

PARTS OF THE CODE OF COMMERCE  
THAT ARE STILL IN FORCE IN THE PHILIP-  
PINES AND THOSE WHICH HAVE BEEN REPEALED BY  
SUBSEQUENT LEGISLATION

BY

JOSE A. ESPIRITU, LL. B.

*Instructor in Law, University of the Philippines.*

One of the most important effects of the American occupation in these Islands is the revolutionary changes made in the existing Spanish laws. All the Codes have been modified more or less and in some instances entirely abrogated by recent legislation, such as, for instance, the repeal of the Spanish Codes of Criminal and Civil Procedure, by Military General Orders, No. 58, series 1900, and by Act No. 190 of the Philippine Commission respectively.

The Code of Commerce, while it was not repealed in its entirety by subsequent laws, yet has been so modified in many of its provisions that only those dealing with merchants and commerce in general, commercial partnership, agency, and vessels in general, may be said to remain still practically intact. All the other parts have been repealed or, more or less, altered by such laws as the Negotiable Instruments Act, the Bankruptcy Law, the Warehouse Receipts Law, the Corporation Law, etc.

It is the purpose of this article to point out those parts of the Code of Commerce which are still in full force and those which have been either repealed or modified by subsequent laws. Particular efforts have been made in the preparation of this article to point out as accurately as possible the section or sections of the law which affect every article of the Code, whenever that can properly be done. Some important decisions of the Supreme Court of these Islands and some opinions of the Attorney-General are also quoted for the purpose of illustrating how the amended articles have been construed.

One of the difficulties in preparing a work of this kind is in determining whether an act repeals certain articles in the Code or not, and one must study carefully the language used in both laws to determine whether there exists a conflict; and, in some cases, one must even find out the intention of the legislature in passing such a law. That in many of these instances, one must use one's own judgment and depend upon one's own opinion is undeniable. It is, therefore, often the case that even those who are called upon to apply the law are not always agreed as to whether or not some articles of the Code are still in force; and if they are only partly in force, to what extent they have been modified. On this account, it is not possible in a short article like this to reconcile all opinions on doubtful points that may arise.

In preparing this paper, the thesis submitted by Mr. Vicente Santiago, 1913 Law, University of the Philippines, was taken as its basis and the writer was also greatly helped by the valuable suggestions he received from Mr. John W. Ferrier, Lecturer on Law, in the University of the Philippines.

#### ARTICLES OF THE CODE OF COMMERCE.

ARTICLE 1. In force.

ARTICLE 2. In force.

(a) All contracts and operations provided for in the Code of Commerce, and all others of an analogous character are regarded as commercial acts (*Compañía Agrícola de Ultramar vs. Reyes*, et al., 4 Phil. 19, 27.)

(b) An agency is a mercantile *commission* because its purpose or object is an *operation of commerce*. According to paragraph 2 of Article 2 of the Code of Commerce, all matters with which that code deals are declared to be acts of commerce (*Strong et al. vs. Gutierrez Répide*, 6 Phil. 705.)

(c) An indorsement is an essentially commercial act, especially when in connection with a title of credit payable to order, and, in accordance with Article 2 of the Code of Commerce, commercial transactions, whether executed by merchants or not, shall be governed by the provisions contained in said Code (*Banco Español-Filipino vs. Tan-Tongco*, 13 Phil., 650.)

ARTICLE 3. In force.

## ARTICLE 4. In force.

(a) Act 1891 of the Philippine Legislature lowered the age of majority from 23 years as provided for by Article 320 of the Civil Code to 21, as the legal age for commercial transactions.

(b) Under Article 4 of said Code it is provided, as one of the conditions of such legal capacity to engage in commerce, that the person must have reached the age of 21 years; but it appears that a different rule may apply in the case of foreigners. Article 15 of the Code of Commerce provides that foreigners may engage in commerce in the Philippines subject to the laws of their own country in so far as their capacity to transact business is concerned. (3 Op. Atty. Gen. 494; 5 Op. Atty. Gen. 640.)

## ARTICLE 5. This Article is partly in force.

The guardian of the estate of a minor, whether he be a testamentary guardian or one appointed by the court, has necessarily the control and management of all the property of the minor under his care, subject to those restrictions which the testator or the court may have seen fit to impose upon him. The provisions of this Article regarding the obligation of the guardian to appoint one or more agents possessing legal qualifications for the purpose of representing the said guardian in the management of the commerce of the minor can not be held to be in force at present, inasmuch as Chapter 27 of Act 190 only recognizes two ways of appointing a guardian, that is, by will of the testator or by the court. There is no provision in the new Code of Civil Procedure whatsoever wherein it authorizes the guardian to appoint his own substitute in case of disability or incompatibility to perform his trust. The court, in such a case, is the only competent authority to appoint a substitute or another guardian.

