

PHILIPPINE LAW JOURNAL

Published monthly, July to March inclusive, during the academic year, by the
College of Law, University of the Philippines.

Subscription P5.00 per year

Single number 60 centavos

VICENTE G. SINCO, *Managing Editor*

Student Editorial Board

Celestino C. Juan
Jose O. Hison
Meliton G. Soliman
Felipe M. Escarrilla
Felix O. Alfelor

Leovigildo V. Monasterial
Jose G. Bautista
Rafael Cañiza
Agapito P. Cobacha
Crisostomo Pariñas

Jose S. Gonzales
Jose P. Santillan
Rodolfo Palma
Galo Acuña
Celso Molina

Digest of RECENT DECISIONS of the Philippine Supreme Court

[In this column is presented a digest of current cases of general interest to practitioners. These decisions have not yet been published in the Official Gazette, and many of them, especially those rendered in *division*, will not so appear because not selected for official report.]

**OBLIGATIONS: WAIVER OF RECIS-
SION AND ITS EFFECTS. ARTICLE
1124 OF THE CIVIL CODE APPLIED.—**
Domingo Tombo vs. Antonio Jimenez, G. R. No. 41541, February 21, 1935.—The defendant gave the plaintiff the right to cultivate his land for five years in consideration of a sum of money. It was stipulated that the sum should be given in installments. The plaintiff, after paying a portion, defaulted as to the rest. Subsequently, the defendant, without bringing action for rescission sold the land and as a result the plaintiff was ousted. The plaintiff now seeks to recover the money he gave. *Held:* Under article 1124 of the Civil Code, the defendant had a perfect right to rescind the contract and recover damages upon the failure of the defendant to comply with his obligations. He waived the right and having caused the dispossession of the plaintiff, he must return the sum he received and just content himself with the benefit he made use of the money. Judgment affirmed. (In Division of Three, per

Villa-Real, J., Imperial and Goddard, JJ., concurring). *Briefed by*
F. M. ESCARRILLA.

PROCEDURE—RES ADJUDICATA—
Parsons Hardware Co., Inc. vs. Bernardo Dungao & Sineon Blas, G. R. No., 41511, February 19, 1935.—The defendants were previously sentenced to pay for merchandise sold to them by the plaintiff. Subsequently, the plaintiff, brought this present action based on practically the same demands and adding claims of matters inadvertently omitted in the first action. Question: Is the complaint now filed by the same plaintiff against the same defendants vulnerable by the defense of *res adjudicata*? *Held:* Where the second suit is based upon the same cause of action, all matters which might have been litigated are conclusively settled by the judgment; and that the estoppel applies where the claims which were available in the first action but not set up, are sought to be used in the second action, as the foundation of a claim for re-

lief. Judgment affirmed. (In Division of Three, per Villa-Real, J., Imperial and Butte, JJ., concurring). *Briefed by F. M. ESCARRILLA.*

MAY FRAUD BE PROVED BY CIRCUMSTANTIAL EVIDENCE. — *Manuel P. Sy Siangco vs. Leon Busiang and his wife Yap Suy Giok, G. R. No. 41940, February 11, 1935.*—Plaintiff who acted as surety for the partnership Po Hong Chay and Company, of which defendant was a member, was compelled by virtue of judgment to pay the creditor of the partnership. The present action is brought against Leon Busiang for reimbursement because of his individual and personal liability as partner. Plaintiff also prays that the court declare as fraudulent and void the transfer of a tienda belonging to Leon in favor of his wife. At the trial, direct evidence was absent to prove the transfer alleged in the petition as fraudulent. The question is whether fraud may be proved by circumstantial evidence. *Held:* Fraud may be proved by circumstantial evidence. Indeed, in the overwhelming majority of cases, it cannot be established except by the reasonable inference that may be drawn from pertinent evidence of facts and circumstances tending to show the existence of fraudulent intent and fraudulent conduct. Fraud wears a mask. Concealment is its outstanding characteristic. It employs the strategy of falsehood. It covers its tracks. It throws the hunter off the scent. It plans in secret and achieves its ends by devious ways and designing artifices. From its very nature, therefore, fraud is seldom provable by direct evidence. (Per Butte, J.; Impe-

rial and Malcolm, JJ., concur.) *Briefed by LEOVIGILDO V. MONASTERIAL.*

COURTS; JUSTICES OF THE PEACE; RETIREMENT AGE; SECTION 203 OF THE ADMINISTRATIVE CODE, AS AMENDED BY ACT NO. 3899, CONSTRUED.—*Felipe Regalado, petitioner vs. Jose Yulo, Secretary of Justice, Juan G. Lesaca, Judge of First Instance of Albay, and Esteban T. Villar, respondents, G. R. No. 42935, February 15, 1935.*—Felipe Regalado, qualified for justice of the peace of Malinao, Albay, on April 12, 1906. On September 13, 1934, Regalado became sixty-five years of age. As a consequence, shortly thereafter, the Albay Judge of First Instance, acting in accordance with instructions from the Secretary of Justice, designated Esteban Villar, to act as justice of the peace of Malinao. Regalado surrendered the office under protest. Then this action for quo warranto was brought to determine the respective rights of Regalado and Villar to the office of justice of the peace of Malinao. The issue in the case is whether or not under the provisions of section 203 of the Administrative Code, as amended by Act No. 3899, the justices of the peace appointed prior to the approval of the last mentioned Act who reached the age of sixty-five years after said Act took effect shall cease to hold office upon reaching the age of sixty-five years. Section 203 of the Administrative Code as amended by Act No. 3899 reads: "One justice of the peace * * * shall be appointed * * * for each municipality * * * : *Provided,* That justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years: *Provided, further,* That the present justices and auxiliary justices of

the peace who shall, at the time this Act takes effect, have completed sixty-five years of age, shall automatically cease to hold office on January 1, 1933; and the Governor-General, with the advice and consent of the Philippine Senate, shall make new appointments to cover the vacancies occurring by operation of this Act. *Held*: The natural and reasonable meaning of the language used in Act No. 3899, "That the present justices and auxiliary justices of the peace who shall, at the time this Act takes effect, have completed sixty-five years of age, shall cease to hold office on January 1, 1933; and the Governor-General with the advice and consent of the Philippine Senate, shall make new appointments to cover the vacancies occurring by operation of this Act," leaves room for no other deduction than that a justice of the peace appointed prior to the approval of the Act and who completed sixty-five years of age on September 13, 1934, subsequent to the approval of the Act, which was on November 16, 1931, and who by the law was required to cease to hold office on January 1, 1933, is not affected by the said Act. The intent of the Legislature to be ascertained and enforced is the intent expressed in the words of the statute. If legislative intent is not expressed in some appropriate manner, the courts cannot by interpretation, speculate as to the intent and supply a meaning not found in the phraseology of the law. In other words, the courts cannot assume some purpose in no way expressed and then construe the statute to accomplish this supposed intention. The courts cannot pass beyond the bounds of judicial power to usurp legislative power. (Per Malcolm, J.; Villa-

real, Imperial, Butte and Goddard, JJ., concur.) *Briefed by LEON GILDO V. MONASTERIAL.*

