

PHILIPPINE STATUTORY CONSTRUCTION

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The courts and public officers generally in the Philippines are guided in their interpretation of the laws by elementary principles to be found in the Codes. * They will also apply the rules of American statutory construction as set forth in standard authorities. † Combining these provisions of the Codes with the leading doctrines established by the Supreme Court of the Philippines and adding a few acceptable and unimpeachable authorities, a miniature text on Philippine Statutory Construction would read as follows:

DECLARING LAWS INVALID

Each of the three departments of government and many officials in these departments may be required to pass upon constitutional questions. Only when legal controversies arise do such issues pass out of the realm of the abstract. It is, therefore, the peculiar province and obligatory duty of the judiciary under the American political system to declare laws unconstitutional or invalid (the latter the more appropriate term because of the Philippine status), if they transgress the authority of the legislature. So in the Philippines the courts will pronounce Acts of the Philippine Commission and Legislature repugnant to the fundamental law to be invalid and void. ‡ The effect of invalidity is that the invalid act "is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." § The courts will further apply the well established rule concerning partial invalidity. "Where part of a statute is void as repugnant to the Organic Law, while another part is valid, the valid portion, if separable from the invalid, may stand and be enforced. But in order to do this, the valid portion must be so far independent of the invalid portion that it is fair to presume that the Legislature would have enacted it by itself if they had supposed that they could not constitutionally enact the other. Enough must remain to make a complete, intelligible, and valid statute, which carries out the legislative intent. The void provisions must be eliminated without causing results affecting the main purpose of the Act in a manner contrary to the intention

* Especially Arts. 3, 4, 5, 7 of the Civil Code; and Secs. 1, 2, 4, 287, 288, 294 of the Code of Civil Procedure taken from the laws of California. Also Sec. 9, Revised Ordinances, City of Manila.

† Cooley, *Constitutional Limitations*, 7th ed., Lewis Sutherland *Statutory Construction* (leading authority); Black on *Interpretation of Laws*; and 36 Cyc. 929 will be found cited in the Philippine Reports and the opinions of the Attorney-General.

‡ *Ocampo v. Cabangis* (1910) 15 Phil. 626, 631; U. S. r. *Ten Yu* (1912) 24 Phil. 1, 10. Possibly more properly speaking "voidable" because a court can not "repeal" a law. *Shepard v. Wheeling* (1837) 30 W. Va. 479; *Cooley's Constitutional Limitations*, 7th ed., p. 163.

§ *Norton v. Shelby County* (1886) 118 U. S. 425, 442, 30 L. Ed. 178; 6 R. C. L. 117. But see *Burgess, Political Science and Constitutional Law*, Vol. II, pp. 327, 365.

of the Legislature. The language used in the invalid part of a statute can have no legal force or efficacy for any purpose whatever, and, what remains must express the legislative will independently of the void part, since the court has no power to legislate." *

That the Supreme Court of the Philippines like the United States Supreme Court will exercise the power to nullify statutes cautiously and solemnly is shown by the few laws held invalid. † Says Judge Cooley: "It must be evident to any one that the power to declare a legislative enactment void is one which the judge, conscious of the fallibility of the human judgment, will shrink from exercising in any case where he can conscientiously and with due regard to duty and official oath decline the responsibility." ‡ As a general rule, courts will not pass upon a constitutional question or decide a statute to be invalid unless that question is raised and presented and is necessary to a determination of the case; on the other hand, the fact that a statute has been accepted as valid, and invoked and applied for many years in cases where its validity was not raised or passed on, does not prevent a court from later passing on its validity where that question is properly raised and presented. §

