

PHILIPPINE LAW JOURNAL

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APRIL, NINETEEN HUNDRED AND SIXTEEN

NOTE AND COMMENT

CONRADO BENITEZ, *Senior*

Editor.

DISBARMENT PROCEEDINGS

The effectiveness of the work of the Bar Association of New York City in the matter of investigating charges of unprofessional conduct against the members of the profession in that jurisdiction is strikingly set forth in the issue of the New York Supplement, dated November 29th last. This number contains decisions in a large number of cases where charges have been brought by the Association against some members of the bar.

For the encouragement of members of the Grievance Committees of Bar Associations in the various states, and for the information of the members of the bar generally, we have brought together below the index of paragraphs covering these cases. We believe that the matters touched upon warrant the wide publicity which they will receive through this publication, but in reprinting we have omitted the names of the parties against whom actions were brought.

ATTORNEY AND CLIENT

38. Young and inexperienced attorney, who as notary takes affidavit over telephone at request of client in the purity of whose motives he believes, given severe censure only, upon charges of professional misconduct.

38. Advertising "Matrimonial actions a specialty" held to be advertisement to procure divorces, within prohibition of Penal Law, section 120.

38. An attorney held guilty of conduct warranting disbarment, having misappropriated funds and deceived fellow members of the bar.

38. For an attorney to give an insurance company a receipt for more money than he settled for, to be used for advertising purposes, is censurable.

38. Borrower's attorney, who paid bill of lender's attorney by a check, payment on which he subsequently stopped, and who failed to pay until judgment was recovered, held to be suspended.

40. Where an attorney, at the time of admission to practice, concealed from the examiners his conviction of a felony and service of sentence therefor, and on discovery offered an improbable reason for the concealment, sufficient cause is shown for his disbarment.

40. Concealment of fact that his employment in a law office was not long enough to qualify him for admission is ground for revoking an attorney's admission to the bar.

42. False statements in letters made by an attorney in an effort to protect client against charges believed to be false, held to call for no further disciplining than censure.

42. An attorney, who falsely verified a complaint stating that the acts of adultery relied on as ground for divorce were not procured by his client or her agent, and participated in offering false testimony, held guilty of professional misconduct warranting disbarment.

42. An attorney who assured a magistrate that bonds were all right, when in fact they were not good bonds, held guilty of professional misconduct, warranting suspension, though he acted in ignorance.

42. An attorney who made untrue affidavits, in reckless disregard of their truth, to obtain an extension of time for appealing should be disbarred.

42. That an attorney made a false report to the Federal District Court as to the amount of money in his hands as a receiver in bankruptcy, held conduct warranting disbarment.

42. That an attorney procured his clients to swear to false statements prepared by him, in order to obtain the consent of the Supreme Court to the sale of the property of a minor, was misconduct warranting suspension.

42. Respondent, party to a scheme to bribe a witness to remain without the jurisdiction, so that the people could not use his testimony in the prosecution of respondent's client, held guilty of serious professional misconduct, and disbarred.

44. Attorney using money collected for client and not paying it to the client until complaint was made to a bar association after unsuccessful attempts to communicate with the attorney, held to be suspended.

44. Where, through false representations, an attorney obtains money from clients, and refuses to return it, he should be disbarred.

44. An attorney who offered to return sums paid him on behalf of his client who refused to comply with an agreement, held not guilty of professional misconduct.

44. Where an attorney was at least guilty of conspiring with his client to invest money belonging to his client and another in a highly speculative enterprise without the other party's consent, if he did not actually misappropriate the fund, he should be disbarred.

44. Conduct of attorney at law in commingling client's funds with his own, although he exhibited no intention of permanently appropriating them, held insufficient to warrant disbarment, but to merit severe censure.

44. Where respondent received moneys from his client, to be paid as alimony to his client's wife, and converted them to his own use, and upon discovery offered an improbable explanation, sufficient ground is shown for his disbarment.

44. That an attorney, who was appointed receiver and subsequently trustee in bankruptcy proceedings, drew checks upon the money belonging to the bankrupt estate for his own personal use, was misconduct requiring disbarment, notwithstanding he believed he could make good the deficit.

44. That an attorney, who had collected a sum of money for his clients in a foreign country, held the amount collected for seven months, and failed to respond to numerous demands for an explanation, was conduct requiring disbarment.

44. That an attorney induced his client to intrust her money to him under a representation that he would keep it for her, but upon demand refused to return it to her, was conduct warranting disbarment.

44. Attorney, receiving money in settlement of his client's claim and dealing with it as his own, and losing it on a speculative stock account, held guilty of gross professional misconduct and suspended for two years.