## ARTICLE 6. In force.

## ARTICLE 7. In force.

Even if the wife is engaged in private business either by expressed or implied consent of the husband, yet she can mortgage neither the conjugal property nor paraphernal property without the consent of her husband; because the right of a wife to dispose of her property, whether conjugal or paraphernal, does not depend upon her capacity or incapacity but upon the will of her husband. (*Gavieres vs. Peña*, 13 Phil. 449, 453.)

## ARTICLES 8-10. In force.

For the power of the wife to alienate and mortgage her own private property, and the conjugal property, see *Gavieres vs. Peña*, *supra*.

## ARTICLE 11. In force.

Following the provisions of Article 181 of the Civil Code, in order that the woman may trade on her own account when she is

over 21 years of age when her husband is absent, such absence may be so declared only after two years have elapsed without any news from the absentee, or from the last time news was received from him, if said absentee did not leave any other person to take charge of the administration of his property; or, if such a person was left behind by the absentee, a term of five years is required before the absence of the husband may be declared. (Article 181, Civil Code. See also Article 43, Penal Code.)

ARTICLE 12. In force.

See Civil Code, Articles 181 and 188.

ARTICLE 13. In force.

In connection with paragraph 2 of this Article, observe the provisions of the Bankruptcy and Insolvency Law (Act 1956), Chapter X: especially section 69.

ARTICLE 14. In force.

ARTICLE 15. Modified.

The provisions of this Article have been modified by Section 73 of Act 1459, which provides as follows: "Any foreign corporation or corporations not formed, organized or existing under the laws of the Philippine Islands and lawfully doing business in the Islands shall be bound by all laws, rules, and regulations applicable to domestic corporations of the same class, save and except such only as provide for the creation, formation, organization or dissolution of corporations or such as fix the relations, liabilities, responsibilities, or duties of members, stockholders, or officers of corporations to each other or to the corporation: *Provided, however,* That nothing in this section contained shall be construed or deemed to impair any rights that are secured or protected by the Treaty of Peace between the United States and Spain, signed at the city of Paris on December tenth, 1898."

ARTICLE 16. Partly repealed.

The last paragraph of this Article has been repealed by Acts 1288, 1900, and 2207. Act 1288 gives the duties of commercial registers as defined in Title Two of the Code of Commerce to registers of deeds and to those provincial treasurers who are authorized to perform the duties of registers of deeds.

Act 1900, amending Section 2 of Act 1288, makes the documenting, registering, enrolling, and licensing of vessels in accordance with the Philippines Customs Administrative Act (Act 355) equivalent to the registering of vessels within the meaning of Title Two of the Code of Commerce; and the Insular Collector of Customs is authorized to perform such duties.

Act 2207 makes the acts performed by the former commercial register of the City of Manila valid, beginning from the passage of Act 1288.

ARTICLE 17. In force.

ARTICLE 18. In force.

ARTICLE 19. In force.

Act 1627, Section 3 and Act 2041, Section 3 provide in part that a justice of the peace shall have powers anywhere within his territorial jurisdiction to solemnize marriages, and authenticate merchants' books, as provided by Articles 19 and 36 of the Code of Commerce.

ARTICLE 20. In force.

ARTICLE 21. In force.

But in 3 Op. Atty. Gen. 624, it was held that paragraph 12 of this Article is not in force except in so far as it requires the recording of the Articles of incorporation of foreign associations as a condition precedent to do business in the Philippine Islands. (See also *Compañía Agrícola de Ultramar vs. Reyes et al.*, 4 Phil. 27; and *Siguiong vs. Siguiong et al.*, 8 Phil. 769.)

ARTICLE 22. In force.

Supplemented by Act 355, Chapter VII, Act 1288, and by the Customs Marine Circular, No. 25.

ARTICLE 23. In force.

ARTICLE 24. In force.

ARTICLE 25. In force.

This provision is reaffirmed by the provisions of Act 1459, Section 18, with regard to corporations.

ARTICLE 26. In force.

ARTICLE 27. In force.

See Act 1956, Section 48, Subsections 1 and 2.

ARTICLES 28, 29. In force.

ARTICLE 30. In force.

See Act 1288, Section 1, as amended by Act 1900.

ARTICLE 31. While this Article may be said to be still in force, inasmuch as there is no existing law repealing or contravening the same, yet, since there is really no exchange in the Philippine Islands, this Article is practically useless. *Strong et al. vs. Gutierrez Répide*, 6 Phil. 687.

ARTICLE 32. Repealed.

The appointment and duties of the commercial registers have been carefully provided for by several Acts of the Philippine Com-

mission and Philippine Legislature, which superseded the provisions of the above article.

Section 2272 of the Compilation of the Acts of the Philippine Commission provides in part:

“There shall be a register of deeds in the city of Manila and one in each province. The register of deeds for the city of Manila shall be appointed at a salary of four thousand pesos per annum and removed in the manner provided for the appointment and removal of judges by section 2263 hereof.” The provincial fiscals and the attorney for the Moro Province shall perform the duties of the register of deeds in their respective provinces, etc.” See Sections 2272, 2273, 2274, of the Compilation; also Act 1268, Section 1; Act 1900, Section 1.

