

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

Students P4.00 per annum; all others P5.00. Single numbers 75 ctva.; Supplements 60 ctva.

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NOTE AND COMMENT

PUBLIC EDUCATION IN THE UP-BUILDING OF OUR COUNTRY

AN ADDRESS DELIVERED BY HON. GREGORIO NIEVA BEFORE THE STUDENTS OF THE PHILIPPINE NORMAL SCHOOL ON NOVEMBER 14, 1914.

Ordinarily this magazine only concerns itself with legal subjects. However, the fact that many of our readers are connected with the educational service, permits us to present a noteworthy public address on education by Hon. Gregorio Nieva.—*Ed.*

It is a common belief that the building up of a country is the exclusive work of politicians.

Commissioner Quezon, in his message to the Speaker, of October 22, 1914, on the congratulations of the Assembly for the splendid work of our Resident Commissioners in Washington, and on the success of the Jones Bill in the House of Representatives of the United States, said in part: "The rapid progress which our cause is making is not entirely due to any one man or group of men. Every Filipino does his part in this great work of emancipation while engaged in his daily labor and discharges the duties of citizenship. The wise and orderly exercise of

popular franchise, and the maintenance of peace have been our greatest assets." It is not, therefore, the privilege of any but the duty of every citizen of the Islands, young and old, rich and poor, men and women alike, creditably to do his or her share in the common task.

With the advent of Governor-General Harrison, a new era was initiated. It provoked every fear; it provoked every pessimistic criticism on the part of those who do not believe in our possibilities. To our fortune, however, not the least difficulty was met in its materialization; fears and criticisms proved unjustified. And, following that step which created a Filipino majority in the Philippine Commission, and which looks as if about to come to a successful finish to make room for another step, a still newer era is coming, fuller of greater responsibilities, bearer of greater qualifications for our people, which we all should be ready to meet, adequately and honorably. I mean the Jones Bill.

But can we really be independent? Have we actual potentialities for it?

As to our political ability, suffice it for me to quote what Commissioner Quezon went on to say in his cablegram to Speaker Osmeña which I mentioned above:

"The ability of Filipino officials in every branch of the Government; the patriotism and statesmanlike conduct of the Assembly since its inauguration; the notable achievements of the Legislature since its filipinization; and, lastly but not least, your wonderful ability and loyalty to your people as their foremost leader; and the untiring efforts of our Governor-General to present us before the American people as we really are; and his earnest indorsement of the Bill, together with that of his American associates in the Commission; these are the factors that are bringing about results."

As to our physical possibilities, God has liberally provided us with soil that is not only rich in itself, but still much richer because of the unlimited mineral resources it everywhere contains. Gold abounds in many places; iron of the finest kind is available in quantities much larger than the whole world's need at all times; copper also in similar quantities; silver, coal, oil, and almost all the raw materials a nation needs to supply its home and export industries, and the elaboration of its effective defence. And yet we are unable to develop them, not because we have not the potential power to do it, but, chiefly, because we have not the scientific training for it. It is sad so to say. But I feel I must speak thus to you.

Our rice that formerly was exported even to England at rates higher than those for the Saigon and Rangoon rice, is not now enough to supply even local consumption; our excellent Lipa coffee is dead; our cacao is

almost dead; and yet we have right at our command, in the majority of cases still untouched, soil that would produce millions of pesos of rice, coffee, cacao, both for home use and for export, with great ease.

We produce coprax, but bad coprax: our hemp is in danger of being shut out in countries to which we export it. It was almost dead before the Mexican and European wars.

Thus we are losing hundreds of millions of pesos that could produce other millions, that could be saved, kept, and used in the development of the country, through the lack of scientific industries, through the avoidable importation of staple products that can be raised here, and through the inferior prices of our exports.

Why?

Of course, there are many factors to which it may be attached. But chief among them is our lack, until very recently, of even a reasonable portion of control of our own affairs, the way we were accustomed to see our collective needs, our own personal want as against that of our community. We believe in the study of law, of medicine, of pharmacy, and for lower government positions, as the best suited to our own case. But legal or medical training, and government positions alone, are not the salvation of the country.

However, I want to emphasize the fact that it is not our fault. It is simply the work of the education we inherited. During the past régime, the highest ideal in education was to be a lawyer, or doctor, or pharmacist, or priest. There were occasional engineers. Pen work, dogmatic, idealistic discussions, were indulged in; but manual, or industrial, or agricultural work was considered as degrading, and business, the real business that enlivens and maintains a country, was left with men who hardly had a college or even a primary education, and who had to depend upon their intellectual gifts with which nature was so liberal as to endow them. The country gentleman was almost ignored or unknown. It looked as if the successful handling of commerce, of industries, of agriculture needed not the blessings and light of scientific education.

