only, and must apply equally to each member of the class." All such elements are present. There is no need to set forth anew the compelling reasons that called for the creation of Metropolitan Manila. It is quite obvious that under the conditions then existing — still present and, with the continued growth of population, attended with more complexity — what was done was a response to a great public need. The government was called upon to act. Presidential Decree No. 824 was the result. It is not a condition for the validity of the Sangguniang Bayans provided for in the four cities and thirteen municipalities that the membership be identical with those of other cities and municipalities. There is ample justification for such a distinction. It does not by

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any means come under the category of what Professor Gunther calls suspect classification. There is thus no warrant for the view that the equal protection guarantee was violated.

6. **ID.; ID.; ID.; PRESIDENTIAL DECREE NO. 824 ACKNOWLEDGED IN LAW.**— The express constitutional affirmation of the existence of Metropolitan Manila in Art. VIII, Sec. 2 of the fundamental law calls for the dismissal of these petitions, there being no legal justification for the declaration of unconstitutionality of P.D. No. 824. Nor was it the first time that there has been acknowledgment in law of the creation of Metropolitan-Manila. It was also done in the Election Code of 1978. Then, in Sec. 3 of P.D. No. 1396 creating the Ministry of Human Settlements which established the Metropolitan Manila region as the National Capital Region of the Republic of the Philippines. Such regional representation was once again made clear in April 7, 1981 amendments to the Constitution. Lastly, in addition to Art. VIII, Sec. 2 of the Constitution, as approved on Jan. 27, 1984 is its accompanying ordinance which provides how members of the regular Batasang Pambansa shall be elected and apportioned including therein the representative districts of Metropolitan Manila. It would be, therefore, as contended by respondent Commission to show lack of fidelity to the Constitution if the prayer for the abolition of the Metropolitan Manila, which is expressly authorized and recognized by the fundamental law, be granted.

7. **ID.; ID.; ID.; POWER OF CONTROL OF THE PRESIDENT OVER THE METROPOLITAN MANILA COMMISSION LIMITED TO THOSE CONSIDERED NATIONAL IN CHARACTER.**— Sec. 13 of P.D. No. 824 may give rise to doubts as to its validity insofar as it confers the power of control on the President. That control he certainly exercises under the present Constitution over the ministries. His power over local governments does not go that far. It extends no further than general supervision. These doubts, however, do not suffice to nullify such a provision. The can be set at rest. *Yu Cong Eng v. Trinidad* [47 Phil. 385 (1925)] shows the way. The presidential power of control over acts of the Metro Manila Commission is limited to those that may be considered national in character. There can be no valid objection to such exercise of authority. It is undisputed that by virtue of the 1981 amendments to the constitution, once again, "there is one

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purpose which is crystal-clear and is readily visible without the projection of judicial search light, and that is, the establishment of a single, not plural, Executive. So it was affirmed in *Free Telephone Workers Union v. Minister of Labor* (G.R. No. 58184, Oct. 30, 1981). There is significance to the fact that the Local Government Code [*Batas Pambansa Blg.* 337 (1983)] does not include the Metro Manila Commission. That is clear recognition that some of its attributes are those of national character. Where, however, the acts of the Metro Manila Commission may be considered as properly appertaining to local government functions, the power of the President is confined to general supervision. As thus construed, Sec. 13 clearly appears to be free from any constitutional infirmity.

APPEARANCES OF COUNSEL

Reynaldo B. Aralar for and in his own behalf.
Jacinto D. Jimenez for petitioner G. Lopez, Jr.

D E C I S I O N

FERNANDO, *C.J.*:

Presidential Decree No. 824[1] was a response to a felt need for a "central government to establish and administer program and provide services common to" the cities of Manila, Quezon, Pasay, and Caloocan as well as thirteen municipalities[2] in the surrounding area. It is worth noting that such a problem was by no means unique and confined to the Philippines. Recent decades have witnessed a growing erosion in public confidence in the

[1] It was issued on November 7, 1975.

[2] Presidential Decree No. 824, Section 4, paragraph 1. Its Section 2 provides: "*Territorial Jurisdiction.* — The Commission shall have jurisdiction over the cities of Manila, Quezon, Pasay and Caloocan and the municipalities of Makati, Mandaluyong, San Juan, Las Piñas, Malabon, Navotas, Pasig, Pateros, Parañaque, Marikina, Muntinlupa, and Taguig in the province of Rizal; and the municipality of Valenzuela, in the province of Bulacan, all of which together shall henceforth be known as Metropolitan Manila."