ARTICLE 33. In force.

ARTICLES 34, 35. In force.

ARTICLE 36. In force.

The authority of the justice of the peace to “authenticate merchants’” books, as provided by Articles 19 and 36 of the Code of Commerce, has been expressly reaffirmed by Act 1627, Section 3, and Act 2041, Section 3.

ARTICLES 37-39. In force.

For the other kind of books which corporations are required to keep, see Act 1459, Sections 51 and 52.

ARTICLE 40. Superseded by Act 1459, Section 51.

ARTICLES 41-44. In force.

ARTICLE 45. Partly repealed.

The Governor-General of the Philippine Islands can now direct the examination of the books, papers, letters, and documents belonging to any corporation doing business in these Islands for the purpose of determining the business affairs, administration, and condition of such corporation. See Act 1459, Sections 51 to 55. The Courts, of course, have no authority to examine merchants’ books just to determine whether they are kept in accordance with these provisions of the Code or not.

In the case of public utility or public service corporations, the Board of Public Utility Commissioners has the power to examine their books, documents, or records. See Act 2306, Section 15.

ARTICLE 46. Repealed.

In the case of insolvency proceedings, the examination of the records, books, etc. may be ordered by the court. See Act 1956, Section 42. By the Governor-General in the case of corporations, see Act 1459, Section 54. The court before which the determina-

tion of a certain case is submitted may order the examination of the books of merchants at the request of the interested party or at its own instance for the purpose of bringing before the court the entire evidence for the proper judgment of the case. This seems to be covered by the provisions of the present Code of Civil Procedure with regard to evidence and proofs.

ARTICLE 47. Repealed.

The Attorney-General, in his opinion, Vol. 3, p. 380, says: "There is no provision in the Code of Civil Procedure whereby the books of merchants are exempt from being produced before the court in case their production in evidence is necessary. The above-mentioned Section 330 is the only one in said Code which provides that a record must not be removed from the office in which it is kept, and the books of merchants are not included in its provisions inasmuch as to prove the contents of such books a copy of the contents thereof is not sufficient but the production of the books themselves is necessary. In consideration of the foregoing and also of the fact that the hearing must be held where the court holds its sessions and that the evidence must be introduced during the trial, I think that the Code of Civil Procedure has by implication repealed the provision of Article 47 of the Code of Commerce, which provided that the inspection of the books of a merchant should be made at the latter's office, in his presence or in that of a person appointed by him, and that the court may compel a merchant to produce his book at the trial by means of a *subpoena duces tecum*." See the Code of Civil Procedure, Sections 284 and 299. Also Act 1459, Sections 51-54.

ARTICLE 48. Partly in force.

Paragraph 1 of this Article makes the entries in the books of merchants conclusive evidence against themselves; thus it allows no proof to the contrary to be admitted against them. The rules of evidence in the Philippine Islands at present are governed by the provisions of Act 190, and Section 333 of the said Act does not mention the entries in merchants' books as among the conclusive presumptions in the present rules of evidence. Section 329 of the same Act, however, defines what are original entries. They should perhaps be considered now as *prima facie* rather than as conclusive evidence. The rest of this Article is in force.

ARTICLE 49. In force.

ARTICLE 50. In force.

ARTICLE 51. Partly in force.

By Act 190, Section 335, agreements for the sale of goods, chattels or things at a price not less than ₱100, are unenforceable by action unless the same, or some note or memorandum thereof, are in writing, and subscribed by the parties charged or by their

agent; and evidence of such agreements can not be received without the writing, or secondary evidence of their contents. Thus the amount of 1500 pesetas, or ₱300 as provided by this Article is now reduced to ₱100.

As to the second paragraph of this Article, evidently it is still in force, inasmuch as the parties are free to fix the means of carrying out their contract, provided it does not prejudice third persons and is not against public policy. Even that portion of this paragraph requiring the fulfillments of the conventional conditions or tokens previously agreed upon by the contracting parties in carrying out their telegraphic correspondence, may be said to be still in force. See *Thunga Chin vs. Que Bentec*, 2 Phil. 562.

ARTICLES 52-59. In force.

ARTICLE 60. In force.

Except that which refers to bills of exchange and promissory notes, which are now governed by the provisions of the Negotiable Instruments Law, Act 2031.

ARTICLES 61-63. In force.

In connection with Article 62, see *Floriano vs. Delgado et al.*, 11 Phil. 156.

ARTICLES 64-80. While these Articles have not been expressly or impliedly repealed by any subsequent legislation the very fact that Commercial Exchange had never been established in these Islands, makes their provisions of no effect. The Supreme Court of the Philippine Islands in *Strong vs. Gutierrez Répide*, 6 Phil. 687, says: "We may take judicial notice of the fact that there is no 'exchange' in the Philippine Islands as indeed is plain from various Articles of the Spanish Code of Commerce, specifically made applicable to these Islands."