Outside of this, therefore, our education was rather changeless.

At present it looks better, the chances are better, but the portion of young men who take up courses in law and medicine, is still considerably greater than those in engineering and applied sciences. Only thirty-one, as against thousands in other courses, are taking engineering.

Law and medicine are not bad things. We need them. We need good lawyers for an impartial and fair administration of justice and for the safe framing of laws. We need good doctors to take charge of public health and sanitation. But, with lawyers and doctors, we need highly

qualified engineers, miners, scientific farmers, scientific manufacturers, technical men for scientific industrial undertakings by ourselves, for which funds can be secured in the country, and for which there is a public spirit, though rather dormant because of repeatedly discouraging experience but which still can be encouraged by honest, really brainy scientific men.

As to funds, from our copra alone, though poor in quality, we receive every year about 50 million pesos. Just imagine the astonishingly increasing thousands of high grade automobiles that threaten to tax our thirst for luxury to the limit, the value and upkeep of which would be enough to finance two or even four modern oil mills, or two to ten agricultural banks in the provinces that would profitably relieve provincial farmers from the dreadful grasp of usurers.

Don't you feel sorry to see the big business of the country in the hands almost exclusively of foreigners? Don't you feel sorry to see our one-centavo traffic in the hands almost exclusively of Chinamen? Filipino shipping is unknown abroad, and the worst of it is that the best of interisland transportation, of the coastwise traffic, is not ours. Still the worst of all of it is that yet we do not practise an effective Filipinism. Then, what is the amount of business left to us? By this I do not mean to encourage "exclusivism." I simply mean to note that in our own country we are being driven out of business where we should by right predominate.

We have to wake up, see the facts as they really are, admit them, remedy them. And to remedy them we have to make an educational revolution; we have to revolutionize the very foundation of our social institution. It would be useless to proceed otherwise, for talk is but talk, and the fact is that inadequately educated people cannot expect but an inadequate community life, poor and financially slaves amidst wealth, weak with power in hand, blind in the possession of sight.

This ought to be the aim of our whole public educational system.

To a new era must necessarily correspond a deeper national feeling, a quicker universal response to the national note, newer educational principles. In this way Germany accomplished her wonderful growth in science, industry, and commerce, that enabled her to develop her resources to the utmost, to defy the whole world for the supremacy of her ruling. From her wonderfully coercive system of public education emerged the united German Empire, her powerful army and navy, her "Vaterlands," her world-wide commerce, her overwhelming industries, the national thrift, and that great principle, "Germany first, and Germany all the time." In this way China is feeling the thirst for modern educa-

tion, to receive which she is training one million modern teachers, and demolishing ancient classic halls to build in their stead splendid universities and normal school buildings, notwithstanding the almost bankrupt condition of her treasury. In this way is national consciousness developing and penetrating the Chinese masses from which a greater and powerful China will surely emerge to be a positive factor in an Oriental Federation.

Does our educational system fill these new requirements? Is our Bureau of Education solid enough to meet them? Are its officers, are its teachers loyal to the people's needs? Are they heartily identified with such needs? Is our University capable of properly equipping our youth for the intelligent and systematic development of the country?

This would be worth while carefully investigating. Fully six million pesos of the people's money is annually appropriated for educational purposes, and, as in business, the people are justified in knowing whether the investment is good. The people must have their say from a thorough knowledge. Superbly printed and bound annual reports are not enough. They are sometimes misleading.

And this should also be applied to private institutions of learning. They also must come up to the standard.

I believe, therefore, that we have all the potentialities necessary for an independent Philippines. All we urgently need is scientific training to develop them, and this must come from a thoroughly scientific, practical systematic public education which, at the same time, will be the best promoter of national unity and consciousness, and the only logical source to furnish intelligent toilers for the up-building of the country.

As to absorption of the Philippines by some other power, possibly Oriental, notwithstanding all dangers seemingly in sight, I doubt if it will ever happen.

A burning patriotism is startlingly spreading all over the Orient and an intellectual awakening is now forcefully shaking the East.

I do not think it unreasonable to expect that Japan will fully appreciate this burning nationalism, noticeable everywhere in this quarter of the Globe, from Tokyo to Calcutta, from Shanghai to Constantinople, from Seoul to Bombay, and realize her position to head pan-orientalism, to help establish oriental hegemony, to lay the foundation of the United Orient. China is still unabsorbed, and her national history unbroken for four thousand years.

Commerce is often the cause of wars. But is not the world open to traffic as one single market where all sound goods may be bought and sold, no matter what their hands may be, whether made in the United

States, in England or in Germany? It is simply a matter of which is best for the buyer, for you cannot compel the buyer to buy the worst. The fight should, therefore, be only in the production of the best.

