Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. 83896 February 22, 1991

CIVIL LIBERTIES UNION, petitioner,
vs.
THE EXECUTIVE SECRETARY, respondent**.**

G.R. No. 83815 February 22, 1991

ANTI-GRAFT LEAGUE OF THE PHILIPPINES, INC. and CRISPIN T. REYES, petitioners,
vs.
PHILIP ELLA C. JUICO, as Secretary of Agrarian Reform; CARLOS DOMINGUEZ, as Secretary of Agriculture; LOURDES QUISUMBING, as Secretary of Education, Culture and Sports; FULGENCIO FACTORAN, JR., as Secretary of Environment and Natural Resources; VICENTE V. JAYME, as Secretary of Finance; SEDFREY ORDOÑEZ, as Secretary of Justice; FRANKLIN N. DRILON, as Secretary of Labor and Employment; LUIS SANTOS, as Secretary of Local Government; FIDEL V. RAMOS, as Secretary of National Defense; TEODORO F. BENIGNO, as Press Secretary; JUANITO FERRER, as Secretary of Public Works and Highways; ANTONIO ARRIZABAL, as Secretary of Science and Technology; JOSE CONCEPCION, as Secretary of Trade and Industry; JOSE ANTONIO GONZALEZ, as Secretary of Tourism; ALFREDO R.A. BENGZON, as Secretary of Health; REINERIO D. REYES, as Secretary of Transportation and Communication; GUILLERMO CARAGUE, as Commissioner of the Budget; and SOLITA MONSOD, as Head of the National Economic Development Authority, respondents.

Ignacio P. Lacsina, Luis R. Mauricio, Antonio R. Quintos and Juan T. David for petitioners in 83896.
Antonio P. Coronel for petitioners in 83815.

FERNAN, *C.J.:* *p*

These two (2) petitions were consolidated per resolution dated August 9, 1988[1] and are being resolved jointly as both seek a declaration of the unconstitutionality of Executive Order No. 284 issued by President Corazon C. Aquino on July 25, 1987. The pertinent provisions of the assailed Executive Order are:

> Sec. 1. Even if allowed by law or by the ordinary functions of his position, a member of the Cabinet, undersecretary or assistant secretary or other appointive officials of the Executive Department may, in addition to his primary position, hold not more than two positions in the government and government corporations and receive the corresponding compensation therefor; *Provided*, that this limitation shall not apply to ad hoc bodies or committees, or to boards, councils or bodies of which the President is the Chairman.
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> Sec. 2. If a member of the cabinet, undersecretary or assistant secretary or other appointive official of the Executive Department holds more positions than what is allowed in Section 1 hereof, they (*sic*) must relinquish the excess position in favor of the subordinate official who is next in rank, but in no case shall any official hold more than two positions other than his primary position.
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> Sec. 3. In order to fully protect the interest of the government in government-owned or controlled corporations, at least one-third (1/3) of the members of the boards of such corporation should either be a secretary, or undersecretary, or assistant secretary.

Petitioners maintain that this Executive Order which, in effect, allows members of the Cabinet, their undersecretaries and assistant secretaries to hold other government offices or positions in addition to their primary positions, albeit subject to the limitation therein imposed, runs counter to Section 13, Article VII of the 1987 Constitution,[2] which provides as follows:

> Sec. 13. The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office.

It is alleged that the above-quoted Section 13, Article VII prohibits public respondents, as members of the Cabinet, along with the other public officials enumerated in the list attached to the petitions as Annex "C" in G.R. No. 83815[3] and as Annex "B" in G.R. No. 83896[4] from holding any other office or employment during their tenure. In addition to seeking a declaration of the unconstitutionality of Executive Order No. 284, petitioner Anti-Graft League of the Philippines further seeks in G.R. No. 83815 the issuance of the extraordinary writs of prohibition and *mandamus*, as well as a temporary restraining order directing public respondents therein to cease and desist from holding, in addition to their primary positions, dual or multiple positions other than those authorized by the 1987 Constitution and from receiving any salaries, allowances, per diems and other forms of privileges and the like appurtenant to their questioned positions, and compelling public respondents to return, reimburse or refund any and all amounts or benefits that they may have received from such positions.