ARTICLES 81-87. In force.

ARTICLES 88-114. In force.

The provisions of these Articles must be held to be still in force inasmuch as they have not been either expressly or impliedly repealed. But with the change of sovereignty in the Philippines the word "Spanish" used in Articles 89 and 94 is now changed to Filipino, and the "Banco Español-Filipino" mentioned in some of these Articles is now changed to "The Bank of the Philippine Islands."

In *Strong vs. Gutierrez Répide*, *supra*, it was held that there was no proof that there was in Manila or in the Islands any association of commercial brokers that could issue licenses to general brokers. Held further that this office being a technical one of special power and privilege, created under Title IV of Book I of

the Code of Commerce, calls for strict proof of the conditions of its existence.

ARTICLE 115. In force.

ARTICLE 116. In force.

ARTICLE 117. Partly in force.

Several of the establishments and associations mentioned in the second paragraph of this Article are now fully covered by the special provisions of the present Corporation Law (Act 1459, Chapter II).

ARTICLE 118. In force.

ARTICLES 119-121. In force.

ARTICLE 122. Partly in force.

Numbers 1 and 2 of this Article are still in force. Number 3 has been expressly repealed by Act 1459, Section 191, which provides that the Code of Commerce, in so far as it relates to "sociedades anónimas," is repealed, except as to those "sociedades anónimas" lawfully organized and existing as such on March 1, 1906, which have elected to continue their business as such "sociedades anónimas" instead of reorganizing themselves under the provisions of the new Corporation Law. In such a case the provisions of No. 3 of this Article still govern as to the relations of the members between themselves, but the relations of the members of the corporation to the public in general and to the public officials in particular are now subject to the provisions of Act 1459.

ARTICLE 123. In force.

All these associations and corporations are now governed by the special provisions of Act 1459.

ARTICLE 124. In force.

ARTICLES 125-150. In force.

See Act 1459, section 191.

ARTICLES 151-174. Repealed.

The provisions of these Articles have been expressly repealed by Section 191 of Act 1459 saving only as to their application to "sociedades anónimas" organized under the Code of Commerce prior to the enactment of the present Corporation Law.

ARTICLE 175. Repealed.

The transactions mentioned in paragraphs 1, 5 and part of paragraph 7 can only be carried on now by the government. The remaining parts of this Article are fully covered by the various provisions of the new Corporation Law.

ARTICLE 176. In force.

This article seems to be still in full force, inasmuch as it does not contain provisions inconsistent with Act 1459, relative to Building and Loan Associations.

ARTICLE 177. Repealed.

Provisions of this Article are fully covered by Act 1459, Sections 116 and 117.

ARTICLE 178. Partly repealed.

The business transactions of banking corporations organized under the provisions of Act 1459 are now governed by that law. Banks organized under the provisions of the Code of Commerce may still be governed by the provisions of this Article.

ARTICLE 179. In force.

ARTICLE 180. Superseded by Act 1459, Section 125.

ARTICLE 181. In force.

ARTICLE 182. Superseded by Act 1459, Section 121.

ARTICLE 183. Repealed.

There is no such requirement in the present law.

ARTICLES 184-192. Repealed.

The provisions of these Articles relative to railroads have been superseded by the provisions of Act 1459 and with regards to street railways by those of Act 667.

ARTICLES 193-198. Repealed by Act 2137, known as the Warehouse Receipts Law.

ARTICLE 199. Repealed by Act 1459, Section 103.

ARTICLE 200. Repealed by Act 1459, Sections 104 and 105.

ARTICLE 201. No longer in force.

ARTICLE 202. Repealed.

At present no town, province, or even the central government can borrow money without proper legislative enactment authorizing the same. (See 2 Op. Atty. Gen. 378.)

ARTICLES 203, 204. Repealed by Act 1459, Section 105.

ARTICLE 205. In force.

ARTICLES 206-208. Repealed by Act 1459, Section 16.

ARTICLE 209. In force.

ARTICLE 210. In force.

ARTICLE 211. Partly superseded by the provisions of Act 1459, relative to such associations, except as to those Articles which are neither inconsistent with nor covered by the provisions of the said Act.

ARTICLES 212-217. These Articles have been superseded by the provisions of the Act of Congress of March 4, 1907, entitled: "An Act to Provide for the Establishment of an Agricultural Bank in the Philippine Islands," and by Act 1865 of the Philippine Legislature.

ARTICLES 218-221. In force.

