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No. 1

## PUBLIC LAWS.

[No. 1027.]

AN ACT AMENDING ACT NUMBERED NINE HUNDRED AND FIFTY-SIX, ENTITLED "AN ACT REDUCING THE THIRTY-ONE MUNICIPALITIES OF THE PROVINCE OF TAYABAS TO TWENTY-SEVEN."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Act Numbered Nine hundred and fifty-six, entitled "An Act reducing the thirty-one municipalities of the Province of Tayabas to twenty-seven," is hereby amended as follows:

(a) By striking out the words "thirty-one" and "twenty-seven" in the title and in section one and substituting therefor the words "thirty" and "twenty-six," respectively.

(b) By striking out the word "Candelaria" in the second line of paragraph numbered five of said section one.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, December 18, 1903.

[No. 1028.]

AN ACT APPROPRIATING THE SUM OF FIVE HUNDRED AND TEN DOLLARS, IN MONEY OF THE UNITED STATES, FOR DEFRAYING EXPENSES INCURRED IN THE PUBLICATION OF VOLUME ONE OF "THE OPINIONS OF THE ATTORNEY-GENERAL OF THE PHILIPPINE ISLANDS."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of five hundred and ten dollars, in money of the United States, is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, to pay for services rendered in connection with the publication of volume one of "The Opinions of the Attorney-General of the Philippine Islands," as follows: Charles A. Engelbracht, four hundred and fifty dollars; Gustavus A. Ohlinger, sixty dollars.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, December 18, 1903.

[No. 1029.]

AN ACT AMENDING SECTION ONE OF ACT NUMBERED ONE THOUSAND AND FOUR, ENTITLED "AN ACT ANNEXING THE NORTHERN PART OF THE PROVINCE OF ZAMBALES TO THE PROVINCE OF PANGASINAN AND PROVIDING THAT THE SOUTHERN PART THEREOF SHALL CONTINUE AS A SEPARATE PROVINCE UNDER THE NAME OF ZAMBALES."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered One thousand and four, entitled "An Act annexing the northern part of the Province of Zambales to the Province of Pangasinan and providing that the southern part thereof shall continue as a separate province under the name of Zambales," is hereby amended by striking out the word "and" in the third line and by adding after the word "Infanta" in the same line the words "Anda, Bani, and Agno."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, December 19, 1903.

[No. 1030.]

AN ACT CREATING AN HONORARY BOARD OF COMMISSIONERS, COMPOSED OF FIFTY FILIPINOS OF PROMINENCE AND EDUCATION, TO VISIT THE LOUISIANA PURCHASE EXPOSITION AT SAINT LOUIS AT GOVERNMENT EXPENSE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Civil Governor is authorized and directed to appoint, by and with the consent of the Philippine Commission, an Honorary Board of Commissioners, consisting of not more than fifty Filipinos of prominence and education, to visit the Louisiana Purchase Exposition, to be held at Saint Louis during the year nineteen hundred and four. The Civil Governor is authorized to appoint Filipinos now holding office in the Islands if their absence from official duty in the Islands during the time needed to make the visit to the United States may be made consistent with the interests of the public service.

SEC. 2. The Honorary Board of Commissioners herein authorized to be appointed shall travel in a body so far as practicable, and the period between the date of their departure from Manila for the United States and the date of their return to Manila shall not exceed five months. The Civil Governor shall fix the date of the departure of the board. The board shall be accompanied by an American official of the Philippine Government, to be designated by the Civil Governor, who shall have a knowledge of the English

and Spanish languages sufficient to enable him to act as interpreter on all occasions, and who shall have charge of the board in making the arrangements for travel and subsistence. A second official of the Philippine Government shall be designated by the Civil Governor as the disbursing officer to disburse the funds needed to pay the expenses of the board.

SEC. 3. There shall be allowed, as traveling and subsistence expenses, to each nonofficial member of the Honorary Board of Commissioners the sum of ten dollars, United States currency, per day from the time of his departure from Manila until the date of his return to Manila, and to each official member in addition to his salary as provided by law the sum of seven dollars, United States currency, per day. The per diems of the American official in charge of the Board and of the disbursing officer shall be fixed by the Civil Governor.

SEC. 4. The Honorary Board of Commissioners shall organize by the election of a chairman, a secretary, and an executive committee of five. The secretary shall keep minutes of all formal action taken by the Board and shall make report of the same to the Civil Governor on the return of the Board to Manila. The Board shall also appoint a committee of three members whose duty it shall be to keep a history of the journey and to make a connected account and report thereof to the Civil Governor on the return of the Board to Manila.

SEC. 5. The Honorary Board of Commissioners shall not only visit Saint Louis, where it shall spend at least a month in the examination of the Exposition, but it shall also visit those principal cities of the United States which shall be agreed upon by the executive committee of the Board after conference with the Philippine Exposition Board. The disbursing officer is authorized to pay the traveling and subsistence expenses of the members of the Board directly and to charge the same to the respective members of the Board, paying any balance remaining due to each member at the end of each week.

SEC. 6. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of seventy-five thousand dollars, in money of the United States, to defray the expenses herein authorized to be incurred.

SEC. 7. Sections eleven and twelve of Act Numbered Five hundred and fourteen, enacted November eleventh, nineteen hundred and two, are hereby repealed.

SEC. 8. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 9. This Act shall take effect on its passage.

Enacted, December 22, 1903.

## DECISIONS OF THE SUPREME COURT.

[No. 1084. November 13, 1903.]

FRED SPARREVOHN, *plaintiff and appellee*, vs. JOHN FISHER, *defendant and appellant*.

1. PLEADING AND PRACTICE: MOTION FOR A NEW TRIAL: EXCEPTION TO JUDGMENT: TIME WHEN MADE.—A motion for a new trial was made within ten days after the rendition of judgment, and an exception to the judgment was taken within three days after making the motion. It did not appear when the motion was decided. *Held*, that the exception was seasonably taken and raises the question as to whether the facts found warranted the relief granted.
2. FORCIBLE ENTRY AND DETAINER: MEASURE OF DAMAGES.—In an action of forcible entry and detainer the plaintiff is entitled to recover as damages a reasonable compensation for the wrongful use and occupation of the premises, and the legal measure of damages is the fair rental value of the property withheld.
3. IN. DAMAGES: EVIDENCE.—The amount of damages for wrongful detainer of real property must be determined upon proof of its fair and reasonable rental in the market under all the surrounding circumstances.

4. IN. ID. ID.—Evidence as to what profits might be expected if the premises wrongfully withheld had been available to the plaintiff for use in connection with other property is not competent to prove the fair rental value.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

HARTIGAN, MARPLE & SOLIGNAC, for appellant.

WM. L. WRIGHT, for appellee.

McDONOUGH, J.:

This action was brought to recover possession of certain premises situated in the city of Manila, which are fully described in the complaint, and for damages for the retention by the defendant.

The Court of First Instance of Manila, on the 15th of July, 1902, handed down a decision holding the lease under which the defendant claimed had been annulled and awarding possession to the plaintiff and assessing his damages at the sum of 5,250 pesos, Mexican currency, and judgment was accordingly entered against the defendant.

The defendant moved for a new trial July 23, 1902, on the ground of newly discovered evidence and because the damages awarded were excessive.

On July 28 the defendant presented his bill of exceptions, the motion for a new trial having been denied, in which exceptions it was alleged that the findings of fact by the court were not sufficient to sustain a money judgment against the defendant; that there was no evidence as to the amount of damages; that there was no evidence to sustain the judgment other than for the possession of the premises in question; and that the damages were not computed according to law.

The judge of the Court of First Instance having refused to sign the bill of exceptions, certain proceedings were taken in the Supreme Court for the purpose of requiring him to sign the same, but the parties to the suit finally agreed upon the bill of exceptions which is before us.

The defendant now objects to it on the ground that the exceptions were not taken in time and also for the reason that the writing filed by the defendant July 28, 1903, does not disclose what particular ruling, order, or judgment is intended to be excepted to.

We are of opinion that these objections on the part of the defendant are not well taken. Inasmuch as the defendant moved for a new trial within ten days after the rendition of the judgment and his motion was denied, and within three days after making this motion (the record does not disclose when the motion was decided) the defendant presented his exceptions. We hold that they were made in due time and that they raise the question as to whether or not the facts found by the court below warranted the money judgment of 5,250 pesos.

As there seems to be no assignment of error in the bill of exceptions applicable to that part of the judgment awarding possession of the premises to the plaintiff, we are not called upon to pass upon that part of the judgment and to apply the doctrine laid down by this court in the case of Donaldson, Sim & Co. vs. Smith, Bell & Co., decided April 23, 1903, in which case we held that the plaintiffs "not having entered into possession under their lease, they had acquired no rights in the leased property in the nature of a right *in rem*, and which third persons were therefore bound not to infringe, and that, on that account, the plaintiffs in that action could not recover damages for the wrongful occupancy of the premises in question."

The only question, therefore, to be considered is whether or not the proper rule of damages has been applied in this case and whether or not the evidence warranted that part of the judgment rendered for damages.

The learned judge who heard the case below stated in his



decision that the testimony upon the question of damages sustained by the plaintiff by reason of the unlawful possession of the defendant "is very meager and unsatisfactory" and this is certainly true, for it is vague, speculative, and not confined to the property in question.

It seems that the plaintiff occupied as a saloon a part of the building, that part thereof being known as Nos. 62 and 64 Calle San Fernando; and that the defendant occupied Nos. 56, 58, and 60 of the same building and all the upper story of the same, and carried on a saloon business, restaurant, and lodging house.

Much of the testimony as to damages or profits claimed by the plaintiff went to show, not what the actual profits were, but rather what the plaintiff might expect them to be had he possession of the whole property. Thus Ramon Pazos, the lessor, testified that the plaintiff might expect, if he had been in entire possession of the property, eight or nine hundred pesos, Mexican, per month, and that he based this opinion on the fact that it brought in that profit in 1898 and 1899, long before this suit was begun. The plaintiff himself testified that he might reasonably have expected to realize from the possession of the entire building \$500, gold, per month "taking into consideration the injury to his business caused by the opening of another establishment next door to his." Another witness testified that he knew where "the building Nos. 56, 58, 60, 62, and 64 Calle San Fernando was situated" and that the profit which might reasonably be expected from the possession of "that building" ought to be "not less than a thousand pesos per month." The last witness who testified on the question of profit stated that he occupied, under the defendant, the restaurant; and that for the first four months he made about \$200, gold, above expenses; and for the last two months he was hardly able to clear expenses, and that latterly he had been obliged to draw on some money he had in order to defray expenses.

If the plaintiff sought to make such proof as would entitle him to a money judgment for damages, under the provisions of article 455 of the Civil Code providing that a possessor in bad faith shall pay for fruits collected and for those which the possessor could have received, he should have confined his proof to that part of the building occupied by the defendant and to the legal measure of damages, not to what profits he "might expect" or what they "ought to be." Such proof as this is too indefinite and uncertain to enable a proper conclusion to be reached regarding the amount of damages.

In the case of McMahon (114 Mass., 140) the plaintiff sought to show the rental value of a strip of land if used in connection with adjacent property, and with that purpose in view asked a witness: "What would be a fair annual rental of this passageway to be used in connection with the estate to which it belongs, situate as this estate is?" The question was objected to and excluded on the ground that the question to be determined was the value of the strip of land, without reference to any particular or specific use to which it may or may not be put, and in excluding it the court stated that "the annual value is not what it is worth either to the tenant or the defendant. It has no tendency to prove the market value, nor is it material that it may be especially valuable to either by reason of any special or particular use to which it has been or may be applied. The annual value is what it is fairly and reasonably worth under all the surrounding circumstances, in the market for any purpose, considering all its present and future capabilities for use."

The provisions of the Louisiana Civil Code are somewhat similar to those of our Code relative to damages for wrongfully retaining possession of land, viz: "He who knowingly keeps possession of another's estate is compelled to account for all profits, together with the land."

Under these requirements, the Supreme Court of the United States held, in the case of New Orleans *vs.* Gaines (15 Wallace,

624), that the damages for withholding possession from the rightful owner was the rental value, and cited with approval the case of Vandervoort *vs.* Gould (36 N. Y., 639), in which case it was decided that "mesne profits are what the premises are worth annually, with interest to the time of the trial."

This, too, seems to be the view of the learned counsel for the appellee, for on page 24 of his brief we find the following:

"In the case of Wallace, Executor, *vs.* Berdell et al. the Court of Appeals of New York (3 N. E. Rep., 770), discussing the terms "mesne profits" and "rental value," says:

"It would be manifestly unjust to confine the owner of the property withheld from him to the rents actually received by the party required to make restitution. The owner should have either those rents, or the rental value, as may be just under the circumstances. \* \* \* The mesne profits consist of the net rents after deducting all necessary repairs and taxes, or the rental value, or the value of the use and occupation. That is all of which the party from whom possession has been withheld has been deprived."

It is stated in volume 10 of the Encyclopedia of Law, page 539, that the universal rule is that the measure of damages is the fair rental value of the property withheld, and numerous cases are cited to sustain this proposition.

The general principle on which damages are allowed is that the plaintiff is entitled to recover damages fairly resulting from his having been wrongfully kept out of possession. Compensation is the measure of damages. Hence, on principle, the amount of recovery for mesne profits is the annual value of the premises wrongfully withheld from the time plaintiff's title accrued. (*Nash vs. Sullivan*, 32 Minn., 189; *Cutter vs. Waddingham*, 33 Mo., 269.)

Section 84 of the Code of Procedure requires judgment to be rendered for the plaintiff if the court finds the complaint to be true "for restitution of the premises and costs of suit and for all arrears of rent or a reasonable compensation for the use and occupation of the premises." This compensation is the rental value of the premises, and such value could doubtless have been easily ascertained; but instead of adopting this rule of ascertaining the damages suffered by the plaintiff, the court permitted witnesses to guess at the profits which were "expected" or which "ought to be" received, and ordered a money judgment upon such testimony, reaching the amount named "without any testimony," as was said "to guide the court." In arriving at this conclusion the judge below stated:

"I have come to the conclusion that the witnesses intended to convey the idea that the use of the property, together with the time, skill, and capital of a man competent to operate the same for the purposes for which it has been operated, and the reasonable profits derived therefrom, would aggregate \$1,000, Mexican, per month, and, without any testimony to guide me, I have determined that the time, skill, and capital would be worth the half of this sum, thus leaving 500 pesos per month of profit," and judgment was rendered accordingly.

In view of the decisions of the courts cited above, and of the language of article 84 of the Code of Procedure providing that the damages in a case of this kind shall be a reasonable compensation for the use and occupation of the premises, we are of opinion that the court below adopted an erroneous rule in ascertaining the amount of damages in this case, and that the proof was not sufficient to justify the conclusion of the court or the judgment entered for damages. The judgment is therefore reversed and a new trial ordered, with the costs to the appellee. The clerk will enter judgment accordingly and remand the case for further proceedings in conformity with this opinion twenty days from this date.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and Johnson, JJ., concur.

*• New trial granted.*

[No. 889. November 28, 1903.]

*THE UNITED STATES, complainant and appellee, vs. TEODORO OLIGORES, defendant and appellant.*

\*1. CRIMINAL LAW; HOMICIDE; SELF-DEFENSE; EVIDENCE.—Where no person witnessed the encounter between the deceased and the accused, the fact that the mortal wound was inflicted with a bolo belonging to the deceased, found in the hands of the defendant, in the presence of the deceased, immediately after the occurrence, is not sufficient to bring the case within the provisions of article 8, No. 5, of the Penal Code, which exempts from criminal liability those who act in self-defense.

2. In.; ID.—The facts of the case held sufficient to connect the defendant with the commission of the offense of homicide.

APPEAL from a judgment of the Court of First Instance of Pangasinan.

The facts are stated in the opinion of the court.

JUAN BENGSON, for appellant.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

Teodoro Oligores was charged with the crime of homicide in the killing of Guillermo Salvador, alleged to have been committed in the following manner:

On the 11th day of October, 1901, in the barrio of Naneamaligan, town of Urdaneta, of the Province of Pangasinan, Teodoro Oligores inflicted two serious wounds with a bolo on Guillermo Salvador, from the result of which the latter died on the day following.

The defendant was found guilty by the Court of First Instance and was sentenced to fourteen years eight months and one day of *reclusión temporal*, with the accessories, and to the payment of an indemnification of 500 pesos to Sinforosa Palango, the widow of the deceased Guillermo Salvador, and to the payment of the costs of the proceedings. From this judgment the defendant has appealed to this court.

One of the errors assigned is that it was not proven that the accused was the author of the death of the deceased, Guillermo Salvador. There were five witnesses who testified for the prosecution, and while none of them witnessed the inflicting of the wounds by the accused upon the deceased, yet we think that it has been established beyond a reasonable doubt that the killing of the deceased was done by the defendant.

Luis Salvador, a witness for the prosecution, testified that he went to the place at which the deceased and the defendant were almost immediately after the occurrence: that the defendant, Teodoro Oligores, still had in his hand the bolo with which the wounds had been inflicted; that he found the deceased sitting down; that the defendant was then still in the presence of the deceased; that the deceased stated to the witness he had called him to come there because he had had a quarrel with the defendant concerning the boundaries of their land and had been wounded by the defendant; that the witness turned to the defendant and asked him if it was true and the latter said that it was; that the deceased was wounded in the neck and on the left shoulder and that the wounds were inflicted by one stroke of a bolo; that the bolo with which the wounds were inflicted belonged to the deceased; that the deceased did not speak again after the conversation above stated and that he died the next day; that at the time the witness arrived at the place of the killing the defendant was applying some remedies made of herbs to the wounds of the deceased.

Sinforosa Palango, the wife of the deceased, testified that being informed of the quarrel between the deceased and the defendant, she went to the place and found there present the deceased, the defendant, and Luis Salvador: that her husband at that time was unable to speak; that the defendant was sitting at the side of Luis Salvador and had in his hand the bolo which belonged to the deceased; that the deceased was a nephew of the defendant's wife.

The defendant testified in the case and stated that on Friday, while he was at home, a boy came to say to him that the deceased,

Guillermo Salvador, was wounded and wished the defendant to render him assistance; that at the time he arrived at the place where the deceased was he found him sitting down; that it was at a place within the boundaries of his (the defendant's) land; that when he reached the place where the deceased was he found the latter had been wounded and was bleeding freely; that the witness spoke to the deceased and asked him who had wounded him; that the only reply made by the deceased was that he came from the rice field; that the witness did not ask him the second time, because the deceased requested him to go home for medicines to apply to his wounds, and that he accordingly at once went off for medicines in order to save the life of the deceased, and, when he returned to apply them, Luis Salvador arrived; that up to this time the deceased was not able to speak; that Luis Salvador accused the witness of being the party who had wounded the deceased in a dispute about the boundaries between their lands; that he denies having made a statement to Luis Salvador to the effect that he (the witness) stabbed the deceased. The witness further stated that there was trouble between him and Luis Salvador on account of their land boundaries.

Alipio Benito testified that on Friday evening the defendant had sent him to repair the fence around the defendant's land; that while he was there working he saw the deceased approaching the place and that the latter asked him to call the defendant at once to treat his wounds; that the witness did not ask the deceased what was the matter with him, because he was told to call his master at once and immediately went off; that he did not see the wounds; that he went to the house of the defendant at about 2 o'clock and found him there asleep and that it was about 4 o'clock when the defendant left his house and said to the witness: "Wait a minute, I am going to speak first to these two men," referring to two men who were then present; that the witness supposes the defendant did not go to render the deceased assistance immediately because he wanted to have a conversation with these two men; that it was important for him to speak to them because he wanted to send them to plant sweet potatoes. On cross-examination this witness stated that when he saw the deceased the latter was coming over the rice field, very muddy, and was wounded and told the witness to call his master, as he had been wounded and required treatment.

Two other witnesses for the defendant, Pedro Malde and Argapito Presto, testified that they were at the house of the defendant when Alipio Benito came and reported that the deceased had been wounded and wanted the defendant to come and treat his wounds. These witnesses testified that they were planting potatoes and that they continued their work and did not see the deceased.

The statement of the witness Alipio Benito seems entirely improbable. That the defendant should have delayed going to the place where the deceased was lying for two hours after having been notified of the distressed condition of the deceased, for so trivial an excuse as was given, is not probable; nor is the statement made by this witness that when he first saw the deceased the latter was coming across the rice field, muddy and wounded, probable, in view of the serious nature of the wounds which had been inflicted on the deceased.

It was a strange circumstance also that neither this witness nor the defendant, when they reached the place where the deceased was found wounded, remained long enough with the deceased to ascertain from him who had inflicted the wounds, the explanation of the witness Benito being that the reason why he did not ask the deceased what was the matter with him was because the deceased had requested him to call his master at once, and he immediately left; while the explanation of the defendant was that he asked the deceased what person had wounded him and, failing to receive a reply, did not ask the deceased a second time, because he immediately left for medicine to apply to the deceased's wounds.

The defendant's counsel further contends that if the killing really was done by the defendant it is probable that he and the

deceased were engaged in strife, and, in a critical moment, the defendant seized the bolo of the deceased and wounded him and that the case falls within the provisions of No. 5, article 8 of the Penal Code, which exempts from criminal liability those who act in defense of their person.

The fact that the bolo with which the deceased received his mortal injuries belonged to the deceased is a circumstance which might be considered under a different state of facts than exist in this case, but in view of the failure of the defendant to state in the admissions made by him to Luis Salvador that he had inflicted the wounds upon the deceased in a quarrel and in self-defense and the failure of the defendant when testifying in his own behalf to justify himself as having acted in self-defense destroys the effect of the circumstance that the bolo with which the wounds were inflicted belonged to the deceased.

We think the defendant should be given the benefit of article 11, Penal Code, as a mitigating circumstance. This will reduce the term of imprisonment to twelve years and one day *reclusión temporal*, and, proceeding to correct the judgment of the Court of First Instance in this particular, we now adjudge the defendant, Teodoro Oligores, guilty of the offense of homicide as charged in the complaint and sentence him to imprisonment for a term of twelve years and one day, *reclusión temporal*, with accessories, and to the payment of an indemnification of 500 pesos to Sinforosa Palanco, the wife of the deceased Guillermo Salvador, and to pay the costs of the proceedings.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, JJ., concur.

Johnson, J., did not sit in this case.

Judgment modified.

[No. 1339. November 28, 1903.]

**THE UNITED STATES, complainant and appellee, vs. PEDRO MAGSINO, defendant and appellant.**

- \*1. CRIMINAL PROCEDURE; INFORMATION; NONPREJUDICIAL ERROR; INTERVENTION OF STRANGER.—Where the information is signed by the provincial fiscal and the prosecution is carried on by him it is sufficient authority for the prosecution; that another, not entitled to recover damages or carry on the prosecution, intervened in the case, no judgment having been rendered in favor of such party and it not appearing that it tended to prejudice any right of the defendant, will not be sufficient cause for reversal of the judgment on account of such error.
- 2. CRIMINAL LAW; ROBBERY.—The facts in this case held sufficient to connect the defendant with the commission of the offense.
- 3. CRIMINAL PROCEDURE; RECORD; AFFIDAVIT.—An affidavit attached to the brief of the defendant, made by a witness, stating that the testimony of the witness given at the trial was untrue, not being a part of the record can not be considered at the hearing in this court.
- 4. CRIMINAL LAW; ROBBERY; BUILDING DEFINED.—The word "building" mentioned in article 512, Penal Code, embraces any kind of structure not mentioned in paragraph 1, article 508, Penal Code, used for the storage and safe-keeping of personal property, and embraces a freight car in which sugar was transported.
- 5. ID.; ID.; BREAKING.—The unfastening of a strip of cloth nailed over the door, the customary manner of sealing a freight car, constitutes a breaking by force within the meaning of article 512, Penal Code.

APPEAL from a judgment of the Court of First Instance of Pampanga.

The facts are stated in the opinion of the court.

PERFECTO GABRIEL, for appellant.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

The defendant, Pedro Magsino, is charged with the offense of robbery committed in the following manner:

"Mariano Dy-Seng, a Chinaman, loaded at the railway station in the town of Angeles, on August 27, 1902, 70 pilones of sugar to be shipped to Manila. When the car arrived at Manila it contained only 36 pilones of sugar. 34 pilones of the amount

shipped by Dy-Seng being lacking; that the accused, Pedro Magsino, agent at the said station, abstracted by force by unnailling the strips of cloth used to seal up the door of the car which contained the said sugar, and that, after the abstraction, again fastened the door of the car."

The defendant was convicted on October 1, 1902, and was sentenced to the penalty of one year and ten months of *presidio correccional*, with the accessories of article 58 of the Penal Code, and was adjudged to make restitution to Mariano Dy-Seng of 34 pilones of sugar or to pay to the latter the sum of \$246.50, its value, and, in case of insolvency, to the corresponding subsidiary punishment at the rate of one day for each 12½ pesetas, and to the payment of costs. The defendant appeals from this judgment.

It is contended by counsel for the defendant: (1) That the court erred in permitting Geronimo Manola, station master of the railway company, to prosecute the case, the party injured being the Chinaman Dy-Seng; (2) that the proof is insufficient to show that the defendant had any participation in the abstraction of the sugar, either as author, accomplice, or *encubridor*; and (3) that the court erred in qualifying the offense as robbery, the facts charged in the complaint consisting in the act of unnailling and renailling the strip of cloth placed over the door as a seal, this act being not included within the provisions of article 512 of the Penal Code.

I. As to the first objection—that is, that the injured party was the Chinaman, Dy-Seng, and that Geronimo Manola, the station master, should not have been permitted to prosecute the case—it is sufficient to say that the information was signed by the provincial fiscal and the prosecution was conducted by him in the court below. The case cited by counsel, the *United States vs. the Municipality of Santa Cruz*, is not applicable here. In the case cited the prosecution was not carried on by the provincial fiscal, but it was instituted and carried on by the municipality of Santa Cruz, which municipality had no direct interest and was not entitled under the provisions of section 107 of General Orders, No. 58, as the person injured, to take part in the prosecution of the offense and to recover damages for injuries sustained by reason of the same.

The judgment was rendered in favor of Dy-Seng for the damages resulting from the taking of the 34 pilones of sugar, and no judgment has been rendered in favor of Geronimo Manola.

Where the complaint is signed by the provincial fiscal and the prosecution is carried on by the Government, it is sufficient authority for the prosecution; that others, who were not entitled to recover damages or carry on the prosecution, intervened in the case, is not such error as tends to prejudice the right of the defendant upon the merits, no judgment having been rendered in favor of such intervening party.

II. The next assignment of error, that is that the evidence is insufficient to show the participation of the defendant in the taking of the sugar, will require a review of the evidence.

It appears that the defendant Magsino was an employee and agent of the railway company at the station of Angeles; that the Chinaman Mariano Dy-Seng, on August 28, 1902, carried to the station 70 pilones of sugar, which was loaded under the direction of the defendant as such agent, in a freight car, for shipment to Manila. Mariano Dy-Seng, as the shipper, sealed the car after it was loaded by placing upon the door a strip of cloth, the customary way of sealing a freight-car door, the defendant at the time being near by. The defendant, as agent of the company, then issued a certificate to Dy-Seng to the effect that the car contained 70 pilones of sugar of the weight of 7,000 kilos. The sugar was shipped and invoiced to Chua-Koko in Manila. When the car reached San Fernando, Pampanga, en route to Manila, it was again weighed and was found to contain but 3,110 kilos, about 36 pilones of the sugar. When it reached Manila it was examined by Chua-Koko, the consignee, and was found to contain only 36 pilones of sugar. Dy-Seng examined the car at Manila and found

that the strip of cloth nailed over the door as a seal had been broken.

It appears that on August 27 one Espiridion Basilio was making some shipments of sugar to Malolos, having shipped two cars of 70 pilones each to that station; that he accompanied these shipments to Malolos, and while at Malolos on August 29, 1902, one Pedro Sondiango arrived there, having in his charge an invoice of 34 pilones of sugar which had been shipped from Angeles to Malolos. This invoice was sent by the defendant, Magsino, to Basilio, with the request that the latter should assist the former in making the sale of the sugar mentioned in the invoice. Basilio answered saying he did not have time to attend to the sale of the sugar for the defendant, on account of his having to leave for Manila, and turned over the invoice to a Chinaman, Tomas Iniguez, leaving the sugar with him. Basilio, after his return to Angeles, in a conversation with the defendant, asked defendant where the sugar came from. The defendant replied that it came from his father, to whom it had been delivered as rent by Tomas Dison. After the return of Basilio to Angeles, at the request of the defendant, Basilio sent one Hilaria de la Cruz from Angeles to Malolos to look after the sugar, she bearing a letter to the Chinaman, Tomas Iniguez. Upon the presentation of this letter to Tomas Iniguez at Malolos, he delivered to Hilaria 200 pesos as a payment on account of the sugar which had been left in his charge by Basilio. Hilaria testified that she returned with the money to Angeles and there turned it over to the defendant.

The defendant testified in his own behalf and made the following statement with reference to the shipment of the 34 pilones of sugar from Angeles to Malolos. He stated that in the course of his duties, as agent at the station, whenever the station master was absent and merchandise was sent to the station for loading, he attended to supplying the car; that between 6 and 7 o'clock of the morning of August 28, 1902, Espiridion Basilio requested a car for the loading of some sugar; that at this hour the station master, Manola, had not arrived; that about 7 o'clock in the morning he gave an order for the loading of the sugar and that the car was loaded between 9 and 10 o'clock; that on the same day after the sugar had been loaded, Basilio entered the office and asked him to invoice the sugar, and to this the defendant replied that the train was then in sight and that he would send the invoice to Basilio at Malolos; that Basilio, after leaving \$7.06, the amount of freight charges on the car to Malolos, took the train for Malolos; that on the following day the defendant, seeing Pedro Sondiango in the station and learning that Sondiango was going to Malolos, requested him to take the invoice to Basilio.

The defendant on cross-examination denied that the 34 pilones of sugar shipped from Angeles to Malolos was his property or that he ever made any claim to it. He also denied the statement of Hilaria de la Cruz to the effect that she ever turned over to him the 200 pesos which she testified to having received from the Chinaman, Tomas Iniguez, at Malolos.

There is attached to the brief of defendant's counsel an affidavit of Hilaria de la Cruz in which she states that her testimony on the trial was given at the request of her brother-in-law, Espiridion Basilio; that she had also been threatened with death by Geronimo Manola, the station master at Angeles, if she did not testify in the manner in which she did on the trial of the case; that she wished now to retract all she said at the trial of the case and states that it was not true that she delivered any money to the defendant, Magsino, at any time on account of the sale of the sugar.

This declaration on oath can not be considered in the decision of this case, as it was not delivered at the trial and is not contained in the record, nor would it be entitled to any weight if considered. Her testimony given in the trial was consistent and has the appearance of being true.

The following facts in the case seem to be uncontroverted:

That 34 pilones of the 70 pilones of sugar belonging to Dy-Seng

and loaded on the car at Angeles were taken out of the car before it reached Manila. This was shown by the testimony of Dy-Seng, who examined the car after it reached Manila, and by the testimony that the car was short this amount when reweighed en route at San Fernando, Pampanga; that the exact amount of this shortage was about the same time shipped from Angeles to Malolos; that this shipment to Malolos was not made through accident or mistake is shown by the testimony of the defendant, who states that he shipped 34 pilones of sugar from Angeles to Malolos, consigned to Basilio, the invoice for which he sent to Basilio at Malolos by Pedro Sondiango, and by the testimony of Basilio, who states that he received from the hands of Pedro Sondiango the invoice of the shipment, and by the testimony of Sondiango that the defendant gave him the invoice at Angeles which he delivered to Basilio at Malolos; that the 34 pilones of sugar were surreptitiously taken may be inferred from the fact that it was placed in the hands of the Chinaman, Tomas Iniguez, for sale, and that both the defendant, who loaded it, and the consignee Basilio, who received it at Malolos, deny any claim to it.

The opportunity of the defendant for abstracting the sugar from the car of Dy-Seng and reshipping it to Malolos was superior to that of Basilio. In the performance of his duties as agent at Angeles the loading of cars was intrusted to the defendant, thus affording him, without suspicion, the opportunity of handling the sugar in the car loaded for Dy-Seng and reloading it on the car sent to Malolos; while on the other hand it is entirely improbable that Basilio could have performed this act at the station undiscovered by the employees of the railway company.

These circumstances tend strongly to corroborate the testimony of the witnesses who testified against the defendant. The testimony of Basilio plainly made out the case against the defendant. His testimony is direct and positive that he was in Malolos at the time the invoice was sent him and that it was sent by the defendant with the request that the sugar be sold for his account. The testimony of Hilaria de la Cruz was also direct and positive to the effect that she went to Malolos to make the collection from the Chinaman Tomas Iniguez, and collected from him \$200 on account of the sale of the sugar, and delivered this amount to the defendant.

It seems entirely probable that the defendant availed himself of the confusion which might occur by the shipment at the same time of a like quantity of sugar belonging to Dy-Seng and belonging to Basilio, and, taking advantage of this, abstracted from the car of Dy-Seng the 34 pilones of sugar belonging to him and shipped it to Malolos as a part of the shipment of Basilio, in hopes, perhaps, of securing the cooperation of Basilio in the theft.

The testimony is entirely sufficient to fix upon the defendant the crime of abstracting the 34 pilones of sugar belonging to Dy-Seng.

111. The only question that remains to be determined is whether the offense committed is that of robbery as defined and punished by article 512 of the Penal Code or is that of estafa. This article reads as follows:

"ART. 512. Robbery committed in an uninhabited place or in a building which is not one of those mentioned in the first paragraph of article 508, if the value of the objects robbed should exceed 1,250 pesetas, shall be punished with the punishment of *presidio correccional* in its minimum and maximum degree, providing that any of the following circumstances be attendant, among them: Wrongful entry; breaking of walls, roofs, or floors; the forcing of doors, wardrobes, etc., coffers or any other kind of furniture or locked or sealed objects."

We think that the car in which the sugar belonging to Dy-Seng was loaded came within the meaning of this section of the Penal Code. The word "building" mentioned in article 512 was evidently intended to embrace any kind of structure not mentioned in the first paragraph of article 508 used for the storage or safe-keeping of personal property.

That there was a breaking by force we think is also shown by the evidence. The car, after being loaded, was, by the owner of the

cargo, Dy-Seng, closed by nailing a strip of cloth over the door so as to seal it, the customary manner of sealing a freight car. Dy-Seng testified that, upon the examination of the car at Manila, the strip of cloth had been unnailed and again nailed over the door. This was a breaking by force within the meaning of the statute.

IV. We think the court also properly applied the aggravating circumstance mentioned in No. 10 of article 10 of the Penal Code; that is, that it was an act committed with abuse of confidence. It was the duty of the defendant to superintend the loading of cars, and he availed himself of the opportunity which this office afforded him for abstracting the sugar.

There was no error committed by the Court of First Instance in the conviction of and in the sentence imposed upon the defendant. The judgment is therefore affirmed, and the costs of this appeal adjudged against defendant.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, J.J., concur.

Johnson, J., did not sit in this case.

Judgment affirmed.

[No. 1415. December 2, 1903.]

THE UNITED STATES, complainant and appellee, vs. ANASTASIO MANGUBAT ET AL., defendants and appellants.

1. CRIMINAL PROCEDURE; INFORMATION; DUPLICITY.—An information which charges the commission of "robbery in a band, or brigandage" and alleges facts showing the commission of an act of robbery by a band of robbers, simply sets out the same fact in different aspects and is not bad for duplicity.
2. ID.; ID.; CONVICTION OF LESSER OFFENSE.—Where the information charges brigandage, and the evidence discloses the commission of an act of robbery but fails to show that the act was committed by an "armed band" within the meaning of Art. 518, the defendants may be convicted of the lesser offense of robbery.
3. CRIMINAL LAW; BRIGANDAGE; ROBBERY.—To justify a conviction of the crime of brigandage the evidence must show that at least three members of the band were armed with deadly weapons.

APPEAL from a judgment of the Court of First Instance of Laguna.

The facts are stated in the opinion of the court.

MARIANO FERMIN, for appellants.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

These defendants were charged with "*robo en cuadrilla* or *bandolerismo*" as follows:

That the said accused, on the 9th of December, 1902, in San Pablo, of the Province of Laguna, conspired together and formed a band of ladrones and robbed various persons by means of force and violence in an uninhabited place and went upon the highways armed with deadly weapons.

On the 10th of July, 1903, the judge of the Court of First Instance of the Province of Laguna found the accused guilty of the crime of *bandolerismo* and sentenced each of them to be imprisoned for a period of twenty years, to indemnify the persons robbed, and to pay the costs.

The defendants demurred to the complaint filed in the said cause, alleging that it contained allegations of two distinct causes. The trial judge overruled the demurrer. The court held that the complaint contained but one cause and that the allegation *robo en cuadrilla* or *bandolerismo* simply set out the same fact in different aspects. There was no error in overruling the demurrer.

The proof taken in the trial of the said accused showed conclusively that they had joined in robbing with violence Aurelio Rivero, Alejo Punto, and Gregorio Ilaog of personal property belonging to them of the value of 13, 6, and 4 pesos, respectively.

There was much conflict in the evidence relating to the question whether the accused were armed, as charged in the complaint. This proof was not sufficient to convict the said accused of

*bandolerismo* under Art. 518 of the United States Commission, because it was not shown that the said accused were armed. It was sufficient to convict them of the crime of robbery. The said accused are therefore hereby found to be guilty of the crime of robbery with force and intimidation. The offense proven is punished under subsection 5 of article 503 of the Penal Code.

There were neither aggravating nor extenuating circumstances proven. Therefore the medium degree of the penalty provided should be imposed. By applying the rule laid down in article 82 of the said code, the medium degree is found to be six years and ten months of *prisión mayor*.

The sentence of the court below is hereby modified and the said accused Anastasio Mangubat, Antonio Bondad, Prudencio Celino, and Esteban Guevara, and each of them, are hereby sentenced to six years and ten months of *prisión mayor*, to indemnify the said persons robbed in the sum of \$23, Mexican, and to pay all costs.

Arellano, C. J., Torres, Cooper, Willard, Mapa, McDonough, J.J., concur.

Judgment modified.

[No. 1374. December 3, 1903.]

THE UNITED STATES, complainant and appellant, vs. CRISTINO REYES, defendant and appellee.

1. CRIMINAL LAW; CIRCUMSTANTIAL EVIDENCE.—To justify a conviction on circumstantial evidence alone the circumstances must be just as convincing as when the proof is direct and must lead irresistibly to the single conclusion of the guilt of the defendant.
2. ID.; EVIDENCE; REASONABLE DOUBT.—Proof beyond a reasonable doubt is such proof as is sufficient to overcome the presumption of innocence and to preclude every reasonable hypothesis except that which it is given to support.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

BASILIO R. MAPA, for appellee.

JOHNSON, J.:

The defendant was charged in the Court of First Instance of the city of Manila with the crime of larceny, as follows:

"Before me, the undersigned officer of the court, personally appeared the complainant, who, under oath, made a statement to which he affixed his signature, that he had reasonable grounds to believe that Cristino Reyes, in the southern district of the Pasig River, on or about the 29th day of September, 1902, in the city of Manila, illegally took, stole, and carried away with him a check for \$500, money of the United States, and specie in the sum of \$110, money of the United States, amounting altogether to \$610, money of the United States, the said check and specie being the property of Bud Wing, without the consent of the latter and with the intention of illegally depriving Bud Wing, its owner, of the value of the said property and of appropriating the same for his own and exclusive use."

The defendant was brought to trial on the 28th day of October, 1902, and was dismissed for insufficient proof on the same day. The prosecuting attorney appealed to this court. Because the defendant has been unable to give bail he has been in imprisonment since that date.

The defendant was a servant of one S. B. Kurtz, who was secretary of the "Young Men's Christian Association" of Manila, and had been such servant for several months prior to the time of the alleged commission of the said offense. The association mentioned occupied a house at No. 205 Calle Real, Intramuros, Manila. The defendant was a servant in this house, which was a sort of lodging house, containing several rooms, with numerous beds.

On the night of the 28th of September, 1902, one Bud Wing went to this house at about 11 o'clock at night for the purpose of

sleeping there. On retiring for the night he placed the money and check referred to in his bed. His brother, a small boy of 9 years, more or less, slept in the same room on the same night. The next morning, at about 8 o'clock, he and his small brother arose and left the house. On the same morning, at about 9 o'clock, he discovered that he had forgotten his money and check. He then returned to the house and examined the bed in which he had placed the property, but it could not then be found. The loss was reported to the secretary, Mr. Kurtz. There were two other servants in the said house. All of the servants were called together and closely questioned concerning what they knew of the alleged loss. They each denied having any knowledge or information concerning the same. The servants were ordered to search the rooms and to see if the money and check could be found. Later in the day the property in question was found on the floor in the room of the servants, where also the dirty linen was kept from time to time.

The room in which the said Bud Wing slept on the night referred to was connected with a hall and another large room by means of doors. Other persons occupied the large room.

On the morning when the property in question was alleged to have been taken all the servants were in and about the house. It was the duty of the accused to clean this room in which Bud Wing slept. The evidence is not clear whether or not the linen on the bed in this room had been changed on the morning of the 29th of September. Neither does the evidence show that the said property was hid away in the room where the dirty linen was kept. It is possible that the property in question was removed at the time the dirty linen was, and in that manner found its way into the room with the dirty linen.

The learned judge of the court below found that the evidence adduced on the trial was not sufficient to convince him beyond a reasonable doubt that the defendant was guilty of the crime charged.

There was no direct proof adduced against the accused. The evidence was wholly circumstantial. It is true that the commission of crime may be proven by circumstantial evidence. In such cases, however, the circumstances must be just as convincing as when the proof is direct and positive. The circumstances must be such as to lead the mind of the judge irresistibly to but one conclusion, namely, the guilt of the person charged. So long as the acts of the accused and the circumstances can be explained upon any other reasonable hypothesis inconsistent with his guilt he must be acquitted. If the judge, after hearing the proof, is not convinced beyond a reasonable doubt that the accused is guilty he must dismiss him.

A reasonable doubt in criminal cases must be resolved in favor of the accused. A reasonable doubt has been variously defined. It is most difficult to define. It has been said that a reasonable doubt was the doubt of a reasonable man under all the circumstances of the case. This statement is too general and includes too much. Neither does the rule that the judge (or jury) must be convinced beyond a reasonable doubt mean that he must be convinced to an absolute certainty. This construction would preclude a conviction based upon circumstantial evidence. Proof "beyond a reasonable doubt" does not mean, upon the other hand, proof beyond all "possible or imaginary" doubt. It means simply such proof, to the satisfaction of the court, keeping in mind the presumption of innocence, as precludes every reasonable hypothesis except that which it is given to support. It is not sufficient for the proof to establish a probability, even though strong, that the fact charged is more likely to be true than the contrary. It must establish the truth of the fact to a reasonable and moral certainty—a certainty that convinces and satisfies the reason and conscience of those who are to act upon it.

The judgment of the court below is affirmed.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur.

*Judgment affirmed.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

TARIFF DECISION CIRCULARS.

No. 342.—*Seal presses—not machinery.*

MANILA, December 2, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest numbered 2261, filed June 29, 1903, of Messrs. Murphy, Morris & Co., against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 13177, Voucher No. 21218, paid June 28, 1903.

"The claim in this case is against the classification of certain seal presses of ornamented cast iron as 'machinery' under paragraph 257 (b) of the Tariff Revision Law of 1901, at \$1 per 100 kilos, not less than 20 per cent ad valorem, the latter rate prevailing, instead of as 'manufactures of ornamented cast iron' under paragraph 33, at \$2 per 100 kilos, as declared.

"The article in question is a common ornamented seal press of cast iron, having both a die and a bed, used to emboss designs upon paper or plastic material. By pulling down the lever of the press a cam concealed in the framework pushes upon a movable bar carrying the die, the die descends and presses upon the bed, and if there be a sheet of paper intervening between the die and the bed a design is embossed upon it.

"That this is a machine, howbeit a very simple one, admits of no question. The Century Dictionary in the definition of the word 'machine' specifically enumerates the crowbar, wheel and axle, wedge, lever, pulley, screw, and inclined plane as such. While it is undoubted that such a simple contrivance is technically as much a machine as a bicycle, a typewriter, or a complicated printing press, yet in commercial usage it is not such, the commercial conception of a machine being of a construction more or less complex. In the interpretation of a tariff the commercial meaning of a word must always prevail over the merely technical. (See Tariff Decision Circular No. 213, with cases cited; also Tariff Decision Circular No. 174.)

"Complexity of parts being one of the leading tests which differentiate a machine on the one hand from a tool like a pair of tongs or an appliance like an ordinary letter-copying press on the other, it is obvious that no general rule of decision for determining exactly the line of demarcation can be laid down in advance. Each case must, on the contrary, be determined as it arises. Due consideration should be given also to the manner of use and the power employed.

"The seal press in question consists of the following parts: A rigid cast-iron frame, to which is attached the bed; a lever; a moving bar carrying on the lower end a die and on the upper end a plate to take the thrust of the lever cam; a spring; a pivot bar; and a guide frame.

"In the opinion of this office the classification of such an apparatus as a machine is not warranted on the ground of the complexity of its parts, its mode of use, or its commercial designation.

"Protest numbered 2261, on the grounds above mentioned, is therefore sustained and a refund ordered in the sum of \$10.64, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 343.—*License fees—barkentine lita; right to certificate of protection under section 117 of Act 355.*

MANILA, December 3, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest numbered 1860, filed February 14, 1903, by D. H. Ward, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, in assessing and collecting certain license fees against the barkentine *Atta*, paid on Voucher No. 4924, February 12, 1903.

"The claim in this case is against the collection of a coastwise license fee from the barkentine *Atta*. The owner of the *Atta*, an American citizen, filed an application to secure a certificate of protection for his vessel, but stated that he did not desire or intend to embark in the coastwise trade and did not desire a coastwise license. Issue of a certificate of protection was refused unless and until a coastwise license should be taken out; on the ground that certificates of protection are for merely local use, and being of no avail to establish any special rights or privileges in any other ports than those of these Islands, their issue is an idle act and without warrant in law. The owner thereupon took out a coastwise license under protest, paying \$1,289.38. United States currency.

"It is against the payment of \$1,289.38 as license fees that this protest is directed, and the question is thus raised whether a vessel which fulfills the requirements of section 117 of the Customs Administrative Act is required, in order to procure the certificate of protection provided for in that act, to also apply for and obtain a license to engage in the coastwise trade of the Philippine Islands, and to pay the license fees provided by law therefor.

"Section 117 reads as follows:

"Collectors of customs may issue a certificate of protection entitling the vessel to which it is issued to the protection and flag of the United States in all ports and on the high seas, if the vessel is 'owned by—

"(a) A citizen of the United States residing in the Philippine Islands;

"(b) A native inhabitant of the Philippine Islands upon taking the oath of allegiance to the United States;

"(c) A resident of the Philippine Islands before April 11, 1899, hitherto a subject of Spain, upon abjuring his allegiance to the Crown of Spain and taking the oath of allegiance to the United States.'

"Section 135 of Act 355 provides that: 'All vessels of the class designated in section 117 of this Act shall, prior to engaging in the coastwise trade, and annually thereafter, take out a license therefor.' It further provides for the issuance of this license by collectors of customs at ports of entry, and provides for the fee to be charged therefor.

"Section 119 of Act 355 provides that: 'Such certificate of protection shall entitle the vessel to the same privileges and subject it to the same disabilities as are prescribed in Article XX of the Consular Regulations of the United States of 1896, for American or foreign built vessels transferred abroad to citizens of the United States'; while in Article XX of the Consular Regulations of the United States of 1896 is found under section 341:

"Right to acquire property in foreign ships.—The right of citizens of the United States to acquire property in foreign ships has been held to be a natural right, independent of statutory law, and such property is as much entitled to protection by the United States as any other property of a citizen of the United States.'

"And under section 347:

"Right to fly the flag.—The privilege of carrying the flag of the United States is under the regulation of Congress, and it may have been the intention of that body that it should be used only by regularly documented vessels. No such intention, however, is found in any statute, and as a citizen is not prohibited from purchasing and employing abroad a foreign ship, it is regarded as reasonable and proper that he should be permitted to fly the flag of his country as an indication of ownership and for the due protection of his property. The practice of carrying the flag by

such vessels is now established. The right to do so will not be questioned, and it is probable that it would be respected by the courts.'

"This office accordingly holds that a certificate of protection is a right which has been guaranteed to a citizen of the United States residing in the Philippine Islands, a native inhabitant of the Philippine Islands upon taking the oath of allegiance to the United States, and a resident of the Philippine Islands before April 11, 1899, hitherto a subject of Spain, upon abjuring his allegiance to the Crown of Spain and taking the oath of allegiance to the United States, regardless of whether such person desires to engage in the coastwise trade within the Philippine Islands or not. A certificate of protection may be issued under the authority of this section for the purpose of identifying the ownership of the vessel for which the certificate is sought, and for the purpose of granting to the vessel and to the owner thereof the right to fly the flag of the United States, and the protection to which that flag entitles the vessel.

"While it is true that a certificate of protection gives no special rights in either a foreign or a United States port, the vessel bearing one being treated for all purposes as a foreign vessel, yet it is certain that such a certificate entitles a vessel to the protection of the United States flag upon the high seas and in any foreign port, and in case of capture would doubtless be well worth the cost. It is for the owner to estimate the risk of capture.

"The right to engage in the coastwise trade is an additional privilege and right to which a vessel holding the certificate of protection provided for in section 117 of the Customs Administrative Act is entitled under that certificate of protection; the vessel may or may not engage in the coastwise trade, at the option of the owner: *Provided, however*, if it is desired to do so that the vessel take out the license provided for in section 135 of Act 355.

"Protest No. 1860, on the grounds above mentioned, is therefore sustained and a refund to the owner of said vessel is ordered in the sum of \$1,289.38, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 344.—Admeasurement fees—lorcha Iroquois.

MANILA, December 3, 1903.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of appeal numbered 13, filed December 27, 1902, by Mr. Luis G. Seligman, from the decision of the collector of customs for the port of Iloilo, in re protest No. 702, as to the payment of admeasurement fees for the lorcha *Iroquois*, Voucher No. 75779, paid December 20, 1902.

"This is an appeal from an adverse decision of the collector of customs at the port of Iloilo in the matter of a protest filed against the collection of \$17.30 for admeasurement fees for services rendered the lorcha *Iroquois*.

"In the protest it is stated that:

"Until the Insular Collector of Customs, with the approval of the Secretary of Finance and Justice, shall prepare and promulgate the fees for the admeasurement of vessels those at present in force shall be collected and at the time of the enactment of the Customs Administrative Act there were no fees legally collectible at the port of Iloilo for the admeasurement or gauging of vessels, as there existed no royal order, decree, military order, law of the Captain of the Port's Office, nor other legal authority providing for any fees for such admeasurement or gauging at the port of Iloilo.'

"The Collector of Customs in passing upon the case states:

"That the schedule of admeasurement fees collected prior to

the enactment of the Customs Administrative Law was promulgated at this port during the former military government and by military order, and that the fees provided by said schedule were being enforced at the time of the passage of the Customs Administrative Act.'

"Section 393 of the said act provides in part as follows:

"And such fees and charges (including admeasurement fees) as soon as promulgated in pursuance of this act, shall be in lieu of the ones to be collected up to the time of the said promulgation in accordance with the tariffs at present enforced by the said captains of the ports."

"This appeal then raises two questions: First, was there any military order placing a schedule of admeasurement fees in force at Iloilo, and if not and certain fees were in fact being actually collected at the time of the promulgation of the Customs Administrative Act, has the schedule used for their ascertainment been adopted by section 393 of that act in such a manner as to authorize the continued collection of such fees?

"If a military order existed (and the protester denies this fact) that would be conclusive of both questions; but this office is unable to ascertain the date, number, or series of any such order, and on the evidence so far submitted it is not established that any such order was ever formally issued.

"Turning then to the second question: Does the Customs Administrative Act adopt and authorize the enforcement of schedules put in force irregularly as this one may have been? It will be noted that there is no denial of the fact that a regular schedule was being enforced, which schedule was the same as the one in force at Manila.

"This office finds that the Customs Administrative Act by adopting the tariffs at present enforced by the various captains of the ports and expressly continuing them, provided that if some tariff was as a matter of fact being enforced by a captain of the port, that particular schedule was thereby legalized and any defects in the manner of its promulgation that might have existed were, from the moment that Act 355 went into effect, completely cured.

"This office therefore finds that the fees for the admeasurement of the lorcha *Iroquois* were properly collected under the law, and appeal No. 13, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 345.—Cotton tulle, embroidered.

MANILA, December 8, 1903.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest numbered 1949, filed March 17, 1903, by Messrs. Ed. A. Keller & Co., against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty

chargeable on certain merchandise described in Entry No. 5088, Voucher No. 8569, paid March 14, 1903.

"The claim in this case is against the classification of certain cotton textiles as laces, less than 25 centimeters in width, under paragraph 127 (c), at \$1.40 per kilo, instead of as cotton tulle, under paragraph 128 (b), at \$0.92 per kilo, as entered.

"The goods imported are invoiced 'cotton laces.' The merchandise is a machine-made lace, less than 25 centimeters wide, having a base of cotton tulle or bobbinet and figured in the loom. The importers claim that it is a figured tulle. By 'tulle' is understood 'a fine and thin silk (cotton) net, originally made with bobbins but now woven by machinery. It is used for women's veils and in dressmaking; it is sometimes ornamented with dots (or small figures) but is more commonly plain.' (Century Dictionary.)

"A tulle is a kind of lace, and by the insertion of paragraph 126 all cotton laces which are popularly and commercially known as tulle are to be classified under that paragraph. All others must be classified under paragraph 127.

"Many machine-made laces consist of a base of tulle or bobbinet figured, and the question here raised is as to when such a fabric is a tulle and when a lace. In general it may be said that a perfectly plain net, or a net figured or embroidered with dots or small figures disposed regularly over the net (not in such size and form as to be suitable for a trimming or edging) is what is popularly and commercially known as a tulle; but if, as in the present case, a plain net is embroidered or figured, cut with a border or made to be so cut, and is suitable for use as a trimming or edging and net for veils, making up into articles of clothing, etc., it is popularly and commercially known as a lace, and not as a tulle, and should be so classified.

"Protest No. 1949, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 254.—Publishing value of coins established by the Secretary of the Treasury of the United States on October 1, 1903.

MANILA, November 18, 1903.

To all Collectors of Customs:

PARAGRAPH I. Pursuant to Section 174 of Act No. 355 of the United States Philippine Commission, the following circular of the United States Treasury Department, dated October 1, 1903, is hereby published for the information and guidance of all concerned:

PAR. II.—

(24690.)

Values of foreign coins.

[Circular No. 112.]

TREASURY DEPARTMENT, BUREAU OF THE MINT,

Washington, D. C., October 1, 1903.

Hon. LESLIE M. SHAW, Secretary of the Treasury.

Sir: In pursuance of the provisions of section 25 of the act of August 28, 1894, I present in the following table an estimate of the values of the standard coins of the nations of the world:\*

Values of foreign coins.

Country.	Standard.	Monetary unit.	Value in terms of U. S. gold dollar.	Coins.
Argentine Republic	Gold	Peso	\$0.965	Gold: argentine (\$4.824) and 1 argentine. Silver: peso and divisions.
Austria-Hungary	Gold	Crown	.203	Gold: former system—4 forins (\$1.929), 8 forins (\$3.858), ducat (\$2.287) and 4 ducats (\$9.149). Silver: 1 and 2 forins.
Belgium	Gold	Franc	.193	Gold: present system—20 crowns (\$4.052); 10 crowns (\$2.026). Silver: 10 and 20 francs. Silver: 5 francs.

\* The coins of silver-standard countries are valued by their pure silver contents, at the average market price of silver for the three months preceding the date of this circular.



*Values of foreign coins—Continued.*

Country.	Standard.	Monetary unit.	Value in terms of U. S. gold dollar.	Coins.
Bolivia	Silver	Boliviano	.408	Silver: boliviano and divisions.
Brazil	Gold	Milreis	.546	Gold: 5, 10, and 20 milreis. Silver: 1, 1, and 2 milreis.
British Possessions, N. A. (except Newfoundland), Central American States:	Gold	Dollar	1.000	
Costa Rica	Gold	Colon	.465	Gold: 2, 5, 10, and 20 colons (\$9.307). Silver: 5, 10, 25, and 50 centimos.
British Honduras.	Gold	Dollar	1.000	
Guatemala	Silver	Peso	.408	Silver: peso and divisions.
Honduras				
Nicaragua				
Salvador				
Chile	Gold	Peso	.865	Gold: escudo (\$1.825), doubloon (\$3.650), and condor (\$7.300). Silver: peso and divisions.
China	Silver	Amoy	.659	
		Canton	.657	
		Chefoo	.630	
		Chin Kiang	.644	
		Fuchau	.610	
		Haikwan (customs)	.671	
		Hankow	.617	
		Hongkong	.610	
		Nanking	.652	
		Niuchwang	.618	
		Ningpo	.634	
		Pekin	.643	
		Shanghai	.602	
		Swatow	.609	
Takau	.663			
Tientsin	.639			
Colombia	Silver	Peso	.408	Gold: condor (\$9.647) and double condor. Silver: peso.
Cuba	Gold	Peso	.926	Gold: Doubloon Isabella, centen (\$5.017), Alphonse (\$4.823). Silver: peso.
Denmark	Gold	Crown	.268	Gold: 10 and 20 crowns.
Ecuador	Gold	Sucre	.487	Gold: 10 sucres (\$4.865). Silver: sucre and divisions.
Egypt	Gold	Pound (100 piasters)	4.943	Gold: pound (100 piasters), 5, 10, 20, and 50 piasters. Silver: 1, 2, 5, 10, and 20 piasters.
Finland	Gold	Mark	.193	Gold: 20 marks (\$3.859), 10 marks (\$1.93).
France	Gold	Franc	.193	Gold: 5, 10, 20, 50, and 100 francs. Silver: 5 francs.
German Empire.	Gold	Mark	.193	Gold: 5, 10, and 20 marks.
Great Britain.	Gold	Pound sterling	4.8664	Gold: sovereign (pound sterling) and 1 sovereign.
Greece	Gold	Drachma	.193	Gold: 5, 10, 20, 50, and 100 drachmas. Silver: 5 drachmas.
Haiti	Gold	Gourde	.963	Gold: 1, 2, 5, and 10 gourdes. Silver: gourde and divisions.
India	Gold	Pound sterling †	4.8664	Gold: sovereign (pound sterling). Silver: rupee and divisions.
Italy	Gold	Lira	0.193	Gold: 5, 10, 20, 50 and 100 lire. Silver: 5 lire.
Japan	Gold	Yen	.498	Gold: 5, 10, and 20 yen. Silver: 10, 30, and 50 sen.
Liberia	Gold	Dollar	1.000	
Mexico	Silver	Dollar	.443	Gold: dollar (\$9.983), 2½, 5, 10, and 20 dollars. Silver: dollar (or peso) and divisions.
Netherlands.	Gold	Florin	.402	Gold: 10 florins. Silver: 1, 1, and 2½ florins.
Newfoundland	Gold	Dollar	1.014	Gold: 2 dollars (\$2.027).
Norway	Gold	Crown	.193	Gold: 10 and 20 crowns.
Persia	Silver	Kran	.075	Gold: 1, 1, and 2 toman (\$3.409). Silver: 1, 1, 1, 2, and 5 krans.
Peru	Gold	Sol	.487	Gold: libra (\$4.8665). Silver: sol and divisions.
Portugal	Gold	Milreis	1.080	Gold: 1, 2, 5, and 10 milreis.
Russia	Gold	Ruble	.515	Gold: imperial, 15 rubles (\$7.718) and 1 imperial, 7½ rubles (\$3.859). Silver: 1, 1, and 1 ruble.
Spain	Gold	Peseta	.193	Gold: 25 pesetas. Silver: 5 pesetas.
Sweden	Gold	Crown	.268	Gold: 10 and 20 crowns.
Switzerland	Gold	Franc	.193	Gold: 5, 10, 20, 50, and 100 francs. Silver: 5 francs.
Turkey	Gold	Piaster	.044	Gold: 25, 50, 100, 250, and 500 piasters.
Uruguay	Gold	Peso	1.034	Gold: peso. Silver: peso and divisions.
Venezuela	Gold	Bolivar	.193	Gold: 5, 10, 20, 50, and 100 bolivars. Silver: 5 bolivars.

\* The "British dollar" has the same legal value as the Mexican dollar in Hongkong, the Straits Settlements, and Labuan.  
 † The sovereign is the standard coin of India, but the rupee (\$0.3244) is the money of account current at 15 to the sovereign.

Respectfully,  
 R. E. PRESTON,  
*Acting Director of the Mint.*

TREASURY DEPARTMENT, October 1, 1903.

The foregoing estimate by the Director of the Mint of the values of foreign coins I hereby proclaim to be the values of such coins in terms of the money of account of the United States, to be followed in estimating the value of all foreign merchandise exported to the United States or after October 1, 1903, expressed in any of such metallic currencies.

H. A. TAYLOR, *Acting Secretary.*

PAR. III. For the period intervening between the first day of each quarter and the receipt and publication by this office of the corresponding United States Treasury Department Circular, reductions to currency of the United States on invoices dated on or after said first day of the quarter shall be made on the basis of the previous quarter's circular.  
 H. B. MCCOY,  
*Acting Collector of Customs for the Philippine Islands.*

Islands over 5 tons, gross burden, shall be assigned an official number and signal letters by the Collector of Customs for the Philippine Islands, and such assignments shall be made upon the application of the owner or master of the vessel forwarded to this office through the collector of customs or coast district inspector of customs in whose district the vessel is operating.

PAR. II. Official number and signal letters shall both be assigned to all seagoing vessels of 100 tons, gross burden, or over; and official number only shall be assigned to all seagoing vessels of less than 100 tons and over 5 tons, except as hereinafter provided.

PAR. III. Signal letters may also be assigned to vessels of less than 100 tons, gross burden, provided application is made therefore through the proper channels.

PAR. IV. Collectors of customs and coast district inspectors of customs shall require the official number of a vessel to which it is assigned to be carved or otherwise permanently marked on the main beam, preceded by the abbreviation "No." They shall also require the name of the vessel to be painted on each side of the bow, and the name and the home port to be painted

No. 260.—Providing for signal letters and official numbers of vessels in the coastwise trade.

MANILA, December 1, 1903.

To all Collectors of Customs:

PARAGRAPH 2. Every vessel documented in the Philippine

on the vessel's stern. The name of the vessel, her official number, and signal letters shall appear on all the vessel's documents.

PAR. V. The official number shall be marked at the expense of the owner in Arabic numerals which shall be at least 3 inches in height when the size of the main beam will permit. If the main beam is of wood the official number shall be carved or burned thereon in figures not less than three-eighths or more than one-half inch in depth; if the main beam is of iron or other metal the official number shall, if the beam is black, be painted in white oil paint or, if the beam is of any other color, in black oil paint.

PAR. VI. Before delivering the vessel's documents collectors of customs and coast district inspectors of customs shall cause the official number to be marked on the main beam as provided in Paragraph V of this circular and shall fill out and forward to this office a certificate covering such marking: Provided, That if the vessel is out of the district the owner or master may make affidavit that the official number has been properly marked thereon: And provided further, That upon the return of the vessel to the district the collector of customs or coast district inspector of customs shall make the certificate above provided.

PAR. VII. The certificate and affidavits provided for in the preceding paragraph shall be transmitted to this office by the customs officer making or receiving same for filing in the license division.

PAR. VIII. The following forms shall be used in the matter of the assignment of the official number and signal letters above provided for:

"Form No.

"PHILIPPINE CUSTOMS SERVICE.

"APPLICATION FOR OFFICIAL NUMBER AND SIGNAL LETTERS.

"To the Collector of Customs for the Philippine Islands, Manila, P. I.

"SIR: Application is hereby made, in accordance with regulations of the Philippine Customs Service established December 1, 1903, by Customs Administrative Circular No. 260, for an official number and signal letters for my vessel as described herein:

"Rig ..... (side wheel, stern wheel, or screw)
Name .....
Number of decks .....; Number of masts .....;
Gross tonnage .....; Net tonnage .....;
Register of dimensions: Length .....; Breadth .....;
Depth .....; Material (wood, iron, or steel) .....;
Owner .....
When built .....
Where built .....
Home port .....
Collection district .....
Seagoing or not .....

"Respectfully,

"[This application to be forwarded through the collector of customs or coast district inspector of customs.]"

"Form No.

"PHILIPPINE CUSTOMS SERVICE.

"DISTRICT OF .....

"Part of ....., 190....

"To the Collector of Customs for the Philippine Islands, Manila, P. I.

"SIR: I, ....., of customs, do hereby certify that I have personally examined, or received affidavit, and state that the official number has been carved or permanently marked on the main beam of the vessel

..... and that her name and home port are painted on the stern and her name on each side of the bow according to law.

"Respectfully,

"..... of Customs."

"Form No.

"PHILIPPINE CUSTOMS SERVICE.

"PORT OF ....., 190....

"To the Owner or Master of the .....

"SIR: You are hereby notified that official number ..... and signal letters ..... have been assigned to the vessel .....

"You will cause this official number ..... to be permanently carved or marked on the main beam according to law and notify this office where and when same may be inspected.

"Respectfully,

"..... of Customs."

PAR. IX. Vessels of over 5 tons, gross burden, engaged exclusively in the harbor and lighterage business shall be assigned official number only.

PAR. X. After January 1 no licenses shall be issued to vessels engaged in the coastwise trade of the Philippine Islands until an official number and signal letters have been assigned as provided for in this circular.

PAR. XI. Philippine customs officers throughout the Archipelago shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 261.—Closing the port of Sual, Pangasinan Province, to the coastwise trade.

MANILA, December 5, 1903.

By authority of the Civil Governor of the Philippine Islands the port of Sual, Province of Pangasinan, is hereby declared closed to the coastwise trade.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 262.—Opening the port of Alaminos, Zambales Province, to the coastwise trade.

MANILA, December 5, 1903.

By authority of the Civil Governor of the Philippine Islands, the port of Alaminos, Zambales Province, is hereby declared open to the coastwise trade.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 263.—Rules for forwarding appeals from subports.

MANILA, December 8, 1903.

To all Collectors of Customs:

PARAGRAPH 1. In addition to Customs Administrative Circular No. 3, the following draft of rules for forwarding appeals from subports to the Insular Collector and to the Court of Customs Appeals, in accordance with Chapter XXIII of Act 355 of the United States Philippine Commission, is hereby published for the information and guidance of all concerned.

PAR. II. All appeals to the Insular Collector from the adverse

decision of the collectors of customs at subports on protests prepared and filed in accordance with section 286 of Act 355 and Customs Administrative Circular No. 3 shall be prepared and forwarded as follows: The protest made by the importer, the decision of the collector of customs thereon, and the appeal to the Insular Collector therefrom, in duplicate; a certified copy of the entry and invoice involved; a sample identified by the appraiser if the nature of the merchandise permits; a certificate as follows:

"Pursuant to section 286 of Act 355, United States Philippine Commission, I hereby certify that the attached entry, invoice, and exhibits, connected with this appeal to the Insular Collector from the port of ..... No. .... filed ..... are correct, and that they are all the papers which pertain to this case.

"Collector of Customs."

together with a letter of transmittal for the same.

PAR. III. All appeals to the Court of Customs Appeals from the adverse decision of the Insular Collector, on appeals prepared and forwarded in accordance with section 286 of Act 355 and Customs Administrative Circular No. 3, shall be forwarded in duplicate, together with a certified copy of the entry and invoice involved and a letter of transmittal for the same. No copies of the original protest nor the appeal to the Insular Collector need be transmitted with appeals to the Court of Customs Appeals, as copies in duplicate will have already been filed with the Insular Collector in accordance with Paragraph I of this circular.

PAR. IV. In case the contention of the appellant is sustained by the Insular Collector, letter approving refund will be forwarded to the Auditor from this office.

PAR. V. Any provisions of Customs Administrative Circular No. 3 that conflict with the terms of this circular are hereby revoked.

PAR. VI. Customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 204.—Authorizing W. T. Waters, jr., surveyor of customs at the port of Iloilo, to admeasure all vessels in the Iloilo collection district.

MANILA, December 12, 1903.

To all Collectors of Customs:

PARAGRAPH I. Pursuant to section 74 of the Philippine Customs Administrative Act, W. T. Waters, jr., surveyor of customs at the port of Iloilo, is hereby authorized to admeasure vessels of all classes within the Iloilo collection district.

PAR. II. All certificates of admeasurement issued under this authority shall be signed by said officer, approved by the collector of customs at Iloilo, and transmitted to this office for registration.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 265.—Amending sections 8 and 10 of Paragraph II of Customs Administrative Circular No. 245; combining the coast inspection districts of Bacolod and San José de Buenavista.

MANILA, December 16, 1903.

To all Collectors of Customs:

PARAGRAPH I. Section 8 of Paragraph II of Customs Administrative Circular No. 245 is hereby amended to read as follows:

"8. The 'San José de Buenavista' coast inspection district shall include the west and east coasts of the Islands of Panay, from Point Naisog on the west to the port of Estancia on the east; the west coast of the Island of Negros from the port of Cadiz Nuevo on the north to Point Siaton on the south; the Island of Guimaras; the Cuyos and Cagayan Islands, and all small islands in-

cluded in these limits. The coastwise ports of this district are San José de Buenavista, Island of Panay; Bacolod, Binalbagan, Jimamaylan, San José de Ylog, and Silay, Island of Negros; Cuyo, Island of Cuyo; Agutaya, Island of Agutaya; and Cagayanillo, Cagayan Islands."

PAR. II. Section 10 of Paragraph II of Customs Administrative Circular No. 245 is hereby revoked.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 58.—Hand baggage to be examined on board vessels from foreign ports.

MANILA, December 16, 1903.

PARAGRAPH I. Hereafter the hand baggage of passengers arriving at the port of Manila on vessels from foreign ports shall be examined on board and delivered to passengers at the vessel's gangway when persons owning the same leave the vessel for the shore.

PAR. II. The hand baggage specified herein shall include all containers such as valises, grips, hand bags, hand baskets, and reticules, as are usually carried packed with personal effects for immediate use.

PAR. III. Should dutiable merchandise be found in hand baggage, the piece containing such merchandise shall not be passed as provided for in Paragraph I of this order, but shall be checked by the passenger claiming the same, and sent to the baggage division of the custom-house for assessment of duty.

PAR. IV. In case questions should arise as to whether or not a package is hand baggage under the terms of this order, it will be submitted by the examining inspector to the senior inspector of baggage on board the vessel, and his decision shall be final.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

CIRCULAR LETTER.

MANILA, December 12, 1903.

To all Importers:

GENTLEMEN: You are hereby informed that the cashier, Manila custom-house, has been directed to refuse to receive Mexican currency in deposits to guarantee duties due on importations after the 15th day of December, 1903.

These orders were given for the reason that Mexican currency can not be received by this office in payment of public dues after January 1, 1904, and it is probable that many of the entries guaranteed on and after December 15 will not be ready for liquidation and payment before January 1.

Actual payments in Mexican currency will, however, be received by the cashier up to and including December 31, 1903.

Respectfully,

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

APPOINTMENTS.

By the Philippine Civil Service Board.

Executive Department.

EXECUTIVE BUREAU.

Edgar A. McClellan, clerk, December 4, \$1,400; transfer from Police Department, class 8.

Alejo Mabanag, clerk, December 10, \$300; probational appointment.

BUREAU OF THE INSULAR PURCHASING AGENT.

Henry Herbst, teamster, December 12, \$720; probational appointment.

PHILIPPINE CIVIL SERVICE BOARD.

Edmund Enright, examiner, January 1, 1904, \$1,400; promotion from clerk, class 9.

Charles W. Barry, examiner, January 1, 1904, \$1,400; promotion from clerk, class 9.

Alejandro Garay, clerk, January 1, 1904, \$840; promotion from Class C.

Eusebio Tionko, clerk, January 1, 1904, \$720; promotion from Class E.

Severiano Concepción, clerk, January 1, 1904, \$540; promotion from Class F.

Calixto Santiago, clerk, January 1, 1904, \$420; promotion from Class H.

Angel Bonus, clerk, January 1, 1904, \$420; promotion from Class H.

Cirilo Fama, clerk, January 1, 1904, \$360; promotion from Class I.

Samuel C. Ridgeway, clerk, December 14, \$1,200; probational appointment.

Charles E. Edling, clerk, December 14, \$1,200; probational appointment.

*Department of the Interior.*

BUREAU OF PUBLIC HEALTH.

Richard F. Dietz, night superintendent, December 9, \$840; transfer from teamster at \$840, Bureau of Insular Purchasing Agent.

FORESTRY BUREAU.

Alfredo Villareal, ranger, December 16, \$300; probational appointment.

Francisco Collantes, ranger, December 16, \$300; probational appointment.

Serafin Vizcarra, ranger, December 11, \$300; probational appointment.

Manuel José, ranger, December 11, \$300; probational appointment.

Damaso T. Esteban, ranger, December 11, \$300; probational appointment.

Juan Ortega, ranger, December 11, \$300; probational appointment.

Alejandro de la Cruz, ranger, December 11, \$300; probational appointment.

Luis Francisco, ranger, December 11, \$300; probational appointment.

Victorino Vasco, ranger, December 11, \$300; probational appointment.

BUREAU OF AGRICULTURE.

Ferdinand Ruggles, farm foreman, December 19, \$900; transfer from Bureau of Posts, class 10.

Charles Rein, teamster, June 24, \$720; probational appointment.

BUREAU OF GOVERNMENT LABORATORIES.

Dr. E. H. Ruediger, assistant bacteriologist, December 14, \$1,400; probational appointment.

Dr. Edwin B. Copeland, botanist, December 14, \$1,400; probational appointment.

Willie Schultz, assistant entomologist, December 10, \$900; probational appointment.

*Department of Commerce and Police.*

BUREAU OF POSTS.

John F. Kearney, post-office inspector, December 1, \$1,800; promotion from class 7.

William Troensegaard, post-office inspector, December 1, \$1,800; promotion from class 7.

Isidoro Espares, postmaster, Bacolod, November 23, \$240; promotion from clerk, \$180.

BUREAU OF PHILIPPINES CONSTABULARY.

Peter B. Jones, clerk, December 14, \$1,000; probational appointment.

Hector McKenzie, clerk, December 7, \$900; probational appointment.

Simeon Estrella, clerk, December 9, \$360; probational appointment.

BUREAU OF PRISONS.

Philip Jones, guard, December 14, \$900; probational appointment.

BUREAU OF ENGINEERING.

J. B. Morton, chief clerk, Vigan-Bangued, November 16, \$1,400; transfer from clerk, class 7, Bureau Insular Purchasing Agent.

*Department of Finance and Justice.*

BUREAU OF CUSTOMS AND IMMIGRATION.

Harry McCabe, fourth-class inspector, December 1, \$900; probational appointment.

Patricio Alda, fireman, January 1, \$240; probational appointment.

Patricio Alda, patron, April 1, \$300; promotion from fireman, \$240.

Patricio Alda, patron, July 1, \$360; promotion from \$300.

INSULAR COLD STORAGE AND ICE PLANT.

William Flynn, water tender, December 12, \$780; probational appointment.

James B. Wood, teamster, December 14, \$600; probational appointment.

BUREAU OF JUSTICE.

Roberto Reyes, clerk, December 1, \$240; probational appointment.

*Department of Public Instruction.*

BUREAU OF EDUCATION.

George F. Lorenz, clerk, December 8, \$1,600; promotion from class 8.

BUREAU OF PUBLIC PRINTING.

Harold M. Wade, clerk, December 14, \$1,000; probational appointment.

Charles Berberich, craftsman instructor, December 14, \$1,400; probational appointment.

Cesareo Canonizado, apprentice, December 16, \$0.40; promotion from class 5.

Albino Rumingan, apprentice, December 16, \$0.40; promotion from class 5.

Rufino Ubungen, apprentice, December 16, \$0.40; promotion from class 5.

Gregorio Aguas, apprentice, December 16, \$0.30; promotion from class 6.

Pedro Cube, apprentice, December 16, \$0.30; promotion from class 6.

Sinforosó Cifra, apprentice, December 16, \$0.30; promotion from class 6.  
 José Valera, apprentice, December 16, \$0.30; promotion from class 6.  
 Juan Catu, apprentice, December 16, \$0.30; promotion from class 6.  
 Severino Asuncion, apprentice, December 16, \$0.30; promotion from class 6.

*City of Manila.*

DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Albert Walker, teamster, December 12, \$720; probational appointment.  
 William Hanes, teamster, December 18, \$720; probational appointment.  
 Percy E. Hinkley, teamster, December 18, \$720; probational appointment.  
 Edward Dunlop, teamster, December 18, \$720; probational appointment.  
 William H. Lueck, teamster, December 18, \$720; probational appointment.  
 Harry E. Goss, teamster, December 18, \$720; probational appointment.

POLICE DEPARTMENT.

John W. Simmons, first-class patrolman, December 9, \$900; probational appointment.  
 Glicerio Brotonel, third-class patrolman, December 9, \$240; probational appointment.  
 Carlos Caballero, clerk, December 10, \$600; probational appointment.  
 José A. S. de Vega, clerk, December 11, \$900; promotion from Class D.  
 Charles W. Wilson, clerk, December 11, \$900; reinstatement.

*Provinces.*

**BATANGAS.**

Edward Stoveres, chief clerk, December 1, \$1,200; transfer from Treasury Bureau, clerk, class 9.

Juan Muñoz, deputy treasurer, December 1, \$360; probational appointment.

CAVITE.

Arturo Howard, interpreter, November 23, Philippines Constabulary, \$1,560; reinstatement.

**Contents.**

Public laws:

No. 1027, amending Act No. 956, entitled "An Act reducing the 31 municipalities of the Province of Tayabas to 27."  
 No. 1028, appropriating the sum of \$510, in money of the United States, for defraying the expenses incurred in the publication of volume 1 of "The Opinions of the Attorney-General of the Philippine Islands."

No. 1029, amending section 1 of Act No. 1004, entitled "An Act annexing the northern part of the Province of Zambales to the Province of Pangasinan and providing that the southern part thereof shall continue as a separate province under the name of Zambales."

No. 1030, creating an Honorary Board of Commissioners, composed of 50 Filipinos of prominence and education, to visit the Louisiana Purchase Exposition at St. Louis at Government expense.

Decisions of the Supreme Court:

Fred Sparrevohn vs. John Fisher.  
 The United States vs. Teodoro Oligores.  
 The United States vs. Pedro Magino.  
 The United States vs. Anastasio Mangubat et al.  
 The United States vs. Cristino Reyes.

Bureau of Customs and Immigration:

Tariff Decision Circulars—  
 No. 342, seal presses—not machinery.  
 No. 343, license fees—barkentine *Alta*; right to certificate of protection under section 117 of Act 355.  
 No. 344, admeasurement fees—lorcha *Iroquois*.  
 No. 345, cotton tulle, embroidered.

Customs Administrative Circulars—

No. 254, publishing value of coins established by the Secretary of the Treasury of the United States on October 1, 1903.  
 No. 260, providing for signal letters and official numbers of vessels in the coastwise trade.  
 No. 261, closing the port of Sual, Pangasinan Province, to the coastwise trade.  
 No. 262, opening the port of Alaminos, Zambales Province, to the coastwise trade.  
 No. 263, rules for forwarding appeals from subports.  
 No. 264, authorizing W. T. Waters, Jr., surveyor of customs at the port of Iloilo, to admeasure all vessels in the Iloilo collection district.  
 No. 265, amending sections 8 and 10 of paragraph 11 of Customs Administrative Circular No. 245; combining the coast inspection districts of Bacolod and San José de Buenavista.  
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MANILA, P. I., JANUARY 13, 1904.

No. 2

## PUBLIC LAWS.

[No. 1031.]

AN ACT MAKING DEFICIENCY APPROPRIATION FOR THE PAYMENT OF SALARIES AND WAGES IN THE BUREAU OF CUSTOMS AND IMMIGRATION FOR THE FIRST HALF OF THE FISCAL YEAR NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of six thousand dollars, in money of the United States, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, to be expended in the payment of salaries and wages in the Bureau of Customs and Immigration for the first half of the fiscal year ending June thirtieth, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, December 23, 1903.

[No. 1032.]

AN ACT PROVIDING THAT THE SALARIES OF PROVINCIAL AND MUNICIPAL OFFICERS AND EMPLOYEES SHALL BE FIXED IN PHILIPPINES CURRENCY AT THE SAME AMOUNTS NOW ALLOWED BY LAW TO BE FIXED IN MEXICAN CURRENCY, AND THAT THE ASSESSMENT, IMPOSITION, AND COLLECTION OF TAXES, PUBLIC DUES, AND IMPOSITIONS NOW AUTHORIZED AND MADE PAYABLE BY LAW IN MEXICAN CURRENCY SHALL BE MADE PAYABLE IN PHILIPPINES CURRENCY ON THE BASIS OF ONE PHILIPPINE PESO FOR ONE MEXICAN DOLLAR, AND THAT ALL COMPENSATION FOR INSULAR OR PROVINCIAL OFFICERS AND EMPLOYEES AND ALL OFFICIAL FEES AND CHARGES NOW MADE BY LAW PAYABLE IN MEXICAN CURRENCY SHALL BE PAYABLE IN PHILIPPINES CURRENCY ON THE BASIS OF ONE PHILIPPINE PESO FOR ONE MEXICAN DOLLAR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. All provincial treasurers, municipal councils, and other authorities of every kind in the Philippine Islands who have authority to fix the salaries of municipal officers and employees are hereby authorized and directed to fix such salaries in Philip-

pinas currency instead of in Mexican currency, anything in existing law to the contrary notwithstanding. All such salaries heretofore fixed in Mexican currency shall, after January first, nineteen hundred and four, be payable in Philippines currency at the same amounts as now provided by law in Mexican currency, and shall remain fixed at such amounts in Philippines currency until changed by competent authority.

SEC. 2. On and after the first day of January, nineteen hundred and four, all public dues, internal revenues, industrial, stamp, forestry, cedula, license, and municipal taxes of every kind, and all fines and penalties imposed by courts or other authorities, shall be imposed, assessed, and collected in Philippines currency instead of in Mexican currency, as now provided by law, and at the same amounts in Philippines currency as are now fixed by law for such taxes, fines, and penalties, in Mexican currency: *Provided, however,* That Spanish-Filipino coins may be received in payment of such taxes, fines, and penalties, at the official ratio that shall from time to time prevail until such time as Spanish-Filipino coins shall by law cease to be receivable for public dues.

SEC. 3. On and after January first, nineteen hundred and four, all compensation that is provided by law for Insular or provincial officers and employees, wherever such compensation is fixed in Mexican currency, and all official fees and charges, insular, provincial, or municipal, wherever such fees are fixed in Mexican currency, shall be payable in Philippines currency on the basis of one Philippine peso for one Mexican dollar.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, December 28, 1903.

[No. 1033.]

AN ACT APPROPRIATING ONE HUNDRED AND TWENTY THOUSAND FIVE HUNDRED DOLLARS, UNITED STATES CURRENCY, FOR THE PURPOSE OF CONTINUING THE CONSTRUCTION OF THE BENGUET ROAD FROM POZORUBIO, PANGASINAN, TO BAGUIO, BENGUET.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of one hundred and twenty thousand five hundred dollars, in money of the United States, to be expended in continuing the work of construction of the Benguet road from Pozorubio, Province of Pangasinan, to Baguio, Province of Benguet.

SEC. 2. The moneys appropriated by this Act shall be available for withdrawal either in United States currency or in Philippines

currency, at the option of the engineer in charge of Benguet improvements.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, December 28, 1903.

[No. 1034.]

AN ACT PROVIDING FOR THE ISSUE OF BONDS OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS TO THE AMOUNT OF SEVEN MILLION TWO HUNDRED AND THIRTY-SEVEN THOUSAND DOLLARS, GOLD COIN OF THE UNITED STATES OF THE PRESENT STANDARD VALUE, FOR THE PURPOSE OF ACQUIRING FUNDS FOR THE PAYMENT OF THE PURCHASE PRICE OF CERTAIN LARGE TRACTS OF LAND IN THE PHILIPPINE ISLANDS, COMMONLY KNOWN AS THE FRIAR LANDS, PURSUANT TO THE PROVISIONS OF SECTIONS SIXTY-THREE, SIXTY-FOUR, AND SIXTY-FIVE OF THE ACT OF CONGRESS ENTITLED "AN ACT TEMPORARILY TO PROVIDE FOR THE ADMINISTRATION OF THE AFFAIRS OF CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES," APPROVED JULY FIRST, NINETEEN HUNDRED AND TWO.

Whereas the Government of the Philippine Islands, on the twenty-second day of December, nineteen hundred and three, entered into a preliminary contract with the Philippine Sugar Estates Development Company, Limited, for the purchase, from the latter, of eight haciendas containing about sixty thousand three hundred and two hectares of land, agreeing to pay therefor the sum of three million six hundred and seventy-one thousand six hundred and fifty-seven dollars, in the money of the United States; and also upon the same date with La Sociedad Agrícola de Ultramar, for the purchase, from the latter, of eighteen haciendas and parcels of land, containing about sixty-two thousand one hundred and forty hectares of land, for the sum of two million two hundred and thirteen thousand seven hundred and seventy-nine dollars, in the money of the United States; and also upon the same date with The Recolette Order of the Philippine Islands, for the purchase, from the latter, of twenty-three thousand two hundred and sixty-six hectares of land, for the sum of three hundred and six thousand seven hundred and fifty-nine dollars, in the money of the United States; and also upon the same date with the British-Manila Estates Company, Limited, for the purchase, from the latter, of eighteen thousand four hundred and nineteen hectares of land, for the sum of one million and forty-five thousand dollars, in the money of the United States, all of said contracts of purchase being executory in character pending examination of titles and containing various provisions and stipulations in regard thereto which need not be herein particularized and all of said lands being situated in the Philippine Islands and being particularly described in said contracts of purchase and being lands commonly called Friar lands—that is, lands which were formerly owned by certain religious orders of the Roman Catholic Church; and

Whereas the contracts of purchase of said haciendas and parcels of land were made by the Philippine Commission pursuant to authority vested in the Commission by section sixty-four of the Act of Congress entitled "An Act temporarily to provide for the administration of the affairs of Civil Government in the Philippine Islands, and for other purposes," approved, July first, nineteen hundred and two, because, in its opinion, the holding thereof, in such large tracts or parcels, by said corporations, injuriously affects the peace and welfare of the Philippine Islands; and

Whereas the Government of the Philippine Islands finds it necessary to issue and sell bonds in order to raise the sum required to pay for said lands, in pursuance of said contracts: Now, therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Secretary of War is hereby authorized to issue, in the name and on behalf of the Government of the Philippine Islands, its bonds to the amount of seven million two hundred and thirty-seven thousand dollars, in the money of the United States. The bonds thus authorized to be issued shall be dated February first, nineteen hundred and four; shall bear interest at the rate of four per centum per annum, payable quarterly; shall be redeemable at the pleasure of the Government of the Philippine Islands after ten years and payable in thirty years after date in gold coin of the United States of the present standard value. Both principal and interest shall be payable at the Treasury of the United States. The said bonds shall be in registered form in denominations of one thousand dollars and ten thousand dollars, in proportions to suit the purchaser or purchasers thereof, and shall be registered and transferable at the office of the Register of the Treasury Department of the United States, Washington, District of Columbia. The said bonds are declared by section sixty-four of said Act of Congress to be exempt from the payment of all taxes or duties of the Government of the Philippine Islands or any local authority therein or of the Government of the United States, as well as from taxation in any form by or under State, municipal, or local authority in the United States or the Philippine Islands, pursuant to which Act of Congress and this Act these bonds are issued, which facts shall be stated upon their face.

SEC. 2. The Secretary of War is further authorized to sell said bonds on such terms as are most favorable to the Government of the Philippine Islands: *Provided*, That no bond or bonds shall be sold at less than their par or face value, and shall deposit the proceeds of such sale or sales with the Guaranty Trust Company of New York, the authorized depository of the Government of the Philippine Islands, to the credit of the Treasurer of the Philippine Islands.

SEC. 3. The Secretary of War shall report to the Auditor and the Treasurer of the Philippine Islands the amount of said bonds so issued and sold by him, together with their numbers and denominations and the amount realized from such sale or sales thereof, and the same shall be made a matter of record in the offices of the Auditor and the Treasurer of the Philippine Islands.

SEC. 4. In the event of the lease, sale, or other disposition, by the Government of the Philippine Islands, of any part or all of said lands contracted to be purchased, as above set forth, all moneys received from such leasing, selling, or other disposition shall constitute a trust fund to secure the payment of the principal and interest of said bonds and shall also constitute a sinking fund for the payment of said bonds at their maturity and shall be devoted to no other purpose. When and as rents are collected from any land so leased and when and as the proceeds of sale or other disposition of any of said lands, when sold or disposed of, are received by the Government of the Philippine Islands, the same shall be deposited in the Treasury of the Philippine Islands and shall be there held as a separate trust fund and shall be invested and reinvested as a sinking fund for the payment of the principal and interest of said bonds as they mature, in such manner as the Philippine Commission shall provide.

SEC. 5. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 6. This Act shall take effect on its passage.

Enacted, January 6, 1904.

[No. 1035.]

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 1, 1904.

AN ACT AMENDING SECTION FIFTEEN OF ACT NUMBERED SEVEN HUNDRED AND TWO AND SECTION ONE OF ACT NUMBERED NINE HUNDRED AND EIGHTY-NINE, BY EXTENDING THE TIME FOR COMPLETING THE REGISTRATION OF CHINESE IN THE PHILIPPINE ISLANDS.

Whereas it was impossible to complete the registration of all Chinese persons in the Philippine Islands within the eight months ending December twenty-ninth, nineteen hundred and three, as provided in Acts Numbered Seven hundred and two and Nine hundred and eighty-nine: Therefore,

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The time for such registration is, pursuant to authority granted by section four of the Act of Congress approved April twenty-ninth, nineteen hundred and two, hereby extended for a period of two months, to date from December twenty-ninth, nineteen hundred and three.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, January 6, 1904.

**EXECUTIVE ORDERS.**

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, December 31, 1903.

EXECUTIVE ORDER }  
No. 109.

Pursuant to the provisions of section five, subsection (c), Act Numbered One hundred and thirty-six as amended by Act Numbered Eight hundred and sixty-seven, Philippine Commission, and upon the recommendation of the Chief Justice of the Supreme Court of the Philippine Islands, the following-named judges are hereby designated to remain on duty, subject to call, for the performance of interlocutory jurisdiction throughout the Philippine Islands during the vacation period authorized by the said Act Numbered Eight hundred and sixty-seven:

For the Supreme Court of the Philippine Islands, Manila: Honorable E. Finley Johnson.

For the Courts of First Instance, city of Manila: Honorable Manuel Araullo.

For the Courts of First Instance, Second and Third Judicial Districts and the Mountain District: Honorable Charles H. Burtitt.

For the Courts of First Instance, Fourth, Fifth, and Sixth Judicial Districts: Honorable Julio Lorente.

For the Courts of First Instance, First, Seventh, and Eighth Judicial Districts: Honorable Albert E. McCabe.

For the Courts of First Instance, Ninth, Tenth, and Fifteenth Judicial Districts: Honorable William F. Norris.

For the Courts of First Instance, Eleventh, Twelfth, Thirteenth, and Fourteenth Judicial Districts: Honorable James H. Blount, jr.

And of the judges at large: Honorable Miguel Logarta.

LUKE E. WRIGHT,

Acting Civil Governor.

EXECUTIVE ORDER }  
No. 1.

Pursuant to the provisions of the Act of Congress approved March second, nineteen hundred and three, and in order that all the various kinds of money coined by the Spanish Government for circulation in the Philippine Islands, and commonly known as Spanish-Filipino currency, may be speedily withdrawn from circulation, and the introduction of the new Philippines currency thereby expedited, it is hereby

Ordered, That the Insular Treasurer and each provincial treasurer in the Philippine Islands shall, for a period of six months, beginning at the date of this order and continuing up to and including June thirtieth, nineteen hundred and four, exchange on demand Philippines currency for said Spanish-Filipino currency at such rates as the Insular Government may, from time to time, determine; and that after June thirtieth, nineteen hundred and four, said Spanish-Filipino currency shall not be so redeemed.

That the Insular Treasurer and the various provincial and municipal treasurers of the Philippine Islands and all other officials authorized by law to receive Government dues, imposts, or taxes of any kind, whether insular, provincial, or municipal, shall, for a period of nine months, beginning with the date of this order and continuing up to and including September thirtieth, nineteen hundred and four, receive Spanish-Filipino currency in payment of all such dues, imposts, or taxes at the aforementioned official rates to be from time to time determined.

That after September thirtieth, nineteen hundred and four, said Spanish-Filipino currency shall not be receivable by insular, provincial, or municipal governments in payment of Government dues, imposts, or taxes of any kind, but after said date may be exchanged for Philippine pesos at the Insular Treasury and the various provincial treasuries, at its bullion value, until such a time to be hereinafter fixed, when the Government will no longer redeem the same.

The provincial treasurers are hereby authorized and directed to exchange with municipal treasurers Philippines currency for all Spanish-Filipino currency which may have been received by them, respectively, according to law and the provisions of this order, and at the official rates at which said Spanish-Filipino currency shall have been so received; and the Insular Treasurer is also hereby authorized and directed to make the same exchanges with all provincial treasurers, at the rates at which such Spanish-Filipino currency was received by them in accordance with law and the provisions of this order. The Spanish-Filipino currency so received shall be withdrawn from circulation. The cost of transporting Spanish-Filipino currency and Philippines currency, pursuant to the provisions of this paragraph, shall be a proper charge against the Insular Treasury, payable out of the gold-standard fund.

The official rate for the redemption of Spanish-Filipino currency and its acceptance for public dues, from the date of this order until further notice, is hereby fixed at the ratio of one peso and twelve centavos, Spanish-Filipino currency, for one peso, Philippines currency.

LUKE E. WRIGHT,

Acting Civil Governor.

**DECISIONS OF THE SUPREME COURT.**

[No. 1299. November 16, 1903.]

VICENTE PEREZ, plaintiff and appellee, vs. EUGENIO POMAR, AGENT OF THE COMPANIA GENERAL DE TABACOS, defendant and appellant.

1. CONTRACTS: CONSENT.—Contracts resulting from an implied consent of the parties are valid and enforceable.



2. **CONTRACTS; IMPLIED CONSENT; HIRING.**—Where one has rendered services to another, and these services are accepted by the latter, in the absence of proof that the service was rendered gratuitously an obligation results to pay the reasonable worth of the services rendered upon the implied contract of hiring.
3. **IN; IN; IN.**—Although no fixed amount may have been determined as the consideration for the contract of hiring, the contract is nevertheless valid if the amount of the implied compensation can be determined by custom or frequent use in the place where the services were rendered.

APPEAL from a judgment of the Court of First Instance of Laguna.

The facts are stated in the opinion of the court.  
 FRANCISCO DOMINGUEZ, for appellant.  
 LEDESMA, SCUMULONG and QUINTOS, for appellee.

TORRES, J.:

In a decision dated February 9, 1903, the judge of the Sixth Judicial District, deciding a case brought by the plaintiff against the defendant for the recovery of wages due and unpaid, gave judgment against the latter for the sum of \$600 and the costs of suit, less the sum of \$50, Mexican.

On August 27, 1902, Don Vicente Perez filed in the Court of First Instance of Laguna a complaint which was amended on the 17th of January of this year, asking that the court determine the amount due the plaintiff, at the customary rate of compensation for interpreting in these Islands, for services rendered the Tabacalera Company, and that, in view of the circumstances of the case, judgment be rendered in his favor for such sum. The complaint also asked that the defendant be condemned to the payment of damages in the sum of \$3,200, gold, together with the costs of suit. In this complaint it was alleged that Don Eugenio Pomar, as general agent of the Compañía General de Tabacos in the said province, verbally requested the defendant on the 8th of December, 1901, to act as interpreter between himself and the military authorities; that after the date mentioned the plaintiff continued to render such services up to and including May 31, 1902; that he had accompanied the defendant, Pomar, during that time at conferences between the latter and the colonel commanding the local garrison and with various officers and doctors residing in the capital, and at conferences with Captain Lemen in the town of Pilar and with the major in command at the town of Pagsanjan, concerning the shipment of goods from Manila and with respect to goods shipped from the towns of Santa Cruz, Pilar, and Pagsanjan to this city; that the plaintiff during this period of time was at the disposal of the defendant, Pomar, and held himself in readiness to render services whenever required; that on this account his private business, and especially a soap factory established in the capital, was entirely abandoned; that to the end that such services might be punctually rendered, the agent, Pomar, assured him that the Tabacalera Company always generously repaid services rendered it, and that he therefore did not trouble himself about his inability to devote the necessary amount of time to his business, the defendant going so far as to make him flattering promises of employment with the company, which he did not accept; that these statements were made in the absence of witnesses and that therefore his only proof as to the same was Mr. Pomar's word as a gentleman; that the employees of the company did not understand English, and by reason of the plaintiff's mediation between the agent and the military authorities large profits were obtained, as would appear from the account and letterpress books of the agency corresponding to those dates. In the amended complaint it was added that the defendant, on behalf of the company, offered to remunerate the plaintiff for the services rendered in the most advantageous manner in which such services are compensated, in view of the circumstances under which they were requested; and that the plaintiff, by rendering the company such services, was obliged to abandon his own business, the manufacture of soap, and

thereby suffered damages in the sum of \$3,200, United States currency.

The defendant, on the 25th of September, 1902, filed an answer asking for the dismissal of the complaint, with costs to the plaintiff. In his answer the defendant denied the allegation in the first paragraph of the complaint, stating that it was wholly untrue that the company, and the defendant as its agent, had solicited the services of the plaintiff as interpreter before the military authorities for the period stated, or for any other period, or that the plaintiff had accompanied Pomar at the conferences mentioned, concerning shipments from Manila and exports from some of the towns of the province to this capital. He stated that he especially denied paragraph 2 of the complaint, as it was absolutely untrue that the plaintiff had been at the disposal of the defendant for the purpose of rendering such services; that he therefore had not been obliged to abandon his occupation or his soap factory, and that the statement that an offer of employment with the company had been made to him was false. The defendant also denied that through the mediation of the plaintiff the company and himself had obtained large profits. The statements in paragraphs 6, 7, 8, and 9 of the complaint were also denied. The defendant stated that on account of the friendly relations which sprang up between the plaintiff and himself, the former borrowed from him from time to time money amounting to \$175 for the purposes of his business and that he had also delivered the plaintiff thirty-six arrobas of oil worth \$106 and three packages of resin for use in coloring his soap; that the plaintiff accompanied the defendant to Pagsanjan, Pilar, and other towns when the latter made business trips to them for the purpose of extending his business and mercantile relations therein; that on these excursions, as well as on private and official visits which he had to make, the plaintiff occasionally accompanied him through motives of friendship and especially because of the free transportation given him and not on behalf of the company of which he was never interpreter and for which he rendered no services; that the plaintiff in these conferences acted as interpreter of his own free will, without being requested to do so by the defendant and without any offer of payment or compensation; that therefore there existed no legal relation whatever between the company and the plaintiff, and that the defendant, when accepting the spontaneous, voluntary, and officious services of the plaintiff, did so in his private capacity and not as agent of the company, and that it was for this reason that he refused to enter into negotiations with the plaintiff, he being in no way indebted to the latter. The defendant concluded by saying that he answered in his individual capacity.

A complaint having been filed against the Compañía General de Tabacos and Don Eugenio Pomar, its agent in the Province of Laguna, the latter, having been duly summoned, replied to the complaint, which was subsequently amended, and stated that he made such reply in his individual capacity and not as agent of the company, with which the plaintiff had had no legal relations. The suit was instituted between the plaintiff and Pomar, who, as such, accepted the issue and entered into the controversy without objection, opposed the claim of the plaintiff, and concluded by asking that the complaint be dismissed, with the costs to the plaintiff. Under these circumstances and construing the statutes liberally, we think it proper to decide the case pending between both parties in accordance with law and the strict principles of justice.

From the oral testimony introduced at the trial, it appears that the plaintiff, Perez, did on various occasions render Don Eugenio Pomar services as interpreter of English; and that he obtained passes and accompanied the defendant upon his journeys to some of the towns in the Province of Laguna. It does not appear from the evidence, however, that the plaintiff was constantly at the disposal of the defendant during the period of six months, or that he rendered services as such interpreter continuously and daily during that period of time.

It does not appear that any written contract was entered into

between the parties for the employment of the plaintiff as interpreter, or that any other innominate contract was entered into; but whether the plaintiff's services were solicited or whether they were offered to the defendant for his assistance, inasmuch as these services were accepted and made use of by the latter, we must consider that there was a tacit and mutual consent as to the rendition of the services. This gives rise to the obligation upon the person benefited by the services to make compensation therefor, since the bilateral obligation to render service as interpreter, on the one hand, and on the other to pay for the services rendered, is thereby incurred. (Arts. 1088, 1089, and 1262 of the Civil Code). The supreme court of Spain in its decision of February 12, 1889, holds among other things "that not only is there an express and tacit consent which produces real contracts, but there is also a presumptive consent which is the basis of quasi-contracts, this giving rise to the multiple juridical relations which result in obligations for the delivery of a thing or the rendition of a service."

Notwithstanding the denial of the defendant, it is unquestionable that it was with his consent that the plaintiff rendered him services as interpreter, thus aiding him at a time when, owing to the existence of an insurrection in the province, the most disturbed conditions prevailed. It follows, hence, that there was consent on the part of both in the rendition of such services as interpreter. Such service not being contrary to law or to good custom, it was a perfectly licit object of contract, and such a contract must necessarily have existed between the parties, as alleged by the plaintiff. (Art. 1271 of the Civil Code.)

The consideration for the contract is also evident, it being clear that a mutual benefit was derived in consequence of the service rendered. It is to be supposed that the defendant accepted these services and that the plaintiff in turn rendered them with the expectation that the benefit would be reciprocal. This shows the concurrence of the three elements necessary under article 1261 of the Civil Code to constitute a contract of lease of service or other innominate contract from which an obligation has arisen and whose fulfillment is now demanded.

Article 1254 of the Civil Code provides that a contract exists the moment that one or more persons consent to be bound, with respect to another or others, to deliver some thing or to render some service. Article 1255 provides that the contracting parties may establish such covenants, terms, and conditions as they deem convenient, provided they are not contrary to law, morals, or public policy. Whether the service was solicited or offered, the fact remains that Perez rendered Pomar services as interpreter. As it does not appear that he did this gratuitously, the duty is imposed upon the defendant, he having accepted the benefit of the service, to pay a just compensation therefor, by virtue of the innominate contract of "facio ut des" implicitly established.

The obligations arising from this contract are reciprocal, and, apart from the general provisions with respect to contracts and obligations, the special provisions concerning contracts for lease of services are applicable by analogy.

In this special contract, as determined by article 1544 of the Civil Code, one of the parties undertakes to render the other a service for a price certain. The tacit agreement and consent of both parties with respect to the service rendered by the plaintiff and the reciprocal benefits accruing to each are the best evidence of the fact that there was an implied contract sufficient to create a legal bond, from which arose enforceable rights and obligations of a bilateral character.

In contracts the will of the contracting parties is law, this being a legal doctrine based upon the provisions of articles 1254, 1258, 1262, 1278, 1281, 1282, and 1289 of the Civil Code. If it is a fact sufficiently proven that the defendant, Pomar, on various occasions consented to accept an interpreter's services, rendered in his behalf and not gratuitously, it is but just that he should pay a reasonable remuneration therefor, because it is a well-known

principle of law that no one should be permitted to enrich himself to the damage of another.

With respect to the value of the services rendered on different occasions, the most important of which was the first, as it does not appear that any salary was fixed upon by the parties at the time the services were accepted it devolves upon the court to determine, upon the evidence presented, the value of such services, taking into consideration the few occasions on which they were rendered. The fact that no fixed or determinate consideration for the rendition of the services was agreed upon does not necessarily involve a violation of the provisions of article 1544 of the Civil Code, because at the time of the agreement this consideration was capable of being made certain. The discretionary power of the court, conferred upon it by the law, is also supported by the decisions of the supreme court of Spain, among which may be cited that of October 18, 1899, which holds as follows: "That as stated in the article of the Code cited, which follows the provisions of law 1, title 8 of the fifth Partida, the contract for lease of services is one in which one of the parties undertakes to make some thing or to render some service to the other for a certain price, the existence of such a price being understood, as this court has held not only when the price has been expressly agreed upon but also when it may be determined by the custom and frequent use of the place in which such services were rendered."

No exception was taken to the judgment below by the plaintiff on account of the rejection of his claim for damages. The decision upon this point is, furthermore, correct.

Upon the supposition that the recovery of the plaintiff should not exceed 200 Mexican pesos, owing to the inconsiderable number of times he acted as interpreter, it is evident that the contract thus implicitly entered into was not required to be in writing and that therefore it does not fall within article 1280 of the Civil Code; nor is it included within the provisions of article 335 of the Code of Civil Procedure, as this innominate contract is not covered by that article. The contract of lease of services is not included in any of the cases expressly designated by that article of the procedural law, as affirmed by the appellant. The interpretation of the other articles of the Code alleged to have been infringed has also been stated fully in this opinion.

For the reasons stated, we are of the opinion that judgment should be rendered against Don Eugenio Pomar for the payment to the plaintiff of the sum of 200 Mexican pesos, from which will be deducted the sum of 50 pesos due the defendant by the plaintiff. No special declaration is made as to the costs of this instance. The judgment below is accordingly affirmed in so far as it agrees with this opinion, and reversed in so far as it may be in conflict therewith. Judgment will be entered accordingly twenty days after this decision in filed.

Arellano, C. J., Willard and Mapa, JJ., concur.

McDONOUGH, J., with whom concurs COOPER, J., dissenting:

I dissent from the opinion of the majority. In my opinion there is no legal evidence in the case from which the court may conclude that the recovery should be 200 Mexican pesos. I am therefore in favor of the affirmance of the judgment.

Johnson, J., did not sit in this case.

*Judgment modified.*

[No. 1471. November 21, 1903.]

J. V. KNIGHT, petitioner, vs. J. McMICKING, clerk of the Court of First Instance of Manila, respondent.

1. PLEADING AND PRACTICE; DOCKETING APPEALS FROM JUSTICES' COURTS; PAYMENT OF FEES.—Upon the removal of a civil case by appeal from the court of a justice of the peace to the Court of First Instance the clerk of the latter court is entitled to demand payment of his fees before docketing the case.

2. **ID.; APPEAL BOND.**—The cost bond executed by the appellant in favor of the appellee is not available to the clerk as security for the payment of his fees.
3. **ID.; COSTS AND FEES DEFINED AND DISTINGUISHED.**—Costs include the expenses incurred by a party in the prosecution of a suit; fees are the compensation paid to an officer for services rendered in the progress of a suit. Fees may be taxed as costs in a judgment. Fees in civil causes must be paid in advance unless otherwise provided by law.
4. **MANDAMUS; ANOTHER ADEQUATE REMEDY.**—Mandamus will not lie to compel the clerk to docket a cause at the instance of an appellee who can obtain the same relief by paying the required fee. Mandamus will not lie when the parties have another adequate legal remedy.
- Per COOPER, J., dissenting:
- \*5. **PLEADING AND PRACTICE; COSTS AND FEES.**—Identity exists between costs and fees in the mode of collection, and ordinarily their payment can not be enforced until final judgment and costs have been taxed. This rule has been changed by section 787 with reference to the clerk of the Supreme Court, and the failure to enact a like provision in the next section relating to the fees of the clerk of the Court of First Instance furnishes a strong inference that the ordinary rule with respect to the clerk of the Court of First Instance remains unchanged and that he has no right to demand payment of fees in advance.
6. **ID.; APPEALS FROM JUSTICE COURTS; MANDAMUS.**—In appeals from justice courts the filing of written statement of intention to appeal and the appeal bond perfects the appeal and operates to vacate the judgment, and the duty then devolves upon the justice of the peace to transmit the record to the clerk, and upon the clerk to docket the same in the Court of First Instance. This requirement is unconditional and the law is mandatory, and the clerk may be compelled by mandamus to perform it.

ORIGINAL PETITION for a writ of mandamus. Petition denied. The facts are stated in the opinion of the court.

T. D. AITKEN and P. J. MOORE, for petitioner.  
FREDERICK GARFIELD WAITE, for respondent.

JOHNSON, J.:

This cause was submitted to the court for judgment upon the pleadings.

On March 31, 1903, a judgment was rendered in the court of the justice of the peace of the city of Manila, in the cause of J. V. Knight vs. B. O. Eide, in favor of the plaintiff. On the 4th day of April following the defendant appealed from said judgment to the Court of First Instance of the city of Manila and gave a bond payable to the appellee conditioned for the payment of all such costs as may be awarded against him. Later the justice of the peace duly forwarded the record of the said cause to the clerk of the said Court of First Instance. The said clerk refused and still refuses to place the said cause of J. V. Knight vs. Eide upon the docket of said Court of First Instance, for the reason that the fees provided for in section 788 of the new Civil Code of Civil Procedure have not been paid. The plaintiff and appellee now petition this court to grant the writ of mandamus directed to the said clerk, commanding him to docket the said cause without first receiving his fees. The question submitted is, What construction shall be given to the statute regulating the collection of fees by officers of the court?

The appellee claims that section 78 of the Code of Civil Procedure makes it necessary for the clerk of the Court of First Instance to docket every appeal from the courts of justices of the peace whenever the transcripts from said courts are duly filed with him. The appellee also claims that the bond which the appellant is required to give in order to perfect his appeal covers the fees of the clerk, who for this reason can not demand his fees in advance but must rely upon the said bond for the collection of the same. It is also argued by appellee that unless the clerk is required to docket the said cause that the cause can never be heard on appeal and that the appeal has the effect to defeat the judgment of the court below, for the reason that when an appeal

is taken and perfected, from the judgment of the justice of the peace, the judgment of the justice is thereby vacated.

Section 78 of the new Code provides:

*"Papers to be delivered to clerk of Court of First Instance.*—The justice of the peace from whose decision an appeal shall be taken shall, on or before the first day of the next term of the Court of First Instance for the province in which the same is returnable, transmit to the clerk of that court a certified copy of the record of proceedings, with all the original papers and process in the case, and the original appeal bond given by the appellant, and the clerk shall docket the same in the Court of First Instance, and shall be entitled to the same fees, upon such appeals, as for similar services in suits originating in said court. The justice shall at all times be allowed, and, in the interest of justice, may be required, by the Court of First Instance, to amend his return according to the facts."

The appellee claims that the phrase "and the clerk shall docket the same in the Court of First Instance" is mandatory. But it will be observed that the very next phrase states "and shall be entitled to the same fees, upon such appeals, as for similar services," etc.

Section 788 of the same Code provides what fees shall be collected in other cases. Section 60 of Act 136 of the United States Philippine Commission provides that "all fees charged by them (the clerks) shall belong to the Government."

Section 76 of the new Civil Code provides that:

*"Appeals, how perfected.*—Within five days after the rendition of a judgment by a justice of the peace, the party desiring to appeal may file with the justice a written statement that he appeals to the Court of First Instance, and shall, within said period of five days, give a bond with sufficient surety to be approved by said justice, payable to the opposite party, in the penal sum of \$100, conditioned for the payment of all such costs in the action as finally may be awarded against him. The filing of such statement and giving of such bond shall perfect the appeal."

The appellee argues that the bond required by this section covers all fees and costs and that therefore the clerk must rely upon it for his fees. To this argument there are two objections: (1) The bond is given for the benefit of the opposite party and (2) it is conditioned to pay costs simply. A distinction must be made between costs and fees. The former includes the expenses incurred by a party in the prosecution of a suit; the latter are the compensation paid to an officer for services rendered in the progress of the cause. Every officer in civil causes is entitled to have his fees paid to him in advance, except in the case mentioned in section 550 of the Code of Civil Procedure in habeas corpus proceedings. When the fees have been paid, in the settlement of costs, they may then be regarded as costs, and a judgment may be rendered accordingly. The bond required is to cover costs. (*O'Neil vs. Kansas City, etc.*, 31 Fed. Rep., 663.)

Mandamus is an extraordinary remedy and is never granted when the party has another adequate legal remedy. In this case the appellee has another adequate remedy. He may pay the required fee and have his case docketed. The bond protects him. The clerk can not be required to docket civil cases until he has been paid the fee required by law.

The application for mandamus is denied.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, JJ., concur.

COOPER, J., dissenting:

The question presented for decision is, whether the clerk of the Court of First Instance may require the payment of his fees in advance before docketing an appeal from the justice court.

While there is a difference between costs and fees, identity exists in the mode of collection. "Originally, fees were in strictness demandable at the instant at which the service was rendered, but

an uninterrupted course of indulgence at length ripened into a custom which has received the sanction of judicial decision, that the party for whose benefit they were rendered shall not be called on until after the determination of the case, when, to avoid the vexation of an original suit for a trifling demand it became the practice to include them in the execution as if they were a part of the successful party's cost." (*Musser vs. Good*, 11 S. and R. (Pa.), 247.)

Ordinarily the payment of costs may not be enforced until final judgment has been rendered and costs have been taxed and inserted therein. (5 Enc. Pl. and Pr., 254.)

Costs are usually paid to the clerk of the court or collected by the sheriff for the benefit of those entitled to them. "The costs, being accessory to the judgment, may be enforced like it by execution, which is by far the most common remedy for their collection." (5 Enc. Pl. and Pr., 256.)

The ordinary rule that the payment of costs may not be enforced until final judgment has been rendered, has been expressly changed by section 787 of the Code of Civil Procedure with reference to the fees of the clerk of the Supreme Court. It is provided in this section that "if the fees are not paid the court may refuse to proceed with the action until they are paid and may dismiss the bill of exceptions or appeal for failure to prosecute if the fees are not paid within a reasonable time and after reasonable notice."

This provision has been omitted from the next section (788), which relates to the fees of the clerk of the Court of First Instance.

It is to be inferred that in the absence of the provision requiring the payment of the fees in advance to the clerk of the Supreme Court, the clerk of the Supreme Court would not have had the right to demand their payment; otherwise this provision would be unnecessary, and the failure to enact such a provision in the succeeding section furnishes a strong inference that it was not intended that the clerk of the Court of First Instance should have the right to demand the payment of his fees in advance.

By the provisions of section 76 of the Code of Civil Procedure, the party desiring to appeal from a decision of the justice of the peace is required to file a written statement with the justice that he appeals to the Court of First Instance, and shall within the period of five days give a bond with sufficient surety, to be approved by the said justice, payable to the opposite party, in the penal sum of \$100, "conditioned for the payment of all such costs in the action as finally may be awarded against him; the filing of such a statement and giving of such bond perfects the appeal."

By the provisions of section 75, a perfected appeal operates to vacate the judgment of the justice of the peace.

By section 78 "the justice of the peace from whose decision an appeal shall be taken, shall, on or before the first day of the next term of the Court of First Instance for the province in which the same is returnable, transmit to the clerk of that court a certified copy of the record of proceedings, with all the original papers and process in the case and the original appeal bond given by the appellant and the clerk shall docket the same in the Court of First Instance."

It results from these provisions of the Code of Civil Procedure, that the filing of the written statement and the appeal bond perfects the appeal, and that a perfected appeal operates to vacate the judgment of the justice of the peace.

The parties appealing have no duty to perform further than giving the notice of appeal and filing the appeal bond, and then the duty devolves upon the justice of the peace to transmit the record to the clerk, who shall docket the same in the Court of First Instance. This requirement is unconditional and mandatory, and the clerk must perform it, and if he refuses to do so, may be compelled by mandamus.

For the reasons above stated, I dissent from the majority decision.

*Application denied.*

[No. 1360. December 4, 1903.]

*THE UNITED STATES, complainant and appellee, vs. ADAM SMITH, defendant and appellant.*

1. CRIMINAL LAW; INFORMATION; TIME VARIANCE.—An information charging the commission of the crime of robbery in December, 1902, was filed March 19, 1903. The proof showed that the offense was committed in January, 1903. *Held*, that the complaint was sufficient to sustain a conviction, the variance being immaterial.
2. ID.; ID.; ID.—The complaint must allege a specific time and place when and where the offense was committed, but when the time so alleged is not of the essence of the offense it need not be proved as alleged, and the complaint will be sufficient if the evidence shows that the offense was committed at any time within the period of the statute of limitations and before the commencement of the action.
3. ID.; ROBBERY; ESTAFÁ.—One who obtains money by pretending to be an officer of the law and by threats of arrest and imprisonment is guilty of the crime of robbery by intimidation and not of estafá.

APPEAL from a judgment of the Court of First Instance of Albay.

The facts are stated in the opinion of the court.

C. W. O'BRIEN, for appellant.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendant was charged with the crime of robbery, as follows:

"In the Court of First Instance of Albay Province, on the 9th day of March, 1903, the undersigned accuses Adam Smith of the crime of robbery, committed as follows:

"That the accused, in the month of December last, in the house of the acting justice of the peace of the said town, Don Esteban Delgado, took money with violence and intimidation, of the value of \$600, more or less, from Pedro Ralla and Josefa Garcia, citizens of that town, contrary to law."

On the 27th day of April, 1903, the judge of the Court of First Instance of the Province of Albay, after hearing the evidence, found the defendant guilty of the crime of robbery, in the manner and form as charged in the complaint, and sentenced him to be imprisoned for the period of three years and eight months of *presidio correccional* and to pay all costs.

The evidence adduced at the trial showed that the defendant, on or about the 8th day of January, 1903, entered the house of one Esteban Delgado, acting justice of the peace, and then and there represented that he was a detective and that he was looking for certain persons called Josefa Garcia and Pedro Ralla. These said persons were called by the said defendant to the house of the said Delgado on the said day. When the said Josefa Garcia and Pedro Ralla arrived in the said house, the accused informed them that he had authority to arrest them, and that he had arrested one Isabelo Madera, and that he could release him. The defendant showed a letter to these persons, which he told them was his authority to arrest them. Later, on the same day, the accused ordered the said Josefa and Pedro to prepare their clothing in order to go to Manila, because he was going to take them as prisoners. He also ordered the said Delgado to prepare a vehicle to take the said so-called prisoners to a point where he could secure transportation to Manila. A vehicle could not be found. The said Josefa and Pedro prepared their clothing for the trip to Manila. During the conversation between the accused and the said Josefa and Pedro the former continually threatened them with arrest and with personal harm.

After the said persons were so arrested by the accused, he informed them that they had a remedy. He gave them to understand that if they would give him \$1,000, Mexican, he would release them. Finally a compromise was made on the amount and Josefa and Pedro paid to the said accused the sum of \$700, Mexican. The accused testified in his own behalf. He admitted that he had received the 700 pesos, but that it was given to him as a bribe by the said persons to secure the release of the said Isabelo Madera. At the time of the arrest, the accused admitted that he

had used for his own purposes the sum of 206 pesos of this money. The accused stated that he had received the money in order to use it as evidence against these persons in a complaint against them for attempting to bribe an official.

The complaint alleged that the offense was committed in the month of December, 1902. According to the proof, it was actually committed in the month of January, 1903. The complaint was filed the 9th day of March, 1903. It is argued by the attorney for the defendant that for this reason the accused should have been dismissed upon the theory that the evidence in criminal cases must correspond to the allegations in the complaint.

It is true that the complaint must allege a specific time and place when and where the offense was committed. The proof, however, need not correspond to this allegation, unless the time and place is material and of the essence of the offense as a necessary ingredient in its description. (2 *Russel on Crimes*, 802; *Wharton. Criminal Law*, 220.) The evidence is admissible and sufficient if it shows that the crime was committed at any time within the period of the statute of limitations and before or after the time stated in the complaint or indictment and before the action is commenced. (See *State vs. Miller*, 33 *Miss.*, 356.) In this cited case the complaint alleged that the offense was committed on the 28th day of October. According to proof it was committed on the 6th day of November following. The court instructed the jury to find the defendant guilty if the crime was committed any time before the finding of the indictment. (See same case in 69 *Am. Dec.*, 351; see also *Cook vs. State*, 56 *Am. Dec.*, 410, and note on p. 418.) If the proof shows that the offense was committed after the complaint is actually filed or the prosecution is commenced it will be held bad. (*Goddard vs. State*, 14 *Tex.*, (Cr.) *Appeals*, 566.)

The following decisions support the rule, that when the "time" given in the complaint is not of the essence of the offense, it need not be proven as alleged and that the complaint will be sustained if the proof shows that the offense was committed at any time within the period of the statute of limitations and before the commencement of the action. (*People vs. Jackson*, 111 *N. Y.*, 362; *Herchenbach vs. State*, 34 *Texas*, G. R. 122; *Commonwealth vs. Dacey*, 107 *Mass.*, 206; *State vs. Bell*, 49 *Iowa*, 440; *State vs. Walters*, 16 *La. Ann.*, 400; *People vs. Bidleman*, 104 *Cal.*, 608; *State vs. Patterson*, 116 *Ind.*, 45; *State vs. Ingalls*, 59 *N. H.*, 89; *Commonwealth vs. Bennett*, 1 *Pitts. (Pa.)*, 265; *McCarty vs. State*, 37 *Miss.*, 411; *Cook vs. State*, 56 *Am. Dec.*, 56, 410, and note on p. 418.)

It was suggested that the defendant was guilty of estafa and not of robbery.

On the 24th day of June the supreme court of Spain decided the following question in the language following, defining the distinction between robbery and estafa, under the penal code in force in these Islands:

"Will he, who presents himself at the houses of various persons and demands money on the pretext that it is for a band of malefactors who are in the mountains and that he has been commissioned to make such demands, and thereby collects various sums from different individuals, be guilty of the crime of robbery with intimidation, or will the offense be simply that of estafa? The supreme court has declared that the various demands made constitute as many distinct crimes of 'robbery with intimidation.' 'Whereas,' it is said, 'the constitutive element of the crime of estafa consists in the ingenuity or cunning employed by the agent for the purpose of deceiving the one whom it is intended to victimize, and such astuteness and subtlety consequently excludes all idea of intimidation or the employment of other means of like nature tending to prevent or impede the exercise of the will, which remains free and independent, although influenced by the statements made, circumstances which are also present in the perpetration of the deceits mentioned in the Penal Code; and whereas whether the statement as to the band of malefactors was merely

an invention for the purpose of obtaining the money, or whether the band actually existed, Pascual Mengual y Domenech, on demanding the sums he appears to have received from different persons, attained his object by means of threats of injury which the robbers might inflict on the persons upon whom the demands were made, if these persons did not comply therewith; and whereas this intimidation was actually present, the acts committed can not legally be considered to constitute estafa or deceit.'" (*Viada*, vol. 3, p. 341.)

The sentence of the court below is affirmed, with the costs in both instances.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur.

*Judgment affirmed.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### TARIFF DECISION CIRCULAR.

No. 346.—*Rice huller, detached parts of.*

MANILA, December 8, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2115, filed May 7, 1903, by Germinal, against the action of the Collector of Customs for the Philippine Islands acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 6836, Voucher No. 15184, paid May 7, 1903.

"The claim in this case is against the classification of certain machinery as 'other machinery' under paragraph 257 (b) of the Tariff Revision Law of 1901, at \$1 per 100 kilos, or 20 per cent ad valorem, instead of as 'agricultural machinery' under paragraph 245, at \$0.25 per 100 kilos, as entered.

"The merchandise in question consists of cylinder shell and shaft screen holders, blades, and huller polisher screens for a rice huller. There is no question but that these articles are vital and indispensable parts of a rice huller. Neither is there any question but that under the rule established by the Court of Customs Appeals in the case of sawmill saws (Tariff Decision Circular No. 187) these parts are dutiable under paragraph 245, a complete rice huller is thus dutiable. A rice huller is a machine for 'preparing rice \* \* \* for the markets,' the product being rice and not a 'manufacture of rice.'

"Protest No. 2115, on the grounds above mentioned, is therefore sustained and a refund ordered to the importer in the sum of \$8.80, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 266.—*Fixing rates of storage at entry ports outside of Manila.*

MANILA, December 17, 1903.

*To all Collectors of Customs:*

PARAGRAPH I. The following rates of storage on all baggage left in customs custody at the ports of Iloilo, Cebu, Jolo, Zamboanga, Puerto Princesa, Cape Melville, and Bongao shall be charged on and after January 1, 1904:

(1) On all packages, hand baggage, and other parcels containing dutiable personal effects, not regular merchandise which remain in customs custody more than forty-eight hours, including Sundays and other holidays, after their landing at the custom-house wharf, not exceeding 2 cubic feet in bulk, each, per day, \$0.04, Philippines currency.

(2) On all such packages, etc., and trunks so remaining exceeding 2 cubic feet but not exceeding 4 cubic feet in bulk, each, per day \$0.06, Philippines currency.

(3) On all such packages, etc., and trunks so remaining exceeding 4 cubic feet in bulk, each, per day, \$0.10, Philippines currency.

(4) *Provided*, That all steamer chairs of rattan or similar material so remaining shall pay at the rate of \$0.10, Philippines currency, per day, each, and that all steamer chairs with wooden frame covered with cane, cloth, or canvas, of the folding variety, shall pay at the rate of \$0.04, Philippines currency, per day, each.

(5) *And provided further*, That all such packages, trunks, and steamer chairs so remaining shall be subject to at least five days' storage.

PAR. II. The following rates of storage on all goods remaining in Government warehouses at the above ports, respectively, shall be charged on and after January 1, 1904:

## ILOILO.

(1) On all goods or parts of consignments not ordered to the appraisers' stores for examination which remain in Government warehouses more than five days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 6 per metrical ton per month: *Provided, also*, That in any case storage may be calculated by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

(2) On all goods, packages, or parts of consignments ordered to the appraisers' stores for examination which remain in said stores more than forty-eight hours after the liquidation of the entry thereof has been completed, at the rate of P. 12 per metrical or measurement ton, as above prescribed, per month: *Provided*, That all such goods, packages, or parts of consignments so remaining shall be subject to at least five days' storage at the above rate: *And provided further*, That no storage shall be charged on such goods, packages, or parts of consignments until the expiration of forty-eight hours after the liquidation of the entry covering such consignment has been completed.

(3) On all packages and articles remaining in the parcel department of the appraiser's division more than forty-eight hours after the liquidation of the entry thereof has been completed, at the rate of P. 0.10 per piece or parcel, per day: *Provided*, That all such packages or articles shall be subject to at least five days' storage at the above rate: *And provided further*, That no storage shall be charged on such packages or articles until the expiration of forty-eight hours after the liquidation of the entry thereof has been completed.

In the assessment of the storage charges prescribed by sections 1 and 2 of the preceding paragraph, the length of which the importer or his representative may state to be necessary for him to withdraw the goods from the Government warehouses or the appraiser's stores, as the case may be, shall be included in fixing the charges, in order to avoid the necessity for making additional payments of storage when goods are not all withdrawn on the last day for which charge has been made: *Provided, however*, That no refunds of storage shall be made in cases wherein goods are withdrawn before the time stated by the importer or his representative has elapsed: *And provided further*, That in all cases storage shall be charged for the period up to and including the last day on which any part of the consignment or goods remains in the Government warehouses or appraiser's stores.

## CEBU.

(1) On all goods or parts of consignments which remain in Government warehouses more than fifteen days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 12 per metrical ton per month: *Provided*

*also*, That in any case storage may be calculated by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

## JOLO.

(1) On all goods or parts of consignments which remain in Government warehouses more than fifteen days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 5 per metrical ton, per month: *Provided also*, That in any case storage may be calculated by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

## ZAMBOANGA.

On all goods or parts of consignments which remain in Government warehouses more than fifteen days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 8 per metrical ton per month: *Provided also*, That in any case storage may be collected by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

## PUERTO PRINCESA.

On all goods or parts of consignments which remain in Government warehouses more than fifteen days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 8 per metrical ton per month: *Provided also*, That in any case storage may be calculated by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

## CAPE MELVILLE.

On all goods or parts of consignments which remain in Government warehouses more than fifteen days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 8 per metrical ton per month: *Provided also*, That in any case storage may be calculated by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

## BONGAO.

On all goods or parts of consignments which remain in Government warehouses more than fifteen days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of P. 8 per metrical ton per month: *Provided also*, That in any case storage may be calculated by measurement ton of 40 cubic feet, in the discretion of the collector of customs.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 267.—Publishing Act No. 1025 of the Philippine Commission, amending section 4 of Act No. 780.

MANILA, December 18, 1903.

To all Collectors of Customs:

PARAGRAPH 1. The following Act No. 1025 is hereby published for the information and guidance of all concerned:

"[No. 1025.]

"AN ACT AMENDING ACT NUMBERED SEVEN HUNDRED AND EIGHTY, SO AS TO AUTHORIZE THE BOARD THEREIN CREATED TO RECOGNIZE LICENSES ISSUED BY THE SPANISH GOVERNMENT AND TO GRANT LICENSES THEREON WITHOUT WRITTEN EXAMINATION, AND PROVIDING FOR THE RENEWAL OF LICENSES ALREADY GRANTED.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. Section four of Act Numbered Seven hundred and

eighty, entitled 'An Act providing for the examination and licensing of applicants for the positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade, and prescribing the number of engineers to be employed by such vessels,' is hereby amended by inserting at the end of said section the following:

"Provided, That should any applicant for license as master, mate, patron, or engineer produce a properly authenticated license issued to him by the duly constituted authorities in the Philippine Islands during the Spanish régime, or such other evidence of competency as may be satisfactory to the Board, and shall have been engaged in the coastwise trade in the waters of the Philippine Islands in the position for which he seeks a license for at least two years, such written examination shall not be required, and license shall be issued thereon; provided he is shown to be physically sound and of good moral character and within the requirements of section seven of this act."

"Sec. 2. Upon the expiration of the licenses authorized to be issued by said Act Numbered Seven hundred and eighty, the said Board is further authorized and empowered to renew such license from year to year upon due application being made as prescribed in said act, but each renewal shall be operative for only one year. In case of renewal of license the written examination required by section three of said act shall not be had, but the applicant for renewal shall only be required to submit to an examination, if deemed necessary by the Board, to test his physical soundness, but the Board is authorized to refuse any application for renewal upon satisfactory evidence of misconduct, intemperate habits, incapacity, or inattention to duty on the part of the licensee, and also to revoke any such renewal licenses, when granted, for the same reasons, or any of them.

"Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"Sec. 4. This act shall take effect on its passage.

"Enacted, December 16, 1903."

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 268.—*Fixing fees to be charged by pilots at all ports of entry, except the port of Manila, and at all coastwise ports and coastwise subports in the Philippine Archipelago, for the calendar year 1904.*

MANILA, December 22, 1903.

To all Collectors of Customs:

PARAGRAPH I. By authority of section 393 of Act No. 355 of the Philippine Commission, and with the approval of the honorable the Secretary of Finance and Justice, the following fees, to be charged by pilots at all ports of entry, except the port of Manila, and at all coastwise ports and coastwise subports in the Philippine Archipelago, are hereby promulgated, to take effect January 3, 1904.

PAR. II. The following pilotage and other fees are authorized and shall be collected for on account of the Pilots' Association at the port of Iloilo, in the manner provided:

FOR VESSELS ENGAGED IN THE FOREIGN TRADE.

*Harbor pilotage, inward and outward, from and to Pilot Station, Sinasapan or Dumanguis Point, Guimaras.*

INWARD.	Philippines currency.
Vessels of 30 tons to 50 tons, inclusive.....	10.00
Vessels of 50 tons to 75 tons, exclusive.....	16.00
Vessels of 75 tons to 100 tons, exclusive.....	18.00
Vessels of 100 tons to 250 tons, exclusive.....	20.00
Vessels of 250 tons to 500 tons, exclusive.....	26.00
Vessels of 500 tons to 750 tons, exclusive.....	30.00
Vessels of 750 tons to 1,000 tons, exclusive.....	36.00
Vessels of 1,000 tons to 1,500 tons, exclusive.....	46.00
Vessels of 1,500 tons to 2,000 tons, exclusive.....	56.00
Vessels of 2,000 tons to 3,000 tons, exclusive.....	70.00
Vessels of 3,000 tons to 4,000 tons, exclusive.....	90.00
Vessels of 4,000 tons to 5,000 tons, exclusive.....	120.00
Vessels of 5,000 tons to 6,000 tons, exclusive.....	150.00
Vessels of 6,000 tons to 7,000 tons, exclusive.....	180.00
Vessels of 7,000 tons to 8,000 tons, exclusive.....	220.00

OUTWARD.	Philippines currency.
Vessels of 30 tons to 50 tons, inclusive.....	10.00
Vessels of 50 tons to 75 tons, exclusive.....	16.00
Vessels of 75 tons to 100 tons, exclusive.....	18.00
Vessels of 100 tons to 250 tons, exclusive.....	20.00
Vessels of 250 tons to 500 tons, exclusive.....	26.00
Vessels of 500 tons to 750 tons, exclusive.....	30.00
Vessels of 750 tons to 1,000 tons, exclusive.....	36.00
Vessels of 1,000 tons to 1,500 tons, exclusive.....	46.00
Vessels of 1,500 tons to 2,000 tons, exclusive.....	56.00
Vessels of 2,000 tons to 3,000 tons, exclusive.....	70.00
Vessels of 3,000 tons to 4,000 tons, exclusive.....	90.00
Vessels of 4,000 tons to 5,000 tons, exclusive.....	120.00
Vessels of 5,000 tons to 6,000 tons, exclusive.....	150.00
Vessels of 6,000 tons to 7,000 tons, exclusive.....	180.00
Vessels of 7,000 tons to 8,000 tons, exclusive.....	220.00

FOR ALL VESSELS.

*Riser pilotage dues, inward and outward, from and to harbor, optional pilotage for all vessels under 100 tons, compulsory pilotage for all vessels of 100 tons or over.*

INWARD.	Philippines currency.
Sailing vessels of 56 tons to 75 tons, inclusive.....	3.00
Steamers of 30 tons to 75 tons, inclusive.....	5.00
Vessels of 76 tons to 100 tons, exclusive.....	10.00
Vessels of 100 tons to 150 tons, exclusive.....	12.00
Vessels of 150 tons to 250 tons, exclusive.....	14.00
Vessels of 250 tons to 500 tons, exclusive.....	16.00
Vessels of 500 tons to 750 tons, exclusive.....	18.00
Vessels of 750 tons to 1,000 tons, exclusive.....	20.00
Vessels of 1,000 tons to 1,500 tons, exclusive.....	24.00
Vessels of 1,500 tons to 2,000 tons, exclusive.....	32.00
Vessels of 2,000 tons to 2,500 tons, exclusive.....	40.00
Vessels of 2,500 tons to 3,000 tons, exclusive.....	50.00
Vessels of 3,000 tons to 3,500 tons, exclusive.....	66.00
Vessels of 3,500 tons to 4,000 tons, exclusive.....	86.00

OUTWARD.	Philippines currency.
Sailing vessels of 56 tons to 75 tons, inclusive.....	3.00
Steamers of 30 tons to 75 tons, inclusive.....	5.00
Vessels of 76 tons to 100 tons, exclusive.....	10.00
Vessels of 100 tons to 150 tons, exclusive.....	12.00
Vessels of 150 tons to 250 tons, exclusive.....	14.00
Vessels of 250 tons to 500 tons, exclusive.....	16.00
Vessels of 500 tons to 750 tons, exclusive.....	18.00
Vessels of 750 tons to 1,000 tons, exclusive.....	20.00
Vessels of 1,000 tons to 1,500 tons, exclusive.....	24.00
Vessels of 1,500 tons to 2,000 tons, exclusive.....	32.00
Vessels of 2,000 tons to 2,500 tons, exclusive.....	40.00
Vessels of 2,500 tons to 3,000 tons, exclusive.....	50.00
Vessels of 3,000 tons to 3,500 tons, exclusive.....	66.00
Vessels of 3,500 tons to 4,000 tons, exclusive.....	86.00

Section 6 of Paragraph XLVIII of Customs Administrative Circular No. 122 is hereby amended to read as follows:

"PAR. XLVIII. Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of P. 10, Philippines currency, per day of twenty-four hours. All time over six hours shall be counted as one day."

PAR. III. The following pilotage and other fees are authorized and shall be collected for and on account of pilot fees at the port of Cebu, in the manner provided:

1. Compulsory pilotage for all vessels from 20 to 100 tons, within the anchorage, per foot draft, P. 0.20, Philippines currency.

2. Compulsory pilotage for all vessels over 100 tons, registered in the Archipelago, from entrance to harbor, per foot draft, P. 1.20, Philippines currency.

3. Vessels of less than 100 tons, taking a pilot from entrance to harbor, per foot draft, P. 1.20, Philippines currency.

4. Compulsory pilotage for all vessels not registered in the Archipelago, per foot draft, P. 2, Philippines currency.

5. Changing anchorage for all vessels of over 100 tons, registered in the Archipelago, per foot draft, P. 0.50, Philippines currency.

6. Changing anchorage for all vessels less than 100 tons registered in the Archipelago, per foot draft, P. 0.20, Philippines currency.

7. Changing anchorage for all vessels not registered in the Archipelago, per foot draft, P. 1, Philippines currency.

(The term "within the anchorage" shall be taken to mean outside the first buoy north or south, leaving the port; the term "entrance to harbor" to mean from the light-house to the north or south.)

8. All vessels of less than 100 tons' gross burden being used as lighters in the discharge of loading of vessels in the harbor will be exempt from the payment of fees for change of anchorage unless pilot is asked for.

9. Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of P. 10, Philippines currency, per day of twenty-four hours. All time over six hours shall be counted as one day.

PAR. IV. The following pilotage and other fees are authorized and shall be collected for and on account of the Pilots' Association at the port of Aparri, in the manner provided:

ALL VESSELS, ENTRANCE AND CLEARANCE.	Philippines currency.
From 1 to 100 tons, inclusive.....	10.00
From 101 to 250 tons, inclusive.....	20.00
From 251 to 400 tons, inclusive.....	30.00
From 401 to 500 tons, inclusive.....	40.00
From 501 to 650 tons, inclusive.....	50.00
From 651 to 800 tons, inclusive.....	60.00
From 801 to 1,000 tons, inclusive.....	70.00
From 1,001 to 1,500 tons, inclusive.....	80.00
From 1,501 to 2,000 tons, inclusive.....	90.00
From 2,001 to 2,500 tons, inclusive.....	100.00
From 2,501 to 3,000 tons, inclusive.....	110.00
Over 3,000 tons.....	120.00

MOORINGS AND ANCHORAGES.

From 1 to 100 tons, inclusive.....	2.00
From 101 to 250 tons, inclusive.....	4.00
From 251 to 400 tons, inclusive.....	6.00
From 401 to 500 tons, inclusive.....	8.00
From 501 to 650 tons, inclusive.....	10.00
From 651 to 800 tons, inclusive.....	12.00
From 801 to 1,000 tons, inclusive.....	14.00
From 1,001 to 1,500 tons, inclusive.....	16.00
From 1,501 to 2,000 tons, inclusive.....	18.00
From 2,001 to 2,500 tons, inclusive.....	20.00
From 2,501 to 3,000 tons, inclusive.....	22.00
Over 3,000 tons.....	24.00

PASSAGE TO AND FROM LAL-LOC.

	Philippines currency.
For all vessels, 1 to 500 tons, inclusive.....	100.00
For all vessels, 501 to 1,000 tons, inclusive.....	150.00
For all vessels over 1,000 tons.....	200.00

FOR SAN VICENTE, ALL VESSELS.

From 1 to 500 tons, inclusive.....	30.00
From 501 to 750 tons, inclusive.....	40.00
From 751 to 1,000 tons, inclusive.....	50.00
From 1,001 to 1,500 tons, inclusive.....	60.00
From 1,501 to 2,000 tons, inclusive.....	70.00
Over 2,000 tons.....	80.00

All the above charges to be made on the gross tonnage.

(a) Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of P. 5, Philippines currency, per day of twenty-four hours. All time over six hours shall be counted as one day.

PAR. V. The following pilotage fees for the port of Zamboanga and for the Zamboanga collection district are hereby authorized:

1. Where pilot is taken from the port of Zamboanga for another port in the Zamboanga collection district, and returned to Zamboanga, for all vessels under 500 tons, P. 6, Philippines currency, per day; for vessels over 500 tons, P. 10, Philippines currency, per day.

2. For entrances and clearances only, for any port, P. 25, Philippines currency.

3. *Provided*, That in all cases vessels using pilots shall provide proper and necessary accommodations and meals for them.

4. Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of P. 5, Philippines currency, per day of twenty-four hours. All time over six hours shall be counted as one day.

PAR. VI. The following pilotage and other fees are authorized and shall be collected for and on account of the Pilots' Association at the port of Tacloban, in the manner provided:

FOR THE STRAIT OF SAN JUANICO.

	Philippines currency.
All vessels from 1 to 50 tons, inclusive.....	8.00
All vessels from 51 to 100 tons, inclusive.....	12.00
All vessels from 101 to 200 tons, inclusive.....	18.00
All vessels from 201 to 300 tons, inclusive.....	26.00
All vessels from 301 to 500 tons, inclusive.....	32.00
All vessels from 501 to 700 tons, inclusive.....	36.00
All vessels from 701 to 1,000 tons, inclusive.....	45.00
All vessels from 1,001 to 1,500 tons, inclusive.....	55.00
Over 1,500 tons.....	60.00

FOR THE BAYS OF SAN PEDRO AND SAN PABLO.

All vessels from 1 to 50 tons, inclusive.....	5.00
All vessels from 51 to 100 tons, inclusive.....	10.00
All vessels from 101 to 200 tons, inclusive.....	16.00
All vessels from 201 to 300 tons, inclusive.....	22.00
All vessels from 301 to 500 tons, inclusive.....	28.00
All vessels from 501 to 700 tons, inclusive.....	34.00
All vessels from 701 to 1,000 tons, inclusive.....	40.00
All vessels from 1,001 to 1,500 tons, inclusive.....	50.00
All vessels over 1,500 tons.....	60.00

The above fees to be collected on the gross tonnage, in Philippines currency.

(a) Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of P. 5, Philippines currency, per day of twenty-four hours. All time over six hours shall be counted as one day.

PAR. VII. The following pilotage and other fees are authorized and shall be collected for and on account of the Pilots' Association at the port of Dagupan, in the manner provided:

	Philippines currency.
All vessels from 10 to 20 tons, gross burden.....	1.00
All vessels from 20 to 50 tons, gross burden.....	3.00
All vessels over 50 tons, gross burden, per draft foot.....	1.00



(a) The fees above prescribed are for local pilotage from the open bay to and from Dagupan.

(b) The pilots at Dagupan shall be under the immediate supervision and direction of the coast district inspector of customs, San Fernando de Union.

(c) Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of P. 5, Philippines currency, for each day of twenty-four hours. All time over six hours shall be counted as one day.

PAR. VIII. Paragraph LIV of Customs Administrative Circular No. 122 is hereby amended to read as follows:

"Par. LIV. Vessels belonging to the United States Government or to the Insular Government shall be exempt from the compulsory pilotage provisions of these regulations, but in all cases where a pilot is asked for and taken, such vessels then shall pay the regular pilotage and other fees prescribed for merchant vessels for similar entrances, clearances, and moorings."

PAR. IX. Paragraphs XLII, XLIII, XLIV, XLV, XLVI, XLVII, XLIX, L, LI, LII, LIII, and LIV of Customs Administrative Circular No. 122 are hereby revoked.

PAR. X. Paragraph XXVIII of Customs Administrative Circular No. 122 is hereby amended to read as follows:

"Par. XXVIII. Claims against pilots for damages shall be adjudged by a Board of Arbitration which shall consist of three members, one member of the Board to be designated by the Pilots' Association, one by the claimant for damages, and the third member to be designated by the Collector of Customs. The persons so selected shall have a sufficient knowledge of shipping to pass intelligently upon the claim presented, and to fix the damages if any shall be found to have accrued; and upon written complaint, either by the Pilots' Association or by the claimant for damages or his representative, that any member appointed to the Board of Arbitration has not such knowledge of shipping, said complaint shall be thoroughly investigated by the Collector of Customs, and the eligibility of the person complained of shall be subject to the decision of the Collector.

"The Board of Arbitration so appointed shall meet at such time and place as may be designated by the Collector of Customs, and a complete record of its proceedings, including its findings, duly certified, shall be kept in writing and filed in the office of the Collector of Customs."

PAR. XI. Paragraph LXXI of Customs Administrative Circular No. 122 is hereby amended to read as follows:

"PAR. LXXI. All fees and charges provided for by these regulations are stated in Philippines currency, and shall be collected in that currency or its equivalent."

PAR. XII. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCox,

*Acting Collector of Customs for the Philippine Islands.*

Approved:

HENRY C. IDE, *Secretary of Finance and Justice.*

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#### Public laws:

No. 1031, making deficiency appropriation for salaries and wages in the Bureau of Customs and Immigration.

No. 1032, providing that salaries of provincial and municipal officers and certain taxes and fees shall be fixed in Philippine pesos instead of in Mexican currency.

No. 1033, appropriating \$120,500 for continuing the construction of the Benguet road.

No. 1034, providing for the issue of bonds to the amount of \$7,237,000 for the purchase of the "friar lands."

No. 1035, amending section 15 of Act No. 702, and section 1 of Act No. 989, by extending the time for completing the registration of Chinese in the Philippine Islands.

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# Official Gazette



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VOL. II

MANILA, P. I., JANUARY 20, 1904.

No. 3

## PUBLIC LAWS.

[No. 1036.]

AN ACT PROVIDING FOR A LOAN OF TWENTY THOUSAND PESOS, PHILIPPINES CURRENCY, TO THE PROVINCE OF LA LAGUNA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of twenty thousand pesos, Philippines currency, to be loaned to the Province of La Laguna, and to be expended by the provincial board of that province for the general purposes of the provincial government.

SEC. 2. The moneys appropriated in the first section of this Act shall be paid to the treasurer of the Province of La Laguna upon the production by him to the Treasurer of the Philippine Islands of a certified copy of a resolution of the provincial board of the Province of La Laguna accepting such loan and agreeing to repay the same, without interest, on or before the thirtieth day of June, nineteen hundred and four.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, January 7, 1904.

[No. 1037.]

AN ACT AUTHORIZING MERCHANTS AND OTHERS IN THE PHILIPPINE ISLANDS TO EXPORT FOOD PRODUCTS WHICH HAVE PAID DUTY, FOR A LIMITED PERIOD, AND IN LIEU THEREOF TO IMPORT LIKE FOOD PRODUCTS, FOR A LIMITED PERIOD, WITHOUT PAYMENT OF CUSTOMS DUTY.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Merchants and other persons carrying on business in the Philippine Islands and having in their possession canned goods and food products which have been imported into the Islands and have paid customs duties are hereby authorized to export such merchandise at any time prior to the first day of March, nineteen hundred and four, and upon such exportation to receive from the Collector of Customs a certificate stating the amount and kind of merchandise so exported and that the person or corporation so exporting shall be entitled to free entry of canned goods and food products of a like character and amount imported prior to the first day of May, nineteen hundred and four, and such certificate

shall entitle the person or corporation receiving the same to such free entry prior to the first day of May, nineteen hundred and four, but not thereafter. The provisions of this Act are limited entirely to canned goods and food products.

SEC. 2. It is hereby made the duty of the Collector of Customs for the Philippine Islands to frame suitable regulations for the administration of this Act.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, January 9, 1904.

## EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 8, 1904.

EXECUTIVE ORDER }  
No. 2.

The provisions of Executive Order Numbered One hundred, series of 1903, are hereby modified to the extent that the secretary of the committee appointed thereunder shall be remunerated for each full day's service in connection therewith as certified by the chairman thereof, and by providing that a messenger at a monthly compensation of twenty pesos, Philippines currency, be allowed the committee from the date of its organization.

LUKE E. WRIGHT,  
*Acting Civil Governor.*

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 13, 1904.

EXECUTIVE ORDER }  
No. 3.

Pursuant to the provisions of Act Numbered One thousand and forty, the office hours in all Bureaus and Offices in the Philippine civil service, including the Insular Government, the city of Manila, and the provincial governments, are fixed as follows:

They shall not be less than six and one-half hours of labor each day, not including time for lunch and exclusive of Sundays and of days declared public holidays by law or executive order, except that on Saturdays throughout the year and during the heated term from the first of April to the fifteenth of June the head of any Department, Bureau, or Office may reduce the required number of hours of labor on each day to not less than five hours, but this reduction shall not apply to the officers or employees of any Bureau or Office to whom an overtime wage is allowed and paid.

When the nature of the duties to be performed or the interests of the public service require it, the head of any Department, Bureau, or Office may extend the daily hours of labor herein specified for any or all of the employees under him, and in case of such extension it shall be without additional compensation unless otherwise provided by law. Officers and employees may be required by the head of the Bureau or Office to work on Sundays and public holidays also, without additional compensation unless otherwise specifically authorized by law.

It shall be the duty of heads of Bureaus or Offices to require of all employees of whatever grade or class not less than the number of hours of labor required by this order. Wherever practicable each head of a Bureau or Office shall require a daily record of attendance of all the officers and employees under him to be kept on Philippine Civil Service Board Form Numbered Forty-eight, and shall report monthly to the Board on its Form Numbered Three the exact amount of under-time of each person for each day.

The provisions of this order shall not apply to judges and teachers.

LUKE E. WRIGHT,  
*Acting Civil Governor.*

### DECISIONS OF THE SUPREME COURT.

[No. 1236. November 30, 1903.]

*THE UNITED STATES, complainant and appellee, vs. PEDRO MAANO ET AL., defendants and appellants.*

1. CRIMINAL LAW; BRIGANDAGE.—Upon the facts as stated in the dissenting opinion. *Held*, that the defendants are guilty of brigandage.
- Per McDONOGH, *J.*, dissenting:
2. CRIMINAL LAW; BRIGANDAGE.—To justify a conviction for the crime of brigandage it is sufficient that the Government show by either direct or circumstantial evidence (1) that three or more persons conspired together; (2) that they formed a band of robbers; (3) that such band was formed for the purpose of stealing carabao or other personal property by means of force and violence; (4) that they went out upon the highway or roamed over the country armed with deadly weapons for this purpose; and (5) that the defendant or defendants engaged in the organization of the band or joined after it was organized.
3. *Id.*; *Id.*—Act No. 518 of the United States Philippine Commission, defining and punishing the offense of brigandage, creates a new crime and does not repeal any of the sections of the Penal Code concerning the crimes of robbery and theft.
4. *Id.*; *Id.*; CONSPIRACY; DEFINITION.—A conviction under the brigandage act for unlawfully conspiring to commit the offenses therein mentioned would not be a bar to a subsequent prosecution for the commission of any specific act of robbery or theft in pursuance of such agreement.
5. *Id.*; *Id.*; *Id.*—A criminal conspiracy is a combination of two or more persons by some concerted action to accomplish some criminal or unlawful purpose or to accomplish some purpose not in itself criminal or unlawful, by criminal or unlawful means.
6. *Id.*; BRIGANDAGE; CONSPIRACY.—It is not necessary that the criminal purpose for which conspiracy is formed be accomplished in order for the offense of conspiracy to be complete, and this is so expressly declared by the statute with respect to the crime of brigandage under Act No. 518.
7. *Id.*; CONSPIRACY; EVIDENCE.—It is not necessary to introduce direct testimony to prove a conspiracy. Proof of disconnected overt acts is sufficient where the proof also shows that the conspirators were drawn together or acted through a common medium and had a common intention in promoting the object of the conspiracy.
8. *Id.*; *Id.*; *Id.*—Proof of the commission of a robbery by the joint act of three or more armed men is not alone sufficient to warrant a presumption that they had entered into a conspiracy to commit the crime of brigandage defined by Act No. 518.
9. *Id.*; PRESUMPTION OF INNOCENCE; EVIDENCE.—If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused of the crime charged and the other consistent with his guilt, then the evidence does not fill the test of moral certainty and is not sufficient to support a conviction.
10. *Id.*; DEADLY WEAPON DEFINED.—A deadly weapon is not necessarily one designed to take life or inflict bodily injury.

APPEAL from a judgment of the Court of First Instance of Tayabas.

The facts are stated fully in the dissenting opinion.

EMILIO MARTINEZ LLANOS, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, *J.*:

Juan Bermudez and his wife Francisca fully identified at the trial the defendants as two of the persons who entered their house on the night in question. The defendants say in their brief that both of these witnesses testified at the preliminary investigation that they did not know who their assailants were. This statement, so far as the husband is concerned, is not borne out by the record. There is nothing therein to show that he did not, upon the question of identity, testify before the justice in the same way that he did in the Court of First Instance. His wife explains her testimony before the justice by saying that she had never before been in a court and that she was so overawed by the judicial presence that she was not fully herself.

That the naming of these defendants was not an afterthought suggested subsequently to the examination in the justice court is conclusively shown by the testimony of the sergeant of police who went to the house on December 26, two days after the robbery, for the purpose of investigating it. He says that the wife, Francisca, there told him that it was committed by the two defendants and others. The same day the sergeant presented the complaint to the justice of the peace, charging these defendants and one Ricardo with the crime. This was of course prior to any hearing before the justice.

The failure of the complaining witnesses to mention on the first examination before the justice the taking of the money is not important. They did testify to the taking of a razor, a bolo, and two pocket knives. The taking of the money did not add anything to the offense, it did not make the crime different or its punishment greater.

The evidence in regard to the alibi is not sufficient to overcome the positive testimony of identification by two witnesses who had known the defendants for a long time.

The failure of the servant, Leon Sabal, to recognize the defendants is not strange. They remained in the sala, and the two unknown men came into the kitchen, where the servant was, bound him, blindfolded him, and left him there. He had no opportunity at all to see the defendants.

The defense has made a motion in this court for a new trial on the ground of newly discovered evidence. Of the five affidavits presented four of them relate to alleged attempts of Juan Bermudez to induce witnesses by bribery and threats to testify against the defendants. The trial was concluded on February 13, and the judgment pronounced on February 14, yet one of these affidavits states that on February 16 Bermudez summoned him as a witness and promised him 100 pesos if he would testify against the defendants.

The affidavit of Juan Evangelista as to the alibi of the defendant Pedro tends to weaken it rather than to strengthen it, by reason of the contradiction between his statement and those of the other witnesses for the defendants. Moreover, no reason is given why his testimony could not have been procured for the trial.

The showing is not sufficient to justify us in granting a new trial, and the motion is denied.

We hold that the crime committed was that of *bandolerismo* under Act No. 518.

The evidence is sufficient to support the judgment, and it is affirmed, with the costs of this instance against the appellants.

Arellano, C. J., Torres and Johnson, JJ., concur.

McDONOUGH, J., dissenting; with whom concurred COOPER, J.:  
The information filed by the fiscal against the defendants is as follows:

"The undersigned accuses Pedro Maano, Jacinto Maano, and others of the crime of brigandage, committed as follows:

"At midnight on the 23d of December last, together with other persons unknown, the accused, armed with Remington rifles and war bolos, assaulted the house of Juan Bermudez, situate in the barrio of Pandacaque, of the municipality of Tayabas, taking from the owners of the said house, Juan Bermudez and Francisca Abracia, whom they beat and intimidated, the sum of 90.86 pesos in money and \$4 in goods. This within the jurisdiction of this Court of First Instance of Tayabas, of the Seventh Judicial District of the Philippine Islands and against the provisions of article 1 of Act No. 518."

Upon this charge the defendants above named were placed upon trial, and the prosecution proved that, about 10.30 o'clock, on the night of December 23, 1902, several men called to the occupants of the house to open it; that three voices were heard to call, and the call was repeated three times; that the inmates were afraid and did not approach the window; that then they heard an order given by two persons to discharge the guns, which was done; that shortly after they heard another voice saying "aim," and then two shots were fired and the bullets went through the walls of the house; that they saw the two defendants light a match for the purpose of setting fire to the roof near the stairway; and that then the wife of Juan Bermudez opened the door to them. Four men entered, "the first two and another being these defendants here present, armed with rifles." After entering Pedro Maano again lit a match and went toward the altar, where the lamp was, and lit it; then these two defendants asked for money, and the wife gave them the money. As soon as Maano got the \$86, Mexican, he said, "Do you know us?" To which the husband and wife replied, "No." All this occurred after they were bound and stretched out on the ground. These two defendants struck the husband with the butt end of the gun, and the defendant Pedro Maano demanded the rest of the money, and the reply was that there was no more, whereupon the two defendants struck the husband and wife with the butt end of the gun. Those who had the guns were Pedro and Jacinto Maano and one Ricardo. Four men with guns entered the house and about five remained outside, armed with long bolos.

In addition to the money there was taken other property consisting of bolos, penknives, and bowie knives. The husband and wife were illtreated, the former taking five days in which to recover from the effects.

The foregoing is substantially all the testimony taken at the trial hearing on the crime committed and its character. No other testimony was received relating to the charge of conspiracy under section 1 of Act No. 518.

Upon this state of facts the court below found the defendants, Pedro Maano and Jacinto Maano, guilty of the crime of brigandage, committed in violation of section 1 of Act No. 518, which reads as follows:

"SECTION 1. Whenever three or more persons *conspiring together* shall form a band of robbers for the purpose of stealing carabaos or other personal property, by means of force and violence, and shall go out upon the highway or roam over the country armed with deadly weapons for this purpose, they shall be deemed highway robbers or brigands, and every person engaged in the organization of the band, or joining it thereafter, shall, upon conviction thereof, be punished by death or imprisonment for not less than twenty years, in the discretion of the court."

It will be noticed that in order to convict under this section it is not necessary to prove that the defendants actually stole carabaos or other personal property or committed larceny or robbery; in fact, section 2 of the act expressly provides that it shall not be necessary to adduce evidence of robbery or theft.

All the proof that is required in order to establish the offense is

(1) that three or more persons conspired together; (2) that they formed a band of robbers; (3) that such band was formed for the purpose of stealing carabaos or other personal property by means of force and violence; (4) that they went out upon the highway or roamed over the country armed with deadly weapons for this purpose; and (5) that the defendant or defendants engaged in the organization of the band or joined it after it was organized.

And this proof need not be direct; it may be indirect or circumstantial. Nor did the majority of this court hold in the Decusin case (1 Off. Gaz., 730), as is stated in the dissenting opinion, that the above-mentioned elements of the crime "must be proved by the evidence of witnesses who were present at the organization of the band and who can testify as to its purposes; and that the proof of the actual commission of the robbery is not sufficient."

On the contrary, it is stated in the majority opinion that "the evidence in proof of conspiracy will generally, from the nature of the case, be circumstantial"; and that, as stated in Greenleaf on Evidence, 92-95, and in Kelly vs. People (55 N. Y., 665), "If it be proved that the defendants pursued by their acts the same object, after the same means, one performing one part and another another part, so as to complete it with a view to the same object, the conclusion may be inferred that they engaged in a conspiracy to effect the object."

The authorities cited to support this doctrine are worthy of consideration, and as no authority has been adduced to the contrary, we may safely follow them.

The question to be determined in this case and which was decided in the Decusin case, is not whether the defendants are guilty of robbery or not, for the evidence shows them to be guilty of that crime beyond a reasonable doubt, but it is whether or not the evidence is sufficient to convict them of the crime of conspiracy under section 1 of Act 518.

It is stated in the dissenting opinion in the Decusin case that Act 518 does not create a new crime. We think it does. That is not an act to punish the crime of robbery or larceny, for upon proof of the acts of the defendants mentioned in the law, they may be convicted, without proof, on the commission of robbery or larceny; and if the conspirators or brigands go further and not only violate the terms of Act 518, by conspiring for the purposes mentioned, by forming their armed band and by going out upon the highway or roaming over the country, acts which complete the conspiracy and the crime, but, in addition to this, if they commit robbery or larceny, they may be convicted in another trial, on the charge of robbery or larceny, as the case may be. The offense committed under Act 518 is a felony, highly penal, and it does not merge in the felony of robbery or larceny committed by the same band; nor does the robbery or larceny merge in the conspiracy. Hence Act 518 and the provisions of the Penal Code relating to robbery and larceny are not in conflict, and the former does not expressly or impliedly repeal or modify the latter, for they do not relate to the same crimes.

It has been held that where the defendant was acquitted of larceny and subsequently indicted for obtaining the same goods under false pretences that there was no merger and that the defendant was lawfully convicted of the latter crime. (1 Bishop's Criminal Law, section 1053, subd. v; 34 Texas, 667.)

Bishop also states, in the same section, that after acquittal for larceny the defendant may be convicted of obtaining the same chattels through a conspiracy with third persons.

At common law, where a person by the same act committed two crimes, one a felony and the other a misdemeanor, the latter merged in the former, but if the crimes were both of the same degree, both felonies or both misdemeanors, there was no merger. (Clark's Criminal Law, 35; 1 Bishop's Criminal Law, sections 787, 788, 804, etc.)

Under Act 518, the two offenses, brigandage and robbery, all felonies, can not be committed by the same act, for the act

acts that complete the crime of brigandage, precede, and must necessarily precede, the robbery; or, in other words, the conspiracy is complete before the robbery begins, and they are, therefore, separate and distinct offenses. If three or more persons were tried and convicted under Act 518, and subsequently if the same persons were put upon trial for robbery, committed while members of the band, they could not set up a former conviction in bar and plead their constitutional right not to be put in jeopardy twice for the same offense, because the acts differ, the proofs differ, and the crimes differ. (4 Bl. Com., 336; Am. vs. Roby, 12 Pick., Mass., 496; People vs. Majors, 65 Cal., 138.)

The very definition of a conspiracy makes this point clear. "It is a combination of two or more persons by some concerted action to accomplish some criminal or unlawful purpose, or to accomplish some purpose not in itself criminal or unlawful, by criminal or unlawful means." (Pettibone vs. United States, 148 U. S., 197.)

It is not necessary, therefore, that the object for which the criminal purpose entered into should be accomplished in order to complete the crime; and this is especially true of the crime of conspiracy mentioned in Act 518. For the act itself says that it shall not be necessary to prove the robbery or theft. It therefore follows that this act does create a new crime; and that it is not in conflict with the provisions of the Penal Code relating to robbery or larceny. The proof, in this case, clearly shows robbery, under article 502 of the Penal Code; and from this proof of robbery, and this proof alone, must we infer or conclude in the language of the act "beyond reasonable doubt that the accused were members of such an armed band."

In the Decussin case, on a similar state of facts, a majority of the court held that such inference or conclusion was not warranted by the evidence in that case; and that it was necessary to prove directly or by circumstantial evidence something more than the bare fact of robbery committed by three or more armed men, in order to justify the conclusion that those men conspired together and formed a band of robbers for the purpose of stealing personal property and went out on the highway or roamed over the country armed with deadly weapons for this purpose.

A brigand is defined in Webster's International Dictionary as a "lawless fellow who lives by plunder; one of a band of robbers, especially one of a gang living in mountain retreats; a highwayman; a freebooter." In the same book a robber is defined as "one who feloniously takes goods or money from the person of another by violence or by putting him in fear."

From these definitions it may be reasonably concluded that while every brigand is a robber every robber is not a brigand, and so this court held that the proof which was sufficient to convict the accused of robbery was not sufficient to convict them of brigandage under Act 518.

It may be asked how can the crime of conspiracy, mentioned in the act in question, be proved other than by showing robbery by an armed band of three or more persons?

Here is the answer of Judge Speer in the case of the United States vs. Lancaster (44 Fed. Rep., 896):

"What is the nature of the proof necessary to support a charge of conspiracy? The first cardinal rule of existence is this: After evidence showing the existence of the conspiracy is submitted to the jury the acts of the conspirators may, in all cases, be given in evidence against each other, if these acts were done in pursuance of the common illegal object. \* \* \*

"It is not required that the conspiracy or the act of conspiring need be proved by direct testimony. It is indeed competent to show the conspiracy by showing disconnected overt acts where the proof also shows that the conspirators were thrown together, or acted through a common medium, and had a common interest in promoting the object of the conspiracy.

"A common design is the essence of the charge of conspiracy, and this is made to appear when the parties steadily pursue the

same object, when acting separately or together, by common or different means, all tending to the same unlawful result."

Judge Dyer, in the case of the United States vs. Goldberg (25 Fed., 1342), tried in the circuit court of Wisconsin, in discussing this question, said: "The understanding, combination, or agreement between the parties, to effect the unlawful purpose charged, must be proved, because without the corrupt agreement or understanding there is no conspiracy, but circumstantial evidence may be resorted to to show the agreement or conspiracy.

"The acts of the parties, the nature of the acts, their declarations and statements, whether verbal or in writing, and the character of the transactions, with the accompanying circumstances as the evidence may disclose them, should be investigated and considered as sources from which evidence may be derived of the existence or nonexistence of the agreement which may be expressed or implied to do the alleged unlawful act.

"The burden of proof is on the Government to prove what it affirms, by legal and competent evidence."

The evidence in the case at bar falls far short of the proof pointed out by Judges Speer and Dyer. It does not show the very essence of the crime charged, viz. a "common design," the "understanding, combination, or agreement" on the part of those engaged in the robbery to form an armed band of robbers for the purpose of stealing carabao or other personal property, and that for that purpose they went out on the highway or roamed over the country. In other words, it does not show that they formed a band of brigands and went out as brigands, which is the crime charged; nor can such essence of the crime be fairly inferred beyond a reasonable doubt, from the facts proved.

In the case of the United States vs. Newton (52 Fed. Rep., 275) it was laid down as law, in a case of conspiracy to defraud the United States, that the evidence must show (1) that the conspiracy charged existed; (2) that the overt act charged was committed; and (3) that the defendant was one of the conspirators.

In the case before us the overt act alleged, the robbery, has been proved, and the fact that the defendants took part in its execution, but we have no direct proof relative to the conspiracy. It is said, however, that we may infer it from the fact that the accused took part in the overt act alleged, which, by the way, is not the overt act required to be shown by Act 518.

In order to justify the inference of legal guilt from circumstantial evidence the existence of the inculpatory facts must be absolutely incompatible with the innocence of the accused and incapable of explanation upon any other reasonable hypothesis than that of guilt. (Burrell on Criminal Evidence, sec. 737.)

The inculpatory facts in the case at bar are not incompatible with innocence of the crime of conspiracy, nor incapable of explanation upon any other reasonable hypothesis than that of being guilty of conspiracy; they may be explained on the reasonable hypothesis that the defendants intended to commit the robbery in question—an entirely different crime.

It was said in the case of Pogue vs. State (12 Tex. Ap., 283-294) that if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused (of the crime charged, of course), and the other consistent with his guilt, then the evidence does not fill the test of moral certainty, and is insufficient to support the conviction.

In the celebrated Webster case (5 Cush., Mass., 312-313) Chief Justice Shaw in discussing this subject stated:

"In case of circumstantial evidence where no witness can testify directly to the fact to be proved, it is arrived at by a series of other facts, which by experience have been found so associated with the fact in question, that in the relation of cause and effect they lead to a satisfactory and certain conclusion; as when footprints are discovered after a recent snow, it is certain

that some animated being has passed over the snow since it fell, and from the form and number of footprints it can be determined with equal certainty whether they are those of a man, a bird, or a quadruped.

"Circumstantial evidence, therefore, is founded on experience and observed facts and coincidents establishing a connection between the known and proved facts and the fact sought to be proved.

"The advantages are that, as the evidence commonly comes from several witnesses and different sources, a claim of circumstances is less likely to be falsely prepared and arranged, and falsehood and perjury are more likely to be detected and fail of their purpose. \* \* \*

"It is manifest that *great care and caution* ought to be used in drawing inferences from proved facts. \* \* \*

"The inference to be drawn from the facts must be a natural one, and to a *moral certainty, a certain one*. It is not sufficient that it is probable only; it must be reasonably and morally certain."

The reasonable and natural inference in this Maano case does not lead us to a moral certainty that the defendants were not only guilty of the robbery, but were also guilty of conspiracy for the purposes mentioned in section 1 of Act 518. Otherwise we should have to reach the conclusion in every case where the evidence showed robbery committed by three or more men armed with dangerous weapons and showed nothing further, that the perpetrators were brigands as defined by law and that they must be convicted of brigandage instead of robbery.

Suppose three servants employed in a hotel ascertain that a guest has in his room a sum of money and these servants arm themselves with bolos or revolvers, go to the room, intimidate the guest, and take forcible possession of his money. On such a state of facts there could be no doubt about characterizing this crime as robbery, but could it be inferred, beyond a reasonable doubt, that they would be guilty also of conspiring together to form an armed band of brigands for the purpose of stealing carabao or other personal property and that they actually went out on the highway or reamed over the country for that purpose?

"Such an inference would not be "a reasonable or natural one and to a moral certainty a certain one." It would not be even probable; it would be wholly illogical.

Many examples of this kind might be suggested where it would not follow as a lawful conclusion or deduction from the bare proof of robbery that the criminal acts mentioned in Act 518 were committed.

Something more than the fact of robbery must be shown. Thus in the case of *Newel vs. Jenkins* (26 Penn. St. Rep., 159) in an action against a prosecutor, a magistrate and a constable for conspiring together to arrest and imprison a person without probable cause, it was held that evidence that each one acted illegally or maliciously would not support the action without proof that the defendants combined and conspired together to do such acts.

For similar reasons it must be shown here that the defendants conspired together to do, and did do, the acts made criminal under the act in question.

If we are to jump at conclusions, if we are to draw inferences and deductions not warranted by the facts or the law, why could we not just as well convict the defendants in this case of sedition as of conspiracy?

The facts show that nine men, four armed with rifles and five with bolos, and in a tumultuous manner, took part in this robbery, and despoiled Juan Bernudez and Francisca Abracia of their property.

To despoil is to take by violence or clandestine means the property of another. (*Senol vs. Hepburn*, 1 Cal., 268.)

Section 5 of Act No. 292 of the Philippine Commission provides that all persons who rise publicly and tumultuously in order to attain by force, or outside legal methods any of the following

objects are guilty of sedition; and one of these objects is (subdiv. 5) "to despoil, with political or social object, any class of persons, natural or artificial, a municipality, a province, or the Insular Government." etc.

It surely could not be reasonably inferred that because the defendants here took part in despoiling natural persons, that, therefore, they violated this sedition law. It may be observed at a glance that to convict under that act it would be necessary not only to prove a violation of the terms of section 5 of the Act, but also the act of despoliation under subdivision 5 with a *political or social object*, and surely this object or purpose could not be reasonably or logically inferred from the mere act of despoliation. For like reasons we can not infer the existence of the crime of conspiracy or brigandage from the naked fact of robbery and without any proof whatever of the intention of the defendants to organize and go out in violation of Act No. 518.

We should not lose sight of the words of Justice Shaw, "that it is manifest that great care and caution ought to be used in drawing inferences from proved facts."

We know from the evidence before us that the defendants intended to commit robbery; we can not safely guess that they also intended to form such a conspiracy as is defined by Act No. 518.

It has been suggested that this case may be distinguished from that of *Decusin*, because there the accused were armed with bolos, whereas here four were armed with rifles. In Act No. 518 the words "armed with deadly weapons" are used. This court has repeatedly passed upon cases in which the term of imprisonment depended upon whether the accused were armed or not, and it has invariably been held that when the offenders had bolos at the time of the commission of the offense they were "armed," and this holding seems reasonable and proper, because it is a matter of common knowledge in these Islands that a blow or a stab administered with a bolo may be as dangerous and deadly as a wound made by a rifle ball.

A deadly weapon is not exclusively one designed to take life or inflict bodily injury. (*Blige vs. State*, 20 Fla., 742; 51 Am. Rep., 628.)

It follows that the defendants are guilty of robbery and not of conspiracy or brigandage under Act No. 518.

MAPA, J., dissenting:

I do not concur in the opinion of the majority of the court. In my opinion the facts proved constitute the crime of robbery, and not that of brigandage, defined and punished by Act. No. 518 of the Commission.

*Judgment affirmed.*

[No. 1449. November 30, 1903.]

VICENTE GOMEZ GARCIA, plaintiff and appellant, vs. JACINTA HIPOLITO ET AL., defendants and appellees.

1. PLEADING AND PRACTICE; BILL OF EXCEPTIONS; NOTICE OF INTENTION TO PROSECUTE.—Where the bill of exceptions, allowed and signed by the trial court, is silent upon the point as to whether the notice of intention to prosecute a bill of exceptions was given within the term of court at which the judgment was rendered, it will be presumed that such notice was given in the absence of evidence to the contrary.
2. ID.; ID.; PRESENTATION FOR ALLOWANCE.—It is not necessary that the bill of exceptions be presented for allowance during the same term as that at which the judgment was rendered.
3. ID.; ID.; ID.; EXTENSION OF PERIOD.—The period of ten days mentioned in article 143 of the Code of Civil Procedure for the presentation of a bill of exceptions for allowance after notice of intention to prosecute the same may be extended by order of the court or by consent of the parties.
4. ID.; POWERS OF COURT AFTER EXPIRATION OF TERM.—The theory of the common law of England that the court could only act within a term is not a part of our law, under which anything can be done outside of the term unless the statute prohibits it.
5. ID.; BILL OF EXCEPTIONS; EXCEPTION TO JUDGMENT; INCORPORATION OF EVIDENCE IN BILL OF EXCEPTIONS.—Upon a general exception to the judgment the excepting party is entitled to argue before the

appellate court the question as to whether the findings of fact pleaded by the judge in his decision, with the facts admitted by the pleadings, support the judgment which has been ordered, and for the purpose of such an exception it is neither necessary nor proper to incorporate the evidence in the bill of exceptions.

6. **ID.; ID.; OBJECTION TO FINDINGS; WHAT BILL SHOULD CONTAIN.**—Where the purpose of the appeal is to present the question of whether or not the findings are supported by the evidence, it must appear from the bill of exceptions in some way that it contains all the evidence presented to the court below which bears upon the points of fact in dispute.
7. **ID.; ID.; OBJECTION TO BILL.**—Although the appellant may have reserved an exception entitling him to discuss the question as to whether or not the findings are supported by the evidence, if the bill tendered for allowance does not contain all the evidence, it is not incumbent upon the appellee to object upon this ground, and, in the absence of a statement in the bill itself that it does contain all the evidence, he may rely upon the presumption that the appellant has waived his right to discuss the case upon the facts.
8. **ID.; ID.; APPELLATE PROCEDURE; CORRECTION OF RECORD.**—Where it is made to appear to the court during the pendency of an appeal that the record is so incomplete that the appellant can not take proper advantage of a timely exception, and it appears that such defect can be remedied by the amendment, the court will order such amendment and allow the necessary time therefor.
9. **STATUTORY CONSTRUCTION.**—In the interpretation of a statute, it is proper to consider the physical conditions of the country which must of necessity affect its operation in order to reach an understanding as to the intent of the legislature.

JOHNSON, J., with whom concurred COOPER, J., dissenting:

10. **PLEADING AND PRACTICE; BILL OF EXCEPTIONS; JURISDICTIONAL FACTS MUST APPEAR OF RECORD; CAN NOT BE PRESUMED.**—Article 143 of the Code of Civil Procedure provides the only method allowed by the law for an appeal in an ordinary civil action, and the bill of exceptions must show expressly upon its face that every condition imposed by that article has been performed. Compliance with the statutory provisions is necessary to give the appellate court jurisdiction, and the existence of the jurisdictional facts must appear affirmatively and can not be presumed.
11. **ID.; ID.; NOTICE OF INTENTION TO PROSECUTE.**—Notice of intention to prosecute a bill of exceptions must be given within the term at which the judgment was rendered.
12. **ID.; ID.; TIME FOR PERFECTING AN APPEAL.**—The period fixed by article 143 of the Code of Civil Procedure for taking and perfecting an appeal is mandatory and jurisdictional and can not be extended by order of the trial court or by consent of the parties; but the appellate court may, upon a proper showing, grant such extension.
13. **ID.; MOTION FOR A NEW TRIAL; TIME WITHIN WHICH IT MUST BE DECIDED.**—A motion for a new trial should be made and decided during the term of court in which the judgment becomes final.
14. **ID.; ID.; MOTION TO AMEND.**—A motion to amend a bill of exceptions by the incorporation therein of new matter should be addressed to the trial court. The power conferred upon the appellate court by article 500 of the Code of Civil Procedure is limited to causing the transcript on appeal to correspond to the original bill as allowed by the trial court.
15. **ID.; ID.; CORRECTION OF RECORD.**—The power vested in the appellate court by article 501 of the Code of Civil Procedure to correct a defective record is limited to the action necessary to make the record upon which the case is being tried in the appellate court correspond to the bill of exceptions as approved and signed by the judge of First Instance.
16. **STATUTORY CONSTRUCTION.**—The courts can not disregard the plain provisions of a mandatory statute upon grounds of expediency or hardship resulting from its enforcement, which properly address themselves to the legislature alone, as a reason for the amendment or repeal of the statute.
17. **ID.**—The enactment by the legislature of a law extending, in certain well defined cases, the time within which an appeal may be taken and perfected is evidence of the legislative intent to vest no discretionary power in the courts to extend such periods under the general law.

**APPEAL** from a judgment of the Court of First Instance of Manila, motion to dismiss the bill of exceptions.

The facts are stated in the opinion of the court.

MANUEL TORRES, for appellant.  
JOSEPH N. WOLFSON, for appellees.

WILLARD, J.:

This is a motion to dismiss the bill of exceptions. Judgment was rendered for the defendants on May 1, 1903. The plaintiffs

were notified thereof on May 21. On May 23 they excepted to the judgment and presented a motion for a new trial. This motion was denied on July 23. On July 28 the plaintiffs presented their proposed bill of exceptions which on August 5 was allowed and signed by the court. The term of the court at which the case was tried expired on May 30.

The first ground of the motion is that the bill of exceptions was allowed after the time therefor had expired. Article 143 of the Code of Civil Procedure provides that the defeated party shall notify the judge before the ending of the term that he "desires to prosecute a bill of exceptions." It is alleged by the appellees that such notice was not given in this case. No evidence was presented, however, at the hearing to prove this allegation. In the absence of such evidence we can not presume that it was not done. The presumption would rather be to the contrary. And in this case it is strengthened by the fact that when the appellees were notified of the presentation of the bill of exceptions on July 28 they made no objection to it on this ground, and by the further fact that the court allowed it on August 5 without suggesting that such allowance was improper for the reason stated.

Within ten days after the notification above mentioned said section 143 requires the appellant to present to the judge his proposed bill of exceptions. There is nothing in the section which requires that this should be done during the term at which the case was tried. If the ten days should expire after the expiration of the term the appellant would nevertheless have the undoubted right to present his proposed bill on the tenth day. It appears, however, that in this case the bill of exceptions was not presented for more than six weeks after the term ended and therefore long after the expiration of ten days from the notification, assuming that such notice was given during the term. It is said that this term of ten days is not an extendible one, and that a bill of exceptions must in all cases be presented within that period. It appears that while the motion for a new trial was made on May 23, it was not decided until July 21, and the appellant claims that, as he must necessarily insert in his bill of exceptions his exception to the order denying the motion for a new trial, the ten days did not commence to run until such order was made. There is force in this suggestion, but we do not find it necessary to decide the question.

The part of the section in question is as follows:

"The party desiring to prosecute the bill of exceptions shall so inform the court at the time of the rendition of final judgment, or as soon thereafter as may be practicable and before the ending of the term of the court at which final judgment is rendered, and the judge shall enter a memorandum to that effect upon his minutes and order a like memorandum to be made by the clerk upon the docket of the court, among the other entries relating to the action. Within ten days after the entry of the memorandum aforesaid, the excepting party shall cause to be presented to the judge a brief statement of the facts of the case sufficient to show the bearing of the rulings, orders, or judgments excepted to, and a specific statement of each ruling, order, or judgment that has been excepted to, for allowance by the judge. The judge shall thereupon, after reasonable notice to both parties and within five days from the presentation of the bill of exceptions to him, restate the facts if one be \* \* \*"

The question is one of construction. Did the Commission intend to say that the parties might consent to or the judge order an extension of this period of ten days, or did they intend to have it read as if there had been inserted after the words "allowance by the judge" the following clause: "And the judge shall have no power for any cause whatever to extend this period of ten days, and any agreement of the parties to that effect shall be void." It will be noticed that this period of ten days, as well as the subsequent period of five days, have to do with what may be called the mechanical part of the appeal, the preparation of the papers

for transmission to the Supreme Court. The rights of the parties as to the removal itself have already been fixed by the notice of the intention to prepare a bill of exceptions, which notice must be entered of record in the clerk's office. If the period for the performance of that act corresponds to the time for appeal or for suing out a writ of error found in most other laws of American origin, it of course can not be extended by order of court or consent of parties. But that period is entirely distinct from this period of ten days allowed for preparing the papers after the right to remove the case has been secured. It can not, therefore, be said that an extension of this time is an extension of the time to appeal.

When we take into consideration the condition of things in the Archipelago at the time this law was adopted, it seems impossible to believe that the Commission intended to deprive the court and the parties of the power to extend this term. They must have known that in many cases it would be a physical impossibility to comply with it. In a case tried in Zamboales it might easily happen that the judge would close his term of court and depart for the Province of Union or Benguet during the running of the ten days, where it would be impossible for the appellant to reach him within that period. In fact, in view of the lack of means of easy and frequent communication between different parts of the Islands, a departure of a judge from one province to another, almost anywhere in the Archipelago except upon the line of railroad between Manila and Dagupan, would make it impossible for the appellant to reach him within ten days. In addition to this, even in Manila, it would probably happen in a majority of cases that the stenographer would not be able to furnish the appellant a transcript of his notes within ten days, or that the appellant would be unable to prepare the bill within that time.

And, besides all this, there is no apparent reason why the parties should not have a right to agree that these papers might be presented in twenty days instead of ten. No one is interested except themselves, and no question of public policy is involved. We hold, therefore, that this period of ten days is not nonextendible and that it can be extended by the order of the court or the consent of the parties.

In this case the judge did not by an order made before the expiration of the ten days extend the time. But statutes frequently confer upon courts the power to permit certain acts to be done after the time prescribed therefor has expired. There is the same reason for holding in this case that such power has been conferred as for holding that the statute gives the court power to enlarge the time. There would in many cases exist the same physical impossibility of securing such an order from the judge as in presenting to him the bill of exceptions. The judge, by signing the bill of exceptions, on August 5, consented that the time should be extended. It moreover was stated in the written document presented by the appellant at the hearing, and not denied by the appellee, that the proposed bill of exceptions was served upon the appellee on July 28 and that he made no objection to its being allowed. This was a waiver by him of the objection that it had been presented too late.

Authorities holding that orders of this kind must be made within the term have no bearing on this case, because (1), as we have seen, this act of presenting the bill of exceptions need not be done within the term, and (2) the theory of the common law of England, that the court could only act within a term, has been entirely abolished by the provisions of section 53 of Act No. 136, which provides that "Courts of First Instance shall be always open, legal holidays and nonjudicial days excepted." At the common law, nothing can be done outside of the term unless the statute authorizes it. Under our law anything can be done outside of the term unless the statute prohibits it.

2. The appellees asked, also, that the bill of exceptions be dismissed because it did not contain all the evidence received at the

trial. This allegation they proved by a certificate from the clerk of the court below. It appears, however, that the plaintiffs excepted to the judgment. This, under the repeated rulings of this court enabled them to argue here the question as to whether the findings of fact stated by the judge in his decision, with the facts admitted by the pleadings, support the judgment which has been ordered. For the purposes of such exception it is neither necessary nor proper to incorporate the evidence into the bill of exceptions. There being enough in the record to present this question, the appeal can not be dismissed on this ground. It appears, however, that the question which the appellants chiefly desire to present is whether or not the findings of fact are supported by the evidence. As said by counsel for appellees in his argument here, this court can not determine this question unless it has before it what the court below had before it when the decision was rendered. It must appear from the bill of exceptions in some way that it contains all the evidence bearing upon the point in dispute. The appellants say that when they prepared the bill of exceptions they included therein all the evidence then in the record, and, by a certificate of the clerk of the court below, they proved that the testimony of the witnesses claimed by the appellees to be wanting was delivered to said clerk on the 25th day of September by one of the lawyers for the appellees.

We can not agree with counsel for the appellant in his claim that it was the duty of the appellees to have objected on this ground to the bill of exceptions before it was signed. Such would have been their duty had there been in the proposed bill a statement that it contained all the evidence. In the absence of such a statement they were not bound to presume that the appellants proposed to pursue both their exception to the judgment and also their exception to the order denying their motion for a new trial.

At the argument of this motion the appellant's lawyer did state that such was his intention. To enable this to be done it will be necessary to correct the record. Our power to do this is ample. Section 500 of the Code of Civil Procedure provides: "But no such dismissal shall be made for purely formal defects not affecting the rights of the parties, nor for any defect which can be removed, and the Supreme Court shall give such reasonable time as may be necessary to remove such defect, if it can be removed. \* \* \* Nor shall such dismissal be granted where, by an amendment to the bill of exceptions, which is hereby declared to be lawful and allowable, any imperfections or omissions of necessary and proper allegations could be corrected from the record in the case."

Section 501 is as follows:

*"Incomplete record, how corrected.*—If at any time when a case is called for trial, or during the trial, or afterwards, while the Supreme Court may have the same under consideration, it is discovered that the record is so incomplete that justice requires the case to be postponed until the record can be made complete, the court shall postpone the further consideration of the same and make such order as may be proper and necessary to complete the record, in the interests of justice. But the court may dismiss a bill of exceptions for failure of the excepting party within a reasonable time to comply with the orders made for the perfection of the bill of exceptions."

Under these sections the appellants have the right to complete the record by having incorporated into the bill of exceptions that part of the evidence which has been omitted.

The motion of the appellees to dismiss the bill of exceptions is denied. The appellants are hereby allowed thirty days from the date of this order in which to file in this court a certified copy of all the evidence received at the trial of said cause which is not already embodied in the bill of exceptions, with a certificate from the judge of the court below that said additional evidence, together with the evidence already contained in the bill of exceptions, is all the evidence received at the trial of said cause. Upon the receipt of said copies, the clerk shall cause them to be printed at the



expense of the appellants, distributed to the parties, and attached to the printed record. The time for the presentation of the appellant's brief shall commence to run from the term of such distribution.

Arellano, C. J., Mapa, and McDonough, JJ., concur.

JOHNSON, J., with whom concurs COOPER, J., dissenting:

In this case judgment was rendered on the 1st day of May, 1903. The appellant was given notice of the judgment on the 21st day of May. On the 23d day of May the appellant moved for a new trial. The term of the court expired on the 5th day of June. The judge denied the motion for a new trial on the 23d day of July. On the 28th day of July the appellant presented his bill of exceptions. On the 5th day of August the judge signed said bill of exceptions.

On the 30th day of September, 1903, the appellee made a motion in this court asking that the said bill of exceptions be dismissed, among others, for the following reasons, to wit:

1. That the appellant had not informed the court before the ending of the term at which final judgment was rendered "of his desire to prosecute a bill of exceptions."

2. That the bill of exceptions was presented to and allowed by the trial judge after the time fixed by the statute had elapsed.

Section 143 of the new Civil Code of Procedure provides how a bill of exceptions may be perfected. It provides the *only method of perfecting an appeal in ordinary civil actions*. Its provisions are as follows:

(1) "The party desiring to prosecute a bill of exceptions shall so inform the court at the time of the rendition of final judgment, or as soon thereafter as may be practicable and before the ending of the term of court at which final judgment is rendered. (2) The judge shall enter a memorandum to that effect upon his minutes and order a like memorandum to be made upon the docket of the court among the other entries relating to the action. (3) Within ten days after the entry of the memorandum aforesaid the accepting party shall cause to be presented to the judge a brief statement of the facts of the case sufficient to show the bearing of the rulings, orders of judgment excepted to, and a specific statement of each ruling, order, or judgment that has been excepted to, for allowance by the judge. (4) The judge shall thereupon, after reasonable notice to both parties and *within five days* from the presentation of the bill of exceptions to him, restate the facts if need be and the exceptions, so that the questions of law therein involved and their relevancy shall all be made clear, and when the bill of exceptions has been perfected and allowed by the judge he shall certify that it has been so allowed and the bill of exceptions shall be filed with the other papers in the action and the same shall thereupon be transferred to the Supreme Court for determination of the questions of law involved."

The preceding four conditions constitute the method of perfecting an appeal from the judgment of the Court of First Instance to the Supreme Court in ordinary civil actions. Each of these steps or provisions must be complied with in order to perfect the appeal. The bill of exceptions when completed must show on its face that this statute has been complied with. No presumption can import a fact not therein made expressly to appear.

There is no statement or suggestion in the bill of exceptions presented in the above cause that the appellant at any time gave the court notice of his desire to prosecute a bill of exceptions. It is argued that no evidence was presented at the hearing to prove this allegation and that in the absence of such proof we can not presume that it was not done. It is not the duty of this court to presume either that it was or was not done. The record must answer the question. The record fails to show that this notice was given. Nothing can be presumed which the record does not show. This failure on the part of the appellant to give this notice, unless he brings himself under some extraordinary circum-

stance, is fatal. No attempt is made here to explain or justify this failure.

Section 143 of the new Civil Code provides the method by which the Supreme Court obtains jurisdiction of ordinary civil causes. No other method is provided for by the code. The Supreme Court acquires no jurisdiction unless these provisions are complied with. They are jurisdictional requirements and therefore must appear of record. None of them can be presumed. The statute is mandatory in its terms, and the Supreme Court ought not to take jurisdiction of a cause unless there has been a compliance therewith. Its provisions are plain and easily complied with.

The rule is well settled both under the decisions of the courts of the United States and of Spain, that when the time within which a notice of an appeal or an appeal shall be perfected is fixed by statute, it can not be extended by the court, and the appellate court obtains no jurisdiction of the cause if these conditions are complied with beyond the statutory period. The time within which an appeal must be taken is fixed by section 143 of the new Civil Code of Procedure, and the appeal must be taken within the time so designated. The Courts of First Instance have no authority to enlarge the time, nor can the parties extend it by agreement. If the appellant has failed to perfect his appeal within the time fixed by law it is necessary for him to file a transcript in the appellate court with a verified petition showing the facts upon which he relies as excusing his failure to perfect his appeal within the statutory period. Upon proper notice to the adverse party the superior court may, under its general equitable powers, grant such relief as it may deem wise and proper under all the circumstances. The practice in such cases varies in different jurisdictions.

These statutes limiting the time to appeal from the decisions of courts below are mandatory and jurisdictional. (*Dooling vs. Moore*, 20 Cal., 141.) Unless an appeal (or notice of an appeal) is taken within the statutory period the court has no jurisdiction and the appeal is void for all purposes and will be dismissed on motion of appellee. The courts can not waive nor extend these statutory provisions except where the statute so expressly authorizes. (*Gardner vs. Ingraham*, 82 Ala., 339; *Cailloil vs. Deetken*, 113 U. S., 213; *Fitzgerald vs. Brandt*, 36 Neb., 683.) If the time to perfect an appeal, as fixed by the law, is found, under the conditions existing in this Archipelago, to be too short, then it is the duty of the legislature to amend the law. The courts have no authority to amend the laws. The only reason why the parties can not extend time is because the law fixes the time within which the appeal must be perfected. An extension of the time without authority would be void and the appeal would be without effect. (*Smith vs. Smith*, 48 Mo. App., 618.) This was the rule under the Spanish Code of Civil Procedure. Article 365 of that Code provided that the appeal must be taken in five days. The courts have repeatedly held under that article that this provision was mandatory or improrogable. Don Jose Maria Manresa in his commentaries on the Code of Civil Procedure (vol. 2, pp. 164-172) says: "The terms of this article are improrogable and the time runs from the day following the notification."

Inasmuch as section 143 of the new Civil Code provides the only method of perfecting an appeal in ordinary civil actions in the Philippines, the decisions of the courts in the United States on that question are germane.

In the case of *Müller vs. Ehlers* (91 U. S., 249), Waite, Chief Justice, said: "It does not appear that the bill of exceptions was filed, tendered for signature, or even prepared, before the adjournment of the court for the term at which the judgment was rendered. No notice was given to the plaintiff of any intention on the part of the defendant to ask for the bill of exceptions either during the term or after. Upon the adjournment of the term the parties were out of court and the litigation there was at an end. The order of the (trial) court, therefore, made at the next term, direct-

ing that the bill of exceptions be filed in the cause as of April 28, 1873 (the date of the judgment), was a nullity. For this reason the bill of exceptions, though returned here, can not be considered as a part of the record."

Fuller, Chief Justice, in the cause of *Hume vs. Bowie* (148 U. S., 246), said, in discussing this same question: "The rule is unquestionably correctly laid down in *Müller vs. Ehlers*."

Chief Justice Fuller, in the cause of the *United States vs. Jones* (149 U. S., 263), again said: "Judgment was rendered in this cause July 18, the writ of error sued out and allowed July 23, and the court adjourned for the term July 30. So far as is disclosed by the record, the bill of exceptions was not tendered to the judge or signed by him until October 7," and no order was entered extending the time for its presentation. The bill of exceptions was, therefore, improvidently allowed; citing again *Müller vs. Ehlers*. (NOTE.—The rules of the court in this case permitted the court to extend the time within which an appeal might be perfected.)

Chief Justice Fuller again, in the cause of *Morse vs. Anderson* (150 U. S., p. 156), said: "The judgment is affirmed for want of a bill of exceptions seasonably allowed, upon the authority of *Müller vs. Ehlers*, *Hume vs. Bowie*, and other cases cited."

Mr. Justice Shiras, in the case of *Ward vs. Cochran* (150 U. S., 597), said: "In the case of *Müller vs. Ehlers* this court held that because the bill of exceptions had not been signed at or during the term at which the judgment was rendered it could not be considered. The power to reduce exceptions taken at the trial to form and to have them signed and filed was, under ordinary circumstances, confined to a time not later than the term at which judgment was rendered. This, we think, is the true rule, and one to which there should be no exceptions, without an express order of the court during the term, or consent of the parties, save under very extraordinary circumstances. In the present case we find no order of the court, no consent of the parties and no such circumstances as will justify a departure from this rule." (See, also, *Eagle vs. Draper*, 14 Blatchford, 334, federal case No. 4234; *Waldron vs. Waldron*, 156 U. S., 590.)

This is also the case in Tennessee. In the case of *Stagg vs. State*, Reed, Justice, said in substance: "The supreme court can not notice as a part of the record a bill of exceptions taken and sealed by the court at a term subsequent to that at which the cause was tried, even if it be a special term, for the law authorizing special terms constitutes them distinct terms." To the same effect are the following Tennessee cases: *Davis vs. Jones* (3 Head, 603), *Hill vs. Bowers* (4 Heiskell, 272), *Steel vs. Davis* (5 Heiskell, 75), *Garrett vs. Rogers* (1 Heiskell, 321). In *Sims vs. State* (4 Lea, 357), Cooper, Justice, said: "The settled rule in this State is that the bill of exceptions must be reduced to writing and signed during the term, nor can it be signed afterwards, although the signature was omitted by an inadvertence on the part of the judge."

In Vermont the statute (sec. 1626, compiled laws of 1894) provides that "exceptions to the opinion of the court shall be signed by the presiding judge and filed with the clerk within thirty days after the rising of the court." In commenting upon this statutory provision, Redfield, Chief Justice, said: "If exceptions taken in the county court are not filed in the clerk's office within thirty days from the rising of the court, as required by the statute, they can not be entertained or considered in the supreme court. If they are not actually filed within the thirty days, and if there is no fraud, misconduct, or agreement of the opposite party respecting them, they can not be thereafter filed *nunc pro tunc*, as of the date within thirty days." (*Nixon vs. Phelps*, 29 Vt., 196; *Higbee vs. Sutton*, 14 Vt., 555.)

The code of Mississippi (edition of Thompson, Dillard & Campbell, 1892, sec. 735) provides that: "Bills of exception to any ruling of the court must be tendered and signed during the trial or during the term of the court." Campbell, Justice, in the case of *Allen*

*vs. Levy* (59 Miss., 613), said: "Section 735 requires that such bills of exception must be made out and presented to the judge during the term or within ten days after adjournment, and the court has no power of its own motion to grant a longer time."

In Massachusetts there is a similar statute, and the rule there is that it must be strictly complied with. In the case of *Doeherty vs. Lincoln* (114 Mass., 362), Gray, Chief Justice (later a member of the Supreme Court of the United States), said: "The provisions of this statute requiring the exceptions to be filed with the clerk as well as presented to the court within the time prescribed are intended for the benefit of the adverse party; and he is entitled to insist upon due proof of a strict compliance with them unless he has done something to waive it. In the present case there is no evidence of such waiver, and the bill of exceptions does not appear by the docket or files of the court below to have been filed with the clerk or presented to the judge within the time prescribed. It must, therefore, be dismissed." (See, also, *Peace vs. Whitney*, 4 Mass., 4, 507; *Conway vs. Callahan*, 121 Mass., 165.)

In California there is a similar statute, with the same decisions by the courts.

Section 1365 of the statutes of Texas provides that: "It shall be the duty of the party taking any bill of exceptions to reduce the same to writing and present the same to the judge for his allowance and signature during the term and within ten days after the conclusion of the trial." The courts of that State have repeatedly held that the terms of this statute must be strictly complied with. (*Farrar vs. Bates*, 55 Tex., 193; *Blum vs. Schram*, 58 Tex., 524; *Tex., etc., Ry. Co. vs. McAllister*, 59 Tex., 349.)

The rule laid down in the above cases of *Müller vs. Ehlers*, *Michigan Bank vs. Eldred*, and *Hume vs. Bowie* is quoted and approved in the case of *New York, etc. Co. vs. Hyde* (56 Federal Reporter, 198). See, also, *Reliable Incubator Company vs. Stahl* (102 Federal Reporter, 590.)

This rule prevails also in Minnesota. Gilfillan, Chief Justice, in the case of *Burns vs. Phinney* (53 Minn., 431), said: "After the time to appeal had expired, there is no authority in the district court nor in this court to give a party a right to appeal after the right given him by the statute has elapsed by his failure to exercise it."

The same rule is enforced in Kentucky. See *Johnson vs. Stevers* (95 Ky., 128). The same rule prevails in Ohio, Illinois, Iowa, Colorado, and Indiana. (*Hicks vs. Person*, 19 Ohio, 426; *Kinsey vs. Satterthwaite*, 88 Indiana, 344; *Wabash, etc., Ry. Co. vs. People*, 106 Ill., 152; 43 Pacific Rep. (Colo.), 903.)

The bill of exceptions under this section constitutes the pleadings or statement of facts through which the issue is presented in the Supreme Court. The Supreme Court must rely upon the bill of exceptions for the statement of facts upon which to base its decision. The pleadings must show on their face that the court has jurisdiction.

It is urged that appellees waived their right to object to this bill of exceptions on the grounds urged here, because they did not make them when they were notified of the presentation of the bill of exceptions on July 28. They had a right to assume for all purposes at that time that the bill of exceptions was presented within the requirements of the law. Their mistake in that respect, however, did not alter the fact that during the term at which judgment was rendered no notice was given to the judge or to the opposite parties by the appellants of their desire "to present a bill of exceptions" or to prosecute an appeal. The failure of the appellants to interpose an objection on that ground at that time did not place the appellant in a worse position. There is nothing here which shows or tends to show, even remotely, on the part of the appellee, a purpose to waive his objection to the bill of exceptions.

The lower courts have no authority by statute or otherwise to waive the provisions of section 143 of the new Civil Code. Neither has this court the right to waive the provisions of the said section.

This court may, however, under very extraordinary circumstances, grant relief. These extraordinary circumstances must be made expressly to appear to the satisfaction of this court. These extraordinary circumstances must all be conditions over which the appellant has no control, and even then he must have done all within his power to comply with the provisions of the law before the court will grant him relief.

When the legislature provides by a plain statute that a particular thing *shall* be done in a particular way, it hardly seems necessary to ask the question whether or not they did not intend to say also that it might be done or might not be done in some other way, if some other way happened to suit the whim or convenience of some person or class of persons. It is hardly necessary in a statute so plain as section 143 of the new Code of Civil Procedure to read into it a provision which does not there exist.

Judge Elliott in his work on Appellate Procedure states "that the bill of exceptions must be filed within the time limited; the time can not be extended (sections 128, 295, and 800). If a party may omit one step or delay one step until after the expiration of the time, he may omit or delay another and another. To establish a rule which would tolerate such a practice would destroy all certainty and uniformity and *build up a deformed and distorted system of mere arbitrary instances*. A worse system than that or one more directly opposed to sound principle can scarcely be imagined." A strict compliance with section 143 of the new Civil Code is necessary to give this court jurisdiction. Neither this court nor the Court of First Instance has authority to extend the provisions of this statute. It may be said this rule is technical. Be it so.

The legislative branch of the Government has authority over that subject. The judicial branch of the Government has no right or authority to treat as technical, and therefore disregard it, a plain statutory provision.

It has been suggested that the legislature in enacting section 143 of the Code of Civil Procedure "must have known that in many cases it would be a physical impossibility to comply with its terms."

The legislative branch of the Government in these Islands has considered the conditions here and has legislated subsequently upon the same subject. Act No. 807 of the United States Philippine Commission of September 5, 1903, provides as follows:

"Sec. 14. *Time within which notice of appeal must be filed in cases under previous section.*—In every case in which judgment is entered in the Court of First Instance of a province by direction of a judge not in the province at the time, under the provisions of section 13 hereof, it shall be the duty of the clerk of the court at once to notify the parties to the suit, or their counsel, of the nature of the judgment, by personal notice in writing or registered mail, and in such cases the time within which the parties shall be required to except to the said judgment, and to file notice of their desire to prosecute their bill of exceptions to the judgment, shall be extended to twenty days from the day of receipt of the notice from the clerk."

Section 13 of the said act, to which reference is made above, provides that "whenever a judge of the Court of First Instance or a justice of the Supreme Court shall hold a session, special or regular, of the Court of First Instance of any province and shall thereafter leave the province in which the court was held without having entered judgment in all the cases which were heard at such session, it shall be lawful for him if the case was heard and duly argued, or an opportunity given for an argument to the parties and their counsel, in the proper province, to prepare his judgment after he has left the province and send the same back, properly signed, to the clerk of the court, to be entered in the court as of the day when the same was received by the clerk in the same manner as if the judge had been present in court to direct the entry of the judgment." Had the legislative branch of the Gov-

ernment considered that the time mentioned in section 143 was extendible, then why was it necessary for it to enact the provisions found in said section 14? If, as it has been contended, the time mentioned in section 143 is extendible by the courts, then certainly it was unnecessary for the legislative branch to enact further legislation upon that question.

From the foregoing provisions it appears that if there are impossible conditions existing here, the legislative branch of this Government will in due time take notice of the same and will enact such legislation as will be necessary to correct the evil. The judicial branch of the Government is governed by the laws enacted.

There is also another very serious objection to the proceedings in this case, and that is, the fact that the judge decided the motion for a new trial after the close of the term in which the judgment was made final. This is not authorized by the law. Motions for a new trial must be decided during the term in which the judgments become final. (See sec. 145 of new Civil Code.) If this practice is to be permitted, vexatious delays will be worked on parties in courts below. These rules are made in order that successful parties may not be defeated by mere delay. If this court may extend the time one day or a month, it may extend it indefinitely. Such a doctrine would have the effect, finally, of forever defeating the final settlement of causes—the very object of the law. If this court may extend the terms of the statutes, the Court of First Instance may, and then instead of having a uniform rule we would have a distorted practice where each case depended upon the particular notion of the particular judge—a practice of mere instances.

It is argued that the Courts of First Instance are always open. If that is so, then what did the Commission mean in providing different terms of the court? What is meant by the phrase in section 143 "and before the ending of the term of the court," etc? If the courts are always open and terms never close, then it would be safe for the defeated party to wait "forever and a day" before taking steps to appeal. We think that provision of the organic law has a very different signification.

There is another objection to that part of the order or decision of this court, by which certain papers are directed to be sent up to this court to be incorporated as a part of the bill of exceptions.

A bill of exceptions can not be amended except in accordance with the provisions of section 500 of the Code of Civil Procedure. This section provides that a dismissal shall not be granted "whereby an amendment to the bill of exceptions which is hereby declared to be lawful and allowable, any imperfections or omissions of necessary and proper allegations could be corrected from the record in the case."

This section is a literal copy of the provisions contained in section 5507 of the Code of Georgia. It has been held by the supreme court of that State in construing this provision that "record in the case" means record as contained in transcript sent up and duly certified by the clerk (79 Ga., 210). But even if the word "record" is construed to mean the record of the case in the Court of First Instance and it is held that the papers which have been directed to be sent up to this court are, in fact, a part of the record of the Court of First Instance, still it is not contended that these papers were made a part of the bill of exceptions by the trial judge who approved it.

It is necessary that action should be taken in the Court of First Instance, by motion, to amend the bill of exceptions and this application must be made to the judge of the Court of First Instance, who tried the case and whose province it is to make up the bill of exceptions and approve the same. (Elliott's App. Pro., 825, 205.)

Nor can the provisions of section 501 of the Code of Civil Procedure be invoked as authorizing the amendment of the bill of exceptions by this court. This section provides the mode for cor-

recting an "incomplete" record and is to the effect that if it is discovered that the record is so incomplete that justice requires the case to be postponed until the record can be made complete, the court shall postpone the further consideration of the same and make such order as may be proper and necessary to complete the record in the interests of justice.

We do not understand by this provision of the law that it is contemplated that this court when it finds that the bill of exceptions as prepared in the Court of First Instance is defective shall postpone the further consideration of the case and make the amendment here, because all amendments to the record in the lower court must be made by that court. The higher court can not make an original entry for the trial court nor perform an act which it is the right and duty of the trial court to perform. (Elliot App. Pro., 205.)

This section 501 refers to the case where the record upon which the case is being tried in the Supreme Court is "incomplete" by reason of the fact that the bill of exceptions as signed and approved by the Court of First Instance is different and other than that of the record on which the case is being tried in the Supreme Court, and whenever this appears to be the case the court will, within the language of the statute "complete the record."

The remedy here provided for is known in American practice as the suggestion of diminution of the record and prevails in the practice of these courts.

The section is taken almost literally from section 5575 of the Code of Georgia; and the citations of the decisions of the courts of that State which are contained in the notes to this section, show that such was the purpose of the section. For instance, it has been held by the courts of that State in construing this section, that where there is "no judgment appearing in the record, the case will be delayed until the same is sent up." (65 Ga., 600.) And where a motion for a new trial is material and is referred to in the bill of exceptions not sent up, a dismissal follows if no time is asked to perfect the bill of exceptions. (74 Ga., 36.)

The motion to dismiss the bill of exceptions should be granted. Torres, J., did not sit in this case.

*Motion denied.*

## OPINIONS OF THE ATTORNEY-GENERAL.

*Application for ad valorem tax.*

MANILA, P. I., October 16, 1903.

The ad valorem tax should be assessed by valuing the real estate at its actual money value at the time of the assessment. If the improvements placed upon the land increase its value they should be included in the valuation. Under no circumstances should improvements be assessed at their estimated cost on completion. They may never be completed, and the owner would then be taxed for property he never had. The machinery is not part of the real estate and should not be assessed as such, but the godown is a building and should be assessed for the ad valorem tax.

L. R. WILFLEY, Attorney-General.

PROVINCIAL SECRETARY OF CEBU.

*Presentation of cedulas.*

MANILA, P. I., October 19, 1903.

In the construction of statutes it is well established that the intent of the statute is the law. To determine this intent the words must be looked to and the actual import of the words is their literal sense, but if the words admit of a construction to effectuate the intention it is to be adopted. "When general language construed in a particular sense would lead to an absurdity it may be restrained." Applying these rules to the construction of Act 876 it is my opinion that when the Com-

mission enacted that a cedula must be presented by anyone liable to pay such tax whenever "he transacts any business with any public office or officer" they could not have intended that such person should present his cedula whenever he receives his mail, purchases stamps, money orders, etc. Such a construction would make the business of the post-office practically impossible. Nor do I think that the provision which requires a cedula when a person "receives money from any public funds" requires a man to present his cedula when he cashes a money order. These transactions are so numerous that such a construction would lead to an absurdity. They are different from the transactions in which a contractor receives money for carrying the mails, or an employee receiving his salary. In the latter cases it is my opinion that the person receiving the money should have a cedula when liable to the payment of such tax, and the officer disbursing the funds should satisfy himself of that fact before payment is made. The purpose of the law is to enforce the payment of the tax, and after the officer has satisfied himself that the tax has been paid I do not think it incumbent upon him to demand its presentation in each transaction with that person.

L. R. WILFLEY, Attorney-General.

The DIRECTOR OF POSTS, Manila, P. I.

*Delivery of captured arms and ammunition.*

MANILA, P. I., October 20, 1903.

Section 3 of Act 877 of the Philippine Commission does not include firearms and ammunition, as there are special laws governing the use of firearms, and Act 877 does not repeal these laws. All arms and ammunition captured should be delivered to the Constabulary and not to the provincial supervisor.

The word "maintenance" as used in section 5 of Act 877 refers to "feed and care of such animals" as used in the second line of said action. Guarding and all other necessary expenses incurred in the preservation of the animals are included in this section.

L. R. WILFLEY, Attorney-General.

The PROVINCIAL SUPERVISOR, Iloilo, Iloilo, P. I.

*Carrying of firearms.*

MANILA, P. I., October 24, 1903.

Provincial treasurers are authorized by law to carry firearms in the performance of their official duties. As stated in the opinion of Mr. Harvey, it has been held that the sheriff and his deputies were authorized to have firearms since their possession is necessary to properly perform the duties of such office. I think that such is also the case with the office of provincial treasurer.

The treasurer by law is made the custodian of large sums of money, and in conferring this duty the law implies he shall use means proper to give ample protection to the funds which come into his possession. Since the protection afforded by firearms is the usual and most effective, I think it reasonable to say their possession is necessary to a proper exercise of the office, and therefore authorized by law.

These reasons apply with equal force to deputy treasurers. Their duties require them to travel throughout the provinces collecting taxes. They must provide protection for the money so collected, since the preservation of said money is as necessary as its collection.

L. R. WILFLEY, Attorney-General.

The CHIEF OF CONSTABULARY, Manila, P. I.

*Presidents of boards of health not authorized to collect fees.*

MANILA, P. I., November 4, 1903.

The presidents of the provincial boards of health are not authorized to receive or collect any compensation for the discharge of

their duties other than the salary as fixed under section 4, Act 307, by the Commissioner of Public Health, with the approval of the Secretary of the Interior.

This does not apply, however, to professional services which may be rendered by any president of a provincial board of health in his private capacity as a practicing physician, but all services rendered in his public capacity as president of the provincial board of health are subject to the provisions of said section 4, Act 307, and no fees or compensation in excess of that fixed by law are allowed.

L. R. WILFLEY, *Attorney-General.*

THE PRESIDENT, BOARD OF HEALTH,  
*San Pablo, Laguna.*

*Justice of the peace, location of office.*

MANILA, P. I., November 7, 1903.

Since the justice of the peace is a public officer transacting business with the public and with his fellow-officers of the municipal government, the location of his office should be established with a view to the greatest possible public convenience, and while there is no provision of law requiring the justice of the peace to establish his office within a certain specified area, the nature and character of his official relations with the public demand that he shall be located reasonably convenient to that part of the municipality where the seat of municipal government has been established. It would appear, therefore, that the public business must suffer where, as in the case in point, the justice of the peace is located at a distance of three miles from the center of the town.

L. R. WILFLEY, *Attorney-General.*

THE PROVINCIAL FISCAL,  
*Antique, P. I.*

*Easements; dominant and servient estates.*

MANILA, P. I., November 17, 1903.

Article 587 of the Civil Code provides "the owner of the estate charged with an easement of receiving waters discharged from roofs may build in such manner as to receive the waters upon his own roof, or give them another outlet in accordance with the local ordinances or customs, and so as not to be burdensome or detrimental to the dominant estate in any manner whatsoever." An easement is a property right and as such is fully protected by the law. The owner of the dominant estate has the legal right to have the water from his roof discharged on the servient estate, and this right can not be taken away without due compensation. Therefore the owner of a servient estate should be made to dispose of the rain water in accordance with proper sanitary regulations.

Articles 580-585, inclusive, of the Civil Code are established in the interests of private persons and for cases of private utility, but article 551 of the Civil Code puts a limit on these laws so that any ordinance passed in the interest of public health would be paramount to them. Therefore, proper sanitary regulations would be passed in spite of articles 580-585.

L. R. WILFLEY, *Attorney-General.*

THE ACTING COMMISSIONER OF PUBLIC HEALTH,  
*Manila, P. I.*

*Municipal officials postmasters, salaries.*

MANILA, P. I., December 7, 1903.

There is nothing necessarily incompatible between the offices of postmaster and that of a municipal official, but section 4 of Act No. 181 refers only to persons in the Civil Service, and therefore a person serving both as a municipal official and postmaster can

not draw a salary in both capacities unless he is in the civil service. A person not in the civil service may serve both as postmaster and a municipal official at the same time and draw salary for one of the positions only.

L. R. WILFLEY, *Attorney-General.*

THE DIRECTOR OF POSTS,  
*Manila, P. I.*

**BUREAU OF CUSTOMS AND IMMIGRATION.**

TARIFF DECISION CIRCULARS.

No. 347.—"Razor hones."

MANILA, December 8, 1903.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2051, filed April 20, 1903, by Mr. Enrique Spitz, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 7866, Voucher No. 12931, paid April 20, 1903.

"The claim in this case is against the classification of certain razor stones as 'fine' stones, under paragraph 1 (d) of the Tariff Revision Law of 1901, at \$6 per 100 kilos, instead of as common stones under paragraph 2 (e), at \$1 per 100 kilos, as entered.

"The stones involved in this protest are double, one side being a slab of hard, smooth stone, and the other side somewhat softer. They are known as hones, or, when in the rough, as hone stones. The harder slab is used as a mount for the softer one, to which it is cemented. It is imported in oblong lengths, which would constitute a wrought article.

"The dictionaries give the following definitions:

"*Hone*: A stone used for sharpening instruments that require a delicate edge, and particularly for sharpening razors; on oil-stone. A hone differs from a whetstone in being of finer grit and more compact texture." (Century Dictionary.)

"*Hone*: A stone of fine grit used for sharpening instruments that require a fine edge, and particularly for setting razors." (Webster's Dictionary.)

"*Hone*: A plane true block of fine, compact stones, for sharpening edge tools." (Standard Dictionary.)

"It will be noted that in all of these the word 'fine' appears. 'Fine' itself, however, has various meanings, two pertinent ones being as follows:

"'Delicate or choice in material, texture, or style, \* \* \* elegant, testeful, \* \* \*'. It is also of tables of fyne which marble stonne." (Torkington, Diarie of Eng. Travell, p. 49.)

"'Consisting of minute particles, grains, drops, flakes, etc., as fine sand or flour, fine rain, or snow, fine shot. "Make ready quickly three measures of fine meal.'" (Gen. XVIII, 6, Century Dictionary.)

"It is apparent that the word as used in paragraph 1 of the tariff has the former of these two meanings, and as used in the definitions quoted has the latter. In other words, whetstones are fine (grained) stones, but are not fine in the sense of being 'similar' to marble, onyx, jasper, and alabaster in texture, quality, value, or use.

"Protest No. 2051, on the grounds above mentioned, is sustained and a refund ordered to the importer in the sum of \$7.34, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. MCCOY,

*Acting Collector of Customs for the Philippine Islands.*

No. 348.—*Handkerchiefs figured in the loom.*

MANILA, December 10, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1742, filed January 12, 1903, by Messrs. Struckmann & Co., against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain imported merchandise described in Entry No. A 16489, Voucher No. 367, paid January 12, 1903.

"The merchandise in this case consists of certain embroidered cotton handkerchiefs, classified as figured cotton textiles dyed in the piece, of more than 39 threads per square of six millimeters, weighing less than 10 kilos per 100 square meters, made up in handkerchiefs, embroidered, under paragraph 120 (e), at the rate of \$0.55 per kilo, plus surtaxes of 30 per cent and 30 per cent. Claim is made that the above-mentioned handkerchiefs are clearly manufactured of plain textiles, and that the transparent part running around the whole handkerchief belongs to the hem, for which a surtax is paid, and consequently should not be regarded as a part of the textile itself." Protest is also made against the imposition of a fine for a wrongful declaration in this case, it being claimed by the protesters that they acted in good faith in making their declaration.

"An examination of the handkerchiefs in this case shows that the textile of which they are manufactured was originally woven in large pieces. Running from selvage to selvage in the weft, at regular intervals, the uniformity of the weave has been broken by packing three sets of several of the weft threads together. Double threads of the warp are then twisted and interwoven about these sets of packed weft threads, variegating the appearance of the textile by producing an open work design. About 2 inches from each selvage six heavy threads have been interwoven in the warp and the uniformity of the weave broken by twisting these heavier threads about and over and under groups of several of the weft threads. This change in the manner of weaving produces a design somewhat similar to that running from selvage to selvage. The change in the manner of weaving is not in the packing or pressing together of the threads, but by the twisting and interweaving of the threads which pass over and under the threads which have been pressed together, thus holding them in place. In the textile on which the recent decision of the Court of Customs Appeals was made (Tariff Decision Circular No. 323) but two threads were pressed or packed together at regular intervals, and this was not so noticeable except upon minute examination, while in this case the figure or design is readily apparent and is plainly noticeable upon but a cursory examination. The purpose was clearly the ornamentation of the handkerchiefs, for which the textile was specially woven.

"A plain cloth is defined as 'a fabric in which the warp and weft threads are placed at right angles to each other, and which interweave alternately' (Design in Textile Fabrics, Ashenhurst), and as the threads do not interweave alternately in this textile it can not therefore be considered as plain woven. In other words, a distinct design or figure has been introduced at regular intervals.

"In Tariff Decision Circular Nos. 101 and 286 it was held that the textile as found in the piece shall be the basis for determining the rate of duty, and if this textile is figured when in the piece it is also figured when made up into handkerchiefs, whether the figured portion adjoins and appears to be a portion of the hem or not. Surtax for making up is not assessed for the hem on the handkerchiefs, but for the cutting to size, whether hemmed or not (rule 12), and the operation of stitching.

"A fine for under-classification is not necessarily imposed on

account of bad faith, and therefore the assertion that the importer was acting in good faith is not sufficient ground for the remission of the fine. The public is presumed to be as familiar with the revenue laws as are the customs officials, hence a mistake of law is no justification. It is only those mistakes of fact which ordinary diligence would not guard against or causes beyond the control of the importer that can be pleaded in bar of such a fine. No good reason for the remission of this fine is advanced in the present case.

"Protest No. 1742, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 349.—(1) *Lemon flavoring extract*; (2) *strawberry fruit juice.*

MANILA, December 10, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest No. 1388, filed October 9, 1902, by Mr. M. A. Clarke, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, in assessing and collecting duty upon certain articles imported by them and described in Entry No. A 8761, Voucher No. 10916, paid October 7, 1902.

"There are two claims in this case, the first being against the classification of lemon flavoring extract as an essential oil, under paragraph 105 (a) of the Tariff Revision Law of 1901, at \$5 per kilo, instead of as a flavoring extract, under paragraph 327, as entered.

"The second claim is against the classification of a certain strawberry product as a 'flavoring extract,' under paragraph 327, at \$0.25 per kilo, instead of as a 'sweetmeat,' under paragraph 332, at \$0.125 per kilo, as entered, or as a 'fruit juice,' under paragraph 313, at \$0.06 per liter, as now claimed.

"In regard to the first claim, it is alleged that the shipper made the error of both invoicing and labeling the goods as 'lemon oil.' The invoice was not questioned by the appraiser, and the goods were classified according to it. The fact is that the goods in question are merely an adulteration of lemon oil, containing only between 5 and 6 per cent true lemon oil, the remainder being an alcoholic medium. They were used, sold, and known commercially as flavoring extracts.

"There is no reason to believe that the false invoice description and labels were for the purpose of fraud upon consumers of the goods, and they certainly were not for the purpose of fraud upon the revenues. Statements in invoices may be used for the guidance of customs officers, but are not binding. This part of the protest is sustained and the entry should be reliquidated in accordance with the facts under paragraph 327.

"In regard to the second claim, it appears that the goods in question consist of the juice of the strawberry obtained probably by expression, to which sugar has been added until the proportions are: Sugar, 49.97 per cent; water, 33.75 per cent; solids, 16.28 per cent; total, 100 per cent. It is in the form of a rather thick sirup-like liquid, the body of which is clear with only traces of fruit pulp (see:). It undoubtedly consists of strawberries, crushed and filtered, or strained so effectually that but small traces of the pulp remain in the liquid.

"The question is whether this article is (1) a fruit juice, (2) a sweetmeat, or (3) a flavoring extract. It is not doubted that it is in fact a fruit juice, but the question is whether it is possible to classify it under the first in view of the wording of paragraph 313, 'Fruit juice pure or with only sufficient sugar to preserve it.'

"Turning for a moment to the second: The Century Dictionary defines 'sweetmeat' as:

"1. A sweet thing to eat; an article of confectionery made wholly or principally of sugar, a bon-bon \* \* \*.

"2. Fruit preserved with sugar either moist or dry, a conserve, a preserve \* \* \*.

"The article in question is not a sweetmeat because it is not to eat, neither is it an article of confectionery. It is not 'fruit preserved with sugar,' because the process of manufacture has entirely changed the nature of the article. It is not fruit, nor yet preserved fruit, but fruit juice. The mere excess of sugar can not make into fruit that which, were there less sugar, would be 'fruit juice,' both in fact and in law. Moreover, it is not 'preserved' with sugar, but rather manufactured with sugar, enough sugar having been added to alter its essential nature. It is neither 'moist' nor 'dry.'

"As to the third: It is clear that this is, technically, an 'extract,' as that word is defined by the Century Dictionary, i. e., 'a substance obtained by distillation, heat, solution, or other chemical or physical process,' such as the 'expressed juice of the fresh plant,' evaporated, but it is equally clear that it is not commercially known as such. Being enumerated in no one of the three possible paragraphs named, recourse must be had to rule 15. It is more like the fruit juice enumerated in paragraph 313 than any other, and should therefore by assimilation be so classified.

"Protest No. 1398, therefore, as regards the first claim, is sustained, and a refund ordered in the sum of \$40.37, United States currency, that being the difference between the duties as originally liquidated and as reliquidated in accordance with this decision; and as regards the second claim, it is also sustained, and a refund ordered in the sum of \$84.98, United States currency; in all a total refund of \$125.35, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 350.—Horse clippers.

MANILA, December 11, 1903.

To all Collectors of Customs:

The following is hereby published for the information of all concerned:

"In the matter of protest No. 2443, filed September 16, 1903, by Messrs. Kuenzle & Streiff, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 4314, Voucher No. 8695, paid September 14, 1903.

"The claim in this case is against the classification of certain horse clippers under paragraph 54 (d) of the Tariff Revision List of 1901, as shears not otherwise provided for, as entered, instead of under paragraph 54 (c) as sheep shears by assimilation.

"The horse clippers in question are of steel, are fitted with wooden handles, and have trimmings of brass. They are somewhat larger than but similar in construction and the mode of operation to the hair clippers ordinarily used by barbers. It is not denied that they are shears.

"The paragraphs in question provide as follows:

"(c) Pruning and budding knives, grass, garden, hedge pruning, and sheep shears, N. W., kilo.....\$0.05

"(d) Surgical and dental instruments, fishing hooks, and all other cutlery, including scissors and shears not otherwise provided for, N. W., kilo.....\$0.30'

"The rule of interpretation that words of general description are to be limited by those of specific description is not applicable

to paragraph 54 (d), the enumerated articles being of different genera. This paragraph provides, then, for all classes of cutlery which are not otherwise provided for, without restriction.

"Paragraph 54 (c) provides for a class of cutlery which is used solely for agricultural purposes, sheep shears most closely resembling horse clippers of the enumerated articles. But horse clippers are not similar to sheep shears in the characteristics prescribed by rule 15. Furthermore, these rules of construction and assimilation can not 'be resorted to except in cases where it is clear that the article in question has not been definitely provided for in the tariff. They are to be resorted to in the absence of an enumeration, and not for the purpose of setting aside an enumeration.' (Tariff Decision Circular No. 187.) Horse clippers are not otherwise provided for, and therefore clearly enumerated under the general provisions of paragraph 54 (d).

"Protest No. 2443 is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

CUSTOMS ADMINISTRATIVE CIRCULAR.

No. 269.—Fees for admeasurement of vessels.

MANILA, December 22, 1903.

To all Collectors of Customs:

PARAGRAPH I. By authority of section 393 of the Philippine Customs Administrative Act, and with the approval of the honorable the Secretary of Finance and Justice, the following fees for the admeasurement of vessels are hereby promulgated and shall take effect on and after January 2, 1904:

CLASSIFICATION OF VESSELS.

Class 1.—Vessels having one or more decks of which the tonnage length is 15 meters or under.

Class 2.—Vessels having one or more decks of which the tonnage length is above 15 meters and not exceeding 30 meters.

Class 3.—Vessels having one or more decks of which the tonnage length is above 30 meters and not exceeding 45 meters.

Class 4.—Vessels having one or more decks of which the tonnage length is above 45 meters and not exceeding 60 meters.

Class 5.—Vessels having one or more decks of which the tonnage length is above 60 meters and not exceeding 76 meters.

Class 6.—Vessels having one or more decks of which the tonnage length is above 76 meters.

Class 7.—All open vessels without decks, such as lighters, caesoes, bancas, ships' boats, pleasure launches, and other similar craft.

ADMEASUREMENT FEES.

The following fees will hereafter be collected at all ports in the Philippine Archipelago for the admeasurement of vessels, to be assessed on gross tonnage and accounted for as collections under a separate heading:

	Class 1.	Philippines currency.
20 tons or less.....		12.00
More than 20 tons.....		15.00
	Class 2.	
20 tons or less.....		18.00
20 to 50 tons.....		24.00
50 to 100 tons.....		34.00
	Class 3.	
100 tons or less.....		46.00
100 to 200 tons.....		60.00
More than 200 tons.....		90.00
	Class 4.	
1,000 tons or less.....		110.00
More than 1,000 tons.....		150.00

	Class 5.	Philippines currency.
1,000 tons or less.....		110.00
More than 1,000 tons and less than 2,000 tons.....		150.00
More than 2,000 tons.....		170.00
Class 6.		
2,000 tons or less.....		150.00
More than 2,000 tons.....		180.00
Class 7.		
From 1 to 5 tons.....		3.00
From 5 to 12 tons, inclusive.....		4.50
More than 12 tons, per ton.....		.40

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

Approved:

HENRY C. IDE, *Secretary of Finance and Justice.*

No. 370.—*Publishing Act No. 1026, Philippine Commission, fixing annual tonnage tax upon cascoes and similar vessels, and amending section one hundred and thirty-five, Philippine Customs Administrative Act.*

MANILA, December 31, 1903.

To all Collectors of Customs:

PARAGRAPH I. The following Act No. 1026 of the Philippine Commission is hereby published for the information and guidance of all concerned:

“[No. 1026.]

“AN ACT FIXING THE ANNUAL TONNAGE TAX UPON CASCOES AND OTHER VESSELS NOT DECKED OVER AND NOT PROPELLED BY THEIR OWN STEAM, SAIL, OR OTHER SIMILAR MOTIVE POWER AND CONSTRUCTED IN THE PHILIPPINE ISLANDS, AND AMENDING SECTION ONE HUNDRED AND THIRTY-FIVE OF THE PHILIPPINE CUSTOMS ADMINISTRATIVE ACT.

“By authority of the United States, be it enacted by the Philippine Commission, that:

“SECTION 1. All cascoes and other craft not decked over and not propelled by their own steam, sail, or other similar motive power, in the Philippine Islands, for which licenses shall hereafter be obtained or renewed, shall be subject to an annual license fee of one peso, Philippine currency, per gross ton: *Provided*, That it shall be shown to the Collector of Customs issuing the licenses that such craft have been constructed in the Philippine Islands.

“SEC. 2. Nothing in this Act contained shall be construed to authorize any refund of any tonnage tax already paid upon these vessels, in accordance with the heretofore existing law.

“SEC. 3. Anything in section one hundred and thirty-five of the Philippine Customs Administrative Act in conflict with the provisions of this Act is hereby repealed.

“SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of “An Act prescribing the order of procedure by the Commission in the enactment of laws,” passed September twenty-sixth, nineteen hundred.

“SEC. 5. This Act shall take effect on its passage.

“Enacted, December 16, 1903.”

PAR. II. The regular lighterage and harbor license shall be issued to vessels provided for in this Act, and shall be endorsed in red ink across the face as follows: “Issued under the provisions of Act 1026,” and the fee specified in section one of said Act 1026 shall be charged and collected therefor.

PAR. III. Customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 59.—*Concerning board for the examination of applicants for positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade.*

MANILA, December 28, 1903.

PARAGRAPH I. Pursuant to Act No. 780 of the Philippine Commission, as amended by Act No. 1025 of said Commission, the following appointments are hereby made to the Board thereby created for the examination and certification of applicants for the positions of master, mate, patron, and engineer of seagoing vessels:

The Acting Collector of Customs for the Philippine Islands, president of the Board, ex officio; Mr. W. H. Colbert, Acting Superintendent of the Nautical School, member of the Board; Captain George Mansfield, Inspector of Hulls, member of the Board; Mr. H. C. Liebenow, Inspector of Boilers, member of the Board; Captain Vicente Verzosa, member of the Board.

PAR. II. Mr. H. C. Liebenow is hereby designated as Secretary of the Board, and the Insular Surveyor of Customs shall furnish the necessary clerical assistance.

PAR. III. Assistant Surgeon Victor G. Heiser, United States Public Health and Marine-Hospital Service, is hereby, with his consent, designated to conduct the physical examination of all applicants in accordance with section 3 of said Act No. 780 of the Philippine Commission, as amended, and to certify their condition to the Board.

PAR. IV. The Board shall meet at the Nautical School, Manila, P. I., on December 28, 1903, at 1 o'clock p. m.

PAR. V. All certifications for licenses for the positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade shall be made to the Collector of Customs for the Philippine Islands, and the examinations of all applicants, together with all records of the Board, shall be kept in the office of the Insular Surveyor of Customs.

PAR. VI. All applicants for examination are hereby notified to present themselves to the Board at the hour and place above designated.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

**APPOINTMENTS.**

**By the Honorable Civil Governor.**

JUDICIAL DISTRICTS.

Hon Estanislao Yusay, judge of the Court of First Instance, Fifth Judicial District, December 16, 1903.

Provinces.

BATAAN.

Lorenzo Sialcita, provincial secretary, December 18, 1903.

CAGAYAN.

Antonio Carag, provincial secretary, December 21, 1903.

ILOILO.

Willis Lynch, justice of the peace, Iloilo, December 31, 1903.

SURIGAO.

George A. Benedict, provincial supervisor-treasurer, December 18, 1903.

**By the Philippine Civil Service Board.**

*Executive Department.*

EXECUTIVE BUREAU.

John J. Noon, clerk, December 14, 1903, \$1,400; probational appointment.

Nathan O. Noah, clerk, January 1, \$1,600; promotion from class 8.



Leo Fisher, clerk, January 1, \$2,000; promotion from class 6.  
 Harry L. Beckford, clerk, January 1, \$1,800; promotion from class 7.

Charles A. Bauer, clerk, January 1, \$1,400; promotion from class 9.

Harry Crabtree, clerk, January 1, \$1,400; promotion from class 9.

Burton Garrett, clerk, January 1, \$1,400; promotion from class 9.

Natus J. Haynes, clerk, January 1, \$1,400; promotion from class 9.

Mrs. Carrie F. Mahon, clerk, January 1, \$1,400; promotion from class 9.

William N. Mahon, clerk, January 1, \$1,400; promotion from class 9.

Aleciades Gimenez, clerk, January 1, \$900; promotion from Class B.

Eulalio Suaco, clerk, January 1, \$900; promotion from Class B. Ladislao Corro, clerk, January 1, \$600; promotion from Class F.

Rosauro Lowalhati, clerk, January 1, \$540; promotion from Class G.

Juan Cabeza de Vaca, clerk, January 1, \$480; promotion from Class G.

Roque Yan, clerk, January 1, \$360; promotion from Class I. Doniciano Tizon, clerk, January 1, \$360; promotion from Class I.

Jose Valencia, clerk, January 1, \$360; promotion from Class I. Juan Abraham, clerk, January 1, \$360; promotion from Class I.

Arsenio Roco, clerk, January 1, \$360; promotion from Class I. Fernando Ace, clerk, January 1, \$360; promotion from Class I.

#### BUREAU OF THE INSULAR PURCHASING AGENT.

Pedro Cabangis, clerk, December 16, 1903, \$360; probational appointment.

Hospicio Tolentino, clerk, December 16, 1903, \$360; probational appointment.

Gregorio Dizon, clerk, December 17, 1903, \$360; probational appointment.

Vicente Griñen, clerk, December 18, 1903, \$360; probational appointment.

Louis J. Campbell, clerk, December 19, 1903, \$1,200; probational appointment.

Albert Kenny, teamster, December 16, 1903, \$720; probational appointment.

Robert F. Ohlman, watchman, December 21, \$720; probational appointment.

Richard Hardin, wheelwright, January 2, \$1,080; reinstatement.

#### IMPROVEMENT OF THE PORT OF MANILA.

H. L. Fischer, assistant to officer in charge, January 1, \$1,600; change in designation from chief clerk and cashier.

E. M. Nutting, transitman, December 19, \$1,400; probational appointment.

#### DEPARTMENT OF THE INTERIOR.

##### Board of Health of the Philippine Islands.

Miss Pearlletta Clark, nurse, December 14, 1903, \$900; probational appointment.

Juan Cabarrus, municipal physician, December 22, 1903, \$750; probational appointment.

Jul Johnson, property clerk, January 1, \$1,200; promotion from Pail System, class 10.

Joseph W. Wakefield, property clerk (P. S.), January 1, \$1,000; promotion from inoculator, Class A.

Joaquin Preisler, clerk, January 1, \$900; promotion from Class C.

Mariano Roco, clerk, January 1, \$600; promotion from Class F. Eugenio Vianna, clerk, January 1, \$600; promotion from Class F.

John C. Keefe, inoculator, December 31, 1903, \$900; transfer from attendant, San Lazaro Hospital.

#### FORESTRY BUREAU.

Almon R. Decker, clerk, December 18, \$1,400; promotion from class 9.

Thomas Villareal, ranger, December 21, 1903, \$300; probational appointment.

Manuel Soto, ranger, December 11, 1903, \$300; probational appointment.

Raymundo Caghostian, ranger, December 19, 1903, \$300; probational appointment.

Leon Trinidad, ranger, December 28, 1903, \$300; transfer from clerk, \$180, Bureau of Customs.

Rosendo Santos, ranger, January 2, \$300; probational appointment.

Leon Cid Plácido, ranger, January 1, \$600; promotion from \$420.

Cornelio Noble Jose, ranger, January 7, \$420; promotion from \$300.

Albert H. Einsiedel, clerk, January 1, \$1,200; promotion from class 10.

Dionicio Pabalan, skilled workman, January 1, \$300; promotion from \$240.

Bartolome Espinosa, ranger, January 1, \$300; transfer from clerk, \$180, office of provincial treasurer, Iloilo.

#### BUREAU OF AGRICULTURE.

Berry J. Nelson, teamster, November 25, 1903, \$720; reinstatement.

John Heil, farm foreman, January 1, \$1,080; promotion from foreman, Class B.

William P. Stockton, teamster, December 21, 1903, \$720; probational appointment.

Clarence E. Miles, overseer, January 1, \$1,080; promotion from Class A.

#### BUREAU OF GOVERNMENT LABORATORIES.

M. L. Monson, stenographer, December 1, 1903, \$1,200; transfer from Executive Bureau.

R. H. McMullen, veterinarian, December 14, 1903, \$1,600; probational appointment.

A. D. E. Elmer, botanical collector, December 24, \$1,200; probational appointment.

Charles S. Sly, assistant, serum laboratory, November 1, 1903; \$1,400; promotion from class 9.

#### PHILIPPINE CIVIL HOSPITAL.

John Newett, attendant, December 21, 1903, \$600; probational appointment.

Harry E. Smith, clerk, January 1, \$780; promotion from attendant, \$600.

#### CIVIL SANITARIUM, BAGUIO, BENGUET.

Miss Helena E. Jones, nurse, August, 1, 1903, \$720; transfer from the Philippine Civil Hospital.

William C. Sutherland, attendant, September 24, 1903, \$600; transfer from the Philippine Civil Hospital.

#### Department of Commerce and Police.

#### BUREAU OF POSTS.

W. L. Safford, clerk, December 19, 1903, \$1,400; probational appointment.

J. W. Miller, clerk, December 14, 1903, \$1,200; probational appointment.

Martin R. Bourne, clerk, December 19, 1903, \$1,000; probational appointment.

Charles M. Markey, railway postal clerk, December 19, 1903, \$900; probational appointment.

Mitchel C. Bryant, stenographer, December 14, 1903, \$1,200; probational appointment.

H. C. Gray, postmaster, Calbayog, Samar, December 18, 1903, \$1,400; promotion from clerk, class 9, Cebu post-office.

F. R. Colling, steamboat postal clerk, December 14, 1903, \$1,200; promotion from clerk, class 10, Manila post-office.

Alex. B. Hulse, postmaster at Dagupan, December 9, 1903, \$1,200; transfer from clerk, class 9, Manila post-office.

G. H. Austin, clerk, December 18, 1903, \$1,200; transfer from Bureau of Posts to Manila post-office.

Bartholomew French, clerk, January 1, \$1,000; transfer from postmaster, San Isidro, N. E.

Franklin P. Bushey, clerk, Cebu post-office, January 1, \$900; transfer from Bureau of Education.

Salvador Kabigting, postmaster, San Isidro, January 1, \$360; transfer and promotion from deputy treasurer, Nueva Ecija, \$240.

#### BUREAU OF PHILIPPINES CONSTABULARY.

Epifanio Fernandez, clerk, November 24, 1903, \$180; probational appointment.

Iram P. Short, clerk, January 5, \$1,200; probational appointment.

Marcos Ventus, clerk, January 1, \$300; probational appointment.

Generoso Rono, clerk, January 1, \$800; promotion from \$720.

#### BUREAU OF PRISONS.

Mateo Bernaldo, guard, December 21, 1903, \$240; probational appointment.

Luis Torio, guard, December 22, 1903, \$240; probational appointment.

Emmit Wetsell, guard, December 24, 1903, \$900; probational appointment.

Homer H. Kuhn, clerk, January 5, \$1,200; transfer from Fire Department, \$1,400.

Frank P. Waite, guard, January 6, \$900; probational appointment.

Robert T. Hughes, guard, January 6, \$900; probational appointment.

Damian Pangan, guard, January 1, \$240; probational appointment.

James W. Claypool, hospital attendant, December 18, 1903, \$900; promotion from guard, \$900.

Paulino Canlas, keeper, December 4, 1903, \$300; promotion from guard, \$240.

#### BUREAU OF COAST GUARD AND TRANSPORTATION.

Julian Mamaril, foreman, December 10, 1903, \$420; promotion from \$360.

#### BUREAU OF COAST AND GEODETIC SURVEY.

Jose Valasquez, junior draftsman, January 5, \$360; probational appointment.

#### BUREAU OF ENGINEERING.

Diego de la Crote, watchman, December 1, 1903, \$720; probational appointment.

Abraham Gideon, assistant engineer, December 19, 1903, \$2,000; probational appointment.

#### Department of Finance and Justice.

##### BUREAU OF INSULAR TREASURY.

Edward H. Jennings, clerk, January 1, \$2,000; promotion from class 6.

William C. Johnston, clerk, January 1, \$1,600; promotion from class 8.

Edwin S. Ely, clerk, January 1, \$1,600; promotion from class 8.

Thomas K. Adreon, clerk, January 1, \$1,400; promotion from class 9.

M. J. Garrett, clerk, January 1, \$1,400; promotion from class 9.

George W. Bridges, clerk, January 1, \$1,400; promotion from class 9.

Albert M. Wood, clerk, January 1, \$1,400; promotion from class 9.

William F. Gallin, clerk, January 1, \$1,400; promotion from class 9.

Carlos T. Tirona, clerk, January 1, \$420; promotion from Class H.

Catalino Pasahol, clerk, January 1, \$420; promotion from Class H.

##### BUREAU OF INSULAR AUDITOR.

A. N. Seibert, clerk, January 1, \$1,800; promotion from class 7.

T. R. Lill, clerk, January 1, \$1,600; promotion from class 8.

Yervant O. Conchegul, clerk, January 1, \$1,400; promotion from class 9.

Santiago Mercado, clerk, January 1, \$1,200; promotion from class 10.

##### BUREAU OF CUSTOMS AND IMMIGRATION.

Agustin Bargas, harbor policeman, November 21, 1903, \$300; probational appointment.

Miss Camille Glubetich, clerk, December 14, 1903, \$900; probational appointment.

A. J. Steen, clerk, December 2, 1903, \$900; transfer from Police Department, \$900.

A. H. Williams, fourth-class inspector, December 21, 1903, \$900; transfer from clerk, class 9, Bureau of Posts.

John Pereira, clerk, November 21, 1903, \$1,200; transfer from Court of First Instance, Manila, \$1,200.

Francis A. Adams, deputy coast district inspector of customs, December 3, 1903, \$900; reinstatement.

Pablo Nava, clerk, December 1, 1903, \$600; promotion from guard, \$240.

Paul Newman, coast district inspector of customs, December 1, 1903, \$1,400; promotion from deputy coast district inspector of customs, \$900.

William W. Hoadley, storekeeper, December 22, 1903, \$1,400; promotion from \$900.

Frederick J. Werner, fourth-class examiner, December 1, 1903, \$1,000; promotion from \$900.

Mrs. Clara E. Smith, clerk, December 14, 1903, \$1,000; promotion from \$900.

Rufino Villafuerte, clerk, December 1, 1903, \$300; promotion from guard, \$240.

Manuel Reyes, guard, December 19, 1903, \$300; promotion from \$240.

Guy Stratton, coast district inspector of customs, December 1, 1903, \$1,400; promotion from deputy coast district inspector of customs, \$900.

Vicente Losada, deputy coast district inspector of customs, December 1, 1903, \$600; promotion from clerk, \$300.

Lazardo Munda, nightwatchman, December 2, 1903, \$240; probational appointment.

Walker U. Anderson, stenographer, December 14, 1903, \$1,000; transfer from Philippine Civil Service Board.

T. W. Cummings, immigration inspector, December 22, 1903, \$1,200; reduction from storekeeper, \$1,400.

##### INSULAR COLD STORAGE AND ICE PLANT.

James W. Brown, teamster, January 1, \$600; probational appointment.

William Knauber, watertender, January 1, \$780; probational appointment.

##### BUREAU OF JUSTICE.

Francisco Alfonso, junior typewriter, January 1, \$600; promotion from copyist, \$360.

Gregorio Talavera, interpreter at large, January 1, \$900; promotion from interpreter, First Judicial District, \$600.

Clemente Samson, clerk, January 1, \$800; promotion from clerk, \$600.

Adolph F. Decker, stenographer, January 5, \$1,200; probational appointment.

Jose Casimiro, clerk, December 1, 1903, \$900; transfer from interpreter, \$1,200.

Bonifacio Mortell, clerk, January 1, \$600; promotion from clerk, \$420.

*Department of Public Instruction.*

BUREAU OF EDUCATION.

Ernest Staples, teacher of stenography and typewriting, Manila Trade School, November 23, 1903, \$1,800; promotion from stenographer, class 7, Office General Superintendent.

Norton F. Brand, teacher, September 8, 1903, \$1,200; probational appointment.

Norman L. Downs, clerk, January 7, \$1,400; promotion from class 9.

North W. Jenkins, stenographer and typewriter, January 7, \$1,400; promotion from class 9.

Pedro Masbe, clerk, January 6, \$360; promotion from \$240.

BUREAU OF PUBLIC PRINTING.

Pedro de Leon, apprentice, January 1, \$0.40; promotion from class 5.

BUREAU OF ARCHITECTURE.

Charles F. Walden, stenographer and typewriter, January 5, \$1,200; probational appointment.

*City of Manila.*

DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Robert Woodfine, teamster, December 21, 1903, \$720; probational appointment.

Oscar Wegber, teamster, December 21, 1903, \$720; probational appointment.

Eduardo del Mundo, engineer of launch, December 30, 1903, \$360; probational appointment.

Ariston Marques, assistant engineer, January 1, \$300; probational appointment.

James A. Black, teamster, December 23, 1903, \$720; probational appointment.

I. C. Burnet, teamster, December 26, 1903, \$720; probational appointment.

Harris Lovine, teamster, December 28, 1903, \$840; reinstatement.

Y. T. Hogan, teamster, January 3, \$720; probational appointment.

R. W. Haley, stable foreman, January 1, \$1,200; promotion from teamster, \$840.

Nicolas Torres, teamster, January 1, \$300; promotion from \$240.

Timoteo Molina, foreman, January 1, \$420; promotion from \$300.

Jose Alcaraz, clerk, January 1, \$480; promotion from \$360.

POLICE DEPARTMENT.

Daniel M. Searcy, first-class roundsman, December 16, 1903, \$1,020; promotion from patrolman, \$900.

Anton Holmann, first-class sergeant, December 16, 1903, \$1,200; promotion from roundsman, \$1,020.

Ernesto Lopez, clerk, December 18, 1903, \$480; transfer from Bureau of Public Health, \$300.

Fred E. Tankersley, first-class patrolman, December 17, 1903, \$900; reinstatement.

William J. Scully, first-class patrolman, December 18, 1903, \$900; reinstatement.

Eduard C. Bens, first-class patrolman, December 15, 1903, \$900; probational appointment.

Barni Duboski, first-class patrolman, December 16, 1903, \$900; probational appointment.

John H. Renner, first-class patrolman, December 16, 1903, \$900; probational appointment.

Cornelio Ramirez, third-class patrolman, December 14, 1903, \$240; probational appointment.

Pedro Buan, third-class patrolman, December 14, 1903, \$240; probational appointment.

Leoncio Cabrera, third-class patrolman, December 14, 1903, \$240; probational appointment.

Vivencio Canares, third-class patrolman, December 14, 1903, \$240; probational appointment.

Juan Benjamin, third-class patrolman, December 14, 1903, \$240; probational appointment.

Jose Campos, third-class patrolman, December 14, 1903, \$240; probational appointment.

Roque Sanchez, third-class patrolman, December 14, 1903, \$240; probational appointment.

Albino Panerio, third-class patrolman, December 19, 1903, \$240; probational appointment.

Doroteo de los Santos, third-class patrolman, December 14, 1903, \$240; probational appointment.

Bert J. Berg, first-class patrolman, January 2, \$900; reinstatement.

Leodegario Decaney, third-class patrolman, January 4, \$240; probational appointment.

Norberto Mallari, third-class patrolman, January 4, \$240; probational appointment.

FIRE DEPARTMENT.

Francis Ronan, driver, December 29, 1903, \$900; probational appointment.

Myron H. Sakol, clerk, January 5, \$1,200; probational appointment.

Forrest L. Cease, driver, January 6, \$900; probational appointment.

Lester L. Smythe, driver, January 6, 1900; probational appointment.

Louis N. Pally, driver, January 6, \$900; probational appointment.

Roy J. Berry, driver, January 6, \$900; probational appointment.

Feliciano Tiantes, pipeman, January 6, \$180; probational appointment.

DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

Will Jessup, clerk, December 24, 1903, \$1,200; probational appointment.

Alfred Berriesa, clerk, December 26, 1903, \$900; probational appointment.

Norlet F. Payne, clerk, January 1, \$1,200; promotion from class 10.

LAW DEPARTMENT.

Enrique Altabas, clerk, January 1, \$1,000; promotion from Class C.

*Provinces.*

LOCOS NORTE.

Irimeo Ranjo, clerk, November 1, 1903, \$120; probational appointment.

ISABELA.

Tranquilino Benigno, clerk, December 1, 1903, \$180; probational appointment.

LEYTE.

Severino D. Gonzales, deputy treasurer, October 7, 1903, \$240; probational appointment.

Pedro Manzares, deputy treasurer, December 7, 1903, \$240; probational appointment.

MORO.

Jose Barrios, clerk, December 10, 1903, \$240; probational appointment.

Burdette A. Crumb, treasurer, Sulu District, October 1, 1903, \$1,600; transfer and promotion from chief clerk and deputy treasurer, Pangasinan, \$1,200.

Zeller H. Shinn, examiner, November 20, 1903, \$1,500; transfer and promotion from clerk, office of provincial treasurer of Iloilo, \$1,080.

Faustino Macaso, clerk, Cottabato District, December 15, 1903, \$240; probational appointment.

OCCIDENTAL NEGROS.

Fausto Espeleta, clerk, November 1, 1903, \$180; promotion from \$150.

PAMPANGA.

Cecilio Nery, clerk, December 4, 1903, P. C., 360; probational appointment.

PANGASINAN.

Mariano Padilla, clerk, January 1, \$300; probational appointment.

Numeriano Macasieb, clerk, January 1, \$300; probational appointment.

Domingo Jovellanos, clerk, January 1, \$300; probational appointment.

ROMBLON.

Pablo Marques, deputy, November 1, 1903, \$360; promotion from clerk, Class I.

Ramon Menez, deputy, September 24, 1903, \$240; probational appointment.

Pablo Mayor, clerk, October 4, 1903, \$120; probational appointment.

SORSOGON.

Jose Melendreras, chief clerk, January 1, \$900; promotion from clerk, Class H.

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# Official Gazette

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MANILA, P. I., JANUARY 27, 1904.

No. 4

[Second statistical number. Vital statistics, November, 1903, and statistics from other Bureaus.]

## PUBLIC LAWS.

[No. 1038.]

AN ACT AMENDING ACT NUMBERED NINE HUNDRED AND THIRTY-TWO, AS AMENDED, SO AS TO LOCATE THE SEAT OF MUNICIPAL GOVERNMENT OF THE MUNICIPALITY OF MALOLOS, OF THE PROVINCE OF BULACAN, IN THE FORMER MUNICIPALITY OF BARASOAIN.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Act Numbered Nine hundred and thirty-two, entitled "An Act reducing the twenty-five municipalities of the Province of Bulacan to thirteen," as amended, is hereby further amended by substituting the word "Barasoin" for the word "Malolos" in the last line of paragraph numbered one of section one thereof, so that said paragraph shall read as follows:

"1. The municipality of Malolos shall consist of its present territory and that of the municipalities of Barasoin and Santa Isabel, with the seat of the municipal government at the present municipality of Barasoin."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, January 12, 1904.

[No. 1039.]

AN ACT DEDICATING CERTAIN PORTIONS OF THE PUBLIC LANDS AND BUILDINGS IN THE MUNICIPALITY OF CAVITE, PROVINCE OF CAVITE, TO THE USE OF THE NAVY DEPARTMENT OF THE UNITED STATES GOVERNMENT AS A NAVAL STATION, AND GRANTING CERTAIN OTHER PORTIONS THEREOF TO THE SAID PROVINCE AND CERTAIN OTHER PORTIONS THEREOF TO THE SAID MUNICIPALITY.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following public lands and buildings in the municipality of Cavite, Province of Cavite, are hereby dedicated to the use of the Navy Department of the United States Government as a naval station: (1) The arsenal and navy-yard, with all its buildings, inclosures, and other structures, including the presidio. (2) The parade ground west of Fort San Felipe and the navy-yard gate and east of Calle Farnecio. (3) The old tobacco factory south of the parade ground. (4) The old headquarters of the military engineers, including the easterly part of the block west of Calle Farnecio and south of Calle Arsenal. (5) The lands and

buildings north of the parade ground and Calle Novaliches, as far west as the line of trees on the easterly side of the paseo extending north from the end of Calle Isabel Segunda, including the plaza and the old public market place. (6) The open land on the north water front between the line of trees on the northerly side of the paseo and the sea wall, from the said plaza and market place west to and including the salient north of the statue of Columbus, preserving as a public highway the present road on the eastern and northern sides of the paseo. (7) The land along the south water front from Calle Farnecio west to the southwest salient. (8) The Porta-Vaga defenses.

SEC. 2. The following public lands and buildings in the said municipality of Cavite are hereby granted to the said Province of Cavite: (1) The treasury building and adjoining lot and shed on Calle Arsenal. (2) The lot on Calle Arsenal facing the treasury building and adjoining the Recoleta convent. (3) The Government house on Calle Isabel Segunda. (4) The Cavite high school near the boundary between the former municipalities of Cavite and San Roque.

SEC. 3. The following public lands and buildings in the said municipality of Cavite are hereby granted to the said municipality: (1) The undedicated portion of the paseo extending from the north end of Calle Isabel Segunda, passing the statue of Columbus, to the northwest salient, to be kept open as a public thoroughfare. (2) The northwest salient. (3) Soledad Square. (4) The isthmus leading from Porta-Vaga gate toward San Roque, to be kept open as a public thoroughfare. (5) The southwest salient.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, January 12, 1904.

## EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 14, 1904.

EXECUTIVE ORDER }  
No. 4.

The time specified by Executive Order Numbered Eighty-four, series of nineteen hundred and three, for the completion of the revision of the real-estate tax-assessment list for the Province of La Union, that is, November first, nineteen hundred and three, is hereby extended to April first, nineteen hundred and four; and the date specified by the said executive order as that upon which the payment of taxes under such revised assessment shall become delinquent, that is, February first, nineteen hundred and four, is also extended to May first, nineteen hundred and four.

LUKE E. WRIGHT,

Acting Civil Governor.

## DECISIONS OF THE SUPREME COURT.

[No. 1167. December 16, 1903.]

*In the matter of the suspension from the practice of the law of  
R. S. MacDOUGALL.*

- \*1. INJUNCTION: ORDER IN EXCESS OF JURISDICTION.—Under section 164, clause 3, Code of Civil Procedure, the order of injunction must be based on some right respecting the subject of the action and tending to render the judgment ineffectual; and if the injunction embraces property not in litigation the court granting the same acts in excess of jurisdiction.
2. ID.; CONSTRUCTION OF ORDER.—Where, in a suit for recovery of real estate an injunction was granted prohibiting the doing of certain enumerated acts on the haciendas San Luis and La Concepcion, among them destroying "fences of the same," the haciendas comprised an area of over 3,956 hectares and the land in controversy only 446 hectares, and there were separate and distinct fences enclosing the lands involved in the litigation, held, that the phrase "fences of the same" contained in the order must be construed as including only such fences as were situated on the haciendas and on the land involved in the litigation.
3. ATTORNEYS; DISBARMENT.—The disbarment of an attorney under section 21, Code of Civil Procedure, is not for the purpose of punishment, but to protect the administration of justice. The acts for disbarment should be such as affect the attorney's qualifications. Articles 356 and 357 of the Penal Code and section 236 of the Code of Civil Procedure are intended as punishment for dereliction of duty and for ordinary cases of disobedience of orders, etc.
4. PLEADING AND PRACTICE; DISBARMENT.—See proceedings had in Court of First Instance for disbarment of an attorney: Held as in violation of the right to a full opportunity to answer, etc., under section 25, Code of Civil Procedure.

REVIEW of an order of suspension from the practice of law.

The facts are stated in the opinion of the court.

W. H. LAWRENCE, for petitioner.

Attorney-General WILFLEY, for respondent.

COOPER, J.:

On December 24, 1902, the Court of First Instance of the Province of Isabela made and entered an order against Robert S. MacDougall, esq., by which he was suspended in the exercise of his profession as attorney at law in all the courts of the Philippine Islands, and it was directed that a certified copy of the order of suspension and a statement of the facts upon which the same was based should be transmitted to this court for investigation and for the making of such final order of suspension or removal as the facts should warrant.

The suspension was for the alleged willful disobedience by the defendant of the order of the Court of First Instance made in a certain action of ejectment therein pending, in which the Compañía General de Tabacos de Filipinas was the plaintiff and Miguel Tupeño and eighty-five others were defendants.

By this order a preliminary injunction was granted in the case and the defendants were enjoined from committing certain acts on the property involved in the litigation. The particular clause of the order which it is claimed was violated was that in which the defendants in the suit were prohibited from destroying the fences on the haciendas of San Luis and la Concepcion.

On the 17th day of March, 1902, this court appointed a commissioner to take proofs in the case. Additional testimony was taken and the same has been returned to this court.

It is contended by the defendant (1) that to constitute a violation of an injunction, the act complained of must be such as is directed against the interest in the litigation for the protection of which the injunction was issued; and that none of the eighty-five defendants, parties to the original suit, claim any interest in the land upon which the fence cut was situated and therefore that there was no violation of the injunction; (2) that the cutting of the fence was necessary in order to open a public road which had been in use for thirty years and which was the only means of ingress and egress to the lands of one Lacaste, with whom the

defendant had business relations, the entry of the defendant being for the purpose of visiting the house of Lacaste; (3) that if the conduct of the defendant in cutting the fence was in fact a violation of the injunction, still, the evidence indicates that the defendant's purpose was not a contumacious violation of the order of the court.

The most important question in the case is, Was the fence at the place where the cutting occurred covered by the order of injunction; or, in other words, has there been, in fact, a violation of the injunction?

The order restrained the defendant from doing certain enumerated acts on the haciendas San Luis and la Concepcion "and from destroying fences of the same."

To determine the question it becomes necessary to consider the evidence with reference to the situation of the haciendas San Luis and la Concepcion, the situation of the land the subject of the litigation, and the situation of the fences for the cutting of which the suspension proceedings were had.

The testimony shows that the haciendas San Luis and La Concepcion, in their entirety, comprise a large body of land lying on the Cagayan River, containing about four thousand hectares; that within the bounds of these haciendas were located the lands involved in the litigation in the principal suit, embracing about 446 hectares; that there were also other lands situated within these haciendas, claimed by different persons, whose ownership was not disputed by the company, among which was a tract of land belonging to the wife of Lacaste and around which was constructed the fence cut by the defendant; that besides this there were other tracts of land held by persons who claimed adversely to the company and who were not joined in the suit, one of whom was Teodoro Bulasan; that the tract of Lacaste so inclosed, and upon which the fence cut was situated, was of the shape of a trapezium and contained about four hectares of land, one side of which lay along the River Cagayan; that the said fence was constructed by the company around the land of Lacaste, with the evident view of segregating the land of Lacaste from the land of the company, and was so constructed as to completely cut off from all ingress and egress the land of Lacaste, except such as was afforded by the River Cagayan on the north of his tract; that there formerly was a road running through this Lacaste tract, dividing it into two nearly equal portions; that this road had been the traveled route from the town of Ilagan, passing through Naguillon and crossing the estero Conayan, leading thence to Cauayan; that this road passed through Lacaste's land from east to west.

The defendant, MacDougall, accompanied by others, was, at the time of the cutting of the fence, traveling along this road, proceeding from the house of Lacaste toward Cauayan, and, on encountering the wire fence across the road, caused the strands of wire to be cut and removed so far as they obstructed the passage. The fence so cut was situated at the point at which this road entered the west line of the Lacaste tract, the Lacaste tract lying within the inclosure, and the tract on the west, or outside of the fence, either belonged to Lacaste, Teodoro Bulasan, or the plaintiff company.

The testimony of the witness Lineau, as well as that of Lacaste, was to the effect that the land at the point where the fence was cut was owned on both sides of the fence by Lacaste; while the testimony of Bulasan was that he owned the land on the west side of the fence. The company also claims to own the land on the west side. The preponderance of evidence, we think, supports the view that the land on both sides of the fence cut belonged to Lacaste's wife. But it is immaterial whether the land on the exterior or west side of the fence was owned by Lacaste or by Bulasan or by the company, for it appears very clearly that it was not claimed by any one of the defendants in the original suit and that the fence cut was not on the tract of land in litigation.

The metes and bounds of the haciendas San Luis and La Concepcion were not shown in the order granting the injunction, nor

is it shown in any document contained in the record of the case. The order was "against the cutting of the fences of the same." It appears from the evidence that there was no exterior fence completely inclosing these haciendas; that there were separate and distinct portions of fences on what is claimed to be their exterior lines; that besides, there were separate and distinct fences inclosing some of the lands held adversely by the defendants.

The question is, Are we to construe the order of injunction as prohibiting the cutting of any fence situated on the entire tract of 4,000 hectares, or did it refer to the fences on the tracts of land in litigation held by the defendants, containing only about 446 hectares?

The grounds upon which the application for the writ of injunction were based do not appear in the record; nor does it appear from the record or from the proofs in the case where the particular lands owned by the defendants were situated. This is left entirely to conjecture. We infer from the order that the injunction was granted to prevent waste on the land involved in the litigation and that the application and order was based upon clause 3 of section 164, Code of Civil Procedure, which provides that a preliminary injunction may be granted when it is established to the satisfaction of the judge granting it "that the defendant is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual."

The subject-matter of the action was the particular tracts of land claimed adversely by the defendants in the original suit, amounting to about 446 hectares. The land at the point at which the fence was cut was not the subject of the action, and nothing done at this point could in any way tend to render any judgment which might be rendered in favor of the plaintiff ineffectual. As before stated, neither Lacaste nor Bulasan were parties to the suit. The plaintiff did not claim the land within the inclosure, nor was the land on the exterior of the fence at the point where it was cut claimed or held by any one of the defendants who were made parties to the original suit.

Our construction of the order granting the injunction is that the fences which the defendants were enjoined from destroying must be construed as being such fences as were situated on the land the subject of the action; otherwise the court in granting the injunction would have done that which it had no authority to do under the statute.

This construction harmonizes with the spirit and purpose of the order, which was to protect the rights of the plaintiff in the subject of the action.

It is not necessary to determine if the order had specifically identified the fence at the point at which it was cut and had clearly embraced it, whether the court acted in excess of its jurisdiction and the defendants could disregard the order. The proper practice in such cases would be to apply to the court for a modification of the injunction.

Upon the question as to whether the conduct of the defendant in cutting the fence was such a willful disobedience of the order of the court as to justify his suspension or disbarment, had the injunction embraced the fence which was cut, we are clearly of the opinion that it was not.

Robert Lineau, a witness for defendant, testifies that on the 23d day of November, 1902, in company with the defendant, MacDougall, he went from Ilagan on horseback, passing through Naguillon and following the public road which led from thence in the direction of Cauayan. On arriving at the barrio at the north of the Estero de Conayan, a short distance from its mouth, near the residence of Lacaste, they took a *banquilla* in order to enter the premises of Lacaste, leaving their horses on the outside of the inclosure in the hands of some natives, who carried them from thence to the house of Lacaste by swimming them outside

of the wire fence, which entered several meters into the river. The defendant and the witness arrived at the house of Lacaste about 1 o'clock in the afternoon, and on the same evening, about 4 o'clock, the defendant, having finished his business with Lacaste, mounted his horse, and, accompanied by the witness and other persons whom defendant had met at Lacaste's house on business, went down the road, their destination being Cauayan. When they reached the point on the road which was obstructed by the fence, finding their passage obstructed, the defendant, MacDougall, directed the wires to be cut. The fence was cut and the obstruction removed from the road. That there was no disturbance at this time and on this occasion is evident from the fact that none of the employees of the company were present at the time of the cutting of the fence. On the next day MacDougall and his party returned to where the fence was cut and found the employees of the company repairing the fence. The proof shows that a number of the party were armed with bolos, and the witness Balbas states that "their attitude at first was not very tranquilizing, but they committed no act of outrage against me or against my company." This seems to have been the circumstance upon which the court based its order of disbarment and which, in the language of the decision of the judge, "almost constitutes the crime of sedition," but it is perfectly apparent that on this occasion the defendant's acts had no connection whatever with the cutting of the fence. After the exchange of some intemperate language the defendant and his party left, without in any manner interfering with the employees of the company engaged in the repairing of the fence.

As to whether the road at the point where the fence had been cut the day before was a public road, it is not necessary to determine. The testimony of Lacaste and other witnesses show that it had been traveled as a public road for thirty years and had only recently been closed by the company.

There is much evidence also contained in the record of acts of oppression upon the part of the plaintiff company, such as keeping an armed body of police, to the number of ten persons; as to unlawful arrests made by the employees of the company of the people living in the community; that on a certain occasion, a short time before, the sheriff, being instigated by the employees of the company, acting under a writ of restitution which did not embrace the property on which the house was situated, had torn down the residence of the wife of Lacaste, while she was in the house, on which occasion Lacaste and wife were despoiled of a large amount of money and valuables by unknown persons; and such acts as the fencing in of the land of Lacaste without his consent so that no ingress or egress was left to him except through the River Cagayan. Evidence was also introduced concerning the illegal detention of the wife of Lacaste and the quartering by the sheriff of himself and those accompanying him at the house of one Respecio, against his consent, which acts appear to have been the principal cause of the disturbance occurring at this time.

If the defendant, MacDougall, or any of those persons attending him, or if the employees of the company were guilty of such conduct as would subject them to punishment under the criminal laws, the courts of the country should have been resorted to and criminal prosecutions instituted, instead of the action on the part of MacDougall to right the supposed grievances of the people of that community, or on the part of the company to protect itself against aggressions on the part of the defendant, MacDougall, by disbarment proceedings. The evidence of such acts should not have been numbered the record in this case.

The language of the clause for which the suspension or disbarment was ordered is "for the willful disobedience of any lawful order of the Supreme Court or the Court of First Instance." From this language it is to be inferred that something more was contemplated than a mere disobedience, which means, in common acceptance, neglect or refusal to obey. The word "willful" has been superadded and conveys the idea of flagrant misconduct such

as would indicate a disposition of the defendant so refractory in its nature as to affect his qualification for the further exercise of his office as attorney.

The disbarment of an attorney is not intended as a punishment, but is rather intended to protect the administration of justice by requiring that those who exercise this important function shall be competent, honorable, and reliable; men in whom courts and clients may repose confidence. This purpose should be borne in mind in the exercise of disbarment, and the power should be exercised with that caution which the serious consequences of the action involves.

The profession of an attorney is acquired after long and laborious study. It is a lifetime profession. By years of patience, zeal, and ability, the attorney may have acquired a fixed means of support for himself and family, of great pecuniary value, and the deprivation of which would result in irreparable injury.

For dereliction of duty on the part of an attorney, articles 356 and 357 of the Penal Code provide a punishment. By article 356 the attorney or solicitor who, in malicious abuse of his profession, or who, through inexcusable negligence or ignorance, shall prejudice his clients or disclose their secrets, of which he had gained knowledge in the course of his professional duties, is punished with a fine of from 625 to 6,250 pesetas, with disqualification for a certain period of time. An attorney may also be punished under the provisions of article 232 of the Code of Civil Procedure, as for contempt, for "disobedience or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or judge." And under section 236, one who is guilty of such contempt may be fined not exceeding 1,000 pesos or imprisonment not more than six months, or both. If the contempt consists in the violation of an injunction, he may, in addition, be compelled to make restitution to the party injured by such violation.

The punishment provided in the Penal Code and in the articles above referred to for contempt would seem to be sufficient to prevent a mere obstruction in the administration of justice, except where the facts are of such a character as to effect the qualification of an attorney for the practice of his profession.

The suspension of an attorney from practice, while it is correctional in its nature, should be directed with a due regard to the effect of such suspension upon the attorney as well as the client. As happened in this case, there was the interest of a large number of clients and important rights involved. The attorney was suspended before final judgment and before he had prepared the bill of exceptions for the revision of the case by this court on appeal, in the preparation of which his services could not well be supplied; besides, it has resulted in the interruption of his business as an attorney for nearly one year.

It is further to be observed that the Court of First Instance did not proceed in the case of the suspension or disbarment of the defendant with that regard to the rights of the defendant which should characterize the action of a court of justice. Section 25 of the Code of Civil Procedure provides that "No lawyer shall be removed from the roll or be suspended from the performance of his profession until he has had full opportunity to answer the charges against him and to produce witnesses in his own behalf and to be heard by himself and counsel if he so desires, upon reasonable notice."

What is a reasonable notice is not stated in this section of the law, but in civil cases, ordinarily of no greater importance to the interest of a person than a disbarment proceeding to that of an attorney, and often not of a more complicated nature or presenting questions of fact and law more intricate, after the complaint is filed, a summons must be issued requiring the defendant to appear within twenty days, if the summons is served in the province in which the action is brought; within forty days if served elsewhere. The rules of this court require that a defendant,

after his appearance has been entered, shall serve and file his answer or demurrer to the complaint within ten days after he has entered his appearance. Besides, a party in an ordinary civil action, where he has exercised due diligence to produce his witnesses and at the day fixed for trial is unable to procure their attendance, is entitled to a postponement of the hearing until such time as he may be able to secure their attendance or take their depositions in a proper case.

In this case it appears from the affidavit of the defendant, MacDougall, that on the 28th day of November, 1902, he was cited to appear by the Court of First Instance and show cause why he should not be disbarred or suspended from the practice of his profession as an attorney, on the complaint of the plaintiff in the original suit, the Compañía General de Tabacos de Filipinas; that on the said 28th day of November, 1902, he was served with the order of the court to appear at 3.30 o'clock p. m. of said day and make his defense to the charges preferred by said company; that he appeared at the said hour and, after making formal denial of the charges alleged against him, asked for reasonable time within which to present his defense by means of witnesses to be produced by him; that the judge denied the defendant the privilege of so doing, then and there ruling that he must present his defense within the space of twenty-four hours; that he objected to this ruling as being unreasonable and contrary to the statute and asked to be given further time to have the attendance of material witnesses, one of whom had left the town of Ilagan for the military post of Salomague, Province of Ilocos Sur, three days prior and that it would be an impossibility to have this witness return within less than a week, nor could he obtain his deposition within a less time; that other witnesses in his behalf lived at the ranchos of Minanga and Mabantad, district of Cauaya, and that it would not be possible to have them appear and testify in the limited time of twenty-four hours; that the judge peremptorily ruled that he would be given twenty-four hours and no longer within which to present his defense to the charges preferred against him; that by such ruling he was denied an opportunity to answer the charges and to produce his witnesses; that on the 1st day of December the case was reopened to take the testimony of the sheriff, a witness for the plaintiff; that after the direct examination of the sheriff by the judge this witness was turned over to the defendant for cross-examination; that all material questions asked by him were objected to and disallowed by the court, to which ruling he excepted; that the exceptions were not noted in the record; that notwithstanding the summary manner in which the defendant was forced to trial, the order of the judge suspending him from the practice of his profession was not made for twenty-six days and was rendered immediately after having decided the main case in favor of the plaintiff, in which case he was the only counsel for the defendants.

The action of the court in thus summarily placing the defendant upon trial without a due opportunity of making his defense and procuring the attendance of his witnesses not only resulted in depriving him of the right to which every citizen is entitled, but it has necessitated the taking of the testimony of the defendant's witnesses in this court, and has occasioned great delay in the disposition of the case, all of which could have been avoided by giving the defendant proper time for the preparation of his defense.

The judgment of the Court of First Instance suspending the defendant should be set aside and annulled, and it is so ordered. The costs of the prosecution are adjudged *de oficio*.

Arrellano, C. J., Torres, Mapa, and McDonough, JJ., concur.

WILLARD, J.:

I concur in the result.

Johnson, J., did not sit in this case.

*Judgment reversed.*



STATISTICS FROM BUREAUS OF THE INSULAR GOVERNMENT.

BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

Vital statistics for the month of November, 1903.

LETTER OF TRANSMITTAL.

MANILA, P. I., December 29, 1903.

Sir: I have the honor to submit herewith the report of the Board of Health for the Philippine Islands and the city of Manila for the month of November, 1903, and would invite your attention to the following points:

The number of deaths occurring during the month among infants less than 1 year of age amounted to 58.5 per cent of the total deaths occurring in all classes and ages of the city population, and the deaths among Filipino infants under the age of twelve months represented 65.5 per cent of the entire number of deaths occurring in the whole Filipino population.

The principal causes of mortality and more important diseases entering into the same, with the total number of deaths therefrom and the number of deaths occurring from the same under the age of twelve months, were as follows:

Cause.	Total deaths.	Deaths among children less than twelve months of age.
Convulsions of children	342	342
Pulmonary tuberculosis	68	0
Acute bronchitis	65	62
Eclampsia, nonpuerperal	58	58
Chronic bronchitis	41	29
Beri-beri	36	0
Meningitis	33	28
Congenital debility	28	28
Chronic diarrhea and enteritis	25	8
Dysentery	24	3
Asiatic cholera	23	0
Malarial fevers	16	2
Puerperal septicemia	12	0
Chronic hemorrhage	12	0
Typhoid fever	8	0
Tetanus	7	0
Smallpox	2	0
Bubonic plague	2	0
Leprosy	1	0
Diphtheria	1	0

In the above list there appears a total of 404 deaths among children who have not completed the first year of life, from causes variously reported as convulsions of children, eclampsia, and tetanus. Of these 158 occurred within thirty days after birth. The more prominent symptoms presented by these three causes largely resemble each other, and it is believed that the latter are often confounded with each other, particularly since deaths of this class largely occur in the absence of medical attendance, and the death certificates in such cases must be made out on the basis of the symptoms given by members of the family. There is strong reason for belief that the deaths occurring in the first month after birth and attended by convulsions chiefly depend upon tetanus infection at the umbilicus, due to the handling of the unhealed stump of the cord with unclean fingers and the common local practice of massaging the abdomen of the newborn. The other deaths among infants reported as occurring from convulsions, debility, and bronchitis, probably result in large part from exposure, due to nonuse of sufficient clothing depending upon poverty or ignorance. The common practice by the poorer classes of allowing children to remain practically unclothed during the first few years of life can scarcely fail to result in chilling at night or during stormy weather. The above causes of an unduly high infant mortality should be largely preventable. For their prevention the Board of Health has prepared a popular circular on the treatment of the newborn and the care and feeding of infants, and has also author-

ized for the future the gratuitous issue of a yard of flannel to each infant whose parents are financially unable to procure suitable clothing for its proper protection against exposure during the first few months of life. It is anticipated that by these measures, the recent opening of two new free dispensaries, and the proposed employment of additional municipal physicians and midwives, the infant mortality will soon show a considerable decrease.

During November there were 2 deaths from bubonic plague, both in Filipinos. Prophylactic inoculations against plague have been so generally carried out among the Chinese as to largely protect that especially susceptible class against this disease. During the month there were 2,157 primary and 1,515 secondary antiplage inoculations made among the Chinese.

There were 23 deaths from Asiatic cholera among residents, of which none occurred in whites and but 2 in Chinese. There were also 3 deaths from this disease among transients. Following the sudden outbreak in September, of which mention was made in the report for that month, this disease has steadily yielded to the repressive measures taken. Although during the month a number of cholera cases occurred on the drainage area of the city water supply, the special efforts of the Board of Health have successfully prevented the infection of this supply.

Beri-beri caused 36 deaths, of which 13 occurred among Chinese; while smallpox caused 2 deaths, of which 1 was in an American.

During the month a site for the permanent dock and dumping station for the scavenger barge *Pluto* was secured on the south bank of the Pasig River in the rear of the Maestranza, and plans for the construction of such dock and dumping station were prepared. The immediate construction of twenty-five free public latrines and urinals of twenty seats capacity each was authorized and sites secured for the same at suitable points.

The laws in respect to scavenging were changed to meet the new conditions arising from the operation of the scavenger barge *Pluto*. By reason of its improper location and unsanitary condition the Tondo Cemetery was ordered permanently closed in respect to further interments therein. Two thousand copies of a pamphlet on the nature, prevention, and treatment of Asiatic cholera, published in English and Spanish, were ordered printed for distribution to physicians and others.

Very respectfully,

E. L. MUNSON,

Captain and Assistant Surgeon, U. S. A.,  
Acting Commissioner of Public Health.

The SECRETARY OF THE INTERIOR,  
Manila, P. I.

Population of Manila.

Americans	4,389
Filipinos	189,782
Spaniards	2,528
Other Europeans	1,117
Chinese	21,230
All others	895
Total	219,941

Deaths occurring during the month of November.

Americans	3
Filipinos	922
Spaniards	5
Other Europeans	1
Chinese	43
All others	0
Total	974

Annual death rate per thousand for the month.

Americans	3.32
Filipinos	59.15
Spaniards	24.08
Other Europeans	10.90
Chinese	24.65
All others	0
Average	58.91

Deaths by age.

Under 30 days	102
30 days to 1 year	499
1 year to 5 years	138
2 years to 5 years	31
5 years to 10 years	10

Deaths by age—Continued.

10 years to 15 years	10
15 years to 20 years	15
20 years to 25 years	38
25 years to 30 years	46
30 years to 40 years	80
40 years to 50 years	57
50 years to 60 years	38
60 years to 70 years	22
70 years to 80 years	16
80 years to 90 years	1
90 years to 100 years	5
100 years to 110 years	1
Unknown	8
<b>Total</b>	<b>1,026</b>

Deaths by districts.

Walled City	38
Binondo	65
San Nicolas	83
Tondo	276
Santa Cruz	157
Quiapo	49
Sampaloc	105
San Miguel	37
Paco	82
Ermita	19
Malate	34
Pandacan	14
Santa Ana	16
Transient residents	52
Unknown	8
<b>Total</b>	<b>1,026</b>

Number of deaths with medical attendance	433
Number of deaths without medical attendance	593
<b>Total</b>	<b>1,026</b>

Twenty-five of above were stillbirths.

A classified report of all deaths occurring in Manila during the month of November, 1903 (including 62 transients in Manila).

MALES.

Married	90
Widowers	27
Single	85
Boys	342
Condition not stated in certificates	19
<b>Total</b>	<b>563</b>

FEMALES.

Married	75
Widowers	27
Single	16
Girls	341
Condition not stated in certificates	4
<b>Total</b>	<b>463</b>
<b>Grand total</b>	<b>1,026</b>

Report of deaths occurring in Bilibid Prison during the month of November, 1903.

Cause of death.	Filipinos.				Total.
	Presidio.		Carcel.		
	M.	F.	M.	F.	
Dysentery, amebic	1				1
Pulmonary tuberculosis	6		3		9
Hepatic carcinoma	1				1
Fatty degeneration of heart	7		5	1	13
Pneumonia	1				1
Senility					1
<b>Total</b>	<b>16</b>		<b>8</b>	<b>1</b>	<b>25</b>

Of the above cases 13 were single and 12 married. All interments were made in Loma Cemetery.

Of the total number of deaths occurring during the month of November, 1903, 1,026, including transients, 690 were of persons less than 16 years of age. Of the remaining 336 adults of both sexes only 152, classed below, had definite occupations:

Labors	35
Tailors	4
Coachmen	7
Embroiderer	1
Carriers	2
Gatekeepers	1
Carpenters	5
Confectioner	1
Masons	1
Fireman	2
Servant	1
Cigar makers	2
Musicians	1
Messengers	3
Merchants	5
Printer	1
Clerks	10

MALES—continued.

Sailors	2
Shoemaker	1
Lawyer	1
Farmers	1
Barber	1
Chairmaker	1
Traders	10
Cashier	1
Actor	1
Blacksmith	1
Foreman	1
<b>Total</b>	<b>107</b>

FEMALES.

Seamstresses	18
Shopkeepers	5
Laundresses	10
Cigarette makers	10
Cook	1
Servant	1
<b>Total</b>	<b>45</b>
<b>Grand total</b>	<b>152</b>

Births reported in November, 1903.<sup>1</sup>

Americans	6
Filipinos	397
Spaniards	5
Other Europeans	0
Chinese	1
All others	3
<b>Totals</b>	<b>412</b>

<sup>1</sup>Incomplete.

Annual birth rate per thousand for the month.

Americans	16.64
Filipinos	5.24
Spaniards	0
Other Europeans	0
Chinese	0.57
All others	32.70
<b>Average</b>	<b>22.80</b>

Report of sick and wounded city poor attended by municipal physicians during the month of November, 1903.

Sanitary districts and physicians.	Filipinos.			Total.	Cured.		Deaths.		Number of visits.	
	Children.		Adults.		M.	F.	M.	F.		
	M.	F.	M.		F.	M.	F.			
No. 1, San Nicolas, Dr. V. Cayanan	3	4	14	9	30	5	9	2	0	184
No. 2, Tondo, Dr. V. Pantolaja	1	7	13	11	32	6	11	6	5	130
No. 3, Quiapo, Dr. P. Garcia	6	5	14	11	36	11	9	4	4	76
No. 4, Santa Cruz, Dr. C. Reyes	3	6	19	11	39	15	10	3	3	250
No. 5, Sampaloc, Dr. F. Castañeda	21	16	20	25	82	21	21	9	5	212
No. 6, Intramuros, Dr. R. Ferron	11	14	16	30	71	12	28	7	5	194
No. 7, Paco, Ermita, Dr. C. Mora	13	17	20	31	81	16	11	10	15	188
<b>Total</b>	<b>58</b>	<b>69</b>	<b>116</b>	<b>128</b>	<b>371</b>	<b>86</b>	<b>99</b>	<b>41</b>	<b>37</b>	<b>1,234</b>

Monthly report of San Lazaro Hospital, leper and women's department, for November, 1903.

WOMEN'S DEPARTMENT.

	Americans.	Europeans.	Filipinos.	Japanese.	Total.
	Number of patients in hospital at last report		3	44	28
Number of patients received during the month	1	8	45	27	81
Number of patients discharged cured	1	2	37	32	72
Number of patients died					
Number of patients remaining in hospital		9	52	23	84

LEPER DEPARTMENT.

	Europeans.		Filipinos.		Chinese.		Total.
	M.	F.	M.	F.	M.	F.	
Number of patients in hospital at last report			1	120	88		209
Number of patients received during the month			2	3			5
Number of patients died			1				1
Number of patients remaining in hospital			1	121	86		208

General inspection of houses, premises, vaults, etc., with improvements ordered, disinfectant, whitewashed, cleaned, etc., by medical inspectors, chief sanitary inspectors, and sanitary inspectors for the month of November, 1903.

Houses inspected by the chief sanitary inspector.....	2,729
Houses reinspected for verification of work ordered.....	250
Houses inspected by sanitary inspectors.....	26,229
Houses reinspected by sanitary inspectors.....	5,368
Houses ordered cleaned (written).....	4,238
Houses ordered cleaned (verbal).....	14
Houses cleaned.....	4,002
Houses ordered whitewashed and painted.....	40
Houses whitewashed and painted.....	9
Houses disinfected.....	125
Number of houses recommended condemned and removed.....	21
Number of houses condemned and removed.....	23
Number of localities where "squatters" are located.....	23
Number of samples of water from wells sent to Laboratory.....	1
Number of reports from same.....	0
Number of fire plugs opened or closed for sanitary purposes.....	0
Number of hydrants recommended reopened.....	194
Number of houses where garbage has not been removed for two days.....	35
Number of persons reported sick to municipal physicians.....	192
Cesspools and vaults ordered cleaned.....	156
Cesspools cleaned.....	1,419
Yards ordered cleaned.....	1,282
Yards cleaned.....	66
Yards ordered repaired (repaved, etc.).....	27
Yards repaired.....	4
Number of cholera cases reported by sanitary inspectors.....	3
Number of cholera cases reported by Auxiliary Advisory Board.....	3
Number of cholera cases found "alive".....	13
Number of cholera cases found "dead".....	15
Number of cholera cases issued during the month.....	192
Number of orders complied with during the month.....	182
Number of orders awaiting action.....	320
Number of orders pending in court.....	14
Number of food tiendas in district.....	1,926
Number of persons convicted for violation of food prohibition order.....	19
Arenas in visiting each street and barrio during month.....	46
Number of regular inspectors on duty.....	306
Number of emergency inspectors on duty.....	3
Number of tuper cases sent to San Lazaro Hospital.....	3
Number of plague cases reported.....	3
Number of smallpox cases reported.....	8
Houses in which traps are set.....	15,129
Houses in which bait is placed.....	8,154
Traps set.....	30,668
Plates with ratiapane placed.....	8,842
Rats caught by rat catchers.....	11,032
Rats caught by traps.....	8,457
Rats caught by poison.....	53
Rats purchased.....	58
Rat catchers employed.....	70

**Monthly sanitary report, Station A, San Nicolas, harbor and river, November 30, 1903.**

Steamships inspected.....	28
Launches inspected.....	94
Schooners inspected.....	61
Lorchas inspected.....	306
Cascos inspected.....	878
Trips made by the Board of Health launch to the bay.....	42
Trips made by the Board of Health launch up the river.....	3
Number of cholera cases found on ships and other craft.....	1
Number of cholera cases found "alive".....	1
Number of cholera cases found "dead".....	0
Number of plague cases reported.....	6
Number of dead bodies found in river and harbor.....	2
Fumigated.....	28

**Burials during the month of November, 1903.**

Loma (Government).....	645
Paco General (Government).....	20
Santa Cruz.....	4
Baño-Baño.....	122
Binondo.....	59
Maytagib.....	49
Malate.....	47
Pandacan.....	46
Chinese.....	14
Crematory.....	22
Santa Ana.....	4
American National.....	2
San Pedro Macati.....	2
Total.....	1,051

**Deaths during the month of November, 1903.**

Paco Crematory.....	9
Malate.....	37
Santa Cruz.....	34
Chinese.....	4
Total.....	84

Report of crematories for the month of November, 1903.

Nature of cremation.	Palo-mar.	Santa Cruz.	Paco.	Total.
Animals cremated:				
American horses.....	14		26	40
Australian horses.....	1	1		2
Chinese mules.....	4		2	6
American mules.....	5		8	13
Filipino horses.....	19		82	101
Carabass.....	6		36	106
Cows.....	90		36	126
Calves.....	1		36	13
Dogs.....	210	5	17	232
Goats.....	3			3
Cats.....	116	18	12	141

Report of crematories for the month of November, 1903—Continued.

Nature of cremation.	Palo-mar.	Santa Cruz.	Paco.	Total.
Animals cremated—Continued.				
Rats.....	9,007	10		9,017
Fowls.....	638	50		710
Sheep.....	147		1	157
Ravens.....			1	1
Total.....	10,291	78	258	10,627
Loads cremated:				
House garbage.....	2,829	123	1,480	4,432
Trade refuse.....	344	18	49	411
Organic matter.....	225	12		237
Market refuse.....	275	9		284
Temp. rotten.....	8			8
Condemned goods.....	2			2
Total.....	3,749	162	1,529	5,440

Report of Veterinary Division for November, 1903.

[David G. Moberly and Murray J. Myers, veterinary surgeons.]

On arrival in city:				
Number of cattle inspected.....				4,505
Number of carabass inspected.....				665
Number of horses inspected.....				826
Number of hogs inspected.....				3,331
Number of sheep inspected.....				250
Number of goats inspected.....				60
Number of other animals inspected.....				14
Total.....				9,446
In Government abattoir:				
Number of cattle slaughtered.....				2,134
Number of hogs slaughtered.....				5,040
Number of sheep slaughtered.....				81
Total.....				7,245
Number cattle condemned and cremated.....				5
Number of hogs condemned and cremated.....				12
Number of horses condemned for glanders.....				7
Number of horses condemned for surra.....				1
Number of other animals condemned.....				58
Total.....				83

Reports received of lepers living in the various provinces of the Philippine Islands to November 30, 1903.

Province.	Race.	Number of men.	Number of women.	Children.		Single.		Married.		Widower.	Widow.	Total.
				M.	F.	M.	F.	M.	F.			
Antique.....	Filipinos	92	37	2	2	38	28	42	4	12	5	133
Batangas.....	do	19	5			12	3	3				24
Bataan.....	do	10	4	1	1	5	3	3	2	2		16
Benueza.....	Igorrotes	31	10	1	1	1	21	10	9			43
Ambos Camarines.....	Filipinos	33	17	1	1	24	12	8	5	1		52
Bulacan.....	do	17	9	2	1	12	6	5	3			29
Ilocos Norte.....	do	45	28	5	2	9	10	31	8	5	10	80
Ilocos Sur.....	do	176	84	4	2	101	50	66	17	14	12	266
Leyte.....	do	49	38	1		26	27	20	7	3	4	91
Marabate.....	do	51	35	25	10	22	15	23	19	2	5	121
Cagayan.....	do	46	30		3	20	10	20	19	6	1	79
Lepanto.....	do	14	4			5	1	8	2			17
Cavite.....	do	17	5			3	16	3				25
Nueva Ecija.....	do	44	24			19	12	22	8	2	5	68
Negros Occidental.....	do	66	11	5	1	17	10	8	1			43
Pampanga.....	do	8	5	2		3	1	5	3	1		15
Pangasinan.....	do	123	80	3	3	36	28	63	33	19	14	205
Rizal.....	do	41	24	2		19	12	21	7	3	3	67
Marinduque.....	do	2	1			1		1				2
Laguna.....	do	100	77	21	10	67	42	26	19	7	16	208
San Lazaro.....	do	27	22	11	4	7	19	17	11	2	5	66
Tarlac.....	do	15	33	1	1	33	17	40	10	3	11	110
Sorsogon.....	do	5	10			3	6	2	3			15
Romblon.....	do	5	10			3	6	2	3			15
Samar.....	do	39	32	13	8	17	9	21	18	3	3	92
Union.....	do	43	28	3	3	15	14	24	12	4		114
Zambales.....	do	58	35	2		30	15	26	13	4	5	95
Moros.....	do	140	74	3	3	84	46	45	18	9	12	220
Cebu.....	Filipinos	171	89	5	4	136	64	33	21	3	3	269
Iloilo.....	do	231	66	11	2	113	37	94	9	24	20	310
Negros Oriental.....	do	66	42	6	2	27	23	32	14.	7	5	116
Isabela de Luzon.....	do	18	4	1		3	1	10	3	5		23
Tayabas.....	do	1	12									1
Albay.....	do	68	33	1	1	30	18	27	10	2	5	103
Nueva Vizcaya.....	do	13	11	2		7	3	6	6	2	3	27
Abra.....	do	5	5			5	4	5	3	2	3	19
Bohol.....	do	46	44	15	9	20	19	27	17	3	6	98
Capiz.....	do	44	33	19	1	26	24	33	12	1	1	105
Total.....		1,998	1,095	159	78	1,008	560	821	352	175	157	3,330

<sup>1</sup>European (female).

Tabulated statement of amount of vaccine virus distributed by the Board of Health during the month of November, 1903.

United States Army.....	Units.	1,920
United States Navy.....		500
United States Public Health and Marine-Hospital Service.....		6,000
Inhabitants of the Philippine Islands (Manila not included).....		18,200
Sold to the public.....		70
Used by public vaccinator and other institutions in the city of Manila.....		11,800
<b>Total.....</b>		<b>38,490</b>

Report on vaccination, city of Manila, during the month of November, 1903.

District.	Children.			Adults.			Total.			Grand total.
	Filipinos.	Chinese.	Americans and foreigners.	Filipinos.	Chinese.	Americans and foreigners.	Filipinos.	Chinese.	Americans and foreigners.	
Walled City.....	241		1	419		5	660		6	666
Binondo.....	59	9		221	440	3	290	449	3	732
San Nicolas.....	200		3	369	97	4	569	97	7	673
Tondo.....	536			320	1	1	878		1	879
Santa Cruz.....	388			438	10	8	826	10	8	844
Quiapo.....	220		2	523	20	743	8	22	7	1,573
San Miguel.....	249			366		5	609		5	614
Sampaloc.....	569		1	450		21	1,039		22	1,061
Paco.....	257			368	3		525	3		628
Ermita.....	113			254			294			367
Malate.....	120			174			294			294
<b>Total.....</b>	<b>2,988</b>	<b>9</b>	<b>7</b>	<b>3,902</b>	<b>558</b>	<b>67</b>	<b>6,890</b>	<b>567</b>	<b>74</b>	<b>7,531</b>

Smallpox report for Manila from November 1 to November 30, 1903.

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos.....	2	1	1	1
Americans.....				
<b>Total.....</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>

BY DISTRICTS.

	Cases.		Deaths.	
	M.	F.	M.	F.
Quiapo.....	2	1	1	1
Santa Cruz.....	1			
<b>Total.....</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>

BY AGE.

	Cases.	Deaths.
From 15 to 20 years.....	1	1
From 21 to 30 years.....	2	1
<b>Total.....</b>	<b>3</b>	<b>2</b>

Number of cases found "alive".....	3
Number of cases found "dead".....	2
<b>Total.....</b>	<b>5</b>

Plague report for Manila from November 1 to November 30, 1903.

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos.....	2		2	

BY DISTRICTS.

	Cases.		Deaths.	
	M.	F.	M.	F.
Santa Cruz.....	2		2	

BY AGE.

	Cases.	Deaths.
From 20 to 25 years.....	2	2
Number of cases found "alive".....	0	
Number of cases found "dead".....	2	
<b>Total.....</b>	<b>2</b>	<b>2</b>

Report of Chinese receiving primary and secondary inoculations against plague from Board of Health physicians, November 1 to November 30, 1903.

District.	Primary inoculations.	Secondary inoculations.
San Nicolas.....	345	398
Tondo.....	391	346
Quiapo.....	159	98
Santa Cruz.....	971	655
Sampaloc.....	34	
Ermita, Malate, Paco, etc.....	256	128
<b>Total for city.....</b>	<b>2,157</b>	<b>1,515</b>

Cholera report for Manila from November 1 to November 30, 1903.

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos.....	20	7	18	6
Chinese.....	2	1	2	
British Indian.....				
<b>Total.....</b>	<b>23</b>	<b>8</b>	<b>20</b>	<b>6</b>

BY DISTRICTS.

	Cases.		Deaths.	
	M.	F.	M.	F.
San Nicolas.....			6	6
Tondo.....			8	6
Quiapo.....			1	5
Santa Cruz.....			1	
Sampaloc.....			1	1
Intramuros.....			3	1
Ermita.....			1	2
Malate.....			2	1
Paco.....			3	3
Santa Ana.....			1	1
<b>Total.....</b>			<b>31</b>	<b>26</b>

BY AGE.

	Cases.	Deaths.
From 1 to 10 years.....		1
From 11 to 15 years.....	1	1
From 16 to 20 years.....	2	2
From 21 to 25 years.....	1	1
From 26 to 30 years.....	5	8
From 31 to 35 years.....	5	3
From 36 to 40 years.....	3	3
From 41 to 45 years.....	67	4
Unknown.....	4	2
<b>Total.....</b>	<b>31</b>	<b>26</b>

Number of cases found "alive".....	16
Number of cases found "dead".....	15
<b>Total.....</b>	<b>31</b>

Epidemic of cholera in the city of Manila and provinces from March 20, 1902, to November 1, 1903.

Month.	Manila.		Provinces.	
	Cases.	Deaths.	Cases.	Deaths.
<b>1902.</b>				
March.....	108	90	1,927	1,417
April.....	586	406	1,903	1,124
May.....	550	442	2,407	1,631
June.....	601	492	5,294	4,097
July.....	1,268	1,053	7,898	5,907
August.....	720	581	11,247	8,674
September.....	273	179	43,346	27,410
October.....	87	57	30,837	18,572
November.....	336	236	12,353	6,881
December.....	35	24	5,918	3,583
<b>1903.</b>				
January.....	7	4	4,921	2,757
February.....	2	1	2,997	2,009
March.....	6	6	1,903	1,124
April.....	33	27	1,772	1,147
May.....	230	212	1,462	885
June.....	39	38	3,554	2,945
July.....	42	38	4,167	2,806
August.....	59	72	10,212	7,406
September.....	290	263	4,610	3,669
October.....	127	118	2,497	1,935
<b>Total.....</b>	<b>5,529</b>	<b>4,339</b>	<b>159,031</b>	<b>103,735</b>

# OFFICIAL GAZETTE

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Report of cholera occurring in provinces in the Philippine Islands from November 1 to November 30, 1905.

Report of cholera occurring in provinces in the Philippine Islands, etc.—Continued.

Province and town.	Cases.	Deaths.
<b>Antique:</b>		
Culasi .....	18	8
Pandan .....	9	8
<b>Total</b> .....	<b>22</b>	<b>16</b>
<b>Bataan:</b>		
Balanga .....	42	27
Mabatán .....	1	5
Pilar .....	5	5
<b>Total</b> .....	<b>48</b>	<b>33</b>
<b>Bohol, Tagbilaran</b> .....	<b>31</b>	<b>22</b>
<b>Bulacan:</b>		
Bocute .....	6	4
Bulacan .....	6	6
Meycauayan .....	2	1
Obando .....	1	1
<b>Total</b> .....	<b>15</b>	<b>13</b>
<b>Camarines, Nueva Caceres</b> .....	<b>1</b>	<b>3</b>
Capiz, Dumarao .....	71	45
Cavite, Dasmariñas .....	8	8
<b>Cebu:</b>		
Aloey .....	10	10
Alegria .....	118	111
Aloguinsan .....	7	7
Astoria .....	69	67
Balamban .....	1	1
Badian .....	99	99
Borbon .....	1	1
Carcar .....	29	23
Cebu .....	1	1
Compostela .....	66	66

Province and town.	Cases.	Deaths.
<b>Cebu—Continued.</b>		
Dumanjug .....	5	5
Guinalain .....	24	1
Oslob .....	1	24
Santander .....	16	1
San Francisco .....	1	1
San Fernando .....	23	23
Sogod .....	1	7
Tuburan .....	1	7
Tudela .....	39	39
<b>Total</b> .....	<b>513</b>	<b>497</b>
<b>Ilocos Sur, Vigan</b> .....	<b>58</b>	<b>34</b>
<b>Iloilo, Iloilo</b> .....	<b>16</b>	<b>13</b>
<b>Negros Occidental:</b>		
Bacolod .....	93	52
Ginigaman .....	27	7
Pandan .....	7	16
Pulupandan .....	19	7
Saravia .....	50	49
Victoria .....	28	28
<b>Total</b> .....	<b>224</b>	<b>164</b>
<b>Uueva Ecija, San Isidro</b> .....	<b>2</b>	<b>1</b>
<b>Rizal:</b>		
Mariguina .....	4	3
Montalban .....	3	3
San Mateo .....	5	4
<b>Total</b> .....	<b>12</b>	<b>10</b>
<b>Surigao, Surigao:</b>		
Tariac, Tariac .....	46	38
<b>Grand total.</b> .....	<b>1,068</b>	<b>898</b>

## WEATHER BUREAU.

Rev. P. JOSÉ ALQUÉ, S. J., Director and Chief of Bureau.

Meteorological data deduced from hourly observations, month of November, 1905.

Date.	Barometer, <sup>1</sup> mean.		Temperature.							Relative hu- mid- ity mean.	Wind.			Sun- shine.	Rainfall.			
			Mean.	Maximum.	Minimum.	Prevailing direction.	Total daily motion.	Maximum.										
								Force.	Direction.									
	<i>Inches.</i>	<i>mm.</i>	<i>°C.</i>	<i>°F.</i>	<i>°C.</i>	<i>°F.</i>	<i>°C.</i>	<i>°F.</i>	<i>Perct.</i>	<i>Km.</i>	<i>Miles.</i>	<i>Km.</i>	<i>Miles.</i>	<i>h.</i>	<i>Inches.</i>	<i>Mm.</i>		
1	29.914	759.81	26.9	80.4	31.9	89.4	22.9	72.1	82.6	SE.	161	100	14	9	N.	4.55	0.059	1.5
2	29.919	759.93	25.5	77.9	28.1	82.5	22.0	71.6	85.7	N.	212	132	16	10	N.	0.00	.091	2.3
3	29.886	59.11	24.8	76.6	28.8	83.8	21.4	70.6	90.6	SSE.	84	52	8	6	SSE.	0.00	.024	.6
4	29.845	58.06	27.1	80.8	31.6	88.8	22.9	72.1	81.0	WSW.	110	68	11	7	WSW.	7.45	3	3
5	29.894	56.99	26.9	80.4	29.9	85.8	22.3	72.2	81.9	WSW.	130	81	15	9	WSW.	4.15	15	5
6	29.727	55.04	27.1	80.8	29.9	85.8	22.6	72.7	81.9	N.	282	175	21	13	NW.	2.50	.008	2
7	29.675	52.72	27.0	80.6	29.9	85.8	23.8	74.8	87.6	NE, ENE.	157	98	18	11	WNW.	0.00	.051	1.3
8	29.691	54.12	27.1	80.8	29.9	85.8	23.3	73.0	79.0	WNW.	564	350	41	25	W.	6.10	19	5
9	29.727	55.06	27.3	81.1	31.0	87.8	20.9	69.6	78.7	S.	293	182	24	15	WNW.	8.40	40	7
10	29.794	56.74	27.1	80.8	30.5	86.9	22.6	72.7	82.0	S.	295	146	24	15	S.	9.35	45	8
11	29.863	58.51	26.8	80.2	30.4	86.8	21.2	70.2	81.2	SSE.	155	96	19	12	NNE.	6.10	19	5
12	29.887	59.13	27.2	81.0	31.1	88.0	22.8	73.0	76.0	SSW.	154	96	11	7	NW.	3.35	16	5
13	29.867	58.61	27.2	81.0	30.9	87.6	21.6	70.8	79.5	SW.	154	96	16	10	W.	9.30	45	8
14	29.882	58.99	27.6	81.5	32.3	90.2	21.5	72.7	79.8	NE, WSW.	176	111	21	13	E.	7.25	35	7
15	29.861	58.46	27.3	81.1	32.1	89.8	22.0	71.6	76.7	W.	110	68	10	6	W.	8.00	.020	0.5
16	29.862	58.49	27.1	80.8	31.4	88.6	21.5	70.7	78.4	NE.	142	88	12	7	W.	8.05	38	8
17	29.869	58.65	26.9	80.4	31.6	88.8	21.5	72.7	77.6	ENE.	101	24	15	9	W.	3.50	16	5
18	29.874	58.77	26.6	79.9	31.6	88.8	22.3	72.2	82.1	ESE.	150	93	12	7	E.	2.80	.020	0.5
19	29.898	59.39	27.1	81.3	33.3	91.9	21.7	71.0	78.5	NE.	166	103	20	12	NE, by E.	8.00	38	8
20	29.886	59.09	27.0	80.6	31.6	88.8	21.5	71.4	73.9	ENE.	172	107	20	12	NNE.	6.50	31	7
21	29.902	59.50	26.9	78.6	29.1	84.3	21.8	71.3	83.3	NNE.	125	78	11	7	NNW.	1.15	.020	0.5
22	29.906	59.59	27.4	81.3	31.4	88.5	21.8	70.8	76.8	W.	154	96	17	11	W.	8.35	39	8
23	29.926	60.09	26.8	80.2	30.6	87.1	21.5	72.1	76.1	NNE, ENE.	172	107	20	12	NNE.	6.50	31	7
24	29.930	60.20	26.3	79.3	31.6	88.9	20.1	68.2	69.7	Variable.	114	71	12	7	WSW.	8.00	38	8
25	29.924	60.06	25.2	77.4	30.8	87.5	18.2	64.8	74.1	NW.	158	98	14	9	W, by S.	9.35	45	8
26	29.923	60.02	24.8	76.6	29.7	85.5	19.5	67.1	76.1	N.	152	94	14	9	W.	5.00	23	7
27	29.924	60.06	23.9	75.0	28.3	82.9	19.3	66.7	81.9	N-NE.	178	111	20	12	N.	2.40	.331	8.4
28	29.908	59.65	25.4	77.7	30.1	86.2	19.2	66.5	84.9	W.	132	82	14	9	WSW.	7.50	36	7
29	29.912	59.55	25.4	77.7	28.6	83.5	21.4	68.7	80.3	NE, NW.	79	49	10	6	NW.	2.50	.177	4.5
30	29.908	59.66	24.8	76.6	27.7	81.8	20.6	69.1	88.0	N.	184	114	15	9	N.	1.00	.917	23.3
Mean	29.863	758.51	26.5	79.6	30.5	86.9	21.5	70.6	80.1		172.4	107.1	16.6	10.3		5.09		
Total											5,171	3,213				154.40	1,804	45.8

<sup>1</sup>Corrected for instrumental error and for temperature and reduced to sea level. Correction to standard gravity, —1.72 mm. (0.068 inch).

## BUREAU OF EDUCATION.

Dr. DAVID P. BARROWS, *Chief of Bureau.**The aims of primary education in the Philippines.*

(From the Third Annual Report of the General Superintendent of Education.)

BUREAU OF EDUCATION,  
Manila, P. I., September 30, 1903.The Honorable, the SECRETARY OF PUBLIC INSTRUCTION,  
Manila, P. I.

SIR: I have the honor to submit the annual report for the Bureau of Education for the Philippine Islands, which is the third annual report to be made by the General Superintendent since the introduction of an American public-school system in these Islands.

Within the past year the public-school work has twice suffered the loss of a General Superintendent. In December last (1902) Dr. Fred W. Atkinson, after two and one-half years' service in this capacity and after having organized the public-school system practically as it stands to-day, resigned his position in order to return to the United States and continue there his profession as a public educator, which was interrupted by his acceptance of duty here. He was succeeded by Dr. Elmer B. Bryan, then principal of the Manila Normal School, who, to the great disappointment and regret of everyone interested in education, was obliged by serious ill health to resign his position August 13 last. The undersigned was appointed to succeed him, and has been in charge of the work only a few days over one month.

## REVIEW OF LAST THREE YEARS' ADMINISTRATION.

In reviewing the history of the Islands for the past three years one is immediately struck by the great emphasis placed upon public schools, first, by officers of every rank of the United States Army who administered this Archipelago during the first two years of American sovereignty, and subsequently by the United States Philippine Commission and the Civil Government of the Islands. This emphasis upon the public school is undoubtedly the result of the primary importance which it plays in American civilization and the supreme confidence which Americans feel in the necessity, to this and to every aspiring people, of a democratic, secular, and free school system, supported and directed by the State. It has resulted that the school system of these Islands is the most typically American institution which our Government has here established. Spanish precedents and previous institutions have been followed to a strikingly less degree than in the organization of local and insular administration, the constitution of the courts, or any other branch of administration.

The definite purposes in introducing this educational system are unique in the history of colonial administration. Professedly, openly, and with resolute expectation of success the American Government avowed its intention through the public school to give to every inhabitant of the Philippine Islands a primary but thoroughly modern education, to thereby fit the race for participation in self-government and for every sphere of activity offered by the life of the Far East, and to supplant the Spanish language by the introduction of English as a basis of education and the means of intercourse and communication. Almost impossible as such purposes may have looked and still look to the outsider, and thoroughly as they have been the objects of criticism, the Bureau of Education and the Philippine Government are more thoroughly committed to this policy now than at any time during the past five years, are more certain of success, and are able to demonstrate by the results already achieved that the ends early set up can and will be reached.

It is the general character and reasons for this system of

primary schools which I wish to discuss in this first part of my report.

## CHARACTER OF AND REASONS FOR A SYSTEM OF PRIMARY SCHOOLS.

(a) *Secular schools desired.*—Such an educational plan would never have been practicable had it not been in fact the demand of the Filipino people themselves. Thoroughly American as our school system is, it represents the ideas which theoretically have appealed to the Filipino. His request was for free secular schools, open to all inhabitants and teaching the English tongue and the elementary branches of modern knowledge. His struggle with Spain had sufficed to convince him that he was limited in thought and action by a medieval system which is no longer recognized as of binding force in the modern world, and this feeling has caused his prompt acceptance of whatever appeared to him or was presented to him as of modern type. The Filipino is essentially a radical. Contrary to what sometimes has been stated of him, he is one of the least conservative types of manhood. In readiness to seize the new, to welcome advancement, and in ambitious pride he is closer to the Japanese than to any other nationality.

(b) *Last half-century of Spanish rule—Economic interests.*—The last half-century of Spanish rule brought to the Filipino people great changes that made possible the striking revolutionary events of the last seven years. The race made a great advance between 1860 and the end of the century—an advance due primarily to the enlightened efforts of the liberal element in Spanish political life. The reactionary policy which followed the fall of Republican government in Spain and the Cavite revolution of 1872, and which aimed to suppress the rapidly rising ambitions of the Filipino people, has greatly obscured the intelligent and deserving efforts made by the liberal element in the Spanish administration toward developing both the economic and spiritual interests of these Islands. As a matter of fact, for nearly forty years Spain's policy in these Islands was one of reform. A serious and disinterested policy strove to remove the economic hindrances which had so long checked the development of the Archipelago, and to enlighten and elevate the race. We see the first of these changes in the opening of Manila to foreign trade in 1837. This was the beginning of the economic advancement of the Islands and was followed by the development of the commercial products which have made the Philippines famous—hemp, tobacco, sugar, and copra. An almost uninterrupted era of economic prosperity followed down to the end of Spanish rule. The Philippines received many governors of liberal political ideas, conspicuous among whom was Claveria, 1844 to 1849. From his governorship we may date the final relief of the Islands from Moro piracy, the reform of Philippine administration, and the beginnings of the great changes in the aspirations of the Filipino people themselves.

But of equal importance with any other change was the opening of education to the Filipino. Previous to the middle of the last century there was, practically speaking, none. The famous collegiate institutions of this city, which date almost from the foundation of Manila itself, were designed, not for the Filipino, but for the children of the Spanish colonizer and administrator. Education in the parishes had been left solely to the direction of the *cura parroco*, or village friar, and was limited to elementary religious teaching. But, in 1860, a system of public primary institution was established by the famous Spanish minister of war and colonies, O'Donnell. A primary school for boys and one for girls was decreed for each pueblo of the Archipelago. In these schools instruction was to be given in the Spanish language. A superior commission of education was formed, consisting of the Governor, the Archbishop, and seven other members added by the Governor himself. Spanish plans work out into actual results very slowly, and it took years to fully realize the ideas which appear in these first orders and decrees. But at the end of Spanish rule practically every pueblo in the Philippines had its two public schools, for boys and girls, with Filipino teachers who

had been educated in the Spanish language and the elements of knowledge, and on every little plaza there stood, along with the tribunal, the jail, and the far more pretentious and older church and convent, public buildings for schools. These schools by no means conformed, however, to American ideas of a public educational system. In the first place, they were hopelessly inadequate to give enlightenment to the entire population. Filipino pueblos are in reality townships or districts that sometimes extend over many square miles of country and contain scores of small hamlets or barrios scattered at considerable distances from the *centro de poblacion*. It does not seem to have been the Spaniard's effort or intention to educate the children of these obscure and humble hamlets. Buildings at the center, while sometimes well constructed, were small, and usually not more than one man and one woman teacher were employed. Forty to sixty pupils in each is certainly not underrating the school attendance in the towns whose population varies from eight to twenty thousand souls. The result was that these schools gave to the children of Filipinos of means, who could afford to build and maintain homes in the town center, an opportunity for elementary education and a fitting to pass to the more pretentious *colegios* of important cities and, above all, of Manila, but they did not help or enlighten the great mass of the population. The result, combined with the economic changes that were taking place, was vicious and unfortunate. The continually rising plane of material prosperity which followed the opening of foreign commerce and the development of new commercial products was participated in by only one class of the Filipinos themselves. This was the old petty aristocracy, the class known anciently among the Tagalog as the "*maharika*," who became under the Spanish administration the *principales* of the pueblo, and who are to-day known by such quaint designations as "*gente ilustrada*" and "*puddentes*." This class it is that has monopolized not only the great gains in material prosperity but also such enlightenment and education as the race has gained. The result has been more than ever to divide society among the Filipinos into two sharply differentiated classes, the first of which is the very small number of educated families who own rich haciendas, buildings, and other sources of wealth, who live in beautifully built houses adorned with the artistic woods of the Islands, who speak the Spanish language, who have possessed themselves of the charm and grace of Spanish manners, and who seldom fail to attract and delight the guests that with unflinching hospitality they receive into their homes. This class is, however, but the merest fraction of the race itself—ten to a dozen families usually in towns of from ten to twenty thousand people. The rest of the population, which forms the lower class, has been left in an unchanged condition of ignorance and poverty, and its dependence upon and submission to the dominance and control, both economic and intellectual, of the *gente ilustrada* has been continually accentuated by each added gain acquired by the wealthy class.

(c) *Spanish school system*.—In the second place, the Spanish school system, though founded and supported by the Government, was never secular in character. The Spanish friar, who was the pueblo curate, was always the local inspector of the school, and not only directed its conduct but determined the subjects which should be taught. In the brief and imperfect course of primary instruction which was given in these little schools church catechism, church doctrine, and sacred history were emphasized almost to the exclusion of the other subjects which are necessary to fit the Filipino child for his position in life, whether it be humble or fortunate. This, however, was not the only undesirable effect of this arrangement. Whatever may be said in praise of the work of religious orders in these Islands, it can not be denied that their attitude, during the last fifty, and particularly the final thirty years of their influence here, was excessively hostile toward the enlightenment of the Filipino. They actively sought to debar the Filipino from any sort of

modern knowledge, from gaining a position of independence and self-respect, and from entrance into any kind of leadership of his own race. It was, in fact, this obstructive and retrogressive policy on the part of the governing class that most immediately affected their lives, that provoked the Filipino into open hostility and rebellion.

Thus, while we find much to commend in the public-school system established by the excellent O'Donnell over forty years ago, it is apparent that it neither gave opportunity to the little child of the humble fisherman and husbandman, nor did it lift the Filipino toward that truth which makes free.

(d) *American school system in the Philippines*.—In building up here an American system of public schools we necessarily form our purposes with a view to the failures of the past, and this previous experience compels us to adopt certain ideals, which may be briefly stated at this point.

In the first place, American schools must be public and secular. Very grave doubts were at first entertained whether it would be possible to maintain here a system of schools which did not give religious instruction and which did not place dependence upon the assistance of the church. The Government, in its opening efforts, was advised and admonished that the Filipino would support no form of instruction that was not primarily Roman Catholic in character. There has been no case of greater misrepresentation. The experiment of secular public schools in these Islands is now nearly three years old, and the result is seen that the Filipino father, while with few exceptions sincerely desirous that his child should be trained in a knowledge of those religious precepts and ceremonies which have for centuries formed the only higher life of the great mass of this population, is nevertheless equally desirous that his intellectual advance should be unaffected by ecclesiastical control, and that the instruction of the church should be separate from that of the school. This choice is becoming more marked with every succeeding month and has practically done away with any effective opposition on the part of church authority.

In the second place, the public schools of these Islands must be open to all upon a purely democratic basis. This is a point in which, perhaps, there has been more difficulty experienced than with the preceding. The cultivated man among the Filipinos, even when fairly bursting with protestations of his patriotic solicitude for the advancement of his more humble countryman, is in reality frequently contemptuous of their illiteracy and poverty and actually opposed to any enlightenment which will loosen his own hold over them. The greatest danger at present menacing the success of our schools is that, pleased with the capacity and cleverness of the youth of the cultivated class and desirous of forwarding his success along the higher levels of education, we may forget the primary and essential importance of educating the child of the peasant. If we fail here we will fail precisely as our predecessors did. The public welfare and public security demand in the Philippines, as perhaps nowhere else in the world, *primary education for all classes*. The race lends itself naturally and without protest to the blind leadership and cruel oppression of its aristocracy. This social condition, which the Spaniard called "*caciquismo*," every measure and plan of the government of these Islands should aim to destroy.

In the third place, and as a necessary corollary to the above, our public school system should be adequate to the population. It is not so at the present time. We have only begun to reach the population of the barrios. We have succeeded in reestablishing schools, with perhaps four and five times as large an attendance, in the town centers where the Spaniards conducted them. We have raised these schools to an English basis, but we have not yet sufficiently extended this instruction to the hamlets and little settlements which lie back in the woods and along the *esteros*, sometimes a dozen miles from the center of the town. It is in these rural spots that the great mass of the population

finds its home. These are the centers of ignorance, the resorts and recruiting ground for the ladrones, and they perpetuate the ignorance and poverty of the race, as it has been for three hundred years. The greatest need of our schools at the present time is Filipino teachers with knowledge of English and school methods and the missionary spirit to go out and labor in these barrios under the supervision of American teachers.

#### POPULATION OF THE PHILIPPINE ISLANDS—DIALECTS.

The Christian population of the Philippines comprises, according to the published results of the recent census, nearly seven million souls, or nine-tenths of the entire population of the Archipelago. They occupy hardly more than three-sevenths of the total superficial area of the Archipelago, but this includes nearly all of the fertile coastal plains and river valleys and the greater part of the Islands susceptible of much agricultural development and able to support large numbers of inhabitants.

This population has multiplied very rapidly within recent decades. The development of productive agriculture and export trade has created a rapid increase of the population in all parts of the Islands affected by this material prosperity. The Christian population is over four and one-half times what it was a century ago and more than ten times as great as it was when the Spaniards first Christianized the Islands.

As is well known, this Christian population, while of common Malayan origin and possessing a culture in most respects the same, is divided into a considerable number of tribes or distinct groups.

So much has been written and affirmed of the similarities and distinctions between these tribes, and the subject has borne so intimately upon the work of the Bureau of Education, that a brief statement seems in place in regard to these different groups which the policy of the American Government favors welding into one nation with a common language, a common appreciation of rights and duties and a common patriotism for their land as a whole.

The question has been frequently raised whether these Filipino languages are sufficiently related so as to fuse into one common tongue, and the Bureau of Education has received most vigorous criticism in the United States because of its alleged attempt to supplant and destroy what might, in the opinion of absentee critics, become a national and characteristic speech. Such criticism could only proceed from an ignorance of these languages and the peoples who speak them. All of these dialects belong to one common Malayan stock. Their grammatical structure is the same. The sentence in each one of them is built up in the same way. The striking use of the affix and suffix which gives the speech its character is common to them all. There are, moreover, words and expressions identical to them all. A hundred common words could readily be selected which would scarcely vary from one language to another. But the fact still remains that, while similar in grammatical structure, these languages are very different in vocabulary—so different that two members of two different peoples brought together are unable to converse or at first even make themselves understood for the simplest steps of intercourse. The similarity of structure makes it very easy for a Filipino of one people to learn the language of another, but nevertheless these languages have preserved their distinctness for more than three hundred years of European rule and in the face of a common religion, and in spite of considerable migration and mixture between the different tribes. This is as true where different populations border one another as elsewhere. In no case is there any indication that these languages are fusing. The Filipino adheres to his native dialect in its purity, and when he converses with a Filipino of another tribe ordinarily uses broken Spanish.

These languages are not destined to disappear, but it does not seem probable that they will fuse, nor that they are destined to

have wide literary use. One has but to examine the writings which have appeared in the last fifty years in each of these languages to see how unlikely of literary development is any one of them. The masterpiece of Tagalog literature is a satirical poem entitled "Ang Salita at Buhay ni Florante at ni Laura," which was composed years ago by a Filipino "filosofo" named Baltazar. It was his professed intention, in writing this poem, to use the Tagalog language in its purity, and he continually strives to avoid by circumlocution the introduction of words derived from the Spanish. The poem, while of great interest, shows the actual paucity of the Tagalog language for the expression of literary ideas, and it has not, so far, marked a beginning of the development of a Tagalog literature. For common intercourse, as well as for education, the Filipino demands a foreign speech. To confine him to his native dialect would be simply to perpetuate that isolation which he has so long suffered and against which his insurrection was a protest.

#### THE ENGLISH LANGUAGE.

Opponents of English education find few sympathizers among the Filipino people. The movement seems to be limited for its support to academic circles and certain newspaper offices of the United States and to the congressional halls of the nation. The advantage which the possession of the English language will give him is readily understood by the Filipino, and it is fortunate that the acquisition of the Spanish tongue was largely denied him and that it never won his affection. English is the *lingua franca* of the Far East. It is spoken in all the ports from Hakodate to Australia. It is the common language of business and social intercourse between the different nations from America westward to the Levant. It is without rival the most useful language which a man can know. It will be more used within the next ten years, and to the Filipino the possession of English is the gateway into that busy life of commerce, of modern science, of diplomacy and of politics, in which he aspires to shine. Knowledge of English is more than this—it is a possession as valuable to the humble peasant for his social protection as it is to the man of wealth for his social distinction. If we can give the Filipino husbandman a knowledge of the English language and even the most elemental acquaintance with English writings, we will free him from that degraded dependence upon the man of influence of his own race which made possible not merely insurrection but that fairly unparalleled epidemic of crime which we have seen in these Islands during the past few years.

#### "LABOR"—THE PEASANT-PROPRIETOR CLASS.

Another form which criticism frequently takes, not alone in the United States but among Americans in these Islands, is that in giving the Filipino this primary education we are impairing his usefulness as a productive laborer, separating him from agriculture and the trades, making every schoolboy ambitious to become an *escribiente* and filling the minds of the people generally with distaste for rural life and contact with the soil. This is a charge which merits careful examination and which leads to some observations upon the society and industry in the Philippines which this Government, in the prosecution of its high purposes, must consider. American investors and promoters in the Philippines at the present moment profess to be disgusted with the Filipino as a laborer, and are clamorous for the introduction of Chinese coolies. They claim that the Filipino hates and despises labor for itself, will not keep a laboring contract, and can not be procured on any reasonable terms for various enterprises in which the Americans desire to invest effort and money. When, however, we look a little more closely into the demands of these men it is apparent that what they really want here is a great body of unskilled labor, dependent for living upon its daily wage, willing to work in great gangs, submissive to the rough handling of a "boss," and ready to leave home and family and go anywhere in



the Islands, and to labor at day wages under conditions of hours and methods of labor set by their foreign employers. In other words, what they really want is the *proletariat*, that social class, the outcome of recent economic changes in Europe and America, which it is the ideal aim of political economists to elevate and absorb until it shall disappear again in the ranks of independent and self-respecting labor.

Now the Filipino certainly dislikes labor under these conditions, and except under extraordinary inducements it is probably true that he will not work in a gang, under a "boss," subjected to conditions for toil which appear to him unnecessarily harsh and onerous; but give him a piece of land to cultivate, especially if he can be assured that it is his own, let him choose for his labor the cool, dark hours of the early dawn and evening, let him work in his own way *unharrassed* by an overseer, and the Filipino makes a creditable showing as a laborer. It is as an independent producer that he works best, and this, as well as every other consideration, should impel us to seek to develop here in the Philippines, not the proletariat, but the *peasant proprietor*. Unfortunately, conditions are unfavorable in many parts of the Islands to small holdings. Property exists in great *haciendas* or the estates of the religious orders, and the population are dependent tenants. But it is the intent of this Government to purchase or secure many of these great properties for the benefit of a peasantry who live upon them, and, in spite of delay in the settlement of this essential matter, I believe we may look upon it as one of those pressing necessities in which the American Government will, eventually, have its way. Wherever we find the Filipino the possessor of his own small holding, there we find him industrious and contributing largely to the productive industry of the Islands. I have in mind one beautiful little valley in the Ilocano country, famous for the quality of its tobacco, where the land-tax collections showed, a year ago, 2,200 small independent properties in a single municipality.

It is with the peasant-proprietor class particularly in mind, and trusting in the outcome of our efforts to increase this class, that we must lay out our course of primary instruction. If the Filipino has his small home and plot of ground, then, the possession of English, the ability to read, the understanding of figures and those matters of business which affect him, even the knowledge of other lands and peoples will not draw him from his country life and labor. It will, I hope, increase his contentment as it increases his independence, and as it raises his standard of life and comfort and increases his desires it will make him a better producer and a larger purchaser.

#### INDUSTRIAL ART AND HANDICRAFT.

I believe we may be equally hopeful with regard to training the Filipino in arts and crafts. The Filipino is naturally deft with his hands and has much artistic ability. That same high grade of excellence which attaches to the handiwork of the Japanese people can certainly be imitated here, and may, perhaps, in some ways, be excelled.

No small part of the work of the Bureau of Education lies in introducing new crafts which shall make special appeal to the artistic-loving qualities of the Filipino mind, and in training up skilled workmen for the establishment of these arts. I am convinced also that the Filipino will not be found incapable or averse to following the heavier and more laborious trades, especially when these are presented to him in the form of skilled handicraft and when their pursuit is assisted and improved by the employment of the best methods and of machinery.

Many doubts have been thrown upon our power to interest educated Filipinos in arts and crafts. It was said that all the influence of the civilization of the Islands was against us. The Spaniard certainly looked down upon skilled handicraft of every description and considered such callings impossible for the educated man, and this unnatural and false view has unquestionably

impressed the educated class of Filipinos who owe their ideals to Spanish cultivation, but this attitude, while it is unfortunately frequently met, is not a racial characteristic but is certainly derived from foreign influence and example.

The typical Malayan peoples show great respect to the man skilled in body and hand. If we look at those tribes in the Philippines which did not come under the influence of the Spanish civilization, the primitive Igorrote and the more advanced Moro in the south, we find that the man skilled with tools enjoys a high reputation. This is especially and interestingly marked among the Moros. Mohammedanism has never despised the artisan or the trader. In Mindanao and the Sulu Archipelago at the present time even the datu or chieftain is often a famous forger of weapons and may spend many hours each day beside his anvil and bellows. There is a *salip* or religious leader of great influence on the Island of Basilan who is famous as a boat builder.

These facts show the true racial feeling, unaffected by foreign ideas, and should encourage us to hope for an attitude on the part of the Filipino people that will be favorable to the practice of skilled arts and trades. The early efforts of the Bureau of Education met with little response from the Filipinos of Manila. The young *elegante* appeared to disdain to soil his fingers with the grip of a tool, but in recent months tool and garden work have been undertaken in a number of school divisions and in every case with the most satisfactory response from the pupils, who are frequently children of wealthy and educated parents.

#### SUMMARY.

The above remarks may serve to characterize the main purposes of the Bureau of Education, which are to reach and enlighten all classes in the Archipelago, assist in the development of an intelligent and independent husbandry and of a trained class of craftsmen, and by its schools and instruction contribute to make the Philippines as famous for its intelligence and productions as is the northern archipelago of Japan.

*Excerpts from reports of division superintendents to the General Superintendent of Education.*

#### PROVINCIAL PRIVATE SCHOOLS—SPANISH.

##### PROVINCE OF BATANGAS.

In December, 1901, I made a report in answer to a circular from the General Superintendent's office, containing among other data a statement as to the different kinds of private schools then in the division. The particular kind of private school which has received most development is to be described as follows: Some relative, or friend of a family, or two, takes a dozen children into his house during the day to study. He goes on with his daily occupation, or else sits around and smokes and gambles with friends while the children are supposed to study. He spends very little time in instructing them and they very little time in actual study. Catechism is a main part of the curriculum, and, indeed, the school, or rather, class, exists because of the desire for religious instruction.

However, the number of private schools and their attendance has been steadily on the wane. One proof of this is seen in the doubling and trebling of our attendance as compared with last year and the year previous. The presence of a good public school usually kills the private schools by reason of its superiority. We attract pupils even from the Spanish schools in Manila. Not often do the best families send their children to us, but this is becoming more generally the rule. Again, our teachers in many cases come from the very best families, and this means a great deal in a land where class distinctions are so great and closely observed. The "muchacho" may still carry the books of his little master to school, but often enough the older sister, or brother, of this little master is teaching the "fellow-muchacho" in the same school.

The greatest bit of industrial education engaged in so far by the American teacher has been the example set by him in carrying a package, etc., through the streets and thereby showing the natives that a little manual labor is not incompatible with honor and dignity.

#### NORMAL INSTITUTES.

The Normal School curriculum included the regular elementary subjects of the primary schools and a normal course. Music was taught especially in connection with the singing of appropriate school songs. An interesting feature of the work was the hour or more in the afternoon devoted to conversational games of all sorts, debates, mock trials, etc.

After this exercise the young men played baseball. Any player who spoke a word of any other language than English was immediately retired from the game. By the way, in this connection I should like to mention the names of Messrs. Pierce, Borden, and Carstens as teachers who have devoted considerable time to teaching the boys this game in general. Some interesting games have already been played, and the game is gaining in favor. I have always found baseball a good way to interest the children in school. It was the way we first interested the Moro boys in Jolo.

Our teachers average rather under than over 25 years of age. All, except one, of the very old native teachers have fortunately dropped out, so that what was once a great problem, namely, to get rid of them, is no longer so. Most of them have voluntarily relinquished the work seeing that they were no longer able to carry it on. A few were discharged for utter incompetence, but it was unwise to get rid of them wholesale for fear of offending the neighborhood where many had acquired influence. The one exception, an old lady of 53, at Tanauan, sticks to it and has made remarkable progress. Her pronunciation is very good.

The proportion of young women attending these new schools is very large and is due to the influence of the public schools and especially to the Vacation Normal Schools. Our best pupils do not want to become teachers now but prefer to continue their school work, which is, it seems to me, a very good sign. The average age is high in the high schools. The reason is, as I have hinted before, that there are many elder children and young people who were "ashamed" to go to the primary school. Some have had considerable Spanish education. These naturally make rapid progress as a rule. In the high schools established outside of Batangas the proportion that came from the primary schools is less than half of the whole this year for the reason already explained. These outside pupils average very high in age, say 18 or 20 years. A few pupils of this age, say some dozen in each large primary school, attended the primary schools last year. Many more attend this year, through the influence of the Normal School and of the high schools, which is making education popular among the young people.

There is an enthusiasm such as has never before been known among the young people. The children have shown this disposition before, but it has not hitherto extended in any great degree to the young people from 18 to 25 years of age. There is a great eagerness to talk English. They accost each other in the streets in English and it is becoming a habit to use it as a "court" or society language. This was true of Spanish, but not nearly so many ever got instruction in Spanish as are profiting by the English. The Government should take this tide at its "full." Learning English may not teach them the unrighteousness of insurrection, but it will teach them the utter uselessness and folly of it. This is precisely what the young men of Lipa and Taal, those two strongholds of Tagalo pride and feeling, need.

#### PROVINCIAL SCHOOLS.

##### PROVINCE OF TABLAC.

Probably the most important event of the year was the establishment of the provincial high school which opened the beginning

of the school year. The enthusiasm, interest, and application of the students, while in attendance at the Normal, together with the marked progress of the majority, seemed to warrant the success of such an institution. That this new feature was received with favor is evidenced in the fact that the provincial board immediately took steps toward the construction of a high school building. The provincial school and the Normal School have been the cause of awaking a new interest in the children of the primary schools, for many a child has been kept in the municipal school with the hope of soon being able to enter the provincial school. The provincial school adds dignity to the whole school system, and the people realizing more and more its relation with the municipal schools attach more importance to the latter. Parents are ever eager to enter their children in the higher schools, but are loath to send them to the primary. Consequently children are frequently sent to the Spanish colleges in Manila with the hope of having them enter the provincial school later. The announcement that no teachers will be appointed unless they have attended this school has been effective in keeping in the municipal schools young men and women until they are able to enter the high school.