Every statute is presumed to be valid. The United States Supreme Court has announced time and again that "the courts ought not to declare a law to be unconstitutional, unless it is clearly so. If there is doubt, the expressed will of the legislature should be sustained." ** The Supreme Court of these Islands concordantly has said: "Courts are slow to pronounce statutes invalid or void. The question of the validity of every statute is first determined by the legislative department of the government itself, and the courts should resolve every presumption in favor of its validity. Courts are not justified in adjudging statutes invalid, in the face of the conclusion of the legislature, when the question of its validity is at all doubtful." *† Again and more specifically—"In construing a statute enacted by the Philippine Commission we deem it our duty not to give it a construction which would be repugnant to an Act of Congress, if the language of the statute is fairly susceptible of another construction not in conflict with the higher law." *‡ The same line of reasoning was followed when the Philippine courts came to consider ordinances. "Judicial authority to declare an ordinance unreasonable is a power to be cautiously exercised." *§

* *Barrameda v. Moir* (1913) 25 Phil. 44, 47, citing cases. See *Pollock v. Farmer's Loan and Trust Co.* (1895) 158 U. S. 601, 635, 39 L. Ed. 1108; 6 R. C. L. 121.

† The United States Supreme Court has annulled Congressional legislation in but 33 cases. B. F. Moore, *The Supreme Court and Unconstitutional Legislation*, Appendix 1. In the Philippines, *Casanovas v. Hord* (1907) 8 Phil. 125 (Act 1189, sec. 134); *Omo v. Insular Government* (1908) 11 Phil. 67 (Act 648); *Weigall v. Shuster* (1908), 11 Phil. 340 (customs laws); *Barrameda v. Moir, id.*, (Acts 2041 and 2131); *McGirr v. Hamilton* (1915) 13 O. G. 878 (Act 1627, sec. 16), etc.

‡ *Cooley's Constitutional Limitations*, 7th ed., p. 227. Read Ch. VII thereof.

§ *McGirr v. Hamilton, id.*, citing *Cooley's Constitutional Limitations, id.*, p. 231 and decisions of the United States Supreme Court; *U. S. v. Noriega* (1915) XIII O. G. 2154. See 6 R. C. L. 76.

** *Munn v. Illinois* (1877) 94 U. S. 113, 123, 24 L. Ed. 77, followed in *U. S. v. Grant*, 18 Phil. 122, 140. To same effect *Fletcher v. Peck* (1810), 6 Cranch, 87, 128, 3 L. Ed. 162; *Sinking Fund Cases* (1879), 99 U. S. 700, 718, 25 L. Ed. 496; *Powell v. Pennsylvania* (1888), 127 U. S. 678, 32 L. Ed. 253; 6 R. C. L. 97.

*† *United States v. Ten Yu* (1912) 24 Phil. 1, 10.

*‡ *In re Guarña* (1913) 24 Phil. 37, 46.

*§ *City of Manila v. Manila E. R. and L. Co.* (1912), 23 Phil. 547, 551.

APPLICATION OF LAW

Ordinarily the courts merely apply the law to a statement of facts. "The first and fundamental duty of the courts, in our judgment, is to *apply* the law. Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them. They are the very last functions which a court should exercise. The majority of the laws need no interpretation or construction. They require only application, and if there were more application and less construction, there would be more stability in the law, and more people would know what the law is." *

CARDINAL RULE OF CONSTRUCTION

As above suggested, the courts must in some cases necessarily interpret or construe the law. The one cardinal rule of statutory construction then is to *ascertain and give an effect to the intention of the law making body*. The Code of Civil Procedure legislates this into formal law by providing that: "In the construction of a statute, the intention of the legislature * * * is to be pursued; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it." † The Supreme Court of the Philippines indorses the principle by stating that "where the language of a statute is fairly susceptible of two or more constructions, that construction should be adopted which will most tend to give effect to the manifest intent of the lawmaker and promote the object for which the statute was enacted, and a construction should be rejected which would tend to render abortive other provisions of the statute and to defeat the object which the legislator sought to attain by its enactment." ‡ Nevertheless the Legislature must use words which in some way express intent, for a court can not amend the law to make it agree with what it is believed the Legislature must have intended. §

Practically speaking, common sense is the best guide for the devious and obscure path of legislation. Chief Justice Fuller in language followed by our Supreme Court has said that "nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible, so as to avoid an unjust or an absurd conclusion." **

SUBSIDIARY PRINCIPLES

Only a few of the more important subsidiary principles of legislation and canons of construction by which the courts endeavor to ascertain the legislative intent can be mentioned.

