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[G.R. No. 176951, November 18, 2008]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF BAYBAY, PROVINCE OF LEYTE; MUNICIPALITY OF BOGO, PROVINCE OF CEBU; MUNICIPALITY OF CATBALOGAN, PROVINCE OF WESTERN SAMAR; MUNICIPALITY OF TANDAG, PROVINCE OF SURIGAO DEL SUR; MUNICIPALITY OF BORONGAN, PROVINCE OF EASTERN SAMAR; AND MUNICIPALITY OF TAYABAS, PROVINCE OF QUEZON, RESPONDENTS.

CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.

G.R. No. 177499

LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF LAMITAN, PROVINCE OF BASILAN; MUNICIPALITY OF TABUK, PROVINCE OF KALINGA; MUNICIPALITY OF BAYUGAN, PROVINCE OF AGUSAN DEL SUR; MUNICIPALITY OF BATAC, PROVINCE OF ILOCOS NORTE;

MUNICIPALITY OF MATI, PROVINCE OF DAVAO ORIENTAL; AND MUNICIPALITY OF GUIHULNGAN, PROVINCE OF NEGROS ORIENTAL, RESPONDENTS.

CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.

G.R. No. 178056

LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF CABADBARAN, PROVINCE OF AGUSAN DEL NORTE; MUNICIPALITY OF CARCAR, PROVINCE OF CEBU; AND MUNICIPALITY OF EL SALVADOR, MISAMIS ORIENTAL,RESPONDENTS.

CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.

D E C I S I O N

CARPIO, J.:

The Case

These are consolidated petitions for prohibition[1] with prayer for the issuance of a writ of preliminary injunction or temporary restraining order filed by the League of Cities of the Philippines, City of Iloilo, City of Calbayog, and Jerry P. Treñas[2] assailing the constitutionality of the subject Cityhood Laws and enjoining the Commission on Elections (COMELEC) and respondent municipalities from conducting plebiscites pursuant to the Cityhood Laws.

The Facts

During the 11th Congress,[3] Congress enacted into law 33 bills converting 33 municipalities into cities. However, Congress did not act on bills converting 24 other municipalities into cities.

During the 12th Congress,[4] Congress enacted into law Republic Act No. 9009 (RA 9009),[5] which took effect on 30 June 2001. RA 9009 amended Section 450 of the Local Government Code by increasing the annual income requirement for conversion of a municipality into a city from P20 million to P100 million. The rationale for the amendment was to restrain, in the words of Senator Aquilino Pimentel, "the mad rush" of municipalities to convert into cities solely to secure a larger share in the Internal Revenue Allotment despite the fact that they are incapable of fiscal independence.[6]

After the effectivity of RA 9009, the House of Representatives of the 12th Congress[7] adopted Joint Resolution No. 29,[8] which sought to exempt from the P100 million income requirement in RA 9009 the 24 municipalities whose cityhood bills were not approved in the 11th Congress. However, the 12th Congress ended without the Senate approving Joint Resolution No. 29.

During the 13th Congress,[9] the House of Representatives re-adopted Joint Resolution No. 29 as Joint Resolution No. 1 and forwarded it to the Senate for approval. However, the Senate again failed to approve the Joint Resolution. Following the advice of Senator Aquilino Pimentel, 16 municipalities filed, through their respective sponsors, individual cityhood bills. The 16 cityhood bills contained a common provision exempting all the 16 municipalities from the P100 million income requirement in RA 9009.

On 22 December 2006, the House of Representatives approved the cityhood bills. The Senate also approved the cityhood bills in February 2007, except that of Naga, Cebu which was passed on 7 June 2007. The cityhood bills lapsed into law (Cityhood Laws[10]) on various dates from March to July 2007 without the President's signature.[11]

The Cityhood Laws direct the COMELEC to hold plebiscites to determine whether the voters in each respondent municipality approve of the conversion of their municipality into

a city.

Petitioners filed the present petitions to declare the Cityhood Laws unconstitutional for violation of Section 10, Article X of the Constitution, as well as for violation of the equal protection clause.[12] Petitioners also lament that the wholesale conversion of municipalities into cities will reduce the share of existing cities in the Internal Revenue Allotment because more cities will share the same amount of internal revenue set aside for all cities under Section 285 of the Local Government Code.[13]

The Issues

The petitions raise the following fundamental issues:

1. Whether the Cityhood Laws violate Section 10, Article X of the Constitution; and
2. Whether the Cityhood Laws violate the equal protection clause.

The Ruling of the Court

We grant the petitions.

The Cityhood Laws violate Sections 6 and 10, Article X of the Constitution, and are thus unconstitutional.

First, applying the P100 million income requirement in RA 9009 to the present case is a prospective, not a retroactive application, because RA 9009 took effect in 2001 while the cityhood bills became law more than five years later.

Second, the Constitution requires that Congress shall prescribe all the criteria for the creation of a city in the Local Government Code and not in any other law, including the Cityhood Laws.

Third, the Cityhood Laws violate Section 6, Article X of the Constitution because they prevent a fair and just distribution of the national taxes to local government units.

Fourth, the criteria prescribed in Section 450 of the Local Government Code, as amended by RA 9009, for converting a municipality into a city are clear, plain and unambiguous, needing no resort to any statutory construction.

Fifth, the intent of members of the 11th Congress to exempt certain municipalities from the coverage of RA 9009 remained an intent and was never written into Section 450 of the Local Government Code.

Sixth, the deliberations of the 11th or 12th Congress on unapproved bills or resolutions are

not extrinsic aids in interpreting a law passed in the 13th Congress.

Seventh, even if the exemption in the Cityhood Laws were written in Section 450 of the Local Government Code, the exemption would still be unconstitutional for violation of the equal protection clause.

Preliminary Matters

Prohibition is the proper action for testing the constitutionality of laws administered by the COMELEC,[14] like the Cityhood Laws, which direct the COMELEC to hold plebiscites in implementation of the Cityhood Laws. Petitioner League of Cities of the Philippines has legal standing because Section 499 of the Local Government Code tasks the League with the "primary purpose of ventilating, articulating and crystallizing issues affecting city government administration and securing, through proper and legal means, solutions thereto."[15] Petitioners-in-intervention,[16] which are existing cities, have legal standing because their Internal Revenue Allotment will be reduced if the Cityhood Laws are declared constitutional. Mayor Jerry P. Treñas has legal standing because as Mayor of Iloilo City and as a taxpayer he has sufficient interest to prevent the unlawful expenditure of public funds, like the release of more Internal Revenue Allotment to political units than what the law allows.

Applying RA 9009 is a Prospective Application of the Law

RA 9009 became effective on 30 June 2001 during the 11th Congress. This law specifically amended Section 450 of the Local Government Code, which now provides:

> Section 450. *Requisites for Creation*. -- (a) A municipality or a cluster of barangays may be converted into a component city if it has a locally generated **average annual income, as certified by the Department of Finance, of at least One hundred million pesos (P100,000,000.00) for the last two (2) consecutive years based on 2000 constant prices**, and if it has either of the following requisites:
>
> > (i) a contiguous territory of at least one hundred (100) square kilometers, as certified by the Land Management Bureau; or
> >
> > (ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office.
>
> The creation thereof shall not reduce the land area, population and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.
>
> (b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply

where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, transfers, and non-recurring income. (Emphasis supplied)

Thus, RA 9009 increased the income requirement for conversion of a municipality into a city from P20 million to P100 million. Section 450 of the Local Government Code, as amended by RA 9009, does not provide any exemption from the increased income requirement.

Prior to the enactment of RA 9009, a total of 57 municipalities had cityhood bills pending in Congress. Thirty-three cityhood bills became law before the enactment of RA 9009. **Congress did not act on 24 cityhood bills during the 11th Congress**.

During the 12th Congress, the House of Representatives adopted Joint Resolution No. 29, exempting from the income requirement of P100 million in RA 9009 the 24 municipalities whose cityhood bills were not acted upon during the 11th Congress. This Resolution reached the Senate. **However, the 12th Congress adjourned without the Senate approving Joint Resolution No. 29**.

During the 13th Congress, 16 of the 24 municipalities mentioned in the unapproved Joint Resolution No. 29 filed between November and December of 2006, through their respective sponsors in Congress, individual cityhood bills containing a common provision, as follows:

Exemption from Republic Act No. 9009. -- The City of x x x shall be exempted from the income requirement prescribed under Republic Act No. 9009.

This common provision *exempted* each of the 16 municipalities from the income requirement of P100 million prescribed in Section 450 of the Local Government Code, as amended by RA 9009. These cityhood bills lapsed into law on various dates from March to July 2007 after President Gloria Macapagal-Arroyo failed to sign them.

Indisputably, Congress passed the Cityhood Laws long ***after*** the effectivity of RA 9009. **RA 9009 became effective on 30 June 2001 or during the 11th Congress. The 13th Congress passed in December 2006 the cityhood bills which became law only in 2007.** Thus, respondent municipalities cannot invoke the principle of non-retroactivity of laws. [17] This basic rule has no application because RA 9009, an earlier law to the Cityhood Laws, is not being applied retroactively but prospectively.

Congress Must Prescribe in the Local Government Code All Criteria

Section 10, Article X of the 1987 Constitution provides:

> No province, city, municipality, or barangay shall 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 approval by a majority of the votes cast in a plebiscite in the political units directly affected. (Emphasis supplied)

The Constitution is clear. The creation of local government units must follow the **criteria established in the Local Government Code** and not in any other law. There is only one Local Government Code.[18] The Constitution requires Congress to stipulate in the Local Government Code all the criteria necessary for the creation of a city, including the conversion of a municipality into a city. Congress cannot write such criteria in any other law, like the Cityhood Laws.

The criteria prescribed in the Local Government Code govern exclusively the creation of a city. No other law, not even the charter of the city, can govern such creation. The clear intent of the Constitution is to insure that the creation of cities and other political units must follow **the same uniform, non-discriminatory criteria found solely in the Local Government Code**. Any derogation or deviation from the criteria prescribed in the Local Government Code violates Section 10, Article X of the Constitution.

RA 9009 amended Section 450 of the Local Government Code to increase the income requirement from P20 million to P100 million for the creation of a city. **This took effect on 30 June 2001 . Hence, from that moment the Local Government Code required that any municipality desiring to become a city must satisfy the P100 million income requirement**. Section 450 of the Local Government Code, as amended by RA 9009, does not contain any exemption from this income requirement.

In enacting RA 9009, Congress did not grant any exemption to respondent municipalities, even though their cityhood bills were pending in Congress when Congress passed RA 9009. The Cityhood Laws, all enacted ***after*** the effectivity of RA 9009, explicitly exempt respondent municipalities from the increased income requirement in Section 450 of the Local Government Code, as amended by RA 9009. **Such exemption clearly violates Section 10, Article X of the Constitution and is thus patently unconstitutional. To be valid, such exemption must be written in the Local Government Code and not in any other law, including the Cityhood Laws.**

Cityhood Laws Violate Section 6, Article X of the Constitution

Uniform and non-discriminatory criteria as prescribed in the Local Government Code are essential to implement a fair and equitable distribution of national taxes to all local government units. Section 6, Article X of the Constitution provides:

> Local government units shall have a **just share**, as determined by law, in the

national taxes which shall be automatically released to them. (Emphasis supplied)

If the criteria in creating local government units are not uniform and discriminatory, there can be no fair and just distribution of the national taxes to local government units.

A city with an annual income of only P20 million, all other criteria being equal, should not receive the same share in national taxes as a city with an annual income of P100 million or more. The criteria of land area, population and income, as prescribed in Section 450 of the Local Government Code, must be strictly followed because such criteria, prescribed by law, are material in determining the "just share" of local government units in national taxes. Since the Cityhood Laws do not follow the income criterion in Section 450 of the Local Government Code, they prevent the fair and just distribution of the Internal Revenue Allotment in violation of Section 6, Article X of the Constitution.

Section 450 of the Local Government Code is Clear, Plain and Unambiguous

There can be no resort to extrinsic aids -- like deliberations of Congress -- if the language of the law is plain, clear and unambiguous. Courts determine the intent of the law from the literal language of the law, within the law's four corners.[19] If the language of the law is plain, clear and unambiguous, courts simply apply the law according to its express terms. If a literal application of the law results in absurdity, impossibility or injustice, then courts may resort to extrinsic aids of statutory construction like the legislative history of the law. [20]

Congress, in enacting RA 9009 to amend Section 450 of the Local Government Code, did not provide any exemption from the increased income requirement, not even to respondent municipalities whose cityhood bills were then pending when Congress passed RA 9009. Section 450 of the Local Government Code, as amended by RA 9009, contains no exemption whatsoever. Since the law is clear, plain and unambiguous that any municipality desiring to convert into a city must meet the increased income requirement, there is no reason to go beyond the letter of the law in applying Section 450 of the Local Government Code, as amended by RA 9009.

The 11th Congress' Intent was not Written into the Local Government Code

True, members of Congress discussed exempting respondent municipalities from RA 9009, as shown by the various deliberations on the matter during the 11th Congress. However, Congress did not write this intended exemption into law. Congress could have easily included such exemption in RA 9009 but Congress did not. This is fatal to the cause of respondent municipalities because such exemption must appear in RA 9009 as an amendment to Section 450 of the Local Government Code. The Constitution requires that the criteria for the conversion of a municipality into a city, including any exemption from

such criteria, must all be written in the Local Government Code. Congress cannot prescribe such criteria or exemption from such criteria in any other law. **In short, Congress cannot create a city through a law that does not comply with the criteria or exemption found in the Local Government Code**.

Section 10 of Article X is similar to Section 16, Article XII of the Constitution prohibiting Congress from creating private corporations except by a general law. Section 16 of Article XII provides:

> **The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations**. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability. (Emphasis supplied)

Thus, Congress must prescribe all the criteria for the "formation, organization, or regulation" of private corporations in a **general law applicable to all without discrimination**.[21] Congress cannot create a private corporation through a special law or charter.

Deliberations of the 11th Congress on Unapproved Bills Inapplicable

Congress is not a continuing body.[22] The **unapproved** cityhood bills filed during the 11th Congress became mere scraps of paper upon the adjournment of the 11th Congress. All the hearings and deliberations conducted during the 11th Congress on unapproved bills also became worthless upon the adjournment of the 11th Congress. **These hearings and deliberations cannot be used to interpret bills enacted into law in the 13th or subsequent Congresses**.

The members and officers of each Congress are different. All unapproved bills filed in one Congress become *functus officio* upon adjournment of that Congress and must be re-filed anew in order to be taken up in the next Congress. When their respective authors re-filed the cityhood bills in 2006 during the 13th Congress, the bills had to start from square one again, going through the legislative mill just like bills taken up for the first time, from the filing to the approval. Section 123, Rule XLIV of the Rules of the Senate, on Unfinished Business, provides:

> Sec. 123. x x x
>
> **All pending matters and proceedings shall terminate upon the expiration of one (1) Congress**, but may be taken by the succeeding Congress **as if presented for the first time**. (Emphasis supplied)

Similarly, Section 78 of the Rules of the House of Representatives, on Unfinished Business, states:

> Section 78. Calendar of Business. The Calendar of Business shall consist of the following:
>
> > a. Unfinished Business. This is business being considered by the House at the time of its last adjournment. Its consideration shall be resumed until it is disposed of. The Unfinished Business at the end of a session shall be resumed at the commencement of the next session as if no adjournment has taken place. **At the end of the term of a Congress, all Unfinished Business are deemed terminated**. (Emphasis supplied)

Thus, the deliberations during the 11th Congress on the unapproved cityhood bills, as well as the deliberations during the 12th and 13th Congresses on the unapproved resolution exempting from RA 9009 certain municipalities, have no legal significance. They do not qualify as extrinsic aids in construing laws passed by subsequent Congresses.

Applicability of Equal Protection Clause

If Section 450 of the Local Government Code, as amended by RA 9009, contained an exemption to the P100 million annual income requirement, the criteria for such exemption could be scrutinized for possible violation of the equal protection clause. Thus, the criteria for the exemption, if found in the Local Government Code, could be assailed on the ground of absence of a valid classification. However, Section 450 of the Local Government Code, as amended by RA 9009, does not contain any exemption. The exemption is contained in the Cityhood Laws, which are unconstitutional because such exemption must be prescribed in the Local Government Code as mandated in Section 10, Article X of the Constitution.

Even if the exemption provision in the Cityhood Laws were written in Section 450 of the Local Government Code, as amended by RA 9009, such exemption would still be unconstitutional for violation of the equal protection clause. The exemption provision merely states, "**Exemption from Republic Act No. 9009 â”€ The City of x x x shall be exempted from the income requirement prescribed under Republic Act No. 9009.**" This one sentence exemption provision contains no classification standards or guidelines differentiating the exempted municipalities from those that are not exempted.

Even if we take into account the deliberations in the 11th Congress that municipalities with pending cityhood bills should be exempt from the P100 million income requirement, there is still no valid classification to satisfy the equal protection clause. **The exemption will be based solely on the fact that the 16 municipalities had cityhood bills pending in the 11th Congress when RA 9009 was enacted**. This is not a valid classification between those entitled and those not entitled to exemption from the P100 million income requirement.

To be valid, the classification in the present case must be based on substantial distinctions, rationally related to a legitimate government objective which is the purpose of the law,[23] not limited to existing conditions only, and applicable to all similarly situated. Thus, this Court has ruled:

> The equal protection clause of the 1987 Constitution permits a valid classification under the following conditions:
>
> 1. The classification must rest on substantial distinctions;
> 2. The classification must be germane to the purpose of the law;
> 3. The classification must not be limited to existing conditions only; and
> 4. The classification must apply equally to all members of the same class.[24]

There is no substantial distinction between municipalities with pending cityhood bills in the 11th Congress and municipalities that did not have pending bills. The mere pendency of a cityhood bill in the 11th Congress is not a material difference to distinguish one municipality from another for the purpose of the income requirement. The pendency of a cityhood bill in the 11th Congress does not affect or determine the level of income of a municipality. Municipalities with pending cityhood bills in the 11th Congress might even have lower annual income than municipalities that did not have pending cityhood bills. In short, the classification criterion − mere pendency of a cityhood bill in the 11th Congress − is not rationally related to the purpose of the law which is to prevent fiscally non-viable municipalities from converting into cities.