#### PROVINCIAL BOARDING SCHOOLS.

##### PROVINCE OF OCCIDENTAL NEGROS.

*The Rial Institute.*—At present the province rents for the Rial Institute two commodious buildings. Ninety-five pesos, local currency, a month is paid for one which is used exclusively as a boys' dormitory. One hundred and fifty pesos, local currency, is paid for the other. This is used as a girls' dormitory and class room.

Four American teachers are now working in the institute. The many inquiries being made by people in all stations in life show the general interest taken in the expected arrival of the manual training teacher.

All persons over 12 years of age, whose general scholarship meets the approval of the principal, are admitted to the institute and to the dormitories. At present a knowledge of English is not a necessary qualification for matriculation. Three classes of students, internos, medio-internos, and externos, are received. The internos live in the dormitories and pay for their living expenses 15 pesos monthly in advance. The medio-internos live in their own homes and take their midday meals in the dormitory, for which they pay 7½ pesos, monthly, in advance. The externos provide for themselves all their living accommodations outside of the dormitories.

Both dormitories are made as homelike as possible. Beds and chairs are furnished by the province, and pictures are hung on the walls. The girls' dormitory, which is under the care of Miss Sofia Reyes, is provided with an excellent piano. Mr. Ray Howell, principal of the institute, lives in and has charge of the boys' dormitory. These dormitories are a very helpful and necessary feature, as they furnish a home for many pupils whose parents live at distant points in the province and who, otherwise, would not be able to attend. More, it gives them a practical opportunity to learn domestic science and to know what home life may be.

During August, 1903, the average daily attendance at the institute was 54 boys and 27 girls; total, 81. From September 7 to November 10, 1902, the institute was closed because of cholera. After the reopening of the institute there was a steady growth in attendance and popularity. In March, 1903, the attendance was 57 boys and 38 girls; total, 95.

The new year has opened very encouragingly, as those seeking admission have come from all parts of the province. The attendance on July 15, 1903, was 103 boys and 63 girls, a total of 166, and an increase of over 100 per cent since last August. The present indications are that this number will continue to increase throughout the coming year. Demand for admission into the dormitories is such that it will soon be necessary to move the girls' dormitory from the school building into a house of its own.

At the outset, June, 1902, the provincial treasurer was the only one of the provincial board in favor of the high school. The governor was indifferent and the supervisor avowedly hostile. The success and popularity of the school has been so marked that now all are friendly and willing to assist in many ways.

## TEACHERS.

## PROVINCE OF PANGASINAN.

*American teachers.*—Much, if not everything, depends upon the personal qualities of the American teacher. Occasionally one meets an American teacher who is constitutionally unable to adapt himself to the conditions prevailing in the average pueblo. He is incapable of dealing with the presidente and other important residents of the town, and generally ends his term of service, as he began it, without credit to himself or the Department. Such a teacher lacks first and foremost discretion. He offends when a little tact and graciousness would win; he makes enemies who are in a position to do injury and who will not hesitate in making their influence felt; he is incapable of assuming the responsibilities of his position, because he dislikes the work and the people, and finally does not care whether the school over which he is placed succeeds or not.

It is believed that very few teachers of this kind are at present in the Department. At the first opportunity they resigned. Many were summarily dismissed. Those who have remained are generally the ones who have succeeded, and are succeeding. In my judgment there is not at present one really inferior teacher in Pangasinan. The force has been winnowed and, with very slight exception, those remaining are energetic, enthusiastic, reliable, and highly respected by the Filipinos. I am of the opinion that such teachers have not received full justice in the popular mind. It has been, almost invariably, the malcontent who has succeeded in advertising himself. He has said too much, has written too much, has talked nonsense, and neglected the one essential thing—the thing he was paid a salary for—his work.

The duties of an American teacher assigned to a pueblo are many and require continual and close attention. The most important is to grasp the whole situation and to assume the responsibility for the schools. He can not sit in the school room and wait for things to adjust themselves. He must know the people, their customs, prejudices, and ways of looking at life. The high class Filipino is polite and courteous; social amenities and agreeable personal qualities (externals perhaps) count much with him. He is opposed by nature to a blunt peremptory way of doing things and resents, in silence, an explosive outburst of energy whether it be well or not. He prefers to take life easier, even though certain duties are not performed promptly and fully on the spot. No American teacher, or other official, can afford completely to ignore these prejudices. They are constitutional and in a measure must be recognized. The American teacher of tact and judgment will make a compromise. He will not assume an attitude of arrogant superiority verging upon contempt, but will endeavor to win his way by showing a spirit of tolerance. If he can not show some degree of sympathy he need not go to the other extreme of utter scorn. The American teacher is really in the position of a superintendent and as such he can not escape his duties if he would. A time comes when he must face the result of his past work and there is no chance to avoid a reckoning. It is my opinion that the rank and file of the present American teaching force is worthy of all consideration. These men and women have proved themselves. Their work is no longer an experiment, and the friendly attitude and kindly spirit of the Filipinos everywhere toward the public schools are due in the main to the untiring efforts of the American teacher.

*Filipino teachers.*—(a) The general character of the provincial native teacher.—The native teacher in the provinces is a representative of the better class of Filipinos. He is invariably well dressed, courteous, and accommodating, and he has the respect of the people. From the American point of view he is not,

however, competent to regulate a school, nor well qualified by nature to be genuinely educated. He lacks energy and can not successfully maintain a daily routine of work. He is inclined to be slack in matters of punctuality and sees no special reason for exerting himself to be on time in the morning at the opening of the daily school session, nor of maintaining a strict supervision of the pupils' work when once he has taken his place in the school room. To do the same thing every day and to try hard to do it better each successive day is something that the Filipino teacher has not yet learned to appreciate. He is not ambitious to succeed; that is, a very small success seems sufficient to satisfy him, and he is unwilling to put himself to serious inconvenience in order to improve his education and make his services valuable.

The above statement will, as a rule, hold good, but there are notable exceptions, and the number of these has been steadily increasing during the two years of American schools. The example set by a good American teacher in controlling and teaching a school has taught the Filipino more than his daily lessons in English and arithmetic. The object lesson thus furnished is being learned slowly, but without doubt surely. The Filipino teacher has gained something of perspective and, in a degree, has succeeded in being able to think of more than one thing at a time. This part of his education, which has come seemingly without volition and unconsciously, is the most valuable thing the American schools have given him. There was a time when he thought it not inappropriate to take his seat during the entire session, to ignore pupils not reciting, to smoke a cigarette before the class during school hours, to pay no attention whatever to the roll call, and finally to pass unnoticed the entire subject of school-room decorum and discipline.

From the purely academic point of view it will be some years before the provincial teacher can achieve much. The intellectual and moral background of his life has been formed during a period of unrest and agitation. The history of the Philippine Islands for the fifteen years preceding American occupation discloses a series of political and social disorders under whose depressing influence small attention could be given to educational institutions. The Filipino who has, during the last three years, reached the age of twenty-five, passed the formative period of his life during a time of turmoil. He has not had a fair chance, and it is perhaps true that he will never readjust himself completely to the new régime. There are native teachers in this division to whom this does not apply—teachers who have fallen quickly and easily into the routine of the present system of schools and who are reliable, energetic, and intelligent; but their number is small. An extended period of education is yet necessary, if the native teaching force is ever to be brought to that stage of efficiency which will enable them to take the place of American teachers. This is true from every point of view, whether we consider scholarship, power to assume responsibility, practical knowledge of school-room discipline, courage to face opposition, or ability to take the initiative in matters connected with the improvement of the schools.

(b) *Instruction of the native teacher.*—From the first it has been assumed in this division that the most valuable and necessary work which the American teachers can do is that of instructing the native teachers. The scheme of each yearly school session has provided for a ten weeks' normal institute in a pueblo centrally located at which all native teachers have been required to attend. All other adult Filipinos who have sufficient intelligence to do so have been invited to enter. A further effort has been made to induce every bright boy or girl of 12 years to take advantage of this opportunity.

The work, however, of these normals has been planned specifically for the native teacher, and besides the regulation academic curriculum a model school of young children has been established in order to give him practice in the actual instruction and discipline of a school under the immediate supervision of American

teachers. This model school has been composed of pupils ranging from 7 to 16 years of age, the intention being to furnish an average pueblo school with none of its difficulties absent. Each native teacher has been required to give two of the ten weeks to work on regulating this school, which has proved one of the most satisfactory features of the institute.

The normal for the year, now in session at Dagupan, has been an agreeable surprise to all concerned. There are approximately 400 teachers and adults enrolled and 130 *aspirantes* or advanced pupils. The number of *aspirantes* and advanced pupils at Lingayen is near 400, thus bringing the entire enrollment for the province to about 900. These numbers, while significant, do not indicate the excellent spirit of these students nor the quality of work being done. Their enthusiasm and good will has won the American teachers to the most patient effort. During the ten weeks the American teacher becomes well acquainted with the most intelligent natives of this province, and the native is given an opportunity of understanding and participating in a kind of social life to which he has been unaccustomed.

#### PROVINCE OF RIZAL

Towns left without an American teacher, from whatever cause, show clearly that schools in this division are not successful under the charge of a native teacher only. Several instances of this fact have occurred. Mariquina, under the charge of an American teacher, had an enrollment of 250, but, when Mr. Gurley left, the enrollment dropped to 20. Taguig had an enrollment of 70 under the charge of Mr. Du Hadway, but, when he left, the enrollment dropped to 15, though more native teachers were provided.

This influence of American teachers has been felt in thirteen towns. There are reasons for the older pupils to drop out when the American teacher leaves the town. In all the towns now, the "A" class pupils of the school are advanced too far to receive instruction from the native teacher. When the native teacher attempts to conduct the "A" classes his work is usually a failure. He lacks the education and sufficient interest to hold the pupils in the school. It discourages him to think that his work is beyond him. He causes dissatisfaction in himself, in the town, in the school, and eventually the children drop off, and school is finally closed for want of attendance.

This province has only eight native teachers who can fill the bill in the school room, required by law, without daily American supervision. It would be a good idea to have these eight teachers put on insular pay sufficiently remunerative to induce them to go to the towns that are now suffering for the want of American teachers or good native teachers. These towns now must be satisfied with poor native home teachers, or take none, for they are unable financially to pay the salary to induce efficient native teachers to go to their towns. The division is in need of more good native teachers, but it has no more sufficiently advanced to receive insular recognition.

#### PROVINCE OF TARLAC

Each American teacher devotes five hours a day to actual teaching, four hours are given to the pupils of schools, and one hour to the native teachers. In some schools the one-session plan has been tried, proving satisfactory to both teachers and pupils. In the town of Tarlac the one-session was followed, but instead of having a special class for the native teachers, they were entered in the classes in the provincial school, and the American teachers of the municipal school took charge of the classes in this school. This year it is thought best to adopt a uniform plan for all the schools, and since the one-session plan seems preferable and more suitable, the following arrangement has been suggested: Morning session, for pupils, from 7.30 to 11.30; teachers' class, afternoon, 3.30 to 4.30.

The work in the teachers' classes in the past has largely consisted in instruction in English, but now since more of the teachers possess a fair understanding of the language, it has

been deemed advisable to devote the hour to the discussion of and instruction in methods of teaching. The teacher brings up for discussion anything pertaining to the school work. He takes this time to help prepare the lessons for the following day, showing the best way of presenting a new idea, calling attention to some point which needs to be emphasized; in fact, he should make his teachers feel that this is the time for them to unload their troubles and receive advice and assistance.

Filipino teachers have been in charge of five towns during the past year. No great results were expected on account of the small knowledge of English of the teachers, but these schools were established to satisfy the demands of the people, and it is surprising to note what some of the little people have learned. These schools have been the means of getting into the Normal School some few who otherwise would never have entered.

It has been difficult to get good teachers for these smaller towns. Naturally the best teachers are found in towns with American teachers. The Filipino teachers prefer to remain at these places because of the opportunity of learning English, and moreover, they attach a certain honor to such positions; on the other hand they regard the smaller towns in the same light as barrio schools which are beneath their dignity. It may be added that the Filipino is loath to leave his town and the townspeople are not willing that an outsider should come; the sending of an outsider in several instances has been the cause of trouble. In such cases the officials make a complaint against the teacher on some pretext; when an examination of the matter is made it is generally found that either he is not a "natural," or that he is of a different class from the majority of the townsfolk or most influential faction.

#### THE CHOLERA EPIDEMIC.

##### PROVINCE OF ILOILO.

Up to and including the month of August, 1902, both the interest and attendance in the public schools of this division were steadily increasing. The support given by the municipalities to the public schools was good, from their standpoint—very good. The people desired to have their children in school, but not infrequently the desire was not strong enough to cause the parent to sacrifice somewhat in order that it might be realized. Good will toward the American teacher was everywhere expressed in most cordial terms. And those towns which did not have American teachers sent in, and are still sending, petitions asking that they be given American teachers to take charge of their schools.

About the first of September cholera appeared in Iloilo Province, and the schools were soon all closed by order of the provincial board of health. The epidemic continued with varying severity through the province for about two months. During all of this time the schools were almost without exception closed.

It soon became apparent that malicious stories of the poisoning of wells were causing the ignorant mass of the people, and not a few of those who styled themselves "ilustrados," to look with suspicion upon the Americans. And in many cases all confidence in us was, for the time being, lost.

This unfortunate circumstance made it doubly hard for the American teacher to be of any assistance to the people in their distress. For, having no confidence in the Americans, they feared to accept the ministrations of the teachers lest they make use of the opportunity to poison them. In only four instances, however, was the American teacher openly charged with having poisoned wells or food. The situation in which we all found ourselves could not well have been more delicate. In every case where it was known that the American teacher was regarded with suspicion I directed him to come to Iloilo, believing that his absence from his town while cholera was continuing to spread would do more than any amount of argument could to disabuse the minds of the people of the idea that the American teacher was in any way the cause of the disease that was carrying off

so many. The result fully justified this action on my part, for in every town where the American had been under suspicion during that trying time he was welcomed back upon his return, with the full confidence of the people. In a few cases, where the confidence in the teacher was too strong to be broken by absurd rumors and the common sense of the people too sturdy to weaken them, the teacher remained at his post and gave the people all the assistance in his power.

In the few towns from which I have been able to secure fairly complete data of the mortality among the school children during that time it was found to amount to a little more than 15 per cent. I believe that this percentage is below, rather than above, the average for all the towns of the province.

From these figures it will be seen that it took us all the remainder of the school year to get our schools back to the point they had reached before cholera began its work in the province. The American teachers succeeded in not only getting back practically all of the old students, but also enough new ones to take the places made vacant by the death of 15 per cent of the former pupils. The native schools were still about 25 per cent short of their August numbers when schools closed.

I feel that the American teachers are to be congratulated upon their record. For they returned to a people whom malicious rumors had made distrustful and suspicious; to a people whose homes had been shattered by death; to a people whose lives were despairing; whose fields were untilled and whose carabaoes were either dead or stolen; whose courage had been broken; whose brightest outlook was somber indeed. Such was the condition of the people to whom the American teacher returned and in whom he began to instill a new courage. That he succeeded in overcoming their distrust, in gaining anew their confidence and support, and in refilling his schools speaks eloquently for him of good work done. How fully he succeeded in regaining their confidence is evidenced by the unprecedented number that came to the capital of the province for the month's work in the Summer Normal and also by the very large increase in the enrollment at the beginning of the new school year.

#### PROVINCE OF RIZAL

From April to September, 1902, it was necessary for every municipality to provide money to fight cholera. Nearly all the crops were devastated and wholly destroyed. The industrial taxes in the towns of this province are small, with few exceptions. The towns' treasuries became depleted. The land taxes were not yet paid. As a consequence of these conditions of the town treasuries the schools fared very poorly, so far as financial support was concerned. In many cases debts had been incurred by the municipalities and awaited the payment of the land taxes for liquidation. In some cases it was absolutely necessary for the towns to use some of their school funds accruing from the land tax for its cholera funds, as health regulations demanded certain expenses to avoid the recurrence of cholera. Also in some cases towns borrowed school money to fight grasshoppers, having since been so poor that they can not repay. The grasshopper pest impoverished the people in food and money. Parents could not send their children to school under these trying conditions even if they had been fully cognizant of the great benefits of the public schools.

#### GENERAL PROGRESS MADE—SCHOOL CONDITIONS.

##### PROVINCE OF PANGASINAN.

There can be no doubt that the public schools are winning their way. Two years ago the Filipino people did not believe that the educational movement in these Islands would be permanent. Time and again this statement was made by representative natives, but the belief no longer prevails. The natives everywhere in this section are coming to understand that the Bureau of Education is a fixture in the system of Civil Government, and that it is maintained solely for the good of the Filipino people. With

this realization has come, in nearly every pueblo, a complete cooperation with the American teacher. There are instances, to be sure, in which this is not true; instances in which the president, who by virtue of his position can in large measure make or mar the school, has not diligently exerted himself in its behalf. But I know of no case in which this spirit has been an aggressive one. It invariably shows itself in the form of indifference (not unmixed with colossal laziness) to progress of any kind which demands a certain amount of energy.

#### PROVINCE OF LA UNION.

It is difficult to judge of the results that the Bureau of Education has accomplished since it took up its work in the Islands. In judging of the work of any division we must take into consideration the work done by the Manila Normal School in training teachers who have returned to their homes and rendered valuable service in teaching not only English but the elementary branches, and in presenting their work according to modern methods. In no province more than this has the opportunity been afforded to the American teacher to see what modern training will do for the Filipinos. The result has been very encouraging to us all, and we entertain high hopes for the future of the school system as the Filipinos gradually take the places now held by the American teachers. To judge of the work accomplished locally we have only to compare present conditions with the conditions as we found them on our arrival some two years ago. Then but few people could speak English; now, in each town where an American teacher has been for some time, you will find many children and grown-up people who understand and speak considerable English, and the children have a good understanding of the elementary subjects. The interest now felt in education is manifested in many ways: Large enrollment and regular attendance; flourishing night schools in which many older men have learned English; the desire to retain the American teachers and to render them every aid possible in building new school houses and in repairing old ones; in passing local compulsory education laws; parents' coming to school to report the sickness of their children—all these things tend to show the interest parents and pupils take in education. The number of people speaking English as compared with those speaking Spanish would be in itself a standard to judge of the success of the work accomplished. To go further and judge of the advancement made in the common branches by those taught in the American schools for a short time as compared with the knowledge of those educated during Spanish times is, from our standpoint, most favorable to the American-taught pupil. Now each town has a class of from 20 to 30 pupils well started in the common branches, eager and willing to learn; all that is needed is the American teacher to help them along. The work done by the Filipino teachers is most gratifying; they have dropped the old method of teaching and have adopted our methods with splendid results.

#### PROVINCE OF TARLAC.

It has been observed that the schools have flourished best and received the most support in towns where the officials, especially the presidents, are men of ability and regulate well the municipal affairs, whereas the schools suffer in the poorly governed towns. Some officials have been removed from office on account of inefficiency or charged with some criminal offense of which they had been found guilty.

The Filipino *padres* have not been unfriendly toward the American teachers, although they have maintained an attitude of indifference toward the schools. In some towns the *padres* have addressed the pupils on special occasions. The *padre* of Tarlac contributed to the fund raised for the construction of an addition to the new building. Another favorable evidence is that there has been less demand for the closing of schools for the observance of customary holidays. This has been happily adjusted in some towns by excusing from class all pupils who desired to attend mass, after which they return to their classes.

## PROVINCE OF PARAGUA.

What is needed is more American teachers for a few years, and then there will be enough native teachers for the work to be done, who will come from the boys and girls now learning English.

In the barrio schools we have several teachers employed who do not know any English at all, but they teach the children to read and write their native dialect. The only book they have is a little book called "Doctrina Cristiana." In fact, this is the only book printed in the native dialect. The teachers of these schools are for the most part very ignorant and only receive from two to five pesos per month. It is positively pathetic to witness this fruitless effort to acquire knowledge. It is certainly encouraging to note the difference between these children who have no opportunity and the children who have been under the careful instruction of an American teacher for two years. I am forced to the irresistible conclusion that either American teachers or native teachers educated in America must be provided.

The Province of Paragua is a ripe field for the American teacher, for all the natives want teachers. There is but little hope of many people over 20 years old ever speaking English well, but there is great hope that all the children will be able to learn English well. The field is open and the people desire to learn English, and already more children speak English than there are grown people who speak Spanish. This province, and especially Cuyo, with proper concentration, can be made an English-speaking people.

## Statistics, Bureau of Education.

[Supervisory force of the Bureau of Education: DAVID P. BARROWS, General Superintendent; FRANK R. WHITE, Assistant to the General Superintendent.]

No.	Division.	Superintendent.	Headquarters.
1	Manila	O'Reilly, G. A.	Manila.
2	Albay and Sorsogon	Fisher, E. E.	Albay.
3	Camarines	Freer, W. B.	Nueva Caceres.
4	Batangas	Buck, H. T.	Batangas.
5	Bohol	Gibbens, J. T.	Tagbilaran.
6	Bulacan	Turner, E. G.	Belling.
7	Cagayan and Isabela	Bard, H. E.	Tuguegarao.
8	Capiz	Coddington, E. A.	Capiz.
9	Carite	Campbell, S. A.	Carite.
10	Cebu	MacClintock, Samuel.	Cebu.
11	Ilocos Norte	Kniseley, J. M.	Laong.
12	Ilocos Sur and Abra	Sodwell, W. W.	Vigan.
13	Iloilo and Antique	Brink, G. N.	Iloilo.
14	Laguna	Lutz, W. E.	Santa Cruz.
15	La Union	Mages, C. H.	San Fernando.
16	Leyte	Sherman, B. B.	Tacloban.
17	Masbate	Lamson, H. G.	Masbate.
18	Samar	Townsend, H. S.	Catbogtan.
19	Misamis	Van Schaick, G.	Cagayan.
20	Nueva Ecija	Thomson, T. W.	San Isidro.
21	Nueva Vizcaya	Coleman, T. W.	Bayombong.
22	Negros Occidental.	Putnam, Chas. E.	Bacolod.
23	Negros Oriental.	Lee, S. T.	Dumaguete.
24	Pampanga and Bataan	Treutle, W. A.	San Fernando.
25	Pangasinan		Lingayen.
26	Rizal	Blonsdale, B. G.	Romblon.
27	Romblon	Walk, G. E.	Romblon.
28	Surigao	Briggs, G. N.	Surigao.
29	Tarlac	Reimold, O. S.	Tarlac.
30	Tayabas	Micrman, J. C.	Lucena.
31	Zambales	Atkin, Otho	Iba.
32	Mindoro	Olney, R. S., governor.	Calapan.
33	Benguet	Back, W. F., governor.	Baguio.
34	Lepanto-Bontoc	Druidwidge, W., governor.	Cervantes.
35	Paragua	Miller, E. Y., lieutenant governor.	Cuyo.
	Moro Province	Saleeby, N. M.	Zamboanga.
	The Philippine Nautical School.	Colbert, W. J., principal.	Manila.
	The Philippine Normal School.	Beattie, G. W., principal.	Do.
	The Philippine School of Arts and Trades.	Gleason, R. P., principal.	Do.

## Secondary schools.

Division and location.	Principal.	Enrollment.	Attendance.
Albay and Sorsogon:			
Guinobatan, Albay	C. J. Pierson	57	47
Sorsogon, Sorsogon	S. W. Ford	37	34
Camarines, Nueva Caceres.	F. L. Crobe	157	122
Batangas:			
Batangas	H. C. Theobald	123	116
Bauan	E. H. Hammond	122	115
Taal	A. N. Smith	118	94
Balayan	R. Trace	121	111
Lipa	S. S. Milligan	101	94
Tausan	W. A. Pierce	77	66
Bohol, Tagbilaran	M. J. Patterson	200	137
Bulacan, Baguio	J. A. Fairchild	302	269
Capiz, Capiz	M. H. Pte	63	57
Carite, Carite	S. K. Mitchell	168	153
Cebu, Cebu	S. MacClintock	290	193
Ilocos Norte, Laong	W. Edmonds	202	103
Ilocos Sur and Abra:			
Vigan, Ilocos Sur	Chas. K. Bliss	431	354
Bainabed, Abra	F. S. O'Reilly	140	127
Iloilo and Antique:			
Iloilo, Iloilo	C. H. Covell	713	498
San Jose, Antique	C. R. Cameron	47	43
Laguna, Santa Cruz	R. H. Neely	149	123
Union, San Fernando	J. W. Johnson	179	165
Masbate, Masbate	R. F. Wright	37	32
Nueva Ecija, San Isidro	C. D. Schell	161	145
Occidental Negros, Bacolod	Ray Howell	185	177
Oriental Negros, Dumaguete	F. J. Bailey	101	65
Pampanga and Bataan:			
San Fernando, Pampanga	J. L. McMillan	140	130
Bataan, Bataan	R. G. Gierin	86	65
Pangasinan, Lingayen	T. D. Amleymer	284	278
Rizal, Pasig	Stewart Laughlin	133	118
Romblon, Romblon	J. H. Jenkins	58	52
Surigao, Surigao	C. M. Moore	96	51
Tarlac, Tarlac	O. S. Reimold	163	134
Tayabas:			
Lucena	H. H. Balch	110	90
Boac	E. F. Baker	98	76
Zambales, Iba.	C. Derbyshire	71	62
Total.		5,513	4,586

## Statement of enrollment and attendance of night schools for September, 1903.

No.	Division.	Number of schools.	Enrollment.	Average attendance.
1	Manila:			
	City schools.	23	3,510	2,840
	Trade schools.	6	124	107
2	Albay and Sorsogon	6	248	187
3	Camarines	3	63	64
4	Batangas	9	399	302
5	Bohol	5	214	145
6	Bulacan	15	488	404
7	Cagayan and Isabela	5	160	107
8	Capiz	2	177	99
9	Carite	7	272	272
10	Cebu	7	293	191
11	Ilocos Norte	4	170	122
12	Ilocos Sur and Abra	11	429	275
13	Iloilo and Antique	15	725	473
14	La Laguna	13	403	317
15	La Union	4	137	106
16	Leyte	6	188	100
17	Masbate	6	176	141
18	Samar	4	367	110
19	Misamis	2	68	54
20	Nueva Ecija	5	144	95
21	Nueva Vizcaya	3	189	102
22	Occidental Negros.	10	316	226
23	Oriental Negros.	3	112	65
24	Pampanga and Bataan.	10	317	246
25	Pangasinan	13	411	299
26	Rizal	8	440	355
27	Romblon	5	115	93
28	Surigao	2	71	46
29	Tarlac	6	315	211
30	Tayabas	7	189	142
31	Zambales	7	355	259
34	Lepanto-Bontoc	1	44	19
	Moro Province	1	24	20
Total.		227	11,429	8,595

Statement of public day schools for September, 1908.

Divisions.	Christian population as given by last census.	Number of towns with last census.	Number of towns with American teachers.	Number of American teachers.	Number of native teachers.	In towns under supervision of American teachers.		In towns not under supervision of American teachers.		Total.	Estimate of Christian school population.	Percentage of school population now in public schools.	
						Enrollment.	Attendance.	Enrollment.	Attendance.				
Manila	220,553	14	13	65	151	3,982	3,541	585	517	4,567	4,059	44.111	10
Albay and Sorsogon	353,921	42	18	26	45	2,423	1,983	260	190	2,703	2,481	31.84	24
Camarines	234,090	39	11	23	74	3,975	2,570	3,701	2,008	7,676	4,638	46.818	16
Batangas	258,206	22	12	34	121	7,976	6,255	1,850	1,200	9,126	7,455	51.642	18
Bohol	226,128	18	18	62	19	82	1,300	710	429	12,378	5,759	28.626	22
Bulacan	222,551	25	18	26	86	6,937	3,426	1,941	1,478	8,278	6,904	44.310	20
Cagayan and Isabela	212,475	41	14	21	51	4,174	3,119	1,082	764	5,256	3,883	42.495	12
Cebu	225,560	35	6	12	14	1,307	939	239	141	1,746	1,062	31.83	3
Cavite	134,287	23	14	22	64	3,424	2,831	768	607	4,192	3,438	28.857	16
Cebu	653,469	41	10	30	177	3,945	2,493	1,840	1,195	5,685	3,688	131,994	4
Ilocos Norte	177,149	15	8	14	65	4,769	3,393	1,996	739	5,863	4,032	35,430	17
Ilocos Sur and Abra	209,618	36	15	29	161	9,951	6,981	5,432	4,060	15,383	11,041	41,924	36
Holo and Antique	537,178	71	20	53	188	6,397	4,996	4,044	2,683	10,941	7,629	107,436	10
La Laguna	148,840	23	14	23	62	5,060	3,961	444	3,701	2,855	28,768	13	
La Union	127,966	14	9	16	74	3,259	2,563	875	574	4,134	3,137	25,598	16
Leyte and Samar	652,463	94	13	24	80	3,578	2,706	4,500	3,031	7,878	5,737	180,493	6
Masbate	41,045	12	5	10	15	852	746	157	352	746	609	11	
Misamis	138,327	25	5	8	55	658	481	22	658	481	27,665	2	
Nueva Ecija	132,267	23	7	13	22	1,412	1,002	1,173	841	2,585	1,843	26,453	7
Nueva Vizcaya	16,073	6	6	2	3	393	906	1,438	1,050	2,811	2,156	3,215	77
Occidental Negros	303,743	34	16	25	116	7,627	5,536	1,744	1,122	9,371	6,678	61,149	15
Oriental Negros	196,397	24	15	22	119	4,447	3,622	284	212	5,131	3,884	37,279	14
Pampanga and Bataan	286,477	35	30	32	99	5,051	3,051	1,069	781	8,000	5,892	53,235	10
Pangasinan	397,832	37	14	27	122	6,973	5,456	1,764	1,212	8,737	6,668	79,526	11
Rizal	146,169	32	13	23	60	3,874	2,919	871	674	4,745	3,393	29,234	11
Romblon	52,858	6	6	8	29	1,798	1,013	898	425	2,696	1,438	10,372	25
Surigao	93,714	34	5	10	110	1,320	1,041	7,575	4,825	8,893	5,866	19,143	46
Tarlac	135,397	17	8	15	49	3,029	2,366	946	722	3,966	2,679	27,679	17
Taybas	205,411	31	10	16	64	5,929	4,365	1,205	814	7,044	5,179	40,692	15
Zambales	100,955	25	7	11	60	3,753	2,918	1,298	825	5,051	3,743	20,191	25
Mindoro	35,234	6	2	2	17	617	493	445	300	1,062	798	7,659	15
Paragu	26,960	12	3	5	27	47	47	236	180	277	5,792	57	
Insular Normal School					19	1	352	310		352	310		
Insular Trade School					5	2	130	98		130	98		
Insular Nautical School					1	1	112	108		112	108		
<b>Total</b>	<b>6,967,011</b>	<b>934</b>	<b>338</b>	<b>691</b>	<b>2,496</b>	<b>123,147</b>	<b>92,617</b>	<b>59,055</b>	<b>38,754</b>	<b>182,202</b>	<b>131,371</b>	<b>1,384,776</b>	<b>13</b>

NOTE.—Moro Province, Benguet, and Lepanto-Bontoc are not here included; enrollment, 2,000; attendance, 1,500.

BUREAU OF AGRICULTURE.

Prof. F. LAMSON-SCHRIEBNER, Chief of Bureau.

Fibers of the Philippines.

THE CULTIVATION OF MAGUEY IN THE PHILIPPINE ISLANDS.

(By H. T. Edwards, fiber expert for the Insular Bureau of Agriculture.)

LETTER OF TRANSMITTAL.

SIR: \* \* \* There is reason to believe that the production of maguey can be made one of the important agricultural industries of the Islands. It is already widely distributed, having been reported to this Bureau from 22 different provinces. There are large areas of land, unsuited to almost any other crop, which would be in every way satisfactory for maguey. There is a good demand for the fiber, the current quotations for sisal in the New York markets being but 2 cents less per pound than for abaca. For the development of this industry in the Philippine Islands it is deemed important that every effort should be made to improve the conditions of plantation management, to encourage the introduction of fiber-extracting machinery, and to disseminate as widely as possible whatever information is available relative both to the cultivation of the plant and to the extraction and treatment of the fiber.

Very respectfully,

H. T. EDWARDS, Fiber Expert.

Prof. F. LAMSON-SCHRIEBNER,

Chief Insular Bureau of Agriculture.

INTRODUCTION.

Maguey and sisal are the common names of two closely allied species of the genus *Agave*. There has been some confusion in the use of the name maguey, it being sometimes applied to all of the species of *Agave*. Strictly speaking, however, the maguey of Mexico and Central America is the plant of *Agave americana*,

which produces the fiber known as "pita," while sisal is the fiber produced by the plant henequen, *Agave rigida sisalana*. In the Philippine Islands both the plant and the fiber are generally known as maguey and have been classified as belonging to *Agave americana*. It is probable, however, that the greater part of the so-called maguey fiber of the Philippines is produced by the species *Agave rigida sisalana* and therefore should more properly be termed "sisal." The fiber known as ixtile, or Tampico fiber, is produced by *Agave heteracantha*.

The Agaves are natives of Central America, but are now widely distributed throughout the world. They are found in Mexico, Central America, the West Indies, southern Europe, India, and other countries. The plants are often used for ornamental purposes, the juice has medicinal properties, and when distilled has a wide use as an intoxicating beverage known as pulque or mescal, the pith furnishes a good substitute for soap, and the fibers have a great variety of uses, viz. for cordage, fishing lines, nets, hammocks, saddle blankets, brushes, laces, and both fine and coarse fabrics.

HISTORY AND DISTRIBUTION IN THE PHILIPPINE ISLANDS.

Maguey was first introduced into the Philippine Islands from Mexico or Central America by the Spaniards, but at what time, or by whom, we are unable to determine. The plant has long been raised in a small way, but it is only in very recent years, since there has been an increased demand for the fiber, that its cultivation has become an important industry. From the Provinces of Ilocos Norte, Ilocos Sur, and Union maguey fiber is now exported in considerable quantities. In many other provinces we find the maguey plant and in numerous instances the fiber is extracted for local use. The production of abaca has been such an important industry in the Islands and its cultivation has received so much attention that the good qualities and true value of maguey have been to some extent overlooked.

In the different provinces we note a variation of the spelling

of the word "maguey," also several distinct ways of extracting the fiber and a number of different uses for the same. Although this fiber is produced in commercial quantities in but a few provinces, it is otherwise widely distributed through the Islands. The cultivation and utilization of maguey has been reported to this Bureau from twenty-two different provinces, as follows: Abra, Albay, Antique, Bataan, Batangas, Benguet, Bohol, Bulacan, Camarines, Capiz, Ilocos Norte, Ilocos Sur, Iloilo, Masbate, Nueva Ecija, Nueva Viscaya, Pampanga, Pangasinan, Romblon, Tayabas, Union, and Zambales. In different localities the fiber is separated by different methods and is used for different purposes, as is shown by the following data:

**Abra.**—Maguey grows abundantly but is not largely utilized, owing to the difficulty of separating the fiber without the use of sea water for retting. Experiments have been made in sending the maguey leaves from this province to the tide waters of Ilocos Sur. The fiber thus produced was in all respects equal to that obtained from the plants grown in Ilocos. Maguey also has a local use peculiar to this province. The leaves are split lengthwise into a number of parts. These parts are dried in the sun for two or three hours and are then used as lashings for tying bales of tobacco. This material, however, is reported to be lacking in strength and not of great value.

**Albay (Magui and maguei).**—Grown in small quantities for local use only.

**ANTIQUE (Magui).**—In Antique maguey fiber is extracted by the same process as that used for piña (pineapple). The leaf is placed on a smooth board and is then scraped with a piece of earthenware, which removes the pulp. The fibers are then taken out by hand, washed and dried. This method produces a very fine quality of fiber which is used in the manufacture of delicate fabrics.

**Bataan.**—Grown in small quantities for local use only.

**Batangas.**—Several thousand plants have recently been sent to Batangas from Ilocos Sur. Maguey has previously been grown in this province only in small quantities. Two methods of fiber extraction are practiced in Batangas: (1) The leaf is treated by the stripping process employed for abaca; (2) the leaf is split in two parts, one end being fastened to a stick or pole. The free end is then caught between a piece of split bamboo which is manipulated with both hands of the operator over the entire length of the leaf until the pulp is entirely removed. Both of these methods are more laborious than the retting process, but they produce a better quality of fiber.

**Benguet.**—Maguey is grown in the pueblo of Kapangan. It has only a local use.

**Bohol (Magay).**—Found principally in the pueblos of Loon, Panglao, and Maribojoc. The fiber has a local use both for cordage and for fabrics.

**Bulacan (Mague).**—Grown only in small quantities for local use.

**Camarines.**—Grown largely in the pueblo of Basao. The fiber is separated by the piña process and is used in making fine and delicate fabrics. There is a great deal of land in Camarines well suited to maguey and its cultivation might well become an important industry.

**Capiz.**—Grown in small quantities for local use.

**Ilocos Norte.**—Ilocos Sur and Ilocos Norte are the two important maguey-producing provinces of the Islands. Nearly all of the fiber which is exported comes from these two provinces. Maguey is found in all parts of Ilocos. In the pueblo of Batac it is estimated that one-fourth of the population (18,000) is engaged in raising maguey. In Paoy it is estimated that there are 300 hectares of maguey, producing an annual output of fiber valued at \$7,500. There are several important plantations in the pueblo of Nagpartian and in the barrio of Davila. Owing to the method of planting maguey in small and widely scattered plots it is difficult to make any very definite

estimate of the area under cultivation. The only estimate received by this Bureau states that 500 to 600 hectares are under cultivation, producing an annual yield of about 2,500 piculs of fiber. It is the general custom on the different plantations to use the rich lowlands for rice and corn, reserving for maguey sandy knolls, fence corners, and any other so-called "waste land," it being considered that the only requirement for maguey is sufficient room in which to grow. There has been a great increase in the area devoted to maguey in this province during the past few years owing to the higher prices paid for the fiber. Maguey fiber is used locally in Ilocos Norte both for cordage and for fabrics and is exported in large quantities.

**Ilocos Sur.**—This province produces by far the largest amount of maguey fiber of any province in the Islands. The general conditions are the same as in Ilocos Norte. Planting is largely done on waste lands, the fiber is extracted by the retting process, and the fiber is exported to Manila.

**Iloilo (Magui).**—Grown in small quantities near the coast. Has only a local use.

**Masbate (Magui).**—Grown in small quantities. The fiber is extracted by the piña method and has only a local use.

**Nueva Ecija, Nueva Viscaya, and Pampanga.**—Grown in small quantities for local use.

**Pangasinan (Amaguey or pita).**—A small amount of fiber is exported from this province and has a limited local use for cordage and fabrics.

**Romblon (Pita).**—Grows near the seacoast in small quantities.

**Tayabas.**—Grown in small quantities and used for fabrics. Is considered equal to piña.

**Union.**—Is exported in small quantities and has a considerable local use principally for cordage. The fiber is extracted by the water-retting process.

**Zambales (Amaguey).**—Conditions are similar to those of Union. Small quantities of the fiber are exported and water retting is practiced.

The above data is sufficient to show that, while maguey is not at the present time an important crop in many provinces, it is at the same time widely known and distributed. This fact will greatly facilitate its more general introduction.

#### THE MAGUEY PLANT AND FIBER.

The maguey, or "century plant," is largely used in the United States for ornamental purposes. In many parts of the Philippine Islands it may be seen growing by the roadside, in gardens, and in neglected fence corners.

The plant consists of a short, heavy stem which bears an aloe-like cluster, or rosette, of from 20 to 40 thick, fleshy leaves. These leaves are from 3 to 7 feet long and from 2 to 4 inches wide. They are light green in color, are covered with a whitish powdery substance, bear sharp lateral teeth and a terminal spine. The leaf is composed of pulpy material interspersed with vascular bundles which furnish the fiber. When the plant matures, which is in from seven to fifteen years, a central stalk, or "pole," grows to a height of from 15 to 20 feet. This stalk first bears flowers and afterwards a large number of small bulbs which, when mature, fall to the ground. After flowering once the plant dies.

The fiber of the maguey, belonging to the class known as structural fibers, is produced by the leaves. It is obtained by separating the pulpy portion of the leaf from the fine filaments, or fibro-vascular bundles, which run through this pulp. The fiber if carefully separated and dried is quite white and brilliant. It is 4 or 5 feet long, is fine and soft, and is more wavy or fluffy than is Manila hemp. Another marked quality is its great elasticity, which gives it great value when used for cordage that is liable to be subjected to any sudden strain. "Its main faults are the stiffness, shortness, and thinness of wall of the individual fibers, and a liability to rot." (Spon.) Its strength as compared with certain other fibers is shown by the following



data: "In a trial of strength near Calcutta the tests were made with ropes 1 fathom long and 3 inches in circumference, with the following results: The Agave or pita broke in a strain of 2,519½ pounds; coir, 2,175 pounds; jute, 2,456½ pounds; and sunn hemp, 2,269½ pounds. In an experiment with Russian hemp and pita the first named broke with 160 pounds weight and the latter with 270 pounds." (Dodge.) These tests are sufficient to show that in the important quality of strength maguey compares favorable with other well-known commercial fibers.

#### CLIMATE.

Almost any tropical or subtropical climate appears to be favorable for the growth of maguey. Owing to its thick, fleshy leaves it will not suffer during a prolonged drought, while it also flourishes in the humid climate and during the rainy season of the Philippines. It is stated that in a humid climate a longer and more elastic fiber is produced. The only injury which the plant suffers in the Philippine Islands, from climatic conditions, is from the heavy winds which sometimes tear and lacerate the leaves.

#### SOIL.

The most important feature of the soil suitable for maguey is that it shall be well drained. The plant is very sensitive to water at the roots, and without good drainage will make but a poor growth or will die outright. Maguey will grow well either on a heavy or a light soil and under very adverse conditions, but the impression that it will do well in any soil is a mistaken one. Plantings are sometimes made close to the seashore in dry sand. Under these conditions even maguey can not be expected to thrive. Undulating land or hilly slopes are the most suitable, as in such locations there is usually excellent drainage. On the plantations in the Ilocos provinces the lowlands are used for rice and corn, the small hills, together with any sandy or stony pieces of ground, being reserved for maguey. The planters in these provinces will always say, "only cheap land should be devoted to maguey." While this may be true with the present slow and expensive method of fiber extraction, with the introduction of fiber-extracting machinery it is very probable that much of the land now used for other crops which are considered of greater value might well be planted to maguey. This plant will grow and yield a certain amount of fiber upon almost any soil and with no care. Under more favorable conditions, however, the yield of fiber may be greatly increased.

#### ESTABLISHING A PLANTATION.

The practical question which faces any prospective planter of maguey is, Where and under what conditions can a maguey plantation be established in the Philippine Islands? Suitable climatic and soil conditions can be found in almost any province in the Islands. If the fiber is to be extracted by water retting the location must be near the mouth of some river, where the tide water can be utilized. This method can not be recommended. It is slow and expensive and requires the use of a great amount of labor. If fiber-extracting machines are to be used the location can be made at any point where there is a sufficient amount of well-drained land, heavy clays and very light sands being avoided if possible. Due consideration should also be given to the facilities of transportation, the amount of available labor, and a good water supply at some central point.

The general methods of plantation management as described in the bulletin entitled "The Cultivation of Sisal in Hawaii" may be advantageously followed in these Islands. Owing to the difficulties and slowness of transportation, the first step to take after having secured the land for the plantation should be to order the suckers for planting. These can usually be bought in sufficient quantities from the maguey planters either of Ilocos Norte or

Ilocos Sur and cost from \$3 to \$6, local currency, per thousand. The plantation should then be mapped out, the land cleared, and the sites selected for buildings and a nursery.

#### PLANTING.

The maguey produces both seed and suckers, the former, however, only in small quantities. In starting a new plantation seed is seldom or never used. When the maguey plant reaches maturity suckers grow out from the axils of the lower leaves and small bulbs are borne upon the flower stalk or "pole." Either these suckers or the bulbs may be used for the new plantation. If it is possible to secure well-developed suckers, these may be planted at once in the field. When bulbs or pole plants are used they should be first set in the nursery in rows 1 foot apart and 6 inches in the row. In about a year these plants will be ready for transplanting.

The system of planting followed in the Philippines differs materially from that of Mexico and Hawaii. In the latter countries the plants are set from 6 to 8 feet apart, while in these Islands they are usually given but three or four feet. The reason for this close planting is said to be that if given a greater distance the plants will be torn and lacerated during the heavy "baguios," or windstorms. This matter is one to be largely determined by local conditions, the nature of the soil, the climate, and the frequency of heavy winds. In a locality subject to typhoons close planting may be necessary, otherwise the number of plants should not exceed 800 to 1,000 to the acre. The time for planting is during the rainy season, from June to November.

#### CULTIVATION.

In the nursery the plants should be kept well cultivated. In the field no cultivation is necessary except to keep down the grass and weeds. Owing to the sharp teeth and spines which are borne on the leaves, the use of animals for cultivating soon becomes impossible. When the plants are fully developed even hand cultivation becomes impracticable. Great care should be taken when doing any cultivating not to injure the leaves, as such injury will lower the quality of the fiber.

#### INSECTS AND DISEASES.

The hardness of the maguey plant with regard to soil and climatic conditions seems to be equally true as regards insect enemies and fungus diseases. The sisal of the Bahamas was at one time attacked by a fungus on the leaves and a mealy bug has been reported as having done some damage. In these Islands, however, the plant does not appear to be troubled either by insects or diseases. It is stated that the only enemy of the maguey in the Philippine Islands is the typhoon.

#### EXTRACTION OF FIBER.

The first crop of leaves can be cut in about three years from the time of planting. It is customary to harvest once a year during the dry season, from January to May. Each plant should then bear from 15 to 20 leaves. The fiber-extraction process should commence within twenty-four hours after cutting, as otherwise the fiber will be stained at the end. There are several different methods used in the Philippine Islands for the extraction of the fiber:

- (1) The abaca-stripping process.
- (2) The split-bamboo stripping process.
- (3) The piña-scraping process.
- (4) The maceration and retting process.

The methods of extracting by which the fiber is separated from the pulp without the use of water for retting give a product of very superior quality. These methods, however, are slow and laborious and are not in any general use.

The retting process has for its object the dissolution of the

gummy, resinous substance which envelops the filaments. This substance being very adhesive prevents the free separation of the fibers. If the leaf is not sufficiently retted the fibers will still adhere to each other, while if the process is carried too far the product is seriously injured or rendered utterly worthless.

Two distinct methods are in use. In the former the leaves are cut, crushed, or beaten, gathered in bundles, and allowed to ferment. When fermentation has ceased the bundles are placed in water until the pulpy material has further deteriorated. If this process is properly carried out the leaves may be removed from the water after two days of retting. By this process one-third or more of the product is converted into tow. By the latter method after the leaves are cut and the thorns removed they are split in 4 or 5 pieces and made into bundles, these bundles being immediately placed in the water for retting. It is advisable to have the bundles small and of uniform size, also the coarser leaves should be separated from the more tender ones, as the latter ferment more quickly.

A great deal depends upon the nature of the water used for retting. This may be stagnant or running, fresh or salt, warm or cool. A high temperature and saline properties increase the rapidity of the process. Stagnant water has the advantage of being warmer and the disadvantage of easily becoming foul. Salt water is preferable to fresh. The tide waters of the rivers are most generally used.

For the retting process the bundles of leaves are placed one upon another in the water. They should be turned every three or four days, as those on the bottom will ferment more rapidly. Even when the greatest care is used, by the time the coarser part of the leaf is ready to be removed the finer part is over-retted and consequently weakened. This difficulty may be overcome by setting upright sticks in the water, fastening the bundles to them and first retting for three or four days only the coarse part of the leaf. This method is more expensive but will produce a better product. After the seventh day the leaves should be inspected daily. They may be removed in from seven to fourteen days, depending upon the condition of the water.

#### APTERTREATMENT OF FIBER.

When the retting process is complete the fiber should be removed from the water and dried in the sun. This drying will ordinarily take from two to three days. Care should be taken that the fiber be not exposed to rain or heavy dews during the process of drying, as these will injure its appearance. After being thoroughly dried a shaking and brushing is necessary to remove whatever extraneous matter may still adhere to the fiber. The finished product is now ready for the baling press. During whatever handling is necessary and in the process of baling great care should be taken that the fiber be kept perfectly dry and that the different strands and hanks do not become tangled and dirty.

#### YIELD.

Owing to the fact that this Bureau has not as yet done any experimental work with maguery the only available figures as to the yield of fiber per leaf, per plant, and per acre are those furnished by our correspondents. Unfortunately these figures show a remarkable variation, so that only a general estimate can be made. In Ilocos Sur the yield of fiber is estimated at one picul of 137½ pounds for every 6,000 leaves. Plantings made 4 by 4 feet would give approximately 2,700 plants to the acre. With an average yield of 15 leaves to the plant we would have a total yearly yield of 40,500 leaves, producing 6½ piculs or 928 pounds of fiber per acre. The estimated yield of fiber in this province is 4 per cent of the weight of the leaves. This is the same as the sisal of Yucatan and somewhat higher than that of Hawaii. The total amount of maguery fiber exported from the Philippine Islands for the year 1901 was 875 tons. For the first

six months of the year 1902, 867 tons were exported, indicating a considerable increase in the annual production.

#### VALUE AND USES OF FIBER.

The current prices paid by commercial houses in Manila for maguery fiber are as follows: For the first grade, \$15, local currency, per picul; for the second grade, \$12 per picul; for the third grade, \$9 per picul. It is stated by fiber growers that the average relative amount of the different grades produced by a given amount of fiber is, for 1,000 pounds of fiber: First grade, 920 pounds; second grade, 50 pounds; third grade, 30 pounds.

The fiber is produced both for local use and for export. In the Visayas maguery is extracted by the same method as that used for piña. By this process a very fine and soft fiber is secured which is suitable for use in making delicate handkerchiefs, laces, and cloth. When used for these purposes the young and tender leaves should be selected, as these yield a finer quality of fiber. In northern Luzon, where extraction is by water retting, the fiber is coarser and is more suitable for cordage.

Maguery fiber has a variety of uses in nearly all civilized countries of the world. In the United States principally for binder twine, also for ships' ropes and cables and for small cordage. In Mexico and South America for lines, nets, hammocks, and saddle cloths. In European countries for various classes of cordage.

#### FIBER-EXTRACTING MACHINERY.

The essential principle of the fiber extracting machine is that the pulpy material of the leaf is scraped from the fiber without any preliminary maceration or fermentation, thus saving all of the expense and labor of the slow retting process. The use of fiber-extracting machines is a question which has received much attention and is a matter of general interest in the Philippine Islands. In the case of abaca no machine has yet been introduced which has met with any considerable degree of success. With maguery, however, several different machines are in general use in Mexico and the West Indies. Descriptions of the simple "raspador" and of the more complicated machine used at Sisal are given in the bulletin on "The cultivation of Sisal in Hawaii." There is no reason why such machinery should not be used in the Philippine Islands. The quantity of fiber produced is amply sufficient to justify its introduction. With suitable climatic and soil conditions it only requires machinery to make the production of maguery an important industry in these Islands. Without such machinery, however, this industry can never become a very profitable one. The competition between different fibers is now such that only those possessing the most desirable qualities and which are produced at a minimum of cost can be expected to hold their place in the commercial world.

#### PROSPECTS OF THE MAGUERY INDUSTRY IN THE PHILIPPINE ISLANDS.

The general aspects of the maguery industry as it now exists in the Philippine Islands have already been considered. The plant is widely distributed through the Islands. The fiber is extracted in a small way in many provinces and in considerable quantities in northern Luzon.

Maguery fiber has a recognized place as one of the leading commercial fibers of the world. Its production on a large scale is a profitable industry in Mexico and Central America, where the conditions are in no way more favorable than they are here in the Philippines. With the same business-like management of plantations and the use of fiber-extracting machinery the industry is one which should yield reasonable profits and which is worthy of being widely extended in these Islands. The maguery plantation either in this, or in any other, country can never be looked upon as the proverbial "gold mine." It is, however, a safe and a profitable industry, and where abaca will die for want of water

and cotton is destroyed by insect enemies maguey continues to flourish and yield good returns.

#### INQUIRIES RELATIVE TO FIBER PLANTS AND FIBERS.

(Reply from Negros Occidental to Circular No. 3.)

1. Name in the order of their importance all the plants of your province or municipality which yield fiber for commercial or local use.

Abaca, *Musa textilis*, the different varieties of which are moro, bisaya, kinishol, salag, lonó, camarines, tanaeo, agutay, kala-ao, paol, tindoc, umambac, sab-á, cadiznon. Other species are piña, lulac, *Cossypium arboreum*, maguey, anabó, togabong, dalupang, salagó, siapo, bunang-bunang, burl, bamboos, anilao, bagocon, lapnis, silhigon. tanag, banilad, balitnong, cocoanuts, pathhalo, paou, cagay, salibang-bang, labóg-labóg, sig-id, hagnaya, bulao-bulao, bulacau, tipolo, hanagdong. Besides these, there are others, used in the manufacture of hats, mats, etc., such as bullo, nito, pandan, tiog, lucay, mora, rattan. Many of the plants described are used for making cloths, from the very finest to the very coarsest; others are used only for making rope; still others for making mats, hats, etc.

2. What is the approximate area occupied by these fiber plants, and what is the estimated value of the fiber produced?

These plants cover a considerable area, being found everywhere, most of them growing spontaneously. To speak of none but abaca (the only fiber exported), its annual yield may be stated at \$50,000 Mexican.

3. What is the amount of fiber produced by a single or individual plant, and what is the yield of fiber on any given area?

The greater number of those mentioned are not cultivated, and others, such as tindoc, umambac, sab-á, and cadiznon, are cultivated for their fruits only. The first seven varieties of abaca, which are cultivated for their fibers, yield, per hectare, 14 piculs of white, clear fiber, bringing \$2 to \$4 more than the current price of the best quality of abaca quoted in the Manila markets.

4. Do you think that such fiber plants as cotton, flax, jute, ramie, or other commercial fibers not now grown in your vicinity, might be successfully introduced and cultivated?

I am confident that cotton, flax, jute, ramie, and other plants could be cultivated advantageously. Bulao is one of the varieties of American cotton, and ramie seems to me the same as or very similar to anabó.

5. Do you know of any native fiber plants not now used which might possibly be of some value?

Many of the plants above-mentioned are but little utilized in this locality if, indeed, at all, though their importance is by no means doubtful. To illustrate: There is an immense area of land covered with paol, which grows spontaneously, but absolutely no use is made of this plant, notwithstanding the fact that the fiber is highly esteemed for the fine cloth that can be woven from it, it being inferior only to that made of abaca. The same is true of tindoc, umambac, sab-á, and cadiznon. We have also anilao, salago, siapo, bagocon, etc., of which no use is made, but from which ropes and strong mats can be made.

6. Give the names of those plants the leaves, bark, or other parts of which are used for making hats, mats, or other articles of value. Mention the part used.

Hats are made of the stems of nito, and also from bamboo, tiog, rattan, etc.; mats and hats are also made from the leaves of burl, ballo, pandan, mora, etc., and cloth from abaca.

7. Do any varieties of rattan, or plants used for similar purposes, grow in your vicinity? If so, mention the degrees of abundance and the names and uses of the different kinds.

Several varieties of rattan grow upon the mountain slopes, such as magnoa, palasan, and pansilanon, which are of the best quality; then come pudlos, bugting, balagacay, tomaron; and, lastly,

calapé, taguit, tamalola, panlitocan, talonton, lontoc, halambah, and others, which are not so strong. Unless the anarchical system of cultivation hitherto prevailing be remedied we will without doubt be compelled very soon to import from other localities.

8. If fibers, or grades of fibers, are produced in your district which have distinct names please mention them along with the names of the plants from which they were taken.

Sásá is a fiber produced by the burl palms, bonot from the shell of the cocoanut, sudcap from bamboo or paé, banhot from the bark of anilao, anabó, bagocon, salagó, siapo, etc.

9. Please give the names and addresses of fiber-plant growers and those otherwise interested in fiber plants and their products.

The planters are Messrs. Paulino Torres, Remigio Salas, José Narmiento, Agapito Puerto, Angel Linco, Justo Abendan, Valentin Ciridon, Teofilo Ciridon, Patricio Revillo, Ignacio Berbar, Bernardino Crabejo, and others. Those interested in these plants are Messrs. Rafael Ramos, Pedro Vazquez, of Jimamaylan, in this province; Montano Virto, of La Carlota; Timoteo Ungson, of Talisay; Marciano Araneta and Emiliano Trinidad, of Bago.

Note: All information relative to the soil and cultivation of fiber plants, methods employed in extracting the fiber, the possibility of manufacturing paper from the native material, and, in fact, any notes relative to the fiber industry of the Archipelago, are greatly desired and will be duly appreciated when furnished.

The land on which the plants referred to grow is situated on the western slope of Mount Canlaon, at an elevation of from 100 to 1,500 meters. It is very rich in humus, and the numerous rivulets surrounding it afford sufficient moisture. At some points, at certain distances, large stony tracts are met with which are left uncultivated or, at most, plantings are intercalated among them. It is also volcanic, and in past years it was noted that the lava from the mountain covered the slopes to a depth of three inches. Rains are frequent and the season commences much earlier and terminates much later. Therefore, I believe it to be the most suitable soil for this class of cultivation.

Abaca cultivation being the most important in this locality, I will touch lightly upon the common qualities of the varieties of this plant, as known by the planters.

*Moro*.—Stalk cylindrical, dark, coarse, 15 to 18 feet long; leaves dark green, glossy, coriaceous, wide and long; flower and fruit small, with seeds: thread very consistent, fibers coarse, strong, abundant, white, brilliant; manipulation very resistant; yield very good.

*Bisaya*.—Stalk cylindrical, white, coarse, 15 to 18 feet long; leaves dark green, glossy, extended, wide, long; flower and fruit large, with round black seeds when perfectly matured; thread very strong, fibers coarse, strong, white, brilliant; manipulation slightly resistant; yield abundant.

*Kinishol*.—Stalk dark, conical, coarse, long; leaves dark green, glossy, extended, wide, long; flower and fruit large, with seeds; thread firm; fibers coarse, white, spicate; manipulation easy; yield good.

*Salaoog*.—Stalk cylindrical, yellowish, slightly coarse, 9 to 12 feet long; leaves yellowish green, coriaceous, narrow, short; flower and fruit small, with seeds; thread firm, with white and coarse fibers; manipulation easy; yield fair.

*Lono*.—Stalk medium dark, cylindrical, with red stripes on the border of the hood, coarse, 15 to 18 feet long; leaves dark green, glossy, extended, wide, long; flower and fruit middling with seeds; thread firm, fibers white, fine, glossy; manipulation easy; yield good.

*Camarines*.—Stalk cylindrical, slightly dark, coarse, 20 feet long; leaves dark green, glossy, extended, wide, long; flower and fruit dark, with seeds; thread very resistant, fibers coarse, strong, white, brilliant; manipulation easy, yield very good.

*Tanao-ao*.—Stalk cylindrical, dark, coarse, 15 to 18 feet long;

leaves dark green, glossy, extended, narrow, short; flower and fruit small, with seeds; thread firm, of many fibers which are coarse, white, and glossy; manipulation difficult; yield good.

These are the varieties of abacá cultivated in this locality. One thousand plants of abacá are set out to the hectare. the system being as follows:

After a suitable spot combining all the necessary favorable conditions has been selected the trees are felled, thus making a clearing, this operation costing all the way from \$15 to \$25, Mexican. Some of the trees are allowed to remain standing, however, at certain distances, to serve as protection to the abacá. The serviceable trunks are laid aside and the rest burned. This last operation is performed during the closing days of the dry period, with the object of obtaining a crop of rice and corn on the same ground—the rice or corn being planted in holes made in the ground with sticks or poles. When these crops reach a height of three or four inches pits are dug in rows, in which the young abacá plants are placed approximately three meters apart, after which they are well covered. During the first year no cultivation is necessary other than that done in the planting of the rice or corn. Bananas are also planted at certain distances in order to afford shade to the abacá plants. Bananas yield earlier than does the abacá and the sale of the fruit helps to defray the expenses of the young plantation.

At the expiration of six months the corn and rice can be harvested, as early varieties are always selected for planting. Bananas can also be harvested at this time. The stubble is then cleaned away and sweet potatoes planted. It has been noted that this new planting is beneficial to the growth of abacá. The earth is cleared of all injurious weeds, and, at the expiration of five months, the sweet potatoes are harvested, the holes left in the ground by the removal of the tubers being utilized for the abacá plantings. The ground is cleared of weeds and the dry leaves of the abacá are removed, which operation is repeated up to the time of the complete development of the plant. The harvest is then commenced but cutting the stalks that have matured as close to the ground as possible—even level with the surface—in order to enable the remaining shoots to germinate beneath the surface of the ground. The plant is known to be mature when all of the peduncles are joined most evenly on the upper side. Unless the stalks that have been cut are removed they will sprout four or five inches below the joining of the peduncles. The next step is to remove the fibrous part, which is found in the outer covering of the branch (stalk), or, in other words, the convex part of the herbaceous sheath. This is done by means of a bone punch, which is inserted underneath the sheath, removing it with one stroke. The sheaths thus removed are piled together and transported to the sheds in which is constructed the machinery for stripping. The pulpy portions are left upon the ground, in order to be used as fertilizers.

The machinery, as will be seen later, is very imperfect, causing much waste of fiber as well as requiring great strength on the part of the operator. It consists of a strong iron knife 3 inches wide by 5 long and one-fourth of an inch thick, having a dull, serrated edge, and a handle 18 inches long; it is operated as a lever upon a wooden pillow, which is quite smooth and adapted to the edge of the knife. This pillow rests upon a wooden frame while the knife is suspended by a piece of flexible wood, which serves as a spring to regulate the pressure. Underneath is a pedal, by means of which the knife is raised and lowered. Such is, roughly speaking, the machine used. It is manipulated by treading upon the pedal, thus causing the knife to be raised as the abacá strip is placed underneath. The pedal is then released and the knife drops. The abacá strip is then drawn between the knife and the pillow, and in this way the fibers are extracted. This operation is repeated, successively, until a hank (bueñ) has been collected, when, with a strand, it is tied twice around and dried. This hank contains a short pound.

For the manufacture of paper we can utilize the waste resulting from the extraction of the fiber of abacá, the stalks of paol, the waste stalks of bananas, or the leaves of the tigbau, which occupies an extensive area and is on account of its vigorous growth, practically speaking, inexhaustible. The many springs of clear water on the large estates would facilitate the establishment of this industry—to become, perhaps, the most important in these Islands.

Nature granted to these Islands the exclusive privilege of abacá-fiber production, and from this industry they should derive great benefits. Confirmation of this is the fact that foreign ports permit the entry of abacá free of duty, and the subject is well worth detailed study by advocates of human progress. I will make a few remarks to the Bureau of Agriculture of these Islands on my observations of these plants and the industry. I have already said that most of the plants described in my first reply grow spontaneously, and the immense value of their fibers is almost inestimable. Therefore, I believe that, with the interest the Bureau is taking in this industry, the cultivation of said plants would undoubtedly increase if laws were promulgated preventing the destruction of same, and if the quality were improved. In order to extend their cultivation it is very necessary to indicate the markets where they may be sold and the price of each variety of fiber. If there are other varieties in other islands of this Archipelago more productive than abacá it would be desirable to aid the planters in this island in procuring seeds or suckers of such varieties; to introduce in the towns where this plant exists the most improved machinery for fiber extraction, either as samples or for sale or rental. It would be desirable, also, to introduce into our towns the most improved machinery for weaving, in order to induce planters to produce the largest quantity; also machinery for rope making, etc.

The method of removing the fibers of the other species (as, for example, piña) is to place the leaf upon a smooth table and scrape the pulp with a piece of porcelain or a stone (the edge of a broken plate would answer the purpose), beginning with the extreme end of the under surface of the leaf. The resulting fiber is very coarse and is called *bastos*. The operation is repeated, with the result that the fibers produced are finer, being called *linicao*. These two classes are separated and afterwards cleaned in running river water, and beaten with a piece of cane until thoroughly white. They are then dried and are ready for market.

To extract the fibers of the silhigon, labog-labog, dalupang, togabang, and bunang-bunang the shoots are buried in mud for a week, and then are separated and cleaned.

Those of the bago, lapnis, anilao, siapo, bagocon, tan-ág, banilad, balitnong, paat-halo, tipolo, and hanagdong are obtained by removing the bark and then the outer covering of the bark itself. The fibers that remain are called *banhot*, which is dried and is then ready for making twine.

J. ARANETA.

LOUISIANA PLANTATION, BAGO, NEGROS OCCIDENTAL,

October 22, 1902.

## BUREAU OF CUSTOMS AND IMMIGRATION.

W. MORGAN SMUSTER, Chief of Bureau.

Commerce of the Philippine Islands.

[From the Second Report of the Collector of Customs. See also Vol. I No. 69, p. 956.]

### CRITICISMS OF THE CUSTOMS SERVICE.

In complying with instructions to render a report fully covering the organization and operation of the Philippine Customs Service during the past year it is perhaps not improper to conclude by a reference to the somewhat numerous criticisms which, with more

or less authority, have been voiced in the press of this city respecting the present customs administration, especially that at the port of Manila.

The general tone of those criticisms has been against the alleged strictness with which the revenue and collateral laws have been enforced, coupled with complaints against the regulations ostensibly prescribed for the orderly conduct of customs business.

To these complaints this office has heretofore made no reply, but the matter is deemed to be of sufficient importance to warrant a statement here of the principles which it has been sought to follow in the administration of all customs laws in these Islands.

After a continuous experience of over five years with customs work in countries which were formerly under Spanish rule the undersigned could not fail to note that one of the most frequent arguments against a strict and impartial enforcement of revenue laws in such countries is that it hampers and prejudices trade and causes loss to the business community. In the opinion of the undersigned no doctrine could be more false and short-sighted; none more disastrous to those very ones who urge its policy. It is plain that customs laws, like most others, are made for all alike—to govern and protect both the rich and the poor, the wholesaler and the retailer, the shrewd and the dull. With specialized leniency, which has been so strenuously counseled, favoritism, so-called liberal constructions, in reality amounting to violations of the spirit of the statutes, and in general with a policy where personalities or affiliations of any kind hold sway, but one result can follow both for the authorities and for the public.

It is true that for a time, under certain conditions, the immediate results of such a policy often appear to support the opposite view; that is to say, the manifestation of such a disposition on the part of an administration may give an unnatural stimulus to importations and for a time show greatly increased revenues as a result; but to reach such a conclusion is to be deceived, since such a state must of necessity be temporary, for the obvious reason that no amount of importations, however great, can create a demand for the commodities imported, which would not otherwise exist. Hence even this abnormal inducement to import only reacts in the same degree as it arose. Commercial prosperity rests upon more solid grounds than a loose interpretation of the laws, and such an interpretation is objectionable on the grounds of its necessary partiality, ambiguity, and inequality of application, if for no other reasons.

It is not meant by this that revenue laws should be harshly administered or that unnecessary restrictions should be thrown around legitimate trade, but it is meant that the ordinary canons of statutory interpretation should be applied by a revenue officer, just as they would be if the questions were the subject of judicial decision. The personal opinions or inclinations of executive officers and their belief or convictions as to the propriety or justice of the statutes involved can properly have no part in the enforcement of those laws. All such influences go beyond the scope of a reasonable discretion.

It is true that where discretion is given an executive officer he may be guided in his exercise of it by his personal opinions as to that particular law, or by the spirit of the particular community in which he may be enforcing the law, but even under those circumstances the spirit of the legislators and the object of the law must be kept ever in mind.

To adopt any other principle of executive procedure is to invite chaos, injustice, and fraud. The ordinary canons of statutory interpretations are comparatively few, exact, and known. Any appreciable divergence from them is easily detected and subject to remedy, hence the administration of laws under such a procedure is simple, uniform, and necessarily fair. Permit, however, the personal opinions or desires of the numerous officials charged with

enforcing a set of laws to have weight in the manner of their enforcement, or the apparent sentiment of a particular community to influence the method of their administration, and the law becomes more or less the expression of the naturally diverse opinions of those charged with its execution, influenced by their immediate surroundings, instead of being subject to one uniform rule. The results of such a policy are too obvious to require comment.

A republican form of government is based upon the will of the people. This ruling factor must make its wishes known in some tangible and definite way. Thus a legislature is created. With such a body the people deposit their instructions, confidence, and discretion, and it is for the legislature to proclaim the will of the people in clear and unmistakable terms. This being done there arises the necessity for machinery to enforce the will of the people, but always along the lines shown by the people's mouthpiece and interpreter—the legislature. Any information as to the policy with which to execute a general law must be gained from its purpose and spirit as discussed and considered by the legislature and not from the sentiment of any particular local community in which the law may happen to be enforced. The executive is but the machinery of the legislative, and its functions are limited to a reasonable interpretation and absolutely impartial enforcement of the legislative will.

Even within these bounds, however, questions of interpretation will necessarily arise and disputes occur as to the scope and intent of every law. To settle such questions and to declare the legislative will in all doubtful cases the judiciary is created and vested with absolute and unrestrained interpretative power, and in all cases with an ample and freely exercised discretion.

Through these three branches the functions of government are carried on, and any encroachment, however small and apparently unimportant, by one branch on the rights and duties of the other can not fail to produce disorder and derangement of the governmental system.

The executive officer who departs from the plain legislative intent is usurping the powers conferred by the people on the legislature, and whether his departure be in the direction of oppressive use of the powers conferred upon him or a so-called lax administration the results to the community are equally bad. It is possible to "read the reason out of" any statute, but such is not the proper function of an executive officer.

The powers and jurisdiction of executive and judicial officers often overlap, and at all times are so closely interwoven that in many cases the difference in their jurisdictions lies more in the method or procedure in interpreting and declaring the meaning of the laws than in any fundamental distinction. In such cases there is usually an appeal to the judiciary where a deprivation of life, liberty, or property by reason of executive decision is alleged. In other and fewer instances, however, the legislative branch has specifically conferred upon the executive what are plainly judicial or quasi-judicial powers, making the decisions of the executive final and beyond judicial appeal. In such cases the highest judicial tribunal of the United States has usually upheld this action and refused to interfere, especially where the statute is clear and explicit on the point of pure executive jurisdiction.

It has been the purpose of this office, in the discharge of its somewhat unpopular duties, to follow the foregoing principles of administration, and though the necessary enforcement of many laws which are more or less generally condemned as unsuitable in certain quarters has produced a full share of criticism and complaint, it is trusted that the permanent organization of the Government of the Islands may benefit by the course pursued.

Respectfully submitted.

W. MORGAN SHUSTER,  
Collector of Customs for the Philippine Islands.

## EXPORTS FROM THE PHILIPPINE ISLANDS.

[For tables on imports, see Vol. I, No. 69, p. 957.]

Comparative summary of exports from the Philippine Islands, by countries, during the two fiscal years ending June 30, 1905.

[Duties and values represented in United States currency.]

Countries.	1902.		1903.	
	Values.	Duties.	Values.	Duties.
United States.....	\$7,871,743	\$286,916	\$13,863,659	\$619,418
England.....	5,280,478	339,653	8,799,329	449,273
Spain.....	869,875	97,212	7,757,500	89,807
Hongkong.....	5,799,123	83,442	7,303,234	76,688
Japan.....	1,846,517	27,032	1,759,366	55,597
France.....	953,828	23,788	3,684,116	120,690
British East Indies.....	672,614	13,169	994,400	16,867
British Australasia.....	436,530	12,958	336,531	15,133
Chinese Empire.....	285,322	6,965	649,562	10,344
British Africa.....	122,073	4,410	12,992	297
French China.....	120,180	3,372	63,353	2,747
Austria-Hungary.....	88,787	20,587	162,197	21,233
Germany.....	76,626	1,861	306,664	8,576
British China.....	59,181	894	394,536	284
Belgium.....	46,839	2,565	137,103	3,733
East Indies, Dutch.....	27,442	807	25,198	1,029
Netherlands.....	20,212	1,203	44,061	4,199
Italy.....	17,830	324	13,177	196
Quebec, Ontario, etc.....	7,679	108	6,157	118
Gibraltar.....	2,812	224	9,199	284
Russia.....	12,128	319	28,417	811
Scotland.....	3,721	59	2,757	40
Hawaiian Islands.....	3,687	63	5,910	135
British Columbia.....	3,648	66	2,030	41
All other Asia-Siam.....	3,003	42	128,332	109
Guam.....	2,461	14	.....	.....
German Oceania.....	1,934	1	.....	.....
East Indies, French.....	1,578	29	109,317	172
Korea.....	1,400	12	710	20
Aukland Islands.....	1,310	24	130	2
Uruguay.....	1,246	234	2,700	570
Switzerland.....	1,008	17	140	17
Russian China.....	905	12	878	9
Turkey in Africa-Egypt.....	889	16	1,952	68
Guatemala.....	411	8	.....	.....
Canary Islands.....	321	18	4,128	359
All other Asia-Arabia.....	167	2	.....	.....
Argentine Republic.....	150	20	599	79
Aden.....	140	1	718	10
Bermuda.....	119	4	.....	.....
All other Asia-Perisia.....	85	1	.....	.....
Malta, Gozo, Cyprus.....	48	1	2,970	93
Greece.....	7	.....	.....	.....
Nova Scotia, New Brunswick.....	.....	.....	4,684	275
French China.....	.....	.....	480	115
Spanish Africa.....	.....	.....	163	1
Spanish Oceania.....	.....	.....	900	49
Portugal.....	.....	.....	30	.....
French Africa.....	.....	.....	24,775	1,567
.....	.....	.....	1,053	24
<b>Total.....</b>	<b>27,197,087</b>	<b>977,978</b>	<b>39,674,328</b>	<b>1,565,891</b>

Summary of exports, by countries, from the port of Manila, P. I., during the two fiscal years ending June 30, 1905.

[Values and duties represented in United States currency.]

Countries.	1902.		1903.	
	Value.	Duty.	Value.	Duty.
United States.....	\$5,089,326	\$199,406	\$9,505,475	\$417,170
England.....	7,385,170	306,422	7,400,100	384,659
Spain.....	869,875	97,212	757,500	89,807
Hongkong.....	4,329,176	50,941	5,622,200	39,141
France.....	816,646	20,765	3,004,006	102,132
Japan.....	636,247	6,616	493,447	10,639
British East Indies.....	436,530	12,953	536,251	15,133
East Indies, British.....	421,315	10,665	642,640	15,445
Austria-Hungary.....	88,787	20,587	162,197	21,233
Germany.....	75,626	1,861	306,664	4,423
Chinese Empire.....	65,077	1,186	430,716	5,227
British China.....	55,191	894	394,536	294
Belgium.....	46,829	2,565	137,103	3,733
British Africa.....	38,963	1,140	12,992	297
East Indies, Dutch.....	27,224	771	24,721	1,008
Netherlands.....	20,212	1,203	44,061	4,199
Italy.....	17,830	324	13,177	186
Quebec, Ontario, etc.....	7,679	108	6,157	118
Gibraltar.....	2,812	224	9,199	284
Scotland.....	3,721	59	2,757	40
Hawaiian Islands.....	3,687	63	5,910	135
British Columbia.....	3,648	66	2,030	41
All other Asia-Siam.....	3,003	42	128,332	107
Guam.....	2,481	14	.....	.....
German Oceania.....	1,934	1	.....	.....
East Indies, French.....	1,578	29	109,317	172
Korea.....	1,400	12	710	12
Aukland Islands.....	1,310	24	130	570
Uruguay.....	1,246	234	2,700	12
Switzerland.....	1,008	17	140	79
All other Asia-Perisia.....	85	1	718	10
Bermuda.....	119	4	.....	.....
All other Asia-Arabia.....	150	20	599	79
Aden.....	140	1	718	10
Russia.....	905	12	878	9
Turkey in Africa-Egypt.....	889	16	1,952	68
Guatemala.....	411	8	.....	.....
Canary Islands.....	321	18	4,128	356
All other Asia-Arabia.....	167	2	.....	.....
Argentine Republic.....	150	20	599	79
Aden.....	140	1	718	10
Bermuda.....	119	4	.....	.....
All other Asia-Perisia.....	85	1	.....	.....
Malta, Gozo, Cyprus.....	48	1	2,970	93
Greece.....	7	.....	.....	.....
Nova Scotia, New Brunswick.....	.....	.....	4,684	275
French China.....	.....	.....	480	115
Spanish Africa.....	.....	.....	163	1
Spanish Oceania.....	.....	.....	900	49
Portugal.....	.....	.....	30	.....
French Africa.....	.....	.....	24,775	1,567
.....	.....	.....	1,053	24
<b>Total.....</b>	<b>20,462,688</b>	<b>718,516</b>	<b>29,570,375</b>	<b>1,147,569</b>

NOTE.—The foregoing is a summary of monthly reports on Form 4. Exports by Articles and Countries, in which forms fractions of dollars are omitted. In this report wharfe and harbor dues are included as export duties. On Form No. 1 these items are given separately, and export duty proper only, given under that head.

Chief articles of export from the Philippine Islands during the fiscal year ending June 30, 1905, showing quantity, value, and duty.

[Value and duty represented in United States currency.]

Port.	Cacao.			Hemp.		
	Pounds.	Value.	Duty.	Tons.	Value.	Duty.
Manila.....	35	\$9	.....	107,671	\$17,565,440	\$880,273
Jolo.....	22	2	.....	64	9,216	529
Cebu.....	.....	.....	.....	22,323	4,186,519	184,260
<b>Total.....</b>	<b>57</b>	<b>11</b>	<b>.....</b>	<b>130,058</b>	<b>21,761,575</b>	<b>1,065,062</b>
Port.	Cordage.			Coconuts.		
	Pounds.	Value.	Duty.	Tons.	Value.	Duty.
Manila.....	51,975	\$7,307	\$168	1,465	\$63	\$1
Jolo.....	6,820	464	25	64	9,216	529
<b>Total.....</b>	<b>58,795</b>	<b>7,771</b>	<b>193</b>	<b>1,465</b>	<b>63</b>	<b>1</b>
Port.	Copra.			Coconut oil.		
	Pounds.	Value.	Duty.	Gallons.	Value.	Duty.
Manila.....	150,987,811	\$3,313,151	\$119,915	428	\$188	\$1
Zamboanga.....	3,128,331	80,942	2,489	400	172	2
Jolo.....	2,192,676	53,922	1,638	.....	.....	.....
Cebu.....	59,074,273	1,025,264	27,328	.....	.....	.....
<b>Total.....</b>	<b>215,295,091</b>	<b>4,472,679</b>	<b>151,930</b>	<b>828</b>	<b>355</b>	<b>3</b>

NOTE.—The foregoing is a summary of monthly reports on Form 4. Exports by Articles and Countries, in which forms fractions of dollars are omitted. In this report wharfe and harbor dues are included as export duties. On Form No. 1 these items are given separately, and export duty proper only, given under that head.

## EXPORTS BY COUNTRIES.

The foregoing figures representing a comparative statement of exports, by countries, for the two fiscal years 1902 and 1903, are not without interest and significance.

The United States rises from second to first place, leading England to the extent of \$5,063,730, whereas for the previous year England led the United States to the extent of \$408,733.

Those two countries out of a list of fifty-one countries to which products of the Islands have been exported receive more than one-half of all the exports from the Philippine Islands.

The increase of exports for the year 1903 over the year 1902 is \$12,517,241, a most gratifying showing, all circumstances considered.

The abnormal exports of Mexican silver coin to Hongkong gives Hongkong a prominence in the list which it would not otherwise occupy.

Excluding gold and silver coin, France stands third in the list of export countries, Japan fourth, and Hongkong fifth.

None of the other forty-six countries reaches the million-dollar mark.

Chief articles of export from the Philippine Islands, etc.—Continued.

Port.	Ilang-ilang oil.			Sugar, raw.		
	Gallons.	Value.	Duty.	Pounds.	Value.	Duty.
Manila	5,066	\$73	\$14	2,550,052	\$36,646	\$1,490
Cebu	2107	471		17,548,240	285,646	3,971
Iloilo				226,056,790	3,650,536	129,476
<b>Total</b>	<b>5,093</b>	<b>104,139</b>	<b>14</b>	<b>246,155,082</b>	<b>3,955,828</b>	<b>140,927</b>

Port.	Candy and confectionery.			Tobacco, unmanufactured.		
	Pounds.	Value.	Duty.	Pounds.	Value.	Duty.
Manila	26,302	\$1,001	\$9	20,626,441	\$902,606	\$120,205
Zamboanga				172	4	1
Jolo	9	2				
Cebu	5,383	125	2			
<b>Total</b>	<b>31,754</b>	<b>1,128</b>	<b>11</b>	<b>20,626,613</b>	<b>902,610</b>	<b>120,206</b>

Port.	Cigars.			Cigarettes.		
	Thousands.	Value.	Duty.	Thousands.	Value.	Duty.
Manila	119,698	\$946,889	\$19,510	20,502	\$20,697	\$520
Zamboanga		6				
Jolo	18	176	6	1	2	
Cebu	1	25	1			
Iloilo	4	48	1			
<b>Total</b>	<b>119,721</b>	<b>947,144</b>	<b>19,517</b>	<b>20,503</b>	<b>20,699</b>	<b>520</b>

Note.—Total export value for fiscal year 1903, \$39,674,328; of this total value of exports, the twelve items above given represent an aggregate value of \$32,114,002, leaving for all other articles a value of \$7,560,326, and of this \$5,977,741 represents the gold value of Mexican money exported, leaving \$1,582,585 for all other articles.

LEADING ARTICLES OF EXPORTS.

Hemp may well be ranked as king of exports from the Philippine Islands, it amounting in value to about two-thirds of the entire exports.

It is gratifying to note that notwithstanding "ladronism" hemp exports have shown steady increase during the past four years, reaching the handsome figure of \$21,471,575 in the fiscal year 1903, an increase of \$5,860,259 over the year 1902.

The copra industry, too, has shown a most remarkable increase of more than 300 per cent over the previous year.

Sugar and tobacco have shown substantial increases. The exportation of cigars and cigarettes has shown a considerable decline.

Ilang-ilang exports have shown marked increase and give promise of substantial growth in the future as one of the rising products of the Islands. It is reported to be an almost certain crop and to yield a profit as high as \$5 per tree per month.

Exportation of hemp from Manila for the fiscal year ending June 30, 1903, showing names of exporters.

Date.	W. F. Stevenson.	Warner Barnes.	Smith Bell.	Macleod.	Compañia Tabacalera.	Kerr & Co.	All other.	Total.
<b>1902.</b>	<i>Bales.</i>	<i>Bales.</i>	<i>Bales.</i>	<i>Bales.</i>	<i>Dol. s.</i>	<i>Bales.</i>	<i>Bales.</i>	<i>Bales.</i>
July	19,551	18,252	845	4,610	8,880	3,255	1,032	55,425
August	8,624	5,950	9,649	4,378	2,401	6,335	562	38,039
September	26,140	15,400	19,953	3,838	13,740	4,217	25	\$3,313
October	30,249	18,800	19,299	8,351	7,175	6,314	550	89,738
November	13,500	21,050	23,304	1,276	3,906	1,000	814	64,850
December	18,720	4,000	18,733	5,240	9,874	325	2,009	58,901
<b>1903.</b>								
January	4,310	15,350	28,586	9,631	8,295	10,817	2,409	74,398
February	14,092	14,750	6,302	9,502	8,884	4,029	2,131	57,690
March	16,578	9,979	6,557	5,219	1,150	3,300	3,765	40,948
April	21,750	37,750	24,796	18,278	8,450	8,774	5,897	122,475
May	25,883	25,560	15,923	7,448	6,650	2,322	2,768	87,050
June	21,722	21,166	14,147	3,948	6,459	2,880	2,412	72,734
<b>Total</b>	<b>222,519</b>	<b>300,997</b>	<b>187,184</b>	<b>76,969</b>	<b>75,814</b>	<b>53,988</b>	<b>24,074</b>	<b>841,545</b>

HEMP REFUNDS—EXPORTS TO THE UNITED STATES.

Since the act of Congress of March 8, 1902, there has been a great increase in the amount of hemp shipped from these Islands

to the mainland territory direct, in order to obtain the refund on the duties paid on its exportation here. \* \* \*

The following table of hemp exports from the Philippine Islands to the United States since American occupation, by quarters, will show the increased trade with the mainland territory since March 8, 1902:

	1898.		1899.		1900.	
	Tons.	Value.	Tons.	Value.	Tons.	Value.
First quarter			5,797	\$449,300	4,109	\$491,750
Second quarter			5,122	\$41,250	6,465	\$63,215
Third quarter			6,886	\$65,815	3,409	\$51,185
Fourth quarter	7,965	\$827,804	7,898	1,079,353	6,321	\$84,518
<b>Total</b>	<b>7,965</b>	<b>\$827,804</b>	<b>25,713</b>	<b>\$3,015,718</b>	<b>20,304</b>	<b>\$2,796,668</b>

	1901.		1902.		1903.	
	Tons.	Value.	Tons.	Value.	Tons.	Value.
First quarter	3,937	\$544,526	10,990	\$1,801,029	9,719	\$1,448,545
Second quarter	4,205	\$22,638	11,628	\$3,370,283	23,089	\$3,947,697
Third quarter	10,325	\$1,328,290	17,050	\$2,949,680	13,398	\$2,248,991
Fourth quarter	11,869	1,781,859	17,086	\$3,375,109		
<b>Total</b>	<b>30,336</b>	<b>4,157,313</b>	<b>57,692</b>	<b>10,496,101</b>		

Statement of Chinese arriving at and departed from the port of Manila during the calendar years 1899, 1900, 1901, 1902, and first six months of 1903.

Year.	Arrived.	Departed.
1899		13,308
1900		9,768
1901		10,309
1902		9,789
January 1 to June 30, 1903.		3,990
<b>Total</b>		<b>47,164</b>
		<b>37,759</b>

Statement of Chinese arriving at and departing from ports in the Philippine Islands during the period of American occupation to June 30, 1903.

Ports.	Arrived.	Departed.
Manila	47,164	37,629
Cebu	451	814
Iloilo	790	980
Jolo	746	589
Siasi	27	
Zamboanga	168	372
<b>Total</b>	<b>49,346</b>	<b>40,134</b>

Total number of immigrants of all nationalities arrived during the fiscal year 1902, 30,094.

Total number of immigrants of all nationalities arrived during the fiscal year 1903, 24,096.

No record for period previous to January 1, 1899. Departures do not include Chinese rejected and refused landing, but only such as received certificates of residence through the Immigration Division.

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**Announcement.**

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**The Government of the Philippine Islands.**

**Legislative.**

**THE PHILIPPINE COMMISSION.**

(Ayuntamiento—The Palace.)

**Commissioners**—William H. Taft, President (on leave in United States); Dean C. Worcester, Luke E. Wright, Henry C. Ide, James F. Smith, Trinidad H. Fardo de Tavera, Jose R. Luzuriaga, Benito Legarda.

**Executive.**

**Civil Governor**—William H. Taft (in United States); private secretary, Fred W. Carpenter (on leave); Captain Robert H. Noble, Third United States Infantry, Aide-de-Camp to the Civil Governor.

**Vice-Governor and Acting Civil Governor**—Luke E. Wright.  
**Secretary of the Interior**—Dean C. Worcester; private secretary, E. O. Johnson.

**Secretary of Customs and Police**—Luke E. Wright; acting private secretary, L. W. Manning.  
**Secretary of Finance and Justice**—Henry C. Ide; private secretary, Jackson A. Due.

**Secretary of Public Instruction**—James F. Smith; private secretary, W. H. Donovan.

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**Executive Bureau**—A. W. Ferguson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Ferguson, in charge, Translating Division; Claude W. Calvin, Recorder of the Commission, Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; Sidney Thomas, Chief of Records Division; H. A. Lampman, Disbursing Officer.  
**Bureau of Insular Purchasing Agent**—Major E. G. Shields, Insular Purchasing Agent; A. L. B. Davies, Local Purchasing Agent; M. L. Stewart, Assistant Insular Purchasing Agent.  
**Improvement of the Port of Manila**—Maj. C. McD. Townsend, Corps of Engineers, United States Army, officer in charge.

**Philippine Civil Service Board** (Intendencia Building)—Dr. W. S. Washburn, Chairman; Dr. B. L. Falconer, Dr. Jose Alemany.

**DEPARTMENT OF THE INTERIOR.**

**Board of Health for the Philippine Islands**—Maj. E. C. Carter, Surgeon, United States Army, Commissioner of Public Health (on leave); Capt. E. L. Munson, Assistant and Acting Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. Manuel Gomez, Secretary.  
**Quarantine Service** (United States Public Health and Marine-Hospital Service; 78 D Madrid)—Dr. Victor G. Heiser, Chief Quarantine Officer; Drs. John D. Long and George W. McCoy, Assistants.  
**Marvelous Detention and Disinfection Station**—Dr. H. A. Stansfeld, in command.  
**Holio Quarantine Station**—Dr. M. K. Gwyn, in command.  
**Cebu Quarantine Station**—Dr. Carroll Fox, in command.

**Forestry Bureau** (Intendencia Building)—Capt. George P. Aherm, Ninth Infantry, United States Army, Chief; Ralph C. Bryant, Assistant Chief.

**Nining Bureau** (858 Cabildo)—H. D. McCaskey, Chief.  
**Philippine Weather Bureau** (Calle Observatorio, Ermita).—Rev. José Alvar S. J., Director.

**Bureau of Public Lands** (Intendencia Building).—Will M. Tipton, Chief.  
**Bureau of Agriculture** (155 Nozalea)—Prof. F. L. Lamson-Scribner, Chief (on leave); W. E. Wolcott, Acting Chief.

**Entomological Survey for the Philippine Islands** (228 Nueva, Ermita).—Professor A. E. Jenks, Chief.  
**Bureau of Government Laboratories** (719 Iris).—Dr. P. C. Freer, Superintendent Government Laboratories; Dr. R. P. Strong, Director Biological Laboratories; Dr. James W. Jobling, director of Serum Laboratory.

**Philippine Civil Hospital** (791 Iris).—Dr. H. Eugene Stafford, Attending Physician and Surgeon.  
**Sanitation Station** (Bagueo, Benguet).—Dr. J. B. Thomas, Attending Physician and Surgeon.

**DEPARTMENT OF COMMERCE AND POLICE.**

**Bureau of Posts** (149 Escolta).—Chas. M. Cotterman, Director; H. M. Robinson, Assistant Director (on leave).

**Bureau of Philippine Constabulary** (228 Anda, Intramuros).—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Bandholz, U. S. A., Assistant Chief, Commanding Second District; Lieut.-Col. Wallace C. Taylor, Assistant Chief, Commanding Third District; Maj. James S. Marwood, Assistant Chief, Commanding Fourth District; Col. James G. Harbord, U. S. A., Assistant Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary Headquarters, Manila; Col. D. J. Baker, Jr., U. S. A., Assistant Chief, Chief Supply Officer.

**Bureau of Prisons** (Headquarters, Bilibid Prison, Calle Iris).—George N. W. Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William R. Moulton, Resident Physician; Egbert Adams, Cashier, Property and Disbursing Officer.

**United States Navy, Chief**, Capt. Spencer Gosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

**Bureau of Coast Guard and Transportation**.—J. M. Helm, Commander, United States Navy, Chief; Capt. Spenser Gosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

**Bureau of Engineering** (Santa Potenciana Building).—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcombe, Principal Assistant Engineer; James D. Fountainier, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

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**Bureau of the Insular Auditor** (Intendencia Building).—Abraham L. Lawshe, Auditor of the Philippine Archipelago; W. W. Barre, Deputy Auditor.

**Bureau of Customs and Immigration**.—W. Morgan Shuster, Collector of Customs for the Philippine Islands (on leave); H. B. McCoy, Acting Collector of Customs; Frank S. Cairns, Surveyor.

**Bureau of Internal Revenue** (147 Anloague).—Albert W. Hastings, Acting Collector.  
**Insular Cold Storage and Ice Plant**.—Charles G. Smith, Superintendent.

**Bureau of Justice**.—Lebbus R. Willey, Attorney-General (on leave); Washington L. Goldsborough, Assistant Attorney-General; Gregorio Arnetta, Solicitor-General; James Ross, Supervisor of Provincial Fiscals; Geo. H. Harvey, Assistant Attorney-General for the Constabulary.

**DEPARTMENT OF PUBLIC INSTRUCTION.**

**Bureau of Education** (Palace).—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant.

**Bureau of Public Printing**.—John S. Leech, Public Printer.  
**Bureau of Architecture and Construction of Public Buildings** (Calle Anloague).—Edgar K. Bourne, Chief.

**Bureau of Archives** (Palace).—Manuel de Irlarte, Chief.  
**Bureau of Patents, Copyrights and Trade-Marks** (Palace).—Manuel de Irlarte, in charge.  
**Bureau of Acquiring Library** (70 Rosario).—Mra. Ebert, Librarian.  
**Official Gazette** (Santa Potenciana Building).—Max L. McCollough, Editor.

**Census Bureau**.—Brig. Gen. J. P. Sanger, United States Army, Director of the Census.

**Judiciary.**

**SUPREME COURT.**

(Audencia, 47 Palacio.)

**Chief Justice**.—Don Cayetano Arellano.  
**Associate Justices**.—Florentino Torres, J. F. Cooper, Victorino Mapa, Cha A. Wilard, E. Finley Johnson, and John T. McDonough.  
**Clerk**.—J. E. Blanco.  
**Reporter**.—Fred C. Fisher.

**COURT OF LAND REGISTRATION.**

(138 Calle Real, Walled City.)

**Judge**.—S. del Rosario.  
**Associate Judge**.—D. R. Williams.  
**Clerk**.—J. R. Wilson.

**COURTS OF FIRST INSTANCE.**

**Manila, Part 1**.—John C. Sweeney, Judge.  
**Manila, Part 2**.—W. J. Robbe, Judge.  
**Manila, Part 3**.—Byron S. Ambler, Judge.  
**Manila, Part 4**.—Manuel Arasa, Judge.  
**Clerk**.—J. McKicking.  
**First District**.—Albert E. McCabe.  
**Second District**.—Dionicio Chango.  
**Mountain District**.—Charles H. Burritt.  
**Third District**.—Arthur F. Odlin.  
**Fourth District**.—Julio Lorente.  
**Fifth District**.—Espanislaw Yusay.  
**Sixth District**.—Ignacio Villamor.  
**Seventh District**.—Paul W. Lieberger.  
**Eighth District**.—Grant T. Trent.  
**Ninth District**.—Henry C. Bates.  
**Tenth District**.—Eleventh District.—Adam C. Carson.  
**Twelfth District**.—James H. Blount.  
**Thirteenth District**.—Warren H. Ickin.  
**Fourteenth District**.—John S. Powell.  
**Fifteenth District**.—Wm. F. Norris.  
**Additional judges**.—Adolph Wisniewski, Capiz; Beekman Winthrop; Miguel Logarta.



# Official Gazette

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VOL. II

MANILA, P. I., FEBRUARY 3, 1904.

No. 5

## PUBLIC LAWS.

[No. 1040.]

AN ACT REGULATING THE HOURS OF LABOR, LEAVES OF ABSENCE, AND TRANSPORTATION OF OFFICERS AND EMPLOYEES IN THE PHILIPPINE CIVIL SERVICE, AND REPEALING ACT NUMBERED EIGHTY AND ALL ACTS AMENDATORY THEREOF.

*By authority of the United States be it enacted by the Philippine Commission, that:*

SECTION 1. The required office hours of all Bureaus and Offices in the Philippine civil service shall be fixed by executive order, but they shall not be less than six and one-half hours of labor each day, not including time for lunch and exclusive of Sundays and of days declared public holidays by law or executive order: *Provided*, That when the nature of the duties to be performed or the interests of the public service require it officers and employees may, by direction of the head of the Bureau or Office, be required to work on Sundays and holidays without additional compensation unless otherwise specifically authorized by law. It shall be the duty of heads of Bureaus or Offices to require of all employees, of whatever grade or class, not less than the number of hours of labor authorized by law or executive order, but the head of any Department, Bureau, or Office may, in the interests of the public service, extend the daily hours of labor therein specified for any or all of the employees under him, and in case of such extension it shall be without additional compensation unless otherwise provided by law: *Provided, however*, That during the heated term from the first day of April to the fifteenth day of June in each year and on Saturdays throughout the year the Civil Governor may, by executive order, reduce the required number of hours of labor on each day to five hours. This executive order shall not oblige the head of a Department, Bureau, or Office in the Philippine civil service to reduce the hours of labor to five hours, but it shall be within his discretion to reduce the number of hours if consistent with the needs of the public service; nor shall this provision be regarded as conferring a right upon officers or employees. This reduction of the required hours of labor shall not apply to the officers or employees of any Bureau or Office to whom an overtime wage is allowed and paid. The length of sessions of the courts shall be regulated by existing law, but the provisions of this Act shall apply to all officers and employees in the Bureau of Justice except judges. The number of hours for the daily sessions of the public schools shall be fixed by the Secretary of Public Instruction, but they shall not be less than five hours a day.

SEC. 2. (a) After at least two years' continuous, faithful, and satisfactory service, the Civil Governor or proper head of a Department shall, subject to the necessities of the public service, and upon proper application therefor, grant each regularly and permanently appointed officer or employee in the civil service,

insular or provincial, or of the city of Manila, except as herein-after provided, accrued leave of absence with full pay, inclusive of Sundays and of days declared public holidays by law or executive order, for each year of service in accordance with the following schedule: An employee receiving an annual salary of less than nine hundred dollars shall be granted twenty days' leave; an employee receiving an annual salary of from six hundred to nine hundred dollars with board and quarters, and an officer or employee receiving an annual salary of nine hundred dollars or more, but less than one thousand eight hundred dollars, shall be granted thirty days' leave; an officer or employee receiving an annual salary of one thousand eight hundred dollars or more shall be granted thirty-five days' leave. Leave shall accrue while an officer or employee is on duly authorized leave of absence with pay.

(b) If an officer or employee elects to postpone the taking of any or all of the leave to which he is entitled under this section, such leave may accumulate until January first, nineteen hundred and five, after which date no person shall at any time have to his credit more than the accrued leave allowed for five years' service, and if his salary changes he shall receive the same amount of leave and pay as if he had taken the leave while receiving the salary at which it accrued.

(c) An officer or employee who has served in the Islands for three years or more, or two years if appointed under the provisions of Act Numbered Eighty, as amended, and who has accumulated to his credit the accrued leave allowed for two full years, may be granted permission to visit the United States: *Provided*, That such permission shall not be granted oftener than once in every three years.

(d) A person in the teaching service shall not be granted accrued leave in accordance with the schedule provided in this section, but in lieu thereof he may be granted leave on full pay during vacation periods, with permission to spend a vacation period in the United States not oftener than once in every three years.

(e) In case an officer, teacher, or other employee is granted leave to visit the United States, he shall be allowed, with half pay in addition to the leave granted, sixty days for the time occupied by him in going to and returning from the United States if he is serving in Manila, and if serving in the provinces sixty days plus the actual and necessary time consumed from date of departure from station to date of departure from Manila, and on returning, from date of arrival at Manila to date of arrival at station, such half salary to be paid on return to duty. On the completion of two years of continuous, faithful, and satisfactory service, after returning to the Islands from leave of absence to visit the United States granted for three or more years' service, he shall be allowed his actual and necessary traveling expenses from his place of residence in the United States to Manila if he come by the route and steamer directed.

(f) Semiskilled and unskilled laborers, temporary and emergency employees, persons receiving a daily wage or salary, persons

enlisted for a term of years, persons in the United States civil service who are paid in whole or in part from insular funds, and persons who receive compensation for official duties performed in connection with private business, vocation, or profession, such duties requiring only a portion of their time, shall not be entitled to the leave provided in this section.

(g) The provisions of this section shall be retroactive in effect so as to entitle officers and employees of the Philippine civil service, whether serving as such by regular appointment or by detail from the Army, the Navy, or the civil service of the United States, previous to the passage of this Act, to any accrued leave to which they would have been entitled had Act Numbered Eighty, as amended, been applicable to them at the date of their employment or detail, computing the leave in the case of an officer on the basis of the salary and allowances received while on detail, and in the case of an enlisted man on the basis of first salary received in the Philippine civil service. No application for leave of absence presented by an officer or employee who has heretofore resigned without applying for leave shall be considered if presented after July first, nineteen hundred and four, or by an officer or employee who resigns after January first, nineteen hundred and four, if his application is not presented within six months of the date of the acceptance of his resignation.

Sec. 3. After at least six months' continuous, faithful, and satisfactory service the Civil Governor or proper head of a Department may, in his discretion, grant each officer or employee entitled to the accrued leave provided in section two of this Act in addition to such accrued leave, vacation leave of absence with full pay, inclusive of Sundays and of days declared public holidays by law or executive order, for each calendar year of service, in accordance with the following schedule: An employee receiving an annual salary of less than one thousand dollars may be granted twenty-one days' vacation leave, an officer or employee receiving an annual salary of one thousand dollars or more may be granted twenty-eight days' vacation leave. Vacation leave must be taken within the calendar year in which it is earned. The vacation leave provided for only one calendar year may be allowed in connection with accrued leave granted with or without permission to visit the United States. In cases of resignation vacation leave shall not be allowed in addition to accrued leave. All applications for vacation leave shall be on a form prescribed by the Philippine Civil Service Board.

Sec. 4. (a) Absence from duty of teachers, due to illness, shall be charged against their vacations, and with the consent of the Secretary of Public Instruction they may remain on duty during vacations for a period equal to that lost on account of illness, in which case no deduction of pay shall be made on account of absence caused by illness.

(b) Absence of other regularly and permanently appointed officers and employees in the Philippine civil service on account of illness shall be charged first against vacation leave and then against accrued leave, until both are exhausted, when further absence shall be without pay.

(c) Payment of salary to an officer or employee for any absence during his first six months of service properly chargeable to vacation leave, or during his first two years of service properly chargeable to accrued leave, shall be withheld until such leave may properly be taken under the provisions of section two or three of this Act: *Provided, however,* That in case of absence due to illness the Civil Governor or proper head of Department may direct that payment for such absence be not withheld if not in excess of the vacation and accrued leave to his credit. In case absence is on account of wounds or injuries incurred in the performance of duty and extends beyond the vacation leave to his credit, the Civil Governor or proper head of Department may direct that such further absence shall be on full pay. If the absence caused by illness,

wounds, or injuries shall exceed six months in any twelve months, the officer or employee shall be immediately separated from the service.

Sec. 5. If a regularly appointed officer or employee in the Philippine civil service who has rendered faithful and satisfactory service shall die while in the service, the unused accrued leave that might have been granted at the time of death shall be determined, and the salary equivalent of the accrued leave shall be paid to the person or persons entitled by law to receive the same.

Sec. 6. Whenever upon the resignation or death of an officer or employee it is necessary to the interests of the public service that the position occupied by him shall be immediately filled, the Civil Governor or proper head of Department may direct that all accrued leave granted him be commuted from the funds of the Government, insular or provincial, or of the city of Manila, in which he was serving at the time of his resignation or death. If he was in the service of the Insular Government, payment shall be made by settlement warrant from the insular salary and expense fund; if he was in the service of the city of Manila, payment shall be made by settlement warrant from the salary and expense fund of the city of Manila; and if he was in the service of a province, the provincial board of such province is hereby authorized, upon direction of the Civil Governor as above provided, to commute from the provincial funds the accrued leave of absence granted such officer or employee. If there is no urgent necessity for filling the position at once, payment for the accrued leave granted shall be made from the salary appropriated for the position last filled by him.

This section shall be retroactive in effect so far as necessary to authorize, in cases now pending, the procedure herein provided.

Sec. 7. All applications for accrued leave of absence shall be made on a form prescribed by the Civil Service Board, and shall first be acted upon by the Chief of the Bureau or Office, and by him submitted to the Civil Service Board for its recommendation. The application shall then be forwarded by the Board to the head of the Department in which the applicant is employed for his final decision, except in respect to those Bureaus or Offices not under any Department, in which cases the recommendations of the Board shall be forwarded to the Civil Governor for his final decision.

Sec. 8. The Civil Governor is authorized to promulgate executive orders regulating the method of enforcing the provisions of this Act, including the withholding of salary for leave granted.

Sec. 9. The appointment of all persons residing in the United States to the Philippine civil service, whether by transfer from the United States civil service or otherwise, shall be subject to the following conditions:

(a) A person residing in the United States who is appointed to the Philippine civil service may pay his traveling expenses from the place of his residence in the United States to Manila: *Provided,* That if any part of his traveling expenses is borne by the Government of the Philippine Islands, ten per centum of his monthly salary shall be retained until the amount retained is equal to the amount borne by the Government: *And provided further,* That if he shall come by the route and steamer directed, his actual and necessary traveling expenses shall be refunded to him at the expiration of two years' satisfactory service in the Philippines.

(b) He shall be allowed half salary from the date of embarkation and full salary from the date of his arrival in the Islands: *Provided,* That he proceed directly to the Islands; otherwise, he shall be allowed half salary for such time only as is ordinarily required to perform the journey by the route directed: *And provided further,* That such half salary shall not be paid until after the expiration of two years of satisfactory service in the Philippines.

(c) A person residing in the United States accepting an appointment to a position in the civil service of the Government of the Philippine Islands, under the conditions named in this Act, shall,

before receiving such appointment, execute a contract and deliver it to the Chief of the Bureau of Insular Affairs, War Department, wherein the appointee shall stipulate that he will remain in the service of the Government of the Philippine Islands for at least two years, unless released by the Civil Governor or proper head of a Department. A breach of the conditions provided in the contract or a removal for cause shall require the proper officer to withhold payment of all salary and traveling expenses due to the person employed and who has violated the conditions of his contract or been removed for cause, and shall debar such person from ever entering again the public service of the Philippine Government in any of its branches. In such case, an action shall lie for the recovery of the amount expended by the Government in bringing the employee to the Philippine Islands.

(d) Irrespective of leave granted, a regularly appointed officer or employee who has rendered continuous, faithful, and satisfactory service for three years or more after arrival in the Philippine Islands shall, upon his retirement from the service, be allowed half salary for thirty days in addition to full salary for the period which may be granted him as leave of absence under the provisions of this Act; and if appointed prior to the passage of this Act, he shall also be furnished transportation from Manila to San Francisco, or transportation of equal cost to the Government by any other route.

Sec. 10. The provisions of this Act shall not apply to judges of the Supreme Court, the Courts of First Instance, the Court of Land Registration, and the Court of Customs Appeals, but their leaves of absence and traveling expenses shall be governed by existing law or such law as may be hereafter enacted.

Sec. 11. All special contracts made with appointees of the Philippine civil service prior to the passage of this Act shall remain unaffected by the terms and provisions of this Act.

Sec. 12. Act Numbered Eighty and all amendments thereof, and all other Acts or parts of Acts in conflict with the provisions hereof, are hereby repealed: *Provided, however*, That all leaves of absence accruing prior to January first, nineteen hundred and four, shall be computed under the schedule provided in section two of said Act Numbered Eighty, as amended.

Sec. 13. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 14. This Act shall take effect on its passage, but its provisions shall be retroactive and effective as of January first, nineteen hundred and four.

Enacted, January 12, 1904.

[No. 1041.]

AN ACT AMENDING ACT NUMBERED TWO HUNDRED AND NINETY, ENTITLED "AN ACT PROVIDING AN INEXPENSIVE METHOD OF ADMINISTRATION UPON THE ESTATES OF CIVIL EMPLOYEES OF THE PHILIPPINE GOVERNMENT WHO ARE CITIZENS OF THE UNITED STATES, AND WHO DIE IN THE SERVICE OF THE INSULAR GOVERNMENT, LEAVING SMALL ESTATES UPON WHICH NO REGULAR ADMINISTRATION IS DEEMED ADVISABLE," AND PROVIDING A METHOD OF PAYING SMALL AMOUNTS DUE ESTATES OF DECEASED NATIVE EMPLOYEES WITHOUT THE EXPENSE OF ADMINISTRATION.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. Section one of Act Numbered Two hundred and ninety, entitled "An Act providing an inexpensive method of ad-

ministration upon the estates of civil employees of the Philippine Government who are citizens of the United States, and who die in the service of the Insular Government, leaving small estates upon which no regular administration is deemed advisable," is hereby amended by adding at the end thereof the following:

"In case the head of a Bureau, provincial officer, or employee of any Bureau or province, who is a citizen of the United States, shall die while in the service, having to his credit earned leave of absence, the salary due and the amount due to the deceased by reason of earned leave of absence shall be paid to the Treasurer of the Philippine Islands, and be by him administered in the manner in this section provided. But in addition to the purposes for which such estate may be applied by the Treasurer, as hereinbefore provided, the Treasurer is also authorized to pay the expenses of the transportation of the remains of the deceased to the United States, if such transportation is desired by the surviving relatives, so far as the funds in his hands will enable him to pay such expenses: *Provided, nevertheless*, That if there should be a regular administration upon the estate of the deceased, then the sum due to the deceased, by reason of earned leave of absence standing to his credit, after the payment of unpaid funeral expenses and transportation of the remains, if desired, to the United States, if any, shall be turned over to the regular executor or administrator of the estate of the deceased: *And provided further*, That in case the deceased head of a Bureau, provincial officer, or employee of any Bureau or province was a native or citizen of the Philippine Islands, the amount due him at the date of death for salary and for compensation in lieu of accrued leave shall be paid, not to the Treasurer of the Philippine Islands, but to the legal representative of the deceased according to law: *And provided further*, That in case said sum does not exceed one hundred dollars, and there has been no regular administration upon the estate of the deceased, and it appears that the estate is not sufficient to warrant the expense of a regular administration, said sum shall be paid to the next of kin who, in the opinion of the Auditor, is entitled thereto, in the following order: First, widow; second, children; third, father; fourth, mother; fifth, brothers and sisters in equal proportion; and such payment shall extinguish the liability of the Government for the sum so paid. But such determination by the Auditor shall not be conclusive as to who the lawful heir or next of kin is, and any person claiming said sum, or any part thereof, as lawful heir or next of kin may vindicate his right to the same by action in court against the person who received the same, anything in this Act to the contrary notwithstanding."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, January 12, 1904.

[No. 1042.]

AN ACT FOR THE PURPOSE OF MAINTAINING THE PARITY OF THE PHILIPPINES CURRENCY IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS ONE AND SIX OF THE ACT OF CONGRESS APPROVED MARCH SECOND, NINETEEN HUNDRED AND THREE, BY PROHIBITING THE IMPORTATION INTO THE PHILIPPINE ISLANDS OF CERTAIN KINDS OF COINS.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The importation into the Philippine Islands of Mexican currency, Spanish-Filipino currency, or any other metallic cur-

rency which is not upon a gold basis, is hereby prohibited, and any of the aforementioned currencies which are imported, or of which the importation is attempted, contrary to the provisions of this Act, shall be liable to forfeiture under due process of law, the bullion value, in terms of Philippines currency, of one-third of the sum so forfeited to be payable to the person upon whose information given to the proper authorities the seizure of the money so forfeited is made, and the other two-thirds to be payable to the Philippine Government, and to accrue to the gold-standard fund: *Provided*, That money actually on shipboard in transit to the Philippine Islands and for which bills of lading have been made out on or prior to the date of the passage of this Act shall be permitted to enter: *And provided further*, That each first-class passenger shall be permitted to bring into the Philippine Islands a sum of the aforementioned currencies not exceeding in value fifty Philippine pesos; each second-class passenger a sum not exceeding twenty Philippine pesos; and each third-class passenger a sum not exceeding ten Philippine pesos.

Sec. 2. The importation or the attempt to import any of the said currencies contrary to law is hereby declared a criminal offense, punishable, in addition to the forfeiture of said currency as above provided, by a fine of not more than ten thousand pesos or imprisonment for a period not exceeding one year, or both, in the discretion of the court.

Sec. 3. The provisions of section one of this Act shall be enforced by the Collector of Customs of the Philippine Islands in accordance with the provisions of Act Numbered Three hundred and fifty-five, as amended by Act Numbered Eight hundred and sixty-four, except that currency seized and forfeited under the provisions of this Act shall not be sold at auction, but shall, as provided in section one of this Act, be paid into the Treasury of the Philippine Islands to the credit of the gold-standard fund, and the sum due to the informer shall be paid in Philippines currency by the Treasurer from that fund.

Sec. 4. This Act shall take effect on its passage.

Enacted, January 14, 1903.

### EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 18, 1904.

EXECUTIVE ORDER }  
No. 5.

An arrangement having been made with the *Manila American* for the printing of all legal notices, proposals for bids, advertisements of sales, and so forth, authorized to be published in the city of Manila, in the English language, at the rate of thirty centavos, Philippines currency, per line, for the first insertion, and twenty centavos, Philippines currency, per line, for each subsequent insertion, except that the printing for the Court of Land Registration will be done at the rate of ten centavos, Philippines currency, per line, all such advertising matter shall be sent direct to the *Manila American* by the various Bureaus and Offices in interest, previous instructions to the contrary notwithstanding.

All printing in the Spanish language intended for publication in the newspapers of the city of Manila, except that from the courts of justice, shall be submitted to the Executive Bureau for distribution.

It is urged that only the most important matters be sent in for

publication, in order that the expense incident thereto may be kept down to a minimum.

LUKE E. WRIGHT,  
*Acting Civil Governor.*

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 27, 1904.

EXECUTIVE ORDER }  
No. 6.

The time specified in Executive Order Numbered One hundred, series of nineteen hundred and three, as amended, is hereby extended to January thirty-first, nineteen hundred and four, in order that the committee appointed thereunder may complete its investigations in respect of the conditions pertaining to the coastwise trade.

LUKE E. WRIGHT,  
*Acting Civil Governor.*

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 27, 1904.

EXECUTIVE ORDER }  
No. 7.

The official rate for the redemption of Spanish-Filipino currency and its acceptance for public dues, from and after January twenty-ninth, nineteen hundred and four, and until further notice, is hereby fixed at the ratio of one peso and ten centavos, Spanish-Filipino currency, for one peso, Philippines currency, or its equivalent in United States currency.

All provincial treasurers are hereby authorized and directed to receive Mexican pesos in exchange for Philippines currency at the above-authorized rate of exchange between Spanish-Filipino coins and Philippines currency, and they are directed to take immediate measures to notify all municipal treasurers within their respective provinces that this authority has been granted and that Mexican pesos will be received at the provincial treasury in accordance therewith, and they are also directed to transmit all coins so received to the Treasurer for the Philippine Islands.

LUKE E. WRIGHT,  
*Acting Civil Governor.*

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, January 27, 1904.

EXECUTIVE ORDER }  
No. 8.

Pursuant to the provisions of Act Numbered One thousand and forty-three, Philippine Commission, and by and with the consent of the Philippine Commission first had, and it appearing that the conditions now prevailing in the Provinces of Cavite and Isabela are such as to render it unwise and inimical to the public interest to hold gubernatorial elections therein on the first Monday of February, nineteen hundred and four, the said elections in the said provinces are hereby postponed until further order.

LUKE E. WRIGHT,  
*Acting Civil Governor.*

## INAUGURAL ADDRESS

BY

## HON. LUKE E. WRIGHT,

CIVIL GOVERNOR OF THE PHILIPPINE ISLANDS,

*Manila, P. I., February 1, 1904.**My Fellow-Countrymen:*

In formally assuming the office of Civil Governor of the Philippine Islands, following the custom which obtains in the United States, I deem it proper briefly to refer to existing conditions and to outline in a general way the governmental policies which, in my judgment, should control in the future. It is peculiarly appropriate on this occasion because, under the Spanish régime, as I am informed, a change of governors-general, as a rule, indicated a reversal of policies theretofore obtaining and a large change in the administrative personnel all along the line. This being the usual course in the past, it is natural that the Filipino people should attach more than ordinary importance to a change of administration. It seems to me desirable, therefore, at the earliest opportunity to emphasize the fact that the wise, humane, and patriotic principles which controlled the administration of Governor Taft will not, at least consciously, be departed from by me.

## THE CIVIL COMMISSION; POLICY OF ATTRACTION; RESULTS.

The Commission came to these Islands, bearing a message of peace and good will from the American people to the Filipino people. The instructions which President McKinley gave us were definite and explicit and were made known to us before we left the United States. We assumed the responsible duties with which he had honored us, fully understanding their tenor and assenting to their wisdom and justice. Whatever differences of opinion may exist as to the soundness of the policy enunciated in these instructions, there can be none among conscientious and honorable men that we were and are fully committed to their execution. We understood fully that while opposition to American authority, when it took the form of an armed insurrection, must be met and put down by the military forces of the United States; at the same time we realized with equal clearness that a true peace could only be established by obtaining the confidence and coöperation of the educated and patriotic Filipinos. We further believed that it was true American doctrine that the people affected by Government should have as large a participation in that government as they were capable of safely exercising in their own interests; and that the fullest opportunity should be given them to test their abilities by actual participation in the administration of their own affairs. It was not believed to be either just or politic to impose upon them a government modeled strictly upon American lines and administered wholly by Americans.

Acting upon these general principles, Governor Taft and his colleagues, from the beginning, have endeavored to pursue a policy of attraction; and at every step have invited and welcomed the advice and assistance of those Filipinos whom they believed competent to be of service in establishing good government here.

It is not my purpose to glorify the work which has been already accomplished by Governor Taft and the Commission. The future must largely determine whether we have wrought well or badly. We perhaps stand too near to the stirring events which have thronged the years of American occupation of these Islands to judge dispassionately the value of what has been accomplished. The substitution of American theories of government and methods of administration for those which had obtained for hundreds of

years under the Spaniards has been carried on with the characteristic energy which is the distinguishing feature of the American. And naturally there have arisen differences of opinion as to the wisdom of our course not only among observing foreigners and Americans but among Filipinos as well. There are not wanting critics in the former class who think the Commission has gone too fast and too far; and, on the other hand, there are not wanting impatient Filipinos who, forgetful of what has already been done, complain that we are moving too slowly. This is not the occasion nor am I the proper person to discuss, upon their merits, these differences of opinion. That we have made mistakes I shall not controvert. The man or men, however, who do not make mistakes are only those who accomplish no serious or permanent work. I think, however, we may justly claim at least the benefits of good intentions and honest efforts. It seems to me, furthermore, that when a comparison is made between the situation as it existed three years and a half ago and as it exists now, even the least observant or the most censorious must be struck with the marvelous change for the better. Then there was a blaze of insurrection extending from one end of the Archipelago to the other; to-day general peace prevails. Then life and property were only secure in those towns garrisoned by American troops who occupied several hundred stations; to-day the number of our troops has been reduced by more than three-fourths, occupy only a few strategic points, and yet with the exception of the occasional depredations committed here and there by insignificant and fugitive bands of ladrones life and property are as secure in these Islands as in other well-ordered communities. I do not for a moment pretend that this gratifying change has resulted wholly from the labors of the Commission. Unquestionably in the mere suppression of insurrection the chief credit is due to the efforts of our gallant Army and Navy. But I think I may say, without the imputation of egotism or the desire to unduly exalt the Commission, that but for its efforts to establish in the minds of the intelligent and thoughtful Filipinos a conviction as to the rectitude and benevolence of the intentions of the American people with reference to them, and thereby securing, in a multitude of instances, their cordial and zealous coöperation in the establishment of peace and order, these gratifying conditions would not now exist. We have reposed trust and confidence in many Filipinos and it is but simple justice to say that rarely has that trust and confidence been abused. To-day, pursuant to legislation enacted by the Commission, the Filipinos have in all their local affairs self-government as Americans understand that term. They are largely represented upon the Commission, in the judiciary, and in all other branches of the Government. They constitute the body of the Constabulary who have been for the past two years charged with the duty of maintaining order and have done and are doing most faithful and efficient service. They have the benefits of a comprehensive civil-service law which applies equally to them as to Americans. A public-school system has been created and is being steadily extended with satisfactory results. When it is considered that so much has been accomplished among a people alien to us in traditions, customs, and languages, I think I may fairly say, in the first place, that we have not wrought wholly in vain; and in the next and most important place, that it furnishes striking evidence of the adaptability and capacity of the Filipinos and warrants us in entertaining high hopes for their future.

## FUTURE WORK; RAILROAD BUILDING; AGRICULTURE.

But it is not my purpose to deal further upon this subject nor to produce the impression, by what has already been said, that the conditions which obtain in these Islands to-day are ideal in character. Real work, both for the American and the Filipino, lies in

the future. Up to this time we have been going through what may be aptly termed a period of political reconstruction. While there has not even as yet been a perfect adjustment on the part of the people to the new order of things, as I have already shown we have made substantial progress in the right direction. From this time forward our labors must mainly be toward the consolidation, elaboration, and making permanent that which we have established and the building up and developing the natural resources of the Islands. Our first and most obvious need is an improved method of intercommunication among the people. We especially must labor to begin an era of railroad building for Luzon, Mindanao, and several of the large islands of the Archipelago. I do not underestimate the value of schools and other agencies of modern civilization which lead the masses of the people to higher levels of living and thinking, but to my mind, so far as concerns these people, nothing is of so much moment to them as railroads. While without them much may be done, yet any progress must be slow, halting, and unequal. With them we may not only hope for but confidently expect rapid and tremendous improvement. As matters stand, except along that part of the coast line of the Islands accessible to vessels, there is practically no incentive offered to labor or production. Having no markets the inhabitants only seek to produce enough to meet their simplest wants. Agriculture under such circumstances is primitive in character and exceedingly limited in extent. The mineral resources of the Islands remain undeveloped and vast forests of valuable timber almost unexplored and wholly untouched exist. It is only within a comparatively recent period that we have been in a position to grant franchises for the construction of railroads and other works of internal improvement. We have always recognized, however, the vital importance of the matter and have, from time to time, in our reports brought the subject to the attention of the authorities at Washington. When in that city last winter I had occasion to discuss this matter with the President and the then Secretary of War, Mr. Root. Both of them I found to be fully alive to our needs in this regard. The latter arranged several interviews with prominent capitalists and railroad builders in the United States looking to the inauguration of a large railroad system in these Islands, and I am informed that, notwithstanding the enormous pressure of other business incident to his position, he has continued to urge upon capitalists at home the advantages of investment in railroads in these Islands. While it is somewhat premature to speak definitely, I feel much encouraged in the belief that in the not remote future we may hope for substantial benefits as the result of his efforts. And now that Governor Taft has succeeded him, we have a right to feel doubly sanguine in this regard, for his colleagues know, as perhaps few can know, how near to his heart lies the prosperity and happiness of these people.

The importance of developing agriculture can not be overestimated. The people have been sorely afflicted in the last two years by the destruction of their crops by locusts, and to a large extent the loss of their horses and cattle by rinderpest. Through the liberality of the American Congress, a large sum was placed at the disposal of the Insular Government to replace the cattle thus lost and to aid and prevent, as far as possible, suffering among the people. This fund has to a considerable extent been expended in the building of important highways and in the construction of other important public works, thus furnishing a means of livelihood to the people, especially in those sections most seriously affected by the loss of crops and cattle, and also in the purchase of carabao. It has not in the past been nor will it in the future be the policy of the Government to extend aid to the point of pauperizing the people, but only to relieve their actual necessities by enabling them to earn money by their labor. In a number of the provinces in which rice has heretofore been the principal crop, the people have been recently blessed with a bountiful yield

of that cereal. Owing to a lack of cattle there still remains fallow, however, a considerable area of land formerly cultivated. As a result the importation of rice will still be necessary, though not to such an extent as last year. It should be our endeavor to increase the production of this necessity of life by every means in our power, at least to the point of making the Islands self-supporting in this regard. The introduction of American agricultural machinery and methods of cultivation is very desirable and will be of immense benefit. The sugar and tobacco interests, I regret to say, are in a depressed and languishing condition. While what I have said as to rice production applies with almost equal force to them, and much may and must be done for their betterment by the Insular Government, still the fact remains that we can not hope for any real advance in these industries until they are given entrance to the markets of the United States upon equitable terms, and for this boon we can only appeal to the Congress. Even were this granted, several years must elapse before the sugar and tobacco planters of these Islands could hope to produce as much as prior to the insurrection; nor so long as the introduction of Chinese and other contract labor is prohibited as at present, and as doubtless it will be permanently, is there the slightest danger of Philippine exportation of these articles injuriously affecting prices to producers in the United States. I entertain the confident hope and belief that Congress will not long hesitate in removing the insurmountable tariff barriers which now bar the way to the entrance of these important products.

#### THE FRIAR LANDS.

Among the last important official acts of Governor Taft was the conclusion of preliminary contracts for the purchase of what is known as the "friar lands." As soon as the necessary examination of titles and survey of these estates can be made, final conveyance will be given and these lands taken over by the Government. They will then be immediately offered for sale at cost price upon long time to the persons who have heretofore occupied them as tenants. Payments will be made in annual installments at a very low rate of interest, thereby enabling the purchasers to become the owners of their holdings by paying a little more than that formerly paid as rent. In this way we hope and expect to settle for all time one of the burning questions in the Filipino mind. In making this settlement the Government has been just, not to say liberal, to the religious orders, and at the same time will confer a substantial benefit upon the occupants of the land. It is believed that the spirit which dictated this transaction will be fully appreciated, not alone by those immediately affected but will be accepted by the great mass of the Filipinos as a further evidence of the kind feeling and beneficent purpose of the American Government.

#### CURRENCY.

The Commission perceived in the very beginning that one of the great drawbacks to anything like the permanent prosperity and progress of the Islands was the lack of a stable currency. The only circulating medium which the Americans found here was an irredeemable silver currency composed of Mexican and Spanish-Filipino coin. The general tendency of silver has been for many years downward, but with frequent and violent fluctuations in price. The currency in circulation, as a result, rose or fell with the advance or decline of silver. All transactions, and especially those involving credits, were consequently largely speculative; this has been disastrous to all business enterprise. The Commission in its first report to the President urged legislation by Congress which would give to the people a silver currency to which they had always been accustomed but redeemable in gold, thus establishing and fixing a uniform stable standard of values. The Congress of the United States, on the 2d day of March, 1903, passed an act

the provisions of which substantially embodied the recommendations of the Commission, and provided for a new coinage of Philippine pesos redeemable at the Insular Treasury in gold, which, together with the United States gold coin, are declared to be the sole legal tender of the Islands after a date to be fixed by the Commission. Pursuant to this act, the Insular Government, by proper legislation and executive order, has demonetized Mexican dollars and provided for the redemption and recoinage of the Spanish-Filipino currency. It has, however, met with considerable difficulty in immediately retiring the outstanding Mexican and Spanish-Filipino coins, because the great mass of the people failed to understand and appreciate the real value of the new currency and continued to receive and use in their daily transactions the old upon a parity with the new coins. The difficulty of substituting the new currency for the old has furthermore been increased by reason of the fact that certain business interests have found it to their advantage to buy the hemp, copra, and tobacco produced in the Islands in the old coins, which are much cheaper than the new, and thereafter to sell their purchases in foreign markets for gold. The Commission, however, has been thoroughly convinced that there could be no real and genuine business prosperity and progress so long as this state of affairs continued, and has therefore enacted legislation which will, after the expiration of a few months, tend to make unprofitable the use of the old currency and thereby make easy and certain the introduction of the new and stable currency.

The importance of making effective the wise legislation of Congress above referred to can not be overstated. In my judgment we can not hope for any large revival of business and improvement in general conditions until we have eliminated this disturbing factor from the business of the Islands. It will be the policy of the Commission to bring about this result as rapidly as may be upon the lines which it has already laid down.

#### FUTURE POLICY.

Did time permit I might enumerate other matters of considerable though minor importance which call for future consideration. Enough, however, has been said to indicate the general lines of policy which it is believed will be pursued by the Government in the immediate future. I can not refrain, however, from saying that the success or failure of the efforts of the representatives of the American Government in these Islands must very largely depend upon the attitude of the Filipino people themselves; and, furthermore, that their attitude will in the nature of things in turn be largely affected by the attitude of the Americans in these Islands toward the Filipino people. It has been perhaps not extraordinary, in view of past events, that Americans and Filipinos should, to some extent, still stand apart from each other. It seems to me, however, that the time has passed, if it ever existed, for an attitude of reserve and distrust. The Americans who are here in these Islands with the legitimate and laudable purpose of aiding in their development and at the same time bettering their own fortunes can not fail to see that they can only hope to accomplish their desires by establishing cordial personal and business relations with the people with whom they must necessarily come in contact. This is so obviously true that it does not require elaboration. Aside from this, every consideration of magnanimity and patriotism impels them to such a course. We are strong; the Filipinos are weak. We are justly proud of our institutions and of the benefits and blessings which spring from them. We have assumed control and government of these Islands without consulting the wishes of their inhabitants. Are we not then in conscience and honor bound to offer them the best we have to give? In inviting them to participate equally in our common birthright, we do not make ourselves the poorer but therein the richer. We can not ignore the truth that in our

relations with this people the Americans here are quite as much on trial before the civilized world as are the Filipinos. On the other side, every Filipino should turn a deaf ear to the sinister promptings of restless and selfish agitators and demagogues who strive to keep alive prejudices born of the evil passions engendered by war and, following the example of the wisest and most patriotic of their countrymen, should frankly and loyally accept the situation as it is. Nothing can be accomplished that is good by a contrary course. The logic of events is inexorable. True patriotism, under existing conditions, is found in a loyal attitude to the Government. Every intelligent Filipino must realize that his people in their present stage of development are unable to stand alone and that in the very nature of things they must lean upon some stronger arm. It is suicidal, therefore, to repel the kindly advances made by those in authority or to engage in a policy of obstruction or agitation. There is no reason for antagonism. On the contrary, there is every reason against it. The coming of Americans to these Islands to build railroads and other works of public utility, to engage in agriculture, manufacturing, or the mechanical arts can only be of advantage to the Filipino people. There is room in these beautiful and fertile Islands for all. The door of equal opportunity should be thrown wide open for all alike—European, American, and Filipino.

#### CONCLUSION.

And now in conclusion I desire to express my sincere thanks to the President of the United States for the great honor he has conferred upon me. I am not oblivious that I am succeeding a gentleman who has fairly earned, by his elevated character and high ability as a constructive statesman, the respect and admiration of all men, and in addition stands "best beloved" in the hearts of the Filipino people. When I step into his place I have a sobering realization of how wide a space he occupied and how great a vacuum remains. I understand full well the difficulties, the perplexities, and the labor incident to the position. I can only promise to do my best. For a successful issue under that divine Providence which shapes the destinies of men, I must chiefly rely upon the aid of my colleagues and other officials of Government, and last, but not least, upon the sympathetic co-operation of all classes of people who sincerely desire that order, justice, and the reign of law shall be supreme.

### DECISIONS OF THE SUPREME COURT.

[No. 1303. December 12, 1903.]

*THE UNITED STATES, complainant and appellant, vs. JOHN B. COLLEY, defendant and appellee.*

Per MCDONOUGH, J., with whom concur JOINSON and COOPER, JJ.:

1. CRIMINAL LAW; COURTS-MARTIAL; JURISDICTION; CONCLUSIVENESS OF JUDGMENTS.—The judgment of a court-martial rendered upon a subject within its limited jurisdiction is conclusive and can not be reviewed or set aside by the civil courts.
2. *Id.*; *Id.*; EFFECT OF JUDGMENT; SECOND TRIAL FOR THE SAME OFFENSE.—Where the accused has once been duly acquitted or convicted by a court-martial acting within the scope of its powers, he has been tried in the sense of the one hundred and second article of war and can not be tried again, against his will, whether the former conviction or acquittal is approved or disapproved by the reviewing authority, or even if no action at all has been taken by such reviewing authority.
3. *Id.*; COURTS-MARTIAL; JEOPARDY.—Where the defendant, a soldier in the United States Army, is tried and convicted by a court-martial for an offense committed by him in a district in which a state of insurrection existed at the time, he can not be tried again for the same offense in the ordinary civil courts, notwithstanding the failure of the military authorities to enforce the judgment of the court-martial, and an attempt at such prosecution may be successfully opposed by a plea of jeopardy.

4. **ID.; JEOPARDY; DUAL SOVEREIGNTY.**—The decisions of the Courts of the United States to the effect that a person may, by the same act, commit two crimes, one against the United States and the other against the State in which the offense is committed, and that the prosecution by one sovereign is not a bar to a subsequent prosecution by the other, can not be applied in the Philippines, because there is no dual sovereignty in these Islands. Hence when the Government chooses the tribunal in which to try an offender he can not for the same offense be put in jeopardy a second time in another court of the same sovereignty.

5. **ID.; COURTS-MARTIAL; JURISDICTION.**—In time of war, insurrection, or rebellion courts-martial have exclusive jurisdiction to try officers and soldiers of the United States Army for all offenses committed by them in the State, Territory, or District where the war, insurrection, or rebellion exists.

Per WILLARD, J., concurring:

6. **ID.; ID.; JEOPARDY.**—The defendant having been tried and convicted by a court-martial under circumstances which made it at the time a court of competent jurisdiction, if it be contended that the action of the reviewing authorities was necessary to complete the trial, their failure to act amounted to an abandonment of the case without the consent of the accused; if such action was not necessary, then there was a final conviction, and, in either case, the provisions of articles 28 or 26, respectively, of General Orders, No. 58, prevent the defendant from being brought to trial a second time for the same offense before the same or any other court.

Per TORRES, J., concurring:

7. **ID.; ID.; PENDING PROSECUTION.**—The amnesty proclamation of July 4, 1902, did not divest the military authorities of power to approve or disapprove the sentence of a court-martial rendered before that date and the effect of the failure to do so is to leave the proceeding before the military court still pending, and, consequently, the ordinary civil courts are without jurisdiction to try the defendant upon the same charge.

**APPEAL** from a judgment of the Court of First Instance of Samar.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

FREDERICK G. WAITE, for appellee.

McDONOUGH, J.:

The defendant, John B. Colley, was a private in Company M, Twenty-sixth Infantry, United States Regular Army, and while in such service and on or about the 29th day of March, 1902, he killed one Frank Ignasiack, also a private in the same company, for which crime said Colley was arrested by the military authorities.

A general court-martial was duly appointed by Brigadier-General Grant, commander, to meet at Catbalogan, Samar, May 24, 1902, or as soon thereafter as practicable for the trial of such persons as were properly brought before it.

On June 4, 1902, the said court met and proceeded to the trial of said Colley, who was personally present and represented by counsel, on the charge of murder, in violation of the fifty-eighth article of war, in that he did, in time of insurrection, willfully, unlawfully, feloniously, and with malice aforethought murder said Frank Ignasiack by shooting him with a rifle, inflicting a wound of which said Ignasiack died then and there. This at Tarangnan, Samar, Philippine Islands, on or about the 29th day of March, 1902.

The accused plead not guilty, and thereupon and thereafter many witnesses were sworn and gave testimony in the case, and the said court on June 6, 1902, after hearing all the evidence and after due deliberation, found the accused guilty of the charge of murder and also guilty of the specification. The court thereupon sentenced said accused to be "hanged by the neck until dead," at such time and place as the reviewing authority may direct, two-thirds of the court concurring therein. The court then adjourned subject to meet at the call of the president.

On July 11, pursuant to an order from Brigadier-General Grant, the court-martial reconvened, for the purpose of revising the

record in this case, and made several verbal changes, not, however, affecting the jurisdiction, the finding, or sentence of the court.

The record was then forwarded, July 23, 1902, by Brigadier-General Grant, to the Adjutant-General, Division of the Philippines, Manila, P. I., with this indorsement: "Under the terms of the fifty-eighth article of war, as construed in paragraph 91, Dig. Opin. J. A. G. 1901, any action on this case subsequent to July 4, 1902, seems to be illegal. Private Colley has not been released from confinement."

Subsequently, and on the 12th day of August, 1902, the judge-advocate forwarded the same to the Adjutant-General of the division, under indorsement 7, "recommending that, as the 58th A. W. is no longer operative since the proclamation of the President of July 4th, 1902, an effort be made to have this man tried by the civil authorities, for murder, and that his discharge without honor be requested from the Secretary of War, under Section E, paragraph 167, A. R."

On August 14, 1902, under indorsement 8, by order of Major-General Chaffee, it was returned through headquarters Department of South Philippines, Cebu, Cebu, to the commanding officer, Catbalogan, Samar, for action as indicated in seventh indorsement, and was received and its contents noted.

The proclamation of the President of the United States, issued July 4, 1902, is known as the amnesty proclamation, and recites that "the insurrection against the sovereignty of the United States (in the Philippine Archipelago) is now at an end, and peace has been established in all parts of the Archipelago, except the country inhabited by the Moros, to which this proclamation does not apply."

Section 1342 of the Revised Statutes of the United States prescribes the rules and articles of war. Article 64 of this section provides that:

"The officers and soldiers of any troops, whether militia or others, mustered and in pay of the United States, shall, at all times and in all places, be governed by the Articles of War, and shall be subject to be tried by courts-martial."

Article 58 of said section provides that:

"In time of war, insurrection, or rebellion \* \* \* murder \* \* \* shall be punishable by sentence of a general court-martial when committed by persons in the military service of the United States; and the punishment in any such case shall not be less than the punishment provided for the like offense by the law of the State, Territory, or District in which such offense may have been committed."

The accused was tried and convicted under this article 58, the crime charged having been committed by the soldier in time of insurrection, and it appears that when the President proclaimed the insurrection at an end, July 4, 1902, the reviewing authority of the army concluded that the military authorities were without power to carry into execution the sentence of the court.

Article 105 of said section provides that:

"No sentence of a court-martial inflicting the punishment of death shall be carried into execution until it shall have been confirmed by the President; except in the cases of persons convicted, in time of war, as spies \* \* \* or murderers \* \* \* and in such excepted cases the sentence of death may be carried into execution upon confirmation by the commanding general in the field, or the commander of the department, as the case may be."

It appears that after the insurrection ended, the reviewing authority not having approved or disapproved the sentence, and having reached the conclusion that under the military law no further steps could be taken by such authority toward enforcing the judgment and sentence of the court, nothing further was done by the military authorities except to dismiss the defendant dishonorably from the Army.



Notwithstanding the fact, however, that article of war 102 provides that "no person shall be tried a second time for the same offense" the defendant was turned over to the civil authorities, and on the 8th day of January, 1903, the provincial fiscal of Samar filed an information in the Court of First Instance of that province duly charging the defendant with the murder of said Ignasiak, at the time and place and in the manner and with the intent mentioned in the complaint made to the court-martial.

On January 8, 1903, the accused appeared in person and filed a motion that he be discharged from the accusation, on the ground of former jeopardy, setting forth in this written plea the charges and specifications upon which he was tried by the court-martial, and also the judgment of that tribunal.

On March 28, 1903, the prosecuting attorney filed a paper in which he admitted the facts set up by the defense as the proceedings had before the court-martial, and also the identity of the accused as the same person so tried, and that it referred to the same act, the killing of Frank Ignasiak, as that prosecuted in the present cause, but denied that the charge in each one of the said causes is legally the same or that the said court-martial was a court of competent jurisdiction to try the said case; adding that by reason of the proclamation of July 4, 1902, the said court-martial has declined to continue the said cause or to execute the judgment entered therein.

On the 31st of March, 1902, the case was heard on the plea of jeopardy before Hon. William H. Pope, judge of the Twelfth Judicial District of the Philippine Islands, and in support of the plea of jeopardy the defendant, by his attorney, introduced in evidence the transcript of the proceedings before the court-martial, which was admitted by the court without objection on the part of the prosecuting attorney.

On April 2, 1903, Judge Pope, of the Court of First Instance, entered his decision, finding that the defendant had been placed in jeopardy for the same offense before a court of competent jurisdiction, and directing his discharge. Against this order the prosecuting attorney appealed.

For the purposes of this appeal the facts are not denied or questioned: (1) That the general court-martial which tried Colley was lawfully organized; (2) that the crime charged was one forbidden by law; (3) that in time of insurrection a general court-martial has jurisdiction of the crime charged; (4) that insurrection existed at the time of the commission of the offense and until after the conviction and sentence of the accused; (5) that a trial of the accused took place before that court upon the charge and the defendant's plea of "not guilty"; (6) and that upon the evidence in the case that court found the defendant, Colley, guilty of murder and sentenced him to be hanged by the neck until dead.

It has frequently been held that, although courts-martial are the creatures of military orders and are transient and summary, their judgments, when rendered upon subjects within their limited jurisdiction, are as legal and valid as those of any other tribunals, and that their proceedings and judgments can not be reviewed or set aside by the civil courts. (Swain vs. United States, 165 U. S., 553; United States vs. Hirsch, 100 U. S., 13; Johnson vs. Sawyer, 158 U. S., 109; Ball vs. United States, 163 U. S., 662; Wales vs. White, 114 U. S., 564.)

The judgments of courts-martial are conclusive, like those of any other courts, unless some defect in regard to their jurisdiction is shown. (Brown vs. Wadsworth et al., 15 Vt., 170.)

Under the practice in force under military law, the defendant could not be tried again by court-martial.

Where the accused has been once duly acquitted or convicted, he has been "tried" in the sense of article of war 102 and can not be tried again against his will, though no action whatever

be taken by the reviewing authority, or though the finding and sentence be wholly disapproved by such authority.

It is immaterial whether the former conviction or acquittal is approved or disapproved. (Davis's Military Law, 533, 2d ed.) The accused now claims that, inasmuch as he was put in jeopardy by his trial, conviction, and sentence by the court-martial, he can not, for the same offense, be put in jeopardy again.

By Article V of the amendments to the Constitution of the United States it is provided:

"\* \* \* nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb."

This article was made applicable to the Philippine Islands by section 5 of the act of Congress passed July 1, 1902, relating to these islands, viz:

"Sec. 5. \* \* \* No person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy of punishment."

What is meant by "jeopardy"? Bishop in his work on Criminal Law (vol. 1, sec. 979, 8th ed.) says: "One who in a judicial tribunal has been convicted, acquitted, or put in what the law terms jeopardy in respect to a real or supposed crime, can not be further or again pursued for it except as by some step in proceeding he waived his right to rely on this immunity."

Judge Story in his work on the Constitution (5th ed., sec. 1784) says that "the meaning of it is, that a party shall not be tried a second time for the same offense after he has once been convicted or acquitted of the offense charged by the verdict of the jury and judgment has passed thereon for or against him." Some authorities hold that jeopardy may take place in the proceeding of the trial before it ends; others that there is no jeopardy until the rendition of the verdict or judgment; but all agree that jeopardy exists when the trial resulted in a judgment of conviction or acquittal, especially if sentence follows the conviction, as in the case at bar. The doctrine that no one shall be twice put in jeopardy for the same offense is favored by the courts. It is fundamental. It is founded on reason and justice. It was a part of the civil law and of the common law and is incorporated not only in the Constitution of the United States but also in the constitutions of almost all of the States.

The defendant was duly convicted in a military court, having authority and jurisdiction to try the case, and he was convicted and sentenced.

"If the tribunal has authority either concurrently with another or exclusive, whether it is an inferior one as a justice's court, a court-martial, or the court of a municipal corporation, or is a superior one—a conviction or acquittal in it will be a bar to a subsequent proceeding in whatever court undertaken." (1 Bishop's Cr. Law, sec. 1029; Commonwealth vs. Roby, 12 Pick. Mass., 496.)

The acquittal of the accused by a court-martial is a bar to subsequent indictments in courts of common law for the same offense, the tribunal acquitting being competent to acquit. (Wilkes vs. Dinsmore, 7 How. (U. S.), 123.)

There are, however, numerous decisions of Federal and State courts holding that by the same act a person may commit two crimes, may offend at the same time two sovereignties—that of the United States and that of the State in which the offense is committed. From this doctrine the conclusion was reached that therefore there could be two trials of the accused for the same act, one in the courts of the United States and the other in the State tribunal, and also, as a consequence, two punishments.

This doctrine has been applied in such offenses as passing counterfeit money, harboring fugitives, illegal sale of liquor, etc. (State vs. Rankin, 4 Colden (Tenn.), 410; Fox vs. Ohio, 5 How. (U. S.), 410; Baron vs. Mayor, 7 Peters (U. S.), 243; Moore vs. People of Illinois, 14 How. (U. S.), 13.)

Conceding this to be an exception to the general rule that an offender shall not be tried twice for the offense against his will, it is not applicable in this Colley case for the reason that there is no dual sovereignty in these Islands; there is only one to be offended—the United States—for which and in the name of which the Commissioners of the Philippine Islands as well as courts-martial act.

At the time of the shooting in question the Commission enacted laws "by authority of the President of the United States."

So here there is but one offense, that against the United States, and when that Government chooses the tribunal in which to try an offender, when the trial takes place in that tribunal, and when the accused is convicted and sentenced, he can not again be put in jeopardy in another court of the same sovereignty.

It follows that the defendant having been once in jeopardy can not be tried again for the offense of which he was formerly convicted.

The Supreme Court of the United States has gone a step further, and has held that in time of war, insurrection, or rebellion an officer or soldier of the United States Army can not be tried at all in a civil court for an offense committed in the State, Territory, or District where the war, insurrection, or rebellion exists. It held that such an offense comes within the provisions of article of war 58, and that general courts-martial have *exclusive* jurisdiction in such cases.

The case of *Coleman vs. Tennessee* (97 U. S., 509) is authority for this view of the law and it applies to the case at bar. In that case it appeared that Coleman was indicted in a criminal court of Tennessee, October 2, 1874, on a charge of murder, which it was alleged the defendant committed March 7, 1865, while he was in the United States Army. To this indictment the defendant pleaded a former conviction, for the same offense, by a general court-martial regularly convened for his trial, at Knoxville, Tenn., March 27, 1865, the United States at that time and when the offense was committed occupying with their armies East Tennessee, as a military district, and the defendant being a regular soldier of their military service; and that he was convicted by said court-martial of the crime of murder and sentenced to death for the killing of the same person mentioned in the indictment, and that such sentence was still standing as the judgment of the court-martial. It seems that, as in this Colley case, nothing was done to carry out the sentence of the court-martial owing to peace being declared soon after the conviction. The Tennessee courts, however, held the indictment good and the plea of jeopardy bad, inasmuch as there was also a violation of the State laws; and the defendant was tried, convicted, and sentenced to be executed.

Through a habeas corpus proceeding the case was taken to the Supreme Court of the United States. Objection was made that a plea of a former conviction for the same offense was not a proper one for it admitted the jurisdiction of the criminal court to try the offense if it were not for the former conviction, but it was said that its inapplicability would not prevent the court from giving effect to the objection which the defendant attempted to raise, that the State court had no jurisdiction to try and punish him for the offense.

The court discussed at great length the right to govern the territory of an enemy, during military occupation, the character, form, and powers of the local civil government to be established, the relations of the military authorities to the people, the civil courts established, and their jurisdiction in civil and criminal cases.

"But this doctrine," said Mr. Justice Field, who wrote the prevailing opinion, "does not effect the exclusive character of the jurisdiction of the military tribunals over the officers and soldiers of the Army of the United States during war; for they are not subject to the laws nor amenable to the tribunals of the hostile

country." And so the court held that: "The judgment and conviction in this criminal court should have been set aside and the indictment quashed for want of jurisdiction. Their effect was to defeat an act done under the authority of the United States by a tribunal of officers appointed under the law enacted for the government and regulations of the Army in time of war and while that Army was in a hostile or conquered State. The judgment of that tribunal when rendered was beyond the control of the State of Tennessee. The authority of the United States was then sovereign and their jurisdiction exclusive." Coleman was, therefore, discharged from arrest. The same principles are laid down in the case of *Dow vs. Coleman* (100 U. S., 158).

The facts in this Colley case are similar to those in the case of *Coleman*, in almost every respect, and, therefore, the holding of the Supreme Court that, upon such a state of facts, the court-martial had exclusive jurisdiction, established a precedent which this court should follow.

Consequently, for the reason that defendant was once in jeopardy, and also because the court-martial had exclusive jurisdiction to try the accused, the judgment of the Court of First Instance, discharging the defendant from arrest, is affirmed.

*Cooper and Johnson, JJ., concur.*

*TORRES, J., concurring:*

I am of the opinion that the military trial is still pending. The case had been decided by a competent court and on July 4, 1902, the only thing lacking was the approval of the President of the United States or the commanding general of the division, this approval being an indispensable requisite for the execution of a sentence of the military commission. Upon this view of the case, and notwithstanding the information filed by the provincial fiscal of Samar, accusing John B. Colley of the crime of murder, it is unquestionable that the judge of that district was without jurisdiction to take cognizance of the prosecution, and, consequently, all the proceedings of the judge of the first instance are null and void. There is no legal reason why there should be a new prosecution of a crime which has already been the object of a former proceeding, in which a final decision was rendered and which only lacks the final formality of the approval of the President or of the commanding general of the division.

The amnesty proclamation of July 4, 1902, can not be regarded as producing the effect of a dismissal of the military proceedings or as a ground for beginning a new criminal prosecution against the defendant for the same crime. The law does not authorize such a procedure, nor is authority therefor contained in the proclamation. Furthermore, no such decision appears to have been made by the court before which the case was tried.

I am therefore of the opinion that the case prosecuted against John B. Colley should be declared null and void, with the costs *de officio*, and that the judge should immediately discharge the accused and place his person at the disposal of the commanding general of the division.

*WILLARD, J., concurring:*

I concur in the judgment on the ground that the case falls either within section 28 or within section 26 of General Orders, No. 58. Section 28 is as follows:

"A person can not be tried for an offense, nor for any attempt to commit the same or frustration thereof, for which he has been previously brought to trial in a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction, after issue properly joined, when the case is dismissed or otherwise terminated before judgment without the consent of the accused."

The court-martial was a court competent to try the case when the defendant was brought before it and when it pronounced its

judgment. If this did not end the case the subsequent action of the military authorities amounted to an abandonment of the proceedings. This was a termination of the case without the consent of the defendant.

If it be said that the action of the court-martial amounted to a final judgment without the approbation of the convening authority, and so ended the case, then there was a former conviction, and, under section 26 of General Orders, No. 58, this proceeding could not be maintained.

I do not think that the case of *Coleman vs. Tennessee*, so far as it holds the jurisdiction of the court-martial to be exclusive, is applicable here. The relation which the Province of Samar held to the Government of the United States when the crime was committed and the trial before the court-martial had was not the same as that between said Government and the State of Tennessee during the civil war.

Arellano, C. J., dissents.

Mapa, J., did not vote.

*Judgment affirmed.*

[No. 1349. December 21, 1903.]

*THE UNITED STATES, complainant and appellee, vs. HILARIO ESTOY ET AL., defendants and appellants.*

1. CRIMINAL LAW; ROBBERY EN CUADRILLA; ESSENTIAL ELEMENTS.—In order to justify conviction on the charge of robbery *en cuadrilla* the proof must show that the robbery was committed by more than three armed malefactors.

2. ID.; ID.; AGGRAVATING CIRCUMSTANCES; FRAUD AND DECEPTION.—Where the defendants, for the purpose of committing a robbery, obtain entrance into a dwelling by falsely representing that they are police officers, the aggravating circumstance of the commission of the crime by means of fraud and deception is present.

APPEAL from a judgment of the Court of First Instance of Union. The facts are stated in the opinion of the court.

AMBROSIO RIANZARES BAUTISTA, for appellants.  
Solicitor-General ARANETA, for appellee.

MAPA, J.:

In the court below the accused were found guilty of the crime of robbery in a band and were condemned to the penalty of eight years and one day of *prisión mayor*, to the restitution of the property stolen, to pay its owner an indemnification of 140 Mexican pesos, and to the payment of the costs. Against this sentence Hilario Estoy appealed. Marcelo Pabelo did not appeal, and with respect to him the sentence has accordingly become final.

The evidence shows the commission of the offense prosecuted, as well as the guilt of the appellant. The defense admitted this at the hearing and asked solely that the penalty imposed be reduced to six months and one day of *presidio correccional*.

The finding by the judge below that the robbery was committed in a band is not justified by the evidence and is therefore erroneous. Article 505 of the Penal Code requires, in order that the circumstance of *cuadrilla* may be considered present, that the robbery shall have been committed by more than three armed malefactors. This circumstance was not proved in the case at bar. The victim of the robbery, Juan Sotelo, and the witness Juan Diaz assert, it is true, that the men who bound Sotelo were four in number, but neither testifies as to whether or not these men were armed. Nor does Maria Diaz, the wife of Sotelo, affirm that the four men referred to bore arms. Her testimony applies to only two of them, the accused herein, who were the only ones she saw.

The offense prosecuted falls within the provisions of the fifth paragraph of article 503, it having been committed with violence and intimidation, and is not included within any of the four preceding paragraphs of the same article. There were present in the commission of the crime the eighth and fifteenth aggravating cir-

cumstances of article 10 of the Code, since the authors of the crime employed deceit, representing themselves to be policemen and pretending that they had an order from the municipal authorities of the town to arrest Sotelo, who accordingly, in good faith, surrendered himself to them; whereas, as a matter of fact, they in reality were not policemen and had received no such order. The presence of the fifteenth aggravating circumstance must be considered because of the fact that the crime was perpetrated at night. The corresponding penalty should therefore be imposed in its maximum degree.

The judge below condemned the accused to the payment of an indemnification of 140 Mexican pesos to Sotelo, in case of their failure to restore the property stolen. The indemnification in the present case should be 170 pesos, since the property stolen consisted of the sum of 30 Mexican pesos in cash and jewels valued at 140 pesos, making a total of 170 pesos.

For the reason stated, and with the modification indicated as to the legal classification of the crime prosecuted, the judgment appealed is confirmed. The appellant is condemned to eight years of *presidio mayor* and to the payment of an indemnification of 170 Mexican pesos in case of his failure to restore the stolen property, together with the costs of this instance.

Arellano, C. J., Torres, Cooper, Willard, and McDonough, JJ., concur.

Johnson, J., did not sit in this case.

*Judgment modified.*

[No. 1160. December 21, 1903.]

*THE UNITED STATES, complainant and appellee, vs. VICENTE RUBIO, defendant and appellant.*

1. CRIMINAL LAW; HOMICIDE; MITIGATING CIRCUMSTANCES; LACK OF INTENTION TO CAUSE SO SERIOUS AN INJURY AS THAT EFFECTED.—Where it appears that the accused attacked the deceased with a ruler, and, without homicidal intent, inflicted upon him blows which resulted in his death, he is entitled to the benefit of the mitigating circumstance arising from an absence of intent to cause so serious an injury as that actually caused.

2. ID.; ID.; ID.—In order to authorize the application of article 64 of the Penal Code in the determination of the penalty, the record must disclose expressly the character of the crime the defendant intended to commit, and that the intended offense was of a lower character than the one actually committed. The mere fact that the harm caused was greater than that intended by the defendant is not sufficient.

3. ID.; ID.; ID.—In order to authorize the application of article 64 of the Penal Code in the determination of the penalty, the record must disclose expressly the character of the crime the defendant intended to commit, and that the intended offense was of a lower character than the one actually committed. The mere fact that the harm caused was greater than that intended by the defendant is not sufficient.

APPEAL from a judgment of the Court of First Instance of Laguna.

The facts are stated in the opinion of the court.  
PEÑO CONCEPCION, for appellant.

Solicitor-General ARANETA, for appellee.

MAPA, J.:

The defendant is charged with having murdered, on the night of November 8, 1902, Dr. Eduardo Lampin. The Court of First Instance found him guilty of homicide and condemned him to fourteen years of *reclusión temporal* and to the payment of an indemnification of 10,000 Mexican pesos to the family of the deceased, together with the costs of the prosecution. Against this judgment the defendant appealed.

The facts disclosed in the record are as follows: On the date in question the defendant and his wife lived as guests in the house of the deceased. On account of the noise made by the deceased in passing through the hallway of the house while the

defendant was asleep, the latter's wife reproached him. He replied that if the noise he made disturbed them they could go elsewhere. The woman said that they would not leave the house, and thereupon the deceased struck her on the arm with his hand. The accused here interfered and a conflict ensued between himself and the deceased, in the course of which he struck the latter several blows with a wooden ruler. This ruler was about 12 inches in length and the thickness of an ordinary walking stick, and caused contusions on the upper part of the chest, the back, and other parts of the body of the deceased. The wounds so received resulted in a violent congestion of the lungs, which caused the death of the injured man on the night following that on which the affray occurred. These facts are fully established by the testimony of the witnesses both for the prosecution and for the defense and by the testimony of the defendant himself.

The counsel for the accused has not in this court attempted to dispute these facts. His defense is confined to the contention that article 404 of the Penal Code, cited in the judgment appealed, should not be applied in fixing the punishment for this homicide, but that rule 1 of article 64 should control.

The rule referred to provides that "if the crime committed is punishable by a severer penalty than that corresponding to the offense which the defendant intended to commit, he shall suffer in the maximum degree the penalty corresponding to the crime intended." This, according to counsel for the defendant, "covers the case at bar, because the defendant did not intend to kill Dr. Eduardo Lampin, but simply to inflict a beating upon him. This is shown by the size of the instrument with which the assault was made and the parts of the body upon which the blows were inflicted."

This allegation is wholly unfounded. It does not appear from the record that the defendant intended to commit any other crime clearly distinct from that which he did commit. Evidence to this effect would be necessary in order to authorize the application of the provisions of article 64, which, as a matter of fact, is nothing more than a development of the principle contained in paragraph 3 of article 10, according to which one who voluntarily commits a crime or misdemeanor will be criminally responsible, even though the crime committed be different from the one which the delinquent intended to commit. Far from this, it appears on the contrary to be proven beyond a doubt in this case—and this is implicitly acknowledged by the defense—that the aim of the defendant was to inflict a bodily injury upon the deceased. Such was, unquestionably, his intention. This being so, it is absolutely necessary to take into consideration the effects of his act for the purpose of determining the extent of the harm caused and of giving the crime its legal definition. The gravity of the offense does not depend upon the use of more or less adequate means for its realization, but in the result produced by an act committed willfully and deliberately. In crimes against the person, the possible result may run the whole scale, from the most insignificant personal injury to the death of the person assaulted.

As the defendant inflicted the wounds which led to the decease of Dr. Lampin, he is responsible for the latter's death, even though it be true, as stated in the opinion of the physician introduced as evidence at the trial, that the physical condition and temperament of the deceased may have contributed to such a result as concurrent causes with the wounds. One who commits a criminal act is responsible before the law for all the consequences connected therewith. The fact that (as may be inferred from the present case, in view of the character of the weapon with which the defendant assaulted the deceased and the nature of the injuries inflicted upon him) the guilty agent had no intention to cause his victim so great an injury as that produced, does not relieve him from his criminal responsibility. This relative absence of intent can be considered solely as a mitigating circumstance

tending to modify the penalty, and in so deciding the judge of first instance was correct.

In addition to this circumstance, we must also consider in favor of the defendant the fifth mitigating circumstance of article 9 of the Penal Code—that is, the commission of the act in the proximate vindication of a grave offense to the wife of the defendant. We consider that the evidence is sufficient to show that the assault committed by the defendant was due to the fact that the deceased had struck the defendant's wife.

The classification of the crime as homicide by the court below is strictly in accordance with the law. In the commission of the crime the circumstance of *alevosia* was not present, nor were there any other circumstances which might increase the gravity of the offense under article 403 of the Code.

In view of the presence of the two mitigating circumstances above mentioned, which we consider to be strongly marked, and there being no aggravating circumstances to consider, the penalty should, in accordance with the provisions of paragraph 5 of article 81, be that immediately inferior to the punishment prescribed by article 404, which controls the present case.

We therefore affirm the judgment appealed, but impose upon the defendant the penalty of ten years of *prisión mayor* and condemn him to the payment of an indemnification of 2,000 insular pesos to the heirs of the deceased, together with the costs of this instance.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1026. December 21, 1903.]

THE UNITED STATES, complainant and appellee, vs. VICTORINO CORREA ET AL., defendants and appellants.

\*CRIMINAL LAW: MURDER; AGGRAVATING CIRCUMSTANCES; ALEVOSIA.—See facts of case held sufficient to show the existence of *alevosia* as defined in article 10, clause 2 of the Penal Code.

APPEAL from a judgment of the Court of First Instance of Ilocos Norte.

The facts are stated in the opinion of the court.

FELIX FERRER, for appellants.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

Victorino Correa, Alejo Correa, Martn Lagursay, Tito Correa, Anastasio Muñoz, Leandro Monte, Macario Monte, Romualdo Monte, Marcos Tagaca, Miguel Aguinaldo, Nicolás Reyes, and Eulalio Gamayon are charged with the crime of the murder of Pablo Jangat on the first day of July, 1902, committed with *alevosia*.

The Court of First Instance found the defendants Victorino Correa, Alejo Correa, Martin Lagursay, and Leandro Monte guilty as principals, and Romualdo Monte as an accomplice, and Marcos Tagaca as an *encubridor*, condemning the first-named defendants as principals to the penalty of life imprisonment (*cadena perpetua*), the defendant Romualdo Monte to twelve years and one day of imprisonment (*cadena temporal*), and the defendant Marcos Tagaca to six years and one day imprisonment (*prisión mayor*), with their respective accessories, and acquitting the other defendants of the accusation.

After the cause was removed to this court the appellants made application for amnesty under the proclamation of the President of the United States of date the 4th day of July, 1902. The application was heard by this court on the 15th day of December, 1902, and was overruled. (See 1 Off. Gaz., 77.)

\*Headnotes by Mr. Justice Cooper.

The judgment of the Court of First Instance is fully sustained by the evidence contained in the record.

Apolinario Castro, a witness for the prosecution, testified that in the month of January, 1902, he was invited by the defendant Victorino Correa to join him in the barbecue of a pig; that he was also told by the defendant to invite Pablo Jangat; that the witness accepted the invitation and sent word to Jangat, and went to Victorino's house; that, shortly after, Pablo Jangat arrived, and was immediately seized by Leandro Monte, aided by Alejo Correa and Martin Lagursay; at the same time Romualdo Monte seized the witness and took him a short distance away from the place, and from this point he was able to see what occurred through the openings between the trees; that he was detained in this place for about half an hour, and that at the expiration of that time was allowed to return; that he did not see Jangat there, but saw some of the accused; that he did not ask where Jangat was because he was afraid; that about half an hour afterwards Martin Lagursay, Leandro Monte, Alejo Correa, and Victorino Correa returned; that Jangat did not come with them; that they then proceeded to carve the pig, and after eating it each one went home. The witness stated that he observed a wound on Jangat's head at the time he was seized, but did not know which one of the accused inflicted it; that while he was in the brush detained by Romualdo Monte he heard one of the men present say in a loud voice, "Anyone who goes about telling of this occurrence will be killed, with all his family." That the time of the occurrence was between 7 and 10 o'clock a. m.; that he did not report the facts to the authorities because he was afraid of Victorino Correa, who told the witness that if he said anything about the matter he would kill him; that when Pablo Jangat was seized by these men there were no other persons present, except Victorino Correa, Alejo Correa, Leandro Monte, and Martin Lagursay, but added that when the pig was carved several other men came around, and among them were Macario Monte and Nicolas Reyes.

Leon Bumaro testified that on Friday in the month of January, 1902, he had been requested by the accused Victorino Correa to come to his house for the purpose of joining him in a barbecue of a pig; that the witness accepted the invitation and went to Correa's house, where he met Pablo Jangat, the deceased, Apolario Castro, Alejo Correa, Leandro Monte, Martin Lagursay, Marcos Tagaca, and Romualdo Monte; that after a few moments he saw Leandro Monte approach Pablo Jangat and seize him; that at the same time Alejo Correa approached and struck Jangat on the head with a stick, which caused a large wound from which a great deal of blood flowed; that immediately after Martin Lagursay approached and also seized Jangat, and then the three proceeded to tie his arms behind his back and to tie his feet together; that after Jangat was so tied he implored Alejo Correa to pardon him; that Correa thereupon asked him where he had put the ring he had taken, to which Jangat replied that he knew nothing about it—he had not taken any such ring; that upon this Monte seized a piece of cane and thrust it between Jangat's legs, assisted by Martin Lagursay, and that they then tied Jangat's body to the cane with the rope so that he might be carried; that after this was done Victorino Correa, who was the man that ordered that Jangat be seized, directed all the other persons present to carry Jangat a short distance into the woods, and to bury him there, Jangat at this time being in a dying condition; thereupon Leandro Monte and Martin Lagursay each placed on his shoulder an end of the cane, which had been passed through the legs of the deceased, and from which he was suspended, and carried him into a neighboring wood; that these men were followed by Victorino Correa, Alejo Correa, Marcos Tagaca, and the witness; that the latter two followed because they were afraid of Victorino Correa; that Tagaca had a crowbar with him, and after reaching a point in the woods some distance to the south-

west of Victorino Correa's house Victorino Correa ordered a grave to be dug in which to bury Pablo Jangat, who was then dead; that the grave was dug by Alejo Correa, Martin Lagursay, Marcos Tagaca, and Victorino Correa himself; they put Jangat's body in it and covered it with earth; this having been done they returned to Victorino's house. After they returned to the house of Victorino they found that the hog had already been carved and that some other men—Tito Correa, Romualdo Monte, Miguel Aguinaldo, Nicolas Reyes, Eulalio Gamayon, and Apolinario Castro—had arrived and were engaged in distributing the meat; that the deceased Jangat was seized in the yard in front of Correa's house; that the body was buried about half an hour after he was seized and wounded; that Victorino Correa not only ordered Jangat to be seized but ordered him to be carried away and buried; that he heard Alejo Correa say that the ring concerning which he had interrogated Jangat after striking him on the head was the property of Correa's sister, who said that it had been taken from her the night before, and the witness supposed that this was the motive for the killing of Jangat. The witness testified further that Marcos Tagaca did not voluntarily assist the other accused above named in digging the grave; but the witness added that he did not know where Tagaca got the crowbar or whether he had been instructed to get it, or whether, on the contrary, he provided himself with it of his own free will.

Isidro Mariano testified that one day in the month of January, 1902, while he was plowing a field, the deceased, Pablo Jangat, approached him and invited him to go with some others who were to meet at Victorino Correa's house for the purpose of barbecuing a pig; that the witness told Jangat to go ahead and that he would come later, which he did; that the witness, after taking breakfast, started for the place, but before arriving there went over to Alejo Correa's house; that just at this time Martin Lagursay arrived and told the witness that by order of Victorino Correa he was to go immediately to the latter's house; that the witness obeyed, and, upon arriving at Victorino's house saw Pablo Jangat's body stretched on the ground, dead, his arms tied elbow to elbow, with a wound on the left side of his head; that a short time after Victorino Correa ordered Leandro Monte and Martin Lagursay to carry Jangat's body away from that place; that they did so, followed by Victorino Correa, Alejo Correa, and Tito Correa; that the witness did not know what they did with the body, as he remained at the house with Miguel Aguinaldo, Nicholas Reyes, and Romualdo Monte for the purpose of killing and carving the pig, as they were ordered to do by Victorino Correa. The witness further testified that upon his arrival at the house he found the men he mentioned as being present engaged in conversation around the body of Pablo Jangat, who apparently had just died; that Victorino had a bolo and that Alejo Correa, Tito Correa, and Miguel Aguinaldo had clubs, which were spotted with fresh blood; that there was another bloody stick lying on the ground; that the witness arrived at the house about 10 o'clock in the morning, and that a short time afterwards they carried the body away, but that the witness did not know where they buried it. The witness further stated that the reason why he did not leave at once was because Victorino Correa had prohibited him from doing so, and that he, being afraid, had obeyed him. The witness was then asked if he knew what was the motive for killing Pablo Jangat, to which he replied that he did not know why Jangat was killed, nor could he testify, of his own direct knowledge, as to whether the defendants present at the trial were the ones who killed Jangat, although he strongly suspected that they were all implicated in the killing in question, from the fact that he found them all sitting around near the body, and especially with respect to Victorino Correa, on account of the warnings and threats of the latter, who told the witness not to reveal to anyone what he had seen, under the penalty of death. The witness testified to having seen the witnesses Apolario Castro and Leon Bumaro at the place in question; that Leandro Monte, Martin

Lagursay, Victorino Correa, Alejo Correa, and Tito Correa all went together and in the same direction with the body of the deceased; that Victorino Correa compelled the others to carry the body.

The defendant Victorino Correa testified in his own behalf and stated that he did not invite the party to come to his house to barbecue the pig. He denied ever having had any acquaintance with the deceased.

Alejo Correa, another one of the defendants, testified, stating that he was not present at the time of the killing of the deceased; that he was at another barrio on this very day from sunrise until 7 o'clock at night; that he never knew the deceased and did not know whether or not he was dead; that it was not true that the deceased had stolen a ring from his sister.

The defendant Martin Lagursay testified that on the day in question he was away from his house planting tobacco from sunrise to sunset; that he never knew the deceased and had never heard of his death.

Leandro Monte testified that on the day in question he was busy grinding sugar cane at his house, some distance away from the place in question; that the first time the witness heard anything about the death of Pablo Jangat was in the justice's court at Dingras, after this case was commenced.

Romualdo Monte testified that he knew nothing about the killing of which he was accused.

Marcos Tagaca testified that on Friday, in January, 1902, he was busy planting tobacco until about 10 o'clock in the morning; that after having rested until after 12 o'clock he went to Tito Correa's house for the purpose of getting some tobacco seed; that while there Tito told him that Victorino Correa had killed a pig; that he went to Victorino's house; that he saw no other persons except Victorino and the latter's wife, and that he had observed nothing worthy of attention.

It is contended by the counsel for the defendants that the qualifying circumstance of *alevosia* has not been shown in the case.

*Alevosia*, as defined in article 10 of the Penal Code, exists when the culprit commits the crime by employing means, methods, or forms in the execution thereof which tend to directly and specially insure it without risk to the person of the criminal, arising from any defense the injured party might make.

The proof is entirely sufficient to show the existence of *alevosia* as defined by the statute. The deceased was treacherously invited to the home of the defendant Victorino Correa to enjoy his hospitality, accepted the invitation, and when he arrived there he was seized by Leandro Monte. While held by Monte the defendant Alejo Correa gave him a stroke on the head and at the same time Martin Lagursay approached and seized him. While thus firmly within the grasp of the defendants he received mortal wounds at their hands. He was then bound hand and foot, and notwithstanding his supplications for pardon, a cane was thrust through the ropes thus binding him, and he was then, at the direction of Victorino Correa, carried off in a dying condition and buried. The methods thus employed tended directly and specially to insure the accomplishment of the crime without any risk to the person of those executing it. While the motive for the commission of the offense is not entirely clear—the testimony not disclosing anything upon this point further than that after the deceased was struck and bound he was asked where he had put the ring he had taken—yet it is evident from the facts contained in the record that there was a conspiracy on the part of the accused persons, led by Victorino Correa, to murder the deceased. The alibi proof contained in the record, if the testimony were credible, might be entitled to some consideration; but we place but little confidence in this character of testimony when the connection of the parties with the commission of the offense has been proven by eyewitnesses, who not only testified to the acts committed but clearly identified the parties who engaged in their commission.

The counsel for the defense contends that the evidence shows that Tagaca assisted in the burial of the body of the deceased against his will, acting under fear on account of threats made by Victorino Correa. Tagaca had a crowbar with him with which the grave was dug, and no explanation was made as to whether he had provided himself with it of his own free will, or whether it was furnished by Victorino Correa when the parties set out for the burial of the deceased. Tagaca himself has not set up this defense. On the contrary, he has attempted to prove an alibi and to show his entire ignorance of the matter.

It seems probable from the evidence that Victorino Correa was the leader of a lawless band, and, for some cause not very evident, had assembled the members at his house for the purpose of killing the deceased. Whether this band was engaged in the insurrection, and the offense committed by them was of a political character, we are unable to say, there being nothing in the record to show the purposes of the organization, if such organization existed. The judgment of the Court of First Instance should be affirmed, which is accordingly done.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, JJ., concur.

Johnson, J., did not sit in this case.

*Judgment affirmed.*

[No. 1247. December 22, 1903.]

*THE UNITED STATES, complainant and appellee, vs. PABLO JAMINO ET AL., defendants and appellants.*

- \*1. CRIMINAL LAW: MURDER: QUALIFICATIVE CIRCUMSTANCES: *ALEVOSIA*.—Where it appears that a man, bound elbow to elbow and unable to defend himself, was attacked and killed by two armed assailants, in the presence of four others more or less prepared to assist those engaged in the material commission of the crime, the defense is murder, because of the presence of the circumstance of *alevosia*.
2. *ID.*: PARTICIPATION IN CRIME.—All those who intentionally and voluntarily contribute by positive acts to the realization of a common criminal intent, each and all contribute to the consummation of the delictive act and must be regarded as coprincipals; there having been a more or less intimate connection between all with respect to the consummated crime, it is not proper to determine the liability of each one independently.
3. *ID.*: MITIGATING CIRCUMSTANCES: ARTICLE 11 OF THE PENAL CODE.—Where it appears that the defendants in killing the deceased, a sanitary inspector, acted under the impulse of a false belief attributable to their ignorance—that sanitary inspectors were engaged in poisoning the wells—the special circumstance of article 11 of the Penal Code should be considered in their favor as a mitigating circumstance.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

CARLOS LEDESMA, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

This case was tried in the Court of First Instance of Iloilo, upon the charge of murder. It was brought to this court *en consulta* and on the appeal taken by counsel for three of the defendants from the judgment, dated February 2 of this year, by which Pablo Jamino, Emeterio Alcala, and Anselmo Toledo were condemned to the death penalty, to the payment each of one-third part of the costs, and to the accessory penalties.

Between 9 and 10 on the morning of September 29, 1902, Rufino de la Cruz, a sanitary inspector, was making an inspection of the barrio of Baybay, of the township of Molo, District of Iloilo, on the lookout for cholera cases. Pablo Jamino, a resident of that barrio, saw the inspector going along the street in front

of his house and ordered two of the five laborers employed by him in the construction of fishing corrals, by name Clemente Belarmino and Emeterio Alcalá, to seize Inspector Cara. This they did, and after having bound him elbow to elbow with a piece of rattan took him into the presence of the owner of the corral, Pablo Jamino. The latter asked the inspector for what purpose he was in the barrio, to which Cara replied that he was there in the performance of his duty, and that he had come to look after any sick people who might be found there. Jamino then told him that there were some sick people in a mangrove swamp near at hand and ordered his men to take the inspector to this place, some four hundred yards distant. Upon arriving at the foot of a cocoanut tree in the swamp, Jamino, who accompanied the party, ordered his men to kill Inspector Cara. Upon this, Custodio N. and Anselmo Toledo attacked the deceased, striking him several blows with their bolos on the head, neck, and face, as a result of which Cara fell to the ground and soon after expired. After Jamino had assured himself that the inspector was quite dead the men threw the body into a ditch, covering it with cocoanut and nipa-palm leaves. On the night of the same day, the defendants, Custodio N. and Antonio N. (who have not been arrested) returned to the place where the crime was committed, put the body into a rice sack, and, after having fastened to the foot of it another sack filled with sand, they cast the body into a small boat, carried it some little distance from the shore, and threw it into the sea. This was done in obedience to the orders, or at least with the knowledge, of Pablo Jamino, for the latter subsequently related to his codefendant Toledo the manner in which the body was disposed of.

Early in the morning of October 2, 1902, the body of the deceased was found floating near the beach close to the light-house of the port of Iloilo. The fishermen who found it pushed it in toward the beach and reported the matter to the light-house-keeper, who in turn notified the justice of the peace. The justice accordingly went down to the beach, accompanied by his assistants and the president of the board of health, Don Cornelio Mapa. The result of the examination of the body showed that it was very much swollen; that there was a wound on the forehead, another on the face, one on the left side of the head, and one on the left side of the neck; and that the arms were bound elbow to elbow. A sack covered the lower portion of the body, to the feet of which was fastened another sack containing some sand. The physician was of the opinion that the deceased had died from drowning, as his wounds were not in themselves sufficient to cause death and might have healed if proper and timely assistance had been given. He stated further that he believed the body must have been in the water some two or three days.

The body was recognized and identified by Graciano Amparo and Mr. George Bauner. The first of these men was a friend of Inspector Cara and the owner of the house in which he had lived. He stated that the deceased left his house on the morning of the 29th of September referred to, for the purpose of performing the duties incumbent upon him as sanitary inspector, and that he had never returned, and, up to the time his body was shown the witness and Bauner near the cemetery, had not been seen by the witness. Furthermore, on the left sleeve of the shirt worn by the deceased was found a red cross, by which he was identified by Mr. Amadeo Malhabour, the chief of police. The latter also testified to the fact that when the body was found the elbows were bound together with a piece of rattan, of the kind used in constructing fishing corrals.

The facts above related, which are fully proven by the evidence in the case, constitute the crime of murder, defined and punished in article 403 of the Penal Code, since at the time of the assault Cara was bound elbow to elbow and wholly unable to defend himself against his assailants. The latter, furthermore, acted with the assistance of their four companions, who were there ready to

render any aid which might be necessary. Consequently it is unquestionable that for the purpose of killing the deceased the assailants availed themselves of means which directly and specially tended to insure the consummation of the crime without risk to themselves and their companions arising from an attempt at self-defense on the part of the victim.

There can be no doubt that the sanitary inspector Rufino de la Cara, whose body, partly enveloped in a sack, was found floating in the sea near the Iloilo light-house, the arms bound elbow to elbow, and the feet tied to another sack filled with sand, was the victim of a murder, not only because of the serious wounds shown on the neck, face, and skull of the body but also because, according to the result of the examination conducted by the doctor, the deceased must have died by drowning, for his wounds might perhaps have been cured if he had received timely assistance. Hence it is unquestionable that the deceased died a violent death and that the corpse found was that of the sanitary inspector, Rufino de la Cara, as affirmed by witnesses who knew him in his lifetime, the identification having been made complete by the fact that the distinctive insignia of the Corps was found on the person of the deceased.

The four defendants, Pablo Jamino, Anselmo Toledo, Emeterio Alcalá, and Clemente Belarmino, pleaded not guilty to the charge contained in the amended information filed on December 10, 1902. After the trial commenced the prosecuting attorney filed a *nolle prosequi* as to Clemente Belarmino, so that he might be used as a witness for the prosecution, and this defendant was accordingly at once discharged.

This man in his sworn testimony corroborated the facts stated and added that the capture and killing of Rufino de la Cara were in compliance with orders given by Pablo Jamino. The latter, Belarmino testified, told the other accused that the sanitary inspectors were going about poisoning the wells and that they could kill such men with impunity. Upon returning to Jamino's house on a subsequent day, the witness heard from Custodio N. that on the night of the same day on which the assault was committed the body was thrown into the sea. When the witness was arrested by the Constabulary officer, the latter, he states, only told him to tell the truth, and did not ill-treat or threaten him, although Mr. Cotton, the assistant prosecuting attorney, told him that if he would tell the truth he would ask to have him discharged so that he might testify as a witness for the Government.

The witnesses Damian Madroño and Simplicio Minerva testified that when the former was arrested as the presumptive author of the death of Inspector Rufino, he told the officers that he had had nothing to do with it, but pointed out Anselmo Toledo as one of the men who had done the killing. Constabulary Inspector Orwig and these two witnesses accordingly made search for Anselmo. Upon being found and interrogated upon the subject, he stated that he had done the killing with a bolo which he got from his house and which he exhibited, and that this had been effected by him in company with Custodio N., Antonio N., Clemente Belarmino and Emeterio Alcalá in a mangrove swamp, to which they had led the deceased in obedience to orders which they had received from Pablo Jamino. He stated further that Clemente and Emeterio were those who captured the sanitary inspector Rufino de la Cara; that the latter two, having been arrested by the Constabulary and taken, together with Anselmo, to the place where the crime was committed, they all knelt down, including the officer, who thereupon urged them to tell the truth; that then Anselmo, Clemente, and Emeterio confessed that they had killed the sanitary inspector at that place, by order of Pablo Jamino; and that this confession was made in the presence of the witnesses Damian Madroño and Simplicio Minerva, unaccompanied by any violence, intimidation, threat, or promise to the prisoners. The witness Minerva stated that he knew that on the

night of the day in question Antonio and Custodio put the body in a sack and threw it into the sea, and that on this occasion, Custodio said, Jamino had assured them that they need have no fear, as he would be responsible for their lives; that at about 10 o'clock on the morning of the 29th of September, Sanitary Inspector Rufino passed in front of the witness's house, going toward the place where Jamino lived, and since that time he had not seen him.

Notwithstanding Pablo Jamino's plea of not guilty and the fact that Emeterio Alcala retracted the statements made in the presence of his captors and of several witnesses, the evidence is nevertheless sufficient to authorize the conviction of the three defendants, Pablo Jamino, Emeterio Alcala, and Anselmo Toledo, as well as of Antonio N. and Custodio N., who were not arrested. The extrajudicial confession of Anselmo Toledo and Emeterio Alcala, repeated on different occasions in the presence of different persons and made freely and spontaneously, without intimidation or coercion, shows unquestionably the fact of the commission of the crime and the guilt of those who made the confession, notwithstanding Alcala's subsequent retraction.

The confession of Anselmo Toledo, made in the presence of the persons who arrested him, as well as of several other witnesses, and which gave the details of the crime and which is corroborated by the testimony of Clemente Belarmino and Emeterio Alcala, constitutes conclusive proof of Toledo's guilt. With respect to Pablo Jamino, whom Clemente Belarmino charges with having induced the others to commit the murder, he gave no testimony in his own behalf, but simply denied the charge. Nothing appears, however, in the evidence introduced from which it may be inferred that the charge is false or that it is due to revenge or any other reprehensible motive.

The testimony of Clemente Belarmino, Damian Madroño, and Simplicio Minerva is confirmed by that of Maj. H. B. Orvig, Inspector Charles B. Compton, and Policeman Fernando Dolindo and Pantaleon Valencia. Therefore, considering the evidence for the prosecution as a whole, there can be no doubt as to the guilt of the three defendants as principals of the said murder as stated in the confessions of Toledo and Alcala and in the testimony of the witness Belarmino.

The three defendants, Jamino, Toledo, and Alcala, are all co-principals. Those who seized the victim and were subsequently present at the commission of the crime, as well as those who actually killed the deceased by order of Pablo Jamino, were participants in the crime, and all are criminally responsible therefore. All participated in the intent and purpose of killing Inspector Rufino de la Cara, and although it may be true that only two of them actually did the killing, it is none the less true that the others were present and remained until the crime was consummated. Consequently, each of the defendants herein prosecuted, including the absentees Antonio N. and Custodio N., is equally guilty.

It is improper to regard as present the aggravating circumstances of premeditation, the commission of the crime in an uninhabited place, and abuse of superiority. Nothing appears in the record to show that the commission of the crime had been contemplated before the defendants saw Inspector Rufino de la Cara pass by; nor does it appear that there were no houses near the mangrove swamp where the deceased was killed. As to the circumstance of abuse of superiority, this must be regarded as merged in the qualificative circumstance of *alcovosia* present in the perpetration of the crime.

From the evidence introduced it appears that the motive which led to the commission of the crime was the erroneous belief, due to ignorance, that sanitary inspectors, of whom the deceased was one, were at the time of the occurrence engaged in poisoning wells. This being so, the present is a case in which the special circumstance established in article 11 of the Penal Code may

properly be applied in mitigation. The defendants must, therefore, be sentenced to the minimum penalty assigned in article 403 of the Penal Code for the punishment of the crime of murder.

It is our opinion, therefore, that the judgment of the court below should be reversed and the defendants Pablo Jamino, Anselmo Toledo, and Emeterio Alcala condemned each to the penalty of twenty years of *cadena temporal* with the accessories of civil interdiction and subjection to the vigilance of the authorities during the period of their respective lives. In case the principal penalty should be remitted, they should be condemned to suffer absolute perpetual disqualification and subjection to the vigilance of the authorities during the remainder of their lives, unless these accessory penalties should be remitted in the pardon of the principal penalty. They should also be condemned to pay *pro rata* or in *solidum* an indemnification of 1,000 insular pesos to the heirs of the deceased, as well as to the payment each of a third of the costs of both instances.

The record will be duly returned to the court below, with a certified copy of the decision and judgment to be entered thereon, for execution thereof.

Arrellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1345. December 29, 1903.]

THE UNITED STATES, complainant and appellee, vs. JOSE MONTANA, defendant and appellant.

CRIMINAL LAW; ROBBERY EN CUADRILLA; ACCESSORY AFTER THE FACT.—One who disposes of stolen property after he is informed of its character by demand for its return to the owner is guilty as an accessory even if he did not know that the property was stolen at the time it came into his possession.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

CARLOS LEDESMA, for appellant.

Solicitor-General ARANETA, for appellee.

MCDONOUGH, J.:

The defendant, Jose Montaña, was charged with being accessory to the crime of robbery in company, committed in the month of January, 1902, in the barrio of Napnapin, in the town of Tigbauan, by more than three armed men, who, in the nighttime, with force and arms committed a robbery and carried away, as the proceeds thereof, eight carabaos.

There is evidence in the case to show that soon after the robbery four of these carabaos were found in the possession of the defendant at Alimodian; that the defendant was informed that these carabaos had been stolen; and that the credentials of ownership were exhibited to him by the rightful owners; that the defendant stated that if he had known that the carabaos had been stolen he would not have bought them, and that he asked to be paid one-half of the price of the carabaos as a condition of delivering them to the owners.

The owners testified that they then stated to the defendant that they had not the money with which to make this payment, but that they would go to their homes and return with the money. This they did the next day, but then the defendant stated that he had returned the carabaos to the men from whom he had bought them; and so the owners were not able to recover possession of their property, by reason of the disposal of the same by the defendant, after he had been informed that the carabaos had been taken from the owners through robbery.

The defendant denied that he had had these carabaos in his possession; denied that he had promised to return them on pay-



ment of half the price which he had paid for the same, and denied that he had had any conversation with the owners about the same. He also produced witnesses whose testimony tended to prove an alibi, but this branch of the proof was weak, and the contradictory statements of the defendant had the effect of weakening his testimony also.

The court below, evidently believing the evidence produced by the prosecution, found the defendant guilty and sentenced him to serve a term of four months of *arresto mayor*, together with the corresponding accessories and indemnification and to the payment of the costs.

In order to convict the defendant of the crime of being accessory to the crime of robbery committed as shown by the evidence in this case, it was not necessary to show that he had participated therein. It was sufficient to show that he had knowledge of it, and the proof shows that he acquired such knowledge when he was told by the owners that these carabaos had been taken away from the owners by robbery. After having obtained this knowledge he disposed of the property or concealed the same so that the owners were deprived of their property—the body and effects of the crime. (See art. 15, Penal Code.)

We are of opinion, however, that in sentencing the defendant an error was committed by the court below. As the punishment provided for the crime of *robo en cuadrilla* is that designated in No. 5 of article 503 of the Penal Code in its maximum grade, the penalty corresponding to an accessory after the fact is not that of *arresto mayor* in its maximum grade—the punishment fixed for an accomplice—but a correctional fine. (Arts. 26, 67, and 68 of the Penal Code.)

The judgment below is therefore reversed and judgment ordered as follows: That the said José Montaña be sentenced to pay a fine of 2,500 pesetas, and, if he fail to pay said fine, that he be imprisoned until the same shall be paid, but such imprisonment not to exceed one month.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1423. December 29, 1903.]

THE UNITED STATES, complainant and appellant, vs. EDUARDO ABAROA, defendant and appellee.

1. CRIMINAL PROCEDURE; PRACTICE; MOTION TO DISMISS AFTER PROSECUTION RESTS.—After the prosecution rests the court should not dismiss the case on motion for insufficiency of proof but should require the defendant to present evidence on his own behalf.
2. *Id.*; *Id.*; *Id.*—Where a prosecution is dismissed on the ground of insufficiency of proof in response to a motion by the defense, in the event of an appeal by the prosecution, the Supreme Court, should it not agree with the conclusions of the trial court, may reverse the decision and enter a judgment of conviction upon the facts proved by the prosecution without remanding the case for a new trial.

APPEAL from a judgment of the Court of First Instance of La Union.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

FELIPE G. CALDERON, for private prosecutor.

WADE H. KITCHENS, for appellee.

McDONOUGH, J.:

This is an appeal from the judgment of the Court of First Instance of the Province of La Union, acquitting the defendant on a charge of *incendio* (arson), alleged to have been committed by him on the night of March 1, 1903, in San Fernando de la Union. The camarin of one Lucio Almeida Chan Tanco, otherwise called Tana, was burned on that night. It was claimed that Eduardo Abaroa Chan-Em, the accused here, had set fire to the house, and he was arrested and put upon trial at San Fernando de la Union on June 3, 1903.

After 11 witnesses had been sworn and had testified in behalf of the prosecution and 47 pages of testimony taken the court discharged the accused for the reason that the prosecution had not made out a case against him.

It was proved satisfactorily that the building and its contents, a stock of goods, valued altogether at about 60,000 pesos, Mexican currency, were destroyed by fire, but the testimony adduced to show that the accused set the building on fire was not direct and positive, but rather of a circumstantial and contradictory nature, and which, apparently, was not strong enough to convince the learned judge who tried the case of the guilt of the accused.

After carefully reading the evidence and considering its bearing and weight we have concluded that the judgment of the Court of First Instance should be affirmed.

We do not, however, approve of the practice adopted of dismissing the case, on motion of the attorney for the accused, when the fiscal announced that he had no more testimony to offer.

Such practice should not be followed for the reasons (1) if this court should not agree with the conclusion reached by the court below it would be authorized to reverse the judgment and enter judgment convicting the accused upon the facts proved by the prosecution, and thus depriving the accused of making a defense below, if he had a defense, and (2) if this court, on disapproval of the judgment below, should order a new trial the result would be that the prosecution would be obliged to place the defendant on trial twice, when all the evidence could have been obtained in one trial; and the defendant would have the benefit of delay and the possible death or disappearance of witnesses for the prosecution.

We are of opinion, therefore, that the better practice is to require the defendant to make his defense, if he desires to offer evidence in his own behalf, and not to dismiss the case, on motion, until both parties have presented all their evidence.

The judgment below is affirmed with the costs of both instances *de oficio*.

Arellano, C. J., Torres, Cooper, Willard, and Mapa, J.J., concur.

JOHNSON, J.:

I concur in the result.

*Judgment affirmed.*

[No. 1260. December 31, 1903.]

THE UNITED STATES, complainant and appellee, vs. FRANCISCO DAVID ET AL., defendants and appellants.

1. CRIMINAL LAW; MURDER; AMNESTY.—The defendant, a revolutionary soldier, killed the deceased, an American civilian, in 1900, while the latter, a prisoner in charge of the defendant, was being taken by him to the insurgent headquarters. The evidence showed that the crime was committed pursuant to orders given the defendant by his superiors. *Held*, that the crime was political in its character and that the defendant is entitled to the benefits of the amnesty proclamation of July 4, 1902.
2. *Id.*; *Id.*; EVIDENCE; RES GESTÆ.—Statements made by the defendant to a witness immediately after killing the deceased to the effect that he had been ordered to do so by a superior are admissible as constituting a declaration made in the act itself and as a part of it.

APPEAL from a judgment of the Court of First Instance of Surigao.

The facts are stated in the opinion of the court.

EDUARDO GUTIERREZ REPIDE, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The appellant, David, has been convicted of the crime of assassination and sentenced to life imprisonment. The court below held that he was not entitled to the benefits of the amnesty of July 4, 1902. In this we think that there was error.

The evidence in the case as to the circumstances connected with the commission of the offense is very conflicting. Mamerto An-

tejo, a defendant who was acquitted in the court below, testified twice during the trial. His two statements were inconsistent with each other, but it is probable that his second one is more nearly the truth than the statement of any other of the persons who claim to have been eyewitnesses. He said that when he and one Coff were returning from the forests they met French. He was looking for another American who had been arrested by the revolutionists and taken to the commander of those forces, Daniel F. Sison. They immediately seized French and were taking him to the same chief, when, on passing by the house of Eusebio Cenarro, they saw there Francisco Villabrille and other revolutionists. Villabrille gave French something to eat and soon departed, leaving him in the charge of David and directing the latter to take the prisoner to Sisson. At nightfall they started, and on the way David killed French with a bolo. The offense was committed in Surigao some time in 1900. No complaint was presented until February, 1903.

1. The appellant at the time in question was participating against the United States in the insurrection. The witnesses all agree that he and his companions were revolutionary soldiers. The appellant wore the uniform of a revolutionist.

2. It sufficiently appears that the crime was political in its character. The only reason for seizing French was that he was an American belonging to the country against which they were then fighting. The fact that they were taking him to the leader of the revolutionary forces shows almost conclusively that the detention was for causes connected with the insurrection. While a political prisoner and on his way to headquarters he was killed. There can be no doubt that the killing was due to the same cause as the arrest, namely, that he was an American and an enemy.

3. We think also that the evidence is sufficient to show that the appellant committed the act pursuant to orders of his superiors. Mamerto testified that David told him in the very act that he was ordered by Villabrille to kill the deceased. This testimony is something more than hearsay. It is a declaration made in the act itself and is a part of it. Mamerto also testified that when Villabrille charged David with the custody of the prisoner he said something more to him which the witness could not hear. The fact that French was not killed by his captors when they first seized him but only after the conference with Villabrille is also entitled to weight.

The first declaration of the appellant appears in the record as follows:

"The defendants having been examined in the presence of their defender, Don Daniel Toribio Sison, Francisco David, 29 years of age, resident of Maynit, stated:

"That he knows nothing of the crime of which he is accused and of which he received notice when in Maynit; that he had orders from his superiors not to kill any Americans but to seize them and take them to their presence."

The statement as to the killing of prisoners was entirely irrelevant to the rest of the statement, and in view of the fact that it was given before his counsel, who was the superior officer mentioned in the testimony, we think it is not entitled to weight.

The rank which Villabrille had in the revolutionary army does not appear. But that it was superior to that of David is evident. They reported to him the capture. He assumed control of French while they were together and gave orders as to his disposition when he departed.

The appellant is entitled to the benefit of the amnesty above mentioned, and, on filing in this court the oath required by the proclamation, an order will be entered dismissing the case.

Arellano, C. J., Torres, Cooper, Mapa, and McDonough, J.J., concur.

JOHNSON, J., dissenting:

Amnesty should not be granted to the defendant in the above cause for the reason that the proof does not show that he is in-

cluded among the class of persons named or mentioned in the proclamation of amnesty of July 4, 1902, of the President of the United States. Neither does the proof show that the crime with which he is charged is included among those mentioned in the same proclamation.

*Judgment reversed.*

[No. 1534. January 4, 1904.]

FORTUNATO RICAJORA, petitioner, vs. GRANT T. TRENT, judge of First Instance of Cebu, respondent.

CIVIL PROCEDURE; BILL OF EXCEPTIONS; SIGNATURE; DEATH OF TRIAL JUDGE; MANDAMUS.—The signature of the judge who tried the case is not an indispensable requisite to a bill of exceptions; in case of his death, absence, etc., his successor may sign the bill and in case of his failure or refusal to do so mandamus will lie.

ORIGINAL PETITION for a writ of mandamus.

The facts are stated in the opinion of the court.

MARIANO CUI, for petitioner.

GRANT T. TRENT, respondent.

WILLARD, J.:

This case was tried in the Court of First Instance for the Province of Cebu by the late Judge Carlock, and decided in favor of the plaintiff. After the death of Judge Carlock the defendant presented a bill of exceptions to Judge Trent, acting as the judge of that court, for allowance and signature. He refused to sign it, and the defendant procured an order to show cause under article 499 of the Code of Civil Procedure. The judge has filed an answer stating the reasons for his action.

We construe the answer as indicating that by means of the stenographer's notes it will be possible to prepare a bill of exceptions which will contain a true statement of what took place at the trial. The judge was of the opinion, however, that he had no power to sign such a bill of exceptions because he was not the judge who tried the case. In this we think there was error.

Whatever may be the rule in other jurisdictions, it is certain that under our law the signature of the judge who tried the case is not an absolutely indispensable requisite of a valid bill of exceptions. In speaking of the power of this court to settle a bill of exceptions under said article 499, this court said: "We think that the remedy provided in this section applies not only to cases where the judge has declined to take action on the bill of exceptions tendered by the party or has refused to certify such bill without substituting another in its place, but to cases where he has certified a bill of exceptions but has refused to embody therein some or all of the exceptions embraced in the bill tendered him, and which the party claims to have been properly taken." (Gonzaga vs. Norris, 1 Off. Gaz., 346.)

By this section this court is given the power to determine what took place at the trial in the court below not only without any statement of the judge who presides at such trial on that subject but even against his statement.

Section 143 of the Code of Civil Procedure nowhere states that the bill of exceptions shall be presented to the judge *who tried the case*. It is capable of the construction that the judge referred to is a judge of the court at the time the bill is presented for signature. In determining which construction is proper, section 499 and the construction which we have given it are entitled to great weight. The legislature having provided that this court might settle a bill of exceptions against the statements of the trial judge, it is more probable that they intended to intrust that power to the judge actually presiding in the court at the time the bill is tendered rather than to make the signature of the trial judge indispensable, when by reasons of death or absence it would be impossible to obtain such signature. In every such case the judge of that court would be better able to determine

what took place at the trial than this court is in cases falling under section 499.

In determining the intention of the legislature we are entitled to take into consideration moreover the consequences which would follow from a contrary decision. In this case Judge Carlock's death has made it impossible to secure a bill of exceptions unless his successor is allowed to sign it. The result is that the defeated party is deprived of his right to appeal without any fault of his own. The legislature never could have intended such a result. The only other relief would be for the court to grant a new trial. This would involve the parties and the province in a large and additional expense without in a majority of cases any reason therefor. This result could not have been intended by the legislature. In most cases as in this case the evidence is preserved in the stenographer's notes, and it is as easy for one judge to determine what took place at the trial as another.

An order will be entered directing the judge below to sign and allow a bill of exceptions after he has made it conform to the facts as they may appear from the stenographer's notes or other evidence.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Writ allowed.*

## OPINIONS OF THE ATTORNEY-GENERAL.

*Officers in municipalities abolished by consolidation; boards of health.*

MANILA, P. I., November 21, 1903.

Section 2 of Act 943 abolishes the municipal offices held in municipalities whose boundaries have been changed. As the president of a municipal board of health is a municipal officer his office is thus abolished. This leaves not only the office of the president of the board of health nonexistent but also the offices of the other members of the board nonexistent. Therefore, if two or more pueblos are consolidated the entire board of health for the municipality should be organized in accordance with Act 308 of the Philippine Commission, and the president of the town retaining its identity does not continue the president of the board of health in the new town.

As the presidents of all boards of health of consolidated towns are legislated out of their positions, a new appointment must be made in order to restore them to the service. A transfer is unauthorized. Only such persons may be appointed as have the qualifications required by law.

L. R. WILFLEY, *Attorney-General.*

The Honorable, the ACTING SECRETARY OF THE INTERIOR.

## BUREAU OF CUSTOMS AND IMMIGRATION.

TARIFF DECISION CIRCULARS.

No. 353.—"Quarterolas;" barrels.

MANILA, December 28, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2222, filed June 13, 1903, by the Compañía General de Tabacos de Filipinas, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the classification of certain empty quarter barrels declared for duty on Entry No. 11807, Voucher No. 19260, paid June 11, 1903.

"The claim in this case is against the classification of certain 'quarterolas' as barrels, under paragraph 363 (d) of the Tariff Revision Law of 1901, at \$0.85 each, instead of as 'quarter barrels,' under paragraph 363 (f), at \$0.35 each, as entered.

"It is admitted that these containers are commercially known in Spain and by Spaniards as 'quarterolas,' i. e., quarter barrels, and that 'quarterolas' are specifically mentioned in paragraph 363 (f) of the Spanish edition of the tariff.

"On the other hand each quarterola is of such a size as to contain about 30 gallons, or almost exactly the same as the American standard barrel of 31½ gallons; if such a container is a quarter of a barrel, then it is obvious that a barrel dutiable under paragraph 363 (d) is not such unless it contains four times 30 gallons, or 120 gallons; but that is a pipe.

"The explanation is to be found in the fact that the Spanish tariff is not a perfect translation of the English. The English text of all acts of the United States Philippine Commission is the official and ruling one (see Tariff Decision Circular No. 22), and the Spanish copy is a translation thereof furnished for the convenience of such as are not familiar with the English language. Errors may exist in the Spanish text, but such errors can not be permitted to modify or control the authoritative English version.

"The legislators who passed the Tariff Law are presumed to have been fully conversant with all well-established commercial terms and usages current at the time of the enactment of the law, yet this presumption of familiarity on their part does not extend to foreign terms and usages, no matter how well established they may have been in their respective countries. To hold otherwise might, as in the present case, permit the fact of the foreign origin of merchandise, or the foreign language of the invoice to alter a plain classification and would result in discrimination and chaos.

"That these 'quarterolas' are barrels according to American standards, and as such were intended to be classified under paragraph 363 (d) admits of no question.

"Protest No. 2222, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 354.—"Belt buckles.

MANILA, December 28, 1903.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2070, filed April 23, 1903, by Messrs. Ed. A. Keller & Co., against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 8319, Voucher No. 13248, paid April 22, 1903.

"The claim in this case is against the imposition of a 30 per cent surtax for 'buckles' upon certain cotton belts dutiable under paragraph 119 (c) of the Tariff Revision Law of 1901, at \$0.335 per kilo, with a surtax of 30 per cent for embroidery and 100 per cent for making up. No question of classification is involved.

"The 30 per cent for buckles was imposed on the theory that these buckles were trimmings, for which a surtax is provided by Rule B (b) of the tariff. The trimmings referred to in this rule, however, are clearly no other than those defined in rule 7; that is to say, of the nature of textiles. Metal buckles not being within the purview of rule 7, they should not be made the subject of a surtax under Rule B (b).

"Paragraph 1 of Tariff Decision Circular No. 100, in so far as it is inconsistent with this decision, is overruled.

"Protest No. 2070, on the grounds above mentioned, is sustained and a refund ordered to the importer in the sum of \$29.44, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 355.—*Dried litchees—classification.*

MANILA, December 31, 1903.

To all Collectors of Customs:

It is hereby ruled that dried litchees shall be classified under paragraph 286, at 75 cents, United States currency, per 100 kilos.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 356.—*Cigar-box labels; decision of the Court of Customs Appeals.*

MANILA, January 3, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered August 31, 1903, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
COURT OF CUSTOMS APPEALS.

"Appeal in the case of Germann & Co.

"[Docket No. 197. Appeal No. 189. Protest No. 784.]

"DECISION.

"CROSSFIELD, Judge:

"This case is before the court upon the appeal of Germann & Co. from the decision of the Collector of Customs for the Philippine Islands, overruling appellants' protest against the levy of duties on certain labels for cigar boxes as labels printed with metal leaf instead of printed in bronze.

"Mr. Fitch appeared for the Government, and Messrs. Lyon & Wolfson for the appellant.

"After examining the samples of the labels in question and duly considering all the testimony adduced at the trial the court finds that the labels in controversy are not printed in metal leaf, but are printed with bronze powder as a substitute for and to take the place of metal leaf.

"The question of the number of printings was not raised or considered at the hearing of the case and the court makes no findings thereon.

"The decision of the Collector of Customs is therefore modified with instructions that the entry be reliquidated to conform with the foregoing findings.

"I concur:

"(Signed) A. S. CROSSFIELD.

"(Signed) C. S. ARELLANO."

PAR. II. The label in this particular case shows the actual printing done during the lithographing process, i. e., 12 printings in addition to the bronzing which, for tariff purposes, is considered as 3 printings, making a total of 15 printings; and therefore, being more than 13 printings, the rate of duty is not changed.

PAR. III. This class of labels will hereafter be classified under the respective letters of paragraph 183, according to their number of printings, bronze printing to be counted as 3 printings. Any protests pending will be decided in conformity with this decision.

PAR. IV. The above decision reverses that made in Tariff Decision Circular Nos. 146 and 173. You will be guided accordingly.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 358.—*Oil of myrbane dutiable as a chemical product.*

MANILA, January 12, 1904.

To all Collectors of Customs:

PARAGRAPH I. It is hereby ruled that oil of myrbane shall be dutiable as a chemical product, under paragraph 87 of the Tariff Revision Law of 1901.

PAR. II. So much of Tariff Decision Circular No. 98 as is in conflict with this decision is hereby revoked.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 359.—*Retail value not to be taken as basis for ad valorem rates of duty.*

MANILA, January 12, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2482, filed September 22, 1903, by Mr. Jas. G. Noyes, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. O 1052, Voucher No. 9678, paid September 19, 1903.

"This protest relates to the appraised value and classification of one pair of eyeglasses. These eyeglasses were appraised at \$5 on the basis of their retail value in the principal markets of the United States, and classified under paragraph 27 d of the Tariff Revision Law of 1901 as articles of gold other than jewelry or plate. It is claimed that the price paid and the actual market value as defined in section 117 of the Customs Administrative Act, was but \$1, and that they should have been classified under paragraph 16 a, which provides for eyeglasses.

"Section 177 above referred to provides that 'whenever imported merchandise is subject to an ad valorem rate of duty, \* \* \* the duty shall be assessed upon the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities \* \* \*'. From this it is evident that duty was erroneously assessed on the basis of the retail value. In the work of determining values the appraising officers are limited to the wholesale price of articles as purchased in usual wholesale quantities. The eyeglasses should have been appraised at \$1, as claimed.

"Upon investigation it appears that the frames of the eyeglasses in question were gold filled and not gold, and that the lenses were the component material of chief value. They should therefore have been classified under paragraph 16 a, as claimed.

"Protest No. 2482 is therefore sustained as to both claims, and a refund is ordered in the sum of \$0.70. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

#### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 274.—*Promulgating rules and regulations for the government of a pilots' association and pilots at the port of Manila, and fixing the rate of pilots' fees and charges.*

MANILA, January 4, 1904.

PARAGRAPH I. By authority of section 393 of Act No. 335 of the Philippine Commission, and with the approval of the Secretary of Finance and Justice, the following rules and regulations for the government of a pilots' association and pilots, and fixing the fees to be charged by pilots at the port of Manila, are hereby promulgated to take effect January 2, 1904.

PAR. II. There shall be organized at the port of Manila, within the Philippine Islands, a pilots' association, which association shall be known by the name of the "Manila Pilots' Association." The association shall consist of ten pilots, one of whom shall be designated as chief pilot, to properly perform, in the opinion of the Insular Collector of Customs, the duties of the port. The number of pilots may from time to time be increased or decreased

by the Insular Collector of Customs when in his judgment such action is necessary for the proper performance of the pilots' duties at said port.

PAR. III. A board of examiners shall be appointed by the Insular Collector of Customs, and said board shall examine all applicants for the position of pilot and shall give to each applicant a full and impartial rating which shall be certified upon each examination paper and transmitted to the Insular Collector of Customs.

PAR. IV. The board of examiners provided for in the preceding paragraph shall consist of two pilots who are members of the pilots' association at present existing, the Insular Surveyor of Customs, and two ship's captains who are acquainted with the waters and the vicinity wherein the applicant for examination is destined to operate, and who are masters of vessels of more than 80 tons burden.

PAR. V. No person shall be admitted to examination for the position of pilot who is not either—

- (a) A citizen of the United States;
- (b) A native inhabitant of the Philippine Islands who has taken the oath of allegiance to the United States;
- (c) Or who has ~~not~~ acquired the political rights of native inhabitants of the Islands under the treaty of Paris and taken the oath of allegiance to the United States;
- (d) Who is under 25 or over 50 years of age;
- (e) Who is not in sound physical condition or whose senses are imperfect.

PAR. VI. Persons desiring to take the pilots' examination shall file with the Insular Collector of Customs a written application, accompanied by the certificate of a competent physician showing their general physical condition, particularly as to eyesight, color perception, and hearing, and that they are not physically disqualified to perform the duties of a pilot.

PAR. VII. Examinations shall be practical, and shall cover the following subjects:

- (a) The working of both steam and sailing vessels.
- (b) Local harbor regulations, marine lights and signals.
- (c) Local banks, tides, buoys, currents, anchorages, and general harbor conditions.
- (d) Weather, winds, and the mooring of vessels under all conditions.
- (e) General experience and papers and licenses held by applicant.

Ratings by the board shall be made upon the scale of 100, and the subjects specified above valued as follows:

(a).....	15
(b).....	5
(c).....	25
(d).....	15
(e).....	40

PAR. VIII. Any applicant who, upon examination, fails to secure a higher rating than 70 shall be considered to have failed, and shall not be eligible for appointment.

DUTIES OF PILOTS.

PAR. IX. A newly appointed pilot shall be assigned to duty with an experienced pilot of not less than one year's service for a period of two months before he shall be permitted to exercise fully the duties of a pilot. He shall, during the time specified, accompany the pilot to whom he has been assigned upon all of his tours of duty so far as practicable, and shall make a careful study of the duties pertaining to his office. If, at the expiration of the period designated, he is certified by the pilot to whom he has been assigned as being qualified to assume the duties of a pilot, and such certificate is approved by the chief pilot, he shall be required thereafter to perform the duties of a pilot until relieved by the Insular Collector of Customs or other competent

authority. If, at the expiration of the two months specified above, he shall not be considered by the pilot to whom he has been assigned as competent to properly perform the duties of a pilot, his appointment shall be canceled, or he shall be given an additional two months in which to qualify, in the discretion of the Insular Collector of Customs. If, at the expiration of the extension of the time given him, he is still considered by the pilot to whom he was assigned and the chief pilot as incompetent to perform the duties required of him, his appointment shall be canceled by the Insular Collector of Customs.

PAR. X. From the date of the appointment of a pilot until the date of the certificate of his competency, provided for in Paragraph IX, he shall receive one-half as much compensation as the regularly qualified and appointed pilots of the association; and from the date of the said certificate of competency he shall receive the same compensation as all other qualified pilots.

PAR. XI. A pilot who has been regularly appointed in accordance with the provisions of the above section, and who has accepted such appointment, shall not be allowed to quit the service except upon thirty days' written notice, filed with the Insular Collector of Customs under whose jurisdiction he is, which notice shall declare his intention to leave the pilots' service at the expiration of said time unless the Insular Collector of Customs shall accept his resignation before the expiration of the thirty days above mentioned.

PAR. XII. A pilot shall at all times when on duty carry with him his official certificate of appointment.

PAR. XIII. No pilot shall absent himself from duty without permission in writing of the chief pilot; and if the absence is to be for a longer period than three days, such permission shall not be granted without the previous approval of the Insular Collector of Customs.

PAR. XIV. Before boarding any vessel the pilot shall ascertain whether or not such vessel has touched at any port at which a contagious disease is prevalent. If the vessel has touched at an infected port, the pilot shall, if possible, take it to its proper anchorage without going aboard. If it is not possible for the pilot to anchor such vessel without going aboard, he shall board the vessel and remain aboard until the vessel is discharged from quarantine, or he is permitted to land by the chief quarantine officer of the port. In the latter event the master of the vessel shall pay, in addition to the regular pilot's fee, and in the same manner provided for the payment of the regular pilotage fees, such a sum per diem as may be hereafter provided for in these regulations.

PAR. XV. Members of the Pilots' Association shall, under the immediate direction of their chief pilot, perform such duties relative to shipping as may from time to time be prescribed by the Insular Collector of Customs.

PAR. XVI. All pilots shall report any illegal acts or unusual occurrences affecting the Customs Service or shipping observed by them while in the performance of their duties, and shall, if requested, in cases of emergency assist any customs officer in the performance of his duties.

PAR. XVII. Every pilot shall be provided with and carry blank forms, in duplicate, numbered consecutively, bound in books of 100 forms each, to be used as statements of fees due the association and receipts for the payment of the same. These forms shall be made out and signed by the pilots, who shall deliver the originals to the masters of vessels from whom fees are due, and retain the duplicates in the book as records of the association.

CHIEF PILOT.

PAR. XVIII. The Insular Collector of Customs shall designate a chief pilot, and is limited in the selection of the chief pilot to the more competent of the two senior pilots.

PAR. XIX. In the case of a temporary absence of the chief pilot the senior pilot present shall act in his place and stead. Should, however, the absence of the chief pilot be for a longer period than

one month, the Insular Collector of Customs shall appoint an acting chief pilot in the same manner as is provided for the appointment of the chief pilot, and the acting chief pilot so appointed shall be clothed with all the duties and powers of the chief pilot.

PAR. XX. The chief pilot shall have general charge and control of the pilot service, subject to the provisions of these regulations and subject, further, to such by-laws and regulations of the Pilots' Association as may be legally enforced, and to such further regulations as may be promulgated from time to time by the Insular Collector of Customs.

PAR. XXI. The chief pilot shall keep a duty roster and see that every pilot of the association performs his full share of duty as a pilot, as well as all other duties devolving upon members of the Pilots' Association. The chief pilot shall be exempt, except in cases of emergency, from ordinary pilot duty.

#### RECORDS.

PAR. XXII. The chief pilot shall cause the following records to be accurately kept, and these records shall at all times be open for inspection by any member of the Pilots' Association and the Insular Collector of Customs or his duly authorized representative.

(a) A record of pilots, in which shall be entered the name of each pilot, together with the date of his appointment, age at date of appointment, place of birth, class of persons mentioned in paragraph 5 of this circular to which he belongs, statement of his sea service prior to date of appointment as pilot, notations of especially meritorious services rendered and commendations received therefor, notations of complaints made against him, with result of investigation of such complaints, memoranda of all vessels stranded or damaged while in his charge, together with circumstances connected with each case, showing amount of damages paid, if any, by whom, to whom, and from what fund paid, and any other information that may seem proper to the chief pilot or the Insular Collector of Customs. All the above notations shall be signed by the chief pilot and viséed by the Insular Collector of Customs.

(b) Complete financial records of the association showing all receipts, from every source whatever, and the disposition of the same; amount of cash and property on hand at the end of each month and by whom held; the amount of indebtedness of the association, if any, and to whom due. In these records shall also be entered each single pilotage or other fee received or collected by or for the association.

(c) Such records of obstructions, tides, changes of channel, dredging, and other matters as may be prescribed from time to time by the Insular Collector of Customs.

#### RESPONSIBILITY AND CLAIMS FOR DAMAGE.

PAR. XXIII. A pilot is responsible for the direction of a vessel from the time he assumes control thereof until he leaves the vessel anchored free from shoal; provided, that his responsibility shall cease at the moment the master neglects or refuses to carry out his instructions.

PAR. XXIV. The Manila Pilots' Association shall not be liable for damage to any vessel while under the charge of a member of such association for a greater amount than ₱4,000, Philippines currency.

PAR. XXV. Adjusted claims for damages against pilots, within the limits prescribed in the preceding paragraph shall, if a sufficient amount has been accumulated therein, be paid from the reserve fund of the Pilots' Association of which said pilot is a member, if it shall be found that damages have accrued through the neglect or fault of the pilot.

PAR. XXVI. Claims against pilots for damages shall be adjusted by a board of arbitration, which shall consist of three members, one member of the board to be designated by the Pilots' Association, one by the claimant for damages, and the third member to be designated by the Insular Collector of Customs. The persons so selected shall have a sufficient knowledge of shipping

to pass intelligently upon the claim presented, and to fix the damages if any shall be found to have accrued; and upon written complaint by any member of the Pilots' Association or by the claimant for damages, or his representative, that any member appointed to the board of arbitration has not such knowledge of shipping, said complaint shall be thoroughly investigated by the Insular Collector of Customs and the eligibility of the person complained of shall be subject to the decision of the Insular Collector of Customs.

PAR. XXVII. The board of arbitration shall meet at such times and places as may be designated by the Insular Collector of Customs, and a complete record of its proceedings, including its findings duly certified, shall be kept in writing and placed on file with the Insular Collector of Customs.

PAR. XXVIII. Members of the board of arbitration, appointed as provided in the preceding paragraph, shall be entitled to compensation at the rate of ₱6, Philippines currency, for each day of six hours they shall actually serve, provided that additional compensation shall not be paid them for more than six hours' service in any one day.

PAR. XXIX. In case damages are awarded to a claimant by the board of arbitration the amount due the members of such board shall be the first item paid by the association from its reserve fund, after which payment the amount remaining in the reserve fund shall be available, within the prescribed limits, for the payment of the actual damages awarded. In case there is not a sufficient amount of money on hand in the pilots' reserve fund for the immediate payment of any damages awarded by a duly appointed board of arbitration, the amount remaining unpaid at the time of settlement shall be a lien upon subsequent payments made into the reserve fund until the entire amount of damages awarded within the limitations provided by the circular, by the board of arbitration, has been paid.

PAR. XXX. If it is found by a board of arbitration that no damages have accrued to a claimant, or that the pilot against whom the claim was made was not responsible for any damages received by the claimant, the amount due the members of the board as compensation for their services shall be paid by the claimant.

PAR. XXXI. Claims for damages, accompanied by an approved bond or a cash deposit in such an amount as shall be fixed by the Insular Collector of Customs to secure the payment of the costs of the arbitration, shall be filed with the Insular Collector of Customs.

The Insular Collector of Customs shall thereupon cause such claim to be brought before the board of arbitration at the earliest possible moment.

#### RETIREMENTS.

PAR. XXXII. No pilot, except the chief pilot, shall be continued in the service after he reaches the age of 64 years. The chief pilot, who shall be relieved of the possible emergency duty of boarding vessels at the age of 64 years, may be continued in the service on shore duty until he reaches the age of 66 years, in the discretion of the Insular Collector of Customs.

PAR. XXXIII. Whenever, in the judgment of the Insular Collector of Customs, a pilot becomes disabled for the performance of his duties as such, by reason of defective eyesight or other physical disqualifications or by improper habits, the Insular Collector of Customs shall refer the case to the examining board provided for in paragraph 3 of these regulations. The examining board shall thereupon investigate the case submitted to them and report in writing their findings to the Insular Collector of Customs, who shall review the same, and if the findings of the board show that the pilot is disqualified from performing his duties from any cause whatever, and are approved by the Insular Collector of Customs acting thereon, the pilot concerned shall be immediately separated from the service.

## FEES AND DISPOSITION OF FUNDS.

PAR. XXXIV. All pilotage fees, of whatever nature, shall be paid to the Pilots' Association before clearance of the vessel to which services were rendered is granted. But before payment the amount due shall be verified and approved by the harbormaster, who shall see that the amount collected is in accordance with the schedule of fees provided for in these regulations.

PAR. XXXV. A member of the Pilots' Association, to be known as treasurer and selected by the chief pilot, with the approval of the Insular Collector of Customs, shall be the custodian of all pilotage fees collected, and shall enter, or cause to be entered, each amount received by him in a record book, and hold all money so received to the credit of and subject to disposition by the Pilots' Association.

PAR. XXXVI. No funds belonging to the Pilots' Association shall be withdrawn or used in any manner except upon the voucher of the chief pilot, countersigned by the harbormaster. Vouchers above referred to shall be made in duplicate.

PAR. XXXVII. On or before the 15th of each month the chief pilot shall submit to the Insular Collector of Customs an accurate statement of the receipts and disbursements of the association for the preceding month, which statement shall be verified by the harbormaster. This statement shall be accompanied by the bills for the current expenses of the association during the same month, and the corresponding duplicate vouchers authorizing payment, also a statement approving payment of said bills, which vouchers shall be signed by a majority of the pilots of the association in the following form:

"We, members of the Manila Pilots' Association, hereby approve the payment of ..... bills, amounting to ₱..... during the current expenses of the Manila Pilots' Association during the month of ....."

(Signed)

"....."

PAR. XXXVIII. If any member of the association shall disapprove the payment of any bills presented he shall state his objections thereto in writing.

PAR. XXXIX. After the current expenses of the Pilots' Association have been paid 10 per cent of the net amount from the receipts of the month shall be carried to the pilots' reserve-fund account, provided such reserve fund does not amount to ₱8,000, and the remainder divided equally between the members of the association.

PAR. XL. If a payment shall be made from the reserve fund of the association on account of damages caused to any vessel by a member of said association, and the said member shall have been found to be at fault by the board of arbitration provided for in paragraph 26, the member of the association on whose account such payment shall be made shall reimburse the association in the amount so paid on his behalf as soon as practicable after the payment has been made, and to this end 25 per cent of his share of the earnings of the association shall be retained by the association each month until the full amount of such payment shall have been returned to the association.

The amount so retained by the association shall be deposited to the credit of the pilots' reserve fund.

PAR. XLI. The 10 per cent of the share of the other pilots of the association paid in by them and held to make good a reserve fund diminished on account of claims paid by the association from the reserve fund for adjusted damages caused by any member of the association, shall be refunded to them as soon as the member on whose account the damages were paid has made good the full amount of the sum so paid, or as soon thereafter as the reserve fund shall be complete, in addition to the amount returned by the pilot for whom payment was made.

PAR. XLII. Upon the retirement of any member in good standing from the association, or as soon thereafter as the reserve fund shall be complete, he shall be paid the amount he has contributed to the reserve fund of the association, provided that he shall not

receive any amount paid by him into that fund for the purpose of making good any damages paid by the association on account of damages awarded against himself.

## SPECIAL REGULATIONS.

1. Vessels using a pilot at night—that is, between the hours of sunset and sunrise—shall pay double the amount of pilotage dues applicable to such vessels under the schedules provided for herein and special regulations.

2. Whenever a pilot is kept on board a vessel, through quarantine or other causes beyond his control, he shall be entitled to receive pay therefor at the rate of ₱10, Philippines currency, per day of twenty-four hours. All time over six hours shall be counted as one day.

3. Tugs, lighters, lorchas, launches, or other vessels engaged solely in harbor or river work shall be exempt from the payment of pilotage dues and mooring fees.

## SCHEDULE OF PILOTAGE FEES.

PAR. XLIII. For mooring in the Pasig River:

Vessels over 30 tons to 50 tons, inclusive, ₱5.20 on entrance, but pilotage on departure is not compulsory.

Vessels of the above class which voluntarily ask for the services of a pilot on departure shall pay the fee of ₱5.20 prescribed for entrance.

Vessels under 30 tons which voluntarily ask for the services of a pilot shall pay the fee above provided.

Vessels of over 50 tons' register per foot draft, ₱1.30.

Changing anchorage for all vessels subject to pilotage, for per foot draft, 60 cents, Philippines currency. Pilotage is not compulsory in Manila Bay, but if a vessel requests the services of a pilot in the bay such vessel shall be subject to the same fees as prescribed above for the Pasig River.

PAR. XLIV. A vessel requiring a pilot to enable it to enter Manila Bay, can communicate to the signal station at Corregidor, for the purpose of giving due notice. Such vessel shall pay double the fees prescribed above, and, in addition thereto, the cost of the boat used for conveying a pilot from Manila to the vessel.

PAR. XLV. The anchorage in the Pasig River begins from the lower side of the Bridge of Spain and extends to the mouth of the said river.

PAR. XLVI. Vessels of over 50 tons register which leave the Pasig River and go to Cavite, Cañacao, or the Manila breakwater shall pay the prescribed pilotage fees for the services rendered.

## GENERAL PROVISIONS.

PAR. XLVII. Vessels belonging to the United States Government or to the Insular Government shall be exempt from the compulsory pilotage provisions of these regulations, but in all cases where a pilot is asked for and taken by such vessels they shall pay the pilotage and mooring fees prescribed for merchant vessels for similar entrances, clearances, and mooring.

PAR. XLVIII. All boats and supplies necessary for the proper equipment of the Pilots' Association shall be paid for from the funds of the association.

PAR. XLIX. All purchases for the association shall be made by the chief pilot thereof, and if the value of any proposed purchase exceeds ₱200, Philippines currency, it shall not be made except upon the approval of the Insular Collector of Customs through the Harbormaster.

PAR. L. The pilot boats of the association shall, at the expense of the association, be provided with the necessary crews to promptly transport pilots in the performance of their duties.

PAR. LI. One pilot boat in addition to the number ordinarily used shall be kept by the association for the purpose of relieving any boat that may be undergoing repairs.

PAR. LII. All pilot boats shall be painted white to the water line, and green below the water line, with the letter "P" in black, not less than 5 inches in length, on both bows.

PAR. LIII. During the day pilot boats in use shall carry at the stern a blue flag, 2 feet wide and 3 feet long, having thereon the white letter "P" 5 inches in length.

PAR. LIV. No person, except as otherwise provided in these regulations, who is not duly appointed to the position of pilot shall act as pilot to any vessel.

PAR. LV. If, for any reason, a pilot does not report alongside upon the arrival of any vessel at the entrance to the Pasig River, such vessel shall anchor and keep displayed the prescribed pilot's signal until a pilot shall be obtained.

PAR. LVI. A pilot station shall be maintained at a point to be designated by the Insular Collector of Customs, and a sufficient number of pilots shall be maintained at such station at all times, both day and night, to perform the necessary duties at the port of Manila.

PAR. LVII. An office, located under the direction of the Insular Collector of Customs, shall be maintained by and at the expense of the Pilots' Association for the use of the chief pilot and other members of the association; and in this office shall be kept the records of the association; and all the pilots not excused from duty or absent on official duty elsewhere shall remain at this office from 7.30 a. m. until 5.30 p. m. each day, and at such other times as the chief pilot or the Insular Collector of Customs may direct.

PAR. LVIII. Unless physically disqualified a pilot shall not be absent from his regular duties without first obtaining the permission of the chief pilot, and if any member of the association shall be absent from his regular duties, either on leave granted by the chief pilot or without leave, such pilot shall not receive any compensation for the time he may be absent.

PAR. LIX. A member of the Pilots' Association who may become physically disabled by injuries received or disease contracted in the line of duty shall receive one-half of the monthly share of earnings allowed to an active member for a period of two months, and one-fifth of such share after two months, provided the total period of disability does not exceed twelve months.

A vessel of whatever tonnage once anchored and made fast in the Pasig River can not shift its berth without previously obtaining formal permission of the Harbormaster.

PAR. LX. The Pilots' Association is hereby authorized and empowered to adopt by a two-thirds vote of all members of the association such by-laws and regulations for the government of the association, not in violation of any of the provisions of these regulations, as may be deemed necessary; and the by-laws and regulations so adopted, when approved by the Insular Collector of Customs, shall be binding upon all members of the association.

PAR. LXI. When bad or threatening weather is announced all vessels anchored in the Pasig River or Manila Bay shall keep a constant watch on board, consisting of a sufficient number of the officers and members of the crew, to strengthen the fastenings of the lines of the vessels, as may be deemed proper by the masters, or when directed by the Insular Collector of Customs through the Harbormaster. Each member of the Pilots' Association shall redouble his watchfulness on such occasions in order to make sure that every vessel lying at anchor in the river or bay is securely fastened.

PAR. LXII. The orders and commands of a pilot in charge of any vessel in the river shall be promptly obeyed by the officer in charge of any other vessel that the pilot may consider as being in any manner an impediment to the safe handling of the vessel under his control.

PAR. LXIII. The following signals from vessels shall be recognized by pilots at all times:

Any one of the following:

1. To ask for a pilot by day: (a) The pilot flag. (b) The signal P. T. of the International Code.

2. To ask for a pilot by night: (a) A Bengal light every

fifteen minutes, or a white and brilliant light which sparkles, shown at short intervals above the gunwale.

3. To ask for aid by day, any of the following: (a) A gunshot once a minute. (b) The signal N. C. of the International Code. (c) The distant signal, which consists of a flag with a ball on top or below; if there exists no ball, something which resembles one.

4. To ask for aid by night, any of the following: (a) A gunshot once a minute. (b) A flame of fire exhibited from the vessel, produced by some combustible material, such as pitch, petroleum, etc. (c) Rockets of any color or class, fired off each time with an interval of five minutes. (d) Bengal lights exhibited each time with an interval of five minutes.

PAR. LXIV. While on duty pilots and the men comprising the pilot-boat crew shall wear the respective uniforms prescribed by the by-laws of the Pilots' Association.

PAR. LXV. All foreign and coastwise vessels, except such vessels as are exempt therefrom by these regulations, shall be required to take a pilot on entering and leaving the Pasig River or changing anchorage in said river; and any vessel entering, clearing, or changing anchorage without a pilot shall be liable for the fees prescribed in such cases by these regulations in the same manner as though regular application for pilot had been made.

PAR. LXVI. The Hongkong and Shanghai Banking Corporation is designated the official depository for the reserve fund of the Manila Pilots' Association, and any disbursements of such fund shall be by individual check drawn in favor of the person entitled to receive same. All checks shall be signed by the chief pilot.

PAR. LXVII. Pilots are obliged to proceed without delay to offer their services to vessels that may require them, as soon as they apply for same on arrival at anchorage in Manila Bay; and to give orders at once to enter the river if the vessel is in condition; or to name the draft and hour at which the entrance can be effected.

PAR. LXVIII. In case of any accident or damage occurring to a vessel in control of a pilot the latter shall as soon as practicable report in writing, to the chief pilot, the full particulars of such accident, and the causes responsible for same.

PAR. LXIX. No member or members of the Manila Pilots' Association shall be interested financially or otherwise, either directly or indirectly, in the ownership or operation of any boats or craft engaged in the business of supplying water to vessels arriving at the port of Manila.

PAR. LXX. Masters of vessels requiring the services of a pilot can compel the latter to secure or anchor their vessels to their entire satisfaction. Any dereliction of duty on the part of a pilot should be immediately reported by the master of the vessel on which such failure to perform duty occurred to the Insular Collector of Customs.

PAR. LXXI. On leaving the Pasig River pilots shall take vessels to clear water in Manila Bay.

PAR. LXXII. All fees and charges provided for by these regulations are stated in the currency of the Philippine Islands and shall be collected in that currency or its equivalent.

PAR. LXXIII. Philippine customs officials shall give due publicity to the terms of this circular.

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

Approved:

HENRY C. IDE, *Secretary of Finance and Justice.*

No. 275.—Closing the ports of *Naga, Oslob, and Dalaguete, Island of Cebu, and Jagna, Island of Bohol, to the coastwise trade.*

MANILA, *January 5, 1904.*

By authority of the Acting Civil Governor of the Philippine Islands, the ports of *Naga, Oslob, and Dalaguete, Island of Cebu,*



and Jagna, Island of Bohol, are hereby closed to the coastwise trade.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 276.—*Changing name of port of Ligatic, Island of Panay, to New Washington.*

MANILA, January 6, 1904.

PARAGRAPH I. In accordance with section 1, subsection 15, of Act No. 720 of the Philippine Commission, the port of Ligatic, Island of Panay, declared open to the coastwise trade by Customs Administrative Circular No. 39, shall be known and referred to as the port of New Washington.

PAR. II. Philippine customs officers shall carefully observe this designation in all official communications, and shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 277.—*License fees; barkentine Alta; right to certificate of protection under section 117 of Act 355.*

MANILA, January 9, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1860, filed February 14, 1903, by D. H. Ward, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, in assessing and collecting certain license fees against the barkentine *Alta*, paid on voucher No. 4924, February 12, 1903.

"The claim in this case is against the collection of a coastwise license fee from the barkentine *Alta*. The owner of the *Alta*, an American citizen, filed an application to secure a certificate of protection for his vessel, but stated that he did not desire or intend to embark in the coastwise trade and did not desire a coastwise license. Issue of a certificate of protection was refused unless and until a coastwise license should be taken out, on the ground that certificates of protection are for merely local use and being of no avail to establish any special rights or privileges in any other ports than those of these Islands, their issue is an idle act and without warrant in law. The owner thereupon took out a coastwise license under protest, paying \$1,289.38, United States currency.

"It is against the payment of \$1,289.38 as license fees that this protest is directed, and the question is thus raised whether a vessel which fulfills the requirements of section 117 of the Customs Administrative Act is required in order to procure the certificate of protection provided for in that act, to also apply for and obtain a license to engage in the coastwise trade of the Philippine Islands, and to pay the license fees provided by law therefor.

"Section 117 reads as follows:

"Collectors of customs may issue a certificate of protection entitling the vessel to which it is issued to the protection and flag of the United States in all ports and on the high seas if the vessel is owned by: (a) A citizen of the United States residing in the Philippine Islands; (b) a native inhabitant of the Philippine Islands upon taking the oath of allegiance to the United States; (c) a resident of the Philippine Islands before April 11, 1899, hitherto a subject of Spain, upon abjuring his allegiance to the Crown of Spain and taking the oath of allegiance to the United States."

"Section 135 of Act 355 provides that: 'All vessels of the class

designated in section 117 of this Act shall, prior to engaging in the coastwise trade and annually thereafter, take out a license therefor.' It further provides for the issuance of this license by collectors of customs at ports of entry and provides for the fee to be charged therefor.

"Section 119 of Act 355 provides that: "Such certificate of protection shall entitle the vessel to the same privileges and subject it to the same disabilities as are prescribed in Article XX of the Consular Regulations of the United States of 1896, for American or foreign built vessels transferred abroad to citizens of the United States; while in Article XX of the Consular Regulations of the United States of 1896 is found under section 341:

"Right to acquire property in foreign ships.—The right of citizens of the United States to acquire property in foreign ships has been held to be a natural right, independent of statutory law, and such property is as such entitled to protection by the United States as any other property of a citizen of the United States."

"And under section 347:

"Right to fly the flag.—The privilege of carrying the flag of the United States is under the regulations of Congress and it may have been the intention of that body that it should be used only by regularly documented vessels. No such intention, however, is found in any statute, and as a citizen is not prohibited from purchasing and employing abroad a foreign ship it is regarded as reasonable and proper that he should be permitted to fly the flag of his country as an indication of ownership and for the due protection of his property. The practice of carrying the flag by such vessels is now established. The right to do so will not be questioned, and it is probable that it would be respected by the courts."

"This office accordingly holds that a certificate of protection is a right which has been guaranteed to a citizen of the United States residing in the Philippine Islands, a native inhabitant of the Philippine Islands upon taking the oath of allegiance to the United States, and a resident of the Philippine Islands before April 11, 1899, hitherto a subject of Spain, upon abjuring his allegiance to the Crown of Spain and taking the oath of allegiance to the United States, regardless of whether such person desires to engage in the coastwise trade within the Philippine Islands or not. A certificate of protection may be issued under the authority of this section for the purpose of identifying the ownership of the vessel for which the certificate is sought, and for the purpose of granting to the vessel and to the owner thereof the right to fly the flag of the United States and the protection to which that flag entitles the vessel.

"While it is true that a certificate of protection gives no special rights in either a foreign or a United States port, the vessel bearing one being treated for all purposes as a foreign vessel, yet it is certain that such a certificate entitles a vessel to the protection of the United States flag upon the high seas and in any foreign port, and in case of capture would doubtless be well worth the cost. It is for the owner to estimate the risk of capture.

"The right to engage in the coastwise trade is an additional privilege and right to which a vessel holding the certificate of protection provided for in section 117 of the Customs Administrative Act is entitled under that certificate of protection; the vessel may or may not engage in the coastwise trade at the option of the owner: *Provided, however*, That, if it is desired to do so, the vessel take out the license provided for in section 135 of Act 355.

"Protest No. 1860, on the grounds above mentioned, is therefore sustained and a refund to the owner of said vessel is ordered in the sum of \$1,289.38, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 278.—*Publishing Act No. 1037, authorizing for a limited period exportation of food products which have paid duty, and importation of others in lieu thereof, without payment of duty.*

MANILA, January 12, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following Act No. 1037 of the Philippine Commission is hereby published for the information and guidance of all concerned:

"[No. 1037.]

"AN ACT AUTHORIZING MERCHANTS AND OTHERS IN THE PHILIPPINE ISLANDS TO EXPORT FOOD PRODUCTS WHICH HAVE PAID DUTY, FOR A LIMITED PERIOD, AND IN LIEU THEREOF TO IMPORT LIKE FOOD PRODUCTS, FOR A LIMITED PERIOD, WITHOUT PAYMENT OF CUSTOMS DUTY.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. Merchants and other persons carrying on business in the Philippine Islands and having in their possession canned goods and food products which have been imported into the Islands and have paid customs duties are hereby authorized to export such merchandise at any time prior to the first day of March, nineteen hundred and four, and upon such exportation to receive from the Collector of Customs a certificate stating the amount and kind of merchandise so exported and that the person or corporation so exporting shall be entitled to free entry of canned goods and food products of a like character and amount imported prior to the first day of May, nineteen hundred and four, and such certificate shall entitle the person or corporation receiving the same to such free entry prior to the first day of May, nineteen hundred and four, but not thereafter. The provisions of this Act are limited entirely to canned goods and food products.

"SEC. 2. It is hereby made the duty of the Collector of Customs for the Philippine Islands to frame suitable regulations for the administration of this Act.

"SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"SEC. 4. This Act shall take effect on its passage.  
"Enacted, January 9, 1904."

PAR. II. Persons desiring to avail themselves of the provisions of section one of the above act shall file with the collector of customs at the port of exportation a statement showing the kind and quantity of canned goods and food products to be exported by them, and shall present an export entry in the usual form covering the merchandise to be so exported.

They shall also present such canned goods and food products at the custom-house or other place to be designated by the collector of customs, for identification, examination, and classification.

PAR. III. Upon the payment of the wharf and harbor charges provided for by section sixteen of the Tariff Revision Law of 1901, the collector of customs shall cause the merchandise covered by the statement of the merchant and the export entry to be inspected and classified by a customs examiner, who shall make return thereon on Form No. 50, through the surveyor. This return shall show the kind of canned goods or food products exported, the gross and net weight of the same, the paragraph under which dutiable, the rate of duty, and the dutiable weight of the common exterior packing.

PAR. IV. Upon receipt by the surveyor of the examiner's return the same shall be compared with the export entry covering the shipment, and if the amount in quantity or weight does not exceed

the quantity or weight shown on the export entry the necessary permit shall be issued authorizing the lading of the merchandise on the exporting vessel. The surveyor shall indorse said permit, "This merchandise exported under the provisions of Act 1037."

In case no permit is issued, and the merchandise is taken aboard on the triplicate export entry, the inspector of customs in charge of the exporting vessel shall return the permit or entry to the surveyor, showing the quantity of merchandise covered by said permit or entry loaded on his vessel.

PAR. VI. Upon receipt by the surveyor of the return of the inspector a certificate shall be prepared and signed by the surveyor covering the lading of the merchandise in question, and this certificate, together with the return of the customs examiner, shall be forwarded to the office of the Collector of Customs.

PAR. VII. Upon receipt of the papers specified in the preceding paragraph the collector of customs shall issue a certificate to the shipment of the merchandise in the following form:

"I, \_\_\_\_\_, Collector of Customs for the Philippine Islands (or for the port of \_\_\_\_\_), do hereby certify that \_\_\_\_\_, of the city of \_\_\_\_\_, have this day exported on the S. S. \_\_\_\_\_ from the port of \_\_\_\_\_, under the provisions of Act 1037 of the Philippine Commission, the following-described merchandise, to wit:

No. of cases.	Kind of merchandise.	Dutiable weight.	Rate.	Amount of duty.

"Upon the presentation of this certificate by the above-named \_\_\_\_\_, together with an entry covering canned goods or food products of like character and not exceeding the quantity specified in this certificate, the same shall be admitted free of duty under the provisions of Act No. 1037 of the Philippine Commission, provided certificate and entry are presented prior to the first day of May, nineteen hundred and four.  
"Witness my hand and official seal at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 1904.  
"

"Collector of Customs for the Philippine Islands."

This certificate shall be issued and delivered to shipper in duplicate, and shall bear a 50-cent revenue stamp, but no fee shall be charged therefor.

PAR. VIII. Upon the importation of canned goods, or food products of like character, the same shall be admitted free of duty to the amount covered by the collector's certificate, which shall be attached to the entry therefor.

Any excess of goods declared over the quantity shown by the collector's certificate shall be assessed for duty in the usual and prescribed manner.

PAR. IX. The original certificate of the collector of customs shall be forwarded to the Auditor for the Philippine Islands with the entry covering the reimportation of canned goods and food products as authority for the free entry of such merchandise.

PAR. X. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

## PHILIPPINE CIVIL SERVICE BOARD.

Acting Collector of Customs for the Philippine Islands.  
EXAMINATION FOR HOSPITAL STEWARD.

MANILA, January 20, 1904.

An examination in English will be held in Manila and at provincial capitals on March 7, 1904, for the purpose of securing a

register of eligibles from which selections may be made for appointment, at about \$900 per annum with board and quarters, to the position of hospital steward in the contemplated provincial hospitals.

The subjects and weights of the examination are as follows:

	Weights.
1. Second-grade examination.....	25
2. Pharmacy and chemistry.....	25
3. Materia medica.....	10
4. Practical questions on nursing.....	25
5. Experience and training.....	15
Total .....	100

The necessary application blank and further information may be obtained at the office of the Philippine Civil Service Board or from provincial examining committees.

W. S. WASHBURN,  
*Chairman, Civil Service Board.*

**Contents.**

**Public laws:**

- No. 1040, an act regulating the hours of labor, leaves of absence, and transportation of officers and employees in the Philippine Civil Service, and repealing Act No. 80 and all acts amendatory thereof.
- No. 1041, an act amending Act No. 290, entitled "An Act providing an inexpensive method of administration upon the estates of civil employees of the Philippine Government who are citizens of the United States, and who die in the service of the Insular Government, leaving small estates upon which no regular administration is deemed advisable," and providing a method of paying small amounts due estates of deceased native employees without the expense of administration.
- No. 1042, an act for the purpose of maintaining the parity of the Philippines currency in accordance with the provisions of sections 4 and 6 of the act of Congress approved March 2, 1903, by prohibiting the importation into the Philippine Islands of certain kinds of coins.

**Executive orders:**

- No. 5, authorizing the publication of legal notices, proposals for bids, etc., in the Manila American.
- No. 6, extending the time specified in Executive Order No. 100, 1903, as amended, in order that committee may complete investigations.
- No. 7, relative to the redemption of Spanish-Philippine currency and its acceptance for public dues; fixing the ratio of exchange between Spanish-Philippine and Philippines currency at 1.10 to 1, and authorizing all provincial treasurers to receive Mexican pesos at the above rate and to deposit same with the Insular Treasurer.
- No. 8, postponing the gubernatorial elections in Cavite and Isabela Provinces.

**Bureau of Customs and Immigration:**

- Tariff Decision Circulars—
- No. 353, quarterolas, barrels.
- No. 354, belt buckles.
- No. 355, dried litchees—classification.
- No. 356, cigar-box labels; decision of the Court of Customs Appeals.
- No. 358, oil of myrbane dutiable as a chemical product.
- No. 359, retail value not to be taken as basis for ad valorem rates of duty.

**Customs Administrative Circulars—**

- No. 274, promulgating rules and regulations for the government of a pilots' association and pilots at the port of Manila; and fixing the rate of pilots' fees and charges.
- No. 275, closing the ports of Naga, Oolob, and Dalaguete, Island of Cebu; and Jagna, and Jagna, Island of Bohol, to the coast-wise trade.
- No. 276, changing name of port of Ligatic, Island of Panay, to New Washington.
- No. 277, license fees, barkentine Alts; right to certificate of protection under section 177 of Act 355.
- No. 278, publishing Act No. 1037, authorizing for a limited period, exportation of food products which have paid duty, and importation of others in lieu thereof, without payment of duty.

**Philippine Civil Service Board:**

- Examination for hospital steward.

# Official Gazette

Published by authority of the Insular Government under and by virtue of Act No. 453 of the Philippine Commission.

VOL. II

MANILA, P. I., FEBRUARY 10, 1904.

No. 6

## PUBLIC LAWS.

[No. 1043.]

AN ACT AMENDING THE PROVINCIAL GOVERNMENT ACT BY AUTHORIZING THE CIVIL GOVERNOR TO POSTPONE THE ELECTION FOR GOVERNOR IN ANY PROVINCE UNDER CERTAIN CIRCUMSTANCES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section four of Act Numbered Eighty-three, being the Provincial Government Act, as amended by section one of Act Numbered Three hundred and thirty-six, is hereby further amended by inserting after the words "capital of the province," in the sixth line of said section, the following words: "for the purpose of electing a provincial governor: *Provided, however,* That the Civil Governor, by and with the consent of the Commission, may postpone the election for governor in any province when he deems such a course conducive to the public interest," so that the first sentence of said section shall read as follows:

"SEC. 4. The provincial governor shall be selected in the following manner: On the first Monday in February of the year nineteen hundred and two and of each second year thereafter, at eight antemeridian of said day, the vice-president and councilors of every duly organized municipality in the province shall meet in joint convention at the capital of the province for the purpose of electing a provincial governor: *Provided, however,* That the Civil Governor, by and with the consent of the Commission, may postpone the election for governor in any province when he deems such a course conducive to the public interest."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, January 26, 1904.

[No. 1044.]

AN ACT TO PROVIDE FOR SUBMISSION TO THE CIVIL GOVERNOR OF ANNUAL REPORTS BY ALL PROVINCIAL GOVERNORS, AND REPEALING SUCH PORTIONS OF ACT NUMBERED EIGHTY-THREE, THE PROVINCIAL GOVERNMENT ACT, AND ITS AMENDMENTS, AND OF ACTS AND AMENDMENTS THEREOF PROVIDING FOR THE ESTABLISHMENT OF CIVIL GOVERNMENT FOR THE PROVINCES OF BENGUET, LEPANTO-BONTOC, NUEVA VIZCAYA, MINDORO, AND PARAGUA, AS ARE INCONSISTENT WITH THE PROVISIONS OF THIS ACT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. From the first and fifteenth of July of each year

a report shall be made by each provincial governor to the Civil Governor of the Philippine Islands for the fiscal year ending on the thirtieth day of June; this report shall embrace all matters pertinent to the administration and progress of the provincial government and contain full information as to the commercial, economic, financial, industrial, and political conditions of the province, in order that the Civil Governor and the Philippine Commission may be properly informed of the actual existing conditions in the Islands during the period covered by the report. Should unexpected events, or matters of special importance to the general welfare of the province, occur subsequent to the date of the regular annual report, a supplementary statement may also be filed, not later than September fifteenth, in order that complete data may be at hand for the use of the Civil Governor in submitting his annual report to the Philippine Commission: *Provided, however,* That this shall not apply to the Moro Province.

SEC. 2. Such portions of Act Numbered Eighty-three, the Provincial Government Act, and its amendments, and of Acts and amendments thereof providing for the establishment of civil government for the Provinces of Benguet, Lepanto-Bontoc, Nueva Vizeaya, Mindoro, and Paragua, as are inconsistent with the provisions of this Act, are hereby repealed.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, January 26, 1904.

[No. 1045.]

AN ACT FOR THE PURPOSE OF PROVIDING REVENUE AND OF MAINTAINING THE PARITY OF THE PHILIPPINE CURRENCY IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS ONE AND SIX OF THE ACT OF CONGRESS APPROVED MARCH SECOND, NINETEEN HUNDRED AND THREE, BY PROVIDING FOR THE PURCHASE OF MEXICAN DOLLARS AS BULLION, BY IMPOSING A TAX UPON WRITTEN CONTRACTS PAYABLE IN CERTAIN KINDS OF CURRENCIES, AND BY REQUIRING THE PAYMENT OF A LICENSE TAX BY ALL PERSONS, FIRMS, OR CORPORATIONS CONDUCTING THEIR CURRENT BUSINESS, EITHER WHOLLY OR IN PART, IN SAID CURRENCIES, AND FOR OTHER PURPOSES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. For the purpose of this Act the expression "local currency" shall signify Mexican coins, Spanish and Spanish-Philippine coins, and all other metallic moneys not upon a gold

basis, in circulation in the Philippine Islands, and bank notes payable in said moneys.

Sec. 2. The Secretary of Finance and Justice is hereby authorized, whenever in his judgment the public interest may require, to direct the Insular Treasurer and all provincial and municipal treasurers to purchase Mexican dollars as bullion at their bullion value, said value to be determined from time to time by the Insular Treasurer, with the approval of the Secretary of Finance and Justice. The cost of the bullion so purchased shall be a proper charge against the gold-standard fund, and the moneys coined therefrom shall accrue to that fund.

Sec. 3. Whenever any contract, debt, or obligation, payable by the terms thereof in local currency, is sought to be enforced in any court and the right of the plaintiff is established, it shall be the duty of the court to render judgment for the plaintiff to recover as damages the lawful sum due to him, in Philippine pesos, instead of in the currency mentioned in the contract, debt, or obligation. For the purpose of determining the amount of such judgment, the court shall receive evidence as to the real and just value in Philippines currency of the currency named in the contract, debt, or obligation, including evidence of the local market value of such currency, its value in neighboring countries as currency, its value in the great markets of the world, its bullion value, and any other facts necessary to determine its true value. The local market value, whether affected by the prohibition of the importation of such currency or by other causes, shall not be conclusive evidence of the amount of the judgment to be rendered in such cases. Payment of a judgment thus rendered shall extinguish all liability on the contract, debt, or obligation.

Sec. 4. Whenever any contract, debt, or obligation is made payable in local currency, the debtor or person under obligation to make payment may tender to the creditor in lieu of such currency the just amount due thereon in Philippine pesos, computed in the manner stated in the preceding section, and the effect of such tender shall be the same as though the tender had been made in the kind of currency named in such contract, debt, or obligation.

Sec. 5. The two last preceding sections shall apply to all contracts, debts, or obligations made before the passage of this Act, as well as to those made subsequent thereto.

Sec. 6. Every check, note, draft, bond, bill of exchange, and every contract whatsoever, payable wholly or in part in local currency and drawn or made upon, or subsequent to, October first, nineteen hundred and four, shall bear upon its face an internal-revenue stamp or stamps of a face value in Philippines currency to the amounts hereinafter provided, said stamp or stamps to be properly canceled at the signing of said check, note, draft, bond, bill of exchange, or contract with the initials of one of the parties thereto and the date of the transaction. The rates of the stamp tax required upon every check, note, draft, bond, bill of exchange, and upon every written contract whatsoever, payable wholly or in part in local currency, except as otherwise provided in this Act, shall be as follows:

(1) An ad valorem rate of one per centum levied in Philippines currency upon the face value in local currency of each aforementioned instrument drawn or made during the month of October, nineteen hundred and four.

(2) An ad valorem rate of two per centum levied in Philippines currency upon the face value in local currency of each aforementioned instrument drawn or made during the month of November, nineteen hundred and four.

(3) An ad valorem rate of three per centum levied in Philippines currency upon the face value in local currency of each aforementioned instrument drawn or made during the month of December, nineteen hundred and four.

(4) An ad valorem rate of five per centum levied in Philippines currency upon the face value in local currency of each aforementioned

instrument drawn or made subsequent to December thirty-first, nineteen hundred and four.

Provided, That the aforementioned tax shall not be collected upon the following:

(a) Checks, drafts, or bills of exchange drawn against a deposit of local currency and made payable to a person, firm, or corporation, or made payable to a bank and used in the purchase of a draft or bill of exchange payable to a person, firm, or corporation, in settlement either wholly or in part of a bona fide specific debt payable in local currency by the depositor and contracted in writing or reduced to writing prior to the first day of October, nineteen hundred and four.

(b) Checks, drafts, or bills of exchange payable in local currency and presented to a bank for deposit, payment, or sale by a creditor who has received the same in payment of a bona fide specific debt payable in local currency, contracted in writing or reduced to writing prior to the first day of October, nineteen hundred and four.

(c) Deposit receipts, or other evidences of deposits of local currency, given by a bank or other corporation or person to any person, firm, or corporation making a deposit of local currency, in accordance with the provisions of this Act, and for the purpose of providing funds for the payment of bona fide specific obligations payable in local currency and contracted in writing or reduced to writing prior to the first day of October, nineteen hundred and four.

(d) Checks, drafts, notes, bills of exchange, and contracts of any kind, the purpose and effect of which is the prompt shipment out of the Philippine Islands of the amount of Mexican currency the payment of which is called for in said check, draft, note, bill of exchange, or contract of any kind.

(e) Checks, drafts, notes, bills of exchange, and contracts of any kind, the purpose and effect of which is the prompt transfer of local currency to the Government of the Philippine Islands in accordance with the provisions of law.

(f) Contracts of any character whatsoever whose sole purpose and effect is the transference of a local-currency account to a Philippines-currency basis.

(g) Checks, drafts, or bills of exchange payable only in a foreign country.

Sec. 7. Every transfer of ownership by indorsement or otherwise after September thirtieth, nineteen hundred and four, of a check, draft, note, bond, bill of exchange, or any contract whatsoever, payable wholly or in part in local currency in the Philippine Islands after September thirtieth, nineteen hundred and four, except such instruments as are specified in subsections (a), (b), (c), (d), (e), (f), and (g) of section six, shall be considered a separate and distinct contract, and as such shall require a stamp or stamps.

Sec. 8. A tax of one per centum per month, payable quarterly, in Philippines currency, shall be levied upon the average daily balance of each deposit of local currency held after December thirty-first, nineteen hundred and four, by any bank, corporation, or individual receiving deposits in the Philippine Islands, and it shall be the duty of every bank, corporation, or individual receiving deposits in the Philippine Islands, which shall receive or continue local-currency deposits after December thirty-first, nineteen hundred and four, to furnish the Collector of Internal Revenue, within ten days after the beginning of each quarter of the calendar year, a statement of the names and addresses of holders of local-currency deposits held by them during the preceding quarter, together with the average daily balance of each deposit, respectively, for each month of said quarter, and such other information as the Collector of Internal Revenue shall require for the proper administration of this Act; and it shall be the further duty of such banks, corporations, or individuals to pay said tax to the Collector of Internal Revenue within thirty days after the beginning of each quarter of the calendar year, deducting

the amount of the tax from the depositor's account. The tax receipt of the Collector of Internal Revenue shall be a sufficient voucher for the bank, corporation, or individual as to the proper use of the money and shall be accepted by the depositor as money paid. Such average daily balance shall be calculated by adding together the sums of deposit to the credit of the depositor at the close of each business day in said month and dividing the sum so obtained by the number of days upon which said deposit was held: *Provided*, That any person wishing to maintain a local-currency deposit after December thirty-first, nineteen hundred and four, for the purpose of keeping funds for the payment at a future date of a bona fide specific local-currency obligation contracted in writing or reduced to writing prior to October first, nineteen hundred and four, may, by obtaining in advance the express permission in writing of the Secretary of Finance and Justice, and having the same registered with the Collector of Internal Revenue or his deputy, maintain such a deposit up to the time of the maturity of said local-currency obligation without paying the aforementioned tax.

Sec. 9. Every check, draft, note, bond, bill of exchange, and every contract whatsoever payable in local currency, and every deposit so payable shall be presumably subject to the taxes levied in accordance with the provisions of this Act; and the obligation shall rest upon the drawer or maker, holder or beneficiary, and, in case of transfer by indorsement, upon each indorser, indorsee, or holder of said check, draft, note, bond, bill of exchange, or bank deposit who claims exemption, to prove that he is entitled to any of the exemptions provided in this Act. No check, draft, note, bond, bill of exchange, or any contract whatsoever payable in local currency shall be exempted from the payment of the stamp tax provided for in sections six and seven of this Act, unless the contract for which exemption is claimed shall be registered with the Collector of Internal Revenue or his deputy before October first, nineteen hundred and four, and a certificate be attached thereto by the Collector of Internal Revenue or his deputy certifying the exemption; and no deposit of local currency shall be exempted from the payment of the tax on bank deposits as provided in sections eight and nine of this Act unless the exemption is obtained as herein provided, together with a certificate certifying the same, prior to January first, nineteen hundred and five.

Sec. 10. Every check, draft, note, bond, bill of exchange, and every contract whatsoever which is not properly stamped in accordance with the provisions of this Act shall be void, and every person, firm, bank, or corporation who gives or receives such check, draft, note, bond, bill of exchange, or contract which is subject to the stamp tax under this Act without its being properly stamped, or who shall receive or keep a deposit of local currency or make such a deposit without observing the provisions of this Act, shall be guilty of a criminal offense, and shall be liable to a fine not exceeding the face value in Philippines currency of fifty per centum of the number of pesos of local currency called for in said check, draft, note, bond, bill of exchange, or contract, or of the deposit so kept.

Sec. 11. (a) All persons, firms, or corporations who engage in any business whatsoever in the Philippine Islands, after December thirty-first, nineteen hundred and four, and make use of local currency to any extent whatever in either buying, selling, or renting goods, property, or services must, previously to engaging in such business and annually thereafter, in addition to the other licenses now required by law, obtain a license from the Collector of Internal Revenue in the manner prescribed in the provisions of the Industrial Tax Law for the issuance of industrial licenses: *Provided*, That persons, firms, banks, or other corporations may deal in the checks, drafts, notes, bonds, bills of exchange, and contracts which are mentioned in paragraphs (a), (b), (c), (d), (e), (f), and (g) of section six as not subject to a stamp tax, or may make such local-currency deposits as are exempted from taxation by sections eight and nine without secur-

ing such a license: *And provided further*, That a bank, corporation, or individual may purchase local currency with the purpose and effect of promptly shipping said currency out of the country, without securing such a license: *And provided further*, That the collection of accounts, debts, or other obligations made or incurred prior to January first, nineteen hundred and five, shall not be considered, current business subject to the provisions of this section.

(b) The licenses shall be classified in accordance with the classification of rates of the industrial taxes, and the amount payable for a license of the first class shall be ten thousand pesos, Philippines currency; for a license of the second class, five thousand pesos, Philippines currency; for a license of the third class, one thousand pesos, Philippines currency; and for a license of the fourth class, five hundred pesos, Philippines currency.

(c) Each separate factory, shop, store, or other business establishment, and each separate trade or business whether owned, managed, or carried on by the same or different persons, firms, or corporations, shall be considered for the purposes of this Act a separate industry, and shall require for its legal conduct or management a separate license of the class provided for in this Act. This section of this Act shall be administered in accordance with the provisions of the Industrial Tax Law so far as those provisions are not contrary to the provisions of this Act.

(d) Any person, firm, or corporation who shall use local currency in the conduct of his business without a license and contrary to the provisions of this Act shall be guilty of a criminal offense and shall be subject to a fine of not exceeding ten per centum of the license fee required for his business, in addition to the payment of the license fee. Each separate transaction in local currency contrary to law shall constitute a separate offense and shall subject the offender to a separate fine of not exceeding ten per centum of the license fee.

Sec. 12. Immediately upon the passage of this Act it shall be the duty of the Chief of the Division of the Currency to prepare and have published in the principal languages and dialects of the Philippine Islands an announcement explaining the new Philippines currency and the more important laws and official regulations pertaining to the use of that currency, and the methods provided for the withdrawal of local currency from circulation. Copies of this announcement shall be sent to all the provincial governors, provincial and municipal treasurers, presidents, and municipal councilors of the Philippine Islands, and shall be posted and advertised as widely as possible throughout the Philippine Islands.

Sec. 13. This Act shall be administered by the Collector of Internal Revenue for the Philippine Islands.

Sec. 14. This Act shall take effect on its passage.

Enacted, January 27, 1904.

## DECISIONS OF THE SUPREME COURT.

[No. 1503. December 29, 1903.]

*THE UNITED STATES, complainant and appellee, vs. ALEJO RAVIDAS ET AL., defendants and appellants.*

McDONOUGH, J., dissenting:

1. CRIMINAL PROCEDURE; BAIL PENDING APPEAL; DISCRETIONARY POWERS OF SUPREME COURT, HOW EXERCISED.—The Supreme Court has discretionary power to grant bail, even after conviction in all non-capital cases pending before it on appeal, and its discretion is to be exercised regardless of the action of the Court of First Instance.
2. *Id.*: EFFECT OF APPEAL ON JUDGMENT OF TRIAL COURT; EFFECT ON PENALTY.—The fact that the accused is not finally tried, in case of an appeal, until his case is heard, retried, and determined by the Supreme Court, and that, with few exceptions, in case of a conviction no credit is given for the time served in prison during the pendency of the appeal, are weighty reasons for the exercise of the discretion of the court to let the accused to bail during the pendency of his appeal.

3. *Id. : Id. : EXERCISE OF DISCRETION.*—The court should exercise its discretion in favor of bail, even after conviction in noncapital cases, unless some great urgency exists which would make it manifestly improper to grant the petition.

**APPEAL** from a judgment of the Court of First Instance of Misamis. Motion for bail pending appeal.

The defendants Alejo Ravidas and Narciso Melliza, together with several other defendants, were tried in the Court of First Instance of Misamis on a charge of insurrection. Both were convicted, and Ravidas was sentenced to imprisonment for a term of five years and Melliza to three years. Both appealed to the Supreme Court from the judgment of conviction. After the case was lodged in the Supreme Court the attorneys for the two defendants named made a motion that they be allowed bail pending appeal, no such motion having been made in the trial court. This motion was heard on November 16, 1903, and was opposed by the representative of the Attorney-General who appeared on behalf of the Government.

On November 30, 1903, the court directed the entry of the following order on its minutes:

"Acting upon the motion of Messrs. Palma, Gerona y Mercado, attorneys for Alejo Ravidas y Narciso Melliza, defendants in the case of the United States *vs.* Ravidas et al., that the said defendants be granted bail during the pendency of the appeal in this case before the court, after deliberation:

"*Resolved, by a majority vote, That the motion to admit the said defendants to bail be denied. The Hon. C. S. Arellano, Chief Justice, and Justices Torres, Willard, and Johnson voted to deny the motion.*"

From the order so entered and the refusal to grant bail Justices McDonough, Mapa, and Cooper dissented.

PALMA, GERONA & MERCADO, for appellants.  
Solicitor-General ARANETA, for appellee.

MCDONOUGH, *J.*, with whom concur COOPER and MAPA, *J.J.*, dissenting:

This is a motion to admit the defendants to bail pending the trial of their appeal in this court.

Bail is usually favored. Before conviction, except in capital cases, it is allowed as a matter of right. After conviction, however, it is discretionary with the Court of First Instance and also with this court to grant or refuse bail in noncapital cases pending on appeal. (See sec. 53, G. O., 58.)

In several of the States the courts have refused to exercise this discretion unless there exist special circumstances which call for the intervention of the court in behalf of the prisoner. In those States the question has often been raised as to what is a special circumstance which justifies the courts in letting to bail after conviction and pending an appeal. The answers have been numerous, various, and many of them vague.

1. In California it was said in the case of *Ex parte Smallman et al.* (54 Cal., 35) that it might be a special circumstance warranting the granting of bail when, for example, after a conviction for the crime of felonious homicide and appeal "the deceased" was produced alive.

2. The same court gave as another instance: Where the defendant had been convicted of stealing goods and it turned out afterwards that the goods of which he was convicted of stealing were at the time of the alleged theft in the hands of the owner.

With all due respect to the learned judge who gave these instances, it may be remarked that these were special circumstances warranting speedy pardon rather than bail.

3. It was held in Nebraska (42 Neb., 48) that, after conviction and pending appeal, this discretion of the court may be exercised upon the showing of probable error calling for a reversal of the judgment.

New York State follows this view and, pending appeal and an

application for a stay and for bail, the court will look into the record for the purpose of ascertaining whether or not there is probable cause for reversal.

In Indiana it has been held, on an appeal from the refusal of a judge to admit to bail, the supreme court will weigh the evidence and determine the facts, as if trying the case originally. (*Ex parte Heffernan*, 27 Ind., 87; *Ex parte Kendall*, 100 Ind., 599, and cases cited.)

4. In 3 American and English Encyclopedia of Law, 677, it is said that a special circumstance justifying bail, after conviction, is where the defendant voluntarily surrendered; or

5. Where he is a man of large means; or

6. Where he refused an opportunity to escape; or

7. When the defendant is seriously ill; or

8. When the hearing on the appeal has been unnecessarily delayed.

Thus it appears that the exceptions are so numerous that they almost constitute the rule.

The discretion to let to bail conferred on this court is to be exercised regardless of the action of the Court of First Instance. Even in California, where it frequently happened that the trial court refused to exercise the discretion vested in it to let to bail, the supreme court, in the case of *Smith* (89 Cal., 80), rebuked the court below for failure to act. "The fact," said the learned judge of the supreme court who wrote the opinion, "that the trial court adopted an inflexible rule not to admit a defendant to bail who has been convicted of a felony, can have no weight with us, however inconsistent such rule is with section 1272 of the Penal Code" (allowing the court to exercise discretion). "This court passes upon the merits of the petition presented to it regardless of any action or rule the trial court may have adopted."

In the case of *Hodge* (48 Cal., 3) the chief justice of the supreme court allowed bail after it had been refused by the court below. There the defendant had been convicted of assault with a deadly weapon with intent to do bodily injury. The punishment for that offense was a fine or imprisonment, and the defendant had been sentenced to serve a term of imprisonment of eighteen months in the State prison.

On the argument, the attention of Chief Justice Wallace was called to the record, and he evidently examined the record and the rulings of the court below and the charge to the jury, for he said:

"It is not proper that I should intimate an opinion as to the ultimate determination of the points which it is the purpose of this appeal to present for the judgment of the supreme court.

"They are sufficient in my judgment to show that the appeal is *bona fide* and that the case made is *not* to be characterized as frivolous or unsubstantial.

"I think that should I, under the circumstance, refuse to admit the prisoner to bail, it would be a misapplication of the discretion conferred by the statute.

"The right to appeal to the supreme court is guaranteed by the Constitution to the prisoner and is as secure as the right of trial by jury. It is one of the means the law has provided to determine the question of his guilt or innocence. Upon such an appeal the ultimate question is nearly always as to the validity of the judgment under which the prisoner is to suffer, and it is certainly not consonant to our ideas of justice, if it can be prevented by legal means, that, even while the *question of guilt or innocence* is yet being agitated in the form of an appeal, the prisoner should be *undergoing the very punishment* and suffering the very infamy which it was the lawful purpose of the appeal to avert. It would be somewhat akin to a practice of punishing the accused for his alleged offense while the jury was yet deliberating upon a verdict."

These are sensible and weighty reasons for the exercise of the discretion of the court to let a prisoner out on bail pending his appeal, but weighty and just as they may be in California, there

is much more reason for following them in these Islands, because here the accused is not finally tried until his case is heard, retried, and determined by this court, which, in case of conviction, sentences the accused for the full term prescribed by law; and he is obliged to serve the full term of imprisonment imposed upon him by this court, without being credited with the time served in prison, between the time of determining his guilt below and the time of conviction here, except where convicted of certain minor offenses in which the convict is credited with half the time served pending the appeal. So that this may result, especially if delay occurs in bringing the case to trial in this court, and in deciding the same, that an accused may have to serve a longer term in prison than is prescribed by the Code.

Moreover, in the State courts, the accused is allowed bail as a matter of right before conviction by a jury in noncapital cases. The conviction, under our system, in a Court of First Instance, where an appeal has been taken, is very like an examination and a holding for trial by a committing magistrate in the States, if the holding of this court in the case of the United States *vs.* Kepner (1 Off. Gaz., 352) be good law. In the opinion of this court in that case, it is stated, under the Spanish rule in these Islands: "There never was any finality to the judgment in the trial court, in felony cases, until it had been ratified and confirmed by the court of last resort. Such a judgment was merely advisory to the appellate tribunal. \* \* \* That was the law of the land when the change of sovereignty took place, and it has only been modified since to the extent of making the judgment of the Court of First Instance, in felony cases (except capital offenses) final, unless an appeal has been taken either by the Attorney-General or the accused. So then, so now."

Inasmuch as there has been an appeal taken in the case at bar, the judgment below, therefore, is not final; it is not such a judgment as is entered in the States upon the verdict of a jury; it is in its nature "merely advisory," and, therefore, it, together with the double punishment mentioned above, constitutes a special circumstance entitling the defendants to the exercise of the discretion of the court in their favor.

It seems to me that this court ought to follow the practice of the Federal courts and that of the Supreme Court of the United States, and not deny bail after conviction unless some special circumstance exists which appeals especially to the discretion of the court, but rather to allow bail, unless some great urgency exists which would make it manifestly improper to grant the petition.

Thus in the case of McKnight (113 Fed. Rep., 151), decided by the circuit court of appeals of the sixth circuit, 1902, it was held that the United States Court of Appeals, pending a writ of error, had power, and that it was generally its duty to admit to bail, after conviction of a crime not capital; that where the trial court refused to admit to bail pending a writ of error, in the absence of some great urgency, a further application should be made to the appellate court, and that the fact that the defendant had been three times convicted on the same indictment, for embezzling funds of a national bank, was not sufficient ground for denying bail pending a writ of error.

In the case of Hudson *vs.* Parker (156 U. S., 277) it appeared that Hudson had been convicted in the United States district court for the western district of Arkansas, of assault with intent to kill, and was sentenced to imprisonment for a term of years.

A writ of error was granted by one of the justices of the supreme court (not assigned to that circuit) and an order made for supersedeas and bail, in a sum named, pending the writ, the bond to be approved by Judge Parker, the district judge. He, however, refused to approve the bond, holding that the supreme court judge was without authority to let the prisoner to bail.

In the opinion of the supreme court it was said that: "The statutes of the United States have been framed upon the theory, that a person accused of a crime shall not, until he is finally

adjudged guilty in the court of last resort, be absolutely compelled to undergo imprisonment or punishment, but may be admitted to bail not only after arrest and before trial but after conviction and pending a writ of error," and so the court ordered a mandamus to be issued commanding Judge Parker to take action regarding the approval of the bond.

For the foregoing reasons I am of opinion that the defendants should be let to bail pending the disposal of their appeal in this court.

[No. 1441. December 29, 1903.]

THE UNITED STATES, complainant and appellee, *vs.* SEVERA BERGANTINO, defendant and appellant.

- \*1. CRIMINAL LAW; HEARSAY; PEDIGREE; TESTIMONY AS TO AGE.—Hearsay evidence is commonly received by courts upon the subject of pedigree, which includes that of the age of a person and furnishes an exception to the rule against the admissibility of such evidence.
2. ID.; ID.; DOUBT.—Where there was evidence in behalf of the defendant that she had not reached the age of 15 years at the time of the commission of the offense and the trial judge reached the conclusion from the appearance of the accused that she had passed the age of 15 years. Held, that the testimony on behalf of the defendant was sufficient to raise a reasonable doubt upon a material question, to the benefit of which the defendant was entitled, and that the judgment of conviction in the case should be reversed and the sentence modified, reducing the penalty in accordance with the requirements of article 85 of the Penal Code.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

CARLOS LEDESMA, for appellant.

Solicitor-General ABANETA, for appellee.

COOPER, J.:

The defendant, Severa Bergantino, is charged with the crime of homicide, committed as follows:

"On the evening of the 26th day of February last, the deceased, Eugenia Bernales, being at the house of Dolores Abelarde for the purpose of collecting 7 reales and 8 cents, which the latter owed to the former, the said Abelarde not having paid the same, a dispute arose, and the said accused, Severa Bergantino, taking part in the dispute, inflicted two wounds upon the stomach of the deceased with a knife, which caused the death of the said Eugenia Bernales on the 28th of the said month of February."

The defendant was found guilty in the Court of First Instance and was adjudged to imprisonment of eight years and six months of *prisión mayor* and to pay the cost of the proceedings, with the accessories, without adjudging indemnification for the damages, there being no claim for such by the heirs or relatives of the deceased. From the judgment the defendant appeals to this court.

The testimony in the case and on which the decision is based discloses the following facts:

In the pueblo of Estancia, in the Province of Iloilo, on the 26th day of November, 1902, the deceased, Eugenia Bernales, went to the house of Dolores Abelarde, the mother of the accused, for the purpose of collecting the sum of 7½ reales which the deceased had won in a game on the morning of that day from Dolores. Dolores refused to pay the said sum; the deceased insisted, saying that she needed the money in order to buy supplies for the family; after some warm words had passed between the women the deceased stated that the accused was wanting in virtue and applied other offensive epithets to her. The accused was present, and up to this time had taken no part in the dispute between her mother and the deceased. Eugenia left the presence of Dolores and started down the steps, and when reaching the lower story, Severa having accompanied her, they came to blows. The accused at the time of the quarrel had a *pñknine* in her hand with which she inflicted mortal wounds upon the deceased.

\* Headnotes by Mr. Justice Cooper.



While there is some conflict, the testimony is sufficient to sustain these views, and it is clear that the defendant is guilty of the offense of homicide.

It is contended by the attorney for the defendant that the court failed to take into consideration all of the attenuating circumstances which existed in the case, and, in particular, that the penalty assessed by the court was placed in a grade too high in view of the testimony as to the age of the accused.

Article 85 of the Penal Code provides that:

"Upon a person under 15 years or over 9 years of age, who is not exempt from liability by reason of the court having declared that he acted with the exercise of judgment, a discretionary penalty should be imposed, but always lower, two degrees at least, than that prescribed by law for the crime which he committed."

Did the evidence in the case show that the accused was under 15 years of age? If so, the penalty should have been two degrees, at least, lower than that prescribed by law for the crime which was committed.

The learned judge states in his decision that the accused is a married woman, apparently about 18 or 19 years of age; that while the proof presented on the part of the defendant tended to show that she was less than 15 years old at the time of the occurrence; that these declarations of the witnesses were all hearsay, as neither the accused nor her mother, who testified as to her age, knew her present age; that there was not presented during the trial the baptismal certificate nor any other document showing the date of the birth of the accused; that to judge by the appearance of the accused she had passed the age of 15 years; that it was impossible to determine with certainty this point; and the court reached the conclusion that the accused was more than 15 years of age.

The testimony of the defendant, her mother, and her husband was to the effect that the accused had not reached the age of 15 at the time of the commission of the offense.

The mother of the accused testified that her daughter was 14 years and 4 months old and states that the reason she knew her age was because the defendant was born about the time of the cholera epidemic of 1889.

The accused testified that she was 14 years old when she was married, three months before the trial.

The husband of the accused testified that she was 14 years old and that he knew this because when he was married they told him that the accused was only 14 years of age.

The testimony of the mother was not hearsay, but was by one who had direct knowledge of the age of the accused.

The testimony of the husband, though hearsay, is such evidence as is commonly received by the courts upon the subject of pedigree, which furnishes an exception to the rule with reference to the admissibility of hearsay evidence. (1 Greenl., sec. 114 C.)

While the evidence upon this point is not entirely satisfactory, yet it is sufficient to raise a reasonable doubt upon this material question in the case, to the benefit of which the defendant is entitled. The baptismal certificate or other evidence of this character would have been much more satisfactory to the court, and, if obtainable, should have been introduced. Neither the prosecution nor the defendant saw fit to introduce such evidence.

This finding of the court as to the age, not being supported by evidence sufficient to satisfy this court beyond a reasonable doubt, will require a reversal of the judgment and a modification of the sentence by reducing the penalty in accordance with the requirements of article 85 of the Penal Code at least two degrees below that prescribed by law for the crime which was committed by the defendant, and the imposition of a discretionary penalty, which, in view of the attenuating circumstances we find as existing in the case, we now reverse the judgment and sentence the defendant to the penalty of six months imprisonment, *arresto*

*mayor* in its maximum degree, with cost of proceedings adjudged against the defendant. It is so ordered.

Arellano, C. J., Torres, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1403. December 29, 1903.]

*JOSE E. ALEMANY ET AL., petitioners, vs. JOHN C. SWEENEY, judge of the Court of First Instance of Manila, respondent.*

1. PLEADING AND PRACTICE; ANSWER; IRRELEVANCY; MOTION TO STRIKE OUT.—An answer which states some of the facts alleged in the complaint, denies none of them, and is devoted principally to a discussion of the questions of law involved in the case will be construed as tacitly admitting all the allegations of the complaint, and a motion to strike out the whole answer as irrelevant will be denied.
2. ID.; ID.; ADMISSION OF FACTS ALLEGED IN COMPLAINT; DEMURRER; JUDGMENT ON THE PLEADINGS.—When the answer tacitly admits the facts stated in the complaint the plaintiff may demur to the answer or move for judgment on the pleadings.

ORIGINAL PETITION for a writ of mandamus. Decision of motion.

The facts are stated in the opinion of the court.

LEDESMA, SUMULONG & QUINTOS, for petitioners.  
ANTONIO V. HERBERO, for respondent.

WILLARD, J.:

This is an original action in this court in which, a demurrer to the complaint having been overruled (1 Off. Gaz., p. 857), the defendant has answered. The plaintiff now moves to strike this answer out on the ground that it neither admits nor denies the facts set out in the complaint, nor does it allege any new facts. An examination of the answer shows that it is open to the objections contained in the motion. It states some of the facts in the complaint, denies none of them, and is devoted principally to a discussion of the legal questions involved in the case.

Section 94 of the Code of Civil Procedure contains the following provision:

"\* \* \* A material allegation of the complaint which is neither generally nor specifically denied in the answer shall be deemed to have been admitted."

The answer in view of this provision must be construed as tacitly admitting all of the allegations of the complaint. Such a tacit admission is the legal equivalent of an express admission. An answer which contains an express admission of all the allegations of a complaint can not be stricken out as irrelevant under article 107 of the same Code. Nothing could be more relevant to a suit than an admission of the facts stated in a pleading.

This is a motion to strike out the whole answer and not a part of it. It is not necessary to consider, therefore, whether that portion which contains the legal argument is subject to attack under said article 107.

The plaintiff might have demurred to this answer under article 99. But in this case, and generally in all cases when the answer states no defense, the most expeditious method would be to have the case placed on the calendar for trial on its merits. On such trial the only question for determination would be whether on the facts stated in the complaint the plaintiff was or was not entitled to judgment.

The motion is denied.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Motion denied.*

[No. 1406. January 6, 1904.]

*THE UNITED STATES, complainant and appellant, vs. ROSCOE C. COX, defendant and appellee.*

CRIMINAL LAW; ASSAULT ON PEACE OFFICER; BREACH OF THE PEACE.—An unprovoked attack upon a policeman on duty constitutes the

offense of assaulting an officer under articles 249 and 250 of the Penal Code, and not a mere breach of the peace.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.  
T. L. MCGIBB, for appellee.

TORRES, J.:

On May 26, 1903, the provincial fiscal of Iloilo filed an information in the Court of First Instance of that province charging Roscoe C. Cox with the crime of assaulting an officer of the law. The information alleged that at 9 o'clock on the night of Tuesday, the 10th of February last, while on duty in General Hughes Street in the city of Iloilo, the policeman Damaso Gonzalez was approached by three American soldiers. The accused, who was one of the trio, asked Gonzalez if he wished to fight, and immediately after, without giving the latter time to reply, seized him by the throat. Having succeeded, with the aid of the other two soldiers, in overcoming the policeman, the accused possessed himself of the club which Gonzalez carried, and with it struck the latter several blows, causing the wounds described in the medical statement exhibited. Gonzalez thereupon shouted for help. Two citizens ran to his aid, at sight of whom the accused and his two companions took to flight.

The information having been admitted, the trial began. George M. Saul, E. J. Saul, the policeman Damaso Gonzalez, and the police sergeant Pedro Carpio, witnesses for the prosecution, testified that on the night and in the street referred to the policeman Gonzalez, who was on patrol duty, encountered three American soldiers; that one of these, the defendant herein, asked the officer if he wanted to fight, to which the latter replied in the negative; that the defendant repeated the question, and then, without waiting for a reply, seized Gonzalez by the throat, threw him to the ground, and struck him several blows with the club which he succeeded in wresting from the policeman; that the latter thereupon shouted for help, and, having succeeded in regaining his feet, recovered the possession of the club which his assailant had taken from him; that at this point two native residents came to the aid of Gonzalez, who ordered his assailant to stand where he was; that as the latter took no notice of the command and began to run Gonzalez discharged his revolver four times and started off in pursuit, followed by another policeman patrolling Duran Street; that the soldier was here overtaken, and, after a struggle between the two policemen and the accused, the three fell to the ground, all more or less injured; that at this moment Captain Ferry appeared on the scene, and that he, with the help of several citizens, carried the wounded soldier to the hospital, one of the policemen being borne by others to the house of Mr. Saul. It seems that the policeman who responded to the calls of Gonzalez was the sergeant Pedro Carpio, and that he assisted Gonzalez in the struggle resulting from the effort to arrest the defendant when he attempted to escape. Captain Ferry and Sergeant Cerera apparently arrived on the scene as the three men fell to the ground. The witnesses who testified stated that they were able to identify the defendant, Cox, as the man arrested on the night in question for the reason that there was a full moon at the time and because they had looked at him carefully. The first witness, George M. Saul, also testified that he thought the defendant was drunk at the time, as he staggered when he walked.

The accused pleaded not guilty, but presented no evidence on his own behalf. The judge below, in view of the fact that the defendant's attorney admitted the identification of the accused by the witness C. R. Maun, and the truth of the doctor's statement that the contusions sustained by Gonzalez were seventeen days in healing, rendered judgment on the 8th of June declaring the defendant guilty of breach of the peace and condemned him to

the payment of a fine of 125 pesetas and costs. From this decision the prosecution appealed.

The facts set forth constitute the crime of assault on a police officer, covered by articles 249 and 250 of the Penal Code. The municipal policeman Damaso Gonzalez while patrolling one of the streets of the city of Iloilo in the performance of his duty was assaulted by the defendant and two others. It was not shown at the trial that the policeman gave any cause for this aggression.

Among others, those are guilty of the crime of assault upon an officer of the law who either actually attack such an officer, or who employ force against him or threaten him with violence, or make other equally serious resistance to him, while he is performing the duties of his office or by reason thereof. (Art. 249 of the Code.)

Notwithstanding the defendant's plea of not guilty it is nevertheless indubitable that he was the author of the crime in question. He was pursued by Gonzalez after the assault, was later arrested by Gonzalez and the other policeman who came to the latter's aid, and has since been identified by the victim of the assault. It can not be questioned that the defendant is the person who was taken in charge by Captain Ferry, of the American Army, after the occurrence. This took place in the presence of several citizens, who, attracted by the cries of the injured policeman and by the revolver shots following immediately after, had also run to his assistance.

It is, therefore, a fact fully proven by the evidence in the case that the defendant, Roscoe C. Cox, without previous provocation or other justifiable motive, assaulted the policeman Damaso Gonzalez, who was at the time discharging his duties as such officer, inflicting upon him injuries more or less serious. The defendant should therefore be condemned, as author by direct participation of the crime of assaulting a police officer, to the penalty of *prisión correccional* in its minimum and medium grades, together with the fine provided in the last paragraph of article 250 of the Penal Code, there having been present in the commission of the crime none of the four circumstances mentioned in article 250 above cited. Since the accused was intoxicated at the time of the commission of the offense, the sixth mitigating circumstance mentioned in article 9 of the Penal Code should be considered present. There are no aggravating circumstances to offset the effects of this mitigating circumstance, and the penalty should accordingly be fixed in its minimum grade.

For the reasons above set forth we think the sentence appealed should be reversed and the accused Roscoe C. Cox condemned to the penalty of six months and one day of *prisión correccional* together with the accessories mentioned in article 61 of the Penal Code, to the payment of a fine of 375 pesetas, or, in case of insolvency, to suffer the corresponding subsidiary imprisonment at the rate of one day for each 124 pesetas unpaid, and to the payment of the costs.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1697. January 18, 1904.]

MUNICIPAL COUNCIL OF THE PUEBLO OF SANTA ROSA, petitioner, vs. THE PROVINCIAL BOARD OF THE PROVINCE OF LAGUNA, respondent.

- \*1. MUNICIPAL ELECTIONS; ACTION OF PROVINCIAL BOARD; PRELIMINARY INJUNCTION.—Where a provincial board, acting upon an objection presented to it, finds that illegalities have been committed in a municipal election, and has ordered a special election to be held, an application for a preliminary injunction thereafter must be denied, there being no particular act on the part of such provincial board relating to such election which it can be enjoined from doing. You can not enjoin the commission of an act already done.

2. **ID. : VOID ORDER OF PROVINCIAL BOARD ; ACTION OF MUNICIPAL ELECTION BOARD THEREON ; PROHIBITION ; PRELIMINARY INJUNCTION.**—Where the resolution of a provincial board directing the holding of a special election is of such a character that prohibition will lie to prevent the municipal election board from complying with the same, a preliminary injunction may be granted to enjoin the election board from action on such resolution during the pendency of the proceedings on an application for a writ of prohibition.

ORIGINAL PETITION for a writ of preliminary injunction.

The facts are stated in the opinion of the court.

FELIPE G. CALDERON, petitioner.

Acting Attorney-General ARANETA, for respondent.

JOHNSON, J.:

On the 6th day of January, 1904, the plaintiff made application to Justice Willard, of this court, praying for a preliminary injunction against the said defendant, to prohibit it from executing an order of the 17th of December made by the said board, which order directed a special election to be held in the pueblo of Santa Rosa, of said province, on the 12th day of January, 1904. The application for the preliminary injunction was denied by Justice Willard. On the 7th day of January the said plaintiff, having been notified of the decision of Justice Willard, amended said application by making it an application for the same preliminary injunction to this court. The facts in the said application for the said preliminary injunction are as follows:

1. That on the 1st day of December the election for municipal officials was duly and legally held in the said municipality.

2. That on the same day notice was given, granting a period of three days within which any resident of the said municipality of Santa Rosa might present to the said municipal board of election, or to the president of the same, by writing, protests to be justly and legally considered against the parties declared elected by the electoral judges.

3. At 6.15 on the night of December 3 a protest was presented to the board of electors for supposed infringement of the elections, the nullity of which was asked.

4. Notwithstanding said protests, the provincial board of Laguna declared the elections valid and ordered the municipal secretary of Santa Rosa to communicate to the newly elected officials that they could qualify and take possession of their respective offices the first Monday in January.

Said ruling of approval was adopted by the provincial board of Laguna in session held the 7th day of December, 1903, in the following terms: "In view of the duplicate return of the municipal elections of \* \* \* Santa Rosa \* \* \* and the protests presented, the board has resolved that said municipal elections were legal, considering the motive upon which the protests were founded insufficient to believe that the result of the elections is not truly the will of the electors."

Notwithstanding the said decision of the provincial board, it did, by a ruling of the 17th of December, 1903, amend its approval in these terms: "Agapito Carpena and other residents of Santa Rosa, having presented to the provincial board an amplification of the protest against the result of the municipal elections of said pueblo, and it appearing that an error was made in approving the result of the municipal elections of Santa Rosa, and it having been found upon a further examination of the protest that there were more voters who deposited their ballots in the ballot box than actually appeared in the list previously posted in the public places: *It is resolved*, That the approval ratified in the session of December 7, 1903, be amended, that the result of the municipal election of Santa Rosa be declared illegal, and that a new municipal election be ordered to be held on Tuesday, the 12th of January, 1904, and that this resolution be communicated to the municipal council and to the board of electoral judges."

Section 13 of Act No. 82 of the Philippine Commission pro-

vides for the method of counting the ballots and declaring the result in municipal elections in these Islands and provides for a term of three days after the counting of the said ballots in which "any resident of the town may present to the board or to the chairman thereof, in writing, such objections as he may deem just and legal against those declared elected." Subsection (b) of said section 13 provides that "on the day following the said term of three days a duplicate of the election certificate and the objections made, if any, shall be sent by the chairman of the board of judges to the provincial board. Should the provincial board, upon investigation and after hearing the evidence, if necessary, find the election legal, they shall, within seven days after the receipt of said document, direct the newly elected officers to qualify and enter upon their duties by the day fixed by this Act; but if the provincial board determines that there has been an illegality committed in the election of any officer or that any candidate returned is not eligible, they shall so declare in writing, with the reason therefor, and shall order a special election to fill the vacancies thus occasioned and shall certify their finding and order to the municipal secretary, who shall spread the same on the records of the council."

The facts quoted from the application of the said plaintiff show the following facts:

1. That the election was held on the 1st day of December, 1903.  
2. That upon the evening of the 3d day of December a protest was presented to the election board.

3. That upon the 7th day of December, 1903, the said provincial board found the said protest insufficient to declare the said municipal election illegal.

4. Later, upon the 17th day of December, after having been presented to the said provincial board an amplification of the former protest against the irregularity of the said election in the said municipality, the provincial board amended its resolution of the 7th day of December, 1903, and declared the said municipal election illegal, and, in accordance with the provisions of subsection (b) of section 13 of the said Act No. 82 of the Philippine Commission, ordered a new election to be held on the 12th day of January, 1904.

Section 162 of the Code of Civil Procedure defines an injunction as follows:

"An injunction is a writ or order requiring a person to refrain from a particular act."

In the foregoing case it appears that the provincial board has done all it can do with reference to the special election to be held in the said pueblo of Santa Rosa. The record shows that it has ordered the election. Everything that is to be done, with reference to the election, subsequent to the said order, is done upon the part of the proper officials of the municipality of Santa Rosa. There is nothing left for the provincial board to do with reference to the special election so ordered; therefore, there is no "particular act" on the part of the said provincial board relating to the said election which this court can order said provincial board to refrain from doing.

The application for the preliminary injunction is therefore denied.

Subsection (b) of section 13 of said Act 82 provides that the provincial board "shall, within seven days after the receipt of said documents (protest), direct," etc., either that the newly elected officers enter upon their duties, etc., or "shall order a special election," etc. If, for any reason, the resolution of the provincial board should be void or unlawful, then the proper parties might, by a preliminary injunction based upon a final right to the writ of prohibition, prevent the municipal election board from complying with the same.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur.

Application denied.

BUREAU OF THE INSULAR TREASURER.

Banco Español-Filipino—Statement, December 31, 1903.

Resources.		Liabilities.	
Property:		Capital stock	P1, 500, 000.00
Furniture and fixtures	P4, 991.64	Reserve fund:	
Real estate	405, 455.12	Legal	P225, 000.00
		Voluntary	665, 000.00
	P410, 446.76		890, 000.00
Securities:		Deposits:	
Notes and discounts—		Necessary—	
Philippines currency	P368, 580.42	Philippines currency	P260.00
Local currency	249, 102.87	Local currency	15, 561.14
	617, 683.29		16, 841.14
Loans (papers acknowledged notary public), local		Voluntary—	
currency	110, 000.00	Philippines currency	100.00
Loans secured by bonds and other public securities,		Local currency	282, 305.69
Philippines currency	35, 000.00		282, 405.69
Loans secured by merchandise—		Time—	
Philippines currency	P87, 397.96	Philippines currency	4, 468.72
Local currency	27, 800.00	Local currency	925, 909.93
	95, 197.96		930, 378.65
Loans secured by mortgages—		Current account and accepted checks—	
Philippines currency	162, 085.40	United States currency, \$61, 981.65	123, 963.30
Local currency	142, 948.98	Philippines currency	111, 671.41
	305, 034.38	Local currency	1, 786, 748.12
Overdrafts and bills of exchange—			2, 022, 582.83
Philippines currency	2, 187, 794.08	Bank notes in circulation	1, 969, 802.50
Local currency	917, 544.28		244, 655.61
	3, 105, 338.31	Dividends not paid:	
Negotiable securities (local currency)	7, 870.45	Overdue	9, 256.10
Bonds, stocks, and other securities (Philippines		Current	60, 000.00
currency)	620, 277.18		69, 266.10
Cash on hand:	4, 896, 401.57	Profit and loss	1, 274.98
United States currency, \$204, 414.23			7, 927, 267.46
Philippines currency	408, 828.46	Deposits held for safe-keeping	405, 204.11
Local currency	125, 337.34	Bank notes in vault	988, 307.50
	2, 066, 253.38		988, 307.50
	2, 620, 419.13	Total liabilities	9, 320, 779.07
Deposits held for safe-keeping	7, 927, 267.46		
Bank notes withdrawn from circulation	405, 204.11		
	988, 307.50		
Total resources	9, 320, 779.07		

J. SERRANO, Accountant.

Correct:

EUGENIO DEL SAZ OROZCO, Director in Charge.

OPINIONS OF THE ATTORNEY-GENERAL.

Allegiance; domicile; citizenship.

MANILA, P. I., December 1, 1903.

It is the general rule of international law that those who remain in a conquered or ceded country transfer their allegiance to the conqueror. This is a rule of necessity and convenience, as the new sovereign has the right to know who owe allegiance to it and who do not. In discussing this matter Halleck on International Law (vol. 2, p. 476) says: "If we abandon the old principle of forcible and absolute transfer of allegiance and adopt that of express or implied consent, it is necessary to adopt some rule of evidence by which that consent is to be determined; and we know of none better than that of domicile as laid down by the Supreme Court of the United States and approved by the best writers on public law." Continuing further, on page 478: "The inconvenience to those who do not transfer their allegiance, arising from making the law of domicile the rule of evidence by which to determine the consent of the conquered, may be avoided by treaty stipulations, or by the municipal laws of the conqueror." The presumption is, therefore, that all who remained in these Islands transferred their allegiance to the United States. The treaty of Paris in providing the method of requiring all who wish to retain their allegiance to Spain, to be registered, is the usual procedure. In the absence of the treaty stipulations, all Spaniards who remain in these Islands would give up their allegiance to Spain. Therefore, in order to retain their old allegiance they must conform strictly to the treaty and be registered in the court of record, in accordance with the treaty of Paris and the municipal law of these Islands. I agree with Mr. Beaumont that a consul does not hold a court of record, and therefore that Mr. Yeara is not a citizen of Spain, but of the Philippine Islands.

L. R. WILEY, Attorney-General.

The ACTING COLLECTOR OF CUSTOMS,

Manila, P. I.

BUREAU OF CUSTOMS AND IMMIGRATION.

EXPORTS BY CALENDAR YEARS.

Exports from the Philippine Islands, by articles, for period of American occupation by calendar years, August 20, 1898, to December 31, 1903.

[Values expressed in United States currency.]

Articles.	1898. <sup>1</sup>	1899.	1900.	1901.
Hemp	\$3, 039, 767	\$7, 993, 574	\$13, 290, 400	\$15, 976, 640
Copra	112, 640	725, 658	3, 182, 481	1, 611, 338
Tobacco	450, 740	783, 732	1, 100, 868	786, 930
Cigars	930, 876	945, 699	1, 158, 417	1, 832, 449
Sugar	1, 063	5, 852	12, 562	12, 562
Sugar	394, 680	3, 435, 370	2, 397, 144	2, 549, 147
Ilang-iliang oil	23, 138	50, 115	62, 852	62, 852
Silver coin, Mexican	157, 425	935, 717	3, 146, 039	7, 809
Coffee	837	12, 132	3, 142	5, 637
All other articles <sup>2</sup>	623, 441	4, 400, 033	3, 491, 192	3, 235, 309
Total	5, 710, 406	19, 255, 091	27, 826, 550	25, 080, 978

  

Articles.	1902.	1903.	Total during American occupation.
Hemp	\$13, 290, 610	\$22, 000, 588	\$81, 591, 579
Copra	2, 701, 725	3, 819, 793	12, 155, 130
Tobacco	964, 730	955, 960	5, 043, 000
Cigars	985, 518	961, 353	6, 817, 514
Cigarettes	9, 376	22, 194	51, 087
Sugar	3, 342, 473	3, 824, 814	15, 448, 628
Ilang-iliang oil	84, 596	123, 182	349, 883
Silver coin, Mexican	2, 316, 000	7, 484, 379	14, 045, 969
Coffee	2, 482	1, 095	25, 075
All other articles <sup>2</sup>	3, 462, 266	1, 792, 116	17, 004, 377
Total	33, 162, 726	40, 485, 496	152, 521, 042

<sup>1</sup> August 20 to September 31 only.

<sup>2</sup> Includes also reexportations.

Chief articles of export by countries, calendar years 1902 and 1903.

[Values expressed in United States currency.]

The following tables show the countries to which the leading articles of export were exported during the two calendar years

ending December 31, 1903, the value being the invoice values at the ports in the Philippine Islands from which exported, at the time of exportation, expressed in United States currency:

Hemp.	1902.	1903.
United States	\$11,080,380	\$11,702,440
England	7,033,786	8,303,772
Hongkong	455,107	614,407
All other countries	692,537	692,909
<b>Total</b>	<b>19,260,610</b>	<b>22,000,588</b>
<b>Copra.</b>	<b>1902.</b>	<b>1903.</b>
France	\$1,333,570	\$2,825,218
England	337,136	290,657
East Indies, British	193,975	198,752
Spain	129,596	279,622
All other countries	108,148	290,544
<b>Total</b>	<b>2,701,725</b>	<b>3,819,793</b>
<b>Sugar.</b>	<b>1902.</b>	<b>1903.</b>
Hongkong	\$1,835,659	\$622,111
Chinese Empire	564,528	283,299
Japan	505,099	1,282,561
United States	200,000	1,133,826
England	153,982	
All other countries	83,210	1,017
<b>Total</b>	<b>3,342,473</b>	<b>3,324,814</b>
<b>Tobacco.</b>	<b>1902.</b>	<b>1903.</b>
Spain	\$578,000	\$478,879
Austria-Hungary	142,000	163,774
Belgium	71,947	5,421
United States	41,583	755
Netherlands	40,828	57,075
East Indies, British	32,058	12,842
All other countries	38,314	237,233
<b>Total</b>	<b>964,730</b>	<b>955,980</b>
<b>Ilang-ilang.</b>	<b>1902.</b>	<b>1903.</b>
France	\$63,270	\$101,566
England	1,900	2,800
United States	11,243	9,621
All other countries	9,283	9,115
<b>Total</b>	<b>84,596</b>	<b>123,182</b>
<b>Coffee.</b>	<b>1902.</b>	<b>1903.</b>
Hongkong	\$1,272	\$180
Chinese Empire	1,069	349
All other countries	151	349
<b>Total</b>	<b>2,492</b>	<b>1,095</b>
<b>Silver coin.</b>	<b>1902.</b>	<b>1903.</b>
Hongkong	\$1,782,621	\$5,604,448
East Indies, British	285,795	990,766
China	352,194	475,089
All other countries	180,390	415,476
<b>Total</b>	<b>2,316,000</b>	<b>7,484,379</b>

Cigars exported to the aggregate value of \$961,355 in 1903 were distributed quite generally among thirty different countries, no other article of export from the Philippines being so widely and generally distributed.

A very large amount of sugar, product of the Philippine Islands, is used for home consumption without being refined. Its use in the raw state is quite general among the natives and Chinamen who make various kinds of "sweets" of it.

France receives about 72 per cent of all copra exported, and almost 83 per cent of the entire exports of ilang-ilang oil.

Nearly all the products of the Philippine Islands are sold to gold-standard countries.

Exports from the Philippine Islands, by ports, for the calendar year ending December 31, 1903.

[Values expressed in United States currency.]

Article.	Manila.	Cebu.	Iloilo.	Jolo.
Hemp	\$18,367,746	\$3,626,426		\$5,998
Copra	2,877,785	854,517		38,125
Sugar	27,823	204,646	\$3,092,345	
Tobacco	955,820	100	60	
Cigars	961,012	50	78	209
Cigarettes	22,194			
Ilang-ilang oil	122,711	471		
Coffee	1,087			8
Silver coin, Mexican	6,888,776	400,118	184,144	
All other articles <sup>1</sup>	1,599,997	14,185	64,827	129,469
<b>Total</b>	<b>31,749,951</b>	<b>5,100,463</b>	<b>3,351,454</b>	<b>168,809</b>
Article.	Zambo-anga.	Puerto Princesa.	Cape Melville.	Total.
Hemp				\$22,000,588
Copra	\$54,207	\$159		3,819,793
Sugar				3,324,814
Tobacco				955,980
Cigars	6			961,355
Cigarettes				22,194
Ilang-ilang oil				123,182
Coffee				1,095
Silver coin, Mexican	6,341			7,484,379
All other articles <sup>1</sup>	58,164	291	\$233	1,732,116
<b>Total</b>	<b>114,136</b>	<b>450</b>	<b>233</b>	<b>40,465,496</b>

<sup>1</sup>Articles reexported are included in this item. Two quite heavy shipments of rice were reexported to Japan in November and December, 1903.

The chief articles of export from Jolo are mother-of-pearl, tortoise, and other shells.

As will be seen by referring to Table No. 1, hemp constitutes more than one-half of all exports from the Philippine Islands and has for the entire period of American occupation shown a steady and rapid growth. A continuous increase in the exportation of copra has also been maintained, and the item of ilang-ilang oil is assuming some importance and giving much promise. The items of tobacco, cigars, and sugar about hold their own in spite of unfavorable conditions. Mexican silver coin is included because it has been made an article of commerce in the Philippine Islands as well as a measure of value. The exports of Mexican currency during the year just closed have aggregated about 18,000,000 Mexican "dollars," and the imports the year previous were as great.

The growth of Philippine products during the period of American occupation is encouraging when conditions are considered, the statistics furnishing little consolation for those who are pessimistically inclined. The outlook for the Islands under more favorable conditions is certainly bright and possibilities are great. The statistics are self-explanatory.

#### HONGKONG TONNAGE.

Following is a table showing the net tonnage of foreign vessels entering the port of Manila from and clearing for Hongkong with cargo during the fiscal year ending June 30, 1903:

Flag.	Vessels entered.	Tonnage.	Vessels cleared.	Tonnage.	Total tonnage entered and cleared.
American	10	7,218	6	29,929	29,147
Austrian			1	3,201	3,201
British	149	221,476	157	229,495	450,971
Belgian	1	1,207			1,207
French			1	509	509
German	1	1,175	4	5,704	6,879
Japanese	46	115,375	66	173,825	289,200
Norwegian			2	1,795	1,795
<b>Total</b>	<b>207</b>	<b>346,451</b>	<b>237</b>	<b>436,458</b>	<b>782,909</b>

It will be noticed that there is considerable discrepancy between the number and tonnage of vessels entered and cleared. This is accounted for by the fact that many vessels enter from other ports and clear for Hongkong, and that some vessels clear for Hongkong when the final destination is, in fact, some other country. This is true of the once-a-month through vessels of the Pacific Mail, which arrive from Nagasaki and clear for Hongkong, to remain there a few days for repairs before clearing for the United States. Japanese vessels also frequently arrive from Nagasaki and clear for Hongkong.

The table affords the most accurate data available for estimating the tonnage of the carrying trade between Hongkong and Manila, as it excludes all vessels in ballast plying either way between Manila and Hongkong.

It will be noticed that in the carrying trade between Hongkong and Manila, Japanese vessels control more than one-third the entire traffic, standing next in importance to British vessels.

The total number of Japanese vessels entering the port of Manila during the year ending December 31, 1903, from all ports, was 91, representing a tonnage of 235,333. The number of Japanese vessels clearing from the port of Manila during the same period was 89, the aggregate tonnage being 230,708.<sup>1</sup>

SETH P. MOBLEY,

Chief of the Consular and Statistical Division,  
Manila Custom-House.

TARIFF DECISION CIRCULARS.

No. 351.—*Japanese beer bottles.*

MANILA, December 14, 1903.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest No. 1935, filed March 13, 1903, by Messrs. Murphy, Morris & Co., against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the appraised value on certain glass bottles described in Entry No. 4816, Voucher No. 8108, paid March 11, 1903.

"The claim in this case is against the valuation returned upon certain Japanese beer bottles (pints), dutiable under paragraph 12 of the Tariff Revision Law of 1901, at \$0.80 per 100 kilos, or 20 per cent ad valorem. No question of classification is involved.

"The bottles were appraised at \$0.03 each. The invoice is silent and does not reveal the cost of the bottles, and in fact this office is aided by no evidence whatever from the importer, who confines his efforts to a long argument.

"The burden is upon the protester, who claims error in such classification, to establish his claim by a preponderance of the evidence. (Tariff Decision Circular No. 277.) This the importer has clearly failed to do. Independent investigation conducted by this office, however, reveals the fact that these bottles cost in the principal markets of Japan, 2.1 sen each, the labels cost about 0.2 sen each, while the cost of the other elaborations, capsules, corks, labor, etc., will bring the total value up to 4 sen each.

"This protest is accordingly sustained in part, and the entry will be reliquidated as indicated, resulting in a refund to the importer of \$19.35, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 352.—*Interpretation of Rules 5 and 11 of the Tariff Revision Law of 1901 as applied to knitted and lace shawls containing metal threads.*

MANILA, December 16, 1903.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"Sir: Replying to your request for an interpretation of rules 5 and 11 of the Tariff Revision Law of 1901 as applied to knitted and lace shawls containing metallic threads, I have to inform you as follows:

"Rules 5 and 11 provide as follows:

"RULE 5. All kinds of knitted stuffs and tulles, laces, and blondes, when mixed, shall be dutiable according to the corresponding numbers of the class comprising the threads of the material most highly taxed, whatever be the proportion of such threads in the textile."

"RULE 11. Textiles and trimmings containing metallic threads, in whatever proportion, shall be liable to the duties leviable thereon, plus the surtaxes established in every case.

"Textiles exclusively composed of metallic threads shall be dutiable according to Class VII."

"You state that it has been the practice of your Division to consider rule 11 in connection with rule 5, and to classify such articles under paragraph 174 at the rate of 45 per cent ad valorem.

"The preamble to rule 5 provides that 'for knitted stuffs, tulles, laces, blondes, and ribbons, composed of an admixture, exception to the preceding rules shall be made in the following cases.' It is therefore evident that rule 5 is an exception to rules 2, 3, and 4, only, which provide rules for the assessment of duty in cases of admixture, and can have no application to rule 11, which is perfectly clear when considered by itself. Rule 5 does not stand alone, to be interpreted in connection with the various rules in the tariff, but is simply an exception, withdrawing certain classes of textiles from the operation of the rules which precede it.

"Knitted and lace shawls containing metallic threads are therefore properly classified under their respective paragraphs, with such surtaxes as may be applicable, as provided in rule 11. Respectfully, (signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 360.—*Packing for printing paper.*

MANILA, January 12, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"Sir: Replying to your communication of December 18, regarding the assessment of duties on certain packages of printing paper, I have to inform you that upon a re-examination and investigation of this case, it appears that said bales of paper were packed as follows:

"The paper was covered with a jute textile, and boards of soft pine were then strapped outside of the jute covering, being held in place with bands of strap iron; these boards were laid parallel with paper for the purpose of protecting it, and to prevent the paper from being bent or doubled up, and also to serve as a packing or covering to said paper, 28,600 square centimeters of the exterior of said bales being covered by the wood packing, and 12,000 square centimeters underneath said board packing being covered by jute textile which was visible from the outside.

The question of component part of chief value does not enter this case, it being clear that the pine boards are the common

<sup>1</sup> [NOTE.—The influence on trade that the withdrawal of Japanese vessels from this commerce will have, in consequence of the prospects of war between Russia and Japan, may be seen from the facts above set forth.]

exterior packing and the jute textile surrounding the paper, an interior packing.

The exterior packing is therefore dutiable under paragraph 192 C of the Tariff Revision Law of 1901. The jute textile surrounding the paper is an interior packing and under rule 18 is dutiable with the paper itself.

Tariff Decision Circular No. 285, in so far as it is inconsistent with this ruling, is revoked.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 362.—(1) *Paper napkins, a luxury or a necessity; (2) defining a manufactured paper.*

MANILA, January 15, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2125, filed May 9, 1903, by Mr. M. A. Clarke against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in entry No. 9528, voucher No. 15209, paid May 7, 1903.

"The claim in this case is against the classification of certain paper napkins as 'manufactures of paper,' under paragraph 190 (a) of the Tariff Revision Law of 1901, at \$0.20 per kilo, as entered, instead of as 'tissue paper' or 'paper not otherwise provided for,' under paragraph 187, as now claimed.

"The importer seeks to raise two questions by his protest—first as to whether such napkins are a luxury or a necessity and such entitled to a low rate of duty, and, second, whether such napkins are 'manufactures of paper.'

"The first question is one entirely beyond the province of this office to determine or even to consider. In the interpretation of such a tariff as that of 1901 there is no presumption that it was the intention of Congress to protect any local industry nor to discriminate for or against either luxuries or the necessities of life. The question of the propriety of putting a heavy duty on any alleged necessity is one proper for argument before the lawmakers of the nation, but not here. This office is only concerned to discover the intention that Congress actually had at the time of the enactment of the tariff. This intention is best expressed in the very words that Congress chose when it framed and enacted that tariff, and those words can not be controlled or modified in any way by merely theoretical considerations. (Tariff Decision Circular No. 338.)

"The second point is that these goods are paper and not a manufacture of paper. A manufactured article is one so changed from its raw or original state that it is made into a new and different article. The test is usually to be found in that commercial usage that bestows a new and distinctive name upon the complete article different from that given to the raw material. The rule has been thus judicially expressed:

"Where an article has been advanced through one or more processes into a completed commercial article, known and recognized in trade by a specific and distinctive name other than the name of the material and is put into a complete shape designed and adapted for a particular use, it is deemed to be a manufacture.' (Erhardt vs. Hahn, 55 Fed. Rep., 273.)

"The difficulty comes in distinguishing a manufacture of paper as such from a book, printer, post, calendar, etc.; in other words, where the only process of manufacture is running through a printing or lithographing press. In order to arrive at the true distinction in such cases it is pertinent to inquire the purpose for which the printing in question was performed. If the printing is the principal consideration; if the paper is but a back-

ground employed, perhaps, on account of its cheapness, but which could be of some other substance without great loss of utility, then the paper is but accidental and the article is not, for tariff purposes, a manufacture of paper. If, on the other hand, the paper is the principal consideration; if whatever printing appears thereupon is merely to ornament and make more salable an article that would perform all its functions as well without any printing, then such an article is clearly a manufacture of paper. The napkins here presented come clearly within the latter category and were properly returned as manufactures of paper.

"Protest No. 2125, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 363.—(1) *Maltese or Gozo knitted lace shawls; (2) defining paragraph 173.*

MANILA, January 15, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1944, filed March 16, 1903, by A. M. Essabhoj against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in entry No. 5107, voucher No. 8615, paid March 14, 1903.

"The claim in this case is against the classification of certain shawls as 'silk laces,' under paragraph 174, of the Tariff Revision Law of 1901, at 45 per cent ad valorem, instead of as 'knitted goods of silk,' under paragraph 173, at 35 per cent ad valorem, as entered.

"The goods in question consist of shawls which are in reality knitted throughout, but which are commercially known and sold as Maltese or Gozo lace shawls; the commercial designation, however, can not govern where the nature of the merchandise is in controversy. The question to be determined in such cases is: Are the articles composed or manufactured of the material or substance specified; and is merely a question of fact. (Cadwalader vs. 2 Ch., 151 U. S., 171; Barber vs. Schell, 107 U. S., 617; Rennier vs. Schell, 4 Blatch., 328.)

"These shawls then being undeniably 'knitted' must be classified under paragraph 173, and it only remains to be determined under which subdivision thereof. Paragraph 173 (a) provides for 'jerseys, undershirts, and drawers,' and is not applicable. Paragraph 173 (b) provides for 'stockings, socks, gloves, and other small articles.' Both (a) and (b) provide for articles of personal wearing apparel, and the only perceptible difference between them is in the size of the goods enumerated. Paragraph 173 (a) provides for the larger knitted articles customarily worn, and paragraph 173 (b) for the smaller; on no other basis is it possible to account for the different rates of duty. The words 'other small articles' then can only mean other articles of wearing apparel smaller than those enumerated in paragraph 173 (a). Any other interpretation would eliminate the word 'other' from the law, and would be repugnant to the rule that force must be given to every word. These shawls can not be described as smaller than jerseys, undershirts, or drawers, and hence should be classified under paragraph 173 proper.

"Protest No. 1944, on the grounds above mentioned, is therefore sustained and a refund ordered to the importer in the sum of \$34.45, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

## CHINESE AND IMMIGRATION CIRCULARS.

No. 154.—Publishing Act No. 1045 of the Philippine Commission, amending section 15 of Act No. 702, and section 1 of Act No. 989 by extending the time for completing the registration of Chinese in the Philippine Islands.

MANILA, January 7, 1904.

To all Collectors of Customs, provincial treasurers, and others concerned:

PARAGRAPH 1. The following is hereby published for the information and guidance of all concerned:

"[No. 1035.]

"AN ACT AMENDING SECTION FIFTEEN OF ACT NUMBERED SEVEN HUNDRED AND TWO, AND SECTION ONE OF ACT NUMBERED NINE HUNDRED AND EIGHTY-NINE, BY EXTENDING THE TIME FOR COMPLETING THE REGISTRATION OF CHINESE IN THE PHILIPPINE ISLANDS.

"Whereas it was impossible to complete the registration of all Chinese persons in the Philippine Islands within the eight months ending December twenty-ninth, nineteen hundred and three, as provided in Acts Numbered Seven hundred and two and Nine hundred and eighty-nine: Therefore,

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. The time for such registration is, pursuant to authority granted by section four of the Act of Congress, approved April twenty-ninth, nineteen hundred and two, hereby extended for a period of two months, to date from December twenty-ninth, nineteen hundred and three.

"Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"Sec. 3. This Act shall take effect on its passage.

"Enacted, January 6, 1904."

PAR. 11. Philippine customs officers and all registrars and deputy registrars of Chinese shall give due publicity to the terms of this circular.

H. B. McCoy.

Acting Collector of Customs for the Philippine Islands.

No. 155.—Suspension of filing Chinese laborers' applications thirty days before the certificates are issued in order to visit homeland, denied.

MANILA, January 7, 1904.

To all Collectors of Customs, Provincial Treasurers, and others concerned:

The following is hereby published for the information and guidance of all concerned:

"SIR: In answer to your letter of the 2d instant, in which, on behalf of many Chinese laborers, you petition that the ruling that requires the filing of laborers' applications thirty days before the certificates are issued, be suspended until after Chinese New Year, in order that Chinese so desiring may visit the homeland on that occasion, I have to advise you as follows:

"Section 7 of Act of September 13, 1888, entitled 'An Act to prohibit the coming of Chinese laborers to the United States,' which was expressly reenacted in the Act of April 29, 1902, extending the Exclusion Laws to the Philippines, provides:

"That a Chinese person claiming the right to be permitted to leave the United States and return thereto on any of the grounds

stated in the foregoing section shall apply to the collector of customs of the district from which he wishes to depart at least a month prior to the time of his departure, etc.'

"The language of the foregoing is quite clear and imposes a certain condition upon Chinese laborers desirous of leaving the Islands and returning thereto.

"Being law and not a regulation or ruling, this office is without authority to suspend its operation. Your request is therefore necessarily denied. Respectfully (signed), H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

## CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 271.—Publishing Act No. 1032, Philippine Commission, providing for payment of salaries and imposition of taxes, etc., in Philippines currency.

MANILA, December 31, 1904.

To all Collectors of Customs:

PARAGRAPH 1. The following Act No. 1032 of the Philippine Commission is hereby published for the information and guidance of all concerned:

"[No. 1032.]

"AN ACT PROVIDING THAT THE SALARIES OF PROVINCIAL AND MUNICIPAL OFFICERS AND EMPLOYEES SHALL BE FIXED IN PHILIPPINES CURRENCY AT THE SAME AMOUNTS NOW ALLOWED BY LAW TO BE FIXED IN MEXICAN CURRENCY, AND THAT THE ASSESSMENT, IMPOSITION, AND COLLECTION OF TAXES, PUBLIC DUES, AND IMPOSITIONS NOW AUTHORIZED AND MADE PAYABLE BY LAW IN MEXICAN CURRENCY SHALL BE MADE PAYABLE IN PHILIPPINES CURRENCY ON THE BASIS OF ONE PHILIPPINE PESO FOR ONE MEXICAN DOLLAR, AND THAT ALL COMPENSATION FOR INSULAR OR PROVINCIAL OFFICERS AND EMPLOYEES, AND ALL OFFICIAL FEES AND CHARGES NOW MADE BY LAW PAYABLE IN MEXICAN CURRENCY SHALL BE PAYABLE IN PHILIPPINES CURRENCY ON THE BASIS OF ONE PHILIPPINE PESO FOR ONE MEXICAN DOLLAR.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. All provincial treasurers, municipal councils, and other authorities of every kind in the Philippine Islands who have authority to fix the salaries of municipal officers are hereby authorized and directed to fix such salaries in Philippines currency instead of in Mexican currency, anything in existing law to the contrary notwithstanding. All such salaries heretofore fixed in Mexican currency shall, after January first, nineteen hundred and four, be payable in Philippines currency at the same amounts as now provided by law in Mexican currency and shall remain fixed at such amounts in Philippines currency until changed by competent authority.

"Sec. 2. On and after the first day of January, nineteen hundred and four, all public dues, internal revenues, industrial, stamp, forestry, cedula, license, and municipal taxes of every kind, and all fines and penalties imposed by courts or other authorities shall be imposed, assessed, and collected in Philippines currency instead of in Mexican currency, as now provided by law, and at the same amounts in Philippines currency as are now fixed by law for such stamps, fines, and penalties in Mexican currency: *Provided, however,* That Spanish-Philippine coins may be received in payment of such taxes, fines, and penalties, at the official ratio that shall from time to time prevail until



such time as Spanish-Filipino coins shall by law cease to be receivable for public dues.

"SEC. 3. On and after January first, nineteen hundred and four, all compensation that is provided by law for insular and provincial officers and employees, wherever such compensation is fixed in Mexican currency, and all official fees and charges, insular, provincial, or municipal, wherever such fees are fixed in Mexican currency, shall be payable in Philippines currency on the basis of one Philippine peso for one Mexican dollar.

"SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

"SEC. 5. This Act shall take effect on its passage.

"Enacted, December 28, 1903."

PAR. II. The Spanish-Filipino currency specified in section 2 of the above act includes the Spanish-Filipino peso, the medio peso, peseta, and media peseta, and the bank notes of the Banco Español.

PAR. III. Certified checks shall not be accepted by customs officers for local currency, but the actual cash shall in all instances be paid.

PAR. IV. Customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 273.—*Publishing Executive Order No. 1, series 1904; withdrawal of the Spanish-Filipino currency and ratio of same.*

MANILA, January 2, 1904.

To all Collectors of Customs:

PARAGRAP H I. The following Executive Order No. 1, series 1904, is hereby published for the information of all concerned:

"THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU."

"MANILA, January 1, 1904.

"EXECUTIVE ORDER }  
"No. 1.

"Pursuant to the provisions of the Act of Congress approved March second, nineteen hundred and three, and in order that all the various kinds of money coined by the Spanish Government for circulation in the Philippine Islands and commonly known as Spanish-Filipino currency may be speedily withdrawn from circulation and the introduction of the new Philippines currency thereby expedited, it is hereby ordered:

"That the Insular Treasurer and each provincial treasurer in the Philippine Islands shall, for a period of six months, beginning at the date of this order and continuing up to and including June thirtieth, nineteen hundred and four, exchange on demand Philippines currency for said Spanish-Filipino currency at such rates as the Insular Government may, from time to time, determine; and that after June thirtieth, nineteen hundred and four, said Spanish-Filipino currency shall not be so redeemed.

"That the Insular Treasurer and the various provincial and municipal treasurers of the Philippine Islands and all other officials authorized by law to receive Government dues, imposts, or taxes of any kind, whether insular, provincial, or municipal, shall, for a period of nine months, beginning with the date of this order and continuing up to and including September thirtieth, nineteen hundred and four, receive Spanish-Filipino currency in payment of all such dues, imposts, or taxes, at the aforementioned official rates to be from time to time determined.

"That after September thirtieth, nineteen hundred and four, said Spanish-Filipino currency shall not be receivable by Insular,

provincial or municipal governments in payment of Government dues, imposts, or taxes of any kind, but after said date may be exchanged for Philippines pesos at the Insular Treasury and the various provincial treasuries, at its bullion value, until such a time to be hereinafter fixed, when the Government will no longer redeem the same.

"The provincial treasurers are hereby authorized and directed to exchange with municipal treasurers Philippines currency for all Spanish-Filipino currency, which may have been received by them, respectively, according to law and the provisions of this order and at the official rates at which said Spanish-Filipino currency shall have been so received; and the Insular Treasurer is also hereby authorized and directed to make the same exchanges with all provincial treasurers at the rates at which such Spanish-Filipino currency was received by them in accordance with law and the provisions of this order. The Spanish-Filipino currency so received shall be withdrawn from circulation. The cost of transporting Spanish-Filipino currency and Philippines currency, pursuant to the provisions of this paragraph, shall be a proper charge against the Insular Treasurer, payable out of the gold-standard fund.

"The official rate for the redemption of Spanish-Filipino currency and its acceptance for public dues, from the date of this order until further notice, is hereby fixed at the ratio of one peso and twelve centavos, Spanish-Filipino currency, for one peso, Philippines currency.

"LUKE E. WRIGHT, *Acting Civil Governor.*"

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

#### CUSTOMS ADMINISTRATIVE CIRCULAR.

No. 280.—*Liability of customs employees for debts contracted.*

MANILA, January 22, 1904.

To all Collectors of Customs:

PARAGRAP H I. The following is hereby published for the information and guidance of all concerned:

"THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU."

"MANILA, January 14, 1904.

"SIR: With reference to your indorsement of the 12th instant upon a communication from this Office in regard to the nonpayment of a just debt due this Government by a person alleged to have been in your employ, and your remarks in the said indorsement as to the attitude of this Government concerning nondebt-paying employees, I have the honor to advise you that instructions have been issued to the chiefs of all Bureaus, and Offices to the effect that inattention to the demands of creditors for honest and legitimate debts and continually shirking payment thereof will constitute grounds for dismissal from the service under the provisions of Executive Order No. 84, series 1902, when, in the opinion of the chief of a Bureau, such drastic measures are necessary. It is not the intention of the Government to retain in the classified service any employee who is guilty of continually shirking the payment of his honest and just obligations.

"The above is submitted for your information.

"Very respectfully,

"A. W. FERGUSON, *Executive Secretary.*"

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

## MANILA CUSTOM-HOUSE GENERAL ORDERS.

No. 60.—*Fixing rates of storage on all goods remaining in Government warehouses or on customs premises and on all baggage left in customs custody at the port of Manila.*

MANILA, December 29, 1903.

PARAGRAPH I. Under the provisions of section 234 of the Customs Administrative Act, the following rates of storage on all goods remaining in Government warehouses or on customs premises and on all baggage left in customs custody at the port of Manila shall be charged on and after January 1, 1904:

1. On all goods or parts of consignments not ordered to the appraisers' store for examination which remain in Government warehouses or on customs premises more than five days after the discharge of the last package of the consignment upon the custom-house wharf, at the rate of ₱6, Philippines currency, per metric ton per month: *Provided*, That in any case storage may be calculated by measurement ton of 40 cubic feet in the discretion of the Collector of Customs.

2. On all goods, packages, or parts of consignments ordered to the appraisers' store for examination which shall remain in said appraisers' store more than forty-eight hours after the liquidation of the entry covering the same has been completed, at the rate of ₱12, Philippines currency, per metric ton or measurement ton, as above prescribed, per month: *Provided*, That all such goods, packages, or parts of consignments so remaining shall be subject to at least five days' storage at the above rate: *And provided further*, That no storage shall be charged on such goods, packages, or parts of consignments until the expiration of forty-eight hours after the liquidation of the entry covering the same has been completed.

3. On all packages and articles remaining in the parcel department of the appraisers' division more than forty-eight hours after the liquidation of the entry covering the same has been completed, at the rate of ₱0.10, Philippines currency, per piece or parcel per day: *Provided*, That no storage shall be charged on such parcels weighing less than ten kilos: *And provided further*, That all such packages or articles so remaining shall be subject to at least five days' storage at the above rate: *And provided further*, That no storage shall be charged on such packages or articles until the expiration of forty-eight hours after the liquidation of the entry covering the same has been completed.

PAR. II. The following rates of storage on all baggage left in customs custody at the port of Manila shall be charged on and after January 1, 1904:

1. On all packages and baggage and other parcels containing personal effects, not regular merchandise, which remain in customs custody after they are inspected, per day, including Sundays and other holidays, not exceeding 2 cubic feet in bulk, each, ₱0.04, Philippines currency.

2. On all such packages, etc., and trunks so remaining, exceeding 2 cubic feet but not exceeding 4 cubic feet in bulk, each, per day, ₱0.06, Philippines currency.

3. On all such packages, etc., and trunks so remaining, exceeding 4 cubic feet in bulk, each, per day, ₱0.10, Philippines currency: *Provided*, That all steamer chairs of rattan or similar material so remaining shall pay at the rate of ₱0.10, Philippines currency, per day each; and all steamer chairs with wooden frame covered with cane, cloth, or canvas, of the folding variety, shall pay at the rate of ₱0.04, Philippines currency, per day each: *And provided further*, That all such packages, trunks, and steamer chairs so remaining shall be subject to at least five days' storage.

PAR. III. In the assessment of the storage charges prescribed by sections 1 and 2 of Paragraph I of this order, the length of time which the importer or his representative may state to be necessary for him to withdraw the goods from the Government

warehouses or the appraisers' store, as the case may be, shall be included in fixing the charges, in order to avoid the necessity of making additional payments of storage when the goods are not all withdrawn on the last day for which a charge has been made: *Provided, however*, That no refund of storage shall be made in cases wherein goods are withdrawn before the time stated by the importer or his representative has elapsed: *And provided further*, That in all cases storage shall be charged for a period up to and including the last day on which any part of the consignment or goods remains in the Government warehouses or the appraisers' store.

PAR. IV. The attention of importers, brokers, agents, and of all others concerned is hereby called to the fact that the Government warehouses of this custom-house are not intended for the permanent storing of any goods except seized and abandoned merchandise and unentered goods sent to the general order stores; and the rates of storage prescribed by this order have been fixed to prevent the accumulation of goods in the Government warehouses, which are needed for the prompt and efficient conduct of the customs business of the port.

PAR. V. Manila Custom-House General Orders Nos. 16, 20, and 27 are hereby revoked, said revocation to take effect January 1, 1904.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 62.—*Regulating the office hours for the Manila custom-house on Saturdays, as provided by Executive Order No. 3, and Act No. 1040, Philippine Commission.*

MANILA, January 20, 1904.

PARAGRAPH I. Pursuant to the provisions of Act No. 1040 of the Philippine Commission the office hours of the Manila custom-house on Saturdays shall be from 7.30 a. m. to 12.30 p. m., except for the general order stores and bonded warehouse division, for which the hours shall be as prescribed in Manila Custom-House General Order No. 49, dated October 14, 1903: *And provided*, That no change shall be made in the extra hours of labor prescribed in the same order for the convenience of the public.

PAR. II. This order shall be effective Saturday, January 23, 1904, and thereafter.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

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## Public laws:

Act No. 1043, amending the Provincial Government Act by authorizing the Civil Governor to postpone the election for governor in any province under certain circumstances.

Act No. 1044, to provide for submission to the Civil Governor of annual reports by all provincial governors, and repealing such portions of Act No. 83, the Provincial Government Act, and its amendments, and acts and amendments thereof providing for the establishment of civil government for the Provinces of Benguet, Lepanto-Bontoc, Nueva Vizcaya, Mindoro, and Paragua, as are inconsistent with the provisions of this act.

Act No. 1045, for the purpose of providing revenue and of maintaining the parity of the Philippines currency in accordance with the provisions of sections 1 and 6 of the act of Congress approved March 2, 1903, by providing for the purchase of Mexican dollars as bullion, by imposing a tax upon written contracts payable in certain kinds of currencies, and by requiring the payment of a license tax by all persons, firms, or corporations conducting their current business, either wholly or in part, in said currencies, and for other purposes.

Decisions of the Supreme Court:

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The United States vs. Severa Bergantino.

José E. Almany et al. vs. John C. Sweeney.

The United States vs. Roscoe C. Cox.

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Bureau of the Insular Treasurer:

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Bureau of Customs and Immigration:

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## Bureau of Customs and Immigration—Continued.

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No. 351, packing paper bottles.

No. 352, interpretation of rules 5 and 11 of the Tariff Revision Law of 1901 as applied to knitted and lace shawls containing metal.

No. 360, packing for printing paper.

No. 362, (1) paper napkins, a luxury or a necessity; (2) defacing a manufacture of paper.

## Chinese and Immigration Circulars—

No. 154, publishing Act No. 1025 of the Philippine Commission, amending section 15 of Act No. 702 and section 1 of Act No. 989 by extending the time for completing the registration of Chinese in the Philippine Islands.

No. 155, suspension of filing Chinese laborers' applications thirty days before the certificates are issued in order to visit home land, denied.

## Customs Administrative Circulars—

No. 271, publishing Executive Order No. 1032, Philippine Commission, providing for payment of salaries and imposition of taxes, etc., in Philippine currency.

No. 273, publishing Executive Order No. 1, series 1904; with drawal of the Spanish-Philippine currency and ratio of same.

No. 280, liability of customs employees for debts.

Manila Custom-House General Orders—

No. 60, fixing rates of storage on all goods remaining in Government warehouses or on customs premises and on all baggage left in customs custody at the port of Manila.

No. 62, regulating office hours on Saturdays.

## The Government of the Philippine Islands.

## Legislative.

## THE PHILIPPINE COMMISSION.

(Ayuntamiento—The Palace.)

Commissioners.—Luke E. Wright, President, Dean C. Worcester, Henry C. Ide, James F. Smith, Trinidad H. Pardo de Tavera, Jose H. Luzuraga, Benito Legarda.

## Executive.

Civil Governor—Luke E. Wright; acting private secretary, L. W. Manning; Captain Robert H. Noble, Third United States Infantry, Aid-Camp 1 to the Civil Governor.

Vice-Governor—Henry C. Ide.

Secretary of the Interior—Dean C. Worcester; private secretary, E. O. Johnson.

Secretary of Commerce and Police—Vacant.

Secretary of Finance and Justice—Henry C. Ide; private secretary, Jackson A. Dug.

Secretary of Public Instruction—James F. Smith; private secretary, W. H. Donovan.

## EXECUTIVE DEPARTMENT.

Executive Bureau.—A. W. Ferguson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; D. Ferguson, in charge, Translating Division; Claude W. Calvix, Recorder of the Commission, Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; James H. Thomas, Chief of Records Division; H. A. Lampman, Disbursing Officer.

Bureau of Insular Purchasing Agent.—Major E. G. Shields, Insular Purchasing Agent; A. L. D. Davies, Local Purchasing Agent.

Improvement of the Port of Manila.—Maj. G. McD. Townsend, Corps of Engineers, United States Army, officer in charge.

Philippine Civil Service Board (Intendencia Building).—Dr. W. S. Washburn, Chairman; Dr. B. L. Falconer, Dr. Jose Alemany.

## DEPARTMENT OF THE INTERIOR.

Board of Health for the Philippine Islands.—Maj. E. C. Carter, Surgeon, United States Army, Commissioner of Public Health; Capt. E. L. Munson, Assistant Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. Manuel Gomez, Secretaries.

Quarantine Service (United States Public Health and Marine-Hospital Service; 78 Madrid).—Dr. Victor G. Helsar, Chief Quarantine Officer; Drs. Chas. W. Vogel and John H. Long, Assistants.

Maritimes Detention and Disinfection Station.—Dr. John M. Holt, in command; Dr. R. H. Creel, Assistant.