ELECTION LAW—POSSESSION OF FIREARMS WITHIN FIFTY METERS FROM POLLING PLACE—WHO ARE AUTHORIZED.—*P. P. I. vs. Mamerto Ayre, G. R. No. 42293, February 13, 1935; P. P. I. vs. Santos Degracia, G. R. No. 42297, February 13, 1935.*—Upon request by board of election inspectors of a certain precinct, the municipal chief of police sent the defendants herein, who were municipal policemen, to said precinct for the purpose of maintaining order therein. Defendants had their service revolvers with them when found inside the polling place. Hence, this information was filed against them for violation of Sec. 416 of Act 3387 which forbids any person without distinction to carry firearm or any kind of arms within a radius of fifty meters from a polling place during the days of registration, voting, and counting of ballots, except only in cases of riot, affray, or disorder. There having been no riot, affray, etc., defendants were convicted by lower court. *Held*: Sec. 448 of Act 3387, which should be read in connection with Sec. 416 of the same Act, enumerates the persons allowed in and around the polling place; namely, "the necessary police, constabulary, or other peace officers who may be requested by the board to be present to maintain order * * *." When the law gives the board of inspectors the right to request the necessary police or peace officers to be present to maintain order, it impliedly grants these peace officers the right to bear their arms, because it intends that they shall be duly equipped to maintain order. A policeman who goes to the polling place upon request of the

board and carries his revolver for the purpose of maintaining order cannot be held liable for the violation of the Election Law. Reversed. (In division of five. Per Vickers, J.; Avanceña, Street, Santos, Hull, JJ., concurring.) *Briefed by RODOLFO PALMA.*

CRIMINAL LAW—ESTAFAS—EFFECT OF SUBSEQUENT WRITTEN PROMISE TO PAY UPON CRIME.—P. P. I. vs. Angel V. Quintos, G. R. No. 42125, February 13, 1935.—Appellant received from complainant two typewriters to be sold by him within 35 days with the obligation of returning them to complainant if they were still unsold after stipulated period. Facts showed that appellant was able to dispose of the machines but failed to account for their proceeds. Defense was based on the fact that three months after the receipt by appellant from complainant of the typewriters the former, with the consent of the latter, was allowed to make a written promise to pay the proceeds of the sale within 5 days. This, he claimed, had the effect of wiping out the criminal liability and of converting it into a purely civil obligation. *Held:* A promise of payment and such subsequent agreements as may be entered between the author of the estafa and the injured party do not affect the existence of the crime nor the liability of the guilty person, as such agreements cannot relieve responsibility with respect to a public crime, which latter must be prosecuted *de officio*, following the well established rule, altho the party prejudiced may have already been reimbursed for the loss sustained by him. Affirmed. (In first division of three. Per Street, J.; Avanceña and Santos, JJ., concurring.) *Briefed by RODOLFO PALMA.*

CIVIL LAW—WHEN COMPENSATION FOR MUTUAL DEBTS NOT PERMISSIBLE.—Jose Fernando Rodrigo vs. Concepcion Cagigao, et al., G. R. No. 42147, February 11, 1935.—The plaintiff secured an order of execution against the property of the defendants by virtue of a judgment for a sum of money. When the sheriff attempted to levy upon the property of the defendants, they filed a motion that they were the owners of a prior final judgment against the plaintiff herein in a greater sum of money which was still unpaid. The defendant, therefore, prayed the court that it declare the judgment in favor of the plaintiff paid, compensated, and satisfied with such amount of the judgment in the defendant's favor as would fully cover the plaintiff's judgment against them. The evidence of the records showed, however, that the prior judgment relied upon by the defendant was a money judgment not solely against the plaintiff alone but against several persons. *Held:* As the judgment relied upon by the defendants here is not a joint and several judgment, compensation cannot be pleaded as a defense. The provisions of the Civil Code applicable to the facts as disclosed by the records are as follows: "Art. 1137. The concurrence of two or more creditors or of two or more debtors with respect to the same obligation does not imply that each of the former is entitled to demand the performance of the obligation in its entirety or that each of the latter is bound to so perform it. This shall be the case only when expressly so provided by the terms of the obligation, and the parties are bound in *solido*." "Art. 1138. Unless otherwise provided by the terms of the obligation to which the next preceding article relates the credit or the

debt shall be deemed to be divided into as many equal parts as there are debtors or creditors, and shall be regarded as separate and distinct credits or debts." Affirmed. (In division of three. Per Goddard, J.; Villareal and Malcolm, JJ., concurring.) *Briefed by* JOSE S. GONZALES.

PROCEDURE—SETTLEMENT OF INTESTATE ESTATE CONSISTING OF LAND REGISTERED UNDER ACT NO. 2259 EFFECTED UNDER SECTION 112, ACT NO. 496—APPLICABILITY OF SECTION 112, ACT NO. 496, TO ACT NO. 2259.—*The Government of the Philippine Islands vs. Florencio Serafica, et al., G. R. No. 39641, December 22, 1934.*—A certificate of title, No. 7154, of lot No. 2246, was issued in favor of the brothers Aniceto, Jose and Gregoria Abalos in a certain Cadastral proceeding. Aniceto died leaving three children and a wife. Gregoria died leaving no husband nor children. Jose Abalos, by means of a public instrument sold his undivided share in the lot to the spouses Serafica. The spouses Serafica and the heirs of Aniceto wanted to partition the land, so they filed a petition with the Court under Section 112 of Act No. 496. They asked the Court to cancel the certificate of title No. 7154 and to issue new certificates of title corresponding to their respective shares of the lot, thus: Lot No. 2246-A to the spouses Serafica, and lot No. 2246-B to the heirs of Aniceto Abalos. The Court denied the petition on the ground that the law does not permit the distribution and partition of the estate of a deceased consisting of registered land in the original case in which the decree of registration was entered, and that the petitioners should proceed to settle the estate in a proper proceeding before a probate court. Several questions

are raised by the appellants in this appeal. The first is whether or not their petition comes within the purview of Section 112, Act No. 496; the second is whether or not Section 112 is applicable to cadastral cases; and the last is whether or not the proceeding is, in any case, proper under the premises. *Held:* With respect to the first question, Section 112 of Act 496 provides that "any registered owner or other persons in interest may at any time apply by petition in the court, upon the ground that registered interests of any description * * * have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; and the Court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate and grant any other relief * * *." Upon the death of Aniceto and Gregoria Abalos, original co-owners, their rights and all interest in the land were transmitted by operation of law to their co-owner Jose (grantor of the spouses Serafica) and the heirs of Gregoria, and as a consequence of said transmission, the rights of the original owners were extinguished and new rights were created in favor of the said spouses Serafica and heirs of Gregoria Abalos. These two cases of death and birth of new rights are precisely within the contemplation of Section 112 of Act No. 496. With regard to the second question, Article 11 of Act 2259, as amended, provides among other things, that "except as herein otherwise provided all the provisions of said Land Registration Act * * * shall be applicable to proceedings under this Act, and to the titles and certificates of title granted or issued thereunder." Coming to the last but most fundamental question,

Section 112 of Act 496 provides in its last paragraph that "any petition filed under this section and all petitions and motions filed under the provisions of this Act *after original registration shall be filed and entitled in the original case in which the decree of registration was entered.*" This provision seems clearly permissive of the petition of the appellants, the ground for the petition being the extinction and creation of new rights in a registered land. But it is argued by the appellee that Section 89 of Act No. 496 provides that "lands and any estate or interest therein registered under this Act shall upon the death of the owner, *go to the executor or administrator of the deceased * * * whether the owner dies testate or intestate.*" It is argued from this provision that in the case of a registered estate proceeding before a probate court is necessary for its distribution and partition, whether the estate is testate or intestate. This inference is not warranted by the law. It is true that in case of the existence of a will, the settlement of the estate should be pursuant to the provisions of such will (by probate proceedings and administration), but this is not necessary in case of intestacy. Summary settlements of estate are allowed in this jurisdiction under Sections 596 (in case of intestacy) and 597-598 (testacy or intestacy) of the Code of Civil Procedure. Moreover, it is not true as insisted that by virtue of Section 89 of Act 496, the registered estate passes to the executor or administrator upon the death of the registered owner, in all cases. Said section provides: "except as otherwise provided in this Act." This clause shows that although section 89 seems to be inflexible and mandatory, yet it is not exclusive. In fact, Act No. 496 was

promulgated after Act 190, and it is but fair to assume that the legislators in framing the former, had taken into consideration provisions of the latter (Act No. 190); for instance in considering Section 89 they had in mind Sections 596, and 597-598 of Act No. 190. It is argued further that the proceeding under section 112 of Act 496 does not afford as much security as when there is administration proceedings. This is not true. In the proceeding authorized by Sec. 112, the Court had full jurisdiction to determine all questions and its judgment is not made until notice has been given to all interested parties. The case is therefore remanded to lower court to proceed in accordance with law stated in this decision. The trial court is instructed to appoint a *curador-ad-litum* for the minor daughter of Aniceto and to publish petition of the appellants in the form required by Section 597 of Act 190. (In banc, per Imperial, J.; ten other Justices, concurring.) *Briefed by M. G. SOLIMAN.*