* *Lizárraga Hermanos v. Yap Tico* (1913) 24 Phil. 504, 513, followed in *Lambert v. Fox*, (1914) 26 Phil. 588 and in *Yangco v. Crossfield* (1915) 13 O. G. 191. In accord *U. S. v. Fisher* (1804) 2 Cranch 358, 2 L. Ed. 304.

† Sec. 288.

‡ *United States v. Toribio* (1910) 15 Phil. 85, 90; also *Uy Chaco Sons v. Collector of Customs* (1913) 24 Phil. 548 and other cases.

§ *United States v. Ambata* (1904) 3 Phil. 327. But compare with *U. S. v. Go Chico* (1909) 14 Phil. 128 and *Lamb v. Phipps* (1912) 22 Phil. 456, 493.

** *Lau Ow Bew v. U. S.* (1892) 144 U. S. 47, 59, 36 L. Ed. 340; followed in *Lamb v. Phipps* (1912) 22 Phil. 456, 493. To same effect, *U. S. v. Kirby* (1869) 7 Wall. 482, 19 L. Ed. 278, followed in *In re Allen* (1903) 2 Phil. 630.

In the interpretation of the Code of Civil Procedure certain words named in its section 1 are to have the meaning therein provided "unless the context shows that another sense was intended." Moreover, "words in the present tense include the future tense, and in the masculine gender include the feminine and neuter genders; and words in the plural include the singular, and in the singular include the plural number." * But this enumeration does not require a strict construction of other general words. "If in the laws months, days, or nights are referred to, it shall be understood that the months are of thirty days, the days of twenty-four hours, and the nights from the setting to the rising of the sun. If the months are indicated by their names, they shall be computed by their actual number of days." † And, "unless otherwise specially provided, the time within which an act is required by law to be done shall be computed by excluding the first day and including the last; and if the last be Sunday or a legal holiday it shall be excluded." ‡ Language used in a statute which has a settled and well-known meaning, sanctioned by judicial decision, is presumed to be used in that sense by the legislative body. § A word used in a statute in a given sense is presumed to be used in the same sense throughout the law. ** Tariff laws are to be construed according to the commercial understanding of the terms used; and such terms are to be taken in their ordinary and comprehensive meaning unless it can be shown that they have acquired a special or restricted meaning. *† Our Supreme Court has been called upon to construe specific words in a number of other cases. *‡ It rightly holds to the view that "where language is plain, subtle refinements which tinge words so as to give them the color of a particular judicial theory are not only unnecessary but decidedly harmful." *§ Chief Justice Marshall, in the historic case of *Gibbons v. Ogden*, said: "As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said." ***

The Civil Code provides: "Laws are repealed only by other subsequent laws, and disuse or any custom or practice to the contrary shall not prevail against their observance." **† Express repeals are to be encouraged. Repeals by implication—implied repeals—are not favored. If the statutes can stand together consistently,

* The words so interpreted are "person," "writing," "oath," "of unsound mind," "bond," "and," "or," "writ," "process," "action," "pleadings," "dollars," "pesos," "territory of the United States."

† Civil Code, art. 7.

‡ Code of Civil Procedure, Sec. 4. See *U. S. v. Tiqui* (1902) 1 Phil. 306.

§ *Kepler v. U. S.* (1904) 195 U. S. 100, 11 Phil. 669.

** *Froehlich & Kuttner v. Collector of Customs* (1911) 18 Phil. 461, 480.

*† *Calder & Co. v. U. S.* (1907) 8 Phil. 334, following *Elliot v. Swartwout* (1836) 10 Pet. 137, 9 L. Ed. 373, and *Arthur v. Morrison* (1877) 96 U. S. 108, 24 L. Ed. 764.