Municipalities that did not have pending cityhood bills were not informed that a pending cityhood bill in the 11th Congress would be a condition for exemption from the increased P100 million income requirement. Had they been informed, many municipalities would have caused the filing of their own cityhood bills. These municipalities, even if they have bigger annual income than the 16 respondent municipalities, cannot now convert into cities if their income is less than P100 million.

The fact of pendency of a cityhood bill in the 11th Congress limits the exemption to a specific condition existing at the time of passage of RA 9009. That specific condition will never happen again. This violates the requirement that a valid classification must not be limited to existing conditions only. This requirement is illustrated in *Mayflower Farms, Inc. v. Ten Eyck*,[25] where the challenged law allowed milk dealers engaged in business prior to a fixed date to sell at a price lower than that allowed to newcomers in the same business. In *Mayflower*, the U.S. Supreme Court held:

> We are referred to a host of decisions to the effect that a regulatory law may be prospective in operation and may except from its sweep those presently engaged in the calling or activity to which it is directed. Examples are statutes licensing

> physicians and dentists, which apply only to those entering the profession subsequent to the passage of the act and exempt those then in practice, or zoning laws which exempt existing buildings, or laws forbidding slaughterhouses within certain areas, but excepting existing establishments. **The challenged provision is unlike such laws, since, on its face, it is not a regulation of a business or an activity in the interest of, or for the protection of, the public, but an attempt to give an economic advantage to those engaged in a given business at an arbitrary date as against all those who enter the industry after that date**. The appellees do not intimate that the classification bears any relation to the public health or welfare generally; that the provision will discourage monopoly; or that it was aimed at any abuse, cognizable by law, in the milk business. In the absence of any such showing, we have no right to conjure up possible situations which might justify the discrimination. The classification is arbitrary and unreasonable and denies the appellant the equal protection of the law. (Emphasis supplied)

In the same vein, the exemption provision in the Cityhood Laws gives the 16 municipalities a unique advantage based on an arbitrary date − the filing of their cityhood bills before the end of the 11th Congress - as against all other municipalities that want to convert into cities after the effectivity of RA 9009.

Furthermore, limiting the exemption only to the 16 municipalities violates the requirement that the classification must apply to all similarly situated. Municipalities with the same income as the 16 respondent municipalities cannot convert into cities, while the 16 respondent municipalities can. Clearly, as worded the exemption provision found in the Cityhood Laws, even if it were written in Section 450 of the Local Government Code, would still be unconstitutional for violation of the equal protection clause.

WHEREFORE, we **GRANT** the petitions and declare **UNCONSTITUTIONAL** the Cityhood Laws, namely: Republic Act Nos. 9389, 9390, 9391, 9392, 9393, 9394, 9398, 9404, 9405, 9407, 9408, 9409, 9434, 9435, 9436, and 9491.

SO ORDERED.

Puno, C.J., no part.
Quisumbing, Carpio, Austria-Martinez, Corona, Carpio Morales, Velasco, Jr., and *Brion, JJ.*, concur.
Ynares-Santiago, J., on leave.
Azcuna, Chico-Nazario, and *Leonardo-De Castro, JJ.*, joined the dissent of Justice Ruben Reyes.
Tinga, J., no part. close relation to an interested entity.
Nachura, J., no part.
Reyes, J., pls. see dissenting opinion.

[1] Under Section 2, Rule 65 of the 1997 Rules of Civil Procedure.

[2] As National President of the League of Cities of the Philippines, Mayor of Iloilo City, and taxpayer.

[3] June 1998 to June 2001.

[4] June 2001 to June 2004.

[5] Entitled AN ACT AMENDING SECTION 450 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, BY INCREASING THE AVERAGE ANNUAL INCOME REQUIREMENT FOR A MUNICIPALITY OR CLUSTER OF BARANGAYS TO BE CONVERTED INTO A COMPONENT CITY.

[6] Sponsorship Speech of Senator Aquilino Pimentel, 5 October 2000.

[7] June 2004 to June 2007.

[8] Entitled *Joint Resolution to Exempt Certain Municipalities Embodied in Bills Filed in Congress before June 30, 2001 from the Coverage of Republic Act No. 9009*.

[9] June 2007 to June 2010.

[10] The sixteen (16) Cityhood Laws are the following:

Republic Act No. 9389, entitled "An Act converting the Municipality of Baybay in the Province of Leyte into a component city to be known as the City of Baybay." Lapsed into law on 15 March 2007;

Republic Act No. 9390, entitled "An Act converting the Municipality of Bogo, Cebu Province into a component city to be known as the City of Bogo." Lapsed into law on 15 March 2007;

Republic Act No. 9391, entitled "An Act converting the Municipality of Catbalogan in the Province of Samar into a component city to be known as the City of Catbalogan." Lapsed into law on 15 March 2007;

Republic Act No. 9392, entitled "An Act converting the Municipality of Tandag in the Province of Surigao del Sur into a component city to be known as the City of Tandag." Lapsed into law on 15 March 2007;

Republic Act No. 9394, entitled "An Act converting the Municipality of Borongan in the Province of Eastern Samar into a component city to be known as the City of Borongan." Lapsed into law on 16 March 2007;

Republic Act No. 9398, entitled "An Act converting the Municipality of Tayabas in the Province of Quezon into a component city to be known as the City of Tayabas." Lapsed into law on 18 March 2007;

Republic Act No. 9393, entitled "An Act converting the Municipality of Lamitan in the Province of Basilan into a component city to be known as the City of Lamitan." Lapsed into law on 15 March 2007;

Republic Act No. 9404, entitled "An Act converting the Municipality of Tabuk into a component city of the Province of Kalinga to be known as the City of Tabuk." Lapsed into law on 23 March 2007;

Republic Act No. 9405, entitled "An Act converting the Municipality of Bayugan in the Province of Agusan del Sur into a component city to be known as the City of Bayugan." Lapsed into law on 23 March 2007;

Republic Act No. 9407, entitled "An Act converting the Municipality of Batac in the Province of Ilocos Norte into a component city to be known as the City of Batac." Lapsed into law on 24 March 2007;

Republic Act No. 9408, entitled "An Act converting the Municipality of Mati in the Province of Davao Oriental into a component city to be known as the City of Mati." Lapsed into law on 24 March 2007;

Republic Act No. 9409, entitled "An Act converting the Municipality of Guihulngan in the Province of Negros Oriental into a component city to be known as the City of Guihulngan." Lapsed into law on 24 March 2007;

Republic Act No. 9434, entitled "An Act converting the Municipality of Cabadbaran into a component city of the Province of Agusan Del Norte to be known as the City of Cabadbaran." Lapsed into law on 12 April 2007;

Republic Act No. 9436, entitled "An Act converting the Municipality of Carcar in the Province of Cebu into a component city to be known as the City of Carcar." Lapsed into law on 15 April 2007;

Republic Act No. 9435, entitled "An Act converting the Municipality of El Salvador in the Province of Misamis Oriental into a component city to be known as the City of El Salvador." Lapsed into law on 12 April 2007; and

Republic Act No. 9491, entitled "An Act converting the Municipality of Naga in the

Province of Cebu into a component city to be known as the City of Naga." Lapsed into law on 15 July 2007.

[11] Section 27 (1), Article VI of the Constitution.

[12] Section 1, Article III of the Constitution.

[13] Section 285 of the Local Government Code provides: "*Allocation to Local Government Units*. -- The share of local government units in the internal revenue allotment shall be allocated in the following manner:

(a) Provinces -- Twenty-three percent (23%);
(b) Cities -- Twenty-three percent (23%);
(c) Municipalities -- Thirty-four percent (34%); and
(d) Barangays -- Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

(a) Population -- Fifty percent (50%);
(b) Land Area -- Twenty-five percent (25%); and
(c) Equal sharing -- Twenty-five percent (25%)

Provided, further, That the share of each barangay with a population of not less than one hundred (100) inhabitants shall not be less than Eighty thousand (P80,000.00) per annum chargeable against the twenty percent (20%) share of the barangay from the internal revenue allotment, and the balance to be allocated on the basis of the following formula:

(a) On the first year of the effectivity of this Code:

(1) Population -- Forty percent (40%); and
(2) Equal Sharing -- Sixty percent (60%)

(b) On the second year:

(1) Population -- Fifty percent (50%); and
(2) Equal Sharing -- Fifty percent (50%)

(c) On the third year and thereafter:

(1) Population -- Sixty percent (60%); and
(2) Equal sharing -- Forty percent (40%).

Provided, finally, That the financial requirements of barangays created by local government units after the effectivity of this Code shall be the responsibility of the local

government unit concerned."

[14] *Sema v. COMELEC*, G.R. No. 177597, 16 July 2008; *Social Weather Stations, Inc. v. COMELEC*, 409 Phil. 571, 592 (2001); *Mutuc v. COMELEC*, 146 Phil. 798 (1970).

[15] Section 499 of the Local Government Code provides: "Purpose of Organization. -- There shall be an organization of all cities to be known as the League of Cities for the primary purpose of ventilating, articulating and crystallizing issues affecting city government administration, and securing, through proper and legal means, solutions thereto.

The league may form chapters at the provincial level for the component cities of a province. Highly-urbanized cities may also form a chapter of the League. The National League shall be composed of the presidents of the league of highly-urbanized cities and the presidents of the provincial chapters of the league of component cities."

[16] The Court granted the interventions of the following cities: Santiago City, Iriga City, Ligao City, Legazpi City, Tagaytay City, Surigao City, Bayawan City, Silay City, General Santos City, Zamboanga City, Gingoog City, Cauayan City, Pagadian City, San Carlos City, San Fernando City, Tacurong City, Tangub City, Oroquieta City, Urdaneta City, Victorias City, Calapan City, Himamaylan City, Batangas City, Bais City, Tarlac City, Cadiz City, and Tagum City.

[17] Article 4 of the Civil Code provides: "Laws shall have no retroactive effect, unless the contrary is provided."

[18] Republic Act No. 7160, as amended.

[19] *Ramirez v. Court of Appeals*, G.R. No. 93833, 28 September 1995, 248 SCRA 590, 596; *Security Bank and Trust Company v. RTC of Makati, Br. 61*, G.R. No. 113926, 23 October 1996, 263 SCRA 483, 488.

[20] *Republic v. Court of Appeals*, 359 Phil. 530, 559 (1998); *Commissioner of Internal Revenue v. Solidbank Corp.*, 462 Phil. 96, 129-131 (2003).

[21] The Corporation Code of the Philippines (Batas Pambansa Blg. 68) is the general law providing for the formation, organization and regulation of private corporations.

[22] See *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 25 March 2008, 549 SCRA 77, 135-136.

[23] The *rational basis test* is the minimum level of scrutiny that all government actions

challenged under the equal protection clause must meet. The *strict scrutiny test* is used in discriminations based on race or those which result in violations of fundamental rights. Under the strict scrutiny test, to be valid the classification must promote a **compelling state interest**. The *intermediate scrutiny test* is used in discriminations based on gender or illegitimacy of children. Under the intermediate scrutiny test, the classification must be **substantially related to an important** government objective. Laws not subject to the strict or intermediate scrutiny test are evaluated under the *rational basis test*, which is the easiest test to satisfy since the classification must only show a **rational relationship** to a legitimate government purpose. *See* Erwin Chemerinsky, *Constitutional Law, Principles and Policies*, 2nd Edition, pp. 645-646.

[24] *De Guzman, Jr. v. COMELEC*, 391 Phil. 70, 79 (2000); *Tiu v. Court of Tax Appeals*, 361 Phil. 229, 242 (1999).

[25] 297 U.S. 266 (1936).

G.R. No. 176951 (League of Cities of the Philippines [LCP], represented by LCP National President Jerry P. Treñas; City of Calbayog, represented by Mayor Mel Senen S. Sarmiento; and Jerry P. Treñas, in his personal capacity as Taxpayer, petitioners, v. Commission on Elections; Municipality of Baybay, Province of Leyte; Municipality of Bogo, Province of Cebu; Municipality of Catbalogan, Province of Western Samar; Municipality of Tandag, Province of Surigao del Sur; Municipality of Borongan, Province of Eastern Samar; and Municipality of Tayabas, Province of Quezon, respondents.)

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G.R. No. 177499 (League of Cities of the Philippines [LCP], represented by LCP National President Jerry P. Treñas; City of Calbayog, represented by Mayor Mel Senen S. Sarmiento; and Jerry P. Treñas, in his personal capacity as Taxpayer, petitioners, v. Commission on Elections; Municipality of Lamitan, Province of Basilan; Municipality of Tabuk, Province of Kalinga; Municipality of Bayugan, Province of Agusan del Sur; Municipality of Batac, Province of Ilocos Norte; Municipality of Mati, Province of Davao Oriental; and Municipality of Guihulngan, Province of Negros Oriental, respondents.)

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G.R. No. 178056 (League of Cities of the Philippines [LCP], represented by LCP National President Jerry P. Treñas; City of Calbayog, represented by Mayor Mel Senen S. Sarmiento; and Jerry P. Treñas, in his personal capacity as Taxpayer, petitioners, v.

Commission on Elections; Municipality of Cabadbaran, Province of Agusan del Norte; Municipality of Carcar, Province of Cebu; Municipality of El Salvador, Province of Misamis Oriental; Municipality of Naga, Cebu; and Department of Budget and Management, respondents.)

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DISSENTING OPINION

REYES, R.T., *J*.:

TODAY, the majority on a 6-5 voting has choked the aspiration of the 16 respondent municipalities in becoming cities by declaring their cityhood laws[1] unconstitutional. For the first time, I am compelled to submit a respectful dissent.

The Facts

Between July 1998 and June 2001, during the Eleventh Congress, a total of fifty-seven (57) bills seeking the conversion of numerous municipalities into component cities were filed before the House of Representatives.[2] Out of the fifty-seven (57) bills, thirty-two (32) became cityhood laws, and one (1) was rejected in a plebiscite. Twenty-four (24) other bills were not acted upon.

On September 25, 2000, during the Eleventh Congress, Senator Aquilino Pimentel, Jr. introduced Senate Bill No. 2157[3] to amend Section 450 of the Local Government Code. The proposed legislation sought to increase the income requirement to qualify for conversion into a city from P20,000,000.00 annual income to P100,000,000.00 locally-generated income.

On March 20, 2001, Senate Bill No. 2157 was signed into law as **R.A. No. 9009**. It became effective on **June 30, 2001**. As revised, Section 450 of the Local Government Code now states, among others, that "[a] municipality or a cluster of *barangays* may be converted into a component city if it has a locally generated average annual income, as certified by the Department of Finance, of at least One Hundred Million Pesos (P100,000,000.00) for the last two (2) consecutive years based on 2000 constant prices."

Immediately after the opening of the Twelfth Congress in July 2001 and with R.A. No. 9009 already in full force and effect, the House of Representatives adopted House Joint Resolution No. 29,[4] entitled "*Joint Resolution to Exempt Certain Municipalities Embodied in Bills Filed in Congress **Before** June 30, 2001 from the Coverage of Republic Act 9009*."[5] The resolution sought to exempt from the income requirement of P100,000,000.00 in R.A. No. 9009 the twenty-four (24) municipalities[6] whose conversions into cities were not acted upon during the Eleventh Congress. The reasons for exempting these municipalities were the Senate Blue Ribbon Committee investigation into the *jueteng* scandal; the impeachment against former President Joseph Estrada by the

House of Representatives; the aborted impeachment proceedings in the Senate; the leadership reorganization in both Houses of Congress; the "EDSA *Dos*" and "EDSA *Tres*" uprisings; the campaign period; and the May 2001 elections.[7]

The proponents of House Joint Resolution No. 29 found success in the House all the way through the Senate. In the Senate, they found a staunch ally in the person of Senator Robert Barbers, chair of the Committee on Local Government. However, notwithstanding the several public hearings, caucuses, dialogues, and informal discussions, the favorable committee report did not translate into legislation.[8] The Twelfth Congress ended without favorable action.

During the Thirteenth Congress (2004-2007), the House of Representatives reinitiated the move, this time via House Joint Resolution No. 1, and forwarded it to the Senate for approval.

On July 25, 2006, the Senate Committee on Local Government submitted its Committee Report No. 84 recommending approval of House Joint Resolution No. 1, with amendments. The amendments included the change in (a) the number of municipalities which sought conversion into cities during the Eleventh Congress from fifty-six (56) to fifty-seven (57); and (b) the number of bills that were not acted upon from twenty-three (23) to twenty-four (24).[9]

Out of the sixteen (16) members of the Committee who deliberated on House Joint Resolution No. 1, seven (7) senators signed with either "reservations"[10] or "strong reservations,"[11] while three (3) senators dissented.[12]

During the Senate session held on November 6, 2006, Senator Aquilino Pimentel, Jr. asserted that the net effect of passing House Joint Resolution No. 1 would be the grant of a wholesale exemption from the income requirement imposed on the municipalities. Instead, Senator Pimentel suggested that the House of Representatives should initiate and file individual bills for the municipalities that would like to become cities and forward these to the Senate for proper action.

The proponents of House Joint Resolution No. 1 acceded to the suggestion of Senator Pimentel. Consequently, of the twenty-four (24) municipalities enumerated in House Joint Resolution No. 1, sixteen (16) municipalities filed their individual cityhood bills. Each of the cityhood bills contained a common provision **exempting** the particular municipality from the income requirement imposed by R.A. No. 9009.