But this is not yet the case, unfortunately, as in the present European conflagration, international relations are still governed by that old, barbarous code, the latest 1914 edition of which is the sixteen inch gun with Turpinitic explosives.

Still, I hope that when the education of the masses shall have been completed; when the governments shall have been democratized; when the people of all countries shall have fully understood that government is for their own convenience, for themselves and by themselves; when the true relations between peoples and governments shall have been made clearer; when undemocratic crowned heads are no more, "even the last Monjiek" no longer the Czar's; when the beautiful example set by the United States where States are as independent one from the other as France is from England, and still federated for one common purpose, shall have been followed by the rest of the world, then wars shall be no more, and Federation of mankind shall be a fact. War is, after all, but refined savagery, and can only be eradicated by consciously and loyally educating the masses.

Let us all hope for this, and try that our public education shall thus quickly become the working basis for the up-building of our country, shall create a clearer, uniform conception of our national duty, a stronger, enlightened manhood and womanhood, and shall bring about a greater, united Philippines.

Your country first, and your country all the time!

LIFE SKETCH OF HON. JOSE CONRADO HERNANDEZ, CHIEF JUSTICE OF THE SUPREME COURT OF PORTO RICO.

"Honorable José Conrado Hernandez was born in Aibonito, Porto Rico, on February 19, 1849, and attended the public schools in said city, and afterwards entered the Jesuit College at San Juan, and in 1865 graduated as Bachelor of Arts. He then went to Spain and entered the University of Salamanca, where, in 1873, he obtained the degree of licentiate in civil and canon law, and afterwards received the degree of Doctor of Theology in the Salamanca Central College. Soon afterwards he returned to his native country, and in 1874 was admitted to the bar by the Audiencia Territorial de Puerto Rico (highest court in the island). In the same year he was appointed acting judge of first instance at San German, and in 1875 was transferred in the same capacity to Arecibo, Porto Rico. From 1877 to 1880 he was assistant attorney in Humacao,

and he then entered the judicial career of Spain, and was afterwards appointed acting judge of San German, Mayaguez, and Guayama, respectively. From 1880 to 1883 he was judge of first instance at Aguadilla; Judge of first instance at Mayaguez from 1883 to 1884; assistant prosecuting attorney in San Juan from 1884 to 1888.

"He was then transferred to Cuba as judge of first instance of Santiago de Cuba from 1888 to 1889; and associate justice of the district court of Pinar del Rio Cuba, from 1889 to 1890, and the associate justice of the criminal district court of Santa Clara, Cuba, from 1890 to 1891.

"He was then transferred to the Philippine Islands, and served from 1891 to 1893 as associate justice of the territorial court of Cebu; prosecuting attorney of the territorial court of Vigan from 1893 to 1894; and associate justice of the territorial court at Manila from 1894 to 1898. In 1898 he was appointed by the Spanish government associate justice of the territorial court of Porto Rico, and in the same year, after the change of sovereignty in the island of Porto Rico, he was appointed by the American military government presiding justice of one of the departments of the Supreme Court of Porto Rico, which position he held until 1899, when he was appointed associate justice of the newly created Supreme Court of Porto Rico, and, after the enactment of the Foraker act, he was reappointed by President McKinley associate justice of the Supreme Court of Porto Rico, and on April 24, 1909, was appointed by President Taft chief justice of Porto Rico in lieu of the late Mr. Chief Justice Quiñones.

"During his stay in the Philippine Islands, Mr. Chief Justice Hernandez was especially assigned by the Spanish government to the investigation and prosecution of the treasurer and certain officials of the Treasury Department of said Islands for embezzlement, and he was also especially assigned to the investigation of charges brought against General Junquera, then governor of the Island of Cebu. Mr. Chief Justice Hernandez has been the only Porto Rican who has held the position of associate justice of the territorial court of Porto Rico (according to the Spanish law an associate justice of the territorial court could not act as such within the judicial district wherein he was born.) Chief Justice Hernandez has dedicated all his life to the noble functions of administering justice, and now holds the position of Chief Justice of Porto Rico."—
(From Case and Comment for September, 1914, pp. 346, 347.)

ARE THERE TOO MANY LAWYERS IN THE PHILIPPINES?

There is prevalent an impression that the country is being crowded with lawyers. A slight comparison of figures with the number of lawyers

in several states and cities of the United States will consequently be of interest and may possibly disabuse this notion. (See American Law School Review for November, 1914; pp. 562, 563.)

