

RECENT DECISIONS

Digest of Current Cases

CONTRACTS (Employer and Employee)—*Ponciano Jacinto, Petitioner vs. Standard-Vacuum Oil Company and the Court of Industrial Relations, Respondents, G. R. No. 47425, November 12, 1940.* — The respondent company, wishing to cooperate with the Court of Industrial Relations in the compulsory arbitration of labor problems, requested that it be permitted to dismiss the petitioner from its service for the following reasons: that petitioner's services were not satisfactory as evinced by the frequent accidents caused by his negligence; that he used to feign illness in order to obtain sick leaves from the physician of the respondent company; that he is a regular absentee; and that the municipal court convicted the petitioner of maltreatment of a young lady, for which he served the corresponding imprisonment. The Court of Industrial Relations granted the authority sought for and the petitioner was henceforth dismissed. The petitioner now seeks to annul this authority. *Held:* The Court of Industrial Relations did not act arbitrarily. It is not the purpose of Commonwealth Act No. 103, as amended, to compel the employer to retain in his employ a laborer who does not render satisfactory services and who causes accidents for which, ultimately, the employer is civilly liable. Just as the laborer has a right to receive from his employer a just wage and a just treatment, the latter has also the right to expect and receive from his employee an adequate service, diligence and good behavior. Authority to dismiss

petitioner, affirmed. (Per Diaz, J.; Avanceña, C. J., Imperial, Laurel, Horrilleno, JJ., concurring.)—*Briefed by CESAR C. CLIMACO.*

COURT OF INDUSTRIAL RELATIONS (Procedure). — *Manila Trading & Supply Co., Petitioner vs. Phil. Labor Union, Respondent, G. R. No. 47486, November 16, 1940.*—During the pendency of an industrial dispute certified to the Court of Industrial Relations, the petitioner discharged a mechanic in its employ. The respondent union filed a petition for his reinstatement, which was granted by the Court upon recommendation of the attorney to whom said court referred the investigation of the justifiability of the discharge. The petitioner prays for a writ of certiorari on the ground that he was deprived of a "fair and open hearing" when the lower tribunal failed to set the report of the attorney for hearing before deciding the justifiability of the discharge. He also contends that the lower tribunal erred in preventing the discharge of the mechanic when the cause of such discharge was not due or related to the employer's union activities or affiliation but due to his frequent absences without permission. *Held:* (1) The reference of the case to an attorney for investigation and report was made in pursuance to Section 10 of C. A. 103. In said investigation, the petitioner was represented by an attorney who was heard and given an opportunity to cross-examine and

to present his side of the case. The petitioner does not attribute any irregularity committed in this investigation; neither does he impute distortion or misrepresentation of facts. Under these circumstances, it cannot be said that the failure of the Court of Industrial Relations to set the report for a hearing deprived the petitioner of a "fair and open hearing." (2) The contention that the petitioner could discharge the mechanic for any cause except for his union activities or affiliation is without merit. Under Section 19 of C. A. 103 as amended, the Court is authorized to require the continuation in service of employees under the last terms and conditions existing before the dispute arose. The purpose of this requirement is to maintain the parties in *status quo* during the pendency of the dispute. It is admitted that an employee cannot legally be compelled to continue an employee or laborer in the service when a justifiable cause for his discharge exists, but since the authority of the Court of Industrial Relations to require his continuance in the service is incidental to the pendency of an industrial dispute before it, it necessarily follows that the said court has the power to determine whether such cause exists. Writ denied. (Per Laurel, J.; Avanceña, CJ., Imperial, Diaz, Horrilleno, JJ., concurring.)—*Briefed by* NORBERTO J. QUISUMBING.