Specifically, petitioner Anti-Graft League of the Philippines charges that notwithstanding the aforequoted "absolute and self-executing" provision of the 1987 Constitution, then Secretary of Justice Sedfrey Ordoñez, construing Section 13, Article VII in relation to Section 7, par. (2), Article IX-B, rendered on July 23, 1987 Opinion No. 73, series of 1987,[5] declaring that Cabinet members, their deputies (undersecretaries) and assistant secretaries may hold other public office, including membership in the boards of government corporations: (a) when directly provided for in the Constitution as in the case of the Secretary of Justice who is made an *ex-officio* member of the Judicial and Bar Council under Section 8, paragraph 1, Article VIII; or (b) if allowed by law; or (c) if allowed by the primary functions of their respective positions; and that on the basis of this Opinion, the President of the Philippines, on July 25, 1987 or two (2) days before Congress convened on July 27, 1987: promulgated Executive Order No. 284.[6]

Petitioner Anti-Graft League of the Philippines objects to both DOJ Opinion No. 73 and Executive Order No. 284 as they allegedly "lumped together" Section 13, Article VII and the general provision in another article, Section 7, par. (2), Article I-XB. This "strained linkage" between the two provisions, each addressed to a distinct and separate group of public officers — one, the President and her official family, and the other, public servants in general — allegedly "abolished the clearly separate, higher, exclusive, and mandatory constitutional rank assigned to the prohibition against multiple jobs for the President, the Vice-President, the members of the Cabinet, and their deputies and subalterns, who are the leaders of government expected to lead by example."[7] Article IX-B, Section 7, par. (2)[8] provides:

> Sec. 7. . . . . .
>
> *Unless otherwise allowed by law or by the primary functions of his position, no appointive official shall hold any other office or employment in the government or any subdivision, agency or*

instrumentality thereof, including government-owned or controlled corporations or their subsidiaries.

The Solicitor General counters that Department of Justice DOJ Opinion No. 73, series of 1987, as further elucidated and clarified by DOJ Opinion No. 129, series of 1987[9] and DOJ Opinion No. 155, series of 1988,[10] being the first official construction and interpretation by the Secretary of Justice of Section 13, Article VII and par. (2) of Section 7, Article I-XB of the Constitution, involving the same subject of appointments or designations of an appointive executive official to positions other than his primary position, is "reasonably valid and constitutionally firm," and that Executive Order No. 284, promulgated pursuant to DOJ Opinion No. 73, series of 1987 is consequently constitutional. It is worth noting that DOJ Opinion No. 129, series of 1987 and DOJ Opinion No. 155, series of 1988 construed the limitation imposed by E.O. No. 284 as not applying to *ex-officio* positions or to positions which, although not so designated as *ex-officio* are allowed by the primary functions of the public official, but only to the holding of multiple positions which are not related to or necessarily included in the position of the public official concerned (disparate positions).

In sum, the constitutionality of Executive Order No. 284 is being challenged by petitioners on the principal submission that it adds exceptions to Section 13, Article VII other than those provided in the Constitution. According to petitioners, by virtue of the phrase "unless otherwise provided in this Constitution," the only exceptions against holding any other office or employment in Government are those provided in the Constitution, namely: (1) The Vice-President may be appointed as a Member of the Cabinet under Section 3, par. (2), Article VII thereof; and (2) the Secretary of Justice is an *ex-officio* member of the Judicial and Bar Council by virtue of Section 8 (1), Article VIII.

Petitioners further argue that the exception to the prohibition in Section 7, par. (2), Article I-XB on the Civil Service Commission applies to officers and employees of the Civil Service in general and that said exceptions do not apply and cannot be extended to Section 13, Article VII which applies specifically to the President, Vice-President, Members of the Cabinet and their deputies or assistants.