Up to the present date, 1,013 lawyers have been admitted to the bar, by the Supreme Court of the Philippines. The records show that 55 of these are dead, or a total remaining of 958, many probably not in practise. If the Philippines has a population of 8,000,000, there is a lawyer for every 8,351 inhabitants. The United States has one for every 856. In North Carolina where the proportion of lawyers to the population is the smallest, one may be found for every 1690, while in Nevada there is one for every 280, and in the District of Columbia one for every 218 of its inhabitants.

In the City of Manila, there are 231 practising attorneys. With a population of approximately 280,000, it has a lawyer for every 1,212 persons. Contrast this with Washington, D. C., where there is a lawyer for every 211 persons, with Seattle, Wash., with one for every 248, and with Newark, N. J., enjoying the service of a lawyer for every 896 of its population.

With these figures in mind, is the common statement that the Filipinos are a nation of lawyers true? Or to end as we began—ARE THERE TOO MANY LAWYERS IN THE PHILIPPINES?

NEW OFFICERS FOR THE PHILIPPINE BAR ASSOCIATION

The Philippine Bar Association has elected the following as its officers for the ensuing year: Judge A. S. Crossfield, President; Arsenio Cruz Herrera, First Vice-President; George A. Malcolm, Second Vice-President; Ramon Diokno, Secretary; José Arnaiz, Treasurer. It is planned to open commodious headquarters in Plaza McKinley, Intramuros.

RECENT CASES

DECIDED BY THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

LAWS RELATING TO THE ARMY: THEIR APPLICATION IN THE PHILIPPINES.—Laws for the creation and maintenance of the army, not specifically limited to certain districts, are of nation-wide application and extend to all territory under the jurisdiction of the United States. Subsequent laws of Congress organizing territorial governments do not repeal such laws by implication. Section 3748 of the Revised Statutes has force and effect in these Islands, notwithstanding the fact that section 1891 of the Revised Statutes, providing for a blanket extension of the Constitution and laws of the United States to all territories, is made inapplicable to the Philippine Islands by section 1 of the Act of July 1, 1902. The purpose of this section was solely to permit the establishment of a form of territorial

government better adapted to conditions here. Such object did not conflict with the subject matter of section 3748. To hold section 3748 of the Revised Statutes without effect here would equally involve other general legislation relating to the Army which has never been specially extended to these Islands, as for instance, the Articles of War. (*Tau Te v. J. Franklin Bell et al.*, R. G. 8866, decided November 19, 1914.)

CHATTEL MORTGAGE: WHEN VALID AS TO THIRD PERSONS.—The Chattel Mortgage Law distinctly specifies that a valid mortgage is created in only one of two ways: either by the delivery of the property to the mortgagee, or by the registration of the mortgage in the chattel mortgage registry. (Sec. 4.) Unless and until one of these requisites has been complied with, the property is liable to seizure and sale under execution to satisfy a judgment subsequent in point of time to the date of the mortgage contract. *Per Moreland, J.* concurring: "It is not necessary to begin an action in order to foreclose a chattel mortgage. The mortgagee can foreclose by causing the property therein described to be seized *by virtue of the mortgage itself* and sold at public auction in the manner described by section 14 of Act 1508. (*E. C. McCullough & Co., Inc. v. Zoboly.*, R. G. 9299, decided November 3, 1914.)

CONFESSION AND ADMISSION IN CRIMINAL CASES.—A confession, as distinguished from an admission, is a declaration made at any time by a person, voluntarily and without compulsion or inducement, stating or acknowledging that he had committed or participated in the commission of a crime. The term admission, on the other hand, is usually applicable in criminal cases, to statements of fact by the accused which do not directly involve an acknowledgment of the guilt of the accused or of criminal intent. The reason for the rule excluding evidence as to confessions except if freely and voluntarily made does not apply in cases of admission, although, of course, evidence of the fact that a particular statement was made under duress would tend very strongly to destroy its evidentiary value. There is no provision of law requiring confessions or admissions to be under oath. (*United States v. José Corrales.* R. G. 9230, decided November 10, 1914.)

NATURE AND EVIDENTIARY VALUE OF "POSSESSORY INFORMATION" (INFORMACION POSESORIA).—"Possessory information" were *ex parte* proceedings had before a Judge of First Instance or a justice of the peace, wherein one in possession of real estate, claiming the right to possession, was permitted after notice to the adjoining land owners to set forth the fact that he was in actual possession of such real estate and the nature of the title under which he claimed the right of possession, and to call such witnesses and to produce such evidence in support of his claim as he thought necessary and proper. If approved by the judge

he orders that they be registered "without prejudice to third persons having a better right in the premises." When executed in due form, they furnish, at most, *prima facie* evidence of the fact that at the time of their execution, the claimant was in possession, claiming the right to possession as set forth in his application. (Article 394 of the Mortgage Law.) Provision is made whereby the possession evidenced by a registered possessory information may ripen and be converted into a record of ownership after twenty years of uninterrupted possession have elapsed from the date of the entry. (Article 393 of the Mortgage Law), but the title thus secured is no more than a statutory title by prescription. (*The Roman Catholic Bishop of Nueva Segovia v. Municipality of Bantay*, R. G. 8759, decided November 7, 1914.)