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ability of local government units as traditionally organized to fulfill their responsibilities and discharge their functions effectively, efficiently, and satisfactorily.[3] The growth in population in Manila, the three other cities, and the adjacent municipalities has been unchecked since the end of World War II. There was of course the bright promise of a better life especially so with the proliferation of commercial firms and the establishment of industries. The lure has thus proved irresistible. The result has been the ever-increasing inability of the separate local governments to cope with the ensuing serious problems. A public corporation was thus created "to be known as the Metropolitan Manila, vested with powers and attributes of a corporation including the power to make contracts, sue and be sued, acquire, purchase, expropriate, hold, transfer and dispose of property and such other powers as are necessary to carry out its purposes."[4] It is administered by a Commission.[5]

Petitioners[6] in the second of the above cases[7] assail the constitutionality of Presidential Decree No. 824. They rely on this provision: "No province, city, municipality, or *barrio* may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code, and subject to the approval by a majority of the votes cast in a plebiscite in the unit or units affected."[8] The Local Government Code was not enacted until 1983.[9]

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[3] Cf. Symposium on Restructuring Metropolitan Area Government. Articles by then Senators Edmundo S. Muskie, Percival Goodman and Robert L. Linerberry, 58 Georgetown Law Journal, 663-715 (1970).

[4] Presidential Decree No. 824. Section 1.

[5] *Ibid.*

[6] The petitioners are Gemiliano C. Lopez, Jr., now an Assemblyman of Metropolitan Manila, and Reynaldo B. Aralar for themselves and all other interested parties similarly situated as themselves in Metropolitan Manila.

[7] G.R. No. 56124.

[8] Article XI, Section 3 of the Constitution.

[9] Batas Pambansa Blg. 337 was approved on February 10. 1983. Under its effectivity clause (Sec. 234), it took effect one month after its publication in the Official Gazette.

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For reasons to be set forth, it will be made apparent that such a challenge is far from formidable. It does not suffice to call for a declaration of unconstitutionality. Moreover, the last vestige of doubt has been removed by the present constitutional provision adopted in the plebiscite on January 27, 1984. Thus in the Article on Batasang Pambansa it is expressly provided: "The Batasang Pambansa which shall be composed of not more than 200 Members unless otherwise provided by law, shall include representatives elected from the different provinces with their component cities, highly urbanized cities as may be declared by or pursuant to law, and districts in Metropolitan Manila, those elected or selected from the various sectors as may be provided by law, and those chosen by the President from Members of the Cabinet. Each district in Metropolitan Manila shall comprise, as far as practicable, contiguous, compact and adjacent territory. The elective representatives shall be apportioned by law among the provinces with their component cities, highly urbanized cities, and the districts of Metropolitan Manila in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio, but the provinces with component cities and highly urbanized cities shall have at least one representative each. The provinces and cities shall have at least the same total number of representatives as under the 1935 Constitution."[10]

The recognition of the existence of Metropolitan Manila cannot be expressed any clearer. There can be no legal justification then for a declaration of unconstitutionality. Presidential Decree No. 824 is not tainted with constitutional infirmity.

1. In Presidential Decree No. 824, reference was made to "the referendum held on February 27, 1975 [wherein] the residents of the Greater Manila Area authorized the President to restructure the local governments of the four cities and 13 municipalities thereof into an integrated unit of the manager or commission form of government," with the terms and conditions being left to the discretion of the President.[11] It was then pointed out that

[10] Article VIII, Section 2 of the Constitution.

[11] Presidential Decree No. 824, first whereas clause.

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"the rapid growth of population and the corresponding increase of social and economic requirements in the contiguous communities referred to above has brought into being a large area that calls for [development both] simultaneous and unified."[12] For "many public services [then] rendered by local governments separately for themselves [ought to] be administered more efficiently and more economically, to the common benefit of the cities and municipalities in the area, if they are integrated and harmonized, under a system of central planning [treating as a common problem the] separate municipal needs."[13] It "is vital to the survival and growth of the aforementioned Greater Manila Area that a workable and effective system be established for the coordination, integration and unified management of such local government services or functions"[14] therein. There is necessity for "the unified metropolitan services or functions [to] be planned, administered, and operated [based on] the highest professional technical standards."[15] The foregoing constitutes the justification for and the objective of such Presidential Decree.