44. An attorney, who contracts in advance for an unreasonable fee, is as guilty as one who extorts it after rendering his services, and in neither case does a settlement with his client free him from liability.

44. An attorney who extorted an unreasonable fee from his client and then fled the jurisdiction to deprive the court of power to enforce an order for return of part of the fee, held guilty of conduct warranting disbarment.

44. An attorney who, without authority, accepted a sum in settlement of a judgment, gave a worthless assignment to the judgment debtor, and converted it to his own use, would be disbarred.

46. There is no statute of limitations preventing the court from taking cognizance of unprofessional conduct on the part of an attorney in a proceeding to disbar.

53. In a disbarment proceeding, evidence held to show attorney made untrue affidavits to the court, in reckless disregard of their truth.

53. In a proceeding to disbar an attorney, evidence held to show that he was guilty of appropriating money intrusted to him for investment.

53. Evidence held to show respondent guilty of extortion, amounting to blackmail, sufficient to warrant his disbarment.

53. In a proceeding for the disciplining of an attorney, evidence held to show that, taking advantage of his client's necessities and inexperience, he extorted an unreasonable fee.

58. An attorney's frank admission of his conduct, and restitution on discovery held to reduce the penalty to severe censure for unprofessional conduct.

58. Attorney, advertising matrimonial actions as a specialty, in evasion of a statute prohibiting advertising to procure divorces, held guilty of professional misconduct, warranting suspension for one year.

58. An attorney who falsely represented to one whose business he desired to regain that he was in close touch with powerful politicians, and suggested that he represent such client in congressional business investigations, held guilty of professional misconduct warranting censure, but not disbarment. (West Publishing Company's DOCKET, February, 1916, pp. 1518-1523.)

COURTS IN THE PHILIPPINES, OLD-NEW

David Cecil Johnson, writing in the *Michigan Law Review* (February, 1916), describes the administration of justice before the Spanish occupation, citing the following well-known authorities: Juan de Plasencia, Francisco Colin, Francisco Combes, Juan Francisco de San Antonio, Joaquin Martinez de Zúñiga. Concerning the survival of the ancient judicial customs, reference is made to the Census of the Philippines, 1903, vol. 1, p. 534. The administration of justice under Spanish rule (1521-1898) is then dwelt upon under the headings, appellate courts, lower courts, justice of the peace or municipal courts, and special courts. Then follows a discussion of the period of transition, or the period of military occupation, and finally, the courts, as established by the Civil Government, are described:

The greater part of the substantive law established by the Spaniards has continued to be the law of the Islands. The greatest changes have been made in the adjective or mere mechanical provisions of the law. * * *

The old Spanish procedure had many other features which were obnoxious to American theories of jurisprudence. Appeals from interlocutory orders were allowed; a judge could be sued for certain erroneous decisions; a person charged with a crime might be required to testify, and silence raised a presumption of guilt (*U. S. v. Navarro et al.*, 3 Phil. 143, 148); all criminal cases were reviewed by the Audiencia, whether appealed or not; and there were many others. * * *

In conclusion the author says:

The courts as they exist today have passed beyond the experimental stage and the results attained fully justify the wisdom of the men who planned and established them. From the beginning, Filipino lawyers of high reputation have shared in the development and they deserve great praise for the present success. The Chief Justice and two of the

six Associate Justices of the Supreme Court; twenty-two of the thirty-six judges of the Courts of First Instance; the Secretary of Finance and Justice; the Attorney-General and nine of his thirteen assistants; and three of the five members of the Code Committee are Filipinos.

The best summary of the results attained by the new courts is found in a statement by Commissioner Henry C. Ide, in his report to the Commission, dated November 6, 1903:

Justice is administered evenly, uniformly, honestly, expeditiously, and ably, throughout the Islands.

The American government has, by establishing a just and stable system of courts, hastened the day for Filipino Independence.

HISTORY OF THE ROMAN LEGISLATION—ROXAS

This recent publication, which is in the form of topical outline, is the work of the Hon. Felix M. Roxas, President of the Municipal Board of Manila and Professor of Roman Law of the University of Santo Tomás. It is arranged by periods or epochs covering a number of years each. The important legal development of every period is carefully outlined. The work is evidently intended especially for the use of the students in Roman Law in the University of Santo Tomás. It presents the study of the subject in another light and method which deserves special mention.

AN ARTICLE ON LOUISIANA LAW

The initial number of the *Southern Law Quarterly* has an article by the well-known jurist, Professor John H. Wigmore, which every lawyer and law student in the Philippines ought to read. It is entitled, "Louisiana: the Story of its Legal System," and is a reprint from the *American Law Review*, 1888, Vol. XXII, p. 890, but has been revised to bring it up-to-date. It gives an account of French and Spanish law in Louisiana before the cession of the territory to the United States, together with an interesting narration of the fierce struggle between the common law and the civil law after the cession.