CONTRACTS—WHEN IS THE DECEDENT'S ESTATE LIABLE FOR DAMAGES ARISING FROM CONTRACTS ENTERED INTO BY HIM.—*Federico Go Tua, Plaintiff vs. Remigio Monteverde, Administrator, G. R. No. 39382, February 7, 1935.*—On March 28, 1931, Tomas Monteverde and Federico Go Tua executed a "escritura de compromiso de venta," wherein the former acknowledged the receipt of the sum of ₱500 from Go Tua promising to sell to the latter a parcel of land situated at Santa Ana, Davao, and further agreed to: "Que por falta de vender dicha porción del terreno a favor del Sr. Federico Go Tua, dentro del plazo arriba citado, yo me obligo de pagar al Sr. Federico Go Tua, sus herederos o causa-

habientes la suma total de ₱1,000, como daños y perjuicios." Shortly thereafter, Tomas Monteverde died. It appeared that about three years before, Monteverde had sold the same property to one Leon A. Garcia. Go Tua presented his claim before the committee on claims of the estate of Tomas Monteverde and said committee allowed the claim in the amount of ₱500 only. The Court of First Instance sustained the decision of the Committee. Hence, this appeal has been taken to determine if the estate is likewise liable in the further sum of ₱1,000, the amount of the stipulated damages for the failure of Monteverde and his administrator to fulfill the promise; the land which the deceased promised to sell to the plaintiff having been disposed of three years before. *Held*: Should the personal representative of the estate fails to perform a contract binding on the estate, such administrator may be compelled to pay damages out of the assets in his hands. The estate is, therefore, liable to the amount of ₱1,500. Judgment modified. (In division of three, per Malcolm, J.; Villa-Real, and Butte, J.J.; concurring.) *Briefed by* FELIX O. ALFELOR.

ELECTION PROTEST.—*David Dañgalan, protestant-appellee vs. Severo Sembrano, protestee-appellant, G. R. No. 42482, February 20, 1935.*—In the election for the office of Municipal President of Sorsogon, Sorsogon, David Dañgalan, protestant, obtained 634 votes and Severo Sembrano, protestee, 645 votes. Severo Sembrano, protestee, contended that David Dañgalan, protestant, was estopped to file this election protest inasmuch as the latter being then Vice-President was one of those who signed the certificate of the Municipal

Board of Canvassers that Severo Sembrano (Dañgalan's opponent) received a plurality of votes cast for the office of Municipal President. *Held*: Had the certificate declared that Dañgalan received the plurality of the votes, a serious question would arise; but it does not appear that Dañgalan as Vice-President and member of the Canvassing Board used his office to further his personal interest as candidate for the office of Municipal President. On the contrary he had the good sportsmanship to join with the rest of the members of the Board in certifying in his official capacity that his opponent had been elected. But this act on his part does not estop him, as an individual and a candidate, from maintaining an election protest against the decision of the majority of the members of the Board of Canvassers. The other question decided by the Supreme Court relates to the validity of ballots wherein the name of Severo Sembrano was written by mere initials "S. S." The protestee, Sembrano, alleged that he included the initials "S. S." in his certificate of candidacy as one of those by which he is known. But unfortunately for him the case of *Dejarne vs. Castañeda*, G. R. No. 30611 is decisive on the point. In that case Castañeda included the initials "M. C." in his certificate of candidacy but this court rejected the ballot and has consistently followed that rule since that decision was promulgated on April 22, 1929. Affirmed. (Division of three, per Butte, J.; Malcolm, Imperial, J.J., concurring.) *Briefed by* JOSE G. BAUTISTA.

REVISION OF PENAL CODE—RULE WHEN THERE IS A COMPLETE REVISION OF THE OLD ONE.—*P. P. I. vs. Isabela Binoya, et al., defend-*

ants, *Concepcion Capalungan, defendant-appellant, G. R. No. 41953, February 27, 1935.*—Appellant was prosecuted for theft in the justice of the peace court. She pleaded guilty, and judgment of conviction was rendered on November 30, 1933, and on the same date she was committed to the provincial jail. On December 4, 1933, she interposed an appeal and thereupon she was released on bail. In the Court of First Instance she again pleaded guilty, and she was fined with a subsidiary imprisonment in case of insolvency. Claiming that she was entitled to have credited in her favor the time she spent in the provincial jail from November 30 to December 4, 1933, she filed a motion in the lower court to have her claim recognized. This was denied. Appellant invoked last paragraph of Art. 30 of the old Penal Code, which she contended was not repealed by the amendatory code by the mere omission of such point of law, inasmuch as repeal by implication is not favored. (3 *La Serna, Derecho Civil y Penal* 99; *U. S. vs. Reyes*, 10 Phil. 23; 1 *Lewis, Sutherland Statutory Construction*, second ed.) *Held*: Appellant's contention is not tenable. The Penal Code now enforced is a complete revision of the old one and not merely an amendatory code and the true rule is that where an act or statute is revised, all the parts and provisions of the former act that are omitted from the revised act are repealed. And what is more, Art. 367 of the Revised Penal Code expressly repeals the Old Penal Code. Affirmed. (First Division of Five; per Santos J.; Avanceña, Street, Hull, Vickers, JJ., concurring.) *Briefed by* JOSE O. HIZON.

CRIMINAL LAW—ESTAFA.—*P. P. I. vs. Pablo Jardín, G. R. No. 41302,*

February 18, 1935.—The defendant was convicted of estafa. In this appeal he urges that the crime was not committed as the Municipal Treasurer gave him unlimited time to repay the money due.

Held: The Municipal Treasurer has no authority to relieve appellant of his criminal responsibility. (*U. S. vs. Rodriguez*, 9 Phil. 153). (Per Hull, J.; Street, Vickers, JJ., concurring.) *Briefed by* J. P. S.

CRIMINAL LAW — LIBEL; GOOD FAITH AS A DEFENSE.—*P. P. I. v. Rodrigo C. Lim, G. R. No. 41231, February 18, 1935.*—The defendant was convicted of the violation of Art. 336, Revised Penal Code, and also of libel by accusing one Dr. Ocampo of committing criminal abortion on the person of a certain Carmen Barretto; the accusation was published in a series of articles in "Gossips and Scandals" edited by said defendant. The accused contends that all his publications were made in good faith and would serve public interest. *Held*: The State has constituted authorities whose duty is to punish crimes. Defendant could not legally appoint himself public castigator and proceed to punish a doctor engaged in the general practice of medicine of the crime of criminal abortion. (Per Hull, J.; Santos, Vickers, JJ., concurring.) *Briefed by* J. P. S.