On December 22, 2006, the House of Representatives approved the cityhood bills and transmitted them to the Senate for its approval. This time, the required consent of the Senate was attained.

When the cityhood bills were forwarded to the Office of the President, they were allowed

to lapse into law pursuant to Section 27(1), Article VI of the Constitution,[13] after President Gloria Macapagal-Arroyo chose not to sign them.

Under the cityhood laws, respondent Commission on Elections (COMELEC) is directed to conduct and supervise plebiscites in respondent municipalities within thirty (30) days from the approval of each of the cityhood laws. The expense for such plebiscites will be shouldered by the respective respondent municipalities.

On March 27, 2007,[14] May 4, 2007,[15] and June 14, 2007,[16] three (3) separate petitions for prohibition were filed by petitioners League of Cities of the Philippines,[17] City of Iloilo,[18] City of Calbayog,[19] and Jerry P. Treñas as taxpayer, against the COMELEC; Municipality of Baybay, Province of Leyte; Municipality of Bogo, Province of Cebu; Municipality of Catbalogan, Province of Western Samar; Municipality of Tandag, Province of Surigao del Sur; Municipality of Borongan, Province of Eastern Samar; Municipality of Tayabas, Province of Quezon; Municipality of Lamitan, Province of Basilan; Municipality of Tabuk, Province of Kalinga; Municipality of Bayugan, Province of Agusan del Sur; Municipality of Batac, Province of Ilocos Norte; Municipality of Mati, Province of Davao Oriental; Municipality of Guihulngan, Province of Negros Oriental; Municipality of Cabadbaran, Province of Agusan del Norte; Municipality of Carcar, Province of Cebu; and Municipality of El Salvador, Province of Misamis Oriental.

As a show of support to their mother association, separate petitions-in-intervention were filed by various sympathetic cities who are members of the League of Cities of the Philippines. The petitions-in-intervention were admitted by the Court *en banc* through various Resolutions on separate dates.[20]

Petitioners and petitioners-in-intervention collectively prayed for the issuance of lawful orders from this Court, enjoining respondent COMELEC and respondent municipalities from implementing the provisions of the challenged cityhood laws and conducting plebiscites in the affected areas or, in the alternative, for the COMELEC not to proclaim the plebiscite results. They likewise prayed that the cityhood laws[21] be struck down as unconstitutional.

On July 24, 2007, the Court *en banc* resolved to consolidate the petitions and the petitions-in-intervention. On September 28, 2007, petitioners filed a supplemental petition impleading the Municipality of Naga, Cebu and the Department of Budget and Management (DBM) as additional respondents,[22] which the Court granted on October 2, 2007.[23]

On March 11, 2008, oral arguments were held pursuant to the resolution of the Court dated February 5, 2008. The parties were then directed to file simultaneously their respective memoranda.

As no temporary restraining order and/or preliminary injunction was issued by the Court, the COMELEC proceeded to conduct plebiscites in respondent municipalities, where all the cityhood laws were ratified. Too, the DBM to date has been releasing the Internal Revenue Allotments (IRAs) to respondent municipalities as cities.

Issues

Petitioners in G.R. No. 176951,[24] G.R. No. 177499,[25] and G.R. No. 178056[26] pose common issues for Our consideration, to wit:

I

> THE CITYHOOD LAWS DIRECTLY VIOLATE SECTION 10, ARTICLE X OF THE 1987 CONSTITUTION BY UNLAWFULLY EXEMPTING THE RESPONDENT MUNICIPALITIES FROM COMPLIANCE WITH THE MINIMUM INCOME REQUIREMENT IMPOSED BY THE LOCAL GOVERNMENT CODE.

II

> THE CITYHOOD LAWS DIRECTLY VIOLATE THE EQUAL PROTECTION CLAUSE UNDER SECTION 1, ARTICLE III OF THE CONSTITUTION AS IT UNREASONABLY GRANTS SPECIAL TREATMENT TO THE RESPONDENT MUNICIPALITIES BY UNREASONABLY EXEMPTING THEM FROM COMPLIANCE WITH THE MINIMUM INCOME REQUIREMENT IMPOSED BY THE LOCAL GOVERNMENT CODE. (Underscoring supplied)

Petitioners-in-intervention raise essentially similar issues.

There are, however, two (2) procedural issues which must be resolved at the outset as they would determine whether the petitions and the petitions-in-intervention should proceed: first, whether petitioners and petitioners-in-intervention possess *locus standi*; and second, whether a petition for prohibition is the correct remedy to question the constitutionality of the cityhood laws.

Ruling

Preliminaries

Petitioners and petitioners-in-intervention possess locus standi.

In the leading case of *Baker v. Carr*,[27] the United States Supreme Court, speaking through Mr. Justice William J. Brennan, held that "the gist of the question of standing" is whether the party "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the

court so largely depends for illumination of difficult constitutional questions."[28]

Thus, the rule in the United States is that persons wishing to contest, on constitutional grounds, the validity of the statute must be able to show not only that the statute is invalid but also that they have sustained, or are in immediate danger of sustaining, some direct injury as the result of its enforcement. Suffering in some indefinite way in common with people generally would not suffice.[29] In other words, one who is not prejudiced by the enforcement of an act of Congress cannot question its constitutionality.[30] In the absence of showing of injury, actual, or threatened, there can be no constitutional argument.[31]

The rule has been adopted in our jurisdiction. In *House International Building Tenants Association, Inc. v. Intermediate Appellate Court*,[32] *Joya v. Presidential Commission on Good Government*,[33] *Integrated Bar of the Philippines v. Zamora*,[34] *Francisco, Jr. v. The House of Representatives*,[35] and *Anak Mindanao Party-List Group v. The Executive Secretary*,[36] among others, this Court made similar pronouncements on *locus standi*. In the last mentioned case, the Court summarized the rule, thus:

> *Locus standi* or legal standing has been defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question on standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.
>
> x x x a party who assails the constitutionality of a statute must have a direct and personal interest. It must show not only that the law or any governmental act is invalid, but also that it sustained or is in immediate danger of sustaining some direct injury as a result of its enforcement, and not merely that it suffers thereby in some indefinite way. It must show that it has been or is about to be denied some right or privilege to which it is lawfully entitled or that it is about to be subjected to some burdens or penalties by reason of the statute or act complained of.
>
> For a concerned party to be allowed to raise a constitutional question, it must show that (1) it has personally suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government, (2) the injury is fairly traceable to the challenged action, and (3) the injury is likely to be redressed by a favorable action.[37]

Parties can have *locus standi* depending on the personality they assume. Parties may come to the Court as (1) organizations and groups representing their own interests; (2) organizations and groups representing the interests of their members; (3) individuals

championing a class; (4) political subdivisions; (5) public officials; (6) members of Congress; (7) taxpayers; (8) corporations and other business entities; (9) citizens, residents, and aliens; (10) health professionals; (11) voters; and (12) other miscellaneous classes.[38]

The League of Cities of the Philippines has legal standing. As averred in its petition, it is an association of cities in the Philippines, and is organized and existing by virtue of Philippine laws.[39] In fact, its existence is sanctioned by Section 13, Article X of the 1987 Constitution,[40] and Section 499 of the Local Government Code.[41] As a juridical person or entity, it may be a party to a civil action.[42] It has a legal personality of its own.[43] It may sue or be sued in its name, in conjunction with the laws and regulations of its organization.[44]

Petitioners City of Iloilo and City of Calbayog, and petitioners-in-intervention, who are all members of the League of Cities of the Philippines, also have legal standing. Aside from being public corporations by virtue of their being cities,[45] they stand to suffer a reduction or decrease of the IRA they are presently receiving due to the conversion of respondent municipalities into cities.

The Local Government Code mandates that each class of Local Government Unit should have a fixed share in the IRA. In the case of cities, they are entitled to 23%. In dividing this 23% share among all the cities, the population of a particular city is considered.[46] But 25% of the 23% share is equally divided among all the cities. Thus, an increase in the number of cities means that the allotment to each city out of the fixed 23% IRA share of all will be reduced. A fixed numerator divided by an increased denominator necessarily results in a smaller quotient. The reduction would obviously affect the amounts budgeted by existing cities for their programs and projects.

Jerry P. Treñas, as taxpayer, has *locus standi*. A person who pays taxes or is liable to pay taxes for the support of a taxing unit, and who would
be injured by the unlawful expenditure of public funds by the illegal disposition of the public property of such unit, or by any other illegal act which would increase his or her burden of taxation, has *locus standi* to institute and maintain a taxpayer's suit. This is regardless of the amount or kind of taxes being paid.[47]

In *Velarde v. Social Justice Society*,[48] reiterating the doctrine in *Del Mar v. Philippine Amusement and Gaming Corporation*,[49] the Court held that "parties suing as taxpayers must specifically prove that they have sufficient interest in preventing the illegal expenditure of money raised by taxation."[50] A taxpayer's suit "may be properly brought only when there is an exercise by Congress of its taxing or spending power."[51] Here, there is no question that the conduct of the plebiscites required under the cityhood laws and the consequent release of the respective IRAs of respondent municipalities as cities, entails the spending of funds sourced from the public coffers. Clearly, there is an exercise by

Congress of its taxing or spending power.

In any event, the Court in more than one instance has taken a liberal stance as far as standing is concerned. This is especially true when important constitutional issues are at stake. The cases of *Philippine Constitution Association, Inc. v. Gimenez*,[52] *Civil Liberties Union v. Executive Secretary*,[53] *Guingona, Jr. v. Carague*,[54] *Basco v. Philippine Amusements and Gaming Corporation (PAGCOR)*,[55] *Osmeña v. Commission on Elections*,[56] *Carpio v. Executive Secretary*,[57] *Kilosbayan, Inc. v. Guingona, Jr.*,[58] *Cruz v. Secretary of Environment and Natural Resources*,[59] and *Agan v. Philippine International Air Terminals Co., Inc.*,[60] bear witness to the liberal attitude of the Court on *locus standi*.

Indeed, public interest demands that the Court take a more liberal view in determining whether petitioners and petitioners-in-intervention possess *locus standi*. The issues hoisted are of paramount importance. The petitions and petitions-in-intervention raise serious constitutional issues on the requirements for conversion of a municipality to a city. This, in turn, would affect not only the conversion of respondent municipalities but also all future conversions of municipalities to cities. To dismiss the petitions and petitions-in-intervention on mere technicality is not in line with the function of this Court as the final interpreter of what the law is and should mean.

There is no merit to the contention of respondent COMELEC and respondent municipalities that the petitions and petitions-in-intervention are based on mere "speculative injury" that supposedly render them devoid of any actual controversy. This is belied by the allegations in the petitions and the petitions-in-intervention. There actually exist diametrically opposed views among the contending parties as regards the validity of the cityhood laws. Too, petitioners and petitioners-in-intervention have sufficiently averred economic injury to their city budgets and their plans and projects as a consequence of the conversion of respondent municipalities into component cities. Economic injury is a valid basis for acquiring *locus standi* and judicial review.[61]

Prohibition is the correct remedy to question the constitutionality of the cityhood laws.

The Constitution[62] grants to the Court original jurisdiction over petitions for prohibition. Although this original jurisdiction over petitions for prohibition (together with petitions for *certiorari*, mandamus, *quo warranto*, and *habeas corpus*) is concurrent with that of the Regional Trial Courts and the Court of Appeals, the established policy is that this Court allows the direct invocation of its original jurisdiction "if compelling reasons, or the nature and importance of the issues raised, warrant,"[63] or "in the interest of speedy justice and to avoid future litigations so as to promptly put an end to the present controversy."[64] This policy has been applied by the Court in exceptional cases, among them, *People v. Cuaresma*,[65] *Santiago v. Vasquez*,[66] *Manalo v. Gloria*,[67] *Philippine National Bank v.*

Sayo, Jr.,[68] *Cruz v. Secretary of Environment and Natural Resources*,[69] *Buklod ng Kawaning EIIB v. Zamora*,[70] and *Government of the United States of America v. Purganan*.[71]

The Court should take cognizance of the petitions and petitions-in-intervention because the issues raised are exceptional and of paramount importance. They involve substantial public interest that warrant no less than the intervention of this Court so that said issues may be settled.

In *Tan v. Commission on Elections*,[72] this Court granted the petition for prohibition and struck down as unconstitutional Batas Pambansa Blg. 885, which created the province of Negros del Norte. The Court held that "[t]the challenged act is manifestly void and unconstitutional. Consequently, all the implementing acts complained of, *viz*. the plebiscite, the proclamation of a new province of Negros del Norte and the appointment of its officials are equally void."[73]

In *Miranda v. Aguirre*,[74] this Court granted the petition for a writ of prohibition with prayer for preliminary injunction assailing the constitutionality of R.A. No. 8528 converting the city of Santiago, Isabela, from an independent component city to a component city.

In *Agan v. Philippine International Air Terminals Co., Inc.*,[75] petitioners and petitioners-in-intervention were allowed to avail themselves of the remedy of prohibition to stop the Manila International Airport Authority (MIAA) and the Department of Transportation and Communications (DOTC) and its Secretary from implementing several agreements executed by the Philippine Government through the DOTC and the MIAA and the Philippine International Air Terminals Co., Inc.

In *La Bugal-B'Laan Tribal Association, Inc. v. Ramos*,[76] the remedies of prohibition and mandamus were used to assail the constitutionality of R.A. No. 7942, otherwise known as the Philippine Mining Act of 1995, along with its Implementing Rules and Regulations, Department of Environment and Natural Resources Administrative Order 96-40, and the Financial and Technical Assistance Agreement entered into on March 30, 1995 by the Republic of the Philippines and WMC (Philippines), Inc., a corporation organized under Philippine Laws.

In *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission*,[77] the Court synthesized the requirements for a petition for prohibition, thus: (1) it must be directed against a tribunal, corporation, board, officer, or person exercising functions, judicial, quasi-judicial, or ministerial; (2) the tribunal, corporation, board, or person has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any other plain,

speedy, and adequate remedy in the ordinary course of law.[78]

The petitions and petitions-in-intervention comply with the above criteria.

First, the petitions and petitions-in-intervention seek to prohibit the COMELEC from complying with its ministerial function to conduct the plebiscites as required by the cityhood laws. The DBM is also sought to be enjoined from performing its ministerial function of releasing the IRA of respondent municipalities as cities. In *Ruperto v. Torres*[79] and *Municipal Council of Lemery v. Provincial Board of Batangas*,[80] among others, ministerial function was described as one by which an officer or a tribunal performs in the context of a given set of facts, in a prescribed manner, and without regard for the exercise of his/its own judgment upon the propriety of the act done. The respective functions of the COMELEC and DBM as far as the cityhood laws are concerned fit this parameter.

The conduct sought to be prohibited in the petitions and petitions-in-intervention is a ministerial function. The COMELEC does not have the discretion whether or not to conduct the plebiscites. The same may be said of the DBM. It has no choice save to release the respective IRAs of respondent municipalities as cities.

Second, the petitions and petitions-in-intervention have sufficiently alleged that the COMELEC and the DBM acted without or in excess of jurisdiction in implementing the cityhood laws - on the part of the COMELEC, in conducting the plebiscites; while on the part of the DBM, in releasing the respective IRAs of respondent municipalities as cities.

Third, petitioners and petitioners-in-intervention have no other plain, speedy, and adequate remedy in the ordinary course of law. To recall, the cityhood laws have a common provision that the COMELEC is supposed to conduct plebiscites in different parts of the country for the ratification of the cityhood laws. Thus, filing different petitions for prohibition in the various Regional Trial Courts where the plebiscites were to be conducted was not a speedy and adequate remedy.

I cannot subscribe to the *fait accompli* defense of respondent municipalities, which they claim should be a ground for outright dismissal of the petitions and petitions-in-intervention. They are not mooted by the fact that plebiscites were already conducted, respondent municipalities acknowledged as cities, and their officials correspondingly appointed. The petitions and petitions-in-intervention raise constitutional issues which necessitate the intervention of the Court. No amount of intervening events can legitimize the conversions of respondent municipalities into component cities if, indeed, the requirements of the Constitution and the Local Government Code have not been met. As the Court earlier held:

> x x x the fact that such plebiscite had been held and a new province proclaimed and its officials appointed, the case before Us cannot truly be viewed as already moot and academic. Continuation of the existence of this newly proclaimed province which petitioners strongly profess to have been illegally born, deserves

> to be inquired by this Tribunal so that, if indeed, illegality attaches to its creation, the commission of that error should not provide the very excuse for perpetuation of such wrong. For this Court to yield to the respondents' urging that, as there have been *fait accompli*, then this Court should passively accept and accede to the prevailing situation is an unacceptable suggestion. Dismissal of the instant petition, as respondents so propose is a proposition fraught with mischief. Respondents' submission will create a dangerous precedent. Should this Court decline now to perform its duty of interpreting and indicating what the law is and should be, this might tempt again those who strut about in the corridors of power to recklessly and without ulterior motives, create, merge, divide and/or alter the boundaries of political subdivisions either brazenly or stealthily, confident that this Court will abstain from entertaining future challenges to their acts if they manage to bring about a *fait accompli*.[81]

It is true that the usual function of the writ of prohibition is to prevent the execution of an act which is about to be done. It is not intended to provide a remedy for acts already accomplished.[82] The office of prohibition is to arrest proceedings rather than to undo them.[83] A preventive remedy, as a rule, does not lie to restrain an act that is already *fait accompli*.[84]

However, courts may take exceptions. In the performance of their duties, courts should not be shackled by stringent rules which would result in manifest injustice. Rules of procedure are only tools crafted to facilitate the attainment of justice. Their strict and rigid application, if they result in technicalities that tend to frustrate rather than promote substantial justice, must be eschewed. Substantial rights must not be prejudiced by a rigid and technical application of the rules in the altar of expediency. When a case is impressed with public interest, a relaxation of the application of the rules is in order.[85] Time and again, this Court has suspended its own rules and excepted a particular case from their operation whenever the higher interests of justice so require.[86]

The issues in the petitions and petitions-in-intervention are exceptional. They are of paramount importance and involve substantial public interest. They warrant no less than the intervention of this Court.