*‡ *E. G. Lamb v. Phipps* (1912) 22 Phil. 456, 492; *In re Guarina* (1913) 24 Phil. 37; *Yangco v. Crossfield* (1915) 13 O. G. 191, and *Ops. Atty. Gen. P. I. index "words and phrases."*

*§ *Yangco v. Crossfield, id.*

*** (1824) 9 Wheat. 1, 187-189, 6 L. Ed. 23.

**† Art. 5.

the later statute should not be considered as repealing the earlier one. "It is a most flagrant violation of the rules of statutory construction to give to a statute a meaning which, in effect and in reality, repeals it altogether, where any other reasonable construction is possible." * "Before a statute can be held to have repealed a prior statute by implication, it must appear, first, that the two statutes touch the same subject matter, and, second, that the later statute is repugnant to the earlier." † As an example of a repeal by implication, where a later statute provides a punishment in a different degree from the punishment provided in an earlier statute for the doing or omitting to do a certain act, the legislator thereby clearly manifests his intention that at least, so far as the later statute is inconsistent with the former statute, it shall be deemed to repeal such former statute by implication. ‡

The Civil Code in article 3 provides—"Laws shall not have a retroactive effect unless otherwise prescribed therein." Our Supreme Court says—"All statutes are to be construed as having only a prospective operation unless the purpose and intention of the Legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used. In every case of doubt, the doubt must be solved against the retrospective effect." § However, curative statutes can lawfully be enacted. A ratification by the Legislature is equivalent to a mandate to perform an act in the first instance, and will be so considered by the courts. ** A defect in authority may be cured by the subsequent adoption of the Act. *† When a curative statute is enacted, a case must be determined on the law as it stands when judgment is rendered. *‡

Whether there shall be a strict or liberal construction depends upon the nature of the Act. The provisions of the Code of Civil Procedure, and in fact all remedial laws, are to be liberally construed. *§ Laws regulating citizenship should receive a liberal construction in favor of the claimant of it. *** As a general rule, in the interpretation and construction of public grants, such as of titles and franchises,

* *Marin v. Nacianceno* (1911) 19 Phil. 238.

† *Calderón v. Dominicans* (1914) 12 O. G. 1698. See also *Uy Chaco Sons v. Collector of Customs* (1913) 24 Phil. 548.

‡ *United States v. Reyes* (1908) 10 Phil. 423.

§ *Montilla v. Agustinian Corporation* (1913) 24 Phil. 220, citing *U. S. v. American Sugar Co.* (1906) 202 U. S. 563; 50 L. Ed. 1149 and other cases. "The courts uniformly refuse to give to statutes a retrospective operation, whereby rights previously vested are injuriously affected, unless compelled to do so by language so clear and positive as to leave no room to doubt that such was the intention of the legislature. In *U. S. v. Heth*, 3 Cranch 413, 2 L. Ed. 479, this court said that "words in a statute ought not to have a retrospective operation unless they are so clear, strong, and imperative that no other meaning can be annexed to them, or unless the intention of the legislature cannot be otherwise satisfied," and such is the settled doctrine of this court. *Murray v. Gibson*, 15 How. 423, 4 L. Ed. 755; *McEwen v. Den*, 24 How. 244, 16 L. Ed. 672; *Harvey v. Tyler*, 2 Wall. 347, 17 L. Ed. 871; *Sohn v. Waterson*, 17 Wall. 599, 21 L. Ed. 737; *Twenty Per Cent. Cases* (1874) 20 Wall. 187, 22 L. Ed. 339."—*Harlan, J.*, in *Chew Heong v. U. S.* (1184) 112 U. S. 536, 559, 23 L. Ed. 770. See *Inhabitants of Goshen v. Inhabitants of Stonington* (1822) 4 Conn. 209, 10 Am. Dec. 121.