There is no dispute that the prohibition against the President, Vice-President, the members of the Cabinet and their deputies or assistants from holding dual or multiple positions in the Government admits of certain exceptions. The disagreement between petitioners and public respondents lies on the constitutional basis of the exception. Petitioners insist that because of the phrase "unless otherwise provided in this Constitution" used in Section 13 of Article VII, the exception must be expressly provided in the Constitution, as in the case of the Vice-President being allowed to become a Member of the Cabinet under the second paragraph of Section 3, Article VII or the Secretary of Justice being designated an *ex-officio* member of the Judicial and Bar Council under Article VIII, Sec. 8 (1). Public respondents, on the other hand, maintain that the phrase "unless otherwise provided in the Constitution" in Section 13, Article VII makes reference to Section 7, par. (2), Article I-XB insofar as the appointive officials mentioned therein are concerned.

The threshold question therefore is: does the prohibition in Section 13, Article VII of the 1987 Constitution insofar as Cabinet members, their deputies or assistants are concerned admit of the broad exceptions made for appointive officials in general under Section 7, par. (2), Article I-XB which, for easy reference is quoted anew, thus: "Unless otherwise allowed by law or by the primary functions of his position, no appointive official shall hold any other office or employment in the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporation or their subsidiaries."

We rule in the negative.

A foolproof yardstick in constitutional construction is the intention underlying the provision under consideration. Thus, it has been held that the Court in construing a Constitution should bear in mind the object sought to be accomplished by its adoption, and the evils, if any,

sought to be prevented or remedied. A doubtful provision will be examined in the light of the history of the times, and the condition and circumstances under which the Constitution was framed. The object is to ascertain the reason which induced the framers of the Constitution to enact the particular provision and the purpose sought to be accomplished thereby, in order to construe the whole as to make the words consonant to that reason and calculated to effect that purpose.[11]

The practice of designating members of the Cabinet, their deputies and assistants as members of the governing bodies or boards of various government agencies and instrumentalities, including government-owned and controlled corporations, became prevalent during the time legislative powers in this country were exercised by former President Ferdinand E. Marcos pursuant to his martial law authority. There was a proliferation of newly-created agencies, instrumentalities and government-owned and controlled corporations created by presidential decrees and other modes of presidential issuances where Cabinet members, their deputies or assistants were designated to head or sit as members of the board with the corresponding salaries, emoluments, per diems, allowances and other perquisites of office. Most of these instrumentalities have remained up to the present time.

This practice of holding multiple offices or positions in the government soon led to abuses by unscrupulous public officials who took advantage of this scheme for purposes of self-enrichment. In fact, the holding of multiple offices in government was strongly denounced on the floor of the Batasang Pambansa.[12] This condemnation came in reaction to the published report of the Commission on Audit, entitled "1983 Summary Annual Audit Report on: Government-Owned and Controlled Corporations, Self-Governing Boards and Commissions" which carried as its Figure No. 4 a "Roaster of Membership in Governing Boards of Government-Owned and Controlled Corporations as of December 31, 1983."

Particularly odious and revolting to the people's sense of propriety and morality in government service were the data contained therein that Roberto V. Ongpin was a member of the governing boards of twenty-nine (29) governmental agencies, instrumentalities and corporations; Imelda R. Marcos of twenty-three (23); Cesar E.A. Virata of twenty-two (22); Arturo R. Tanco, Jr. of fifteen (15); Jesus S. Hipolito and Geronimo Z. Velasco, of fourteen each (14); Cesar C. Zalamea of thirteen (13); Ruben B. Ancheta and Jose A. Roño of twelve (12) each; Manuel P. Alba, Gilberto O. Teodoro, and Edgardo Tordesillas of eleven (11) each; and Lilia Bautista and Teodoro Q. Peña of ten (10) each.[13]

