
PHILIPPINE LAW JOURNAL

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NOVEMBER, NINETEEN HUNDRED AND FIFTEEN

NOTE AND COMMENT

CONRADO BENITEZ, *Senior*

Editor.

STATUTORY PROVISIONS FOR AND ACHIEVEMENTS OF PUBLIC EMPLOYMENT BUREAUS

"Recognizing one of the purposes of government to the supplying of such information to its citizens as will promote their welfare, Governor Glynn of New York, in his message of March 6, 1914, emphasizes the state's duty to provide a system of labor exchanges. He concludes that 'there is no information more vital to the citizen of the state than knowledge of where he may obtain work to feed and clothe himself and his dependents. * * * The two objects the legislators have in mind in establishing state free employment bureaus are, first, to regulate private agencies through competition; secondly, to fulfill the state's duty in bringing together the man and the job.'

"Nineteen states have passed laws providing for more or less effective systems of free employment offices. * * * Municipal bureaus are operated independently in seven states, as follows: Arizona—Phoenix; California—Los Angeles, Sacramento; Missouri—Kansas City; Montana—Butte, Great Falls; New Jersey—Newark; New York—New York; Ohio—Cleveland; Oregon—Portland; Washington—Seattle, Tacoma, Spokane, Everett. Late in 1914, the Bureau of Immigration of the United States Department of Labor began the establishment of thirty-eight branch offices throughout the country.

"In a great number of cases the general supervision of the employment bureaus is given to the commissioner, deputy commissioner, or chief, as the case might be, of the Bureau of Labor Statistics. * * * In all cases where the law enumerates provisions on the subject of appointment, the recommending power, at least, is given to the person having general supervision. In the majority of cases this same supervisory power has the privilege of appointment. * * * A recent development in the management of the local offices is the advisory committee. Such committees are provided for in the New York law, are specified by the Wisconsin Industrial Commissions, and are included in the proposed law for Pennsylvania. This committee, as its name signifies, acts in an advisory capacity to the local superintendent. Employers and employees are represented on the committee, which generally elects its own chairman. * * * With two exceptions the various laws stipulate that there shall be no charge to employer or employee for the service rendered by the state bureaus. * * * The great majority of states make no provision as to a strike policy in their laws. * * *

"It would seem that in spite of the provisions of the law the results of the local offices are, after all, dependent to a large extent on the qualifications of the superintendent. * * * The history of the public employment bureau in this country has not been a particularly bright one. Nor has it been a long one. * * * We are just beginning to have men who are trained in the work. * * * A national system of centralized and cooperating exchanges, towards which we are rapidly working, will form a very efficient machine for keeping our reserve labor supply at its minimum. * * *

A DECADE OF AMERICAN GOVERNMENT IN THE PHILIPPINES 1903-1913.

BY DAVID P. BARROWS, PH. D., LL. D.

Professor of Political Science in the University of California.

This is a little book by one who has had opportunity of knowing the Philippines. Professor Albert E. Jenks says of it: "The author seldom puts his own opinion to the front. Where opinion is expressed it is favorable to the Republican administration which was responsible for the Philippine policy; this would be expected from one who held important administrative position under the Philippine government during most of the years covered by the text * * * . Of the governors-general he speaks in the order of their incumbency. Credit is given to each for work done, though much of it may have been accomplished while yet the incumbent was a Secretary of the Commission; this is particularly true of the work accredited to Mr. Ide. Only the most outstanding characteristics of the administration of each governor-general are presented in this review. Mr. Taft's administration (1900-3) is credited with the settlement of the Friar lands problem, and with the policy of 'the Philippines for the Filipinos.' The administration of Mr. Wright

(1904-6) is given credit for the most needed and excellent reorganization of the administration of Insular matters, and for the important improvement of the port, and the city, of Manila. Mr. Ide's administration (1906) is credited with the currency reform—"one of the most brilliant achievements of the American administration"—and with the postal savings system, which 'so recommended itself to Mr. Taft that as President he secured the enactment by Congress of a similar system for the people of the United States.' The administration of Mr. Smith (1906-9), who 'possesses wide acquaintance with the Filipinos, and sympathy for their aspirations,' saw the maturing of native political parties, and the meeting of the First Philippine Assembly. Mr. Forbes (1909-13) 'insisted upon curtailing the program for the general education of the people.' His administration saw enacted the beneficial Payne-Tariff Act."