** *Government of the P. I. v. Standard Oil Co.* (1911) 20 Phil. 30, following U. S. Supreme Court decisions.

*† *Chuoco Tiaco v. Forbes* (1913) 228 U. S. 549, 57 L. Ed. 960.

*‡ *U. S. v. Heinszen* (1907) 206 U. S. 370, 51 L. Ed. 1098.

*§ *Code of Civil Procedure*, sec. 2; *Zamora v. City of Manila* (1907) 7 Phil. 584.

*** *Roa v. Collector of Customs* (1912) 23 Phil. 315, 338; *Boyd v. Thayer* (1892) 143 U. S. 135, 36 L. Ed. 103.

that construction should be adopted which will support the claim of the government rather than of the individual. * As to tax laws, Judge Story says: "It is a general rule in the interpretation of all statutes levying taxes or duties upon subjects or citizens, not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out, although standing on a close analogy. In every case, therefore, of doubt, such statutes are construed most strongly against the government, and in favor of the subjects or citizens, because burdens are not to be imposed, nor presumed to be imposed, beyond what the statutes expressly and clearly import." † Likewise penal statutes and statutes in derogation of general rights or authorizing summary proceedings are generally strictly construed. ‡

"Courts must administer the law," said Mr. Justice Ladd in an early opinion, "not as they think it ought to be but as they (we) find it and without regard to consequences." Where a statute is plain and unambiguous, expediency or practical utility can not be considered. § "The wisdom or advisability of a particular statute is not a question for the courts to determine—that is a question for the legislature to determine." So "courts are not justified in measuring their opinion with the opinion of the legislative department of the government, as expressed in statutes, upon questions of the wisdom, justice, or advisability of a particular law." ** Although these are the general rules, nevertheless, the court may consider effects and consequences in proper cases and adopt a construction which will produce the most beneficial results. *† The Code of Civil Procedure recognizes this fact by providing that "when a statute * * * is equally susceptible of two interpretations, one in favor of natural right and the other against it, the former is to be adopted." *‡ Arguments of convenience often address themselves strongly to the court. *§ The physical condition of the country which must of necessity affect the operation of a statute can be considered by a court. *** An attempt to enforce an impossible act will not be countenanced. And, finally, where a literal interpretation of a statute would thwart the purpose of the legislature or lead to absurd consequences, the court is justified in looking through the form to the substance; in such cases the spirit

* U. S. v. Aitken (1913) 25 Phil. 7, 22. Typical instances given in Hall's Cases on Constitutional Law, p. 833, note. See Charles River Bridge v. Warren Bridge (1837) 11 Pet. 420, 9 L. Ed. 773.

† U. S. v. Wigglesworth, 2 Story, 369, followed in Froehlich & Kuttner v. Collector of Customs (1911) 18 Phil. 461, 481. To same effect are Castle Bros., Wolf & Sons v. McCoy (1912) 21 Phil. 300; Partington v. Attorney-General, L. R. 4 H. L. 100; and many American cases.

‡ Tenorio v. Manila Railroad Co. (1912) 22 Phil. 411; Topacio v. Paredes (1912) 23 Phil. 238. But not always, U. S. v. Go Chico (1909) 14 Phil. 128 quoting from U. S. v. Wiltberger, (1820) 5 Wheat. 76, 5 L. Ed. 37.

§ Velasco v. Lopez (1903) 1 Phil. 720.

** U. S. v. Ten Yu (1912) 24 Phil. 1, 10. See also Sharpless v. Mayor of Philadelphia (1853) 21 Pa. 147, 59 Am. Dec. 759; 6 R. C. L., pp. 104-111.

*† Black on Interpretation of Laws, pp. 100 et seq. "In obscuris inspicere solere quod verisimilius est, aut quod plerumque fieri solet." Dig. 50, 17, 114.

*‡ Code of Civil Procedure, sec. 294.