Now to the main points of the petition.

I

The cityhood laws do not violate Section 10, Article X of the 1987 Constitution.

Section 10, Article X of the 1987 Constitution states:

> No province, city, municipality, or *barangay* **shall** 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 approval by a majority of the votes cast in a plebiscite in the political units directly affected. (Emphasis supplied)

What the provision means is that once the Local Government Code is enacted, the creation, modification, or dissolution of local government units must conform with the criteria thus laid down.[87]

The use of the word "shall" in a constitutional provision is generally considered as a mandatory command,[88] though the word "shall" may receive a permissive interpretation when necessary to carry out the true intent of the provision where the word is found.[89] Thus, it is not always the case that the use of the word "shall" is conclusive.[90] However, a reading of Section 10, Article X cannot be construed as anything else but mandatory.

That said Section 10 is mandatory is all the more bolstered by the use of the negative and prohibitory words "[**n**]**o** province, city x x x may be created x x x **except** in accordance with x x x." In *Varney v. Justice*[91] and *Hunt v. State*,[92] it was held that if the language used in the Constitution is prohibitory, it should be construed to mean a positive and unequivocal negation.

Section 10, Article X is clear: (a) the creation, division, merger or abolition or alteration of boundaries of local government units must be in accordance with the criteria set forth in the Local Government Code; and (b) such act must be approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit directly affected. On one hand, it should be in accordance with the criteria set forth in the Local Government Code because the creation, division, merger, or abolition of political units is part of the larger power to enact laws which the Constitution vests in Congress.[93] It is also to ensure uniformity in criteria. On the other hand, the plebiscite is required as a check against the pernicious political practice of gerrymandering. No better control exists against this excess than through the exercise of direct people power, which promotes local autonomy. After all, local autonomy is guaranteed by the Constitution.[94]

A. The intent of R.A. No. 9009, which amended Section 450 of the Local Government Code, is to exempt respondent municipalities from the income requirement of P100,000,000.00. Thus, the cityhood laws, which merely carry out the intent of R.A. No. 9009, are in accordance with the "criteria established in the Local Government Code," pursuant to Section 10, Article X of the 1987 Constitution.

The cityhood laws contain a uniformly worded exemption clause, which states: "*Exemption from Republic Act No. 9009.* The city of [___] shall be exempt from the income requirement prescribed under Republic Act No. 9009."[95]

Petitioners and petitioners-in-intervention contend that since Section 10, Article X is

mandatory and prohibitive, it follows that there is no other way of compliance but to refrain from enacting cityhood laws unless these are in accordance with the criteria established in the Local Government Code.[96] Section 10 contains no exceptions and should admit of no exceptions. Any exceptions to the rule, to be valid, must necessarily be enacted by Congress by first converting itself into a constituent assembly to amend the provision.[97] Since the income requirements prescribed under R.A. No. 9009 are among the criteria in the Local Government Code within the contemplation of Section 10, it follows that the exemption clauses in the cityhood laws are in direct violation of Section 10.[98] In other words, Congress cannot provide a wholesale exemption from R.A. No. 9009 without repealing the law itself.

Petitioners and petitioners-in-intervention would be correct if it were not the intent of R.A. No. 9009, which amended Section 450 of the Local Government Code, to exempt respondent municipalities from the income requirement of P100,000,000.00.

I will elaborate.

The "criteria established in the local government code" that Section 10, Article X of the 1987 Constitution speaks of, are spread in at least four sections of the Local Government Code, namely, **Section 6** entitled "Authority to Create Local Government Units";[99] **Section 7** entitled "Creation and Conversion,"[100] **Section 449** entitled "Manner of Creation,"[101] and most importantly, **Section 450** entitled "Requisites for Creation."

During the deliberations on Section 5(3), Article VI of the 1987 Constitution,[102] Commissioner De Castro remarked that when Palayan City in Nueva Ecija was made a city, there were only three houses and two shades for cows.[103] The apparent whimsical reasons for creating cities ended when Batas Pambansa (B.P.) Blg. 337 provided, *inter alia*, that "[a] municipality may be converted into a component city if it has x x x an average regular annual income, as certified by the Minister of Finance, of at least ten million pesos for the last three consecutive years."[104] B.P. Blg. 337 was **repealed** by R.A. No. 7160 (Local Government Code) whose then Section 450 provided that "[a] municipality or cluster of *barangays* may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of at least twenty million pesos (P20,000,000.00) for at least two (2) consecutive years based on 1991 constant prices, x x x." R.A. No. 9009, amending Section 450 of the Local Government Code, **further increased** the income requirement to P100,000,000.00, thus:

> Section 450. *Requisites for Creation*. - (a) A municipality or a cluster of *barangays* may be converted into a component city if it has a locally generated average annual income, as certified by the Department of Finance, of at least One Hundred Million Pesos (P100,000,000.00) for the last two (2) consecutive years based on 2000 constant prices, and if it has either of the following requisites:

A contiguous territory of at least one hundred (100) square kilometers, as certified by the Land Management Bureau; or

A population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office.

The creation thereof shall not reduce the land area, population and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, transfers, and non-recurring income. (Underscoring supplied)

What Congress had in mind is not at all times accurately reflected in the language of the statute. Thus, the literal interpretation of a statute may render it meaningless; and lead to absurdity, injustice, or contradiction.[105] When this happens, and following the rule that the intent or the spirit of the law is the law itself,[106] resort should be had to the principle that the spirit of the law controls its letter.[107] Not to the letter that killeth, but to the spirit that vivifieth. ***Hindi ang letra na pumapatay, kung hindi ang diwa na nagbibigay buhay***.

It is in this respect that the intent of Congress in enacting Senate Bill No. 2157, which eventually became R.A. No. 9009, finds relevance.

The purpose of the enactment of R.A. No. 9009 can be seen in the sponsorship speech of Senator Pimentel on Senate Bill No. 2157. Noteworthy is his statement that the basis for the proposed increase from P20,000,000.00 to P100,000,000.00 in the income requirement for municipalities and cluster of *barangays* wanting to be converted into cities is the "mad rush of municipalities wanting to be converted into cities," and in order that the country "will not be a nation of all cities and no municipalities," *viz.*:

Senator Pimentel. Mr. President, I would have wanted this bill to be included in the whole set of proposed amendments that we have introduced to precisely amend the Local Government Code. However, it is a fact that there is a **mad rush of municipalities wanting to be converted into cities**. Whereas in 1991, when the Local Government was approved, there were only 60 cities, today the number has increased to 85 cities, with 41 more municipalities applying for conversion to the same status. **At the rate we are going, I am apprehensive that before long this nation will be a nation of all cities and no municipalities**.

It is for that reason, Mr. President, that we are proposing among other things, that the financial requirement, which, under the Local Government Code, is fixed at P20 million, be raised to P100 million to enable a municipality to have the right to be converted into a city, and the P100 million should be sourced from locally generated funds.

What has been happening, Mr. President, is, the municipalities aspiring to become cities say that they qualify in terms of financial requirements by incorporating the Internal Revenue share of the taxes of the nation added on to their regularly generated revenue. Under that requirement, it looks clear to me that practically all municipalities in this country would qualify to become cities.

It is precisely for that reason, therefore, that we are seeking the approval of this Chamber to amend, particularly Section 450 of Republic Act No. 7160, the requisite for the average annual income of a municipality to be converted into a city or cluster of barangays which seek to be converted into a city, raising that revenue requirement from P20 million to P100 million for the last two consecutive years based on 2000 constant prices.[108] (Emphasis supplied)

What follows is revealing. At the time that R.A. No. 9009 was being deliberated upon, Congress was also well aware that several municipalities wanting to become cities and which qualified under the income threshold of P20,000,000.00 under the old Local Government Code had pending cityhood bills. These included respondent municipalities. Thus, equally noteworthy is the interpellation by Senate President Franklin Drilon of Senator Pimentel in which the latter stated that municipalities that had pending cityhood bills "**would not be affected**" by the income threshold of P100,000,000.00 being proposed by Senate Bill No. 2157, thus:

THE PRESIDENT. The Chair would like to ask for some clarificatory point.

SENATOR PIMENTEL. Yes, Mr. President.

THE PRESIDENT. This is just on the point of the pending bills in the Senate which propose the conversion of a number of municipalities into cities and which qualify under the present standard.

We would like to know the view of the sponsor: Assuming that this bill becomes a law, will the Chamber apply the standard as proposed in this bill to those bills which are pending for consideration?

SENATOR PIMENTEL, Mr. President, it might not be fair to make this bill, on the assumption that it is approved, retroact to the bills that are pending in the Senate for conversion from municipalities to cities.

> THE PRESIDENT. Will there be an appropriate language crafted to reflect that view? Or does it not become a policy of the Chamber, assuming that this bill becomes a law tomorrow, that it will apply to those bills which are already approved by the House under the old version of the Local Government Code and are now pending in the Senate? The Chair does not know if we can craft a language which will limit the application to those which are not yet in the Senate. Or is that a policy that the Chamber will adopt?
>
> SENATOR PIMENTEL. Mr. President, personally, I do not think it is necessary to put that provision because what we are saying here will form part of the interpretation of this bill. Besides, if there is no retroactivity clause, I do not think that the bill would have any retroactive effect.
>
> THE PRESIDENT. So the understanding is that those bills which are already pending in the Chamber will not be affected.
>
> SENATOR PIMENTEL. These will not be affected, Mr. President.
>
> THE PRESIDENT. Thank you Mr. Chairman.[109] (Underscoring supplied)

The deliberations of Congress are necessary to ferret out the intent of the legislature in enacting R.A. No. 9009. It is very clear that **Congress intended that the then pending cityhood bills would not be covered by the income requirement of P100,000,000.00 imposed by R.A. No. 9009**. It was made clear by the Legislature that **R.A. No. 9009 would not have any retroactive effect**.

Thus, the interpellations by Senator Drilon of Senator Pimentel are consistent with the rule that laws should be applied prospectively in the spirit of justice and fair play. Be that as it may, the Civil Code is explicit that laws shall have no retroactive effect unless the contrary is provided.[110] This is expressed in the familiar legal maxim, *lex prospicit, non respicit.* The law looks forward, never backward. ***Ang batas ay tumitingin sa hinaharap, hindi sa nakaraan***. The reason behind the rule is not difficult to perceive. The retroactive application of the law usually divests rights that have already become vested or impairs the obligations of contracts, thus, is unconstitutional.[111]

It then becomes clear that the basis for the inclusion of the exemption clause of the cityhood laws is the clear-cut **intent** of the Legislature of not giving retroactive effect to R.A. No. 9009. In fact, not only do the legislative records bear the legislative intent of exempting the cityhood laws from the income requirement of P100,000,000.00 imposed by R.A. No. 9009. Congress has now made its intent **express** in the cityhood laws.

Legislative intent or spirit is the controlling factor, the leading star and guiding light in the application and interpretation of a statute.[112] If a statute needs construction, the influence most dominant in that process is the intent or spirit of the act.[113] The spirit, rather than

the letter, of a statute, determines its construction.[114] Thus, a statute must be read according to its spirit or intent.[115] For what is within the spirit is within the statute although it is not within its letter, and that which is within the letter but not within the spirit is not within the statute.[116] Stated otherwise, a thing which is within the intent of the lawmaker is as much within the statute as if within the letter; and a thing which is within the letter of the statute is not within the statute unless within the intent of the lawmakers.[117] Legislative intent is part and parcel of the law. It is the controlling factor in interpreting a statute. In fact, any interpretation that runs counter with the legislative intent is unacceptable and invalid.[118] *Torres v. Limjap*[119] could not have been more precise, to wit:

> ***The intent of a Statute is the Law***. - If a statute is valid, it is to have effect according to the purpose and intent of the lawmaker. **The intent is the vital part, the essence of the law and the primary rule of construction is to ascertain and give effect to that intent**. The intention of the legislature in enacting a law is the law itself, and must be enforced when ascertained, **although it may not be consistent with the strict letter of the statute**. Courts will not follow the letter of a statute when it leads away from the true intent and purpose of the legislature and to conclusions inconsistent with the general purpose of the act. **Intent is the spirit which gives life to a legislative enactment**. In construing statutes the proper course is to start out and follow the true intent of the legislature and to adopt that sense which harmonizes best with the context and promotes in the fullest manner the apparent policy and objects of the legislature x x x.[120] (Emphasis supplied)

Verba intentioni, non e contra debent inservire. Words ought to be more subservient to the intent than intent to the words. ***Ang mga salita ng batas ay dapat higit na sumunod sa layunin kaysa ang layunin ang sumunod sa mga salita nito***.

B. Petitioners and petitioners-intervention were not able to discharge their onus probandi of overcoming the presumption of constitutionality accorded to the cityhood laws.

On the side of every law lies the presumption of constitutionality.[121] Consequently, before a law is nullified, it must be shown that there is a clear and unequivocal breach of the Constitution. Laws will only be declared invalid if the conflict with the Constitution is clear beyond reasonable doubt.[122] A declaration of the unconstitutionality of a statute is only done (a) as a last resort;[123] (b) when absolutely necessary;[124] (c) when the statute is in palpable conflict with a plain provision of the Constitution;[125] and (d) when the invalidity is beyond reasonable doubt.[126]

> x x x there is a strong presumption that all regularly enacted statutes are

constitutional. In other words, statutes are not presumed to be irrational. Thus, where possible, congressional enactments are to be interpreted so as to avoid raising serious doubts on constitutional questions.

x x x x

The general principle that there is a strong presumption that all regularly enacted statutes are constitutional has been expressed in a variety of ways. Thus, it has been said that all statutes are of constitutional validity unless they are shown to be invalid; that legislatures are presumed to have acted constitutionally in passing a statute; that the courts must start out with the presumption that a statute is constitutional and valid; that every intendment is in favor of the validity of a statute; that every act of the legislature is presumed to be in harmony with the constitution unless the contrary clearly appears; that every act of the legislature and every law found on the statute books is presumptively valid, at least if the statute is not patently unconstitutional on its face; that the courts will indulge in every presumption of constitutionality of which the statute is susceptible; that every rational and reasonable presumption must be indulged in favor of the validity of an act; and that the presumption of constitutionality is the postulate of judicial adjudication. The presumption should be the foremost thought in the court's mind as its proceeds to determine the constitutionality of a statute.[127] (Citations omitted)

The presumption of constitutionality accorded to statutes produces a grave consequence - anyone who wants a statute to be declared unconstitutional bears the *onus probandi*, thus:

A party who alleges the unconstitutionality of a statute normally has the burden of substantiating his or her claim. The burden is a heavy and difficult one, and it is well settled that to sustain it, the assailant must negate every reasonable, conceivable basis which might support the statute attacked; must be able to point out the particular provision that has been violated and the ground on which it has been infringed; with regard to facial attacks alleging invalidity, must establish that no set of circumstances exists under which the act may be held valid; and must overcome the strong presumption in favor of its validity, which continues until the contrary is proved. He or she must show how, as to him or her, the legislation in question is unconstitutional. x x x[128] (Citations omitted)

Sadly for petitioners and petitioners-in-intervention, they failed to discharge their heavy burden. Because they failed to do so, the Court has no choice but to uphold the presumption of constitutionality accorded to the cityhood laws.

II

The cityhood laws do not violate the equal protection clause under Section 1, Article III

of the Constitution by granting special treatment to respondent municipalities in exempting them from the minimum income requirement imposed by R.A. No. 9009.

Article III, Section 1 of the Constitution partly provides that no person shall "be denied the equal protection of the laws." This provision was sourced from the Fourteenth Amendment of the United States Constitution[129] which, among others, provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws."[130] Although couched differently, the equal protection clause in the United States Constitution has the same meaning as that in the Philippine Constitution.[131]

The essence of the command of the equal protection clause is a direction that all persons similarly situated should be treated alike.[132] The primary objective of the equal protection clause was to secure for the black persons, who were then recently emancipated, the full enjoyment of their freedom.[133] As presently understood, however, equal protection extends to all persons without regard for race, color, or class. It prohibits any state legislation which denies to any race, class, or individual the equal protection of the laws.[134] And as "persons" include corporations,[135] political subdivisions of a state, which are public corporations, are covered by the guarantee of the equal protection clause.

Not all classifications are prohibited, however. The equal protection guarantee of the Fourteenth Amendment does not take away from Congress the power of classification.[136] Thus, it is hornbook doctrine that the guaranty of the equal protection of the law is not violated by a legislation based on reasonable classification.[137]

However, the classification, to be reasonable, (1) must rest on substantial distinctions; (2) must be germane to the purpose of the law; (3) must not be limited to existing conditions only; and (4) must apply equally to all members of the same class.[138] Using the foregoing as parameters, We rule that the cityhood laws do not violate the equal protection clause.

A. Sponsorship speech of Senator Alfredo Lim on House Joint Resolution No. 1

But first, let the convincing sponsorship speech of then Senator Alfredo Lim on House Joint Resolution No. 1 shed light on the ensuing discussion:

> I thank the Senate President and my colleagues in this Chamber for their kind indulgence in allowing this Representation to take the floor on behalf of the people of 12 municipalities in their collective aspiration for sustained growth and progress. Over a million people spread in eight regions have long been awaiting the realization of their dreams for cityhood.
>
> Between July 1998 to June 2001, during the Eleventh Congress, fifty-seven (57) municipalities applied for city status, confident that each
> has met the requisites for conversion under Section 450 of the Local

Government Code, particularly the income threshold of P20 million. Of the 57 that filed, thirty-two (32) were enacted into law; one was rejected in a plebiscite; while the rest - twenty-four (24) in all - failed to pass through Congress. Shortly before the long recess of Congress in February 2001, to give way to the May elections of that year, Senate Bill No. 2157, which eventually became Republic Act No. 9009, was passed into law, effectively raising the income requirement for creation of cities to a whooping P100 million, exclusive of IRA. Much as the proponents of the 24 cityhood bills then pending struggled to beat the effectivity of the law on June 30, 2001, events that then unfolded were swift and overwhelming that Congress just did not have the time to act on the measures.