The last paragraph of the book contains these words: "There would seem, however, to be but two probable futures before the Philippines—either a continuance of the policy of the last decade, * * * or the complete abandonment of the Islands to their own support * * *. The establishment of orderly and progressive society is too precious a thing to civilization to save from execration those who would suffer it to sink in strife and sedition and permit its elements to be scattered over the China Sea like the débris of a typhoon."

Publishers: Yonkers-on-Hudson: World Book Co.

ECONOMIC ORIGINS OF JEFFERSONIAN DEMOCRACY

This is the title of a new book by Charles A. Beard, Professor of Politics in Columbia University, published by The Macmillan Company, New York, 1915. Though dealing with the early problems of the United States the book furnishes a solid basis for understanding the fundamental difference between the two strong political parties of today.

"This stubbornly-fought battle over the Constitution was in the main economic in character, because the scheme of government contemplated was designed to effect, along with more adequate national defense, several commercial and financial reforms of high significance, and at the same time to afford an official check upon state legislatures that had shown themselves prone to assault acquired property rights, particularly of personalty, by means of paper money and other agrarian measures. To speak more precisely, the contest over the Constitution was not primarily a war over abstract political ideals, such as state's rights and centralization, but over concrete economic issues, and political division which accompanied it was substantially along the lines of the interests affected—the financiers, public creditors, traders, commercial men, manufacturers, and allied groups, centering mainly in the larger seaboard towns, being chief among the advocates of the Constitution, and the farmers, particularly in the inland regions, and the debtors being chief among its opponents. That other considerations, such as the necessity for

stronger national defense, entered into the campaign is, of course, admitted, but with all due allowances, it may be truly said that the Constitution was a product of a struggle between capitalistic and agrarian interests."

RECENT CASES

Decided by the Supreme Court of the Philippines.

PROCEDURE; PRELIMINARY INVESTIGATION; DUE PROCESS OF LAW.—Preliminary investigation is an obligatory and indispensable beginning (*inicio*) of a prosecution, which the justice of the peace ought to make, in accordance with the provision of Act No. 194, before depriving an accused of his liberty and subjecting him to a trial, since such investigation has for its object the determination as to whether there is or not a probable cause to believe that a crime has been committed, and that the accused is guilty of the same, or there are or not reasonable grounds to believe that the accused was the author thereof. The justice of the peace in the case that such determination be in the affirmative sense should order the arrest and detention of the accused, or release him under bail, giving him to the disposition of the Court of First Instance in order that the latter may proceed to try the same upon the filing of the corresponding information by the fiscal; but in the case that the determination be in the negative sense, or the justice of the peace believe that he has not committed the crime charged, he shall, by the imperative command of the law, order the release of the accused. If the latter be complied with (as was done in this case), such preliminary investigation can not be an object to serve the basis of an information by the fiscal, or a trial and conviction by the Court of First Instance, because the preliminary step (*inicio*) has ended, and consequently the accused has never been given to the disposition of the Court of First Instance in order that he may be proceeded against. A trial and judgment after preliminary investigation which resulted in the release of the accused by the justice of the peace for want of probable cause, if no new preliminary investigation be made, is without due process of law and is therefore null and void. *Per* ARAULIO, J., in *United States vs. Banzuela et al.*, R. G. No. 10,172, decided October 1, 1915.

OFFICERS; CRIMINAL NEGLIGENCE; ACT No. 1740.—Act No. 1740 is designed to punish bonded public officers for the crime of misuse of government funds or property intrusted to their care, whether such officers profit thereby themselves or whether third persons reap the benefit through the abandonment, fault, or neglect of the officer.

Id.; Id.; Id.; WHAT CONSTITUTES.—To constitute fault or negligence within the meaning of this Act, it is necessary to establish beyond a reasonable doubt that the defendant failed to take reasonable care of the funds or property lost, in view of all the attendant circumstances. *Per* TRENT, J., in *United States vs. P. D. Garces*, R. G. No. 10,698, decided October 7, 1915.