NEGLIGENCE OF SHIPPERS WITH REGARD TO PERSONAL BAGGAGE.—One of the conditions printed in the tickets issued by the defendant company was that it "will not hold itself responsible for any loss or damage to or detention or over-carriage of Luggage, under any circumstances whatsoever unless it has been booked and paid for as freight." Held, that following *Price & Co. v. Union Lighterage Co., King's Bench Division*, 1903, Vol. 1, p. 750, unless the contract of exemption specifically refers to exemption for *negligence*, it will be construed as simply exempting the carrier from his liability as insurer, in other words, from his common law liability as carrier. (*Allan A. Bryan et al. v. Eastern & Australian S. S. Co. Ltd.*, R. G. 9403, decided November 4, 1914.)

UNLAWFUL SEIZURE OF OPIUM WITH INTENT OF GAIN BY PUBLIC OFFICERS.—Although the subject matter of the robbery is an article, the importation, use and possession of which is prohibited by the laws of these Islands and as such the lawful authorities are charged with the duty of prosecuting those persons violating the law, yet where it is clearly proven that the seizure of the opium was done by the government authorities with decided intention of gain and not in order to comply with the duty imposed on them by the law and where violence and intimidation were used against the person found to be in possession of the opium, the crime of robbery, defined and penalized by articles 502 and 503 of the Penal Code has been committed by the officials concerned, who on such occasion acted not in their public capacity but as private individuals. (*Jwid States v. Sana Lim et al.*, R. G. 9604, decided November 19, 1914.)

COMMUNITY PROPERTY; ISSUES INVOLVED IN THE ACTION OF PARTITION.—In an action of partition of community property, it is presumed that the parties are all joint owners of the undivided property which is the object of partition. Consequently the plaintiff must necessarily be a co-owner of the undivided property and in such an action the main

issue is not the joint ownership of the parties nor whether or not they own the property but the questions to be decided are how, in what manner and in what proportion the property shall be distributed by judicial decree to the interested parties. (*Romualda Tambis et al. v. Nicolas Tambis*, R. G. 9100, decided November 3, 1914.)

DAMAGES FOR BREACH OF CONTRACT; RENEWAL CLAUSE CONSTRUED.— In a contract between the plaintiff and the defendant Hotel Company, the plaintiff was given the exclusive right to serve the patrons of the defendant with five passenger automobiles for a period of one year "with preference over others of renewing for a further period of one year." Held, that the contract gave the plaintiff a right to renew and that the stipulation for a renewal did not contemplate any term other than or different from those embraced in the contract to be renewed; and that by entering into another contract and evicting the plaintiff from the premises the defendant violated its obligation to grant the plaintiff a renewal of his contract for a second year. As to the alleged waiver by the defendant of his right to renew, the court held that, when a person, who is under obligation to another to perform certain acts upon the demand of that person, repudiates that obligation prior to the time when the demand for its fulfillment is necessary, the person to whom the obligation runs is not required to sit down, fold his hands and calmly await the disaster which the violation of the obligation entails. Under such circumstances, he is entirely within his rights when he seeks other employment of any kind or attempts to make other arrangements relative to the same subject matter, even with the person or corporation which owed him the obligation repudiated, if his purpose is clearly to protect himself against the result of the repudiation of the contract. With regard to the question of damages the court said: "It is the practice of this court, in case of reversal of a judgment dismissing the complaint on the merits, to examine the evidence and enter or order entered the judgment which the inferior court should have rendered; and, where the action is for a sum of money or damages, to find from the evidence the amount due or the damages suffered and to render or order the trial court to render judgment for that amount. (*W. E. Hicks v. Manila Hotel Company*, R. G. 9973, decided November 6, 1914.)

DECIDED BY THE SUPREME COURT OF SPAIN

PURCHASE AND SALE; VENUE.—In the absence of stipulations in the contract of commercial purchase and sale, and when the goods are not sent at the risk of the buyer, the court of the domicile of the latter takes cognizance of the matter, in accordance with articles 1171, par. 3, and 1500 of the Civil Code. (*Sentencia de 26 de Septiembre de 1913, 16 de Abril*

de 1901, 17 de Diciembre de 1904, 12 de Marzo de 1907 y 13 de Agosto de 1910.)