2. There is relevance to this opening paragraph in the recent case of *Paredes v. Executive Secretary*:[16] "The constitutional question raised in this declaratory relief proceeding treated as a special civil action for prohibition, one of first impression, arose from the issuance of a proclamation by the President, directing that a plebiscite be conducted in certain *barangays*, all within the municipality of Mayoyao, Province of Ifugao, segregated under a Batas Pambansa, 'to determine whether the said *barangays* shall become a new municipality to be known as the Municipality of Aguinaldo, Province of Ifugao.' In such proclamation, respondent Commission on Elections was charged with the duty of supervising the conduct of such plebiscite and empowered to promulgate the necessary rules and regulations

[12] *Ibid.*, second whereas clause.

[13] *Ibid.*, third whereas clause.

[14] *Ibid.*, fourth whereas clause.

[15] *Ibid.*, fifth whereas clause.

[16] G.R. No. 55628, March 2, 1984, 128 SCRA 6. The reference is to Batas Pambansa Blg. 86 (1980).

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to implement the proclamation. It is alleged that Batas Pambansa Blg. 86 is unconstitutional for being violative of Article XI, Section 3 of the Constitution. The basis for such contention is that the statute excluded from the plebiscite the voters from the *poblacion* and other *barangays* of the Municipality of Mayoyao except those mentioned in the Act."[17] The proclamation was issued on November 11, 1980, at least three years before the enactment of the local government code. The petition based on Article XI, Section 3 of the Constitution, the very same provision relied upon in this case, was dismissed. There were twelve (12) votes in favor of such dismissal, two of the Justices[18] voting to dismiss the petition on the ground that it had become moot and academic, the plebiscite having been duly held and the certificate of canvass and proclamation disclosing that out of the 2,409 total votes being cast in the plebiscite, 2,368 were cast in favor of the creation of the new municipality.[19] Justice Abad Santos dissented on the ground that the people in the *barangay* of the municipality of Aguinaldo should likewise have voted in the plebiscite, not only those of the *barangays* that constituted the new municipality. The Court did take note of the plausibility of such an approach but came to the conclusion that the constitutional provision on the need for a majority of the votes cast in the plebiscite in the unit or units affected would be satisfied even if "those voters who are not from the *barangay* to be separated [were] excluded in the plebiscite."[20] It cannot be argued therefore that the plebiscite held in the areas affected to constitute Metropolitan Manila in the referendum on February 27, 1975 was not a sufficient compliance with the constitutional provision. With the voters in such four cities and thirteen municipalities, now composing Metropolitan Manila, having manifested their will, the constitutional provision relied upon by petitioners has been satisfied. It is to be noted likewise that at the time of such plebiscite in February, 1975, there was no Local Government Code.

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[17] *Ibid.*, 8-9.

[18] *Ibid.*, 12. Makasiar and Plana, *JJ.*

[19] *Ibid.*.

[20] *Ibid.*, 10.

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3. Nor is there any question as to the Presidential authority to issue Presidential Decree No. 824 creating Metropolitan Manila in 1975. There was at the time no *interim* Batasang Pambansa. It was the President who was then entrusted with such responsibility. So it was held in *Aquino, Jr. v. Commission on Elections*,[21] decided in January of 1975. The *ponencia* of Justice Makasiar dispelled "all doubts as to the legality of such law-making authority by the President during the period of Martial Law, xxx"[22] As the opinion went on to state: "The entire paragraph of Section 3(2) is not a grant of authority to legislate, but a recognition of such power as already existing in favor of the incumbent President during the period of Martial Law."[23]

4. The sole petitioner in the other case[24] is likewise now Assemblyman Gemiliano C. Lopez, Jr. of Metropolitan Manila. It is a *mandamus* petition to require respondent Commission on Elections to order the elections for members of the Sangguniang Panglungsod and Sangguniang Bayan in the four cities and thirteen towns of Metropolitan Manila. As was stated in the Memorandum of the Solicitor General Estelito P. Mendoza, the fact that it is a suit for *mandamus* is an admission of the validity of Presidential Decree No. 824.[25] Nor would *mandamus* lie, it being provided therein that "the Sangguniang Bayan shall be composed of as many barangay captains as may be determined and chosen by the Commission, and such number of representatives from other

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[21] L-40004. January 31, 1975. 62 SCRA 275.