Isle Quarantine Station.—Dr. Geo. W. McCoy, in command.

Cebu Quarantine Station.—Dr. F. Fox, in command.

Solo Quarantine Station.—Dr. M. K. Gwyn, in command.

Forestry Bureau (Intendencia Building).—Capt. George P. Abern, Ninth Infantry, United States Army, Chief; Ralph C. Bryant, Assistant Chief.

Mining Bureau (358 Cabildo).—H. D. McCaskey, Chief.

Philippine Weather Bureau (Calle Observatorio, Ermita).—Rev. José Algué, S. J., Director.

Bureau of Public Lands (Intendencia Building).—Will M. Tipton, Chief.

Bureau of Agriculture (Intendencia Building).—Prof. F. Lamson-Scribner, Chief (on leave); W. E. Welborn, Acting Chief.

Ethnological Survey for the Philippine Islands (228 Nueva, Ermita).—

Professor A. E. Jenks, Chief.

Bureau of Government Laboratories (719 Irls).—Dr. P. C. Freer, Superintendent Government Laboratories; Dr. R. P. Strong, Director Biological Laboratories; Dr. James W. Jobling, director of Serum Laboratory.

Philippine Civil Hospital (781 Irls).—Dr. H. Eugene Stafford, Attending Physician and Surgeon.

Civil Sanitarium (Baguio, Benguet).—Dr. J. B. Thomas, Attending Physician and Surgeon.

## DEPARTMENT OF COMMERCE AND POLICE.

Bureau of Posts (149 Escolta).—Chas. M. Cotterman, Director; H. M. Robinson, Assistant Director (on leave).

Bureau of Philippines Constabulary (228 Anda, Intramuros).—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Baldoitz, U. S. A., Assistant Chief, Commanding Second District; Lieut.-Col. Wallace C. Taylor, Assistant Chief, Commanding Third District; Maj. Jesse S. Garwood, Assistant Chief, Commanding Fourth District; Col. James C. Harbord, U. S. A., Assistant Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary headquarters, Manila; Col. D. J. Baker, Jr., U. S. A., Deputy Chief, Chief Supply Officer.

Bureau of Prisons (Headquarters, Bilibid Prison, Calle Irls).—George N. Wolfe, Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William B. Moulton, Resident Physician; Egbert Adams, Cashier, Property and Disbursing Officer.

Bureau of Coast Guard and Transportation.—J. M. Helm, Commander, United States Navy, Chief; James R. Cobby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

Bureau of Coast and Geodetic Survey (Intendencia Building).—George R. Putnam, Assistant in charge of United States Suboffice.

Bureau of Internal Revenue (147 Anloague).—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcombe, Principal Assistant Engineer; James D. Fauntleroy, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

## DEPARTMENT OF FINANCE AND JUSTICE.

Bureau of the Insular Treasury (Intendencia Building).—Frank A. Branagan, Treasurer of the Philippine Archipelago; J. L. Barrett, Assistant Treasurer.

Bureau of the Insular Auditor (Intendencia Building).—Abraham L. Lawshe, Auditor of the Philippine Archipelago; W. W. Barre, Deputy Auditor.

Bureau of Customs and Immigration.—W. Morgan Shuster, Collector of Customs for the Philippine Islands (on leave); H. B. McCoy, Acting Collector of Customs; Frank S. Calra, Surveyor.

Bureau of Internal Revenue (147 Anloague).—Albert W. Hastings, Acting Collector.

Insular Cold Storage and Ice Plant.—Charles G. Smith, Superintendent.

Bureau of Justice.—Lebbeus R. Willey, Attorney-General (on leave); Washington L. Goldsborough, Assistant Attorney-General; Gregorio Arana, Solicitor-General; James Ross, Supervisor of Provincial Pleas; Geo. R. Harvey, Assistant Attorney-General for the Constabulary.

## DEPARTMENT OF PUBLIC INSTRUCTION.

Bureau of Education (Santa Potenciana).—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant.

Bureau of Public Printing.—John S. Leach, Public Printer.

Bureau of Architecture and Construction of Public Buildings (Calle Anloague).—Edgar K. Bourne, Chief.

Bureau of Archives (Palacio).—Manuel de Irlarte, Chief.

Bureau of Patents, Copyrights and Trade-Marks (Palacio).—Manuel de Irlarte, in charge.

Bureau of Internal Library (70 Rosario).—Mrs. Egbert Librarian.

Official Gazette (Santa Potenciana Building).—Max L. McCollough, Editor.

Census Bureau.—Brig. Gen. J. P. Sanger, United States Army, Director of the Census.

## Judiciary.

## SUPREME COURT.

(Audencia, 47 Palacio.)

Chief Justice.—Don Cayetano Arellano.

Associate Justices.—Florentino Torres, J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.

Clerk.—J. E. Blanco.

Reporter.—Fred C. Fisher.

## COURT OF CUSTOMS APPEALS.

(Palace.)

Judge.—A. S. Crossfield.

Judge.—Felix M. Roxas.

## COURT OF LAND REGISTRATION.

(138 Calle Real, Walled City.)

Associate Justice.—D. R. Williams.

Clerk.—J. R. Wilson.

## COURTS OF FIRST INSTANCE.

Manila, Part 1.—John C. Sweeney, Judge.

Manila, Part 2.—W. J. Rohde, Judge.

Manila, Part 3.—Byron S. Ambler, Judge.

Manila, Part 4.—Manuel Araullo, Judge.

First District.—Albert E. McCabe.

Second District.—Dionicio Changco.

Mountains District.—James H. Burritt.

Third District.—Arthur F. Odlin.

Fourth District.—Julio Lorente.

Fifth District.—Estanislao Yusager.

Sixth District.—Liguagay Villarosa.

Seventh District.—Paul W. Lineberry.

Eighth District.—Grant T. Trent.

Ninth District.—Henry C. Bates.

Tenth District.—

Eleventh District.—Adam C. Carson.

Twelfth District.—James H. Blount.

Thirteenth District.—Warren H. Ickis.

Fourteenth District.—John S. Powell.

Fifteenth District.—Wm. F. Nichols.

Additional judges.—Adolph Wislizenus, Capiz; Beekman Wintthrop; Miguel Logarta.

# Official Gazette



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VOL. II

MANILA, P. I., FEBRUARY 17, 1904.

No. 7

## PUBLIC LAWS.

[No. 1046.]

AN ACT APPROPRIATING THE SUM OF FIVE HUNDRED THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FROM THE FUND OF THREE MILLION DOLLARS APPROPRIATED BY THE CONGRESS OF THE UNITED STATES FOR THE RELIEF OF DISTRESS IN THE PHILIPPINE ISLANDS, FOR EXPENDITURE UNDER THE DIRECTION OF THE CIVIL GOVERNOR UPON THE RESOLUTIONS OF THE PHILIPPINE COMMISSION.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of five hundred thousand dollars, in money of the United States, is hereby appropriated, out of the fund of three million dollars appropriated by the Congress of the United States for the relief of distress in the Philippine Islands, for expenditure under the direction of the Civil Governor for such purposes and in such manner as may from time to time be authorized by resolutions of the Philippine Commission, and in carrying out the intent of the Congress of the United States in appropriating the fund aforesaid.

Sec. 2. The sum of money by this Act appropriated shall be withdrawn from the Insular Treasury by requisitions in favor of such disbursing officer as the Civil Governor may direct, in such allotments as may from time to time be necessary, and shall be accounted for as provided by law.

Sec. 3. The resolutions of the Philippine Commission upon which the funds herein appropriated shall be expended shall be printed and published in the regular quarterly volumes of the laws and resolutions of the Commission.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws." passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, February 3, 1904.

[No. 1047.]

AN ACT APPROPRIATING THE SUM OF FIVE HUNDRED THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FOR CONTINUING THE IMPROVEMENT OF THE PORT OF MANILA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of five hundred thousand dollars, in money of the United States, is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, to be immediately available and to be expended by the Civil Governor through the Chief Engineer of the Philippine Division of the

United States Army for continuing the improvements of the harbor of Manila and other public works, as provided in Act Numbered Twenty-two as amended.

Sec. 2. The appropriation made by this Act shall be available for expenditure in the payment for all work at present under contract for the improvement of the port of Manila, including payment for work on the contract for the construction of an additional breakwater as provided by Act Numbered Five hundred and seventy-eight.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws." passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, February 4, 1904.

[No. 1048.]

AN ACT MAKING APPROPRIATIONS FOR SUNDRY EXPENSES OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MANILA FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND FOUR, AND OTHER DESIGNATED PERIODS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sums, or so much thereof as may be respectively necessary, are hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, in part compensation for the service of the municipal government of the city of Manila for the fiscal year ending June thirtieth, nineteen hundred and four, unless otherwise stated:

CITY OF MANILA.

MUNICIPAL BOARD.

*Salaries and wages, Municipal Board, city of Manila, nineteen hundred and four:*

**Municipal Board:**

President, at four thousand five hundred dollars per annum; three members, at four thousand five hundred dollars per annum each; one secretary, at three thousand dollars per annum.

**Secretary's office:**

Two clerks, class five, at one thousand nine hundred and fifty dollars per annum each; one clerk, class six, at one thousand seven hundred and twenty dollars per annum; two clerks, class seven; two clerks, class eight; one clerk, Class A; one clerk, Class C; one clerk, Class D; three messengers, at one hundred and eighty dollars per annum each.

**Disbursing office:**

One disbursing officer, at two thousand five hundred dollars per annum; one clerk, class six; one clerk, class seven; one clerk, class eight; one messenger, at one hundred and eighty dollars per annum.

## Advisory Board:

One secretary, at one thousand six hundred dollars per annum; fees of twelve members, not to exceed three thousand one hundred and twenty pesos.

Total for salaries and wages, forty-four thousand pesos.

*Contingent expenses, Municipal Board, city of Manila, nineteen hundred and four:* For contingent expenses, including purchase of books, office furniture, and supplies; coolie hire, postage, post-office box rent; repairs to typewriters, furniture, and fixtures; care of civil prisoners; music for the Luneta and Binondo Square; care of injured and sick paupers at the San Juan de Dios Hospital or the Philippine Civil Hospital, not to exceed an aggregate of one hundred, at one peso and forty centavos per day each; settlement of claim of Mrs. H. A. McCullough for proceeds of auction sale of one trunk of clothing belonging to her son, Fred Meeker; settlement of claim of T. A. Suarez, interpreter, for extra services rendered at sessions of the Board of Tax Revision, city of Manila, at four pesos each for sixteen sessions, anything in existing laws to the contrary notwithstanding; for final and complete settlement of all claims of Salvador Farré and Jaime Clotet against the city of Manila or its officers, not to exceed an aggregate of one thousand five hundred and eleven pesos and eighty centavos; and for printing, binding, advertising, and other incidental expenses; fifty-six thousand pesos.

In all, for the Municipal Board, city of Manila, one hundred thousand pesos.

## DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

*Salaries and wages, Department of Engineering and Public Works, city of Manila, nineteen hundred and four:*

## Office of City Engineer:

City Engineer, at four thousand five hundred dollars per annum, with quarters in kind, not to exceed seventy-five dollars per month; first assistant city engineer, at two thousand five hundred dollars per annum; chief clerk, class six; two second assistant city engineers, class six; one assistant engineer, class seven; one clerk, class eight; one stenographer, class eight; two clerks, class ten; one clerk, Class C; one clerk, Class G; one clerk, Class H; two clerks, Class I; one messenger, at one hundred and twenty dollars per annum.

## Water supply:

Superintendent, two thousand five hundred dollars per annum; one chief engineer at pumping station, class six, with quarters in kind; one collector of water rates, class eight; one general foreman water service, class nine; one foreman water service, class nine; one assistant engineer at pumping station, Class C, at seven hundred and eighty dollars per annum; one assistant engineer at pumping station, Class D, at six hundred and sixty dollars per annum; one teamster, Class C; nine meter inspectors, Class D; one mechanic, Class D; one clerk, Class D; one foreman water service, Class E; one assistant engineer at pumping station, Class E; two mechanics, Class F; one storekeeper water service, Class G; one clerk, Class H; three pipe fitters, at three hundred and thirty dollars per annum each; one draftsman, Class H; two clerks, Class I; one mechanic, Class J, at two hundred and seventy dollars per annum; three assistant engineers, Class J, at two hundred and seventy dollars per annum each; one clerk, Class J; one meter inspector, at two hundred dollars per annum; three meter inspectors, at one hundred and eighty dollars per annum each; hire of labor, not to exceed twenty-eight thousand pesos.

## Street cleaning and collection and disposal of city refuse:

One superintendent, at two thousand two hundred and fifty dollars per annum, and quarters in kind in the Botanical Gardens; one superintendent of pail system, class six, until April first, nineteen hundred and four, only; one inspector, class eight; one clerk, class eight; one clerk, class nine; three overseers, class nine; one foreman, class ten, at one thousand and twenty dollars per annum;

one clerk, class ten; one clerk, Class C; one watchman, Class C; two clerks, Class D; three foremen, Class D; two assistant overseers, Class F; one foreman, Class F; six foremen, Class G; six mechanics, Class G, at four hundred and forty dollars per annum each; one mechanic, Class G; two engineers, Class H; five foremen, Class H; one clerk, Class I; hire of labor, not to exceed one hundred and nineteen thousand pesos; for steam barge *Pluto*: one master, class nine, one chief engineer, class nine, and one mate, Class A, with subsistence at one peso per diem each; one night superintendent, Class A; one assistant engineer, Class A; one second assistant engineer, Class II, and subsistence of not to exceed eighteen members of crew at thirty centavos per diem each; hire of labor, at two thousand five hundred pesos or so much thereof as may be necessary.

## Street construction and bridges:

One superintendent, at two thousand three hundred dollars per annum; two inspectors, class eight; two inspectors, class nine; one foreman of rock quarry, class nine; one launch master, class nine; three road-roller engineers, Class A; five foremen, Class D; one road-roller engineer, Class D; one launch master, Class D; two foremen, Class G; two patrons, Class H; two engineers, Class H; one clerk, Class I; two assistant engineers, Class I; two steersmen, Class J; four firemen, at one hundred and eighty dollars per annum each; six sailors, at one hundred and twenty dollars per annum each; hire of labor, not to exceed sixty-eight thousand pesos; hire of labor for operating rock quarry, not to exceed sixteen thousand pesos.

## Buildings, illumination, and plumbing inspection:

One superintendent, at two thousand five hundred dollars per annum; one inspector of buildings, class five, for one month; one inspector of plumbing, class six; one assistant inspector of plumbing, class seven; one inspector of buildings, class eight; one architectural draftsman, class eight; two inspectors of buildings, class nine; one mechanic, class nine; one mechanic, Class A; one clerk, Class C; one clerk, Class D; two inspectors of buildings, Class D; one draftsman, Class F; five superintendents of markets, Class H; two clerks, Class I; two employees, at two hundred and forty dollars per annum each; hire of temporary inspectors of buildings and public works, not to exceed three thousand five hundred pesos; hire of labor, not to exceed seventeen thousand five hundred pesos.

## Inspection of boilers:

One inspector of boilers, class six.

## City shops:

One property clerk and superintendent of repair shops, class six; one clerk, class eight; one clerk, class nine; one harness maker, class nine; two mechanics, class nine; two mechanics, class ten, at one thousand and eighty dollars per annum each; one storekeeper, Class B; one mechanic, Class A; one clerk, Class C; two mechanics, Class H; one harness maker, Class H; two mechanics, Class I; hire of labor, not to exceed five thousand pesos.

## Drafting and surveys:

One assistant engineer, class seven; one assistant engineer, class eight; one chief draftsman, class eight; one draftsman, Class H; two chainmen, Class I; two draftsmen, Class I; one rodman, Class I.

## Sewers:

One engineer and inspector of sewers, class eight; one foreman, Class G; hire of labor, not to exceed six thousand five hundred pesos.

## Weights and measures:

One sealer of weights and measures, class nine; one inspector of weights and measures, Class I; one clerk, Class I.

## Land transportation:

One veterinary surgeon, class eight, at one thousand five hundred dollars per annum; two stable foremen, class nine; two mechanics, class ten, at one thousand and eighty dollars per

annum each; one foreman, class ten, at one thousand and eighty dollars per annum; one clerk, Class A; thirty-three teamsters, Class B; thirty teamsters, Class C; one watchman, Class C; one mechanic, at four hundred and forty dollars per annum; two mechanics, Class I; one assistant foreman, Class I; twenty-five teamsters, at three hundred dollars per annum each; for hire of one hundred and sixty teamsters, at not to exceed two hundred and forty dollars each per annum, thirty-eight thousand pesos, or so much thereof as may be necessary; hire of labor, not to exceed thirteen thousand pesos.

For completing survey work on hand in the Department: One transitman, class eight; two draftsmen, Class G; three chainmen, Class G; one chainman, Class I; five rodmen, Class I; hire of labor, not to exceed six thousand pesos.

#### Parks:

One foreman, Class D; two foremen, Class G; hire of labor, not to exceed ten thousand five hundred pesos.

#### Cemeteries:

One superintendent, Class A; two superintendents, Class H; hire of labor, not to exceed fourteen thousand pesos.

For continuation of preliminary survey of new water and sewer systems:

For salary and expenses of Consulting Engineer, not to exceed fourteen thousand pesos; one engineer in charge of sewer system, at four thousand five hundred dollars per annum, with quarters in kind, not to exceed seventy-five dollars per month; one engineer, class five; one assistant engineer, class six; one surveyor, class six; one draftsman, class seven; one draftsman, Class H.

Total for salaries and wages, five hundred and forty thousand pesos.

*Public works, Department of Engineering and Public Works, city of Manila:* For repairs to city bridges; purchase and transportation of drain, road, and street material, not to exceed sixty thousand pesos; alterations, maintenance, repairs, and supplies for barges, launches, and road rollers, including repair of damages recently sustained by steam barge *Pluto*; coal and oil for rock quarry; extension and development of rock quarry; coal for crematories; forage for horses and other animals; repairs to corrals and stables; maintenance of public grounds and parks; repairs to crematories; purchase of carts, harness, horses, mules, and wagons, and hire of carts, lorchas, and so forth; veterinary supplies and medicines; supplies for cemeteries; repairs to markets and municipal buildings; electrical services for public buildings, parks, and streets; material for extension and increase of electrical service; repairs to carts, harness, lorchas, wagons, and so forth; purchase of materials for shoeing public animals; purchase of oil for lighting; operating and repairs to dredger; completion of river wall at Arroceros shops; purchase of hose, tools, and miscellaneous supplies for public buildings and streets; location of new water mains, not to exceed twenty-eight thousand pesos; repairs to Santolan Road; repairs to machinery at pumping station; transportation of material for water supply; purchase of coal for pumping station and water-supply shops; miscellaneous repairs and supplies for water supply; purchase and location of sewer pipe; miscellaneous repairs and cleaning of old sewers; purchase of dump wagons for hauling rock for street construction and repair, not to exceed six thousand pesos; purchase of rice for launch crews, not to exceed two hundred and fifty pesos; purchase of not exceeding ten sprinkling wagons, thirteen thousand pesos, or so much thereof as may be necessary; for completing shop grounds, including filling, grading, shelving, and tool boxes, not to exceed two thousand pesos; purchase of machine tools for pumping station, not to exceed eight thousand pesos; purchase of means of official transportation previously furnished by the Insular Purchasing Agent, sixteen thousand pesos, or so much thereof as may be necessary; restoration of monument of Antonio Pineda and erection in Paco Cemetery,

not to exceed one thousand five hundred pesos; for expropriation of land for widening Calle Aviles, not to exceed four hundred and eighty-seven pesos and eighty-two centavos; for beginning work of cleaning esteros, not to exceed six thousand pesos; for manufacture or purchase of three thousand commodes, not to exceed fifteen thousand pesos; purchase of not more than five thousand six hundred pails and covers, fifty-three thousand two hundred pesos, or so much thereof as may be necessary; for construction of midden sheds, not to exceed forty-eight thousand pesos; for completing the construction and equipment of a hose tower, not to exceed one thousand five hundred pesos.

Total for public works, four hundred and sixty-five thousand pesos.

*Contingent expenses, Department of Engineering and Public Works, city of Manila, nineteen hundred and four:* For contingent expenses, including the purchase of office furniture and supplies; rent of market sites, police stations, and schoolhouses; telephone service; expenses for renumbering houses; burial of pauper dead and persons dying of contagious diseases; advertising, printing, and binding; hire of vehicles on official business, not to exceed six thousand pesos; miscellaneous supplies for disinfection, including brooms, brushes, carbolic acid, chloride of lime, lime, paint, sheet rubber, and so forth; and other incidental expenses; fifty-five thousand pesos.

In all, for the Department of Engineering and Public Works, one million and sixty thousand pesos.

#### CITY ASSESSOR AND COLLECTOR.

*Salaries and wages, Department of Assessments and Collections, city of Manila, nineteen hundred and four:* City Assessor and Collector, at four thousand dollars per annum; Chief Deputy Collector, at three thousand dollars per annum; Chief Deputy Assessor, at three thousand dollars per annum; one clerk, class five; four clerks, class six; one clerk, class seven; one clerk, class eight, at one thousand five hundred dollars per annum; six clerks, class eight; twelve clerks, class nine; one clerk, class ten; three clerks, Class A; one clerk, Class C; one clerk, Class D; three clerks, Class F; thirteen clerks, Class G; five clerks, Class H; eighteen clerks, Class I; thirty-three clerks, Class J; eleven employees, at one hundred and eighty dollars per annum each; twenty-six employees, at one hundred and fifty dollars per annum each; fourteen employees, at one hundred and twenty dollars per annum each; seventy thousand pesos.

*Contingent expenses, Department of Assessments and Collections, city of Manila, nineteen hundred and four:* For contingent expenses, including purchase of office furniture and supplies; for oil, wood, and so forth for matadero, not to exceed five hundred pesos; for advertising, coolie hire, post-office box rent; repairs to office furniture and typewriters; hire of vehicles in Manila on official business, not to exceed seven hundred and twenty pesos; printing and binding of books, receipts, cedulas, and other necessary blank forms; and other incidental expenses, seven thousand eight hundred pesos.

*Tax refunds, Department of Assessments and Collections, city of Manila, nineteen hundred and four:* For refund of industrial, land, and other taxes, erroneously collected, the refund of which has been or may be duly authorized in accordance with law, three thousand pesos: *Provided*, That refunds made in pursuance of this appropriation shall be charged in whole to the city of Manila.

Total for the Department of Assessments and Collections, city of Manila, eighty thousand eight hundred pesos.

#### FIRE DEPARTMENT.

*Salaries and wages, Fire Department, city of Manila, nineteen hundred and four:* Chief, at three thousand dollars per annum; deputy chief, at two thousand dollars per annum; one chief engineer, class eight, at one thousand five hundred dollars per annum; one clerk, class eight, at one thousand five hundred dollars per

annum; one clerk, class eight; one clerk, Class H; one mechanic, class ten; one electrician, class five; one assistant electrician, class seven; two linemen, class nine; one lineman, class ten; four linemen, Class H; one clerk, Class A; twelve foremen, at one thousand three hundred dollars per annum each; twelve assistant foremen, at one thousand two hundred dollars per annum each; six engineers, first class, and six engineers, second class, not to exceed nine thousand three hundred and seventy-five pesos: *Provided*, That the pay of engineers, first class, shall be at the rate of one thousand two hundred dollars per annum for the first year of service, one thousand three hundred dollars per annum for the second year, and one thousand four hundred dollars per annum for the third year: *And further provided*, That the pay of engineers, second class, shall be at the rate of four hundred and eighty dollars per annum for the first year of service, and six hundred dollars per annum for the second year. Forty-five firemen, first class, and forty-five firemen, second class, not to exceed thirty-nine thousand one hundred and eighty-five pesos: *Provided*, That the pay of firemen, first class, shall be at the rate of one thousand dollars per annum for the first year of service, one thousand dollars per annum for the second year, one thousand and eighty dollars per annum for the third year, and one thousand one hundred and forty dollars per annum for the fourth year: *And provided*, That the pay of firemen, second class, shall be at the rate of two hundred and forty dollars per annum for the first year of service, three hundred dollars per annum for the second year, three hundred and thirty dollars per annum for the third year, and three hundred and sixty dollars per annum for the fourth year: *And provided further*, That in computing period of service of firemen, credit for previous service in the Police Department, city of Manila, shall be allowed employees transferred to the Fire Department.

Total for salaries and wages, ninety thousand pesos.

*Equipment, Fire Department, city of Manila, nineteen hundred and four*: For the purchase of apparatus, including two steam fire engines, two hose wagons, and two steam fire-engine heaters, not to exceed twenty-five thousand pesos; equipment for apparatus, including one buggy, harness, hose, truck wheels, and so forth; equipment for fire stations; maintenance and repairs to apparatus and equipment; purchase of not more than forty additional fire-alarm boxes, additional cells for storage battery, weatherproof wire, and so forth; for extension of fire-alarm system, including labor and poles, not to exceed fourteen thousand pesos; painting of poles, maintenance of fire-alarm system, and other incidental expenses; seventy thousand pesos.

*Contingent expenses, Fire Department, city of Manila, nineteen hundred and four*: For contingent expenses, including purchase of office furniture, safe and supplies, postage stamps, and so forth; fuel for engines and heaters; forage and shoes for horses and ponies; printing and binding; and other incidental expenses; twenty-three thousand pesos.

*Contingent expenses, Fire Department, city of Manila, nineteen hundred and two*: For payment of bill of Selden W. Taylor for transportation furnished Chief of Fire Department, not to exceed fifty-one pesos.

In all, for the Fire Department, one hundred and eighty-three thousand and fifty-one pesos.

#### LAW DEPARTMENT.

*Salaries and wages, Law Department, city of Manila, nineteen hundred and four*:

Office of City Attorney:

City Attorney, at three thousand five hundred dollars per annum; one assistant city attorney, at two thousand five hundred dollars per annum; two clerks, class six; one clerk, class seven; two clerks, class eight; two clerks, class nine; one messenger at one hundred and twenty dollars per annum.

Office of Prosecuting Attorney:

Prosecuting Attorney, at four thousand five hundred dollars per annum; first assistant prosecuting attorney, at two thousand five hundred dollars per annum; second assistant prosecuting attorney, at two thousand two hundred and fifty dollars per annum; third assistant prosecuting attorney, at two thousand dollars per annum; fourth assistant prosecuting attorney, at one thousand four hundred dollars per annum; fifth assistant prosecuting attorney, at one thousand two hundred dollars per annum; four clerks, class eight; two clerks, class nine; one clerk, Class A; one messenger, at one hundred and twenty dollars per annum.

Office of Sheriff of Manila:

Sheriff, at three thousand dollars per annum; one deputy sheriff, at one thousand four hundred dollars per annum; one deputy sheriff, at one thousand two hundred dollars per annum; two deputy sheriffs, at seven hundred and twenty dollars per annum each; four deputy sheriffs, at two hundred and forty dollars per annum each; two deputy sheriffs, at one hundred and eighty dollars per annum each; two employees, Class A; two employees, Class J; one clerk, Class C; nine laborers, at one hundred and twenty dollars per annum each.

Municipal court:

One judge, at three thousand five hundred dollars per annum; one clerk of court, class seven; one interpreter, class seven; one deputy clerk of court, class ten; one deputy clerk of court, Class C; two deputy clerks of court, Class D; one messenger, at one hundred and twenty dollars per annum.

Office of Register of Deeds:

One register of deeds, at two thousand dollars per annum; one deputy register of deeds, class ten; one clerk, Class D; two clerks, Class I; two clerks, Class J; one messenger, at one hundred and twenty dollars per annum.

Justice of the peace courts:

Two justices of the peace, at one thousand dollars per annum each; two clerks of justice of the peace courts, Class I, at three hundred dollars per annum each; two clerks of justice of the peace courts, at one hundred and twenty dollars per annum each.

Total for salaries and wages, sixty-two thousand pesos.

*Contingent expenses, Law Department, city of Manila, nineteen hundred and four*: For contingent expenses, including the purchase of distilled water, ice, law books, postage stamps, office furniture and supplies; interpreters', notaries' public, registrars', and other authorized fees; court costs; forage for horses; law textbooks for office of the Prosecuting Attorney, not to exceed four hundred pesos; fund for securing testimony and the presence in Manila of indigent witnesses in criminal cases from outlying provinces, not to exceed one thousand pesos; advertising, printing and binding, and other incidental expenses, five thousand nine hundred pesos.

In all, for the Law Department, sixty-seven thousand nine hundred pesos.

#### DEPARTMENT OF POLICE.

*Salaries and wages, Department of Police, city of Manila, nineteen hundred and four*: Chief of Police, at three thousand five hundred dollars per annum; one assistant chief of police, at two thousand five hundred dollars per annum; one inspector of police, at two thousand dollars per annum; one chief of secret service, at three thousand dollars per annum; one surgeon, at one thousand eight hundred dollars per annum; one assistant surgeon, at one thousand four hundred dollars per annum; one clerk, class six; two clerks, class seven; one clerk, class eight, at one thousand five hundred dollars per annum; three clerks, class eight; three clerks, class nine; one clerk, class ten; two clerks, Class A; one Chinese interpreter, Class A; seven clerks, Class D; three messengers, at one hundred and twenty dollars per annum each; seven captains, at two thousand dollars per annum each; three lieutenants, at one

thousand five hundred dollars per annum each; three lieutenants, at one thousand three hundred dollars per annum each; twenty-three sergeants, first class, at one thousand three hundred dollars per annum each; twenty-three roundsmen, first class, at one thousand two hundred dollars per annum each; three hundred and twenty-four patrolmen, first class, not to exceed three hundred and twenty-seven thousand pesos: *Provided*, That the pay of patrolmen, first class, shall be at the rate of nine hundred dollars per annum for the first year of service, one thousand dollars per annum for the second year, one thousand and eighty dollars per annum for the third year, and one thousand one hundred and forty dollars per annum for the fourth year; eighteen sergeants, second class, at six hundred dollars per annum each; eighteen roundsmen, second class, at four hundred and eighty dollars per annum each; ninety-eight patrolmen, second class, not to exceed forty thousand six hundred pesos: *Provided*, That the pay of patrolmen, second class, shall be at the rate of three hundred dollars per annum for the first year of service, three hundred and seventy-five dollars per annum for the second year, four hundred and twelve dollars per annum for the third year, and four hundred and fifty dollars per annum for the fourth year; ten sergeants, third class, at three hundred and sixty dollars per annum each; ten roundsmen, third class, at three hundred dollars per annum each; two hundred and eighty-six patrolmen, third class, not to exceed eighty-six thousand three hundred pesos: *Provided*, That the pay of patrolmen, third class, shall be at the rate of two hundred and forty dollars per annum for the first year of service, three hundred dollars per annum for the second year, three hundred and thirty dollars per annum for the third year, and three hundred and sixty dollars per annum for the fourth year; one detective, at two thousand dollars per annum; one detective, at one thousand eight hundred dollars per annum; one detective, at one thousand six hundred dollars per annum; one detective, at one thousand five hundred dollars per annum; five detectives, at one thousand four hundred dollars per annum each; two detectives, at one thousand dollars per annum each; one detective, at nine hundred dollars per annum; three detectives, at six hundred dollars per annum each; three detectives, at four hundred and eighty dollars per annum each; six detectives, at two hundred and forty dollars per annum each; one launch master, at one thousand two hundred dollars per annum; one mate, at nine hundred dollars per annum; one engineer, at four hundred and eighty dollars per annum; three assistant engineers, at three hundred and sixty dollars per annum each; six firemen, at two hundred and forty dollars per annum each; eight deck hands, at one hundred and fifty dollars per annum each; four boatmen, at one hundred and fifty dollars per annum each; three laborers, at one hundred and eighty dollars per annum each.

Total salaries and wages, five hundred and fifty thousand pesos: *Provided*, That in computing period of service of policemen, credit for previous service in the Fire Department, city of Manila, shall be allowed employees transferred to the Police Department.

*Equipment, Department of Police, city of Manila, nineteen hundred and four*: For the purchase of horses, ponies, and harness, not to exceed one thousand one hundred and fifty pesos.

*Secret-service fund, Department of Police, city of Manila, nineteen hundred and four*: For a fund to be used, subject to the provisions of Act Numbered Eight hundred and four, in securing secret information and paying for photographs of criminals for the Rogues' Gallery; for payment of subsistence, vehicle hire, and traveling expenses of detectives working on cases beyond the limits of the city of Manila, six hundred pesos.

*Contingent expenses, Department of Police, city of Manila, nineteen hundred and four*: For contingent expenses, including the purchase of office furniture, supplies and typewriters; subsistence of prisoners; forage for horses; coal; repairs and supplies for river and harbor police launches, including one boiler and repairs for launch *George Curry*; repairs and supplies for police-alarm

system; hire of vehicles in Manila on official business, not to exceed four thousand four hundred pesos; printing and binding; advertising and other incidental expenses; twenty-five thousand pesos.

In all, for the Department of Police, five hundred and seventy-six thousand seven hundred and fifty pesos.

#### DEPARTMENT OF CITY SCHOOLS.

*Salaries and wages, Department of City Schools, city of Manila, nineteen hundred and four*: One clerk, class six; one clerk, Class D; one employee, at two hundred and forty dollars per annum; one messenger, at one hundred and eighty dollars per annum; two hundred teachers, at an average salary not exceeding thirty-five dollars each per month.

#### Night schools:

Twenty-two principals, at two dollars each per night, not to exceed an aggregate of ten thousand two hundred and sixty-four pesos; one hundred and seventy-five teachers, at one dollar and fifty cents each per night, not to exceed an aggregate of fifty-six thousand two hundred pesos; twenty-two clerks, at seven dollars and fifty cents per month each, not to exceed an aggregate of one thousand six hundred and eighty pesos.

Total salaries and wages, Department of City Schools, city of Manila, one hundred and fifty-one thousand seven hundred pesos.

*Contingent expenses, Department of City Schools, city of Manila, nineteen hundred and four*: For contingent expenses, including purchase and transportation of office and school furniture and supplies; rentals of pianos, not exceeding five hundred pesos; repairs to clocks, typewriters, and so forth; printing and binding; hire of official transportation for directors and teachers of special subjects in the city schools, not to exceed nine hundred pesos; purchase of stamps, and other incidental expenses; two thousand six hundred pesos.

In all, for the Department of City Schools, one hundred and fifty-four thousand three hundred pesos.

#### SALARY AND EXPENSE FUND.

*Salary and expense fund, city of Manila*: For the payment of salaries and expenses of civil officials and employees of the city of Manila, which are properly chargeable to the city of Manila and not otherwise specially provided for, including half salary and traveling expenses of employees from the United States to Manila, and for the payment to the estates of deceased employees of salaries due such employees for the leaves of absence to which they are entitled at the time of their deaths, in accordance with the provisions of Act Numbered One thousand and forty, eighteen thousand pesos: *Provided*, That the Civil Governor may, in his discretion, commute two or more years' accrued leave of absence to persons entitled to visit the United States on such leave, and authorize the payment of the amount so accrued in a gross sum from this appropriation. Payment of sums due under the appropriation last made shall be by the Auditor by settlement warrants.

*Purchase of the pail system of the city of Manila*: For the payment to the Board of Health for the Philippine Islands of the amount found by the Auditor to be due on account of the operation of the pail system by the Insular Government and transfer of all property purchased for the use of the pail system, from the Board of Health for the Philippine Islands to the city of Manila, four hundred thousand pesos, or so much thereof as may be necessary.

In all, for the city of Manila, two million six hundred and forty thousand eight hundred and one pesos.

SEC. 2. The provisions of the first paragraph of section four of Act Numbered Eight hundred and four, providing the manner in which withdrawals of moneys appropriated in said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

SEC. 3. The public good requiring the speedy enactment of this appropriation bill, the passage of the same is hereby expedited in



accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, February 6, 1904.

### EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, February 3, 1904.

EXECUTIVE ORDER }  
No. 9. }

The following regulations shall govern the matter of granting of leaves of absence under the provisions of Act Numbered One thousand and forty to all regularly and permanently appointed officers and employees in the Philippine civil service, insular, provincial, and of the city of Manila, except judges, and are hereby published for the information and guidance of all concerned, in order that a uniform practice may obtain throughout the service. Executive Order Numbered Four, series of nineteen hundred and three, is hereby revoked.

1. Heads of Bureaus or Offices are directed to require a daily record of attendance to be kept of all officers and employees under whom they are entitled to leave, on Philippine Civil Service Board Form Numbered Forty-eight, and also to keep a systematic office record showing for each day the absences from duty, from any cause whatever, of all officers and employees. At the beginning of each month they will forward to the Civil Service Board, on its Form Numbered Three, a record of the absences from duty of all officers and employees from any cause whatever during the preceding month.

2. (a) Applications for accrued leave of officers and employees must be made in writing one week in advance, wherever possible, of the date on which the leave is desired to become effective, on Philippine Civil Service Board Form Numbered Thirty-nine, to the head of the Bureau or Office for recommendation and transmission through said Board to the proper officer authorized to exercise executive control as contemplated in Act Numbered Two hundred and twenty-two. The first indorsement on said form must be completed by the head of the Bureau or Office.

(b) When accrued leave during his first two years of service is requested by an officer or employee, the Civil Service Board shall state on the application the date on which payment for such leave may properly be made under the provisions of Act Numbered One thousand and forty, and unless the Civil Governor or proper head of a Department directs otherwise, the head of the Bureau or Office shall require that payment for such leave be withheld until that date.

(c) In case of the death of an officer or employee the head of the Bureau or Office will transmit through the Civil Service Board application on its Form Numbered Thirty-nine, containing a statement of the amount of all accrued leave due.

(d) When an officer or employee is separated from the civil service without prejudice, by resignation, death, or other cause, the money value of his accrued leave, estimated in accordance with the provisions of Act Numbered One thousand and forty, may become immediately due and payable if the state of the appropriation from which his salary is payable warrants immediate payment. If the leave is commuted, payment therefor shall be made as provided by law; if the leave is not commuted, payment shall be made by the disbursing officer of the Bureau or Office from the unexpended balance for salaries and wages, and the position shall remain vacant for a period equal to the accrued leave granted.

(e) An officer or employee who applies for accrued leave which was earned at different rates of compensation shall be granted leave with pay at the salary he is then receiving for a period

equaling in money value the period of accrued leave estimated in accordance with the provisions of Act Numbered One thousand and forty, and he may be granted, if he so desires, such additional leave, without pay, as will give him the aggregate length of time on leave, with and without pay, as provided in the aforesaid act.

(f) An officer or employee entitled to traveling expenses from his place of residence in the United States to Manila under the provisions of section two or nine of Act Numbered One thousand and forty, shall file with the Auditor for the Philippine Islands his expense account within thirty days, if possible, after arrival at Manila.

3. (a) All applications for vacation leave of absence for a period of one full day or more must be made on Philippine Civil Service Board Form Numbered Fifty-five; applications for less than one day will not be made on this form, but each such absence must be recorded, as usual, on Philippine Civil Service Board Form Numbered Forty-eight and on the office record, and reported to the Board quarterly on its Form Numbered Three. All applications on Form Numbered Fifty-five should be forwarded to the Civil Service Board three days or more in advance, wherever possible, unless otherwise directed. In the case of sickness or unavoidable absence from other cause notice must be immediately sent to the head of the Bureau or Office, and the application, containing a brief explanation of the cause of delay in filing, forwarded later.

(b) The vacation leave of an employee whose salaries during a calendar year embrace the two rates of vacation leave provided in the schedule of section three of Act Numbered One thousand and forty shall be computed by allowing credit for the two rates in proportion to the part of the year served at each rate.

(c) When vacation leave is requested by an officer or employee during his first six months of service from the date of original appointment the Civil Service Board shall state on the application the date on which payment for such leave may properly be made under the provisions of Act Numbered One thousand and forty, and, unless the Civil Governor or proper head of a Department directs otherwise, the head of the Bureau or Office shall require that payment for such leave be withheld until that date.

(d) Philippine Civil Service Board Form Numbered Fifty-five must be used by teachers for all absences during school terms on account of sickness or other causes, and the General Superintendent of Education shall require payment for such absences to be withheld until they have performed duty during vacation for a period equal to their absences from duty, as required by Act Numbered One thousand and forty: *Provided*, That if the absences were due to illness the withholding of salary may be postponed to the beginning of the next summer vacation. Form Numbered Fifty-five shall also be used by teachers in applying for permission to visit the United States.

(e) Applications of officers and employees for further leave in case of absence on account of wounds or injuries incurred in the performance of duty, extending beyond the allowable vacation leave (paragraph c, section four, Act One thousand and forty), must be made on Form Numbered Forty, accompanied by medical certificate on Form Numbered Forty-one, of the Philippine Civil Service Board.

4. Unless otherwise directed by the Civil Governor or proper head of a Department, payment for the vacation leave of any officer or employee who has served less than two years shall be withheld until five days after return to duty. In the event that it shall appear during the first five days after return to duty from vacation leave that it is not his intention to continue in the performance of his duties any longer than to enable him to draw all back salary which may be due him, such payment shall be withheld and full report thereof forwarded by the head of the Bureau or Office, through the Philippine Civil Service Board, to the Civil Governor or proper head of a Department, for action.

5. If an officer or employee resigns after having taken vacation leave in excess of that proportion due for the part of the calendar year served by him, such excess vacation leave shall be charged against his salary or accrued leave: *Provided*, That if the vacation leave has been allowed on account of meritorious sickness the Civil Governor or proper head of a Department may direct that no deduction be made from his salary or accrued leave for such excess vacation leave previously allowed.

6. As a rule the resignation of a teacher will not be accepted prior to the termination of the school year: *Provided*, That if for sickness or other urgent necessity the resignation of a teacher who has served more than two years is accepted without prejudice prior to the termination of the school year, he may be allowed salary for one week's vacation for every month actually taught by him since the preceding summer vacation, any absence chargeable to vacation to be deducted from this allowance.

7. Absence on Saturday shall be counted as absence for one full day. A Sunday or a holiday occurring at the beginning or at the end of a period of accrued or vacation leave shall not be considered as a day chargeable to leave. Leave of absence for any reason other than serious illness must be contingent upon the necessities of the service.

8. Officers or employees on leave of absence are required to report to the heads of their respective Bureaus or Offices at the end of each month by registered mail their post-office addresses for the ensuing month and shall promptly report in a similar manner and in sufficient detail every unexpected and unavoidable delay which may have occurred during the period contemplated by their leave of absence. Absence from duty at station in the Philippine Islands after the expiration of the leave due shall be without pay.

9. No officer or employee in the Philippine civil service shall be dropped from the rolls of his office for unexplained absence in the United States until at least forty days after the expiration of the period of absence contemplated by the leave granted.

10. (a) All officers and employees who are granted leave of absence for the purpose of visiting the United States and who contemplate returning to duty upon the expiration of such leave of absence shall, before leaving the Islands, make application to the Executive Secretary for transportation returning to Manila. In each application the date of the expiration of leave of absence and the post-office address of the applicant while in the United States must be stated.

(b) Immediately upon reaching the United States remittance covering cost of return transportation must be made to the Chief of the Bureau of Insular Affairs, War Department, Washington, District of Columbia, with a statement of the date on which the applicant desires to leave the United States. All subsequent communications regarding return transportation and prompt report of any changes occurring in the applicant's post-office address must also be directed to the Chief of the Bureau of Insular Affairs, and a duplicate copy of each such communication mailed at the same time to the Executive Secretary, Manila, who will forward it to the head of the Bureau or Office interested, through the proper head of Department.

LUKE E. WRIGHT,  
Civil Governor.

## DECISIONS OF THE SUPREME COURT.

[No. 1271. December 4, 1903.]

*THE UNITED STATES. complainant and appellee, vs. TELESFORO DASAL ET AL., defendants and appellants.*

1. PENAL LAW; MURDER; QUALIFICATIVE CIRCUMSTANCES; PREMEDITATION.—Where it is proved that several hours prior to the execution of the crime prosecuted its authors, in the course of a conversation, made use of expressions indicating that the murder of someone was being discussed, this, taken in connection with the subsequent vio-

lent death of the deceased, shows that the qualificative circumstance of evident premeditation was present, and the crime should be classified as murder.

2. *Id.*; ACCESSORIES.—During the mutiny, in the course of which the murder of the first engineer was committed, some of the defendants were seen working the ship, in obedience to orders given them by one of the authors of the crime, but it does not appear that they took direct part in the actual commission of the murder. *Held*, that this participation fixes the responsibility of said defendants as accessories.

3. *Id.*; *Id.*; DEFINITION OF COMPLICITY.—In order that it may be considered that there was in the commission of a crime coöperation establishing the responsibility and character of an accessory, acts of aid or protection must have been rendered the author of the crime prior to or simultaneous with its commission; that is, there must have been acts of physical or moral aid, rendered immediately or by indirect means, so that the relationship between the principals and the accessories clearly appears, as well as the fact that they acted by common agreement and for the same criminal end, although the means employed by them for the execution of the crime may have been different.

4. *Id.*; JURISDICTION; CRIME COMMITTED ABOARD A SHIP.—The Court of First Instance of the port where, after the commission of the crime, a ship licensed in the Philippines put in, has jurisdiction of a crime committed aboard the ship, to the exclusion of all the other courts of the Archipelago.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

LEDESMA & SUMULONG and NAZARIO CONSTANTINO, for appellants. Solicitor-General ARANETA, for appellee.

TORRES, J.:

On September 11, 1902, an information was filed in the Court of First Instance by the assistant prosecuting attorney of the city of Manila, charging the thirty-five persons mentioned in the record with the crime of murder. The information alleged that on or about the 13th day of August, 1902, while the defendants were on board the *Dos Hermanos*, an American steamer duly registered in the Philippine Islands, said steamer being at that time within the navigable waters of this Archipelago and at a distance of less than 1 mile from the beach of the town of Virac, Catanduanes Islands, Albay, they willfully, feloniously, treacherously, and with deliberate premeditation, assaulted, killed and murdered one Antonio Agudo, striking and wounding him with daggers, iron bars, and other deadly weapons; and that afterwards, to wit, on or about the 2d of September of the same year, the said steamer *Dos Hermanos* entered the port of Manila.

The information above mentioned refers to a crime committed on board a merchant steamer, registered as a coasting vessel in these Islands and at anchor in a port of one of the islands, therefore, under the provisions of section 1 of Act No. 400, passed by the Civil Commission on May 16, 1902, by which the organic law of the courts, Act No. 136, passed June 11, 1901, was modified and extended. The steamer *Dos Hermanos* having, after the commission of the crime, put into this city, it is incontrovertible that the Court of First Instance thereof has sole jurisdiction, to the exclusion of all other courts of the Archipelago, for the trial of the case.

The information having been admitted and the defendants arraigned, the plea of not guilty was entered. Before the trial commenced Isidro del Valle and Tiburcio Soriano died; and with respect to the defendants Damaso Scrogan and Carlos Septimo the case was dismissed, the Prosecuting Attorney having entered a *nolle prosequi*.

From the evidence introduced at the trial, and especially from the testimony of Miguel Morales, captain of the steamer *Dos Hermanos*, together with that of First Mate Juan Zabala, Second Engineer Fabian Rendon, and the other witnesses examined, the following facts were established:

Shortly after 8 o'clock on the evening of August 13, 1902, the steamer *Dos Hermanos*, a vessel bearing license No. 72, dated Jan-

uary 11, 1900, authorizing her employment in the coastwise trade, was lying at anchor in the harbor of Virac, Catanduanes Islands, at a distance of some 40 yards from the beach, with the bow toward the shore and the stern seaward. The bow anchor was dropped and the stern made fast to the beach with a cable. Supper was just over and Captain Morales, Zabala, the first mate, and five passengers, three of whom were men and two women, together with Don Joaquin Romero, a guest on the vessel, were sitting around the big table on the poop deck engaged in conversation. The first and second engineers were amidships on the port side, engaged in conversation just outside the officers' staterooms. Suddenly the sound of the voices of many men rushing from the bow of the ship was heard. Upon this Captain Morales and the mate, Zabala, jumped up and went down toward the place where the tumult was in progress. Just at this moment the first engineer's voice was heard shouting, "Quartermaster," and at the same moment they saw the second engineer, Rendon, coming toward them on the run, pursued by the quartermaster, Pantaleon Cajilig, and several members of the crew, armed with knives, daggers, and iron bars. One of them attacked Rendon and wounded him in the back with a dagger or a knife, while the quartermaster, in turn, attacked Captain Morales, inflicting upon him a stab in the groin. Morales tried to get into the pantry. Some ten or fourteen men endeavored to prevent him and one of them, in the course of the struggle, cut him on the head with a knife. In the meantime First Mate Zabala, believing that the noise was due to a fight forward, went down the other side toward the scene of the disturbance. Upon seeing a number of the crew, armed and evidently in mutiny, approaching him, he retreated. He was, however, overtaken and calker Elpidio Andrada, attacked him with a knife. In the struggle another member of the crew approached him and endeavored to throw him into the sea, and immediately after another seaman, Rufino de Jesus, struck him on the head with an iron bar. Zabala, however, finally succeeded in shaking off his assailants and made his escape into the pantry, where the captain and the second engineer, Rendon, had taken refuge. They closed the door and five of the mutineers, who unsuccessfully endeavored to force an entrance, locked it with a key from the outside and remained on guard there. Some of them endeavored to stab the inmates of the stateroom with daggers and knives through the port holes. About the same time one of the passengers, Faustino Tremoya, was wounded on the arm, and, upon retreating, was pursued until he also took refuge in the pantry. He was unable to recognize his assailant. Chief Engineer Antonio Agudo was the officer first attacked when the mutiny broke out. He was assailed by several of the mutineers and was wounded in ten places with different weapons. The body of this officer was subsequently found in his stateroom. The steward, Vicente Amelategui, was also attacked, and, upon being struck with an iron hook, jumped overboard and disappeared. His body was never recovered. The Chinese carpenter, Tan Chuen, also disappeared and was not seen again after that night. While the attack was in progress the mutineers lowered the side awnings, which up to the time of the commencement of the mutiny had been pulled up, the lights on the steamer were extinguished, three of the boats which had been in the water were raised, the cable by which the stern of the vessel was fastened to the shore was cut, the accommodation ladder was hauled up, the anchor raised with the donkey engine, the ship's engines were started, and the steamer was put in motion, unquestionably with the intention of leaving the port of Virac for parts unknown, and thereby escaping the legal consequences of their acts. The record does not disclose the motive which led to the commission of the crime.

First Lieutenant Fletcher, of the Constabulary, who was on shore that night in the barracks near the beach, heard the shouting on board the steamer, and, believing a fight was in progress, got into a boat with two of his soldiers and headed for the steamer. This was at about 8.30 on the night in question. After

covering half the distance to the steamer he found a man swimming. The latter was picked up, and, being barely able to breathe, could gasp only the word "fight." This man proved to be Damaso Sogpang. In the meantime the anchor was raised and the steamer commenced to move. The boat containing the Constabulary officers ran along the port side of the ship, and Fletcher shouted to the men on board to drop the anchor, whereupon a man on the bridge threw a lump of coal at him. Fletcher replied by firing at the man, who fell from the starboard side of the bridge. Lieutenant Fletcher then commenced firing at several men who were running the donkey engine near the anchor and ran his boat around to the starboard accommodation ladder, but found this raised. However, finding a hanging stage at the stern, he managed to climb on board the ship, which was at that time in motion. When he got on deck the captain, who was near his stateroom, shouted to him to hurry. Lieutenant Fletcher ran to the engine room and fired a couple of shots into it from his revolver, ordering the men below to stop the engine, which order was immediately obeyed. He then ran down to the stern and fired several shots at some men he saw there, all of whom fled excepting three, who were captured. Three or four others jumped into the water. A sailor shot and wounded one of the Constabulary men and was, in turn, fired at by Lieutenant Fletcher. During all this confusion the steamer ran aground near the mouth of the harbor, about 150 yards from the place where it had been anchored when the mutiny broke out. The first mate, Zabala, and the second engineer, Rendon, jumped overboard and swam ashore. The first engineer was found in his stateroom, dead, and covered with wounds. On the following morning, after the Constabulary had the situation under control, there were found scattered about the deck daggers, knives, hatchets, and iron bars, some of them spattered with blood, several piles of coal prepared for use as missiles, the captain's swordstick, and later, hidden in a grease box in the engine room, one of his revolvers. Vicente Gallardo, Ciriaco Silva, Gregorio Almondia, Pedro Rodriguez, Mamerto Aveilla, Rufino de Jesus, Marcelo Bertos, Pio Tionson, Felipe Almendras, Emilio Lebiga, Manuel Racion, Juan Briguela, Mariano Guano, Antonio Villagrafia, Pablo Concepcion, Dionisio de la Cruz, Luis Dialao, Estanislao de Castro, Damian Oseon, Macario Arevalo, Eugenio Olores, Severino Damagat, Cipriano Rizado, Luis Taunson, Exequiel Perez, and Antonio Villamor were arrested and taken ashore. Benigno Parra was apprehended on shore the next day, and several days later Telesforo Dasal, one of the men who escaped, was captured. Lieutenant Fletcher in his testimony stated that he could not remember where Victorino Villacres and Tranquilino Aga were apprehended; nor could he state whether the men arrested on board the ship and those who were identified by him took part in the mutiny and the assault upon the officers. He stated it was his belief that the purpose of the uprising was to steal the money on board the vessel and to carry off the vessel itself. He further testified that Pablo Concepcion and Benigno Parra were wounded, the former in the hand and the latter in the side, by shots fired by the Constabulary men. He stated that Telesforo Dasal was wounded in the leg by a policeman at the time of his arrest on shore, and that the quartermaster, Cajilig, who was seen with Dasal several days after the occurrence, managed to make his escape. With respect to the defendant Juan Briguela, Lieutenant Fletcher testified that after Briguela was told that unless he obeyed every order given him he would be killed he was asked why he had started the engines during the mutiny, and he thereupon replied that at about 7 o'clock on the night of the occurrence the quartermaster, revolver in hand, came to the engine room and told him he was to start the engines whenever the signal was given and that if he did not do so he would be killed. Other members of the crew who were interrogated concerning the occurrence replied evasively and said that they had not done anything. The calker, Andrade, and the seaman who attacked the mate Zabala and

tried to throw him into the sea were killed by the Constabulary in the course of the mutiny.

From the facts stated it clearly appears that a number of men belonging to the crew of the steamer *Dos Hermanos* conspired together to overcome the rest of the crew and kill the captain and officers of the steamer, with the intention of seizing the vessel and its contents and with it leaving for parts unknown. This outbreak resulted in the death of the first engineer, Antonio Agudo; the steward, Vicente Amellategui, and the Chinese carpenter, Tan Chuen, and in the wounding of Captain Morales, First Mate Zabala, Second Engineer Rendon, and the passenger, Faustino Tremoya.

The killing of the first engineer, Antonio Agudo, must be classified as murder. He was put to death by several of the mutineers on the night of August 13, 1902, they acting with evident premeditation and after reflection concerning the perpetration of the crime, which they had conspired together to commit. This circumstance determines the nature of the crime and brings it within the provisions of article 403 of the Penal Code. The circumstance of evident premeditation is present in a marked degree, for, without careful planning beforehand the crime above related would not have been committed.

The court below in its judgment of February 11, 1903, condemned Rufino de Jesus, Juan Briguela, and Teleforo Dasal to the penalty of death and the other defendants to the penalty of life imprisonment at hard labor, as authors of the crime of murder.

Although we agree with the judge below as to the classification of the crime and as to the guilt of some of the defendants, we can not agree with him as to that of others. With respect to some of the accused, the record contains no evidence whatever that they took part in the crime herein prosecuted. It is unquestionable that a portion of the crew of the steamer *Dos Hermanos* participated in the mutiny and in the attack upon the captain and other officers, and more especially upon the first engineer, whose body was subsequently found wounded in ten places. The presumption that some 10 or 14 men took part in that attack is based upon the fact that in order to effect in so short a time the various acts performed, many men must have acted together, although not necessarily the 41 who composed the crew. It can not be denied that a large portion of the crew did not take any part in the mutiny and had nothing to do with the crime committed by the mutineers. Consequently it was error to hold that all of the members of the steamer's crew should be regarded as coprincipals of the crime in question. The record does not disclose evidence of the guilt of all of the defendants, but only of some of them, and the degree of guilt of these various.

Carlos Septimo, Damaso Soppang, and Jorge Orlano were also members of the crew of the steamer, but nevertheless took no part in the commission of the crime. The evidence also shows that there were several other men who unquestionably were not implicated in the mutiny, but who had not sufficient courage to follow Soppang's example and jump overboard. These simply concealed themselves on board the steamer and waited for the termination of the mutiny, without attempting to escape, as did the ringleaders, the quartermaster, Pantaleon Cajilig, who has not been apprehended, and the helmsman, Teleforo Dasal, who was arrested on shore several days after the occurrence.

Although Teleforo Dasal, Rufino de Jesus, Pablo Concepcion, Gregorio Almondia, Emilio Lebiga, Benigno Parra, and Pedro Rodriguez pleaded not guilty, the evidence as to the guilt of these seven defendants, the first as coprincipal with the quartermaster, Cajilig, and the two men who were killed by the Constabulary, and the other defendants as accomplices, is convincing.

Carlos Septimo testified that while he was going ashore in a boat on the afternoon of the day the crime was committed, accompanied by Andrade, the quartermaster, Cajilig, and the helmsman, Teleforo Dasal, he saw these three men conversing together and

heard Cajilig say to the other two in Spanish, "Where shall we kill him?" although without stating who was to be killed. This conversation shows that the mutiny and the killing of the engineer Agudo and the other crimes committed had been planned beforehand by these three men, one of whom was the defendant Dasal, and that they were the ringleaders of the mutiny. While the mutiny was in progress Dasal, armed with a knife, aided the other mutineers in the attack on the first engineer, Agudo, and also assisted the party led by the quartermaster and the calker in their attack upon the second engineer, Rendon. This is the testimony of the latter and of the witness Jorge Orlano. Furthermore, he was one of the men who pulled up the accommodation ladder, directed that one of the boats be raised, and accompanied the quartermaster to the engine room to order Juan Briguela to get up steam. Consequently, it is unquestionable that he is guilty as principal by direct participation in the murder committed.

This evidence given by the first officer, Juan Zabala, witness for the prosecution, and by the defendants Benigno Parra, Juan Briguela, Pablo Concepcion, and Emilio Lebiga, has not been overcome by the assertion of the defendant Dasal, who denies that he had anything to do with the mutiny or the murder of Agudo.

The cooperation in the commission of a crime which results in fixing upon the guilty agent the responsibility of an accomplice requires acts either prior to or simultaneous with the commission of the crime which constitute an aid and protection to the person or persons guilty of the actual commission of the crime; that is, perpetration of acts of moral or physical aid given mediately by indirect means in such a way as to make it clearly appear that the principal and the accomplices acted upon a common agreement for the purpose of effecting some criminal act, although the means employed by each may have been distinct and separate. (Penal Code, art. 14; judgments of the supreme court of Spain of April 25, 1877; January 22, 1884; April 2, 1886; and June 7, 1886.)

The case contains sufficient circumstantial evidence to warrant the conviction of the other defendants, Rufino de Jesus, Benigno Parra, Pablo Concepcion, Gregorio Almondia, Pedro Rodriguez, and Emilio Lebiga as accomplices in said murder. These six defendants were seen moving about the deck of the ship during the mutiny, which they would not have done had they not been implicated in the conspiracy. Some of them, as Lebiga, Rodriguez, and Parra, were seen hauling up a boat and the accommodation ladder, thereby making it impossible for Fletcher to board the ship by means of the latter. These facts are shown by the testimony of the witness Jorge Orlano. The acts referred to were performed in obedience to orders given by the quartermaster, Cajilig. Rufino de Jesus was one of the assailants of First Mate Zabala, although the assault upon him was not the object of this prosecution. The evidence during the prosecution does not show that Rufino de Jesus took a direct part in the murder; nevertheless, the acts committed by him during the mutiny must be regarded as acts of complicity or of aid or protection to the murderers of First Engineer Agudo. It is worthy of note that both Captain Morales and First Mate Zabala testified that the mutineers were from ten to fourteen in number and to their number must be added as presumably guilty the quartermaster, Cajilig, who was not arrested, the two men killed on board, and Isidro del Valle and Exequiel Perez, who died after the trial commenced.

The defendant Parra was likewise ordered by the captain, who saw him go by the front of the stateroom where he had taken refuge with the other officers, to fetch him his revolver from his stateroom. Parra, although he obtained the revolver, did not deliver it as commanded, and it was subsequently found in his possession by one of the Constabulary.

The witness Concepcion testified that he was on watch at the stern of the vessel when the mutiny broke out; that he saw the quartermaster, the calker, and the helmsman Dasal and one of the seamen run after the first engineer and that thereupon the witness

immediately concealed himself in one of the boats, at the bow. This statement was incompatible with the proven fact that during the mutiny Concepcion was seen walking about the deck in front of the stateroom in which the captain and officers had taken refuge.

Apart from the testimony of First Officer Zabala to the effect that he saw Gregorio Almondia with the mutineers, Captain Morales affirms that on leaving the pantry he found on the deck near the bow a black hat, which turned out to be the property of the said Almondia. The latter, also, according to the statement of Mamerto Avevilla, was the one who woke him up when the mutiny broke out, he having been asleep in the forecabin at the time.

These six men took no direct part in the murder of the first engineer, nor did they induce the commission of the crime or cooperate in its commission by acts without which the crime could not have been perpetrated. Consequently, under article 13 of the Penal Code, they can not be regarded as principals. They did indeed perform acts of aid and assistance mediately and indirectly tending to the realization of the crime and in conformity with the intention and purpose of the principals; and therefore the responsibility of these six defendants with respect to the murder is that of accomplices, under the provisions of article 14 of the Penal Code.

The details of the attack upon the first engineer, Agudo, were not determined at the trial, and the evidence does not disclose how the attack commenced or what the position of the deceased was at the time. If he was sitting with the second engineer, Rendón, by the side of the table at which they had eaten, he must have noticed the approach of the assailants, as did Rendón, who was able to seize a bar of iron to defend himself. Consequently, as it does not appear that the deceased was attacked treacherously and under circumstances which gave him no opportunity to make a defense, it is improper to consider the qualitative circumstances of *alevosía* present. The facts constituting this circumstance must be proven with the same degree of certainty as the crime itself and can not be inferred or presumed.

Mutiny on board a vessel is, of itself, a crime severely punished by special maritime laws of the former sovereignty. However, this crime, as well as other punishable acts, such as that of piracy, which the record shows to have been committed, have not been the object of the prosecution, and this decision must be limited solely to the crime of the murder of Antonio Agudo.

In the commission of this crime it is proper to consider present the aggravating circumstances of abuse of superior power, nocturnity, and, with respect to the defendant Telesforo Dasal, abuse of confidence. As to the first of these, owing to the great number of wounds inflicted on the deceased, Agudo, it is to be presumed that he was simultaneously attacked by several persons, and that the number of his assailants prevented him from making a defense. With respect to the circumstance of nocturnity, there can be no doubt that the mutineers availed themselves of the darkness of the night, at a time when the officers and the rest of the crew were off their guard, for the purpose of committing the crime above related, and, with reference to Dasal, it is unquestionable that, as he held the position of helmsman on board the vessel, in placing himself, in company with the quartermaster, at the head of the mutineers, and thereby using the influence he possessed over the seamen and other members of the crew as a result of his position, he abused the confidence reposed in him by the captain and officers of the ship and committed an act of treachery with respect to them. On the other hand, no mitigating circumstances were present, and consequently the adequate penalty must be imposed in the maximum grade.

Against the other defendants, Estanislao de Castro, Ciriaco Silva, Mamerto Avevilla, Manuel Raon, Luis Taunson, Mariano Gunao, Vicente Gallardo, Marcelo Bertos, Severino Damagat, Pio Tionson, Victorino Villacarlos, Antonio Villamor, Dionisio de la Cruz, Cipriano Rizado, Francisco Mendoza, Felipe Almendras, Macario Arevalo, Luis Dialao, Eugenio Olores, Damian Oseson,

Antonio Villagracia, and Tranquilino Aga, the record contains no evidence, not even circumstantial, that they took any part whatever in the mutiny or in the crimes committed on the night of August 13, 1902, and more especially in the murder of Antonio Agudo. Consequently they must be acquitted.

The majority of the court are of the opinion that the same is true with respect to the assistant engineer, Juan Briguella, who they think should also be acquitted of the charge. It is believed that he started the engine under compulsion, the quartermaster having, revolver in hand, ordered him to do so, and having threatened him with death if he failed to obey, and, on the other hand, there is no evidence that he took part in the murder of the first engineer.

I do not concur in the opinion of the majority in this particular. I believe that, as the exculpatory allegation of the defendant Briguella has not been proved, and in consideration of the evidence against him, it having been proved that he performed acts of aid and protection to the principals of the crime both prior to and simultaneous with its commission, he should be convicted as an accomplice.

For the reasons stated, we are of the opinion that the judgment of the court below should be reversed. Telesforo Dasal should be convicted as coprincipal of the crime of murder and condemned to the penalty of death, to be executed in the interior of the prison and in the manner prescribed by article 101 of the Penal Code, the crime having been committed prior to the passage of Act 451 of the Civil Commission. In case said defendant Dasal should be pardoned he should be condemned to the accessory penalties of absolute perpetual disqualification and subjection to the vigilance of the authorities during his lifetime, unless these accessory penalties should be remitted in the pardon of the principal penalty. The other defendants found guilty as accomplices, Benigno Parra, Pablo Concepción, Gregorio Almondia, Pedro Rodríguez, Emilio Lebiga, and Rufino de Jesus, should each be condemned to the penalty of seventeen years of *cadena temporal*, to the accessories of civil interdiction during the period of the principal penalty and to absolute, perpetual disqualification and subjection to the vigilance of the authorities during their respective lifetimes. The said defendants, including the said Dasal, are further condemned to the payment, *pro rata* or *in solidum* of 1,000 insular pesos to the heirs of the deceased, Antonio Agudo, without subsidiary imprisonment in case of insolvency, owing to the gravity of the principal penalty, and to the payment each of one thirty-fifth part of the costs of both instances. The defendants Ciriaco Silva, Mamerto Avevilla, Manuel Raon, Luis Taunson, Mariano Gunao, Vicente Gallardo, Marcelo Bertos, Severino Damagat, Pio Tionson, Victorino Villacarlos, Antonio Villamor, Dionisio de la Cruz, Cipriano Rizado, Francisco Mendoza, Felipe Almendras, Estanislao de Castro, Macario Arevalo, Luis Dialao, Eugenio Olores, Damian Oseson, Antonio Villagracia, Tranquilino Aga, and Juan Briguella are acquitted. The case is finally dismissed with respect to Isidro del Valle, Tiburcio Soriano, and Exequiel Perez, deceased, with the remaining costs of both instances *de oficio*, including the share thereof pertaining to Carlos Septimo and Damaso Soppang, as to whom the case was dismissed during the trial. At the expiration of the usual period the cause will be remanded to the court below, accompanied by a certified copy of this decision for the execution of the judgment. It is so ordered.

Arellano, C. J., Mapa, and McDonough, JJ., concur.

WILLARD, J., concurring:

I concur with respect to the defendants acquitted and as to the defendant Telesforo Dasal, but do not agree with respect to the penalty imposed upon the others, because, in my opinion, the other defendants convicted in this case are not accomplices but coprincipals.

NOTE.—Mr. Justice Johnson took no part in the decision of this case.

Judgment modified.

[No. 1365. December 29, 1903.]

*THE UNITED STATES, complainant and appellee, vs. GERVASIO SANTIAGO ET AL., defendants and appellants.*

**CRIMINAL LAW: MURDER.**—Two of the defendants, employed by the deceased as guides, led the latter into an ambush, where they were suddenly and unexpectedly attacked in the rear with bolos by the guides and their confederates. The deceased were unarmed. *Held*, that the defendants are guilty of murder.

**REVIEW** of a judgment of the Court of First Instance of Zamboales.

The facts are stated in the opinion of the court.

FRANCISCO ZANDUETA, for appellants.

Solicitor-General ARANETA, for appellee.

McDONOUGH, J.:

The defendants, Gervasio Santiago, Narciso Paras, Sotero Abelino, and Espiridion Filipino, were convicted in the court below of the robbery and assassination of three American marines, viz, Leander W. Sundblad, Nicholas P. Johnston, and John P. Conde, at Olongapo, Province of Zamboales, on the 21st of September, 1902, and Sotero Abelino was sentenced to life imprisonment, and on the four other defendants the penalty of death was imposed. The facts proved show that the three men who were assassinated employed the defendants, Sotero Abelino and Espiridion Filipino, on the evening of September 20, 1902, at the town of Olongapo, to act as guides. The marines had been journeying from Subic and were on their way to Manila.

These two guides, on that same evening, met the other three defendants and entered into a conspiracy and plan with them to ambush these marines and to murder and rob them.

On the morning of September 21 the guides and the three Americans started on their journey from the barrio of Binicitan toward Dinalupijan, and, while crossing the river at the second ferry, where the other three defendants were awaiting them, the marines were attacked by all the defendants, with bolos, and were killed. The bodies were dragged to the woods on the shore and left unburied. All the money the deceased had, amounting to about 100 pesos, was taken by the defendants and divided among them.

In January, 1903, word reached the officers of the Constabulary that this crime had been committed, and an investigation was begun, which resulted in the arrest of the defendants.

They all freely and without force, threats, or promises confessed that they had committed the assassination and robbery in question.

These confessions were made to Constabulary officers, to the justice of the peace at Subic, and to the auxiliary justice at Olongapo.

These confessions were corroborated by the testimony of other witnesses and by the finding of the remains of the deceased at a place pointed out by the defendant Gervasio Santiago and within two and a half hours' walk from the presidencia of Olongapo.

These remains, consisting of three skulls and of bones of the legs and the skulls, showed distinct cuts or wounds in the backs of the heads and no cuts in front, except one, which had part of the jaw cut away.

The three Americans were unarmed and were attacked in the rear.

We have examined all the evidence in the case carefully, and have no doubt whatever of the guilt of the defendants.

The judgment of the court below is, therefore, confirmed, except as to the defendant Sotero Abelino, who at the time of the commission of the crime was only seventeen years of age, and who was sentenced to imprisonment for life. The extenuating circumstances of age must be considered with respect to this defendant, who is accordingly sentenced to twenty years of *cadena temporal*, with the corresponding accessories. The de-

fendants herein are also condemned to the payment jointly and severally of an indemnification of 1,000 Mexican pesos to the heirs of each of the deceased, and each of the defendants is furthermore condemned to the payment of a third of the costs. The judgment, thus modified, is affirmed.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and Johnson, J.J., concur.

*Judgment modified.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

TARIFF DECISION CIRCULARS.

No. 357.—“Carriage knobs” or “apron studs” not nails.

MANILA, January 7, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

“In the matter of Protest No. 2363, filed August 14, 1903, by Mr. Choa Tek Hee, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 1964, Voucher No. 4755, paid August 11, 1903.

“The claim in this case is against the classification of certain articles in chief value of nickel-plated brass under paragraph 68 *b* of the Tariff Revision Law of 1901, at \$0.50 per kilo, not less than 15 per cent ad valorem, instead of as nails of nickel-plated brass under paragraph 68 *a*, at \$0.20 per kilo, as entered.

“The articles in question consist of nickel-plated brass knobs or buttons, into the bases of which are inserted small iron pins, which serve the purpose of fastening the articles to the wooden parts of carriages. They are used as buttons or fasteners for carriage aprons or leathers and are commercially known, bought, and sold as ‘carriage knobs,’ ‘apron fasteners,’ ‘apron studs,’ etc., but not as nails.

“A nail is defined as ‘a piece of metal consisting of a slender body, shank, or tang, tapering toward or pointed at one end and having a head at the other end, used for driving into or through wood or other material to fasten one piece to another, or to serve as a projecting pin upon which things may be hung.’ (Standard Dictionary.) The entire article in this case is not a nail within the above definition, but a knob or button attached to a nail, the former being the component material of chief value. The composite articles are not specially mentioned, and being in chief value of nickel-plated brass are provided for under paragraph 69 *b*, where they were properly classified.

“Protest No. 2363 is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands.”

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 361.—*Wooden and copper segments, parts of a commutator for an electric dynamo; other machinery for the generation of electricity.*

MANILA, January 15, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

“In the matter of Protest No. 2034, filed April 14, 1903, by Messrs. Murphy, Morris & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 4811, Voucher No. 12022, paid April 14, 1903.

“The claim in this case is against the classification of certain

wooden and copper segments, parts of a commutator for an electric dynamo, as 'other machinery,' under paragraph 257 (a) of the Tariff Revision Law of 1901, instead of as 'apparatus and appliances (not machinery) for electric lighting and power,' under paragraph 248 (a), at \$3 per 100 kilos, or as 'other machinery for the generation of electricity,' under paragraph 250, at \$5 per 100 kilos, as now claimed in the alternative.

"These parts are vital and essential parts of a dynamo, and as such are so clearly and unmistakably 'machinery' that the frivolous claim that they should be classified under paragraph 248 (a), which is expressly limited to appliances which are *not machinery*, will not be considered save for the purpose of summarily overruling it.

"The next point is that they should be considered as 'other machinery for the generation of electricity.' It has been stated that these parts are machinery and that they are machinery for the generation of electricity. They are not, however, either dynamos, generators, or exciters; therefore they are accurately described as 'other (electric) machinery.'

"Protest No. 2034, on the grounds above mentioned, is therefore sustained and a refund ordered to the importers in the sum of \$6.52, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 364.—*Width of cotton textiles.*

MANILA, January 19, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest No. 2124, filed May 9, 1903, by Messrs. Behn, Meyer & Co., against the decision of the Collector of the Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 8190, Voucher No. 15183, paid May 7, 1903.

"The merchandise in this case consisted of certain plain printed cotton textiles, entered as being 65 centimeters or less in width, under paragraph 117 (b), at the rate of \$0.14 per kilo, plus a surtax of 30 per cent. Upon examination a portion of these textiles was found to exceed 65 centimeters in width, and was returned for duty under paragraph 118 (c), at the rate of \$0.27 per kilo, plus a surtax of 40 per cent. It is against this change in classification that the protest is made, the protesters stating that the difference in width was occasioned during the starching, which caused some of the pieces to turn out wider than was intended.

"It is immaterial to ascertain how or why the larger portion of this consignment exceeded 65 centimeters in width. The fact remains that this merchandise did exceed 65 centimeters in width, and was therefore assessed in accordance with the direct terms of the tariff.

"The line of demarcation is arbitrarily fixed as to width as 65 centimeters, as is also the line of demarcation as to weight at 8 and 10 kilos per 100 square meters, respectively. Certainly no allowance can be made where textiles turn out to be wider than was intended—possibly due to the starching—any more than where not quite enough starch is put in the textile so that it falls under the limit of weight. If textiles exceeded the limit of width by 2 or 3 centimeters and an allowance was made, would not allowances be claimed also where textiles exceed this additional limit by 2 or 3 centimeters? And, conversely, it would be logically permissible, if allowances are to be made, for the appraiser to state that because, in his opinion, certain textiles were cut a trifle narrower than was intended, or that a trifle too much starch had been put in the textiles, they should be assessed at the higher rate because of the apparent or supposed intention.

It is well settled that duty must be assessed on the merchandise as it is imported and in the condition in which it is imported.

"Protest No. 2124, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 365.—*Coriander seeds.*

MANILA, January 23, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest No. 2332, filed August 1, 1903, by Ang Quie Bieng, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in entries Nos. A 540 and A 541, Voucher No. 3642, paid July 31, 1903.

"The claim in this case is against the classification of coriander seed as 'spice,' under paragraph 296 (a) of the Tariff Revision Law of 1901, at \$0.08 per kilo, instead of as 'seeds not elsewhere provided for,' under paragraph 302, at \$0.50 per 100 kilos, as entered, or as 'other simple vegetable products,' under paragraph 81, at \$2.50 per 100 kilos, as now alternatively claimed.

"The question as to what constitutes a spice has been the subject of much controversy in the United States, and several conflicting decisions have been rendered. The latest decision on the subject uses the following language:

"It appears that the list of articles commonly and commercially recognized as spices includes cinnamon, cloves, pepper, nutmeg, allspice, and mace, a class of articles having an aromatic, pungent, vegetable character and used to flavor or give zest to food and certain beverages, but never includes marjoram and thyme leaves."

"It will be noted that those vegetable substances which are commercially known as spices are, as a rule, either tropical or semitropical products, and that the caption of group 3, Class XII, is 'tropical and semitropical products.' Ordinarily very little weight should be given to chapter and section headings in the construction of a statute, still they may be consulted in aid of the interpretation in case of doubt or ambiguity. (Black, *Int. of Laws*, sec. 78.)

"Paragraph 296 provides for 'Cloves and other spices not specially mentioned,' and, applying the rule that 'when a general descriptive term is employed in a statute in connection with words of particular description, the meaning of the general term is to be ascertained by a reference to the words of particular description' (*Wiebusch & Hilger vs. United States*, 84 Fed. Rep., 451; *Dingelstedt vs. United States*, 91 Fed. Rep., 112; *Black on Int. of Laws*, sec. 63), only such spices as are similar to cloves may be classified under this paragraph.

"Coriander seed is not a tropical or semitropical product, nor is it a vegetable product similar to cloves. It is used in medicine as a stimulant and carminative (*Standard Dictionary*, *Century Dictionary*, *Encyclopedia Britannica*, *International Encyclopedia*), and is also used for flavoring food. But it is evident that all products which may be used for flavoring food are not necessarily spices, or, at least, spices such as are enumerated under paragraph 296.

"Paragraph 81 provides for simple vegetable products, no mention being made as to the class of vegetable products which may be classified thereunder, though, falling under the caption of 'simple drugs,' it is to be presumed that only vegetable products which are used in medicine or possessed of medicinal qualities should be classified under that paragraph. Furthermore, it is to be noted that coriander seed is enumerated in trade lists, not under the head of spices, but under the head of seeds and drugs. (Oil, Paint,

and Drug Reporter; American Grocer; New York Commercial; Journal of Commerce and Commercial Bulletin; Druggists' Circular.) It is well settled that in 'fixing the classification of goods for the payment of duties, the name or designation of the goods is to be understood in its known commercial sense, and that their denomination in the market when the law was passed will control their classification, without regard to their scientific designation, the material of which they may be made, or the use to which they may be applied.' (Am. Net and Twine Co. vs. Worthington, 141 U. S., 468, 471.)

"Coriander seed, from an examination of trade lists, is not commercially known as a spice, while it is enumerated in trade lists under the head of drugs. It being a simple drug and a simple vegetable product not otherwise provided for, it is specifically enumerated under paragraph 81 and should be there classified.

"Paragraph 302 provides for seeds which are not otherwise provided for, but as coriander seed is provided for under paragraph 81 as a simple medicinal product, and as it more closely resembles the class of merchandise enumerated under that paragraph as to use than the seeds provided for under paragraph 302, the request for classification under this paragraph is denied.

"Protest No. 2332, on the grounds above mentioned, is therefore sustained and a refund ordered to the importer in the sum of \$45.15, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 366.—*Chaff or forage cutter.*

MANILA, January 27, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2223, filed June 13, 1903, by Messrs. Calder & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 11857, Voucher No. 19447, paid June 12, 1903.

"The claim in this case is against the classification of a chaff or forage cutter under paragraph 257 *b* of the Tariff Revision Law of 1901 as other machinery not otherwise provided for, instead of under paragraph 245 as agricultural machinery.

"A chaff or forage cutter is defined in Knight's American Mechanical Dictionary as 'a machine for chopping or cutting long feed, such as hay, straw, or stalks into chaff'; and in this same dictionary and in Knight's New American Mechanical Dictionary it is enumerated as an agricultural machine or implement.

"The fact that such a machine is used in other than agricultural pursuits does not divest it of its character as an agricultural machine. Plows or harrows are used in making or repairing roads, and yet they are none the less distinctive agricultural machines. The chief use to which a chaff or forage cutter is applied is for agricultural purposes, and it is commercially known as an agricultural machine.

"Protest No. 2223 is therefore sustained, and a refund is ordered in the sum of \$2.08, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 367.—*Wagons.*

MANILA, February 3, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2371, filed August 19, 1903, by

the Pacific Oriental Trading Company, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain passenger wagons described in Entry No. A 2104, Voucher No. 5513, paid August 19, 1903.

"The claim in this case is against the classification of two 'excursion wagons' as 'other carriages with two seats,' under paragraph 261 (b) of the Tariff Revision Law of 1901, at \$15 each, and two 'four-spring mountain wagons' as 'other carriages with not more than four seats,' under paragraph 261 (c), at \$20 each, instead of as 'wagons,' under paragraph 264, at \$7 each, as entered.

"These wagons were classified as carriages on the supposition that their principal use was the carriage of persons, and in accordance therewith with the terms of Tariff Decision Circular No. 87. Investigation, however, has developed the fact that their principal use is the transportation of mail, baggage, and light merchandise, and that the conveyance of passengers, for which provision is made by removable seats, is merely an incidental or secondary use to which they may be put if desired. The chief use is the test in such cases.

"Protest No. 2371, on the grounds mentioned above, is therefore sustained, and a refund ordered to the importer in the sum of \$40, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 368.—*Malleable cast-iron union flanges.*

MANILA, February 3, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2360, filed August 14, 1903, by Messrs. Manuel Earnshaw & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 1665, Voucher, No. 4070, paid August 11, 1903.

"The first claim in this case is against the classification of certain union flanges as malleable cast iron, under paragraph 58 of the Tariff Revision Law of 1901, at \$2.50 per 100 kilos, instead of as cast iron under paragraph 32, at \$1.20 per 100 kilos, as entered.

"An examination of the sample reveals a very close grain, which is due to the fact that a percentage of steel has been admixed, which steel is estimated by various experts to be about 25 per cent. The admixture of the steel in such proportions to what would be ordinarily common cast iron makes the mass somewhat malleable, as shown by a sample piece that has been heated and welded by means of the steam hammer.

"The examiner returned the articles as 'malleable,' assimilating the cast-iron steel mixture to malleable cast iron for the purpose of classification under the Tariff. It is pointed out that under Group 2 (which includes paragraph 32) only ordinary cast iron can be classified, and that malleable cast iron, steel of all descriptions, etc., come under Group 3, a subparagraph of which is paragraph 58. Mixtures of cast iron with steel (in considerable proportions) must be assimilated to one or other kind of iron specially provided for, and they are properly assimilated to malleable cast iron which they closely resemble. This claim is therefore overruled and denied.

"The second claim against assessment of duties upon goods imported from Spain on the usual constitutional grounds, is also overruled and denied.

"Protest No. 2360, on the grounds mentioned above, is therefore



overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 370.—*Strawberry fruit pulp; preserved.*

MANILA, February 3, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1869, filed February 16, 1903, by Mr. M. A. Clarke, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 1879, Voucher No. 5188, paid February 16, 1903.

"The claim in this case is against the classification of certain fruit pulp as a 'sweetmeat,' under paragraph 332 of the Tariff Revision Law of 1901, at \$0.125 per kilo, or not less than 20 per cent ad valorem, the former rate prevailing, instead of as 'preserved fruit,' under paragraph 322 (b), at \$0.04 per kilo, as entered.

"The article under protest is crushed fruit preserved in sugar. Against the classification as a 'sweetmeat' it is pointed out that 'sweetmeat' as defined by the Century Dictionary is as follows:

"(1) 'A sweet thing to eat; an article of confectionery made wholly or principally of sugar; a bonbon.

"(2) 'Fruit preserved with sugar either moist or dry; a conserve; a preserve.'

"It would not be questioned that a fruit preserved whole is more specifically described as 'preserved fruit' (paragraph 331 or 322 b) than as a 'sweetmeat' (paragraph 332). 'Sweetmeat' has two meanings, but from the context of paragraphs 331 and 332, it is obvious that the second meaning is there provided for and that it was the first meaning alone that was in the minds of the legislators when they enacted paragraph 332. To give the second meaning to the word as it appears in paragraph 332 would be to render the paragraph repugnant to both paragraph 322 and 331, which was certainly not the intention of the legislators. The rule which is so clearly applicable in the case of whole fruit, is equally applicable in the case of fruit which is merely crushed. The merchandise in this case has the consistency of a jam or marmalade and should accordingly be classified under paragraph 322 (b). (See Tariff Decision Circular No. 218.)

"Protest No. 1869, on the grounds above mentioned, is therefore sustained, and a refund ordered to the importer in the sum of \$18.11, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

#### CUSTOMS ADMINISTRATIVE CIRCULAR.

No. 281.—*Publishing additional regulations governing the issuance of signal letters and official numbers to vessels in the coastwise trade; and amending Customs Administrative Circular No. 260.*

MANILA, January 26, 1904.

To all Collectors of Customs:

PARAGRAPH I. Paragraph V of Customs Administrative Circular No. 260, dated December 1, 1903, is hereby amended to read as follows:

"PAR. V. The official number shall be marked at the expense of the owner in Arabic numerals, which shall be at least three inches in height when the size of the main beam shall permit. When the main beam is of wood, the figures shall be carved or burned thereon

in figures not less than three-eighths nor more than one-half inch in depth, and one-half inch in width; if the main beam is of iron or other metal, the official number shall be chased thereon in figures not less than one-eighth inch in depth by one-half inch in width."

PAR. II. Signal letters will not be assigned to vessels of less than 15 tons gross burden, nor to vessels not actually engaged in the general coastwise trade.

PAR. III. If signal letters are not desired by owners of vessels of less than 100 tons gross burden, the words "and signal letters" in the application, Form No. 340, should be stricken out.

PAR. IV. The number and class of license, the number of the certificate of protection, and the port at which the application is made, shall be marked on the application of a vessel applying for an official number and signal letters.

PAR. V. So much of Customs Administrative Circular No. 260 as is inconsistent herewith is hereby revoked.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

#### MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 63.

MANILA, January 30, 1904.

PARAGRAPH I. Mr. Wm. J. Spangenberg is hereby designated as information clerk, Manila custom-house, and shall be located in the rotunda, between the importation, exportation, and navigation division and the liquidation division.

PAR. II. Any person applying to him shall be furnished with the necessary information regarding the transaction of their customs business and shall be directed to the division of the custom-house where his or her business should be transacted.

PAR. III. All documents and circulars for public distribution shall be delivered by the Additional Deputy Collector of Customs in charge of the correspondence division to the information clerk, and shall be furnished by him to the persons inquiring for the same.

PAR. IV. The information clerk is hereby directed to use every endeavor to assist the public in the transaction of customs business and to furnish the information needed to insure the prompt and expeditious dispatch of public business.

PAR. V. This order shall be effective on Monday, February 1, 1904.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

#### PHILIPPINE CIVIL SERVICE BOARD.

##### EXAMINATION FOR MACHINIST.

The Civil Service Board announces an examination with a view to securing eligibles for appointment to the position of machinist compensated at an annual salary of \$1,200. Information relative to this examination may be obtained at the office of the Civil Service Board.

##### EXAMINATION FOR ASSISTANT PHARMACIST.

The Civil Service Board announces an examination in Spanish on March 7 for the positions of assistant pharmacist at Bilbilid Prison and in the Bureau of Public Health, compensated at salaries of \$300 and \$240 per annum, respectively. The subjects and weights of this examination will be found under section 39 of the Manual of Information relative to the Philippine Civil Service. Further information and the necessary application blanks may be obtained at the office of the Philippine Civil Service Board, Intendencia Building, Walled City, Manila.

Contents.

Public laws:  
 No. 1046, appropriating the sum of \$500,000, in money of the United States, from the fund of \$3,000,000 appropriated by the Congress of the United States for the relief of distress in the Philippine Islands, for expenditure under the direction of the Civil Governor upon the resolutions of the Philippine Commission.  
 No. 1047, appropriating the sum of \$500,000, in money of the United States, for continuing the improvement of the port of Manila.  
 No. 1048, making appropriation for sundry expenses of the municipal government of the city of Manila for the fiscal year ending June 30, 1904, and other designated periods.

Executive orders:  
 No. 9, regulations which govern the granting of leaves of absence under Act No. 1040.

Decisions of the Supreme Court:  
 The United States vs. Teferoso Dasal et al.  
 The United States vs. Gervasio Santiago et al.

Bureau of Customs and Immigration:  
 Tariff Decision Circulars—  
 No. 357, "carriage knobs" or "apron studs" not nalls.  
 No. 351, wooden and copper segments, parts of a commutator for an electric dynamo; other machinery for the generation of electricity.  
 No. 354, width of cotton textiles.  
 No. 365, coriander seeds.  
 No. 366, chaff of forage cutter.  
 No. 367, wagons.  
 No. 368, malleable cast-iron union flanges.  
 No. 370, strawberry fruit pulp, preserved.

Customs Administrative Circulars:  
 No. 281, publishing additional regulations governing the issuance of signal letters and official numbers to vessels in the coastwise trade, and amending Customs Administrative Circular No. 260.

Manila Custom-House General Order:  
 No. 33, designating as acting Spangenberg information clerk of the Manila custom-house.

Philippine Civil Service Bureau:  
 Examination for machinists.  
 Examination for assistant pharmacist.

Announcement.

The Official Gazette is published weekly by the authority of the Government of the Philippine Islands. It will be furnished by mail to subscribers, free of postage, on the following terms:

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The Government of the Philippine Islands.

Legislative.

THE PHILIPPINE COMMISSION.  
 (Ayuntamiento—The Palace.)

Commissioners.—Luke E. Wright, President; Dean C. Worcester, Henry C. Ide, James F. Smith, Trinidad H. Pardo de Tavera, Jose R. Luzuriga, Benito Legarda.

Executive.

Civil Governor.—Luke E. Wright; acting private secretary, L. W. Manning; Captain General, Noble, Third United States Infantry, Aid-de-Camp to the Civil Governor.  
 Vice-Governor.—Henry C. Ide.  
 Secretary of the Interior.—Dean C. Worcester; private secretary, E. O. Johnson.  
 Secretary of Commerce and Police.—Vacant.  
 Secretary of Finance and Justice.—Henry C. Ide; private secretary, Jackson A. Due.  
 Secretary of Public Instruction.—James F. Smith; private secretary, W. H. Donovan.

EXECUTIVE DEPARTMENT.

Executive Bureau.—A. W. Fergusson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Fergusson, in charge, Translating Division; Claude W. Calvin, Recorder of the Commission, Chief of Legislative Division; G. W. Swindell, Acting Chief of Administration and Finance Division; Sidney Thomas, Chief of Records Division; H. A. Lammpan, Disbursing Officer.  
 Bureau of Insular Purchasing Agent.—Major E. G. Shields, Insular Purchasing Agent; A. L. B. Davies, Local Purchasing Agent.  
 Improvement of the Port of Manila.—Mal. C. McD. Townsend, Corps of Engineers, United States Army, in charge.  
 Philippine Civil Service Bureau (Intendencia Building).—Dr. W. S. Washburn, Chairman; Dr. B. L. Falconer, Dr. Jose Alemany.

DEPARTMENT OF THE INTERIOR.

Board of Health for the Philippine Islands.—Maj. E. C. Carter, Surgeon, United States Army, Commissioner of Public Health; Capt. E. L. Munson, Assistant Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. Manuel Gomez, Secretary.  
 Quarantine Service (United States Public Health and Marine-Hospital Service; 78, Madrid).—Dr. Victor G. Helser, Chief Quarantine Officer; Drs. Chas. W. Vogel and John D. Long, Assistants.

Marvelles Detention and Disinfection Station.—Dr. John M. Holt, in command; Dr. R. H. Creel, Assistant.  
 Isola de Quaranta Station.—Dr. Geo. W. McCoy, in command.  
 Cebu Quarantine Station.—Dr. Carroll Fox, in command.  
 Jolo Quarantine Station.—Dr. M. K. Gwyn, in command.  
 Bureau of Intendencia (Intendencia Building).—Capt. George P. Abern, Ninth Infantry, United States Army, Chief; Raiph C. Bryant, Assistant Chief.  
 Mining Bureau (358 Cabildo).—H. D. McCaskey, Chief.  
 Philippine Weather Bureau (Calle Observatorio, Ermita).—Rev. Jose Algué, S. J., Director (in United States).  
 Bureau of Public Health (Intendencia Building).—Willm M. Tipton, Chief.  
 Bureau of Agriculture (155 Nozalea).—Prof. F. Lamson-Scribner, Chief (on leave); W. E. Welborn, Acting Chief.  
 Entomological Survey for the Philippine Islands (228 Nueva, Ermita).—Professor A. E. Jenks, Chief.  
 Bureau of Government Laboratories (719 Irla).—Dr. P. C. Freer, Superintendent; Laboratories: T. J. C. Freer, Director; Director of Biological Laboratories; Dr. James W. Jobling, director of Serum Laboratory.  
 Hospital Civil Hospital (791 Irla).—Dr. H. Eugene Stafford, Attending Physician and Surgeon.  
 Civil Sanitarium (Bagulo, Benguet).—Dr. J. B. Thomas, Attending Physician and Surgeon.

DEPARTMENT OF COMMERCE AND POLICE.

Bureau of Posts (149 Escolta).—Chas. M. Cottenman, Director; H. M. Robinson, Assistant Director (on leave).  
 Bureau of Philippines Constabulary (228 Anda, Intramuros).—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Banzholtz, U. S. A., Assistant Chief, Commanding Second District; Lieut.-Col. Wallace C. Taylor, Assistant Chief, Commanding Third District; Maj. Jesse S. Garwood, Assistant Chief, Commanding Fourth District; Maj. H. H. Harford, U. S. A., Assistant Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary headquarters, Manila; Col. D. J. Baker, Jr., U. S. A., Assistant Chief, Chief Supply Office.  
 Bureau of Prisons (Headquarters, Bilibid Prison, Calle Irla).—George N. Wolfe, Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William R. Moulden, Resident Physician; Egbert Adams, Cashier, Property and Disbursing Officer.  
 Bureau of Coast Guard and Transportation.—J. M. Helm, Commander, United States Navy, Chief; Capt. Spencer Cobby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.  
 Bureau of Coast and Geodetic Survey (Intendencia Building).—George R. Putnam, Assistant in charge of United States Suboffice.  
 Bureau of Engineering (Santa Potenciana Building).—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcombe, Principal Assistant Engineer; James D. Faunteroy, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

DEPARTMENT OF FINANCE AND JUSTICE.

Bureau of the Insular Treasury (Intendencia Building).—Frank A. Brangan, Treasurer of the Philippine Archipelago; J. L. Barret, Assistant Treasurer.  
 Bureau of the Insular Auditor (Intendencia Building).—Abraham L. Lawabe, Auditor of the Philippine Archipelago; W. W. Barre, Deputy Auditor.  
 Bureau of Customs and Immigration.—W. Morgan Shuster, Collector of Customs for the Philippine Islands (on leave); H. B. McCoy, Acting Collector of Customs of Frank S. Calras, Surveyor (Palace).  
 Bureau of Internal Revenue (147 Anloague).—Albert W. Hastings, Acting Collector.  
 Insular Cold Storage and Ice Plant.—Charles G. Smith, Superintendent.  
 Bureau of Justice.—Lebbus R. Wilfley, Attorney-General (on leave); Washington L. Goldborough, Assistant Attorney-General; Gregorio Aranelo, Solicitor-General; James Ross, Supervisor of Provincial Fiscals; Geo. R. Harvey, Assistant Attorney-General for the Constabulary.

DEPARTMENT OF PUBLIC INSTRUCTION.

Bureau of Education (Santa Potenciana).—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant.  
 Bureau of Public Printing.—John S. Leech, Public Printer.  
 Bureau of Architecture and Construction of Public Buildings (Calle Anloague, 147).—Chas. F. Bourne, Chief.  
 Bureau of Archives (Palace).—Manuel de Irlarte, Chief.  
 Bureau of Patents, Copyrights and Trade-Marks (Palace).—Manuel de Irlarte, in charge.  
 American Circulating Library (70 Rosario).—Mrs. Egbert, Librarian.  
 Official Gazette (Santa Potenciana Building).—Max L. McCollough, Editor.  
 Census Bureau.—Brig. Gen. J. P. Sanger, United States Army, Director of the Census (in United States).

Judiciary.

SUPREME COURT.

(Audiencia, 47 Palacio.)

Chief Justice.—Don Cayetano Arellano.  
 Associate Justices.—Torres J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.  
 Clerk.—J. E. Blanco.  
 Reporter.—Fred C. Fisher.

COURT OF CUSTOMS APPEALS.

(Palace.)

Judge.—A. S. Crossfield.  
 Judge.—Felix M. Roxas.

COURT OF LAND REGISTRATION.

(138 Calle Real, Wallied City.)

Judge.—S. del Rosario.  
 Associate Judge.—R. Williams.  
 Clerk.—J. R. Wilson.

## COURTS OF FIRST INSTANCE.

*Manila, Part 1.*—John C. Sweeney, Judge.  
*Manila, Part 2.*—W. J. Robbe, Judge.  
*Manila, Part 3.*—Byron S. Ambler, Judge.  
*Manila, Part 4.*—Manuel Araullo, Judge.  
*Clerk.*—J. McMicking.  
*First District.*—Albert E. McCabe.  
*Second District.*—Dionicio Changco.  
*Mountain District.*—Charles H. Burritt.  
*Third District.*—Arthur F. Odlin.  
*Fourth District.*—Julio Lorente.  
*Fifth District.*—Estanislao Yusay.  
*Sixth District.*—Ignacio Villamor.  
*Seventh District.*—Paul W. Lineberger.  
*Eighth District.*—Grant T. Trent.  
*Ninth District.*—Henry C. Bates.  
*Tenth District.*—Warren H. Ickla.  
*Eleventh District.*—Adam C. Carson.  
*Twelfth District.*—James H. Blount.  
*Thirteenth District.*—Warren H. Ickla.  
*Fourteenth District.*—John S. Powell.  
*Fifteenth District.*—Wm. F. Norris.  
*Additional Judges.*—Adolph Wislesenus, Capis; Beekman Winthrop; Miguel Logarta.

## Standing Committees, United States Philippine Commission.

*Agriculture and Fisheries.*—Commissioners Luzuriaga (Chairman), Worcester, and Tavera.  
*Appropriations.*—Commissioners Ide (Chairman), Luzuriaga, and Tavera.  
*Banking and Currency.*—Commissioners Luzuriaga (Chairman), Ide, and Legarda.  
*City of Manila.*—Commissioner Legarda (Chairman), the President, and Commissioner Wright.  
*Commerce.*—Commissioners Wright (Chairman), Luzuriaga, and Ide.  
*Franchises and Corporations.*—Commissioner Wright (Chairman), the President, and Commissioner Legarda.  
*Health.*—Commissioners Tavera (Chairman), Worcester, and Smith.  
*Judiciary.*—Commissioners Ide (Chairman), Wright, and the President.  
*Municipal and Provincial Governments.*—Commissioner Tavera (Chairman), the President, and Commissioner Worcester.  
*Non-Christian Tribes.*—Commissioners Worcester (Chairman), Tavera, and Wright.  
*Police and Prisons.*—Commissioners Wright (Chairman), Legarda, and Smith.  
*Printing.*—Commissioners Smith (Chairman), Tavera, and the President.  
*Public Instruction.*—Commissioners Smith (Chairman), Tavera, and Worcester.  
*Public Lands, Mining, and Forestry.*—Commissioner Worcester (Chairman), the President, and Commissioner Luzuriaga.  
*Taxation and Revenue.*—Commissioners Legarda (Chairman), Ide, and Smith.

## Provincial Governments in the Philippines.

*Abra.*—Bangued, capital. Governor, Juan Villamor; secretary-fiscal, Lucas Paredes; supervisor-treasurer, Archibald McFarland.  
*Albay (Luzon).*—Albay, capital. Governor, A. U. Betts; secretary, L. Thomas; treasurer, C. A. Reynolds; supervisor, William A. Crossland; fiscal, M. Calleja.  
*Amboac Comarines (Luzon).*—Nueva Caceres, capital. Governor, Juan Pimental; secretary, Roman Enrile; treasurer, J. Q. A. Braden; supervisor, E. P. Shuman; fiscal, F. Contreras.  
*Antique (Panay).*—San José de Buenavista, capital. Governor, Leandro Pulson; secretary, A. Salazar; supervisor-treasurer, B. T. Reamy; fiscal, V. Gella.  
*Batagan (Luzon).*—Batanga, capital. Governor, Jno. W. Goldman; secretary, L. Giacinto; supervisor-treasurer, Emery R. Yundt; fiscal, Ambrocio Delgado.  
*Batangas (Luzon).*—Batanga, capital. Governor, Simeon Luz; secretary, F. Casdo; treasurer, R. D. Blanchard; supervisor, Ernest J. Westerhouse; fiscal, D. Gloria.  
*Benquet.*—Baguio, capital. Governor, Wm. F. Pack; secretary, Egmid Octaviano; acting supervisor, (provincial governor).  
*Bohol (Bohol).*—Tagbilaran, capital. Governor, Aniceto Clarin; secretary, M. Sarmiento; supervisor-treasurer, C. D. Uplington; fiscal, Gavino Pulveda.  
*Bulacan.*—Malolos, capital. Governor, Pablo Tecson y Ocampo; secretary, Francisco Meralos; treasurer, R. W. Goodhart; supervisor, Harry Thurber; fiscal, M. Orisostomo.

*Cagayan.*—Tuguegarao, capital. Governor, Graciano Gonzaga; secretary, Pastor Saló; treasurer, W. W. Barclay; supervisor, William E. Pearson; fiscal, Vicente Nepomuceno.  
*Capiz (Panay).*—Capiz, capital. Governor, S. Jugo Vidal; secretary, Emilliano Acevedo; supervisor-treasurer, F. S. Chapanay; fiscal, A. Fardo.  
*Cavite.*—Cavite, capital. Governor, Capt. David C. Shaaka, United States Army; secretary, D. Tirona; acting treasurer, James R. Shaw; supervisor, Rufino Naric; fiscal, F. Santa Maria.  
*Cebu (Cebu).*—Cebu, capital. Governor, J. Climaco; secretary, L. Alburo; treasurer, Fred J. Schlotfeldt; supervisor, Harry C. Delano; fiscal, Mariano Cui.  
*Davao.*—Davao, capital. Governor, Julio Agacollit; secretary, M. Flor; treasurer, J. N. Currie; supervisor, Paul F. Green; fiscal, Pollicarpo Soriano.  
*Iloilo (Panay).*—Iloilo, capital. Governor, M. Delgado; secretary, J. Yusay; treasurer, Charles C. McLain; supervisor, Maurice W. Tuttle; fiscal, Andrew V. Smith.  
*Izabela.*—Iligan, capital. Governor, P. Dichoso; secretary, vacant; supervisor-treasurer, N. B. Stewart; fiscal, C. Alzona.  
*La Laguna.*—Santa Cruz, capital. Governor, Juan Cailles; secretary, José Rivera y Cosme; treasurer, Henry K. Love; supervisor, David A. Sherby; fiscal, Higinio Benitez.  
*La Union.*—San Fernando, capital. Governor, Joaquin Ortega; secretary, Andres Aguirre; treasurer, Frank B. Parsons; supervisor, Bert H. Burrel; fiscal, J. Baltazar.  
*Lepanto-Bontoc.*—Cervantes, capital. Governor, William Dinwiddie; secretary-treasurer, James J. Owens; supervisor, M. Goodman; lieutenant-governor (Bontoc), Daniel Folkmar; lieutenant-governor (Amburayan), W. F. Gale.  
*Leyte.*—Tacloban, capital. Acting governor, P. Borsett; secretary, Emigdio Acobedo; treasurer, W. S. Conroy; acting supervisor, Oliver D. Filley; fiscal, R. Fernandez.  
*Masbate.*—Masbate, capital. Governor, Bonifacio Serrano; treasurer, and acting supervisor, J. A. Combaró; fiscal, Ambrosio Delgado.  
*Mindoro.*—Puerto Galera, capital. Governor, Capt. R. S. O'Leary, 30th Infantry, U. S. A.; secretary, Fernando San Agustín; supervisor-treasurer, Carroll H. Lamb; fiscal, M. Quezon.  
*Misamis.*—Cagayan, capital. Governor, M. Corrales; secretary, A. Velez; supervisor-treasurer, E. E. Barton; fiscal, N. Capistrano.  
*Moro.*—Zamboanga, capital. Governor, Gen. Leonard Wood, United States Army; secretary, Capt. George T. Langborne, United States Army; attorney, John E. Springer; treasurer, Fred A. Thompson; engineer and supervisor, Capt. Charles Keller, United States Army; superintendent of schools, Dr. Najesh M. Sateby.  
*Nueva Ecija.*—San Isidro, capital. Governor, Epifanio de los Santos; secretary, R. Roque; treasurer, J. B. Green; supervisor, C. D. Wood; fiscal, R. Mañalac.  
*Nueva Vizcaya.*—Bayombong, capital. Governor, L. E. Bennett; secretary-treasurer, William C. Bryant; acting supervisor, Wm. H. Nippa.  
*Occidental Negros.*—Bacolod, capital. Governor, Leandro Locsin; secretary, L. Moreno; treasurer, P. A. Casanave; supervisor, H. M. Wood; fiscal, M. Blanco.  
*Oriental Negros.*—Dumaguete, capital. Governor, Demetrio Larena; secretary, J. Montenegro; supervisor-treasurer, H. A. Peed; fiscal, E. Araneta.  
*Pampanga.*—Bacolod, capital. Governor, Celerino Joven; secretary, M. Cunanan; treasurer, R. M. Shearer; supervisor, William P. Greager; fiscal, E. Macapinlac.  
*Pangasinan.*—Lingayen, capital. Governor, Macario Favila; secretary, Benito Sison; treasurer, Thomas H. Hardeman; supervisor, Charles F. Vance; fiscal, R. Espiritu.  
*Panaga.*—Cuyo, capital. Governor, Lieut. E. Y. Miller; secretary-treasurer, Hall H. Ewing.  
*Rizal (Luzon).*—Pasig, capital. Governor, Arturo Dancel; secretary, José Tupas; treasurer, Wm. N. Bish; supervisor, Telfair Hodgson; fiscal, Bartolomé Revilla.  
*Romblon.*—Romblon, capital. Governor, Francisco Sanz; secretary, Cornelio Madrigal; supervisor-treasurer, Julius S. Reis.  
*Saragani.*—Saragani, capital. Governor, Segundo Slagson; secretary, Eduardo Feito; treasurer, and acting supervisor, Arthur G. Whittier; fiscal, Domingo Franco y Mosquera.  
*Sorsogon (Luzon).*—Sorsogon, capital. Governor, Bernardino Morales; secretary, M. V. del Rosario; treasurer, R. J. Fanning; supervisor, Harry L. Stevens; fiscal, P. Ballen.  
*Surigao.*—Surigao, capital. Governor, Jugo Salazar; secretary, Rafael Elliot; supervisor-treasurer, George A. Benedict; fiscal, P. Soriano.  
*Tarlac.*—Tarlac, capital. Governor, Alfonso Ramos; secretary, M. Barrera; treasurer, W. E. Jones; supervisor, Sam C. Phipps; fiscal, M. Ilagan.  
*Tayabas.*—Lucena, capital. Governor, Ricardo Paras; secretary, Geraciano Usano; treasurer, William O. Thornton; supervisor, Henry C. Humphrey; fiscal, Sotelo Alandy.  
*Zambales.*—Iba, capital. Governor, Potenciano Lesaca; secretary, Gabriel Alba; supervisor-treasurer, Arthur S. Emery; fiscal, Juan Manday.

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No. 8

## PUBLIC LAWS.

[No. 1049.]

AN ACT MAKING APPROPRIATIONS FOR SUNDRY EXPENSES OF THE INSULAR GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND FOUR, AND OTHER DESIGNATED PERIODS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sums, or so much thereof as may be respectively necessary, are hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, in part compensation for the service of the Insular Government for the fiscal year ending June thirtieth, nineteen hundred and four, unless otherwise stated:

### PHILIPPINE COMMISSION.

For salaries of the President and seven Commissioners, at five thousand dollars per annum each, forty thousand pesos.

### EXECUTIVE.

For salaries as follows: Civil Governor, at fifteen thousand dollars per annum; Secretary of the Interior, at ten thousand five hundred dollars per annum; Secretary of Commerce and Police, at ten thousand five hundred dollars per annum; Secretary of Finance and Justice, at ten thousand five hundred dollars per annum; Secretary of Public Instruction, at ten thousand five hundred dollars per annum; fifty-seven thousand pesos.

### EXECUTIVE BUREAU.

*Salaries and wages, Executive Bureau, nineteen hundred and four:* Executive Secretary, at seven thousand five hundred dollars per annum; Assistant Executive Secretary, at four thousand dollars per annum; chief clerk, at two thousand seven hundred fifty dollars per annum; Recorder of the Commission, at two thousand five hundred dollars per annum; law clerk, at two thousand two hundred and fifty dollars per annum.

### Translating division:

Chief of division, class four; one clerk, class five; one clerk, class six; one clerk, class seven; three clerks, class eight; one clerk, class nine; two clerks, Class A; one clerk, Class F; one messenger, at one hundred and eighty dollars per annum.

### Legislative division:

Chief of division, class five, who shall act as recorder of the Commission in the absence or incapacity of the latter; two clerks, class six; two clerks, class seven; three clerks, class eight; three clerks, class nine; one clerk, Class A; one messenger, at one hundred and eighty dollars per annum; one messenger, at one hundred and twenty dollars per annum.

### Administration and finance division:

Chief of division, class four; one clerk, class five; three clerks, class six; three clerks, class seven; five clerks, class eight; five

clerks, class nine; one clerk, Class A; one clerk, Class B; one clerk, Class C; one clerk, Class D; one clerk, Class E; one clerk, Class F; one clerk, Class G; one clerk, Class H; one clerk, Class I; four employees, at two hundred and forty dollars per annum each; ten messengers, at one hundred and eighty dollars per annum each; two messengers, at one hundred and twenty dollars per annum each.

### Records division:

Chief of division, class four; one clerk, class five; one clerk, class six; five clerks, class seven; five clerks, class eight; six clerks, class nine; one clerk, class ten; one clerk, Class A; one clerk, Class B; one clerk, Class C; one clerk, Class D; one clerk, Class E; one clerk, Class F; one clerk, Class G; one clerk, Class H; one clerk, Class I; four employees, at two hundred and forty dollars per annum each; four messengers, at one hundred and eighty dollars per annum each; one messenger, at one hundred and twenty dollars per annum; one messenger, at sixty dollars per annum.

### Document division:

Chief of division, class five; one clerk, class nine; one clerk, Class F; one employee, at two hundred and forty dollars per annum; two employees, at one hundred and eighty dollars per annum each; one messenger, at one hundred and twenty dollars per annum.

### Division of accounts:

Disbursing officer, at two thousand five hundred dollars per annum; one clerk, class eight; one employee, at three hundred dollars per annum.

### Custodian force:

One janitor, Class A; one watchman, Class B; ten laborers, at one hundred and fifty dollars per annum each; four laborers, at one hundred and twenty dollars per annum each.

### Private secretaries to the Civil Governor and members of the Philippine Commission:

Private secretary to the Civil Governor, at two thousand five hundred dollars per annum; four private secretaries, at two thousand four hundred dollars per annum each, one being from October first, nineteen hundred and three; three private secretaries, at one thousand four hundred dollars per annum each, two being from November first, nineteen hundred and three.

Per diems of five dollars for the United States Army officer detailed as aid-de-camp to the Civil Governor.

For compensation for temporary services of expert translators, when required, not to exceed one thousand pesos.

Total for salaries and wages, one hundred and thirty-eight thousand four hundred pesos.

*Transportation, Executive Bureau, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees on official business; transportation of supplies; and for rental of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent; six hundred pesos.

*Contingent expenses, Malacañan Palace, nineteen hundred and four:* For contingent expenses of Malacañan Palace, including lighting of park, purchase and repair of furniture, improvement of buildings and grounds, and other incidental expenses; one thousand pesos.

*Contingent expenses, Executive Bureau, nineteen hundred and four:* For contingent expenses, including a fund not exceeding six thousand pesos to be expended in the discretion of the Civil Governor; electric lighting and supplies for Ayuntamiento Building; purchase of office furniture and supplies, including repairs; advertising, cablegrams, and other incidental expenses; sixty thousand pesos.

In all, for the Executive Bureau, two hundred thousand pesos.

#### PHILIPPINE CIVIL SERVICE BOARD.

*Salaries and wages, Philippine Civil Service Board, nineteen hundred and four:* Three members, at three thousand five hundred dollars per annum each; one examiner, class three; one examiner, class five; two examiners, class six; three examiners, class seven; six examiners, class eight; six clerks, class nine; two clerks, class ten; one clerk, Class A; one clerk, Class B; one clerk, Class C; one clerk, Class D; one clerk, Class E; one clerk, Class F; one clerk, Class G; one clerk, Class H; one employee, Class I; one employee, Class J; one messenger, at one hundred and eighty dollars per annum; extra allowance for disbursing officer, at two hundred dollars per annum; extra allowance for chief examiner, at five hundred dollars per annum; thirty-four thousand pesos.

*Contingent expenses, Philippine Civil Service Board, nineteen hundred and four:* For contingent expenses, including the purchase and repair of furniture, the purchase of office supplies and books, advertising, and other incidental expenses, six hundred pesos.

In all, for the Philippine Civil Service Board, thirty-four thousand six hundred pesos.

#### BUREAU OF THE INSULAR PURCHASING AGENT.

*Salaries and wages, Bureau of the Insular Purchasing Agent, nineteen hundred and four:* Insular Purchasing Agent, at four thousand five hundred dollars per annum; Local Purchasing Agent, at three thousand five hundred dollars per annum; Assistant Insular Purchasing Agent, at three thousand dollars per annum; one chief clerk, class five; one disbursing officer and cashier, class four; one clerk, class five; one buyer, class five; one buyer, class six; two clerks, class six; five clerks, class seven; one superintendent of transportation, class seven; nine clerks, class eight; one superintendent of lumber yard, class eight, at one thousand five hundred dollars per annum; twelve clerks, class nine; one superintendent of coal yard, class nine; one superintendent of hardware department, class nine; one superintendent of transportation, class nine, for three months only; one corral foreman, class nine; six mechanics, at one thousand and eighty dollars per annum each; one painter, at one thousand and eighty dollars per annum; one saddler, at one thousand and eighty dollars per annum; one clerk, class ten, at one thousand and fifty dollars per annum; four clerks, class ten; ten clerks, Class A; seven truck drivers, Class A; eight ambulance drivers, Class A, four for one month and ten days only; one chief watchman, Class A; four clerks, Class B; five clerks, Class C; ten watchmen, Class C; twenty-two teamsters, Class C; fourteen clerks, Class D; three clerks, Class E; one saddler, for three months only, at four hundred and forty dollars per annum; one carpenter, for three months only, at four hundred and forty dollars per annum; fifteen mechanics, at two hundred and ninety-four dollars per annum each; two drivers, at two hundred and forty dollars per annum each; eight cocheros and stablemen, at one hundred and eighty dollars per annum each; one hundred and sixty cocheros and laborers in transportation department, at one hundred and fifty dollars per annum each; three mechanics, at one hundred and eighty dollars

per annum each; for hire of messengers, at not more than one hundred and eighty dollars per annum each, one thousand eight hundred pesos, or so much thereof as may be necessary; for hire of lorchas crews, not to exceed three thousand four hundred pesos; for hire of not more than two assistant foremen, at seven pesos or less per diem each, assistant foremen as may be necessary, at not to exceed six pesos per diem each, emergency clerks and laborers as may be necessary from time to time in the coal and lumber yards and for handling supplies, not to exceed forty-eight thousand pesos.

Total salaries and wages, one hundred and seventy-six thousand pesos.

*Contingent expenses, Bureau of the Insular Purchasing Agent, nineteen hundred and four:* For contingent expenses, including the purchase of office furniture and supplies; cablegrams, telegrams, and postage; rents and repairs; forage for animals; purchase of animals, harness, and vehicles; veterinary attendance and supplies; repairs to transportation; purchase of corral supplies and shop tools, litters, and metal coffins; advertising, and other incidental expenses; one hundred and twenty thousand pesos.

In all, for the Bureau of the Insular Purchasing Agent, two hundred and ninety-six thousand pesos.

#### DEPARTMENT OF THE INTERIOR.

##### BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

*Salaries and wages, Board of Health for the Philippine Islands, nineteen hundred and four:* Chief Health Inspector, at three thousand five hundred dollars per annum; Sanitary Engineer for the Philippine Islands, at three thousand five hundred dollars per annum; one physician in charge of San Lazaro Hospitals, at three thousand five hundred dollars per annum; secretary, at two thousand five hundred dollars per annum; four medical inspectors, at two thousand five hundred dollars per annum each; one clerk, class five; seven medical inspectors, class five; one clerk, class six; two veterinarians, class six; one cashier, class seven; two clerks, class seven; four clerks, class eight; six clerks, class nine; one interpreter and translator, class nine; two chief sanitary inspectors, class ten; five clerks, Class A; one employee, Class A; six clerks, Class D; one chaplain and superintendent, San Lazaro Leper Hospital, Cebu, at six hundred dollars per annum; two clerks, Class H; one employee, Class J; one superintendent, Palestina Leper Hospital, at four hundred and fifty dollars per annum; one hundred inspectors and vaccinators, at not to exceed three hundred and sixty dollars per annum each; seven employees, at one hundred and eighty dollars per annum each; five employees, at one hundred and fifty dollars per annum each; four employees, at one hundred and twenty dollars per annum each; three employees, at ninety dollars per annum each; ten employees, at sixty dollars per annum each; for San Lazaro Hospitals, one superintendent, class nine; one dispensing clerk, class nine; one chief trained nurse, class nine; one physician, class ten; one physician, Class A; one clerk, Class A; five nurses, Class A; one cook, Class A; four employees, Class J; one employee, at two hundred and eighty-eight dollars per annum; four employees, at one hundred and eighty dollars per annum each; eight employees, at one hundred and fifty dollars per annum each, fourteen employees, at one hundred and twenty dollars per annum each, twenty-two employees, at ninety dollars per annum each, three employees, at seventy-two dollars per annum each, with quarters and subsistence under the provisions of Act Numbered One thousand and ten; and one engineer, at two hundred and eighty-eight dollars per annum; four employees, at two hundred and eighty-eight dollars per annum each, six employees, at one hundred and twenty dollars per annum each, without quarters and subsistence; per diems of eight dollars to the Army officer detailed as Commissioner of Public Health; per diems of five dollars to the Army officer detailed as assistant to the Commissioner of Public Health; extra allowance for disbursing clerk, at two hundred dollars per annum; president

of the board of health of Antique, at one thousand two hundred dollars per annum; president of the board of health of Mindoro, at one thousand two hundred dollars per annum; president of the board of health of Surigao, at one thousand two hundred dollars per annum; compensation of secretary-treasurers' and examiners' fees, as provided by law, for the Board of Medical Examiners, Board of Pharmaceutical Examiners, and Board of Dental Examiners, not to exceed one thousand nine hundred pesos; for hire of temporary emergency employees, not to exceed four thousand pesos; allowance of twenty centavos per diem each to twelve leper policemen at San Lazaro Hospitals.

*For sanitation of the City of Manila:*

One sanitary engineer, until March first, nineteen hundred and four, only, at three thousand dollars per annum; seven medical inspectors, class five; one clerk, class nine, until March first, nineteen hundred and four, only; one chief disinfecter, class nine; ten chief sanitary inspectors, class ten; three disinfectors, Class A; three municipal pharmacists, Class A; nine municipal physicians, at seven hundred and fifty dollars per annum each; two clerks, Class C; one clerk, Class D, until March first, nineteen hundred and four, only; one employee, Class D; three employees, Class H; forty-six sanitary inspectors, Class I, thirty-six of whom shall be to February first, nineteen hundred and four, only; three clerks for municipal pharmacies, Class J; fifteen employees, Class J; fifteen vaccinators, Class J; nine disinfectors, at one hundred and eighty dollars per annum each; eleven employees, at one hundred and twenty dollars per annum each.

Total for salaries and wages, one hundred and fifty thousand pesos.

*Support of hospitals, plants, and stations, Board of Health for the Philippine Islands, nineteen hundred and four:* For support and maintenance of the women's department, San Lazaro Hospital; leper department, San Lazaro Hospital; bubonic plague, smallpox, and cholera departments, San Lazaro Hospitals; morgue and crematory; Hospicio de San José; Colegio de Santa Isabel; San Lazaro Hospital at Cebu; Palestina Leper Hospital; repairs to buildings on La Lomboy estate and aqueduct for bringing water to same, for hospital for insane, not to exceed ten thousand pesos; for the free dispensing of medicines and medical supplies to indigent natives; and for veterinary department; seventy-eight thousand pesos.

*Public works, Board of Health for the Philippine Islands, nineteen hundred and four:* For filling in and grading ground around San Lazaro Hospital buildings, not to exceed five thousand pesos.

*Public works, Board of Health for the Philippine Islands:* For reimbursement of John M. Hooks, William H. Gray, and estate of Louis J. Dupuy for amounts expended by them for subsistence while employed on the Island of Culion, between December seventh, nineteen hundred and two, and July thirty-first, nineteen hundred and three, six hundred pesos, or so much thereof as may be necessary.

*Suppression and extermination of epidemic diseases and pests, Board of Health for the Philippine Islands, nineteen hundred and four:* For the suppression and extermination of epidemic diseases and pests; rentals; equipment and maintenance of dispensaries, hospitals, plants, and camps, and stations for epidemic diseases, including medicines for the same; expenses of disposition of the dead for sanitary reasons; subsistence of employees and inmates of hospitals, plants, and camps outside the city of Manila; subsistence of employees sent to provinces for temporary duty; traveling expenses of one hundred vaccinators and inspectors of vaccination, not to exceed twenty-four thousand pesos; expenses incurred in the distribution of distilled water; purchase of disinfectants and disinfecting apparatus, rat traps and bait; reimbursement for property, clothing, and so forth, destroyed to prevent the spread of epidemics in the provinces, expenses incurred in cleaning up infected districts; medicines and medical supplies for indigent natives; ice and ice boxes for preservation

and shipment of vaccine virus, not to exceed two thousand two hundred pesos; purchase of flannel for free distribution to indigent natives in Manila to be used as covering for infants; forty-four thousand pesos. *Provided,* That no portion of this appropriation shall be available for the payment of either permanent or temporary salaries or wages.

*Transportation, Board of Health for the Philippine Islands, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees of the Board of Health, and the transportation of freight; for rental of launches for inspection in the harbor and river at Manila, not to exceed one month, at four hundred and fifty dollars per month; for hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent, not to exceed four thousand three hundred and twenty pesos; eight thousand pesos.

*Contingent expenses, Board of Health for the Philippine Islands, nineteen hundred and four:* For contingent expenses, including purchase of office furniture and supplies; repairs to furniture; rent of telephones; cablegrams, postage, and telegrams; medical and professional books and periodicals; surgical appliances and instruments; incidentals for the Board of Medical Examiners, the Board of Pharmaceutical Examiners, and the Board of Dental Examiners; one watering cart and three handcars for the San Lazaro Hospitals, not to exceed three hundred pesos; drafting instruments, tables, and supplies, five hundred and thirty pesos, or so much thereof as may be necessary; twelve thousand six hundred pesos.

*Salaries and wages, installation of the pail system in the city of Manila, Board of Health for the Philippine Islands, nineteen hundred and four:* The unexpended balance of the funds appropriated under this head in Act Numbered Eight hundred and seven is hereby made available for the payment of one mate, Class A, from December eighth to thirty-first, inclusive, nineteen hundred and three, with subsistence at one peso per diem; one night superintendent, Class A, from December eighth to thirty-first, inclusive, nineteen hundred and three; one first assistant engineer, Class A, one patron, Class F, two firemen, at one hundred and eighty dollars per annum each, one coal passer, at one hundred and fifty dollars per annum, two quartermasters, at one hundred and fifty dollars per annum each, and two sailors, at one hundred and twenty dollars per annum each, with subsistence at thirty centavos per diem each, from December eighth to thirty-first, inclusive, nineteen hundred and three.

In all, for the Board of Health for the Philippine Islands, two hundred and ninety-eight thousand two hundred pesos.

The pail system, heretofore operated by the Insular Government under the provisions of Acts Numbered Three hundred and thirty, Four hundred and thirty, and Four hundred and thirty-seven, as follows: "The difference between the amount expended for the installation of the pail system in the city of Manila and the amount collected therefor from property owners and deposited in the Insular Treasury, shall be reimbursed to the Insular Government by the city of Manila, and when such reimbursement is fully made all property, such as launches, barges, trucks, commodes, and so forth, purchased in carrying out the provisions of the appropriation, shall revert to and become the property of the city of Manila," is hereby transferred to the city of Manila as of January first, nineteen hundred and four, full payment therefor to be made by the city of Manila, as contemplated by said Acts, upon statement of the account by the Insular Auditor.

The unexpended balances of appropriations heretofore made for the support of the pail system are hereby transferred to the city of Manila for expenditure for said pail system as originally contemplated, and the unpaid obligations on account of said pail system shall be a proper charge against the city of Manila.

QUARANTINE SERVICE.

*Salaries and wages, Quarantine Service, nineteen hundred and four:* Two officers, at thousand two hundred dollars per an-

num each; one officer, at two thousand dollars per annum; six officers, at one thousand six hundred dollars per annum each; two officers, at one thousand six hundred dollars per annum each, for one month; one officer, at seven hundred dollars per annum; one engineer, class nine; two clerks, class ten, at one thousand and twenty dollars per annum each; one clerk and disinfectant, Class A; one chief disinfectant, Class A; one watchman, Class A; two disinfectants, Class D; two engineers, Class F; one assistant engineer, Class F; one vaccinator and disinfectant, Class F; two disinfectants, Class H; one cook, Class H; two clerks and disinfectants, Class I; two clerks and disinfectants, Class J; one mechanic, Class J; two disinfectants' assistants, Class J; one messenger, at one hundred and eighty dollars per annum; fifteen attendants, at one hundred and eighty dollars per annum each; seven employees, at one hundred and twenty dollars per annum each; launch crews, including one patron, at five hundred and forty dollars per annum; two patrons, at four hundred and twenty dollars per annum each; one engineer, at five hundred and forty dollars per annum; two engineers, at four hundred and twenty dollars per annum each; one assistant engineer, at three hundred and ninety dollars per annum; one quartermaster at two hundred and seventy dollars per annum; two quartermasters, at one hundred and fifty dollars per annum each; two firemen, at two hundred and seventy dollars per annum each; four firemen, at one hundred and fifty dollars per annum each; four sailors, at one hundred and eighty dollars per annum each; six sailors, at one hundred and twenty dollars per annum each; and emergency attendants, disinfectants' assistants, and laborers assisting regular force in disinfecting and handling supplies or necessitated by the presence of quarantine diseases, not to exceed an aggregate of one thousand two hundred pesos; thirty-five thousand pesos.

*Commutation of quarters, Quarantine Service, nineteen hundred and four:* For one officer, at two hundred pesos per month; for one officer, at one hundred and seventy pesos per month; for five officers, at one hundred and sixty pesos per month each; for two officers, at one hundred and sixty pesos per month each, for one month only; and for one officer, at one hundred pesos per month; five thousand seven hundred and fifty pesos.

*Transportation, Quarantine Service, nineteen hundred and four:* For transportation of supplies; for the maintenance and operation of launches and barges, including repairs and the purchase of coal, oil, tools, and supplies for same; forage; traveling expenses of officers and employees on official business; and hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent, not to exceed six hundred pesos; ten thousand pesos.

*Support of Mariveles Quarantine Station, Quarantine Service, nineteen hundred and four:* For the support of Mariveles Quarantine Station, including the purchase of disinfecting apparatus, disinfectants, equipment, fuel, furniture, oils, supplies, and tools; purchase of three ranges for steerage barracks; and repairs to buildings and wharves; fifteen thousand pesos.

*Contingent expenses, Quarantine Service, nineteen hundred and four:* For contingent expenses, including rent of buildings and offices at Manila, Iloilo, and Cebu; purchase of office furniture and supplies; apparatus; medical instruments; medical books and publications, not to exceed one hundred pesos; repairs to equipment and furniture; advertising, cablegrams, ice, postage, and other incidental expenses; two thousand pesos.

In all, for the Quarantine Service, sixty-seven thousand seven hundred and fifty pesos.

#### FORESTRY BUREAU.

*Salaries and wages, Forestry Bureau, nineteen hundred and four:* Assistant Chief of Bureau, at three thousand dollars per annum; six foresters, at two thousand four hundred dollars per annum each; one civil engineer, from August twenty-fourth, nineteen hundred and three, at two thousand four hundred dollars

per annum; one inspector, class five, from March first, nineteen hundred and four; two clerks, class six; five inspectors, class six, one being until March first, nineteen hundred and four only; one clerk, class seven; one engineer assistant, class eight; five employees, class eight; three assistant inspectors, class eight; six clerks, class nine; four assistant inspectors, class nine; one skilled workman, class nine; six assistant inspectors, Class A; one skilled workman, Class A, from November twenty-first, nineteen hundred and three; four clerks, Class A; four assistant inspectors, Class C; three clerks, Class D; thirteen rangers, Class D; eight skilled workmen, Class F; forty rangers, Class G; two draftsmen, Class H; six skilled workmen, Class H; seventy-five rangers, Class I; six clerks, Class I; thirteen skilled workmen, Class J; six laborers, at one hundred and fifty dollars per annum each; three messengers, at one hundred and fifty dollars per annum each; wages of launch crew, including one master, at one thousand and eighty dollars per annum, and one chief engineer, Class F, with commutation of rations at fifty cents each per diem; one assistant engineer, Class H, one cook, at one hundred and eighty dollars per annum, two quartermasters, at one hundred and fifty dollars per annum each, three firemen, at one hundred and thirty-two dollars per annum each, and four sailors, at one hundred and twenty dollars per annum each, with commutation of rations at fifteen cents per diem for each petty officer and member of the crew; per diems of five dollars to the Army officer detailed as Chief of the Bureau; extra allowance for disbursing clerk, at two hundred dollars per annum; and hire of laborers for field parties, not to exceed six thousand pesos; one hundred and ten thousand pesos.

*Transportation, Bureau of Forestry, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees; per diems of one dollar for employees above the grade of Class D in lieu of traveling expenses, except cost of transportation, when absent from their stations on official business, cost of transportation herein provided being construed to include subsistence when traveling on steamships; per diems of twenty-five cents for employees stationed in the provinces in lieu of cost of forage for horses to be furnished by them and used as means of transportation in and about the territory covered by them; transportation of freight; hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent; repair and maintenance of launch; ten thousand six hundred pesos.

*Contingent expenses, Forestry Bureau, nineteen hundred and four:* For contingent expenses, including rent of offices, laboratory, grounds, and telephones; purchase of books and periodicals, not exceeding one hundred pesos; purchase of plants, seeds, wood samples, and materials, and other incidental expenses; eighteen thousand pesos.

In all, for the Forestry Bureau, one hundred and thirty-eight thousand six hundred pesos.

#### MINING BUREAU.

*Salaries and wages, Mining Bureau, nineteen hundred and four:* Chief of Bureau, at three thousand dollars per annum; two geologists, class four; one field assistant, class six; one field assistant, class nine; one chief clerk, class eight; one clerk, Class C; one draftsman, Class D; one draftsman, Class F; hire of porters, laborers, and so forth, not to exceed two hundred and ten pesos; hire of temporary employees for field work, under the provisions of section two of Act Numbered Nine hundred and sixteen, not to exceed one thousand one hundred and twenty pesos; ten thousand eight hundred pesos.

*Transportation, Mining Bureau, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees; per diems of one dollar for employees above the grade of Class D, and of fifty cents for employees of the grade of Class D or lower, in lieu of traveling expenses, except cost of transportation when absent from Manila on official business, the cost of

transportation herein provided being construed to include subsistence when traveling on steamships; transportation of supplies; hire of vehicles in Manila on official business when such transportation can not be furnished by Insular Purchasing Agent, not to exceed two hundred pesos; one thousand eight hundred pesos.

*Contingent expenses, Mining Bureau, nineteen hundred and four:* For contingent expenses, including purchase of office furniture and supplies; technical books and journals, not to exceed four hundred and seventy pesos; tents, mess kit, tools, and so forth, not to exceed one hundred and thirty pesos; advertising, ice, water, and other incidental expenses; one thousand three hundred and fifty pesos.

In all, for the Mining Bureau, thirteen thousand nine hundred and fifty pesos.

#### PHILIPPINE WEATHER BUREAU.

*Salaries and wages, Philippine Weather Bureau, nineteen hundred and four:* Director, at two thousand five hundred dollars per annum; three assistant directors, at one thousand eight hundred dollars per annum each; secretary and librarian, at one thousand four hundred dollars per annum; three observers, at nine hundred dollars per annum each; three calculators, at seven hundred and twenty dollars per annum each; two assistant observers, at six hundred dollars per annum each; one assistant librarian, at six hundred dollars per annum; two assistant calculators, at three hundred dollars per annum each; one draftsman, Class C; one draftsman, Class D; one mechanic, Class C; one mechanic, Class D; one mechanic, Class G; one mechanic, Class I; two janitors, at one hundred and fifty dollars per annum each; two messengers, at one hundred and fifty dollars per annum each; seven chief observers, at six hundred dollars per annum each; seven assistant observers, at one hundred dollars per annum each; eleven observers, at three hundred dollars per annum each; twenty-six observers, at one hundred and eighty dollars per annum each; ten observers for rain stations, at ninety dollars per annum each; one observer-telegrapher, at nine hundred dollars per annum; extra allowance for disbursing clerk, at two hundred dollars per annum; thirty-five thousand four hundred pesos.

*Transportation, Philippine Weather Bureau, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees and the transportation of supplies, two hundred and fifty pesos.

*Contingent expenses, Philippine Weather Bureau, nineteen hundred and four:* For contingent expenses, including rent, advertising, postage stamps and box rent, electric light and telephone, stationery, supplies, ice, office furniture, the purchase of and installation of instruments in branch stations, and other incidental expenses; five thousand two hundred pesos.

In all, for the Philippine Weather Bureau, forty thousand eight hundred and fifty pesos.

#### BUREAU OF PUBLIC LANDS.

*Salaries and wages, Bureau of Public Lands, nineteen hundred and four:* Chief of Bureau, at three thousand two hundred dollars per annum; one clerk, class four; one draftsman, class six; one clerk, class six; two clerks, class seven; one draftsman, class eight; three clerks, class eight; three clerks, class nine; one clerk, class ten; one surveyor, Class C; one draftsman, Class G; two draftsmen, Class H; four clerks, Class H; one messenger, at one hundred and twenty dollars per annum; for hire of labor, not to exceed six hundred pesos; twenty thousand eight hundred pesos.

*Transportation, Bureau of Public Lands, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees, and for the hire of transportation for employees engaged in work upon the San Lazaro estate, not to exceed four pesos and fifty centavos per day, when such transportation can not be furnished by the Insular Purchasing Agent; six hundred pesos.

*Contingent expenses, Bureau of Public Lands, nineteen hundred*

*and four:* For contingent expenses, including the purchase of office furniture and supplies; purchase of books, not to exceed two hundred pesos; surveyors' supplies; advertising, and other incidental expenses; one thousand six hundred pesos.

In all, for the Bureau of Public Lands, twenty-three thousand pesos.

#### BUREAU OF AGRICULTURE.

*Salaries and wages, Bureau of Agriculture, nineteen hundred and four:* Chief of Bureau, at four thousand dollars per annum; Assistant Chief of Bureau, at three thousand dollars per annum; one director of animal industry, class three; one fiber expert, class five; one horticulturist, class five; one superintendent of Government farms, class six; one soil physicist, class six, from September eleventh, nineteen hundred and three; one expert in tropical agriculture, class eight; one expert in plant culture and breeding, class nine; one superintendent of experimental station, Manila, class nine, until April first, nineteen hundred and four, only; one expert in farm machinery and management, class ten; one clerk, class five; one clerk, class seven; three clerks, class eight; two clerks, class nine; one gardener, Class A; one overseer, Class A; two clerks, Class C; two teamsters, Class C; two horticultural apprentices, at one hundred and eighty dollars per annum each; two employees, at one hundred and eighty dollars per annum each; one manager of stock farm, class five; one foreman at San Ramon farm, Class A; one teamster at stock farm, Class C; one foreman at experimental station, Manila, Class F; one foreman, Batangas, Class D; extra allowance for disbursing clerk, at two hundred dollars per annum; for hire of laborers required in Manila, Singalong, Baguio, Batangas, and San Ramon, not to exceed thirteen thousand pesos; forty-six thousand pesos.

The employment of four skilled laborers, at four dollars per day, at the Government rice farm, for a period of two months, previously authorized by the Secretary of the Interior, is hereby approved and made a proper charge against the appropriation in section four of Act Numbered Six hundred and thirty-four.

*Transportation, Bureau of Agriculture, nineteen hundred and four:* For per diems of two dollars and fifty cents for officers and employees on official travel under the same provisions as applied to the traveling examiners of the Auditor's and Treasurer's offices by Act Numbered Three hundred and fifty-eight, and the transportation of supplies, three thousand pesos.

*Contingent expenses, Bureau of Agriculture, nineteen hundred and four:* For contingent expenses, including the collection and purchase of bulbs, plants, roots, seeds, shrubs, trees, and vines for experiment, cultivation, and distribution; for purchase of and subscription to scientific and technical books, magazines, periodicals, and publications, not to exceed three hundred pesos; purchase of office furniture and supplies; rent of post-office box and telephone; purchase of carts, forage, forges, harness, tools, wagons, and so forth, repairs, shoeing of animals, veterinary attendance and supplies, not to exceed twelve thousand pesos; purchase of building materials and carpenter tools, not exceeding five hundred pesos; advertising, electric lighting, rents, and other incidental expenses; eighteen thousand pesos.

In all, for the Bureau of Agriculture, sixty-seven thousand pesos.

#### THE ETHNOLOGICAL SURVEY FOR THE PHILIPPINE ISLANDS.

*Salaries and wages, the Ethnological Survey for the Philippine Islands, nineteen hundred and four:* Chief of Survey, at three thousand five hundred dollars per annum; assistant chief of survey, at two thousand four hundred dollars per annum; one clerk, class seven; one collector of natural-history specimens, class eight; one clerk, class eight; one clerk, class nine; one assistant collector of natural-history specimens, Class D; one clerk, Class E; one clerk, Class I; one assistant collector of natural-history specimens, Class J; one messenger, at one hundred and eighty dollars per annum; one janitor, at ninety dollars per annum; eight thousand pesos.



*Transportation, the Ethnological Survey for the Philippine Islands, nineteen hundred and four:* For the actual and necessary traveling and field expenses of officers and employees engaged in collecting data and materials; for transportation of materials and supplies; hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent, not to exceed three hundred pesos; five hundred pesos.

*Contingent expenses, the Ethnological Survey for the Philippine Islands, nineteen hundred and four:* For contingent expenses, including the purchase of office supplies and periodicals; purchase of museum specimens, not to exceed two hundred pesos; advertising, rent, and other incidental expenses; two thousand pesos.

In all, for the Ethnological Survey for the Philippine Islands, ten thousand five hundred pesos.

#### BUREAU OF GOVERNMENT LABORATORIES.

*Salaries and wages, Bureau of Government Laboratories, nineteen hundred and four:* Superintendent of Government Laboratories, at six thousand dollars per annum; Director of the Biological Laboratory, at three thousand five hundred dollars per annum; Director of the Serum Laboratory, at two thousand five hundred dollars per annum; one employee, class two; two employees, class three; two employees, class four; three employees, class five; four employees, class six; five employees, class seven; two employees, class eight, at one thousand five hundred dollars per annum each; nine employees, class eight; eight employees, class nine; four employees, Class A; one employee, Class D; three employees, at four hundred and fifty dollars per annum each; three employees, Class I; four employees, Class J; one employee, at two hundred and sixteen dollars per annum; one employee, at one hundred and eighty dollars per annum; six employees, at one hundred and fifty dollars per annum each; seven employees, at one hundred and twenty dollars per annum each; twenty-five laborers, at one hundred and fifty dollars per annum each; two emergency inoculators, at not to exceed five pesos per diem each; eighty thousand pesos.

*Contingent expenses, Bureau of Government Laboratories, nineteen hundred and four:* For contingent expenses, including the purchase of apparatus, bottles, chemicals, herbarium cases, office and photographer's supplies, shelter tents and supplies for field parties; rent of Laboratory buildings, post-office box and telephones; purchase of animals for diagnostic, serum, and vaccine work, and forage for such animals; purchase of botanical and entomological specimens, not to exceed one hundred pesos; ice, distilled water, cablegrams, lighting; repairs to apparatus; fuel for gas machines; furniture for new building; furniture, library supplies, and so forth; for new library; advertising and other incidental expenses; twenty-nine thousand pesos.

In all, for the Bureau of Government Laboratories, one hundred and nine thousand pesos.

#### PHILIPPINE CIVIL HOSPITAL.

*Salaries and wages, Philippine Civil Hospital, nineteen hundred and four:* Attending Physician and Surgeon, at three thousand five hundred dollars per annum; two house surgeons, at one thousand two hundred dollars per annum each, one superintendent, class eight, one dispensing clerk, class nine, one chief nurse, at one thousand and twenty dollars per annum, one clerk, class ten, one clerk, Class A, one matron, Class A, one dietist, Class B, one nurse, Class B, thirteen nurses, Class C, two ward attendants, Class C, from November first, nineteen hundred and three, one clerk, Class D, ten ward attendants, Class D, two ambulance drivers, Class D, one employee, Class G, two employees, Class I, two employees, at one hundred and eighty dollars per annum each, six employees, at one hundred and thirty-two dollars per annum each; six employees, at one hundred and eight dollars per annum each, ten employees, at eighty-four dollars per annum each, with subsistence and quarters; extra allowance for disbursing clerk, at two hundred dollars per annum; and for the employment of sub-

stitutes in places of clerks and employees granted leaves of absence, not to exceed one thousand five hundred pesos; thirty-eight thousand pesos.

*Contingent expenses, Philippine Civil Hospital, nineteen hundred and four:* For contingent expenses, including the purchase of drugs and medicines; medical and surgical supplies and instruments, and repairs to latter; rent of buildings; electric current; telephones; subsistence of patients and employees; purchase of fuel, forage, ice, induction coil, and accessories for X-ray apparatus, office and hospital furniture and supplies; hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent, not to exceed two hundred and fifty pesos; and other incidental expenses; sixty-seven thousand pesos.

In all, for the Philippine Civil Hospital, one hundred and five thousand pesos.

#### CIVIL SANITARIUM, BENGUET.

*Salaries and wages, Civil Sanitarium, Benguet, nineteen hundred and four:* Attending Physician and Surgeon, at two thousand four hundred dollars per annum; one dispensing clerk, class nine; one nurse and housekeeper, Class A; one nurse, Class C; two employees, Class D, one being for three months only; one employee, Class F; one employee, Class J; one employee, at one hundred and eighty dollars per annum; three employees, at ninety-six dollars per annum each; two employees, at sixty dollars per annum each; for hire of emergency laborers, not to exceed four hundred pesos; six thousand pesos.

*Salaries and wages, Civil Sanitarium, Benguet, nineteen hundred and three:* The unexpended balance of funds appropriated under this head is hereby made available for the payment of one employee, Class I, from November twenty-second, nineteen hundred and two, to and including December third, nineteen hundred and two.

*Contingent expenses, Civil Sanitarium, Benguet, nineteen hundred and four:* For contingent expenses, including commissary and subsistence supplies; hospital, medical and surgical supplies; forage; transportation of supplies; purchase of five milk cows, one bull and two carabaos, two thousand pesos or so much thereof as may be necessary; and other incidental expenses; fourteen thousand pesos.

In all, for the Civil Sanitarium, Benguet, twenty thousand pesos.

#### DEPARTMENT OF COMMERCE AND POLICE.

##### BUREAU OF POSTS.

*Salaries and wages, Bureau of Posts, nineteen hundred and four:* Director of Posts, at six thousand dollars per annum; Assistant Director of Posts, at three thousand two hundred and fifty dollars per annum; one clerk, class three; two clerks, class five; one post-office inspector, class four; three post-office inspectors, class five; three post-office inspectors, class six; two clerks, class six; four clerks, class seven; three clerks, class eight; three clerks, class nine; one clerk, class ten; two clerks, Class D; one clerk, Class I; one clerk, Class J; three employees, at one hundred and fifty dollars per annum each; extra allowance for disbursing clerk, at two hundred dollars per annum; thirty-eight thousand pesos.

*Traveling expenses, Bureau of Posts, nineteen hundred and four:* For allowance of two dollars and fifty cents per day in lieu of actual traveling expenses to post-office inspectors while traveling on official business, and for the actual and necessary traveling expenses of other employees, four thousand pesos.

*Mail transportation, Bureau of Posts, nineteen hundred and four:* For inland mail transportation, sea transportation of mails, transportation of mails through foreign countries, and for salaries and wages of fifteen postal clerks on mail trains and mail steamers, not exceeding one thousand two hundred dollars per annum each; thirty-one thousand four hundred pesos.

*Contingent expenses, Bureau of Posts, nineteen hundred and four:* For contingent expenses, including mail equipment, supplies, and other incidental expenses, twelve thousand pesos.

**Post-Office Service:**

*Salaries and wages, Post-Office Service, nineteen hundred and four:* One postmaster, at three thousand seven hundred dollars per annum; one assistant postmaster, class four; one postmaster, class five; one postmaster, class six; three postmasters, class seven; seven postmasters, class eight; eight postmasters, class nine; seven postmasters, class ten; one superintendent of money-order division, class five; one superintendent of mailing division, class six; one superintendent of registry division, class six; one superintendent of free-delivery division, class six; four clerks, class seven; sixteen clerks, class eight; twelve clerks, class nine; fifteen clerks, class ten; ten clerks, Class A; one clerk, Class B; five clerks, Class C; three clerks, Class E; eighteen clerks, Class F; six clerks, Class H; four clerks, Class I; fifteen employees, at one hundred and fifty dollars per annum each; thirty clerks in offices outside of Manila, at two hundred and forty dollars or less per annum each, not to exceed an aggregate of four thousand pesos; compensation of postmasters appointed under the provisions of sections three and four of Act Numbered One hundred and eighty-one, not to exceed forty thousand pesos; and for the employment of substitutes in places of postmasters and employees granted leaves of absence, not to exceed one thousand four hundred pesos; total, one hundred and thirty-nine thousand six hundred pesos.

The Director of Posts is hereby authorized to appoint postmasters, as provided in sections three and four of Act Numbered One hundred and eighty-one, but at salaries not exceeding nine hundred dollars per annum each, in lieu of the commission on the gross receipts of their respective offices as provided therein, whenever the necessities of the postal service demand such action.

*Contingent expenses, Post-Office Service, nineteen hundred and four:* For contingent expenses, including expenses of stamp agencies in Manila, not to exceed two dollars per month each; rent and lighting of post-offices; mail messenger service, including purchase of two additional mail wagons and two horses; furniture, supplies, advertising, and other incidental expenses; fifteen thousand pesos.

In all, for the Bureau of Posts, two hundred and forty thousand pesos.

**SIGNAL SERVICE.**

*Construction, maintenance, and operation of telegraph, telephone, and cable lines, Signal Service, nineteen hundred and four:* For salaries and wages of three clerks, class six; two clerks, class eight; four clerks, class nine; one mechanic, class ten; three employees, Class H; two employees, Class I; twenty-six employees, Class J; one hundred and ninety employees, Class K; and such temporary day laborers as may be necessary, not to exceed in all for salaries and wages, thirty-six thousand pesos; for rent of buildings to be used as telegraph and telephone offices, and illuminating supplies for same, not to exceed two thousand pesos; total, thirty-eight thousand pesos.

**BUREAU OF PHILIPPINE CONSTABULARY.**

*Pay of Philippine Constabulary, nineteen hundred and four:* For the difference between pay and allowances of brigadier-general and colonels, respectively, and that of their respective ranks in the United States Army, of the officers detailed as Chief and assistant chiefs of the Philippine Constabulary, pursuant to the provisions of the Act of the Congress of the United States entitled: "An Act to promote the efficiency of the Philippine Constabulary, to establish the rank and pay of its commanding officers, and for other purposes," approved January thirtieth, nineteen hundred and three.

**Field officers:**

One colonel and assistant chief, at three thousand five hundred dollars per annum; two majors and assistant chiefs, at two thou-

sand seven hundred and fifty dollars per annum each; four majors and senior inspectors, at two thousand dollars per annum each.

**Line officers:**

Forty-seven captains and inspectors, not to exceed an aggregate of seventy-five thousand pesos; fifty-one first lieutenants and inspectors, not to exceed an aggregate of fifty-seven thousand pesos; seventy second lieutenants and inspectors, not to exceed an aggregate of sixty-eight thousand one hundred pesos; seventy-nine third lieutenants and inspectors, not to exceed an aggregate of sixty-seven thousand five hundred pesos; forty-five subinspectors, not to exceed an aggregate of twenty-one thousand six hundred pesos.

**Enlisted strength:**

Fifty sergeant-majors, quartermaster-sergeants, and first sergeants, not to exceed an average of thirty-seven pesos and eighty-six centavos per month each; two hundred sergeants, not to exceed an average of twenty-nine pesos and seven centavos per month each; four hundred and fifty-four corporals, not to exceed an average of twenty pesos and thirty-three centavos per month each; one thousand five hundred and sixty-three first-class privates, not to exceed an average of fifteen pesos per month each; four thousand six hundred and thirty second-class privates, not to exceed an average of ten pesos and thirty centavos per month each; being an enlisted strength not exceeding seven thousand of all grades, including those authorized for the medical division, at an aggregate of not to exceed five hundred thousand pesos.

**Office of the Chief:**

One clerk, class eight; one messenger, Class K, at one hundred and fifty dollars per annum.

**Adjutant's division:**

One captain and adjutant, at two thousand dollars per annum; one clerk, class seven; two clerks, class eight; five clerks, class nine; two clerks, class ten; three clerks, Class A; two clerks, Class C; three clerks, Class F; one clerk, Class G; one clerk, Class I; one clerk, Class J; two clerks, Class K, at one hundred and eighty dollars per annum each; five messengers, at one hundred and fifty dollars per annum each.

**Information division:**

One captain and superintendent, at two thousand five hundred dollars per annum; one assistant superintendent, at one thousand eight hundred dollars per annum; two clerks, class nine; one messenger, at one hundred and fifty dollars per annum; two detectives, at one thousand five hundred dollars per annum each; two detectives, at one thousand two hundred dollars per annum each; three detectives, at one thousand and eighty dollars per annum each; three detectives, at nine hundred and sixty dollars per annum each; three detectives, at eight hundred and forty dollars per annum each; four detectives at seven hundred and twenty dollars per annum each; five detectives, at five hundred and forty dollars per annum each; five detectives, at three hundred and sixty dollars per annum each; and for hire of detectives in addition to the above, as required from time to time, at varying rates of pay, not to exceed an aggregate of six thousand pesos.

**Office of the chief supply officer:**

One captain and assistant chief supply officer, at two thousand dollars per annum; one clerk, class seven; one clerk, class nine; two clerks, Class G; one clerk, Class J; four captains and examiners, at an aggregate of not to exceed three thousand dollars; and for per diems of one dollar and fifty cents for four examiners under the same provisions as those allowed to traveling examiners of the Insular Treasurer and Insular Auditor, pursuant to section one of Act Numbered Three hundred and fifty-eight.

**Paymaster's division:**

One captain and paymaster, at two thousand two hundred dollars per annum; one clerk, class eight; one clerk, class nine; one messenger, at one hundred and fifty dollars per annum.

**Commissary division:**

One captain and commissary, at two thousand dollars per annum; one clerk, class eight; one clerk, class nine; three clerks, Class A; two clerks, Class C; one clerk, Class F; and one clerk, Class J.

**Quartermaster division:**

One captain and quartermaster, at one thousand six hundred dollars per annum; one clerk, class eight; one clerk, class ten; one clerk, Class A; one clerk, Class H; two blacksmiths and wheelwrights, at nine hundred dollars per annum each; one wagonmaster, at eight hundred dollars per annum; three teamsters, at seven hundred and twenty dollars per annum each; two laborers' overseers, at three hundred and sixty dollars per annum each; and three teamsters, at one hundred and eighty dollars per annum each.

**Ordnance division:**

One captain and ordnance officer, at one thousand four hundred dollars per annum; one clerk, Class A; one clerk, Class H; one armorer and gunsmith, at one thousand dollars per annum; two mechanics, at two hundred and ten dollars per annum each; and five saddlers, at two hundred and ten dollars per annum each.

**Medical division:**

One captain and superintendent, at two thousand dollars per annum; three captains and surgeons, at one thousand eight hundred dollars per annum each; one clerk, Class A; ten medical inspectors with the rank of lieutenant, not to exceed an aggregate of ten thousand four hundred pesos; five sergeants, at thirty-three pesos per month each; six corporals, at twenty-eight pesos per month each; ninety-two first-class privates, at eighteen pesos per month each.

**Telegraph division:**

One superintendent, at two thousand five hundred dollars per annum, from November seventh, nineteen hundred and three: *Provided*, That the provisions of Act Numbered Six hundred and forty-three shall not apply to this position. Two first-class inspectors, at one thousand six hundred dollars per annum each; two first-class inspectors, at one thousand four hundred dollars per annum each; two first-class inspectors, at one thousand two hundred dollars per annum each; three second-class inspectors, at one thousand one hundred dollars per annum each; three second-class inspectors, at one thousand and fifty dollars per annum each; five third-class inspectors, at one thousand dollars per annum each; three third-class inspectors, at nine hundred and fifty dollars per annum each; and ten fourth-class inspectors, at nine hundred dollars per annum each.

**Enlisted telegraph operators:**

Ten sergeants, at sixty pesos per month each; twenty corporals, at fifty pesos per month each; thirty first-class privates, at forty pesos per month each; twenty second-class privates, at thirty pesos per month each: *Provided*, That no enlisted telegraph operator shall receive subsistence, either in money or kind, whether in garrison, traveling under orders, or in the field. And for extra compensation for enlisted men detailed as linemen in addition to their pay proper, not to exceed three thousand pesos: *Provided*, That the pay of such enlisted men shall not exceed eighteen pesos per month each.

**Civilian employees:**

One clerk, class ten; twenty telegraph operators, at nine hundred dollars per annum each; twenty telegraph operators, at seven hundred and eighty dollars per annum each; fifteen linemen, at nine hundred dollars per annum each; ten linemen, at seven hundred and eighty dollars per annum each; five linemen, at seven hundred dollars per annum each; ten linemen, at one hundred and eighty dollars per annum each; five messengers, at one hundred and fifty dollars per annum each; and ten messengers, at ninety dollars per annum each.

**Office of the First District chief:**

One clerk, class eight; one clerk, class ten; one clerk, Class I; and for hire of detectives as required from time to time, at varying rates of pay, not to exceed an aggregate of one thousand eight hundred pesos.

**Office of the Second District chief:**

One clerk, class eight; one clerk, class ten; and for hire of detectives as required from time to time, at varying rates of pay, not to exceed an aggregate of one thousand two hundred pesos.

**Office of the Third District chief:**

One clerk, class eight; one clerk, class ten; and for hire of detectives as required from time to time, at varying rates of pay, not to exceed an aggregate of one thousand two hundred pesos.

**Office of the Fourth District chief:**

One clerk, class ten; one clerk, Class I; and for hire of detectives as required from time to time, at varying rates of pay, not to exceed an aggregate of nine hundred pesos.

**Office of the Fifth District chief:**

Two clerks, class nine, one being for two months; and for hire of detectives as required from time to time, at varying rates of pay, not to exceed an aggregate of six hundred pesos.

**Unassigned clerks:**

One clerk, class nine; forty clerks for supply officers, not to exceed an aggregate of two thousand five hundred dollars; and for hire of emergency clerical labor, not to exceed an aggregate of three hundred pesos: *Provided*, That additional compensation shall not be paid hereunder.

**Assigned to the provinces:**

One clerk, Class A; two teamsters, at seven hundred and twenty dollars per annum each; and five packers, not to exceed an aggregate of three thousand six hundred pesos.

**Launch crews:**

Crew of launch *Lexington*; one assistant engineer, at three hundred and sixty dollars per annum; and one fireman, at one hundred and fifty dollars per annum; crew of launch *Ariel*; one patron, at three hundred and sixty dollars per annum; and one engineer, at three hundred and sixty dollars per annum; crew of boat *Annie*; one pilot and ten oarsmen, from July first, nineteen hundred and three, not to exceed an aggregate of one thousand three hundred and fifty pesos.

**Laborers:**

For hire of unskilled laborers, not to exceed an aggregate of eleven thousand pesos.

**Extra compensation for supply officers:**

For extra compensation to fifty-two inspectors detailed as supply officers, at two hundred dollars per annum each: *Provided*, That an additional compensation of one hundred dollars per annum, payable in monthly installments from the revertible appropriations for the purchase and transportation of commissaries, be paid each supply officer who, in addition to his other duties, has charge of a branch civil supply store.

Total for salaries and wages, one million and twenty-five thousand pesos.

*Clothing, camp and garrison equipage, Philippines Constabulary, nineteen hundred and four:* For material and manufacture of clothing and equipage; for the purchase, repair, and preservation of arms, ammunition, equipments, and musical instruments; and for allowance for clothing not drawn in kind to enlisted men upon discharge; one hundred and sixty-three thousand pesos: *Provided*, That articles of clothing and equipage may be sold to officers and enlisted men for their personal use, at cost price, under such restrictions as the Chief of Constabulary may prescribe, with the approval of the Secretary of Commerce and Police.

*Barracks and quarters, Philippines Constabulary, nineteen hundred and four:* For allowance and commutation for offices and

quarters under the provisions of Acts Numbered Seven hundred and six and Eight hundred and seven; for rent, construction, and repair of offices, guardhouses, arsenals, barracks, hospitals, storehouses, and stables; for fuel, illuminating, and cleaning supplies; and for rent of telephones in Manila; seventy-seven thousand pesos.

*Transportation, Philippines Constabulary, nineteen hundred and four:* For transportation of officers, enlisted men, employees, prisoners, and supplies; forage, veterinary attendance, medicines, shoeing, and incidentals for animals; purchase and hire of draft and riding animals, harness, carts, boats, and so forth; purchase of coal, gasoline, and incidentals for boats; and for subsistence of officers while traveling under orders; one hundred and seventy-four thousand pesos: *Provided*, That the Bureau of Constabulary shall furnish its official transportation in the city of Manila, under such restrictions as may be prescribed by the Secretary of Commerce and Police, the provisions of Act Numbered One hundred and ninety-eight to the contrary notwithstanding: *And provided further*, That forage in kind for one private animal used in the public service may be furnished the officer owning it on his certificate, approved by his senior inspector and district chief: *And provided further*, That the subsistence and traveling expenses of officers and enlisted men on escort duty, together with all expense of transporting prisoners in their charge, shall be paid by the Bureau of Constabulary and not by the Bureau or province at whose request the escort is furnished, the provisions of section one of Act Numbered Four hundred and four to the contrary notwithstanding.

*Secret-service fund, Philippines Constabulary, nineteen hundred and four:* For a contingent fund to be used for secret-service purposes, and for the payment of rewards for the apprehension of deserters, in the discretion of the Chief or Acting Chief of Constabulary; ten thousand pesos.

*Telegraph and telephone service, Philippines Constabulary, nineteen hundred and four:* For the construction, maintenance, and repair of telegraph and telephone lines, including purchase of materials and supplies and transportation of same; thirty thousand pesos.

*Subsistence, Philippines Constabulary, nineteen hundred and four:* For the subsistence of municipal police and volunteers operating in conjunction with and under the direction of the Constabulary, subject to the approval of the Secretary of Commerce and Police, and for the subsistence of enlisted men and prisoners, two hundred and sixty-six thousand pesos: *Provided*, That every enlisted man in the Philippines Constabulary, except he be a band man or a telegraph operator, will be given a daily allowance of twenty-one centavos, Philippines currency, for his subsistence, and that this allowance may be given in cash, or the value thereof in food, or part in cash and part in food, according to the circumstances of the soldier, as to whether he is traveling under orders, is on campaign duty, or in garrison: *And provided further*, That the senior inspectors will be charged with the duty of making requisition for, disbursing, and accounting for subsistence funds and subsistence supplies in their respective provinces.

*Contingent expenses, Philippines Constabulary, nineteen hundred and four:* For the purchase of office furniture, stationery, and supplies; advertising, newspapers, periodicals, professional books, post-office expenses; and for emergency printing at the various district headquarters, not to exceed an aggregate of three hundred pesos, the provisions of Act Numbered Two hundred and ninety-six to the contrary notwithstanding; for medical treatment for officers and enlisted men under the provisions of Act Numbered Eight hundred and seven, and for medical, surgical, and hospital supplies, including hospital laundry work; for the burial of officers and enlisted men, and for other incidentals, including ice, distilled water, laundry office towels, and so forth; twenty-three thousand pesos.

*Contingent expenses, Philippines Constabulary, nineteen hundred and three:* For contingent expenses as provided in Act

Numbered Six hundred and eighty-two, five thousand nine hundred pesos.

In all, for the Philippines Constabulary, one million seven hundred and seventy-three thousand nine hundred pesos.

#### BUREAU OF PRISONS.

*Salaries and wages, Bureau of Prisons, nineteen hundred and four:* Warden, at three thousand dollars per annum; Deputy Warden, at two thousand five hundred dollars per annum; one assistant deputy warden, at one thousand eight hundred dollars per annum; one physician, at two thousand dollars per annum; one master mechanic, at one thousand seven hundred dollars per annum; one chief clerk, class eight, at one thousand five hundred dollars per annum; one cashier and disbursing officer, class six; one clerk, class eight; one foreman of shops, class eight; one dispensing clerk, class nine; five clerks, class nine; two foremen of shops, class nine; one baker, class nine; three inspectors, class nine; one laundry foreman, class ten, at one thousand and fifty dollars per annum; one cabinetmaker, class ten, from February first, nineteen hundred and four; one interpreter, Class A; one assistant laundry foreman, Class A; one hospital attendant, Class A; twenty-five guards, Class A; one overseer, Class C; one teamster, Class C; one foreman of shops, Class C; two clerks, Class D; one overseer, Class D; one foreman of shops, Class D; one carriage painter, Class D; two clerks, Class II; two chaplains, at three hundred dollars per annum each; two clerks, Class I; two hospital stewards, Class I; two sergeants, Class I; fourteen keepers, Class I; one assistant laundry foreman, Class I; twenty-eight guards, Class J; one clerk, Class J; one teamster, at one hundred and eighty dollars per annum; extra compensation for executioner, at not to exceed ten dollars per execution; total, seventy-six thousand pesos, under the provisions of Act Numbered Eight hundred and seven.

*Manufacturing department, Bureau of Prisons, nineteen hundred and four:* For purchase of machinery, tools, and other permanent manufacturing equipment, including materials to be used in all manufacturing departments; seventy thousand pesos.

*Contingent expenses, Bureau of Prisons, nineteen hundred and four:* For contingent expenses, including purchase of office furniture, supplies and typewriters; subsistence of prisoners; supplies for prisoners, including bedding, clothing, medicines, postage, tobacco, and so forth, not to exceed thirty-four thousand pesos; general repairs; partial reconstruction of old pavilions, not exceeding ten thousand pesos; construction of one new pavilion, not to exceed fifteen thousand five hundred pesos; burial of deceased prisoners; for enlarging steam cooking apparatus; transportation of stones from Walled City to prison; reimbursement to prisoners of earnings as hired laborers outside of prison prior to American occupation; for the purpose of furnishing one suit of clothing, of value not exceeding five pesos, and a gratuity of ten pesos to each prisoner, upon release, who has been confined for more than one year, in cases where in the discretion of the Warden it is necessary; for forage, fuel, illumination, oil, and other incidental expenses; two hundred and ninety thousand pesos.

In all, for the Bureau of Prisons, four hundred and thirty-six thousand pesos.

#### BUREAU OF COAST GUARD AND TRANSPORTATION.

*Salaries and wages, Bureau of Coast Guard and Transportation, nineteen hundred and four:* Marine Superintendent, at two thousand five hundred dollars per annum; Light-House Inspector, at two thousand five hundred dollars per annum; inspector of machinery, at two thousand five hundred dollars per annum; one clerk, class five; one disbursing officer, class six; one clerk, class six; one draftsman, class seven; two clerks, class seven; four clerks, class eight; four clerks, class nine; one mechanic, class nine; one storekeeper, class ten; one storekeeper, Class A; three

clerks, Class A; two assistant storekeepers, Class F; one clerk, Class J; three employees, at one hundred and eighty dollars per annum each; five employees, at one hundred and fifty dollars per annum each; per diems of five dollars each for the United States naval officer detailed as Chief of the Bureau, and the United States Army officer detailed as Light-House Engineer, and per diems of two dollars and fifty cents for the United States Army officer detailed as assistant to the Light-House Engineer; forty-two thousand pesos: *Provided*, That the titles of the Superintendent of Light-Houses, Buoys, Beacons, and Landmarks, the Superintendent of Light-House Construction, and the Superintendent of Construction, Maintenance, and Operation of Vessels, be changed to Light-House Inspector, Light-House Engineer, and Marine Superintendent, respectively.

*Light-House Service, Bureau of Coast Guard and Transportation, nineteen hundred and four:* For the expenses of the Light-House Service, including salaries of captain of light-house tender *Corregidor*, at one thousand eight hundred dollars per annum; captain of light-house tender *Pickett*, at one thousand two hundred dollars per annum; two first officers, one being for emergencies only, at nine hundred dollars per annum each; one second officer, at seven hundred and twenty dollars per annum; one mate, at six hundred dollars per annum; one chief engineer, at one thousand six hundred dollars per annum; one chief engineer, at one thousand and eighty dollars per annum; two first assistant engineers, one being for emergencies only, at nine hundred dollars per annum each; five machinists, two being for emergencies only, at four hundred and twenty dollars per annum each; one machinist, at three hundred and sixty dollars per annum; four oilers, two boatswains, one carpenter, one steward, and two cooks, at two hundred and forty dollars per annum each; wages of authorized petty officers and crews; for subsistence allowances, as authorized by law, to officers, petty officers, and crews, including those authorized for emergencies; salaries of six light keepers, at four hundred and eighty dollars per annum each; eleven light keepers, at four hundred and twenty dollars per annum each; thirteen light keepers at three hundred and sixty dollars per annum each; nineteen light keepers, at three hundred dollars per annum each; twenty-seven light keepers, at two hundred and forty dollars per annum each; seven light keepers, at one hundred and eighty dollars per annum each; seven light keepers at one hundred and twenty dollars per annum each; one light keeper, at ninety-six dollars per annum; four light keepers, at sixty dollars per annum each; one light keeper, at forty-eight dollars per annum; two light keepers, at thirty dollars per annum each; fifteen apprentices, at one hundred and twenty dollars per annum each, and five apprentices, at ninety dollars per annum each, to be stationed in the discretion of the Chief of the Bureau; wages of authorized boatmen, not to exceed four thousand eight hundred pesos: *Provided*, That in the event of more lights being found necessary for the public service, authority for the employment of the personnel of such lights may be granted by the Secretary of Commerce and Police; for the maintenance and operation of a repair shop and storehouse in connection with the division of light-house construction, including salaries and wages of one assistant overseer, at nine hundred dollars per annum; one foreman, at three hundred dollars per annum; necessary mechanics and laborers, and purchase of supplies; for necessary rents, repairs, and supplies for light stations; for purchase of necessary equipment for machine shop for repairing and installing apparatus and machinery, not to exceed two thousand pesos; for construction of wharf on Engineer Island, and for transferring materials, supplies, and so forth, to new warehouse, not to exceed six thousand pesos; for maintenance and operation of tenders, including purchase of fuel and supplies, pilotage, repairs, and so forth, not to exceed thirty-four thousand eight hundred pesos; buoyage, not to exceed eleven thousand pesos, and other incidental expenses, including subsistence of officers and

employees while traveling on official business; one hundred and thirty-two thousand pesos.

*Cutters and launches, Bureau of Coast Guard and Transportation, nineteen hundred and four:* For expenses in the maintenance of cutters and launches, including salaries and wages of one pay officer, at one thousand eight hundred dollars per annum; one pay clerk, class nine; seventeen captains, at one thousand eight hundred dollars per annum each; five masters, at one thousand two hundred dollars per annum each; eighteen first officers, at nine hundred dollars per annum each; eighteen second officers, at seven hundred and twenty dollars per annum each; four mates, at six hundred dollars per annum each; seventeen chief engineers, at one thousand six hundred dollars per annum each; four chief engineers, at one thousand and eighty dollars per annum each; eight assistant engineers, at nine hundred dollars per annum each; four assistant engineers, at four hundred and twenty dollars per annum each; five assistant engineers, at three hundred and sixty dollars per annum each; two engineers, at four hundred and eighty dollars per annum each; four engineers, at three hundred and sixty dollars per annum each; three engineers, at three hundred dollars per annum each; thirty-four machinists, at four hundred and twenty dollars per annum each; forty-eight oilers, at two hundred and forty dollars per annum each; nine firemen, at two hundred and forty dollars per annum each; one patron, at six hundred dollars per annum; three patrons, at four hundred and eighty dollars per annum each; three patrons, at three hundred dollars per annum each; sixteen boatswains, at two hundred and forty dollars per annum each; sixteen carpenters, at two hundred and forty dollars per annum each; sixteen stewards, at two hundred and forty dollars per annum each; sixteen cooks, at two hundred and forty dollars per annum each; one master, at one thousand and eighty dollars per annum, one chief engineer, at nine hundred dollars per annum, one assistant engineer, at four hundred and fifty dollars per annum, one pilot, at three hundred dollars per annum, and one mess boy, at ninety-six dollars per annum, from July first, nineteen hundred and three; and authorized petty officers, crews, mechanics, and laborers; for the purchase of coal, oil, outfits, commutation of rations; subsistence of postal clerks; hospital expenses, repairs, and other incidental expenses; six hundred and seventy thousand pesos: *Provided*, That the Chief of the Bureau, with the approval of the Secretary of Commerce and Police, may employ additional officers, petty officers, and crews as may be required to man cutters or launches which may be added to those already under the control of the Bureau, the compensation of such officers and men to be determined by the provisions of law applying to vessels of similar classes: *And provided further*, That the Chief of the Bureau may employ temporarily an additional man of the same grade to replace any man sent to the hospital from one of the vessels: *And provided*, That postal clerks, while on duty on Coast Guard cutters, shall be furnished subsistence in kind by the Bureau of Coast Guard and Transportation: *And provided further*, That funds herein appropriated may be used for subsistence and aid of shipwrecked sailors, or other persons in distress, as demanded by the laws of humanity and the customs of maritime nations.

*Contingent expenses, Bureau of Coast Guard and Transportation, nineteen hundred and four:* For contingent expenses, including purchase of office furniture and supplies; advertising, electric lighting, ice, telephone rent; medical treatment and medicines for officers, petty officers, and crews of cutters and launches, under the provisions of Act Numbered Eight hundred and seven; and other incidental expenses; two thousand pesos.

In all, for the Bureau of Coast Guard and Transportation, eight hundred and forty-six thousand pesos.

BUREAU OF COAST AND GEODETIC SURVEY.

*Salaries and wages, Bureau of Coast and Geodetic Survey, nineteen hundred and four:* One clerk, class eight, at one thousand

five hundred dollars per annum; two clerks, Class D; three clerks, Class E; two clerks, Class F; eight clerks, Class G; one apprentice draftsman, at two hundred and forty dollars per annum; one apprentice draftsman, at one hundred and eighty dollars per annum; one messenger, at one hundred and eighty dollars per annum; eight thousand four hundred pesos.

*Field and steamer expenses, Bureau of Coast and Geodetic Survey, nineteen hundred and four:* For field expenses, including pay of five observers, at not to exceed one thousand five hundred dollars per annum each; one watch officer and one chief engineer, at not to exceed one thousand six hundred and eighty dollars per annum each, without subsistence; repairs and supplies for the maintenance and operation of steamers engaged in survey work; hire of launches, not to exceed eight thousand pesos; salaries and wages of petty officers, crews, and emergency employees; rations and uniforms for petty officers and crews; for medical treatment and medicines for officers, petty officers, and crews, under the provisions governing the Bureau of Coast Guard and Transportation; and other incidental expenses; twenty-eight thousand pesos.

*Contingent expenses, Bureau of Coast and Geodetic Survey, nineteen hundred and four:* For contingent expenses, including purchase of office supplies; hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent, not to exceed forty pesos; and other incidental expenses; one thousand six hundred pesos.

In all, for the Bureau of Coast and Geodetic Survey, thirty-eight thousand pesos.

#### BUREAU OF ENGINEERING.

*Salaries and wages, Bureau of Engineering, nineteen hundred and four:* Consulting Engineer, at five thousand dollars per annum; principal assistant engineer, at three thousand five hundred dollars per annum; railroad engineer, at three thousand six hundred dollars per annum; chief of supervisors, at three thousand dollars per annum; chief surveyor, class two; geographer, class two; one assistant engineer, class three; one assistant engineer, class four; two assistant engineers, class five; chief draftsman, class five; three assistant engineers, class six; one chief clerk, class six; five transitmen, class seven; two clerks, class seven; five transitmen, class eight; two clerks, class eight; three clerks, class nine; eight recorders, class nine; three draftsmen, Class D; four draftsmen, Class G; ten surveymen, Class H; two messengers, at two hundred and ten dollars per annum each; and for the hire of such assistant engineers, draftsmen, surveyors, and employees, with the approval of the Secretary of Commerce and Police, as may be necessary from time to time to accomplish authorized work, not to exceed six thousand pesos; seventy thousand pesos.

*Transportation, Bureau of Engineering, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees, transportation of supplies, and for the hire of vehicles in Manila on official business when such transportation can not be furnished by the Insular Purchasing Agent, not to exceed one hundred pesos; eight hundred pesos.

*Public works, Bureau of Engineering, nineteen hundred and four:* For expenses in connection with such public works, examinations, and surveys as may be authorized by the Commission, including the cost of labor and necessary equipment, twenty thousand pesos: *Provided,* That where an appropriation has been made for any specific work the contingent, incidental, and any other expenses in connection with the same shall be payable from the appropriation made for such work.

*Contingent expenses, Bureau of Engineering, nineteen hundred and four:* For contingent expenses, including the purchase of supplies and surveying instruments; advertising, and other incidental expenses; two thousand four hundred pesos: *Provided,* That employees of the Bureau of Engineering shall be entitled to medicines and medical attendance while engaged on any authorized public work at places where usual medical attendance is not accessible, and the Consulting Engineer to the Commission may,

subject to the approval of the Secretary of Commerce and Police, appoint such physicians and surgeons, at fixed monthly salaries, as may in his judgment be for the best interest of the service.

In all, for the Bureau of Engineering, ninety-three thousand two hundred pesos.

#### DEPARTMENT OF FINANCE AND JUSTICE.

##### BUREAU OF THE TREASURER OF THE PHILIPPINE ISLANDS.

*Salaries and wages, Bureau of the Treasurer of the Philippine Islands, nineteen hundred and four:* Treasurer, at seven thousand dollars per annum; Assistant Treasurer, at four thousand dollars per annum; chief of division of currency, at three thousand dollars per annum; three clerks, class three; three clerks, class four; seven clerks, class five; seven clerks, class six; seven clerks, class seven; nine clerks, class eight; eight clerks, class nine; one clerk, Class C; five clerks, Class D; two clerks, Class I; one clerk, Class J; one employee, at two hundred and ten dollars per annum; two employees, at one hundred and eighty dollars per annum each; extra allowance for disbursing clerk, at two hundred dollars per annum; ninety-one thousand pesos.

*Transportation, Bureau of the Treasurer of the Philippine Islands, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees; per diems of deputies and examiners in official travel in connection with the examination of accounts as provided for by Act Numbered Three hundred and fifty-eight, and for expenses incurred in the transfer of funds to and from the provinces, nine thousand nine hundred and forty pesos.

*Contingent expenses, Bureau of the Treasurer of the Philippine Islands, nineteen hundred and four:* For contingent expenses, including the purchase of office furniture, fixtures, and supplies; the purchase of books and literature pertaining to currency questions; the payment of premiums on surety bonds; rebates of unearned premiums on surety bonds canceled or transferred; and for advertising, cablegrams, coolie hire, post-office box rent, repairs to typewriters, adding machines, and office furniture, and other incidental expenses; one hundred and thirty-two thousand seven hundred pesos.

In all, for the Bureau of the Treasurer of the Philippine Islands, two hundred and thirty-three thousand six hundred and forty pesos.

##### BUREAU OF THE AUDITOR FOR THE PHILIPPINE ISLANDS.

*Salaries and wages, Bureau of the Auditor for the Philippine Islands, nineteen hundred and four:* Auditor, at seven thousand dollars per annum; Deputy Auditor, at four thousand dollars per annum; three clerks, class three; four clerks, class four; two clerks, class five; nine clerks, class six; seven clerks, class seven; thirteen clerks, class eight; fourteen clerks, class nine; six clerks, class ten; four clerks, Class A; two clerks, Class B; two clerks, Class C; three clerks, Class D; three clerks, Class E; two clerks, Class F; two clerks, Class G; two clerks, Class H; two clerks Class I; two employees, at one hundred and eighty dollars per annum each; two employees, at one hundred and fifty dollars per annum each; extra allowance for disbursing officer, at two hundred dollars per annum; one hundred and nine thousand pesos.

*Contingent expenses, Bureau of the Auditor for the Philippine Islands, nineteen hundred and four:* For contingent expenses, including the purchase of office furniture, stationery, and supplies, advertising, and other incidental expenses, two thousand pesos.

In all, for the Bureau of the Auditor for the Philippine Islands, one hundred and eleven thousand pesos.

##### BUREAU OF CUSTOMS AND IMMIGRATION.

*Salaries and wages, Bureau of Customs and Immigration, nineteen hundred and four:* Collector of Customs, at seven thousand dollars per annum; Deputy Collector of Customs, at four thousand dollars per annum; Special Deputy Collector of Customs, at four thousand dollars per annum; two additional deputy collectors

of customs, class one; Surveyor of Customs, at four thousand dollars per annum; deputy surveyor of customs, class two; deputy surveyor of customs, class three.

**Office of the Collector of Customs:**

One clerk, class seven; two clerks, class eight.

**Office of the Deputy Collector of Customs:**

One clerk, class six; one clerk, class eight.

**Office of the Special Deputy Collector of Customs:**

One clerk, class eight.

**Office of the Surveyor of Customs:**

One admeasurer, class three; one assistant admeasurer, class six; one clerk, class seven; one clerk, class eight; three clerks, Class F; one inspector of boilers, class four, for one month; one inspector of boilers, class five, from February first, nineteen hundred and four; one inspector of hulls, class five; one harbormaster, class five; one clerk, class nine; three patrolmen, Class I; one messenger, at one hundred and ninety-two dollars per annum; one superintendent of semaphore station, Class D, at six hundred and thirty dollars per annum; one assistant superintendent of semaphore station, Class G; two messengers, at one hundred and ninety-two dollars per annum each.

**Division of insular customs accounts:**

Disbursing officer, class five; one clerk, class seven; one clerk, class ten; one clerk, Class D; three clerks, Class J; one messenger, at ninety dollars per annum.

**Correspondence division:**

One clerk, class six; three clerks, class seven; six clerks, class eight; five clerks, Class A; one clerk, Class C; one clerk, Class F; two messengers, at one hundred and eighty dollars per annum each; two messengers, at one hundred and twenty dollars per annum each.

**Board of protests and appeals:**

One clerk, class four; two clerks, class eight.

**Cashier's division:**

Cashier, class one; assistant cashier, class five; one clerk, class six; one clerk, class eight; one clerk, class nine; two clerks, class ten; one clerk, Class A; two clerks, Class C; one clerk, Class D; one clerk, Class F; one clerk, Class I; three clerks, Class J; two messengers, at ninety dollars per annum each.

**Appraiser's division:**

One chief appraiser, class three; one assistant appraiser, who shall act also as appraiser of textiles, class four; three appraisers, class five; four examiners, class seven; four examiners, class eight; twelve examiners, class nine; twenty examiners, class ten; nine employees, at one hundred and twenty dollars per annum each; two messengers, at ninety dollars per annum each.

**Importation, exportation, and navigation division:**

Chief of division, class five; one clerk, class seven; one liquidator, class eight; one clerk, class eight; two clerks, class nine; four clerks, class ten; two clerks, Class D; three clerks, Class I; two messengers, at ninety dollars per annum each.

**Liquidation division:**

Chief of division, class five; one clerk, class seven; one clerk, class eight; three liquidators, class nine; two liquidators, class ten; two liquidators, Class D; two liquidators, Class F; two messengers, at ninety dollars per annum each.

**Inspectors' division:**

Chief of division, class five; one clerk, class seven; two inspectors, class eight; two inspectors, class nine; two inspectors, class ten; twenty-six inspectors, Class A; four weighers, Class F; twenty guards, Class I; twelve weighers, Class J; eighty-five guards, Class J.

**General order stores and bonded warehouse division:**

Chief of division, class five; one clerk, class seven; one clerk, class eight; one clerk, class nine; one clerk, class ten; fourteen warehousemen, Class A; one warehouseman, Class C; one ware-

houseman, Class D; seven clerks, Class I; sixteen clerks, Class J; eighteen clerks, Class K, at one hundred and eighty dollars per annum each; twelve laborers, at one hundred and twenty dollars per annum each; two messengers, at ninety dollars per annum each.

**Consular and statistical division:**

Chief of division, class five; one clerk, class seven; six clerks, class nine; five clerks, class ten; five clerks, Class A; two clerks, Class D; four clerks, Class J; one messenger, at ninety dollars per annum.

**Immigration division:**

Chief of division, class five; one clerk, class seven; two immigration inspectors, class eight; three immigration inspectors, class nine; one Chinese interpreter, Class D; one employee, at two hundred and forty dollars per annum; two employees, at one hundred and twenty dollars per annum each; one messenger, at ninety dollars per annum.

**Passenger and baggage division:**

Chief of division, class five; one clerk, class eight; one baggage inspector, class nine; three baggage inspectors, class ten; three baggage inspectors, Class A; one interpreter, Class D; four employees, at one hundred and twenty dollars per annum each.

**Harbor launch division:**

Chief of division, class six; one launch inspector, class eight; one launch inspector, class nine; two launch inspectors, Class A; three launch inspectors, Class J; one employee, at one hundred and eighty dollars per annum; six employees, at one hundred and fifty dollars per annum each.

**Division of special agents:**

Supervising special agent, class three; two special agents, class four; two special agents, class six; one special agent, class seven; one special agent, class eight.

**Superintendent of buildings:**

One superintendent, Class A; four night watchmen, Class H; one janitor, Class I; seventeen employees, at one hundred and twenty dollars per annum each.

Additional compensation for temporary disbursing clerk during the absence of the disbursing officer, at two hundred dollars per annum; and for the payment for services of not more than three translators on any one day, at a per diem rate of five dollars or less each, one thousand pesos, or so much thereof as may be necessary.

**Iloilo custom-house:**

Collector of customs, at four thousand dollars per annum; deputy collector of customs, class four; surveyor of customs, class six; one clerk, class six; one appraiser of merchandise, class seven; two clerks, class eight; one clerk, class nine; one clerk, class ten; three clerks, Class A; three inspectors, Class A; three clerks, Class D; one inspector of hulls, Class F; two guards, Class I; ten guards, Class J; one clerk, Class K, at one hundred and twenty dollars per annum; three messengers, at one hundred and eighty dollars per annum each; two employees, at one hundred and fifty dollars per annum each; two employees, at ninety dollars per annum each; one patron, Class I; one assistant engineer, Class H; one fireman, at two hundred and forty dollars per annum; one sailor, at two hundred and forty dollars per annum; one fireman, at one hundred and thirty-five dollars per annum; two sailors, at one hundred and eight dollars per annum each.

**Cebu custom-house:**

Collector of customs, at four thousand dollars per annum; deputy collector of customs, class five; surveyor of customs, class six; one clerk, class six; one appraiser of merchandise, class seven; one clerk, class eight; one examiner, class eight; one inspector, class ten; one inspector, Class A; two clerks, Class A; one clerk, Class D; one clerk, Class F; three employees, Class H; twenty-six guards, Class J; two employees, at one hundred and twenty dollars per annum each; emergency employees, not to

exceed an aggregate of ten dollars per month; one patron, Class G; one engineer, Class G; two firemen, Class J; three sailors, at one hundred and eighty dollars per annum each.

**Jolo custom-house:**

Collector of customs, class three; one examiner, class eight; one clerk, class eight; one clerk, class nine; one clerk, Class C; one clerk, Class I; six guards, Class J; two employees, at ninety dollars per annum each; one employee, at seventy-two dollars per annum.

**Zamboanga custom-house:**

Collector of customs, class five; one examiner, class eight; one clerk, class nine; one clerk, Class A; one clerk, Class I; five guards, Class J; two employees, at ninety dollars per annum each; four employees, at seventy-two dollars per annum each.

**Puerto Princesa custom-house:**

Collector of customs, class six; one clerk, Class D, and four boatmen at not exceeding ninety dollars per annum each, from October fifteenth, nineteen hundred and three.

**Bongao custom-house:**

Collector of customs, class six; one clerk, Class D, and four boatmen at not exceeding ninety dollars per annum each, from October fifteenth, nineteen hundred and three.

**Cape Melville custom-house:**

Collector of customs, class six; one clerk, Class D, and four boatmen at not exceeding ninety dollars per annum each, from October fifteenth, nineteen hundred and three.

**Interior ports:**

Eighteen coast district inspectors, class eight; ten deputy coast district inspectors, Class A; fifty inspectors of customs, Class K, at one hundred and eighty dollars per annum each; eighty-five inspectors of customs, Class K, at one hundred and twenty dollars per annum each; one hundred inspectors of customs, Class K, at sixty dollars per annum each; fifteen clerks, Class I; ten clerks, Class J; fifteen employees, at one hundred and eighty dollars per annum each; ten employees, at one hundred and twenty dollars per annum each; ten employees, at sixty dollars per annum each; salaries and wages of boat crews, not to exceed an aggregate of four thousand pesos; salaries of additional clerks, guards, watchmen, boatmen, sailors, and marines, not exceeding twenty-five dollars per month each for clerks and twenty dollars per month each for other employees, one thousand pesos, or so much thereof as may be necessary.

Total for salaries and wages, four hundred and sixty-eight thousand pesos.

*Transportation, Bureau of Customs and Immigration, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees, including coast and deputy coast district inspectors while inspecting ports within their districts; special agents while on official travel in connection with the examination of customs accounts, at two dollars and fifty cents per diem; and the transportation of supplies, five thousand pesos.

*Revenue cutters and launches, Bureau of Customs and Immigration, nineteen hundred and four:* For the maintenance and expenses of launches and revenue cutters, including the salaries and wages of the crews of Manila Harbor launches, consisting of two captains, Class D; one engineer, Class E; twelve engineers and captains, Class F; three employees, Class H; three employees, Class I; fourteen firemen, at two hundred dollars per annum each; two employees, at one hundred and fifty dollars per annum each; twenty-five employees, at one hundred and twenty dollars per annum each; and for the salaries and ration allowances of cutter crews, consisting of six captains, class nine; six chief engineers, Class C, and seven mates, Class D, with commutation of rations at fifty cents each per diem; thirteen assistant engineers at two hundred and ten dollars per annum each, nineteen firemen at one hundred and thirty-two dollars per annum each, thirteen quarter-

masters at one hundred and fifty dollars per annum each, thirty-two sailors at one hundred and twenty dollars per annum each, six stewards at one hundred and eighty dollars per annum each, and six cooks at one hundred and twenty dollars per annum each, with commutation of rations at fifteen cents each per diem; for clothing allowance of three suits and two hats per annum for each petty officer and member of crews of revenue cutters, not to exceed one thousand five hundred pesos; purchase of fuel, supplies, and rations for crews of harbor launches in emergency cases or while away from their regular stations; repairs and incidental expenses; eighty thousand pesos.

*Revenue cutters and launches, Bureau of Customs and Immigration, nineteen hundred and two:* For expenditures made by the customs disbursing officer at Iloilo for the appropriation for contingent expenses but which are chargeable to the appropriation for revenue cutters and launches, seventy-four pesos and seventy-seven centavos.

*Special contingent fund, Bureau of Customs and Immigration, nineteen hundred and four:* For a fund to be expended in the discretion of the Collector of Customs for the Philippine Islands in the detection and punishment of violators of the Customs, Immigration, and Revenue laws, twenty thousand pesos.

*Contingent expenses, Bureau of Customs and Immigration, nineteen hundred and four:* For contingent expenses throughout the Archipelago, including purchase of office furniture and supplies; subsistence of customs officers while on duty on board United States Army and Navy transports; for the payment of awards to informers under the provisions of section three hundred and forty-eight of Act Numbered Three hundred and fifty-five; advertising; cablegrams; ice; rent of offices used by inspectors of customs; repairs to offices; purchase of and repairs to boarding boats; construction of and repairs to coal sheds; coolie hire for handling supplies; cost of transferring deposits to the Insular Treasury; and other incidental expenses; thirty-three thousand five hundred and ninety pesos.

In all, for the Bureau of Customs and Immigration, six hundred and six thousand six hundred and sixty-four pesos and seventy-seven centavos.

The Collector of Customs for the Philippine Islands is hereby authorized to purchase from Carman and Company, for the sum of twenty-nine thousand pesos, Philippines currency, the steam cranes, tramway, locomotive, cars, machinery, appliances, materials, and other personal property used in the landing, conveyance, storing, and delivery of imported merchandise at the custom-house at the port of Manila, in accordance with the inventory presented by the Insular Collector of Customs, said sum to be paid from the amount appropriated in Act Numbered Eight hundred and ninety-seven; any provision in said Act to the effect that such purchase shall be in accordance with the appraisal presented by the Insular Collector of Customs on February twenty-first, nineteen hundred and three, and approved by resolution of the Philippine Commission of March fourth, nineteen hundred and three, is hereby repealed.

**BUREAU OF INTERNAL REVENUE.**

*Salaries and wages, Bureau of Internal Revenue, nineteen hundred and four:* For salaries and wages, three hundred and seventy-four pesos: *Provided,* That the unexpended balance of funds appropriated in Act Numbered Eight hundred and seven, under this head, is hereby made available for expenditure during the entire fiscal year.

*Transportation, Bureau of Internal Revenue, nineteen hundred and four:* The funds appropriated in Act Numbered Eight hundred and seven, under this head, are hereby made available for expenditure during the entire fiscal year.

*Contingent expenses, Bureau of Internal Revenue, nineteen hundred and four:* The funds appropriated in Act Numbered Eight hundred and seven, under this head, are hereby made available for expenditure during the entire fiscal year.



In all, for the Bureau of Internal Revenue, three hundred and seventy-four pesos.

**BUREAU OF THE INSULAR COLD STORAGE AND ICE PLANT.**

*Salaries and wages, Bureau of the Insular Cold Storage and Ice Plant, nineteen hundred and four:*

**Office force and sales department:**

One superintendent, at three thousand six hundred dollars per annum; one clerk, class five; four clerks, class six; two clerks, class eight; three clerks, Class A, one being until March first, nineteen hundred and four, only; one clerk, Class C; one clerk, Class D; three employees, at three hundred dollars per annum each; three office boys, at two hundred and sixteen dollars per annum each.

**Engineering and manufacturing department:**

One chief engineer, at two thousand four hundred dollars per annum; one assistant engineer, class five; one assistant engineer, class seven; one assistant engineer, class nine; one machinist, class eight; two machinists, class nine; one machinist, Class H; one electrician, class seven; one assistant electrician, Class D; one oiler, Class A; three oilers, Class C; three water tenders, Class B; one water tender, Class C; one pipfitter, class nine; one elevatorman, Class F; twenty laborers, at two hundred and forty dollars per annum each; thirty laborers, at one hundred and eighty dollars per annum each.

**Cold storage and sales department:**

One overseer, class nine; three laborers, at two hundred and sixteen dollars per annum each; eighteen laborers, at one hundred and eighty dollars per annum each; eleven emergency laborers, at one peso and fifty centavos each per diem.

**Land-transportation department:**

One overseer, class nine; one blacksmith, class nine; one wheelwright, class ten; two teamsters, Class A; fourteen teamsters, Class C; two blacksmith helpers, Class I; one saddler, Class E; twenty laborers, at two hundred and forty dollars per annum each; two cocheros, at one hundred and eighty dollars per annum each.

**Water transportation department:**

One overseer, class ten; one engineer, Class F; one assistant engineer, Class H; one patron, Class J; two firemen, at one hundred and ninety-two dollars per annum each; one boatswain, at two hundred and sixteen dollars per annum; six patrons, Class I; thirty sailors, at one hundred and sixty-eight dollars per annum each.

**Care and maintenance of buildings and grounds:**

One carpenter, class eight; one carpenter, class ten; one overseer, class ten; five watchmen, Class C; one painter, Class F; three painter helpers, Class I; two carpenter helpers, Class G; one carpenter helper, Class J; one mason, Class H; two laborers, at two hundred and forty dollars per annum each; eleven laborers, at one hundred and eighty dollars per annum each.

**Total for salaries and wages, seventy-six thousand pesos.**

*Improvement of plant, Bureau of the Insular Cold Storage and Ice Plant:* For the purchase of an additional freezing tank, including all necessary material and any additional labor necessary for its installation; twenty thousand pesos.

*Contingent expenses, Bureau of the Insular Cold Storage and Ice Plant, nineteen hundred and four:* For office supplies, coal, forage, electrical supplies, and incidental expenses; care and maintenance of buildings and grounds; care and maintenance of machinery; care and maintenance of water transportation, including repairs to launch and lorchas; care and maintenance of land transportation, including repairs to wagons and harness, purchase of new equipment, veterinary supplies, and so forth; eighty-five thousand pesos: *Provided*, That the Bureau of the Insular Cold Storage and Ice Plant shall furnish its own official transportation, the provisions of Act Numbered One hundred and ninety-eight to the contrary notwithstanding.

In all, for the Bureau of the Insular Cold Storage and Ice Plant, one hundred and eighty-one thousand pesos.

**BUREAU OF JUSTICE.**

*Salaries and wages, Bureau of Justice, nineteen hundred and four:*

**Supreme Court:**

Chief Justice, at seven thousand five hundred dollars per annum; six associate justices, at seven thousand dollars per annum each; one clerk of the court, at three thousand dollars per annum; three deputy clerks, one being until not later than February fifteenth, nineteen hundred and four, at two thousand dollars per annum each; one reporter of decisions, who shall furnish his own office room, clerical assistance, translators, typewriters, and other aids, at two thousand dollars per annum; one employee, class six; one employee, class seven; one employee, class nine; one employee, Class C; two employees, Class E; one employee, Class G; four employees, Class H; six employees, Class J; five employees, at one hundred and fifty dollars per annum each.

**Court of First Instance, Manila:**

Three judges, at five thousand five hundred dollars per annum each; one clerk, at two thousand dollars per annum; two assistant clerks, at one thousand six hundred dollars per annum each; one deputy clerk, at nine hundred dollars per annum; six employees, class seven; one employee, class eight; three employees, class nine; eight employees, Class H; five employees, at one hundred and fifty dollars per annum each.

**Courts of First Instance, First District:**

One judge, at four thousand five hundred dollars per annum; one employee, class nine; one employee, Class D; one clerk, Cagayan, at eight hundred dollars per annum; one clerk, Isabela, at seven hundred dollars per annum; two employees, Class J; two employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Second District:**

One judge, at four thousand five hundred dollars per annum; one clerk, Ilocos Sur, at nine hundred dollars per annum; one clerk, Abra, at seven hundred dollars per annum; one clerk, Ilocos Norte, at nine hundred dollars per annum; one employee, Class D; one employee, at four hundred and fifty dollars per annum; five employees, Class J; three employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Third District:**

One judge, at five thousand dollars per annum; one employee, class seven; one employee, class nine; one clerk, Union, at nine hundred dollars per annum; one clerk, Pangasinan, at one thousand one hundred dollars per annum; one clerk, Zambales, at eight hundred dollars per annum; one deputy clerk, Pangasinan, at three hundred and sixty dollars per annum; two employees, at one hundred and eighty dollars per annum each; one employee, at one hundred and fifty dollars per annum.

**Courts of First Instance, Fourth District:**

One judge, at five thousand dollars per annum; one employee, Class A; two employees, Class J; one clerk, Tarlac, at nine hundred dollars per annum; one clerk, Pampanga, at one thousand dollars per annum; one clerk, Nueva Ecija, at nine hundred dollars per annum; one deputy clerk, Pampanga, at three hundred dollars per annum; one employee, at two hundred and forty dollars per annum; three employees, at one hundred and fifty dollars per annum each; three employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Fifth District:**

One judge, at five thousand dollars per annum; one clerk, Bulacan, at one thousand dollars per annum; one clerk, Rizal, at nine hundred dollars per annum; one employee, Class G; two employees, Class J; two employees, at one hundred and eighty dollars per annum each; two employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Sixth District:**

One judge, at five thousand dollars per annum; one clerk, Laguna, at nine hundred dollars per annum; one clerk, Cavite, at nine hundred dollars per annum; one clerk, Bataan, at eight hundred dollars per annum; one employee, Class C; four employees, Class J; two employees, at one hundred and eighty dollars per annum each; three employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Seventh District:**

One judge, at five thousand dollars per annum; one employee, Class A; one clerk, Batangas, at one thousand one hundred dollars per annum; one clerk, Tayabas, at nine hundred dollars per annum; one clerk, Marinduque, at seven hundred dollars per annum; one clerk, Mindoro, at eight hundred dollars per annum; four employees, Class J; five employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Eighth District:**

One judge, at five thousand dollars per annum; two employees, class nine; one clerk, Camarines, at nine hundred dollars per annum; one clerk, Albay, at nine hundred dollars per annum; one clerk, Sorsogon, at eight hundred dollars per annum; three employees, Class J; one employee, at one hundred and eighty dollars per annum; one employee, at one hundred and fifty dollars per annum; two employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Ninth District:**

One judge, at five thousand dollars per annum; one employee, class seven; one employee, class nine; one clerk, Iloilo, at one thousand two hundred dollars per annum; one employee, Class J; one employee, at one hundred and eighty dollars per annum; one employee, at ninety dollars per annum.

**Courts of First Instance, Tenth District:**

One judge, at five thousand dollars per annum; one employee, Class D; one clerk, Occidental Negros, at one thousand one hundred dollars per annum; one clerk, Antique, at nine hundred dollars per annum; two employees, Class J; one employee, at one hundred and eighty dollars per annum; one employee, at one hundred and forty-four dollars per annum; one employee, at ninety dollars per annum.

**Courts of First Instance, Eleventh District:**

One judge, at five thousand dollars per annum; one employee, class seven; one employee, Class D; one clerk, Cebu, at one thousand two hundred dollars per annum; one clerk, Oriental Negros, at eight hundred dollars per annum; one clerk, Bohol, at one thousand dollars per annum; one deputy clerk, Cebu, Class D; two employees, Class H; two employees, Class J; two employees, at one hundred and eighty dollars per annum each; one employee, at one hundred and twenty dollars per annum; two employees, at sixty dollars per annum each.

**Courts of First Instance, Twelfth District:**

One judge, at five thousand dollars per annum; one employee, Class D; one clerk, Samar, at nine hundred dollars per annum; one clerk, Leyte, at one thousand dollars per annum; two employees, Class J; two employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Thirteenth District:**

One judge, at four thousand five hundred dollars per annum; one employee, class nine; one clerk, Misamis, at nine hundred dollars per annum; one clerk, Surigao, at eight hundred dollars per annum; one clerk, district of Lanao, at three hundred dollars per annum; one clerk, subdistrict of Dapitan, at three hundred dollars per annum; one employee, Class J; one employee, at one hundred and eighty dollars per annum; four employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Fourteenth District:**

One judge, at four thousand five hundred dollars per annum; one clerk, district of Zamboanga, at one thousand two hundred

dollars per annum; one clerk, Jolo, at one thousand dollars per annum; five deputy clerks, at two hundred dollars per annum each; four employees, at one hundred and twenty dollars per annum each.

**Courts of First Instance, Fifteenth District:**

One judge, at four thousand five hundred dollars per annum; one employee, class eight; one fiscal, at one thousand five hundred dollars per annum; one employee, class nine; one clerk, Capiz, at nine hundred dollars per annum; one clerk, Romblon, at five hundred dollars per annum; one clerk, Masbate, at four hundred dollars per annum; one clerk, Paragua, at three hundred dollars per annum; one deputy clerk, Paragua, at two hundred dollars per annum; two employees, Class J; one employee, at one hundred and eighty dollars per annum; two employees, at one hundred and twenty dollars per annum each; and clerical and translating assistants to fiscal, not to exceed four hundred pesos.

**Courts of First Instance, Mountain District:**

One judge, at four thousand five hundred dollars per annum; one fiscal, at one thousand six hundred dollars per annum; one clerk, at one thousand six hundred dollars per annum; three deputy clerks, at three hundred dollars per annum each; three employees, at one hundred and twenty dollars per annum each; and clerical, interpreting, and translating assistants to fiscal, not to exceed one thousand pesos.

**Court of Customs Appeals:**

Two judges, at four thousand five hundred dollars per annum each; one clerk, at one thousand six hundred dollars per annum; one employee, class eight; one employee, at one hundred and eighty dollars per annum.

**Judges of first instance and employees at large:**

Four judges, at four thousand five hundred dollars per annum each; two employees, class eight; two employees, class nine.

**Court of Land Registration:**

One judge, at five thousand dollars per annum; one judge, at four thousand dollars per annum; one clerk, at two thousand five hundred dollars per annum; one assistant clerk, at two thousand dollars per annum; one examiner of titles, Manila, at one thousand five hundred dollars per annum; five examiners of titles, at one thousand two hundred dollars per annum each; two employees, class seven; two employees, class eight; one employee, class nine; one employee, Class A; two employees, Class D; three employees, Class E; one employee, Class F; one employee, Class G; three employees, Class H; one employee, Class I; three employees, at one hundred and eighty dollars per annum each.

**Office of the Attorney-General:**

Attorney-General, at seven thousand dollars per annum; Solicitor-General, at five thousand five hundred dollars per annum; Assistant Attorney-General, at four thousand five hundred dollars per annum; one Supervisor of Fiscals, at four thousand dollars per annum; one Assistant Attorney-General, Philippines Constabulary, at three thousand five hundred dollars per annum; one Assistant Solicitor-General, at two thousand five hundred dollars per annum; one Deputy Supervisor of Fiscals, at two thousand five hundred dollars per annum; one assistant lawyer, at two thousand four hundred dollars per annum; one assistant lawyer, at two thousand two hundred and fifty dollars per annum; two assistant lawyers, at one thousand eight hundred dollars per annum each; one assistant lawyer, at one thousand six hundred dollars per annum; one assistant lawyer, at one thousand four hundred dollars per annum; one clerk and translator, at two thousand four hundred dollars per annum; one disbursing officer, class five; one translator, class six; six employees, class seven; two employees, class eight; one employee, Class A; one employee, at eight hundred dollars per annum; two employees, Class D; one employee, Class G; one employee, Class J; one employee, at one hundred and eighty dollars per annum; one employee, at one hundred and twenty dollars per annum.

Total for salaries and wages, three hundred and fifty thousand pesos.

*Transportation, Bureau of Justice, nineteen hundred and four:* For the actual and necessary traveling expenses of judges, employees of courts, of the office of the Attorney-General, and of special employees traveling on official business; six thousand pesos.

*Contingent expenses, Bureau of Justice, nineteen hundred and four:* For contingent expenses, including purchase of office furniture, supplies, and repairs; sheriffs' fees and per diems; per diem allowances of four dollars for judges of the Courts of First Instance while absent from their districts on duty in Manila; per diems provided by Act Numbered Eight hundred and sixty-seven; pay for special emergency interpreters or other employees, under approval of the Secretary of Finance and Justice; and for other incidental expenses; sixteen thousand pesos.

In all, for the Bureau of Justice, three hundred and seventy-two thousand pesos.

#### DEPARTMENT OF PUBLIC INSTRUCTION.

##### BUREAU OF EDUCATION.

*Salaries and wages, Bureau of Education, nineteen hundred and four:*

Office of the General Superintendent:

General Superintendent, at six thousand dollars per annum; assistant to General Superintendent, at two thousand four hundred dollars per annum; two clerks, class five; one clerk, class six; three clerks, class seven; six clerks, class eight; six clerks, class nine; one clerk, class ten; one clerk, Class A; one clerk, Class D, at seven hundred dollars per annum; one clerk, Class E; one employee, at two hundred and ten dollars per annum; four employees, at one hundred and fifty dollars per annum each; seven employees, at one hundred and twenty dollars per annum each; two carpenters, at three hundred dollars per annum each; wages of laborers handling supplies, not to exceed one thousand two hundred pesos.

Offices of the division superintendents:

Thirty-one division superintendents, not to exceed fifty-nine thousand three hundred and fifty pesos; ten clerks, class nine; seven clerks, Class A; fourteen clerks, Class D.

General teaching force:

Superintendent, Normal School, Manila, at three thousand dollars per annum; superintendent, Trade School, Manila, at two thousand four hundred dollars per annum; three teachers, class five; eight teachers, class six; six teachers, class seven; fifty teachers, class eight, at one thousand five hundred dollars per annum each; eighty teachers, class eight; sixty teachers, class nine, at one thousand three hundred dollars per annum each; three hundred and fifty teachers, class nine; fifty teachers, class ten, at one thousand one hundred dollars per annum each; one hundred and sixty teachers, class ten; one hundred teachers, Class A; six teachers, Class C, at eight hundred dollars per annum each; twenty teachers, Class D; twenty teachers, Class E; twenty teachers, Class F; twenty teachers, Class G; twenty teachers, Class H; forty teachers, Class I; sixty teachers, Class J; sixteen teachers for the Tinguian municipalities of Abra, at not exceeding six dollars per month each; sixteen teachers for the Ilocano pueblos of Abra, at not exceeding ten dollars per month each; three hundred night-school teachers, at one dollar and fifty cents each per night, thirteen nights per month: *Provided*, That fifty of these teachers are assigned to towns where there is a special demand for night-school instruction and where an average attendance of twenty-five pupils shall be maintained.

Other employees:

Normal School, Manila, two employees at one hundred and eighty dollars per annum each, and six employees at one hundred and twenty dollars per annum; Trade School, Manila, two em-

ployees at one hundred and twenty dollars per annum each; Nautical School, Manila, two employees at one hundred and eighty dollars per annum each; one mechanic, at three hundred and sixty dollars per annum.

Total for salaries and wages, eight hundred and ninety-five thousand five hundred pesos.

*Transportation, Bureau of Education, nineteen hundred and four:* For the actual and necessary traveling expenses of the General Superintendent, assistant to General Superintendent, division superintendents, and employees; for the actual and necessary traveling expenses of teachers from Manila to their respective stations and upon transfer to new stations within the Archipelago when directed by the General Superintendent for the benefit of the Bureau; and for the actual and necessary traveling expenses, not including maintenance of teachers of English designated by their division superintendents to visit and instruct in barrio schools, since July first, nineteen hundred and three; ten thousand four hundred pesos.

*Transportation, Bureau of Education, nineteen hundred and three:* For actual and necessary traveling expenses, not including maintenance, of teachers of English designated by their division superintendents to visit and instruct in barrio schools; four hundred pesos.

*School furniture and supplies, Bureau of Education, nineteen hundred and four:* For the purchase of school books, furniture, and supplies, including cartage, packing, storage, and transportation of same; fifty thousand pesos.

*Contingent expenses, Bureau of Education, nineteen hundred and four:* For contingent expenses, including compensation and expenses of the superior supervisory board; purchase of office furniture and supplies; purchase of fuel, light, and water for girls' dormitory, Normal School, Manila, and of distilled water for Manila schools; for rent of Nautical School, of dormitory for girls attending Normal School, of offices and storerooms for division superintendents, and of storeroom in Manila; for construction and equipment of girls' industrial school at Bua, Benguet; for purchase of clothing and bedding for Igorrote pupils in boys' industrial training school at Baguio, Benguet, and of material and agricultural implements for said training school; for completion of Igorrote boys' industrial training school at Bontoc; for preliminary expense in construction of Igorrote industrial school at Cervantes, Bontoc; equipment and supplies for cooking class in the Manila Trade School; establishment of an industrial school for the Tinguianes in the Province of Abra, including machinery and tools for equipping same; incidental expenses; for medical attention to students in Manila Normal School, at twenty-five dollars per month: *Provided*, That payment hereunder may be made to a physician now in the civil service, the provisions of existing laws to the contrary notwithstanding.

Total for contingent expenses, twenty-nine thousand seven hundred pesos.

In all, for the Bureau of Education, nine hundred and eighty-six thousand pesos.

##### BUREAU OF PUBLIC PRINTING.

*Salaries and wages, Bureau of Public Printing, nineteen hundred and four:* Public Printer, at four thousand dollars per annum; superintendent of instruction, at three thousand dollars per annum; one craftsman instructor, class four; six craftsmen instructors, class five; one clerk, class six; six craftsmen instructors, class six; two clerks, class seven; eighteen craftsmen instructors, class seven; one clerk, class eight; sixteen craftsmen instructors, class eight; one clerk, class nine; one craftsman instructor, class nine; one employee, class ten; four employees, Class A; one helper, Class A; one clerk, Class B; one clerk, Class C; four watchmen, Class C; two employees, Class D; two clerks, Class H; one employee, at one hundred and eighty dollars per annum; one employee, at one hundred and fifty dollars per annum; for salaries and wages of craftsmen, junior craftsmen, mechanics, helpers,

laborers, and so forth, not to exceed thirty-four thousand pesos; for salaries and wages of apprentices, not to exceed three thousand six hundred pesos; total, one hundred and twenty-two thousand six hundred pesos.

*Contingent expenses, Bureau of Public Printing, nineteen hundred and four:* For contingent expenses, including additional machinery, material, supplies, lithographing, rents, repairs to machinery, office supplies, horses, forage, telephone, filling, grading, and curbing northern half of lot; and other incidental expenses; sixty-eight thousand four hundred pesos.

*Contingent expenses, Bureau of Public Printing, nineteen hundred and three:* For contingent expenses, including additional machinery, material, supplies, horses, forage; repairs, and other incidental expenses; seven thousand seven hundred and fifty pesos.

In all, for the Bureau of Public Printing, one hundred and ninety-eight thousand seven hundred and fifty pesos, under the provisions of Act Numbered Eight hundred and seven.

#### BUREAU OF ARCHIVES.

*Salaries and wages, Bureau of Archives, nineteen hundred and four:* Chief of Bureau, at three thousand dollars per annum; one clerk, class seven; three clerks, class eight; one clerk, class ten; one clerk, Class A, for three months only; three clerks, Class D; two clerks, Class F; two clerks, Class H; one clerk, Class I; two clerks, Class J; three employees, at one hundred and fifty dollars per annum each; twelve thousand five hundred pesos.

*Contingent expenses, Bureau of Archives, nineteen hundred and four:* For contingent expenses, including the purchase of office furniture, typewriter and supplies, and other incidental expenses; five hundred and fifty pesos.

In all, for the Bureau of Archives, thirteen thousand and fifty pesos: *Provided*, That the Bureau of Patents, Copyrights, and Trade-Marks shall be merged in the Bureau of Archives.

#### BUREAU OF ARCHITECTURE AND CONSTRUCTION OF PUBLIC BUILDINGS.

*Salaries and wages, Bureau of Architecture and Construction of Public Buildings, nineteen hundred and four:* Chief of Bureau, at four thousand dollars per annum; master builder, at two thousand two hundred and fifty dollars per annum; one superintendent of construction, class six; one clerk and electrical engineer, class six; one disbursing officer, class six; two clerks, class seven; one electrical engineer, class seven, for four months only; five clerks, class eight; four clerks, class nine; two clerks, Class F; two clerks, Class G; one clerk, Class I; one employee, at two hundred and ten dollars per annum; one employee, at one hundred and fifty dollars per annum; twenty-eight thousand pesos.

*Public works, Bureau of Architecture and Construction of Public Buildings, nineteen hundred and four:* For alterations, maintenance, and repair of the following-named public buildings, not to exceed in cost the amounts set opposite the names of the respective buildings and bureaus:

*Ayuntamiento Building:* Renovating large sessions hall and rewiring chandeliers, seven hundred pesos; remodeling small sessions hall into office for Vice-Governor, one thousand pesos; cleaning and repainting ironwork on banisters, four hundred pesos; total, two thousand one hundred pesos.

*Board of Health for the Philippine Islands:* Ventilators and fire plugs at hospital for contagious diseases, five hundred and thirty pesos; general alterations and repairs, San Lazaro Hospital, one thousand pesos; total, one thousand five hundred and thirty pesos.

*Bureau of Agriculture:* For erection of barn and sheds for cattle, two thousand eight hundred pesos.

*Bureau of Architecture:* New partition, shelving, and so forth, for office building, six hundred pesos.

*Bureau of Coast Guard and Transportation:* General alterations and repairs to office building, four hundred pesos.

*Bureau of Customs and Immigration:* General alterations and repairs, including alterations of immigration station, twelve thousand pesos.

*Bureau of Government Laboratories, Serum Laboratory:* General repairs, additional water piping to new stables, small animal house, and so forth, two thousand pesos.

*Bureau of Public Printing:* General repairs and new roof, eight thousand pesos.

*Bureau of the Insular Treasury:* Brass grill work in cash room, one thousand two hundred dollars.

*Civil Sanitarium and other Government buildings, Baguio, Benguet:* Completion of barn, general repairs, construction, painting, and so forth, seventeen thousand pesos.

*Insular Cold Storage and Ice Plant:* Painting and repairing deck houses, and general repairs, six hundred pesos.

*Intendencia Building:* For new roof, eight thousand pesos.

*Oriente Hotel Building:* General alterations and repairs, fifty-nine thousand pesos.

*Philippine Civil Hospital:* General alterations and repairs, one thousand pesos.

*Santa Potenciana Building:* General alterations, repairs, and so forth, one thousand pesos.

*General alterations, repairs, and emergency work, twenty thousand pesos.*

*Purchase of building supplies, tools, and so forth, twenty thousand pesos.*

*Total for public works, one hundred and fifty-seven thousand two hundred and thirty pesos.*

*Contingent expenses, Bureau of Architecture and Construction of Public Buildings, nineteen hundred and four:* For contingent expenses, including the purchase of drafting room and office supplies, furniture, ice, technical books, and water; rent of post-office box and telephone; advertising, laundry, and other incidental expenses; two thousand two hundred pesos.

In all, for the Bureau of Architecture and Construction of Public Buildings, one hundred and eighty-seven thousand four hundred and thirty pesos.

#### AMERICAN CIRCULATING LIBRARY OF MANILA.

*Salaries and wages, American Circulating Library of Manila, nineteen hundred and four:* Librarian, at one thousand two hundred dollars per annum; assistant librarian, at nine hundred dollars per annum; two employees, at one hundred and twenty dollars per annum each; two thousand three hundred pesos.

*Contingent expenses, American Circulating Library of Manila, nineteen hundred and four:* For contingent expenses, including purchase of ice, coolie hire, rent of library building, electric lighting, water tax, and other incidental expenses, one thousand two hundred pesos.

In all, for the American Circulating Library of Manila, three thousand five hundred pesos, under the provisions of Act Numbered Eight hundred and seven.

#### THE OFFICIAL GAZETTE.

*Salaries and wages, the Official Gazette, nineteen hundred and four:* Editor, at one thousand eight hundred dollars per annum; one clerk, class eight; one clerk, Class C; two clerks, Class D; one clerk, Class I; four thousand six hundred pesos.

*Contingent expenses, the Official Gazette, nineteen hundred and four:* For contingent expenses, including purchase of office furniture and supplies; allowance to the Editor of not exceeding twenty pesos per month in lieu of carromata hire; and other incidental expenses; five hundred and twenty pesos.

In all, for the Official Gazette, five thousand one hundred and twenty pesos.

## SUPERINTENDENT OF THE INTENDENCIA BUILDING.

*Salaries and wages, superintendent of the Intendencia Building, nineteen hundred and four:* Superintendent, at two hundred and fifty dollars per annum; one janitor, at one hundred and eighty dollars per annum; eight laborers, at one hundred and fifty dollars per annum each; one thousand six hundred and thirty pesos.

*Contingent expenses, superintendent of the Intendencia Building, nineteen hundred and four:* For contingent expenses, including purchase of supplies; electric lighting; minor repairs, and other incidental expenses; three thousand two hundred pesos.

In all, for the superintendent of the Intendencia Building, four thousand eight hundred and thirty pesos.

## CUSTODIAN OF THE SANTA POTENCIANA BUILDING.

*Salaries and wages, custodian of the Santa Potenciana Building, nineteen hundred and four:* One watchman, at seven hundred and eighty dollars per annum; one janitor, Class D; ten laborers, at one hundred and twenty dollars per annum each; two thousand and sixty pesos.

*Contingent expenses, custodian of the Santa Potenciana Building, nineteen hundred and four:* For contingent expenses, including the purchase of ice, water, and other supplies; construction of sidewalk and curbing on Calles Victoria and Palacio; electric lighting, and other incidental expenses; two thousand eight hundred pesos.

In all, for the custodian of the Santa Potenciana Building, four thousand eight hundred and sixty pesos.

## PROVINCIAL GOVERNMENT OF BENGUET.

*Salaries and wages, provincial government of Benguet, nineteen hundred and four:* Governor, at one thousand six hundred dollars per annum; secretary, at one thousand dollars per annum; one clerk, Class A; one clerk, Class I; one clerk, Class J; one laborer, at sixty dollars per annum; messenger service, not to exceed one hundred and four pesos; and hire of laborers, not to exceed sixty pesos; one thousand pesos.

*Transportation, provincial government of Benguet, nineteen hundred and four:* For the actual and necessary traveling expenses of officers and employees, and the transportation of supplies, four hundred pesos.

*Contingent expenses, provincial government of Benguet, nineteen hundred and four:* For the purchase of office furniture and supplies; repairs to roads, bridges, and public buildings; court expenses; sanitary emergency fund; subsistence of pupils in the industrial school; subsistence of prisoners; and other incidental expenses; four thousand pesos.

In all, for the provincial government of Benguet, five thousand four hundred pesos.

## PROVINCIAL GOVERNMENT OF LEPANTO-BONTOC.

*Salaries and wages, provincial government of Lepanto-Bontoc, nineteen hundred and four:* Governor, at two thousand four hundred dollars per annum; supervisor, at one thousand five hundred dollars per annum; secretary-treasurer, at one thousand four hundred dollars per annum; lieutenant-governor of Bontoc, at one thousand five hundred dollars per annum; lieutenant-governor of Amburayan, at one thousand two hundred dollars per annum; two clerks, class nine, one for three months only; one interpreter, Class D; two clerks, Class I; one translator, Class I; two interpreters, Class I; one deputy-treasurer, Class J, at two hundred and eighty-eight dollars per annum; one deputy-treasurer, Class J; one clerk, Class K, at one hundred and eighty dollars per annum; two employees, at ninety-six dollars per annum each; one employee, at ninety dollars per annum; one employee, at forty-eight dollars per annum; eleven thousand pesos.

*Transportation, provincial government of Lepanto-Bontoc, nineteen hundred and four:* For actual and necessary traveling expenses of officers and employees on official business, and for transportation of Government property, one thousand pesos.

*Contingent expenses, provincial government of Lepanto-Bontoc, nineteen hundred and four:* For contingent expenses, including

purchase of office furniture and supplies; building repairs; construction and repairs of bridges, roads, and trails, not to exceed five thousand pesos; for a fund to be expended by the provincial governor under the provisions of Act Numbered Six hundred and eighty-two, not to exceed eight hundred pesos; and other incidental expenses; twelve thousand pesos.

In all, for the provincial government of Lepanto-Bontoc, twenty-four thousand pesos.

## PROVINCIAL GOVERNMENT OF MINDORO.

*Salaries and wages, and contingent expenses, provincial government of Mindoro, nineteen hundred and four:* For salaries and wages and for general provincial expenses, including maintenance of and repairs to provincial steam launch, purchase of office supplies and stationery, blanks and blank books, sheriff's fees, subsistence of prisoners, transportation of officers and supplies, maintenance and operation of telephone system, and other incidental expenses; twelve thousand pesos: *Provided*, That the unexpended balance of funds appropriated for the support of the provincial government of Mindoro for the first half of the fiscal year nineteen hundred and four shall be made available for expenditure for the whole of said fiscal year.

## PROVINCIAL GOVERNMENT OF NUEVA VIZCAYA.

*Salaries and wages, provincial government of Nueva Vizcaya, nineteen hundred and four:* Governor, at two thousand four hundred dollars per annum; secretary-treasurer, at one thousand two hundred dollars per annum; president of provincial board of health, at nine hundred dollars per annum; fiscal, at six hundred dollars per annum; one deputy treasurer, class nine; one clerk, Class F; one clerk, Class G; one clerk, Class K, at one hundred and fifty dollars per annum; one corral boss, Class E; one assistant corral boss, at one hundred and eight dollars per annum; one Igorrote interpreter for Quiangan District, at eighty-four dollars per annum; one messenger, at seventy-two dollars per annum; one janitor, at sixty-six dollars per annum; seven hundred and fifty pesos.

*Contingent expenses, provincial government of Nueva Vizcaya, nineteen hundred and four:* For contingent expenses, including the purchase of forage and supplies; maintenance of high school, subsistence of prisoners, and so forth; construction and repairs of roads, including labor thereon; rents, and other incidental expenses; four thousand pesos.

In all, for the provincial government of Nueva Vizcaya, four thousand seven hundred and fifty pesos.

## OPIUM COMMITTEE.

The sum of seven thousand pesos is hereby appropriated as an additional sum to carry out the provisions of Act Numbered Eight hundred, as amended.

## COLLECTING LIBRARIAN.

For the salary of the Collecting Librarian, as provided in Act Numbered Six hundred and eighty-eight, three thousand pesos.

## MISCELLANEOUS.

The following sums, or so much thereof as may be found to be due on settlement of the respective claims by the Auditor, are hereby appropriated for the purposes specified:

For Strauch and MacMurray, for repairs to the launch *Frankfort* while the same was under the control of the Province of Occidental Negros, and bills for which have been rendered to said province, two thousand two hundred and forty pesos: *Provided*, That the Auditor shall require the provincial authorities of Occidental Negros to deposit with the Treasurer of the Philippine Islands, to the credit of "Miscellaneous receipts," all earnings which have accrued to the province by reason of the use of said launch.

For Cirriaco Villamor, for reimbursement for a quantity of rice and other property which had become infected by cholera and was destroyed by order of the Commissioner of Public Health in the month of August, nineteen hundred and two, nine hundred and forty pesos.

**Insular salary and expense fund:**

For the payment of salaries and expenses of civil officers and employees properly chargeable to insular funds and not otherwise specifically provided for, including half salary and traveling expenses of employees from the United States to Manila, for expenses connected with the deportation of convicted vagrants, and for the payment to the estates of deceased employees of salaries due such employees for the leaves of absence to which they were entitled at the time of their deaths, in accordance with the provisions of Act Numbered One thousand and forty, and such other expenses of like character, payment of which shall be directed by the Executive Office, and for the payment of rewards for information leading to the capture and conviction of a member of a band of brigands, and so forth, authorized under the provisions of Act Numbered Five hundred and twenty-two, and for the discovery and prevention of crime, sixty thousand pesos; but no salary shall be paid to any officer or employee for a period subsequent to his arrival in Manila from this appropriation when the Bureau to which he may be assigned has a vacancy from the appropriation for which he may be properly paid, or the provincial office to which he may be assigned was vacant: *Provided*, That the Civil Governor may, in his discretion, commute two or more years' accrued leave of absence to persons entitled to visit the United States on such leave, and authorize the payment of the amount so accrued in a gross sum from this appropriation.

Total of appropriations for all purposes, eight million fourteen thousand and ninety-eight pesos and seventy-seven centavos, Philippine currency, or so much thereof as may be necessary.

Sec. 2. The provisions of the first paragraph of section two of Act Numbered Eight hundred and seven, providing the manner in which withdrawal of moneys appropriated in said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

Sec. 3. The public good requiring the speedy enactment of this appropriation bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, February 11, 1904.

[No. 1050.]

AN ACT TO AUTHORIZE THE ISSUE OF THREE MILLION DOLLARS OF CERTIFICATES OF INDEBTEDNESS UNDER AND BY AUTHORITY OF SECTION SIX OF THE ACT OF CONGRESS ENTITLED "AN ACT TO ESTABLISH A STANDARD OF VALUE AND TO PROVIDE FOR A COINAGE SYSTEM IN THE PHILIPPINE ISLANDS," APPROVED MARCH SECOND, NINETEEN HUNDRED AND THREE, IN ADDITION TO THE SIX MILLIONS OF DOLLARS OF CERTIFICATES OF THE SAME CHARACTER ALREADY AUTHORIZED BY ACTS NUMBERED SIX HUNDRED AND NINETY-SIX AND SEVEN HUNDRED AND NINETY-TWO, AND APPROPRIATING THE SUM OF THREE MILLION AND THIRTY THOUSAND DOLLARS, IN GOLD COIN OF THE UNITED STATES, FROM THE GOLD-STANDARD FUND FOR THE PURPOSE OF PAYING THE PRINCIPAL AND THE LAST QUARTERLY INTEREST OF THE FIRST SERIES OF CERTIFICATES OF INDEBTEDNESS ISSUED PURSUANT TO THE PROVISIONS OF SAID ACT NUMBERED SIX HUNDRED AND NINETY-SIX.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Secretary of War is hereby authorized, on behalf of the Government of the Philippine Islands, temporarily to issue certificates of indebtedness to the extent of three million dollars, in money of the United States, bearing interest at a rate

not to exceed four per centum annually, payable at periods of three months or more, but not later than one year from date of issue, in denominations of one thousand dollars, in currency of the United States, and redeemable in gold coin of the United States, which certificates of indebtedness shall be disposed of by the Secretary of War at such favorable rate of interest or premium as he may be able to secure, the proceeds thereof to be deposited with the Guaranty Trust Company of New York, the authorized depository of the Government of the Philippine Islands, to the credit of the Treasury of the Philippine Islands. These certificates are authorized by, and shall be issued in accordance with, section six of the Act of Congress approved March second, nineteen hundred and three, entitled "An Act to establish a standard of value and to provide for a coinage system in the Philippine Islands," and the proceeds thereof are to be used as provided in said act. The certificates issued hereunder shall state upon their face that they have been issued in accordance with the terms of said section and by authority of this Act of the Philippine Commission, and that they are in addition to the issue of six millions of dollars of similar certificates issued under Acts Numbered Six hundred and ninety-six and Seven hundred and ninety-two of the Philippine Commission, enacted March twenty-third and June thirtieth, nineteen hundred and three, respectively.

SEC. 2. The Secretary of War shall report to the Auditor and the Treasurer of the Philippine Islands the amount of the certificates of indebtedness the issue of which is authorized in the previous section, which he shall issue under the authority thereof, the numbers and denominations thereof, the rate of interest to be paid thereon, the time when payable, the premium, if any, at which they were issued, and the total proceeds therefrom; and such facts shall be made a matter of record in the offices of the Auditor and the Treasurer of the Philippine Islands. The certificates to be issued under this Act shall be numbered consecutively, the first certificate thereof bearing the number next after that of the last numbered certificate issued under Act Numbered Seven hundred and ninety-two.

SEC. 3. Pursuant to the provisions of section one of Act Numbered Nine hundred and thirty-eight, which declares "That whenever the public interest permits, there may be withdrawn from the gold-standard fund such amount as the Philippine Government may deem proper to pay the principal and interest of all, or any part of, the certificates of indebtedness issued under section six of the said Act of Congress of March second, nineteen hundred and three," there is hereby appropriated from the gold-standard fund the sum of three million and thirty thousand dollars, gold coin of the United States for the payment, in New York, upon maturity, of the principal and last quarterly interest of the first series of certificates of indebtedness, maturing May first, nineteen hundred and four, and issued pursuant to the provisions of section six of the Act of Congress approved March second, nineteen hundred and three, and Act Numbered Six hundred and ninety-six of the Philippine Commission.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, February 12, 1904.

**EXECUTIVE ORDER AND PROCLAMATION.**

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, February 13, 1904.

EXECUTIVE ORDER }  
No. 10.

Whenever it shall become necessary to transfer prisoners from provincial jails to Bilbid Prison, in accordance with the pro-

visions of Executive Order Numbered Twenty, series of nineteen hundred and three, they shall be accompanied by the sheriff or deputy sheriff of the province, and the sheriff or deputy sheriff having such prisoners in charge will be held personally responsible for their safe conduct en route and final delivery, with all necessary papers in the case of each prisoner, to the Warden of Bilibid Prison. Whenever called upon, the Philippines Constabulary will supply the necessary guard, but the furnishing of this guard will not relieve the sheriff or deputy sheriff of his responsibility in connection with the prisoners.

LUKE E. WRIGHT, *Civil Governor.*

BY THE CIVIL GOVERNOR OF THE PHILIPPINE ISLANDS—A PROCLAMATION.

Whereas the President of the United States did, on the eleventh day of February, issue the following proclamation:

“BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A PROCLAMATION.

“Whereas a state of war unhappily exists between Japan on the one side and Russia on the other side; and

“Whereas the United States are on terms of friendship and amity with both the contending powers and with the persons inhabiting their several dominions; and

“Whereas there are citizens of the United States residing within the territories or dominions of each of the said belligerents and carrying on commerce, trade, or other business or pursuits therein protected by the faith of treaties; and

“Whereas there are subjects of each of the said belligerents residing within the territory or jurisdiction of the United States and carrying on commerce, trade, or other business or pursuits therein; and

“Whereas the laws of the United States, without interfering with the free expression of opinion and sympathy or with the open manufacture or sale of arms or munitions of war, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest; and

“Whereas it is the duty of a neutral government not to permit or suffer the making of its waters subservient to the purposes of war:

“Now, therefore, I, Theodore Roosevelt, the President of the United States of America, in order to preserve the neutrality of the United States and of their citizens and of persons within their territory and jurisdiction and to enforce their laws, and in order that all persons being warned of the general tenor of the laws and treaties of the United States in this behalf and of the law of nations may thus be prevented from an unintentional violation of the same, do hereby declare and proclaim that by the act passed on the twentieth day of April, anno Domini eighteen hundred and eighteen, commonly known as the ‘Neutrality Law,’ the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to wit:

“One. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.

“Two. Enlisting or entering into the service of either of the said belligerents as a soldier or as a marine or seaman on board of any vessel of war, letter of marque, or privateer.

“Three. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier or as a marine or seaman on board of any vessel of war, letter of marque, or privateer.

“Four. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

“Five. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

“Six. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.

“Seven. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid. (But said Act is not to be construed to extend to a citizen or subject of either belligerent who being transiently within the United States shall on board of any vessel of war which at the time of its arrival within the United States was fitted and equipped as such vessel of war enlist or enter himself or hire or retain another subject or citizen of the same belligerent who is transiently within the United States to enlist or enter himself to serve such belligerent on board such vessel of war if the United States shall then be at peace with such belligerent.)

“Eight. Fitting out and arming or attempting to fit out and arm, or procure to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

“Nine. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

“Ten. Increasing or augmenting or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel which at the time of her arrival within the United States was a ship of war, cruiser, or armed vessel in the service of either of the said belligerents or belonging to the subjects of either by adding to the number of guns of such vessels or by changing those on board of her for guns of a larger caliber or by the addition thereto of any equipment solely applicable to war.

“Eleven. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

“And I do hereby further declare and proclaim that any frequenting and use of the waters within said territorial jurisdiction of the United States by the armed vessels of either belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations or as posts of observations upon the ships of war or privateers or merchant vessels of the other belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive and in violation of that neutrality which it is the determination of this Government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided I further proclaim and declare that from and after the fifteenth day of February instant and during the continuance of the present hostilities between Japan and Russia, no ship of war or privateer of either belligerent shall be permitted to make use of any port, harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel of the other belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States. If any ship of war or privateer of either belligerent shall after the time this notification takes effect enter any port, harbor, roadstead, or waters of the United States, such vessel shall be required to depart and put to sea within twenty-four hours after her entrance into such port, harbor, roadstead, or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew or for repairs, in either of which cases the authorities of the port or of the nearest port (as the case may be) shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been

permitted to remain within the waters of the United States for the purpose of repair shall continue within such port, harbor, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed, unless within such twenty-four hours a vessel, whether ship of war, privateer, or merchant ship of the other belligerent shall have departed therefrom, in which case the time limited for the departure of such ship of war or privateer shall be extended so far as may be necessary to secure an interval of not less than twenty-four hours between such departure and that of any ship of war, privateer, or merchant ship of the other belligerent which may have previously quit the same port, harbor, roadstead, or waters.

"No ship of war or privateer of either belligerent shall be detained in any port, harbor, roadstead, or waters of the United States more than twenty-four hours by reason of the successive departures from such port, harbor, roadstead, or waters of more than one vessel of the other belligerent, but if there be several vessels of each or either of the two belligerents in the same port, harbor, roadstead, or waters the order of their departure therefrom shall be so arranged as to afford opportunity of leaving alternately to the vessels of the respective belligerents and to cause the least detention consistent with the objects of this proclamation.

"No ship of war or privateer of either belligerent shall be permitted while in any port, harbor, roadstead, or waters within the jurisdiction of the United States to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew and except so much coal only as may be sufficient to carry such vessel, if without any sail power, to the nearest port of her own country, or, in case the vessel is rigged to go under sail and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States without special permission until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall since last thus supplied have entered a port of the Government to which she belongs.

"And I further declare and proclaim that by the first article of the convention as to the rights of neutrals at sea which was concluded between the United States of America and His Majesty the Emperor of all the Russias on the twenty-second day of July, anno Domini eighteen hundred and fifty-four, the following principles were recognized as permanent and immutable, to wit:

"One. That free ships make free goods, that is to say, that the effects or goods belonging to subjects or citizens of a power or State at war are free from capture and confiscation when found on board neutral vessels, with the exception of articles contraband of war.

"Two. That the property of neutrals on board an enemy's vessel is not subject to confiscation unless the same be contraband of war."

"And I do further declare and proclaim that the statutes of the United States and the law of nations alike require that no person within the territory and jurisdiction of the United States shall take part, directly or indirectly, in the said war, but shall remain at peace with each of the said belligerents and shall maintain a strict and impartial neutrality, and that whatever privileges shall be accorded to one belligerent within the ports of the United States shall be in like manner accorded to the other.

"And I do hereby enjoin all the good citizens of the United States and all persons residing or being within the territory or jurisdiction of the United States to observe the laws thereof and to commit no act contrary to the provisions of the said statutes or in violation of the laws of nations in that behalf.

"And I do hereby warn all citizens of the United States and all persons residing or being within their territory or jurisdiction

that while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of either belligerent can not lawfully be originated or organized within their jurisdiction, and that while all persons may lawfully and without restriction by reason of the aforesaid state of war manufacture and sell within the United States arms and munitions of war and other articles ordinarily known as 'contraband of war,' yet they can not carry such articles upon the high seas for the use or service of either belligerent, nor can they transport soldiers and officers of either, or attempt to break any blockade which may be lawfully established and maintained during the war without incurring the risk of hostile capture and the penalties denounced by the laws of nations in that behalf.

"And I do hereby give notice that all citizens of the United States and others who may claim the protection of this Government who may misconduct themselves in the premises will do so at their peril and that they can in no wise obtain any protection from the Government of the United States against the consequences of their misconduct.

"In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

"Done at the city of Washington this eleventh day of February, in the year of our Lord one thousand nine hundred and four and the independence of the United States the one hundred and twenty-eighth.

"THEODORE ROOSEVELT.

"By the President:

"JOHN HAY, *Secretary of State.*"

Now, therefore, I, Luke E. Wright, Civil Governor of the Philippine Islands, do give publicity to said proclamation and enforce the strict observance of its provisions upon all citizens of the Philippine Islands, and other persons residing or being therein.

In testimony whereof I have hereunto set my hand and caused the seal of the Government of the Philippine Islands to be affixed.

Done at the city of Manila this sixteenth day of February, in the year of our Lord one thousand nine hundred and four.

LUKE E. WRIGHT.

By the Civil Governor:

A. W. FEROUSSON, *Executive Secretary.*

## DECISIONS OF THE SUPREME COURT.

[No. 981, October 23, 1903.]

*THE UNITED STATES, complainant and appellee, vs. EMILIANO CAJAYON ET AL., defendants and appellants.*

1. CRIMINAL LAW; MURDER; EVIDENCE.—Proof that the defendants took the deceased from his house, bound him and were seen conducting him toward a place where his remains were afterwards discovered, is sufficient to sustain a conviction for the crime of murder.
  2. ID.; CRIMES COMMITTED IN THE COURSE OF REBELLION.—The fact that the accused were members of the insurgent forces does not affect their guilt with respect to common crimes committed by them during the insurrection but not related thereto.
  3. ID.—The decision of the trial court will not be reversed on account of defects in the complaint which have not been taken advantage of by the defense either in the trial court or on appeal.
  4. ID.; AMNESTY.—In the absence of proof that the crime committed was of a political character or grew out of political feuds or hatred, a motion for amnesty under the proclamation of July 4, 1902, will be denied.
- Cooper, J., dissenting:
5. ID.; INFORMATION; REQUISITES.—The complaint or information should show the acts or omissions complained of as constituting the crime or public offense in ordinary and concise language, and where the charge in the complaint is that the defendants seized the deceased and carried him off and that his body was afterwards found, without charging that the defendants did actually kill the deceased, is not sufficient to charge murder or homicide.
  6. ID.; ID.; QUALIFICATIVE CIRCUMSTANCES SHOULD BE PLEADED.—Where the complaint fails to charge that the offense was committed with *alcovisa* or premeditation and fails to charge any other of the qualifying circumstances



mentioned in articles 402 and 403, Penal Code, there can be no conviction under such for murder.

7. **II. ID. OBJECTIONS, WHEN TO BE MADE.**—Objections to a complaint which fail to charge any offense, or which fail to charge a circumstance qualifying the offense, may be made either on appeal in this court or by demurrer in the Court of First Instance, or may be raised by either court on its own motion.

**APPEAL** from a judgment of the Court of First Instance of Cavite.

The facts are given in the opinion of the court.

JOSÉ DEL CASTILLO, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

Between 11 and 12 o'clock at night on the 21st of March, 1901, some eleven men, armed with guns and bolos, assaulted the house of Doña Ana Muriel in the town of Lubang, Cavite Province, and stole jewelry, clothing, documents, and some \$120 in cash. After having bound Tranquilino Torres, who lived in that house, the assailants took him with them to the barrio of Maliig, near the house of Pedro Villaflors, where they killed him and buried him in a hole dug for that purpose. About five or six days afterwards notices were posted in different parts of the town and on the door of the house which had been assaulted, stating that in the barrio mentioned the body of Tranquilino Torres could be found, disinterred and devoured by the dogs. Upon this, the municipal president, Toribio Aguilar, accompanied by his assistants and some of the townspeople, including Manuel Torres, the son of the dead man, went to the place designated. A skull, a number of bones, and other human remains were found scattered about near a grave, together with some clothing, a hat, and a piece of rope about 3 yards in length. The son of the deceased and Gumersindo Abeleda and Mariano Tularino, inhabitants of the town, identified the clothing and hat as those worn by the deceased in his lifetime. His son furthermore stated that his father had lost a tooth from the upper jaw, and a similar defect was observed in the skull found. The conclusion was reached by all that these human remains were those of Tranquilino Torres.

The violent killing of a human being with the presence of any of the five qualificative circumstances enumerated in article 403 of the Penal Code constitutes the crime of murder, punishable by penalties ranging from *cadena temporal* in its maximum grade to death.

The facts above related with respect to the killing of Tranquilino Torres in the barrio of Maliig, town of Lubang, on the night of the 21st of March, 1901, which are fully established by the testimony of eyewitnesses and by circumstantial evidence, constitute the crime of murder because of the presence in its commission of the qualificative circumstance of *alevosia*. The deceased was bound elbow to elbow and was carried away by some twelve malefactors, and while unarmed and in such a situation that it was impossible for him to defend himself against his assailants was killed by them. This being so, the latter in committing the crime availed themselves of means which unquestionably directly and specially tended to insure its consummation without any risk to themselves arising from an attempt at defense on the part of the deceased.

Although the information charges the defendants with only the crime of murder, the evidence adduced at the trial also shows that before the perpetration of this crime, the defendants had committed the crime of robbery in the house from which the deceased was taken. The facts shown by the evidence might therefore have been classified as constituting the double crime of robbery in a band and murder. However, limiting ourselves to the latter, which is all the complaint charges, we reach the conclusion that the evidence is such as to establish beyond doubt the guilt of the defendants Emiliano Cajayon, Felix Aguilar, Domingo Castillo, Quintin de Lemos, Tomas Ramirez, Pioquinto Cajayon, Gregorio Tria, Candido Aguilar, and Mariano Aguilar, as principals, together with other persons unknown, of the crime of the murder in question.

The complaining witness, Ana Muriel, designated Felix Aguilar, Emiliano Cajayon, Quintin de Lemos, Tomas Ramirez, and Candido Aguilar as the malefactors who, with two other persons unknown, entered her house on the night in question, stole jewelry and money therefrom, and carried off with them Tranquilino Torres. She stated that she had known these five men designated by her before the night in question and that she recognized them when they struck a light. At the same time she observed that three of them had guns and that the others carried revolvers. The witnesses Gumersindo Abeleda, Antonio Orayani, Mariano Tularino, Tomas Sanchez, and Cornelio Tamayosa, inhabitants of the town, some of whom lived in houses close to the one in which the robbery was committed, corroborated this statement, saying that there was a disturbance in the town because of the assault on the house of Ana Muriel. The witness Abeleda added that as he was at that time justice of the peace, he went with the president to the house where the occurrence had taken place and was there informed that Emiliano Cajayon, Quintin de Lemos, Gregorio Tria, Pioquinto Cajayon, and Tomas Ramirez were among the assailants. This witness also states that he was present when the remains and clothing of Tranquilino Torres were found, and that he believes the woman Muriel had some jewelry and money. The witness Antonio Orayani also stated that he knew Candido Aguilar, Emiliano Cajayon, Domingo Castillo, and one Pantenople were with the robbers. Simeon Villaluz, another neighbor, testified that he saw the malefactors from the window of his house and that among them he recognized Emiliano Cajayon, Quintin de Lemos, and Candido Aguilar. He stated that these, accompanied by some others, entered the house in question, which was about 8 yards distant from that of the witness, and that the others, whom he did not recognize, stationed themselves around the outside of the building. Mariano Tularino, who lived in another house about 25 yards distant from the one assaulted, states that among the 10 or 12 malefactors he also recognized Emiliano Cajayon, Gregorio Tria, and Pioquinto Cajayon. Tomas Sanchez, another neighbor who witnessed the assault from his house, testified to having recognized among the malefactors Emiliano Cajayon, Candido Aguilar, Domingo Castillo, Felix Aguilar, Pioquinto Cajayon, Juan Sales, and one Pantenople, and that they upon leaving the house, with other persons unknown to him, carried with them Tranquilino Torres, who was bound at the time.

The witness Cornelio Tamayosa states that on the night of the occurrence while he was returning to the town of Lubang from the barrio of Vigo he met a number of armed malefactors on the road in the barrio of Maliig. He says that they were carrying with them Tranquilino Torres, who was bound, and testifies that among these malefactors he recognized Mariano Aguilar, Emiliano Cajayon, Felix Aguilar, Tomas Ramirez, Juan Sales, and the men called Andres, Teodoro, and Pantenople. The witness said that he subsequently heard about the robbery and the recovery of the remains of Tranquilino Torres. Pedro Villaflors, an inhabitant of Maliig, near whose house the remains were found, said that one night he saw in the vicinity of his house Emiliano Cajayon, Felix Aguilar, Quintin de Lemos, Candido Aguilar, and Tomas Ramirez and some other men, armed with rifles and bolos. Manuel Torres, the son of the deceased, states that he was in the house of Nazaria Villagraacia when he heard the voice of his father calling to him from the street through which he was passing, conducted by several armed men, but that he did not leave the house, as he was afraid. He testified that this was the last time he saw his parent, and that about five days afterwards human remains were found together with clothing and a hat which he recognized as being his father's, and that he was able to identify the skull because one of the teeth was missing. He stated further that Pedro Malabanan, Pedro Torredisa, Juan Villamar, and Tomas Sanchez had told him that his father had been kidnaped by the malefactors.

It appears, therefore, that the evidence in the record fully establishes the fact that on the night of March 21, 1901, Tran-

quilino Torres was taken from the house in which he lived in the town of Lubang by a band of ten or twelve armed malefactors; that they tied him elbow to elbow and carried him away, several credible witnesses having seen him carried from the house in this condition and through the streets of the town toward the barrio of Malign, where they were also seen by the witness Tamayosa who was at that time returning to the town; that at the expiration of five or six days it was learned from placards which had been posted at various places in the town, including the house where the witness had lived, that in the barrio of Malign a disinterred body, devoured by the dogs, might be found; that a number of the inhabitants who had known Torres in his lifetime, and also his son, Manuel Torres, recognized the clothing and the hat found, together with a piece of rope, near the hole in which the body had been buried, as having belonged to the deceased; that his son was also able to identify the remains as his father's owing to the fact that one tooth was missing from the upper jaw of the skull found, and that since that time the said Tranquilino Torres has not returned to the house of Ana Muriel and has not since been seen in the town of Lubang.

Upon this evidence we reach the conclusion that Tranquilino Torres was murdered on the night of March 21, 1901, when he was kidnaped by the nine defendants above named, in the house of Ana Muriel; and that they, notwithstanding their denial, together with other persons still at large, were unquestionably guilty of the murder, because five or six days after they had kidnaped the deceased his remains were found in the barrio where he had been seen in their custody. Another fact which indicates the guilt of the defendants is that Candido Aguilar, Domingo Castillo, Mariano Aguilar, Quintin de Lemos, Gregorio Tria, and Emiliano Cajayon lived in the barrio of Tilig, which was about four hours' walk from the town of Lubang and far beyond the barrio of Malign, through which the road from Lubang to Tilig passes, and that, nevertheless, between 3 and 4 o'clock in the morning of the day following the occurrence, these defendants, according to the statements of Candido Aguilar and Domingo Castillo, were aroused by the excitement among the people of the barrio caused by the robbery in question and the kidnaping of the deceased. These defendants state that when they left their house they met Quintin de Lemos, Gregorio Tria, Emiliano Cajayon, Mariano Aguilar, and several others in the street discussing the occurrence. It is incredible that in the ordinary course of events this news should have been known so soon in the barrio, and it is inexplicable how it could have spread so rapidly to that distant barrio unless we infer that the defendants, who gathered together in the street for the purpose of talking, as they say, about the crime, had just arrived in the barrio from Malign where Tranquilino Torres had been murdered by them.

It is unquestionable that they all took part in the capture of the deceased and in his conveyance to the barrio of Malign and to the place where the murder was committed. Although it does not appear which of the defendants actually killed the deceased, until the contrary shall be made to appear it must be held that each and every one of them performed acts tending to bring about the consummation of the crime; that is, in the absence of evidence showing that one or more of them did not aid in the commission of the crime, it must be presumed that all were implicated in its execution, as it was for this purpose that Torres was kidnaped; and his captors therefore all contributed and conspired to effect their common object, the death of the deceased. It does not appear from the record that the defendants made any attempt to prove their innocence or to impugn the veracity of the witnesses for the prosecution. These witnesses testified in the presence of the defendants and identified them at the trial without any protest on the part of the latter.

The provisions of article 244 of the Penal Code were erroneously applied by the court below in this case. The rebellion of the inhabitants of the Island of Lubang against the Spanish Govern-

ment resulted in the expulsion of the Spanish officials from the island and the establishment by the inhabitants of a local government therein, and although the nine defendants were in fact at the time members of the insurrectionary forces it is, nevertheless, certain that at the time of the murder the island was governed by insurrectionary authorities. Although the accused, therefore, were revolutionists, Emilio Cajayon with the rank of captain, some of the others with that of lieutenant, and the others being merely soldiers, the fact remains that they committed the crime, not on the occasion of any act of rebellion or sedition, but independently. On the night in question they performed no act of a political character, and therefore article 244 of the Penal Code can not be applied.

In the commission of this crime we must consider present the aggravating circumstance of nocturnity, established by paragraph 15, article 10 of the Penal Code, the defendants having availed themselves of the darkness of night for the consummation of the crime. This circumstance is, however, offset as to its effects by the special mitigating circumstance established in article 11 of the Code. In consideration of the character of the crime and the personal status of the deceased and of his assailants, and more especially in consideration of the abnormal conditions then prevailing in the town of Lubang, there being no lawfully constituted authorities there at that time, the penalty prescribed in article 403 of the Code should be imposed upon the nine convicted defendants in its medium grade. This decision will not affect the two defendants who were acquitted by the court below, no appeal having been taken against the judgment of acquittal.

In the information upon which the prosecution is based some deficiency is to be observed in the statement of the facts constituting the crime of murder with which the defendants were charged, and on this account the Solicitor-General asks that the proceedings be set aside, that the judgment be reversed, and that the court direct the filing of a new information for the crime of murder, the commission of which is disclosed by the evidence.

No objection was made to the information by the defendants or by their attorney, either in the court below or in this court. They failed to register any exception or protest on the ground of the nullity of the information or of the trial, nor has any application been made for a new trial because of such deficiency. For this reason, in view of the result of the proceedings, and in view of the fact that the offense charged has been properly defined and designated in the information in question, the petition of the Solicitor-General must be denied.

With respect to the motion of eight of the defendants that they be given the benefits of the amnesty proclamation of July 4 last, inasmuch as it does not appear from the record that the murder herein prosecuted is of a political character or that it was committed for political motives or in consequence of feuds or hatred of a political character between the deceased and the accused, we are of the opinion that there is no ground upon which the defendants can be given the benefits of the proclamation referred to.

For the reasons stated we are, therefore, of the opinion that the judgment of the court below dated July 12, 1902, must be reversed in so far as the defendants Felix Aguilar, Domingo Castillo, Quintin de Lemos, Pioquinto Cajayon, Tomas Ramirez, Gregorio Tria, Candido Aguilar, and Mariano Aguilar are condemned to twelve years of *cadena temporal*, reserving to the family of the deceased their action against the defendants for damages. The motion of the Solicitor-General is denied, as is also that of the defendants that they be given the benefit of the amnesty proclamation of July 4, 1902. We accordingly condemn each of the eight defendants named, as well as Emiliano Cajayon, to the penalty of life imprisonment, with the accessories of civil interdiction and subjection to the vigilance of the authorities during the period of their respective lives. In case of the pardon of the principal penalty, they shall suffer absolute, perpetual dis-

qualification and subjection to the vigilance of the authorities during the remainder of their lives, unless these accessory penalties shall be specially remitted in the pardon of the principal penalty. The defendants are also condemned to the payment, *pro rata* or *in solidum*, of 1,000 insular pesos to the heirs of the deceased, and each to the payment of one-thirteenth part of the costs of both instances.

The case will be remanded to the court below, with a copy of this decision, for its execution.

Arellano, C. J., Willard, and Mapa, J.J., concur.

COOPER, J., dissenting:

The Solicitor-General in his brief requests the annulment of the judgment of the Court of First Instance and asks that the case be remanded to the lower court, with instructions that the court direct the presentation of a new complaint for the crime of *asesinato* or murder. He is of opinion that the complaint upon which the defendants have been convicted is insufficient to sustain a conviction for this offense. In this view I concur.

The complaint reads as follows:

"The undersigned charges Emiliano Cajayon, Candido Aguilar, Felix Aguilar, Mariano Aguilar, Domingo Castillo, Pioquinto Cajayon, Quintin de Leinos, Tomas Ramirez, and Gregorio Tria, of the town of Salinas and Pantenople of the Province of Batangas, of the crime of murder, committed as follows:

"That the said Emiliano Cajayon and his companions above named armed with guns, on the night of the 21st of March, 1901, in the town of Lubang, of this province, entered the house of Doña Ana Mariel, seized Tranquilino Torres, and, after having tied his hands, carried him toward the beach; four days later the remains of the body of Tranquilino Torres were found on the said beach; this against the statute in the case made and provided."

The complaint does not comply with the requirements of section 6 of General Orders, No. 58. In defining the requisites of a complaint or information, it is provided in paragraph 3 that "the complaint should show the acts or omissions complained of as constituting the crime or public offense in ordinary and concise language."

It does not appear from the complaint that the defendants did anything more than to seize and carry off the deceased, and that his body was afterwards found. This would not constitute the offense of murder.

While there may be a strong inference from the circumstances set forth in the indictment that the defendants did actually kill the deceased, yet the complaint wholly fails to state this most important element.

It is to be further observed that the complaint does not state that the offense was committed with *alevosia* or with premeditation. These are qualifying circumstances of the offense of murder and have the effect of raising ordinary homicide to that of murder. Had it been directly alleged in the complaint that the defendants killed the deceased, this would not constitute murder in the absence of the qualifying circumstance either of *alevosia* or premeditation.

Article 404, Penal Code, provides that he who shall kill another without the attendance of these circumstances is guilty of homicide and is punishable with the penalty of *reclusión temporal*, under which the highest penalty that can be assessed is twenty years of *reclusión temporal*.

The court in its decision has not only held the complaint sufficient to show a killing by inference, but entirely ignores the omission to state that the killing was with premeditation or *alevosia*. The defendants have been found guilty not only of the killing of the deceased but of its having been done with *alevosia*, and the penalty of life imprisonment has been assessed—the penalty fixed by article 403 for the crime of murder.

It is immaterial in my opinion whether there was an objection

or demurrer made to the complaint in the lower court or whether objections have been made in this court. The complaint is fatally defective.

It must be further taken into consideration that the court has imposed a different and a higher penalty upon all of the defendants except Emiliano Cajayon than that imposed by the sentence of the Court of First Instance. The sentence of the lower court upon all of the defendants except Cajayon was for a period of twelve years, while under the decision now made these defendants are sentenced to imprisonment for life.

At least to the extent of the additional penalty which has been imposed by this sentence beyond that imposed by the judgment of the lower court, the defendants have had no opportunity to make objection to the complaint.

For the reasons above stated the judgment should be reversed. ΜΕΔΟΧΟΥΡΗ, J.:

I dissent. I think that the judgment of the court below should be affirmed.

*Judgment modified.*

## PHILIPPINE CIVIL SERVICE.

### EXAMINATION FOR HOSPITAL ATTENDANT.

The Civil Service Board announces an examination on March 7 for the position of attendant in the Philippine Civil Hospital; entrance salary, \$600 per annum, with board and quarters.

The subjects and weights of the examination will be as follows:

	Weights.
Second-grade examination.....	25
Practical questions.....	40
Experience and training.....	35
Total .....	100

Further information and the necessary application blank may be obtained at the office of the Civil Service Board, Intendencia Building, Walled City, Manila.

February 11, 1904.

## APPOINTMENTS.

### By the Honorable Civil Governor.

#### PHILIPPINES CONSTABULARY.

Rush P. Wheat, superintendent of the telegraph division, January 7, 1904.

#### Provinces.

##### BATAAN.

Dr. Ricardo Perramon, president of the provincial board of health, January 22.

##### BULACAN.

Hermogenes Reyes, provincial fiscal, January 16.

##### NUÉVA VIZCAYA.

Dr. Jose Lugay, president of the provincial board of health, January 22.

### By the Philippine Civil Service Board.

#### Executive Department.

##### EXECUTIVE BUREAU.

Harry E. Laughlin, clerk, January 1, \$1,400; transfer from Bureau of Education.

Leopold Reeder, clerk, December 24, 1903, \$1,200; probational appointment.

Steve Ganson, clerk, January 11, \$1,200; probational appointment.

Herbert F. Bridges, clerk, January 16, \$1,200; probational appointment.

BUREAU OF THE INSULAR PURCHASING AGENT.

D. B. McDonald, clerk, January 8, \$1,050; reinstatement.  
 Peter Pascual, teamster, January 12, \$900; promotion from \$840.  
 Guss Linmark, teamster, January 13, \$840; probational appointment.  
 Patrick Siney, teamster, January 13, \$720; probational appointment.  
 James F. Shaw, watchman, January 14, \$720; probational appointment.  
 Walter Nooning-Will, clerk, January 9, \$1,200; probational appointment.  
 James J. Wingo, watchman, December 14, 1903, \$720; probational appointment.

IMPROVEMENT OF THE PORT OF MANILA.

P. C. Libby, rodman, January 11, \$900; probational appointment.  
 Roque Suzara, launch engineer, January 18, \$300; probational appointment.

PHILIPPINE CIVIL SERVICE BOARD.

Leander W. Strawn, clerk, January 18, \$1,000; probational appointment.

Department of the Interior.

BUREAU OF PUBLIC HEALTH.

R. H. McMullen, veterinary surgeon, January 11, \$1,600; transfer from Bureau of Government Laboratories.  
 Maude G. Murrin, nurse, January 5, \$900; probational appointment.  
 Dr. Henry W. Eliot, medical inspector, January 5, \$2,000; probational appointment.  
 Cayetano Olba, municipal pharmacist, January 19, \$900; probational appointment.  
 Leopoldo Pardo, municipal pharmacist, January 19, \$900; probational appointment.

FORESTRY BUREAU.

Jose Aldor, ranger, August 6, 1903, \$300; probational appointment.  
 Venancio Gatchalian, ranger, January 11, \$300; probational appointment.  
 F. R. Bronson, clerk, January 11, \$1,200; transfer from class 8, Insular Cold Storage and Ice Plant.  
 Nicolaus Bargas, ranger, January 8, \$300; probational appointment.  
 Simeon Monzon, ranger, January 21, \$300; probational appointment.

BUREAU OF PUBLIC LANDS.

Charles F. Pfeifferle, clerk, January 13, \$1,200; probational appointment.

BUREAU OF GOVERNMENT LABORATORIES.

Walter Sorrel, veterinarian, January 11, \$1,600; transfer from Bureau of Public Health.  
 Teodosio Espinosa, assistant draftsman, December 1, 1903, \$450; probational appointment.

PHILIPPINE CIVIL HOSPITAL.

Helena E. Porter, nurse, January 1, \$720; transfer from Civil Sanitarium, Baguio, Benguet.  
 Clark E. Porter, attendant, December 22, 1903, \$600; probational appointment.

Department of Commerce and Police.

BUREAU OF POSTS.

Dexter L. Haseltine, clerk, January 12, \$900; probational appointment.  
 C. E. Thrall, clerk, January 10, \$1,400; transfer from postmaster at Legaspi, Albay.  
 Virgil C. Puckett, steamboat postal clerk, January 12, \$1,000; transfer from clerk, class 9, Bureau of Philippines Constabulary.  
 Peter Addison, railway postal clerk, January 1, \$1,200; promotion from class 10.  
 Alfonso Barcelo, clerk, January 6, \$300; probational appointment.  
 Gregorio M. Granados, clerk, January 16, \$300; probational appointment.  
 Jose T. Ramos, clerk, January 11, \$300; probational appointment.  
 Anacleto Mendoza, clerk, January 19, \$300; probational appointment.  
 Hilario M. Molina, clerk, January 16, \$300; probational appointment.  
 Juan Piliars, clerk, January 19, \$300; probational appointment.  
 Eulogio Revilla, clerk, January 19, \$300; probational appointment.  
 Antonio Zalazar, clerk, January 14, \$300; probational appointment.  
 Jose Veedor, clerk, January 13, \$300; probational appointment.

BUREAU OF PHILIPPINES CONSTABULARY.

William K. Blessing, clerk, January 1, \$1,000; promotion from Class A.  
 William E. Bowles, clerk, January 1, \$900; probational appointment.  
 Hugh M. Johnston, clerk, January 1, \$900; probational appointment.  
 Zacarias Abrajano, clerk, January 18, \$450; probational appointment.  
 Hubert H. Hammer, clerk, January 16, \$1,200; probational appointment.

BUREAU OF PRISONS.

M. L. Stewart, deputy warden, January 9, \$2,500; transfer from Bureau Insular Purchasing Agent.  
 Ruben H. Moos, clerk, January 1, \$1,200; transfer from dispensing clerk, \$1,400.  
 Theodore Livingston, clerk, January 14, \$900; probational appointment.  
 Henry Overbay, assistant laundry foreman, January 11, \$900; probational appointment.  
 Howard M. Coleman, clerk, January 16, \$900; probational appointment.  
 Alejo Malaluan, guard, January 16, \$240; probational appointment.

BUREAU OF COAST GUARD AND TRANSPORTATION.

R. Nicolas, light keeper, January 1, \$360; promotion from \$300.  
 F. Aguirre, light keeper, January 1, \$300; promotion from \$240.  
 Daniel J. Curtan, inspector of machinery, December 24, 1903, \$2,200; probational appointment.  
 Hans C. Hansen, first assistant engineer, November 5, 1903, \$900; probational appointment.

BUREAU OF COAST AND GEODETIC SURVEY.

Wilmot H. McDonald, clerk, January 1, \$1,500; promotion from class 8.  
 Pedro Tabora, junior draftsman, January 1, \$360; probational appointment.

## BUREAU OF ENGINEERING.

E. A. Keys, superintendent of construction, Capas-O'Donnell-Iba road, January 1, \$2,000; promotion from class 6.

*Department of Finance and Justice.*

## BUREAU OF INSULAR TREASURY.

Maudie M. DuFresne, clerk, January 15, \$1,200; probational appointment.

John Hazely, clerk, January 1, \$1,400; transfer from office provincial treasurer, Albany, class 9.

Jacob Feldman, clerk, January 14, \$1,200; transfer from disbursing officer Naguillian-Baguio survey, class 6.

## BUREAU OF THE INSULAR AUDITOR.

William Maynard, clerk, January 1, \$1,600; promotion from class 8.

Louis R. Woodridge, clerk, January 1, \$1,400; promotion from class 9.

Everett A. Perkins, clerk, January 1, \$1,400; promotion from class 9.

Albert E. Tatton, clerk, January 17, \$1,200; promotion from class 10.

## BUREAU OF CUSTOMS AND IMMIGRATION.

Fausto Inocencio, storekeeper, December 14, 1903, \$540; promotion from guard, \$300.

Adolphus Addison, storekeeper, January 14, \$900; probational appointment.

James W. Eubank, storekeeper, January 8, \$900; probational appointment.

Henry T. Swit, storekeeper, January 9, \$900; probational appointment.

Eva M. Surface, clerk, January 9, \$900; probational appointment.

Luciano Ochoa, guard, January 15, \$240; probational appointment.

Raymundo Caballero, guard, January 18, \$240; probational appointment.

Inocente Javier, guard, January 5, \$240; probational appointment.

Jose Ortegañez, clerk, January 16, \$240; probational appointment.

## INSULAR COLD STORAGE AND ICE PLANT.

James R. Parker, oiler, January 1, \$840; promotion from \$780.  
Herman Klump, teamster, January 1, \$900; promotion from \$780.

John T. Hayner, teamster, January 1, \$720; promotion from \$600.

J. F. Edmiston, disbursing officer and property clerk, January 10, \$1,800; transfer from clerk, class 8, Treasury Bureau.

Egbert G. Timoney, watchman, January 1, \$780; transfer from assistant overseer, \$840.

D. W. Fry, teamster, January 1, \$900; transfer from storekeeper, \$1,000.

William R. Henderlong, machinist, January 11, \$1,200; probational appointment.

Egbert G. Timoney, clerk, January 15, \$900; promotion from watchman, \$780.

## BUREAU OF JUSTICE.

J. M. Browne, clerk, Court of Customs Appeals, January 18, \$1,600; promotion from clerk class 8, office of Attorney-General.  
Charles Haffke, stenographer, at large, January 1, \$1,400; promotion from class 9.

John J. Ernster, interpreter, Court of First Instance, January 1, \$1,200; promotion from class 10.

Benito Canlas, copyist, Court of First Instance, Antique, February 1, \$180; probational appointment.

Pascual Gozun, copyist, Court of First Instance, Tarlac, February 1, \$240; promotion from \$150.

*Department of Public Instruction.*

## BUREAU OF EDUCATION.

Jere Turpin, teacher, October 26, 1903, \$1,100; reinstatement.  
Fred M. Cull, clerk, December 28, 1903, \$900; probational appointment.

Arthur S. Ward, stenographer, August 1, 1903, \$1,400; transfer from Court of Customs Appeals, \$1,600.

John N. Carrigan, clerk, December 21, 1903, \$1,200; probational appointment.

Katherine Black, teacher, January 1, \$1,000; probational appointment.

## BUREAU OF PUBLIC PRINTING.

Gabriel Comagon, apprentice, January 16, \$0.30; promotion from sixth class.

Servillano Bautista, apprentice, January 16, \$0.30; promotion from sixth class.

Jose Narvaez, apprentice, January 16, \$0.30; promotion from sixth class.

Feliciano Gomez, apprentice, January 16, \$0.30; promotion from sixth class.

Cipriano Corpus, apprentice, January 16, \$0.30; promotion from sixth class.

Alejandro Vizcarra, apprentice, January 4, \$0.20; probational appointment.

Amando Vera, apprentice, January 19, \$0.20; probational appointment.

Severino Palacio, apprentice, January 19, \$0.20; probational appointment.

Gisberto de la Rosa, apprentice, January 15, \$0.20; probational appointment.

Rufino Andres, junior compositor, February 1, ₱2.25; probational appointment.

Adriano de Guzman, junior compositor, February 1, ₱2.25; probational appointment.

Sabino Felix, junior pressman, February 1, ₱2.50; probational appointment.

Andres Villafuerte, junior pressman, February 1, ₱2.50; probational appointment.

Antonio Gonzalvo, junior pressman, February 1, ₱2.50; probational appointment.

Nicasio Barrientos, junior pressman, February 1, ₱2.50; probational appointment.

*City of Manila.*

## MUNICIPAL BOARD.

Guy S. Lane, chief clerk, January 16, \$1,800; promotion from clerk, class 8.

Juan B. Santalo, translator, January 19, \$1,600; transfer from clerk class 9, Executive Bureau.

## DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

Howard F. Alexander, clerk, January 13, \$1,200; transfer from Bureau of Internal Revenue, class 8.

## DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Simon Garcia, foreman, January 1, \$420; promotion from \$300.  
Tiburcio Gutierrez, foreman, January 1, \$420; promotion from \$240.

Tito Molina, foreman, December 1, 1903, \$420; promotion from \$180.

Julian Bernardo, clerk, January 8, \$300; probational appointment.

Moises Cruz, junior draftsman, December 2, 1903, \$300; probational appointment.

Irineo Ramos, clerk, January 1, \$720; promotion from \$600.

Patricio Abanes, patron, January 16, \$480; promotion from \$420.

## POLICE DEPARTMENT.

Arthur Downing, first-class patrolman, January 6, \$900; reinstatement.

M. K. Vance, first-class patrolman, January 9, \$900; reinstatement.

John F. Edwards, clerk, January 5, \$1,200; probational appointment.

Alexander Trotter, first-class patrolman, January 5, \$900; probational appointment.

Albert E. Axt, first-class patrolman, January 5, \$900; probational appointment.

John H. Boeman, first-class patrolman, January 6, \$900; probational appointment.

Frank C. Carpenter, first-class patrolman, January 6, \$900; probational appointment.

Joseph E. Cuddy, first-class patrolman, January 6, \$900; probational appointment.

Tom Hayden, first-class patrolman, January 6, \$900; probational appointment.

Jerome S. Johnson, first-class patrolman, January 6, \$900; probational appointment.

Henry P. Lason, first-class patrolman, January 6, \$900; probational appointment.

William Meyer, first-class patrolman, January 6, \$900; probational appointment.

Martin W. Morgan, first-class patrolman, January 6, \$900; probational appointment.

Albert Nantz, first-class patrolman, January 6, \$900; probational appointment.

Elmer S. Schultz, first-class patrolman, January 6, \$900; probational appointment.

John W. Treadway, first-class patrolman, January 6, \$900; probational appointment.

Press Waggoner, first-class patrolman, January 6, \$900; probational appointment.

Calvin Williams, first-class patrolman, January 6, \$900; probational appointment.

Thomas D. Beek, first-class patrolman, January 8, \$900; probational appointment.

H. C. Little, first-class patrolman, January 9, \$900; probational appointment.

George A. Peterson, first-class patrolman, January 9, \$900; probational appointment.

Lorin O. Brewer, first-class patrolman, January 3, \$900; probational appointment.

William S. Gilbo, first-class patrolman, January 13, \$900; probational appointment.

Pedro Morillo, engineer, police launch, June 13, 1903, \$360; probational appointment.

James D. Williamson, lieutenant, January 20, \$1,500; promotion from sergeant, \$1,200.

Francisco Sison, third-class patrolman, January 19, \$240; reinstatement.

## FIRE DEPARTMENT.

John S. Rankin, lieutenant, January 14, \$1,000; promotion from driver.

Frank W. McCarthy, driver, January 8, \$900; probational appointment.

Albert C. Tobin, blacksmith, January 7, \$1,000; probational appointment.

## LAW DEPARTMENT.

Joseph L. Connor, stenographer, January 23, \$1,400; promotion from class 9.

## DEPARTMENT OF SCHOOLS.

Juan Alberino, teacher, December 1, 1903, \$360.

Tranquilino Arrieta, teacher, December 1, 1903, \$360.

Demetrio C. Cifra, teacher, December 1, 1903, \$360.

Maria Cramer, teacher, December 1, 1903, \$360.

Carmen Domingo, teacher, December 1, 1903, \$360.

Agapito Francisco, teacher, December 1, 1903, \$360.

Ceferino Francisco, teacher, December 1, 1903, \$360.

Eduardo Guason, teacher, December 1, 1903, \$360.

Emiliana Natividad, teacher, December 1, 1903, \$360.

Felix Ordiales, teacher, December 1, 1903, \$360.

Elisa Pereda, teacher, December 1, 1903, \$360.

Leon Santos, teacher, December 1, 1903, \$360.

Jeronimo Ver, teacher, December 1, 1903, \$360.

Leon Santos, teacher, January 5, \$360.

Teotimo D. del Castillo, teacher, January 7, \$360.

Nicolas Francisco, teacher, January 7, \$360.

Tirso Garcia, teacher, January 7, \$360.

Aurora Mercado, teacher, January 7, \$360.

Maurice J. Oteysa, teacher, January 7, \$360.

Gil Robles, teacher, January 7, \$360.

Felix Velasco, teacher, January 7, \$360.

## Provinces.

## BATAAN.

Jose Banzon, deputy, November 2, 1903, \$288; probational appointment.

## LEYTE.

Henry W. Hallbourg, clerk, December 19, 1903, \$1,200; transfer from Bureau of the Insular Purchasing Agent.

## MORO.

Charles B. McGhee, treasurer district of Zamboanga, September 8, 1903, \$1,900; reinstatement.

G. W. C. Sharp, treasurer, district of Davao, November 1, 1903, \$1,600; transfer from clerk, Class A, office of the provincial treasurer, Antique.

Charles R. Morales, chief clerk, October 1, 1903, \$1,500; probational appointment.

Daniel T. Brown, clerk, October 1, 1903, \$1,392; transfer from Bureau of Education, \$1,200.

## PANGASINAN.

Jose Dominguez, clerk, January 1, \$300; probational appointment.

Vicente Vinluan, clerk, January 1, \$300; probational appointment.

Cirilo Espino, clerk, February 1, \$300; probational appointment.

## PARAGUA.

Clemente Fernandez, deputy, October 4, 1903, \$420; probational appointment.

Nicanor Manlave, clerk, November 19, 1903, \$180; probational appointment.

Clemente Fernandez, deputy, January 1, \$540; promotion from \$420.

Nicanor Manlave, clerk, January 1, \$300; promotion from \$180.

## RIZAL.

Honorio Musni, clerk and deputy treasurer, January 1, \$420; transfer and promotion from clerk, Class J, office provincial supervisor.

Lorenzo Castillo, clerk, January 1, \$240; promotion from \$180.

Jose Damian, clerk and deputy treasurer, January 1, \$240; promotion from \$180.

Mariano Feliciano, clerk and deputy treasurer, January 1, \$240; promotion from \$180.

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Angel Roco, justice of the peace, Legaspi, January 18.

**AMBOS CAMARINES.**

Pablo Laynes, justice of the peace, Bula, January 9.

Damaso Esterosa, auxiliary justice of the peace, Lupi, January 13.

**BATANGAS.**

Jose Templo, justice of the peace, Lipa, January 11.

Manuel Macatangay, auxiliary justice of the peace, Calaca, January 28.

Gregorio de Villa, justice of the peace, San Juan de Bocboc, January 28.

**CAGAYAN.**

Vicente de Leon, auxiliary justice of the peace, Lal-lo, January 28.

**CAVITE.**

Bartolome Angat, auxiliary justice of the peace, Alfonso, January 28.

**ISABELA.**

Vicente Cauilan, justice of the peace, Ilagan, January 13.

**NEGROS OCCIDENTAL.**

Agustin Yulo, justice of the peace, Cadiz, January 29.

Flaviano Lopez Vito, auxiliary justice of the peace, Cadiz, January 29.

**SURIGAO.**

Agustin Mosar, justice of the peace, Bacuag, January 28.

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Julian Manahoc Calabia, justice of the peace, Albuera, January 28.

**CEBU.**

Juan B. Villarrosa, auxiliary justice of the peace, Cebu, January 19.

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Act No. 1050, to authorize the issue of \$3,000,000 of certificates of indebtedness under and by authority of section 6 of the Act of Congress entitled "An Act to establish a standard of value and to provide for a coinage system in the Philippine Islands," approved March 2, 1903, in addition to the \$6,000,000 of certificates of the same character already authorized by Acts Nos. 696 and 792, and appropriating the sum of \$3,500,000, in gold coin of the United States, from the gold-standard fund for the purpose of paying the principal and the last quarterly interest of the first series of certificates of indebtedness issued pursuant to the provisions of said Act No. 696.

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# Official Gazette

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MANILA, P. I., MARCH 2, 1904.

No. 9

[Third statistical number. Vital statistics, December, 1903, and January, 1904, and statistics from other Bureaus.]

## PUBLIC LAWS.

[No. 1051.]

AN ACT TO AMEND THE MUNICIPAL CODE BY DISQUALIFYING PERSONS CONVICTED OF CERTAIN OFFENSES FROM VOTING AT MUNICIPAL ELECTIONS OR HOLDING MUNICIPAL OFFICES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Act Numbered Eighty-two, entitled "The Municipal Code," as amended, is hereby further amended by inserting after subsection (b) of section eight a subsection (bb), as follows:

"(bb) Any person who has been convicted by a Court of First Instance since August thirteenth, eighteen hundred and ninety-eight, of any offense punishable by death or imprisonment for the period of six months or more, unless and until acquitted upon appeal to a higher court, or restored to all civil rights by amnesty or pardon."

Sec. 2. This amendment shall be so far retroactive as to apply to persons heretofore convicted by a Court of First Instance of any offense punishable by death or imprisonment for a period of six months or more and who have not been acquitted by a higher court, or restored to all civil rights by amnesty or pardon.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, February 18, 1904.

[No. 1052.]

AN ACT TO PROVIDE FOR A SECOND REVISION OF THE ASSESSMENTS UPON REAL ESTATE IN THE PROVINCE OF BATANGAS.

Whereas the assessment and collection of the land tax in the Province of Batangas was suspended in the year nineteen hundred and two by Acts Numbered Three hundred and seventy-five and Four hundred and fifty-seven, and in consequence of such suspension the assessment had not been completed nor any attempt made to collect thereunder at the time of the organization of the provincial board of revision under Act Numbered Five hundred and eighty-two, the result being that but few complaints were filed and that the work done by the said provincial board of revision was incomplete and inaccurate because of lack of information; and,

Whereas, by reason of the conditions above set forth, the collection of the taxes for the year nineteen hundred and three in the Province of Batangas has revealed many errors, omissions, and inequalities which in justice to the landowners should be corrected: Now, therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby created for the Province of Batangas a new board of tax revision, which shall consist of the three members of the provincial board and two other taxpayers, residents of the province, to be appointed by the Civil Governor, by and with the consent of the Philippine Commission.

SEC. 2. The powers and duties of the new board of tax revision in the Province of Batangas shall be those prescribed for the provincial board of revision by Act Numbered Five hundred and eighty-two, entitled "An Act to provide for the partial revision of the assessments upon real estate in the municipalities in the Philippine Islands outside the city of Manila," as amended by Act Numbered Six hundred and ninety-three, the words "nineteen hundred and four" being substituted for "nineteen hundred and three" wherever the latter words occur in the said Acts: *Provided, however*, That the compensation and traveling expenses of the two members of the board to be appointed by the Civil Governor by and with the consent of the Philippine Commission shall be as provided in section twelve of Act Numbered Five hundred and eighty-two, but payable in Philippine currency.

SEC. 3. In all cases in which land in the Province of Batangas assessed for the year nineteen hundred and two or the year nineteen hundred and three was assessed at more than fifty per centum above the valuation made by the new board of tax revision, the provincial board is hereby authorized and required to reduce the assessment for the year or years in which such excessive assessment of more than fifty per centum was made to the amount fixed by the new board of tax revision for the same land for the year nineteen hundred and four, and the provincial treasurer shall comply with the order of the provincial board by making the reduction upon the records of the municipality and province.

SEC. 4. In all cases in which the money has been paid upon the excessive assessment as described in the section immediately preceding, it shall be the duty of the provincial board to allow a credit of the amount of such excess payment, to be applied upon taxes due for the year nineteen hundred and four or the next subsequent year.

SEC. 5. In case the tax has not been paid on the excessive assessment, then the taxpayer or the person from whom the tax is due shall be allowed to pay the tax on the reduced assessment without penalty at any time before September first, nineteen hundred and four; and all proceedings for the sale of land because of the delinquency of payment on the excessive assessment as defined in section three shall be discontinued and held for naught, and the title to the land shall remain in the delinquent taxpayer, subject only to the lien for taxes on the assessment as reduced in accordance with section three hereof: *Provided*, That if the amount of taxes due on the reduced assessment is not paid before September first, nineteen hundred and four, the same procedure shall be followed in their collection as in other cases of delinquent taxes.

SEC. 6. In cases of excessive taxation described in section three



hereof in which the land shall have been sold to a third person for failure to pay taxes, the delinquent taxpayer, upon redeeming his land by paying to the purchaser the amount required by law to be paid shall be entitled to a credit, for use in payment of future taxes, for the amount expended by him over and above the tax without penalty at the reduced assessment. In case the land shall have been purchased by the Government, the proceedings shall be by the provincial board declared null and void, and the title shall revert to the delinquent taxpayer on payment of the amount due on the assessment, as reduced in accordance with the terms of section three of this Act, before September first, nineteen hundred and four.

SEC. 7. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 8. This Act shall take effect on its passage.

Enacted, February 20, 1904.

[No. 1053.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF CAPIZ FOR THE YEAR NINETEEN HUNDRED AND THREE UNTIL APRIL FIFTEENTH, NINETEEN HUNDRED AND FOUR, AND PROVIDING FOR THE REFUND OF PENALTIES ALREADY PAID.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and three in the Province of Capiz is hereby extended to April fifteenth, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding. All penalties heretofore collected for the nonpayment of the land tax in such province for the year nineteen hundred and three are hereby remitted, and the provincial treasurer of the province mentioned above is authorized and directed to allow a rebate of the amount of such penalty to the taxpayer upon whom the penalty was assessed upon payment of his land tax for the year next ensuing.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, February 20, 1904.

EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, February 19, 1904.

EXECUTIVE ORDER }  
No. 11.

The following rules shall govern shipment of freight on Coast Guard vessels:

(1) All packages shall be sealed with wire and lead seals; rice and other grain shall be double-sacked (Act Nine hundred and nine, Philippine Commission). Should freight be placed on board any Coast Guard boat without these conditions having been fulfilled, it is understood that the consignor shall be responsible for loss and damage during transit.

(2) The consignee shall, in person or by responsible agent, receive freight as it goes over the ship's side at place of destination. Captains of vessels will not allow freight to leave the ship's side

until it has been properly receipted for and condition of same noted. After leaving the ship's side responsibility for damage or loss rests with the consignee.

(3) Consignors will notify consignees, by telegraph or otherwise, of the date of shipment of freight on Coast Guard boats, the name of the boat, and the probable date of arrival at destination. Consignees will make their preparations and meet Coast Guard boats promptly on arrival. Should the consignee fail to meet the boat as directed in the foregoing, and the captain find it necessary to land freight in order to prevent delay of his boat, all responsibility for loss or damage to the freight after leaving the ship's side shall rest with the consignee; and a certificate from the freight clerk, or other officer having charge of the freight, that the freight was checked over the ship's side in proper quantity and condition shall be equivalent to receipt from the consignee for proper delivery of the freight.

(4) It is the duty of a Coast Guard captain to report immediately to the Chief of the Bureau of Coast Guard and Transportation the failure of any consignee to come after and take his freight promptly from the boat on arrival, and of the Chief of the Bureau of Coast Guard and Transportation to report the delinquent to the headquarters of the department to which he belongs, or to the Civil Governor.

LUKE E. WRIGHT,  
Civil Governor.

DECISIONS OF THE SUPREME COURT.

[No. 1056. December 8, 1903.]

AGUEDA BENEDECTO, plaintiff and appellant, vs. ESTEBAN DE LA RAMA, defendant and appellee.

- MARRIAGE AND DIVORCE; SUSPENSION OF BOOK 4 OF THE CIVIL CODE.—Titles 4 and 12 of book 1 of the Civil Code, which deal respectively with matrimony and the register of civil status, are not in force, they having been suspended by order of the governor-general of the Philippine Islands shortly after the extension of the Civil Code to this Archipelago.
- SUSPENSION OF LAWS; POWER OF SPANISH GOVERNOR-GENERAL.—It was within the power of the governor-general of the Philippine Islands, under the Spanish régime, to suspend the operation of a general law, such as the Civil Code.
- MARRIAGE AND DIVORCE; LAW OF 1870; NOT OPERATIVE IN PHILIPPINE ISLANDS.—The Law of Civil Marriage of 1870 was never extended to the Philippine Islands, with the exception of articles 44 to 78 thereof, which were promulgated in the Archipelago in 1893.
- CANON LAW; COUNCIL OF TRENT.—The canon law had no binding force outside of the church except as to such parts thereof as by the action of the civil authorities became part of the civil law of Spain. The decrees of the council of Trent have the force of law in Spain and determine the requisites, form, and solemnities for the celebration of canonical marriage.
- ID.; ID.—Although the decrees of the council of Trent authorize the separation by the church of husband and wife they do not state what the causes of such separation are, and the laws of the church which do so state the causes have not the force of civil law.
- ID.; JURISDICTION OF ECCLESIASTICAL COURTS.—Although the law concerning the abolition of special jurisdictions left to the ecclesiastical courts their jurisdiction over matrimonial causes, to be decided by them according to the canons of the church, this did not make such canons civil law.
- ID.; GROUNDS FOR DIVORCE.—The law now in force in the Philippine Islands as to grounds for divorce is to be found in the *partidas*, and the only cause authorizing divorce is adultery.
- ID.; EFFECT OF DIVORCE.—Divorce does not annul the marriage but only authorizes a separation of the spouses and a dissolution of the conjugal partnership.
- ID.; MATRIMONIAL CAUSES; JURISDICTION OF CIVIL COURTS.—The jurisdiction over matrimonial causes vested in the ecclesiastical courts during the Spanish régime is now vested in the Courts of First Instance.
- ID.; ADULTERY; EFFECT.—Adultery by either of the spouses entitles the other to a divorce.
- ID.; RECONCILIATION.—In an action for divorce on the ground of adultery, where it is alleged and proved that the plaintiff has also been guilty of adultery under such circumstances as would have entitled the defendant, if innocent, to a divorce, this constitutes a bar to the plaintiff's action.
- ID.; COHABITATION.—The wife can defeat the husband's suit for a divorce by proof that he has pardoned her, but the effect of such condonation of the wife's offense is not to entitle her to a divorce from her husband by reason of adultery committed by him, notwithstanding her own condoned act of adultery.

APPEAL from a judgment of the Court of First Instance of Hilo.

The facts are stated in the opinion of the court.

JOVITO YUSAY and LEDESMA & SCUMLONG, for appellant.  
 AYLETT R. CORTON and LIONEL D. HARGIS, for appellee.

WILLARD, J.:

This is an action for divorce. The complaint, which was filed on October 29, 1901, alleged, as the grounds therefor, abandonment and adultery. The answer charged the plaintiff with adultery, denied the adultery imputed to the defendant, and asked for a divorce. Judgment was rendered on July 5, 1902, in favor of the plaintiff, granting her a divorce and \$1,042.76 pesos as her share of the conjugal property. The defendant excepted to the judgment and moved for a new trial on the ground that the facts found were not justified by the evidence. This motion was denied, and the defendant excepted. The record before us contains all the evidence received at the trial.

(1) The first question which we find it necessary to decide is whether or not the Courts of First Instance now have jurisdiction of divorce cases, and if they have, on what law it is based.

The court below assumed that the provisions of the Civil Code relating to divorce, contained in title 4 of book 1, are still in force. In this we think there was error.

By the royal decree of July 31, 1889, the Civil Code as it existed in the Peninsula was extended to the Philippines. The "cámpase" of the governor-general was affixed to this decree on September 12, 1889. The Code was published in the *Gaeta de Manila* on November 17, 1889, and took effect as a law on December 8, 1889. On December 31, 1889, the following order was published in the *Gaeta de Manila*:

"GENERAL GOVERNMENT OF THE PHILIPPINES,  
 "SECRETARY'S OFFICE, BUREAU No. 2.  
 "Manila, December 29, 1889.

"By direction of Her Majesty's Government, until further order, titles 4 and 12 of the Civil Code extended to these Islands by royal decree of July 31, last, published in the Gazette of this city of the 17th of November last, are suspended in this Archipelago.

"The proper authorities will issue the necessary orders to the end that in lieu of the two titles so suspended the former law may continue in force.

"This order will be communicated and published.

"WEYLER."

This order purports to have been issued by the governor-general by order of the Government at Madrid, and although it is stated in the *Compendio Legislativa de Ultramar* (vol. 14, p. 2740) that no decree of this kind was ever published in the *Gaeta de Madrid* and that a copy thereof could not be obtained in any governmental office, yet we can not assume that none was ever issued.

Sanchez Roman says: "By reason of the lack of that preparation which was proper in a matter of such great importance, it seems, according to reports which merit a certain amount of credit (for no order has ever been published which reveals it), that the Government of the Philippines, after taking the opinion of the audiencia of Manila consulted the colonial office concerning the suspension of titles 4 and 12 of book 1. This opinion was asked in respect to title 4 on account of certain class influences which were strongly opposed to the application of the formula of marriage which gave some slight intervention to the authorities of the State through the municipal judge or his substitute in the celebration of the canonical marriage. As to title 12, the opinion was asked by reason of the fact that there was no such officer as municipal judge who could take charge of the civil registry." (2 *Derecho Civil*, p. 64.)

Moreover, the power of the governor-general, without such

order to suspend the operation of the Code, was well settled. A royal order so stating was issued at Madrid on September 19, 1876, and with the *cámpase* of the governor-general published in the *Gaeta de Manila* on November 15, 1876.

It was suggested at the argument that this order of suspension was inoperative because it did not mention the book of the Code in which the suspended titles 4 and 12 were to be found. The Civil Code contains four books. All of them except the third contain a title numbered 4, and the first and fourth contain a title numbered 12. Title 4 of book 2 deals with rights of property in water and mines and with intellectual property. Title 4 of book 4 relates to the contract of purchase and sale, and title 12 to insurance and other contracts of that class. There is no such intimate relation between these two titles of this book as between titles 4 and 12 of book 1, the one relating as it does to marriage and divorce and the other to the civil registry. The history of the Law of Civil Marriage of 1870 is well known. As a consequence of the religious liberty proclaimed in the constitution of 1869 the whole of the law was in force in the peninsula. But that basis was wanting in these Islands, and prior to the promulgation of the Civil Code in 1889 no part of the law was in force here, except articles 44 to 78, which were promulgated in 1883. Of these articles those numbered 44 to 55 are found in title 4, but they relate merely to the rights and obligations of husband and wife and do not touch the forms of marriage nor the subject of divorce. If these provisions of the Civil Code on these subjects could be suspended by the certain class influences mentioned by Sanchez Roman, the only marriages in the Islands would be canonical and the only courts competent to declare a divorce would be ecclesiastical. There can be no doubt but that the order of suspension refers to titles 4 and 12 of book 1, and it has always been so understood. It follows that articles 42 to 107 of the Civil Code were not in force here as law on August 13, 1898, and therefore are not now.

While General Orders, No. 68, promulgated by the Military Government on December 18, 1899, treats of marriage and nullity of marriage, it says nothing about divorce. To find the law applicable to this subject resort must be had to the legislation relating thereto in force in the Islands prior to 1889. It seems necessary to ascertain in the first place what laws on the subject were in force in the Peninsula and afterwards if any of them had been extended to the Philippines.

The canon law, which the ecclesiastical courts administered both in Spain and here, had not as such any binding force outside of the church. However, any part of the canon law which by proper action of the civil authorities had become a civil law stood upon the same footing as any other law of Spain. This happened in the case of the decree of the council of Trent. That those decrees have in Spain the force of a civil law is well settled. "The decrees of the council of Trent have in Spain force of law" (1 *Práctica General Forense*, Zuñiga 260). In the preface to the Law of Civil Marriage of 1870, its author, Montero Rios, says: "Philip II accepting as law of the State by royal cedula dated in Madrid the 12th of July, 1554, the decrees of the council of Trent," etc. This royal cedula of Philip II was brought forward into the *Novissima Recopilación* and is now law 13, title 1, book 1, thereof. The same thing is declared in article 75 of the present Civil Code, which is as follows: "The requisites, form, and solemnities for the celebration of canonical marriages shall be governed by the provisions of the Catholic Church and of the holy council of Trent, accepted as laws of the Kingdom." It may be doubted, notwithstanding, if these decrees, even if considered as extended to the Philippines and in force here, furnish any aid in the resolution of the question. The canonists hold that they do declare adultery to be a ground for divorce (2 *Procedimientos Eclesiásticos*, Cadena, p. 211); this is, however, more by deduction than otherwise. The causes for divorce are nowhere distinctly stated therein. The seventh canon of the twenty-fourth session (Novem-

ber 11, 1563) relied upon by the ecclesiastical writers does not say that adultery is a ground for a separation; it simply says that it is not a ground for a divorce from the bond of matrimony. The eighth canon of the same session, while it declares that the church may direct the separation of the spouses for many causes, does not state what those causes are. The laws of the church which do state what these causes are have not the force of civil laws.

The Decretal Law of December 6, 1868, abolishing in the Peninsula the special jurisdictions, was extended to the Philippines by a royal order of February 19, 1869, which was published in the *Gaceta de Manila* on June 2, 1869. That Decretal Law contained the following provision:

"The ecclesiastical courts shall continue to take cognizance of matrimonial and eleemosynary causes and of ecclesiastical offenses in accordance with the provisions of the canon laws. They shall also have jurisdiction over causes of divorce and annulment of marriage as provided by the Holy Council of Trent; but incidents with respect to the deposit of a married woman, alimony, suit money, and other temporal affairs shall pertain to the ordinary courts."

This did not have the effect of making the canons mentioned therein civil laws. It simply declared that the church might try the cases referred to according to its own laws in its own courts and that the State would enforce the decrees of the latter.

It is not necessary, however, to decide this question as to the decrees of the council of Trent, for the *partidas* do contain provisions relating to the subject of divorce. Law 1, title 10, of the fourth *partida*, defines divorce as follows:

"*Divortium*, in Latin, means, in common speech, separation (*departimiento*), and is the means by which the wife is separated from the husband, and the husband from the wife, on account of some impediment existing between them, when it is properly proved in court. And whoever separates the parties in any other way, doing it by force, or contrary to law, will go against that which is said by Jesus Christ, in the Gospel: 'those whom God has joined together, let no man put asunder.' But when the spouses are separated by law, it is not then considered that man separates them; but the written law, and the impediment existing between them. And *divortio* takes its name from the separation of the wills of man and woman, which are in a contrary state when separated, to what they were when the parties were united."

Law 2 of the same title is as follows:

"Properly speaking there are two forms of separation to which the name of divorce may be given and two reasons therefor; there are many reasons which bring about the separation of those who appear to be married but are not so by reason of some impediment between them. Of these two reasons, one is religion and the other the sin of fornication. Religion authorizes divorce on this ground: That if any persons there be lawfully married, there not existing between them any of the impediments upon which the marriage might be dissolved, if either of them after they have been carnally joined should desire to take holy orders and the other should grant permission, the one desiring to remain in the world promising to live a life of chastity and being so aged that none can suspect that such spouse will be guilty of the crime of fornication and the other enter into the order in this manner, a separation results which may properly be called divorce, but it must be made by order of the bishop or some other of the prelates of holy church who have authority therefor. Furthermore, if the wife offends her husband by the crime of fornication or adultery, this is another reason which we say may properly be a ground for divorce. The accusation is to be brought before the judge of the holy church and proof made of the fornication or adultery, as set forth in the preceding title. The same would result should one of the spouses commit spiritual fornication by becoming a heretic or a Moor or a Jew, if he or she should refuse to eschew this evil. And the reason why this separation which is authorized by reason of these two things, either religion or forni-

cation, is properly called divorce, in distinction from separation which results from other impediments, is that, although it separates those who were married as stated in this law and the preceding one, the marriage nevertheless subsists, and thus it is that neither one of them can contract a second marriage at any time excepting in the case of a separation granted by reason of adultery, in which case the surviving spouse may remarry after the death of the other."

It will be seen from these laws that the only ground for divorce now of importance here is adultery.

Law 2, title 9, of the fourth *partida*, provides in part as follows:

"Husband and wife may accuse each other, in another way than those mentioned in the preceding law; and that is for adultery. And if the accusation be made with a view to separate the parties from living together, or from having any commerce with each other, no other person but the spouses themselves can make an accusation for such a cause, and it ought to be made before the bishop or the ecclesiastical judge (official) either by the parties themselves or their attorneys. \* \* \* And in all the various ways in which the husband can accuse the wife, mentioned in these two laws, the wife may in like manner, according to holy church, accuse him, if she choose; and she ought to be heard, as he is himself." While law 2 of title 10 seems to speak only of the adultery of the wife, this clearly gives the wife the right to accuse the husband of adultery for the purpose of securing a separation. So does law 13, title 9, part 4.

The divorce did not annul the marriage. Law 3, title 2, part 4, says, among other things, the following:

"Yet, with all this, they may separate, if one of them commit the sin of adultery, or join any religious order, with the consent of the other, after they have known each other carnally. And notwithstanding they separate for one of these causes, no longer to live together, yet the marriage is not dissolved on that account." Law 4, title 10, part 4, is to the same effect. Law 7, title 2, part 4, is in part as follows:

"So great is the tie and force of marriage that when legally contracted it can not be dissolved, notwithstanding one of the parties should turn heretic or Jew or Moor or should commit adultery. Nevertheless, for any of these causes they may be separated by a judgment of the church, so as to live no longer together, nor to have any carnal connection with one another, according to what is said in the title on the clergy, in the law which begins with the words "*otorgándose algunos*."

The *partidas* contain other provisions in regard to the form of the libel (law 12, title 9, part 4), and law 7, title 10, part 4, confers jurisdiction upon the church in cases of divorce.

That either spouse has been guilty of adultery is a defense to his or her suit (law 8, title 2, part 4), so is the fact that he has pardoned her (law 6, title 9, part 4). And if, after a divorce has been granted to the husband, he commit adultery, there is a waiver of the judgment. (Law 6, title 10, part 4.)

Were these provisions of the *partidas* in force in the Islands prior to 1889? The general rule was that laws of the peninsula did not rule in the colonies unless they were expressly extended to them. As to certain laws, this result was, however, accomplished in another way. An examination of the Laws of the Indies will show that they are almost without exception of an administrative character. They deal with the relations of the citizen to the church and to the Government and some of them to matters of procedure. The laws which treat of the rights of citizens between themselves are few. This fact leads to the promulgation of the law which appears as law 2, title 1, book 2, of the *Recopilación de las Leyes de Indias*. The last part of law 1 of that title and said law 2 are as follows:

"And as to all matters not provided for by the laws of this compilation the laws of the compilations and the *partidas* of these Kingdoms of Castile shall be followed in the decision of causes in accordance with the following law." (Law 1.)

"We order and command that in all cases, suits, and litigations in which the laws of this compilation do not provide for the manner of their decision, and no such provision is found in special enactments passed for the Indies and still unrepealed, or those which may hereafter be so enacted, that then the laws of this our Kingdom of Castile shall be followed, in conformity with the law of Toro, both with respect to the procedure to be followed in such cases, suits, and litigations and with respect to the decision of the same on the merits." (Law 2.)

This law of Toro, designating the order in which the different bodies of law should be applied, is now found in book 3, title 2, law 4 of the *Novísima Recopilación*.

In the royal cedula of Carlos, dated May 18, 1680, declaring the force of this compilation, the commands of this law 2 are practically repeated. By the operation of this law, first enacted in 1530, those laws of the *partidas* heretofore referred to relating to divorce, upon the discovery and settlement of the Philippines became at once effective therein. They have remained in force since as civil laws of the state as distinguished from the laws of the church. It may be added also that upon them the ecclesiastical courts apparently in part relied in determining cases for divorce pending before them. They are cited as authorities by the writers upon ecclesiastical law (3 *Procedimientos Eclesiásticos*, Salazar and La Fuente, p. 9; *Práctica Forense*, Rodriguez, pp. 410, 413; 2 *Práctica General Forense*, Zuñiga, p. 90; 2 *Procedimientos Eclesiásticos*, Cadena, p. 210.)

Being in force on August 13, 1898, they continued in force with other laws of a similar nature. (Am. Ins. Co. vs. Canter, 1 Pet., 511; proclamation of General Merritt, August 14, 1898). There is nothing in the case of *Hallett vs. Collins* (10 How., 175) which is inconsistent with this result. In fact that case assumes that the law of the *partidas* regarding matrimony was in force in Louisiana, this conclusion being reached, however, without taking into consideration the above-mentioned Law of the Indies and without making the proper exceptions. (Law 2, title 1, book 2.)

The *partidas* recognized adultery as a ground for divorce. Therefore, according to the civil as well as the canonical law in force here on August 13, 1898, the commission of that offense gave the injured party the right to a divorce. That provision of the substantive civil law was not repealed by the change of sovereignty. The complete separation under the American Government of church and state, while it changed the tribunal in which this right should be enforced, could not affect the right itself. The fact that the ecclesiastical courts no longer exercise such power is not important. The jurisdiction formerly possessed by them is now vested in Courts of First Instance by virtue of Act No. 136. Section 56, first and fifth of that act, provides that "Courts of First Instance shall have original jurisdiction, first, in all civil actions in which the subject of litigation is not capable of pecuniary estimation; fifth, \* \* \* and in all such special cases and proceedings as are not otherwise provided for."

The result is (1) that Courts of First Instance have jurisdiction to entertain a suit for divorce; (2) that the only ground therefor is adultery; (3) that an action on that ground can be maintained by the husband against the wife or by the wife against the husband; and (4) that the decree does not dissolve the marriage bond. The Court of First Instance of Iloilo, therefore, committed no error in assuming jurisdiction of this case.

(2) A motion for a new trial having been made in the court below on the ground that the findings of fact contained in the decision were not justified by the evidence, it becomes necessary to examine that evidence.

The adultery of the defendant was fully proved.

The finding that the plaintiff had not committed adultery is, however, plainly and manifestly against the weight of the evidence. We arrive at this result from a consideration chiefly of the admitted facts in the case, the most important of which is

the letter written by the plaintiff to the defendant on March 6, 1899, and found at pages 168 and 195. This is in itself practically conclusive against her. A portion of that letter is as follows:

"E, I still feel ashamed for the past, although it is seven years since we separated. For this, then, Esteban, pardon me for pity's sake. Wipe out the past. Remember me for the love of God. Contemplate our unhappy fate. To you I look to assuage my sorrow. E, I have heard that you have had some misfortunes lately. I send my sympathy, although I am unworthy of your presence."

The significant words "I am unworthy of your presence" probably escaped the attention of the judge below, because he has not quoted them. The contention of the appellee is that the wrong for which the plaintiff sought pardon was that of having asked for an allowance. This contention can not for a moment be sustained. A woman does not ask her husband to blot out the past, to have compassion on her, and, most important of all, does not say that she is unworthy of his presence simply because she has asked him for an allowance, something to which, according to her own belief, she had at the time a perfect legal right. The letter is a confession of guilt.

It is admitted that the plaintiff and defendant had lived happily together from the time of their marriage in July, 1891, to August, 1892. It is also admitted that then the defendant suddenly, without any previous warning, took his wife to the house of her parents, left her there, and never lived with her afterwards. There must have been some reason for this sudden change. The court below says that it was because the defendant had tired of his wife. There is nothing in the evidence to support this theory. In her complaint the plaintiff charges the defendant with having committed adultery with Gregoria Bermejo in 1892. She produced no evidence to support this allegation as to the time. No one of the six witnesses for the plaintiff upon this charge fix any date prior to 1894. The other two charges relate to 1899 and 1901. There is no evidence in the case from which a judge would be justified in finding that from the separation in 1892 to some time in 1894 the defendant had been unfaithful to his marriage vow. And the judge below made no such finding. Two witnesses, Epefania Lacon and Doroteo Garcia, who testified as to the charge in connection with Gregoria, speak of a woman brought by the defendant to Negros in 1892. But an examination of their evidence will show that it is entirely insufficient to prove any illicit relations between this woman and the defendant. In view of the evidence which the plaintiff did present in this case, we think it safe to say that if the conduct of the defendant during the years 1892 and 1893 had furnished any ground for suspicion the plaintiff would have been able to produce evidence thereof at the trial. She did not do so. The lack of this evidence destroys the theory of the court below and of the appellee that the defendant expelled the plaintiff from his house because he was tired of her and desired the company of other women. That theory is entirely inadequate to explain the sudden termination of their marital relations.

The event is, however, to our minds, correctly explained by the testimony of the defendant. The separation and the letter written by the plaintiff from which we have quoted can only be explained on the supposition that this testimony of the defendant is true. He stated that on his return from an inspection of one of his estates his wife's maid gave him a letter in the handwriting of his wife and directed to her lover, a Spanish corporal of the civil guard, named Zabala. She admitted the genuineness of the letter, fell upon her knees, and implored him to pardon her. That same day he took her to the home of her parents, told what had occurred, and left her there.

That the testimony in regard to this letter is not a fabrication of recent date is shown by the evidence of the plaintiff's mother, one of her chief witnesses. The mother testified that about a

year after her daughter was returned to her she heard that the defendant believed that illicit relations existed between Zabal and the plaintiff on account of a certain letter. She heard Zabal's name mentioned by a sergeant of police in 1893 or 1894. This may have been the sergeant of the civil guard who, according to the testimony of Domingo Jardelesa, was the cause why the latter did not deliver to the plaintiff a letter intrusted to him for her by Zabal after her separation from her husband.

The evidence of the servants and others who testify to facts conclusively showing the adultery is severely criticised by the court below and the counsel for the plaintiff. That criticism relates in a large degree to the matter of time and dates. If this direct evidence were the only evidence in the case we should not, perhaps, disturb the finding of the court. But when it is in its essential points corroborated by the admitted facts which we have heretofore recited, there is left, in our opinion, no doubt whatever of the guilt of the plaintiff.

It is said that if the plaintiff is guilty the defendant has condoned the offense. It is not necessary to determine upon this point where the truth lies for two reasons: (1) the court below made no finding of fact on the subject; (2) even if he had found that there was condonation this would not have entitled the plaintiff to a divorce.

By law 6, title 9, part 4, the wife can defeat the husband's suit for divorce by proving that he has pardoned her. But we have found no laws in the *partidas* which say that the effect of that pardon would be so far-reaching as to entitle her to a divorce against him in a case like the present one. On the contrary it is expressly provided in law 8, title 2, part 4, as follows:

"For the sin of each one of them is of itself a bar to an accusation against the other."

Our conclusion is that neither one of the parties is entitled to a divorce.

The result makes it unnecessary to consider that part of the judgment which relates to the settlement of the conjugal partnership.

Article 497 authorizes us in cases of this kind "to make such findings upon the facts and render such final judgment as justice and equity require."

The judgment below is reversed, and we find from the evidence the following facts:

(1) The allegations of the complaint as to the marriage of the parties and as to the acts of adultery committed by the defendant are true as therein stated except as to the date of the adultery committed with Gregoria Bermejo.

(2) The plaintiff, in the summer of 1882, at Talisay, in the Province of Occidental Negros, committed adultery with one Zabal, a corporal of the civil guard.

As conclusions of law from the foregoing facts we hold that neither party is entitled to judgment of divorce against the other; that judgment be entered that the plaintiff take nothing by her action or the defendant by his cross demand, and that neither party recover of the other any costs either in this court or the court of First Instance.

Judgment will be entered accordingly forty days from the filing of this decision, and the case remanded to the court below.

Arellano, C. J., Torres, and Mapa, JJ., concur.

Cooper and McDonough, JJ., dissent.

Johnson, J., did not sit in this case.

*Judgment reversed.*

[No. 1390. January 19, 1904.]

*THE UNITED STATES, complainant and appellant, vs. RAFAEL CERVANTES, defendant and appellee.*

CRIMINAL LAW: BRIGANDAGE: EVIDENCE.—Proof that members of the band to which the defendant belonged were thieves is sufficient to justify a finding that the band was organized for the purpose of robbery.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

CLARO REYES, for appellee.

ARELLANO, C. J.:

In this case a complaint was filed and proceedings instituted charging the defendant with brigandage, and the court found the facts as proved; but, considering that the acts charged in the complaint are not sustained by the evidence, in that it was not proven that the band of which the accused was a member was organized for the purpose of stealing personal property, as alleged in the complaint, the accused was acquitted without prejudice to a subsequent prosecution upon the facts established by the evidence.

The Solicitor-General calls attention to the testimony of the witnesses Mateo de la Cruz and Regino de la Paz. The former stated that during the time the band remained in the village they went to every house in search of effects, but did not succeed in taking anything away on account of the prompt arrival of assistance. The other testified as follows: "I know them to be men who come into the villages and take property which does not belong to them;" "they took the chickens that were in the huts of my village;" "thus showing the error of the court below in not finding that the band of which the accused was a member had robbery for its object. In our opinion the court did err in this particular."

Therefore, the facts set forth in the complaint being duly and sufficiently proved as constituting the crime of brigandage, which is punished by Act 518, according to article 1 of this law we sentence the accused, Rafael Cervantes, to twenty years' imprisonment and the costs and reverse the decision appealed from by the Government. It is so ordered.

Torres, Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1376. January 21, 1904.]

*THE UNITED STATES, complainant and appellee, vs. J. VAL-ENTINE KARLESEN, defendant and appellant.*

1. CRIMINAL LAW: ESTAFÁ; COMPLAINT OR INFORMATION: CERTAINTY.—An information for *estafa* which charges the defendant with appropriating "the sum of \$1,000, gold currency of the United States," is sufficient, and it is not necessary to describe the funds with any greater certainty.

2. ID.; ID.; JUDICIAL NOTICE.—Where the information charges the embezzlement of a certain sum of money in gold currency of the United States it is not bad for not alleging the equivalent value in pesetas, and the courts will take judicial notice of the equivalent in the latter coin for the purpose of fixing the penalty.

3. ID.; SENTENCE: PRESENCE OF ACCUSED.—The requirement of the law that the accused be present personally at the time of pronouncing judgment if convicted of a felony is mandatory, and in case of a failure to comply therewith the sentence will be reversed, without disturbing the verdict, and the case remanded with instructions to the court below to pronounce judgment in accordance with the provisions of the statute.

4. ID.; ESTAFÁ; AGGRAVATING CIRCUMSTANCES.—Premeditation and fraud are elements of the crime of *estafa* and can not be considered as independent aggravating circumstances.

Per COOPER, J., dissenting:

5. ID.; ID.; COMPLAINT OR INFORMATION: CERTAINTY.—A complaint charging the embezzlement of "one thousand dollars, gold currency of the United States," is bad for not stating the value thereof in pesetas, as there is no official ratio between United States gold dollars and pesetas, and the penalty depends upon the value of the embezzled property in the latter coin.

APPEAL from a judgment of the Court of First Instance of Laguna.

The facts are stated in the opinion of the court.

W. A. KINCAID, for appellant.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendant was accused of the crime of embezzlement in the language following, viz:

"That the said J. Valentine Karselen, on the 2d day of April, 1903, whilst acting as postmaster at Calamba, of the Province of Laguna, P. I., and having in his charge public funds belonging to the post-office, withdrew, for his own use and benefit, the sum of \$1,000, gold currency of the United States, the property of the Post-Office Department of the Government of the Philippine Islands, contrary to the statutes made and provided in such cases."

This complaint was presented on the 27th day of April, 1903. On the 21st day of May, 1903, the said accused presented a demurrer to the said complaint, alleging the following grounds, viz:

First. That the amount of the funds alleged to have been embezzled does not appear in the complaint.

Second. Neither does there appear in the complaint a description of said funds in such a manner that an intelligent person can identify them.

On the 22d day of May the court overruled the said demurrer in the following language, viz:

"The attorneys for the accused base their exception on the fact that the complaint does not state the value of the funds embezzled nor specify of what they consist.

"A reading of the complaint convinces me that there is no ground for such exception.

"Therefore, after considering the reasons set forth by both parties, I am of the opinion that the exception set forth should be overruled, and the accused must answer to the complaint."

On the same day the defendant was duly arraigned and plead not guilty. The cause thereupon proceeded to trial on the same date.

On the 27th day of May, 1903, the court, after hearing the evidence adduced in the trial of said cause, found the defendant to be guilty of the crime of embezzlement of public funds, and sentenced him to be imprisoned for the period of ten years and one day of *presidio mayor*, perpetual absolute disqualification, indemnification to the Government in the sum of \$1,000, gold, which must be made effective by the bond given by the accused, and to the payment of costs.

On the 2d day of June, 1903, the defendant gave notice of his intention to appeal to this court from said sentence.

The attorney for the defendant assigns the following errors, viz: First. The court erred in overruling the demurrer interposed by the accused to the complaint.

Second. The court erred in pronouncing judgment against the accused for a "*delito grave*" in the absence of the accused.

Third. The evidence adduced at the trial does not prove the guilt of the accused beyond a reasonable doubt.

Fourth. The court erred in taking into consideration the statement of the clerk with regard to the condition and appearance of the mail bag mentioned in the record.

In the first assignment of error it is alleged that the demurrer should have been sustained because: "First. The complaint did not contain a description of the money embezzled by piece or denomination; second, because the penalty fixed by article 390 of the Penal Code for embezzlement is based upon the number of 'pesetas' embezzled, and that the court could not measure the value of the money given in the complaint in 'pesetas,' there being no fixed equivalent value of gold dollars in 'pesetas;' third, that no person should be held to answer for a criminal offense without due process of law, and in all criminal prosecutions the defendant shall enjoy the right to demand the nature and cause of the accusation against him and that the complaint must contain a description of all the requisites of the crime, so that the accused may know just what offense he must prepare to defend himself against."

At the early practice under the common law complaints were made or might be made orally. This practice led to so much confusion and embarrassment and deprivation of rights upon the

part of the accused that in the year 1688 (February 13) the people of Great Britain demanded and received from the Prince and Princess of Orange what has ever since been known as the "Bill of Rights." The bill of rights put an end forever to oral complaints, and required that thereafter every person charged with the commission of crime should not be brought to trial until after he had been informed in writing, fully and plainly, of the nature of the offense with which he was charged. This provision of the bill of rights has been adopted in the Constitution of the United States as well as in the constitutions of all the States. By Act 235, the Organic Law of the Philippine Islands, enacted by the Congress of the United States, July 1, 1902, this ancient bulwark of the liberties of men was extended to the people inhabiting these islands.

The object of this written accusation was—

First. To furnish the accused with such a description of the charge against him as will enable him to make his defense; and second, to avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. (United States *vs.* Cruikshank, 92 U. S., 542.) In order that this requirement may be satisfied, facts must be stated; not conclusions of law. Every crime is made up of certain acts and intent; these must be set forth in the complaint with reasonable particularity of time, place, names (defendant and offended), and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged. For example, if a malicious intent is a necessary ingredient of the particular offense, then malice must be alleged. In other words, the prosecution will not be permitted to prove, under proper objection, a single material fact unless the same is duly set forth by proper allegation in his complaint. Proof or evidence of material facts is rendered admissible at the trial by reason of their having been duly alleged in the complaint. (Rex *vs.* Aspinwall, 2, Q. B. D., 56; Bradlaugh *vs.* Queen, 3 Q. B. D., 607; Commonwealth *vs.* Hart, 11 Cush. (Mass.), 1300.)

If personal property is the subject of the offense, it must be described with certainty, and in those cases in which its value is material the value must be stated. Personal property can usually be described by the name by which it is generally known. For example in a charge of the robbery of a horse or carabao it would be sufficient to describe this property simply as a horse or carabao. If, however, the value of the horse or carabao is a necessary element of the offense in order that the punishment may be properly fixed, then the complaint would not be sufficient if no value was given to such property. It would be necessary, for example, in every complaint under subsections 1, 2, 3, 4, and 5 of article 518 of the Penal Code to allege some value to the property stolen. If the property is made up of different kinds or of different parts, then a value should be given each. The complaint generally would be bad if in such a case a total value only was alleged. These rules do not require that a minute description of the property shall be given—they do not require an impossibility. For example, if a clerk, in sole charge of a business as agent or factor, collects, at different times, sums of money, on general account, consisting of various kinds and denominations and then fraudulently appropriates them to his own use, these rules do not require the prosecution to describe each piece of money so collected and misappropriated. If the descriptive terms used are sufficient in their common and ordinary acceptance to show with certainty to the common understanding of intelligent men what the property was and to fully identify it they will be sufficient. In other words, the description of property in such cases is subject to the rule that the law only requires such certainty as the nature of the property and the circumstances will permit. (Wilson *vs.* State, 69 Ga., 224.) A less de-

*gree of certainty is required in the description of the offense when the facts which constitute it lie more particularly within the knowledge of the defendant.*

There is a general opinion that a greater degree of certainty is required in criminal pleading than in civil. This is not the rule. The same rules of certainty apply both to complaints in criminal prosecutions and petitions or demands in civil causes. Under both systems every necessary fact must be alleged with certainty to a common intent. Allegations of "certainty to a common intent" mean that the facts must be set out in ordinary and concise language, in such a form that persons of common understanding may know what is meant.

In this case it is alleged that the complaint was insufficient in that it did not describe the "one thousand dollars" by piece or denomination or value. Our attention is called to several cases in the United States upon this question. In the case of *Lavarre vs. State* (1 Texas Court of Appeals, 685) the complaint alleged "three hundred gold dollars," without alleging that they were lawful money or current coin of the United States or of any country. The complaint was held bad for this reason. The court there states that "an allegation of value is material in two respects: First, there can be no theft of an article unless that article has either intrinsic or relative value, and no value could be proved unless alleged in the indictment; and second, under the statute the degree of punishment for theft depends upon the value of the thing stolen."

In the case of the *People vs. Ball* (14 Cal., 101) the allegation was "three thousand dollars, lawful money of the United States." This was held an insufficient allegation because the particular denomination or species of coin must be set forth. This was also a complaint for larceny.

In the case of *People vs. Cohen* (8 Cal., 42) the language used was "four hundred thousand dollars, money, goods, and chattels." Here the accused could not determine how much money, what goods, and what chattels, and the complaint was therefore held bad. Judge Baldwin, in the case of *People vs. Green* (15 Cal., 512), in commenting upon this case (*People vs. Cohen*), said: "It is true the court says money should be described as so many pieces of the current gold or silver coin of the country, but we think we may well infer that a twenty-dollar piece of the gold coin of the United States is current coin of the United States, and is of the value of twenty dollars of our money."

A complaint for the crime of embezzlement ought to state the description of the property embezzled with the same particularity as is required in a complaint for larceny. But in the case of larceny the property was in the possession of the owner, and he is presumed to know its particular description, while in embezzlement where the offense is committed by a person in the course of a long, continuous employment as a clerk, cashier, or postmaster, who is daily receiving and disbursing large sums of money, a description of the pieces or denominations of the money is absolutely impossible. In such a case, if his accounts are correctly kept, the only description which can be made is by a general statement of the amount which his books disclose. It is to be argued that a cashier, for example, who daily embezzles sums of money for months is to be discharged from liability simply because the prosecution can not give a minute description by piece or denomination of all the money so misappropriated? England has taken advanced ground upon this question, and by the seventh and eighth George IV, chapter 29, section 48, enacted that "it shall be sufficient to allege embezzlement to be of money without specifying any particular coin or valuable security, etc."

In the present case the books of the accused showed that he had the sum of \$1,046.64, gold, United States currency, belonging to the Post-Office Department on the 1st day of April, 1903. He is charged with embezzling "\$1,000, gold, legal money of the United States." This allegation is in substance in the terms of his own accounts, and we fail to see how he can in any way mis-

understand the allegation or be confused in making his defense under it.

It is argued that the complaint is bad because it failed to allege the value of the property embezzled in terms of "pesetas." One peso, Mexican, is equivalent to 5 pesetas, and by a proclamation of Governor Taft issued on the 11th day of March, 1903, the value of \$1, United States currency, was fixed at 2.60 pesos of insular currency. This would make the value of \$1, gold, equal to 13.7 pesetas. Not only this but the evidence showed that the accused was familiar with the exchange value of gold and Mexican for the reason that he had, on or about the 1st day of April, 1903, been exchanging one for the other. Under the said proclamation it was the duty of the accused to pay to the Government or to account to the Government for every gold dollar received, either the gold dollar or \$2.60, Mexican, its equivalent.

There has not been a time since January 1, 1901, until April 2, 1903, when \$1, gold, was not worth at least 10 pesetas. Figuring the value of \$1,000, gold, on this basis, their value in pesetas would at least amount to 10,000 pesetas.

At the trial the said defendant admitted the following facts, viz:

(a) That on the 2d day of April, 1903, he was the postmaster at Calamba, in the Province of Laguna, P. I.

(b) That on said 2d day of April he had in his possession as such postmaster the sum of \$1,046.64, gold currency of the United States, and claimed that on said day he had remitted \$1,000, gold, to the Postmaster or Director of Posts at Manila.

The defendant claimed that he had remitted \$1,000 to Manila through the mails. He also claimed that two persons (Green and Canicosa) were present at the time (April 2) when the said money was sealed in the mail sack just before the same was sent out in the mail. Green and Canicosa each deny this fact. It is true that Green did sign the "letter of remittance," etc. He testified that he signed said letter on April 1, as a matter of favor at the request of the accused. It was shown by other proof that Green was not at the office of the accused on the morning of the 2d of April.

There was an attempt made to show that the said mail sack was robbed of the \$1,000, gold, while in transit to Manila from Calamba, and therefore that the defendant was innocent. We are of the opinion that this proof was not sufficient to establish the fact.

Upon consideration of all the proof adduced at the trial we find that the said accused did, on the 2d day of April, 1903, while acting as postmaster at Calamba, in the Province of Laguna, P. I., while having in his custody and under his control public funds belonging to the Post-Office Department of the Philippines, appropriate to his own use and benefit the sum of \$1,000, gold, legal money of the United States, which was equivalent in value at least to the number of 10,000 pesetas, which offense is provided for and punishable under subsection 3 of article 390 of the Penal Code.

Under all the evidence given in the trial of this cause we find that an ocular inspection of the mail sack, in which it is alleged the said money was sent to Manila as claimed by the accused, would not aid the court in reaching its conclusion.

It is alleged that the court committed error in announcing its sentence during the absence of the accused. It is admitted that the sentence of the court below was announced to the accused in the jail, and not by the judge but by the clerk; that he was not brought into open court and informed by the judge there of the sentence. Section 41 of General Orders, No. 58, provides that "the defendant must be personally present at the time of pronouncing judgment, if the conviction is for a felony." The offense here was a felony.

In all criminal prosecutions the accused has an absolute right to be personally present during the entire proceeding from arraignment

ment to sentence if he so desires. In cases of felony he can not waive this right. The court in case of felony must insist upon the presence of the accused in court during every step in the trial. The record must also show that the accused was present at every stage of the prosecution. (*Hopt vs. Utah*, 110 U. S., 574.) It is not within the power of the court, the accused, or his counsel to dispense with the provisions of General Orders, No. 58 (sec. 41), as to the personal presence of the accused at the trial. We mean by the phrase "at the trial" to include everything that is done in the course of the trial, from the arraignment until after sentence is announced by the judge in open court.

The question is what effect shall a violation of the terms of section 41 of General Orders, No. 58, have upon the rights of the accused.

We are of the opinion that for this error the sentence of the court below should be reversed, without disturbing the verdict, and the cause remanded with direction to the court below to pronounce the judgment in accordance with the provisions of section 41, General Orders, No. 58.

The court below appreciated two aggravating circumstances provided for in sections 7 and 8 of article 10 of the Penal Code, as follows, (1) premeditation and (2) fraud. These constitute not aggravating circumstances in this case but elements of the offense.

There being neither aggravating nor extenuating circumstances, under article 81 of the Penal Code the medium degree of *presidio mayor* should be imposed.

Arellano, C. J., Torres, and McDonough, J.J., concur.

Willard and Mapa, J.J., concur in the result.

COOPER, J., dissenting:

By the provisions of article 534 of the Penal Code, under which the defendant has been convicted, the degree of punishment for embezzlement depends upon the value of the embezzled property:

(1) With the penalty of *arresto mayor* in its minimum and medium degrees if the property does not exceed 250 pesetas in amount; (2) with that of *arresto mayor* in its medium degree to *presidio correccional* in its minimum degree if the property exceeds 250 pesetas and not be more than 6,250 pesetas; (3) with that of *presidio correccional* in its minimum and medium degrees if it should exceed 6,250 pesetas.

There being no fixed ratio between gold dollars of United States currency and pesetas, which is a Spanish silver coin, it was necessary to state in the complaint the value in pesetas of "one thousand dollars, gold currency of the United States," alleged to have been embezzled.

For this defect in the complaint the judgment should be reversed.

This view will render it unnecessary to consider the other questions which have been discussed in the majority decision, and upon which I express no opinion.

*Judgment modified.*

## STATISTICS FROM BUREAUS OF THE INSULAR GOVERNMENT.

### BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

*Vital statistics for month of December, 1903.*

LETTER OF TRANSMITTAL.

MANILA, P. I., January 18, 1904.

SIR: I have the honor to transmit the following report of the operations of the Board of Health for the month of December, 1903:

The most important causes of mortality in the city of Manila

14678—2

during the month, with the number of deaths therefrom, were as follows:

Convulsions of children, 331; pulmonary tuberculosis, 73; eclampsia, nonpuerperal, 65; acute bronchitis, 56; chronic bronchitis, 37; beri-beri, 34; meningitis, 26; diarrhea and enteritis, 23; congenital debility, 23; senile debility, 21; dysentery, 15; malarial fevers, 15; cardiac disease, 13; Asiatic cholera, 11; typhoid fever, 10; acute nephritis, 6; pneumonia, 5; tetanus, 5; plague, 2; smallpox, 2.

Both cases of plague occurred in Filipinos, who were dead when found. The two deaths from smallpox occurred in Americans, a class in which this disease assumes an unusually severe type.

The deaths from cholera were reduced during the month to 11, there being a gratifying reduction from the 26 deaths from this cause in November, the 118 in October, and the 263 in September. It is confidently anticipated that with continuance of the present measures the infection of cholera will be eradicated from the city during the month of January.

Of the total deaths reported in the city during the month, 60.6 per cent occurred in children who had not completed the first year of life. Of the total deaths occurring among the Filipino class of the population, 63.8 per cent occurred among children less than 12 months of age.

During the month two new free dispensaries were put in operation. As so far these institutions have been regarded with some distrust by the class of the population it is most desired to reach, especial efforts will be made to popularize their use by the indigent.

The following figures show the general sanitary work performed during the month: A total of 29,798 inspections and re-inspections of houses were made; 3,731 houses were cleaned as a result of sanitary orders; 29 were painted, and 77 disinfected; 1,169 yards were cleaned, and 35 repaved, etc., under sanitary orders. A total of 186 orders for house repairs were complied with during the month, 302 still awaiting action. In the prevention of plague, 24,638 rats were destroyed. In the river and harbor work, sanitary inspections were made of 781 water craft. The carcasses of 12,207 animals and fowls were cremated, as also 5,989 loads of refuse. The veterinary division inspected 7,952 animals, of which number 169 were condemned and destroyed for disease. Plumbing work was completed in 37 houses, while the pail-conservancy system removed and cleaned 45,009 pails and removed 85,500 gallons of material from vaults and cesspools. During the month 1,539 primary inoculations and 1,408 secondary inoculations were made against plague, 95,175 units of vaccine virus were issued for use throughout the Islands, and 7,406 vaccinations were performed in the city of Manila.

During the month a course of instruction for provincial health officers was put into operation in the city of Manila. This course extends over a period of four weeks, is wholly practical, and is intended to remedy deficiencies in sanitary training and induce common methods of executing sanitary work by the various provincial boards of health. The course will be repeated monthly until all presidents of provincial boards of health have enjoyed its advantages, which appear to be highly appreciated by those who composed the first class under instruction. The course of instruction includes municipal sanitary work at a district health station, including inspection of houses and foods, diagnosis and removal of plague and cholera cases, antiplague inoculations, treatment of plague houses, and house disinfection. Several days are spent in the work of port quarantine and ship disinfection, under the chief quarantine officer; observation of the several methods in vogue for reception and disposal of excreta, and in plumbing inspection; instruction in clinical and post-mortem diagnoses of epidemic diseases of live stock, and inspection of meat at abattoirs; preparation of prophylactic sera and vaccines; also the methods of inoculating against rinderpest and the use of fungus against locusts; methods



of vaccination and preparation of vaccination records; management and equipment of plague, cholera, smallpox, leper, venereal, morgue, crematory, and disinfecting departments of the San Lazaro Hospitals, treatment of sick therein, making of post-mortem examinations, and disposal of the dead; keeping of sanitary records, calculation of vital statistics, and preparation and use of reports. It is believed that this course of instruction will materially improve the method of conducting sanitary work in the provinces.

Very respectfully,  
 E. L. MUNSON,  
 Captain and Assistant Surgeon, U. S. A.,  
 Acting Commissioner of Public Health.

The SECRETARY OF THE INTERIOR, Manila, P. I.

Population of Manila.

Americans	4,389
Filipinos	189,782
Spaniards	2,528
Other Europeans	1,117
Chinese	21,230
All others	895
<b>Total</b>	<b>219,941</b>

Deaths occurring during the month of December.

Americans	6
Filipinos	849
Spaniards	1
Other Europeans	1
Chinese	29
All others	5
Race unknown	3
<b>Total</b>	<b>894</b>

Annual death rate per thousand for the month.

Americans	16.10
Filipinos	52.70
Spaniards	4.56
Other Europeans	10.54
Chinese	16.09
All others	65.83
<b>Average</b>	<b>47.89</b>

A classified report of all deaths occurring in Manila during the month of December, 1903.

MALES.

Married	102
Widowers	19
Single	80
Boys	327
Condition not stated in certificates	14
<b>Total</b>	<b>542</b>

FEMALES.

Married	55
Widows	29
Single	27
Girls	277
Condition not stated in certificates	5
<b>Total</b>	<b>393</b>
<b>Grand total</b>	<b>935</b>
Stillbirths, 20.	

Comparative mortality from January 1, 1900, to December 31, 1903.

Month.	1900.		1901.		1902.		1903.	
	Num-ber of deaths.	Annual death rate per 1,000.	Num-ber of deaths.	Annual death rate per 1,000.	Num-ber of deaths.	Annual death rate per 1,000.	Num-ber of deaths.	Annual death rate per 1,000.
January	1,055	50.79	1,758	36.25	1,760	30.46	1,602	28.89
February	1,884	47.11	1,680	36.72	1,706	30.81	1,511	27.23
March	1,867	42.70	1,885	42.66	1,770	30.62	1,589	25.94
April	1,805	40.04	1,886	44.07	1,327	53.46	1,549	27.31
May	1,732	35.24	1,903	43.47	11,688	65.81	1,770	37.06
June	1,599	29.79	1,623	30.89	11,418	57.13	1,562	29.45
July	1,787	37.88	2,608	29.27	12,223	86.48	1,620	30.27
August	1,825	39.71	2,702	33.79	11,712	66.75	1,862	46.17
September	1,027	56.01	1,767	38.15	11,132	45.41	1,226	67.37
October	1,961	46.23	2,855	41.16	927	36.14	11,217	63.19
November	1,976	48.48	2,848	42.18	11,035	41.70	1,974	58.91
December	1,905	43.54	2,856	41.30	753	29.36	1,894	47.89

<sup>1</sup> Death rate computed on population of 244,732 (Health Department's census).

<sup>2</sup> Death rate computed on population of 219,941 (census, 1903).

Report of deaths occurring in Bilibid Prison during the month of December, 1903.

Cause of death.	Carcel.				Total.
	Prosidlo (Filipinos, male).	Americans (male).	Filipinos (male).	Chinese (male).	
Dysentery, amebic	4		12		6
Pulmonary tuberculosis	13	1	3		7
Acute endocarditis	1				1
Pneumonia	11			1	12
Purulent gastritis			1		1
<b>Total</b>	<b>19</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>27</b>

<sup>1</sup> Moro.

<sup>2</sup> Unknown.

Condition:	
Single	13
Married	18
Unknown	1
Cemeteries, Loma	27

Of the total number of deaths occurring during the month of December, 1903 (935 including transients), 618 were persons less than 16 years of age. Of the remaining 319 adults of both sexes only 140, classed below, had definite occupations:

MALES.