If the goods sold are sent at the account and risk of the buyer, they are presumed to be delivered in the domicile of the vendor; this being the place of payment according to article 1500 of the Civil Code. (*Sentencia de 27 de Septiembre de 1913, 14 de Febrero de 1900 y 19 de Julio de 1907.*)

RECIPROCAL OBLIGATIONS; PENAL CLAUSE; RIGHT TO RESCIND.—An electric Company agreed to furnish current to a mining Company, stipulating that before any of the parties could rescind the contract eight months notice must be given to the other party, during which period the parties must comply with their mutual obligations. It was further agreed that the electric Company would pay a specified amount, as an indemnity, for each day in which it failed to furnish the current for any cause whatever, except *force majeure*. On the refusal of the Mining Company to pay the agreed price, the electric Company cut the supply of current. The Supreme Court of Spain held that the Electric Company was liable for the indemnity agreed, declaring that article 1124 of the Civil Code does not apply where the absolute will of the contracting parties is clearly against it. The Electric Company could bring an ordinary action in court against the Mining Company to recover the price of the current (*Sentencia de 21 de Noviembre de 1913*). In accordance with article 1152 of the Civil Code and following the *decisions of February 9, 1906, March 24, 1909 and June 13, 1906* the court held the indemnity agreed as a penal stipulation, which constitutes the damages recoverable by the Mining Company.

INTERPRETATION OF WILL; ACKNOWLEDGMENT OF NATURAL CHILD; CONFLICT BETWEEN THE WILL AND INCONVERTIBLE PAPER OF ACKNOWLEDGMENT WRITTEN BY TESTATOR.—A person promises in a letter written by him to acknowledge in his will a natural daughter. In the will he declares to have no descendants whatsoever and makes his brothers and any other person who, with a *just title* (*justo titulo*), alleges any right in the inheritance, his heirs. The daughter by the letter referred to was judicially declared to be an heiress. In an action to annul the will, the court held that the testator having entirely disregarded the daughter in the will, the same is declared null and void and the daughter succeeds as in intestate estate. (*Sentencia de 29 de Octubre de 1913.*)

AGREEMENT TO SUBMIT TO ARBITRATORS DIFFERENCES ARISING FROM A CONTRACT.—By a public document a mercantile partnership was organized and the partners agreed to submit any difference arising from the interpretation of the partnership contract to the judgment of three friendly arbitrators. The court held, when a question arose, that the will of the

parties should govern, and that the decision can *only* be given by the arbitrators designated. (*Sentencia de 3 de Enero de 1914.*)

DECIDED BY STATES COURTS OF THE UNITED STATES.

LIABILITY OF NEWSPAPER FOR PUBLISHING INCORRECT REPORT OF JUDICIAL PROCEEDINGS.—The Supreme Judicial Court of Massachusetts has recently held the publisher of the *Boston Post* liable in damages to the plaintiff for publishing in that newspaper a paragraph to the effect that the plaintiff had been indicted by the grand jury, when, as a matter of fact, the person indicted was a different person having a similar name. And it was held immaterial that the defendant exercised reasonable care and diligence in endeavoring to ascertain the truth of the paragraph before publishing it. (*Sweet v. Post Pub. Co.*, 102 N. E. Rep. 660.)

A SERMON FROM A SUPREME COURT.—Recently the Supreme Court of Florida found itself confronted with a transcript of the record which contained 2,277 typewritten pages. It was also favored with briefs by the respective parties, containing in the aggregate 517 typewritten pages. (*Mitchell v. Mason*, 61 Southern Rep. 580.)

"We mention these things," said the Chief Justice, "in order to show something of the labor which has devolved upon us and the amount of time which the mere physical act of reading these documents must necessarily require. We would again call the attention of the members of the bar to what we said in *Seaboard Air Line Ry. v. Rentz* as to the object of judicial proceedings, and, though in that case we were speaking of the pleadings in an action at law, much of what is said applies with equal force to a suit in equity. We would specially like to impress upon them what we said as to the respective duties and relations of the members of the bench and bar, and as to the necessity for their co-operation in order that justice may be administered—the purpose for which courts of justice exist. Counsel should never allow their zeal in watching over and protecting the interests of their clients, which in itself, is most commendable, to cause them to lose sight of the fact that they are officers of the court, and that as such officers they owe certain duties to the court. They should strive to render the members of both the *nisi prius* and appellate courts all possible assistance in discharging their arduous duties, and should be careful not to impose unnecessary burdens upon them. We would earnestly insist that the members of the bar heed the admonitions and suggestions contained in the cited case, as by so doing they will materially aid the courts in the disposition of business. We would also call the attention to what we said in *Padgett v. State*, 59