[22] *Ibid.*, 298.

[23] *Ibid.*, 298-299. Section 3, paragraph 2 of the Transitory Provisions of the 1973 Constitution. Article XVII. reads as follows: "All proclamations, orders. decrees. instructions. and acts promulgated issued. or done by the incumbent President shall be part of the law of the land, and shall remain valid, legal. binding. and effective even after lifting of martial law or the clarification of this Constitution. unless modified. revoked. or superseded by subsequent proclamations. orders. decrees. instructions. or other acts of the incumbent President. or unless expressly and explicitly modified or repealed by the regular National Assembly."

[24] G.R. No. 56022.

[25] Memorandum. 3.

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sectors of the society as may be appointed by the President upon recommendation of the Commission."[26] The Solicitor General can, therefore, plausibly assert: "This demonstrates that the petition's charge, that there is no duly constituted Sangguniang Bayan in Metro Manila Area is untrue, and that the citizenry therein do have a voice in decision-making, through the respective *Sangguniang Bayans* of each of the political units therein."[27] The Decree itself thus supplies the refutation to the contention of petitioner.

5. The point has been raised, however, that unless Presidential Decree No. 824 be construed in such a way that along with the rest of the other cities and municipalities, there should be elections for the Sangguniang Bayan, then there is a denial of the equal protection provision of the Constitution. The point is not well-taken. In a recent decision,[28] this Court reiterated the concept of equal protection in these words: "The applicable standard to avoid the charge that there is a denial of this constitutional mandate whether the assailed act is in the exercise of the police power or the power of eminent domain is to demonstrate that the government act assailed, far from being inspired by the attainment of the common weal was prompted by the spirit of hostility, or at the very least, discrimination that finds no support in reason. It suffices then that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed. Favoritism and undue preference cannot be allowed. For the principle is that equal protection and security shall be given to every person under circumstances, which, if not identical, are analogous. If law be looked upon in terms of burden or charges, those that fall within a class should be treated in the same fashion, whatever restrictions cast on

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[26] Presidential Decree No. 824, Section 9. Up to December 31, 1975, however, the "members of the existing municipal councils in Metropolitan Manila" continued as members of such offices.

[27] Comment of Respondent Commission on Elections, 7.

[28] *Sison, Jr. v. Ancheta*, G.R. No. 59431, July 25, 1984, 139 SCRA 654.

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some in the group equally binding on the rest.' That same formulation applies as well to taxation measures. The equal protection clause is, of course, inspired by the noble concept of approximating the ideal of the laws' benefits being available to all and the affairs of men being governed by that serene and impartial uniformity, which is of the very essence of the idea of law. There is, however, wisdom, as well as realism, in these words of Justice Frankfurter: 'The equality at which the "equal protection" clause aims is not a disembodied equality. The Fourteenth Amendment enjoins "the equal protection of the laws, and laws are not abstract propositions. They do not relate to abstract units A, B and C, but are expressions of policy arising out of specific difficulties, addressed to the attainment of specific ends by the use of specific remedies. The Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same.'"[29] It is clear that under the equal protection clause, classification is not forbidden. As was so well put by Justice Laurel as *ponente* in the leading case of *People v. Vera*:[30] "Class legislation discriminating against some and favoring others is prohibited. But classification on a reasonable basis, and not made arbitrarily or capriciously is permitted. xxx The classification, however, to be reasonable must be based on substantial distinctions which make real differences; it must be germane to the purposes of the law; it must not be limited to existing conditions only, and must apply equally to each member of the class."[31] All such elements are present. There is no need to set forth anew the compelling reasons that called for the creation of Metropolitan Manila. It is quite obvious that under the conditions then existing — still present and, with the continued growth of population, attended with more complexity — what was done was a response to a great public need. The government was called upon to act.

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[29] *Ibid.*, 662-663. The excerpt is from the opinion in *J.M. Tuason and Co. v. The Land Tenure Administration*, L-21064, February 18, 1970, 31 SCRA 413. The American Supreme Court decision cited is *Tigner v. Texas*, 310 US 141, 147 (1940).