Some of these intervening events were the Senate Blue Ribbon Committee investigation into the *jueteng* scandal, the impeachment of President Estrada by the House of Representatives, the aborted impeachment proceedings in the Senate, the leadership reorganization in both Houses of Congress, the "EDSA Dos" and "EDSA Tres" uprisings, the campaign period and the May 2001 elections.

The imposition of a much higher income requirement for the creation of a city virtually delivered a lethal blow to the aspirations of the 24 municipalities to attain economic growth and progress. To them, it was unfair; like any sport - changing the rules in the middle of the game.

Undaunted, they came back during the Twelfth Congress (from June 2001 to June 2004) appealing for fairness and justice. They filed House Joint Resolution No. 29 seeking exemption from the higher income requirement of RA 9009. They were successful in the House all the way through the Senate. Here, they found a staunch ally in the person of my dear friend and colleague Sen. Bobby Barbers as chair of the Committee on Local Government. Several public hearings, caucuses, dialogues and informal discussions notwithstanding, the committee report was only good up to plenary debates. For the second time, time ran out from them.

For many of the municipalities whose Cityhood Bills are now under consideration, this year, at the closing days of the Thirteenth Congress, marks their ninth year appealing for fairness and justice. House Joint Resolution No. 1 which was sent by the House to the Senate for concurrence embodies their unfailing hope that their lawmakers would give them their rightful due.

I, for one, share their view that fairness dictates that they should be given a legal remedy by which they could be allowed to prove that they have all the necessary qualifications for city status using the criteria set forth under the Local Government Code prior to its amendment by RA 9009. Hence, when House Joint Resolution. No. 1 reached the Senate and was referred to the

Committee on Local Government in March 2005, I immediately set the public hearing the following month. On July 25, 2006, I filed Committee Report No. 84 after over a year of determining the sentiments of our colleagues and considering the positions taken by the concerned sectors both for and against the resolution. On September 6, I delivered the sponsorship speech and was interpellated by Senators Aquilino Pimentel, Jr. and Sergio Osmeña III on September 12. Although I had made myself available for interpellation from anyone almost every session day since then, it was only last October 12 that the Senate agreed to proceed with the committee and individual amendments. On the same day, the Senate approved the measure on Second Reading, without prejudice to a motion for reconsideration by any member who was not on the floor that day.

After a month-long break, on November 7, the approval was reconsidered to give way to further questions from Senators Pimentel and Biazon. By November 14, the measure had reverted to the period of individual amendments. This was when the then acting majority leader, Senator Compañera Pia Cayetano, informed the Body that Senator Pimentel and the proponents of House Joint Resolution No. 1 have agreed to the proposal of the Minority Leader for the House to first approve the individual Cityhood Bills of the qualified municipalities, along with the provision exempting each of them from the higher income requirement of RA 9009. Prior to that, on the initiative of the Senate President, and in his presence, this Representation and Senator Pimentel had come up with an agreement with the proponents to pre-qualify the municipalities. This led to the certification issued by the proponents short-listing fourteen (14) municipalities deemed to be qualified for city-status.

Acting on the suggestion of Senator Pimentel, the proponents lost no time in working for the approval by the House of Representatives of their individual Cityhood Bills, each containing a provision of exemption from the higher income requirement of RA 9009. On the last session day of last year, December 21, the House transmitted to the Senate the Cityhood Bills of twelve out of the 14 pre-qualified municipalities. Your Committee immediately conducted the public hearing last January 10, and the committee reports were filed on January 25.

The whole process I enumerated spanning three Congresses brings us to where we are today. I sincerely hope that time would not run out for them the third time around.

In essence, the Cityhood Bills now under consideration will have the same effect as that of House Joint Resolution No. 1 because each of the 12 bills seeks exemption from the higher income requirement of RA 9009. The proponents are invoking the exemption on the basis of justice and fairness.

Each of the 12 municipalities has all the requisites for conversion into a component city based on the old requirements set forth under Section 450 of the Local Government Code, prior to its amendment by RA 9009, namely:

1. An average annual income, as certified by the Department of Finance, of at least P20 million for the last two consecutive years based on 1991 constant prices, and if it has either of the following requisites:

    1.1 A contiguous territory of at least 100 square kilometers, as certified by the Lands Management Bureau; or

    1.2 A population of not less than 150,000 inhabitants, as certified by the National Statistics Office.

Allow me now to place on record the qualification of each of the 12 municipalities based on these requirements. The average regular income for the years 2000 and 2001 (prior to the effectivity of RA 9009) based on 1991 constant prices was duly certified by the Bureau of Local Government Finance, the land area by the Lands Management Bureau, and the population (based on the 2000 Census) by the National Statistics Office:

Municipalities	(House Bill-Income Committee Report)	Land Area	Population
1. Baybay, Leyte	(H. No. 218)	5973-CRP29.8 M	459.34 km²	86,179
2. Tayabas, Quezon	(H. No. 219)	5930-CRP24.7 M	230.95 km²	64,449
3. Catbalogan, Samar	(H. No. 220)	5998-CRP28.3 M	274.22 km²	76,324
4. Lamitan, Basilan	(H. No. 221)	6601-CRP22.1 M	354.95 km²	54,433
5. Tandag, Surigao del Sur	(H. No. 222)	5999-CRP21.7 M	291.73 km²	39,222
6. Tabuk, Kalinga	(H. No. 223)	6005-CRP29.9 M	700.25 km²	63,507
7. Batac, Ilocos Norte	(H. No. 224)	6004-CRP28.3 M	161.06 km²	45,534
8. Carcar, Cebu	(H. No. 225)	6002-CRP25.7 M	116.78 km²	78,726
9. Bayugan, Agusan del Sur	(H. No. 226)	5991-CRP32.5 M	668.77 km²	89,999
10. Cabadbaran, Agusan	(H. No.	5992-CRP21.9 M	311.02	51,905

Del Norte		227)		km²	
11. Borongan, Samar	Eastern	(H. No. 228)	5990-CRP	25.4 M km²	475.00	48,638
12. Bogo, Cebu		(H. No. 229)	5997-CRP	22.0 M	103.52km²	57,509

Based on these data, it is clear that all the 12 municipalities under consideration are qualified to become cities prior to RA 9009. All of them satisfy the mandatory requirement on income and one of the two optional requirements of territory.

It must also be noted that except for Tandag and Lamitan, which are both second-class municipalities in terms of income, all the rest are categorized by the Department of Finance as first-class municipalities with gross income of at least P70 million as per Commission on Audit Report for 2005. Moreover, Tandag and Lamitan, together with Borongan, Catbalogan, and Tabuk, are all provincial capitals.

The more recent income figures of the 12 municipalities, which would have increased further by this time, indicate their readiness to take on the responsibilities of cityhood.

Moreover, the municipalities under consideration are leading localities in their respective provinces. Borongan, Catbalogan, Tandag, Batac and Tabuk are ranked number one in terms of income among all the municipalities in their respective provinces; Baybay and Bayugan are number two; Bogo and Lamitan are number three; Carcar, number four; and Tayabas, number seven. Not only are they pacesetters in their respective provinces, they are also among the frontrunners in their regions - Baybay, Bayugan and Tabuk are number two income earners in Regions VIII, XII, and CAR, respectively; Catbalogan and Batac are number three in Regions VIII and I, respectively; Bogo, number five in Region VII; Borongan and Carcar are both number six in Regions VIII and VII, respectively. This simply shows that these municipalities are viable.

It is for these reasons that I once again appeal to my distinguished colleagues for their kind consideration and approval of the Cityhood Bills of the 12 municipalities whose application for city status was overtaken by events beyond their control. They have longed for so long a time now, ever hoping that their elected representatives in this Chamber would see the reasonableness of their appeal. I believe they have already bent over backwards in recognition of the valid sentiments of their colleagues in the League of Cities. You will note that out of the original 24 municipalities, we only have before us nearly as half.

Our people from these 12 municipalities deserve a straightforward response from us on this matter they deem important. Even those who oppose the

> exemption expect that the Senate would once and for all put a closure to the issue. There is ample time if we choose to measure up to our mandate as representatives of the people. I am confident that we will not fail them the third time.[139] (Underscoring supplied)

B. The classification rests on substantial distinctions. What distinguishes respondent municipalities from other municipalities is that the latter had pending cityhood bills before the passage of R.A. No. 9009. In the words of Senator Lim, the peculiar conditions of respondent municipalities, which led to their exemption from the increased P100,000,000.00 income requirement of R.A. No. 9009, is that the imposition of a much higher income requirement on those that were qualified to become cities before the enactment of R.A. No. 9009 was "unfair; like any sport - changing the rules in the middle of the game." Thus, "fairness dictates that they should be given a legal remedy by which they should be allowed to prove that they have all the necessary qualifications for city status using the criteria set forth under the Local Government Code prior to its amendment by R.A. No. 9009." Truly, the peculiar conditions of respondent municipalities, which are actual and real, furnish sufficient grounds for legislative classification.

It is not the province of the Court to delve into the wisdom of legislative enactments. The only function of courts is the interpretation of laws. The principle of separation of powers prevents them from reinventing laws.[140] By the very nature of the function of the Legislature, it is that branch of government that is vested with being the judge of the necessity, adequacy, wisdom, reasonableness, and expediency of any law.[141] Courts are bereft of any power to take away the prerogatives of the legislature in the guise of construing or interpreting the law.[142] In making choices, Congress has consulted its own wisdom, which this Court has no authority to review, much less reverse. Courts do not sit to resolve the merits of conflicting theories. That is the prerogative of the political departments. It is settled that questions regarding the wisdom, morality, or practicability of statutes, are not addressed to the judiciary. They may be addressed only by the legislative and executive departments, to which the function belongs in our scheme of government. That function is exclusive, to which courts have no business of prying into. Whichever way the legislative and executive branches decide, they are answerable only to their own conscience and their constituents who will ultimately judge their acts, and not the courts of justice.[143]

Courts cannot question the wisdom of the classification made by Congress. This is the prerogative of the Legislature. The power of the Legislature to make distinctions and classifications among persons is neither curtailed nor denied by the equal protection clause of the Constitution. Legislative power admits of a wide scope of discretion. A law can be violative of the constitutional limitation only when the classification is without reasonable basis.

> Courts do not sit to determine the wisdom of statutes, or fashion remedies that Congress has specifically chosen not to extend. With questions of wisdom,

> propriety, appropriateness, necessity, policy, fairness, or expediency of legislation or regulations, the courts simply have no concern.
>
> x x x x
>
> The courts should similarly be unconcerned with questions of legislative motivation. Indeed, the factfinding process and motivation of legislative bodies is generally entitled to a presumption of regularity and deferential review by the judiciary x x x.[144]

True, courts are given that awesome power to determine whether there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.[145] There is none here.

C. The classification is germane to the purpose of the law. The exemption of respondent municipalities from the P100,000,000.00 income requirement of R.A. No. 9009 was unquestionably designed to insure that fairness and justice were accorded to respondent municipalities, as their cityhood bills were not enacted by Congress in view of intervening events and for reasons beyond their control. The equal protection clause does not merely prohibit Congress from passing discriminatory laws. The equal protection clause also commands Congress to pass laws which would positively promote equality or reduce existing inequalities. This was what Congress actually did in enacting the cityhood laws. These laws positively promote equality and reduce the existing inequality between respondent municipalities and the "other thirty-two (32) municipalities" whose cityhood bills were enacted during the 11th Congress.

D. The classification is not limited to existing conditions only. The non-retroactive effect of R.A. No. 9009 is not limited in application to
conditions existing at the time of its enactment. It is intended to apply for all time as long as the conditions set there exist. It is applicable as long as the concerned municipalities have filed their respective cityhood bills before the effectivity of R.A. No. 9009, and qualify for conversion into city under the original version of Section 450 of the Local Government Code.

The common exemption clause in the cityhood laws is an application of the non-retroactive effect of R.A. No. 9009. **It is not a declaration of certain rights but a mere declaration of prior qualification and/or compliance with the non-retroactive effect of R.A. No. 9009**.

Curiously, petitioners and petitioners-in-intervention do not question the constitutionality of R.A. No. 9009. In fact, they use R.A. No. 9009 to argue for the alleged unconstitutionality of the cityhood laws. This is absurd, considering that **the cityhood laws only expressed the intent of R.A. No. 9009 to exempt respondent municipalities from the income requirement of P100,000,000.00**.

Petitioners and petitioners-in-intervention, however, invite the attention of the Court to *Mayflower Farms, Inc. v. Ten Eyck.*[146] In that case, the Milk Control Act of 1933 authorized a board to fix minimum prices for sales of fluid milk by dealers to stores in cities where there are more than one million inhabitants with a differential of 1% quart in favor of dealers "not having a well-advertised trade name." The Act was good for one year. An amended act, effective April 1, 1934, placing milk control under the jurisdiction of a division of the Department of Agriculture and Markets, contained a similar provision on the differential. The pertinent section, as it stood at the time of the appellant's application for a license, is as follows:

> It shall not be unlawful for any milk dealer who since April tenth, nineteen hundred thirty-three has been engaged continuously in the business of purchasing and handling milk not having a well advertised
> trade name in a city of more than one million inhabitants to sell fluid milk in bottles to stores in such city at a price not more than one cent per quart below the price of such milk sold to stores under a well advertised trade name, and such lower price shall also apply on sales from stores to consumers; provided that in no event shall the price of such milk not having a well advertised trade name, be more than one cent per quart below the minimum price fixed (by the board) for such sales to stores in such a city.[147]

Appellant Mayflower did not have a well-advertised trade name. However, its application for license was denied because although it had not been continuously in the business of dealing in milk since April 10, 1933, it had sold and was selling to stores milk at a price a cent below the established minimum price. The issue then centered on "whether the provision denying the benefit of the differential to all who embark in the business after April 10, 1933, works a discrimination which has no foundation in the circumstances of those engaging in the milk business in New York City, and is therefore so unreasonable as to deny appellant the equal protection of the laws in violation of the Fourteenth Amendment."[148]

In support of the argument that the questioned act did not violate the equal protection clause, appellees referred to the Court "a host of decisions to the effect that a regulatory law may be prospective in operation and may except from its sweep those presently engaged in the calling or activity to which it is directed. Examples are statutes licensing physicians and dentists, which apply only to those entering the profession subsequent to the passage of the act and exempt those then in practice, or zoning laws which exempt existing buildings, or laws forbidding slaughter houses within certain areas, but excepting existing establishments."[149]

The cases cited by appellees, however, were held to be inapplicable to the questioned Act. This was so because the questioned Act, "on its face, x x x is not a regulation of a business or an activity in the interest of, or for the protection of, the public, but an attempt to give an economic advantage to those engaged in a given business at an arbitrary date as against all

those who enter the industry after that date."[150]

In finally ruling that the questioned Act violated the equal protection clause, the United States Supreme Court, through Mr. Justice Owen Roberts, held that "appellees do not intimate that the classification bears any relation to the public health or welfare generally; that the provision will discourage monopoly; or that it was aimed at any abuse, cognizable by law, in the milk business."[151] Thus, "[i]n the absence of any such showing, we have no right to conjure up possible situations which might justify the discrimination. The classification is arbitrary and unreasonable and denies the appellant the equal protection of the law."[152]

Petitioners and petitioners-in-intervention claim that like the Milk Control Act of 1933, the cityhood laws should also be declared unconstitutional because "there is no compelling or countervailing State policy, constitutional provision or even statutory or public policy that underlies the exemption clause in the cityhood laws."[153]

The argument is untenable. The Milk Control Act of 1933 was declared unconstitutional because the time was based on an arbitrary date. It did not have any relation to the public welfare generally. There was no causal connection between time and the purpose of the law.

What we have here is different. There is a causal connection between time, i.e., the Eleventh Congress when the cityhood bills of respondent municipalities were filed, and the purpose of the law, which is justice and fairness.

Respondent municipalities and the other thirty-two (32) municipalities, which had already been elevated to city status, were all found to be qualified under the old Section 450 of the Local Government Code and had pending cityhood bills during the Eleventh Congress. As such, both respondent municipalities and the other thirty-two (32) municipalities are under like circumstances and conditions. There is thus no cogent reason why an exemption from the P100,000,000.00 cannot be given to respondent municipalities. Otherwise, unfairness and injustice will be committed against them.

The equal protection of the law clause proscribes undue favor and individual favor and individual or class privilege as well as hostile discrimination or the possession of inequality. The equal protection clause is not intended to prohibit legislation, which is limited either in the object to which it is directed or by territory within which it is to operate. Neither does equal protection demand absolute equality among residents. It merely requires that all persons shall be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced.[154]

An analogy may be found in the Constitution. Citizenship may be granted to those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority. Citizenship, however, is denied to those who, although born

before January 17, 1973, of Filipino mothers, did not elect Philippine citizenship upon reaching the age of majority.[155] In like manner, Congress has the power to carry out the intent of R.A. No. 9009 by making a law which exempts municipalities from the P100,000,000.00 income requirement imposed by R.A. No. 9009 if their cityhood laws were pending when R.A. No. 9009 was passed, and were compliant with the income threshold requirement of P20,000,000.00 imposed by then Section 450 of the Local Government Code.