The blatant betrayal of public trust evolved into one of the serious causes of discontent with the Marcos regime. It was therefore quite inevitable and in consonance with the overwhelming sentiment of the people that the 1986 Constitutional Commission, convened as it was after the people successfully unseated former President Marcos, should draft into its proposed Constitution the provisions under consideration which are envisioned to remedy, if not correct, the evils that flow from the holding of multiple governmental offices and employment. In fact, as keenly observed by Mr. Justice Isagani A. Cruz during the deliberations in these cases, one of the strongest selling points of the 1987 Constitution during the campaign for its ratification was the assurance given by its proponents that the scandalous practice of Cabinet members holding multiple positions in the government and collecting unconscionably excessive compensation therefrom would be discontinued.

But what is indeed significant is the fact that although Section 7, Article I-XB already contains a blanket prohibition against the holding of multiple offices or employment in the government subsuming both elective and appointive public officials, the Constitutional Commission should see it fit to formulate another provision, Sec. 13, Article VII, specifically prohibiting the President, Vice-President, members of the Cabinet, their deputies and assistants from holding any other office or employment during their tenure, unless otherwise provided in the Constitution itself.

Evidently, from this move as well as in the different phraseologies of the constitutional provisions in question, the intent of the framers of the Constitution was to impose a stricter prohibition on the President and his official family in so far as holding other offices or employment in the government or elsewhere is concerned.

Moreover, such intent is underscored by a comparison of Section 13, Article VII with other provisions of the Constitution on the disqualifications of certain public officials or employees from holding other offices or employment. Under Section 13, Article VI, "(N)o Senator or Member of the House of Representatives may hold any other office or employment *in the Government* . . .". Under Section 5(4), Article XVI, "(N)o member of the armed forces in the active service shall, at any time, be appointed in any capacity to a civilian position *in the Government,* including government-owned or controlled corporations or any of their subsidiaries." Even Section 7 (2), Article IX-B, relied upon by respondents provides "(U)nless otherwise allowed by law or by the primary functions of his position, no appointive official shall hold any other office or employment *in the Government*."

It is quite notable that in all these provisions on disqualifications to hold other office or employment, the prohibition pertains to an office or employment *in the government* and government-owned or controlled corporations or their subsidiaries. In striking contrast is the wording of Section 13, Article VII which states that "(T)he President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure." In the latter provision, the disqualification is absolute, not being qualified by the phrase "in the Government." The prohibition imposed on the President and his official family is therefore all-embracing and covers both public and private office or employment.

Going further into Section 13, Article VII, the second sentence provides: "They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries." These sweeping, all-embracing prohibitions imposed on the President and his official family, which prohibitions are not similarly imposed on other public officials or employees such as the Members of Congress, members of the civil service in general and members of the armed forces, are proof of the intent of the 1987 Constitution to treat the President and his official family as a class by itself and to impose upon said class stricter prohibitions.

Such intent of the 1986 Constitutional Commission to be stricter with the President and his official family was also succinctly articulated by Commissioner Vicente Foz after Commissioner Regalado Maambong noted during the floor deliberations and debate that there was no symmetry between the Civil Service prohibitions, originally found in the General Provisions and the anticipated report on the Executive Department. Commissioner Foz Commented, "We actually have to be stricter with the President and the members of the Cabinet because they exercise more powers and, therefore, more cheeks and restraints on them are called for because there is more possibility of abuse in their case."[14]

Thus, while all other appointive officials in the civil service are allowed to hold other office or employment in the government during their tenure when such is allowed by law or by the primary functions of their positions, members of the Cabinet, their deputies and assistants may do so only when expressly authorized by the Constitution itself. In other words, Section 7, Article I-XB is meant to lay down the general rule applicable to all elective and appointive public officials and employees, while Section 13, Article VII is meant to be the exception applicable only to the President, the Vice- President, Members of the Cabinet, their deputies and assistants.