Laundryman	1
Contractors	2
Laborers	29
Cochmen	5
Lawyer	1
Sailors	1
Farmer	6
Hat maker	3
Painters	3
Carpenters	1
Carriers	3
Students	3
Serranos	4
Gate keepers	2
Nerchants	13
Cook	1
Silversmiths	2
Barkeeper	1
Messengers	2
Clerks	4
Grass sellers	2
Tailors	5
Mason	1
Steward	1
Storekeeper	1
Shopkeeper	1
Carriage maker	1
Fishermen	2
Proprietor	1
Chair maker	1
Beggar	1
<b>Total</b>	<b>107</b>

FEMALES.

Laundresses	14
Seamstresses	7
Shopkeepers	3
Beggar	3
Silversmith	1
Serranos	1
Milliner	2
Cigar makers	1
<b>Total</b>	<b>33</b>
<b>Grand total</b>	<b>140</b>

Births reported in December, 1903.

	Male.	Fe-male.	Total.
Americans		2	2
Filipinos	189	195	384
Spaniards	4	2	6
Other Europeans		1	1
Chinese		1	1
<b>Total</b>	<b>193</b>	<b>201</b>	<b>394</b>

<sup>1</sup> Incomplete.

Annual birthrate per thousand for the month.

Americans	5.36
Filipinos	23.83
Spaniards	27.96
Other Europeans	10.54
Chinese	0
All others	13.16
<b>Average</b>	<b>21.10</b>

Report of prescriptions filled at the municipal dispensaries, showing districts and sex of persons to whom medicines have been given during the month.

Districts.	Filipinos.				Total.
	Adult.		Children.		
	M.	F.	Boy.	Girl.	
Sanitary District No. 1, San Nicolas	10	18	6	1	35
Sanitary District No. 2, Tondo	15	8	4	2	29
Sanitary District No. 3, Quiapo	36	31	9	11	77
Sanitary District No. 4, Santa Cruz	21	22	9	6	58
Sanitary District No. 5, Sampaloc	109	72	35	22	238
Sanitary District No. 6, Intramuros	28	29	13	7	77
Sanitary District No. 7, Ermita, Malate, Paco, etc.	25	43	2	23	93
<b>Total</b>	<b>234</b>	<b>223</b>	<b>78</b>	<b>72</b>	<b>607</b>

*General inspection of houses, premises, etc.—Continued.*

Rats caught by rat catchers	14,627
Rats caught by traps	5,905
Rats caught by poison	0
Rats purchased	106
Rat catchers employed	70

*Monthly sanitary report, Station A, San Nicolas, harbor and river, December, 1903.*

Cascoes inspected	385
Steamships inspected	75
Launches inspected	151
Schooners inspected	53
Lorchas inspected	117
Trips made by the Board of Health launch to the bay	52
Trips made by the Board of Health launch up the River	48
Cholera cases found on ships and other craft	0
Cholera cases found "alive"	0
Cholera cases found "dead"	0
Plague cases reported	1
Dead bodies found in river and harbor	4
Craft fumigated	19

*Burials, December, 1903.*

Loma (Government)	571
Paco General (Government)	24
Santa Cruz	8
Balic-Balic	126
Binondo	16
Tondo	0
Maytubig	41
Malate	58
Malate	51
Pandacan	38
Chinese	39
Crematory	2
Santa Ana	19
American National Cemetery	2
San Pedro Macati	1
Embarked	0
<b>Total</b>	<b>955</b>

Twenty of the above were stillbirths and 41 transient residents.

*Disinterments, December, 1903.*

Paco Cemetery	3
Balic-Balic	0
Santa Cruz	1
Chinese Cemetery (for removal to China)	9
Malate	14
<b>Total</b>	<b>27</b>

Report of sick and wounded city poor attended by municipal physicians during the month of December, 1903.

Sanitary district.	Filipinos.										Recoveries.	Deaths.	Number of visits.
	Adult.		Children.		Chinese adult male.		Total.		M. F.				
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.			
Sanitary district No. 1, San Nicolas	9	8	5		14	8	6	3	3	1	123		
Sanitary district No. 2, Tondo	11	12	7	6	18	18	8	5	6	7	144		
Sanitary district No. 3, Quiapo	9	13	4	2	14	15	9	8	2	1	73		
Sanitary district No. 4, Santa Cruz	1	10	10	5	2	12	12	10	6		216		
Sanitary district No. 5, Sampaloc	29	32	10	4	39	46	19	20	5	8	227		
Sanitary district No. 6, Intramuros	23	18	12	9	35	27	19	21	4	1	165		
Sanitary district No. 7, Paco, Ermita, etc.	15	24	6	15	21	39	7	12	8	8	138		
<b>Total</b>	<b>1106</b>	<b>117</b>	<b>49</b>	<b>48</b>	<b>1157</b>	<b>165</b>	<b>78</b>	<b>75</b>	<b>28</b>	<b>28</b>	<b>1,016</b>		

General inspection of houses, premises, etc., with improvements ordered, by medical inspectors, chief sanitary inspectors, and sanitary inspectors, for the month of December, 1903.

Houses inspected by the chief sanitary inspector	2,580
Houses respected for verification of work ordered	599
Houses inspected by sanitary inspectors	21,596
Houses respected by sanitary inspectors	5,023
Houses ordered cleaned (written)	5
Houses ordered cleaned (verbal)	4,087
Houses cleaned	3,726
Houses ordered whitewashed and painted	40
Houses whitewashed and painted	29
Houses disinfected	77
Number of houses recommended condemned and removed	7
Number of houses condemned and removed	1
Number of localities where "squatters" are located	22
Number of samples of water from wells sent to Laboratory	0
Number of reports from same	0
Number of fire plugs opened or closed for sanitary purposes	0
Number of hydrants recommended reopened	0
Number of houses where garbage has not been removed for two days	38
Number of persons reported sick to municipal physicians	184
Cesspools and vaults ordered cleaned	294
Cesspools cleaned	222
Yards ordered cleaned	1,367
Yards cleaned	1,169
Yards ordered repaired (repaved, etc.)	46
Yards repaired	35
Number of cholera cases reported by sanitary inspectors	3
Number of cholera cases reported by Auxiliary Advisory Board	2
Number of cholera cases found "alive"	6
Number of cholera cases found "dead"	6
Number of orders issued during the month	195
Number of orders complied with during the month	186
Number of orders awaiting action	802
Number of orders pending in court	28
Number of food ticas in district	1,574
Number of persons convicted for violation of food prohibition order	0
Average in visiting each street and barrio during month	18
Number of regular inspectors on duty	48
Number of emergency inspectors on duty	0
Number of leper cases sent to San Lazaro Hospital	1
Number of plague cases reported	3
Number of smallpox cases reported	0
Houses in which traps are set	14,630
Houses in which baits are placed	2,404
Traps set	31,569
Baits with malsabane placed	7,460

*Monthly report of disinfections, December, 1903.*

Diseases.	Number of disinfections.	Number of contacts.
Cholera	14	126
Bubonic plague	16	16
Leprisy	1	0
Smallpox	1	8
Consumption	0	0
Gleets	12	0
Surra	14	0
Insanitary condition	35	0
<b>Total</b>	<b>81</b>	<b>150</b>

*Report of Veterinary Division for December, 1903.*  
[David G. Moberly and Murray J. Myers, veterinary surgeons.]

On arrival in city:	
Number of cattle inspected	3,567
Number of carabos inspected	322
Number of horses inspected	366
Number of hogs inspected	3,402
Number of sheep inspected	168
Number of goats inspected	20
Number of other animals inspected	10
<b>Total</b>	<b>7,952</b>
In Government abattoir:	
Number of cattle slaughtered	2,511
Number of hogs slaughtered	5,383
Number of sheep slaughtered	123
<b>Total</b>	<b>7,997</b>
Number cattle condemned and cremated	13
Number of hogs condemned and cremated	15
Number of horses condemned for glanders	26
Number of horses condemned for surra	20
Number of other animals condemned	95
<b>Total</b>	<b>169</b>

Reports received of lepers living in the various provinces of the Philippine Islands, to December 31, 1905.

Smallpox report for Manila, from December 1 to 31, 1905—Continued.

BY DISTRICTS.

Province.	Race.	Number of men.	Number of women.	Children.		Single.			Married.	Widower.	Widow.	Total.
				M.	F.	M.	F.	M.				
Antique	Filipino	92	37	2	2	38	28	42	2	12	5	133
Batangas	do	19	5			12	3	3	3	3	3	24
Bataan	do	19	4	1	1	1	3	5	2	2	2	16
Benguet	Igorrote	31	10	1	1			21	10	9		43
Ambos Camarines	Filipino	33	17	1	1	24	12	8	5	1		52
Bulacan	do	17	9	2	1	12	6	5	3			29
Ilocos Norte	do	45	28	5	2	9	10	31	8	5	10	80
Ilocos Sur	do	176	84	4	2	101	50	66	17	14	12	266
Leyte	do	49	38	1	3	26	27	20	7	3	4	91
Masbate	do	51	35	25	10	22	15	23	19	2	5	121
Cagayan	do	46	30	3	3	20	10	20	19	1	7	79
Lepanto	do	14	4	1	1	5	1	8	1	1	3	19
Cavite	do	17	5		3	16	3	1		2	2	25
Nueva Ecija	do	44	24	6	1	19	12	22	8	2	2	68
Negros Occidental	do	26	11	5	1	17	10	8	1	1	5	43
Pampanga	do	8	5	2	3	3	1	5	3	1		15
Pangasinan	do	120	80	2	3	36	28	65	38	19	14	205
Rizal	do	41	24	2	2	19	12	21	7	3	3	67
Marinduque	do	1	1					1	1			3
Laguna	do	2	1					2	1			3
San Lazaro	do	102	75	21	9	68	40	26	19	8	16	207
Tarlac	do	27	24	11	4	7	9	17	11	2	5	66
Sorsogon	do	73	33	1	1	33	17	40	10	3	5	110
Romblon	do	13	14			5	9	8	4	1		27
Samar	do	89	32	8	17	15	14	24	12	4	2	74
Union	do	43	28	13	8	16	46	25	18	9	12	220
Zambales	do	58	35	2	3	30	15	26	13	4	5	95
Mindanao	do	140	74	3	3	84	46	45	18	9	12	220
Cebu	Filipino	171	89	5	4	136	64	33	21	3	3	369
Iloilo	do	231	66	11	2	113	37	94	9	24	20	310
Negros Oriental	do	66	42	6	2	27	23	32	14	7	5	116
Isabela de Luzon	do	18	4	1		3	1	10	3	5		23
Tayabas	do	1	1								1	1
Albay	do	68	33	1	1	30	18	27	10	11	5	103
Nueva Vizcaya	do	13	12	2		7	3	4	6	2	3	27
Abra	do	3	1			1	1	1	1		1	6
Bohol	do	46	46	5	1	20	19	27	17	3	1	98
Capiz	do	44	33	19	9	26	24	18	12	1	1	105
Surigao	do	1	1									1
<b>Total</b>		<b>2,008</b>	<b>1,099</b>	<b>159</b>	<b>77</b>	<b>1,011</b>	<b>581</b>	<b>827</b>	<b>354</b>	<b>176</b>	<b>158</b>	<b>3,343</b>

Tabulated statement of amount of vaccine virus distributed by the Board of Health during the month of December, 1905.

	Units.
United States Army	3,180
United States Public Health and Marine-Hospital Service	5,100
Inhabitants of the Philippine Islands (Manila not included)	78,500
Sold to the public	3,500
Used by public vaccinator and other institutions in the city of Manila	13,300
<b>Total</b>	<b>95,175</b>

Report on vaccination, city of Manila, during the month of December, 1905.

District.	Filipinos.	Children.		Adults.		Total.		Grand total.			
		Chil.-nese.	Americans and foreigners.	Filipinos.	Americans and foreigners.	Filipinos.	Americans and foreigners.				
Walled City	205			413	88	6	618	88	6	712	
Binondo	51	15		178	501	4	299	516	4	749	
San Nicolas	360	7		676	117	4	936	124	6	1,066	
Tondo	278			387		8	645		8	653	
Santa Cruz	310			370	33	3	680	33	3	716	
Quiapo	282			3	419		45	701		749	
San Miguel	254			3	414		1	668		669	
Sampaloc	202	3		2	376	60	67	578	63	69	710
Paco	345			354	1		699	1		700	
Ermita	146			1	263		1	439		439	
Malate	77			165			1	242		243	
<b>Total</b>	<b>2,410</b>	<b>25</b>	<b>7</b>	<b>4,025</b>	<b>800</b>	<b>139</b>	<b>6,435</b>	<b>825</b>	<b>146</b>	<b>7,406</b>	

Smallpox report for Manila, from December 1 to 31, 1905.

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos	2	0	0	0
Chinese	0	0	0	0
Americans	2	0	3	0
Europeans	0	0	0	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>3</b>	<b>0</b>

BY AGE.

	Cases.		Deaths.	
	M.	F.	M.	F.
From 1 year to 10 years.			1	1
From 10 years to 20 years.			1	1
<b>Total</b>			<b>2</b>	<b>2</b>
Number of cases found "alive"				0
Number of cases found "dead"				2
<b>Total</b>				<b>2</b>

	Cases.	Deaths.
San Nicolas	2	1
Quiapo	1	0
Santa Cruz	1	2
<b>Total</b>	<b>4</b>	<b>3</b>

BY AGE.

	Cases.	Deaths.
From 1 year to 10 years.		0
From 10 years to 20 years.		0
From 20 years to 30 years.		3
<b>Total</b>	<b>4</b>	<b>3</b>

Number of cases found "alive" 3  
Number of cases found "dead" 1

**Total** 4

Report of Chinese receiving primary and secondary inoculations against plague from Board of Health physicians from May 11 to December 31, 1905.

Period.	San Nicolas.		Tondo.		Quiapo.		Santa Cruz.	
	Primary inoculations.	Secondary inoculations.	Primary inoculations.	Secondary inoculations.	Primary inoculations.	Secondary inoculations.	Primary inoculations.	Secondary inoculations.
May 11-31	891	567	944		859		1,655	
June 1-30	575	367	229	808	138	304	303	241
July 1-31	223	87	287	211			5	2
Aug. 1-31								
Sept. 1-30								
Nov. 1-30	346	288	391	346	159	98	971	655
Dec. 1-31	296	292	216	170	121	74	547	442
<b>Total</b>	<b>2,331</b>	<b>1,260</b>	<b>2,067</b>	<b>1,535</b>	<b>1,277</b>	<b>476</b>	<b>3,481</b>	<b>1,340</b>

Period.	Sampaloc.		Intramuros.		Ermita, Malate, Paco, etc.		Total per city.	
	Primary inoculations.	Secondary inoculations.	Primary inoculations.	Secondary inoculations.	Primary inoculations.	Secondary inoculations.	Primary inoculations.	Secondary inoculations.
May 11-31	868		600		105		5,922	6
June 1-30	358	457		600	100		1,703	2,997
July 1-31							515	300
Aug. 1-31								
Sept. 1-30	23	37					23	37
Nov. 1-30	34	59	32	82	256	128	2,157	1,515
Dec. 1-31	22	21	82	305	348	1	1,589	1,408
<b>Total</b>	<b>1,305</b>	<b>544</b>	<b>632</b>	<b>682</b>	<b>766</b>	<b>476</b>	<b>11,859</b>	<b>6,263</b>

Bubonic plague report for Manila from December 1 to 31, 1905.

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos	1	1	1	1
Chinese	0	0	0	0
Americans	0	0	0	0
Europeans	0	0	0	0
<b>Total</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>

BY DISTRICTS.

	Cases.	Deaths.
Santa Cruz	2	2
<b>Total</b>	<b>2</b>	<b>2</b>

*Cholera report for Manila from December 1 to 31, 1903.*

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos.....	5	6	4	6
Chinese.....	3	0	2	0
Americans.....	0	0	0	0
Europeans.....	0	0	0	0
<b>Total</b> .....	<b>8</b>	<b>6</b>	<b>7</b>	<b>6</b>

BY DISTRICTS.

	Cases.	Deaths.
San Nicolas.....	1	1
Tondo.....	4	4
Americanos.....	0	0
Santa Cruz.....	6	6
Sampaloc.....	0	0
Intramuros.....	1	1
Ermita.....	1	1
Santa Ana.....	1	1
<b>Total</b> .....	<b>14</b>	<b>13</b>

BY AGE.

	Cases.	Deaths.
From 1 to 10 years.....	0	0
From 11 to 15 years.....	1	1
From 16 to 20 years.....	4	3
From 21 to 25 years.....	1	1
From 26 to 30 years.....	2	3
From 31 to 35 years.....	3	3
From 36 to 40 years.....	1	1
From 41 to 50 years.....	1	1
From 51 years and above.....	1	1
<b>Total</b> .....	<b>14</b>	<b>13</b>

Number of cases found "alive".....	7
Number of cases found "dead".....	7
<b>Total</b> .....	<b>14</b>

*Epidemic of cholera in the city of Manila and provinces from March 20, 1902, to December 1, 1903.*

Month.	Manila.		Provinces.	
	Cases.	Deaths.	Cases.	Deaths.
<b>1902.</b>				
March.....	108	90		
April.....	566	406	1,927	1,417
May.....	550	442	2,407	1,631
June.....	601	492	5,204	4,097
July.....	1,368	1,053	7,757	5,807
August.....	730	561	11,247	7,874
September.....	273	179	43,846	27,410
October.....	87	57	30,887	18,572
November.....	336	226	12,358	6,861
December.....	35	24	5,918	3,583
<b>1903.</b>				
January.....	7	4	4,921	2,757
February.....	2	1	2,997	2,009
March.....	6	6	1,903	1,124
April.....	73	27	1,772	1,147
May.....	230	212	1,402	885
June.....	39	38	3,554	2,945
July.....	42	38	4,167	2,806
August.....	89	72	10,212	7,406
September.....	290	263	4,610	3,669
October.....	127	118	2,497	1,985
November.....	36	26	1,008	698
<b>Total</b> .....	<b>5,560</b>	<b>4,365</b>	<b>160,099</b>	<b>104,653</b>

*Report of cholera occurring in provinces in the Philippine Islands during the month of December, 1903.*

Province and place.	Cases.	Deaths.	Total.	
			Cases.	Deaths.
Antique, Pandan.....	4	3	4	3
Bataan, Limay (Orion).....	2	1	2	1
Bohol, Tagbilaran.....	8	6	8	6
Bulacan:				
Polo.....	1	1	1	1
Bulacan.....	1	1	2	2

*Report of cholera occurring in provinces, etc.—Continued.*

Province and place.	Cases.	Deaths.	Total.	
			Cases.	Deaths.
Capiz, Dumarog.....	2	2	2	2
Cavite, Dasmariñas.....	2	3	2	3
Iloilo, Iloilo.....	15	14	15	14
Ilocos Sur, Vigan.....	1	1	1	1
Negros, Occidental:				
Bacolod.....	1	1		
Ginigipran.....	6	1		
Manapla.....	55	46		
Pulupandan.....	6	3		
Sanavia.....	3	3	70	50
Nueva Ecija:				
Allega.....	1	1		
Carangalan.....	1	1		
Zaragoza.....	11	7	13	9
Rizal, San Mateo.....	1	1	1	1
Tarlac, Tarlac.....	8	6	8	6
<b>Total</b> .....			<b>126</b>	<b>100</b>

*Rate per cent of cholera deaths by province.*

Provinces.	Cases.	Deaths.	Per cent.
Antique.....	4	3	75
Bataan.....	2	1	50
Bohol.....	8	8	100
Bulacan.....	2	2	100
Capiz.....	2	2	100
Cavite.....	2	3	150
Iloilo.....	15	14	93
Ilocos Sur.....	1	1	100
Nueva Ecija.....	13	9	69
Rizal.....	1	1	100
Tarlac.....	8	6	75
West Negros.....	70	50	71
<b>Total</b> .....	<b>126</b>	<b>100</b>	
<b>Average</b> .....			<b>79.3</b>

*Vital statistics for the month of January, 1904.*

LETTER OF TRANSMITTAL.

MANILA, P. I., February 24, 1904.

SIR: I have the honor to make the following report of the operations of the Bureau of Health for the month of January, 1904:

The more important causes of deaths occurring in the population of the city of Manila, with the number of deaths, were as follows: Convulsions of children, 272; pulmonary tuberculosis, 78; eclampsia, nonpuerperal, 47; chronic bronchitis, 46; congenital debility, 40; acute bronchitis, 34; diarrhea and enteritis, 31; meningitis, 25; beri-beri, 25; dysentery, 18; malarial fevers, 13; endocarditis, acute, 12; pneumonia, 11; Bright's disease, 3; bubonic plague, 7; cerebral hemorrhage, 6; puerperal septicemia, 5; typhoid fever, 5; Asiatic cholera, 3; tetanus, 4; leprosy, 3.

Of the above-mentioned causes and deaths, the following occurred in infants prior to the completion of the first year of life: Convulsions of children, 272; eclampsia, nonpuerperal, 47; chronic bronchitis, 32; congenital debility, 40; acute bronchitis, 32; diarrhea and enteritis, 24; meningitis, 15; dysentery, 1; pneumonia, 1; tetanus, 4.

Of the 796 deaths occurring among inhabitants of the city, 475, or 59.6 per cent, occurred in children less than 12 months of age.

Asiatic cholera showed a gratifying decrease in the city for the month, there being but 3 cases among residents and 1 among transients. There were 3 cases prior to January 8, with a sporadic case in a transient on January 28. Outside of Manila, a total of 339 cases with 253 deaths was reported from 11 towns of 3 provinces, but of these 324 cases with 240 deaths were not previously reported. The total of 15 cases and 13 deaths reported as occurring during the month occurred in 4 towns of the Provinces of Nueva Ecija and Occidental Negros. The cholera situation throughout the Islands is very encouraging, and it is thought that this disease will play little part in the mortality returns in the future.

There were 2 cases of smallpox during the month, of which one recovered and the other remains under treatment.

A total of 10 cases of plague, with 7 deaths, occurred during the month. Of these, 6 occurred in Filipinos, of whom 5 died, and 4 among Chinese, of whom 2 died. Of the Filipino cases, all occurred among residents in one house; and the single recovery occurred in a girl, who, as a contact, received an injection of antiplague serum about thirty-six hours before developing symptoms of the disease. During the month 2 cases of plague occurred in the city of Cebu, which is the only other point in the Archipelago in which this disease has been able to secure foothold.

There were 20 deaths among prisoners in Bililid Prison, of which 7 occurred from tuberculosis and 7 from lobar pneumonia. As mentioned in the annual report of this office for 1903, the death rate among the inmates of Bililid Prison is high.

The annual birthrate for the month, for the city of Manila, was 25.01 per thousand, but the birth returns are as yet incompletely reported.

In the work of sanitary inspection, there were 45,039 inspections and reinspections of houses made during the month; 5,981 houses were cleaned as a result of sanitary orders; 61 whitewashed or painted, and 76 disinfected. A total of 1,968 yards were cleaned and placed in good sanitary condition. A total of 31,065 rats were destroyed in the prevention of plague. A total of 1,274 inspections of water craft were made; 160,515 units of vaccine virus were issued for use in the Islands, and 4,650 vaccinations performed in the city of Manila.

Very respectfully,  
 E. C. CARTER,  
 Major and Surgeon, United States Army,  
 Commissioner of Public Health.

The SECRETARY OF THE INTERIOR, Manila, P. I.

Population of Manila.

Americans	4,389
Filipinos	189,782
Spaniards	2,528
Other Europeans	1,117
Chinese	21,230
All others	895
<b>Total</b>	<b>219,941</b>

Deaths occurring during the month of January.

Americans	1
Filipinos	742
Spaniards	2
Other Europeans	2
Chinese	45
All others	3
Race unknown	1
<b>Total</b>	<b>796</b>

Annual death rate per thousand for the month.

Americans	2.68
Filipinos	46.06
Spaniards	9.33
Other Europeans	21.09
Chinese	24.97
All others	39.49
<b>Average</b>	<b>42.64</b>

A classified report of all deaths occurring in Manila during the month of January, 1904.

MALES.

Married	75
Widowers	29
Single	82
Boys	271
Condition not stated in certificate	9
<b>Total</b>	<b>466</b>

FEMALES.

Married	61
Widowers	28
Single	13
Boys	255
Condition not stated in certificate	3
<b>Total</b>	<b>360</b>
<b>Grand total</b>	<b>826</b>
Stillbirths, 28.	

A classified report of all deaths, etc.—Continued.

Number of deaths with medical attendance	383
Number of deaths without medical attendance	443
<b>Total</b>	<b>826</b>

Comparative mortality from January 1, 1900, to January 31, 1904.

Month.	1900.		1901.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	11,055	50.79	1753	36.25
February	1884	47.11	1689	36.72
March	1887	42.70	1885	42.66
April	1805	40.04	1886	44.07
May	1732	35.24	1903	43.47
June	1599	29.79	1621	30.89
July	1787	37.88	1608	29.27
August	1825	39.71	1702	33.79
September	11,027	50.01	1767	38.15
October	1961	46.23	1855	41.16
November	1976	48.48	1848	42.18
December	1905	43.54	1858	41.30

Month.	1902.		1903.		1904.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1760	36.58	1602	28.89	1796	42.64
February	1706	37.63	1511	27.23		
March	1770	37.06	1539	25.94		
April	1,527	66.01	1549	27.31		
May	1,688	81.26	1770			
June	1,418	70.54	1592	29.45		
July	1,228	107.02	1620	38.21		
August	1,712	82.42	1862			
September	1,132	56.31	1,228	67.97		
October	1,927	44.62	1,217	63.19		
November	1,635	51.48	1474			
December	1753	36.25	1894	47.89		

<sup>1</sup> Death rate computed on population of 244,732 (Health Department's census).  
<sup>2</sup> Death rate computed on population of 219,941 (census 1903).

Report of deaths occurring in Bililid Prison during the month of January, 1904.<sup>1</sup>

	Filipinos, male.		Total.
	Presidio.	Carcel.	
Malarial cachexia	1	1	1
Pulmonary tuberculosis	6	1	6
General tuberculosis	1	1	1
Lobar pneumonia	5	2	7
Abscess of lungs	1	1	1
Chronic enteritis	1	1	1
Post-urethral abscess	1	1	1
Other external violence	1	1	1
Gunshot wound in chest	1	1	1
<b>Total</b>	<b>14</b>	<b>6</b>	<b>20</b>

<sup>1</sup>These deaths included in the monthly report.

Condition:	9
Married	11
Loma Cemetery	20

Deaths by occupation and by age, during the month of January, 1904.

Occupation.	Age.										Total.
	Under 15 years.	From 15 to 20 years.	From 20 to 25 years.	From 25 to 30 years.	From 30 to 35 years.	From 35 to 40 years.	From 40 to 45 years.	From 45 to 50 years.	From 50 years upward.		
MALES.											
Laborers		5	2	6	3	4	4	3	9	36	
Merchants				3					1	13	
Carpenters								1	1	10	
Cochmen		2	2							8	
Embroiderers						3				8	
Shoemakers							1	1		2	
Forester				1						2	
Silversmiths									1	1	
Servants		2		1				1	1	5	

Deaths by occupation and by age, during the month of January, 1901.—Continued.

Report of sick and wounded city poor attended by municipal physicians during the month of January, 1901.

Occupation.	Under 15	From 15 to 20	From 20 to 25	From 25 to 30	From 30 to 35	From 35 to 40	From 40 to 45	From 45 to 50	From 50 years upward.	Total.
	years.	years.	years.	years.	years.	years.	years.	years.	years.	
<b>MALES—continued.</b>										
Boatman					1					1
Grass vendors										
Barbers					1					1
Carriers		1			1					2
Machinists				1		1		1		3
Fishermen							1			1
Students	3									3
Tailors			1							1
Sailors				1						1
Cooks				1						1
Clerks						3		1		4
Farmers								1		1
Fireman					1					1
Book keeper								1		1
Painters							1			1
Sanitary inspector					1					1
Carriage maker										
Stoker									1	1
Chairmaker					1					1
Optician								2		2
<b>Total</b>	<b>3</b>	<b>13</b>	<b>5</b>	<b>19</b>	<b>12</b>	<b>17</b>	<b>11</b>	<b>11</b>	<b>35</b>	<b>126</b>

<b>FEMALES.</b>										
	Under 15	From 15 to 20	From 20 to 25	From 25 to 30	From 30 to 35	From 35 to 40	From 40 to 45	From 45 to 50	From 50 years upward.	Total.
Seamstresses			3	3	2		1		3	12
Laundresses			3	1				1	6	11
Cigar makers	1	2	2						1	7
Shoekneppers				2						2
Beggars										2
Laborer										1
Milk dealer										1
Silversmith										1
Real-estate agents					1					1
Embroiderers						1				1
Gate keepers				1				1		2
Broker							1			1
Number of charity										2
Fisherman									1	1
Meat seller				1						1
Nurse					1					1
Servant		1								1
<b>Total</b>	<b>1</b>	<b>3</b>	<b>8</b>	<b>8</b>	<b>5</b>		<b>4</b>	<b>4</b>	<b>18</b>	<b>51</b>

Births reported in January, 1901.

Nationality.	Male.		Female.	Total.
Filipinos		228	239	467
Spanish		1	1	2
Chinese		3	0	3
<b>Total</b>		<b>227</b>	<b>240</b>	<b>467</b>

1) Incomplete.

Annual birthrate per thousand for the month.

Filipinos	28.68
Spanish	9.32
Chinese	1.06
<b>Average</b>	<b>25.01</b>

Report of prescriptions filled at the municipal dispensaries, showing districts, sex, and age of persons to whom medicines have been given during the month of January, 1901.

Districts.	Filipinos.				Total.
	Adult.		Children.		
	M.	F.	Boy.	Girl.	
Sanitary District No. 1, San Nicolas	16	3	2		21
Sanitary District No. 2, Tondo	46	28	8	10	92
Sanitary District No. 3, Quiapo	40	42	23	8	113
Sanitary District No. 4, Santa Cruz	41	44	11	9	105
Sanitary District No. 5, Sampaloc	136	82	47	11	276
Sanitary District No. 6, Intramuros	15	37	16	13	81
Sanitary District No. 7, Ermita, Malate, Paco, etc.	20	18	22	12	72
<b>Total</b>	<b>314</b>	<b>254</b>	<b>129</b>	<b>63</b>	<b>760</b>

Sanitary districts and physicians.	Filipinos.				Total.	Cured.			Deaths.	Number of visits.	
	Adult.		Children.			M.	F.	M.			F.
	M.	F.	M.	F.							
No. 1, San Nicolas, Dr. V. Cavanna	13	7	2	4	26	7	10			134	
No. 2, Tondo, Dr. V. Pantoja	17	17	4	3	41	18	12	2	5	183	
No. 3, Quiapo, Dr. F. Gabriel	13	16	5	7	42	16	15		2	89	
No. 4, Santa Cruz, Dr. C. Reyes	21	14	5	4	44	18	14	4	2	239	
No. 5, Sampaloc, Dr. F. Castañeda	30	38	17	11	96	23	26	8	9	250	
No. 6, Intramuros, Dr. R. Perranon	18	17	10	9	55	19	15	3	2	148	
No. 7, Ermita, Malate, Pandacan and Santa Ana, Dr. J. B. Cabarrus	14	15	17	16	62	16	19	5	7	152	
<b>Total</b>	<b>2</b>	<b>126</b>	<b>124</b>	<b>60</b>	<b>366</b>	<b>117</b>	<b>111</b>	<b>22</b>	<b>27</b>	<b>1,195</b>	

General inspection of houses, premises, vaults, etc., with improvements ordered, disinfected, whitewashed, cleaned, etc., by medical inspectors, chief sanitary inspectors, and sanitary inspectors for the month of January, 1901.

Houses inspected by the Chief Sanitary Inspector	3,048
Houses respected for verification of work ordered	750
Houses inspected by sanitary inspectors	33,098
Houses respected by sanitary inspectors	9,143
Houses ordered cleaned (written)	12
Houses ordered cleaned (verbal)	6,770
Houses cleaned	5,981
Houses ordered whitewashed and painted	117
Houses whitewashed and painted	61
Houses disinfected	76
Number of houses recommended condemned and removed	0
Number of houses condemned and removed	0
Number of localities where "squatters" are located	22
Number of samples of water from wells sent to Laboratory	0
Number of houses with garbage has not been removed for two days	155
Number of fire plugs opened or closed for sanitary purposes	0
Number of hydrants recommended reopened	0
Number of persons reported sick to municipal physicians	195
Cesspools and vaults ordered cleaned	536
Cesspools cleaned	369
Yards ordered cleaned	3,093
Yards cleaned	1,940
Yards ordered repaired (repaved, etc.)	4
Yards repaired	28
Number of cholera cases reported by sanitary inspectors	0
Number of cholera cases reported by Auxiliary Advisory Board	1
Number of cholera cases found "alive"	0
Number of cholera cases found "dead"	1
Number of orders issued during the month	224
Number of orders complied with during the month	145
Number of orders awaiting action	336
Number of orders pending in court	13
Number of food tiendas in districts	1,527
Number of persons convicted for violation of sanitary order	23
Average of visiting each station and barrio during month	155
Number of regular inspectors on duty	45
Number of emergency inspectors on duty	0
Number of paper cases sent to San Lazaro Hospital	9
Number of plague cases reported	4
Number of smallpox cases reported	1
Houses in which traps are set	13,412
Houses in which bane is placed	1,862
Traps set	26,809
Flies with rubaine placed	5,918
Rats caught by rat catchers	19,280
Rats caught by traps	11,601
Rats caught by poison	1
Rats purchased	184
Rat catchers employed	72

Monthly sanitary report, Station A, San Nicolas, harbor and river, January 31, 1901.

Cascos inspected	746
Lorchas inspected	230
Schooners inspected	83
Steamships inspected	57
Launches inspected	148
Trips made by the Board of Health launch to the bay	53
Trips made by the Board of Health launch up the river	55
Cholera cases found on ships and other craft	0
Cholera cases found "alive"	0
Cholera cases found "dead"	0
Plague cases reported	0
Smallpox cases reported	0
Dead bodies found in river by harbor	1
Fumigated	30
<b>Burials during the month of January, 1901.</b>	
Loma (Government)	508
Paco (General Government)	17
Santa Cruz	6
Balle-Balle	124

Burials during the month of January, 1901.—Continued.

Binondo	14
Tondo	42
Maytagib	25
Malate	48
Pandacan	49
Chinese	1
Crematory	1
Santa Ana	22
American National Cemetery	1
San Pedro Macati	1
Total	854

Twenty-eight of above were stillbirths and 30 transient residents.

Disinterments during the month of January, 1901.

Paco	10
Santa Cruz	6
Balic-Balic	1
Chinese	13
Total	30

Monthly report of disinfections for January, 1901.

Diseases.	Number of disinfections.	Number of contacts.
Cholera	7	19
Bubonic plague	12	85
Leprosy	1	1
Glanders	5	0
Surra	2	0
Insanitary condition.	45	0
Total	72	106

Report of Veterinary Division for January, 1901.

[David G. Moberly and Murray J. Myers, veterinary surgeons.]

On arrival in city:	
Number of cattle inspected	3,760
Number of carabao inspected	287
Number of horses inspected	175
Number of hogs inspected	3,718
Number of sheep inspected	124
Number of goats inspected	32
Number of other animals inspected	4
Total	7,986

In Government abattoir:	
Number of cattle slaughtered	2,384
Number of hogs slaughtered	5,226
Number of sheep slaughtered	124
Total	7,778

Number of cattle condemned and cremated	1
Number of hogs condemned and cremated	13
Number of horses condemned for glanders	18
Number of horses condemned for surra	1
Number of carabao condemned for surra	88
Number of other animals condemned	20
Total	141

Report received of lepers living in the various provinces of the Philippine Islands to January 31, 1901.

Province.	Race.	Number of men.	Number of women.	Children.		Single.		Married.		Widower.	Widow.	Total.
				M.	F.	M.	F.	M.	F.			
Antique	Filipino	92	37	2	2	38	28	42	4	12	5	183
Batangas	do	19	5	1	1	12	3	3	3	2	2	24
Bataan	do	10	4	1	1	5	5	3	2	2	2	16
Benguet	Igorrote	31	10	1	1	1	1	21	3	9	3	43
Ambos Cama-												
rines	Filipino	33	17	1	1	24	12	8	5	1	1	52
Bulacan	do	17	9	2	1	12	6	5	3	1	1	29
Iloos Norte	do	45	28	5	2	10	31	8	5	10	2	80
Iloos Sur	do	178	84	4	2	101	50	66	17	14	12	266
Leyte	do	49	38	1	3	26	27	20	7	3	4	91
Masbate	do	51	35	25	10	22	15	23	19	2	5	122
Cagayan	do	17	12	3	2	20	11	25	28	7	3	102
Lepanto	do	14	4	1	1	5	1	8	1	1	3	19
Cavite	do	17	12	3	1	16	3	1	1	1	1	25
Nueva Ecija	do	44	24	1	1	19	12	22	8	2	2	68
Negros Occi-												
dental	do	28	11	5	1	17	10	8	1	1	1	43
Pampanga	do	8	5	2	3	3	1	5	3	1	1	15
Pangasinan	do	120	80	2	3	36	28	65	38	19	14	205
Rizal	do	41	24	2	1	19	12	21	7	3	3	67
Marinduque	do	1	1	1	1	1	1	1	1	1	1	8
Laguna	do	2	1	1	1	2	1	2	1	1	1	8

Report received of lepers living in the various provinces, etc.—Continued.

Province.	Race.	Number of men.	Number of women.	Child.		Single.		Married.		Widower.	Widow.	Total.
				M.	F.	M.	F.	M.	F.			
San Lazaro	Filipino	100	76	21	9	66	42	24	19	7	15	206
Tarlac	do	27	24	11	4	7	9	17	11	2	5	66
Sorsogon	do	76	33	1	1	33	17	40	10	3	5	110
Romblon	do	13	14	1	1	3	9	8	4	1	1	28
Samar	do	39	32	18	8	17	9	21	18	3	3	92
Union	do	43	28	3	15	14	24	12	4	2	2	74
Zambales	do	58	35	2	2	30	15	23	4	4	5	96
Mindanao	Moro	140	74	3	3	84	46	45	18	9	12	220
Cebu	Filipino	171	89	5	4	136	64	33	21	3	3	269
Iloilo	do	281	66	11	2	113	37	94	9	24	20	310
Negros Oriental	do	66	42	6	2	27	23	32	14	7	5	116
Isabela Luzon	do	18	4	1	1	3	1	10	3	5	1	23
Tayabas	do	16	8	3	1	8	2	10	10	1	1	25
Albay	do	68	33	1	1	30	18	27	10	11	5	103
Nueva Vizcaya	do	13	12	2	2	7	3	4	6	2	3	27
Abra	do	43	28	3	5	5	4	5	2	1	3	37
Bohol	do	46	45	1	1	20	19	27	17	3	6	98
Capiz	do	44	33	19	9	26	24	13	12	1	1	105
Surigao	do	7	1	1	1	1	1	1	1	1	1	1
Total		2,017	1,312	159	77	1,007	584	830	363	178	159	3,925

Tabulated statement of amount of vaccine virus distributed by the Board of Health during the month of January, 1901.

United States Army	Units.	3,680
United States Navy		25
United States Public Health and Marine-Hospital Service		4,000
Inhabitants of the Philippine Islands (Manila not included)		141,200
Sold to the public		68
Used by public vaccinator and other institutions in the city of Manila		12,200
Total		160,515

Report on vaccination, city of Manila, during the month of January, 1901.

District.	Children.		Adults.		Total.		Grand total.	
	Filipinos.	Chinese and foreigners.	Filipinos.	Chinese and foreigners.	Filipinos.	Chinese and foreigners.		
Walled City	157	—	352	101	1,509	101	1,611	
Binondo	192	12	239	222	435	234	669	
San Nicolas	66	10	110	510	172	520	692	
Tondo	346	—	342	78	588	78	670	
Santa Cruz	367	1	523	119	2,490	120	2,610	
Quisapo	89	—	271	119	2,360	2	2,362	
San Miguel	167	—	236	14	405	30	417	
Sampoc	241	—	176	30	10	377	30	1,018
Paco	357	—	296	296	653	—	653	
Ermita	119	—	265	—	1,394	—	1,385	
Nalate	118	—	172	—	1,360	—	1,361	
Total	2,179	23	1,212	1,055	40,531	1,078	41,640	

Smallpox report for Manila from January 1 to 31, 1901.

Americans.	BY RACE AND SEX.			
	Cases.		Deaths.	
	M.	F.	M.	F.
	2	—	—	—
Quisapo Intramuros.	BY DISTRICTS.			
	Cases.		Deaths.	
	M.	F.	M.	F.
	1	—	—	—
Total	2	—	—	—

*Smallpox report for Manila from January 1 to 31, 1906—Continued.*

BY AGE.	
From 20 to 30 years.....	1
From 30 to 40 years.....	1
<b>Total</b> .....	<b>2</b>

Number of cases found "alive".....	2
Number of cases found "dead".....	0
<b>Total</b> .....	<b>2</b>

*Plague report for Manila from January 1 to 31, 1906.*

	BY RACE AND SEX.			
	Cases.		Deaths.	
	M.	F.	M.	F.
Filipinos.....	4	2	4	1
Chinese.....	4	2	2	1
<b>Total</b> .....	<b>8</b>	<b>2</b>	<b>6</b>	<b>1</b>

	BY DISTRICTS.			
	Cases.		Deaths.	
	M.	F.	M.	F.
San Nicolas.....	5	3	3	3
Santa Cruz.....	2	1	1	1
Intramuros.....	3	3	3	3
<b>Total</b> .....	<b>10</b>	<b>7</b>	<b>7</b>	<b>7</b>

BY AGE.	
From 10 to 20 years.....	4
From 20 to 30 years.....	2
From 30 to 40 years.....	3
From 40 to 50 years.....	1
From 50 years and above.....	1
<b>Total</b> .....	<b>10</b>

  

Number of cases found "alive".....	5
Number of cases found "dead".....	0
<b>Total</b> .....	<b>10</b>

*Cholera report for Manila from January 1 to 31, 1906.*

	BY RACE AND SEX.			
	Cases.		Deaths.	
	M.	F.	M.	F.
Americans.....	1	2	2	2
Filipinos.....	1	2	1	2
Chinese.....	1	2	1	2
Europeans.....	1	2	1	2
<b>Total</b> .....	<b>2</b>	<b>2</b>	<b>3</b>	<b>2</b>

	BY DISTRICTS.			
	Cases.		Deaths.	
	M.	F.	M.	F.
San Nicolas.....	1	1	1	1
Tondo.....	1	1	1	1
Quiapo.....	1	1	1	1
Santa Cruz.....	1	1	1	1
Sampaloc.....	1	1	1	1
Intramuros.....	1	1	1	1
Ermita.....	1	1	1	1
Pandacan.....	1	1	1	1
<b>Total</b> .....	<b>4</b>	<b>4</b>	<b>5</b>	<b>5</b>

*Cholera report for Manila from January 1 to 31, 1906—Continued.*

	BY AGE.	
	Cases.	Deaths.
From 1 year to 10 years.....	1	1
From 10 years to 20 years.....	1	2
From 20 years to 30 years.....	1	1
From 30 years to 40 years.....	1	1
From 40 years to 50 years.....	1	1
From 50 years and above.....	1	1
Unknown.....	4	5
<b>Total</b> .....	<b>1</b>	<b>4</b>

Number of cases found "alive".....	0
Number of cases found "dead".....	4
<b>Total</b> .....	<b>4</b>

One of these deaths is from a case of December.

*Epidemic of cholera in the city of Manila and provinces from March 30, 1902, to January 1, 1906.*

Month.	Manila.		Provinces.	
	Cases.	Deaths.	Cases.	Deaths.
<b>1902.</b>				
March.....	108	90	1,327	1,417
April.....	586	496	1,327	1,417
May.....	550	442	2,407	1,681
June.....	601	492	5,204	4,097
July.....	1,868	1,053	7,757	5,807
August.....	720	591	11,247	7,874
September.....	273	179	43,346	27,410
October.....	87	57	36,837	16,572
November.....	336	236	12,353	6,661
December.....	35	24	5,918	3,583
<b>1903.</b>				
January.....	7	4	4,921	2,757
February.....	2	1	2,997	2,009
March.....	6	6	1,903	1,124
April.....	33	27	1,772	1,147
May.....	230	212	1,402	885
June.....	39	38	3,554	2,945
July.....	42	38	4,167	2,636
August.....	89	72	10,212	7,406
September.....	290	263	4,610	3,669
October.....	127	118	2,497	1,935
November.....	31	26	1,068	898
December.....	14	13	126	100
<b>Total</b> .....	<b>5,674</b>	<b>4,378</b>	<b>160,225</b>	<b>104,753</b>

*Report of cholera occurring in provinces in the Philippine Islands from January 1 to 31, 1906.*

Province and town.	Cases.		Deaths.		Per cent.
	Cases.	Deaths.	Cases.	Deaths.	
<b>Cebu:</b>					
Aloguinsan.....	1	1	26	26	100
Badian.....	6	6	6	6	
Minglanilla.....	6	6	6	6	
Ronda.....	6	6	6	6	
Tudela.....	6	6	6	6	
<b>Total</b> .....	<b>58</b>	<b>58</b>	<b>58</b>	<b>58</b>	
<b>Nueva Ecija:</b>					
Alilag.....	23	14	5	5	67
San José.....	5	5	5	5	
<b>Total</b> .....	<b>28</b>	<b>19</b>	<b>10</b>	<b>10</b>	
<b>Negros Occidental:</b>					
Bacolod.....	40	35	176	108	69
Cadiz.....	32	32	32	32	
Manapla.....	5	5	5	5	
<b>Total</b> .....	<b>258</b>	<b>176</b>	<b>258</b>	<b>176</b>	
<b>Grand total</b> .....	<b>339</b>	<b>253</b>	<b>339</b>	<b>253</b>	<b>74.92</b>
<b>Mortality</b> .....					



WEATHER BUREAU.

Rev. P. José ALVÉ, S. J., Director and Chief of Bureau.

Meteorological data deduced from hourly observations, month of December, 1905.

Table with columns: Date, Barometer, Temperature (Mean, Maximum, Minimum), Relative humidity, Prevailing direction, Wind (Total daily motion, Maximum), Sunshine, Rainfall. Includes data for days 1-31 and a Mean Total row.

1 Corrected for instrumental error and for temperature and reduced to sea level. Correction to standard gravity, -1.72 mm. (0.068 inch).

Meteorological data deduced from hourly observations, month of January, 1906.

Table with columns: Date, Barometer, Temperature (Mean, Maximum, Minimum), Relative humidity, Prevailing direction, Wind (Total daily motion, Maximum), Sunshine, Rainfall. Includes data for days 1-31 and a Mean Total row.

1 Corrected for instrumental error and for temperature and reduced to sea level. Correction to standard gravity, -1.72 mm. (-0.068 inch).

**BUREAU OF CUSTOMS AND IMMIGRATION.**

*General statement of commerce of the Philippines for the fiscal year ending June 30, 1903.*

[From the Monthly Summary of Commerce of the Philippine Islands for June, 1903.]

The extraordinary increase in exports during the fiscal year 1903 establishes a new record in the commercial history of the Philippines, and for the first time since American occupation a balance of trade in favor of the Islands is shown, in addition to the fact that their total foreign commerce was considerably larger than ever before. The bulk of this gain is due to the heavy shipments of hemp and copra, both of which products have been widely cultivated during the past year, indicating to some extent that adverse agricultural conditions have not seriously interfered with the preparation and marketing of these crops.

The following figures, which exclude gold and silver and large quantities of Government supplies, the latter being purchased for the most part in the United States, are presented to show the value of the Archipelago's trade during each of the five fiscal years of American administration as compared with the average annual trade for periods prior thereto:

Years.	Imports.	Exports.	Total imports and exports.	Excess of—	
				Exports.	Imports.
Annual average:					
1880-1884	\$19,500,274	\$20,838,325	\$40,338,599	\$1,338,051	-----
1885-1889	15,789,165	20,991,265	36,780,430	5,202,100	-----
1890-1894	15,827,094	19,751,293	35,578,387	3,923,599	-----
1899	13,113,010	12,366,912	25,479,922	-----	\$746,098
1900	20,601,436	19,751,068	40,352,504	-----	850,368
1901	30,279,486	23,214,948	53,494,534	-----	7,064,458
1902	32,141,842	23,927,679	56,069,521	-----	8,214,163
1903	32,971,882	33,121,780	66,093,662	149,898	-----

NOTE.—The amounts covered by the fifteen years, 1880-1894, are inclusive of coin and lottery tickets and from statistics for the years 1883-1890, the only portion of this period for which gold and silver figures are available. It is shown that there was an average annual importation valued at \$376,167, and in exportation \$2,193,486 worth. Lottery tickets will not materially affect these averages.

As regards the trade carried on previous to 1880 the official records are far from complete, the few statistics available being rough estimates based upon the reports of consular officers and merchants in Manila, in connection with returns published according to customs-house records of other countries, and although the figures for certain years, notably in 1870, when the imports reached \$24,500,000, and exports averaged \$29,000,000, may have exceeded the average annual 1880-1894, shown above, nevertheless such cases are rare and for all practical purposes the data as given form a fair basis for comparison.

While the commerce during the fifteen years referred to was subject to considerable fluctuation, the five-year periods when taken as a whole and exclusive of gold and silver show a noticeable falling off in the total value of transactions, at the same time the balance of trade continued in favor of the Islands until the beginning of American occupation, when it became necessary to deal with conditions as they existed during the latter part of Spanish rule. With the exception of an increase in customs receipts over those collected prior to our occupancy, no sudden change was observed, the larger revenues not serving as an indication of the volume of business transacted, by reason of the different methods that prevailed under the two régimes coupled with the fact of the differential in favor of Spain that obtained before the United States took control.

**IMPORTS.**

An annual increase is shown in the total amount of foreign merchandise received by the Islands during the five years of American occupation as indicated by the following table, which

sets forth the value of imports from the leading countries having trade relations with the Philippines:

Imported from—	1899.	1900.	1901.	1902.	1903.
United States	\$1,150,613	\$1,637,701	\$2,855,685	\$4,035,243	\$3,944,098
United Kingdom	2,247,492	3,946,459	6,956,145	5,523,161	5,171,723
Germany	851,153	1,210,067	2,135,252	2,356,548	1,908,922
France	226,464	485,684	1,683,929	1,524,523	1,182,679
Spain	2,517,733	2,091,207	2,161,359	2,388,542	2,620,506
China	5,194,306	5,698,444	4,839,941	4,300,959	5,632,817
Hongkong	(1)	2,639,620	2,340,585	1,820,109	757,491
British East Indies	291,243	1,191,574	2,182,892	2,995,192	2,294,580
French East Indies	-----	-----	1,914,238	3,244,329	2,955,753
Other countries	634,006	1,680,690	3,709,387	3,953,236	3,472,843
Total	13,113,010	20,601,436	30,279,486	32,141,842	32,971,882

<sup>1</sup>Included under China prior to January, 1900.

In the returns for the last fiscal year a falling off is noticeable from all sources with the exception of China and the French East Indies, their shipments increasing to a large extent as a result of the Archipelago's demand for rice, the French East Indies alone furnishing \$6,000,000 worth, an amount nearly equal to the entire supply of that article coming into the Islands in 1902. With these exceptions and an increase of but one-half of 1 per cent on the part of Spain, a decline is noted in the import trade with all countries, the United States figures showing the smallest gain of loss.

Aside from rice-growing countries the United Kingdom, notwithstanding a decrease in 1903, still holds its position as the leading importer with 16 per cent, or a little more than \$5,000,000 worth of the total trade, followed by the United States, whose imports approximated \$4,000,000, but the difference in value over the figures for 1902 discloses the fact that the excess of British trade is being further reduced each year.

An analysis of imports according to the great classes of articles is given below:

Articles.	1899.	1900.	1901.	1902.	1903.
Food and animals	\$3,799,169	\$5,483,806	\$8,158,794	\$10,846,142	\$14,675,522
Manufactures	6,956,265	10,811,366	18,829,186	17,203,412	14,985,083
Crude condition or partly so	302,978	675,745	900,402	1,068,839	989,450
Voluntary use, luxuries, etc	1,028,672	1,805,719	2,744,025	2,710,478	2,227,855
Miscellaneous	1,134,926	1,824,780	146,999	252,962	93,970
Total	13,113,010	20,601,436	30,279,486	32,141,842	32,971,882

The general increase observable in the first class of commodities, consisting for the most part of provisions, is in some degree accounted for by a general rise in the standard of living, there being a large demand for wheat flour, preserved meats, canned fruits, and vegetables. However, the continued shortage in rice production, due at first to voluntary neglect on the part of the natives and later to the loss of the carabaos \* \* \* required large purchases of rice from abroad during the past year, the returns showing an increased importation over 1902 to the value of nearly \$3,500,000. \* \* \*

The fact of such a large outlay being used in the purchase of food supplies affected the general progress of trade in other lines. Manufactured articles, which include practically all of the remaining importations, show increased receipts until the fiscal year 1902 as a result of small investments said to have been made in various branches of business, the aggregate needs of which amounted to considerable and required regular shipments of material during the early periods. By a comparison of the trade for the last two years a marked decrease is found under manufactured goods as a class, the unfavorable economic conditions causing a loss to the extent of more than \$2,000,000.

A further segregation of the import trade as carried on during the last five years, according to certain groups of articles, is shown in the following table:

Groups.	1899.	1900.	1901.	1902.	1903.
Animals and animal products	\$188,026	\$389,528	\$495,675	\$1,086,825	\$1,580,156
Food stuffs	3,829,265	5,417,773	8,130,490	10,495,462	14,104,164
Liquors and beverages	950,749	1,288,142	1,832,016	1,476,128	1,125,912
Cotton, silk, wool, vegetable fibers, and their manufactures	3,238,400	6,536,126	10,910,986	8,960,282	7,898,368
Metals and metal manufactures	723,889	1,272,510	3,038,284	3,631,401	2,883,683
Chemicals, drugs, paints, and dyes	1,355,889	1,269,390	1,134,246	1,304,843	1,331,350
Clay and earth and manufactures	138,304	135,678	191,233	289,757	217,989
Marble and stone and manufactures	26,183	31,660	21,065	18,070	17,860
Glass and glassware	338,692	325,157	441,996	540,066	286,855
Paper and manufactures	424,253	811,948	940,165	772,991	610,692
Wool and wood manufactures	117,311	223,772	376,785	603,320	596,481
Oils	298,879	228,086	340,572	773,029	748,752
Miscellaneous	1,573,170	2,471,696	2,642,893	2,188,568	1,767,710
Total	13,118,010	20,601,436	30,279,406	32,141,842	32,971,882

As indicated by the foregoing figures there has been a material increase in the purchase of animals and animal products during the last two years, the returns for 1903 showing importations to the value of more than \$1,500,000 worth, a half million increase over the previous year. This gain includes heavy shipments of cattle, made necessary by the loss of farm stock. The principal source of supply is at present confined to China, with practically two-thirds of the total number entered during the year, the balance coming through Hongkong and Singapore.

Food stuffs form a very large percentage of the imports into the Archipelago, increasing steadily in value each year, the gain during 1903 being greater than usual. It should be noticed, however, that the latter increase is largely due to the extraordinary importation of rice which has been required in order to meet the immediate needs of the people. This condition of affairs results from the shortage in home production and consequent heavy demand for the staple, which is the article of food in general use throughout these Islands.

Eliminating the value of rice imported, the purchase of other foodstuffs has increased slightly. Wheat flour, one of the principle articles under this class, amounting to \$27,950 in 1903, shows a gain, the United States retaining control of practically the entire trade. In meat and meat products there was an increased importation over 1902. Australasia furnished all of the fresh beef, amounting in value to \$82,155, during the past year, while the United States sent the greater portion of canned and all other beef. Pork and pork products increased about \$75,000, particularly the trade in lard, which rose from \$120,310 in 1902 to \$185,894 in 1903. China supplying 85 per cent during the latter year. Purchases of lard from the United States approximated \$15,000, and, while showing an improvement over 1902, figure rather insignificantly in the aggregate trade. There has been no marked change in the quantity of bacon, ham, and shoulder imported, the foreign supply for 1903, amounting to \$162,898, is shown to have been furnished mainly by China. The United States fell off slightly, as did the United Kingdom, while China shows an increase of approximately 40 per cent. Included under all other meat and meat products are several articles which show increased importations, the most noticeable occurring in imitation butter and oleomargarine, purchases of which amounted to \$61,858 in 1903, as compared with \$39,356 in 1902. During the latter year China furnished but \$7,005 worth, increasing its trade in 1903 to more than \$23,000.

The importations of butter dropped from \$62,563 in 1902 to \$48,401 in 1903, which loss may be attributed to the heavy purchases of imitation butter and oleomargarine during the past

year. The decrease in shipments from the United Kingdom gives Australasia control of this trade, it being credited with considerably over one-half.

Condensed milk, of which \$247,366 worth was imported in 1903, shows an increase of \$91,771 over 1902, and \$149,977 over the fiscal year 1901. The United Kingdom still furnishes large quantities of this article, being credited with 43 per cent in 1903, but the recent heavy gains made by China has resulted in placing that country second in importance, followed by the United States, although the trade of the latter country shows considerable improvement as compared with 1902 figures.

The trade in refined sugar has only reached large proportions within the last two years, prior to which time, and extending back to date of American occupation, the foreign demand was very light, averaging about \$30,000 annually. The importations for 1902 amounted to \$128,041 as against \$143,117 in 1903. During the latter year China supplied 60 per cent and Hongkong 30 per cent. Future importations of refined sugar will depend largely upon whether refineries in the islands will be able to supply the home demand.

Nearly \$300,000 worth of eggs was imported during 1903, an increase over the previous year's figures. China has practically all of this trade, which in 1902 was credited to Hongkong.

The importation of \$74,013 worth of coffee during 1903 shows an increase of more than 100 per cent. British East Indies supplied three-fourths of the amount.

Liquors and beverages were imported to the value of \$1,476,128 in 1902, and \$1,125,912 in 1903. In the latter year about 47 per cent came from the United States, consisting chiefly of beer in bottles, which fell off more than \$50,000. Importations of wine from Spain and France amount to considerably less than heretofore, and distilled spirits from the United States show a decrease.

In cotton, silk, wool, vegetable fibers, and their fabrics, each class of commodities contributed more or less toward decreasing the aggregate trade to the extent of over \$1,000,000. Cotton goods, which under ordinary circumstances is the most important class of importations coming into the islands, dropped from \$7,025,419 in 1902, to \$6,350,647 in 1903; the reduction was general throughout with the exception of closely woven cloths and knit fabrics, purchases of the former amounting to \$3,686,543 increased in value \$260,000, and under the latter item is shown a trade of \$516,219 in 1903, as compared with \$319,301 in 1902. Spain still supplies nearly all of the knit fabrics, more than \$300,000 worth coming from that source in 1903. Raw cotton is received from the United States almost exclusively, although the imports continue small. Yarn and thread, forming the basis for considerable cloth of native manufacture, show but little decrease in value. There was a decided falling off in importations of cotton wearing apparel, the figures showing \$735,222 in 1902, and \$267,189 in 1903, a difference of \$468,033. Spain and Germany each lost approximately \$200,000 worth of trade in this line, the balance being distributed among other countries, with the exception of the United States whose total shipments increased slightly.

Of cotton manufactures as a whole the United Kingdom's trade in the Philippines has easily ranked first in importance, though it shows considerable decrease during the past year. The comparatively light importations from the United States are on the increase, in the year 1903 reaching nearly \$400,000 in value as compared with less than one-fourth of that amount in 1901.

The greater portion of silk goods comes from China and France, the former also furnishing about all of the raw material imported, as well as increasing quantities of silk thread, which is woven into cloth by the use of native looms. Imports under the manufactured article were \$855,200 in 1902 and \$590,718 in 1903.

Wool and its manufactures decreased from \$337,278 in 1902 to \$289,182 in 1903, and vegetable fibers and manufactures from \$446,519 to \$334,488 during the respective years.

Under metals and machinery amounting to \$2,883,683 in 1903,

there was a loss in trade of more than three-quarters of a million dollars. Iron and steel imports dropped from a little over \$2,500,000 to approximately \$2,000,000 in value, a reduction from all the leading countries being shown. In machinery the United States furnished one-half, the importation of sewing machines and printing presses making up the principal articles. Agricultural implements increased, aggregating \$28,951 in 1903 as against \$13,543 in 1902, and wire nails seem to have been purchased in considerably larger quantities. The future trade in this line will doubtless prove a valuable guide in noting the progress of internal improvements throughout the Archipelago.

In paper and paper manufactures a falling off of more than \$100,000 is shown over importations of the previous year, due to the lessened demand for paper pulp, which a year ago, according to the purchase of \$408,886 worth as compared with \$260,380 in 1903, was unusually heavy. In fact, the receipts of paper pulp during certain portions of the fiscal year 1902 were phenomenally large, shipments from the United States showing an amount equal to more than one-half the combined importations of this article in 1903. In consequence of the demand for paper pulp in 1902, the aggregate amount of paper trade between the United States and the Islands, amounting to \$317,805, as compared with \$168,127 in 1903, was considerably above the average, and the latter figures represent more clearly the extent of such transactions with United States manufactures.

Wood and its manufactures were imported during 1902 to the value of \$603,320 as compared with \$396,481 in 1903, a decrease of \$206,839. The showing may be attributed in some degree to increased activity in the timber industry of the Archipelago, resulting in a reduction of purchases from abroad. The lumber and timber trade alone fell off more than \$100,000 in value during the past year, importations from the United States showing a large percentage of loss. Under manufactures of wood a general decrease is noticeable.

In the coal trade of the Islands a decrease of more than \$23,000 is shown. Receipts of anthracite dropped from \$117,103 in 1902, to \$37,580 in 1903. Japan and Australasia, with the exception of \$10 worth from China, furnished the entire amount during the latter year. An increased demand for bituminous coal, the principal shipments coming from Australasia, is shown by the purchase of \$435,311 worth during the year, as against \$318,955 in 1902.

The comparatively small importation of matches would indicate the further development of their manufacture in the Philippines. Japan supplied 60 per cent of the \$104,735 worth purchased from foreign countries in 1903, nearly all of the balance coming from China. In 1902 the total import value was \$187,066.

Under perfume and cosmetics the demand has fallen off, being valued at \$83,308 during the year as against \$120,708 in 1902. France, as heretofore, controls this trade.

Among articles showing an increase in importations from the United States were wheat flour, meat and meat products, vegetables (fresh and canned), condensed milk, canned fruit, mineral waters, chemicals, drugs and dyes, cotton and manufactures, hats and caps, boots and shoes, manufactures of rubber, illuminating and lubricating oils, scientific instruments, plated ware, nails and spikes, copper manufactures, and certain kinds of machinery. These gains were slightly overbalanced as a result of the general falling off in demand by a decrease in the following lines: Agricultural implements, glassware, paper pulp, watches and parts of, zinc and manufactures, electrical machinery, builders' hardware, iron and steel and their finished forms, wood and its manufactures, mineral oils, malt liquors, and distilled spirits.

EXPORTS.

The outgoing trade of the Archipelago has increased in growth throughout the last five years, as will be observed from the following statement, which shows the distribution among the principal countries of exportation:

Exported to—	1899.	1900.	1901.	1902.	1903.
United States.....	\$3,540,894	\$3,522,160	\$2,572,021	\$7,691,743	\$13,863,659
United Kingdom.....	2,686,854	6,225,209	10,705,741	8,282,979	8,802,016
France.....	533,632	1,392,439	1,934,256	955,828	3,678,805
Spain.....	1,067,800	1,226,475	1,655,255	868,528	755,234
Hongkong.....	(1)	2,686,168	2,697,276	3,183,482	2,122,304
Japan.....	265,573	1,032,462	1,443,880	925,767	1,502,366
Other countries.....	4,263,659	3,666,155	2,207,519	2,019,352	2,397,996
Total.....	12,366,912	19,751,068	23,214,948	23,927,679	33,121,780

<sup>1</sup>Hongkong not reported separately prior to January, 1900.

An extraordinary increase is noticeable in the volume of trade during 1903. The shipments of hemp and copra have not been equaled by any previous year's record, and notwithstanding the price per ton is greater than that paid prior to American occupation, the former item is credited with an exportation of \$21,500,000 (nearly \$6,000,000 over that for the previous year), the ratio for 1902 of about two-thirds of the entire export trade being maintained. Copra ranked second in value, approximating \$4,500,000 as against a comparatively small percentage last year. Sugar, though showing an increase over the trade of the preceding year, is now third in importance as an export, while tobacco, with a material decrease in the exportation of cigars, completes the list of leading articles of export trade, the value of which and the proportion shared by the United States is shown in the following table:

Articles.	1899.		1900.		1901.		1902.		1903.	
	Value.	Per cent.	Value.	Per cent.	Value.	Per cent.	Value.	Per cent.	Value.	Per cent.
Hemp.....	\$6,665,886	54	\$11,398,943	58	\$14,453,110	62	\$15,811,316	66	\$21,701,575	66
Sugar.....	2,333,851	19	3,922,161	15	2,293,063	10	2,761,432	12	3,955,568	12
Tobacco.....	1,007,055	8	2,100,000	10	1,837,472	8	2,023,354	8	1,335,826	4
Copra.....	2,212,762	18	2,182,022	11	2,217,728	10	2,501,367	10	1,880,015	5
All other.....	7,002	5	1,892	9	1,027	5	1,001,656	4	4,473,025	14
	670,145	5	1,990,897	9	2,648,365	11	1,001,656	4	4,473,025	14
	483,208	4	1,457,045	7	1,602,742	7	1,821,908	8	1,109,596	3
	934,543	4	1,537,127	7	666,205	3	1,128,308	5	1,517,586	5
Total.....	12,366,912	100	19,751,068	100	23,214,948	100	23,927,679	100	33,121,780	100
	\$3,540,894		\$3,522,160		\$2,572,021		\$7,691,743		\$13,863,659	

NOTE.—(\*) Denotes trade of the United States.

It will be seen at a glance that nearly all of the recent increase in the growth of hemp, practically the whole production of which is consumed outside of the Islands, has been taken by the United States trade, purchases in 1903 reaching a value greater than the average annual exportation to all countries during the four

preceding years, a significant fact when one considers that the product is an exclusive one, so recognized by all manufacturers, and that the Philippine output embraces what is commonly understood to be the entire supply of this class of fiber.

The United States demand for hemp, especially in the making

of binder twine, continues heavy, in fact, it seems impossible to obtain a substitute satisfactory to the farmer's needs in handling our immense cereal crops, and in order to secure the necessary amount for this and other lines of the cordage industry a large proportion of the crude material has heretofore been purchased in London, being credited in the form of importations from the United Kingdom. However, from the figures given above it would appear that the operation of the act of March 8, 1902, which exempted the export tax on hemp coming from the Philippines to the United States direct, has relieved a condition of dependency of many years' duration, and American dealers no longer look to London as the controlling market.

The effect of this legislation in its relation to the hemp trade may be further illustrated by the record of importations at United States ports:

Quarterly periods, fiscal year—	Direct importations from the Philippine Islands.		Indirect importations from—		Total importations, direct and indirect.	
	Tons.	Value.	Tons.	Value.	Tons.	Value.
<b>1902.</b>						
July-Sept.....	7,237	\$1,073,329	7,696	\$1,271,824	14,933	\$2,345,153
Oct.-Dec.....	4,164	554,893	6,982	1,372,310	11,146	1,927,203
Jan.-Mar.....	16,199	3,042,243	5,315	1,227,117	21,514	4,269,360
Apr.-June.....	6,811	1,518,005	1,908	438,482	8,719	1,956,487
<b>Total.....</b>	<b>34,384</b>	<b>6,318,470</b>	<b>21,901</b>	<b>4,209,733</b>	<b>56,285</b>	<b>10,528,203</b>
<b>1903.</b>						
July-Sept.....	10,473	2,203,442	2,649	564,320	13,122	2,767,762
Oct.-Dec.....	16,905	3,210,293	232	47,810	17,137	3,258,103
Jan.-Mar.....	17,893	3,419,696	150	22,324	18,043	3,442,020
Apr.-June.....	11,599	2,097,784	1,514	267,702	13,113	2,365,486
<b>Total.....</b>	<b>56,870</b>	<b>10,931,186</b>	<b>4,545</b>	<b>902,156</b>	<b>61,415</b>	<b>11,833,342</b>

Copra continues to be sold in France almost exclusively, the figures for 1903 showing but 27 per cent to have been sent elsewhere.

At no time during the past five years has there been a regular market for Philippine sugar. In 1899 the United States purchased approximately one-half of the total shipments, while the three years following show that the principal market alternated between Hongkong and Japan; during 1903 there was a renewal of exportations to the United States, but the amount is very insignificant when compared with the total importations of sugar into this country.

With the exception of shipments of cigars to Hongkong, British East Indies, and Australasia, the tobacco trade of the Islands is confined chiefly to European countries.

The trade in lang-ilang oil continues to grow rapidly, the market being found in France. Notwithstanding there was a heavy falling off in the one item of copal, gums and resins show an increase of 14 per cent during the past year. Indigo shipments increased about 26 per cent and mother-of-pearl about 40 per cent. Straw manufactures fell off approximately \$50,000, while the exportation of other Philippine products show but little change in value.

CARRYING TRADE.

The greater part, or 59 per cent, of the foreign commerce of the Philippines continues to be carried under the British flag, though not to so large an extent as was the case in 1902, when 67 per cent of the combined import and export trade was in British vessels.

Including \$2,127,359 in gold and silver, and exclusive of Government supplies, the total importations into the Archipelago aggregated \$35,009,241 during the fiscal year 1903, of which amount \$14,010,890, or 40 per cent, was delivered in British vessels; German, 23.5; Spanish, 19.4; Norwegian, 8.6; American, 2.1; and all other, 6.4 per cent.

The vessels engaged in carrying the import trade for the previous year amounting to \$41,072,738 (gold and silver to the value of \$8,930,896 included), show the following ratios: British, 61.5; German, 16.7; Spanish, 16.4; Norwegian, 1.3; American, 2.4; and all other, 2.4 per cent.

Of the \$39,068,366 worth of exports, including \$6,546,586 gold and silver, shipped in 1903, \$30,211,454, or 76.2 per cent left the Islands under the British flag; German vessels carried 5.4 per cent; Spanish, 6.3; Norwegian, 2.9; American, 1.7; and all other, 7.5 per cent, there being but little change over the showing made for 1902.

The value of goods imported from the United States during 1903, inclusive of coin shipments amounting to \$164,862, was \$4,108,960, 70 per cent being delivered in British, 10 in American, 5 in German, and 15 per cent in all other vessels. In the same year Philippine exports to this country approximated \$14,000,000 in value, but 3 per cent coming under the American flag, while practically 90 per cent was brought in British vessels. Although these percentages as they apply to Philippine commerce with the United States carried in American bottoms show an improvement over the record of 1902, the relative proportion continues small.

IMMIGRATION.

From a comparative standpoint the immigration for the past year has not been heavy, the arrivals numbering 24,136, as against 30,094 in 1902. In nationality this decrease is noticed principally among the Americans, but 10,925 coming to the Islands in 1903, or practically 5,000 less than during the previous year, and in occupation the latest returns show fewer laborers by 2,303, this class of immigrants aggregating 8,074 in number, while among the various professions and trades of which special account is taken, there were slight increases, noticeably in lawyers, from 50 to 82, clergy from 87 to 120, merchant dealers and grocers from 2,318 to 3,107, clerks and accountants 534 to 634, and an increase in the number of farmers from 16 to 208. There were but 310 teachers arriving in 1903, against 794 in 1902. The great majority of American immigrants during the last twelve months, though having professions or other occupations, have not specified them. Of those who did 299 were teachers, 53 lawyers, 46 physicians, 63 engineers, 192 clerks and accountants, 244 merchant dealers and grocers, and all other occupations, 288.

More than one-half of the immigrants, or 12,624 (including 8,321 Chinese), had been in the Archipelago before. Of the 11,512 who entered for the first time 9,028 were Americans, 466 Chinese, 941 Japanese, 199 English, and 878 other nationalities. Nearly two-thirds of the 8,787 Chinese were laborers and 1,928 merchants. There were 6,392 illiterates, but this includes 5,611 Chinese, and deducting these the remaining illiterates number but 781, or 5.1 per cent of the total immigrants.

APPOINTMENTS.

By the Philippine Civil Service Board.

Executive Department.

EXECUTIVE BUREAU.

George M. Swindell, chief clerk, January 1, \$2,750; promotion from clerk, class 4.

C. W. Calvin, Recorder of the Commission, February 1, \$2,500; promotion from \$2,250.

Emil E. Weise, chief of administration and finance division, January 1, \$2,250; promotion from clerk, class 5.

Ed. Wettre, clerk, February 1, \$2,000; promotion from class 6.

Frederic H. Oliphent, clerk, February 1, \$1,400; promotion from class 9.

## BUREAU OF INSULAR PURCHASING AGENT.

J. W. McIntyre, teamster, January 19, \$840; probational appointment.

William A. Sheffield, watchman, January 26, \$720; probational appointment.

Clyde A. Chaney, truck driver, February 1, \$900; promotion from teamster, \$720.

James R. Walker, teamster, February 3, \$720; transfer from Insular Purchasing Agent, board of health corral, \$900.

Daniel B. McDonald, clerk, January 8, \$1,400; reinstatement.

W. W. Garver, clerk, February 1, \$1,800; reduction from disbursing officer and cashier, \$2,250.

W. E. Clark, superintendent of lumber yard, January 1, \$1,500; promotion from \$1,400.

Edwin W. Ladd, clerk, January 1, \$1,400; promotion from class 9.

H. C. Hunt, clerk, January 1, \$1,200; promotion from \$900.

Peter Pascual, teamster, February 5, \$720; reinstatement.

C. H. Rudisill, teamster, February 5, \$720; reinstatement.

## IMPROVEMENT OF THE PORT OF MANILA.

William Kirk, rodman, January 23, \$900; probational appointment.

Frank A. Chaney, storekeeper, February 1, \$900; promotion from teamster, \$720.

Roy L. Ebely, steam engineer, February 5, \$1,200; probational appointment.

## PHILIPPINE CIVIL SERVICE BOARD.

Ernest N. Stevens, clerk, January 24, \$1,200; probational appointment.

Alfred S. Northrup, clerk, December 22, 1903, \$1,200; probational appointment.

Robert B. Graves, clerk, February 1, \$1,000; reduction from class 9.

*Department of the Interior.*

## BUREAU OF PUBLIC HEALTH.

William J. Hood, clerk, January 20, \$900; probational appointment.

Bertha M. Gertsch, nurse, January 7, \$900; probational appointment.

Anna E. McEvoy, nurse, January 7, \$900; probational appointment.

## POHISTRY BUREAU.

Charles H. Bath, assistant inspector, January 22, \$900; transfer from guard, Bilibid Prison, \$900.

Pedro Leynes, ranger, December 1, 1903, \$300; probational appointment.

Bessie Agnes Dwyer, law clerk, February 1, \$1,200; probational appointment.

John A. Rathke, skilled workman, January 13, \$900; probational appointment.

Lucio Laguio, ranger, January 23, \$300; probational appointment.

Victoriano Tarrosa, ranger, February 1, \$600; promotion from \$420.

Domingo L. Dias, ranger, February 11, \$600; promotion from \$420.

Juan Suwa, ranger, February 1, \$420; promotion from \$300. Buenaventura Aguinaldo, ranger, February 9, \$420; promotion from \$300.

Mariano Gatmaitan, ranger, February 10, \$420; promotion from \$300.

Ananias Betia, ranger, February 11, \$300; probational appointment.

## BUREAU OF GOVERNMENT LABORATORIES.

Dr. Paul G. Woolley, Assistant Director, February 1, \$2,000; promotion from class 6.

L. A. Salinger, analytical chemist, February 4, \$1,500; probational appointment.

## PHILIPPINE CIVIL HOSPITAL.

Julia E. Lide, nurse, January 23, \$720; probational appointment.

*Department of Commerce and Police.*

## BUREAU OF POSTS.

C. E. Thrall, postmaster, Camp Overton, February 1, \$1,400; transfer from clerk, class 8, Manila post-office.

Arthur J. Cassidy, jr., clerk, Manila post-office, January 23, \$900; transfer from railway postal clerk, Class A.

W. W. Weston, postmaster, Lucena, February 1, \$1,400; promotion from class 9.

Eugene S. Betha, clerk, February 1, \$1,400; promotion from class 9.

J. H. Ray, postmaster, Batangas, February 1, \$1,000; promotion from Class A.

Helen V. Crenshaw, clerk, February 1, \$1,000; promotion from Class A.

Joseph L. Barr, steamboat postal clerk, February 1, \$1,000; promotion from Class A.

Lee Davidson, steamboat postal clerk, February 1, \$1,000; promotion from Class A.

Frank Oclasen, steamboat postal clerk, February 1, \$900; promotion from Class B.

C. A. Tansill, steamboat postal clerk, February 1, \$900; promotion from \$800.

I. C. Hombrebueno, clerk, February 1, \$340; promotion from Class F.

Juan Ruiz, clerk, February 1, \$480; promotion from Class G.

J. P. Relevante, letter carrier, February 1, \$480; promotion from Class H.

Antonio Salazar, letter carrier, February 1, \$420; promotion from Class I.

Felix Clemente, clerk, February 1, \$360; promotion from clerk, Class I.

L. L. Hyer, clerk, January 29, \$1,400; reinstatement.

Walter F. Boile, postmaster, Malabang, January 22, \$1,400; transfer from clerk, class 8, Manila post-office.

S. C. Tidd, postmaster, Tacloban, Leyte, February 1, \$1,200; transfer from clerk, class 10, Manila post-office.

William M. Leonard, teamster, February 1, \$720; probational appointment.

## BUREAU OF PHILIPPINES CONSTABULARY.

Harvey S. Dye, clerk, January 1, \$1,600; promotion from class 8. Harry Debnam, clerk, January 1, \$1,400; promotion from class 9.

William J. Jenkins, clerk, January 1, \$1,400; promotion from class 9.

Jonathan C. Ruymann, clerk, January 1, \$1,400; promotion from class 9.

Harold F. Gilbert, clerk, January 1, \$1,200; promotion from class 10.

Simeon Estrella, clerk, January 1, \$420; promotion from Class H.

José P. Ramos, clerk, February 1, \$540; promotion from Class F.

Benjamin K. Saul, clerk, February 6, \$1,200; transfer from Treasury Bureau.

Vicente de Pasion, clerk, February 1, \$240; probational appointment.

## BUREAU OF PRISONS.

Robert L. Somers, guard, January 25, \$900; probational appointment.

Charles A. Jones, guard, January 27, \$900; probational appointment.

Gabino Manganana, guard, February 3, \$240; probational appointment.

Regino Lago, keeper, February 1, \$300; promotion from guard, \$240.

Julius W. Quillen, chief clerk, January 1, \$1,500; promotion from class 8.

E. C. Wells, master mechanic, January 1, \$1,700; promotion from \$1,600.

Frank L. Hatt, guard, February 9, \$900; probational appointment.

## BUREAU OF COAST GUARD AND TRANSPORTATION.

Thomas L. Jenkins, assistant engineer, December 14, 1903, \$1,400; probational appointment.

Sterling Gardner, overseer, December 23, 1903, \$1,200; transfer from first-class patrolman, \$900.

Alexander McKenzie, junior engineer, February 1, \$1,400; promotion from constructor, \$1,200.

A. L. Farnsworth, assistant overseer, February 1, \$1,080; promotion from carpenter, at \$3 per day.

## BUREAU OF ENGINEERING.

George H. Guerdum, assistant engineer, January 23, \$1,800; probational appointment.

Frank D. Hayden, transitman, January 23, \$1,600; probational appointment.

W. E. Thomason, recorder, January 23, \$1,200; probational appointment.

F. R. Bonner, chief clerk, January 1, \$1,800; promotion from class 8.

Guy T. Bisbee, property clerk, January 1, \$1,400; promotion from class 9.

George S. Peck, clerk, January 1, \$1,400; promotion from class 9.

J. A. Dillon, record clerk, January 1, \$1,400; promotion from class 9.

David Borawsky, rodman, January 26, \$1,200; transfer from clerk, class 9, Philippine civil service.

T. Warren Allen, assistant engineer, February 9, \$1,600; probational appointment.

Robert A. Blair, transitman, February 4, \$1,400; probational appointment.

George P. Cowan, transitman, February 4, \$1,400; probational appointment.

*Department of Finance and Justice.*

## BUREAU OF THE INSULAR TREASURY.

Schuyler T. Kendall, clerk, January 23, \$1,200; probational appointment.

## BUREAU OF THE INSULAR AUDITOR.

W. Y. Handy, clerk, October 1, 1903, \$1,800; reduction from class 3.

W. Y. Handy, clerk, January 1, \$2,500; promotion from class 6.

Macario Carrillo, clerk, February 1, \$600; promotion from Class F.

Tito David, clerk, February 1, \$540; promotion from Class F.

Jose Canseco, clerk, February 1, \$480; promotion from Class G.

Juan Cruz Sanchez, clerk, February 1, \$420; promotion from Class H.

Epifanio Guisia, clerk, February 1, \$420; promotion from Class H.

Longino Javier, February 1, \$420; promotion from Class I.

John K. Pickering, clerk, January 18, \$900; probational appointment.

## BUREAU OF CUSTOMS AND IMMIGRATION.

William G. Pottinger, stenographer, January 13, \$1,200; probational appointment.

Jacob Lurie, stenographer, January 13, \$1,200; probational appointment.

Apolinario de Leon, clerk, January 21, \$180; probational appointment.

Vicente Alivio, guard, January 19, \$240; probational appointment.

Stephen C. DeBrull, surveyor of customs, January 1, \$1,800; promotion from \$1,600.

Anthony F. Donnhardt, fourth-class examiner, January 1, \$1,000; promotion from \$900.

James H. Munro, master, January 5, \$1,200; probational appointment.

William Outerson, clerk, January 1, \$1,200; probational appointment.

Fruito Ponce, clerk, January 22, \$180; probational appointment.

Samuel Bardelson, storkeeper, January 11, \$900; transfer from clerk, class 9, Forestry Bureau.

T. E. Lacey, baggage inspector, February 5, \$1,000; reinstatement.

Ed. R. Sizer, jr., appraiser of textiles, January 1, \$2,250; promotion from appraiser of miscellaneous goods, \$2,000.

J. E. Malloy, appraiser miscellaneous goods, January 1, \$2,000; promotion from first-class examiner, \$1,600.

Frank J. Perrine, chief, general order stores and bonded warehouse division, January 1, \$2,000; promotion from \$1,800.

Bruce G. Dickey, chief, passenger and baggage division, January 1, \$2,000; promotion from \$1,800.

John H. Kipp, clerk, February 1, \$1,800; promotion from first-class examiner, \$1,600.

H. L. Barrick, clerk, February 1, \$1,800; promotion from class 7.

X. Charles Brooks, clerk, January 1, \$1,800; promotion from class 7.

E. E. Cosper, clerk, January 1, \$1,600; promotion from class 8.

Fred P. Folkner, clerk, January 1, \$1,600; promotion from class 8.

Alexander C. Rupp, clerk, January 1, \$1,600; promotion from class 8.

Henry E. Abbott, second-class examiner, February 1, \$1,400; promotion from class 9.

William F. Mueller, examiner, February 1, \$1,400; promotion from class 9.

John Lakeness, clerk, January 1, \$1,400; promotion from class 9.

William C. Cash, clerk, January 1, \$1,400; promotion from liquidator, \$1,200.

Charles Steinhilber, clerk, January 1, \$1,400; promotion from class 10.

John H. Thigpen, first-class examiner, January 1, \$1,600; promotion from second-class examiner, \$1,400.

Edward Turner, second-class examiner, January 1, \$1,400; promotion from third-class examiner, \$1,200.

William W. Lewis, third-class examiner, January 1, \$1,200; promotion from fourth-class examiner, \$1,000.

Charles J. Cosel, fourth-class examiner, January 21, \$1,000; promotion from fourth-class inspector, \$900.

Florence L. Dell, clerk, January 9, \$1,000; promotion from \$900.

James Z. Linville, clerk, January 1, \$1,000; promotion from \$900.

James E. Sanda, clerk, January 1, \$1,000; promotion from \$900.

Kimpton Himes, clerk, January 1, \$1,000; promotion from storekeeper, \$900.

Harry Carmichael, clerk, January 1, \$1,000; promotion from storekeeper, \$900.

Elmer E. Cooley, liquidator, January 16, \$1,000; promotion from storekeeper, \$900.

Apollonio Janias, clerk, January 1, \$240; promotion from \$180.

Lamberto Ver, clerk, January 1, \$240; promotion from \$180.

Angel Serrano, clerk, January 1, \$240; promotion from \$180.

#### INSULAR COLD STORAGE AND ICE PLANT.

F. M. Satre, chief clerk, January 1, \$1,800; promotion from superintendent of deliveries, \$1,600.

Joseph Sylvia, teamster, February 1, \$720; promotion from \$600.

James W. Brown, teamster, February 1, \$720; promotion from \$600.

James B. Wood, teamster, February 1, \$720; promotion from \$600.

Alden Shafer, teamster, February 2, \$720; probational appointment.

Felix Moral, carpenter, February 2, \$360; probational appointment.

Louis W. Graham, teamster, January 26, \$720; probational appointment.

#### BUREAU OF JUSTICE.

James W. Duncan, stenographer, January 13, \$1,200; probational appointment.

Castor Gutierrez, clerk fiscal of Romblon, January 23, \$240; probational appointment.

Higino Vitalis, interpreter, Second Judicial District, February 1, \$600; transfer from interpreter, office provincial treasurer, Iloos Sur, \$300.

J. E. Blanco, clerk, Supreme Court, January 1, \$3,000; promotion from deputy clerk, \$2,000.

Arthur S. Allan, deputy clerk, Supreme Court, February 8, \$2,000; promotion from stenographer, \$1,800.

Samuel Ferguson, stenographer, First Judicial District, February 1, \$1,200; transfer from Attorney-General's office.

Adolph F. Decker, stenographer, office Attorney-General, February 1, \$1,200; transfer from First Judicial District.

H. F. Bridges, stenographer, February 8, \$1,200; transfer from Executive Bureau.

Paseual Gozum, copyist, Court of First Instance, Fourth District, February 1, \$240; promotion from \$150.

#### COURT OF LAND REGISTRATION.

Aurelio Gomez de Jesus, stenographer, January 1, \$1,200; promotion from Class A.

Jose Pinon, clerk, February 1, \$420; promotion from \$360.

#### Department of Public Instruction.

#### BUREAU OF EDUCATION.

C. L. Hoover, teacher, February 1, \$1,500; promotion from class 9.

C. W. Duppstadt, teacher, December 19, 1903, \$1,200; probational appointment.

Moses Friedman, teacher, January 13, \$1,200; probational appointment.

James W. Travis, teacher, January 5, \$1,200; probational appointment.

William F. Umphrey, teacher, January 13, \$1,200; probational appointment.

Leon S. Briggs, teacher, January 5, \$1,000; probational appointment.

James D. Dawson, teacher, December 14, 1903, \$1,000; probational appointment.

Earl T. Gold, teacher, December 14, 1903, \$1,000; probational appointment.

Henry E. Pieper, teacher, December 14, 1903, \$1,000; probational appointment.

Charles A. Ratchliff, teacher, December 14, 1903, \$1,000; probational appointment.

Robert Douglas, teacher, January 13, \$1,000; probational appointment.

Velear L. Minehart, teacher, January 13, \$1,000; probational appointment.

Francis H. Slagle, teacher, January 13, \$1,000; probational appointment.

Clarence T. Allen, teacher, December 24, 1903, \$900; probational appointment.

Ednerd L. Seymour, teacher, December 14, 1903, \$900; probational appointment.

Thomas Shaffer, teacher, December 14, 1903, \$900; probational appointment.

George A. Webster, teacher, December 14, 1903, \$900; probational appointment.

Thomas H. Cassidy, teacher, December 24, 1903, \$900; probational appointment.

George E. Atkinson, teacher, January 5, \$900; probational appointment.

Robert F. Berryman, teacher, January 5, \$900; probational appointment.

Thomas C. Lannan, teacher, January 5, \$900; probational appointment.

Clarence P. Provins, teacher, January 5, \$900; probational appointment.

Jesse Drake, teacher, January 13, \$900; probational appointment.

Joseph G. Howard, teacher, January 13, \$900; probational appointment.

William F. La Pointe, teacher, January 13, \$900; probational appointment.

Merritt R. Mier, teacher, January 13, \$900; probational appointment.

Meyer Scheer, teacher, January 13, \$900; probational appointment.

John A. Sexton, teacher, January 13, \$900; probational appointment.

Victor E. Sparklin, teacher, January 13, \$900; probational appointment.

William T. Townsend, teacher, January 13, \$900; probational appointment.

Hugh M. Van Tine, teacher, January 16, \$900; probational appointment.

William S. Card, teacher, January 24, \$1,200; probational appointment.

Homer W. Davis, teacher, January 24, \$1,200; probational appointment.

Francis M. Tumby, teacher, January 24, \$1,200; probational appointment.

Lewis Carrigan, teacher, January 24, \$1,000; probational appointment.

John B. Corcoran, teacher, January 24, \$1,000; probational appointment.

John D. Russell, teacher, January 24, \$1,000; probational appointment.

Harry A. Tash, teacher, January 24, \$1,000; probational appointment.

Thomas M. Bieler, teacher, January 24, \$900; probational appointment.

Benjamin B. Brunell, teacher, January 24, \$900; probational appointment.



Alph K. Buckland, teacher, January 24, \$900; probational appointment.

Willber Chamberlain, teacher, January 24, \$900; probational appointment.

Carey A. Lull, teacher, January 24, \$900; probational appointment.

Joseph E. Madara, teacher, January 24, \$900; probational appointment.

George E. Martin, teacher, January 24, \$900; probational appointment.

Jesse R. Morrill, teacher, January 24, \$900; probational appointment.

George W. St. Clair, teacher, January 24, \$900; probational appointment.

William H. Seright, teacher, January 24, \$900; probational appointment.

Everett M. Stanley, teacher, January 24, \$900; probational appointment.

Harold E. Walker, teacher, January 24, \$900; probational appointment.

Louis N. Wilcoxson, teacher, January 24, \$900; probational appointment.

Manuel Belderol, clerk, division superintendent, Tagbilaran, February 8, \$360; probational appointment.

Emilio Montilla, clerk, division superintendent, Bacolod, January 25, \$360; probational appointment.

Jere Turpin, teacher, February 1, \$1,200; promotion from \$1,100.

Alice J. Clark, teacher, January 1, \$1,200; promotion from \$1,100.

Leland S. Smith, clerk, February 3, \$1,200; reinstatement.

#### BUREAU OF PUBLIC PRINTING.

Roscoe E. Baber, craftsman instructor, February 1, \$1,400; promotion from compositor, \$1,200.

Edwin C. Jones, superintendent of instruction, January 1, \$3,000; promotion from \$2,500.

J. A. Hoggsette, foreman of printing, January 1, \$2,250; promotion from \$2,000.

W. C. Boothby, clerk, January 1, \$1,800; promotion from \$1,600.

George Wagenlander, jr., craftsman instructor, February 4, \$1,400; probational appointment.

Ambrosio Nerida, craftsman, February 1, \$2; probational appointment.

Bernardo Balaza, junior bookbinder, February 8, \$1.50; probational appointment.

Roman Santos, apprentice, February 1, \$0.30; promotion from sixth class.

Victor Ruiz, apprentice, February 1, \$0.30; promotion from sixth class.

Urbano C. Luna, apprentice, February 1, \$0.30; promotion from sixth class.

#### City of Manila.

##### MUNICIPAL BOARD.

Harry L. Hall, clerk, January 1, \$1,400; promotion from class 9.  
John S. Hineckley, clerk, January 16, \$1,400; promotion from class 9.

Israel B. Leibston, recorder of Municipal Board, February 1, \$1,700; promotion from clerk, class 7.

Edward L. Stanford, clerk, January 1, \$1,000; promotion from class 8.

Joseph L. Connor, clerk, February 4, \$1,400; transfer from City Attorney's Office.

#### DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

William F. Sullivan, chief clerk, January 1, \$1,800; promotion from clerk, class 7.

Ben E. Lear, superintendent of matadero, January 1, \$1,800; promotion from class 7.

Guy Slagle, clerk, January 13, \$1,600; promotion from class 8.  
Louis M. Krepleever, clerk, January 1, \$1,400; promotion from class 9.

Arthur E. Powell, clerk, January 1, \$1,400; promotion from class 9.

Rosece E. Whiting, clerk, January 1, \$1,400; promotion from class 9.

Francisco A. Dominguez, receiving teller, January 1, \$900; promotion from Class C.

Ramon Farolan, stamp clerk, January 1, \$600; promotion from Class F.

Eriberio Paterno, clerk, January 1, \$420; promotion from Class H.

Feliciano A. Capulong, clerk, January 1, \$420; promotion from Class I.

Eusebio Pascual, clerk, January 1, \$420; promotion from Class I.

Pablo Elazegui, clerk, January 1, \$360; promotion from Class I.

Isidro Garcia, clerk, January 1, \$360; promotion from Class I.

Teodoro Reyes, clerk, January 1, \$360; promotion from Class I.

Cleto P. Rosario, receiving teller, January 1, \$420; promotion from Class I.

Marcelo Buenechillo, clerk, January 1, \$300; promotion from Class J.

Martin Bunda, clerk, January 1, \$300; promotion from Class J.

Alfonso Reyes, clerk, January 1, \$300; promotion from Class J.

Celerino A. Cruz, clerk, January 1, \$300; promotion from Class J.

Escolastico Sanchez, clerk, January 1, \$240; promotion from \$150.

Eduardo Maranan, clerk, January 1, \$240; promotion from \$150.

Pablo Herrera, junior draftsman, January 1, \$900; promotion from Class C.

Felix Ravago, clerk, January 5, \$900; promotion from Class C.

Pio Luz y de Leon, clerk, February 2, \$240; probational appointment.

Isidro Pulido, clerk, February 1, \$150; probational appointment.

Melecio Ilagan, clerk, February 1, \$150; probational appointment.

Emeterio Santiago, market inspector, February 1, \$480; promotion from Class G.

Isidoro Acosta, market collector, February 1, \$360; promotion from Class I.

Celerino Canas, market collector, February 1, \$300; promotion from Class J.

#### DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Gaudencio Quisumbing, foreman, water service, January 1, \$540; promotion from foreman, water service, \$480.

J. C. Mahan, superintendent street cleaning and parks, January 1, \$2,250; promotion from \$2,000.

Robert M. Loper, inspector of buildings, January 1, \$2,000; promotion from \$1,800.

S. B. Patterson, first assistant city engineer, December 14, 1903, \$2,500; promotion from \$2,000.

John M. Costellow, stable foreman, February 1, \$1,000; promotion from teamster, \$840.

William Hough, foreman of crematories, January 1, \$1,020; promotion from teamster, \$840.

Isidro Salazar, clerk, February 1, \$360; promotion from \$300.  
H. J. Mcany, clerk, January 1, \$1,200; probational appointment.

Rolland Gardner, machinist, February 9, \$1,200; probational appointment.

Manuel M. del Castillo, junior draftsman, February 14, \$300; probational appointment.

Pedro Villegas, junior draftsman, February 16, \$300; probational appointment.

R. W. Campbell, teamster, February 4, \$840; reinstatement.  
William Soso, blacksmith, January 1, \$1,080; promotion from \$900.

Jose M. Paves, storekeeper, February 1, \$420; promotion from clerk, \$300.

Mariano M. Celis, meter inspector, February 1, \$480; promotion from clerk, \$300.

## POLICE DEPARTMENT.

Henry Duedicker, first-class patrolman, January 21, \$900; probational appointment.

George Merrill, first-class patrolman, January 21, \$900; reinstatement.

Rudolph E. Walters, first-class sergeant, January 27, \$1,300; promotion from roundsman, \$1,200.

Frank J. Banyea, first-class roundsman, January 27, \$1,200; promotion from patrolman, \$900.

John E. Kelley, first-class patrolman, January 27, \$900; probational appointment.

Charles G. Lemke, first-class patrolman, January 26, \$900; probational appointment.

Alexander Rowan, first-class patrolman, January 26, \$900; probational appointment.

Benjamin F. Selvidge, first-class patrolman, January 27, \$900; probational appointment.

Leonard Hoffman, first-class patrolman, January 23, \$900; probational appointment.

William H. Lenk, first-class patrolman, January 23, \$900; probational appointment.

John C. Noren, first-class patrolman, January 23, \$900; probational appointment.

John C. Mackey, first-class patrolman, January 23, \$900; probational appointment.

Guy Swallow, first-class patrolman, January 23, \$900; probational appointment.

C. C. Winkler, first-class patrolman, January 23, \$900; probational appointment.

James J. Robins, clerk, January 1, \$1,600; promotion from class 8.

Francis M. King, first-class patrolman, January 23, \$900; probational appointment.

## FIRE DEPARTMENT.

Meyer Antikoll, driver, January 23, \$900; probational appointment.

Edward Buchanan, driver, January 23, \$900; probational appointment.

John Hannan, driver, January 23, \$900; probational appointment.

Hiram Schraman, driver, January 23, \$900; probational appointment.

Victor L. Brill, assistant foreman, February 11, \$1,200; promotion from fireman, first-class, \$1,000.

John M. Brown, assistant foreman, February 10, \$1,200; promotion from fireman, first-class, \$1,000.

Ezra S. Crist, assistant foreman, February 10, \$1,200; promotion from fireman, first-class, \$1,000.

Berry H. Lyle, assistant foreman, February 10, \$1,200; promotion from fireman, first-class, \$1,000.

## LAW DEPARTMENT.

Lulce S. Hewett, stenographer, February 4, \$1,400; transfer from Attorney-General's office.

Cecilio Apostol, translator, February 1, \$1,400; promotion from class nine.

Maximo Salonga, clerk and typewriter, February 1, \$1,000; promotion from Class A.

## Provinces.

## AMBOS CAMARINES.

Apolinar A. Narciso, deputy, January 1, ₱600; promotion from clerk, \$210.

Jose Gonzales, clerk, January 1, ₱420; reduction from deputy, \$300.

## BENGUET.

Howard D. Fuller, clerk, January 27, \$900; probational appointment.

## BOHOL.

C. E. Roadhouse, chief clerk and deputy, December 1, 1903, \$1,200; promotion from clerk, Class A.

## BULACAN.

Frank H. Gore, deputy, January 1, \$1,000; promotion from \$900.

Placido Peñaria, clerk, January 1, \$240; promotion from \$180.  
Servillano de Jesus, clerk, January 1, \$180; promotion from \$150.

## CAPIZ.

Melquiades Montaña, clerk, February 1, \$150; probational appointment.

## ILOCOS NORTE.

Simeon Mandac, clerk, February 1, ₱240; probational appointment.

Francisco Martinez, clerk, February 1, ₱240; probational appointment.

## LEYTE.

William Gordon, master launch *Ogden*, July 1, 1903, \$1,200; transfer from Coast Guard cutter *Palawan*.

Frank K. Crumb, deputy treasurer, January 13, \$1,200; probational appointment.

## MISAMIS.

Eugene E. Sizemore, road foreman, July 1, 1903, \$720; probational appointment.

## MORO.

Loren L. Day, treasurer, district of Lanao, January 7, \$1,500; reinstatement.

Stephen E. Beard, treasurer, district of Cottabato, December 1, 1903, \$1,600; probational appointment.

Daniel T. Brown, clerk, office superintendent of schools, February 1, \$1,400; promotion from \$1,392.

Bernardo Macrohon, clerk, September 10, 1903, \$150; probational appointment.

Walter E. Chunyut, chief clerk (provincial engineer), October 10, 1903, \$1,500; transfer from clerk, class 9, Province of Iloilo.

Winston H. Granbery, stenographer, January 1, \$1,400; transfer from office of secretary, Moro Province.

Jose Borja, clerk, September 10, 1903, \$360; transfer from office of district collector of internal revenue.

John F. Holaday, stenographer, December 24, 1903, \$1,200; probational appointment.

Filomeno Arquiza, deputy, February 1, \$150; probational appointment.

Andres Pastor, clerk, January 16, \$1,200; transfer from clerk at \$1,080, office of the provincial treasurer of Iloilo.

NUEVA ECIJA.

Tomas Maddela, interpreter and clerk, November 1, 1903, \$420; promotion from \$300.

PANGASINAN.

Inocencio de Guzman, clerk, January 1, \$180; probational appointment.

ROMBLON.

Pablo Mayor, clerk, October 4, 1903, \$150; probational appointment.

TAYABAS.

Frank N. West, deputy, December 9, 1903, \$900; probational appointment.

Pedro Laines, clerk, August 1, 1903, \$150; probational appointment.

Roque Gaeta, clerk, September 21, 1903, \$150; probational appointment.

**RESIGNATIONS.**

*Provinces.*

BULACAN.

Manuel Casal, auxiliary justice of the peace, Quingua, December 23, 1903.

ILOCOS NORTE.

Maximo Sales, justice of the peace, Bangui, January 23.

ILOCOS SUR.

Gregorio Navarro, justice of the peace, Narvacan, February 16.

LEYTE.

Ramon Fernandez, provincial fiscal, February 12.

MORO.

A. P. Hayne, director of the agricultural college and experiment station; January 1.

ZAMBALES.

Simeon Marion, auxiliary justice of the peace, San Narciso, January 18.

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# Official Gazette

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VOL. II

MANILA, P. I., MARCH 9, 1904.

No. 10

## PUBLIC LAWS.

[No. 1054.]

AN ACT TO AMEND SECTION ELEVEN OF ACT NUMBERED SIX HUNDRED AND NINETEEN, ENTITLED "AN ACT TO PROMOTE GOOD ORDER AND DISCIPLINE IN THE PHILIPPINES CONSTABULARY," SO AS TO PROVIDE THAT WHERE THE ACCUSED HAS BEEN CONVICTED BY SUMMARY COURT THREE TIMES WITHIN A YEAR HE MAY BE SENTENCED TO BE DISHONORABLY DISCHARGED AND TO FORFEIT ALL PAY AND ALLOWANCES DUE OR TO BECOME DUE, IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section eleven of Act Numbered Six hundred and nineteen, entitled "An Act to promote good order and discipline in the Philippines Constabulary," is hereby amended by inserting in the eighteenth line of said section, after the word "discharged" and before the words "in addition to the penalties hereinbefore mentioned," the following words: "and to forfeit all pay and allowances due or to become due," so that the proviso in which said insertion occurs shall read as follows: "Provided, That where the accused is a noncommissioned officer or a first-class private, he may be sentenced to reduction to the grade of second-class private in addition thereto, and that where the accused has been convicted by summary court three times within a year he may be sentenced to be dishonorably discharged and to forfeit all pay and allowances due or to become due, in addition to the penalties hereinbefore mentioned."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 20, 1904.

[No. 1055.]

AN ACT REGULATING ACCOUNTABILITY FOR ALL RECEIPTS WHICH MAY BE DERIVED FROM CONCESSIONS GRANTED IN CONNECTION WITH THE PHILIPPINE EXHIBIT AT THE LOUISIANA PURCHASE EXPOSITION AT SAINT LOUIS, MISSOURI, AND CREATING THE OFFICE OF CASHIER FOR THE PHILIPPINE EXHIBIT, AND FOR OTHER PURPOSES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. All receipts from concessions granted by the Philippine Exposition Board in connection with the Philippine Exhibit at the Louisiana Purchase Exposition at Saint Louis shall be

deposited in the Insular Treasury, except as hereinafter provided, through a national bank depository at Saint Louis to be designated by the Secretary of War, without any deduction, such deposits to revert to the credit of the appropriation made in Act Numbered Five hundred and fourteen for the collection and maintenance of said Philippine Exhibit.

Sec. 2. For the purpose of carrying out the provisions of the preceding section there shall be appointed by the Philippine Exposition Board, subject to the approval of the Secretary of War, an officer to be known as the cashier of the Philippine Exhibit at Saint Louis, who shall receive a salary at the rate of two hundred dollars, United States currency, per month, and whose employment shall extend for such time after the close of the Exposition as may be necessary, in the discretion of the Secretary of War, for the closing of his accounts. The Philippine Exposition Board is further authorized to grant to the said cashier such clerical assistance as may be necessary properly to perform the work of his office, at salaries to be fixed by the Board, subject to the approval of the Secretary of War, and shall provide necessary office, office furniture, and office supplies. The said cashier and such of his assistants as shall be required to make collections shall give bonds to the Government of the Philippine Islands, through the Exposition Board, in such amounts as may be approved by the Secretary of War.

Sec. 3. Each individual, firm, company, or corporation which may be granted a concession on the grounds of the Philippine Exposition Board at Saint Louis, and known as the concessionaire, shall keep full and true accounts of the receipts from all sources mentioned in his or its contract, in a book or books especially kept for that purpose, and said accounts shall be at all times open to inspection by the Philippine Exposition Board, its cashier or his authorized representatives, and the Philippine Exposition Board shall prescribe the form of book or books above mentioned and the method in which the concessionaire shall keep such account, and may supervise the keeping of the same, and may require any changes in any existing methods of keeping said account or in the manner of ascertaining the amount of the gross receipts. The Philippine Exposition Board shall supply all checks, tickets, or other devices, of such design as it may select, and prescribe a system of duplicate checks, tickets, or other devices, and shall have the power to appoint agents, ticket sellers, and ticket takers or other persons to carry out the provisions of this section, and shall require the use of cash registers or other appliances to receive and account for cash receipts from any source, whenever in its judgment it may be deemed necessary or desirable, and the cost of such agents, duplicate checks, tickets, ticket takers, ticket sellers, or other persons, devices, or appliances shall be paid for as may be provided in the contract concerned. Each individual, firm, company, or corporation holding a concession shall pay over to the cashier of the Exposition Board, daily, if required, and not less often than once each week, all moneys received from any source or sources covered by the said concessionaire's contract, without any deduction whatever: *Provided, however*, That in all cases in which the contract of the concessionaire requires a sepa-

ration or division of such receipts between the Exposition Board and the concessionaire, and the respective amounts may be immediately determined, said concessionaire shall, upon the certificate of the chairman of the Exposition Board, be required to pay over to the cashier of the Exposition Board only such portion of the receipts as may properly accrue to the Philippine Government through the Exposition Board, in accordance with the terms of the contract. The moneys so received by the cashier shall be deposited as provided in section one of this Act.

SEC. 4. Each concessionaire, on paying over any amount whatsoever to the cashier of the Exposition Board, shall submit therewith abstracts of collections, in triplicate, covering such amount. Said abstract shall show the inclusive dates for which rendered, and the class of receipts shall be subdivided thereon by the concessionaire as follows:

- (a) Sale of articles fabricated or purchased for sale.
- (b) Sale of tickets for admission to ground or entertainments.
- (c) Miscellaneous receipts.

The concessionaire shall certify that the abstract is a true and correct account of all moneys whatsoever received by him or his agents during the period shown.

The following certificate, signed by the chairman of the Exposition Board or a designated examiner, shall also appear on the abstract:

"I certify that I have examined the books and accounts of this concessionaire for the period above shown and find this abstract to be a true account of all receipts for said period, as shown by the books in question."

In case of a separation or division of the receipts as provided in section three of this Act the abstract shall be made to show (a) the gross amount collected by the concessionaire, in the manner heretofore provided; (b) the amount withheld by the concessionaire under the terms of his contract; and (c) the amount paid over to the cashier of the Exposition Board. The cashier of the Exposition Board shall, upon receipt of abstracts prepared in the manner herein provided, together with the full amount thereon shown, receipt for said amount upon the face of the abstract and return one copy of the same to the concessionaire. One of the remaining two copies shall be retained by the cashier and the other copy shall be used as a voucher to his regular account forwarded to the Auditor for the Philippine Islands. Incomplete or improperly prepared abstracts shall not be accepted by the cashier, and the refusal of any concessionaire to account to the cashier in the manner herein provided shall be construed as a breach of contract.

SEC. 5. The cashier of the Exposition Board shall render to the Auditor for the Philippine Islands monthly accounts within ten days after the close of the month in which the funds were received, covering all of his receipts from any source whatsoever, in such manner as may be prescribed by the Auditor, said accounts being divided into receipts (a) from sales of articles fabricated or purchased for sale; (b) from sales of tickets for admission to ground or entertainments; (c) miscellaneous receipts. The accounts of the cashier shall be kept and rendered so as to show separately the receipts from every concession and class of concession, and such accounts shall be supported by the abstracts furnished by the concessionaire as provided in the foregoing section. All questions of difference arising between the cashier and the concessionaire shall be determined by the Exposition Board.

SEC. 6. All deposits made by the cashier in a designated depository shall be deposited "to the credit of the Treasurer of the Philippine Islands," and said depository shall issue receipts in duplicate to the cashier for all deposits so received and shall transmit to the Treasurer and Auditor for the Philippine Islands at the close of each month complete abstracts of said deposits, showing the name of the depositor, the number of the receipt, and

the amount deposited. The cashier shall take credit in his accounts for all deposits so made, supporting the same by the original receipts of the depository issued therefor. Deposits when so made shall be subject only to the order of the Treasurer of the Philippine Islands.

SEC. 7. The Philippine Exposition Board may advance for the benefit of any concessionaire, from the funds appropriated to meet the obligations of the Exposition Board, such sums as in its discretion may seem necessary or wise for the purchase of such articles and supplies as the concessionaire is authorized to sell for account of the Government as may be provided in his contract, but in no case shall the property in the hands of a concessionaire exceed the amount of his bond. All vouchers covering payments in the United States from the funds appropriated for the Philippine Exposition Board for the purchase of articles for sale, the payment of salaries of concessionaires and their employees, and expenses incurred in behalf of any concession or concessionaire under his contract, shall be certified to be correct by the concessionaire or his authorized agent, and approved by the chairman of the Exposition Board, and shall be payable by the disbursing officer appointed under section ten of Act Numbered Five hundred and fourteen, as herein provided in section nine. All unexpended balances in the hands of other disbursing officers or agents of the Exposition Board in the United States on May first, nineteen hundred and four, shall be transferred to the disbursing officer for the Exposition Board in the regular way and be accounted for by him. All payments after May first, nineteen hundred and four, to be made in the Philippine Islands in behalf of the Exposition Board, or of any concessionaire under his contract, shall be made by a designated disbursing officer in Manila, and all other agents in the Philippine Islands heretofore disbursing funds of the Exposition Board shall close their accounts and deposit their unexpended balances to the credit of the Exposition Board appropriations, on or before May first, nineteen hundred and four.

SEC. 8. All disbursements by or on behalf of any concessionaire shall be shown separately on the books and accounts of the disbursing officer or agent making the payments.

SEC. 9. The Philippine Exposition Board is authorized to make final settlement with each concessionaire at the close of the exposition in accordance with the terms of his contract, and pay, through its regular disbursing officer, all balances found to be due the concessionaire thereunder, on proper vouchers, from its regular appropriations. The Board shall submit to the Auditor for the Philippine Islands a full and complete statement of the final settlements so made, the correctness of which shall be certified by the chairman of the Exposition Board and by the concessionaire. Differences arising between the Exposition Board and a concessionaire in such final settlements shall be determined by the Secretary of War.

SEC. 10. In the absence from the Philippine Islands of a majority or quorum of the members of the Philippine Exposition Board all vouchers covering payments in the Philippine Islands from appropriations of the Exposition Board shall be approved by the Secretary of the Interior of the Philippine Islands, and all executive acts pertaining to the Exposition Board in the Philippine Islands shall be directed by the said Secretary of the Interior, and this section shall be retroactive from January first, nineteen hundred and four.

SEC. 11. All just and lawful claims and demands against the Philippine Exposition Board shall be settled as soon after the close of the exposition as practicable, and all balances to the credit of the appropriation for the maintenance of the Philippine Exposition Board shall immediately thereafter revert to the general funds of the Insular Government.

SEC. 12. All existing laws, or parts thereof inconsistent with the provisions of this Act are hereby repealed.

Sec. 13. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 14. This Act shall take effect on its passage.

Enacted, February 20, 1904.

[No. 1056.]

**AN ACT PROVIDING FOR A COURT VACATION AND LEAVE OF ABSENCE OF THE JUDGES OF THE COURTS OF LAND REGISTRATION AND OF CUSTOMS APPEALS.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The regular sessions of the Courts of Land Registration and of Customs Appeals may be suspended for the period beginning with the first day of May, and closing with the first day of July of each year, which shall be known as the court vacation after the analogy of the court vacation provided by law for the Supreme Court and Courts of First Instance. During the court vacation one judge of the Court of Land Registration and one judge of the Court of Customs Appeals shall remain in the Islands subject to the call of the Civil Governor for the performance of duties appertaining by law to his office. On or before the first day of January of each year the Civil Governor shall issue an executive order naming the judge of the Court of Land Registration and the judge of the Court of Customs Appeals who shall remain on duty. The assignment of judges for vacation shall be so arranged that no judge shall be assigned for vacation duty more than once in two years. The executive order herein provided may be modified from time to time according to emergencies and newly arising conditions. The judges of each of said courts assigned for vacation duty shall have the same power in all respects during the vacation period as during the periods of regular sessions of said courts, including the making of any necessary orders and of final decisions upon pending cases upon their merits, and final sentences of conviction or judgment of acquittal in criminal causes in the Court of Customs Appeals. Any judge of the Court of Customs Appeals who is assigned to vacation duty may be directed by the Civil Governor, when in his judgment the emergency shall require, to hold during the vacation period a special term of a Court of First Instance in any district, either to hear civil or criminal cases, and enter final judgment therein.

The judges of the Court of Land Registration and Court of Customs Appeals not assigned to vacation duty may spend their vacation either in the Islands or abroad. Every third year after his appointment as judge, in addition to his vacation, each judge of the Court of Land Registration and of the Court of Customs Appeals shall be entitled to an additional vacation of three months. This five months' vacation shall be assigned to him by the Civil Governor, but shall always be fixed within a period to include the regular court vacation. No leave shall accumulate from year to year to the judges under this Act, but the Governor may in his discretion postpone the extra three months' vacation from one year to the next if this is required by public business, provided the judge shall have at least two such vacations in six years: *Provided, however,* That for the period prior to the going into effect of this Act any judge may have the benefit of the leave that would then have accrued to him under the provisions of Act Numbered Eighty and its amendments, had those provisions been applicable to him by express terms, should he so elect, after the passage of this Act; but he shall not be entitled to the benefits of the provisions accruing under Act Numbered Eighty and its amendments and likewise to those accruing under the provisions of this Act. During the court vacations and during the leave

of absence for five months granted every third year, the judges affected thereby and enjoying the same shall draw full pay. The right to a leave of absence for five months shall accrue to all judges who have served as judges three years in the Islands and who have not during the time visited the United States. This provision shall be retroactive. The service of a judge of the Court of Land Registration or of the Court of Customs Appeals appointed from the United States shall be deemed to have begun for the purposes of this Act thirty days before he landed in the Islands ready for duty.

SEC. 2. A person residing in the United States who is appointed judge of the Court of Land Registration or of the Court of Customs Appeals shall be paid the traveling expenses of himself and family from his place of residence to Manila, if he shall come by the route directed by the Chief Executive of the Islands. He shall be allowed one-half salary from the date of leaving home to come to Manila, and full salary from the date of his arrival in the Islands: *Provided,* That he proceeds directly to the Islands; otherwise, he shall be allowed half salary for such time only as is ordinarily required to perform the journey from his place of residence to Manila. If one has been employed as judge of the Court of Land Registration or Court of Customs Appeals for three years, he shall, if he so requests, upon retirement from the service, be furnished with transportation for himself and family from Manila to his place of residence.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, February 20, 1904.

[No. 1057.]

**AN ACT AMENDING ACT NUMBERED NINE HUNDRED AND NINETEEN, ENTITLED "AN ACT PROVIDING FOR A LOAN OF SEVEN THOUSAND FIVE HUNDRED DOLLARS, UNITED STATES CURRENCY, TO THE PROVINCE OF NUEVA ECILJA FOR THE CONSTRUCTION OF BUILDINGS FOR A SCHOOL OF SECONDARY INSTRUCTION AND DORMITORIES AT SAN ISIDRO."**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Act Numbered Nine hundred and nineteen, entitled "An Act providing for a loan of seven thousand five hundred dollars, United States currency, to the Province of Nueva Ecija for the construction of buildings for a school of secondary instruction and dormitories at San Isidro," is hereby amended as follows:

(a) By striking out of the title the words "at San Isidro" and inserting in lieu thereof the words "in that province," so that the title shall read as follows: "An Act providing for a loan of seven thousand five hundred dollars, United States currency, to the Province of Nueva Ecija for the construction of buildings for a school of secondary instruction and dormitories in that province."

(b) By amending section three of said Act so as to read as follows:

"SEC. 3. The money hereby appropriated shall be used in the construction of buildings for a provincial school of secondary instruction and dormitories for the accommodation of the students thereof in the Province of Nueva Ecija, at such place as the Provincial Board shall fix, and for no other purpose, and shall be expended under the direction of the provincial board of said province: *Provided,* That the plans and specifications for the construction shall be prepared by the Chief of the Bureau of Architecture and Construction of Public Buildings, and the build-

ings when constructed and the school when established shall be under the supervisory control of the Department of Public Instruction."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 20, 1904.

[No. 1058.]

**AN ACT FOR THE RELIEF OF GEORGE C. TAULBEE, SECOND LIEUTENANT, PHILIPPINES CONSTABULARY.**

Whereas George C. Taulbee, second lieutenant, Philippines Constabulary, supply officer for the Province of Lepanto-Boutoc, on or about August eighteenth, nineteen hundred and two, left in the custody of a guard composed of three members of the Philippines Constabulary at San Esteban, Province of Ilocos Sur, the sum of two thousand dollars, local currency; and

Whereas the said sum of money was stolen from said guard through no fault of the said Taulbee; and

Whereas it appearing from the facts and circumstances connected with the loss of said money that said Taulbee exercised due care and diligence in the preservation of the same: Therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Said George C. Taulbee is hereby relieved from accountability for said funds, and the Auditor is hereby authorized to place to his credit the said sum of two thousand dollars, local currency, on account of the appropriation for the Bureau of Philippines Constabulary.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1059.]

**AN ACT APPROPRIATING THE SUM OF TWO HUNDRED THOUSAND PESOS, PHILIPPINE CURRENCY, FOR THE PURCHASE OF SUPPLIES FOR THE INSULAR PURCHASING AGENT, AND FOR OTHER PURPOSES.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of two hundred thousand dollars, Philippine currency, or its equivalent in United States currency, is hereby appropriated, out of any money in the Insular Treasury not otherwise appropriated, for the purchase of supplies in the United States for the Insular Purchasing Agent, and the sum appropriated may be disbursed by the Philippines Disbursing Agent at Washington.

Sec. 2. Of the proceeds of sales of supplies deposited from time to time by the Insular Purchasing Agent for the credit of his appropriations for the purchase of supplies, the sum of two hundred thousand pesos, to be deposited on or before the thirteenth day of June, nineteen hundred and four, shall revert to the general funds in the Treasury.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by

the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1060.]

**AN ACT CONSOLIDATING THE OFFICES OF PROVINCIAL TREASURER AND PROVINCIAL SUPERVISOR AND AUTHORIZING THE PROVINCIAL GOVERNOR TO PERFORM THE DUTIES OF THE PROVINCIAL SECRETARY OF THE PROVINCE OF MASBATE.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The offices of provincial treasurer and provincial supervisor provided for in Act Numbered One hundred and five extending the provisions of the Provincial Government Act to the Province of Masbate, are hereby consolidated, and the office thus formed shall be known as the office of provincial supervisor-treasurer.

Sec. 2. The provincial governor, the provincial supervisor-treasurer, and the division superintendent of schools shall constitute the provincial board.

Sec. 3. The bond of the provincial supervisor-treasurer shall be four thousand dollars. He shall receive an annual salary of one thousand two hundred dollars, payable monthly. His qualifications and duties shall be the same as the qualifications and duties of provincial supervisor and provincial treasurer as outlined in the Provincial Government Act, except that the requirement that the provincial supervisor shall be a competent civil engineer and surveyor shall not apply. The supervisor-treasurer may employ a foreman in charge of the repair and construction of roads, bridges, and buildings at a salary not to exceed sixty dollars a month.

Sec. 4. The provincial governor of the Province of Masbate is hereby authorized to discharge the duties of provincial secretary and all official acts of the provincial governor of the Province of Masbate while acting in the capacity of provincial secretary of said province since September fifth, nineteen hundred and one, are hereby validated.

Sec. 5. So much of Act Numbered One hundred and five and its amendments as may be inconsistent with the provisions of this Act is hereby repealed.

Sec. 6. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 7. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1061.]

**AN ACT POSTPONING THE DATE OF PAYMENT OF THE LOANS OF TWO THOUSAND FIVE HUNDRED DOLLARS EACH, MONEY OF THE UNITED STATES, MADE TO THE PROVINCES OF ANTIQUE AND CAVITE, UNDER THE PROVISIONS OF ACT NUMBERED ONE HUNDRED AND THIRTY-FOUR, AS AMENDED BY ACT NUMBERED FIVE HUNDRED AND NINETY-FOUR, TO DECEMBER THIRTY-FIRST, NINETEEN HUNDRED AND FOUR.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The date of payment to the Insular Treasury of the loans of two thousand five hundred dollars each, money of the

United States, made to the Provinces of Antique and Cavite, under the provisions of Act Numbered One hundred and thirty-four, as amended by Act Numbered Five hundred and ninety-four, is hereby postponed until December thirty-first, nineteen hundred and four.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1062.]

AN ACT AUTHORIZING THE APPOINTMENT OF A JUSTICE OF THE PEACE AND AUXILIARY JUSTICE OF THE PEACE FOR THE ISLAND OF BASILAN, NOTWITHSTANDING SAID ISLAND HAS BEEN ANNEXED TO THE MUNICIPALITY OF ZAMBOANGA, IN THE MORO PROVINCE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Civil Governor is hereby authorized, with the advice and approval of the Philippine Commission, to appoint a justice of the peace and auxiliary justice of the peace, from time to time, for the Island of Basilan, notwithstanding said Island has been included within the municipality of Zamboanga by Act Numbered Twenty-one of the legislative council of the Moro Province. The justice of the peace and auxiliary justice of the peace appointed by virtue of this Act shall have jurisdiction throughout the Island of Basilan to the same extent and with the same effect as though the Island of Basilan constituted a regular municipality. The justice of the peace and auxiliary justice of the peace for the municipality of Zamboanga shall not have jurisdiction within the Island of Basilan.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1063.]

AN ACT FIXING THE TERRITORY OVER WHICH THE JUSTICE OF THE PEACE FOR THE MUNICIPALITY OF JOLO SHALL HAVE JURISDICTION.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The justice of the peace appointed in and for the municipality of Jolo shall have jurisdiction over all cases, both civil and criminal, which under the provisions of existing law are properly cognizable by courts of justices of the peace, arising within the entire Sulu district of the Moro Province, as defined by section two (a) of Act Numbered Seven hundred and eighty-seven.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1064.]

AN ACT AMENDING ACT NUMBERED NINETY, BY PROVIDING FOR AN ACTING DEPUTY AUDITOR IN THE ABSENCE OF THE DEPUTY AUDITOR FOR THE PHILIPPINE ISLANDS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. With the approval of the Secretary of War first had, Act Numbered Ninety is hereby amended by adding to rule four of section one the following:

"The chief clerk shall be Acting Deputy Auditor during the absence of the Deputy Auditor and when the Deputy Auditor by virtue of his office is performing the duties of the Acting Auditor. In the absence of both Auditor and Deputy Auditor he shall take charge of the Bureau as Acting Auditor."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 24, 1904.

[No. 1065.]

AN ACT SO AMENDING ACT NUMBERED EIGHT HUNDRED AND NINETY-EIGHT AS TO CLOSE CAPE MELVILLE, BALABAC ISLAND, AS A PORT OF ENTRY AND CREATING BALABAC, ISLAND OF BALABAC, AS A PORT OF ENTRY, AND PROVIDING FOR THE NECESSARY OFFICE FORCE AT THE PORT OF BALABAC.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section two of Act Numbered Eight hundred and ninety-eight, entitled "An Act providing for the closing of the port of Aparri as a port of entry, creating the ports of Bongau, Cape Melville, Balabac Island, and Puerto Princesa ports of entry, and amending section three hundred and one of Act Numbered Three hundred and fifty-five," is hereby so amended as to read as follows:

"Sec. 2. The port of Bongau, in the Jolo collection district, and the ports of Balabac, Balabac Island, and Puerto Princesa, in the Manila collection district, are hereby created ports of entry."

Sec. 2. The collector of customs and employees authorized by section three of said Act Numbered Eight hundred and ninety-eight for the port of Cape Melville are hereby authorized for the port of Balabac, instead of for the port of Cape Melville.

Sec. 3. Section six of said Act Numbered Eight hundred and ninety-eight is hereby amended by striking out the words "Cape Melville, Balabac Island," and inserting in lieu thereof the words "Balabac, on Balabac Island."

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, February 25, 1904.



[No. 1066.]

AN ACT EXEMPTING SMALL VESSELS FROM THE REQUIREMENTS OF ACT NUMBERED SEVEN HUNDRED AND EIGHTY, ENTITLED "AN ACT PROVIDING FOR THE EXAMINATION AND LICENSING OF APPLICANTS FOR THE POSITIONS OF MASTER, MATE, PATRON, AND ENGINEER OF SEAGOING VESSELS IN THE PHILIPPINE COASTWISE TRADE, AND PRESCRIBING THE NUMBER OF ENGINEERS TO BE EMPLOYED BY SUCH VESSELS."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. So much of Act Numbered Seven hundred and eighty, entitled "An Act providing for the examination and licensing of applicants for the positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade, and prescribing the number of engineers to be employed by such vessels," as provides that steam vessels of less than one hundred tons burden, or sailing vessels of less than one hundred and fifty tons burden, shall carry licensed officers, is hereby repealed: *Provided, however,* That all vessels propelled wholly or in part by steam shall carry and employ a licensed engineer or engineers, as provided in said Act Numbered Seven hundred and eighty.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 26, 1904.

[No. 1067.]

AN ACT AMENDING ACT NUMBERED NINE HUNDRED AND SIXTEEN, ENTITLED "AN ACT REORGANIZING THE MINING BUREAU AND PRESCRIBING THE FUNCTIONS THEREOF."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered Nine hundred and sixteen, entitled "An Act reorganizing the Mining Bureau and prescribing the functions thereof," is hereby amended by adding at the end thereof the following words, "or shall have successfully completed work in such schools of mines or universities equivalent in kind and amount to that for which such degrees are given," so that said section shall read:

"SECTION 1. The personnel of the Mining Bureau shall consist of a Chief of the Bureau, class one, who shall be appointed by the Civil Governor, by and with the consent of the Philippine Commission; and of two geologists, class three: *Provided,* That the Chief of the Bureau and the geologists shall be graduates of recognized schools of mines or shall have received degrees in mining, metallurgy, or geology from reputable universities, or shall have successfully completed work in such schools of mines or universities equivalent in kind and amount to that for which such degrees are given."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect as of January fifteenth, nineteen hundred and four.

Enacted, February 26, 1904.

[No. 1068.]

AN ACT AMENDING ACT NUMBERED NINE HUNDRED AND SIXTY, ENTITLED "AN ACT REDUCING THE FORTY-THREE MUNICIPALITIES OF THE PROVINCE OF SAMAR TO TWENTY-FIVE," BY CORRECTING AN ERROR IN PARAGRAPH FOUR OF SECTION ONE THEREOF.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Paragraph four of section one of Act Numbered Nine hundred and sixty, entitled "An Act reducing the forty-three municipalities of the Province of Samar to twenty-five," is hereby amended by striking out the words "Santa Rita" in the second line and inserting in lieu thereof the words "Santa Margarita."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall be retroactive and take effect from October twenty-third, nineteen hundred and three.

Enacted, February 26, 1904.

[No. 1069.]

AN ACT AUTHORIZING THE PROVINCIAL BOARD OF THE PROVINCE OF BULACAN TO DIVERT FROM THE PROVINCIAL ROAD AND BRIDGE FUND TO THE GENERAL PROVINCIAL FUND, FOR USE IN THE CONSTRUCTION OF A PROVINCIAL BUILDING, THE SUM OF TEN THOUSAND PHILIPPINE PESOS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The provincial board of the Province of Bulacan is hereby authorized to divert from the road and bridge fund of said province to the general provincial fund, for use in the construction of a provincial building, the sum of ten thousand Philippine pesos, the provisions of section thirteen (i) of the Provincial Government Act notwithstanding.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 26, 1904.

[No. 1070.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF MINDORO FOR THE YEAR NINETEEN HUNDRED AND THREE UNTIL JUNE THIRTIETH, NINETEEN HUNDRED AND FOUR, AND PROVIDING FOR THE REFUND OF PENALTIES ALREADY PAID.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and three in the Province of Mindoro is hereby extended to June thirtieth, nineteen hundred and four, anything in previous acts to the contrary notwithstanding. All penalties heretofore collected for the non-

payment of the land tax in such province for the year nineteen hundred and three are hereby remitted, and the provincial supervisor-treasurer of the province mentioned above is authorized and directed to allow a rebate of the amount of such penalty to the taxpayer upon whom the penalty was assessed upon payment of his land tax for the year next ensuing.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 26, 1904.

[No. 1071.]

**AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE MUNICIPALITIES OF TABACO, TIVI, AND MALINAO, OF THE PROVINCE OF ALBAY, FOR THE YEAR NINETEEN HUNDRED AND THREE UNTIL APRIL FIRST, NINETEEN HUNDRED AND FOUR, AND PROVIDING FOR THE REFUND OF PENALTIES ALREADY PAID.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and three in the municipalities of Tabaco, Tivi, and Malinao, of the Province of Albay, is hereby extended to April first, nineteen hundred and four, anything in previous acts to the contrary notwithstanding. All penalties heretofore collected for the nonpayment of the land tax in the said municipalities for the year nineteen hundred and three are hereby remitted, and the provincial treasurer of the province mentioned above is authorized and directed to allow a rebate of the amount of such penalty to the taxpayer upon whom the penalty was assessed upon payment of his land tax for the year next ensuing.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, February 26, 1904.

**DECISIONS OF THE SUPREME COURT.**

[No. 935. December 5, 1903.]

*THE UNITED STATES, complainant and appellee, vs. MARCELO ALVAREZ, defendant and appellant.*

1. **CRIMINAL LAW: MURDER: QUALIFICATIVE CIRCUMSTANCES: ALYOUSIA.**—The accused killed the deceased by shooting him with a rifle, discharged point blank. The deceased was at the time completely unarmed and so weak on account of illness that he could hardly walk when he came out of his house in response to the defendant's call. There was nothing in the attitude of the latter to give the deceased warning of the intended attack. *Held*, that the circumstances of the killing constitute *alevosia*, and that the crime is therefore to be classified as murder.
2. **Id.; Id.; Id.; EVIDENT PREMEDITATION.**—To authorize a finding of the presence of the circumstance of evident premeditation it must appear not only that the accused had formed a determination to commit the crime at a time prior to the moment of its execution but that this determination was the result of meditation, calculation or reflection, and persistent attempt.
3. **Id.; AGGRAVATING CIRCUMSTANCES: EVIDENCE.**—Aggravating circumstances can only be applied when they are as fully and completely proven as the crime itself.
4. **Id.; Id.; EVIDENCE: BENEFIT OF DOUBT.**—Whenever the evidence as

to the existence of an aggravating circumstance is not sufficient to exclude all doubt upon the subject the defendant must be given the benefit of such doubt.

5. **CRIMINAL PROCEDURE: NEW TRIAL: NEWLY DISCOVERED EVIDENCE.**—To authorize the allowance of a new trial on the ground of newly discovered evidence the proof offered should be material to the defense, and therefore when the new evidence is of such a character that even if admitted it would not affect the result the motion will be denied.

JUDGMENT sent from the Court of First Instance of Mindoro *en consulta*.

The facts appear in the decision of the court.

EUSEBIO ORENSE, for appellant.  
Solicitor-General ARANETA, for appellee.

MAPA, J.:

In the year 1901, Frank Clark, a sergeant of volunteers in the United States Army in these Islands, was taken prisoner by the insurgents in the town of San Jose, Province of Batangas, and subsequently sent to Calapan, the capital of the Province of Mindoro. Later, about the month of June of that year, he was taken to the town of Abra de Ilog, in the same Province of Mindoro, in charge of the defendant, Marcelo Alvarez, who was at that time a commissary captain of the insurgent forces under Maj. Deogracias Leyco, commander of the military zone of Abra de Ilog. The prisoner remained in Alvarez's house some three weeks. During this period several persons heard him complain of the illtreatment which he received. The witness Jose Ramos testified that Clark told him once that the defendant treated him like a servant and made him work as such. Clark also stated to another witness, Rosalio Miciano, at that time municipal president of Abra de Ilog, that the defendant made him hull rice and cut wood for the kitchen.

This circumstance, which, by the way, shows the ungenerous sentiment entertained by the defendant for the prisoner, Clark, appears wholly probable in view of the testimony of Deogracias Leyco to the effect that the accused, Alvarez, was a man of a somewhat inhuman and brutal character.

After Marcelo Alvarez a number of other persons successively had charge of Clark. The last one who had the custody of him was Saturnino Gandula, a resident of a place called Songson, within the township of Abra de Ilog. This was between October and November, 1901. Gandula testified that Clark was delivered to him by two insurgent soldiers whom he did not know, and who were acting under orders, according to their statement, of the defendant, Alvarez. It appears to be a fact, however, for Deogracias Leyco so testified, that it was the latter who gave the order and not Alvarez.

Be this as it may, however, it is of no importance with respect to the decision of this case. It is a fact that after that time the prisoner, Clark, was very ill. One Enrique Rieter testified that he saw him in October, 1901, and that he was then very sick. Deogracias Leyco also testified that Clark's illness was one of the reasons which induced him to send the prisoner to Songson in charge of Saturnino Gandula. The latter and his wife, Norberta de la Coresta, testified that during the thirteen days they had Clark in their house not a day passed in which he was not attacked with fever and ague.

Such was Clark's condition of health at the time he was killed. Saturnino Gandula related the circumstance of his killing. He stated that at about 4 o'clock on the afternoon of the thirteenth day of Clark's stay in the house—he can not remember the date, but asserts that it was the day following that on which a fight had occurred between the Government forces and the insurgents at the town of Abra de Ilog, which, according to the evidence in the record, occurred on November 7, 1901—the defendant, Alvarez, came to his house, armed with a gun and accompanied by a servant of his, a Visayan named Eusebio. Without entering the house, the defendant called to Clark, saying, "Come here, Frank." When

Clark heard this, he left the house without saying anything and started to walk away with Alvarez. Clark walked along ahead leaning on Eusebio, on account of his weakness, as he had just suffered an attack of fever. Alvarez walked behind. They had covered scarcely 20 yards when the witness heard a shot, and a few moments afterward Alvarez called him by name three times. The witness thereupon went to the place where Alvarez was and there found Clark's dead body stretched out face upward on the ground. The witness states that he had a bullet wound in the left side just below the stomach and that Alvarez was standing a very short distance from the body with his gun in his hand, as if he had just discharged it. The man Eusebio also stood near, at the right of Alvarez. The latter ordered the witness to dig a grave and bury Clark's body, which he did. After this they all went away, leaving the witness there alone. The latter states that he then put a wooden cross over the grave and fenced it in with bamboo pickets to protect it from animals.

Gandula's wife, Norberta de la Coresta, corroborates the testimony of her husband in every particular. She saw the defendant arrive, armed with a gun and accompanied by Eusebio, and saw him stop in front of the house. She heard Alvarez call to Clark to come out and saw the latter leave the house and go with the defendant. A few minutes later she heard the discharge of a firearm and then the voice of the accused calling to her husband, and finally she saw the latter leave the house and go to answer Alvarez's summons. This witness adds that very shortly after her husband returned to the house to get a mat, saying that they had killed Clark and that Alvarez had told him to bury the body. On having returned to the house again some two hours afterwards, her husband told her that he had buried Clark, and on the following day, she saw the grave, her husband pointing it out to her.

The defense draws attention to the fact that while Saturnino Gandula testified that when Clark left his house he went along ahead, leaning on Eusebio, and that Alvarez walked behind, this witness' wife, Norberta de la Coresta, testified that Eusebio followed Alvarez and that Clark walked along in front of both of them; and furthermore that, according to the latter, her husband returned to the house to get a mat before burying Clark, while Gandula testified that he returned to the house after having buried the deceased. These divergences in the opinion of the attorney for the defense constitute such serious contradictions as to make the witnesses mentioned unworthy of credence.

As a matter of fact, no such contradictions exist; but if there were such contradictions they are matters of mere detail and do not affect the essential facts testified to by these witnesses. Neither Gandula nor his wife testified that as they walked along the accused and his companions constantly maintained the same relative order as that expressed in their respective statements. Norberta de la Coresta refers to the time that they left her house. It is probable that, since Clark could not walk alone on account of his weakness, it became necessary for Eusebio to assist him. They doubtless subsequently continued to walk along in this way and it was probably then that Gandula saw them. At all events it does not appear that both witnesses refer to the same moment.

With respect to the other objection, it is true that Gandula testified that after burying Clark he returned to his house, but he does not state that he did not return to the house before burying the body, as his wife testified he did. Far from this, he gives us to understand, on the contrary, that his wife's statement is true, because he says he wrapped Clark's body up in a mat before burying it. Of necessity he must have returned to the house to get this mat, as he did not take it with him when he went the first time.

The testimony of this witness with respect to the violent killing of Clark is corroborated by the evidence of Capt. J. B. Shaw and Lieut. W. Weeks, of the Thirtieth United States Infantry. These testified that they witnessed the exhumation of the body of Frank

Clark in March, 1902, and saw that the shirt which he wore had a hole in it on the left side toward the lower part of the abdomen, some 5 or 6 inches from the navel. They stated that the edges of the hole were black, as though they had been burned, and that the hole was of such a character that it appeared to have been caused by the discharge of a gun at a very short distance from the deceased. Captain Shaw further stated that the clothing on the body was stained with blood.

The defense states that the testimony of these witnesses is improbable, because when stating that the shirt was punctured they said nothing about the trousers and undershirt, which, according to their testimony, were still on the body, as well as the shirt. "It is impossible to believe," the counsel for the defense says, "owing to the situation of the wound, that the trousers and the undershirt could have failed to be in the same condition as the shirt." This remark has more subtlety than solidity in it. The witnesses said nothing about the trousers and the undershirt, because it was sufficient for the purpose of the investigation, so far as they were concerned, for them to testify as to the condition of the shirt. The interrogation addressed to Captain Shaw was as follows: "Did you observe whether or not the clothing showed any indication of having been pierced by a bullet?" The witness then testified to the circumstance which, in his judgment, constituted an indication of this fact—that is, that there was a hole in the shirt, with the edges burned. This latter detail, and not the hole in itself, which could as well have been caused by a stabbing weapon or by any other cylindrical instrument capable of making a puncture like the hole observed, as by a bullet, was what indicated in the judgment of the witness that Clark had been shot and that the shot had been fired at short range. Otherwise there would not have been upon the clothing or body of the victim such marks as those left by shots fired point blank. It is possible and even probable that Clark's undershirt and trousers, although similarly punctured, did not show, at least in a manner so clear and noticeable to the witness, the indication of a powder burn. This would of course more directly affect the exterior than the under clothing. If this be so we have an explanation of the reason why neither this witness nor Lieutenant Weeks made any mention of these garments in answering the questions addressed to them. Furthermore, it may be that the witnesses thought that the mark found upon the shirt was sufficient proof of the matter concerning which the court was making inquiry, without referring to the other garments upon the body at the time it was exhumed. But however that may be, the reply given fully answered the question and is in our judgment entirely satisfactory.

The defendant attempted to refute all this when testifying as a witness in the case. He denied that he had a gun on or about the date in question. He also denied that he had attached to him at that time any servant, and finally denied that he had been in Songson on the date mentioned. He alleged that he was sick with fever and ague and unable to leave his house, not only on the day on which Clark was supposed to have been killed but also for several days subsequent to and before that event.

However, the witnesses mentioned by him in his testimony have flatly contradicted him on every point. Pilar Jove, his stepdaughter, one of these witnesses, testified that the accused did have a gun at that time and also two servants, one of whom was called Eusebio. This corroborates the testimony of Saturnino Gandula and his wife upon these matters. The witness Doña Jove also testified that the defendant was at that time in good health, and the same statement was made by the witness Deogracias Leyco, who was also referred to by the defendant in his testimony. Only two days after the engagement at Abra de Ilog, which would of course be the day following that on which Clark was killed, Leyco found the defendant somewhat unwell in consequence, he was informed by the latter's family, of having fallen off his horse. This, however, did not prevent the defendant from going with

Leyco on the following day to a place called Calubia, several hours' journey from Balontoy, where, according to the defendant's own testimony, he lived.

The facts related fully prove the guilt of the defendant. In their testimony Saturnino Gandula and Norberta de la Coresta, who were eyewitnesses to the commission of the crime, gave precise and detailed information as to its execution and designate the defendant as Clark's slayer. The marks found upon Clark's body by Officers Shaw and Weeks confirm the statements of the two witnesses above referred to as to the nature of the attack and the wound which caused the death of the deceased. The testimony of Pilar Jove, the stepdaughter of the defendant and a witness called by him, in disproving the false denials of the defendant has corroborated the fact testified to by Gandula and la Coresta and denied by the accused, to the effect that he did have a servant called Eusebio who accompanied him, and a gun which he used to kill Clark. Considering in connection with this the evident falsity of the alibi set up by the defendant as his sole defense, based upon a supposititious illness the existence of which the defendant not only failed to prove but which on the contrary appears to have been fully disproven, the whole constitutes evidence of so complete and conclusive a character as to leave no room for doubt that Frank Clark was killed by violence and that the defendant, Alvarez, was his slayer.

We must consider the presence of the circumstance of *alecosia* in the commission of the crime. At the time of the assault which cost him his life, Clark was in a condition of debility and prostration, the result of a long illness. His weakness must have been extreme, as, unaided he could not walk even the short distance of 20 yards, and was obliged to lean upon some other person for support. Furthermore, he was absolutely unarmed and it was therefore impossible for him to defend himself against the attack made by the accused. This is especially true in view of the fact that he had no reason to expect or foresee such an attack, in the first place, because he had had no quarrel with the accused and no provocation had been given for such an attack, and in the second place because of the apparently friendly manner in which he was invited by the accused to leave the house and go with him. Under these circumstances the assailant could and did act with perfect safety to himself, absolutely free from any risk which might arise from an attempt at self-defense on the part of his victim, and this, in law, constitutes *alecosia*. Frank Clark, enfeebled as he was by his protracted ill health, was certainly unable to make any defense, more especially against an assault with a weapon such as that used by the defendant. The circumstance of *alecosia* qualifies the criminal act as murder under article 403 of the Penal Code, as the court below correctly held in the judgment now before us for review.

In addition to the qualifying circumstance of *alecosia*, the judgment of the court below also finds present the generic circumstances of evident premeditation, abuse of superiority, and the commission of the crime in an uninhabited place. We can not concur in this view with respect to the first of these circumstances. The record contains no evidence showing that the defendant had, prior to the moment of its execution, resolved to commit the crime, nor is there proof that this resolution was the result of meditation, calculation, reflection, and persistence. Under the Penal Code these elements are necessary to constitute evident premeditation. With respect to the second generic circumstance, the presence of this can not be considered because the abuse of superiority was precisely one of the factors which made *alecosia* possible in this particular form. This circumstance, therefore, must be regarded as merged in the other and can not be considered separately. With the judge's finding as to the presence of the last of the three generic circumstances—that is, the commission of the crime in an uninhabited place—we can not concur because, although it is true that

Saturnino Gandula apparently gives us to understand that the place where the crime was committed was a solitary and uninhabited spot, the contrary may be inferred from the testimony of Deogracias Leyco. The latter stated that Onofre Callos, Maria Callos, and Prudencia Magdulman, also residents of Songson, knew about the delivery of Clark to Saturnino Gandula, which took place at that town, and that these people were, according to his information, neighbors of Gandula. Supposing that these persons were really neighbors of Saturnino Gandula, and the testimony of Leyco gives ground for such a belief, the place could not, strictly speaking, be termed uninhabited. We know that at least Gandula's house and those of the other persons above mentioned were situated there. At all events, the evidence in the record is not so conclusive as to exclude doubt upon this point, and it is a rule of law that the defendant is entitled to the benefit of a reasonable doubt. Aggravating circumstances can be applied only when they are as fully proven as the crime itself. Without clear and evident proof of their presence the penalty fixed by the law for the punishment of the crime can not be increased.

As the generic aggravating circumstances found present by the court below do not exist and as there are no other generic aggravating circumstances to apply, and, on the other hand, there being no mitigating circumstances to consider in favor of the accused, he, therefore, as author of the crime of murder, must suffer the medium degree of the penalty prescribed for this crime by article 403 of the Penal Code—that is, life imprisonment (*cadena perpetua*).

The defense has asked for a new trial upon the ground of newly discovered evidence, and has presented affidavits of Norberta de la Coresta, Eusebio Hernandez, and Onofre Magdulman, in which it is stated—or such is the tendency and purpose of the new evidence offered—that Frank Clark died a natural death as a result of fever and ague, from which he had been suffering for some time.

These statements were refuted at the trial. The spots of blood and other indications of violence above mentioned, which were found on Clark's body when it was exhumed and to which credible witnesses have testified, constitute material and incontrovertible evidence that Clark met a violent death, as stated by the eye-witness Saturnino Gandula and as stated at the trial by the witness Norberta de la Coresta, whose testimony the defense now offers as newly discovered evidence. The evidence given at the trial can not be overcome by the affidavits mentioned, more especially when it is remembered that no testimony whatever is offered to show proof of the fact which the woman Coresta asserts to be the reason for her retraction—that is, that one Lucas del Castillo threatened to kill her unless she would falsely testify in the trial against the defendant. There is a legal presumption that testimony given before a court is given freely and spontaneously, unless the contrary is proven. A careful study of the case leads us to the conclusion that the testimony of the new witnesses cited by the defendant would not affect the result.

For these reasons, a new trial is denied, since article 42 of General Orders, No. 58, provides that in order to authorize a new trial on the ground of newly discovered evidence the evidence offered must be material to the defense. This is not so with respect to the evidence offered in this case.

We therefore convict the defendant, and condemn him to the penalty of life imprisonment (*cadena perpetua*) and its accessories and to the payment of an indemnification of 1,000 insular pesos to the heirs of the deceased, reversing the judgment reviewed in so far as it imposes the death penalty, with the costs of this instance to the defendant.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 555. January 22, 1904.]

**THE UNITED STATES, complainant and appellee, vs. PANTALEON GIMENO, defendant and appellant.**

1. **CRIMINAL LAW; ROBBERY; COMPLAINT OR INFORMATION; FELONIOUSLY.**—A complaint which alleges that the defendant performed acts constituting the crime of robbery is not deficient for failing to allege that the defendant acted feloniously.
2. **Id.; Id.; Id.; PERSON INJURED.**—A complaint which alleges that the property described therein was taken by the defendant from the family of the complaining witness, in support of which evidence is introduced without objections showing to whom each article belonged, will not be set aside on appeal for failing to allege the ownership of the property with greater particularity.

**APPEAL** from a judgment of the Court of First Instance of Rizal. The facts are stated in the opinion of the court.

A. A. MONTAGUE, for appellant.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The guilt of the defendant was clearly proved by the evidence. In the court below no objections were made to the sufficiency of the complaint, but in this court it is claimed that it is deficient in several respects. When a complaint alleges, as this one does, that the defendant, armed with a gun, at midnight entered the house of the complaining witness, and after beating him with the butt of the gun took from his family money and other property and departed with it, it is not necessary to add thereto the statement that the defendant acted "feloniously."

The complaint alleged that the property described therein was taken by the defendant from the family of the complaining witness. At the trial it was shown without objection on the part of the defendant to what particular member of the family each of said articles belonged. No substantial right of the defendant on the merits was prejudiced by the failure to state these details in the complaint. Even if the complaint was defective in this respect we can not reverse the judgment for that reason. (G. O., No. 28, sec. 10.)

The same thing can be said of the claim that the defendant's lawyer was not present when the sentence was pronounced.

The judgment is affirmed with the costs of this instance against the appellant.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1275. January 23, 1904.]

**THE UNITED STATES, complainant and appellee, vs. MELENCO TUBIG, defendant and appellant.**

1. **MILITARY LAW; COURTS-MARTIAL; REVIEWING AUTHORITY; OPINION OF JUDGE-ADVOCATE-GENERAL.**—The opinion of the judge-advocate as to whether the judgment of a court-martial is correct or erroneous is not binding on the reviewing authority and does not affect the judgment.
2. **Id.; Id.; Id.; NOTIFICATION OF ACTION.**—When the action of the reviewing authority has been officially communicated to the accused the notice is beyond recall and the action can not be changed.
3. **Id.; Id.; PENALTY FOR HOMICIDE.**—The judgment of a court-martial convened in the Philippine Islands which finds the defendant guilty of homicide and sentences him to one year's imprisonment is not necessarily erroneous, as the crime may have been committed under circumstances warranting even a lower penalty under the provisions of the local law.
4. **Id.; Id.; JURISDICTION.**—In time of war or insurrection courts-martial have jurisdiction to try members of the military establishment of the United States for common crimes committed in the district or territory where the war or insurrection exists, and this jurisdiction is not affected by the existence of civil courts created by the military authorities at the same time and place.
5. **JUDICIAL NOTICE; EXISTENCE OF INSURRECTION.**—The courts will take judicial notice of the fact that there was an insurrection against

the authority of the United States in the Philippines and of the date of its inception.

6. **INSURRECTION; DATE OF TERMINATION.**—The insurrection in the Philippine Islands against the authority of the United States did not end officially until the President proclaimed it at an end on July 4, 1902.
7. **Id.; Id.; LOCAL CENSATION OF HOSTILITIES.**—The fact of the cessation of hostilities in particular portions of the affected district does not change the status of the insurrectionary territory, and the character of hostility remains impressed upon it as a whole until removed by the President's proclamation.
8. **CRIMINAL LAW; JEOPARDY.**—One who has been tried and convicted by a court-martial under circumstances giving that tribunal jurisdiction of defendant and the offense has been once in jeopardy and can not for the same offense be again prosecuted in another court of the same sovereignty.

Per TORRES, J., concurring:

9. **Id.; Id.**—Where it appears that the defendant has been tried and convicted by a military court, and the judgment of conviction is final, no further prosecution can be had for the same offense.

**APPEAL** from a judgment of the Court of First Instance of Nueva Ecija.

The facts are stated in the opinion of the court.

WADE H. KITCHENS, for appellant.

Solicitor-General ARANETA, for appellee.

McDONOUGH, J.:

The appellant, Malecico Tubig, who was a soldier of the Eighth Company of Native Scouts, Macabebes, by information filed in the Court of First Instance of San Isidro February 15, 1902, was charged with having on the 23d day of November, 1901, in the pueblo of Bongabon, Province of Nueva Ecija, assassinated one Antonio Olivia.

At the opening of the trial on November 22, 1902, at San Isidro the counsel for the accused made a motion that to the plea of the defendant of "not guilty" there be attached the further plea that he was once before in jeopardy for the same offense, because the accused was tried before a court-martial, was convicted, and served the sentence of one year that was imposed on him, and that consequently, having been once convicted of the offense, according to General Orders, No. 58, he can not be tried a second time for the same offense. The accused, therefore, moved that the case be dismissed, and in support of his motion he read Exhibit No. 1, showing the facts and circumstances of his former trial and conviction.

The fiscal opposed the motion for a dismissal of the case, alleging that, at the time of the former trial of the accused, the province in which the crime was committed was under civil jurisdiction for the purpose of trying the case; that the court-martial was without jurisdiction in the case; that, therefore, the former trial is not a bar to further proceedings, and that the accused had not been in jeopardy.

It was in open court agreed between the Government and the accused that Exhibit No. 1, being "General Orders, No. 6, headquarters Second Separate Brigade, Department of North Philippines," dated May 8, 1902, is a correct statement of the facts in relation to the former trial.

The motion was denied and the prosecution proceeded with the trial.

The testimony of the witnesses for the prosecution tended to show that about 8 o'clock in the evening, November 23, 1901, at a place called Bongabon in the Province of Nueva Ecija, the accused, while on the street outside the shop of the deceased (Antonio Olivia), called to him, and when he came out of the house and approached the accused the deceased received a thrust in the abdomen from the accused, administered with a stick which he carried in his hand, having a blunt end, and not being "as thick as the wrist" of the witness, the wife of the deceased, and about a yard in length. After receiving this thrust Antonio

immediately entered his house, complained that he had been internally injured, and died within a short time—that same evening.

There was no discussion and no quarrel between the accused and the deceased, according to the testimony of the wife of the latter. This witness testified that the accused seemed to be angry when he thrust the stick at her husband and called him a shameless fellow.

The deceased was not armed and did not try to defend himself. In his own behalf the defendant testified that he was a member of the Eighth Company of Native Scouts and was formerly stationed at Bongobon, and that he did not know the deceased and did not assault or thrust anybody in that town. He stated that on that occasion an individual whom he did not know tried to assault him; that it was dark, about 8 o'clock at night; that he defended himself; that three attacked him in the street; that he did not remember the date, but it was in October, 1901; and that he defended himself with his fists, but did not kill anyone.

He further testified that he had been tried by court-martial on account of this occurrence and was convicted and sentenced to one year's confinement in prison, and that after serving seven months' imprisonment he was set free.

He further testified that he plead not guilty in the court-martial.

Upon this evidence the defendant was convicted in the Court of First Instance and sentenced to imprisonment for a term of twelve years and one day.

From this sentence the defendant has appealed to this court, and he now asks for a reversal of that judgment.

The principal question to be determined by this court is whether or not the defendant was placed in jeopardy when tried, convicted, and sentenced by the court-martial.

In the case of the United States *vs.* Colley, decided by this court December 12, 1903, it was held that where a court-martial had jurisdiction to try a soldier for assassination or murder under the provisions of article of war, fifty-eighth, and did try, convict, and sentence him, that such trial constituted jeopardy, and this court affirmed the judgment below, discharging the accused for the reason that he could not be twice put in jeopardy for the same offense.

It is sought, however, to distinguish this Tubig case from the Colley case for the alleged reason that at the time of the commission of this offense the civil courts were open in the Province of Nueva Ecija, and that therefore the military authorities had no legal right to try the accused by court-martial, and that the court which tried him was, consequently, wholly without jurisdiction.

As a matter of course, if the court-martial had no jurisdiction whatever to hear and determine the case the defendant was not placed in jeopardy by the proceedings and determination of the military court.

It becomes necessary, then, to examine this question of jurisdiction.

We have before us Exhibit No. 1, all the facts mentioned in which were admitted to be true. This, however, does not include the conclusions of law of the Judge-Advocate-General, mentioned in said exhibit, which is in the form of a general order, issued by Brigadier-General Bisbee, and contains not only facts relating to the case but the legal views of the Judge-Advocate-General and citations from decisions of other cases intended to support the conclusion of law reached by the Judge-Advocate-General.

The admitted facts stated in the said order and fairly deducible therefrom are as follows:

First. In December, 1901, Private Malencio Tubig, Eighth Company Native Scouts, Macabebes, was tried by a general court-martial convened at San Isidro, Nueva Ecija, for "murder" in violation of the fifty-eighth article of war.

Second. He was found guilty, excepting the word "murder" and substituting therefor the word "manslaughter."

Third. He was sentenced to be dishonorably discharged from the service of the United States, forfeiting all pay and allowance, and to be confined at hard labor at such place as the reviewing authority may direct for a period of one year.

Fourth. The San Isidro, Nueva Ecija, military prison was designated as the place of confinement, and from this fact it follows that the reviewing authority approved of the finding and sentence of the court-martial.

Fifth. The proceeding of the court-martial case, having been forwarded to the Judge-Advocate-General, United States Army, Washington, D. C., he returned the same to the commanding general Second Separate Brigade, Department of the North Philippines, with a "fifth indorsement" to the effect that "the prisoner was convicted of manslaughter in violation of the fifty-eighth article of war, which provides that "in time of \* \* \* insurrection \* \* \* 'manslaughter' \* \* \* shall be punished by the sentence of a general court-martial, when committed by persons in the military service of the United States, and the punishment in any such case shall not be less than the punishment provided for the like offense by the laws of the State, Territory, or District in which such offenses may have been committed."

The Judge-Advocate-General held that, inasmuch as the sentence imposed on the prisoner was only one year's imprisonment, whereas under the provisions of the Penal Code of the Philippine Islands (arts. 25, 28, and 404) the minimum punishment should have been twelve years and one day, "the court in the present case has violated the statute which gave it jurisdiction over the offense of the prisoner and the sentence therefore is illegal and inoperative. 'It being impossible to reconvene the court on account of the departure of the Twenty-second Infantry for home, the prisoner should be set at liberty.'"

Under the Army Regulations (art. 73, sec. 991) the Judge-Advocate-General's Department is the bureau of justice, and he is the custodian of the records of all general courts-martial, etc. The officers of this department render opinions upon legal questions, when called upon by proper authority; but even though the opinion of the department, as in this case, be contrary to the view of the law taken by the court-martial, the reviewing authority is not bound to follow the opinion, especially where such authority has confirmed the proceedings and sentence of the court, as was done here. This opinion does not nullify the judgment of the court. In fact, after action taken by a reviewing officer and notice of the same, the notice is beyond recall.

General Davis, in his excellent work on military law (second edition) states, at page 541, that: "When the final approval of the sentence (or other action taken) has been once officially communicated to the accused, the function and authority of the reviewing authority *as such* over and respecting the same is exhausted and can not be reviewed. An approval can not then be substituted for a disapproval or *vice versa* nor can an approved punishment be mitigated or commuted."

Under article of war, one hundred and twelfth, the officer authorized to order the general court-martial may mitigate the punishment adjudged by the court, except the punishment of death or dismissal of an officer, and it was doubtless under this article that the accused was set at liberty.

The complicated and complex tables and rules of the Penal Code of these Islands, for determining the terms of imprisonment to be imposed for crimes and the mitigating and aggravating circumstances applicable to the same, might well mislead a non-resident judge not familiar with the practice of the courts under Spanish rule.

The evidence given before the military court is not before this court, but if it were similar to that in the civil court and the court gave credit to the testimony of the defendant, as it had a right to do, it would have lawfully imposed the sentence of imprisonment for one year; in fact, it could have made the penalty less.

The learned Judge-Advocate-General, in passing on this case, expressed the opinion that the sentence of the court-martial was necessarily void and inoperative, because not in conformity with the local law with respect to the penalty, and stated that in no case could the punishment for homicide under the Philippine Code be less than twelve years and one day. That penalty could have been imposed but so could a lighter one, depending on the view the court took of the proven facts.

Paragraph 4 of article 8 of the Penal Code of the Philippine Islands provides for a complete exemption from criminal responsibility for those who act in defense of their persons or their rights, provided that the following circumstances are present: (a) An unlawful aggression; (b) a reasonable necessity for the use of the means employed to impede or repel it; (c) lack of sufficient provocation on the part of the person defending himself.

Article 86 provides that if an act is found to be in some degree criminal, because of the absence of some of the requisites to a complete exemption, but a majority of these requisites are present, the courts may then in their discretion impose a penalty inferior in one or two grades to that designated by the law for the offense.

Article 91 provides that whenever the law prescribes a penalty inferior or superior in one or more grades to some other determinate penalty, the inferior or superior penalty will be taken from the scale in which the determinate penalty is found.

Now let us apply these rules to the crime of homicide. The court finds, for instance, that the defendant killed the deceased; that the deceased was the assailant; that the means employed in repelling the attack were reasonably necessary under the circumstances, but also finds that the defendant provoked the attack. This would be a case in which article 86 would be applicable because of the concurrence of two of the three circumstances, which, taken together, would entirely relieve the defendant of criminal responsibility. Article 404 imposes the penalty of *reclusion temporal* for the crime of homicide. To determine the penalty two grades lower we turn to article 91 and find that the penalty of *reclusion temporal* is found in scale No. 2. The penalty two grades lower in that scale is *prisión correccional*. The minimum degree of *prisión correccional* covers a period of from six months and one day to two years and four months. If the court found in favor of the defendant any one of the mitigating circumstances mentioned in article 9, or saw fit to apply article 11, in the absence of aggravating circumstances the penalty would be inflicted in the medium degree. (Art. 81, par. 2.) It follows, therefore, that the evidence adduced at the trial before the court-martial may have disclosed the commission of the homicide under such circumstances as to have justified the court in imposing upon the defendant the penalty of one year of *prisión correccional* in strict conformity with the statute.

The question raised by the fiscal in the Court of First Instance, that the court-martial had no jurisdiction to try, convict, and sentence the accused, because civil courts had been established and were open in the Province of Nueva Ecija at the time of the commission of the offense, is next to be considered.

It is true that such courts did exist in that province, established by the military arm of the Government and by acts of the Civil Commission, appointed by the President as Commander-in-Chief. By his direction, as far back as May, 1898, the Secretary of War, through General Merritt, announced the occupation of the "enemies' territory" and, among other things, stated:

"Though the powers of the military occupation are absolute and supreme and immediately operate upon the political condition of the inhabitants, the municipal laws of the conquered territory such as effect private rights of persons and property and punishment of crime are considered as continuing in force, so far as they are compatible with the new order of things, until they are suspended or superseded by the occupying belligerent. \* \* \*

"The judges and the other officials connected with the administration of justice may, if they accept the authority of the United

States, continue to administer the ordinary law of the land, as between man and man, under the supervision of the American Commander-in-Chief." (1 Official Gazette, Jan. 1, 1903, p. 1.)

To the like effect was General Orders, No. 92, issued by General MacArthur, in August, 1900, which recited:

"During the existence of the Military Government in these Islands the duty devolves upon the military authorities to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence and to punish or cause to be punished all disturbers of the public peace and criminals.

"To this end local civil tribunals, where the same have been reconstituted, may take cognizance of and try offenses within their jurisdiction, or when in their judgment it may be expedient the department commanders may cause such offenses to be brought to trial before duly constituted military commissions or provost courts." (See Official Gazette, January 1, 1903, pp. 23, 24.)

Subsequently the Civil Commission passed acts relating to these civil courts and made provision for carrying them on, appointing judges, etc.

But, in establishing and maintaining these courts, the United States Government did not give up its authority and jurisdiction to try and punish its own soldiers, during the existence of an insurrection in these Islands. Such authority was conferred by act of Congress through article of war, fifty-eighth, and it was under that article that the accused was tried.

In the case of *Colman vs. Tennessee* (97 U. S., 509) it was said that:

"The right to govern the territory of an enemy, during its military occupation, is one of the incidents of war, being a consequence of its acquisition, and the character and form of the government to be established depend entirely upon the laws of the conquering state, or the orders of its military commander. By such occupation, the political relations between the people of the hostile country and their former government or sovereign, are for the time severed; but the municipal laws, that is, the laws which regulate private rights, enforce contracts, punish crime, and regulate the transfer of property, remain in full force, so far as they affect the inhabitants of the country among themselves, unless suspended or superseded by the conqueror.

"And the tribunals by which the laws are enforced continue as before, unless thus changed. In other words, the municipal laws of the State and their administration remain in full force so far as the inhabitants of the country are concerned, unless changed by the occupying belligerent.

"This doctrine does not affect in any way the exclusive character of the jurisdiction of military tribunals over the officers and soldiers of the Army of the United States during the war; for they are not subject to the laws nor amenable to the tribunals of the hostile country."

The answer, therefore, to the argument of the prosecution in this case, that the court-martial was without jurisdiction, because of the existence of civil courts, is that an insurrection existed in these Islands when the crime was committed, in November, 1901, and when the defendant was tried by court-martial in December, 1901.

We need no proof touching the date of the beginning of this insurrection against the Government of the United States. Its existence is a fact in our domestic history which the court is bound to notice and to know.

"When the party in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against the sovereign \* \* \* the contest is war." (Prize cases, 2 Black, 635.)

This condition of affairs existed in and about Manila early in 1899. Gen. George W. Davis states in an official report that:

"During the winter of 1898-99, the city of Manila was practically in a state of siege, as far as communicating with the in-

terior was concerned; the American troops and the insurgents holding lines respectively that had been arranged and defined by the commanding general of the respective forces.

"The insurrectionists prevented communication by water with the interior, and no person could enter or leave the city save by permission of the Filipinos. \* \* \*

"On the night of February 4, 1899, an insurgent passed quite 150 yards within the American line, and refused to halt when challenged by the picket; was fired upon, whereupon the native troops opened fire generally, which was replied to by the United States forces and the truce was broken." (Official Gazette, January 1, 1903, p. 10.)

From that day the fighting continued, and the insurrection did not end officially until the President proclaimed it at an end, July 4, 1902. It is necessary to refer to a public act of the Executive Department to fix the date of the closing of the war. (*Freeborn vs. The Proctor*, 79 U. S., 700.)

If it be alleged that, notwithstanding the insurrection, there were no actual hostilities in Nueva Ecija at the times above mentioned, the answer is that the condition of hostility remained impressed on the whole island until it was removed by the proclamation of the President. (*McClelland's case*, 10 Ct. Cls., 68; *Philippis vs. Hatch*, 1 Dill. 571.)

"We must be governed by the principle of public law, applicable alike to civil and international wars, that all the people of each state or district in insurrection against the United States must be regarded as enemies, until by the action of the legislature and the executive or otherwise, that relation is thoroughly and permanently changed." (U. S. *vs. Alexander*, 2 Wallace, 404.)

The conclusion follows then that the court-martial had jurisdiction of the person of the defendant and of the charge of murder that was made against him; that his trial took place before the court upon such charge; that he plead "not guilty"; and that upon the evidence he was found guilty of manslaughter; was sentenced to imprisonment; that the finding and sentence of the court was duly approved, and that he was imprisoned and remained in prison until the sentence was remitted by military authority.

Such a judgment rests on the same basis and is surrounded by the same considerations which give conclusiveness to the judgments of other legal tribunals, including as well the lowest as the highest under like circumstances. (*Ex parte Reed*, 100 U. S., 13.)

The defendant, therefore, was put in jeopardy by his military trial and was punished. He was again put in jeopardy by his second trial for the same offense and was sentenced to a term of imprisonment, thus subjecting him to a second penalty. This is contrary to law. The judgment of conviction is therefore reversed and the defendant is acquitted.

Cooper, Willard, and Johnson, JJ., concur.

#### TORRES, J., concurring:

In this case, which comes from the court of Nueva Ecija, the prosecution is for the crime of homicide committed by a soldier on an inhabitant of the town of Bongabong, Province of Nueva Ecija.

In November, 1901, a criminal case was commenced for the investigation of the crime by a court-martial, which convicted the defendant, Melencio Tubig, of the offense and sentenced him to one year of imprisonment at hard labor and to dishonorable dismissal from the Army.

This judgment appears to have been affirmed by the superior authorities, for the defendant, after conviction, commenced to serve his time in the prison of San Isidro, the capital of the province.

The record having been sent to the Attorney-General of the United States at Washington, this officer referred it to the com-

manding general of the Second Brigade, with an opinion in which he stated that the court-martial which tried the case had violated the law from which it derived jurisdiction, and that its judgment was illegal and unenforceable because it was not in accord with the Penal Code in force, and as it was impossible to reconvene the court-martial, because the Twenty-second United States Infantry had returned to the United States, that the defendant should be released, which was accordingly done.

Notwithstanding this, in February, 1902, an information was filed by the provincial fiscal charging Melencio Tubig with the crime of murder. On this charge he was tried, notwithstanding the fact that the counsel for the defense set up a plea of jeopardy, and judgment was rendered on November 24 of the same year by which the accused was convicted of the crime of homicide and sentenced to twelve years and one day imprisonment at hard labor in Bilibid Prison.

If the decision rendered by the court-martial imposing upon the accused, Tubig, the penalty of one year's imprisonment for the crime of homicide became final and continued to be final notwithstanding the opinion of the Attorney-General of the United States, then a prosecution for the same offense could not be legally instituted in the court of Nueva Ecija. This is especially true because in March of that year a question of jurisdiction was raised by a military officer, as appears from an official letter of the provincial fiscal addressed to the Attorney-General.

If the judgment was reversed or annulled for the reason stated by the Attorney-General of the United States at Washington, that did not authorize the judge of First Instance of Nueva Ecija to try the defendant for the crime of homicide upon which he had already been tried by a court-martial.

That the defendant was discharged, because after the annulment of the judgment by which he was sentenced to a year's imprisonment it was found impossible to reconvene the court-martial by reason of the absence of the officers who had constituted it, or because it was found proper to liberate him by reason of his having been pardoned, is a fact which could by no means justify the prosecution of this case in the said court for the same crime which had already been a subject of prosecution by the military authorities.

It is not necessary to discuss at the present time whether the court-martial had jurisdiction or not to try Melencio Tubig, because the military prosecution has been terminated by the final judgment, and the Attorney-General at Washington did not hold that the trial was illegal, but only that the judgment was, because not in conformity with the Penal Code in force in this territory.

Furthermore, it is a general rule of criminal procedure that when a court trying a case is without jurisdiction such court should be requested to inhibit itself, and a plea to the jurisdiction should be presented, thus raising the issue. But it is improper to commence another prosecution for the same offense upon which the accused is being tried by the court without jurisdiction, because nobody may be tried twice or upon the same criminal act.

Finally it is to be observed that questions as to jurisdiction can only be raised with respect to pending cases and not with respect to crimes upon which a trial has already been had.

For the reasons stated I am of the opinion that the proceedings below in this case should be set aside with the costs *de oficio*, and that the defendant should be immediately discharged.

Arellano, C. J., dissents.

Mapa, J., did not vote.

*Defendant acquitted.*

[No. 1431. January 27, 1904.]

THE UNITED STATES, complainant and appellee, vs. SIMON PUNSAALAN, defendant and appellant.

CRIMINAL LAW: MURDER; ALEVOSSIA; EVIDENT PREMEDITATION.—The accused and the deceased were respectively plaintiff and defendant



In a civil case in the court of a justice of the peace. After the testimony was taken the justice invited the deceased into an adjoining room. As he arose to accept the invitation the accused, without warning, made an attack upon him with a knife and killed him on the spot. The deceased was unarmed. Held, that the facts constitute murder with the qualifying circumstance of *alevosia*, but do not disclose the circumstance of evident premeditation or the commission of the offense in a place where the public authorities were exercising their functions.

APPEAL from a judgment of the Court of First Instance of Pampanga.

The facts are stated in the opinion of the court.

CARLOS LEDESMA, for appellant.

Solicitor-GENERAL ARANETA, for appellee.

PALMA, GERONA & MERCADO, for private prosecutor.

JOHNSON, J.:

The defendant in this cause was charged with the crime of murder. The proof showed that on or about the 9th day of May, 1903, a civil case was tried, in which the accused was plaintiff and Don Francisco P. Tizon was defendant, before a justice of the peace of the pueblo of Candaba, in the Province of Pampanga, P. I. After the testimony in said cause had been taken the witnesses were recalled in the office of the justice of the peace for the purpose of signing their respective statements. The plaintiff and the defendant in the said cause were then and there present. While one of the witnesses was in the act of signing the statement which he had made in the trial Don Francisco P. Tizon was invited by the justice of the peace to accompany him into an adjoining room. At this instant, and immediately after Don Francisco P. Tizon had arisen from his seat to accompany the said justice of the peace into the adjoining room, the said defendant arose and with a knife in his hand followed Mr. Tizon and at once began to stab him in the back and elsewhere in his body. Some fifteen wounds, more or less serious, were found upon the body of Mr. Tizon after his death, all of which were then and there inflicted by the said accused. The said Mr. Tizon died in the act. It is not disputed that he died from the effect of the wounds inflicted by the accused. This proof or the proof of the foregoing statements of fact was supported by various witnesses. There is no proof tending to show what caused the accused to attack the deceased in the manner described. The evidence showed that the deceased was not armed in any way, that the accused was armed with a penknife, and that the wounds were inflicted by the penknife.

The defendant was tried in the Court of First Instance of the Province of Pampanga and was found guilty of the crime of murder and sentenced with the penalty of *cadena perpetua*, with the accessories provided for in article 54 of the same Code, and to indemnify the heirs of the deceased in the amount of 2,000 pesos, in case of insolvency to suffer subsidiary imprisonment, and to pay the costs of the said suit.

The court below found as a qualification of the crime *alevosia*. This finding is clearly substantiated by the proof given in said cause. The court also found as aggravating circumstances premeditation and the fact that the crime was committed in the place where the public authorities were found exercising their functions.

There is no proof that the party acted with premeditation. This court has found that the crime was not committed in the place where the public authorities were found exercising their functions. Therefore this court finds that neither of the two said aggravating circumstances exist. The proof does not show any attenuating circumstances. Therefore we have the crime of murder with its qualifying circumstance of *alevosia*, without either aggravating or attenuating circumstances, and by virtue of the provisions of article 81 of the Spanish Penal Code the medium degree must be imposed.

The sentence of the lower court is hereby modified and the said accused, Simon Punsalan, is hereby sentenced to the penalty of *cadena perpetua*, with those accessories mentioned in subsections 2 and 3 of article 54 of the Penal Code, and to indemnify the heirs of the deceased in the sum of 2,000 pesos, and in case of insolvency to suffer subsidiary imprisonment, and to pay the costs of both instances.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, concur.

Judgment modified.

[No. 1391. January 30, 1904.]

THE UNITED STATES, complainant and appellant, vs. LEON-CIO PAPA, defendant and appellee.

CRIMINAL LAW; BRIGANDAGE.—Proof that the defendant was a member of an armed band which made attacks on a town in order to rob the Constabulary of their arms and supplies and to rob the treasury is sufficient to justify a conviction of the crime of brigandage.

APPEAL from an order of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

LUCAS GONZALEZ, for appellee.

JOHNSON, J.:

The defendant was charged with the crime of *bandolerismo* and was tried in the Court of First Instance of the Province of Rizal on the 16th of June, 1903. That court dismissed the said defendant under the charges of *bandolerismo* and directed the fiscal to present a complaint against him for the crime of insurrection. From this sentence the fiscal of the Province of Rizal appealed to this court.

The evidence showed that the town of Pasig, the capital of the Province of Rizal, was attacked on the night of the 24th of December, 1902, at about midnight by a band of armed men consisting of from 100 to 400 men. At the time of the attack a great number of shots were fired by the attacking band. The attack was repulsed by the members of the Constabulary then in the town of Pasig. During the attack two or more of the Constabulary were killed and one wounded; also some of the attacking party were killed. The evidence shows that the defendant with five others sequestered Juan Dominguez, Gervasio Luna, and Victorino Angeles on the night of the attack, and that the defendant, as well as the other five, were armed at the time they sequestered the said persons. The evidence shows that the band was under the command of Faustino Guillermo; it further shows that the object of the band was to rob personal property and that the particular purpose or object of attacking the pueblo of Pasig at that time was to rob the Constabulary of their arms and supplies as well as to rob the provincial treasury. The attack was repulsed before the said band was able to reach the quarters of the Constabulary or the office of the provincial treasury. Members of the said band did enter the house of one Paterno in the barrio of Rosado on the night of the attack and carried away some money.

Victorino Angeles testified that he was captured on the night of the said attack by a member of the band, one of whom being the accused. That he saw Faustino Guillermo on that night and that he was the leader of the band and in command of the same at that time. That the band killed Maximo Colayo, a policeman, and after killing him took his gun. That Maximo Colayo was a policeman on watch in the barrio of Rosado, pueblo of Pasig, on that night.

The testimony of Gervasio Luna showed that he was a member of the Constabulary; that he was present in the town of Pasig on the night of the said attack and that on the same night he saw the defendant and recognized him, and that the defendant was then and there armed. That he knew Faustino Guillermo and saw him

on the said night in one of the barrios of Pasig. He further stated that in his judgment there were 400 armed men in the band and that the object of the band was to rob, and that on the night of the said attack members of the said band did enter the house of one Paterno and did then and there take and carry away money from said house, and that the said accused was one of the parties who entered the house of Paterno. That he was also sequestered on this night and was taken with the band.

Herbert B. Harpold testified that he was a member of the Constabulary; that he knew the accused; that the accused admitted to him voluntarily that he was a first lieutenant under General San Miguel, and that his commission was signed by General San Miguel.

The defendant attempted to prove an alibi and swore that on the night of the attack he was in the house of one Pio all night. Pio was called as a witness and stated that the defendant was at his house on the evening of the night of the attack between 7 and 8 o'clock, and that his house was about two hours' walk from the town of Pasig.

The evidence showed that the said attack took place at about midnight on the night of the 24th of December, 1902.

The evidence adduced at the trial justifies the following conclusion:

(1) That an armed band composed of from 100 to 400 men existed in the Province of Rizal on or about the 24th of December, 1902.

(2) That the said band was under the command and leadership of one Faustino Guillermo and General San Miguel.

(3) That said band was organized for the purpose of the robbery of carabaoes and other personal property.

(4) That said band did go out upon the highways of the said province and did commit robbery of personal property.

(5) That the accused in this cause was a member of said band and went with it in its raids of robbery.

And therefore the judgment of the Court of First Instance of the Province of Rizal in this cause dismissing the said defendant is hereby revoked and the said defendant is hereby sentenced to be imprisoned for the term of twenty years and to pay the costs of this suit.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, J.J., concur.

*Judgment reversed.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### TARIFF DECISION CIRCULAR.

No. 369.—*Hand pumps of wrought iron.*

MANILA, February 3, 1904.

#### To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2135, filed May 15, 1903, by Hilario Sunico y Hermanos, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the Port of Manila, as to the rate and amount of duty chargeable on certain merchandise declared in Entry No. 6205, Voucher No. 15480, paid May 9, 1903.

"The claim in this case is against the classification of certain hand pumps of wrought iron as 'other machinery,' under paragraph 257 (b), of the Tariff Revision Law of 1901, at \$1 per 100 kilos, or 20 per cent ad valorem, the latter rate prevailing, instead of as 'steam pumps,' under paragraph 243, at \$1.50 per 100 kilos, as entered.

"The pumps in question are not to be operated by steam, but by hand, and hence are not to be classified under paragraph 243,

unless it may be by assimilation, that being the only paragraph of the tariff under which pumps of any kind are enumerated.

"According to the well-known canon of interpretation all parts of a law are to be read together. Paragraphs 243 and 257 being read together, it will be noted that the first enumerates certain machinery and the second covers 'all other machinery.' In other words, machinery not mentioned in paragraph 243 (or some other paragraph) is not the less expressly provided for in paragraph 257 on account of the general terms there employed.

"In this connection two decisions of the Court of Customs Appeals require examination. Of these, the first is in re sawmill machinery and was published in Tariff Decision Circular No. 187. In that case the court went to considerable length to show the similitude between sawmill machinery and the other machinery enumerated in paragraph 245. The actual decision, however, was only that the sawmill machinery was dutiable under paragraph 245. All that was necessary to such a decision was to find that such machinery was there enumerated and such was the precise finding of the court, based upon the proposition that a tree was a vegetable product of the Islands and that a sawmill was machinery for the purpose of preparing trees for the market. Sawmill machinery being enumerated under paragraph 245, it was not necessary to the decision to assimilate it into a classification which it already had; hence the remarks of the court along this line are dicta and advisory only. In fact, the court uses the following significant language: 'But these rules of construction and assimilation should not be resorted to except in cases where it is clear that the article in question has not been definitely provided for in the tariff. They are to be resorted to in the absence of an enumeration, and not for the purpose of setting aside an enumeration; that it would be a safer rule to hold in the present case that sawmills, if not included in paragraph 245, are included in paragraph 257 among 'other machinery and detached parts not otherwise provided for.' This case is therefore not opposed to the rule in the present case.

"There yet remains one decision of the Court of Customs Appeals that is really not in harmony with the principles here laid down. That is the decision published in Tariff Decision Circular No. 326, in re stationary steam engines. This case was peculiar in that paragraph 243 is an adoption from the Cuban tariff. Now the clause in the Cuban tariff includes steam engines by name, but this enumeration was in some manner omitted from the Philippine tariff when enacted; doubtless the result of a mere typographical or clerical error. The decision was therefore special and the case should not be extended beyond the actual point then before the court for decision.

"It is therefore held that the hand pumps can not be assimilated to steam pumps.

"It is also found that this protest was not filed within the time allowed by law, and is therefore void.

"Protest numbered 2135, on the grounds above mentioned, is overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 287.—*Opening the port of Barugo, Leyte, to the coastwise trade.*

MANILA, February 24, 1904.

By authority of the Civil Governor of the Philippine Islands the port of Barugo, Island of Leyte, is hereby declared open to the coastwise trade.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 288.—Closing the ports of Agutaya, Island of Agutaya, and Bulalacao, Island of Mindoro, to the coastwise trade.

MANILA, February 24, 1904.

By authority of the Civil Governor of the Philippine Islands the ports of Agutaya, Island of Agutaya, and Bulalacao, Island of Mindoro, are hereby closed to the coastwise trade.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

### Contents.

#### Public laws:

- No. 1054, amending section 11 of Act No. 619, entitled "An Act to promote good order and discipline in the Philippines Constabulary."  
 No. 1055, regulating accountability for all receipts which may be derived from concession granted in connection with the Philippine exhibit at the Louisiana Purchase Exposition at St. Louis, Mo., and creating the office of cashier for the Philippine exhibit, and for other purposes.  
 No. 1056, providing for a court vacation and leave of absence of the Judges of the Courts of Land Registration and of Customs Appeals.  
 No. 1057, amending Act No. 919, entitled "An Act providing for a loan of \$7,500, United States currency, to the Province of Nueva Ecija for the construction of buildings for a school of secondary instruction and dormitories at San Isidro."  
 No. 1058, for the relief of George C. Taubee, second lieutenant, Philippines Constabulary.  
 No. 1059, appropriating the sum of \$200,000, Philippine currency, for the purchase of supplies for the insular Purchasing Agent, and for other purposes.  
 No. 1060, consolidating the offices of provincial treasurer and provincial supervisor and authorizing the provincial governor to perform the duties of the provincial secretary of the Province of Masbate.

#### Public laws—Continued.

- No. 1061, postponing the date of payment of the loans of \$2,500 each, money of the United States, made to the Provinces of Antique and Cavite, under the provisions of Act No. 134, as amended by Act No. 594, to December 31, 1904.  
 No. 1062, authorizing the appointment of a justice of peace and auxiliary justice of peace for the Island of Basilan.  
 No. 1063, fixing the territory over which the justice of peace for municipality of Jolo shall have jurisdiction.  
 No. 1064, amending Act No. 90, by providing an Acting Deputy Auditor in the absence of the Deputy Auditor for the Philippine Islands.  
 No. 1065, amending Act No. 898 so as to close Cape Melville, Balabac Island, as a port of entry and creating Balabac, Island of Balabac, as a port of entry, and providing for the necessary office force at the port of Balabac.  
 No. 1066, exempting small vessels from the requirements of Act No. 708.  
 No. 1067, amending Act No. 916, entitled "An Act reorganizing the Mining Bureau and prescribing the functions thereof."  
 No. 1068, amending Act No. 960, entitled "An Act reducing the 43 municipalities of the Province of Samar to 25," by correcting an error in paragraph 4 of section 1 thereof.  
 No. 1069, authorizing the provincial board of the Province of Bulacan to divert from the provincial road and bridge fund to the general provincial fund, for use in the construction of a provincial building, the sum of \$10,000, Philippine pesos.  
 No. 1070, extending the time for the payment of the land tax in the Province of Mindoro for the year 1903 until June 30, 1904, and providing for the refund of penalties already paid.  
 No. 1071, extending the time for the payment of the land tax in the municipalities of Tabaco, Tiwi, and Malinao, of the Province of Albay, for the year 1903 until April 1, 1904, and providing for the refund of penalties already paid.
- Decisions of the Supreme Court:  
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 The United States vs. Leoncio Papa.
- Bureau of Customs and Immigration:  
 Tariff Decision Circular—  
 No. 369, hand pumps of wrought iron.  
 Customs Administrative Circulars—  
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MANILA, P. I., MARCH 16, 1904.

No. 11

## PUBLIC LAWS.

[No. 1072.]

AN ACT AMENDING ACT NUMBERED FIVE, ENTITLED "AN ACT FOR THE ESTABLISHMENT AND MAINTENANCE OF AN EFFICIENT AND HONEST CIVIL SERVICE IN THE PHILIPPINE ISLANDS," AS AMENDED BY ACTS NUMBERED FORTY-SEVEN, ONE HUNDRED AND TWO, ONE HUNDRED AND SIXTY-SEVEN, THREE HUNDRED AND SIX, AND FIVE HUNDRED AND EIGHTY-NINE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered Five is hereby stricken out and the following substituted in lieu thereof:

"SECTION 1. The Civil Governor, by and with the advice and consent of the Philippine Commission, shall appoint three persons to be members of a board to be called the Philippine Civil Service Board. The Civil Governor shall designate one of these appointees as chairman."

Sec. 2. Section three of Act Numbered Five, as amended by Act Numbered One hundred and two, is hereby stricken out and the following substituted in lieu thereof:

"SEC. 3. (a) The Board shall keep an official roster of all officers and employees above the grade of unskilled laborer in the civil service of the Philippine Islands, and for the purpose of this roster each head of a Bureau or Office shall furnish to the Board the necessary information, in such form and manner as it shall prescribe. The roster shall be published at intervals to be fixed by the Civil Governor.

"(b) All heads of Bureaus or Offices shall cause to be kept an accurate record of the attendance of all officers and employees under them who are entitled to leave of absence provided by law, and shall report to the Board, in the form and manner prescribed by it, all absences from duty from any cause whatever. The Board shall keep an accurate record of such absences."

SEC. 3. Section five of Act Numbered Five, as amended by Acts Numbered One hundred and sixty-seven, Three hundred and six, and Five hundred and eighty-nine, is hereby amended to read as follows:

"SEC. 5. This Act shall apply, except as hereinafter expressly provided, to all appointments of civilians in the Bureaus and Offices of the Government of the Philippine Islands, insular or provincial, or of the city of Manila: *Provided*, That persons appointed by the Civil Governor, by and with the advice and consent of the Philippine Commission, shall not be included in the classified service unless otherwise specifically provided by law."

SEC. 4. Paragraph (p) of section six of Act Numbered Five is hereby amended to read as follows:

"(p) For the employment of clerks and other employees for temporary service in the absence of available eligibles or when the work is temporary in character: *Provided*, That the temporary

employment of any person occupying a permanent position shall cease when the Board shall certify an eligible who accepts temporary or probational appointment."

SEC. 5. Section seven of Act Numbered Five is hereby amended by striking out the word "January" and the words "which it has adopted," and substituting respectively in lieu thereof the word "July" and the words "which have been certified by the Board and approved by the Civil Governor."

SEC. 6. Section twelve of Act Numbered Five is hereby amended to read as follows:

"SEC. 12. No person shall be appointed to or employed in the classified civil service of the Philippine Islands or in any of the unclassified positions enumerated in section twenty, except as provided by an appropriation act or a resolution of the Philippine Commission pledging an appropriation or by a resolution of a provincial board approved by the Insular Treasurer, passed prior to such appointment or employment. Any person appointed to or employed in the classified service by the head or acting head of a Bureau or Office in violation of the provisions of the Civil Service Act or Rules shall not be entitled to receive salary or wages from the Government, but the head or acting head of the Bureau or Office who signs or makes such appointment or employment shall be personally responsible to him for the salary which would have accrued to him had the appointment or employment been made in accordance with the provisions of the Civil Service Act and Rules, and payment shall be made to him out of the salary of the head or acting head of the Bureau or Office by the disbursing officer. No disbursing officer shall pay any salary or wages to any person appointed to or employed in a classified civil-service position, except from the salary of the head or acting head of the Bureau or Office as hereinbefore provided, until proper evidence is furnished him by the head or acting head of the Bureau or Office that the person has been appointed or employed in accordance with the provisions of the Civil Service Act and Rules. When the Board shall find that any person is holding a position in the classified civil service in violation of the provisions of the Civil Service Act or Rules, it shall certify information of the fact to the Auditor and to the disbursing officer through whom the payment of salary or wages to such person is by law required to be made. If the Auditor shall find that a disbursing officer has paid or permitted to be paid salary or wages to any person illegally holding a classified position, the whole amount paid shall be disallowed and the disbursing officer shall not receive credit for the same. If the Auditor shall find that the head or acting head of a Bureau or Office is responsible, as above provided, for the payment of salary or wages to such person and that such payment is not due to the failure of the disbursing officer to obtain proper evidence as herein required, the disbursing officer shall be directed to withhold from the salary of such head or acting head of the Bureau or Office an amount equal to that disallowed by the Auditor. A disbursing officer, the head of any Department, Bureau, or Office, or the Auditor may apply for and the Civil Service Board shall render a decision upon any question as to whether a position is in the classified or the unclassified civil

service, or whether the appointment of any person to a classified position has been made in accordance with the Civil Service Act and Rules, which decision, when rendered, shall be sufficient authority for the Auditor in passing upon the account.

Sec. 7. Section thirteen of Act Numbered Five, as amended by Act Numbered Five hundred and eighty-nine, is hereby amended by striking out the words "in the Philippine civil service," and by inserting after the word "corruptly" and before the word "furnish" the words "use or," and by striking out the words "of any" after the word "chances" and before the word "person" and substituting in lieu thereof the words "of himself or any other."

Sec. 8. Section twenty of Act Numbered Five, as amended by Acts Numbered One hundred and sixty-seven, Three hundred and six, and Five hundred and eighty-nine, is hereby amended to read as follows:

"Sec. 20. The requirements of this Act for entrance into the civil service, or for promotion by examination, shall not apply to the selection of the following officers and employees:

"1. One private secretary to each member of the Philippine Commission, including the Civil Governor.

"2. Any person in the military or naval service of the United States who may be detailed for the performance of civil duties.

"3. Persons employed as semiskilled or unskilled laborers whose rate of compensation is less than three hundred and sixty dollars per annum.

"4. All employees whose rate of compensation is one hundred and twenty dollars or less per annum.

"5. Postmasters and customs inspectors whose rates of compensation do not exceed three hundred and one hundred and eighty dollars per annum, respectively, who may lawfully perform the duties of postmaster or customs inspector in connection with the other official duties with which they are charged, if they be Government employees, or if not Government employees, in connection with their private business, such duties requiring only a portion of their time.

"6. Detectives, secret agents, sheriffs, and deputy sheriffs.

"7. Any position in the Department of Commerce and Police the duties of which are of a quasi-military or quasi-naval character.

"8. Chinese and Japanese employees."

Sec. 9. Section twenty-one of Act Numbered Five, as amended by Acts Numbered One hundred and sixty-seven, Three hundred and six, and Five hundred and eighty-nine, is hereby amended to read as follows:

"Sec. 21. Vacancies in the position of heads and of assistant heads of Bureaus or Offices and of superintendents shall be filled by promotion, without examination, of persons in the classified service, if competent persons are found in the service who in the judgment of the appointing power are available and possess the qualifications required, the intention of this provision being that the appointing power may, by virtue hereof, select for appointment from the entire classified service the person deemed most competent to fill the vacancy: *Provided, however,* That an examination may be given when requested by the Civil Governor or proper head of an Executive Department."

Sec. 10. Section twenty-three of Act Numbered Five, as amended by Act Numbered Five hundred and eighty-nine, is hereby amended to read as follows:

"Sec. 23. The position of teacher in the insular service and in the municipal service of Manila is hereby classified and made subject to all the provisions of the Civil Service Act and Rules, and all teachers now serving under regular appointment in the insular service or in the municipal service of Manila are hereby declared to be in the classified service."

Sec. 11. Section thirty of Act Numbered Five, as provided in Act Numbered Forty-seven, and all other Acts or parts of Acts inconsistent with this Act are hereby repealed.

Sec. 12. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance

with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 13. This Act shall take effect on its passage.

Enacted, March 3, 1904.

[No. 1073.]

AN ACT APPROPRIATING THE SUM OF ONE HUNDRED AND TWENTY-SIX THOUSAND EIGHT HUNDRED DOLLARS, IN MONEY OF THE UNITED STATES, FROM THE CONGRESSIONAL RELIEF FUND, FOR THE CONSTRUCTION AND REPAIR OF ROADS AND BRIDGES IN THE PROVINCES OF LA LAGUNA AND TAYABAS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of one hundred and twenty-six thousand eight hundred dollars, in money of the United States, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Insular Treasury not otherwise appropriated, the same to be charged to the Congressional relief fund, for the purpose of constructing and repairing the following roads and bridges in the Provinces of La Laguna and Tayabas:

(a) For the road from the lake shore near Bay, La Laguna, to Tiaogun, Tayabas, seventy-two thousand three hundred dollars.

(b) For the road joining Magdalena with the Santa Cruz-Pagsanjan road, La Laguna, thirty-five thousand dollars.

(c) For the road from Lucena to Sariaya, and for the construction of a bridge at Sariaya and at Candelaria, Tayabas, nineteen thousand five hundred dollars.

Sec. 2. The provisions and conditions provided in sections two to six, inclusive, of Act Numbered Nine hundred and twenty are hereby made applicable to the appropriation made in section one of this Act.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, March 3, 1904.

[No. 1074.]

AN ACT APPROPRIATING SEVENTEEN THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, OR SO MUCH THEREOF AS MAY BE NECESSARY, FROM THE CONGRESSIONAL RELIEF FUND, FOR THE CONSTRUCTION AND REPAIR OF A WAGON ROAD FROM CALAMBA TO BAY BY WAY OF LOS BANOS, IN THE PROVINCE OF LA LAGUNA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of seventeen thousand dollars, in money of the United States, or so much thereof as may be necessary, is hereby appropriated, out of so much of the three-million-dollar Congressional relief fund as remains unappropriated in the Insular Treasury, for the purpose of constructing and repairing the Calamba-Los Baños-Bay wagon road, in the Province of La Laguna.

Sec. 2. The sum hereby appropriated, or so much thereof as may be necessary, shall be disbursed by the officer of the United States Army hereinafter designated as superintendent, or by a duly bonded official of the Government, to be designated by the Civil Governor. The disbursing officer shall pay all bills for labor and material upon the presentation of proper vouchers.

Sec. 3. The Civil Governor may direct the payment, either in money or in rice, of such parts of the expenses incurred for labor

and material as in his discretion he may deem for the best interests of the inhabitants.

SEC. 4. The road herein provided for shall be constructed in accordance with the general instructions issued by the Consulting Engineer to the Commission, the Chief Quartermaster, Department of Luzon, to have general supervision of the road construction. An officer of the United States Army shall be appointed by the military authorities as superintendent. He shall have immediate charge of the work of construction; he shall appoint his civilian assistants and determine their positions, subject to the approval of the Chief Quartermaster, Department of Luzon; he shall make in duplicate detailed monthly reports of the progress of the work, including a statement of expenditures made during the preceding month, and the purposes therefor, to the Chief Quartermaster, Department of Luzon, who shall forward the same to the Civil Governor.

SEC. 5. The employees provided for in section four of this Act shall not necessarily be subject to the provisions of the Civil Service Act and Acts amendatory thereof, but employees belonging to the classified service may be temporarily transferred to the work without losing their status in the classified service.

SEC. 6. The officer having immediate charge of the work herein provided for shall purchase the necessary tools, supplies, and material, with the approval of the Chief Quartermaster, Department of Luzon. He shall make purchases by contract, in the open market, through the Insular Purchasing Agent, or otherwise when, in his opinion, such purchases are necessary for the economical and speedy prosecution of the work. Upon the completion of the road construction herein provided for the tools and supplies remaining on hand, purchased under this Act, shall be turned over to the Consulting Engineer to the Commission.

SEC. 7. The road constructed under this Act shall thereafter be kept in repair by the provincial supervisor of the Province of La Laguna, under the supervision and direction of the Consulting Engineer to the Commission, and the cost of such repairs shall be paid out of the treasury of the province.

SEC. 8. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 9. This Act shall take effect on its passage.

Enacted, March 3, 1904.

[No. 1075.]

AN ACT PROVIDING FOR A LOAN OF FOUR THOUSAND PESOS, PHILIPPINE CURRENCY, OUT OF THE CONGRESSIONAL RELIEF FUND, TO THE PROVINCE OF RIZAL.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury belonging to the Congressional relief fund not otherwise appropriated, the sum of four thousand pesos, Philippine currency, to be loaned to the Province of Rizal and to be expended by the provincial board of that province for improving the road connecting the municipalities of Taytay and Antipolo in said province.

SEC. 2. The money hereby appropriated shall be paid to the provincial treasurer of Rizal upon the production by him to the Treasurer of the Philippine Islands of a certified copy of a resolution of the provincial board of Rizal accepting such loan and agreeing to repay the same without interest on or before one year from the date of its acceptance. Upon the repayment of said amount the same shall be credited to the Congressional relief fund.

SEC. 3. The public good requiring the speedy enactment of this

bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, March 3, 1904.

[No. 1076.]

AN ACT PROVIDING FOR A LOAN OF TWENTY THOUSAND PESOS, PHILIPPINE CURRENCY, TO THE PROVINCE OF ILOCOS SUR, EIGHT THOUSAND PESOS TO THE PROVINCE OF ROMBLON, AND SIX THOUSAND PESOS TO THE PROVINCE OF ABRA, FROM THE CONGRESSIONAL RELIEF FUND, FOR USE IN THE CONSTRUCTION IN SAID PROVINCES OF PUBLIC SCHOOLS OF SECONDARY INSTRUCTION.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, from any funds of the Congressional relief fund not otherwise appropriated, the following sums, in Philippine currency, to be loaned to the provinces hereinafter designated, for expenditure under the direction of the respective provincial boards, in the construction of the necessary building or buildings for a secondary school of public instruction in such locality in each of the said provinces as may be selected by the provincial board and approved by the General Superintendent of Education, and for no other purpose:

(a) To the Province of Ilocos Sur, twenty thousand pesos, to be repaid to the Insular Treasury as follows: Five thousand pesos, Philippine currency, within one year from the date of the acceptance of the loan and five thousand pesos each year thereafter until the full amount of the loan has been satisfied.

(b) To the Province of Romblon, eight thousand pesos, to be repaid to the Insular Treasury as follows: Two thousand pesos within one year from the date of the acceptance of the loan and three thousand pesos each year thereafter until the full amount of the loan has been satisfied.

(c) To the Province of Abra, six thousand pesos, to be repaid to the Insular Treasury as follows: One thousand two hundred pesos within one year from the date of the acceptance of the loan and one thousand two hundred pesos each year thereafter until the full amount of the loan has been satisfied.

SEC. 2. The money appropriated by section one of this Act for loans to each of the provinces therein designated shall be paid by the Insular Treasurer to the treasurer of each province concerned on the presentation to the Insular Treasurer of a certified copy of a resolution of the provincial board of such province accepting the loan and agreeing to repay the same, without interest, in accordance with the provisions of said section one. The moneys so loaned shall, when repaid to the Insular Treasury, be returned to the fund from which appropriated.

SEC. 3. The plans and specifications for the construction of the buildings provided for by this Act shall be prepared by the Chief of the Bureau of Architecture and Construction of Public Buildings, and the buildings when constructed, together with the tracts of land upon which the same are situated, and the schools when established, shall be under the supervisory control of the Department of Public Instruction.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, March 5, 1904.

## EXECUTIVE ORDER.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, March 7, 1904.

EXECUTIVE ORDER }  
No. 12.

The following-named persons having received a majority of the votes cast in the elections for provincial governor, held in the provinces designated, on February first, nineteen hundred and four, and any irregularities which may have occurred in such elections not being deemed of sufficient importance to set aside the proceedings of the convention, called under the provisions of section four, Act Numbered Eighty-three, Philippine Commission, as amended by Act Numbered Three hundred and thirty-six, their elections are hereby confirmed. The persons concerned will qualify and assume their respective offices in accordance with the provisions of the above-mentioned Act of the Philippine Commission.

Name.	Province.
Blas Villamor.....	Abra.
Ramon Santos.....	Albay.
Tomás G. del Rosario.....	Bataan.
Gregorio Aguilera.....	Batangas.
Salustiano Borja.....	Bohol.
Pablo Tecson.....	Bulacan.
Juan Climaco.....	Cebu.
Mena Crisólogo.....	Ilocos Sur.
Raymundo Melliza.....	Iloilo.
Juan Caillé.....	La Laguna.
Joaquin Luna.....	La Union.
Joaquin Ma. Bayot y Zurbito.....	Masbate.
Manuel Corrales.....	Misamis.
Antonio Jayme.....	Negros Occidental.
Demetrio Larena.....	Negros Oriental.
Epifanio de los Santos.....	Nueva Ecija.
Macario Arnedo.....	Pampanga.
Arturo Dancel.....	Rizal.
Francisco Sanz.....	Romblon.
Eduardo Feito.....	Samar.
Daniel Toribio Sison.....	Surigao.
Alfonso Ramos.....	Tarlac.
Ricardo París.....	Tayabas.
Potenciano Lesaca.....	Zambales.

LUKE E. WRIGHT,  
Civil Governor.

## DECISIONS OF THE SUPREME COURT.

[No. 1354. January 30, 1904.]

THE UNITED STATES, complainant and appellee, vs. SIMON DE PADUA, defendant and appellant.

CRIMINAL LAW: BRIGANDAGE.—The defendant, local president of an organized municipality, knowing of the existence of a band of brigands in the vicinity of the town, supplied the band with provisions and gave them information concerning the movements of the Constabulary forces. *Held*, that the facts constitute a violation of the provisions of section 4 of Act No. 518.

APPEAL from a judgment of the Court of First Instance of Samar.

The facts are stated in the opinion of the court.

DEL PAN and ORTIGAS, for appellant.  
Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The complaint in the above-entitled cause states that the defendant, together with Pedro de la Cruz and one called Bernardino and others, did illegally conspire together to form a band of rob-

bers for the purpose of stealing carabao and other personal property, by means of force and violence, and went out upon the highway armed with deadly weapons for that purpose; that the said accused, in the month of November, 1902, knowing the existence of said band and its unlawful purposes, did aid said unlawful band by giving them information of the movements of the Constabulary and by giving them supplies of food and, as well, other supplies. The defendant was president of the pueblo of Tarangnan.

The evidence adduced during the trial clearly proved the existence of the band such as was described in the complaint, which was composed of from 300 to 400 armed men; that this band was under the command of Pedro de la Cruz; that the band had been organized in the month of August, 1902; that frequent robberies occurred in the pueblo of Tarangnan committed by this band, of which the accused had notice.

Notwithstanding the frequent robberies committed by this band in and about the pueblo of Tarangnan, of which the accused was the president, he repeatedly reported to both the governor of the Province of Samar and the chief of the Constabulary of that province that everything was peace and quiet in his pueblo. It was also shown that different members of this band frequently visited in the house with the accused, which shows to some extent that he was on friendly relations with them.

It was also proven that at times he gave orders, as president of the pueblo of Tarangnan, to the concimulen of the barrios of his pueblo, to notify him if members of this band should be seen in the pueblo, in order that some action, supposedly, might be taken against them. These orders showed that the accused had (1) knowledge of the existence of the so-called band and (2) of its unlawful purposes.

It was also shown and not disputed that the accused as such president did, on one occasion, send his vice-president to the camp of this unlawful band for the purpose of selling to them personal articles, thus attempting to place in their hands certificates of respectability, and which to some extent made their existence as a band more difficult to establish.

The proof further shows that on or about the 20th day of December, 1902, the accused delivered to Pedro de la Cruz, at his camp situated at the place called Bunayon, a certain amount of rice and fish for the use of himself and soldiers under his command. The proof further shows that on the same day the accused gave to the leaders of the band notice of the fact that the Constabulary had planned an attack on the band that same night. The attack did take place. The proof shows that the band was prepared with extra guards, etc.

Under the law, he who knowingly aids a band of brigands by furnishing them with food or other supplies shall, upon conviction thereof, be punished by imprisonment for not less than ten years and not more than twenty years.

The following conclusions of fact are deducible from the proof in this cause:

1. That a band of brigands, composed of from 300 to 400 men, armed with deadly weapons, existed in and about the pueblo of Tarangnan, in the Province of Samar, P. I.

2. That the armed band had conspired together to steal carabao and other personal property by means of force and violence, and to roam over the country for that purpose.

3. That the accused had full knowledge of the existence of said band, he having had frequent intercourse with them.

4. That on or about the 20th day of December, 1902, the accused, in the jurisdiction of the pueblo of Tarangnan, in the Province of Samar, P. I., did voluntarily aid the band of brigands by giving them food consisting of rice and fish, and also by giving them information concerning the movements of certain forces of the Philippines Constabulary located in the Province of Samar.

The trial judge, after hearing the proof, sentenced the said Simon de Padua to be imprisoned for the period of twelve years, with the accessories of the law and costs.

It is the judgment of this court that this sentence be affirmed, and it is hereby affirmed.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur.

*Judgment affirmed.*

[No. 1723. January 30, 1904.]

FRANCISCO GUTIERREZ REPIDE, petitioner, vs. JAMES J. PETERSON, as Sheriff of the city of Manila, respondent.

1. HABEAS CORPUS: JURISDICTION.—Where it appears that the Court of First Instance has jurisdiction to issue an order it has power to punish a person for refusal to comply with such order.
2. *Id.*: In: Error.—An order made by a court within the limits of its jurisdiction, even if erroneous, will not be set aside on habeas corpus.
3. RECEIVER: ATTACHMENT.—An attachment of the defendant's property does not render void a prior order directing the delivery to a receiver of other property of the debt which is the subject-matter of the litigation.

On the 12th of January, 1904, Mrs. Elenora Enrica Strong filed a complaint in the Court of First Instance of Manila against the petitioner, Francisco Gutierrez Repide, for the recovery of 800 shares of the stock of the Philippines Sugar Estates Company, Limited, alleged to be the property of the plaintiff but claimed by the defendant under a conveyance said by the plaintiff to be void by reason of fraud and deceit on the part of Gutierrez. The prayer of the complaint was that the plaintiff be adjudged the owner of the stock in question, and that a receiver be appointed for the same until final judgment. On the same day the Hon. John C. Sweeney, judge of the Court of First Instance of Manila, made an order appointing the Sheriff a receiver to take possession of the stock and ordered the defendant, Gutierrez, to deliver it to the receiver. Notice of the order having been served on the defendant, he informed the Sheriff that he was unable to comply with the order, as the stock was not in his possession, and the Sheriff made return to the court accordingly. On January 13, 1904, the defendant was ordered to appear to show cause why he should not be committed for contempt by reason of his failure to comply with the order of the court concerning the delivery of the stock. At the hearing, on the order the defendant stated under oath and in writing that he was unable to obey the order because the shares of stock in question had been sent to Spain two months before. After receiving other testimony, Judge Sweeney, on January 18, 1904, filed a written decision in which he expressed the belief that the defendant's statements were false, that he still had the stock in his possession, and that his failure and refusal to deliver it to the receiver constituted a contempt. Upon this view of the case the court ordered that the defendant be imprisoned until such time as he would comply with the order for the delivery of the stock.

Prior to the order adjudging the defendant guilty of contempt, and on the 14th day of January, 1904, Judge Sweeney ordered the Sheriff to attach so much of the defendant's property as might be required to satisfy a judgment of \$150,000 with interest and costs, and in obedience to this order the Sheriff attached 800 other shares of the stock of the Sugar Estates Development Company.

On the 19th of January, 1904, the defendant, Gutierrez, presented a petition for a writ of *habeas corpus* to the Hon. John T. McDonough, one of the judges of the Supreme Court, alleging that he was illegally deprived of his liberty by the Sheriff of Manila.

The writ was issued as prayed, and made returnable before the court in banc on the 19th of January, 1904. At the time designated the respondent appeared and filed his return to the writ, in which he stated that the petitioner was in his custody by virtue of the order of January 18, above referred to, and warrant of commitment of the same date, issued by the Hon. John C. Sweeney, as judge of the Court of First Instance of Manila.

HARTIGAN, MARPLE, SOLIGNAC & GUTIERREZ, for petitioner.  
OSCAR SUTRO, for respondent.

WILLARD, J.:

That the Court of First Instance had jurisdiction of the parties and the subject-matter of the suit between the Strongs and the petitioner is not denied. That this action belongs to the class of actions in which the Court of First Instance has jurisdiction to appoint a receiver can not be denied. Nor can it be denied that in an action in which the court has the power to appoint a receiver it may make an order requiring parties to the action to deliver to the receiver the property in litigation. If a Court of First Instance has power to issue an order it has jurisdiction to punish a person for a refusal to comply with such order.

Having the power and jurisdiction in this class of cases to issue an order requiring a defendant to deliver the property to the receiver and to proceed against the defendant for a failure to comply with such order, any mistakes which the court may have made in exercising that power in this particular case must be corrected on an appeal. The allegations in the petition for the writ of *habeas corpus* to the effect that the receiver was appointed without notice to the defendant and that no bond or no sufficient bond was required; that in the proceedings for contempt no complaint had been filed when the first order was made, and that the court wrongfully decided upon the evidence that the defendant had in his possession the stock in question, all fall within this rule. If these were errors which the court below committed during the progress of the case, nevertheless they did not make his order committing the defendant an absolute nullity. (Code of Civil Procedure, sec. 528.)

It is claimed by the petitioner that the attachment of 800 other shares of the same stock belonging to the defendant had the effect to render absolutely void the order in question. The attachment seems to have been granted under sections 412, third, and 424. We do not see how an attachment under that section on the ground that the defendant has concealed the property in litigation can absolutely deprive the court of the power through its receiver to take possession of the property itself, if it should be afterwards found, or to continue proceedings then pending looking to a discovery of its whereabouts. There is nothing in the Code of Civil Procedure which declares that the attachment shall have such effect. The contention of the petitioner would lead to the result that if the day after the attachment had been levied the defendant had exhibited in court the shares in litigation the court would have had no power to order their delivery to the receiver, and apparently to the further result that no such order could have been inserted in the final judgment, the attachment which the law allows in this class of cases thus having the effect of changing the nature of the case itself from one for the recovery of specific personal property to one for the recovery of its value.

The fact that the plaintiff's claim might in such case be doubly secured could not destroy the jurisdiction in regard to the receiver which the court had acquired prior to the attachment.

The remedy of the petitioner for the correction of the errors he alleges have been committed in this case is by appeal and not by *habeas corpus*.

The prisoner must be remanded to the custody of the Sheriff.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Petition denied.*

[Nos. 1561 and 1562. February 2, 1904.]

RAFAEL ENRIQUEZ plaintiff and appellee, vs. A. S. WATSON & CO. ET AL., defendants and appellants.

PLEADING AND PRACTICE: BILL OF EXCEPTIONS: BY WHOM TO BE SIGNED.—Where a stenographic record has been made of the proceedings at the trial the bill of exceptions may, in the absence of the trial judge, be settled, allowed, and signed by the judge present at the time the bill is presented for that purpose.



APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

GIBBS & KINCAID, for appellants.

CHARLES C. COHN & COOPER BROTHERS, for appellee.

JOHNSON, J.:

In each of the above-entitled causes the attorney for the appellee moved that the bill of exceptions filed be dismissed for the following reasons:

1. That the said bill of exceptions had not been completed and certified in the form prescribed by the law; and

2. That said bill of exceptions had not been completed, certified, nor signed by the judge who tried the cause in the Court of First Instance of the city of Manila.

Inasmuch as the facts in each case upon which the motion to dismiss the said bill of exceptions were the same, the respective attorneys agreed that the motions should be heard together.

The facts upon which these motions were based were as follows:

One of the judges of the Court of First Instance of the city of Manila, on the 2d day of May, 1903, dictated a sentence in English in the said causes and immediately thereafter left the jurisdiction of the said court and was gone for several months. In fact the said judge did not return until long after the time fixed by the law for perfecting the appeal in said cause and for the presentation and certification of the bill of exceptions.

On the 4th day of May, 1903, an exception to the sentence or judgment of said trial judge was duly taken by appellants and allowed by the Hon. John C. Sweeney, the only judge of the Court of First Instance of the city of Manila present at that time.

On the 5th day of May, 1903, a motion was made by said appellants before Judge Sweeney for a new trial of said cause upon the ground that the sentence was manifestly contrary to the weight of the evidence.

On the 20th day of May, 1903, the said motion for a new trial was denied by Judge Sweeney. The appellant then and there duly excepted to said order and then and there gave notice of his intention to present a bill of exceptions, and on the same last-mentioned day presented the bill of exceptions to Judge Crossfield, who was then acting as a judge of the Court of First Instance in said city of Manila, for certification.

On the 8th day of July, 1903, Judge Crossfield signed the following:

"The preceding bill of exceptions, in the cause of Rafael Enriquez, administrator, *vs.* A. S. Watson & Co., Limited, Henry Humphreys, T. G. Joy, and Walter (William) Morley, having been presented to me because of the absence in the United States of the judge who heard said cause, and there being no prospect that he will return before the expiration of the time within which the said bill of exceptions must be approved, and the same after comparison with the stenographic notes of the testimony taken at the trial by the official stenographer having been found to be correct, I approve the said bill and order that it be attached to the record of the said cause."

In reply to the first objection above presented, that the said bill had not been completed and certified in the form prescribed by the law, the court finds that the form of the said bill of exceptions was in accordance with the rules of law.

The second objection above presented contains greater difficulties.

The question presented on the objection is, Who must sign and certify to a bill of exceptions?

Section 143 of the Code of Procedure in Civil Actions provides: "Sec. 143. *Perfecting bill of exceptions.*—Upon the rendition of final judgment disposing of the action, either party shall have the right to perfect a bill of exceptions for a review by the Supreme

Court of all rulings, orders, and judgments made in the action, to which the party has duly excepted at the time of making such ruling, order, or judgment. The party desiring to prosecute the bill of exceptions shall so inform the court at the time of the rendition of final judgment, or as soon thereafter as may be practicable and before the ending of the term of court at which final judgment is rendered, and the judge shall enter a memorandum to that effect upon his minutes and order a like memorandum to be made by the clerk upon the docket of the court among the other entries relating to the action. Within ten days after the entry of the memorandum aforesaid, the excepting party shall cause to be presented to the judge a brief statement of the facts of the case sufficient to show the bearing of the rulings, orders, or judgments excepted to, and a specific statement of each ruling, order, or judgment that has been excepted to, for allowance by the judge. The judge shall thereupon, after reasonable notice to both parties and within five days from the presentation of the bill of exceptions to him, restate the facts if need be, and the exceptions, so that the questions of law therein involved and their relevancy shall all be made clear, and when the bill of exceptions has been perfected and allowed by the judge he shall certify that it has been so allowed, and the bill of exceptions shall be filed with the other papers in the action, and the same shall thereupon be transferred to the Supreme Court for determination of the questions of law involved. A bill of exceptions may likewise be made to consist of the judge's findings of fact in his final judgment and a statement of all the exceptions reserved by the party desiring to prosecute the bill of exceptions, which shall be allowed and filed by the judge as above in this section provided.

"Immediately upon the allowance of a bill of exceptions by the judge it shall be the duty of the clerk to transmit to the clerk of the Supreme Court a certified copy of the bill of exceptions and of all documents which by the bill of exceptions are made a part of it. The cause shall be heard in the Supreme Court upon the certified copy of the bill of exceptions so transmitted."

This quoted section might be construed to justify the contention of appellee that the trial judge was the only person who could certify to the correctness of a bill of exceptions—he being the only person, so authorized, having full knowledge of what transpired in the trial. This contention had great weight formerly, prior to days when stenographers were employed in the courts. To-day, where stenographers are employed in the courts in the trial of causes, there is a complete authentic record made of everything which transpires during the trial. From this record, everyone who runs may read as well as another the record and be informed fully of every act, objection, or exception taken or made during the trial. That being true, then any person may ascertain for himself the correctness of any allegation made concerning what transpired during the trial. In order, however, that appellate courts may have a bill of exception perfected and settled without confusion or disputation, the law has provided that the same shall be signed by the judge of the court in which it arose. The ultimate object of a bill of exceptions is to bring before the appellate court in some authentic form the facts upon which the parties rely in said court. For this purpose it would be entirely within the province of the legislature to provide that such facts be certified to by one person as well as another, so long as the particular person so authorized had sufficient information of the facts.

Under the Code of Procedure in Civil Actions it is quite clear that it was not the purpose of the legislature to require one judge of the Courts of First Instance to do all the acts connected with a particular action from its inception to its conclusion. Section 49 of Act 136 and sections 378, 379, and 380 provide for the substitutions of judges under the conditions therein enumerated.

The legislature foresaw what has actually happened here—the frequent changes in the personnel of the judges—and by law has

relieved the parties litigant of the endless embarrassment which would necessarily follow such changes, if new judges or successors could not conclude litigation commenced and partially concluded.

The question, who may sign a bill of exceptions, has been before the courts of the United States any times, and the various decisions on the same are irreconcilable.

Formerly it was the practice, when an exception was taken to any order or ruling of the court, to present the bill immediately to the judge for his signature while his recollection was fresh. Later it became the practice for the judge to note the exception and to rely upon his notes in the determination of the question whether the bill tendered was true or not, and the bill was then tendered during the term.

This rule was still later relaxed by statute, in many jurisdictions, by permitting the bill to be presented within a limited time after the term. In some jurisdictions the judge was even given the right to extend this statutory period within which the bill of exceptions might be tendered for allowance and settlement.

In one instance, where a judge refused to sign a bill after having been so ordered by the appellate tribunal, and resigned in order to escape this duty, the Supreme Court, being satisfied that the bill was true as presented, ordered it entered, as a part of the record, as though it had been signed. (*People vs. Pearson*, 4 Ill., 270, 285.)

Section 4 of article 499 of the Code of Procedure in Civil Actions justifies this same action on the part of this court, which clearly indicates that the legislature for these Islands did not intend to make it absolutely necessary for a bill of exceptions to be signed by the trial court or otherwise to subject the parties to the annoyance of a new trial.

There are numerous precedents that if the bill can not be settled by the trial judge by reason of loss of papers, by reason of his having gone out of office, or sickness or absence or otherwise, a new trial will be granted. But parties litigant should not be put to the annoyance and expense of time and money of a new trial when it can be avoided without detriment to the rights of either.

A bill of exceptions is intended simply to present to the appellate court a brief statement of facts showing in what way error was committed by the trial court, and to which error the attention of the trial court was called at the time. In this present case a full report of all the evidence offered as well as of all exceptions made in the trial was made at the time by a stenographer, and one judge as well as another may examine this record and be satisfied concerning what was done at the trial. If this be true, we can not see how there can be much room for controversy in regard to what the evidence and the exceptions were. And that is the only question in settling a bill of exceptions.

The certificate of the judge approving the bill of exceptions in this cause discloses the fact that he had verified the facts contained therein by the stenographic notes of the trial of said cause.

Under the case as presented it would be manifestly unjust to both of the parties to reject the bill for lack of sufficient authentication, as such a course might result in a new trial, when the record, if examined, might not disclose reversible error. If such should not be the result, the plaintiffs in error would be deprived of the right of review secured under statutory provisions without any fault on their part.

In support of the general proposition that the trial judge is not the only judge who may certify a bill of exceptions we cite the decision of this court in the cause of *Fortunato Riamora vs. Judge Grant T. Trent*.

The motion in each case is denied.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur.

Motions denied.

## BUREAU OF POSTS OF THE PHILIPPINE ISLANDS.

MANILA, P. I., February 25, 1904.

GENERAL ORDER }  
No. 6. }

1. On February 17 last the President of the United States issued an order revoking all executive orders permitting the sending of unsold packages and parcels of mailable matter containing only articles designed as gifts or souvenirs and with no commercial purpose and not for sale, by persons in the United States service to members of their families in the United States, subject only to domestic postage rates and regulations. This executive order cancels section 5 of Order No. 1283 of the Postmaster-General of the United States, dated November 18, 1902, which is published on page 949 of the January, 1903, United States Postal Guide.

Postmasters will, therefore, discontinue indorsing packages for the senders as provided in this section of this order and will inform the patrons of their respective offices that the privilege of sending gifts and souvenirs in the mails to the United States free from customs duties has been revoked by the President.

C. M. COTTERMAN, Director of Posts.

## BUREAU OF CUSTOMS AND IMMIGRATION.

TARIFF DECISION CIRCULARS.

No. 371.—Wooden type; (1) carved or (2) chiseled.

MANILA, February 8, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2365, filed August 15, 1903, by Messrs. Murphy, Morris & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in entry No. A 339, voucher No. 5192, paid August 15, 1903.

"The claim in this case is against the classification of certain wooden poster type as 'carved and chiseled wood,' under paragraph 197 of the Tariff Revision Law of 1901, at \$25 per 100 kilos, instead of as 'common wood, neither chiseled, inlaid, veneered, or carved,' under paragraph 195 at \$5 per 100 kilos, as entered.

"The type in question is what is known as 'poster type,' large, plain, unornamented letters designed for the crudest, coarsest, and cheapest sort of printing. Each letter is made by taking a block of wood of the required thickness and 'routing' away all the surface not required as a printing face to the letter. After the machine has done all possible, the angles are 'touched up' by hand with a chisel or graver.

"The question is whether such an article is (1) carved or (2) chiseled. The importer claims that it is not carved for the reason that all the work of carving upon it, except the 'touching up' (to be referred to later) is done by machine, and that 'carving' refers only to hand work. With this distinction, however, this office is unable to agree. The word 'carve' is defined by Webster as follows: 'Carve; to cut, as wood, stone, or other material, in an artistic or decorative manner; to sculpture; to engrave.'

"Given the effect it is entirely indifferent whether that effect is produced by hand or machine, in fact, most of even the finest carvings and sculptures are now wrought with machine tools. These letters are not 'carved' within the meaning of the law, because neither the purpose nor the effect of the operations performed upon it is artistic or decorative. The purpose of the routing machine is simply to remove the superfluous wood in the quickest and cheapest possible manner, and there is no more art employed or

thought of in this operation than there is in cutting off the superfluous ends of the block with a saw.

"The importer further claims that these letters are not chiseled, because the use of a chisel in finishing up the angles is relatively unimportant; but this contention also would seem to be beside the point. If by placing a higher duty upon wood that has been 'chiseled' the lawmakers intended to tax the operation of chiseling—the mere use of a chisel—then it is of no avail to urge that there is but a little chiseling involved. Such, however, does not appear to have been the intention. Indeed, in view of the fact that almost no modern furniture, not even the cheapest, can be fitted together without the use of a chisel or its equivalent, it would be absurd to so hold. If not the operation that merits the higher duty it is then the effect produced by chiseling that is dutiable.

"The word 'chisel' is defined by Webster as follows: 'Chisel: To cut, pare, gouge, or engrave with a chisel; as, to chisel a block of marble into a statue.'

"The effect aimed at by Congress is evidently the same as that illustrated in the definition, and analogous to inlaying, veneering, and carving, i. e., ornamentation. If the chiseling is applied for the purpose of ornamentation, decoration, or art directly, as in furniture, or indirectly, as in a woodcut, then the article is chiseled within the meaning of the law. This type being neither carved nor chiseled according to this interpretation, the classification returned was incorrect.

"Protest No. 2365, on the grounds above mentioned, is therefore sustained and a refund ordered to the importer in the sum of \$14.82, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 372.—*Gas engine and dynamo.*

MANILA, February 9, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2343, filed August 5, 1903, by the Michael, Gasper, Grant Company, Limited, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in entry No. 12766, voucher No. 3815, paid August 3, 1903.

"The claim in this case is against the classification of a gas engine, dynamo, and base under paragraph 250 of the Tariff Revision Law of 1901 at \$5 per 100 kilos, instead of the engine and base under paragraph 243 at \$1.50 per 100 kilos and the dynamo under paragraph 250, as entered.

"Both the gas motor and dynamo are of standard types, manufactured by well-known concerns. They were imported for operation in direct connection with each other, the base for the engine being elongated and holes provided for bolting down the dynamo, and are commercially known as a 'generating set.'

"Dynamos are specifically enumerated under paragraph 250, and gas engines or motors under paragraph 243. Unless, therefore, the two machines may be considered as an entirety they must be classified according to their respective characteristics.

"Steam engines with direct connected dynamos are generally so constructed that they can not be segregated, the engines not being intended for use with other than the dynamos for which they are provided, and vice versa. In such case they may very properly be considered as composite machines, for when so constructed their identity and use are merged. In this case, however, there were two separate machines, specifically provided for, which may be and, it seems, are being used other than in connection with one another; and, though primarily they may have been purchased and imported together and for use in connection with each other, still

their identity as separate machines has not been merged. The engine is not a part *per se* of the dynamo (see Tariff Decision Circulars Nos. 311 and 328); it may be used for any other suitable purpose while the dynamo may be used equally well with any other suitable engine or power.

"But, even considering the dynamo and motor in question as one machine, it is well settled that if completed articles forming a commodity may be readily separated, and if when so separated they are liable to different rates of duty, each should be classified according to its characteristics, even though the commodity may be invoiced as an entirety. (In re Crowley, 55 Fed. Rep., 283.)

"Protest No. 2343 is therefore sustained, and a refund is ordered in the sum of \$32.65, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 373.—*Shoe polishers manufactured of wool.*

MANILA, February 11, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2169, filed May 22, 1903, by Messrs. Murphy, Morris & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 6862, Voucher No. 16844, paid May 20, 1903.

"The claim in this case is against the classification of certain shoe polishers as 'manufactures of leather not otherwise provided for,' under paragraph 229 of the Tariff Revision Law of 1901, at \$0.60 per kilo, instead of 'hides tanned with the hair on,' under paragraph 215, at \$0.10 per kilo, or as 'manufactures of common wood,' under paragraph 195, at \$5 per 100 kilos.

"The body of the shoe polishers under discussion is composed of common wood, machine shaped, similar in form to an ordinary bristle shoe brush. Instead of bristles in this case a piece of tanned sheepskin with the wool on is cut out the identical shape of and tacked to the wooden part, the edge being supported by a narrow strip of black textile similar to oilcloth.

"The appraiser in classifying these goods as leather disregarded the fact that leather is usually considered as the skin or hide of an animal which has been tanned, tawed, or treated for use, and from which the hair has been removed. So long as these operations remain unperformed, the coverings of animals are not popularly and commercially known as leather but are known as hides and skins.

"In commercial and popular usage, leather does not include skins dressed with the hair or fur on; such skins are usually distinguished by compounding the word skin with the name of the animal from which they are taken.' (Century Dictionary and Cyclopedia.)

From this it is evident that no leather enters into the making of the shoe polishers in question, and hence the appraiser was in error, and his classification must be disregarded.

"Hides are not, commercially speaking, known as skins, nor are skins known as hides. (Treasury Decision No. 18739, G. A. 4052, and others.) Sheepskins can not therefore be classified as hides, nor can they be assimilated to hides under rule 15, which provides for assimilation where articles are similar in material, quality, texture or the use to which they may be applied, and is not applicable unless there is similarity in at least one of these four characteristics. Dressed sheepskins with the wool on are not similar to hides tanned with the hair on, in either material, quality, texture, or the use to which they may be applied, and rule 15 can not therefore be invoked.

"But, may the polishers then be classified as 'manufactures of wool'? Does the fact that the wool is still attached to the sheepskin make it any less wool for tariff purposes?"

"Wool is defined as the 'fine, soft, curly hair which forms the fleece or fleecy coat of the sheep and some other animals, as the goat and alpaca, in fineness approaching fur,' and may be on or off the animal. The separation of the hair from the skin of the sheep is not a necessary operation for the hair of these animals to become popularly and commercially known as wool. Treasury Decision No. 17907 and decisions here cited—and 21764, which provides rules and regulations for the assessment of duty on sheepskins imported with the wool on—provide that the wool shall be classified under its respective paragraph and the skins passed free of duty.

"In Treasury Decision No. 21764 it was held that rugs of sheepskins with the wool on were dutiable as manufactures wholly or in part of wool. 'The goods in question are mats or rugs made of dressed skins with the wool on. Some of the mats are made of one skin trimmed to the proper shape, while in other cases several skins are sewed together. The wool has been dressed and in some instances dyed. \* \* \*

"Paragraph 392 provides for 'all manufactures of every description made wholly or in part of wool.' In the mats under consideration wool is the predominant element both in quantity and value. It is unnecessary to determine whether the treatment to which the wool has been subjected brings it within the category of manufactured articles. The mat itself is a completed manufactured article, and as it is made in part of wool, it was properly classified under paragraph 392."

"From the above decision it is to be noted that wool on sheepskins is of more value than the skins. As to the common wool, an examination of the sample submitted shows that it is of less value than either the skin or the wool.

"It will be noted that paragraph 166 does not provide for 'wool manufactured' but for 'manufactures of wool'—that is, 'manufactures in chief value of wool'—so that following the rule in the United States, it is clear that these polishers should have been returned under paragraph 166, as 35 per cent ad valorem.

"Protest No. 2169, on the grounds mentioned above, is therefore sustained, and a refund ordered to the importer in the sum of \$8.08, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy.

Acting Collector of Customs for the Philippine Islands.

CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 282.

MANILA, February 8, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following periods of time shall be allowed on export bonds within which exporters of merchandise shall file landing certificates as evidence that the merchandise exported by them has been landed in a foreign port, as provided by law:

	Months.
The United States (Atlantic coast and east of Mississippi River) .....	6
The United States (Pacific coast and west of Mississippi River) .....	4
European ports .....	4
Asiatic ports .....	4
Hongkong .....	3
All other ports of the world.....	6

PAR. II. Upon the expiration of an export bond the exporter shall be called upon to pay the amount specified therein, and upon his refusal to do so the bond shall be forwarded to the

Attorney-General of the Philippine Islands with request that suit, in the name of the Government of the Philippine Islands, be commenced thereon.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 283.—Special agents, duties and authority of.

MANILA, February 10, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following regulations governing the work of special agents of the Philippine Customs Service are promulgated for the information of all customs employees:

PAR. II. Special agents are appointed under the law for the purpose of making examination of the books, papers, and accounts of collectors and other officers of the customs, and are to be employed generally in the prevention and detection of frauds on the customs revenue, and such other special duty as may be assigned them by the Collector of Customs for the Philippine Islands; and while engaged in the performance of their official duties are empowered, without further authority than that conveyed in their duly authenticated credentials establishing their official status, to examine all or any official papers and records in the possession of customs officials; and while so engaged the cooperation and assistance of the latter is enjoined and will be expected.

PAR. III. Special agents engaged in investigation of frauds or attempted frauds upon the Government, misconduct on the part of a customs officer, irregularities of any character, or questionable practices which affect the revenue, are empowered to administer oaths to witnesses and to call upon customs employees and others for statements, written or oral, relating to the particular matters under investigation.

PAR. IV. Special, detailed, and partial examinations will be made by special agents of the routine customs business as often as circumstances may require, and for the purpose of ascertaining whether the customs business is properly conducted and the public moneys are duly accounted for, collectors and other officers of the customs will at all times submit their books, papers, and accounts to the inspection of special agents. Any unwillingness on the part of a customs official to promptly comply with the foregoing shall be immediately reported to this office.

PAR. V. Special agents will not interfere with the regular transaction of customs business by the local officers, but are expected to cooperate with and supplement the labors and vigilance of such officers. Such frauds, abuses, irregularities, or other defects discovered by special agents as are capable of being dealt with by the local customs officers shall be immediately brought to their notice, and the result of such action embodied in reports of special agents to be submitted to this office. Special agents are not permitted to give out for publication information relating to official business, and this rule will be strictly observed by all agents and their subordinates.

PAR. VI. To the end that uniformity may be attained and the routine customs business throughout the Islands conducted in such a manner as may best preserve the interests of the service, all collectors are instructed to see that their several subordinate employees become familiar with the terms of this circular. Special agents are regarded as the personal representatives of the Insular Collector, and the true object of their work is well illustrated by stating that they are considered the "eyes and ears" of the service.

PAR. VII. Due publicity shall be given to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 284.—*Publishing the United States laws in respect to neutrality.*

MANILA, February 15, 1904.

*To all Collectors of Customs:*

PARAGRAPH I. The following United States laws in respect to neutrality are hereby published for the information and guidance of all concerned:

"Every citizen of the United States [or of the Philippine Islands] who, within the territory or jurisdiction thereof, accepts and exercises a commission to serve a foreign prince, state, colony, district, or people, in war, by land or by sea, against any prince, state, colony, district, or people, with whom the United States are at peace, shall be deemed guilty of a high misdemeanor, and shall be fined not more than \$2,000 and imprisoned not more than three years. (R. S., 5281.)

"Every person who, within the territory or jurisdiction of the United States, enlists or enters himself, or hires or retains another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, shall be deemed guilty of high misdemeanor, and shall be fined not more than \$1,000 and imprisoned not more than three years. (R. S., 5282.)

"Every person who, within the limits of the United States, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly is concerned in the furnishing, fitting out, or arming, of any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, or who issues or delivers a commission within the territory or jurisdiction of the United States, for any vessel, to the intent that she may be so employed, shall be deemed guilty of a high misdemeanor, and shall be fined not more than \$10,000, and imprisoned not more than three years. And every such vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores, which may have been procured for the building and equipment thereof, shall be forfeited, one-half to the use of the informer and the other half to the use of the United States. (R. S., 5283.)

"Every citizen of the United States [or of the Philippine Islands] who, without the limits thereof, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly aids or is concerned in furnishing, fitting out, or arming any private vessel of war, or privateer, with intent that such vessel shall be employed to cruise or commit hostilities upon the citizens of the United States [or of the Philippine Islands], or their property, or who takes the command of or enters on board of any such vessel for such intent, or who purchases any interest in any such vessel, with a view to share in the profits thereof, shall be deemed guilty of a high misdemeanor, and fined not more than \$10,000 and imprisoned not more than ten years. And the trial for such offense, if committed without the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought. (R. S., 5284.)

"Every person who, within the territory or jurisdiction of the United States, increases or augments, or procures to be increased or augmented, or knowingly is concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom

the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, shall be deemed guilty of a high misdemeanor, and shall be fined not more than \$1,000 and be imprisoned not more than one year. (R. S., 5285.)

"Every person who, within the territory or jurisdiction of the United States, begins, or sets on foot, or provides or prepares the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding \$3,000 and imprisoned not more than three years. (R. S., 5286.)

"The district court shall take cognizance of all complaints by whomsoever instituted in cases of captures made within the waters of the United States or with a marine league of the coasts or shores thereof. In every case in which a vessel is fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel is increased or augmented, or in which any military expedition or enterprise is begun or set on foot contrary to the provisions and prohibitions of this title (R. S., 5281-5291), and in every case of the capture of a vessel within the jurisdiction or protection of the United States as before defined, and in every case in which any process issuing out of any court of the United States is disobeyed or resisted by any person having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, it shall be lawful for the President, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such vessel, with her prizes, if any, in order to the execution of the prohibitions and penalties of this title, and to the restoring of such prizes in the cases in which restoration shall be adjudged; and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace. (R. S., 5287.)

"It shall be lawful for the President, or such person as he shall empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign vessel to depart the United States in all cases in which, by the laws of nations or the treaties of the United States, she ought not to remain within the United States. (R. S., 5288.)

"The owners or consignees of every armed vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof, shall, before clearing out the same, give bond to the United States, with sufficient sureties, in double the amount of the value of the vessel and cargo on board, including her armament, conditioned that the vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace. (R. S., 5289.)

"The several collectors of the customs shall detain any vessel manifestly built for warlike purposes, and about to depart the United States [including the Philippine Islands], the cargo of which principally consists of arms and munitions of war, when the number of men shipped on board, or other circumstances, render it probable that such vessel is intended to be employed by the owners to cruise or commit hostilities upon the subjects, citizens, or

property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, until the decision of the President is had thereon, or until the owner gives such bond and security as is required of the owners of armed vessels by the preceding section. (R. S., 5290.)

"The provisions of this title (R. S., 5281-5291) shall not be construed to extend to any subject or citizen of any foreign prince, state, colony, district, or people who is transiently within the United States, and enlists or enters himself on board of any vessel of war, letter of marque, or privateer which at the time of its arrival within the United States was fitted and equipped as such, or hires or retains another subject or citizen of the same foreign prince, state, colony, district, or people, who is transiently within the United States, to enlist or enter himself to serve such foreign prince, state, colony, district, or people on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people. Nor shall they be construed to prevent the prosecution or punishment of treason, or of any piracy defined by the laws of the United States. (R. S., 5291.)"

PAR. II. In regard to vessels of war entering these ports for the purpose of procuring supplies or making repairs, it has been the policy of the United States freely to permit the sale of provisions to belligerents, but to prohibit the sale of more coal than is absolutely necessary to take the vessel to the nearest port which is under its national flag, and not to so coal any one such vessel a second time within three months, unless a visit to a port under its flag has intervened. In other words, a belligerent war vessel must not be permitted to make our ports bases of operation against its enemy. Until further notice this policy shall be enforced by collectors of customs.

PAR. III. Due publicity shall be given to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

MANILA CUSTOM-HOUSE GENERAL ORDERS.

No. 64.—*Providing for the remission of storage charges of less than ₱1, Philippine currency, on consignments of merchandise in the general order stores and parcel department.*

MANILA, February 6, 1904.

No storage which has accrued on any single consignment or parcel shall be collected at the port of Manila on merchandise in the general order stores or parcel department when such storage amounts to less than ₱1, Philippine currency.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 65.—*Providing for the examination of all mail packages arriving at Manila from foreign ports, addressed to ports or places in the Philippine Islands other than ports of entry, at the port of Manila.*

MANILA, February 29, 1904.

PARAGRAPH I. Hereafter all mail packages arriving at the port of Manila from foreign ports and addressed to ports or places in the Philippine Islands other than ports of entry shall be examined at the port of Manila to determine whether they contain dutiable merchandise.

PAR. II. Should such mail packages contain dutiable merchandise regular entry shall be made therefor and the packages forwarded to the port of address with statement of amount due thereon, in the same manner as now prevails in cases of packages forwarded to provincial post-offices for collection of duties found to be due.

PAR. III. Mail packages arriving at the port of Manila from foreign ports addressed to other ports of entry in the Philippine Islands shall be stamped "Supposed to contain dutiable merchandise" by the customs examiner at the post-office, and shall be forwarded to their address without examination at Manila.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

APPOINTMENTS.

By the Honorable Civil Governor.

Bureau of Justice.

Hon. John C. Sweeney, judge of first instance, Manila, March 4, 1904.

*Philippines Constabulary.*

Capt. C. D. Lovejoy, P. C., in charge of the Oriente Hotel, March 7.

*Provinces.*

BATANGAS.

John W. Gray, member of the tax revision board, March 6.  
Pedro Mariño, member of the tax revision board, March 4.

CAGAYAN.

Cayo Alonso, provincial fiscal of Isabela, temporary transfer to Tuguegarao, March 7.

CAVITE.

Arthur S. Emery, provincial treasurer, March 2.

ISABELA.

Vicente Nepomuceno, provincial fiscal of Cagayan, temporary transfer to Isabela, February 29.

LEYTE.

Oliver D. Filley, provincial supervisor, February 20.

MINDORO.

Sofio Alandy, provincial fiscal, March 3.

NUEDA VIZCAYA.

Louis G. Knight, provincial governor, February 30.

TAYABAS.

Manuel Keson, provincial fiscal, March 3.

ZAMBALES.

John W. Ferrer, supervisor-treasurer, March 2.

By the Philippine Civil Service Board.

*Executive Department.*

EXECUTIVE BUREAU.

Carl Remington, chief of legislative division, February 1, \$2,000; promotion from clerk, class 6.

Arthur K. Jones, chief of document division, February 1, \$2,000; promotion from class 6.

Charles A. Brinkley, clerk, February 1, \$1,800; promotion from class 7.

Albert Gillespie, clerk, February 16, \$900; probational appointment.

C. A. Benson, clerk, February 1, \$1,600; promotion from class 8.  
Leonicio L. Espino, clerk, February 1, \$840; promotion from Class C.

BUREAU OF THE INSULAR PURCHASING AGENT.

Francis H. Garrett, disbursing officer and cashier, February 13, \$2,250; promotion from clerk, class 5.

Sinkler Britt, watchman, February 22, \$720; probational appointment.

Herman Neely, clerk, March 1, \$1,200; transfer from clerk, class 10, Bureau of Customs.

Albert Ellis, corral foreman, February 14, \$1,200; promotion from teamster, Class C.

Daniel Segundo, clerk, March 2, \$360; probational appointment.

Richard Haag, blacksmith, February 17, \$1,080; reinstatement.

#### IMPROVEMENT OF THE PORT OF MANILA.

L. D. Shuman, transitman, February 16, \$1,400; transfer from Bureau of Engineering.

#### PHILIPPINE CIVIL SERVICE BOARD.

Frank C. Thompson, clerk, February 1, \$1,200; transfer from teacher, class 9, Bureau of Education.

George Nattinger, clerk, February 17, \$1,200; probational appointment.

#### Department of the Interior.

##### BUREAU OF PUBLIC HEALTH.

William Thompson, clerk, February 1, \$1,200; promotion from class 10.

Manuel Lopez, clerk, February 1, \$480; promotion from Class II.

Fernando Bartolome, clerk, February 15, \$240; promotion from Class K.

Roman Laureateo, clerk, February 15, \$240; promotion from Class K.

##### FORESTRY BUREAU.

Henry F. Wilson, clerk, February 16, \$1,200; promotion from Class A.

Mateo Guerrero, clerk, February 16, \$720; promotion from \$600.

Pablo Moroña, clerk, February 16, \$300; probational appointment.

Willard H. Yoakem, assistant inspector, February 16, \$1,200; transfer from clerk, class 9.

Jose del Castillo, clerk, February 16, \$1,200; promotion from Class A.

Mrs. Cornelia M. Herdegon, clerk, February 16, \$720; promotion from \$600.

Ignacio Tecson, clerk, February 16, \$420; promotion from \$300.

Ananias Betia, ranger, February 15, \$300; probational appointment.

Calisto Ceclio, ranger, March 1, \$300; probational appointment.

Teodoro Isar, ranger, March 1, \$300; probational appointment.

#### PHILIPPINE WEATHER BUREAU.

Jose M. Sison, second-class observer, October 20, 1903, \$300; promotion from third-class observer, \$180.

#### ETHNOLOGICAL SURVEY.

Dr. Merton L. Miller, ethnologist, January 1, \$2,400; transfer from Exposition Board.

#### BUREAU OF GOVERNMENT LABORATORIES.

Roman Mercado, jr., draftsman, February 15, \$450; probational appointment.

Dr. Maximilian Herzog, pathologist, February 4, \$2,250; probational appointment.

Charles Martin, photographer, January 1, \$1,400; promotion from class 9.

Julian Bernal, assistant storekeeper, March 1, \$300; promotion from Class J.

#### PHILIPPINE CIVIL HOSPITAL.

William J. Stagen, attendant, January 1, \$720; promotion from \$600.

William E. Brown, attendant, January 1, \$720; promotion from \$600.

Theresa Ericksen, nurse, February 16, \$720; probational appointment.

Pearletta Clark, nurse, January 7, \$720; transfer from San Lazaro Hospital.

Albert Steinauf, attendant, February 4, \$600; probational appointment.

#### Department of Commerce and Police.

##### BUREAU OF POSTS.

Eleuterio Santos, clerk, February 1, \$480; transfer from mail carrier, Class F.

R. G. Garcia, clerk, February 1, \$480; transfer from mail carrier, Class F.

W. G. Masters, Assistant Director of Posts, February 16, \$3,250; promotion from post-office inspector, class 4.

Nemesio Ibarra, letter carrier, February 19, \$300; transfer from clerk, \$180, Bureau of Public Health.

W. L. Safford, clerk, February 1, \$1,600; promotion from class 8.

Apolonio Jamias, letter carrier, February 26, \$300; transfer from clerk, Class J, Bureau of Customs.

Harry Gray, clerk, March 3, \$900; probational appointment.

Gregorio Guevara, clerk, March 3, \$180; probational appointment.

##### BUREAU OF PHILIPPINES CONSTABULARY.

Joseph J. Capuño, clerk, February 9, \$900; probational appointment.

Wilson Buchanan, wagon master, January 1, \$800; promotion from teamster, \$720.

##### BUREAU OF PRISONS.

Frank McDaniel, guard, February 18, \$900; probational appointment.

Zach L. Gibson, guard, February 12, \$900; probational appointment.

Silverio S. Yson, guard, February 15, \$240; probational appointment.

Jacob H. Miller, guard, March 4, \$900; probational appointment.

Ramon de Vala, guard, March 3, 240; probational appointment.

##### BUREAU OF COAST GUARD AND TRANSPORTATION.

Frederick Simecock, clerk, January 1, \$1,600; promotion from class 8.

D. C. Fisher, clerk, February 6, \$1,400; promotion from class 9.

Antonio Arzu, assistant overseer, March 1, \$1,080; changed from \$3 per day, including Sundays.

E. A. Stinespring, overseer, May 23, 1903, \$1,200; promotion from assistant overseer, \$1,020.

H. Becks, first officer of cutter, February 27, \$900; promotion from second officer, at \$720.

Jose Claida, assistant storekeeper, February 24, \$180; probational appointment.

##### BUREAU OF ENGINEERING.

H. G. Santen, transitman, January 27, \$1,400; transfer from improvements in Benguet, class 6.

W. M. Kamlage, clerk, February 13, \$1,200; transfer from Forestry Bureau, class 9.

Martin V. Morgan, rodman, February 8, \$900; transfer from Police Department.

J. P. Edwards, M. D., physician and surgeon, Pagbilao-Atimonan Road, February 17, \$1,800; transfer from clerk, class 9, Police Department.

E. B. Dobbs, surveyor, February 1, \$1,800; transfer from improvements in Benguet.

W. A. Millet, clerk, March 1, \$1,200; probational appointment.

*Department of Finance and Justice.*

BUREAU OF INSULAR TREASURY.

D. L. Twomy, clerk, March 1, \$1,400; promotion from class 9.  
P. J. Vanden Broeck, clerk, February 9, \$1,200; transfer from office of provincial treasurer, Leyte.

James B. Peat, clerk, February 5, \$1,200; probational appointment.

W. A. Smith, clerk, February 5, \$1,200; probational appointment.

BUREAU OF THE INSULAR AUDITOR.

Edward W. O'Brien, clerk, February 15, \$1,200; probational appointment.

Ricardo de Ocampo, clerk, February 13, \$300; probational appointment.

Frank C. Delaney, clerk, February 20, \$1,000; probational appointment.

BUREAU OF CUSTOMS AND IMMIGRATION.

Agapito de Leon, guard, September 9, 1902, \$240; probational appointment.

Francisco Rivera, guard, September 9, 1902, \$240; probational appointment.

Mariano Encarnacion, guard, December 7, 1902, \$240; probational appointment.

Marcelo Briones, guard, February 26, 1903, \$240; probational appointment.

Antonio Garcia, guard, May 4, 1903, \$240; probational appointment.

Roque Maduro, guard, May 4, 1903, \$240; probational appointment.

Raymundo Burgos, guard, May 4, 1903, \$240; probational appointment.

José Bugarin, guard, November 16, 1903, \$240; probational appointment.

Eriberto J. Manzano, guard, January 2, \$240; probational appointment.

Epifanio Alfafara, guard, January 2, \$240; probational appointment.

Teodoro Reyes, guard, February 4, \$240; probational appointment.

Agapito Madarang, guard, January 12, \$240; probational appointment.

J. K. Brabo, storekeeper, January 1, \$900; reduction from storekeeper, \$1,000.

Januario Bautista, storekeeper, January 1, \$900; reduction from \$1,000.

Silverio Sabellon, guard, November 15, 1903, \$180; probational appointment.

Delfin Lopez, guard, February 1, \$240; probational appointment.

Vicente Egtien, guard, February 13, \$240; probational appointment.

Inocente Javier, guard, February 5, \$240; probational appointment.

Gabino de los Santos, guard, September 22, 1903, \$240; promotion from clerk, \$180.

INSULAR COLD STORAGE AND ICE PLANT.

Patrick Brosman, teamster, February 12, \$720; probational appointment.

William R. Henderlong, machinist, March 1, \$1,350; promotion from \$1,200.

Quirico Albano, clerk, March 1, \$300; promotion from \$288.

Peter Fitzpatrick, wheelwright, March 1, \$1,000; probational appointment.

*Department of Public Instruction.*

BUREAU OF EDUCATION.

William E. More, clerk, February 11, \$1,400; promotion from class 9.

Rolland Gardner, teacher, February 17, \$1,200; transfer from machinist, class 9, Department of Engineering and Public Works.

Thomas Jenkins, teacher, February 10, \$1,400; transfer from civil engineer, class 8, Bureau of Coast Guard and Transportation.

A. H. Putney, clerk, February 11, \$1,400; probational appointment.

Harry Borgstadt, teacher, February 5, \$1,200; probational appointment.

Peyton Carter, teacher, February 5, \$1,200; probational appointment.

Frank C. Thompson, teacher, February 5, \$1,200; probational appointment.

John Baumgardner, teacher, February 5, \$1,000; probational appointment.

James G. Brown, teacher, February 5, \$1,000; probational appointment.

John A. Brien, teacher, February 10, \$1,000; probational appointment.

Horace G. Herold, teacher, February 10, \$1,000; probational appointment.

Vernon D. Gibson, teacher, February 5, \$900; probational appointment.

Adam C. Derkun, teacher, February 5, \$900; probational appointment.

Carl B. Crabtree, teacher, February 5, \$900; probational appointment.

Harry W. Brown, teacher, February 5, \$900; probational appointment.

L. P. Willis, teacher, February 5, \$900; probational appointment.

Charles A. Webster, teacher, February 5, \$900; probational appointment.

Edgar R. Tarwater, teacher, February 5, \$900; probational appointment.

F. M. Thompson, teacher, February 5, \$900; probational appointment.

Clark B. Dickinson, teacher, February 5, \$900; probational appointment.

Teodore Muller, teacher, February 5, \$900; probational appointment.

Eugene H. Rabun, teacher, February 5, \$900; probational appointment.

John Geraghty, teacher, February 5, \$900; probational appointment.

Lot D. Lockwood, teacher, February 10, \$900; probational appointment.

James A. McGuffin, teacher, February 10, \$900; probational appointment.

Esther Prey Boomer, teacher, February 18, \$900; probational appointment.

Henry Fisher, clerk, division superintendent of Cagayan, March 1, \$900; probational appointment.

Caroline D. Stevens, teacher, February 9, \$1,000; probational appointment.

John S. Potter, teacher, February 17, \$1,000; probational appointment.

William T. Vaughan, teacher, February 17, \$1,000; probational appointment.

Thomas Carey Welch, teacher, February 17, \$1,000; probational appointment.

Claude M. Allison, teacher, February 17, \$900; probational appointment.



James W. Boyce, teacher, February 17, \$900; probational appointment.

Edward G. Curram, teacher, February 17, \$900; probational appointment.

Barney W. Fields, teacher, February 17, \$900; probational appointment.

Anthony J. Jordan, teacher, February 17, \$900; probational appointment.

Alma R. Trippitt, teacher, February 17, \$900; probational appointment.

Washington A. V. Wirren, teacher, February 17, \$1,200; probational appointment.

Carl F. Raver, teacher, February 17, \$900; probational appointment.

#### BUREAU OF PUBLIC PRINTING.

Eulerio Nagtalon, apprentice, February 16, \$0.40; promotion from class 6.

Justo Gerónimo, apprentice, February 16, \$0.40; promotion from class 6.

Owen Duffy, craftsman instructor, February 1, \$1,600; probational appointment.

Harold M. Wade, stenographer-typewriter, March 1, \$1,200; promotion from clerk and typewriter, class 10.

Mariano Velasco, craftsman in bindery, March 1, ₱3.50; promotion from ₱3.25.

Aquilino de la Cruz, craftsman in bindery, March 1, ₱3.50; promotion from ₱3.25.

José del Pozo Rivera, craftsman in bindery, March 1, ₱3.50; promotion from ₱3.25.

Roman Lizardo, craftsman in bindery, March 1, ₱3; promotion from ₱2.75.

Gregorio Lopez, craftsman in bindery, March 1, ₱3; promotion from ₱2.75.

José Abraham, craftsman in bindery, March 1, ₱2.50; promotion from ₱2.25.

Gervasio Carifio, craftsman in bindery, March 1, ₱2.50; promotion from ₱2.25.

Silvestre Legaspi, craftsman in bindery, March 1, ₱2.50; promotion from ₱2.25.

José Enriques, craftsman in bindery, March 1, ₱2.25; promotion from ₱2.

Pedro Looluis, craftsman in bindery, March 1, ₱2.25; promotion from ₱2.

Honorato del Pozo Rivera, craftsman in bindery, March 1, ₱2.25; promotion from ₱2.

José Zamora, craftsman in bindery, March 1, ₱2.25; promotion from ₱2.

Fortunato Abad, craftsman in bindery, March 1, ₱2; promotion from ₱1.75.

Ladislao Rodriguez, craftsman in bindery, March 1, ₱1.75; promotion from ₱1.50.

Wenceslao Crespo, junior compositor, March 1, ₱3.50; promotion from ₱3.25.

Alejandro de Jesus, junior compositor, March 1, ₱3.50; promotion from ₱3.25.

Patricio Villanueva, junior compositor, March 1, ₱3.50; promotion from ₱3.25.

Pedro Alfonso, junior compositor, March 1, ₱3.25; promotion from ₱3.

Pedro Zapanta, junior compositor, March 1, ₱3.25; promotion from ₱3.

Ponciano Buenaventura, junior compositor, March 1, ₱3; promotion from ₱2.75.

Santiago Limbo, junior compositor, March 1, ₱3; promotion from ₱2.75.

Leopoldo Soriano, junior compositor, March 1, ₱2.75; promotion from ₱2.50.

Plácido Guevara, junior compositor, March 1, ₱2.25; promotion from ₱2.

Pedro de Galicia, junior bookbinder, March 1, ₱2.25; promotion from ₱2.

Sinforoso Navé, junior bookbinder, March 1, ₱2.25; promotion from ₱2.

Deogracias Sereno, junior bookbinder, March 1, ₱1.75; promotion from ₱1.50.

Juan A. Salvidea, junior machinist, March 1, ₱2.50; promotion from ₱2.25.

Mamerto Lontoc, junior pressman, March 1, ₱2.50; promotion from ₱2.

Juan Goyenedea, copyholder (Spanish), March 1, ₱2.50; promotion from ₱2.

Bonifacio Cabrera, junior cutter, March 1, ₱2; promotion from ₱1.75.

Teodoro Vizeara, junior cutter, March 1, ₱1.75; promotion from ₱1.25.

Andres Batan, junior photoengraver, March 1, ₱2; promotion from ₱1.50.

Cornelio Manuyac, apprentice, March 1, \$0.40; promotion from class 5.

Tiburcio Inducil, apprentice, March 1, \$0.30; promotion from class 6.

Antonio Tagulao, apprentice, March 1, \$0.30; promotion from class 6.

Cornelio San Jose, junior compositor, March 1, ₱2.50; probational appointment.

Juan Manzon, junior compositor, March 1, ₱2.50; probational appointment.

Eusebio del Rosario, junior compositor, March 1, ₱2.50; probational appointment.

Faustino Nicomedes, Junior compositor, March 1, ₱1.75; probational appointment.

#### OFFICIAL GAZETTE.

Engracio Trinidad, clerk, February 17, \$240; reinstatement.

#### BUREAU OF ARCHITECTURE.

Edward P. Boyd, architectural draftsman, February 9, \$1,400; probational appointment.

Byron Stevens, electrical engineer, February 9, \$1,200; probational appointment.

William P. Williams, mechanical engineer, February 1, \$1,400; promotion from \$1,200.

#### BUREAU OF JUSTICE.

Jacob Meirowitz, stenographer, attorney-general for Constabulary, February 15, \$1,600; transfer from Court of First Instance, Manila.

Allen B. Burkholder, clerk, January 1, \$1,600; promotion from class 8.

Frank R. Millos, interpreter at large, February 1, \$1,200; probational appointment.

Francisco Alfonso, copyist, Court of First Instance, Sixth District, January 1, \$240; reduction from assistant clerk, \$360.

Mmanuel Garcia, copyist, Supreme Court, January 1, \$420; probational appointment.

Francisco Espina, clerk, Court of First Instance, Seventh Judicial District, February 12, \$720; promotion from chief clerk, Sixth District, \$720.

Francisco Alfonso, clerk, Court of First Instance, Fifteenth District, March 1, \$500; promotion and transfer from Sixth Judicial District, \$240.

#### COURT OF LAND REGISTRATION.

Pedro Calero, junior typewriter, February 11, \$420; probational appointment.

*City of Manila.*

## DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

George W. Cooper, teamster, February 16, \$720; probational appointment.

Fay I. Nichols, engineering draftsman, February 4, \$1,400; probational appointment.

John P. Rosolon, carpenter, February 23, \$900; probational appointment.

Maurice D. Schomfeld, teamster, February 22, \$720; probational appointment.

Thomas D. Blackmon, teamster, February 20, \$720; reinstatement.

Justus Rishmuller, master, steamship *Pluto*, March 1, \$1,200; probational appointment.

John Wilson, overseer, March 1, \$1,200; probational appointment.

Patricio Arcinas, launch patron, March 1, \$360; probational appointment.

Thomas G. Whiteside, teamster, March 1, \$840; promotion from \$720.

Charles Reim, teamster, March 1, \$720; reinstatement.

## POLICE DEPARTMENT.

Richard O'Donnell, patrolman, first class, January 12, \$900; probational appointment.

Harry E. Goss, patrolman, first class, February 1, \$900; probational appointment.

Walter Peterson, patrolman, first class, February 1, \$900; probational appointment.

Zena O. Long, patrolman, first class, February 2, \$900; probational appointment.

William A. Alther, patrolman, first class, February 4, \$900; probational appointment.

Edmund Quinland, patrolman, first class, February 11, \$900; probational appointment.

Fred D. Smith, patrolman, first class, February 4, \$900; probational appointment.

Antonio Monte Alegre, patrolman, third class, February 2, \$240; probational appointment.

Juan Veedor, patrolman, second class, February 1, \$412; promotion from patrolman, third class, \$330.

J. P. Watson, clerk, February 4, \$900; probational appointment.

Wade Perkins, patrolman, first class, February 16, \$900; probational appointment.

Marcelo Valencia, patrolman, third class, February 24, \$240; probational appointment.

James B. Hadley, patrolman, first class, February 23, \$900; probational appointment.

Gregorio Parra, patrolman, third class, February 5, \$240; reinstatement.

Adriano Bayani, patrolman, second class, February 1, \$450; promotion from third class.

Zacarias Villas, patrolman, second class, February 1, \$412; promotion from third class.

Benjamin P. Lukens, clerk, February 1, \$1,600; promotion from class 8.

Charles E. Jones, patrolman, first class, February 25, \$900; transfer from checker, \$900, Insular Cold Storage and Ice Plant.

Manuel Robledo, patrolman, second class, February 1, \$412; promotion from patrolman, third class, \$330.

Leon Santa Agueda, patrolman, second class, February 1, \$375; promotion from third class, \$300.

William G. McMillian, patrolman, first class, February 26, \$900; probational appointment.

Honorio Hernandez, patrolman, third class, February 27, \$240; probational appointment.

Eugenio Diestro, patrolman, third class, February 27, \$240; probational appointment.

Saturmino Marquines, patrolman, third class, February 27, \$240; probational appointment.

## LAW DEPARTMENT.

James A. Macardell, clerk, January 1, \$1,400; promotion from class 9.

Antonio Jimenez, clerk, January 22, \$900; transfer from office of provincial treasurer of Isabela, \$1,000.

Dimas Carmelo, clerk, February 1, \$288; promotion from \$240.

## FIRE DEPARTMENT.

Severo Abella, engineer, second class, February 16, \$480; promotion from \$240.

John G. Desmond, clerk, January 1, \$1,500; promotion from class 8.

Charles Kaiser, engineer, first class, February 26, \$1,200; probational appointment.

Richard M. Gilbert, fireman, first class, March 2, \$900; probational appointment.

Harper H. Hea, fireman, first class, March 2, \$900; probational appointment.

Thomas E. Heary, fireman, first class, March 3, \$900; probational appointment.

Nathaniel T. Sanford, fireman, first class, March 2, \$900; probational appointment.

James H. Welch, fireman, first class, March 2, \$900; probational appointment.

Sergio Tejico, clerk, February 20, \$360; probational appointment.

*Provinces.*

## ANTIQUE.

Felix Aguilar, foreman, October 1, 1903, \$180; probational appointment.

## BATANGAS.

Luciano Tunaya, clerk, February 15, \$240; probational appointment.

Amadeo Condez, clerk, January 12, \$300; probational appointment.

Rafael Pastor, clerk, February 1, \$300; probational appointment.

Francisco Argente, clerk, February 1, \$300; promotion from Class K, \$120.

Mariano Macaraig, clerk, February 1, \$240; promotion from Class K, \$90.

## CAGAYAN.

Guy T. Slaughter, chief deputy, October 1, 1903, \$1,200; promotion from \$900.

## CEBU.

Geronimo Baguio, clerk, December 2, 1903, \$210; probational appointment.

Felix Alburo, clerk, June 3, 1902, \$240; promotion from \$180.

## ILOILO.

Cornelio Fuentes, clerk, February 1, \$600; promotion from \$180.

Justo Pacificador, deputy, December 2, 1903, \$180; reinstatement.

Jacinto Cambonero, clerk, February 1, \$600; promotion from Class J.

Lucio Rodillado, clerk, February 1, \$480; promotion from Class K, \$180.

Cornelio Fuentes, clerk, February 1, \$600; promotion from Class K, \$180.

## ISABELA.

Fernando Domingo, clerk, February 17, \$180; reinstatement.

## LEYTE.

Hefber V. Bamberger, clerk, February 17, \$1,200; transfer from Forestry Bureau.

## OCCIDENTAL NEGROS.

Paul Wutrich, chief clerk and deputy treasurer, January 21, \$1,200; promotion from \$900.

## PANGASINAN.

Catalino Santiago, clerk, January 1, \$300; probational appointment.

Maximo Cruz, clerk, January 6, \$360; probational appointment.

## SAMAR.

Lorenzo Esquerria, clerk and deputy, December 22, 1903, \$240; promotion from Class K, \$180.

Vicente R. Orgiles, clerk and deputy, December 22, 1903, \$240; promotion from Class K, \$180.

Francisco Cinco, clerk and deputy, January 4, \$180; probational appointment.

Severino Verde Flor, clerk, December 22, 1903, \$150; probational appointment.

## SOROGON.

Clifford H. Spaulding, general foreman, February 1, \$900; probational appointment.

## TARLAC.

Julio Pañgilinan, clerk, March 1, \$600; transfer from provincial fiscal office, \$240.

## TAYABAS.

Crispo Ella, clerk, December 1, 1903, \$210; promotion from Class K, \$150.

**RESIGNATIONS.**

## BUREAU OF JUSTICE.

Wm. J. Rohde, judge, Court of First Instance, city of Manila, March 4.

## ALBAY.

Juan de la Providencia, justice of the peace, Calobon, March 2.  
Mariano Perfecto, auxiliary justice of the peace, Guinobatan, March 2.

## ILOCOS NORTE.

Abraham Peralta, justice of the peace, Dingras, March 7.

## ILOCOS SUR.

Mariano Tamaning, justice of the peace, Magsingal, March 2.

Calixto de Luna, justice of the peace, Pasuquin, February 20.  
Juan Sipin, justice of the peace, Santiago, March 5.

## LAGUNA.

Segundo Reyes, justice of the peace, Lumban, February 20.

## PANGASINAN.

Alejandro Mendoza, auxiliary justice of the peace, Binalonan, March 7.

Mariano Ordoñez, justice of the peace, Villasis, March 7.

## TAYABAS.

Sofio Alandy, provincial fiscal, February 27.

**Contents.**

## Public laws:

No. 1072, amending Act No. 5, entitled "An Act for the establishment and maintenance of an efficient and honest civil service in the Philippine Islands," as amended.

No. 1073, appropriating the sum of \$126,800, in money of the United States, from the Congressional relief fund, for the construction and repair of roads and bridges in the Provinces of Laguna and Tayabas.

No. 1074, appropriating \$17,000, in money of the United States, or so much thereof as may be necessary, from the Congressional relief fund, for the construction and repair of a wagon road from Calamba to Bay by way of Los Baños, in the Province of Laguna.

No. 1075, providing for a loan of ₱4,000, Philippine currency, out of the Congressional relief fund, to the Province of Rizal.

No. 1076, providing for a loan of ₱20,000, Philippine currency, to the Province of Ilocos Sur, ₱8,000 to the Province of Romblon, and ₱6,000 to the Province of Abra, from the Congressional relief fund, for use in the construction in said provinces of public schools of secondary instruction.

## Executive order:

No. 12, announcing the persons elected to the office of provincial governor.

## Decisions of the Supreme Court:

The United States vs. Simon de Padua.

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Rafael Enriquez vs. S. Watson & Co. et al.

## Bureau of Posts:

General Order No. 6, relative to mailing to the United States unsealed packages as gifts or souvenirs.

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No. 283, special agents, duties and authority of.

No. 284, publishing the United States laws in respect to neutrality.

## Manila Custom-House General Orders—

No. 64, providing for the remission of storage charges of less than ₱1, Philippine currency, on consignments of merchandise in the general order stores and parcel department.

No. 65, providing for the examination of all mail packages arriving at Manila from foreign ports, addressed to ports or places in the Philippine Islands other than ports of entry, at the port of Manila.

## Appointments:

By the honorable Civil Governor.

By the Philippine Civil Service Board.

## Resignations.

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VOL. II

MANILA, P. I., MARCH 23, 1904.

No. 12

## PUBLIC LAWS.

[No. 1077.]

AN ACT APPROPRIATING TEN THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FOR GENERAL PURPOSES, TO BE DISBURSED BY THE DISBURSING AGENT OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS AT WASHINGTON, DISTRICT OF COLUMBIA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of ten thousand dollars, in money of the United States, to be transferred to the Disbursing Agent of the Government of the Philippine Islands at Washington, District of Columbia, and to be by him disbursed for the general purposes of the Insular Government. Funds disbursed in pursuance of this Act shall be charged by the Auditor for the Philippine Islands to the appropriations of the proper Bureaus, and the fund available for the Disbursing Agent at Washington shall be credited with the sums so charged to the several Bureaus, so that the fund shall be reimbursable and permanent one.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 8, 1904.

[No. 1078.]

AN ACT GIVING TO COURTS OF FIRST INSTANCE JURISDICTION OVER ALL OFFENSES MADE PUNISHABLE BY ACT NUMBERED EIGHT OF THE LEGISLATIVE COUNCIL OF THE MORO PROVINCE, ENTITLED "AN ACT DEFINING THE CRIMES OF SLAVE HOLDING AND SLAVE HUNTING, AND PRESCRIBING THE PUNISHMENT THEREFOR."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Courts of First Instance of the proper judicial districts are hereby given jurisdiction to try and determine all prosecutions for offenses against Act Numbered Eight of the legislative council of the Moro Province, entitled "An Act defining the crimes of slave holding and slave hunting and prescribing the punishment therefor," anything in existing law to the contrary notwithstanding. All prosecutions for offenses committed under that Act shall be instituted and prosecuted in the proper Courts of First Instance only: *Provided, however,* That the governor or secretary of a district of the Moro Province may conduct

preliminary investigations of alleged offenses against said Act Numbered Eight and exercise all the powers of a justice of the peace in conducting preliminary investigations under the general laws of the Philippine Islands.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 9, 1904.

[No. 1079.]

AN ACT REPEALING A PORTION OF ACT NUMBERED EIGHT HUNDRED AND SEVEN, RELATING TO THE OFFICE OF REPORTER OF THE DECISIONS OF THE SUPREME COURT, AND CREATING THAT OFFICE AS AN INDEPENDENT ONE, ETC., AND AMENDING SECTION THIRTY OF ACT NUMBERED ONE HUNDRED AND THIRTY-SIX IN RELATION TO THE APPOINTMENT AND SALARY OF A REPORTER OF THE DECISIONS OF THE SUPREME COURT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. That portion of section one of Act Numbered Eight hundred and seven under the subhead of "Bureau of Justice," which reads as follows: "*Provided,* That the separate office of reporter from the first day of August, nineteen hundred and three, is hereby abolished, and the duties pertaining to said office shall be performed by the clerk of the court in addition to his other duties as provided by law," is hereby repealed.

Sec. 2. Section thirty of Act Numbered One hundred and thirty-six is hereby amended so as to read as follows:

"Sec. 30. *Reporter of decisions.*—The Civil Governor, with the advice and consent of the Philippine Commission, shall appoint a reporter of the decisions of the Supreme Court, who shall receive a salary at the rate of four thousand Philippine pesos per year, payable quarterly, upon the certificate of a majority of the judges of the court that he has performed the duties of the office for the preceding quarter and is entitled to the compensation herein provided. The reporter shall provide his own office room, clerical assistants, translators, typewriters, and other aids out of the salary herein provided."

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect as of January first, nineteen hundred and four.

Enacted, March 9, 1904.

[No. 1080.]

AN ACT AMENDING SECTIONS TWO, THREE, AND FIVE OF ACT NUMBERED ONE THOUSAND AND THIRTY, ENTITLED "AN ACT CREATING AN HONORARY BOARD OF COMMISSIONERS, COMPOSED OF FIFTY FILIPINOS OF PROMINENCE AND EDUCATION, TO VISIT THE LOUISIANA PURCHASE EXPOSITION AT SAINT LOUIS AT GOVERNMENT EXPENSE."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section two of Act Numbered One thousand and thirty is hereby amended by striking out the whole of said section and inserting in lieu thereof the following:

"Sec. 2. The Honorary Board of Commissioners herein authorized to be appointed shall travel in a body so far as practicable, and the period between the date of their departure from Manila for the United States and the date of their return to Manila shall not exceed five months. The Civil Governor shall fix the date of the departure of the Board. The Board shall be accompanied by, and be in charge of, the Executive Secretary for the Philippine Islands as the representative of the Philippine Government, who shall as such representative make all arrangements for travel and subsistence. A second official of the Philippine Government shall be designated by the Civil Governor as the disbursing officer to disburse the funds needed to pay the expenses of the Board."

Sec. 2. Section three of said Act Numbered One thousand and thirty is hereby amended by striking out the last sentence and inserting in lieu thereof the following:

"The per diems of the Executive Secretary and of the disbursing officer shall be fixed by the Civil Governor. Persons holding office in the Philippine Islands who accept appointment or are detailed for duty under the terms of this Act and visit the Louisiana Purchase Exposition in pursuance hereof, shall be deemed thereby to have waived all claim for leave of absence that may have accrued to them under existing laws both heretofore and down to the time of their return from the visit to the United States provided by this Act."

Sec. 3. Section five of said Act Numbered One thousand and thirty is hereby amended by adding at the end of the first sentence thereof the following words: "and the Executive Secretary," so that the said sentence shall read:

"The Honorary Board of Commissioners shall not only visit Saint Louis, where it shall spend at least a month in the examination of the Exposition, but it shall also visit those principal cities of the United States which shall be agreed upon by the executive committee of the Board after conference with the Philippine Exposition Board and the Executive Secretary."

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1081.]

AN ACT AMENDING ACT NUMBERED FORTY-NINE, PROVIDING FOR THE ESTABLISHMENT OF A CIVIL GOVERNMENT FOR THE PROVINCE OF BENGUET, AND ACT NUMBERED ONE THOUSAND AND FORTY-NINE, MAKING APPROPRIATIONS FOR SUNDRY EXPENSES OF THE INSULAR GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND FOUR, AND OTHER DESIGNATED PERIODS, BY PROVIDING THAT THE DISBURSING OFFICER OF

THE CIVIL SANITARIUM AT BAGUIO, BENGUET, SHALL ACT AS TREASURER FOR THE PROVINCE OF BENGUET AND BY STRIKING OUT THE PROVISION THAT THE CLERK OF CLASS NINE OF THE CIVIL SANITARIUM SHALL BE A DISPENSING CLERK.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section nine of Act Numbered Forty-nine, entitled "An Act providing for the establishment of a civil government for the Province of Benguet," is hereby amended so as to read as follows:

"Sec. 9. Until such time as a treasurer shall be appointed for the province the disbursing officer of the Civil Sanitarium at Baguio, Benguet, shall act as provincial treasurer, subject to the provisions of general law. The governor shall audit the monthly accounts of the several townships and shall cause investigation to be made should he find reason to believe that the finances of any township are dishonestly or negligently administered. Should such investigation reveal ground for action, he shall cause proceedings to be instituted against the offending person or persons."

Sec. 2. Section one of Act Numbered One thousand and forty-nine, entitled "An Act making appropriations for sundry expenses of the Insular Government for the fiscal year ending June thirtieth, nineteen hundred and four, and other designated periods," is hereby amended by striking out the word "dispensing" in the third line of the first paragraph under the heading "Civil Sanitarium, Benguet," so that the paragraph shall read as follows:

"Salaries and wages, Civil Sanitarium, Benguet, nineteen hundred and four: Attending Physician and Surgeon, at two thousand four hundred dollars per annum; one clerk, class nine; one nurse and housekeeper, Class A; one nurse, Class C; two employees, Class D, one being for three months only; one employee, Class F; one employee, Class J; one employee, at one hundred and eighty dollars per annum; three employees, at ninety-six dollars per annum each; two employees, at sixty dollars per annum each; for hire of emergency laborers, not to exceed four hundred pesos; six thousand pesos."

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1082.]

AN ACT AUTHORIZING THE MUNICIPAL BOARDS OF ASSESSORS IN THE PROVINCE OF OCCIDENTAL NEGROS TO HOLD THE ANNUAL MEETING FOR THE YEAR NINETEEN HUNDRED AND THREE WITHIN SIXTY DAYS AFTER THE PASSAGE OF THIS ACT, ANY PROVISION IN EXISTING LAW TO THE CONTRARY NOTWITHSTANDING.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The boards of assessors of the respective municipalities of the Province of Occidental Negros are hereby authorized to hold, within sixty days after the passage of this Act, the annual meeting for the year nineteen hundred and three, provided in section sixty-three of the Municipal Code, and to exercise at such meeting all the powers vested in them by the Municipal Code as amended, any provision in existing law to the contrary notwithstanding.

Sec. 2. The public good requiring the speedy enactment of this

bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1083.]

AN ACT APPROPRIATING THE SUM OF THIRTY-ONE THOUSAND DOLLARS, UNITED STATES CURRENCY, FROM THE CONGRESSIONAL RELIEF FUND, TO COMPLETE THE CONSTRUCTION AND REPAIR OF THE PADRE JUAN VILLAVERDE TRAIL, IN THE PROVINCES OF NUEVA VIZCAYA AND PANGASINAN.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of the Congressional relief fund, the sum of thirty-one thousand dollars, in money of the United States, or so much thereof as may be necessary, for the purpose of completing the work of construction and repair, including the necessary bridges, on the Padre Juan Villaverde trail, Bayombong to San Nicolas, Provinces of Nueva Vizcaya and Pangasinan, previous appropriation for which has been made by Act Numbered Nine hundred and twenty. The provisions and conditions provided in sections two to six, inclusive, of said Act Numbered Nine hundred and twenty are hereby made applicable to the expenditure of this appropriation.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1084.]

AN ACT AMENDING SECTION FIFTEEN OF ACT NUMBERED SEVEN HUNDRED AND TWO, SECTION ONE OF ACT NUMBERED NINE HUNDRED AND EIGHTY-NINE, AND SECTION ONE OF ACT NUMBERED ONE THOUSAND AND THIRTY-FIVE, BY EXTENDING THE TIME FOR COMPLETING THE REGISTRATION OF CHINESE IN THE PHILIPPINE ISLANDS.

Whereas it was impossible to complete the registration of all Chinese persons in the Philippine Islands within the ten months ending February twenty-ninth, nineteen hundred and four, as provided in Acts Numbered Seven hundred and two, Nine hundred and eighty-nine, and One thousand and thirty-five: Therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The time for such registration is, pursuant to authority granted by section four of the Act of Congress approved April twenty-ninth, nineteen hundred and two, hereby extended for a period of two months, to date from February twenty-ninth, nineteen hundred and four.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1085.]

AN ACT PROVIDING FOR THE LOAN OF FOUR THOUSAND FIVE HUNDRED PESOS, PHILIPPINE CURRENCY, TO THE PROVINCE OF BATANGAS, AND AUTHORIZING THE PROVINCIAL BOARD OF SAID PROVINCE TO RELOAN THAT SUM TO SUCH MUNICIPALITIES IN THE PROVINCE AS TO THE PROVINCIAL BOARD MAY SEEM PROPER, TO BE USED IN THE PAYMENT OF SALARIES OF TEACHERS EMPLOYED IN THE BARRIO PUBLIC SCHOOLS OF SUCH MUNICIPALITIES, AND FOR NO OTHER PURPOSE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of four thousand five hundred pesos, Philippine currency, to be loaned to the Province of Batangas.

Sec. 2. The money appropriated in section one of this Act shall be paid by the Insular Treasurer to the treasurer of the Province of Batangas on the presentation to the Insular Treasurer of a certified copy of a resolution of the provincial board of Batangas accepting such loan and agreeing to repay the same, without interest, as follows: Two thousand five hundred pesos, Philippine currency, within two years from the date of the acceptance of the loan, and one thousand pesos, Philippine currency, each year thereafter until the full amount of the loan has been repaid to the Insular Treasury.

Sec. 3. The provincial board of Batangas is hereby authorized to reloan the money thus made available to such municipalities in the province as to it may seem proper, to be used by such municipalities in the payment of teachers employed in their barrio public schools, and for no other purpose, and such loans shall be repaid by the municipalities to the province, without interest, within such time as may be fixed by the provincial board.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1086.]

AN ACT APPROPRIATING SIXTY-TWO THOUSAND EIGHT HUNDRED AND EIGHTY-SIX PESOS AND SIXTY-TWO CENTAVOS, PHILIPPINE CURRENCY, FOR SUNDRY EXPENSES OF THE EXPOSITION BATTALION AND BAND, PHILIPPINES CONSTABULARY, AT THE LOUISIANA PURCHASE EXPOSITION AT SAINT LOUIS, MISSOURI.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sums, in Philippine currency, or so much thereof as may be necessary, are hereby appropriated, out of any funds in the Treasury of the Philippine Islands not otherwise appropriated, for the expenses of the Exposition Battalion and Band, Philippines Constabulary, at the Louisiana Purchase Exposition at Saint Louis, Missouri, together with the cost of transportation and subsistence on route from Manila to Saint Louis, and return:

*Pay of Exposition Battalion, Philippines Constabulary:* For an increase of twenty per centum in pay of line officers of the Exposition Battalion, between the dates of their departure from,

and return to the Philippine Islands, four thousand six hundred and sixty-six pesos and sixty-seven centavos.

*Clothing, camp and garrison equipage:* For a gratuitous issue of clothing to the Exposition Battalion and Band, including underwear, hats, overcoats, blankets, uniforms, coats, and so forth, fourteen thousand five hundred and eighteen pesos and seventy centavos.

*Transportation:* For transportation of officers and enlisted men from San Francisco, California, to Saint Louis, Missouri, and return, and for transportation of supplies of the Exposition Battalion and Band from San Francisco to Saint Louis and return, thirty-two thousand eight hundred pesos.

*Subsistence:* For an additional allowance of eleven centavos each per day, over and above the amount now allowed, for enlisted men of the Exposition Battalion and Band, from date of arrival in Saint Louis to date of departure therefrom; for difference in cost of subsistence of enlisted men while traveling on Army transport from Manila to San Francisco and return, between amount now allowed and amount charged by transport; and for an additional allowance of nineteen centavos each per day, over and above the amount now allowed, for enlisted men while en route from San Francisco, California, to Saint Louis, Missouri, and return; ten thousand nine hundred and one pesos and twenty-five centavos.

In all, for the Exposition Battalion and Band, Philippines Contingent, sixty-two thousand eight hundred and eighty-six pesos and sixty-two centavos, Philippine currency: *Provided*, That any earnings of the band while on this duty, over and above the amount necessary to pay the pro rata share of extra compensation to which enlisted men of the band are entitled while on such duty, not to exceed a maximum of fifteen dollars per month each, United States currency, shall be collected and deposited by the supply officer in the Treasury of the Philippine Islands as miscellaneous receipts.

Sec. 2. The provisions of the first paragraph of section three of Act Numbered Eight hundred and seven, providing the manner in which withdrawals of moneys appropriated in said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, March 10, 1904.

[No. 1087.]

AN ACT APPROPRIATING THE SUM OF ONE HUNDRED AND EIGHTY THOUSAND PESOS, PHILIPPINE CURRENCY, OR SO MUCH THEREOF AS MAY BE NECESSARY, FOR CERTAIN PUBLIC WORKS AND PERMANENT IMPROVEMENTS IN THE CITY OF MANILA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sum, in Philippine currency, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury of the Philippine Islands not otherwise appropriated, for public works and permanent improvements in the city of Manila, as follows:

CITY OF MANILA.

Purchase of property for street purposes and extension and widening of streets, including completion of San Marcelino extension, Ermita, from Calle Nozalada to Calle Herran, completion of 11 Street, Ermita, from Calle Herran to Calle San Andres,

beginning work of widening Calle Nueva, Ermita, throughout its entire length, beginning improvement of street system in barrios of Concepcion and San Carlos, Ermita, beginning extension and improvement of streets in San Lazaro estate, Trozo district, extending and widening old streets and constructing new streets in Manjaloc district, and grading, parking, and improving Calle Mariones, Tondo; for construction of temporary fire station in Tondo; for construction of ornamental shelter on the Luneta; for construction of gateway and entrance to the new Cemetery del Norte; for construction of office and keeper's house in new cemetery; for purchase of three hundred thousand paving blocks for the Escolta, Binondo Square, and Calles Echague and Rosario.

In all, for public works, city of Manila, one hundred and eighty thousand and twenty pesos, Philippine currency: *Provided*, That the amounts to be expended for the various purposes above mentioned, respectively, shall be allotted by resolution of the Commission to be certified to the Auditor, and the Municipal Board of the city of Manila shall be limited in its expenditure for each item in accordance with said allotments.

Sec. 2. All balances remaining unexpended when any public works or permanent improvements appropriated for by this Act are completed shall be returned at once to the Treasury of the Philippine Islands and shall not thereafter be available for withdrawal or disbursement under this Act.

Sec. 3. The provisions of the first paragraph of section three of Act Numbered Eight hundred and seven, providing the manner in which withdrawals of moneys appropriated in said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, March 11, 1904.

## DECISIONS OF THE SUPREME COURT.

[No. 1812. December 21, 1903.]

*THE UNITED STATES, complainant and appellee, vs. IGNACIO BUCNAD, ET AL., defendants and appellants.*

1. CRIMINAL LAW: MURDER: QUALIFICATIVE CIRCUMSTANCES: EVIDENT PRE-MEDITATION.—Where it appears that during four days prior to the date of the commission of the crime the defendants held several meetings, in which they deliberated concerning the manner in which the deceased was to be killed, the offense must be classed as murder because of the presence of the qualificative circumstance of evident premeditation.
2. *Id.*: CRIMINAL LIABILITY: PRINCIPAL BY INDUCTION.—One who conceives the perpetration of a crime, calls a meeting of his confederates to deliberate concerning its execution, persuades them to carry the purpose into effect, and is present at the time of its consummation is guilty as a principal by direct inducement.
3. *Id.*: *Id.*: CO-PRINCIPALS.—Where it appears that the defendants, after conspiring together to kill the deceased, went to his house for the purpose of carrying out their common intent and prepared to cooperate to that end, and some of them actually killed the deceased, while the others posted themselves around the building ready to prevent his escape or render any assist, once which might be necessary, all will be held equally guilty as principals, irrespective of the individual participation of each in the material act of the murder.
4. *Id.*: *Id.*: AGGRAVATING CIRCUMSTANCES: NOCTURNITY: FRAUD: DWELLING: HOUSE.—When it appears that the accused entered the house of the deceased in the nighttime and upon the pretext of wanting to buy a bottle of wine induced him to go down to the lower story of his dwelling where the wine was stored, and there commenced the assault which ended in his death, it is proper to consider in aggravation of the offense the circumstances of nocturnity, fraud, and the commission of the offense in the dwelling of the injured person.
5. *Id.*: *Id.*: MITIGATING CIRCUMSTANCES.—In the application of article 11 of the Penal Code the courts may use it in their discretion to offset any number of generic aggravating circumstances.

6. **DR. DR. AMNESTY: POLITICAL OFFENSES.**—Although a popular uprising on the part of the inhabitants of a town for the purpose of killing an obnoxious and tyrannical president may be regarded as an offense of a political character, still it is not a political offense of such a class as to fall within the provisions of the amnesty proclamation of July 4, 1902, which is limited to political offenses growing out of the revolution against Spain or the armed resistance to the Government of the United States in the Philippine Islands.
7. **DR. DR. ACCESSORY AFTER THE FACT.**—An official who, under threats of death, sends a false despatch to his superiors concerning the commission of a crime, and tending to shield the perpetrators thereof, acts under such duress as to relieve him of any criminal liability as accessory after the fact.

Per McDONOUGH, *J.*, dissenting:

8. **DR. AMNESTY: POLITICAL OFFENSES.**—The amnesty proclamation of July 4, 1902, is not limited in its effect to crimes committed in connection with the insurrections against Spain or the United States in the Philippine Islands but covers all crimes of a political character committed during the period of those insurrections and arising out of political feuds and dissensions among the Filipinos.

APPEAL from a judgment of the Court of First Instance of Antique.

The facts are stated in the opinion of the court.

GEORGIO PINEDA, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, *J.*:

On October 11, 1902, the provincial fiscal of Antique filed a complaint in the Court of First Instance of the province, charging the twenty-seven accused of the crime of double assassination, punished in article 403 of the Penal Code, alleging that at 7 o'clock on the night of the 14th of April, 1902, with the pretext of going to buy some aniseed wine Tomas Mamega and Ignacio Bundal entered the house of Marcos Buncag, municipal president of the pueblo of Cagayanellon, in said town, while fourteen of their companions remained outside, some in the street and others in hiding close to the staircase of the house; that Buncag, on being told of the object of the call of the two men first named, immediately went down into the *bodega* of the house, where the wine was kept, accompanied by Antonio Trinidad, who carried a lighted lamp; that as Buncag handed the bottle to Tomas Mamega the latter inquired the price of the wine, and when President Buncag replied that it cost 1 real, Tomas forthwith struck Buncag with a bolo which he carried, inflicting a serious wound on the left cheek and jaw; that thereupon Buncag, crying out, "I am done for," ran into the street, and then Santiago Madiong pursued him and struck him another blow on the neck, which caused him to fall down in the middle of the street, and then the other defendants threw themselves on the victim and inflicted upon him innumerable wounds from head to foot; that after this the house of the deceased was watched by the assailants until the following day, when the body was removed to the municipal building; that the municipal secretary, Ciriaeo Garrion, who lived in the same house, tried to escape, but Ignacio Bundal prevented him from doing so and inflicted on him a serious wound on the back of the neck in consequence of which he died nine days later; that likewise the vice-president, Francisco Magbanua, was charged with being an accessory to the crime, because he had written a false report of the affair to the provincial authorities, concealing the real facts which took place in the town on the night of April 14, 1902.

The complaint having been filed, the trial was held and evidence was taken as to the facts charged as having been committed by the accused, and from the testimony of Antonio Trinidad, Apolonia Buncag, Domingo Buncag, and Maxima Buncag, witnesses who were present when the facts above charged were committed, and from the testimony of the principal defendant, Ignacio Bundal. It appeared that on the Thursday preceding Monday, April 14, when the crime was committed, Bundal called a meeting which was held in his storehouse located in the barrio of Jilaga within

the limits of said town, at which meeting Dionisio Conde, Pedro Elijan, Santiago Madiong, and Domingo Cardenio were present. For the purpose of considering the grievances which all of them had against the president, Marcos Buncag; that on the following Friday, in the same place, Gregorio Conde, Raymundo Condesa, Gregorio Elijan, Gavino Condesa, Juan Cardenio, and Ramon Condesa met again with Bundal; on Saturday there was another meeting at which Proceido Bonales, Tomas Mamega, Modesto Bundac, Vicente Bonbon, Jacinto Bongar, together with Bundal, were present, and that on Sunday Tomas Mamega, Dionisio Conde, Pedro Elijan, Domingo Cardenio, and Bundal met again in the same place and agreed to kill President Buncag on Monday night, when Bundal and Tomas were to call on the deceased with the pretext of buying wine, it being agreed that Tomas was to strike the first blow and was to be seconded by Santiago Madiong, Dionisio Conde, and the others if it became necessary; that in the meantime the other conspirators were to stay near the premises ready to fight in case the sons of the president or any other persons offered resistance. They bound themselves not to run away, and agreed that if anyone attempted to do so he was to be attacked by his companions; that once the president was killed they would expose his body to the people.

At 6 o'clock p. m. on Monday the conspirators met and about 7 o'clock they went to the house of the president, Bundal, and Tomas entered and stated the object of their call. After the president, Marcos Buncag, was told of what they wanted he at once went down to where the wine was stored, being accompanied by Antonio Trinidad, who carried a lamp, and after he had drawn the wine, when Buncag was delivering the bottle to Mamega, after replying to his inquiry regarding the price, he suddenly received a severe blow with a bolo, inflicted by the latter on his cheek and left jaw, whereupon, saying, "I am done for," he instinctively ran toward the street. Tomas then shouted for Santiago Madiong, Dionisio Conde, and Pedro Elijan, who came out and attacked the deceased, who was felled to the ground covered with serious and mortal wounds. After this the other members of the party, named Proceido Bonales, Domingo Cardenio, Vicente Bonbon, Gregorio Conde, Gregorio Elijan, Raymundo Cardenio, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardenio, came and flocked around the body of Buncag, crying out, "We have conquered."

While this was taking place in the wine room and in the street Ignacio Bundal, who had left the house, reentered it, and on seeing Ciriaeo Garrion, who was trying to leave the house, doubtless with the intent of escaping, Bundal attacked him with the bolo which he had in his hand and inflicted upon him a wound on the left shoulder and neck, in consequence whereof Garrion died nine days afterwards. The testimony of the person who attended him, and the opinion of the physician called as an expert, show that the wound inflicted upon Garrion was very severe.

On this same night, a few moments after the murders were committed, the wife, sons, and other members of the family of the president fled from the house, and the premises were abandoned and left in the possession of the criminals, some of whom kept watch upon it for nine days, after which Gervasio Buncag (one of the sons of the deceased president) and his wife took charge of the house.

On the following day the body of President Buncag was removed to the municipal building, exposed to the public. Several of the conspirators went about the streets of the town informing the people of the death of the president, defying all those who were not ready to prove it, and inviting all the men to go and see the corpse in the municipal building, where all corners were asked by the rioters whether they approved or did not approve of what had been done, and asked whose party they favored.

On the same night, the 14th of April, after committing these



crimes, the accused, Dionisio Conde, Santiago Madiang, and Pedro Elijan, went to the dwelling of Modesto Buneag, one of the sons of the deceased, in company with seven other persons, and looked for Modesto, who was then hidden up a cocoanut tree, but upon being informed by the father-in-law of Modesto that the latter was not in, they went away. These people were all armed, as well as those who were guarding his father's house, which Modesto was able to see from his hiding place.

At the time of the murder the other son of the president, Gervasio Buneag, was absent in an adjacent island called Dondonay. Ignacio Bundal sent word to him to return to the town of Cagayanillo, which, according to the messenger sent for him, had been attacked by bandits, and on receiving this message Gervasio returned with his family. As he was approaching the beach in the vessel which conveyed him he heard the bells tolling, and when the boat anchored several armed men, among them Dionisio Conde, Pedro Elijan, Santiago Madiang, and Ramon Condesa, appeared on the beach and the first named asked him whether he carried any arms, and upon his saying that he did not, they told him to lift up his shirt to see if he had any weapons hidden, because the rioters were in fear of reprisals or vengeance on the part of Gervasio for the killing of his father. They then asked him with which party he was going to side, and he said that he would go with them, whereupon they stated to him that they had killed his father, and took him to the municipal building where he was shown the corpse, wrapped up in a matting, covered with wounds and with the head and face split in two.

It appears likewise from the record that on the morning of the 15th of April while the corpse of the president was exposed in the municipal building, a party commanded by Ignacio Bundal overpowered the townspeople and succeeded in inducing the people through fear to attend in a large number a meeting convened in the municipal building, in which a session was held on that day, as well as on the following. In these meetings it was resolved that the vice-president should replace the deceased and should address a false report to the governor of the province, stating that the town had been attacked by a party of unknown bandits who had attacked the president's house and killed him and had robbed the municipal treasury, the record being signed by the vice-president, Francisco Magbanua, the councilors, and the son of the deceased, Gervasio Buneag. The report was signed by the vice-president, Magbanua, in obedience to the demand of Ignacio Bundal and his followers. It is to be noted that the person who prepared the minutes of the meeting and the false report was Ciriaco Garrion, who, on account of the seriousness of his wound, was taken to the municipal building in a hammock by order of Bundal and his associates.

It does not appear that either in the house of the deceased or in the municipal building any robbery was committed, in spite of the fact that during nine days Ignacio Bundal and his fifteen armed companions controlled and did whatever they pleased in the town. On the contrary, it appears that they mounted a guard of armed members of the band over the house of the president, and upon making delivery of the premises and the furniture and other articles contained therein to the family of the deceased nothing was missing, nor was there any money missing from the funds of the municipal treasury, which were removed from the house of the president to the municipal building. Hatred and vengeance, due to outrages, abuses, and illegal exactions, and other grievances whereof Ignacio Bundal and his companions were alleged to be the victims, were the only motives which caused them to plan and execute the violent death of the president, Marcos Buneag, who, according to his son Gervasio Buneag, during twenty successive years, with but slight intervals, had held the offices of *gobernadorcillo* and municipal captain of the town of Cagayanillo under the Spanish régime, and during the present régime that of *presidente municipal* of said town. It

appears that Ignacio Bundal and his followers were inhabitants of the northern part of the island, who were the enemies of those who resided in the southern part.

The judge, in view of the result of the evidence, sentenced the accused Ignacio Bundal, Tomás Mamega, Santiago Madiang, and Dionisio Conde to the death penalty, as principals of the offense charged, and the others, Pedro Elijan, Proceido Bonales, Domingo Cardeno, Vicente Bonbon, Gregorio Conde, Gregorio Elijan, Raymundo Cardeno, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardeno, to the penalty of seventeen years and four months of *cadena temporal* each one, and to the payment of an indemnity; Francisco Magbanua, as an accessory, was sentenced to four years and two months of *presidio correccional*. The court stated in his decision that Bundal should be sentenced to suffer the penalty of *cadena perpetua*, for the murder of Ciriaco Garrion, and to the payment of an indemnity, but in accordance with the provisions of section 11 of General Orders, No. 58, the proceedings set aside as regards the assassination of Garrion, as this crime should be the object of another information and a separate trial. The ten remaining defendants were acquitted and discharged from custody.

The violent death of President Marcos Buneag has been fully proven in this case and constitutes the crime of assassination, because prior to its execution it was concerted, meditated, and prepared by the authors, who to that end convened and held several meetings during the four days preceding that of the commission of the crime, and in said meetings they discussed the means and manner of executing it, as has been confessed by the principal authors of the offense. For this reason it is undoubted that in the commission of the crime the qualifying circumstance of evident premeditation, which characterizes murder according to article 404 of the Penal Code, existed. The violent death of the secretary, Ciriaco Garrion, is likewise an assassination, since he was wounded in the back by treachery and by unexpected and sudden attack, the criminal using for that purpose means and actions which secured directly and especially the commission of the crime, without any risk to his person which might proceed from the defense of the deceased, although this crime is not at present the subject of this decision.

The defendants Ignacio Bundal, Tomás Mamega, Santiago Madiang, and Dionisio Conde plead guilty to the murder of President Marcos Buneag, but Bundal did not plead guilty to the killing of Ciriaco Garrion, alleging that he had wounded him involuntarily. Pedro Elijan, Proceido Bonales, Domingo Cardeno, Vicente Bonbon, Gregorio Conde, Gregorio Elijan, Raymundo Cardeno, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardeno did not plead guilty to the murders, although they acknowledged having been present in the place where they were committed.

Vicente Conde, Laureano Cayao, Mariano Bundac, Sebastian Conde, Leonardo Fabila, Antonio Tindoc, Nicolás Cardeno, Crisanto Trinidad, Alberto Carcuera, Gregorio Namoco, and Francisco Magbanua plead guilty.

According to article 13 of the Penal Code principals are those who take a direct part in the execution of the crime, or who compel or induced others to execute it, as well as those who cooperate in the execution thereof by means of acts without which the crime could not have been committed.

According to these provisions of the law, the participation of the defendants Ignacio Bundal, Tomás Mamega, Santiago Madiang, Dionisio Conde, and Pedro Elijan in the execution of the violent death of the late president of the pueblo of Cagayanillo, Marcos Buneag, is evident, since Bundal was the first to conceive the commission of the crime, and he invited and convened the codefendants to discuss the means of carrying it into effect, and he presided over several meetings held four days prior for the purpose of determining the manner and details of the execu-

tion of the offense in such a way that resolutions were passed as to what was to be done in case the relatives and friends of the victim should offer any resistance. Finally, Bundal was the leader and was at the head of his codefendants, not only during the execution of the crime but likewise nine days subsequent thereto, during which period of time he and his companions overpowered the town and by their boldness and audacity controlled the situation and terrorized their fellow-townsmen with their threats. Therefore, although Bundal did not take any material part in the execution of the murder of President Buneag, it is nevertheless beyond doubt that Bundal, for the reason above stated, was the author by direct inducement of the murder committed. Soon after preparing the commission of the crime he witnessed its execution and accompanied the material executors to the house of the victim, with the purpose, undoubtedly, of securing the consummation of the crime.

The liability of the other defendants. Tomás Mamega, Santiago Madión, Dionisio Conde, Pedro Elijan, Procedio Bonales, Domingo Cardéno, Vicente Bonbon, Gregorio Conde, Gregorio Elijan, Raymundo Cardéno, Gavino Condesa, Jacinto Bongar, Modesto Bundeag, Ramon Condesa, and Juan Cardéno, is likewise established, since the three first named, as well as Bundal, have confessed and been convicted of having taken direct part in the murder of President Buneag, and the other twelve of them, although not pleading guilty, confine themselves to affirming having attended and been present during the commission of the crime, accompanying the first four named and stationing themselves around and underneath the staircase of the house, for which reason there is more than sufficient proof to fully convince the mind that these defendants are guilty. Several witnesses who narrated the details of the killing of Buneag by Mamega, Madión, and Conde in the presence of Bundal, affirm that the other twelve defendants were present in the place where the crime was committed.

Although it is axiomatic that no one is liable for acts other than his own, when the evidence shows—as it does in this case—that the accused, under the command of Ignacio Bundal, on the night of the murder placed themselves around the house of the deceased, it is evident, notwithstanding the fact that only two entered the house and only four actually attacked the victim, that all of the sixteen conspirators, impelled by the same motive, were prepared to commit the crime or cooperate in its commission. It is impossible to graduate the separate liability of each without taking into consideration the close and inseparable relation of each of them with the criminal act, for the commission of which they all acted by common agreement, their common purpose being the murder of Marcos Buneag. The crime must, therefore, in view of the solidarity of act and intent which existed between the sixteen accused, be regarded as the act of the band or party created by them, and they are all equally responsible for the murder in question. The judgment of the supreme court of Spain of September 29, 1883, establishes a doctrine on this subject similar to the American rule laid down by Bishop (New Criminal Law, vol. 1, par. 630, and vol. 2, par. 629, and cases there cited) and to the ruling of this court in the case of the United States *vs.* Pedro Teodoro, *supra*.

There is to be considered in the execution of the said crime of murder the concurrence of the aggravating circumstances 8, 15, and 20, section 10 of the Penal Code. Inasmuch as the accused undoubtedly took advantage of the darkness of night for the consummation of the crime, and made use of deceit by means of a false pretext in order to attack the deceased unawares and while unable to defend himself against the attack made on him in the lower story or *bodega* of his house. Nevertheless, these circumstances are compensated in their effects by the special circumstance established in section 11, which is considered in mitigation—that is, the personal conditions of race and the ignorance of

the accused. This was a murder committed by means of sedition or an uprising boldly carried out by the sixteen defendants, who were impelled thereto by the hatred and ill will which they bore toward the victim on account of the abuses by him committed during a period of nearly twenty years, during which time he had been exercising the functions of the highest local authority in the town and island of Cagayanillo, a period which commenced from the previous sovereignty, and this induced the mutineers to believe that such abuses would probably continue indefinitely and that it would be difficult if not impossible to obtain any relief from the government of the province owing to the distance that separates this small island from that of Panay, wherein the Province of Antique is located. Therefore they sought relief by having recourse to violence and assassination. This was due to their ignorance and perhaps to the lack of means for obtaining justice. For all these reasons we are of the opinion that great weight should be given to the circumstance established in section 11, to such an extent that it should be considered as compensating in itself the three aggravating circumstances above enumerated. Therefore the sixteen defendants are to be condemned to the medium degree of the penalty prescribed in section 403 of the Penal Code.

As a consequence of what has been stated, the court considers that the assault committed by the accused upon the president of the pueblo of Cagayanillo certainly affected public order and the principle of authority, and for this reason is of a political character in a general sense. But it is not a political offense of the class covered by the amnesty of July 4, 1902, inasmuch as the defendants, when they resolved and carried into effect the death of Marcos Buneag, did so under the provocation of certain abusive acts committed by Buneag, but it does not appear that the residents of the town seconded the revolution against the Government of Spain or took part in the resistance against the sovereignty of the United States. Neither does it appear that the deceased or his aggressors took part in the insurrection. Nor has it been shown that this hatred and ill will arose from political motives or strife connected with the past revolution, and it is therefore undeniable that the murder of the said president, Buneag, did not have the particular political character contemplated by said amnesty, and that the case does not fall within the letter or spirit of the proclamation, especially paragraph 3 thereof. It would, therefore, be error to hold that the defendants are covered by the amnesty.

No appeal has been taken as to that part of the decision of the lower court by which the trial, as regards the murder of Ciriaço Garrion by Ignacio Bundal, was set aside, and this court is therefore divested of any authority whereby to make any finding as regards the said murder, and as to the liability of the alleged author thereof, since the lower court decided that the same should be the object of another information and a separate trial, without any objection on the part of the prosecution.

With respect to the charge against the late vice-president of Cagayanillo, Francisco Magbana, accused as being an accessory to the offense, it appears that the latter, when signing the minutes and the report forwarded to the provincial government, wherein it was falsely stated that a band of brigands had invaded the pueblo and killed the president, Buneag, acted under the impulse of insuperable fear of a greater evil, which consisted in the threat and intimidations made by Bundal and his followers after the murder of President Buneag, which said intimidations and threats were of a serious and imminent character, in view of the circumstances attending them, and caused the other townspeople to submit thereto as well as the very sons of the deceased. For this reason the defendant Magbana is not criminally liable. The law does not consider this defendant guilty and consequently he should be acquitted. It is nevertheless to be noted that he allowed considerable time to pass without having rectified the false report

by giving the provincial authorities the real facts which took place, and that he issued a passport to Bundal in order that he might be able to remove to and land on other islands. These facts may be sufficient to warrant the prosecution of this defendant for other offenses, which however are not charged in the information in the present case.

The other defendants, Vicente Conde, Laureano Cayao, Sebastian Conde, Leonardo Fabila, Antonio Tindoc, Nicolas Cardenio, Crisanto Trinidad, Alberto Carcuera, Gregorio Namoco, and Modesto Bundac, have been acquitted, and no appeal having been taken against this decision the sentence is final and therefore the court has no power to take any action as regards these ten defendants.

In view of the foregoing, in our opinion it is proper to sentence the accused, Ignacio Bundal, Tomas Mamega, Santiago Madiogon, Dionisio Conde, Pedro Elijan, Proceidio Bonales, Domingo Cardenio, Vicente Bonbon, Gregorio Conde, Gregorio Elijan, Raymundo Cardenio, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardenio, each to the penalty of *cadena perpetua*, with the accessory penalties of civil interdiction, and being subject to the surveillance of the authorities during their lifetime, and even in case of being pardoned of the principal penalty they shall suffer the penalty of absolute perpetual disqualification, and to be subject to the surveillance of the authorities during their lifetime, unless these penalties are especially included in the pardon of the principal penalty. They are likewise sentenced to the payment jointly and severally of an indemnity of \$1,000, Philippine currency, to the heirs of the deceased, and to the payment of one-twenty-seventh part of the costs in both instances.

It is held that the amnesty of the 4th of July, 1902, is not applicable to the sixteen defendants because they are not comprised within the terms of the same. The defendant Francisco Magbana is acquitted, and one-twenty-seventh part of the costs shall be paid *de oficio*, the decision appealed from being reversed in so far as it conflicts with this decision.

Let the record be returned with a certified copy of this decision for the execution of the judgment.

Arelano, C. J., Torres, Willard, Mapa, and Johnson, JJ., concur.

Per McDONOUGH, J., dissenting:

The object of the uprising and the killing of the presidente as shown in this case was of a political nature. He had been in office about twenty years, and held over after Spanish power had been swept away. The people of the town were divided into two parties, one apparently supporting the presidente and his policy, the other against him, claiming that he had oppressed and wronged the people. The motive of the accused was not robbery or personal revenge, but rather to rid the people of what they deemed the tyranny of an obnoxious official—for during several days after his death they guarded the treasure of the town and the house of the deceased, finally turning them over intact and without injury.

In view of these facts, I am of the opinion that the petition of the defendants to be included among those to whom amnesty was given by the proclamation of the President, issued July 4, 1902, should be granted.

By this proclamation the President granted pardon, among others, for all offenses political in their character "which resulted from internal political feuds or dissensions among the Filipinos themselves during either of said insurrections."

This crime was committed during the period of the revolutions and grew out of such political feud or dissensions among Filipinos, and therefore the defendants are entitled to the benefits of the proclamation.

*Judgment modified.*

[No. 982. January 4, 1904.]

*LIM-JUCO, plaintiff and appellant, vs. LIM-YAP, defendant and appellee.*

**INSURANCE, DOUBLE INSURANCE.**—The plaintiff applied to the agent of an insurance company for insurance on a cargo of rice. The agent issued no policy, but gave him a letter to the insurance company containing a statement that the cargo was insured. Shortly after the plaintiff applied to the defendant, the agent of another insurance company, and obtained from him a policy of insurance upon the same cargo. This policy was not drawn in the form prescribed by the Code of Commerce. The cargo was lost and the first company paid the loss. Subsequently the insured sued the agent of the second company for the value of the rice lost upon the ground that the policy issued by him was unenforceable on account of noncompliance with the legal requirements as to form, and that the agent had failed to bind his principal by the policy issued. *Held*, that the prohibition against double insurance prevents a recovery, and that the first company having paid the amount of the loss the unenforceability of the second policy does not give the insured a right of action against the agent of the second company.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

L. D. HARGIS and R. S. McDUGALL, for appellant.  
DAVIS & COHN and ALBERTO BARRETTO, for appellee.

**TORRES, J.:**

The plaintiff, Lim-Juco, sued the defendant, Lim-Yap, for damages in the sum of 13,000 pesos for breach of a contract to insure a cargo of rice. The defendant in his answer denied that he was under any obligation to pay this sum, upon the ground that the second contract of insurance represented by the policy introduced in evidence by the plaintiff is void.

The court below, in view of the evidence adduced by the parties and in consideration of the facts admitted and agreed upon between them, rendered judgment for the defendant, with the costs against the plaintiff.

The complaint upon which it is sought to recover this sum of 13,000 pesos as damages is based upon the failure of the defendant to fulfill his obligation of executing a valid and enforceable policy of insurance upon a cargo of rice.

The parties litigant agree that long prior to June 14, 1900, when a contract of insurance was entered into between the plaintiff, Lim-Juco, and the defendant, Lim-Yap, as representative of the King Yuen Insurance Company, Limited, insuring 3,000 sacks of rice, valued at 13,000 pesos, loaded on the barkentine *Registro*, they had entered into the agreement which appears in section 9, page 2 of the bill of exceptions. This agreement, the plaintiff contends, constituted a contract of insurance between him and the firm of Germann & Co., the agents of La Federal Insurance Company, for the insurance of the same 3,000 sacks of rice above referred to for their total value.

The brig in question, which sailed from the port of Dagupan June 15, 1900, for this city, carrying the 3,000 sacks of rice so insured, was wrecked on the following day, the 16th, near the port of Vigan, Island of Luzon, the entire cargo being lost. On the 17th of the same month Pio Acosta, the skipper, together with some of the members of the shipwrecked vessel, entered, before the customs inspector in the port of Vigan, a ship's protest in due form, with respect to the said shipwreck. Upon their arrival in this city this protest was repeated before the notary public Enrique Barrera. Of all these facts the defendant had immediate notice.

The plaintiff has been completely indemnified for the loss of the 3,000 sacks of rice which went down in the wreck of the brig *Registro*. On the 11th of August, 1901, he received from the firm of Germann & Co. the sum of 13,000 pesos, the amount of insurance underwritten by that firm in favor of the plaintiff. (Bill of exceptions, pp. 6 and 7.) The manager of the firm testified to this fact, and stated that he had written a letter to the

defendant notifying him that he had paid the amount of the insurance on the lost rice belonging to the plaintiff, Lim-Juco.

Article 782 of the Code of Commerce provides that if different contracts of insurance have been entered into concerning the same thing, in the absence of fraud only the first contract shall subsist, provided it covers the full value of the thing insured. Subsequent insurers shall be relieved from responsibility, and receive one-half of 1 per cent of the amount insured.

If the first contract does not cover the entire value of the thing insured, then the liability for the excess shall fall upon the subsequent insurers in order of priority.

The only error assigned by the appellant is that the court erred in rendering judgment for the defendant and in imposing the costs upon the plaintiff, Lim-Juco.

The plaintiff has not demanded from the defendant, Lim Juco, the value of the rice insured by him as agent of the Panag Khean Guan Insurance Company, Limited, nor has he affirmed or denied the validity or enforceability of the policy executed in his favor by the defendant, notwithstanding the fact that it was the second contract of insurance upon the same thing.

The plaintiff, Lim-Juco, realizing that no action had accrued to him and that his policy was unenforceable from his point of view—that is, for the reason that it was defective in form and not because of the existence of a former contract of insurance covering the same 3,000 sacks of rice—he commenced this suit against the insurance agent to recover damages for the amount of the injury occasioned by the loss of the rice. The action was based upon the alleged nullity of the policy, which in the opinion of the plaintiff was deficient and had been executed without the formalities required by law.

We do not deem it necessary to make any decision as to the conditions of the said policy, inasmuch as the plaintiff has not suffered damage by reason of the deficiency resulting from a failure to comply with the formal requisites prescribed by article 738 of the Code of Commerce.

The unenforceability of this policy, even if all the legal formalities had been complied with in its execution, is due to the prohibition established by the law against the double recovery of the value of a cargo of property insured and lost by any maritime accident.

It is a fact disclosed by the evidence that the plaintiff has recovered the entire amount of the value of 3,000 sacks of rice insured and subsequently lost by the wrecking of the vessel. Therefore, in accordance with the provisions of article 782 of the Code of Commerce, the second or subsequent insurer, the defendant herein, is free from all liability. The law will not permit Lim-Juco, after having collected from Germann & Co. an amount in excess of the value of the rice insured, to collect for the second time from a second insurer. The latter's obligation in the premises has been annulled by the provisions of the law.

It is unnecessary to discuss the conditions of the contract of insurance signed by Germann & Co. on behalf of the Federal Insurance Company, in view of the unquestionable fact that the plaintiff collected and received from the said firm more than the entire value of the rice lost. For this reason, whatever may have been the defects in the policy issued by the insurer, no action has accrued to the plaintiff for the recovery of damages. Upon the facts of the case there is no law which sanctions such an action. It is a demand as unjust as it is immoral, and seeks to elude the prohibition of a double recovery of the value of property insured.

As the second contract of insurance entered into is null and void and therefore, by express provision of the law, produces no obligation with respect to the Chinese company represented by the defendant, the plaintiff having recovered the total amount of the insurance from the first insurer, there is no legal reason upon which the agent of the company can be compelled to pay the

amount of the second policy of insurance, from which, as above stated, this agent was freed by operation of law. Neither can an action for damage be successfully maintained against the agent, as none of the articles of the Code of Commerce which deal with commission agents, factors, and clerks create such an obligation. Nor is such an obligation created by any of the articles of the same Code concerning marine insurance.

For the reasons given, the action against the defendant, Lim-Yap, is dismissed and the judgment below affirmed, with the costs to the plaintiff. Judgment will be entered and the case remanded to the court below, twenty days from the date of the notification of this decision.

Arellano, C. J., Cooper, Willard, Mapa, and McDonough, JJ., concur.

Johnson J., did not sit in this case.

Judgment affirmed.

[No. 1444. February 4, 1904.]

THE UNITED STATES, complainant and appellee, vs. SEVERO ALCANTARA ET AL., defendants and appellants.

CRIMINAL LAW; BRIGANDAGE.—Evidence that the defendants at the time of their capture were in company with a band of armed men known to be engaged in the robbery of personal property is sufficient to sustain a conviction upon a charge of brigandage.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

MATIAS SANCHEZ, for appellants.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The accused were charged with the crime of *bandolerismo*. They were tried in the Court of First Instance of the Province of Rizal on the 6th day of April, 1903. When they were arraigned before the Court of First Instance of the Province of Rizal, Bernardo Gomez plead guilty to the charge and was then and there sentenced to be imprisoned for the term of twenty years and to pay the costs of the said suit. At the conclusion of the trial Severo Alcantara and Roman de Jesus were each found to be guilty of the crime charged in the complaint and were each sentenced by the court: Severo Alcantara to be imprisoned for the term of forty years and Roman de Jesus for the period of twenty years. Roman de Jesus moved for a new trial, which new trial was granted on the 29th day of April, 1903.

At the conclusion of the new trial on the 17th of July, 1903, the court found Roman de Jesus guilty of the crime charged and he was again sentenced to twenty years of imprisonment. The evidence adduced in the trial showed that Severo Alcantara and Roman de Jesus and Bernardo Gomez were captured on or about the 8th day of February, 1903, during a fight which took place between the Constabulary of the Province of Rizal and the forces of General San Miguel, in or near Corral Navato. The evidence shows that the companions of San Miguel numbered from 300 to 400 armed men. These men were armed with bolos and guns and were under the command of General San Miguel. The evidence showed that the band had frequently visited the barrios and pueblos in and near the Corral Navato for the purpose of robbing and also for the purpose of compelling the people therein to pay tribute to them. The evidence shows that as a result of the fight General San Miguel and his forces were driven out of the corral and many documents were found signed by Julian Santos and others, which clearly showed the unlawful existence of the band. It was shown that these documents had been signed by Julian Santos, by a person who was familiar with his handwriting. The evidence shows that during the fight two members of the Constabulary, one officer and one soldier, were killed. The

evidence clearly shows that San Miguel was present and took part in the fight.

The defendant Roman de Jesus swore in his own behalf and said that he was a laborer, was more than 40 years old, and had lost one hand by an accident some years before. He said that he had been sequestered by General San Miguel's band because of the fact that they supposed him to be a secret policeman of the Americans. This testimony was not believed by the court below.

Severo Alcantara also testified in his own behalf and stated that he had been a prisoner in the provincial jail of the Province of Rizal charged with the crime of murder and had escaped and had gone to his home, where he was sequestered by the members of San Miguel's band. He claimed that at the time of the attack he was not a member of the band nor connected with it in any way, but simply happened to be mixed up with it at the time of the engagement between it and the Constabulary. He was trying to run away from that place at the time he was captured.

In the new trial of Roman de Jesus an attempt was made again on the part of the defendant to prove that he had been sequestered. His wife was called as a witness and she testified that her husband had been carried away by some persons whom she did not know. She could not remember the date nor the month when this fact took place. The court below found this evidence was not to be believed. The court below saw and heard the witnesses and we find no reason for taking a different view of facts.

Prudencio Zalazar was also called as a witness for the defence in the new trial and testified that Roman de Jesus had been sequestered by some persons in the month of February last. This, however, was contrary to the statement of the wife and certainly was not considered as having any weight by the trial court. The evidence in the foregoing case justifies the following conclusion:

1. That a band of armed men existed in the Province of Rizal, composed of from 100 to 400 men.
2. That said band was armed with guns and bolos.
3. That said band was organized for the purpose of robbing personal property.
4. That said band did, at various times, go out upon the highways and rob personal property.
5. That the said accused here were members of the said band at the time of their arrest.

Therefore the sentence of the court below is hereby affirmed with the costs in both instances.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, J.J., concur.

*Judgment affirmed.*

[No. 1548. February 11, 1904.]

*THE UNITED STATES, complainant and appellee, vs. PAULINO GARCIA ET AL., defendants and appellants.*

**CRIMINAL LAW: BRIGANDAGE.**—See facts in this case held sufficient to support a conviction for brigandage.

APPEAL from a judgment of the Court of First Instance of Mindoro.

The facts are stated in the opinion of the court.

FERNANDO DE LA CANTERA, for appellants.  
Solicitor-General ARANETA, for appellee.

WILLARD, J.:

That the defendants all belonged to the band of Valeriano Gasic was not disputed. It is claimed, however, that although it was proved that this band consisted of thirty-five men, all armed with guns, that it was living in the mountains, and that it assaulted the town of Naujan, seized and carried off seven of the inhabitants, four of whom it afterwards killed, yet it committed no

robberies. The evidence shows the contrary. They carried away from the public building of Naujan a trunk containing money. At their camp this money was divided among the members of the band. Orders were given from time to time to different members of the party to go from the camp to specified places and seize the *palay* there located.

The band in question comes within article 1 of Act No. 518 and the judgment of the court below imposing the penalty of life imprisonment upon the appellants is confirmed with the costs of this instance against them.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1368. February 12, 1904.]

*THE UNITED STATES, complainant and appellee, vs. FRED FREDMUTH, defendant and appellant.*

**1. CRIMINAL LAW: FALSIFICATION OF PUBLIC DOCUMENT.**—One who induces others to sign the names of third persons to a pay roll, but without attempting to imitate the genuine signatures, can not be convicted upon a charge of falsifying a public document.

Per COOPER, J., dissenting:

**2. ID.:**—One who induces others to sign the names of third persons to a pay roll, even without attempting to imitate the genuine signatures, is guilty of a falsification by causing it to appear that persons who took no part in the making of the pay roll had participated therein.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

HARTIGAN, MARPLE, SOLIGNAC, McCABE & GUTIERREZ, for appellant.  
Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The defendant is charged with having falsified a public document by counterfeiting and feigning the signatures of Charles Bruggert, W. F. Farrow, and other persons to a pay roll. At the time in question the defendant was a clerk in the office of one Behan, the disbursing officer of the Board of Health of the city of Manila. The evidence shows that he did not sign the names of any of the persons mentioned in the complaint to the pay roll, but it does show that the witness Kennedy signed the name of Charles Bruggert at the request of the defendant and that the witness Davis signed the name of W. F. Farrow. There was no attempt whatever by either Kennedy or Davis to imitate the signatures of Bruggert and Farrow. The signatures made by the witnesses are entirely unlike the genuine signatures of these persons. The case is fully covered by former decisions of this court. (United States *vs.* Buenaventura, 1 Off. Gaz., 446; United States *vs.* Balmori, 1 Off. Gaz., 182; United States *vs.* Paraiso, Nov. 13, 1901; United States *vs.* Roque, 1 Off. Gaz., 350.)

The judgment is reversed and the defendant acquitted with the costs of both instances *de officio*.

Arellano, C. J., and Mapa, J., concur.  
Torres, J., concurs in the result.

COOPER, J., dissenting, with whom concurs McDONOUGH, J.:

The decision in this case has been made to turn upon the question whether there was an imitation of the signature of the parties whose names were placed on the pay roll, and former decisions of this court have been cited.

We do not think that the question of imitation of signatures is involved in the case. While it is alleged in the complaint that there was a counterfeiting and feigning of the signatures of certain-named persons to the pay roll, and perhaps the complaint

in this respect would have been sufficient to have sustained the conviction, still, under the complaint the offense charged was not only the counterfeiting and feigning of the signatures but it was for falsifying an official document "by including in the act of making said pay roll the participation of the said last-named persons, when in truth and in fact said last-named persons had no participation in the act of making said pay roll." The indictment perhaps was demurrable as comprising two distinct offenses, but was clearly sufficient to sustain a conviction for the falsification of a public document under clause 2 of article 300 of the Penal Code, which makes a public official guilty who, taking advantage of his official authority, shall commit a falsification:

"2. By including in any act the participation of persons who had no such participation."

The testimony shows that the defendant, Freimuth, was employed as clerk and chief timekeeper for the Board of Health of the Philippine Islands; that on the 25th day of June, 1902, in the city of Manila, he took advantage of his authority and position as such official, his duty being to see that the pay rolls of the Department were properly signed and certified, and made out a second pay roll several weeks subsequent to the making of the original pay roll, and procured others in the office to make the signatures in different handwritings of the men whose names were contained on the original pay roll, and this second pay roll, after it had been signed up with the names of the persons who had signed the original pay roll, was attempted to be used by one James Behan, disbursing officer of the sanitary department, to defraud the Government by using it as a voucher and obtaining credit a second time for the amount for which he had received credit on the original pay roll.

We think the proof fully sustains the charge and that the defendant is guilty of the falsification of a public document under clause 2 of article 300 of the Penal Code.

Johnson, J., did not sit in this case.  
*Defendant acquitted.*

[No. 1480. February 16, 1904.]

*THE UNITED STATES, complainant and appellee, vs. FRANCISCO DE LA CRUZ ET AL., defendants and appellants.*

CRIMINAL LAW; BRIGANDAGE.—Evidence that the defendant was a member of a band of robbers composed of more than three armed men is sufficient to sustain a conviction of the crime of brigandage.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

J. N. WOLFSON, for appellants.  
 Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendants in this case each were charged with the crime of *bandolerismo*.

The evidence shows that the said defendants and each of them had been for some months prior to the month of February, 1903, members of the volunteers; that they, with twenty-two others, deserted from the said volunteers in the month of February, 1903; that at the time of their desertion they took with them their guns and some ammunition; that each of the three accused were, at different times, found in a band in the mountains, which band was proven to be a band of brigands; that on several occasions these accused, together with other members of the band, were seen in different pueblos demanding rice and money of the inhabitants. Not only does the evidence show that the band to which the accused belonged entered pueblos demanding rice and money but it also shows that they entered houses for the purpose of robbing, and that its members were armed with guns and revolvers.

The evidence further shows that on one occasion they sequestered the policemen of the town of Malolos and carried them off to the mountains and detained them there for some time; and that the band was under the control and direction of one Dalmacio Caambol, who had been appointed by General San Miguel as a lieutenant of that particular band.

The defendants introduced no evidence in their own behalf.

The evidence in this case justifies the following conclusions:

1. That there existed in the Province of Rizal, in the month of February, 1903, an armed band, composed of three or more persons.

2. That the purpose of the said band was to rob carabaos and other personal property.

3. That the three accused were members of said band.

The sentence of the Court of First Instance of the Province of Rizal is therefore affirmed and the said defendants and each of them are hereby sentenced to be imprisoned for the term of twenty years.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, J.J., concur.

*Judgment affirmed.*

**BUREAU OF JUSTICE.**

*The Union Surety and Guaranty Company.*

OFFICE OF THE ATTORNEY-GENERAL,

Manila, P. I., March 14, 1904.

SIR: Will you please officially publish in the OFFICIAL GAZETTE that the authority of the Union Surety and Guaranty Company of Philadelphia to do business in the Philippine Islands has been revoked, and that they have been prohibited from transacting any new business in said Islands as provided in section 4, Act No. 536, of the Philippine Commission.

Very respectfully,

GREGORIO ARANETA, *Acting Attorney-General.*

The EDITOR OF THE OFFICIAL GAZETTE,

Manila, P. I.

**BUREAU OF CUSTOMS AND IMMIGRATION.**

TARIFF DECISION CIRCULARS.

No. 374.—(1) *Steam engine; (2) boiler and detached parts.*

MANILA, February 11, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1612, filed December 9, 1902, by Messrs. Warner, Barnes & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry Nos. A 13242, 13243, Voucher No. 18863, paid December 8, 1902.

"The first claim in this case is against the classification of an engine and parts under paragraph 243 of the Tariff Revision Law of 1901, at \$1.50 per 100 kilos, instead of as 'agricultural machinery,' under paragraph 245, at \$0.25 per 100 kilos, as now claimed. The engine was entered as 'other machinery' under paragraph 257 (b).

"By one of the well-known canons of statute interpretation, all parts of a law must be read together, so that as far as non-electrical power machinery is concerned, it is as if paragraph 243 had been inserted to cover the particular motors and engines there enumerated and paragraph 257 to cover all others. It is the familiar case of a specific enumeration followed by an *omnium gatherum* clause. Steam engines, not being enumerated in the first clause, must be held to be enumerated in the general terms

of paragraph 257. (See last part of Tariff Decision Circular No. 187.)

"It is true that the Court of Customs Appeals, in a decision published in Tariff Decision Circular No. 326, have assimilated a stationary steam engine to a marine engine, and held it to be dutiable under paragraph 243, but that case is not entirely in harmony with a previous decision of the same court (Tariff Decision Circular No. 187, last part). It is in conflict with the great weight of authorities, and it is not certain that it would be followed again. (Aloe vs. Churchill, 44 Fed., 50; Arthur and Butterfield, 125 U. S., 70; 31 Law Ed., 643; 8 Sup. Ct. Rep., 714; Arthur and Sassfield, 96 U. S., 128; Sykes vs. Wagone, 38 Fed., 494; Rossman vs. Hedden, 87 Fed., 99; Herman vs. Roberston, 33 Fed., 654; Hartrauft vs. Meyer, 135 U. S., 237; Suberger vs. Kohn, 137 U. S., 95; Junge vs. Hedden, 146 U. S., 238; Lubenoth vs. Roberston, 144 U. S., 35; Mason vs. Roberston, 144 U. S., 40.)

"It is not to be construed into a ruling that all steam engines are dutiable under paragraph 243, since it is only applicable to engines which may, without appreciable difficulty, be indifferently used interchangeably as either land or marine engines. The case was very special and should not be extended beyond the actual point presented to the court for determination. The fact that an engine is to be used on a farm, much less that it is to be used in a woodworking shop, can not alter the classification. (See also Tariff Decision Circular No. 311.)

"The second claim is against the classification of certain parts of boilers as 'other machinery' under paragraph 257 (b) as entered, instead of as 'boiler parts' under paragraph 244 (a), at \$0.50 per 100 kilos.

"The parts in this case consisted of the smokestack, fittings for the firebox and ashpit, steam gauges, cocks, and fitter feedings, which being detached simply for convenience in transportation should be assessed for duty with the boiler, the same as if the boiler had been imported fully fitted up. (Tariff Decision Circular No. 312.) It is found, however, that this boiler is all steel, instead of wrought iron, and is therefore dutiable under paragraph 244 (b), at \$0.75 per 100 kilos, instead of paragraph 244 (a), at \$0.50 per 100 kilos.

"The third claim is against the imposition of any duties whatever on any importation from the United States on the usual constitutional grounds, and is overruled and denied.

"Protest No. 1612, on the grounds mentioned above, is therefore overruled and denied, and the entry will be reliquidated in accordance with this decision, resulting in a balance due the Government in the sum of \$270.76, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 375.—*Anchors, chains, etc.; goods entered for consumption, no refund upon reexportation.*

MANILA, February 11, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2548, filed October 14, 1903, by the Compañía Marítima, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 3624, Voucher No. 12173, paid October 12, 1903.

"The claim in this case is against the imposition of any duties upon certain anchors, chains, and other like merchandise imported for use as permanent ship's moorings, in connection with the local port improvements. These articles are imported at this time in order to have them on hand in case a law should be

passed compelling their use, but if no such law is passed, it is the desire of the owners to reexport them and claim a refund of the duties paid. It is not denied that the goods are dutiable as assessed, no question of classification being involved.

"This office can not take any note of laws yet to be passed; it is the sole duty of an administrative bureau to enforce the laws as they exist. Moreover, in this particular case, the expected change in the law goes simply to the motive of the importer in making the importation, a matter of absolutely no importance to this office; enough that they are voluntarily imported and are entered for consumption. If the importers believed that expected changes in the laws would make any present importation inexpedient or unwise, or an importation now deemed inexpedient, at some future time wise, beneficial, or necessary, and desired to reserve the right of reexportation or not, according to fancy, they should have entered the goods for warehouse and not for consumption. Goods entered for consumption become mingled with the general property and no law provides for any refund of duties upon reexportation.

"Protest No. 2548, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 376.—*Additional charges.*

MANILA, February 11, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2014, filed April 6, 1903, by Messrs. Ed. A. Keller & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the amount of duty chargeable on certain merchandise described in Entry No. 6679, Voucher No. 11262, paid April 4, 1903.

"The merchandise in this case consisted of certain half-silk textiles, shipped from Elberfeld, Germany (f. o. b. Hamburg, through forwarding agents at that port); invoiced by the seller at marks 3,509.75 and entered at the same amount; and returned at, and duty assessed on, marks 3,581.40. It is claimed that the invoice and entered value represents the exact amount paid for the merchandise, including all the charges specified in section 177 of the Customs Administrative Act.

"It has been ascertained that all merchandise consigned to the protesters from Europe is purchased and paid for, and usually invoiced, by an office maintained by them in Zurich, Switzerland. This office has been considered as (1) the seller of the merchandise, such expenses as are incurred by that office, reimbursed by the Manila office, being then a part of the purchase price; and (2) agents; in which case the expenses are in the nature of commissions, being the expenses ordinarily incurred by and reimbursed to bona fide agents, and therefore dutiable under the provisions of Tariff Decision Circular No. 37.