Even if the classification of the cityhood laws is limited to existing conditions only, this does not automatically mean that they are unconstitutional. The general rule is that a classification must not be based on existing conditions only. It must also be made for future acquisitions of the class as other subjects acquire the characteristics which form the basis of the classification. The exception is when the statute is curative or remedial, and thus temporary.[156]

Here, the cityhood laws are curative or remedial statutes. They seek to prevent the great injustice which would be committed to respondent municipalities. Again, the cityhood laws are not contrary to the spirit and intent of R.A. No. 9009 because Congress intended said law to be prospective, not retroactive, in application. Indeed, to deny respondent municipalities the same rights and privileges accorded to the other thirty-two (32) municipalities when they are under the same circumstances, is tantamount to denying respondent municipalities the protective mantle of the equal protection clause. In effect, petitioners and petitioners-in-intervention are creating an absurd situation in which an alleged violation of the equal protection clause of the Constitution is remedied by another violation of the equal protection clause. That the Court cannot sustain.

E. The classification applies equally to all members of the same class. The cityhood laws, in carrying out the clear intent of R.A. No. 9009, apply to municipalities that had pending cityhood bills before the passage of R.A. No. 9009 and were compliant with then Section 450 of the Local Government Code that prescribed an income requirement of P20,000,000.00.

In sum, a statutory discrimination will not be set aside on the ground of denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it.[157] Class legislation which discriminates against some and favors others is prohibited. But a classification on a reasonable basis, which is not made arbitrarily or capriciously, is permissible.[158] Thus, in *Lopez v. Commission on Elections*,[159] the Court rejected the claim that there was denial of the equal protection provision of the Constitution, unless Presidential Decree No. 824, which created Metropolitan Manila, was to be construed in such a way that, along with the rest of other cities and municipalities, there would be an election for Sangguniang Bayan. The Court reasoned, thus:

> x x x There is no need to set 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 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. There is thus no warrant for the view that the equal protection guarantee was violated.[160]

As a last ditch effort, petitioners and petitioners-in-intervention allege that respondents are not yet ready to become cities. This contention, however, is belied by the sponsorship speech by Senator Lim of Senate Bill No. 1[161] and that by the respective Congressmen[162] who introduced what eventually became the cityhood laws.[163] *Contra factum non valet argumentum*. There is no argument against facts. ***Walang pakikipagtalo laban sa totoo***.

It should not also be forgotten that petitioning cities and petitioners-in-intervention became cities under the old income requirement of either P10,000,000.00 by virtue of B.P. Blg. 337 or P20,000,000.00 by virtue of then Section 450 of the Local Government Code. And yet nobody doubted their capacity to become cities.

Summing Up

The majority holds that the cityhood laws are unconstitutional on seven grounds, namely: (1) applying R.A. No. 9009 to the present case is a prospective, not a retroactive application, because R.A. No. 9009 took effect in 2001 while the cityhood bills became laws more than five (5) years later; (2) the Constitution requires that Congress shall prescribe all the criteria for the creation of a city in the Local Government Code and not in any other law; (3) the cityhood laws violate Section 6, Article X of the Constitution because they prevent a fair and just distribution of the national taxes to local government units; (4) the intent of members of Congress to exempt certain municipalities from the coverage of R.A. No. 9009 remained an intent and was never written into law; (5) the criteria prescribed in Section 450 of the Local Government Code, as amended by R.A. No. 9009, for converting a municipality into a city are clear, plain, and unambiguous, needing no resort to any statutory construction; (6) the deliberations of the 11th or 12th Congress on unapproved bills or resolutions are not extrinsic aids in interpreting a law passed in the 13th Congress because it is not a continuing body; and (7) even if the exemption in the cityhood laws were written in Section 450 of the Local Government Code, the exemption would still be unconstitutional for violation of the equal protection clause because the exemption is based solely on the fact that the 16 municipalities had cityhood bills pending in the 11th Congress when R.A. No. 9009 was enacted.

Anent the first ground, it must be pointed out that the cityhood bills were pending **before** the passage of R.A. No. 9009. Congress was well aware of such fact. Thus, Congress

intended the hiked income requirement in R.A. No. 9009 not to apply to the cityhood bills which became the subject cityhood laws. This is the context of the reference to the prospective application of the said R.A. Congress intended the cityhood laws in question to be exempted from the income requirement of P100,000,000.00 imposed by R.A. No. 9009.

The second point is specious. It overlooks that R.A. No. 9009 **is now** Section 450 of the Local Government Code. The cityhood laws also merely carry out the intent of R.A. No. 9009 to exempt respondent municipalities from the income requirement of P100,000,000.00.

The third needs clarification. Article X, Section 6 of the Constitution speaks for itself. While it is true that local government units shall have a "**just share**" in the national taxes, it is qualified by the phrase "**as determined by law**."

As to the fourth point, **Congress meant not to incorporate its intent** in what eventually became R.A. No. 9009. To recall, Senate President Franklin Drilon asked if there would be an appropriate language to be crafted which would reflect the intent of Congress. Senator Aquilino Pimentel gave a categorical answer: "**I do not think it is necessary to put that provision because what we are saying here will form part of the interpretation of this bill**."[164]

Neither is the fifth item persuasive. The dissent admits that **courts may resort to extrinsic aids of statutory construction like the legislative history of the law if the literal application of the law results in absurdity, impossibility, or injustice**.[165]

The sixth reason misses the point. It is immaterial if Congress is not a continuing body. The hearings and deliberations conducted during the 11th or 12th Congress may still be used as extrinsic aids or reference because **the same cityhood bills which were filed before the passage of R.A. No. 9009 were being considered during the 13th Congress**.

It does not matter if the officers of each Congress or the authors of the bills are different. In the end, **the rationale for exempting the cityhood bills from the P100,000,000.00 income requirement imposed by R.A. No. 9009 remains the same**: (1) the cityhood bills were pending before the passage of R.A. No. 9009, and (2) respondent municipalities were compliant with the P20,000,000.00 income requirement imposed by the old Section 450 of the Local Government Code, which was eventually amended by R.A. No. 9009.

What should not be overlooked is that the cityhood laws enjoy the presumption of constitutionality. Petitioners and petitioners-in-intervention bear the heavy burden of overcoming such presumption. However, the majority does exactly the opposite. **It shifts the *onus probandi* to respondent municipalities to prove that their cityhood laws are constitutional. That is violative of the basic rule of evidence**.[166]

On the last ground, the majority misreads the dissent. The exemption on the 16

municipalities is not only based on the fact that they had pending cityhood bills when R.A. No. 9009 was enacted. Aside from complying with the territory and population requirements of the Local Government Code, these municipalities also met the P20,000,000.00 income threshold of the old Section 450 of the Local Government Code.

A Parting Word

The decade-long quest of respondent municipalities for cityhood merits an approval, not rejection.

Section 10, Article X of the 1987 Constitution requires, aside from a plebiscite, that the criteria established in the Local Government Code should be followed in the creation of a city. R.A. No. 9009, which became Section 450 of the Local Government Code, prescribes an income threshold of P100,000,000.00. But the **intent** of R.A. No. 9009 is clear. Congress intended to exempt municipalities (1) that had pending cityhood bills before the passage of R.A. No. 9009; **and** (2) that were compliant with the income threshold of P20,000,000.00 under the old Section 450 of the Local Government Code. Respondent municipalities are covered by the twin criteria.

Thus, petitioners and petitioners-in-intervention cannot hardly claim the cityhood laws are unconstitutional on the ground they violate the criteria established in the Local Government Code. Neither may they claim that the
cityhood laws violate the equal protection clause of the Constitution. Congress is given the widest latitude in making classifications and in laying down the criteria. Separation of powers prevents the Court from prying into the wisdom or judgment of Congress. Even if the Court did, there is no unreasonable classification here, much less grave abuse of discretion.

Admittedly, R.A. No. 9009 is geared towards making it very difficult for municipalities and cluster of *barangays* to convert into cities. The dissent is not contrary to that goal. The intent of Congress - to avert the mad rush of municipalities wanting to be converted into cities and to prevent this nation from becoming a nation of all cities and no municipalities - is preserved. A cluster of *barangays* or municipalities that had (1) no pending cityhood bills before the passage of R.A. No. 9009; **and** (2) that were not compliant with the income threshold of P20,000,000.00 imposed by the old Section 450 of the Local Government Code, cannot find refuge in the cityhood laws in their bid to become component cities. They now have to comply with the P100,000,000.00 income requirement imposed by R.A. No. 9009. In the alternative, they should seek the amendment of R.A. No. 9009 if they wish to lower the income requirement.

Disposition

WHEREFORE, I vote to **DISMISS** the petitions and petitions-in-intervention and to declare the cityhood laws **CONSTITUTIONAL**.

[1] The Sixteen (16) Cityhood Laws are the following:

1. Republic Act No. 9389, otherwise known as "An Act converting the Municipality of Baybay in the Province of Leyte into a component city to be known as City of Baybay." Lapsed into law on March 15, 2007;

2. Republic Act No. 9390, otherwise known as "An Act converting the municipality of Bogo in the Province of Cebu into a component city to be known as City of Bogo." Lapsed into law on March 15, 2007;

3. Republic Act No. 9391, otherwise known as "An Act converting the Municipality of Catbalogan in the Province of Western Samar into a component city to be known as the City of Catbalogan." Lapsed into law on March 15, 2007;

4. Republic Act No. 9392, otherwise known as "An Act converting the Municipality of Tandag in the Province of Surigao del Sur into a component city to be known as City of Tandag." Lapsed into law on March 15, 2007;

5. Republic Act No. 9394, otherwise known as "An Act converting the Municipality of Borongan in the Province of Eastern Samar into a component city to be known as City of Borongan." Lapsed into law on March 16, 2007;

6. Republic Act No. 9398, otherwise known as "An Act converting the Municipality of Tayabas in the Province of Quezon into a component city to be known as City of Tayabas." Lapsed into law on March 18, 2007;

7. Republic Act No. 9393, otherwise known as "An Act converting the Municipality of Lamitan in the Province of Basilan into a component city to be known as City of Lamitan." Lapsed into law on March 15, 2007;

8. Republic Act No. 9404, otherwise known as "An Act converting the Municipality of Tabuk in the Province of Kalinga into a component city to be known as City of Tabuk." Lapsed into law on March 23, 2007;

9. Republic Act No. 9405, otherwise known as "An Act converting the Municipality of Bayugan in the Province of Agusan del Sur into a component city to be known as City of Bayugan." Lapsed into law on March 23, 2007;

10. Republic Act No. 9407, otherwise known as "An Act converting the Municipality of Batac in the Province of Ilocos Norte into a component city to be known as City of Batac." Lapsed into law on March 24, 2007;

11. Republic Act No. 9408, otherwise known as "An Act converting the Municipality of

Mati in the Province of Davao Oriental into a component city to be known as City of Mati." Lapsed into law on March 24, 2007;

12. Republic Act No. 9409, otherwise known as "An Act converting the Municipality of Guihulngan in the Province of Negros Oriental into a component city to be known as City of Guihulngan." Lapsed into law on March 24, 2007;

13. Republic Act No. 9434, otherwise known as "An Act converting the Municipality of Cabadbaran in the Province of Agusan del Norte into a component city to be known as City of Cabadbaran." Lapsed into law on April 12, 2007;

14. Republic Act No. 9436, otherwise known as "An Act converting the Municipality of Carcar in the Province of Cebu into a component city to be known as City of Carcar." Lapsed into law on April 15, 2007;

15. Republic Act No. 9435, otherwise known as "An Act converting the Municipality of El Salvador in the Province of Misamis Oriental into a component city to be known as City of El Salvador." Lapsed into law on April 12, 2007; and

16. Republic Act No. 9491, otherwise known as "An Act converting the Municipality of Naga in the Province of Cebu into a component city to be known as City of Naga." Lapsed into law on July 15, 2007.

[2] Journal, Senate 13th Congress 59th Session 1238 (January 23, 2007).

[3] Entitled "An Act Amending Section 450 of Republic Act No. 7160, Otherwise Known as The Local Government Code of 1991, by Increasing the Average Annual Income Requirement for a Municipality or Cluster of Barangay to be Converted into a Component City."

[4] House Joint Resolution No. 29 was actually a consolidation of House Joint Resolution No. 6 and a proposed bill of then Congressman Victor Sumulong seeking to amend Section 450 of the Local Government Code.

[5] Annex "A," Memorandum of Petitioners.

[6] The sixteen (16) respondent municipalities are among those included in the list of twenty-four (24).

[7] Supra note 2.

[8] Id.

[9] Annex "B," Memorandum of Petitioners.

[10] Senator Manuel B. Villar, Jr., Senator Ramon Bong Revilla, Jr., Senator Juan Ponce Enrile, Senator Manuel "Lito" M. Lapid, and Senator Jinggoy Ejercito Estrada.

[11] Senator Ramon B. Magsaysay, Jr. and Senator Compañera Pia S. Cayetano.

[12] Senator Rodolfo G. Biazon, Senator Richard J. Gordon, and Senator Aquilino Q. Pimentel, Jr.

[13] Sec. 27. (1) Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same, he shall sign it; otherwise, he shall veto it and return the same with his objections to the House where it originated, which shall enter its objections at large in its Journal and proceed to reconsider it. x x x The President shall communicate his veto of any bill to the House where it originated within thirty days after the date of receipt thereof; otherwise, it shall become a law as if he had signed it.

[14] *Rollo* (G.R. No. 176951), Vol. 1, pp. 3-65.

[15] *Rollo* (G.R. No. 177499), Vol. 1, pp. 3-65.

[16] *Rollo* (G.R. No. 178056), Vol. 1, pp. 3-69.

[17] Represented by its National President, Jerry P. Treñas.

[18] Represented by its City Mayor, Jerry P. Treñas.

[19] Represented by its City Mayor, Mel Senen S. Sarmiento.

[20] July 24, 2007 for the City of Oroquieta, City of Victorias, and City of Cauayan, Isabela.

July 31, 2007 for the City of Gingoog, City of Himamaylan, City of Tacurong, City of Urdaneta, City of Santiago, and City of Iriga.

August 7, 2007, for the City of Ligao and City of Legazpi.
August 14, 2007, for the City of Tagaytay and City of Surigao.
August 21, 2007, for the City of Bayaman.
September 4, 2007, for the City of Silay.
September 11, 2007, for the City of General Santos.
September 18, 2007, for the City of Tarlac, City of Zamboanga, City of Borongan, and City of San Carlos.

October 2, 2007, for the City of Cadiz.
October 16, 2007, for the City of Batangas, City of San Fernando, Pampanga, and City of Tagum.
November 13, 2007, for the City of Tangub, City of Victorias, and City of Calapan.
January 15, 2008, for the City of Pagadian.

[21] See note 1.

[22] *Rollo* (G.R. No. 176951), Vol. 3, pp. 1628-1665.

[23] Id. at 1724.

[24] Id., Vol. 1, p. 27.

[25] *Rollo* (G.R. No. 177499), Vol. 1, p. 26.

[26] *Rollo* (G.R. No. 178056), Vol. 1, p. 27.

[27] 369 US 186, 7 L. Ed. 2d 663, 82 S. Ct. 691 (1962).

[28] *Baker v. Carr,* id. at 204.

[29] 16 Am. Jur. 2d, Constitutional Law, § 143, citing *Shaw v. Hunt,* 517 US 899, 116 S. Ct. 1894, 135 L. Ed. 2d 207 (1996) (declined on other grounds to extend by, *Cleveland County Ass'n for the Government by the People v. Cleveland County Bd. of Com'rs.,* 965 F. Supp. 72 (D.D.C. 1997)) and (distinguished on other grounds by, *Harvell v. Blytheville School Dist. No. 5,* 126 F. 3d 1038, 121 Ed. Law Rep. 525 (8th Cir. 1997)); *U.S. v. Hays,* 515 US 737, 115 S. Ct. 2431, 132 L. Ed. 2d 635 (1995), on remand to, 936 F. Supp. 360 (W.D. La. 1996) (declined to extend on other grounds by, *Vera v. Bush,* 1997 WL 597873 (S.D. Tex. 1997)); *Adarand Constructors, Inc. v. Pena,* 515 US 200, 115 S. Ct. 2097, 132 L. Ed. 2d 158, 67 Fair Empl. Prac. Cas. (BNA) 1828, 40 Cont. Cas. Fed. (CCH) ¶ 76756, 66 Empl. Prac. Dec. (CCH) ¶ 43556 (1995) (declined on other grounds to follow by, *Cohen v. Brown University,* 101 F. 3d 155, 114 Ed. Law Rep. 394, 45 Fed. R. Evid. Serv. (LCP) 1369 (1st Cir. 1996)) and on remand to, 965 F. Supp. 1556, 41 Cont. Cas. Fed. (CCH) ¶ 77118 (D. Colo. 1997) and (distinguished on other grounds by, *Hunter by Brandt v. Regents of the University of California,* 971 F. Supp. 1316, 120 Ed. Law Rep. 705 (C.D. Cal. 1997) and (declined to extend on other grounds by, *Abreu v. Callahan,* 971 F. Supp. 799, 54 Soc. Sec. Rep. Serv. 60 (S.D.N.Y. 1997)) and (distinguished on other grounds by, *Allen v. Alabama State Bd. of Educ.,* 976 F. Supp. 1410, 121 Ed. Law Rep. 984 (M.D. Ala. 1997)); *Schlesinger v. Reservists Committee to Stop the War,* 418 US 208, 94 S. Ct. 2925, 41 L. Ed. 2d 706 (1974); *Montcalm Pub. Corp. v. Beck,* 80 F. 3d 105, 24 Media L. Rep. (BNA) 1665 (4th Cir. 1996), cert. denied, 117 S. Ct. 296, 136 L. Ed. 2d 215 (U.S. 1996); *Pence v. State,* 652 NE 2d 486 (Ind. 1995), reh'g denied, (Sept. 22, 1995); *Second St. Properties, Inc. v.*

Fiscal Court of Jefferson County, 445 SW 2d 709 (Ky. 1969); *Whitney Nat. Bank of New Orleans v. Little Creek Oil Co.,* 212 La. 949, 33 So. 2d 693 (1947); *State ex rel. Lynch v. Rhodes,* 176 Ohio St. 251, 27 Ohio Op. 2d 155, 199 N.E.2d 393 (1964); *Porter v. City of Paris* , 184 Tenn. 551, 201 SW 2d 688 (1947).