This being the case, the qualifying phrase "unless otherwise provided in this Constitution" in Section 13, Article VII cannot possibly refer to the broad exceptions provided under Section 7, Article I-XB of the 1987 Constitution. To construe said qualifying phrase as respondents would have us do, would render nugatory and meaningless the manifest intent and purpose of the framers of the Constitution to impose a stricter prohibition on the President, Vice-President, Members of the Cabinet, their deputies and assistants with respect to holding other offices or employment in the government during their tenure. Respondents' interpretation that Section 13 of Article VII admits of the exceptions found in Section 7, par. (2) of Article IX-B would obliterate the distinction so carefully set by the framers of the Constitution as to when the high-ranking officials of the Executive Branch from the President to Assistant Secretary, on the one hand, and the generality of civil servants from the rank immediately below Assistant Secretary downwards, on the other, may hold any other office or position in the government during their tenure.

Moreover, respondents' reading of the provisions in question would render certain parts of the Constitution inoperative. This observation applies particularly to the Vice-President who, under Section 13 of Article VII is allowed to hold other office or employment when so authorized by the Constitution, but who as an elective public official under Sec. 7, par. (1) of Article I-XB is absolutely ineligible "for appointment or designation in any capacity to any public office or position during his tenure." Surely, to say that the phrase "unless otherwise provided in this Constitution" found in Section 13, Article VII has reference to Section 7, par. (1) of Article I-XB would render meaningless the specific provisions of the Constitution authorizing the Vice-President to become a member of the Cabinet,[15] and to act as President without relinquishing the Vice-Presidency where the President shall not nave been chosen or fails to qualify.[16] Such absurd consequence can be avoided only by interpreting the two provisions under consideration as one, *i.e*., Section 7, par. (1) of Article I-XB providing the general rule and the other, *i.e*., Section 13, Article VII as constituting the exception thereto. In the same manner must Section 7, par. (2) of Article I-XB be construed *vis-a-vis* Section 13, Article VII.

It is a well-established rule in Constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument.[17] Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution[18] and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.[19]

In other words, the court must harmonize them, if practicable, and must lean in favor of a construction which will render every word operative, rather than one which may make the words idle and nugatory.[20]

Since the evident purpose of the framers of the 1987 Constitution is to impose a stricter prohibition on the President, Vice-President, members of the Cabinet, their deputies and assistants with respect to holding multiple offices or employment in the government during their tenure, the exception to this prohibition must be read with equal severity. On its face, the language of Section 13, Article VII is prohibitory so that it must be understood as intended to be a positive and unequivocal negation of the privilege of holding multiple government offices or employment. Verily, wherever the language used in the constitution is prohibitory, it is to be understood as intended to be a positive and unequivocal negation.[21] The phrase "unless otherwise provided in this Constitution" must be given a literal interpretation to refer only to those particular instances cited in the Constitution itself, to wit: the Vice-President being appointed as a member of the Cabinet under Section 3, par. (2), Article VII; or acting as President in those instances provided under Section 7, pars. (2) and (3), Article VII; and, the Secretary of Justice being *ex-officio* member of the Judicial and Bar Council by virtue of Section 8 (1), Article VIII.

The prohibition against holding dual or multiple offices or employment under Section 13, Article VII of the Constitution must not, however, be construed as applying to posts occupied by the Executive officials

specified therein without additional compensation in an *ex-officio* capacity as provided by law and as *required*[22] by the primary functions of said officials' office. The reason is that these posts do no comprise "any other office" within the contemplation of the constitutional prohibition but are properly an imposition of additional duties and functions on said officials.[23] To characterize these posts otherwise would lead to absurd consequences, among which are: The President of the Philippines cannot chair the National Security Council reorganized under Executive Order No. 115 (December 24, 1986). Neither can the Vice-President, the Executive Secretary, and the Secretaries of National Defense, Justice, Labor and Employment and Local Government sit in this Council, which would then have no reason to exist for lack of a chairperson and members. The respective undersecretaries and assistant secretaries, would also be prohibited.