[30] 65 Phil. 56 (1937).

[31] *Ibid.*, 125-126.

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Presidential Decree No. 824 was the result. It is not a condition for the validity of the Sangguniang Bayans provided for in the four cities and thirteen municipalities that the membership be identical with those of other cities or municipalities. There is ample justification for such a distinction. It does not by any means come under the category of what Professor Gunther calls suspect classification.[32] There is thus no warrant for the view that the equal protection guarantee was violated.

6. Reference was made earlier to Article VIII, Section 2 of the Constitution where there is express recognition of the juridical entity known as Metropolitan Manila. Such express constitutional affirmation of its existence in the fundamental law calls, as earlier noted, for the dismissal of these petitions, there being no legal justification for the declaration of unconstitutionality of Presidential Decree No. 824. Nor was it the first time that there has been acknowledgment in law of the creation of Metropolitan Manila. Thus according to the Election Code of 1978, "there shall be 160 regional representatives to the *interim* Batasang Pambansa apportioned among the thirteen regions of the nation in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio" with Region IV, with 19 representatives comprising "Metro Manila as follows: Cities of Manila, Quezon, Caloocan, and Pasay; and the municipalities of Valenzuela, Malabon, Navotas, Makati, Parañaque, Las Piñas, Mandaluyong, San Juan, Pasig, Muntinlupa, Marikina, Pateros, and Taguig."[33] Then there is this provision found in Presidential Decree No. 1396 creating the Ministry of Human Settlements: "SEC. 3. Establishment of the National Capital Region — In view of the critical importance of the Metropolitan Manila Region in human settlement development, it is hereby declared and established as the National Capital Region of the Republic of the Philippines, and its administration as such is hereby vested in the Secretary of Human Settlements. The pertinent provisions of Presidential

[32] Cf. Gunther, Cases and Materials on Constitutional Law, 10th ed., 761-789 (1980).

[33] Presidential Decree No. 1296, Section 12, Article II.

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Decree No. 824, creating the Metropolitan Manila Commission, are hereby accordingly amended,"[34] The fact of such regional representation was once again made clear in the April 7, 1981 amendments to the Constitution. Thus: "SEC. 2. The Batasang Pambansa which shall be composed of not more than 200 members unless otherwise provided by law, shall include representatives elected from the different regions of the Philippines, those elected or selected from various sectors as may be provided by law, and those chosen by the President from the members of the Cabinet. Regional representatives shall be apportioned among the regions in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio."[35] Lastly, in addition to Article VIII, Section 2 of the Constitution as approved on January 27, 1984, its accompanying ordinance reads as follows: "SECTION 1. For purposes of the election of Members of the regular Batasang Pambansa on the second Monday of May 1984 and subsequent elections and until otherwise provided by law, the Members of the Batasang Pambansa, other than the sectoral representatives and those chosen by the President from the Cabinet, shall be apportioned to the different provinces with their component cities, highly urbanized cities and the representative districts of Metropolitan Manila as follows: 'National Capital Region: Manila, six (6); Quezon City, four (4); Caloocan, two (2); Pasay, one (1); Pasig and Marikina, two (2); Las Piñas and Parañaque, one (1); Makati, one (1); Malabon, Navotas and Valenzuela, two (2); San Juan and Mandaluyong, one (1); Taguig, Pateros and Muntinlupa, one (1).'"[36] It would be, therefore, as contended by respondent Commission to show lack of fidelity to the Constitution if the prayer for the abolition of the Metropolitan Manila, which is expressly authorized and recognized by the fundamental law, be granted.

7. One last point. It is undeniable, therefore, that the creation of the Metropolitan Manila Commission is free from any

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[34] Presidential Decree No. 1396, Section 3 (1978).

[35] Article VIII, Section 2 of the Constitution.

[36] Section 1 of the Ordinance.