ELECTION CONTEST—EFFECT OF MARKED BALLOTS.—*Gregorio Bala-jadia vs. Ramon Busala, G. R. No. 42579, February 26, 1935.*—This is a motion for reconsideration praying the court to declare the petitioner elected to the office of municipal president. The basis of the motion is the denial of the court to count in his favor seven ballots five of which were marked and the other two containing only his

Christian name. The question involved is whether such ballots were validly cast in his favor or not. *Held*: The five ballots cast in petitioner's favor contained in the space allowed for the names of the councillors to be elected the words "Temon, Jenon, Tinon, Timon, and Tinon Babaye" respectively. The petitioner alleges that such words stand for one Antonio Amancio, one of the candidates for councillors. Although this testimony is uncontradicted, yet the contention is not tenable for the simple reason that in one of the ballots the words "Tinon Babaye" were written which naturally refer to a woman and furthermore it is admitted in the petitioner's brief that the words used refer to a known woman. In addition, the words used do not have any similarity at all to the name Antonio Amancio. It is evident, therefore, that the words were written to identify the ballots. As regards the other two ballots where only the Christian name of the petitioner was written, same could not be counted in his favor for the court has repeatedly announced the doctrine that ballots cast with only the Christian name of the candidate are invalid. Petitioner cites case of *Mandoc vs. Samonte*, 54 Phil. 755, where similar ballots were considered valid. The court distinguished the case from the present by saying that in that case there was only one candidate with that Christian name. (In Division of three, per Imperial, J.; Malcolm and Goddard concurring.) *Briefed by C. MOLINA.*

CRIMINAL LAW — SLANDER — APPLICATION OF ARTICLES 359 AND 42 OF THE REVISED PENAL CODE.—*The People of the Philippine Islands, plaintiff and appellee vs. Modesto Santa Elena, defendant and appellant*, G. R. No. 42133, February 12,

1935.—This is an appeal from a sentence convicting the defendant of the crime of slander and imposing upon him the penalty of imprisonment for 6 months, arresto mayor, and, in view of the fact that he was a public officer, namely sergeant of police, the accessory penalty prescribed in article 42 of the Revised Penal Code, and costs. The defendant was a policeman in the municipality of Bolong, Zamboanga, and had a daughter named Rufina studying in the public school at that place. One of the teachers in the public school, Miss Teofila Saavedra, ordered her pupils to cover their books. Rufina failed to cover her books and for this reason was scolded by Miss Saavedra. Accordingly when Rufina came home and reported that she had been humiliated at school by the remarks of her teacher and companions referring to the condition of her books, the appellant became incensed and went to the school building, and in the presence of the children and others made slanderous remarks about the teacher, imputing to her illicit relations with Father Lim. For the speaking of these words the appellant was prosecuted for slander. The speaking of the words is fully proved by the testimony of Eliodoro Torres, one of the school pupils. *Held*: The facts constitute a violation of Article 358 of Revised Penal Code, which punish the speaking of slanderous words of an insulting nature with arresto mayor in its maximum period to prison correccional in its minimum period, when the words spoken are of a serious and insulting nature. Such we consider to be the words spoken in this case. Applying Act No. 4103, the appellant should be given an indeterminate sentence of not less than 1 month and 1 day, arresto mayor, and not more than

1 year and 1 day, prison correccional. Judgment modified. (In division of three, per Thos. A. Street, J.; Jose A. Santos and J. C. Vickers, JJ., concurring.)—*Briefed by* CRISOSTOMO F. PARIÑAS.

PURCHASE AND SALE—REQUISITE TO ENFORCE A WARRANT.—*Lula de Pano vs. Mariano Veloso, G. R. No. 42225, February 27, 1935.*—Plaintiff purchased from the defendant three parcels of land located in Zaragoza, Nueva Ecija. One year after the purchase, Victor C. Domingo filed an application, in the Court of First Instance of Nueva Ecija, for the registration of a parcel of land in which the above mentioned three parcels were included; despite the firm opposition of the plaintiff herein, that court rendered a judgment adjudicating the land to Domingo, which decision was affirmed by the Supreme Court. This action is for damages from the defendant, who is the vendor, by virtue of his eviction from the land.

The Civil Code provides: Art. 1481. "The vendor shall be bound to make good the warranty whenever it is proved that he was given notice, at the instance of the vendee, of the suit for eviction. In the absence of such notice the vendor shall not be bound to the warranty."

Art. 1482. "The defendant vendee, within the time fixed by the Law of Civil Procedure for answering the complaint, shall cause notice thereof to be served upon the vendor or vendors within the shortest period possible."

"This notification shall be made in the manner established in said law for the summoning of defendants."

The Supreme Court held in the case of *Jovellano v. Lualhati*, 47 Phil. 371, that the Spanish law of

Civil Procedure having been repealed this article must be deemed to refer to the present Code of Civil Procedure. The plaintiff did not even attempt to comply with the provisions of article 1482. The contention of counsel for the plaintiff that the above quoted articles are applicable only in ordinary civil suits and not in land registration cases is untenable. The object of the publication of an application for the registration of land is to get rid of unknown *claimants* as well as the known *claimants*. In the case under consideration the defendant was not a claimant. If the plaintiff desired to enforce the warranty against the defendant, he should have complied with the procedure laid down in article 1482 of the Civil Code. The publication of the application was not the notice required by article 1482 and the defendant could not therefore be sentenced to make good the warranty. (In division of three, per Goddard, J.; Villareal and Imperial, JJ., concurring.) *Briefed by* RAFAEL P. CAÑIZA.

CONVEYANCING — CIRCUMSTANCES SUFFICIENT TO RENDER A PACTO DE RETRO SALE TO BE A MORTGAGE.—*Bernardo Triño vs. Segundo Ferrer, defendant, appellee, G. R. No. 41785, February 8, 1935.*—The plaintiff brought this action to annul a contract of Pacto de Retro alleging it to be merely a mortgage, to cancel the Transfer Certificate of Title to the land which defendant had obtained, and to revive the former certificate. In June, 1931, plaintiff borrowed from defendant ₱800.00 with ₱200.00 interest per annum and gave to defendant the Certificate of Title to the land registered in his name. On the 19th of the same month plaintiff went to defendant's house and signed before two instrumental

witnesses a document prepared by a Notary Public. The document was acknowledged on the same day before the same Notary Public. It provided that plaintiff sold his land to defendant for ₱1,000.00 with a right of repurchase, to be exercised within one year from the date of execution of the contract; and that plaintiff would continue to possess the land and to receive its fruits. The contents of this document was translated by defendant to plaintiff. One year had transpired without plaintiff having redeemed the land defendant obtained a Transfer Certificate of Title to the land. Trial court dismissed the complaint. *Held*: There are circumstances which corroborate the allegation and demonstrate persuasively that the contract was a mortgage and not a pacto de

retro. The document provided that plaintiff would continue to possess the land and to gather its fruits within the period for repurchase. That stipulation is foreign to a contract of pacto de retro. Ordinarily when a stipulation is inserted for the vendor to continue in possession of the land he possesses it as a lessee and pays rent therefor. The declarations of the two instrumental witnesses are contradictory and irreconcilable. This discrepancy is important and essential in giving weight to the allegation of plaintiff that he did not understand that the document was one of sale with right of repurchase. Judgment reversed. (In division of three, per Imperial, J.; Malcolm, Villa-Real, JJ., concurring.) *Briefed by* CELESTINO C. JUAN.

THE CONSTITUTION OF THE PHILIPPINES

Approved by the Constitutional Convention in session assembled in the hall of the House of Representatives of the Philippine Legislature, Manila, P. I., Friday, February 8, 1935

The Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty, and democracy, do ordain and promulgate this Constitution.

ARTICLE I

THE NATIONAL TERRITORY

SECTION 1. The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits of which are set forth in Article III of said treaty, together with all the islands embraced in the treaty concluded at Washington, between the United States and Spain on the seventh day of November, nineteen hundred, and in the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present government of the Philippine Islands exercises jurisdiction.

ARTICLE II

DECLARATION OF PRINCIPLES

SECTION 1. The Philippines is a republican state. Sovereignty resides in the people and all government authority emanates from them.

SEC. 2. The defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service.

SEC. 3. The Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as a part of the law of the Nation.

SEC. 4. The natural right and duty of parents in the rearing of the youth for civic efficiency should receive the aid and support of the government.

SEC. 5. The promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State.

ARTICLE III

BILL OF RIGHTS

SECTION 1. (1) No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

(2) Private property shall not be taken for public use without just compensation.

(3) The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

(4) The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired.

(5) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when (public safety and order require otherwise).

(6) The right to form associations or societies for purposes not contrary to law shall not be abridged.