*§ U. S. v. Yap Kin Co. (1912) 22 Phil. 340, following Marshall, C. J., in U. S. v. Fisher (1804) 2 Cranch 386, 2 L. Ed. 304.

*** Gomez v. Hipólito (1903) 2 Phil. 732.

or reason of the law should prevail over the letter. * "For the letter killeth but the spirit giveth life." † This must be taken to be the authoritative view of the supreme court of the Philippines, for in the case of *in re Allen*, notwithstanding the stricter doctrine to be found in some other cases, Mr. Justice McDonough, speaking for the court, held that where a literal interpretation of any part of a statute would operate unjustly, or lead to absurd results, or is inconsistent with the meaning of an Act as a whole, it should be rejected. In such cases, he said, it must be presumed that the legislature intended exceptions to its language which would avoid such results. ‡ Again in the Flag Law Case, Mr. Justice Moreland said that literally hundreds of cases might be cited to sustain this proposition: "Language is rarely so free from ambiguity as to be incapable of being used in more than one sense, and the literal interpretation of a statute may lead to an absurdity, or evidently fail to give the real intent of the legislature. When this is the case, resort is had to the principle that the spirit of a law controls the letter, so that a thing which is within the intention of a statute is as much within the statute as if it were within the letter, and a thing which is within the letter of the statute is not within the statute unless it be within the intention of the makers, and the statute should be so construed as to advance the remedy and suppress the mischief contemplated by the framers." §

So also "clerical errors or misprints, which, if uncorrected, would render the statute unmeaning or nonsensical or would defeat or impair its intended operation * * * will be corrected by the court and the statute read as amended, provided the true meaning is obvious, and the real meaning of the legislature is apparent on the face of the whole enactment." **

The English text of Acts of the Philippine Commission and Legislature governs "except that in obvious cases of ambiguity, omission, or mistake the Spanish text may be consulted to explain the English text." *† Judicial notice will be taken of the origin, history, and operation of statutes. For statutes borrowed from or modelled upon Anglo-American precedents, a review of their legislative history and judicial interpretation is proper. *† Statutes of American origin should be construed according to the jurisprudence of the United States. *§ Courts will give weight to

* Rector of Holy Trinity Church v. U. S. (1892) 143 U. S. 457, 36 L. Ed. 226.

† 2 Corinthians iii, 6, quoted in *Caples v. State* (1909) 3 Okla. Crim. Rep. 73, 86, 104 Pac. 493, a decision of the Supreme Court of Oklahoma confessing "to want of respect for precedents which were found in the rubbish of Noah's Ark, and which have outlived their usefulness, if they ever had any," and declining to hold the omission of the word "the" before the words "State of Oklahoma" in the caption of the information, fatal. See 5 Op. Atty. Gen. P. I. 609.

‡ *In re Allen* (1903) 2 Phil. 630, following U. S. v. Kirby (1869) 7 Wall. 482, 19 L. Ed. 278 and *Heydenfelt v. Daney Gold Mining Co.* (1877) 93 U. S. 634, 23 L. Ed. 995. Compare with *Velasco v. Lopez* (1903) 1 Phil. 720 and U. S. v. *Ambata* (1904) 3 Phil. 327.

§ U. S. v. *Go Chico* (1909) 14 Phil. 128, 139, quoting from 26 Am. & Eng. Encyc. of Law, 602. See also *Uy Chaco Sons v. Collector of Customs* (1913) 24 Phil. 548.

** *Lamb v. Phipps* (1912) 22 Phil. 456, 493.

*† Act 1788; *Zamora v. City of Manila* (1907) 7 Phil. 584 and other Philippine cases. Similar regulation and rule in Louisiana as to English and French. See *Viterbo v. Freedlander* (1887) 120 U. S. 707, 30 L. Ed. 776 and Louisiana cases.

*† U. S. v. *De Guzman* (1915) 13 O. G. 1173. See also sec. . . . *supra*.