[30] Id., § 139, citing *Shaw v. Hunt,* 517 US 899, 116 S. Ct. 1894, 135 L. Ed. 2d 207 (1996) (declined on other grounds to extend by, *Cleveland County Ass'n for Government by the People v. Cleveland County Bd. of Com'rs.,* 965 F. Supp. 72 (D.D.C. 1997)) and (distinguished on other grounds by, *Harvell v. Blytheville School Dist. No. 5,* 126 F. 3d 1038, 121 Ed. Law Rep. 525 (8th Cir. 1997)); *U.S. v. Hays,* 515 US 737, 115 S. Ct. 2431, 132 L. Ed. 2d 635 (1995), on remand to, 936 F. Supp. 360 (W.D. La.) 1996 (declined to extend by, *Vera v. Bush,* 1997 WL 597873 (S.D. Tex. 1997)); *McDowell v. U.S.,* 274 F. Supp. 426 (E.D. Tenn. 1967); *City of Pueblo v. Pullaro,* 130 Colo. 354, 275 P. 2d 938 (1954); *State ex rel. Nielson v. City of Gooding,* 75 Idaho 36, 266 P. 2d. 655 (1953); *De Febio v. County School Bd. of Fairfax County,* 199 Va. 511, 100 SE 2d 760 (1957), appeal dismissed, cert. denied, 357 US 218, 78 S. Ct. 1363, 2 L. Ed. 2d 1361 (1958).

[31] Id., citing *Anderson Nat. Bank v. Luckett,* 321 US 233, 64 S. Ct. 599, 88 L. Ed. 692, 151 ALR 824 (1944); *New Hampshire Right to Life Political Action Committee v. Gardner,* 99 F. 3d 8 (1st Cir. 1996).

[32] G.R. No. L-75287, June 30, 1987, 151 SCRA 703.

[33] G.R. No. 96541, August 24, 1993, 225 SCRA 568.

[34] G.R. No. 141284, August 15, 2000, 338 SCRA 81.

[35] 460 Phil. 830 (2003).

[36] G.R. No. 166052, August 29, 2007, 531 SCRA 583.

[37] *Anak Mindanao Party-List Group v. The Executive Secretary*, id. at 591-592.

[38] See 16 Am. Jur. 2d, Constitutional Law, §§ 148-160. Am. Jur. also says that "The United States has standing to challenge state laws or rules that contradict or contravene federal laws or practices." This is clearly not applicable in our jurisdiction because we do not have a federal government.

[39] As alleged in the Memorandum of Petitioners, the League of Cities of the Philippines was issued a certificate of registration by the Securities and Exchange Commission on July 8, 1993 under SEC Reg. No. AN093-003067. It also filed and registered with the SEC on July 9, 1993 its Articles of Incorporation and By-Laws, by which it is organized as a non-

stock corporation.

[40] Sec. 13. Local government unites may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them in accordance with law.

[41] Sec. 499. *Purpose of Organization*. - There shall be an organization of all cities, to be known as the League of Cities, for the primary purpose of ventilation, articulating and crystallizing issues affecting city government administration and securing, through proper and legal means, solutions thereto.

The League may form chapters at the provincial level for the component cities of a province. The National League shall be composed of the presidents of the league of highly urbanized cities and the presidents of the provincial chapters of the league of component cities.

[42] Rules of Court (1997), Rule 3, Sec. 1.

[43] Civil Code, Art. 44.

[44] Id., Art. 46; Corporation Code, Art. 36.

[45] Local Government Code, Sec. 15 provides: "Every local government created or recognized under this Code is a body politic and corporate endowed with powers to be exercised by it in conformity with law. As such, it shall exercise powers as a political subdivision of the national government and as a corporate entity representing the inhabitants of its territory."

[46] Id., Sec. 285. *Allocation to Local Government Units*. - The share of local government units in the internal revenue allotment shall be allocated in the following manner:

(a) Provinces - Twenty-three percent (23%)
(b) Cities - Twenty-three percent (23%)
(c) Municipalities - Thirty-four percent (34%)
(d) Barangays - Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

(a) Population - Fifty percent (50%)
(b) Land Area - Twenty-five percent (25%); and
(c) Equal Sharing - Twenty-five percent (25%):

Provided, further, That the share of each *barangay* with a population of not less than one hundred (100) inhabitants shall not be less than Eighty thousand pesos (P80,000.00) per annum chargeable against the twenty percent (20%) share of the *barangay* from the internal revenue allotment, and the balance to be allocated on the basis of the following formula:

(a) On the first year of the effectivity of this Code:

(1) Population - Forty percent (40%); and
(2) Equal Sharing - Sixty percent (60%)

(b) On the second year:

(1) Population - Fifty percent (50%); and
(2) Equal Sharing - Fifty percent (50%)

(c) On the third year and thereafter:

(1) Population - Sixty percent (60%); and
(2) Equal Sharing - Forty percent (40%):

Provided, finally, That the financial requirements of *barangays* created by local government units after the effectivity of this Code shall be the responsibility of the local government unit concerned.

[47] 16 Am. Jur. 2d, Constitutional Law, § 155.

[48] G.R. No. 159357, April 28, 2004, 428 SCRA 283.

[49] G.R. Nos. 138298 & 138982, November 29, 2000, 346 SCRA 485.

[50] *Velarde v. Social Justice Society,* supra at 296.

[51] Id., citing *Telecommunications and Broadcast Attorneys of the Philippines, Inc. v. Commission on Elections,* G.R. No. 132922, April 21, 1998, 289 SCRA 337; *Sanidad v. Commission on Elections,* G.R. Nos. L-44640, L-44684 & L-44714, October 12, 1976, 73 SCRA 333.

[52] G.R. No. L-23326, December 18, 1965, 15 SCRA 479.

[53] G.R. No. 83896, February 22, 1991, 194 SCRA 317.

[54] G.R. No. 94571, April 22, 1991, 196 SCRA 221.

[55] G.R. No. 91649, May 14, 1991, 197 SCRA 52.

[56] G.R. Nos. 100318, 100308, 100417 & 100420, July 30, 1991, 199 SCRA 750.

[57] G.R. No. 96409, February 14, 1992, 206 SCRA 290.

[58] G.R. No. 113375, May 5, 1994, 232 SCRA 110, 134-135.

[59] G.R. No. 135385, December 6, 2000, 347 SCRA 128.

[60] G.R. Nos. 155001, 155547 & 155661, May 5, 2003, 402 SCRA 612.

[61] *Scripps-Howard Radio v. FCC,* 316 US 4 (1942); *FCC v. Sanders Bros. Radio Station,* 309 US 470, 477 (1940).

[62] CONSTITUTION (1987), Art. VIII, Sec. 5.

[63] *Fortich v. Corona ,* G.R. No. 131457, April 24, 1998, 289 SCRA 624.

[64] Id. at 646.

[65] G.R. No. 67787, April 18, 1989, 172 SCRA 415.

[66] G.R. Nos. 99289-90, January 27, 1993, 217 SCRA 633.

[67] G.R. No. 106692, September 1, 1994, 236 SCRA 130.

[68] G.R. No. 129918, July 9, 1998, 292 SCRA 202, 232.

[69] Supra note 59.

[70] G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718.

[71] G.R. No. 148571, September 24, 2002, 389 SCRA 623.

[72] G.R. No. L-73155, July 11, 1986, 142 SCRA 727.

[73] *Tan v. Commission on Elections,* id. at 753. Mr. Justice Claudio Teehankee, concurring.

[74] G.R. No. 133064, September 16, 1999, 314 SCRA 603.

[75] Supra note 60.

[76] G.R. No. 127882, January 27, 2004, 421 SCRA 148. Reconsidered on December 1, 2004 in G.R. No. 127882, 445 SCRA 1.

[77] G.R. No. 144322, February 6, 2007, 514 SCRA 346.

[78] *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission,* id. at 356-357.

[79] 100 Phil. 1098 (1957).

[80] 56 Phil. 260, 268 (1931).

[81] *Tan v. Commission on Elections,* supra note 72, at 741-742.

[82] *Heirs of Eugenia V. Roxas, Inc. v. Intermediate Appellate Court,* G.R. Nos. 67195, 78618 & 78619-20, May 29, 1989, 173 SCRA 581; *Agustin v. De la Fuente***,** 84 Phil. 515 (1949); *Calbanero v. Torres,* 61 Phil. 522 (1935).

[83] Ferris, The Law of Extraordinary Remedies, 418.

[84] *Montes v. Court of Appeals,* G.R. No. 143797, May 4, 2006, 489 SCRA 432.

[85] *Tomawis v. Tabao-Caudang,* G.R. No. 166547, September 12, 2007, 533 SCRA 68.

[86] *Piczon v. Court of Appeals,* G.R. Nos. 76378-81, September 24, 1990, 190 SCRA 31, 38.

[87] *Torralba v. Municipality of Sibagat ,* G.R. No. L-59180, January 29, 1987, 147 SCRA 390.

[88] 16 Am. Jur. 2d, Constitutional Law, § 97, citing *Axberg v. City of Lincoln,* 141 Neb. 55, 2 NW 2d 613, 141 ALR 894 (1942); *People v. De Jesus,* 21 A.D. 2d 236, 250 N.Y.S. 2d 317 (4th Dep't 1964); *Jones v. Freeman,* 193 Okla. 554, 146 P. 2d 564 (1943), appeal dismissed, 322 US 717, 64 S. Ct. 1288, 88 L. Ed. 1558 (1944); *Stubbs v. State,* 216 Tenn. 567, 393 SW 2d 150 (1965); *McMurdie v. Chugg,* 99 Utah 403, 107 P. 2d 163, 132 ALR 435 (1940).

[89] Id., citing *Northwestern Bell Telephone Co. v. Wentz,* 103 NW 2d 245 (N.D. 1960); *Scopes v. State,* 154 Tenn. 105, 289 SW 363, 53 ALR 821 (1927).

[90] Id., citing *Canyon Public Service Dist. v. Tasa Coal Co.,* 156 W. Va. 606, 195 SE 2d 647 (1973).

[91] 86 Ky. 596, 6 SW 457 (1888).

[92] 22 Tex. App. 396, 3 SW 233.

[93] See *Mendenilla v. Onandia,* 115 Phil. 534 (1962).

[94] Constitution (1987), Art. X, Sec. 2.

[95]

1. Republic Act No. 9389, Sec. 62 (respondent Municipality of Baybay);
2. Republic Act No. 9390, Sec. 60 (respondent Municipality of Bogo);
3. Republic Act No. 9391, Sec. 61 (respondent Municipality of Catbalogan);
4. Republic Act No. 9392, Sec. 63 (respondent Municipality of Tandag);
5. Republic Act No. 9393, Sec. 62 (respondent Municipality of Lamitan);
6. Republic Act No. 9394, Sec. 60 (respondent Municipality of Borongan);
7. Republic Act No. 9398, Sec. 62 (respondent Municipality of Tayabas);
8. Republic Act No. 9404, Sec. 56 (respondent Municipality of Tabuk);
9. Republic Act No. 9405, Sec. 61 (respondent Municipality of Bayugan);
10. Republic Act No. 9407, Sec. 62 (respondent Municipality of Batac);
11. Republic Act No. 9408, Sec. 61 (respondent Municipality of Mati);
12. Republic Act No. 9409, Sec. 61 (respondent Municipality of Guihulngan);
13. Republic Act No. 9434, Sec. 60 (respondent Municipality of Cabadbaran);
14. Republic Act No. 9435, Sec. 63 (respondent Municipality of El Salvador);
15. Republic Act No. 9436, Sec. 62 (respondent Municipality of Carcar);
16. In the case of respondent Municipality of Naga, the exempting clause is in the form of a proviso in Section 64 of Republic Act No. 9491, which states, "xxx *Provided, however,* that the income requirement prescribed under Republic Act No. 9009 shall not apply to the City of Naga."

[96] Memorandum of Petitioners, p. 25.

[97] Id.

[98] Id. at 26-27.

[99] Sec. 6. *Authority to Create Local Government Units*. - A local government unit may be

created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the *sangguniang panlalawigan* or *sangguniang panlungsod* concerned in the case of a *barangay* located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.

[100] Sec. 7. *Creation and Conversion.* - As a general rule, the creation of a local government unit or its conversion from one level to another is based on verifiable indicators of viability and projected capacity to provide for services to wit: (a) *Income*. - It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned; (b) *Population*. - It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and (c) *Land Area*. - It must be contiguous, unless it comprises two (2) or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).

[101] Sec. 449. *Manner of Creation.* - A city may be created, divided, merged, abolished, or its boundary substantially altered, only by an Act of Congress, and Subject to approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected. Except as may otherwise be provided in such Act, the plebiscite shall be held within one hundred twenty (120) days from the date of its effectivity.

[102] Sec. 5. x x x (3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

[103] II Record, Constitutional Commission, p. 137.

[104] Batas Pambansa Blg. 337, Sec. 164.

[105] *Casela v. Court of Appeals,* G.R. No. L-26754, October 16, 1970, 35 SCRA 279; *Hidalgo v. Hidalgo ,* G.R. No. L-25326, May 29, 1970, 33 SCRA 105.

[106] *Senarillos v. Hermosisima,* 100 Phil. 501 (1956); *Torres v. Limjap,* 56 Phil. 141 (1931); *Tamayo v. Gsell,* 35 Phil. 953 (1916); *U.S. v. Tamparong,* 31 Phil. 321 (1915).

[107] Id.

[108] II Record, Senate, 13th Congress, p. 164 (October 5, 2000).

[109] Id. at 167-168. This is confirmed by the Journal of the Senate on January 29, 2007, p. 1240, which contains the following entry:

"REMARKS OF SENATOR PIMENTEL"

"Expressing his support for the sentiment of Senator Lim, Senator Pimentel stated that the local government units applying for cityhood are requesting to be exempted from the income requirement because when this was raised by RA 9009, the bills on conversion to cityhood were already pending in the House of Representatives. He recalled that during the deliberation on said law, when Senate President Drilon asked him if there were pending bills on the creation of cities, he replied that there were three, only to find out later on that there were, in fact, a number of cityhood bills pending in the House of Representatives. He asked Senator Lim to be more patient and to allow Senators Roxas and Recto to interpellate on the bills the following day."

[110] Civil Code, Art. 4.

[111] *Land Bank of the Philippines v. De Leon,* G.R. No. 143275, March 20, 2003, 399 SCRA 376; *Francisco v. Certeza, Sr.,* G.R. No. L-16849, November 29, 1961, 3 SCRA 565.

[112] *Yellow Taxi & Pasay Transp. Workers' Union v. Manila Yellow Taxi Cab Co.,* 80 Phil. 833 (1948); *Ledesma v. Pictain,* 79 Phil. 95 (1947); *McMicking v. Lichauco,* 27 Phil. 386 (1914); *Garcia v. Ambler,* 4 Phil. 81 (1904).

[113] *De Jesus v. City of Manila ,* 29 Phil. 73 (1914).

[114] *Hidalgo v. Hidalgo ,* supra note 105; *Go Chi Gun v. Co Cho,* 96 Phil. 622 (1955); *Manila Race Horse Trainers Association, Inc. v. De la Fuente,* 88 Phil. 60 (1951).

[115] *Roa v. Collector of Customs,* 23 Phil. 315 (1912).

[116] *People v. Purisima,* G.R. Nos. L-42050-66, L-46229-32, L-46313-16 & L-46997, November 20, 1978, 86 SCRA 542; *Villanueva v. City of Iloilo ,* G.R. No. L-26521, December 28, 1968, 26 SCRA 578; *Manila Race Horse Trainers Association, Inc. v. De La Fuente,* supra.

[117] *Alonzo v. Intermediate Appellate Court,* G.R. L-72873, May 28, 1987, 150 SCRA

259; *Roa v. Collector of Customs,* supra note 115; *U.S. v. Co Chico,* 14 Phil. 128 (1909).

[118] *National Police Commission v. De Guzman, Jr.,* G.R. No. 106724, February 9, 1994, 229 SCRA 801.

[119] Supra note 106.

[120] *Torres v. Limjap,* id. at 145-146, citing Sutherland, Statutory Construction, Vol. II, pp. 693-695.

[121] *Heller v. Doe by Doe,* 509 US 312, 113 S. Ct. 2637, 125 L. Ed. 2d 257 (1993); *Basco v. Philippine Amusements and Gaming Corporation,* supra note 55; *Abbas v. Commission on Elections,* G.R. Nos. 89651 & 89965, November 10, 1989, 179 SCRA 287; *Salas v. Jarencio,* G.R. No. L-29788, August 30, 1972, 46 SCRA 734; *Yu Cong Eng v. Trinidad ,* 47 Phil. 387 (1925).

[122] *Peralta v. Commission on Elections,* G.R. Nos. L-47771, L-47803, L-47816, L-47767, L-47791 & L-47827, March 11, 1978, 82 SCRA 30, citing *Cooper v. Telfair,* 4 Dall. 14; Dodd, Cases on Constitutional Law, 3rd ed. 1942, 56.

[123] 16 Am. Jur. 2d, Constitutional Law, § 115, citing *Tulkisarmute Native Community Council v. Heinze,* 898 P. 2d 935 (Alaska 1995); *Gail Turner Nurses Agency, Inc. v. State,* 17 Misc. 2d 273, 190 NYS 2d 720 (Sup. Ct. 1959); *El Dia, Inc. v. Hernandez Colon,* 963 F. 2d 488, 20 Media L. Rep. (BNA) 1210 (1st Cir. 1992) (declined to follow on other grounds by, *Charter Federal Sav. Bank v. Office of Thrift Supervision,* 976 F. 2d 203 (4th Cir. 1992)) and (declined to follow on other grounds by, *Jackson v. Culinary School of Washington, Ltd.,* 27 F. 3d 573, 92 Ed. Law Rep. 797 (D.C. Cir. 1994)) and disagreement on other grounds recognized by, *NUCOR Corp. v. Aceros Y Maquilas de Occidente, S.A. de C.V.,* 28 F. 3d 572, 23 U.C.C. Rep. Serv. 2d (CBC) 1044 (7th Cir. 1994).