Southern Rep. 946, as to proper preparation of transcripts and briefs, specially as to the avoidance of redundancies and repetitions in the transcript, which we find characterizes the instant case, as was true of the cited case. As we said in *Atlantic Coast Line R. Co. v. Whitney*, 61 Southern Rep. 179, decided here at the present term: 'Again and again we have expressed our disapproval and condemned the practice of assigning a large number of errors and stated why such a course was reprehensible and wherein it tended to hinder, delay and make difficult the administration of justice.' See the decisions of this court there cited. In *Hoopes v. Crane*, 56 Flo. 305, 47 South. 992, we said: 'That any one of the circuit judges in this state would commit 61 separate and distinct errors in the trial of a cause is rather a violent presumption, to say the least of it. Even if such should be the case, it would hardly be necessary to assign every one of such errors in order to secure a reversal from this court.' Yet in the instant case the appellant would have us believe that 108 errors were committed, which, if true, is most remarkable. We have read the voluminous transcript and briefs and have considered the assignments which have been urged before us but we find it necessary for a proper disposition of the case to treat very few of them. Our experience has been that, as a rule, only a few points are presented on any appeal or writ of error that are really necessary to be determined. It is safer and better for an appellate court to confine itself to such vital points."

CONSTITUTIONAL LAW; BILL BOARD ADVERTISING; POLICE POWER.—An act authorizing cities and towns to regulate outdoor advertising provides that it shall not apply to advertising located upon private property and relating exclusively to the business conducted thereon or to advertising in or upon the cars or station of any common carrier. *Held*, That as other laws regulating unsafe buildings, applies to advertising matter thereon, the law was not invalid as unreasonable class legislation; advertising matter on private property being governed by the building laws.

Both the general laws and the ordinance enacted thereunder, which regulate outdoor advertising, prescribing the size of the billboards and the advertising matter which may be posted thereon, are enacted to safeguard public health, safety and order.

Ordinances provide that advertisements of intoxicating liquors shall not be permitted within 200 feet of schools, that billboards upon or over the roof of buildings in the first or closebuilding district shall be of incombustible material and shall be placed so that they shall not be likely to fall in the street if blown down, that no such billboard shall be more than 9½ feet high or 11½ feet high if upon supports, nor more than 20 feet in length, that open spaces at least two feet wide shall be left at the

ends, that they shall be constructed so that firemen will have reasonable access from the street; that no billboard attached to the ground which is more than 6 feet in height and which is not securely fastened to a building or nondecaying support, shall be nearer the street than a distance equal to its height, that such billboards shall not exceed 36 feet in length with an open space of two feet between any two such billboards, and that no immoral advertising shall be displayed. *Held*, That the ordinance was a reasonable exercise of the police power and hence did not violate the Constitutional prohibition against deprivation of life, liberty or property except by the law of the land, for the terms *due process of law* and *law of the land* are synonymous and mean "in the due course of legal proceedings according to the rules and forms which have been established for the protection of private rights," and it is well established that all persons hold property subject to the police power of the state. (*Horton v. Old Colony Bill Posting Co.*, 90 Atl. Rep. 823, decided by the Supreme Court of Rhode Island, June 26, 1914.)

ALUMNI

(Alumni are requested to contribute to this department.)

JOSE A. ESPIRITU, 1913 Law	<i>Editor</i>
<i>Board of Directors, College of Law Alumni Association</i>	
MANUEL A. ROXAS, 1913 Law	<i>President</i>
H. LAWRENCE NOBLE, 1914 Law	<i>Vice-President</i>
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AURELIO A. TORRES, 1914 Law	<i>Member</i>
JOSE YULO, 1914 Law	<i>Member</i>

Jorge B. Vargas has of late been the recipient of numerous letters from the members of the bar, felicitating him on his article on Prescription, which appeared in our last two issues. One of these letters runs as follows:

MANILA, P. I., November 5, 1914.

My dear Sir:

I do not know that I have ever been fortunate enough to meet you but notwithstanding this fact I cannot refrain from congratulating you on your article in the Law Journal on the subject of Prescription and Limitation. I have pasted it in the back of my Code of Civil Procedure for future reference.

Very sincerely yours,
(Signed) W. A. KINKAID

Mr. Jorge B. Vargas,
Manila, P. I.

NEWS FROM THE CLASSES.

1913

Eulogio Benitez can be addressed at Washington, D. C., care of Commissioner Quezon.

William C. Brady had the honor of having his thesis published in the last number of the Philippine Law Review.

1914

Eusebio Lopez is practising in Batangas. He may move to Manila
Alexander Reyes is associated with Delgado & Delgado, Manila,
in the practise of the law.