"(1) That the Zurich office is the agent of the protesters is self-evident. That office acts for the Manila office in purchasing European merchandise, invoicing it at cost. The fact that an agent purchases and pays for merchandise, or even invoices it to his principal, in his own name, does not of itself divest him of his character as agent and make him the seller. The authorized act of the agent is the act of his principal, and in this case the purchases of the Zurich office must be considered as the purchases of the protesters.

"(2) Considering the Zurich office as agents of the protesters, and the expenses incurred by the former, reimbursed by the latter, as commissions, it is settled beyond controversy that such bona fide commissions paid or allowed as compensation for services in

making purchases are not items of dutiable or market value. (United States ex. Passavant, 169 U. S. 16, and many others.) Commissions which are an element of market value, and commissions appearing on invoices of sellers (when returned by the appraiser as forming an element of market value) are, however, properly treated as dutiable. So much of Tariff Decision Circular No. 37 as is inconsistent herewith is revoked.

"Protest No. 2014 is therefore sustained, and a refund is ordered in the sum of \$7.68, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 377.—*Consular supplies; Austrian flag.*

MANILA, February 11, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1610, filed December 8, 1902, by Messrs. Ed. A. Keller & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the Port of Manila, as to the duties chargeable on a flag imported for the use of the Austrian consulate, declared in Entry No. A 11607—A. Voucher No. 13538, paid October 27, 1902.

"The claim in this case is against the classification of an Austrian flag, imported for the official use of the Austrian consulate, under paragraph 166 of the Tariff Revision Law of 1901, at 35 per cent ad valorem, instead of granting to the same free entry under the terms of Tariff Decision Circular No. 220.

"At the time of importation the terms of Tariff Decision Circular No. 75 were applicable to the case and duties were leviable upon all Austrian consular supplies. Duties were paid on October 27, 1902; Tariff Decision Circular No. 220 was issued on December 1, 1902, and this protest was filed on December 8, 1902. It will thus be observed that the protest was not filed within the time limited by law, which, however, in a case based as this is upon claims of reciprocal courtesy between nations might perhaps be waived by proper authority were the protest otherwise well founded.

"The flag was purchased in Zurich, Switzerland, by a citizen of that city, who forwarded it with other merchandise to a mercantile house in Manila, of which the honorable Austrian consul is a member. The flag was purchased for the sole and exclusive use of the consulate and was paid for from the private funds of the consul.

"Tariff Decision Circular No. 220 is a literal copy of a part of United States Treasury Circular No. 125, published October 14, 1902, in Treasury Decision No. 24003. The manifest intent and purpose of Tariff Decision Circular No. 220 is to extend to these Islands those international courtesies which are in vogue in the United States of America; it was certainly not the intent to confer any more extensive privileges than are customary in America. Treasury Circular No. 125 is expressly limited to 'articles sent by a foreign government to its agents,' and no supplies otherwise obtained are 'official consular supplies.' Tariff Decision Circular No. 220 must likewise be construed to apply only to cases wherein a foreign government is the consignor, and its consul here is, in his official capacity, the consignee.

"Protest No. 1610, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 378.—*Garter buckles, surtax on.*

MANILA, February 12, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2525, filed October 6, 1903, by Messrs. Froehlich & Kuttner, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the Port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 5302, Voucher No. 11285, paid October 3, 1903.

"This protest is against the imposition of a surtax of 30 per cent, under the provisions of Rule B, letter (b), group 3, Class IV, of the Tariff Revision Law of 1901, for trimming certain cotton-elastic garters with buckles.

"The question presented is similar to that decided, as to the application of a surtax of 30 per cent, under the provisions of the same rule, on belts with metal buckles, in Tariff Decision Circular No. 354, as follows: 'The 30 per cent for buckles was imposed on the theory that these buckles were trimmings, for which a surtax is provided by Rule B (b) of the Tariff. The trimmings referred to in this rule, however, are clearly no other than those defined in rule 7; that is to say, of the nature of textiles. Metal buckles not being within the purview of rule 7, they should not be made the subject of a surtax under Rule B (b).'

"The buckles in this case are necessary and indispensable parts of the garters, and the application of buckles is a process of the making up, for which a surtax of 100 per cent is applied.

"Protest No. 2525, on the grounds above mentioned, is therefore sustained and a refund ordered to the importer in the sum of \$5.18, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 379.—*Used surgical instruments and accessories; re free entry of.*

MANILA, February 12, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2568, filed October 16, 1903, by Messrs. Smith, Bell & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 5201—A. Voucher No. 12729, paid October 16, 1903.

"This protest is against the assessment and collection of duty on certain used goods, it being claimed that they are entitled to free entry under the provisions of paragraph 393 of the Tariff Revision Law of 1901, which provides for 'used household furniture \* \* \* including such articles, effects, and furnishings as pictures, books, pianos, organs, chinaware, and kitchen utensils.'

"The articles in question consist of steel surgical instruments, medicated gauze, microscope and accessories, soft rubber tubes and bed pans, vaporizer, centrifugal separator, operating table, platform scales, hydraulic air compressor, pharmaceutical products, insulating coils, wooden splints, balance scales, cabinet for medicine, irrigator, table air tank, and air pump, throat apparatus, and a card index case.

"Household effects are defined as 'articles which pertain to a person as a household or to a family as a household, but do not



include articles used in professional or business pursuits.' (Arthur vs. Morgan, 112 U. S., 495; T. D. 8968, 13899, 14466.) (Treasury Decision No. 23663.)

"None of these articles are household furniture, nor such articles, effects, or furnishings as are enumerated in paragraph 393, but are surgical instruments and appliances, office furnishings, and medicine, none of which are exempted from the payment of duty under the provisions of paragraph 393.

"This question has been previously decided in part in Tariff Decision Circular No. 71, as follows: 'Accepting the statement of your brother to the effect that he comes to settle in these Islands, and that he does not come as a traveler or a temporary sojourner, it is clear that the only articles which can be imported free of duty by him are those enumerated in paragraph 393 of the Tariff Revision Law of 1901. Surgical instruments are not so enumerated, and are therefore dutiable.'

"Protest No. 2568, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 380.—*Towels—two in the piece—surtax applicable for making up; decision of the Court of Customs Appeals.*

MANILA, February 25, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS.

"COURT OF CUSTOMS APPEALS.

"Appeal in the case of Kuenzle & Streiff.

"[Docket No. 592. Appeal No. 505. Protest No. 1599.]

"DECISION.

"CROSSFIELD, Judge:

"This case is before the court upon the appeal of Kuenzle & Streiff from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the imposition of any duties on merchandise imported from Spain, on the ground that the Philippine Islands being a part of the United States, no import duties can be imposed on goods brought from one part of the United States to another, and under the treaty with Spain no import duties can be assessed on goods of Spanish manufacture brought into the Philippine Islands, except at the rate upon imports from the United States. And for the further reason that the merchandise imported is not subject to a surtax of 30 per cent for making up.

"Mr. Hartford Beaumont for the Government. Mr. P. A. Meyer for the appellants.

"The evidence in the case discloses that the merchandise in controversy consisted of certain towels, which came in pairs and are ready for use singly, except the cutting of them apart at the fringe, and that they were imported from Spain.

"The question of the legality of the imposition of duties on goods imported from Spain was fully considered and determined in Case Docket No. 48, in the appeal of Kuenzle & Streiff, wherein the court held that the imposition of duties was in all respects the same as those upon merchandise imported into the United States, and that the imposition of duties upon merchandise imported from the United States was lawful.

"The towels in question are woven and designed and are wholly made up and ready for use, except the cutting of the pairs in two.

"The second subdivision of Paragraph D of Rule B, textiles,

group 3 of the Tariff Revision Act of 1901 provides that towels shall be liable to a surtax of 30 per cent for the making up. These towels appear to come clearly within the provisions of this class and are subject to the surtax imposed.

"The decision of the Collector of Customs is therefore affirmed. No costs to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge.

PAR. II. The above decision of the Court of Customs Appeals sustains that made in Tariff Decision Circular No. 304 of this Office. You will be guided accordingly.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 381.—*Blocks for almanacs not scientific, literary, and artistic works; Spanish books not free of duty under paragraph 382 (a).*

MANILA, February 26, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2721, filed December 18, 1903, by Mr. Julian Almenara, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 10230, Voucher No. 19937, paid December 16, 1903.

"The claim in this case is against the assessment and collection of duty on certain 'Spanish blocks for almanacs,' under paragraph 180 of the Tariff Revision Law of 1901, at \$3 per 100 kilos, and the imposition of a fine amounting to \$2.12. Free entry is claimed under paragraph 382 (a) which provides for: 'Spanish scientific, literary, and artistic works, not subversive of public order, imported under provisions of Article XIII of the treaty between Spain and the United States signed at Paris on the 10th day of December, 1898.'

"The blocks consist of 366 detachable leaves, arranged in diurnal sequence, each leaf being devoted to a single day. Information is given as to the day of the year, month, and week; the phases of the moon, saints' days, and historical anniversaries. The reverse side of the leaves are occupied with a collection of anecdotes, jokes, charades, epigrams, and verses, a large part of which are evidently from the writings of leading authors.

"The term 'scientific work' is not defined in the tariff, but this office understands by it a work which records or embodies original scientific research of moment. In some cases it might be difficult to draw the dividing line, but in the present case simple calculations which might be accurately made by any American child with a moderate education, are not properly to be described as scientific works.

"Nor are these articles literary works; the primary purpose is that of a calendar or almanac; they are bought and sold for this purpose. Whatever of literature there may be about them is distinctly subordinate and incidental to the principal use and purpose, and can not operate to change their essential nature, nor the classification which is based upon that essential nature. They are as lacking in any and all qualities which might be subversive of public order as they are of the semblance of artistic merit.

"But even were these goods both scientific and literary works, the question of their admissibility under paragraph 382 would still remain. In other words, what class or classes of scientific, literary, or artistic works are exempted from duty by the treaty of Paris, from which paragraph 382 (a) is taken? Article XIII of that treaty provides in part as follows: 'Spanish scientific,

literary, and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories \* \* \*

"This provision in the treaty has been considered in its application to the Philippine Islands by the Attorney-General of the United States, whose opinion is in part as follows: 'The significant phrase of Article XIII is that the articles described "shall continue to be admitted free of duty." The privilege is limited to such Spanish scientific, literary, and artistic works, not subversive of public order, as had been previously admitted free into the territories in question. If, therefore, books or other publications, are included among the "Spanish works" which were entitled to free admission under the Spanish tariff for the Philippine Islands, they are to continue to be admitted free, otherwise not.' (XXIII Opinions of Atty.-Gen., 115.)

"To ascertain what scientific, literary, and artistic works are therefore entitled to free entry we must refer to the *Aranceles de Aduana* and compare the provisions in that tariff with the provisions in the Tariff Revision Law of 1901. The second, third, and fifth paragraphs of '*Disposicion Segunda*' of the *Aranceles de Aduana* are identical to paragraph 325 of the United States provisional tariff and to paragraphs 387, 388, and 389 of the Tariff Revision Law of 1901, and it is to be noted that these paragraphs are the only ones to be found in the Spanish tariff providing for the free entry of scientific, literary, and artistic works. It further appears that the provision for works of art was restricted to those intended for public exhibition only. Shortly before the American occupation, however, the duties appearing in the tariff schedules were removed from Spanish scientific, literary, and artistic works, not subversive of public order, published in Spain; but such works were assessed at 8 per cent ad valorem on the fixed official values, and 10 per cent of the import duty, which amounted to \$6.36, Mexican currency, per 100 kilos. (See note to par. 177, United States provisional tariff.) Such books were not, therefore, admitted free of duty, but were required to pay a duty equal to the present rate of duty on books (\$3 per 100 kilos), at the time the Tariff Revision Law of 1901 went into effect. The treaty exempts only such works as were admitted free of duty under the Spanish régime, and not those which were subject to duty, and it seems that all Spanish books were assessed for duty at the rate above stated, with the exception of those intended for official corporations. Paragraph 382 (a) is not, nor was it intended to be, broader than the treaty itself. (See Senate Document No. 134, Fifty-seventh Congress, first session.)

"The conclusion is therefore reached that it was not the intention of the treaty of Paris nor of the framers of the Tariff Revision Law of 1901 to admit all Spanish books free of duty, and that unless such books are expressly exempted from duty, independently of the treaty provisions, they are properly assessed with duty.

"In regard to the fine. It appears that the fine in question was imposed for failure to pay the amount of liquidated duties within five days after the posting of notice of liquidation, as provided in section 305 of the Customs Administrative Act. The provisions of this section are mandatory, and no provision exists for the remission of a fine lawfully imposed thereunder.

"The protest is very vague and it is not possible to determine whether it was the intention of the importer to protest the exaction of duties on imports from Spain on the usual constitutional grounds or not. If such was the intention, the claim is overruled for reasons often explained and also for failure to state the claim clearly and definitely.

"Protest No. 2721, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 382.—*Machine shears not sawmill machinery: decision of the Court of Customs Appeals.*

MANILA, February 26, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,

"COURT OF CUSTOMS APPEALS.

"Appeal in the case of Warner, Barnes & Co., Limited.

"[Docket No. 596. Appeal No. 569. Protest No. 1538.]

"DECISION.

"CROSSFIELD, Judge:

"This case is before the court upon the appeal of Warner, Barnes & Co., Limited, from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the classification of a pair of power shears as other machinery, under paragraph 257 (b) of the Tariff Revision Law of 1901, instead of under paragraph 245 as sawmill machinery.

"The evidence presented at the hearing discloses that the shears in question were imported and were set up in a sawmill operated in Manila for the purpose of cutting into the desired lengths the steel band saws used in the sawmill.

"Section 245 of the Tariff Revision Law provides for 'agricultural machinery and apparatus, machinery and apparatus for pile driving, dredging, hoisting, making or repairing roads, for refrigerating and ice making, for making sugar, preparing rice or hemp, or other vegetable products of the Islands for the markets.'

"The appellants appear to take the view that inasmuch as the power shears in controversy were used in a sawmill that they thereby became sawmill machinery and under the decision in Docket No. 213 of this court would be classed under paragraph 245 of the Tariff Revision Law.

"Sawmill machinery was determined by this court to be properly classed under said paragraph 245 as machinery for the preparation of vegetable products for the markets, but it does not follow necessarily that all machinery used in a sawmill is machinery used for the preparation of vegetable products for the markets, and it appears from the evidence in this case that the shears in question were not used for such purpose.

"They are machinery, however, and do not appear to be specifically enumerated in the tariff; the result is that they should then be classified in paragraph 257 (b) as other machinery, not otherwise provided for of other materials than copper and its alloys.

"The decision of the Collector of Customs is affirmed, without costs to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS."

PAR. II. The above decision of the Court of Customs Appeals sustains that published in Tariff Decision Circular No. 311 of this Office. You will be guided accordingly.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 383.—*Invoice and entered values not conclusive as against the Government: burden of proof on person impeaching appraised values.*

MANILA, February 26, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2203, filed July 15, 1903, by Messrs. Wassiamull Assomull & Co., against the decision of the

Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the amount of duty chargeable on certain merchandise described in Entry No. 12303, Voucher No. 1250, paid July 13, 1903.

"This protest relates to the appraised values of certain silk articles, dutiable under paragraph 174 of the Tariff Revision Law of 1901 at the rate of 45 per cent ad valorem. It is claimed that duty should have been assessed on the invoice and entered values. No question of classification is involved.

"The value on which duty must be assessed on imported merchandise subject to an ad valorem rate is 'the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities at the time of exportation to the Philippine Islands in the principal markets of the country from whence imported.' (Sec. 177, Customs Administrative Act). The invoice and entered values are not conclusive as against the Government, but come under consideration, if at all, as items of evidence as to what is the 'actual market value.'

"The protesters were called upon to produce evidence that the appraised values in this case were not the 'actual market values' of the merchandise, but this they neglected to do. No duty devolves upon the Government to prove or disprove the correctness of appraised values claimed to be incorrect. The burden of proof is on the protester, who has evidence at his command as to the correctness of such values as he may question. The appraisers are Government officials, sworn correctly and impartially to perform their duties, and, in the absence of proof to the contrary, their appraisements must be considered as correct.

"A consideration of such evidence as is available, although perhaps *ex parte*, leads to the conclusion, however, that the appraised values are correct.

"Protest No. 2293 is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 384.—*Velvets of cotton and silk.*

MANILA, February 26, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS.

"COURT OF CUSTOMS APPEALS.

"*Appeal in the case of Ed. A. Keller & Co.*

"[Docket No. 648. Appeal No. 598. Protest No. 1774.]

"DECISION.

"CROSSFIELD, Judge:

"This case duly came on for trial upon the appeal of Ed. A. Keller & Co. from a decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the classification of certain plush as silk, under paragraph 174 of the Tariff Revision Act, instead of paragraph 124.

"H. Beaumont for the Government. C. Abegg for the appellants. "The presentation of the case discloses that the plush in controversy is composed in the body of it of cotton threads, having forty of such threads to each square of 6 millimeters; that the surface of the plush on one side consisting of the pile of the plush is wholly silk and is composed of seven double or single threads of silk to each square millimeter.

"The customs expert officials testified that it was impossible to determine the exact number of threads of silk composing the pile of the plush, but that there appeared to be seven double threads to each square of 6 millimeters.

"Expert witnesses, presented by the appellants, testified that there were seven threads of silk to each square of 6 millimeters and that they might possibly be double threads, but that they were of the opinion that the threads were single.

"If the silk threads are single, then the total number of threads to each square of 6 millimeters of the textile is forty-seven and the seven threads of silk would not be one-fifth of the whole, and the textile would be classified under the proper head of cotton textiles, with the corresponding surtax.

"If the silk threads are double, then the total number of threads to each square of 6 millimeters is fifty-four and the fourteen silk threads is more than one-fifth of the whole.

"From the preponderance of the evidence and from the samples of the plush in controversy before the court, the court finds that the number of silk threads in the textiles is more than one-fifth of the whole number of threads, and that the textile is properly classified under paragraph 174 of the Tariff Revision Act.

"The decision of the Collector of Customs is affirmed. No costs to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge."

PAR. II. The above decision of the Court of Customs Appeals is not in conflict with that made in Tariff Decision Circular No. 258 and sustains that made in Tariff Decision Circular No. 291 of this office. You will be guided accordingly.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 385.—*Bicycles without tires not dutiable as detached parts; decision of the Court of Customs Appeals.*

MANILA, February 26, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
"COURT OF CUSTOMS APPEALS.

"*Appeal in the case of Erlanger & Galingier.*

"[Docket No. 588. Appeal No. 561. Protest No. 1755.]

"DECISION.

"CROSSFIELD, Judge:

"This case is before the court for trial upon the appeal of Messrs. Erlanger & Galingier from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the classification of certain bicycles without rubber tires under paragraph 252 (a), section 11, Philippine Tariff Revision Act of 1901, as 'bicycles complete except lamps,' instead of under 252 (b) as detached parts and accessions thereto (bicycles).

"The appellants appeared in person. H. Beaumont, esq., for the Government.

"The record in the case and the evidence presented disclose that the defendants imported in December, 1902, at Manila, 26 bicycles, assembled and complete, except the rubber tires and without lamps and declared them as 'parts of bicycles' under paragraph 252 (b) of the Philippine Tariff Revision Act.

"The customs officials classified them as bicycles complete without lamps, under paragraph 252 (a) of the same law.

"The appellants contend that there is no qualification or comparison of the word 'complete' used in the tariff, and that a bicycle 'complete' as enumerated in the tariff, must be entire in every respect, and that the bicycles in controversy are not 'complete' for the reason that they lack an absolutely essential part—the rubber tires.

"The collector in his decision, overruling appellants' protest, states that the bicycles as imported are essentially bicycles and that their importation without the rubber tires—essential parts—is a plan to evade the proper assessment of duties.

"The court is of the opinion that it is immaterial whether the article imported is essentially a bicycle or not; the question is whether or not it is a bicycle complete, as enumerated in the tariff law.

"The bicycles in controversy, without rubber tires, clearly are not bicycles complete, even though they are sufficiently completed to use for a very brief period. Their condition is not what is contemplated by the term complete as used in the law or in a commercial sense.

"Are the bicycles in controversy then detached parts of bicycles as contemplated by paragraph 252 (b) of the Tariff Revision Law, as claimed by the appellants?

"The bicycles in controversy are assembled complete, except the rubber tires, and having no lamps; and this court is of the opinion that they are thus not detached parts of bicycles, as contemplated by paragraph 252 (b) of the Tariff Act or in a commercial sense.

"The bicycles in controversy do not appear to be specifically enumerated in the Tariff Act and resort must be had to the proper rule to determine their classification.

"Rule 13 of the Philippine Tariff Revision Law provides: 'Articles not enumerated in the tariff shall, for the application of duty, be assimilated to those which they most closely resemble.'

"The court is of the opinion that the bicycles in controversy more closely resemble bicycles complete, without lamps, than they do detached parts of bicycles and that they are properly classified under paragraph 252 (a), section 11, of the 1901 Philippine Tariff Revision Law.

"The decision of the Collector of Customs is affirmed. No costs to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge."

PAR. II. The above decision of the Court of Customs Appeals sustains that made in Tariff Decision Circular No. 307 of this office. You will be guided accordingly.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 386.—Horse clippers are shears under paragraph 54 d; decision of the Court of Customs Appeals.

MANILA, February 27, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
"COURT OF CUSTOMS APPEALS.

"Appeal in the case of Kuenzle & Streiff.

"[Docket No. 660. Appeal No. 610. Protest No. 2443.]

"DECISION.

"CROSSFIELD, Judge:

"This case is before the court for trial upon the appeal of Messrs. Kuenzle & Streiff from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the classification of certain horse clippers under paragraph 54 d, instead of 54 a or c of the 1901 Tariff Revision Act.

"H. Beaumont appeared for the Government. P. A. Meyer for the defendants.

"The presentation of the case shows that the clippers in question are made of steel having wooden handles trimmed with brass.

"These clippers come under the general head of shears.

"Paragraphs 54 a or c and d are the only paragraphs of the Tariff Revision Act where shears are mentioned. Paragraph 54 a is as follows: '54 Cutlery: (a) Butchers', shoemakers', saddlers', kitchen, bread, vegetable, cheese, plumbers', and painters' knives, with wood handles, table knives and forks, with wood handles, scissors and shears, with glazed or japanned bows, N. W. \* \* \*.' And 54 c is as follows: '(c) Pruning and budding knives, grass, garden, hedge, pruning, and sheep shears, N. W. \* \* \*.'

"The clippers in controversy are not specifically enumerated in either of these paragraphs.

"Paragraph 54 d is as follows: '(d) Surgical and dental instruments, fishing hooks, and all other cutlery, including scissors and shears not otherwise provided for. \* \* \*.'

"It therefore appears that the clippers in controversy are there specifically mentioned as shears not otherwise provided for and are properly classified under this paragraph.

"The decision of the Collector of Customs is affirmed.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge."

PAR. II. The above decision of the Court of Customs Appeals sustains that made in Tariff Decision Circular No. 350 of this office. You will be guided accordingly.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 387.—Blankets in the piece, no surtax for making up; decision of the Court of Customs Appeals.

MANILA, February 29, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
"COURT OF CUSTOMS APPEALS.

"Appeal in the case of Behn Meyer & Co.

"[Docket No. 646. Appeal No. 595. Protest No. 2042.]

"DECISION.

"CROSSFIELD, Judge:

"This case is before the court for trial upon the appeal of Behn Meyer & Co., from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the imposition of a surtax of 30 per cent on the duties levied on certain carded cotton textiles in blankets, for being made up.

"Mr. Hartford Beaumont appeared for the Government. Mr. F. Bernhardt for the appellants.

"The case as presented at the trial discloses that the blankets in question were imported in the piece, 12 blankets in a piece, and were classified for the levy of duty under paragraph 123 c, as carded textiles in blankets. With this classification there appears to be no question.

"Upon the duties thus levied a surtax of 30 per cent as for made-up articles was imposed in accordance with note appearing at the foot of paragraph 123 c of the Tariff Revision Act. This note is as follows: 'Blankets in pairs, hemmed or bound, and separate blankets shall be considered as made-up articles for the application of the corresponding surtax.'

"The only question before the court is whether or not the blankets in controversy are such as to make them subject to the provisions of the foregoing note in relation to surtax.

"To determine the question it is necessary to ascertain just what blankets are, by the terms of the note, made subject to the imposition of a surtax.

"Blankets in pairs and separate blankets are specified, and it appears that the phrase 'hemmed or bound' must be considered as a limitation on blankets in pairs and separate blankets; if not, to what does the phrase 'hemmed or bound' relate? If the phrase 'hemmed or bound' is a limitation upon other blankets than those specified, then the note must be read, 'blankets in pairs, blankets hemmed or bound, and separate blankets.'

"Such construction does not appear reasonable, for there would be a repetition of the blankets to which the surtax should apply—that is, 'blankets in pairs' and 'separate blankets' would include 'blankets hemmed or bound.'

"Disregarding the punctuation after the word pairs in said note and the phrase 'hemmed or bound' might be understood to limit the words 'blankets in pairs' only.

"Taking paragraph 123 of the Tariff Revision Act, which is as follows: 'Carded textiles in blankets and other articles' together with said note and the fair construction is that to subject blankets to the surtax as for 'made-up articles' they must appear to have had some additional labor expended on them after the textile was manufactured, otherwise the word blankets appearing in the body of the paragraph 123 has no signification.

"The court finds that the surtax should not have been imposed.

"The decision of the Collector of Customs is modified to comply with the above findings. No costs to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge."

PAR. II. The above decision of the Court of Customs Appeals is not in conflict with Tariff Decision Circular No. 54, and should be interpreted to apply to blankets only, and not to other articles.

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

No. 385.—*Classification of kinoscope and cinematograph films and typewriter ribbons.*

MANILA, March 1, 1904.

To all Collectors of Customs:

PARAGRAPH I. It is hereby ruled that kinoscope and cinematograph films and typewriter ribbons shall be classified under paragraph No. 257 of the Tariff Revision Law of 1901: *Provided*, That the films or ribbons which are actually attached to machines imperturbably be dutiable with the machine.

PAR. II. So much of Tariff Decision Circular No. 61 as is in conflict with this decision is hereby revoked.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 389.—*Consular supplies.*

MANILA, March 1, 1904.

To all Collectors of Customs:

Tariff Decision Circular No. 220 of this office, dated December 1, 1902, amending section 3 of Tariff Decision Circular No. 75, is hereby amended to read as follows:

"3. It having been ascertained that the Governments of Argentina, China, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, France, Germany, Great Britain, Italy, Haiti, Honduras, Korea, Liberia, Mexico, Nicaragua, Paraguay, Peru, Persia, Portugal, San Salvador, Siam, Spain, Switzerland, Turkey, Venezuela, and Uruguay allow free entry of all official supplies sent to United States consular officers in those countries that the Government of Greece assesses duty on all official supplies sent for

the use of the United States consular officers in that country, except that the United States consul at Athens can obtain supplies free of duty by obtaining a permit signed by the United States minister; that the Government of Austria-Hungary admits free of duty 'shields, flags, official seals, and the like'; that the Government of Belgium admits free 'consular emblems, such as flags, seals, coats of arms, and other articles of the same kind'; that the Governments of Sweden and Norway admit free 'flags, coats of arms, books, and printed matter, if imported for the exclusive use of the consulates'; and that the Government of the Netherlands admits free of duty 'flags and escutcheons' only; and it having been ascertained also that the Governments of Bolivia, Chile, Denmark, Japan, Roumania, Russia, and Servia do not allow the free entry of supplies of any kind sent by the United States Government to its consular representatives in those countries, collectors of customs are accordingly directed to observe a reciprocal practice in regard to such consular supplies of the above-mentioned countries as may be imported into the Philippine Islands."

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

No. 390.—*Storage charges in the nature of rent; rates of storage when fixed and promulgated can not be modified as to individual cases.*

MANILA, March 1, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2698, filed December 8, 1903, by the American Hardware and Plumbing Company, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, in assessing and collecting storage charges on certain merchandise, Storage Voucher No. 18965, paid December 7, 1903.

"This protest relates to the collection of storage charges on certain merchandise remaining in Government warehouses. The facts in the case are as follows:

"The merchandise in question arrived at this port on March 24, 1902, by the steamship *Indrasamha*, which vessel had been wrecked in the vicinity of Singapore. The merchandise was unloaded and repacked at that port, and hence before arrival in Manila many of the cases were broken, marks were obliterated, and the cargo was indiscriminately mixed. Upon landing at this port the cargo was placed in a separate warehouse and everything possible done to expedite its dispatch. After landing it was necessary to compile and present a manifest of the cargo and to have a survey of the several consignments made by the insurance underwriters, all of which caused long delay, and it was not until July of the same year that the merchandise was ready for examination, delivery being taken by the importer on July 17 and 18 and August 9. Storage was assessed at the rate of \$5, Mexican currency, per ton, per month, from April 12 (fifteen days after landing) to the above dates, but was not paid until December 7, 1903, a personal guarantee for its payment being taken pending a decision in the matter by the Insular Collector.

"Two communications have been received by this office from the importer in this connection, from the first of which the following is quoted: 'In view of the foregoing facts and the strenuous efforts made by us to avoid the extraordinary delay referred to, we sincerely hope you will be able to see your way clear to reduce the storage charges by at least 50 per cent. We do not wish to ask anything unjust, but we sincerely believe that you will appreciate the peculiar condition surrounding this case and act accordingly.'

"The second is a formal protest made after payment, and asks

for the remission of all storage charges, on the ground that the delay was not the fault of the importer.

"Considering first simply the question made by this formal protest, this office finds that the goods might have been removed at any time to a bonded warehouse, where segregation and insurance adjustment might have been pursued at leisure, and that this course was in fact urged by this office upon the representatives of the merchandise, but without effect.

"Storage charges are in the nature of rent charged by the Government for valuable storage space. They are not penal exactions, and therefore the question of the guilt or innocence, diligence or negligence, of the importer is immaterial. If the goods occupy Government space, the rent (storage) accrues and must be paid regardless of the will of the owner, just as rent for a house continues as long as it is occupied; that there are obstacles to removal does not remit the rent.

"On the issue, then, as made by the protest, the decision must certainly be in favor of the Government; but might not storage charges be remitted as requested in the first letter? Paragraph 234 of the Customs Administrative Act provides that the Insular Collector shall fix and promulgate annually rates of storage, and this office holds that when rates are so fixed and promulgated they become regulations which have the full force and effect of legislative enactments and which can not be modified to meet the exigencies of individual hard cases. To insure perfect justice, the rule of law must be uniform. That uniformity would be broken if it were within the power of a Collector of Customs to cut and fit the rates to suit his fancy. In passing upon a protest such as the present, the only question is as to whether the rates as lawfully promulgated have been correctly applied. If they have been, then the decision must so affirm, and that decision is final and conclusive save in those cases which are appealed to the Court of Customs Appeals.

"Protest No. 2698, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

**Contents.**

- Public laws:  
 No. 7077, appropriating \$10,000, in the money of the United States, for general purposes, to be disbursed at Washington, D. C.  
 No. 1078, giving to Courts of First Instance jurisdiction over all offenses made punishable by Act No. 8 of the legislative council of the Moro Province, entitled "An Act defining the crimes of slave holding and slave hunting, and prescribing the punishment therefor."

Public laws—Continued.  
 No. 1078, relating to a portion of Act No. 807, relating to the office of reporter of the decisions of the Supreme Court, and creating that office as an independent one, etc.

- No. 1081, amending sections 2, 3, and 5 of Act No. 1030, entitled "An Act creating an Honorary Board of Commissioners, composed of fifty Filipinos of prominence and education, to visit the Louisiana Purchase Exposition at St. Louis at Government expense."  
 No. 1081, amending Act No. 49, providing for the establishment of a civil government for the Province of Benguet, and Act No. 1049, by providing that the district commissioner of the Civil Sanitarium at Baguio, Benguet, shall act as treasurer for the Province of Benguet, and by striking out the provision that the clerk of class 9 of the Civil Sanitarium shall be a dispensing clerk.  
 No. 1082, authorizing the municipal boards of assessors in the Province of Occidental Negros to hold the annual meeting for the year 1903 within sixty days after the passage of this act, any provision in existing law to the contrary notwithstanding.  
 No. 1083, appropriating the sum of \$31,000, United States currency, from the Congressional relief fund, to complete the construction and repair of the Padre Juan Villaverde trail, in the Provinces of Nueva Vizcaya and Pangasinan.  
 No. 1084, amending section 15 of Act No. 702, section 1 of Act No. 898, and section 1 of Act No. 1033, by extending the time for completing the registration of Chinese in the Philippine Islands.  
 No. 1085, providing for the loan of P4,500 to the Province of Batangas, and authorizing the provincial board of said province to reloan that sum to such municipalities in the province as to the provincial board may seem proper, to be used in the payment of salaries of teachers employed in the barrio public schools of such municipalities, and for no other purpose.  
 No. 1086, appropriating P62,886.62 for sundry expenses of the Exposition Battalion and Band, Philippines Constabulary, at the Louisiana Purchase Exposition at St. Louis, Mo.  
 No. 1087, appropriating the sum of P180,020 or so much thereof as may be necessary, for certain public works and permanent improvements in the city of Manila.

**Decisions of the Supreme Court:**

- The United States vs. Ignacio Bundal et al.  
 Lim-luco vs. Lim-Yap.  
 The United States vs. Severo Alcantara.  
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**Bureau of Justice:**

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**Tariff Decision Circulars—**

- No. 374, (1) steam engine; (2) boiler and detached parts.  
 No. 375, anchors, chains, etc.; goods entered for consumption, no refund upon reexportation.  
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 No. 378, garter buckles, surlax on.  
 No. 379, used surgical instruments and accessories; re free entry of.  
 No. 380, towels, two in the piece; surlax applicable for making up; decision of the Court of Customs Appeals.  
 No. 381, blocks for almanacs not scientific, literary, and artistic works; Spanish books not free of duty under paragraph 382 (4).  
 No. 382, machine shears not sawmill machinery; decision of the Court of Customs Appeals.  
 No. 383, invoice and entered values not conclusive as against the Government; burden of proof on person impeaching appraised values.  
 No. 384, velvets of cotton and silk.  
 No. 385, bicycles without tires not dutiable as detached parts; decision of the Court of Customs Appeals.  
 No. 386, horse clippers are shears under paragraph 54 (d); decision of the Court of Customs Appeals.  
 No. 387, blankets in the piece, no surlax for making up; decision of the Court of Customs Appeals.  
 No. 388, classification of kinoscopic and cinematograph films and typewriter ribbons.  
 No. 389, consular supplies.  
 No. 390, storage charges in the nature of rent; rates of storage, when fixed and promulgated, can not be modified as to individual cases.

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MANILA, P. I., MARCH 30, 1904.

No. 13

## PUBLIC LAWS.

[No. 1089.]

[No. 1088.]

### AN ACT TO AMEND ACT NUMBERED NINETY.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. With the concurrence and approval of the Secretary of War first had, rule fifty-eight of Act Numbered Ninety is hereby amended by striking out after the words "under the appropriate funds or heads of account," in the sixth line thereof, the words "and furnish therewith abstracts showing in detail the amounts received under each head, from whom received, and giving the numbers and dates of the receipts issued therefor."

SEC. 2. Rule fifty-nine of said Act is hereby amended by striking out after the word "account" in the third line thereof the words "abstracts showing in detail the amounts paid under each head, to whom paid, and giving the numbers and dates of the warrants issued in payment, which warrants shall be filed with his account, submitted to the Auditor," and inserting in lieu thereof the words "the warrants properly canceled, which warrants shall be retained permanently by the Auditor," so that the rule as amended shall read as follows:

"RULE 59. He shall credit himself with all moneys paid on account of the service for which money is appropriated, and file with his account the warrants properly canceled, which warrants shall be retained permanently by the Auditor."

SEC. 3. Rule sixty of said Act is hereby amended by inserting after the words "Secretary of War," in the second line thereof, the words "and to the Civil Governor of the Philippine Islands." Said rule is hereby further amended by striking out the balance of the paragraph after the word "month" in the third line thereof, and inserting in lieu of the words so stricken out the words, "a copy of the monthly account-current which he is required to furnish to the Auditor," so that the rule as amended shall read as follows:

"RULE 60. The Treasurer shall forward to the Secretary of War and to the Civil Governor of the Philippine Islands, not later than ten days after the expiration of each month, a copy of the monthly account-current which he is required to furnish to the Auditor."

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, March 11, 1904.

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF LA LAGUNA FOR THE YEAR NINETEEN HUNDRED AND THREE UNTIL MAY FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and three in the Province of La Laguna is hereby extended to May first, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, March 16, 1904.

## EXECUTIVE ORDER AND PROCLAMATION.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, March 21, 1904.

EXECUTIVE ORDER }  
No. 13. }

The following-named persons having received a majority of the votes cast in the elections for provincial governor, held in the provinces designated, on February first, nineteen hundred and four, and any irregularities which may have occurred in such elections not being deemed of sufficient importance to set aside the proceedings of the convention called under the provisions of section four, Act Numbered Eighty-three, Philippine Commission, as amended by Act Numbered Three hundred and thirty-six, their elections have been duly confirmed:

Name.	Province.
Julio Agcaoil	Ilocos Norte.
Macario Pávila	Pangasinan.
Bernardino Monreal	Sorsogon.

LUKE E. WRIGHT,  
Civil Governor.

BY THE CIVIL GOVERNOR OF THE PHILIPPINE ISLANDS—  
A PROCLAMATION.

Whereas the President of the United States did, on the tenth day of March, issue the following executive order:

"All officials of the Government, civil, military, and naval, are hereby directed not only to observe the President's proclamation of neutrality in the pending war between Russia and Japan but also to abstain from either action or speech which can legitimately cause irritation to either of the combatants. The Government of the United States represents the people of the United States not only in the sincerity with which it is endeavoring to keep the scales of neutrality exact and even but in the sincerity with which it deprecates the breaking out of the present war, and hopes that it will end at the earliest possible moment and with the smallest possible loss to those engaged. Such a war inevitably increases and inflames the susceptibilities of the combatants to anything in the nature of an injury or slight by outsiders. Too often combatants make conflicting claims as to the duties and obligations of neutrals, so that even when discharging these duties and obligations with scrupulous care it is difficult to avoid giving offense to one or the other party; to such unavoidable causes of offense due to the performance of national duties there must not be added any avoidable causes. It is always unfortunate to bring Old World antipathies and jealousies into our life or by speech or conduct to excite anger and resentment toward our nation in friendly foreign lands, but in a Government employee whose official position makes him in some sense the representative of the people the mischief of such action is greatly increased. A strong and self-confident nation should be peculiarly careful not only of the rights but of the susceptibilities of its neighbors, and nowadays all of the nations of the world are neighbors one to the other. Courtesy, moderation, and self-restraint should mark international no less than private intercourse. All the officials of the Government, civil, military, and naval, are expected so to carry themselves both in act and in deed as to give no cause of just offense to the people of any foreign and friendly power, and with all mankind we are now in friendship.

"THEODORE ROOSEVELT.

"WHITE HOUSE, March 10, 1904."

Now, therefore, I, Luke E. Wright, Civil Governor of the Philippine Islands, do give publicity to said executive order for the information of all concerned, and do enjoin strict compliance with all the provisions thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Government of the Philippine Islands to be affixed.

Done at the city of Manila this fifteenth day of March, in the year of our Lord one thousand nine hundred and four.

LUKE E. WRIGHT,  
Civil Governor.

By the Civil Governor:

A. W. FERGUSON,

Executive Secretary.

**DECISIONS OF THE SUPREME COURT.**

[No. 1300. February 3, 1904.]

*E. C. McCULLOUGH, plaintiff and appellee, vs. R. AENLLE & CO., defendants and appellants.*

1. SALE: CERTAINTY OF CONSIDERATION.—A written agreement by which one party buys and the other sells at a price which, although not specified in dollars and cents, can be made certain by reference to certain invoices then in existence and clearly identified by the agreement, is a completed contract of sale.

2. ID.: QUALITY.—Where the agreement between the parties is that the buyer is to take all the tobacco in a certain building and to pay therefor the price named, the obligation resulting is absolute, and in no wise depends upon the quality of the tobacco or its value, and statements in an inventory subsequently drawn as to the quality of the tobacco do not affect the rights and obligations of the parties.

3. PLEADING AND PRACTICE: MOTION FOR A NEW TRIAL: GROUNDS OF MOTION.—It is not necessary for the moving party to state at length and in detail his reasons for thinking he is entitled to a new trial.

Per McDONOUGH, *J.*, dissenting:

4. SALE: CONSTRUCTION OF CONTRACT.—A contract for the sale of tobacco "as shown in the inventory to be drawn up" makes the inventory, when drawn, an integral part of the agreement, though not made or delivered until a subsequent day, and the description in such inventory of the quality of the tobacco imposes upon the vendor the obligation to deliver tobacco of the quality so indicated.

5. ID.: SAMPLE: WARRANTY.—Where the vendor, prior to accepting a delivery, examines samples of tobacco in bales furnished by the vendor, and pays the consideration on the strength of representations that the bulk of the tobacco sold is similar to the samples examined, there is an express warranty that the tobacco is of the same quality as the samples.

6. ID.: WARRANTY: DESCRIPTION.—When an article is sold by a particular description in terms known to the trade, the words of description are part of the contract and imply a warranty that the article corresponds to its description.

7. ID.: HIDDEN DEFECTS: WARRANTY.—Defects in goods sold in bales or packages are hidden defects against which the vendor warrants the vendor.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

JOSE M. ROSADO, for appellants.

GIBBS & KINCAID, for appellee.

WILLARD, *J.*:

On August 27, 1901, the parties to this action made a written contract which contained among other things the following clause:

"For the purpose of carrying into effect the said contract of sale entered into with the other party hereto, said Francisco Gonzalez y de la Fuente and Don Antonio la Puente y Arce, in the name and on behalf of the mercantile partnership denominated R. Aenlle & Co., by virtue of the powers conferred upon them and in compliance with the instructions given them by Don Matias Saenz de Vizmanos y Lecaroz, the manager of the said partnership, solemnly declare that they sell, absolutely and in fee simple, to E. C. McCullough, the tobacco and cigarette factory known as 'La Maria Cristina' located at No. 36 Calle Echague, Plaza de Góiti, Santa Cruz district, this city, said sale including the trade-mark La Maria Cristina, which has been duly registered, the stock of tobacco in leaf and manufactured, machinery, labels, wrappers, furniture, fixtures, and everything else belonging to the said factory, as shown in the inventory to be drawn up for the purpose of making formal delivery of the said property; all of the same for the following sums:

"(a) For the transfer of the ownership of the trade-mark La Maria Cristina, 20,000 pesos:

"(b) For the machinery installed in the factory, together with tools and other equipment and cost of installation, approximately, 30,000 pesos:

"(c) For the furniture, approximately, 4,500 pesos;

"(d) For the leaf tobacco on hand, approximately, 71,000 pesos;

"(e) For the boxes on hand, approximately, 1,500 pesos;

"(f) For the manufactured tobacco on hand, approximately, 12,500 pesos.

"(g) For cigar and cigarette wrappers and labels at present on hand, 12,000 pesos:

"(h) And for the stock of cigarette paper on hand, approximately, 4,000 pesos: which said sums make in all 153,000 pesos.



"This sum is subject to modification, in accordance with the result shown by the inventory to be drawn up. In this inventory the value of each individual piece of furniture will be fixed at 10 per cent below the price shown in the partnership inventory. The machinery and cost of installing the same will also be fixed at 10 per cent below its invoice price. The value of the tobacco, both in leaf and in process of manufacture, boxes, labels, wrappers, cigars, cigarettes, and paper mouthpieces for cigarettes will be fixed at the invoice price. The value of the tobacco made up into cigars will be fixed in accordance with the price list of the partnership, less 20 per cent discount. The cigars will be inventoried at the prices in the same list, less a discount of 35 per cent. The \$20,000 mentioned as the value of the trademark will, however, remain unchanged."

The inventory mentioned in this contract was afterwards made by the defendant and delivered to the plaintiff, who, prior to September 26, through an expert selected by him, examined bales of the tobacco selected by the defendant and which its agents said were sample bales of the different lots of tobacco mentioned in the inventory. These sample bales corresponded as to quality with the lots described in the inventory, and on September 26 the parties executed a second instrument, which in addition to a recital of substance of the contract of August 27, contained the following clauses:

"Second. That the parties hereto have completed the before-mentioned inventory of machinery, furniture, stock of tobacco in leaf and manufactured, boxes, labels, wrappers, and the other appurtenances of the said tobacco factory, representing a total and effective value of 131,000 pesos, after deducting the discount agreed upon for each article, and including the value of the trademark, which as stated, was fixed at 20,000 pesos; and that E. C. McCullough, the purchaser, remained in possession of the above-mentioned tobacco factory, and of all its appurtenances and the stock on hand to his entire and complete satisfaction.

"Third. That by virtue of the conditions set forth, the parties hereto fix the selling price of the above-mentioned tobacco factory called 'La Maria Cristina,' together with its trade-mark of the same name, and all its appurtenances, at the said sum of \$131,000, on account of which the vendee, Mr. McCullough, authorizes the vendors, Don Francisco Gonzalez y de la Fuente and Don Antonio la Puente y Arce, to collect and receive the 20,000 pesos deposited in the Spanish-Philippine Bank for that purpose and binds himself to pay the said vendees the \$111,000 remaining for the complete and total payment of the said purchase price by the 30th day of September, instant, on which date said sum must be paid, and in case said payment shall not be made by Mr. McCullough on said date, the said contract of sale of the said factory will be rescinded, the said sum of 20,000 pesos before mentioned accruing to the benefit of the representatives of R. Aenlle & Co."

On September 30 they executed a third contract, in which the defendant acknowledged the receipt at that time of the full purchase price of the sale.

Among other items of leaf tobacco in the inventory were the two following:

"1. Y. P. I. 4. S.—Angadanan—99—221 bales, net weight qqs. 571.35 at 40. \$22,854.

"2. Isabela, 99 loose leaves. 1.3 2.3 3.3 re-baled, net weight, qqs. 130.32 at 42. \$5,473."

It is admitted that the first item means that the 221 bales were of the fourth-class superior, from Angadanan and of the crop of 1899, and that the 76 bales in the second item were from Isabela of the crop of 1899 and of the first, second, and third class.

In December, 1901, the plaintiff, with others, organized a company, to which the plaintiff sold all the tobacco bought by him from the defendant. The purchaser, the new company, on examining these two lots, rejected them because the tobacco was not of the quality indicated in the inventory. Thereupon the plaintiff, claiming that the tobacco in these two lots was worth-

less, brought this action against the defendant to recover what he paid therefor, namely, the two sums of \$22,854 and \$5,473.44.

The court below found that the first lot was worth at the time of the sale only 8 pesos a quintal instead of 40, the price paid by the plaintiff; that the second lot was worth 11 pesos instead of 42, and ordered judgment against the defendant for the difference, which amounted to 24,109.29 pesos. The defendant excepted to the judgment, moved for a new trial on the ground that the evidence was insufficient to support the judgment, and excepted to the order denying this motion.

It was proved by the defendant at the trial, by means of the original invoices, that the prices stated in the inventory were the prices which it paid for the tobacco and the plaintiff makes no claim to the contrary.

At the time in question the plaintiff was the owner of a printing establishment and he testified that he desired to move it to the building in which the defendant had its cigar factory; that it was impossible for him to get the building without buying the tobacco factory, and for that reason he bought it, intending to sell it as soon as he could without loss. The said contract of August 27 contained provisions for the leasing and ultimate purchase of the building by the plaintiff.

The document of August 27 was a completed contract of sale. (Art. 1450, Civil Code.) The articles which were the subject of the sale were definitely and finally agreed upon. The appellee agreed to buy, among other things, all of the leaf tobacco then in the factory. This was sufficient description of the thing sold. The price for each article was fixed. It is true that the price of this tobacco, for example, was not stated in dollars and cents in the contract. But by its terms the appellee agreed to pay therefor the amount named in the invoices then in existence. The price could be made certain by a mere reference to those invoices. In this respect the contract is covered by article 1447 of the Civil Code. By the instrument of August 27 the contract was perfected and thereafter each party could compel the other to fulfill it. (Art. 1258, Civil Code.) By its terms the appellee was bound to take all the leaf tobacco then belonging to the factory and to pay therefor the prices named in the invoices. This obligation was absolute and did not depend at all upon the quality of the tobacco or its value. The appellee did not, in this contract, reserve the right to reject the tobacco if it were not of a specified crop. He did not buy tobacco of a particular kind, class, or quality. He bought all the tobacco which the appellant owned and agreed to pay for it what the defendant had paid for it. The plaintiff testified that this was the express agreement (p. 16). There is nothing in this contract to show that he bought 221 bales of fourth-class superior Angadanan of the crop of 1899. The fact that in the inventory subsequently made that particular lot of tobacco is mentioned can not in any respect change the rights of the parties which had already been fixed by the contract. The purpose of this inventory was not to make a new contract for the parties. It could not add anything to nor take anything from the rights and obligations of the parties already stated in the existing contract. Its sole purpose was to ascertain what the total purchase price was. If it correctly gave the number of bales and the price paid therefor by the appellant, according to the invoices, it was a sufficient compliance with the contract. The fact that the tobacco was described as of one class instead of another would be unimportant. The appellee did not purchase by class or quality, but by quantity. There was evidence tending to show that the first lot instead of being fourth-class superior of 1899 was fourth-class inferior of 1898; and the second lot instead of being of the first, second, and third class of 1899 was "particular" of 1898. The case is perhaps made more plain by supposing that when the inventory was presented to the plaintiff these two lots were described as "Y. P. I. fourth-class inferior Angadanan, 1898" and as "Isabela *hojos sueltos particular* 1898." It seems clear that if the inventory

had been so written the plaintiff could not have maintained this action. And, of course, if he could not have maintained the action under those circumstances he can not under the existing circumstances.

There is no evidence to show that any representations as to the quality of the tobacco were made to the plaintiff by the defendant prior to the contract of August 27, nor that there was any agreement prior to that time as to an exhibition of samples nor that the plaintiff prior to that time made any examination or inquiry as to the quality of the tobacco. The fact is that the plaintiff in order to get the building had to buy the factory and everything that went with it. He saw himself obliged to take all the tobacco which the defendant had, no matter what its quality was. The defendant was not willing to sell him the building and the good tobacco which it had on hand, retaining itself that of poorer quality. He had to take it all or not get the building. He probably thought that he was safe in agreeing to pay no more than the defendant had paid. But, however this may be and whatever may have been his reasons therefor, it is certain that the plaintiff bound himself by the contract of August 27 to take all the tobacco which the defendant then had and pay it therefor the prices that it had paid. He could relieve himself from this obligation only by showing either that the tobacco in the inventory was not owned by the defendant on August 27 or that the prices stated therein were not the prices which the defendant paid for it. He undertook to do neither of these things, and his action must fail. The right to rescind a contract for lesion when the value is less than half of the purchase price, given by Law 56, title 5, part 5, has been expressly taken away by article 1293 of the Civil Code. Article 1474 of the Civil Code has no application in this case. The fact that an article is of one grade or quality instead of another does not constitute a hidden defect within the meaning of that article.

It is claimed by the plaintiff, the appellee, that the motion for a new trial below should have specified more in detail the grounds of the motion. This contention can not be sustained. There is nothing in sections 145, 146, or 497 which requires the party to state at length and in detail his reasons for thinking that he is entitled to a new trial.

In view of the result thus arrived at it is not necessary to consider the other questions argued by the parties.

By article 497, Code of Civil Procedure, we are authorized in cases of this kind to find the facts from the evidence and "render such final judgment as justice and equity require." (*Benedicto vs. De la Rama*, December 8, 1903.)

The judgment below is reversed. We find the facts to be as hereinbefore stated and upon such facts we hold as a conclusion of law that the plaintiff can not recover. Judgment will be entered that the plaintiff take nothing by the action and that the defendant take nothing by the action and that the defendant recover the costs of both courts.

Arellano, C. J., Torres, and Mapa, J.J., concur.

McDONOUGH, J., dissenting:

The plaintiff and defendant entered into an agreement August 27, 1901, for the purchase by the plaintiff and sale by the defendant of certain real property (a tobacco factory) and a stock of tobacco, cigars, cigarettes, furniture, etc., contained in the factory.

By this contract it was agreed, among other things, that the defendant sold to the plaintiff the tobacco and cigarette factory known as 'Maria Cristina,' \* \* \* the stock of tobacco in leaf and manufactured \* \* \* as shown in the inventory to be drawn up for the purpose of making formal delivery of the said property."

The contract contains estimates or proximate sums to be paid for the several items of property, including an item marked "d,"

as follows: "For leaf tobacco on hand, approximately, 71,000 pesos."

It was further set forth that the various proximate sums, including the 20,000 pesos for the good will, "make in all 153,500 pesos," which "sum is subject to modification in accordance with the result shown by the inventory to be drawn up, and in which inventory the value of the tobacco in leaf and in process of manufacture \* \* \* will be fixed at the invoice price." In a second agreement made September 26, after the inventory had been made, the value of the personal property and good will was agreed to be 131,000 pesos.

By the eighth paragraph of the contract the plaintiff is obligated to pay the balance of the purchase price (he had deposited in bank 20,000 pesos to bind the bargain) "as soon as the inventory \* \* \* shall have been completed and it shall be possible to fix the exactness of the amount thereof." It was agreed that the defendant was to have until the 30th day of September, or before if possible, to complete the inventory; and the plaintiff was to have possession of the property on the payment of the purchase price.

This inventory was subsequently made and delivered and contained not only a description of each item of tobacco sold but also the exact price thereof.

The plaintiff contends that the leaf tobacco which he purchased was to be such "as shown in the inventory," and that its value was to be such as shown in the invoice, the former referring to articles, the latter to their price, because the parties referred not only to an inventory but to an invoice.

This action of the parties shows that when they provided for an "inventory" they knew the meaning of the word, and that they did not intend by it a mere statement of prices. An inventory is a list or schedule or enumeration in writing, containing, article by article, the goods and chattels of a person. (17 Am. and Eng. Enc. of Law, 419.) To the same effect is the definition of *Eseriche*, in his dictionary, under the title "Inventory," viz: "The instrument in which is set down the property of a person or firm because it contains a list, article by article, of the belongings of a person or firm. \* \* \* The making of an inventory is a preservative act, the purpose of which is to show the condition \* \* \* of the effects of a merchant or commercial partnership \* \* \* to the end that the rights of the interested party \* \* \* may be fully protected."

The inventory provided for in this contract is an essential part of the contract, and, though not made and delivered until a subsequent day, it is to be read and weighed as if it were annexed to the contract, for when made it retroacted to the date of the contract. (Civil Code, 1420.) This is not only a rule of the civil law (Civil Code, 1285) but also of the common law, where it is held that if there be two instruments embodying a contract between the parties they must be construed together, although they bear different dates. (*Dorothy vs. Stranehan*, 20 App. Division (N. Y.), 89.)

It follows, therefore, that this contract is to be construed as if the goods were sold "as shown" in an inventory or schedule annexed to the contract and made part of the contract.

In this inventory the bales of tobacco in question were described by certain marks, letters, words, and figures, known to the trade, and which, it was agreed, meant this: "221 bales of fourth-class superior leaf tobacco, from Angadanan, of the crop of 1889" and "76 bales of leaf tobacco of the first, second and third class, from Isabela, of the crop of 1899."

The price of the former lot was set down at \$40 per quintal, amounting to \$22,845, and the price of the latter at \$42 per quintal, amounting to \$5,473. When the plaintiff received the inventory, he requested that an expert, to be selected by him, be permitted to examine the tobacco. The defendant consented, and, through its agents selected what they represented to be samples of all the tobacco. The expert examined these samples

and found that they corresponded with the tobacco mentioned in the inventory. The plaintiff thereupon, and on the 30th day of September, paid to the defendant the balance of the purchase price, and on the 1st day of October, 1901, the defendant delivered to the plaintiff the property purchased by him.

After such delivery the plaintiff discovered that the two lots of tobacco above mentioned were faulty and defective, in that the tobacco was bad, was not of the quality described in the inventory, was not of the crop of 1899, but rather of 1898, and did not correspond with the samples shown to plaintiff by the defendant. He therefore sued the defendant for damages and recovered judgment for the sum of 24,100.29 pesos. From this judgment the defendant appealed and it is now contended that this judgment should be reversed because there was no warranty of the quality of the tobacco, express or implied. It is claimed that the plaintiff bought all the tobacco in the factory, no matter what its condition or quality was, and that he must pay full price for it even if a large part of it turned out, as it did, to be worthless, even though it did not correspond with the samples and even though it was not of the crop or quality described in the inventory.

The construction of the contract which would lead to this conclusion means that the plaintiff intended, when he executed the document dated August 27, to shut his eyes, to accept tobacco costing thousands of dollars without warranty, without examination, and without giving any weight or effect to the inventory to be made; and that the defendant intended that the plaintiff would do all this, notwithstanding the fact that the parties themselves, by their own acts, showed that neither of them had any such intention, for the plaintiff, long after August 27, desired to examine the tobacco, and the defendant not only consented but furnished sample bales to plaintiff for that purpose, which were examined.

In order to judge of the intention of parties to a contract, attention must principally be paid to their acts contemporaneous and subsequent to the contract. (Art. 1282, Civil Code.) And if it be contended that the contract does not clearly show that the parties intended by the words "as shown in the inventory" to refer to the quality or kind of tobacco to be described, the answer is that those words if obscure or ambiguous must be construed against the seller most strongly. (Corwin vs. Hawkins, 42 App. Div. (N. Y.), 571; art. 1288, Civil Code.)

At the trial the plaintiff testified (pp. 16 and 17) that the defendants told him that all the tobacco in the factory was good tobacco; that he had heard that the '98 tobacco was not considered good by buyers and was told not to buy any of it; that he mentioned this fact to the defendant, and was told by the defendant that it was all '99 tobacco.

He further testified that after the inventory was completed and checked off to his satisfaction he went to the place where the tobacco was to confirm the inventory and to see if the tobacco was as represented. He got an expert to examine the tobacco and when they arrived the vendors had prepared samples of all the tobacco, as mentioned in the inventory, and these samples were opened and examined. While this was being done the plaintiff examined the inventory and compared the marks to see if the tobacco was that mentioned in the inventory. The expert told the plaintiff that everything was all right and in accordance with the inventory.

The expert who examined these samples for the plaintiff testified that the examination was made at the lower warehouse, that he compared the marks on the bales with those which appeared on the inventory, and that he examined the samples of the tobacco and was satisfied that it was a good, useful leaf.

Relying on the inventory and samples of the tobacco exhibited to him by the defendant, the plaintiff completed the transaction by accepting the property and paying the purchase price.

Subsequently and some time in December, 1901, the plaintiff engaged to sell this same tobacco to another company, and that company rejected the two lots of tobacco in question, as hereinbefore mentioned, because they were not of the quality indicated in the inventory. It was proved by experts who examined this tobacco that it was of little or no value. Mr. Grazevell, the expert who examined the samples when the plaintiff took over the tobacco from the defendant, testified that he examined this tobacco and did not find it, equal to the samples he had seen; that it was a different class of tobacco, which was worthless for manufacturing purposes; that he examined the fourth-class superior Angadanan tobacco and the first, second, and third-class Isabela tobacco and opened at least 20 bales, and found that it was of different grades of the worst class; that it was absolutely worthless for manufacturing purposes; that in his opinion the tobacco was '98 tobacco, with a slight mixture of '99 tobacco, and that the two lots in question did not in any degree correspond to the samples which he had formerly examined.

Other expert witnesses corroborated the testimony of Mr. Grazevell regarding the quality of the tobacco, testifying that it was musty, in bad order, unfit for cigars, the greater part of it being of the crop of 1898 and only a mixture of the crop of 1899; that it was not fourth-class superior but fourth-class very inferior; that as to 77 bales marked first, second, and third class rebales, it was found the bales did not contain any of the classes mentioned, but only broken leaves such as are sent back from cigar makers' shops as unfit for making cigars. It was also shown that the tobacco crop of 1898 had been injured by excessive rain, and that it brought very low prices. This proof shows clearly a breach of warranty on the part of the defendant, whether the sale be considered as a sale by sample or by the description in the inventory or under the legal warranty against hidden faults or defects.

The sale was not completed until delivery. (Cotton vs. Guillot, 18 La. Ann., 608.)

First. As to sale by sample: The defendant, before the delivery of the tobacco and on completion of the inventory, produced for the plaintiff samples of all bales of tobacco for examination, and stated that these samples represented the quality of the tobacco; and these samples were examined and found to be satisfactory, but the tobacco in question was not equal to the quality of the samples.

The plaintiff relied upon these representations and upon the samples produced, and was entitled to receive tobacco equal in quality to these samples. He did not examine the remainder of the bales of tobacco on account of this representation of the defendant.

If a sale be made by samples, it amounts to an undertaking on the part of the seller that all the goods shall correspond in kind, character, and quality with those exhibited. And the liability of the seller is the same whether he knew or did not know that the samples differed from the bulk. (15 Am. and Eng. Enc. of Law, 1226; Whittaker vs. Haske, 29 Tex., 355; Bernard vs. Kellog, 10 Wallace, 338; Gould vs. Stein, 149 Mass., 570; Benjamin on Sales, sec. 969; Campbell on Sales, 305.)

Second. There was a warranty that the tobacco in question was to correspond with its description in the inventory.

A warranty in a sale of personal property is an express or implied statement of something which a party undertakes shall be a part of a contract, and, though part of the contract, collateral to the express object of it. (Benjamin on Sales, sec. 600; 60 N. Y. Court of Appeals, 450.)

Where an article is sold by a particular description, as was the tobacco in this case, by which description it is known to the trade, it is a condition precedent to the vendor's right of recovery that the article delivered should answer such descrip-

tion, such words of description being part of the contract. (Carleton *vs.* Lombard, etc., 19 App. Div. (N. Y.), 397.)

The word "warranty" or any particular form of words is not necessary to constitute an express warranty. All agreed that any positive affirmation of a material fact as a fact intended by the vendor as and for a warranty and relied upon as such is sufficient, as some hold the actual intent to warrant unnecessary. (Benjamin on Sales, sec. 664; Shippen *vs.* Bower, 122 U. S., 575.)

It is enough if the words used import an undertaking on the part of the owner that the chattel is what it is represented to be, or an equivalent to such undertaking. (1 Parsons on Contracts, 580, eighth edition.)

Thus it has been held that where the description on a sale was "winter-pressed oil" it imported and warranted not only that the article was "sperm oil" but also that it was "winter pressed" and not summer pressed, the words "winter pressed" denoting a quality of oil. (Osgood *vs.* Lewis, 2 Harr. & Gill, 495.) This is an authority for holding that the description of the crop of '99 calls for tobacco of that year and not of the crop of '98.

So where the contract called for boxes of "Kingman's Cumberland cut bacon" and boxes of "Thallmer's staf. for middles" all to be of choice quality, and the required quantity of "Taylor's Cumberland cut bacon, Indianapolis" and of "Empire Packing House Stafford Middles" were sent, it was held to be a breach of warranty. (Walker *vs.* Gooch, 48 Fed. Rep., 656.)

In Hastings *vs.* Lovering (2 Pick. (Mass.), 214) the sale note read "2,000 gallons prime quality winter oil." Held, a warranty not only that the article was winter oil but it was prime quality. The court stated that a description of an article inserted in a bill of parcels in a sale note ought to be considered evidence that the thing sold was agreed to be such as represented.

In Winsor *vs.* Lombard (18 Pick., 57) it was said that upon a sale of goods by written memorandum or bill of parcels (inventory) the vendor undertakes, in the nature of a warranty, that the thing sold and delivered is that which is described, and that this rule applies whether the description be more or less particular and exact in enumerating the qualities of the goods sold.

In Gould *vs.* Stein (149 Mass., 570) the sales note described "bales of Ceara scrap rubber as per sample of second quality." Held, a twofold warranty of conformity to sample and to quality, which was broken by failure to deliver rubber of sound quality, irrespective of whether it was equal to the samples, Chief Justice Allen holding that a sale of goods by a particular description imports a warranty that the goods are of that description.

As again affecting the question of crop or age of the tobacco, the case of Millandon *vs.* Price (3 La. Am., 4) may be cited. There salt in bags had been purchased and it was represented that it had been stored only five or six months, when in fact it had been stored fifteen to eighteen months. Held, that the representations affected a material point and that the purchaser was not bound to examine the salt, as salt in bags was not susceptible of inspection and examination without much trouble and inconvenience.

In Trading Company *vs.* Farquar (8 Blackf. Ind., 89) it was held that where wool was sold in sacks and the sacks marked by the seller and described in the invoice as being of a certain quality, that amounted to an express warranty that it was of such quality.

So where the articles sold were described as "58 bales of prime singed bacon" it was held that this amounted to a warranty that the bacon was "prime singed." (Yates *vs.* Pym, 6 Taunt., 446.)

The English rule is laid down by Campbell in his work on sales, as follows:

"Where there is a sale of goods by description—that is to say, where the goods in general are sold under certain description or where the sale is of specific goods whose character is presumably only known to the buyer by the description under which they are

sold to him—e. g., *bales of goods specified by marks in a bill of lading*, and described in the contract as being of a certain kind—it is of the essence of the contract that the goods furnished shall agree with the description." (Campbell on Sales, 300, ed. of 1881.)

In view of these decisions and of the fact that the two lots of tobacco in question did not correspond in quality or in the year of the crop with the description on the bales, it follows that there was a breach of warranty on the part of the defendant which justified the judgment of the court below.

There was a breach of the warranty which the law creates. By article 1461 of the Civil Code a vendor is bound to deliver and warrant the thing which is the object of the sale.

Article 1474 of this Code provides that by virtue of this warranty the vendor shall warrant the vendee not only as to the legal title but also that there are no hidden faults or defects therein.

Article 1484 of the Civil Code provides that the vendor is bound to give a warranty against hidden defects which the thing sold may have, should they render it unfit for the use to which it was destined or if they should diminish said use in such manner that had the vendee had knowledge thereof he would not have acquired it or would have given a lower price for it; but said vendor shall not be liable for the patent defects or those which may be visible, neither for those which are not visible, if the vendee should be an expert and by reason of his trade or profession should easily perceive them.

Article 1485 of the Civil Code provides that the vendor is liable to the vendee for the warranty against faults or hidden defects in the thing sold, even when they should be unknown to him. This shall not obtain if the contrary should have been stipulated, and the vendor should not have been aware of said faults or hidden defects.

By article 1486 of this Code it is provided that in the case of the two preceding articles the vendee may choose between withdrawing from the contract, the expense of which he may have incurred being returned to him, or demand a proportional reduction of the price, according to judgment of experts.

The plaintiff in this case followed the latter course.

There can be no doubt in this case but that there were hidden faults or defects in the bales of tobacco in question.

Baled tobacco that is "musty and of bad odor;" that is "almost worthless;" that, as witnesses testified, is "only fit to be thrown into the river;" that is "not fit for the manufacture of cigars;" that consists of "broken leaves sent back as useless;" that was "in bad condition and smelt bad;" that the greater part of it was of an inferior crop of a year earlier that was represented by the marks on the bales, and that it was broken tobacco mixed with the tobacco of another year; that cost the plaintiff \$40 and \$42 a quintal, when in fact the highest estimate of its value was from nothing to \$6 to \$8 per quintal—such tobacco must surely be considered as having faults or defects.

Apparent defects are those apparent to the senses without opening packages to discover them and are not those which are concealed without such examination; so the unsoundness of potatoes in barrels is not an apparent defect but a hidden one. (Richards *vs.* Burke, 7 La. Am., 243.)

Were these hidden faults or defects? Undoubtedly they were, because the tobacco was in bales, which could not be "easily examined" (Civil Code, art. 1484), and therefore, even if the plaintiff were an expert dealer and examiner of tobacco, which he is not, the law did not require him to open these bales and make the examination. This is demonstrated by the provisions of article 336 of the Code of Commerce, which provides that "a purchaser who, at the time of receiving the merchandise, fully examines the same, shall not have a right of action against the vendor alleging a defect in the quality or quantity of the merchandise.

"A purchaser shall have a right of action against a vendor

for defects in the quantity or quality of merchandise received in bales or packages, provided he bring his action within four days following its receipt (this time was extended by the Code of Civil Procedure) and the average is not due to accident or to the nature of the merchandise or to fraud.

"In such cases the purchaser may choose between rescission of the contract or its fulfillment. \* \* \* but always with the payment of the damages he may have suffered by reason of the defects or faults.

"The vendor may avoid this liability by demanding when making the delivery that the merchandise be examined fully by the purchaser with regard to the quantity and quality."

Thus the vendor, if he saw fit to protect himself against this action, could have demanded that the plaintiff examine *all* the tobacco instead of the good samples of tobacco produced for examination by the defendant. He had a right to protect himself, but he not only failed to do so but misled the plaintiff by the samples he produced and which did not correspond with the remainder of the tobacco in these lots.

The provisions of the civil code of Louisiana, regarding sales and warranties, are very like those of the Philippine Civil Code, and in construing the sections of the former code the courts of that State have frequently passed upon questions involving hidden faults or defects and have invariably held that where merchandise was packed in bales, barrels, or boxes the purchaser was not bound to examine the property, and that if the vendor desired to protect himself he should take from the purchaser a warranty of exclusion of liability.

Thus it was held that salt in bags was not susceptible of examination and inspection without much trouble and inconvenience, and so the purchaser was not bound to examine it. (See Millandon, case 3, La. Ann., 4.)

In the case of Fuller *vs.* Cowell (8 La. Ann., 136) cotton in bales was sold. It was found on the outside of the bales but bad in the interior, though the vendor was not aware of the hidden defects. *Held*, that he was liable to pay the difference between the actual value of the bales and what they would have been worth had they corresponded with the outside. (See also Peterkin *vs.* Martin 30 La. Ann., 891; Buckley *vs.* Honold, 19 How. (U. S.), 390.)

The common law doctrine of  *caveat emptor* has been greatly modified by the courts within half a century. The harshness of the rule, which formerly had many exceptions and has more now, requiring the purchaser to take a warranty if he desired to be protected against faults, seems not to prevail in the civil law. That law rightfully places obligations on the vendor to deal fairly and justly with the vendee, and requires the vendor to expose the quality of the goods sold, when the faults or defects are hidden, so that the vendee may inspect and examine them, and if the vendor fails to do this or fails to obtain from the purchaser a warranty of exclusion he must pay the damages.

This law seems so just and so much in favor of fair and honest dealing among merchants that the courts of Louisiana have held that even in certain cases where the vendor had a warranty of exclusion he was still liable for damages.

Thus in the case of Lanata *vs.* O'Brien (13 La. Ann., 229) barrels of potatoes and onions were sold. There was a warranty of exclusion, except as to the number of barrels to be taken, good or bad, at a certain price. On arrival at destination almost all of the onions were found to be decomposed and only a few of them sound in each barrel. *Held*, that the sale could not be enforced, notwithstanding the warranty of exclusion, inasmuch as the onions were so bad that they could hardly be called onions.

Under the contention in behalf of the defendant, in the case at bar, the plaintiff would be bound to accept rotten and broken tobacco instead of leaf tobacco or possibly tobacco dust, but the civil law does not favor such unfair dealing.

This doctrine is further illustrated by the decision in the case of Melancon *vs.* Robichaux (17 La. Rep., 97). It was held that where the thing sold turns out to be so defective that had the defects been made known to the purchaser he would not have bought, the sale will be rescinded. Even if the warranty be excluded, the seller is bound to disclose the defects or vices of the thing sold.

It has been held that the payment of a sound price entitles the purchaser to a sound article. (Hosmer *vs.* Baer, 5 La. Ann., 35.) This is the rule of the civil law. (Dig. 21, 2, 1; Bouvier's Law Dictionary, title "Warranty"; 1 La. Ann., 27.)

The conclusion follows that the plaintiff is entitled to recover his damages whether under the warranty created by the samples given for examination, the description and quality of the tobacco mentioned in the inventory, or the warranty which the civil law afforded for his protection. The judgment below should be affirmed.

*Judgment reversed.*

[No. 1464. February 11, 1904.]

THE UNITED STATES, complainant and appellee, *vs.* MAXIMO OANGOANG ET AL., defendants and appellants.

CRIMINAL LAW: ROBBERY.—The defendants, two in number, entered the house of the complaining witnesses in the nighttime and carried off the sum of 80 pesos, after compelling the complaining witnesses, by blows and kicks, to disclose the hiding place of the money. *Held*, that the defendants are guilty of robbery under paragraph 5 of article 503 of the Penal Code.

APPEAL from a judgment of the Court of First Instance of Ilocos Norte.

The facts are stated in the opinion of the court.

FELIPE BUENCAMINO, for appellants.  
Solicitor-General ARANETA, for appellee.

MAPA, J.:

The evidence plainly shows that the defendants are guilty of the robbery of 80 Mexican pesos of which they are charged, and that they committed the crime by exercising violence upon the persons of Tita Porfirio and Dionisia Barut, whom they beat and kicked until the former showed them the place where the said money was kept, whereupon they took the same.

This case falls within the provisions of section 5 of article 503 of the Penal Code, as the crime was not committed under any of the circumstances indicated in the first four paragraphs of said article.

The aggravating circumstance of nocturnity must be considered against the defendants, but this circumstance is offset by the mitigating circumstance of drunkenness with respect to Julian Jimenez, for we consider it to have been proven that the latter was intoxicated at the time the crime was committed, and that intoxication was not habitual with him. For these reasons the penalty prescribed by the law should be imposed upon the said Jimenez in its medium degree, and upon the other defendant, Maximo Oangoang, in its maximum degree; as with respect to the latter there are no mitigating circumstances to be considered. The motion filed on behalf of the defendant Oangoang for release on bail is denied.

We therefore affirm the judgment appealed, the penalty imposed upon Maximo Oangoang to be ten years of *presidio mayor* and that imposed upon Julian Jimenez to be six years, also *presidio mayor*, the defendants to pay the costs of this instance equally between them.

Arellano, C. J., Torres, Cooper, Willard, McDonough and Johnson, J.J., concur.

*Judgment modified.*

[No. 1513. February 12, 1904.]

*THE UNITED STATES, complainant and appellee, vs. CASIANO SADIAN, defendant and appellant.*

**CRIMINAL LAW: FORMATION OF SECRET POLITICAL SOCIETY.**—The accused, together with several others, organized a secret political society having for its purpose the promotion of rebellion against the authority of the Government of the Philippine Islands, and induced others to join the society. *Held*, that the facts constitute the offense defined and punished by section 9 of Act 292.

**APPEAL** from a judgment of the Court of First Instance of Ilocos Norte.

The facts are stated in the opinion of the court.

JUAN SMCULONG, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

The provincial fiscal of Ilocos Norte filed an information in the Court of First Instance of that province, charging Casiano Sadian, Monico Dado, Roman Daepo, Basilio Sanchez, and Damian Tabonan with having formed a secret political society, in that during the latter part of June and early in July, 1903, they met together with others in the forests of some of the barrios of the town of Paoy, Ilocos Norte, for the purpose of forming a secret political society entitled "Kanyouan," the purpose of which was to obtain the independence of the Philippines by means of insurrection, treason, and rebellion against the Government of the United States of America in these Islands, this against the provisions of Act No. 292 of the Civil Commission.

The trial having commenced, Ariston Umayam under oath testified that on Sunday, July 5, 1903, upon going to a house belonging to a brother of his in the barrio called Pias, Casiano Sadian, Sergio Sadang, and Sergio Sancali came to the house, and that upon the invitation of Sadang they all went out into a cane field; that shortly after Casiano Sadian arrived and asked the witness if he desired to join them, and he, being afraid, said that he did. Whereupon, in proof of his affiliation, Casiano made an incision in his forearm and then wrote the name of the witness with his own blood; the witness making his cross under his name; that Sadian then told him that he was to defend his mother country and fight the Americans; that on this occasion Sergio Sadang and the five accused were present, and that they surrounded him, all armed with clubs; that on the following day, the 6th, they took him into the Cabuit forest, and that shortly after Gavino Umayam arrived in charge of Valentin Butardo, and that they made a similar incision in his arm, he being surrounded by the accused, who were at that time armed with bolos and clubs; that after this operation they went with the witness to Gavino's hut, and while they were eating the latter told the witness in private to go and report the facts to the Constabulary stationed at Badoc, which he did. This witness also testified that Valentin Butardo as well as Casiano asked him if he wanted to fight the Americans, and that he, being afraid, said that he did; that the leader of them was Sergio Sadang.

Valentin Butardo testified under oath that the defendants had joined the society or party organized by him and his brother Canuto, and that they did this voluntarily; he identified the documents, translations of which appear in the record—the originals are in other cases. The witness stated that he sought out the accused to induce them to join his party in preparation for the coming presidential elections, and made the incision in their arms to bind the obligation so that they should not abandon him on election day, but denied that he with the others compelled Ariston Umayam and his brother to join the party, and stated that their names were not on the list, that they had not taken the oath, and that it was not true that they had gone through the ceremony of incision.

Sergio Sadang testified under oath that Valentin Butardo was the one who made the incision in the arm of Ariston Umayam when the latter took the oath as a member of the party which they had organized, but immediately afterward testified that Casiano Sadian was the one who made the incision in Umayam's arm while he, the witness, but not the other accused, was present. Sergio Sancali testified that he did not know whether Ariston Umayam was a member of said party, and only knew by hearsay that the accused were members of it.

The facts upon which the accusations are based and which have been established by the testimony of a number of witnesses, constitute the crime defined and punished by Act 292, dated November 4, 1901. The evidence plainly shows that Casiano Sadian, with Valentin Butardo, Sergio Sadang, and others, organized a secret political society for the purpose of fomenting rebellion against the constituted government of these Islands and to obtain the independence of the Islands by means of revolution and war, and that with this purpose in view they endeavored to induce others to join the party and to increase the number of members, making incisions in their arms and obliging them to take an oath to defend the country and to fight against the Americans. These acts, fully established by the evidence, fall within the provisions of article 9 of the act.

The facts related do not constitute the crime of conspiracy defined and punished in section 4 of the same act, as no act of conspiracy falling within that article was committed by the defendants.

Casiano Sadian, the teniente of the barrio of Gaang, plead not guilty and testified that Ariston Umayam's statements were not true; that he was not present at the time to which this witness referred; that he made the incision in the arm of the witness Valentin Butardo as a sign of fraternity, believing that their purpose in connection with the election of a president was a proper one, and that several other persons went through the ceremony of incision, among them the other accused; that at the time this ceremony was performed an oath was taken to defend the mother country with the last drop of blood; he denied that he had accompanied Valentin Butardo in making incisions in the arms of other persons, and that the only persons who had done this by force and violence were Valentin Butardo, Sergio Sadang, Juan Navarro, and Ruperto Madamba.

Roman Taboan, Roman Daepo, Monico Dado, and Basilio Sanchez testified that at the instance of Valentin Butardo they joined the party which he and others had formed, and that for this purpose they took an oath binding themselves to defend the country with their lives, but denied having been present when the ceremony of incision was performed on Ariston Umayam, and that they were unaware that this ceremony was peculiar to the revolutionists. These four defendants did not appeal from the judgment of the court below, and therefore as to them the decision of the court is final, and this appeal is limited to the appellant, Casiano Sadian.

Notwithstanding the denial of the accused Sadian, the evidence of his guilt is more than sufficient. It shows that he was one of the men who organized the secret political society entitled "Kanyouan," and that he was one of those actively engaged in obtaining proselytes among his fellow-townsmen, availing himself of his office as teniente of the barrio and availing himself of the ignorance of his neighbors. For the purpose of organizing the society he acted with criminal intent, with full knowledge and the determined purpose of fomenting a rebellion against the government in these Islands, and consequently he is subject to the personal and pecuniary penalty established by article 292.

Therefore, for the reasons stated, we are of the opinion that the judgment appealed must be reversed in so far as it concerns Casiano Sadian, and that the latter must be convicted and condemned to one year's imprisonment and to pay a penalty of

2,000 insular pesos, and in case of insolvency to suffer imprisonment at the rate of one day for each 24 pesos which he may be unable to pay, the subsidiary imprisonment, however, in no case to exceed the third part of the period of the principal penalty, in accordance with the provisions of article 50 of the Penal Code. He is also condemned to the payment of one-fifth of the costs of both instances. The case will in due time be remanded with a certified copy of this decision and of the judgment to be entered hereon.

—Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1460. February 16, 1904.]

**THE UNITED STATES, complainant and appellee, vs. MAXIMO GUILLERMO, defendant and appellant.**

**CRIMINAL LAW; HOMICIDE; MITIGATING CIRCUMSTANCES; INTOXICATION.**—Where it appears that the accused was intoxicated at the time of the commission of the crime and that he was not an habitual drunkard he is entitled to the benefit of the sixth mitigating circumstance of article 9 of the Penal Code.

**APPEAL** from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

FERNANDO DE LA CANTERA, for appellant.  
Solicitor-General ARANETA, for appellee.

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MAPA, J.:

It is a fact plainly proven in this case that the accused attacked the victim with a pocket knife, causing a wound in the left hypochondrium which caused his death on the fourth day. Two witnesses who were present testified under oath regarding the said assault and its results, their testimony having been confirmed by the statements made by the deceased to his wife and to the physician who attended him. The physician testified that the wound was mortal. The same witnesses and the accused himself also testified to the fact of the death of the deceased.

The act charged constitutes the crime of homicide, defined and punished by section 404 of the Penal Code. There is to be considered in favor of the defendant mitigating circumstance 6 of section 9, he having committed the act while in an intoxicated condition, which was not habitual with him, as is sufficiently proven by the evidence in the case.

Therefore, the sentence of twelve years and one day of *reclusión temporal* imposed on the defendant by the Court of First Instance is in accordance with the law. The defendant is also sentenced to pay to the heirs of the deceased, an indemnity of 1,000 pesos. Philippine currency.

With the addition of sentencing the defendant to pay this indemnity, we affirm the judgment appealed from, imposing the costs of this instance upon the defendant.

—Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1446. February 17, 1904.]

**THE UNITED STATES, complainant and appellee, vs. AMBROSIO DE LA CRUZ, defendant and appellant.**

1. **CRIMINAL LAW; RAPE; ATTEMPT.**—See facts in this case held sufficient to sustain a conviction for attempted rape.

2. **ID.; ID.; PENALTY; MINOR.**—The penalty for the consummated crime of rape being *reclusión temporal*, that corresponding to the attempt to commit the crime is two degrees lower, viz. *prisión correccional*, which, when the defendant is between the ages of 15 and 18 years, by reason of that fact must be further reduced to *arresto mayor*.

**APPEAL** from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

—AMBROSIO R. BAUTISTA, for appellant.  
Solicitor-General ARANETA, for appellee.

—  
JOHNSON, J.:

The defendant in this case was charged with the crime of attempted rape.

The evidence discloses the fact that on the 20th of July, 1903, the accused went to the house where one Paula de los Santos lived, at about 8 o'clock at night, and entered the house without the permission of the said Paula. After the accused entered the house he took hold of her and threw her upon the floor. Paula at once cried for help. Her aunt was in the house with her at the time and saw the accused enter the house, but was afraid to go to her help when she heard her cries. One Apolinar Acosta, who lived in an adjoining house, hearing the cries of Paula, ran immediately to her aid. When Apolinar Acosta entered the house where Paula was he found the accused struggling with her, both being upon the floor. The mother of Paula, who was in an adjoining house, also heard the cries of her daughter, Paula, for help, on this same occasion.

The evidence shows that Paula was about 15 years of age and that the accused was about 16 years of age. The evidence further shows that the accused had visited the house of Paula before this night and desired to marry her.

The position in which the accused was found upon the floor with Paula by Apolinar Acosta at the time he, Apolinar Acosta, answered her cries, clearly indicates that the accused intended to commit the crime charged in the said complaint.

The judge of the Court of First Instance, after hearing the testimony, found the defendant guilty of the crime of attempted rape and sentenced him to be imprisoned for the term of two years and six months of *prisión correccional*, with the costs.

Article 438 of the Penal Code provides that those who are found guilty of the crime of rape shall be punished with the penalty of *reclusión temporal*.

Article 66 of the Penal Code provides that those who shall be found guilty of an attempt to commit a crime shall be punished by the penalty two degrees lower than that prescribed by law for the consummated crime.

Inasmuch as the evidence shows that the defendant is guilty of the attempt to commit a crime only, then by virtue of article 66 of the said Code, he should be punished with the penalty of *prisión correccional*.

The evidence discloses the fact that the accused was but 16 years of age. Subsection 1 of article 85 of the said Code provides that persons under 18 years of age and over 15 years of age shall be punished with the penalty one degree lower than that prescribed by law. By virtue of this last-quoted provision of the Penal Code, then, the penalty of *arresto mayor* should be imposed.

The offense was committed at nighttime. This should be appreciated as an aggravating circumstance.

There being no attenuating circumstances and one aggravating circumstance, the court must impose the maximum degree by virtue of subsection 3 of article 81 of the Penal Code. Therefore, by virtue of the foregoing provisions of the law and facts, the court does hereby modify the sentence of the Court of First Instance of the Province of Rizal and does hereby sentence the accused, Ambrosio de la Cruz, to six months of *arresto mayor* and to pay the costs of both instances.

—Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur.

*Judgment modified.*

## BUREAU OF THE INSULAR TREASURER.

Banco Español-Filipino—Balance sheet for January, 1904.

Resources.		Liabilities.	
Property:		Capital stock, local currency	P1,500,000.00
Furniture and fixtures	P4,991.62	Reserve fund:	
Real estate	405,465.12	Legal, Philippine currency	P225,000.00
		Voluntary	665,000.00
			890,000.00
Securities:		Deposits:	
Notes and discounts—		Voluntary—	
Philippine currency	P453,226.01	Philippine currency	P2,185.00
Hispano-Filipino currency	37,250.00	Hispano-Filipino currency	5,750.00
Local currency	87,636.21	Mexican currency	300.00
	578,112.22	Local currency	81,172.14
Loans (papers acknowledged notary public), local currency	110,000.00		89,307.14
Loans secured by mortgages—		Necessary—	
Philippine currency	P307,700.40	Philippine currency	260.00
Local currency	53,904.02	Local currency	15,422.12
	361,604.42		16,682.12
Loans secured by merchandise—		Time—	
Philippine currency	73,197.96	Philippine currency	14,568.72
Hispano-Filipino currency	22,500.00	Hispano-Filipino	650.00
Local currency	12,000.00	Local currency	1,075,719.76
	107,697.96		1,090,938.48
Loans secured by bonds and other public securities, local currency	35,000.00	Current account and accepted checks—	
Overdrafts and bills of exchange—		United States currency, \$74,340.07	148,080.14
Philippine currency	P2,213,577.96	Philippine currency	196,587.96
Hispano-Filipino	289,836.94	Hispano-Filipino	173,813.17
Local currency	793,838.49	Mexican	201,155.23
	3,297,253.39	Local currency	1,559,370.57
Bonds, stocks, and other securities, Philippine currency	620,277.18	Bank notes in circulation	2,579,607.01
		Sundry accounts	1,909,892.50
Cash on hand:		Dividends not paid:	251,553.06
United States currency, \$213,073.22	426,146.44	Overdue, local currency	8,942.10
Philippine currency	227,602.15	Current	10,752.00
Hispano-Filipino	349,276.98		19,694.10
Mexican	515,182.41	Profit and loss	8,566.70
Local currency	1,309,362.12		
General expenses	2,827,570.10	Deposits held for safe-keeping	8,356,241.11
	8,279.08	Bank notes in vault	303,204.11
Deposits held for safe-keeping	8,356,241.11		841,552.50
Bank notes withdrawn from circulation	303,204.11	Total liabilities	9,500,797.72
Bank notes withdrawn from circulation	841,552.50		
Total resources	9,500,797.72		

J. SERRANO, Accountant.

Correct:

EDGENIO DEL SAZ OROZCO, Director in Charge.

## BUREAU OF CUSTOMS AND IMMIGRATION.

## TARIFF DECISION CIRCULARS.

No. 391.—(1) *Strawberry fruit pulp*; (2) *wild-cherry juice*.

MANILA, March 1, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1908, filed March 3, 1903, by Mr. M. A. Clarke, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 2523, Voucher No. 0848, paid March 2, 1903.

"Of the two claims in this case the first is against the classification of certain strawberry fruit pulp as a 'sweetmeat,' under paragraph 332 of the Tariff Revision Law of 1901 at \$0.125 per kilo or 20 per cent ad valorem instead of as 'preserved fruit,' under paragraph 322, at \$0.04 per kilo as entered. This claim is identical with that considered in Tariff Decision Circular No. 370, and the decision there published is followed in the present case.

"The second claim is against the classification of certain 'wild-cherry juice' as a 'flavoring extract,' under paragraph 327, at \$0.25 per kilo, instead of as 'fruit juice,' under paragraph 313, at \$0.06 per liter as entered. The substance, which possesses the typical color, sweet taste, and odor of the dark-red cherry, has an alcoholic strength of 12 per cent. It is evidently manufactured from cherries; but whether the alcohol which it contains is a result of natural fermentation, or whether the same is arti-

ficially admixed, can not be determined satisfactorily by an analysis. The importer states that the alcohol is employed to 'fortify' the goods, which would seem to indicate that in his opinion the alcohol was artificially admixed, though the point is not of controlling importance.

"It is urged by the importer that this 'juice' be considered as a fruit juice and be dutiable accordingly under paragraph 313, which is worded: 'Fruit juice, pure or with only sufficient sugar to preserve it.' A fruit juice containing alcohol, either the result of natural fermentation or of artificial admixture for the purpose of preserving the article, can not be considered as pure fruit juice, but must be regarded under the tariff as 'wine' provided it is used as a beverage prepared in the manner of true (grape) wine. Wine is defined to be, first, the expressed, fermented juice of grapes, and second, a beverage prepared from juice of any fruit by a process like that for grape wine. Alcoholic fruit juices which are not beverages can neither be classed as wines nor as fruit juices. Their particular use must guide their classification as flavoring extract, coloring substance, medicinal preparation, etc.

"Judging from a prevailing strong odor of benzaldehyde (bitter almond odor), this juice contains certain parts of the cherry kernels which contain that substance in addition to the sap proper. Accepting this as a fact, the substance could have been manufactured only by extraction with an alcoholic menstrum for the distinct purpose of obtaining a flavoring extract. The manufacturing process is probably carried out by reducing the cherry kernel and flesh to a pulp for subsequent maceration with alcohol, or the extraction may have been hastened by substituting 'digestion' for maceration.

"This article is decidedly not a beverage, and while it may be perfectly harmless in small doses sufficient to impart flavor, it is



believed that it would cause severe gastric disturbances if partaken of in larger quantities as a beverage proper. The label of the bottle shows that the product is recommended by its producers as a flavoring extract only for all kinds of beverages, principally for such mixtures which are dispensed in conjunction with a soda fountain.

"In other words, this article being absolutely excluded from paragraph 313 by the express terms of that paragraph, if it is not a wine or a flavoring extract, is an unenumerated article which, judged by the test of material and use, should, under rule 15, be classified as a 'flavoring extract' by assimilation.

"Protest No. 1908, on the grounds mentioned above, is sustained as to the first claim, and a refund ordered to the importer in the sum of \$7.91, United States currency; the second claim is overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 392.—*Polish; russet dressing, paste, and whitening.*

MANILA, March 3, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2599, filed October 29, 1903, by Messrs. Rubert & Guamis, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 7292, Voucher No. 13755, paid October 26, 1903.

"The claim in this case is against the classification of certain shoe polishing and dressing preparations as 'chemical products not specially mentioned,' under paragraph 97 of the Tariff Revision Law of 1901, at \$0.02 per kilo, not less than 15 per cent ad valorem, the latter rate prevailing, instead of as 'blackening of all kinds,' under paragraph 89, at \$3 per 100 kilos, as entered.

"The consignment consisted of five kinds of shoe polishing or cleansing preparations. One item of black polish was classified as 'blackening' and is not a subject of protest; the other four items which are protested consisted of russet or brown and white polish or dressing, russet paste, and whitening, which is apparently a silicate, calcined and chemically prepared.

"The wording of paragraph 89 is identical with paragraph 7 of the United States tariff of 1897 (the Dingley tariff), and therefore the construction placed upon that paragraph in the United States is controlling, under the familiar rule that the re adoption of a law is an enactment subject to all prior interpretations.

"If the legislature of a State, in enacting a statute, literally or substantially copies the language of a statute previously existing in another State, or borrows from such statute a provision, clause, or phrase, the same having received a settled judicial interpretation in the State of its origin, it is presumed that the enactment was made with knowledge of such interpretation, and that it was the design of the legislature that the act should be understood and applied according to that interpretation. But the interpretation, to be thus considered as adopted with the statute, must have been made before the adoption." (Black on Interpretation of Laws.)

"The settled construction of these particular words is shown in the following extract from Treasury Decision 19415, G. A. 4145, decided May 26, 1898: "The merchandise is a so-called 'white cream,' packed in small stone jars, designed for polishing patent-leather boots and shoes. It was assessed for duty at 25 per cent under paragraph 7, act of July, 1897, and is claimed to be dutiable at 20 per cent under section 6 as a nonenumerated manufactured article.

"Paragraph 7 reads: "Blackening of all kinds, 25 per cent ad valorem." We are of the opinion that a fair construction of this paragraph should include "shoe polish of all kinds." Such was our rendering, in unpublished decisions, of the corresponding provisions of the acts of 1890 and 1894, and the customs practice during those tariffs was in harmony with such a construction.

"We find that the merchandise is a kind of blackening, and overrule the protest."

"The decision in the present case should therefore be in favor of the importer save in the case of the whitening or 'blanco,' which, being neither blackening nor polish, is not covered by the decision quoted above, and was correctly returned, but it is noted that the protest was not filed within the time required by law and for this reason must be overruled and denied.

"Protest No. 2599, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 393.—*Handkerchiefs in the piece not liable to surtax for "making up."*

MANILA, March 4, 1904.

To all Collectors of Customs:

PARAGRAPH 1. The following decision of the Court of Customs Appeals rendered February 13, 1904, is hereby published for the information and guidance of all concerned:

UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
COURT OF CUSTOMS APPEALS.

*Appeal in the case of Ed. A. Keller & Co.*

[Docket No. 567. Appeal No. 560. Protest No. 1992.]

DECISION.

"This case comes before the court upon the appeal of Ed. A. Keller & Co. from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellant's protest against the imposition of a 30 per cent surtax upon handkerchiefs, as for the making up of the same.

"Hartford Beaumont for the Government. C. Abegg for the appellants.

"The evidence presented at the hearing discloses that the handkerchiefs in question were imported in the piece. That there was indicated at certain distances, by a line marked in the weave, just where the handkerchiefs were to be cut.

"The Collector of Customs in his decision contends that this made the handkerchiefs ready for use, with the exception of the trifling amount of work necessary to cut the handkerchiefs apart at the places marked, and cites in support of that contention Treasury Decision No. 13801, wherein it is stated: "The mere separation of these handkerchiefs is not a material process in the manufacture of said handkerchiefs, and they should be classified for duty imported in the piece as imported separately."

"The conditions existing under that decision are different from those in the case at bar, which is for the imposition of a surtax on account of the making up of the handkerchiefs. So far as the rate of duty is concerned it would be the same upon the handkerchiefs whether in the piece or whether they had been cut apart and separated. The imposition of a surtax is not analogous.

"There is no contention but that the handkerchiefs in question were imported in the piece and have not been hemmed. The 30 per cent surtax in controversy is imposed by virtue of the second subdivision of letter D of Rule B, group 3 of textiles, of the Tariff Revision Law of 1901, which reads as follows: 'Shawls called "mantones" and "pañalones" traveling rugs, counterpanes, sheets, towels, tablecloths and napkins, mantels, veils, shawls,

hemmed fichus, and handkerchiefs shall, for the making up, be liable to a surtax of 30 per cent of the duties leviable thereon.

"This clearly determines the matter, for it appears that hemmed handkerchiefs shall for the making up be liable to a surtax. If these handkerchiefs then had been cut from the piece and imported separately, but were not hemmed, the surtax would not be properly imposed.

"The decision of the Collector of Customs is therefore reversed and the 30 per cent surtax imposed will be refunded.

"No costs to either party.

"I concur.

"FELIX M. ROXAS, *Judge.*"

"A. S. CROSSFIELD, *Judge.*

PAR. 11. The above decision of the Court of Customs Appeals shall not be interpreted to apply to any other articles than handkerchiefs in the piece, and shall not apply to handkerchiefs cut from the piece but not hemmed, as this question will be submitted to the court for consideration in a case where this specific point is raised.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 394.—*Black glass beads, strung.*

MANILA, March 10, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2393, filed August 20, 1903, by Messrs. C. Fressel & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 3106, Voucher No. 0872, paid August 29, 1903.

"The claim in this case is against the classification of certain glass beads imported in strings as 'trinkets,' under paragraph 340 of the Tariff Revision Law of 1901, at \$1.25 per kilo, instead of as 'manufactures of glass,' under paragraph 16 C, at \$4 per 100 kilos, or 30 per cent ad valorem, as entered, or as 'imitations of pearls unset,' under paragraph 26, as now in the alternative claimed.

"The beads in question are of glass, uniformly black, and the cheapest possible variety; they are strung on long threads in multiples of one hundred. If it were clear that they were imported for use as ornaments, such as necklaces, then the classification as trinkets would be proper. It is evident, however, that such is not the intention of the importer, for the strings are not strong enough to serve for any purpose except that of keeping the beads together for convenience in handling; they must be unstrung before use. In other words, these beads are as much imported in bulk as if they had come loose in the box. The true distinction in the tariff, as well as in Tariff Decision Circular No. 60, is between beads in bulk and 'manufactures of beads.'

"The importer also claims a classification as 'imitations of pearls,' on the theory that, being of glass and black, they imitate jet pearls. The resemblance is, however, not very apparent to the eye, and this office is not convinced that the present form and coloring was given to them for purpose of imitating anything in particular. Even were this true, it would seem that they were equally well, if not better, described as 'manufactures of glass;' that classification, being the higher of the two, would prevail.

"Protest No. 2393, on the grounds mentioned above, is therefore sustained, and a refund ordered to the importer in the sum of \$139.38, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 395.—*Maraschino cherries containing less than 18 per cent of alcohol; fruit sirups.*

MANILA, March 10, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2466, filed September 18, 1903, by Messrs. C. Heinszen & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 4500, Voucher No. 9143, paid September 16, 1903.

"The protest in this case is against:

"First. The classification of certain maraschino cherries under paragraph 323 of the Tariff Revision Law of 1901, at \$0.125 per kilo, as entered, instead of as 'other canned or preserved fruits in glass,' under paragraph 322 (b), at \$0.04 per kilo, as now claimed; and

"Second. The classification of certain fruit sirups under paragraph 327 as 'flavoring extracts,' at \$0.25 per kilo, as entered, instead of under paragraph 313, at \$0.06 per liter, as now claimed.

"First. The respective paragraphs provide as follows:

"322. Canned or preserved fruits; (b) others, in tin or glass, including those packed in sirups, known as 'table fruits.'

"323. Preserved or branded fruits in cordials or sirups of any kind containing more than 18 per cent of alcohol, such as brandied peaches, cherries preserved in maraschino, and the like, whether put up in tin or glass."

"From the reading of paragraph 323 it is clear that only those fruits which are preserved in sirups or cordials which contain more than 18 per cent of alcohol at the time of importation can be classified thereunder. (Cherries preserved in maraschino are specifically enumerated, but the paragraph must be read as a whole, and the provision for such cherries is clearly limited by the provision as to the percentage of alcohol. Commercial designation is likewise inapplicable; for the designation by words of particular description admits only of the question as to whether or not the merchandise comes within that description. Nor can the similitude rule be applied, for preserved fruits in glass, other than those enumerated, are provided for in paragraph 322 (b).

"An analysis of the sirup in which the cherries in question are preserved, made by the Bureau of Government Laboratories, discloses but 3 per cent of alcohol. The merchandise in question is not, therefore, within the provisions of paragraph 323, and falls within the provisions of paragraph 322 (b), as claimed.

"Second. The merchandise which is the subject of the second claim should be classified in accordance with the decision published in Tariff Decision Circular No. 349.

"Protest No. 2466, on the grounds above mentioned, is therefore sustained, and a refund is ordered to the importer in the sum of \$55.93, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

MANILA CUSTOM-HOUSE GENERAL ORDERS.

No. 66.—*Prescribing regulations for the use of "Statement and receipt of duties collected on informal entry" Form No. 57 in the baggage, parcel, and post-office divisions.*

MANILA, March 9, 1904.

PARAGRAPH I. On and after March 15, 1904, the following regulations shall be effective and govern in the matter of collecting duties on all parcels, packages, and merchandise received in and

handed by the parcel, baggage, and post-office divisions respectively, with certain specific exceptions hereinafter enumerated.

PAR. II. There shall be designated by name an examiner of customs, to be assigned to duty in each of the respective divisions named in the preceding paragraph, and such examiners are hereby authorized to examine certain merchandise, assess and collect the duties thereon, for which they shall be individually responsible; and such duties shall be promptly accounted for and deposited by them with the customs cashier at the close of business on each day on which collections are made.

PAR. III. Form 57 will be issued in books containing 100 each, serially numbered, and shall be receipted for by the examiner receiving same to the additional deputy collector of customs in charge of customs accounts, in whose custody the office supply of such forms shall be kept. A monthly report shall be made by each examiner, showing the number of forms received, the number used, and those remaining on hand. If for any reason a form should become spoiled it shall not be destroyed, but shall be kept in the book to which it belongs and canceled by writing the word "canceled" across the face, together with the corresponding duplicate, and such notation shall be signed by the officer indorsing same. This form shall always be written in duplicate, including stubs, the indelible pencil to be used for the purpose, and the duplicate entry and stub to be carbon copies of the originals.

PAR. IV. Consolidated entries on Form 11 shall be prepared at the close of business each day and contain the individual items represented by the originals of receipts issued in the several divisions, and the total of duties called for in said entry shall correspond to the total of the individual items shown on the respective informal entries. In all cases where the value of articles or merchandise on an informal entry exceeds \$25, a 50-cent customs stamp shall be required of the importer and affixed opposite the corresponding transaction in the consolidated entry. The original informal entry shall be removed from the book and attached to the consolidated original entry. Form 11, for the date on which the transaction occurred and the collector's stub of the informal entry shall likewise be removed, and attached to the duplicate consolidated entry. The carbon duplicate of the entry is the importer's receipt for duties paid, and shall, after being duly signed by the importer and the examiner, be immediately delivered to the payor.

PAR. V. Parcels received by United States Army transports, importers, or regularly established business concerns, or where the value of the parcel or package imported by parcel express or through the mails amounts to \$50 or over, shall not be accorded the privileges of this order, but shall invariably be treated as formerly, and subjected to the usual routine given customs entries.

PAR. VI. Moneys of the Government in the form of customs duties received by either of the examiners hereinbefore provided for shall be deposited with the customs cashier each day: *Provided*, That consolidated entry for such collection shall be made up and forwarded at 4 o'clock p. m. on each working day except Saturdays, on which day entry shall be made up and forwarded at 11.30 a. m. Moneys received after these hours shall be included in the entry for the following day.

PAR. VII. The attention of the examining officers hereinbefore provided for, and others concerned, is directed to the instructions printed on the back of the informal entry. Form 57, and a strict compliance with the same is required.

PAR. VIII. When an informal entry is used in connection with the assessment and collection of duties on a package received in the foreign mails, addressed to a person residing outside of Manila, the procedure shall be as specifically indicated on the reverse side of each informal entry and as provided for in Customs Administrative Circular No. 297.

PAR. IX. Any customs employee who may be designated to fill the position of examiner in either one of the three divisions above referred to shall be required to file with this office an approved bond in the penal sum of \$1,000, United States currency, conditioned upon the faithful performance of his duties and the strict accountability of all public moneys received by him under the terms of this order.

PAR. X. The provisions of this order shall not apply to packed express packages which shall be cleared as provided for in Manila Custom-House Special Order No. 108.

PAR. XI. Examiners in the parcels department, post-office department, and baggage room will in each instance notify payors of their right to protest under the provisions of section 286 of the Customs Administrative Act.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 67.—*Revoking appointment of chief liquidator as member of board of protest and appeals and appointing secretary of said board a member thereof.*

MANILA, March 9, 1904.

PARAGRAPH I. The appointment by Manila Custom-House General Order No. 52 of the chief liquidator, Manila Custom-House, as a member of the board of protests and appeals is hereby revoked.

PAR. II. The secretary of the board of protests and appeals is hereby appointed a member of said board.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 68.—*Revoking Manila Custom-House General Order No. 65.*

MANILA, March 15, 1904.

Manila Custom-House General Order No. 65, dated February 29, 1904, providing for the examination at the port of Manila of all mail packages arriving at Manila from foreign ports, addressed to ports or places in the Philippine Islands other than ports of entry, being in conflict with the terms of Customs Administrative Circular No. 297, is hereby revoked.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

## PHILIPPINE CIVIL SERVICE BOARD.

EXAMINATIONS FOR DISPENSING CLERK AND LAUNDRY FOREMAN.

MANILA, March 21, 1904.

The Civil Service Board announces examinations for the positions of dispensing clerk, salary \$1,200 per annum, and laundry foreman, salary, \$1,050 per annum; quarters are furnished in both positions. A knowledge of the methods used in operating a modern steam laundry plant is required of applicants for the position of laundry foreman. Owing to the needs of the service these examinations will be held in the English language only.

Further information can be obtained at the office of the Civil Service Board, Intendencia Building, Walled City, Manila.

## APPOINTMENTS.

By the Honorable Civil Governor.

*Supreme Court.*

F. C. Fisher, reporter, March 16.

*Bureau of Coast Guard and Transportation.*

Frank P. Helm, Superintendent of Construction, Maintenance, and Operation of Vessels, March 11.

*Provinces.*

## BULACAN.

Francisco Nava, acting provincial secretary, March 15.

## LAGUNA.

Carrol H. Lamb, provincial treasurer, March 17.

## LEPANTO-BONTOC.

Will. A. Reed, governor, March 17.

## PAMPANGA.

S. V. Cortelyou, provincial supervisor, March 16.

**By the Philippine Civil Service Board.***Executive Department.*

## EXECUTIVE BUREAU.

A. O. Zinn, clerk, March 1, \$1,800; promotion from class 7.  
Juan Cabañero, clerk, March 1, \$540; promotion from Class F.  
Howard D. Fuller, clerk, March 7, \$900; probational appointment.

Fred N. Berry, clerk, March 16, \$900; probational appointment.

## BUREAU OF THE INSULAR PURCHASING AGENT.

James W. B. Mannion, clerk, February 1, \$1,600; promotion from class 8.

Peter W. Eagle, clerk, February 1, \$1,400; promotion from class 9.

Harry C. May, clerk, December 7, 1903, \$900; probational appointment.

Henry C. Russell, clerk, March 14, \$900; probational appointment.

John J. O'Connor, watchman, March 8, \$720; probational appointment.

Benito Vigil, watchman, March 12, \$720; probational appointment.

## IMPROVEMENT OF THE PORT OF MANILA.

Joynes H. Walker, subinspector, February, 23, \$900; probational appointment.

Francis Rotch, jr., subinspector, February 19, \$900; probational appointment.

Victorio Catu, clerk, March 4, \$240; reinstatement.

Domingo Dairit, clerk, March 4, \$240; reinstatement.

## PHILIPPINE CIVIL SERVICE BOARD.

Harold B. Millis, clerk, February 4, \$1,200; probational appointment.

*Department of the Interior.*

## BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

Samuel McCurdy, clerk, March 1, \$1,400; promotion from class 9.

Bonifacio Rafael, clerk, February 20, \$240; reinstatement.

## FORESTRY BUREAU.

Henry L. Walters, inspector, March 1, \$2,000; promotion from \$1,800.

Walter L. Dunkin, assistant inspector, March 14, \$900; probational appointment.

Edgar R. Hurst, assistant inspector, March 14, \$900; probational appointment.

Alvah E. Johnson, clerk, March 9, \$900; probational appointment.

Maiguel F. Avelino, clerk, March 10, \$300; probational appointment.

Prudencio A. Remigio, clerk, February 26, \$300; probational appointment.

Ramon de la Paz, ranger, March 1, \$300; probational appointment.

Mamerto Ner, ranger, March 5, \$300; probational appointment.

Eleno Ramos, ranger, March 7, \$300; probational appointment.

## MINING BUREAU.

Maurice Goodman, field assistant, March 5, \$1,800; transfer from supervisor, Lepanto-Bontoc.

## BUREAU OF AGRICULTURE.

James C. Willson, clerk, March 1, \$1,200; promotion from Class A.

## ETHNOLOGICAL SURVEY.

William Auerbach, clerk, February 4, \$1,200; probational appointment.

## BUREAU OF GOVERNMENT LABORATORIES.

Eustaquio Cortes, employee, assistant Government photographer, February 19, \$240; promotion from Class K.

## PHILIPPINE CIVIL HOSPITAL.

Edward N. Cummings, attendant, March 8, \$600; probational appointment.

## CIVIL SANITARIUM, BENGUET.

Marcela Doyle, nurse, January 1, \$720; transfer from Civil Hospital, \$720.

*Department of Commerce and Police.*

## BUREAU OF POSTS.

Walter Hamilton, clerk, March 7, \$900; probational appointment.

George F. Shanahan, clerk, March 7, \$900; probational appointment.

Willis T. Beardsley, superintendent money-order division, March 15, \$2,000; reinstatement.

Domingo de Ocampo, clerk, March 5, \$240; reinstatement.

Francisco Reyes, clerk, March 5, \$240; reinstatement.

Agapito Ramba, clerk, March 7, \$240; reinstatement.

D. H. Armstrong, postmaster, Tuguegarao, March 7, \$900; transfer from clerk, class 10, office division superintendent of schools, Tuguegarao.

Joseph J. Capurro, railway postal clerk, March 11, \$900; transfer from clerk, Class A, Bureau of Philippines Constabulary.

## BUREAU OF PHILIPPINES CONSTABULARY.

John L. Waller, jr., clerk, March 1, \$1,400; promotion from class 9.

E. C. Frost, clerk, February 28, \$1,000; probational appointment.

Mariano Fernandez, clerk, January 27, \$240; probational appointment.

## BUREAU OF PRISONS.

Homer Hartman, guard, March 3, \$900; reinstatement.

Victoriano Reyes, guard, March 5, \$240; probational appointment.

Evangelista Merello, guard, March 14, \$240; probational appointment.

## BUREAU OF COAST GUARD AND TRANSPORTATION.

John Butkiewicz, clerk, March 7, \$1,400; promotion from class 9.

George Price, clerk, March 8, \$900; probational appointment.

Merwin Webster, assistant overseer, March 1, \$900; probational appointment.

*Department of Finance and Justice.*

## BUREAU OF THE INSULAR TREASURY.

W. R. McKinney, clerk, March 11, \$1,200; probational appointment.

## BUREAU OF CUSTOMS AND IMMIGRATION.

William J. Witrow, appraiser, February 1, \$1,600; promotion from \$1,400.

Stanley A. Roberts, clerk, February 5, \$1,200; probational appointment.

John T. Daly, fourth-class examiner, February 6, \$900; probational appointment.

Henry C. Allen, storekeeper, February 16, \$900; probational appointment.

Custer C. Henderson, clerk, February 11, \$900; probational appointment.

Bertha Smith, clerk, February 15, \$900; probational appointment.

Mrs. M. L. Platt, clerk, March 7, \$900; reinstatement.

INSULAR COLD STORAGE AND ICE PLANT.

Fernando Franco, carpenter, March 1, \$360; promotion from \$300.

BUREAU OF JUSTICE.

Gregorio Francisco, deputy clerk, Court of First Instance, Fourteenth District, March 12, \$200; probational appointment.

Salvador Velez, junior typewriter, February 23, \$480; transfer from clerk, office governor of Misamis, \$210.

Pablo Diesta, copyist, Court of First Instance, Eighth District, March 16, \$180; promotion from messenger, \$120.

Department of Public Instruction.

BUREAU OF EDUCATION.

Floyd U. Brookhart, teacher, March 2, \$1,000; probational appointment.

Luther M. Cureton, teacher, March 2, \$1,000; probational appointment.

Walter H. Lackey, teacher, March 2, \$1,000; probational appointment.

Grant R. Lynde, teacher, March 2, \$1,000; probational appointment.

Earl Murray, teacher, March 2, \$1,000; probational appointment.

Lloyd E. Bement, teacher, March 2, \$900; probational appointment.

William L. Johnson, teacher, March 2, \$900; probational appointment.

John T. Schang, teacher, March 2, \$900; probational appointment.

Paul de Paschalis, clerk, division superintendent, Leyte, February 18, \$1,200; probational appointment.

Antonio Vidal, clerk, division superintendent, Capiz, January 12, \$300; probational appointment.

W. J. Colbert, teacher, January 1, \$1,600; promotion from \$1,500.

W. J. Colbert, teacher, March 1, \$1,800; promotion from \$1,600.

T. D. Anglenyer, teacher, January 1, \$1,600; promotion from \$1,500.

Robert H. Neely, teacher, January 1, \$1,600; promotion from \$1,500.

James A. Fairchild, teacher, January 1, \$1,300; promotion from \$1,350.

William Abel, teacher, January 1, \$1,400; promotion from \$1,350.

Holland E. Bell, teacher, January 1, \$1,400; promotion from \$1,350.

Mary H. Fee, teacher, January 1, \$1,400; promotion from \$1,350.

Stephen W. Ford, teacher, January 1, \$1,400; promotion from \$1,350.

P. S. O'Reilly, teacher, January 1, \$1,400; promotion from \$1,350.

Herbert I. Priestly, teacher, January 1, \$1,400; promotion from \$1,300.

C. D. Schell, teacher, January 1, \$1,400; promotion from \$1,350.

F. R. Lutz, teacher, January 1, \$1,500; promotion from \$1,320.

H. C. Russell, teacher, January 1, \$1,500; promotion from \$1,320.

A. L. Burnell, teacher, January 1, \$1,400; promotion from \$1,320.

C. H. Hanlin, teacher, January 1, \$1,400; promotion from \$1,320.

H. S. Mead, teacher, January 1, \$1,400; promotion from \$1,320.

John H. Jenkins, teacher, January 1, \$1,500; promotion from \$1,300.

J. W. Johnson, teacher, January 1, \$1,500; promotion from \$1,300.

J. D. De Huff, teacher, January 1, \$1,400; promotion from \$1,300.

E. H. Hammond, teacher, January 1, \$1,400; promotion from \$1,300.

W. J. Scruton, teacher, January 1, \$1,400; promotion from \$1,300.

William F. Montavon, teacher, January 1, \$1,400; promotion from \$1,260.

Charles M. Cameron, teacher, January 1, \$1,600; promotion from \$1,200.

J. Frank Daniel, teacher, January 1, \$1,500; promotion from \$1,200.

G. M. Egan, teacher, January 1, \$1,500; promotion from \$1,200.

William H. Burt, teacher, January 1, \$1,400; promotion from \$1,200.

W. S. Dakin, teacher, January 1, \$1,400; promotion from \$1,200.

John Demmer, teacher, January 1, \$1,400; promotion from \$1,200.

Joel Hatheway, teacher, January 1, \$1,400; promotion from \$1,200.

Laurence McDermotte, teacher, January 1, \$1,400; promotion from \$1,200.

Walter C. Parkes, teacher, January 1, \$1,400; promotion from \$1,200.

Frederick W. Stein, teacher, January 1, \$1,400; promotion from \$1,200.

J. H. Webb, teacher, January 1, \$1,400; promotion from \$1,200.

Henry Wise, teacher, January 1, \$1,400; promotion from \$1,200.

O. H. Bollman, teacher, January 1, \$1,300; promotion from \$1,200.

Hampton M. Butler, teacher, January 1, \$1,300; promotion from \$1,200.

G. W. Felton, teacher, January 1, \$1,300; promotion from \$1,200.

George M. Palmer, teacher, January 1, \$1,300; promotion from \$1,200.

Blaine F. Moore, teacher, January 1, \$1,300; promotion from \$1,200.

Frank Roberson, teacher, January 1, \$1,300; promotion from \$1,200.

George T. Shoens, teacher, January 1, \$1,300; promotion from \$1,200.

George Witing, teacher, January 1, \$1,400; promotion from \$1,140.

Gates L. Spalding, teacher, January 1, \$1,300; promotion from \$1,140.

C. A. Belknap, teacher, January 1, \$1,300; promotion from \$1,100.

James C. Vickers, teacher, January 1, \$1,200; promotion from \$1,100.

H. Wogan, teacher, January 1, \$1,200; promotion from \$1,100.

Lalla R. Rogers, teacher, January 1, \$1,200; promotion from \$1,020.

George E. Osborn, teacher, January 1, \$1,300; promotion from \$1,000.

George D. Osgood, teacher, January 1, \$1,300; promotion from \$1,000.

Raymond Du Hadway, teacher, January 1, \$1,200; promotion from \$1,000.

Jennette Zumstein, teacher, January 1, \$1,200; promotion from \$1,000.

Alice, F. Knights, teacher, January 1, \$1,100; promotion from \$1,000.

Fannie D. Cristensen, teacher, January 1, \$1,200; promotion from \$900.

Grace Lynch, teacher, January 1, \$1,100; promotion from \$900.

Ruth H. Daniel, teacher, January 1, \$1,000; promotion from \$900.

Edith C. Schell, teacher, January 1, \$1,000; promotion from \$900.

#### BUREAU OF PUBLIC PRINTING.

Federico Crecines, apprentice, March 1, \$0.30; promotion from class 6.

#### BUREAU OF ARCHITECTURE.

Leroy E. Kern, architectural draftsman, March 15, \$1,400; probational appointment.

#### City of Manila.

#### DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Edward I. Clawiter, assistant engineer, February 11, \$1,400; probational appointment.

E. H. Glazier, superintendent of cemeteries, March 15, \$900; probational appointment.

Meliton Ygnalino, mechanic, March 18, \$360; probational appointment.

Vidal Uelong, mechanic, February 1, \$480; probational appointment.

Margarito Petrozo, teamster, March 1, \$300; probational appointment.

George A. Guill, mechanic, February 29, \$1,200; transfer from wheelwright, Insular Cold Storage and Ice Plant, \$1,000.

Carlos Ortiz, clerk, March 5, \$300; transfer from Bureau of Customs, \$300.

#### FIRE DEPARTMENT.

Robert Brutsche, fireman, first class, March 1, \$1,000; promotion from \$900.

#### POLICE DEPARTMENT.

Johnson E. Boyd, patrolman, first class, March 1, \$900; probational appointment.

Edward A. Connors, patrolman, first class, March 1, \$900; probational appointment.

John C. Cramer, patrolman, first class, March 14, \$900; probational appointment.

Daniel J. Desmond, patrolman, first class, March 1, \$900; probational appointment.

James A. Downes, patrolman, first class, March 1, \$900; probational appointment.

Daniel J. Genac, patrolman, first class, March 1, \$900; probational appointment.

James C. Hurtt, patrolman, first class, March 1, \$900; probational appointment.

William N. Laramce, patrolman, first class, March 1, \$900; probational appointment.

Walter L. Parrish, patrolman, first class, March 1, \$900; probational appointment.

Harry L. Reynolds, patrolman, first class, March 1, \$900; probational appointment.

John J. Shelley, patrolman, first class, March 1, \$900; probational appointment.

Henry L. Wallen, patrolman, first class, March 1, \$900; probational appointment.

Eugene Wickham, patrolman, first class, March 2, \$900; probational appointment.

J. C. McCollister, patrolman, first class, March 9, \$900; reinstatement.

William Woodward, patrolman, first class, March 3, \$900; reinstatement.

#### Provinces.

##### BATANGAS.

Melecio Arceo, cashier, February 1, ₱960; promotion from \$360.

##### BULACAN.

Antonio Lomotan, clerk, February 1, ₱300; probational appointment.

##### CEBU.

John S. Stevenson, clerk and deputy, September 1, 1902, \$1,200; probational appointment.

Arthur T. Williams, clerk and deputy, July 16, 1902, \$1,200; probational appointment.

##### ILOILO.

Andres Marin, clerk, March 1, ₱360; probational appointment. Jimeno Danaso, clerk, May 1, 1903, \$180; probational appointment.

##### PANGASINAN.

Gregorio Pangan, clerk, November 22, 1903, \$330; promotion from \$300.

Gregorio Pangan, clerk, January 1, \$360; promotion from \$330. Pastor Aquino, clerk, February 4, \$180; reinstatement.

##### SURIGAO.

Pedro Diaz, municipal president of the board of health, Surigao, March 12; reinstatement.

##### TABLAC.

Sinforoso San Pedro, clerk, January 1, 1903, ₱1,440; promotion from chief clerk and deputy, \$600.

##### TATABAS.

Crispin Ribargoso, interpreter, November 17, 1903, \$600; promotion from deputy treasurer, \$300.

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No. 392, polish; russet dressing, paste, and whitening.

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#### Manila Custom-House General Orders—

No. 66, prescribing regulations for the "Statement and receipt of duties collected on informal entry" Form No. 57, in the baggage, parcel, and post-office divisions.

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By the Honorable Civil Governor.

By the Philippine Civil Service Board.

# Official Gazette

Published by authority of the Insular Government under and by virtue of Act No. 453 of the Philippine Commission.

VOL. II

MANILA, P. I., APRIL 6, 1904.

No. 14

## PUBLIC LAWS.

[No. 1090.]

AN ACT AUTHORIZING PROVINCIAL BOARDS OF PROVINCES OPERATING LAUNCHES FOR THE USE OF THEIR PROVINCIAL OFFICERS TO MAKE REASONABLE CHARGES FOR TRANSPORTATION OF NONOFFICIAL PASSENGERS AND FREIGHT AND AUTHORIZING THE CARRYING OF NONOFFICIAL PASSENGERS AND CARGOES UNDER CERTAIN CIRCUMSTANCES ON BOATS CONTROLLED BY THE BUREAU OF COAST GUARD AND TRANSPORTATION, AND REPEALING ACT NUMBERED EIGHT HUNDRED AND TWENTYNINE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. In any province in which the provincial board is maintaining a launch or other vessel for the transportation of its officers and for other public purposes the provincial board is authorized to transport nonofficial passengers and freight from one place in the province to another and to fix a reasonable tariff for such carriage and to adopt regulations to govern the officers in charge of such launch or other vessel in respect to the transportation of nonofficial passengers and freight: *Provided, however,* That nonofficial passengers and freight shall be received only when consistent with the carriage of all official passengers and freight, and that the business hereby authorized to be done by the provincial board with its official launch shall be so arranged as not to compete with regular commercial lines transporting passengers or freight between points in the same province, it being the intent of this section merely to permit the provincial board to supply transportation for the public where the same can not be otherwise obtained. All moneys received by virtue of this section shall be paid into the provincial treasury and shall be considered as provincial funds available for expenditure by the provincial board, as provided by law, for the general purposes of the provincial government.

SEC. 2. The Secretary of Commerce and Police is hereby empowered to authorize, in his discretion, the carrying of nonofficial passengers and freight on boats controlled by the Bureau of Coast Guard and Transportation, subject to the general limitations and restrictions set forth in section one of this Act regarding launches operated by provincial boards. The tariff and regulations for the transportation of nonofficial passengers and freight on Coast Guard boats shall be fixed by the Chief of the Bureau of Coast Guard and Transportation, subject to the approval of the Secretary of Commerce and Police. All moneys received by virtue of the provisions of this section for the transportation of passengers and cargoes on any Coast Guard boat shall be paid over to the disbursing officer of the Bureau of Coast Guard and Transportation, and by him covered into the Insular Treasury to the credit of "miscellaneous receipts."

SEC. 3. Act Numbered Eight hundred and twenty-nine is hereby repealed.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, March 22, 1904.

[No. 1091.]

AN ACT AMENDING SECTION FOUR OF ACT NUMBERED ONE HUNDRED AND SEVENTY-FIVE, ENTITLED "AN ACT PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF AN INSULAR CONSTABULARY AND FOR THE INSPECTION OF THE MUNICIPAL POLICE," AS AMENDED, BY PROVIDING THAT WHEN A MEMBER OF THE PHILIPPINES CONSTABULARY HAS BEEN CONVICTED AND SENTENCED BY A COURT OF COMPETENT JURISDICTION, OTHER THAN A CONSTABULARY SUMMARY COURT, THE CHIEF OF CONSTABULARY MAY ORDER HIS DISHONORABLE DISCHARGE AND THE FORFEITURE OF ALL PAY AND ALLOWANCES DUE OR TO BECOME DUE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section four of Act Numbered One hundred and seventy-five, entitled "An Act providing for the organization and government of an Insular Constabulary, and for the inspection of the municipal police," as amended, is hereby further amended by substituting a semicolon for the period after the words "United States" in the twenty-fourth line of said section, and inserting after said semicolon the following words: "and when a member of the Philippines Constabulary has been convicted and sentenced by a court of competent jurisdiction, other than a Constabulary summary court, the Chief of Constabulary may order his dishonorable discharge and the forfeiture of all pay and allowances due or to become due"; so that said complete sentence in said section shall read as follows: "The Insular Chief is also given authority to suspend, and, after due hearing, to remove, any provincial inspector or other member of the Insular Constabulary for inefficiency, misconduct, or disloyalty to the United States; and when a member of the Philippines Constabulary has been convicted and sentenced by a court of competent jurisdiction, other than a Constabulary summary court, the Chief of Constabulary may order his dishonorable discharge and the forfeiture of all pay and allowances due or to become due."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, March 22, 1904.

## DECISIONS OF THE SUPREME COURT.

[No. 1481. February 17, 1904.]

*THE UNITED STATES, complainant and appellee, vs. LIBERATO EXALTACION ET AL., defendants and appellants.*

CRIMINAL LAW; REBELLION; DURESS.—The defendants were captured by brigands, who compelled them, by threats of death, to take and subscribe an oath to support the Katipunan Society, an organization created for the purpose of subverting the Government by force. *Nota*, that the duress under which the defendants acted relieves them from criminal liability.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

ALBERTO BARRETTO, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

March 26, 1903, the provincial fiscal of Bulacan presented to the court of that province an information charging Liberato Exaltacion and Buenaventura Tanchinco with the crime of rebellion, in that they, subsequently to the 4th day of November, 1901, willfully and illegally bound themselves to take part in a rebellion against the Government of the United States in these Islands, swearing allegiance to the Katipunan Society, the purpose of which was to overthrow the said Government by force of arms, this against the statute in the case made and provided.

In the course of the trial Don Pablo Teeson, the provincial governor of Bulacan, testified under oath that the two defendants were arrested in the month of March, 1903, the police some days before having captured a number of documents in the encampment of one Contreras, a so-called general of bandits, situated at a place called Langrea, of the town of Meycauayan, among which documents appeared the papers now on pages 2 and 3 of the record, signed by the said Exaltacion and Tanchinco, who recognized the said documents when they were exhibited to them; that the said defendants stated to the witness that they had signed the said documents under compulsion; that the purpose of the Katipunan Society was to obtain the independence of the Philippines; that this statement was made in the house of the parish priest of Meycauayan in the presence of Ezequiel Casas and Fernando Nieto. The latter, upon their examination as witnesses, testified to the same facts, stating that the defendants told Governor Teeson that they had signed the said documents under fear of death at the hands of the thieves by whom they had been captured. The witness Casas, the municipal president of Meycauayan, testified that he held office as such in place of the former president, Don Tomas Testa, who was kidnaped in the month of October, 1902.

The said documents, the first of which was dated July 4 and the second July 17, 1902, were written in Tagalog, and contain an oath taken in the name of God, and a covenant on the part of the subscribers to carry out the superior orders of the Katipunan, and never disobey them until their death in the defense of the mother country. The two accused, under oath, testified to having signed the said documents and alleged that they did so under compulsion and force while they were held as captives by the thieves; that the defendant Tanchinco was captured in the fields one day when he was going to work on his farm by three armed men, unknown to him, who asked him if he was an agent or friend of President Testa, and upon his replying in the negative they compelled him in earnest of his denial to sign a document, now on page 3 of the record.

The defendant Tanchinco cited Lazaro Yusay to testify to the fact that he was captured at a place called Kaibiga in the township of Novaliches, and that on the day following his release,

having been unable to pay the \$300 which was demanded of him, he reported to the president, Tomas Testa. The defendant Liberato Exaltacion under oath testified that he was captured near Meycauayan by five persons, unknown, dressed as policemen and armed with guns or revolvers; that these men bound him and took him into the forest and there compelled him by threats of death to sign the document now on page 2 of the record; that thereupon they allowed him to go upon promise to return. This defendant testified that Antero Villano and Tomas Rivera saw him while on the road in the hands of the thieves. Both the accused testified that as soon as they were released they presented themselves to the president, Don Tomas Testa, in the presence of witnesses, and subsequently went to Bonifacio Morales, a lieutenant of volunteers, and reported to him the fact that they had been captured.

The witnesses Morales, Lazaro Yusay, Antero Villano, Dalmacio Ferrer, and Hipolito de Leon—of whom the last two were present when Tanchinco appeared before Señor Testa, the president of Meycauayan, and reported to him what had happened to him—all testified to the same fact and corroborated the statements of the accused with respect to their capture and their subsequent report to President Testa and to the witness Morales.

The evidence for the prosecution, and especially the two documents above referred to, signed by the accused, is not sufficient to prove the guilt of the latter or to justify the imposition upon them of the penalty inflicted by the judgment of the court below.

The facts, established by the evidence, that the defendants were kidnaped by brigands who belonged to the Contreras band, and that they signed the said documents under compulsion and while in captivity, relieve them from all criminal liability from the crime of rebellion of which they are charged. The conduct of the defendants in presenting themselves first to the local president of Meycauayan and subsequently to Lieut. Bonifacio Morales, of the Bulacan Government Volunteers, as soon as they were released by the bandits is corroborative of their testimony, and is the best demonstration of their innocence. This conclusion is not overcome by the trifling discrepancy between the testimony of the witness Yusay and that of the defendant Tanchinco nor the fact that Exaltacion was unable to determine the date when he was captured or that on which he appeared before President Testa.

The guilt of the defendants of the crime defined and punished by Act 292 not having been established at the trial beyond a reasonable doubt, we are of the opinion that the judgment below must be reversed and the defendants acquitted with the costs *de officio*. The judge below will be informed of this decision and a copy of the judgment entered herein will be furnished him for his information and guidance. So ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Defendants acquitted.*

## PHILIPPINE CIVIL SERVICE BOARD.

*Civil-service examinations.*

SPECIAL TEACHERS, BUREAU OF EDUCATION.

MANILA, March 28, 1904.

The Civil Service Board announces examinations in English to be held May 17, 1904, for the purpose of securing eligibles for appointment under the Bureau of Education as special teachers of the following subjects: Carpentry, iron working, carriage building and wheelwrighting, agriculture. These examinations will be held in Manila and at the capitals of all provinces except Cavite, Rizal, Bulacan, Bataan, Pampanga, and Laguna. Applicants residing in the provinces named will be examined in Manila.



The following will be the subjects and weights of each of the examinations:

	Weights.	
1. Second-grade examination .....	25	
2. Practical questions .....	50	
3. Experience and training.....	25	
<b>Total .....</b>	<b>100</b>	

Applicants to be examined in Manila should forward their applications to the Philippine Civil Service Board at the earliest practicable date. All others should file their applications as early as practicable with the chairman of the examining committee of the province in which they desire to be examined. Application must be made on Form 35, copies of which may be obtained from the Civil Service Board or from provincial examining committees.

**STATISTICS FROM BUREAUS OF THE INSULAR GOVERNMENT.**

**BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.**

*Vital statistics for the month of February, 1904.*

MANILA, March 15, 1904.

SIR: I have the honor to submit herewith the report of the Board of Health for the Philippine Islands and the city of Manila for the month of February, 1904, and would invite your attention to the following points:

The chief and more important causes of deaths occurring in the population of Manila during the month, with the total number of deaths from each cause, and the number occurring among children of less than 1 year of age, were as follows:

Cause.	Total deaths.	Deaths under 1 year of age.
Convulsions of children.....	259	259
Pulmonary tuberculosis.....	78	
Chronic bronchitis.....	41	25
Acute bronchitis.....	40	36
Eclampsia, nonpuerperal.....	36	36
Congenital debility.....	28	28
Meningitis.....	24	19
Beri-beri.....	20	
Diarrheal diseases.....	18	12
Dysentery.....	18	1
Bright's disease.....	18	2
Typhoid fever.....	8	
Pneumonia.....	7	
Cerebral congestion.....	7	
Tetanus.....	7	5
Flu.....	6	
Malarial fevers.....	5	
Other diseases of infancy.....	5	5
Puerperal septicemia.....	4	
Cholera.....	3	
Broncho-pneumonia.....	3	1
Asthma.....	2	9
Leprosy.....	1	

Of the total deaths occurring in the city during the month 60.1 per cent occurred in children who had not completed the first year of life.

During the month there were seven cases of bubonic plague with six deaths. Of these cases none was furnished by the Chinese, who have now largely received protective inoculations against the disease. In the suppression of plague a total of 30,658 rats were destroyed during the month, but of the relatively small number examined at the laboratory for this disease, none was found to be affected.

Three cases of cholera, with three deaths, were reported as occurring in the city during the month. The first two cases occurred on February 3 and 4. The third case occurred on February 29 and was open to doubt in respect to the correctness of the diagnosis, as no bacteriological examination was made. A total of 61 cases with 42 deaths was reported from the provinces during the month, all these cases being recorded from the Provinces of Iloilo and Occidental Negros. A special investigation of an alleged cholera outbreak of 9 cases and 2 deaths in Capiz Province showed that the cause of these was not cholera. Following the disappearance of cholera from the Islands, it is probable that towns in which there are no physicians will continue for some time to report as cholera all cases resembling that disease, in any way.

There were 192,860 units of vaccine virus issued, largely for use in the provinces. In Manila 6,167 vaccinations were made. No cases of smallpox occurred in the city during the month, although the disease was quite prevalent in certain provinces.

The birthrate in the city of Manila for the month, at the rate of 30.12 per thousand, is the highest rate yet reported, but the returns are still incomplete in spite of the greater attention lately given to securing records of births.

For some months an effort has been made by this office to secure accurate figures as to the number of insane persons in the Archipelago, with a view to considering proper measures for their care. Returns of insane from isolated towns in the more remote provinces are secured only after much delay, but so far sixteen provinces have reported a total of 1,415 insane, of which number 270 are stated to be violent.

The new hospital of the Board of Health at San Lazaro Hospital for the treatment of cases of contagious and infectious diseases was opened during the month. This hospital is on the pavilion plan, with detached pavilions for the segregation of cases of plague, cholera, and smallpox, each of these pavilions being divided into wards for males and females. The main building is for administration purposes, dispensary, stores, kitchen, and mess, and at the present time also furnishes accommodations to the female nurses, pending completion of the detached building to be used as their quarters. The hospital has accommodations for 100 patients, and this capacity can be doubled by the completion of the entire hospital plan through the erection of three additional pavilions, should such increased accommodations be required. The equipment of the hospital is modern in all respects, and the Board of Health is now prepared to handle cases of infectious disease in the best manner.

During the month the pail-conservancy system was transferred to the city and incorporated, with the bureaus of street cleaning, garbage removal, and disposal, into a general division having charge of all scavenging work. Hereafter the city will carry out such work and this office will prescribe the methods under which it will be performed.

The work of the sanitary inspection of houses and premises was greatly reduced during the month, by reason of the discharge of about four-fifths of the native sanitary inspectors for lack of appropriation for their maintenance. It is understood that it was the intention of the Commission that a large part of the work of domiciliary inspection should hereafter be done by municipal police acting under orders from this office for such work, but so far arrangements for securing their services have not been perfected, and the condition of the city as to cleanliness has already noticeably suffered thereby.

Very respectfully,

E. C. CARTER,

Major and Surgeon, United States Army,  
Commissioner of Public Health.

THE SECRETARY OF THE INTERIOR.

Manila, P. I.

Population of Manila.

Comparative mortality from January 1, 1900, to February 29, 1904.

[Preliminary rough count of census of 1903.]

Americans	4,389
Filipinos	189,782
Spaniards	2,528
Other Europeans	1,117
Chinese	21,280
All others	895
<b>Total</b>	<b>219,941</b>

Deaths occurring during the month of February.

Americans	4
Filipinos	674
Spaniards	3
Other Europeans	3
Chinese	25
All others	1
Unknown	1
<b>Total</b>	<b>709</b>

Annual death rate per thousand for the month.

Americans	11.47
Filipinos	44.72
Spaniards	14.94
Other Europeans	11.27
Chinese	14.83
All others	14.07
<b>Average</b>	<b>40.59</b>

Deaths by age, including transients.

Under 30 days	98
30 days to 1 year	343
1 year to 2 years	22
2 years to 5 years	13
5 years to 10 years	6
10 years to 15 years	4
15 years to 20 years	20
20 years to 25 years	19
25 years to 30 years	38
30 years to 40 years	54
40 years to 50 years	40
50 years to 60 years	33
60 years to 70 years	24
70 years to 80 years	8
80 years to 90 years	4
90 years to 100 years	3
100 years and above	1
Unknown	3
<b>Total</b>	<b>733</b>

Number of deaths with medical attendance	344
Number of deaths without medical attendance	389
<b>Total</b>	<b>733</b>

Stillbirths, 19.

Deaths by districts, including transients.

Districts.	Population.	Deaths.
Walled City	11,468	29
Binondo	15,613	44
San Nicolas	29,059	66
Tondo	39,045	179
San Andres	35,040	132
Quiapo	11,149	48
Sampaloc	18,779	80
San Miguel	5,838	34
Paco	6,725	24
Ermita	12,226	14
Malate	5,858	36
Pandacan	2,990	12
Santa Ana	3,255	10
Transient residents	15,903	24
Unknown		1
<b>Total</b>	<b>219,941</b>	<b>733</b>

A classified report of all deaths occurring in Manila during the month of February, 1904.

MALES.	
Married	65
Widowers	21
Single	55
Boys	285
Condition not stated in certificates	5
<b>Total</b>	<b>411</b>
Condition and sex unknown, 1.	
FEMALES.	
Married	55
Widows	29
Single	18
Girls	217
Condition not stated in certificates	2
<b>Total</b>	<b>321</b>
<b>Grand total</b>	<b>732</b>
stillbirths, 19.	

Month.	1900.		1901.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1,055	50.79	1,733	36.25
February	1,084	47.11	1,689	36.72
March	1,087	47.70	1,885	42.66
April	1,803	40.04	1,886	44.07
May	1,732	35.54	1,903	43.47
June	1,599	29.79	1,621	30.89
July	1,787	37.88	1,608	29.27
August	1,620	33.71	1,702	33.79
September	1,027	50.01	1,767	38.15
October	1,961	46.23	1,855	41.16
November	1,976	48.48	1,948	42.18
December	1,905	43.54	1,838	41.30

Month.	1902.		1903.		1904.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1,750	36.38	1,602	28.98	1,796	42.64
February	1,706	37.63	1,511	27.23	1,709	40.59
March	1,770	37.06	1,533	25.94		
April	1,327	66.01	1,549	27.31		
May	1,158	81.26	1,770	37.06		
June	1,418	70.54	1,592	29.45		
July	1,223	107.02	1,620	33.21		
August	1,172	82.42	1,862	46.17		
September	1,132	56.31	1,228	67.97		
October	1,927	44.62	1,217	65.19		
November	1,055	51.48	1,974	53.21		
December	1,738	36.25				

1 Death rate computed on population of 244,732 (Health Department's census).  
2 Death rate computed on population of 219,941 (census 1903).

Bilibid prison report of deaths occurring during the month of February, 1904.

Cause of death.	Filipinos.			Total.
	Presidio.		Carcel (male).	
	M.	F.		
Dysentery, amoebic	2			2
Pulmonary tuberculosis	8	1		9
Lobar pneumonia	1		1	2
Parenchymatous nephritis	2			2
Nephritis, chronic			2	2
<b>Total</b>	<b>18</b>	<b>1</b>	<b>3</b>	<b>22</b>

1 One Moro.

Condition:		
Single		6
Married		14
Widower		1
Cemeteries, Loma		1

Of the total number of deaths occurring during the month of February, 1904 (733, including transients), 487 were of persons less than 16 years of age. Of the remaining 246 adults of both sexes only 138, classified below, had definite occupations:

MALES.

1. Laborers	26
2. Tailors	1
3. Coachmen	4
4. Beggar	1
5. Carriers	3
6. Fishermen	3
7. Carpenter	11
8. Shopkeeper	1
9. Teacher	1
10. Fireman	1
11. Servants	4
12. Cigar makers	3
13. Students	2
14. Messengers	2
15. Merchants	4
16. Laundryman	6
17. Clerks	4
18. Sailors	1
19. Watchmaker	1
20. Stonecutter	1
21. Farmer	2
22. Physicians	1
23. Artist	1
24. Machinists	2

MALES—continued.

25. Newspaper men	1
26. Gunsmith	1
27. Cashier	1
28. Sculptor	1
29. Ice cream dealer	1
30. Printer	1
<b>Total</b>	<b>92</b>

FEMALES.

Cigar makers	8
Shopkeepers	18
Laundresses	4
Midwife	1
Cook	1
Servants	2
Embroiderers	2
Real estate agent	1
<b>Total</b>	<b>46</b>
<b>Grand total</b>	<b>138</b>

Births reported in February, 1904. <sup>1</sup>

Americans	6
Filipinos	516
Spaniards	3
Others Europeans	3
Chinese	1
All others	1
<b>Total</b>	<b>526</b>

<sup>1</sup> Incomplete.

Annual birthrate per thousand for the month.

Americans	8.63
Filipinos	34.17
Spaniards	14.84
Others Europeans	33.82
Chinese	57
All others	14.07
<b>Average</b>	<b>30.12</b>

Report of prescriptions filled at the municipal dispensaries, showing districts, sex, and age of persons to whom medicines have been given during the month of February, 1904.

Districts.	Filipinos.				Total.
	Adult.		Children.		
	M.	F.	M.	F.	
Sanitary District No. 1, San Nicolas	3	10	3	2	18
Sanitary District No. 2, Tondo	41	44	25	17	127
Sanitary District No. 3, Quiapo	39	43	13	0	95
Sanitary District No. 4, Santa Cruz	43	28	8	2	81
Sanitary District No. 5, Sampaloc	105	20	15	25	165
Sanitary District No. 6, Intramuros	8	13	8	1	30
Sanitary District No. 7, Ermita, Malate, Paco, etc.	61	56	50	34	201
<b>Total</b>	<b>300</b>	<b>214</b>	<b>122</b>	<b>81</b>	<b>717</b>

Report of sick and wounded city poor attended by municipal physicians during the month of February, 1904.

Sanitary districts and physicians.	Filipinos.					Chinese adult male.	Total.	Cured.				Deaths.	Number of visits.	
	Foreign-ers adult male.	Adult.		Child.				M.	F.	M.	F.			F.
		M.	F.	M.	F.									
No. 1, San Nicolas, Dr. V. Cavanna	6	6	1	1		14	2	5	1			64		
No. 2, Tondo, Dr. V. Pantaja	18	29	5	6		58	16	24	3	1		268		
No. 3, Quiapo, Dr. P. Gabriel	1	11	21	5	1	39	12	18	3	1		73		
No. 4, Santa Cruz, Dr. C. Reyes	15	10	2	2	1	30	12	9	2	2		187		
No. 5, Sampaloc, Dr. F. Castañeda	15	29	8	13		65	14	20	4	3		168		
No. 6, Intramuros, Dr. R. Ferranon	5	4	3	1		13	5	1		1		37		
No. 7, Paco, Ermita, Malate, Pandacan, and Santa Ana, Dr. J. B. Cubarnez	20	20	14	6		60	14	19	11	3		174		
<b>Total</b>	<b>1</b>	<b>90</b>	<b>119</b>	<b>38</b>	<b>30</b>	<b>1</b>	<b>297</b>	<b>75</b>	<b>96</b>	<b>24</b>	<b>11</b>	<b>971</b>		

Monthly report of San Lazaro Hospital, leper and women's departments, for February, 1904.

WOMEN'S DEPARTMENT.

	Americans.	Europeans.	Filipinos.	Japanese.	Total.
Number of patients in hospital at last report		4	46	29	79
Number of patients received during the month		1	40	51	92
Number of patients discharged cured		3	33	34	70
Number of deaths					
Number of patients remaining in hospital		2	58	46	101

Discharged cured, 1 European, 32 Filipinos, and 34 Japanese.  
Discharged uncured, to leave islands, 2 Europeans.  
Transferred to plague department, 1 Filipina.

LEPER DEPARTMENT.

	Europeans.		Filipinos.		Chinese.		Total.
	M.	F.	M.	F.	M.	F.	
Number of patients in hospital at last report		1	121	84			206
Number of patients received during the month			6	1	1		8
Number of deaths			1				1
Number of patients escaped							
Number of patients remaining at last report in hospital		1	126	85	1		213

Died, 1 male, Filipino.

General inspection of houses, premises, vaults, etc., with improvements ordered, disinfecting, whitewashed, cleaned, etc., by medical inspectors, chief sanitary inspectors, and sanitary inspectors, for the month of February, 1904.

Houses inspected by the chief sanitary inspector	1,836
Houses reinspected for verification of work ordered	602
Houses inspected by sanitary inspectors	28
Houses reinspected by sanitary inspectors	13
Houses ordered cleaned (written)	9
Houses ordered cleaned (verbal)	155
Houses cleaned	187
Houses ordered whitewashed and painted	3
Houses whitewashed and painted	15
Houses disinfecting	106
Number of houses recommended condemned and removed	0
Number of localities where "squatters" are located	19
Number of samples of water from wells sent to Laboratory	0
Number of reports from same	0
Number of fire plugs opened or closed for sanitary purposes	0
Number of hydrants recommended reopened	0
Number of houses where garbage has not been removed for two days	0
Number of persons reported sick to municipal physicians	70
Cesspools and vaults ordered cleaned	18
Cesspools cleaned	27
Yards ordered cleaned	71
Yards cleaned	71
Yards repaired	29
Number of cholera cases reported by sanitary inspectors	0
Number of cholera cases reported by Auxiliary Advisory Board	0
Number of cholera cases found "alive"	1
Number of cholera cases found "dead"	3
Number of orders issued during the month	134
Number of orders complied with during the month	261
Number of orders awaiting action	9
Number of orders pending in court	1,123
Number of persons convicted for violation of food prohibition order	4
Average in visiting each street and barrio during month	8,634
Number of regular inspectors on duty	13
Number of emergency inspectors on duty	0
Number of paper cases sent to San Lazaro Hospital	0
Number of plague cases reported	9
Number of smallpox cases reported	0
Houses in which traps were set	12,311
Houses in which bane is placed	925
Traps set	27,635
Plague with rashes placed	3,364
Rats caught by rat catchers	19,196
Rats caught by traps	11,259
Rats caught in poison	9
Rats purchased	203
Rat catchers employed	73

Burials, February, 1904.

Loma (Government)	443
Paco General (Government)	26
Santa Cruz	5
Bat-Calle	103
Binondo	25
Maytubig	36
Malate	31

Burials, February, 1904—Continued.

Pandacan	29
Chinese	30
Crematory	1
Santa Ana	17
American National Cemetery	1
San Pedro Macati	1
Embalmed	3
Total	752

Disinterments, February, 1904.

Paco	5
Santa Cruz	6
Chinese	2
Total	13

Report of crematories, December, 1903.

Disposition.	Crematories.		
	Palo-mar.	Paco.	Total.
<b>Animals cremated:</b>			
Horses, American	2	16	18
Horses, Australian	1	1	2
Horses, Chinese	3	1	4
Horses, Filipino	6	86	92
Mules, American	2	3	5
Mules, Chinese		2	2
Carabao		30	30
Cows	7	33	40
Calves	1	31	32
Dogs	149	31	180
Goats		16	16
Cats	102	21	123
Sheep	1	1	2
Fowls	408	55	463
Domestic birds	5	5	10
Pigs	32	22	54
Rats	13,207	2	13,209
Deer	1		1
Total	13,933	320	14,253
<b>Loads cremated:</b>			
Garbage, house	2,422	1,402	3,824
Trade refuse	284	74	358
Organic matter	60	60	120
Waste	167	402	569
Market refuse	310	8	318
Condemed goods	89	9	98
Total	3,312	1,895	5,207

Report of operations of the pail conservancy system for the month of February, 1904.

Description.	New Installations made during the month.		Total Installations made prior to Feb. 29, 1904.		Pails removed and cleaned. <sup>1</sup>
	Installations.	Seats.	Installations.	Seats.	
Private houses	5	5	676	969	22,660
Public buildings	1	1	44	165	3,156
Public closets			11	170	8,908
Provisional collections			182	200	3,466
Marquitas			182	182	5,700
Total	6	6	863	1,494	43,990

<sup>1</sup> Month of February, 1904.

<sup>2</sup> Six in use.

VAULTS CLEANED.

By public excavators:	
Number cleaned	20
Gallons removed	126,500
Loads hauled	253
By contractor:	
Number cleaned	188
Barrels removed	3,421

Monthly report of disinfections for February, 1904.

Diseases.	Number of disinfections.	Number of contacts.
Cholera	3	13
Bubonic plague	9	61
Glanders	15	0
Lymphangitis	3	0
Insanitary condition	29	0
Total	49	74

Report of action taken on licenses during the month of February, 1904.

Business for which license is desired.	License applications approved.	License applications disapproved.	Total applications acted upon.
Boarding house	1		1
Cleaning and dyeing	1		1
Chocolate, make and sell	1		1
Drug store	14		14
Distillery (perfumes)	2		2
Dance hall	1		1
Food, native, make and sell	2		2
Fish, dry and salt	31	1	32
Hotel	2		2
Laundry	8		8
Liquor, first class	3		3
Liquor, second class	1		1
Lodging house	2		2
Milk, to sell	1	2	2
Produce, native, to sell	14		14
Restaurant	7		7
Sweetmeats, make and sell	4		4
Soap, make and sell	2		2
Native wine	1		1
Total	110	7	117

Reports received of lepers living in the various provinces of the Philippine Islands to February 29, 1904.

Province.	Race.	Number of men.	Number of women.	Children.		Single.	Married.		Widower.	Widow.	Total.	
				M.	F.		M.	F.				
Antique	Filipino	92	37	2	2	38	28	42	12	5	133	
Batangas	do	19	5			18	2	3	3	3	25	
Bataan	do	10	4	1	1	5	3	2	2	2	16	
Benguet	Igorrote	10	1	1	1			21	10	9	43	
Amboi Camarines	Filipino	38	17	1	1	24	12	8	5	1	52	
Bulacan	do	17	9	2	1	12	6	5	3		29	
Iloco Norte	do	45	28	5	2	19	10	31	8	5	110	
Iloco Sur	do	176	84	4	2	101	60	22	12	26	305	
Leyte	do	49	38	1	3	26	27	20	7	3	49	
Masbate	do	51	35	25	10	22	15	27	15	2	121	
Cagayan	do	37	42	3	3	25	11	25	28	3	102	
Lepanto	do	14	4	1	5	1	8		1	3	21	
Cavite	do	17	5		3	16	3				25	
Nueva Ecija	do	44	24		3	19	12	23	7	2	68	
Negros Occidental	do	26	11	5	1	17	10	8	1	1	43	
Pampanga	do	8	5	2		1	5	3			15	
Pangasinan	do	120	80	2	3	36	28	65	38	19	14	205
Rizal	do	41	24	2		17	14	21	7	3	8	67
Marinduque	do	1	1					1				3
Laguna	do	2	1					2	1			3
San Lazaro	do	105	77	22	9	72	42	24	19	9	16	213
Tarlac	do	27	24	11	4	7	9	18	10	2	5	66
Sorsogon	do	75	33	1	1	32	18	40	10	3	5	110
Romblon	do	13	14			5	9	4			1	27
Samar	do	39	32	13	8	15	11	18	3	3	92	
Union	do	43	28	3		15	24	12	4	2	74	
Zambales	do	58	35	2	2	30	15	24	5	4	5	96
Mindanao	do	149	74	3	3	36	44	45	18	9	12	229
Cebu	Filipino	171	89	5	4	136	64	32	3	3	269	
Iloilo	do	231	66	11	2	113	37	94	9	24	20	310
Negros Oriental	do	66	42	6	2	27	23	32	14	7	5	116
Isabela de Luzon	do	18	4			3	1	10	3	5		23
Yataybas	do	1										1
Albay	do	68	33	1	1	30	18	27	10	11	5	103
Nueva Vizcaya	do	13	12	2		7	3	4	6	2		27
Abra	do	11	6			5	4	5	2	1		17
Bohol	do	46	46	5	1	20	19	23	21	3	3	105
Capiz	do	44	33	19	9	30	13	12	1	1	6	168
Surigao	do	1										1
Misamis	do	50	20	1		28	11	4	5	5	7	71
Total		2,072	1,383	161	77	1,050	598	841	373	181	167	3,443

Office of the Sanitary Engineer.

Sanitary orders issued by stations during the month of February, 1904:	
San Nicolas	12
Tondo	3
Quilapo	3
Santa Cruz	16
Sampaloc	3
Intramuros	18
Ermita	5
Total	75

Sanitary orders complied with during the month of February, 1904:	
San Nicolas	40
Tondo	8
Quilapo	17
Santa Cruz	16
Sampaloc	27
Intramuros	21
Ermita	21
Total	150

Reports received of insane persons living in the various provinces of the Philippine Islands to February 29, 1904.

Provinces.	Race.	Males.	Females.	Widows.	Widowers.	Married.		Single.		Children.		Total.	
						M.	F.	M.	F.	M.	F.	M.	F.
						Bataan	Filipino	11	10	4	1	5	3
Antique	do	29	24	6	2	3	5	4	7	2	40	33	73
Batangas	do	66	73	13	5	13	15	36	44	2	1	56	78
Bulacan	do	46	28	6	6	14	10	32	12	12	5	28	28
Iloilo	do	28	91	24	10	24	21	64	46	6	1	48	91
La Union	do	10	34	2	10	4	16	10	10	1	1	39	15
La Laguna	do	71	72	9	6	17	18	46	3	8	5	71	9
Mindoro	do	29	8	9	1	2	8	4	2	8	4	39	22
Pampanga	do	29	28	9	7	7	8	22	17	2	2	29	28
Romblon	do	22	5	1	1	6	16	4	2	5	5	23	6
Tarlac	do	68	45	7	7	5	5	50	85	3	1	68	45
Tayabas	do	68	45	8	8	5	5	20	61	86	86	86	86
Ilocos Sur	do	89	86	8	8	6	22	20	7	7	37	37	37
Zambales	do	93	17	15	6	22	32	45	44	6	5	93	86
Pangasinan	do	93	86	18	16	28	32	45	44	6	5	93	86
Misamis	do	81	72	13	5	22	19	52	39	2	1	81	72
Total		748	667	114	66	194	169	470	969	18	15	748	667

Provinces.	Race.	Violent.	Not violent.	Cared for by friends.	Cared for by provinces.	Method of care by provinces.	Number without special resources sufficient for support.	Number with insufficient client for support.	Cases.		Deaths.	
									M.	F.	M.	F.
Bataan	Filipino	16	16	21	None	13	13	8	8	2	1	
Antique	do	3	50	53	do	32	32	36	36	4	4	
Batangas	do	26	103	129	do	93	93	17	17	4	4	
Bulacan	do	12	62	74	do	67	67	17	17	1	1	
Iloilo	do	4	130	134	5	do	136	136	44	44	4	
La Union	do	10	34	44	do	46	46	97	97	7	7	
La Laguna	do	22	121	143	do	16	16	23	23	1	1	
Mindoro	do	4	20	24	do	16	16	12	12	1	1	
Pampanga	do	3	54	57	do	34	34	27	27	4	4	
Romblon	do	2	25	27	do	4	4	12	12	68	68	
Tarlac	do	14	99	113	3	do	68	45	45	45	45	
Tayabas	do	43	182	175	do	136	136	37	37	3	3	
Ilocos Sur	do	4	20	25	1	do	14	12	12	12	12	
Zambales	do	18	161	179	1	do	88	91	91	91	91	
Pangasinan	do	37	116	153	do	107	46	46	46	46	46	
Misamis	do	37	116	153	do	107	46	46	46	46	46	
Total		270	1,145	1,406	9		846	569	569	7	6	

Tabulated statement of amount of vaccine virus distributed by the Board of Health during the month of February, 1904.

United States Army	3,050
United States Public Health and Marine Hospital Service	1,000
Inhabitants of the Philippine Islands (Manila not included)	168,800
Philippines Constabulary	200
Sold to the public	375
Used by public vaccinators and institutions in the city of Manila	16,485
Total	192,860

Report of vaccination, city of Manila, during the month of February, 1904.

Chief of vaccinators, SATURNINO ESPEJO.

District.	Children.			Adults.			Total.			Grand total.
	Filipinos.	Chinese.	Americans and foreigners.	Filipinos.	Chinese.	Americans and foreigners.	Filipinos.	Chinese.	Americans and foreigners.	
Walled City	231			323	1	4	554	1	4	21
Binondo	137			434	116	7	671	116	7	694
San Nicolas	189	6		241	277	12	430	283	18	713
Tondo	477		1	117	85	12	694	35	14	642
Santa Cruz	236			285	102	4	521	103	4	628
Quinta	478			156			329			375
San Miguel	151		1	148	64	7	299	65	7	371
Sampaloc	299		1	184	2	1	683	2	2	667
Palaos	478		2	186			671		2	673
Ermita	121			174	20	5	295	20	5	320
Malate	149			150			299			311
Total	2,586	8	4	2,900	617	52	5,486	625	56	6,167

Bubonic plague report for Manila from February 1 to 29, 1904.

	BY RACE AND SEX.			
	Cases.		Deaths.	
	M.	F.	M.	F.
Americans				
Europeans				
Filipinos	5	1	5	1
Chinese				
Total	5	2	5	1

  

	BY DISTRICTS.			
	Cases.		Deaths.	
	M.	F.	M.	F.
San Nicolas			4	3
Tondo				
Quisapo				
Santa Cruz			8	3
Sampaloc				
Intramuros				
Ermita				
Total			7	6

	BY AGE.			
	Cases.		Deaths.	
From 1 to 10 years		2	1	1
From 10 to 20 years		4	4	4
From 20 to 30 years				
From 30 to 40 years				
From 40 to 50 years				
50 years and above		1	1	1
Total		7	6	6

Number of cases found "alive"	3
Number of cases found "dead"	4
Total	7

Cholera report for Manila from February 1 to 29, 1904.

	BY RACE AND SEX.			
	Cases.		Deaths.	
	M.	F.	M.	F.
Americans				
Europeans				
Filipinos	3		3	
Chinese				
Total	3		3	

	BY DISTRICTS.			
	Cases.		Deaths.	
	M.	F.	M.	F.
San Nicolas			2	2
Tondo			1	1
Quisapo				
Santa Cruz				
Sampaloc				
Intramuros				
Ermita				
Total			3	3

	BY AGE.			
	Cases.		Deaths.	
From 1 to 10 years			1	1
From 10 to 20 years			1	1
From 20 to 30 years			1	1
From 30 to 40 years			1	1
From 40 to 50 years				
50 years and above				
Total			3	3

  

Number of cases found "alive"	1
Number of cases found "dead"	2
Total	3

Epidemic of cholera in the city of Manila and provinces from March 20, 1902, to February 1, 1904.

Month.	Manila.		Provinces.	
	Cases.	Deaths.	Cases.	Deaths.
<b>1902.</b>				
March	108	90	1,427	1,417
April	586	406	1,927	1,417
May	550	442	2,407	1,631
June	601	492	5,204	4,097
July	1,368	1,053	7,757	5,907
August	720	581	11,247	7,874
September	273	179	43,346	27,410
October	47	37	30,887	18,542
November	336	236	12,353	6,681
December	35	24	5,918	3,583
<b>1903.</b>				
January	7	4	4,921	2,757
February	2	1	2,997	2,009
March	6	1	1,908	1,124
April	33	27	1,772	1,147
May	230	212	1,402	885
June	39	38	3,554	2,945
July	42	38	4,167	2,806
August	89	72	10,212	7,406
September	290	263	4,610	3,669
October	127	118	2,497	1,935
November	31	26	1,068	898
December	14	13	126	100
<b>1904.</b>				
January	4	5	339	253
Total	5,578	4,383	160,564	105,006

Report of cholera occurring in provinces in the Philippine Islands from February 1 to February 29, 1904.

Provinces and places.	Cases.		Total.		Per cent.
	Cases.	Deaths.	Cases.	Deaths.	
Hollo, Hollu	1	1	1	1	100
Negros Occidental, Cadiz	60	41	60	41	68
Total			61	42	
Average					68.8

## BUREAU OF AGRICULTURE.

### Benguet Experiment Station.

MANILA, March 9, 1904.

SIR: I have the honor to make the following brief report of my recent visit to Baguio and Trinidad, Benguet:

The experimental station in the Trinidad Valley is very creditable indeed. Irish potatoes, sweet potatoes, cabbage, beets, cauliflower, carrots, English peas, beans, lettuce, radish, squash, turnips, and many other vegetables are growing quite as well as I have ever seen them grow in the States. In the village of Trinidad, in some small gardens that had been well watered and manured, I saw English peas 10 feet in height and loaded from the ground up with full pods. I saw cabbage that I estimated would weigh 30 pounds per head. Every vegetable commonly grown in temperate climates seems to flourish wonderfully in this little valley.

With the arrangements now made for getting the manure from the sanitarium horses, and the commercial fertilizers to be sent over the mountains there, increased results are expected.

Just now the crops are beginning to suffer for moisture. An abundant supply of water can be gotten on the land, I think, for a few hundred pesos. Engineer Haywood's estimate calls for 1,700 pesos, but that estimate calls for quite elaborate and permanent work. \* \* \*

With fertilizers and water no place on earth can surpass this for vegetables, at least at this season of the year.

I am not at all sure that Baguio can not be made to grow vegetables. On examining some samples of soil from there last year, I suggested to Dr. Scribner that the raw soil, full of undecayed grass roots, was probably too loose and leachy to grow

crops the first year, as I had seen raw prairie soil refuse to produce at first. On this visit I am confirmed in that belief. The soil seems to be a loose volcanic ash, and, I learn, was dug to a depth of 12 inches. This made it so loose and light and porous that I believe it was impossible for young roots to establish close enough contact with the soil to get moisture enough to live even through one hot, windy day. A soil may be too loose and porous, as well as too close and compact, a fact that seems to have been lost sight of.

We will pulverize this soil 2 to 4 inches, and if it still appears too friable it will be wetted and compacted about the seed and roots. Some will be manured and fertilized, and some not. These methods I expect to be successful. Considering the fact that shrubbery, trees, grasses, native canotes, etc., grow well on the land and that all plants require the same chemical constituents for development, the theories of poisons and poverty of soil are untenable.

Returning over the mountains and along the new Benguet road with its wonderful scenery and astonishing feats of engineering now in progress, I landed yesterday, at the Government rice farm and stopped between trains.

The work there is getting along nicely. The work of the cattle now under experiment is very satisfactory indeed. They work as many hours a day as horses and stand the heat quite as well. They almost entirely gather their own living by grazing.

The steam thrasher will finish work this week. The highest record so far reached has been 750 evans (1,500 bushels) of rice in seven hours.

Very respectfully,

W. C. WELBORN,  
Acting Chief of Bureau.

THE SECRETARY OF THE INTERIOR,  
Manila, P. I.

### The white cotton tree.

#### INTRODUCTION.

The white cotton tree, *Ceiba pentandra*, or *Eriodendron anfractuosum*, is widely distributed throughout the Philippine Islands. This tree is well known to anyone who has traveled at all extensively through the provinces, its appearance, with its tall straight trunk, almost horizontal branches, and large seed pods, being such as to attract attention. From many different parts of the Islands reports have been received concerning the cotton tree, showing that it is widely distributed and that the fiber which it produces has quite an extensive local use. The qualities of this fiber are such as to warrant a more general cultivation of the tree and a more modern and economical method of extracting the fiber than is practiced at the present time. Although kapok has been known commercially for a century or more, it is only in quite recent years that it has attained any considerable importance as a commercial product. The tree which produces kapok is 50 to 60 feet high with a straight trunk, which is prickly when young. The branches are horizontal and whorled, the leaves palmate, and the flowers a dingy white color. The tree grows rapidly and begins to bear after the second year. It requires little attention, flourishes on very poor soils, and is not exacting as regards water. In Bengal, where the winters are quite cool, the leaves drop off during the hot season. After the leaves have fallen the blossoms appear and soon afterward the foliage. The seed ripens two to three months later.

#### DISTRIBUTION.

The cotton tree is found in nearly all tropical countries of the world. In the Philippine Islands it is very abundant in Cavite,

Negros, and parts of Mindanao. From the latter island the fiber is shipped in considerable quantity to Manila. The one country in which kapok may be considered an important product at the present time is Java. The modern trade in this fiber has been created by the Dutch merchants, who have drawn their supply almost entirely from Java. There are now over 50 plantations in that country where kapok is harvested either as an accessory or as the principal product, where ten years ago there were only 5.

KAPOK FIBER.

Kapok is the floss obtained from the seeds of the cotton tree and belongs, in a structural classification, to the division of "surface fibers." Economically considered it is one of the stuffing or filling fibers, as distinguished from the fibers which are used for spinning, plaiting, and other purposes. Kapok is too short a staple and is also too brittle and elastic to be spun, but these very properties make it the most valuable of all the vegetable fibers for filling purposes. When used for cushions, pillows, mattresses, etc., its harshness and elasticity prevent it becoming matted. Kapok might well be used for the cushions and pillows of hospitals, and for bandages and other surgical dressings, as it is cooler and more elastic than cotton. This fiber has been used to some slight extent, when mixed with other fibers, for spinning purposes.

NOMENCLATURE.

The different countries which produce the cotton tree all have their own local names for the tree and for the fiber. In India the tree is known as the white cotton tree and in Java as the kapok floss tree. From southern Mindanao, where the fiber is produced in considerable quantities, we hear of the kahpok tree; in the Visayas it is known as bobuy, bulac doidol, and bulac dondol; in southern Luzon as cayo; in the Tagalog provinces as bulac cahoy; in Pangasinan as capous or capas niga babaret; and in Ilocano as capasanglay. The Spaniards call this tree algodnero arboreo.

TREATMENT OF THE FIBER.

In Java, where kapok is produced on a commercial scale, small iron mills are used for cleaning the floss. The capacity of one of these mills is about two piculs (of 137 pounds each) of cleaned fiber per day. Each machine employs four women. After being cleaned the kapok is prepared for shipment by being pressed into bales. These bales weigh 37 kilos for the cleaned kapok and 80 kilos for that which is not cleaned. When the fiber is baled it should not be pressed excessively, as such pressing will impair its elasticity and thereby lower its value as a stuffing material. Improved machines for cleaning kapok are manufactured by Ernest Lehman, Manchester, England, and by Thomas Barraclough, 20 Bucklersbury, London, England. Such machines will clean from 200 to 2,000 pounds of fiber per day, weigh from 11 to 45 hundredweight, and cost from £35 to £95.

DISTRIBUTION OF FIBER.

There is a considerable local demand for kapok, it being used by the Chinese merchants of Manila for filling cushions, pillows, and mattresses. This fiber is used in China and Australia and meets with a ready sale in European and American markets. Beautiful samples of kapok were exhibited at the World's Columbian Exposition at Chicago, in 1893, and the fiber has since come into considerable use in the United States. The production in Java has increased from 300,000 kilos (700,000 pounds) in 1882 to over 4,000,000 kilos (9,000,000 pounds) in 1901. During the first six months of 1902, which was a period of industrial depression in Java, 20,398 bales of kapok were exported, of which the United States received about \$50,000 worth.

VALUE OF FIBER.

The Holland quotations for 1898 were as follows per half kilo (about 1 pound):

	Cents.
Extra cleaned .....	36 to 39½
Good cleaned .....	31 to 33
Cleaned, second quality .....	20 to 26
Good uncleaned .....	8½ to 9½
Ordinary uncleaned .....	6 to 7

(The value of the Dutch cent is one-half the American cent.)

OTHER USES OF THE COTTON TREE.

The most valuable product of the cotton tree is the fiber. This tree has, however, a number of other uses. In India, and also on the Island of Negros, the growing tree is used for living telegraph poles; the tall, straight trunk and horizontal branches making it peculiarly well suited for this purpose. The cotton tree in Java is used as a support for pepper plants and as a shade tree on coffee plantations. The wood, which is light and soft, is used for tanning leather and for making toys. The tree yields a dark-red, almost opaque, gum which has some medicinal value. The tender leaves, when ground in a paste, are also used medicinally. An inferior reddish fiber is obtained from the bark. The root, when dried and powdered and mixed with the juice of the fresh bark, is a cure for dysentery. The unripe fruit has a value both as a food product and also medicinally. The seeds are only second in value to the fiber. In India these seeds are roasted and eaten in times of famine. The oil obtained from the seeds is extensively used by the Chinese in the adulteration of peanut oil. The seed cake is valuable, either for cattle-feeding purposes or as a fertilizer. The value of this material, as compared with cotton seed, is shown by the following table, prepared by Mr. G. Reinders:

Analyses of kapok cake and of cotton cake.

	Kapok cake.	Cotton cake.
Water .....	13.28	12.00
Nitrogenous matter .....	26.34	20.62
Fat .....	5.32	6.36
Nonnitrogenous extraction .....	19.22	35.42
Woody fiber .....	28.12	20.36
Ash .....	6.52	5.64

CONCLUSION.

There are several hundred different varieties of fiber plants in the Philippine Islands which have some industrial value. Of these abaca stands easily first as the most important agricultural product of the Islands and as the most valuable cordage fiber in the world. Maguey, another valuable cordage fiber, is exported in considerable quantities. Cotton, the most important of all textile fibers, is widely distributed in the Islands and is a promising product.

Kapok, the most valuable of the stuffing and filling fibers, is found in nearly all parts of the Archipelago and has a very general local use. The natural conditions of soil and climate are favorable to the cultivation of the cotton tree. The most important requirement for the further development of the industry is the introduction of fiber-cleaning machinery. A fiber-cleaning machine has been ordered by the Bureau of Agriculture and will be operated in the kapok-producing provinces. The fiber thus obtained will be submitted to fiber dealers for a comparison with the Java product, with a view of creating a demand for the Philippine kapok and of placing the industry in these Islands on a commercial basis.

H. T. EDWARDS,  
Fiber Expert, Bureau of Agriculture.

*Abaca cultivation in southern Mindanao.*

## INTRODUCTION.

Abaca is grown more or less extensively on all of the larger islands of the Philippine Archipelago. Its successful cultivation requires certain well-defined conditions of soil and climate, viz: A heavy and fairly evenly distributed rainfall, a high degree of humidity, and immunity from severe wind storms. The soil should be a medium loam, moist but at the same time well drained, containing a large amount of organic matter, and of volcanic origin. A very favorable combination of these conditions is found in certain parts of southern Mindanao.

This territory forms a part of the Moro Province and, including the Sulu Archipelago, is divided into five districts: Zamboanga, Sulu, Lanao, Cottabato, and Davao. The local conditions in these different districts are in some respects alike and in others very different. At the present time the greater part, and the best quality, of abaca produced in southern Mindanao comes from the district of Davao.

## ZAMBOANGA DISTRICT.

Comparatively little abaca is produced in the district of Zamboanga. Quite extensive plantings have been made at the San Ramon Government Farm, on other plantations in that vicinity, and on the Island of Basilan, all of which suffered severely from drought during the past year. The climate is very favorable as far as humidity is concerned but the rainfall is often insufficient and unless irrigation is available abaca is liable to be injured during the dry season. Labor is fairly abundant at 50 cents per day except during the months of January, February, and March. *Palay* is harvested in January and food is abundant during the months immediately following. Carabaos are scarce and sell from 60 to 100 pesos.

Two varieties of abaca are grown, the white and the red. The former grows tall and slender and produces a fine white fiber. The red variety is heavier bodied, produces a coarser fiber, and is less valuable than the white.

The method of planting and cultivating abaca at San Ramon is as follows: The land is first cleared of all growth, which is allowed to remain on the ground at least thirty days, or until thoroughly dry, and then is burned. This burning not only clears the ground but also destroys a large per cent of the seeds of weeds which otherwise would be sure to germinate. If carabaos are used for plowing, a 6-inch plow is preferable. The land should first be plowed about 5 inches deep, harrowed once or twice, and allowed to rest for thirty days. At the expiration of this time it should be cross plowed 8 inches deep and again harrowed. It is now ready for planting. In selecting suckers care should be taken to secure only large, strong plants; these are set in straight rows nine feet apart each way, the best time for planting being at the beginning of the rainy season. If these instructions are carried out one native with a carabao can take care of 20 acres at a cost of \$15 per month. If not set in straight rows and worked with a cultivator the cost will be much more and the production much less.

When new plantations are started in this district the suckers for planting are usually secured either from San Ramon or from Davao, at a cost of from 20 to 30 pesos per thousand. The fiber produced is sold in Zamboanga. The local merchants there make no classification or distinction with respect to quality. The price paid for fiber in Zamboanga in 1902 to 1903 was from 20 to 24 pesos per picul.

## SULU DISTRICT.

In the district of Sulu abaca is grown exclusively on the Island of Jolo. The approximate area now devoted to abaca is estimated at 1,500 hectares, much scattered. About 12,000 hectares more on Jolo Island are considered suitable for abaca culture, and probably it could be grown on the smaller islands

of Pata, Siasa, Lugus, and Tapul. As the Moros have no titles to land the sale and purchase of land is difficult.

Climatic conditions are similar to Zamboanga. Labor is difficult to secure and is mostly employed on the share system. Carabaos are scarce and sell from 40 to 60 pesos.

Five varieties of abaca are grown, as follows: Lanud batang, first class; Lanud lahng papai, second class; Lanud patih, third class; Lanud banbanun, third class; Lanud gutai, inferior.

There are no large plantations. Abaca is planted without shade and rice is grown on the same land the first year. The fiber is not classified but is all sold in Jolo as one quality. The local price is from 18 to 20 pesos per picul. About 10,000 piculs of fiber and hand-made rope are exported annually to Singapore and Manila. When the price of abaca is low the Moros make rope for export. The fiber is used locally for rope, cloth, fishing nets and lines, stirrup straps, bridles, and girths. Abaca planting by the Moros is steadily increasing and the future of the industry in this district is promising.

## LANAO DISTRICT.

In Lanao there are but few towns, the population being much scattered. Abaca is found growing in scattered patches in all parts of this district, being most largely produced in the vicinity of Tuburan in the southeastern part, and near Iligan in the northeast. All land in the district outside of Iligan is Moro land and is not for sale, the Moros not being allowed to sell.

The climate resembles that of Zamboanga. Owing to a state of quasi-insurrection labor is difficult to obtain. Carabaos are also difficult to secure and cost from 60 to 100 pesos. There are no abaca plantations of any size in the district. Shoots for planting are secured from Davao at a cost of about 50 pesos per thousand. The *dap-dap* tree, used as a shade for abaca in southern Luzon, is also utilized for this purpose in Lanao. Abaca and cacao are cultivated to some extent on the same land. The Lanao fiber is almost entirely third grade with a small quantity of first and second grades. No fiber is exported, that which is produced being used locally for the manufacture of native cloths and cordage. When this country becomes a little more settled and the lands are thrown open for settlement, the planting of abaca should assume a position of some importance.

## COTTABATO DISTRICT.

It is estimated that in Cottabato 200 hectares are now planted to abaca and that the greater part of the district, except the low swamps, is suitable for this purpose. Thousands of acres of public lands are available for this purpose. Climatic conditions are similar to Zamboanga but with a heavier rainfall are somewhat more favorable. Labor is scarce. Carabaos are available at 50 pesos each. Three different varieties of abaca are grown.

In this district abaca is grown both with and without shade. Camotes and peanuts are raised on the same land. The cost of suckers for planting, if secured locally, is 100 pesos per thousand. The total annual output of fiber is about 150 piculs. The local price for fiber is from 14 to 15 pesos per picul. The governor of Cottabato states that with capital and reliable labor the Cottabato Valley would produce more abaca than any other center in the Philippines.

## DAVAO DISTRICT.

*Conditions in Davao.*—Davao occupies the southeastern portion of Mindanao and is, by ordinary routes of travel, approximately 1,000 miles from Manila. The district is 145 miles long from north to south and 127 miles from east to west. Its area is 9,171 square miles, or 856 square miles larger than the State of Massachusetts. With respect to physical features, a long range of mountains extends from the extreme northern boundary to the southern coast line. From this range numerous rivers and streams flow into the Celebes Sea, Davao Gulf, and the Pacific



Ocean. In these river valleys and along the coast plain are large areas of land of great fertility. The population is between 30,000 and 40,000 and consists of Visayans, Moros, and a large number of different native tribes. These native people, in general, are very friendly to Americans and are pleased to have them settle and open up the country. The capital and chief town of the district is Davao, situated near the head of Davao Gulf. There are few roads but the trails are generally in good condition and the numerous rivers furnish a means of transportation. The vegetable products are abaca, coffee, sugar cane, tobacco, rice, indigo, corn, and sweet potatoes. Cattle raising is an important industry. Grazing lands are abundant and the cattle of this district have never been attacked either by surrah or rinderpest.

*Abaca in Davao.*—Davao District has every promise of becoming one of the most important abaca producing centers in the Philippine Islands. The amount of available land is almost unlimited, the soil is fertile, the climate is extremely favorable to abaca cultivation, and the local conditions as regards labor, working animals, water supply, transportation, and markets are reasonably good. The abaca industry in this district is, as yet, in its infancy. Fiber has only been produced in any considerable quantity during the past ten or twelve years. At the present time large plantings are being made, while the favorable conditions and the general interest which is shown in this part of the country indicate that a remarkable development will follow during the next few years.

*Climate.*—The first and most important requirement for successful abaca cultivation is an abundant supply of moisture. One long dry season will seriously damage or entirely destroy an abaca plantation. The climate of Davao appears to be more favorable for abaca than that of any other province in the Islands. The rainfall is heavy and quite evenly distributed throughout the year, the average for two years showing one hundred and eighty-seven days of rain with a precipitation of 79.82 inches. There is also a very high degree of humidity, indicated by the heavy dews and the long time required to dry fiber after it has been stripped. The structure of the abaca plant and its habits of growth are such that this condition of atmospheric humidity has almost as important a bearing upon its development as does the amount of rainfall. The heavy wind storms which frequently do so much damage to abaca in some localities seldom occur in southeastern Mindanao.

*Soil.*—The soil requirements for abaca are a medium loam, moist, well drained, containing a large amount of organic matter, and of volcanic origin. Soils of this character are to be found in nearly all parts of Davao. In southern Luzon and the central Visayas we usually find abaca planted on sloping land, thus securing the good drainage particularly required in the rainy season. In Davao, however, the greater part of the abaca plantings have been made on level land. This is probably due to the fact that the level lands of the river valleys and near the sea coast have formerly been cleared of their heavy timber by the native tribes and are, therefore, more easily put under cultivation than the forest lands on the mountain slopes. Owing to the even distribution of the rainfall these level lands do not become sufficiently wet at any season of the year as to retard the growth of the abaca, while they have the advantage of being more easily worked than the mountain lands. In parts of Davao there are large areas of grass land now covered with a heavy growth of cogon. A great deal of the Davao cogon land is a dark, deep soil which has every appearance of being suitable for abaca. If the cogon lands can be utilized for this purpose it will be possible to work them with modern agricultural machinery to much greater advantage than the lands which require a preliminary clearing and grubbing. Inasmuch as abaca can be grown in Davao without shade and as fairly successful results have already been obtained on small areas of cogon land,

it is probable that further developments in this direction will bring good results.

*Animals and labor.*—Carabaos are used on the plantations, and native ponies, to some extent, for the transportation of fiber. While carabaos are by no means abundant they can be secured in reasonable numbers, good animals costing about 100 pesos each. The labor question both as regards the amount available and the quality is not satisfactory, but is more favorable than in some parts of the Islads. The best labor is that furnished by the mountain tribes. With a little encouragement these people will come down and settle near the coast and after some preliminary training make fairly good workmen. The wage is from 40 to 50 cents, Mexican, per day, and is usually paid in rice, cloth, beads, or some other commodity.

*Varieties of abaca in Davao.*—From six to ten different varieties of abaca are planted in Davao, there being considerable difference of opinion as to their relative merits. The more important of these varieties are as follows: (1) Maguindanao babazon: stem short and thick; fiber, good quality; age, 15 years. (2) Tanggongon: stem long and thick; fiber coarse, resistant and heavy; age, 15 years. (3) Putian: fiber white and nonresistant; age, 12 years. (4) Libuton: stem short and small; fiber dark and resistant; age, 15 years. (5) Baguisanon: stem very long; fiber weak and very resistant. (6) Putian baguisan: stem short and small; fiber white and fine but not abundant; age, 10 to 12 years. (7) Lana-an: stem long and thick; fiber abundant and resistant.

*The plantation.*—In locating a plantation the several conditions which must be considered are the climate, the nature of the soil and its exposure, the availability and quality of labor, the water supply, transportation, and the distance from markets. The situation in Davao with respect to these several conditions has already been referred to. The management of the Davao plantations is worthy of special commendation. The Americans who have located in this district are keeping their plantations in excellent condition and are also experimenting along various lines with a view of improving the methods now in use.

*Preparation of the soil.*—The land is first cleared of all growth. This is allowed to remain on the ground until thoroughly dry and is then burned. After this burning two different systems are followed. In some cases abaca and camotes are planted at once, in others the land is first plowed and harrowed. As the newly cleared land is usually rough and filled with stumps and as carabaos and plows are frequently difficult to secure, the former method is not without its advantages. Wherever it is possible, however, the land should be plowed and harrowed before planting. The advantages of this method have been well demonstrated at the San Ramon Government farm.

*Planting.*—Abaca may be planted in Davao at any time during the year, but the most favorable time is during the rainy season. In planting, either suckers are used or a portion of the root of an old plant. The latter method is said to be more sure and has the additional advantage of being cheaper. When a stalk of abaca is cut for fiber the root is also removed and set out to form a new plant, thus new plantings can be made without drawing any suckers from the old plantation. Davao now furnishes sufficient suckers, or so-called seed, for the local consumption and also exports small quantities to other districts. Suckers cost from 20 to 30 pesos per thousand. Plantings are made in straight rows from 9 to 12 feet apart each way, usually 10 feet, which gives approximately 1,000 plants to the hectare. Camotes, or native sweet potatoes, are usually set out at the same time with the abaca. These camotes grow rapidly and in a short space of time entirely cover the ground, thus checking the growth of weeds. They also furnish a food supply for the laborers on the plantation. Corn and *palay* are also frequently grown with abaca the first year. An advantage in planting corn is that it furnishes a

much-needed shade to the tender shoot of the young abaca. Many of the Davao planters are putting in cocoanuts with abaca. Every third or fourth abaca plant is left out and a cocconut planted in its place. The idea is to harvest the abaca until about the time the cocconut grove comes into bearing. If the land which is being planted is adapted both to abaca and cocconut this system is one to be recommended. Although the growth of the cocoanuts may be somewhat retarded and a full crop of abaca will not be secured, nevertheless, under favorable conditions the ultimate returns from the combination of the two crops will be greater than when either one is grown alone.

**Cultivation.**—When abaca land is plowed before being planted and is afterwards worked with animals almost constant cultivation is required during the first year to keep down the growth of weeds. When canotes are planted the growth of weeds will not be so great, but even under these conditions a clearing is necessary about every two months. After the abaca is fully grown so as to shade the ground and after the stripping of fiber has left a large amount of refuse on the land the growth of weeds will die out.

**Shade.**—Nearly all of the abaca raised in Davao is grown without shade. The function of the shade tree is to furnish protection from excessive sun and wind. As a protection from wind there seems to be but little need of shade trees in this district. The abaca plant, particularly when young, requires some protection from the glaring rays of the sun. The relative merits of growing abaca in Davao with or without shade is still an open question. If the latter method is followed, corn, or some other crop which will shade the young abaca plant, should be grown the first year.

**Harvesting.**—Throughout the central islands the first cutting of abaca takes place at two and one-half to three years after planting. In Davao good abaca has been cut at twenty months and the first cutting is ordinarily made within two years after planting. This rapid development is due to the favorable climatic conditions. There being no well-marked dry season, the growth of the plant is not checked at any time during the year. Subsequent cuttings are made every six to nine months. This rapid growth and early development are very important considerations and are quite sufficient to show that the climatic and soil conditions of Davao are particularly well suited to the cultivation of abaca.

**Extraction of fiber.**—Fiber is extracted, or stripped, both with the smooth-edged and the serrated blade, probably the greater percentage with the latter. A very decided stand has been taken by the Americans of the district to maintain and to improve the quality of the fiber exported, and an effort is being made to bring about a more general use of the smooth-edged stripping knife. It is to be regretted that no classification of fiber is made in Davao. When the stripping is done the small amount of dark-colored inferior fiber, produced by the outer petioles, is indiscriminately mixed with the vastly greater amount of superior fiber, thereby lowering the quality of the entire product.

**After-treatment of fiber.**—The fiber after being stripped is hung over bamboo poles and is dried in the sun. This drying takes about two days, a longer time than in localities where the degree of humidity of the atmosphere is not so great. From the plantation the fiber is sent, either in small boats or on native ponies, to some point of shipment. The greater part of the product of the district is shipped from the town of Davao direct to Manila.

**Davao fiber.**—The fiber produced in Davao is of remarkably good quality. In length it is probably superior as a whole to the product of any other district in the Islands. In color and fineness it ranks well, but with respect to these two qualities might be greatly improved by a system of classification and a more restricted use of the serrated-edged knife. The annual yield per hectare is estimated by the planters at all the way from 5 to 10 piculs. The average yield under normal condi-

tions will probably run from 12 to 16 piculs per hectare. The selling price of abaca in Davao at the present time is from \$22 to \$24 per picul. A small amount of fiber is used locally for the manufacture of native cloth.

**Estimated cost and revenues of an abaca plantation in Davao.**—The following is an estimate of the cost of establishing an abaca plantation. The size of the plantation selected is 250 hectares, which is one-fourth of the amount of land that can be taken up by a corporation in the Philippines under the land law (Act No. 926) as enacted by the Philippine Commission. Planting 50 hectares a year, it would require five years to put this amount of land under cultivation. With respect to the cost of clearing and cultivating land, and also the yield, there will be considerable variation, depending upon the existing conditions where the plantation is located. This general estimate is prepared from figures obtained from the different American abaca planters in Davao. It should be stated that practically all labor employed can be paid for in rice, cloth, and other commodities, the profit on which should considerably more than pay for all incidental expenses which may occur. All accounts in this statement are in Philippine currency.

FIRST YEAR.	
Expendable:	
Cost of 250 hectares, at \$10 per hectare.....	\$2,500
Clearing 50 hectares, at \$20 per hectare.....	1,000
Purchase of 50,000 abaca stools, at \$30 per thousand.....	1,500
Planting 50 hectares, at \$5 per hectare.....	250
Cultivation of 50 hectares (first year), at \$15 per hectare.....	750
Fencing and roads.....	200
Six canases, at \$100 each.....	600
Buildings.....	400
Tools and implements.....	200
Overseer, at \$150 per month.....	1,800
Incidentals.....	300
	\$9,400
SECOND YEAR.	
Expendable:	
Clearing 50 hectares.....	\$1,000
Purchase of 50,000 abaca stools.....	1,500
Planting 50 hectares.....	250
Cultivation of 50 hectares (first year).....	750
Cultivation of 50 hectares (second year).....	750
Fencing and roads.....	200
Overseer.....	1,800
Interest on investment.....	940
Depreciation on tools, buildings, and animals (20 per cent of cost).....	240
	7,080
THIRD YEAR.	
Expendable:	
Clearing 50 hectares.....	\$1,000
Planting 50 hectares.....	250
Cultivation (50 hectares, first year, \$750; 50 hectares, second year, \$500; 50 hectares, third year, \$250).....	1,500
Fencing and roads.....	200
Overseer.....	1,800
Interest on investment.....	1,648
Depreciation.....	240
	6,538
Income account:	
From 50 hectares, 50 per cent of full crop (full crop from 50 hectares, at 12 piculs per hectare, 600 piculs; one-half, paid for cleaning, leaves 300 piculs, at \$22 per picul, \$6,600).....	3,300
Debit balance.....	3,238
FOURTH YEAR.	
Expendable:	
Clearing 50 hectares.....	\$1,000
Planting 50 hectares.....	250
Cultivation, 150 hectares.....	1,500
Fencing and roads.....	200
Overseer.....	1,800
Interest on investment.....	1,971
Depreciation.....	240
	6,861
Income account:	
From 50 hectares, 50 per cent of full crop.....	3,300
From 50 hectares, a full crop.....	6,600
	9,900
Credit balance.....	3,089
FIFTH YEAR.	
Expendable:	
Clearing 50 hectares.....	\$1,000
Planting 50 hectares.....	250
Cultivation, 150 hectares.....	1,500
Fencing and roads.....	200
Overseer.....	1,800
Fixed interest on investment and depreciation charges.....	2,250
	6,900
Income account:	
From 50 hectares, 50 per cent of full crop.....	3,300
From 100 hectares, a full crop.....	13,200
	16,500
Credit balance.....	9,600

SIXTH YEAR.

Expendable:		
Cultivating 100 hectares.....	\$1,000	
Overseer.....	1,800	
Fixed interest and depreciation charges.....	2,250	\$5,050
Income account:		
From 60 hectares, 50 per cent of full crop.....	3,300	
From 150 hectares, a full crop.....	19,800	
		23,100
Credit balance.....		18,050

SEVENTH YEAR.

Expendable:		
Cultivating 50 hectares.....	\$500	
Overseer.....	1,800	
Fixed interest and depreciation charges.....	2,250	4,550
Income account:		
From 50 hectares, 50 per cent of full crop.....	3,300	
From 200 hectares, a full crop.....	26,400	
		29,700
Credit balance.....		25,150

EIGHTH YEAR.

Expendable:		
Overseer.....	\$1,800	
Fixed interest and depreciation charges.....	2,250	4,050
Income account:		
From 250 hectares in full bearing.....		33,000
Credit balance.....		28,950

NOTE.—After abaca is three years old, if the land has been properly cultivated during this time, it will require practically no further cultivation. From this time on the native laborer will keep the land in good condition, harvest the crop, and strip, dry, and deliver the fiber for one-half of the product. Abaca will continue to produce a full crop, without replanting, for a period of from ten to fifteen years.

CONCLUSION.

With a most favorable climate and large areas of undeveloped land, the future of abaca in Davao depends chiefly on the rapidity with which the public lands are taken up and developed. With the completion of a telegraph line, now in course of construction, and with increased and improved facilities for transportation, the present somewhat isolated condition of this district will be in a measure removed. The efforts which are being made, both by the planters and by the Government officials, to encourage the introduction of agricultural machinery and to improve the methods of planting, cultivation, and extraction of fiber, together with the natural richness of the country itself, should result in making this district one of the richest and most important agricultural provinces in the Islands.

H. T. EDWARDS,

Fiber Expert, Bureau of Agriculture.

QUARANTINE SERVICE FOR THE PHILIPPINE ISLANDS.

Report of the Chief Quarantine Officer for January, 1904.

MANILA, P. I., March 14, 1904.

SIR: I have the honor to submit herewith the regular monthly report of the transactions of the Quarantine Service in the Philippine Islands for the month of January, 1904.

The constant decrease in the number of quarantinable diseases in the Islands is resulting in a certain amount of apathy on the part of the public with regard to sanitary measures, and, in consequence, it is becoming more difficult to enforce regulations which are intended to prevent outbreaks such as the Islands have suffered from in the past. The more free the Islands become of quarantinable diseases, the more necessary it is to prevent fresh introductions from without. Strict precautions are therefore being observed, especially with regard to foreign vessels. Fortunately, however, it is possible to make the measures of such a nature that interference with commerce is reduced to a minimum and cooperation with the United States sanitary officers stationed

at the principal Oriental ports has resulted in a system by which there is probably less delay than at any time in the history of the Quarantine Service of the Islands.

The value of fumigating vessels with sulphur is becoming recognized by the shipping interests, and from being a measure that was avoided wherever possible is now requested in many instances. Ridding the interland vessels of rats and vermin, with the other sanitary measures instituted, has also added greatly to the comfort of the traveling public, to say nothing of the effect it has had in preventing the spread of disease.

Two hundred and thirty-seven immigrants were inspected and forty-one were rejected on account of being afflicted with trachoma. The Collector of Customs, acting on the authority of the United States immigration laws, had the rejected immigrants returned to the country from whence they came.

One hundred and thirty-three masters, mates, engineers, etc., were physically examined in accordance with the provisions of Act No. 780.

Quarantine Transactions.

PORT OF MANILA.

Bills of health issued:	
To steamers for United States ports.....	5
To steamers for foreign ports.....	167
To steamers for domestic ports.....	1
To sailing vessels for United States ports.....	1
To sailing vessels for foreign ports.....	0
To sailing vessels for domestic ports.....	79
Total.....	295

Number of vessels inspected:	
Steamers from United States ports.....	8
Steamers from foreign ports.....	37
Steamers from domestic ports.....	163
Sailing vessels from United States ports.....	0
Sailing vessels from foreign ports.....	0
Sailing vessels from domestic ports.....	93
Total.....	301

Number of passengers on arriving boats inspected:	
On steamers, cabin.....	1,325
On steamers, steerage.....	4,529
On sailing vessels, cabin.....	0
On sailing vessels, steerage.....	467
Total.....	6,326

Number of persons vaccinated:	
On steamers, crew.....	824
On steamers, passengers.....	0
On sailing vessels, crew.....	543
On sailing vessels, passengers.....	0
Total.....	1,367

Number of crew on arriving steamers inspected.....	9,148
Number of crew of arriving sailing vessels inspected.....	883
Number of persons quarantined for observation, suspects and contacts.....	0
Number of persons bathed and effects disinfected.....	747
Number of steamers disinfected.....	5
Number of sailing vessels disinfected.....	0
Number of steamers fumigated to exterminate vermin.....	27
Number of sailing vessels fumigated to exterminate vermin.....	25
Number of cases of quarantinable diseases detected on vessels.....	0
Number of vessels detained in quarantine.....	0
Number of pieces of baggage disinfected on steamers.....	836
Number of pieces of baggage disinfected on sailing vessels.....	0
Number of pieces of baggage inspected and passed on steamers.....	1,222
Number of pieces of baggage inspected and passed on sailing vessels.....	0
Number of vessels remaining in quarantine from December.....	0
Number of steamers sailing without quarantine inspected and passed.....	5
Number of sailing vessels sailing without quarantine inspected and passed.....	4
Number of steamers disinfected.....	0
Number of sailing vessels disinfected.....	0
Number of crew of steamers inspected.....	372
Number of crew of sailing vessels inspected.....	11
Number of passengers of steamers inspected.....	1,244
Number of passengers of sailing vessels inspected.....	0
Number of persons bathed and effects disinfected.....	1,263
Number of pieces of baggage disinfected.....	2,726
Number of pieces of baggage inspected and passed.....	2,467

PORT OF CEBU.

Bills of health issued:	
To steamers for United States ports.....	0
To steamers for foreign ports.....	0
To steamers for domestic ports.....	112
To sailing vessels for United States ports.....	0
To sailing vessels for foreign ports.....	0
To sailing vessels for domestic ports.....	20
Total.....	132

Number of vessels inspected:	
Steamers from United States ports.....	0
Steamers from foreign ports.....	2
Steamers from domestic ports.....	119

Quarantine Transactions—Continued.

PORT OF CEBU—continued.

Number of vessels inspected—Continued.	
Sailing vessels from United States ports	0
Sailing vessels from foreign ports	387
Sailing vessels from domestic ports	0
<b>Total</b>	<b>387</b>
Number of passengers on arriving boats inspected:	
On steamers, cabin	2,621
On steamers, steerage	1,282
On sailing vessels, cabin	0
On sailing vessels, steerage	1,107
<b>Total</b>	<b>5,010</b>
Number of crew on arriving steamers inspected	3,465
Number of crew on arriving sailing vessels inspected	2,227
Number of persons bathed and effects disinfected	0
Number of persons vaccinated	403
Number of vessels fumigated to exterminate vermin	0
Number of vessels detained in quarantine	0
<b>PORT OF ILOILO.</b>	
Bills of health issued:	
To steamers for United States ports	0
To steamers for foreign ports	4
To steamers for domestic ports	70
To sailing vessels for United States ports	0
To sailing vessels for foreign ports	0
To sailing vessels for domestic ports	227
<b>Total</b>	<b>301</b>
Number of vessels inspected:	
Steamers from United States ports	0
Steamers from foreign ports	6
Steamers from domestic ports	70
Sailing vessels from United States ports	0
Sailing vessels from foreign ports	0
Sailing vessels from domestic ports	13
<b>Total</b>	<b>212</b>
Number of passengers on arriving boats inspected:	
On steamers, cabin	422
On steamers, steerage	947
On sailing vessels, cabin	0
On sailing vessels, steerage	717
<b>Total</b>	<b>1,986</b>
Number of crew on arriving steamers inspected	2,551
Number of crew on arriving sailing vessels inspected	1,209

Quarantine Transactions—Continued.

PORT OF ILOILO—continued.

Number of persons vaccinated	490
Number of persons bathed and effects disinfected	38
Number of persons detained in quarantine	38
Number of cases of quarantizable diseases detected on arriving vessels, cholera	1
Number of vessels inspected	1
Number of vessels detained in quarantine	1
Number of vessels remaining in quarantine January 31	1
<b>PORT OF JOLO.</b>	
Bills of health issued:	
To steamers for United States ports	0
To steamers for foreign ports	1
To steamers for domestic ports	12
To sailing vessels for United States ports	0
To sailing vessels for foreign ports	0
To sailing vessels for domestic ports	7
<b>Total</b>	<b>14</b>
Number of vessels inspected:	
Steamers from United States ports	0
Steamers from foreign ports	4
Steamers from domestic ports	23
Sailing vessels from United States ports	0
Sailing vessels from foreign ports	0
Sailing vessels from domestic ports	0
<b>Total</b>	<b>27</b>
Number of passengers on arriving boats inspected:	
On steamers, cabin	177
On steamers, steerage	306
On sailing vessels, cabin	0
On sailing vessels, steerage	0
<b>Total</b>	<b>483</b>
Number of persons vaccinated	50
Number of crew on arriving steamers inspected	1,080
Number of crew on arriving sailing vessels inspected	0
Number of vessels in quarantine	0

Respectfully submitted.

VICTOR G. HEISER,

Passed Assistant Surgeon,

Chief Quarantine Officer for the Philippine Islands.

The SECRETARY OF THE INTERIOR,

Manila, P. I.

WEATHER BUREAU.

Meteorological data deduced from hourly observations, month of February, 1904.

Date.	Barometer, mean.		Temperature.						Relative humidity, mean.	Prevailing direction.	Wind.			Sunshine.	Rainfall.				
	Inches.	Mm.	Mean.	Maximum.	Minimum.	°C.					K/m.	Miles.	K/m. Miles.						
						°C.	°F.	°F.								Force.	Direction.		
1	29.900	759.44	25.7	78.3	30.2	86.4	21.9	71.4	73.7	E. ENE.	214	133	23 14	E.	h. m.	Inches.	Mm.		
2	29.943	69.56	24.2	75.5	28.8	78.4	21.4	89.3	76	47	6	4	70. NNE.	0	0	0.787	20.0		
3	29.900	59.45	25.8	78.4	31.2	88.2	21.4	70.5	77.2	10	16	10	SE.	6	45	0	0		
4	29.885	59.08	25.3	77.5	31.0	87.8	20.4	67.8	76.8	155	96	14	9	SE.	5	50	0	0	
5	29.898	59.40	25.1	77.2	31.2	88.2	19.5	67.1	72.4	162	103	17	11	SE. by E.	5	00	0	0	
6	29.910	59.71	25.5	77.9	28.7	83.7	19.6	67.3	75.9	W	86	53	8	5	WSW.	5	00	0	0
7	29.890	59.19	26.5	79.7	32.3	90.1	21.7	71.1	75.2	ESE.	202	126	20	12	ESE.	9	45	0	0
8	29.890	58.18	27.0	80.5	31.9	89.4	21.0	69.8	74.1	234	145	22	14	N.	10	05	0	0	
9	29.884	59.06	24.5	76.1	28.8	83.8	21.7	71.1	84.4	N.	222	138	22	14	N.	0	25	0.154	3.9
10	29.964	61.09	24.6	76.3	28.5	83.3	19.2	66.6	72.9	ESE. N.	181	112	16	10	W.	6	50	0	0
11	29.940	60.46	26.2	78.2	31.3	88.2	19.5	67.1	72.4	ESE.	130	81	14	9	E.	8	40	0	0
12	29.976	61.39	23.9	75.0	29.2	84.6	17.3	63.1	72.4	W. NNE.	178	111	15	9	W.	8	35	0	0
13	29.937	60.37	25.5	77.9	29.5	85.1	19.7	67.5	72.4	W.	152	94	14	9	WSW.	8	15	0	0
14	29.940	60.46	26.2	78.2	31.3	88.2	19.5	67.1	72.4	Variable.	167	103	17	11	SE. by E.	6	05	0	0
15	29.927	60.13	26.8	80.2	32.6	90.7	21.3	70.3	66.9	NE. N.	205	127	22	14	N.	7	30	0	0
16	29.883	59.03	26.8	80.2	30.8	87.4	21.0	69.8	70.7	WSW	148	92	14	9	NW.	9	45	0	0
17	29.908	59.65	26.0	76.0	28.0	82.4	20.6	69.1	75.5	N. NNE.	128	148	16	10	NE. by E.	7	05	0	0
18	29.941	60.47	25.0	77.0	30.0	86.0	19.3	66.7	64.0	N.	132	82	13	8	NNE.	6	05	0	0
19	29.908	59.65	24.3	76.7	28.5	83.3	19.6	67.3	69.8	N.	136	97	18	11	WSW.	7	45	0	0
20	29.943	60.22	24.4	76.0	28.0	82.4	20.6	69.1	75.5	N.	112	70	12	7	WSW.	1	00	0.059	1.5
21	29.843	59.00	25.4	77.7	32.5	90.5	19.4	66.9	77.6	SE.	180	112	22	14	SSE.	7	15	0	0
22	29.891	59.22	26.6	79.9	32.7	90.9	19.4	66.9	69.7	SE.	168	104	22	14	SE.	9	35	0	0
23	29.951	60.74	26.3	78.3	31.2	88.2	21.2	70.2	70.8	NE. WSW.	128	60	16	10	ENE.	4	20	0	0
24	29.957	60.90	26.3	79.3	30.4	86.7	21.2	70.2	69.1	Variable.	166	103	18	11	NNE.	3	55	0	0
25	29.911	59.73	26.2	79.2	30.7	87.3	19.8	67.6	78.4	Variable.	150	93	14	9	SW.	9	55	0.655	1.4
26	29.891	59.23	24.9	76.8	29.7	85.5	19.4	66.9	70.0	N.	173	102	17	12	W.	7	30	0	0
27	29.901	59.47	23.7	74.7	30.5	86.9	16.3	61.3	65.0	E.	224	139	17	11	E. by S.	9	30	0	0
28	29.904	59.54	24.1	75.4	30.3	86.5	16.9	62.4	67.4	SE.	194	121	20	12	SE.	9	55	0	0
29	29.906	59.60	24.4	75.9	30.5	86.9	16.5	61.7	69.7	W.	194	121	16	10	W.	10	00	0	0
Mean.	29.913	759.77	25.4	77.7	30.3	86.6	19.9	67.9	72.7		168.0	104.4	16.8	10.6		6	37		
Total.											4,873	3,928				191	40	1.007	27.1

Corrected for instrumental error and for temperature and reduced to sea level. Correction to standard gravity.—1.72 mm. (—0.068 inch).

BUREAU OF THE INSULAR TREASURER.

Banco Español-Filipino—Balance sheet for February, 1904.

Resources.		Liabilities.	
Property:		Capital stock, Philippine currency .....	P1,500,000.00
Furniture and fixtures, Philippine currency .....	P4,991.64	Reserve fund:	
Real estate .....	405,288.47	Legal, Philippine currency .....	P225,000.00
		Voluntary .....	665,000.00
			890,000.00
Securities:		Deposits:	
Notes and discounts—		Voluntary—	
Philippine currency .....	P491,405.14	Philippine currency .....	P2,655.00
Hispano-Filipino .....	29,600.00	Hispano-Filipino .....	8,550.00
Local currency .....	124,336.21	Mexican .....	2,000.00
	645,341.35	Local currency .....	90,702.93
Loans (papers acknowledged notary public), local		Necessary—	
currency .....	110,162.10	Philippine currency .....	260.00
Loans secured by mortgages—		Local currency .....	15,400.00
Philippine currency .....	P302,201.24		15,660.00
Local currency .....	53,804.02	Time—	
	356,005.26	Philippine currency .....	50,350.07
Loans secured by merchandise—		Hispano-Filipino .....	650.00
Philippine currency .....	79,047.96	Local currency .....	1,000,894.18
Hispano-Filipino .....	18,500.50		1,051,894.25
Local currency .....	14,000.00	Current account and accepted checks—	
	111,547.96	United States currency, \$89,437.31 .....	178,874.62
Loans secured by bonds and other public		Philippine currency .....	357,400.50
securities—		Hispano-Filipino .....	223,693.88
Philippines currency .....	35,000.00	Mexican .....	187,328.60
Local currency .....	51,700.00	Local currency .....	2,982,255.33
	86,700.00	Bank notes in circulation—	
Overdrafts and bills of exchange—		Philippine currency .....	6,755.00
Philippine currency .....	2,213,958.67	Local currency .....	1,820,467.50
Hispano-Filipino .....	844,607.63		1,827,242.50
Local currency .....	1,226,659.49	Sundry accounts	
	5,785,220.79	Dividends not paid:	
Bonds, stocks, and other securities, Philippine cur-		Overdue .....	8,942.10
rency .....	619,442.29	Current .....	6,720.00
	5,714,410.75		15,662.10
Cash on hand:		Profit and loss .....	11,628.48
United States currency, \$228,684.60 .....	457,369.20		8,646,622.60
Philippine currency .....	373,042.51	Deposits held for safe-keeping	
Hispano-Filipino .....	388,650.97	Bank notes in vault .....	298,306.11
Mexican .....	378,116.07		675,852.50
Local currency .....	903,922.28	Total liabilities .....	9,620,781.21
	2,501,080.98		
General expenses .....	20,841.76		
	8,646,622.60		
Deposits held for safe-keeping			
Bank notes withdrawn from circulation .....	298,306.11		
	675,852.50		
Total resources .....	9,620,781.21		

J. SERRANO, Accountant.

Correct:

EUGENIO DEL SAZ OROZCO, Director in Charge.

BUREAU OF CUSTOMS AND IMMIGRATION.

Grand customs receipts at all ports in the Philippine Islands, by months, half years, and calendar years, 1902 and 1903.

[Expressed in United States currency.]

Calendar year 1902.	Manila.	Iloilo.	Cebu.	Jolo.	Zamboanga.	Aparri.	Siasi.	Total by months.		
January .....	\$620,559.40	\$46,586.28	\$33,678.62	\$4,399.62	\$2,547.12		\$1,902.56	\$709,671.60		
February .....	567,673.44	41,346.38	37,969.07	5,125.36	3,021.11			775,126.48		
March .....	672,548.88	70,050.34	61,146.70	5,962.32	1,225.87			811,906.82		
April .....	505,866.05	37,508.39	46,044.96	9,225.37	3,646.87		1,322.85	604,315.09		
May .....	496,961.00	55,385.06	76,590.81	3,578.38	2,747.65		1,887.85	638,854.65		
June .....	635,499.54	61,878.46	90,661.30	6,394.36	7,898.17	\$814.11	1,296.29	804,437.23		
First half 1902 .....	3,598,808.43	312,768.91	368,080.46	35,886.01	21,081.79	814.11	7,372.96	4,344,312.07		
July .....	624,596.57	42,665.79	36,357.75	11,576.06	10,089.34	750.84		726,686.36		
August .....	577,673.44	69,021.63	49,080.20	4,491.58	4,781.60	450.16		695,490.41		
September .....	691,833.38	66,352.55	51,381.92	7,927.46	7,452.74	255.86		824,903.91		
October .....	559,023.83	38,581.08	60,145.86	5,278.25	7,101.86	406.53		604,315.09		
November .....	586,017.08	46,015.61	120,024.62	6,427.19	6,144.97	356.05		751,985.32		
December .....	682,516.08	52,197.11	73,454.45	10,389.34	9,103.77	121.20		777,781.95		
Second half 1902 .....	3,871,172.38	324,833.57	391,044.81	45,689.89	45,254.28	2,340.64		4,680,335.57		
Total 1902 .....	7,469,980.81	637,602.48	759,123.27	81,075.90	66,336.07	3,154.75	7,372.96	9,024,647.64		
Calendar year 1903.	Manila.	Iloilo.	Cebu.	Jolo.	Zamboanga.	Aparri.	Cape Melville.	Puerto Princesa.	Bongao.	Total by months.
January .....	\$697,061.79	\$58,427.81	\$40,691.79	\$6,612.88	\$3,112.32	\$1,054.97				\$806,961.56
February .....	510,478.40	63,270.20	42,335.72	3,745.90	3,993.89	546.45				624,370.56
March .....	607,990.72	59,276.83	74,621.43	3,227.55	3,078.38	404.26				748,609.17
April .....	637,726.90	56,059.86	51,542.75	2,678.02	3,241.08	592.23				751,841.44
May .....	509,885.82	71,985.61	143,451.41	8,797.75	3,321.15	608.85				828,950.59
June .....	527,009.20	68,832.36	85,798.18	3,504.58	3,395.22	1,052.06				689,591.60
First half 1903 .....	3,860,152.83	377,852.67	438,441.28	28,576.68	20,142.64	4,258.82				4,449,424.92

Great customs receipts at all ports in the Philippine Islands, by months, half years, and calendar years, 1902 and 1903—Continued.

Calendar year 1903.	Manila.	Iloilo.	Cebu.	Jolo.	Zambo- anga.	Aparrí.	Cape Mel- ville.	Puerto Princesa.	Hongao.	Total by months.
July	\$551,269.82	\$69,902.37	\$79,525.93	\$4,854.28	\$3,641.56	\$464.64	.....	.....	.....	\$693,638.60
August	510,228.32	75,160.73	85,759.20	6,841.37	7,274.32	543.64	.....	.....	.....	686,903.38
September	682,931.90	39,626.78	71,545.98	6,340.74	2,108.10	461.53	.....	.....	.....	802,015.03
October	580,789.07	42,242.22	45,494.53	3,322.51	4,135.05	122.40	\$10.08	\$19.90	.....	676,123.76
November	512,294.86	25,119.46	42,734.48	6,328.17	3,628.13	.....	12.68	42.25	\$55.25	591,203.28
December	526,006.21	49,033.82	55,001.69	5,623.12	3,385.98	.....	69.90	1,448.80	.....	642,569.32
Second half 1903.	3,363,505.18	302,085.38	360,051.81	37,310.79	26,278.14	1,592.41	92.66	1,510.95	55.25	4,092,477.57
Total 1903	6,943,658.01	679,938.05	798,493.09	65,887.47	46,415.78	5,861.23	92.66	1,510.95	55.25	8,541,902.49

The foregoing tables make a complete comparative showing of gross customs receipts at all entry ports in the Philippine Islands during the two calendar years ending December 31, 1903.

Comparative statement of imports by countries for January, 1903 and 1904.

[Value and duty expressed in United States currency.]

Countries.	1903.		1904.	
	Value.	Duty.	Value.	Duty.
Austria-Hungary	\$11,832	\$3,629	\$9,581	\$3,406
Belgium	27,166	9,471	19,599	4,517
Denmark	122,557	61	.....	.....
France	2,022,802	35,694	29,027	23,825
Germany	202,042	57,275	130,474	36,047
Italy	21,676	7,853	10,971	4,583
Netherlands	21,197	9,361	12,810	8,073
Russia	72,494	36,739	16,167	5,897
Spain	236,627	69,960	198,362	58,395
Sweden and Norway	55	33	.....	.....
Switzerland	38,533	9,928	48,186	11,463
England	494,242	186,222	342,262	83,249
Scotland	23,118	5,071	26,465	3,876
Ireland	3,036	484	722	169
Nova Scotia	14	5	.....	.....
Mexico	150,617	.....	1,348	742
United States	391,686	85,495	318,361	59,274
Quebec, Ontario, etc.	390,997	105,785	199,989	54,989
Brazil	5	.....	.....	.....
China	390,997	105,785	199,989	54,989
British China	238	70	.....	.....
East Indies:				
British	110,391	33,837	113,059	32,269
Dutch	10,997	4,397	596	192
French	87,794	12,864	287,638	42,341
Hongkong	260,723	13,757	315,162	10,612
Japan	59,040	22,128	55,941	23,742
Siam	78,551	10,464	71,861	9,232
Australasia	93,953	7,402	25,194	1,146
Egypt	129	102	8	4
Total imports	2,911,586	678,310	2,308,976	478,054

Comparative statement of exports by countries for January, 1903 and 1904.

[Value and duty expressed in United States currency.]

Countries.	1903.		1904.	
	Value.	Duty.	Value.	Duty.
Belgium	\$18,355	\$2,474	\$13,583	\$819
France	164,315	6,190	8,633	181
Germany	114,143	2,522	3,102	29
Italy	50,094	7,312	100,367	8,381
England	571,179	32,619	544,103	25,175
United States	1,063,238	56,550	549,394	24,585
China	.....	.....	575	.....
East Indies, British	46,131	884	69,257	1,358
Hongkong	448,271	2,298	367,662	6,642
Japan	78,551	846	35,321	981
Australasia	24,128	1,155	20,150	897
All other countries	40,091	1,057	8,321	183
Total exports	2,557,528	113,907	1,805,988	69,804

Abstract of vessels licensed in Philippine Islands to December 31, 1903, showing gross and net tonnage.

[Vessels under 15 tons holding special licenses under provisions of section 141, Customs Administrative Act, not included.]

Class of vessels.	Number.	Tonnage.	
		Gross.	Net.
Steamers	126	49,770.52	30,535.33
Steam launches	146	5,472.14	3,088.00
Sailing vessels	2,824	43,096.83	41,692.37
Cascoes	484	15,847.61	15,847.61
Lighters and lorchas	266	21,225.72	20,595.46
Barges	82	2,566.39	2,501.99
Bancas	107	1,808.49	1,803.49
Lighterage and harbor	232	13,196.11	12,504.65
Total tonnage	4,217	152,978.81	128,816.90

1 Not previously holding first or second class license or certificate of protection.

About 8,000 small craft are licensed for local traffic under the provisions of section 141; aggregate tonnage, about 12,000 tons.

Up to December 31, 1903, twenty special coastwise licenses in all had been issued to foreign vessels to engage in coastwise trade under Act No. 520 of the Philippine Commission, but on January 1, 1904, only 14 of these licenses were in force. They represent an aggregate tonnage of only 2,112.41 tons, and it will be seen that the licensing of these vessels would not have any appreciable effect upon the coastwise trade in general.

All vessels except those on the last list hold certificates of protection and have held first or second class licenses.

Official numbers are now being assigned to all vessels of over 5 tons capacity, including vessels of over 5 tons holding special licenses under the provisions of section 141, Customs Administrative Act.

H. B. McCoy.

Acting Collector of Customs for the Philippine Islands.

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# Official Gazette

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Vol. II

MANILA, P. I., APRIL 13, 1904.

No. 15

## PUBLIC LAWS.

[No. 1092.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF NUEVA ECUIJA FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL JULY THIRTY-FIRST OF SAID YEAR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Nueva Ecija is hereby extended to July thirty-first, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 22, 1904.

[No. 1093.]

AN ACT AUTHORIZING THE PROVINCIAL BOARD OF THE PROVINCE OF MISAMIS TO MAKE CERTAIN CORRECTIONS IN THE LISTS OF ASSESSMENT OF LAND FOR THE PURPOSE OF TAXATION IN THE MUNICIPALITIES OF MISAMIS AND OROQUIETA IN SAID PROVINCE.

Whereas it has been made to appear that by mistake the lists of assessment of land for the purpose of taxation in the municipality of Misamis, in the Province of Misamis, as made by the board of tax revision, were entered as gold values, although the valuations had been made in Mexican money, so that the valuations are practically twice as large as intended by the board of tax revision, and it further appearing that there are numerous erroneous assessments in the municipality of Oroquieta in said province: Therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The provincial board of the Province of Misamis is hereby authorized to correct all such valuations on the assessment lists of the municipalities of Misamis and Oroquieta and to state the valuations in money of the United States in each case where it is made clear that the valuation now stated upon the assessment lists is stated upon a basis of local currency instead of money of the United States, and also to correct any and all erroneous assessments in said municipalities. For the purpose of this Act the reduction shall in all cases be made upon a basis of two dollars of local currency for one dollar of

money of the United States. The assessment lists when so corrected shall be as lawful and valid for all purposes as though the correction herein provided had been made by the board of tax revision at the proper time.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, March 22, 1904.

[No. 1094.]

AN ACT APPROPRIATING THE SUM OF SIXTY THOUSAND PESOS, PHILIPPINE CURRENCY, OR SO MUCH THEREOF AS MAY BE NECESSARY, FOR COMMENCEMENT OF THE IMPROVEMENT OF THE RIVER FRONT ON, AND CONSTRUCTION OF A RIVER WALL ALONG, THE PASIG RIVER, AUTHORIZED BY ACT NUMBERED SIX HUNDRED AND SIXTY-NINE, AND PROVIDING FOR THE EMPLOYMENT OF THE NECESSARY ENGINEERS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of sixty thousand pesos, Philippine currency, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury of the Philippine Islands not otherwise appropriated, for the purpose of commencing and prosecuting the work of improving the river front on the south side of the Pasig River by the tearing down of a part of the city wall of Manila and the erection of a river wall, and reclaiming the land behind the same, authorized by Act Numbered Six hundred and sixty-nine.

Sec. 2. For the proper inspection and supervision of the work provided for by Act Numbered Six hundred and sixty-nine, the City Engineer of Manila is hereby authorized to employ, by and with the consent of the Consulting Engineer to the Commission, the following assistants, to wit: One engineer in charge, at one thousand eight hundred dollars per annum; one assistant engineer and chief inspector, at one thousand two hundred dollars per annum; one assistant inspector, at one thousand dollars per annum, and one rodman, at nine hundred dollars per annum, the salaries authorized herein to be paid from the funds appropriated by section one of this Act: *Provided*, That the employment of such assistants shall not necessarily be subject to the rules and regulations of the Civil Service Act and its amendments: *And provided further*, That if any of such assistants are selected from the permanent personnel of the Bureau of Engineering they shall not lose their status in the classified civil service by virtue of such temporary transfer.

Sec. 3. The work, appropriation for which is made by section one of this Act, shall be conducted under the regulations, limita-

tions, and restrictions which are prescribed by Act Numbered Six hundred and sixty-nine.

SEC. 4. The provisions of the first paragraph of section three of Act Numbered Eight hundred and seven, providing the manner in which withdrawals of moneys appropriated in said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated by this Act.

SEC. 5. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 6. This Act shall take effect on its passage.

Enacted, March 22, 1904.

[No. 1095.]

AN ACT SO AMENDING ACT NUMBERED EIGHT HUNDRED AND SEVENTY-FIVE AS TO PERMIT THE FREE ENTRY OF ORDNANCE AND ORDNANCE STORES IMPORTED BY THE INSULAR GOVERNMENT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section two of Act Numbered Eight hundred and seventy-five, entitled "An Act providing for the collection of duties on goods, wares, and merchandise imported into the Islands for use of the insular, provincial, or municipal governments," is hereby amended by adding at the end thereof the following words:

"And further provided, That this Act shall not affect the free entry of ordnance and ordnance stores that have been or shall be purchased by the Government."

SEC. 2. This Act shall be retroactive so far as to apply to all existing contracts for the purchase of ordnance and ordnance stores and to all ordnance and ordnance stores which have not been paid for by the Philippines (constabulary).

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, March 29, 1904.

[No. 1096.]

AN ACT AMENDING ACT NUMBERED TWENTY-FIVE, ENTITLED "AN ACT PROVIDING FOR THE APPOINTMENT AND REMOVAL OF SUBORDINATE OFFICERS AND EMPLOYEES IN CERTAIN DEPARTMENTS AND BUREAUS OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS," AS AMENDED.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. In lieu of section two of Act Numbered Twenty-five which was repealed by Act Numbered Five hundred and eighty-eight, the following is substituted:

"SEC. 2. For neglect of duty or violation of reasonable office regulations, or in the interests of the public service, heads of Bureaus or Offices are hereby authorized to reduce the salary or compensation of any subordinate officer or employee, to deduct from his pay a sum not exceeding one month's pay, or to suspend him without pay for a period not exceeding two months: *Provided, however,* That such deduction from pay or such suspension without pay shall receive the approval of the Civil Governor

or the proper head of an Executive Department, after having been submitted to the Civil Service Board for recommendation: *And provided further,* That any reduction in salary or deduction of pay or any suspension without pay as provided for in this section shall not affect the right of the person thus disciplined to accrued leave of absence, but in the event of his suspension from duty no accrued leave of absence shall be allowed for the time he is thus suspended."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, March 30, 1904.

[No. 1097.]

AN ACT RELATING TO THE PAYMENT OF THE PREMIUM CHARGES UPON THE BONDS OF BONDED INSULAR, PROVINCIAL, AND MUNICIPAL OFFICERS AND EMPLOYEES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Whenever the Insular Government shall enter into a contract with a fidelity company or companies for furnishing fidelity bonds for officers and employees of the insular, provincial, municipal, and city governments, who are required by law to give bond, at a specific rate for a specified time, the Insular Treasurer shall pay to such fidelity company or companies, or to their lawful representatives, the gross amount of the premium charged on all fidelity bonds executed by them on behalf of such governments under such contract, and shall collect from each officer or employee so bonded that portion of the premium charges on his bond as shall be determined by the Commission, and he shall collect from the provincial, municipal, or city government under which the officer is serving the balance of the premium which shall have been paid to the fidelity company or companies by the Insular Government. All collections on this account shall be deposited by the Insular Treasurer to the credit of the appropriation from which the original payment was made.

SEC. 2. All official bonds obtained under the provisions of a contract between the Insular Government and a fidelity company or companies shall be made payable to the Government of the Philippine Islands for the benefit of whom it may concern, and shall be procured through and filed in the office of the Insular Treasurer, except the bond of the Insular Treasurer, which shall be filed in the office of the Insular Auditor.

SEC. 3. Applications for provincial and municipal bonds shall be forwarded through the provincial treasurers, who shall pay to the Insular Treasurer the premium thereon chargeable to the province or municipality, and the amounts so paid shall be a proper charge against the revenues of the respective province or municipality. A municipal official, serving as such only, required to give bond, may secure the same from the Government's official surety company through the Insular Treasurer, and in such cases the provisions of section eight of Act Numbered One hundred and eighty-three, providing for approval, and of section seventeen of Act Numbered Eighty-two, providing for approval and filing of the bonds, shall not be applicable.

When an official is acting in the dual capacity of deputy provincial treasurer and municipal treasurer he shall be required to secure bond in such dual capacity from the Government's official surety company through the Insular Treasurer, and in such cases the provisions of section seventeen of Act Numbered Eighty-two shall not be applicable: the provincial board shall fix the amount



of such bond upon recommendation of the provincial treasurer, and the latter shall determine the portion of premium chargeable to the province and to the municipality: *Provided*, That not more than fifty per centum or less than forty per centum of the amount shall be chargeable to the municipality.

Sec. 4. An official or employee who shall furnish surety as provided in this Act shall reimburse the Insular Government that portion of the amount of premium paid by the Insular Government as determined by the Commission, within fifteen days after the receipt by him of a statement from the Insular Treasurer of the amount due; and the Insular Treasurer shall forward a statement of indebtedness, in any case where payment is delayed, to the proper officer making payment of salary, who is hereby authorized and directed to retain from the salary of said official or employee the amount of indebtedness and to pay said amount to the Insular Treasurer.

Sec. 5. When a bonded position is created and appointment made thereto, or a bond required in a position heretofore existing, or appointment made of a successor to a bonded official or employee discharged or otherwise relieved, the chief of the Bureau or Office to which the position pertains shall at once forward to the Treasurer of the Philippine Islands a statement setting forth the designation of the position; the amount of bond required of the incumbent as fixed by competent authority, or, if not previously so fixed, the amount of bond recommended, stating the financial or property responsibility pertaining to the position and the maximum amount of funds and value of property likely to be in the hands of the incumbent at any time; the salary attached thereto; the name of the appointee and the date of his assuming accountability for funds or property; the date of relief from further accountability of the predecessor in the position, if any; and such further information in the premises as may be required by the Insular Treasurer. Upon receipt of the report above required, the Treasurer shall promptly advise the surety company of bond desired and date of termination of liability on bond of official relieved, if any, and shall advise the chief of the Bureau or Office in interest of action taken, and through such chief shall furnish the appointee with the required blank form of application for fidelity bond, to be completed by him and promptly returned to the Treasurer for submission to the surety company. Unless, and until notified to the contrary, the obligation of the surety as originally requested shall be in full force and effect from the date requested.

Sec. 6. Whenever a bonded official or employee is discharged or otherwise relieved and a successor not immediately appointed, the chief of the Bureau or Office in which the change has occurred shall at once advise the Treasurer of the Philippine Islands of such change, giving at the same time, or as soon thereafter as possible, the exact date when the official or employee in question was relieved from further accountability in the position: *Provided*, That the secretary of the municipal board, in so far as the city is concerned, and the provincial treasurer, in so far as the provinces and municipalities are concerned, shall perform the duties prescribed for the chief of the Bureau or Office in this Act.

Sec. 7. All Acts and parts of Acts in conflict with any of the provisions of this Act are hereby repealed.

Sec. 8. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 9. This Act shall take effect upon its passage and shall pertain to all official bonds procured under the provisions of a contract between the Insular Government and the fidelity companies for the calendar year nineteen hundred and four and thereafter.

Enacted, March 30, 1904.

**RESOLUTION OF THE PHILIPPINE COMMISSION.**

[Extract from minutes of proceedings, April 4, 1904.]

*Resolved*, That in view of the additional labor imposed upon the Local Purchasing Agent by the duties involved in the oversight of the importations of carabaos by the Insular Government, the Civil Governor be, and is hereby, authorized to make an allowance to the Local Purchasing Agent, at the rate of two hundred and fifty dollars per annum, from the sum of five hundred thousand dollars appropriated by Act Numbered Ten hundred and forty-six out of the Congressional relief fund and made available for expenditure by the Civil Governor upon authorization of the Commission, said allowance to date from January first, nineteen hundred and four, and to continue as long as the importation of carabaos by the Insular Government shall continue under the present contract.

**EXECUTIVE ORDER.**

**THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.**

MANILA, March 30, 1904.

EXECUTIVE ORDER }  
No. 14.

Major C. McD. Townsend, United States Army, chief engineer officer, Philippine Division; Mr. Desmond Fitzgerald; and Mr. J. W. Beardsley, Consulting Engineer to the Commission, are hereby appointed a committee to examine the bulkhead or retaining wall behind which are being pumped the excavations from the bottom of the port works and determine the extent to which it has given way, the causes therefor, and what additional reinforcement is required to make the same sufficient to withstand the pressure which may be brought against it and to make it substantial and permanent, together with the probable cost of such addition.

The committee will also examine and make report as to the character and kind of wharf best adapted to the situation and needs of the port of Manila, and give an estimate of the probable cost of same.

They will make report to the Civil Governor of their conclusions as soon as practicable.

LUKE E. WRIGHT,  
Civil Governor.

**DECISIONS OF THE SUPREME COURT.**

[No. 1693. February 5, 1904.]

FRANCISCO GARCIA, petitioner, vs. JOHN C. SWEENEY, judge of the Court of First Instance of Manila, respondent.

Per JOHNSON and McDONOUGH, JJ., dissenting:

1. PLEADING AND PRACTICE; MANDAMUS; ORDER TO SHOW CAUSE.—The practice adopted by the Supreme Court of allowing the clerk, upon the presentation of a petition for a writ of mandamus, to issue an order to show cause without presenting the petition to the court or one of the members thereof, is erroneous.
2. *IN RE*; *ID.*—Mandamus is not a writ of right, and before the issue of an order to show cause, imposing upon the respondent the burden of appearing to contest the application, the petition should be examined by the court or one of its members for the purpose of determining the sufficiency, *prima facie*, of the facts alleged as the ground for asking for such relief.

ORIGINAL PETITION for a writ of mandamus.

The facts are stated in the dissenting opinion.

CHICOTE, MIRANDA & SIERRA, for petitioner.  
Mr. JOHN C. SWEENEY, respondent.

The Supreme Court, having heretofore adopted the practice of allowing its clerk to issue an order to show cause in every ap-

petition for mandamus, without first presenting the same to the court or to some member thereof, and Justices McDonough and Johnson, being informed of such practice in the above-entitled case, opposed said practice in the following opinion:

JOHNSON and McDONOUGH, JJ., dissenting:

This was a petition asking "that the Supreme Court issue a writ of mandamus, in such form as may be deemed expedient, directed to the Hon. John C. Sweeney, judge of the Court of First Instance of Manila, commanding that, after the bond heretofore offered shall have been filed, he, as judge of Part III of said court, shall remit to this court the cause referred to on appeal, in order that the court may pass upon petitioner's right to appeal, the bond required by law having been duly filed, and that this court may render final judgment in the matter of the appointment of a tutor for Don Francisco Martinez."

Mandamus has always been regarded as an extraordinary legal remedy granted by courts of appellate jurisdiction directed to some corporation, officer, or inferior court, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed or from operation of some law. It has never been the practice of any court under any sovereignty to grant this extraordinary writ of mandamus if "there is another plain, speedy, and adequate remedy in the ordinary courts of law."

It is now the practice in this court, when an application is made for the writ of mandamus, for the clerk of the court to issue an order to show cause, directed to the respondent, without submitting the application therefor to the court in the first instance. In other words, an applicant may file his petition asking for the writ of mandamus with the clerk of the court, and the clerk thereupon may issue an order to show cause why the writ of mandamus should not issue, direct the same to the respondent, and compel him to incur all of the annoyance and loss of time in preparing a demurrer or an answer why the writ of mandamus should not be issued, without having the application therefor passed upon by the court or by some member thereof. This practice, in our judgment, is wrong. The writ of mandamus is not a writ of right. In our judgment it is not intended by statutes in force in these Islands to make it a writ of right. It is an extraordinary remedy, and should be granted only in extraordinary cases, and then only when the parties are without other plain, speedy, and adequate remedy in the ordinary courts of law. A writ of right is a writ to which the parties are entitled upon filing a petition, which then issues as a matter of course upon the mere application (oral or written) therefor. An ordinary summons is a writ of right. In other words, by filing the petition in an ordinary civil action in the Courts of First Instance of these Islands, the party filing the same is entitled to a summons directing the other party to appear and demur or answer within a definite period. Any person filing the ordinary petition is entitled to this writ as of right. But the extraordinary writ of mandamus is a very different procedure. It is extraordinary in its nature, and unless the law specifically provides that the clerk may issue a notice to show cause why it should not issue, the clerk ought not to be vested with such authority. Nothing in the Code of Procedure in Civil Actions in these Islands justifies such a procedure. This remedy, being an extraordinary remedy, the law, during the entire history of the same, has required that extraordinary facts should be shown before the machinery of the court shall be put into operation in order to comply with the requests contained in the application therefor. Among other things the applicant must specifically show that unless he is granted this extraordinary remedy of mandamus he is without remedy, and the statutes in force here now provide specifically that the writ shall only issue when there is "no other plain, speedy, and adequate remedy." The clerk has no authority to examine a petition or application therefor and to determine whether or not a party is without other plain, speedy, and

adequate remedy, or whether the petition upon its face presents a *prima facie* case justifying the applicant in annoying the respondent to the extent of coming into court and showing why he should not be subjected to the precisions of this extraordinary writ.

Not only has the clerk no authority by virtue of the statutes in force here to issue this order to show cause but, moreover, the Courts of First Instance of the Archipelago have their own numerous duties to perform, and should not be annoyed by the necessity of coming into this court and showing why a writ of mandamus should not be issued, when perhaps the application therefor shows no ground whatever justifying this court finally to issue the writ. In the application in the above said cause for the writ of mandamus there is not a single allegation showing to this court that the said applicant is without other "plain, speedy, and adequate remedy." This is a prerequisite allegation in the application for mandamus. This court should not be called upon to examine the law and the procedure for the purpose of ascertaining whether or not the party has other plain, speedy, and adequate remedy. These facts must be clearly set out and supported by affidavits. The writ is never awarded where the party has a plain, speedy, and adequate remedy by an ordinary action at law. It may be that the person has neglected his remedy and has placed himself in a position where the use of the usual and ordinary remedy is no longer available. This fact may be disclosed by the petition or application. This fact is sufficient to defeat his right to this extraordinary remedy.

It is the duty of the court, and not the clerk, to examine the application for the purpose of ascertaining whether or not the party is entitled, *prima facie*, to this extraordinary remedy. The applicant must show that he is possessed of a legal right to have some legal duty performed by the respondent, and that he has no other legal, specific remedy except by mandamus. The applicant is not entitled, as a matter of right, to the remedy by mandamus or even to an order to the respondents to show cause why the same should not issue. The granting or withholding of the writ of mandamus is always a discretionary right on the part of the court. Mandamus lies only to compel the performance of duties purely ministerial in their nature. So far as the petition discloses, the applicant in this cause is not without other plain, speedy, and adequate remedy. The petition contains no allegations whatever upon that question. We are opposed to the practice inaugurated by this court in allowing the clerk to issue an order to show cause in an application for mandamus without first presenting the application therefor to this court or to some judge thereof. It is a loose and dangerous practice, which submits respondents to much unnecessary annoyance and the expenditure of much time and labor.

We are informed that the court adopted the rule of allowing a summons to issue as in ordinary civil actions, upon an application for mandamus, upon that part of section 222 of the Code of Procedure in Civil Actions which reads as follows: "and the court, on trial, finds the allegations of the complaint to be true." The court held that the phrase "on trial" meant that there should be a trial in the Supreme Court, and that therefore the application for mandamus was the commencement of an ordinary civil action and should take the course of ordinary civil actions. The court, however, in certiorari and prohibition proceedings has adopted the practice of issuing an order to show cause, thereby treating certiorari proceedings as extraordinary proceedings— not allowing the writ to issue until after the court had examined the sufficiency of the application.

Upon an examination of section 217 of the Code of Procedure in Civil Actions, we find exactly the same language with reference to the issuance of process that is found in subsection 222. The language is as follows: "and the court, on trial, finds the allegations of the complaint to be true."

It will be seen, therefore, that the legislature used the same

language in each of these statutes. Not only that but in section 226, relating to the remedy of prohibition, we find the same language, which is as follows: "and the court, on trial, shall find that the allegations of the complaint are true."

Why the court should have adopted a different practice under the above-quoted provisions of these various sections, is more than we can understand. Why they should have treated mandamus as an ordinary remedy, which has never been so regarded by any court, and treat certiorari and prohibition as extraordinary remedies, which have seldom been so regarded, when the language of the statutes is the same, does seem to us at least novel.

[No. 1092. February 18, 1904.]

*LUIS QUERIDO, plaintiff and appellee, vs. RAMON FLORENDO ET AL., defendants and appellants.*

**PLEADING AND PRACTICE: SPECIAL PROCEEDINGS; ALLOWANCE OF WILLS; APPEALS.**—When an appeal is taken from an order allowing a will it is the duty of the clerk of the trial court to transmit to the clerk of the Supreme Court a certified copy of all the evidence taken at the trial and of the decision of the court, together with the original will, in case any question of the handwriting is involved in the controversy.

**APPEAL** from a judgment of the Court of First Instance of Ilocos Sur.

The facts are stated in the opinion of the court.

FRANCISCO ORTIGAS, for appellants.  
GREGORIO PINEDA, for appellee.

ARELLANO, C. J.:

It is very evident that this case is a special proceeding upon the allowance of the will of the late Doña Leona Ochoa de la instance of Don Luis Querido. The decision was that the will presented on August 20, 1901 (Exhibit A), is the last will of the said Doña Leona Ochoa, and "that all the wills executed by Doña Leona Ochoa are rescinded by virtue of the will marked 'Exhibit A.'" Ramon Florendo and Prudencio Espiritu, who appeared in this special proceeding to oppose the allowance of the will, as "executors under bond of the will of Doña Leona Ochoa de la Cruz y Dominga, already allowed prior to this allowance," excepted to the said decision and presented a bill of exceptions which was printed for the purpose of the trial of the case in this court.

The bill only contains the will, its translation, and the testimony of Doroteo Alviar, Ramon Querubin, Monico Prudencio, and Francisco Josie, the latter three only being attesting witnesses.

With this, the judgment, the decision of the court, the bond, and the exception of the opposing parties, Florendo and Espiritu, it is impossible for this court to form an exact opinion upon the decision appealed, and this is due to the fact that instead of a bill of exceptions the proper proceeding was an appeal in accordance with article 781 of the Code of Civil Procedure, which provides that upon the filing of notice of appeal and a bond the clerk shall immediately transmit to the Supreme Court a certified copy of all the evidence taken at the hearing and the judgment of the court, and also the original of the will, in case there is any controversy concerning the identity of the writing. If these formalities had been complied with we should have had before us the testimony of the other two attesting witnesses, as well as the original will, for the purpose of determining the questions raised, among others that as to whether the attesting witnesses did or did not certify to their acquaintance with the testatrix.

The clerk is therefore ordered to comply with article 781 of the Code of Civil Procedure and to transmit a certified copy of all the evidence taken at the hearing and of the judgment of

the court, as well as the original will, a certified copy of which will be kept among his records.

Torres, Cooper, Willard, and Mapa, J.J., concur.  
McDonough, J., reserved his vote.  
Johnson, J., did not sit in this case.  
*Completion of record ordered.*

[No. 1705. February 23, 1904.]

*TOMAS BLANCO, petitioner, vs. BYRON S. AMBLER, judge of the Court of First Instance of Manila, respondent.*

- 1. PLEADING AND PRACTICE: COMPLAINT; CERTIORARI.**—The petition by a judgment creditor for a writ of certiorari to set aside a void appointment of receiver of the property of the judgment debtor by which he is prevented from executing his judgment is not defective in failing to allege whether the receiver was appointed before or after the petitioner commenced his action.
- 2. ID.; MANDAMUS; PROHIBITION; CERTIORARI; ORDER TO SHOW CAUSE.**—Cases of mandamus and prohibition take the form of an ordinary action, but upon an application for a writ of certiorari the practice is to issue an order to show cause.

**ORIGINAL PETITION** for a writ of certiorari. Demurrer to the petition.

The facts are stated in the opinion of the court.

J. M. ROSADO and F. C. FISHER, for petitioner.  
MOORE & HIXSON, for respondent.

WILLARD, J.:

This is an original action of certiorari in this court, brought under the provisions of sections 514 and 217 *et seq.* of the Code of Civil Procedure. Upon the filing of the complaint a temporary injunction was issued on January 12, 1904, under the provisions of section 517. On January 13 this court made an order that the defendant appear within seven days and show cause why a writ of certiorari should not be granted. The defendant appeared and showed cause by means only of a demurrer to the complaint.

The matter sought to be reviewed in this case is the order of the defendant appointing a receiver of the property of Tan Tongco in the case of *Sergia Reyes vs. Tan Tongco*.

In the case of *Bonaplata vs. Ambler* (1 Off. Gaz., 607), which involved the same order, this court held that the defendant had no power to appoint the receiver, and that in making such appointment he was acting in excess of his jurisdiction. It necessarily followed that the order was void. The only thing left undecided in that case was the effect of this void order upon those creditors who had assented to it.

The rights of the plaintiff would be the same whether the order appointing the receiver were made before or after the plaintiff commenced his action: it was therefore not necessary to allege in the complaint when it was commenced.

The defendant's demurrer was based (1) upon a misjoinder of parties; (2) upon the ground that the complaint did not state facts sufficient to constitute a cause of action for five specified reasons, and (3) because the complaint was vague and unintelligible. What has been said covers the five reasons specified under the second ground. The plaintiff, admitting that the demurrer was well taken on the first ground, has asked leave to present, and the defendant has agreed that he may present, an amended complaint in which the defendant McMicking is eliminated as a defendant.

The third ground, that the complaint is unintelligible, is not well taken.

The court has adopted a different practice in cases of certiorari from that adopted in cases of mandate and prohibition. The latter take the form of an ordinary action. In the former an order to show cause is issued and upon its return, if no sufficient cause is shown, the order provided for by section 217 is issued.

In the present case we hold that the cause shown is insufficient and the order provided for in the last-named section must issue.

It is therefore ordered that the proposed amended complaint filed on the 8th day of February, 1904, stand as the complaint in this action, that the defendant, Byron S. Ambler, as judge of the Court of First Instance of Manila, cause to be certified to this court within ten days from this date a transcript of the record and proceedings which in any way relate to the appointment or action of the receiver had or taken in the case of *Sergia Reyes vs. Tan Tongco*, No. 1451, in the Court of First Instance of Manila, that the same may be reviewed by this court, and in the meantime to desist from any further proceedings in the matter to be reviewed until the further order of this court.

*Arellano C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.*

*Petition granted.*

[Docket No. 1927.]

UNITED STATES vs. FELICIANO DE LOS REYES ET AL.

WILLARD, J.:

The testimony shows that each one of the fourteen appellants belonged to the band described in the complaint.

That this band was such a band as is described in section 1 of Act 518 is shown, in addition to other evidence, by the testimony of the witnesses Juan Zorrilla (pp. 51, 54), Miguel Pascual (p. 65), Enrique Pasion (pp. 80, 81, 82, 84), Gervasio Jimenez (pp. 97, 98), Sixto de la Cruz (pp. 118, 119, 120), and Francisco Callao (p. 149).

The judgment of the court below is affirmed with the costs of this instance against the appellants.

*Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.*

*Judgment affirmed.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### TARIFF DECISION CIRCULARS.

No. 396.—*Indelible marking ink dutiable as "other colors" and not as "writing or drawing inks."*

MANILA, March 24, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2639, filed November 14, 1903, by Mr. Enrique Spitz, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 9119, Voucher No. 16168, paid November 13, 1903.

"The claim in this case is against the classification of certain indelible writing ink under paragraph 85 of the Tariff Revision Law of 1901 at \$0.15 per kilo as 'other artificial colors' instead of under paragraph 87 (b), at \$4 per 100 kilos as 'writing' or 'drawing' ink, as entered.

"The merchandise in question consists of small bottles of an indelible marking ink, and is used for marking linen, etc. The bottles were packed in small pasteboard boxes, and with each bottle is a cheap pen and wooden holder. The article is invoiced and described as 'indelible ink for marking linen.'

"Paragraph 85 provides as follows:

"Other artificial colors in powder, crystals, lumps, or paste, including lithographic inks and charcoal pencils for drawing.'

"Indelible marking ink contains none of the ingredients of writing or drawing inks, and though the name is similar the

use is quite different. Such ink must therefore be dutiable under paragraph 85 as an 'artificial color' or under paragraph 97 as a chemical product not specially mentioned. Of these two possible classifications, the former is the more specific.

"Protest No. 2639, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy.

Acting Collector of Customs for the Philippine Islands.

No. 397.—*Teak timber for shipbuilding an ordinary wood and not a "fine wood for cabinetmakers."*

MANILA, March 24, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2727, filed December 21, 1903, by Cho Chung Long, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A 11182, Voucher No. 20199, paid December 18, 1903.

"The claim in this case is against the classification of certain teak timbers under paragraph 193 (a) of the Tariff Revision Law of 1901 at \$0.50 per 100 kilos, gross weight, as fine wood for cabinetmakers, instead of under paragraph 192 (a) at \$0.25 per cubic meter, as ordinary wood in timber for shipbuilding.

"The respective paragraphs provide as follows:

"192. Ordinary wood: (a) in boards, deals, rafters, beams, round wood, and timber for shipbuilding.'

"193. Fine wood for cabinetmakers: (a) in boards, deals, trunks, or logs.'

"In Tariff Decision Circular No. 131, promulgating a list of woods to be considered as 'fine' and 'common' in the assessment of duty, teak was enumerated as a 'fine' wood. Teak is susceptible of two quite different uses. Its fine grain makes it very desirable where carving or other fine cabinet work is to be done, while at the same time its great durability makes it an ideal timber for shipbuilding. Its use in the latter capacity is now very common and it is therefore properly to be considered an 'ordinary wood for shipbuilding' when imported in a form suitable for and intended for use in shipbuilding, as in the present case.

"The wood is thus described by the Chief of the Forestry Bureau:

"Teak is used both in construction and in cabinet work. It is used as a cabinet wood where carving is desired. In the market this wood is considered as a construction wood, and while used occasionally for cabinet work, it should not be considered as 'fine wood' in the sense usually given that term. It is certainly a fine construction wood, and, like the molave of the Philippine Islands, considered among the finest woods in the world for construction purposes.'

"Protest No. 2727, on the grounds mentioned above, is therefore sustained and a refund ordered the importer in the sum of \$97.55, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy.

Acting Collector of Customs for the Philippine Islands.

No. 398.—*Globe valves separately imported not machinery.*

MANILA, March 29, 1904.

To all Collectors of Customs:

It is hereby ruled that globe valves shall be classified according to their component material of chief value, and not as machines.

or parts of machines, unless imported with or for a particular engine or machine, so as to form a part actually or potentially of such engine or machine, in which case they should be classified as parts of machinery.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

CHINESE AND IMMIGRATION CIRCULARS.

No. 156.—*Publishing Act No. 1084 of the Philippine Commission, amending section 15 of Act No. 702, section 1 of Act No. 989, and section 1 of Act No. 1045 by extending the time for completing the registration of Chinese in the Philippine Islands.*

MANILA, March 14, 1904.

To all Collectors of Customs, provincial treasurers, and others concerned:

PARAGRAPH I. The following is hereby published for the information and guidance of all concerned:

"[No. 1084.]

"AN ACT AMENDING SECTION FIFTEEN OF ACT NUMBERED SEVEN HUNDRED AND TWO, SECTION ONE OF ACT NUMBERED NINE HUNDRED AND EIGHTY-NINE, AND SECTION ONE OF ACT NUMBERED TEN HUNDRED AND THIRTY-FIVE, BY EXTENDING THE TIME FOR COMPLETING THE REGISTRATION OF CHINESE IN THE PHILIPPINE ISLANDS.

"Whereas it was impossible to complete the registration of all Chinese persons in the Philippine Islands within the ten months ending February twenty-ninth, nineteen hundred and four, as provided in Acts Numbered Seven hundred and two, Nine hundred and eighty-nine, and Ten hundred and thirty-five: Therefore,

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. The time for such registration is, pursuant to authority granted by section four of the Act of Congress approved April twenty-ninth, nineteen hundred and two, hereby extended for a period of two months, to date from February twenty-ninth, nineteen hundred and four.

"SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

"SEC. 3. This Act shall take effect on its passage.

"Enacted, March 10, 1904."

PAR. II. Philippine customs officers and all registrars and deputy registrars of Chinese shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 157.—*Regulations governing the issuance of duplicate original certificates of residence to take the place of certificates lost or destroyed.*

MANILA, March 23, 1904.

To all Collectors of Customs, provincial treasurers, and others concerned:

The following is hereby published for the information and guidance of all concerned:

"SIR: Your letter of the 23d instant in reference to the issuance of duplicate original certificate of residence has been re-

ceived. In reply thereto I have to inform you that section four of Act No. 702 of the Philippine Commission provides for the issuance of duplicate certificate of residence to take the place of original certificates lost or destroyed, under such regulations as may be prescribed by the Insular Collector of Customs, and upon the payment of double the fee exacted for the original certificate.

"Regulations covering the issuance of such certificates are prescribed in Paragraph XVII of Chinese and Immigration Circular No. 85.

"You are requested to forward the necessary affidavits and two photographs, together with the fee of \$1, United States currency, to this office, retaining a copy of the affidavits and one photograph to attach to the duplicate certificate now on file in your office. Upon receipt of same, the affidavits being deemed sufficient, a duplicate of the original certificate will be issued by this office. Affidavits should be obtained in duplicate in order to complete the record in the offices of both the registrar and the Insular Collector of Customs. Respectfully, (signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 286.—*Gifts or souvenirs sent by mail to the United States.*

MANILA, February 24, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following cablegram from the Chief of the Bureau of Insular Affairs, Washington, D. C., to the Civil Governor, quoting executive order issued by the President February 17, 1904, in regard to gifts or souvenirs sent by mail to the United States, is hereby published for the information and guidance of all concerned:

"WASHINGTON, February 18, 1904.

"WRIGHT, Manila:

"The following executive order was issued by the President February 17:

"It appearing that the conditions no longer exist which prompted the issuance of executive orders of November 4, 1899, and November 3, 1900, subjecting to the domestic postal regulations of the United States only gifts or souvenirs forwarded through the mails by officers, soldiers, sailors, and civil employes serving in Porto Rico, Cuba, Guam, the Philippine Islands, and China, to members of their families in the United States, and vice versa, the said orders are hereby revoked."

"EDWARDS."

PAR. II. The above order revokes that published in Tariff Decision Circular No. 137 of this office.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 69.—*Fixing regular office hours for the Manila custom-house and extra hours of labor for the importation, exportation, and navigation division, inspectors' division, passenger and baggage division, and immigration division during the heated term from April 1 to June 15.*

MANILA, March 29, 1904.

PARAGRAPH I. Pursuant to the provisions of Act No. 1040 of the Philippine Commission and Executive Order No. 3, dated

January 13, 1904, the hours of labor for the Manila custom-house during the heated term from April 1 to June 15 are hereby fixed as follows:

(a) On all working days except Saturdays, for all divisions except the general order stores and bonded warehouse and the arrastre divisions from 8 a. m. to 2 p. m. On Saturdays, from 7.30 a. m. to 12.30 p. m.

(b) For general order stores and bonded warehouse division, on all working days except Saturdays: Office, from 8 a. m. to 2 p. m.; wharf, from 7 a. m. to 11.30 a. m., and from 2 p. m. to 5 p. m.; bodegas, from 7.30 a. m. to 12 m., and from 2 p. m. to 5 p. m. On Saturdays: Office, from 7.30 a. m. to 12.30 p. m.; wharf, from 7 a. m. to 12.30 p. m.; bodegas, from 7.30 a. m. to 12.30 p. m.

(c) For arrastre division, on all working days except Saturdays: Office, from 8 a. m. to 2 p. m.; wharf, from 7 a. m. to 12 m., and from 2 p. m. to 5 p. m.; warehouses, from 7.30 a. m. to 12 m., and from 2 p. m. to 5 p. m. On Saturdays: Office, from 7.30 a. m. to 12.30 p. m.; wharf, from 7 a. m. to 12 m.; warehouses, from 7.30 a. m. to 12.30 p. m.

PAR. II. The following additional hours of labor are hereby prescribed for the convenience of the public:

(a) The importation, exportation, and navigation division shall be open for the entrance and clearance of vessels and other maritime business on all working days except Saturdays, from 2 p. m. to 5 p. m.; on Saturdays, from 2.30 p. m. to 5 p. m.; on Sundays and legal holidays, from 9 a. m. to 12 m., and from 3 p. m. to 5 p. m.

(b) The inspectors' division shall be open for the boarding, entrance, and clearance of vessels on all working days, from 6 a. m. to 8 a. m., and from 2 p. m. to sunset; on Sundays and legal holidays, from 6 a. m. to 12 m., and from 2.30 p. m. to sunset.

(c) The regular working hours for customs inspectors and guards on board steam vessels shall be from 7.30 a. m. to 5.30 p. m., with one hour for the midday meal, on all week days except Saturdays and legal holidays, and on Saturdays from 7.30 a. m. to 12.30 p. m.

(d) The passenger and baggage division and the immigration division shall be open for business on all working days except Sundays and legal holidays, from 6.30 a. m. to 8 a. m., and from 2 p. m. to sunset; on Sundays and legal holidays, from 8.30 a. m. to 12 m., and from 2.30 p. m. to sunset.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

## PHILIPPINE CIVIL SERVICE BOARD.

### CIVIL-SERVICE EXAMINATIONS.

MANILA, April 2, 1904.

The Civil Service Board desires Filipino applicants for the positions of machinist, carpenter, blacksmith, wheelwright, and other skilled-workman positions. The examinations will be non-educational in character, eligibility being determined upon the submission of evidence of fitness on Form 35 completed. Entrance salary, about \$360, United States currency, per annum.

Further information and copies of Form 35 may be obtained at the office of the Civil Service Board, Intendencia Building, Walled City, Manila.

### EXAMINATION FOR INOCULATOR.

MANILA, March 28, 1904.

The Civil Service Board announces an examination to be held May 2, 1904, for the purpose of securing a register of eligibles from which appointments may be made to the position of inoculator, compensated at an annual salary of \$900 per annum.

Owing to the needs of the service this examination will be held in the English language only. The following will be the subjects and weights of the examination:

	Weights.
1. Second-grade examination .....	25
2. Practical questions .....	50
3. Experience and training .....	25
Total.....	100

Further information can be obtained at the office of the Civil Service Board, Intendencia Building, Walled City, Manila, where the examination will be held on the date above named.

### MEDICAL INSPECTOR EXAMINATION.

MANILA, April 2, 1904.

The Civil Service Board announces an examination in English for the position of medical inspector, compensated at an entrance salary of \$2,000 per annum. The subjects and weights of this examination will be found in the manual of information relative to the Philippine civil service. Further information and the necessary application blanks may be obtained at the office of the Civil Service Board, Intendencia Building, Walled City, Manila, where the examination will be held on May 17-18, 1904.

## APPOINTMENTS.

### By the Honorable Civil Governor.

*Philippine Weather Bureau.*

Rev. Miguel Saderra Masó, assistant director; March 18.

*City of Manila.*

Hon. Frank B. Ingersoll, acting judge of the municipal court; March 24.

*Provinces.*

LEPANTO-BONTOC.

Gideon B. Travis, provincial secretary-treasurer; March 18.

MINDORO.

William O. Smith, first lieutenant, United States Army, provincial supervisor-treasurer; March 23.

### By the Philippine Civil Service Board.

*Executive Department.*

EXECUTIVE BUREAU.

Jose de Sequera, clerk, March 19, \$300; probational appointment.

Nazario A. Santos, clerk, April 1, \$300; probational appointment.

BUREAU OF THE INSULAR PURCHASING AGENT.

John W. McFerran, clerk, February 1, \$1,800; promotion from class 7.

E. W. Crow, clerk, February 1, \$1,400; promotion from class 9.

Percy G. Caldwell, clerk, March 12, \$1,200; probational appointment.

James P. Gibbs, clerk, March 22, \$900; probational appointment.

A. D. Collins, clerk, February 13, \$2,000; promotion from class 8.

James P. Joyce, watchman, March 28, \$720; probational appointment.

IMPROVEMENT OF THE PORT OF MANILA.

W. R. Gans, subinspector, April 1, \$1,400; promotion from \$1,200.

H. G. Waddle, subinspector, April 1, \$1,080; promotion from \$900.

PHILIPPINE CIVIL SERVICE BOARD.

Inocencio Concepcion, clerk, March 21, \$1,000; promotion from Class A.

*Department of the Interior.*

BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

David G. Moberly, veterinary surgeon, March 1, \$1,800; promotion from class 7.

Michael J. Walsh, clerk, March 26, \$900; probational appointment.

Jose Buenviaje, clerk, March 3, \$240; probational appointment.

ETHNOLOGICAL SURVEY.

Dr. Merton L. Miller, assistant chief, March 1, \$2,400; change in designation from "ethnologist."

FORESTRY BUREAU.

E. E. Christensen, assistant inspector, March 17, \$1,400; promotion from class 9.

Sotero Lumba, clerk, March 23, \$300; probational appointment.

Rafael Rodriguez, ranger, March 28, \$300; probational appointment.

PHILIPPINE CIVIL HOSPITAL.

Blanche Alexander, nurse, March 1, \$720; probational appointment.

Loretta McDonald, nurse, March 14, \$720; probational appointment.

*Department of Commerce and Police.*

BUREAU OF POSTS.

Jose Naval, clerk, March 7, \$240; reinstatement.

BUREAU OF PHILIPPINES CONSTABULARY.

Myles D. Savell, clerk, March 22, \$900; probational appointment.

John D. O'Brien, clerk, March 18, \$900; probational appointment.

Crispin de la Torre, clerk, March 6, \$240; probational appointment.

Bias Alejandro, clerk, March 7, \$240; probational appointment.

Atanasio Alviar, clerk, March 19, \$210; probational appointment.

Eduardo Garcia, clerk, March 4, \$180; probational appointment.

John J. Robinson, clerk, February 21, \$1,200; transfer from Insular Cold Storage and Ice Plant, \$1,800.

Peter B. Jones, clerk, March 1, \$1,200; promotion from class 10.

Ramon Fernandez, clerk, March 10, \$660; promotion from \$600.

Ricardo Alovera, clerk, March 1, \$360; probational appointment.

BUREAU OF PRISONS.

Doroteo Domingo, shops foreman, February 17, \$480; probational appointments.

Tomas Eugenio, guard, March 19, \$240; probational appointment.

Luciano Orfanel, guard, March 20, \$240; probational appointment.

Vicente Basconcello, keeper, March 16, \$300; promotion from guard, \$240.

Vicente Brieva, keeper, March 16, \$300; promotion from guard, \$240.

Guy M. Willey, shops foreman, March 1, \$1,200; probational appointment.

BUREAU OF COAST GUARD AND TRANSPORTATION.

John J. Sullivan, clerk, March 7, \$1,200; transfer from Bureau of Government Laboratories, Class A.

BUREAU OF COAST AND GEODETIC SURVEY.

Clarence L. Fyffe, foreman, February 1, \$1,200; transfer assistant inspector, Forestry Bureau, \$900.

*Department of Finance and Justice.*

BUREAU OF THE INSULAR TREASURY.

P. J. Vanden Broeck, clerk, February 6, \$1,200; transfer from office provincial treasurer, Leyte.

Victor Trego, clerk, February 3, \$900; probational appointment.

BUREAU OF THE INSULAR AUDITOR.

George B. Wicks, clerk, March 16, \$1,200; probational appointment.

Agnes B. Richey, clerk, March 15, \$1,200; probational appointment.

Santos Javier, clerk, March 1, \$540; reinstatement.

David R. Gray, clerk, \$1,200; probational appointment.

BUREAU OF CUSTOMS AND IMMIGRATION.

Frank C. Lane, chief harbor launch division, March 6, \$1,800; reinstatement.

Jose Luciano, guard, February 12, \$240; reinstatement.

Miguel Castellon, clerk, March 18, \$180; probational appointment.

Mariano Baldivieso, clerk, February 26, \$180; reinstatement.

INSULAR COLD STORAGE AND ICE PLANT.

Harry D. Thirkield, cashier, March 12, \$1,400; probational appointment.

Malcolm R. Wheeler, clerk, March 15, \$1,200; probational appointment.

BUREAU OF JUSTICE.

Oliver S. Cole, interpreter, Court of First Instance, Manila, March 17, \$1,200; probational appointment.

Benito Canlas, copyist, Court of First Instance, Antique, April 1, \$180; probational appointment.

Clemente F. Bundalian, copyist, Court of First Instance, Tarlac, March 16, \$150; reinstatement.

Charles Haffke, stenographer, Court of First Instance, Manila, March 16, \$1,400; transfer from Attorney-General's Office.

Castor Gutierrez, clerk, office of fiscal, Fifteenth Judicial District, January 26, \$240; probational appointment.

*Department of Public Instruction.*

BUREAU OF EDUCATION.

Miss Nellie L. Hill, clerk, March 18, \$1,200; promotion from class 10.

Jose B. Sison, clerk, office division superintendent, Pangasinan, April 1, \$1,000; promotion from Class A.

Fred W. Abbott, teacher, March 2, \$1,200; reinstatement.

James Madison, teacher, March 9, \$1,200; probational appointment.

Bert Ashurst, teacher, March 16, \$1,000; probational appointment.

Robert L. Barron, teacher, March 2, \$1,000; probational appointment.

Clarence E. Ferguson, teacher, March 9, \$1,000; probational appointment.

Herbert D. Fisher, teacher, March 9, \$1,000; probational appointment.

Lee P. Hamilton, teacher, March 16, \$1,000; probational appointment.

William F. Hughes, teacher, March 16, \$1,000; probational appointment.

Luman A. Jennings, teacher, March 9, \$1,000; probational appointment.

Minton H. Johnson, teacher, March 16, \$1,000; probational appointment.

Winfield S. Lanthorn, teacher, March 16, \$1,000; probational appointment.

Loft Sandy, teacher, March 16, \$1,000; probational appointment.

F. L. Simanton, teacher, March 16, \$1,000; probational appointment.

Charles H. T. Townsend, teacher, March 15, \$1,000; probational appointment.

Walter C. Mayer, teacher, March 16, \$900; probational appointment.

Hester S. Simpson, teacher, March 16, \$900; probational appointment.

Francis A. Wester, teacher, March 16, \$900; probational appointment.

Walter J. Seaborn, clerk, March 28, \$1,200; probational appointment.

George B. McMahon, clerk, March 28, \$900; probational appointment.

Pedro P. Logan, clerk, February 25, \$300; probational appointment.

Pedro G. Flores, clerk, April 1, \$360; promotion from Class I.

#### BUREAU OF PUBLIC PRINTING.

George D. Scott, craftsman instructor, April 1, \$1,600; promotion from \$1,400.

Lino de Sena, apprentice, March 2, \$0.30; promotion from class 6.

Albert Walker, watchman, March 24, \$720; probational appointment.

Raymundo Nantes, apprentice, March 23, \$0.20; probational appointment.

Felipe Mananquil, junior bookbinder, March 5, ₱1.50; probational appointment.

Jacinto Chaves, junior bookbinder, April 1, ₱1.25; probational appointment.

Clemente Zulueta, junior compositor, March 2, ₱2.25; probational appointment.

Nazario Pasicolan, junior compositor, March 28, ₱2.50; probational appointment.

Melchor Bustamante, junior compositor, April 1, ₱2.50; probational appointment.

Francisco Sugi, apprentice, April 1, \$0.40; promotion from class 5.

Gregorio Gargantilla, apprentice, April 1, \$0.40; promotion from class 5.

#### BUREAU OF AGRICULTURE.

F. S. Douglass, clerk, March 1, \$1,600; promotion from class 8.

#### City of Manila.

#### DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

H. J. Meany, clerk, February 1, \$1,400; promotion from \$1,200.

Reinaldo Aspillera, clerk, April 1, \$480; promotion from \$420.

L. F. Patstone, superintendent street construction and bridges, January 1, \$1,800; promotion from \$1,600.

L. D. Weeks, boiler inspector, March 15, \$1,800; probational appointment.

Henry Immesoete, teamster, March 22, \$840; probational appointment.

Frank Sinclair, teamster, April 1, \$720; probational appointment.

Charles F. West, teamster, April 1, \$720; probational appointment.

Cipriano de Guzman, assistant engineer, March 11, \$360; probational appointment.

William J. Giusti, teamster, April 1, \$720; probational appointment.

Aquilino R. Santos, foreman street construction and bridges, April 1, \$480; promotion from foreman, \$420.

#### LAW DEPARTMENT.

Romualdo Parado, clerk to Register of Deeds, March 9, \$240; probational appointment.

E. F. Du Fresne, clerk, March 23, \$1,400; promotion from class 9.

#### POLICE DEPARTMENT.

Percy G. Dwyer, clerk, March 14, \$1,400; promotion from Philippines Constabulary, \$1,200.

Fred J. Bettinger, patrolman, first class, March 11, \$900; probational appointment.

Clarence O. Bohanan, patrolman, first class, February 13, \$1,140; reduction from roundsman, \$1,200.

Harry P. Lancaster, patrolman, first class, March 18, \$900; probational appointment.

#### Provinces.

#### ANTIQUE.

Juan Jabilo, deputy treasurer, January 1, \$240; promotion from clerk, \$180.

#### BULACAN.

Pedro Lim, clerk, March 1, ₱480; promotion from \$180.

#### CAPIZ.

Luis Espiritu, clerk, March 17, \$150; promotion from messenger, \$60.

#### CAVITE.

C. P. Harley, deputy treasurer, January 14, \$1,200; transfer from clerk, class 9, Treasury Bureau.

#### ILOILO.

Felino Espinosa, clerk, February 1, ₱480; probational appointment.

Amado Achurra, clerk, February 1, ₱360; probational appointment.

Panfilo Espinosa, clerk, December 1, 1903, ₱1,200; promotion from \$420.

Salvador Velez, clerk, September 1, 1903, \$210; transfer from office provincial treasurer, \$180.

#### MORO.

William H. Frizzle, clerk, March 8, \$900; reinstatement.

#### NEUEVA VIZAYA.

Anastasio Fernandez, member of the locust pest board, March 23; reinstatement.

#### PANGASINAN.

Mariano Padilla, clerk, January 9, \$300; transfer from clerk, office provincial treasurer.

#### ROMBLON.

Leon Reyes, deputy, February 1, ₱480; promotion from \$180.

Pablo Mayor, deputy, February 1, ₱480; promotion from \$150.

#### SAMAR.

Felix Rama, clerk and deputy, December 22, 1903, \$180; promotion from \$150.

Graham S. McTavish, clerk, February 14, \$900; transfer from office of improvements at Calbayog.



**SORSOGON.**

Gregorio Gutay, clerk, November 1, 1903, \$240; probational appointment.

**TABLAC.**

Cesario Timbol, clerk, November 1, 1903, ₱240; probational appointment.

**TAYABAS.**

John Gordon, clerk, assistant to supervisor, March 10, \$800; probational appointment.

**UNION.**

Dionisio S. Manongdo, clerk, March 1, \$90; probational appointment.

**ZAMBALES.**

Felix A. Posadas, deputy, March 1, ₱480; promotion from \$120.

**RESIGNATIONS.**

*Provinces.*

**ALBAY.**

Lorenzo Lopez, justice of the peace, Ligao, February 23.

**AMBOS CAMARINES.**

Nicolas Beltran, justice of the peace, Baao, March 5.  
 Juan Gonzales, justice of the peace, Capalonga, March 5.  
 Cornelio Madulid, justice of the peace, Mambulao, March 23.

**CAVITE.**

Mariano Aguilar, auxiliary justice of the peace, Isla de Corregidor, March 30.

**ILOCOS SUR.**

Simeon Serrano, justice of the peace, Cabugao, January 30.

**LEYTE.**

Pelagio Pastor, justice of the peace, Palompon, February 27.

**NEGBOS OCCIDENTAL.**

Leon Gariel, auxiliary justice of the peace, Isabela, November 12, 1903.

**SORSOGON.**

Cirilo Jimenez, auxiliary justice of the peace, Bacon, March 16.  
 Martin Ubaldo, justice of the peace, Matnog, December 5, 1903.  
 Enrique Tabuena, auxiliary justice of the peace, Sorsogon, December 27, 1903.

**ZAMBALES.**

Bernardo Biligan, justice of the peace, Olongapo, January 29.

**REMOVAL.**

James C. Owens, secretary-treasurer, Lepanto-Bontoc, March 16.

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# Official Gazette

Published by authority of the Insular Government under and by virtue of Act No. 453 of the Philippine Commission.

VOL. II

MANILA, P. I., APRIL 20, 1904.

No. 16

## PUBLIC LAWS.

[No. 1098.]

AN ACT CONFERRING CONCURRENT JURISDICTION UPON COURTS OF FIRST INSTANCE FOR THE THIRTEENTH AND FOURTEENTH JUDICIAL DISTRICTS OVER CAUSES ARISING WITHIN THE DISTRICT OF LANAO, MORO PROVINCE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Concurrent jurisdiction is hereby conferred upon the Courts of First Instance for the Thirteenth and Fourteenth Judicial Districts over causes arising within the District of Lanao, in the Moro Province, anything in Act Numbered Eight hundred and sixty-seven to the contrary notwithstanding: *Provided, however*, That the court first acquiring jurisdiction over any cause shall have exclusive jurisdiction thereof.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1099.]

AN ACT AMENDING PARAGRAPH (a) OF SECTION TWENTY-TWO OF ACT NUMBERED EIGHTY-TWO, ENTITLED "THE MUNICIPAL CODE," AS AMENDED, SO FAR AS CONCERNS THE MUNICIPALITY OF CEBU, PROVINCE OF CEBU.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Paragraph (a) of section twenty-two of Act Numbered Eighty-two, entitled "The Municipal Code," as amended, is hereby further amended by adding at the close thereof the following:

*"Provided further*, That in the municipality of Cebu, Province of Cebu, the salary of the treasurer may be fixed at one thousand two hundred pesos or less."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1100.]

AN ACT TO PROVIDE FOR A SECOND REVISION OF THE ASSESSMENTS UPON REAL ESTATE IN THE PROVINCE OF SURIGAO.

Whereas the land-tax assessment lists in the Province of Sur-

rigao are not in proper form, in that they are not arranged by barrios, or in alphabetical order, and in some instances contain no description of the property assessed, such lists being thereby rendered of little or no value for reference or statistical purposes; and

Whereas a great many parcels of land have been omitted altogether from the tax-assessment lists of said province, and it is believed that in many other instances parcels of land have not been assessed at their true values; and

Whereas the valuation placed on lands and improvements at the time of the original assessment were expressed in local currency and have not since been reduced to money of the United States, as provided in section six of Act Numbered Five hundred and eighty-two, as amended; and

Whereas the above-mentioned errors, omissions, and inequalities were not remedied by the board of tax revision appointed under the provisions of Act Numbered Five hundred and eighty-two, no complaints having been presented to it, either by land owners or government officials: Now, therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby created for the Province of Surigao a new board of tax revision, which shall consist of the three members of the provincial board and two other taxpayers, residents of the province, to be appointed by the Civil Governor, by and with the consent of the Philippine Commission.

SEC. 2. The powers and duties of the new board of tax revision in the Province of Surigao shall be those prescribed for the provincial board of revision by Act Numbered Five hundred and eighty-two, entitled "An Act to provide for the partial revision of the assessment upon real estate in the municipalities in the Philippine Islands outside the city of Manila," as amended by Act Numbered Six hundred and ninety-three: *Provided, however*, That the dates specified in the said Act, as amended, and the compensation and traveling expenses of the two members of the new board to be appointed by the Civil Governor, by and with the consent of the Philippine Commission, shall be as provided in sections three and four of the present Act.

SEC. 3. The new board of tax revision shall be organized on the fifteenth day of April, nineteen hundred and four, or as soon thereafter as possible; the time fixed for receiving and hearing complaints shall be not earlier than five days after the organization of the new board, and not later than the twentieth of July, nineteen hundred and four; the certification by the new board of a list of the changes made in the previous assessments, together with a list of the total assessments of the taxable lands and improvements in each municipality, provided for in section eight of Act Numbered Five hundred and eighty-two, shall be made not later than the fifth day of August, nineteen hundred and four, on which date the new board of tax revision shall cease to exercise any powers under this Act; and the payment of land taxes in the Province of Surigao for the year nineteen hundred and four shall be made prior to the first day of November, nineteen hundred and four, the provisions of section seventy-four, as

amended. of the Municipal Code to the contrary notwithstanding. In all other dates and periods of time specified in Act Numbered Five hundred and eighty-two, as amended by Act Numbered Six hundred and ninety-three, the words "nineteen hundred and four" shall be substituted for the words "nineteen hundred and three" for the purposes of the present Act.

Sec. 4. Each of the two members of the new board of tax revision appointed by the Civil Governor, by and with the consent of the Commission, shall receive for each day's session of the board upon which he was in actual attendance, the sum of four Philippine pesos, and his actual expenses for travel and subsistence, not exceeding four Philippine pesos a day, while in attendance upon the board and its meetings, from the time he leaves his usual place of residence until he returns to the same. In cases where the usual place of residence of such member shall be so far distant from the capital as to make it impracticable for him to go to his home on Sunday and return upon Monday, he shall be allowed the per diem for Sunday, as well as the days when the board is in actual session.

Sec. 5. In all cases in which land in the Province of Surigao assessed for the year nineteen hundred and two or the year nineteen hundred and three was assessed at more than fifty per centum above the valuation made by the new board of tax revision, the provincial board is hereby authorized and required to reduce the assessment, for the year or years in which such excessive assessment of more than fifty per centum was made, to the amount fixed by the new board of tax revision for the same land for the year nineteen hundred and four, and the provincial treasurer shall comply with the order of the provincial board by making the reduction upon the records of the municipality and province.

Sec. 6. In all cases in which the money has been paid upon the excessive assessment as described in the section immediately preceding, it shall be the duty of the provincial board to allow a credit of the amount of such excess payment, to be applied upon taxes due for the year nineteen hundred and four or the next subsequent year.

Sec. 7. In case the tax has not been paid on the excessive assessment, then the taxpayer or the person from whom the tax is due shall be allowed to pay the tax on the reduced assessment without penalty at any time before November first, nineteen hundred and four; and all proceedings for the sale of land because of the delinquency of payment on the excessive assessment as defined in section five shall be discontinued and held for naught, and the title to the land shall remain in the delinquent taxpayer, subject only to the lien for taxes on the assessment as reduced in accordance with section five hereof: *Provided*, That if the amount of taxes due on the reduced assessment is not paid before November first, nineteen hundred and four, the same procedure shall be followed in their collection as in other cases of delinquent taxes.

Sec. 8. In cases of excessive taxation described in section five hereof in which the land shall have been sold to a third person for failure to pay taxes, the delinquent taxpayer upon redeeming his land by paying to the purchaser the amount required by law to be paid shall be entitled to a credit, for use in payment of future taxes, for the amount expended by him over and above the tax without penalty at the reduced assessment. In case the land shall have been purchased by the Government, the proceedings shall be by the provincial board declared null and void, and the title shall revert to the delinquent taxpayer on payment of the amount due on the assessment, as reduced in accordance with the terms of section five of this Act, before November first, nineteen hundred and four.

Sec. 9. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure

by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 10. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1101.]

AN ACT AMENDING ACT NUMBERED SEVEN HUNDRED AND EIGHTY-SEVEN BY AUTHORIZING THE PROVINCIAL ENGINEER OF THE MORO PROVINCE TO PURCHASE SUPPLIES IN THE OPEN MARKET UNDER CERTAIN CONDITIONS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section eight of Act Numbered Seven hundred and eighty-seven is hereby amended by striking out the antepenultimate sentence therein, reading: "Except where otherwise ordered by the Civil Governor, upon the recommendation of the governor of the province, he shall make his purchases of supplies through the Insular Purchasing Agent," and inserting in lieu thereof the following sentence: "He shall make his purchases of supplies through the Insular Purchasing Agent, except where otherwise expressly authorized in writing by the governor of the province, such authorization to be granted only in those cases where, in the opinion of the governor of the province, an economy of time or of money will be effected thereby: *Provided, however*, That all purchases in the United States shall be made through the Insular Purchasing Agent."

This amendment shall be retroactive so as to authorize all purchases made in accordance with its provisions.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1102.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF ILOCOS SUR FOR THE YEAR NINETEEN HUNDRED AND THREE UNTIL APRIL THIRTIETH, NINETEEN HUNDRED AND FOUR, AND PROVIDING FOR THE REFUND OF PENALTIES ALREADY PAID.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period of payment, without penalty, of the land tax for the year nineteen hundred and three in the Province of Ilocos Sur is hereby extended to April thirtieth, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding. All penalties heretofore collected for the nonpayment of the land tax in such province for the year nineteen hundred and three are hereby remitted, and the provincial treasurer of the province mentioned above is authorized and directed to allow a rebate of the amount of such penalty to the taxpayer upon whom the penalty was assessed upon payment of his land tax for the year next ensuing.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure

by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1103.]

AN ACT AUTHORIZING THE PAYMENT OF A SALARY OF ONE HUNDRED PESOS PER MONTH TO THE PRESIDENT OF THE MUNICIPAL BOARD OF HEALTH OF DAET, PROVINCE OF AMBOS CAMARINES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The payment of a salary of one hundred pesos per month to the president of the municipal board of health of Daet, Province of Ambos Camarines, is hereby authorized, the provisions of Act Numbered Three hundred and eight to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1104.]

AN ACT SO AMENDING SECTION THIRTY-THREE OF ACT NUMBERED ONE HUNDRED AND THIRTY-SIX AS TO PROVIDE THAT THE REPORTS OF THE DECISIONS OF THE SUPREME COURT SHALL BE PUBLISHED IN BOTH THE ENGLISH AND SPANISH LANGUAGES, BUT THAT THE DECISIONS IN EACH LANGUAGE SHALL BE BOUND SEPARATELY INSTEAD OF IN THE SAME VOLUME, AS NOW PROVIDED BY LAW.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section thirty-three of Act Numbered One hundred and thirty-six, entitled "An Act providing for the organization of courts in the Philippine Islands," is hereby amended so as to read as follows:

"SEC. 33. *In what language cases reported.*—Until the first day of January, nineteen hundred and six, each case shall be reported in both the English and Spanish languages, and the decisions shall be bound in separate volumes, one volume containing the decisions in the English language and the other in the Spanish language. After the first day of January, nineteen hundred and six, the decisions shall be published only in the English language."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1105.]

AN ACT LEGALIZING THE ACTION OF THE MUNICIPAL BOARD OF THE CITY OF MANILA IN DIVIDING THE TERRITORY OF THE CITY OF MANILA INTO THIRTEEN DISTRICTS, ASSIGNING THE NAMES AND DEFINING THE BOUNDARIES OF EACH OF SAID DISTRICTS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The action of the Municipal Board of the city of

Manila in adopting a resolution on the thirtieth day of July, nineteen hundred and two, whereby the territory of the city of Manila was divided into thirteen districts, to be known as Tondo, San Nicolas, Binondo, Santa Cruz, Quiapo, San Miguel, Intramuros, Ermita, Paco, Malate, Pandacan, Sampaloc, and Santa Ana, and defining the boundaries of said districts, is hereby ratified and confirmed, and the names and boundaries of the districts as named and bounded in said resolution shall be the lawful names and boundaries of such districts for the purposes of administration, the description of property, defining the limits of such districts for the purposes of representation on the Advisory Board of the city of Manila, and for all other purposes.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 4, 1904.

[No. 1106.]

AN ACT TO PROVIDE FOR A SECOND REVISION OF THE ASSESSMENTS UPON REAL ESTATE IN THE PROVINCE OF CAVITE.

Whereas it appears that certain classes of lands, buildings, and improvements in the Province of Cavite have not been assessed in accordance with their true value; and

Whereas it further appears that the provisions of section five of Act Numbered Five hundred and eighty-two were not fully complied with by the board of revision for Cavite, appointed under said Act Five hundred and eighty-two, thus depriving the residents of certain municipalities of the Province of Cavite of the rights provided by said section: Now, therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby created for the Province of Cavite a new board of tax revision, which shall consist of the three members of the provincial board of the said province.

SEC. 2. The powers and duties of the new board of tax revision in the Province of Cavite shall be those prescribed for the provincial board of revision by Act Numbered Five hundred and eighty-two, entitled "An Act to provide for the partial revision of the assessments upon real estate in the municipalities in the Philippine Islands outside the city of Manila," as amended by Act Numbered Six hundred and ninety-three: *Provided, however,* That the dates specified in the said Act, as amended, shall be as provided in section three of the present Act.

SEC. 3. The new board of tax revision shall be organized upon the passage of this Act or as soon thereafter as possible; the time fixed for receiving and hearing complaints shall be not earlier than five days after the organization of the new board of tax revision and not later than the thirtieth day of June, nineteen hundred and four; the certification by the new board of tax revision of a list of the changes made in the previous assessments, together with a list of the total assessments of the taxable lands and improvements in each municipality, provided for in section eight of Act Numbered Five hundred and eighty-two, shall be made not later than the fifteenth day of July, nineteen hundred and four, on which date the new board of tax revision shall cease to exercise any powers under this Act; and the payment of the land taxes in the Province of Cavite for the year nineteen hundred and four shall be made prior to the first day of October, nineteen hundred and four, the provisions of section seventy-four, as amended, of the Municipal Code to the contrary notwithstanding. In all other dates and periods of time specified in Act Numbered Five hundred and eighty-two, as amended by

Act Numbered Six hundred and ninety-three, the words "nineteen hundred and four" shall be substituted for the words "nineteen hundred and three" for the purposes of the present Act.

SEC. 4. In all cases in which land in the Province of Cavite assessed for the year nineteen hundred and two or the year nineteen hundred and three was assessed at more than fifty per centum above the valuation made by the new board of tax revision, the provincial board is hereby authorized and required to reduce the assessment, for the year or years in which such excessive assessment or more than fifty per centum was made, to the amount fixed by the new board of tax revision for the same land for the year nineteen hundred and four, and the provincial treasurer shall comply with the order of the provincial board by making the reduction upon the records of the municipality and province.

SEC. 5. In all cases in which money has been paid upon the excessive assessment as described in the section immediately preceding, it shall be the duty of the provincial board to allow a credit of the amount of such excess payment to be applied upon taxes due for the year nineteen hundred and four or the next subsequent year or years.

SEC. 6. In case the tax has not been paid on the excessive assessment or assessments, then the tax payer or the person from whom the tax is due shall be allowed to pay the tax on the reduced assessment without penalty at any time before October first, nineteen hundred and four; and all proceedings for the sale of land because of the delinquency of payment on the excessive assessment or assessments as defined in section four shall be discontinued and held for naught, and the title to the land shall remain in the delinquent taxpayer, subject only to the lien for taxes on the assessment or assessments as reduced in accordance with section four hereof: *Provided*, That if the amount of taxes due on the reduced assessment or assessments is not paid before October first, nineteen hundred and four, the same procedure shall be followed in their collection as in other cases of delinquent taxes.

SEC. 7. In cases of excessive taxation described in section four hereof in which the land shall have been sold to a third person for failure to pay taxes, the delinquent taxpayer upon redeeming his land by paying to the purchaser the amount required by law to be paid shall be entitled to a credit, for use in payment of future taxes, for the amount expended by him over and above the tax without penalty at the reduced assessment. In case the land shall have been purchased by the Government, the proceedings shall be by the provincial board declared null and void, and the title shall revert to the delinquent taxpayer on payment of the amount due on the assessment or assessments as reduced in accordance with the terms of section four of this Act, before October first, nineteen hundred and four.

SEC. 8. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 9. This Act shall take effect on its passage.

Enacted, April 5, 1904.

[No. 1107.]

AN ACT FIXING THE SALARIES OF REGISTERS OF DEEDS IN THE SEVERAL PROVINCES, APPOINTED IN PURSUANCE OF THE PROVISIONS OF THE LAND REGISTRATION ACT.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. In pursuance of the provisions of section thirteen of Act Numbered Four hundred and ninety-six, the Land Registration Act, the salaries of the several registers of deeds for the

provinces are hereby fixed at the following sums, in money of the United States, for each of the provinces, namely: Abra, five hundred dollars; Albay, eight hundred dollars; Ambos Camarines, nine hundred dollars; Antique, five hundred dollars; Bataan, five hundred dollars; Batangas, eight hundred dollars; Benguet, five hundred dollars; Bohol, six hundred dollars; Bulacan, nine hundred dollars; Cagayan, eight hundred dollars; Capiz, five hundred dollars; Cavite, eight hundred dollars; Cebu, one thousand two hundred dollars; Moro Province, nine hundred dollars; Ilocos Norte, seven hundred dollars; Ilocos Sur, nine hundred dollars; Iloilo, one thousand two hundred dollars; Isabela, five hundred dollars; Laguna, six hundred dollars; Leyte, one thousand dollars; Lepanto-Bontoc, five hundred dollars; Masbate five hundred dollars; Mindoro, five hundred dollars; Misamis, five hundred dollars; Nueva Ecija, six hundred dollars; Nueva Vizcaya, five hundred dollars; Occidental Negros, one thousand two hundred dollars; Oriental Negros, seven hundred dollars; Pampanga, nine hundred dollars; Pangasinan, one thousand two hundred dollars; Paragua, five hundred dollars; Rizal, seven hundred dollars; Romblon, five hundred dollars; Samar, eight hundred dollars; Sorsogon, eight hundred dollars; Surigao, five hundred dollars; Tarlac, seven hundred dollars; Tayabas, one thousand dollars; Union, five hundred dollars; and Zambales, five hundred dollars.

SEC. 2. The Civil Governor shall not appoint a register of deeds for any of the provinces in this Act named where the salary is fixed at five hundred dollars, unless in his judgment the business of land registration in such province shall become of sufficient importance to warrant the maintenance of a separate office of registers of deeds therein. Meanwhile in such provinces the duties of registers of deeds shall continue to be performed by provincial treasurers in accordance with existing law.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, April 5, 1904.

EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, April 7, 1904.

EXECUTIVE ORDER }  
No. 15.

The official rate for the redemption of Spanish-Filipino currency and its acceptance for public dues from and after April eleventh, nineteen hundred and four, and until further notice, is hereby fixed at the ratio of one peso and thirteen centavos, Spanish-Filipino currency, for one peso, Philippine currency, or its equivalent in United States currency.

Mexican pesos will be received in exchange for Philippine currency at the above-authorized rate of exchange between Spanish-Filipino coins and Philippine currency.

LUCKE E. WAIGHT,  
Civil Governor.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, April 8, 1904.

EXECUTIVE ORDER }  
No. 16.

Paragraph two of Executive Order Numbered Eighty, series of nineteen hundred and two, is hereby amended to read as follows:

"For the information of the War Department and distribution

therefrom, one copy of each circular, ordinance, regulation, report, serial order, or other public document, including those containing information as to the establishment of new post-offices, construction of highways, harbors, and other public improvements, data correcting existing maps, or in connection with the general knowledge of the Archipelago, not printed, and at least twenty-five copies of each such publication which is issued in printed form, and such additional number of copies as it is probable, in view of the character of the document, will be required for distribution, emanating from the various Bureaus and Offices of this Government, will be forwarded through the usual official channels to the Bureau of Insular Affairs of the War Department, Washington, District of Columbia: *Provided, however*, That fifty copies of each publication issued by the Bureau of Agriculture, the Forestry Bureau, or the Mining Bureau, of interest to the general public, will be forwarded."

LUKE E. WRIGHT,  
Civil Governor.

## DECISIONS OF THE SUPREME COURT.

[No. 1056.]

AGUEDA BENEDICTO, plaintiff and appellee, vs. ESTEBAN DE LA RAMA, defendant and appellant.

\*Per COOPER, J., dissenting:

1. APPELLATE PROCEDURE; MOTION FOR NEW TRIAL; GROUNDS OF MOTION.—Under section 499 of the Code of Civil Procedure, to justify the Supreme Court in reviewing the evidence and retrying the questions of fact, the excepting party should file a motion in the Court of First Instance for a new trial, based upon the ground that the findings of fact "were plainly and manifestly against the weight of evidence." The overruling of a motion for a new trial based upon the ground that the "evidence was insufficient to justify the decision" is by the provisions of section 146, Code of Civil Procedure, an act of discretion on the part of the judge and is no ground of exception.
2. ID.; ID.; FINDINGS; CREDIBILITY OF WITNESSES.—The Supreme Court will not disturb the findings of the lower court unless such finding is plainly and manifestly against the weight of evidence, when the findings depend upon the credibility of witnesses.
3. MARRIAGE AND DIVORCE; CONDONATION; RECRIMINATION.—Condonation in suits for divorce is recognized by Law VI, Title IX, Part IV of the partidas, and where there has been a condonation of an offense the act which has been condoned can not be set up as a bar in recrimination in a divorce suit for adultery brought against the party who has condoned the offense.
4. APPELLATE PROCEDURE; NEW TRIAL.—The Supreme Court may, in the exercise of its appellate jurisdiction, reverse the case and may direct the proper judgment to be entered, but where there has been a failure of the lower court to make a sufficient finding of fact, or where there are defects or omissions in the pleadings which may be remedied by amendment, or where there is a possibility of supplying defects in the proof, or where the case has not been fully developed on the former trial, a new trial should be ordered.

NOTE.—For majority see 2 Official Gazette, page 166.

COOPER, J., dissenting:

It is immaterial whether a divorce *a mensa et thoro* is governed by the provisions contained in Title IV of book 1 of the Civil Code, by the canonical laws, or by the laws of the partidas. Under each the causes for divorce are substantially the same, one of which is for adultery.

The conclusion reached by the majority of the court is that both plaintiff and defendant have been guilty of adultery, and that therefore neither is entitled to relief.

In entering upon a review of the evidence and a discussion of this question it is proper to refer to our statute upon the subject of a review by this court, of evidence, and to determine in what cases it is allowed and the rules which govern where such review is permitted.

It is provided in section 497 of the Code of Civil Procedure that the Supreme Court shall not review the evidence taken in the court below nor retry the questions of fact except " \* \* \*

3. If the excepting party filed a motion in the Court of First Instance for a new trial upon the ground that the findings of fact were plainly and manifestly against the weight of evidence, and the court overruled said motion and due exception was taken to his overruling the same, the Supreme Court may review the evidence."

The motion for a new trial filed in the court below was based upon the ground that the "findings of fact were contrary to the proofs presented on the trial."

Is this a sufficient compliance with the provisions above cited, it not being stated in the motion "that the findings of fact were plainly and manifestly against the weight of evidence?"

If this provision of the Code stood alone the failure to comply with this requirement might be regarded as simply a defect in the motion, but construed in connection with the other provisions the question becomes a different one. Under the provisions of section 145 of the Code of Civil Procedure the Court of First Instance may, at any time during the term at which an action has been tried, set aside the judgment and grant a new trial on the ground that the evidence was insufficient to justify the decision, or that it is against law; but it is expressly provided in this connection by section 146 that the overruling or granting of a motion for a new trial shall not be a ground of exception, "but shall be deemed to have been an act of discretion on the part of the judge."

But even if the conclusion should be reached that the motion is sufficient to authorize a review of the evidence, still this court must be restricted in reviewing the evidence and in retrying the facts by the provisions contained in clause 3, section 499, and the judgment of the lower court should not be reversed unless the findings of the court were plainly and manifestly against the weight of evidence.

It is very clear from these provisions it was the intention of the legislative department that the findings of fact made by a judge of the Court of First Instance should be entitled to all the weight that a verdict of a jury has in those jurisdictions where jury trials prevail, and that the findings of fact, like the verdict of the jury, should not be disturbed where the evidence is merely conflicting. The reason for this is that the trial court, having the witnesses before it, is most competent to judge of the weight to be attached to their testimony, and that it is not sufficient that the appellate court, looking at their testimony as it is written down, would have come to a different conclusion.

Where there is a direct and substantial conflict, and the determination of a question depends on the credibility and weight to be given to the testimony of witnesses, the rule is the court will not set aside the findings even where they might have found the other way. That the question of credibility of witnesses is for the court below, and not for the appellate court, to determine is supported by decisions of many courts of the United States.

It is on account of the superior means that a trial judge has by reason of the presence of the witnesses, and the observance of their demeanor while testifying, that such a rule exists.

It appears from the decision of the trial judge that he placed no little stress upon the appearance and demeanor of the witnesses. With reference to the testimony of the woman Apolonia Aurelio, upon the credibility of whose testimony the case as to the adultery of the plaintiff largely rests, he says:

"That the testimony of this woman Apolonia is too uncertain and too suspicious to justify any court in declaring the plaintiff guilty of adultery, especially when the worthlessness and the dubious character of the testimony of the other witnesses for the defendant on this subject increases the probability of the existence of something in the nature of a conspiracy to destroy the case of the plaintiff and support that of the defendant in the present case.

"There are other considerations in the evidence, as well as in the atmosphere of the court room and the demeanor of the parties during the trial, which inclined the court to believe at

*that time that the true facts of this case were with the plaintiff."*

Again, he says:

"This court does not hesitate to say that the attitude of the plaintiff was such as to impress the court very favorably in her behalf. Not a particle of vindictiveness toward the man who, as she believes, has so unjustly treated her, was exhibited by her; her entire bearing was that of a modest, retiring, self-respecting, and conscientious woman."

Again, speaking of the testimony of the woman Apolonia, he says:

"The plaintiff and the plaintiff's mother both swore that this woman, Apolonia, never commenced to work for the plaintiff until after the year 1893, after the couple had separated, and that she was then sent by the husband to the wife as a servant. The wife also says that trouble arose between her and this woman, Apolonia, subsequent to 1893 by reason of the fact that Apolonia was about to marry a man whom the wife disliked. This statement is not denied by any of the defendant's witnesses. It therefore shows that a motive exists on the part of this woman, Apolonia, to injure the wife. There is also evidence in the case tending to show that this woman, Apolonia, received a large sum of money shortly before the trial of this case, which money came from the defendant or some of his agents. The court, however, does not regard this testimony as of great importance, because it is too vague, but the other testimony is very important. *The attitude of the woman, Apolonia, on the witness stand was apparently hostile to the plaintiff.*"

An examination of the evidence of the case not only shows the findings of fact by the Court of First Instance are not plainly and manifestly against the weight of evidence but the preponderance of evidence seems in favor of the plaintiff, especially upon the question of condonation.

I shall not attempt to review the mass of testimony found in the record. In view of the many conflicts occurring in the statements of the witnesses, the many inconsistencies in the testimony of material witnesses; the suspicion cast upon some of the witnesses—it is clear that this is a case in which the trial judge possessed advantages far superior to those of this court in passing upon the credibility of the witnesses who testified in the case, and gave due weight to such as were entitled to belief, and the rule applies with peculiar force that an appellate court will not disturb the finding of a trial court when these findings depend upon the credibility of witnesses.

It is stated in the majority opinion that the conclusion that the plaintiff was guilty of adultery was arrived at from a consideration chiefly of the admitted facts in the case, the most important of which is a letter written by the plaintiff to defendant on March 6, 1890; that this letter is considered as practically conclusive against her. The entire letter, extracts of which are given in the majority opinion, is as follows:

"MY RESPECTED AND UNFORGETTABLE ESTEBAN: Pardon that I disturb your tranquility, E., that in the midst of a profound sentiment that afflicts me I find consolation for my profound grief in addressing the man who loved me in the time of my good fortune, and who led me to the altar before the eyes of the Being whom we most love, God. Remember me; let fall down a drop of compassion from your soul: look at me back again with your cheerful eyes at the woman who is watching for you. I know well that you are very disgusted with me, and for just reason—for having claimed my pension. Be calm; quiet yourself; reflect for a moment my situation, which I will explain to you.

"When you went to Europe mother went to see you to explain our situation to you, and you answered that it had nothing to do with you. She insulted you, Esteban; you had reason to be offended.

"Now, regarding my having demanded my pension, you are also in the right, but pardon my impudence in stating what I have to say:

"I swear to you, E., and call God to witness, that when you went to Spain my pain was unbearable, thinking of my misfortune. I had become completely desperate, and Orozco wrote and advised me to demand my pension in view of the fact that you were going to reside permanently in Spain; then I finally did commence proceedings in view of my desperate situation, and nothing further came of the matter during your absence.

"If the Laconsos, who wish me ill, have told you more they have made a mistake, for the truth about my comportment is that it can not be complained of. You can secure information regarding my conduct during our separation here in Valladolid.

"I keep yet on my face the shame of what has happened, notwithstanding that it has been already many years since we parted. Therefore, my husband, forgive me; erase what has happened; remember me for God's love; behold our dark fate; in you I trust my future.

"E., I have heard that you have had some misfortunes. I send my sympathy, although I am unworthy of your presence. I also learned from Modesto that you do not wish to have my pension sent. Do as you wish. Good bye, E.; take good care of yourself, and command,

"Your faithful servant, Q. B. S. P.,

"AGUEDA BENEDICTO.

"March 6, 1899.

"P. S.—On the 11th of February papa died, and delivered his soul to God after a painful illness."

This letter, upon which so much stress has been placed in the opinion of the majority, as showing the guilt of the plaintiff, rather indicates that the writer was in a morbid state of mind, in great distress and dejection of spirit, and, in her own language, "completely desperate." It shows a willingness to prostrate herself before her husband, to subject herself to his will, to confess any manner of misdoings which will appease his wrath, and regain his favor without regard to innocence or guilt. This is evident when she says: "I know that you are disgusted with me for having claimed my pension" when it is remembered that the wife is entitled to one-half of all property acquired as gains during the marriage, as community property; that at the time this letter was written, the husband was not only in the enjoyment of a large estate in his separate right but was in the exclusive possession and enjoyment of all of the community property accumulated during eight years of marriage, one-half of which belonged to her, yet we find her confessing herself as guilty for claiming a small pittance of what belonged to her, and apologizing for having taken at some previous time steps to compel him to do that which good conscience should have dictated to him as just and right.

It is hard to conceive that the letter was the result of remorse of conscience for sins committed against the husband when it appears from the record that the husband, after their separation, during the space of ten years, maintained illicit relations with no less than four mistresses, three of whom bore him offspring; and that there had been a betrayal of the confidence of the wife, a near relative, when a girl less than 14 years of age, which fact a sense of shame did not restrain the defendant from disclosing in his testimony on the trial of the case.

With reference to the question of condonation, it will be seen from the citation contained in the majority opinion that this doctrine is recognized by law 6, Title IX, Part IV of the *partidas*. It exists in the ecclesiastical law and is recognized in the United States and England and in all countries where laws of divorce exist.

But it is stated in the majority opinion that there is no law to be found in the *partidas* which says that the effect of pardon would be so far-reaching as to make it applicable to this case.

By condonation the offending party is restored to the same position he or she occupied before the offense was committed, the only condition being that the offense must not be repeated. To say that the effect of pardon would not be so far-reaching as

to entitle the plaintiff to divorce in a case like the present one is equivalent to saying that because the plaintiff has been once guilty she would forever lose her right to a divorce for offenses of a like character thereafter committed by the husband. This makes condonation conditioned not only that the parties receiving it will not again commit the same offense but it adds the further condition that the party granting it shall forever have the right to commit the same offense himself with impunity.

This question has often been before the courts. The American authorities are uniform that a condoned offense, not being sufficient as a cause for divorce, is not a bar to divorce in favor of the plaintiff. (9 Am. and Eng. Enc. of Law. 821.)

In *Masten vs. Masten* (15 N. H.) it is said: "Where the statutes are silent upon this question the courts hold that as a condoned offense can not be a cause for divorce, therefore it can not be set up as a bar in recrimination.

In *Jones vs. Jones* (18 N. J. Eq., 33) it is said: "It is better to hold that when the erring party is received back and forgiven the marriage contract is renewed and begins as *res integra*, and that it is for the party and not for the courts to forgive new offenses."

In the case of *Cumming vs. Cumming* (135 Mass., 390) the court says:

"To hold otherwise would operate to some extent as an encouragement or license to the condoning party to commit offenses against the marriage relation; and would also tend to give a constant sense of inequality between the parties with respect to their legal rights. All condonation is in a sense conditional—that is, there is an implied condition that the same offense shall not be repeated. It is not, however, attended with the further condition that the offender shall be disqualified from thereafter alleging any ground of complaint for subsequent misconduct against the condoning party. No such inequality should be established by an arbitrary rule of law applicable to all cases. Condonation restores equality before the law. If the injured party is willing to forgive the offense the law may well give full effect to that forgiveness and not extend to such party the temptation, the encouragement, the license to run through the whole calendar of matrimonial offenses, without redress at the hands of the other party. We have not overlooked the consideration that an original adultery by a libellant may have had the effect to weaken the sense of the obligation of the marriage contract on the part of the libelee, and that for this reason a divorce under such circumstances ought to be refused. This consideration is of weight, and would deserve especial attention if judicial discretion were to be exercised in determining a case; but it is not sufficient to overcome the controlling reasons in favor of the establishment of a general rule to the contrary."

A finding of the lower court against condonation would have been plainly and manifestly against the weight of evidence.

It is shown by the evidence that the next day after the supposed adultery of the wife the defendant took his wife to the house of her parents. Andra de la Rama, the mother of the plaintiff, testifies that when the defendant brought the plaintiff to her house she supposed it was on a visit; that they remained at her house about a week; that during their stay the plaintiff and defendant slept in the same room, and that there was only one bed in the room that they occupied.

The plaintiff testified that on this occasion she and her husband remained together at the house of her parents from four to six days; that during this time they slept in the same bed and had matrimonial intercourse.

The defendant de la Rama testified that he remained at the house of the plaintiff's parents one day and two nights; that he occupied the same room and slept in a different bed. On being asked by the court as to the length of time he remained with his wife, he stated that he remained there one day and two nights, more or less, and when asked if he slept in the same

room but in a different bed he answered that he was not sure that there were two beds in the room.

This court has not only reversed the judgment of the trial court but has entered a judgment against the plaintiff.

It is true that the court may, in the exercise of its appellate jurisdiction, affirm, reverse, or modify any final judgment and may direct the proper judgment to be entered, but where there has been failure of the lower court to make a sufficient finding of fact, or where there are defects or omissions in the pleadings which may be remedied by amendment, or where there is a possibility of supplying defects in the proof, such practice should not be followed.

It is stated in the opinion that it is unnecessary to pass upon the question of condonation for two reasons: (1) The court below made no findings of fact on the subject. (2) Even if the court had found that there was condonation, this would not have entitled the plaintiff to a divorce.

I have before attempted to answer the last objection. As to the first objection—that is, that the lower court made no findings on the subject—if this be true the case should be reversed in order that a finding be made.

To deprive the plaintiff of the judgment which she has obtained and make a final determination of the case here without giving her an opportunity of correcting this error, if such exists, is inequitable and unjust.

[No. 1443, January 16, 1904.]

*THE UNITED STATES, complainant and appellee, vs. ALFONSO ARIASON ET AL., defendants and appellants.*

CRIMINAL LAW: THEFT: ACCESSORY AFTER THE FACT.—To justify a conviction of the offense of being an accessory after the fact to the crime of theft the proof must show that personal property was actually stolen and that the accused, with knowledge of this fact, either availed himself of the stolen property or aided the thief to do so, or performed acts tending to prevent the discovery of the crime or to protect the principals.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

ENRIQUE LLOPÍZ, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On the 8th of June, 1903, the provincial fiscal of the district of Iloilo filed an information in the Court of First Instance of that district charging the defendants, Albison, Juares, and Celestial, as accessories after the fact to the crime of theft in that, on the 21st of December, 1902, notwithstanding the fact that the three defendants knew that the three carabaos presented to them by Susano Acasio, Benito Albao, and Florentino Apostol were not the property of the latter, but had been taken from certain malefactors by the said Acasio and Apostol in an expedition which they made into the forest as members of the Constabulary, the said defendants, nevertheless, issued certificates of ownership in favor of the mistresses of the said Constabulary men and put the municipal brand of the township of Lemery on the carabaos in order that the said Acasio, Albao, and Apostol might appropriate to their own use the said carabaos. Albao, Apostol, Faustino Rosales, and Marcelino Bayona were cited as witnesses for the prosecution.

From the evidence introduced during the trial it appears that one day in the month of December, 1902, Susano Acasio, Benito Albao, and Florentino Apostol, Constabulary soldiers, while scouting in the woods, encountered six unknown men, who took to flight when fired upon; that these men had in their possession four carabaos and a horse; that Acasio, who was in command of the squad, upon his return to the town turned the horse and one of the carabaos over to Inspector Helt and ordered that the three carabaos be taken to the town of Lemery, where the three Constabulary men appeared before the president and the municipal treasurer and



obtained from them credentials of ownership in favor of their mistresses, which said credentials were signed by the president and treasurer, as also by the municipal secretary. The Constabulary men testified that the secretary knew that the carabaos had been taken from thieves in the woods and that although the defendants at first refused to issue the certificates they subsequently consented to do so in view of the persistence of Acasio, who assured them that he would be responsible for whatever happened.

The defendants pleaded not guilty and as witnesses for the defense testified under oath that when these three Constabulary men came to them with the carabaos they assured them that they had purchased the carabaos in the Province of Capiz, but when they were asked to show their certificates of ownership Acasio replied that they had none; that the defendants thereupon told him that they could not issue any certificates or brand the carabaos; that Acasio then gave them to understand that, as the commanding officer of the post, it was his duty to make inquiries into matters concerning stolen stock and commenced to make threats; that in view of this action on the part of the Constabulary, and of the fact that they assured them that the inspector who resided some distance away knew all about these animals, for the purpose of avoiding trouble they consented to issue certificates of ownership for the three carabaos and to place the town brand upon them; that some twenty days later, they having heard that the said three carabaos had been taken from thieves, the president called a meeting of the municipal council and reported the facts; that the council resolved to report the matter to the provincial governor, as appears from a document exhibited on page 34, which is a certificate from the provincial secretary of Iloilo, who corroborates this statement of the accused; they further testified that they had only charged 75 cents each for the three certificates, which was the amount fixed by the tariff, and that the fees for the two certificates issued to Albao and Apostol have not been paid; that they did not report the facts to the Constabulary inspector because they did not deem it necessary, report having been made to the governor of the province; that although the carabaos had an old brand mark on them they did not know they were stolen until after the report made to the provincial governor on motion of the president.

The secretary, Jacobo Celestial, testified to the same effect, adding that he was not present when the certificates were drawn up, he having returned to his house, and on the day following they were sent to him for signature, as he was at that time ill.

The court below, considering that the crime had been proven and the guilt of the accused established, condemned the first two to the payment of a fine of 1,250 pesetas and the third to the payment of a fine of 450 pesetas, with one-third of the costs to each one, and to suffer subsidiary imprisonment in case of insolvency, with no allowance for the preventive imprisonment suffered. From this judgment the defendants appealed.

If the crime of theft consists in the act of taking personal property belonging to another with intent to gain, without the consent of the owner, and without using force or intimidation in the taking, as provided by article 517 of the Penal Code, it is evident that if it is not proved that the property alleged to have been stolen was so stolen and it is not determined who the owner of the property is, the mere possession of such property can not be considered as the result of a crime, nor can the possessor be punished as a thief. This is the doctrine established by the courts in many decisions, among them that of the supreme court of Spain of May 19, 1882.

If we believe the statement made by the Constabulary men, Acasio and Apostol, the carabaos which were subsequently presented to the municipal president of Tubig were in the possession of six unknown men who were in the mountains and who ran away and abandoned the said carabaos when fired upon, and as these unknown men might have been the owners of the carabaos, and on the other hand even if they were thieves, it does not

appear that the carabaos were stolen or who the owners thereof were, there can be no doubt that the mere possession of these animals by the six persons unknown could not be considered as resulting from a theft or robbery, as the evidence does not show that the elements of this offense are present.

Common sense teaches that if there has been no crime and no punishable act has been committed there can be no punishment; and consequently if the record contains no proof of the existence of the crime of theft or any other crime the defendants can not be guilty as accessories.

Furthermore, the record does not contain evidence sufficient to show that the defendants had any knowledge of the means by which these carabaos had been obtained, for the Constabulary men assured them that they had purchased them in Capiz and upon this assertion it is to be presumed that the accused acted in good faith and that they were influenced by the threats of the Constabulary men in question who were determined to get these certificates, which were in fact issued by the accused.

The best proof that the accused acted without criminal intent is the fact of their having reported the facts to the governor of the province a few days after the certificates were issued. Consequently, there being no evidence of any facts constituting the offense charged, the defendants must be acquitted.

For the reasons stated we are of the opinion that the judgment appealed must be reversed and the defendants, Alfonso Abison, Anselmo Juarez, and Jacobo Celestial acquitted, with the costs of both instances *de officio*, and it is so ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Defendants acquitted.*

[No. 1344. January 19, 1904.]

*THE UNITED STATES, complainant and appellee, vs. VALENTIN TRONO ET AL., defendants and appellants.*

1. CRIMINAL LAW: HOMICIDE, MITIGATING CIRCUMSTANCES; EVIL GREATER THAN INTENDED.—The defendants, police officers, arrested the deceased under suspicion of his having stolen a revolver, and in order to make him confess beat him so severely that he died of his injuries. *Held*, that the defendants are guilty of homicide with the mitigating circumstances of not having intended to cause so great an injury as that which actually resulted from their acts.
2. IN.; EVIDENCE: EXPERT TESTIMONY.—The testimony of expert witnesses, although meriting attention, is not conclusive upon the courts, but is to be weighed and its probative value determined in connection with the other proofs adduced.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

FELIPE G. CALDERON and FELIX FERRER, for appellants.  
Solicitor-General ARANETA, for appellee.  
GABRIEL and BORDON, for private prosecutor.

MAPA, J.:

The defendants, charged with the murder of Benito Perez, were convicted by the trial court of the offense of *lesiones menos graves*, and sentenced to six months of *arresto mayor*, the payment of 100 Mexican pesos as damages to the heirs of the deceased, and to the costs of the trial.

From the evidence introduced at the trial it appears that late at night on February 4, 1903, the deceased, Benito Perez, Policarpo Guevara, and Felipe Bautista, were arrested in their respective houses by the defendants; that Valentin Trono was a subinspector of the municipal police of the town of Hagonoy; that he was accompanied by two municipal policemen named José and Agustín; that the deceased and his companions were suspected of the theft of a revolver belonging to one Máximo Angeles; that when Benito Perez was arrested he was in good health, not suffering from any disease; that he and his companions, Guevara and Bautista, were taken by their captors to a place called Sapang-Angelo and

bent and illtreated, and that while they were undergoing this ill treatment Benito was heard to beg Máximo to pardon him, uttering the following words: "Máximo, have pity on me or else kill me at once;" that the blows inflicted left Policarpo Guevara breathless for some time and caused Felipe Bautista to suffer pains in the region of the heart for about an hour; that Benito Perez was so severely illtreated that in order to reach the municipal building of the town, to which the prisoners were taken after the ill treatment was inflicted upon them, he was obliged to lean upon the policeman José for the whole distance; that he was unable to stand, and furthermore complained of sharp pains in the abdomen; that when the prisoners were brought before the municipal president the following day they were discharged by him, as nothing was brought out against them in the investigation made concerning the theft of Máximo Angeles's revolver, which had led to their detention; that Benito Perez, on account of the condition in which he had been left, was unable to return to his house alone, and that therefore a brother of his, named Estanislao, was obliged to take him from the municipal building to his home in a boat; that upon arrival at his home the deceased was obliged to go to bed, and his mother, Candelaria de los Santos, found his condition to be so serious that she immediately reported the facts to the justice of the peace of the town, denouncing the persons who had illtreated Benito as guilty of the crime of attempted homicide; that during the short time that the deceased was in bed he was unable to eat, urinated with great difficulty, and expelled with his urine drops of blood; that he complained of intense pains in the stomach and told his family that the pains were the result of blows inflicted upon him with a gun and other ill treatment received by him, and that his injuries would be the death of him. The deceased died on the morning of the day following—that is, February 6, 1903. At the time that Benito Perez and his companions were arrested each of the defendants was armed with a revolver and the policemen José and Agustín were armed with guns.

The defense admits the fact of the arrest of Benito Perez and of Felipe Bautista and Policarpo Guevara by the defendants, but denies that they illtreated the said Benito. Nevertheless the proof for the prosecution upon this point is conclusive.

Felipe Bautista and Policarpo Guevara, who were with Benito Perez at the time of his arrest, after testifying that Perez was separated from them by their captors a distance of from 8 to 10 brazas at a place called Sapang-Angelo, they proceeded to testify that they heard blows inflicted on Benito and his groans and his supplications to Máximo to pardon him; both of them believed—for they were unable to see owing to the darkness of the night—that the blows were inflicted with a gun, owing to the fact that Máximo Angeles took the gun which was carried by the policeman Agustín, who was standing beside the witness when he commenced to illtreat Benito.

The testimony of these witnesses has been corroborated by that of Pedro Santos, who was sent together with one Esperidion by Benito's mother to follow the latter and observe what was being done to him. This witness says that while Benito and his captors were on the edge of the *estero* and he and his companion, Esperidion, on the opposite bank some 10 brazas away from the place where the others were, he heard them beating Benito with the butt of a gun, and heard the latter's groans and his supplications to Máximo and Valentin for pardon. They testified that they heard him say that if they would not pardon him that they had better put him out of his misery at once.

It was not necessary that the witnesses should see the actual blows struck. It was sufficient that they heard them in order to be able to testify as to the fact that the blows were struck, more especially when the sound of the blows was followed by groans, showing suffering of the victim. The fact that the blows were struck with a gun or some other instrument is a circumstance of so accidental a character that it can not affect the

reality of the facts in the case. Even if the blows had been struck with a club the result would be the same upon proof of the fact that the blows were struck and of the consequences thereof. But in the present case the witnesses had good reason for believing that the blows were struck with guns, for this was the weapon which Máximo used when striking and beating Benito. It is true that he might have struck him with the hand alone or with a revolver, which Máximo also carried on that occasion (it does not appear that he had any other weapon), but we believe that it can not be absolutely asserted that it is impossible to distinguish by the sense of hearing blows given with the hand or with a revolver from those caused by a gun, taking into consideration the larger dimension and weight of the latter weapon and consequently the greater force and increased sound which would be produced by the blows inflicted with such an implement.

In addition to what has been testified by the foregoing witnesses there is material evidence of the battery of Benito Perez shown by the testimony of Felipe Bautista and Policarpo Guevara, who testified that after hearing the blows given to the former they saw him unable to stand and complaining of sharp pains in the abdomen and being compelled to walk leaning on the policeman José, in order to be able to reach the municipal building of the town.

Evidence is likewise found in the fact that different parts of his body, such as the neck, hands, ribs, arms, and abdomen were seen by the witnesses Estanislao Perez, Raymunda Perez, Juliana de los Santos, and Candelaria de los Santos to be bruised and swollen.

The municipal president of Hagonoy, José R. Lopez, a witness on behalf of the defense, likewise must have observed something abnormal about Benito Perez when brought before him on the following morning, because he inquired of him, as testified by said president, whether he was ill, to which Benito replied that he was. The president testified that what moved him to make such inquiry was the fact that he noticed that Benito's face was pale; but according to Policarpo Guevara this was due to the fact that Benito was unable to remain on his feet in the presence of the president, in spite of the orders of the accused, Valentin, who told him to stand up. We give credit to the statement of the witness Guevara because it is not natural that the mere pallor on the face of a person who appears before an official accused of a crime should attract the latter's attention to the point of moving him to inquire whether he was ill or not.

The partiality of President Lopez in favor of the accused, Valentin Trono, is explained at once if it be taken into account that on being questioned during the trial what relationship he had with Valentin he replied that he *refused to testify as to family secrets*.

The very doctor, Andrés Icaiano, who examined Benito Perez, notwithstanding his manifest, clear, and evident tendency to favor the accused, was forced to certify that there appeared on the upper part of the left iliac region near the edge of the innominate bone two bruises caused by an instrument causing a contusion, one of the size of a half dollar, and the other the size of a 20-cent piece.

The foregoing details show likewise the seriousness of the lesions of Benito Perez. They broke him down to such an extent that he was unable to again stand up from the moment he received the blows until the moment of his death. He was unable to reach the municipal building without the support of the policeman José, neither was he able to walk to his home, but was conveyed in a banca. His condition was so serious when he arrived at the latter place that his mother, Candelaria de los Santos, justly alarmed, went without loss of time to file an information before the justice of the peace against the authors of the crime for attempted homicide. The physician, Icaiano, who examined Benito by order of the justice, called upon him twice on the

same night with an interval of two hours only, which shows that he had fully realized the serious condition of his patient. The latter in the meantime was unable to take any food. He could only urinate a few drops of blood and felt continuous and sharp pains on the abdomen, which he attributed to the blows and ill treatment to which he had been subjected. He felt that he was dying; he so advised his family, and a few hours later the crisis came and he passed away. All this is proven by the combined testimony of the witness already mentioned, Candelaria and Juliana de los Santos, Estanislao and Raymunda Perez and Policarpo Guevara, and Felipe Bautista.

The defense contends that the death of Benito Perez was not due to the lesions inflicted on him, which were not serious, but to hepatic colic brought on by hypertrophic cirrhosis, from which the deceased had been suffering for a long time, basing such allegation on the certificate and testimony of the physician, Don Andrés Icasiano, wherein such a statement is made.

We can not give any credit to the testimony of this physician because the facts which would serve as a foundation to his conclusion are manifestly inexact.

In the first place, in his certificate on folio 18 it is stated that the body of the deceased only showed two small bruises on the superior part of the left iliac region. The witness Esteban Perez testified that the deceased had bruises and swellings on the superior part of the left hand, on the neck, on the ribs, and on the abdomen; Raymunda Perez affirms having seen bruises on the abdomen on both sides, on the left arm, and on the left side of the neck; and Candelaria de los Santos likewise saw them on the upper part of the left hand and on the left side of the neck and on the ribs. In the second place, the physician affirms that the deceased devoted himself on the night of the occurrence to his *customary libations*. Nothing is shown in the case to corroborate this alleged habit, and especially nobody testified to having seen the deceased drunk on the night of the occurrence.

In the third place it is stated in said certificate of the physician that the deceased, *after the blows the effects whereof are being inquired into went on foot to the town from a distant barrio, and vice versa*. This is manifestly untrue, because the proof in this case shows that from the place where the deceased was ill-treated he was compelled to walk, being supported by a policeman until he reached the town, and in order to take him from the town to his home it was necessary to use a boat.

These last statements are so unjustified that the physician, Icasiano, when testifying, withdrew them during the trial. Why, then, did he set them forth in the certificate which appears on folio 18?

There is nothing in the case to show that the deceased had ever suffered from hypertrophic cirrhosis. The ailment which the deceased had at the time referred to by the physician, Icasiano, was cholera, according to the mother of the deceased, Candelaria de los Santos, who testified, besides, referring to the time to which this case refers, that her son was of a robust constitution and suffered no ailments whatever.

There are, besides, the following facts to be taken into consideration: After the physician, Icasiano, had examined the deceased, and while the latter was still alive, he told Raymunda Perez that the deceased was suffering from *blows with a rifle*.

When the death had taken place, the family of the deceased repeatedly requested the physician, Icasiano, to examine the body, which the latter flatly refused to do, and warned them, on the other hand, to bury him quickly, under the pretext that he had died of cholera.

It likewise appears from the testimony of Raymunda Perez that said physician is an intimate friend of the accused Maximo Angeles.

Expert testimony no doubt constitutes evidence worthy of meriting consideration, although not exclusive, on questions of a professional character. The courts of justice, however, are not bound to submit their findings necessarily to such testimony; they are free to weigh them, and they can give or refuse to give them any value

as proof, or they can even counterbalance such evidence with the other elements of conviction which may have been adduced during the trial. In the present case there are to be found sufficient data which show in a conclusive manner the seriousness of the lesions inflicted upon the deceased, which from the very first moment prevented him from keeping on his feet, and caused him continuous and sharp pains in the abdomen and retention of the urine—symptoms which constantly showed themselves until death came—which in the absence of satisfactory proof to the contrary may be attributed to these causes, which undoubtedly were sufficient in themselves to bring about the death of the deceased.

The guilt of the accused is fully established in this case. They arrested the deceased and took him out of his house. They took him to a place called Sapang-Angelo, and they likewise committed the act of which they are charged. Nevertheless their participation in the execution thereof was not equal. Maximo Angeles and Valentin Trono's participation was evidently direct and immediate, because they ill-treated and assaulted the deceased, as appears from the testimony of Policarpo Guevara and Pedro Santos, as stated by the deceased himself to his mother (Candelaria de los Santos) and Juliana de los Santos.

With regard to Maximo Angeles, there likewise exists the testimony of Felipe Bautista, who says that this defendant ill-treated and struck the deceased. Angeles and Trono are therefore to be considered as the authors by direct participation of the death of Benito Perez.

As to the other defendant, Timoteo Natividad, his cooperation was in the nature of protection and aid, for even if it is true that he accompanied his codendants and was likewise present with them in the place where the crime was committed, it does not appear, nevertheless, that he took any direct part in the ill treatment of the deceased; and for this reason he should be considered only as an accomplice of the two first named.

There is to be taken into account the aggravating circumstance of committing the deed at night and abuse of superiority, which should be compensated with the mitigating circumstance of the defendants not having the intention of causing an evil so great as that which was actually produced, for an examination of the record fully convinces us that when the former ill-treated and struck Benito Perez they did not have in mind the deliberate intent of depriving him of his life, but only that of forcing him by such means to return the revolver which they claimed had been stolen.

We therefore reverse the judgment appealed from and sentence the defendants Maximo Angeles and Valentin Trono to the penalty of fourteen years eight months and one day of *reclusion temporal*, and Timoteo Natividad to the penalty of eight years and one day of *prisión mayor*, and all three to the payment of an indemnity consisting of 500 pesos, Philippine currency, to the heirs of the deceased, and to the payment of the costs in this instance.

Arellano, C. J., Torres, Cooper, McDonough, and Johnson, J.J., concur.

WILLARD, J., dissenting:

Believing that the defendant Timoteo Natividad should be condemned as a coprincipal, I do not agree with the penalty imposed upon said defendant.

*Judgment modified.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 289.—*Publishing Act No. 1065, amending Act No. 898, as to closing Cape Melville, Balabac Island, as a port of entry and creating Balabac, Island of Balabac, as a port of entry, and providing for the necessary office force at the port of Balabac.*

MANILA, February 26, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following act of the Philippine Commission

is hereby published for the information and guidance of all concerned:

"[No. 1065.]

"AN ACT SO AMENDING ACT NUMBERED EIGHT HUNDRED AND NINETY-EIGHT AS TO CLOSE CAPE MELVILLE, BALABAC ISLAND, AS A PORT OF ENTRY AND CREATING BALABAC, ISLAND OF BALABAC, AS A PORT OF ENTRY, AND PROVIDING FOR THE NECESSARY OFFICE FORCE AT THE PORT OF BALABAC.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. Section two of Act Numbered Eight hundred and ninety-eight, entitled 'An Act providing for the closing of the port of Aparri as a port of entry, creating the ports of Bongao, Cape Melville, Balabac Island, and Puerto Princesa ports of entry, and amending section three hundred and one of Act Numbered Three hundred and fifty-five,' is hereby so amended as to read as follows:

"SEC. 2. The port of Bongao, in the Jolo collection district, and the ports of Balabac, Balabac Island, and Puerto Princesa, in the Manila collection district, are hereby created, ports of entry."

"SEC. 2. The Collector of Customs and employees authorized by section three of said Act Numbered Eight hundred and ninety-eight for the port of Cape Melville are hereby authorized for the port of Balabac instead of for the port of Cape Melville.

"SEC. 3. Section six of said Act Numbered Eight hundred and ninety-eight is hereby amended by striking out the words 'Cape Melville, Balabac Island,' and inserting in lieu thereof the words 'Balabac, on Balabac Island.'

"SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"SEC. 5. This Act shall take effect on its passage.

"Enacted, February 25, 1904."

PAR. II. By authority of section 10 of the Philippine Customs Administrative Act, and pursuant to Act No. 1065, the boundaries of the Balabac collection district are hereby fixed as follows:

"The district of Balabac shall comprise the Island of Paragua from the port of Alphonso XIII on the west coast to the port of Aboabo on the east coast, the Island of Balabac, and all other islands adjacent thereto."

PAR. III. The office of the collector of customs now located at Cape Melville, Island of Balabac, shall be transferred by the first available transportation to the port of Balabac, Island of Balabac, and all customs officers authorized for the port of Cape Melville are hereby transferred to and authorized for the port of Balabac.

PAR. IV. So much of Customs Administrative Circular No. 242 as is in conflict herewith is hereby repealed.

PAR. V. By authority of the provisions of Act No. 1065, Cape Melville, Island of Balabac, is hereby declared closed as a port of entry for the Philippine Islands.

PAR. VI. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 290.—*Merchandise subject to ad valorem rate of duty; duty not to be assessed upon an amount less than the invoice or entered value.*

MANILA, March 3, 1904.

To all Collectors of Customs:

PARAGRAPH I. Pursuant to the authority vested in the Insular Collector under the provisions of sections 19 and 20 of the Customs Administrative Act, the following regulation is promulgated,

and shall be observed in connection with the enforcement of sections 177 and 178 of the said Customs Administrative Act:

PAR. II. Whenever imported merchandise is subject to an ad valorem rate of duty, or to a duty based upon and regulated in any manner by the value thereof, such duty shall not be assessed in any case upon an amount less than the invoice or entered value: *Provided*, That in cases where it can be conclusively shown to the satisfaction of the Collector of Customs that the invoice value of an importation far exceeds the general market value of similar goods at the time of exportation, entry by appraisal independent of invoice values may be allowed upon written approval of the Insular Collector.

PAR. III. The regulation contained in the foregoing paragraph shall not effect the matter of manifest clerical errors made in an invoice or entry, as provided for in section 205 of the said Administrative Act, nor the relief afforded thereunder in such instances.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 291.—*Publishing resolution of the Board of Health for the Philippine Islands, abolishing interinsular quarantine except at duly authorized ports of entry and in cases where vessels come from infected ports.*

MANILA, March 5, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following resolution passed by the Board of Health for the Philippine Islands on March 2, 1904, is hereby published for your information and guidance:

"The matter of delaying the Philippine coastwise vessels by quarantine at various insular ports having been brought before the Board and discussed, on motion,

*Resolved*, That interinsular quarantine is no longer necessary and is hereby abolished except at duly authorized ports of entry and in the case where the vessels entering ports come from ports which have been declared infected by the Insular Board of Health."

PAR. II. Philippine customs officers will give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 292.—*Amending paragraph 2 of Customs Administrative Circular No. 195, fixing price of first-class roll books.*

MANILA, March 7, 1904.

To all Collectors of Customs:

PARAGRAPH I. Paragraph 2 of Customs Administrative Circular No. 195, fixing price of first-class roll books, is hereby amended to read as follows:

"PAR. II. The price of first-class rolls or roll books shall be \$1.50, United States currency, or ₱3, Philippine currency, each."

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 293.—*Fixing price of "roll" furnished vessels of less than 15 tons gross.*

MANILA, March 7, 1904.

To all Collectors of Customs:

PARAGRAPH I. In accordance with section 143 of Act No. 355 of the United States Philippine Commission, the price of the "roll" to be furnished vessels of less than 15 tons gross is hereby fixed at \$1, United States currency, or ₱2, Philippine currency, per book.

PAR. II. Collectors of customs at ports of entry and coast district inspectors of customs in coast inspection districts shall at once require all small boats licensed by them to engage in trade to purchase this roll, and shall require same to be used for the entrance and clearance of these boats, as is provided by law.

PAR. III. The funds accruing from the sale of these rolls shall be deposited and accounted for as customs collections under special head of "sale of rolls."

PAR. IV. Customs Administrative Circular No. 2 is hereby revoked.

PAR. V. Philippines customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 294.—Publishing Act No. 1066 of the Philippine Commission exempting small vessels from the requirements of Act No. 780, and providing for the number of licensed officers to be carried by coastwise vessels.

MANILA, March 5, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following Act No. 1066 of the Philippine Commission is hereby published for the information and guidance of all concerned:

"[No. 1066.]

"AN ACT EXEMPTING SMALL VESSELS FROM THE REQUIREMENTS OF ACT NUMBERED SEVEN HUNDRED AND EIGHTY, ENTITLED 'AN ACT PROVIDING FOR THE EXAMINATION AND LICENSING OF APPLICANTS FOR THE POSITIONS OF MASTER, MATE, PATRON, AND ENGINEER OF SEAGOING VESSELS IN THE PHILIPPINE COASTWISE TRADE, AND PRESCRIBING THE NUMBER OF ENGINEERS TO BE EMPLOYED BY SUCH VESSELS.'

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. So much of Act Numbered Seven hundred and eighty, entitled 'An Act providing for the examination and licensing of applicants for the positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade, and prescribing the number of engineers to be employed by such vessels,' as provides that steam vessels of less than one hundred tons burden, or sailing vessels of less than one hundred and fifty tons burden, shall carry licensed officers, is hereby repealed: *Provided, however,* That all vessels propelled wholly or in part by steam shall carry and employ a licensed engineer or engineers, as provided in said Act Numbered Seven hundred and eighty.

"SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"SEC. 3. This Act shall take effect on its passage.

"Enacted, February 26, 1904."

PAR. II. Nothing in the above-quoted act shall be construed to exempt the master and watch officers of vessels of the tonnage specified in said Act operating in the coastwise trade of the Philippine Islands from taking the oath of allegiance required by sections 118 and 126 of Act No. 355.

PAR. III. Steam vessels licensed for the coastwise trade shall carry the following licensed officers and engineers:

(a) Steam vessels of 300 tons gross and over shall be required to carry the following licensed officers:

One master, one first mate, one second or third mate, one chief engineer, one first assistant engineer, and one second assistant

engineer; *Provided,* That a patron, licensed to act as such on steam vessels, may serve as first, second, or third mate on steam vessels of 300 tons gross or over, and less than 500 tons gross.

(b) Steam vessels of 100 tons gross and under 300 tons gross shall carry one master, one mate, and two engineers; *Provided,* That a first assistant engineer may serve as engineer in charge of the vessel: *And provided further,* That a patron licensed to act as such on steam vessels, and a licensed first mate, may serve as master on steam vessels of less than 200 tons gross.

(c) Vessels under 100 tons gross shall carry two engineers; *Provided,* That a first or second assistant engineer may serve as engineer in charge of the vessel.

(d) Vessels operating on bays and rivers and steamers engaged exclusively in the lighterage and harbor work, and carrying no passengers, shall carry one engineer; *Provided,* That either a first or second assistant engineer may serve as the engineer in charge: *And provided further,* That such vessels operating on bays and rivers as ferry boats and carrying passengers and making night runs shall carry two engineers, one of whom shall be either a chief engineer or a first assistant engineer.