CRIMINAL LAW (Aggravating Circumstances).—*People of the Philippines, Plaintiff-Appellee vs. Pastor Lacsamana, et al, accused. Ruperto Gregorio & Joaquin Llanera, Defendant-Appellants, G. R. No. 47364, November 14, 1940.*—The defendants voluntarily pleaded guilty to the information charging them of robbery committed with the aggravating circumstances of night-time and the use of

a motor vehicle. The lower court duly convicted the defendants taking the said aggravating circumstances into consideration and imposed on one of them the additional penalty for habitual delinquency. On appeal the defendants contended that the aggravating circumstances of nocturnity and use of a motor vehicle should not have been taken into consideration and that the defendant could not be considered a habitual delinquent within Art. 62 No. 5(c) of the Rev. Penal Code because his last conviction occurred in August 12, 1927 or more than 10 years after the commission of the crime under which he is charged, which took place in August 4, 1939. *Held:* (1) The two aggravating circumstances having been alleged in the information, they are deemed to have been admitted by the defendants upon their voluntary plea of guilty to said information. (2) The last paragraph of Article 62 considers a person habitually delinquent when within 10 years from the date of his last conviction or release of the crimes of *robo, hurto, estafa, or falsificacion* he is found guilty of said crimes a third time or oftener. The date of last release of the defendant having taken place in February 13, 1939, he falls within this article and is properly considered a habitual delinquent. (Per Imperial J.; Avanceña, CJ., Diaz, Laurel, Horrilleno, JJ., concurring.)—*Briefed by* ROSA SANTOS.

CRIMINAL LAW (Estafa)—*Alejandro Javier, Petitioner-Appellant vs. People of the Philippines, Respondent-Appellee, G. R. No. 47083, November 18, 1940.*—This is a petition for a writ of certiorari predicated on two grounds: (1) That the Court of Appeals erred in convicting Alejandro Javier of estafa on the strength merely of his admissions contained in Exhibits "A" and "B"

which he alleged were obtained through duress and compulsion, and therefore inadmissible; and (2) That the Court of Appeals erred in affirming the penalty imposed by the trial court which is not in accordance with law. Javier, was a sales agent of German & Co. Ltd. It was his duty to prepare "purchase orders" of merchandise sold by him and to collect the prices. The company discovered that there was a large outstanding account and some of the persons appearing in the invoices did not live at the addresses specified. So a list (Exhibit "A") of all sales made by Javier was compiled and showed to him, whereupon the latter declared that some of the customers were solvent and would pay, but that most of them were fictitious. Upon request Javier indicated who were the fictitious customers and in a written confession (Exhibit "B"), he admitted having misappropriated the amount of P12,052.57. He was given a chance to pay but defaulted and only paid P62.00. He was convicted of estafa by the lower court. This was affirmed by the Court of Appeals. Javier contends that since he paid P62.00 of the amount embezzled, the remaining amount should serve as basis for the determination of the penalty and not the original amount. *Held*: 1. As to the first contention the lower court and the Court of Appeals found that there was no duress or compulsion exercised upon him. Besides, he was not convicted on the strength of his confession alone. The facts and the circumstances of the case were laid before the courts *a quo*, and these considered with the admissions of the accused, wove out a clear case of estafa and pointed to the guilt of Javier beyond reasonable doubt. 2. As to the second contention, it is well-settled that payment made subsequent to the commission of the crime of estafa does

not alter the nature of the crime committed nor does it relieve the defendant from the penalty prescribed by law. (U. S. vs. Ongtengco, 4 Phil. 144; U. S. vs. Rodriguez, 9 Phil. 153; U. S. vs. Sevilla, 43 Phil. 186; People vs. Velasco, 42 Phil. 75; People vs. Ylaya, G. R. No. 35597; People vs. Quingpua, G. R. No. 37770; People vs. Jardin, G. R. No. 41302; People vs. Quintos, G. R. No. 42125) Judgment is hereby affirmed. (Per Laurel, J.; Avancena, C. J., Imperial, Diaz, Horrilleno, JJ., concurring.)—*Briefed by* GRACIANO REGALA.

CRIMINAL LAW (Double Jeopardy).—*People of the Philippines, Plaintiff-Appellant vs. Marcos Estipona, Defendant-Appellee, G. R. No. 46978, November 14, 1940.*—Appeal by the prosecution from an order of the Court of First Instance of Manila dismissing a complaint for physical injuries through reckless imprudence on ground of double jeopardy. Appellee, while driving a truck recklessly and negligently collided with an autocalesa, causing damage to said autocalesa, and injuring three passengers who were inside the autocalesa. He was prosecuted and convicted of the offense of *damage to property through reckless imprudence* and sentenced to pay P30 fine and P30 as indemnity for the autocalesa. Subsequently, another complaint was filed against him for *injuries* sustained by the three passengers. Appellee moved to dismiss on ground of double jeopardy and the lower court acting on the basis that the acts imputed to the appellee in both cases were the same, and invoking the following statement in the case of U. S. vs. Gustilo, 19 Phil. 220, dismissed the case: "That portion of the Philippine Bill embodying the principle that no person shall be put twice in jeopardy of punishment for