ADULTERY; INDEMNITY FOR; BY SEPARATE CIVIL ACTION.—

There is no law justifying a judgment for indemnity in favor of the offended persons in criminal actions for adultery. An action for damages in a case of adultery must be, in view of Act No. 1773, a separate and distinct action, from the criminal action, the same as in the case of libel.

PROCEDURE; RULE 20 OF THE SUPREME COURT; PRECEDENT.—

Rule 20 does not apply to criminal cases. The appellants in criminal cases are not required to make assignments of error. Therefore the Supreme Court has a right to take notice of every error, in fact or in law, committed by the lower court, even though the same is not set out in an assignment of error by the appellant.

Where a question passes the court *sub silentio*, the case in which the question is so passed is not binding on the court and should not be considered a precedent. *Per* JOHNSON, J., in *United States vs. Regino Noriega et al*, R. G. No. 10,690, decided October 14, 1915.

Decided by the Supreme Court of Porto Rico.

1. **MALICIOUS PROSECUTION; ANXIETY AND MENTAL SUFFERING; INFAMOUS CRIME.**—Anxiety and mental suffering arise naturally and directly from an unfounded malicious prosecution in which the commission of an infamous crime is alleged, the true basis of the action being the opprobrium which is caused by the accusation. In cases like this, it is necessary to make special allegations regarding such damages. (Sentence of May, 1915.)

2. **STATEMENT OF FACTS AND GENERAL DEMAND OF DAMAGES; OBJECTION.**—When a complaint contains statements of facts regarding the injuries caused and a general demand of damages, even though the nature of the same be not specified, the complaint is unobjectionable. (Sentence of May, 1915.)

3. **CARRYING PROHIBITED ARMS; ASSAULT AND AGGRESSION; RIOT.**—The crime of carrying prohibited arms can not be merged in that of assault or aggression, and riot. (Sentence of May, 1915.)

4. **ADMISSION OF INCOMPETENT EVIDENCE; FAILURE TO EXCEPT.**—Although a party has objected to the introduction of certain evidence, yet if he has not excepted to the ruling of the court admitting the evidence, the error can not be raised on appeal. (Sentence of May, 1915.)

5. **WITNESSES FOR THE PROSECUTION; ACCUSED AS WITNESS.**—It is before, and not after, the beginning of the introduction of evidence for the defense, that it is lawful for the court upon the petition of the fiscal to exclude from the court-room any one of the accused for the purpose of using him as witness for the prosecution; but the mere fact that at the request of the fiscal a witness for the defense has been admitted to testify, does not amount to a formal commencement of the introduction of evidence for the defense. (Sentence of May, 1915.)

6. JUDGMENT RENDERED ON THE MERITS OF THE ALLEGATIONS; JUDICIAL NOTICE.—In deciding the controversy on the merits of the allegations, the court can not take judicial notice of any fact not alleged in the pleadings. (Sentence of May, 1915.)

7. FINDINGS OF COURT *A QUO*; CONFLICTING EVIDENCE.—When there is conflict of evidence, the findings of the court *a quo* will not be disturbed by the appellate court unless there is strong reason that compels it to make a conclusion contrary to that of the court below. (Sentence of June, 1915.)

8. LEASE; ASSIGNMENT OF RIGHT TO RECOVER RENT; PERSONAL OBLIGATION; REAL RIGHT.—The right of the lessor to recover rents is a personal obligation between the lessor and the lessee and not a real right, and therefore, its transfer to another person can not be registered in the registry of property. (Sentence of June, 1915.)

9. BILL OF EXCEPTIONS; STATEMENT OF THE CASE; BONA-FIDE STATEMENT OF THE FACTS OF THE CASE; DUTY OF THE COURT.—When the bill of exceptions contains a *bona-fide* statement of the facts of the case which the excepting party deems necessary, though it is incomplete or mistaken in certain details or points, the court must decide the case. If, on the contrary, such statement is not *bona-fide*, that is, if the party has selected only those facts that are in his favor, and does not set forth the true facts, then the court is justified in refusing to approve the bill of exceptions. (Sentence of June, 1915.)