PAR. IV. Sailing vessels licensed for the coastwise trade shall carry the following licensed officers:

(a) Sailing vessels of over 150 tons gross and under 500 tons gross shall carry one master and one mate; *Provided,* That if the gross tonnage of the vessels does not exceed 200 tons, a patron with license to act as such may serve as master of the vessel, and a patron with license to serve on sailing vessels of less than 200 tons may act as mate on sailing vessels under 500 tons gross.

(b) Sailing vessels of over 500 tons gross shall carry one master, one first mate, and one second or third mate; *Provided,* That a licensed patron may serve as either first, second, or third mate aboard such vessels.

PAR. V. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 295.—Consolidated rules for forwarding protests and appeals, and papers relating thereto, from subports of entry; "separate protests and appeals should be required for each entry or other payments."

MANILA, March 7, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following rules as to the presentation, couring, and forwarding of protests and appeals, and papers and samples relating thereto, are hereby published for the information and guidance of all concerned:

PAR. II. Collectors of customs are directed to forward the number of samples and copies of protests and appeals, and papers relating thereto, as stated in the following list:

	Protest.	Decision.	Entry.	Invoice.	Appeal.	Sam. p. l. of merchandise.	Other papers.
Appeals to Insular Collector .....	2	2	1	1	2	1	2
Appeals to Court of Customs Appeals.			1	1	2		
Protest sustained forwarded for approval by Insular Collector .....	2	3	2	2		1	2

Care should be taken that the number of papers and samples are transmitted as specified in the above list, that the consideration and adjustment of protests and appeals may be expedited, and that unnecessary correspondence may be avoided.

PAR. III. Letters approving refunds on protests sustained by collectors of customs at subports of entry, by the Insular Collector and by the Court of Customs Appeals, with the necessary

papers, will be forwarded to the Insular Auditor from the office of the Insular Collector. The amount of refunds to be allowed on protests sustained by collectors of customs at subports of entry should be accurately stated in their decisions. Copies of decisions of the Insular Collector and of the Court of Customs Appeals will be transmitted to the collector of customs concerned.

PAR. IV. A separate and distinct protest should be required for each payment protested, though two or more subjects may be consolidated in any protest relating to one voucher.

PAR. V. In the case of a decision on a protest from which an appeal may be taken, the office rendering such decision should ascertain the exact date on which the decision reaches the protester or appellant, that no claim may be made after the expiration of the time limit. Receipt should be taken in each case, as to the date of delivery of the decision of the collector at a subport of entry or of the Insular Collector, in a book kept for the purpose. This book should contain the entry number, protest number, and the name of the protester or appellant.

PAR. VI. For detailed information in the matter of appeals from decisions of the collectors of customs at subports of entry to the Insular Collector, attention is invited to Customs Administrative Circulars Nos. 3 and 263. Attention is also invited to Customs Administrative Circular No. 157.

PAR. VII. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 298.—Publishing letter from Chief of the Bureau of Insular Affairs, providing for separation of indigo from tintarron on export entries.

MANILA, March 10, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following letter from the Chief of the Bureau of Insular Affairs is hereby published for the information and guidance of all concerned:

WASHINGTON, D. C., January 25, 1904.

"SIR: According to export figures for years previous to American occupation a considerable quantity of tintarron, or liquid indigo, was shipped from the Islands.

"This article is mentioned separately under Schedule No. 13 of the export classification, although no record of any shipment has been shown thus far, and in view of the requests that have been made to this office together with the fact that indigo is occasionally reported with what would appear to be a duty based on the rate for tintarron, I suggest that the items be separated hereafter as called for by the classification.

"Very respectfully,

"C. R. EDWARDS,

"Colonel, U. S. A., Chief of Bureau."

PAR. II. In this connection it is directed that exporters of indigo be instructed to state on their export entries whether the indigo is in a dry or liquid state. If the latter, it shall be described as tintarron, or liquid indigo.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

## NOTICE.

Sale of the Insular Cold Storage and Ice Plant.

Sealed bids for the purchase of the Insular Cold Storage and Ice Plant located at Manila will be received on or before the 27th day of June, 1904. The plant includes one of the most valuable locations in the city of Manila on the Pasig River, occupying the whole space between the Suspension and the Santa Cruz bridges, with abundant water frontage, and in the im-

mediate vicinity of the business center. The buildings and machinery are in every respect new and modern, completed in the year 1901. The sale will include the land and water transportation belonging to the plant, including insulated lighters and barges, delivery wagons, horses, and harnesses.

For the fiscal year 1903 the total revenue of the plant was \$332,194.17; total expenditures for the same period, \$198,338.83, leaving an excess of revenue over expenditures of \$133,855.34. United States money. The plant as a Government institution does not compete with private establishments of a like character. In the hands of a private corporation the income could be very largely increased. No bid for less than \$1,000,000, United States money, will be considered. Bids will be received on the basis of an unrestricted sale, and also on the basis of an agreement on the part of the purchaser to furnish ice to civil employees for five years at the present Government rate of one-half cent, gold, per pound. The right to reject any and all bids is reserved. Each bid must be accompanied by a certified check payable to the Government of the Philippine Islands for 5 per cent of the amount of the bid as security for the fulfillment of the contract should the bid be accepted.

TERMS.—Payment to be one-third cash and the balance in three equal annual installments, at 6 per cent interest per annum; the unpaid portion of the purchase money to be secured by mortgage on the property, or by other satisfactory security.

Bids may be filed with the Chief of the Bureau of Insular Affairs, War Department, Washington, D. C., or with the Secretary of Finance and Justice at Manila. All bids must be filed before 12 o'clock noon, June 27, 1904, at which time the bids will be opened.

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### Public laws:

- No. 108, conferring concurrent jurisdiction upon Courts of First Instance for the Thirteenth and Fourteenth Judicial Districts over cases arising within the district of Lanao, Moro Province.
- No. 109, amending paragraph (a) of section 29 of Act No. 82, entitled "The Municipal Code," as amended, so far as concerns the municipality of Cebu, Province of Cebu.
- No. 110, to provide for a second revision of the assessments upon real estate in the Province of Surigao.
- No. 111, amending Act No. 787 by authorizing the provincial engineer of the Moro Province to purchase supplies in the open market under certain conditions.
- No. 112, extending the time for the payment of the land tax in the Province of Ilocos Sur.
- No. 113, authorizing the payment of a salary of 100 pesos per month to the president of the municipal board of health of Daet, Province of Ambos Camarines.
- No. 114, amending section 33 of Act No. 136 so as to provide that the reports of the decisions of the Supreme Court shall be published in both the English and Spanish languages, but that the decisions in each language shall be bound separately instead of in the same volume, as now provided by law.
- No. 115, legalizing the action of the Municipal Board of the city of Manila in dividing the territory of the city of Manila into thirteen districts, assigning the names and defining the boundaries of each of said districts.
- No. 116, providing for a second revision of the assessments upon real estate in the Province of Cavite.
- No. 117, fixing the salaries of registers of deeds in the several provinces appointed in pursuance of the provisions of the Land Registration Act.

### Executive orders:

- No. 15, fixing the ratio of exchange and the rate for the redemption of Spanish-Philippine currency at 1.13 to 1.
- No. 16, relative to mailing to the Bureau of Insular Affairs copies of publications of the Insular Government.

### Decisions of the Supreme Court:

- Agueda Benedicto vs. Estaban de la Rama, dissenting opinion.
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- The United States vs. Valentin Frano et al.

### Bureau of Customs and Immigration:

- Customs Administrative Circulars:
  - No. 289, publishing Act No. 898, as to closing Cape Melville, Balabac Island, as a port of entry and creating Balabac, Island of Balabac, as a port of entry, and providing for the necessary office force at the port of Balabac.
  - No. 290, merchandise subject to ad valorem rate of duty, duty not to be assessed upon an amount less than the invoice or entered value.
  - No. 291, publishing resolution of the Board of Health for the Philippine Islands abolishing interinsular quarantine except at duly authorized ports of entry and in cases where vessels come from infected ports.
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  - No. 295, consolidating rules for forwarding protests and appeals and papers relating thereto from subports of entry; "separate protests and appeals should be required for each entry or other payments."
  - No. 296, publishing letter from Chief of the Bureau of Insular Affairs, providing for separation of indigo from tintarron on export entries.

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Sale of the Insular Cold Storage and Ice Plant.

# Official Gazette

Published by authority of the Insular Government under and by virtue of Act No. 453 of the Philippine Commission.

VOL. II

MANILA, P. I., APRIL 27, 1904.

No. 17

## PUBLIC LAWS.

[No. 1108.]

AN ACT AMENDING SEVERAL SECTIONS OF ACT NUMBERED FOUR HUNDRED AND NINETY-SIX, ENTITLED "THE LAND REGISTRATION ACT."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section six of Act Numbered Four hundred and ninety-six, the Land Registration Act, is hereby amended by adding at the end thereof the following words:

"Any judge at large of the Court of First Instance, appointed by virtue of Act Three hundred and ninety-six, may likewise be required to perform the duties of judge of the Court of Land Registration in any province in the Philippine Islands or in the city of Manila, when directed in writing to do so by the Civil Governor, in which case his acts, proceedings, and judgments shall be of the same validity as though he were a regular judge or associate judge of the Court of Land Registration in the city of Manila or in the province in which he shall perform such duties. In case such order is given, the judge performing duties as judge of the Court of Land Registration shall receive an allowance for traveling expenses in the same manner and to the same extent as he would receive if performing the duties of a judge of the Court of First Instance."

SEC. 2. Section twelve of said Act is hereby amended by striking out the word "fifteen" in the third line thereof and by adding at the end thereof the following words:

"In case no examiner of titles has been appointed for a judicial district, or in other cases where such action is deemed advisable, the Secretary of Finance and Justice may issue an order that the register of deeds or the provincial fiscal of any province shall perform the duties of examiner of titles within his province, either permanently or until a regular examiner of titles shall be appointed for the judicial district within which the province lies: such order may be revoked at any time by the Secretary of Finance and Justice. In case such order is issued, the register of deeds or the provincial fiscal, as the case may be, shall be entitled in addition to his regular salary as register of deeds or as fiscal, to receive from the clerk of the court one-half the fee of five dollars provided by law for an examination of title, and the remainder of the fee and the percentage on the value of the land shall be paid into the Insular Treasury, notwithstanding the provisions of section thirteen of this Act or any other provisions of existing law."

SEC. 3. The first sentence of section thirteen of said Act is hereby amended to read as follows:

"The salary of the judge of the Court of Land Registration shall be five thousand dollars per annum, and that of the associate judge shall be four thousand dollars per annum until the first day of January, nineteen hundred and five, and thereafter four thousand five hundred dollars per annum, and that of the

clerk of the court shall be two thousand five hundred dollars per annum; the salary of any associate judge hereafter appointed under this Act shall be four thousand dollars per annum for the first two years of service as associate judge and thereafter four thousand five hundred dollars."

SEC. 4. Section fourteen of said Act is hereby repealed and a new section fourteen is hereby inserted, to read as follows:

"SEC. 14. Every order, decision, and decree of the Court of Land Registration may be reviewed by the Supreme Court in the same manner as an order, decision, decree, or judgment of a Court of First Instance might be reviewed, and for that purpose sections one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, four hundred and ninety-six, four hundred and ninety-seven (except that portion thereof relating to assessors), four hundred and ninety-nine, five hundred, five hundred and one, five hundred and two, five hundred and three, five hundred and four, five hundred and five, five hundred and six, five hundred and seven, five hundred and eight, five hundred and nine, five hundred and eleven, five hundred and twelve, five hundred and thirteen, five hundred and fourteen, five hundred and fifteen, five hundred and sixteen, and five hundred and seventeen of Act Numbered One hundred and ninety, entitled 'An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands,' are made applicable to all the proceedings of the Court of Land Registration and to a review thereof by the Supreme Court, except as otherwise provided in this section: *Provided, however,* That no certificates of title shall be issued by the Court of Land Registration until after the expiration of the period for perfecting a bill of exceptions for filing: *And provided further,* That the Court of Land Registration may grant a new trial in any case that has not passed to the Supreme Court, in the manner and under the circumstances provided in sections one hundred and forty-five, one hundred and forty-six, and one hundred and forty-seven of Act Numbered One hundred and ninety: *And provided also,* That the certificates of judgment to be issued by the Supreme Court, in cases passing to it from the Court of Land Registration, shall be certified to the clerk of the last-named court as well as the copies of the opinion of the Supreme Court: *And provided also,* That in the bill of exceptions to be printed no testimony or exhibits shall be printed, except such limited portions thereof as are necessary to enable the Supreme Court to understand the points of law reserved. The original testimony and exhibits shall be transmitted to the Supreme Court.

"(a) Where two associate judges, or the judge and an associate judge, sitting together in any proceeding in the Court of Land Registration shall disagree as to any decision, they shall certify the fact of their disagreement and the record to the Supreme Court of the Islands, which shall thereupon proceed to examine the case and issue a mandate to the Court of Land Registration as to the judgment that should be rendered."

SEC. 5. Section seventeen of said Act is hereby amended by inserting in the fourth line. after the words "in the Courts of First Instance" and before the words "and, upon the request of

the judge of the Court of Land Registration," the following words: "including a writ of possession directing the governor or sheriff of any province or of the city of Manila to place the applicant in possession of the property covered by a decree of the court in his favor," and by adding at the end of said section the following words: "The governor or sheriff of the province who shall, in person or by his deputy, attend the sittings of the court in any province outside the city of Manila, in accordance with the provisions of this section, shall be allowed three dollars per day, in money of the United States, for each day the court is in session in his province for attendance by himself and necessary deputies. This allowance shall be in addition to the fees for service of process, and shall be paid from the provincial treasury."

Sec. 6. Section nineteen of said Act is hereby amended by adding at the end of the fourth paragraph thereof the following:

"The Government of the United States, or of the Philippine Islands, or of any province or municipality therein may make application through any agency by it respectively and duly authorized. Foreign corporations may apply for and secure registration of title to lands in the name of the corporation, subject only to the limitations applied or to be applied to domestic corporations. Article eighteen of the royal decree of February thirteenth, eighteen hundred and ninety-four, concerning the adjustment and sale of public lands in the Philippine Islands, and article seventy-seven of the regulations for the execution of the same, together with any other provision or provisions of existing law limiting or prohibiting the holding of land in the Philippine Islands by aliens or by foreign associations, companies, or commercial bodies are hereby repealed."

Section nineteen of said Act is further amended by adding after subsection (d) the following paragraph:

"(e) Instruments known as '*pacto de retro*,' made under sections fifteen hundred and seven and fifteen hundred and twenty of the Spanish Civil Code in force in these Islands, may be registered under this Act, and application for registration thereof may be made by the owner who executed the '*pacto de retro*' sale under the same conditions and in the same manner as mortgages are authorized to make application for registration."

Sec. 7. Section twenty-four of said Act is hereby amended by changing the first sentence thereof to read as follows:

"Sec. 24. The application may include two or more contiguous parcels of land, or two or more parcels constituting one holding under one and the same title, if within the same province or city, and likewise two or more parcels constituting one holding and within the same province or city, though not under one and the same title, nor contiguous, in cases where neither of the several parcels of land included in the one application exceeds one hundred dollars in value."

Sec. 8. Section thirty-six of said Act is hereby amended by adding at the end thereof the following words:

"The surveying required by the provisions of this section, or by any rules and directions of the Court of Land Registration, and the drafting of any plans required, may be done by any private surveyor of sufficient qualifications, to be approved by the judges of the Court of Land Registration, or by a surveyor or surveyors to be detailed for that purpose from the clerical force authorized by law for the Court of Land Registration, whose duty it is hereby made to provide in its clerical force a sufficient number of competent surveyors for the purpose of carrying out the provisions of this section. The judges of the Court of Land Registration shall fix in each case the fee to be charged for the expense of a survey and necessary drafting, which shall be paid by the applicant, or apportioned among the parties, as justice may require. The fees so charged shall be paid into the Insular Treasury, except in cases where a private surveyor, to be approved by the judges, is employed."

Sec. 9. Section one hundred and fourteen of said Act is hereby amended by adding at the end thereof the following:

"The fee thus collected shall be apportioned as follows: After payment by the clerk of cost of publication where the property is situated in the city of Manila, and of sheriff's fees where situated outside of the city of Manila, and also the examiner's fee where the examination has been made by a fiscal or register under section one of this Act, the remainder shall be deposited by the clerk of the court, one-half to the credit of the Insular Government and one-half to the credit of the city of Manila or of the province where the land lies, as the case may be, the amount in the latter case to be remitted to the treasurer of the particular province interested. The clerk in each such instance shall furnish a certificate to the register of deeds and sheriff of the city of Manila, or to the register of deeds of a province, as the case may be, setting forth the special character of the applicant, which certificate shall be authority for a waiver of his usual fees by the sheriff of the city of Manila and for the free entry of the original certificate of title and the issuance of one duplicate thereof by the registers of deeds."

Sec. 10. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 11. This Act shall take effect on its passage.

Enacted, April 5, 1904.

[No. 1109.]

AN ACT APPROPRIATING AN ADDITIONAL SUM OF TWO HUNDRED THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FOR THE PURPOSE OF CONTINUING AND COMPLETING THE PREPARATION OF THE EXHIBIT OF THE PHILIPPINE ISLANDS AT THE LOUISIANA PURCHASE EXPOSITION AND THE CARRYING ON IN GENERAL OF THE WORK OF THE PHILIPPINE EXHIBIT, AND ALSO AUTHORIZING THE EXPOSITION BOARD TO GRANT CONCESSIONS, AND AMENDING ACT NUMBERED FIVE HUNDRED AND FOURTEEN, AS AMENDED, SO AS TO AUTHORIZE THE CHAIRMAN OF THE EXPOSITION BOARD, WITH THE APPROVAL OF THE SECRETARY OF WAR, TO APPOINT AND FIX THE SALARIES OR WAGES OF EMPLOYEES OF SAID BOARD IN THE UNITED STATES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the additional sum of two hundred thousand dollars, in money of the United States, to be expended by order of the Exposition Board in the preparation and maintenance of the Philippine exhibit at the Louisiana Purchase Exposition at Saint Louis, for the purposes and under the restrictions set forth in Act Numbered Five hundred and fourteen, as amended by Act Numbered Seven hundred and sixty-five, and for the purpose of continuing and completing the preparation of the exhibit of the Philippine Islands at said Exposition, and for meeting the expenses provided in Act Numbered Seven hundred and sixty-five, for completing the necessary buildings for the exhibits, for laying out the grounds included in the tract of land assigned to the Philippine exhibit, and for the general purposes of carrying on the exhibit, including the care and custody of the exhibits and the general expenses authorized to be incurred by virtue of Act Numbered Five hundred and fourteen, as amended. The sum hereby appropriated shall be expended by



order of the Exposition Board and in accordance with existing law.

Sec. 2. The Exposition Board is hereby authorized to grant concessions for the sale of articles produced in the Philippine Islands or elsewhere, and to establish regulations for the conduct of such concessions. This authority shall be retroactive so as to authorize such concessions as have been granted heretofore by the Board.

Sec. 3. Section two of Act Numbered Five hundred and fourteen, entitled "An Act creating a commission to secure, organize, and make an exhibit of Philippine products, manufactures, art, ethnology, and education at the Louisiana Purchase Exposition to be held at Saint Louis, in the United States, in nineteen hundred and four," as amended, is hereby amended by striking out the last sentence of the second paragraph of said section, which reads as follows: "When a quorum of the Board is in the United States no positions shall be created and no persons appointed to the same, except by the unanimous vote of the three members of the Board," and inserting in lieu thereof the following: "In the absence from the Philippine Islands of a majority or quorum of the members of the Board, the Secretary of the Interior of the Philippine Islands shall direct the appointment and fix the salaries or wages of such employees in the Philippine Islands as provided by Act Numbered One thousand and fifty-five, and the chairman of the Board, with the approval of the Secretary of War, shall appoint and fix the salaries or wages of such employees in the United States." This authority shall be retroactive so far as to authorize any such appointments made since January first, nineteen hundred and four.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, April 7, 1904.

[No. 1110.]

AN ACT APPROPRIATING FIFTEEN THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FOR GENERAL PURPOSES, TO BE DISBURSED BY THE DISBURSING AGENT OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS AT WASHINGTON, DISTRICT OF COLUMBIA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Treasury of the Philippine Islands not otherwise appropriated, the sum of fifteen thousand dollars, in money of the United States, to be transferred to the Disbursing Agent of the Government of the Philippine Islands at Washington, District of Columbia, and to be by him disbursed for the general purposes of the Insular Government. Funds disbursed in pursuance of this Act shall be charged by the Auditor for the Philippine Islands to the appropriations of the proper Bureaus, and the fund available for the Disbursing Agent at Washington shall be credited with the sum so charged to the several Bureaus so that the fund shall be a reimbursable and permanent one.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 8, 1904.

EXECUTIVE ORDERS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, April 12, 1904.

EXECUTIVE ORDER }  
No. 17.

The following is published for the information and guidance of all Government officials and employees in any way connected with the passenger and freight traffic of the Bureau of Coast Guard and Transportation:

(1) At Manila, passenger permits will be issued only upon receipt by the Chief of Coast Guard and Transportation of written requests, preferably on Bureau of Coast Guard and Transportation Form Numbered Fourteen, from the chiefs of the Bureaus or Offices to which the applicants belong. Each request must indicate plainly the name and official rank of the person desiring passage, the place of embarkation, the place of disembarkation, whether or not the party is to travel on official business, and the reason why transportation is requested.

(2) Away from Manila, captains of vessels will require like request in each case from the Chief of the Bureau or Office concerned or his senior subordinate on the ground.

(3) Each passenger will be allowed to take along not exceeding one hundred and fifty pounds of baggage. For this no permit will be required. Baggage in excess of one hundred and fifty pounds will be treated strictly as freight, and a freight permit required for it.

(4) At Manila, freight permits will be issued only upon receipt by the Chief of Coast Guard and Transportation of written requests, preferably on Bureau of Coast Guard and Transportation Form Numbered Fifteen, from the chief of the Bureau or Office interested.

(5) Away from Manila, captains of vessels will require like request in each case from the chief of the Bureau or Office concerned or his senior subordinate on the ground.

(6) In every case, below the signature of the official making transportation request must appear his official title.

(7) All baggage, and freight of a private nature if taken at all, will be carried absolutely at owner's risk.

(8) All requests for transportation will be placed on record by the Bureau of Coast Guard and Transportation.

(9) Freight must be delivered and received alongside of cutters.

At Manila passengers and baggage will usually be transported in Coast Guard launches to and from cutters.

At other places passengers, baggage, and freight must be transported in shore boats wherever it is possible to obtain them.

(10) Requests for transportation must be presented not later than two hours before sailing time of the boat, and in the event of the boat sailing early in the morning transportation permits must be secured the day before.

(11) Forms Fourteen and Fifteen of the Bureau of Coast Guard and Transportation may be obtained of the Public Printer through the chiefs of the respective Bureaus or Offices in interest.

LUKE E. WRIGHT,  
Civil Governor.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, April 15, 1904.

EXECUTIVE ORDER }  
No. 18.

The following-named persons having received a majority of the votes cast in the elections for provincial governor held in the provinces designated on February first, nineteen hundred and

four, and any irregularities which may have occurred in such elections not being deemed of sufficient importance to set aside the proceedings of the convention called under the provisions of section four, Act Numbered Eighty-three, Philippine Commission, as amended by Act Numbered Three hundred and thirty-six, their elections are hereby confirmed:

Name.	Province.
Peter Borseth .....	Leyte.
Leandro Fullon .....	Antique.
	LUKE E. WRIGHT, Civil Governor.

By A. W. FERGUSSON,  
Executive Secretary.

## DECISIONS OF THE SUPREME COURT.

[No. 1304. January 22, 1904.]

*THE UNITED STATES, complainant and appellee, vs. PETRONILO DONOSO ET AL., defendants and appellants.*

1. CRIMINAL LAW; MURDER; ALEXOSIA.—The defendants killed the deceased, whom they had arrested, while bound and helpless. *Held*, that the crime is murder, the circumstances of the killing constituting *alecosia*.
2. ID.; ID.; EVIDENT PREMEDITATION.—In the absence of evidence of overt acts showing that the accused had meditated upon the commission of the crime prior to its execution it is error to apply the aggravating circumstance of evident premeditation.
3. ID.; ID.; JUSTIFICATION.—The fact that the accused, police officers, believed that a prisoner captured by them was a brigand and killed him in consequence of that belief in no degree mitigates their crime.

REVIEW of a judgment of the Court of First Instance of Samar.

The facts are stated in the opinion of the court.

EDER C. SMITH, for appellants.

Solicitor-General ABANETA, for appellee.

TORRES, J.:

The judgment of the court below, dated March 26, 1903, which is before us for review and on appeal, condemned the defendants Petronilo Donoso, Gregorio Calin, Felix Ballos, and Timoteo Ladores to the penalty of death with the accessories and costs, as guilty of the crime of murder. By the same decision the defendant Antipatro Ada was acquitted and his discharge was ordered and the same action was taken with respect to the defendants Baldonido, Balazuche, Ciego, and Aquatian, the evidence as to them being insufficient to support a conviction.

On February 17, 1903, the provincial fiscal of Samar filed an information in the Court of First Instance of that province charging the nine defendants with the crime of murder, in that on the 24th of April, 1902, willfully, feloniously, with *alecosia* and premeditation, they attacked one Pedro Almasan, inflicting upon him various wounds which caused his death, and that after killing him they decapitated his corpse. This in an uninhabited place in the township of Tubig and contrary to the statute in the case made and provided.

From the evidence taken at the trial it appears that the municipal president of the town of Tubig, by name Petronilo Donoso, acting under instructions of Lieutenant Collins, commanding the American troops stationed in the neighboring town of Dolores, on the Island of Samar, and in conjunction with Sergeant Leo Gross, commanding the military detachment at Tubig, on the 24th and 25th of April, 1902, directed several policemen of the town and members of the volunteer corps to make an expedition into the neighboring forest for the purpose of compelling the townspeople who had taken refuge there to return to the village. Among others, the expedition was composed of Gregorio Calin, Felix Ballos, Timoteo Ladores, Antipatro Ada, Alberto Aquatian, Rufino Ciego, Gavino Balazuche, and Pablo Baldonido, who were armed with bolos and lances. About 2 o'clock on the afternoon of the same day the expedition arrived at the forest of Aman-

surao, where they found Pedro Almasan in his house with his wife, Perpetua Balmes, her sister, Cristeta Balmes, and some seven other persons, men and women, apparently relatives and friends of Almasan. They immediately arrested Almasan and bound him elbow to elbow. Gregorio Calin, a policeman who was commanding the expedition, immediately directed that the inhabitants of the house should be removed from it and taken toward the town, which order was obeyed, the people in question being conducted by the members of the expedition. While on the road, suspecting Calin's evil intentions, Almasan's wife begged him on her knees not to kill her husband, who had been the best man at Calin's wedding, but the latter pushed her away and told her to walk along and get out of the way, and immediately after Calin attacked Pedro Almasan, wounding him in the back with a lance, which pierced him to the stomach. Felix Ballos and Timoteo Ladores also took part in the assault, the deceased being at that time bound elbow to elbow and consequently unable to escape or ward off the blow. Seeing this attack, the wife of the deceased fainted, falling to the ground. Subsequently she heard Calin say, after the commission of the crime, that he had killed her husband because, in the time of the Spanish Government, his father had been exiled by orders of the deceased. Shortly after, while the wife of the deceased was walking along with the other prisoners, she saw that Timoteo Ladores was carrying her husband's head, which had been separated from the trunk by Calin's orders. The head, which was subsequently presented to President Donoso, was, on the following day, upon the arrival of the party in the town, exhibited in the public square impaled upon the point of a lance held by the defendant Gregorio Calin, while President Donoso, in a loud tone, informed the crowd which had gathered that this was the head of Capt. Pedro Almasan, a disobedient man, a thief, and a brigand, and then asked whether he had done right or wrong in having ordered that the head of the deceased be brought to the town square, to which the crowd responded that he had done well. It further appears that the members of this expedition took possession of all the money, jewels, and other property belonging to the deceased, and before leaving set fire to the house in which he was arrested. Subsequently, 500 of the 650 pesos which had been found in the house of the deceased were returned by President Donoso to the widow, who also succeeded in recovering some of the stolen jewelry. The evidence shows that, with the exception of the defendants Calin, Ballos, and Ladores, no other members of the expedition took any part in the murder of the deceased.

In the course of the trial and after the prosecution had rested, counsel for the defendants moved that Petronilo Donoso, Antipatro Ada, Alberto Aquatian, Rufino Ciego, Gavino Balazuche, and Pablo Baldonido be discharged, there being no evidence against them, and also moved that all the defendants be discharged upon the ground that they were entitled to the benefits of the amnesty proclamation of July 4, 1902.

The court below granted the motion of counsel for the defense in part and directed that Pablo Baldonido, Gavino Balazuche, Rufino Ciego, and Alberto Aquatian be discharged. The provincial fiscal excepted to this ruling and the attorney for the defense excepted to the ruling with respect to the other five defendants. The record contains a writing filed by the provincial fiscal giving notice of appeal from a judgment of acquittal of the court in favor of the four defendants above named.

Upon the termination of the trial and in view of the evidence adduced, the court below rendered judgment on March 26, 1903, acquitting the defendant Antipatro Ada and condemning the others, Petronilo Donoso, Gregorio Calin, Felix Ballos, and Timoteo Ladores, to the death penalty, accessories, and costs, directing that they be executed by garrote in such a manner and at such a time and place as the court might designate, and directed that the said Ada be immediately discharged.

The violent killing of a human being, committed with *alevosia* by the reason of the employment by the assailants of means and forms which tend directly and especially to insure the consummation of the crime without any risk to themselves which might arise from an attempt at self-defense on the part of the person attacked, constitutes the crime of murder, defined and punished by article 403 of the Penal Code, as the circumstance of *alevosia* qualifies the crime and requires the imposition of a heavier-penalty than that corresponding to the crime of homicide.

There can be no doubt whatever as to the existence of the crime, for Pedro Almasan was killed in the presence of a number of witnesses, and some hours afterwards his head, separated from the trunk, was exhibited in the public square of the town of Tubig, where it was seen by all the inhabitants. Furthermore, Gregorio Calin, one of the defendants, confesses the commission of the crime.

The accused all plead not guilty. The defendant Gregorio Calin, testifying as a witness in his own behalf, said that he killed Pedro Almasan because the latter refused to go back to the town and to accompany the party as directed; that as night was falling and the return of the party was being delayed, and as the prisoner Almasan even offered him money if he would release him, and he was furthermore afraid that the partisans of Almasan might fall upon them, he decided to kill him, and ordered his companion in the expedition, Timoteo Ladoreo, to decapitate the corpse in order that the head might be presented to the municipal president, because the dead man was the leader of the thieves who were wont to invade the town of Tubig and rob the inhabitants, this being a notorious fact in the said town; that before the expedition under his orders left the town, President Donoso told him that if the leader of the thieves or any of the thieves themselves should refuse to return to the town he was to kill them; that the president did not at that time mention the name of Pedro Almasan, although he subsequently said that he ordered him to kill Pedro Almasan, the chief of the brigands; that for this reason, upon returning to the town, he reported to the president that he had killed the said Almasan, and that he had brought the latter's head with him; that the president expressed neither approval nor disapproval of the deed; that the commanding officer of the town of Tubig also gave him the same orders, to the effect that if he met Pedro Almasan, the leader of the thieves, he need not bring him back to the town, because all the members of Almasan's band had been robbing the inhabitants. This defendant in his testimony denies that he killed Almasan on account of enmity or because the latter had deported his father, but insists that he did so because he was so instructed by the president and by the commanding officer in case Almasan should refuse to accompany him to the town. Petronilo Donoso, testifying as a witness, stated under oath that when he surrendered to the American military authorities in January, 1902, he was by them appointed municipal president of Tubig, which office he held until the time of his arrest; that Pedro Almasan in April, 1902, was the leader of the people still in the hills, and was engaged in stealing carabaos belonging to people who had surrendered to the authorities and that, according to statements made by the police, Almasan was the man who ordered these robberies; that these statements were corroborated by people who came into the town from the forests; that in the month of March preceding he had heard that the thieves had cut the telephone wire and had carried it to the forest; that on the 3d of April three men engaged in cutting nipa leaves at a place called Palangui were surprised by the thieves, who destroyed the leaves which they had cut, beat these men, and carried two of them away; that on the 10th of the said month the said thieves captured a girl who was out in the country gathering *pili* fruit, and killed another woman, her companion, because she screamed; that on the following night they entered the town and thrust their lances through the walls of some of the

houses where the people were lying asleep; that on the 18th of the month while three persons were engaged in cutting rattan by orders of the witness, at a place called Banaonon, they were surprised and two of them were killed, and that the survivor, by name Catalino, came in and reported the occurrence; that on this account Lieutenant Collins ordered the witness to direct that the police and volunteers go into the mountains for the purpose of gathering in all the people they might find there so that they might go on with the work to be done, and also directed that this expeditionary force should endeavor to run down the thieves and robbers, the leader of whom, according to information received, was Pedro Almasan; that on a former expedition by the police and volunteers the witness instructed the leader, Gregorio Calin, that in case he should meet any thieves who refused to surrender and submit to the military authorities he was to kill them; that the same order had been given from time to time by the commanding military officer at Tubig; that he did not repeat the order at the time of the last expedition of the 24th or 25th of April but simply told Calin to try and get all the people in hiding in the forest to come into the town so that they might dispose of the public work there pending, and told him that if they did not want to come to let them stay; that when he saw the head of the deceased, which had been brought in by orders of Gregorio Calin, he asked the latter why he had brought it; to which Calin replied that it was in order that the commanding officer of the town might know that he had killed Pedro Almasan, the chief of the brigands, who was no personal enemy of his; that when the head was exposed in the public square of the town, he, the witness, asked the crowd if they knew whose head that was, to which they replied in the affirmative and added that when they were in the forests the deceased tried to prevent them from coming into the town to surrender; that Sergeant Gross returned the jewels which had been found in the dead man's house to the latter's family and took charge of the cash there, which amounted to some 500 pesos; that after the death of Almasan a number of the leading men came into the town, as also some of the members of the band of brigands and a number of revolutionists who had not responded to General Guevara's call upon them to surrender.

The witnesses Mariano Docena, Escolastico Balanog, Manuel Balmes, and Alberto Aquitan, who accompanied the expedition to the woods, corroborated the statements of President Donoso and denied that they had heard him give any instructions that any person was to be killed, and stated that the orders were that the expeditionary force was to require persons in hiding in the forests to return to the town, although the witnesses were unable to say whether or not Calin had received any private instructions. They testified further that they were not present when Almasan was killed; as the first three witnesses named were in another squad of the expedition, and the last-named witness was in advance in charge of the persons who had been arrested in Almasan's house. Alberto Aquitan also testified that on the occasion of a former expedition they had arrested five men who were subsequently recaptured from them by the thieves while on the way to the town, and that their information was that these men belonged to the gang led by the deceased Almasan.

Claro Guevara, the so-called commander in chief of the revolutionists in the Island of Samar, testified that on April 25, 1902, Pedro Almasan was the municipal president of the town of Tubig and at the same time a captain of infantry in the revolutionary army; that he had never received any complaints against Almasan, and that his reputation was that of an honest man who performed his duties in good faith, even in the time of the Spanish Government; that he had been twice reelected municipal president of Tubig; that in consequence of conferences between himself and General Smith an armistice had been agreed upon from the middle of March to the 27th of April, 1902; that Pedro Almasan knew that this armistice existed, as appears from two letters which the

witness had received from Almasan and which he exhibited. (Record, pp. 140, 141.)

The evidence clearly shows the guilt of the defendants Pedro Calin, Felix Ballos, and Timoteo Ladores, of whom Calin was the first one to run the deceased through with a lance, his attack being seconded by the other two defendants named. This was done in the presence of eyewitnesses to the crime and while the deceased was unarmed, bound elbow to elbow, and unable to defend himself. Consequently there can be no doubt as to the guilt of the three defendants as principals.

The evidence in the record does not show sufficiently that Almasan was in fact the leader of a band of brigands engaged in pillage, for the witnesses who make this statement testify by hearsay only. Even if he were such, as the facts established by the evidence are that the deceased when found by the policemen and volunteers gave himself up and allowed himself to be bound without making any resistance whatever at the time of his arrest or while on the road, and that he made no attempt to escape from his captors, there can be no justification for the murder of a man who surrenders without resistance, no matter how great a criminal he may have been.

It is a legal principle universally recognized in all civilized countries that the power to apply the laws in criminal cases, to judge and to carry the judgment into execution, pertains exclusively to the courts and the judges, and that no penalty can be imposed for criminal acts except in accordance with the laws and by virtue of judgments rendered by competent courts and judges.

No matter how severe the laws of war may be, some investigation, if only the summary proceeding of a drumhead court-martial, is required before a delinquent can legally be made to suffer the death penalty. Consequently the killing of Pedro Almasan can not be justified as a lawful act.

In the perpetration of this murder no aggravating circumstance appears to be present. The circumstance of premeditation does not exist because it does not appear that when Calin left the town of Tubig in command of the expedition he had formed the premeditated idea and determination to murder Almasan, for his overt acts up to the moment of the commission of the crime do not show such an intention. The circumstance established by article 11 of the Penal Code must be applied in favor of the three defendants in mitigation of the penalty by reason of their racial characteristics and ignorance. Doubtless it was under the belief, which may or may not have been erroneous, that Almasan was in fact the leader of a band of brigands that they thought in good faith that they were justified in killing him for the benefit of the town of Tubig, the inhabitants of which had been victims of the crimes of the deceased. For these reasons the penalty of the law must be imposed in its minimum degree.

With respect to Petronilo Donoso, there is not sufficient evidence to convince us beyond a reasonable doubt that he had any participation in the murder in question. His plea of not guilty is not overcome by the sole testimony of Pedro Calin, unsupported by any other evidence, apart from the fact that his testimony is that of a codefendant and that he made self-contradictory statements. Furthermore, Calin's own explanation that they killed Almasan in order that he might not delay them and that they might not be overtaken by nightfall and because they were afraid of the prisoner's partisans is in itself sufficient to condemn him and is the best demonstration of his guilt—that is, that in the commission of the crime he acted upon his own spontaneous determination, and that he was not acting on the suggestion or inducement of any other person. Consequently Donoso must be acquitted.

The evidence does not show that Alberto Aquiantan, Rufino Ciego, Gavino Balazuiche, Pablo Baldonado, and Antipatro Ada were in any way participants in the crime, and consequently the judgment of the court below by which they are acquitted must be affirmed.

For the reason stated, we are of the opinion that the judgment

of the court below must be reversed and the defendant Gregorio Calin condemned to the penalty of twenty years *cadena temporal* and the defendants Felix Ballos and Timoteo Ladores to the penalty of seventeen years four months and one day of *cadena temporal*, all three of them to the accessories of civil interdiction during the penalty and absolute perpetual disqualification and subjection to the vigilance of the authorities during their lifetime and the indemnification of 1,000 insular pesos pro rata or *in solidum* to the widow and heirs of the deceased and to the payment by each one of one-fifth part of the costs of both instances. The other defendants Antipatro Ada, Alberto Aquiantan, Rufino Ciego, Gavino Balazuiche, and Pablo Baldonado, are acquitted with the remainder of the costs *de oficio*.

Arellano. C. J., Mapa, Willard, and Johnson, J.J., concur.

COOPER and McDONOUGH, J.J., dissenting:

We dissent from the opinion of the majority, as we believe that the defendants are entitled to the benefits of the amnesty proclamation of the President of the United States promulgated July 4, 1902.

[No. 1408. January 25, 1904.]

JACARIO DE LEON, plaintiff and appellee, vs. ANASTACIO NAVAL, defendant and appellant.

APPELLATE PROCEDURE; FINDINGS OF FACT; NEW TRIAL JURISDICTION OF APPELLATE COURT.—As a general rule the Supreme Court sits to correct error and unless a case falls within the exceptions established by article 497 of the Code of Civil Procedure, or there has been a motion for a new trial on the grounds therein designated, the evidence will not be reviewed by the appellate court or the findings of the trial judge disturbed.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

MARIANO MONROY, for appellant.

FELIPE G. CALDERON, for appellee.

MAPA, J.:

All the questions raised by the appellant in his brief concern the weight given by the judge below to the evidence introduced by the parties at the trial. Even the citation of article 1280 of the Civil Code in the assignment of errors attached to the brief is made not for the purpose of discussing the validity or legal effect of the contract of loan upon which the action is based—and consequently this aspect of the case can not be dealt with in our decision—but for the sole and exclusive purpose of showing the insufficiency of the evidence to support a finding that such a loan was ever made.

In summing up his contentions the appellant says: "As the evidence is not of sufficient weight to prove the fact upon which the evidence was offered, the conclusion of the court below that the evidence shows that the defendant is liable for an amount for which judgment was rendered against him is without legal foundation."

No motion having been made for a new trial in the court below and the case not falling within any of the other exceptions expressly established in article 497 of the Code of Civil Procedure, it is useless to raise questions such as those presented by the appellant, for the law does not give us authority to review the evidence, and the findings of the court below are therefore final and irrevocable, even though they may have been erroneous or unjust.

The jurisdiction of this court in civil cases submitted to it for its decision by a bill of exceptions is, as a general rule, limited to deciding questions of law arising from the facts found by the court below and which are expressly presented by the bill of exceptions, it being assumed, for the purpose of the discussion,

that the facts are as found. It is only as an exception, and this solely in the cases above mentioned, that the evidence can be reviewed by the appellate court. With the exception of these cases it is the exclusive province of the court below to weigh the evidence and make findings as to the facts established thereby. His judgment in this respect is absolute and final.

The court below in his decision finds as a fact that the plaintiff delivered 1,500 pesos to the defendant as a loan, and that the evidence shows that the defendant still owes the plaintiff the sum of 1,125 pesos demanded in the complaint.

Taking these facts for granted, the obligation of the defendant to pay the said sum to the plaintiff is self-evident. (Civil Code, art. 1753.) The decision of the court below by which the judgment is ordered against the defendant for that amount is therefore without error.

For the reasons stated, the judgment appealed from is affirmed with the costs of this instance against the appellant. Judgment will be entered accordingly twenty days after the date of the filing of this decision and the case remanded to the trial court.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1399. February 12, 1904.]

**THE UNITED STATES, complainant and appellee, vs. NORBERTO OBREGON, defendant and appellant.**

CRIMINAL LAW; ATTEMPTED RAPE.—See facts in this case held insufficient to warrant conviction for attempt to rape.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

CARLOS LEDESMA, for appellant.

Solicitor-General ARANETA, for appellee.

MAFA, J.:

The contradictions of the witnesses for the prosecution in this cause are so numerous and of such a nature that their testimony can not produce conviction, beyond all reasonable doubt, of the guilt of the accused. The complaining witness, Vicenta Andoni, testifies that the shirt which she wore on the night of the occurrence, and which was introduced in evidence, was torn in the struggle which she had with the accused while he was attempting to ravish her. This statement is overcome by the testimony of the eyewitnesses, Casimira Jereus and Basilia Ylustre, called for the prosecution, who testified under oath that the rents in the shirt were caused by the effort made by the complaining witness to extricate herself from the hands of the policeman Sebío (Eusebio Sablaon), who tried to take her out of the house by force. The little girl, Genoveva Jamora, who was also a witness for the prosecution, after first attributing these rents to the struggle between the complaining witness and the accused, said later that they were caused by the struggle of the policeman with the complaining witness and insisted definitely on this last statement.

Casimira Jereus testified that she did not see the defendant trying to compel the complaining witness to lie down on the floor, as the latter alleges in her testimony, and Basilia Ylustre says, among other statements which are absolutely self-contradictory, that she did not see the defendant do anything beyond trying to persuade the complainant to accede to his desire.

The same witness, Basilia Ylustre, testifies that during the occurrence which has been the cause of this prosecution there was no light in the house of the complainant and the windows of the house were closed, while Hilario Flores, another witness for the prosecution, states that he saw the occurrence from the

street because the windows of the house, which is low, were open and the house was clearly illuminated.

From the whole of the testimony, that of the prosecution as well as that of the defense, it would appear, if the charge is true, that the defendant attempted to ravish Vicenta Andoni in the presence of the four witnesses for the prosecution who were with her in the same room, and furthermore in the presence of several other people who were in the street serenading Vicenta's house, and who, on account of the house being very low, could and did see everything which transpired in the house. Under these circumstances it appears to us highly improbable that rape would be attempted.

It appears, nevertheless, that the accused and his companion, the policeman Eusebio Sablaon, forced open the door of the house of Vicenta Andoni in order to enter it, and tried, under one pretext or another, to take the said Vicenta from her house by force and against her will. These acts may perhaps constitute the crime of forcible entry, or that of coercion, and the prosecuting officer may take such action in the premises as he deems expedient in relation thereto.

Therefore we reverse the decision appealed from and acquit the defendant, reserving to the prosecuting officer the right to institute such prosecution as he may deem proper in view of the facts which have been established in the case, with the costs of both instances *de oficio*.

Arellano, C. J., Torres, Cooper, Willard, and Johnson, J.J., concur.

McDONOUGH, J., dissenting:

I dissent because I think that the evidence adduced at the trial is sufficient to warrant a conviction and that the judgment of the court below should be affirmed.

*Defendant acquitted.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 297.—*Regulating the treatment of articles imported into the Philippine Islands through the mails.*

MANILA, March 9, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following regulations and instructions governing the treatment of articles imported into the Philippine Islands through the mails have been adopted by the Collector of Customs and the Director of Posts for the Philippine Islands, jointly, for the purpose of expediting the delivery of such articles, and at the same time protecting the customs revenue. They shall be binding alike on customs officers and postmasters, and no deviation shall be made therefrom without special authority from the Collector of Customs or the Director of Posts.

PAR. II. Collectors of customs are stationed at Manila, Iloilo, Cebu, Zamboanga, and Jolo. In these regulations and instructions the post-offices at these places will be designated as "exchange offices," and the words "postmaster" and "collector of customs," as used in these regulations, are to be understood as meaning either these officials or their authorized representatives.

PAR. III. Upon receipt of mails at an exchange office from the United States or from a foreign country the postmaster thereof will sort out all letters and packages, sealed or unsealed, whether registered or in the ordinary mail, which from appearance might contain matter liable to customs duties, for treatment as provided in these regulations.

PAR. IV. (a) All sealed letters, which from their appearance may contain articles liable to customs duties, and all sealed packages from the United States or a foreign country, either registered or unregistered, received at an exchange office, which have not passed through another exchange office of the Philippine Islands, and which are to be delivered to addressees at the exchange office

of receipt, will not be delivered except in the presence of the collector of customs. When received, the postmaster will at once send notice to the addressee on Form 1525 *b* to appear at the post-office at a time fixed by the collector of customs, when the articles will be delivered to the addressee, who will at once be required to open the package in the presence of the collector of customs. If the article is found to contain matter liable to customs duties the amount of same will be assessed by the collector of customs, using Mail Entry Form No. 57, and final delivery made when such duties are paid.

(b) Sealed letters, which from their appearance may contain articles liable to customs duties, and sealed packages received at the first exchange office, either registered or unregistered, which must be delivered to the addressee at some other post-office, will be held temporarily at the exchange office of receipt. The postmaster at this exchange office will send notice to the addressee on Form No. 1525 *c*, informing him of the holding of the package at the exchange post-office and directing him to authorize the postmaster or some one else to act for him. When this authority is presented at the post-office, the article will be opened by the person authorized by the addressee, in the presence of the postmaster and the collector of customs. The duties, if any, will then be assessed by the collector of customs and the package sent by official registered mail by the postmaster to the postmaster at the office of delivery, with Mail Entry Form No. 57 and instructions to collect the required amount of duties before delivery. The postmaster collecting such duties will remit the same with Form No. 57, by official registered mail, direct to the collector of customs from whom Form No. 57 was received.

(c) Under no circumstances will any sealed letter or package be opened at an exchange office by the postmaster or collector of customs; nor will the seal be broken by anyone except the addressee or his duly authorized representative. In case the postmaster is authorized in writing by the addressee to act for him, the postmaster will then act in the capacity of the representative of the addressee as well as that of postmaster. Nor shall the collector of customs seize or take possession of a registered article or any letter or sealed package while the same is in the custody of the postmaster, or until after delivery to the addressee.

PAR. V. (a) Unsealed registered packages from the United States or a foreign country, received at an exchange office, which have not passed through another exchange office of the Philippine Islands, and which are to be delivered at the exchange office of receipt, will not be delivered to addressee except in the presence of the collector of customs. In such cases the postmaster will proceed the same as instructed in Paragraph IV, section (a), of these regulations and instructions relative to sealed articles.

(b) All unsealed packages received in the ordinary mail, which are to be delivered at the exchange office of receipt, will, before delivery, be opened and contents inspected by the collector of customs and in the presence of the postmaster. Packages found to contain dutiable articles will be held in the post-office and the postmaster and the collector of customs will proceed the same as directed in Paragraph IV, section (a), of these regulations.

(c) All unsealed packages, whether registered or in the ordinary mail, received at an exchange office, which must be delivered to the addressee elsewhere than at the exchange office of receipt, will be opened and the contents examined by the collector of customs in the presence of the postmaster. In case the package is found to contain articles subject to customs duties, assessment thereon will be made by the collector of customs and the package forwarded as official registered mail, by the postmaster, to the postmaster at the office where the delivery is to be made to address with instructions to collect the duties and remit same as provided in section (b), Paragraph IV, herein.

PAR. VI. (a) In a case of packages received by parcels post from

foreign countries, which appear to be undeliverable, the postmasters at post-offices of destination shall, at the expiration of thirty days from the date of their receipt, report the fact to the Director of Posts, giving the reasons therefor, stating the names and addresses of both senders and addressees of the packages, dates and places of mailing, dates of receipt, and what the packages are said to contain, and hold the packages subject to further orders.

(b) In the case of refusal or neglect of the addressee of such dutiable packages, other than parcels post above provided for, to apply for them at the post-office of destination, or delivery at other than exchange office, within a period of thirty days from the date of their receipt at such place, and to pay the customs charges and any postage charges levied thereon, or if there is a failure in delivery for any other cause for this period of time the postmaster at said office will specially return the packages and Mail Entry Form No. 57 under official registration to the post-office from which received, both marked to show why delivery was not made.

(c) Exchange-office postmasters other than Manila will forward all dutiable packages undelivered from any cause for a period of thirty days and all such packages received back from other offices, to the postmaster at Manila, after making proper notation of nondelivery, as provided in the preceding section.

(d) The postmaster at Manila, if unable to secure delivery of any packages received under the above instructions, will forward the same to the Dead Letter Office of the Bureau of Posts, and return the Mail Entry Form No. 57 to the collector of customs by whom made out, with proper notation to show disposition made of the package and the cause.

PAR. VII. Letters and packages addressed to foreign consuls, which bear the official seal of the consul's government, shall be forwarded to destination and delivered to addressee without being subject to inspection by officers of the customs service.

PAR. VIII. Packages which upon examination are found to contain articles the transmission of which in the mails is forbidden by law or order, or which contain articles the importation of which into the Philippine Islands is prohibited by law, will be withdrawn from the mails at the exchange office and sent to the dead-letter office of the Bureau of Posts: *Provided*, That any articles seized as illegal importations through the mails may be released, provided such articles shall be remailed to the foreign sender at the expense of the addressee and in the presence of the customs officer.

PAR. IX. All packages the contents of which have been examined and found not to contain anything subject to customs duties, or on which the duties have been remitted, will, before delivery to addressee or forwarding in the mails for delivery at another office, be stamped in a conspicuous place. "Contents examined by collector of customs at — and no duties assessed," and all such packages shall be delivered without further customs treatment or inspection at other exchange offices.

PAR. X. Collectors of customs at exchange post-offices shall detail a customs examiner to visit the post-offices at their ports on those days when mails arrive from the United States or a foreign port, and on such other days as may be necessary for the convenience of the public, for the purpose of assessing and collecting duties on packages subject to customs supervision, and shall satisfy themselves that the work in question is performed thoroughly and extends to all dutiable mail matter so that the interests of the revenue are protected. The examiner so assigned shall not interfere unnecessarily with the work of handling the mails by the postmaster.

PAR. XI. Postmasters are required to extend to customs officers specially designated for that duty by the collector of customs such facilities as may be necessary to enable them to examine mail matter arriving in the mails from points outside of the Philippine Islands in order to protect the customs revenue.

PAR. XII. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

Concurred in and approved:

C. M. COTTERMAN, *Director of Posts.*

No. 298.—*Providing regulations for filing protests on goods entered for bond, and amending the provisions of Customs Administrative Circular No. 152.*

MANILA, March 11, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following excerpt from the ruling of the Court of Customs Appeals, in case docket No. 639, is published for your information and guidance in connection with the instructions contained herein:

"Payment of duties, etc., must be made before a protest is entitled to be heard. To require a protest to be made within two days from liquidating the entry in bond would be to require the payment of duties, etc., or forego the right of protest, and to pay on merchandise which might be afterward exported without the payment of import charges.

"The court is of the opinion that but one construction can be placed upon the foregoing and that is that protest may be made within two days after making payment of duties, and that this applies to merchandise entered in bond."

PAR. II. The text of the above-quoted decision shall not be construed to prohibit the filing of protests on merchandise entered for bond, as is provided for in Customs Administrative Circular No. 152, but such protests shall be received and passed on by collectors of customs, and in the event the protest is sustained the entry covered thereby shall be reliquidated in accordance with the ruling of the Collector of Customs, and proper allowance made on the bonded warehouse books. A copy of the reliquidated entry, together with the original protest and copy of the ruling thereon, will be forwarded to this office for approval and transmission to the Auditor for the Philippine Islands.

PAR. III. Decisions of collectors of customs on protests filed as provided in the preceding paragraph of this circular shall apply to questions of classification, valuation, or of a similar nature only, and no appeals shall be allowed therefrom.

PAR. IV. In case the protest is not sustained the importer shall be so notified and shall be informed of his right to again protest under the provisions of section 286, Act 355, at the time of the withdrawal of the merchandise from bond and the payment of duties thereon.

PAR. V. In case any of the merchandise covered by protest filed in accordance with the provisions of this circular is withdrawn for consumption and duties are paid thereon prior to receipt of the decision of the Collector of Customs on such protest, the importer, to protect his rights, must file a valid protest against such payment as provided by section 286, Act 355, which protest shall be considered and a decision rendered thereon in the usual manner. Payment of duties on merchandise withdrawn from bond for consumption covered by protests filed in accordance with the provisions of this circular shall cancel such protests as to the merchandise on which the duties are paid, and in the absence of a valid protest, except as specially provided by law, such payment shall be final as against the importer.

PAR. VI. So much of Customs Administrative Circular No. 152 as is in conflict with the terms of this circular is hereby revoked.

PAR. VII. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 299.—*Closing the ports of Abuyog, Island of Leyte, and Santa Maria, Island of Mindanao, to the coastwise trade.*

MANILA, March 14, 1904.

By authority of the Civil Governor of the Philippine Islands the ports of Abuyog, Island of Leyte, and Santa Maria, Island of Mindanao, are hereby declared closed to the coastwise trade.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 300.—*Publishing opinion of the Attorney-General in regard to refunds of duty on coal for use on steam vessels, and providing regulations for the filing of entries for such coal.*

MANILA, March 15, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"Sir: The following opinion of the Attorney-General for the Philippine Islands, in regard to the matter of refunds of duty on coal for use on steam vessels, under the provisions of section 224 of the Customs Administrative Act, is hereby published for your information:

"This section requires as a condition to the refund the filing of a form in which the owner of the coal (withdrawn) truly declares that said coal is to be used as fuel on a described vessel and will not be relanded in the Philippine Islands.

"These conditions can not be complied with by an importer of or dealer in coal who has no connection with the exporting vessel and can therefore exercise no control in the disposition of the coal after it has been placed on board that vessel. The only person who can make the required declaration is the owner or agent of the vessel, and since the declarant must be the owner of the coal, or his agent, he is the person entitled to the refund."

"Under the above interpretation of the law by the Attorney-General, it will be necessary in the future for you to require the entry for coal to be used as fuel on board steam vessels, provided for in section 324, to be made by the owner, agent, or master of the vessel on which the coal is to be consumed, and if said agent, owner, or master is not the importer of the coal you will require that they present with their entry a certificate from the importer of the coal, showing the sale, by the importer to the person making the entry, of the amount of coal to be loaded on his vessel. This certificate will set out the amount of coal sold, the vessel on which the cargo of coal arrived, the date of entry, the entry number, the voucher number, and the date of payment. It will be filed in duplicate, and will be attached to the entry made under the provisions of section 224. Upon the receipt of the surveyor's return of loading, the certificate provided for by law will be issued in the usual manner.

"Your attention is particularly directed to the fact that under this opinion of the Attorney-General, and these instructions, it is not necessary that the person making the entry provided for in section 224 should be the importer of the coal, but that any owner, agent, or master of a steam vessel may make the entry provided for and secure the refund of duties thereunder.

"You will also require the entry for coal to be used as fuel on board steam vessels to be signed, showing whether the person making the same is the owner, agent or master of the vessel on which the coal is to be loaded. Respectfully (signed), H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 301.—*Revoking authority of the Union Surety and Guaranty Company of Philadelphia to do business in the Philippine Islands.*

MANILA, March 17, 1904.

To all Collectors of Customs:

PARAGRAPH I. You are hereby notified that the authority of the Union Surety and Guaranty Company of Philadelphia to do business in the Philippine Islands has been revoked, and no new bonds of the said company shall be accepted by you.

PAR. II. Customs Administrative Circular No. 104 is hereby revoked.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 303.—*Publishing resolutions of the Board of Health for the Philippine Islands, March 23, 1904, declaring the city of Manila free from the infection of Asiatic cholera.*

MANILA, March 26, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following extract from the proceedings of the Board of Health for the Philippine Islands, passed March 23, 1904, is hereby published for your information:

"Whereas the last case of suspected Asiatic cholera occurred in the city of Manila on February 29, 1904, and the last-known case occurred in the city on February 3, 1904, there having been but four positive or suspected cases of Asiatic cholera in the city since January 6, 1904; and

"Whereas the provinces adjacent to Manila have been free from cholera during the present calendar year: On motion,

"Resolved, That the city of Manila is, and is hereby declared, free from the infection of Asiatic cholera."

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 304.—*Regulations for licenses of vessels in Moro Province.*

MANILA, March 28, 1904.

To all Collectors of Customs:

PARAGRAPH I. Moro vessels and boats which have heretofore been exempt from the payment of license and admeasurement fees shall hereafter be required to pay such fees, and shall be governed by the laws applicable to vessels engaging in the coastwise trade.

PAR. II. Licenses issued under the provisions of this circular to vessels which are now operating in the coastwise trade shall bear the date of this circular, and shall expire as provided by law and customs regulations.

PAR. III. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 305.—*Publishing Act No. 1095 of the Philippine Commission, so amending Act No. 875 as to permit the free entry of ordnance and ordnance stores imported by the Insular Government.*

MANILA, April 5, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following Act No. 1095 of the Philippine Commission is hereby published for the information and guidance of all concerned:

"[No. 1095.]

"AN ACT SO AMENDING ACT NUMBERED EIGHT HUNDRED AND SEVENTY-FIVE AS TO PERMIT THE FREE ENTRY OF ORDNANCE AND ORDNANCE STORES IMPORTED BY THE INSULAR GOVERNMENT.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. Section two of Act Numbered Eight hundred and seventy-five, entitled 'An Act providing for the collection of duties on goods, wares, and merchandise imported into the Islands for use of the insular, provincial, or municipal government,' is hereby amended by adding at the end thereof the following words:

"'And further provided, That this Act shall not affect the free entry of ordnance and ordnance stores that have been or shall be purchased by the Government.'

"SEC. 2. This Act shall be retroactive so far as to apply to all existing contracts for the purchase of ordnance and ordnance stores, and to all ordnance and ordnance stores which have not been paid for by the Philippines Constabulary.

"SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"SEC. 4. This Act shall take effect on its passage.

"Enacted, March 29, 1904."

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 306.—*Instructions regarding the preparation, acceptance, indorsing, and transmission of checks for deposit in the Insular Treasury.*

MANILA, April 5, 1904.

To all Collectors of Customs:

With view to obviating any unnecessary delay and facilitating the deposit of funds in the Insular Treasury, all customs officers in charge of Government money are directed to exercise the greatest care in the preparation, acceptance, indorsing, and transmission of checks, refusing to accept any on which the indorsements are incorrect or in any way irregular, and indorsing, with official signature and title, all that are forwarded, direct or through the Collector of Customs for the Philippine Islands, for deposit in the Insular Treasury. Checks indorsed by mark (X) shall be witnessed by at least two persons, giving their addresses. Unless checks are properly prepared and indorsed, the Treasurer for the Philippine Islands, as a matter of self-protection, will return them to the officer from whom received.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 307.—*Inviting attention of importers and others to the fact that cashier's receipts at the port of Manila have been altered by private custom-house agents, and ordering criminal prosecution in any case where same is detected.*

MANILA, April 7, 1904.

To all Collectors of Customs:

You are directed to invite the attention of all importers, exporters, ship agents, and the public in general to the fact that private custom-house agents have been detected at the port of Manila in the altering of cashier's receipts by increasing the amount shown by such receipts. This was done for the purpose of defrauding



their employers out of various sums of money, and in one instance the practice continued for several months and resulted in a loss to the importer amounting to hundreds of dollars. You are also directed to commence criminal proceedings in any cases of like nature that may develop at your ports.

A copy of this circular shall be furnished to all importers throughout the Philippine Islands.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 70.—*Supplemental regulations in re collection of storage charges prescribed in Manila Custom-House General Order No. 60.*

MANILA, April 8, 1904.

The basis for estimating at the port of Manila the respective amounts of storage charges due on any merchandise or parts of consignments subject to storage charges prescribed by the terms of Manila Custom-House General Order No. 60 may be ascertained, in the discretion of the collector of customs, figuring the rate per ton on the bill of lading entered or actual weight or measurement.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

NOTICE.

SALE OF THE INSULAR COLD STORAGE AND ICE PLANT.

Sealed bids for the purchase of the Insular Cold Storage and Ice Plant located at Manila, P. I., will be received on or before the 27th day of June, 1904. The plant includes one of the most valuable locations in the city of Manila on the Pasig River, occupying the whole space between the Suspension and the Santa Cruz bridges, with abundant water frontage, and in the immediate vicinity of the business center. The buildings and machinery are in every respect new and modern, completed in the year 1901. The sale will include the land and water transportation belonging to the plant, including insulated lighters and barges, delivery wagons, horses, and harnesses.

For the fiscal year 1903 the total revenue of the plant was \$332,194.17; total expenditures for the same period, \$198,338.83, leaving an excess of revenue over expenditures of \$133,855.34, United States money. The plant as a Government institution does not compete with private establishments of a like character. In the hands of a private corporation the income could be very largely increased. No bid for less than \$1,000,000, United States money, will be considered. Bids will be received on the basis of an unrestricted sale, and also on the basis of an agreement on the part of the purchaser to furnish ice to civil employees for five years at the present Government rate of one-half cent, gold, per pound. The right to reject any and all bids is reserved. Each bid must be accompanied by a certified check payable to the Government of the Philippine Islands for 5 per cent of the amount of the bid as security for the fulfillment of the contract should the bid be accepted.

TERMS.—Payment to be one-third cash and the balance in three equal annual payments, at 6 per cent interest per annum; the unpaid portion of the purchase money to be secured by mortgage on the property or by other satisfactory security.

Bids may be filed with the Chief of the Bureau of Insular Affairs, War Department, Washington, D. C., or with the Secretary of Finance and Justice at Manila. All bids must be filed before 12 o'clock noon, June 27, 1904, at which time the bids will be opened.

APPOINTMENTS.

By the Honorable Civil Governor.

BUREAU OF JUSTICE.

A. S. Crossfield, authorized to assume the duties of the Court of First Instance for the Fifth Judicial District, in the Province of Rizal, April 12.

Vicente Jeesson, judge of the Tenth Judicial District, April 5.

James C. Jenkins, judge at large, April 5.

Provinces.

BATAAN.

Claro Pascual Sevilla, acting governor, April 15.

BENGUET.

A. H. Perkins, chief engineer, Benguet improvements, April 7.

CEBU.

Sergio Osmeña, acting governor, April 15.

LEYTE.

Domingo Franco, provincial fiscal, April 5.

LAGUNA.

Numeriano Bonifacio, acting provincial secretary, April 13.

NUEVA ECUIJA.

Crispulo Sideco, acting provincial governor, April 15.

SORSOGON.

Vicente de Vera, acting provincial governor, April 14.

TARLAC.

Manuel de Leon, acting provincial governor, April 14.

By the Philippine Civil Service Board.

Executive Department.

EXECUTIVE BUREAU.

Nazario A. Santos, clerk, April 1, \$300; probational appointment.

J. M. Lacalle, clerk, April 1, \$1,600; promotion from class 8. William N. Mahon, clerk, April 1, \$1,600; promotion from class 8.

Emilio de Zuñiga, clerk, April 1, \$360; promotion from Class I. Villers S. Brant, clerk, April 3, \$1,200; probational appointment.

Edward L. Watson, clerk, March 30, \$1,400; probational appointment.

Quirico Albano, clerk, April 1, \$300; transfer from Insular Cold Storage and Ice Plant.

INSULAR PURCHASING AGENT.

A. D. Collins, clerk, February 13, \$2,000; promotion from class 8.

James P. Joyce, watchman, March 23, \$720; probational appointment.

Norman E. Bayless, clerk, April 3, \$1,200; probational appointment.

Thomas P. Temple, clerk, April 6, \$1,000; probational appointment.

I. A. Schoppe, clerk, February 13, \$1,600; promotion from class 8.

PHILIPPINE CIVIL SERVICE BOARD.

Inocencio Concepción, clerk, March 21, \$1,000; promotion from Class A.

Archie F. Cameron, clerk, April 3, \$1,200; probational appointment.

Charles R. Thomas, clerk, April 5, \$1,000; probational appointment.

*Department of the Interior.*

## BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

John G. Slee, chief veterinarian, April 1, \$2,000; promotion from class 6.

Thomas M. Owen, veterinary surgeon, April 1, \$1,800; promotion from class 7.

Celestino Chaves, clerk, April 6, \$360; probational appointment.

## FORESTRY BUREAU.

E. E. Christensen, assistant inspector, March 17, \$1,400; promotion from class 9.

Rafael Rodriguez, ranger, March 28, \$300; probational appointment.

Amos G. Bellis, chief clerk, April 1, \$1,800; promotion from \$1,600.

Rafael Lopez, ranger, April 2, \$300; probational appointment.

## MINING BUREAU.

A. J. Eveland, geologist, January 16, \$2,000; probational appointment.

## BUREAU OF PUBLIC LANDS.

C. Everett Conant, clerk, April 2, \$1,400; transfer from the Bureau of Education, \$1,200.

## BUREAU OF GOVERNMENT LABORATORIES.

A. M. Clover, chemist, April 5, \$2,250; probational appointment.

George F. Richmond, analytical chemist, April 5, \$1,600; probational appointment.

Harry N. Whitford, botanical collector, March 30, \$1,200; probational appointment.

## PHILIPPINE CIVIL HOSPITAL.

Mrs. Sarah E. Spittler, nurse, April 1, \$840; promotion from \$720.

Dean W. Britting, attendant, March 30, \$600; reinstatement.

*Department of Commerce and Police.*

## BUREAU OF POSTS.

Tailor Newcomb, clerk, March 26, \$900; probational appointment.

Robert G. Schields, clerk, March 29, \$900; probational appointment.

Merwin Webster, clerk, April 4, \$900; probational appointment.

J. W. Dutton, postmaster, Aparri, Cagayan, April 1, \$1,200; promotion from class 10.

Raimundo Mendoza, clerk, April 1, \$150; promotion from \$120.

Jose Vasquez, clerk, April 1, \$150; promotion from \$120.

J. E. Northrup, clerk, Manila post-office, March 1, \$1,200; transfer from postmaster at Nueva Caceres.

Pedro Frutos, clerk, March 5, \$240; reinstatement.

## BUREAU OF PHILIPPINES CONSTABULARY.

Ricardo Alovera, clerk, March 25, \$360; probational appointment.

## BUREAU OF PRISONS.

Guy M. Willey, shops foreman, March 1, \$1,200; probational appointment.

## BUREAU OF COAST GUARD AND TRANSPORTATION.

D. J. Curran, inspector of machinery, March 24, \$2,500; promotion from \$2,250.

Juan Serrano, mason, March 16, \$250; promotion from \$2 per diem.

M. Gregorio, light keeper, April 1, \$420; promotion from \$360.

## BUREAU OF COAST AND GEODETIC SURVEY.

Clarence L. Pyffe, foreman, February 1, \$1,200; transfer from Forestry Bureau, \$900.

## BUREAU OF ENGINEERING.

Henry F. Labelle, assistant engineer, April 5, \$1,800; probational appointment.

B. J. Daniel, stenographer and typewriter, April 2, \$1,000; probational appointment.

*Department of Finance and Justice.*

## BUREAU OF THE INSULAR TREASURY.

Victor Trego, clerk, February 3, \$900; probational appointment.

Charles R. Brumer, clerk, April 1, \$1,400; promotion from class 9.

G. E. Schilling, clerk, March 21, \$1,400; transfer from office of provincial treasurer, Ambos Camarines.

## BUREAU OF THE INSULAR AUDITOR.

David R. Gray, clerk, March 25, \$1,200; probational appointment.

## BUREAU OF CUSTOMS AND IMMIGRATION.

Mariano Valdivieso, clerk, February 26, \$180; reinstatement.

Samuel Bardelson, clerk, March 1, \$1,200; promotion from storekeeper, \$900.

Jasper D. Carter, baggage inspector, February 23, \$1,000; promotion from fourth-class inspector.

Jose P. Tagle, clerk, March 24, \$180; reinstatement.

## INSULAR COLD STORAGE AND ICE PLANT.

Francis C. Ferrier, clerk, April, 6, \$1,200; probational appointment.

Emil H. Yost, clerk, April 1, \$1,200; probational appointment.

Charles S. Phillips, clerk, March 30, \$840; probational appointment.

William Miller, water tender, March 15, \$888; promotion from \$840.

## BUREAU OF JUSTICE.

Castor Gutierrez, clerk, office of fiscal, Fifteenth Judicial District, January 26, \$240; probational appointment.

James W. Duncan, stenographer at large, April 16, \$1,200; transfer from office of the Attorney-General.

*Department of Public Instruction.*

## BUREAU OF EDUCATION.

Walter J. Seaborn, clerk, March 28, \$1,200; probational appointment.

George B. McMahon, clerk, March 28, \$900; probational appointment.

Pedro P. Logan, clerk, February 25, \$300; probational appointment.

Pedro G. Flores, clerk, April 1, \$360; promotion from Class I.

Clinton D. Whipple, teacher, March 30, \$1,200; probational appointment.

Albert H. Davis, teacher, March 30, \$1,000; probational appointment.

Dana Q. McComb, teacher, March 30, \$1,000; probational appointment.

Ira B. Nutter, teacher, March 30, \$1,000; probational appointment.

John G. Remy, teacher, March 30; \$1,000; probational appointment.

Algernon M. Green, teacher, March 30, \$900; probational appointment.

## BUREAU OF PUBLIC PRINTING.

Albert Walker, watchman, March 24, \$720; probational appointment.

Raymundo Nantes, apprentice, March 23, \$0.20; probational appointment.

Felipe Mananquil, junior bookbinder, March 5, ₱1.50; probational appointment.

Jacinto Chaves, junior bookbinder, April 1, ₱1.25; probational appointment.

Clemente Zulueta, junior compositor, March 2, ₱2.25; probational appointment.

Nazario Pasicalon, junior compositor, March 28, ₱2.50; probational appointment.

Melchor Bustamante, junior compositor, April 1, ₱2.50 probational appointment.

Francisco Sugui, apprentice, April 1, \$0.40; promotion from class 5.

Gregorio Gargantilla, apprentice, April 1, \$0.40; promotion from class 5.

Oscar Johnson, clerk, April 1, \$1,600; promotion from class 8.

Benjamin F. Durr, craftsman instructor, April 1, \$1,600; promotion from \$1,400.

Mrs. Margaret Hugo, copyholder, April 2, \$900; probational appointment.

City of Manila.

DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

William J. Giusti, teamster, April 1, \$720; probational appointment.

Aquilino Santos, foreman street construction and bridges, April 1, \$480; promotion from foreman \$420.

C. H. Dutton, engineer in charge, March 26, \$1,800; promotion from assistant engineer, \$1,600.

Albert G. Crawford, teamster, March 1, \$840; promotion from \$720.

William Hanes, teamster, March 1, \$840; promotion from \$720.

John L. Garrison, teamster, March 1, \$840; promotion from \$720.

Rudolph A. Johnson, teamster, April 9, \$720; probational appointment.

DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

Florencio Inocentes, clerk, March 1, \$300; promotion from Class J.

Leo Brock, clerk, April 7, \$1,200; reinstatement.

FIRE DEPARTMENT.

Frederick Chosse, fireman, first class, April 5, \$900; probational appointment.

William F. Dauber, fireman, first class, April 5, \$900; probational appointment.

Frank W. Mathews, fireman, first class, April 5, \$900; probational appointment.

LAW DEPARTMENT.

E. F. Du Fresne, clerk, March 23, \$1,400; promotion from class 9.

Provinces.

AMBOS CAMARINES.

Jose S. Ocampo, clerk, March 21, ₱480; probational appointment.

ANTIQUE.

F. M. Snook, deputy, January 1, ₱1,680; promotion from Class C.

BULACAN.

Pedro Lim, clerk, March 1, ₱480; promotion from \$150.

CAPIZ.

Luis Espiritu, clerk, March 17, \$150; promotion from messenger, \$60.

CEBU.

Tomas Serrilles, clerk, December 14, 1903, \$180; probational appointment.

ILOILO.

Panfilo Espinosa, clerk, December 1, 1903, ₱1,200; promotion from \$420.

Modesta M. Albis, assistant clerk, February 1, ₱720; promotion from Class H. \$360.

LEYTE.

Joseph M. Ellis, road foreman, April 1, \$840; probational appointment.

MOBO.

William H. Frizzle, clerk, March 8, \$900; reinstatement.  
Teofilo A. del Rosario, deputy treasurer, February 1, \$240; probational appointment.

PAMPANGA.

H. B. Fernald, deputy treasurer, March 28, \$1,200; transfer from clerk class 9, office of treasurer of Cagayan.

SAMAR.

W. C. Ogan, chief clerk and deputy, January 1, \$1,200; transfer from postmaster, class 10, Catbalogan.

RESIGNATIONS.

CEBU.

Traquilino Agravaante, justice of the peace, Badian, December 8, 1903.

Victorio Gonzales, justice of the peace, Barili, December 28, 1903.

Miguel Abad, auxiliary justice of the peace, Barili, April 2.

Mauricio Cui, justice of the peace, Carcar, February 5.

PARAGUA.

Doroteo Rodriguez, justice of the peace, Coron, November 5, 1903.

Basilio Abrera, auxiliary justice of the peace, Coron, December 31, 1903.

Contents.

Public laws:  
 No. 1108, amending several sections of Act No. 496, entitled "The Land Registration Act."  
 No. 1109, appropriating an additional sum of \$200,000, United States money, for the purpose of continuing and completing the preparation of the exhibit of the Philippine Islands at the Louisiana Purchase Exposition and the carrying on in general of the work of the Philippine exhibit, and also authorizing the Exposition Board to grant concessions, and amending Act No. 514, as amended, so as to authorize the Chairman of the Exposition Board, with the approval of the Secretary of War, to appoint and fix the salaries or wages of employees of said Board in the United States.  
 No. 1110, appropriating \$15,000, in money of the United States, for general purposes, to be disbursed by the Disbursing Agent of the Government of the Philippine Islands at Washington, D. C.  
 Executive orders:  
 No. 17, providing rules governing the transportation of insular officers and employees, their baggage and freight, by Coast Guard boats.  
 No. 18, confirming elections of Peter Boresth and Leandro Fullon as governors, respectively, of the Provinces of Leyte and Antique.  
 Decisions of the Supreme Court:  
 The United States vs. Petronilo Donoso et al.  
 Macario de Leon vs. Anastasio Naval.  
 The United States vs. Norberto Oregon.  
 Bureau of Customs and Immigration:  
 Customs Administrative Circulars—  
 No. 297, regulating the treatment of articles imported into the Philippine Islands through the mails.  
 No. 298, providing regulations for filing protests on goods entered for bond, and amending the provisions of Customs Administrative Circular No. 152.  
 No. 299, closing the ports of Abuyog, Island of Leyte, and Santa Maria, Island of Mindanao, to the coastwise trade.  
 No. 300, publishing opinion of the Attorney-General in regard to refunds of duty on coal for use on steam vessels, and providing regulations for the filing of entries for such coal.  
 No. 301, revoking authority of the Union Surety and Guaranty Company of Philadelphia to do business in the Philippine Islands.  
 No. 302, publishing resolutions of the Board of Health for the Philippine Islands, March 29, 1904, declaring the city of Manila free from infection of Asiatic cholera.  
 No. 304, regulations for licenses of vessels in Moro Province.  
 No. 305, publishing Act No. 1095 of the Philippine Commission, so amending Act No. 875 as to permit the free entry of ordnance and ordnance stores imported by the Insular Government.  
 No. 306, instructions regarding the preparation, acceptance, indorsing, and transmission of checks for deposit in the Insular Treasury.  
 No. 307, inviting attention of importers and others to the fact that cashier's receipts at the port of Manila have been altered by private custom-house agents, and ordering criminal prosecution in any case where same is detected.  
 Manila Custom-House General Order—  
 No. 70, supplemental regulations in re collection of storage charges prescribed in Manila Custom-House General Order No. 66.  
 Notice:  
 Sale of the Insular Cold Storage and Ice Plant.  
 Appointments:  
 By the Honorable Civil Governor.  
 By the Philippine Civil Service Board.  
 Resignations.

## Announcement.

The Official Gazette is published weekly by the authority of the Government of the Philippine Islands. It will be furnished by mail to subscribers, free of postage, on the following terms:

TERMS OF SUBSCRIPTION.	
One year.....	P12.00
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## The Government of the Philippine Islands.

## Legislative.

## THE PHILIPPINE COMMISSION.

(Ayuntamiento—The Palace.)

**Commissioners**—Luke E. Wright, President; Dean C. Worcester, Henry C. Ide, James F. Smith, Trinidad H. Pardo de Tavera, Jose R. Lururiga, Benito Legarda.

## Executive.

**Civil Governor**—Luke E. Wright; acting private secretary, L. W. Manning; Captain Robert H. Noble, Third United States Infantry, Ald-de-Camp to the Civil Governor.

**Vice-Governor**—Henry C. Ide.  
**Secretary of the Interior**—Dean C. Worcester; private secretary, E. O. Johnson.

**Secretary of Commerce and Police**—Vacant.  
**Secretary of Finance and Justice**—Henry C. Ide; private secretary, Jackson A. Dues.

**Secretary of Public Instruction**—James F. Smith; private secretary, W. H. Donovan.

## EXECUTIVE DEPARTMENT.

**Executive Bureau**—A. W. Fergusson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Fergusson, in charge, Training Division; Claude W. Galvin, Recorder of the Commission, Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; Sidney Thomas, Chief of Records Division; H. A. Lantapan, Assistant Officer.

**Bureau of Insular Purchasing Agent**—Major E. G. Shields, Insular Purchasing Agent; A. L. B. Davies, Local Purchasing Agent.  
**Improvement of the Port of Manila**—Victor G. McDonald, Townsend, Corps of Engineers, United States Army, officer in charge.

**Philippine Civil Service Board** (Intendencia Building)—Dr. W. S. Washburn, Chairman; Dr. B. L. Falconer, Dr. Jose Alemany.

## DEPARTMENT OF THE INTERIOR.

**Board of Health for the Philippine Islands**—Maj. E. C. Carter, Surgeon, United States Army, Commissioner of Public Health; Capt. E. L. Munson, Assistant Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. Manuel Gomez, Secretary.

**Quarantine Service** (United States Public Health and Marine-Hospital Service; 78 Madrid)—Dr. Victor G. Heiser, Chief Quarantine Officer; Drs. Chas. W. Vogel and John D. Long, Assistants.

**Marine Detention and Disinfection Station**—Dr. John M. Holt, in command; Dr. R. H. Cress, Assistant.

**Hoito Quarantine Station**—Dr. Geo. W. McCoy, in command.

**Cebu Quarantine Station**—Dr. Carroll Fox, in command.

**Jolo Quarantine Station**—Dr. M. K. Gwyn, in command.

**Forestry Bureau** (Intendencia Building)—Capt. George P. Ahern, Ninth Infantry, United States Army, Chief; Ralph C. Bryant, Assistant Chief.

**Mining Bureau** (358 Cabildo)—H. D. McCaskey, Chief.

**Philippine Weather Bureau** (Calle Observatorio, Ermita).—Rev. José Alegre, S. J., Director (in United States); J. Ambley, Judge.

**Bureau of Public Lands** (Intendencia Building).—Will M. Tipton, Chief.

**Bureau of Agriculture** (155 Novaldeda).—Prof. F. Lamson Scribner, Chief (on leave); W. E. Webb, Acting Chief.

**Ethnological Survey for the Philippine Islands** (228 Nueva, Ermita).—Professor A. E. Jenks, Chief.

**Bureau of Government Laboratories** (718 Iria).—Dr. P. C. Freer, Superintendent Government Laboratories; Dr. R. P. Strong, Director Biological Laboratories; Dr. James W. Jobling, Director of Serum Laboratory.

**Philippine Civil Hospital** (791 Iria).—Dr. H. Eugene Stafford, Attending Physician and Surgeon.

**Civil Sanitarium** (Baguio, Benguet).—Dr. J. B. Thomas, Attending Physician and Surgeon.

## DEPARTMENT OF COMMERCE AND POLICE.

**Bureau of Posts** (149 Escolta).—Chas. M. Cotterman, Director; H. M. Robinson, Assistant Director (on leave).

**Bureau of Philippine Constabulary** (228 Anda, Intramuros)—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Handholtz, U. S. A., Assistant Chief, Commanding Second District; Lieut.-Col. Wallace C. Taylor, Assistant Chief, Commanding Third District; Maj. Jesse S. Garwood, Assistant Chief, Commanding Fourth District; Col. George W. Hart, U. S. A., Assistant Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary headquarters, Manila; Col. D. J. Baker, Jr., U. S. A., Assistant Chief, Chief Supply Officer.

**Bureau of Prisons** (Headquarters, Bilibid Prison, Calle Iria).—George N. Wolfe, Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William B. Moulton, Resident Physician; Egbert Adams, Cashier, Property and Disturbing Officer.

**Bureau of Coast Guard and Transportation**—J. M. Helm, Commander, United States Navy, Chief; Capt. Spencer Cosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

**Bureau of Coast and Geodetic Survey** (Intendencia Building).—George R. Putnam, Assistant in charge of United States Suboffice.

**Bureau of Engineering** (Santa Potenciana Building).—James W. Beardeley, Consulting Engineer to the Commission; Joseph G. Holcombe, Principal Assistant Engineer; James D. Paunterio, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

## DEPARTMENT OF FINANCE AND JUSTICE.

**Bureau of the Insular Treasury** (Intendencia Building).—Frank A. Branganas, Treasurer of the Philippine Archipelago; J. J. Barrett, Assistant Auditor.

**Bureau of the Insular Auditor** (Intendencia Building).—Abraham L. Lawshe, Auditor for the Philippine Archipelago; W. W. Barre, Deputy Auditor.

**Bureau of Customs and Immigration**.—W. Morgan Shuster, Collector of Customs for the Philippine Islands (on leave); H. B. McCoy, Acting Collector of Customs; Frank S. Cairns, Surveyor.

**Bureau of Internal Revenue** (347 Anloague).—Albert W. Hastings, Acting Collector.

**Insular Cold Storage and Ice Plant**.—Charles G. Smith, Superintendent.

**Bureau of Justice**.—Lebbus R. Wilfey, Attorney-General (on leave); Washington L. Goldsborow, Assistant Attorney-General; Gregorio Aranales, Solicitor-General; James Ross, Supervisor of Provincial Fiscal; Geo. R. Harvey, Assistant Attorney-General for the Constabulary.

## DEPARTMENT OF PUBLIC INSTRUCTION.

**Bureau of Education** (Santa Potenciana).—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant.

**Bureau of Public Printing**.—John S. Leach, Public Printer.

**Bureau of Architecture and Construction of Public Buildings** (Calle Anloague).—Edgar K. Bourne, Chief.

**Bureau of Archives** (Palace).—Manuel de Iriarte, Chief.

**Bureau of Patents, Copyrights and Trade-Marks** (Palace).—Manuel de Iriarte, in charge.

**American Circulating Library** (70 Rosario).—Mrs. Egbert, Librarian.

**Official Gazette** (Santa Potenciana Building).—Max L. McCollough, Editor (on leave); Norton F. Brand, Acting Editor.

**Census Bureau**.—Brig. Gen. J. P. Sanger, United States Army, Director of the Census (in United States).

## Judiciary.

## SUPREME COURT.

(Audiencia, 47 Palacio.)

**Chief Justice**.—Don Gayetano Arellano.

**Associate Justices**.—Florentino Torres, J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.

**Clerks**.—J. B. Blane.

**Reporter**.—Fred C. Fisher.

## COURT OF CUSTOMS APPEALS.

(Palace.)

**Judge**.—A. S. Crossfield.

**Judge**.—Felix M. Roxas.

## COURT OF LAND REGISTRATION.

(138 Calle Real, Walled City.)

**Judge**.—S. del Rosario.

**Associate Justices**.—Dr. R. Williams.

**Clerk**.—J. R. Wilson.

## COURTS OF FIRST INSTANCE.

**Manila, Part 1**.—John C. Sweeney, judge.

**Manila, Part 2**.—W. J. Robie, judge.

**Manila, Part 3**.—Byron C. Ambley, judge.

**Manila, Part 4**.—Manuel Araulo, judge.

**Clerk**.—J. McKilloch.

**Second District**.—Albert E. McCabe.

**Mountain District**.—Dionicio Chango.

**First District**.—Charles H. Burritt.

**Third District**.—Arthur F. Odila.

**Fourth District**.—Julio Lorente.

**Fifth District**.—Estanislao Yusay.

**Sixth District**.—Ignacio Ambley.

**Seventh District**.—Paul W. Lineberger.

**Eighth District**.—Grant T. Trent.

**Ninth District**.—Henry C. Bates.

**Tenth District**.—

**Eleventh District**.—Adam C. Carson.

**Twelfth District**.—James H. Blount.

**Thirteenth District**.—Warren H. Ickis.

**Fourteenth District**.—John S. Powell.

**Fifteenth District**.—Wm. F. Norris.

**Additional Judges**.—Adolph Wisenenus, Capiz; Beekman Withrop; Miguel Logarta.

## Provincial Governments in the Philippines.

**Abur**—Bangued, capital. Governor, Blas Villamor; secretary-fiscal, Lucas Paredes; supervisor-treasurer, Archibald McFarland.

**Albay**—Luzon, capital. Governor, Ramon Santos; secretary, L. Thomas; treasurer, C. A. Reynolds; supervisor, William A. Cross-

land; fiscal, M. Calleja.

**Ambos Camarines (Luzon).**—Nueva Caceres, capital. Governor, Juan Pimental; secretary, Roman Enrile; treasurer, J. Q. A. Braden; supervisor, E. P. Shuman; fiscal, F. Contreras.

**Antique (Panay).**—San José de Buenavista, capital. Governor, Leandro Fulgon; secretary, A. Salazar; supervisor-treasurer, B. T. Reamy; fiscal, V. Gella.

**Bataan.**—Balanga, capital. Governor, Tomas G. del Rosario; secretary, L. L. Zialcita; supervisor-treasurer, Emery R. Yundt; fiscal, Ambrosio Delgado.

**Batangas (Luzon).**—Batangas, capital. Governor, Gregorio Aguilera; secretary, F. Caedo; treasurer, R. D. Blanchard; supervisor, Ernest J. Westerhouse; fiscal, D. Gloria.

**Benguet.**—Baguio, capital. Governor, Wm. F. Pack; secretary, Egidio Octaviano; acting supervisor, (provincial governor).

**Bohol (Bohol).**—Tagbilaran, capital. Governor, Salustiano Borja; secretary, M. Sarmiento; supervisor-treasurer, C. D. Uptoning; fiscal, Gavino Sepulveda.

**Bulacan.**—Malolos, capital. Governor, Pablo Tecson y Ocampo; secretary, Francisco Merales; treasurer, R. W. Goodhart; supervisor, Harry Thurber; fiscal, M. Crisostomo.

**Cagayan.**—Tuguegarao, capital. Governor, Gracilo Gonzaga; secretary, Pastor Saló; treasurer, W. W. Barclay; supervisor, William E. Pearson; fiscal, Vicente Neponuceno.

**Capiz (Panay).**—Capiz, capital. Governor, S. Jugo Vidal; secretary, Emiliano Acevedo; supervisor-treasurer, F. S. Chapman; fiscal, A. Pardo.

**Cavite.**—Cavite, capital. Governor, Capt. David C. Shanks, United States Army; secretary, D. Tirona; acting treasurer, James R. Shaw; supervisor, Russel Suter; fiscal, P. Santa Maria.

**Cebu (Cebu).**—Cebu, capital. Governor, J. Climaco; secretary, L. Alburo; treasurer, Fred J. Schlotfeldt; supervisor, Harry C. Delano; fiscal, Mariano Cui.

**Hocos Norte.**—Laong, capital. Governor, Julio Agacotill; secretary, M. Flor; treasurer, J. N. Currie; supervisor, Paul F. Green; fiscal, Policarpio Soriano.

**Hocos Sur.**—Vigan, capital. Governor, Mena Crisologo; secretary, Fernando Ferrer; treasurer, Fred L. Wilson; supervisor, J. C. Hawley; fiscal, Vicente Singson.

**Iloilo (Panay).**—Iloilo, capital. Governor, Raymundo Melliza; secretary, J. Yusay; treasurer, Charles C. McLain; supervisor, Maurice V. Tuttle; fiscal, Andrew V. Smith.

**Ibabala.**—Iligan, capital. Governor, F. Dichoso; secretary, vacant; supervisor-treasurer, N. B. Stewart; fiscal, C. Alzona.

**La Laguna.**—Santa Cruz, capital. Governor, Juan Calles; secretary, José Rivera y Cosme; treasurer, Henry K. Love; supervisor, David A. Shereff; fiscal, Higinio Benitez.

**La Union.**—San Fernando, capital. Governor, Joaquin Luna; secretary, Andres Apprer; treasurer, Frank B. Parsons; supervisor, Bert H. Burrel; fiscal, J. Baltazar.

**Lepanto-Bontoc.**—Cervantes, capital. Governor, William Dinwiddie; secretary-treasurer, James C. Owens; supervisor, M. Goodman; lieutenant-governor (Bontoc), Daniel Polkmar; lieutenant-governor (Amburayan), W. F. Gale.

**Leyte.**—Tacloban, capital. Governor, P. Borseth; secretary, Egidio Acebedo; treasurer, W. S. Conroy; acting supervisor, Oliver D. Filley; fiscal, Domingo Franco.

**Masbate.**—Masbate, capital. Governor, Joaquin Ma. Bayot y Zurbito; treasurer and acting supervisor, J. A. Comdohr; fiscal, Ambrosio Delgado.

**Mindoro.**—Puerto Gallera, capital. Governor, Capt. R. S. Olney, Thirtieth Infantry, U. S. A.; secretary, Fernando San Agustin; supervisor-treasurer, Carroll H. Lamb; fiscal, M. Quezon.

**Mtaminis.**—Cagayan, capital. Governor, Manuel Corrales; secretary, A. Velez; supervisor-treasurer, E. E. Barton; fiscal, N. Capistrano.

**Moro.**—Zamboanga, capital. Governor, Gen. Leonard Wood, United States Army; secretary, Capt. George T. Langhorne, United States Army; attorney, John E. Springer; treasurer, Fred A. Thompson; engineer and supervisor, Capt. Charles Keller, United States Army; superintendent of schools, Dr. Najeb M. Sateby.

**Nueva Ecija.**—San Isidro, capital. Governor, Epifanio de los Santos; secretary, R. Roque; treasurer, J. B. Green; supervisor, C. D. Wood; fiscal, R. Mahala.

**Nueva Vizcaya.**—Bayombong, capital. Governor, L. E. Bennett; secretary-treasurer, William C. Bryant; acting supervisor, Wm. H. Nipps.

**Occidental Negros.**—Bacolod, capital. Governor, Antonio Jayme; secretary, L. Moreno; treasurer, P. A. Casanave; supervisor, H. M. Wood; fiscal, M. Blanco.

**Oriental Negros.**—Dumaguete, capital. Governor, Demetrio Larena; secretary, J. Montenegro; supervisor-treasurer, H. A. Peed; fiscal, E. Arabela.

**Pampanga.**—Bacolod, capital. Governor, Macario Arnedo; secretary, M. Cunauan; treasurer, R. M. Shearer; supervisor, William P. Creager; fiscal, E. Macapinlac.

**Pangasinan.**—Lingayen, capital. Governor, Macario Favila; secretary, Benito Sison; treasurer, Thomas H. Hardeman; supervisor, Charles F. Vance; fiscal, R. Espiritu.

**Paragua.**—Cuyo, capital. Governor, Lieut. E. Y. Miller; secretary-treasurer, Hall H. Ewing.

**Rizal (Luzon).**—Pasig, capital. Governor, Arturo Dancel; secretary, José Tupas; treasurer, Wm. N. Bish; supervisor, Telfair Hodgson; fiscal, Bartolomé Revilla.

**Romblon.**—Romblon, capital. Governor, Francisco Sanz; secretary, Cornelio Madrigal; supervisor-treasurer, Julius S. Reis.

**Samar.**—Catbalogan, capital. Governor, Eduardo Felto; secretary, Eduardo Felto; treasurer and acting supervisor, Arthur G. Whittier; fiscal, Domingo Franco y Mosquera.

**Sorsogon (Luzon).**—Sorsogon, capital. Governor, Bernardino Monreal; secretary, M. V. del Rosario; treasurer, R. J. Fanning; supervisor, Harry L. Stevens; fiscal, P. Ballen.

**Surigao.**—Surigao, capital. Governor, Daniel Toribio Sison; secretary, Rafael Eliot; supervisor-treasurer, George A. Benedict; fiscal, F. Soriano.

**Tarlac.**—Tarlac, capital. Governor, Alfonso Ramos; secretary, M. Barrera; treasurer, W. E. Jones; supervisor, Sam C. Phipps; fiscal, M. Ilagan.

**Tayabas.**—Lucena, capital. Governor, Ricardo Paras; secretary, Gerardo Usanon; treasurer, William O. Thornton; supervisor, Henry C. Humphrey; fiscal, Solo Alandy.

**Zambales.**—Iba, capital. Governor, Potenciano Lesaca; secretary, Gabriel Alba; supervisor-treasurer, Arthur S. Emery; fiscal, Juan Manday.

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No. 18

## PUBLIC LAWS.

[No. 1111.]

AN ACT GRANTING A FRANCHISE TO CHARLES W. CARSON TO CONSTRUCT, MAINTAIN, AND OPERATE BY ANIMAL POWER A TRAMWAY WITHIN THE LIMITS OF THE MUNICIPALITY OF DAET, IN THE PROVINCE OF AMBOS CAMARINES, FROM THE WHARFS OF THE BARRIO OF MERCEDES IN SAID MUNICIPALITY TO THE TOWN PROPER OR POBLACION OF DAET, AND THROUGH THE SAID TOWN OF DAET TO A POINT ON THE PUBLIC HIGHWAY ONE MILE DISTANT FROM THE MUNICIPAL BUILDING OF SAID MUNICIPALITY OF DAET IN THE DIRECTION OF THE TOWN OF TALISAY.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Charles W. Carson, a citizen of the United States, upon the terms and conditions hereinafter set out, is hereby authorized to construct and for a period of thirty-five years after the passage of this Act to maintain and operate by animal power a tramway over the public highway from the shore line at the port of Mercedes, a barrio of the municipality of Daet, in the Province of Ambos Camarines, to the town proper or *población* of Daet, and through said town proper or *población* of Daet to a point on said public highway one mile distant from the municipal building of Daet in the direction of the town proper or *población* of Talisay, and to construct and maintain such switches, side tracks, loops, turn-outs, and passing places as may be necessary for the convenient operation of the tramway.

SEC. 2. The tramway shall be a single line, and with necessary switches, side tracks, loops, turn-outs, and passing places shall be constructed along one side of the public road or highway mentioned in section one so as leave at least twenty feet of the width of the public road for its entire length free and clear of the tracks, roadbeds, switches, side tracks, loops, turn-outs, and passing places of said tramway. Within the town proper or *población* of Daet and within the barrio proper or *población* of Mercedes, said tramway, with its switches, side tracks, loops, turn-outs, and passing places shall be so constructed and located that it shall not unreasonably interfere with traffic over the entire width of the streets or street crossings of said town proper or *población* of Daet or of said barrio proper or *población* of Mercedes. In case of dispute between the authorities of the municipality of Daet and the grantee as to the location of the track in the town proper or *población* of Daet or in the barrio proper or *población* of Mercedes, or as to whether such track when constructed will unreasonably interfere with traffic, the matter shall be referred to the supervisor of the province for decision, and the decision of such supervisor shall be final.

SEC. 3. The tramway shall be of three feet gauge, but this gauge may be increased or diminished by permission of the Consulting Engineer to the Commission previously obtained.

SEC. 4. The grantee shall begin the construction of the tramway

within six months after the acceptance in writing of this franchise and shall fully complete the same and put it in operation for the public convenience for its entire length within twelve months from the date of said acceptance, and for failure to begin the work of construction or to complete the tramway and put the same in operation for public convenience within the time and as prescribed, the franchise hereby granted shall be forfeited and the grantee shall be subject to the liabilities hereinafter prescribed for such failure.

SEC. 5. The materials employed in the construction of the tramway shall be all of good class and quality and suitable for the purpose for which they are used or to which they are applied.

SEC. 6. The grantee shall construct and maintain and keep in good repair such drains, culverts, or waterways as the tramway or its operation or maintenance may render necessary for the proper drainage of the road, highway, or street over which it passes, and the construction and maintenance of said drains, culverts, and waterways shall be under the direction and supervision of the Consulting Engineer to the Commission or his authorized subordinates to the extent necessary for the protection of the public interests.

SEC. 7. All culverts, bridges, and drains constructed by the grantee crossing the road, highway, or street shall be constructed and maintained by the grantee for the full width of the road, highway, or street and in such a manner as not to interfere with the traffic over the road, highway, or street or to prevent convenient use thereof by the public.

SEC. 8. The grantee shall be under a continuing obligation to keep in good repair the roadbed of said tramway and the surface of the road, highway, or street between the rails and between the tracks of the tramway and for eighteen inches on each side of said tracks for the entire length of the tramway and within the town proper or *población* or municipality of Daet and within the barrio proper or *población* of any barrio of said municipality through which said tramway passes, the space between the rails and tracks of the tramway and for eighteen inches on each side of said tracks to be filled flush to the top of the rails by the grantee with the same material as that used in the construction of the road, highway, or street and as may be prescribed by ordinance of the municipality of Daet: *Provided, however*, That in case of dispute between the municipality and the grantee the work shall be done with the material and in the manner prescribed by the Consulting Engineer to the Commission: *And provided further*, That if the municipality shall order a change in the kind of material after the same has once been laid by the grantee the material necessary to make the change shall be furnished by the municipality and the work of laying such material and putting the same in place shall be borne by the grantee at his own proper cost and expense.

SEC. 9. Before commencing the work on the tramway and within thirty days after the passage of this Act the grantee shall file in duplicate with the Consulting Engineer to the Commission a map or plan showing the location, direction, and general course of said tramway, the estimated distance between changes of course, ac-

accompanied by an explanatory statement as to the route of the tramway and its relation to the road, highway, or streets over which it passes. Should the Consulting Engineer refuse to approve said map or plan the grantee shall make such changes therein as may be prescribed by the Consulting Engineer to the Commission. One copy of the map or plan, when finally approved, shall be filed by the Consulting Engineer in his office and one copy shall be returned by him with his approval to the grantee. The failure or refusal of the grantee to file the map required by this section within the time prescribed or to change within a reasonable time the said map or plan when so directed by the said Consulting Engineer to the Commission shall render null and void the franchise granted by this Act.

Sec. 10. Within thirty days after the map or plan of the tramway furnished by the grantee is returned to him by the Consulting Engineer finally approved, the grantee shall file with the Secretary of Commerce and Police his acceptance in writing of the franchise granted by this Act and at the same time shall deposit in the provincial treasury of Ambos Camarines the sum of one thousand pesos, Philippine currency, or negotiable bonds of the United States or other securities of equal value approved by the Civil Governor. Said deposit of one thousand pesos, Philippine currency, shall be made as an earnest of good faith of the acceptance and as a guarantee that within six months from the date of said acceptance the sum of nine thousand pesos, Philippine currency, or negotiable bonds of the United States or other securities of equal value approved by the Civil Governor shall be deposited with the provincial treasurer of said province. The whole deposit of ten thousand pesos, Philippine currency, thus made, shall be retained in the provincial treasury as security for the completion of the work and operation of the tramway for its entire length within twelve months from the date of acceptance. In case said deposit of nine thousand pesos, Philippine currency, is not made as herein set out or the grantee fails to commence the work within six months after the acceptance of the franchise the deposit of one thousand pesos, Philippine currency, made on the acceptance of the franchise, shall be forfeited to the municipality of Daet. In case the tramway shall not be completed and put in operation for the public convenience within twelve months from the date of acceptance the whole deposit shall be forfeited as liquidated damages for breach of the contract created by the acceptance of the franchise, and such deposit shall be divided equally between said municipality of Daet and the Province of Ambos Camarines: *Provided, however*, That any moneys deposited with the provincial treasurer may, with the approval of the Civil Governor, be paid by the provincial treasurer to the grantee monthly or quarterly in the proportion which the work done bears to the whole work to be done, such proportion to be certified by the Consulting Engineer to the Commission or his duly authorized subordinate. If the deposits required by this section to be made by the grantee, or either of them, is in interest-bearing bonds or other interest-bearing securities, the interest shall be collected by the provincial treasurer of Ambos Camarines and shall be turned over to the grantee as it is collected, unless the grantee shall fail to perform the obligations required of him by this franchise, in which case the accruing interest shall be withheld by the said provincial treasurer and shall constitute a part of the deposit to be divided equally between the Province of Ambos Camarines and the municipality of Daet as liquidated damages resulting from the default of the grantee.

Sec. 11. This franchise is granted with the understanding and on the condition that it shall be subject to amendment, modification, alteration, or repeal by the Congress of the United States and that all lands or rights of use or occupation of lands secured by any corporation by virtue of this franchise and all lands or rights of use or occupation of lands granted by this franchise on the public domain or public lands shall revert upon the termination of this franchise and concession or upon the revocation, repeal, forfeiture, or lapse thereof to the insular, provincial, or municipal

government which owned said lands or enjoyed said rights at the time of the grant of said franchise or concession.

The grantee of this franchise, his successors, and assigns are forbidden to issue stock or bonds under this franchise except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds so issued. Neither shall the grantee, his successors, or assigns declare any stock or bond dividend. It shall be unlawful for the grantee, his successors, or assigns, to use or employ or contract for the labor of persons claimed or alleged to be held in involuntary servitude, and any person, company, or corporation exercising the rights and privileges, conferred by this franchise who shall use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude shall not only forfeit all such rights and privileges and the franchise hereby granted but shall also be deemed guilty of an offense and shall be punished by a fine of not less than ten thousand dollars, United States currency.

Sec. 12. The rates to be charged by the grantee, his lessees, successors, or assigns for the transportation of passengers or freight or for other services shall always be subject to regulation by act of the Commission or other legislative authority of the Islands.

Sec. 13. The grantee, his lessees, successors, or assigns shall pay into the treasury of the Province of Ambos Camarines, in consideration of the granting of this franchise, one and one-half per centum of the gross income earned by the tramway or resulting from its operation. One per centum of the gross income so paid into the provincial treasury shall be paid by the provincial treasurer to the municipality of Daet for municipal purposes, and the remaining one-half per centum of said gross income and earnings shall be retained in the provincial treasury for provincial purposes. The percentage of gross income and gross earnings of said tramway required by this section to be paid into the treasury of Ambos Camarines by the grantee, his lessees, successors, or assigns shall be due and payable quarterly after said tramway shall have been put in operation for the whole or any part of its length.

Sec. 14. The grantee may refuse to transport any package or parcel suspected to contain goods of a dangerous nature or whose transport shall be prohibited by the Government.

Sec. 15. The grantee shall enjoy the following powers, privileges, and exemptions:

(a) To occupy any part of the public domain, not occupied for other public purposes, which may be necessary for the purposes of the enjoyment of this franchise and may be approved by the Consulting Engineer. The land to be taken under this power shall be acquired by the grantee in the following manner: The grantee shall file a petition describing the land which he desires to acquire from the public domain, showing that the same belongs to the public domain, is not in use for any other public purpose, and is property necessary for the enjoyment of the franchise to construct and maintain the railroad herein described, and praying that the same may be conveyed to him for uses and purposes of the enjoyment of said franchise. The petition shall be accompanied by a plat and survey of the land described in the petition. The Consulting Engineer, after an examination of the petition and the plat and the taking of evidence, if necessary, shall approve the same, if he finds the land petitioned for to be necessary and proper for the enjoyment of the franchise herein granted. The Consulting Engineer shall then forward the petition, with his approval, to the Chief of the Bureau of Public Lands, who shall, upon due investigation, determine whether the land sought is public land, and is not in use for any other public purpose, and shall certify the same to the Civil Governor, who, being satisfied of the propriety and legality of granting the petition, shall grant to the owner of the franchise permission to use said land for the purposes of the tramway. The permission to use said land shall be in writing and shall contain a clause providing

for a reversion of the land to the Insular Government whenever it shall have ceased to be used for the purposes of the franchise.

(b) No real or personal property of said tramway actually used and necessary for tramway purposes shall be taxed by any province or municipality for five years from the granting of this franchise.

(c) In the case of refusal or failure to pay the lawful charges, cost, and expenses of transportation and conduction of freight over the whole length or any part of the line, the grantee shall have the right to detain said freight until such time as the amount lawfully due shall be paid. The amount lawfully due shall include all proper charges for storage of goods left in the care of the grantee for over forty-eight hours after reaching their destination.

(d) To make application before the justice of the peace of the municipality of Daet for the sale at public auction of all articles of freight or luggage transported by the grantee which may have remained in the hands of the grantee for two months or over uncalled for by the owner or consignee. In the before-mentioned cases or when the owner or consignee can not be found or is unknown or shall refuse to receive the goods transported or pay the lawful cost, charges, and expenses of transportation, application may be made by the grantee, his lessees, successors, or assigns to the justice of the peace of the municipality of Daet for an order to sell at public auction, upon two days' notice, those goods which are of a perishable nature, and upon thirty days' notice goods not likely to suffer deterioration or loss during the period of notice if given ordinary care. Notices of sale required by this section shall be given by posting at the place where the goods are stored or held and at the door of the municipal building a written announcement of the date, hour, and place of sale, a description of the goods to be sold, and the charges, costs, and expenses for which the goods are held. The proceeds of sale shall go first to defray the cost and expenses of said sale, and then to the account of freight and charges of the grantee on said goods, and the balance, if there be any, shall be deposited with said justice of the peace at the disposition of the person who may have right to same. The grantee shall have the right to refuse to transport goods of a perishable nature unless the freight charges are prepaid or guaranteed.

(e) To sell, lease, give, grant, convey, or assign this franchise and all property and rights acquired thereunder to any person, company, or corporation competent to conduct the business of the said tramway, but no title to this franchise or to the property or rights acquired thereunder, shall pass by sale, lease, gift, grant, conveyance, transfer, or assignment to the vendee, donee, transferee, lessee, or assignee or be enjoyed by him until he shall have filed in the office of the Secretary of Commerce and Police an agreement in writing agreeing to comply with all the terms and conditions imposed on the grantee by the franchise and accepting the said franchise subject to all its existing terms and conditions.

Sec. 16. The grantee, his lessees, successors, and assigns shall agree to carry the mails upon such terms and conditions and at such rates as may be agreed upon between the Director of Posts and the grantee. In case the Director of Posts and the grantee can not agree on terms, conditions, or as to rates of transportation of the mails, the Chief Executive of the Islands, after giving the grantee opportunity to be heard, shall fix the rates of transportation and the terms and conditions under which the mails shall be carried by the said tramway. If the Government of the Islands should require in addition to the ordinary mail service the transport of mail on urgent orders, at other hours or at a higher speed than may be prescribed by the ordinary tram-train schedule, or should the Government require the transport of troops, ammunition, bullion, freight, or war supplies the grantee shall provide, day or night, special conveyance for same and be allowed such extra compensation therefor as may be reasonable.

Sec. 17. The tramway for which a franchise is conceded by this Act may be crossed by lines of railroad, other tramways, or by

roads or highways on such terms and conditions and under such rules and regulations as may be prescribed by the Government of the Philippine Islands.

Sec. 18. The legal domicile of the owner of this franchise shall be in Daet, where there shall also be a duly authorized representative of said owner with full power to perform the duties enjoined and maintain the rights conferred by the franchise.

Sec. 19. The granting of this charter shall be subject in all respects to the limitations upon corporations and the granting of franchises contained in the act of Congress approved July first, nineteen hundred and two, entitled "An Act temporarily to provide for the administration of affairs of civil government in the Philippine Islands, and for other purposes."

Sec. 20. The books of the grantee, his lessees, successors, or assigns maintaining or operating said tramway shall always be open to the inspection of the Insular Auditor, the provincial treasurer, or of a deputy designated by either for the purpose, and once said tramway is put in operation for the whole or any part of its length it shall be the duty of the grantee of the franchise, his lessees, successors, or assigns operating under the same to submit to the provincial treasurer quarterly reports in duplicate showing the gross earnings, gross income, and all expenses and expenditures of said tramway, as well as such other data as may be required by the Insular Auditor or provincial treasurer for a complete understanding of the general condition of the business of said tramway. One of the duplicate reports required by this section to be furnished to the provincial treasurer shall be retained by him and the other forwarded by him to the Insular Auditor, who shall keep the same on file.

Sec. 21. At any time after five years from the granting and during the life of this franchise, the Government of the Philippine Islands may by legislative enactment, upon such terms and conditions as to it may seem proper, require the grantee, his lessees, successors, or assigns to operate said tramway by electric or other power instead of by animal power. Should said grantee, his lessees, successors, or assigns decline, fail, or refuse to operate said tramway by the power required by the Government and in the manner and as directed by said Government, then the franchise granted by this Act shall be forfeited and all rights, privileges, and concessions granted by it shall end and terminate.

Sec. 22. Once said tramway has been put into operation for its entire length, the grantee, his lessees, successors, or assigns shall furnish such rolling stock and run such trains and make such number of trips over the entire length of said line as the public service and the demands of traffic may reasonably require. The failure by the grantee, his lessees, successors, or assigns to operate said tramway for its entire length, unless prevented by the act of God, the public enemy, or *force majeure* shall constitute an abandonment of the franchise hereby granted, and the municipality of Daet, with the approval of the Civil Governor, may either declare said franchise forfeited or require the grantee, his lessees, successors, or assigns to remove the lines or tracks of said tramway for the whole or any part of the length of said tramway, or may itself cause such lines or tracks of said tramway to be removed at the expense of the grantee, his lessees, successors, or assigns.

Sec. 23. Upon such terms and conditions as may be agreed upon, and at any time during the existence of this franchise, the grantee, his successors, and assigns, may construct, maintain, and operate such additional side tracks, double tracks, loops, switches, and passing places as may be deemed useful for the convenient and advantageous operation of the said tramway, the consent of the council of the municipality of Daet having been first obtained: *Provided, however*, That the construction of such additions to the original tramway shall not be entered upon until the grantee shall have filed with the Consulting Engineer to the Commission, in duplicate, a map or plan of such proposed addition, accompanied by an explanatory statement, and shall have had returned to him



a copy of said map with the approval of said Consulting Engineer. All such additions, when completed, shall become a part of the said tramway, and shall be held, maintained, and operated upon the same conditions as those which control the rest of said tramway.

SEC. 24. The council of the municipality of Daet, after hearing the grantee, shall have the power, with the approval of the Civil Governor, to declare the forfeiture of this franchise and concession for failure to comply with any of the terms and conditions required of him to be performed by the franchise, unless such failure shall have been directly and primarily caused by the act of God, the public enemy, or *force majeure*.

SEC. 25. Against such declaration of forfeiture of the franchise, the grantee, his lessees, successors, or assigns, may apply to any court of competent jurisdiction for such relief as to him may seem proper, but if no such application is made within a period of two months after the forfeiture has been declared by such municipality and approved by the Civil Governor the right to apply to the courts for relief shall be considered waived and the forfeiture shall become final. The forfeiture of the concession implies the loss of the deposit.

SEC. 26. When the forfeiture of the franchise shall have become final, either by failure to apply to the proper court within the time prescribed or by a final decision of the courts confirming the forfeiture the municipality of Daet shall take possession of the tramway and all property necessary for its proper operation and management and shall sell the same at public auction for cash to the highest bidder therefor after giving notice of such sale by posting an announcement thereof in Spanish and English for sixty days prior to the sale at the door of the municipal building and at the principal office of the tramway and by publishing a notice of such sale for sixty days prior to the sale in at least one paper published in English and one published in Spanish in the city of Manila. The notice shall set forth the fact of the forfeiture of the franchise, a general description of the property to be sold, and the date, hour, and place of sale. The proceeds of the sale shall be paid to the grantee, his successors, or assigns, less the costs and expenses of sale.

SEC. 27. This Act shall be subject to all the requirements and limitations of Act Numbered Ninety-eight, and the amendments thereto heretofore or hereafter made, and a failure to comply with the provisions of said Act Numbered Ninety-eight shall be punishable as provided for the violation of said Act Numbered Ninety-eight.

SEC. 28. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 29. This Act shall take effect on its passage.

Enacted, April 8, 1904.

[No. 1112.]

AN ACT AUTHORIZING THE ASSIGNMENT, SALE, AND TRANSFER TO THE MANILA ELECTRIC RAILROAD AND LIGHT COMPANY OF ALL THE ASSETS OF THE COMPANIA DE LOS TRANVIAS DE FILIPINAS, PROVIDING FOR THE SURRENDER BY THE MANILA ELECTRIC RAILROAD AND LIGHT COMPANY OF THE FRANCHISES, AND AMENDMENTS THEREOF, OF THE SAID COMPANIA DE LOS TRANVIAS DE FILIPINAS, AND FOR CERTAIN AMENDMENTS TO ORDINANCE NUMBERED FORTY-FOUR OF THE MUNICIPAL BOARD OF MANILA, ENACTED IN PURSUANCE OF ACT NUMBERED FOUR HUNDRED AND EIGHTY-FOUR OF THE PHILIPPINE COMMISSION, AND FOR THE OPENING OF CERTAIN NEW STREETS BY THE MUNICIPAL

BOARD OF MANILA, AND FOR A FRANCHISE TO THE MANILA ELECTRIC RAILROAD AND LIGHT COMPANY TO CONSTRUCT, MAINTAIN, AND OPERATE AN ELECTRIC STREET RAILWAY AND AN ELECTRIC LIGHT, HEAT, AND POWER SYSTEM FROM THE LIMITS OF THE CITY OF MANILA TO MALABON.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Compañía de los Tranvías de Filipinas is hereby authorized to sell, assign, and transfer its entire properties and assets, including all its right, title, and interest in and to the franchises, and all amendments thereto, (1) to operate certain street railway lines in the city of Manila (which franchises were granted to Señor Don Jacobo Zobel de Zangroniz and Señor Don Lucio Maria Bremon, on April twenty-second, eighteen hundred and eighty-one, by the General Government of the Philippine Archipelago), (2) to operate a steam traction road from the Bridge of Pretill, in Tondo, Manila, to the principal square in Malabon (which franchise was granted to Señor Don Jacobo Zobel de Zangroniz, on October twenty-second eighteen hundred and eighty-four, by the General Government of the Philippine Archipelago), to the Manila Electric Railroad and Light Company, a corporation organized and existing under and by virtue of the laws of the State of New Jersey, the name of which corporation was originally the Manila Railway and Light Company, but which name was, thereafter, on the sixth day of July, nineteen hundred and three, by due process of law, changed to, and now is, the Manila Electric Railroad and Light Company, and which corporation, under the name of Manila Railway and Light Company, acquired from Charles M. Swift, on the twenty-seventh day of March, nineteen hundred and three, the franchises heretofore granted to said Charles M. Swift by Ordinance Numbered Forty-four of the city of Manila, enacted in pursuance of Act Numbered Four hundred and eighty-four of the Philippine Commission; and said sale, assignment, and transfer of said properties, assets, and franchises of said Compañía de los Tranvías de Filipinas to said Manila Electric Railroad and Light Company is hereby consented to, allowed, and sanctioned: *Provided, however,* That the Manila Electric Railroad and Light Company shall, upon purchase of the properties and assets of the Compañía de los Tranvías de Filipinas, thereafter hold, occupy, and operate the lines of street railways specified in section two hereof, solely under its charter granted by Act Numbered Four hundred and eighty-four and Ordinance Numbered Forty-four of the Municipal Board as amended by this Act and the ordinance of said council to be passed as herein directed.

SEC. 2. The Municipal Board of the city of Manila shall amend Ordinance Numbered Forty-four, enacted in pursuance of Act Numbered Four hundred and eighty-four of the Philippine Commission, as follows:

First. Paragraphs two, three, twelve, fifteen, seventeen, twenty-four, and twenty-eight of Part One, and Paragraphs two and nine of Part two, of said ordinance shall be amended to read as follows:

"PAR. 2. The streets, thoroughfares, bridges, and public places upon which the grantee is authorized to make such excavations and constructions are as follows:

"(a) Commencing at the southerly end of the Bridge of Spain, to and along Calzada de Magallanes, across the Plaza de Mártires (Plaza de España), to Calle Santo Tomas, thence to Calle Cabil-do, thence to Calle Fundición, thence to Calle Palacio, thence, through the wall and across the moat, to Paseo de Vidal, thence along Paseo de Bagumbayan to Calle San Luis, thence along Calle Real to Calle Cabañan, thence over the Bridge of San Antonio, and to the Pasay race track: *Provided,* That the grantee shall have the right to operate its cars upon Calle Real, Malate, except in cases of temporary emergency or necessity, in but one direction, without the consent of the Municipal Board and shall

not have the right to put in turn-outs along said street without like consent.

"(b) From the easterly end of Calle Aduana to Calle Palacio, thence to Calle Fundición.

"(c) From the northerly end of the Bridge of Spain and its junction with the Escolta, along the Bridge of Spain, to its southerly end. Thence, from the southerly end of the Bridge of Spain to Paseo de Vidal, along said paseo to its junction with Calzada de Nozaleda, along said calzada to its junction with Calzada de San Marcelino.

"(d) From the junction of Calzada de Vidal and Calle Concepción to Calzada de Marcelino, along the latter calzada to its junction with Calzada de Nozaleda, thence to Calle Real (Paco), and along said street to the church of Santa Ana.

"(e) From the southerly end of the Bridge of Spain to the Bridge of Santa Cruz, across the Bridge of Santa Cruz, through Plaza de Goiti, to Calle Echague, thence to Calle San Miguel, thence to Calle General Solano, thence to Calzada de Aviles, and along Calzada de Santa Mesa, to Santa Mesa.

"(f) From Plaza Goiti to Plaza Santa Cruz, thence to Calle Enrile, thence to Calle Alcalá, thence to Calle Almanza, thence to the Estero Cegado, thence to the line on Calzada de Bilibid.

"(g) From the intersection of Calle Joló and the easterly approach to the Bridge of Binondo, thence across the Bridge of Binondo to Calle San Fernando, thence to Calle Madrid, thence to Calle Aceiteros, thence to Calle de Sagunto, thence to Paseo de Azérraga, thence to Calle General Izquierdo, thence to Calle San Bernardo, thence to Calle Paz, thence to Calle Bilibid, thence to Calle de Iris, to Plaza Santa Ana, thence along Calle Alix to the Rotonda de Sampaloc.

"(h) From the intersection of Paseo de Azérraga and Calle Ylaya, along the latter street around Plaza Leon XIII, to and along Calle de Sande, to the Pretil Bridge.

"(i) From the intersection of Calle de Bilibid and Calle Cervantes, along said Calle Cervantes, to the San Lázaro race track.

"(j) From the intersection of Calle Ylaya and Paseo de Azérraga, along Calle Ylaya, to the junction of the line on Calle Joló.

"(k) From the line at the intersection of Calle de Sagunto and Calle Aceiteros, along Calle de Sagunto, to Calle Clavel, along Calle Clavel, to the line of Calle Madrid.

"(l) Along Calle de Lemert and Calle de Joló, from the Bridge of Pretil (near Tondo station) to Plaza de Binondo, across Plaza de Binondo, and along Calle Rosario, and to and across Plaza de P. Moraga, and to and along the Escolta, to and across Plaza de Goiti, to and along Calle de Carriedo, to and across Plaza de Miranda, to and along Calle de Crespo, to and along Calle de San Sebastian, to and across Plaza del Carmen, to and across Plaza de Santa Ana, to a junction with line (g), namely, the intersection of Calzada de Iris and Plaza de Santa Ana, also along the main road from Manila to Malabon, beginning at Tondo station, near the Bridge of Pretil, to the limits of the city.

"(m) From the intersection of Calle San Lufs and Calle Real (Ermita), along Calle San Lufs, to and along the proposed Calle E, as the same is platted on the map of the engineer of the city of Manila, which map has been approved by, and is now on file with, the Municipal Board of the city of Manila, to its intersection with Calle Padre Faura, thence along Calle Padre Faura to and along the proposed Calle D, as the same is platted on the map hereinbefore referred to, to and along a proposed street running from the cemetery at right angles to Calle Diaz Puertas, to Calle C, as the same is platted on the map hereinbefore referred to, along Calle C to a street running east from the end of Calle Cabañas and at right angles thereto, thence, to and along said last mentioned street, to Calle Cabañas."

"PAR. 3. The grantee shall have the right to lay double tracks upon each of the streets, thoroughfares, bridges, and public places

mentioned in the last preceding paragraph except the following, upon which (except with the express consent of the Municipal Board to the laying of double tracks) only single tracks shall be laid:

"Calle Enrile, Calle Joló, Calle Almanza, Calle Carriedo, Calle Crespo, Calle Alcalá, Estero Cegado, where these streets are less than twenty-four feet wide between curb lines; also Calle de Cabañas; also Calle Cabildo, Calle Santo Tomás, Calle Fundición, Calle Palacio, Calle Aduana; these last five being the streets within the Walled City: *Provided*, That the grantee shall have the privilege, under the direction of the Municipal Board, of placing upon all of the foregoing streets the necessary turn-outs, switches, and sidings; *And provided further*, That in all streets, thoroughfares, bridges, and public places the tracks, rails, and other constructions of the grantee shall be so laid and located as to leave a clear driveway between the tracks and the curb line on at least one side of such tracks, where the width of the street between the curbs makes it physically possible."

"PAR. 12. The grantee shall, at all times, keep its tracks, rolling stock, and other construction in good condition. Two classes of cars or compartments, providing for two classes of passengers, shall be run, and at least sixty per centum of the accommodation furnished shall be second-class cars or compartments. The grantee hereof shall, at all times, furnish cars or compartments of both classes sufficient to satisfy the public demand and to carry comfortably all the members of the public desiring to ride thereon: *Provided*, That, after one year of operation, the Municipal Board shall have the power, with the concurrence of the grantee of this franchise, to amend this paragraph so as to require that only one class of cars or compartments shall be run, upon which the lower rate of fare shall be charged."

"PAR. 15. The fare charged by the grantee shall not exceed six cents, in money of the United States, on a first-class car or compartment or five cents, in money of the United States, on a second-class car or compartment, for one continuous ride from one point to another on the street railway system of the grantee within the city limits, as now or hereafter established, whether or not it be necessary to transfer the passengers from one car or line of the grantee to another during said ride: *Provided, always*, That where a change of cars is necessary there shall be established by the grantee a method of transfers not unreasonably burdensome in its restrictions to the transferred passengers; and, in case of failure to comply with the foregoing requirement as to transfers, it may be enforced, upon application of the Municipal Board, by mandamus to the proper Court of First Instance or the Supreme Court: *And provided further*, That on lines running outside of the city limits, an additional fare or fares may be charged at the rate of five cents, in money of the United States, on first-class cars or three cents, in money of the United States, on second-class cars, for each two miles, or fraction thereof, beyond the city limits, as now or hereafter established: *And provided further*, That at any time after twenty-five years from the date hereof, upon due notice from the city of Manila to the grantee, the fares charged by the grantee may be readjusted on a reasonable basis by three arbitrators, one to be chosen by the city, one by the grantee, and the third to be selected by the two so chosen, if they can agree, but, if not, then to be selected by the Chief Executive of the Islands. The award of the majority of such arbitrators shall be final."

"PAR. 17. Until such time as the fares herein fixed shall be readjusted, the grantee shall place on convenient sale lots of one hundred tickets at the rate of five dollars and fifty cents, in money of the United States, per one hundred, each of which shall be good for one continuous first-class ride on the cars of the grantee within the limits of the city of Manila, and lots of six tickets at the rate of twenty-four cents, in money of the United States, per six, each of which shall be good for one second-class continuous

ride on the cars of the grantee within the city limits: *Provided*, That the grantee may issue such tickets subject to such reasonable restrictions as to the grantee may seem proper."

"PAR. 24. All reasonable or proper or necessary changes on the lines or routes of the grantee, or the abandonment of any part of its franchises or of any street or streets which it may not be desirable or advisable to use, may be made by the grantee, with the approval of the municipal authorities."

"PAR. 28. At any time after twenty-five years from the date hereof, the city of Manila may purchase, and the grantee shall sell to the city of Manila, all of its franchises, lines, tracks, cars, real estate, buildings, plant, rights, and other property used by it in the operation of a street railway in the city of Manila and on the line to Malabon, at a valuation based upon the net earnings of the grantee, the valuation to be determined, after hearing evidence, by the Supreme Court of the Islands, sitting as a board of arbitrators, whose decision, by a majority of the members thereof, shall be final."

"PART TWO.

"PAR. 2. The Municipal Board, with the approval of the Advisory Board and the Commission, shall have authority to fix from time to time, by ordinance, the prices at which such current shall be furnished to private persons or corporations within the limits of the city of Manila as now or hereafter established and to the city and the Insular Government: *Provided always*, That the prices so fixed shall be reasonable; and in case the Municipal Board shall disagree with the Advisory Board as to reasonable rates, then the Commission shall fix them."

"PAR. 9. The grantee shall be liable to pay the same taxes upon its real estate, buildings, plant, (not including poles, wires, transformers, and insulators), machinery, and personal property as other persons are or may be hereafter required by law to pay. In consideration of Part Two of the Franchise herein granted, to wit, the right to build and maintain in the city of Manila and its suburbs a plant for the conveying and furnishing of electric current for light, heat, and power, and to charge for the same, the grantee shall pay to the city of Manila two and a half per centum of the gross earnings received from its business under this franchise in the city and its suburbs: *Provided*, That two and a half per centum of the gross earnings received from the business of the line to Malabon shall be paid to the Province of Rizal. Said percentage shall be due and payable at the time stated in paragraph nineteen of Part One hereof and after an audit like that provided in paragraph twenty of Part One hereof, and shall be in lieu of all taxes and assessments of whatsoever nature and by whatsoever authority upon the privileges, earnings, income, franchises, and poles, wires, transformers, and insulators of the grantee, from which taxes and assessments the grantee is hereby expressly exempted."

Second. A new paragraph, to be known as paragraph two (a), shall be inserted between paragraph two and paragraph three of Part One of said Ordinance Numbered Forty-four, which paragraph two (a) shall read as follows:

"PAR. 2. (a) The Manila Electric Railroad and Light Company shall be authorized to make excavations and constructions for the purposes prescribed in Part One of said Ordinance Numbered Forty-four, upon such further streets, thoroughfares, bridges, and public places within the city of Manila as may, from time to time, be approved by the Municipal Board."

Third, Paragraph eighteen of Part One of said Ordinance Numbered Forty-four shall be repealed.

SEC. 3. The franchise over the streets in subparagraph (m) of paragraph two of Part One named shall become operative whenever such of said streets as are not now open shall be constructed in pursuance of section eight of this Act.

SEC. 4. A franchise is hereby granted to the Manila Electric Railroad and Light Company to extend the line along the main

road from Manila to Malabon provided for in the last clause of subparagraph (l), of paragraph two of Part One of said Ordinance Numbered Forty-four, as directed to be amended by section two of this Act, from the limits of the city of Manila to the principal square of the town of Malabon, upon the terms and conditions of said Ordinance Numbered Forty-four, as directed to be amended by this Act: *Provided*, That paragraphs five, seven, and nine of Part One of said Ordinance Numbered Forty-four shall not be operative as to the franchise for said line to Malabon: *But provided further*, That the tracks of said line to Malabon shall be laid to such grade, and the roadbed and eighteen inches on each side thereof shall be maintained in such condition, as will not unreasonably interfere with the traffic over the highway on which said line runs: *And provided further*, That said roadbed and eighteen inches on each side thereof, and said grade, shall be maintained to the reasonable satisfaction of the proper authorities: *And provided further*, That the rights which the grantee acquires under this section to charge the fares provided for in paragraphs fifteen and seventeen of section two of this Act shall not be affected by any future extension of the city limits.

SEC. 5. In lieu of the payment of two and one-half per centum of the fares collected and tickets sold by the Manila Electric Railroad and Light Company on the line to Malabon without the city limits of Manila, to municipal authorities of the Province of Rizal, and in lieu of the inspection by said municipal authorities of the accounts of the company at the end of each month, as provided in paragraphs nineteen and twenty of Part One of said Ordinance Numbered Forty-four, the Manila Electric Railroad and Light Company shall pay said two and a half per centum of fares collected and tickets sold on the line to Malabon, without the city limits of Manila, to the provincial treasurer of the Province of Rizal, who shall inspect the record of fares so collected and who shall audit and approve the accounts of the company at the end of each month, and the provincial treasurer of the Province of Rizal shall distribute to the proper municipalities the amounts paid in by the Manila Electric Railroad and Light Company in accordance with the provisions hereof.

SEC. 6. The Manila Electric Railroad and Light Company is hereby granted a franchise to construct, maintain, and operate a light, heat, and power system coextensively with the said line to Malabon and upon the terms of Part Two of said Ordinance Numbered Forty-four, as directed to be amended by this Act.

SEC. 7. Paragraphs five, seven, and nine of Part One of said Ordinance Numbered Forty-four shall not be applicable to the franchise contained in said Ordinance Numbered Forty-four, as directed to be amended by this Act, along the main road from Manila to Malabon, beginning at Tondo station, near the Bridge of Pretil, to the limits of the city as described in subparagraph (l) of paragraph two of Part One of said Ordinance, as directed to be amended by this Act: *Provided*, That the tracks of said line to Malabon shall be laid to such grade, and the roadbed and eighteen inches on each side thereof shall be maintained in such condition as will not unreasonably interfere with the traffic over the highway on which said line runs: *And provided further*, That said roadbed and eighteen inches on each side thereof and said grade shall be maintained to the satisfaction of the engineer of the city of Manila.

SEC. 8. The city of Manila shall immediately proceed to open all streets not now opened designated in subparagraph (m) of paragraph two of Part One of said Ordinance Numbered Forty-four as herein amended, and, immediately upon the completion of said streets, the Manila Electric Railroad and Light Company shall commence the construction of the line authorized in said subparagraph (m) of paragraph two of Part One and pursue the construction of said line diligently to its completion.

SEC. 9. The Manila Electric Railroad and Light Company shall remove all tracks, switches, and other obstructions of whatever character heretofore placed in the streets of the city of Manila

by the Compañía de los Tranvías de Filipinas, and restore all streets, or parts of streets, occupied by the same to a good and passable condition to the satisfaction of the city engineer.

SEC. 10. The amendments to Ordinance Numbered Forty-four herein directed to be made by the Municipal Board shall be enacted upon the filing by the Manila Electric Railroad and Light Company with the Executive Secretary of the Philippine Islands of its acceptance in writing of the terms of the foregoing Act and the surrender in writing by proper corporate action to the Government of the Philippine Islands of the franchises, and all amendments thereto, of said Compañía de los Tranvías de Filipinas.

SEC. 11. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 12. This Act shall take effect on its passage.

Enacted, April 11, 1904.

[No. 1113.]

AN ACT PROVIDING FOR THE ESTABLISHMENT OF LOCAL CIVIL GOVERNMENTS FOR THE NON-CHRISTIAN TRIBES OF THE PROVINCE OF ISABELA, AND AMENDING ACT NUMBERED TWO HUNDRED AND TEN BY PROVIDING FOR AN INCREASE IN THE SALARY OF THE PROVINCIAL GOVERNOR OF ISABELA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Whereas the non-Christian tribes of the Province of Isabela have not progressed sufficiently in civilization to make it practicable to bring them under any form of municipal government, the provincial governor is authorized, subject to the approval of the Secretary of the Interior, in dealing with these non-Christian tribes, to appoint officers from among them, to fix their designations and badges of office, and to prescribe their powers and duties: *Provided*, That the powers and duties thus prescribed shall not be in excess of those conferred upon township officers by Act Numbered Three hundred and eighty-seven, entitled "An Act providing for the establishment of local civil governments in the townships and settlements of Nueva Vizcaya."

SEC. 2. Subject to the approval of the Secretary of the Interior, the provincial governor is further authorized, when he deems such a course necessary in the interest of law and order, to direct members of such tribes to take up their habitation on sites on unoccupied public lands to be selected by him and approved by the provincial board. Members of such tribes who refuse to comply with such directions shall, upon conviction, be imprisoned for a period not exceeding sixty days.

SEC. 3. The constant aim of the governor shall be to aid the non-Christian tribes of his province to acquire the knowledge and experience necessary for successful local popular government, and his supervision and control over them shall be exercised to this end, and to the end that law and order and individual freedom shall be maintained.

SEC. 4. When in the opinion of the provincial board of Isabela any settlement of non-Christian tribes has advanced sufficiently to make such a course practicable, it may be organized under the provisions of sections one to sixty-seven, inclusive, of Act Numbered Three hundred and eighty-seven, as a township, and the geographical limits of such township shall be fixed by the provincial board.

SEC. 5. Section two of Act Numbered Two hundred and ten, entitled "An Act extending the provisions of the Provincial Government Act and its amendments to the Province of Isabela," as amended, is hereby further amended by striking out the second paragraph thereof and inserting in lieu thereof the following:

"For the provincial governor, two thousand four hundred dollars."

SEC. 6. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 7. This Act shall take effect on its passage.

Enacted, April 11, 1904.

[No. 1114.]

AN ACT APPROPRIATING THE SUM OF THREE HUNDRED AND SEVENTY-SEVEN THOUSAND EIGHT HUNDRED AND FIFTY-SIX PESOS, PHILIPPINE CURRENCY, OR SO MUCH THEREOF AS MAY BE NECESSARY, FOR CERTAIN PUBLIC WORKS, PERMANENT IMPROVEMENTS, AND OTHER PURPOSES OF THE INSULAR GOVERNMENT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sums, in Philippine currency, or so much thereof as may be necessary, are hereby appropriated, out of any funds in the Treasury of the Philippine Islands not otherwise appropriated, for certain public works, permanent improvements, and other purposes of the Insular Government:

BUREAU OF PHILIPPINES CONSTABULARY.

*Clothing, camp and garrison equipage, Philippines Constabulary:* For the purchase of ordnance and ordnance stores, seventy-one thousand seven hundred and twenty pesos.

*Telegraph and telephone service, Philippines Constabulary:* For the purchase of five thousand iron telegraph poles and one thousand iron cross-arms, thirty thousand five hundred pesos.

In all, for the Bureau of Philippines Constabulary, one hundred and two thousand two hundred and twenty pesos.

IMPROVEMENT OF THE PORT OF MANILA.

For dredging the Santa Cruz estero, nine thousand six hundred and thirty-six pesos, or so much thereof as may be necessary: *Provided*, That the work shall be performed under the supervision of, and this appropriation disbursed by, the Officer in Charge of the Improvement of the Port.

BUREAU OF COAST GUARD AND TRANSPORTATION.

*Light-house Service, Bureau of Coast Guard and Transportation:* For the construction of light stations at Capitancillo Island, Bajo Apo Islet, and Bagaey Point, sixty-two thousand pesos; and for the construction and completion of other minor stations, the purchase and installation of port lights and lanterns, and necessary surveys, not to exceed thirty-six thousand pesos; ninety-eight thousand pesos.

For construction and equipment of marine railway and machine shop on Engineer Island, forty thousand pesos.

In all, for the Bureau of Coast Guard and Transportation, One hundred and thirty-eight thousand pesos, under the provisions of Act Numbered Eight hundred and thirty-one.

BUREAU OF CUSTOMS AND IMMIGRATION.

For the purchase and delivery of one harbor launch, sixteen thousand pesos.

BUREAU OF ARCHITECTURE AND CONSTRUCTION OF PUBLIC BUILDINGS.

*Public works, Bureau of Architecture and Construction of Public Buildings:* For the alteration, construction, or improvement of the following-named public buildings and grounds:

Bureau of Customs and Immigration: For the erection of a custom-house at Balabac, Island of Balabac, two thousand pesos.

Bureau of Insular Purchasing Agent: For completion of stables,

wagon shed, repair shop and mess quarters at San Lazaro, twenty-eight thousand pesos.

Bureau of Government Laboratories: For equipment of new laboratory, including complete power plant, machinery, and so forth, forty thousand pesos; for complete laboratory fixtures and so forth, twenty-two thousand pesos.

For the purchase of building supplies, tools, and so forth, twenty thousand pesos.

In all, for the Bureau of Architecture and Construction of Public Buildings, one hundred and twelve thousand pesos, under the provisions of Act Numbered Eight hundred and thirty-one.

SEC. 2. All balances remaining unexpended when any public works or permanent improvements appropriated for by this Act are completed shall be returned at once to the Treasury of the Philippine Islands and shall not be available for withdrawal or disbursement thereafter, but shall be carried to the general revenues of the Islands.

SEC. 3. The provisions of the first paragraph of section three of Act Numbered Eight hundred and seven, providing the manner in which withdrawal of moneys appropriated under said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, April 11, 1904.

### EXECUTIVE ORDER.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, April 22, 1904.

EXECUTIVE ORDER }  
No. 19. }

Executive Order Numbered One hundred and nine, series of nineteen hundred and three, is hereby amended by substituting the name of Honorable Vicente Jocsen for that of Honorable William F. Norris, designated therein to remain on duty, subject to call, for the performance of interlocutory jurisdiction in the Ninth, Tenth, and Fifteenth Judicial Districts.

LUKE E. WRIGHT,  
Civil Governor.

By FRANK W. CARPENTER,  
Acting Executive Secretary.

### RESOLUTION OF THE PHILIPPINE COMMISSION.

Extract from minutes of proceedings, April 15, 1904.

Resolved. That the Executive Secretary is hereby directed to make the same distribution by invoice as nonexpended property of copies bound in sheep of Volume I, annotated edition, Spanish, of the Public Laws enacted by the Commission, as was directed to be made of the English edition of said volume by resolution of the Commission of October 10, 1903; and that the Executive Secretary is hereby authorized to sell said Volume I, Spanish edition, to any person applying therefor upon the payment of seven pesos, Philippine currency, for each volume bound in pamphlet form, and twelve pesos, Philippine currency, for each volume bound in full sheep.

### DECISIONS OF THE SUPREME COURT.

[No. 1478. February 16, 1904.]

THE UNITED STATES, complainant and appellee, vs. JUAN DE LA CRUZ ET AL., defendants and appellants.

CRIMINAL PROCEDURE: BRIGANDAGE; COMPLAINT OR INFORMATION: AMENDMENT DURING TRIAL.—It is not error for the trial court to permit the prosecuting attorney to amend his information in the course of the trial by changing the name of the leader of the band of brigands of which the accused are charged of being members.

APPEAL from a judgment of the Court of First Instance of Rizal.

The defendants were prosecuted on an information for the crime of brigandage. In the course of the trial the court permitted the prosecuting officer to amend the information by eliminating the words "led by one Silveria" and substituting therefor the words "under the command of Luciano San Miguel."

Geo. W. LYON, for appellants.

Solicitor-General ARANETA, for appellee.

MAPA, J.:

The defendants were sentenced in the Court of First Instance to the penalty of twenty years' imprisonment for the crime of brigandage, punished by section 1 of Act 518 of the Commission. The merits of the case demonstrate sufficiently the guilt of the said defendants and justify the sentence for the aforementioned crime.

The amendment to the complaint made before the presentation of the evidence for the defense has not prejudiced, nor could it have prejudiced, any essential rights of the defendants as well because it did not affect the essence of the crime charged, but merely an accidental detail of the same, as because it did not deprive the accused of an opportunity to produce evidence for their defense, if they had desired, in relation to the said amendment; its allowance was not, therefore, a fatal error, as the defense contends, relying upon section 10 of General Orders, No. 58.

For the reasons stated we affirm the sentence appealed from, imposing the cost of both instances upon the defendants.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, JJ., concur.

Judgment affirmed.

[No. 1509. February 16, 1904.]

THE UNITED STATES, complainant and appellee, vs. NICOLAS GLORIA, defendant and appellant.

1. CRIMINAL LAW: HOMICIDE.—See facts in this case held to constitute the crime of homicide.

2. ID. ID.: ASSAULT.—Where the infliction of wounds results in the death of the injured person the crime is homicide and not assault (*lesiones*), as with respect to crimes against the person the penal law looks particularly to the material results which follow the unlawful act, and holds the aggressor responsible for all the consequences thereof.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

LEDESMA, SUMULONG & QUINTOS, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On May 23, 1903, the provincial fiscal of Bulacan filed an information in the Court of First Instance of that province charging Nicolas Gloria with the crime of homicide in that, on the night of April 7, 1903, and as the result of a quarrel between the defendant and Tiburcio de la Cruz about some rice straw, upon meeting in the street at a place called Bambang, of the township of Bulacan, they had a quarrel, followed by a fight; that in the

course of the struggle between them Gloria inflicted upon Cruz with a pocketknife he was carrying a wound in the left side of the trunk above the abdomen, from which would the said Tiburcio died, the crime having been committed willfully, feloniously, and contrary to the statute in the case made and provided.

Dr. Pedro Pagua, who examined the deceased and attended him up to the time of his death, testified that the deceased had received a mortal wound in the left hypogastrum, inflicted by a sharp instrument which had pierced the peritoneum and the intestines, producing a hemorrhage which caused death in two or three hours; that he was unable to save the man, having been called in three hours after the wound was inflicted; that the patient had almost bled to death by that time; that the aspect of the wound was such as to lead him to entertain the belief that the assailant must have been below the deceased, as the direction of the wound was upward and backward.

The witnesses for the prosecution were Romualdo Asuncion, Gregorio Rodriguez, and Mariano Gonzalez. The first testified that the deceased himself told him that the wound had been inflicted by Nicolas Gloria. The second testified that he knew about the case because a woman had told him. The third witness said that his information was derived from a message which he had received from the witness Rodriguez about 11.30 at night, and that upon receiving the message he immediately gave instructions that a report of the occurrence be made to the local president, stating further that he believed that the assailant and the deceased were of equal age, height, and weight. The witness Rodriguez testified, however, that the deceased was about 18 years of age and was taller and somewhat thinner than the accused.

In view of the testimony of the defendant and the result of the evidence for the prosecution, the judge decided that the facts constituted the crime of assault (*lesiones*) with the concurrence of circumstances 1 and 3 of paragraph 4 of article 8 and paragraph 2 of article 9, and condemned Nicolas Gloria to the penalty of six years and one day of *prisión mayor* and to the payment of the costs, from which decision the defendant's attorney appealed.

One who kills another without the concurrence of any of the circumstances enumerated in article 403 of the Penal Code is declared by article 404 thereof to be guilty of homicide.

In this case the evidence shows clearly that Nicolas Gloria, while fighting with Tiburcio de la Cruz, inflicted upon him with a pocketknife a serious wound which caused his death a few hours after. These facts constitute the crime of homicide, none of the qualitative circumstances inherent in the crime of murder having been concurrent with the commission of the delictive act.

The crime must be classified as homicide and not as assault (*lesiones*), notwithstanding the opinion of the trial judge. All acts punished by the law are presumed to be voluntary in the absence of proof to the contrary. With respect to crimes of personal violence, the penal law looks particularly to the material results following the unlawful act and holds the aggressor responsible for all the consequences thereof.

The defendant, Nicolas Gloria, is under 17 years of age, as appears from his certificate of baptism. (Record, p. 41.) He pled not guilty, but the evidence shows conclusively his guilt of the crime charged. His exculpatory allegations can not be believed. Without the consent of the accused, the deceased has carried away some rice straw belonging to the former. He had paid no attention and made no reply to the objections of the accused to this conduct, consequently there can be no doubt that when the accused left his house, with a knife, after this occurrence he did so with the intention of going in search of the deceased, and that when he met the latter a fight took place between them, in the course of which he attacked Cruz with the pocketknife, inflicting the mortal wound which a few hours after caused his death. It is improbable that the accused, stretched on the ground and while the deceased was choking him with both hands, could have got his hands together above his assailant's back for the purpose of

opening the knife, as he says, because, if the deceased had really been choking him, as the accused alleges, his body would have been separated from that of the deceased and consequently it would have been impossible for the accused to open the knife with one hand while holding it in the other above the back of the deceased.

If it were true that the accused acted in self-defense in wounding the deceased, he would have introduced the testimony of his brother, Felipe, as a witness in his behalf, for Felipe, even if he did not take part in the struggle in aid of the accused, was at least an eyewitness to the occurrence, and it is remarkable that Felipe was not called upon to testify at the trial.

In the commission of the crime the fact that the accused is a minor, 17 years of age, is to be considered as a circumstance favorable to him and, therefore, in accordance with the provisions of article 85, the penalty to be inflicted is that immediately below the one prescribed by article 404 of the Code. We also apply in favor of the defendant the circumstance established by article 11 of the Penal Code in mitigation of the penalty, in consideration of the personal conditions of the accused. No aggravating circumstances exist to offset the effects of the mitigating circumstances mentioned.

For the reasons stated we are of the opinion that the judgment appealed must be reversed and the defendant, Nicolas Gloria, condemned, as guilty of the crime of homicide, to the penalty of six years and one day of *presidio mayor* with the accessories established in article 61, to the payment of 1,000 insular pesos to the heirs of the deceased, and to pay the costs of both instances.

Judgment will be entered accordingly and the case remanded to the trial court for its execution, with a certified copy of this decision.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, J.J., concur.

Judgment modified.

[No. 1372. February 20, 1904.]

JOHN E. SPRINGER, petitioner, vs. ARTHUR F. ODLIN, judge of the Court of First Instance of Pangasinan, respondent.

\*1. CRIMINAL PROCEDURE; PRIVATE PROSECUTOR; DAMAGES; JURISDICTION.—

By articles 17 and 119, Spanish Penal Code, in connection with section 107, General Orders, No. 58, the person injured by the commission of an offense may take part in the prosecution and recover the damages sustained; and the Court of First Instance, having jurisdiction in criminal cases and civil cases in which the demand exclusive of interest or the value in controversy amounts to \$100 dollars or more, had jurisdiction to enter judgment in this case.

2. CERTIORARI.—The Supreme Court will not review a case by writ of *certiorari* unless it appears that the inferior court acted (1) in excess of its jurisdiction and (2) that there was no plain, speedy, and adequate remedy by bill of exception or appeal or otherwise.

3. ATTACHMENT; PROPERTY IN CUSTODIA LEGIS.—Money in possession of a clerk of court, by virtue of his office, is in *custodia legis* and is exempt from attachment.

ORIGINAL PETITION for a writ of certiorari.

The facts are stated in the opinion of the court.

The petitioner and the respondent appeared in their own behalf.

COOPER J.:

The plaintiff, John E. Springer, on the 3d day of June, 1903, filed a complaint in this court praying for a writ of *certiorari* against the Hon. Arthur F. Odlin, judge of the Court of First Instance of the Province of Pangasinan, and asking that the Supreme Court cause to be certified to this court a certain order entered on the 30th day of May, 1903, in the Court of First Instance, in the cause of the United States vs. Catalino Mortes, by which the sum of \$250, Mexican, was directed to be paid over to

\*Headnotes by Mr. Justice Cooper.

Co-Banco, the party injured by the commission of the offense of which Catalino Mortes had been charged and was convicted on the 13th day of May, 1903.

A stipulation has been made between the parties covering the facts essential to the determination of the controversy from which it appears that on the 8th day of March, 1903, Cosme Ferrere presented a sworn statement to the justice of the peace of that province, in which he alleged that in 1901 he had been robbed of certain personal property and that he had reason to believe that the said personal property was concealed in the house of Mortes and prayed that a search warrant might issue.

The warrant was issued and returned on the same day and the return showed that the officer found in the house of Catalino (alias Esteban) Mortes many articles of personal property other than the property described in the sworn declaration of Cosme Ferrere, all of which property the officer took possession of; and among this property were two small sacks containing \$259.50, Mexican, in silver coin, which is the money in controversy in the present action.

There was also among the property so seized certain property which had been stolen from Co-Banco, and a complaint was filed with the justice of the peace charging Catalino Mortes with the robbery of the store of Co-Banco and alleging that the articles robbed consisted of a trunk containing \$475, Mexican, in silver coin, five cans of opium, and one silk cap.

As the result of the search and recovery of property two complaints were filed against Catalino Mortes—one for the larceny of the property of Cosme Ferrere and the other for the robbery of the above-mentioned property of Co-Banco.

The justice of the peace remitted to the clerk of the Court of First Instance the silk cap and empty opium can identified by Co-Banco as his property, together with the \$259.50 in coin, which had not been identified further than that the money was found with the silk cap and empty opium can.

Upon the trial of Catalino Mortes for robbery, Co-Banco appeared as private prosecutor. He identified the silk cap and the empty opium can as his property and stated that at the time of the loss of these articles \$480, in Mexican money, was stolen from him.

Catalino Mortes was found guilty on the 13th day of May and was sentenced by the Court of First Instance, and indemnification was adjudged in the case Co-Banco for the property stolen from him.

On the following day the plaintiff, John E. Springer, commenced proceedings before the justice of the peace of Lingayen, Pangasinan, against Catalino Mortes for the recovery of the sum of \$250 as attorney's fees for services rendered in the two causes above mentioned and procured an attachment against the property of Catalino Mortes. The order of attachment was placed in the hands of the sheriff for service, and in pursuance of this order the sheriff on the 15th day of May served a notice on the clerk of the Court of First Instance in accordance with the provisions of section 431 of the Code of Civil Procedure for the levy of an attachment, the clerk then having the \$250.50, Mexican, in his custody, as before stated, by virtue of his official duties.

On the 28th day of May Co-Banco presented a petition to the court in which he stated that the period for appeal in the case against Catalino Mortes had expired, that the sentence of the court had not been appealed from, and praying that the clerk of the court be required to turn over to him the \$259.50, Mexican, in silver coin, in his hands, as satisfaction in part of the indemnification made by the court in his favor in the sentence of May 13, and that an execution issue against the property of Catalino Mortes to satisfy the part of the indemnification remaining unsatisfied after the application of this amount. Springer intervened in this proceeding, claiming the money by virtue of the levy of his attachment.

The court, on the 30th of May, after hearing both parties, made an order by which it was adjudged that the claim of Co-Banco had a preference over the claim of Springer and ordered the money in

the custody of the clerk to be delivered to Co-Banco, but requiring him to execute a bond for the sum of 400 pesos with sureties for the protection of Springer in case he appealed to the Supreme Court to annul the order.

The plaintiff, Springer, alleges in his application for *certiorari* that the Court of First Instance acted without jurisdiction in making this order of the 30th day of May, 1903; that not being a party in the cause of the United States vs. Catalino Mortes, he has no right to appeal nor has he any plain, speedy, and adequate remedy from the order; and further alleging that Co-Banco had no lien upon the \$259.50 pesos in dispute, either by attachment or by execution; nor did the said Co-Banco on the date of the making of the order in his favor have any right of any other character upon said money.

If the Court of First Instance had jurisdiction to render the judgment of the 13th day of May, 1903, in favor of Co-Banco in the case of the United States vs. Catalino Mortes, and in the proceeding in which Springer intervened resulting in the order of May 30, or if the plaintiff, Springer, had any plain, speedy, and adequate remedy by a bill of exceptions, appeal, or otherwise from the order of the 30th day of May, 1903, by which the money in question was directed to be paid to Co-Banco, then the proceeding in *certiorari* will not lie.

By article 17 of the Spanish Penal Code every person criminally liable for a crime or misdemeanor is also civilly liable, and by the provisions of article 119 of the same Code this civil liability includes (1) restitution, (2) reparation for the damage caused, (3) and indemnification for loss. This civil liability may be enforced in the criminal case.

By General Orders, No. 58, section 107, the privileges secured by the Spanish law to persons claiming to be injured by the commission of an offense to take part in the prosecution of the offense and to recover damages for the injury sustained by reason of the same, are preserved and remain in force, and it is therein expressly provided that the court, upon conviction of the accused, may enter judgment in favor of the injured person against the defendant in the criminal case for the damage occasioned by the wrongful act.

By section 56, No. 3, of the Organic Act the Court of First Instance has jurisdiction in criminal cases of this character and in all civil cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to \$100 or more.

From these provisions it is clear that the Court of First Instance did not act without jurisdiction in rendering the judgment of the 13th day of May, 1903, in the criminal case of the United States vs. Catalino Mortes in favor of Co-Banco as the injured person for the indemnification of the latter, nor did it act in excess of jurisdiction in the order of May 30 directing the money to be turned over to him.

The Court of First Instance having the money in its possession, there was no necessity for the issuance of an execution in the case.

It is a well-established principle that property in *custodia legis* is exempt from attachment, and the principle applies to money in the possession of the clerk of a court by virtue of his office. (Drake, Attachments, sec. 609.)

This being the case, no lien was acquired by Springer by the levy of the attachment and the notice given to the clerk.

It is unnecessary to determine whether if Springer had acquired a lien on the money he could have intervened in the motion made by Co-Banco to have the money turned over to the latter, nor whether in the event Springer might have intervened that he could have appealed by bill of exceptions from the judgment in favor of Co-Banco. As before stated, there must have occurred, under the provisions of section 514, Code of Civil Procedure, both requisites: that is, (1) the excess of jurisdiction on the part of the court and (2) that there was no plain, speedy, and adequate remedy by bill of exceptions or appeal or otherwise.

Having reached the conclusion that the Court of First Instance had jurisdiction and did not act in excess of such jurisdiction in awarding the money to Co-Banco, there is a failure of the first requisite for the issuance of a writ of *certiorari*, and the petition for the same and a review of the case by this court must be denied, which is accordingly done. The costs of this proceeding are adjudged against the plaintiff.

Arellano, C. J., Torres, Willard, Mapa, McDonough, and Johnson, JJ., concur.

Writ denied.

STATISTICS OF BUREAUS OF THE INSULAR GOVERNMENT.

BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

LETTER OF TRANSMITTAL.

MANILA, P. I., April 27, 1904.

SIR: I have the honor to submit the report of the Board of Health for the Philippine Islands for the month of March, 1904:

The more important causes of deaths occurring in the population of Manila, with the number of deaths, were as follows:

Convulsions of children, 253; tuberculosis of lungs, 77; eclampsia, nonpuerperal, 41; other special diseases of early infancy, 6; acute bronchitis, 40; chronic bronchitis, 33; congenital debility, icterus, and sclerema, 29; chronic diarrhea and enteritis, 24; simple meningitis, 23; other diseases of the nervous system, 6; dysentery, 19; cerebral congestion and hemorrhage, 17; plague, 13; beri-beri, 13; typhoid fever, 11; senile debility, 11; organic disease of the heart, 9; pulmonary congestion and apoplexy, 6; diarrhea and enteritis, under 2 years, 6; acute nephritis, 6; Bright's disease, 6; intermittent fever and malarial cachexia, 5; tuberculosis of larynx, 5; tetanus, 5; pneumonia, 5.

Of the above-mentioned causes and deaths the following occurred in infants prior to the completion of the first year of life:

Convulsions of children, 253; eclampsia, nonpuerperal, 41; acute bronchitis, 32; chronic bronchitis, 23; congenital debility, 29; chronic diarrhea and enteritis, 13; simple meningitis, 15; other diseases of the nervous system, 6; diarrhea and enteritis, under 2 years, 6; other diseases of early infancy, 1; pulmonary congestion and apoplexy, 4; tetanus, 3; dysentery, 1; acute nephritis, 1; pneumonia, 1.

Of the 751 deaths occurring among inhabitants of the city, 429, or 57.1 per cent, occurred in children less than 12 months of age.

It will be observed that the infant mortality is high. The Board of Health has caused to be prepared and distributed Health Bulletin No. 3, entitled "The Care of Infants." Copies printed in Spanish and in Tagalog have been circulated widely throughout the city, and it is believed that the information contained therein will be gratefully received by the majority of families and that it will result in a reduction of infant mortality, for which purpose it is intended.

There were no cases of cholera, and the condition in this respect were favorable enough to justify the Board of Health in passing a resolution on the 23d day of March to the effect that—

"Whereas the last case of suspected Asiatic cholera occurred in the city of Manila on February 29, 1904, there having been but four positive or suspected cases of Asiatic cholera in the city of Manila since January 6, 1904; and

"Whereas the provinces adjacent to Manila have been free from cholera during the present year: On motion,

*Resolved*, That the city of Manila is, and is hereby, declared free from the infection of Asiatic cholera."

There were 10 cases of smallpox—1 American, 2 Chinese, and 7 Filipinos. Of this number only one died, a Filipino.

A total of 15 cases of plague with 14 deaths occurred during

the month. Of these 12 occurred in Filipinos, of whom 12 died, and 3 among Chinese, of whom 2 died.

There were 19 deaths among the prisoners in Bilibid Prison, of which 7 occurred from lobar pneumonia, 5 from tuberculosis, and 4 from amebic dysentery.

The annual birth rate for the city of Manila for the month of March was 34.01 per thousand, but births are as yet incompletely reported.

In the work of sanitary inspections there were 5,302 inspections and reinspections of houses during the month, 329 houses were cleaned as a result of sanitary orders, 25 whitewashed or painted, and 95 disinfected.

A total of 669 yards was cleaned and placed in good sanitary condition. There were 32,409 rats destroyed in the prophylactic measures against plague; 216,765 units of vaccine virus were issued and 13,251 vaccinations were performed in the city of Manila.

During the month Dr. Edward L. Munson, captain and assistant surgeon, United States Army, who was detailed to this office as assistant to the Commissioner of Public Health, prepared and put in operation a comprehensive and carefully prepared plan which has for its purpose the vaccination of all the inhabitants of the Philippine Islands. If the work as outlined is carried out it is hoped that smallpox will play little part in the reports of infectious diseases of the future.

A veterinary division was established which will have direct charge of all matters pertaining to veterinary medicine and surgery throughout the Philippine Islands. All veterinarians and inoculators employed by this Bureau have been assigned to duty in the veterinary division. Dr. John G. Slee, who is now on special duty in Shanghai, has been appointed chief veterinarian, and Dr. David G. Moberly has been designated acting veterinarian during the absence of Dr. Slee.

Very respectfully,

E. C. CARTER,  
Major and Surgeon, U. S. A.,  
Commissioner of Public Health.

The SECRETARY OF THE INTERIOR, Manila, P. I.

Population of Manila.

[Preliminary rough count of census of 1903.]

Americans	4,389
Filipinos	189,782
Spaniards	2,528
Other Europeans	1,117
Chinese	21,230
All others	895
Total	219,941

Deaths occurring during the month of March.

Americans	2
Filipinos	707
Spaniards	4
Other Europeans	4
Chinese	1
All others	36
Unknown	1
Total	751

Annual death rate per thousand for the month.

Americans	5.35
Filipinos	43.89
Spaniards	18.63
Other Europeans	10.54
Chinese	19.97
All others	40.16
Unknown	13.23
Average	40.23

Deaths by age, including transients.

Under 30 days	86
30 days to 1 year	358
1 year to 2 years	25
2 years to 5 years	11
5 years to 10 years	18
10 years to 15 years	6
15 years to 20 years	28
20 years to 25 years	23
25 years to 30 years	35
30 years to 35 years	75
35 years to 40 years	84
40 years to 50 years	40
50 years to 60 years	40
60 years to 70 years	25



Deaths by age, including transients—Continued.

70 years to 80 years	16
80 years to 90 years	4
90 years to 100 years	4
100 years and above	4
Unknown	4
Total	792

Number of deaths with medical attendance	405
Number of deaths without medical attendance	387
Total	792

Stillbirths, 31.

Deaths by districts, including transients.

Districts.	Popula- tion.	Deaths.
Walled City	11,463	52
Binondo	16,613	66
San Nicolas	29,059	71
Tondo	39,045	185
Santa Cruz	35,040	115
Quiapo	11,149	42
Sampaloc	18,779	42
San Miguel	8,838	31
Paco	6,725	31
Ereña	12,226	65
Malate	8,858	30
Pandacan	2,990	8
Santa Ana	3,255	12
Transient residents	15,901	41
Unknown		72
Total	219,941	792

A classified report of all deaths occurring in Manila during the month of March, 1904.

MALES.		
Married	92	
Widowers	21	
Single	63	
Boys	270	
Condition not stated in certificates	11	
Total	457	
Condition and sex unknown, 1.		
FEMALES.		
Married	52	
Widows	34	
Single	20	
Girls	228	
Condition not stated in certificates	1	
Total	335	
Grand total	792	
Stillbirths, 31.		

Comparative mortality from January 1, 1900, to March 31, 1904.

Month.	1900.		1901.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1,055	50.79	1,758	36.25
February	1,884	47.11	1,689	36.72
March	1,857	42.70	1,885	42.66
April	1,805	40.04	1,886	44.07
May	1,732	35.24	1,903	43.47
June	1,599	29.79	1,621	30.89
July	1,787	37.88	1,608	29.27
August	1,825	38.71	1,702	33.79
September	1,627	36.01	1,767	38.15
October	1,961	46.22	1,855	41.16
November	1,976	48.48	1,848	42.18
December	1,905	43.54	1,858	41.30
Total				127

Month.	1902.		1903.		1904.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1,760	36.58	1,602	28.98	2,796	42.64
February	1,796	37.63	1,511	27.23	2,709	40.59
March	1,770	37.06	1,533	25.94	2,751	40.23
April	1,327	66.01	1,549	27.31	.....	.....
May	1,688	81.26	1,770	37.06	.....	.....
June	1,418	70.54	1,592	29.45	.....	.....
July	12,223	107.02	2,620	33.21	.....	.....
August	1,712	82.42	1,863	46.17	.....	.....
September	1,132	56.31	2,228	67.97	.....	.....
October	1,927	44.62	2,127	65.19	.....	.....
November	1,085	51.48	1,974	53.91	.....	.....
December	1,758	36.25	.....	.....	.....	.....

1 Death rate computed on population of 244,732 (Health Department's census).  
2 Death rate computed on population of 219,941 (census 1903).

Billed prison report of deaths occurring during the month of March, 1904.

Cause of death.	Filipinos.			Total.
	Presidio.		Carcel (male).	
	M.	F.		
Amebic dysentery	3		1	4
Pulmonary tuberculosis	4		1	5
Carcinoma of the larynx			1	1
Paresis (apnes)			1	1
Lobar pneumonia	3		4	7
Chronic parenchymatous nephritis	1			1
Total	11		8	19

Condition:	
Single	9
Married	8
Widower	1
Unknown	1
Cemeteries, Loma	19

Of the total number of deaths occurring during the month of March, 1904 (792, including transients), 504 were of persons less than 16 years of age. Of the remaining 288 adults of both sexes only 183, classified below, had definite occupations:

MALES.		
Farmer	1	
Laborers	37	
Bakers	2	
Clerks	15	
Tailors	1	
Barbers	2	
Cooks	2	
Nason	1	
Chair maker	1	
Shoemakers	4	
Carpenters	5	
Students	4	
Optum dealer	1	
Confectioner	1	
Laundrymen	2	
Merchants	6	
Gatekeeper	1	
Real-estate agent	1	
Cigar makers	4	
Sailors	1	
Harness maker	1	
Coachmen	6	
Cartmen	1	
Servant	1	
Gardener	2	
Firemen	1	
Grass dealer	1	
Cigarette maker	1	
Fonlaneros	2	
Lithographer	1	
Silversmiths	2	
Plumber	1	
Messengers	1	
Boatman	1	
Surveyor	1	
Machinists	2	
Surgeon	1	
Fisherman	1	
Total	127	

FEMALES.		
Seamstresses	4	17
Merchants	4	4
Laundrywomen	1	13
Cigar makers	9	9
Shoemakers	2	2
Servants	2	2
Real-estate agents	2	2
Esqrag	1	1
Embroiderer	1	1
Total	26	61
Grand total	153	188

Births reported in March, 1904.

	M.	F.	Total.
Americans	4	3	7
Filipinos	383	286	669
Spaniards	1	2	3
Others Europeans	1	1	2
Chinese	2		2
All others			
Total	345	292	635

1 Incomplete.

Annual birthrate per thousand for the month.

Americans	18.79
Filipinos	38.55
Spaniards	13.97
Others Europeans	21.09
Chinese	1.10
All others	-----
Average	34.01

Report of prescriptions filled at the municipal dispensaries, showing districts, sex, and age of persons to whom medicines have been given during the month of March, 1904.

Districts.	Filipinos.				Total.
	Adult.		Children.		
	M.	F.	M.	F.	
Sanitary District No. 1, San Nicolas	8	7	3		18
Sanitary District No. 2, Tondo	56	74	4	16	150
Sanitary District No. 3, Quiapo	38	62	11	8	119
Sanitary District No. 4, Santa Cruz	12	23	5	3	43
Sanitary District No. 5, Sampaloc	74	48	23	3	170
Sanitary District No. 6, Intramuros, Dr. R. Ferramon	3	8		2	13
Sanitary District No. 7, Ermita, Malate, Paco, etc.	82	64	44	7	197
<b>Total</b>	<b>293</b>	<b>286</b>	<b>90</b>	<b>41</b>	<b>710</b>

Report of sick and wounded city poor attended by municipal physicians during the month of March, 1904.

Sanitary districts and physicians.	Filipinos.				Chin-ese adult male.	Total.	Cured.				Deaths.	Number of visits.
	Adult.		Child-ern.				M.	F.	M.	F.		
	M.	F.	M.	F.								
No. 1, San Nicolas, Dr. V. Cayanna	9	7	6	4	26	5	2	5	3	129		
No. 2, Tondo, Dr. P. Fantolsa	19	32	4	5	60	12	26	4	4	319		
No. 3, Quiapo, Dr. F. Gabriel	1	8	19	3	35	8	17	2	4	85		
No. 4, Santa Cruz, Dr. C. Reyes	10	10	3	4	24	9	5	1	2	74		
No. 5, Sampaloc, Dr. F. Casheda	22	24	11	8	65	11	20	6	2	152		
No. 6, Intramuros, Dr. R. Ferramon										30		
No. 7, Paco, Ermita, Malate, Pandacan, and Santa Ana, Dr. J. B. Cabarrus	23	19	11	6	59	19	15	10	7	172		
<b>Total</b>	<b>1</b>	<b>91</b>	<b>111</b>	<b>38</b>	<b>269</b>	<b>64</b>	<b>85</b>	<b>28</b>	<b>22</b>	<b>931</b>		

Monthly report of San Lazaro Hospital, leper and women's departments, for March, 1904.

WOMEN'S DEPARTMENT.

	Ameri-cans.	Euro-peans.	Filipi-nos.	Japan-ese.	Total.
Number of patients in hospital at last report		2	53	46	101
Number of patients received during the month		2	30	35	67
Number of patients discharged cured		2	43	51	96
Number of patients remaining in hospital			2	40	30
			2	40	32

Discharged cured, 2 Europeans, 42 Filipinos, and 51 Japanese. Transferred to San Juan de Dios Hospital, 1 Filipina.

LEPER DEPARTMENT.

	Europeans.		Filipinos.		Chinese.		Total.
	M. F.		M. F.		M. F.		
	M.	F.	M.	F.	M.	F.	
Number of patients in hospital at last report							213
Number of patients received during the month	1	126	85	1			8
Number of patients discharged cured					11		1
Number of deaths							2
Number of patients escaped			1	1			2
Number of patients remaining at last report in hospital	1	132	85				218

1 Turned over to Chinese consul to be sent to China, 1 male Chinese. Escaped, 1 Filipino and 1 Filipina.

General inspection of houses, premises, vaults, etc., with improvements ordered, disinfected, whitewashed, cleaned, etc., by medical inspectors, chief sanitary inspectors, and sanitary inspectors, for the month of March, 1904.

Houses inspected by the chief sanitary inspector	2,733
Houses reinspected for verification of work ordered	410
Houses inspected by sanitary inspectors	1,875
Houses reinspected by sanitary inspectors	281
Houses ordered cleaned (written)	1
Houses ordered cleaned (verbal)	387
Houses cleaned	329
Houses ordered whitewashed and painted	18
Houses whitewashed and painted	25
Houses disinfected	95
Number of houses recommended condemned and removed	0
Number of houses condemned and removed	2
Number of localities where "squatters" are located	21
Number of samples of water from wells sent to Laboratory	0
Number of reports from same	0
Number of fire plugs opened or closed for sanitary purposes	0
Number of hydrants recommended reopened	0
Number of houses where garbage has not been removed for two days	0
Number of persons reported sick to municipal physicians	150
Cesspools and vaults ordered cleaned	4
Cesspools cleaned	26
Yards ordered cleaned	669
Yards cleaned	669
Yards ordered repaired (repaved, etc.)	0
Yards repaired	21
Number of cholera cases reported by sanitary inspectors	0
Number of cholera cases reported by auxiliary advisory board	0
Number of cholera cases found "alive"	0
Number of cholera cases found "dead"	0
Number of orders issued during the month	15
Number of orders complied with during the month	103
Number of orders awaiting action	102
Number of orders pending in court	0
Number of orders suspended for violation of food prohibition order	1,257
Number of persons convicted for violation of food prohibition order	0
Average in visiting each street and barrio during month	4.6
Number of regular inspectors on duty	12
Number of emergency inspectors on duty	0
Number of leper cases sent to San Lazaro Hospital	9
Number of plague cases reported	9
Number of smallpox cases reported	9
Houses in which traps are set	12,298
Houses in which bands are placed	1,838
Traps set	29,409
Plates with ratsbane placed	2,167
Rats caught by rat catchers	3
Rats caught by traps	14,086
Rats caught by poison	0
Rats purchased	388
Rat catchers employed	72

Burials, March, 1904.

Loma (Government)	517
Paco General (Government)	25
Santa Cruz	4
Belle Saile	100
Binondo	11
Maytubig	30
Malate	39
Pandacan	39
Chinese	39
Santa Ana	2
American National Cemetery	18
San Pedro Macati	1
<b>Total</b>	<b>823</b>

Disinterments, March, 1904.

Paco	6
Santa Cruz	7
Chinese	11
Tondo	1
Sampaloc	1
<b>Total</b>	<b>27</b>

Monthly report of crematories for the month of March, 1904.

Disposition.	Crematories.			
	Palo-mar.	Santa Cruz.	Paco.	Total.
<b>Animals cremated:</b>				
Horses, American	2	15	4	21
Horses, Australian	2	1	4	7
Horses, Chinese	3	2	7	12
Horses, Filipino	18	51	30	99
Mules, American	1	3	4	8
Carabao	6	4	5	15
Cows	21	16	7	44
Calves	2	1	2	5
Dogs	247	1	6	254
Goats	2		3	5
Cats	74	6	6	86
Monkey	3	2	2	7
Fowls	387	9	18	409
Domestic birds	5	2	7	14
Pigs	17	8	3	28
Rats	17,126	9,883		27,009
Ducks	24			24
<b>Total</b>	<b>17,939</b>	<b>10,007</b>	<b>82</b>	<b>28,028</b>
<b>Loads cremated:</b>				
Garbage, house	2,632	865	316	3,813
Trade refuse	369	36	16	421
Organic matter	61			61
Waste	218	21	106	345
Marble	349			349
Condemned goods	306	7		313
<b>Total</b>	<b>3,965</b>	<b>929</b>	<b>438</b>	<b>5,332</b>

Report of operations of the pail-conservancy system for the month of March, 1904.

PAIL SERVICE.

Table with 4 columns: Description, Installations, Pails in use, Pails cleaned. Rows include Private houses, Public buildings, Public closets, Provisional collections, and Total.

Report of action taken on licenses during the month of March, 1904.

Table with 4 columns: Business for which license is desired, License applications approved, License applications disapproved, Total applications acted upon. Rows include Aerated waters, Boarding house, Bronze ware, Chocolate, etc.

Reports received of lepers living in the various provinces of the Philippine Islands to March 31, 1904.

Large table with 10 columns: Province, Race, Number of men, Number of women, Children, Single, Married, Widower, Widow, Total. Lists provinces like Antique, Batangas, Bulacan, etc.

Reports received of insane persons living in the various provinces of the Philippine Islands to March 31, 1904.

Table with 10 columns: Province, Race, Males, Females, Widowers, Married, Single, Children, Total. Rows include Batayan, Antique, Batangas, Bulacan, etc.

Table with 10 columns: Province, Race, Violent, Not violent, Cared for by friends, Cared for by prov. incarc., Method of care by, Number without sufficient for support, Number with financial resources sufficient for support. Rows include Batayan, Antique, Batangas, etc.

Report of the veterinary division of the Board of Health for the Philippine Islands for the month of March, 1904.

[David G. Moberly, acting chief veterinary surgeon; Murray J. Myers, veterinary surgeon.]

Table with 2 columns: Item, Value. Rows include On arrival in city: Number of cattle inspected, Number of horses inspected, etc.

Table with 2 columns: Item, Value. Rows include In Government abattoir: Number of cattle slaughtered, Number of horses slaughtered, etc.

Monthly report of disinfections for March, 1904.

Bubonic plague report for Manila from March 1 to 31, 1904.

Diseases.	Number of disinfec-tions.		Number of con-tacts.
Cholera.....	1		5
Bubonic plague.....	14		67
Smallpox.....	10		38
Consumption.....	1		
Glanders.....	5		
Syria.....	9		
Insanitary condition.....	33		
<b>Total</b> .....	<b>78</b>		<b>170</b>

Smallpox report for Manila from March 1 to 31, 1904.

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
	Americans.....	1		
Europeans.....				
Filipinos.....	5	2	1	
Chinese.....	2			
<b>Total</b> .....	<b>8</b>	<b>2</b>	<b>1</b>	

BY DISTRICTS.

	Cases.		Deaths.	
San Nicolas.....				
Tondo.....		3		
Quiapo.....		1		
Santa Cruz.....				1
Sampaloc.....		1		
Intramuros.....		3		
Ermita.....				
<b>Total</b> .....		<b>10</b>		<b>1</b>

BY AGE.

	Cases.	Deaths.
From 1 to 5 years.....	1	1
From 5 to 10 years.....	2	
From 10 to 20 years.....	5	
From 20 to 30 years.....	1	
From 30 to 40 years.....	1	
From 40 to 50 years.....		
50 years and above.....		
<b>Total</b> .....	<b>10</b>	<b>1</b>

Number of cases found "alive"..... 9  
 Number of cases found "dead"..... 1  
**Total**..... 10

Report of vaccination, city of Manila, during the month of March, 1904.

[Chief of vaccinators, SATURNINO ESPENO.]

District.	Children.			Adults.			Total.			Grand total.
	Filipino.	Chinese.	Americans and foreigners.	Filipino.	Chinese.	Americans and foreigners.	Filipino.	Chinese.	Americans and foreigners.	
Walled City.....	209		7	496	25	38	705	25	45	775
Binondo.....	353	18	1	303	278	6	656	296	7	959
San Nicolas.....	645	1	1	441	291		1,086	292	1	1,379
Tondo.....	1,199			1,266	58	14	2,465	58	14	2,537
Santa Cruz.....	267			355	149	52	622	149	52	823
Quiapo.....	438		1	170	9	27	608	9	28	640
San Miguel.....	192			221	3	13	413	3	18	429
Sampaloc.....	292			2,500	20	101	792	20	103	915
Paco.....	389		1	2,106	9	10	2,695	9	11	2,715
Ermita.....	285			264	23		549	23		572
Malinta.....	396			185	3		583	3		586
Santa Ana.....	228			189	9	1	397	9	1	407
Pandacan.....	351			163			514			514
<b>Total</b> .....	<b>5,441</b>	<b>19</b>	<b>18</b>	<b>6,689</b>	<b>877</b>	<b>262</b>	<b>12,080</b>	<b>896</b>	<b>275</b>	<b>13,261</b>

BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Americans.....	1			
Europeans.....				
Filipinos.....	5	2	1	
Chinese.....	2			
<b>Total</b> .....	<b>8</b>	<b>2</b>	<b>1</b>	

BY DISTRICTS.

	Cases.		Deaths.	
San Nicolas.....				
Tondo.....		3		
Quiapo.....		1		
Santa Cruz.....				1
Sampaloc.....		1		
Intramuros.....		3		
Ermita.....				
<b>Total</b> .....		<b>10</b>		<b>1</b>

BY AGE.

	Cases.	Deaths.
From 1 to 5 years.....	1	1
From 5 to 10 years.....	2	
From 10 to 20 years.....	5	
From 20 to 30 years.....	1	
From 30 to 40 years.....	1	
From 40 to 50 years.....		
50 years and above.....		
<b>Total</b> .....	<b>10</b>	<b>1</b>

Number of cases found "alive"..... 9  
 Number of cases found "dead"..... 1  
**Total**..... 10

Epidemic of cholera in the city of Manila and provinces from March 20, 1902, to March 1, 1904.

Month.	Manila.		Provinces.	
	Cases.	Deaths.	Cases.	Deaths.
1902.				
March.....	108	90		
April.....	586	406	1,927	1,417
May.....	550	442	2,407	1,681
June.....	601	492	5,204	4,097
July.....	1,968	1,053	7,757	5,807
August.....	720	581	11,247	7,874
September.....	273	179	43,346	27,410
October.....	67	57	30,837	18,572
November.....	336	236	12,338	6,681
December.....	85	24	5,918	3,588
1903.				
January.....	7	4	4,921	2,757
February.....	1	2	1,297	2,009
March.....	6	6	1,968	1,124
April.....	33	27	1,772	1,147
May.....	230	213	1,409	885
June.....	39	38	3,554	2,945
July.....	42	38	4,167	2,806
August.....	89	72	10,212	7,406
September.....	290	263	6,613	3,672
October.....	127	118	2,531	1,969
November.....	31	26	1,119	837
December.....	14	13	364	270
1904.				
January.....	4	5	35	24
February.....	3	3	61	42
<b>Total</b> .....	<b>5,681</b>	<b>4,886</b>	<b>160,647</b>	<b>105,965</b>

Report of cholera occurring in provinces in the Philippine Islands during the month of March, 1904.

Province and place.	Cases.		Total.		Per cent.
	Cases.	Deaths.	Cases.	Deaths.	
Capiz, Calico.....	22	9	22	9	40
Cebu, Talisay.....	1	1	1	1	100
<b>Total</b> .....	<b>23</b>	<b>10</b>			<b>43.4</b>

Mortality, per cent. 43.4

WEATHER BUREAU.

Metereological data deduced from hourly observations, month of March, 1904.

Date.	Barometer, <sup>1</sup> mean.		Temperature.								Relative humidity, mean.	Wind.				Sun-shine.	Rainfall.		
	Inches.	Mm.	Mean.		Maximum.		Minimum.		Prevailing direction.	Total daily motion.		Maximum—		h. m.	Inch.		Mm.		
			°C.	°F.	°C.	°F.	°C.	°F.		Per cent.		Km.	Miles.					Force.	Direction.
1.	29.860	758.96	25.1	77.2	30.2	86.4	19.3	66.7	69.1	W.	190	118	14	9	W.	7	29		
2.	29.871	759.25	25.1	77.2	30.8	87.4	20.4	68.7	66.4	WNW.	202	125	16	10	WNW.	10	35		
3.	29.894	759.30	25.5	77.9	32.4	90.3	17.7	63.9	61.6	SE.	226	140	17	11	W.	9	35		
4.	29.875	758.81	27.2	81.0	33.7	92.7	15.2	66.6	61.5	SSE.	266	165	23	14	SE.	10	15		
5.	29.862	759.00	27.2	81.0	34.7	94.5	20.7	69.3	68.7	SE.	222	138	22	14	SE.	10	00		
6.	29.925	760.08	26.9	80.4	33.3	92.7	21.7	71.1	69.5	SE.	250	155	24	15	SE by E.	10	25		
7.	29.990	761.73	26.5	79.7	34.4	93.9	19.4	66.9	60.9	SE.	270	168	23	14	ESE.	10	20		
8.	29.986	761.62	26.3	79.3	34.4	92.1	19.6	67.3	63.7	SE.	277	172	23	14	SE.	8	40		
9.	29.946	760.62	26.4	79.5	33.7	92.7	18.9	66.0	63.4	SE.	284	176	27	17	SSE.	10	30		
10.	29.930	760.21	26.0	78.8	33.4	92.1	18.2	64.8	58.6	SE, ESE.	264	164	22	14	SE.	10	00		
11.	29.926	760.11	25.1	77.2	32.2	90.2	17.2	63.9	61.2	SE by E.	186	123	16	10	SE.	10	15		
12.	29.914	759.80	25.3	77.5	34.0	93.2	18.0	64.4	61.2	ESE.	286	178	30	19	SE.	9	35		
13.	29.936	760.33	25.3	77.5	34.5	94.1	17.9	64.2	58.1	E.	250	155	22	14	E.	9	50		
14.	29.924	760.06	26.6	79.9	34.6	94.3	18.9	66.0	59.5	E.	249	155	22	14	ESE.	8	10		
15.	29.911	759.73	26.0	78.8	33.4	92.1	18.8	65.8	64.0	ESE.	232	144	21	13	E.	8	30		
16.	29.873	758.76	25.9	78.6	31.9	89.4	18.6	65.5	70.0	ESE.	222	138	20	12	WNW.	7	35		
17.	29.884	759.06	25.6	78.1	31.4	88.5	18.8	65.8	69.9	ESE.	142	117	11	7	W.	9	05		
18.	29.889	759.18	25.7	78.3	32.2	90.0	18.7	65.7	70.6	SSE.	210	130	18	11	W.	9	15		
19.	29.884	759.04	26.2	79.2	32.3	90.1	20.0	66.0	70.9	W, SSE.	210	130	16	10	WNW.	7	35		
20.	29.873	758.75	25.6	78.1	32.9	85.3	22.7	72.9	74.6	SE by E.	186	123	16	10	SE by E.	0	55		
21.	29.892	759.25	25.3	77.5	30.6	87.1	21.7	71.1	75.5	SE by S.	155	96	14	9	SSE.	3	20		
22.	29.918	759.89	25.6	78.1	31.8	89.2	22.1	71.8	71.8	SE.	152	94	12	7	SE.	2	30		
23.	29.933	760.28	26.1	79.0	31.6	88.9	21.5	70.7	68.9	SE, ESE.	186	116	22	14	SE.	6	05		
24.	29.914	759.80	25.8	78.8	31.7	89.1	20.7	69.3	73.1	NE, ESE.	146	91	14	9	NW.	3	50		
25.	29.892	759.24	28.5	83.3	34.5	96.4	22.4	72.3	65.0	NE, ESE.	303	188	24	15	SE.	9	30		
26.	29.862	758.49	27.3	81.1	32.8	91.0	21.7	71.1	69.2	W, SSE.	220	143	18	11	SSE.	8	05		
27.	29.845	758.25	27.2	81.0	33.5	92.3	21.5	70.7	66.6	SSE.	221	137	16	10	WNW.	6	15		
28.	29.867	759.18	27.0	80.6	34.2	93.6	19.3	66.7	63.5	SE.	322	200	30	19	SE by E.	10	25		
29.	29.919	759.93	26.5	79.7	34.7	94.5	18.8	65.8	64.6	SE.	314	195	18	10	SE.	10	35		
30.	29.936	760.36	26.5	79.7	33.7	92.7	18.9	66.0	58.4	SE.	228	142	16	10	WNW.	8	30		
31.	29.914	759.79	27.0	80.6	34.2	93.6	20.6	69.1	58.4	E, SSE.	286	174	28	18	SE.	10	00		
Mean	29.907	759.68	26.2	79.2	32.9	91.4	19.8	67.7	65.6		280	146.7	20	12.9		8	17		
Total											7,321	4,547				256	40	441	11.2

<sup>1</sup>Corrected for instrumental error and for temperature and reduced to sea level. Correction to standard gravity, -1.72 mm. (-0.068 inch).

MINING BUREAU.

The Mining Bureau, the mineral industry, and the mineral resources of the Philippines.

By H. D. McCASKEY, Chief of the Mining Bureau.

THE MINING BUREAU.

The functions of the Mining Bureau are prescribed in section 4, Act 916, which reads as follows: "It shall be the function of said Bureau to make, facilitate, and encourage special studies of the mineral resources, mineral industries, and geology of the Philippine Islands; to collect statistics concerning the occurrence of the economically important minerals and the methods pursued in making their valuable constituents available for commercial use; to make collections of typical geological and mineralogical specimens, especially those of economic and commercial importance, such collections to constitute the museum of the Mining Bureau, subject, however, to transfer by executive order of the Civil Governor to any general museum established; to provide a library of books, reports, drawings, etc., bearing upon the mineral industries, the sciences of mineralogy and geology, and the arts of mining and metallurgy, such library constituting the library of the Mining Bureau; to make a collection of models, drawings, and descriptions of mechanical appliances used in mining and metallurgical processes; to preserve and so maintain such collections and library as to make them available for reference and examination, and open to public inspection at reasonable hours; to maintain, in effect, a bureau of information concerning the mineral industries of the Philippine Islands; to make an annual report to the Secretary of the Interior setting forth the important results of the work of the Bureau, such special reports as may be called for by proper authority, and such bulletins concerning the statistics and technology of the mining industries, and of the geological and mineralogical and other office and field work of the Bureau, as may be approved by the Chief of the Bureau and ordered published by the Secretary of the Interior."

In order that the work outlined above may be properly carried out there are provided, by the act above noted, a permanent staff composed of a Chief of the Bureau, two geologists, and two field assistants, a temporary service of "such assistance from mining engineers, experts, and practical miners, or others, as the funds appropriated for the field work of the Bureau shall warrant," and the clerical force required. The Chief of the Bureau and the geologists "shall be graduates of recognized schools of mines or shall have received degrees in mining, metallurgy, or geology from reputable universities, or shall have successfully completed work in such schools of mines or universities equivalent in kind and amount to that for which such degrees are given"; and the field assistants shall be selected by standards equally high. The work of the Bureau being broad in its scope and the staff few in number it is essential that the personnel be equipped as above outlined. At the present time four of the five positions are filled by school-mines men with practical experience in mines and smelters, added to technical training in the best professional schools, and the remaining position of geologist it is hoped will in the near future be similarly filled.

The Mining Bureau, as at present constituted and reorganized by Act 916, is essentially a bureau to further the interests and development of the mineral resources of the Philippines in every practicable way, to advise the Civil Government concerning mining, metallurgy, the allied industries, and geology in its various practical applications, and to cooperate with other Government Bureaus to the fullest possible extent in the encouragement and development of the great latent natural wealth of the Philippine Islands. Incidentally scientific work will be done by the various members of the Bureau staff in geological, petrographic, and paleontological research, but this will always be subordinate to the work in the various subdivisions of economic geology for which the Bureau has been reorganized, and will be contingent upon the time and facilities that can be utilized without injury to the work of more practical benefit and immediate need.

The functions of the Bureau represent, therefore, those of a State mining bureau in the United States rather than those of the Federal Geological Survey, and it will be the chief aim of the Bureau to assist in the establishment and maintenance of a mineral industry in these Islands to the end that the mineral wealth may be brought into active yield.

In anticipation of the present organization the Mining Bureau has done work of the nature above outlined during the past three years, although, as originally reestablished under the American occupation, by the order of the Military Governor, Gen. E. S. Otis, to First Lieut. Chas. H. Burritt, the most important work of the Bureau under the late able chief and lawyer was the review and report upon the status of Spanish mining claims and the study, translation, and interpretation of the Spanish mining law involved therein. The importance and magnitude of this work has never been overestimated, and it was a source of well-deserved satisfaction to Mr. Burritt, upon his elevation to the bench, his handing down to his successor, as Chief of the Mining Bureau, a completed work with respect to the Spanish law and claims. In addition to the above important service rendered, (1) of translating, editing, abstracting, and publishing the Spanish mining law complete, and (2) of reviewing and reporting upon mining claims pending against the United States by virtue of the treaty of Paris, the Mining Bureau under Mr. Burritt indexed and classified all records received from the Spanish *Inspección de Minas*, studied the mining situation with reference to recommending legislation for the building up of an industry, advised the general public and the Government concerning mining rights, translated a large amount of material from the Spanish, published the "Coal Measures of the Philippines," and Bulletins Nos. 1, 2, and 3, submitted ten volumes of special reports to the Military and Civil Governors and the Secretary of the Interior, initiated field-survey work, and, upon the completion of the work for which the Bureau was originally reestablished, and upon the increasing demand for a reorganized Bureau with present purpose and scope, advocated the passage of Act 915. "An act transferring the administration of mining grants and claims instituted prior to April eleventh, eighteen hundred and ninety-nine, from the Mining Bureau to the Bureau of Public Lands," and Act 916, "An act reorganizing the Mining Bureau and prescribing the functions thereof," the substance of which latter act is given above.

During the first four months of its reestablishment the Bureau consisted of its chief and the clerical force, and no provision existed for a technical or scientific branch. During July, 1900, however, authority was obtained from the Military Governor for the appointment of a mining engineer, and on August 1 the present Chief of the Bureau was selected for that position. This branch of the Bureau, technical and scientific, took charge of the departments of mineralogy, lithology, geology, assaying, field work, translation of technical papers, the extensive collections of the Bureau, the preparation of maps and plans for publications, the obtaining of information concerning the mineral resources, and the preparation in general for the future needs of the mineral industries; and it was this branch that by evolution and development became the reorganized Bureau of to-day. Reports were made by the mining engineer to the Chief of the Bureau upon various questions arising during the work, a large number of minerals, earths, coals, ores, and rocks were examined and reported upon for miners, prospectors, and others, Bulletin No. 1, "Platinum and the Associated Rare Metals in Placer Formations," was prepared and published, as was also Bulletin No. 3, "Report on a Geological Reconnaissance of the Iron Region of Angat, Bulacan," preliminary field work was done in Bulacan, Batangas, Culián, Buisuanga, Cuyo, Paragua, and Balabac, a collection of ores, minerals, and rocks was prepared for the St. Louis Exposition, and collections of minerals, ores, rocks, catalogues, books, and other reference material were begun, for use not only in Bureau work but for

the benefit also of miners, prospectors, and others to whom such material would not otherwise be available and whose needs the Bureau should constantly strive to serve.

It is planned under the present reorganization to prosecute field work as rapidly as possible in order that the mineral resources of the Islands may be reported upon without further delay; to take up statistical work in order that the records may be kept abreast of the infant but growing mineral industry; to prepare and publish reports and bulletins upon the subjects above as rapidly as opportunities permit; to increase the reference material of the Bureau, and to provide for the giving of information to visitors and correspondents in every practicable way; to do petrographic and paleontological work; and in general to encourage and assist in the upbuilding of a profitable mineral industry, with every service of the Bureau free to all.

In connection with the above a field party, consisting of Mr. A. J. Eveland, geologist, Mr. M. Goodman and Mr. H. M. Ickis, field assistants, and two temporary employees of the Bureau, is now in Lepanto doing a geological reconnaissance of the mineral resources of the Provinces of Lepanto and Benguet. The work will be as thoroughly performed as possible and an illustrated report will be prepared and submitted for approval and publication; this done, other fields will be investigated until all metaliferous deposits of importance and promise have been visited and reported upon. With the appointment of the second geologist the stratified deposits of economic value, particularly the coals, will be taken up and information obtained will be published as soon as practicable for the benefit of the large number of people of these Islands and abroad who may be concerned. In the meantime the clays, limestones, and building stones are being investigated, the collections are increasing in amount and value, a technical library and a reading room containing technical periodicals have been established, communication has been opened with mining men, geologists, capitalists, publishers, manufacturers, State and Federal mining bureaus and geological surveys all over the world for the purpose of bringing the Philippine mineral resources into the knowledge of those abroad; and the reorganized Bureau has entered upon its work.

#### THE MINERAL INDUSTRY.

During the sixty years preceding the American occupation the Spanish Government, and particularly the Spanish inspectors of mines, made earnest efforts to develop the mineral resources of the Philippines. Even earlier than this, in 1781, the Government offered inducements to smelters of iron in Bulacan in order to encourage the production of this metal for the ordnance depot of Manila; and during the latter half of the nineteenth century there were frequent royal orders and decrees issued for the encouragement and protection of a coal-mining industry in order that the fleets of Spain might find fuel in these Islands for use in oriental waters. Taxes were waived upon both coal and iron mines, the Government engineers gave much time and skill to the development of mines of these metals, importation of Chinese labor was allowed for mining purposes, and capital was raised—and expended. Notwithstanding these considerations, at the close of the Spanish régime, over three hundred years after the conquerors first interested themselves in mining in these Islands, there were but a half dozen even partially developed mines—coal mines in Cebu, gold mines in the Camarines, and a copper mine in Lepanto—as net results.

The causes of these deplorable conditions may not be far to seek: (1) The mining legislation was complex, never fully understood, and did not grant absolute titles to mines; (2) some mining enterprises suffered for lack of capital, some for lack of good judgment and technical skill, and many for lack of interest, energy, and perseverance; (3) neither labor nor transportation problems were ever satisfactorily settled; and (4) unsettled con-

ditions, due to brigandage and insurrection, have rendered property in the provinces insecure and development difficult and at constant risk.

These conditions, while still apparent to a certain degree, are not now prohibitive of legitimate mining, and are less in evidence as time goes by. It must be admitted that the present mining legislation, comprised within Acts 235 of the Congress of the United States and 624 of the Philippine Commission, is far superior to the complex Spanish law, in that (1) it leads to the granting of absolute title, instead of a mere concession; (2) its processes are simple and its language concise; and (3) it encourages bona fide mining and tends to establish confidence in mines located and worked under the restrictions it provides. It is superior to the United States mining laws in that the uncertainties, litigation, and loss resulting from the so-called "apex system," granting extra-lateral rights, which has been fought by the ablest writers upon mining law in the United States for twenty years, and which obtains, in the western mining States only as a result of purely local conditions, has been entirely omitted in the framing of mining legislation for the Philippines; and all mines owned and worked in these Islands under the present law may at least be free from the feature that has proved most expensive and disastrous in litigation connected with mines in the United States.

On the other hand, section 33 of Act 235 provides: "That no holder shall be entitled to hold in his, its, or their own name, or in the name of any other person, corporation, or association, more than one mineral claim upon the same vein or lode." This most unfortunate section will naturally operate against the development of any but the richest lodes, and in the Philippines, as in mining districts the world over, the *bonanzas* are few and the deposits of low-grade ores relatively large. In Lepanto and Benguet, as well as in the Camarines, Masbate, and Mindanao, there are important deposits that should be worked upon a large scale and which, under section 33, can never be worked at all. It is safe to say that under section 33 neither the famous Homestake nor the Alaska Treadwell mines would ever have been developed; and yet these are among the greatest gold producers of the world. The ore of the Homestake mines in South Dakota averages only \$4, and that of the Alaska Treadwell only \$2, to the ton; yet these mines, being able to handle immense bodies of ore, are among the best paying and soundest mines in the world. The former requires 900 stamps with a monthly output of \$375,000 of gold, and the latter employs 540 stamps, paying \$130,000 a month.

The low-grade ore deposits in the Philippines are so extensive and valuable that section 33 tends to operate as an obstacle to the development of the greater part of our metalliferous resources. The Chief of the Mining Bureau, the Secretary of the Interior, and the Civil Governor have repeatedly advocated and urged the repeal of this unfortunate restriction in Act 235; and the sentiment of those interested in mining in the Philippines is safely unanimous in favor of such repeal. It is sincerely to be hoped that favorable action by Congress upon this important matter will not long be delayed.

The development of the natural resources of the Philippine Islands means the development of the Filipinos themselves. It would seem to the best interests of the natives, as well as of the Islands at large, to bring every natural resource into a high state of development and active yield. This implies the need of capital, and without sufficient security in number of claims for development capital will interest itself in more promising fields than are presented here. Without development the greatest danger seems to be that the resources will remain idle rather than be exploited at the real expense of the natives themselves.

Where mining enterprises in the Philippines have failed for lack of capital, good judgment, technical skill, interest, energy, perseverance, labor, and transportation, other business ventures

have suffered as well. It is not believed that any one of these essentials to mining development can fail us long. Capital is waiting for legitimate investment here, good judgment, technical skill, interest, energy, and perseverance can always be had if properly sought, and with all the United States as a field for supply surely the mines need not wait long for men to manage them.

The labor problem as applied to mining is by no means an insurmountable one; the Japanese are good inside miners, and the Visayans are reported excellent men in coal; and there seems to be no reason why they should not always be obtained; the Tagalogs, Igorrotes, and Bicolos are also reported to be fairly good quarrymen and outside men, and with able white foremen should be able to furnish the bulk of the labor required. True, natives can not perform the amount of work of an equal number of white men in the mines, but this need not prevent their use. The great gold mines of India and of the Rand are worked with native labor—and among these are thirteen of the first twenty gold mines of the world. It should be borne in mind that there is no large class of natives in these Islands as yet that has been tried in mines, and it should be remembered that failure to succeed outside need not necessarily condemn labor underground. Conditions in mines are pretty much the same the world over, and labor that may be lazy, shiftless, and unsatisfactory under the tropic sun may prove excellent in the cooler air of the mines. A Spanish mining superintendent is authority for the statement that he could secure sixty-five good Visayan miners in the city of Cebu to-day and begin the development of any coal mine in that island; that with these men instructing raw material he could in time develop any reasonable number of miners required. He stated also that in mine timbering and in other precautions for safety the Visayan was as good a miner as could be desired. Why should these commendations apply to the Visayan alone? It is suggested that however unsatisfactory native labor may be *now*, a mining class can be developed under proper guidance and within a reasonable time. There seems to be nothing to prevent the importations of Japanese miners, as the Mining Bureau, having shown to the Collector of Customs that a miner is a skilled laborer, the Collector has rendered a decision to the effect that miners, other than Chinese, may be imported under the law. It is believed that a supply of mine labor can be developed under competent American or European foremen, or imported under the law, sufficient to work the mines of the Philippines.

The transportation problem is being rapidly solved. Vast sums of money are being expended annually by the insular and provincial governments in the all-important construction of bridges and roads; trails are being opened up and improved, railroad extension has already begun, and more is promised, with every indication of success. Conditions so discouraging a few years ago are improving so rapidly that it is not thought serious difficulty in transportation will much longer present itself.

Unsettled conditions due to brigandage and insurrection are no longer such as to delay the development of mines for twenty-four hours. The armed and organized insurrection against the United States has been effectually, and it is believed forever, suppressed; and the sporadic ladorism existing among wandering malcontents, and carabao thieves, far from preventing the development of mines, is not of sufficient importance to prevent prospectors or miners from working in any mining district in the Philippines.

The history of mining has ever been the history of overcoming obstacles to success. With capital the mineral deposits of the Philippines can be developed, and, it is confidently believed, can be made to pay. With the repeal of section 33 of Act 235, with a continuation of the present improvement of conditions important to mining and to all other interests of the Islands alike, and with the increased development of mining already begun, it is believed that capital can readily be obtained.

Four years ago there were in the Philippines perhaps a dozen partially developed mines suspended by reason of war; there was no production and no mining law.

Active and hardy American and foreign prospectors, many of them mining men from the Western camps, were penetrating the hills all over the Islands, however, often far in advance of the troops. During the continuance of the insurrection old mines were not started up and until a mining law was given the Philippines new claims possessed no legal rights.

Two years ago the insurrection was declared at an end, and a mining law for the Islands was enacted by the Congress of the United States. Although the mines whose concessions dated back to the Spanish régime did not then resume work, extensive preparations have been making since by the owners of some of them for repairing the timbering, pumping out the accumulated water, and reopening their mines. In most of these cases the difficulties have been mainly in reorganizing the companies after the disturbed conditions of war and in obtaining the capital necessary to properly carry on the work. At this time Act 235 of the Congress of the United States, "An act temporarily to provide for a civil government in the Philippine Islands, and for other purposes," became law and furnished the mining legislation at present in force. The Philippine Commission enacted regulations for locating and recording claims, and prospectors proceeded to secure their rights.

To-day a vast amount of prospecting has been done in Benguet, Bontoc, Lepanto, Abra, Cagayan, Zamblane, Bulacan, Rizal, Laguna, Tayabas, the Camarines, Albay, Masbate, Cebu, Panay, and Mindanao, and under Act 235 probably between 500 and 600 claims have been regularly located and recorded; over 350 claims have been recorded in Benguet alone. Assessment and development work has proceeded steadily upon most of these claims, the returns from many of them are favorable, and their prospects apparently bright.

In Spanish days the natives confined their mining and metallurgical apparatus to the pick, hammer, batea, cocoon shell, a rectangular washing trough of bark, small crucibles for the smelting of rich concentrates, and furnaces for the smelting of iron. The Spanish and foreign mine operators utilized buckets and whims for hoisting apparatus, small pumps, arrastras, dredgers, and other elementary washing and concentrating methods. To-day American miners are operating sluice boxes in placer deposits; there is one three-stamp mill operating at a profit in Benguet, according to latest information, and other stamp mills are in prospect; an \$80,000 dredger has been recommended by a competent engineer for use in the Masbate gold gravels; miners are rapidly reaching that stage in development work which calls for hoisting crushing, amalgamating, and concentrating machinery; and the general outlook is hopeful indeed.

The Gil Brothers are developing a coal mine on the Island of Bataan in five seams, each 1 meter thick, of a good black lignite, with a force of Spanish and Japanese miners, and the report of the Japanese engineer who examined the "Bilbao" mine, upon which work is now being done, estimates that when fully opened up this mine should be able to produce 1,000 tons of coal per day.

In Bataan Island also, on the southwestern peninsula reserved for military purposes, Lieut. H. L. Wigmore, Corps of Engineers, United States Army, assisted by Mr. Oscar Halvorsen and a detail of men, is prosecuting a thorough examination of the coal deposits by means of the diamond drill. The coal there is of excellent reputation and suitable for steamer use.

Brick and pottery is being made by the natives in a large number of provinces, limestone is burned for lime, and rock for building and other purposes is quarried and sold. A mineral paint factory is doing an excellent business in paints made exclusively from Philippine earths, and plans are now on foot for

a reorganization of this company with largely increased capital for the extension of its trade.

#### THE MINERAL RESOURCES.

Of the mineral resources of the Philippines something has been learned, but a far greater knowledge is yet to be obtained. No great mines have yet been developed for reasons heretofore discussed, and it is difficult at the present time to report upon the extent or value of any field. Notwithstanding the great heat during much of the day, the heavy tropic undergrowth, and the great depth of saprolite and soil, the difficulty of transportation and supply, the scarcity of capital, and other obstacles that have hitherto beset the path of the prospector, this daring and hardy pioneer has penetrated in these Islands where white men had never before gone, has overcome difficulties seemingly insurmountable, and has brought back valuable, and in many cases hopeful, news from nearly every island and province of the Philippines. He truly deserves success. A number of prospectors have lost their lives in their work here, some have lost their health, and a few have lost hope. It is worth note, however, that of the large number of prospectors and miners interviewed, section 33 of Act 235 has been the chief complaint. They are as a whole extremely hopeful for mining in these Islands and they express great faith in the final outcome. Several of them, men of experience in other countries, have reported the Philippines the most promising mining field that they have ever seen.

From interviews with prospectors, miners, and mining engineers who have visited the mining districts, from authorities translated and studied, from the assay returns of the Bureau of Government Laboratories, and from the field work of this Bureau, the following general and popular account has been prepared. A more complete paper is held for data now being obtained:

**Gold.**—This metal has been found in almost every island of importance of the group. It has been worked by natives in placers and in stringers from time immemorial and the total production of the Islands must have been considerable indeed, although no reliable statistics have ever been kept. The manager of one of the local banks is authority for the statement that at one time a great deal of nugget and other alluvial gold was received at the bank. Mr. Richard von Drasche, a German geologist who has done some field work in the Islands and has published important papers upon Philippine geology, states that at the time of his visit to Mambulao and Paracale (Camarines Province), there were over 700 natives working the placer deposits for gold. It was estimated by a Spanish governor of Manila of the seventeenth century that the annual output of gold from the Camarines Norte was about \$200,000. This seems well within possibility and is an indication of what was yielded to native methods. The natives in no part of the Islands have been able to dredge or sluice, nor have they penetrated more than 50 or 100 feet into the rock at any place. Abella states in his "Ligera Reseña de la Minería de las Islas Filipinas" that from 3,000 to 4,000 pesos worth of gold was taken annually from the streams in the mountains of Bulacan near Santa Maria de Pandi. This statement has not appeared elsewhere to the knowledge of this Bureau and it is not known upon what information it is based. It is believed, however, that a great deal of placer gold has been obtained in the past by natives of Bulacan. It has been estimated by Centeno (1876) that the placer output of the Misamis and Pigtao fields in northern Mindanao has been, in the hands of natives, about \$27,000 per annum; and Mr. William Asburner, an American mining engineer, states that he was informed that \$20,000 worth of gold had been taken by natives from the placer fields of Surigao, in northern Mindanao, in 1882. No figures are yet available from Benguet or Lepanto, but a prominent mining engineer recently stated that during his visit last year in Benguet two American miners obtained 20 pounds of gold from



rich stringers in seven days. It is known that some of these stringers worked by the natives have been enormously rich. The greater number of the richer placers readily accessible to man have probably been pretty thoroughly worked over from the surface, but it is known that the natives, and Spaniard also, have seldom gone to bed rock.

From the Pigholugan region, in northern Mindanao, Mr. J. Clayton Nichols, an American mining engineer, states that he was informed that \$4,000 was taken from one hole and \$2,500 from another.

In the northern part of Masbate, near Aroroy, three American mining companies have recently staked out and recorded a large number of placer and lode claims, and work is going on upon these at the present time. It is understood that an American consulting engineer who has recently visited and reported upon this field was most favorably impressed with the outlook for mining the alluvial gold in that region. A number of placer claims have also recently been staked and recorded by Americans in the head waters of the San Mateo River, in Rizal, the lowest assay return from many samples of gravel from which having been 49 cents and the highest \$11 to the cubic yard.

In the Pigtao region of northern Mindanao Mr. Nichols estimates the value of the gravels to be from 15 to 25 cents to the cubic yard in such quantity as to suggest the careful study of that field with respect to the use of the steam dredge.

In addition to the districts mentioned above, gold has been worked to a greater or less extent by the natives in Fidelisan, Bontoc Province; Suyue, Dugon, and Tubuc, Lepanto Province; Acupan, Tabio, Capunga, and Itogan, Benguet Province; Gapan and Peñaranda, Nueva Ecija Province; the Islands of Polillo and Catanduanes, Labo, Capalongan, and Maculabo, in the Camarines; Atimonan, in Tayabas; and in Cebu, Panay, Samar, and Panaon.

The gold from Benguet, Lepanto, Surigao, and Misamis has been found largely in small seams or stringers in quartz, although what are believed to be true veins have been reported from all of these districts save the last. The most promising veins from Mambulao and Paracale, some of which are from 2 to 6 inches wide, but rich, are reported to be contact veins between gneiss and diorite. The best-defined veins appear to be entirely in the older crystalline rocks, those of the Camarines and Masbate notably so. Assay values of many veins sampled throughout the Islands by prospectors and miners vary between a few cents to several hundred dollars to the ton. As it is not known by what method the samples were taken a table of assay returns is not presented here. Suffice it to state that from present knowledge there are well-defined veins of sufficient width and assay value so far as sampled in Lepanto, Benguet, the Camarines, and Masbate, to justify extensive development work, and that such work is now in prospect or performance upon claims in these districts.

The above notes apply to placer or free-milling gold. There are vast deposits of low-grade, free-milling and partially or wholly refractory ores in Lepanto and Benguet that have not yet received the investigation they deserve. Miners and prospectors have devoted their energies during the past four years entirely to the most promising fields so far found.

It is believed, from present information, that there is a future for hydraulic and dredger alluvial mining in the Camarines, in Masbate, and in Mindanao, and for vein mining in Lepanto, Benguet, the Camarines, Masbate, and Mindanao. Later and more detailed information must necessarily depend upon development work now in progress and it is hoped that future work will extend rather than diminish the list given above.

The majority of Philippine gold ores now being worked are crushing and amalgamating ores; a few must be smelted; and cyanide plants will probably be erected for many of the works.

Associated with the gold in some of the Camarines ores are

the sulphides of iron and copper in the form of pyrites, zinc in sphalerite, and crocoite, the chromate of lead. Gold is also found associated with the sulphides, arsenides, and antimonides of copper in the mines of the Lepanto district of Manceyan.

**Copper.**—This metal has been reported from the Islands of Luzon, Mindoro, Masbate, Panay, and Mindanao, but the only important deposits so far known are those of the famous district of Manceyan, Lepanto Province, in northern Luzon. The report of copper in the Island of Balabac, the Paragua group, could not be verified by the mining engineer of this Bureau in a recent visit by him to that island; and Abella could find evidence of no valuable copper deposits among those reported from Panay. Samples of native copper, said to have been brought from Masbate, have been shown to the present Chief of the Bureau but no information of value was obtained from the prospector exhibiting them. The copper deposits so far known in Mindoro are all of copper pyrites, apparently of limited extent; and of the ores reported from Mindanao nothing is known. There are veins of chalcocopyrite in the Camarines and in Bontoc, but they have not been prospected or developed and data concerning them is not available at the present time.

The important deposits of Lepanto are at Suyue, Agbao, Bumanan, and Manceyan, all within a few miles of each other in the southern part of the province. These veins, from 3 to 20 feet thick, carrying the sulphides, arsenides, and antimonides of copper, together with enargite, and its variety first identified here, luzonite, lie in a great dike that can be traced for many miles through the country rock. From samples obtained in the breasts of old workings at Manceyan it has been estimated that the ores average 16 per cent in copper, with a gangue of quartz. There is a vast amount of this ore in sight and it is believed that in quantity and quality of copper Manceyan is one of the most important and promising of the mineral assets of the Philippines. The deposits have been prospected, staked, and recorded, and the owners of claims are sanguine of success. With proper transportation, management of the mines, and treatment of the ores, there seems no reason from present knowledge why Manceyan should not become a flourishing copper camp.

The working and smelting of the ores of Manceyan were carried on by the Igorrotes of Lepanto before the Spanish conquest. The metallurgical treatment was so ingenious, complicated, and effective that it unquestionably points back to an older contact with civilization, probably with the Chinese from the north. The mining of course has been most avaricious and the old workings will require thorough timbering before modern methods of exploitation can be employed. Of the many interesting features of the Igorrotes metallurgy and of the first Spanish invasion of Manceyan nothing will be given here save that the natives made such excellent implements and utensils of copper, exporting them to the extent of 200 tons annually, that the attention of the Spanish was attracted; and that after an invasion with an armed force as an escort, amicable arrangements were finally made between the Cantabro-Filipino Mining Company and the Igorrotes by which mines were opened and worked under the distinguished Spanish Inspector of Mines, Jose Maria Santos, and that from two mines for the ten years following 1864 about 1,100 tons of copper were annually produced. Upon the death of Santos, who made a success of the Manceyan, mining was stopped. Surely these great deposits can be made successful again.

It is hoped that as a result of field work now in progress in Lepanto by a party from this Bureau a fairly complete bulletin upon this interesting subject may soon be in press.

**Lead.**—But little is known of lead deposits in the Islands and there is reason to believe that their distribution is not wide. Crocoite, the chromate of lead, occurs with gold ores in the Camarines, but it has not so far been found of economic importance. Galena, the sulphide and common ore of lead, has been found in

Bontoc, the Camarines, Marinduque, and Cebu. The ore from Torrijos, Marinduque, has been reported to give the following average assay—

	Per cent.
Lead .....	56.55
Silver .....	.0096
Gold .....	.0006

But no detailed account of the deposit is at hand. The galenas from Acubing and Panopoy are reported by Abella as lying within true Stockwerks. Their content of metal as given by assays are, according to Mr. Abella:

	Per cent.
Lead .....	47
Silver .....	.031
Gold .....	.062

These assays would appear to have been of specimens rather than of true samples of the ores.

**Silver.**—Silver ores have not yet been discovered in the Philippines. The silver occurring here is in argentiferous galena or alloyed with the gold.

**Platinum.**—The Mining Bureau is now investigating an occurrence of native platinum in the gold-gravel deposits of Rizal. From present information platinum and associated rare metals do not seem to be of sufficient amount in these sands to be of economic importance; but the identification of platinum in the Philippines, after many reports of its occurrence hitherto unconfirmed, may lead to renewed search in similar fields.

**Zinc.**—This metal has so far been found only as sphalerite in unimportant and unwelcome amount in a few of the gold veins of the northern Camarines.

**Tin.**—Tin has not yet been discovered in the Philippines. A deposit of stream tin was reported at Alfonso XIII, on the west coast, by the natives of the east coast of Paragua, but opportunity has not yet been offered for a verification of this report. As the Moros of southern Paragua are affiliated with their Mohammedan brothers of Borneo and the Straits, and as the natives of the Straits are familiar with cassiterite and stream tin there is a bare possibility of likelihood in the report.

**Manganese.**—A large deposit of rich manganese ore has recently been found upon the Island of Masbate, but at the present time no details of its occurrence are at hand.

**Iron.**—Important deposits of magnetite and hematite are found in Abra Province, in San Miguel and Angat, in Boso-boso, Rizal, and in the Camarines. The deposits of Bulacan are extensive and can be readily worked. Several of the ores are suitable for the manufacture of Bessemer steel and one of the Angat ores is notable in that it contains cobalt in appreciable amount.

The natives of San Miguel and Angat have worked these ores in small charcoal furnaces for over a century and have established a good reputation and trade for the plowshares they produce. Following are some analyses by the Bureau of Government Laboratories of samples of Bulacan ores recently taken by the Mining Bureau:

	No. 1, hematite.	No. 4, magnetite.	No. 5B, hematite.
	Per cent.	Per cent.	Per cent.
FeO .....	1.9	32.3	2.6
Fe <sub>2</sub> O <sub>3</sub> .....	88.2	48.7	84.2
MnO .....	1	Trace.	.3
CaO .....	1	1.3	.1
MgO .....	.2	15.3	8.7
Al <sub>2</sub> O <sub>3</sub> .....	6.5	Trace.	Trace.
FeS .....	Trace.	Trace.	Trace.
Co <sub>2</sub> .....	Trace.	Trace.	Trace.
H <sub>2</sub> O .....	.1	.1	.3
SiO <sub>2</sub> .....	2.2	2.2	3.8
P <sub>2</sub> O <sub>5</sub> .....	Trace.	.1	Trace.
TiO <sub>2</sub> .....	.8	.1	Trace.
Total .....	100	100.1	100

The ores of Bulacan will undoubtedly furnish excellent charcoal pig iron. Vast quantities of limestone for flux are available in the immediate vicinity of the ore beds, water transportation can be had upon the Rio Grande de Pampanga and the Angat River, and a branch of the Manila and Dagupan Railway through San Miguel and within ten miles of the mines will soon be built and in operation. The charcoal can be had of sufficient quality and amount but not at present at a satisfactory price. It is hoped that the Forestry regulations will be so amended as to materially reduce the cost of this important fuel.

Further information concerning the iron-ore deposits of Bulacan be found in Bulletin No. 3 of this Bureau, "A Report on a Geological Reconnaissance of the Iron Region of Angat, Bulacan."

**Mercury.**—This valuable metal has frequently been reported from various localities in the Camarines and in Panay, but in almost every case its occurrence has been disproved. On Mount Isarog, in the province of the Camarines, however, there is every reason to believe that cinnabar and native mercury have been found.

**Antimony.**—Specimens of the sulphide of antimony, stibnite, were found in small quantities in a nipa house on the south slope of Mount Maquiling in Batangas, by Capt. F. V. Krug, of the Twentieth Infantry, during the Malvar campaign. The native showing this to Captain Krug told him that he could lead him to a deposit of the metal in the vicinity. This is the only information now at hand excepting that the sample brought by Captain Krug to the Mining Bureau was a group of characteristic crystals of pure stibnite.

**Coal.**—The most important of the mineral resources of the Philippines is probably the best grade of lignite coal. This is of Tertiary age and similar in all most important respects to that of Wyoming, Washington, and Japan. The best coal is free from sulphur, and relatively low in moisture and ash. It is known in the Island of Batan, Albay Province, in Bulalacao, and Samarara, southern Mindoro, in Danao and Compostela, Cebu, on the Gulf of Sibuguey, in southeastern Mindanao, at Colatara, Negros, and at Bislig, in eastern Mindanao. Some of the coal of Abra, Rizal, and eastern Negros is also believed to be suitable for use in steamships and in stationary furnaces now burning Japanese and Australian coal. A division must be made between the jet black, comparatively hard coals, probably of Eocene age, and the brown wood coals much softer and more friable, of later age, and in large part not suitable for transportation. Both coals contain pyrites in some seams or portions of seams, but the black coal can, in most cases, be mined free from sulphur in this objectionable form. The brown coals are not of sufficient value compared with the older coals to justify the expense of working at the present time. The best black coals are strong enough for transportation, can be mined at reasonable cost, and presumably at a good profit, and should very largely take the place of imported coals in the Philippines. Their fuel value is from two-thirds to three-fourths that of the best Welsh coal, very little short of that of the Australian, and equal to that of many of the Borneo and Japan coals, which they strongly resemble.

The thickness of the seams of the black coal varies from a few inches to eighteen feet. A very large number of the best seams are from 3 to 5 feet thick. They lie with variable dip from 0° to nearly 90°, and in some fields the beds are irregular, twisted, and faulted. Careful and thorough prospecting with drills, such as is being carried on by Lieutenant Wigmore in Batan, should precede extensive development in most of the fields of the Philippines. Sufficient mining has already been done in the Danao and Compostela coal fields of Cebu to demonstrate the value of the deposits there.

It is hoped that a large, important, and profitable industry awaits the colliery companies of the Philippines.

For more detailed information, including maps and tables of analyses, reference is suggested to the "Coal Measures of the Philippines," prepared by the Hon. C. H. Burritt, late Chief of the Bureau, and published in Washington for the Mining Bureau.

For convenience the following table of localities, where coal of various grades has been found, is appended herewith:

Vicinity of—	Province.	Vicinity of—	Province.
Amulong	Cagayan.	Bulalicao	Mindoro.
Dolores	Abra.	Sanarara	Do.
Aritayo	Union.	Balete	Capiz.
Pobillo	Infanta.	Beeranga	Do.
Norzagay	Bulacan.	Valderrama	Do.
Montalban	Rizal.	Dingle	Iloilo.
Tatamiran	Do.	Talabe	Negros.
Taytay	Do.	Calatrava	Do.
Atimonan	Tayabas.	Luzon	Do.
Alabat	Do.	Danao	Cebu.
Pagbilao	Do.	Toledo	Do.
Chico	Do.	Balamban	Do.
Macaleton	Do.	Asturias	Do.
Pasacao	Camarines.	Compostela	Do.
Caramoran	Do.	Veiga	Do.
Catanduanes	Albay.	Dinagat	Mindanao.
Baian	Do.	Sirgao	Do.
Libon	Do.	Saurop	Do.
Gatbo	Do.	Casaman	Do.
Louquicoon	Samar.	Mati	Do.
Gidara	Do.	Gran	Do.
Paranas	Do.	Naanan	Do.
Catagan	Masbate.	Bislig	Do.
Subaan	Mindoro.	Sibuguey	Do.

A large and continued demand for coal is assured in Philippine waters, and it would seem that these Islands are geographically situated favorably to the furnishing of coal to meet the enormous demand of Hongkong and other near-by ports.

**Sulphur.**—Sulphur occurs in limited amount in the Island of Biliran. Province of Leyte, and has been worked there on a small scale by natives for many years. No deposits of value and importance are at present known.

**Petroleum.**—Petroleum has been found in Tayabas Province, where it is understood some development is now going on, and at Toledo, Asturias, and Alegria, on the west coast of Cebu. A well was operated for a short time in Toledo, but since the war work has not been resumed. There may be a future for the petroleum industry in the Philippines; and although but little is known of the value and amount of this important fuel at the present time much interest of late has been shown in its exploitation and it is hoped that before long reports of value can be made.

**Salt.**—There is reason to believe that large beds of rock salt occur, without outcrops discovered as yet, in the mountains of northwest Nueva Vizcaya. Streams gushing out from the hillside at Dapol are so heavily charged with brine that the natives by solar evaporation obtain important quantities of very pure salt.

**Gypsum.**—The sulphate of lime in the form of crystalline gypsum and gypsum earth is found in Rizal, Laguna, and other provinces of the Islands. Much of this might be calcined for the production of "land plaster" and plaster of paris, but none of it seems to be so used. The natives work the beds of white gypsum earths for use in whitewashing, and so far as developed this business pays very well.

**Limestone.**—Large and important deposits of limestone are found throughout the Islands. In many provinces the rock is quarried and calcined, producing excellent lime that brings a very good price.

A cream-colored limestone of Bulacan seems well adapted to the making of hydraulic cement, and a deposit of similar rock has already been located and recorded in Rizal Province with this industry in view. An analysis made in the laboratories of Stanford University shows this rock to be a natural cement. This important and profitable use of Philippine limestone is now occupying

the attention of the Mining Bureau and the Bureau of Government Laboratories.

Marble, or crystalline limestone, occurs in the Islands of Romblon and Mindoro, and probably elsewhere in the group. This is a gray-blue mottled marble and much of it seems very suitable for decorative use.

**Clays.**—White clays, or kaolin, have been found in the Provinces of Abra, Camarines, Ilocos Norte, Antique, Benguet, Cagayan, Isabela, Laguna, Marinduque, Masbate, Pampanga, Pangasinan, Albay, Romblon, and Zambales. The suitability of these for the manufacture of porcelain and china is now being investigated.

Red clays, from which natives make large amounts of pottery for local use, are found in almost every province in the Islands. The statistics and technology of this important industry are under investigation at the present time.

Fire clay has been found in the coal beds and will probably afford a profitable industry in the future.

Red bricks are made in large quantities in Bulacan, Capiz, Rizal, Ilocos Norte, Isabela, Marinduque, Masbate, and Pampanga.

**Building stone.**—The Philippine resources in stone for building and other construction work, and road metal, are almost unlimited. Among the hard, crystalline rocks, capable of standing heavy pressure, of resisting weathering, and of taking a high polish, should be mentioned the fine gray diorites of the Cordillera, found in almost every province upon the western slopes of the range, and in Paragua, the gray tonalites, or quartz diorites of Tinagan and Colasi, Panay, equal to many of the best granites, and a rock, apparently a true syenite, or hornblende granite, recently found in Masbate. Angite andesite is now being extensively quarried by the Atlantic, Gulf and Pacific Company at Mariveles, for the works of the improvement of the port, and a volcanic tuff, soft when quarried but hardening rapidly upon exposure, is quarried in large amount and at good profit at Meycayan, Bulacan, and Guadalupe, Rizal, and elsewhere for building stone. This rock has been used in enormous quantity in the construction of churches and other buildings in the Philippines, and in the walls and fortresses of Manila. Crushed andesite has been extensively used in street work in Manila and has made excellent road metal. A large variety of the neo-volcanic rocks have been used, in addition to gravel, for similar purposes by the provincial supervisors in the construction of roads.

**Guano.**—A number of important deposits of bat guano have been discovered throughout the Islands, largely in the extensive limestone caves. Some of these have been located and recorded, but it is not known to what extent they have been worked. It is probable that they are all of limited amount.

**Precious stones.**—With the exception of opal, reported from Binangonan in Rizal, and some very small rubies, reported in the head waters of streams flowing into the ocean near Mambulo and Paracale, no minerals have yet been identified as precious stones.

**Conclusion.**—From the above brief résumé it will probably be gathered that, although some of the common metals are absent, or not yet discovered, in the Philippines, there remain sufficient mineral resources to form the basis of an important industry. The stage at present is that of investigation and development; it is hoped, however, that we shall rapidly approach the period of production.

A welcome feature of the present interest in the Philippine mining is the increasing attention being given to the mineral resources by the natives of the Islands. Their interests are those of all; with their hearty cooperation it is hoped that the labor required may be more rapidly secured, that they will realize the common benefit of all mining activity, and that they may in time point with pride to the work and worth of Philippine mines.

BUREAU OF THE INSULAR TREASURER.

Banco Español-Filipino—Balance sheet for the month of March, 1904.

Resources.		Liabilities.	
Property:		Capital stock, Philippine currency	P1,500,000.00
Furniture and fixtures, Philippine currency	P5,012.54	Reserve fund:	
Real estate	406,028.46	Legal, Philippine currency	P225,000.00
		Voluntary	665,000.00
	P411,041.00		890,000.00
Securities:		Deposits:	
Notes and discounts—		Voluntary—	
Philippine currency	P450,492.29	Philippine currency	P2,310.00
Local currency	133,486.21	Local currency	97,700.51
Loans (papers acknowledged notary public), local currency	583,978.50		100,010.51
Loans secured by mortgages—		Necessary—	
Philippine currency	P299,201.24	Philippine currency	260.00
Local currency	53,704.02	Local currency	19,000.00
Loans secured by merchandise—			19,260.00
Philippine currency	79,047.96	Time—	
Local currency	110,885.80	Philippine currency	91,564.41
	189,933.76	Local currency	963,712.61
Loans secured by bonds and other public securities—			1,055,277.02
Philippine currency	29,000.00	Current account and accepted checks—	
Local currency	52,900.00	United States currency, \$94,880.83	189,761.66
	81,900.00	Philippine currency	420,105.23
Orderdrafts and bills of exchange—		Local currency	2,325,974.24
Philippine currency	2,296,090.60	Bank notes in circulation—	
Local currency	1,676,428.69	Local currency	1,816,340.50
	3,972,519.29	Philippine currency	39,210.00
Bonds, stocks, and other securities, Philippine currency	619,442.29		1,855,552.50
	5,910,950.20	Dividends not paid:	
Cash on hand:		Overdue	7,184.00
In gold, \$232,244.34	464,488.68	Current	3,592.00
In Philippine currency	463,405.32		10,776.00
In local currency	1,063,544.76	Profit and loss	68,913.93
	1,991,438.76		8,435,631.09
General expnses.	28,102.55	Deposits held for safe-keeping	302,871.11
Sundry accounts	94,098.58	Bank notes in vault	568,797.50
	9,319,299.70		9,319,299.70
Deposits held for safe-keeping	8,435,631.09		
Bank notes withdrawn from circulation	302,871.11		
	580,797.50		
	9,319,299.70		

Correct: JOAQUIN J. DE INCHAUSTI, Director in Charge.

J. SERRANO, Accountant.

BUREAU OF CUSTOMS AND IMMIGRATION.

TARIFF DECISION CIRCULAR.

No. 399.—Gold solder prepared for dentists dutiable as gold alloy manufactured into articles; similitude rules, application of.

MANILA, March 30, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2726, filed December 19, 1903, by Mr. A. P. Preston against the decision of the Collector of Customs for the Philippine Islands acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. O 1896, Voucher No. 20161, paid December 17, 1903.

"This protest is against the assessment and collection of duty on certain gold solder under paragraph 27 (d) of the Tariff Revision Law of 1901, at \$3 per hectogram, not less than 20 per cent ad valorem. It is claimed that this solder is entitled to free entry under the provisions of paragraph 372, which provides as follows:

"Gold, silver, and platinum, in broken-up jewelry or table services, bars, sheets, coins, pieces, dust, and scraps."

"The merchandise in question consists of thin pieces or sheets of 18-carat gold solder, each piece being about 1½ inches long and one-half inch wide. On each piece is stamped a trade-mark, the words 'Gold solder for 18 K. plate,' and a number showing the carat. This gold solder is used in dental work and is specially prepared for this purpose. If this article is in fact gold or can

be assimilated to gold, being in sheets, it is clearly covered by the terms of paragraph 372.

"This question has, however, been repeatedly before the United States Board of General Appraisers, who have uniformly held that alloys of various kinds are manufactures of metal. (See Treasury Decisions Nos. 12982, 16210, and 17168.) It has also been there held that habit metal is, like 'bars of solder,' a complete manufacture of metal ready to go into the hands of the consumer (Treasury Decision No. 21480), and that ordinary solder can not be assimilated to lead, but is a manufacture of lead. See also Treasury Decision No. 23541, in which the following language is used:

"It is a well-settled principle of customs law that recourse can not be had to the similitude clause unless it shall be found that the article which is the subject of classification is not enumerated or provided for in other parts of the act, either specifically or by component materials."

"Moreover, articles can not be included in the free list by assimilation (Treasury Decision No. 23633). Gold solder in sheets or bars is an alloy of gold manufactured into its ultimate form ready for use. It is in the shape in which it is customarily bought and sold in the market, and is aptly described as 'alloy of gold manufactured into articles other than jewelry or plate' under paragraph 27 (d).

"Protest No. 2726, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. MCCOY,  
Acting Collector of Customs for the Philippine Islands.

## MANILA CUSTOM-HOUSE GENERAL ORDERS.

No. 71.—*Concerning board for the examination of applicants for positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade.*

MANILA, April 9, 1904.

PARAGRAPH I. Pursuant to Act No. 780 of the Philippine Commission, as amended by Act No. 1035 of said Commission, the following appointments are hereby made to the Board thereby created for the examination and certification of applicants for the positions of master, mate, patron, and engineer of seagoing vessels:

The Acting Collector of Customs for the Philippine Islands, president of the board, ex officio; Mr. W. H. Colbert, Acting Superintendent of the Nautical School, member of the board; Capt. George Mansfield, inspector of hulls, member of the board; Mr. H. C. Liebenow, inspector of boilers, member of the board; Capt. Vicente Verzosa, member of the board.

PAR. II. Mr. H. C. Liebenow is hereby designated as secretary of the board, and the Insular Surveyor of Customs shall furnish the necessary clerical assistance.

PAR. III. Asst. Surg. Victor G. Heiser, United States Public Health and Marine-Hospital Service, is hereby, with his consent, designated to conduct the physical examination of all applicants in accordance with section 3 of said Act No. 780 of the Philippine Commission, as amended, and to certify their condition to the Board.

PAR. IV. The board shall meet at the Nautical School, Manila, P. I., on April 25, 1904, at 1 o'clock p. m.

PAR. V. All certifications for licenses for the positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade shall be made to the Collector of Customs for the Philippine Islands, and the examinations of all applicants, together with all records of the board, shall be kept in the office of the Insular Surveyor of Customs.

PAR. VI. All applicants for examination are hereby notified to present themselves to the board at the hour and place above designated.

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

No. 72.—*Amending Manila Custom-House General Order No. 71, concerning board for the examination of applicants for positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade, by relieving Capt. Vicente Verzosa from duty as a member of the board and appointing Capt. Robert M. de la Sala in his stead.*

Manila Custom-House General Order No. 71, issued April 9, 1904, convening a board for the examination of applicants for positions of master, mate, patron, and engineer of seagoing vessels in the Philippine coastwise trade, is hereby amended as follows:

Capt. Vicente Verzosa is relieved from duty as member of the board; Capt. Robert M. de la Sala is appointed member of the board, vice Capt. Vicente Verzosa relieved.

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

## NOTICE.

## SALE OF THE INSULAR COLD STORAGE AND ICE PLANT.

Sealed bids for the purchase of the Insular Cold Storage and Ice Plant located at Manila, P. I., will be received on or before the 27th day of June, 1904. The plant includes one of the most

valuable locations in the city of Manila on the Pasig River, occupying the whole space between the Suspension and the Santa Cruz bridges, with abundant water frontage, and in the immediate vicinity of the business center. The buildings and machinery are in every respect new and modern, completed in the year 1901. The sale will include the land and water transportation belonging to the plant, including insulated lighters and barges, delivery wagons, horses, and harnesses.

For the fiscal year 1903 the total revenue of the plant was \$332,194.17; total expenditures for the same period, \$198,338.83, leaving an excess of revenue over expenditures of \$133,855.34, United States money. The plant as a Government institution does not compete with private establishments of a like character. In the hands of a private corporation the income could be very largely increased. No bid for less than \$1,000,000, United States money, will be considered. Bids will be received on the basis of an unrestricted sale, and also on the basis of an agreement on the part of the purchaser to furnish ice to civil employees for five years at the present Government rate of one-half cent, gold, per pound. The right to reject any and all bids is reserved. Each bid must be accompanied by a certified check payable to the Government of the Philippine Islands for 5 per cent of the amount of the bid as security for the fulfillment of the contract should the bid be accepted.

TERMS.—Payment to be one-third cash and the balance in three equal annual payments, at 6 per cent interest per annum; the unpaid portion of the purchase money to be secured by mortgage on the property or by other satisfactory security.

Bids may be filed with the Chief of the Bureau of Insular Affairs, War Department, Washington, D. C., or with the Secretary of Finance and Justice at Manila. All bids must be filed before 12 o'clock noon, June 27, 1904, at which time the bids will be opened.

## Contents.

## Public laws:

- No. 111, granting a franchise to Charles W. Carson to construct a tramway in the municipality of Daet, Ambos Camarines, from the wharves at Mercedes to and through the town proper.
- No. 112, authorizing the transfer to the Manila Electric Railroad and Light Company of all assets and franchises of the Compañía de los Tranvías de Filipinas, and providing for certain amendments to Ordinance No. 44 of the city of Manila, for the opening of certain new streets in Manila, and for a franchise to the first-mentioned company to construct and operate an electric railway, light, heat, and power system from Manila to Malabon.
- No. 113, providing for local government of the non-Christian tribes of Isabela Province, and increasing the salary of the provincial governor.
- No. 114, appropriating \$237,856 for certain public works, permanent improvements, and other purposes.

## Executive order:

- No. 19, amending Executive Order No. 109, series of 1903, so as to require Judge Vicente Jacon (in lieu of Judge Norris) to remain on duty for the performance of interlocutory jurisdiction in the Ninth, Tenth, and Fifteenth Judicial Districts.

## Resolutions of the Philippine Commission:

- Extract from minutes of proceedings, April 15, 1904.
- Decisions of the Supreme Court:
  - The United States vs. Juan de la Cruz et al.
  - The United States vs. Nicolas Gloria.
  - John E. Springer vs. Arthur P. Odlin.
- Statistics of the Bureaus of the Insular Government:
  - Board of Health for the Philippine Islands.
  - Weather Bureau, meteorological data for March, 1904.
  - Mining Bureau—
    - Mineral industry and resources of the Philippines.
  - Bureau of the Insular Treasurer, Banco Español-Filipino, statement for February, 1904.
  - Bureau of Customs and Immigration:
    - Tariff Decision Circular
      - No. 399, gold solder prepared for dentist, dutiable as gold alloy manufactured into articles; similitude rules, application of.

## Notices:

Sale of the Insular Cold Storage and Ice Plant.

# Official Gazette

Published by authority of the Insular Government under and by virtue of Act No 453 of the Philippine Commission.

VOL. II

MANILA, P. I., MAY 11, 1904.

No. 19

## PUBLIC LAWS.

[No. 1115.]

### AN ACT APPROPRIATING SEVENTY THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FOR PAYMENT OF THE FIRST QUARTERLY INTEREST UPON THE FRIAR-LAND BONDS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of seventy thousand dollars, in money of the United States, for the purpose of paying interest for the first quarter upon the bonds issued in payment of the so-called "friar lands," in pursuance of the provisions of Act Numbered One thousand and thirty-four.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 23, 1904.

[No. 1116.]

### AN ACT AUTHORIZING THE PROVINCIAL BOARD OF TAYABAS TO REVISE THE LISTS OF ASSESSMENT OF LAND FOR THE PURPOSE OF TAXATION IN THE MUNICIPALITY OF BOAC, IN THE ISLAND OF MARINDUQUE, PROVINCE OF TAYABAS.

Whereas it has been made to appear that by mistakes made by the assessment board of the municipality of Boac, in the Island of Marinduque, Province of Tayabas, and by the revision board, just valuations were not in all cases placed upon property assessed for the purpose of taxation, and that there are numerous erroneous assessments in said municipality: Therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The provincial board of Tayabas is hereby authorized to revise and correct all valuations on the assessment lists of the municipality of Boac, and to state the true valuation, in money of the United States, in each case where it is made clear that the valuation now stated upon the assessment lists is erroneous and unjust and to correct any and all erroneous assessments in said municipality. The assessment lists, when so corrected, shall be as lawful and valid for all purposes as though the assessments herein provided had been made by the board of tax revision at the proper time.

SEC. 2. The reassessments herein provided shall be completed before the first day of June, nineteen hundred and four.

SEC. 3. The provisions of sections three, four, five, and six of Act Numbered Ten hundred and fifty-two, entitled "An Act to provide for a second revision of the assessments upon real estate in the Province of Batangas," shall be applicable to the assessments and payment of taxes in the municipality of Boac by this Act authorized.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, April 23, 1904.

[No. 1117.]

### AN ACT PROVIDING FOR THE REVISION OF VALUATION FOR THE PURPOSE OF TAXATION OF CERTAIN PARCELS OF LAND IN THE MUNICIPALITY OF ILOILO BELONGING TO WARNER, BARNES AND COMPANY, LIMITED, SO AS TO CORRECT CLERICAL AND OTHER ERRORS.

Whereas it has been made to appear that an oversight was committed by the municipal board of assessors of the municipality of Iloilo and by the reassessment board of the Province of Iloilo in the classification and valuation of lots numbered five, six, seven, eight, and nine on a plan showing the property in Iloilo belonging to Warner, Barnes and Company, Limited, which lands are largely submerged; and

Whereas the valuations placed upon said lands are found to be inequitable by reason of oversight and mistake in classification and valuation: Therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The provincial board of Iloilo, together with the provincial secretary and provincial fiscal of that province are hereby constituted a special board with authority to correct all valuations of the property above stated on the assessment list of the municipality of Iloilo and to state just valuations, in money of the United States, of each of the lots of land above referred to, and to correct any and all erroneous assessments of said parcels of land. The assessment list of the said lands, when so corrected, shall be as lawful and valid for all purposes as though the correction and reassessment herein provided had been made by the board of tax revision at the proper time.

SEC. 2. The revision of the valuations and assessments of the lots aforesaid shall be made and completed by the assessment board herein provided on or before the first day of June, nineteen hundred and four. The assessment and revaluations shall be

made on notice to Warner, Barnes and Company, Limited, and to the municipal authorities of the municipality of Iloilo, and each shall be entitled to be heard before the revision board herein provided. No appeal shall be allowed from the action of said board. The action of the majority of said board shall be deemed to be the action of the board, and binding.

Sec. 3. Nothing in this Act contained shall be deemed to prejudice the right of the Insular Government, or of the provincial government of Iloilo, or of the municipality of Iloilo, to any of the lands by this Act affected.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, April 23, 1904.

[No. 1118.]

AN ACT AUTHORIZING THE CHIEF OF THE BUREAU OF PUBLIC LANDS TO ADMINISTER OATHS, EXAMINE WITNESSES, AND SEND FOR PERSONS AND PAPERS; AND PROVIDING THAT ANY PERSON WHO SHALL WILLFULLY AND KNOWINGLY MAKE ANY FALSE AFFIDAVIT OR OATH TO ANY MATERIAL FACT OR MATTER BEFORE HIM SHALL BE DEEMED GUILTY OF PERJURY AND PUNISHED ACCORDINGLY.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The Chief of the Bureau of Public Lands shall, in performing all duties required of him, have authority to administer oaths, examine witnesses, and send for persons and papers; and any person who shall willfully and knowingly make any false affidavit or oath to any material fact or matter before him shall be deemed guilty of perjury and on conviction shall be punished as for such offense.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 26, 1904.

### EXECUTIVE ORDER.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, April 30, 1904.

EXECUTIVE ORDER }  
No. 20.

Executive Order Numbered One hundred and nine, series of nineteen hundred and three, is hereby amended by substituting the name of Honorable Warren H. Ickis for that of Honorable James H. Blount, junior, designated therein to remain on duty, subject to call, for the performance of interlocutory jurisdiction in the Eleventh, Twelfth, Thirteenth, and Fourteenth Judicial Districts.

LUKE E. WRIGHT,  
Civil Governor.

By F. W. CARPENTER,  
Acting Executive Secretary.

### DECISIONS OF THE SUPREME COURT.

[No. 1493. February 25, 1904.]

THE UNITED STATES, complainant and appellee, vs. BERNARDO USIS ET AL., defendants and appellants.

- \*1. CRIMINAL LAW; BRIGANAGE; EVIDENCE; PURPOSE OF BAND.—In prosecutions under the provisions of Act. No. 518, defining and punishing brigandage, the evidence should show the purpose for which the band was organized. It is not necessary to make this proof by direct testimony; this may be shown by circumstances, but there must be something in the case from which the inference can properly be deduced.
2. ID.; ID.; ID.—Cases of United States vs. Francisco Decusin (1 Off. Gaz., 730) and United States vs. Saturnino de la Cruz (Off. Gaz., 669), cited and approved.

APPEAL from a judgment of the Court of First Instance of Cavite.

The facts are stated in the opinion of the court.

FELIPE G. CALDERON, for appellants.  
Solicitor-General ABANETA, for appellee.

COOPER, J.:

Bernardo Usis, Marcelino Mangubat, Aquilino Cantada, Luis Taganas, and Mateo Ronquillo are charged with the offense of bandolerismo and were convicted in the Court of First Instance of Cavite on the 28th day of August, 1903, as forming a party of bandits defined in Act 518 of the Civil Commission, and were condemned to the penalty of twenty years of imprisonment and to pay the costs of proceedings. The defendants have appealed to this court.

From the testimony it appears that in the month of May, 1903, in the barrio of Iba, Silang, in the Province of Cavite, the accused were arrested by a body of insular police; that at the time of their arrest they were in company with one Aguedo, and, meeting about a dozen of the Constabulary, Aguedo, who was called the chief of the gang, fired his revolver at the Constabulary and succeeded in making his escape; the defendants were captured and four of them were found armed with bolos and one with a Mauser bayonet.

According to the statement of witnesses on the part of the prosecution, upon their capture the defendants stated that they were in search of a carabao which had been lost, the property of one of their number, Mangubat, and that Aguedo was the chief of the band.

The defendants testified in their own behalf, some of them declaring that the lost carabao belonged to Marcelino Mangubat and others that the lost carabao was the property of Aquilino Cantada. Their statements were contradictory, both with respect to the places of their residence, the arms which they bore on that occasion, the manner in which they were assembled, and other minor details, which induced the court below, in connection with the other evidence, to believe that they formed a band of robbers and that they were guilty under the provisions of Act 518.

In order to sustain a conviction under the provisions of this Act, it must appear that the parties charged with the offense formed a band of robbers for the purpose of stealing carabao or other personal property by the means of force and violence and went out upon the highway or roamed over the country armed with deadly weapons for this purpose.

To prove this crime it is unnecessary to adduce evidence that any member of the band has in fact committed robbery or theft, but it is sufficient to justify a conviction if from the circumstances it can be inferred beyond reasonable doubt that the accused was a member of such armed band as that described in the said act.

There is no proof in the case to show the purposes for which

the band was organized or that any robbery or theft had been committed by the band. It is not necessary to make this proof by direct testimony. The purposes for which they were organized may be inferred from circumstances showing their purposes, but there must be something in the case from which the inference can properly be deduced (*United States vs. Francisco Decusin*, 1 Off. Gaz., 730; *United States vs. Saturnino de la Cruz*, 1 Off. Gaz., 664.)

On account of the insufficiency of proof in this respect the judgment of the Court of First Instance must be reversed and the defendants acquitted.

It is so ordered and directed and costs are adjudged *de oficio*. Arellano, C. J., Mapa, and McDonough, J.J., concur.

TORRES and WILLARD, J.J., concurring:

We concur in the acquittal of the defendants because of the lack of proof of the perpetration of the crime of brigandage.

JOHNSON, J., concurring:

I agree with Mr. Justice Cooper in his finding of facts and in his conclusions in this case of the *United States vs. Usis* and others.

In my opinion the doctrine announced by this court in the case of the *United States vs. Francisco Decusin* has been overruled.

*Defendants acquitted.*

[No. 1482. February 29, 1904.]

THE UNITED STATES, complainant and appellee, vs. ANTONIO FERNANDEZ, defendant and appellant.

CRIMINAL LAW; RAPE; AGGRAVATING CIRCUMSTANCES; ABUSE OF OFFICE.—The fact that the defendant, found guilty of the crime of rape, was a sergeant of the Constabulary force and availed himself of an opportunity afforded him by his position as such to commit the crime should be considered in aggravation of the penalty.

APPEAL from a judgment of the Court of First Instance of Ilocos Norte.

The defendant, who is a member of the Constabulary, went to the house of the father of the complaining witness, together with some other members of the corps, for the purpose of searching the house for firearms. No arms were found. His men having gone into a barn near by, the defendant was left alone in the house with the complaining witness, a girl of 16. The defendant then told her that unless she would submit to him he would kill her and by threatening her with his revolver intimidated her to the point of permitting him to have sexual intercourse with her. The trial court found the defendant guilty of rape and imposed upon him the maximum penalty of seventeen years four months and one day of *reclusión temporal*. Against this the defendant appealed.

Solicitor-General ARANETA, for complainant and appellee. ANTONIO FERNANDEZ, defendant and appellant, on his own behalf.

MAPA, J.:

The guilt of the defendant of the crime of rape with which he is charged is fully established by the proof. The crime was committed with the aggravating circumstance that the accused availed himself of his position as sergeant of the Constabulary forces to commit the crime, and with the further circumstance of its commission in the dwelling of the complaining witness. Consequently the penalty of seventeen years four months and one day of *reclusión temporal* imposed on the defendant by the trial judge is in accordance with law and should therefore be affirmed.

The court below also condemned the defendant to the payment of the sum of 500 pesos to the father of the complaining witness. There is no authority of law for this, and consequently the

decision can not in this respect be sustained. In lieu thereof the defendant should be obliged to endow the complaining witness, who it appears is unmarried, in the sum of 500 Philippine pesos, and to acknowledge and support the offspring, should there be any, in accordance with the provision of article 499 of the Penal Code.

With this modification we affirm the judgment of the court below, with the costs of this instance against the defendant.

Arellano, C. J., Torres, Cooper, and McDonough, J.J., concur. Willard and Johnson, J.J., dissent.

*Judgment modified.*

[No. 1491. March 5, 1904.]

THE UNITED STATES, complainant and appellee, vs. LORENZO ARCEO ET AL., defendants and appellants.

1. CRIMINAL LAW; FORCEIBLE ENTRY.—The law which forbids a forcible entry into the dwelling of another relates not only to the method by which one may pass the threshold of the dwelling of another without his consent but also to the conduct immediately after entrance of one who so enters.
2. *Id.*; INVOLUNTARILY OF THE DWELLING; POLICE POWER.—The right to be free from unauthorized entrances into one's dwelling is one of the most sacred personal rights secured by the law, and its only limitation is found in the necessary exercise of the police power, under which this private right must yield to the public welfare.
3. *Id.*; EXPRESS PROHIBITION.—It is not necessary to a conviction of the offense of forcible entry that there should be an express prohibition to enter; no one may enter the dwelling of another without rendering himself liable under the law unless the one seeking entrance comes within some of the exceptions dictated by the law or public policy.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

CRISPIN OJEN, for appellants.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendants were charged with entering the house of one Alejo Tiongson on the night of February 20, 1903, armed with deadly weapons, against the will of the said Alejo Tiongson.

The evidence shows that Alejo Tiongson lived in his house in company with his wife, Alejandra San Andres, and his wife's sister, Marcela San Andres. On the night of the 20th of February, 1903, between 8 and 9 o'clock at night, the accused, one of whom was armed with a gun and the other two each a bolo, entered the house of the said Alejo Tiongson without first obtaining the permission of any person. It appears from the proof that there was a light burning in the house at the time the accused entered, which was immediately put out by one of the accused; that Alejo and his wife had retired for the night; that Marcela was still sitting up sewing; that as soon as Marcela had discovered the accused in the house she awoke Alejo and his wife; that immediately after the accused were in the house, one of them wounded, by means of a bolo, Alejo Tiongson, the owner of the house; that the accused appropriated to their own use a certain quantity of money; that the accused took and carried away out of the said house toward the fields the said Marcela San Andres and ill-treated her.

The evidence on the part of the defense tended to prove an *alibi*. The court below found that this testimony was not to be believed. We find no occasion, from the proof, to change this finding of fact.

The court below found that the defendants were each guilty of the crime of entering the house of another, with violence and intimidation, which crime is punishable under subsection 2 of article 491 of the Penal Code, and sentenced each of them to be imprisoned for the term of three years six months and twenty-one days of *prisión correccional*, and also imposed upon each a fine



of 271 pesos and costs. In reaching this conclusion the court took into consideration the aggravating circumstance of nighttime and the extenuating circumstance provided for in article 11 of the Penal Code.

Article 491 of the Penal Code provides that—

"He who shall enter the residence (dwelling house) of another against the will of its owner shall be punished with the penalty of *arresto mayor* and a fine of from 325 to 3,250 pesetas."

Subsection 2 provides that—

"If the fact shall be executed with violence or intimidation the penalty shall be *prisión correccional* in the grade, medium and maximum, and a fine of from 325 to 3,250 pesetas."

Under the facts presented in this case, was the trial court justified in finding that the accused were guilty of the crime of entering the residence of another against his will and with violence or intimidation? We think that it was. We are not of the opinion that the statute relates simply to the method by which one may pass the threshold of the residence of another without his consent. We think it relates also to the conduct, immediately after entrance, of he who enters the house of another without his consent. He who being armed with deadly weapons enters the residence of another in the nighttime, without consent, and immediately commits acts of violence and intimidation, is guilty of entering the house of another with violence and intimidation and is punishable under subsection 2 of article 491 of the Penal Code. (See *Viada*, vol. 3, p. 303; *Gazette of Spain of the 28th of March, 1883*; *Viada*, col. 6, p. 363; *Gazette of Spain of the 19th of May, 1882*, p. 165.)

The inviolability of the home is one of the most fundamental of all the individual rights declared and recognized in the political codes of civilized nations. No one can enter into the home of another without the consent of its owners or occupants.

The privacy of the home—the place of abode, the place where a man with his family may dwell in peace and enjoy the companionship of his wife and children unmolested by anyone, even the king, except in rare cases—has always been regarded by civilized nations as one of the most sacred personal rights to which men are entitled. Both the common and the civil law guaranteed to man the right of absolute protection to the privacy of his home. The king was powerful: he was clothed with majesty; his will was the law, but, with few exceptions, the humblest citizen or subject might shut the door of his humble cottage inclosing his family in his face, and defend his intrusion into that privacy which was regarded as sacred as any of the kingly prerogatives. The poorest and most humble citizen or subject may, in his cottage, no matter how frail or humble it is, bid defiance to all the powers of the state; the wind, the storm and the sunshine alike may enter through its weather-beaten parts, but the king may not enter against its owner's will: none of his forces dare to cross the threshold of even the humblest tenement without its owner's consent.

"A man's house is his castle," has become a maxim among the civilized peoples of the earth. His protection therein has become a matter of constitutional protection in England, America, and Spain, as well as in other countries.

However, under the police power of the state the authorities may compel entrance to dwelling houses against the will of the owners for sanitary purposes. The government has this right upon grounds of public policy. It has a right to protect the health and lives of all its people. A man can not insist upon the privacy of his home when a question of the health and life of himself, his family, and that of the community is involved. This private right must be subject to the public welfare.

It may be argued that one who enters the dwelling house of another is not liable unless he has been forbidden—i. e., the phrase "against the will of the owner" means that there must have been an express prohibition to enter. In other words, if one enters the dwelling house of another without the knowledge of

the owner he has not entered against his will. This construction is certainly not tenable, because entrance is forbidden generally under the spirit of the law unless permission to enter is expressly given. To allow this construction would destroy the very spirit of the law. Under the law no one has the right to enter the home of another without the other's express consent. Therefore, to say that when one enters the home of another without his knowledge he does not enter against the will of the owner, is to say that one's home is open for the entrance of all who are not expressly forbidden. This is not the rule. The statute must not be given that construction. No one can enter the dwelling house of another, in these Islands, without rendering himself liable under the law, unless he has the express consent of the owner and unless the one seeking entrance comes within some of the exceptions dictated by the law or by a sound public policy.

So jealously did the people of England regard this right to enjoy, unmolested, the privacy of their houses, that they might even take the life of the unlawful intruder, if it be nighttime. This was also the sentiment of the Romans expressed by Tully: "*Quid enim sanctius quid omni religione munitius, quam domus uniuscuiusque civium.*"

It may be argued that the offense punishable under article 491 of the Penal Code corresponds to the crime of burglary at the common law. It is true that the offense of entering the house of another without the latter's consent and the common-law crime of burglary are both offenses against the habitation of individuals. But these crimes are distinctively different. The punishment for burglary is "to prevent the breaking and entering of a dwelling house of another in the nighttime for the purpose of committing a felony therein," while the object of article 491 is to prevent entrance into the dwelling house of another at any time, either by day or by night, for any purpose, against the will of its owner.

In burglary there must exist an intent to enter for the purpose of committing a felony, while under article 491 of the Penal Code entrance against the will, simply, of the owner is punishable. Under the provisions of the Penal Code entrance in the nighttime can only be regarded as an aggravation of the offense of entering.

We are of the opinion, under all of the facts in the case, that the attenuating circumstance provided for in article 11 of the Penal Code should not be considered in favor of these defendants.

We find that the defendants are guilty of the crime of entering the house of another with violence and intimidation, without the consent of the owner, with the aggravating circumstance of nocturnity, and hereby impose the maximum degree of *prisión correccional*, and the fine provided for in subsection 2 of article 491 of the Penal Code should be imposed.

The sentence of the court below is therefore modified, and each of the said defendants is hereby sentenced to be imprisoned for the term of six years of *prisión correccional*, and each to pay a fine of 271 pesos and the costs of this suit or in default thereof to suffer subsidiary imprisonment.

Arellano, C. J., Torres, Willard, and Mapa, J.L., concur.

Cooper and McDonough, J.L., dissent.

*Judgment modified.*

[No. 972. March 14, 1904.]

JOSE V. L. GONZAGA, plaintiff and appellant, vs. CARMEN F. DE CANETE, defendant and appellee.

1. NEW TRIAL; SECOND TRIAL BEFORE SAME JUDGE.—Unless the Supreme Court when granting a new trial designates another judge for that purpose the original trial judge is not disqualified to hear and decide the case.
2. APPELLATE PROCEEDING; REVIEW OF EVIDENCE; FINDINGS OF FACT; MOTION FOR A NEW TRIAL.—In the absence of a motion for a new trial upon the ground that the findings of fact are not supported by the evidence the Supreme Court will not review the evidence or retry the issues of fact.

3. PLEADING AND PRACTICE; EVIDENCE; DEMAND FOR APPOINTMENT OF COMMISSION TO SURVEY PROPERTY IN LITIGATION.—It is not error for the trial judge to refuse to appoint a commission to survey and make a plan of property in litigation; if evidence of this character is required it is the duty of the party offering it to have the survey made and then present the surveyors as his witnesses at the trial.
4. EVIDENCE; WITNESSES.—The fact that one of the witnesses for the defendant had been formerly the lawyer for the defendant does not disqualify him.
5. ID.; RECORDING TESTIMONY.—The denial of a motion that the testimony of the witnesses be taken down in writing is not error, there being no provision of law which requires this in civil cases.

APPEAL from a judgment of the Court of First Instance of Negros Occidental.

The facts are stated in the opinion of the court.

RAMON N. OROZCO, for appellant.  
P. Q. ROTHIROCK, for appellee.

WILLARD, J.:

This case has been before the court on three former occasions (1 Off. Gaz., 525, 346, 45). On April 1, 1902, a judgment for the defendant was reversed, and a new trial granted (1 Off. Gaz., 525). Upon the new trial judgment was again ordered for the defendant. The plaintiff excepted to the judgment, but did not move for a new trial. In the decision of December 3, 1902 (1 Off. Gaz., 45), in proceedings to settle a bill of exceptions, we held that we could not weigh the evidence nor retry the questions of fact. Certain exceptions, however, appear in the record, which will be considered.

1. The case was tried originally in the special court of Negros, created by Act 166 of the Commission. When the first judgment was reversed and a new trial ordered it was retried in the same court, against the objection and exception of the plaintiff. His claim is that, a new trial having been ordered, it became a new case and consequently was not a case pending on June 16, 1901. There is nothing in this point. There was only one suit pending between the parties. The new trial was a new trial of the old case.

2. The plaintiff claims that Judge Norris, having tried the case once, was disqualified to try it the second time. Section 504 of the Code of Civil Procedure allows the Supreme Court, when a new trial is granted, to designate another judge for that purpose. This is not mandatory, however. Judge Norris was competent to try the case.

3. The court below, in its decision, found that the defendant had acquired title by prescription to the use of the waters of the canal in question, and that when the municipality of Granada closed the canal it was acting without authority, and was a mere trespasser. The appellant assigns this holding as error. It is not necessary to determine this question, because the court found also as a fact that after the canal had been closed the defendant opened another canal which furnished the plaintiff the same power with which to operate his mill as had the old one, and that he had not been damaged by the act of the municipality. The plaintiff was not therefore entitled to rescind the lease by reason of this act.

The appellant insists that the evidence showed that the new canal did not furnish the same power as the old one, but as has been said before, we have no power to retry that question of fact.

4. We have already held that the failure of the defendant to furnish the carts called for by the contract was no ground for its rescission. (1 Off. Gaz., 525.)

5. By the contract of lease the defendant let to the plaintiff the hacienda called "Rosario." It was stated therein that it contained about 600 hectares, and the boundaries thereof were given. The plaintiff claims as one of his grounds for rescission that the hacienda included the tract known as "Lausurica," of which the defendant never put him in possession. The court made the following findings upon this point:

"It is clearly seen from the evidence that when the plaintiff took possession of the Rosario estate, which was when the contract of lease was drawn up, the representative of defendant accompanied the plaintiff and designated the land and boundaries of the said estate; that the lands which were delivered and the boundaries which were designated did not include the parcel called Lausurica."

"That the plaintiff remained in possession of the said estate for more than a year, without making any claim for said parcel of land, and that the first claim advanced by him in connection therewith was when he asked for the rescission of the contract, founding said claim on other grounds. No evidence whatever has been presented for the purpose of showing that the Rosario estate has not an area of 600 hectares, more or less, exclusive of the parcel called 'Lausurica,' and the court finds that it was not the intention of any of the parties in said contract of lease to include said parcel of land, and that the plaintiff has not proved his allegation in respect to this point."

These findings are conclusive against the plaintiff, as we can not review the evidence for the purpose of seeing if they are supported by it.

6. At the commencement of the introduction of evidence at the trial the plaintiff asked that the court appoint a commission to survey and make a plan of the hacienda, according to the boundaries described in the lease, and to measure the motive power furnished by each of the two canals. He excepted to the refusal of the court to appoint such a commission. This was not a refusal by the court to receive evidence offered by the plaintiff. He should himself have procured these experts, caused them to survey the land and measure the water, and then present them as his witnesses at the trial. As is said by the defendant's counsel in his brief, it was not the duty of the court to make, at its expense, an investigation for the purpose of ascertaining if the facts alleged in the plaintiff's complaint were true or not.

The motion of the plaintiff that a commission of bookkeepers be appointed to ascertain what the plaintiff's damages were, was properly denied for the same reason.

7. The fact that one of the witnesses for the defendant had been formerly the lawyer for the defendant in this suit was no ground for rejecting his testimony. (Code of Civil Procedure, secs. 382 and 383.)

8. The denial of the motion of the plaintiff that the testimony of the witnesses be taken down in writing was not error. There is no provision of law which requires this in civil cases.

9. We have already held (1 Off. Gaz., 45) that it was not necessary to incorporate in the bill of exceptions any of the documents presented by the plaintiff, and received in evidence without objection, with the exception of document No. 14, which does so appear.

No exceptions other than those hereinbefore discussed are mentioned by the appellant in his assignment of errors, or anywhere referred to in his brief.

The judgment is affirmed, with the cost of this instance against the appellant.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1057. March 15, 1904.]

ANTONIO DOMENECH, plaintiff and appellee, vs. ANASTASIO MONTES, defendant and appellant.

1. APPELLATE PROCEDURE; FINDINGS OF FACT; MOTION FOR A NEW TRIAL.—In the absence of a motion for a new trial the appellate court will assume the facts to be as found by the trial court, and will render judgment accordingly.
2. CONDITIONAL SALE; FAILURE TO REDEM WITHIN TIME STIPULATED.—The sale of real property subject to the condition that the vendor may repurchase within the period stipulated becomes absolute in case the right to redeem is not exercised within the time fixed by the terms of the contract.

APPEAL from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

HARTIGAN, MARPLE, SOLIGNAC, McCABE & GUTIERREZ, for appellant.

ENRIQUE BARRERA, for appellee.

ARELLANO, C. J.:

The only question in this case is whether the plaintiff is entitled to recover the possession of a piece of land which was sold to him under an agreement to repurchase in the year 1892, the land not having been repurchased in the period of one year from the date of the contract, it having been stipulated that the lapse of this term without the exercise of the right to repurchase would convert the sale into an absolute and irrevocable conveyance. In his answer the defendant alleged that he had repaid the 168 pesos mentioned in the deed as the purchase price received by him.

In the decision of the court below we find the following finding: "The defendant has not paid to the plaintiff the sum of 168 pesos or any part thereof." This finding having been made and there being no motion for a new for the purpose of this appeal we must assume that the purchase price was not returned and consequently that the right to demand the reconveyance was not exercised within the term stipulated.

This being so, the effect of the nonperformance of the resolutive condition attached to the sale, to wit, "but if the said period should expire without the exercise of the right of redemption, this sale shall become absolute," was to vest the fee absolutely in the plaintiff and consequently he was entitled to recover his property and such was the decision of the court below.

The judgment appealed is therefore affirmed, with the costs of this instance against the appellant. It is so ordered.

Torres, Cooper, Willard, Mapa, and McDonough, JJ., concur. Johnson, J., did not sit in this case.

*Judgment affirmed.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### CHINESE AND IMMIGRATION CIRCULAR.

No. 158.—*Immigration tax on Chinese persons.*

MANILA, April 25, 1904.

To all collectors of customs:

PARAGRAPH I. You are hereby directed to collect an immigration tax of \$2, United States currency, for each and every Chinese person or person of Chinese descent who shall come by steam, sail, or other vessel to any port in the Philippine Islands: *Provided*, That such Chinese person shall arrive from a port outside of the Philippine Islands.

PAR. II. Paragraph III of Chinese and Immigration Circular No. 114 is hereby revoked.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 302.—*Prescribing lights for vessels under way and at anchor in all harbors of the Philippine Islands (regulations adopted literally from the International Code and the Inland Code of the United States).*

MANILA, March 19, 1904.

To all collectors of customs:

PARAGRAPH I. The following rules, prescribing lights for vessels at anchor and under way, shall be observed from sunset to sun-

rise at all ports in the Philippine Islands; and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

PAR. II. *Steam vessels*.—A steam vessel when under way shall carry:

(a) *Masthead light*.—On or in front of the foremast, or if a vessel without a foremast then in the fore part of the vessel, at a height above the hull of not less than 20 feet, and if the breadth of the vessel exceeds 20 feet then at a height above the hull not less than such breadth, so, however, that the light need not be carried at a greater height above the hull than 40 feet, a bright white light, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points above the beam on either side, and of such a character as to be visible at a distance of at least 5 miles.

(b) *Side lights*.—On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least 2 miles.

On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least 2 miles.

The said green and red side lights shall be fitted with inboard screens projecting at least 3 feet forward from the light, so as to prevent these lights from being seen across the bow; these screens to be fixed on the vessel in a permanent position.

(c) *Range lights*.—A white light, similar in construction and in addition to the light mentioned in subdivision (a) of Paragraph II, may be carried by a steam vessel when under way. These two lights shall be so placed in line with the keel that one shall be at least 15 feet higher than the other, and in such position with reference to each other that the lower light shall be forward of the upper one. The vertical distance between these lights shall be less than the horizontal distance.

(d) *When towing*.—A steam vessel when towing another vessel shall, in addition to her side lights, carry two bright white lights in a vertical line one over the other, not less than 6 feet apart, and when towing more than one vessel shall carry an additional bright white light 6 feet above or below such light, if the length of the tow measuring from the stern of the towing vessel to the stern of the last vessel towed exceeds 600 feet. Each of these lights shall be of the same construction and character, and shall be carried in the same position, as the white light mentioned in subdivision (a) of Paragraph II, excepting the additional light, which may be carried at a height of not less than 14 feet above the hull. Such steam vessel may carry a small white light abaft the funnel or aftermast for the vessel towed to steer by, but such light shall not be visible forward of the beam.

PAR. III. *Special lights*.—(a) A vessel which from any accident is not under command shall carry at the same height as a white light mentioned in subdivision (a) of Paragraph II, where they can best be seen, and if a steam vessel, in lieu of that light, two red lights, in a vertical line one over the other, not less than 6 feet apart, and of such a character as to be visible all around the horizon at a distance of at least 2 miles; and shall by day carry in a vertical line one over the other, not less than 6 feet apart, where they can best be seen, two black balls or shapes, each 2 feet in diameter.

(b) A vessel employed in laying or in picking up a telegraph cable shall carry in the same position as the white light mentioned in subdivision (a) of Paragraph II, and if a steam vessel

in lieu of that light, three lights in a vertical line one over the other not less than 6 feet apart. The highest and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character as to be visible all around the horizon, at a distance of at least 2 miles. By day she shall carry in a vertical line, one over the other, not less than 6 feet apart, where they can best be seen, three shapes not less than 2 feet in diameter, of which the highest and lowest shall be globular in shape and red in color, and the middle one diamond in shape, and white.

The vessels referred to in this paragraph, when not making way through the water, shall not carry the side lights, but when making way shall carry them.

The lights and shapes required to be shown by this paragraph are to be taken by other vessels as signals that the vessel showing them is not under command, and can not, therefore, get out of the way. These signals are not signals of vessels in distress, and requiring assistance. Such signals are prescribed in Paragraph X of this circular.

PAR. IV. *Lights for sailing vessels and vessels in tow.*—A sailing vessel under way and any vessel being towed shall carry the same lights as are prescribed in paragraph II for a steam vessel under way, with the exception of the white lights mentioned therein, which they shall never carry.

PAR. V. *Lights for small vessels.*—Whenever, as in the case of small vessels under way during bad weather, the green and red side lights can not be fixed, these lights shall be kept at hand, lighted and ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than two points abaft the beam on their respective sides. To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens.

PAR. VI. *Lights for small steam vessels not fitted with masts, small sail vessels, and open boats.*

1. Small steam vessels not fitted with masts shall carry—

(a) In place of the masthead light provided for in subdivision (a) of Paragraph II, a bright white light, fixed either on the funnel at a distance of about 6 feet from the hull, or at about the same distance from the hull at the forward end of the awning ridge pole, such as vessels of this class carry at the present time.

(b) Side lights, as prescribed in subdivision (b) of Paragraph II.

(c) When towing other vessels, in addition to the white light prescribed in subdivision (a) of this paragraph, another white light so fixed as to be below the first, and on the gunwale of the vessel.

(d) When at anchor a bright white light forward, where it can best be seen, so constructed that it will show a clear, unbroken light all around the horizon at a distance of at least 1 mile.

*Provided,* That small steam vessels not fitted with masts may carry, in place of the lights prescribed in this paragraph, with the exception of the towing and anchor lights, a combined green, white and red light, fixed in the same position as prescribed for the white light in subdivision (a) of this paragraph.

2. Vessels under oars or sails, such as lorchas, cascos, bancas, paraos, and other vessels of like class, of less than 20 tons, shall have ready at hand a lantern with a green glass on one side and a red glass on the other, which, on the approach of or to other vessels, shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

Such vessels when at anchor shall carry a bright white light in a lantern, so fixed as to be visible all around the horizon at a distance of at least 1 mile.

The vessels referred to in the foregoing paragraph shall not be required to carry the lights prescribed in Paragraphs III and VIII.

PAR. VII. *Lights for an overtaken vessel.*—A vessel which is being overtaken by another shall show from her stern to such last-mentioned vessel a white light or a flare-up light.

The white light required to be shown by this paragraph may be fixed and carried in a lantern, but in such case the lantern shall be so constructed, fitted, and screened that it shall throw an unbroken light over an arc of the horizon of twelve points of the compass, namely, for six points from right aft on each side of the vessel, so as to be visible at a distance of at least 1 mile. Such light shall be carried as nearly as practicable on the same level as the side lights.

PAR. VIII. *Anchor lights.*—A vessel under 150 feet in length when at anchor shall carry forward, where it can best be seen, but at a height not exceeding 20 feet above the hull, a white light, in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least 1 mile.

A vessel of 150 feet or upward in length when at anchor shall carry in the forward part of the vessel, at a height of not less than 20 and not exceeding 40 feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall be not less than 15 feet lower than the forward light, another such light.

The length of a vessel shall be deemed to be the length appearing in her certificate of registry.

A vessel aground in or near a fairway shall carry the above lights and the two red lights prescribed by Paragraph III, subdivision (a).

PAR. IX. *Special signals.*—Every vessel may, if necessary in order to attract attention, in addition to the lights which she is by these rules required to carry, show a flare-up light or use any detonating signal that can not be mistaken for a distress signal.

PAR. X. *Distress signals.*—When a vessel is in distress and requires assistance from another vessel or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, namely:

#### IN THE DAYTIME.

First. A gun or other explosive signal fired at intervals of about a minute.

Second. The international code signal of distress indicated by N. C.

Third. The distance signal, consisting of a square flag, having either above or below it a ball or anything resembling a ball.

Fourth. A continuous sounding with any fog-signal apparatus.

#### AT NIGHT.

First. A gun or other explosive signal fired at intervals of about a minute.

Second. Flares on the vessel (as from a burning tar barrel, oil barrel, and so forth).

Third. Rockets or shells throwing stars of any color or description, fired one at a time, at short intervals.

Fourth. A continuous sounding with any fog-signal apparatus.

PAR. XI. This circular shall be printed in English and Spanish, and upon receipt of a supply of same, collectors and other officers of the Customs shall cause to be immediately delivered to the master of each vessel engaged in the trade in their respective districts, and subject to the regulations herein prescribed, a copy of this circular, in the language desired.

PAR. XII. The foregoing regulations shall go into effect at all ports in the Philippine Islands on April 1, 1904.

PAR. XIII. Philippine customs officers are enjoined to give widespread publicity to the terms of this circular.

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

No. 308.—Blank forms sold by Philippine customs service.

MANILA, April 16, 1903.

To all Collectors of Customs:

PARAGRAPH I. The following rates shall be charged for blank forms sold by collectors and inspectors of customs in the Philippine Islands:

Form No. 25, Philippine Customs Service, Export Declaration, per set original and duplicate.....	₱0.05
Form No. 26, Philippine Customs Service, Passenger Manifest, each.....	.05
Form No. 40, Philippine Customs Service, Immigration Manifest, each.....	.05
Form No. 63, Philippine Customs Service, Warehousing Bond, each.....	.05
Form No. 72, Philippine Customs Service, Coasting Manifest, per set of original and duplicate.....	.05
Form No. 73, Philippine Customs Service, Coasting Manifest, for Transit Cargo, each.....	.05
Form No. 88, Philippine Customs Service, Foreign Manifest (outward), each.....	.02
Form No. 89, Philippine Customs Service, Foreign Manifest (inward), each.....	.02
Form No. 96, Philippine Customs Service, Manifest of Ships' Stores, each.....	.05
Forms No. 31 and 162, Philippine Customs Service, Landing Certificates, each.....	.05

PAR. II. At all ports of entry in the Philippine Islands, except Manila, the following additional blank forms shall be sold at the rates hereinafter prescribed, until further orders from this office:

Form No. 11, Philippine Customs Service, Entry for Immediate Consumption, per set of original and duplicate.....	₱0.05
Form No. 249, Philippine Customs Service, Withdrawal from Bonded Warehouse for Consumption, per set of original and duplicate.....	.05

PAR. III. Masters of Coastwise vessels are hereby notified to purchase Form No. 72, Philippine Customs Service, Coasting Manifest, at ports of entry, where they are sold at ₱0.05 per set of original and duplicate. A small supply of these blanks shall be furnished to inspectors of customs at coastwise ports for sale in cases of emergency, at the rate of ₱0.20 per set of original and duplicate.

PAR. IV. All prices above given are in Philippine currency, and the receipts from the sale of these forms shall be accounted for as "sales of blank forms."

PAR. V. Customs Administrative Circular No. 66 is hereby revoked.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 309.—Pramulgating regulations for vessels entering and clearing from coastwise ports and coastwise subports; revoking Customs Administrative Circular Number 93.

MANILA, April 21, 1903.

To all Collectors of Customs:

PARAGRAPH I. Local conditions in the Islands having changed and improved with reference to customs supervision of the coastwise trade, the regulations (Customs Administrative Circular No. 93) heretofore governing are revoked and superseded by the following, which are intended as a modification, and framed to make the same less exacting.

PAR. II. Masters of coastwise vessels on entering a coastwise port or coastwise subport shall, as soon as inspected by the quarantine officer, proceed in person to the office of the inspector of customs, and make entry of their vessels, by depositing with the inspector of customs the original manifest of passengers and cargo on board the vessel for the port, and paying the entrance fee provided by law. Customs stamps in the required sum, as provided for in section 284 of the Customs Administrative Act, amended by Act 678, shall be attached to the manifest presented to the inspector, in payment of the entrance fee.

PAR. III. Passengers shall be allowed to land at once upon arrival of the vessel and after inspection by the quarantine officer, and shall not be detained pending the entrance of the vessel at the office of the inspector of customs.

PAR. IV. Between the hours of sunrise and sunset cargo may be unladen before the vessel has regularly entered at the office of the inspector of customs, as provided for in Paragraph II of these regulations, but such entrance shall be perfected prior to the clearance and departure from the port at which such cargo is discharged.

PAR. V. No unmanifested cargo, except for the United States Army or Navy, or the Insular Government, shall be discharged from a vessel except by permission of the collector of customs within whose collection district the coastwise port or coastwise subport is located.

PAR. VI. Should a vessel have on board cargo for the United States Army or Navy or the Insular Government which is unmanifested the inspector of customs shall permit the same to be at once discharged, and shall immediately render a report covering the shipment, together with all the facts in the case, to the collector of customs within whose district the port is located.

PAR. VII. Lifeboats shall not be used for the purpose of discharging or loading cargo, except in cases of extreme necessity.

PAR. VIII. In every case where lifeboats are so used, the master of the vessel shall make a written report to the inspector of customs, setting out all the facts in the case. This report shall be forwarded by the inspector of customs to the collector of customs within whose collection district the port is located.

PAR. IX. Masters shall report in writing every case of death and every case of sickness from contagious or infectious disease occurring on their vessels while in port to the proper health officers, and to the inspector of customs.

PAR. X. Vessels entering a port at night shall display the proper running lights.

PAR. XI. Vessels anchored in port shall display, by night, the proper side and masthead lights.

PAR. XII. No vessels shall enter a closed port without permission of a collector of customs, or of the inspector of customs at the last port of call touched by the vessel before proceeding to the closed port, and in every case where permission is given to enter a closed port the entrance and clearance fees for the closed port shall be collected by the inspector of customs clearing the vessel for such port.

PAR. XIII. Every entrance into a closed port without the necessary permission shall be reported in writing by the inspector of customs under whose notice it comes to the collector of customs in whose collection district the port is located. The inspector shall also make the following notation on the manifest of the vessel:

"This vessel entered the closed port of ..... on the ..... day of ..... 190... without being cleared therefor or having the required permission.

(Signed) "....."  
"Inspector of Customs."

PAR. XIV. In extraordinary cases of entrance into closed ports without permission, and where the collector of customs can be reached by telegraph, the inspector of customs shall report the

case by telegraph to the collector of customs, and hold the vessel until instructions regarding her are received from the collector of customs to whom the facts were reported.

PAR. XV. Masters shall notify the inspector of customs in advance of the hour their vessels are expected to leave port, and shall present manifests in duplicate properly made out for all cargo loaded at the port, and shall swear to the same before the inspector of customs.

PAR. XVI. In every case where live stock is taken aboard a vessel, inspectors of customs shall see that a sufficient supply of forage and fresh water is loaded to feed and water the animals until their port of destination is reached; and no clearance shall be granted a vessel loading live stock until such a supply and forage is provided by the master of the vessel.

PAR. XVII. Inspectors of customs shall be the judge of when a sufficient supply of forage and water has been provided as required by the preceding paragraph.

PAR. XVIII. Upon the presentation of the manifest referred to in Paragraph II, the inspector of customs shall cause it to be sworn to as provided by Paragraph XV, and shall require the masters to attach thereto customs stamps in the sum required by law. The original manifest shall then be signed by the inspector of customs and delivered to the master of the vessel, and the duplicate manifest shall be filed in the office of the inspector of customs.

PAR. XIX. No ashes, cinders, or garbage, or refuse of any kind, shall be dumped or thrown overboard while in port.

PAR. XX. Inspectors of customs are enjoined to facilitate the discharge and lading of vessels in their ports by every legitimate means.

PAR. XXI. Vessels may clear from an entry port in the Islands to another port without first presenting a complete manifest of all cargo on board. A provisional manifest may be accepted by collectors of customs upon which clearance can be permitted, with the understanding that the ship's agent shall, within twenty-four hours after the vessel's clearance, Sundays and legal holidays excepted, present to the collector of customs clearing the vessel a completed manifest, giving in detail the usual particulars of all cargo laden on board, and such manifest shall be attached to and filed with the corresponding provisional manifest. The above exemption shall not in any instance apply to "In transit, foreign cargo," shipped coastwise.

PAR. XXII. Inspectors of customs shall report in writing all violations of customs law or these regulations that come under their notice.

PAR. XXIII. The attention of all masters and officers of coastwise vessels, of coast district and deputy coast district inspectors of customs, and of inspectors of customs, is especially directed to Chapter X of the Philippine Customs Administrative Act, entitled "Coastwise trade."

PAR. XXIV. This circular shall take effect May 1, 1904.

PAR. XXV. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 310.—Closing the ports of Alfonso XIII and Calasian, Island of Paragua, to the coastwise trade.

MANILA, April 28, 1904.

By authority of the Civil Governor of the Philippine Islands, the ports of Alfonso XIII and Calasian, Island of Paragua, are hereby declared closed to the coastwise trade.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

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MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 73.—Amending Manila Custom-House General Order No. 48.

MANILA, April 27, 1904.

PARAGRAPH I. Paragraph IX of Manila Custom-House General Order No. 48 is hereby amended, to read as follows:

"PAR. IX. The arrastre charges on all merchandise landed at the custom-house wharf shall be figured by multiplying the gross weight or gross volume measurement, reduced to tons, of each consignment, as shown by the entry or the bill of lading or by actual weight or measurement, by the rate per ton. Whichever makes the larger number of tons, the weight or the volume measurement, shall be used, but not both. A ton shall be 1,000 kilograms by weight, or 40 cubic feet by volume."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

MUNICIPAL SCHOOL WORK.

*Governor's appreciation expressed.*

MANILA, April 9, 1904.

SIR: I have the honor to inform you that you most favorable reports have been received at this office regarding the attendance, interest manifested, and the general good character of the public school work being done in Camiling, and I am directed by the Civil Governor to express to you and, through you, to the school board and the people of your town, his sincere appreciation of the valuable assistance rendered by the municipal officers and others in the premises.

Very respectfully,

A. W. FERGUSSON,

*Executive Secretary.*

MR. MACARIO SAGUN.

*Municipal President, Camiling, Tarlac.*

APPOINTMENTS.

By the Honorable Civil Governor.

Provinces.

AMBOS CAMARINES.

John Q. A. Braden, acting provincial governor, April 28.

CAVITE.

Elmer O. Worric, provincial supervisor, April 25.

ISABELA.

George Curry, provincial governor, April 19.

Eliseo Claravall, provincial secretary, April 26.

MISAMIS.

Isabelo Abellanosa, acting provincial secretary, May 2.

SURIGAO.

Mariano Espana, member of the tax revision board, April 13.

Maximo Corrales, member of the tax revision board, April 13.

By the Philippine Civil Service Board.

*Executive Department.*

EXECUTIVE BUREAU.

Leopold Roeder, clerk, May 1, \$1,400; promotion from \$1,200.

H. S. Hodgson, clerk, April 9, \$1,200; transfer from treasury, Albay, \$1,200.

H. S. Hodgson, clerk, May 1, \$1,400; promotion from class 9.

BUREAU OF THE INSULAR PURCHASING AGENT.

A. A. Blank, truck driver, March 3, \$900; promotion from teamster, \$720.

John O. Nicholas, chief watchman, March 1, \$900; promotion from watchman, \$720.

B. A. Greenwood, clerk, April 9, \$900; probational appointment.

C. B. Webb, clerk, April 9, \$900; probational appointment.  
Albert Ellis, superintendent of transportation, April 1, \$1,400; promotion from \$1,200.

Nicolas Santos, clerk, April 9, \$420; promotion from Class H.  
Owen E. Searson, teamster, April 14, \$720; probational appointment.

Charles Miller, clerk, April 12, \$1,000; transfer from Philippines Constabulary, Class A.

J. F. Haynor, teamster, April 22, \$720; transfer from Insular Cold Storage and Ice Plant.

J. S. Robertson, teamster, April 22, \$720; transfer from Insular Cold Storage and Ice Plant.

#### *Department of the Interior.*

##### BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

Francisco Roxas, supervising vaccinator, April 8, \$360; promotion from vaccinator, \$240.

Gustave Herman Maye, inoculator, March 21, \$900; probational appointment.

Jose Asuncion, inoculator, April 11, \$240; reinstatement from sanitary inspector, Class I.

Felix Nicolas, inoculator, April 11, \$240; reinstatement from sanitary inspector, Class I.

Dalmacio Lagrosa, inoculator, April 11, \$240; reinstatement from sanitary inspector, Class I.

Casimiro Tapia, inoculator, April 11, \$240; reinstatement from sanitary inspector, Class I.

Ramon Yan, inoculator, April 11, \$240; reinstatement from sanitary inspector, Class I.

Florentino Herrera, municipal physician, April 22, \$750; probational appointment.

Julian Macaraeg, assistant pharmacist, April 20, \$240; probational appointment.

Juan Gonzaga Jesena, telephone clerk, April 21, \$360; probational appointment.

Joaquin Preysler, clerk, April 6, \$600; reduction from Class A.

##### FORESTRY BUREAU.

Ralph E. Frazier, assistant inspector, April 7, \$900; probational appointment.

Petronilo Cortes, ranger, April 11, \$300; probational appointment.

Aurelio Buhay, ranger, April 11, \$300; probational appointment.

Silvino Garcia, ranger, March 7, \$360; promotion from \$300.  
Lupo Diaz, ranger, April 1, \$360; promotion from \$300.

William L. Spurling, assistant inspector, April 8, \$1,200; transfer from custom-house, \$1,200.

Thomas E. Borden, assistant inspector, April 17, \$1,200; transfer from Bureau of Education, \$1,000 (teacher).

Rolland Gardner, assistant engineer, April 22, \$1,200; transfer from Bureau of Education, teacher.

Jose G. Graham, ranger, April 14, \$300; probational appointment.

Marcial de Jesus, ranger, April 20, \$300; probational appointment.

##### MINING BUREAU.

R. C. Redmayne, chief clerk and stenographer, May 1, \$1,400; promotion from class 9.

##### PHILIPPINE CIVIL HOSPITAL.

Melvina M. McKeever, matron, April 1, \$900; promotion from nurse, \$720.

Theresa Ericksen, dietist, April 1, \$900; promotion from nurse, \$720.

Margaret McCann, nurse, April 3, \$720; probational appointment.

Roger Gorman, attendant, April 27, \$600; probational appointment.

##### BUREAU OF GOVERNMENT LABORATORIES.

Gus M. Nell, stenographer and typewriter, April 3, \$1,200; probational appointment.

Adam D. Tanner, clerk, April 27, \$1,200; probational appointment.

##### CIVIL SANITARIUM, BENGUET.

Morton L. Monson, clerk, March 11, \$1,200; transfer from class 9, Bureau of Government Laboratories.

#### *Department of Commerce and Police.*

##### BUREAU OF POSTS.

Thomas W. Coverston, clerk, January 22, \$1,400; transfer from postmaster, Malabang, Mindanao.

John B. Horton, clerk, April 5, \$900; probational appointment.  
Isaac N. Braan, clerk, April 7, \$900; reinstatement.

Numeriano Edralin, letter carrier (mounted), April 1, \$720; promotion from carrier, \$480.

Raymundo Decena, clerk, May 1, \$180; promotion from \$150.

Cecilia W. Farwel, postmaster, Legaspi, April 1, \$900; probational appointment.

William C. Carriek, clerk, Aparri post-office, April 23, \$900; probational appointment.

William B. Young, postmaster, Sorsogon, May 1, \$1,000; promotion from \$900.

Vicente Enriquez, clerk, May 1, \$360; promotion from \$300.  
Chatham Mizell, clerk, April 23, \$900; transfer from first-class patrolman.

B. French, clerk, April 29, \$1,000; reinstatement.

##### BUREAU OF PHILIPPINES CONSTABULARY.

D. Delmar Douglas, clerk, April 3, \$1,200; probational appointment.

Edmond Sherwood, clerk, April 15, \$1,000; probational appointment.

✓ Honorio Lopez, clerk, April 1, \$240; probational appointment.  
Chastino Lumaug, engineer, April 1, \$360; probational appointment.

Aniceto C. Dionicio, patron, April 1, \$360; probational appointment.

Max R. Welch, cargador, April 1, \$1,200; probational appointment.

Conrad Lagerstrem, blacksmith, April 1, \$900; probational appointment.

Tomas San Luis, clerk, April 11, \$240; probational appointment.

Aquilino Calixto Siat, clerk, March 27, \$180; probational appointment.

##### BUREAU OF PRISONS.

Hugo Prengman, machinist, April 11, \$1,200; probational appointment.

Rosendo Jimenez, carpenter, April 1, \$480; probational appointment.

Damian Pangan, keeper, April 6, \$240; transfer from guard, \$240.

Emery Reeves, guard, April 17, \$900; probational appointment.

Santiago de Lara, guard, April 14, \$240; probational appointment.

Jennings W. Carter, inspector of guards, April 25, \$1,200; promotion from guard, \$900.

**BUREAU OF COAST GUARD AND TRANSPORTATION.**

Edwin Link, assistant overseer, March 31, \$900; probational appointment.

J. Garrido, light keeper, April 1, \$420; promotion from keeper, \$360.

S. Gregorio, light keeper, March 1, \$360; reduction from \$480. J. Fernandez, light keeper, April 1, \$360; reduction from \$480.

Joseph E. Mody, civil engineer, April 14, \$1,400; probational appointment.

E. Mariano, light keeper, April 25, \$360; promotion from \$300.

**BUREAU OF COAST AND GEODETIC SURVEY.**

Jorge Sunico, junior draftsman, April 1, \$300; probational appointment.

**BUREAU OF ENGINEERING.**

M. Dobbings, transitman, April 14, \$1,400; probational appointment.

V. E. Towles, recorder, March 30, \$1,200; probational appointment.

H. R. Haves, clerk, April 14, \$1,200; probational appointment.

D. J. Richards, recorder, March 25, \$900; transfer from Bureau of Posts.

D. J. Richards, recorder, April 1, \$1,200; promotion from Class A.

*Department of Finance and Justice.*

**BUREAU OF THE INSULAR TREASURY.**

Volney Eaton, clerk, May 1, \$1,600; promotion from class 8.

Jacob Feldman, clerk, April 1, \$1,400; promotion from class 9.

**BUREAU OF THE INSULAR AUDITOR.**

Nye A. Lowel, clerk, March 14, \$900; probational appointment.

**BUREAU OF CUSTOMS AND IMMIGRATION.**

Lawrence Benton, storekeeper, May 2, \$1,200; promotion from \$900.

Homer W. Kailer, immigration inspector, March 1, \$1,400; promotion from \$1,000.

Gustav T. Schlater, clerk, March 1, \$1,200; promotion from \$1,000.

Ladislao Cueto, storekeeper, March 8, \$300; promotion from \$240.

Esteban Gorospe, clerk, March 1, \$240; promotion from \$180. Casiano Gutierrez, clerk, March 1, \$240; promotion from \$180.

Urbano, Mendoza, clerk, March 8, \$240; promotion from \$180. Stanley A. Roberts, fourth-class examiner, March 1, \$1,000; reduction from class 9.

Hary Carmichael, storekeeper, March 1, \$900; reduction from class 10.

G. I. Vaughn, fourth-class inspector, March 8, \$900; reduction from class 10.

L. F. Barreto, deputy coast district inspector, April 1, \$900; probational appointment.

George H. Frey, clerk, March 14, \$900; probational appointment.

Anna R. Clifford, clerk, April 13, \$900; probational appointment.

Andrew B. Cresap, fourth-class examiner, April 14, \$900; probational appointment.

Melville C. Earnest, fourth-class examiner, April 18, \$900; probational appointment.

Verner H. Petre, stenographer, March 24, \$1,600; promotion from class 8.

John U. Longaker, clerk, March 10, \$1,400; promotion from class 9.

Albert S. Falconer, second-class inspector, March 10, \$1,200; promotion from fourth-class inspector, \$900.

Charles F. Zeek, clerk, March 1, \$1,000; promotion from \$900. Walter E. Steele, immigration inspector, April 18, \$1,200; promotion from fourth-class inspector, \$900.

Vicente Aldanese, inspector, April 1, \$1,000; promotion from clerk, \$900.

Martin Torres, clerk, March 22, \$240; promotion from \$180. Cayetano Tirado, weigher, March 25, \$240; promotion from clerk, \$180.

Antonio Alejandro, guard, March 19, \$240; reinstatement. Faustino Luciano, clerk, March 22, \$180; reinstatement.

Victorio Gonzales, clerk, March 22, \$180; reinstatement. Martin J. Cernik, baggage inspector, March 9, \$900; transfer from Bureau of Philippines Constabulary, \$1,200.

Herman C. Liebenow, inspector of boilers, February 1, \$2,000; reduction from \$2,250.

Rufino Villafuerte, guard, March 10, \$240; reduction from clerk, \$300.

**INSULAR COLD STORAGE AND ICE PLANT.**

Albert H. Troge, watchman, April 21, \$720; probational appointment.

Walter F. Gilbert, teamster, May 10, \$900; promotion from \$720.

Hary W. Bush, teamster, April 22, \$720; reinstatement.

**BUREAU OF JUSTICE.**

Charles G. Murray, stenographer, April 16, \$1,400; promotion from \$1,200.

Horace E. Partridge, stenographer, April 18, \$1,600; transfer from Executive Bureau.

Willoughby F. Colton, clerk, April 17, \$900; transfer from Bureau of Education.

Andres Salazar, copyist, Court of First Instance, May 1, \$240; probational appointment.

**COURT OF LAND REGISTRATION.**

Antonio Gomez, clerk, April 1, \$420; probational appointment.

Arsenio Gomez, clerk, April 15, \$360; probational appointment.

Marceliano A. Nepomuceno, clerk, April 16, \$300; probational appointment.

*Department of Public Instruction.*

**BUREAU OF EDUCATION.**

Everett M. Ellison, teacher, March 16, \$1,200; probational appointment.

Hary A. Seaver, teacher, April 3, \$1,200; probational appointment.

Leo J. Grove, teacher, April 3, \$1,000; probational appointment. Clark James, teacher, April 3, \$1,000; probational appointment.

E. Rainville Roberts, teacher, April 3, \$1,000; probational appointment.

Omar L. Babcock, teacher, March 30, \$900; probational appointment.

Hattie A. Grove, teacher, April 3, \$900; probational appointment.

Frank L. Smith, teacher, April 3, \$900; probational appointment.

Howard S. Strasbaugh, teacher, April 3, \$900; probational appointment.

William Wallace, teacher, March 16, \$900; probational appointment.

Byron R. Wyckoff, teacher, April 3, \$900; probational appointment.



R. W. Taylor, teacher, January 1. \$1,400; promotion from \$1,200.

H. E. Cutler, teacher, January 1, \$1,200; promotion from \$1,080.

Jesse R. Barry, jr., teacher, April 14, \$1,000; probational appointment.

Frances H. Gray, teacher, January 1, \$1,200; promotion from \$1,000.

William K. Blessing, clerk, March 21, \$1,000; transfer from Bureau of Philippines Constabulary.

#### BUREAU OF PUBLIC PRINTING.

Julio Ignacio, apprentice, April 16, \$0.40; promotion from class 5.

Rosendo Cruz, apprentice, April 16, \$0.40; promotion from class 5.

Aquilino Gabriel, apprentice, April 16, \$0.40; promotion from class 5.

Joaquin Reyes, apprentice, April 16, \$0.40; promotion from class 5.

Ambrosio Pablo, apprentice, April 16, \$0.40; promotion from class 5.

Gisberto de la Rosa, apprentice, April 16, \$0.30; promotion from class 6.

Filomeno Antonio, junior bookbinder, May 1, ₱1.75; probational appointment.

Manuel Herrera, junior bookbinder, May 1, ₱1.25; probational appointment.

Nicasio Paguinto, junior compositor, April 19, ₱1.50; probational appointment.

Venancio Dungka, apprentice, April 21, \$0.20; probational appointment.

Teogenes Geslani, apprentice, April 21, \$0.20; probational appointment.

Gabriel Labog, apprentice 21, \$0.20; probational appointment.

Alfredo Rosete, apprentice, April 21, \$0.20; probational appointment.

Severino Palacio, apprentice, April 19, \$0.30; promotion from class 6.

Amando Vera, apprentice, April 19, \$0.30; promotion from class 6.

George A. Mayhew, watchman, May 1, \$720; probational appointment.

Gregorio Novicio, apprentice, April 26, \$0.20; probational appointment.

Isaias Dimalanta, apprentice, May 1, \$0.40; promotion from class 5.

Pablo Lucas, apprentice, May 1, \$0.40; promotion from class 5.

Antonio Marella, apprentice, May 1, \$0.40; promotion from class 5.

Basilio Vizcarra, apprentice, May 1, \$0.40; promotion from class 5.

#### BUREAU OF ARCHITECTURE.

E. L. Danley, foreman carpenter, April 20, \$1,200; probational appointment.

#### BUREAU OF ARCHIVES.

Francisco Tolentino, clerk, April 1, \$600; promotion from Class F.

Catalino Tuason, clerk, April 1, \$360; promotion from Class J.

#### OFFICIAL GAZETTE.

Emilio Ocampo, clerk, April 1, \$300; promotion from \$240.

#### City of Manila.

#### DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

Charles J. Kosel, clerk, April 13, \$1,200; transfer from fourth-class examiner, \$1,000.

Juan Espiritu, clerk, April 26, \$240; probational appointment. Candido Reyes, clerk, April 8, \$240; probational appointment.

#### DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Mason Adams, watchman, April 10, \$720; probational appointment.

John F. Callahan, teamster, April 8, \$720; probational appointment.

Edward P. Boyd, architectural draftsman, April 8, \$1,400; transfer from Bureau of Architecture, \$1,400.

Mariano Villalor, mechanic, April 13, \$360; probational appointment.

James M. Smith, teamster, April 20, \$720; probational appointment.

Robert Frost, mechanic, April 1, \$1,000; promotion from \$900. Antonio Quesada, foreman, streets and parks, March 1, \$480; promotion from \$420.

Joshua T. Colvin, inspector of plumbing, May 1, \$1,000; promotion from overseer, pail system, \$1,200.

#### MUNICIPAL BOARD.

Emilio Ledesma, clerk, April 8, \$480; probational appointment.

#### POLICE DEPARTMENT.

Hugo Hagenhofer, patrolman, April 7, \$900; probational appointment.

John G. Hartman, patrolman, April 9, \$900; probational appointment.

Matthew J. Sallenger, patrolman, April 6, \$900; probational appointment.

John E. Sandelin, patrolman, April 11, \$900; probational appointment.

A. W. Holmes, patrolman, April 6, \$900; reinstatement.

William T. Enloe, patrolman, April 2, \$900; probational appointment.

Fred H. Buldager, patrolman, April 2, \$900; probational appointment.

Frank Childs, patrolman, April 4, \$900; reinstatement.

Pedro Rodriguez, patrolman, February 1, \$375; promotion from patrolman, third class.

William Murphy, clerk, April 1, \$1,400; promotion from class 9.

John S. Jones, roundsman, April 9, \$1,200; promotion from patrolman, \$1,080.

Walter Harper, patrolman, April 9, \$1,080; promotion from \$1,000.

Augustus P. Hincley, patrolman, April 8, \$1,080; promotion from \$1,000.

John M. Kosuth, patrolman, April 1, \$1,080; promotion from \$1,000.

John B. Floyd, patrolman, April 3, \$1,000; promotion from \$900.

William A. Harrison, patrolman, April 22, \$1,000; promotion from \$900.

William Martin, patrolman, April 2, \$1,000; promotion from \$900.

William G. Pauley, patrolman, April 1, \$1,000; promotion from \$900.

Frederick Paulson, patrolman, April 3, \$1,000; promotion from \$900.

William G. Schaefer, patrolman, April 25, \$900; probational appointment.

Myer F. Slater, patrolman, April 18, \$900; probational appointment.

Vidal Escudal, patrolman, April 25, \$240; probational appointment.

Antonio de Gomas, patrolman, April 27, \$240; probational appointment.

Amadeo Gregorio, patrolman, April 18, \$240; probational appointment.

Gregorio Manago, patrolman, April 20, \$240; probational appointment.

Isidoro Mendoza, patrolman, April 20, \$240; probational appointment.

Pio Nilo, patrolman, April 20, \$240; probational appointment.

Basilio Padilla, patrolman, April 23, \$240; probational appointment.

Agapito Pilon, patrolman, April 20, \$240; probational appointment.

Leon Santa Agueda, patrolman, April 15, \$412; promotion from \$375.

Hilario Elejer, patrolman, April 20, \$360; promotion from \$330.

Catalino Santiago, patrolman, April 4, \$330; promotion from \$300.

Genaro Carmona, patrolman, April 28, \$300; promotion from \$240.

Francisco Cruz, patrolman, April 1, \$300; promotion from \$240.

Anastasio Dinglasan, patrolman, April 1, \$300; promotion from \$240.

Mariano Espina, patrolman, April 28, \$300; promotion from \$240.

Victoriano Favila, patrolman, April 6, \$300; promotion from \$240.

Anacleto Gonzales, patrolman, April 28, \$300; promotion from \$240.

Cipriano Hernandez, patrolman, April 28, \$300; promotion from \$240.

Enrique Llamado, patrolman, April 28, \$300; promotion from \$240.

Gaspar Lopez, patrolman, April 28, \$300; promotion from \$240.

Felix Macaraeg, patrolman, April 28, \$300; promotion from \$240.

Bonifacio Mamaril, patrolman, April 28, \$300; promotion from \$240.

Federico Mendez, patrolman, April 28, \$300; promotion from \$240.

Antonio Noblejas, patrolman, April 2, \$300; promotion from \$240.

Francisco Ramos, patrolman, April 1, \$300; promotion from \$240.

#### FIRE DEPARTMENT.

Willard B. Evans, fireman, first class, April 16, \$900; probational appointment.

Charles S. Schlosser, clerk, April 23, \$900; probational appointment.

#### Provinces.

##### ABRA.

Basil G. Butler, chief clerk, April 3, \$1,200; probational appointment.

##### ALBAY.

Fred M. Cull, deputy treasurer and chief clerk, April 11, \$1,200; transfer from clerk, Class A, Bureau of Education.

Frank Peshick, deputy treasurer and clerk, April 12, \$1,200; probational appointment.

##### ANTIQUE.

Nicolas Abiera, clerk, February 11, \$360; probational appointment.

##### BENGUET.

James F. Pfau, assistant engineer, improvements in Benguet, February 1, \$1,500; transfer from chief watchman, Bureau of Public Lands.

James L. Scott, clerk, improvements in Benguet, March 1, \$1,800; promotion from class 7.

##### BOHOL.

A. J. Barnaud, deputy, March 19, \$1,800; probational appointment.

##### BULACAN.

John F. Conklin, general foreman, April 1, \$1,800; probational appointment.

##### CEBU.

Vicente Ranudo, clerk, October 1, 1903, \$240; promotion from \$210.

##### ILOCOS SUR.

Deogracias Lavin, clerk, March 10, \$480; probational appointment.

##### LAGUNA.

Burt Edwards, deputy, April, 3, \$1,200; probational appointment.

##### MISAMIS.

Juan Valmores, clerk, March 7, \$360; probational appointment.

##### MORO.

Bernardo Macrohon, clerk, March 1, \$240; promotion from \$150.

##### NEGROS OCCIDENTAL.

Antonio L. Gazo, clerk, April 1, \$300; probational appointment.

##### NEGROS ORIENTAL.

Percy E. Wagar, chief clerk and deputy, April 1, \$2,400; probational appointment.

##### NUÉVA ECIJA.

Vicente Salazar, deputy, August 16, 1902, \$240; probational appointment.

Gervasio Ramirez, deputy, March 15, 1903, \$240; probational appointment.

Benito Odulio Flores, clerk, December 19, 1903, \$240; probational appointment.

Cornelio Balaría, clerk, December 19, 1903, \$240; promotion from \$150.

Anacleto Villarosa, clerk, March 15, 1903, \$240; probational appointment.

##### NUÉVA VIZCAYA.

Emelio Tolentino, clerk, March 10, \$240; probational appointment.

##### PAMPANGA.

Evaristo Ortiz, interpreter and deputy, April 4, \$1,440; promotion from deputy, \$600.

Paulino S. Mendoza, clerk, May 1, \$420; promotion from \$240.

##### RIZAL.

Leopoldo Araullo, clerk, April 1, \$180; probational appointment.

##### SORSOGON.

Geo. L. Armstrong, clerk, March 24, \$1,800; probational appointment.

## RESIGNATIONS.

#### Provinces.

##### ABRA.

Augusto Colet, auxiliary justice of the peace, Bangued, May 1.

##### AMBOS CAMARINES.

Antonio Peredo, auxiliary justice of the peace, Libmanan, January 25.

Juan Villamiel, justice of the peace, Ragay, November 21, 1903.

**BATANGAS.**

Fernando Leyco, auxiliary justice of the peace, Batangas, January 2.

Anselmo Dimayuga, auxiliary justice of the peace, Bauang, January 16.

**BULACAN.**

Pedro de Vera, auxiliary justice of the peace, Santa Maria, March 12.

Severino Sebastian, justice of the peace, Santa Maria, December 7, 1903.

**ISABELA.**

Francisco Dichoso, provincial governor, April 13.

**MORO.**

Mariano A. Generoso, auxiliary justice of the peace, Davao, November 27, 1903.

**SAMAR.**

Eduardo Feito, provincial secretary, March 7.

Leocadio Cinco, auxiliary justice of the peace, Cathalogan, February 20.

Pedro Alde, justice of the peace, Llorente, March 28.

**SORSOON.**

Santiago de Vera, auxiliary justice, Bulan, March 24.

Fernin Brucelo, justice of the peace, Magallanes, March 21.

**SURIGAO.**

Cayetano de la Pena, auxiliary justice of the peace, Cantilan, March 1.

**TAYABAS.**

Ramon M. Coll, justice of the peace, Mogpog, March 2.

**UNION.**

Lucas Runes, justice of the peace, Aringay, February 17.

**ZAMBALES.**

Pedro Morona, auxiliary justice of the peace, Olongapo, March 5.

**REMOVALS.**

*Provinces.*

**AMBOS CAMARINES.**

Mariano Asug, justice of the peace, Tinambac, April 27.

**CAPIZ.**

Mateo Briones, justice of the peace, Navas, April 21.

**LAGUNA.**

Dominador Delfino, justice of the peace, Cabuyao, April 21.

**UNION.**

Benigno Sebastian, justice of the peace, Balaon, April 29.

**NOTICE.**

**SALE OF THE INSULAR COLD STORAGE AND ICE PLANT.**

Sealed bids for the purchase of the Insular Cold Storage and Ice Plant located at Manila, P. I., will be received on or before the 27th day of June, 1904. The plant includes one of the most valuable locations in the city of Manila on the Pasig River, occupying the whole space between the Suspension and the Santa Cruz Bridges, with abundant water frontage, and in the immediate vicinity of the business center. The buildings and machinery are in every respect new and modern, completed in the year 1901. The sale will include the land and water transportation belonging to the plant, including insulated lighters and barges, delivery wagons, horses, and harnesses.

For the fiscal year 1903 the total revenue of the plant was

\$332,194.17; total expenditures for the same period, \$198,338.83, leaving an excess of revenue over expenditures of \$133,855.34, United States money. The plant as a Government institution does not compete with private establishments of a like character. In the hands of a private corporation the income could be very largely increased. No bid for less than \$1,000,000, United States money, will be considered. Bids will be received on the basis of an unrestricted sale, and also on the basis of an agreement on the part of the purchaser to furnish ice to civil employees for five years at the present Government rate of one-half cent, gold, per pound. The right to reject any and all bids is reserved. Each bid must be accompanied by a certified check payable to the Government of the Philippine Islands for 5 per cent of the amount of the bid as security for the fulfillment of the contract should the bid be accepted.

*Terms.*—Payment to be one-third cash and the balance in three equal annual payments, at 6 per cent interest per annum; the unpaid portion of the purchase money to be secured by mortgage on the property or by other satisfactory security.

Bids may be filed with the Chief of the Bureau of Insular Affairs, War Department, Washington, D. C., or with the Secretary of Finance and Justice at Manila. All bids must be filed before 12 o'clock noon, June 27, 1904, at which time the bids will be opened.

**ANNOUNCEMENT.**

The Official Gazette is published weekly by the authority of the Government of the Philippine Islands. It will be furnished by mail to subscribers, free of postage, on the following terms:

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Send remittances by postal money order or registered letter to Norton F. Brand, acting editor Official Gazette, Manila, P. I. Office of the Official Gazette: Oriente Building, Plaza Calderon de la Barca, Binondo.

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# Official Gazette

Published by authority of the Insular Government under and by virtue of Act No. 453 of the Philippine Commission.

VOL. II

MANILA, P. I., MAY 18, 1904.

No. 20

## PUBLIC LAWS.

[No. 1119.]

AN ACT TO PROVIDE FOR A NEW ASSESSMENT OF REAL ESTATE IN THE PROVINCE OF LA UNIÓN AND FOR THE REVISION OF SUCH ASSESSMENT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. A new assessment or valuation of all real estate in the Province of La Unión shall be made as hereinafter provided. Such new assessment, as revised in accordance with the provisions of sections three to five, inclusive, of the present Act, shall be the basis for the collection of real estate taxes in the Province of La Unión for the year nineteen hundred and four and for succeeding years until further provision is made by law.

SEC. 2. The new assessment provided for in the preceding section shall be made in accordance with the provisions of sections forty-nine to fifty-seven, inclusive, as amended, of Act Numbered Eighty-two: *Provided*, That the board of assessors shall organize upon the passage of this Act, or as soon thereafter as possible; and that the board of assessors shall complete their listing and valuation of real property situated within the municipality on or before August first, nineteen hundred and four; and that all complaints against valuations fixed by municipal boards of assessors shall be filed directly with the new board of tax revision hereinafter created.

SEC. 3. There is hereby created for the Province of La Unión a new board of tax revision, which shall consist of the three members of the provincial board of the said province.

SEC. 4. The powers and duties of the new board of tax revision in the Province of La Unión shall be those prescribed for the provincial board of revision by Act Numbered Five hundred and eighty-two, entitled "An Act to provide for the partial revision of the assessments upon real estate in the municipalities in the Philippine Islands outside the city of Manila," as amended by Act Numbered Six hundred and ninety-three: *Provided, however*, That the date specified in the said Act, as amended, shall be as provided in section five of the present Act.

SEC. 5. The new board of tax revision shall be organized on August first, nineteen hundred and four; the time fixed for receiving and hearing complaints shall be not earlier than five days after the organization of the new board of tax revision and not later than September fifteenth, nineteen hundred and four; the certification by the new board of tax revision of a list of the changes made in the assessments fixed by the board of assessors, together with a list of the total assessments of the taxable lands and improvements in each municipality, provided for in section eight of Act Numbered Five hundred and eighty-two shall be made not later than October fifteenth, nineteen hundred and four, on which date the new board of tax revision shall cease to exercise any powers under this Act; and the payment of the land taxes in the Province of La Unión for the year nineteen hundred and four shall be made prior to the first day of November, nineteen

hundred and four, the provisions of section seventy-four, as amended, of the Municipal Code to the contrary notwithstanding. In all other dates and periods of time specified in Act Numbered Five hundred and eighty-two, as amended by Act Numbered Six hundred and ninety-three, the words "nineteen hundred and four" shall be substituted for the words "nineteen hundred and three," for the purposes of the present Act.

SEC. 6. In all cases in which land in the Province of La Unión assessed for the year nineteen hundred and two or the year nineteen hundred and three was assessed at more than fifty per centum above the valuation made by the board of assessors, hereinbefore provided for, as revised by the new board of tax revision, the provincial board is hereby authorized and directed to reduce the assessment, for the year or years in which such excessive assessment of more than fifty per centum was made, to the amount fixed by the new board of tax revision for the same land for the year nineteen hundred and four, and the provincial treasurer shall comply with the order of the provincial board by making the reduction upon the records of the municipality and province.

SEC. 7. In all cases in which money has been paid upon the excessive assessments as described in the section immediately preceding, it shall be the duty of the provincial board to allow a credit of the amount of such excess payment, to be applied upon taxes due for the year nineteen hundred and four or the next subsequent year or years.

SEC. 8. In case the tax has not been paid on the excessive assessment or assessments, then the taxpayer or the person from whom the tax is due shall be allowed to pay the tax on the reduced assessment without penalty at any time before November first, nineteen hundred and four; and all proceedings for the sale of land because of the delinquency of payment on the excessive assessment or assessments as defined in section six of the present Act shall be discontinued and held for naught, and the title to the land shall remain in the delinquent taxpayer, subject only to the lien for taxes on the assessment or assessments as reduced in accordance with section six hereof: *Provided*, That if the amount of taxes due on the reduced assessment or assessments is not paid before November first, nineteen hundred and four, the same procedure shall be followed in their collection as in other cases of delinquent taxes.

SEC. 9. In cases of excessive taxation described in section six hereof in which the land shall have been sold to a third person for failure to pay taxes, the delinquent taxpayer upon redeeming his land by paying to the purchaser the amount required by law to be paid shall be entitled to a credit, for use in payment of future taxes, for the amount expended by him over and above the tax without penalty at the reduced assessment. In case the land shall have been purchased by the Government, the proceedings shall be by the provincial board declared null and void, and the title shall revert to the delinquent taxpayer on payment of the amount due on the assessment or assessments as reduced in accordance with the terms of section six of this Act, before November first, nineteen hundred and four.

SEC. 10. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance

with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 11. This Act shall take effect on its passage.

Enacted, April 26, 1904.

[No. 1120.]

AN ACT PROVIDING FOR THE ADMINISTRATION AND TEMPORARY LEASING AND SALE OF CERTAIN HACIENDAS AND PARCELS OF LAND, COMMONLY KNOWN AS FRIAR LANDS, FOR THE PURCHASE OF WHICH THE GOVERNMENT OF THE PHILIPPINE ISLANDS HAS RECENTLY CONTRACTED, PURSUANT TO THE PROVISIONS OF SECTIONS SIXTY-THREE, SIXTY-FOUR, AND SIXTY-FIVE OF AN ACT OF THE CONGRESS OF THE UNITED STATES, ENTITLED "AN ACT TEMPORARILY TO PROVIDE FOR THE ADMINISTRATION OF THE AFFAIRS OF CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES," APPROVED ON THE FIRST DAY OF JULY, NINETEEN HUNDRED AND TWO.

Whereas pursuant to the provisions of sections sixty-three, sixty-four, and sixty-five of an act of the Congress of the United States, entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," approved July first, nineteen hundred and two, the Government of the Philippine Islands, on the twenty-second day of December, nineteen hundred and three, entered into contracts with the Philippine Sugar Estates Development Company, Limited, La Sociedad Agrícola de Ultramar, the British-Manila Estates Company, Limited and the Recoleta Order of the Philippine Islands, for the purchase of about one hundred and sixty-four thousand one hundred and twenty-seven hectares of land, situated in the provinces of La Laguna, Bulacan, Cavite, Bataan, Cebu, Rizal, Isabela, and Mindoro, for the aggregate sum of seven million two hundred and thirty-nine thousand seven hundred and eighty-four dollars and sixty-six cents, money of the United States; and

Whereas in said contracts of purchase it was provided, among other things, that the Government of the Philippine Islands should have a period of six months from the date of said contracts within which to examine the titles to said lands, and also within which to survey the same in order to ascertain whether there is the quantity of land specified in said contracts, and in the event there is not, that a proportionate reduction shall be made in the amounts agreed to be paid therefor; and it was further provided in said contracts that the said parties, so agreeing to sell, obligated themselves to convey good and indefeasible titles to said lands by proper conveyances; and

Whereas by said section sixty-five of said act of Congress the Government of the Philippine Islands is empowered to lease the said lands after their acquisition for a period not exceeding three years, and to sell the same on such terms and conditions as it may prescribe, subject to the limitations and conditions contained in said act of Congress: *Providing*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued and sold for the purpose of realizing the money necessary to pay for said lands by section sixty-four of said act of Congress, and that said deferred payments shall bear interest at the rate borne by said bonds: *And providing further*, That all moneys realized or received from the sales or other disposition of said lands, or by reason thereof, shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity: *And providing further*, That actual settlers and occu-

pants at the time said lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said Government; and

Whereas the said lands are not "Public Lands" in the sense in which those words are used in the Public Land Act, Numbered Nine hundred and twenty-six, and can not be acquired or leased under the provisions thereof, and it is necessary to provide proper agencies for carrying out the terms of said contracts of purchase and the requirements of said act of Congress with reference to the leasing and selling of said lands and the creation of a sinking fund to secure the payment of the bonds so issued: Now, therefore,

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Civil Governor is authorized and directed to have careful examination made to ascertain the sufficiency and soundness of the titles to said lands so contracted to be purchased by the Government of the Philippine Islands from the said corporations as set forth in the preamble hereof.

His action in employing the firm of Del Pan, Ortigas & Fisher, attorneys at law in the city of Manila, to make such examination and also to perform all legal services required of them in completing such purchases and thereafter in the leasing and selling of said lands as hereinafter provided, they to be compensated for their services at the rate of five thousand five hundred dollars per annum, payable monthly, for such time as in the opinion of the Civil Governor their services may be needed, is hereby approved and confirmed.

SEC. 2. The Consulting Engineer to the Commission is hereby directed to have careful surveys made of the said haciendas and tracts of land in order to ascertain with accuracy and certainty whether there is the amount of land in each of said haciendas and tracts specified in said contracts, and for that purpose he is empowered to put in the field and maintain the necessary surveying parties, and any funds in his hands at the present time not in terms devoted to defraying the cost of specific public works are hereby declared available for that purpose. As soon as these surveys shall have been completed he shall make report of the results thereof to the Civil Governor. Such steps as have already been taken by the Consulting Engineer by direction of the Civil Governor looking to the survey of said haciendas and lands are approved and confirmed.

SEC. 3. The firm of Del Pan, Ortigas and Fisher is also directed, as soon as the examination of the title deeds to said property shall have been completed, to make report of the result of their investigations in that behalf to the Civil Governor, and under his direction to supervise the final deeds of conveyance of said lands by said corporations to the Government of the Philippine Islands. The Civil Governor is also directed to submit their report together with the said deeds to the Attorney General for his opinion.

SEC. 4. The Civil Governor is hereby empowered, when it shall have been ascertained that the titles to said lands are perfect and indefeasible, and proper instruments of conveyance are tendered by said corporations, to direct the payment to the corporations named in the preamble, of the several sums agreed to be paid for said lands, and to that end to draw the warrants of the Government of the Philippine Islands upon the sum realized from the sale of the bonds issued and sold as provided in Act Numbered Ten hundred and thirty-four.

SEC. 5. When the titles to said lands are finally vested in the Government of the Philippine Islands, they shall be under the immediately control and direction of the Bureau of Public Lands. The Chief of the Bureau of Public Lands is empowered and directed, pending the completion of the purchase of said lands, to receive, take charge of, and carefully preserve the said contracts of sale and purchase and all muniments, documents, title deeds, or

other papers pertaining to said lands, and all field notes, surveys, and other data relating thereto, and also the deeds of conveyance hereafter made pursuant to the terms of said contracts of sale and purchase, and thereafter to keep and preserve the same, except as required for registration of said lands.

Sec. 6. The title deeds and instruments of conveyance pertaining to the lands in each province, when executed and delivered by said grantors to the Government and placed in the keeping of the Chief of the Bureau of Public Lands, as above provided, shall be by him transmitted to the register of deeds of each province in which any part of said lands lies, for registration in accordance with law.

Sec. 7. Upon the vesting of the titles to said lands in the Government of the Philippine Islands by proper deeds of conveyance, or sooner if so directed by the Civil Governor, the Chief of the Bureau of Public Lands shall ascertain the names and residences of the actual *bona fide* settlers and occupants then in possession of said lands or of any portion of them, together with the extent of their several holdings and the character and value thereof. He is also directed to ascertain from said occupants whether they desire to purchase their holdings upon the terms prescribed in the succeeding sections.

Sec. 8. In case any occupant in possession does not desire to purchase his holding but does desire to lease the same, then it shall be the duty of the Chief of the Bureau of Public Lands, after vesting of title, to see that such occupant attorns in due form to the Government and enters into a lease with the usual covenants and agrees to pay a reasonable rental for the use and occupation of his holding. Such rental shall be fixed by the Chief of the Bureau of Public Lands, but in no instance shall any lease be made for a longer term than three years.

Sec. 9. In the event the Chief of the Bureau of Public Lands should find any of the said lands vacant, he is directed to take possession and charge thereof, and he may either lease such unoccupied lands for a term not exceeding three years or offer the same for sale, as in his judgment may seem for the best interests of the Government, and in making such sales he shall proceed as provided in chapter two of the Public Land Act.

Sec. 10. Should he find any of the said lands in possession of a person or persons declining either to buy or to rent, as above set forth, he shall take possession thereof if he can do so peaceably, and if not he shall begin proper legal proceedings in the Court of Land Registration to settle title and to oust him or them from his or their holdings and, upon adjudication in favor of the Government, shall likewise take possession of the same with the same power and authority as though originally vacant. He shall not, however, sell any of the main hacienda houses or other large and substantial buildings save upon a resolution of the Commission authorizing him so to do.

Sec. 11. Should any person who is the actual and *bona fide* settler upon and occupant of any portion of said lands at the time the same is conveyed to the Government of the Philippine Islands desire to purchase the land so occupied by him, he shall be entitled to do so at the actual cost thereof to the Government, and shall be allowed ten years from the date of purchase within which to pay for the same in equal annual installments, if he so desires, all deferred payments to bear interest at the rate of four per centum per annum.

Sec. 12. It shall be the duty of the Chief of the Bureau of Public Lands by proper investigation to ascertain what is the actual value of the parcel of land held by each settler and occupant, taking into consideration the location and quality of each holding of land and any other circumstances giving it value. The basis of valuation shall likewise be, so far as practicable, such that the aggregate of the values of all the holdings included in each particular tract shall be equal to the cost to the Government of the entire tract, including the cost of surveys, administration, and interest upon the purchase money to the time of sale. When the cost thereof shall have been

thus ascertained, the Chief of the Bureau of Public Lands shall give the said settler and occupant a certificate which shall set forth in detail that the Government has agreed to sell to such settler and occupant the amount of land so held by him, at the price so fixed, payable as provided in this Act at the office of the Chief of the Bureau of Public Lands in gold coin of the United States or its equivalent in Philippine currency, and that upon the payment of the final installment together with all accrued interest the Government will convey to such settler and occupant the said land so held by him by proper instrument of conveyance which shall be issued and become effective in the manner provided in section one hundred and twenty-two of the Land Registration Act. The Chief of the Bureau of Public Lands shall, in each instance where a certificate is given to the settler and occupant of any holding, take his formal receipt showing the delivery of such certificate, signed by said settler and occupant.

Sec. 13. The acceptance by the settler and occupant of such certificate shall be considered as an agreement by him to pay the purchase price so fixed and in the installments and at the interest specified in the certificate, and he shall by such acceptance become a debtor to the Government in that amount together with all accrued interest. In the event that any such settler and occupant may desire to pay for his holding of said lands in cash, or within a shorter period of time than that above specified, he shall be allowed to do so, and if payment be made in cash the lands shall at once be conveyed to him as above provided. But if purchase is made by installments, the certificate shall so state in accordance with the facts of the transaction: *Provided, however*, That every settler and occupant who desires to purchase his holding must enter into the agreement to purchase such holding by accepting the said certificate and executing the said receipt whenever called on so to do by the Chief of the Bureau of Public Lands, and a failure on the part of the settler and occupant to comply with this requirement shall be considered as a refusal to purchase and he shall be ousted as above provided and thereafter his holding may be leased or sold as in case of unoccupied lands: *And provided further*, That the Chief of the Bureau of Public Lands in his discretion may require of any settler and occupant so desiring to purchase that, pending the investigation requisite to fix the precise extent of his holding and its cost, he shall attorn to the Government as its tenant and pay a reasonable rent for the use of his holding; but no such lease shall be for a longer term than three years, and refusal on the part of any settler and occupant so desiring to purchase to execute a lease pending such investigation shall be treated as a refusal either to lease or to purchase, and the Chief of the Bureau of Public Lands shall proceed to oust him as in this Act provided.

Sec. 14. It shall be the duty of the Chief of the Bureau of Public Lands to collect and receive all rent and installments of purchase money and interest thereon due and payable under the provisions of this Act, and to give proper receipts and acquittances therefor and make proper record thereof in the books of his office.

Sec. 15. The Government hereby reserves the title to each and every parcel of land sold under the provisions of this Act until the full payment of all installments of purchase money and interest by the purchaser has been made, and any sale or incumbrance made by him shall be invalid as against the Government of the Philippine Islands and shall be in all respects subordinate to its prior claim.

Sec. 16. In the event of the death of a holder of a certificate, the issuance of which is provided for in section twelve hereof, prior to the execution of a deed by the Government to any purchaser, his widow shall be entitled to receive a deed of the land stated in the certificate upon showing that she has complied with the requirements of law for the purchase of the same. In case a holder of a certificate dies before the giving of the deed and does not leave a widow, then the interest of the holder of the certificate shall descend and deed shall issue to the persons who under the laws of the Philippine Islands would have taken had the title

been perfected before the death of the holder of the certificate, upon proof of the holders thus entitled of compliance with all the requirements of the certificate. In case the holder of the certificate shall have sold his interest in the land before having complied with all the conditions thereof, the purchaser from the holder of the certificate shall be entitled to all the rights of the holder of the certificate upon presenting his assignment to the Chief of the Bureau of Public Lands for registration.

SEC. 17. In the event that any lessee or purchaser of land under the provisions of this Act should fail to pay his rent or any installment of purchase money and interest thereon, or accrued interest on any installment not due, when and as the same matures, it shall be the duty of the Chief of the Bureau of Public Lands at once to protect the Government from loss. In the case of a lease, when the lessee is delinquent in payment of rent the Chief of the Bureau of Public Lands is empowered to declare the lease forfeited, making proper entry to that effect in the books of his office and giving notice thereof to the tenant, and to enter upon and take possession of the land held by the lessee and bring suit against the lessee for all rent due; in the case of a delinquent purchaser the Chief of the Bureau of Public Lands may enforce payment of any past due installment and interest by bringing suit to recover the same with interest thereon and also to enforce the lien of the Government against the land by selling the same in the manner provided by Act Numbered One hundred and ninety for the foreclosure of mortgages. In the event of such sale the purchaser at such sale shall acquire a good and indefeasible title. The proceeds of sale shall be applied to the payment of the costs of court and of all installments due or to become due on such land. If the proceeds of the sale are sufficient to pay all delinquent installments as well as all future installments and all costs of the litigation, there shall be no further claim or liability against the original purchaser. If the proceeds of the sale of said lands should amount to more than sufficient to pay all purchase money and interest due the Government and costs of suit, the surplus thereof shall be returned to the original purchaser, or to the person entitled thereto.

SEC. 18. No lease or sale made by the Chief of the Bureau of Public Lands under the provisions of this Act shall be valid until approved by the Secretary of the Interior.

SEC. 19. No purchaser or lessee under this Act shall acquire any exclusive rights to any canal, ditch, reservoir, or other irrigation works, or to any water supply upon which such irrigation works are or may be dependent, but all of such irrigation works and water supplies shall remain under the exclusive control of the Government of the Philippine Islands and be administered under the direction of the Chief of the Bureau of Public Lands for the common benefit of those interests dependent upon them. And the Government reserves as a part of the contract of sale in each instance the right to levy an equitable contribution or tax for the maintenance of such irrigation works, the assessment of which shall be based upon the amount of benefits received, and each purchaser under this Act by accepting the certificate of sale or deed herein provided to be given shall be held to assent thereto. And it is further provided that all lands leased or conveyed under this Act shall remain subject to the right of way of such irrigation canals, ditches, and reservoirs, as now exist or as the Government may hereafter see fit to construct.

SEC. 20. All persons receiving title to lands under the provisions of this Act shall hold such lands subject to the same public servitudes as existed upon lands owned by private persons under the sovereignty of Spain, including those with reference to the littoral of the sea and the banks of navigable rivers, and rivers upon which rafting may be done.

SEC. 21. The Civil Governor, when authorized by resolution of the Commission, may, by proclamation, designate any tract or tracts of said lands as nonalienable, and reserve the same for public use, and thereafter such tracts shall not be subject to sale, lease, or other disposition under this Act.

SEC. 22. It shall be the duty of the Chief of the Bureau of Public Lands to make quarterly reports through the Secretary of the Interior to the Commission showing the lands leased or sold by him in accordance with the provisions of this Act, the amounts of money derived from such rentals and sales, and such other information as in his opinion may be of value to the Commission in connection with the said lands and their administration and disposition as provided by this Act. Both the Secretary of the Interior and the Chief of the Bureau of Public Lands shall have the right to require of the special counsel named in the first section hereof, or of their successors, such advice and assistance as from time to time may be required by them in the performance of their duties under this Act, and it shall be the duty of said counsellors to give such legal advice and assistance.

SEC. 23. All moneys derived by the Chief of the Bureau of Public Lands from the leasing or sale of said lands, or from interest on deferred payments thereon, shall by him be promptly deposited in the Insular Treasury. Such moneys shall be by the Treasurer held separate and apart from general Insular funds and shall constitute a trust fund for the payment of the principal and interest of the seven million two hundred and thirty-seven thousand dollars of bonds issued and sold by the Secretary of War in the name and on behalf of the Government of the Philippine Islands for the purpose of raising money to pay the purchase price of said lands as provided in Act Numbered Ten hundred and thirty-four, entitled "An Act providing for the issue of bonds of the Government of the Philippine Islands to the amount of seven million two hundred and thirty-seven thousand dollars, gold coin of the United States of the present standard value, for the purpose of acquiring funds for the payment of the purchase price of certain large tracts of land in the Philippine Islands, commonly known as the friar lands, pursuant to the provision of sections sixty-three, sixty-four, and sixty-five of the act of Congress entitled 'An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' approved July first, nineteen hundred and two." Said money shall also constitute a sinking fund for the payment of said bonds at maturity and may be invested and reinvested in safe interest-bearing bonds or other securities, which shall likewise be held by the Treasurer as a part of such sinking fund, and all interest, dividends, or profits derived from said bonds or other securities thus purchased shall likewise be a part of such sinking fund and may in turn be invested and reinvested in bonds or other securities. All purchases of bonds or other securities by the Treasurer shall be subject to the approval of the Secretary of Finance and Justice.

SEC. 24. The Chief of the Bureau of Public Lands, under the supervision of the Secretary of the Interior, shall prepare and issue such forms and instructions, consistent with this Act, as may be necessary and proper to carry into effect all the provisions hereof that are to be administered by or under the direction of the Bureau of Public Lands, and for the conduct of all proceedings arising under such provisions.

SEC. 25. The sum of ten thousand pesos, Philippine currency, is hereby appropriated out of any funds in the Insular Treasury not otherwise appropriated, for the purpose of paying the salary of the special counsel referred to in the first section hereof and for making the investigations and surveys required hereby and for the general carrying out of the provisions of this Act.

SEC. 26. The short title of this Act shall be "The Friar Lands Act."

SEC. 27. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 28. This Act shall take effect on its passage.

Enacted, April 26, 1904.

[No. 1121.]