the same offense should be made as nearly as possible every result which flows from a single criminal act impelled by a single criminal intent, although more than what might otherwise be termed one crime is actually committed by said act." *Held*: The lower court did not take into account the general principle regarding double jeopardy, which is that the two offenses must in substance be precisely the same or of the same nature, or of the same species so that the evidence which proves the one would prove the other; or if this is not the case then the one crime must be an ingredient of the other (*People vs. Martinez*, 55 Phil. 6); and that in order that there be jeopardy (*People vs. Penas*, G. R. Nos. 46802 and 46812, Sept. 23, 1939) the following requisites must exist: That the accused be the same in both causes, that the felonies imputable in the two must be the same, or at least that one be necessarily included in the other, and that the felonies to which the act gave rise be the same or identical. These elements do not exist in this case because to be convicted of physical injuries through reckless imprudence it is not necessary to prove the damages caused to the Makabayan autocalesa, and vice-versa. The two offenses are punished by different articles of the Revised Penal Code. The penalties are entirely distinct. To sustain the case for injuries it is necessary to present other proofs than those in the case for damages. Order revoked. (Per Diaz, J.; Avanceña, CJ.; Imperial, Laurel, Horrilleno, JJ., concurring.)—*Briefed by FRANCISCO S. SANTOS.*

CRIMINAL LAW (Judgment).—*People of the Philippines, Appellant vs. Pedro Lagutan, Paciencia Penasode Lagutan, Petitioner-Appellee*, G. R. No. 47318. May the Court of First Instance,

in connection with its criminal jurisdiction, entertain a motion of the widow of a government employee who was suspended pending the final determination of criminal proceedings against him but who was finally acquitted, asking for an order of refund directed to the proper official of the salary of such deceased employee during the period of suspension up to the time the judgment of acquittal was rendered? *Held*: It is a fundamental principle that our Courts of First Instance can exercise only such jurisdiction as the law or the Constitution confers upon it. Nowhere has the petitioner-appellee cited any law to support her claim. Sec. 2272 of the Revised Administrative Code authorizes the court to order the payment of the salaries only of the Chief of Police and the members of the municipal police force. Neither can Sec. 2192 of the same Code be invoked to support the claim. The Court of First Instance acted in excess of its jurisdiction in ordering payment of the accumulated salary. The proper remedy for the petitioner is to institute administrative proceedings with the proper administrative officer. (Per Imperial, J.; Avanceña, CJ.; Diaz, Laurel, Horrilleno, JJ., concurring.)—*Briefed by MARY F. CONCEPCION.*

CRIMINAL LAW (Prescription).—*People of the Philippines, Plaintiff-appellee vs. Vicente Llanes and Ramon Tarlao, Defendant-appellants*, G. R. No. 47325, November 8, 1940.—While members of the Board of Election Inspectors during the election for assemblymen held on September 17, 1935, defendant-appellants falsely certified the election results in Precinct No. 1 of the Municipality of Canlubian, Leyte, by certifying that Jose Ma. Veloso and Carlos Tan had received 254 and 22 votes respectively when in truth and in fact both re-

ceived only 210 and 67 votes respectively. The offense was committed on September 17, 1935 but it was not discovered until after Carlos Tan protested before the Electoral Commission of the National Assembly, which promulgated its decision on February 18, 1936, correcting the anomaly. Consequently, the defendant-appellants were arrested on October 9, 1936 for the violation of Section 465 of the Revised Administrative Code in connection with Section 2639 of the same Code. Defendant-appellants contend that the crime has prescribed, basing their contention on Section 2660½ of the Revised Administrative Code as amended by Act 3387. They contended that Section 182 of Commonwealth Act No. 357 which took effect on August 22, 1938 should not be given retroactive effect inasmuch as the same is unfavorable to them, under the principle of Art. 22 of the Revised Code. *Held*: The provision cited by defendant-appellants reads: "Sec. 2660½ Prescription—Offenses resulting from violation of this article shall prescribe one year after their commission but if the discovery of such offenses is incidental to judicial proceeding in any election contest, the term of prescription shall commence only when such proceedings terminate." While the provision of Sec. 182 of Commonwealth Act 357 reads: "Sec. 182 Prescription — Election offenses shall prescribe two years from date of their commission, but if the discovery of such offenses be made in election contest proceedings, the period of prescription shall commence on the date on which the judgment in such proceedings becomes final." It is obvious that the provision of Sec. 182 of Commonwealth Act 357 shall not be applied retroactively inasmuch as it is not favorable to the defendant-appellants, in accordance with Art. 22 of the Revised Penal Code. (Peo-