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constitutional objection. There is, however, a question that may arise in connection with the powers of the President over the Commission. According to Presidential Decree No. 824: "The Commission, the General Manager and any official of the Commission shall be under the direct supervision and control of the President. Notwithstanding any provision in this Decree, the President shall have the power to revoke, amend or modify any ordinance, resolution or act of the Commission, the General and the Commissioners."[37] It may give rise to doubts as to its validity insofar as it confers the power of control on the President. That control he certainly exercises under the present Constitution over the ministries.[38] His power over local governments does not go that far. It extends no further than general supervision.[39] These doubts, however, do not suffice to nullify such a provision. They can be set at rest. *Yu Cong Eng v. Trinidad*[40] shows the way. After reiterating the classic doctrine of the presumption being always in favor of constitutionality, Justice Malcolm, as ponente, categorically declared: "To doubt is to sustain."[41] In this case, the validity of Republic Act No. 2972 of the Philippine Legislature, popularly known as the Chinese Bookkeeping Law, was questioned. According to the opinion of Justice Malcolm: "A literal application of the law would make it unlawful for any Chinese merchant to keep his account books in any language other than English, Spanish, or a local dialect. The petitioners

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[37] Section 13 (1975).

[38] Article VII, Section 10 of the present Constitution provides: "The President shall have control of the ministries."

[39] According to Article VII. Section 18 of the present Constitution: "All powers vested in the President of the Philippines under the 1935 Constitution and the laws of the land which are not herein provided for or conferred upon any official shall be deemed and are hereby vested in the President unless the Batasang Pambansa provides otherwise." According to Article VII. Section 10 (1) of the 1935 Constitution: "The President shall have control of all the executive departments. bureaus. or offices. exercise general supervision over all the local governments as may be provided by law. and take care that the laws be faithfully executed."

[40] 47 Phil. 385 (1925).

[41] *Ibid.*, 414.

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say the law is susceptible of that interpretation. But such interpretation might, and probably would, cause us to hold the law unconstitutional."[42] The construction adopted which the Court considered permissible is "that the law only intended to require the keeping of such books as were necessary in order to facilitate governmental inspection for tax purposes."[43] Such a conclusion was reached by the invocation of "an elementary, a fundamental, and a universal rule of construction, applied when considering constitutional questions, that when a law is susceptible of two constructions one of which will maintain and the other destroy it, the courts will always adopt the former."[44] Succinctly put, that construction that would save is to be preferred as against one that will destroy. As phrased by Chief Justice Hughes in *Crowell v. Benson*,[45] "if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided."[46] Nor does it argue against the authoritative character of Justice Malcolm's *ponencia* in Yu Cong Eng that it was reversed in an appeal to the United States Supreme Court.[47] During the period of American sovereignty, such jurisdiction could validly be exercised. Its decision then nullifying the Chinese Bookkeeping Law is the law of the case. It does not follow, however, that the reasoning on which the Philippine decisions was based is bereft of any legal significance. It does not admit of doubt that Justice Malcolm and his brethren considered fully the precise problem presented and the need for such a measure to assure that the taxes to

[42] *Ibid.*, 418.

[43] *Ibid.*

[44] *Ibid.*, 415. Cf. In re Guariaña, 24 Phil. 37 (1913); *Radiowealth v. Agregado*, 86 Phil. 429 (1950); *Sanchez v. Lyons Construction*. 87 Phil. 209 (1950).

[45] 285 US (1931).

[46] *Ibid*, 62. Cf. *Lucas v. Alexander*, 279 US 573 (1928); *United States v. Rumely*, 345 US 41 (1953); *United States v. National Dairy Products Corp.*, 373 US 29 (1963); Ex parte Endo, 323 US 283 (1944); *Chippewa Indians v. United States*, 301 US 358 (1937).

[47] 271 US 500 (1925).

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which the Philippine government was entitled would be fully paid. It cannot be said that the American Supreme Court — in this as in other cases of Philippine origin — was as well-informed. It did not possess — it could not possess — full awareness of the conditions then existing in this country. After July 4, 1946, when the Philippine declared its independence, therefore, it is not only understandable but also proper that there be less reliance on American Supreme Court decisions. What is undeniable as shown by the foregoing citations of cases— both Philippine and American — is that the approach followed by Justice Malcolm in the interpretation of statutes to avoid any doubt as to its validity remains a fundamental canon.