The new Corporation Law, Act 1459, provides the following ways of dissolving corporations:

- 1st. By the expiration of the period fixed in the articles of incorporation.
- 2nd. By legislative enactment under the power of repeal, specially reserved by the State.
- 3rd. By the loss of an essential integral part, which can not be supplied; as by the death or withdrawal of all the members, where there are no means of supplying their places.
- 4th. By forfeiture of its franchise for misuser or nonuser.
- 5th. By the will of the majority of the members or of the stockholders holding at least two-thirds of all shares of stock issued or subscribed, upon application to the Court of First Instance, where the principal office of said corporation is situated (Clark on Corp. pp. 230-246; Act 1459, Sections 62-64, 76, 77.)

ARTICLES 222-237. In force.

ARTICLE 238. Repealed by Act 1459, Sections 63 and 64.

ARTICLES 239-243. In force.

ARTICLES 244-302. In force.

As to deposits in warehouses, see Act 2137, Sections 8 to 36.

ARTICLES 303-310. In force.

As to goods deposited in warehouses, see Act 2137 and Act 1782.

ARTICLES 311-319. In force.

ARTICLES 320-324. In force.

No town, province, or even the central government can borrow money or issue bonds without proper legislative enactment author-

izing the same. (2 Op. Atty. Gen. 373; *Nashville vs. Ray*, 19 Wall (U. S.) 468, 22 Law Ed. 164; *Merrill vs. Montecillo*, 138 U. S. 673; *Hill vs. Memphis*, 134 U. S. 198.

ARTICLES 325-345. In force.

ARTICLE 346. In force.

ARTICLES 347, 348. In force.

ARTICLE 349. In force.

ARTICLE 350. In force.

According to an unpublished opinion of the Attorney-General on this Article, the Insular Collector of Customs may prescribe forms of Bills of Lading for coastwise vessels.

ARTICLES 351. In force.

But see Act 1779, Section 15.

In connection with Article 366 see. *The Government of the Philippine Islands vs. Inchausti & Co.*, 24 Phil. 315.

ARTICLES 352-368. In force.

ARTICLE 369. Repealed.

The provisions of this Article have been superseded by Act 1459, Section 86, paragraphs (c), (f), (g), and Section 225, as amended by Act 864, Section 9, and Act 355, Sections 271-283.

ARTICLES 370-373. In force.

ARTICLE 374. In force.

See also Act 1459, Section 86 (g).

ARTICLES 375-379. In force.

With regard to common carriers in general see also Act 98 as amended by Act 603, Section 1.

ARTICLES 380-385. In force.

ARTICLES 386-402. In force.

ARTICLE 403. Repealed by Act 1956, Section 50 and Act 190, Sections 254 et seq.

ARTICLES 404-409. In force.

ARTICLE 410. Repealed by Act 190.

The opinions of experts are only a matter of evidence, and the court may base its judgment upon them or wholly disregard them and decide as may be just and equitable according to the fact and law in the case.

ARTICLES 411-415. In force.

ARTICLES 416-423. In force.

ARTICLE 424. In force, except as to No. 1, which has been modified by the change of sovereignty in the Philippine Islands; the phrase "Philippine Islands" should be substituted for the phrase "Spanish provinces of Oceania."

ARTICLES 425-431. In force.

ARTICLES 432-438. In force.

ARTICLES 439-442. In force.

ARTICLE 443. Modified by Act 2031. Bills of Exchange are now governed principally by the provisions of the new Negotiable Instruments Law, and by those provisions of the Code of Commerce which are not expressly or impliedly repealed or covered by the provisions of that Act, or which are not directly in conflict with it.

ARTICLE 444. It is the same as provided by the Negotiable Instruments Law, except as to the "power of attorney" clause. Section 19 of the said Act 2031 provides that the signature of a party may be made by a duly authorized agent and that no particular form of appointment is necessary for this purpose.

ARTICLE 455. In force.

ARTICLE 446. Not in force. The provisions of this Article are now covered by the Negotiable Instruments Law.

ARTICLE 447. Not in force. The present Negotiable Instruments Law does not require that the persons signing the instrument as drawers, indorsers, or acceptors be authorized by the person or persons for whom they act.

ARTICLES 448, 449. In force. Nothing in the present law prohibits the issuance of second or third bills when properly demanded by the holders.

ARTICLE 450. Not in force. Act 2031, Sections 10, 17 (e) and 130 cover the provisions of this Article.

ARTICLE 451. The provisions of this Article, except as to No. 4, are all covered by Section 4 of Act 2031, and as to No. 6 of the same Article, see Act 2031, Section 4 (c).

ARTICLE 452. In force.

ARTICLE 453. In force.

The word "Spanish" in the second paragraph should be omitted.

ARTICLE 454. The first paragraph is repealed, but the second paragraph is in force.

ARTICLE 455. Repealed by Act 2031, Sections 85 and 86. See Act 2337, Section 1.