*§ The rule for the Philippines, U. S. v. *De Guzman, id.*; and for Porto Rico, *Diaz v. Porto Rico Railway Co.* (1914) 21 Porto Rico 73.

the contemporaneous construction placed upon a statute by the executive officers whose duty it is to enforce it, and, unless such interpretation is clearly erroneous, will ordinarily be controlled thereby. * It is a rule well established in the interpretation of custom laws that, where there has been a long acquiescence in a regulation by which the rights of parties for years have been determined and adjusted, such interpretation should be followed in the absence of the most cogent and persuasive reasons to the contrary. †

Often it is imperative to decide if a statute is mandatory or directory. ‡ A statute is said to be mandatory when it requires that certain action shall be taken by those to whom the statute is addressed, without leaving them any choice or discretion in the matter, or when, in respect to action taken under the statute, there must be exact and literal compliance with its terms, or else the act done will be absolutely void. A statute which directs the manner in which certain action shall be taken or certain official duties performed is said to be directory when its nature and terms are such that disregard of it, or want of literal compliance with it, though constituting an irregularity, will not absolutely vitiate the proceedings taken under it. §

Such a construction is, if possible, to be adopted as will give effect to all provisions of a statute. ** Statutes *in pari materia* are to be construed together. "Interpretare et concordare leges legibus est optimus interpretandi modus;" that is, to interpret and (to do it in such a way as) to harmonize laws with laws, is an ancient maxim of the law. *†

By the rule of *ejusdem generis* when a statute describes things of a particular class or kind accompanied by words of a generic character preceded by the word "other," the generic word will usually be limited to things of a kindred nature with those particularly enumerated, unless there be something in the context or history of the statute to repel such inference. *‡ But this rule must give way if contrary to the intent appearing from other parts of the law. *§

Punctuation can be resorted to. "The construction finally adopted should be based upon something more substantial than the mere punctuation found in the printed Act. If the punctuation of the statute gives it a meaning which is reasonable and in apparent accord with the legislative will, it may be used as an additional argument for adopting the literal meaning of the words of the statute as thus punctuated. But an argument based upon punctuation alone is not conclusive, and the

* *In re Allen* (1903) 2 Phil. 630, following *Pennyfer v. McConnaughty* (1891) 140 U. S. 363, 35 L. Ed. 363.

† *Kuenzle & Streiff v. Collector of Customs* (1908) 12 Phil. 117 citing *Robertson v. Downing* (1888) 127 U. S. 607, 32 L. Ed. 269; *U. S. v. Healey* (1895) 160 U. S. 136; 40 L. Ed. 369; *Merritt v. Cameron* (1890) 127 U. S. 542, 34 L. Ed. 772.

‡ See *Gardiner v. Romulo* (1914) 26 Phil. 521.

§ Black on Interpretation of Laws, Ch. XIII.

** Code of Civil Procedure, sec. 287.

*† See Black on Interpretation of Laws, pp. 341-349.

*‡ *Murphy, Morris & Co. v. Collector of Customs* (1908) 11 Phil. 456, construing "Other Machinery;" 36 Cyc. 1119; Black on Interpretation of Laws, pp. 203-219.

*§ *U. S. v. Santo Nifo* (1909) 13 Phil. 141.

courts will not hesitate to change the punctuation when necessary, to give the Act the effect intended by the Legislature, disregarding superfluous or incorrect punctuation marks, and inserting others when necessary." *

The will of the Legislature can be educed by necessary inference for it is impracticable to give directions for every detail of application. "That which is implied in a statute is as much a part of it as what is expressed." † Various other intrinsic and extrinsic aids to interpretation will be adopted by the courts if necessary. ‡ Likewise, presumptions in aid of construction can be indulged in by the courts. §

That the rules of interpretation under the civil law are surprisingly similar to those of the Anglo-American, of which the previous discussion is mainly a compendium, is shown by a quotation from Manresa:

"The following rules of interpretation are generally accepted. The provisions of the Code or of any other law should not be interpreted separately. Consequently, the rules established for the interpretation of contracts may well be applied in the interpretation of the laws. If the terms of a law are clear and leave no doubt as to the intention of the legislature the literal sense of its provisions shall be observed. If the words should appear contrary to the evident intention of the legislature, the intention shall prevail. In order to judge as to the intention of the legislator, attention must principally be paid to the contemporaneous and subsequent laws. However general the terms of a law may be, there should not be understood as included therein things and cases different from those with regard to which the law-makers intended to legislate. If any provision should admit of different meanings, it should be understood in the sense most suitable to give it effect. The provisions of a law shall be interpreted in relation to one another, giving to those that are doubtful the meaning which may appear from the consideration of all of them together. Words which may have different meanings shall be understood in that which may be in accordance with the object of the law. The usages and customs of the country shall also be taken into consideration. As has been said in our comment on the preceding article, in no case should an interpretation which is contrary to the law be given. So the principle which says that where the same reason exists, there must be an identical provision of the law, can not be successfully set up when there is a legal principle applicable to the case. Where the law does not distinguish we should not also distinguish. In cases not excepted, the exception confirms the rule. In the laws where there are exceptions, interpretation by analogy can not be applied. Where the law grants the greatest, it should be understood as allowing or granting the less; but if it prohibits the less, it must also be understood as prohibiting the greatest. In penal laws or in franchises liberal interpretation can not be allowed, but it may be applied to those laws which are favorable." **

* U. S. v. Hart (1913) 26 Phil. 149, 152.

† Hanchett v. Weber, 17 Ill. App. 114. Just as with a constitution—McCullough v. Maryland (1819) 4 Wheat. 316, 4 L. Ed. 579.

‡ See Black on Interpretation of Laws, Chs. VI, VII.

§ See Black *id.*, Ch. IV.

** Manresa, *Comentarios al Código Civil*, Vol. 1, p. 74.

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FEBRUARY, NINETEEN HUNDRED AND SIXTEEN

ARE THERE TOO MANY LAWYERS IN THE PHILIPPINES?

There is in the Philippines a widespread tendency to decry the predilection of our young men for the study of law. Some critics even go so far as to assert, with an air of awful gravity, that such marked liking for the legal profession is a social problem, a serious evil that must needs be solved, lest the progress of the country be hindered in consequence thereof.

It is far from the intention of the writer to claim that the lawyer's calling is more useful to the community than that of any other man, for each legitimate occupation, however humble, has a proper function in the social mechanism. What we can not permit unchallenged is the statement that the country has already too many lawyers.

President Villamor in his inaugural address said that in the Philippines there is one lawyer for every 8,351 inhabitants, while in the United States there is one lawyer for every 806 persons only. This means that if there is to be the same proportion of lawyers in the islands as in the American Union, the present number of Philippine attorneys should be increased, roughly speaking, ten-fold. But it may be argued that the state of material development of the islands is far behind the economic advancement of America and that, therefore, the comparison can throw no light on the question. To this reasoning we answer: Even granting that the amount and movement of wealth of a country is a sound test of the right number of lawyers, the difference, which is 1 to 10, is so large that one is forced to realize the need of more lawyers in the Philippines.

Moreover, the work of a lawyer is not merely to practice and to make money. He is—at least he ought to be—a factor for useful citizenship in his community. His training peculiarly calls and fits him to teach the rights and duties of his fellow-men in public or private life. Who would not be glad to see in every town of the Philippines four or five lawyers with a full and deep sense of their social mission, of their public obligation to avail themselves of every opportunity to explain the law, especially public law?

But because we consider the lawyer such a great power in civic life, we advocate not only the turning out of more lawyers, but an incessant effort on the part of all to see to it that the standard of legal education is raised higher and higher. The tremendous responsibilities which the political future of the country will impose upon the leaders of Filipino thought demand that the coming lawyer be thoroughly imbued with public spirit.

JORGE BOCOBO.