ALUMNI

(Alumni are requested to contribute to this department.)

SERAFIN P. HILADO, 1913 Law

Editor.

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1913

Manuel A. Roxas has resigned the office of Secretary to the Chief Justice for the purpose of engaging in private practice.

1914

Javier Gonzalez, formerly passport clerk in the Executive Bureau, has been appointed Secretary to Chief Justice Arellano.

Anatalio Mañalac has been promoted to the Justice of the Peace Court of Pansalan, Lanao.

ALUMNI ASSOCIATION

The College of Law Alumni Association held its annual banquet in the Manila Hotel on Sunday, April 2nd. Vice-Governor Martin, Attorney-General Avanceña, Regent Escaler and prominent members of the judiciary were their guests. The unique feature of the evening was the 1913 yells and the sextette which they sang to the music of "Tipperary" in honor of their departing Dean.

After the banquet the annual meeting was held and the following were elected officers:

President—Manuel Goyena.

Vice-President—John C. MacMahon.

Secretary-Treasurer—Serafin P. Hilado.

Members—William C. Brady and Ricardo Lacson.

COLLEGE NEWS

PEDRO Y. YLAGAN, *Junior*

Editor.

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DAVID PARGAS	- - - - -	<i>Law Representative on the University Athletic Board of Control.</i>

THE JUNIOR HOP

The annual reception and ball given by the Juniors in honor of the Seniors of the College of Law was held at the Cosmopolitan Building last March 11. Only a few ladies attended. But the fox-trots, hesitations and one-steps were indulged in until after midnight.

SENIORS CELEBRATE PIPE DAY

The Seniors of the College of Law have introduced an event heretofore unknown to the students. Saturday, March 18, was a pipe day for the Seniors, and every member of the class was seen with a pipe, charging Dean Malcolm with celibacy and other crimes. After a formal trial he was found guilty and was presented with a beautiful cane with his name inscribed on it, and bearing the golden seal of the University of the Philippines.

NORMAL HALL ENTERTAINS VARSITY SENIORS

The Seniors of the University of the Philippines, together with the Seniors of the Philippine Normal School and the Manila High School, were honored with a grand reception and ball by the young ladies of Normal Hall on March 25.

FACULTY GIVES A DANCE

The annual dance given by the Faculty of the College of Law in honor of the Graduating Class and the Alumni was held at the University Hall, on March 31. It was a great success.

LAW ALUMNI BANQUET

The Alumni Association of the College of Law, University of the Philippines, had their annual banquet at the Manila Hotel, on April 2. About forty alumni were present. The most prominent speakers of the night were Vice-Governor Martin, President Villamor, Judge Harvey, Judge Sobral and Dean Malcolm. After the speeches, a business meeting was held in which new officers were elected for the coming year.

CLASS DAY OF 1916 LAWS

The Class Day exercises of the 1916 Laws were held on the evening of April 3rd at Marble Hall. There was a large attendance. All the numbers on the program were satisfactorily rendered, especially the vocal solos by Mrs. Conant and Miss Gomez. The Class Memorial consisting of the picture of the Justices of the Supreme Court of the Philippine Islands sitting in banc was presented by Valentin Alcidi, the Class Memorial Speaker. Vice-Governor Martin, after making some remarks as to the importance of an upright court to a nation and the propriety of the memorial, accepted same in behalf of the Board of Regents. President Villamor presented the following prizes:

A set of Ruling Case Law offered by the Lawyers' Cooperative Publishing Company to Luis Abaya, the author of the best thesis for this year; a set of Manresa's Commentaries on the Civil Code and a set of Wigmore on Evidence offered by an alumnus of the University to Constancio Pineda and Geronimo Samson, the winners of the first and second places in scholarship respectively.

COMMENCEMENT DAY

The Commencement exercises of the University were held as usual under the spreading acacia trees of the University Campus on the morning of April 4th. A big crowd turned out to witness the solemn affair. Vice-Governor Martin delivered the Commencement address, and after the conferring of degrees to 247 graduates, President Villamor gave them some wise counsel. Immediately after the ceremonies, the annual alumni banquet was held in the University Hall, attended by a large number of alumni of the University.

STATEMENT OF OWNERSHIP, MANAGEMENT, CIRCULATION, ETC.

RELACION DE PROPIEDAD, ADMINISTRACION, CIRCULACION, ETC.

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Notary Public.

My commission expires *Dec. 31, 1916.*
Mi nombramiento espira

[SEAL]
[ELLO]