ARTICLES 456-460. These Articles may be said to have been partly superseded by Act 2031, Sections 61 and 127; but the provisions making it necessary for the drawer, or for the third person for whom the bill is drawn, to have sufficient funds in the hands of the drawee, and the liability of the drawer for the expenses incurred in case of the failure of the payee to collect the amount of the bill in due time, are still in force, even though there are sufficient funds belonging to the drawer, or third person for whom the bill is drawn, in the hands of the drawee; for, as Section 127 of Act 2031 expressly provides, the drawing of a bill of exchange does not operate as an assignment of the funds in the hands of the drawee and the latter is not liable thereto until he accepts.

ARTICLE 461. Modified by Act 2031, Section 30, which requires that the negotiation or transfer of a negotiable instrument is affected by indorsement coupled with delivery. According to the present Negotiable Instruments Law, not only an instrument payable to order may be transferred by indorsement, but also one payable to bearer, which is not permitted to be done by Article 466 of the Code of Commerce.

ARTICLES 462, 463. Superseded by Act 2031, Sections 23, and 31 to 50 inclusive.

ARTICLE 464. In force.

ARTICLES 465-468. Superseded by Act 2031, Sections 30 to 50, inclusive.

ARTICLE 469. Superseded by a statement of the same rule in the Negotiable Instruments Law. See Act 2031, Sections 70, et seq.; Section 143 et seq.; and Section 152.

ARTICLES 470-474. Repealed.

See Act 2031, Sections 71, 81, 144.

ARTICLE 475. In force.

Purely a question of conflict of laws.

ARTICLE 476. The provisions of this Article are covered by the provisions of Act 2031, Sections 143 and 145.

ARTICLE 477. Repealed by Act 2031, Section 132.

ARTICLE 478. The second paragraph of this Article is still in force, but the first and third paragraphs have been superseded by Act 2031, Sections 136 and 137.

ARTICLE 479. Repealed by Act 2031, Sections 139 and 141.

ARTICLE 480. Repealed by Act 2031, Section 62.

ARTICLE 481. This Article is in force except the first clause of the first paragraph, which reads: "In case the acceptance of a bill of exchange is refused it shall be protested." The provision is now covered by Act 2031, Section 152. In connection with the second paragraph of this Article, see section 158 of the said Act 2031.

ARTICLE 482. Repealed by Act 2031, Sections 144 and 152.

ARTICLE 483. Not in force.

The first paragraph of this Article has been repealed by Act 2031, Section 152 and the second paragraph by section 81 of the same Act.

ARTICLE 484. Repealed by Act 2031, Sections 131 and 167.

ARTICLE 485. Repealed by Act 2031. Section 147.

ARTICLES 486, 487. In force.

ARTICLE 488. Superseded by Act 2031, Section 71.

ARTICLE 489. In force. See also Act 2031, Section 6, paragraph (e). Ogden, in his book on Negotiable Instruments, pages 48 and 49, has the following to say regarding the provisions of the law on this particular point:

"The term money properly includes all legal tender. Though the word 'currency' includes bank-notes, which are not legal tender, yet it is held that certificates of deposit, notes, bills, bonds, checks, and the like, payable in 'currency' or in 'current funds of this state,' etc. constitute good commercial paper, and are really payable in money, as the term used is but a common expression used to indicate current legal tender.

"The property of being legal tender is not necessarily inherent in money, it generally belongs no more to inferior coin than to paper money. Legal tender is that kind of money which the law compels a creditor to accept in payment of his debt when tendered by the debtor in the right amount. Foreign gold or silver coins are not legal tender. \* \* \*

"But if the instrument is made payable in paper or currency of a particular bank, specifically and absolutely, and without reference to the currency or value of the paper, it is held not to be for the payment of money and is not negotiable.

"It has been held that it is necessary that the instrument should express the specific denomination of money when it is payable in the money of a foreign country, in order that the courts may be able to ascertain its equivalent value; otherwise it is not negotiable.

"Where an instrument is made payable generally in the money of a foreign country, without specifying the kind or denomination of the coin or money, so that payment may be made in our own coin of equivalent value as determined by the par of exchange, it is not negotiable according to a leading case in New York upon this question (33 Wend. (N. Y.) 71). This is not the invariable rule, for in a Michigan case a note payable in 'Canada currency' was held negotiable and the New York case was disapproved. (27 Mich. 195; 15 Am. Rep. 162)."

ARTICLE 490. In force.

ARTICLE 491. In force.

For the proper procedure to be followed in attaching the amount of such a bill of exchange, see Act 190, sections 431 and 432.

ARTICLE 492. In force.

ARTICLE 493. Partly in force.

The first clause of this Article which reads, "The holder of a debt shall not be obliged to collect its amount before it falls due" is still in force. The remaining portion of the said Article, referring to bankruptcy, has been repealed by Act 190, Section 524 and has never been revived by subsequent legislation.

ARTICLE 494. Partly modified.

The second paragraph has been modified by Act 2031, Section 18 which provides that only a foreign bill of exchange need be protested.

ARTICLE 495. Superseded by Act 2031, Sections 181 and 182.

ARTICLE 496. Partly repealed.