8. To show fidelity to this basic principle of construction is to lend substance to the equally basic doctrine that the constitution enters into and forms part of every statute.[48] Accordingly, the presidential power of control over acts of the Metro Manila Commission is limited to those that may be considered national in character. There can be no valid objection to such exercise of authority. It is undisputed that by virtue of the 1981 amendments to the Constitution, once again, "there is one purpose which is crystal-clear and is readily visible without the projection of judicial search light, and that is, the establishment of a single, not plural, Executive."[49] So it was affirmed in *Free Telephone Workers Union v. Minister of Labor*.[50] There is significance to the fact that the Local Government Code[51] does not include the Metro Manila Commission. That is a clear recognition that some of its attributes are those of a national character. Where, however, the acts of the Metro Manila Commission may be considered as properly appertaining to local government functions, the power of the President is confined

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[48] Cf. *Nuñez v. Sandiganbayan*, 50581-50617, Jan. 30, 1982, 111 SCRA 433; *De la Llana v. Alba*, 57883, March 12, 1982, 112 SCRA 294.

[49] The quotation is from the opinion of *Justice Laurel in Villena v. Secretary of Interior*, 67 Phil. 451, 464 (1937).

[50] G.R. No. 58184, October 30, 1981, 108 SCRA 757.

[51] Batas Pambansa Blg. 337 (1983).

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to general supervision. As thus construed, Section 13 clearly appears to be free from any constitutional infirmity.

WHEREFORE, the petition in G.R. No. 56022 entitled *Gemiliano C. Lopez, Jr. v. Commission on Elections*, and the petition in G.R. No. 56124 entitled *Gemiliano C. Lopez, Jr. and Reynaldo B. Aralar v. Metropolitan Manila Commission*, are dismissed. No costs.

Aquino, *Melencio-Herrera*, *Escolin*, *Relova*, *Gutierrez, Jr.*, *De la Fuente*, *Cuevas*, and *Alampay, JJ.*, concur.

Makasiar, J., and estoppel is another ground.

Concepcion Jr. and *Plana, JJ.*, on leave.

ABAD SANTOS, *J., dissenting*:

I am not in agreement with the learned Chief Justice when he states that Presidential Decree No. 824 is not unconstitutional. I hold a contrary view for the following reasons among others:

1. The referendum of February 27, 1975, did not satisfy the prohibition contained in Art. XI, Sec. 3 of the 1973 Constitution. For one thing the provision speaks of "the criteria established in the local government code." There was then no local government code so there were no criteria. Also the grant of power to restructure the 4 cities and 13 municipalities in the Greater Manila area "under such terms and conditions as the President may decide" was so broad that it was in fact not an intelligent decision on the part of the people. I submit that a grant of power must be definite to be valid; it must not be nebulous and uncircumscribed so as to amount to a total abdication thereof. Finally, the referendum did not include all of the peoples of Bulacan and Rizal to ascertain if they were willing to give up some of their towns to Metropolitan Manila. The referendum suffers from the same infirmity present in the case of *Paredes vs. Executive Secretary*, cited in the main opinion, where I dissented.

2. The January 27, 1984, amendment to the Constitution providing for representation in the Batasang Pambansa and which

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allocates representatives to "districts in Metropolitan Manila" cannot be construed to constitutionally validate P.D. No. 824 for the simple reason that the issue before the people when the amendment was submitted for ratification was not the creation of the Metropolitan Manila Commission.

In the light of the foregoing, I vote to grant the petitions.

FIRST DIVISION

[G.R. No. 56744. May 31, 1985]

ROMUALDO AVELLANEDA, LEONA BRACERO, PASCUAL AVELLANEDA and PLACIDA MERTO, *petitioners, vs.* **COURT OF APPEALS, MARIA REGADO, DALISAY VILLAMANTO, AMADO VILLAMANTO and NORMA VILLAMANTO,** *respondents.*

SYLLABUS

1. **CIVIL LAW; PUBLIC LAND LAW; HOMESTEAD PATENT; REQUIREMENT BEFORE AN HEIR SUCCEEDS THE APPLICANT WHEN HE DIES.**— When a homestead applicant dies, two questions of fact arise: who are the heirs-in-law; the second is, who are the heirs-in-law who, after the death of the applicant, have complied with the requirements for the issuance of the homestead patent.

2. **ID.; ID.; ID.; ID.; CASE AT BAR.**— It should be recalled that the DECEDENT died in 1939. The land applied for was surveyed on August 24, 1940 and was approved on December 20, 1940. On January 14, 1941, the Director of Lands issued the patent in the name of the Heirs of Eusebio Villamanto. Because the CHILDREN in 1939-1941, were still of tender ages, it has to be concluded that it was the WIDOW, among the DECEDENT's