ple vs. Moran, 44 Phil. 409; People vs. Parel, 44 Phil. 462). But the contention of the defendant—appellants that the crime has prescribed is without merit. Although the offense was committed on September 17, 1935, it was only discovered on February 18, 1936 when the decision of the Electoral Commission was promulgated. They were arrested on October 6, 1936 and between such date and February 18, 1936 when the crime was discovered, less than a year has elapsed. Judgment of conviction confirmed. (Per Imperial, J.; Avanceña, C. J., Diaz, Laurel, Horrilleno, J. J. concurring.)—*Briefed by EMMETT P. SHEA.*

CRIMINAL LAW (Penalty)—*The People of the Philippines, Plaintiff-Appellee vs. Ong Ta, Defendant-Appellant. G. R. No. 47289, November 18, 1940.*—The defendant, a minor, was charged with the crime of murder. He pleaded guilty upon arraignment, but reserved the right to prove that he was a minor below 18 years of age. At the trial his claim of minority was not contested by the prosecution. The trial court found him guilty of murder and committed him, being a minor below 18 years of age, to the Philippines Training School for Boys under the supervision of the Commission of Public Welfare, pursuant to Article 80 of the Revised Penal Code, as amended by Act No. 4117 and Commonwealth Act No. 99. At the end of the period of custody, the lower court, after considering the unfavorable report and recommendation of the Director of Public Welfare, rendered final judgment convicting him of murder and sentencing him to 14 years, 8 months and 1 day of *reclusion temporal*. The question involved in this appeal refers to the application of the proper penalty. *Held*: The penalty for murder is *reclusion temporal* in its maximum pe-

riod to death. Appellant having committed the crime while a minor, over 15 and under 18 years of age, the penalty next lower in degree than that prescribed by law, shall be imposed in the proper period; that is, *prision mayor* in its maximum period to *reclusion temporal* in its medium period. Considering the mitigating circumstance of plea of guilty, which is not offset by any aggravating circumstance, the penalty should be imposed in its minimum period or from 10 years and 1 day to 12 years of *prision mayor*. In the present case, paragraph 2 of Article 68 of the Revised Penal Code should be applied and in accordance with the Indeterminate Sentence law, which the trial court failed to apply, the appellant should be sentenced to an indeterminate penalty of from 5 years of *prision correccional* to 10 years and 1 day of *prision mayor*. Judgment modified and affirmed. (Per Laurel, J.; Avanceña, C. J., Imperial, Diaz, and Horrilleno, JJ. concurring; Moran, J., took no part.)—*Briefed by* LUCIANO E. SALAZAR.

CRIMINAL PROCEDURE—*People of the Philippines, Plaintiff, vs. Antonio Velisario, et. al., Defendant.* G. R. No. 47440, November 8, 1940. —Defendants were accused in the Court of First Instance of the crime of libel for having allegedly published in the newspaper "The Filipino Freedom" a libelous article. The article was not copied in the information but merely referred to as attached to it. The court, upon trial, found one of the accused guilty. He appealed claiming that the court erred in not dismissing the information for failure to state the essential elements of the crime. Mere reference to the attached article, he alleged, was insufficient. Further, the appellant

claimed that the prosecution should prove that the newspaper was properly registered in the Bureau of Posts. *Held:* An information for libel is sufficient and does not violate Sec. 6 of G. O. 58 even if the libelous article is not copied in it, provided a copy of the same is attached and sufficiently indicated and referred to in the information as to reasonably inform the accused upon a reading of the same that the alleged libelous article has been incorporated to the information. Proof of the registration of the newspaper in the Bureau of Posts is immaterial to a prosecution for the crime of libel. Proof of publication is sufficient. (Per Imperial J.; Avanceña C. J., Diaz, Laurel, Horrilleno J.J., concurring)—*Briefed by* FELICISIMO SAN LUIS.