(7) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

(8) No law shall be passed abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

(9) No law granting a title of nobility shall be enacted, and no person holding any office of profit or trust shall, without the consent of the National Assembly, accept any present, emolument, office, or title of any kind whatever from any foreign state.

(10) No law impairing the obligation of contracts shall be passed.

(11) No *ex post facto* law or bill of attainder shall be enacted.

(12) No person shall be imprisoned for debt or nonpayment of a poll tax.

(13) No involuntary servitude in any form shall exist except as a punishment for crime whereof the party shall have been duly convicted.

(14) The privilege of the writ of *habeas corpus* shall not be suspended except in cases of invasion, insurrection, or rebellion, when the public safety requires it, in any of which events the same may be suspended wherever during such period the necessity for such suspension shall exist.

(15) No person shall be held to answer for a criminal offense without due process of law.

(16) All persons shall before conviction be bailable by sufficient sureties, except those charged with capital offenses when evidence of guilt is strong. Excessive bail shall not be required.

(17) In all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses in his behalf.

(18) No person shall be compelled to be a witness against himself.

(19) Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted.

(20) No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

(21) Free access to the courts shall not be denied to any person by reason of poverty.

ARTICLE IV CITIZENSHIP

SECTION 1. The following are citizens of the Philippines:

(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.

(2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.

(3) Those whose fathers are citizens of the Philippines.

(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

(5) Those who are naturalized in accordance with law.

SEC. 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

ARTICLE V SUFFRAGE

SECTION 1. Suffrage may be exercised by male citizens of the Philippines not otherwise disqualified by law, who are twenty-one years of age or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality wherein they propose to vote for at least six months preceding the election. The National Assembly shall extend the right of suffrage to women, if in a plebiscite which shall be held for that purpose within two years after the adoption of this Constitution, not less than three hundred thousand women possessing the necessary qualifications shall vote affirmatively on the question.

ARTICLE VI LEGISLATIVE DEPARTMENT

SECTION 1. The Legislative power shall be vested in a National Assembly. The Members of the National Assembly shall not exceed one hundred and twenty, shall be chosen every three years, and shall be apportioned among the several provinces as nearly as may be according to the number of their respective inhabitants, but each province shall have at least one Member. The National Assembly shall by law make an apportionment within three years after the return of every enumeration, and not otherwise. Until such apportionment shall have been made, the National Assembly shall consist of ninety-eight Members, of whom eighty-seven shall be elected by the representative districts as now provided by

law; and three by the Mountain Province, and one by each of the other eight existing special provinces. The Members of the National Assembly in the provinces of Sulu, Lanao, and Cotabato shall be chosen as may be determined by law; in all other provinces they shall be elected by the qualified voters therein.

SEC. 2. No person shall be a Member of the National Assembly unless he has been five years a citizen of the Philippines, is at least thirty years of age, and, at the time of his election, a qualified elector, and a resident of the province in which he is chosen for not less than one year immediately prior to his election.

SEC. 3. (1) In case of vacancy in the National Assembly a special election may be called in the corresponding district, in the manner prescribed by law, but the Member thus elected shall serve only for the unexpired term.

(2) Elections for the National Assembly shall be held on the dates fixed by law.

(3) The National Assembly shall convene in regular session once every year, on the second Monday of the month immediately following that on which the election of its Members was held, unless a different date is fixed by law. The National Assembly may be called in special session at any time by the President to consider general legislation or only such subjects as he may designate. No special session shall continue longer than thirty days and no regular longer than one hundred days exclusive of Sundays.

(4) The National Assembly shall choose its Speaker, a secretary, a sergeant-at-arms, and such other officers as may be required. A majority of all the Members shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent Members, in such manner and under such penalties as the National Assembly may provide.

(5) The National Assembly may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member. It shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in its judgment require secrecy; and the *yays* and *nays* on any question shall, at the request of one-fifth of its Members present, be entered in the Journal.

SEC. 4. There shall be an Electoral Commission composed of three Justices of the Supreme Court designated by the Chief Justice, and of six Members chosen by the National Assembly, three of whom shall be nominated by the party having the largest number of votes, and three by the party having the second largest number of votes therein. The senior Justice in the Commission shall be its Chairman. The Electoral Commission shall be the sole judge of all contests relating to the election, returns, and qualifications of the Members of the National Assembly.

SEC. 5. The Members of the National Assembly shall, unless otherwise provided by law, receive an annual compensation of five thousand pesos each including per diems and other emoluments or allowances and exclusive only of travelling expenses to and from their respective districts when attending sessions of the National Assembly. No increase in said

compensation shall take effect until after the expiration of the full term of the Members of the National Assembly elected subsequent to the approval of such increase. The Speaker of the National Assembly shall receive an annual compensation of sixteen thousand pesos until otherwise provided by law.

SEC. 6. The Members of the National Assembly shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of the National Assembly, and in going to and returning from the same; and for any speech or debate therein, they shall not be questioned in any other place.

SEC. 7. The National Assembly shall elect from among its Members, on the basis of proportional representation of the political parties therein, a Commission on Appointments and a Commission on Impeachment, each to consist of twenty-one members. These Commissions shall be constituted within thirty days after the National Assembly shall have been organized with the election of its Speaker, and shall meet only while the National Assembly is in session, at the call of their respective chairmen or a majority of their members, to discharge such powers and functions as are herein conferred upon them.

SEC. 8. (1) No Member of the National Assembly may hold any other office or employment in the government without forfeiting his seat, nor shall any such Member during the time for which he was elected, be appointed to any civil office which may have been created or the emoluments whereof shall have been increased while he was a Member of the National Assembly.

(2) No Member of the National Assembly shall directly or indirectly be financially interested in any contract with the government or any subdivision or instrumentality thereof, or in any franchise or special privilege granted by the National Assembly during his term of office; nor shall any such Member appear as counsel before the Electoral Commission or any court in any civil case wherein the government or any subdivision or instrumentality thereof is the adverse party, or collect any fee for his appearance in any administrative proceedings or in any criminal case wherein an officer or employee of the government is accused of an offense committed in relation to his office. No Member of the Commission on Appointments of the National Assembly shall appear as counsel before any court inferior to the Supreme Court.

SEC. 9. (1) The President shall submit within fifteen days of the opening of each regular session of the National Assembly a budget of receipts and expenditures, which shall be the basis of the general appropriation bill. The National Assembly may not increase the appropriations recommended by the President for the operation of the government as specified in the budget, except the appropriations for the National Assembly and the Judicial department. The form of the budget and the information that it should contain shall be prescribed by law.

(2) No provision or enactment shall be embraced in the general appropriation, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

SEC. 10. The heads of departments upon their own initiative or upon the request of the National Assembly may appear before and be heard by the National Assembly on any matter pertaining to their departments, unless the public interest shall require otherwise and the President shall so state in writing.

SEC. 11. (1) Every bill which shall have passed the National Assembly shall, before it becomes a law, be presented to the President. If he approve the same, he shall sign it; but if not, he shall return it with his objections to the National Assembly, which shall enter the objections at large on its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members of the National Assembly shall agree to pass the bill, it shall become a law. In all such cases the votes of the National Assembly shall be determined by *yeas* and *nays*, and the names of the members voting for and against shall be entered on the Journal. If any bill shall not be returned by the President as herein provided within twenty days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the National Assembly by adjournment prevent its return, in which case it shall become a law unless vetoed by the President within thirty days after adjournment.

(2) The President shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object. When a provision of an appropriation bill affects one or more items of the same, the President cannot veto the provision without at the same time vetoing the particular item or items to which it relates. The item or items objected to shall not take effect except in the manner heretofore provided as to bills returned to the National Assembly without the approval of the President. If the veto refers to a bill or any item of an appropriation bill which appropriates a sum in excess of ten *per centum* of the total amount voted in the appropriation bill for the general expenses of the government for the preceding year, or if it should refer to a bill authorizing an increase of the public debt, the same shall not become a law unless approved by three-fourths of all the members of the National Assembly.