COLLEGE NEWS

VICTORIANO YAMZON, Senior

Editor

Student Council

THE DEAN, College of Law,	<i>Chairman ex-officio</i>
JOSE TEODORO, President of the Senior Class,	<i>Chairman pro-tempore</i>
LORENZO CAMPO, Representative of the Sophomore Class,	<i>Secretary</i>
AURELIO A. TORRES,	Representative of the Alumni
JACINTO KAMANTIGUE,	Representative of the Senior Class
JOSE GIL,	President of the Junior Class
VICENTE VARELA,	Representative of the Junior Class
PEDRO YLAGAN,	President of the Sophomore Class
JOSE MELENCIO,	Representative of the Freshmen Class
PAULINO GULLAS,	Chancellor, Philippine Barristers
PROCESO SEBASTIAN,	Master Musician, College of Law Musical Club
MARCELIANO MONTEMAYOR, Board of Control, University Athletic Association	

ANNUAL DANCE A SUCCESS

It was altogether a successful dance which the students and the faculty of the College of Law gave on the evening of November 7th, at the Hotel de France, in honor of President and Mrs. Bartlett, Justice and Mrs. Johnson, and City Attorney Escaler. A reception was held previous to the hop, at which numerous ladies were present. Dancing was indulged in until a late hour.

BARRISTERS HOLD ELECTION

The Philippine Barristers held their election of officers for the second semester on November 21. The following were elected; Fabian de la Paz, chancellor; Gabino Yap Chiangco, vice-chancellor; Alejo Labrador, secretary; Felipe Ysmael, treasurer; Exequiel Santos, bailiff. Paulino Gullas, Jose P. Melencio, and Jesus de la Rama were chosen to represent the society in its debate with the Seniors.

NEWS FROM THE CLASSES

The Freshmen met at the Dimas Alang Restaurant on the evening of Thanksgiving Day to celebrate their victory over the rest of the classes of the College in the athletic meet. To say the least, there was much oratorical effusion at the end of the spread. Manners, Pargas and others were extolled. Mr. Espiritu of the Law faculty was present.

The Seniors are not all fortunate, the examinations making it necessary for several of them to be classed as members of the graduating class in 1916. And so, from among the scarred veterans, they had to be content with the material they could get for officers to act as committeemen for the various activities previous to graduation. The committees are: Memorial—Messrs. Natividad, chairman, Nepomuceno, Clemeña; Ways and Means—Messrs. Paredes, chairman, Luna, Villanueva; Class Tree—Messrs. Jamison, chairman, Quirino, Padilla; Social—Mr. Montinola, chairman, Miss Legaspi, and Mr. B. Tan. Other officers are: Miss Legaspi, historian, and Mr. Quirino prophet. Felipe Estella, Gaudencio Garcia and Victoriano Yamzon were chosen to battle with the Barrister trio for the Del Pan Debating Cup. The office of orator will be left vacant until the results of the oratorical contest are known.

FRESHIES CAPTURE PENNANT

Again the unexpected happened—the pennant goes to the Freshman class! The Seniors, reserving their strength and anticipating an easy “win” over the green lads, fought hard and desperately; but, to parody one of the speakers in the oratorical contest, the triumph of the Freshman class was inevitable. The following is the result of the contest:

EVENTS:	CLASSES:		
	<i>Seniors</i>	<i>Juniors</i>	<i>Freshmen</i>
Tennis	10	6	2
Tug-of-war	4	4	10
Indoor baseball	2	6	10
Volleyball	6	2	10
Back and forth relay	6	2	10
Centipede race	10	2	6
Ball throw	1	3	5
High jump	1	0	8
Broad jump	5	0	4
Shotput	1	0	8
100 yds. dash	5	3	1
50 yds. dash	1	5	3
Potato race	3	1	5
	55	34	82

SEMI-FINALS ORATORICAL CONTEST

Three Seniors, one Junior and two Sophomores, with another Senior as alternate, were the choice of the judges who heard the orations of the various class representatives on the evening of Saturday, November 28, at University Hall. The contestants were introduced by Commissioner Clyde A. DeWitt. The judges were: Hon. Anacleto Diaz, assistant prosecuting attorney, City of Manila; F. Theo. Rogers, assistant editor of the Free Press; Professor Austin Craig, University of the Philippines; W. W. Marquardt, second assistant director of education; and Arsenio Luz, managing editor of El Ideal.

The speakers for the final contest follow: Bernabe Aquino, Felipe Estella, Marcelino Montemayor, Paulino Gullas, Lorenzo Campo, and Hilariion Elumba. Hermogenes Concepcion is alternate.



IGNACIO VILLAMOR,
Former Attorney-General; actual Executive Secretary