The Secretary of Labor and Employment cannot chair the Board of Trustees of the National Manpower and Youth Council (NMYC) or the Philippine Overseas Employment Administration (POEA), both of which are attached to his department for policy coordination and guidance. Neither can his Undersecretaries and Assistant Secretaries chair these agencies.

The Secretaries of Finance and Budget cannot sit in the Monetary Board.[24] Neither can their respective undersecretaries and assistant secretaries. The Central Bank Governor would then be assisted by lower ranking employees in providing policy direction in the areas of money, banking and credit.[25]

Indeed, the framers of our Constitution could not have intended such absurd consequences. A Constitution, viewed as a continuously operative charter of government, is not to be interpreted as demanding the impossible or the impracticable; and unreasonable or absurd consequences, if possible, should be avoided.[26]

To reiterate, the prohibition under Section 13, Article VII is not to be interpreted as covering positions held without additional compensation in *ex-officio* capacities as provided by law and as required by the primary functions of the concerned official's office. The term *ex-officio* means "from office; by virtue of office." It refers to an "authority derived from official character merely, not expressly conferred upon the individual character, but rather annexed to the official position." *Ex-officio* likewise denotes an "act done in an official character, or as a consequence of office, and without any other appointment or authority than that conferred by the office."[27] An *ex-officio* member of a board is one who is a member by virtue of his title to a certain office, and without further warrant or appointment.[28] To illustrate, by express provision of law, the Secretary of Transportation and Communications is the *ex-officio* Chairman of the Board of the Philippine Ports Authority,[29] and the Light Rail Transit Authority.[30]

The Court had occasion to explain the meaning of an *ex-officio* position in *Rafael vs. Embroidery and Apparel Control and Inspection Board,*[31] thus: "An examination of section 2 of the questioned statute (R.A. 3137) reveals that for the chairman and members of the Board to qualify they need only be designated by the respective department heads. With the exception of the representative from the private sector, they sit *ex-officio*. In order to be designated they must already be holding positions in the offices mentioned in the law. Thus, for instance, one who does not hold a previous appointment in the Bureau of Customs, cannot, under the act, be designated a representative from that office. The same is true with respect to the representatives from the other offices. No new appointments are necessary. This is as it should be, because the representatives so designated *merely perform duties in the Board in addition to those already performed under their original appointments*."[32]

The term "primary" used to describe "functions" refers to the order of importance and thus means chief or principal function. The term is not restricted to the singular but may refer to the plural.[33] The additional duties must not only be closely related to, but must be required by the official's primary functions. Examples of designations to positions by virtue of one's primary functions are the Secretaries of Finance and Budget sitting as members of the Monetary Board, and the Secretary

of Transportation and Communications acting as Chairman of the Maritime Industry Authority[34] and the Civil Aeronautics Board.

If the functions required to be performed are merely incidental, remotely related, inconsistent, incompatible, or otherwise alien to the primary function of a cabinet official, such additional functions would fall under the purview of "any other office" prohibited by the Constitution. An example would be the Press Undersecretary sitting as a member of the Board of the Philippine Amusement and Gaming Corporation. The same rule applies to such positions which confer on the cabinet official management functions and/or monetary compensation, such as but not limited to chairmanships or directorships in government-owned or controlled corporations and their subsidiaries.

Mandating additional duties and functions to the President, Vice-President, Cabinet Members, their deputies or assistants which are not inconsistent with those already prescribed by their offices or appointments by virtue of their special knowledge, expertise and skill in their respective executive offices is a practice long-recognized in many jurisdictions. It is a practice justified by the demands of efficiency, policy direction, continuity and coordination among the different offices in the Executive Branch in the discharge of its multifarious tasks of executing and implementing laws affecting national interest and general welfare and delivering basic services to the people. It is consistent with the power vested on the President and his alter egos, the Cabinet members, to have control of all the executive departments, bureaus and offices and to ensure that the laws are faithfully executed.[35] Without these additional duties and functions being assigned to the President and his official family to sit in the governing bodies or boards of governmental agencies or instrumentalities in an *ex-officio* capacity as provided by law and as required by their primary functions, they would be supervision, thereby deprived of the means for control and resulting in an unwieldy and confused bureaucracy.