[124] Id., citing § 117.

[125] Id., citing *State v. Watkins,* 676 So. 2d 247 (Miss. 1996).

[126] Id., citing § 201.

[127] Id., § 166.

[128] Id., § 198.

[129] Ratified on July 9, 1868.

[130] Sec. 1.

[131] See *Smith, Bell & Co. v. Natividad,* 40 Phil. 136 (1919).

[132] 16B Am. Jur. 2d, Constitutional Law, § 777.

[133] Id., § 781, citing *Palmer v. Thompson,* 403 US 217, 91 S. Ct. 1940, 29 L. Ed. 2d 438 (1971); *Hunter v. Erickson,* 393 US 385, 89 S. Ct. 557, 21 L. Ed. 2d 616, 47 Ohio Op. 2d 100 (1969).

[134] Id., citing *Truax v. Corrigan,* 257 US 312, 42 S. Ct. 124, 66 L. Ed. 254, 27 ALR 375 (1921); *Hernandez v. State of Tex.,* 347 US 475, 74 S. Ct. 667, 98 L. Ed. 866 (1954).

[135] See 18A Am. Jur. 2d, Corporations, § 64.

[136] 16B Am. Jur. 2d, Constitutional Law, § 808, citing *Western and Southern Life Ins. Co. v. State Bd. of Equalization of California,* 451 US 648, 101 S. Ct. 2070, 68 L. Ed. 2d 514 (1981); *Personnel Adm'r of Massachusetts v. Feeney,* 442 US 256, 99 S. Ct. 2282, 60. L. Ed. 2d 870, 19 Fair Empl. Prac. Cas. (BNA) 1377, 19 Empl. Prac. Dec. (CCH) ¶ 9240 (1979), on remand to, 475 F. Supp. 109, 20 Fair Empl. Prac. Cas. (BNA) 772, 20 Empl. Prac. Dec. (CCH) ¶ 30228 (D. Mass. 1979), judgment aff'd, 445 US 901, 100 S. Ct. 1075, 63 L. Ed. 2d 317, 22 Fair Empl. Prac. Cas. (BNA) 62, 22 Empl. Prac. Dec. (CCH) ¶ 30616 (1980); *DiSabato v. Board of Trustees of State Employees' Retirement System of Illinois ,* 285 Ill. App. 3d 827, 221 Ill. Dec. 59, 674 NE 2d 852 (1st Dist. 1996); *Allen v. Montgomery Hosp.,* 548 Pa. 299, 696 A. 2d 1175 (1997), cert. denied, 118 S. Ct. 443 (U.S. 1997).

[137] *People v. Cayat,* 68 Phil. 12 (1939).

[138] Id. at 18.

[139] Supra note 2, at 1238-1240.

It may be observed that **Baybay, Leyte**; **Mati, Davao Oriental**; **El Salvador , Misamis Oriental**; and **Naga, Cebu** are not included in the municipalities enumerated by Senator Alfredo Lim in his sponsorship speech. However, the list mentioned by Senator Lim should not be interpreted to be an exclusive list.

In fact, House Joint Resolution No. 1 expressly includes the four (4) omitted municipalities in the list of municipalities that had pending bills before R.A. No. 9009 was passed and were compliant with the P20,000,000.00 income requirement prescribed by the old Section 450 of the Local Government Code.

To recall also, upon the prodding of Senator Aquilino Pimentel, Jr. during the Senate session on November 26, 2006, sixteen (16) out of the twenty-four (24) municipalities enumerated by House Joint Resolution No. 1 (i.e., the sixteen [16] respondent municipalities, including Baybay, Leyte; Mati, Davao Oriental; El Salvador, Misamis Oriental; and Naga, Cebu) filed their individual cityhood bills which eventually lapsed into law when President Gloria Macapagal-Arroyo chose not to sign them.

[140] *Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) v. The Secretary, Department of Interior and Local Government,* G.R. No. 143076, June 10, 2003, 403 SCRA 558, 572-573.

[141] *Ichong v. Hernandez,* 101 Phil. 1155 (1957).

[142] *Republic v. Go Bon Lee,* 111 Phil. 805 (1961); *Tañada v. Cuenco,* 103 Phil. 1051 (1957); *De los Santos v. Mallare,* 87 Phil. 289 (1950).

[143] *Magtajas v. Pryce Properties Corporation, Inc.*, G.R. No. 111097, July 20, 1994, 234 SCRA 255, 268.

[144] 16A Am. Jur. 2d, Constitutional Law, § 271.

[145] CONSTITUTION (1987), Art. VIII, Sec. 1

[146] 297 US 266 (1936).

[147] *Mayflower Farms, Inc. v. Ten Eyck,* id. at 271-272.

[148] Id. at 272.

[149] Id. at 274.

[150] Id.

[151] Id.

[152] Id.

[153] Memorandum of Petitioners, p. 62.

[154] *Ichong v. Hernandez,* supra note 141, citing 2 Cooley, Constitutional Limitations,

824-825.

[155] Constitution (1987), Art. IV, Sec. 1(3) provides that "[t]hose born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority;" are citizens of the Philippines.

[156] 16B Am. Jur. 2d, Constitutional Law, § 846.

[157] *Metropolitan Casualty Ins. Co. v. Brownell,* 294 US 580, 584, 79 L. Ed. 1070, 1072, 55 S. Ct. 538 (1935); *Rast v. Van Deman & L. Co.,* 240 US 342, 357, 60 L. Ed. 679, 687, 36 S. Ct. 370, LRA 1917A, 421, Ann. Cas. 1917B, 455 (1916); *O'Gorman & Young v. Hartford F. Ins. Co.,* 282 US 251, 257, 75 L. Ed. 324, 328, 51 S. Ct. 130, 72 ALR 1163 (1931); *Williams v. Baltimore,* 289 US 36, 42, 77 L. Ed. 1015, 1021, 53 S. Ct. 431 (1933).

[158] *People v. Vera,* 65 Phil. 56 (1937).

[159] G.R. Nos. L-56022 & L-56124, May 31, 1985, 136 SCRA 633.

[160] *Lopez v. Commission on Elections,* id. at 644-645.

[161] See note 139.

[162] Memorandum of COMELEC through the Office of the Solicitor General, p. 37.

Batac, Ilocos Norte - It is the biggest municipality of the 2nd District of Ilocos Norte, 2nd largest and most progressive town in the province of Ilocos Norte and the natural convergence point for the neighboring towns to transact their commercial ventures and other daily activities. A growing metropolis, Batac is equipped with amenities of modern living like banking institutions, satellite cable systems, telecommunications systems. Adequate roads, markets, hospitals, public transport systems, sports, and entertainment facilities. [Explanatory Note of House Bill No. 5941, introduced by Rep. Imee R. Marcos.]

El Salvador , Misamis Oriental - It is located at the center of the Cagayan-Iligan Industrial Corridor and home to a number of industrial companies and corporations. Investment and financial affluence of El Salvador is aptly credited to its industrious and preserving people. Thus, it has become the growing investment choice even besting nearby cities and municipalities. It is home to Asia Brewery as distribution port of their product in Mindanao. The Gokongwei Group of Companies is also doing business in the area. So, the conversion is primarily envisioned to spur economic and financial prosperity to this coastal place in North-Western Misamis Oriental. [Explanatory Note of House Bill No. 6003, introduced by Rep. Augusto H. Bacullo.]

Cabadbaran, Agusan del Norte - It is the largest of the eleven (11) municipalities in the

province of Agusan del Norte. It plays strategic importance to the administrative and socio-economic life and development of Agusan del Norte. It is foremost in terms of trade, commerce, and industry. Hence, the municipality was declared as the new seat and capital of the provincial government of Agusan del Norte pursuant to Republic Act No. 8811 enacted into law on August 16, 2000. Its conversion will certainly promote, invigorate, and reinforce the economic potential of the province in establishing itself as an agro-industrial center in the Caraga region and accelerate the development of the area. [Explanatory Note of House Bill No. 3094, introduced by Rep. Ma. Angelica Rosedell M. Amante.]

Borongan, Eastern Samar - It is the capital town of Eastern Samar and the development of Eastern Samar will depend to a certain degree on its urbanization. It will serve as a catalyst for the modernization and progress of adjacent towns considering the frequent interactions between the populace. [Explanatory Note of House Bill No. 2640, introduced by Rep. Marcelino C. Libanan.]

Lamitan, Basilan - Before Basilan City was converted into a separate province, Lamitan was the most progressive part of the city. It has been for centuries the center of commerce and the seat of the Sultanate of the Yakan people of Basilan. The source of its income is agro-industrial and others notably copra, rubber, coffee and host of income generating ventures. As the most progressive town in Basilan, Lamitan continues to be the center of commerce catering to the municipalities of Tuburan, Tipo-Tipo and Sumisip. [Explanatory Note of House Bill No. 5786, introduced by Rep. Gerry A. Salapuddin.]

Catbalogan, Samar - It has always been the socio-economic-political capital of the Island of Samar even during the Spanish era. It is the seat of government of the two congressional districts of Samar. Ideally located at the crossroad between Northern and Eastern Samar, Catbalogan also hosts trade and commerce activates among the more prosperous cities of the Visayas like Tacloban City, Cebu City and the cities of Bicol region. The numerous banks and telecommunication facilities showcases the healthy economic environment of the municipality. The preeminent and sustainable economic situation of Catbalogan has further boosted the call of residents for a more vigorous involvement of governance of the municipal government that is inherent in a city government. [Explanatory Note of House Bill No. 2088, introduced by Rep. Catalino V. Figueroa.]

Bogo, Cebu - Bogo is very qualified for a city in terms of income, population and area among others. It has been elevated to the Hall of Fame being a five-time winner nationwide in the clean and green program. [Explanatory Note of House Bill No. 3042, introduced by Rep. Clavel A. Martinez.]

Tandag, Surigao del Sur - This over 350 year old capital town the province has long sought its conversion into a city that will pave the way not only for its own growth and advancement but also help in the development of its neighboring municipalities and the province as a whole. Furthermore, it can enhance its role as the province's trade, financial and government center. [Explanatory Note of House Bill No. 5940, introduced by Rep. Prospero A. Pichay, Jr.]

Bayugan, Agusan del Sur - It is a first class municipality and the biggest in terms of population in the entire province. It has the most progressive and thickly populated area among the 14 municipalities that comprise the province. Thus, it has become the center for trade and commerce in Agusan del Sur. It has a more developed infrastructure and facilities than other municipalities in the province. [Explanatory Note of House Bill No. 1899, introduced by Rep. Rodolfo "Ompong" G. Plaza.]

Carcar, Cebu - Through the years, Carcar metamorphosed from rural to urban and can now boast of its manufacturing industry, agricultural farming, fishing and prawn industry and its thousands of large and small commercial establishments contributing to the bulk of economic activities in the municipality. Based on consultation with multi-sectoral groups, political and non-government agencies, residents and common folk in Carcar, they expressed their desire for the conversion of the municipality into a component city. [Explanatory Note of House Bill No. 3990, introduced by Rep. Eduardo R. Gullas.]

Guihulngan, Negros Oriental - Its population is second highest in the province, next only to the provincial capital and higher than Canlaon City and Bais City. Agriculture contributes heavily to its economy. There are very good prospects in agricultural production brought about by its favorable climate. It has also the Tanon Strait that provides a good fishing ground for its numerous fishermen. Its potential to grow commercially is certain. Its strategic location brought about by its existing linkage networks and the major transportation corridors traversing the municipality has established Guihulngan as the center of commerce and trade in this part of Negros Oriental with the first congressional district as its immediate area of influence. Moreover, it has beautiful tourist spots that are being availed of by local and foreign tourists. [Explanatory Note of House Bill No. 3628, introduced by Rep. Jacinto V. Paras.]

Tayabas, Quezon - It flourished and expanded into an important politico-cultural center in Tagalog region. For 131 years (1179-1910), it served as the *cabecera* of the province which originally carried the *cabecera*'s own name, Tayabas. The locality is rich in culture, heritage and trade. It was at the outset one of the more active centers of coordination and delivery of basic, regular and diverse goods and services within the first district of Quezon Province. [Explanatory Note of House Bill No. 3348, introduced by Rep. Rafael P. Nantes.]

Tabuk, Kalinga - It not only serves as the main hub of commerce and trade, but also the cultural center of the rich customs and traditions of the different municipalities in the province. For the past several years, the income of Tabuk has been steadily increasing, which is an indication that its economy is likewise progressively growing. [Explanatory Note of House Bill No. 3068, introduced by Rep. Laurence P. Wacnang.]

[163] Available information on **Baybay, Leyte**; **Mati, Davao Oriental**; and **Naga, Cebu** shows their economic viability, thus:

Covering an area of 46,050 hectares, **Baybay [Leyte]** is composed of 92 *barangays*, 23 of

which are in the *poblacion*. The remaining 69 are rural *barangays*. Baybay City is classified as a first class city. It is situated on the western coast of the province of Leyte. It has a Type 4 climate, which is generally wet. Its topography is generally mountainous in the eastern portion as it slopes down west towards the shore line. Generally an agricultural city, the common means of livelihood are farming and fishing. Some are engaged in hunting and in forestal activities. The most common crops grown are rice, corn, root crops, fruits, and vegetables. Industries operating include the Specialty Products Manufacturing, Inc. and the Visayan Oil Mill. Various cottage industries can also be found in the city such as bamboo and rattan craft, ceramics, dress-making, fiber craft, food preservation, mat weaving, metal craft, fine Philippine furniture manufacturing and other related activities. Baybay has great potential as a tourist destination, especially for tennis players. It is not only rich in biodiversity and history, but it also houses the campus of the Visayas State University (formerly the Leyte State University/Visayas State College of Agriculture/Visayas Agricultural College/Baybay National Agricultural School/Baybay Agricultural High School and the Jungle Valley Park). Likewise, it has river systems fit for river cruising, numerous caves for spelunking, forests, beaches, and marine treasures. This richness, coupled with the friendly Baybayanos, will be an element of a successful tourism program. Considering the role of tourism in development, Baybay City intends to harness its tourism potential. (visited September 19, 2008).

Mati [Davao Oriental] is located on the eastern part of the island of Mindanao. It is one hundred sixty-five (165) kilometers away from Davao City, a one and a half-hour drive from Tagum City. Visitors can travel from Davao City through the Madaum diversion road, which is shorter than taking the Davao-Tagum highway. Travels by air and sea are possible, with the existence of an airport and seaport. Mati boasts of being the coconut capital of Mindanao if not the whole country. A large portion of its fertile land is planted to coconuts, and a significant number of its population is largely dependent on it. Other agricultural crops such as mango, banana, corn, coffee and cacao are also being cultivated, as well as the famous Menzi *pomelo* and Valencia oranges. Mati has a long stretch of shoreline and one can find beaches of pure, powder-like white sand. A number of resorts have been developed and are now open to serve both local and international tourists. Some of these resorts are situated along the coast of Pujada Bay and the Pacific Ocean. Along the western coast of the bay lies Mt. Hamiguitan, the home of the pygmy forest, where bonsai plants and trees grow,some of which are believed to be a hundred years old or more. On its peak is a lake, called "Tinagong Dagat," or hidden sea, so covered by dense vegetation a climber has to hike trails for hours to be able to reach it. The mountain is also host to rare species of flora and fauna, thus becoming a wildlife sanctuary for these life forms. accessed on September 19, 2008.

Mati is abundant with nickel, chromite, and copper. Louie Rabat, Chamber President of the Davao Oriental Eastern Chamber of Commerce and Industry, emphasized the big potential of the mining industry in the province of Davao Oriental. As such, he strongly recommends Mati as the mining hub in the Region. (http://www.pia.gov.ph/default.asp?m=12&sec=reader&rp=1&fi=p080115.htm&no.=9&date, accessed on September 19, 2008)

Naga [Cebu]: Historical Background - In the early times, the place now known as Naga was full of huge trees locally called as "Narra." The first settlers referred to this place as Narra, derived from the hudge trees, which later simply became Naga. Considered as one of the oldest settlements in the Province of Cebu, Naga became a municipality on June 12, 1829. The municipality has gone through a series of classifications as its economic development has undergone changes and growth. The tranquil farming and fishing villages of the natives were agitated as the Spaniards came and discovered coal in the uplands. Coal was the first export of the municipality, as the Spaniards mined and sent it to Spain. The mining industry triggered the industrial development of Naga. As the years progressed, manufacturing and other industries followed, making Naga one of the industrialized municipalities in the Province of Cebu.

Class of Municipality	1st class
Province	Cebu
Distance from Cebu City .	22 kms
Number of Barangays	28
No. of Registered Voters	44,643 as of May 14, 2007
Total No. of Precincts	237 (as of May 14, 2007)
Ann. Income (as of December 31, 2006)	PhP 112,219,718.35
Main Product	Agricultural, Indust. Agro-Industrial, Mining Product

(visited September 19, 2008).

[164] See note 109.

[165] *Commissioner of Internal Revenue v. Solidbank Corporation,* 462 Phil. 96 (2003); *Republic v. Court of Appeals,* 359 Phil. 530 (1998).

[166] The burdens of pleading and proof with regard to most facts have been and should be assigned to the plaintiff who generally seeks to change the present state of affairs and who therefore naturally should be expected to bear the risk of failure of proof or persuasion. (McCormick on Evidence, Vol. II, p. 949.)