ALUMNI

(Alumni are requested to contribute to this department.)

SERAFIN P. HILADO, 1913 Law

Editor.

BOARD OF DIRECTORS, COLLEGE OF LAW ALUMNI ASSOCIATION

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1913

Emilio Y. Hilado has recently been married to Soledad Yulo.

John C. MacMahon was appointed, at the last meeting of the Philippine Bar Association, member of the Executive Committee thereof.

Quirino Abad Santos is now Auxiliary Justice of the Peace of Mexico, Pampanga.

1915

The alumni who were admitted to the practice of law after the last bar examination have been the recipient of many honors. The Boakeños gave a reception in honor of Ricardo Nepomuceno and Melecio Leño; the Cathedral Dormitory, in honor of Montemayor; the Methodist Dormitory, in honor of Binag; the Visayos in Manila, in honor of Francisco Villanueva, Jr.; the people of Cabanatuan, in honor of Juan Sarenas and Hermógenes Concepción; the town of Kabankalan, in honor of the first lawyer of the place, Gregorio Córdova.

Several of the new lawyers have opened law offices:

Aurelio Palileo—Sta. Cruz, La Laguna.

Gregorio Córdova—Kabankalan, Occidental Negros.

Juan Sarenas—Cabanatuan, Nueva Ecija.

Victoriano Yamzon—Manila.

Francisco Villanueva—Manila.

The only female graduate, Miss Legaspi, is planning to go abroad before beginning the practice of her profession.

It is a common complaint that university graduates lose their interest in their Alma Mater after receiving their diplomas. That this is not true with regard to the College of Law, has repeatedly been shown. A recent example, however, is furnished by a letter received from Mr. Teodoro, of the Class of 1915, which reads as follows:

UNIVERSITY OF THE PHILIPPINES
MANILA

October 18, 1915.

MY DEAR DEAN MALCOLM:

I desire to acknowledge, with thanks, the receipt of a copy of your memorandum on the reorganization of the College of Law. The part that deals on the Graduate Course interests me most. With regard to the Advisory Alumni Committee, of which you have seen fit to name me as one of the members of a committee to report on the same, allow me to make the following observations and suggestions.

It appears to me that it is an erroneous assumption on the part of an alumnus of the College of Law or of any other institution of learning to believe that, because he has already completed the prescribed course of study and has consequently received his degree therefrom, he no longer owes any obligation towards his Alma Mater. It is likewise an error on the part of the college to assume that an alumnus, by reason of his graduation therefrom, is a stranger and therefore has forfeited his right to be heard in college affairs. On the contrary, I believe that, for the purpose of greater achievements, all—faculty, alumni and students—should cooperate with each other. The college should therefore call upon its alumni now and then to express their views on important college matters which, by reason of their interest in the matters themselves and their experience, the writer suggests that there be established in the College of Law of the University of the Philippines an Advisory Alumni Committee composed of the Class President in his Senior year and three other members of the class to be designated by the Dean of the College of Law. The function of this Committee, as can be inferred from its name, is to advise the Dean of the College of Law on all important college activities which may be submitted to it for consideration, and particularly, to give its advice on those problems which involve college policy. Its function, however, should not be limited to this; it should also, of its own accord, render such suggestions which will make for college improvement. In case of death or of any other justifiable cause (which I do not at all hope) of the said class president and the three other members of the class mentioned above, the Dean will see to it that other members of the same class are designated to their respective places.

Very sincerely yours,

(Sgd.) JOSE TEODORO.

To this the Dean of the College of Law replied as follows:

THE GOVERNMENT OF THE PHILIPPINE ISLANDS
UNIVERSITY OF THE PHILIPPINES
COLLEGE OF LAW
MANILA.

October 18, 1915.

MY DEAR MR. TEODORO:

I thank you most heartily for your letter of even date, in which you make a most valuable suggestion looking to the betterment of the College of Law. I assure you that the idea of having an Advisory Alumni Committee impresses me as both feasible and desirable. I have seen fit to modify the details of the plan somewhat in order to bring in touch with the College all classes of alumni.