It bears repeating though that in order that such additional duties or functions may not transgress the prohibition embodied in Section 13, Article VII of the 1987 Constitution, such additional duties or functions must be *required by the primary functions of the official concerned, who is to perform the same in an ex-officio capacity as provided by law, without receiving any additional compensation therefor*.

The *ex-officio* position being actually and in legal contemplation part of the principal office, it follows that the official concerned has no right to receive additional compensation for his services in the said position. The reason is that these services are already paid for and covered by the compensation attached to his principal office. It should be obvious that if, say, the Secretary of Finance attends a meeting of the Monetary Board as an *ex-officio* member thereof, he is actually and in legal contemplation performing the primary function of his principal office in defining policy in monetary and banking matters, which come under the jurisdiction of his department. For such attendance, therefore, he is not entitled to collect any extra compensation, whether it be in the form of a per them or an honorarium or an allowance, or some other such euphemism. By whatever name it is designated, such additional compensation is prohibited by the Constitution.

It is interesting to note that during the floor deliberations on the proposal of Commissioner Christian Monsod to add to Section 7, par. (2), Article IX-B, originally found as Section 3 of the General Provisions, the exception "unless required by the functions of his position,"[36] express reference to certain high-ranking appointive public officials like members of the Cabinet were made.[37] Responding to a query of Commissioner Blas Ople, Commissioner Monsod pointed out that there are instances when although not required by current law, membership of certain high-ranking executive officials in *other offices and corporations* is necessary by reason of said officials' primary functions. The example given by Commissioner Monsod was the Minister of Trade and Industry.[38]

While this exchange between Commissioners Monsod and Ople may be used as authority for saying that additional functions and duties flowing from the primary functions of the official may be imposed upon him without offending the constitutional prohibition under consideration, it cannot, however, be taken as authority for saying that this exception is by virtue of Section 7, par. (2) of Article I-XB. This colloquy between the two Commissioners took place in the plenary session of September 27, 1986. Under consideration then was Section 3 of Committee Resolution No. 531 which was the proposed article on General Provisions.[39] At that time, the article on the Civil Service Commission had been approved on third reading on July 22, 1986,[40] while the article on the Executive Department, containing the more specific prohibition in Section 13, had also been earlier approved on third reading on August 26, 1986.[41] It was only after the draft Constitution had undergone reformatting and "styling" by the Committee on Style that said Section 3 of the General Provisions became Section 7, par. (2) of Article IX-B and reworded "Unless otherwise allowed by law or by the primary functions of his position. . . ."

What was clearly being discussed then were general principles which would serve as constitutional guidelines in the absence of specific constitutional provisions on the matter. What was primarily at issue and approved on that occasion was the adoption of the qualified and delimited phrase "primary functions" as the basis of an exception to the general rule covering all appointive public officials. Had the Constitutional Commission intended to dilute the specific prohibition in said Section 13 of Article VII, it could have re-worded said Section 13 to conform to the wider exceptions provided in then Section 3 of the proposed general Provisions, later placed as Section 7, par. (2) of Article IX-B on the Civil Service Commission.

That this exception would in the final analysis apply also to the President and his official family is by reason of the legal principles governing additional functions and duties of public officials rather than by virtue of Section 7, par. 2, Article IX-B At any rate, we have made it clear that only the additional functions and duties "required," as opposed to "allowed," by the primary functions may be considered as not constituting "any other office."