CRIMINAL PROCEDURE
(Change of plea).—*People of the Philippines vs. Jose Topacio Nueno.* G. R. No. 47324, November 18, 1940. —Defendant was found guilty of slight physical injuries by the municipal court of Manila. On appeal to the Court of First Instance, he pleaded guilty to the charge. Pronouncement of judgment, however, was, on motion postponed to another day. On said date, he moved that he be allowed to withdraw his plea of guilty and substitute it with that of not guilty, claiming that his former plea was not voluntary and spontaneously given. Motion denied and sentence read. Appeal. *Held:* Withdrawal of a plea of guilty is not a matter of absolute right on the part of the accused but lies entirely within the sound discretion of the court. Judgment affirmed. (Per Laurel, J.; Avanceña, C. J., Imperial, Diaz, and Horrilleno, JJ. concurring). *Briefed by* HERACLEO HERRERA TAN.

The Constitutional Amendments*

PUBLIC RESOLUTION
SECOND NATIONAL ASSEMBLY
Second Session

P. R. No. 106

[RESOLUTION No. 73]

RESOLUTION AMENDING RESOLUTION NUMBERED THIRTY-EIGHT, APPROVED SEPTEMBER FIFTEENTH, NINETEEN HUNDRED AND THIRTY-NINE, ENTITLED "RESOLUTION PROPOSING AMENDMENTS TO ARTICLES III, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, AND XVII OF THE CONSTITUTION OF THE PHILIPPINES, AND THE ORDINANCE APPENDED THERETO; AND THE ADOPTION OF TWO NEW ARTICLES, ONE ESTABLISHING A COMMISSION ON ELECTIONS, AND THE OTHER FIXING THE EFFECTIVE DATE OF SAID AMENDMENTS AND ADOPTING CERTAIN TRANSITORY PROVISIONS."

Resolved by the National Assembly of the Philippines, by a vote of not less than three-fourths of all its Members, to amend, as it does hereby amend, Resolution Numbered Thirty-eight, approved September fifteenth, nineteen hundred and thirty-nine, entitled "Resolution proposing amendments to Articles III, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, and XVII of the Constitution of the Philippines, and to the Ordinance appended thereto; and the adoption of two new articles, one establishing a Commission on Elections, and the other fixing the effective date of said amendments and adopting certain transitory provisions," so that said Resolution shall read as follows:

"Resolved by the National Assembly of the Philippines, by a vote of not less than three-fourths of all its Members, to propose, as it does hereby propose:

"ARTICLE I

"SECTION 1. To amend Article VI of the Constitution of the Philippines by providing for the establishment of a bicameral legislature in lieu of the legislative body therein provided, so that the said Article VI shall read as follows:

'ARTICLE VI.—LEGISLATIVE DEPARTMENT

'SECTION 1. The Legislative power shall be vested in a Congress of the Philippines, which shall consist of a Senate and a House of Representatives.

'SEC. 2. The Senate shall be composed of twenty-four Senators who shall be chosen at large by the qualified electors of the Philippines, as may be provided by law.

'SEC. 3. The term of office of Senators shall be six years and shall begin on the thirtieth day of December next following their election. The first Senators elected under this Constitution shall, in the manner provided by law, be divided equally into three groups, the Senators of the first group to serve for a term of six years; those of the second group, for four years; and those of the third group, for two years.

'SEC. 4. No person shall be a Senator unless he be a natural-born citizen of the Philippines and, at the time of his election, is at least thirty-five years of age,

* Passed by the National Assembly on April 11, 1940; ratified by the Filipino people on June 18, 1940; signed by the President of the United States on December 1, 1940, and officially released on December 2, 1940.

a qualified elector, and a resident of the Philippines for not less than two years immediately prior to his election.