Only the first clause which reads, "The acceptor can not be forced to payment, even though the holder of the copy not containing the acceptance binds himself to give security to the satisfaction of the former," is still in force. The rest of the Article is not in force. See Act 2031, Section 179.

ARTICLE 497. Repealed.

ARTICLE 498. Repealed.

See Act 2031, Section 160.

ARTICLE 499. In force except as to that part dealing with the matter of proofs to be introduced, which is now governed by the portion of Act 190 dealing with evidence.

ARTICLES 500, 501. In force.

ARTICLE 502. Repealed.

See Act 2031, Sections 118 and 152.

ARTICLE 503. In force.

ARTICLE 504. Superseded by Act 2031, Sections 153, 154 and 155.

ARTICLE 505. Repealed by Act 2031, Section 156.

ARTICLES 506-508. Not in force.

The proper procedure in the matter of protesting the non-acceptance and non-payment of a negotiable instrument is now fully covered by the Negotiable Instruments Law, Act 2031.

ARTICLE 509. This Article may still be considered as in force in so far as it relates to foreign bills of exchange, since inland bills of exchange need not be protested for not having been accepted or paid according to Act 2031, Section 118.

ARTICLE 510. Superseded by Act 2031, Section 158.

ARTICLES 511-515. All of these Articles dealing with intervention for acceptance and payments have been displaced or superseded by the Negotiable Instruments Law, Chapters XIII and XIV.

ARTICLE 516. In force.

ARTICLE 517. Repealed.

See Act 2031, Section 152.

ARTICLE 518. Repealed by Act 190 and Act 1956.

ARTICLE 519. Partly repealed.

This Article has been repealed by Act 2031, Sections 121 and 175, with the exception of the last paragraph, which reads: "If the drawer and the indorser both should appear to make the payment, the drawer shall be preferred; and if the indorsers only should appear, the one of a prior date." This last paragraph is still in force.

ARTICLE 520. In force.

ARTICLES 521-523. Repealed.

All matters concerning civil actions are now governed by the provisions of the present Code of Civil Procedure, Act 190, and these Articles are displaced by Section 424 of the said Act.

ARTICLES 524-526. In force.

ARTICLES 527-530. In force.

The provisions of these Articles, not being especially covered by the Negotiable Instruments Law, Act 2031, must be held to be still in force.

ARTICLE 531. Displaced by Act 2031, Section 1.

ARTICLE 532. In force.

ARTICLE 533. Repealed by Act 2031, Sections 31 et seq.

ARTICLE 534. Repealed by Act 2031, Section 185.

ARTICLE 535. Repealed by Act 2031, Sections 126 and 185.

ARTICLE 536. In force.

ARTICLES 537, 538. Repealed by Act 2031, Sections 71 and 73.

ARTICLE 539. First paragraph in force. Second paragraph repealed, as the signing of the name of the person to whom payment is made constitutes sufficient compliance with the requirements of this paragraph.

ARTICLE 540. Repealed.

ARTICLE 541. In force.

ARTICLE 543. Repealed. See Act 2031, Sections 61, and 65 to 68 inclusive.

ARTICLE 543. In force.

ARTICLE 544. Repealed, except as to the particular provision regarding instruments payable to order which may now be issued and be made payable to bearer by means of an indorsement in blank as provided by the present Negotiable Instruments Law, Section 9.

ARTICLE 545. The provisions of this Article are in force except as to No. 1, which has been repealed by the Code of Civil Procedure, Section 424.

ARTICLE 546. In force.

ARTICLE 547. In force.

ARTICLE 548. In force.

ARTICLE 549. In force.

ARTICLE 550. In force except as No. 1 which refers to the names of different papers in which the notice must be published. The Official Gazette is now the official paper wherein such notices must be published.

ARTICLE 551. Modified by the Code of Civil Procedure.

**ARTICLE 552.** In force.

**ARTICLE 553.** In force.

The third paragraph of this Article was incorrectly translated and should read: "If the complainant does not wish or cannot give the security, he can request from the company or the individual debtors the deposit of the interest or dividends past due or of the capital recoverable, and to receive after the two years the amounts deposited if there be no objection."

**ARTICLES 554-558.** In force.

**ARTICLE 559.** Partly in force.

The first two paragraphs are in force, but the third, dealing with the kind of publications in which the notice shall be inserted, has now been modified.

**ARTICLE 560.** In force.

**ARTICLE 561.** In force, except as to that part which refers to the directors of the exchange of Madrid.

**ARTICLE 562.** In force.

**ARTICLE 563.** In force.

**ARTICLE 564.** In force.

**ARTICLE 565.** In force.

**ARTICLE 566.** In force. See Act 2132, extending the corporate franchise of El Banco-Español-Filipino to 25 years, counting from January 1, 1903, and also Act 1790, changing the name of said bank to that of "The Bank of the Philippine Islands."