While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail[42] as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face."[43] The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framers's understanding thereof.[44]

It being clear, as it was in fact one of its best selling points, that the 1987 Constitution seeks to prohibit the President, Vice-President, members of the Cabinet, their deputies or assistants from holding during their tenure multiple offices or employment in the government, except in those cases specified in the Constitution itself and as above clarified with respect to posts held without additional compensation in an *ex-officio* capacity as provided by law and as required by the primary functions of their office, the citation of Cabinet members (then called Ministers) as examples during the debate and deliberation on the general rule laid down for all appointive officials should be considered as mere personal opinions which cannot override the constitution's manifest intent and the people' understanding thereof.

In the light of the construction given to Section 13, Article VII in relation to Section 7, par. (2), Article IX-B of the 1987 Constitution, Executive Order No. 284 dated July 23, 1987 is unconstitutional. Ostensibly restricting the number of positions that Cabinet members, undersecretaries or assistant secretaries may hold in addition to their

primary position to not more than two (2) positions in the government and government corporations, Executive Order No. 284 actually allows them to hold multiple offices or employment in direct contravention of the express mandate of Section 13, Article VII of the 1987 Constitution prohibiting them from doing so, unless otherwise provided in the 1987 Constitution itself.

The Court is alerted by respondents to the impractical consequences that will result from a strict application of the prohibition mandated under Section 13, Article VII on the operations of the Government, considering that Cabinet members would be stripped of their offices held in an *ex-officio* capacity, by reason of their primary positions or by virtue of legislation. As earlier clarified in this decision, *ex-officio* posts held by the executive official concerned without additional compensation as provided by law and as required by the primary functions of his office do not fall under the definition of "any other office" within the contemplation of the constitutional prohibition. With respect to other offices or employment held by virtue of legislation, including chairmanships or directorships in government-owned or controlled corporations and their subsidiaries, suffice it to say that the feared impractical consequences are more apparent than real. Being head of an executive department is no mean job. It is more than a full-time job, requiring full attention, specialized knowledge, skills and expertise. If maximum benefits are to be derived from a department head's ability and expertise, he should be allowed to attend to his duties and responsibilities without the distraction of other governmental offices or employment. He should be precluded from dissipating his efforts, attention and energy among too many positions of responsibility, which may result in haphazardness and inefficiency. Surely the advantages to be derived from this concentration of attention, knowledge and expertise, particularly at this stage of our national and economic development, far outweigh the benefits, if any, that may be gained from a department head spreading himself too thin and taking in more than what he can handle.

Finding Executive Order No. 284 to be constitutionally infirm, the court hereby orders respondents Secretary of Environment and Natural Resources Fulgencio Factoran, Jr., Secretary of Local Government[45] Luis Santos, Secretary of National Defense Fidel V. Ramos, Secretary of Health Alfredo R.A. Bengzon and Secretary of the Budget Guillermo Carague to immediately relinquish their other offices or employment, as herein defined, in the government, including government-owned or controlled corporations and their subsidiaries. With respect to the other named respondents, the petitions have become moot and academic as they are no longer occupying the positions complained of.

During their tenure in the questioned positions, respondents may be considered *de facto* officers and as such entitled to emoluments for actual services rendered.[46] It has been held that "in cases where there is no *de jure,* officer, a *de facto* officer, who, in good faith has had possession of the office and has discharged the duties pertaining thereto, is legally entitled to the emoluments of the office, and may in an appropriate action recover the salary, fees and other compensations attached to the office. This doctrine is, undoubtedly, supported on equitable grounds since it seems unjust that the public should benefit by the services of an officer *de facto* and then be freed from all liability to pay any one for such services.[47] Any per diem, allowances or other emoluments received by the respondents by virtue of actual services rendered in the questioned positions may therefore be retained by them.

WHEREFORE, subject to the qualification above-stated, the petitions are GRANTED. Executive Order No. 284 is hereby declared null and void and is accordingly set aside.

SO ORDERED.

Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Medialdea, Regalado and Davide, Jr., JJ., concur.
Sarmiento and Griño-Aquino, JJ., took no part.