AN ACT AMENDING ACTS NUMBERED FIVE HUNDRED AND EIGHTEEN AND SEVEN HUNDRED AND EIGHTY-ONE SO AS MORE FULLY TO DEFINE THE CRIME OF BRIGANDAGE, AND PROVIDING PUNISHMENT FOR THE FAILURE OF MUNICIPAL OFFICIALS TO PERFORM THEIR DUTY IN THAT RESPECT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered Five hundred and eighteen, entitled "An Act defining highway robbery or brigandage, and providing for the punishment thereof," is hereby amended so as to read as follows:

"SECTION 1. Whenever three or more persons, conspiring together, shall form a band of robbers for the purpose of stealing carabao, cattle, horses, rice, or personal property of any description, or for the purpose of abducting persons, either for the purpose of extortion or obtaining ransom, or for any other purpose, by means of force and violence, and shall be armed with deadly weapons for this purpose, they shall be deemed highway robbers or brigands, and every person engaged in the original formation of the band, or joining it thereafter, shall, upon conviction thereof, be punished by death or imprisonment for not less than twenty years, in the discretion of the court."

SEC. 2. Section two of said Act Numbered Five hundred and eighteen is hereby amended so as to read as follows:

"SEC. 2. To prove the crime described in the previous section, it shall not be necessary to adduce evidence that any member of the band has in fact committed robbery or theft or abduction, but it shall be sufficient to justify conviction thereunder if, from all the evidence it can be inferred beyond a reasonable doubt that the accused was a member of such an armed band as that described in said section one."

SEC. 3. Section four of said Act Numbered Five hundred and eighteen is hereby amended so as to read as follows:

"SEC. 4. Every person knowingly aiding or abetting such a band of brigands as that described in section one by giving them information of the movement of the police or Constabulary or other peace officers of the Government, or of the forces of the United States Army when acting in aid of the Government, or by securing or receiving stolen property from such brigands, or by procuring for them supplies of money, food, clothing, arms, ammunition, or other property of any kind, or by furnishing the same to them, or by knowingly hiding, lodging, or harboring in his house, or assisting in any way in the escape of a member of such a band of robbers as defined in section one, shall, upon conviction, be punished by imprisonment for not less than ten years and not more than twenty years."

SEC. 4. Section five of Act Numbered Seven hundred and eighty-one, entitled "An Act amending Act Numbered One hundred and seventy-five, entitled 'An Act providing for the organization of an insular Constabulary and for the inspection of the municipal police,' and Acts Numbered Six hundred and ten, Six hundred and eighteen, and Six hundred and nineteen amendatory thereof," is hereby amended by adding at the end thereof the following words: "Municipal policemen shall be deemed to be municipal officers for the purpose of this section."

SEC. 5. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 6. This Act shall take effect on its passage.

Enacted, April 27, 1904.

[No. 1122.]

AN ACT PROVIDING FOR A LOAN OF FOUR THOUSAND PESOS, PHILIPPINE CURRENCY, TO THE PROVINCE OF PARAGUA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of four thousand pesos, Philippine currency, to be loaned to the Province of Paragua, and to be expended by the provincial board of that province for the general purposes of the provincial government in accordance with the provisions of Act Numbered Four hundred and twenty-two, organizing the Province of Paragua.

SEC. 2. The money appropriated in the first section of this Act shall be paid to the secretary-treasurer of the Province of Paragua upon the production by him to the Treasurer of the Philippine Islands of a certified copy of a resolution of the provincial board of the Province of Paragua accepting such loan and agreeing to repay the money, without interest, on or before the first day of May, nineteen hundred and five.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, April 27, 1904.

[No. 1123.]

AN ACT SO AMENDING SECTIONS TWELVE, ONE HUNDRED AND FORTY-THREE, AND FIVE HUNDRED AND TWELVE OF ACT NUMBERED ONE HUNDRED AND NINETY AS TO DIMINISH THE EXPENSE OF CONDUCTING TRIALS IN COURTS OF FIRST INSTANCE AND OF PROCEEDINGS IN THE SUPREME COURT IN REVIEW OF SUCH TRIALS, AND MAKING CERTAIN PROVISIONS OF ACT NUMBERED ONE HUNDRED AND NINETY APPLICABLE TO CRIMINAL CAUSES, AND PROVIDING AN INEXPENSIVE METHOD OF APPEAL IN CASES OF PAUPERS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section twelve of Act Numbered One hundred and ninety, entitled "An Act providing a Code of Procedure in civil actions and special proceedings in the Philippine Islands," is hereby amended so as to read as follows:

"SEC. 12. *Official language.*—The official language of all courts and their records shall be the Spanish language until the first day of January, nineteen hundred and six. After that date English shall be the official language, but the Supreme Court or any Court of First Instance may in its discretion order a duplicate record in the English language made and duly enrolled in any action or proceedings whenever the court shall determine that such duplicate record would promote the public convenience and the interests of the parties: *Provided,* That any party or his counsel may examine or cross-examine witnesses or make an oral argument in English or a native dialect, and the same shall be clearly interpreted into Spanish by a court interpreter whenever the judge shall so require; and the party or his counsel may submit a written or printed pleading or brief in English or a native dialect if at the same time he accompanies it by a correct Spanish translation: *And provided further,* That in cases in which all the parties or counsel stipulate in writing, and the court consents, the proceedings may be conducted



in English or in a native dialect only, and in such cases the record of the pleadings, the bills of exceptions, and judgments need not be translated into Spanish: *And provided further*, That when a case, civil or criminal, is so tried in the English language in the trial court, in the event of an appeal, the English record shall be used in the Supreme Court, but the briefs shall be accompanied by a translation into the Spanish language."

SEC. 2. Section one hundred and forty-three of said Act Numbered One hundred and ninety is hereby amended by striking out the second paragraph of said section reading as follows—

"Immediately upon the allowance of a bill of exceptions by the judge, it shall be the duty of the clerk to transmit to the clerk of the Supreme Court a certified copy of the bill of exceptions, and of all documents which by the bill of exceptions are made a part of it. The cause shall be heard in the Supreme Court upon the certified copy of the bill of exceptions so transmitted"—

and by inserting in lieu thereof the following paragraph:

"Immediately upon the allowance of a bill of exceptions by the judge, it shall be the duty of the clerk to transmit to the clerk of the Supreme Court the original bill of exceptions and all documents which by the bill of exceptions are made a part of it. The cause shall be heard in the Supreme Court upon the bill of exceptions so transmitted, all duly certified by the clerk of the Court of First Instance."

SEC. 3. Said Act Numbered One hundred and ninety is hereby further amended by inserting a new section between sections numbered one hundred and forty-three and one hundred and forty-four to read as follows:

"SEC. 143. *Appeals by paupers.*—In case a defeated party desires to carry his action to the Supreme Court for revision, and shall establish to the satisfaction of the court that he is a pauper and unable to pay the expenses of prosecuting the exceptions in the Supreme Court, and that the case is of such importance, by reason of the amount involved or the importance of the questions raised, that it ought to be revised by the Supreme Court, the judge may enter an order entitling such person to a pauper's appeal. Upon such order being made the clerk shall immediately transmit to the clerk of the Supreme Court the entire record of said cause, including the evidence taken on trial and the bill of exceptions, and the cause shall be heard in the Supreme Court upon the original record so transmitted without the same being copied or printed in the Supreme Court. The party so prosecuting a bill of exceptions may file a typewritten brief, and the same shall be considered by the Supreme Court with the original record in the case; and upon final decision the original record shall be returned to the lower court for execution in accordance with said decision. The clerk of the Supreme Court before returning the record to the lower court shall make a memorandum of all the papers in the record and a copy of the decision and keep the same on file in his office as a record of such cause. No fees for the clerk of the Supreme Court shall be charged in such causes."

SEC. 4. Section five hundred and six of said Act Numbered One hundred and ninety is hereby amended by adding at the end thereof the following words:

"It shall likewise be the duty of the clerk of the Supreme Court, within ten days after the close of any term, to remit to the clerks of the Courts of First Instance, with the notices of all judgments of the Supreme Court in this section referred to, likewise all the original documents and the record of the action transmitted by the clerk of the Court of First Instance, to the clerk of the Court of First Instance, in order that the files of the action may remain together in that court."

SEC. 5. Section five hundred and twelve of said Act Numbered One hundred and ninety is hereby amended by adding at the end thereof the following words:

"*Provided, however*, That in no action, civil or criminal, shall the printed bill of exceptions contain the evidence that has been adduced on the trial: *And provided further*, That in all cases in

which the Supreme Court may review the evidence taken in the court below, in accordance with the provisions of paragraphs numbered one, two, and three of section four hundred and ninety-seven, the Supreme Court shall refer to the original testimony on file in the clerk's office and to any original documents constituting a part of the files of the cause."

SEC. 6. This Act shall apply to pending causes.

SEC. 7. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 8. This Act shall take effect on its passage.

Enacted, April 27, 1904.

[No. 1124.]

#### AN ACT TO PROVIDE MEDICAL ATTENDANCE ON CIVIL OFFICERS AND EMPLOYEES AT ISOLATED POINTS WHEN LIFE IS IN JEOPARDY.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. In any case where an officer or employee of the Insular Government or of a provincial government is ill at a point remote from a hospital under the control of the Insular or of a provincial government, and it appears to the satisfaction of the Civil Governor that medical attendance on such officer or employee is necessary to preserve his life, the Civil Governor may order any medical officer in the employ of the Insular or a provincial government to attend such ill person and, if necessary, conduct him to the nearest hospital for treatment. In case the attending physician and surgeon of a hospital under the control of the Insular or of a provincial government is so ordered to give such medical attendance he may, if he shall deem it more advisable, designate in his stead for such duty a competent nurse in the employ of the Government. The actual and necessary traveling expenses of such physician or nurse shall be a proper charge against the contingent appropriations of the bureau or hospital in which he is employed; and, if the patient is an employee of a provincial government, such traveling expenses may be made a proper charge against the provincial treasury. In no case shall this Act be construed to cover the traveling expenses or subsistence of such ill employee to or from a hospital, such expenses being a personal charge to be borne by him. This Act may be construed retroactively to cover such cases of traveling expenses as herein provided for as may be specifically approved by the Civil Governor.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, April 27, 1904.

[No. 1125.]

#### AN ACT EMPOWERING THE CIVIL GOVERNOR TO DETAIL PROVINCIAL FISCALS TEMPORARILY FROM ONE PROVINCE TO ANOTHER.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Civil Governor is hereby authorized, in the interests of the public service, to direct the temporary detail of any provincial fiscal from one province to any other province

in the Islands to perform there such duties as may be assigned to him by the Civil Governor, any existing law to the contrary notwithstanding. The actual and necessary traveling and living expenses of a provincial fiscal so detailed shall be paid by the province to which he is temporarily assigned: *Provided, however*, That the Civil Governor may direct the payment by such province of a fixed per diem in lieu of actual expenses.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 27, 1904.

[No. 1126.]

AN ACT FOR THE PURPOSE OF EMPOWERING PROVINCIAL BOARDS TO SUBPENA WITNESSES AND TO REQUIRE TESTIMONY UNDER OATH IN CONDUCTING CERTAIN INVESTIGATIONS, AND FOR OTHER PURPOSES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. In all investigations conducted under the provisions of Act Numbered Three hundred and fourteen, entitled "An Act amending the Provincial Government Act so as to provide a more simple method of procedure in cases of suspended municipal officials and justices of the peace," the provincial board is hereby empowered to require by subpoena the presence of the accused officer and the attendance and testimony under oath of witnesses, as also the production of all records, books, papers, and documents relating to the matter under investigation, and to that end and for that purpose shall have power to enforce attendance of witnesses and require them to testify, and to maintain order, in the same manner and to the same extent as justices of the peace are required to do by Act Numbered One hundred and ninety.

Sec. 2. In all cases where the Civil Governor shall remove any municipal officer or justice of the peace from office, he is hereby empowered, in his discretion, to declare such official disqualified thereafter from holding office. Such disqualification may be either special or general, and either temporary or permanent.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1127.]

AN ACT PROVIDING FOR THE PAYMENT OF PER DIEMS IN LIEU OF EXPENSES TO EMPLOYEES IN THE BUREAU OF ENGINEERING WHO ARE DIRECTED TO PERFORM OFFICIAL TRAVEL.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Consulting Engineer to the Commission, the principal assistant engineer, the assistant engineer in charge of railways, the chief of supervisors, and such other employees as may be designated for duties in connection with the overseeing and inspection of public works, shall be entitled to a per diem of two dollars and fifty cents, United States currency, or its equivalent in Philippine currency, for each day such officer or employe

is actually traveling, or away from Manila or his regular station on official business, in addition to necessary cost of transportation. When transportation by steamship, Government transport, or otherwise, includes subsistence, no per diem shall be paid or allowed for such portion of the journey, or when subsistence is furnished from a Government mess of a field party.

Sec. 2. The Consulting Engineer to the Commission is hereby authorized to detail any employee not below the grade of class six for the purpose of overseeing and inspecting public works.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, April 28, 1904.

**EXECUTIVE ORDERS.**

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, May 4, 1904.

EXECUTIVE ORDER }  
No. 21. }

The provisions of Executive Order Numbered One hundred, series nineteen hundred and two, as amended by Executive Order Numbered Sixteen, series nineteen hundred and three, which became inoperative by reason of the committee appointed thereunder having rendered its report, are hereby again made effective and in full force.

The committee will be reconvened by the chairman for the consideration of such matters as may be brought properly before it.

LUKE E. WRIGHT,

*Civil Governor.*  
By FRANK W. CARPENTER,  
*Acting Executive Secretary.*

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
OFFICE OF THE CIVIL GOVERNOR.

BAGUIO, BENGUET, May 4, 1904.

EXECUTIVE ORDER }  
No. 22. }

Honorable Antonio Jayme, governor of the Province of Occidental Negros; P. A. Casanave, treasurer of the Province of Occidental Negros; and James W. Jobling, Director of the Serum Laboratory, Bureau of Government Laboratories, are hereby appointed a committee, under the provisions of section nine Act Numbered Two hundred and fifteen, for the purpose of inspecting, investigating, and reporting upon the physical condition of one hundred and thirty-five Government carabaos now in charge of the supervisor of Occidental Negros. The committee will rigidly scrutinize such evidence as may be offered touching the physical condition of such animals, and will not recommend the relief of the officers or agents from responsibility unless fully satisfied that the person or persons charged with the care and custody of the animals have performed their whole duty in endeavoring to protect the carabaos. The proceedings of the committee will be prepared in triplicate and forwarded to the honorable the Civil Governor for consideration.

In case the committee finds said animals afflicted with surra or otherwise unserviceable, the report of the committee will contain a recommendation as to whether it will be to the best advantage of the Government to sell such animals or to destroy them. If the committee condemns the animals and recommends their sale

the fact will be communicated to the Civil Governor by telegraph. Two members of the committee shall constitute a quorum for the transaction of business.

LUKE E. WRIGHT,  
*Civil Governor.*

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, May 7, 1904.

EXECUTIVE ORDER }  
No. 23.

Chiefs of Bureaus and Offices are hereby required to furnish to the Auditor for the Philippine Islands a copy of every report of an examination of an officer's accounts made under them by inspectors, special agents, or examiners connected with the respective Bureaus and Offices, immediately after such examination is made, inviting attention to any phase of the examination which should be known to the Auditor when the final official audit is made.

LUKE E. WRIGHT,  
*Civil Governor.*

DECISIONS OF THE SUPREME COURT.

[No. 1484. February 23, 1904.]

THE UNITED STATES, complainant and appellee, vs. ANTONIO DE LOS REYES, defendant and appellant.

1. CRIMINAL LAW; TREASON; EVIDENCE; CONFESSION.—Testimony by an officer as to a confession made to him by the accused will not support a conviction of treason, as a confession of this crime, to be effective, must be made in open court.
2. *Id.*; *Id.*; OVERT ACT.—The defendant accepted from the self-styled "secretary of war" of the Katipunan Society a commission as captain in the "Filipino army," but never made any attempt to act as such. *Held*, that the mere acceptance of the commission by the defendant, nothing else being done, was not an overt act of treason within the meaning of the law.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.  
CLAUDIO GABRIEL, for appellant.  
Solicitor-General ARANETA, for appellee.

McDONOUGH, *J.*:

The defendant is charged with the crime of treason, committed as follows:

That on November 21, 1902, in Manila, he did feloniously, treasonably, etc., levy war against, adhere to, and give aid and comfort to the enemies of the United States and of the Philippine Islands, in that on or about August 30, 1902, he accepted a commission in the regular army of the "Filipino republic" and served as a captain and carried arms in such army and continued in such office and continued to carry arms as aforesaid between the said dates of August 30, 1902, and November 21, 1902, the said "Filipino republic" being an attempted government organized by various persons against the authority of the United States Government and that of the Philippine Islands and having for its object the overthrow by armed insurrection of the regularly constituted government in said Islands.

The defendant was convicted in the Court of First Instance of Manila and sentenced to imprisonment for a term of twenty years and to pay a fine of \$5,000.

The evidence upon which the court below based this conviction is substantially as follows:

A Constabulary detective testified that he met the defendant in Bacod, city of Manila, November 21, 1902; that a companion of the witness told him that the defendant was a captain in the Katipunan Society; that thereupon they detained the defendant and took him aside into a clump of trees where they talked to him and got him to admit that he was an officer of the Kati-

punan. The officers took the defendant to his house, where they searched his trunk and found in it and took away a revolver and a captain's commission, under seals. The following is a copy of this commission:

"SUPREME PRESIDENCY OF THE PHILIPPINE ISLANDS.

"By reason of the qualifications of Antonio de los Reyes and the good service rendered by him to the fatherland, the supreme president has seen fit to appoint him captain in the regular army of these Islands.

"It is therefore ordered that all persons render him the corresponding honors and obey all orders which he may issue for the good of the service.

"K. K., the 30th of August, 1902.

"CENON NIGDAO, *S. K.*, Minister of War.

"A. G. DEL ROSARIO,

"*S. K.*, Supreme President.

"To DON ANTONIO DE LOS REYES,

"Appointed Captain in the Regular Army  
of these Philippine Islands."

This Constabulary detective further testified that one Cenon Nigdao was a lieutenant-colonel in command of the whole Katipunan forces, but at that time had been captured and was a prisoner at Pasig.

The witness was asked what this Katipunan Society is, and in reply stated that it is an organization for forming an independent government for the Philippines, not letting their headquarters or whereabouts be known to the American Government, and to gain forces and arms by any means they can; sometimes they use force in securing members.

When asked if he knew any of the armed forces of the society, he said that they made an attack on May 30 upon a Government force of the United States Army. He said he had not seen the defendant with the insurgent forces.

Another witness for the prosecution testified that he had been informed of this so-called government known as the Tagalog republic, or Katipunan, through captured documents; that they had armed forces approximating 300 men, and that he knew their seals and recognized the seals on Exhibit A, the commission of the defendant, as those of the organization.

The next witness called by the prosecution was Cenon Nigdao, who stated that he was a tailor, 28 years of age, and secretary of war of the Katipunan. He identified the signatures on Exhibit A. He stated that the Katipunan is the National party. Its purpose is to defend the rights of the country and to ask of the American Government the freedom of this country.

He further stated that when he gave this commission to the defendant he told him to keep it, and when the time came for them to ask for liberty the people could not do him any harm.

The witness named the secretary of the National party, the minister of the interior, the minister of state, minister of war, and minister of justice of the association.

On cross-examination this secretary of war for one week testified that he commanded no forces; did not know that defendant made any use of his commission; that they did not take up arms because they were here in Manila; and that he was living in the same house with the defendant and gave him the commission there.

Another witness sworn for the prosecution stated that he was not a member of the Katipunan but was a member of the National party ever since he left Bilibid Prison; that the "secretary of war" appointed him a lieutenant-colonel and he held the commission three months but had no soldiers to command; and that there was no army when Cenon Nigdao was living at Bacod.

He said he was sent out to Baling by one Santiago and stayed there about three months, and when he found out that there was nothing doing he surrendered himself and one revolver to the president.

If we reject, as we must, the confession of the defendant made to the Constabulary officer, because it was not made in open court as required by law (sec. 9, act of Congress passed March 8, 1902), we have but very little in the case upon which to base a charge of treason. Even what there is is contradictory. The charge is that the defendant took arms against the Government in the regular army of the "Philippine republic," whereas one witness for the prosecution swears that the Katipunan is the treasonable organization, another says that body is known as the "Tagalog republic," and another, the so-called secretary of war, who commanded no troops, but to whom the Government presumably gave credit because he testified for the prosecution, stated that the Katipunan was the "National party" and the object of that party was to obtain from the United States, by peaceable means, the independence of the Philippine Islands.

The confession of the accused being disposed of, the only other question to be considered is whether the testimony of one witness that he issued to the defendant the captain's commission abovementioned, and the testimony of another witness that he found this commission in the defendant's trunk, is sufficient to satisfy the requirements of the statute that "no person in the Philippine Islands shall under the authority of the United States be convicted of treason \* \* \* unless on the testimony of two witnesses to the same overt act \* \* \*"

There is no proof whatever that the accused did any other act in connection with this charge than to receive this commission. On the contrary, the "secretary of war" testified that they did not take up arms because they remained here in Manila.

I am of the opinion that the mere acceptance of the commission by the defendant, nothing else being done, was not an overt act of treason within the meaning of the law. Blackstone says that "as treason is the highest civil crime which (considered as a member of the community) any man can possibly commit, it ought, therefore, to be the most freely ascertained."

The state of affairs disclosed by the evidence—the playing of the game of government, like children, the secretaries and colonels and captains, the pictures of flags and seals and commissions all on paper, for the purpose of duping and misleading the ignorant and the vicious—should not be dignified by the name of treason.

Those engaged in this plotting and scheming in the pretense of establishing an independent government in these Islands, with nothing behind them, without arms or soldiers or money, and without the possibility of success, are simply engaged in deluding themselves and perhaps innocent followers and in filling the cells of Bilibid Prison.

Even though not guilty of treason, they may be tried for other lesser crimes.

The case of the United States *vs.* Magtibay, recently decided by this court, involved much the same question as this, and is followed.

The judgment below is therefore reversed and the defendant acquitted, but without prejudice to the prosecuting authorities to proceed against the defendant for such other crime or crimes as the evidence discloses. The costs are adjudged *de officio*.

Arellano, C. J., Torres, Willard, and Mapa, JJ., concur. Cooper, J., dissents.

Johnson, J., did not sit in this case.

Defendant acquitted.

[No. 1445. March 17, 1904.]

THE UNITED STATES, complainant and appellee, *vs.* MARIANO FELICIANO ET AL., defendants and appellants.

CRIMINAL LAW; ROBBERY EN CUADRILLA; BRIGANDAGE.—Where it appears that the defendants were inhabitants of the town in which the robbery was committed, and there is no evidence of any agreement between them other

than to commit the particular crime in question, the offense committed is robbery *en cuadrilla* under the Penal Code and not that of brigandage under Act 518.

APPEAL from a judgment of the Court of First Instance of Rizal.

The defendants were prosecuted upon the following information filed by the fiscal of the Province of Rizal:

"The undersigned charges Mariano Feliciano, Espiridion Tolentino, Eduardo Pascual, Pablo San José, and Doroteo José (alias Mateo Tuemot) of the crime of robbery *en cuadrilla*, committed as follows: On the night of May 25, 1903, the accused, together with several other persons, some of them disguised as members of the insular police, being more than three in number and all armed with guns, revolvers, and knives, assaulted the shop of the Chinamen Oa-Chio and Si-Cuingco, situated in the town of Cardona of this Province of Rizal, Philippine Islands, and with intent to gain and by employing intimidation of persons and using force upon inanimate things took the money and jewels which there were in the said store; this against the statue in the case made and provided."

The trial court convicted the defendants of the crime charged, with the aggravating circumstance of nocturnity, and sentenced each of them to ten years of *presidio mayor*. Against this decision they appealed.

LUICIO VILLARREAL, for appellants.

Solicitor-General ARANETA, for appellee.

ABELLANO, C. J.:

The facts proved are that the five defendants, at 11 o'clock at night, May 25, 1903, assaulted the store of some Chinamen in the town of Cardona, Rizal, the defendants Feliciano and Tolentino being armed with revolvers and the other three with bolos, and that they robbed the store of 248 pesos and other valuable property.

The five defendants are known to be inhabitants of the town in which the robbery was committed, and did not constitute a known band of brigands. There was no agreement between them other than that reached for the particular purpose of committing the crime of robbery in the store of the Chinamen. They were all seen in the town on the day following the robbery. Consequently they are guilty of robbery *en cuadrilla*, within the meaning of the term as defined by article 505 of the Penal Code, and are liable to the penalty prescribed by article 504 in connection with paragraph 5 of article 503. There was no error in the finding of the court below that the offense was committed with the aggravating circumstance of nocturnity.

We therefore affirm the judgment appealed by which the defendants were sentenced to ten years of *presidio mayor* and to the payment of the costs in equal parts, and impose upon them the additional obligation of the return of the money and property robbed, with the consequent accessory penalties, with the payment of the costs of this instance in the same proportion.

Cooper, Mapa, and McDonough, JJ., concur.

TORRES, J., with whom concur WILLARD and JOHNSON, JJ., dissenting:

We are of the opinion that the crime should be classed as brigandage and the defendants convicted in accordance with the provisions of article 1 of Act 518, for the reasons stated in the dissenting opinion in the case of the United States *vs.* Francisco Decusin, Official Gazette, No. 57, published October 7, 1903. See also the decision in the case of the United States *vs.* Pedro Maano, Official Gazette, No. 2, published January 13, 1904.

Judgment affirmed.

[No. 1408. March 19, 1904.]

*JOSE E. ALEMANY ET AL., petitioners, vs. HON. JOHN C. SWEENEY, judge of the Court of First Instance of Manila, respondent.*

**MANDAMUS: REMOVAL OF GUARDIAN: APPEAL FROM ORDER: TIME FOR APPEAL.**—Notice of appeal from an order ratifying the removal of a guardian must be given within twenty days from the date thereof, and an allegation in a petition for a writ of mandamus that such notice was given within twenty days from the time the petitioner first heard of the order is not sufficient.

**ORIGINAL PETITION** for writ of mandamus.

Prior to the 2d day of April, 1903, Doña Juana Moreno de Rostrollo had been the guardian of the minors Leandro and Paz Gruet. On the 2d day of April the plaintiffs presented an application to the Court of First Instance of Manila asking that the guardian be removed and that the plaintiff Doña Andrea Atayde be appointed guardian of the persons and the plaintiff Jose E. Alemany administrator of the property of the minors. On April 7 the court granted the prayer of the petition and made the appointments as requested. The plaintiff Alemany gave a bond in 25,000 pesos. On the same day the former guardian, Doña Juana Moreno, died. On April 17 the respondent judge annulled the appointment of the plaintiffs and appointed Carlos Rostrollo in their place until the will of Doña Juana Moreno had been proved. On the 22d of April the plaintiffs filed notice of appeal from the order of April 17 and tendered a bond. The respondent judge refused to allow an appeal against the order of April 17. Subsequently, at a date which does not appear, the respondent judge made another order ratifying the annulment of the appointment of the plaintiffs and confirming the appointment of Carlos Rostrollo. The plaintiffs allege that they first heard of this order early in June, and on June 10 appealed from it in so far as it made the appointment of Carlos Rostrollo final, which appeal the respondent judge refused to allow.

On the 3d day of July, 1903, the petitioners filed a complaint in the Supreme Court setting forth in substance the facts above related and prayed that a writ of mandamus issue against the respondent to compel him to allow their appeals from the two orders mentioned. The respondent demurred to the petition; the demurrer was overruled (*Alemany vs. Sweeney*, 1 Off. Gaz., 857). The respondent then filed an answer to the petition. The plaintiffs moved that the answer be stricken out on the ground that it was argumentative. This motion was denied (*Alemany vs. Sweeney*, 2 Off. Gaz., 110). The other facts are stated in the decision of the court.

**LEDESMA, SUMULONG & QUINTOS, for petitioners.**  
**JOHN C. SWEENEY, respondent, on his own behalf.**

**WILLARD, J.:**

On October 31, 1903, this court held that the complaint in this case stated a cause of action. On December 29, 1903, it held that the answer stated no defense. The case coming on to be heard in its order on the calendar, on January 20, 1904, the defendant asked leave to file an amended answer. The only allegation or denial in the proposed amended answer which is at all material is the allegation that when the plaintiffs, on April 22, gave notice of an appeal from the order of April 17 removing them, they presented no bond. This statement appears to be untrue, for the plaintiffs present a certified copy of the bond on file in the court below. It is to be noticed further that when the defendant denied the appeal he placed his ruling on other grounds, and his order says nothing about any alleged failure to present a bond.

The application to file the amended answer is denied.

We have already held that the plaintiffs are entitled to their appeal from the order of April 17. It only remains to decide whether they are entitled to appeal from the second order. It does not appear from the complaint when this second order was

made. The allegation that the plaintiffs gave notice of appeal within twenty days after they learned of the order is not sufficient. The Code requires the appeal to be taken within twenty days after the order is made, not within twenty days after notice thereof. As to this order it does not appear that the appeal was taken in time, and the plaintiffs are therefore not entitled to have it allowed.

In view of the position taken at the argument by counsel for the defendant, we may add that, in requiring this appeal to be admitted, we do not in any way determine whether the order made on April 17 was void or valid. We simply hold that the plaintiffs have a right to bring the case here by appeal for the purpose of having that question argued and determined.

Judgment will be entered directing the defendant, upon the presentation of a bond sufficient in amount and sureties, to approve the same, and to allow the appeal of the plaintiffs from the order of April 17, 1903, annulling the appointments of the plaintiffs as guardians of the minors Leandro and Paz Gruet, with costs against the defendant.

*Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, J.J., concur.*

*Writ allowed.*

[No. 1439. March 19, 1904.]

*ANTONIO CASTANEDA, plaintiff and appellee, vs. JOSE E. ALEMANY, defendant and appellant.*

1. **WILLS: BY WHOM WRITTEN.**—If a will is signed by the testator or by someone else in his presence and under his express direction it is a matter of indifference by whom the mechanical work of writing the will is done.
2. **1D.: PROBATE; EFFECT.**—The probate of a will is conclusive as to its due execution and as to the testamentary capacity of the testator, but not as to the validity of any dispositions made in the will.
3. **1D.: VALIDITY OF DISPOSITIONS; JURISDICTION.**—In proceedings for the allowance or probate of a will the courts are without jurisdiction to determine questions concerning the validity of the dispositions of the will.

**APPEAL** from a judgment of the Court of First Instance of Manila allowing the will of Doña Juana Moreno.

The facts are stated in the opinion of the court.

**LEDESMA, SUMULONG & QUINTOS, for appellant.**

The court erred in holding that all the legal formalities had been complied with in the execution of the will of Doña Juana Moreno, as the proof shows that the said will was not written in the presence and under the express direction of the testatrix as required by article 618 of the Code of Civil Procedure.

**ANTONIO V. HERRERO, for appellee.**

The grounds upon which a will may be disallowed are limited to those mentioned in article 634 of the Code of Civil Procedure.

**WILLARD, J.:**

(1) The evidence in this case shows to our satisfaction that the will of Doña Juana Moreno was duly signed by herself in the presence of three witnesses, who signed it as witnesses in the presence of the testatrix and of each other. It was therefore executed in conformity with law.

There is nothing in the language of section 618 of the Code of Civil Procedure which supports the claim of the appellants that the will must be written by the testator himself or by someone else in his presence and under his express direction. That section requires (1) that the will be in writing and (2) that the testator sign it himself or, if he does not sign it, that it be signed by someone in his presence and by his express direction. Who does the mechanical work of writing the will is a matter of indifference. The fact, therefore, that in this case the will was typewritten in the office of the lawyer for the testatrix is of no consequence. The English text of article 618 is very plain. The

mistakes in translation found in the first Spanish edition of the Code have been corrected in the second.

(2) To establish conclusively as against everyone, and once for all the facts that a will was executed with the formalities required by law and that the testator was in a condition to make a will, is the only purpose of the proceedings under the new Code for the probate of a will. (Sec. 625.) The judgment in such proceedings determines and can determine nothing more. In then the court has no power to pass upon the validity of any dispositions made in the will. It can not decide, for example, that a certain legacy is void and another one valid. It could not in this case make any decision upon the question whether the testatrix had the power to appoint by will a guardian for the property of her children by her first husband, or whether the person so appointed was or was not a suitable person to discharge such trust.

All such questions must be decided in some other proceeding. The grounds on which a will may be disallowed are stated in section 634. Unless one of those grounds appears the will must be allowed. They all have to do with the personal condition of the testator at the time of its execution and the formalities connected therewith. It follows that neither this court nor the court below has any jurisdiction in this proceeding to pass upon the questions raised by the appellants by the assignment of error relating to the appointment of a guardian for the children of the deceased.

It is claimed by the appellants that there was no testimony in the court below to show that the will executed by the deceased was the same will presented to the court and concerning which this hearing was had. It is true that the evidence does not show that the document in court was presented to the witnesses and identified by them, as should have been done. But we think that we are justified in saying that it was assumed by all the parties during the trial in the court below that the will about which the witnesses were testifying was the document then in court. No suggestion of any kind was then made by the counsel for the appellants that it was not the same instrument. In the last question put to the witness Gonzales the phrase "this will" is used by the counsel for the appellants. In their argument in that court found on page 15 of the record they treat the testimony of the witnesses as referring to the will whose probate they were then opposing.

The judgment of the court below is affirmed, eliminating therefrom, however, the clause "el cual deberá ejecutarse fiel y exactamente en todas sus partes." The costs of this instance will be charged against the appellants.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1476. March 19, 1904.]

MAGDALENA CANSINO ET AL., plaintiffs and appellants, vs. GERVAÑO VALDÉZ ET AL., defendants and appellees.

1. PLEADING AND PRACTICE; COMPLAINT; AMENDMENT; EXHIBITS.—The original complaint having been held bad on demurrer the plaintiffs filed an amended complaint, in which they referred to Exhibit A for a description of the land in litigation. Exhibit A was not attached to the amended complaint, but to the original complaint. *Held*, that under a liberal construction of the pleadings the amended complaint should be considered as though Exhibit A had been physically attached to it.

2. ID.; CERTAINTY; DESCRIPTION OF LAND.—A complaint which states the pueblo, barrio, and sitio where the land in question is situated, the purpose to which it is devoted, its area and boundaries, is not demurrable for uncertainty.

3. ID.; APPEAL; FINAL ORDER.—An order dismissing the action upon the failure of plaintiffs to amend within the time allowed after an order sustaining a demurrer to the complaint is final and appealable.

4. ID.; FAILURE TO AMEND COMPLAINT; JUDGMENT FOR DEFENDANT.—When a demurrer to the complaint is sustained and the plaintiffs refuse to amend the court should enter judgment for the defendants to the effect that the plaintiffs take nothing by the action and the defendants recover their costs.

APPEAL from a judgment of the Court of First Instance of Pangasinan.

The facts are stated in the opinion of the court.

ISABELO ARTACHO, for appellants.

WADE H. KITCHENS, for appellees.

WILLARD, J.:

The original complaint described the lands by reference to a document marked "A," which was attached to the complaint. The amended complaint contained this clause: "The estate is described in detail in Exhibit A, which is hereto attached, and the plaintiffs ask that it be considered as an integral part of this complaint." Exhibit A was, however, not attached to the amended complaint, but remained attached to the original complaint. Section 106 of the Code of Civil Procedure provides that pleadings shall be liberally construed. Applying this rule, we think that the amended complaint should be considered as if Exhibit A had been physically attached to it. No harm is done to the defendants by this holding. They had in the original complaint the exhibit and were fully informed of its contents. In his decision sustaining the demurrer the judge below evidently took this view of the matter.

With this Exhibit A attached the amended complaint stated the pueblo, barrio, and sitios in which the land was situated. It stated the purpose to which it was devoted, that it contained 309 hectares and 5 areas, and gave its boundaries. This is a good description as against a demurrer.

The amended complaint describes only one tract of land. This appears in almost every paragraph thereof. The fact that in paragraph 9 it is stated that certain of the defendants took illegal possession of various parts of this tract can not be allowed to overcome the allegation in paragraph 7 to the effect that the defendants had taken possession of the lands of the plaintiffs.

It is claimed by the appellees that the case is improperly before this court. When the court below sustained the demurrer the plaintiffs excepted. They did not then attempt to bring the case here upon that exception. They waited until the court made its orders of July 10 and 11, dismissing the action. They then interposed the remedy of appeal against these two orders. This document, called an appeal, was equivalent to an exception to these orders and must be so considered.

The order of July 11 put an end to the case. It was the final judgment therein, and, having excepted thereto, the plaintiffs had then the right to remove the case to this court. Upon that removal, by the terms of section 143, they had the right to have reviewed "all rulings, orders, and judgments made in the action to which the party has duly excepted." That includes in this case the order sustaining the demurrer.

Although in view of the result arrived at it is not necessary, yet we will add that we agree with the appellant that dismissal was not the proper way to terminate this case. The demurrer to the complaint having been sustained and the plaintiffs having refused to amend, the court should have entered judgment for the defendants to the effect that the plaintiffs take nothing by the action and the defendants recover their costs.

The plaintiffs took an exception to the order of the court below refusing to appoint a receiver. They have, however, neither assigned this ruling as error nor mentioned it in their brief. The exception must be considered as abandoned.

The judgment is reversed and the case remanded with instructions to the court below to overrule the demurrer to the amended complaint and proceed with the case in accordance with law, with costs of this instance against the appellees.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment reversed.*

(No. 1176. March 21, 1904.)

**THE UNITED STATES, complainant and appellee, vs. PLACIDO  
ESPIRIDION ET AL., defendants and appellants.**

**CRIMINAL LAW; BRIGANDAGE; EVIDENCE.**—When the evidence is not sufficiently certain to show that the accused had conspired to rob, or that they had committed robbery or that they had given aid and comfort to brigands, there can be no conviction of the crime of brigandage.

**APPEAL** from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

José L. LUNA, for appellants.

Solicitor-General ARANETA, for appellee.

**JOHNSON, J.:**

The defendants in this case were charged with the crime of *bandolerismo* and were tried in the Court of First Instance of the Province of Rizal. At the conclusion of the trial Placido Espiridon and Tiburcio de la Cruz were acquitted and discharged. The other three defendants were each convicted of the crime of *bandolerismo* and were sentenced to be imprisoned for the term of ten years under section 4 of Act 518 of the Civil Commission.

The evidence presented in this case was not sufficiently certain to show that the accused were guilty of the crime charged. The proof was not sufficient to show that the accused had conspired to rob or had even committed robbery. Neither was the proof sufficient to show that the accused had given aid and comfort of any character whatever to bandits or brigands.

The sentence of the court below is therefore reversed, and the defendants and each of them are hereby ordered discharged.

Arellano, C. J., Torres, Cooper, Willard, Mapa and McDonough, J.J., concur.

*Defendants acquitted.*

(No. 1560. March 21, 1904.)

**THE UNITED STATES, complainant and appellee, vs. BERNABÉ  
GÓMEZ, defendant and appellant.**

**CRIMINAL LAW; FALSIFICATION OF PUBLIC DOCUMENT.**—There can be no conviction of the offense of knowingly using a false document in the absence of proof of the defendant's knowledge of its falsity.

**APPEAL** from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

PERFECTO GABRIEL, for appellant.

Solicitor-General ARANETA, for appellee.

**WILLARD, J.:**

The defendant was charged with the falsification of a vehicle license and was convicted of the offense of using the altered license in court, knowing that it had been changed.

The altered license was presented at the trial of a criminal case in the Municipal Court of Manila for the purpose of showing that this defendant had a license for the vehicle. But there is no evidence in this case that the defendant here was a party to the criminal case in the Municipal Court. On the contrary it seems that the defendant in that case was the cohero of this defendant. Nor is there any evidence that the defendant in this case was present at the trial in the Municipal Court or ever took any part therein or ever saw the license in its original or altered form or knew that it had been altered or ever authorized anyone to present the altered license in the trial before the Municipal Court.

The judgment of the court below is reversed and the defendant acquitted with costs *de officio*.

Arellano, C. J., Torres, Cooper, Mapa, and McDonough, J.J., concur.

Johnson, J., did not sit in this case.

*Defendant acquitted.*

**BUREAU OF CUSTOMS AND IMMIGRATION.**

TARIFF DECISION CIRCULARS.

No. 400.—*Cotton textiles figured in the loom.*

MANILA, April 2, 1903.

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2648, filed November 19, 1903, by Messrs. Kuenzle & Streiff, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-9485, Voucher No. 16620, paid November 17, 1903.

"The claim in this case is against the classification of certain cotton textiles of 21 threads, weighing less than 10 kilos per 100 square meters, under paragraph 120 (b) of the Tariff Revision Law of 1901, at \$0.23 per kilo, as entered, instead of under paragraph 118 (b), at \$0.20 per kilo.

"It is claimed that the textiles in question are identical with those covered by the decision of the Court of Customs Appeals, published in Tariff Decision Circular No. 323. In this decision it was held that 'the pressing of two threads together at regular intervals in the weaving does not make the textile figured in the loom as contemplated in paragraph 120, section 11, of the Philippine Tariff Act.'

"The threads of the textile in question do not interweave alternately. Groups of three threads are followed by single threads, and some of the threads interweave alternately, while others pass first over or under one thread and then under or over two or three threads. The result is a loosely woven textile which does not present a uniform appearance throughout.

"The textile on which the decision of the court above referred to was predicated was plain woven, except that at regular intervals double threads were interwoven, which were not noticeable except upon a minute examination. The textile in question is, therefore, materially different from that before the court, and the claim of the protesters is not well taken.

"As the protesters claim that the textiles are properly dutiable under paragraph 118 (b), instead of paragraph 120 (b), it is presumed that they intended to claim that the textile are plain woven and not figured on the loom. A plain cloth is defined and described by standard authorities as follows:

"A fabric in which the warp and weft threads are placed at right angles to each other, and which interweave alternately.' (Design in Textile Fabrics, Ashenhurst, p. 243; see also pp. 3-10 and 232.)

"Plain cloth is made by causing every thread of the warp and weft to cross each other at right angles, and tacked together alternately. \* \* \* The term plain cloth, as applied here, must be understood as the kind of weaving, as there are many fabrics made by plain weaving that are not commonly called plain cloth, such as the great variety of gingham, fancy dresses, blue and white checks, etc., but only to distinguish it from that class of goods where the yarn is flushed, and it is this flushing that forms all the variety of tweels and figures made in the loom by the warp and weft, being produced by the order and succession in which the weft is interwoven with the warp.' (Art of Weaving, Wilson, p. 86.)

"In plain cloth every thread is alternately interwoven.' (Art of Weaving, Wilson, p. 88.)

"Plain cloth, where the warp and weft threads are interwoven with each other alternately." (The Construction of the Power Loom and the Art of Weaving, 6th ed., p. 99.)

"Plain cloth, such as an ordinary piece of calico or linen, will, on examination, be found to consist of two sets of threads, the one intersecting the other at right angles, with *each single thread* passing alternately over and under the next." (Encyclopedia Britannica, Vol. XXIV, p. 463. See also Wool Manufacture, R. Beaumont, sec. 87, p. 174.)

"Figured textiles are defined and described as follows:

"Fabrics having a pattern formed upon a fabric by the order of interweaving of the weft and warp of which they are composed." (Design in Textile Fabrics, Ashenurst, p. 242.)

"Next we come to the formation of figures by the ground weft, warp, or both; that is, by the material which forms the ground fabric ceasing to interweave, and so forming patterns by the weft, or warp, or both, lying loosely on the surface." (Design in Textile Fabrics, Ashenurst, p. 233; see also p. 114.)

"The distinction between 'plain' and 'figured' textiles, as above defined, has been judicially recognized and uniformly followed in the United States:

"In our opinion the word 'figured' in this connection, is used in contradistinction from the word 'plain.' Goods having a design of any character whatsoever would be figured as opposed to plain." (Treasury Decision No. 24831, G. A. 5507; see also Treasury Decision No. 23386, G. A. 5035.)

"In weaving plain fabrics a portion of *every alternate thread* is raised, the corresponding portion of the others being depressed, thus forming what is called the "shed." A filling thread then passes from side to side in the space between the raised and depressed warp threads and is then driven or pressed close up to the part of the fabric already woven. The "shed" is then reversed, the raised threads being depressed and the depressed threads raised, when the filling thread passes through again in the opposite direction, and so the operation is repeated continuously." (Treasury Decision No. 21569, G. A. 4547.)

"It is clear that weaving in this manner would produce a fabric in which each single thread of the warp would pass over or under single threads of the weft or filling throughout the textile.

"And this distinction has been recognized in the administration of this custom-house for many years. The Aranceles de Aduana, the tariff in force prior to American occupation and down to the time of the adoption of the Tariff Revision Law of 1901, contained provisions for 'plain' and 'figured' textiles. A decision of the *intendencia de hacienda* (office of the auditor-general of the treasury), to which an appeal from a decision of the collector of customs could be directed, dated February 23, 1894, is of interest:

"Whereas, the appraiser's division of the custom-house reports that the textile in question should not be considered as a textile designed or figured in the loom, because, though it is true that at intervals, and in the direction of the warp, there is a line formed by two united threads, the rest of the textile is plain, and for this reason it does not appear reasonable that for only such an insignificant designed or figured part the really plain textile be understood as such, and be made to suffer the consequent burden. Whereas the appraiser who made the inspection, as well as the office of the collector of customs, together with its auditor, insist in considering as textiles designed or figured in the loom the ones presented to the office by Messrs. Forbes, Munn & Co., the sample of which accompanies this protest, on the grounds that plain textiles are those that are formed by threads that pass alternately above and below each other, and that for this reason the ones in question can not be considered as such, the moment that it is observed that the weft or warp threads take up more than two, for which reason, according to customs practices, textiles of this kind have always been considered as designated or figured in the loom, here as well as in the custom-house of the

Peninsula, the tariff board being of the same opinion, having decided by a majority of votes that they should be appraised as textiles designed or figured in the loom. Whereas a judgment of this *intendencia* general on the 18th day of February and 19th of August, 1892, sustained the appraisal made by the administration of the custom-house at Manila, sentencing Messrs. Ed. A. Keller & Co. to the payment of the consequent penalties for having declared as plain textiles with lines that take up more than one thread, the circumstances of which concur precisely with the ones which have originated this protest. \* \* \*"

"The terms 'plain' and 'figured' having received a well-settled construction under previous tariff laws in force in these Islands, and being so long continued and unbroken, this construction must be presumed to have been adopted by the framers of the tariff with the adoption of such terms. (See Tariff Decision Circular No. 392.)

"From the above definition by recognized authorities, from the practice in the United States, and from the long continued and unbroken interpretation of these terms in this custom-house, it is clear that the only textiles which can be considered as plain woven, as contradistinguished from twilled or figured on the loom, are those in which single threads of the warp pass over or under single threads of the weft uniformly throughout the body of the textile, the solitary exception being the class of goods ruled upon by the Court of Customs Appeals in the decision published in Tariff Decision Circular No. 323. The textile in question is not in this class, and was therefore properly classified as a textile 'figured on the loom.'

"Protest No. 2648, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 402.—Willow baskets or telescope cases not traveling bags.

MANILA, April 8, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

In the matter of Protest No. 2650, filed November 20, 1903, by Mr. J. Beck, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-7620, Voucher No. 16890, paid November 19, 1903.

"The claim in this case is against the classification of certain willow baskets as 'traveling bags,' under paragraph 228 (c) of the Tariff Revision Law of 1901, at \$0.30 per kilo, instead of as 'willow manufactured,' under paragraph 204, at \$10 per 100 kilos, as entered.

"The articles in question are invoiced as willow baskets with leather straps, and are composed of willow wickerwork in two sections, one of which fits into the other, forming what is called a telescope case. Four leather keepers are fastened on each part, through which the leather straps are run. The straps are specially constructed for use with the baskets and form portions of the complete articles.

"Two questions as to the correctness of the classification have been raised, first, whether such a basket may be considered as 'wholly or in part of leather,' and second, whether the articles are 'valises or traveling bags' within the meaning of that paragraph.

"Without passing upon the question of whether the leather keepers and straps, certainly essential parts of the complete article, are sufficient under the law to warrant a description of the basket as composed 'in part of leather,' it is only necessary to point out that the articles are clearly not valises or hat boxes,



A traveling bag is defined as 'a bag or wallet, usually of leather, for carrying necessities on a journey' (Century Dictionary); and a bag as 'a small sack; a portable receptacle or repository of leather, cloth, paper, or other flexible material, capable of being closed at the mouth' (Century Dictionary). These definitions do not apply to the articles in question, which are not known as 'traveling bags,' nor so dealt in commercially, for they are ordinarily bought, sold, and known as baskets. They are not therefore included within the provisions of paragraph 228 (c), and are dutiable under paragraph 204, in which they are enumerated as 'wickerwork' or as 'articles of all kinds not specially mentioned of the materials specified.'

"Protest No. 2650, on the grounds mentioned above, is therefore sustained, and a refund ordered the importer in the sum of \$12, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 403.—*Turn-buckle truss rods, classification of.*

MANILA, April 8, 1904.

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2792, filed January 15, 1904, by the Atlantic, Gulf and Pacific Company, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-12877, Voucher No. 23162, paid January 13, 1904.

"The claim in this case is against the classification of certain turn-buckle truss rods as common articles of wrought iron or steel not specially mentioned, under paragraph 58 of the Tariff Revision Law of 1901, at \$2.50 per 100 kilos, instead of as 'wrought iron or steel in large pieces,' under paragraph 41, at \$1 per 100 kilos, gross weight. The merchandise which was entered under paragraph 47, consists of long bars or rods with turn-buckles attached, and is used in the construction of trusses or frames. The pieces weigh about 20 kilos each.

"A comparison of paragraph 35 (b) with paragraph 41 leads to the conclusion that the latter paragraph includes finished structural iron, while the former includes such iron in an unfinished state. In the original draft of the tariff submitted in Washington the provision for 'bars and beams' did not appear in paragraph 35 (b), and the change was made for the avowed purpose of harmonizing this paragraph with paragraph 41. (See Senate Document No. 134, 57th Congress, 1st session, p. 20.) The rods in question are finished for use in structural work, being in the construction of frames. They are bars, and being in large pieces and cut to measure for frames, are included within the provisions of paragraph 41.

"Protest No. 2792, on the grounds mentioned above, is therefore sustained, and a refund ordered to the importer in the sum of \$129.48, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 404.—*Planer, matcher, moulder, and water motor not "sawmill machinery"—Water motor dutiable as "hydraulic motor."*

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2098, filed May 1, 1903, by Messrs. Newhall & Fenner, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty

chargeable on certain merchandise described in Entry No. 6825, Voucher No. 14382, paid April 29, 1903.

"The first claim in this case is against the classification of a planer, matcher, and moulder as 'other machinery' under paragraph 257 (b) of the Tariff Revision Law of 1901, at \$1 per 100 kilos not less than 20 per cent ad valorem, the latter rate prevailing, instead of as 'agricultural machinery' under paragraph 245, at \$0.25 per 100 kilos, as entered.

"The question of the classification of a planer was decided adverse to the importer in a decision published in Tariff Decision Circular No. 292. All there set out in regard to a 'planer' applies with double force to a 'planer, matcher, and moulder.'

"The second claim is against the classification of a water motor as 'other machinery' under paragraph 257 (b) instead of as 'sawmill machinery' under paragraph 245, as entered, or as a hydraulic motor, as now alternatively claimed.

"The motive power for the operation of a sawmill should rarely be assessed for duty with the principal machine. The reason for this rule was explained in Tariff Decision Circular No. 230, in the case of boilers imported with their respective engines.

"In that circular it was pointed out that, while there are cases in which the engine and boiler might constitute one indissoluble unit, as in the case of a locomotive, yet in general, the boiler would not form an essential part of any given apparatus. So here the saws and the mechanism proximate thereto constitute the sawmill, all else is accidental. A water motor may, for example, be imported to-day in good faith for use in a sawmill, but to-morrow be either used to drive furniture machinery in the same mill, or, especially if connected to the sawmill proper, by belting only; and hence, being readily detachable, may even be lawfully sold outright in competition with identical motors which have paid duty under a higher tariff rate.

"Mere accidental use of a given machine in a sawmill is not enough to make such machine sawmill machinery within the meaning of the law (Tariff Decision Circulars Nos. 311 and 382). It is therefore apparent that such machinery as constitutes the motive power for any mill will usually be, as in this case, better described under paragraph 243 than under paragraph 245. Even were the two paragraphs equally applicable that taking the higher rate of duty would, by rule 15 (last clause), be the paragraph of classification. No difference is perceived between the 'water motor' of this entry and the hydraulic motors of paragraph 243.

"The first claim in Protest No. 2098, on the grounds above mentioned, is overruled and denied, and the second claim is in part sustained; the entry in this case will be reliquidated as above indicated, and a refund of \$14.77, United States currency, will be made. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 405.—*Uniforms for consul not entitled to free entry.*

MANILA, April 8, 1904.

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2849, filed January 30, 1904, by Messrs. Smith, Bell & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. B-359, Voucher No. 25977, paid January 30, 1904.

"This protest is against the assessment and collection of duties on a uniform for the British consul-general in this city. No paragraph of the Tariff Revision Law of 1901 (an act of Congress) is cited which would permit of a uniform imported by a consul being admitted free of duty.

"In Tariff Decision Circular No. 377, it was pointed out that Tariff Decision Circular No. 220 was a literal copy of a portion of Treasury Circular No. 125 (Treasury Decision No. 24003), and that it was 'not the intent to confer any more extensive privileges than are customary in America.'

"It was held in that decision—

"Tariff Decision Circular No. 220 must likewise be construed to apply only to cases wherein a foreign Government is the consignor, and its consul here is in his official capacity, the consignee.'

"It is clear that in this case under this interpretation the uniform in question can not be admitted free of duty, the British Government not being, so far as can be ascertained, the consignor, nor the British consul at this port, in his official capacity, the consignee.

"Protest No. 2849, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 406.—*Flour sacks printed; decision of the Court of Customs Appeals.*

MANILA, April 11, 1904.

To all collectors of customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered April 4, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS.

COURT OF CUSTOMS APPEALS.

"Appeal in the case of Warner, Barnes & Co., Limited.

[Docket No. 606. Appeal No. 575. Protest No. 2018.]

DECISION.

"CROSSFIELD, Judge:

"This case is before the court for trial upon the appeal of Warner, Barnes & Co., Limited, from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the levy of duty on merchandise imported from the United States, and the imposition of a surtax of 30 per cent upon certain cotton textiles in flour sacks, containing flour, for being printed.

"The duties amounting to \$228.58 were paid April 3, 1903.

"Mr. Hartford Beaumont appeared for the Government.

"Mr. Carlos Young appeared for the appellants.

"The case as presented discloses that the appellants imported from the United States, by way of Hongkong, 2,040 sacks of flour, March 24, 1903, and that the flour was assessed for duty as such, and the sacks containing it as cotton textiles, under paragraph 117 (b) of the Tariff Revision Act, with a surtax of 30 per cent for being printed.

"The first question for determination is whether the levy of duty upon merchandise from the United States is authorized by law.

"This question was fully considered in case No. 18, Appeal of Warner, Barnes & Co., Limited, and the decision of the court handed down. As appears from that decision, the levy of import duties on merchandise coming from the United States to the Philippine Islands is fully justified by existing law.

"Another question is as to the propriety of imposing a surtax of 30 per cent upon sacks imported, containing flour, as being printed textiles.

"The printing upon the sacks appears to have been some kind of trade-mark and the brand and grade of flour which the sacks contained.

"The clause of the Tariff Law under which the surtax appears to have been imposed is as follows: 'The same textiles (cotton

printed or manufactured with dyed yarns, dutiable as the textile with a surtax of 30 per cent.'

"The court is of the opinion that the printing on the sacks of trade-marks, 'brands,' 'grades,' or other thing confined to the article contained within the sacks is not such printing as is contemplated by the clause above referred to, and the surtax in this case should not have been imposed.

"The decision of the Collector of Customs is affirmed as to the authority to levy duty on imports from the United States and reversed as to the levy of the surtax of 30 per cent for printing on flour sacks containing flour.

"No cost to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge."

PAR. II. Tariff Decision Circular No. 289 of this Office is modified in accordance with the above decision.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 407.—*Glass bottles containers of stout; value, 1d. each.*

MANILA, April 12, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2600, filed October 29, 1903, by Messrs. Meerkamp & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the amount of duty chargeable on certain merchandise described in Entry No. A-7879, Voucher No. 14171, paid October 29, 1903.

"This protest is against the valuation of \$0.03, United States currency, each, placed on certain glass containers of stout, dutiable under paragraph 12 of the Tariff Revision Law of 1901 at \$0.80 per 100 kilos, not less than 20 per cent ad valorem.

"From information received from exporters, it appears that such bottles are worth in the principal markets of England, the country of exportation, about 7½d. per dozen (about \$0.0133 each). Adding to this value the cost of elaboration, such as for labels, capsules, corks, etc., and the value of the complete bottles will reach 1d. each, at which value similar bottles are regularly invoiced.

"In Tariff Decision Circular No. 320 the valuation of \$0.03, United States currency, each, placed on similar bottles was affirmed, but in view of the additional evidence which has been received this decision is modified as above.

"Protest No. 2600 is therefore sustained to the above extent and a refund ordered in the sum of \$14, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 408.—(1) *Boiled cider*; (2) *citron*.

MANILA, April 12, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2801, filed January 19, 1904, by Mr. M. A. Clarke, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-12909, Voucher No. 23893, paid January 18, 1904.

"Two claims are made in this case. The first claim is against the classification of boiled cider as 'flavoring extracts,' under paragraph 327 of the Tariff Revision Law of 1901, at \$0.25 per kilo,

instead of as 'fruit juice, pure or with only sufficient sugar to preserve it,' under paragraph 313, at \$0.06 per liter.

"Natural or artificial cider is specifically provided for under paragraph 312, but the cider provided for in that paragraph is only such as is used as a beverage, similar to beer and malt extract, which are dutiable under the same paragraph. Boiled cider, such as that in question, is not the cider of commerce, but is the juice of a fruit (apples), obtained by expression and concentrated by boiling, thereby killing the germs which are the cause of fermentation. The process of fermentation is arrested, but this, as well as the concentration, does not alter its character as a fruit juice or render it any the less pure.

"Boiled cider is not commercially known as a flavoring extract, though it may be used for flavoring purposes, the same as any other fruit juice. The principle involved, whether the boiled cider be pure or not, or whether it contains more than a sufficient amount of sugar to preserve it, is identical with that raised and considered as to the classification of strawberry fruit juice, in which case it was held that such juice, though containing nearly 50 per cent of sugar, was properly assimilated to fruit juices such as are enumerated under paragraph 313 (Tariff Decision Circular No. 349).

"The second claim is against the classification of certain citron as 'conserved,' under paragraph 331, of the Tariff Revision Law of 1901, at \$0.25 per kilo, not less than 20 per cent ad valorem, instead of as 'dried citron,' under paragraph 285, at \$2.50 per 100 kilos, as entered. The respective paragraphs provide as follows:

"PAR. 285. Dried raisins, dates, figs, and citron, put up in small packages."

"PAR. 331. Conserved or crystallized fruit or nuts, used as confectionery and sweetmeats, whether put up in paper, metal or glass."

"If the citron in question is commercially known as 'dried,' it is dutiable under paragraph 285; if not, it is provided for in either paragraph 331 or 332.

"In the United States the question arose as to whether or not such citron was dutiable as 'dried fruit,' or as 'fruits preserved in sugar.' In passing on this question the Circuit Court of Appeals, per Lacombe, J., said in part as follows (121 Fed. Rep., 690, 691):

"Citron is the fruit of the citrus or citron tree. In its present condition no one contends that it is green or ripe, no one disputes that it is dried. It belongs, then, to the family of fruits, and falls within the great group of that family designated as 'dried fruits.' In common speech, and by the language of trade and commerce, as this record shows, it is a dried fruit. It has been put in its present condition by the following process: The fruit is cut in halves, and the pulp removed. The rind, which is much thicker than that of a lemon, is then placed in sea water, in casks; then put in water and boiled until it is soft and tender; then put into fresh water tubs until the salt is drawn out; then put into what are known as 'siruping tubs,' and covered with sirup, and after it has stood a while in the sirup, that is drained off and it is boiled down and fresh water added, and it is put back over the fruit again, and this process is kept up until the citron or peel is thoroughly impregnated with the sugar and cured. Fruit thus treated has certainly been preserved in sugar (or in sirup), and would seem to come fairly within the exception."

"It was held in that case that such citron was dutiable as a fruit preserved in sugar, and not as a dried fruit. This decision excludes dried citron which is also preserved in sugar from the provisions of paragraph 285.

"In Tariff Decision Circular No. 370, 'sweetmeat' as used in paragraph 331, was defined to be 'fruit preserved in sugar whether moist or dry, a conserve; a preserve.' From this definition it is evident that the citron in question is properly considered as a 'sweetmeat' within the meaning of the tariff, and, while excluded from the provisions of paragraph 332, it is included within the provisions of paragraph 331, which latter paragraph

covers such dried fruits and nuts as are conserved or crystallized—i. e., preserved in sugar. Citron is defined in both the Century Dictionary and the Encyclopedia Britannica as a 'sweetmeat.'

"Protest No. 2801, on the grounds mentioned above, is therefore sustained as to the first part, and a refund ordered to the importer in the sum of \$4.28, United States currency; the second part is overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 409.—*Merchandise stolen after importation, no allowance can be made for in assessment of duties.*

MANILA, April 13, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest No. 2669, filed November 27, 1903, by Mr. N. T. Hashim, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the amount of duty chargeable on certain merchandise described in Entry No. A-6948, Voucher No. 17540, paid November 25, 1903.

"This protest is against the assessment of duty on one case of merchandise not received by the importer. Investigation discloses that the package in question arrived at this port and was discharged into a lorcha for transfer to the custom-house, but that it was stolen from the lorcha while in front of the custom-house.

"Section 217 of the Customs Administrative Act provides that no allowance shall be made in the assessment of duty for lost or missing packages unless such packages have not been imported into the Philippine Islands. 'Importation by sea begins with the moment the importing vessel enters the jurisdictional waters of a port of entry with intention to unlade therein' (sec. 398; see sec. 158). No allowance can therefore be made for merchandise lost or destroyed after such time, except upon injury or destruction by accidental fire or other casualty while the merchandise is within the custody of officers of the customs (sec. 209). (U. S. vs. Ten Thousand Cigars, 2 Curt., 437; 28 Fed. Cas. 38; U. S. vs. Boyd, 24 Fed. Rep., 692, 694.)

"Protest No. 2669, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 410.—*Knitted undershirts, trimmed.*

MANILA, April 15, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Appeal No. 22, filed February 11, 1904, by Messrs. Forbes, Munn & Co., against the decision of the collector of customs at Iloilo, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. 2354-5, Voucher No. 82-3, paid April 21, 1903.

"This is an appeal from the decision of the collector of customs for the port of Iloilo, and is against the assessment of a surtax of 30 per cent for 'trimming,' on certain knitted cotton undershirts, dutiable under paragraph 125 (b), of the Tariff Revision Law of 1901, at \$0.35 per kilo, not less than 25 per cent ad valorem.

"The sample of the undershirts forwarded with the appeal has sewed on around the neck and down the front, a knitted cotton band, which serves as a binding to prevent raveling. This band

is of the same material as the undershirt itself, but designs are found in the knitting by means of colored threads; these colored threads make the band somewhat ornamental, thus embellishing the undershirt.

"The Court of Customs Appeals has held (Tariff Decision Circular No. 278) that 'cotton undershirts which had been embellished by sewing on down the front and along the opening, a piece of material different from the undershirt itself and upon which there was an imitation of embroidery,' were trimmed. And while it is true that in the present case the material forming the ground for the embellishment is not different from the undershirt, yet this is immaterial, the fact remaining that the reinforcement to the front of these shirts is not a part of the shirts themselves, but is a fancy trimming applied after manufacture, and the shirts being thus trimmed, are subject to the 30 per cent surtax for application of trimming."

"Protest No. 715, Appeal No. 22, on the grounds above mentioned, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

CUSTOMS ADMINISTRATIVE CIRCULAR.

No. 311.—Closing the port of Loculan, Province of Misamis, to the coastwise trade.

MANILA, May 3, 1904.

To all collectors of customs:

By authority of the Civil Governor of the Philippine Islands, the port of Loculan, Province of Misamis, is hereby declared to the coastwise trade.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

PHILIPPINE CIVIL SERVICE BOARD.

EXAMINATION FOR SURVEYOR.

The Civil Service Board announces an examination for surveyors, in English only, to be held on June 20-21, 1904; entrance salary, \$1,200 per annum.

This examination is of the same general character as the examination for civil engineer, except that questions relating to mechanics, materials of constructions, and designing and construction will be omitted. In lieu of the subject "Designing and construction" there will be substituted the subject "Drawing and mapping" (including "Projections"). As a part of the subject of "Drawing and mapping" a finished map will be required to be submitted by competitors within five days after the examination is held.

The subjects and weights of the surveyor's examination are as follows:

	Weights.
1. Pure and applied mathematics (including trigonometry and logarithms).....	15
2. Use and care of field and office instruments.....	15
3. Theory and practice of surveying (including computation on errors, adjustment of closures and areas).....	25
4. Drawing and mapping (including projections).....	20
5. Practice and experience.....	25
<b>Total</b> .....	<b>100</b>

About four hours will be allowed for the first subject, three hours for the second subject, four hours for the third subject, two hours for the fourth subject.

Further information and the necessary application blanks may be obtained at the office of the Philippine Civil Service Board, Manila, where the examinations will be held on the dates named above.

NOTICE.

SALE OF THE INSULAR COLD STORAGE AND ICE PLANT.

Sealed bids for the purchase of the Insular Cold Storage and Ice Plant located at Manila, P. I., will be received on or before the 27th day of June, 1904. The plant includes one of the most valuable locations in the city of Manila on the Pasig River, occupying the whole space between the Suspension and the Santa Cruz Bridges, with abundant water frontage, and in the immediate vicinity of the business center. The buildings and machinery are in every respect new and modern, completed in the year 1901. The sale will include the land and water transportation belonging to the plant, including insulated lighters and barges, delivery wagons, horses, and harnesses.

For the fiscal year 1903 the total revenue of the plant was \$332,194.17; total expenditures for the same period, \$198,338.83, leaving an excess of revenue over expenditures of \$133,855.34, United States money. The plant as a Government institution does not compete with private establishments of a like character. In the hands of a private corporation the income could be very largely increased. No bid for less than \$1,000,000, United States money, will be considered. Bids will be received on the basis of an unrestricted sale, and also on the basis of an agreement on the part of the purchaser to furnish ice to civil employees for five years at the present Government rate of one-half cent, gold, per pound. The right to reject any and all bids is reserved. Each bid must be accompanied by a certified check payable to the Government of the Philippine Islands for 5 per cent of the amount of the bid as security for the fulfillment of the contract should the bid be accepted.

Terms.—Payment to be one-third cash and the balance in three equal annual payments, at 6 per cent interest per annum; the unpaid portion of the purchase money to be secured by mortgage on the property or by other satisfactory security.

Bids may be filed with the Chief of the Bureau of Insular Affairs, War Department, Washington, D. C., or with the Secretary of Finance and Justice at Manila. All bids must be filed before 12 o'clock noon, June 27, 1904, at which time the bids will be opened.

Contents.

Public laws:	No. 119, providing for a new assessment of real estate in the Province of Union.
	No. 119, The Friar Lands Act, providing for the administration, leasing, and sale of certain friar lands.
	No. 1121, amending Acts Nos. 518 and 781 so as to more fully define the crime of brigandage, etc.
	No. 1122, providing for a loan of \$4,000, Philippine currency, to the Province of Paragua.
	No. 1123, amending sections 12, 143, 506, and 512 of the Code of Civil Procedure, and in a new section (1434) providing for an inexpensive method of appeal for paupers.
	No. 1124, providing medical attendance on civil officers and employees at isolated points when life is in jeopardy.
	No. 1125, empowering the Civil Governor to detail provincial fiscal temporarily from one province to another.
	No. 1126, empowering provincial boards to subpoena witnesses and to require testimony under oath in conducting certain investigations, and for other purposes.
	No. 1127, providing for the payment of per diem in lieu of expenses to certain employees in the Bureau of Engineering.
Executive Orders:	No. 21, reconvening the committee provided for by Executive Order No. 100, series of 1902, and No. 16, series of 1903.
	No. 22, appointing a committee to pass upon the physical condition of certain Government carabags under charge of the supervisor of Occidental Negros.
	No. 23, requiring chiefs of Bureaus and Offices to furnish the Insular Auditor with copies of reports of examination of officers' accounts.
Decisions of the Supreme Court:	The United States vs. Antonio de los Reyes.
	The United States vs. Mariano Feliciano et al.
	Jose F. Alemany et al. vs. Hon. John C. Sweeney.
	Antonio Castañeda vs. Jose E. Alemany.
	Margelana Canino et al. vs. Gerardo Valdes et al.
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	The United States vs. Bernabe Gomez.
Bureau of Customs and Immigration:	Tariff Decision Circulars—
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	No. 402, willow baskets or telescope cases not traveling bags.
	No. 403, turn-buckle truss rods, classification of.
	No. 404, planer, moulder, miller, and water motor not "sawmill machinery," water motor suitable as "hydraulic motor."
	No. 405, uniforms for consuls not entitled to free entry.

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**Tariff Decision Circulars.—Continued.**  
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 No. 47, glass bottles containers of stout; value 1d. each.  
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 No. 49, merchandise stolen after importation; no allowance can be made for, in assessment of duties.  
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**Customs Administrative Circulars.—**  
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**Philippine Civil Service Board:**  
 Examination for surveyor.  
**Notice:**  
 Sale of the Insular Cold Storage and Ice plant.

**Announcement.**

The Official Gazette is published weekly by the authority of the Government of the Philippine Islands. It will be furnished by mail to subscribers, free of postage, on the following terms:

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**The Government of the Philippine Islands.**

**Legislative.**

**THE PHILIPPINE COMMISSION.**  
 (Ayuntamiento—The Palace.)

**Commissioners.**—Luke E. Wright, President; Dean C. Worcester, Henry C. Ide, James F. Smith, Trinidad H. Pardo de Tavera, Jose R. Luzuriaga, Benito Legarda.

**Executive.**

**Civil Governor.**—Luke E. Wright; acting private secretary, L. W. Marang; Captain General (Intendencia Building), Third United States Infantry, Air-De-Camp to the Civil Governor.  
**Vice-Governor.**—Henry C. Ide.  
**Secretary of the Interior.**—Dean C. Worcester; private secretary, E. O. Johnson.  
**Secretary of Commerce and Police.**—Vacant.  
**Secretary of Finance and Justice.**—Henry C. Ide; private secretary, Jackson A. Dow.  
**Secretary of Public Instruction.**—James F. Smith; private secretary, W. H. Donovan.

**EXECUTIVE DEPARTMENT.**

**Executive Bureau.**—A. W. Ferguson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Ferguson, in charge, Translating Division; Claude W. Calvix, Recorder of the Commission, Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; Sidney Thomas, Chief of Records Division; H. A. Lammpan, Disbursing Officer.  
**Bureau of Insular Purchasing Agent.**—Major E. G. Shields, Insular Purchasing Agent.  
**Improvement of the Port of Manila.**—Maj. C. MCD. Townsend, Corps of Engineers, United States Army, officer in charge.  
**Philippine Civil Service Board.** (Intendencia Building).—Dr. W. S. Washburn, Chairman, Dr. Dr. F. F. Fowler, Dr. Jose Alzamora.

**DEPARTMENT OF THE INTERIOR.**

**Board of Health for the Philippine Islands.**—Maj. E. C. Carter, Surgeon, United States Army, Commissioner of Public Health; Capt. E. L. Munson, Assistant Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. Manuel Gomez, Secretary.  
**Quarantine Service.** (United States Public Health and Marine-Hospital Service; 78 Madrid).—Dr. Victor G. Heiser, Chief Quarantine Officer; Dr. Chas. W. Vogel and John L. Long, Assistants.  
**Marivules Detention and Disinfection Station.**—Dr. John M. Holt, in command; Dr. R. H. Creel, Assistant.  
**Toledo Quarantine Station.**—Dr. Geo. W. McCoy, in command.  
**Cebu Quarantine Station.**—Dr. Carroll Fox, in command.  
**Jeju Quarantine Station.**—Dr. M. K. Gwyn, in command.  
**Forestry Bureau.** (Intendencia Building).—Capt. George P. Ahern, Ninth Infantry, United States Army, Chief; Ralph C. Bryant, Assistant Chief.  
**Mining Bureau.** (358 Cabildo).—H. D. McCaskey, Chief.  
**Philippine Weather Bureau.** (Calle Observatorio, Ermita).—Rev. José Aigué, S. J., Director (in United States).  
**Bureau of Public Lands.** (Intendencia Building).—Will M. Tipton, Chief.  
**Bureau of Agriculture.** (155 Nozalada).—Prof. F. Lamson-Scribner, Chief (on leave); W. E. Welborn, Acting Chief.  
**Zoological Survey of the Philippine Islands.** (228 Nueva, Ermita).—Professor A. E. Jenks, Chief.  
**Bureau of Government Laboratories.** (719 Irla).—Dr. P. C. Freer, Superintendent; Government Laboratories; Dr. R. P. Strong, Director; Biological Laboratories; Dr. James W. Jobling, Director of Serum Laboratory.  
**Philippine Civil Hospital.** (791 Irla).—Dr. H. Eugene Stafford, Attending Physician and Surgeon.  
**Civil Sanitarium.** (Baguio, Benguet).—Dr. J. B. Thomas, Attending Physician and Surgeon.

**DEPARTMENT OF COMMERCE AND POLICE.**

**Bureau of Posts.** (149 Escolta).—Chas. M. Cotterman, Director; H. M. Robinson, Assistant Director (on leave).  
**Bureau of Philippine Constabulary.** (228 Anda, Intramuros).—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Bandholz, U. S. A., Assistant Chief, Commanding Second District; Lieut.-Col. Wallace C. Taylor, U. S. A., Chief, Commanding Third District; Maj. Jesse S. Garwood, Assistant Chief, Commanding Fourth District; Col. James G. Harbord, U. S. A., Assistant Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary headquarters; Manila; Col. D. J. Baker, jr., U. S. A., Assistant Chief, Chief Supply Officer.  
**Bureau of Prisons.** (Headquarters, Bilibid Prison, Calle Irla).—George N. Wolfe, Warden; J. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William R. Moulten, Resident Physician; Egbert Adams, Cashier, Property and Disbursing Officer.  
**Bureau of Coast Guard and Transportation.**—J. M. Helm, Commander, United States Navy, Chief; Capt. Spencer Cosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.  
**Bureau of Customs and Excise.** (Intendencia Building).—George R. Putnam, Assistant in charge of United States Sub-Office.  
**Bureau of Engineering.** (Santa Potenciana Building).—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcombe, Principal Assistant Engineer; James D. Fauntleroy, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

**DEPARTMENT OF FINANCE AND JUSTICE.**

**Bureau of the Insular Treasury.** (Intendencia Building).—Frank A. Brannagan, Treasurer of the Philippine Archipelago; J. L. Barrett, Assistant Treasurer.  
**Bureau of the Insular Auditor.** (Intendencia Building).—Abraham L. Lawshe, Auditor for the Philippine Archipelago; W. W. Barre, Deputy Auditor.  
**Bureau of Customs and Immigration.**—W. Morgan Shuster, Collector of Customs for the Philippine Islands (on leave); H. B. McCoy, Acting Collector of Customs; Frank S. Cairns, Surveyor.  
**Bureau of Internal Revenue.** (147 Ansoague).—Albert W. Hastings, Acting Collector.  
**Insular Cold Storage and Ice Plant.**—Charles G. Smith, Superintendent.  
**Bureau of Justice.**—Lebbeus R. Wilfley, Attorney-General (on leave); Washington L. Goldborough, Assistant Attorney-General; Gregorio Aranaeta, Solicitor General; James Ross, Supervisor of Provincial Fiscals; Geo. R. Harvey, Assistant Attorney-General for the Constabulary.

**DEPARTMENT OF PUBLIC INSTRUCTION.**

**Bureau of Education.** (Santa Potenciana).—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant.  
**Bureau of Public Printing.**—John S. Leach, Public Printer.  
**Bureau of Architecture and Construction of Public Buildings.** (Calle Ansoague).—Edgar C. Shurtz, Chief.  
**Bureau of Archives.** (Palace).—Manuel de Irlarte, Chief.  
**Bureau of Patents, Copyrights and Trade-Marks.** (Palace).—Manuel de Irlarte, in charge.  
**American Circulating Library.** (70 Rosario).—Mrs. Egbert, Librarian.  
**Official Gazette.** (Santa Potenciana Building).—Max L. McCollough, Editor (on leave); Frank H. Strang, Acting Editor.  
**Census Bureau.**—Brig. Gen. J. P. Sanger, United States Army, Director of the Census (in United States).

**Judiciary.**

**SUPREME COURT.**

(Audiencia, 47 Calle.)

**Chief Justice.**—Don Cayetano Arellano.  
**Associate Justices.**—Florentino Torres, J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.  
**Clerk.**—E. Blanco.  
**Reporter.**—Fred C. Fisher.

**COURT OF CUSTOMS APPEALS.**

(Palace.)

**Judge.**—A. S. Crossfield.  
**Judge.**—Felix M. Rozas.

**COURT OF LAND REGISTRATION.**

(138 Calle Real, Walled City.)

**Judge.**—S. del Rosario.  
**Associate Judge.**—D. R. Williams.  
**Clerk.**—J. B. Wilson.

**COURTS OF FIRST INSTANCE.**

**Manila, Part 1.**—John C. Sweeney, Judge.  
**Manila, Part 2.**—W. J. Robt. Judge.  
**Manila, Part 3.**—Byron S. Ambler, Judge.  
**Manila, Part 4.**—Manuel Araullo, Judge.  
**Clerk.**—E. Blanco.  
**First District.**—Albert E. McCabe.  
**Second District.**—Dionicio Chango.  
**Mountain District.**—Charles H. Burritt.  
**Third District.**—Arthur F. Odlin.  
**Fourth District.**—Julio Lorente.  
**Fifth District.**—Estanislao Yusa.  
**Sixth District.**—Ignacio Villanar.  
**Seventh District.**—Paul W. Lineberger.  
**Eighth District.**—George T. Trent.  
**Ninth District.**—Henry C. Bates.  
**Tenth District.**—  
**Eleventh District.**—Adam C. Carson.  
**Twelfth District.**—James H. Blount.  
**Thirteenth District.**—Warren H. Ickis.  
**Fourteenth District.**—John S. Powell.  
**Fifteenth District.**—Wm. F. Norris.  
**Additional Judges.**—Adolph Wiselzenus, Capiz; Beekman Winthrop; Miguel Logarta.

Provincial Governments in the Philippines.

**Abra**.—Bangued, capital. Governor, Blas Villamor; secretary-fiscal, Lucas Paredes; supervisor-treasurer, Archibald McFarland.

**Albay**.—Albay, capital. Governor, Ramon Santos; secretary, L. Thomas; treasurer, C. A. Reynolds; supervisor, William A. Crossland; fiscal, M. Calleja.

**Antique**.—San Jose de Buenavista, capital. Governor, Juan Pimental; secretary, Roman Enrile; treasurer, J. Q. A. Braden; supervisor, E. P. Shuman; fiscal, F. Contreras.

**Ateneo**.—San José de Buenavista, capital. Governor, Leandro Fullon; secretary, A. Salazar; supervisor-treasurer, B. T. Reamy; fiscal, V. Gella.

**Batanes**.—Balanga, capital. Governor, Tomas G. del Rosario; secretary, L. L. Zalaita; supervisor-treasurer, Emery R. Yundt; fiscal, Ambrocio Delgado.

**Batangas**.—Batangas, capital. Governor, Gregorio Aguilera; secretary, P. Caedo; treasurer, R. D. Blanchard; supervisor, Ernest J. Westerhouse; fiscal, D. Gloria.

**Benquet**.—Bagnio, capital. Governor, Wm. F. Pack; secretary, Egnidio Octaviano; acting supervisor, (provincial governor).

**Bohol**.—Bohol, Tagbilaran, capital. Governor, Salustiano Borja; secretary, M. Sarmiento; supervisor-treasurer, C. D. Uplington; fiscal, Gavino Sepúlveda.

**Bulacan**.—Malolos, capital. Governor, Pablo Tecson y Ocampo; secretary, Francisco Morales; treasurer, R. W. Goodhart; supervisor, Harry Thurber; fiscal, M. Orisontomo.

**Cagayan**.—Tuguegarao, capital. Governor, Gracío Gonzaga; secretary, Pastor Saló; treasurer, W. W. Barclay; supervisor, William E. Pearson; fiscal, Vicente Nepomuceno.

**Capiz**.—Capiz, capital. Governor, S. Jugo Vidal; secretary, Emilio Acevedo; supervisor-treasurer, F. S. Chapman; fiscal, A. Fardo.

**Cavite**.—Cavite, capital. Governor, Capt. David C. Shanks, United States Army; secretary, D. Tirona; acting treasurer, James R. Shaw; supervisor, Russell Suter; fiscal, F. Santa Maria.

**Cebu**.—Cebu, capital. Governor, J. Cilmaco; secretary, L. Alburo; treasurer, Fred J. Schlotfeldt; supervisor, Harry C. Delano; fiscal, Mariano Cui.

**Compostela**.—Jaobag, capital. Governor, Julio Agacollit; secretary, M. Flor; treasurer, J. N. Currie; supervisor, Paul F. Green; fiscal, Policarpo Soriano.

**Cotabato**.—Vigan, capital. Governor, Mena Crisologo; secretary, Fernando Ferrer; treasurer, Fred L. Wilson; supervisor, J. C. Hawley; fiscal, Vicente Singson.

**Dauphin**.—Helo, capital. Governor, Raymond Melliza; secretary, J. Yusay; treasurer, Charles C. McLain; supervisor, Maurice V. Tuttle; fiscal, Andrew V. Smith.

**Davao**.—Davao, capital. Governor, F. Dichoso; secretary, vacant; supervisor-treasurer, N. B. Stewart; fiscal, C. Alzona.

**La Laguna**.—Santa Cruz, capital. Governor, Juan Calles; secretary, José Rivera y Cosme; treasurer, Henry K. Love; supervisor, David A. Sherry; fiscal, Higinio Benitez.

**La Union**.—San Fernando, capital. Governor, Joaquín Luna; secretary, Andrés Asprey; treasurer, Frank B. Parsons; supervisor, Bert H. Burrel; fiscal, J. Baltazar.

**Lepanto**.—Bontoc, Cerverantes, capital. Governor, William Dinwiddie; secretary-treasurer, James C. Owens; supervisor, M. Goodman; lieutenant-governor (Bontoc), Daniel Folkmar; lieutenant-governor (Amburayan), W. F. Gale.

**Leyte**.—Tacloban, capital. Governor, P. Boreth; secretary, Emigdio Acebedo; treasurer, W. S. Conrow; acting supervisor, Oliver D. Filley; fiscal, Domingo Franco.

**Masbate**.—Masbate, capital. Governor, Joaquín Ma. Bayat y Zurbita; treasurer and acting supervisor, J. A. Comdohr; fiscal, Ambrosio Delgado.

**Mindoro**.—Puerto Gallera, capital. Governor, Capt. R. S. O'Levy, Third Infantry, U. S. A.; secretary, Fernando San Agustín; supervisor-treasurer, Carroll H. Lamb; fiscal, M. Quezon.

**Misamis**.—Cagayan, capital. Governor, Manuel Corrales; secretary, A. Velez; supervisor-treasurer, E. E. Barton; fiscal, N. Capistrano.

**Noro**.—Zamboanga, capital. Governor, Gen. Leonard Wood, United States Army; secretary, Capt. George T. Langhorne, United States Army; attorney, John E. Sprague; treasurer, Fred A. Thompson; engineer and supervisor, Capt. Charles Keller, United States Army; superintendent of schools, Dr. Najeb M. Saleeby.

**Nueva Ecija**.—San Idró, capital. Governor, Epifanio de los Santos; secretary, R. Roque; treasurer, J. B. Green; supervisor, C. D. Wood; fiscal, R. Mañalac.

**Nueva Vizcaya**.—Bayombong, capital. Governor, L. E. Bennett; secretary-treasurer, William C. Bryant; acting supervisor, Wm. H. Nipps.

**Occidental Negros**.—Bacolod, capital. Governor, Antonio Jayme; secretary, L. Norio; treasurer, P. A. Casanave; supervisor, H. M. Wood; fiscal, M. Blanco.

**Oriental Negros**.—Dumaguete, capital. Governor, Demetrio Larena; secretary, J. Montenegro; supervisor-treasurer, H. A. Peed; fiscal, E. Araneta.

**Pampanga**.—Bacolod, capital. Governor, Macario Arnedo; secretary, M. Manahan; treasurer, R. M. Shearer; supervisor, William P. Creager; fiscal, E. Macapinlac.

**Panay**.—Lingayen, capital. Governor, Macario Pavila; secretary, Benito Sison; treasurer, Thomas H. Hardean; supervisor, Charles F. Vance; fiscal, R. Eppirritu.

**Paragua**.—Cuyo, capital. Governor, Lieut. E. Y. Miller; secretary-treasurer, Hall H. Ewing.

**Rizal**.—Pasig, capital. Governor, Arturo Dancel; secretary, José Tupas; treasurer, Wm. N. Bish; supervisor, Telfair Hodgson; fiscal, Bartolomé Revilla.

**Romblon**.—Romblon, capital. Governor, Francisco Sanz; secretary, Corbillo Madrigal; supervisor-treasurer, Julius S. Reis.

**Samar**.—Catalogan, capital. Governor, Eduardo Felto; secretary, Eduardo Felto; treasurer and acting supervisor, Arthur G. Whittier; fiscal, Domingo Franco y Mosquera.

**Sorsogon**.—Sorsogon, capital. Governor, Bernardino Monreal; secretary, M. V. del Rosario; treasurer, R. J. Fanning; supervisor, Harry L. Stevens; fiscal, P. Bailen.

**Surigao**.—Surigao, capital. Governor, Daniel Toribio Sison; secretary, Rafael Pilot; supervisor-treasurer, George A. Benedict; fiscal, F. Soriano.

**Tarlac**.—Tarlac, capital. Governor, Alfonso Ramos; secretary, M. Barrera; treasurer, W. E. Jones; supervisor, Sam C. Flippo; fiscal, M. Ilagan.

**Tayabas**.—Lucena, capital. Governor, Ricardo Paras; secretary, Gerardo Usano; treasurer, William O. Thornton; supervisor, Henry C. Humphrey; fiscal, Sofo Alandy.

**Zambales**.—Iba, capital. Governor, Potenciano Leasca; secretary, Gabriel Alba; supervisor-treasurer, Arthur S. Emery; fiscal, Juan Manday.

Members of Boards for Suppressing the Locust Pest.

APPOINTMENTS BY THE EXECUTIVE SECRETARY.

**ABRA**.—Bangued: Maximó Blanco, Hugo Balne, Guillermo Blancofer. **ALBAY**.—Albay: Emilio Marquez, Mariano Maroneilla, Esteban Narrago.

**AMBOS CAMARINES**.—Nueva Caceres: Lamberto San Felipe, Celestino Reyes, Felipe Mompobanua.

**ANTIQUE**.—San José de Buenavista: Pedro Moscoso, Anselmo Alicante. **BATAAN**.—Batangas: Juan G. Yabut, Antonio Yason, Victor Baltazar. **BATANGAS**.—Batangas: Felipe Barrion, José Arguelles, Leon Catigbac. **BOHOL**.—Tagbilaran: Pedro Macerero, Salvador Rodriguez, Pedro Sanson.

**BULACAN**.—Malolos: Fruto Andraza, Meliton Carlos, Cefetero Aldaba. **CAGAYAN**.—Tuguegarao: R. W. Adamson, Sebastian Tuyuan, Pedro Soriano.

**CAPIZ**.—Capiz: Maximó Vigil, Francisco Soler, Vicente Villagracia. **CAVITE**.—Hou. Mariano Trias, San Francisco de Malabon; Severino de las Alas, Indan; Felix Cuenca, Bacoor.

**CEBU**.—Cebu: Valeriano Cilmaco, Pedro Rodriguez, Pedro Cui. **ILOCOS NORTE**.—Laoag: Cayetano Madamba, Cipriano Lagasca, Emilio Llave.

**ILOCOS SUR**.—Vigan: Raymond Querol, Estanislao Reyes, Ladislao Delato.

**ILOILO**.—Iloilo: Magdalena Javelona, Raymond Melliza, José Zulueta. **ISABELA**.—Iligan: José Cabildo, Irineo Komosing, Generoso Cagacan. **LAGUNA**.—Santa Cruz: Juan Ordoñez, José de Leon, Gregorio Elbo. **LA UNION**.—San Fernando: Rafael Lete, Paulino Alviar, Lucio Almeida. **LEPANTO-BONTOC**.—Duguit, Concepcion; Sintonoso Bondad, Cerverantes; Gregorio Malinas, San Emilio.

**LEYTE**.—Juan Baganday, Leyte; Pedro Floridels, Hilongos; Dionisio Esperas, Tacloban.

**MASBATE**.—Masbate: Espiridion Maristola, Nicolas Dano, Marcos Mindoro. **CATAPÁN**: Feliciano Alivera, Luciano Lopez, Agustín Quilano.

**MISAMIS**.—Cagayan: Cayetano Vamenta, Bernardo Rasines, Leon Chaves.

**NEGROS OCCIDENTAL**.—Bacolod: Aniceto Lacson, Agustín Montilla, Monse Burbanoz.

**NEGROS ORIENTAL**.—Miguel Paterno, Sibulan; Juan Furberye, Manahog, Luis Rotea, Bois.

**NUÉVA ECICIA**.—Crispulo Sidereo, San Isidro; Pablo Padilla, Santa Rosa; Marciano Adorable, Gapan.

**NUÉVA VIZCAYA**.—Salvador Lamang, Dagabag; Anastasio Fernandes, Nueva Ecija; Vicente Cutaran, Bayombong.

**PAMPANGA**.—Macario Arnedo, Apaiti; Cefetero Sandico, Mexico; Estanislao Santos, Bacolor.

**PANAY**.—Cirilo Espino y Antonio Flor Mata, Lingayen; Matias Gonzales, Baustita.

**PARAGUA**.—Vicente Sandoval, Coron; Clemente Fernandez y Mariano Abes, Cuyo.

**RIZAL**.—Pasig: Estanislao Melendres, Manuel Jabson, Matias Angeles. **ROMBLON**.—Romblon: Anselmo Gutierrez, Santiago Estudillo, Joaquin Sambil.

**SAMAR**.—Catalogan: Melecio Liana, Alejo Gama, Leocadio Cinco.

**TARLAC**.—Tarlac: Manuel de Leon, Manuel Martinez, Perfecto Abes, Cuyo.

**TAYABAS**.—Lucena: Alfredo Castro, Juan Nueva, Juan Carmona.

**UNION**.—San Fernando: Rafael Lete, Paulino Alviar, Lucio Almeida. **ZAMBALÉS**.—Iba: Cirilo Braganza, Juan Rodriguez, Basilio de la Rosa.

# Official Gazette



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VOL. II

MANILA, P. I., MAY 25, 1904.

No. 21

## PUBLIC LAWS.

[No. 1128.]

AN ACT PRESCRIBING REGULATIONS GOVERNING THE PROCEDURE FOR ACQUIRING TITLE TO PUBLIC COAL LANDS IN THE PHILIPPINE ISLANDS, UNDER THE PROVISIONS OF SECTIONS FIFTY-THREE, FIFTY-FOUR, FIFTY-FIVE, FIFTY-SIX, AND FIFTY-SEVEN, OF THE ACT OF CONGRESS APPROVED JULY FIRST, NINETEEN HUNDRED AND TWO, ENTITLED "AN ACT TEMPORARILY TO PROVIDE FOR THE ADMINISTRATION OF THE AFFAIRS OF CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Any person above the age of twenty-one years, who is a citizen of the United States or of the Philippine Islands, or who has acquired the rights of a native of said Islands under and by virtue of the treaty of Paris, or any association of persons severally qualified as above, may purchase any unreserved, unappropriated public land which is chiefly valuable for coal, by proceeding as hereinafter directed: *Provided*, That no individual person shall be entitled to purchase more than sixty-four hectares and no association more than one hundred and twenty-eight hectares; *And provided further*, That this act shall be held to authorize but one entry by the same person or association of persons, and no association of persons, any member of which shall have taken the benefit of this Act, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions hereof, and no member of any association which shall have taken the benefit of this Act shall enter or hold any other lands under the provisions hereof: *And provided further*, That such lands if previously surveyed by the Government shall be taken by legal subdivisions, but if unsurveyed shall be taken, wherever possible, in the form of squares which shall contain at least sixteen hectares each.

SEC. 2. A coal claim may be initiated either by filing a declaration of location with the mining recorder of the province in which the land is located, or by actually taking possession of the land and making improvements thereon: *Provided however*, That where claims are initiated by occupation a proper declaration of location must be filed with the mining recorder within sixty days after the date of actual possession and commencement of improvements.

SEC. 3. The declaration of location above mentioned must be executed under oath, and must describe the land occupied in as definite a manner as practicable, and must contain all necessary allegations to show that applicant has the qualifications required under section one of this Act, and that the land is of the character therein mentioned. In case a right to purchase is based on prior

occupation and improvement, that fact must be set out, and the date of occupation and amount of improvements stated.

SEC. 4. It shall be the duty of the mining recorder to record declarations of locations of coal claims in the same manner that declarations of locations of mining claims are recorded; and for such services he shall require the payment of a fee of two pesos, Philippine currency, which shall be paid to the provincial or district treasurer as provided in section five of Act Numbered Six hundred and twenty-four as amended by Act Numbered Eight hundred and fifty-nine.

SEC. 5. All declarations of locations shall be recorded in the order in which they are filed for record, and the mining recorder shall note on each instrument filed for record the year, month, and day, and the hour and minute of the day on which the same was filed. After recording the declaration the mining recorder shall make a true copy of the same and without delay forward it to the Chief of the Bureau of Public Lands.

SEC. 6. All persons seeking to acquire public lands under the provisions of this Act must prove their respective rights and pay for the land filed upon within one year from the time prescribed for filing their claims, and they shall not take from the land and sell any coal prior to obtaining a patent.

SEC. 7. A patent for land claimed and located for valuable coal deposits may be obtained in the following manner: Any person or association authorized to locate a coal claim under this Act having claimed and located a piece of land for such purposes, who or which has complied with the terms of this Act, shall file with the Chief of the Bureau of Public Lands an application for a patent under oath, showing such compliance, together with a plat and field notes of the claim made by or under the direction of the Chief of the Bureau of Public Lands and at applicant's expense, showing accurately the boundaries of the claim, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land described in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such plat and notice have been duly posted. Upon the filing of said application, plat, field notes, notices, and affidavits, it shall be the duty of the Chief of the Bureau of Public Lands to publish once a week a notice that such application has been made for the period of nine consecutive weeks in a newspaper to be by him designated; also to post a copy of the application in his office, and to require such further publication as he, with the approval of the Secretary of the Interior, may deem advisable. At the expiration of the period of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed in the Bureau of Public Lands during the said period of publication, it shall be assumed that the applicant is entitled to a patent, upon payment to the Chief of the Bureau

of Public Lands of fifty pesos per hectare where the land shall be situated more than fifteen miles from any completed railroad, available harbor, or navigable stream, and one hundred pesos per hectare for such lands as shall be within fifteen miles of such road, harbor, or stream, and that no adverse claim exists: *Provided*, That where the claimant for a patent is not a resident of or within the province wherein the land sought to be purchased is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits.

Sec. 8. Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the Chief of the Bureau of Public Lands, who, in case the conditions of section seven of this Act have been complied with, shall issue to the claimant a patent for such land as by the decision of the court he appears to be entitled to.

Sec. 9. All patents for lands disposed of under this Act shall be prepared in the Bureau of Public Lands and shall issue in the name of the United States and the Philippine Government under the signature of the Civil Governor; but such patents shall be effective only for the purposes defined in section one hundred and twenty-two of the Land Registration Act and the actual conveyance of the land shall be effected only as provided in said section.

Sec. 10. The Chief of the Bureau of Public Lands, under the supervision of the Secretary of the Interior, shall prepare and issue such forms and instructions consistent with this Act as may be necessary and proper to carry its provisions into effect, and for the conduct of all proceedings arising hereunder.

Sec. 11. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 12. This act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1129.]

AN ACT AMENDING ACT NUMBERED EIGHTY-THREE, KNOWN AS THE PROVINCIAL GOVERNMENT ACT, BY PROVIDING THAT JUDGES HOLDING COURT IN THE PROVINCES MAY BE PAID A PER DIEM FOR EXPENSES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section seven of Act Numbered Eighty-three, known as the Provincial Government Act, is hereby amended by inserting after the word "day," in the ninth line of said section, the following: "*Provided*, That where the governor fails for any cause to make proper provision for the protection and entertainment of the

judge, a per diem of six pesos, Philippine currency, shall be allowed from the provincial treasury to the judge in lieu of expenses during the period he is required to be in the province for the purpose of holding court."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1130.]

AN ACT TO PREVENT THE FAILURE OF MILITARY JUSTICE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Every person not belonging to the Army of the United States, who, in the Philippine Islands, being duly subpoenaed to appear therein as a witness before a general court-martial of said Army, willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be punished by a fine of not more than five hundred dollars, United States currency, or imprisonment not to exceed six months, or both, at the discretion of the court, and it shall be the duty of the proper fiscal or prosecuting officer, on the certification of the facts to him by the general court-martial, to file in the proper court a complaint against and prosecute the person so offending: *Provided*, That one dollar and fifty cents, United States currency, for each day's attendance and five cents, United States currency, per mile for going from his place of residence to the place of trial or hearing and five cents per mile for returning, shall be duly tendered to said witness: *Provided further*, That no witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate him.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1131.]

AN ACT MAKING THE GOVERNOR OF THE PROVINCE OF MINDORO A JUSTICE OF THE PEACE WITH JURISDICTION THROUGHOUT THE WHOLE OF THAT PROVINCE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The governor of the Province of Mindoro is hereby made ex officio justice of the peace with authority to perform all the duties of a justice of the peace throughout the whole of the Province of Mindoro. His jurisdiction as justice of the peace shall be concurrent in every municipality and in every part of said province with that of the proper justice of the peace of the municipality. The fees that would accrue to a justice of the peace shall, in all cases where the provincial governor acts as justice of the peace, be covered into the treasury of the province for the general purposes of the province.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance



with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1132.]

AN ACT SO AMENDING ACT NUMBERED FIVE HUNDRED AND NINETY AS TO PROVIDE THAT THE EXPENSES OF PRELIMINARY INVESTIGATIONS FOR CRIMINAL OFFENSES BY JUSTICES OF THE PEACE, WHEN HELD AT THE CAPITAL OF THE PROVINCE, ALTHOUGH THE OFFENSES WERE COMMITTED IN OTHER MUNICIPALITIES, SHALL BE PAID BY THE MUNICIPALITIES IN WHICH THE OFFENSES WERE COMMITTED.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered Five hundred and ninety, entitled "An Act so amending Act Numbered One hundred and ninety-four, relating to preliminary investigations of criminal offenses by justices of the peace, and portions of General Orders, Numbered Fifty-eight, as to authorize justices of the peace in the capitals of provinces to hold preliminary investigations in regard to offenses alleged to have been committed in any portion of the province," is hereby amended by adding at the end thereof the following words: "Provided, however, That the expense of such preliminary investigation shall be paid by the municipality in which the offense was committed in the same manner as though the preliminary investigation had been conducted in such municipality."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1133.]

AN ACT AMENDING ACT NUMBERED EIGHT HUNDRED AND FIFTY-FOUR BY PROVIDING FOR THE PAYMENT BY THE INSULAR GOVERNMENT OF THE COST OF MEDICAL ATTENDANCE FOR FILIPINO STUDENTS APPOINTED UNDER SAID ACT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section five of Act Numbered Eight hundred and fifty-four, entitled "An Act providing for the education of Filipino students in the United States and appropriating for such purpose the sum of seventy-two thousand dollars, in money of the United States," is hereby amended by adding after the words "per annum" in the third line of said section the words "medical attendance."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1134.]

AN ACT AMENDING ACT NUMBERED SIX HUNDRED AND TWENTY-FOUR, ENTITLED "AN ACT PRESCRIBING REGULATIONS GOVERNING THE LOCATION AND MANNER OF RECORDING MINING CLAIMS, AND THE AMOUNT OF WORK NECESSARY TO HOLD POSSESSION OF A MINING CLAIM, UNDER THE PROVISIONS OF THE ACT OF CONGRESS APPROVED JULY FIRST, NINETEEN HUNDRED AND TWO, ENTITLED 'AN ACT TEMPORARILY TO PROVIDE FOR THE ADMINISTRATION OF THE AFFAIRS OF CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES.'"

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section three of Act Numbered Six hundred and twenty-four, entitled "An Act prescribing regulations governing the location and manner of recording mining claims, and the amount of work necessary to hold possession of a mining claim, under the provisions of the Act of Congress approved July first, nineteen hundred and two, entitled 'An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,'" is hereby amended by inserting in the first sentence of said section after the words "all declarations and affidavits regarding mining claims" the following words: "and all other documents and instruments in writing of whatever character or nature alienating, mortgaging, leasing, or otherwise affecting the possession of mining claims or any right or title thereto or interest therein;" and by inserting in the same sentence after the words "shall be recorded in the order in which they are filed for record" the following: "and from and after such filing for record all declarations and affidavits regarding mining claims, and all documents and instruments in writing of whatever kind or nature alienating, mortgaging, leasing or otherwise affecting the possession of mining claims or any right or title thereto or interest therein shall constitute notice to all persons and to the whole world of the contents of said declarations, affidavits, documents, and written instruments and of the legal effect thereof."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1135.]

AN ACT PROVIDING FOR THE INCORPORATION OF THE MUNICIPALITY OF BONGABON, PROVINCE OF MINDORO, AS A BARRIO OF THE MUNICIPALITY OF PINAMALAYAN, PROVINCE OF MINDORO.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The municipality of Bongabon, in the Province of Mindoro, is hereby incorporated as a barrio of the municipality of Pinamalayan in the same province.

Sec. 2. The existing organization of the municipality of Bongabon is hereby abolished and all officers existing by virtue of the present organization of such municipality are hereby declared vacant and such offices are abolished.

Sec. 3. The public good requiring the speedy enactment of this

bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, April 28, 1904.

[No. 1136.]

AN ACT AUTHORIZING THE COLLECTOR OF CUSTOMS FOR THE PHILIPPINE ISLANDS TO LICENSE VESSELS ENGAGED EXCLUSIVELY IN THE LIGHTERAGE AND HARBOR BUSINESS AND TO PROVIDE FOR THE REGULATION OF THAT BUSINESS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Collector of Customs for the Philippine Islands is hereby authorized, empowered and directed to issue licenses to engage in the lighterage or other exclusively harbor business to vessels or other craft actually engaged in such business in any of the ports of the Philippine Islands on the eighth day of March, nineteen hundred and two, and to vessels and other craft built in the Philippine Islands or in the United States and owned by citizens of the United States or by inhabitants of the Philippine Islands, or by members of both classes jointly.

Sec. 2. From and after the passage of this Act no vessel shall engage in lighterage or other exclusively harbor business in or about the harbors, rivers, or inland waters of the Philippine Islands, having navigable outlet to the sea, without a license therefor. except those hereinafter exempted.

Sec. 3. The provisions of this Act shall not apply to:

1. Yachts, launches, and other craft used and employed exclusively for pleasure and recreation.
2. Ship's boats and launches bearing the name and home port of the vessel plainly marked thereon.
3. Vessels owned by the Government of the Philippine Islands or of the United States.

4. Vessels of the burden of one ton gross or less: *Provided, however,* That the exemptions of the first three paragraphs of this section shall cease as to any vessel which shall at any time engage in the business of transporting cargo or passengers for hire.

Sec. 4. Each license issued under the authority of section one shall specify the particular port or other body of water for which issued, and no vessel shall transport cargo or passengers for hire beyond the limits specified in its license.

Sec. 5. The Collector of Customs for the Philippine Islands is hereby authorized, empowered, and directed to promptly make and publish suitable rules and regulations to carry this law into effect and to regulate the business herein licensed.

Sec. 6. Any license granted or continued in force under the authority of this Act may be revoked for cause at any time by the Collector of Customs for the Philippine Islands.

Sec. 7. Any vessel which shall violate the provisions of this Act may be fined in any sum not exceeding one thousand dollars, United States currency, to be collected in the manner prescribed in section three hundred and thirteen of the Customs Administrative Act, as amended by Act Numbered Eight hundred and sixty-four.

Sec. 8. Any person who shall violate the provisions of this Act, or of any rule or regulation made and issued by the Collector of Customs for the Philippine Islands, under and by authority of this Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for not more than six months, or by a fine of not more than one hundred dollars, United States currency, or by both such fine and imprisonment at the discretion of the court: *Provided,* That violations of law may be punished either by the method prescribed in section seven hereof, or by that prescribed in this section, or by both.

Sec. 9. All lighterage and harbor licenses heretofore issued by the Collector of Customs for the Philippine Islands, and all rules promulgated by him relating to the issuing of such licenses, or regulating lighterage and other exclusively harbor business, are hereby ratified and confirmed, and shall continue in full force and effect until otherwise provided by law or regulation.

Sec. 10. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 11. This Act shall take effect on its passage.

Enacted, April 29, 1904.

[No. 1137.]

AN ACT APPROPRIATING THE SUM OF FIVE HUNDRED THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FROM THE FUND OF THREE MILLION DOLLARS APPROPRIATED BY THE CONGRESS OF THE UNITED STATES FOR THE RELIEF OF DISTRESS IN THE PHILIPPINE ISLANDS, FOR EXPENDITURE UNDER THE DIRECTION OF THE CIVIL GOVERNOR UPON THE RESOLUTIONS OF THE PHILIPPINE COMMISSION.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The sum of five hundred thousand dollars, in money of the United States, is hereby appropriated, out of the fund of three million dollars appropriated by the Congress of the United States for the relief of distress in the Philippine Islands, for expenditure under the direction of the Civil Governor for such purposes and in such manner as may from time to time be authorized by resolutions of the Philippine Commission and in carrying out the intent of the Congress of the United States in appropriating the fund aforesaid.

Sec. 2. The sum of money by this Act appropriated shall be withdrawn from the Insular Treasury by requisitions in favor of such disbursing officer as the Civil Governor may direct, in such allotments as may from time to time be necessary, and shall be accounted for as provided by law.

Sec. 3. The resolutions of the Philippine Commission upon which the funds herein appropriated shall be expended shall be printed and published in the regular quarterly volumes of the laws and resolutions of the Commission and in the Official Gazette.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, April 30, 1904.

[No. 1138.]

AN ACT TO BRING IMMEDIATELY UNDER THE OPERATION OF THE LAND REGISTRATION ACT ALL LANDS LYING WITHIN THE BOUNDARIES LAWFULLY SET APART FOR NAVAL RESERVATIONS AND ALL LANDS DESIRED TO BE PURCHASED BY THE GOVERNMENT OF THE UNITED STATES FOR NAVAL PURPOSES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The provisions of Act Numbered Six hundred and twenty-seven, entitled "An Act to bring immediately under the

operation of the Land Registration Act all lands lying within the boundaries lawfully set apart for military reservations, and all lands desired to be purchased by the Government of the United States for military purposes," are hereby made applicable to all lands or buildings or any interest therein within the Philippine Islands lying within the boundaries of the areas now or hereafter set apart and declared to be naval reservations: *Provided however*, That wherever the word "military" appears in said Act Numbered Six hundred and twenty-seven there shall be substituted the word "naval" for the purposes of this Act: *And provided further*, That wherever the words "Commanding General of the United States Army, Division of the Philippines," appear in said Act Numbered Six hundred and twenty-seven there shall be substituted the words "Commander in Chief of the United States Asiatic Fleet," for the purposes of this Act.

Sec. 2. The method of procedure provided in Act Numbered Six hundred and twenty-seven for settling the titles to lands within military reservations, or which are sought to be purchased for military purposes, is hereby made applicable to naval reservations and to lands which the naval authorities of the United States wish to acquire by purchase for naval purposes, owned by private individuals and not within the boundaries set apart for naval reservations, and in case of proceedings in accordance with the provisions of this Act, claims for private lands, buildings, and interests within the limits of naval reservations not presented to the Court of Land Registration, as provided in said Act Numbered Six hundred and twenty-seven, shall be forever barred, and the lands, buildings, and interests therein shall be deemed to be public and not private property, in accordance with the provisions of said Act Numbered Six hundred and twenty-seven.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, April 30, 1904.

[No. 1139.]

AN ACT SO AMENDING SECTION SEVENTY-EIGHT OF ACT NUMBERED EIGHTY-TWO, ENTITLED "THE MUNICIPAL CODE," AS TO MAKE IT UNNECESSARY TO SEARCH FOR THE PERSONAL PROPERTY OF A DELINQUENT TAXPAYER BEFORE PROCEEDING AGAINST HIS REAL ESTATE FOR THE COLLECTION OF TAXES.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section seventy-eight of Act Numbered Eighty-two, entitled "The Municipal Code," is hereby amended by striking out from the first sentence thereof the following words: "In the event that the provincial treasurer or his deputy shall be unable to find sufficient personal property of the delinquent out of which to make all the taxes assessed against him upon his real estate, due either to the municipality, the provincial government, or the Central Government, or if the delinquent be unknown, the provincial treasurer or his deputy shall," and inserting in lieu thereof the following words: "In addition to the procedure prescribed in section seventy-five, the provincial treasurer or his deputy may," so that said sentence shall read as follows: "In addition to the procedure prescribed in section seventy-five, the provincial treasurer or his deputy may, upon the warrant of the certified record required in section seventy-five, within twenty days after delinquency, advertise the real estate of the delinquent for sale, or so much thereof as may be necessary to satisfy all

public taxes upon said property as above and costs of sale, for a period of thirty days."

Sec. 2. This Act shall be retroactive so far as to apply to all taxes heretofore assessed but not collected.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, May 2, 1904.

[No. 1140.]

AN ACT REGULATING APPOINTMENT TO THE POSITION OF SECRETARY OF THE ADVISORY BOARD OF MANILA, AMENDING SECTION SIXTY-FIVE OF ACT NUMBERED ONE HUNDRED AND EIGHTY-THREE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Hereafter a vacancy occurring in the position of secretary of the Advisory Board of the city of Manila shall be filled by appointment of the president of the Advisory Board, by and with the consent of the Advisory Board, and in accordance with civil service rules and regulations. A member of the Advisory Board shall not be eligible to appointment as secretary of the Board.

Sec. 2. The action of the Advisory Board in appointing a secretary not a member of the Board is confirmed.

Sec. 3. All parts of section sixty-five of Act Numbered One hundred and eighty-three or of other Acts in conflict with the provisions of this Act are hereby repealed.

Sec. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, May 3, 1904.

[No. 1141.]

AN ACT AMENDING SECTIONS THIRTY-THREE AND SIXTY-ONE OF ACT NUMBERED ONE HUNDRED AND EIGHTY-THREE, ENTITLED "AN ACT TO INCORPORATE THE CITY OF MANILA."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section thirty-three of Act Numbered One hundred and eighty-three, entitled "An Act to incorporate the city of Manila," is hereby amended by striking out of said section the clause "shall inspect and seal weights and measures, enforce the keeping and use of proper weights and measures by vendors and vendees, and regulate the inspection, weighing, and measuring of brick, coal, lumber, and other articles of merchandise, in accordance with law and ordinances;" and by striking therefrom the words "and shall collect water rents as fixed by law or ordinance."

Sec. 2. Section sixty-one of said Act is hereby amended by adding thereto, after the first sentence thereof, the following: "He shall collect all water rents as fixed by law or ordinance; all miscellaneous charges made by the Department of Engineering and Public Works; and all charges made by the city engineer for inspection, permits, licenses, and the installation,

maintenance, and services rendered in the operation of the so-called 'pail system.' He shall inspect and seal weights and measures, enforce the keeping and use of proper weights and measures by vendors and vendees, and regulate the inspection, weighing, and measuring of brick, coal, lumber, and other articles of merchandise, and shall collect all charges for such inspection and regulation, in accordance with law and ordinances."

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, May 3, 1904.

[No. 1142.]

AN ACT TO INCREASE THE SALARY OF THE SECRETARY-TREASURER OF THE PROVINCE OF NUEVA VIZCAYA, AMENDING ACT NUMBERED THREE HUNDRED AND THIRTY-SEVEN, ENTITLED "AN ACT PROVIDING FOR THE ORGANIZATION OF A PROVINCIAL GOVERNMENT IN THE PROVINCE OF NUEVA VIZCAYA."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Subsection (b) of section two of Act Numbered Three hundred and thirty-seven is hereby amended by striking out the words "one thousand two hundred dollars per year" and substituting in their stead the words "one thousand five hundred dollars per annum," so that the said subsection (b) shall read as follows:

"(b) A provincial secretary-treasurer, at a salary of one thousand five hundred dollars per annum."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. The provisions of this Act shall be retroactive and effective as of January first, nineteen hundred and four.

Enacted, May 3, 1904.

[No. 1143.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF LA LAGUNA FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL NOVEMBER FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of La Laguna, is hereby extended to November first, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 3, 1904.

[No. 1144.]

AN ACT AUTHORIZING THE PAYMENT OF EXTRA COMPENSATION TO MEMBERS OF THE PHILIPPINE SCOUTS AND THE CONSTABULARY DETAILED FOR SPECIAL DUTY IN CONNECTION WITH THE ERECTION OF BAMBOO AND NIPA BUILDINGS, AND FOR OTHER PURPOSES, AT THE LOUISIANA PURCHASE EXPOSITION AT ST. LOUIS, MISSOURI.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The payment of a per diem allowance of fifty cents, United States currency, in addition to regular compensation, to members of the Philippine Scouts and the Constabulary detailed at the request of the Chairman of the Exposition Board for special duty in connection with the erection of bamboo and nipa buildings, and for other purposes, at the Louisiana Purchase Exposition at Saint Louis, Missouri, is hereby authorized, the same to be paid out of appropriations made for Saint Louis Exposition Board, the provisions of Act Numbered One hundred and forty-eight to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 3, 1904.

[No. 1145.]

AN ACT PROVIDING FOR THE ESTABLISHMENT OF LOCAL CIVIL GOVERNMENTS FOR THE NON-CHRISTIAN TRIBES IN THE PROVINCE OF TAYABAS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Whereas the non-Christian tribes in the Province of Tayabas have not progressed sufficiently in civilization to make it practicable to bring them under any form of municipal government, the provincial governor is authorized, subject to the approval of the Secretary of the Interior, in dealing with these non-Christian tribes to appoint officers from among them, to fix their designation and badges of office, and to prescribe their powers and duties: *Provided*, That the powers and duties thus prescribed shall not be in excess of those conferred upon township officers by Act Numbered Three hundred and eighty-seven, entitled "An Act providing for the establishment of local civil government in the townships and settlements of Nueva Vizcaya."

SEC. 2. Subject to the approval of the Secretary of the Interior, the provincial governor is further authorized, when he deems such a course necessary in the interest of law and order, to direct members of such tribes to take up their habitations on sites on unoccupied public land to be selected by him and approved by the provincial board. Members of such tribes who refuse to comply with such directions shall, upon conviction, be imprisoned for a period not exceeding sixty days.

SEC. 3. The constant aim of the governor shall be to aid the non-Christian tribes of his province to acquire the knowledge and experience necessary for successful local popular government, and his supervision and control over them shall be exercised to this end, and to the end that law and order and individual freedom shall be maintained.

SEC. 4. When in the opinion of the provincial board of Tayabas, and of the Secretary of the Interior, any settlement of non-Christian tribes has advanced sufficiently to make such a course practicable, it may be organized, under the provisions of sections

one to sixty-seven, inclusive, of Act Numbered Three hundred and eighty-seven, as a township, and the geographical limits of such township shall be fixed by the provincial board.

Sec. 5. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 6. This Act shall take effect on its passage.

Enacted, May 3, 1904.

[No. 1146.]

AN ACT APPROPRIATING THE SUM OF ONE THOUSAND NINE HUNDRED AND FIVE PESOS AND FIFTY-SIX CENTAVOS, PHILIPPINE CURRENCY, FOR THE PAYMENT OF THE SALARY OF THE ACTING JUDGE OF THE MUNICIPAL COURT OF THE CITY OF MANILA FOR THE PERIOD FROM MARCH TWENTY-FOURTH TO JUNE THIRTIETH, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of one thousand nine hundred and five pesos and fifty-six centavos, Philippine currency, for the payment of the salary of the acting judge of the municipal court of the city of Manila, at the rate of seven thousand pesos per annum for the period from March twenty-fourth to June thirtieth, nineteen hundred and four.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 3, 1904.

## RESOLUTIONS OF THE PHILIPPINE COMMISSION.

*Extract from minutes of proceedings, April 27, 1903.*

*Resolved.* That the Civil Governor is hereby authorized to expend from the appropriation of five hundred thousand dollars made by Act Numbered One thousand forty six from the Congressional relief fund the sum of seven thousand five hundred dollars, in money of the United States, to be used in completing the construction of the Malolos-Hagonoy road, in the Province of Bulacan.

*Extract from minutes of proceedings, April 28, 1903.*

*Resolved.* That the Civil Governor be and he is hereby authorized to expend from the appropriation made by Act Numbered One thousand and forty-six from the Congressional relief fund the sum of five hundred Philippine pesos to meet all necessary expenses incident to immunization, herding, and care of Government carabaos sent to Occidental Negros.

*Extracts from minutes of proceedings, April 30, 1904.*

*Resolved.* That in the opinion of the Commission a proper and suitable name for the Oriente Hotel building recently purchased by the Insular Government would be "Oriente Building," and that the Chief of the Bureau of Architecture and Construction of Public Buildings should place such name thereon.

*Be it resolved.* That the Civil Governor is hereby authorized to expend from the fund of five hundred thousand dollars appropriated by Act Numbered One thousand one hundred and thirty-seven from the Congressional relief fund the sum of two hundred and fifty thousand dollars, in money of the United States, to be used in continuing the work of construction upon the road from Pozorrubio, Pangasinan, to Baguio, Benguet.

*Be it resolved.* That the Civil Governor is hereby authorized to expend from the fund of five hundred thousand dollars appropriated by Act Numbered One thousand one hundred and thirty-seven from the Congressional relief fund the sum of three thousand five hundred dollars, in money of the United States, for improvements at Baguio, Benguet, including the completion of map and studies for street system, the marking out of streets, the making of plans for water works, sewers, and a drainage system, and work on a wagon road to Trinidad and the development of irrigation of the Trinidad valley.

## DECISIONS OF THE SUPREME COURT.

[No. 1367. January 4, 1904.]

*THE UNITED STATES, complainant and appellee, vs. PACIFICO GONZAGA, defendant and appellant.*

CRIMINAL LAW; USURPATION OF JUDICIAL POWER.—A municipal president who takes cognizance of a criminal charge against a justice of the peace for malfeasance in office under the belief, entertained in good faith, that it is his duty to do so, is not guilty of the offense of usurpation of judicial authority.

APPEAL from a judgment of the Court of First Instance of the Province of Cebu.

The facts appear in the opinion of the court.

TOMAS LORAYES, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On October 21, 1902, the provincial fiscal of Cebu filed an information in the Court of First Instance charging Pacifico Gonzaga with having, in the month of July of that year and while acting as president of the municipality of Ronda, Cebu Province, committed the crime of usurpation of judicial power. It was alleged in the information that there was in the town at the time referred to a justice of the peace named Ruperto Gimarino and an auxiliary justice named Salvador Veloso; that both had been duly appointed and were clothed with the necessary authority to discharge the duties of their respective offices whenever called upon; that between the 21st and the 25th of July, 1902, a woman named Rafaela Mercado appeared before Gonzaga, who was in the town hall of Ronda, as the president of the municipality and charged the said justice of the peace, Gimarino, with the crime of malfeasance; that President Gonzaga, who had long been an enemy of Gimarino illegally, wilfully, and maliciously admitted the complaint presented by the woman Mercado, acted upon it, held a preliminary investigation, took the testimony of the prosecutrix and her witnesses, and ordered the arrest of Gimarino, contrary to the statute in the case made and provided.

The accused, having been arraigned upon the information, pleaded not guilty. The case subsequently came on for trial, evidence was taken, and upon the proof so adduced, the judge entered a decision on February 24, 1903, condemning the defendant, Gonzaga, to the penalty of three years of suspension from office and to the payment of the costs. Against this judgment the defendant appealed.

A judge who assumes authority pertaining to the executive officials or impedes them in the lawful exercise of their powers is punishable by suspension.

The same penalty is incurred by any executive officer who assumes judicial power or prevents the execution of an order or decision rendered by a competent judge. (Art. 374 of the Penal Code.)

The penalty for this offense is from one month and one day to six years of suspension from public office, from the right of suffrage, from qualification for elective office, and from the exercise of a profession or trade. (Arts. 25 and 96 of the Penal Code.)

The proof in this case establishes the fact that the defendant, as municipal president of Ronda, by virtue of the complaint filed by Micaela Bucog, the mother-in-law of the complaining witness, Rafaela Mercado, proceeded to try Ruperto Gimarino, the justice of the peace of said town, for the crime of malfeasance in office, the said justice of the peace having been held under arrest for several hours in the municipal building and the charge being that he had failed to act upon a complaint filed by the said women and neglected to make investigation concerning certain ill treatment and abuse of the prosecutrix and her husband by two Constabulary soldiers.

It is also an established fact that when a demand was made upon the defendant by the auxiliary justice of the peace for the delivery to the latter of the records of the preliminary investigation concerning the charge of malfeasance brought against Gimarino, although at first the defendant alleged that he had jurisdiction over such proceedings, he finally acceded to the demand and forwarded the said record to the auxiliary justice.

Both the Municipal Code and Act No. 194 invest the municipal presidents with judicial authority in criminal cases in the absence of the justice of the peace or his auxiliary, or when these two officers are absent or disqualified from acting in any particular case.

From the mere fact that the municipal president, upon the demand of the auxiliary justice, discontinued the prosecution he had commenced against Gimarino for malfeasance, we conclude that in this case the defendant did not act in bad faith and with malice, but merely exceeded his authority. Although the justice of the peace and his auxiliary are absolutely without executive authority, the municipal president on the other hand is authorized by the law cited to make in certain cases, like those above mentioned, an investigation concerning criminal acts, and to take steps for their punishment.

This being so, it is to be presumed that the defendant believed in good faith in view of the complaint presented by the prosecutrix that it was his duty to conduct the prosecution against the justice of the peace for malfeasance upon the ground that the latter had refused to administer justice and under the belief that the auxiliary justice had also refused to take any action upon the complaint of the prosecutrix, Mercado.

For the reasons stated we are of the opinion that the judgment of the court below should be reversed and the defendant dismissed with the costs *de oficio*.

Arellano, C. J., and Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment reversed.*

[No. 1298, January 14, 1904.]

**THE UNITED STATES, complainant and appellee, vs. JUAN SINGUIMUTO, defendant and appellant.**

**CRIMINAL LAW: ESTAFÁ.**—One who having received merchandise for sale on commission fails to account therefor or denies having received it is guilty of the crime of *estafa*.

**MOTION FOR A NEW TRIAL: CRIMINAL PROCEDURE: NEWLY DISCOVERED EVIDENCE: NEW TRIAL.**—An application for a new trial on the ground of newly discovered evidence, supported by the affidavits of the proposed witnesses to the effect that they can controvert the testimony of the principal witness for the prosecution, and by an affidavit of the defendant that he was unable to produce the testimony offered at the trial, is sufficient to authorize the granting of the relief sought.

Per JOHNSON, J., dissenting:

Id.—To justify the granting of a new trial on the ground of newly discovered evidence the moving party must show the discovery of new evidence, not merely cumulative, and that it was impossible to present such evidence at the trial, even by the exercise of the highest degree of diligence.

APPEAL from a judgment of the Court of First Instance of Batangas.

The facts are stated in the opinion of the court.

DEL PAN & ORTIGAS, for appellant.  
Solicitor-General ARANETA, for appellee.

TORRES, J.:

On the 7th of March of this year a complaint was filed by the provincial fiscal in the Court of First Instance of Batangas, charging the defendant, Juan Singumuto, with the offense of *estafa*. The complaint stated that Singumuto had received in the town of Batangas, capital of the province of the same name, 300 sacks of rice from Lieut. William H. Bell, while the latter was the commissary officer of the United States military detachment stationed at that place, and that it was his duty to buy, sell, and distribute the Government supplies in said province. These sacks the defendant had obtained by means of two orders issued in favor of the defendant by Lieutenant Bell. One of these orders was for 100 sacks of rice, the value whereof amounted to \$525, Mexican, at the rate of \$5.25, Mexican, per sack, and was issued on or about the 16th day of July, 1902. The other order, for 200 sacks, valued at \$1,050, Mexican, at \$5.25, Mexican, for each sack, was issued on or about the 13th day of October, 1902. The accused received these 300 sacks of rice for sale on commission and was to deliver their value to Lieut. William H. Bell, through the municipal president, Jose Villanueva. Singumuto not only failed to make delivery of the proceeds of the sale but denied ever having received the 300 sacks of rice, all of which was in violation of the law.

The facts alleged are fully proven by oral as well as by circumstantial evidence. The offense committed is that of *estafa*, under No. 3 of section 534 and No. 5 of section 535 of the Penal Code, inasmuch as the defendant appropriated to himself, to the prejudice of the Government, 300 sacks of rice which had been delivered to him for sale on commission and subsequently denied that he had received it. There was, furthermore, no proof that he had paid the Government the value of the rice. Although the accused pleaded not guilty, the record contains sufficient evidence to fully convince the mind as to his guilt of the offense of *estafa*.

The two orders issued and signed by Lieutenant Bell, one addressed to Sergeant Stringnits on the 16th of July, 1902, directing him to deliver to the defendant, Singumuto, 100 sacks of rice, and the second, addressed to James C. White, on the 13th of October of the same year, directing the delivery to Singumuto of 200 sacks of rice, both of which orders were duly entered in the lieutenant's books, established the facts charged against the accused. Although Sergeant Stringnits did not testify in the case, he having returned to the United States, James C. White, the employee, who after the departure of Stringnits was in charge of the Government's rice warehouse, testified to having delivered, about the middle of October, 1902, 200 sacks of rice to Isabelo Javier, a representative or agent of Juan Singumuto, by virtue of the order issued in the latter's favor by Lieut. William H. Bell. This witness identified the order, which is shown on folio 21 of the record. On it appears a note written by him to the effect that the 200 sacks of rice had been taken from two divisions of the warehouse, and that he delivered the rice to Isabelo Javier as agent of Singumuto, whom he had never seen in the warehouse, which is located on the beach. White also stated that Javier was always the one who presented the orders

for the delivery of rice, and that he knew Singumuto by sight as one of the drawers and sellers of the rice, because he had seen him in his store.

Lieut. William H. Bell testified that he had issued the two orders in question for the delivery of the rice to Juan Singumuto, which was received by the latter or by his agent, Isabelo Javier, and that although the defendant had profited thereby he not only failed to pay the value of the rice but denied having received it. Lieutenant Bell further stated that the two orders were returned to him by the warehouse keeper after the rice had been issued, and were entered by him in his books; that Singumuto had been appointed a seller of Government rice under a \$300 bond; that it had been agreed between the witness and the defendant, Singumuto, that the latter should pay \$5.25, Mexican, for each sack, which he might dispose of for 6 pesos, the difference between the two prices being the commission due the seller, and that it had further been agreed that the proceeds of the rice so sold were to be delivered to the municipal president, who, in his turn, should turn it over to the witness; that Singumuto had never made delivery of any amount to the president, so that in the latter's books Singumuto's indebtedness for this rice appears unpaid; that upon comparing the president's books with the witness's, it being observed that the defendant had not paid for the 100 sacks of rice taken on July 16 and the 200 sacks withdrawn on the 13th of October, payment therefor was demanded, and that the defendant, Singumuto, denied having received the rice. The witness also stated that Singumuto did not speak Spanish, and that transactions between himself and the defendant were carried on through Isabelo Javier, who accompanied Singumuto when the latter made requisition for rice, and that according to the instructions given all orders or chits issued for the delivery of rice were to be presented to the president for notation by him, a rule which Singumuto failed to comply with.

The president, Jose Villanueva, corroborated the above testimony, stating that Singumuto was a seller of Government rice, and like others, was in the habit of taking it on credit; that the understanding was that the orders on the strength of which the rice was issued were to be presented to the president; that the defendant did not comply with this rule in the case of the two orders referred to, but went directly to withdraw the rice, so that no entry of the orders had been made in the president's books.

Isabelo Javier testified that, as a friend of Singumuto, he had once introduced the defendant to Lieutenant Bell, asking him to give the defendant orders for the delivery of rice, and that he acted as interpreter between the two in the conversation which ensued; that on October 14 he, in company with Gregorio Mendoza, a son-in-law of the defendant, had withdrawn in the name of Singumuto 100 sacks and on the 15th 200 sacks of rice, which were received and paid for by Singumuto. This witness, however, denied having taken any rice on the 13th of October, and did not recognize the two above-mentioned orders.

Upon being again put on the stand, he in part retracted his first statement, stating that on the occasions when he had obtained orders in the name of Singumuto from Lieutenant Bell, such as those of July 16 and October 30, 1902, he always went in company with Gregorio Mendoza, a son-in-law of Singumuto, who asked that he be allowed to accompany him. He also identified the two orders and stated the names of the cart drivers who had conveyed the rice and the number of sacks taken by each. He testified also that it was not true that he was a partner of Singumuto, and in support of this statement produced a paper showing that he had bought rice from the latter. He stated that he did not testify as to all these details while giving his previous testimony because the defendant and his son-in-law had asked him to withhold them, but that later, not wishing to act wrongfully, he had testified truthfully, rectify-

ing his previous testimony. The witness, Gregorio Mendoza, testified that the orders for the withdrawal of rice sold by Singumuto were obtained from Lieutenant Bell by Isabelo Javier.

From the foregoing it seems to be fully proven that Isabelo Javier on two occasions received from Lieutenant Bell, on behalf of Juan Singumuto, 300 sacks of rice, which were delivered to him on commission for sale at retail to the people of the municipality of Batangas, and that he appropriated the rice to his own use, thereby prejudicing the Government, the lawful owner of the rice; that he denied having received the rice, and failed to make payment of the value thereof, all of which constitutes the offense of *estafa*.

It is an undeniable fact that Juan Singumuto was one of the persons designated by the commissary of the Government for the sale of the rice at retail in the capital of Batangas, and that for this purpose he had to file a bond for \$300, Mexican, to guarantee the faithful performance of his trust, as shown by the document on folio 51 of the record. The conditions imposed on those charged with the sale of the rice were that the consignee should pay to the commissary \$5.25, Mexican, for each sack of rice sold, he keeping the difference between this and the selling price as his commission, and that the proceeds of the sale of the rice were to be delivered to the municipal president, through whom payment for the rice was to be made. This is corroborated by the municipal president, Jose Villanueva, who testified that the sellers were under obligation to present to him the orders for the delivery of rice issued by the Government commissary, in order that he might enter them in his books. Juan Singumuto, the defendant, failed to present to him the two orders for the delivery of rice, referred to on pages 20 and 21 of the record, so that the delivery of these 300 sacks of rice was not recorded in his books. In a notebook produced in evidence, a translation of the entries in which is given on page 87 of the record, there appears at the end a memorandum stating that all the rice received had been paid for, which shows that the rice sold in Singumuto's store the latter had received on commission and had not purchased for cash, and that after selling all the rice which he had on hand, he had to pay the value thereof to the representative of the Government from whom the rice had been obtained.

Deceit is manifested from the moment Singumuto, on being required to pay the value of the rice taken, denied having received the same, a denial which implies fraud and bad faith. As to Singumuto's intention to defraud the Government this is proven by his failure to present to the municipal president the two orders for the delivery of the rice. From such an omission the intention to defraud the Government to the extent of the value of the rice received must be inferred.

The fact that Juan Singumuto is unable to read or write, and that he had never appeared in person in the commissary warehouse to withdraw the rice, Isabelo Javier and his son-in-law, Gregorio Mendoza, having represented him on these occasions, do not exempt him from liability, inasmuch as the 300 sacks of rice received from the Government were taken to Singumuto's shop and there sold to the public. It is therefore not just that after having pocketed the value of the 300 sacks of rice, as owner of the store, he should be exempted from any liability.

The later testimony of Isabelo Javier is worthy of credit because it is corroborated by the other evidence in the case, and especially by the testimony of Gregorio Mendoza, who appears to be the defendant's confidential agent as well his principal assistant in the store. Mendoza affirms that he noted down on a list which he had of the sacks or cavans of rice received in his father-in-law's store the orders for rice which Javier had taken from Lieutenant Bell, and which were presented at the warehouse as authority for the withdrawal of the rice there-

from, but the defendant kept no books wherein to note down all his transactions with respect to the buying and selling of Government rice.

From these statements it is deduced that although it has not been proven that Javier and Singumuto were partners, as testified to by Mendoza, it is nevertheless true that Javier, by order and with the consent of the defendant, was the person who was in the habit of taking out the rice called for in the orders issued in Singumuto's name, and in view of the studied silence of the latter and his son-in-law's testimony, Javier's later testimony, which has been in part corroborated by Mendoza, can be accepted as true. Consequently Singumuto, in denying that he had received the 300 sacks, tried to defraud the Government, and abused the confidence of his friend, who had officially acted as his agent and who had brought him in touch with the Government commissary.

This element of deceit is inherent in the crime of *estafa*, and as in the commission of this offense no aggravating or mitigating circumstances were present the penalty should be imposed in the medium degree. In view of the request made by the prosecution the decision appealed, whereby the defendant is sentenced to pay a fine of \$2,550, Mexican, and an indemnity to the Government of \$1,275, Mexican, and the costs, should, in our opinion, be reversed. The defendant should be condemned to the penalty of 1 year 8 months and 21 days of *presidio correccional*, to the accessory penalties prescribed in section 50 of the Penal Code, to the indemnification of the Insular Government for the value of the rice involved, and in case of insolvency with respect thereto, to suffer subsidiary imprisonment not exceeding one-third part of the time fixed for the principal penalty, and to the payment of the costs in both instances. Let this record be returned to the lower court with a copy of this decision for the execution thereof.

Cooper, McDonough, and Johnson, J.J., concur.

Arellano, C. J., Willard, and Mapa, J.J., dissent.

*Judgment modified.*

#### ON MOTION FOR A NEW TRIAL.

TORRES, J.:

The attorneys for the defendant, Singumuto, have moved the court for a new trial upon the ground of the discovery of new evidence material to the defense of the accused. In support of the motion they have presented the affidavits of the defendant, Singumuto, and those of nine men who are ready to testify in contradiction of the evidence given against him by Isabelo Javier, a witness for the prosecution.

The testimony of these men, whose names appear with those of others in the list at page 98 of the record and in the testimony at page 93 thereof, may throw light upon the facts of the case and upon the question of the guilt or innocence of the accused. After the evidence was taken and the case closed on the 8th of April, 1903, judgment was rendered on the same date. Consequently neither the prosecution nor the defense had an opportunity to ask for a continuance, or to have the men in question, said to be the drivers of the wagons by which the rice in question was removed, examined as witnesses. It appears that these men were not found at once, but, as stated by the accused under oath, only in October following the trial. Consequently in the interests of justice a new trial should be granted.

Under the provisions of section 42 of General Orders, No. 58, the Code of Criminal Procedure, the judgment appealed is set aside as also the decision of this court herein. The cause will be remanded to the court below with a certified copy of this decision, and accompanied by the original affidavits presented, a copy of which will be kept with the files of the case. The case will be continued from page 100 of the record, the subsequent proceedings being set aside; it will not be necessary to retake the testimony introduced at the trial up to that page of the record,

but without prejudice to the rights of the parties to introduce such other evidence as they may desire to submit.

Arellano, C. J., Willard, Mapa, and McDonough, J.J., concur.

JOHNSON, J., with whom concurs COOPER, J., dissenting:

This case was an appeal from the sentence of the Court of First Instance of the Province of Batangas, and was filed in this court on the 17th day of April, 1903. A decision was rendered by a divided court in November, 1903.

On the 18th day of January, 1904, a motion was made in this court for a new trial by the said defendant, alleging as a cause for granting a new trial the fact that he had several witnesses who would testify that the testimony given by Isabelo Javier (one of the witnesses for the prosecution in the trial below) was untrue; that after the said Isabelo Javier had given his testimony in the court below that he, the defendant, immediately looked for these witnesses but was unable to find them. He presents here his own affidavit of these facts. He also presents now the sworn statements of nine of these witnesses to the effect simply that the testimony of Isabelo Javier is not true. Upon this showing the court granted a new trial.

Isabelo Javier in the trial below gave the names of fourteen persons who had certain knowledge with reference to the facts presented to the court. These fourteen persons were laborers in the community where the trial took place. Each of these fourteen persons had knowledge of the same fact. The statement made by the accused that immediately after hearing the testimony of the said Javier he went to look for these persons but was unable to find any of them, would indicate that due diligence had not been exercised. It is very improbable that all of these fourteen persons should be absent from the jurisdiction of the court on that occasion. The statement by the accused that none of them could be found should not be believed.

There is nothing of record to show that the defendant made any effort to secure the presence of these witnesses in the trial of the cause below, except his affidavit here presented. No summonses were issued for their presence; neither was the court requested to grant a continuance until their presence in court could be had; not even a suggestion that the testimony of these was important was made by defendant in the court below.

The application is made upon the theory that this evidence has been newly discovered. The affidavit filed by the defendant in this case shows plainly that he knew of the existence of the evidence at the time of the trial. Therefore it cannot be true that it is newly discovered evidence. Section 42 of General Orders, No. 58, provides that "at any time before the final entry of the judgment for conviction, the defendant may move, either in the court below or on appeal to a higher court for a reopening of the cause on the ground of newly discovered evidence material to his defense." This section further provides that "a new trial may also be granted after a conviction on account of errors of law committed at the trial." The application for the new trial and the affidavits filed therewith show that said application is based upon new witnesses and not newly discovered evidence. The purpose is to introduce impeaching testimony only.

It is clear, and the attorney for the defendant in his argument in the case admitted, that the additional evidence which he desires to produce on the new trial is rebuttal simply, or in other words is cumulative defense. All of the courts hold that where an application is made for a new trial based upon newly discovered evidence that such evidence must not be cumulative—that the new evidence must be such as could not, with reasonable diligence, have been discovered and produced at the trial. As proof of due diligence the party must have had summonses issued at least for the appearances of said witnesses. It is also the rule that the courts will never grant a new trial for the purpose of admitting purely impeaching evidence. (*McDermott vs. Iowa, etc., Co.*, 47



N. W. Rep., 1073; *Husted vs. Meade*, 58 Conn., 35; *Husted vs. Meade*, 19 Atlantic Reporter, 237; *State vs. Smith*, 35 Kan. 618; *State vs. Smith*, 11 Pacific Reporter, 908; *O'Dea vs. State*, 57 Ind., 31.)

The evidence proposed to be introduced on the new trial in this cause, according to the affidavit of the defendant himself as well as the affidavits presented by the other witnesses, all go to show that it is purely for the purpose of impeaching the testimony of Isabelo Javier.

The courts do not generally regard motions for new trials upon the ground of newly discovered evidence with favor, the policy of the courts being to require of parties care, diligence, and vigilance in securing and presenting evidence upon the trial, and whenever the courts do grant new trials upon newly discovered evidence they hold that it is indispensably necessary for the moving party to show clearly that he exercised the greatest diligence in his efforts to discover and produce the evidence on the trial. In order to show the greatest diligence he must, at least, have either taken out summonses or citations for these witnesses to appear, and in case he was unable to secure the presence of the said witnesses he then ought to have requested an adjournment of the trial until such witnesses could be obtained.

For these reasons the motion for a new trial should have been denied.

*Judgment modified.*

[No. 1360. January 18, 1904.]

CONSOLACION MIJARES, plaintiff and appellant, vs. DELFINA NERY ET AL., defendants and appellees.

1. \*RIGHTS OF ILLEGITIMATE CHILDREN: NATURAL CHILDREN: OLD LAW: CIVIL CODE.—A natural child is one born out of wedlock of persons who were qualified to marry at the time of the conception or of the birth of the child. (Eleventh Ley of Toro, which became law 1, title 5 of book 10 of the *Novísima Recopilación*.) Children born of parents who at either of the periods mentioned were unable to marry by reason of some disqualification, whether removable by dispensation or not, have not the status of natural children; but under the provisions of the Civil Code natural children are those born out of wedlock of parents who at the time of conception could marry with or without dispensation. (Art. 119 of the Civil Code.)
2. *Id.*: ACKNOWLEDGMENT.—The acknowledgment of an illegitimate child by one or both of the parents is necessary to give it the status of a natural child. The acknowledgment by one or both of the natural parents is one of the rights of a natural child who has the necessary qualifications for legitimation.
3. *Id.*: *Id.*: CIVIL CODE: RETROACTIVITY.—Illegitimate children, born and acknowledged prior to the promulgation of the Civil Code, acquired the status of natural children by operation of law if possessed of the qualifications prescribed by the Code, even if they could not have enjoyed this status under the law in force at the respective dates of their birth and acknowledgment, in accordance with the provisions of rule 1, paragraph 2 of the Transitory Provisions, by which the right for the first time created by article 119 of the Civil Code is recognized in favor of natural children.
4. NEW LAW OF MARRIAGE.—The provisions of General Orders, No. 69, promulgated December 18, 1899, are not applicable to the case of the defendants, as natural daughters had by an uncle with his niece, as they were born long before the promulgation of that new law of marriage.
5. RIGHTS OF ILLEGITIMATE CHILDREN: OLD LAW.—A natural child was never the forced heir of his father by will; but if the latter died intestate, leaving no legitimate ascendants or descendants, the natural child succeeded to the sixth part of the estate, which was to be divided between the natural child and his mother, even if the deceased left a widow, but the natural child was the forced heir of his mother, provided she left no lawful issue, both testate and intestate.
6. *Id.*: *Id.*: LEGITIME: CIVIL CODE.—The right of acknowledged natural children to a legitime as forced heirs of their natural parents, according to the different cases of testate or intestate succession provided for in articles 836, 839, 840, 841, 842, and 843 of the Civil Code, having been for the first time declared by this body of law, it must be applied for the purpose of determining the accessory rights of such children, even though they may have been born and recognized prior to its promulgation, provided that the death of their parents took place after the Civil Code became operative.
7. CIVIL CODE: RIGHT TO INHERIT.—Hereditary rights can not be regarded as vested prior to the death of the person from whom the estate proceeds. This doctrine is in accordance with the decisions of the supreme court of

Spain. An hereditary right vested under the regime of the Civil Code must be controlled by the provisions of that law, in accordance with rules 1 and 12 of its transitory provisions.

8. *Id.*: *Id.*—The successor of a deceased person has no greater right to the hereditary estate than that which the law recognizes in his favor, inasmuch as accessory rights are mere creations of positive law, inspired by the principles of natural law.
9. HEREDITARY SUCCESSION: EXPECTANCY: CIVIL CODE.—The right to inherit is, during the lifetime of the caustor, a mere expectancy or potential right, which does not become absolute or vested until the death of the caustor, and consequently the prospective heir can not be regarded as being adversely affected by the retroactive application of the provisions of the Civil Code, when the right supposed to be injured vested after the Civil Code became operative.

APPEAL from a judgment of the Court of First Instance of Albay.

The facts are stated in the opinion of the court.

MANUEL M. DE HAZAÑAS, for appellant.

DEL PAN, ORTIGAS & FISHER, for appellees.

TORRES, J.:

This is an appeal interposed by means of a bill of exceptions by the plaintiff, Consolacion Mijares y Borromeo, against the decision of April 11, 1903, rendered in favor of the defendants Delfina Nery, Carmen Mijares y Nery, and others, with the costs.

In the year 1899, the date and the month not having been established, Don Mariano Mijares died in the Province of Albay leaving property of the estimated value of 80,000 pesos. The deceased at the time of his death had no legitimate heirs, descendant or ascendant, but left a daughter, the present plaintiff, born in 1862 out of wedlock, although legally recognized as a natural child. He likewise left five other daughters born in like manner of Delfina Nery, who was a niece of the deceased, which said five daughters, who were born successively from the year 1862 until 1889, were acknowledged expressly and tacitly by Don Mariano Mijares during his lifetime as his own daughters. It does not appear why said Mijares and Nery never married in spite of the fact that a bull was issued on January 23, 1878, by Pope Pius IX authorizing the marriage of the deceased with his niece, Delfina Nery, as shown by a copy of said bull which was presented to the court.

Acting on the supposition that Don Mariano Mijares died intestate, the plaintiff, Consolacion Mijares y Borromeo, alleging that she is the sole natural daughter of the deceased recognized by him, and that he left no legitimate descendants or ascendants, contends that she is the sole heir to her father's estate by reason of the fact that the five defendants, daughters of Delfina Nery, a niece of her said father, are illegitimate daughters, without the status of natural children under law 11 of Toro, in force on the date of the birth of said defendants, she therefore brought suit to be declared the sole universal heir *ab intestate* to her father's estate, and asks judgment in her favor as to the ownership and possession of the hereditary property held by the defendants, praying that they be ordered to make delivery thereof to her.

The defendants opposed this claim, alleging that although it is true that the daughters of the deceased by his niece Delfina Nery, being illegitimate, could not enjoy the status of natural children under law 11 of Toro in force at the time of their birth, nevertheless under the Civil Code, which became operative in the Philippine Islands in 1889, they acquired the status of natural children, entitled to inherit, because they were acknowledged by their late father, and because, according to a will and codicil executed by the deceased during his lifetime, they were entitled to the several parts of the estate therein bequeathed to them, since the deceased had instituted all his daughters as his heirs in equal parts. It does not appear that the judge made any findings as to the validity or invalidity of the will and codicil, which were presented during the trial.

According to law 11 of Toro, which subsequently became law 1, title 5, book 10 of the *Novísima Recopilación*, natural children are those whose parents at the time of the conception or birth of the children were not disqualified to marry, provided that their fathers recognize them to be their children, although they may not have kept in their home the women by whom they may have had such children.

It follows, therefore, that children born of parents who at the time either of the birth or conception of their offspring were disqualified to marry by reason of some impediment, whether removable by dispensation or not, could not possess the status of natural children. This was the old law which governed as to natural children, but which has been modified by the Civil Code, which has confined to the time of conception the period at which the parents must be free to marry, with or without dispensation.

Section 119 of the Civil Code says: "Only natural children may be legitimized. Natural children are those born out of wedlock of parents who at the time of the conception of the children could have married with or without dispensation."

From the context of this article it is evident that the first difference to be observed between law 11 of Toro and section 119 of the Civil Code consists in that according to the latter, in order to determine whether a child born out of wedlock is or is not a natural child, it is necessary to consider only the time of its conception—that is to say, to determine whether during any one of the first one hundred and twenty days of the three hundred preceding the birth of the child the parents were qualified to marry with or without dispensation, applying section 100, paragraph 2, of the Civil Code in the determination of the time of conception.

The second difference consists in that the Code has placed on the same footing persons, who could not marry without dispensation, and those who, because under no disability, could freely contract marriage. These provisions are entirely at variance with those contained in the law of Toro cited.

In order that their offspring might have the status of natural children it did not suffice that the father and mother could have married without dispensation at the time of the conception or of the birth, but it was necessary, in addition thereto, according to the law of Toro, that the father should acknowledge the child as his.

Article 129 of the Civil Code provides: "A natural child may be acknowledged by the father and mother jointly or by only one of them." Section 131 prescribes the form in which the acknowledgment of the natural child should be made. This acknowledgment is to a certain extent one of the rights of the natural child with respect to his parents, who are obliged to make such acknowledgment in the cases respectively set forth in sections 135 and 136 of the Code, which became operative in these Islands on December 7, 1889, twenty days after its publication, which took place on the 17th of November of the same year.

The plaintiff and the five sisters, defendants, were born out of wedlock, and were acknowledged by Don Mariano Mijares, their father, as his daughters. The plaintiff was born of a woman whose name does not appear, and the five defendants were had with his niece, Delfina Nery, whom he might have married, notwithstanding the impediment of consanguinity, by virtue of the pontifical bull above referred to. If the plaintiff should be considered as an acknowledged natural child in accordance with law 11 of Toro, the five sisters, defendants, merit the same consideration as acknowledged natural children in accordance with section 119 of the Civil Code in relation to rule 1, part 2 of the transitory provisions thereof.

Notwithstanding the fact that the five daughters of Mijares had with Delfina Nery were born at a time when the old law was in force and prior to the enactment of the present Civil Code, it is

nevertheless indisputable that the legal relations and the rights originated from the birth of the defendants and from their acknowledgment by their father, facts which took place under the former law are to be determined by the Civil Code by virtue of paragraph 2 of rule 1 of the transitory provisions above cited.

This second paragraph says: "But if the right is declared for the first time in this Code it shall be effective at once, even when the act which gave rise thereto may have taken place under the prior legislation, provided it does not prejudice other vested rights having the same origin."

The five daughters of Mijares with his niece, Nery, acquired the status of natural children by virtue of section 119 of the Civil Code, because at the time of their conception the disability of their illegitimate parents to marry might have been removed by means of a dispensation, which in fact they subsequently obtained. This right to the status of natural children of their father who acknowledged them expressly and tacitly, was unknown to the former law, inasmuch as said law 11 of Toro required as a condition that the parents of a natural child should be qualified to marry at the time of the conception or the birth thereof, without dispensation, and it therefore results that it is a new right for the first time declared by the Civil Code in section 119 cited.

In the commissioner's preface to the Civil Code the following appears: "And whereas all rights originate necessarily from some fact, either dependent upon or independent of the will of man, the date of this fact, which may be prior or subsequent to the promulgation of this Code, should determine the law which is to be applied to the right originated thereby. \* \* \* But in the case of a new right for the first time declared in the Code, and not recognized by the previous legislation, it should be governed by the Code even though the fact wherefrom it originated should have occurred under the former law, unless it vitiates another right vested under that law; because in this case the one about to suffer the injury is more entitled to consideration than the one who is about to receive a gratuitous benefit." This doctrine was applied by the supreme court of Spain in its decision of June 28, 1896.

It is therefore undeniable that by virtue of the provisions of paragraph 2 of rule 1 of the transitory provisions of the Code, article 119 operates retroactively in favor of the defendants, daughters of Mijares by his niece, Delfina Nery, since the Code has relieved them of the status of incestuous children, declaring them to be natural children because born of parents qualified to marry, and vesting them with all the rights inherent in acknowledged natural children.

Assuming that the five defendants were born prior to December 18, 1899, the date of General Orders, No. 68, of the Military Governor, which put in force a new law as to marriage, and that the death of Mijares, their father, took place likewise prior to the time when said general orders went into force, it is evident that the provisions of this law are not to be given a retroactive effect, and are not applicable to the rights of the defendants. It is not necessary or timely to express an opinion as to what the effect of General Orders, No. 68, would be upon the rights of the defendants were the facts such as to make it applicable.

As a consequence of what has been stated, it is proper that we should now treat of the rights of natural children as regards the estate of their parents, confining at all times the quotations of the legal provisions to the questions at issue in this litigation.

When a father died intestate, his natural children, in the absence of legitimate issue or their legitimate descendants, inherited only a sixth part of his estate, which they shared with their mother, even though the father at the time of his death should have left a lawful wife. (Laws 8 and 9, title 13, partida 6.) In the absence of legitimate descendants or ascendants, or collateral

relatives within the fourth degree, inclusive, the natural children took the whole estate as lawful heirs to the exclusion of the widow and collateral relatives of the fifth and subsequent degrees. (Law of May 16, 1835.)

The natural child was never a forced heir of his father by will; but in the absence of legitimate children, he was the forced heir of the mother, testate or intestate.

A father leaving legitimate children and descendants could leave one-fifth of his property to his natural children. In the absence of such legitimate heirs and descendants he could by will dispose of such part of his estate as he might wish, even should there be ascendants. (Law 10 of Toro, or law 8, title 2, book 10, of the *Novísima Recopilación*.)

As may be seen, the natural child, according to the old law, did not have, with respect to the succession of the father, the same right as with respect to the estate of the mother, aside from the right to support.

The Civil Code gave to acknowledged natural children the right to a legitime from which they can not be excluded by legitimate descendants or ascendants, or by the husband or wife; but this hereditary portion can not be equal to that of the legitimate children.

One-half of the legitime, which corresponds to each one of the legitimate children who have received no betterment, is that prescribed by section 843 of the Code as the hereditary portion of acknowledged natural children, provided it does not exceed the third part of free disposal. When a testator does not leave legitimate children or descendants, but leaves legitimate ascendants, acknowledged natural children are entitled to one-half of the part of the estate of free disposal, without prejudice to the widow's legitime. (Sections 836 and 841 of the Civil Code.)

When the testator leaves no legitimate descendants or ascendants, acknowledged natural children are entitled to one-third part of the estate according to section 842 of the Code. The remaining two-thirds parts of the estate may be disposed of at will by the parent, subject to the usufructuary interest of the widow or widower, if any.

In intestate successions, the law grants the inheritance to the legitimate and natural relations of the deceased, to the widow or to the widower, and to the State. In the absence of legitimate descendants or ascendants, natural children legally acknowledged succeed their parents, if intestate, in the whole of their property, as do also natural children legitimized by Royal concession. (Section 939, Civil Code.) But if the deceased who dies intestate should leave legitimate descendants or ascendants, natural children and legitimized children are only entitled to the part of the estate assigned them by sections 840 and 841. (Art. 942, Civil Code.)

The following question now arises: When does the right to inherit vest? As an answer thereto we shall quote a part of the commissioner's preface to the Code, applicable thereto, which is as follows: "If the existence, efficiency, or extent of the right depends on events independent of the will of the person who possesses the right, he may have an expectancy but not a vested right. For this reason the legal heirs and instituted heirs, as well as the legatees of persons still alive have no vested right until the death of the latter, because the existence of the right they may enjoy in the future is subject to the contingency of their own demise, the vicissitudes of fortune, and the free and variable will of the testators."

So that with them until the death of the person from whom the estate is to proceed, hereditary rights can not be considered as vested or fully acquired. Mijares died in 1899, as is shown in the bill of exceptions. Therefore the right of his acknowledged natural daughters—the plaintiff and the five defendants—to succeed to his estate vested in the same year under the Civil Code. Their status as acknowledged natural children did not give them

a vested right to inherit until the death of their father, and consequently the provisions of the Civil Code are to be applied to the succession of the estate of Mijares. (Rule 12 of the transitory provisions.)

The jurisprudence established by the supreme court of Spain in the decision of June 24, 1897, confirms the doctrine of the transcribed question from the commissioner's preface to the Code, because it says: "The succession of a person being open on the day of his death, which was subsequent to the publication of the Civil Code, the latter is applicable, in accordance with the first and penultimate clauses of the transitory provisions, to a suit for the determination of the right to the estate, because the principle of the nonretroactivity of a new law only governs in the case of rights vested under the old law, and it is elementary that hereditary rights do not vest until the death of the person whose succession is involved. Therefore the court below did not violate laws 11 and 12, title 13, partida 6, and the transitory provisions of the Civil Code by so deciding."

Now, then, can the rights of the plaintiff be considered impaired and injured by the fact that the defendants have obtained the status of natural children, according to section 119 of the Code, by virtue of the principle of retroactivity laid down in rule 1 of the transitory provisions of the Code? We believe not, because the plaintiff, as the elder daughter of Mijares, could not have been prejudiced by the birth of the latter's other children, even if had with another woman. All, as natural daughters of one same father, enjoyed and still enjoy, all the rights which the law grants them, and the one as well as the others have a right to life and to the protection of the law.

As to their respective accessory rights, it has already been stated that they originate only from the moment of the death of their father, which took place when the Civil Code was already in force, and therefore the provisions of the same are perfectly applicable to the succession, testate or intestate, of the deceased, as prescribed by rule 12 of the transitory provisions of said Code.

It must be borne in mind that a accessory right is a mere creation of positive law, which is always conformable to the principles of natural law, and the successor of a deceased person has no right to the estate other than that established by the law and recognized in his favor. This is confirmed by transitory provision No. 12.

One of the rights conferred upon an acknowledged natural child by section 135 of the Civil Code is that of receiving the legitime portion determined by the Code according to each case.

Can this accessory right be considered as having vested in the plaintiff, Consolacion, prior to the death of her natural father in 1899? Undoubtedly not, since she only had the expectancy of inheriting, a potential right which could only become effective upon the death of her father, and this in accordance with the Code, since natural children, according to the former law had no right to a legitime. (Laws 8 and 9, title 13, partida 6.) The doctrine laid down by the decision of the supreme court of June 24, 1897, as well as the part of the Code, commissioner's preface, before transcribed, support our conclusion.

If, therefore, the plaintiff had no vested right to the succession of her natural father until the latter's death, which occurred when the Civil Code was already in force; if the exercise of said right did not depend on her will, and was a mere expectancy until the death of her father—and if accessory rights and their respective extent are to be governed by the provisions of the Code, under no possibility can it be held that the decision that the defendants are acknowledged natural children, made by virtue of said article 119 of the Civil Code, giving it a retroactive effect according to the first of the transitory provisions, injures or prejudices the right of the plaintiff, because this right was not vested or acquired until the death of her father, which took place when the new Code, in accordance with the provisions

whereof the questions at issue in this litigation must be decided, was already operative.

It is therefore unquestionable that the five daughters of Mijares and Delfina Nery, the defendants in this case, have an equal right to that of the plaintiff as to the succession of their father as acknowledged natural daughters, and it is therefore nor proper nor just to declare Consolacion, the plaintiff, the sole universal heir of the deceased, or that she be allowed to take possession of all the property of the latter to the prejudice of her sisters, Carmen, Delfina, Engracia, Maria, and Luz.

The ratification of the decision appealed from is proper moreover inasmuch as the defendants have exhibited a will and codicil which is said to have been executed by the late Mijares, and the judge made no finding as to the validity or invalidity of said documents for the reasons stated in his decision.

It is therefore, in our opinion, proper to affirm the decision of April 11, 1903, with the costs to the appellant, without prejudice to such action as the court may take, at the instance of either of the parties, as regards the will and codicil. Twenty days after the filing of this decision let judgment be entered in conformity therewith and let the case be remanded to the lower court.

Arellano, C. J., Cooper, Willard, and McDonough, J.J., concur. Mapa and Johnson, J.J., did not sit in this case.

*Judgment affirmed.*

## BUREAU OF CUSTOMS AND IMMIGRATION.

### TARIFF DECISION (CIRCULARS).

No. 411.—*Holy water fonts, decorated; house decorations.*

MANILA, April 15, 1904.

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2956, filed March 7, 1904, by Messrs. Sprungli & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. B-3578, Voucher No. 30145, paid March 4, 1904.

"The claim in this case is against the classification of certain so-called 'aspersoria' or 'holy water fonts,' as 'house decorations,' under paragraph 23 of the Tariff Revision Law of 1901, at \$0.25 per kilo, gross weight, instead of as decorated 'hollow ware' under paragraph 19 (d), at \$4.40 per 100 kilos, gross weight, as entered.

"The articles in question are about seven inches in length, and are used to hold 'holy water.' They are decorated in colors and ornamental in appearance. The fact that an article may be of use for a practical or religious purpose can not deprive it of its character as a 'house decoration' when it may be and is used as an ornament or decoration within a house. Many statuettes and ornamental vases may be used for practical purposes and yet they are none the less 'house decorations' because they may be put to such a use. Grotesque figures of various gods are frequently imported from Oriental ports, but have never been deemed to be the less 'house decorations' on account of the deep religious signification attached to them by their devotees.

"Protest No. 2956, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

No. 412.—*Material and supplies imported by private company under contract with Navy Department of the United States providing for free entry thereof, dutiable.*

MANILA, April 15, 1904.

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 1567, filed November 21, 1902, by the Atlantic, Gulf and Pacific Company, against the action of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, in collecting duties on certain commissary supplies declared for duty on Entry No. A-12082, Voucher No. 16430, paid November 19, 1902.

"The claim in this case is against the imposition of any duties upon an importation of certain commissary supplies by the Atlantic, Gulf and Pacific Company, in connection with its contract for the construction of naval coal bunkers at Sangley Point, Cavite. Free entry is claimed, and it is admitted that if any duty is collectible, the proper amount has been levied.

"On February 18, 1902, the Atlantic, Gulf and Pacific Company entered into a contract, signed by R. B. Bradford, Chief of the Bureau of Equipment, acting in behalf of the Navy Department of the United States Government, for certain work in the Philippine Islands. This contract provides that all materials and supplies imported by the contractors, including commissaries, shall be admitted free of duty. The case, therefore, differs from that set forth in Tariff Decision Circular No. 336, in which the contract did not mention commissaries, which were held not to be necessary to the execution of the contract.

"Three points are raised. First, that the contract should be given full force and effect, according to its terms, even though in derogation of the statute law; second, that the goods are imported from the United States by a citizen of the United States, and the collection of any duty thereon is unconstitutional; third, that they are 'in reality supplies imported by the United States Government, for the use of the Navy and Insular Government, and are therefore free of duty, and that they are in fact billed to this company in the care of the Navy Equipment Bureau, Cavite.'

"The first claim must be overruled, the law being paramount to any and every contract. Contracts will be construed as far as possible to be consistent with the law, but when this is not possible, it is the law and not the contract that is to be followed.

"The second claim must also be overruled. The legality of the collection of duties on merchandise from the United States having been confirmed by the Court of Customs Appeals.

"The third claim is therefore the only one which is deserving of attention, and it presumed to be intended as a claim to exemption under paragraph 385 of the Tariff Revision Law of 1901, which provides as follows:

"Supplies imported by the United States Government for the use of the Army, Navy, and Marine-Hospital Service, or by the Insular Government for its use, or that of its subordinate branches.'

"This paragraph has been frequently construed by this Office. See Tariff Decision Circular No. 336 and cases cited. The Honorable Secretary of War has expressed his opinion of the scope of this paragraph in the following language:

"(C-1117-17.)

"WAR DEPARTMENT,

"Washington, December 22, 1902.

"MY DEAR SIR: A number of instances have arisen involving the construction properly to be given to the provisions of the Tariff laws of the Philippine Archipelago permitting the free entry of supplies imported by the United States Government for the use

of the Army, Navy, and Marine-Hospital Service. In order to prevent constant reference of individual cases to the higher officials, I think it well to adopt general rules for determining the question involved. In my opinion the privilege of free entry under paragraph 385 of the Philippine tariff law, for articles arriving at a port of the Islands, must be granted when it is made to appear (1) that the articles are imported by the United States Government; (2) that the articles so imported are 'supplies' for the use of the Army, Navy, and Marine-Hospital Corps.

"These prerequisites are established when it appears that the articles are officially forwarded to a subordinate branch in the Philippine Islands by one of the several departments or bureaus constituting the administrative organization by which the affairs of the Army, Navy, and Marine-Hospital Service are conducted, and arrive in the Islands by the usual means and through official channels utilized by the War and Navy Departments in distributing supplies.

"What articles shall be supplied to the officers and men of the Army and Navy of the United States is to be determined by the superior authorities of the military arm of the United States Government, and their powers in that regard are not subject to review by the customs officials of the Government of the Philippine Islands.

"If the Government of the United States shall determine to furnish any article whatsoever to one or all of the officers and men in the Army and Navy, such articles upon becoming the property of the United States, and arriving in the Philippine Islands, for delivery, must be considered as 'supplies' for the use of the Army and Navy and entitled to free entry.

"The Customs officials of the Government of the Philippine Islands are without authority to place restrictions on the use to be made of the property which the United States furnishes to its military or naval forces in the Philippines; that use is prescribed by the laws of Congress and the Army and Navy regulations

"ELIHU ROOT, *Secretary of War.*"

"It is evident that these articles are not 'imported by the Government,' that they are not 'officially forwarded to a subordinate branch in the Philippine Islands by one of the several departments or bureaus constituting the administrative organization by which the affairs of the Army, Navy, and Marine-Hospital Service are conducted,' they do not arrive in the Islands by the usual means and through 'official channels,' but both consignor and consignee are private persons and the goods are imported by way of trade. The articles further are not to 'be supplied to the officers and men of the Army or Navy of the United States;' the articles are not, have not been, and are never designed or intended to be, 'the property of the United States' as is shown by the fact that they are not carried upon any property returns of any Federal officer, nor does any Federal official ever have to account to the Government for their disposition.

"Light is thrown upon the proper interpretation of paragraph 385, by the provisions of the preceding Philippine Provisional Tariff, for example:

"PAR. 366. Exemptions and reductions shall in no case be granted in favor of any industry, public establishment, corporation, society, order, or person, whatever their character, except as provided for herein."

"PAR. 367. Articles purchased with the funds of the Government of the United States, for its use, and materials of all kinds intended for works executed by the provisional administrations, and not by contract, shall be exempt from duty."

"While it is true that these provisions are not now the law, being superseded by the terms of the present tariff, yet nothing is better settled than that tariff laws are to be construed as a part of one system, and that in case of doubt, the intention of

the lawmakers may properly be deduced from prior enactments such as these. (*Dwight vs. Merrit*, 140 U. S., 213; *Saxonville Mills vs. Russell*, 116, U. S., 13; *Roosevelt vs. Maxwell, Blatch*, 608.)

"Section 2 of the Tariff Revision Law of 1901, is consistent with these enactments.

"Protest No. 1567, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 413.—*Separator used in a sawmill not dutiable as sawmill machinery—Decision of the Court of Customs Appeals.*

MANILA, April 16, 1904.

To all collectors of customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered April 11, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
COURT OF CUSTOMS APPEALS.

"*Appeal in the case of Warner, Barnes & Co., Limited.*

"[Docket No. 650. Appeal No. 600. Protest No. 1604.]

"DECISION.

"CROSSFIELD, *Judge*:

"This case is before the court upon the appeal of Warner, Barnes & Co., Limited, from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the imposition of duties on merchandise from the United States and the classification of a steam separator as 'other machinery and detached parts not otherwise provided for,' under paragraph No. 257 b, instead of as sawmill machinery, under paragraph No. 245 of the Tariff Revision Act.

"Mr. Hartford Beaumont appeared for the Government.

"Mr. Carlos Young, for the appellants.

"The evidence presented at the hearing disclosed that the separator in question is used in a sawmill and the appellants claim in consequence that it should be classified for payment of duty under paragraph 245 of the Tariff Revision Act as sawmill machinery in accordance with the terms of the decision of this court in case No. 213.

"It does not appear, however, that the separator in question is machinery necessary to the operation of a sawmill, or that it is used in any way in preparing vegetable products of the Islands for the markets, as this court determined sawmill machinery was in the decision in Case No. 213.

"The court finds that the separator in controversy, not being specifically enumerated in the Tariff Revision Act, is properly classified as 'other machinery not otherwise provided for' under paragraph b of section 11 of the said Act.

"The merchandise in controversy was imported from the United States and the protest against the imposition of duties on merchandise imported from the United States was fully considered and the decision of the court thereon handed down in Case Docket No. 8. That decision is applicable to and is followed in this case. "The decision of the Collector of Customs is affirmed.

"No costs to either party.

"A. S. CROSSFIELD, *Judge.*

"I concur.

"FELIX M. ROXAS, *Judge.*"

PAR. II. In connection with the above decision attention is invited to Tariff Decision Circulars Nos. 14, 156, 187, 188, 202, 311, 328, 374, and 382.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 414.—*Cotton tulle laces—Decision of Court of Customs Appeals.*

MANILA, April 16, 1904.

To all collectors of customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered April 11, 1904, is hereby published for the information and guidance of all concerned:

"UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
COURT OF CUSTOMS APPEALS.

"*Appeal in the case of Ed. A. Keller & Co.*

"[Docket No. 658. Appeal No. 608. Protest No. 1949.]

"DECISION.

"*ROXAS, Judge:*

"This case is before the court for trial upon the appeal of Ed. A. Keller & Co., from the decision of the Collector of Customs for the Philippine Archipelago, overruling appellants' protest against the classification of certain cotton textiles as laces, less than twenty-five centimeters in width, under paragraph 127 (c), instead of as cotton tulle under paragraph 126 (b).

"The duties, amounting to \$505.14, were paid March 14, 1903.

"Mr. Hartford Beaumont appeared for the Government.

"Messrs. Ed. A. Keller & Co. appeared on their own behalf.

"The case as presented discloses that:

"(1) The article in question was shipped to the appellants from Liepsig, Germany, as 'pieces of white cotton laces embroidered on the loom.'

"(2) These pieces are of tulle embroidered on the loom with embroidery running the length of the piece, and less than twenty-five centimeters in width.

"(3) They are laces manufactured on a background of tulle.

"(4) The common use of the article in question is that of lace.

"From the above it appears that the embroidery on the loom in the goods in question is of such a nature as to render them pieces of tulle lace, of less than twenty-five centimeters in width embroidered on the loom in one piece, and for this reason they should pay duty under paragraph 127 of the Tariff referring to laces of all kinds, Letter C, in respect to width.

"The decision of the Collector of Customs is therefore affirmed.

"No costs to either party.

"FELIX M. ROXAS, *Judge.*

"I concur.

"A. S. CROSSFIELD, *Judge.*"

PAR. II. The above decision affirms the decision of this Office published in Tariff Decision Circular No. 345.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 415.—*Gun covers or rifle cases; classification of.*

MANILA, April 20, 1904.

To all collectors of customs:

It is hereby ruled that gun covers manufactured wholly of leather, if covered with leather, or if leather is the component material of chief value, shall be classified under paragraph 229, at 60 cents per kilo, net weight.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 416.—*Roofing paints.*

MANILA, April 22, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2415, filed September 5, 1903, by Messrs. Murphy, Morris & Co., as agents, for the California

Manila Lumber Commercial Company, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-2150, Voucher No. 7479, paid September 3, 1903,

"The claim in this case is against the classification of certain so-called roofing paints, as 'artificial colors of metallic bases, prepared in oil, ready for use,' under paragraph 84 (d) of the Tariff Revision Law of 1901, at \$5 per 100 kilos, plus a surtax of 50 per cent, instead of as 'mineral pitch,' under paragraph 7, at \$0.10 per 100 kilos.

"Three kinds of paint are covered by this protest, samples of which were forwarded to the Bureau of Government Laboratories for analysis. The report of the chemist shows one to be asphalt dissolved in mineral oil (high boiling), another asphalt dissolved in benzol, and the third asphalt dissolved in mineral oil (low boiling), and that they are not of metallic bases.

"There are five suggested dispositions under as many different paragraphs of the tariff which must be considered in arriving at the proper classification:

"*First.* Paragraph 84 (d) as artificial colors of metallic bases either be specific provisions or by assimilation, as returned.

"*Second.* As mineral pitch under paragraph 7.

"*Third.* Under paragraph 10 as mineral oils not specially provided for.

"*Fourth.* Under paragraph 97 as chemical products not specially mentioned.

"*Fifth.* Paragraph 365 as unenumerated articles not crude materials.

"*First.* The classification as returned is undoubtedly incorrect, for the paints are not of metallic bases, nor are they used or known as colors. Neither can they be assimilated to colors for they are not similar thereto in either material, quality, texture, or the use to which they may be applied.

"*Second.* They are not mineral pitch, nor are they so known either popularly or commercially, but have by a process of manufacture become new and distinct articles of commerce. Furthermore, these paints contain no mineral pitch, but an oil mixed with asphalt.

"*Third.* Nor should they be classified under paragraph 10, for the reason above stated—that they have by a process of manufacture lost their identity as mineral oil and become recognized as distinctive articles of commerce, bought and sold as paints, and so known both popularly and commercially.

"*Fourth.* They are not chemical products, for no chemical change is produced in their manufacture, the chemical properties of each constituent material being unchanged.

"*Fifth.* Paragraph 365 is the only paragraph of the five stated that remains. That paragraph contains an accurate description of the goods and it follows that classification thereunder is proper.

"The claim of the importer is not sustained and the protest must be overruled, notwithstanding that the classification returned is likewise found erroneous.

"Protest No. 2415, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 417.—*Ornamental pins, artificial flowers.*

MANILA, April 22, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2668, filed November 25, 1903, by Messrs. Sprungli & Co., against the decision of the Collector

of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Bonded Warehouse Entry No. A-9473, Bond No. 1184, liquidated November 23, 1903.

"The claim in this case is against the classification of certain ornamental pins as 'artificial flowers of all kinds,' under paragraph 350 of the Tariff Revision Law of 1901, at \$2.50 per kilo, instead of as 'trinkets and ornaments of all kinds,' under paragraph 340, at \$1.25 per kilo, as now claimed. They were entered as 'wrought celluloid,' under paragraph 342 (b), 'by mistake.'

"The pins in question have brass shanks and small flowers with petals of colored celluloid, in the center of which are small beads of colored glass. The celluloid is the component material of chief value.

"Paragraph 350 provides for 'artificial flowers of all kinds,' paragraph 340 provides for 'trinkets and ornaments of all kinds except those \* \* \* in which the predominant substance is \* \* \* celluloid \* \* \*'. If the pins in question are 'artificial flowers' they must be classified under paragraph 350; for the provision in this paragraph is more specific than the provision for 'trinkets and ornaments,' or for 'celluloid wrought.'

"Where there are two distinct provisions of a tariff act, either of which might apply to an imported article, it must be held dutiable under that one of the two provisions which is most specific in its character.' (Carr's Judicial Interpretation of Tariff Acts, par. 27, p. 14.)

"In Treasury Decision No. 14938, G. A. 2567, similar articles were held to be artificial flowers and dutiable as such:

"The articles covered by this protest are known in trade as boutonnières. This boutonnières are composed of celluloid and are in the form of rosebuds. They are colored and have metal shanks and are designed and intended to be worn in the button-holes of the lapels of coats in the same manner as a genuine rosebud would be worn.

"The Collector classified these articles as artificial flowers and assessed duty thereon at 50 per cent ad valorem under paragraph 443. We think the decision of the Collector was correct and affirm the same.'

"At all events, the protest can not be sustained, because trinkets and ornaments in which the predominant substance is celluloid are exempted from classification under paragraph 340.

"Protest No. 2668, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 418.—*Fruit syrups or syrup of cane and fruit juices: flavoring extracts.*

MANILA, April 22, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2317, filed July 25, 1903, by Mr. Enrique Spitz, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-346, Voucher No. 2764, paid July 24, 1903.

"The claim in this case is against the classification of certain syrups as 'flavoring extracts,' under paragraph 327, of the Tariff Revision Law of 1901, at \$0.25 per kilo, instead of as 'syrup of cane,' under paragraph 337, at \$1 per 100 kilos, gross weight.

"The syrups in question are manufactured by combining with

syrup of cane various fruit juices or flavors, the resulting product being perhaps 90 per cent saccharine matter and 10 per cent pure fruit juice.

"Paragraph 337 provides for syrup of cane, honey, and molasses, but does not include new and distinct articles of commerce made from such materials. Syrup of cane may be the base of the syrups in question, but by the addition of fruit juices or flavors, a new and distinct article of commerce has been produced, namely, 'fruit syrups.'

"The exclusive use of such syrups is as a flavoring and they should be classified as 'flavoring extracts,' either directly or by assimilation, the 'use' being identical.

"Protest No. 2317, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 419.—*Country of exportation, value in principal markets of.*  
MANILA, April 22, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2421, filed September 9, 1903, by Messrs. Ed. A. Keller & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-3752, Voucher No. 7840, paid September 7, 1903.

"This protest is again the addition of certain items to the invoice and entered values of certain woolen and certain silk textiles exported from the port of Liverpool, England. The invoices are dated at Zurich, Switzerland.

"The woolen textiles in this case originated in England, the prices being English currency, and were shipped 'f. o. b. Liverpool.' In Tariff Decision Circular No. 376 it was held that similar items, added under similar circumstances, and for a similar purpose, were not properly treated as elements of the dutiable value of imported merchandise, and this portion of the protest is therefore sustained.

"The silk textiles in question originated in France, the currency of the invoice being francs, and were shipped from Liverpool, England. Section 177 of the Customs Administrative Act provides that duty 'shall be assessed upon the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities \* \* \* in the principal markets of the country of exportation.' As the merchandise was exported from Liverpool in this case, England was the country of exportation, and the value on which duty must be assessed is the actual market value in the principal markets of England.

"Although the merchandise may have been shipped 'f. o. b. Liverpool,' and although the transportation charges may have been included in the invoice and entered value, such value is not sufficiently high to represent the actual market value of similar merchandise in the principal markets of England. From the papers in the case, which have been sworn to be true and correct, and the correctness of which can not now be impeached, it does not appear that the silks were shipped from some port or place in France to the Philippine Islands, but, on the contrary, the port of exportation is stated as being Liverpool in both the invoices and bill of lading, where the voyage of importation actually commenced. The appraised value, which represents the actual market value in the principal markets of England is therefore found to be correct.

"Protest No. 2421 is therefore sustained as to the valuation placed on the woolen textiles, and a refund is ordered in the sum

of \$5.57, United States currency, and is overruled and denied as to the valuation placed on the silk textiles. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 420.—*Watchmen's clocks.*

MANILA, April 22, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2713, filed December 14, 1903, by the Manila Railway Company, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-9968, Voucher No. 19557, paid December 12, 1903.

"The claims in this case are against:

"*First.* The collection of any duties, by reason of the Spanish royal decree of August 6, 1875, granting exemption therefrom on materials and supplies imported by the protester for a period of ten years after completion of the road. *Second*, the classification of certain watchmen's clocks as 'other machinery of copper and its alloys,' under paragraph 257 (a) of the Tariff Revision Law of 1901, at \$4 per 100 kilos not less than 20 per cent ad valorem, the latter rate prevailing, instead of the works under paragraph 239 (b) at \$0.50 each, and the case under paragraph 196, at \$15 per 100 kilos, as entered.

"*First.* In Tariff Decision Circular No. 225 it was held that as the road was completed on November 21, 1892, whatever rights of exemption the protester might have had have now expired. This portion of the protest is therefore overruled and denied.

"*Second.* The clocks in question are rather large, they have teak-wood cases, and ordinary pendulum movements. They are fitted with twenty-four-hour instead of twelve-hour dials, and on the top of the cases are brass knobs, which, whenever pressed, register the hour and minute. The articles are clearly clocks. The fact that certain appliances are attached for the purpose of registering time is not sufficient to divest them of their character as clocks, under which designation they are known both popularly and commercially.

"The clock schedule of the present tariff is only understandable on the theory that it was intended as a substantial reinactment of the corresponding sections of the Spanish tariff formerly in force in these Islands. In the light of that tariff, it is clear that all works for clocks not otherwise provided for are dutiable under paragraph 239 (b).

"The method of arriving at the weight of the works prescribed in paragraph 217. Note (c), second paragraph, of the United States Provisional Customs Tariff and Regulations in the Philippine Islands, will be followed, and 'the works and the dial will be reckoned as weighing one kilogram.'

"Protest No. 2713, on the grounds mentioned above, is therefore sustained, and a refund ordered to the importer in the sum of \$43.35, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 421.—*Fountain pens; classification of.*

MANILA, April 23, 1904.

To all collectors of customs:

It is hereby ruled that fountain pens of all descriptions shall be classified under paragraph 365, at 25 per cent ad valorem.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 422.—*Jars of ordinary glass, painted and gilt; classification.*

MANILA, April 29, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2325, filed July 30, 1903, by Messrs. Ed. A. Keller & Co., against the decision of the Collector of Customs for the Philippine Islands acting as Collector of Customs for the port of Manila, as to the rate and amount of duties chargeable on certain merchandise described in Entry No. A-899, Voucher No. 3165, paid July 28, 1903.

"The claim in this case is against the classification of certain jars as 'articles of glass imitating crystal' under paragraph 13 (a) of the Tariff Revision Law of 1901, at \$12 per 100 kilos, not less than 30 per centum ad valorem, as entered, instead of as 'common or ordinary hollow glassware' under paragraph 12 at \$0.80 per 100 kilos, not less than 20 per centum ad valorem.

"The jars in question are both painted and gilt. The Court of Customs Appeals held in the matter of Docket No. 637, Appeal No. 597 (decision unpublished) that similar jars were not manufactured of glass imitating crystal, but ordinary glass of good quality, and that they should therefore have been classified under paragraph 12. The jars before the court in that case were undecorated, but in this case the painting and gilding are sufficient to remove such articles of glass from the category of 'common or ordinary hollow glassware'. As they cannot be classified under paragraph 13(a), they are properly dutiable under paragraph 16 (d), which provides for 'other articles and manufactures of glass either cut, engraved, painted, enameled, or gilt.'

"Claim was originally made for classification under paragraph 16 (b), but subsequently the protesters stated that the claim under this paragraph was an error, and that their claim should have been made under paragraph 12. The protest was amended accordingly, and as no claim is now made for classification under paragraph 16 (d), this Office is unable to grant relief.

"Protest No. 2325 is, for the reasons mentioned above, therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 423.—*Schoolbooks.*

MANILA, April 29, 1904.

To all collectors of customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2978, filed March 15, 1904, by Messrs. Henry W. Peabody & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the Port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. B-4575, Voucher No. 31126, paid March 12, 1904.

"This protest is against the assessment and collection of duties on certain books imported by the protesters for the Educational Department of the Insular Government, free entry being claimed under paragraph 382 (b) of the Tariff Revision Law of 1901, which provides for 'schoolbooks.' The books were entered under paragraph 390 (a), which provides for 'philosophical, historical, economic, and scientific books, imported in good faith and for the use and by the order of any college, academy, school, or seminary of learning in the Philippine Islands,' but this claim for classification has been abandoned; they were assessed for duty under paragraph 180, at \$3 per 100 kilos.

"The books in question consist of 50 copies each of Robinson Crusoe, Last of the Mohicans, Swiss Family Robinson, Ivanhoe,



and Sketch Book (Irving). The question which is presented is whether books of this class may be considered as 'schoolbooks.' Upon investigation it has been ascertained that such books are not for use in schools, but are imported as parts of libraries for teachers throughout the Islands. The fact that they are imported for the Educational Department does not establish their identity as schoolbooks. A line may be drawn between books which are merely literary works and books which are solely for the purpose of instruction. While a well-written literary production may be educational, either in the sentiments conveyed or in the form and style of the language used, such books are not primarily used as books of instruction, or at least, are not primarily published for use in schools, and are not embraced within the term 'schoolbooks' in popular or commercial language.

"Protest No. 2978, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 424.—*Powder puffs not "feathers for ornaments;" classification of.*

MANILA, April 29, 1904.

*To all collectors of customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2861, filed February 2, 1904, by Messrs. Ed. A. Keller & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-14121, Voucher No. 25944, paid January 30, 1904.

"The claim in this case is against the classification of certain powder puffs as 'feathers for ornaments,' under paragraph 230 of the Tariff Revision Law of 1901, at \$2.50 per kilo, as entered, instead of as 'other feathers,' under paragraph 231, at \$0.50 per kilo, as now claimed.

"These powder puffs are such as are ordinarily used by women and are composed of down, bone, silk, and raw cotton, the first named being the 'component material of chief value.' The paragraphs cited above read as follows:

"PAR. 230. Feathers for ornaments, in their natural state or manufactured, N. W. .... kilo.... \$2.50

"PAR. 231. Other feathers and feather dusters, N. W. kilo.... .50"

"It is quite evident that the classification returned was improper, as by no means of logical reasoning can powder puffs be treated as or placed in the same category with 'feathers for ornaments.' Paragraph 230 is confined to the class of feathers hereinbefore described, while paragraph 231 treats of 'other feathers and feather dusters,' and the wording in these two paragraphs is all that the tariff law contains with reference to this class of merchandise.

"The powder puff in question is admittedly a manufacture, but it will be seen by reference to the law that the only manufactures of feathers which are enumerated in paragraph 231 are 'feather dusters,' and it is certainly something more than 'other feathers;' it is a distinct and well-known article of commerce. Nor can it be assimilated to feather dusters, as the importer suggests. Recourse must therefore be had to paragraph 365, which covers 'all other goods, merchandise, wares, and effects not otherwise enumerated or provided for.'

"Protest No. 2861, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

## APPOINTMENTS.

### By the Honorable Civil Governor.

#### BUREAU OF JUSTICE.

Mariano Cui, judge of the Court of First Instance at large, March 3.

#### Provinces.

##### ILOILO.

Maurice W. Tuttle, provincial supervisor, April 23.

##### LEYTE.

Pedro Pacheco, acting provincial secretary, May 13.

##### MORO.

Frank C. Cook, justice of the peace, Digos, April 16.

Peter Herdin, justice of the peace, Piso, April 16.

Frank Spencer, justice of the peace, Samal, April 16.

##### TAXABAS.

Victor Alfonso, acting provincial secretary, May 7.

### By the Civil Service Board.

#### Executive Department.

##### EXECUTIVE BUREAU.

Louis E. Globoer, clerk, May 2, \$1,200; probational appointment.

Rafael Escosa, clerk, May 2, \$300; probational appointment.

Charles E. Johnson, clerk, May 9, \$1,200; probational appointment.

##### BUREAU OF THE INSULAR PURCHASING AGENT.

D. H. Wadlington, clerk, May 1, \$1,400; promotion from class 9.

Albert Ellis, superintendent of transportation, May 1, \$1,600; promotion from corral boss, \$1,200.

Daniel J. Ring, clerk, February 18, \$1,400; promotion from class 9.

##### IMPROVEMENT OF THE PORT OF MANILA.

A. J. Babbage, foreman, June 1, \$1,400; promotion from \$1,200.

C. N. Mellam, overseer, June 1, \$1,400; promotion from \$1,200.

Lois Guyn, subinspector, June 1, \$1,400; promotion from \$1,200.

Mariano Serrano, timekeeper, May 1, \$480; promotion from assistant timekeeper, \$420.

##### PHILIPPINE CIVIL SERVICE BOARD.

August E. Yeager, clerk, May 2, \$1,200; probational appointment.

##### Department of the Interior.

##### BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

Mary Jamison, trained nurse, April 28, \$900; probational appointment.

Jul Johnson, clerk, February 1, \$1,400; promotion from class 9.

##### FORESTRY BUREAU.

William M. Maule, forester, May 9, \$2,000; promotion from \$1,800.

Guillermo Cabrera, ranger, May 9, \$360; promotion from \$300.

Felix Ragodon, clerk, April 25, \$300; probational appointment.

##### ETHNOLOGICAL SURVEY.

Silvino A. Pablo, clerk, May 1, \$300; promotion from \$240.

Esteban de Guzman, clerk, May 1, \$540; promotion from \$480.

##### BUREAU OF GOVERNMENT LABORATORIES.

Angel Espiritu, clerk, May 4, \$360; probational appointment.

## CIVIL SANITARIUM, BENGUET.

Marcella Doyle, nurse and housekeeper, April 1, \$900; promotion from nurse, \$720.

*Department of Commerce and Police.*

## BUREAU OF POSTS.

Ellis D. Johnson, clerk, May 2, \$900; probational appointment.

S. R. Glubetich, clerk, May 1, \$1,400; transfer from Manila post-office to office Director of Posts.

Mariano Valdivieso, clerk, April 19, \$300; reinstatement.

## BUREAU OF PHILIPPINES CONSTABULARY.

Aniceto C. Dionosio, patron, March 2, \$300; probational appointment.

Gregorio Trajano, clerk, April 11, \$180; probational appointment.

## BUREAU OF PRISONS.

Guy M. Willey, cabinetmaker, March 1, \$1,000; probational appointment.

Albert Steinrauf, dispensing clerk, May 1, \$900; transfer from attendant, Civil Hospital.

Gregorio Enriques, overseer, May 1, \$720; promotion from \$600.

## BUREAU OF COAST GUARD AND TRANSPORTATION.

Rufino de los Angeles, foreman, May 1, \$360; promotion from \$300.

*Department of Finance and Justice.*

## BUREAU OF THE INSULAR TREASURY.

William B. Dicks, clerk, May 1, \$1,600; promotion from class 8.

## BUREAU OF THE INSULAR AUDITOR.

C. H. French, clerk, May 1, \$2,500; promotion from class 4.

C. J. Dolliver, clerk, May 1, \$1,200; promotion from class 10.

James G. Martin, clerk, May 7, \$1,200; probational appointment.

## BUREAU OF CUSTOMS AND IMMIGRATION.

Charles H. Davis, master, February 11, \$1,200; probational appointment.

Frank Hill, third-class examiner, February 23, \$1,200; promotion from fourth-class examiner, \$1,000.

Jose Villarreal, guard, April 27, \$240; reinstatement.

Eduardo Zulmeta, guard, April 19, \$240; reinstatement.

Charles Geddes, master of cutter, April 1, \$1,200; reinstatement.

Fernando Sta. Rita, guard, January 22, \$240; probational appointment.

Catalino Oriol, guard, January 22, \$240; probational appointment.

Andres Villena, guard, January 21, 1903, \$240; probational appointment.

Jose Atilano, guard, January 21, 1903, \$240; probational appointment.

## INSULAR COLD STORAGE AND ICE PLANT.

D. W. Fry, overseer of cold rooms, June 1, \$1,200; promotion from teamster, \$900.

Harry L. Hill, teamster, May 4, \$720; probational appointment.

Sherman Lake, watchman, May 1, \$720; probational appointment.

## BUREAU OF JUSTICE.

Jose Aseniero, clerk, Court of First Instance, subdistrict of Dapitan, April 12, \$300; promotion from \$200.

Severino Ageaoli, copyist, Court of First Instance, First Judicial District, May 11, \$200; probational appointment.

Ramon Cabato, deputy clerk, Court of First Instance, Fourteenth Judicial District, May 1, \$240; probational appointment.

## COURT OF LAND REGISTRATION.

Mrs. L. R. Gage, clerk, April 12, \$900; probational appointment.

Manuel Francisco, clerk, May 4, \$300; probational appointment.

Manuel Franco, interpreter and translator, May 11, \$600; probational appointment.

*Department of Public Instruction.*

## BUREAU OF EDUCATION.

Holland E. Bell, teacher, April 1, \$1,500; promotion from \$1,400.

J. M. Cambill, teacher, January 1, \$1,400; promotion from \$1,200.

Frank Clapper, teacher, January 1, \$1,300; promotion from \$1,200.

Fermin Paz, clerk, division superintendent, Rizal, March 1, \$540; promotion from \$480.

## BUREAU OF PUBLIC PRINTING.

Nancy B. Adreon, copyholder, May 9, \$900; probational appointment.

Florentino Cayetano, junior bookbinder, May 16, \$1,500; probational appointment.

## BUREAU OF ARCHITECTURE.

Cheri Mandelbaum, architectural draftsman, April 27, \$1,400; probational appointment.

*City of Manila.*

## DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

Carl Peterson, foreman, city stables, May 1, \$1,080; promotion from driver, \$900.

C. J. Cass, teamster, May 10, \$720; probational appointment.

Joseph Duffly, teamster, May 1, \$720; probational appointment.

Philip H. Landes, teamster, May 5, \$720; probational appointment.

Licerio Valero, assistant engineer on *Pluto*, May 12, \$480; probational appointment.

Leon Sigumalfan, mechanic, April 1, \$360; probational appointment.

## POLICE DEPARTMENT.

William T. Suthergill, patrolman, April 1, \$1,000; promotion from \$900.

Miguel Magpantay, patrolman, April 20, \$240; probational appointment.

Albert Leves, sailing master, police launch, February 1, \$1,200; promotion from mate, \$900.

## FIRE DEPARTMENT.

Charles T. Hendrickson, assistant foreman, May 1, \$1,200; promotion from fireman, \$900.

James N. Bowers, foreman, May 1, \$1,300; promotion from assistant foreman, \$1,200.

Ernest W. Laraway, fireman, May 5, \$900; probational appointment.

Alphonsus F. Garrison, engineer, May 4, \$1,200; reinstatement.

Bernard Seymour, fireman, May 4, \$900; reinstatement.

Edward M. Newsbaumer, engineer, May 9, \$1,200; probational appointment.

Charles H. Munger, fireman, May 9, \$900; probational appointment.

DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

Maurice X. C. Weinberger, surveyor. May 2. \$1,400; provisional appointment.

Provinces.

AMBOS CAMARINES.

H. R. Andreas, deputy treasurer. March 21, ₱2,400; promotion from \$1,000.

J. W. Crow, deputy. March 21, ₱2,000; transfer from teacher. \$1,300.

BATAAN.

Roman Tongeo, deputy treasurer. April 25, ₱576; promotion from \$180.

BENGUET.

A. H. Perkins, chief engineer, Benguet Road, April 10, \$2,400; transfer from assistant engineer, Bureau of Engineering. \$2,250.

BULACAN.

Placido Penarin, clerk. March 1. ₱600; promotion from \$240.

CEBU.

Vidal Reyes, clerk, May 1. 1903. \$210; probational appointment.

LEPANTO-BONTOC.

Malcolm, R. Wheeler, chief clerk and deputy. April 1, \$1,200; transfer from clerk, class 9, Insular Cold Storage and Ice Plant.

LEYTE.

Pedro Pacheco, clerk. May 4, ₱600; promotion from class J.

NEGROS OCCIDENTAL.

Emilio Blanco, clerk, February 1, \$150; probational appointment.

PAMPANGA.

Victorino Bisda, deputy. May 1. ₱840; promotion from clerk. \$300.

PANGASINAN.

Ziba M. Smith, clerk. April 1. ₱2,400; probational appointment.

SORSOGON.

Felipe Paje, clerk. April 1, ₱480; probational appointment.

TARLAC.

Eulalio Senson, deputy, March 1, \$360; promotion from \$240.

RESIGNATIONS.

Provinces.

PAMPANGA.

Eugenio Ayuyao, justice of the peace, Angeles, May 11.  
Bartolome Tablante, auxiliary justice of the peace, Angeles, May 11.

Luis Espiritu, justice of the peace, Apalit, May 11.  
Martin Sundian, auxiliary justice of the peace, Floridablanca, May 11.

Feliciano Ordenez, justice of the peace, Mexico, May 11.  
Lupo de Lara, auxiliary justice of the peace, Mexico, May 11.  
Francisco Gutierrez, justice of the peace, Porac, May 11.  
Luceas Ocampo, auxiliary justice of the peace, San Fernando, May 11.

Jose R. Santiago, justice of the peace, Santa Rita, May 11.

ROMBLON.

Cornelio Mortel, justice of the peace, Badajoz, May 6.  
Felix Montesa, auxiliary justice of the peace, Badajoz, February 20.

TABASAS.

Natalio Barredo, auxiliary justice of the peace, Boac, May 11.  
Victoriano Lagdamene, justice of the peace, Guinayangan, May 6.

NOTICE.

SALE OF THE INSULAR COLD STORAGE AND ICE PLANT.

Sealed bids for the purchase of the Insular Cold Storage and Ice Plant located at Manila, P. I., will be received on or before the 27th day of June, 1904. The plant includes one of the most valuable locations in the city of Manila on the Pasig River, occupying the whole space between the Suspension and the Santa Cruz Bridges, with abundant water frontage, and in the immediate vicinity of the business center. The buildings and machinery are in every respect new and modern, completed in the year 1901. The sale will include the land and water transportation belonging to the plant, including insulated lighters and barges, delivery wagons, horses, and harnesses.

For the fiscal year 1903 the total revenue of the plant was \$332,194.17; total expenditures for the same period, \$198,338.83, leaving an excess of revenue over expenditures of \$133,855.34, United States money. The plant as a Government institution does not compete with private establishments of a like character. In the hands of a private corporation the income could be very largely increased. No bid for less than \$1,000,000, United States money, will be considered. Bids will be received on the basis of an unrestricted sale, and also on the basis of an agreement on the part of the purchaser to furnish ice to civil employees for five years at the present Government rate of one-half cent, gold, per pound. The right to reject any and all bids is reserved. Each bid must be accompanied by a certified check payable to the Government of the Philippine Islands for 5 per cent of the amount of the bid as security for the fulfillment of the contract should the bid be accepted.

Terms.—Payment to be one-third cash and the balance in three equal annual payments, at 6 per cent interest per annum; the unpaid portion of the purchase money to be secured by mortgage on the property or by other satisfactory security.

Bids may be filed with the Chief of the Bureau of Insular Affairs, War Department, Washington, D. C., or with the Secretary of Finance and Justice at Manila. All bids must be filed before 12 o'clock noon, June 27, 1904, at which time the bids will be opened.

Contents.

Public laws:

- No. 1128, prescribing the procedure for acquiring title to public coal lands in the islands under sections 53 to 57 of the act of Congress of July 1, 1902.
- No. 1129, amending the Provincial Government Act No. 83, by allowing a per diem for judges in certain cases.
- No. 1130, to prevent the failure of military justice.
- No. 1131, making the governor of Mindoro Province ex officio justice of peace.
- No. 1132, amending section 1 of Act 590, relative to preliminary investigations before justice of the peace.
- No. 1133, amending Act 834, by providing for payment for medical attendance on Filipino students in the United States.
- No. 1134, amending Act 624, relative to mining claims.
- No. 1135, incorporating the municipality of Bongabong, Mindoro, as barrio of Pinamalayan, Mindoro.
- No. 1136, authorizing the licensing of vessels engaged exclusively in lighterage and harbor business, etc.
- No. 1137, appropriating \$500,000 from the Congressional relief fund for expenditure under the direction of the Civil Governor.
- No. 1138, bringing under the Land Registration Act lands within the boundaries of naval reservations, or to be purchased for naval purposes.
- No. 1139, amending section 78 of the Municipal Code, Act No. 82, so as to make it unnecessary to search for personal property of delinquent taxpayer before proceeding against his real estate.
- No. 1140, regulating appointments of Secretary of Advisory Board of Manila, and modifying section 65 of Act 183.
- No. 1141, amending sections 33 and 61 of the Manila Charter, Act 183.
- No. 1142, increasing the salary of the secretary-treasurer of Nueva Vizcaya and amending Act 337.
- No. 1143, extending time for payment of land tax in the Province of Laguna.
- No. 1144, authorizing extra compensation to Scouts and Constabulary detailed to the Louisiana Purchase Exposition.
- No. 1145, providing for local government for non-Christian tribes in the Province of Tababas.
- No. 1146, appropriating P1,905.56 for salary of acting judge of Municipal Court of Manila.

## Resolutions of the Commission:

Extract from minutes of proceedings, April 27, 1904.  
Extract from minutes of proceedings, April 28, 1904.  
Extracts from minutes of proceedings, April 30, 1904.

## Decisions of the Supreme Court:

The United States vs. *Francisco Gonsaga*.  
The United States vs. *Juan Singuintu*.  
Consolidation *Mijares vs. Delfina Nery* and others.

## Bureau of Customs and Immigration:

Tariff Decision Circulars:  
No. 41, holy water founts, decorated; house decoration.  
No. 412, mineral waters, bottled by private company under contract with Navy Department of the United States providing for free entry thereof, dutiable.  
No. 413, separator used in a sawmill not dutiable as sawmill machinery; decision of the Court of Customs Appeals.  
No. 414, cotton tulle lace; decision of the Court of Customs Appeals.  
No. 415, gun covers or rifle cases; classification of.  
No. 416, roofing paints.  
No. 417, ornamental pins, artificial flowers.  
No. 418, fruit syrups of syrup of cane and fruit juices; flavoring extracts.  
No. 419, country of exportation, value in principal markets of.  
No. 420, watchmen's clocks.  
No. 421, fountain pens; classification of.  
No. 422, jars of ordinary glass, painted and gilt; classification.  
No. 423, schoolbooks.  
No. 424, powder puffs not "feathers for ornaments;" classification of.

## Appointments:

By the honorable Civil Governor.  
By the Philippine Civil Service Board.

## Resignations:

Notice of the Insular Cold Storage and Ice Plant.

## Announcement.

The Official Gazette is published weekly by the authority of the Government of the Philippine Islands. It will be furnished by mail to subscribers, free of postage, on the following terms:

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## The Government of the Philippine Islands.

## Legislative.

THE PHILIPPINE COMMISSION.  
(Ayuntamiento—The Palace.)

Commissioners.—Luke E. Wright, President; Dean C. Worcester, Henry C. Ide, James F. Smith, Trinidad H. Pardo de Tavera, Jose R. Luzuriaga, Benito Legarda.

## Executive.

Civil Governor.—Luke E. Wright; acting private secretary, L. W. Carpenter; Captain Robert H. Noble, Third United States Infantry, Aid-de-Camp to the Civil Governor.  
Vice-Governor.—Henry C. Ide.

Secretary of the Interior.—Dean C. Worcester; private secretary, E. O. Johnson.  
Secretary of Commerce and Police.—Vacant.

Secretary of Finance and Justice.—Henry C. Ide; private secretary, Jackson A. Due.

Secretary of Public Instruction.—James F. Smith; private secretary, W. H. Donovan.

## EXECUTIVE DEPARTMENT.

Executive Bureau.—A. W. Ferguson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Ferguson, in charge, Translating Division; Claude W. Calvin, Recorder of the Commission, Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; Sidney Thomas, Chief of Records Division; H. A. Lampman, Disbursing Officer.

Bureau of Insular Purchasing Agent.—Major E. G. Shields, Insular Purchasing Agent; L. B. Dunsen, Local Purchasing Agent.

Improvement of the Port of Manila.—Maj. C. McD. Townsend, Corps of Engineers, United States Army, officer in charge.  
Philippine Civil Service Board (Oriente Building).—Dr. W. S. Washburn, Chairman; Dr. B. L. Falconer, Dr. Jose Asemayo.

## DEPARTMENT OF THE INTERIOR.

Board of Health for the Philippine Islands.—Maj. E. C. Carter, Surgeon, United States Army, Commissioner of Public Health; Capt. S. L. Munson, Assistant Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. Manuel Gomez, Secretary.

Quarantine Service (United States Public Health and Marine-Hospital Service, 78 Madrid).—Dr. Victor G. Heiser, Chief Quarantine Officer; Dr. Chas. W. Lingo and John D. Long, Assistants.

Marives Detention and Disinfection Station.—Dr. John M. Holt, in command; Dr. R. H. Creel, Assistant.  
Toledo Quarantine Station.—Dr. Geo. W. McCoy, in command.

Cebu Quarantine Station.—Dr. Carroll Fox, in command.

Jolo Quarantine Station.—Dr. M. K. Gwyn, in command.

Medical Bureau (Oriente Building).—Capt. George P. Abern, Ninth Infantry, United States Army, Chief; Ralph C. Bryant, Assistant Chief, Mining Bureau (358 Cabildo).—H. D. McCaskey, Chief.  
Philippine Weather Bureau (Weather Bureau, Brnata).—Rev. José Algué, S. J., Director (in United States); Rev. Miguel Saderra Mata, Assistant Director.

Bureau of Public Lands (Intendencia Building).—W. M. Tipton, Chief.  
Bureau of Agriculture (Oriente Building).—Prof. F. Lamson-Sabner, Chief (on leave); W. E. Welborn, Acting Chief.

Ethnological Survey for the Philippine Islands (Oriente Building).—Professor A. E. Jenks, Chief.

Bureau of Government Laboratories (719 Iris).—Dr. P. C. Freer, Superintendent Government Laboratories; Dr. R. P. Strong, Director Biological Laboratories; Dr. James W. Jobling, Director of Serum Laboratory.

Philippine Civil Hospital (791 Iris).—Dr. H. Eugene Stafford, Attending Physician and Surgeon.

Civil Sanitarium (Baguio, Benguet).—Dr. J. B. Thomas, Attending Physician and Surgeon.

## DEPARTMENT OF COMMERCE AND POLICE.

Bureau of Posts (149 Escolta).—Chas. M. Cotterman, Director; H. M. Robinson, Assistant Director (on leave).

Bureau of Philippines Consularly (Oriente Building).—Brig. Gen. Henry T. Allen, U. S. A., Chief of Consularly; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Bandholtz, U. S. A., Assistant Chief, Commanding Second District; Lieut. Col. Taylor, Assistant Chief, Commanding Third District; Maj. Jesse S. Garwood, Assistant Chief, Commanding Fourth District; Col. James G. Harbord, U. S. A., Assistant Chief, Commanding Fifth District; Samuel B. Crawford, Assistant Chief, on temporary duty at Consularly headquarters, Manila; Col. D. J. Baker, Jr., U. S. A., Assistant Chief, Chief Supply Officer.

Bureau of Prisons (Headquarters, Bilibid Prison, Calle Iris).—George N. Wolfe, Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William E. Moulton, Resident Physician; Ebert Adams, Cashier, Property and Disbursing Officer.

Bureau of Coast Guard and Transportation.—J. M. Helm, Commander, United States Navy, Chief; Capt. Spencer Cosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

Bureau of Coast and Geodetic Survey (Intendencia Building).—George R. Putnam, Assistant in charge of United States Suboffice.

Bureau of Engineering (Santa Potenciana Building).—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcombe, Principal Assistant Engineer; James D. Fauntleroy, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

## DEPARTMENT OF FINANCE AND JUSTICE.

Bureau of the Insular Treasury (Intendencia Building).—Frank A. Brannagan, Treasurer of the Philippine Archipelago; J. L. Barrett, Assistant Treasurer.

Bureau of the Insular Auditor (Intendencia Building).—Abraham L. Lawshe, Auditor for the Philippine Archipelago; W. W. Barre, Deputy Auditor.

Bureau of Customs and Immigration.—W. Morgan Shuster, Collector of Customs for the Philippine Islands (on leave); H. B. McCoy, Acting Collector of Customs (Intendencia Building).

Bureau of Internal Revenue (147 Anloague).—Albert W. Hastings, Acting Collector.

Insular Cold Storage and Ice Plant.—Charles G. Smith, Superintendent.

Bureau of Justice.—Lebbus R. Willey, Attorney-General (on leave); Washington L. Goldborough, Assistant Attorney-General; Gregorio Arantes, Solicitor-General; James Ross, Supervisor of Provincial Fiscals; Geo. R. Harvey, Assistant Attorney-General for the Consularly.

## DEPARTMENT OF PUBLIC INSTRUCTION.

Bureau of Education (Santa Potenciana).—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant.

Bureau of Public Printing.—John S. Leech, Public Printer.

Bureau of Architecture and Construction of Public Buildings (Calle Anloague).—Edgar K. Bourne, Chief.

Bureau of Archives (Palace).—Manuel de Iriarte, Chief.  
Bureau of Patents, Copyrights and Trade-Marks (Palace).—Manuel de Iriarte, in charge.

American Circulating Library (Oriente Building).—Mrs. Egbert, Librarian.  
Official Gazette (Oriente Building).—Max L. McCollough, Editor (on leave); Norton F. Brand, Acting Editor.

Census Bureau.—Irving Getz, J. P. Sanger, United States Army, Director of the Census (in United States).

## Judiciary.

## SUPREME COURT.

(Audencia, 47 Palaco.)

Chief Justice.—Don Cayetano Arellano.  
Justices.—Florentino T. Mapa, J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.  
Clerk.—J. E. Blanco.  
Reporter.—F. C. Fisher.

## COURT OF CUSTOMS APPEALS.

(Oriente Building.)

Judge.—A. S. Crossfield.

Judge.—Felix M. Roxas.

## COURT OF LAND REGISTRATION.

(Municipal Building.)

Judge.—S. del Rosario.

Associate Judge.—D. R. Williams.

Clerk.—J. R. Wilson.

COURTS OF FIRST INSTANCE.

**Manila, Part 1.**—John C. Sweeney, Judge.  
**Manila, Part 2.**—Byron S. Ambler, Judge.  
**Manila, Part 3.**—Manuel Araullo, Judge.  
**Manila, Part 4.**—Manuel Araullo, Judge.  
**Clerk.**—J. McKicking.  
**First District.**—Albert E. McCabe.  
**Second District.**—Dionicio Chacono.  
**Mountain District.**—Charles H. Burritt.  
**Third District.**—Arthur P. Odlin.  
**Fourth District.**—Julio Llorca.  
**Fifth District.**—Estanislao Yusay.  
**Sixth District.**—Ignacio Villamor.  
**Seventh District.**—Paul W. Lindeberger.  
**Eighth District.**—Grant T. Trent.  
**Ninth District.**—Henry C. Bates.  
**Tenth District.**—Vicente Jacono.  
**Eleventh District.**—Adam C. Carson.  
**Twelfth District.**—James H. Blount.  
**Thirteenth District.**—Warren H. Ickis.  
**Fourteenth District.**—John S. Powell.  
**Fifteenth District.**—Wm. F. Norris.  
**Additional Judges.**—Warren H. Ickis.  
**James C. Jenkins.**

Provincial Governments in the Philippines.

**Abra.**—Bangued, capital. Governor, Blas Villamor; secretary-fiscal, Lucas Paredes; supervisor-treasurer, Archibald McFarland.  
**Albay (Luzon).**—Albay, capital. Governor, Ramon Santos; secretary, L. Thomas; treasurer, C. A. Reynolds; supervisor, William A. Crossland; fiscal, M. Calleja.  
**Ambo Camarines (Luzon).**—Nueva Caceres, capital. Governor, Juan Pimental; secretary, Roman Barile; treasurer, J. Q. A. Braden; supervisor, E. P. Shuman; fiscal, F. Contreras.  
**Antique (Panay).**—San José de Buenavista, capital. Governor, Leandro Fulon; secretary, A. Salazar; supervisor-treasurer, B. T. Reamy; fiscal, W. Gella.  
**Batanga.**—Balanga, capital. Governor, Tomas G. del Rosario; secretary, L. L. Zialcita; supervisor-treasurer, Emery R. Yundt; fiscal, Ambrocio Delgado.  
**Batangas (Luzon).**—Batangas, capital. Governor, Gregorio Aguilera; secretary, F. Caedo; treasurer, R. D. Blanchard; supervisor, Ernest J. Westerhouse; fiscal, D. Gloria.  
**Bohol.**—Bago, capital. Governor, Wm. F. Pack; secretary, Egidio Octaviano; acting supervisor, (provincial governor).  
**Bohol (Bohol).**—Tagbilaran, capital. Governor, Salustiano Borja; secretary, M. Guerrero; supervisor-treasurer, C. D. Uplington; fiscal, Gavino Sepulveda.  
**Bulacan.**—Malolos, capital. Governor, Pablo Pecoson T. Ocampo; secretary, Francisco Menes; treasurer, R. W. Goodhart; supervisor, Harry Thurber; fiscal, Hermógenes Reyes.  
**Cagayan.**—Tuguegarao, capital. Governor, Graciano Gonzaga; secretary, Antonio Carat; treasurer, W. W. Barclay; supervisor, William E. Pearson; fiscal, Cayo Alonso.  
**Capiz (Panay).**—Capiz, capital. Governor, S. Julio Vidal; secretary, Emilio Acevedo; treasurer, J. Laefer; supervisor, J. M. Pardo; fiscal, Cavite, capital. Governor, Capt. David C. Shanks, United States Army; secretary, D. Tirona; treasurer, Arthur S. Emery; supervisor, Elmer O. Worric; fiscal, F. Santa Maria.  
**Cebu (Cebu).**—Cebu, capital. Governor, J. Climaco; secretary, L. Alburo; treasurer, Fred J. Schlotfeldt; supervisor, Harry C. Delano; fiscal, Mariano Cui.  
**Incos Norte.**—Iloilo, capital. Governor, Julio Agacollif; secretary, M. Flor; treasurer, J. N. Currie; supervisor, Paul F. Green; fiscal, Policarpo Soriano.  
**Incos Sur.**—Vigan, capital. Governor, Mena Crisologo; secretary, Fernando Ferrer; treasurer, Fred L. Wilson; supervisor, J. C. Hawley; fiscal, Vicente Singson.  
**Iloilo (Panay).**—Iloilo, capital. Governor, Raymond Melilla; secretary, J. Yusay; treasurer, Charles C. McLain; supervisor, Maurice V. Tuttle; fiscal, Andrew V. Smith.  
**Iloilo.**—Iloilo, capital. Governor, George Curry; secretary, Eliseo Claravall; supervisor-treasurer, N. B. Stewart; fiscal, Vicente Nepomuceno.  
**Legunon.**—Santa Cruz, capital. Governor, Juan Calles; secretary, José Rivera y Cosme; treasurer, Carroll H. Lamb; supervisor, David A. Sherley; fiscal, Higinio Benitez.  
**Union.**—San Fernando, capital. Governor, Joaquin Luna; secretary, Andres Aparicio; treasurer, Frank B. Parsons; supervisor, Bert H. Burrell; J. Baltazar.  
**Lepanto-Bontoc.**—Cervantes, capital. Governor, William A. Reed; secretary-treasurer, Gideon B. Travis; supervisor, M. Goodman; lieutenant-governor (Bontoc), Daniel Folkmar; lieutenant-governor (Amburayan), W. F. Gale.  
**Maguindae.**—Tuloban, capital. Governor, P. Borseth; secretary, Emigdio Archedo; treasurer, W. S. Conroy; supervisor, Oliver D. Filley; fiscal, Domingo Franco.  
**Marikina.**—Mabate, capital. Governor, Joaquin M. Bayot y Zurbito; treasurer and acting supervisor, J. A. Coudhour; fiscal, Ambrosio Delgado.  
**Mindoro.**—Puerto Gallera, capital. Governor, Capt. R. S. O'Leary, Thirtieth Infantry, U. S. A.; secretary, Fernando San Agustín; supervisor-treasurer, William O. Smith; fiscal, Solfo Alandy.  
**Mountain Province.**—Cabanatuan, capital. Governor, Manuel Corrales; secretary, A. Velez; supervisor-treasurer, E. E. Barton; fiscal, N. Capistrano.  
**Noro.**—Zamboanga, capital. Governor, Gen. Leonard Wood, United States Army; secretary, Capt. George T. Langhorne, United States Army; attorney, John E. Springer; treasurer, Fred A. Thompson; engineer and acting supervisor, Capt. Charles Keller, United States Army; superintendent of schools, Dr. Najeeb M. Saleeby.  
**Nueva Ecija.**—San Isidro, capital. Governor, Epifanio de los Santos; secretary, R. Roque; treasurer, J. B. Green; supervisor, C. D. Wood; fiscal, R. Mahalic.

**Nueva Vizcaya.**—Bayombong, capital. Governor, L. E. Bennett; secretary-treasurer, William C. Bryant; acting supervisor, Wm. H. Nipps. **Oriental Negros Occidental.**—Dagupan, capital. Governor, Antonio Jayme; secretary, L. Moreno; treasurer, P. A. Casanave; supervisor, H. M. Wood; fiscal, M. Blanco.  
**Oriental Negros Oriental.**—Dumaguete, capital. Governor, Demetrio Larena; secretary, J. Montenegro; supervisor-treasurer, H. A. Peed; fiscal, E. Araneta.  
**Pampanga.**—Bacolor, capital. Governor, Macario Arnedo; secretary, M. Canusan; treasurer, R. M. Shearer; supervisor, S. V. Cortelyou; fiscal, E. Macapinlac.  
**Pangasinan.**—Lingsayen, capital. Governor, Macario Favia; secretary, Benito Sison; treasurer, Thomas H. Hardeman; supervisor, Charles F. Vance; fiscal, R. Espiritu.  
**Paraguana.**—Cuyo, capital. Governor, Lieut. E. Y. Miller; secretary-treasurer, H. H. Swing.  
**Palawan (Luzon).**—Pasig, capital. Governor, Arturo Dancel; secretary, José Tupas; treasurer, Wm. N. Bish; supervisor, Telfair Hodgson; fiscal, Bartolomé Revilla.  
**Romblon.**—Romblon, capital. Governor, Francisco Sanz; secretary, Cornelio Madrigal; supervisor-treasurer, Julius S. Relo.  
**Samar.**—Cabaogan, capital. Governor, Eduardo Felto; secretary, Eduardo Felto; treasurer and acting supervisor, Arthur G. Whittier; fiscal, Domingo Franco y Mosquera.  
**Samarangani.**—Samarangani, capital. Governor, Bernardino Monreal; secretary, M. V. del Rosario; treasurer, R. J. Fanning; supervisor, Harry L. Stevens; fiscal, P. Ballen.  
**Sarigoro.**—Sarigoro, capital. Governor, Daniel Toribio Sison; secretary, Rafael Eliot; supervisor-treasurer, George A. Benedict; fiscal, F. Soriano.  
**Tarlac.**—Tarlac, capital. Governor, Alfonso Ramos; secretary, M. Reyes; treasurer, E. Jones; supervisor, Sam C. Phipps; fiscal, M. Ilagan.  
**Tayabas.**—Lucena, capital. Governor, Ricardo Paras; secretary, Gerardo Reyes; treasurer, William O. Thornton; supervisor, Henry C. Humphrey; fiscal, Manuel Queson.  
**Zambales.**—Iba, capital. Governor, Potenciano Lesaca; secretary, Gabriel Alba; supervisor-treasurer, John W. Ferrier; fiscal, Juan Manday.

Members of Boards for Suppressing the Locust Pest.

APPOINTMENTS BY THE EXECUTIVE SECRETARY.

**ABRA.**—Bangued: Maximo Blanco, Hugo Baine, Guillermo Blancafor.  
**ALBAY.**—Albay: Emilio Marquez, Mariano Maronella, Esteban AMBOS CAMARINES.—Nueva Caceres: Lamberto San Felipe, Celestino Reyes, Felipe Mompoubanua.  
**ANTIQUE.**—Antique: Ramon Javier, Pedro Moscoso, Anselmo Allicante.  
**BATAVIA.**—Batavia: Juan G. Antonio Yason, Victor Baltasar.  
**BATANGAS.**—Batangas: Felipe Barrion, José Arqueles, Leon Catigbac.  
**BOHOL.**—Tagbilaran: Pedro Maceren, Salvador Rodriguez, Pedro SORIANO.  
**BULACAN.**—Malolos: Fruto Andrada, Meliton Carlos, Celerino Aldaba.  
**CAGAYAN.**—Tuguegarao: R. W. Adamson, Sebastian Tuyuan, Pedro AMBROSIO.  
**CAPIZ.**—Capiz: Maximo Vigil, Francisco Soler, Vicente Villagraca.  
**CAVITE.**—Hob. Mariano Trinas, San Francisco de Mabagon; Severino de las Alas, Indan; Felix Guenca, Bacoor.  
**CEBU.**—Cebu: Valeriano Climaco, Pedro Rodriguez, Pedro Cui.  
**ILOCOS NORTH.**—Laoag: Cayetano Madamas, Cipriano Lagasca, Emilio Liave.  
**ILOCOS SUR.**—Vigan: Raymundo Querol, Estanislao Reyes, Ladislao Donato.  
**ILOILO.**—Iloilo: Magdalena Javellona, Raymundo Melilla, José Zulusta.  
**ISABELA.**—Hagan: José Cambido, Irineo Komosego, Generoso Gacban.  
**LAGUNA.**—Santa Cruz: Juan Ordoñez, José de Leon, Gregorio Elbo.  
**UNIPANAN.**—Merario: Rafael Lete, Faullino Alviar, Lucino Almeida.  
**LEFANTO-BONTOC.**—Duguit: Concepción, Sinfonso Bondad, Cervantes; Gregorio Malinas, San Emilio.  
**LEYTE.**—Juan Dagandan, Leyte; Pedro Floridels, Hilongos; Dionisio MASBATE.  
**MASBATE.**—Masbate: Espiritudon Maristola, Nicolas Dano, Marcos Rosero.  
**MINDORO.**—Catalpan: Feliciano Alveyra, Luciano Lopez, Agustín Quijano.  
**MISAMIS.**—Cagayan: Cayetano Vamenta, Bernardo Rasines, Leon NEGROS OCCIDENTAL.—Bacolod: Aniceto Lacson, Agustín Montilla, Roque Garbarrón.  
**NEGROS OCCIDENTAL.**—Miguel Paterno, Sibulan; Juan Furberye, Manuog; Luis Rotea, Bais.  
**NUÉVA ECICIA.**—Crispulo Sidereo, San Isidro; Pablo Padilla, Santa Cruz.  
**NUÉVA VIZCAYA.**—Salvador Lamaug, Bagabag; Anastasio Fernandez, Solano; Vicente Cutaran, Bayombong.  
**PAMPANGA.**—Bacolor: Rafael Lete, Apalit; Celerino Sandico, Mexico; Estanislao Santos, Bacolor.  
**PANGASINAN.**—Cirilo Sandoval y Antonio Flor Mata, Lingsayen; Matias BONTATE.  
**PARAGUA.**—Vicente Espinosa, Coron; Clemente Fernandez y Mariano Baldo, Cuyo.  
**RIZAL.**—Estanislao Melendres, Manuel Jabson, Matias Angeles.  
**ROMBLON.**—Romblon: Anselmo Gutierrez, Santiago Estudillo, Joaquin Sanz.  
**SAMAR.**—Cabaogan: Melecio Liana, Alejo Maga, Leocadio Cinco.  
**TARLAC.**—Tarlac: Manuel de Leon, Manuel Martinez, Perfecto Manuual.  
**TAYBASAN.**—Lucena: Alfredo Castro, Juan Nivera, Juan Carmona.  
**UNION.**—San Fernando: Rafael Lete, Paulino Alviar, Lucino Almeida.  
**ZAMBALLES.**—Iba: Cirilo Braganza, Juan Rodriguez, Basilio de la Rosa.

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No. 22

## PUBLIC LAWS.

[No. 1147.]

AN ACT REGULATING THE REGISTRATION, BRANDING, CONVEYANCE, AND SLAUGHTER OF LARGE CATTLE AND PROVIDING FOR THE DISPOSITION, CARE, CUSTODY AND SALE OF ESTRAYS OR LARGE CATTLE CAPTURED OR SEIZED BY THE PHILIPPINES CONSTABULARY OR OTHER PEACE OFFICERS, AND REPEALING ACT NUMBERED SIX HUNDRED AND THIRTY-SEVEN AND SO MUCH OF ACT NUMBERED EIGHT HUNDRED AND SEVENTY-SEVEN AS PROVIDES FOR THE DISPOSITION, CARE, CUSTODY, OR SALE OF CATTLE, CARABAOS, HORSES, AND ANIMALS OF THE BOVINE FAMILY, AND ALL OTHER ACTS OR PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF THIS ACT.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. For the purposes of this Act, the term "large cattle" shall be held to include carabaos, horses, mules, asses, and all members of the bovine family.

SEC. 2. All owners of large cattle shall register at the office of the treasurer of the municipality of their residence the private brand or brands used by them in marking their cattle by filing in triplicate with said municipal treasurer a true copy of said brand or brands, impressed or accurately drawn upon stout paper, approximately fifteen centimeters wide by twenty centimeters long. One of the triplicate copies of said brand or brands so filed shall be retained in the office of the municipal treasurer; the others shall be sent by him to the provincial treasurer and Chief of the Bureau of Archives, one copy to each; and it shall be the duty of the municipal treasurer, the provincial treasurer, and the Chief of the Bureau of Archives to file in their respective offices said copies of said brand or brands and to keep a record of the names of the owners thereof alphabetically arranged, together with the ages, civil status, and occupations or professions of such owners.

SEC. 3. No person shall be permitted to register or file a duplicate of any brand theretofore registered in the name of another unless he produces to the municipal treasurer, at the time of presentation for registry and filing, satisfactory evidence that he has succeeded to the right to such brand previously registered and filed; nor shall any person be permitted to register or file with said municipal treasurer any brand likely to be mistaken for a brand or mark owned and previously registered by another.

SEC. 4. The municipal treasurer, on registering and filing any brand or mark, shall issue to the person registering and filing the same a certificate setting forth, over his own signature, the fact of registering and filing said brand, the date of registering and filing, the name, age, civil status, and occupation or profession of the owner of the brand and a copy of the brand as near as may be.

SEC. 5. Each municipality shall have a distinctive mark or brand for the purpose of branding large cattle owned by the municipality and of counterbranding large cattle owned by persons in the municipality and not bearing the counterbrand of any other municipality. Each municipality shall register and file a copy of its brand with the provincial treasurer and with the Chief of the Bureau of Archives. The Insular Government, and each provincial government, shall have a distinctive brand for the purpose of branding large cattle owned by it. A copy of the brand of the Insular Government shall be filed with the Chief of the Bureau of Archives, and copies of provincial brands shall be registered and filed with the Chief of the Bureau of Archives and with the provincial treasurer of the province owning the brand.

SEC. 6. All unbranded cattle, not less than two years old, found within the jurisdiction of any municipality, shall be branded on the right hip with the registered brand of the owner and counterbranded on the left hip with the registered brand of the municipality in which they are found.

The branding for which provision is made by this section shall be effected in the presence of the municipal president, the municipal treasurer, and the municipal secretary, or their representatives duly authorized in writing to act for them: *Provided, however*, That in provinces not organized under the Provincial Government Act such branding shall be effected in the presence of at least three persons appointed for this purpose by the provincial governor.

SEC. 7. Large cattle already branded with brand of ownership and counterbranded with the brand of the proper municipality need not be rebranded, but the owner must register such animals with the municipal treasurer and secure the certificate of ownership mentioned in section eight, unless previously registered under this Act.

Cattle imported for immediate slaughter need not be branded or registered, but the provisions of section thirty of this Act must be complied with.

SEC. 8. The municipal treasurer shall register in a book, properly prepared and kept for the purpose, all branded and counterbranded animals presented for registry and not previously registered under this Act, and shall set forth in his registry entry the name, residence of the owner, and the class, sex, age, brands, knots of radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the cattle registered. A copy of the entry shall be issued to the owner as a certificate of ownership, which certificate shall be *prima facie* evidence that the animal is the property of the person therein named as owner. The original registry entry and the copy thereof issued as a certificate of ownership shall be signed by the owner and by the municipal treasurer, and attested by the municipal secretary: *Provided, however*, That where the branding of cattle is effected in the presence of representatives of said municipal officials, the registry entry and the certificate of ownership shall be also signed or indorsed by such representatives as witnesses to the

branding: *Provided, further,* That in provinces not organized under the Provincial Government Act the registry entry shall be made and the certificate of ownership issued by the person designated by the governor of the province for that purpose, and countersigned or indorsed by the persons duly authorized to be present at the branding.

Sec. 9. Persons charged with the duty of branding or registering large cattle and issuing the proper certificates shall satisfy themselves of the ownership of the cattle so branded or registered and shall take due care that no certificate of ownership is issued to any person other than the proper owner.

Sec. 10. Each certificate of registration issued shall have affixed to it a special stamp of the value of one peso, Philippine currency, bearing the design prepared by the Bureau of Patents, Copyrights, and Trade-Marks, which stamp, after being affixed to the certificate, shall be duly cancelled with the seal of the municipality. The stamp required by this section shall be paid for by the owner of the cattle, and the moneys received therefor shall be paid into the municipal treasury.

Sec. 11. Each animal must be separately registered, and no certificate of ownership shall cover more than one animal.

Sec. 12. Large cattle branded prior to the passage of this Act and registered in the various municipalities in accordance with subdivision (d), section forty-three of Act Numbered Eighty-two, known as the Municipal Code, or in accordance with Act Numbered Six hundred and thirty-seven, upon surrender to the municipal treasurer of the written evidence of such registry, must be re-registered under the provisions of this Act, and a certificate of ownership issued to the owner without charge and without affixing to the certificate the stamp required by section ten of this Act. In such case, the re-registration entry and the certificate issued thereon shall be stamped "Previously registered .....(insert date) ..... day of ..... (insert month) ..... 19..... (insert year) .....; subdivision (d) sec. 43, Act No. 82 (or) Act No. 637. .... (insert signature) ..... Municipal Treasurer."

The written evidence of such previous registry shall be firmly attached to the retained office registry entry made under this Act.

Sec. 13. The municipal treasurer shall enter in a book, duly prepared and kept for the purpose, all transfers of large cattle, which entry shall set forth the name and residence of the owner, the name and residence of the purchaser, the purchase price of the animal or the consideration for the sale, the class, sex, age, brands, knots of radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the animal, and a reference by number to the original certificate of ownership with the name of the municipality which issued it.

Sec. 14. On making the entry of transfer prescribed by the previous section, the municipal treasurer shall issue to the purchaser of the animal a certificate of transfer setting forth the name and residence of the owner or vendor, the name and residence of the purchaser, the purchase price of the animal or the consideration for the sale, class, sex, age, brands, knots of radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the animal transferred, and a reference to the original certificate of ownership by number with the name of the municipality which issued such certificate.

Sec. 15. The entry of the transfer and the certificate of transfer shall be signed, in the case of organized municipalities, by the municipal treasurer and countersigned by the municipal president, the municipal secretary, and the owner; and in the case of provinces not organized under the Provincial Government Act, and of townships, settlements, and rancherias not organized under the Municipal Code, by the owner and such person or persons as may be designated for the purpose by the provincial governor.

Sec. 16. No entry of transfer shall be made or certificate of

transfer issued by the municipal treasurer or other proper official except upon the production of the original certificate of ownership and certificates of transfer and such other documents or evidence as will show title in the owner; or, in the case of loss of certificate of ownership or certificates of transfer, certified copies of the record showing that such documents were duly and properly issued, and it shall be the duty of the official custodian of the record to issue such certified copies on demand of the party entitled thereto without charge.

Sec. 17. On certificate of ownership and certificates of transfer the municipal treasurer or other proper official shall carefully note in the proper place on the printed outlined figure of the animal registered or transferred the brands, class, sex, age, knots of radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the animal registered or transferred, giving such marginal description, where necessary, as will fully identify the animal.

Sec. 18. In case of sale, the owner shall deliver to the purchaser the original certificate of ownership and all certificates of intermediate transfer, showing ownership in himself, and in case of loss of the original certificate of ownership, or of any of the certificates of intermediate transfer, certified copies of the proper entries showing such documents to have been issued by the proper official.

Sec. 19. Certificates of transfer shall be issued in the municipality where the contract of sale is made and consummated by the delivery of the cattle.

Sec. 20. Erasures, interlineations, or amendments in certificates of registry or transfer shall be presumed to be invalid unless noted over the signature of the official or person issuing or executing the same.

Sec. 21. Each certificate of transfer issued shall have affixed to it the stamp specified in section ten, which stamp, after being affixed to the certificate, shall be duly cancelled by the municipal treasurer with the seal of the municipality. The stamp required by this section shall be paid for by the purchaser, and the moneys received therefor shall be paid into the municipal treasury. A separate certificate of transfer shall be issued for each animal sold or conveyed.

Sec. 22. No transfer of large cattle shall be valid unless registered and a certificate of transfer secured as herein provided.

Sec. 23. On the demand of the municipal president, municipal treasurer, municipal secretary, or of any Constabulary, police, or other peace officer, any person claiming to own large cattle shall produce and submit to such officer making the demand certificates of ownerships and certificates of transfer showing his title thereto. In case of loss of certificates of ownership or certificates of transfer, certified copies of the entries showing the issuance of the original documents may be furnished in lieu of the original papers.

Sec. 24. Any person refusing to produce on demand of the proper official or within a reasonable time thereafter the documents required by the section immediately preceding shall be punished by a fine of not less than ten pesos, Philippine currency, nor more than five hundred pesos, Philippine currency, or by imprisonment for not less than one month nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 25. All estrays and all animals recovered from thieves or taken by peace officers from persons unlawfully or reasonably suspected of being unlawfully in the possession of the same shall be delivered to the treasurer of the municipality where found, and it shall thereupon become the duty of such municipal treasurer to properly care for and maintain such animals and to post for at least five consecutive days at the door of the municipal building in the municipality holding the animals, and to immediately forward to the provincial secretary, written notices

in Spanish and in the local dialects of the finding of such estrays or of the seizure or taking of the animals delivered to the municipal treasurer, together with the class, sex, age, brands, knots of radiated hair commonly known as *remolinos* or *cowlicks*, and other marks of identification of the estrays or of the animals seized or taken from persons not entitled to the possession thereof, and notifying owners of such animals to present themselves within fifteen days after date to the municipality and establish title thereto. In case owners of animals taken as estrays or seized as above set out present themselves within the time limited in the notice and prove title thereto, it shall be the duty of the municipal treasurer to cause delivery of such animals to the lawful owners upon payment of necessary expenses of maintenance and transportation, giving receipts for moneys paid and taking receipts for the animals delivered.

Should the owners of such animals fail to present themselves within the time fixed in the notice and prove title to the animals taken or seized as aforesaid, immediate notice of that fact shall be given by the municipal treasurer to the provincial board of the province, which shall order said animals to be sold at public auction and shall give notice of the sale at least ten days before the date of sale by posting notice thereof at the door of the provincial building and at the door of the municipal building where such animals are held. The notice of the sale shall contain a statement of the class, sex, age, brands, knots or radiated hair commonly known as *remolinos* or *cowlicks*, and other marks of identification of the animals to be sold, the place where found or seized, and the date, hour, and place of sale. The place of sale shall be fixed in discretion of the provincial board either at the provincial capital or in the municipality where such animals are held.

Animals ordered to be sold by the provincial board in accordance with the provisions of this section shall be sold for cash to the highest and best bidder thereat at public auction by verbal bidding, and the purchaser at such sale shall receive a good and indefeasible title to the animal sold.

It shall be the duty of the municipal treasurer to promptly notify the provincial secretary of all proceedings taken by him in each case arising under this section.

Sec. 26. Entry of the sale provided for in the section immediately preceding shall be made in the municipality in which the sale has taken place and certificate of such sale shall be issued as in other cases, except that the entry and certificate of sale shall show that the same was made by the municipality in conformity with section twenty-five of this Act, and that the signature of the owner shall be omitted from the entry and certificate.

Sec. 27. At any time before actual sale as above provided the lawful owners of the animals may prove title thereto to the municipal treasurer and receive their property on payment of all costs incurred by the municipality or the province for the care, maintenance, and transportation of the animals.

Sec. 28. In the event that owners of animals sold at public auction pursuant to the foregoing provisions shall appear and present proper evidence of title to such animals it shall be the duty of the municipal treasurer to receive such evidence of title and deliver the same to the provincial board of the province, and the provincial board is hereby authorized to examine such evidence and make such other investigations as to it may seem proper, and if the provincial board after the examination of such evidence and the making of such other investigations is satisfied that the title to the animals is in the claimants it is authorized to direct and cause payment of the net proceeds of the sale to be made to the claimants: *Provided, however*, That no claim for the proceeds of the sale of any animal or animals sold at public auction as above provided shall be received or allowed after the lapse of one year from the time of public sale.

Sec. 29. The moneys received from the sale of estrays or large cattle seized by peace officers shall be paid into the treasury of the municipality in which such animals were found or seized, and the expenses and cost of care, maintenance, transportation, and sale of the animals sold shall be a special charge against the moneys so paid in. After the lapse of one year from the date of sale as provided in the previous section the net proceeds of sale of any animal or animals sold as provided in section twenty-five shall constitute a part of the municipal funds of the municipality where such animals were found or seized and shall be subject to appropriation for the purposes of such municipality as are other municipal funds.

Sec. 30. No large cattle shall be slaughtered or killed for food at the municipal slaughter house except upon permit secured from the municipal treasurer. Before issuing the permit for slaughter of large cattle for human consumption, the municipal treasurer shall require for branded cattle the production of the original certificate of ownership and certificates of transfer showing title in the person applying for the permit, and for unbranded cattle such evidence as may satisfy said treasurer as to the ownership of the animals for which permit to slaughter has been requested.

Sec. 31. No permit to slaughter *carabao* shall be granted by the municipal treasurer unless such animals are unfit for agricultural work or for draft purposes, and in no event shall a permit be given to slaughter for food any animal of any kind which is not fit for human consumption.

Sec. 32. The municipal treasurer shall keep a record of all permits for slaughter issued by him and such record shall show the name and residence of the owner, and the class, sex, age, brands, knots of radiated hair commonly known as *remolinos* or *cowlicks*, and other marks of identification of the animal for the slaughter of which permit is issued and the date on which such permit is issued. Names of owners shall be alphabetically arranged in the record, together with date of permit.

A copy of the record of permits granted for slaughter shall be forwarded monthly to the provincial treasurer, who shall file and properly index the same, under the name of the owner, together with date of permit.

Sec. 33. Any person slaughtering or causing to be slaughtered for human consumption or killing for food at the municipal slaughter house any large cattle except upon permit duly secured from the municipal treasurer shall be punished by a fine of not less than ten nor more than five hundred pesos, Philippine currency, or by imprisonment for not less than one month nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 34. All large cattle which have attained the age of two years at the time of the passage of this Act or which will attain said age on or before January first, nineteen hundred and five, must be branded, registered, or reregistered in conformity with the provisions of this Act, on or before said January first, nineteen hundred and five, unless a shorter time shall be prescribed by resolution of the municipal council. After January first, nineteen hundred and five all large cattle must be branded and registered as required by law on attaining two years of age. Any person who shall fail, neglect, or refuse to brand, register, or reregister his large cattle as required by the provisions of this section shall be punished for each animal not branded, registered, or reregistered as required by law by a fine of not less than two nor more than five pesos, Philippine currency, or by imprisonment, for not less than five days, nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

Sec. 35. Any person found in the possession of cattle not branded or registered as required by law shall be presumed to be the owner thereof for the purposes of the section immediately preceding.



Sec. 36. This Act shall also be applicable to townships, settlements, and rancherias not organized under the Municipal Code and to provinces not organized under the Provincial Government Act, but in such provinces, townships, settlements, and rancherias the duties required by this Act to be performed by municipal or provincial officials shall be performed by such person or persons as may be designated in writing by the provincial governor of the province, and the stamps attached to certificates of ownership or of transfer shall be cancelled in the manner prescribed by such provincial governor.

All moneys accruing to townships, settlements, or rancherias from the sale of stamps under this Act or from sales made under section twenty-five thereof shall be deposited with the provincial treasurer to the credit of the proper township, settlement, or rancheria, and may be expended for its benefit in the same manner as other funds of such township, settlement, or rancheria: *Provided*, That the net proceeds of sales made in conformity with section twenty-five of this Act can not be so expended until after the lapse of one year from date of sale.

Sec. 37. The city of Manila is exempted from the operation of this Act, and within the jurisdiction of the city of Manila ordinances and regulations for the registration, transfer, and slaughter of large cattle now in effect are continued in force, subject to the right of the municipality of Manila to amend the same: *Provided, however*, That the official now or hereafter charged with the duty of registering brands shall forward to the Bureau of Archives a report of all brands now or hereafter registered.

Sec. 38. Stamps provided by this Act to be issued shall be printed by the Public Printer under the regulations and supervision provided for the printing of internal-revenue stamps for the Government. The stamps required by this Act to be affixed to certificates of ownership and certificates of transfer when printed shall be delivered to the Insular Treasurer, who shall issue the same, upon proper requisition, to the provincial treasurers of the various provinces, collecting from such provincial treasurers the cost of printing the same. Provincial treasurers, in their turn, shall issue, upon proper requisition, to the municipal treasurers such stamps as may be required by their respective municipalities, such municipalities paying to the provincial treasurer the cost of printing the same. These stamps shall be accounted for by the several treasurers on the basis of their face value.

Sec. 39. Unless otherwise provided in this Act, any official or other person failing, refusing, or neglecting to perform any of the duties enjoined upon him by this Act shall be punished by a fine of not less than ten nor more than five hundred Philippine pesos, or by imprisonment for not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 40. Act Numbered Six hundred and thirty-seven,<sup>1</sup> and so much of Act Numbered Eight hundred and seventy-seven<sup>2</sup> as provides for the disposition, care, custody, or sale of cattle, carabaos, horses, and animals of the bovine family, and all Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed.

Sec. 41. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 42. This Act shall effect July first, nineteen hundred and four.

Enacted, May 3, 1904.

[No. 1148.]

AN ACT TO REGULATE THE USE OF THE PUBLIC FORESTS AND FOREST RESERVES IN THE PHILIPPINE ISLANDS, AND REPEALING GENERAL ORDERS, NUMBERED NINETY-TWO, SERIES OF NINETEEN HUNDRED, ACT NUMBERED TWO HUNDRED AND SEVENTY FOUR, AND SECTIONS TWENTY OF ACT NUMBERED FORTY-NINE, ELEVEN OF ACT NUMBERED ONE HUNDRED AND NINETEEN, AND ELEVEN OF ACT NUMBERED ONE HUNDRED AND TWENTY.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The short title of this Act shall be "The Forest Act."

SEC. 2. The public forests and forest reserves of the Philippine Islands shall be held and administered for the protection of the public interests, the utility and safety of the forests, and the perpetuation thereof in productive condition by wise use; and it is the purpose of this Act to provide for the same.

SEC. 3. The public forests shall include all unreserved public lands covered with trees of whatever age.

SEC. 4. Upon the recommendation of the Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, the Civil Governor may set apart forest reserves from the public lands, and he shall by proclamation declare the establishment of such reserves and the boundaries thereof, and thereafter such forest reserves shall not be entered, sold, or otherwise disposed of, but shall remain as such for forest uses, and shall be administered, except as provided in this section, in like manner as the public forests under this Act: *Provided*, That the Civil Governor may in like manner by proclamation alter or modify the boundaries of any forest reserve from time to time, or revoke any such proclamation, and upon such revocation such forest reserve shall be and become part of the public lands as though such proclamation had never been made.

SEC. 5. The public forests and forest reserves and the timber, firewood, gums, and other products thereof shall not be sold, entered, leased, or otherwise disposed of except as herein provided: *Provided*, That any mining claim as defined in section one of Act Numbered Six hundred and twenty-four,<sup>3</sup> entitled "An Act prescribing regulations governing the location and manner of recording mining claims, and the amount of work necessary to hold possession of a mining claim, under the provisions of the Act of Congress approved July first, nineteen hundred and two," entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,"<sup>4</sup> in any of the public forests and forest reserves shall be entered only as provided in said Act Numbered Six hundred and twenty-four, and the provisions of this Act shall not be applicable to the entry and location of such claims, but they shall be governed by Act Numbered Six hundred and twenty-four exclusively: *And provided further*, That the authority given by the Chief of the Bureau of Forestry, as hereinafter provided, to issue licenses for the taking of stone and earth from public forests and forest reserves shall be understood to apply only when such stone and earth is taken from lands not more valuable for mining purposes than for other purposes, and therefore not subject to entry as a mining claim.

SEC. 6. No prescriptive right to the use, possession, or enjoyment of any forest product, nor any permanent concession, continuing right, privilege, or easement, of any kind whatsoever, upon or within or respecting the products of the public forests or

<sup>1</sup> Off. Gaz., 107.

<sup>2</sup> Off. Gaz., 708.

<sup>3</sup> Off. Gaz., 90.

<sup>4</sup> Off. Gaz., Preliminary Number, p. 48, 51-55.

forest reserves, shall accrue or be granted except as provided in this Act. But the public forests and forest reserves shall be and remain open of access for all lawful purposes to the people of the Philippine Islands except as provided in this Act.

Sec. 7. Lands in public forests, upon the certification of the Chief of the Bureau of Forestry that said lands are better adapted and more valuable for agricultural than for forest purposes and not required by the public interests to be kept under forest, shall be declared by the Secretary of the Interior to be agricultural lands.

When in his opinion the public interests so require, the Chief of the Bureau of Forestry may make application to the Chiefs of the Bureaus of Agriculture and Public Lands for the detail of an official from each of said Bureaus to form, with an official from the Bureau of Forestry, a committee for the purpose of assisting said Chief of the Bureau of Forestry in making this certification, and upon the receipt of said application it shall be the duty of each of said Chiefs of the Bureaus of Agriculture and Public Lands to direct one of his subordinates to render the assistance applied for.

Sec. 8. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, shall prescribe such regulations not inconsistent with the provisions of this Act as may be expedient or necessary for the protection, management, reproduction, occupancy, and use of the public forests and forest reserves, and the said Chief, with the approval of the Secretary of the Interior, is hereby authorized to alter and revise such regulations. He shall in particular provide for the use of the public forests and forest reserves in such manner as to insure for the future a continued supply of valuable timber and other forest products.

Sec. 9. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, may, upon proper terms which he may deem reasonable, lease, as herein provided, tracts of land not exceeding four hectares in extent in the public forests and forest reserves, to any person or to any association of persons holding timber licenses, for occupancy as sites for sawmills or timber depots, and the Secretary of the Interior may grant free rights of way through the public lands to enable such person or association of persons to get access to the lands to which such licenses apply.

Sec. 10. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, may select for sale or disposal, and may sell or dispose of by license, from the public forests and forest reserves, at rates of charge to be established by him in accordance with the provisions of section eleven and twelve of this Act, any timber, firewood for commercial use, gums, resins, and other forest products, whose removal will not be detrimental to the public forests or forest reserves or to the interests which depend upon them.

Sec. 11. For the purposes of this Act the various provinces in the Philippine Islands are divided into two classes:

Class A shall include the Provinces of Abra, Batanan, Batangas, Benguet, Bulacan, Capiz, Cavite, Cebu, Ilocos Norte, Ilocos Sur, Iloilo, La Laguna, Nueva Ecija, Pampanga, Pangasinan, Romblon, Rizal, Sorsogon, Tarlac, Union, and Zambales.

Class B shall include the Provinces of Albay, Ambos Camarines, Antique, Bohol, Cagayan, Isabela, Lepanto-Bontoc, Leyte, Masbate, Mindoro, Misamis, Moro, Negros Occidental, Negros Oriental, Nueva Vizcaya, Paragua, Samar, Surigao, and Tayabas.

For the purposes of this Act the various native trees are divided into four groups:

The first group shall include acele, betis, baticulin, camagon, ebony, ipil, lanete, mancono, molave, narra, tindalo, and yaclal.

The second group shall include alupag, aranga, banaba, bansalaguin, banuyo, batitanin, bolongeta, calamansanay, calantas, dungon, guijo, macasin, malacadios, mangachapuy, palo Maria, supa, teak, and tuacan-calao.

The third group shall include agoho, amuguis, anubing, apitong,

batino, bitanhol, catmon, calumpit, cupang, dalinsi, dita, dungon-late, malacmalac, malapapaya, malasantal, mayapis, nato, paio-sapis, panao, secat, santol, tamayuan, and tanguile.

The fourth group shall include anahao, anam, apuit, bacao, balacat, balinhasay, batete, bayoc, bonga, bulao, lauan, malaco-nang, malabalac, malabonga, mangasinoro, manicanic, pagatpat, and pagsanguin.

Sec. 12. The metric system of weights and measures, as adopted by sections thirty-five hundred and sixty-nine and thirty-five hundred and seventy of the Revised Statutes of the United States, shall be used.

On each cubic meter of timber which may be cut in any public forest or forest reserve in any of the provinces of the Philippine Islands for domestic sale or consumption, or for export, there shall be paid, within thirty days from date of the receipt by the owner or his agent of the order of payment of the Government charge on the same, into the Insular Treasury, as provided by existing law, the following sums:

On all timber included in the first group cut in any province in Class A, five pesos; when cut in any province included in Class B, two pesos and fifty centavos.

On all timber included in the second group cut in any province included in Class A, three pesos; when cut in any province included in Class B, one peso and fifty centavos.

On all timber included in the third group cut in any province included in Class A, one peso and fifty centavos; when cut in any province included in Class B, one peso.

On all timber included in the fourth group and on all non-enumerated timber cut in any province included in Class A, one peso; when cut in any province included in Class B, fifty centavos: *Provided*, That when timber cut in provinces included in Class A has been selected for felling by duly authorized forest officials, the rates on such timber shall be only such as are fixed in this section to timber cut in provinces included in Class B: *And provided further*, That the taxes imposed in this section on ebony and camagon shall be charged on said timbers when presented for measurement and appraisal with the sawwood still attached; and the number of cubic meters in each piece of timber so measured shall include the sawwood attached to the same, and when ebony or camagon timber from which the sawwood has been stripped is presented for measurement and appraisal, there shall be assessed and collected the following sums:

On each cubic meter of ebony cut in any province included in Class A, thirteen pesos and fifty centavos; when cut in any province in Class B, six pesos. On each cubic meter of camagon cut in any province included in Class A, eight pesos; when cut in any province in Class B, four pesos and fifty centavos.

The volume of all round timber shall be ascertained by multiplying the area of the small end by the length of the log. The volume of all squared timber shall be ascertained by multiplying the average cross section by the length, to which twenty-five per centum shall be added for loss in squaring. The volume of all sawn timber shall be ascertained by multiplying the average cross section by the length, to which fifteen per centum shall be added for loss in sawing.

All timber included in the preceding section in the third and fourth groups and all nonenumerated timber cut in any province, known in the market under the name of "raja" and which shall not exceed one and one-half meters in length and fifteen centimeters in diameter, shall be classed as firewood, and the following taxes shall be collected thereon:

On all firewood consisting of "rajas" from sixty centimeters to one and one-half meters in length, and from seven centimeters to fifteen centimeters in diameter, one peso for each one thousand rajas.

On all firewood consisting of pieces of timber less than sixty centimeters in length and less than seven centimeters in diameter, ten centavos per cubic meter: *Provided*, That whenever in the

opinion of the Chief of the Bureau of Forestry the preservation and use of the public forests and forest reserves shall render necessary the removal of the tops of fallen timber, said tops when removed in accordance with the regulations prescribed by the Chief of the Bureau of Forestry, shall be exempted from the payment of any tax imposed in this section on timber or firewood or other forest products.

On all gums and resins and other forest products gathered or removed from any province there shall be paid on the actual market value thereof ten per centum. The Collector of Internal Revenue and the Chief of the Bureau of Forestry shall upon the passage of this Act, and from time to time thereafter, make a joint assessment of the actual market value of the various products on which taxes are imposed in this section; said assessments shall be made from the most reliable data available, and shall be published in the Official Gazette for the information of taxpayers.

SEC. 13. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, may, as herein provided, issue licenses for the cutting, collection, and removal of timber, firewood, gums, resins, and other forest products from the public forests and forest reserves. Every license so issued shall specify in detail the rights to which it entitles the holder and shall provide, whenever practicable, for exclusive territory in similar products to each licensee. All licenses for timber shall provide for the selection of said timber before cutting: *Provided*, That when absolutely necessary the selection of timber or the granting of exclusive territory may, in the discretion of the Chief of the Bureau of Forestry, be omitted in any license terminating not later than June thirtieth, nineteen hundred and eight, after which date the selection of timber and the granting of exclusive territory whenever practicable shall be required.

SEC. 14. No license granted under the provisions of this Act shall continue in force for more than twenty years. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, may, in granting any exclusive license, prescribe such terms, conditions, and limitations not inconsistent with the provisions of this Act, including a minimum amount of timber to be cut within a specified period or periods of time, as may be deemed by the Chief of the Bureau of Forestry and Secretary of the Interior to be in the public interest, and may provide in such licenses for forfeiture thereof in case of violation of such terms, conditions, or limitations.

SEC. 15. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, shall publicly announce what classes of licenses shall be issued.

SEC. 16. The Chief of the Bureau of Forestry may, for violations of the Forest Act or of the regulations, to be determined and declared by him, with the approval of the Secretary of the Interior, revoke or temporarily suspend any license.

SEC. 17. A gratuitous license to cut and use timber for mining purposes shall be granted on application to the holder, locator, owner, lessee, or operator of a mining claim. Said license shall be limited to the claim on which the timber is cut, and no timber shall be used under such license except in the development of the claim upon which it is cut. Said license shall specify the kinds and uses of the timber to which it entitles the holder, and the territorial limits within which it is valid. A miner's timber license to cut timber in the public forests of forest reserves other than that standing on the claim and desired for the development of said claim may be obtained on application by the holder, locator, owner, lessee, or operator of a mining claim. Said license shall specify the kinds and uses of the timber to which it entitles the holder and the territorial limits within which it is valid. The Government charge on timber thus used under a miner's timber license shall be one-half the rate prescribed for the province within which said timber is cut.

SEC. 18. The Chief of the Bureau of Forestry, with the approval

of the Secretary of the Interior, may designate for sale or disposal, and may sell or dispose of by license from the public forests and forest reserves, stone or earth the removal of which will not be detrimental to the public forests or forest reserves or to the interests which depend upon them. The rates of charge shall be determined by him in each case with like approval.

The Chief of the Bureau of Forestry may, with the approval of the Secretary of the Interior, grant licenses for the removal of such stone or earth, and in such licenses may prescribe such terms, conditions, and limitations, including a minimum amount of stone or earth to be removed within a specified period or periods of time as may be deemed by the Chief of the Bureau of Forestry and the Secretary of the Interior in the public interest, and may provide in such licenses for forfeiture thereof in case of violation of such terms.

SEC. 19. The Chief of the Bureau of Forestry, under regulations to be prescribed by him, with the approval of the Secretary of the Interior, may grant gratuitous licenses for the free use of timber, firewood, gums, resins, and other forest products, and of stone and earth, in reasonable quantities and within definite territorial limits, for domestic purposes, and not for sale, barter, or any other use whatsoever. He may also, within definite territorial limits, similarly prescribe the free use of forest products and of stone and earth for public works: *Provided*, That a gratuitous license for woods of the first group shall not be issued.

SEC. 20. The Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, may, when the public interest so require, make requisition upon the Bureau charged with public surveys to proceed to demarcate, establish on the ground, and erect monuments along the boundaries of any public forest or forest reserves; and it shall be the duty of the last-named Bureau to comply with said requisition: *Provided*, That no duplication of work shall be caused by such demarcation: *And provided further*, That the cost of such demarcation shall be defrayed from the revenues of the public forests or forest reserves.

SEC. 21. In order to promote uniformity and cooperation in the forest work of the Philippine Islands and the United States, and to facilitate the comparison of results, the methods of the Philippine Bureau of Forestry in forest measurements, timber tests, silvicultural observations, and other forest work, shall, so far as practicable, and in the discretion of the Chief of the Bureau of Forestry, be based upon the corresponding methods of the Bureau of Forestry of the United States Department of Agriculture.

SEC. 22. No officer or employee of the Bureau of Forestry shall have any pecuniary interest in any forest or in any business in lumber, firewood, gums, resins, or other forest products, or stone or earth, in the Philippine Islands: *Provided*, That this prohibition shall not apply to guards or assistant guards, or to persons temporarily acting as guards or assistant guards.

SEC. 23. Every official, employee, or agent of the Bureau of Forestry is empowered to make arrests without process in or upon the public forests or forest reserves, or territory adjacent thereto, of any person who is committing or attempting to commit any violation of this Act or the regulations established thereunder, and it shall be the duties of governors of provinces, the Philippines Constabulary, and of municipal presidents to assist in making the arrests prescribed in this section when called upon to do so. Where the person or persons found violating the provisions of this Act are members of a non-Christian tribe, they shall be dismissed with a warning in the case of a first offense, but upon conviction of a second offense shall be punished as in this Act provided for violations hereof. When any arrest is made under the provisions of this section without warrant, the official, employee, or agent of the Bureau of Forestry shall obtain a warrant from competent authority at the earliest practicable moment under the circumstances. Prisoners with or without warrant shall in all cases within twenty-four hours, if reasonably

practicable, be brought before a judge or justice of the peace having jurisdiction over the offense for examination and release under bail if the offense is bailable.

Sec. 24. Every private owner of forest land shall register his title to the same with the Chief of the Bureau of Forestry. In the absence of such registration, wood cut from alleged private lands and not from public forests or forest reserves shall be considered as cut under license from public forest or forest reserves, and shall be subject to all provisions of this Act and of the regulations established thereunder in such case applicable.

When in his opinion the public interests so require, the Chief of the Bureau of Forestry may make application to the examiner of the Court of Land Registration or the fiscal of the province in which the land lies, for such assistance as may be necessary in the examination of the titles thereof, with a view to their registration in the Bureau of Forestry, and upon the receipt of such application it shall be the duty of the fiscal or examiner of titles, as the case may be, to render the assistance applied for by the Bureau of Forestry.

Sec. 25. The cutting, clearing, or destroying of the public forests or forest reserves, or any part thereof, for the purpose of making caiguins, without lawful authority, is hereby prohibited, and whoever, in violation of this provision, shall cut, clear, or destroy the same for such purpose, or shall willfully or negligently set fire thereto, shall, upon conviction by a court of competent jurisdiction, be punished by a fine not exceeding a sum equivalent to twice the regular Government charge upon the timber so cut, cleared, or destroyed, and, in addition thereto, by imprisonment not exceeding thirty days, in the discretion of the court.

The cutting, collecting, destroying, or removing of timber or other forest products, stone, or earth from the public forests or forest reserves for any other purpose than making a caiguin,<sup>1</sup> without license, permit, or other sufficient authority, is hereby prohibited, and any person who, in violation of this provision, shall so cut, collect, destroy, or remove the same, by himself, through an agent or employee, or for account of another, shall, in addition to the payment of the regular Government charge on such timber, forest products, stone, or earth, be subject to the payment of an additional sum equivalent to the regular Government charge thereon, which shall be collected as in this Act provided in the case of other Government charges.

Sec. 26. Whenever an exclusive license of any class shall have been issued (to any person, company, corporation, or other association) for the cutting or removing, from the public forests or forest reserves, of timber, firewood, or other forest products, stone, or earth, it shall be unlawful for any other person, company, corporation, or association, while such license is in force, to enter or operate within the territory covered by such exclusive license contrary to the terms thereof: *Provided*, That the residents within or adjacent to said territory may be permitted to cut or remove timber, firewood, other forest products, stone, or earth for domestic purposes.

If, contrary to the provisions of this section, any person, company, corporation, or other association shall enter upon, and shall cut or remove, or attempt to cut or remove, timber, firewood, other forest products, stone, or earth, said property so attempted to be cut or removed shall be seized as Government property, by the local forest official or other representative of the Forestry Bureau, and the person making the seizure shall promptly notify the holder of the exclusive license affected thereby, and the said property so seized shall be surrendered to him upon the payment of the proper Government charges thereon. Should, however, acceptance of said property and the payment of the charges thereon be refused, it shall be disposed of in the manner provided in section thirty-two of this Act for the disposition of forest

products, stone, or earth on which the Government charges have not been paid, and the proceeds turned over to the proper official to whom the Government charges thereon should have been paid.

Sec. 27. No fire for clearing shall be started on private forests, woodlands, or fields adjoining public forests or forest reserves, without written permission first obtained from the local forest officer, or, in the absence of such officer, from the president of the municipality or settlement in which such forests, woodlands, or fields are situated. A copy of said written permission, when given by a president, shall be furnished by him to the local forest officer prior to the burning contemplated, when practicable; and said fires shall, when practicable, be lighted in the presence of such forest officer, president, or other duly authorized municipal official. Any person violating any of the provisions of this section shall, upon conviction, be subject to a fine not exceeding one hundred pesos or by imprisonment not exceeding thirty days, or both.

Sec. 28. Whoever, without authority of law, shall cut, make, manufacture, or have in his possession any Government marking hatchet or other marking implement, or any mark, poster, or other device officially used by officers of the Bureau of Forestry for the marking or identification of timber or other forest products, or any duplicate, counterfeit, or imitation thereof, or who shall fraudulently make or apply a Government mark to timber or any other forest product by means of any authentic or counterfeit Government marking hatchet, implement, mark, poster, or other device, or who shall fraudulently alter, deface, or remove Government marks from logs, stumps, firewood, or other forest products, shall, upon conviction, be punished by a fine not exceeding five hundred pesos or by imprisonment not exceeding one year, or both.

Sec. 29. Neglect, unreasonable delay, or falsification in the making of reports, presentation of papers, or in other acts required by the provisions of this Act or the Forestry Regulations, or refusal to make reports, present papers, or to perform other acts required by this Act or the Forestry Regulations, shall, upon conviction, unless otherwise specially provided by law, be punished by a fine not to exceed two hundred pesos.

Sec. 30. Whoever, in violation of the provisions of this Act or of the Forestry Regulations or orders made in accordance herewith, transports, removes, or discharges from any ship, boat, raft, car, cart, or other means of transportation, forest products, or stone or earth, or fails to pay the amounts due the Government on forest products, stone, or earth for a period of more than thirty days from the date of the receipt by him or his agent of the order directing the payment of the same, shall, in addition to the regular Government charges thereon, be subject to the payment of the sum of fifty per centum thereof, to be collected as in this Act provided for the collection of other Government charges.

Sec. 31. In the absence of a local forest officer the president of the municipality or settlement within which timber or other forest products are cut or collected shall act in his stead. Any president who, in the absence of a local forest officer, shall neglect, refuse, or unreasonably delay to prepare and sign a statement of timber or other forest products, stone, or earth cut or collected within the territory under his authority, or to inspect firewood or other forest products cut or collected for local use in said territory, or to perform other acts required by the provisions of this Act, shall, upon conviction, be subject to a fine not to exceed fifty pesos; and the Chief of the Bureau of Forestry, with the approval of the Secretary of the Interior, shall prepare and furnish to local presidents the necessary instructions defining their duties under this Act.

Sec. 32. Forest products, stone, or earth on which the Government charges have not been paid as prescribed by law, and which have been seized in accordance with the provisions of this Act, shall be offered for sale at public auction, unless redeemed as hereinafter provided.

<sup>1</sup> For former law respecting caiguins see 1 Public Laws, Annotated, 674.

Fifteen days after any tax on any forest products, stone, or earth shall have become due and remains unpaid the local forest officer shall prepare and sign a certified copy of the records of his office showing the person or persons delinquent in payment of such taxes, the amounts thereof, and of the costs and additional charges respectively due from him or them. The forest officer thereupon shall proceed at once to seize the forest products, stone, or earth of the delinquent, and, unless redeemed as hereinafter provided, to sell at public auction, at some public place near where such property is seized, as the local forest officer shall determine, so much of the same as shall satisfy the tax, additional charges, and costs of seizure and sale, to the highest bidder for cash, after due advertisement by notice posted at the main entrance of the municipal building in the municipality in which such seizure is made and at a public and conspicuous place in the barrio in which the property was seized, stating the time, place, and cause of sale. The certified copy of the local forest officer's record of delinquents, attested by the secretary of the municipality within which the forest products were seized, approved by the forest inspector or forester in charge of the forest or inspection district, shall be his warrant for this proceeding, and the purchaser at such sale shall acquire an indefeasible title to the property sold. Within two days after the sale the local forest officer shall make return of his proceedings in writing to the Bureau of Forestry and shall reserve a copy thereof to be kept by him as an official record, which shall also be attested by the municipal secretary: *Provided*, That if there is no bidder, or if the highest bid is only equal to or less than the sum total of the taxes, costs, and additional charges, the Chief of the Bureau of Forestry shall have discretionary power to declare the same sold to the Government in satisfaction of such taxes, costs, and charges, and to invoice said products to the provincial supervisor or to any other public official charged with similar duties, for use in public works. The proceeds of such auction sales shall be paid to the official to whom the Government charges on the same should have been paid, who shall pay any surplus resulting from the sale over and above the tax, costs, and additional charges to the person on account of whose delinquency the sale has been made.

Sec. 33. The owner of forest products seized may redeem the same from the local forest officer or collecting officer at any time after seizure and before sale by tendering to him the amount of the taxes, costs, and additional charges incurred up to the time of tender. The costs to be charged in making such seizure and sale shall embrace only the actual expense of seizure and preservation of the property pending the sale, and no charge shall be imposed for the services of the local forest officer or collecting officer or his deputy.

Sec. 34. Whenever authority is given in this Act for the imposition of any additional charge administratively, any person aggrieved by the imposition of such additional charge may, within twenty days after payment thereof, appeal therefrom to the Court of First Instance of the province in which the additional charge was imposed, and that court shall have jurisdiction, after due hearing, to confirm the imposition of the additional charge or to reverse or modify the same. Judgments of the Courts of First Instance in such cases shall be certified to the Bureau of Forestry, and, when in favor of the taxpayer, such judgment shall also be certified to the Auditor for the Philippine Islands, who shall issue a certificate for payment by settlement warrant upon the Insular Treasurer, under the provisions of Act Numbered Three hundred fifty-seven,<sup>11</sup> and shall charge the amount of the warrant against the forestry collections of the province and municipality from which the timber was cut or the forest product obtained: *Provided*, That if an appeal from the judgment of the Court of First Instance is taken by the Bureau of Forestry, the Chief of said Bureau shall immediately notify the Auditor, who shall withhold settlement of the account pending final decision of the court.

Sec. 35. From and after May twentieth, nineteen hundred and four, there shall be paid on all timber, firewood, gums, resins, and other forest products, and stone and earth cut, gathered, or removed from all public forests or forest reserves on and after May twentieth, nineteen hundred and four, the respective taxes, costs, and additional charges imposed on such products in this Act. The payment of all such taxes shall be made within thirty days after the date of the receipt by the owner or his agent of the order directing payment, and the payment of the proceeds of auction sales, and of all charges and costs imposed by officers or employees of the Bureau of Forestry, shall be made immediately upon the receipt of the order directing payment, to collectors of internal revenue or to provincial or municipal treasurers, as provided by law. The charges prescribed by General Orders, Numbered Ninety-two, series of nineteen hundred, office of the United States Military Governor of the Philippine Islands, shall be collected on all forest products cut, gathered, or removed prior to May twentieth, nineteen hundred and four.

Sec. 36. All sums of money mentioned in this Act shall be deemed to be in Philippine currency.

Sec. 37. General Orders, Numbered Ninety-two, series of nineteen hundred, issued by the Military Governor of the Philippine Islands; Act Numbered Two hundred and seventy-four,<sup>12</sup> entitled "An Act prohibiting the unauthorized destruction of timber on public lands;" section twenty of Act Numbered Forty-nine,<sup>13</sup> entitled "An Act providing for the establishment of a civil government for the Province of Benguet;" section eleven of Act Numbered One hundred and nineteen,<sup>14</sup> entitled "An Act extending the provisions of the Provincial Government Act and the Municipal Code to the Province of Occidental Negros;" and section eleven of Act Numbered One hundred and twenty,<sup>15</sup> entitled "An Act extending the provisions of the Provincial Government Act and the Municipal Code to the Province of Oriental Negros," are hereby repealed.

Sec. 38. This Act shall take effect on its passage, except sections eleven, twelve, and thirty-seven, which shall take effect May twentieth, nineteen hundred and four.

Enacted, May 7, 1904.

[No. 1149.]

AN ACT AMENDING THE CUSTOMS ADMINISTRATIVE ACT, NUMBERED THREE HUNDRED AND FIFTY-FIVE, SO AS TO AUTHORIZE THE CIVIL GOVERNOR TO SET APART CERTAIN PORTIONS OF THE WHARF, LANDING PLACE, STREET, OR OTHER PUBLIC GROUND ADJACENT TO THE SEASHORE AND CUSTOM-HOUSE IN ANY MUNICIPALITY FOR CUSTOMS PURPOSES, AND TO PLACE THE SAME UNDER THE JURISDICTION OF THE COLLECTOR OF CUSTOMS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section twenty-six of the Customs Administrative Act, Numbered Three hundred and fifty-five,<sup>16</sup> is hereby amended by inserting at the end of said section the following: "*Provided, however*, That whenever, in the opinion of the Civil Governor, any public wharf, landing place, street, or land is necessary or desirable in loading and unloading ships, or for any proper customs purpose at any port of entry, he is hereby given power and authority, by executive order, to declare that such wharf, landing place, street, or land shall be under the exclusive control and jurisdiction of the Collector of Customs or other customs official

<sup>11</sup> Public Laws, Annotated, 674.

<sup>12</sup> Public Laws, Annotated, 224, 226.

<sup>13</sup> Public Laws, Annotated, 59, 62.

<sup>14</sup> Public Laws, Annotated, 788, 793.

<sup>15</sup> Public Laws, Annotated, 221, 223.

<sup>16</sup> Public Laws, Annotated, 881.

at such port of entry, but the exercise of such jurisdiction shall in no wise affect the general police powers of the municipality in which said wharf, landing place, street, or land is situated. After the issuance by the Civil Governor of an Executive Order setting apart such wharf, landing place, street, or land as above specified for customs purposes, all the provisions of this section shall apply thereto."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 10, 1904.

[No. 1150.]

AN ACT FURTHER DEFINING THE POWERS AND DUTIES OF THE BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS AND OF THE MUNICIPAL BOARD OF THE CITY OF MANILA IN CONNECTION WITH THE PRESERVATION OF THE PUBLIC HEALTH OF THAT CITY, AND REPEALING CERTAIN PROVISIONS OF LAW RELATIVE THERETO.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Subject to the approval of the Secretary of the Interior, the Board of Health for the Philippine Islands, acting in its capacity as a local board of health for the City of Manila, shall draft and forward, through the Secretary of the Interior, to the Municipal Board for enactment, health ordinances for that city. The Municipal Board shall enact the ordinances so forwarded to it by the Board of Health: *Provided*, That if the Municipal Board shall consider any health ordinance as drafted by the Board of Health and approved by the Secretary of the Interior to be unduly prejudicial to private interests or objectionable for other reasons, it shall promptly return such ordinance through the Secretary of the Interior to the Board of Health, together with such amendments as it deems advisable. The Board of Health shall consider the amendments suggested, and shall make such changes in the ordinances, if any, as it may deem advisable, and shall return the same to the Municipal Board. In the event that the amendments, if any, adopted by the Board of Health and approved by the Secretary of the Interior, are not satisfactory to the Municipal Board, the Municipal Board may appeal to the Civil Governor, who shall decide the point or points at issue and prescribe the form which the ordinance shall take. His decision shall be final. If the Board of Health shall consider that the Municipal Board is unduly delaying action relative to any health ordinance duly transmitted to it for enactment, it may appeal, through the Secretary of the Interior, to the Civil Governor, who may direct the Municipal Board to act on such ordinance or may himself approve it with such modifications as he may deem advisable, and every ordinance so approved by the Civil Governor shall have the force and effect of law.

Sec. 2. The ordinances drafted by the Board of Health shall be forwarded to the Municipal Board in triplicate. One copy of each such ordinance received by the Municipal Board shall be immediately forwarded to the Advisory Board for its consideration and action. In the event that the Municipal Board shall deem it advisable to return any ordinance to the Board of Health for amendment, it shall act upon the ordinance as returned by the Board of Health without again submitting it to the Advisory Board.

SEC. 3. The ordinances drafted by the Board of Health may provide for—

(a) Entry and inspection at reasonable hours and in a proper manner of all buildings and premises by officers or employees of the Board of Health in the discharge of their duties, and by sanitary police when acting as sanitary inspectors.

(b) Cleansing, whitewashing, ventilation, and proper sanitary maintenance of all buildings and premises; the nature and thickness of materials to be used in covering the ground surfaces of all buildings or in covering open surfaces connected with cook houses, latrines, or other places where slops or foul liquids may be thrown or deposited; the conditions under which it shall be lawful to live in, occupy or use, let, sublet, or suffer or permit it to be used for habitation or occupation any building or part thereof which is in an unsanitary condition, and the cleansing of buildings and forbidding their occupancy until such time as they have been placed in satisfactory sanitary condition; prohibition of erection of unsanitary buildings and of the erection of buildings on unhealthful sites.

(c) Fixing the maximum number of persons who may be permitted to occupy a dwelling or other building or any part thereof, and the number of lower animals that may be permitted to occupy any stable, corral, pen, pound, or other place or premises.

(d) Installation and maintenance of adequate and proper drainage of buildings and premises, including the materials to be used, in and the construction of plumbing systems, drains, trappings, water-closets, vaults, latrines, urinals, cesspools, and sanitary fixtures and appliances.

(e) Proper sanitary maintenance, scavenging, collection and disposal of refuse, garbage, and manure, and the removal and disposal of night soil, and the proper construction of receptacles for such substances, subject to the provisions of section thirty-three of Act Numbered One hundred and eighty-three,<sup>1</sup> as amended by this Act.

(f) Maintaining in a proper sanitary condition hotels, restaurants, saloons, tenements, lodging houses, emigration or immigration houses, factories, workshops, jails, prisons, theaters, convents, schools, or other places of public assembly or resort; markets, bakeries, confectioneries, dairies, manufactories of aerated waters or of bottled or other drinks or of ice; food-preserving establishments and other places where foods or drinks are prepared or offered for sale; securing the healthfulness and purity of foods or drinks sold or offered for sale in any such building, establishment, or place, and the sanitary conveyance of the same thereto and therefrom, and for such other purposes relative to their sanitary condition as the Board of Health may deem advisable.

(g) Sanitary regulations of the business and fixing the location of tanneries, renderies, tallow chandleries, bone factories, soap factories, and other offensive or unwholesome establishments, businesses, or occupations which are dangerous to the public health, or the removal of the same when already established, if necessary to secure proper sanitation; sanitary maintenance of butcher shops and slaughterhouses; sanitary regulation of the killing of animals thereto, and of removal or conveyance of carcasses therefrom or thereto; and such other matters and things as may be deemed desirable for the purpose of securing the proper sanitary conduct of such trades, businesses, manufactories, and occupations.

(h) Sanitary control and maintenance of public stables, baths, and laundries.

(i) Protection from infection of all public and private water supplies and sources, and prohibition of the use of water of dangerous character for domestic purposes. Ordinances enacted for the purpose of protecting the purity of the water supply of Manila shall apply to and be enforced over all territory within

<sup>1</sup> Public Laws, Annotated, 386.

the drainage area of such water supply or within one hundred meters of any reservoir, conduit, canal, aqueduct, or pumping station used in connection with the city water service.

(j) Prevention and suppression of contagious, infectious, or communicable disease of man or animal; compulsory reporting of a case or cases of any such disease; compulsory inoculation of persons or animals in order to prevent the occurrence or spread of any such disease; cleansing and disinfection of buildings or premises where any such disease has occurred, and disinfection or destruction of bedding, clothing, or other articles contained therein; compulsory vacation, repair, removal, or destruction of any such building; quarantining of any building, premises, or place declared by the Board of Health to be infected with contagious, infectious, or communicable disease of man or animal; regulation of the movements of persons or animals into or from any such infected building, premises, or place, and the removal of the dead, or of carcases, fodder, litter, dung, clothing, utensils, or any other thing into, within, or from any such quarantined buildings, premises, or place; establishment of detention camps and contagious-disease hospitals; isolation or removal to hospitals or places of detention of persons or animals which are affected by or have been exposed to any infectious, contagious, or communicable disease, and their detention in their homes, in hospitals, or elsewhere until danger of their developing or communicating such disease has passed; prohibition of the importing or landing of cattle, carabao, horses, or other animals, except at such places and times and subject to such restrictions as to marking, isolation, and subsequent disposal as the Board of Health shall prescribe to prevent the introduction or spread of infectious, contagious, or communicable diseases; maintenance in a sanitary condition of all live stock pens, stables, corrals, and other places of detention or maintenance of animals; condemning, killing, and disposal of animals sick of any dangerous communicable diseases; and disposal of the bodies of animals dying from any such disease.

(k) Cleansing and preservation in a sanitary condition of vessels and boats in the harbor of Manila or within the city limits, not within or subject to the jurisdiction of the Quarantine Service.

(l) Cleansing and preservation in a sanitary condition of the harbor of Manila, and of rivers, esteros, canals, or other water ways and their shores, included within the city limits.

(m) Destruction of rats, mice, insects, or vermin capable of carrying or communicating any contagious, infectious, or communicable disease, and prescribing the means and precautions to be employed on land or in vessels in port at Manila, to minimize their number and prevent their spreading infection.

(n) Humane care of all persons confined or placed in public or private institutions or places of detention within the city because of sickness, deformity, imbecility, poverty, insanity, or other affliction, and provision of sanitary accommodations for persons so confined or placed.

(o) Reporting and registration of marriages, births, deaths, and other matters deemed by the Board of Health to be of sanitary or statistical importance.

(p) Registration and maintenance in a sanitary condition of morgues, undertaking establishments, receiving vaults, and places for embalming or burial of the dead.

(q) Shipment, exhuming, burial, or disposal of the dead.

(r) Definition, declaration, and prohibition of nuisances dangerous to the public health; location and use of public drains, sewers, latrines, and cesspools, and construction and use of private drains, sewers, latrines, and cesspools.

(s) Cleansing, drainage, or filling in of low lands where such lands are in an unsanitary condition and in the opinion of the Board of Health constitute a serious menace to the public health: *Provided*, That no order for the cleansing, drainage, or filling in of such lands involving a cost of more than three hundred pesos,

Philippine currency, shall be effective without the approval of the Secretary of the Interior, who may request from the Sanitary Engineer of the Philippine Islands a report as to the cost of cleansing, drainage, or filling in of any such piece of low land, and the Sanitary Engineer shall make such report when so requested.

Sec. 4. All health ordinances shall be published by the Municipal Board in English, Spanish, and Tagalog. When ordinances relative to the several subjects hereinbefore enumerated have become effective, they shall be published in convenient form for the general information of the public by the Municipal Board in English, Spanish, and Tagalog, as the Sanitary Code of Manila. A copy of any health ordinance or of said code, in such one of these languages as he may select, shall be furnished on application free of charge to any adult resident of Manila.

Sec. 5. Any member of the Board of Health, or any health officer duly appointed by it, is empowered, and it shall be his duty, to make complaint under oath in writing against any person violating any health ordinance before the Municipal Court of Manila, and it shall be the duty of that court to issue a warrant for the arrest of such person so complained of, and when arrested, to try him as in other cases of violations of city ordinances: *Provided*, That nothing herein contained shall be construed as preventing any municipal officer or any person from also making such complaint.

Sec. 6. Sanitary inspections shall be made under the general supervision and control of the Commissioner of Public Health designated as sanitary police by the Chief of Police, and by such members of the police force of the city of Manila as shall be designated as sanitary police by the Chief of Police, and by such sanitary inspectors as may be authorized by law. Sanitary police and sanitary inspectors shall make sanitary inspections under the immediate direction of district medical inspectors to whom they shall report the results of such inspections: *Provided*, That the city engineer of Manila or his duly authorized agent shall inspect and supervise the construction, repair, removal, and safety of buildings, and the ventilation, drainage, and plumbing of buildings and premises, and shall report to the Commissioner of Public Health any violations of ordinances relative to ventilation, drainage, and plumbing: *And provided further*, That the Board of Health shall have power to make inspections through its duly authorized agents in order to ascertain whether such ordinances are being enforced, and to initiate complaints against violators of such ordinances, after consultation with the city engineer.

Sec. 7. Should the Board of Health find that excreta, garbage, refuse, the contents of closets, vaults, cesspools, or any other unhealthful or dangerous substance, is being collected, disposed of, or allowed to accumulate by the city authorities in such a manner as to endanger the public health, it shall make complaint through the Secretary of the Interior to the Municipal Board, and should the Municipal Board fail to take seasonable and suitable measures to remedy the evil, the Board of Health shall make complaint through the Secretary of the Interior to the Civil Governor, who shall issue to the Municipal Board such instructions as he may deem necessary in the interest of the public health.

Sec. 8. When, in the opinion of the Board of Health, the city of Manila is threatened with an epidemic of infectious, contagious, or communicable disease, the Commissioner of Public Health shall so inform the Civil Governor, through the Secretary of the Interior, and may request the Civil Governor to issue an executive order declaring that the city is threatened with an epidemic and vesting the Board of Health with emergency powers. The Civil Governor may, in his discretion, issue such order, and in the event of his doing so, the Board of Health shall have the following emergency powers:

(a) Power to enact, subject to the approval of the Secretary of the Interior, such emergency health ordinances as it may deem

necessary to prevent the occurrence or spread of infectious, contagious, or communicable diseases. Such ordinances shall have the same force and effect and be enforced in the same manner as if enacted by the Municipal Board.

(b) Power to appoint such temporary emergency employees as may be authorized by law. The provisions of the Civil Service Act and its amendments shall not necessarily apply to the appointment of such temporary emergency employees.

Sec. 9. When in the opinion of the Civil Governor the danger of an epidemic has passed, he shall so declare by executive order. Upon the publication of such order all emergency health ordinances have of no effect unless the Civil Governor shall in such executive order specifically declare that one or more emergency health ordinances shall remain in effect for a further period to be by him prescribed.

Sec. 10. Subsections (l), (n), (x), (y), and (z) of section seven of Act Numbered One hundred and eighty-three<sup>1</sup> are hereby amended to read as follows:

"(l) To regulate the business and fix the location of match factories, blacksmith shops, foundries, steam boilers, lumber yards, shipyards, and other establishments likely to endanger the public safety by giving rise to conflagrations or explosions; to regulate the storage and sale of gunpowder, tar, pitch, resin, coal, oil, gasoline, benzine, turpentine, hemp, cotton, nitroglycerine, petroleum, or any of the products thereof, and of all other highly combustible or explosive materials."

"(n) To construct, maintain, and regulate the navigation of canals and water courses and to cleanse and purify the same; to drain and fill private premises when necessary in the enforcing of ordinances enacted under the authority of paragraph (s) of section three of Act Numbered Eleven hundred and fifty."

"(z) To establish and maintain public drains, sewers, latrines, and cesspools."

"(y) Subject to the provisions of paragraph (h) of section three of Act Numbered Eleven hundred and fifty to provide for the establishment of public laundries, stables, and bath houses and regulate their use."

"(z) Subject to the provisions of paragraph (g) of section three of Act Numbered Eleven hundred and fifty, to establish public markets, market houses, and slaughterhouses, and regulate their use; to regulate or prohibit the establishment of such institutions by any person, firm, or corporation; to regulate the business and fix the location of tanneries, renderies, tallow chandleries, bone factories, and soap factories."

Sec. 11. Section thirty-three of Act Numbered One hundred and eighty-three, entitled "An Act to incorporate the city of Manila," is hereby amended by striking out the clause: "shall supervise the collection and disposition of all garbage, refuse, the contents of closets, vaults, and cesspools, and all other offensive and dangerous substances within the city," and by substituting therefor the clause: "shall collect and dispose of all garbage, refuse, the contents of closets, vaults, and cesspools, and all other offensive and dangerous substances within the city."

Sec. 12. Subsection (a) of section seven of Act Numbered One hundred and fifty-seven,<sup>2</sup> entitled "An Act providing for the establishment of a Board of Health for the Philippine Islands," is hereby amended to read as follows:

"(a) The Sanitary Engineer shall inspect buildings, plumbing, water works, drainage and sewer system, streams and esteros within the limits of the city of Manila, reporting the result of such inspection to the Board of Health, and at the request of the Board of Health shall submit plans for and estimates of the cost of remedying unsanitary conditions discovered by him. He shall further, at the request of the Board of Health, prepare and submit to the Board plans and estimates of the cost of improving the general sanitary condition of unhealthful districts in Manila,

and shall perform such other sanitary engineering work in the city of Manila for the Board of Health as the Board may direct."

Sec. 13. Paragraph (h) of section four of Act Numbered One hundred and fifty-seven, entitled "An Act providing for the establishment of a Board of Health for the Philippine Islands," so far as it refers to the city of Manila, section twenty-one of Act Numbered One hundred and eighty-three, entitled "An Act to incorporate the city of Manila," and all other Acts or parts of Acts which are in conflict with the provisions of this Act, are hereby repealed.

Sec. 14. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 15. This Act shall take effect on its passage.

Enacted, May 10, 1904.

[No. 1151.]

AN ACT PROVIDING FOR THE REVISION OF VALUATION FOR THE PURPOSE OF TAXATION OF CERTAIN PARCELS OF LAND IN THE MUNICIPALITY OF BADOZ, PROVINCE OF ILOCOS NORTE, BELONGING TO PEDRO CALAYCAY.

Whereas it has been made to appear that a material error was made by the board of assessors of the municipality of Badoz, and by the tax revision board of the Province of Ilocos Norte, in respect to the area of five parcels of land in Casilan and four parcels of land in Læuben, all in barrio numbered thirty of the municipality of Badoz, in the Province of Ilocos Norte, belonging to Pedro Calaycay; and

Whereas the valuations placed upon said lands are found to be inequitable by reason of such error in the area thereof: Therefore,

*By Authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The provincial board of Ilocos Norte, together with the secretary and fiscal of that province, are hereby constituted a special board with authority to correct all valuations of the property above stated on the assessment list of the municipality of Badoz, and to state just valuations, in money of the United States, of each of the parcels of land above referred to, and to correct any and all erroneous assessments of said parcels of land. The assessment list of the said lands, when so corrected, shall be as lawful and valid for all purposes as though the correction and reassessment herein provided had been made by the board of tax revision at the proper time.

Sec. 2. The revision of the valuations and assessments of the lots or parcels of land aforesaid shall be made and completed by the assessment board herein provided on or before the fifteenth day of June, nineteen hundred and four. The assessment and revaluations shall be made on notice to Pedro Calaycay, and to the municipal authorities of the municipality of Badoz, and each shall be entitled to be heard before the revision board herein provided. No appeal shall be allowed from the action of said board. The action of the majority of said board shall be deemed to be the action of the board, and binding.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, May 10, 1904.

<sup>1</sup> Public Laws, Annotated, 336.

<sup>2</sup> Public Laws, Annotated, 295.



[No. 1152.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF ISABELA FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL OCTOBER FIRST, NINETEEN HUNDRED AND FOUR.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Isabela is hereby extended to October first, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 11, 1904.

[No. 1153.]

AN ACT PROVIDING THAT CERTAIN DUTIES IN RELATION TO THE BUREAU OF JUSTICE AND THE BUREAU OF THE INSULAR TREASURY, NOW REQUIRED BY LAW TO BE PERFORMED BY THE CIVIL GOVERNOR, SHALL BE PERFORMED BY THE SECRETARY OF FINANCE AND JUSTICE.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The following administrative acts relating to the Bureau of Justice and to the Bureau of the Insular Treasury, now authorized by law to be performed by the Civil Governor, shall hereafter be performed by the Secretary of Finance and Justice:

(a) To request or direct a judge of any Court of First Instance to hold the Court of First Instance in any province as provided by section fifty-two of Act Numbered One hundred and thirty-six.<sup>1</sup>

(b) To approve the appointments of clerical assistants, translators, interpreters, stenographers, and typewriters, and to approve the compensation of such assistants, as provided in paragraph (c) of section forty-seven of Act Numbered One hundred and thirty-six, as amended by Act Numbered Three hundred and twenty-five.<sup>2</sup>

(c) To direct, in writing, any judge at large to perform the duties of a judge of the Court of First Instance in any province in the Islands, or of the city of Manila, as provided in section three of Act Numbered Three hundred and ninety-six.<sup>3</sup>

(d) To direct judges of the Court of Customs Appeals to perform the duties of judges of the Courts of First Instance in any province in the Philippine Islands, or of the city of Manila, as provided in section three of Act Numbered Eight hundred and sixty-four.<sup>4</sup>

(e) To direct the Attorney-General to present to the Court of First Instance having territorial jurisdiction over the place in which a crime was committed, for which a person has been duly convicted by provost courts or a military commission, properly confirmed by order of the military commander, in cases where the lawful judgments and sentences have not been executed and can not be executed, a record of the proceedings showing the conviction and sentence of the defendant in such proceedings and the confirmation thereof when necessary, and praying that the defendant be brought before the court to show cause why the sentence

as disclosed by the record of the proceedings should not be executed by order of the Court of First Instance, as provided in Act Numbered Eight hundred and sixty-five.<sup>5</sup>

(f) To make special calls upon judges at large during the court vacation, as provided in paragraph (b) of section five of Act Numbered One hundred and thirty-six, as amended by Act Numbered Eight hundred and sixty-seven.<sup>6</sup>

(g) To issue an order naming the judge of the Supreme Court, and the judges of all Courts of First Instance who shall remain on duty, subject to call for the purposes of interlocutory jurisdiction throughout the Islands during court vacation, and to assign to the regular judges of Courts of First Instance the districts over which they shall exercise interlocutory jurisdiction, and to modify the order issued in the premises from time to time, upon the recommendation of the Chief Justice, as provided in paragraph (c) of section five of Act Numbered One hundred and thirty-six, as amended by Act Numbered Eight hundred and sixty-seven. The recommendation by the Chief Justice of the Supreme Court of the names of the judges who shall be assigned to duty during vacation period, as provided in the paragraph last referred to, shall be made to the Secretary of Finance and Justice, instead of to the Civil Governor.

(h) To issue calls upon a judge at large of the Court of First Instance assigned to vacation duty to visit any district and there to hold court as a judge of that district to dispose of interlocutory matters, as provided in paragraph (e) of section five of Act Numbered One hundred and thirty-six, as amended by Act Numbered Eight hundred and sixty-seven.

(i) To direct, when in his judgment the emergency shall require, any judge assigned to vacation duty to hold during the vacation period a special term of court in any district, there to hear civil and criminal cases and enter final judgment therein, as provided in paragraph (f) of section five of Act Numbered One hundred and thirty-six, as amended by Act Numbered Eight hundred and sixty-seven.

(j) To assign five months' vacation to judges of the Supreme Court and judges of the Courts of First Instance not assigned to vacation duty, as provided in paragraph (g) of section five of Act Numbered One hundred and thirty-six, as amended by Act Numbered Eight hundred and sixty-seven, and to postpone the extra three months' vacation in the case of any judge from one year to the next, if required by the public business, as provided in the paragraph last referred to.

(k) To make announcement, by an order in writing, of the leaves of absence of judges of the Supreme Court and judges of Courts of First Instance, as provided in paragraph (j) of section five of Act Numbered One hundred and thirty-six, as amended by Act Numbered Eight hundred and sixty-seven; and likewise to pass upon and approve leaves of absence of judges, which duty is now ordinarily performed by the Civil Governor, but which is not plainly provided for by existing law.

(l) To issue an order naming the judge of the Court of Land Registration and judge of the Court of Customs Appeals who shall remain on duty during court vacation, and to direct any judge of the Court of Customs Appeals who is assigned to vacation duty, when in his judgment the emergency shall so require, to hold during the vacation period a special term of the Court of First Instance in any district, either to hear civil or criminal causes and to enter final judgment therein, as provided in section one of Act Numbered Ten hundred and fifty-six;<sup>7</sup> and likewise to assign five months' vacation to a judge of the Court of Land Registration or of the Court of Customs Appeals, as provided in the section and Act last named; likewise to grant leaves of absence to judges of the Court of Customs Appeals and of the Court of Land Registration, a duty which is now not clearly provided for by existing law.

<sup>1</sup> Public Laws, Annotated, 252.<sup>2</sup> Public Laws, Annotated, 960.<sup>3</sup> Public Laws, Annotated, 735.<sup>4</sup> Off. Gaz., 679.<sup>5</sup> Off. Gaz., 681.<sup>6</sup> Off. Gaz., 682.<sup>7</sup> Off. Gaz., 195.

(m) To require a judge at large of the Court of First Instance to perform the duties of judge of the Court of Land Registration in any province of the Philippine Islands or in the city of Manila, as provided in section six of Act Numbered Four hundred and ninety-six,<sup>1</sup> as amended by section one of Act Numbered Eleven hundred and eight.<sup>2</sup>

(n) To direct the temporary detail of any provincial fiscal from one province to any other province in the Islands to perform therein such duties as may be assigned to him, in accordance with the provisions of Act Numbered Eleven hundred and twenty-five.

(o) To approve investments to be made by the Treasurer of the Philippine Islands of the assurance fund accruing under Act Numbered Four hundred and ninety-six, in accordance with the provisions of section one hundred thereof.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 11, 1904.

[No. 1154.]

AN ACT TO AMEND ACT NUMBERED EIGHT HUNDRED AND NINETY-SEVEN BY PROVIDING A CLERICAL AND ADMINISTRATIVE FORCE FOR THE ARRASTRE DIVISION AT THE MANILA CUSTOM-HOUSE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section five of Act Numbered Eight hundred and ninety-seven<sup>3</sup> is hereby amended by adding after the word "additional," in the ninth line thereof, the words "administrative officers, clerks."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall be construed to be retroactive and effective as of September twenty-third, nineteen hundred and three.

Enacted, May 12, 1904.

[No. 1155.]

AN ACT RENEWING CERTAIN APPROPRIATIONS IN ACTS NUMBERED TEN HUNDRED AND FORTY-EIGHT AND TEN HUNDRED AND FORTY-NINE, UNTIL SUCH TIME AS THE REGULAR APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND FIVE SHALL HAVE BEEN MADE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. All appropriations for the necessary operations of the Insular Government and of the city of Manila under the fixed digest subheadings as expressed in Acts Numbered Ten hundred and forty-eight<sup>4</sup> and Ten hundred and forty-nine,<sup>5</sup> are hereby renewed in similar amounts for the general purposes therein specified, until such time as the regular appropriations for the Insular Government and for the city of Manila for the fiscal year nineteen hundred and five, or any part thereof, shall have been passed. This Act shall not be construed to renew any appropriations in said Acts for specific or temporary purposes,

not continuous in character, and a sufficient sum is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, for the purposes named and made available on July first, nineteen hundred and four.

SEC. 2. All withdrawals of funds by warrant under this Act shall be transferred from this Act and charged on the books of the Auditor to the regular appropriations for the Insular Government and city of Manila for the fiscal year nineteen hundred and five, when the same shall have been made.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, May 13, 1904.

[No. 1156.]

AN ACT PROVIDING FOR THE MARKING OF ANIMALS AFFLICTED WITH SURRA.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. It shall be lawful for any duly authorized agent of the Board of Health for the Philippine Islands or of the Bureau of Government Laboratories to mark any animal found to be afflicted with surra, by fastening in its right ear a metal tag marked with the letter "S" and with a number.

SEC. 2. It shall be unlawful to remove any such tag affixed as provided in section one of this Act until the animal so marked has been pronounced free from surra by a duly authorized agent of the Board of Health or of the Bureau of Government Laboratories. Any person removing a tag in violation of this section shall, upon conviction, be punished by a fine of not less than five nor more than fifty pesos for each offense.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, May 14, 1904.

[No. 1157.]

AN ACT TO SUSPEND ALL TAXES IMPOSED BY LAW ON DRAFT CARTS AND SLEDGES IN THE PROVINCE OF ISABELA.

Whereas the Province of Isabela is without improved roads which would be injured by the use of carts with narrow tires, or with wheels rigid with the axles, or by sledges: Therefore:

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The tax imposed by paragraph (j) of section forty-three of the Municipal Code, as amended by section one of Act Numbered Seven hundred and seventy-four,<sup>6</sup> entitled "An Act amending Act Numbered Eighty-two, entitled 'A general Act for the organization of municipal governments in the Philippine Islands,' by imposing a tax upon sledges and making it the duty of provincial boards to designate improved roads in the several provinces upon which it shall be unlawful to use certain carts and sledges," is hereby suspended in its application to the Province of Isabela.

SEC. 2. The public good requiring the speedy enactment of this

<sup>1</sup> Off. Gaz., No. 10, p. 1.  
<sup>2</sup> Off. Gaz., 303.

<sup>3</sup> Off. Gaz., 745.  
<sup>4</sup> Off. Gaz., 121.

<sup>5</sup> Off. Gaz., 137.

<sup>6</sup> Off. Gaz., 369.

bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 14, 1904.

[No. 1158.]

AN ACT APPROPRIATING THIRTY THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, OUT OF THE GOLD-STANDARD FUND, FOR THE PAYMENT OF INTEREST ON CERTIFICATES OF INDEBTEDNESS ISSUED BY THE GOVERNMENT OF THE PHILIPPINE ISLANDS UNDER ACT OF CONGRESS APPROVED MARCH SECOND, NINETEEN HUNDRED AND THREE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of the gold-standard fund, the sum of thirty thousand dollars, in money of the United States, for the payment of the quarterly interest due June first, nineteen hundred and four, on the certificates of indebtedness amounting to three million dollars issued and sold on behalf of the Insular Government by the Secretary of War under authority of the Act of Congress approved March second, nineteen hundred and three, and Act Numbered Seven hundred and ninety-two<sup>1</sup> of the Philippine Commission.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 19, 1904.

[No. 1159.]

AN ACT MAKING FURTHER PROVISIONS THAN ARE CONTAINED IN ACT NUMBERED ONE HUNDRED AND NINETY RELATING TO THE PROCEDURE OF THE SUPREME COURT IN THE EXERCISE OF ITS ORIGINAL JURISDICTION IN CIVIL ACTIONS AND IN RELATION TO COSTS TO BE ALLOWED IN SUCH PROCEEDINGS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Whenever certiorari proceedings shall be instituted in the Supreme Court in relation to the proceedings of a Court of First Instance, as provided in section five hundred and fourteen of Act Numbered One hundred and ninety,<sup>2</sup> entitled "An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands," and whenever mandamus proceedings shall be instituted in the Supreme Court against a judge or Court of First Instance in accordance with section five hundred and fifteen of said Act Numbered One hundred and ninety, and whenever prohibition proceedings shall be instituted in the Supreme Court against a judge or Court of First Instance in accordance with section five hundred and sixteen of Act Numbered One hundred and ninety, the party instituting such proceedings in certiorari, mandamus, or prohibition shall, in addition to the judge or Court of First Instance, make as a party defendant the person or persons interested in sustaining the proceedings in the Court of First Instance, and it shall be the duty of such person or persons to make necessary defense in the Supreme Court both in his or

their own behalf and in behalf of the judge or Court of First Instance affected by the proceedings; and if costs shall be awarded in favor of the party instituting such proceedings in the Supreme Court such costs shall be awarded only against the party in interest above stated, and not against the judge of Court of First Instance who is made a defendant to the proceedings, anything in said Act Numbered One hundred and ninety to the contrary notwithstanding.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 19, 1904.

[No. 1160.]

AN ACT AUTHORIZING THE COLLECTOR OF CUSTOMS FOR THE PHILIPPINE ISLANDS TO CLEAR FOREIGN VESSELS FOR THE PORT OF ISABELA DE BASILAN.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Collector of Customs for the Philippine Islands is hereby authorized to clear foreign vessels for the port of Isabela de Basilan, Island of Basilan, under such conditions and regulations as he may impose: *Provided*, That all expense incident to the entrance of a foreign vessel into the port of Isabela de Basilan shall be a charge against such vessel, and shall be collected before the vessel is granted a foreign clearance.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, May 19, 1904.

## RESOLUTIONS OF THE PHILIPPINE COMMISSION.

*Extract from minutes of April 30, 1904.*

The President presented a communication from the governor of the Province of Rizal stating that Mr. Nazario Crisóstomo, president of the municipality of Bosoboso, Rizal, had been badly mutilated and permanently disabled, and prevented from earning a living, by a band of outlaws, and further stating that many valuable services had been rendered by him to the American authorities. It appearing that he had always been an active supporter of the authorities of the Civil Government in running down and capturing brigands and in the performance of other valuable services, and that the injuries inflicted upon him were because of these services, and that, by reason of his injuries, he is unable to earn a livelihood:

After consideration by the Commission, on motion, it was *Resolved*, That the Civil Governor be, and is hereby, authorized to expend from the fund of five hundred thousand dollars appropriated by Act Numbered One thousand and forty-six from the Congressional relief fund the sum of five hundred dollars, in money of the United States, to be placed in the hands of the Governor of the Province of Rizal, and in his discretion to be given at once to Mr. Nazario Crisóstomo, or to be paid to him in monthly installments of thirty Philippine pesos per month, as may seem to be for the best interest of Mr. Crisóstomo.

<sup>1</sup> Off. Gaz., 461.

<sup>2</sup> Public Laws, Annotated, 378, 467.

*Extract from minutes of April 30, 1904.*

Whereas the Commission, on March thirteenth, nineteen hundred and three, passed Act Numbered Six hundred and eighty-one, authorizing a loan of six thousand dollars to the Province of Nueva Ecija, such sum to be repaid without interest in two equal annual installments within one and two years respectively from the date of withdrawal from the Insular Treasury of said loan; and

Whereas the provincial board of Nueva Ecija, by resolution of April fourteen, nineteen hundred and four, has petitioned the Commission to postpone the date of repayment of one-half of said amount, which it states is due upon April thirteenth, nineteen hundred and four, to April thirteenth, nineteen hundred and six; Now, therefore, be it

*Resolved*, That the date of repayment to the Insular Government of one-half of the loan of six thousand dollars made to the Province of Nueva Ecija by Act Numbered Six hundred and eighty-one is hereby extended from April 13, 1904, the date of its maturity according to the statement of the provincial board of Nueva Ecija, to April thirteenth, nineteen hundred and six.

*Extract from minutes of May 3, 1904.*

*Resolved*, That the Civil Governor be, and is hereby, authorized to expend from the fund of five hundred thousand dollars appropriated by Act Numbered One thousand and forty-six from the Congressional relief fund the sum of two thousand four hundred and twenty dollars, in money of the United States, in payment for certain animals and poultry purchased by the Insular Purchasing Agent for the Bureau of Agriculture on Requisition Numbered One thousand and twenty-eight, second quarter, fiscal year nineteen hundred and four.

*Extract from minutes for proceedings, May 10, 1904.*

*Be it resolved*, That the Civil Governor be, and he is hereby, authorized to direct an expenditure of one thousand eight hundred pesos, Philippine currency, or so much thereof as may be necessary, from the fund of five hundred thousand dollars appropriated by Act Numbered One thousand and forty-six out of the Congressional relief fund, for the purchase of six hundred canaves of palay seed for sale in the Province of Romblon at cost, the proceeds of such sale to be thereupon returned to the Insular Treasury to the credit of said Congressional relief fund.

*Extract from minutes of May 16, 1904.*

Whereas the municipality of Malabon has asked that the property known as the "Fabrica de Talipapa Matanda" be transferred to it, together with the stone of the old building, for school purposes, said municipality promising to erect on the site of the Fabrica de Talipapa Matanda a schoolhouse for the benefit of a large number of school children who are at present without school accommodations; and

Whereas the land upon which the said Fabrica was erected was purchased by the Spanish Government from Severino José Suarez and Celestina Lazaro in eighteen hundred and fifty-one for the sum of two thousand six hundred and eighty pesos, that Government erecting on the land a cigar factory which was operated until eighteen hundred and eighty-two, when the tobacco monopoly was abolished by governmental decree and the factory suppressed, at which time the land and the building were offered for sale on a valuation of ninety-one thousand and fourteen dollars and fifty-seven cents, Mexican currency, the valuation being finally reduced to fifty-five thousand eight hundred and thirty-four dollars and seventy-four cents, Mexican currency, without obtaining any bidder; and

Whereas as far as can be gathered from the papers submitted for the consideration of the Commission the building is now in ruins, probably having been burned during the insurrection: Now, therefore, be it

*Resolved*, That the ruined building formerly the "Fabrica de Talipapa Matanda," and the stone composing the same be granted to the municipality of Malabon for the purpose of constructing a school; and that, until further ordered, the municipality be allowed the use of the land pertaining to said building, mentioned in the petition, for school purposes: Provided, that the municipality of Malabon begin construction of the school building within thirty days from June 1, 1904, and complete said building within one year from the date of this resolution.

**EXECUTIVE ORDERS.**

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, May 20, 1904.

EXECUTIVE ORDER }  
No. 24. }

The official rate for the redemption of Spanish-Filipino currency and its acceptance for public dues from and after May twenty-third, nineteen hundred and four, and until further notice, is hereby fixed at the ratio of one peso and ten centavos, Spanish-Filipino currency, for one peso Philippine currency, or its equivalent in United States currency.

Mexican pesos will be received in exchange for Philippine currency at the above authorized rate of exchange between Spanish-Filipino coins and Philippine currency.

LUKE E. WRIGHT,  
Civil Governor.

By F. W. CARPENTER,  
Acting Executive Secretary.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, May 23, 1904.

EXECUTIVE ORDER }  
No. 25. }

Mr. Pablo Guzman having received a majority of the votes cast in the election for provincial governor held in the Province of Cagayan on February first, nineteen hundred and four, and any irregularities which may have occurred in such election not being deemed of sufficient importance to set aside the proceedings of the convention called under the provisions of section four, Act Numbered Eighty-three, Philippine Commission, as amended by Act Numbered Three hundred and thirty-six, his election is hereby confirmed.

LUKE E. WRIGHT,  
Civil Governor.

By F. W. CARPENTER,  
Acting Executive Secretary.

**DECISIONS OF THE SUPREME COURT.**

[No. 1267. January 19, 1904.]

CO-TIANGCO, plaintiff and appellee, vs. TO-JAMCO, defendant and appellant.

1. PLEADING AND PRACTICE; APPELLATE PROCEDURE: MOTION FOR NEW TRIAL: REVIEW OF EVIDENCE.—In the absence of a motion for a new trial upon the ground that the findings of fact of the trial judge are plainly and manifestly against the weight of the evidence the Supreme Court will not review the evidence or disturb the findings.

2. CONTRACT; MASTER AND SERVANT; QUANTUM MERUIT.—An agreement to render personal services and the actual rendition thereof gives the servant an action against the master for the reasonable value of the services rendered, in the absence of an express stipulation as to the amount of the wage to be paid.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

ALFREDO CHICOTE, for appellant.  
W. H. KITCHENS, for appellee.

MAPA, J.:

The appellant made a motion in the trial court for a new trial on the ground of newly discovered evidence. The motion was not based upon the ground that the findings of fact were contrary to the weight of the evidence, and consequently under the provisions of article 497 of the Code of Civil Procedure, our jurisdiction in this case is limited to determining the questions of law raised in the bill of exceptions, but without reviewing the evidence.

The court below in its decision says that "the Chinamen Ong-Congo, Chua-Checo, and Cua-Cheo testified that the defendant To-Jamco promised to pay them for the services they were to render, and that they have assigned the amount of their claims against the defendant to the plaintiff." He also says that "the plaintiff testified to the same effect, and it may be regarded as an uncontroverted fact that the assignment was legally made."

As a result of his construction of the evidence introduced by the parties, the court below concludes that "the direct testimony of the Chinamen who have testified in this case must be considered as constituting more weighty evidence than the testimony of the defendant."

This is equivalent to the statement that the court considers the above-named Chinamen's testimony concerning the fact that the defendant undertook to pay them for their services as worthy of credence, and therefore in his opinion true; and that it is also true that Ong-Congo, Chua-Checo, and Cua-Cheo have assigned to the plaintiff their right to recover the amount due for such services from the defendant.

The court below also considered it proven that the said Chinamen and the plaintiff actually rendered the services upon which the complaint is based, and that the sum of 110 pesos and 80 cents is still owing for the services rendered by Ong-Congo; 116 pesos and 96 cents for Chua-Checo's services; 146 pesos and 85 cents for Cua-Cheo's services; and 123 pesos and 55 cents for the services rendered by the plaintiff.

From these facts it is to be inferred that the defendant entered into a contract of hire with the plaintiff, and the three other Chinamen above named, by which he undertook to pay them the value of their services; that the latter actually rendered the services contracted for, and that the defendant is still indebted to them for wages in the amounts above expressed.

This being so, the judgment of the court below is evidently in conformity with the law. Contracts bind the contracting parties to the performance of the agreement entered into. The obligations arising therefrom have the force of law between the contracting parties and must be executed in accordance with the tenor thereof. (Arts. 1258 and 1091 of the Civil Code.) (consequently the court below in entering his judgment has not committed any of the errors assigned in the bill of exceptions.

It is unnecessary to consider the legal effects of the note made by the defendant at the bottom of the contract entered into between the Philippine Lumber and Development Company and the Chinaman To-Chaco, a copy of which appears in the judgment. Whatever might be its legal effects, the fact that the defendant agreed to pay the plaintiff and his companions for their services is in itself sufficient to produce the obligation on

his part to make such payment, the services which were the object of the contract having been rendered by the plaintiff and his companions. This is entirely independent of the obligation which, on the other hand, he may have incurred by reason of the undertaking expressed in the said note. From that personal stipulation entered into with the said Chinamen and the plaintiff and not from the note (which constitutes another distinct juridical act and which has not even been mentioned as the ground of the action brought in the complaint), arises the right accruing to the plaintiff, personally and as assignee of the others, to demand the payment of the money whose recovery is the purpose of this action.

For the reasons stated we affirm the judgment of the court below, with the costs of this instance against the appellant. Judgment will be entered in conformity with this opinion twenty days from the date of its filing, and the case remanded to the court below.

Arellano, C. J., Torres, Cooper, Willard, and McDonough, JJ., concur.

Mr. Justice Johnson did not sit in this case.

Judgment affirmed.

[No. 1436. January 30, 1904.]

THE UNITED STATES, complainant and appellee, vs. JOAQUIN TRILLANES, defendant and appellant.

1. CRIMINAL LAW; ESTAFA.—When the proof of the facts constituting the crime of *estafa* is lacking the accused must be acquitted.
2. ID.; WEIGHT OF EVIDENCE; REASONABLE DOUBT.—When there is not a preponderance of evidence of the commission of the crime and of the guilt of the accused it can not be held that the punishable act has been committed beyond a reasonable doubt.

APPEAL from a judgment of the Court of First Instance of Batangas.

The facts are stated in the opinion of the court.

PERFECTO GABRIEL, for appellant.  
Solicitor-General ARANETA, for appellee.

TORRES, J.:

On September 4, 1902, Juan Cantos filed a written information charging Joaquin Trillanes with the offense of *estafa*, alleging that in April, 1901, he delivered to the defendant in the barrio of Mahanadiong, of the town of Taisan, Province of Batangas, for safe-keeping a white horse, of the approximate value of 200 pesos, and that the defendant subsequently sold the said horse to one Pedro Castilla without the knowledge or the consent of the complainant.

The complaining witness testified under oath that he was in the barrio of Mahanadiong one day in said month of April, when the accused, with whom he was on very good terms, accosted him and begged him to deliver the horse to him; that he took the horse to the town of Ibaan, delivered it to the defendant as a bailment; that he delivered the horse because at that time he was wandering about the country as an insurgent, although on the 15th of March of the next year, 1902, he surrendered to the American authorities; that on account of illness he was unable to go for the horse; that in May, 1902, he saw Trillanes passing by his house, whereupon he called to him, asking him to return the horse, and suggested to him that one of his servants might go with him to bring back the animal; that Trillanes answered him that an American lieutenant by the name of Mannes had borrowed the horse from him, and that as soon as he returned it he would turn it over to Cantos; that a few days afterward he saw Pedro Castilla go by the house riding the horse, and then he wrote to Trillanes asking him how the horse had been taken from his pos-

session, and to tell him in case it had been seized who had seized it, in order that he might claim it; that Trillanes did not make any reply until after four letters had been sent to him, and then he stated that he had sold the horse for the purpose of reimbursing himself for the expenses incurred for its keep at the rate of 2 reales per diem; that he was ready to have paid Trillanes this amount, and the defendant nevertheless had disposed of his horse; that a merchant of Lipa had offered him 200 Mexican pesos for it, and that he had not wished to sell it; that in October, 1901, when he made demand upon the defendant, by means of a letter, for the return of the horse, the latter answered him that if he returned it and the officer commanding the Scouts of the detachment at Ibaan should know of it, he would fare badly, and perhaps the matter might cost him his life, and for this reason the defendant requested the complainant not to claim back his horse for the time being, for all of which reasons he consented that the horse should be left in Trillanes' possession on account of the fact that he, the complaining witness, was really an insurgent officer at that time, although in March, 1902, he surrendered with his men and arms to the Americans; that he subsequently discovered that the defendant had sold his horse, and after repeated letters the defendant answered that he had done so because he had spent a lot of money in maintaining the animal and taking care of it, for which reason he had been compelled to sell it, and that he might as well give up all hope of ever recovering it; that Trillanes claimed that he had given the witness his bay horse in exchange for the latter's white horse; that this was not true because said horse was delivered to him by the defendant in exchange for another horse which Trillanes had lost. A letter (record, folio 25) was exhibited by the complainant, who said that the horse had been sold to Marcelo Llana for \$200, as per document of conveyance which was exhibited in the record; that he had no evidence to prove the deposit, except the letter exhibited, and witnesses to the facts complained of.

The witnesses presented by the complaining witness having been examined, Pedro Garcia testified that about eight months ago, more or less, Joaquin Trillanes had sold him a white horse for 200 pesos, Mexican currency; that he did not know whether this horse belonged to the defendant or the complaining witness, Juan Cantos. Sebastian Evora and Crisanto Batjan testified that they were present when the complaining witness, Cantos, being then in the barrio of Mahanadiong about two years ago, had delivered the white horse in question to Joaquin Trillanes for safe-keeping. Lupo Castillo testified that one morning in May, 1902, he was in the house of Juan Cantos and met Joaquin Trillanes there; that he heard a conversation in the course of which Cantos proposed to Trillanes to send a man with him to get the white horse which the defendant had in deposit, and that Trillanes told him that there was no need of it because he would send Cantos the horse. Antonio Tiangco testified that the horse belonged to Cantos, he having acquired it from Antero Gutierrez, and that he afterwards saw the horse in the possession of the defendant, but that he did not know how it had come into his hands. Florencio Caedo testified that in August or September, 1901, while he was in the house of Angel Perez in the town of Ibaan, the defendant Trillanes was also there, and that he asked him whether he was willing to sell him the white horse, because he had been informed that it was a handsome animal, and that Trillanes, the defendant, replied that the horse was not his but belonged to one Juan Cantos, and that he did not have it in his possession.

The defendant, Joaquin Trillanes, pleaded not guilty, and testifying on his own behalf, stated that one day, the exact date he did not remember, at the time the American Army was between Santo Tomas and Tanauan in Batangas, the complaining witness, Juan Cantos, appeared in his house in Ibaan, with three soldiers, remaining there until the afternoon of the following day; that the American forces approaching, Cantos was forced to leave, and

for that purpose borrowed a bay horse which he never returned; that over a year afterwards Cantos wrote to him telling him to see the white horse which he had in Taisan, and that if he liked it he should keep it in exchange for the bay horse which he had taken from him; that a few days afterwards both the defendant and the complaining witness met at Taisan at the house of Ricardo Tiangco, and later, fleeing from the Americans, they had rested in a hut out in the fields in the barrio of Panhayaan, where they met Mateo and Isidro Ilustre and other unknown persons, and then and there Cantos made delivery to him of the white horse in exchange for the bay horse; that the persons who were there assembled, as well as the owner of the hut, Moises Sara, had witnessed the exchange, and that afterwards each one went his way; that some months later, and although he had spent a great deal of money in feeding and training the horse, being afraid to lose it on account of the orders for the reconcentration, he sold it to Pedro Castilla for the sum of 200 pesos, but after Cantos surrendered the latter asked him for the white horse and whether he still had it, and then he told him that he had sold it to Castilla; that it is a fact that he had received letters from Cantos in which the latter demanded of him to return the horse, to which he replied that he should not take the horse from him because the exchange of the two horses, the bay for the white, had already taken place. The defendant acknowledged as his the letter signed by him, which appears at folio 25, and he stated besides that he remembered the horse had been delivered to him on March 20, 1901. He likewise testified that it was true that the complaining witness's brown horse was lost while in his possession, but that this horse he had exchanged from the complaining witness for a chestnut horse; that it was true he had stated to Florencio Caedo when the latter inquired about the white horse that the horse belonged to him, that he had obtained it from Juan Cantos.

The witnesses for the defense, Moises Sara, Mateo Ilustre, Isidro Ilustre, on being examined, testified that from morning until the afternoon of March 20, 1901, they were in the company of the complaining witness and the defendant and other people, at the house of the first named, Moises Sara, in the barrio of Panhayaan, and that at that time Juan Cantos proposed to Trillanes the exchange of his bay horse for the white horse, to which Trillanes agreed, and said exchange was agreed upon, so that when Trillanes went away he took with him the white horse and Cantos took the bay horse. Pedro Medrano testified that Trillanes had ordered him to train his bay horse, and that one Sunday afternoon when he was going to ride it the defendant Trillanes told him that he would no longer have to continue training the horse because his friend Cantos was going to get it. That a year afterwards Trillanes requested him to train the white horse, which according to Trillanes had been given to him in exchange for the bay horse. Damaso Masilang testified that one day while searching for the white horse, which his brother Emiliano used to take care of and which had disappeared from the house, Juan Cantos told him that he had already given the horse to Joaquin Trillanes, the defendant.

Considering the merits of the case according to the rules of sound discretion, the conviction is acquired that in this cause there is not enough evidence to prove the existence of the offense of *estafa* of which the accused is charged, and consequently that the defendant should be acquitted.

An attempt has been made by the prosecution to show that the white horse was delivered to the accused as a bailment, and by the defense that this horse had been received in exchange for another horse of bay color which belonged to the defendant, and which was already in the possession of the complaining witness. In spite of this evidence and of the contents of the letter addressed to the latter by the accused, it is not possible to conclude that the horse in question was really delivered to the defendant for

safe-keeping. The oral testimony is conflicting. The writer of the letter, far from acknowledging the proof of deposit, alleges in the letter reasons which tend to show that the delivery of the horse to him was not a bailment.

Therefore there does not exist a preponderance of evidence to determine the existence of the offense and the guilt of the accused, Trillanes, neither is it possible to find beyond a reasonable doubt in view of such evidence that the offense of *estafa*, as defined in section 535, paragraph 5 of the Penal Code, has been committed. Whatever may be the rights which the parties respectively may believe they possess as to the horses in question and as to the reimbursement of the expenses for the feeding and care of the same, they are free to enforce them by civil action.

From what has been stated it is therefore our opinion that the decision appealed from be reversed and the defendant, Trillanes, acquitted with the costs *de oficio*. It is so ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Defendant acquitted.*

[No. 1300. February 3, 1904.]

*E. C. McCULLOUGH, plaintiff and appellee, vs. R. AENLLE & CO., defendant and appellant.*<sup>1</sup>

Per COOPER, J., dissenting:

1. SALE: WARRANTY.—In the case of the sale of merchandise, even in the absence of any stipulation as to quality, the vendor impliedly warrants the article sold against hidden defects which make it unfit for the use for which it is intended.
2. ID.; ID.: HIDDEN DEFECTS.—Defects in leaf tobacco sold in bales are hidden defects against which the vendor impliedly warrants the vendee.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

JOSE M. ROSADO, for appellant.

GIBBS & KINCAID, for appellee.

COOPER, J., dissenting:

The agreement entered into between the plaintiff and the defendant on the 27th day of August, 1901, was a perfected contract of sale of the tobacco in question.

By the provisions of article 1450 of the Civil Code: "The sale shall be perfected between the vendor and the vendee, and shall be binding upon both of them if they have agreed upon the thing, object of the contract, and as to the price, even when neither one nor the other has been delivered."

The thing, the object of the contract, was "the stock of tobacco in leaf \* \* \* belonging to the said factory." The price was "fixed at the invoice price" at which the defendant had previously purchased the tobacco.

That the transaction was an absolute sale is also clearly expressed in the contract itself. It states that R. Aenlle & Co. "sell absolutely and in fee simple to E. C. McCullough, the tobacco and cigarette factory known as 'La Maria Cristina' located at No. 36 Calle de Echague, Plaza de Gotti, Santa Cruz \* \* \* as shown in inventory to be drawn up for the purpose of making formal delivery of the said property."

It is further stated in the contract that "the value of the tobacco, both in leaf and in process of manufacture, \* \* \* will be fixed at the invoice price."

The inventory which was to be drawn up for the purpose of ascertaining with exactness (among other property conveyed) the amount of the tobacco in leaf and the invoice price at which the plaintiffs had purchased it.

It was the intention of the defendants to sell and the plaintiffs to buy the leaf tobacco on hand in the factory known as "La Maria Cristina" without reference to its description or kind. It

is true that the inventory afterwards made out contained a description of the tobacco, and that the kind delivered was not in accordance with this description. If the contract was doubtful in its terms the act of the parties in making the inventory as placing this construction upon that part relating to the inventory might be important, but the contract is too plain in this particular to invoke rules of construction.

To this extent my views are in accord with those expressed in the majority opinion, but I can not concur in the view that the provisions relating to warranty, contained in the Civil Code, articles 1461, 1474, and 1484, are not applicable to this case. Article 1461 reads as follows:

"A vendor is bound to deliver and warrant the thing which is the object of the sale."

Article 1474 reads as follows:

"By virtue of the warranty referred to in article 1461, the vendor shall warrant to the vendee—

"1. The legal and peaceful possession of the thing sold.

"2. That there are no hidden faults or defects therein."

Article 1484 reads as follows:

"The vendor is bound to give a warranty against hidden defects which the thing sold may have should they render it unfit for the use to which it was intended, or if they should diminish said use in such manner that had the vendee had knowledge thereof he would not have acquired it or would have given a lower price for it; but said vendor shall not be liable for the patent defects or those which may be visible, neither for those which are not visible if the vendee should be an expert and who by reason of his trade or profession should easily perceive them."

I think these articles are directly applicable to the case, and furnish the law for its determination.

There was no stipulation in the contract on the part of the vendor by way of exclusion of warranty, and it is only "when the contrary has been stipulated and the vendor was not aware of such vices or hidden defects" that such warranty shall not exist. (Article 1485, Civil Code.)

It may be admitted, as before stated, that by the contract of sale no particular description or kind of tobacco was conveyed; yet the plaintiff should recover, under the provisions of the Civil Code above cited, if the tobacco, the object of the sale, was defective in quality, and this defect was a hidden defect; and if such hidden defect rendered it unfit for the use for which it was intended, or diminished the use in such a way that had the vendee known of it he would not have purchased or would have given a lower price for it.

The proof shows that the tobacco purchased was of such an inferior quality and so badly damaged that instead of it being worth the sum of \$40 to \$42 per quintal, the price paid by the plaintiff, it was only worth \$6 to \$8 per quintal. It is clear that if the plaintiff would have purchased at all, he would have given a lower price for the tobacco.

The remaining question to be determined is whether such defects in the quality of the tobacco were hidden defects.

According to the testimony, the defects were not of such a nature as to be visible. Nor was the plaintiff, McCullough, an expert, so that, by reason of his profession he ought easily to have perceived them. The tobacco was in bales and it was only after the bales had been opened up could the hidden defects be discovered.

It has been held by the supreme court of the State of Louisiana, the laws of which State are based upon the civil law, and in whose Code there are to be found like provisions to those contained in our Civil Code with reference to warranties, that potatoes, in barrels, of bad quality, the character of which could not be discovered except by opening the barrels, come within the definition of hidden defects. (Richards vs. Burke, 7 La. Ann., 243.)

It has also been held by the same court that cotton in bales of a defective quality, the character of which could not be discovered

<sup>1</sup>Majority opinion published in Official Gazette, March 30, 1904.

except by opening the bales, must be regarded as a hidden defect. (Fuller vs. Cowell, 8 La. Ann., 136.)

The vendor is responsible to the vendee for the warranty against vices or hidden defects in the thing sold, even when the same were unknown to him, unless the contrary has been stipulated and the vendor was not aware of such vices or hidden defects. (Civil Code, art. 1485.)

And the vendee may elect either to withdraw from the contract, the expenses which he incurred being returned to him, or to demand a proportionate reduction of the price, according to the judgment of experts. (Civil Code, art. 1486.)

The conclusions which I reach in this case are:

First. That there was a perfected contract of sale made by the defendants to the plaintiff on the 27th day of August, 1901, of all of the tobacco belonging to the company "La Maria Cristina" and contained in its factory, and in which contract of sale no particular kind or description of tobacco was sold; nor was there any sample of the tobacco shown the plaintiff at or before the purchase.

Second. That the tobacco sold had defects which diminished its value in such a way that had the plaintiff known of them he would not have given the price which he paid, but would have given a lower price for it.

Third. That the defects in said tobacco, by reason of the tobacco being contained in bales, were hidden defects.

Fourth. There being no sample of the tobacco exhibited by the defendants at or before the sale, and no description of the kind of tobacco contained in the contract of sale, the plaintiff was entitled to receive the tobacco contained in the factory of "La Maria Cristina" free from hidden defects; and the measure of his damages is the difference between the value of the tobacco, had it been free from hidden defects, and the value of the tobacco delivered as reduced in value by the hidden defects.

The proof in the lower court should have been directed to this difference and not to the question of the difference between the tobacco as delivered and the kind of tobacco as described in the inventory; the plaintiff is entitled to a judgment for the former sum and not the latter.

[No. 1522. February 11, 1904.]

THE UNITED STATES, complainant and appellee, vs. POLICARPO IDICA, defendant and appellant.

1. \*CRIMINAL LAW: MURDER: EVIDENT PREMEDITATION.—The fact that there has been a dispute between the accused and the deceased as to the location of the boundary lines between their lands, and that this dispute was the cause which led to the commission of the crime, is not sufficient to show that the accused conceived the idea of the commission of the offense prior to putting it into execution, or that he had a fixed and mediated determination to commit it.
2. ID.: ID.: ALIENOSIA.—Where it appears that shortly after a quarrel between the accused and the deceased the former turned upon the latter and attacked him with a bolo, inflicting wounds which caused almost instantaneous death, the attack having commenced while both were face to face, it is error to find that the crime was committed with *alevosia*.
3. ID.: ID.: QUALIFYING CIRCUMSTANCES.—The qualifying circumstances of evident premeditation and *alevosia* can not be inferred or presumed, but their existence must be established by the evidence.
4. ID.: HOMICIDE.—The fact of the violent death of a man, without the concurrence of any of the qualifying circumstances enumerated in article 403 of the Penal Code, can only amount to manslaughter.
5. CRIMINAL PROCEDURE.—One charged with murder may be convicted of homicide because the latter offense is necessarily included within the former within the meaning of section 29 of General Orders, No. 58.

APPEAL from a judgment of the Court of First Instance of Ilocos Sur.

The facts are stated in the opinion of the court.

FRANCISCO ICASIANO, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On the 17th of September, 1903, the provincial fiscal filed a complaint in the Court of First Instance of Ilocos Sur charging the defendant, Policarpo Idica, with the crime of murder, in that on the afternoon of the 14th of July of the same year, while the defendant Idica and Placido Abella, with other persons, were walking by the place called Tabigay, in the town of Sinait, towards the west of the town, the defendant, Idica, who was in advance, suddenly turned back and suddenly struck Abella, who was walking behind him, about a meter more or less distant, two blows with his bolo, inflicting on him two wounds, one above the left ear and another on the throat, from the results whereof the said Abella fell on the ground and died a few moments later.

Agapito Campos, one of the witnesses present, under oath affirmed the facts set forth in the complaint, stating that he was walking a little in advance of the defendant, and that happening to look back, he saw the attack and at once went to Abella, who was lying on the ground with two serious wounds. At the same time Esteban Abella, Roman Abella, Felix Campos, and Juan Impelido, who were walking behind, also approached the victim, and they saw that he had his bolo sheathed and by his side, and was already dead. Then some of them went to report the matter to the authorities and others were left by the corpse. They added that at the time of the attack no quarrel or dispute had taken place between the aggressor and the victim, but that some moments prior thereto they had some talk about some lands concerning which a dispute had been pending for about four years, although the witness stated that he did not know whether this was the motive of the attack. Juan Impelido, who was also an eyewitness to the occurrence, testified in similar terms. Raymundo Icalla and Esteban Abella stated that they did not see the actual attack but were apprised of the fact that Placido Abella had fallen on the ground by a noise which they heard, and at the same time from a distance of 30 brazas they saw Policarpo Idica, the defendant, going away from the corpse, bolo in hand. Thereupon Icalla, terrified, ran away, while Esteban Abella approached the place where the body was lying; the other saying that the question between the defendant and the deceased originated from the fact that Placido Idica, a long time ago, changed the course of a thoroughfare. This witness also testified that the deceased had his bolo sheathed and by his side.

The defendant, Policarpo Idica, plead not guilty, and under oath testified on his own behalf that on the date above mentioned he was called by Esteban Abella and went with his brother-in-law, Raymundo Icalla, to the place of the occurrence, because Juan Impelido charged the accused with having destroyed a fence on the land of the latter. That upon arriving there he found that the townspeople assembled there had already decided which was the limit or boundary between his land and that of Impelido, to which he objected because he was deprived of a part of his land, and at this moment Placido Abella became enraged and attempted to strike him with a bolo; that the defendant, trying to ward off the blow with his bolo, struck Placido on the neck, who thereupon fell on the ground dead. Esteban Abella denied having sent for the accused.

The fact of the violent killing of a human being, without the attendance of any of the qualifying circumstances especially set forth by section 403 of the Penal Code, only constitutes the crime of simple homicide, which is made punishable by section 404 of the same Code.

In the fact, fully proven, of Policarpo Idica having killed Placido Abella by inflicting upon him two serious and mortal wounds with the bolo which he carried, the circumstances of evident premeditation and *alevosia* have not occurred, inasmuch as the record does not disclose even circumstantial evidence that Idica had conceived and reflected upon the purpose of killing the de-



ceased. The dispute as to the boundaries of the lands belonging to the defendant and to the deceased, and which seems to have led to the commission of the crime, is not sufficient to show that the accused had conceived the criminal design beforehand and had meditated and reflected upon the commission of the crime.

The defendant did not employ means or forms in the attack which tended directly and especially to the consummation of the crime without any risk to himself which might originate from an attempt on the part of the deceased to defend himself, and it is therefore impossible to hold that the assault was executed with *alevosia*, since according to the witnesses present the assault was made face to face and openly and originated from the dispute which they had had shortly before at the place of the occurrence and while the deceased was walking behind the accused.

In order that the qualifying circumstances of evident premeditation and *alevosia* may be considered as being present in the commission of a crime against the person, it is indispensable that their existence be fully established by the proof, and it is not sufficient to presume or infer their existence. This has been repeatedly laid down by the courts. Therefore, in the absence of proof of such circumstances, the offense can only be classified as homicide. The defendant may be convicted of that crime, although accused of murder, a crime in which that of homicide is necessarily comprised. (Sec. 29, General Orders, No. 58.)

The guilt of the defendant as author by direct participation is indisputable, he having confessed to and been convicted of the crime of homicide. The record does not disclose any evidence to show the existence in the commission of any exculpative circumstance, complete or incomplete, or even the mitigating circumstance established by paragraph 1 of section 9 of the Code.

The exculpative allegation of the defendant that the deceased tried to attack him is wholly unsupported by evidence, and on the contrary is contradicted by the testimony of the witnesses Agapito Campos and Juan Impellido, who testified that Idica was the first and the only one who attacked Abella, who was unable to defend himself or make use of his bolo, which was found sheathed by the side of the corpse, as seen by various witnesses. For this reason we must accept the conclusion of the judge below that in the commission of the crime no aggravating or mitigating circumstances were present.

The decision appealed should therefore be affirmed with the costs, it being understood that the accessory penalties of section 59 of the Penal Code are hereby imposed. It is so ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1437. February 13, 1904.]

*THE UNITED STATES, complainant and appellee, vs. AGATON AMBATA ET AL., defendants and appellants.*

1. **CRIMINAL LAW; BRIGANDAGE.**—Those who remain within the towns and engage in procuring supplies of food, etc., for a band of brigands do not, by reasons of such acts, become members of such band within the meaning of sections 1 and 2 of Act No. 518.
2. **ID.; ID.; SUPPLIES; MONEY.**—One who furnishes money to a band of brigands is not guilty of aiding and abetting such band within the meaning of section 4 of Act No. 518.
3. **STATUTORY CONSTRUCTION.**—It is not enough to say that the legislature when enacting a penal statute must have intended to make a certain act an offense; it is necessary that they use words which in some way express that intent.