**ARTICLES 567-572.** In force.

**ARTICLE 573.** In force.

Act 1288, as amended by Act 1900, makes it the duty of the Insular Collector of Customs to register the transfer of ownership of the vessels in the Philippine Islands.

**ARTICLE 574-577.** All in force.

**ARTICLE 578.** Repealed.

**ARTICLES 579-608.** In force.

**ARTICLE 609.** Modified by Act 780, as amended by Acts 1025; 1317, Section 1; and 1522, Section 1.

**ARTICLE 610.** In force.

ARTICLE 611. In force.

Substituting the phrase "to the United States consul" in the place of "to the Spanish consul" in the last paragraph of this Article.

ARTICLE 612. In force except as to No. 8, which has been modified by reason of change of sovereignty in the Philippine Islands.

ARTICLES 613-624. In force.

ARTICLE 625. Partly in force.

The last paragraph of this Article is no longer in force because the rule of procedure for its enforcement, as contained in the Spanish Code of Civil Procedure, formerly in force in these Islands, was repealed by the present Code of Civil Procedure. (See 4 Op. Atty. Gen. 505.)

ARTICLE 626. In force.

Act 780, as amended by Act 1025, Section 1, provides the present necessary qualifications of a person in order that he may be authorized to become a mate of a vessel.

ARTICLES 627-633. In force.

ARTICLE 634. The change of sovereignty in the Philippine Islands has necessarily modified the provisions of this Article.

ARTICLES 635-665. In force

ARTICLES 666-668. Repealed by Act 355, Sections 157, 158, 159, 161, 181, 182, 183, 184, 214, 225, and 226.

ARTICLES 669-677. In force.

ARTICLE 678. Repealed by Act 355, Sections 181 to 184, inclusive, and Section 226.

ARTICLES 679-738. In force.

ARTICLE 739. Modified.

The word "Spaniards" should read "citizens of the Philippine Islands or of the United States."

ARTICLE 740-821. In force.

ARTICLE 822. Modified.

Under the present Customs Administrative Law, Act 355, Sections 75, 103 and 104, the permission of the Collector of Customs of the port wherein the vessel is found must be requested in the case provided for by this Article; and no longer that of the judge or court of competent jurisdiction.

ARTICLES 823-869. In force.

ARTICLES 870-941. Expressly repealed by Act 190, Section 524, and later superseded by Act 1956 of the Philippine Legislature, entitled, "The Insolvency Law."

ARTICLES 942-951, 953-954. Repealed by Act 190, Chapter III. See however, *Lichauco vs. Limjuco et al.*, 19 Phil. 12, 9 Off. Gaz. 902.

ARTICLE 952. In force.

See *The Government of the Philippine Islands vs. Inchausti & Co.*, 24 Phil. 315.

ARTICLE 955. Partly repealed.

International Law recognizes such suspension of action of the periods fixed by law without the necessity of any official order.

With regard to the provisional regulations for the organization and government of the Commercial Registry and Exchange, they must be held not to be in force here, for, as a matter of fact, their provisions have never been extended to the Philippines, not even during the Spanish sovereignty. In *Kerr vs. Cauden*, 6 Phil. 732, as affirmed by United States Supreme Court in a decision rendered on February 19, 1912, it was held that the laws of Spain did not have force in the Philippine Islands unless they were expressly extended to them.

# PHILIPPINE LAW JOURNAL

Published monthly, August to April, inclusive, during the academic year by the alumni and students of the **College of Law, University of the Philippines.**

Subscription -P- **4.00 & 5.00** per annum. Single Numbers **.75** Supplement **.80**

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## OUR POLICY

A few words as to the scope and purpose of this magazine may not be amiss, as they will serve to outline the intentions of those who are responsible for its publication.

The Philippine Law Journal has for one of its purposes the solidification of the interests of the alumni and the student body of the College of Law of the University of the Philippines. By bringing to the attention of the graduates questions that they are in a measure qualified to answer, and by emphasizing for the undergraduates the various points which have helped to make the work of the alumni efficient the Journal will serve to make the alumni and undergraduates mutually helpful. There are various items of college interest which appeal to the alumni, and these should help enlarge their love for that institution from which they have been graduated.

The public also should be considered, as it is the public that supports the College of Law. Consequently each month during the present year there will be published a picture of some prominent member of the Bench or Bar, together with a brief account of his life; next year it is hoped to describe legal institutions, and the year following to give biographies of private practitioners. Leading articles by men who have gained distinction in the practice of law, comments, review of cases, supplements that will take the place of texts,—these are but samples of the material which will be published during the college year by the Philippine Law Journal. The material so issued will be available to the public in the best form at the lowest cost.

With these purposes in mind, the Philippine Law Journal makes its appearance before the bar of public opinion. The combined product of the students, the alumni, the faculty, and the legal profession of the Philippines, constituting the material which will find its way into the columns of this publication, deserves consideration from all.

*Victoriano Yamzon,*  
Acting Managing Editor.