(3) The President shall have the power to veto any separate item or items in a revenue or tariff bill, and the item or items vetoed shall not take effect except in the manner provided as to bills vetoed by the President.

SEC. 12. (1) No bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill.

(2) No bill shall be passed or become a law unless it shall have been printed and copies thereof in its final form furnished the members at least three calendar days prior to its passage by the National Assembly, except when the President shall have certified to the necessity of its immediate enactment. Upon the last reading of a bill no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the *yeas* and *nays* entered on the Journal.

SEC. 13. (1) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose

only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the government.

(2) No money shall be paid out of the treasury except in pursuance of an appropriation made by law.

(3) No public money or property shall ever be appropriated, applied, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces or to any penal institution, orphanage, or leprosarium.

SEC. 14. (1) The rule of taxation shall be uniform.

(2) The National Assembly may by law authorize the President, subject to such limitations and restrictions as it may impose, to fix within specified limits, tariff rates, import or export quotas, and tonnage and wharfage dues.

(3) Cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation.

SEC. 15. The National Assembly shall, with the concurrence of two-thirds of all its members, have the sole power to declare war.

SEC. 16. In times of war or other national emergency, the National Assembly may by law authorize the President, for a limited period and subject to such restrictions as it may prescribe, to promulgate rules and regulations to carry out a declared national policy.

ARTICLE VII

EXECUTIVE DEPARTMENT

SECTION 1. The executive power shall be vested in a President of the Philippines.

SEC. 2. The President shall hold his office during a term of six years, and together with the Vice-President chosen for the same term, shall be elected by direct vote of the people. The election returns for President and Vice-President, duly certified by the board of canvassers of each province, shall be transmitted to the National Assembly. Upon receipt of such returns the National Assembly shall forthwith, in public session, count the votes, and proclaim the persons elected President and Vice-President. The persons respectively having the highest number of votes for President and Vice-President shall be declared elected, but in case two or more shall have an equal and the highest number of votes for either office, the National Assembly shall, by a majority vote of all its members, elect one of said persons as President or Vice-President.

SEC. 3. No person may be elected to the office of President or Vice-President, unless he be a natural-born citizen of the Philippines, a qualified voter, forty years of age or over, and has been a resident of the Philippines for at least ten years immediately preceding the election.

SEC. 4. No person elected President may be reelected for the following term, nor shall the Vice-President or any other person who may have succeeded to the office of President as herein provided at least one year before the election, be eligible to the office of President at such election.

SEC. 5. Elections for President and Vice-President shall be held once every six years on a date to be fixed by the National Assembly.

SEC. 6. The terms of the President and Vice-President shall end at noon on the thirtieth day of December following the expiration of six years after their election, and the terms of their successors shall begin from such time.

SEC. 7. If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice-President-elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice-President shall act as President until a President shall have qualified, and the National Assembly may by law provide for the case wherein neither a President-elect nor a Vice-President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice-President shall have qualified.

SEC. 8. Before he enter on the execution of his office, the President shall take the following oath of affirmation:

"I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man, and consecrate myself to the service of the nation. So help me God." (In case of affirmation, last sentence will be omitted.)

SEC. 9. In the event of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the National Assembly shall by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

SEC. 10. The President shall have an official residence and receive a compensation to be ascertained by law which shall be neither increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the government or any of its subdivisions or instrumentalities. Until the National Assembly shall provide otherwise, the President shall receive an annual salary of thirty thousand pesos. The Vice-President, when not acting as President, shall receive an annual compensation of fifteen thousand pesos until otherwise provided by law.

SEC. 11. (1) The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed.

(2) The President shall be commander-in-chief of all armed forces of the Philippines and, whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion, insurrection, or rebellion. In case of invasion, insurrection, or rebellion, or imminent danger thereof, when the public safety requires it, he may suspend the privileges of the writ of *habeas corpus*, or place the Philippines or any part thereof under martial law.

(3) The President shall nominate and with the consent of the Commission on Appointments of the National Assembly, shall appoint the heads of the executive departments and bureaus, officers of the Army from the rank of colonel, of the Navy and air forces from the rank of captain or commander, and all other officers of the government whose appointments are not herein otherwise provided for, and those whom he may be authorized by law to appoint; but the National Assembly may by law vest the appointment of inferior officers, in the President alone, in the courts, or in the heads of departments.

(4) The President shall have the power to make appointments during the recess of the National Assembly, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the National Assembly.

(5) The President shall from time to time give to the National Assembly information of the state of the nation, and recommend to its consideration such measures as he shall judge necessary and expedient.

(6) The President shall have the power to grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction, for all offenses, except in cases of impeachment, upon such conditions and with such restrictions and limitations as he may deem proper to impose. He shall have the power to grant amnesty with the concurrence of the National Assembly.

(7) The President shall have the power, with the concurrence of a majority of all the members of the National Assembly, to make treaties, and with the consent of the Commission on Appointments, he shall appoint ambassadors, other public ministers and consuls. He shall receive ambassadors and other ministers duly accredited to the government of the Philippines.

SEC. 12. (1) The executive departments of the present government of the Philippine Islands shall continue as now authorized by law until the National Assembly shall provide otherwise.

(2) The heads of departments and chiefs of bureaus or offices and their assistants shall not, during their continuance in office, engage in the practice of any profession, or intervene, directly or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of their office; nor shall they, directly or indirectly, be financially interested in any contract with the government, or any subdivision or instrumentality thereof.

(3) The President may appoint the Vice-President as a member of his cabinet and also as head of an executive department.

ARTICLE VIII
JUDICIAL DEPARTMENT

SECTION 1. The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law.

SEC. 2. The National Assembly shall have the power to define, prescribe, and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its original jurisdiction over cases affecting ambassadors, other public ministers, and consuls, nor of its jurisdiction to review, revise, reverse, modify, or affirm on appeal, certiorari, or writ of error, as the law or the rules of court may provide, final judgments and decrees of inferior courts in—

(1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question.

(2) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

(3) All cases in which the jurisdiction of any trial court is in issue.

(4) All criminal cases in which the penalty imposed is death or life imprisonment.

(5) All cases in which an error or question of law is involved.

SEC. 3. Until the National Assembly shall provide otherwise, the Supreme Court shall have such original and appellate jurisdiction as may be possessed and exercised by the Supreme Court of the Philippine Islands at the time of the adoption of this Constitution. The original jurisdiction of the Supreme Court shall include all cases affecting ambassadors, other public ministers, and consuls.

SEC. 4. The Supreme Court shall be composed of a Chief Justice and ten Associate Justices and may sit either in *banc* or in two divisions unless otherwise provided by law.

SEC. 5. The members of the Supreme Court and all judges of inferior courts shall be appointed by the President with the consent of the Commission on Appointments of the National Assembly.

SEC. 6. No person may be appointed member of the Supreme Court unless he has been five years a citizen of the Philippines, is at least forty years of age, and has for ten years or more been a judge of a court of record or engaged in the practice of law in the Philippines.

SEC. 7. No judge appointed for a particular district shall be designated or transferred to another district without the approval of the Supreme Court. The National Assembly shall by law determine the residence of judges of inferior courts.

SEC. 8. The National Assembly shall prescribe the qualifications of judges of inferior courts, but no person may be appointed judge of any such courts unless he is a citizen of the Philippines and has been admitted to the practice of law in the Philippines.

SEC. 9. The members of the Supreme Court and all judges of inferior courts shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office. They shall receive such compensation as may be fixed by law, which shall not be diminished during their continuance in office.

Until the National Assembly shall provide otherwise, the Chief Justice of the Supreme Court shall receive an annual compensation of sixteen thousand pesos, and each Associate Justice, fifteen thousand pesos.