'SEC. 5. The House of Representatives shall be composed of not more than one hundred and twenty Members who 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 Congress 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 House of Representatives shall have the same number of Members as that fixed by law for the National Assembly, who shall be elected by the qualified electors from the present Assembly districts. Each representative district shall comprise, as far as practicable, contiguous and compact territory.

'SEC. 6. The term of office of the Members of the House of Representatives shall be four years and shall begin on the thirtieth day of December next following their election.

'SEC. 7. No person shall be a Member of the House of Representatives unless he be a natural-born citizen of the Philippines and, at the time of his election, is at least twenty-five years of age, 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. 8. (1) Elections for Senators and Members of the House of Representatives shall be held in the manner and on the dates fixed by law.

(2) In case of vacancy in the Senate or in the House of Representatives, a special election may be called to fill such vacancy in the manner prescribed by law, but the Senator or Member of the House of Representatives thus elected shall serve only for the unexpired term.

'SEC. 9. The Congress shall convene in regular session once every year on the fourth Monday of January, unless a different date is fixed by law. It 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 session longer than one hundred days, exclusive of Sundays.

'SEC. 10. (1) The Senate shall elect its President and the House of Representatives its Speaker.

Each House shall choose such other officers as may be required.

(2) A majority of each House 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 such house may provide.

(3) Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, expel a Member.

(4) Each House 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 the Members present, be entered in the Journal.

(5) Neither House during the sessions of the Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

'SEC. 11. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members

of the Senate or of the House of Representatives, as the case may be, who shall be chosen by each House, three upon nomination of the party having the largest number of votes and three of the party having the second largest number of votes therein. The senior Justice in each Electoral Tribunal shall be its Chairman.

'SEC. 12. There shall be a Commission on Appointments consisting of twelve Senators and twelve Members of the House of Representatives, elected by each House, respectively, on the basis of proportional representation of the political parties therein. The President of the Senate shall be the Chairman *ex-officio* of the Commission, but shall not vote, except in case of tie.

'SEC. 13. The Electoral Tribunals and the Commission on Appointments shall be constituted within thirty days after the Senate and the House of Representatives shall have been organized with the election of their President and Speaker, respectively. The Commission on Appointments shall meet only while the Congress is in session, at the call of its Chairman or a majority of its Members, to discharge such powers and functions as are herein conferred upon it.

'SEC. 14. The Senators and the Members of the House of Representatives shall, unless otherwise provided by law, receive an annual compensation of seven thousand two hundred pesos each, including per diems and other emoluments or allowances, and exclusive only of traveling expenses to and from their respective districts in the case of Members of the House of Representatives, and to and from their places of residence in the case of Senators, when attending sessions of the Congress. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and of the House of Representatives approving such increase. Until otherwise provided by law, the President of the Senate and the Speaker of the House of Representatives shall each receive an annual compensation of sixteen thousand pesos.

'SEC. 15. The Senators and Members of the House of Representatives shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of the Congress, 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. 16. No Senator or Member of the House of Representatives may hold any other office or employment in the Government without forfeiting his seat, nor shall any Senator or Member of the House of Representatives, 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 Congress.

'SEC. 17. No Senator or Member of the House of Representatives 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 Congress during his term of office. He shall not appear as counsel before the Electoral Tribunals or before any court in any civil case wherein the Government or any subdivision or instrumentality thereof is the adverse party, or in any criminal case wherein an officer or employee of the Government is accused of an offense committed in relation to his office, or collect any fee for his appearance in any administrative proceedings, or accept employment to intervene in any cause or matter where he may be called upon to act on account of his office. No Member of the Commission on Appointments shall appear as counsel before any court inferior to a collegiate court of appellate jurisdiction.

'SEC. 18. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills, shall originate exclu-

sively in the House of Representatives, but the Senate may propose or concur with amendments.

'SEC. 19. (1) The President shall submit within fifteen days of the opening of each regular session of the Congress a budget of receipts and expenditures, which shall be the basis of the general appropriation bill. The Congress 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 Congress 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 bill unless it relates specifically to some particular appropriation therein; and any such provision or enactment shall be limited in its operation to such appropriation.

'SEC. 20. (1) Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same, he shall sign it; but if not, he shall return it with his objections to the House where it originated, 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 such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of all the Members of that House, it shall become a law. In all such cases, the votes of each House shall be determined by *y*ea*s* and *n*ay*s*, and the names of the Members voting for and against shall be entered on its 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 Congress 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 Congress 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 each House.