In accordance with the foregoing, I desire to name the following Advisory Alumni Committee for the College of Law, University of the Philippines: H. Law-
rence Noble '14, President of the Alumni Association and President of his class in Senior year, Manuel Roxas '13, former President of the Alumni Association and President of his class in Senior year, John C. MacMahon '13, Vice-President of his class in Senior year, Pablo Lorenzo '14, President of his class in Junior year, José Teodoro '15, President of his class in Senior year, Victoriano Yamzon '15, President of his class in Junior year, Jacinto Kamantigue '15, President of his class in Sophomore year.

The duties of this Committee will be these: (1) To advise the Dean and the Faculty of the College of Law on such matters as may be referred to it for recommendation; (2) To constitute a standing visiting Committee to call in unexpectedly on the law classes and the law functions and to make confidential recommendations thereon; and (3) To offer any suggestion looking to the betterment of the College of Law or the University of the Philippines which may to the Committee seem wise.

As immediate functions of the Committee, I name the following: (a) to make report on the reorganization plan proposed for the College of Law, and (b) to consider the advisability and practicability of the Alumni Association of the College of Law preparing and editing, through an editorial board, a digest of the Philippine Reports.

This letter can be considered a general one for the information of all alumni.

Most cordially yours,

(Sgd.) GEORGE A. MALCOLM,

Dean.

COLLEGE NEWS

PEDRO Y. YLAGAN, *Junior*

Editor.

THE STUDENT COUNCIL

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PEDRO SORRETA	- - -	<i>Master Musician, College of Law, Musical Club.</i>
DAVID PARGAS	- -	<i>Law Representative on the University Athletic Board of Control.</i>

PHILIPPINE BARRISTERS AND JUNIOR PHILIPPINE ASSEMBLY HOLD JOINT MEETING

The Philippine Barristers of the College of Law and the Junior Philippine Assembly of the Philippine Normal School gave a joint program in the Auditorium of the Normal School on October 8, 1915. Prominent men and public officials have been heretofore guests of honor in the former meetings of these associations. At the recent meeting, Dr. Galicano Apacible of the Philippine Assembly and Regent of the University of the Philippines was the guest of honor. He gave a very interesting address in Spanish.

The moot court trial conducted by José Melencio as prosecuting attorney and Lorenzo Campo as counsel for the defense, proved to be an interesting feature of the program. Judge José Gil, of the Senior Class, declared the "Act of the Legislature forbidding cigar factories from requiring more than eight hours of work of their laborers a day" to be constitutional.

The love duet sung by Miss Asunción Mañosa and Carlos Rómulo, both of the Manila High School, received prolonged and enthusiastic applause from the audience.

SOPHOMORES ELECT NEW PRESIDENT

Pursuant to Rule XI of the Class Election Rules adopted by the Student Council of the College of Law, the Sophomore Class held a special election to fill the place of class president left vacant by Archer, who has left school. Alejo Labrador was elected successor to the office.

LEGAL MEDICINE CLASS VISITS ASYLUMS

The class in Medical Jurisprudence, composed of the Seniors of the College of Law and the College of Medicine and Surgery, had an excursion Saturday last, October 16, to San Lazaro Hospital and Hospicio de San José and visited the insane people confined therein.

JUNIORS TROUNCE SOPHOMORES

Saturday, October 16, was a fatal day for the Sophs. The preliminary indoor-base ball games between the classes were played as a preparation for the final game on Thanksgiving Day. The Sophomore Class succumbed to the Juniors to the tune of 28 to 11.

FIRST SET OF JUDGES FOR THE ORATORICAL CONTEST APPOINTED

The best twenty orations submitted for the Annual Oratorical Contest have been selected by the Instructor in Oratory. The following are appointed to select ten out of the above twenty, basing their decision on thought, rhetoric and composition:

Mr. R. McCulloch Dick of the *Free Press*.

Mr. Antonio de las Alas of the Executive Bureau.

Professor Francisco Benitez of the College of Liberal Arts.



MAXIMINO MINA
Provincial Fiscal of Cebu



QUINTIN PAREDES
Prosecuting Attorney of the City of Manila



PONCIANO REYES
Attorney for the Department of Mindanao and Sulu



FRANCISCO ENAJE
Provincial Fiscal of Iloilo