SEC. 10. All cases involving the constitutionality of a treaty or law shall be heard and decided by the Supreme Court *in banc*, and no treaty or law may be declared unconstitutional without the concurrence of two-thirds of all the members of the court.

SEC. 11. The conclusions of the Supreme Court in any case submitted to it for decision shall be reached in consultation before the case is assigned to a Justice for the writing of the opinion of the court. Any Justice dissenting from a decision shall state the reasons for his dissent.

SEC. 12. No decision shall be rendered by any court of record without expressing therein clearly and distinctly the facts and the law on which it is based.

SEC. 13. The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repeated as statutes, and are declared Rules of Courts, subject to the power of the Supreme Court to alter and modify the same. The National Assembly shall have the power to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines.

ARTICLE IX IMPEACHMENT

SECTION 1. The President, the Vice-President, the Justices of the Supreme Court, and the Auditor General, shall be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, or other high crimes.

SEC. 2. The Commission on Impeachment of the National Assembly, by a vote of two-thirds of its members, shall have the sole power of impeachment.

SEC. 3. The National Assembly shall have the sole power to try all impeachments. When sitting for the purpose the Members shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of three-fourths of all the members who do not belong to the Commission on Impeachment.

SEC. 4. Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy an office of honor, trust, or profit under the government of the Philippines but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment, according to law.

ARTICLE X
GENERAL AUDITING OFFICE

SECTION 1. There shall be a General Auditing Office under the direction and control of an auditor general, who shall hold office for a term of ten years and may not be reappointed. The auditor general shall be appointed by the President with the consent of the Commission on Appointments, and shall receive an annual compensation to be fixed by law which shall not be diminished during his continuance in office. Until the National Assembly shall provide otherwise, the Auditor General shall receive an annual compensation of twelve thousand pesos.

SEC. 2. The Auditor General shall examine, audit, and settle all accounts pertaining to the revenues and receipts from whatever source, including trust funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the provinces or municipalities thereof. He shall keep the general accounts of the government and preserve the vouchers pertaining thereto. It shall be the duty of the Auditor General to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive, or extravagant. He shall also perform such other functions as may be prescribed by law.

SEC. 3. The decisions of the Auditor General shall be rendered within the time fixed by law, and the same may be appealed to the President whose action shall be final. When the aggrieved party is a private person or entity, an appeal from the decision of the Auditor General may be taken directly to a court of record in the manner provided by law.

SEC. 4. The Auditor General shall submit to the President and the National Assembly an annual report covering the financial condition and operations of the government, and such other reports as may be required.

ARTICLE XI
CIVIL SERVICE

SECTION 1. A Civil Service embracing all branches and subdivisions of the government shall be provided by law. Appointments in the Civil Service, except as to those which are policy-determining, primarily confidential or highly technical in nature, shall be made only according to merit and fitness, to be determined as far as practicable by competitive examination.

SEC. 2. Officers and employees in the Civil Service, including members of the armed forces, shall not engage directly or indirectly in partisan political activities or take part in any election except to vote.

SEC. 3. No officer or employee of the government shall receive additional or double compensation unless specifically authorized by law.

SEC. 4. No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law.

ARTICLE XII

CONSERVATION AND UTILIZATION OF NATURAL RESOURCES

SECTION 1. All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant.

SEC. 2. No private corporation or association may acquire, lease, or hold public agricultural lands in excess of one thousand and twenty-four hectares, nor may any individual acquire such lands by purchase in excess of one hundred and forty-four hectares, or by lease in excess of one thousand and twenty-four hectares, or by homestead in excess of twenty-four hectares. Lands adapted to grazing, not exceeding two thousand hectares, may be leased to an individual, private corporation, or association.

SEC. 3. The National Assembly may determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold, subject to rights existing prior to the enactment of such law.

SEC. 4. The National Assembly may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals.

SEC. 5. Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines.

SEC. 6. The State may, in the interest of national welfare and defense, establish and operate industries and means of transportation and communication, and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the government.

ARTICLE XIII

GENERAL PROVISIONS

SECTION 1. The flag of the Philippines shall be red, white, and blue, with a sun and three stars, as consecrated and honored by the people and recognized by law.

SEC. 2. All public officers and members of the armed forces shall take an oath to support and defend the Constitution.

SEC. 3. The National Assembly shall take steps toward the development and adoption of a common national language based on one of the existing native languages. Until otherwise provided by law, English and Spanish shall continue as official languages.

SEC. 4. The State shall promote scientific research and invention. Arts and letters shall be under its patronage. The exclusive right to writings and inventions shall be secured to authors and inventors for a limited period.

SEC. 5. All educational institutions shall be under the supervision of and subject to regulation by the State. The government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizenship. Optional religious instruction shall be maintained in the public schools as now authorized by law. Universities established by the State shall enjoy academic freedom. The State shall create scholarships in arts, science, and letters for specially gifted citizens.

SEC. 6. The State shall afford protection to labor, especially to working women and minors, and shall regulate the relations between landowner and tenant, and between labor and capital in industry and in agriculture. The State may provide for compulsory arbitration.

SEC. 7. The National Assembly shall not, except by general law, provide for the formation, organization, or regulation of private corporations, unless such corporations are owned or controlled by the government or any subdivision or instrumentality thereof.

SEC. 8. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or other entities organized under the laws of the Philippines, sixty *per centum* of the capital of which is owned by citizens of the Philippines, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. No franchise or right shall be granted to any individual, firm, or corporation, except under the condition that it shall be subject to amendment, alteration, or repeal by the National Assembly when the public interest so requires.

SEC. 9. The government shall organize and maintain a national police force to preserve public order and enforce the law.

SEC. 10. This Constitution shall be officially promulgated in English and Spanish, but in case of conflict the English text shall prevail.

ARTICLE XIV AMENDMENTS

SECTION 1. The National Assembly, by a vote of three-fourths of all its members, may propose amendments to this Constitution or call a convention for that purpose. Such amendments shall be valid as part

of this Constitution when approved by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification.

ARTICLE XV

TRANSITORY PROVISIONS

SECTION 1. The first election of the officers provided in this Constitution and the inauguration of the government of the Commonwealth of the Philippines shall take place as provided in Public Act Numbered one hundred and twenty-seven of the Congress of the United States, approved March twenty-four, nineteen hundred and thirty-four.

SEC. 2. All laws of the Philippine Islands shall continue in force until the inauguration of the Commonwealth of the Philippines; thereafter, such laws shall remain operative, unless inconsistent with this Constitution, until amended, altered, modified, or repealed by the National Assembly, and all references in such laws to the government or officials of the Philippine Islands shall be construed, in so far as applicable, to refer to the government and corresponding officials under this Constitution.

SEC. 3. All courts existing at the time of the adoption of this Constitution shall continue and exercise their jurisdiction, until otherwise provided by law in accordance with this Constitution, and all cases, civil and criminal, pending in said courts, shall be heard, tried, and determined under the laws then in force.

SEC. 4. All officers and employees in the existing government of the Philippine Islands shall continue in office until the National Assembly shall provide otherwise, but all officers whose appointments are by this Constitution vested in the President shall vacate their respective offices upon the appointment and qualification of their successors, if such appointment is made within a period of one year from the date of the inauguration of the Commonwealth of the Philippines.

SEC. 5. The members of the National Assembly for the Mountain Province shall be elected as may be provided by law. The voters of municipalities and municipal districts formerly belonging to a special province and now forming part of regular provinces shall vote in the election for members of the National Assembly in such districts as may be provided by law.

SEC. 6. The provisions of this Constitution, except those contained in this article and in Article V, and those which refer to the election and qualifications of officers to be elected under this Constitution, shall not take effect until the inauguration of the Commonwealth of the Philippines.

ARTICLE XVI

SPECIAL PROVISIONS EFFECTIVE UPON THE PROCLAMATION OF THE INDEPENDENCE OF THE PHILIPPINES

SECTION 1. Upon the proclamation of the President of the United States recognizing the independence of the Philippines—

(1) The property rights of the United States and the Philippines shall be promptly adjusted and settled, and all existing property rights

of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of the Philippines.