(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. 21. (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 by either House unless it shall have been printed and copies thereof in its final form furnished its Members at least three calendar days prior to its passage, 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 passage shall be taken immediately thereafter, and the *y*ea*s* and *n*ay*s* entered on the Journal.

'SEC. 22. (1) The rule of taxation shall be uniform.

(2) The Congress 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. 23. (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. 24. The heads of departments upon their own initiative or upon the request of either House may appear before and be heard by such House on any matter pertaining to their departments, unless the public interest shall require otherwise and the President shall so state in writing.

'SEC. 25. The Congress shall, with the concurrence of two-thirds of all the Members of each House, have the sole power to declare war.

'SEC. 26. In times of war or other national emergency, the Congress 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.

"SEC. 2. As a consequence of the amendments proposed in section one hereof, to amend section two of Article VII, except the first sentence thereof, and paragraph (7) of section 11 of the same Article; sections 2 and 3 of Article IX; and Article XIV of the Constitution of the Philippines, so that the same shall read as follows:

'ARTICLE VII.—EXECUTIVE DEPARTMENT

'SEC. 2. * * *. The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the seat of the National Government, directed to the President of the Senate, who shall, in the presence of the Senate and the House of Representatives, open all the certificates, and the votes shall then be counted. 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, one of them shall be chosen President or Vice-President, as the case may be, by a majority vote of the Members of the Congress in joint session assembled.'

'SEC. 11. (7) The President shall have the power, with the concurrence of two-thirds of all the Members of the Senate, 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 public ministers duly accredited to the Government of the Philippines.'

'ARTICLE IX.—IMPEACHMENT

'SEC. 2. The House of Representatives, by a vote of two-thirds of all its Members, shall have the sole power of impeachment.

'SEC. 3. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, the Senators 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 of the Senate.'

'ARTICLE XIV.—AMENDMENTS

'SECTION 1. The Congress in joint session assembled, by a vote of three-fourths of all the Members of the Senate and of the House of Representatives voting separately, 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.'

'SEC. 3. Whenever the words "National Assembly" appear in the other parts of the Constitution and in the Ordinance appended thereto, the same shall be understood as referring to the "Congress of the Philippines," unless the context requires otherwise.

'SEC. 4. The amendments proposed in this Article shall become effective upon the termination of the term of office of the Members of the National Assembly elected under the Constitution adopted on the eighth day of February, nineteen hundred and thirty-five, except the provisions which refer to the election and qualifications of Senators and the Members of the House of Representatives, which shall take effect immediately upon the final adoption and approval of this amendment in accordance with said Constitution but only for the purpose of permitting their election and qualification: *Provided*, That until the expiration of the term of office of the Members of the National Assembly as above stated, they shall continue to act and shall exercise all the powers and perform all the functions upon them conferred by the Constitution, including the power to enact legislation necessary, to give effect to this amendment.'

"ARTICLE II

"SECTION 1. To repeal section 4 of Article VII of the Constitution of the Philippines and to amend the first sentence of section 2, and the whole of sections 5 and 6, of said article by changing the tenure of office of the President and the Vice-President of the Philippines, so that the said first sentence of section 2 and the said sections 5 and 6, which shall hereafter be known as sections 4 and 5 of Article VII of the Constitution, shall read as follows:

'SEC. 2. The President shall hold his office during a term of four years, and together with the Vice-President chosen for the same term, shall be elected by direct vote of the people. * * *

'SEC. 4. Elections for President and Vice-President shall be held once every four years on a date to be fixed by law.

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

'SEC. 5. No person shall serve as President for more than eight consecutive years. The period of such service shall be counted from the date he shall have commenced to act as President. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of the service of the incumbent for the full term for which he was elected.'

"SEC. 2. As a consequence of section 1 hereof, to change the numeration of sections 7, 8, 9, 10, 11, and 12 of Article VII of the Constitution to sections 6, 7, 8, 9, 10, and 11, respectively.