(2) The officials elected and serving under this Constitution shall be constitutional officers of the free and independent government of the Philippines and qualified to function in all respects as if elected directly under such government, and shall serve their full terms of office as prescribed in this Constitution.

(3) The debts and liabilities of the Philippines, its provinces, cities, municipalities, and instrumentalities, which shall be valid and subsisting at the time of the final and complete withdrawal of the sovereignty of the United States, shall be assumed by the free and independent government of the Philippines; and where bonds have been issued under authority of an Act of Congress of the United States by the Philippine Islands, or any province, city, or municipality therein, the government of the Philippines will make adequate provision for the necessary funds for the payment of interest and principal, and such obligations shall be a first lien on all taxes collected.

(4) The government of the Philippines will assume all continuing obligations of the United States under the Treaty of Peace with Spain ceding the Philippine Islands to the United States.

(5) The government of the Philippines will embody the foregoing provisions of this article [except subsection (2)] in a treaty with the United States.

ARTICLE XVII

THE COMMONWEALTH AND THE REPUBLIC

SECTION 1. The government established by this Constitution shall be known as the Commonwealth of the Philippines. Upon the final and complete withdrawal of the sovereignty of the United States and the proclamation of Philippine independence, the Commonwealth of the Philippines shall thenceforth be known as the Republic of the Philippines.

ORDINANCE APPENDED TO THE CONSTITUTION

SECTION 1. Notwithstanding the provisions of the foregoing Constitution, pending the final and complete withdrawal of the sovereignty of the United States over the Philippines—

(1) All citizens of the Philippines shall owe allegiance to the United States.

(2) Every officer of the government of the Commonwealth of the Philippines shall, before entering upon the discharge of his duties, take and subscribe an oath of office, declaring, among other things, that he recognizes and accepts the supreme authority of and will maintain true faith and allegiance to the United States.

(3) Absolute toleration of religious sentiment shall be secured and no inhabitant or religious organization shall be molested in person or property on account of religious belief or mode of worship.

(4) Property owned by the United States, cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation.

(5) Trade relations between the Philippines and the United States shall be upon the basis prescribed in section six of Public Act Numbered One hundred and twenty-seven of the Congress of the United States approved March twenty-four, nineteen hundred and thirty-four.

(6) The public debt of the Philippines and its subordinate branches shall not exceed limits now or hereafter fixed by the Congress of the United States, and no loans shall be contracted in foreign countries without the approval of the President of the United States.

(7) The debts, liabilities, and obligations of the present government of the Philippine Islands, its provinces, municipalities, and instrumentalities, valid and subsisting at the time of the adoption of the Constitution, shall be assumed and paid by the government of the Commonwealth of the Philippines.

(8) The government of the Commonwealth of the Philippines shall establish and maintain an adequate system of public schools, primarily conducted in the English language.

(9) Acts affecting currency, coinage, imports, exports, and immigration shall not become law until approved by the President of the United States.

(10) Foreign affairs shall be under the direct supervision and control of the United States.

(11) All acts passed by the National Assembly of the Commonwealth of the Philippines shall be reported to the Congress of the United States.

(12) The Philippines recognizes the right of the United States to expropriate property for public uses, to maintain military and other reservations and armed forces in the Philippines, and, upon order of the President of the United States, to call into the service of such armed forces all military forces organized by the government of the Commonwealth of the Philippines.

(13) The decisions of the courts of the Philippines shall be subject to review by the Supreme Court of the United States as now provided by law, and such review shall also extend to all cases involving the Constitution of the Philippines.

(14) Appeals from decisions of the Auditor General may be taken to the President of the United States.

(15) The United States may, by Presidential proclamation, exercise the right to intervene for the preservation of the government of the Commonwealth of the Philippines and for the maintenance of the government as provided in the Constitution thereof, and for the protection of life, property, and individual liberty and for the discharge of government obligations under and in accordance with the provisions of the Constitution.

(16) The authority of the United States High Commissioner to the government of the Commonwealth of the Philippines as provided in Public Act Numbered One hundred and twenty-seven of the Congress of the United States approved March twenty-four, nineteen hundred and thirty-four, is hereby recognized.

(17) Citizens and corporations of the United States shall enjoy in the Commonwealth of the Philippines all the civil rights of the citizens and corporations, respectively, thereof.

(18) Every duly adopted amendment to the Constitution of the

Philippines shall be submitted to the President of the United States for approval. If the President approve the amendment or if the President fail to disapprove such amendment within six months from the time of its submission, the amendment shall take effect as a part of such Constitution.

(19) The President of the United States shall have authority to suspend the taking effect of or the operation of any law, contract, or executive order of the government of the Commonwealth of the Philippines, which in his judgment will result in a failure of the government of the Commonwealth of the Philippines to fulfill its contracts, or to meet its bonded indebtedness and interest thereon or to provide for its sinking funds, or which seems likely to impair the reserves for the protection of the currency of the Philippines, or which in his judgment will violate international obligations of the United States.

(20) The President of the Commonwealth of the Philippines shall make an annual report to the President and Congress of the United States of the proceedings and operations of the government of the Commonwealth of the Philippines and shall make such other reports as the President or Congress may request.

SEC. 2. Pending the final and complete withdrawal of the sovereignty of the United States over the Philippines, there shall be a Resident Commissioner of the Philippines to the United States who shall be appointed by the President of the Commonwealth of the Philippines with the consent of the Commission on Appointments. The powers and duties of the Resident Commissioner shall be as provided in section seven, paragraph five of Public Act Numbered One hundred and twenty-seven of the Congress of the United States, approved March twenty-four, nineteen hundred and thirty-four, together with such other duties as the National Assembly may determine. The qualifications, compensation, and expenses of the Resident Commissioner shall be fixed by law.

SEC. 3. All other provisions of Public Act Numbered One hundred and twenty-seven of the Congress of the United States, approved March twenty-four, nineteen hundred and thirty-four, applicable to the government of the Commonwealth of the Philippines are hereby made a part of this Ordinance as if such provisions were expressly inserted herein.

THE CHRONOLOGY OF THE CONVENTION

The delegates to the constitutional convention (202) were elected by the people on July 10, 1934; pursuant to the Tydings-McDuffie law the convention was opened and inaugurated on July 30, 1934 at the session hall of the house of representatives with appropriate ceremony.

The sponsorship committee named a subcommittee of seven on October 9, 1934, to prepare a draft of the constitution. The members of this committee were Delegates F. Sotto, Manuel Roxas, V. Singson Encarnacion, Manuel C. Briones, Norberto Romualdez, Conrado Benitez and Miguel Cuaderno.

The sub-committee of seven submitted a draft of the constitution on October 20, 1934.

The convention approved the draft on January 31, 1935, with amendments.

The special committee on style of 26 members, appointed to recast the provisions in that draft, finished its work at 4:20 a. m. on February 5, 1935.

The draft of the constitution as revised and recast by the style committee was finally approved by the convention at about 6:15 p. m. on February 8, 1935, with 177 delegates voting in favor, one dissenting and 22 absent, as announced by President Recto.

The members of the style committee included those of the sub-committee of seven above mentioned and Delegates Vicente Francisco, Manuel Lim, Eusebio Orense, Camilo Osias, Gregorio Perfecto, Jose Hontiveros, Jose E. Romero, Jose P. Laurel, Ricardo Nepomuceno, Rafael Palma, Jose M. Aruego, Francisco Arellano, Jose S. Reyes, Jose M. Delgado, Jose Conejero, Jose Locsin, Fermin Caram, and Ruperto Montinola.

The constitution was then submitted to President Franklin D. Roosevelt by a mission composed of Manuel L. Quezon, Claro M. Recto, and Manuel Roxas. President Roosevelt approved it on March 23, 1935.