"SEC. 3. The repeal of section 4 of Article VII of the Constitution shall become effective upon the ratification of this Amendment by the people and its approval by the President of the United States. The other amendments herein proposed shall become effective upon the termination of the term of office of the President and the Vice-President elected under the Constitution adopted on the eighth day of February, nineteen hundred and thirty-five: *Provided*, That the provisions of section 5 of Article VII of the Constitution, as proposed to be amended in Section 1 hereof, shall apply to every incumbent of the office of the President of the Philippines since the establishment of the Commonwealth.

"ARTICLE III

"SECTION 1. To add an Article to the Constitution of the Philippines, to be designated as Article X, establishing an independent Commission on Elections, reading as follows:

"ARTICLE X.—COMMISSION ON ELECTIONS

'SECTION 1. There shall be an independent Commission on Elections composed of a Chairman and two other Members to be appointed by the President with the consent of the Commission on Appointments, who shall hold office for a term of nine years and may not be reappointed. Of the Members of the Commission first appointed, one shall hold office for nine years, another for six years, and the third for three years. The Chairman and the other Members of the Commission on Elections may be removed from office only by impeachment in the manner provided in this Constitution.

Until the Congress shall provide otherwise, the Chairman of the Commission shall receive an annual salary of twelve thousand pesos, and the other Members, ten thousand pesos each. Their salaries shall be neither increased nor diminished during their term of office.

'SEC. 2. The Commission on Elections shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions, affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials. All law enforcement agencies and instrumentalities of the Government, when so required by the Commission, shall act as its deputies for the purpose of insuring free, orderly, and honest elections. The decisions, orders, and rulings of the Commission shall be subject to review by the Supreme Court.

No pardon, parole, or suspension of sentence for the violation of any election law may be granted without the favorable recommendation of the Commission.

'SEC. 3. The Chairman and Members of the Commission on Elections 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.

'SEC. 4. The Commission on Elections shall submit to the President and the Congress, following each election, a report on the manner in which such election was conducted.'

"SEC. 2. As a consequence of the approval of the new Article as proposed in section one hereof, to change the numeration of Articles X, XI, XII, XIII, XIV, XV, XVI, and XVII of the Constitution to Articles XI, XII, XIII, XIV, XV, XVI, XVII, and XVIII, respectively.

"SEC. 3. If Article I of this Resolution is not ratified by the people, the reference in this article to the Congress or to the Commission on Appointments shall read the National Assembly and the Commission on Appointments of the National Assembly, respectively.

"SEC. 4. The New Article of the Constitution as herein proposed shall take effect immediately upon its ratification by the people and its approval by the President of the United States."

Adopted, April 11, 1940.

THE CODE COMMITTEE

(Continued from page 242)

Committee, the Committee had to take into consideration the penal legislations amending the old Penal Code, the rulings laid down by the Supreme Court, and the present conditions in the Philippines. This last consideration, however, was not always in harmony with progressive penal law. But "the Committee did not consider itself empowered to present a draft of the Penal Code in harmony with the theories of the Positivist School or of modern criminology. The Revised Penal Code, therefore, like the Old Penal Code, continues to be based on the principles of the old or classical school." The present Committee does not labor under any restrictions, and there are no impediments against the Committee revising the substantive laws of the Philippines to conform with customs, and—which just as important—with the progressive principles of law.

The members of the Committee are all eminently qualified for their difficult task. Chief Justice Avanceña is the logical and inevitable choice for chairman. Secretary Bocobo (former dean of the U. P. College of Law, and former president of the University of the

Philippines) is a recognized authority in civil law. Justice Villareal, with his distinguished record on the bench, is also a happy choice. He is presently a professorial lecturer in the U. P. College of Law, Justice Laurel, *Law '15*, is an authority on constitutional and administrative law. Professor Pedro Y. Ylagan, *Law '17*, of our College of Law has been teaching civil law for over a score of years and is known for his deep knowledge of this branch of law. New members will be appointed, and it is expected that some of them will be drawn from faculty members of our College of Law.

However, it is to be doubted whether all—or nearly all—of our substantive laws can be thoroughly revised and codified in only two years. At any rate, when the work is finally completed, judges, lawyers, law professors, and law students will be relieved of a considerable amount of vexing work. And to the benefit of the general public—if not to *all* lawyers—our laws will be systematically organized, easy to find, and—it is hoped—also easy to understand.