**APPEAL** from a judgment of the Court of First Instance of Batangas.

The facts are stated in the opinion of the court.

F. FERRER, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The evidence shows that the defendant, Agaton Ambata, was at the time mentioned in the complaint a member with the rank of major of the band led by Montalon, and that this band was such a band as is described in article 1 of Act No. 518. The judgment as to him must therefore be confirmed.

We do not think that the acts committed by the remaining four defendants other than Anacleto Crusat and Teodorico Pisigan made them members of this band. There was no evidence in the case that they left the pueblos in which they lived or actually joined or remained with the band in its camp or elsewhere. There is evidence that they within their pueblos collected money for Montalon to be delivered to the defendant Agaton Ambata for his chief. But this did not make them, in our opinion, members of the band within the meaning of articles 1 and 2 of said act. Article 4 relates to the procuring of supplies of food and other articles named for the purposes of the band, and indicates that the persons committing such acts are not thereby made members of the band but are to be considered as persons outside of it who assist it by these means. These defendants must be convicted, if at all, under said article 4. The complaint charges Crusat and Pisigan with a violation of article 4 only.

The evidence shows that the four defendants and Crusat collected nothing but money, and that the defendant Pisigan paid to them nothing but money. They did not collect nor did Pisigan give them food, clothing, arms, or ammunition. The difficult question in the case is this: Is the furnishing of money an offense under said article 4? That article is as follows:

"Every person knowingly aiding or abetting such a band of brigands as that described in section one by giving them information of the movement of the police or Constabulary, or by securing stolen property from them, or by procuring supplies of food, clothing, arms, or ammunition and furnishing the same to them shall, upon conviction, be punished by imprisonment for not less than ten years and not more than twenty years."

The section does not make it an offense to aid or abet brigands. The aiding or abetting must be done in specific ways, and unless it is done in one of the ways mentioned therein it is no offense. It is not made an offense to secure supplies of any kind, but to secure supplies of four different and defined articles. It must be conceded that neither the word "food" nor "clothing" nor "arms" nor "ammunition" can be so extended in their meaning as to cover money. The Spanish official translation of the act furnishes some doubt on this point. But we are bound by the English version. If the act had either said more or had said less there would be no difficulty. If it had been made an offense to aid or abet the band without specifying how, the furnishing of money would in the opinion of the writer have been an offense. So if it had said the furnishing of supplies without saying what kind of supplies. So if it had said the furnishing of supplies of food, clothing, arms, ammunition, or other articles.

It is true that furnishing money would aid the band as much as if not more than the furnishing of food, and it is difficult to see why it was not included in the law. Nevertheless the legislature saw fit to specify definitely the articles the furnishing of which was an offense, and they did not mention money by name nor did they use any other word which would include it nor any general phrase which might cover it. Were one asked to point out the word, phrase, or sentence in the section which meant money it would be impossible to do it. It is not enough to say that the legislature when considering the law must have intended to make the furnishing of money an offense. It is necessary that they use words which in some way express that intent.

The judgment as to Agaton Ambata is confirmed with one-seventh of the costs of both instances. The other defendants are acquitted with the costs *de officio* without prejudice to the presentation of other complaints against those of them who by reason of

the acts proved in this case may be guilty of offenses punished by the Penal Code.

Cooper, McDonogh, and John-on, JJ., concur.  
 Arellano, C. J., and Torres and Mapa, JJ., dissent.  
*Judgment modified.*

[No. 1582. February 23, 1904.]

THE UNITED STATES, complainant and appellant, vs. CASIMIRO GASAL, defendant and appellee.

1. \*CRIMINAL LAW; HOMICIDE.—On the occasion of a gambling game in which the accused, the deceased, and others participated in an open field, a quarrel broke out between the accused and the deceased, whereupon the accused threw a stone at the deceased, who in consequence of the blow fell to the ground and when he attempted to arise the accused threw another stone at him which took effect near the left ear, causing injuries which left the deceased unconscious and caused his death three days later. These facts constitute the crime of homicide, no circumstances having concurred which would raise the offense to the degree of murder.
2. ID.—The repeated and persistent attack made by the aggressor upon so slight a provocation shows that the accused intended not to deliberately increase by others the injury already suffered by the deceased when throwing the second stone, but a decided intention to cause his death; consequently it is error to hold that the sixth aggravating circumstance of article 10 of the Penal Code concurred, or to consider in mitigation the third mitigating circumstance of article 9 thereof.

APPEAL from a judgment of the Court of First Instance of Cebu. The facts are stated in the opinion of the court.

MANUEL M. DE HAZAÑAS, for appellant.  
 Solicitor-General ARANETA, for appellee.

TORRES, J.:

On July 1, 1903, the deputy provincial fiscal of the Island of Cebu filed an information in the Court of First Instance of that province, amending a former information, accusing Casimiro Gasal of the crime of homicide, in that on the 16th of May, 1903, between 9 and 10 o'clock at night, in the place called Nangca of the town of Consolacion, without justification therefor, he threw stones at Andrés Tiro, striking him in the forehead and felling him to the ground, after which Gasal threw another stone which struck Andrés in the region of the left ear, causing his death then and there in consequence of the injuries so inflicted, contrary to the statute in such case made and provided.

The court, finding that the crime had been committed and that the defendant was guilty thereof, with certain mitigating and aggravating circumstances enumerated in the decision, sentenced the defendant to the penalty of twelve years and one day of *reclusión temporal* at hard labor, with the accessories mentioned in section 61 of the Penal Code, to pay an indemnity of 1,000 Mexican pesos to the heirs of the deceased, and to pay the costs, and in case of insolvency to subsidiary imprisonment in accordance with the provisions of section 50 of the said Code.

The evidence in this case shows that one day in the month of May, 1903, on or about the 16th of the month, about 9 p. m., while several men were gambling in a field in the place called Nangca, in the municipality of Consolacion, Island of Cebu, two of their number, Pio Limabug and Bernardo Vacunador, got into a quarrel; that upon this the game stopped, there was a disturbance, and some of the players left the gambling place; that upon this Andrés Tiro demanded of Casimiro Gasal the payment of four pennies which he had won from the latter in the game, and Gasal, becoming enraged, blew out the candle, picked up a stone, and threw it at Andrés, striking him on the forehead and felling him to the ground; that Andrés sat up and was in the act of rising when Gasal threw another stone at him at close range, striking Andrés above the ear; that Andrés fell to the ground unconscious, whereupon the assailant walked away; that Eleno Herrera and Felix Tiro, who witnessed the assault, then picked

up the wounded man and took him to his house, where he died three days later without having regained consciousness.

Besides the two witnesses above cited, the occurrence was also witnessed by Pio Limabug and Bernardo Vacunador, who testified to the facts above related, stating that the assault was committed in an open field; that the moon was shining at the time; that before the assault Casimiro Gasal blew out the sperm candle which he held. Limabug testified that when Andrés was hit by the first stone he turned around and fell to the ground. The witness Vacunador did not see that Limabug, with whom he was quarreling, carried a dagger. Three witnesses testified that while they were all confined in the municipal building, during the preliminary investigation, the defendant, Gasal, entreated them not to say that he had been the one who threw the stones at the deceased; that the witness Herrera, a relative of the defendant, replied that he would have to testify against him because he would have to tell the truth.

It is plainly proven that Andrés Tiro suffered a violent death as a consequence of two stones thrown at him on the night in question in a place where a number of people had been gambling. This fact constitutes the crime of homicide, comprised in section 404 of the Penal Code, none of the qualificative circumstances enumerated in article 403, which defines the crime of murder, having been present in the commission of the offense.

Notwithstanding the fact that the defendant plead not guilty to the crime charged, with all the proof is sufficient to show his guilt of the crime of assaulting the deceased by stoning him, as a result of which he was so seriously injured that he was unconscious from that time until his death, which took place on the third day. It follows, therefore, that the defendant is guilty of the crime of homicide.

The denials and exculpatory allegations of the accused, as well as the testimony of the witnesses for the defense, are insufficient to overcome the result of the evidence of the prosecution against him. It has not been shown that anyone else was the slayer of the deceased, or that Gasal left the scene of the occurrence before the assault was committed. It may be true that the defendant was found in his house that night, and that Dionisio Maglason saw him running behind him, but it must have been that he wounded the deceased at the scene of the occurrence. If in addition to this we take into consideration the contradictory statements of the accused as well as those in the testimony of the witnesses Marcelina Tolo and Matea Gasal, and that in spite of their testimony and that of the witness Maglason, the four witnesses for the prosecution denied that a shower of stones had fallen on the players, the guilt of the defendant as author of this crime of homicide can not be doubted.

In the commission of this crime the only mitigating circumstance to be considered is that established in paragraph 6, section 9 of the Code, it having been proven by the testimony of the witnesses that the defendant Gasal was drunk that night, for which reason he must have attacked the deceased while in an intoxicated condition, and in the absence of proof to the contrary it must be presumed that vice was not habitual with him.

The aggravating circumstances of paragraphs 6 and 20 of section 10 of the Code, and the mitigating circumstances of paragraphs 3 and 8 of section 9 of the same, applied in the sentence appealed from must be rejected, inasmuch as the insistent and repeated assault made upon so slight a provocation shows that it was the defendant's fixed purpose to kill the deceased. The confusion and tumult, if any—and as to this there is no proof—do not constitute a circumstance analogous to the others of the same section. The fact that a second stone was thrown at the deceased just as he attempted to get up does not show that an attempt was made to augment unnecessarily the injuries already inflicted upon the deceased, but rather determination of the assailant to kill his adversary. The ages of both the accused and the

deceased being approximately the same, it does not appear that the accused, Gasal, failed to regard the respect due Tiro on account of his age, or that the accused abused the advantage of youth and strength over the debility of an old man. Consequently, there being only one mitigating circumstance and no aggravating circumstances, the penalty imposed by the court below is in conformity with the law.

For the reasons stated, with the elimination of the condemnation to hard labor and the subsidiary penalties imposed by the decision of the court below, and the addition of the accessories enumerated in article 58 of the Code, we are of the opinion that the decision of the trial judge, by which Casimiro Gasal is condemned to twelve years and one day of *reclusión temporal* must be affirmed, with the costs of this instance against the appellant. Judgment will be entered accordingly and the case remanded for its execution, with a certified copy of this opinion.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1498. February 24, 1904.]

*THE UNITED STATES, complainant and appellee, vs. MARTIN CABUENAS, defendant and appellant.*

\*CRIMINAL LAW: BRIGANDAGE.—The fact that a band of malefactors, lead by the accused, armed with different weapons, engaged in robbery and other crimes against persons and property in the fields, mountains, and barrios o certain towns of Cebu, constitutes the crime of brigandage defined and punished in article 1 of Act No. 518.

REVIEW of a judgment of the Court of First Instance of Cebu. The facts are stated in the opinion of the court.

ECLOGIO R. CHANCO, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

The defendant was accused of brigandage by the provincial fiscal of Cebu, in a complaint dated July 23, 1903, wherein it was stated that after the 12th of November, 1902, and prior to the date of the complaint, Cabuenas had formed a numerous party of bandits in the barrio of Inaguaan, of the pueblo of Talisay in said island, for the purpose of robbing carabaos and other personal property by means of force and violence, and that he led said party under the title of captain-general, and that he and his partisans, armed with deadly weapons, had been wandering through the mountains of Talisay and of Pardo, and that the defendant feloniously received property stolen by said band, and furnished it with provisions, clothing, arms, and ammunition, contrary to the law.

The complaint having been filed and the case called for trial, from the evidence adduced thereat it appears that Martin Cabuenas in Talisay, Cebu, organized a numerous party of malefactors, altogether about 200 persons, of whom he constituted himself the leader with the title of captain-general, and that they, armed with bolos and revolvers, had been wandering over the country and through the mountains of the pueblo of Talisay and Pardo, and had engaged in robbing money, carabaos, and maize, besides committing other outrages against the residents of said towns and the agents of the Government. This is all shown by the testimony of the witnesses Augustin Cabuales, Ambrosia Bacalso, Gregoria Abapo, Melquiades Lasala, Mateo Luga, Lieutenant of Constabulary Graciano Nadela, Pedro Sabillano, Miguel Bacalso, Meliton Cañizares, Patricio Mosqueda, Graciano Ragasa, Bartolome Tabora, Vicente Badayos, Pedro Nadela, Juan Base Villarrasa, justice of the peace of Cebu, Juan Climaco, governor of the province, Juan Calapan, Benigno Timmo, Louis Mabazo, and Olimpio Deiparine, municipal president of Talisay.

\*Headnotes by Mr. Justice Torres.

The last-named witness was the one who arrested the accused with the aid of two volunteers. It is to be observed that some of the witnesses above mentioned had been watching the residence of the accused, by order of the authorities for the purpose of determining his conduct and character.

According to the testimony of Graciano Nadela, one of the companions of the accused, when the party was organized in Mauduang, pueblo of Minglanilla, the accused demanded money, under threats, from one Botoy, who on this account died in May, 1903. The witness Graciano Ragasa testified that when he was sequestered with three other policemen by the partisans of the accused, his companions and he were disarmed, and that their captors then went to the house of Pablo Cabellon in Inaguaan, and as the latter resisted then he was wounded with a bolo by the accused, although not seriously.

Mateo Luga, a lieutenant of Constabulary, exhibited a document which appears on page 74 of the record, signed by the accused, which said document was found in the pocket of a person who died in a fight which the Constabulary had with some malefactors in Jaupan, in the town of Talisay, on the afternoon of July 27, 1903, which document is a lieutenant's commission. Governor Climaco testified that the signature appended to the document exhibited was that of Martin Cabuenas, he being familiar with the handwriting of the accused, and that the latter called himself first master, because the supreme chief was Roberto Caballero (record, p. 72). On page 75 of the record there appear the cedulas which the defendant distributed.

The facts above stated unquestionably constitute the crime of brigandage, comprised in section 1 of law 518, of November 12, 1902.

It appears perfectly established in the case that the accused, after having organized a numerous band of ladrones, assumed the command of said party, and he, as well as the other members thereof, being armed with deadly weapons, engaged in the robbery of carabaos, provisions, and especially of money, which at different times of the day and night they demanded from the people under threats of death and by means of ill treatment and other personal outrages; that they also took the arms of several policemen whom they sequestered, and that they wandered over the fields and mountains of said towns committing acts of violence and pillage which mark them as brigands.

Consequently the defendant has incurred some of the penalties prescribed in said section, and according to the opinion of the court that of life imprisonment should be imposed. The death of Botoy can not be considered as fully established, and much less that of Pablo Cabellon, who, according to the witnesses, was only wounded, and that not seriously.

For the reasons stated we are of the opinion that the decision of the court below must be reversed, and the accused, Martin Cabuenas, sentenced to the penalty of life imprisonment and the costs. The case will be remanded to the court below, with a copy of this decision and of the judgment to be entered therein, for execution.

Arellano, C. J., Cooper, Mapa, and McDonough, JJ., concur.

WILLARD, J., dissenting:

In my opinion the decision of the Court of First Instance should be affirmed and the defendant sentenced to death.

JOHNSON, J., dissenting:

The defendant is charged with the crime of bandolerismo, as follows:

That in the month of July, 1903, in the barrio of Inayauan, of the pueblo of Talisay, of the Province of Cebu, he formed a band composed of more than three persons with the object of robbing carabaos and other personal property by means of force and violence; that the said accused was the chief of the said band.

with the title of "captain-general"; that the said band went out upon the highways, armed with deadly weapons, with the object of robbing carabaos and other personal property.

During the trial of the case many witnesses were presented on behalf of the prosecution.

The testimony of Augustino Cabunallas shows that the accused was the head of a band composed of a large number of men; that the accused or his men had sequestered the said witness and had demanded of him money; and because the said witness was unable to comply with the said demands of the accused, he was detained in the house of the accused and was manacled and ill treated; that the accused threatened to kill the witness; that the companions of the accused were armed and went upon the highways armed with bolos and pinutis.

The testimony of Ambrocio Balcazo shows that the defendant and his soldiers compelled him to give them money and threatened to arrest him if he refused to comply with their wishes.

The testimony of Gregorio Abapo shows that the companions of the accused, under the orders of the accused, had compelled him to pay them money; that because of fear and of their threats he paid the money.

The testimony of Olimpio Deitarine shows that he was president of the pueblo of Talisay; that the accused ordered him to surrender his authority to him and his soldiers; that the accused was at the head of a band of armed men; that the band was armed with bolos and pinutis.

The testimony of Melquiades Lasala shows that he was chief of police of the pueblo of Talisay; that he knew the accused, and had known him for a long time, and that he was the leader of a band of men located in one of the barrios of the pueblo of Talisay, and that said band was armed and was dedicated to robbery.

The testimony of Mateo Luga shows that he was a member of the Constabulary; that he knew the accused; that the accused was at the head of an armed band and that the object of the accused and his band was to demand money of the people.

The testimony of Graciano Nadela shows that he was a policeman; that he had known the accused; that he had been in the house of the accused; that the accused had said to him that he was the head and leader of a band of about 200 men; that the accused was called "general" by the members of the band; that the band was armed with bolos and pinutis; that the band maintained itself by robbing money and carabaos and by compelling the people to pay contributions; that the band had menaced one Botoy until they killed him; that the people had left the place where the band was located because of the fear they had for the accused and his band.

The testimony of Pedro Sabillano shows that he had been acquainted with the defendant for a long time; that he was in the house of the accused and saw many armed men there.

The testimony of Meliton Cañales shows that he had known the accused and that he had seen the accused in charge of a band of about 200 armed men; that the men were armed with bolos and pinutis.

The testimony of Patricio Masqueda shows that he was a member of the Constabulary and had known the defendant for a long time; that he visited the quarters of the accused as a spy and saw many armed men there.

The testimony of Graciano Regasa shows that he, together with two others, had been sequestered by the accused and his band, and compelled to go with them; that they did follow this band until they arrived at the house of one Pablo Cabellon, where the band was engaged in a fight with the said Pablo, and the witness and his two companions escaped.

The testimony of Bartolome Tabora shows that he was a municipal policeman and was one of the companions of Graciano Regasa at the time he was sequestered; that the accused was with the

band on that occasion and was armed with a revolver; that the band took his arms from him.

The testimony of Vicente Badayos shows that he was a companion of Graciano Regasa and Bartolome Tabora at the time they were sequestered by the accused and his band and his testimony agrees with the statements of the two others. He says that the band was armed and that there was a fight between the members of the band and the said Pablo.

The testimony of Juan Base Villarosa shows that he was a justice of the peace and that the accused had told him on one occasion that he was the captain-general.

The testimony of Juan Climaco shows that he was the governor of the Province of Cebu; that he knew the accused and knew that the accused was at the head of the Puluhan; that he had seen a document signed by the accused in which that fact appeared in connection with the signature of the said accused.

The accused offered no proof in defense.

After hearing and considering the evidence in the said cause, the judge found the defendant guilty of the crime charged in the complaint, and sentenced the defendant to the penalty of death.

The evidence given in the trial of the cause against the accused justifies the following conclusions:

First. That prior to the 1st day of July, 1903, and subsequent to the 12th day of November, 1902, there existed in the Province of Cebu an armed band, composed of more than 200 men, who conspired together for the purpose of robbing carabaos and other personal property;

Second. That the said band was armed with deadly weapons, and went out upon the highways in said province and roamed over the country and did rob carabaos and other personal property.

Third. That the said defendant was known as a captain general and was the leader of the said band;

Fourth. That while he was acting as the leader of the said band, between the said dates, he had directed and caused the death of one Pablo Cabellon, and the robbery of carabaos and other personal property in the said Province of Cebu, in the Philippine Islands.

This court has, in numerous cases, punished members of bands like the one proven to have existed in this case, by sentencing them to long years of imprisonment, ranging from twenty to forty years, and in some instances to life imprisonment.

I can not bring myself to believe that this court is consistent with itself and its former decisions when it imposes upon the leader of these bands the same imprisonment which is imposed upon the members of the band, who are mere tools of such leaders, and who, perhaps, are members of such bands by reason of fear and coercion.

The facts found by the trial court fully justify his conclusions and the sentence imposed upon the defendant in this cause. It should be a rule of practice in this court that when it finds the facts upon which the court below rendered its judgment to be true and sufficient to sustain the judgment, the terms of the judgment should not be changed in this court.

Therefore, by virtue of the evidence adduced in this cause, and the provisions of section 1 of Act No. 518 of the Civil Commission, the judgment of the court below should be affirmed.

*Judgment modified.*

[No. 1506. February 26, 1904.]

THE UNITED STATES, complainant and appellee, vs. FACUN-DO PINEDA ET AL., defendants and appellants.

\*CRIMINAL LAW: INSURRECTION.—The defendants, who were members of a corps of volunteers organized by the provincial government of Bulacan,

\*Headnotes by Mr. Justice Torres.

deserted, with their arms and ammunition, and joined the forces of the insurgent leader San Miguel, and as members of his forces engaged in several skirmishes with the Constabulary. *Held*, that they were properly convicted of the crime of rebellion under section 3 of Act 292, because they took part as abettors in acts of rebellion committed by San Miguel's band against the agents of the Insular Government and in violation of its laws.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

ISABELO ARTACHO, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On August 29, 1903, the provincial fiscal of Bulacan filed an information charging Facundo Pineda, Benigno Baeza, Agustin de la Cruz, Pedro Tenorio, Enlialio Reyes, Nemesio Hernandez, Francisco Benedicto, and Felix Laquindamun with insurrection, in that the said defendants, on or about the 6th day of February of the same year, being members of the volunteer corps organized by the government of the said province to maintain the public peace, and being provided with guns and ammunition belonging to the Insular Government, and while garrisoned with others to the number of 25 in the town of Obando, abandoned the garrison and deserted from the ranks, with their arms and ammunition, and joined the party of the so-called General San Miguel, aiding and promoting the insurrection against the constituted government of these Islands, fighting with the arms with which they had been intrusted against the loyal troops until they were arrested some months afterwards in various parts of the province; this against the statute in the case made and provided.

The evidence in the case conclusively establishes the facts that on the afternoon of February 6, 1903, 25 volunteers, armed with rifles and under command of Sergeant Damaso Caambol, among them the eight defendants, left their garrison and barracks in the town of Obando, and deserted, with their arms and ammunition, going to the barrio of Binauanagan and thence to the place called Corral na Bato, where they joined the party commanded by the so-called General San Miguel; that while on their way they were met by some fifteen members of the said band who had come out to receive them; that on the following day, on which the partisans of San Miguel had a fight with the Constabulary, by whom their encampment was attacked, the said defendants took part in the fight, aiding and abetting San Miguel's men; that subsequently some of the deserters concealed themselves in the mangrove swamps at a place called Matalaba, of the township of Paombong, where they formed another band, waiting for an opportunity to make an attack upon the town of Hagonyon and later upon the town of Malolos, the capital of the province, of which purpose Lieut. Jose Reyes, a lieutenant of the Constabulary forces, was informed by three men, by name Crispulo Capuli, Benito Villanueva, and Valentin de Guzman, who by orders of the said lieutenant joined the party encamped in said mangrove swamps; that on April 30 of the same year, Lieutenant Reyes and his soldiers attacked the party at Matalaba, dispersing it, and after the combat captured provisions, a revolver, and a Remington rifle; that the spies saw Nemesio Hernandez and Facundo Pineda among the members of the band. Juan Zorilla, the cook of San Miguel's party, testified that he saw Enlialio Reyes, Francisco Benedicto, Agustin de la Cruz, and Facundo Pineda, among the Obando volunteers who joined the said party; that he knew that these men had so joined the band, because he was present when a letter from Sergeant Damaso Caambol was read, in which letter he announced his arrival in the mountains for the purpose of joining San Miguel's party; that the purpose of this band, according to San Miguel, and the leaders, Apolonio Samson, Natalio Austria, Guillermo, and Contreras, was to fight against the Constabulary to accomplish the independence of the country. Inspector Donato Teodoro and Lieut. Jose Reyes identified the

accused as members of the volunteer corps to whom they had delivered guns and pay. Inspector Donato testified subsequently that Enlialio Reyes, Francisco Benedicto, and Facundo Pineda confessed to him that after deserting they joined San Miguel's band.

Section 3 of Act No. 292, passed November, 1901, reads as follows:

"Every person who incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or of the Government of the Philippine Islands, or the laws thereof, or who gives aid or comfort to anyone so engaging in such rebellion or insurrection, shall, upon conviction, be imprisoned for not more than ten years and be fined not more than \$10,000."

The evidence in this case, consisting of the testimony of a number of witnesses and especially the testimony of two officers, one of them a member of the Constabulary and another a member of the volunteer corps organized in Bulacan, and the testimony of the witness Juan Zorilla, establishes the fact that on the afternoon of February 6, 1903, the eight defendants, with others up to the number of 25, being volunteers provided with arms belonging to the Insular Government, abandoned the garrison in which they had been stationed, and under the direction of Sergeant Damaso Caambol joined the band of the so-called General San Miguel, encamped at Corral na Bato, acting upon an agreement to that end with San Miguel or some of the officers of his band, aiding and abetting and taking actual part in the acts of rebellion and insurrection committed by the said band against the authority of the United States and of its laws, resisting the agents and officers of the Insular Government. No doubt they deserted for the express purpose of joining the insurrection and opposing the authorities and their agents. These facts are confirmed by the testimony of the accused, Reyes, Benedicto, Hernandez, Baeza, and Pineda. It further appears from the record that some of the defendants left San Miguel's band and went into hiding in the mangrove swamps of the town of Paombong, where they proposed to form another party for the purposes of falling upon the town of Hagonyon and subsequently Malolos, the capital of the province, doubtless with the intent of attacking the local authorities of these towns upon the supposition that the said authorities would oppose their assault; and although this purpose was not carried into effect, this was because Lieutenant Reyes of the Constabulary attacked them beforehand with the Government forces and dispersed them, on April 30, 1903.

The eight defendants plead not guilty, but notwithstanding the inadmissible and unsupported exculpation which five of them attempted, saying that they only obeyed the orders of Sergeant Caambol when leaving Obando garrison and that with the consent and by order of the latter they were disarmed by a number of the members of the San Miguel party which surprised them while their guns were unloaded and took them to Corral na Bato, the case nevertheless shows more than sufficient evidence of the guilt of the defendants of the crime of rebellion, they having taken part in actual acts of rebellion committed against the authorities, for they did not resist the alleged disarmament and kidnapping which they allege, and their conduct at the time of their desertion and subsequently shows conclusively that they went into the ranks of the enemies of peace, of law, and of the well-being of the country willfully and with full knowledge of the gravity and consequences of their acts. The best proof of the guilt of the accused is that on the day following that on which they joined San Miguel's forces they assisted the latter in the skirmish against the Constabulary. Consequently they are guilty as principals of the crime with which they are charged and are subject to the personal and pecuniary penalties to which they have been condemned.

Therefore, for the reasons above stated, we are of the opinion that the judgment of the court below, dated September 25, 1903, and by which each of the eight defendants is condemned to ten years' imprisonment and to the payment of 10,000 Insular pesos

each and to the costs must be affirmed. This decision and the judgment hereafter to be entered in accordance therewith will be sent to the court below for execution.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1468. March 14, 1904.]

**THE UNITED STATES, complainant and appellee, vs. ALONSO P. GARDNER, defendant and appellant.**

1. CRIMINAL LAW; COUNTERFEITING.—The defendant raised a \$1 United States silver certificate by pasting a piece of paper with the figure "10" over the figure "1" on the certificate, and passed it as of the value of \$10. Held, that the defendant is guilty, under article 289 of the Penal Code, of the crime of falsifying a document payable to bearer \* \* \* the issue of which has been authorized by law.

Per McDONOUGH, J., dissenting:

2. ID.: SILVER CERTIFICATE; MONEY.—A United States silver certificate having no intrinsic value, is not money, but is a document of credit payable to bearer.

3. ID.: ID.: ID.—The act of attempting to raise a \$1 United States silver certificate to the domination of \$10 by pasting upon it the figure "10" constitutes the crime of counterfeiting money, not that of falsifying documents of credit. Silver Treasury notes of the United States are money, not "documents of credit."

Per COOPER, J., dissenting:

4. ID.: ID.—The act of attempting to raise a \$1 United States silver certificate to the domination of \$10 by pasting upon it the figure "10" does not constitute the offense defined in article 289 of the Penal Code. Such a silver certificate does not come within the meaning of the phrase "bank notes, or other instruments payable to bearer, or their coupons, whose issue may have been authorized by a law of the kingdom."

5. ID.: ESTAFA.—To constitute the crime of counterfeiting money there must be in the false thing a similitude to the supposed original, and there being no such similitude between a \$1 silver certificate with the figure "10" pasted over the figure "1" and a genuine \$10 certificate, the crime committed by one who so attempts to raise a \$1 certificate, and uses it as a means of fraud is not that of counterfeiting paper money, but that of swindling (*estafa*).

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

LIONEL D. HARGIS, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On January 20, 1903, the prosecuting attorney of the city of Manila filed an information in the Court of First Instance of that city charging the three defendants with the crime of the falsification of notes or documents equivalent to current money payable to bearer, in that on or about the 16th day of January, 1903, the said defendants, Gardner, Jameson, and Kilp, in the city of Manila, Philippine Islands, willfully, feloniously, and with intent to gain, forged two notes or documents which passed as current money under the laws of these Islands, with the intent of circulating them, and forged and attempted to make an imitation of two United States silver certificates of the value of \$10 each, money of the United States, altering and changing the numbers, seals, letters, and inscriptions on two \$1 United States silver certificates which pass as current money in the Philippine Islands, in order that they might appear on the face as of the value of \$10 each; this contrary to the statute in the case made and provided.

After the complaint was filed and before the trial commenced, at the request of the prosecuting attorney the case was dismissed with respect to the defendants Jameson and Kilp under the provisions of article 34 of General Orders, No. 58, and they were accordingly discharged, the prosecution being continued solely against Alonso P. Gardner.

From the testimony taken at the trial, it appears that on January 16, 1903, while the accused, Gardner and Jameson, were in the "Soldiers' Institute" situated in Santa Cruz of this city, Gardner ordered Jameson to go to a bookstore in front of the post-office to buy a bottle of muclilage and a blue pencil, and for that purpose gave him a half a dollar. This was about half past 3 in the afternoon. Jameson got the muclilage and the pencil, Gardner not having told him for what he wanted them. As a witness Jameson identified one of the blue pencils which was shown him at the trial. Jameson's testimony is corroborated by S. A. Presby, the owner of the Manila Stationery Company, who identified the witness Jameson, as also the pencil and a bottle of muclilage, which were exhibited to him as those which he had sold to Jameson between 1 o'clock and 2.30 that afternoon. Between 6 and 7 o'clock that night the witness Jameson, at the invitation of the accused, went by tram car to the Malate barracks, where they found a soldier, named William, with whom the accused had some conversation. They then left the barracks, and while passing by a tailor shop Gardner handed Jameson a bill asking him to change it for silver and promised to give him half its value. Jameson drew Gardner's attention to the fact that the bill was not good, to which Gardner replied that he knew that, and that he had made it with muclilage, saying to Jameson, "Go along, get it changed, and I will give you half." Jameson cashed the bill and received 25 pesos for it and then went up to the Soldiers' Institute, where he found Gardner. This witness described the bill which was so exchanged by him, together with the alteration which had been made in it, and identified the bill which was exhibited to him at the trial as the one which he had given to the Chinese tailor, numbered 54226499, and testified that this bill had been given him by the defendant Gardner, in whose possession he had also seen some Confederate bills. The silver certificate identified by this witness appears on page 91 of the record. Jameson also testified that when he delivered to Gardner the money obtained by changing the note the latter gave him \$7 or \$8, and that Gardner at that time had another bill on which he had pasted a number "10" very similar to the bill which he had given the witness, and that this bill remained in Gardner's possession; that afterwards the witness Jameson and defendant Gardner went together to the town of Calamba, where the witness saw that Gardner had nine Confederate \$10 bills which he tried to pass in a Filipino drug store; at the time he tried to pass these bills there were three persons unknown to the witness in the store, one of them an American and the other two Filipinos. The Chinaman Ah Fun, resident of No. 32 Calle Nueva, Malate, testified that he had given 25 pesos in exchange for an American bill upon which the number 10 had been pasted; that he did not observe this defect in the bill at first, as it was dark, but observed it very shortly afterwards and immediately went to the police station to complain. This witness identified the bill numbered 54226499 as the one which had been delivered to him by Jameson, and testified that the latter told him it was a ten-dollar bill.

The witness William F. Kilp testified that he was with Gardner one Saturday night, the date of which he does not remember, in a house of prostitution in Sampaloc and that while in this house the witness attempted to pass a bill which he had received from the accused while they were together in the Soldiers' Institute a short time before; that he handed this bill to the owner of the house No. 106, that the woman shortly after returned it to him saying she could not change it because it was bad. This witness identified the bill on folio 91 of the record, numbered 36579981; he testified that after the woman returned the bill to him he handed it back to the accused who told him at the time that it was not a good bill and that he had got it from a man called Bennet; this witness also testified that he had seen some other Confederate bills in the possession of the defendant.

George W. Marshall, a detective, testified that he was in the Sampaloc station when the witness Kilp was taken there under arrest in connection with the attempt to pass a one-dollar bill raised to a ten, and identified the bill in question as that numbered 36579681, now on page 91 of the record. Jerome Patterson, a policeman, testified that he saw William F. Kilp in a house of prostitution No. 106 and that Kilp while there handed a \$10 note to the mistress of the house, who offered him 20 pesos for it; that upon this the witness asked Kilp why he accepted 20 dollars for it when a Chinaman would give him 25 for it, to which Kilp replied that the Chinaman only had 6 or 8 dollars; that shortly after the woman received the bill she came back with it and refused to keep it, and that then Kilp approached the light for the purpose of examining it as did some others who were there and also the witness; that when the witness asked Kilp where he got that bill the latter told him he got it at No. 47 Baliebalic in a Chinese house; that just at this time a stranger who was lying on a bench there said that he was present when the bill was given to Kilp; that this man was about the same size as the accused and that after Kilp was taken to the police station the witness returned and looked for the man who had been lying on the bench but could not find him.

Maria Sanchez, the keeper of the house of prostitution, identified the defendant as having been in her house with the defendant Kilp, who tried to cash a \$10 American bill and said she was about to give him the change but observed on approaching the light that the number was stuck on to the bill; that she then returned it and said she would not change it because it was bad; that when Kilp was taken to the police station by Patterson, the police officer, it was found that the bill was bad; that while this was going on the defendant Gardner was sitting on a bench; this witness identified the bill numbered 36579681 as the same which had been handed her by Kilp.

Article 289 of the Penal Code provides that those who falsify bank notes or other instruments or documents payable to bearer, or coupons thereof, the issue of which has been authorized by law, or those who introduce such in the Philippine Islands, shall be punished by *cadena temporal* in its medium degree to *cadena perpetua* and a fine of from 6,250 to 62,500 pesetas.

The silver certificates in the record are documents payable to bearer, or documents of credit duly issued by virtue of the Federal laws in force in the United States and are included in this article of the Code as documents payable to bearer.

Each one of these certificates may be considered as paper money, the purpose of which is to take the place of cash by a representative value, the same as any other document of credit, but they can not be considered to be money as they are not a commodity having an intrinsic value as has coined money.

The falsification of bank notes and of documents of credit payable to bearer and issued by the State, to which class the two certificates in question belong, is an act severely punished by the law as tending to bring such documents into discredit and because such offenses produce a lack of confidence on the part of the holders of said documents to the prejudice of the interests of society and of the State, and for this reason the law punishes this crime more severely than it does the counterfeiting of money, in consideration of the fact that it is easier to counterfeit such certificates, notes, and documents of credit payable to bearer than to make counterfeit coin and that the profit which is derived therefrom by the forger of such documents is greater and the incentive for the commission of such a crime more powerful.

The falsification of these silver certificates was effected by pasting little pieces of paper on each one of which the figure "10" appears, over the figure "1" which showed the true value of the certificate and by obliterating with a pencil the number "1" wherever it appeared on the corners or sides of the certificates for the purpose of making it appear that each one of them was

worth \$10 instead of \$1, and by this means the sum of 25 Mexican pesos was fraudulently obtained in exchange for one of the said bills or certificates.

The accused, Alonso P. Gardner, pleaded not guilty. In his sworn testimony he stated that on the night of the 16th of January, 1903, while at supper in the Soldiers' Institute, Jameson approached him and sat down beside him; that shortly afterwards Kilp arrived, who asked Jameson if he had any money and the latter replied affirmatively, placing a bill on the table and told him to take what money he wanted; that thereupon the witness picked up the bill, without noticing what it was and handed it to Kilp; that one afternoon Jameson put on a pair of trousers belonging to a man called Studemeyer and shortly after found in the pocket of these trousers three Confederate notes, and when Jameson handed the witness one of these notes in Sampaloc, asking him if it was good, the witness looked at it and said, "No; it is not good;" that Jameson had more than two notes of this kind, from which the witness removed the numbers which had been pasted on to them; that when he went and looked for Jameson to whom he had delivered a watch for sale on the night of the 16th of that month, he found him in a Chinaman's store changing forged notes; that Kilp also passed a forged note that night; that the witness did not know by whom these notes were forged; that on the night of the 17th the witness and Kilp were in house No. 106 in Sampaloc, where he stretched out on a bench; that shortly after a woman aroused him asking him if a bill which she had was good; that Kilp then told her that he knew to whom it belonged and the witness replied that it belonged to one Bennet; that he knew that Kilp passed the false note in Sampaloc in exchange for silver and that Jameson did the same thing; he denied that he had received any part of the money which Jameson obtained for the false note; that on the 16th of January Jameson asked him for a dollar with which to buy a bottle of muceilage, and the witness handed Jameson 30 cents, which was all the money he had; that nothing was said about buying a blue pencil; that while he was in Bilbid he endeavored to induce the said Kilp and Jameson to tell the truth and that they agreed to do so, but that only Kilp testified and Jameson refused to do so fearing that he would be charged with perjury if he changed his testimony.

These excuses given by the defendant, Gardner, do not overcome the result of the evidence for the prosecution. The proof of the defendant's guilt is shown beyond a reasonable doubt; that Alonso P. Gardner altered two silver certificates of the value of \$1 each, for the purpose of gain, circulating and passing them as of the apparent value of \$10, and that he succeeded in cashing one of them and that with respect to the other his criminal purpose was frustrated because the fact that the bill was forged was observed at the time.

The testimony of the witnesses called by the defense do not show that Gardner had nothing to do with the alterations made in these two certificates. The evidence is that the defendant bought a bottle of muceilage with which the figure "10" was stuck on a \$1 note over the figure "1" and provided himself with a blue pencil with which the other figures on the certificate were obliterated; that while he was in prison he endeavored to induce the witnesses Jameson and Kilp, of whose services he availed himself for the purpose of circulating the forged notes, to testify in his favor. This circumstance corroborates the testimony for the prosecution and gives greater weight and credibility to the witnesses against Gardner, who it thus appears is the sole principal by direct participation in the crime of falsification herein prosecuted.

No circumstances of mitigation or aggravation were present in the commission of the crime and consequently the adequate remedy should be imposed in its medium grade.

With respect to the points made in the brief for the defense, it is sufficient to show that Jameson and Kilp testified under oath at the trial as witnesses and not as accomplices in the crime and

that the conviction of the defendant rests not only on their testimony but also on other evidence for the prosecution and upon evidence in the record considered as a whole.

For these reasons we are of the opinion that the judgment of the trial court should be reversed and Alonzo P. Gardner should be condemned to the penalty of seventeen years four months and one day of *cadena temporal*, with the accessories of the civil interdiction of the defendant during the period of the penalty, that of absolute perpetual disqualification and subjection to the vigilance of the authorities during his lifetime, to the payment of 25 Mexican pesos to the Chinaman Ah Fun, and to the payment of the costs.

Judgment will be entered accordingly, and the case will be remanded to the court below with a certified copy of this decision for execution. It is so ordered.

Arellano, C. J., Willard, and Mapa, JJ., concur.

McDONOUGH, J., dissenting:

The defendant was charged with making and passing counterfeit money. He is not charged with falsifying "bank notes or other instruments or documents payable to bearer or their coupons whose issue may have been authorized by a law of the Kingdom," as provided for in Chapter III, article 289 of the Penal Code.

Chapter II of the Penal Code makes provision for the punishment of those who counterfeit money, whereas Chapter III relates to the falsification of bank notes, instruments of credit, stamped paper, etc. The two bills which were altered by the defendant, one of which was passed and the other offered and refused, are known as silver treasury notes of the United States, and are genuine bills of the denomination of \$1 each, which bills the defendant attempted to raise to the denomination of \$10 by pasting on each of them the figure "10." These treasury notes are made by law a legal tender for all debts, public and private, unless otherwise denominated in the contract, and are payable in coin. They are not "bank notes," nor are they "other instruments or documents"—they are money. (See act of Congress passed July 14, 1890, chap. 708.)

The other instruments referred to in article 289 evidently mean bonds or stocks or like instruments payable to bearer; and this construction is supported by the provisions of article 293, which provides for the punishment for counterfeiting "bonds payable to order or other documents of credit not payable to bearer."

It follows that the defendant should be punished under article 282 of Chapter II of the Penal Code for making counterfeit of money which is current in the Kingdom. If it be said that this article relates only to coined or metallic money, the answer is that the word *moneda* may properly be used in its commercial sense as a medium of exchange, and thus include paper money as well as metal money.

One of the definitions given to that word in the *Diccionario Enciclopedia de la Lengua Castellana* is to that effect. Moreover, in subdivision 5 of that definition it is given the meaning of "coerriente de legal y usual," and in subdivision 17 we find "moneda sonante" and "moneda metálica," showing that *moneda* is a generic word which includes legal-tender paper money as well as metallic money. This, too, is the translation given to the word in the official English translation of the Penal Code issued by the United States Government.

In Appleton's Spanish Dictionary *moneda* is defined as "Money, specie, coin." *Moneda sonante* is defined as "Hard money, specie," and *moneda corriente* is defined as "Currency."

This view that the punishment should be for counterfeiting or passing counterfeit money is supported by the provisions of article 280 of the Penal Code, which expressly fixes the penalty for counterfeiting the coined money of the Kingdom, viz, gold, silver, copper, and bronze, whereas article 282 is a sweeping one

and includes all other money current in the Kingdom, which would of course, include paper money.

It is important to determine whether the defendant shall be punished under article 289 or under article 282, for under the former article a penalty of at least seventeen years imprisonment be imposed must be imposed on the defendant, whereas under the latter section the longest term of imprisonment which can be given the defendant is four years nine months and ten days. The highest penalty that can be inflicted in the United States for counterfeiting treasury notes is a fine of not more than \$5,000 and imprisonment not more than fifteen years, this leaving it in the discretion of the court to impose such lesser penalty as the magnitude of the offense requires.

It seems to me that imprisonment for a term of seventeen years for raising a \$1 bill to \$10, and passing it is too severe a punishment for such an offense. If we may be so liberal as to construe the word "Kingdom" to mean "United States" or "Philippine Islands," as we must do to convict at all under the present law, we may well in the interest of justice hold that the word "*moneda*" includes paper money, and that the defendant may be convicted under Chapter II of the Penal Code. I therefore favor reversing the judgment below, convicting the defendant of making and passing counterfeit money, and sentencing him to imprisonment for four years nine months and ten days, and to pay a fine of 1,000 pesetas.

COOPER, J., dissenting:

The defendant, Alonso P. Gardner, was charged with the crime of falsifying notes and instruments passing current as money under the laws of the Philippine Islands, payable to bearer, and was convicted in the Court of First Instance and sentenced to imprisonment for the period of twelve years and one day.

The complaint in the case is as follows:

"The undersigned accuses Alonso P. Gardner, James Jameson, Wm. F. Kilp, and each of them, of the crime of falsifying notes and instruments passing current as money under the laws of the Philippine Islands, payable to bearer, committed as follows:

"That on or about the 16th day of January, 1903, in the city of Manila, Philippine Islands, the said defendants and each of them did, willfully, unlawfully, and feloniously and with intent of gain and for the purpose of circulating the same, counterfeit and falsify two notes and instruments passing current as money under the laws of the Philippine Islands, in this, to wit: That the said defendants and each of them did, then and there, falsify, counterfeit, and make, and attempt to make an imitation of two United States silver certificates of the value of ten dollars (\$10) each, United States currency, by then and there so altering and changing the figures, stamps, lettering and inscription on two one-dollar silver certificates, United States currency, passing current in the Philippine Islands as money, as to make them appear on their face to be of the value of ten dollars (\$10) each, United States currency, contrary to the statute in such cases made and provided.

"GEO. W. MARSHALL.

"Subscribed and sworn to before me this 20th day of January, 1903."

Article 289 of the Penal Code, under which the conviction was made, reads as follows:

"Those who shall falsify bank notes or other instruments payable to bearer, or their coupons, whose issue may have been authorized by a law of the Kingdom, or those who shall introduce them into the Philippine Islands, shall be punished with the penalty of *cadena temporal* in its medium degree to *cadena perpetua* and a fine of from 6,250 to 62,500 pesetas."

The evidence shows that the money which is alleged to have been counterfeited was a genuine \$1 United States silver certifi-



cate. The alteration consisted in cutting out from a Confederate bill the figure "10" and in pasting it in the upper corners of a genuine \$1 silver certificate. There was no attempt to change any of the written or printed part of the bill.

The questions which arise in the case are: (1) Was the offense charged in the indictment of the character defined and punished in article 289 of the Penal Code? (2) Did the alteration of the silver certificate in the manner shown by the evidence—that is, pasting the figure "10" cut from a Confederate bill over the figure "1" in the upper corners of a \$1 silver certificate—constitute the offense of counterfeiting money?

That a United States silver certificate does not come within the meaning of "bank notes or other instruments payable to bearer, or their coupons, whose issue may have been authorized by a law of the Kingdom" is evident when construed in the light of the legislation contained in the Code of Commerce, for, by examining these provisions we discover the character of the paper which was "authorized by the law of the Kingdom."

By article 117 of the Code of Commerce, the establishment of land, agricultural, issue and discount banks, of loan and mortgage loan associations and other associations, the purpose of which is industrial or commercial, is declared to be unrestricted.

Under article 179, Code of Commerce, banks are authorized by law to issue notes payable to bearer; by article 207 of the same Code, mortgage-loan associations or banks are authorized to issue mortgage bonds and certificates to bearer; and by article 212 of the Code of Commerce, agricultural banks and associations are authorized to guarantee with their signature promissory notes.

It is evident from these provisions of the Code of Commerce what class of bank notes or other instruments payable to bearer, or coupons, have been authorized by the law of the Kingdom, and it is evident that a silver certificate issued by the United States Government does not come within the meaning of section 289.

This section is contained in Chapter III, Penal Code, while the counterfeiting of money is defined and punished under Chapter II of the Penal Code.

It will be noticed that a much heavier penalty has been fixed for counterfeiting bank notes or other instruments payable to bearer, or their coupons, than is prescribed for the counterfeiting of money. In the former case, the offense is punished by *cadena temporal* in its medium degree to *cadena perpetua* and a fine of from 6,250 to 62,500 pesetas. While for counterfeiting money under article 282 the punishment is *presidio correccional* in its medium and maximum degrees and a fine of from 625 to 6,250 pesetas.

The majority of the court have reached the conclusion that the defendant can not be convicted for the counterfeiting of paper money under chapter II, because the money referred to in article 280 and 282 of said chapter relates solely to gold or silver coin.

The fact that such may be the case will not justify the conviction of the defendant under another provision of law, which was intended to apply to an entirely different case.

But if it is true that the counterfeiting of paper money may be punished under article 282 of the Penal Code, still the facts in this case are insufficient to support a conviction. This offense is defined as follows:

"He who shall make counterfeit money, of the value of the genuine, by imitating money that is lawfully current in the Kingdom, shall be punished with the penalties of *presidio correccional* in its medium and maximum degrees and a fine of from 625 to 6,250 pesetas."

There was no attempt on the part of the defendant to make a counterfeit \$1 silver certificate. The \$1 silver certificate passed by the defendant was a genuine bill. Nor was there any attempt to counterfeit a United States \$10 certificate. There is no resemblance whatever between the \$1 silver bill, as changed by pasting

the figure "10" in the upper corners of the bill and a genuine United States \$10 silver certificate. Nor, as will be seen by a comparison, is there the least resemblance between a \$1 silver bill and a \$10 silver bill; they are of a different series and the engravings on the bills are in no respect alike. In the upper left hand corner of a genuine \$10 bill there is the letter "X" with the word "Ten" printed across it which is entirely different from the figure "10" on the \$1 silver bill; in the \$1 certificate appears the large figure of an eagle, while on the \$10 bill is a vignette of an eminent statesman. The other figures engraved on the respective bills are wholly dissimilar.

In forgery, as well as the counterfeiting of money, the rule is that there must be in the false thing, a similitude to the supposed original. (1 Bishop, Cr. Law, 769.)

This similitude is entirely lacking, as before stated, between the bill passed by the defendant and a genuine \$10 silver certificate.

The bill has been sent up with the record. An inspection of it shows an extremely clumsy piece of work, and it can not be conceived how it could have been passed except by taking advantage of the darkness of night. The evidence in the record shows that there was an attempt to pass this bill on another person than the injured party, and the trick was at once discovered.

Ah Fun, the Chinaman on whom the bill was passed, seems to have taken it rather upon the representation by word that it was a \$10 bill, than by being deceived by the appearance of the bill. He testified "it was in the nighttime and I could not see \* \* \* he said it was a \$10 bill, I thought it was a \$10," and states that he discovered the fraud about five minutes after the defendant left.

Instead of this being a case of counterfeiting, it was a mere trick or device by which the defendant defrauded the Chinaman of the money he received in exchange for the bill.

The offense which the defendant has committed and for which he should be punished, is *estafa*, and is defined in article 534 of the Penal Code, which reads as follows:

"A person who shall defraud another in the substance, quantity, or quality of things he may deliver to him, by virtue of an obligation, shall be punished—

"1. With the penalty of *arresto mayor* in its minimum and medium degrees, if the fraud should not exceed 250 pesetas in amount \* \* \*"

The defendant should be acquitted of the offense with which he is charged, with directions that a complaint be instituted against him charging him with *estafa*, defined in article 534 of the Penal Code, the penalty of which is *arresto mayor* in its minimum and medium degrees. There is quite a marked difference between this penalty, which is imprisonment from two to four months, and that of *cadena temporal*, under which the defendant has been sentenced by this court to imprisonment for the period of seventeen years four months and one day.

*Judgment reversed.*

[No. 1581. March 15, 1904.]

THE UNITED STATES, complainant and appellee, vs. PEDRO GIT, defendant and appellant.

1. CRIMINAL LAW; MURDER; ALEVOSSIA; AGGRAVATING CIRCUMSTANCES; NOCTURNITY; EVIDENT PREMEDIATION; REMUNERATION; DWELLING.—The accused, in consideration of the promise to pay him the sum of 100 pesos, killed the deceased, inflicting upon him a mortal wound while he was lying asleep in his own house. *Held*, that the facts constitute murder, with the qualifying circumstance of *alevosia* and the generic aggravating circumstances of the commission of the crime for remuneration, with evident premeditation, in the nighttime and in the dwelling house of the deceased.
2. IN.; MITIGATING CIRCUMSTANCES; DRUNKENNESS.—The fact that the accused was intoxicated at the time of the commission of the crime will not be considered as a mitigating circumstance when it is not shown that this vice was not habitual with him, and when it appears that he became intoxicated purposely to nerve himself for the commission of the crime.

REVIEW of a judgment of the Court of First Instance of Negros Occidental.

The facts are stated in the opinion of the court.

SANTIAGO D. REYES, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On December 3, 1902, the provincial fiscal of Occidental Negros filed an information in the Court of First Instance of that district charging Pedro Git, Laurencio Sernal, Julio Oecia, Pedro Mijares, and Laureano Mijares as principals, and Basilio Situado, Petronilo Berdaga, and Eugenio Berdaga as accessories after the fact, of the crime of murder in that one Saturday, prior to the 11th of November, 1902, for the purpose of appropriating to themselves the lands of Miguel Pastor and of preventing him from presenting any claim whatever. Pedro Mijares and Laureano Mijares, his brothers-in-law, who were working the said lands, proposed to Pedro Git and Laurencio Sernal, while the latter were in the house of the said Laureano, that they kill said Pastor for the sum of 100 pesos, instructing them to kill the said Pastor with clubs for the purpose of avoiding the shedding of blood by which the crime might be revealed and in order that his death might be attributed to the cholera, which was then epidemic; that the said Git and Sernal accepted the proposition and resolved to carry it into effect at 12 o'clock on the said 11th day of November while Miguel Pastor was sound asleep in his house at Bontot in the township of Escalante of that district, in which house they were living as laborers employed by Pastor; that Pedro Git struck Pastor a blow on the back of the neck with a club, being then and there aided by Julio Oecia, who was present with a rope provided by Pedro Mijares for that purpose, with which rope the deceased was bound while attempting to defend himself after the blow was struck; that after Pastor was killed his body was buried in the cemetery with the aid of Basilio Situado, Petronilo Berdaga, and Eugenio Berdaga, the first of whom was suspected of having sustained illicit relations with the wife of the deceased, who on that account had discharged him some days before the occurrence; that the second person above named had found spots of blood in the said house but failed to make a proper investigation, thereby giving occasion for the concealment of the crime. The fiscal asked in his information that the youth, Paulo Sernal, be not prosecuted, as his participation in the crime was not proven.

The complaint having been filed, the discharge of defense asked that Pedro and Laureano Mijares be given a separate trial, which petition was granted. Afterwards the case was dismissed as to the defendant Petronilo Berdaga at the request of the prosecuting attorney, and he was accordingly discharged.

Mr. G. A. Barber, a sanitary inspector, having been informed by some of the inhabitants of the place that early on the morning of November 12, 1902, a man had been buried in the cemetery under suspicious circumstances, he reported the case to the local president of the town of Escalante, who, accompanied by his secretary, the said inspector, and the justice of the peace, with his witnesses, immediately proceeded to make an examination; they went to the grave where they observed spots of blood on the ground. The body having been exhumed it was found to be that of Miguel Pastor. When exhumed the corpse was wrapped in a mat. An examination of the body showed that a piece of rope was wrapped around the neck, one end of it being fastened to the left arm, the other free end having been apparently broken. A wound was found on the back of the neck and the right cheek, right eye and nose were bruised.

Clara Singson, the municipal president, and his secretary, Juan Alarcon, stated in their testimony, in addition to the facts above related, that Marcelino Gamao, a member of the municipal

council, also stated that he had been informed by the grave-diggers that spots of blood were found around the grave in which Miguel Pastor was interred, and consequently, in view of the condition in which the body was found when exhumed, he directed the arrest of the men who had buried the body, the result being the detention of Pedro Git, Pedro Mijares, Basilio Situado and Laurencio Sernal. This witness testified further that when exhumed the body was dressed in an undershirt and trousers and that there was a white stocking on one of the feet; that the grave was only two or three spans in depth; that after the place was inspected and an examination of the body made by Dr. Barber, the corpse was reinterred; that about 10 o'clock on the morning of the 12th, of November, Apolonio Quintao, a corporal of the Constabulary force reported to the local president and to the justice of the peace that he had arrested Laureano Mijares, a member of the town council, because Pedro Git and Laurencio Sernal had stated that they had killed the deceased, Pastor, the night before, by orders of the said Laurencio, in consideration of the compensation of 100 pesos.

The witnesses Domingo Sabete, Fabio Dotdot, and Anatacio Cobete testified that according to information which they had received, Miguel Pastor was killed by Git and Sernal, workmen in his employ, by order of Laureano Mijares. The last witness testified further that the house of Pedro and Laureano Mijares was about 200 brazas away from that of Miguel Pastor. Petronilo Berdaga testified that on the morning of November 12 Pedro Git came to his house and told him that Miguel Pastor had died of cholera and asked him to assist in the burial of the body in the cemetery, but that the witness, being ill, excused himself and ordered his brother Eugenio Berdaga to go with Git and bury the body. That at daybreak he went to the chapel but found that the body was no longer there, but met Pedro Git, Laurencio Sernal, Julio Oecia and his brother Eugenio, and also Basilio Situado, who were coming from the direction of the cemetery; that as he observed spots of blood on the floor of the building, he asked from whence this blood had come, to which Git replied that they were part of the fecal matter which had come from the corpse, which statement the witness believed; that after he was arrested and taken to the Constabulary barracks he heard Pedro Git, Laurencio Sernal, and Julio Oecia state to the Constabulary corporal that Git was the man who killed Pastor with the aid of Sernal and Oecia, by order of Laureano and Pedro Mijares; that Git owed the deceased a certain sum of money which he had refused to pay; that after Git's arrest a pair of trousers, an undershirt, and a shirt of the deceased were found in his possession, which garments the witness recognized, he also being a laborer employed by Pastor.

Laurencio Sernal testified that he lived in the house of the deceased with his brother and Paulo Sernal and that while asleep on the night of the occurrence he was aroused by a loud cry from Pastor, who called for assistance; that he immediately arose for that purpose and, there being no light, he crawled along the floor on his hands and knees; that just at this time Pedro Git, who was also in the house, lit a light and then witness saw the corpse of Miguel Pastor lying on the floor, face upward, with a rope fastened to one of the arms and wrapped several times around the neck; this witness further testified that Git was not in the house before the witness went to bed and that he had not seen him up to the time that the light was lit and that he believes that Git was the man who killed the deceased and struck the blows, the noise of which he heard immediately after the cry; that the said Git immediately left the house and shortly after returned with Pedro Mijares who was desirous of determining for himself whether Pastor was dead or not, and that upon being convinced that he was, he said: "Pardon me, brother Miguel, for the harm which I have done thee;" that Git and Pedro Mijares then went away and shortly after returned bring-

ing some pieces of split cane with which they made up a sort of crate in which they placed the body after wrapping it in the mat; that thereupon the witness, Pedro Git, Basilio Situado, Eugenio Berdaga, and Julio Oecia took the corpse to the cemetery; that Pedro Mijares also saw the rope wrapped around the neck of the corpse; that Situado and Berdaga were called by the said Git and Mijares to help carry the body; that about 4 o'clock on the afternoon of the same day while passing along in front of the house of Laureano Mijares, Pedro Mijares invited the witness to come in, and upon his entering the said Pedro, in the presence of Laureano told him that if anything happened that night in the house of Miguel Pastor that he was to keep quiet about it; the witness replied that he did not understand what they meant; that when the light was lit and he saw Pastor there dead he also saw Julio Oecia squatting near the body; that Paulo Sernal who also slept in the house did not awake at that time.

Paulo Sernal testified that on the night of the 11th of November he went to bed beside Miguel Pastor and did not observe that the latter arose from the bed to go to sleep on the floor; that when he awoke on the following morning he missed Pastor, and shortly after he was arrested, together with his brother Laurencio; that he then heard that Pastor had been beaten to death, and that when Pedro Git, his brother Laurencio, and Julio Oecia testified before the justice of the peace the witness heard that the latter were the persons who had been guilty of the crime; this witness further testified that he and the persons last named lived in Pastor's house.

Upon this testimony the judge below, considering the crime of murder proven as also the guilt of Pedro Git as principal and also that of Laurencio Sernal and Julio Oecia as accessories after the fact, condemned Pedro Git to death and Laurencio Sernal and Julio Oecia to the penalty of ten years of *presidio mayor* each, with the accessory penalties, and all three of them to the payment to the heirs of the deceased of the sum of 1,000 pesos each and to the payment of three-fifths of the costs. Basilio Situado and Eugenio Berdaga were acquitted, and two-fifths of the costs were declared *de officio*.

Against this decision there was no appeal by the provincial fiscal or the defendants Sernal and Oecia, and accordingly with respect to them the judgment of the court below is final and the case is before us solely with respect to the conviction of Pedro Git, who was condemned to suffer the death penalty.

The facts above stated show that the crime which was committed is murder. The evidence in the case shows that on the night of the 11th of October, 1902, while Miguel Pastor was sound asleep on the floor of his house, he was struck on the back of the neck with a piece of hard wood and a rope immediately wrapped around his neck, one end of which was fastened to his left arm; that the deceased, being for this reason unable to defend himself or to arise, was strangled to death. The post-mortem examination shows that his death was caused by the blow on the back of the neck close to the right ear and also by asphyxia, he having been strangled to death with the said cord; that the wound was inflicted with a sharp, pointed instrument which penetrated to the brain.

It is therefore evident that Miguel Pastor was killed under circumstances constituting *alevosia*, the crime having been perpetrated while he was asleep, and consequently the assailant without any risk whatever to himself succeeded in treacherously committing the crime.

The defendant Pedro Git pleaded not guilty, but in his testimony as a witness for the defense said that he killed his master, Miguel Pastor, on the night in question in obedience to orders received from Pedro and Laureano Mijares, brothers-in-law of the deceased; that he struck the deceased on the neck with a piece of *guayaba* wood, used for an axe handle, which was about as thick as a man's arm and while the deceased was sound asleep in his

house; that the Mijares brothers, having met the witness in the house of Laureano to which he had been invited by Pedro, after giving him several drinks of wine, proposed to him that he kill Pastor; that although he refused to accede to this proposition at first, he consented after they offered him a reward of 100 pesos; that they then encouraged him, telling him not to be afraid because one of them was a member of the town council and that it would be easy to attribute the death to the cholera, which was then epidemic in the town; that after he was drunk, Laureano gave him a rope with which to tie the victim in case of resistance, and a box of matches with which to make a light for the purpose of finding the place where Pastor was lying; that accordingly, at midnight, he went to Pastor's house and having found the place where he was lying, struck him a blow on the neck with the club he was carrying; that Pastor cried out for help, whereupon the witness immediately tied the cord he was carrying to one of the hands of the deceased and then wrapped it several times around his neck and strangled him; that by this means he killed Pastor and while committing the crime called for Laurencio Sernal and Julio Oecia, who came to his assistance, holding the deceased by the feet and hands; that after Pastor was dead he reported the fact to Laureano and Pedro Mijares and the latter provided the bamboo with which the body was crated and prepared for burial; that they then called for Basilio Situado and Eugenio Berdaga, who, together with the witness and the said Oecia and Sernal, carried the body out to the cemetery and buried it.

The defendant Pedro Git has been unquestionably the material executor, the conscious instrument of the crime planned by the Mijares brothers, he having committed it in consideration of the sum of 100 pesos which they promised to pay him, believing that because of the prevalence of the cholera he could commit the crime with impunity by attributing to that disease the sudden death, disappearance, and burial of his victim.

The guilt of the defendant Git is unquestionable, and is fully proven not only by his own confession but also by the testimony of his codefendants and that of several witnesses who heard his statements before he testified in court. The contention that he acted in proper obedience to orders is untenable, because the order which he received was plainly and manifestly unlawful. The guilt of the Mijares brothers will be determined in a separate case which is being prosecuted against them.

No mitigating circumstances can be considered to have been present in the perpetration of the crime. The mitigating circumstance of drunkenness can not be considered, both because it does not appear that the vice of drunkenness was not habitual to the defendant, and also because it appears from the evidence that a considerable quantity of wine was given to Git purposely, which he voluntarily accepted before deciding to commit the crime. Against the defendant we must consider aggravating circumstances Nos. 3, 7, 15, and 20 of article 10 of the Penal Code; the crime having been committed in consideration of the promised remuneration of 100 pesos, with evident premeditation, and in the darkness and silence of the night and in the dwelling of the deceased. Consequently the judgment of the court below is supported by the evidence and is in accordance with the law, and, therefore, for the reasons stated, we are of the opinion that the judgment must be affirmed with respect to Pedro Git, with one-fifth part of the costs, the death penalty to be executed in accordance with the provisions of Act No. 451 of the Civil Commission, enacted September 2, 1902.

Judgment will be entered accordingly and the case remanded to the trial court with a certified copy of this decision for execution. It is so ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1550. March 24, 1904.]

**THE UNITED STATES, complainant and appellee, vs. JULIO POLOSAN, defendant and appellant.**

**CRIMINAL LAW; BRIGANDAGE; EVIDENCE.**—Proof that the defendant had been selling slips of paper with the words *quien vive* written thereon, and that the money so obtained was given to the *pulahanes* will not support a conviction of the crime of brigandage.

**APPEAL** from a judgment of the Court of First Instance of Cebu.

The facts are stated in the opinion of the court.

LEOCADIO JOAQUIN, for appellant.

Solicitor-General ARANETA, for appellee.

**JOHNSON, J.:**

The defendant was charged with the crime of brigandage. He was tried in the Court of First Instance of the Province of Cebu, was convicted and sentenced to be imprisoned for a term of twenty years and to pay a one-fifth part of the costs. Four others, Mariano Naval, Mamerto Ornopia, Julian Ornopia, and Victoriano Labitaña, were arrested and tried at the same time upon the same complaint. These latter were acquitted at the trial. Julio Polosan appealed from the sentence imposed upon him.

The proof taken in the trial shows that the defendant had, perhaps, been selling small slips of paper upon which was written the phrase "quien vive," and that the money received from such sales was given to the "Pulahanes" that then existed in said Province of Cebu. There was no proof that the defendant had robbed, conspired with others to rob, or had given aid and comfort to a band of bandits or brigands. Without such proof one can not be convicted of brigandage.

The sentence of the lower court is therefore revoked, and the accused is hereby ordered discharged, without prejudice to the right of the fiscal, if he believes the proof to be sufficient, to file a new complaint for the crime of illegal exactions.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, J.J., concur.

*Judgment reversed.*

[No. 1570. March 25, 1904.]

**UNITED STATES vs. MANUEL MORTIL AND MAXIMO MANA.**

**JOHNSON, J.:**

These defendants were charged with the crime of *bandolerismo* with wounds. But one witness was examined in the court below. The defendants offered no proof in defense of the charges. The testimony offered on behalf of the prosecution was very conflicting.

The law makes no provisions for the punishment of "*bandolerismo* with wounds."

In view of the various conflicts in the proof offered below, we are of the opinion that the defendants should be discharged under the complaint filed, and that the cause be remanded to the court below, with instructions to the provincial fiscal to prepare and present a complaint against the defendants for the crime of robbery or wounds, or both, if he is of the opinion that the existing facts are sufficient to justify a conviction. And it is so ordered.

Arellano, C. J., and Torres, Cooper, Willard, Mapa, and McDonough, concur.

[No. 1395. March 28, 1904.]

**JUANA BRAGA, plaintiff and appellee, vs. JOSE MILLORA, defendant and appellant.**

**1. PLEADING AND PRACTICE; FINDINGS; REVERSIBLE ERROR.**—Upon deciding a case involving the termination of issues of fact, it is the duty of the trial

court to make written findings (a) of the material facts admitted by the pleadings and (b) of the material facts presented in the issue and sustained by the evidence, and a failure to do so is reversible error.

**2. ID. ID.; CONCLUSION OF LAW.**—The statement in a pleading that the plaintiff, according to the evidence, is the owner of the property in litigation, is not a finding of fact but the statement of a conclusion drawn from facts.

Per COOPER, J., dissenting:

**3. ID. ID.**—The failure to make findings should not be reviewed by the appellate court in the absence of a motion for findings and an exception to the refusal of the court to make such findings.

**4. ID. ID.; CONCLUSION F. LAW.**—The statement in a decision that the plaintiff, according to the evidence, is the owner of the property in litigation is not a conclusion of law but of the ultimate fact in the case on the issue of ownership.

**APPEAL** from a judgment of the Court of First Instance of Zambales.

The facts are stated in the opinion of the court.

CHICOTE & DE LA SIERRA, for appellant.

V. MIRANDA, for appellee.

**JOHNSON, J.:**

This action was originally brought in the court of the justice of the peace of the pueblo of Infanta, in the Province of Zambales, by the plaintiff against the defendant, to annul a certain contract alleged to be a contract of mortgage, with the right to repurchase. The judgment was rendered in said court in favor of the defendant, and the plaintiff appealed to the Court of First Instance of the said province. The cause was tried in the Court of First Instance on the 15th day of April, 1903, and on the same day the judge of said court rendered the following judgment:

"The evidence of both parties and the arguments of the respective parties having been heard, I must and do decide:

"That the plaintiff has the right to recover one undivided seventh part of the lands described in said complaint, she being, according to the evidence, the owner of the said seventh part. The brothers of the plaintiff may institute a suit if they wish to recover the parts which they consider pertaining to them. The defendant must pay the costs of this proceeding.

"ARTHUR F. ODLIN, Judge."

On the 28th day of April following, the defendant excepted to the judgment of the court in the language following:

"The defendant being notified of the preceding judgment, presented to the Court of the Province of Zambales an exception against said judgment, and at the same time announced his intention of presenting and elevating to the Supreme Court a bill of exceptions in the ordinary manner, as is done in the present instance, and asks that a copy of the same be approved and certified to the Honorable Supreme Court of the Philippines."

No motion for a new trial was made in the court below, nor was any exception taken other than that against the judgment. By virtue of the provisions of section 497 of the Code of Procedure in Civil Actions, this court, therefore, can only examine the pleadings filed in the case and the judgment rendered by the court below for the purpose of ascertaining whether or not an error of law has been committed. Under such conditions this court has no authority to examine the evidence adduced in the case for the purpose of deciding upon questions of fact. When an exception to the judgment of the court below only is made, this court is limited in its consideration of the case, first to the facts admitted in the pleadings, and, second, the facts found in the decision of the court.

The plaintiff alleged in her first complaint that her brother had mortgaged certain property to the defendant in the sum of 200 pesos; that said mortgage was illegal because the said land belonged to her father and mother; that her father and mother had died, and that the property belonged to her and her brothers and sisters; that the defendant was in possession of the land and refused to deliver possession to the said plaintiff.

The answer filed by the defendant alleges that he had been in possession of the said lands for twenty-two years; that he purchased the land from the brother of the plaintiff instead of securing possession of the same under a mortgage, that the father and mother of the plaintiff never possessed the said land, but that the brother of the said plaintiff purchased the land of certain persons whose names are given in the said answer; that the document executed and delivered by the brother of the plaintiff to the said defendant was a public deed executed by the said brother to the defendant to the said lands; that the plaintiff had lost the said document during the insurrection of 1898; that the said defendant in the year 1892, in conformity with the "royal decree" of the 31st of August, 1888, had solicited a composition of the title to said land of the Spanish Government then existing in the Philippine Islands in accordance with the provisions of said decree; that the Government had granted to the said defendant an absolute fee or title to the said land. A copy of this grant by the Government to the defendant was made a part of the said answer.

To this answer the plaintiff replied, reaffirming the allegation that the land belonged to her father, and stating, further, that he had been in possession of the land from 1855 to 1884; that her said brother was the administrator of the said land, and as such administrator had mortgaged the same to the said defendant; that her brother had not sold the land to the said defendant; that the composition that the defendant had made with the Spanish Government in the year 1892, by which he had received title to the land in conformity with the "real decree" of the 31st of August, 1888, did not give to the said defendant title to the said land, for the reason that he had not complied with all of the requisites of the law required in such cases.

It will be seen from the pleadings that the plaintiff based her right to the land upon the fact (a) that the land belonged to her father at the time of his death, and (b) that the alleged mortgage by her brother did not deprive her of that right.

The answer of the defendant denied (a) that the land ever belonged to her father; (b) that he did not secure possession by virtue of a mortgage from her brother, but (c) by a deed of conveyance; and set up the further fact that after the lapse of several years he had obtained, upon application, title to the land from the Spanish Government then existing in the Philippine Islands. The only new fact contained in the reply of the plaintiff upon which an issue had not been raised by the petition and answer was the fact that the title which the defendant had obtained from the Government was not perfect, because the requirements of the law had not been complied with.

The judge in his sentence below makes no finding of facts upon any one of the issues presented by the pleadings in this case, and inasmuch as this court has no authority to examine the evidence adduced in the said cause, it has no means of ascertaining, therefore, whether or not there was any evidence adduced upon these issues, and can not therefore ascertain which of the parties is entitled to relief.

It was the practice under the Spanish Government, prior to the American occupation in these Islands, for the Courts of First Instance to make a complete and full finding of facts upon which they reached their conclusions. This practice, in our judgment, was wise.

The United States Civil Commission, in enacting the new Code of Procedure in Civil Actions, evidently had the former practice in mind and therefore adopted the same practice.

Section 133 of the Code of Procedure in Civil Actions provides: "Upon the trial of a question of fact, the decision of the court must be given in writing and filed with the clerk; but the statement of facts must contain only those facts which are essential to a clear understanding of the issues presented and of the facts involved."

The provisions of this section would seem to indicate that the

judge must make a finding of facts in his decision. If, however, there is any doubt about this being the correct conclusion from the provisions of this section, by taking its provisions in connection with the provisions of section 134 of the same Code, there certainly can be no doubt about its correctness.

Section 134 of the same Code provides that the parties themselves may agree upon the facts involved in the litigation and submit the same to the court without the introduction of testimony and concludes with the statement that "when an agreed statement of facts is entered into by the parties, no other finding of facts need be made by the court."

Reading these two sections together it is clear that the law requires that the trial court shall make a finding of facts or fact in its decision in every case where a question of fact is presented. The trial court, in its decision, should first make a finding of the material facts admitted by the pleadings, and second, of the material facts presented in the issue and sustained by the evidence.

This rule, if enforced, will greatly simplify the work of the appellate court in reviewing cases brought before it. In this way the appellate court will have notice of what witnesses were believed by the trial court and what were not. Under a motion for a new trial made in the trial court, the appellate court is obliged to examine all of the proof given below. The statements of witnesses when reduced to writing, unless the witnesses have been subjected to a severe cross-examination, stand upon equal footing, and apparently are entitled to the same consideration before the appellate court. The trial court sees the witnesses, has an opportunity to hear them and observe their demeanor, and is thereby able better to determine which are truthful and which are not. If the trial court makes no finding of facts, the appellate court will at times be unable to determine what witnesses should be believed and what witnesses should not be believed in cases of contradictory testimony.

If the foregoing rule is enforced with reference to the necessity of making a finding of facts in the decision, it will also be of great assistance to the litigants. They may thus be enabled, instead of printing many pages of proof, to take their case to the appellate court simply upon the pleadings and judgment of the court below and thus save much expense and delay.

If the facts stated in the decision, taken in connection with the facts admitted in the pleadings, are not sufficient as a matter of law to support the judgment, it will be reversed if an exception is properly made thereto.

It may be argued that the statement found in the judgment of the court below that "the plaintiff has the right to recover one undivided seventh part of the land described in the said complaint, she being, according to the evidence, the owner of the said seventh part," is a finding of fact, and therefore is a compliance with the law. This statement is not a finding of fact but a mere statement of a conclusion from facts. The ultimate facts from which this conclusion was drawn by the court below should have been stated in the judgment, in order that the appellate court may know whether this conclusion is justifiable. There is a wide distinction between facts and a conclusion from facts. It is difficult, at times, to distinguish a conclusion of fact, from a conclusion of law. At times, the conclusion of fact may be also a conclusion of law—for example, to say that a right once belonging to A is a now the property of B, is a conclusion of law as well as a conclusion of fact. (Adams vs. Holley, 12 Howard's Practice, 326.) To charge that A is guilty of fraud is to charge a conclusion of law as well as to state a conclusion of facts. The statement in the decision of the court in this case "that the plaintiff has the right to recover one undivided seventh part of the lands described in said complaint, she being, according to the evidence, the owner of the said seventh part," is also a conclusion of fact as well as a conclusion of law. No court is justified in reaching that conclusion without having certain ultimate facts

presented to it. No court would be justified in finding that A was guilty of fraud in the absence of hearing proof upon certain ultimate facts. There may be much evidence introduced for the purpose of establishing certain ultimate facts, which ultimate facts, taken together, justify a conclusion—for example, that A is guilty of fraud.

There is much conflict among the authorities with reference to whether or not certain statements are conclusions of law or conclusions of fact. A statement of fact in a pleading may be a conclusion of fact or law if found in a judgment or decision. For example, if A alleges in his pleading that he is the owner of certain personal property and therefore entitled to the possession of the same, it is a statement of a fact, whereas, if the same statements were found in the judgment of the court it might be regarded as a conclusion of fact. So also of duress; to allege in the complaint that the plaintiff was compelled to pay a sum of money, is a conclusion of law (*Commercial Bank vs. City of Rochester*, 41 Barber, 341; 41 N. Y., 619), while to say that he was threatened by the defendant with death or with great bodily injury and in fear of same, paid a sum of money, etc., or that he was illegally imprisoned and to procure a release, paid, etc., would doubtless be held to be a statement of facts. It is not possible to formulate a definition or a statement that will always enable us to distinguish what is meant by a conclusion of law in contradistinction from a conclusion of fact; yet, in inspecting pleadings or judgments, it will seldom ever be difficult to make the distinction.

By the foregoing rule that the courts below must make a finding of fact is not meant that they must recite all of the evidence given in the case, but simply the essential ultimate facts which are supported by the evidence from which the conclusion of facts may be drawn.

Therefore inasmuch as the trial court has failed to make a finding of the ultimate facts upon which he drew his conclusions in this case, and inasmuch as the facts admitted by the pleadings are contrary to the said conclusions, this cause is hereby remanded to the Court of First Instance of the Province of Zambales, and a new trial is hereby ordered.

For the conclusions in this case, reliance is had upon the following cases heretofore decided by this court: *Martinez vs. Martinez*, 1 Official Gazette, 268; *Regalado vs. Luchsinger & Co.*, 1 Official Gazette, 513.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, J.J., concur.

COOPER, J., dissenting:

Section 133 of the Code of Civil Procedure provides that:

"Upon the trial of a question of fact, the decision of the court must be in writing and filed with the clerk, but the statement must contain only those facts which are essential to a clear understanding of the issues presented and of the facts involved."

The wording of the statute is peculiar. It does not in express terms require the trial court to make a finding of facts. The main purpose of the section seems to be to require the decisions to be in writing and there is an inhibition contained in the provision against the decision containing irrelevant matter. It may be inferentially concluded that the court is required to make a finding.

But admitting that a party has a right to require the trial court to make a finding of fact, the request should be made by the party desiring such finding; or, if a general finding is made by the court, as was done in this case, and the parties desire a more specific finding, a request should be made therefor. In either case an exception should be taken to the refusal of the court either to make a finding of facts or to make a more specific finding.

There was no such request made in the lower court, nor was

there any exception taken to the judgment of the court for the failure of the court to make such finding. In fact no such objection has been made even in this court by an assignment of error, brief, or otherwise. Therefore the question does not arise whether the trial court has complied with the requirements of section 133.

The judgment of the Court of First Instance was as follows:

"The proof adduced by both parties having been heard and the arguments of the respective counsel, I ought to adjudge and do adjudge that the plaintiff has the right to recover an undivided one-seventh part of the lands described in the complaint, she being, according to said proofs, the owner of such seventh part. The brothers of the plaintiff will be able to institute a suit if they wish to recover the part which belongs to them. The defendant is adjudged to pay the costs of the suit."

The question and only question at issue in the case was as to the ownership of the land in dispute and the court has found that the plaintiff is the "owner according to said proofs of the seventh part."

This was a direct finding of the only issue in the case, that is, the issue of ownership.

Such a finding is not a conclusion of law but is the finding of the ultimate fact in the case.

The supreme court of Minnesota has passed upon the precise question in the case of *Common vs. Grace*, 36 Minn., 276. The finding of the lower court in that case was that:

"John Grace was, at the time of his death, the owner in fee simple of the real estate."

The appellant made a request in the court below for additional findings. Upon the refusal of the lower court to make such additional findings, it was assigned as error on appeal. Mitchell, J., says:

"The facts required to be found are the ultimate facts forming the issues presented by the pleadings and which constitute the foundation of a judgment and not those which are merely evidentiary of them. The court is not required to find merely evidentiary facts or to set forth and explain the means or processes by which it arrived at such findings. Neither evidence, argument, nor comment has any legitimate place in the findings of facts. The test of the sufficiency of the findings of fact by a court, we apprehend, is, would they answer if presented by a jury in the form of a special verdict, which is required to present the conclusions of fact as established by the evidence, and not the evidence to prove them, and to present those conclusions of fact so that nothing remains to the court but to draw from them conclusions of law. In the case at bar the finding of fact that John Grace was at the time of his death the owner in fee simple of the real estate in question was the ultimate fact upon which the decision of the case depended. It covered the only issue in the case and was a sufficient foundation for a judgment in favor of defendants. It could only be arrived at upon the hypothesis that the deeds in dispute were duly executed, and the finding necessarily implied and included this."

In the case of *Daly vs. Socorro*, 80 Cal., 367, it is said:

"The appellant further contends that the cause should be reversed because the court failed to find upon certain other issues presented. His right to maintain the action was based wholly on his ownership and right of possession, and these being found against him, it is immaterial to him whether the court found as to other facts or not, as the judgment must have been against him whatever the other finding might have been."

These cases seem to be conclusive upon the question and if they, as well as the authorities generally in the United States, are to be followed upon this question, the findings contained in the judgment were sufficient to support it, and the judgment of the Court of First Instance should be affirmed.

*New trial ordered.*

[No. 1655. March 29, 1904.]

*THE UNITED STATES, complainant and appellee, vs. LEON DE LA TORRE, defendant and appellant.*

1. CRIMINAL LAW: PARRICIDE; AGGRAVATING CIRCUMSTANCES; EVIDENT PREMEDITATION.—Where the proof does not disclose a fixed determination on the part of the accused to kill the deceased it is error to apply the circumstance of evident premeditation in aggravation of the penalty.
2. ID.; ID.; ID.: SEX.—It is error to apply the circumstance of sex in aggravation of the crime of parricide committed by the accused by killing his wife.

APPEAL from a judgment of the Court of First Instance of Bohol.

The facts are stated in the opinion of the court.

CLARO REYES, for appellant.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The defendant in this case admitted his guilt, and the only question is as to the penalty. The court below took into consideration the aggravating circumstances numbered seven, nine, and twenty, and sentenced the defendant to death, the higher of the two indivisible penalties—life imprisonment and death—assigned to the crime of parricide by the Penal Code.

We do not think that there was sufficient evidence to prove the seventh circumstance—known premeditation. If the defendant went to the house where his wife was for the purpose of killing her, it is not apparent why they traveled for an hour after leaving the house before he attacked her. Moreover, as suggested by the defendant's counsel in his brief, the defendant would not have struck one blow only and have gone away, leaving his wife still alive, not knowing whether the blow was mortal or not, if he had entertained the fixed determination of putting an end to her existence. She did not, in fact, die until the next day. The account given by the defendant in the Court of First Instance is probably the truth. He says that his wife did not wish to go to the mountains, and quarreled with him all the way, until, in a fit of rage, he drew his bolo and struck her in the abdomen.

The circumstance of sex (No. 20) is included in the crime itself in this particular case. The only thing which makes this offense parricide is the fact that the deceased was a woman. To allow it as an aggravating circumstance would be to give it double effect.

The same is true of the abuse of superiority (No. 9). That existed, if at all, by reason of the same fact, viz., that one person was a woman and the other a man. Neither of these circumstances should be taken into account.

It is not necessary to consider whether the seventh attenuating circumstance existed or not. There were, in any event, no others, and in this crime one attenuating circumstance can not affect the penalty when there are no aggravating circumstances.

The judgment is reversed, and the defendant is sentenced to life imprisonment, with the accessories and the costs.

Arellano, C. J., Torres, Cooper, Mapa, and McDonough, JJ., concur.

JOHNSON, J., dissenting:

It is my opinion that the judgment appealed from should be affirmed.

*Judgment reversed.*

[No. 1413. March 30, 1904.]

*ANDRES VALENTON ET AL., plaintiffs and appellants, vs. MANUEL MURCIANO, defendant and appellee.*

1. REAL PROPERTY: PUBLIC LANDS; STATUTE OF LIMITATIONS.—The title of the Spanish Government to alienable public lands in the Philippine Islands could not be divested by adverse occupancy alone, no matter over how long a period it might have extended.

2. ID.; ID.; ID.—The Spanish Government, while recognizing the right of an occupant of alienable public lands to a deed upon proof of possession for a sufficient length of time, always required the occupant to make that proof to the proper officers and obtain from them a deed, and until compliance with which requisite title to the land so occupied remained vested absolutely in the State.

3. ID.; ID.; SALE.—The sale by the Spanish Government of public alienable lands in the Philippine Islands was not limited to vacant lands, but included public lands occupied without title.

4. ID.; ID.; ID.: ADVERSE CLAIMS.—Upon the presentation of an application for the purchase from the Spanish Government of public lands in the Philippine Islands it was the duty of the officer receiving it to give notice thereof by publication, and anyone might oppose the application; but the decision of the proper executive officers upon the subject was conclusive and a deed executed by them vested title in the purchaser absolutely, leaving persons aggrieved thereby to their remedy by suit for damages against the State, after exhausting the administrative remedies.

5. PLEADING AND PRACTICE: RECEIVERSHIP.—In an action of ejectment it is not error to vacate an order appointing a receiver of the crops when neither party has asked any relief with respect to the same; such crops are not the subject of the litigation.

6. ID.; ID.—A bare unsworn statement in a motion that the adverse party is insolvent is not sufficient to warrant a court in appointing a receiver for property in possession of such adverse party.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

MONTAGNE & DOMINGUEZ, for appellants.

DEL PAN, ORTIGAS & FISHER, for appellee.

WILLARD, J.:

1. The findings of fact made by the court below in its decision are as follows:

"First. That in the year 1860, the plaintiffs and each one of them entered into the peaceful and quiet occupation and possession of the larger part of the lands described in the complaint of the plaintiffs, to wit: [description].

"Second. That on the date on which the plaintiffs entered into the occupation and possession of the said lands as above set forth, these lands and every part thereof were public, untitled, and unoccupied, and belonged to the then existing Government of the Philippine Islands. That immediately after the occupation and possession of the said lands by the plaintiffs, the plaintiffs began to cultivate and improve them in a quiet and peaceful manner.

"Third. That from the said year 1860, the plaintiffs continued to occupy and possess the said lands, quietly and peacefully, until the year 1892, by themselves, by their agents and tenants, claiming that they were the exclusive owners of said lands.

"Fourth. That on or about the 16th day of January, 1892, Manuel Murciano, defendant in this proceeding, acting on behalf of, and as attorney in fact of Candido Capulong, by occupation a cook, denounced the said lands to the then existing Government of the Philippine Islands, declaring that the said lands and every part thereof were public, untitled, and unoccupied lands belonging to the then existing Government of the Philippine Islands, and petitioned for the conveyance of the same to him.

"Fifth. That before the execution of the sale heretofore mentioned, various proceedings were had for the survey and measurement of the lands in question at the instance of the defendant, Murciano, the latter acting as agent and attorney in fact of said Candido Capulong, a written protest, however, having been entered against these proceedings by the plaintiff Andres Valenton.

"Sixth. That on the 14th day of July, 1892, Don Enrique Castelli y Ibarola, secretary of the treasury of the Province of Tarlac, in his official capacity, as such secretary, executed a contract of purchase and sale, by which said lands were sold and conveyed by him to the defendant, Manuel Murciano, as attorney for the said Candido Capulong.

"Seventh. That on the 19th day of July, 1892, said Candido Capulong executed a contract of purchase and sale by which he sold and conveyed the said lands to the defendant, Manuel Murciano.

"Eighth. That from the said 14th day of July, 1892, Manuel Murciano has at no time occupied or possessed all of the land mentioned, but has possessed only certain indistinct and indefinite portions of the same. That during all this time the plaintiffs have opposed the occupation of the defendant, and said plaintiffs during all the time in question have been and are in the possession and occupation of part of the said lands, tilling them and improving them by themselves and by their agents and tenants.

"Ninth. That never, prior to the said 14th day of July, 1892, has the defendant, Manuel Murciano, been in the peaceful and quiet possession and occupation of the said lands, or in the peaceful and quiet occupation of any part thereof."

Upon these facts the Court of First Instance ordered judgment for the defendant on the ground that the plaintiffs had lost all right to the land by not pursuing their objections to the sale mentioned in the sixth finding. The plaintiffs excepted to the judgment and claim in this court that upon the facts found by the court below judgment should have been entered in their favor. Their contention is that in 1890 they had been in the adverse possession of the property for thirty years; that, applying the extraordinary period of prescription of thirty years, found as well in the *Partidas* as in the Civil Code, they then became the absolute owners of the land as against everyone, including the State, and that when the State in 1892 deeded the property to the defendant, nothing passed by the deed because the State had nothing to convey.

The case presents, therefore, the important question whether or not during the years from 1860 to 1890 a private person, situated as the plaintiffs were, could have obtained as against the State the ownership of the public lands of the State by means of occupation. The court finds that at the time of the entry by the plaintiff in 1860 the lands were vacant and were public lands belonging to the then existing Government. The plaintiffs do not claim to have ever obtained from the Government any deed for the lands, nor any confirmation of their possession.

Whether in the absence of any special legislation on the subject a general statute of limitations in which the state was not expressly excepted would run against the state as to its public lands we do not find it necessary to decide. Reasons based upon public policy could be adduced why it should not, at least as to such public lands as are involved in this case. (See Act No. 926, sec. 67.) We are, however, of the opinion that the case at bar must be decided, not by the general statute of limitation contained in the *Partidas*, but by those special laws which from the earliest times have regulated the disposition of the public lands in the colonies.

Did these special laws recognize any right of prescription against the state as to these lands, and if so to what extent was it recognized? Laws of a very early date provided for the assignment of public lands to the subjects of the Crown. Law 1, title 12, book 4 of the *Recopilación de Leyes de las Indias* is an example of them, and is as follows:

"In order that our subjects may be encouraged to undertake the discovery and settlement of the Indies, and that they may live with the comfort and convenience which we desire, it is our will that there shall be distributed to all those who shall go out to people the new territories, houses, lots, lands, *peonias*, and *caballerias* in the towns and places which may be assigned to them by the governor of the new settlement, who, in apportioning the lands, will distinguish between gentlemen and peasants, and those of lower degree and merit, and who will add to the possessions and better the condition of the grantees, according to the nature of the services rendered by them, and with a view to the promotion of agriculture and stock raising. To those who shall have labored and established a home on said lands and who shall have resided in the said settlement for a period of four years we grant the right thereafter to sell and in every other manner to exercise their free will over said lands as over their own property. And

we further command that in accordance with their rank and degree the governor, or whoever may be invested with our authority, shall allot the Indians to them in any distribution made, so that they may profit by their labor and fines in accordance with the tributes required and the law controlling such matters.

"And in order that, in allotting said lands, there may be no doubt as to the area of each grant, we declare that a *peonia* shall consist of a tract fifty feet in breadth by one hundred in length, with arable land capable of producing one hundred bushels of wheat or barley, ten bushels of maize, as much land for an orchard as two yokes of oxen may plough in a day, and for the planting of other trees of a hardy nature as much as may be plowed with eight yokes in a day, and including pasture for twenty cows, five mares, one hundred sheep, twenty goats and ten breeding pigs. A *caballeria* shall be a tract one hundred feet in breadth and two hundred in length, and in other respects shall equal five *peonias*; that is, it will include arable land capable of producing five hundred bushels of wheat or barley and fifty bushels of maize, as much land for an orchard as may be ploughed with ten yokes of oxen in a day, and for the planting of other hardy trees as much as forty yokes may plough in a day, together with pasturage for one hundred cows, twenty mares, five hundred sheep, one hundred goats, and fifty breeding pigs. And we order that the distribution be made in such a manner that all may receive equal benefit therefrom, and if this be impracticable, then that each shall be given his due."

But it was necessary, however, that action should in all cases be taken by the public officials before any interest was acquired by the subject.

Law 8 of said title 12 is as follows:

"We command that if a petition shall be presented asking the grant of a lot or tract of land in a city or town in which one of our courts may be located, the presentation shall be made to the municipal council. If the latter shall approve the petition, two deputy magistrates will be appointed, who will acquaint the viceroy or municipal president with the council's judgment in the matter. After consideration thereof by the viceroy or president and the deputy magistrates, all will sign the grant, in the presence of the clerk of the council, in order that the matter may be duly recorded in the council book. If the petition shall be for the grant of waters and lands for mechanical purposes, it shall be presented to the viceroy or municipal president, who will transmit it to the council. If the latter shall vote to make the grant, one of the magistrates will carry its decision to the viceroy or president, to the end that, upon consideration of the matter by him, the proper action may be taken."

It happened, in the course of time, that tracts of the public land were found in the possession of persons who either had no title papers therefor issued by the state, or whose title papers were defective, either because the proper procedure had not been followed, or because they had been issued by persons who had no authority to do so. Law 14, title 12, book 4 of said compilation (referred to in the regulations of June 25, 1880, for the Philippines) was the first of a long series of legislative acts intended to compel those in possession of the public lands, without written evidence of title, or with defective title papers, to present evidence as to their possession or grants, and obtain the confirmation of their claim to ownership. That law is as follows:

"We having acquired full sovereignty over the Indies, and all lands, territories, and possessions not heretofore ceded away by our royal predecessors, or by us, or in our name, still pertaining to the royal crown and patrimony, it is our will that all lands which are held without proper and true deeds of grant be restored to us according as they belong to us, in order that after reserving before all what to us or to our viceroys, audiencias, and governors may seem necessary for public squares, ways, pastures, and commons in those places which are peopled, taking into consideration not only their present condition, but also their future and their



probable increase, and after distributing to the natives what may be necessary for tillage and pasturage, confirming them in what they now have and giving them more if necessary, all the rest of said lands may remain free and unencumbered for us to dispose of as we may wish.

"We therefore order and command that all viceroys and presidents of pretorial courts designate, at such time as shall to them seem most expedient, a suitable period within which all possessors of tracts, farms, plantations, and estates shall exhibit to them, and to the court officers appointed by them for this purpose, their title deeds thereto. And those who are in possession by virtue of proper deeds and receipts, or by virtue of just prescriptive right shall be protected, and all the rest shall be restored to us to be disposed of at our will."

While the State has always recognized the right of the occupant to a deed if he proves a possession for a sufficient length of time, yet it has always insisted that he must make that proof before the proper administrative officers, and obtain from them his deed, and until he did that the State remained the absolute owner.

In the preamble of this law there is, as is seen, a distinct statement that all those lands belong to the Crown which have not been granted by Philip, or in his name, or by the kings who preceded him. This statement excludes the idea that there might be lands not so granted, that did not belong to the king. It excludes the idea that the King was not still the owner of all ungranted lands, because some private person had been in the adverse occupation of them. By the mandatory part of the law all the occupants of the public lands are required to produce before the authorities named, and within a time to be fixed by them, their title papers. And those who had good title, or showed prescription were to be protected in their holdings. It is apparent that it was not the intention of the law that mere possession for a length of time should make the possessors the owners of the lands possessed by them without any action on the part of the authorities. It is plain that they were required to present their claims to the authorities and obtain a confirmation thereof. What the period of prescription mentioned in this law was does not appear, but later, in 1646, law 19 of the same title declared "that no one shall be 'admitted to adjustment' unless he has possessed the lands for ten years."

In law 15, title 12, book 4 of the same compilation, there is a command that those lands as to which there has been no adjustment with the Government be sold at auction to the highest bidder. That law is as follows:

"For the greater good of our subjects, we order and command that our viceroys and governing presidents shall do nothing with respect to lands the claims to which have been adjusted by their predecessors, tending to disturb the peaceful possession of the owners thereof. As to those who shall have extended their possessions beyond the limits fixed in the original grants, they will be admitted to a moderate adjustment with respect to the excess and new title deeds will be issued them therefor. And all those lands as to which no adjustment has been made shall, without exception, be sold at public auction to the highest bidder, the purchase price thereof to be payable either in cash or in the form of quitrent, in accordance with the laws and royal ordinances of the Kingdoms of Castile. We leave to the viceroys and presidents the mode and form in which what is here ordered shall be carried into effect in order that they may provide for it at the least possible cost; and in order that all unnecessary expense with respect to the collections for said lands may be avoided, we command that the same be made by our royal officers in person, without the employment of special collectors, and to that end availing themselves of the services of our royal courts, and, in places where courts shall not have been established, of the town magistrates.

"And whereas, title deeds to land have been granted by officers not authorized to issue them, and such titles have been confirmed

by us in council: We command that those holding such a certificate of confirmation may continue to possess the lands to which it refers, and will, within the limits stated in the confirmation certificate, be protected in their possession; and with respect to any encroachment beyond such limits will be admitted to the benefit of this law."

Another legislative act of the same character was the royal cedula of October 15, 1754 (4 *Leyes de Ultramarina*, Rodriguez San Pedro, 673). Articles 3, 4, and 5 of this royal cedula are as follows:

"3. Upon each principal subdelegate's appointment, which will be in the manner prescribed in Article 1 of this Cedula, and upon his receipt of these instructions, of which every principal subdelegate already designated or who may hereafter be appointed, shall be furnished a copy, said subdelegate will in his turn issue a general order to the courts in the provincial capitals and principal towns of his district, directing the publication therein, in the manner followed in connection with the promulgation of general orders of viceroys, presidents, and administrative courts in matters connected with my service, of these instructions, to the end that any and all persons who, since the year 1700, and up to the date of the promulgation and publication of said order, shall have occupied royal lands, whether or not the same shall be cultivated or tenanted, may, either in person or through their attorneys or representatives, appear and exhibit to said subdelegates the titles and patents by virtue of which said lands are occupied. Said subdelegates will designate as the period within which such documents must be presented a term sufficient in length and proportionate to the distance the interested party may have to travel for the purpose of making the presentation. Said subdelegates will at the same time warn the parties interested that in case of their failure to present their title deeds within the term designated, without a just and valid reason therefor, they will be deprived of and evicted from their lands, and they will be granted to others.

"4. If it shall appear from the titles or instruments presented, or if it shall be shown in any other legal manner that said persons are in possession of such royal lands by virtue of a sale or adjustment consummated by duly authorized subdelegates prior to the said year 1700, although such action may not have been confirmed by my royal person, or by a viceroy or president, they shall in no wise be molested, but shall be left in the full and quiet possession of the same; nor shall they be required to pay any fee on account of these proceedings, in accordance with Law 15, Title 12, Book 4 of the Recopilacion of the Indies, above cited. A note shall be made upon said title deeds to the effect that this obligation has been complied with, to the end that the owners of such royal lands and their successors, may hereafter be free from denunciation, summons, or other disturbance in their possession.

"Where such possessors shall not be able to produce title deeds it shall be sufficient if they shall show that ancient possession, as a valid title by prescription; provided, however, that if the lands shall not be in a state of cultivation or tillage, the term of three months prescribed by law 11 of the title and book cited, or such other period as may be deemed adequate, shall be designated as the period within which the lands must be reduced to cultivation, with the warning that in case of their failure so to do the lands will be granted, with the same obligation to cultivate them, to whoever may denounce them.

"5. Likewise neither shall possessors of lands sold or adjusted by the various subdelegates from the year 1700 to the present time be molested, disturbed or denounced, now or at any other time, with respect to such possession, if such sales or adjustments shall have been confirmed by me, or by the viceroy or the president of the court of the district in which the lands are located, while authorized to exercise this power. In cases where the sales or adjustments shall not have been so confirmed, the possessor will present to the courts of their respective districts and to the

other officials hereby empowered to receive the same, a petition asking for the confirmation of said sales and adjustments. After the proceedings outlined by the subdelegates in their order with respect to the measurement and valuation of the said lands, and with reference to the title issued therefor, shall have been duly completed, said courts and officials will make an examination of the same for the purpose of ascertaining whether the sale or adjustment has been made without fraud and collusion, and for an adequate and equitable price, and a similar examination shall be made by the prosecuting attorney of the district, to the end that, in view of all the proceedings and the purchase or adjustment price of the land, and the *media anata* having been duly, etc., paid into the royal treasury, as well as such additional sum as may be deemed proper, there will be issued to the possessor, in my royal name, a confirmation of his title, by virtue of which his possession and ownership of lands and waters which it represents will be fully legalized, to the end that at no time will he or his heirs or assigns be disturbed or molested therein."

The wording of this law is much stronger than that of law 14. As is seen by the terms of article 3, any person whatever who occupied any public land was required to present the instruments by virtue of which he was in possession, within a time to be fixed by the authorities, and he was warned that if he did not do so he would be evicted from his land and it would be granted to others. By terms of article 4 those possessors to whom grants had been made prior to 1700, were entitled to have such grants confirmed, and it was also provided that not being able to prove any grant it should be sufficient to prove "that ancient possession," as a sufficient title by prescription, and they should be confirmed in their holdings. "That ancient possession" would be at least fifty-four years, for it would have to date from prior to 1700. Under article 5, where the possession dated from 1700, no confirmation could be granted on proof of prescription alone.

The length of possession required to be proved before the Government would issue a deed has varied in different colonies and at different times. In the Philippines, as has been seen, it was at one time ten years, at another time fifty-four years at least. In Cuba, by the royal cedula of April 24, 1833, to obtain a deed one had to prove, as to uncultivated lands, a possession of hundred years, and as to cultivated lands a possession of fifty years. In the same island, by the royal order of July 16, 1819, a possession of forty years was sufficient.

In the Philippines at a later date royal order of September 21, 1797 (4 *Legislación Ultramarina*, Rodriguez San Pedro, p. 688), directed the observance of the said royal cedula of 1754, but apparently without being subject to the period of prescription therein assigned.

The royal order of July 5, 1862 (*Gaceta de Manila*, November 15, 1864), also ordered that until regulations on the subject could be prepared the authorities of the Islands should follow strictly the laws of the Indies, the Ordenanza of the Intendentes of 1786, and the said royal cedula of 1754.

The royal order of November 14, 1876 (*Guía del Comprador de Terrenos*, p. 51), directed the provincial governors to urge those in unlawful possession of public lands to seek an adjustment with the State in accordance with the existing laws. The regulations as to the adjustment (*composición*) of the titles to public lands remained in this condition until the regulations of June 25, 1880. This is the most important of the modern legislative acts upon the matter of "adjustment" as distinguished from that of the sale of the public lands.

The royal decree approving these regulations is dated June 25, 1880, and is as follows:

"Upon the suggestion of the colonial minister, made in conformity with the decree of the full meeting of the council of state, I hereby approve the attached regulations for the adjustment of royal lands wrongfully occupied by private individuals in the Philippine Islands."

Articles 1, 4, 5, 8, and part of article 6 are as follows:

"ART. 1. For the purposes of these regulations and in conformity with law 14, title 12, book 4 of the Recompilation of Laws of the Indies, the following will be regarded as royal lands: All lands whose lawful ownership is not vested in some private person, or, what is the same thing, which have never passed to private ownership by virtue of cession by competent authorities, made either gratuitously or for a consideration."

"ART. 4. For all legal effects those who will be considered proprietors of the royal lands herein treated, who may prove that they have possessed the lands without interruption during the period of ten years, by virtue of a good title and in good faith."

"ART. 5. In the same manner, those who, without such title deeds may prove that they have possessed their said lands without interruption for a period of twenty years, if in a state of cultivation, or for a period of thirty years if uncultivated, shall be regarded as proprietors thereof. In order that a tract of land may be considered cultivated, it will be necessary to show that it has been broken within the last three years."

"ART. 6. Interested parties not included within the two preceding articles, may legalize their possession and thereby acquire the full ownership of the said lands, by means of adjustment proceedings, to be conducted in the following manner: \* \* \*

"(5) Those who, entirely without title deeds, may be in possession of lands belonging to the State and have reduced said lands to a state of cultivation, may acquire the ownership thereof by paying into the public treasury the value of the lands at the time such possessors or their representatives began their unauthorized enjoyment of the same."

"(6) In case said lands shall never have been ploughed, but are still in a wild state, or covered with forests, the ownership of the same may be acquired by paying their value at the time of the filing of the claim, as stated in the fourth paragraph."

"ART. 8. If the interested parties shall not ask an adjustment of the lands whose possession they are unlawfully enjoying within the time of one year, or the adjustment having been granted by the authorities, they shall fail to fulfill their obligation in connection with the compromise, by paying the proper sum into the treasury, the latter will, by virtue of the authority vested in it, reassert the ownership of the State over the lands, and will, after fixing the value thereof, proceed to sell at public auction that part of the same which either because it may have been reduced to cultivation or is not located within the forest zone is not deemed advisable to preserve as the State forest reservations."

The other articles of the regulations state the manner in which applications should be made for adjustment, and the proceedings therein.

These regulations declare that those who are included in articles 4 and 5 are the absolute owners of the land occupied by them without any action on their part, or that of the State, or do they declare that such persons must seek an adjustment and obtain a deed from the State, and if they do not do so within the time named in article 8 they lose all interest in the lands?

It must be admitted from the wording of the law that the question is not free from doubt. Upon a consideration, however, of the whole matter, that doubt must, we think, be resolved in favor of the State. The following are some of the reasons which lead us to that conclusion:

(1) It will be noticed that article 4 does not say that those persons shall be considered as owners who have occupied the lands for ten years, which would have been the language naturally used if an absolute grant had been intended. It says, instead, that those shall be considered owners who *may prove* that they have been in possession ten years. Was this *proof* to be made at any time in the future when the question might arise, or was it to be made in the proceedings which these very regulations provided for that purpose? We think that the latter is the proper construction.

(2) Article 1 declares in plain terms that all those lands as to which the State has never executed any deeds are the property of the State—that is, that on June 25, 1880—no public lands belonged to individuals unless they could exhibit a State deed therefor. This is entirely inconsistent with the idea that the same law in its article 4 declares that the lands in question in this case became the property of the plaintiffs in 1870, and were not in 1880 the property of the State, though the State had never given any deed for them.

(3) The royal decree, by its terms, relates to lands *irregularly* withheld by private persons. The word *detentados* necessarily implies this. This is inconsistent with the idea that by Article 4 the plaintiffs, in 1870, became the absolute owners of the lands in question, and were not, therefore, in 1880, withholding what did not belong to them.

(4) In the preface to this decree and regulations, the following language is used:

"Sir: The uncertain and it may be said the precarious state of real property in various parts of the Philippine Islands, as yet sparsely populated; the necessity for encouraging the cultivation of these lands; the advantage of increasing the wealth and products of the archipelago; the immense and immediate profit which must result to all classes of interests, public as well as private, from the substitution of full ownership, with all the privileges which by law accompany this real right, for the mere possession of the lands, have long counseled the adoption of the provisions contained in the following regulations, which, after consultation with the Philippine council, and in conformity with an order passed at a full meeting of the council of state, the subscribing minister has the honor to submit for the royal approval. These regulations refer not only to tenants of royal lands in good faith and by virtue of a valid title, but also to those who, lacking these, may, either by themselves reducing such lands to cultivation, or, by the application of intelligence and initiative, causing their cultivation by others who lack these qualities, be augmenting the wealth of the archipelago."

This preface is the most authoritative commentary on the law, and shows without doubt that those who held with color of title and good faith were, notwithstanding, holding wrongfully, and that true ownership should be substituted for their possession.

(5) This doubt suggested by the wording of the law, was the subject of inquiries directed to the officers in Manila charged with its execution. These inquiries were answered in the circular of August 10, 1881, published in the *Gaceta de Manila* August 11, 1881, as follows:

"Should possessors of royal lands under color of title and in good faith seek adjustment?"

"It is evident that they must do so, for it is to them that article 4 of the regulations refers, as also the following article covers other cases of possession under different circumstances. It should be well understood by you, and you should, in turn, have it understood by others, that the adjustment of lands whose ownership has not passed to private individuals by virtue of cession by competent authorities, is optional only for those within the limits of the common district (*legua comunal*) as provided by article 7. In all other cases where the interested parties shall fail to present themselves for the adjustment of the lands occupied by them they shall suffer the penalties set forth in article 8 of said regulations."

In determining the meaning of a law where a doubt exists the construction placed upon it by the officers whose duty it is to administer it is entitled to weight.

(6) There is, moreover, legislative construction of these regulations upon this point found in subsequent laws. The royal decree of December 26, 1884 (*Berriz Anuario*, 1888, p. 117), provides in article 1 that—

"All those public lands wrongfully withheld by private persons

in the Philippines which, in accordance with the regulations of June 25, 1880, are subject to adjustment with the treasury, shall be divided into three groups, of which the first shall include those which, because they are included in articles 4 and 5, and the first paragraph of article 7, are entitled to free adjustment."

There were exceptions to this rule which are not here important. Article 10 provides that if the adjustment is free for those mentioned in articles 4 and 5, who are included in the second group, the deed shall be issued by the governor of the province. Article 11 says that if the adjustment is not free, because the applicant has not proved his right by prescription, then no deed can be issued until the proper payment has been made. The whole decree shows clearly that the legislator intended that those mentioned in articles 4 and 5 should apply for a confirmation of their titles by prescription, as well as those mentioned in article 6. In fact, for the adjustment of those of the first group, which necessarily included only those found within articles 4 and 5, a board was organized (Art. 15) in each pueblo whose sole duty it was to dispatch applications made under said two articles.

(7) The royal decree of August 31, 1888 (*Berriz Anuario*, 1888, p. 120), is another legislative construction of this regulation. That decree repealed the decree of 1884, and divided all lands subject to adjustment under the regulations of June 25, 1880, into two groups. In the first group were all those lands which bordered at any point on other State lands, and those which, though not bordering on State lands, measured more than 30 hectares. In the second group were those which were bounded entirely by lands of private persons and did not exceed 30 hectares. For the second group a provincial board was organized, and article 10 provides a hearing before this board, and declares—

"If no protest or claim shall be filed, and the adjustment must be free because the occupant has proved title by prescription, as provided in articles 4 and 5 of the regulations promulgated June 25, 1880, the proceedings shall be duly approved, and the head officer of the province will, in his capacity of deputy director general of the civil administration, issue the corresponding title deed."

The policy pursued by the Spanish Government from the earliest times, requiring settlers on the public lands to obtain deeds therefor from the State, has been continued by the American Government in Act No. 926, which takes effect when approved by Congress. Section 54, sixth of that act, declares that the persons named in said paragraph 6 "shall be conclusively presumed to have performed all the conditions essential to a Government grant, and to have received the same." Yet such persons are required by section 56 to present a petition to the Court of Land Registration for a confirmation of these titles.

We have considered the regulations relating to adjustment, that is, those laws under which persons in possession might perfect their titles. But there were other laws relating to the sale of public lands which contained provisions fatal to the plaintiffs' claims. The royal decree of January 26, 1889 (*Gaceta de Manila*, March 20, 1889), approved the regulations for the sale of public lands in the Philippines, and it was in accordance with such regulations that the appellee acquired his title. Article 4 of those regulations required the publication in the *Gaceta de Manila* of the application to purchase, with a description of the lands, and gave sixty days within which anyone could object to the sale. A similar notice in the dialect of the locality was required to be posted on the municipal building of the town in which the land was situated, and to be made public by the crier. Articles 5 and 6 declared to whom such objections shall be made and the course which they should take. Article 8 is as follows:

"ART. 8. In no case will the judicial authorities take cognizance of any suit against the decrees of the civil administration concerning the sale of royal lands unless the plaintiff shall attach to the complaint documents which show that he has exhausted the

administrative remedy. After the proceedings in the executive department shall have been terminated and the matter finally passed upon, anyone considering his interests prejudiced thereby may commence a suit in court against the State; but in no case shall an action be brought against the proprietor of the land."

Similar provisions are found in the regulations of 1883, approved the second time by royal order of February 16 (*Gaceta de Manila*, June 28, 1883). Articles 18 and 23 of said regulations are as follows:

"Art. 18. Possessors of such lands as may fall within the class of Alienable Royal lands shall be obliged to apply for the ownership of the same, or for the adjustment thereof within the term of sixty days from the time of the publication in the Bulletin of Sales of the notice of sale thereof."

"Art. 23. The judicial authorities shall take cognizance of no complaint against the decrees of the treasury department concerning the sale of lands pertaining to the state unless the complainant shall attach to the complaint documents which prove that he has exhausted the administrative remedy."

This prohibition appears also in the royal order of October 26, 1881 (*Gaceta de Manila*, December 18, 1881), which relates evidently both to sales of public lands, and also to the adjustments with the occupants.

Article 5 of this royal order is as follows:

"During the pendency of proceedings in the executive department with respect to grants of land, interested parties may present through executive channels such protests as they may deem advisable for the protection of their rights and interests. The proceedings having once been completed, and the grant made, those who consider their interests prejudiced thereby may proceed in court against the State, but under no circumstances against the grantees of the land."

The American legislation creating the Court of Land Registration is but an application of this same principle. In both systems the title is guaranteed to the petitioner, after examination by a tribunal. In the Spanish system this tribunal was called an administrative one, in the American, a judicial one.

The court finds that the plaintiffs made a written protest against the sale to the defendants while the proceedings for the measurement and survey of the land were being carried on, but that they did not follow up their protest. This, as held by the court below, is a bar to their recovery in this action, under the articles above cited.

The plaintiffs state in their brief that a great fraud was committed on them and the State by the defendant in applying for the purchase of these lands as vacant and belonging to the public, when they were in the actual adverse possession of the plaintiffs.

We have seen nothing in the regulations relating to the sale of the public lands which limited their force to vacant lands. On the contrary there are provisions which indicate the contrary. In the application for the purchase the petitioner is by article 3 of the regulations of 1889 required to state whether any portion of the land sought has been broken for cultivation, and to whom such improvements belong. Article 9 provides that if one in possession applies to purchase the land he renounces his right to a *compensación* under the laws relating to that subject. By article 13 the report of the officials making the survey must contain a statement as to whether any part of the land is cultivated or not, and if the applicant claims to be the owner of such cultivated part.

In the regulations of January 19, 1883 (*Gaceta de Manila*, June 28, 1883), is the following article:

"Art. 18. Possessors of such lands as may fall within the class of royal alienable lands shall be obliged to apply for the ownership of the same, or for the adjustment thereof, within the term of sixty days from the time of the publication in the Bulletin of Sales of the notice of sale thereof."

In view of all of these provisions it seems impossible to believe

that the legislators ever intended to leave the validity of any sale made by the State to be determined at any time in the future by the ordinary courts on parol testimony. Such would be the result if the contention of the plaintiffs is to be sustained. According to their claim this sale and every other sale made by the State can be set aside if at any time in the future it can be proved that certain persons had been in possession of the land for the term then required for prescription.

If this claim is allowed it would result that even though written title from the State would be safe from such attack by parol evidence, by means of such evidence damages could have been recovered against the State for lands sold by the State to which third persons might thereafter prove ownership by prescription. The unreliability of parol testimony on the subject of possession is well known. In this case in the report which the law required to be made before a sale could be had it is stated by an *Ayudante de Montes* that the tract had an area of 429 hectares, 77 areas, and 96 centareas uncultivated, and 50 hectares, 18 areas, and 73 centareas broken for cultivation. The official report also says (1890) that the breaking is recent. Notwithstanding this official report the plaintiffs introduced evidence from which the court found that the greater part of the tract had been occupied and cultivated by the plaintiffs since 1860.

It is hardly conceivable that the State intended to put in force legislation under which its property rights could be so prejudiced.

We hold that from 1860 to 1892 there was no law in force in these islands by which the plaintiffs could obtain the ownership of these lands by prescription, without any action by the State, and that the judgment below, declaring the defendant the owner of the lands must be affirmed.

II. What has been said heretofore makes it unnecessary to consider the motion for a new trial, made by the defendant, on the ground that the findings of fact are not supported by the evidence.

III. The exception of the defendant to the order vacating the appointment of the receiver can not be sustained. The defendant at no time made any showing sufficient to authorize the appointment of a receiver.

The case does not fall under No. 4 of article 174 of the Code of Procedure. Neither party in his pleadings asked any relief as to the crops. They were not, therefore, "the property which is the subject of litigation."

Neither does the case fall under No. 2 of article 174, for the same reason.

Moreover, under No. 2, it must be shown that the property is in danger of being lost. There was no showing of that kind. The pleadings say nothing upon the subject. In the motion for the appointment of the receiver it is said that the plaintiffs are insolvent. There is no evidence, by affidavit or otherwise, to support this statement. A bare, unsworn statement in a motion that the adverse party is insolvent is not sufficient to warrant a court in appointing a receiver for property in his possession.

The judgment of the court below is affirmed. Neither party can recover costs in this court.

Arellano, C. J., Torres, Cooper, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[No. 1656. April 2, 1904.]

THE UNITED STATES, complainant and appellee, vs. MARIANO DE LA CRUZ, defendant and appellant.

1. CRIMINAL LAW; BRIGANDAGE; SUPPLIES; MONEY.—One who furnishes money to a band of brigands is not guilty of the offense of furnishing supplies to such a band under article 4 of Act No. 518.
2. CRIMINAL PROCEDURE; COMPLAINT OR INFORMATION; BRIGANDAGE; ROBBERY.—Upon an information charging the defendant with furnishing information and supplies to a band of brigands he can not be convicted of the crime of simple robbery.

APPEAL from a judgment of the Court of First Instance of Rizal. The facts are stated in the opinion of the court.  
B. R. MAPA, for appellant.  
Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The complaint in this case charged the defendant with the violation of article 4 of Act No. 518, alleging that he had given to a party of brigands information as to the movements of the Constabulary and had furnished the party supplies and money.

The court below found that some time after November 12, 1902, the day when Act No. 518 went into force, the defendant obtained from Juan Dizon 25 pesos which he sent to Faustino Guillermo, the leader of a band of brigands, convicted him of a violation of said article 4 and sentenced him to fourteen years and six months of imprisonment.

We doubt very much if the evidence was sufficient to prove this charge. Both the defendant and Juan Dizon, a witness for the Government, testified that no money was paid by the latter to the former. The only evidence to support the charge are certain confessions alleged to have been made by the defendant after his arrest to officers of the Constabulary. But whether the evidence is sufficient or not is immaterial, for even if the money was paid by Dizon to the defendant and by him sent to Guillermo this would not constitute an offense under said article 4. (United States vs. Agaton Ambata, No. 1437, decided February 13, 1904; United States vs. Maria Gonzales, decided February 13, 1904.)

There was evidence in the case tending to show that about two months after the money was said to have been paid, the house of Juan Dizon was entered in the nighttime by a band of men, one of whom was the defendant, and by force and violence a certain amount of money was taken therefrom. The witnesses could not state that the members of this party were armed. The Attorney-General claims that under a complaint for brigandage there can be a conviction for simple robbery and cites the case of United States vs. Anastasio Mangubat, December 2, 1903, in support of his contention. In that case the complaint charged the crime of *robo en cuadrilla ó bandolerismo* and alleged that the defendants had actually robbed various persons. We held that under it the defendants could be convicted of simple robbery, there being in that case, as in this one, no evidence that the defendants were armed.

But the complaint in the present case alleges no act of robbery. It does not even allege that the defendant was a member of a band of brigands. It is limited, as has been said, to charging the defendant with furnishing information and supplies. We hold that under such a complaint a defendant can not be convicted of simple robbery, defined in the Penal Code. Such a complaint gives the defendant no notice whatever of the specific things which are to be proved against him. He is notified by the complaint that the evidence of the Government will be directed to proving that he furnished information or supplies to a band of brigands. At the trial he finds that the evidence relates to a robbery committed in a specific house at a designated time. This last offense is not necessarily included in the offense charged.

The judgment is reversed and the defendant acquitted with the costs of both instances *de officio* and without prejudice to the presentation of another complaint against the defendant for simple robbery.

Cooper and McDonough, JJ., concur.

ARELLANO, C. J., TORRES, and MAPA, JJ., concurring:

We concur in the acquittal of defendant for lack of evidence of the crime charged, but do not concur in the doctrine that furnish-

ing money to a band of brigands does not constitute a crime and is not included in section 4 of Act No. 518.

*Judgment reversed.*

[No. 1627. April 2, 1904.]

THE UNITED STATES, complainant and appellee, vs. GEORGE WASHINGTON, defendant and appellant.

CRIMINAL LAW; ASSAULT AND BATTERY.—See facts in this case held insufficient to sustain a conviction for assault and battery.

APPEAL from a judgment of the Court of First Instance of the city of Manila.

The facts are stated in the opinion of the court.

E. H. WHITE, for appellant.

Solicitor-General ARANETA, for appellee.

MCDONOUGH, J.:

The defendant was convicted in the Court of First Instance of having, on the 29th day of April, 1903, at Bilibid Prison, in the city of Manila, assaulted and beaten one H. S. Harris, with a deadly weapon, to wit, a large club, and inflicting injuries on him and causing illness and disability for more than thirty days. The defendant was sentenced to be imprisoned for one year and to pay the costs. He had been previously sentenced to serve a term of three years in that prison on a charge made against him while serving as a soldier in the Ninth Cavalry, United States Army.

As a prisoner, on that occasion, he had charge of the mixing of cement and of the bed of cement, and had been ordered by the master mechanic not to let anyone take the cement without the direction of the master mechanic.

While George Washington was temporarily absent from the cement bed, Harris, another prisoner, attempted to take away a part of the cement without having or exhibited orders therefor. The defendant on his return caught Harris in the act and used very warm words, which Harris resented. A fight followed, Harris striking the first blow, and then attempting to get hold of a shovel, with a view of doing more effective damage. The defendant picked up a bamboo stick, about as thick as his wrist, and with it struck Harris a heavy blow across the back.

The parties were then separated, but Harris again stated to strike the defendant, who ran some distance, picked up bricks or rocks and threatened to throw them at Harris, but did not do so. Finally, Harris was taken to the hospital, where he remained about a month; and the defendant, to use his own language, was taken to "the guardelo, the dark cell, the place of punishment."

We are of opinion, inasmuch as Harris was the aggressor and provoked the fracas by taking, without authority, the cement of which defendant had the care; inasmuch as he struck the first blow; as his injuries were not serious; as the defendant was punished for a breach of prison discipline; and as it was shown that the defendant had a good name and was a well-behaved prisoner, that he should be acquitted.

The judgment of the Court of First Instance is therefore reversed and George Washington, the defendant, is acquitted.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and Johnson, JJ., concur.

*Judgment reversed.*

[No. 1645. April 4, 1904.]

THE UNITED STATES, complainant and appellee, vs. HUGO REYES ET AL., defendants and appellants.

CRIMINAL LAW; GAMBLING.—In order to justify a conviction of the offense of playing a prohibited game it must be charged in the complaint and shown by the evidence that the house in which the defendants were found playing was a house used for the purpose of gaming.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

J. F. OLIVEROS, for appellants.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

The defendants, Hugo Reyes, Gonzales Blas, Fausto Satorre, Feodorico Bautista, Pascual Galan, and Crispulo Mendesa, were charged with the offense of playing a prohibited game, to wit, the game of monte. The defendant Hugo Reyes was convicted by the Court of First Instance and sentenced to imprisonment for one month and one day and to pay a fine of 625 pesetas. The other defendants were acquitted.

It is neither charged in the complaint nor is it shown by the evidence that the house in which the defendants were found playing monte was a house used for the purpose of gaming. The supreme court of Spain by a decision on the 28th day of December, 1887, held in construing this article of the Penal Code that the playing must occur in a house used for the purpose of gaming, whether it be public or private; but if it happened that the playing had taken place by mere accident in such place, the persons engaged in playing the prohibited game are not guilty of the offense defined and made punishable in article 343.

This court has concurred in the construction given to article 343 by the supreme court of Spain, in a decision which has not yet been published, and, on the authority of these cases, the judgment of the Court of First Instance must be reversed and the defendant acquitted, with the costs *de officio*, which is accordingly done.

Arellano, C. J., Torres, Willard, Japa, McDonough, and Johnson, JJ., concur.

*Judgment reversed.*

**OPINION OF THE ATTORNEY-GENERAL.**

*Right of public vaccinators to claim one-half of fine imposed under section 5 of Act No. 309.*

MANILA, P. I., May 13, 1904.

SIR: In answer to the question raised herein relating to the right of public vaccinators to claim one-half of the fine imposed under section 5 of Act No. 309, upon parents, guardians, or other persons in charge of one or more children, who shall be found guilty of neglecting or refusing to comply with the provisions of sections 2 and 3 of said act relating to vaccination, I have the honor to submit my opinion as follows:

It is a general principle of law that it is against public policy for a public officer to receive a reward for performing services which it is his duty to perform. The object of a reward is to incite the interest of the general public in the accomplishment of the object for which it is offered, and not to make the officer whose duty it is to perform such service more zealous in its performance.

"Extra exertions and expenses made and incurred by a public officer in the performance of an act within the scope of his duty will not authorize him to accept an offer of reward for such act." (Am. and Eng. Ency. of Law, p. 954.)

It is my opinion that it is the duty of a public vaccinator to be as vigilant as possible in ascertaining whether the law has been complied with relating to vaccination, and that it is his duty to report all persons refusing to be vaccinated, or in otherwise failing to comply with the law, and that in so doing he is only performing the duties of his office and is not therefore entitled to receive a reward or extra compensation therefor.

Respectfully,

GREGORIO ARANETA,  
Acting Attorney-General.

To the COMMISSIONER OF PUBLIC HEALTH.

**STATISTICS FROM BUREAUS OF THE INSULAR GOVERNMENT.**

**BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.**

Report for April, 1904.

MANILA, May 24, 1904.

SIR: I have the honor to submit the report of the Board of Health for the Philippine Islands and the city of Manila for the month of April, 1904.

The principal causes of deaths in the city of Manila and the number of children who died before completing their first year are as follows:

Cause.	Total deaths.	Deaths under 1 year of age.
Convulsions of children	226	226
Pulmonary tuberculosis	82	26
Chronic bronchitis	40	29
Acute bronchitis	32	31
Congenital debility	31	31
Eclampsia, nonpuerperal	25	14
Meningitis, simple	23	9
Diarrhea and enteritis, chronic	22	2
Beri-beri	19	1
Pneumonia	18	1
Senile debility	18	1
Tuberculosis of larynx	15	1
Plague	15	1
Dysentery	15	1
Organic diseases of the heart	12	1
Intermittent fever	10	1
Tetanus	9	4
Diarrhea and enteritis, under 2 years	9	8
Typhoid fever	8	8
Bright's disease	8	1
Asthma	8	1
Varicella	6	1
Puerperal hemorrhage	7	1
Cerebral congestion	7	2
Other affections of the stomach (cancer excepted)	7	2
Angina pectoris	6	1
Other diseases of infancy	5	3
Acute nephritis	5	1
Leprosy	5	1

Forty-nine per cent of all the deaths in the city of Manila occurred in children under 1 year of age, as against 57 for the month of March.

During the month there were 15 cases of plague with 15 deaths. Of these cases 8 were Chinese and 7 Filipinos. In the prophylactic crusade against this disease 39,415 rats were caught, but of the relatively small number examined none were found to be infected.

The city and provinces have been practically free from cholera. The Chief Quarantine Officer reported a death from this disease on board the steamship *Coptic*, but as the dead man, a Chinese employee, had not been in the city, the infection was easily traced to a foreign port.

The Board of Health on the 27th of April, after careful consideration declared by resolution that—

"Whereas cases of Asiatic cholera have occurred in but three provincial towns of the Philippine Islands since February 8, 1904; and,

"Whereas only one case of Asiatic cholera has been reported as occurring at any place in the Philippine Islands since March 8, 1904; and,

"Whereas the city of Manila was declared on March 23 to be free from the infection of Asiatic cholera: On motion,

*Resolved*, That the islands composing the Philippine Archipelago be, and are hereby declared to be, free from the infection of Asiatic cholera; and

*Be it further resolved*, That the Commissioner of Public Health be directed to send a copy of these resolutions to the Honorable, the Secretary of the Interior, the Municipal Board,

the United States Marine-Hospital Service, and the Collector of Customs."

One hundred and ninety-nine thousand one hundred and ten units of vaccine virus were issued by the Board of Health, of which 178,910 units were sent to the provinces; 10,057 vaccinations were performed in the city.

Eighteen cases of smallpox with 7 deaths occurred in Manila during the month.

The effort of the Board of Health to secure accurate statistics of the number of insane persons in the Islands has been continued, and thus far there are reported a total of 3,736—1,995 males and 1,741 females, of whom it is reported that 578 are violent and 2,625 without means of support and dependent upon charity. One of the most pressing problems confronting the Board of Health at this time is the care of insane.

It is to be hoped that the leper colony at Culion will soon be in operation. Incomplete returns of lepers show 3,511 cases—2,281 males, 1,230 females.

The work of sanitary inspections by the municipal police has been put in operation. There were 10,414 houses and premises inspected, as against 5,302 for the month of March.

The birthrate in the city of Manila for the month was 30.99 per thousand, as against 34.01 for the month of March, but the returns are still incomplete notwithstanding the efforts that have been made to make them accurate and complete.

The Board of Health has been unfortunate in losing the services of Dr. E. L. Munson, captain and assistant surgeon, United States Army, who, as assistant to the Commissioner of Public Health, rendered very faithful and efficient service to the cause of sanitation in the Philippine Islands. Captain Munson's health became impaired by overwork, and he found it necessary to return to the United States for treatment. He had to leave undone many things which he had planned, but the work that he accomplished and the influence which he exerted upon the cause of sanitation in the Philippine Islands will remain as permanent testimonials to his zeal and knowledge.

Very respectfully,

E. C. CARTER,

Major and Surgeon, United States Army,  
Commissioner of Public Health.

The SECRETARY OF THE INTERIOR, Manila, P. I.

VITAL STATISTICS FOR MONTH OF APRIL, 1904.

Population of Manila.

[Preliminary rough count of census of 1903.]

Americans	4,389
Filipinos	189,762
Spaniards	2,528
Other Europeans	1,117
Chinese	21,230
All others	895
<b>Total</b>	<b>219,941</b>

Deaths occurring during the month of April, 1904.

Americans	0
Filipinos	715
Spaniards	5
Other Europeans	1
Chinese	30
All others	0
Unknown	0
<b>Total</b>	<b>748</b>

Annual death rate per thousand for the month.

Americans	0
Filipinos	45.03
Spaniards	24.03
Other Europeans	10.90
Chinese	17.20
All others	0
Unknown	0
<b>Average</b>	<b>41.40</b>

Deaths by age, including transients.

Under 30 days	81
30 days to 1 year	324
1 year to 2 years	25
2 years to 5 years	21
5 years to 10 years	12
10 years to 15 years	10
15 years to 20 years	22
20 years to 25 years	43
25 years to 30 years	49
30 years to 40 years	60
40 years to 50 years	53
50 years to 60 years	30
60 years to 70 years	30
70 years to 80 years	19
80 years to 90 years	7
90 years to 100 years	0
100 years and above	3
<b>Total</b>	<b>797</b>

Stillbirths, 25.

Deaths by districts, including transients.

Districts.	Population.	Deaths.
Walled City	11,463	46
Binondo	16,613	65
San Nicolas	29,059	49
Tondo	89,045	207
Santa Cruz	35,040	108
Quiapo	11,149	38
Sampaloc	18,779	104
San Miguel	8,588	26
Paco	6,725	25
Ermita	12,226	17
Malate	8,858	39
Pandacan	2,990	14
Santa Ana	3,255	10
Transient residents	15,901	49
<b>Total</b>	<b>219,941</b>	<b>797</b>

A classified report of all deaths occurring in Manila during the month of April, 1904.

MALES.

Married	90
Widowers	23
Single	57
Boys	248
Condition not stated in certificate	9
<b>Total</b>	<b>444</b>

FEMALES.

Married	77
Widows	40
Single	20
Girls	214
Condition not stated in certificate	2
<b>Total</b>	<b>353</b>

Grand total 797

Number of deaths with medical attendance 438

Number of deaths without medical attendance 364

Total 797

Stillbirths, 25.

Bilibid prison report of deaths occurring during the month of April, 1904.

Cause of death.	Presidio.		Carcel.				Total.
	Filipinos.		Filipinos.		Chinese.		
	M.	F.	M.	F.	M.	F.	
Smallpox	2						2
Pulmonary tuberculosis	5		1				6
Leucocythemia			1				1
Morphinism					1		1
Parotic dementia (asthemia)				1			1
Lobar pneumonia	9		4				13
Nephritis, chronic			2				2
Senility (cardiac asthemia)	1						1
<b>Total</b>	<b>17</b>		<b>8</b>	<b>1</b>	<b>1</b>		<b>27</b>

Condition:	
Single	12
Married	13
Unknown	2
Cemeteries:	
Loma	8
Norte	18
Chinese	1

Comparative mortality from January 1, 1900, to April 30, 1904.

Month.	1900.		1901.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1,055	50.79	1,753	36.25
February	1,884	47.11	1,689	36.72
March	1,887	42.70	1,885	42.66
April	1,805	40.04	1,886	44.07
May	1,782	35.24	1,908	48.47
June	1,599	29.79	1,621	30.89
July	1,787	37.88	1,668	33.77
August	1,825	33.71	1,702	33.79
September	1,027	50.01	1,767	38.15
October	1,961	46.23	1,855	41.16
November	1,976	48.48	1,848	42.18
December	1,905	43.54	1,808	41.30

Month.	1902.		1903.		1904.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January	1,760	36.58	1,602	28.98	1,796	42.54
February	1,706	37.63	1,511	27.23	1,709	40.59
March	1,770	37.06	1,533	25.94	1,751	44.07
April	1,827	66.01	1,549	27.31	1,748	41.40
May	1,688	31.26	1,770	37.06	.....	.....
June	1,418	70.54	1,592	29.45	.....	.....
July	2,223	107.02	1,620	33.21	.....	.....
August	1,712	32.42	1,862	46.17	.....	.....
September	1,182	56.31	1,228	67.97	.....	.....
October	1,927	44.62	1,217	65.19	.....	.....
November	1,085	51.49	1,974	53.91	.....	.....
December	1,753	36.25	.....	.....	.....	.....

1 Death rate computed on population of 244,732 (Health Department's census)  
 2 Death rate computed on population of 219,941 (census 1903).

Of the total number of deaths occurring during the month of April, 1904 (797, including transients), 473 were of persons less than 16 years of age. Of the remaining 324 adults of both sexes only 171, classified below, had definite occupations:

MALES.

Shoemakers	2
Labors	36
Surgeon	1
Strapper	1
Tailors	3
Carpenters	8
Merchants	6
Boatmen	4
Cigar makers	3
Cookmen	3
Cooks	3
Servant	1
Trinman	1
Printers	2
Shopkeepers	4
Barbers	4
Painter	1
Catholic priests	2
Farmers	1
Mason	1
Silversmiths	2
Teacher	1
Clerks	6
Fishermen	4
School-keepers	1
Fireman	1
Sailors	3
Landrymen	3
Harness maker	1
Butcher	1
Colefationer	1
Total	116

FEMALES.

Seamstresses	21
Laundrywomen	7
Servants	4
Shopkeepers	6
Milk-seller	1
Sister of charity	1
Midwives	2
Cigar makers	6
Grass seller	1
Student	1
Embroiderer	1
Flower seller	1
Merchant	1
Commission merchant	1
Landladies	1
Total	56
Grand total	171

Births reported in April, 1904.

	M.	F.	Total.
Americans	6	1	7
Filipinos	297	247	544
Spaniards	3	.....	3
Other Europeans	.....	.....	.....
Chinese	5	1	6
All others	.....	.....	.....
Total	311	249	560

1 Incomplete.

Annual birthrate per thousand for the month.

Americans	19.41
Filipinos	34.89
Spaniards	14.44
Other Europeans	0
Chinese	3.44
All others	0
Average	30.99

Report of prescriptions filled at the municipal dispensaries, showing districts, sex, and age of persons to whom medicines have been given during the month of April, 1904.

Districts.	Americans.		Filipinos.				Total.	
	Adult.		Adult.		Children.			
	M.	F.	M.	F.	M.	F.		
Station A, Sanitary District No. 1, Nicolas	.....	.....	18	2	13	.....	33	
Station C, Sanitary District No. 2, Tondo	2	.....	85	92	.....	.....	17	196
Station F, Sanitary District No. 3, Quiapo	.....	.....	32	62	28	9	.....	131
Station G, Sanitary District No. 4, Santa Cruz	.....	.....	29	24	9	6	.....	68
Station I, Sanitary District No. 5, Sampaio	.....	.....	86	47	34	14	.....	181
Station J, Sanitary District No. 6, Intramuros	.....	.....	11	1	8	8	.....	23
Station L, Sanitary District No. 7, Ermita, Malate, etc.	.....	.....	71	110	33	30	.....	244
Total	2	.....	332	388	125	79	.....	876

Report of sick and wounded city poor attended by municipal physicians during the month of April, 1904.

Sanitary districts and physicians.	Filipinos.					Total.	Cured.				Deaths.	Number of visits.
	Adult.		Children.		Chin-ese adult male.		M.		F.			
	M.	F.	M.	F.			M.	F.	M.	F.		
No. 1, San Nicolas, Dr. V. Cavanna	13	11	10	3	.....	37	10	10	6	.....	.....	204
No. 2, Tondo, Dr. V. Pan-joia	27	38	.....	6	.....	71	20	32	5	6	.....	271
No. 3, Quiapo, Dr. F. Gab-riel	12	19	8	5	.....	44	14	20	3	1	.....	102
No. 4, Santa Cruz, Dr. C. Reyes	7	11	4	2	.....	24	5	7	2	2	.....	105
No. 5, Sampaio, Dr. F. Cas-allede	25	32	14	12	.....	83	17	16	9	9	.....	163
No. 6, Intramuros, Dr. F. Herrera	3	1	2	1	.....	7	1	1	1	.....	.....	12
No. 7, Paco, Ermita, Ma-late, Pandacan, and San- ta Ana, Dr. J. B. Cabarrus.	25	30	15	8	.....	78	23	18	7	7	.....	202
Total	112	142	53	37	.....	344	90	104	33	24	.....	1,059

Monthly report of San Lazaro Hospital for April, 1904.

WOMEN'S DEPARTMENT.

	Americ-ans.	Euro-peans.	Filipi-nos.	Japane-se.	Total.
Number of patients in hospital at last report	.....	2	40	30	72
Number of patients received during the month	5	1	71	62	139
Number of patients discharged cured	4	1	30	40	75
Number of deaths	.....	.....	.....	.....	.....
Number of patients remaining in hos-pital	1	2	81	52	136

Discharged cured, 4 Americans, 1 European, 27 Filipinos, and 40 Japanese. Sent to prison, 3 Filipinas.



Monthly report of San Lazaro Hospital for April, 1904.—Continued.

## LEPER DEPARTMENT.

	Europeans.		Filipinos.		Chinese.		Total.
	M.	F.	M.	F.	M.	F.	
Number of patients in hospital at last report			132	85			218
Number of patients received during the month		1	5	3			8
Number of patients discharged			1	1			2
Number of deaths			1	2			3
Number of patients escaped			1				1
Number of patients remaining in hospital		1	132	85			218

One male Filipino discharged, diagnosis not leprosy; 1 female Filipina transferred to the Hospicio de San José, diagnosis not leprosy.

Three male and 2 female Filipinos died.  
One male Filipino born in hospital April 16, 1904, not taken up on numerical report, given over to relatives April 20, 1904.

General inspection of houses, premises, vaults, etc., with improvements ordered, disinfected, whitewashed, cleaned, etc., by medical inspectors, chief sanitary inspectors, and sanitary inspectors, for the month of April, 1904.

Houses inspected by the chief sanitary inspector	2,098
Houses inspected for verification of work ordered	311
Houses inspected by sanitary inspectors	5,481
Houses re-inspected by sanitary inspectors	1,524
Houses ordered cleaned (written)	5
Houses ordered cleaned (verbal)	1,040
Houses cleaned	944
Houses ordered whitewashed and painted	10
Houses whitewashed and painted	0
Houses disinfected	72
Number of houses recommended condemned and removed	18
Number of localities where "squatters" are located	22
Number of samples of water from wells sent to Laboratory	0
Number of reports from same	0
Number of fire plugs opened or closed for sanitary purposes	0
Number of hydrants recommended reopened	0
Number of houses where garbage has not been removed for two days	17
Number of persons reported sick to municipal physicians	150
Number of hygienic recommendations	62
Cesspools cleaned	62
Yards ordered cleaned	698
Yards cleaned	682
Yards ordered repaired (repaved, etc.)	0
Yards repaired	0
Number of cholera cases reported by sanitary inspectors	314
Number of cholera cases reported by auxiliary advisory board	0
Number of cholera cases found "alive"	0
Number of cholera cases found "dead"	0
Number of orders issued during the month	7
Number of orders complied with during the month	25
Number of orders awaiting action	68
Number of orders pending in court	0
Number of food tiendas in district	1,471
Number of persons convicted for violation of food-prohibition order	0
Average in visiting each street and barrio during month	3
Number of regular inspectors on duty	14
Number of emergency inspectors on duty	2
Number of leper cases sent to San Lazaro Hospital	1
Number of plague cases reported	14
Number of smallpox cases reported	18
Houses in which traps are set	15,523
Houses in which bane is placed	29
Traps set	86,891
Places with ratsbane placed	435
Rats caught by rat catchers	19,799
Rats caught by traps	19,427
Rats caught by poison	0
Rats purchased	179
Rat catchers employed	74

## Burials, April, 1904.

Cemeteries:	
Loma (Government)	446
Morte (Government)	38
Paco General (Government)	26
Santa Cruz	8
Balle-Balle	120
Bondo	15
Tondo	0
Maytubig	40
Malate	37
Pandacan	39
Chinese	33
Crematory	13
Santa Ana	2
American National Cemetery	2
San Pedro Maco	3
Embalmed for shipment to provinces	3
Total	822

## Detainerments, April, 1904.

Paco	9
Santa Cruz	8
Bondo	2
Malate	2
Chinese	25
Total	46

Monthly report of crematories for the month of April, 1904.

Disposition.	Crematories.		
	Palo-mar.	Santa Cruz.	Total.
Animals cremated:			
American horses	1	9	10
American mules	1	2	3
Australian horses		4	4
China horses		3	3
Filipino horses	36	53	89
Carabaos	3	11	14
Cows	21	18	39
Calves	1	10	11
Dogs	94	11	105
Goats	4	5	9
Cats	79	22	94
Rats	17,021	18,997	36,018
Monkeys	1	2	3
Fowls	488	41	479
Domestic birds	5	5	10
Deer	1	2	3
Pigs	16	2	18
Total	17,710	19,196	36,906
Loads cremated:			
Garbage	2,868	1,085	3,953
Trade refuse	266	41	307
Market refuse	341		341
Organic matter	1		1
Waste	209	30	239
Manure	119		119
Condemned goods	859		859
Total	4,224	1,156	5,380

Report of operations of the pail-conservancy system for the month of April, 1904.

## PAIL COLLECTIONS.

Where cleaned.	Number of installations.	Pails in use.	Pails cleaned.
Private houses	699	864	23,990
Public buildings	45	130	3,485
Public closets	11	486	8,690
Provisional collections, 7 in use		136	3,760
Total, Manila.	755	1,616	41,125
Mariquina	131	200	6,000
Grand total	886	1,816	47,125

## VAULTS CLEANED BY EXCAVATORS.

	Vaults.	Loads removed.	Gallons removed.
Public buildings	19	235	117,500
Private buildings	13	22	11,000
Total	32	257	128,500

## VAULTS CLEANED BY CONTRACTORS.

	Permit issued.	Vaults cleaned.	Barrels removed.
Military closets	28		202
Private houses	212	212	2,486
Total	240	212	2,688

Report of action taken on licenses during the month of April, 1904.

	License applications approved.	License applications disapproved.	Total applications acted upon.
Business for which license is desired.			
Aerated waters	2		2
Bakeries	6	1	7
Boarding houses	1		1
Chocolate	12	1	13
Cleaning and dyeing	1		1
Dance halls	1	1	2
Distilleries (perfumes)	7		7
Drug stores	7		7
Laundries	6		6
Liquor, first-class bar		1	1
Restaurants	8		8
Soap	8		8
Sweets, make and sell	1		1
Vermicelli, make and sell	1		1
Wine, native		3	3
Total	58	7	60

Monthly report of disintoxications for April, 1904.

Diseases.	Number of disintoxications.	Number of contacts.
Bubonic plague	12	28
Smallpox	12	58
Consumption	1	1
Hydrophobia	1	1
Rhinoderm.	1	1
Glanders	8	8
Syria	3	3
Lymphangitis	4	4
Insanitary condition.	20	20
Total	65	86

Report of the veterinary division for the Board of Health for the Philippine Islands for the month of April, 1904.

[David G. Moberly, acting chief veterinary surgeon; Murray J. Myers, veterinary surgeon.]

On arrival in city:	
Number of cattle inspected	2,658
Number of carabao inspected	338
Number of hogs inspected	541
Number of hogs inspected	4,391
Number of goats inspected	34
Number of other animals inspected	10
Number of sheep inspected	9
Total	7,981
In Government abattoir:	
Number of cattle slaughtered	2,130
Number of hogs slaughtered	5,044
Number of sheep slaughtered	1
Number of goats slaughtered	5
Total	7,180
Number of cattle condemned	3
Number of hogs condemned	28
Number of horses condemned for glanders	6
Number of horses condemned for glanders	6
Number of other animals condemned	24
Total	66

Reports received of lepers living in the various provinces of the Philippine Islands to April 30, 1904.

Province.	Race.	Number of men.	Number of women.	Children.		Single.			Married.			Widower.	Widow.	Total.
				M.	F.	M.	F.	M.	F.	M.	F.			
Antique	Filipino	92	37	2	2	38	28	42	4	12	5	133		
Batangas	do	36	17	1	1	27	6	5	8	4	3	53		
Bataan	do	10	4	1	1	5	1	3	2	2	2	16		
Benguet	Igorrote	31	10	1	1	1	1	21	10	1	1	43		
Ambos Camarines	Filipino	33	17	1	1	24	12	8	5	1	1	52		
Bulacan	do	17	9	2	1	12	6	5	3	3	2	29		
Ilocos Norte	do	45	28	5	2	9	10	31	8	5	10	86		
Ilocos Sur	do	176	84	4	3	101	50	61	22	14	12	260		
Leyte	do	49	38	1	3	26	27	20	7	3	4	91		
Masbate	do	51	35	20	3	22	15	27	15	2	2	121		
Magayan	do	57	42	3	3	25	11	25	28	7	1	102		
Lepanto	do	14	4	1	1	5	1	8	1	3	1	19		
Cavite	do	17	5	3	1	16	3	1	1	1	1	23		
Nueva Ecija	do	24	11	1	1	19	12	23	1	1	1	43		
Negros Occidental	do	26	11	5	1	17	10	8	1	1	1	43		
Pampanga	do	8	5	2	3	3	1	5	3	1	1	15		
Pangasinan	do	120	80	2	3	36	28	65	38	19	14	205		
Rizal	do	41	24	2	2	17	14	21	7	3	3	67		
Marikinaque	do	27	13	1	1	15	11	21	18	3	3	52		
Laguna	do	28	9	1	1	10	5	13	2	5	2	37		
San Lazaro	do	110	77	22	9	72	41	26	19	12	17	218		
San Jose	do	27	24	11	4	7	9	18	10	2	5	66		
Sorsogon	do	75	33	1	1	32	18	40	10	3	3	118		
Romblon	do	13	14	3	3	5	9	8	4	1	1	27		
Samar	do	19	32	13	8	15	11	24	12	4	2	52		
Union	do	43	28	3	3	15	14	24	12	4	2	74		
Zambales	do	58	35	2	2	30	15	24	15	4	3	95		
Mindanao	Moro	147	74	3	3	86	44	45	18	9	12	220		
Cebu	Filipino	171	89	5	4	136	64	32	22	3	3	269		
Iloilo	do	221	66	11	2	113	37	94	9	24	20	310		
Negros Oriental	do	66	42	6	2	27	23	32	14	7	5	116		
Isabela de Luzon	do	18	4	1	1	3	1	10	3	1	1	23		
Tayabas	do	1	1	1	1	30	18	27	10	1	1	103		
Albay	do	68	33	1	1	13	12	2	1	5	2	37		
Nueva Vizcaya	do	13	6	1	1	7	3	4	5	2	2	17		
Abra	do	11	6	1	1	10	5	4	5	2	1	26		
Bohol	do	46	46	5	1	20	12	23	2	3	6	68		
Cebu	do	43	19	9	30	20	13	12	1	1	1	105		
Surigao	do	1	1	1	1	28	11	17	4	5	5	71		
Misamis	do	50	20	1	1	28	11	17	4	5	5	71		
Total		2,120	1,153	161	77	1,074	601	856	379	190	173	3,511		

1 female European.

Reports received of insane persons living in the various provinces of the Philippine Islands to April 30, 1904.

Province.	Race.	Married.				Single.		Children.		Total.			
		M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		
Bataan	Filipino	11	10	4	1	5	3	4	3	1	11	10	
Antique	do	29	24	2	4	15	23	3	1	29	24		
Batangas	do	56	33	13	13	15	36	44	2	1	66	73	
Bulacan	do	46	28	6	14	10	32	12	1	1	46	28	
Iloilo	do	98	91	24	10	24	64	64	16	10	98	91	
La Union	do	29	1	1	1	16	10	1	1	1	29	15	
La Laguna	do	71	72	9	6	17	18	45	40	3	71	72	
Mindoro	do	9	7	1	1	2	2	8	1	1	9	28	
Pampanga	do	29	28	3	7	8	4	1	1	1	29	28	
Romblon	do	22	5	1	6	16	4	2	2	2	22	5	
Tarlac	do	8	8	1	8	3	5	5	5	1	8	8	
Tayabas	do	112	83	8	8	11	11	89	65	4	112	83	
Ilocos Sur	do	89	86	8	6	22	20	61	56	2	89	86	
Zambales	do	9	17	9	3	1	7	7	7	1	9	17	
Pangasinan	do	23	86	15	5	22	19	52	39	2	86	86	
Misamis	do	81	72	13	5	22	19	52	39	2	81	72	
Cavite	do	28	23	6	7	1	9	20	8	1	28	23	
Rizal	do	36	25	7	7	1	18	19	66	45	1	36	25
Rizal	do	42	27	4	3	16	7	23	16	1	42	27	
Masbate	do	17	19	3	1	4	4	12	11	1	17	19	
Sorsogon	do	86	65	6	16	19	66	45	1	1	86	65	
Ilocos Norte	do	53	44	1	2	14	12	36	21	1	53	44	
Albay	do	69	86	6	6	12	22	37	54	4	69	86	
Isabela	do	9	5	1	1	1	1	1	1	1	9	5	
Ambos Camarines	do	73	62	6	4	19	16	50	47	3	73	62	
Bohol	do	338	328	14	19	54	49	247	254	18	338	328	
Cebu	do	448	386	14	18	68	51	351	268	11	448	386	
Nueva Vizcaya	do	4	5	1	1	3	4	1	1	1	4	5	
Total		1,995	1,741	199	130	425	378	1,387	1,128	53	1,995	1,741	

Province.	Race.	Violent.	Not violent.	Cared for by friends.	Cared for by provisions.	Method of care by provinces.		Number without financial resources sufficient for support.	Number with financial resources sufficient for support.
						Number without financial resources sufficient for support.	Number with financial resources sufficient for support.		
Bataan	Filipino	5	16	21	None	0	0	32	8
Antique	do	3	50	53	do	0	0	13	21
Batangas	do	26	103	129	do	0	0	36	58
Bulacan	do	12	42	74	do	0	0	16	27
Iloilo	do	64	135	184	5	do	0	136	158
La Union	do	10	34	44	do	0	0	16	44
La Laguna	do	22	121	143	do	0	0	46	97
Mindoro	do	9	7	16	do	0	0	6	16
Pampanga	do	3	54	57	do	0	0	84	23
Romblon	do	2	25	27	do	0	0	4	12
Tarlac	do	6	10	16	do	0	0	4	12
Tayabas	do	26	129	152	3	do	0	81	114
Ilocos Sur	do	43	132	175	3	do	0	138	180
Zambales	do	6	20	25	1	do	0	14	12
Pangasinan	do	18	161	179	do	0	0	88	91
Misamis	do	37	116	153	102	do	0	107	46
Cavite	do	14	87	50	1	do	0	43	8
Capiz	do	16	56	66	6	do	0	52	20
Ambos Camarines	do	3	11	14	do	0	0	49	20
Masbate	do	3	33	36	do	0	0	12	24
Sorsogon	do	13	338	151	1	do	0	105	46
Bohol	do	130	654	779	14	do	0	618	53
Cebu	do	22	133	153	2	do	0	67	88
Isabela	do	1	13	14	do	0	0	3	11
Ambos Camarines	do	1	15	16	do	0	0	99	86
Bohol	do	49	617	666	do	0	0	618	53
Nueva Vizcaya	do	130	654	779	14	do	0	644	140
Total		578	3,708	8,708	33			2,625	1,111

1 Chinese, male.

Smallpox report for Manila from April 1 to 30, 1904.

BY RACE AND SEX.

	Cases.				Deaths.			
	M.		F.		M.		F.	
	M.	F.	M.	F.	M.	F.	M.	F.
Americans	2	0	0	0	0	0	0	0
Europeans	1	1	1	1	0	0	0	0
Filipinos	12	2	4	1	0	0	0	0
Chinese	0	0	1	0	0	0	0	0
Total	15	8	6	1				

Smallpox report for Manila from April 1 to 30, 1904.—Continued.

## BY DISTRICTS.

	Cases.		Deaths.	
San Nicolas.....	3	0		
Tondo.....	3	1		
Quiapo.....	0	0		
Santa Cruz.....	0	4		
Sampaloc.....	0	1		
Intramuros.....	2	1		
Ermita.....	1	0		
Total.....	18	7		

## BY AGE.

	Cases.	Deaths.
Under 1 year.....	2	1
From 1 to 5 years.....	2	2
From 5 to 10 years.....	2	0
From 10 to 20 years.....	4	0
From 20 to 30 years.....	2	2
From 30 to 40 years.....	2	1
From 40 to 50 years.....	1	1
50 years and above.....	0	0
Unknown.....	3	0
Total.....	18	7

Number of cases found "alive".....	16
Number of cases found "dead".....	2
Total.....	18

Epidemic of cholera in the city of Manila and provinces from March 30, 1903, to March 31, 1904.

Month.	Manila.		Provinces.	
	Cases.	Deaths.	Cases.	Deaths.
<b>1902.</b>				
March.....	108	90		
April.....	586	406	1,927	1,417
May.....	550	442	2,407	1,681
June.....	601	492	5,204	4,097
July.....	1,368	1,053	7,757	5,807
August.....	720	581	11,547	7,874
September.....	473	179	48,346	27,410
October.....	87	57	30,887	16,572
November.....	336	236	12,338	6,981
December.....	35	24	5,918	3,583
<b>1903.</b>				
January.....	7	4	4,921	2,757
February.....	2	1	2,997	2,009
March.....	6	6	1,938	1,124
April.....	33	27	1,772	1,147
May.....	230	212	1,402	885
June.....	39	38	5,354	2,945
July.....	42	38	4,167	2,305
August.....	89	72	10,212	7,406
September.....	290	263	4,513	3,672
October.....	127	118	2,531	1,869
November.....	31	26	1,119	837
December.....	14	13	364	270
<b>1904.</b>				
January.....	4	3	5	35
February.....	3	3	61	42
March.....	0	0	23	10
Total.....	5,581	4,386	160,670	105,075

Report of vaccination, city of Manila, during the month of April, 1904.

Sanitary districts.	Males.	Fe-males.	Adults.	Chil-dren.	Results.		Total.
					Posi-tive.	Nega-tive.	
Sanitary District No. 1, San Nicolas.....	1,775	855	1,737	898	318	2,312	2,680
Sanitary District No. 2, Tondo.....	1,256	456	1,195	517	525	1,187	1,712
Sanitary District No. 3, Quiapo.....	565	218	494	289	69	714	783
Sanitary District No. 4, Santa Cruz.....	962	717	694	985	527	1,152	1,679
Sanitary District No. 5, Sampaloc.....	979	645	907	717	410	2,124	1,624
Sanitary District No. 6, Intramuros.....	622	219	574	267	232	609	840
Sanitary District No. 7, Ermita, Paco, Ma-late, etc.....	437	351	287	501	336	462	788
Total.....	6,596	3,461	5,863	4,169	2,417	7,640	10,047

Report of cholera occurring in provinces in the Philippine Islands during the month of April, 1904.

Province and place.	Cases.	Deaths.	Total.		Per cent.
			Cases.	Deaths.	
Laguna, Malah.....	1	0	1	0	
Total.....	1	0	1	0	

Bubonic plague report for Manila from March 1 to 31, 1904.

## BY RACE AND SEX.

	Cases.		Deaths.	
	M.	F.	M.	F.
Americans.....	0	0	0	0
Europeans.....	0	0	0	0
Filipinos.....	4	3	4	2
Chinese.....	8	0	9	0
Total.....	12	3	13	2

## BY DISTRICTS.

	Cases.		Deaths.	
San Nicolas.....			7	8
Tondo.....			0	0
Quiapo.....			0	1
Santa Cruz.....			2	2
Sampaloc.....			0	0
Intramuros.....			5	4
Ermita.....			0	0
Total.....			15	15

## BY AGE.

	Cases.	Deaths.
From 1 to 5 years.....	1	1
From 5 to 10 years.....	2	2
From 10 to 20 years.....	1	1
From 20 to 30 years.....	4	4
From 30 to 40 years.....	4	4
From 40 to 50 years.....	1	1
50 years and above.....	2	2
Total.....	15	15

Number of cases found "alive".....	10
Number of cases found "dead".....	5
Total.....	15

WEATHER BUREAU.

Meteorological data deduced from hourly observations, month of April, 1904.

Date.	Barometer, <sup>1</sup> mean.		Temperature.								Relative humidity, mean.	Wind.				Sunshine.	Rainfall.		
			Mean.		Maximum.		Minimum.		Prevailing direction.	Total daily motion.		Maximum.							
			Inches.	Mm.	°C.	°F.	°C.	°F.		°C.		°F.	Per ct.	Km.	Miles.				Km.
1.	29.901	758.68	25.4	77.7	29.8	85.6	21.5	70.7	74.2	E.	244	152	25	16	SE.	4	h. m.	Inches.	Mm.
2.	29.877	58.85	26.3	79.3	33.2	91.8	20.8	69.4	76.0	E.	244	152	28	18	SE.	6	2	00	
3.	29.846	58.08	26.5	79.7	33.5	92.3	21.9	71.4	74.0	SE.	204	145	19	12	ESE.	5	45		
4.	29.839	58.69	27.6	81.7	36.2	97.2	20.7	69.3	71.8	ESE.	200	144	17	10	SW.	5	45		
5.	29.854	58.28	28.5	83.3	34.8	94.6	23.7	74.7	70.7	E.	172	107	21	13	E.	7	50		
6.	29.873	58.76	27.5	81.5	34.4	93.9	21.5	70.7	66.6	SE.	232	144	28	18	SE.	7	50		
7.	29.878	58.87	27.4	81.3	35.6	92.5	23.6	74.5	65.2	SE.	206	128	18	11	SE.	5	45		
8.	29.855	58.30	27.2	81.0	32.2	90.0	21.9	71.4	72.5	W., SE.	112	70	16	10	W.	7	15	0.150	3.8
9.	29.869	58.65	25.8	78.4	29.7	85.5	23.0	73.4	80.9	W., ESE.	124	77	10	6	E.	4	10	0.276	7.0
10.	29.890	59.21	25.8	78.4	31.3	88.3	21.5	70.7	71.5	E., NE.	202	126	20	12	E.	4	10		
11.	29.903	59.53	26.0	78.8	34.0	93.2	20.8	69.4	71.9	NNE.	198	123	26	16	NNE.	4	00		
12.	29.864	58.53	26.9	80.4	32.9	91.2	21.7	71.1	76.9	NE., ESE.	110	68	12	7	E.	5	05		
13.	29.844	58.02	26.9	80.4	32.7	90.9	23.4	74.1	73.1	SE.	161	104	19	12	SE. by E.	4	00		
14.	29.867	58.60	27.6	81.7	34.4	93.9	22.9	73.2	71.5	ESE.	103	64	14	9	SE. by E.	5	05		
15.	29.831	57.71	26.4	79.5	32.0	89.6	21.3	70.3	70.2	ESE.	148	92	16	10	ESE.	6	50		
16.	29.814	57.26	27.3	81.1	32.5	90.5	20.7	69.3	65.1	W., ESE.	198	117	18	11	W.	9	30		
17.	29.836	57.83	27.4	81.3	34.3	93.7	20.9	69.6	62.5	SE.	238	148	26	16	SE.	10	30		
18.	29.857	58.36	26.7	80.1	32.9	91.2	20.0	68.0	67.9	SE.	134	83	14	9	WSW.	7	45		
19.	29.855	58.29	27.3	81.1	34.5	94.1	21.3	70.3	61.2	E.	153	95	18	11	E.	9	15		
20.	29.875	58.81	26.5	79.7	33.9	93.0	20.2	68.4	68.6	ESE.	245	162	26	16	SE.	10	40		
21.	29.896	59.36	26.7	80.1	33.7	92.7	20.4	68.7	63.3	ESE.	234	145	22	14	NE.	9	05		
22.	29.879	58.89	25.8	78.4	31.5	88.7	20.2	68.4	74.0	Variable.	174	108	14	9	W.	6	40		
23.	29.857	58.36	26.3	79.3	32.7	90.9	19.9	67.8	64.1	NE., ENE.	228	142	21	13	WNW.	7	50		
24.	29.851	58.21	27.1	80.8	32.6	90.7	21.1	70.0	67.0	Variable.	202	126	16	10	W.	8	30		
25.	29.849	58.16	27.4	81.3	33.3	91.5	21.1	70.0	67.6	ESE.	218	135	29	19	ESE.	9	40		
26.	29.846	59.09	28.0	82.4	34.7	94.5	23.2	73.8	63.6	ESE.	192	119	23	14	SE. by E.	6	50		
27.	29.906	59.59	27.0	80.6	34.7	94.5	20.5	68.9	65.6	ESE.	194	121	16	10	E.	4	40	0.110	2.8
28.	29.902	59.51	26.1	79.0	31.5	88.7	21.9	71.4	75.5	Variable.	181	112	18	11	N. by E.	6	20	0.677	17.2
29.	29.894	59.30	27.3	81.1	34.5	94.1	20.9	69.6	63.2	ENE.	222	138	18	11	E.	10	10		
30.	29.870	58.67	27.5	81.5	33.3	91.9	21.7	71.1	66.7	E.	220	137	19	12	W.	10	30		
Mean.	29.867	758.62	26.9	80.4	33.2	91.8	21.5	70.7	69.4		190.6	118.5	19.5	12.1		7	06		
Total.											5,719	3,554				213	10	1.213	30.8

<sup>1</sup> Corrected for instrumental error and for temperature and reduced to sea level. Correction to standard gravity, -1.72 mm. (-0.068 inch).

BUREAU OF THE INSULAR TREASURER.

Banco Español-Filipino—Balance sheet for the month of April, 1904.

Resources.	Liabilities.
Property:	Capital stock, Philippine currency ..... P1,500,000.00
Furniture and fixtures, Philippine currency..... P5,012.54	Reserve fund:
Real estate ..... 406,562.68	Legal, Philippine currency ..... P225,000.00
	Voluntary ..... 665,000.00
	Total ..... P1,115,517.17
Securities:	Deposits:
Notes and discounts—	Voluntary—
Philippine currency..... P451,335.68	Philippine currency..... P3,910.00
Local currency..... 118,986.21	Local currency..... 95,473.56
	Total ..... 99,383.56
Loans (papers acknowledged notary public), Philippine currency..... 110,599.61	Necessary—
Loans secured by mortgages—	Philippine currency..... 260.00
Philippine currency..... P292,701.24	Local currency..... 19,000.00
Local currency..... 58,615.02	Total ..... 19,260.00
	Time—
Loans secured by merchandise—	Philippine currency..... 198,771.82
Philippine currency..... 60,247.96	Local currency..... 697,156.45
Local currency..... 121,473.90	Total ..... 895,928.27
	Current account and accepted checks—
Loans secured by bonds and other public securities—	United States currency..... 188,233.52
Philippine currency..... 29,000.00	Philippine currency..... 565,753.13
Local currency..... 62,200.00	Local currency..... 2,261,489.30
	Total ..... 3,015,475.95
Overdrafts and bills of exchange—	Dividends not paid:
Philippine currency..... 2,320,073.88	Overdue..... 6,108.00
Local currency..... 1,728,758.50	Current..... 2,852.00
	Total ..... 8,940.00
Bonds, stocks, and other securities, Philippine currency..... 617,191.07	Bank notes in circulation—
	United States currency..... 40,000.00
Cash on hand:	Local currency..... 1,815,342.50
In gold, \$164,388.11..... 328,776.22	Total ..... 1,855,342.50
In Philippine currency..... 630,239.45	Profit and loss..... 8,358,368.59
In local currency..... 842,663.55	Current..... 319,971.11
General expenses..... 35,094.68	Bank notes in vault..... 580,007.50
Sundry accounts..... 143,918.40	Total ..... 9,258,367.20
	Deposits held for safe-keeping..... 8,358,368.59
	Bank notes withdrawn from circulation..... 319,971.11
	Total ..... 8,678,399.70
	Bank notes withdrawn from circulation..... 580,007.50
	Total ..... 9,258,367.20

Correct: JOAQUIN J. DE INCHAUSTI, Director in Charge.

J. SERRANO, Accountant.

## BUREAU OF AGRICULTURE.

*Maguey cultivation in Mexico.*

[Extract from a report received by the Bureau of Agriculture from the United States Consul at Mazatlan, Mexico.]

By H. T. EDWARDS, *Fiber Expert.*

## INTRODUCTION.

This valuable plant, while known for many years, has been cultivated in this Republic for only a short time and has since then developed into a very important agricultural and commercial product.

The maguey plant, also called century, yaxci, or henequin, is a species of the genus *Agave*. The fiber, after being extracted, is generally known as sisal, ixtle, or henequin. This fiber is mostly shipped to the United States, where it is manufactured into sacking, cordage, and binder twine, the finer qualities being used for making fancy hammocks and other similar articles.

The maguey which is grown in the State of Yucatan is considered more valuable than that grown in other states of this Republic. The leaves are longer than those produced in other sections, and the Yucatan sisal, because of its length, whiteness, and strength, will bring, if packed separately, a much better price than that produced elsewhere.

Yucatan leads all the states of Mexico in the production of the maguey plant. This new enterprise is making this state one of the wealthiest in the Republic, and it is outstripping any similar industry in point of rapid increase.

Progreso, the port from which nearly all the ixtle for export from Yucatan is shipped, shows the exportation for the fiscal year 1901, as per consular reports, to amount to \$8,110,571.60, United States gold, and for the fiscal year 1902, \$12,802,655.21, being an increase of more than 50 per cent over the preceding year.

Monterey, Saltillo, Tampico, San Luis Potosi, Ciudad Porfirio Diaz, and Mazatlan all export this fiber. Each year shows a handsome increase. The estimated export from this Republic for the year will reach over \$20,000,000. The official export of ixtle fiber, as published by the Mexican Journal of Commerce under date of August 1, 1903, from all ports of the Republic for the fiscal year 1902, amounted to \$14,188,129, and for the same period of 1903, \$17,261,060.50.

## CULTIVATION.

The maguey plant is found in its wild state in many of the states of Mexico. It thrives on poor, rocky lands where scarcely anything else will grow. The climatic conditions of Mexico are very favorable for the cultivation of maguey; especially is this true near the coast, as here the ranges of mountains form a protection for the young plants. Once planted and thriving they will produce crops for many years. Age will give them additional value as, when the leaves grow larger and longer, the fiber extracted will gain in fineness and strength. The life of the plant is from 8 to 20 years, depending on the species and the local conditions. Great care should be taken in the selection of the young shoots for transplanting. These sprout from the old stock and are ready for transplanting when about 15 inches high. The best time for transplanting is immediately before the commencement of the rainy season, which begins here in July and ends in October. The young plants should be set out in straight rows, and should be not less than three feet apart.

No special care or cultivation is required, though occasional irrigation is beneficial. It is necessary, also, to cut and destroy all large weeds. When the plant is from three to four years old the longest leaves can be cut. The cutting is done close to the trunk, the horny ends are removed, and the leaves are then ready for the cleaning machine. The maguey plant is very hardy and survives and increases where almost any other vegetation would

fail. After being well rooted it can endure long periods of drought and will stand any amount of hot weather. Great care should be taken that the plants do not catch fire, as a fire once started in a maguey plantation is very difficult to check. No smoking by laborers should be allowed. The maguey plant is best propagated from cuttings or suckers. These cuttings, if properly packed, can be shipped long distances and will arrive in good condition.

## EXTRACTION OF FIBER.

A machine for the extraction of maguey fiber, in general use and giving very good satisfaction, is manufactured in Mazatlan. This machine weighs 850 kilos, and costs, ready for shipment, \$350 Mexican, and with cap or cover \$450. It will strip about 7,000 leaves in a day of ten hours, which should yield 14 arrobas of fiber. Presses for baling maguey are also manufactured in Mazatlan. These presses weigh 850 pounds and cost \$200 Mexican. For use on large plantations, machines known as the "Prieto Automatic Machine" and the "La Estrella" are manufactured in Paterson, New Jersey. These machines will strip 60,000 leaves daily, and cost \$2,000, gold.

## USES OF THE PLANT AND FIBER.

The green, fleshy portion of the leaf, when stripped off from the fiber, furnishes a valuable feed for cattle and hogs. This material is very fattening and is much relished by the animals.

The residue of the leaves, after the fiber has been extracted, is used for making mescal, or tiquile, a favorite native drink. This waste material is first put in a press and all of the juice which it contains is pressed out. This juice is then put in a double-bottomed copper kettle and thoroughly boiled. It is then allowed to ferment, and whatever scum appears is removed. The retail price for mescal is from \$1 to \$1.50, Mexican, per gallon, and the cost of production is from 35 to 40 cents per gallon. The dry material left after the leaves have been pressed may be fed to cattle and hogs.

The stem after the leaves have been removed is cut close to the ground, placed in a mill, and mashed to a pulp between stones. This pulp is transferred to wooden tubs, mixed with water, and allowed to ferment for six days. After the expiration of this time the whole mass is placed in a copper kettle and, either by steam or direct fire, is thoroughly boiled. From this material alcohol is made, which costs to produce about 50 cents, and which sells at wholesale for about 85 cents per gallon.

Rope and twine are manufactured from the maguey fiber by the natives. Little or no machinery is used for this work. A ready market is found for the rope made by the natives. It is sold locally, and none is exported.

## DISPOSITION OF FIBER AND PROFITS.

The sisal fiber of Yucatan and the neighboring states is nearly all shipped to New York. The fiber produced in Sinaloa is shipped to San Francisco, where there is always a good demand for sisal. The average price in San Francisco has been \$140, gold, per ton, while in New York the average price has exceeded \$200 per ton. There has, at all times, been a ready market for the fiber.

The cost of production, including all expenses, ready for shipment, will not exceed \$75, gold, per ton, leaving a net profit of over 100 per cent and making the cultivation of the maguey plant one of the most profitable industries of this Republic.

## BUREAU OF EDUCATION.

*Advanced and post-graduate studies offered by the Philippine Normal School in preparation for admission to American college and university courses or to the University of the Philippines.*

From the beginning of American rule in the Philippines it has been the definite purpose of the Government to establish a Philippine university as soon as the time may be ripe. This university,

when organized, will complete the system of public instruction designed for the people of these Islands—the municipal primary and the provincial secondary schools already in operation.

The Government has also inaugurated the policy of sending Filipino students to the United States to attend institutions of learning there. Those who have been sent, so far, have usually entered schools of a preparatory nature on account of their not having received the amount of preparation necessary for admittance to American colleges or universities.

It is probable that in the near future only such students as are ready to enter reputable American colleges will be sent to the United States at Government expense. Many Filipino youths, however, other than those sent at Government expense, will desire to enter American institutions of higher learning, and also a large number will seek admission to the Philippine university.

At present there is no institution in the Philippines in which the instruction is given in the English language that is offering work of a sufficiently advanced character to fit students to enter American colleges. It is therefore proposed to offer in the Philippine Normal School courses of an advanced nature adequate for the attainment of this purpose.

Before unfolding the plan of the Bureau of Education the following brief explanation of the character of the system of instruction found in the United States is considered necessary:

The system begins with the elementary, or, as they are sometimes called, the primary and grammar schools. Children of both sexes are admitted to these schools at the age of 6 years. The primary and grammar school courses cover a period of about eight years. Instruction is given in reading, writing, spelling, composition, grammar, geography, history of the United States, music, physiology and hygiene, arithmetic, and often the simpler parts of algebra and geometry. At the age of about 14, pupils who have completed successfully the work of the elementary schools are admitted to the high schools. Public high schools, as well as the elementary schools, are open to both sexes. The private high schools, which are generally called "academies," may be coeducational or may be open to either boys or girls only.

The work of the high school extends through a period of four years, and classes are conducted in algebra, geometry, trigonometry, Latin, French, German, Spanish, and Greek, English literature, grammar, composition, and rhetoric, the elements of physiology, physics, chemistry, botany, and zoölogy, and a fuller study of general history and history of the United States. Some high schools make a specialty of industrial work, and are called manual-training or technical high schools.

These studies are grouped in courses, usually termed the classical, the scientific, the literary, and commercial, the student selecting his course in accordance with what he expects to do after leaving the school or with reference to the course he will follow in college.

The American high school grants no degree, but gives a diploma of graduation to students who do the required amount of work in a satisfactory manner.

The first institutions above the high school that are accustomed to give bachelor's degrees are the colleges, the professional schools, and the institutes of technology. The colleges, which should not be confused with the schools of much lower grade in the Philippines, known as "colegios," require four years' study in addition to the high-school courses before a degree can be obtained. The professional school courses cover from three to five years, at least, beyond the high school, and there is a growing tendency among American students to postpone entering professional schools until after the completion of a four years' college course. The best professional schools, such as Harvard Law School, for example, require a full college course as a condition of admission. Some institutes of technology, in addition to

giving work leading to the bachelor's degree, direct research work that ranks with the scientific work of the best universities.

The courses offered in a college are more varied and more extended than those of the high school. Some students direct their attention principally to a study of the classics, and devote much of their time to Latin and Greek, others make mathematics or science the basis of their work; still others give the preference to literature and arts. All college students, however, are expected to cover a considerable range of work outside the lines that occupy the greater part of their time, in order that they may attain breadth of culture as well as proficiency in their special lines.

Because no degree is given until the close of a course in college, this study is called "undergraduate work." As a rule, the American student is about 22 years old before he receives his bachelor's degree. The majority of college students after obtaining their bachelor's degrees do not go on with their studies in higher institutions, but instead enter business life immediately after leaving the college.

Many institutions in America, however, offer facilities for an indefinite amount of still more advanced work along the lines of original investigation to students who have received the bachelor's degrees. Advanced study of this character in such schools is called "graduate work." On completion of at least three years of graduate work, the degree "Doctor of Philosophy" (Ph. D.) is given to such students as have attained results that add something to the world's stock of valuable knowledge. The degrees "Master of Arts" and "Master of Science" (M. A. or M. S.) are sometimes given in such institutions upon the completion of one year of graduate study and the preparation of a thesis.

Undergraduate work in colleges differs from graduate work, especially in the earlier years, in being to a large extent not original. It consists in familiarizing one's self with the knowledge that is the common heritage of the educated world. The student who is looking forward to independent advanced work is occupied in attaining skill in the use of languages, mathematics, natural sciences, history, etc., which subjects he will use as tools in his later work.

Institutions making a specialty of graduate work are properly called universities. American universities, in addition to their graduate departments, usually include undergraduate colleges and professional schools in law, medicine, engineering, agriculture, etc., under the same management.

Some institutions assume the name of university, although doing nothing higher than undergraduate work. In such cases the name is used in a different sense and signifies an aggregation of colleges and professional schools.

Most American colleges and universities receive both men and women as students on equal terms. Some of these institutions, however, are for men or for women exclusively.

Many American universities are supported wholly or in part by public taxes and are known as State universities. To this class belong such institutions as the State universities of Pennsylvania, Illinois, Indiana, California, etc. Other universities and most colleges are maintained by the incomes from large gifts that at various times have been given by people interested in educational progress. Many of them are more or less allied to some church, as the University of Chicago, in the management of which the Baptist denomination has numerous representatives; or Notre Dame University, in Indiana, which is a Roman Catholic organization. Others, like Leland Stanford Junior University in California and all of the State universities, are entirely secular in their management and teachings. Most of the institutions that attempt little more than college work are denominational schools.

Under headings I, II, and III, below, is given additional infor-

mation concerning typical American universities and colleges. There are more than 600 institutions of college and university rank in the United States.

The number of students enrolled in American schools and colleges, public and private, during the year 1901-2 was 17,460,000. Of this number there were enrolled in public institutions supported by taxation and funds belonging to States and municipalities 16,041,016.

After this general explanation of the American system of education, attention is invited, in the following paragraphs, to a consideration of the steps to be taken to secure the preparation necessary for entrance to the better institutions of college rank in the United States, and to the provision made by the Bureau of Education of the Philippines for meeting the needs of the situation here.

In an American high school or academy preparation for college consists of definite quantities of work of a clearly defined quality. Values are given to the work in the different subjects, according to the time and effort required in mastering them. These values are called "units of credit," or simply "units." By use of these units a student's standing can be determined quantitatively.

As a rule American colleges and universities in determining the standing of applicants for admission estimate the work required for one unit of credit as the amount done in any given subject in one year in a high school with five lessons a week.

Four years of work in a high school by a student carrying four subjects at a time, if completed in a satisfactory manner, would supply sixteen units of credit for college entrance. As a matter of fact, fourteen or fifteen units are all that are required for admission to most colleges. Hence, a high-school student has time to repeat some work that may have been done unsatisfactorily, or to do other work not required for college entrance.

Our Philippine provincial schools and the Normal School, as organized at present, supply no more than nine of these units, the other subjects pursued belonging, under the American system, to the "grade" or primary work.

An examination of the regular course of study of the Philippine Normal School for the year 1904-5, as given on page 451, will show that work of increasing difficulty is not yet done in every case by each class. The fourth-year class, for instance, will do the same work in English as the third-year class. By the following year, however, each class will have its own work to do in each subject, differing from that done by any lower class.

In the course of study for the year 1905-6 one unit of general history, one of history and civil government of the United States, two of mathematics, two of English, three of science (which may be selected from physiography, chemistry, physics, botany, and zoology), can properly be classed among the units necessary for college entrance. All work done in the third and fourth years of the regular course is of American high-school grade, and, with the exception of the course in professional training, will supply units for college entrance.

A two-year course<sup>1</sup> of work preparatory for college entrance in addition to the course required for graduation, is outlined on page 451. It will be noticed that seven units of work are provided for each year. Of the seven, each student may select, with the advice of his instructors, the four which he should carry. It is by no means required that the course, when this point is reached, be the same for all students. Furthermore, it is to be expected that some parts of those two years of work can be credited upon the books of the University of the Philippines, when that institution is opened, since the admission requirements at the University of the Philippines will be probably lower than those of an American university, at least for a time. The other parts should satisfy entrance requirements in that institution.

<sup>1</sup> Four years' work in Latin is offered now, but in a year or two students may be required to secure Latin I and II before entering the advanced course in the Normal School.

Thus, such a course as is being discussed would benefit alike students intending to go to America and those expecting to enter the Philippine University.

From the subjects offered at the Philippine Normal School, in the regular and in the advanced or post-graduate courses, selections may be made which will prepare students to enter almost any college course in the United States, excepting the classical course, which calls for Greek. A few eastern institutions, like Harvard and Yale, require an exceptional amount of preparatory work.

To obtain credit at an American university for any work done in the Philippines it will be necessary for a student to pass the entrance examination in the subjects at the college or university to which he applies for admission. Laboratory notebooks written in the preparatory school are sometimes required for inspection before credit for science work will be given.

There are but few American universities that require Latin for entrance to all courses, but when it is offered at all by the candidate for entrance, he is expected to have studied it for at least two years. Many college courses require four years of preparatory Latin.

Spanish is acceptable at American universities as an optional subject. The first year of Spanish in the Normal School course of study is placed in brackets, since it is expected that nearly all Filipino students entering this course will be able to review everything included in "First Year Spanish," and complete "Second Year Spanish" in one year of study. Thus, in the case of Spanish, many students should be able to get credit for two units with but one year of work.

The Normal School year is divided into two terms, or half years. For the school year 1904-5 the first term will begin June 13, 1904, and close October 28, 1904. The second term will begin October 31, 1904, and close March 31, 1905. In the second term will occur the holiday vacation, for which the school will close December 23, 1904. The sessions will resume January 9, 1905.

A class in any course of the advanced work will be organized at the beginning of either half year, provided five students qualified to do the work apply for admission. Qualified persons desiring thus to prepare for college entrance, even though not intending to become teachers, will be admitted not only to the classes in the advanced courses, but also, as special students, to such of the regular classes of the Philippine Normal School as may be advisable.

Below is given the regular course of study for the Normal School for the year 1904-5, with some suggestions as to what changes may be expected in the following year. Following this are the advanced or post graduate courses that are offered for preparation to college or university:

#### OUTLINE OF WORK TO BE GIVEN IN THE REGULAR COURSE IN THE PHILIPPINE NORMAL SCHOOL IN THE YEAR 1904-5.

##### FIRST YEAR.

*English.*—Five lessons per week. Stories of the East; Old Greek Stories; Baldwin's Story of Ulysses; selections from Stepping Stones Nos. 4 and 5; Arabian Nights; Robinson Crusoe (complete edition); phonics, oral grammar, and composition.

*Arithmetic.*—Milne's Standard, through decimals. Practical problems to be solved by analysis. (In 1905-6, to percentage.)

*Geography.*—Oral instruction in political, commercial, and elementary physical geography of the Philippines. Frye's Philippine Geography used in study of local and general geography.

*United States history.*—Elementary study in such books as Montgomery or Blaisdell.

*Drawing.*—Oral instruction in drawing from objects, such as geometrical figures, plants, casts, etc. The purpose of the course is mainly to prepare students for the free-hand work required in the laboratories after the first year.

*Vocal music.*—Normal Reader, second book.

## SECOND YEAR.

*English.*—Literature, five lessons per week. Robinson Crusoe (complete edition); Hawthorne's Wonder Book and Tanglewood Tales; Irving's Sketchbook; Franklin's Autobiography; Seader's Washington; Scott's Ivanhoe; grammar (two lessons per week), with text-book.

*Arithmetic.*—Milne's Standard, completed. In 1905-6, algebra to factoring will be taken in second half.

*Geography—Physical, political, and commercial.*—Tarr and McLurray, two-book series; Dryer's Physical and the Natural Advanced Geography, used for reference and as supplementary books. Much attention is given to sand and chalk modeling in the study of relief.

*Philippine history.*—Study of notes and lectures on material taken from original sources, with frequent recitations and written tests. Knapp's Story of the Philippines and other text-books that will appear during the year will be used for comparison and as supplementary books.

*Nature study.*—Study of fish, plants, and insects, with the aid of dissecting microscopes, as a preparation for the courses in botany and zoology in the later years. Much drill in recording results of observations.

*Physiology and hygiene.*—Three lessons per week. Lectures, simple experiments, and recitations. Suitable text-books will be introduced.

## THIRD YEAR.

*English I.*—Literature, five lessons per week. Hiawatha; Evangeline; Ivanhoe; Last of the Mohicans; Shakespeare's Julius Caesar, etc. More work will be given in 1905-6.

*Mathematics I* (begun).—Milne's High School Algebra to quadratics. (In 1905-6, algebra through quadratics.)

*Physiography.*—Same books for reference as in second year geography. Lectures and recitations.

*History I.*—Barnes' General History, five lessons per week.

*Botany.*—Elementary work, based chiefly upon economic plants of the Philippine Islands.

*Chemistry.*—A well-stocked laboratory will be installed during the year. In 1905-6 a year's work in elementary chemistry will be offered, and the student, with the advice of the instructors, may elect this subject instead of botany. Both studies may not be carried at the same time.

## FOURTH YEAR.

*English I.*—Same as in third year. English II will be substituted in 1905-6.

*Mathematics I* (completed).—Milne's High School Algebra continued through quadratics.

*Mathematics II* (begun).—In 1904-5 about one-half year's work in plane geometry will follow the completion of the required work in algebra. (In 1905-6 a year's work in plane geometry will be given.)

*Physics.*—Lectures, recitations, and laboratory practice, five lessons per week, throughout the year. Hoadley's Brief Course in Physics will be used as text.

*Zoology.*—A lecture and laboratory course, continuing through the year, will be given, and choice will be made between this and the course in physics.

*History II.*—United States History and Civil Government; McMaster's School History of the United States and Thomas' School History of the United States will both be used. Much outside material will be introduced.

*Professional training.*—Teaching, observing work, and discussing methods of teaching with the critic teacher two forty-minute periods each day.

As some of the courses indicated above have been insufficiently described, a fuller description is presented here of a portion of the courses that may count for units:

*Mathematics (one unit).*—High-school algebra through quad-

raties includes the four fundamental operations, thorough drill in factoring, highest common factor, least common multiple, and complex fractions, simple equations of one or several unknown quantities, radicals and fractional exponents, and quadratic equations in one and two unknown quantities.

*Mathematics II (one unit).*—Plane geometry: (1) Demonstrations of the fundamental theorems relating to lines, angles, triangles, quadrilaterals, regular polygons, and the circle; (2) constructions and demonstrations of a large number of problems; (3) the solution of numerical exercises relating to the length of lines and areas of the triangle, parallelogram, trapezoid, regular polygons, and the circle.

*English I and II (one unit each).*—The work of these two courses involves a thorough acquaintance with the following works or their equivalents, together with a practical knowledge of grammar and the fundamental principles of rhetoric, implied in such acquaintance: (1) The Lady of the Lake; (2) Ivanhoe or the Alhambra; (3) The Best Ballads, Heroic Lays, and Poems of Nationality—in all about 1,500 lines; (4) Classic Myths; (5) the following poems: The Deserted Village; The Cotter's Saturday Night; Tam O'Shanter; The Ancient Mariner; The Prisoner of Chillon (or selections from Childe Harold); Horatius; Snow Bound; (6) The Merchant of Venice; (7) Julius Caesar; (8) Essays and Addresses: Emerson's The Fortune of the Republic; The American Scholar; Lowell's Democracy; Lincoln (two for study and one for reading).

*Physiography (one unit).*—Under this title are included the following subjects:

The earth as a member of the solar system.

The atmosphere—its nature, temperature, pressure, moisture, and precipitation, circulation, storms, weather, climate.

The oceans—form and general characteristics, life within the oceans, waves, currents, tides.

The lands—distribution, structure, processes of denudation and reconstruction and the resulting topographic features, such as plains, plateaus, mountains, valleys, hills, volcanoes.

Life on the earth—influence of nature on man, influence of man on nature.

## ADVANCED OR POST-GRADUATE COURSES OFFERED IN THE PHILIPPINE NORMAL SCHOOL.

## FIRST YEAR.

English III.

Mathematics III.

Latin I.

Latin III.

French I.

German I.

## SECOND YEAR.

English IV.

Mathematics IV.

Latin II.

Latin IV.

French II.

German II.

[Spanish I (one unit each)—Spanish II.]

*English III and IV.*—In view of the fact that English II, which belongs to the regular course, will not be given until the year 1905-6, a detailed statement of what will be included in the later courses will not be made at the present time.

*Mathematics III (one unit).*—Solid geometry (one-half unit): As in plane geometry there is required, in addition to the demonstration of the fundamental propositions, constructions, demonstrations of problems, and the solutions of numerical exercises.

Plane trigonometry (one-half unit): The development of the general formulae of plane trigonometry with applications to the solutions of plane triangles, and the measurement of heights and distances.

*Mathematics IV (one unit).*—Later chapters in elementary algebra. These include ratio and proportion; arithmetical, geometrical, and harmonic progressions; an elementary treatment of permutations and combinations; the binomial theorem for positive integral exponents; the use of logarithms; inequalities; the elementary treatment of infinite series; undetermined coeffi-



icients; the binomial theorem for fractional and negative exponents; the theory of logarithms; determinants; and the elements of the theory of equations.

*Latin I (one unit).*—Latin lessons, accompanied by the reading of simple selections. Easy reading—twenty to thirty pages of consecutive text. In all written exercises the long vowels should be marked, and in all oral exercises pains should be taken to make the pronunciation conform to the quantities. The student should be trained from the beginning to grasp the meaning of the Latin before translating, and then to render it into idiomatic English, and should be taught to read Latin aloud with intelligent expression.

*Latin II (one unit).*—Selection from Caesar's Gallic War equivalent in amount to four or five books. The equivalent of at least one period a week in prose composition based on Caesar. Reading aloud and translating, together with correct methods of apprehending the author's meaning, both prepared and unprepared.

*Latin III and IV (one unit each).*—Selections from Sallust's *Catiline*; Cicero, six orations (including the *De Imperio Cn. Pompeii*); Ovid, 500 to 1,500 verses; Virgil's *Aeneid*, six books. The equivalent of at least one period a week in prose composition based on Cicero. Reading of Latin aloud. The memorizing of selected passages.

*French I (one unit).*—During the first two months an illustrated text of the degree of simplicity of Worman's First Reader will be slowly read. The reading book will be used as follows: The pupil will read a sentence aloud. Then the teacher will put this sentence in an interrogative form, or make other variations upon it, and the pupil will reply in French, using the words and constructions just read. Thus, every sentence, and later every paragraph, will form the basis of an oral exercise.

Dictations will be given at frequent intervals. Usually the passage for dictation will be selected from the reader, and will consist of the reading lesson for the following day.

During the first two months the grammar work will consist of rules and conjugations suggested by the simple text read. These rules and conjugations will be dictated or put upon the blackboard by the teacher and consigned to the pupils' notebooks. The contents of these notebooks will be reviewed frequently.

From the beginning stress will be laid upon the memorizing of easy selections as an efficient means not only of widening the vocabulary but also of acquiring a correct pronunciation.

At the end of two months a slightly more difficult reading book will be undertaken and a grammar assigned for study. Constant drill will be given on the essentials of grammar, such as the regular conjugations, the common irregular verbs, and the principal rules of syntax. The reading lessons will be conducted in the same manner as at first, but at a more rapid rate of progress. It is planned to read about 250 pages of French in the class room this year.

The class room exercises will be conducted in French so far as the degree of proficiency of the pupils will allow.

*French II (one unit).*—During this year the pupil's knowledge of grammar will be reviewed and widened. The grammar used in the class room will be an elementary work written in the French language, but this book will be supplemented by topical references to fuller works written in English or Spanish.

The reading books will be modern literature of moderate difficulty, selected partly for their intrinsic value and partly for their class-room availability as material for written exercises. As writing French is considered essential to the acquirement of accuracy in its use, when the learner is studying that language under the disadvantage of not living under French surroundings, at least two of the five periods per week will be devoted to composition work. This work will usually be based on the reading

book. During the second half of the year the written exercises will sometimes be based on the articles selected from high-grade French magazines of the degree of difficulty of "L'Illustration" and introduced into the class room for reading and discussion in French.

Students who give proof of exceptional ability will be encouraged to undertake supplementary readings under the supervision of the teacher.

During this year the class-room exercises will be conducted almost entirely in French.

In the last month of this year, the teacher will give a series of informal talks on the French language and literature, with two objective points in mind: first, to put the pupil in possession of those commonplaces of knowledge about French which every educated man is expected to have; and secondly, to enable those students who intend to pursue their French studies further to choose their particular field intelligently.

*German I (one unit).*—Careful drill on pronunciation. The memorizing and frequent repetition of easy colloquial sentences. Drill upon the rudiments of grammar—that is, upon the inflection of the articles, of such nouns as belong to the language of everyday life, of adjectives, pronouns, weak verbs, and the more usual strong verbs; also upon the use of the more simple prepositions, the simpler uses of the modal auxiliaries, and the elementary rules of syntax and word order.

Abundant easy exercises designed not only to fix in mind the forms and principles of grammar, but also to cultivate readiness in the natural forms of expression.

The reading of from 75 to 100 pages of graduated texts from a reader, with constant practice in translating into German easy variations upon sentences selected from the reading lesson (the teacher giving the English), and in the reproduction from memory of sentences previously read.

*German II (one unit).*—The reading of from 150 to 200 pages of literature in the form of easy stories and plays.

Accompanying practice, as before, in the translation into German of easy variations of the matter read, and also in the offhand reproduction, sometimes orally and sometimes in writing, of the substance of selected passages.

Continued drill in the rudiments of the grammar, directed to ends of enabling the pupil, first, to use his knowledge with facility in the formation of sentences, and secondly, to state his knowledge correctly in the technical language of grammar.

*Spanish II (two units).*—It is expected that the students taking this course will have had a year's Spanish in the provincial secondary schools or its equivalent elsewhere. A rapid review of the work of the first year may be undertaken at the beginning of the course.

*Reading.*—During the first two months Alarcón's "El Capitán Veneno" will be read and discussed in Spanish in class. This work will be followed by the reading of "Doña Perfecta," a modern drama, and a third novel. The student will be expected to supplement the work in class by availing himself of the local facilities for learning Spanish, such as are offered by the local Spanish press and by the law courts, or he may substitute for this outside work the reading of at least 200 pages of modern Spanish besides the works discussed in class. Three periods per week will be devoted to the reading work.

*Grammar and written composition.*—The Spanish Royal Academy's "Compendio de la Gramática Castellana Dispuesto para la Segunda Enseñanza" will be used after the second month. Such expansions and omissions as are necessary to adapt this work to the needs of non-Spaniards will be made by the instructor. This course will be conducted almost entirely in Spanish. Two periods per week will be devoted to grammar and composition throughout the year.

CITY OF MANILA.

Department of Police.

MANILA, P. I., May 13, 1904.

SIR: In response to your request of the 4th instant I have the honor to furnish you herewith statistical information concerning the workings of the Department of Police, which you desire for publication in the Official Gazette. The material included in the following statements covers the month of April, 1904, as compared with the previous month of the same year. It is as complete as the records of the Department will admit.

Report of prisoners apprehended by the Police Department during the month of April.

Assault	37
Accessory to robbery	1
Adultery	17
Abandoning vehicle	2
Assault with deadly weapon	3
Abduction	4
Attempted rape	1
Blocking highway	35
Blocking canal	16
Brigandage	1
Bribery	1
Cruelty to animals	42
Harness in bad repair	6
Impersonating secret-service officer	4
Incompetent driver	1
Illegal custody of firearms	3
Interfering with officer	3
Indecent exposure	2
Insanity	4
Larceny	27
Leper	1
Murder	8
No license for vehicle	13
Conducting gambling house	18
Conducting gambling game	18
Cockfighting	2
Criminal negligence	2
Carrying a weapon without authority	1
Drunk and disorderly	74
Disorderly conduct	124
Desertion	3
Driving from rear seat	10
Disobeying an officer	10
Embezzlement	38
Frustrated murder	6
Fast driving	14
Fast riding	9
Forgery	2
Gambling	227
Held for investigation	15
Held on provincial warrant	1
Held for warrant	8
Robbery	6
Warrant from Court First Instance	2
Warrant from Municipal Court	21
Violation of explosives-storage regulation	15
No tariff card in vehicle	2
Not occupying public station	82
No number on vehicle	2
No badge on cocher.	1
No signal on vehicle	5
No number on lamp of vehicle	1
No card with ratio of exchange	3
Overcharging a fare	3
Physical injuries	1
Rape	2
Receiving stolen goods	2
Resisted a fare	10
Resisting an officer	2
Selling vino to soldiers	1
Sidewalk	3
Theft	32
Unfair competition	1
Vagrancy	36
Vehicle in bad repair	4
Violation of licence regulations	63
Violation of sanitary regulations	11
Violation of excise law	2
Violation of building regulations	11
Total	1,123

RECAPITULATION.

BY SEX.	
Males	987
Females	136
Total	1,123

BY NATIONALITY.	
Americans	83
Spaniards	2
Natives	885
Europeans	15
Chinamen	120
Japanese	16
East Indians	2
Total	1,123

BY SERVICE.

Enlisted men of the United States Army	9
Enlisted men of the United States Navy	1

The foregoing cases being brought before various courts, chiefly the Municipal Court of the city of Manila, resulted in—

Convicted	843
Dismissed	83
Released	44
Discharged	19
To proper authorities	47
Forfeited bail	6
Died	2
Total	1,123

The records for the month of March, 1904, show 1,650 arrests, 1,416 of whom were males and 234 females; also 37 being enlisted men of the United States Army and Navy. By nationality they were as follows:

Americans	146
Spaniards	9
Natives	1,216
Europeans	17
Chinamen	249
Japanese	10
Spanish Americans	1
East Indians	2
Total	1,650

The number of arrests during the month of April, 1904, show a decrease of 527 from the month of March, 1904, and a decrease of 517 from the corresponding month of last year. A large number of the arrests made by this department are on the charge of gambling, which is confined almost exclusively to the natives, thus accounting for the large number of females reported. Number of accidents reported during the month, 51.

Very respectfully,

E. S. LUTHI,  
Acting Chief of Police.

The EDITOR OF THE OFFICIAL GAZETTE.

Fire Department.

MANILA, P. I., May 3, 1904.

GENTELEMEN: I have the honor to submit the following report of operations of this Department during the month of April, 1904:

FIRES.

April 3. Alarm from box 243 at 6.16 a. m. One-story nipa building at 472 Nueva, Malate, occupied by Joe Finch as a residence. Overturned lamp. Damage to building, \$100; to stock, \$100.

Verbal alarm at 4.50 p. m., April 3. One-story wooden building at 11 Alcala, Santa Cruz, occupied by the Fire Department as a blacksmith shop. Rubbish catching fire in rear of shop, supposedly from lighted cigar or cigarette. Damage to building, \$5; no damage to stock.

April 4. Alarm from box 135 at 7.09 p. m. Two-story stone and wood building at 146 Santa Lucia, Intramuros, occupied by Maria Garcia as a residence. Chimney burning out. No damage.

April 5. Alarm from box 12 at 9.30 p. m. Two-story stone and wood building at 24 Isla del Romero, Quiapo, occupied by Basilia de Garcia as a residence. Lamp explosion. Damage to building, \$1; no damage to stock.

April 11. Alarm from box 41 at 3.40 a. m. Two-story stone and wood building at 179 to 197 Estero Binondo, occupied by various Chinese as oil factory, bakery, stores, and dwelling. Wood catching fire near oven. Extended to 199-201 Estero Binondo, 19-31 Mercado, 5-17 Mercado, and 173 Estero Binondo. Total damage to building and stock, \$34,885.

April 18. Verbal alarm at 8 a. m., April 19. Two-story wooden building at custom-house, occupied by United States Government as office. Cigarette thrown among rubbish. Damage to building, \$5; no damage to stock.

April 21. Alarm from box 54 at 2.06 p. m. One-story wood and

nipa building at 343 Timbugan, Santa Cruz, occupied by José Munoz as a residence; kitchen stove catching on side of house. Damage to building, \$250, total loss; to stock, \$100. Extended to 44 houses adjoining on Timbugan, Cervantes, Mayhaligue, and Requesen. Total loss to buildings, \$1,750; to property, \$1,000.

April 21. Verbal alarm by a policeman at 8 a. m. One-story nipa building at 103 Gagalangin, Tondo, occupied by Francisco Sandin as a residence. Cigarette catching fire to house. No damage.

April 29. Alarm from box 13 at 9.58 p. m. Two-story stone and frame building at 98 Escolta, Binondo, occupied by Liavore & Tuyet as a bazaar. Cause unknown. Damage to buildings, \$4,000; to stock, \$15,000. Extended to 104 and 110 Escolta.

April 30. Alarm from box 27 at 7.52 p. m. Two-story stone and frame building at 97 San Fernando, San Nicolas, occupied by Lee Voo as a residence and shop. Lamp explosion. Damage to contents, \$2.50; no damage to building.

Total damages, \$57,198.50.

#### PERSONNEL.

The following changes have been made in the Department during the month of April, 1904:

*Gains.*—Probational appointments: April 5, Frederick Chosse, fireman, first class; April 5, William F. Dauber, fireman, first class; April 8, Frank W. Matthews, fireman, first class; April 16, Willard B. Evans, fireman, first class; April 23, Charles S. Schlosser, clerk. Temporary appointment: April 23, Frederick G. Timm, fireman, first class.

*Losses.*—Dismissed: April 5, Joseph P. Trainer, engineer, first class; April 8, Charles H. Travis, fireman, first class; April 8, Philip H. Landes, fireman, first class; April 17, Ernest W. Laraway, fireman, first class; April 22, Frederick G. Timm, clerk; April 29, Edward D. Wood, fireman, first class.

*Promotions.*—April 1, Frank W. Schenck, fireman, first class, class A to class 10.

#### REPAIRS AND MAINTENANCE TO FIRE STATIONS.

San Nicolas Fire Station: One seat in closet in bathroom and drain pipe to the urinal repaired.

Tanduay Fire Station: The new building under construction is progressing rapidly and nearing completion.

#### REPAIRS AND MAINTENANCE OF APPARATUS.

Engine Company No. 1: Repaired two lengths of hose and a closet seat.

Engine Company No. 2: Repaired harness, two lengths of hose, and a halter; put up brass pole and pulled down steel pole.

Engine Company No. 3: Repaired engine.

Engine Company No. 4: Repaired heater, and mud guard of hose wagon.

Chemical Engine Company No. 2: Repaired engine and bridle.

Chemical Engine Company No. 3: Repaired halter.

Repaired one gong for Hook and Ladder No. 2, one bit for Chemical No. 4.

#### BLACKSMITHING.

Horseshoeing: Fire Department, 32 horses; Police Department, 16 horses; total, 48 horses.

Pony shoeing: Fire Department, 11 ponies.

Time at shoeing, 90 hours; general work, 18 hours; total, 180 hours.

#### Convictions for violations of Ordinance No. 47.

	Fines.
April 4. Ny Tenco, 222 Santo Cristo, San Nicolas.....	\$50
April 6. Tamtang, 12 Villalobos, Quiapo.....	50
April 19. Tin Fam Co., 12 Villalobos, Quiapo.....	100
April 27. Ong Tain Co., 42 Nueva, Binondo.....	25
April 27. Uy Cay Co., 51 Nueva, Binondo.....	25
April 27. Ong Tiang, 14 Arrañoque, Santa Cruz.....	25
April 27. Sy Bun Meng, 42 Rosario, Binondo.....	50
April 28. Siy Young Cheng, 213 Jaboneros, San Nicolas.....	50
April 29. Chong Queng Po, 17 Hormiga, Binondo.....	50
April 29. Ny Bin Biao, Calle Rosario, Binondo.....	50
Total.....	475

#### ELECTRICAL BRANCH.

Installed 13 telephones in City Hall.

Installed 100-drop telephone switchboard with 28 connections.

Built new line from corner of Calle Arroceros and Concepcion to Germinal cigar factory.

Changed cable box and cable pole at Parian police.

Made the usual repairs on fire and police alarm.

Issued 149 permits for installations and 88 certificates of inspection. Collected ₱214.50, ₱40 of which being retained and paid over to La Electricista for meters tested and found correct. (Ordinance 36, sec. 11.)

Expenditures, wages, ₱961.25.

Eleven storage permits and two transportation permits were issued.

Very respectfully,

LEWIS H. DINGMAN,  
Acting Chief of Department.

The MUNICIPAL BOARD, Manila.

### BUREAU OF CUSTOMS AND IMMIGRATION.

#### TARIFF DECISION CIRCULAR.

No. 425.—Bottled liquors; method of assessing duty on.

MANILA, May 17, 1904.

To all collectors of customs:

PARAGRAPH I. It is hereby ruled that imported bottled liquors which are dutiable by liquid measure shall be assessed for duty as follows:

The liquor itself shall be assessed for duty by liquid measure, under its proper paragraph; the glass bottles in which the liquor is contained shall be assessed for duty under their proper paragraph, upon the weight of the bottles themselves or on the value thereof, as the case may be; the exterior packing shall be assessed for duty under its proper paragraph.

PAR. II. Philippine customs officers shall give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

#### MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 74.—Requiring presentation of 1904 *cedula* by employees to disbursing officer before payment of May salaries.

MANILA, May 13, 1904.

PARAGRAPH I. The disbursing clerk, Manila Custom-House, is hereby directed to require to be presented to him by all employees of the Manila Custom-House their *cedulas* for the year 1904 prior to the payment of salaries for the month of May, and any employee failing to present his *cedula* shall not be paid until the same is secured by him.

PAR. II. Chiefs of divisions shall inform employees in their respective divisions of the requirements of this order.

PAR. III. The terms of this order shall apply to the employees of the arrastre plant, Manila Custom-House.

PAR. IV. Copies of Manila Custom-House General Order No. 74 shall be furnished to the Insular Special Deputy Collector of Customs, the Acting Surveyor of Customs, and to all chiefs of divisions, Manila Custom-House.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

### SPECIAL ANNOUNCEMENT.

In accordance with a recent communication from the Secretary of Public Instruction the Official Gazette has undertaken the annotation as they appear of all amendatory Acts.

In footnotes reference is given to the page of the Gazette at which the Act amended may be found. Since the first number of

the Gazette begins with Act No. 450, prior acts are cited from the Public Laws, Annotated, being the acts of the Philippine Commission as prepared with marginal annotations by Mr. D. L. Cobb.

Such few of the acts prior to No. 450 as are given in the "Preliminary Number" of the Official Gazette are cited from that number, which is separately pagged.

These footnotes are inserted by the Editor, are intended only for the convenience of the public, and are without legal force.

### Contents.

#### Public laws:

- No. 1147, regulating the registration, branding, etc., of cattle and the disposition of estrays and cattle seized by peace officers, and repealing Act No. 637, and parts of Act No. 837.
  - No. 1148, The Forest Act, regulating the use of the public forests, and repealing General Orders, No. 92 (series of 1900), Act No. 274, and parts of certain other acts.
  - No. 1149, amending section 26 of the Customs Administrative Act, No. 355.
  - No. 1150, defining the powers and duties of the Board of Health of the Philippine Islands and of the Municipal Board of Manila in connection with the sanitation of that city.
  - No. 1151, providing for revision of tax assessment on certain lands in Budoc, Ilocos Norte.
  - No. 1152, extending time for payment of land tax in Isabela Province.
  - No. 1153, providing that certain duties in relation to the Bureau of Justice and of the Insular Treasurer, now performed by the Civil Governor, shall be performed by the Secretary of Finance and Justice.
  - No. 1154, amending Act No. 897 with respect to the Arrastre Division of the Manila Custom House.
  - No. 1155, renewing certain appropriations in Acts Nos. 1048 and 1049.
  - No. 1156, providing for the marking of animals afflicted with surra.
  - No. 1157, suspending taxes imposed on carts and sledges in Isabela Province.
  - No. 1158, appropriating \$30,000 for payment of interest on certificates of indebtedness issued under act of Congress of March 2, 1903.
  - No. 1159, amending the Code of Civil Procedure in relation to proceedings in certiorari, mandamus, and prohibition.
  - No. 1160, authorizing the clearance of foreign vessels for Isabela de Basilan.
- Resolutions of the Philippine Commission:
- Extract from minutes of April 30, 1904.
  - Extract from minutes of May 3, 1904.
  - Extract from minutes of May 10, 1904.
  - Extract from minutes of May 16, 1904.

#### Executive orders:

- No. 24, fixing the ratio for the redemption of Spanish-Filipino currency at 1 peso and 10 centavos to 1 peso Philippine currency.
- No. 25, confirming the election of Pablo Guzman as governor of the Province of Cagayan.

#### Decisions of the Supreme Court:

- Co-Tiango vs. To-Janco.
- The United States vs. Joaquin Trillanes.
- E. C. McCullough vs. R. Avenille & Co.
- The United States vs. Policarpo Idica.
- The United States vs. Agaton Ambata et al.
- The United States vs. Casimiro Gasal.
- The United States vs. Martin Cabuenas.
- The United States vs. Facundo Pineda et al.
- The United States vs. Alonso P. Gardner.
- The United States vs. Pedro Gil.
- The United States vs. Julio Polusan.
- The United States vs. Manuel Mortil and Maximo Manu.
- Juana Braga vs. C. Millora.
- The United States vs. Leon de la Torre.
- Andres Valenton et al. vs. Manuel Marcialano.
- The United States vs. Mariano de la Cruz.
- The United States vs. George Washington.
- The United States vs. Hugo Reyes et al.

#### Opinion of the Attorney-General:

- Right of public vaccinators to claim one-half of fine imposed under section 5 of Act No. 309.

#### Statistics from Bureaus of the Insular Government:

- Board of Health for the Philippine Islands—
    - Vital statistics for April, 1904.
  - Weather Bureau—
    - Meteorological data for April, 1904.
  - Bureau of Treasurer—
    - Banco Español-Filipino, statement for April, 1904.
  - Bureau of Agriculture—
    - Maguey cultivation in Mexico.
  - Bureau of Education—
    - Studies offered by Philippine Normal School in preparation for admission to college and university courses.
  - City of Manila—
    - Fire Department.
  - Bureau of Customs and Immigration:
    - Tariff Decision Circular—
      - No. 425, bottled liquors; method of assessing duty on.
    - Manila Custom-House General Order—
      - No. 74, requiring presentation of 1904 cedula by employees to disbursing officers before payment of May salaries.
- Special announcement.

# Official Gazette



Published by authority of the Insular Government under and by virtue of Act No. 453 of the Philippine Commission.

VOL. II

MANILA, P. I., JUNE 8, 1904.

No. 23

## PUBLIC LAWS.

[No. 1161.]

AN ACT DECLARING ANY BONDED OFFICER OR EMPLOYEE OF THE CIVIL GOVERNMENT WHO LEAVES OR ATTEMPTS TO LEAVE THE PHILIPPINE ISLANDS WITHOUT FIRST SECURING A CLEARANCE FROM THE AUDITOR TO BE GUILTY OF A MISDEMEANOR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Any bonded officer or employee of the Civil Government of the Philippine Islands who leaves or attempts to leave the Philippine Islands without first securing a clearance from the Auditor, showing that his accounts with the Government have been satisfactorily settled and adjusted, shall be deemed guilty of gross neglect of duty, and shall be punished by imprisonment for not exceeding six months, or by a fine of not more than one thousand pesos, or both, in the discretion of the court.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 23, 1904.

[No. 1162.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF CAGAYAN FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL SEPTEMBER THIRTIETH, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Cagayan is hereby extended to September thirtieth, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 23, 1904.

[No. 1163.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF ALBAY FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL AUGUST THIRTY-FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Albay is hereby extended to August thirty-first, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 23, 1904.

[No. 1164.]

AN ACT AMENDING SECTION TWENTY-SEVEN OF ACT NUMBERED SEVEN HUNDRED AND EIGHTY-SEVEN, ENTITLED "AN ACT PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF THE MORO PROVINCE" SO AS TO AUTHORIZE THE APPOINTMENT OF JUSTICES OF THE PEACE IN REMOTE LOCALITIES, WHETHER INCLUDED WITHIN THE LIMITS OF THE ORGANIZED MUNICIPALITIES OR NOT, AND DEFINING THE JURISDICTION OF SUCH JUSTICES OF THE PEACE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section twenty-seven of Act Numbered Seven hundred and eighty-seven, entitled "An Act providing for the organization and government of the Moro Province," is hereby amended by adding at the end thereof the following words:

"And provided further, That justices of the peace may be appointed by the Civil Governor, with the advice and approval of the Philippine Commission, for towns or places in the Moro Province which have not been organized into municipalities, or which, although included within the limits of an organized municipality, are distant from, or have no convenient means of access to, the center of population. The jurisdiction of the justices of the peace

for the municipality in which such town or place is situated and of the justice of the peace appointed in pursuance of this proviso shall be concurrent over cases arising within the municipality. The several justices of the peace in any district of the Moro Province shall exercise concurrent jurisdiction over cases arising within the district, but without the limits of an organized municipality. Actions, civil and criminal, shall be brought before the justice of the peace who is most convenient of access to the parties, but the justice of the peace first acquiring jurisdiction over any such case shall have exclusive jurisdiction over it. It shall be the duty of the justice of the peace to refuse jurisdiction of any case where the convenience of the parties manifestly requires it to be brought before another justice of the peace having concurrent jurisdiction. In criminal prosecutions and preliminary investigations before justices of the peace, the costs of the proceeding, including the fees of the justice, shall be paid from such treasury, provincial, district, or municipal, as the legislative council of the Moro Province may by law provide. Such provision shall be as nearly analogous to the provisions of law governing that subject in other provinces as the circumstances and conditions existing in the Moro Province may warrant."

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect as soon as the legislative council of the Moro Province shall have made provision for the payment of the costs and expenses referred to in the first section of this Act.

Enacted, May 23, 1904.

[No. 1165.]

AN ACT AMENDING PARAGRAPH (d) OF SECTION FIVE OF ACT NUMBERED ONE HUNDRED AND THIRTY-SIX, AS AMENDED BY SECTION ONE OF ACT NUMBERED EIGHT HUNDRED AND SIXTY-SEVEN, SO AS TO AUTHORIZE JUDGES OF COURTS OF FIRST INSTANCE PERFORMING INTERLOCUTORY VACATION DUTIES TO APPOINT NOTARIES PUBLIC IN CERTAIN CASES, AND AUTHORIZING OFFICIALS IN CHARGE OF PUBLIC WORKS TO ADMINISTER OATHS IN CERTAIN CASES.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. Paragraph (d) of section five of Act Numbered one hundred and thirty-six, as amended by section one of Act Numbered Eight hundred and sixty-seven, is hereby amended by adding at the end thereof the following words: "The interlocutory jurisdiction shall also include the power of appointing notaries public, as provided in section eighty-two of this Act."

Sec. 2. Any official in charge of a public work under the authority of the Insular Government or any provincial government is hereby empowered to administer all oaths required by law, without compensation, but he shall not be required to administer oaths except in matters of official business for which no fees are chargeable by law.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, May 26, 1904.

## EXECUTIVE ORDERS.

### THE GOVERNMENT OF THE PHILIPPINE ISLANDS, EXECUTIVE BUREAU.

MANILA, May 27, 1904.

#### EXECUTIVE ORDER } No. 26.

Pursuant to the provisions of section twenty-six of the Customs Administrative Act, Numbered Three hundred and fifty-five, as amended by section one of Act Numbered Eleven hundred and forty-nine, the following tract of land in the city of Cebu is hereby placed under the supervision and control of the collector of customs for Cebu, to wit: On the southwest side, from the corner of the military reservation (United Service Club) in a westerly direction to Alfonso XIII Street, taking in all of the southern part of Carlos I Street toward the beach; and on the north side, from the northern point of the naval reservation to the lands of the Catholic College, including five meters shoreward from high-water mark.

The collector of customs for Cebu is authorized and directed to make the necessary rules and regulations for the loading and unloading of cascos, lorchas, lighters, steamers, and all other water craft, within the above-defined limits, and to permit the use of certain portions of the wharf by other persons in so far as this use may not interfere with the good conduct of the public business of the custom-house. The police jurisdiction and the enforcement of the general orders issued by the custom-house in connection with the tract of land described above shall pertain to the municipal authorities: *Provided, however*, That if the said authorities fail in the performance of their duties in this respect, such powers may be exercised by the collector of customs for Cebu or his lawful deputies.

LUKE E. WRIGHT,  
Civil Governor.

### THE GOVERNMENT OF THE PHILIPPINE ISLANDS, EXECUTIVE BUREAU.

MANILA, May 28, 1904.

#### EXECUTIVE ORDER } No. 27.

All inspectors of the Treasury Bureau are hereby authorized and directed when visiting a province for the purpose of examining the accounts of the provincial treasurer to also examine the accounts of the clerk of the Court of First Instance. This order is not intended in any way to affect the obligation imposed by Act Numbered Four hundred and fifty-two upon the treasurer and fiscal of the province to make an independent examination of the accounts of the clerk of the Court of First Instance.

LUKE E. WRIGHT,  
Civil Governor.

## DECISIONS OF THE SUPREME COURT.

[No. 1107. April 2, 1904.]

In the matter of the proceedings for the disbarment of AUGUSTUS A. MONTAGNE and FRANK E. DOMINGUEZ.

1. ATTORNEY AND CLIENT.—After acceptance of employment by an attorney, the failure of the client to pay the whole amount of the fee agreed upon will not justify an abandonment of the case. If the attorney desires to retire from the case he must obtain the consent of his client to that end or an order of court authorizing him to retire.
2. IN.: SUSPENSION.—See facts in this case upon which the respondents were suspended for one year from the practice of law.
3. IN.: PENAL CODE.—The provisions of articles 356 and 357 of the Penal Code, providing for the punishment by fine and suspension of attorneys at law who are guilty of violating them, are not a bar to disbarment proceedings before the Supreme Court, based upon charges which, if true, would fall within the provisions of those articles.

## 4. ID.; DISBARMENT PROCEEDINGS; CONSTITUTIONAL LAW; DUE PROCESS OF LAW.

A proceeding for the disbarment of an attorney is one within the jurisdiction of the court of which he is an attorney, and is not an invasion of the provisions of the Philippine bill that no one shall be prosecuted for a criminal offense except by due process of law; the proceeding is not criminal, and is itself due process of law.

## DISBARMENT PROCEEDINGS.

The facts are stated in the opinion of the court.

Attorney-General WILEY, for the Government.

GIBBS & KINCAID AND HARTIGAN, MARPLE, SOLIGNAC & GUTIERREZ, for defendants.

McDONOUGH, J.:

On or about the 15th day of November, 1902, the Attorney-General of the Philippine Islands presented to the Supreme Court of said Islands a petition, and on or about January 15, 1903, a supplemental petition, alleging that Augustus A. Montagne and Frank E. Dominguez were practicing attorneys at law in the courts of said islands, and were members of the firm of lawyers known as Montagne & Dominguez; and in said petition and supplemental petition the said Attorney-General charged said lawyers and said firm with having violated their oaths of office as attorneys at law and with failure to faithfully perform the duties of their office as such attorneys towards their clients.

Upon notice to the parties, and on motion of the Attorney-General, this court appointed a commissioner to take the proofs of the parties.

In due time the commissioner made his report and filed in this court all the evidence taken in the proceeding, and thereafter the matter was ably and fully argued by the Attorney-General and the attorneys for the respondents.

This evidence is so voluminous that nothing more can be incorporated in the space given us to this opinion than a brief reference to it, and even that reference is to be confined to the facts of four of the most serious of the charges against the respondents, viz, the "Balmori" charge, the hacienda "Esperanza" charge, the "Cordona" charge, and the "Sarmiento" charge. These charges, and a brief statement of the evidence to sustain them, are as follows:

First. That the respondents accepted employment in February, 1902, to represent one Felix Balmori in a criminal case, on appeal to the Supreme Court, receiving a retainer in said case; and that after entering upon such employment and accepting a fee pursuant thereto, they abandoned and deserted their said client's case, to his great prejudice.

In this case the respondents agreed, for the sum of \$200, Mexican currency, to take an appeal to the Supreme Court, and to conduct such appeal. The appeal was taken on or about the 15th of February, 1902. The respondents received \$100, Mexican currency, of their fee, and although it was stated that the fee was to cover "expenses of translation, printing of briefs, and costs of going to Pasig," they failed and neglected to make and file a printed brief in the Supreme Court, as required by the rules of that court, although requested so to do by the Solicitor-General and although their time to do so had been extended by the Solicitor-General.

Finally a motion was made by the Solicitor-General to have the case abandoned for failure to file the brief, and on the return day the respondents appeared and made an oral argument, and offered to prepare and file a typewritten brief. The court, holding that a printed brief was necessary, declared the appeal abandoned and dismissed it. That the respondents had ample time and opportunity to prepare and present a printed brief in the case appears clearly by reference to the dates of the several steps taken in the case.

Balmori was convicted in the Court of First Instance of *estafa*, February 5, 1902, before the respondents were retained in the case. In the latter part of February the respondents made a

motion to let the defendant, Balmori, to bail, and on March 31 he was let to bail in a bond of 500 pesos.

Nothing further seems to have been done in the case until after the time for filing and serving defendant's brief had expired. Subsequently the Solicitor-General, at the request of the respondents, verbally extended their time to serve their brief, but such service was not made prior to August 8, 1902. On that day the Solicitor-General made a motion to have the appeal of Balmori declared abandoned, for the reason that the printed brief was not filed; and on the 18th of August the Supreme Court granted the motion. At the hearing the respondents contended that a typewritten brief was sufficient to satisfy the law, although the evidence shows that their retainer covered, among other things, the expense of "printing a brief."

Balmori testified that the respondents gave him no notice of the dismissal of his appeal, and that he learned that fact at the office of the clerk of the court, and then sought another lawyer.

On October 1, Mr. Lawrence appeared as attorney for Balmori, and made a motion to have the case reinstated, and on October 10 the Supreme Court granted his motion, and gave him thirty days to prepare and file his brief. This brief, consisting of a few pages, was filed in time, and subsequently the defendant was acquitted. Balmori, not satisfied with the action of the respondents, demanded a return of the retainer given them in his case, and on the 14th of October they gave back a part of it, 60 pesos, retaining the remainder for certain disbursements.

The excuse advanced by the respondents for their neglect and failure to prepare and file a printed brief in this case is that the fee to be paid to them was to be \$200, Mexican currency, and that only half of this had been paid, and that they desired to collect the remaining \$100 before filing the brief. They did not seek to retire from the case, after becoming attorneys of record, by obtaining the consent of their client, nor by making application to the court for an order authorizing them to retire.

Second. That they entered into a contract of employment with thousands of Filipinos in the Province of Pangasinan, in December, 1901, to represent said inhabitants in a suit or suits involving the title and possession to a large tract of land, and, after accepting retainers from their said clients, and rendering certain professional services in connection with such suits, they deserted and abandoned their clients' cases at a critical time, in violation of their contract, and to the great injury of such clients.

It appears from the evidence in this charge that the respondents had consultations with a large number of Filipinos in the month of December, 1901, in the Province of Pangasinan, relative to the title and possession of the land occupied by those persons, which lands were claimed by Francisco Gonzales as a part of his estate, known as the Hacienda Esperanza, containing about 50,000 acres of land. The respondents, on or about December 12, 1901, entered into an agreement with these people to protect them in the enjoyment of the possession of, and in their rights to, the parcels of land which each one of them possessed, as against the demands of Francisco Gonzales y Renado. (See contract, p. 19, Attorney-General's brief.) Public meetings of these people were held, which were addressed by the respondents, or one of them, and large sums of money, about 6,000 pesos, were subscribed by these clients and paid to the respondents pursuant to said agreement.

These people were assured by their attorneys that they had a good cause of action, and that they would win their case. Legal proceedings had been instituted by Gonzales against these clients, or some of them, in a justice's court, and those proceedings were attended by respondents; and two suits were brought in the Court of First Instance involving rights to said land. W. J. Rohde acted for a time as counsel in these matters with the respondents, but before the trial he withdrew from the cases. E. H. Lamme, who became a member of respondent's law firm, also acted with them, and remained in the cases until after the trial.

On the 1st of February, 1902, an order was made and entered

setting these cases down for trial at a special term of the court to be held March 10, 1902, thus giving the respondents over five weeks in which to get ready for trial.

When the trial day arrived Augustus A. Montagne and Edward H. Lamme appeared in court and made a motion to have their case continued, for the reasons, first, that it was not at issue, and secondly, because one of their important parties to the suit, upon whom they relied for information about the facts, was sick and could not be present.

It appears that in one of these two suits pending, that in which Gonzales was defendant, he served a supplemental answer on March 3, 1902, alleging and praying for damages in the sum of \$50,000 suffered because of the issuance of an injunction against him, and it further appears that on March 6, 1902, Gonzales filed a supplemental complaint in the second action, in which he was plaintiff, in which he alleged and prayed for damages in the sum of \$50,000 suffered by him because of the dissolution of the receivership. After hearing argument the court denied this application for a continuance, but offered to let the cases go over if the attorneys for both sides could agree upon a time for trial. Such agreement was not reached, whereupon the court offered to suspend the hearing for one week, to give the respondents an opportunity to prepare for trial. This offer was declined, and the respondents took an exception to the ruling of the court.

The court consolidated the two cases, against the objection of the respondents, and proceeded with the trial. Thereupon the respondent, Montagne, and his associate, Lamme, left the court room, and withdrew from the trial of the case.

It does not appear that the respondents had subpoenaed witnesses for the trial or notified their clients, other than Chinchilla, who was unable to attend on account of illness. No survey of the property had been made by respondents or for them. At the trial they claimed it was necessary to make a survey, and that that would take three months. The trial was finished and the judgment, which was in favor of Gonzales, was signed on Saturday, March 15, 1902. The special term of the court was closed on or about March 24, 1902.

The respondents say that no notice of the judgment was given to them by the clerk of the court, but admit that through unofficial sources they learned, soon after the fact, that a judgment had been rendered against their client, for Mr. Lamme, on March 21, wrote to an attorney at Lingayen for a copy of the judgment and other papers in the case.

The respondents strongly contend that the court erred at the trial (1) in not granting a continuance; (2) in forcing them to trial when issue was not joined, inasmuch as they claimed the right to make reply to the allegations of Gonzales contained in his supplemental complaint and answer, and (3) because of the consolidation of the two actions. But no appeal was taken to the Supreme Court from these rulings of the court below.

The excuse given by the respondents for not appealing is:

First. The term of the court was closed before they were notified of the judgment, and that it was then too late to appeal.

Second. That Judge Lamme had principal charge of this case; that he intended to appeal, and was making preparation, when, to his great surprise, he learned that they "had been deprived of the power to appeal by the hurried closing of the term of the court within which they could so appeal."

Third. Because on June 7 and 12 two letters were received from some of their clients revoking their authority to proceed further and asking for an accounting for the money paid to respondents.

The respondents did not take any further proceedings in this case after they left the court, March 10.

At the hearing of these disbarment proceedings Mr. Montagne testified that when he examined copies of the title deeds of Gonzales, after the trial, he became dubious about the rights of their clients. These deeds, standing alone, made a good title. Gonzales had a very good paper title.

It appears that respondents made no efforts to see these deeds or to ascertain their contents before beginning their action. Mr. Lamme was not a member of the bar of these Islands. He had taken two examinations for admission, but failed to pass on both occasions.

Immediately after the decision of the court refusing a continuance, Mr. Dominguez and Mr. Lamme went into the Rosales country and told their clients there, who were interested in a similar question, that respondents would go right on with the case, and that the fight had only begun. They then and there collected from clients more money, 43 pesos at Santo Tomas, on March 13, and 400 pesos in Alcala.

Third. That they were retained in October, 1901, to defend one Juan Cordona, who was then held as a prisoner on a criminal charge in the Province of Tarlac. The accused received from Cordona a retainer in his case and afterwards deserted him and failed to appear for him in court when his case was called for trial.

It appears in this charge that one Juan Cordona, who had been secretary of the Province of Tarlac, was in prison at that place under several charges, and retained the respondents to defend him. The amount of the net sum to be paid to respondents for their professional services is disputed, but it is conceded that they were paid, through Mr. Dominguez, the sum of 500 pesos.

On or about the 18th of November, 1901, Lieut. Grant T. Trent was detailed to take charge of the prosecution of Cordona and was ordered to proceed to Tarlac for that purpose, and this fact was made known to Mr. Dominguez on or about the last-mentioned date.

On the 30th of November, 1901, Cordona appeared before the Court of First Instance for arraignment, and being informed that he was entitled to counsel, and his counsel not appearing for him, he was given three days' time to procure counsel.

On the 5th of December, 1901, Cordona was again taken to court. He stated that his lawyers, Messrs. Montagne & Dominguez, had not yet arrived from Manila, and asked for further time. He was granted three days' further time.

On the 12th day of December, 1901, the accused again appeared in court, and was asked to plead to the charge of highway robbery, which he did, through other counsel, and was granted three days' further time to prepare for trial.

The respondents did not attend the court on any of these dates to take charge of the interests of their said client. They contend that, in a conversation had between one of them and Mr. Trent on the train, December 7, 1901, Mr. Trent consented to an adjournment of the case for a few days, whereas Lieutenant Trent says this conversation took place prior to November 27, and that the understanding was that Montagne & Dominguez would attend to the case within three or four days.

On the 2d of December Lieutenant Trent mailed amended complaints against Cordona to Montagne & Dominguez, at Manila. Lieutenant Trent telegraphed Mr. Dominguez at Manila December 2, that Cordona would be arraigned on Thursday. He telegraphed to Rosales December 10, to Dominguez, not to fail to stop on his way to Manila. He also telegraphed him at Lingayen December 12 to know when he could be present to look after the Cordona matter, and got no replies to any of these telegrams. The delivery sheet of the telegraph company showed that the dispatch to Manila was delivered to Dominguez on December 2. Cordona swore that he telegraphed and wrote to the respondents about the setting of his case for hearing, and requested their presence, and that because of their failure to appear for him he had to employ other counsel. Cordona contends that the fee for defending him in all his cases was fixed at 1,000 pesos, of which he paid in advance 500 pesos, whereas respondents claim that the fee was to be 5,000 pesos. Respondents showed that they examined papers and proceedings had at the preliminary hearing of Cordona, and took steps to have him let out on *habeas corpus* before trial, but without success.



Fourth. That they undertook, in November, 1901, the defense of one Ramon Sarmiento, who was charged with the crimes of *estafa* and falsification, and who was imprisoned on those charges in Manila; that though they were paid 500 pesos for their services, they subsequently, on an order of the court, obtained possession of 300 pesos which had been deposited in court as the money of said Sarmiento, and retained said sum of 300 pesos and appropriated it to their own use and benefit, against the instructions of their said client and to his injury.

The facts are that Sarmiento had deposited \$300, Mexican, with his chief of the customs service, to cover a shortage, and this sum was subsequently deposited in court.

The complaint for *estafa* was filed against him November 9 and for falsification November 12. The respondents defended Sarmiento. He was convicted of one of the offenses February 20, 1902. The 500 pesos paid to them were paid as follows: November 11, 1901, 300 pesos, and November 18, 1901, 200 pesos. The respondents claim that their fees were to be 1,000 pesos. This statement is denied.

Before the judgment in the case (February 20) the respondents, on the request of the wife of the defendant, Sarmiento, and on the consent of herself and husband, obtained an order of the court for the payment of the 300 pesos deposited in the court. This money was paid to the respondents, and they retained it, although the wife said she did not want them to do so; that it was for her and for the support of her children.

At the trial of Sarmiento, when it was proposed to introduce this money in evidence, respondents consented on condition that the court authorize "the wife of the defendant to finally receive said sum, since they are very needy." The wife testified in this proceeding that respondents wanted to retain this money to pay for conducting an appeal in her husband's case, and that she told them she did not want them to appeal the case.

Sarmiento subsequently sued the respondents for this money, and recovered judgment for the same in the Court of First Instance. After this judgment was entered the respondents agreed with the attorney for Sarmiento to pay the same, and did pay a part thereof, but when they ascertained that their conduct in the case was being investigated by the Attorney-General, and that the plaintiff gave a statement to the Attorney-General, they annulled their agreement and demanded and received from the said attorney the sum so paid to him.

Fifth. That in seven other cases, called the "Cuyapo" case, the "Pearsons" case, the "Dorr" case, the "Gleason" case, the "Finick" case, the "Quino" case, and the "Mauline" case, the accused, as such attorneys, at various times mentioned in said petitions, after being employed and retained by clients, and after receiving fees from their clients, abandoned their cases, and failed and neglected to render such faithful services for said clients as the law required.

The Attorney-General states in his brief that "any one of the first six charges, as they appear in this brief, is sufficient to warrant disbarment. This is not true of any of the remaining five. The latter are cited for the purpose of throwing light upon respondents' conduct in general, and to establish the proposition that they are guilty of a line of conduct in which good morals and professional ethics are totally ignored."

We are of opinion that there should be added to these latter five charges those against the respondents in the "Pearson" case and in the "Mauline" case, thus making in all seven charges, no one of which is sufficient to warrant suspension or disbarment, and these seven charges are therefore dismissed.

The respondents have filed with us, by one of their attorneys, a very lengthy and ingenious argument, in which they contend that these proceedings should be dismissed, without regard to the merits; for the reasons—

"First. The acts alleged in the information are made the object

of articles 356 and 357 of the Penal Code, and original jurisdiction thereof is vested in the Courts of First Instance.

"Second. If it be determined that articles 356 and 357 of the Penal Code have been repealed by section 31 of the Code of Civil Procedure, then the proceedings should be dismissed, because the respondents are deprived of the right granted them by section 5 of the act of Congress No. 235, approved on the 1st day of July, 1903, to be prosecuted for a criminal offense by due process of law, and to the equal protection of the law—rights and privileges which we expressly revoke."

Articles 356 and 357 of the Penal Code provide, in effect, for the removal of a fine of an attorney who maliciously abuses his profession, or by inexcusable ignorance or negligence prejudices his client; and provide for punishment by fine and suspension, in case an attorney having been retained to defend the cause of one party, subsequently without his consent, defends the opposite side in the same action.

Section 21 of the Code of Civil Procedure provides that a member of the bar may be removed or suspended from his office as lawyer, by the Supreme Court, for any deceit, malpractice, or other gross misconduct in such office, or by reason of his conviction of a crime involving moral turpitude, or for violation of the oaths prescribed in section 18, or for the willful disobedience of any lawful order of the Supreme Court or Courts of First Instance, or for corruptly or willfully appearing as a lawyer for a party to an action or proceeding without authority so to do.

It will be noticed that under article 356 of the Penal Code the penalty for a violation of that article is a fine only; and, under article 357, a fine and suspension may be imposed only for one cause, viz, when an attorney is retained by one party and subsequently, and without the consent of that party, defends the opposite side in the same action.

Section 21 of the Code of Civil Procedure is much broader than these articles of the Penal Code, for the reason that causes for a fine only, in article 356, are causes for suspension or disbarment under the provisions of the Code of Civil Procedure. Moreover, a violation of these articles of the Penal Code constitutes a crime for the trial of which the Courts of First Instance have jurisdiction, whereas, this court has exclusive jurisdiction in proceedings of this nature, and the object of the proceedings before us is not to convict the respondents of a crime, but simply to protect the court and the public from the misconduct of officers of the court. It follows that this court has jurisdiction to hear and determine this proceeding, regardless of the provisions of the Penal Code.

As to the second point made by the respondents, that, inasmuch as section 5 of the act of Congress of July 1, 1903, provides that no one shall be prosecuted for a criminal offense except by due process of law, and that everyone shall be entitled to the equal protection of the law, their rights and privileges are taken from them by this proceeding; the answer is, first, that this is not a criminal proceeding, and secondly, it is conducted according to law—it is due process of law.

In *ex parte Wall* (107 U. S., 265), where it appeared that an attorney had joined a mob and took part in the lynching of a man, the respondent insisted, in disbarment proceedings, that his acts constituted a crime under the State laws, and that, until tried and convicted in the State court he could not be lawfully disbarred. The Supreme Court of the United States held that his acts were such as to justify disbarment; that the proceedings do not violate the constitutional provision that no person shall be deprived of life, liberty, or property without due process of law; that a disbarment proceeding is not a criminal one; that it is not intended for punishment, but to protect the court from the official ministrations of persons unfit to practice as attorneys therein; and that the proceeding itself, when instituted in proper cases, is due process of law.

It was held in *Rochester Bar Association vs. Dorthy* (152 N. Y.,

596), where the defendant was charged with seven acts of deceit and malpractice and was disbarred, that where the charges involved professional misconduct disbarment proceedings could be maintained even though the same acts may constitute crimes.

We are constrained to condemn the acts of the respondents complained of in the four charges not herein dismissed. It is the duty of the court, when complaint is made, to see to it that its own sworn officers shall be held to strict account for their behavior toward the court, their clients, and the public.

In re Pevy (36 N. Y., 651) the court went so far as to hold that inasmuch as the right to admission to practice law depended on good moral character, joined with requisite learning, this character should be preserved after admission; and that where the acts of an attorney were such as to destroy his credibility and character, the court had authority to disbar him.

Inasmuch as in the case at bar the charges and proofs do not show that the practices of the respondents constituted the gravest offenses, we are inclined to take a lenient view of the charges. While we can not excuse the respondents, yet we are of opinion that total disbarment would be too severe a penalty for their acts.

The court therefore is of opinion that the respondents, Augustus A. Montagne and Frank E. Dominguez, should be suspended from the practice of their profession as lawyers in these Islands for a term of one year; and it is so ordered.

Arellano, C. J., Torres, Cooper, Willard, and Mapa, JJ., concur. Johnson, J., did not sit in this case.

*Defendants suspended.*

[No. 1293. February 23, 1904.]

*ILDEFONSO DORONILA, plaintiff and appellant, vs. JOSE LOPEZ, guardian of the minor children of Don Pablo Ledesma, defendants and appellees.*

**CONTRACT; DURESS; GUARDIAN AND WARD.**—One who, through fear of imprisonment for failure to obey an order of court directing him to render an account as guardian, and to deliver the property of his wards to his successor, enters into a contract with his successor, on behalf of his former wards, undertaking to become responsible for certain property belonging to them and which had been in his possession as such guardian, can not avoid the contract upon the ground of duress.

**APPEAL** from a judgment of the Court of First Instance of Iloilo.

The facts are stated in the opinion of the court.

**ABREU & PALMA**, for appellant.

**LEDESMA & SUMULONG**, for appellees.

**COOPER, J.:**

This action was instituted by the plaintiff, Don Ildefonso Doronila against Jose Lopez as guardian of the minor children of Don Pablo Ledesma, deceased, for the annulment of a certain contract entered into on the 22d day of December, 1900, by the plaintiff Señor Doronila and his wife, Señora Vicenta Jalbuena, and Señor Gabriel Ledesma in capacity of president of the family council of the minor heirs of Don Pablo Ledesma, deceased, and is based upon article 1300 of the Civil Code, which provides for the annulment of contracts affected by one of the vices which invalidate them according to law.

It is alleged in the complaint that the consent of the plaintiff to the contract was procured by violence and intimidation such as is defined by article 1267, Civil Code. The circumstances of the alleged intimidation occurring in the execution of the contract are shown by the findings of facts made by the Court of First Instance.

From these findings of facts it appears that in the year 1897 the family council of the minor children of the deceased, Pablo Ledesma, nominated and appointed the plaintiff, Ildefonso Doronila, as guardian of the minor children, who afterwards entered on the discharge of his duties; that the property of the estate consisted principally of documents of credit and book accounts and that these were kept in an iron safe in the residence of Doronila

at Jaro; that on the 11th day of February, 1899, the American forces landed in the town of Iloilo; that the plaintiff, Ildefonso Doronila, was connected with the revolutionary government, at this time located at Jaro, a town about two miles from the city of Iloilo; that being apprehensive of capture by the American forces he fled from the town of Jaro, going into the interior of the country; that his departure from Jaro being very sudden, he left his valuables in his house at that place; that night, the American forces not having advanced into Jaro, the plaintiff returned to his home and succeeded in possessing himself of his valuables; but he states that his wife had failed to give him the key which unlocked the safe in which the papers belonging to the guardianship were contained; that the proof presented by Doronila tended to show it was impossible to save the documents and money belonging to the estate by reason of his not having the key to unlock the safe in which they were contained; while that of the defendant, Lopez, tended to show that upon the occasion referred to Doronila possessed himself of the documents of credit and money belonging to the estate and carried them off on his return next morning; that Doronila also offered proof to show he had requested by letter several persons during his absence from Jaro to visit his residence and secure the documents, but they found it impossible to comply with the request, and finally, upon his return to Jaro, he found the safe had been broken open and its contents removed. At the time of his leaving Jaro on February 11, 1899, Doronila, though he had executed his duties satisfactorily, had never rendered any account of his guardianship; that after his return to Jaro in January, 1900, he was requested by the family council to render his account as guardian, which he failed to do, under the excuse that all the documents, books, etc., pertaining to the estate and its administration had been lost under the circumstances above related.

On the 28th day of October, 1900, at a meeting of the family council, the plaintiff was removed from the guardianship and Señor Jose Lopez was appointed in his stead. In the month of December, 1900, Señor Lopez, as guardian of said minor children, presented an application to the superior provost court against the plaintiff, Doronila, asking that he be removed as guardian and that he should be required to deliver to him the testamentary effects. At this time the superior provost court was exercising the powers of a Court of First Instance in the Province of Iloilo and was taking cognizance of suits in Iloilo. The plaintiff, Doronila, was cited before the superior provost court to answer the petition of Lopez as guardian of the children. The provost court removed Doronila from his office as guardian, confirmed the nomination of Jose Lopez, and ordered that Doronila should forthwith present his accounts as guardian, in said court, and to deliver to Señor Lopez the books and documents and other property of the estate of the minors. Doronila did not comply immediately with this order, in view of which an order was made by the court that he should be arrested and imprisoned for contempt of court. The prison in which he was confined was small and damp and the fare was poor. The plaintiff was placed in company with ordinary criminals and required to submit to all the regulations of the prison and to perform menial labor in the prison. He was informed that he would be kept in prison until he complied with the order of the court. After being detained in prison for one day, he was carried before the court, at which time a proposition of settlement was made by Señor Lopez to him. Doronila requested that he should be given time to consider the proposition, to which the court assented and he was set at liberty. He afterwards entered into negotiations with Lopez to arrange a settlement of the matters in question. An agreement between Lopez and Doronila was made, subject to the approval of the family council. At a meeting of the family council, Doronila and Lopez both being present, the family council made various changes in the agreement the terms of which had been settled upon by Lopez and Doronila, to which changes Doronila would not consent. The matters continued in this state for

some time until Lopez presented again to the court the motion to compel the plaintiff to obey the former order made by the court. Doronila was again arrested by order of the court and placed in prison. He afterwards assented to the contract as modified by the family council, and was again released.

On the 22d day of December, 1900, Doronila executed the contract in question. In this contract it is recited that for the purpose of settling the question and coming to a final approval of accounts with the family council it was necessary that Señor Doronila should renew the documents of credit and be personally responsible for those which he might fail to renew, and to this end it was agreed that Doronila should pay 12,000 pesos in the period of six months or renew the documents of credit which were lost while in his possession, deducting from said amount such sums as might be paid to the family council. It was further agreed that certain indebtedness, amounting to the sum of 4,000 pesos, due by the estate to Juan Cassells, should be assumed by Doronila and that he should pay the amount to the estate in case he failed to pay the same to Cassells. To secure the performance of this agreement, Doronila, joined by his wife, Señora Vicenta Jalbuenca, who owned in her separate right a part of the property encumbered, mortgaged to Gabriel Ledesma as president of the family council of said minors several tracts of real estate.

The judge in his findings of fact found that Doronila was induced to sign the contract through fear that he would be again imprisoned by the court for his failure to obey the order to render an account as guardian and to deliver the property of the estate to his successor, but that there was no intimidation or fear, except the fear that he would be punished if he did not obey the orders of the court formerly made; and as a conclusion of law found that the facts stated were not sufficient to constitute duress such as would invalidate the document in question, and the petition of the plaintiff was dismissed, with costs.

There is no question raised as to the legality of the order directing the imprisonment of the plaintiff for failure to render his account as guardian and to deliver the property of the estate to his successor.

The provost court may have disbelieved and rejected the statement of Doronila to the effect that the papers of the estate were lost, as claimed by him; or it may have reached the conclusion that it was within the power of Doronila to render such accounting as was required of him, or at least to make some accounting of his guardianship. We will not presume that the court required the performance of an impossible act. All presumptions must be indulged in favor of the validity of the order and the sufficiency of the proof made before the provost court to justify the making of the order.

It is necessary to determine whether under the Spanish Codes then in force it was the practice to enforce such orders by contempt proceedings, or whether the practice, if otherwise, was changed by General Orders, No. 23, of date June 24, 1899, of the Military Governor of the Philippines, creating the provost courts for Iloilo, in which it is provided that such courts are "vested with civil jurisdiction coextensive with that exercised by Courts of First Instance and of the peace heretofore administered for such places," and that "these provost courts in the exercise of the civil jurisdiction conferred, will formulate their own procedure, which will be simple and brief;" and in the decisions rendered will be guided by "principles of equity and justice." As before stated, no question has been raised either in the Court of First Instance or by the assignment of error on appeal, as to the validity of the order of the court. The case below was tried upon the theory that the order for the accounting was properly made, as well as the order directing the imprisonment.

The question then for our determination is whether Doronila being in contempt of court for failure to comply with its order for an accounting as guardian and for the delivery of the property of the estate of the minors to the guardian, Jose Lopez, the contract

by which a compromise was effected was made under intimidation and violence of the character described in article 1267 of the Civil Code.

Had Doronila, under the order for accounting, through fear of imprisonment for failure to comply with such order, rendered an account, clearly an account rendered under such circumstances would not be subject to annulment as procured by intimidation and violence. If an accounting under direct fear of imprisonment for failure to account would not be subject to annulment, then it seems evident that an accounting and adjustment of the matters in controversy and an agreement entered into in pursuance of such between the parties to the litigation, in order to avoid such an accounting, should not have this effect.

Nor can the intimidation and fear in the latter case be attributed to the fear that if he did not execute the particular contract he would suffer imprisonment, because the court had not imposed upon him any such conditions. The conditions were that he should render an account and not that he should execute the contract in question. The compliance with the order of the court would have relieved him from imprisonment without regard to whether he should execute the contract or not. And notwithstanding the execution of this contract, the court might still have required a compliance with its orders and inflicted a new imprisonment upon him for the failure to comply, though it is hardly probable that such a course would have been pursued after the parties to the controversy had reached an agreement in the case.

We concur in the conclusions of the Court of First Instance, that the facts contained in its findings did not constitute such duress as to invalidate the document in question, and affirm the judgment of the lower court, with costs adjudged against appellants. It is so ordered and directed.

*Judgment affirmed.*

[No. 1410. February 15, 1904.]

*THE UNITED STATES, complainant and appellant, vs. MARIA GONZALEZ, defendant and appellee.*

CRIMINAL LAW; BRIGANDAGE; AIDING AND ABETTING; FURNISHING MONEY.—The furnishing of money to a band of brigands is not an offense under section 4 of Act No. 518.

APPEAL from a judgment of acquittal of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.  
GIBBS & KINCAID, for appellee.

WILLARD, J.:

The defendant is charged with a violation of section 4 of Act No. 518.

There is sufficient evidence to show that she furnished money to the band described in the complaint. The evidence is not sufficient to prove that she furnished anything else. We have just decided that the furnishing of money is not an offense under said section 4. (U. S. vs. Agaton Ambata, February 13, 1904.)

The judgment of the court below, acquitting the defendant, is affirmed, with the costs de oficio.

*Judgment affirmed.*

[No. 1432. March 30, 1904.]

*MANUEL ARAULIO ET AL., plaintiffs and appellants, vs. SA-LUSTIANO ARAULIO ET AL., defendants and appellees.*

1. PLEADING AND PRACTICE; FINAL ORDER; BILL OF EXCEPTIONS; PARTITION SUIT.—In an action for the partition of real property an order was made, appointing commissioners to effect the partition. The commissioners reported that part of the property described in the complaint was in the adverse possession of persons not parties to the suit. The court then entered an order vacating the order appointing the commissioners, to which order plaintiffs excepted and prepared a bill of exceptions, which was allowed by the trial court. *Held*, that the order vacating the appointment of the commissioners was not a final order which put an end to the action, and that the bill of exceptions must be dismissed.

2. PARTITION OF REAL ESTATE; ADVERSE POSSESSION.—When in an action for partition there is no agreement between the parties, and commissioners have to be appointed, and it appears that the property is in the actual adverse possession of third persons who claim to be the owners thereof and who are not parties to the suit, the proceedings can not go on.

3. *Id.*; *Id.*: AUTHORITY OF PARTITION COMMISSIONERS.—Commissioners appointed to effect a partition of real estate have no right to go upon lands occupied adversely to the parties to the partition suit for the purpose of making the examination required by the law.

Per McDONOUGH, J., dissenting:

4. PLEADING AND PRACTICE; FINAL ORDER; PARTITION SUIT; BILL OF EXCEPTIONS.—Where the trial court in a partition suit, upon information of the commissioners that a person not a party to the suit claimed part of the real property in question by adverse title set aside the judgment for partition such an order amounted practically to a dismissal of the suit, and was, therefore, appealable.

5. PARTITION OF REAL PROPERTY; AUTHORITY OF COMMISSIONERS.—The commissioners appointed to effect the partition have no authority to inquire into the question of ownership or possession of the property to be partitioned, or any part of it.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the decision of the court.

E. MARTINEZ LLANOS, for appellant.  
No appearance for appellee.

WILLARD, J.:

This is an action for partition brought under the provisions of the Code of Civil Procedure. (Arts. 181, et seq.) The parties, both plaintiff and defendant, are apparently members of the same family. The complaint alleged that the plaintiffs and defendants had been in possession of the lands in question for many years. The defendants answered, admitting all the allegations of the complaint. A trial was had, at which the defendants not appearing, the court found that the plaintiff had a legal right to the property, and on June 21, 1902, entered the order provided for in section 184. On the 4th of February, 1903, two of the commissioners so appointed (the third one having died) reported that when they examined the twenty-one parcels of land described in the complaint, they found that nine of them were in the possession of persons not parties to the suit, who claimed to be the owners thereof by title adverse to that of the plaintiffs and defendants. The commissioners stated in this report that they did not think that the partition could be carried on under the circumstances, but submitted the matter to the court. The latter, on February 5, made an order which, after referring to the report of the commissioners, directed the plaintiffs to show to the court that the persons then in the possession of the lands recognized the plaintiffs as the owners. On the 30th of March the plaintiffs presented a petition in response to this order, which contained the following prayer:

"No. 7. That by virtue thereof the plaintiffs pray the court that in view of the foregoing reasons it order a compliance with the judgment, compelling the occupants of the land to submit to the partition which is ordered therein, without prejudice to their right to exercise a proper action for the recovery thereof, should they believe themselves injured thereby."

On June 12, 1903, the court made an order, the commencement and conclusion whereof are as follows:

"ORDER.

"The attorneys for the plaintiff in the document of the 30th of March last prayed this court to order the execution of the judgment rendered the 21st of June, 1902, wherein the legitimate right of the parties in this proceeding was declared in the undivided ownership of the lands possessed by them, and a partition of the same was ordered."

"Wherefore I reverse the judgment rendered by this court on

the 21st of June, 1902, and deny the petition of the plaintiffs which occasions this order. So ordered.

"FELIX M. ROSAS,  
"Judge of the Fifth District.  
"JUAN BERNALES,  
"Clerk of Rizal."

To this order the plaintiffs excepted, and have removed the case to this court by a bill of exceptions.

The bill of exceptions must be dismissed, because no final judgment has been entered in the court below. Section 123 of the Code of Civil Procedure is as follows:

"SEC. 123. *Interlocutory and incidental orders.*—No interlocutory or incidental ruling, order, or judgment of the Court of First Instance shall stay the progress of an action or proceeding therein pending, but only such ruling, order, or judgment as finally determines the action or proceeding; nor shall any ruling, order, or judgment be the subject of appeal to the Supreme Court until final judgment is rendered for one party or the other."

Section 143 provides as follows:

"SEC. 143. *Perfecting bill of exceptions.*—Upon the rendition of final judgment disposing of the action, either party shall have the right to perfect a bill of exceptions for a review by the Supreme Court of all rulings, orders, and judgments made in the action, to which the party has duly excepted at the time of making such ruling, order, or judgment."

Neither one of the things accomplished by the order of June 12 put an end to the action. The refusal to grant the motion of the plaintiffs that the execution be proceeded with and the tenants be compelled to submit to the partition certainly was not a final judgment in favor of one party or the other. Nor was that part of the order which vacated the order made on June 21, 1902. The vacation of that order left the case as if no such order had ever been made. It replaced it in the condition in which it was before the order was entered, and left the action still pending for such further proceedings therein as either party might desire to take. The validity of that order can be attacked in this court only when a final judgment has been rendered and the case removed here. At that time, by the terms of article 143, all orders made during the progress of the case which were duly excepted to, can be reviewed.

In view of further proceedings in the case, we will say, however, that in our opinion when in an action for a partition such as this was there is no agreement between the parties, and commissioners have to be appointed, and it appears that the property is in the actual adverse possession of third persons, who claim to be the owners thereof, and who are not parties to the suit, the proceedings can not go on. Whether the persons should be made parties to the partition suit and their claims there determined, or whether an independent action must be brought against them, we do not decide. There is considerable conflict in the American authorities as to whether adverse claims to ownership can be determined in a partition suit. As said above, we do not touch that question. We do, however, decide that before the commissioners can make a partition the adverse claims of these actual occupants must be settled. If this were not done it would be physically impossible for the commissioners to perform their duties. They are by section 185 required to "view and examine the estate after due notice to the parties to attend at such view and examination." In making the partition they must have "due regard to the improvements, situation and quality of the different parts thereof." Article 446 of the Civil Code provides that every possessor must be respected in his possession. In the case at bar the commissioners and the parties had no right to go upon the nine parcels adversely occupied, for the purpose of making the examination required by the law. In this case and in all other similar cases where commissioners have to be ap-

pointed, and the land is adversely held by third persons, it would be impossible to comply with the law. In the absence of any express provision to the contrary, this is a sufficient reason for holding that the law did not intend to allow a partition in such cases. Not only is there no such express provision, but on the contrary section 183 requires the complaint to "name each tenant in common, coparcener or other person interested therein as defendants."

"The bill of exceptions is dismissed without costs."

McDONOUGH, J.:

The material allegations of the complaint in this action for partition are not controverted by the answer. They are therefore admitted, and, upon the admitted state of facts, the court below had authority to find and did find at the trial that the plaintiff had a legal right to a part of the estate; and the court had a right, and it was its duty to order partition among the parties in interest. (Sec. 184, Code of Civil Procedure.)

The court appointed three commissioners whose duty it was "to make partition and set off to the plaintiff and to each party in interest such part and proportion of the estate as the court shall order."

Evidently "parties in interest," mentioned in this section, are the same as mentioned in section 181, which names those who may maintain a partition suit, viz., "a person having or holding real estate with others, in any form of joint tenancy, or tenancy in common."

It has been held by many courts that it is of the very essence, therefore, of an action for partition that the holding of the real estate be a joint holding with others as joint tenants or tenants in common, or coparceners; and that where one person owns all the estate or title in a given piece or parcel of land, there can be no partition as to that piece.

In the case at bar it appears that the parties are joint possessors or tenants in common of all the pieces of property described in the complaint—twenty-one parcels. There was no legal proof before the court of any other claim or ownership. It is true that two of the commissioners (one having died) reported to the court below that a person, not a party to this action, claimed to hold nine pieces of the real property by adverse title, and the judge of the Court of First Instance, thereupon, acting on this report, set aside the judgment for partition, alleging that he was deceived in ordering such judgment. There was no legal proof whatever before the court upon which this order could be based.

The order amounted practically to a dismissal of the case, not only as to the pieces alleged to be claimed adversely, but also as to the other parcels of land which were conceded to be held in common, and the order or judgment had the effect of staying the progress of the action of partition. It was therefore appealable, and, as it was granted without proper proof, it should be reversed.

The commissioners were not authorized and had no legal right to inquire into the question of ownership or possession of the property in question or any part of it. It does not appear in their report that they took the sworn testimony of any witness or party relating to the ownership or possession of this property. If the practice followed here is to prevail, any squatter on real property could prevent a partition without any proof whatever, but by simply saying to the commissioners "I claim this property; I hold it by adverse possession."

If such hearsay, such unsworn statements, made out of court, are to be considered sufficient cause to stop the progress of a partition suit, the equitable jurisdiction of the court would be placed at the mercy of every profligate or unconscientious person who, without proving any title or interest whatever in or to the property in suit, simply says to the commissioners: "Get off this land; I own it."

Without passing on the question whether or not the question of

adverse title, one claiming all of the property, can be tried in a partition suit, the decisions of the courts of the States being at variance on this point, I am of opinion for the reasons above stated the order of the court below should be reversed.

The right, title, and interests of one claiming to own property by adverse title, and who is not a party to the action, are amply protected by the provisions of section 196 of the Code of Civil Procedure, for as against such an one the judgment in partition is not binding.

COOPER, J., concurring:

I concur in the above opinion.

*Judgment affirmed.*

[No. 1433. January 14, 1904.]

CO-BOO, plaintiff and appellee, vs. LIM-TIAN, defendant and appellant.

1. CONTRACT; EXECUTION; SIGNATURE.—It is not material that another person sign the name of the party executing a document if the act of signing was authorized by him at the time and in his presence, or was afterwards adopted or ratified by the performance of acts under and in pursuance of the contract.
2. ID.; DELIVERY.—Where a contract is signed by one and delivered to another whose name does not appear in the document, the latter may bind himself as fully by accepting the delivery as if he had attached his manual signature to the writing.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

M. TORRES & CUI, for appellant.

P. J. MOORE, for appellee.

COOPER, J.:

This suit was brought by Co-Boo, the plaintiff, against Lim-Tian, the defendant, for the recovery of certain furniture and store fixtures of the value of 676 pesos.

Judgment was rendered in favor of the plaintiff against the defendant for the recovery of the property.

A motion for a new trial was made by the defendant in the Court of First Instance, which was overruled and an appeal was taken to this court.

The questions raised by the assignment of errors, while several in number, relate to the sufficiency of the plaintiff's evidence to support the judgment of the court. This will require a review of the evidence to determine its sufficiency.

Co-Boo, the plaintiff, testified with reference to his ownership of the property that in 1899 his father, Co-Kay, intended to open a business in the store which the defendant now occupies and in which the furniture in question is situated, and, with this view, placed this furniture, which then belonged to him, in the store; that on account of ill health he left for China and gave the property in question to the plaintiff; that before leaving for China, his father assigned over the lease on the store to the defendant and also leased to him the furniture, all for the monthly rental of 75 pesos; that the defendant has since been paying to him 75 pesos per month for the store and furniture.

La-Jo, a witness for the plaintiff, testified that Co-Kay, the father of the plaintiff Co-Boo, was the owner of the furniture in question at the time of the signing of the document leasing the storehouse and the furniture to the defendant.

The plaintiff also adduced in evidence a certain document of date October 1, 1899, purporting to be executed by Lim-Liab, Lim-Tian, and Co-Kay, by which the latter leased to the former the storehouse and the furniture and fixtures in question. Objections were made by the defendant to the admission of this document, among them that the document was not signed by the defendant, Lim-Tian, nor by Co-Kay; that it did not bear the signature of Lim-Tian as is customary among the Chinese; that Si-Tiang, who signed the document for all of the parties, was not authorized to

sign the same. Other objections of minor importance were made, which need not be noticed.

The contract having been made and the document executed in Manila, the sufficiency of it must be tested by the laws of the Philippines, though it appears from the testimony of the witnesses that the contract was made in strict compliance with the custom of the Chinese in making such contracts. According to the testimony of this witness, the document having been written upon red-colored paper, it was not necessary that the timbre of Lim-Tian should have been placed on it; nor was it necessary that the defendant should have signed the document, his name appearing in the body of it.

It is not material that another person sign the name of the party executing a document, if the act of signing was authorized at the time and in the presence of the defendant, or was afterwards adopted or ratified by the performance of acts under and in pursuance of the contract. (7 Am. and Eng. Enc. of Law, 143.) Another principle of law is that where a contract is signed by one and delivered to another whose name does not appear to the document, the latter may bind himself as fully by accepting the delivery as if he had attached his manual signature to the writing.

The plaintiff, Co-Boo, testified that all of the parties to the document were present when it was executed, and, at their request, Si-Tiang signed it for all; that the document was then delivered to him or his father in the presence of the defendant.

The testimony of Don-Jo, a witness for the plaintiff, corroborated this statement. He said that all were present and that Si-Tiang wrote the document and signed it for all, including the signing of the witness's name, whose name was placed on the document as a witness.

Lu-Jo, a witness for the plaintiff, also testified as to the signing of the document and that Lim-Tian, the defendant, was present at the time of the signing of the contract by Si-Tiang, who wrote the document and signed for all parties.

Lim-Tian, the defendant, does not contradict the statement of the plaintiff and the witness to the effect that the document dated October 1, 1899, was signed by Si-Tiang under his direction and delivered by him to the plaintiff.

The testimony of the defendant consists of his own statement to the effect that he bought the furniture in question from Co-Tio, in the month of February, 1901; that Co-Tio was, at the time of the purchase, his partner, and that the partnership on that day was dissolved, at which time the books of the partnership show that the defendant purchased the furniture in question from Co-Tio.

The defendant offered in evidence the books of the partnership above referred to, between himself and Co-Tio, in which a list of the property, assets, capital, etc., then belonging to the partnership between Co-Tio and the defendant, Lim-Tian, was shown. This book was admitted without objection on the part of the plaintiff. An entry appears in this book showing "various furniture in the store of the value of 375 pesos," and which, on the dissolution, among the other property belonging to the partnership, was transferred to the defendant.

The defendant also offered in evidence two receipts for rent, signed by the plaintiff, in which the 75 pesos, the monthly rental for the store, was acknowledged, without referring to the hire of the furniture contained in the store. He also offered in evidence an industrial license issued by the Government to Co-Tio, authorizing the carrying on of the business, and which was afterwards transferred on the 5th of March, 1901, by Co-Tio to the defendant.

The defendant in his testimony does not contradict in express terms the testimony of the plaintiff that the furniture in question was turned over to the partnership of which he was a member at the time of the making of the contract, nor that the furniture, at the time of the making of the contract, was owned by the father of the plaintiff, Co-Kay. He seems to have rested his claim upon

the insufficiency of the contract of October 1, 1899, by reason of the failure of himself and of the plaintiff to sign the contract, and upon the disputable presumptions mentioned in section 334, Code of Civil Procedure, such as the presumption that "things which a person possesses are owned by him," and the presumption that "a person is presumed to be the owner of property from exercising acts of ownership over it;" these are but presumptions of fact and have weight only in the absence of evidence, and are of no value in a case where the proof as to ownership is fully shown by the evidence; nor was the other proof of the defendant of any weight, that is, the entry contained in the books of partnership between the defendant and Co-Tio; nor was the industrial license in the name of Co-Tio transferred to the defendant; nor the receipts for rent which omitted any statement that the 75 pesos, the monthly rental, was for the rent of the furniture as well as for the storehouse. This character of testimony is wholly insufficient, in view of the direct testimony as to the ownership of the property adduced by the plaintiff, and rather indicates a purpose on the part of the defendant to wrongfully appropriate the plaintiff's property.

In order that this court may review the evidence taken in the court below, it is necessary that there should have been a motion for a new trial in the Court of First Instance. Not only was the judgment of the court not plainly and manifestly against the weight of evidence, but had the court rendered judgment in favor of the defendant, it would have been plainly and manifestly against the weight of evidence.

The judgment of the lower court is affirmed, with costs against the appellant, Lim-Tian.

*Judgment affirmed.*

[No. 1447. April 12, 1904.]

*THE UNITED STATES, complainant and appellee, vs. PERFECTO DE LEON ET AL., defendants and appellants.*

**CRIMINAL LAW: BRIGANDAGE.**—Where it appears that the armed band of which the accused were members was of a political character but that the members of the band have committed acts falling within the scope of the act defining brigandage they may be convicted of this offense.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

V. MIRANDA, for appellants.

Solicitor-General ARANETA, for appellee.

**COOPER, J.:**

The defendants, Perfecto de Leon, Ismael Francisco, Silverio Cruz, Domingo Inocencio, Andres de Lopo, and Vicente del Mundo, are charged with the crime of *bandolerismo* and were convicted by the Court of First Instance.

Perfecto de Leon was sentenced to imprisonment for the period of twenty-eight years, Silverio Cruz and Vicente del Mundo to twenty-six years of imprisonment, Ismael Francisco and Andres de Lopo to twenty-four years of imprisonment and Domingo Inocencio to twenty years of imprisonment. From this judgment the defendants have appealed to this court.

It is contended that there is no conclusive proof in the record which shows that the supplies and provisions taken in the towns were obtained by force and violence; nor is it plainly proven that the carabaos which were delivered to some of the party had been obtained by violence and intimidation employed against the possessors of said property; and further, that the organization had for its object to attack and contend with the Constabulary forces and municipal police of the towns for the purpose of appropriating to themselves arms and ammunition and to supply themselves for the purpose of forming an army for a future insurrection; in other words, that the band was of a political nature and that the

appropriation of property by the band was for the purpose of supporting them in attaining political ends.

In several cases which have been decided by this court where it appeared that the organization of the party was of a political nature and that the members who formed such party or band committed acts coming within the definition of Act No. 518 against highway robbery or brigandage, they may be properly convicted under this Act.

Roman de Jesus, a witness for the prosecution, testified that in the month of February, 1903, he was captured at his home situated at Novaliches, by Vicente del Mundo, who carried him to San Miguel and Faustino; there were nine armed men in the party; he remained there eight days, during which time the fight at Corral-na-Bato occurred; when this battle took place he ran off and left them and presented himself to the Constabulary; when the band captured him they carried him to a place called Puga-baboy, Province of Rizal, where he saw about two hundred persons armed with guns and revolvers; among them he recognized Faustino San Miguel and Andres Roque.

Ventura Albada, a witness for the prosecution, testified that he was at the barrio of Pantuquin about the middle of December, 1902; that he there met with Perfecto de Leon, who tied him and carried him off; they carried him to Pasong-Baliti; he was a policeman of the presidencia; they were armed, each one, with a revolver; they stripped him of clothes, shoes, one peso, and two rings; afterwards they took off the cords which bound him and carried him to the mountain of Rubog; when they took him they tied his hands and feet and threw him on the ground and were about to kill him; he remained in Pasong-Baliti about five days; he saw there Silverio de la Cruz; he also saw Ismael Francisco, and also saw Anatalio Austria and Julian Santos; he saw about fifty men in Pasong-Baliti; there were about forty armed with Remingtons and Springfields and others were dedicated to the work of preparing the meals; Anatalio Austria was commander and Julian Santos general; Ismael Francisco was not an official; Perfecto de Leon was an official; they all carried arms; after he left Pasong-Baliti he went to the mountain Rubog; there were about fifty of them who had Remingtons and Springfields; he saw Luciano San Miguel there, who was called General San Miguel; he also saw there Domingo Inocencio, whom he also identified as present at the trial; San Miguel and Vicente del Mundo carried revolvers; Domingo Inocencio carried a Remington; he remained in the mountain Rubog a week; they went down towards Manila; when they were near Manila they separated and he then made his escape.

Francisco Coliao, a witness for the prosecution, testified that near Christmas of last year he was in the pueblo, he being one of the soldiers of Faustino Guillermo; they entered Pasig one night and fired some shots and after having killed a man they left; there were about forty in the band, under the command of Basilio; there were also present Captain Tura, Apolonio Sampson, Juan Castillo, Leoncio Papa, and Geronimo de Leon; Julian Santos was there or near there; they killed one of the Constabulary band; when they left Pasig they carried off a gun which they obtained from the dead person; witness was with the party about two weeks; he was captured at Balic-Balic by Leoncio Papa and they made a soldier of him within the jurisdiction of Sampaloc; they carried him thence to the mountain called Bago-bantay, in the Province of Rizal; he found many soldiers there, about a hundred men, armed, under the command of San Miguel; the others there in authority were Ciriaeco Contreras, Julian Santos, and many tenientes, among them Perfecto de Leon, Silverio de la Cruz, Domingo Inocencio, Vicente del Mundo, and others whose names he does not recall, all of whom were armed; the armed band went from Pasig to the mountains; some days afterwards they went to Cainta; they entered Cainta and there had a fight; they killed one man and took away twenty guns to the mountain; they also took cigars and tobacco from the stores, for which they paid

no money; there were about a hundred men who entered Cainta; on that occasion they were under the orders of San Miguel, Faustino Guillermo, Leoncio Papa, Geronimo de Leon and Anatalio Austria; he does not know whether any of the accused now present were there; after they left Cainta they went to Antipolo and there had a fight with the Constabulary; they took off supplies and went from Antipolo to Bosoboso; there they had a fight and left there, running to the mountains; they went to Pasong-damo; there were about fifty soldiers there under the command of San Miguel and Faustino Guillermo; he knew in Pasong-damo a man who was called Mariano; they took a carabao from him; Domingo Inocencio was a member of Vicente Guillermo's party; they took off the carabao and sold it in Manila; this occurred about two weeks after the attack on Pasig; after he was captured by Leoncio he remained with the party about three months; sometimes they separated and again came together; they recognized San Miguel as their chief; there were other officers in the party; Faustino Guillermo, Ciriaeco Contreras, and Anatalio were also officers in the band, all under the orders of San Miguel; he saw frequently, at different places, the defendants, during the three months he was with the band; they always had arms; they were in the mountains and were obeyed by the people there; they wandered around from one place to another; were not in uniform; they obtained food by ordering the citizens to bring it from the barrios; they did not pay for these supplies; he left the party and went into Manila; he knew that the carabao was taken because he saw it taken; the taking of the carabao occurred before the occurrence at Pasig; of those whom he recognizes are: Perfecto de Leon, his teniente; Ismael Francisco, his teniente, Silverio de la Cruz, his captain; Domingo Inocencio, his soldier, Andres de Lupio, teniente, and Vicente del Mundo, his captain; the herder of the carabao, who was sequestered by the band, remained with it for some time.

Miguel Pasqual, a witness for the prosecution, testified that from the 10th day of October, 1902, until the month of February, 1903, he carried a gun; he was associated with other persons, numbering about 200; sometimes this party was together and sometimes they separated; they were armed with Mausers, Remingtons, and Springfields; Luciano San Miguel was the general; the other leaders were Faustino Guillermo, lieutenant-colonel, Apolonio Sampson, colonel, Ciriaeco Contreras, general, and Anatalio Contreras, commander; Vicente del Mundo was captain, Ismael Francisco, lieutenant; Silverio de la Cruz, captain; Perfecto de Leon, lieutenant; Inocencio Papa, lieutenant, and Andres de Lopo, lieutenant; of these he recognizes as present in court: Ismael Francisco, Silverio de la Cruz, Andres Lopo, Vicente del Mundo, Perfecto de Leon, and Domingo Inocencio; the latter was his companion in the fight at Santa Rosa; he had seen them frequently since October of the past year to February of this year; they had guns and held meetings under Luciano San Miguel; these men operated in the Province of Rizal; they moved continually from one place to another; they slept in one place and on the following day left; sometimes they were three days in a place; he first joined them in Bagbag of Novaliches, in Rizal; when he joined, in Bagbag, all had guns and were commanded by Julian Santos; this was in the month of October, 1902; in Bagbag they had a fight and captured two of the Constabulary force and killed one of them; they afterwards entered Navotas and captured a policeman and took away seven revolvers and some money; the commander who entered Navotas was Julian Santos; they had a fight also in Cainta, Bosoboso, Antipolo, and Corral-na-Bato, where they killed two men; in Cainta they captured some soldier scouts and killed a Constabulary soldier; the fight at Navotas was on the 26th day of September, 1902; after that of Navotas was the fight at Corral-na-Bato; on leaving Corral-na-Bato they went to Cainta and afterwards to Antipolo, where they had a fight with the Constabulary and took off rice of the Constabulary; from there they went to Bosoboso and at 7 o'clock at night had a fight with the

Constabulary and scouts ran off; when they were at Bosoboso witness saw the presidente of the pueblo; on arriving there they asked food of the presidente and he did not wish to give it to them; Faustino compelled the presidente; there were many in the party armed; they afterwards went to Mariquina, and from there to Corral-na-Bato, where, at 12 o'clock at night they had a fight and there was one man killed; they remained one night in Corral-na-Bato, and went from there to Bagbag, San Francisco del Monte, where they separated; witness left them and came to Manila to work, in 1903; when they were at Navotas, Julian Santos commanded; at Corral-na-Bato, Luciano San Miguel commanded, and also San Miguel commanded at Cainta and Antipolo and Bosoboso; San Miguel commanded the second time also at Corral-na-Bato; witness saw the defendant Perfecto de Leon in Bagbag and Pasong-tamó and San Francisco del Monte also; witness saw Ismael Francisco in Bagbag and San Francisco del Monte and Pasongtamó; he saw Silverio de la Cruz in Cainta, Bagbag, Pasong-tamó, and Pasong-Baliti, and Corral-na-Bato; he knew Domingo Inocencio in Santa Rosa; Andres de Lopio in Punlonglupa, Pasong-Baliti, and Vicente del Mundo in Bignay.

Gervasio Gimenez, a witness for the prosecution, testified that he lived in Polo in the month of November, the past year, and went from there to the mountains; he was captured by Lieutenant Cando; he told witness that Julian Santos sent for me and witness was carried to his presence in Bagbag; there were many people with Julian Santos in Bagbag; about fifty; these men had arms and were in opposition to the Constabulary; they listened when they passed and fired on them, and captured one and killed two, and the Constabulary ran off; they stripped the one they captured of his clothing and gun and let him go; besides Julian Santos there were present Perfecto de Leon, Andres de Lupio, Silverio de la Cruz, Anatolio Austria, Ismael Francisco, and Andres Roque; these men were chiefs; they had Remington, Springfield, and Mauser guns; Silverio had a revolver; Perfecto had a gun and a revolver; Andres de Lopio had a revolver, and Captain Andres a revolver; the fight occurred in Bagbag in the month of December, the past year.

The witness identified as present in court all of the defendants. During the time he was with this band they did nothing else than go from place to place. The person in charge of getting provisions for them was Silverio de la Cruz; they visited a place in the month of December near Novaliches; they had guns and there was a fight there and they took a horse, which escaped afterwards and also took some guns; they went to San Francisco del Monte in the same month; he knew a man there who was called Maximo Morales; he saw him the last time at Bagobantay, near San Francisco; they captured him there and carried him to Julian Santos; Julian Santos asked him if he was a spy and said it was best that they should kill him and commanded that they should carry him to the middle of the field and gave to Alberto a dagger to kill him with; the spy wished Perfecto de Leon to protect him; as Perfecto de Leon could do nothing he left him to be killed.

On that occasion there were present in company with Julian Santos all of those mentioned; there were about seventy men in the band; witness knew the person who is called Anatolio Austria; knew him as their commander; after the occurrence of San Francisco del Monte the band met and were awaiting an occasion to fight; they changed constantly their places of stopping; sometimes they were in Bagbag and at other times in San Francisco del Monte; they drew their supplies from the neighboring country; Silverio de la Cruz was placed in charge by Julian Santos to gather provisions; Silverio carried with him a revolver; sometimes they looked for supplies at night and sometimes in the daytime.

Enrique Pasion, a witness for the prosecution, testified that about the middle of the month of December, 1902, and to the end of January, 1903, he was with Faustino Guillermo and others in the mountains; he was in Corral-na-Bato and at Mapulang-lupa;

he knew all of the defendants in this case; knew them at the above-mentioned places; their names are Teniente Perfecto de Leon, Capitan Silverio, Teniente Ismael, Domingo Inocencio, and Andres de Lopio; Vicente del Mundo was with them when they took away rice from Novaliches; in the month of January they visited the pueblo of San Mateo and during this visit took three carabaos; Domingo Inocencio is the person who took them and delivered them to Geronimo de Leon and the latter delivered them to witness; there were five of them in the party that took the carabaos; all were armed; at the time they took the carabaos the owner was not present; they were in charge of an employee; he said that he could not give them the carabaos because they were not his, to which Geronimo de Leon replied if he did not he would kill him; they carried him to Pasong-tamo, and at midnight Domingo carried them to Manila; when they arrived at Pasong-tamo with the carabaos they were ten in number; when they went out they left General Luciano San Miguel there, but when they returned he was not there; San Miguel was recognized as the chief of all of the troops and Geronimo de Leon was the immediate chief of the band to which witness belonged; there were other bands besides the party of Geronimo de Leon; these were two other bands.

Juan Zorrilla, witness for the prosecution, testified that his position was that of a spy for the Constabulary; that in December, 1902, he was a policeman of the presidencia of Mamecauayan, of the Province of Bulacan; that the police of that place rose and went to the mountains; they returned and took witness off, accusing him of being a spy; they were accompanied by others, altogether about twenty-seven armed men; while they had witness tied, in a drug store, they entered into four Chino stores and took off clothing, money, shoes, towels, rice, cigarettes, and tobacco; this occurred on the 28th and 29th of December of the past year; they carried witness off to the mountains; at that place witness saw Anatolio Austria, Vicente del Mundo, Teniente Mauricio, Vicente Guillermo, Andres Roque, Jorge San Pedro, and one that was called Lieutenant Vale, Silverio de la Cruz, and Ismael Francisco; witness remained with this crowd two months; during this time there was a change of place each day and each night; witness knew San Miguel during this time; he made a cook of witness for more than a month; San Miguel was changing his place of residence constantly; went from one point to another.

The witness identified present, as persons whom he saw there, Vicente del Mundo, Ismael Francisco, Silverio de la Cruz; he knew these men about one month; saw them frequently in the mountains; they were all armed, and San Miguel was the chief in command; Faustino Guillermo, Apolonio Samson, Ciriaco Contreras, and Vicente del Mundo; the officer above Vicente del Mundo was Ciriaco Contreras; and Faustino Guillermo and Apolonio Samson were above in rank Ismael Francisco and Silverio de la Cruz; sometimes they operated independent of each other and at other times they all were together; witness left them at the battle of Corral-na-Bato and came to Manila; about twenty-nine of them entered Marilaw; witness went to the house of the president and asked for his revolver and as the president did not wish to give them the revolver the soldiers fired two shots and took away the revolver, searching the house and taking away from it two watches, clothes, and other articles.

Gregorio Cervantes, a witness for the prosecution, testified that in the month of November he was at Corral-na-Bato with Julian Santos who had with him about fifty men armed with Remingtons and revolvers; there were then present General Santos and Perfecto de Leon and their companions, twenty-five in number, all armed with guns; on this occasion they carried Gozon and Ampil to Corral-na-Bato and there delivered to Julian Santos Ampil and Gozon, who were then sentenced; they carried them to a place called Balaran; there were about twenty men along and when they arrived there, by order of General Santos, the two men were executed by Luis Alberta and Domingo Paom-



long; after they were killed their heads were cut off; Julian Santos was present; there were four persons who formed the council to try the two men; they were Julian Santos, Domingo Paombong, Luis Alberta, and Perfecto de Leon. Witness was with the band of Julian Santos for seven months; he left the band about a week after the death of the two men.

Other witnesses testified in the case, whose testimony was equally conclusive.

Every element of the offense defined in section 1 of Act No. 518 has been fully proven. The judgment of the Court of First Instance is affirmed.

*Judgment affirmed.*

[No. 1462. April 8, 1904.]

*LA RAZON SOCIAL DE HIJOS DE I. DE LA RAMA, plaintiffs and appellants, vs. ROSENDO LACSON, defendant and appellee.*

CONTRACTS; ILLEGAL CONSIDERATION; GAMBLING DEBT.—No action can be maintained for the recovery of money won in a game of chance, luck, or hazard.

APPEAL from a judgment of the Court of First Instance of Negros Occidental.

The facts are stated in the opinion of the court.

LEDESMA & SUMULONG, for appellants.

R. AVANCEÑA, for appellee.

COOPER, J.:

The plaintiffs brought this action against Don Rosendo Lacson for the recovery of the sum of 2,950 pesos. The instrument upon which the demand is founded is as follows, to wit:

"I acknowledge to be in debt to Don Esteban de la Rama in the sum of 2,950 pesos, and in security for the same I sign these presents.

"R. LACSON.

"July 10, 1897."

This document was transferred by successive indorsements to the plaintiff.

It is alleged in the complaint that the said sum of money was loaned without interest and without a fixed time of payment.

In his answer the defendant sets up as a defense that the note was given in consideration of a debt won by the plaintiff from the defendant in a game of monte.

The Court of First Instance found that the note was given for a gambling debt and held it upon these grounds to be invalid.

It is expressly provided in article 1798 of the Civil Code that no action can be founded upon a claim for a debt won in a game of chance, luck, or hazard.

This question arose in the case of José Escalante vs. Venacio Francisco (1 Off. Gaz., 855) and in the case of Palma vs. Canizares (1 Off. Gaz., 516), which were suits founded upon notes the consideration of which were gambling debts. In these cases we have held that such actions can not be maintained.

The Court of First Instance properly rendered judgment in favor of the defendant and the judgment must be affirmed, with the cost of proceedings adjudged against the plaintiff, which is accordingly done.

Torres, McDonough, Johnson, JJ., concur.

Arellano, C. J., Mapa, J., dissent.

*Judgment affirmed.*

[No. 1490. April 2, 1904.]

*O. F. CAMPBELL AND GO-TAUCCO, plaintiffs and appellants, vs. BEHN, MEYER & CO., defendants and appellees.*

1. CONTRACT; BUILDING; ACCEPTANCE OF WORK.—The acceptance and occupation of a building by the owner amounts to an acknowledgment that the work has been performed substantially as required by the contract.

2. ID.; BREACH OF CONDITIONS; MEASURE OF DAMAGES.—In case of a contract for furnishing materials and building a house in a specific manner, if it be not done according to the contract the party for whom it is built may refuse to receive it and elect to take no benefit from what has been performed, but if he does receive it he is bound to pay the reasonable value of what he receives.

3. ID.; ESTOPPEL.—The owner of a vacant lot made a contract for the filling of the lot with sand at so much a cubic meter, and made payments to the contractor upon receipts for the sand delivered, issued by the owner's agent on the ground. The owner subsequently attempted to recover from the contractor part of the money paid upon the ground that the amount of sand actually delivered was less than that represented by the receipts. Held, that in the absence of fraud the owner is estopped from denying the receipt of the sand.

4. ID.; MISTAKE.—To justify a recovery on the ground of mistake of fact the mistake must be mutual.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

CHICOTE, GIBBS & KINCAID, for appellants.

PILLSBURY & SUTRO, for appellees.

MCDONOUGH, J.:

On June 20, 1901, the appellants entered into a contract with the appellees, under which the former were to build for the latter a dwelling, on a certain lot in the city of Manila, according to a plan and specifications made for this purpose for the sum of 13,000 Mexican pesos, payment to be made in three installments—4,000 pesos when the necessary material was on the land and the work was commenced; 4,000 pesos when the house was finished as to walls, roof, etc., and 5,000 pesos on the completion of the work, which was to be finished within three months. In addition 500 pesos were to be paid for the installation of the city water in stables, kitchen, baths, and water closets, and the necessary drain pipes and for the construction of a stable in accordance with the specifications indicated, 1,500 Mexican pesos, payable at the termination of the work, making a sum total of 15,000 Mexican pesos.

On the 20th day of June, 1901, plaintiffs contracted with the defendants to fill a certain lot, on the bank of the Pasig River, with earth and sand, at the rate of \$1.30, Mexican currency, per cubic meter, a copy of which contract is as follows:

MANILA, P. I., June 20, 1901.

"We, Campbell & Go-Tauco, hereby agree to and with Behn, Meyer & Co., city of Manila, upon their signed acceptance to fill up a certain lot lying on the bank of the Pasig River, next to Malacañan Palace, with suitable filling composed of earth and sand of good quality, at the rate of \$1.30, Mexican currency, per cubic meter. Material will be measured in whatever way the said Campbell & Go-Tauco, with the approval of Behn, Meyer & Co., deem most expedient; then spread evenly over the ground to bring the lot to a certain level, which level will be determined by Behn, Meyer & Co. Weekly, to account, payments to be made to Campbell & Go-Tauco by Behn, Meyer & Co. The amount to be furnished will be over 15,000 cubic meters and delivered at the rate of 5,000 cubic meters monthly, unless some unforeseen cause, as storms, etc., make it impossible.

"Accepted.

"BEHN, MEYER & CO.

"GO-TAUCCO, O. F. CAMPBELL,

"Contractors."

The contract and specifications for the building of the house are quite brief; and they, as well as the plans, show a lack of such details as to work and materials as are usually incorporated in contracts, plans, and specifications for expensive buildings.

The specifications are as follows:

"Specifications to govern the construction of a house of strong material on the lot on Malacañan Street, District of San Miguel: owners, Behn, Meyer & Co.

"First. The house shall be twenty-four yards in width, twenty yards deep and seven and one-half yards high.

"Second. The foundations shall be of ordinary Guadalupe stone and shall have a depth of 1 m. by 1 m. with piers 1 m. by 0.60 m. The stonework of the lower story shall be of the kind known as ordinary Guadalupe stone of 0.16 of a meter.

"Third. The uprights shall be constructed of apiton, macasin, or amoguis wood 0.20 m. by 0.20 m. square. The framework of the roof, the stringers, trusses, cross beams, hangers, stays, and partitions shall be of apiton, macasin, or amoguis wood; the stays shall be 0.12 m. by 0.07 m. square.

"Fourth. The partitions of the upper floors shall be of boards made of the woods above indicated, one-half inch in thickness; the flooring of the upper story shall be of amoguis or tangli.

"Fifth. The windows shall be of native shell. The doors of the rooms on the upper story and of the apartments on the lower story shall be of macasin or apiton and the railing of the porch shall be of timber of the same class.

Sixth. The principal stairway shall be 1 m. and 0.40 m. wide, with a hand rail and railings 0.05 by 0.04 m., and another stairway for the servants 0.05 m. wide, constructed of timber of the second class.

"Seventh. The paint used on the exterior of the building shall be oil paint and on the interior water paint, with the exception of the doors, which are to be varnished."

The parties to the building contract agreed to have certain alterations and additions made to the house, and these were made during the progress of the work. The amount charged by the plaintiffs for the materials and labor for these alterations and the extra work was 7,750 pesos, making the total cost of the structures and appurtenances the sum of 22,750.62 pesos, of which sum the defendants paid to the plaintiffs the sum of 13,500 pesos, leaving an unpaid balance claimed by the plaintiffs of \$9,250.62, Mexican currency, for which sum the plaintiffs brought this action.

The defendants, in their answer disputed their liability to pay a sum of \$2,333.12, Mexican, claimed by plaintiffs for alterations, extra work, and labor; but at the trial they practically admitted that if they failed in their defense that the plaintiffs constructed said dwelling house in an unworkmanlike, careless, and negligent manner, the plaintiffs would be entitled to judgment for the full amount claimed by them for their work and materials, viz, 9,250.62 pesos.

In his decision of the case, the learned judge of the Court of First Instance must have found that this extra sum claimed by plaintiffs was proved, for he stated:

"I have concluded that an equitable adjustment of this matter is to deny the plaintiffs any other compensation than they have already received, because of their breach of contract in so defectively constructing the improvements of the defendants, and that the defendants are entitled to at least the *unpaid balance*, as damages sustained by them on account of the manner in which these improvements were constructed by the plaintiffs."

The unpaid balance claimed by plaintiffs was \$9,250.62, Mexican currency. As the defendants neither objected or took exception to this finding of the court, it must stand as the amount which the court held was offset by the failure of the plaintiffs to comply with their building agreement.

The defendants not only claimed damages for this breach of the building contract for the reason, as they alleged, that the work was not performed according to the contract, plans, and specifications, but, by way of counterclaim, they also allege that plaintiffs represented to the defendants that the amount of sand and earth used in the filling of the lot was 62,690.50 cubic meters, and that the defendants paid to the plaintiffs therefore, \$81,497.65, Mexican currency; that the amount of earth and sand actually deposited on said lot was 31,000 cubic meters, and that they had paid the plaintiffs for 31,690.50 cubic meters of sand or dirt which was not used to fill the lot in question, amounting to the sum of \$41,197.65, Mexican currency, and prayed judgment for the sum of \$71,197.65,

Mexican currency, to wit, \$30,000 on their first counterclaim for the failure of plaintiffs to comply with the building agreement and \$41,197.65 on the second counterclaim, with costs.

In their reply the plaintiffs allege that they had delivered on said lot, for defendants, 64,444 cubic meters of earth and sand, for which they are entitled to \$83,777.20, Mexican currency, and that there is due them thereon \$2,279.55.

In the decision of the court below it is said by the judge:

"I am further satisfied that the defendants paid plaintiffs \$1.30 per cubic meter for at least 40,000 cubic meters of sand and dirt as filling for their lot that was not put thereon by plaintiffs, which amounts in the aggregate to \$52,000, Mexican currency."

And judgment was ordered "that the plaintiffs' complaint be dismissed and that the defendants recover of the plaintiffs the said sum of \$52,000, Mexican, and costs of this case.

Plaintiffs duly excepted, and made a motion for a new trial.

The house was finished early in May, 1902, and the defendants accepted it by moving into it at that time. A careful reading of the evidence in this case, and an examination of the plans and specifications lead to the conclusion that there are defects in the building in question. Among these are the following: The foundations are not such as a first-class architect would recommend for a large building, to be erected on soft and spongy ground; the pillars are not placed on these foundations in such a way as to give the best support; the wood is of an inferior kind or group. The house has settled; the floor-boards and others have shrunk and the floor of the veranda slopes towards the house on all sides. In order, however, to hold the plaintiffs liable for these defects of plans, specifications, and of construction, it must be shown that they were caused by the plaintiffs and because of their defective workmanship.

During the progress of the work, the defendants had two engineers on the premises, Mr. Duff, who died, and Mr. Cook, who succeeded him, whose duty it was to see to it that the work was done in a workmanlike manner and according to the plans and specifications.

There is no evidence to show that the instructions of the engineer who directed the work, were, at any time, disregarded by the plaintiffs, nor is there anything in the case showing that the engineer complained of defective work. Moreover it is practically conceded by all the witnesses examined on this question that the wood and timber provided for in the contract was of an inferior group or grade, such as warps and shrinks.

The most serious defect in the house was caused by the settling of the pillars for lack of proper foundations.

The proof, however, shows that the foundations were built according to the plans and specifications and that the pillars were placed as the plans required them to be placed. The plaintiffs are not to be held in damages for following these plans, especially when they were followed under the eyes of the defendants' engineer and without objection from him.

In fact it was affirmatively shown in the case that Mr. Duff gave orders regarding the changes of posts and made the modifications he deemed necessary in regard to the foundations and posts; and Mr. Detmner, the manager of the defendants, testified that Mr. Duff, as surveyor "had power to see that the building was properly carried out."

The principal expert witness for the defendants testified that there was a defect of construction, in that not all of the piers are under the posts or pillars; that the pillars ought to rest on top of the foundation; but when shown the plan of the building, which was approved by the municipal authorities, he admitted, that according to these plans, the pillars were to rest not on top of the foundations, but to pass through the foundations and to rest in the ground; and that when the builders placed a course of stone under the pillars in the middle of the foundation, they improved on the plan and made the foundations of the pillars stronger; nor did this witness say that the joints of the pillars

were insufficient. He said they could be improved by using straps as well as bolts. There is nothing, however, in the plans or specifications requiring straps.

Other defects mentioned by this witness are undoubtedly due to the grade of lumber used, the same kind provided for in the contract and specifications. The specifications, said this witness, provide for timber of the third group. This grade of timber is lighter and more spongy than the groups higher than the third. On account of being spongy it shrinks during the heat. It can not be tightly adjusted so as not to leave a space. It would be difficult to make a good joint with this wood which would remain joined; it could be tight but it might shrink and open and close again.

Surely the plaintiffs can not be held responsible for the defects of the timber which they furnished, as provided for in their agreement, and which was of the group and quality designated by the defendants.

From the evidence in this case it must be found as conclusions of fact:

(1) That in the construction of the building, the contract, plans, and specifications have been complied with, with the exception of a variation to the advantage of the owner, which is that the principal posts rest upon layers of stone instead of upon the ground, as called for by the plan.

(2) That if there has been any variation from the original plan, this was done largely, if not wholly, with the consent of the owner, and, at all events, with that of his agent, the inspecting engineer, and that these changes have been improvements.

(3) That the house was constructed under a contract and specifications which did little more than to designate the size of the building, the material to be employed, and, with the plan, gave a drawing of the building, leaving the details necessarily almost completely to the direction of the inspecting architect or engineer.

(4) That the owner intrusted the direction of the work to an inspecting engineer selected by himself, with full authority to represent him, and that the contractor has performed the work wholly in accordance with the direction of the said inspecting engineer.

(5) That although there is some evidence to indicate that a part of the house has settled a little more than other parts, this is due either to the ground itself or to a defect in the plan, or to the directions of the inspecting engineer, and can not be attributed to a failure on the part of the contractor to comply with the conditions of the contract.

(6) If there are any cracks in the floor and in the joints in the building, this is due to the class of lumber which was selected by the owner.

(7) That the plan of the work and the placing of the principal posts were approved by the City Engineer and were in conformity with the ordinances.

(8) That the owner took possession of the house in the month of May, 1902, and has occupied it since that time as a dwelling house.

By the very fact of accepting the house, and occupying it, the defendants acknowledged that it was constructed substantially as required by the contract, plans, and specifications; and this is the law even when the work is not done according to the contract, but accepted.

In case of a contract for furnishing materials and building a house in a specific manner, if it be not done according to the contract, the party for whom it is built may refuse to receive it and elect to take no benefit from what has been performed. If he does receive it, he shall be bound to pay the value—the reasonable worth of what he receives. (6 New Hampshire, 481, 8.)

Where the owner moves into the building contracted for, the rule of substantial performance should be applied in an action by the contractor. (Duell vs. McCraw, 86 Hun. (N. Y.), 331.)

This being the law, the court below erred in adopting as a

measure of damages what it would cost to take this building down and to rebuild it, estimating the cost of the materials and of necessary new materials, and without proof of the actual costs of either.

This is not the rule or measure of damages adopted by the courts. (Kidd vs. McCormick, 83 N. Y., 391; Corland vs. New Orleans, 13 La. Ann., 43; Cullen vs. Sears, 112 Mass., 299.)

It follows that inasmuch as the plaintiffs complied with their contract and constructed the house according to the plans and specifications and under the directions of the defendants or their authorized agents, they are entitled to recover therefore the unpaid balance as found by the court below, viz, the sum of \$9,250.02, Mexican currency.

The claim for a recovery of the money paid by the defendants to the plaintiffs for 31,690.50 cubic meters of sand and earth which it is alleged were paid for but were not placed on the defendants' lot, is next to be considered.

The contract is undisputed, but the defendants claim that the total amount of earth and sand paid for was not delivered and that the money was paid therefor under a mutual mistake of facts. The plaintiffs are not charged with receiving this money by fraud or deceit or with any fraud or deceit, in the measurement or delivery of the sand and earth.

The defendants paid for 62,690.50 cubic meters and the plaintiffs claim that they delivered to the defendants 64,444 cubic meters and ask in their reply to the defendants' answer for payment of 1,753.50 cubic meters, not heretofore paid for, amounting to \$2,279.55, Mexican currency.

The burden of the proof is on the defendants to show that they did not receive the 62,690.50 cubic meters of sand and earth, and on the plaintiffs to show that they delivered 1,753.50 cubic meters of sand and earth, for which they were not paid.

Pursuant to their contract, the plaintiffs began to deliver the sand and fill the lot on or about July 14, 1901, and continued to deliver the same until April, 1902.

The sand was measured in banecas by the agent or servant selected and paid by the defendants. Receipts for this sand were given daily to plaintiffs and at the end of each week duplicate bills were rendered by them to the defendants, which were O. K.'d by the manager of the defendants' firm and then paid.

The authorized representative of the defendants who gave the receipts was on the ground constantly to receive this sand—in fact he lived on the ground. The sand was taken from the river and was wet when delivered.

The defendants kept a book account of all sand delivered. The plaintiffs kept a man there to see to it that all the filling went on and to take the receipts from defendants' representative. One of the representatives of the defendants who measured the sand was called as a witness by the plaintiffs and testified that he measured the water line of the banecas containing the sand. That the number of cubic meters of sand were told by certain marks on both sides of each banca; and that he was instructed by the manager of the defendants that it was not necessary to measure the banecas. The defendants by their own books and receipts, and as measured by their own agents or servants, showed that they received and paid for 62,690.50 meters of sand and earth.

In order to disprove their own admissions and books, they called two expert witnesses to show that this amount of sand and earth was not on the lot in question at the time of the measurement by these witnesses—presumably after September 6, 1902; for in the letter of the defendants to the plaintiffs of that date the former do not appear to have had the figures subsequently given by these witnesses—and many months after the sand and earth was all delivered.

The defendants did not call as witnesses any of their own agents or servants who measured this sand at the time of delivery, nor any of the banca owners or managers to show the amount delivered.

The lot which was filled contained according to defendants' witnesses a superficial area of 16,573.50 square meters.

It was, before it was filled, a rough piece of land, covered with very deep ditches, in part a paddy field and in part a swamp where people fished and watered their carabaos. The defendants' experts made a survey of this lot and an examination of the sand thereon, many months after it was deposited, with a view of determining the amount of sand originally deposited there by the plaintiffs. They measured the area of the lot and sunk five or six holes down to what they called the original soil, took the depth of the sand as shown by these holes, made a general average allowing 15 per cent for settlement, and reached the conclusion that there had been placed thereon a quantity of sand amounting "approximately" to 20,965 cubic meters. These holes, it was said, were distributed at intervals over the property, so as to enable the witnesses to get an average "guess" at, or approximation of the amount delivered.

One of these experts stated that he did not see this zacate field before it was filled up and that he did not know how many little ridges there were or how many canals may have existed on the property.

We can not assume, in the absence of proof, that these witnesses sunk holes in that part of this large lot where the deep ditches or canals existed or where the swamp was. The correctness of the conclusion reached by these experts depended to a great extent on the depth of the holes sunk through the sand, and this depth depended on whether or not they were sunk on the level part of the lot or in the ditches or swamp.

The evidence, therefore, is uncertain, and does not enable us to accurately determine the exact number of cubic feet of sand or earth delivered on the lot; and this is especially true when the evidence shows that the conclusions of the defendants' experts are disputed by two experts called by the plaintiff, experts of larger experience than those of the defendants and equally as competent to give opinions on this question.

These experts called by the plaintiffs, testified that the amount of sand and earth mentioned as delivered and paid for could have been delivered on this lot and yet show no greater bulk than that which appeared there when the defendants' experts made their measurements, provided a greater percentage were allowed for settlement and they cited the works of eminent engineers to show that the allowance for settlement should be from 31 to 38 per cent instead of 15 per cent.

In view of the fact that this filling was measured at so long a time after it was placed on the lot; in view of the fact that the estimates of these witnesses of the amount delivered is but an approximation or "guess"; in view of the conflict of testimony regarding such amount, and in view of the fact that the defendants, by their authorized representatives, actually measured the sand and earth, at the time of the delivery of each banca load, in the manner directed by the manager of the defendant, we can not now say that this latter measurement is all wrong and the new measurement all right; especially when there is no proof that any fraud or deceit was practiced on the defendants in the matter of measurements or in the keeping of the accounts thereof.

The learned judge who tried this case seems to have been of the opinion that because the contract states that the amount of sand to be delivered shall be "over 15,000 cubic meters," therefore it was a conclusive corroboration of his finding that not more than 21,000 cubic meters of filling was placed on the lot.

If only about 15,000 cubic meters were intended, why did not the defendants stop the delivery when they knew that 15,000 cubic meters had been delivered?

After the amount had gone beyond that mark, why were not the defendants put upon inquiry? Why, if they suspected anything wrong in the measurement, did they not make an investigation?

Delivery of filling began early in July, 1901 and down to Oc-

tober 20 of that year the amount delivered exceeded 16,000 cubic meters according to the defendants' own record. Why, then, if only about 15,000 cubic meters, or even 21,000 cubic meters were sufficient to fill the lot, did the defendants let the filling go on during the remainder of October, the whole of November and December, 1901, and January and February, and down to the latter part of March, 1902, and this without a word of complaint from the defendants during its progress, and not a word afterwards until plaintiffs began to press defendants for their unpaid balance on the house contract?

It is not unusual to allow a plaintiff to recover money paid to a defendant through a mutual mistake of fact. That was the case of *Whedon vs. Olds* (20 Wendell (N. Y.), 174), cited by the defendants' counsel. There the parties guessed at the quantity of oats in a storehouse and payment was made on the basis of this guess. Afterwards the oats were actually and accurately measured and the plaintiff recovered the excess of payment on the principle that there had been a mutual mistake in the amount guessed. There could be and was no doubt in that case as to amount actually delivered, because it was measured. In the case at bar this process has evidently been reversed by the court below. The parties first actually measured the sand and earth and the amount was paid for according to actual measurement; but now the defendants, by their experts, have guessed that they did not receive as much as the defendants' former measurement shows, and they want a return of money on the ground that the guess is more reliable than the measurement. The plaintiffs deny that there was any mistake, mutual or otherwise, in this former measurement; and so this *Whedon* case does not sustain the contention of the defendants. Nor does the case of *Whitcomb vs. Williams* (4 Pick. (Mass.), 228) sustain the contention of the defendants. In that case one of the parties, for years, had been buying rum of the other party, and had been paying for the same on the belief that the cask in which it was measured contained 121 gallons, whereas it turned out, after payments had been made, that the cask contained only 114 gallons. Here was a mutual mistake, a mistake which could not be denied. Here was accurate measurement of the actual amount of rum delivered and, of course, the plaintiff was entitled to recover the excess of his payments. But the case at bar is entirely different. No fraud or deceit is proved and no mutual mistake is shown by unmistakable evidence.

This case in the absence of evidence of a mutual mistake is governed by the doctrine of estoppel. The defendants measured the sand, they receipted for it, and they paid for it. They can not now say they did not receive it. It comes within the principles laid down in *Austin vs. Wauful* (36 S. R. (N. Y.), 779), where it was held that a receipt given by the plaintiff in that case for the property in question estopped him from denying that he had the property when the action was brought.

In *Behring vs. Somerville* (44 At. Rep., 641) it was held that the fact that both parties had equal means of information and money was paid upon a mistake of fact, can not, in the absence of fraud, be recovered back, the money being that of the payee.

It follows that the defendants are not entitled to recover from the plaintiffs the said sum of \$52,000, Mexican currency, allowed by the court below.

As we do not find that the plaintiffs have satisfactorily proved the delivery of the additional sand and earth for which they claim \$2,279.50, Mexican currency, that claim is disallowed.

The judgment of the Court of First Instance is reversed and judgment ordered for the plaintiffs for the sum of \$9,250.62, Mexican currency, with costs of both instances.

*Judgment reversed.*

COOPER, J., concurring:

I conform to the reversal of the judgment, but the case should be remanded to the Court of First Instance for a new trial.

[No. 1492. April 15, 1904.]

TAN MACHAN, plaintiff and appellee, vs. MARIA GAN AYA DE LA TRINIDAD ET AL., defendants and appellants.

1. BILLA AND NOTES; SURETIES; PAROL EVIDENCE.—Parol proof may be received to show as between the original parties to a note or their successor in interest that the relation between the makers was that of principal and surety.
2. EVIDENCE; BOOKS OF ACCOUNT; BILL OF EXCEPTIONS.—Where the introduction in evidence of books of account is objected to upon the ground that they are not kept in conformity with the requirements of the Code of Commerce, the bill of exceptions must show that such was the fact in order to make an exception to their admission available in the appellate court.
3. IN. ID.; WRITINGS OF DECEASED PERSONS; REFRESHING MEMORY OF WITNESSES.—Books of account, even if not kept in accordance with the provisions of the Code of Commerce, may be admitted if within the rule as to writings of deceased persons, or may be used by witness to refresh his memory.
4. PLEADING AND PRACTICE; GROUNDS OF OBJECTION; EXCEPTION.—In examining the question as to whether the ruling of the court below on an objection to evidence was correct or not the appellate court will not consider any other ground of objection than that raised in the court below.

APPEAL from a judgment of the Court of First Instance of Occidental Negros.

The facts are stated in the opinion of the court.

A. V. HERRERO, for appellants.

P. Q. ROTHSOCK, for appellee.

COOPER, J.:

This action was brought by the plaintiff, Tan Machan, against Maria Gan Aya de la Trinidad, wife of Manuel Gay; Filomena Gan Aya de la Trinidad, wife of Esteban de la Cruz; Emilia Gan Aya de la Trinidad, wife of José Abello; and Carmen Cañete, wife of Antonio Navarro.

The suit was against the defendants as the heirs and legal representatives of Señora Ruperta Gualino, except Doña Carmen Cañete, who is sued under the allegation that she has a contract with the heirs for the purchase of the hacienda, the property of Señora Gualino, deceased, and upon it is sought to establish a lien for the satisfaction of the claim the subject of the demand.

It is alleged in the complaint that Señora Ruperta Gualino, the deceased, executed a certain promissory note in the sum of \$9,000, on the 9th day of August, 1894, payable to the order of Don Clemente Zulueta; that the plaintiff, Tan Machan, and one Lim Ponson signed said note as sureties; that the said Señora Ruperta Gualino failing to pay off the same, the plaintiff was obliged to pay said debt; that by reason of the payment of said debt by the plaintiff, he became subrogated to all the rights of Don Clemente Zulueta, and the plaintiff asks that judgment be rendered in his favor for the sum of \$7,361.03 (the amount due him after deducting payments made to him) together with interest at the rate of 6 per cent per annum from the 27th day of April, 1895, the date of the payment of the debt by the plaintiff; and that the property of Señora Gualino, deceased, mortgaged to secure the payment of the debt, be subjected to the claim of the plaintiff in satisfaction of the debt.

Doña Carmen Cañete failed to answer and judgment by default was rendered against her, subjecting the property to the debt as to any claim which she might assert against it.

The defendants, the heirs of Señora Gualino, denied in their answer that the plaintiff, Tan Machan, and Lim Ponson signed as sureties and allege that they were principals in the making of the obligation and as such were liable for their proportionate part of the debt.

Judgment was rendered by the court in favor of the plaintiff against the defendants as the heirs and legal representatives of Doña Ruperta Gualino, for the sum of \$7,361.03, principal, with \$3,569.08, interest, and subjecting the hacienda, machinery, and other articles appurtenant to the same to the payment of the debt.

The errors assigned by the defendants are:

(1) The court erred in admitting proof at the trial to show that the plaintiff and Lim Ponson signed the note as sureties.

(2) That the court erred in admitting the books of account kept by the plaintiff, Tan Machan, in which books said note was entered as a bill payable given as security for Doña Ruperta Gualino for \$9,000, the payment to Zulueta by the plaintiff, Tan Machan, on the 9th day of February, 1895, of the sum of \$5,000 and on the 28th day of February of \$4,000.

(3) That the court erred in holding that the note was signed by plaintiff and Lim Ponson as sureties and not as principals and in not giving due weight to the testimony of the defendants to the effect that the note was made by the plaintiff and Doña Ruperta Gualino and Lim Ponson jointly, and that the money received on said loan was equally divided between the said makers of the note.

The question raised by the last assignment of error can not be considered.

No motion having been made for a new trial, this court can not review the evidence taken in the court below, nor retry the questions of fact. (Sec. 497, Code of Civil Procedure.) We will state, however, that an examination of the evidence contained in the record only discloses a conflict of testimony with the preponderance of evidence in favor of the plaintiff and the finding of the court in this particular must have been sustained.

The Court of First Instance did not err in admitting testimony to show that the plaintiff and Lim Ponson signed the note as sureties for Señora Ruperta Gualino. The admission of such proof is not a violation of the rule which prohibits the admission of oral evidence to contradict a written instrument. The transaction between the sureties does not purport to be covered by the document. It was a collateral agreement which could be proven by evidence outside of the instrument itself. (McKelvey on Evidence, 368; Brandt on Suretyship, sec. 30.)

The remaining assignment of error to be considered is as to the admission of the books of account kept by the plaintiff.

The objection to the admission of the books in evidence was "that the books were not kept in accordance with the provisions of the Code of Commerce." There is no statement made in the bill of exceptions as to whether the books were kept in accordance with the Code of Commerce or not.

Section 143 of the Code of Civil Procedure requires that the party excepting shall cause to be presented to the judge a brief statement of the facts of the case, sufficient to show the bearing of the rulings, orders or judgments excepted to. A statement should have been made in the bill of exceptions as to the particulars in which the books were deficient.

If such was the fact, it should have been stated in the bill of exceptions that the books received in evidence were not certified by the municipal judge of the district, nor were the pages of the books stamped with the seal of the municipal judge or justice of the peace.

The statement contained in the brief of the appellants that such was the case can not be considered. It should have appeared in the bill of exceptions.

Under section 338 of the Code of Civil Procedure a witness may be allowed to refresh his memory respecting the fact by anything written by himself or under his direction at the time when the fact occurred, or immediately thereafter, or at any other time when the fact was fresh in his memory and he knew the same was correctly stated in the writing.

And under section 328, the entries and other writings of a deceased person, made at or near the time of the transaction, and in a position to know the facts stated, may be read as prima facie evidence of the facts therein stated when they were made in the course of the ordinary and regular duty of the person making the entry.

Books of account, when they come within the provisions of sections 328 or 338, Code of Civil Procedure, are admissible without regard to the provisions of the Code of Commerce.

We can not consider the additional objection made in the brief of counsel; that is, that the books were not admissible under the provisions of article 1228 of the Civil Code.

The rule is that, in examining the question as to whether the ruling of the court below on an objection to the evidence was correct or not, the appellate court will not consider any other ground of objection than that raised in the court below. (8 Enc. Pl. and Pr., 223.)

There was no objection made at the time the books were admitted in evidence that they were not admissible under the provisions of articles 1228 of the Civil Code and we therefore can not consider this objection.

The judgment of the Court of First Instance is affirmed, and the cost of appeal is adjudged against the defendants.

*Judgment affirmed.*

### OPINIONS OF THE ATTORNEY-GENERAL.

*Right of municipal president to draw his salary as such during absence in the United States on the honorary board of commissioners.*

MANILA, P. I., May 11, 1904.

Respectfully returned to the Treasurer of the Philippine Islands, with the opinion that notwithstanding the provisions of section 22 of the Municipal Code, that "(c) the salary of the president during the period when the vice-president performs his duties shall be drawn by the vice-president," and "(f) the vice-president, except when serving as president, \* \* \* shall receive no compensation, their offices being honorary," the provisions of Act No. 1030, section 3, that "There shall be allowed, as traveling and subsistence expenses, \* \* \* from the time of his departure from Manila until the date of his return to Manila, to each official member (of the honorary board of commissioners), in addition to his salary as provided by law, the sum of seven dollars, United States currency, per day," must be construed as suspending the above-quoted provisions of the Municipal Code or as an exception thereto.

As stated in Sutherland on Statutory Construction (p. 177), "Laws are presumed to be passed with deliberation, and with a knowledge of all existing laws on the same subject. If they profess to make a change, by substitution of new for old provisions, a repeal to some extent is thus suggested, and the extent readily ascertained."

Act No. 1030 being a later and special act, it necessarily operates to restrict the effect of the said provisions of the Municipal Code from which it differs. It is a general rule that "when a general intention is expressed, and also a particular intention, which is incompatible with the general one, the particular intention shall be considered an exception to the general one." (Id. p. 213.)

It is, therefore, my opinion that legislative relief will be necessary in order to entitle the vice-president within referred to draw the salary of the president while said president is absent as a member of the honorary board of commissioners to attend the St. Louis Exposition.

GREGORIO ARANETA,  
Acting Attorney-General.

[Thirteenth indorsement.]

*Schools maintained with private funds and dedicated to secondary education, in whole or in part, are subject to taxation.*

Respectfully returned to the Secretary of Finance and Justice. No. 13 of Tariff 7 of the rules regarding industrial taxation in

force in these Islands subjects professors of languages in open academies to this tax. There is no number of any tariff of said rules expressly imposing an industrial tax on private secondary schools ("*de segunda enseñanza*"). Schools maintained with funds of the State, province, or municipality, by charitable endowment, and primary teachers, are expressly exempted from taxation; but not educational institutions maintained with private funds or secondary teachers ("*de segunda enseñanza*"). The case in question is that of an establishment maintained with private funds, and dedicated to primary and secondary education.

Article 22 of said rules prescribes:

"Industries, commerce, professions, arts, or offices not included in the tariffs or in the tables of exemptions under a concrete determination, shall be classified by analogy or similarity with those others most resembling them in their essential conditions."

The number and tariff under which the establishment in question can be classified with the closest analogy is No. 13 of Tariff 7, relating to professors of language in open academies. The tax there imposed can, therefore, be legally required of the educational institution in question.

GREGORIO ARANETA,  
Acting Attorney-General.

### BUREAU OF CUSTOMS AND IMMIGRATION.

#### TARIFF DECISION CIRCULARS.

No. 426.—"*Ferraris*" meters, watt meters, and similar electrical meters, classification of.

MANILA, May 19, 1904.

To all Collectors of Customs:

It is hereby ruled that "*Ferraris*" meters, watt meters (Tariff Decision Circular No. 211), and similar electrical meters, used exclusively in the generation and distribution of electric currents for light or power, shall be classified under paragraph 248 (b) of the Tariff Revision Law of 1901 at \$25 per 100 kilos. Tariff Decision Circular No. 300 is modified accordingly.

H. B. McCoy,  
Acting Collector of Customs for the Philippine Islands.

No. 427.—*Carriage springs of wrought iron or steel, not "cast in pieces," classification of.*

MANILA, May 19, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of protest No. 2731, filed December 21, 1903, by Mr. Jose de Garehithorena, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duties chargeable on certain merchandise described in Entry No. A-10523, Voucher No. 20383, paid December 19, 1903.

"The claim in this case is against the classification of certain carriage springs as 'wrought iron or steel in common articles of all kinds not specially mentioned,' under paragraph 58. of the Tariff Revision Law of 1901, at \$2.50 per 100 kilos, instead of as 'springs other than for railways and tramways,' under paragraph 38 (b), at \$1.05 per 100 kilos, gross weight, as entered.

"The carriage springs in question are elliptical in shape, being composed of laminae of different lengths held together in the middle by a band and bolted at each end.

"The paragraph under which claim is made reads as follows:

"(3). Wrought iron or steel cast in pieces. finished."

"(a) \* \* \*

"(b) Wheels weighing 100 kilograms or less: springs other than for railways and tramways: bent axles and cranks. \* \* \*"

"It is one of the well-known canons of interpretation that effect must be given, so far as possible, to every clause, word, and

syllable of a law, but this rule, well founded though it be, must give way when the result of a too-alavish following would be to defeat the very evident intent of the legislators. Thus the proper effect must be given if possible to the phrase 'cast in pieces.' But this is not easy to ascertain for the words are clearly not applicable to wrought iron, for 'wrought iron cast' is absurd. So too if it means 'cast in parts' to be assembled, it would not be applicable to car wheels, axles, cranks. If it means cast in a piece, then it has no meaning different from that of the word 'cast,' for every casting is of necessity cast in a piece.

"On the other hand there can be no doubt that it was the intention of the legislators to classify under 38 (a) all the material therein enumerated; that it was supposed that proper terms had been selected to accomplish that result; and that had it been suspected that there was antagonism concealed between the heading and the subparagraph, the whole would past doubt have been corrected by reforming the heading. As it is, the only manner in which the legislative intent can be effectuated is by considering 'cast in pieces' as mere surplusage and not allowing it to render nugatory the whole paragraph. It follows that carriage springs of wrought iron or steel should be classified under paragraph 38 (b) as claimed.

"Protest No. 2731, on the grounds mentioned above, is therefore sustained, and a refund ordered to the importer, in the sum of \$24.89, United States currency. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 428.—*Cast steel tires and wrought retaining rings for use on railway cars, not dutiable as rolled tires and hoops or as wheels, but as common articles of wrought iron or steel not specially mentioned.*

MANILA, May 20, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2891, filed February 10, 1904, by the Manila Railway Company, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. B-452, Voucher No. 27172, paid February 8, 1904.

"The claim in this case is against the classification of certain tires and rings for railway passenger coaches as 'wheels weighing 100 kilograms or less,' under paragraph 38 (b) of the Tariff Revision Law of 1901, at \$1.05 per 100 kilos, gross weight, instead of as 'tyres' (tires) and 'hoops,' under paragraph 35 (b), at \$0.60 per 100 kilos, gross weight, as entered.

"The tires or rims in question are of cast steel, finished. They are about three inches in thickness, and are for use on railway passenger and freight cars. The rings are made to fit inside of the tires, serving as retainers, and are neither cast nor rolled, but machine wrought.

"Paragraph 35 (b) provides only for *rolled* hoops and tires and it is not broad enough to cover the present importation, even though it be true that they are commercially known as tires. They are not commercially known as rolled tires.

"On the other hand, it is also true that they are not wheels; they are parts of wheels, but these wheels, and hence these tires, are in their turn parts of railway carriages. They can no more be classified as wheels than they can as carriages. Nor can they be assimilated to wheels, for, even if possessing any one of the four characteristics necessary for an application of the similitude rules, such rules can not be resorted to where an 'omnium gatherum' paragraph is in the law providing for such other articles as are not specifically enumerated in the paragraphs which precede it. (See

Tariff Decision Circulars Nos. 187, 369, 374.) Paragraph 58 contains such a provision, providing for 'wrought iron or steel in common articles of all kinds not specially mentioned.'

"Neither the claim of the importer nor the classification as returned is sustained, and the entry will be reliquidated.

"Claim is also made against the assessment and collection of any duties, exemption being claimed under a Spanish concession. This question has been previously considered, and in Tariff Decision Circular No. 225 it was held that the concession expired on November 20, 1902, and that whatever rights the protesters might have had under the concession have elapsed.

"Protest No. 2891, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 429.—*Antifriction coaks or bushings, not hoisting apparatus.*

MANILA, May 20, 1904.

*To all Collectors of Customs:*

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 3014, filed March 23, 1904, by the Atlantic, Gulf and Pacific Company, against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. B-5668-a, Voucher No. 33104, paid March 26, 1904.

"The claim in this case is against the classification of certain coaks as 'articles not specially mentioned of copper and alloys of copper,' under paragraph 69 (a), of the Tariff Revision Law of 1901, at \$0.15 per kilo, not less than 15 per cent ad valorem, instead of as 'hoisting machinery' under paragraph 245, at \$0.25 per 100 kilos, gross weight, as entered.

"The merchandise in question is what is known as antifriction coaks or bushings, being small cylinders of copper alloy in which holes are bored and filled with graphite. At the hearing granted the protesters in this case, it developed that these bushings were imported for use with certain sheaves on hoisting apparatus operated by the protesters here in the Islands, and that these bushings were specially constructed for use with the sheaves to which they were to have been applied, which was illustrated by a sample sheave with the bushing in place presented at the hearing.

"Bushings may be and are used in connection with all classes of machinery. While the bushings in this case may have been imported for use in connection with hoisting apparatus, and may have been manufactured to a particular size for this very purpose, such bushings may be used equally well in connection with other machinery and apparatus. The case of saws for a sawmill is hardly analogous, for all the machinery in the sawmill is directed toward the operation of the same; without the saws the sawmill machinery would be useless. But this can not be said of antifriction bushings, which are no more hoisting machinery than machine shears or separators which are used in a sawmill are sawmill machinery. (See Tariff Decision Circulars Nos. 311 and 313.)

"A finding that bushings when separately imported should be classified as spare parts of the machines for which they are specially imported, would open up ground for endless contention as to the identity of such bushings or similar materials. Bushings for various machines might be imported in one shipment, and the difficulty of segregation in such case is apparent. This office finds that such articles as 'bushings' are not 'vital and indispensable parts' of hoisting apparatus within the meaning of Tariff Decision Circular No. 187, and that they are properly classified according to their component material of chief value.

"Protest No. 3014, on the grounds mentioned above, is therefore overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 430.—*Linen textiles, half bleached; charges.*

MANILA, May 20, 1904.

To all Collectors of Customs:

The following is hereby published for the information and guidance of all concerned:

"In the matter of Protest No. 2702, filed December 8, 1903, by Messrs. Ed. A. Keller & Co., against the decision of the Collector of Customs for the Philippine Islands, acting as Collector of Customs for the port of Manila, as to the rate and amount of duty chargeable on certain merchandise described in Entry No. A-9093, Voucher No. 18758, paid December 7, 1903.

"The first claim in this case is against the addition of 11s. 5d. to the invoice and entered value of certain English woolen textiles shipped f. o. b. Liverpool. It appears that these charges were in addition to market value and were not added to make market value; such additions are not dutiable and the protest on this point must be sustained.

"The second claim is against the assessment of a surtax of 30 per cent for being half bleached, on certain textiles dutiable under paragraph 149 (c) of the Tariff Revision Law of 1901, at \$0.25 per kilo. The textile contains 18 cotton and 12 linen threads per square of six millimeters. The textile is half bleached in appearance, but it is claimed by the protesters that this effect is produced by the admixture of unbleached cotton threads. The acting appraiser of textiles reports, however, 'that the cotton threads employed in the textile in question have undergone a bleaching process.' Bleaching may be done as well in the yarn as in the fabric, and when so accomplished takes the surtax (Tariff Decision Circular No. 322). If the textile in question is dutiable under paragraph 149 (c), which is not denied, and if it is half bleached, the surtax is properly applicable, and it is immaterial whether the linen threads are bleached or not. The surtax is applicable on the same textiles that are dutiable under paragraph 149 (c), and is prescribed for an effect and not for the means of producing the effect.

"Protest No. 2702, on the grounds mentioned above, is therefore sustained as to the first part and a refund ordered to the importer in the sum of \$0.97, United States currency; the second part is overruled and denied. (Signed) H. B. McCoy, Acting Collector of Customs for the Philippine Islands."

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 431.—*Glass jars of ordinary hollow glassware.*

MANILA, May 24, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following decision of the Court of Customs Appeals, rendered April 11, 1904, is hereby published for the information and guidance of all concerned:

UNITED STATES OF AMERICA, PHILIPPINE ISLANDS,  
COURT OF CUSTOMS APPEALS.

*Appeal in the case of Ed. A. Keller & Co.*

[Docket No. 637. Appeal No. 597. Protest No. 1912.]

"DECISION.

"CROSSFIELD, Judge:

"This case came on for trial upon the appeal of Messrs. Ed. A. Keller & Co. from the decision of the Collector of Customs over-

ruling appellants' protest against the classification of certain glass jars as crystal under paragraph 13 (b), instead of as ordinary hollow glassware under paragraph 12 of the Tariff Revision Act.

"Mr. Hartford Beaumont appeared for the Government.

"Mr. C. Abegg for the appellants.

"The presentation of the case at the hearing disclosed that the jars in controversy were not of flint glass or crystal; an analysis of one of the jars by the Government demonstrated this conclusively.

"The only question left for determination, then, is whether or not the jars are of glass imitating crystal.

"After careful consideration the court finds that the particular glass of which the jars in question in this case are made is not an imitation of crystal any more than is any ordinary glass of good quality.

"The jars in question should be classified under paragraph 12 of section 11 of the Tariff Revision Act, enacted September 17, 1901.

"The decision of the Collector of Customs is modified to meet the above findings.

"No costs to either party.

"A. S. CROSSFIELD, Judge.

"I concur:

"FELIX M. ROXAS, Judge."

PAR. II. Attention is invited to Tariff Decision Circulars Nos. 155 and 422.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

#### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 312.—*Export shipments direct from the several entry ports via another port for transshipment.*

MANILA, May 5, 1904.

To all Collectors of Customs:

PARAGRAPH I. In order that products of the Philippine Islands subject to export duty under the provisions of section 13 of the Tariff Revision Law of 1901 may be entered for export at the several entry ports and shipped direct therefrom via another entry port in the Philippine Islands, the following regulations are hereby promulgated to govern in such transactions:

PAR. II. Any collector of customs may accept for export a consignment of native products on Entry Form 25, and collect the duties thereon, although the shipment may not be direct to the foreign port of final discharge, but for transshipment at Manila or another of the several entry ports.

PAR. III. In cases such as provided for in the preceding paragraph, foreign shipments for export which are sent for final landing via another entry port shall be included in the usual coastwise manifest, with marginal notation in red ink referring to each particular consignment, showing the number of packages, date and number of export entry, and amount of money collected. In addition to the foregoing, it will be necessary to furnish a vessel transporting such shipment or shipments an extra coastwise manifest, headed "Duty paid—Export shipments in transport from (insert name of port)" and on such separate and additional manifest shall be included the usual complete particulars of the shipments. These manifests shall be retained for file in the office of the collector of customs at the port from whence the export consignments are to be laden for final shipment to ultimate port of destination.

PAR. IV. It is the desire of this office to facilitate in every possible manner free and unrestricted exportation of the products of the Philippine Islands from the several entry ports, and that such ports may receive due credit in the matter of the collection of the duties thereon. The foregoing regulations are framed with the idea that they will confer some advantages upon the shipping interests, and also allow the individual shippers to obtain through



bills of lading from the port of original shipment and the benefit of a likewise through freight rate.

PAR. V. Immediate steps should be taken by the several collectors of customs to acquaint the business interests at their respective ports with these regulations, and in every way to give the usual publicity to the terms of this circular.

H. B. McCox,

*Acting Collector of Customs for the Philippine Islands.*

No. 313.—*Publishing treaty of peace between the United States and Spain, signed at the city of Paris on December 10, 1898; and protocol signed March 29, 1900, extending the time for six months from April 11, 1900, during which Spanish subjects might declare their allegiance to Spain.*

MANILA, May 5, 1904.

*To all Collectors of Customs:*

PARAGRAPH I. The following treaty of peace between the United States and Spain, signed at the city of Paris on December 10, 1898, is hereby published for the information and guidance of all concerned:

**"TREATY OF PEACE BETWEEN THE UNITED STATES AND SPAIN.**

"[Message from the President of the United States, transmitting a treaty of peace between the United States and Spain, signed at the city of Paris on December 10, 1898. January 4, 1899; read; treaty read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate; January 11, 1899, injunction of secrecy removed; January 13, 1899, ordered printed.

*"To the Senate of the United States:*

"I transmit herewith, with a view to its ratification, a treaty of peace between the United States and Spain, signed at the city of Paris on December 10, 1898, together with the protocols and papers indicated in the list accompanying the report of the Secretary of State.

"WILLIAM MCKINLEY.

"EXECUTIVE MANSION, Washington, January 4, 1899.

*"To the President:*

"The undersigned, Secretary of State, has the honor to lay before the President, with a view to its submission to the Senate if deemed proper, a treaty of peace concluded at Paris on December 10, 1898, between the United States and Spain.

"Accompanying the treaty are the protocols of the conferences of the Peace Commission at Paris, together with copies of statements made before the United States commissioners, and other papers indicated in the inclosed list.

"Respectfully submitted.

"JOHN HAY.

"DEPARTMENT OF STATE, Washington, January 3, 1899.

"The United States of America and Her Majesty the Queen Regent of Spain, in the name of her august son Don Alfonso XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed as plenipotentiaries:

"The President of the United States.

"William R. Day, Cushman K. Davis, William P. Frye, George Gray, and Whitelaw Reid, citizens of the United States;

"And Her Majesty the Queen Regent of Spain.

"Don Eugenio Montero Rios, president of the senate; Don Buenaventura de Abarzuza, senator of the Kingdom and ex-minister of the Crown; Don José de Garnica, deputy to the Cortes and associate justice of the supreme court; Don Wenceslao Ramirez de Villa-Urrutia, envoy extraordinary and minister plenipotentiary at Brussels, and Don Rafael Corero, general of division;

"Who, having assembled in Paris, and having exchanged their

full powers, which were found to be in due and proper form, have, after discussion of the matters before them, agreed upon the following articles:

**"ARTICLE I.**

"Spain relinquishes all claim of sovereignty over and title to Cuba.

"And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

**"ARTICLE II.**

"Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

**"ARTICLE III.**

"Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line:

"A line from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty-five minutes (4° 45') north latitude, thence along the parallel of four degrees and forty-five minutes (4° 45') north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119° 35') east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119° 35') east of Greenwich to the parallel of latitude seven degrees and forty minutes (7° 40') north, thence along the parallel of latitude of seven degrees and forty minutes (7° 40') north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

"The United States will pay to Spain the sum of twenty million dollars (\$20,000,000) within three months after the exchange of the ratifications of the present treaty.

**"ARTICLE IV.**

"The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

**"ARTICLE V.**

"The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

"Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the Protocol of August 12, 1898, which is to continue in force till its provisions are completely executed.

"The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war vessels, small arms, guns of all calibers, with their carriages and accessories, powder, ammunition, livestock, and material and supplies of all kinds, belonging to the land and naval forces of Spain in the Philippines and Guam, remain the property of Spain. Pieces of heavy ordnance, exclusive of field artillery, in the fortifications and coast defences, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may, in the meantime, purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

"ARTICLE VI.

"Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offences, in connection with the insurrections in Cuba and the Philippines, and the war with the United States.

"Reciprocally, the United States will release all persons made prisoners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

"The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

"ARTICLE VII.

"The United States and Spain mutually relinquish all claims for indemnity, national and individual, of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

"The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

"ARTICLE VIII.

"In conformity with the provisions of Articles I, II, and III of this treaty, Spain relinquishes in Cuba, and cedes in Porto Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago, all the buildings, wharves, barracks, forts, structures, public highways and other immovable property which, in conformity with law, belong to the public domain, and as such belong to the Crown of Spain.

"And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, can not in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

"The aforesaid relinquishment or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the Peninsula. Where any document in such archives only in part relates to said sovereignty, a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of the islands above referred to.

"In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its au-

thorities possess in respect to the official archives and records, executive as well as judicial, in the islands above referred to, which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall without distinction have the right to require, in accordance with law, authenticated copies of the contracts, wills and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

"ARTICLE IX.

"Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to sell or dispose of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce and professions, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

"The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

"ARTICLE X.

"The inhabitants of the territories over which Spain relinquishes her sovereignty shall be secured in the free exercise of their religion.

"ARTICLE XI.

"The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters of civil as well as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts, and to pursue the same course as citizens of the country to which the courts belong.

"ARTICLE XII.

"Judicial proceedings pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relinquishes or cedes her sovereignty shall be determined according to the following rules:

"1. Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be final, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

"2. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court in which they may then be pending or in the court that may be substituted therefor.

"3. Criminal actions pending on the date mentioned before the Supreme Court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but, such judgment having been rendered, the execution thereof shall be committed to the competent authority of the place in which the case arose.

"ARTICLE XIII.

"The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba and in Porto Rico, the

Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty.

"ARTICLE XIV.

"Spain will have the power to establish consular officers in the ports and places of the territories, the sovereignty over which has been either relinquished or ceded by the present treaty.

"ARTICLE XV.

"The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage dues, as it accords to its own merchant vessels, not engaged in the coastwise trade.

"This article may at any time be terminated on six months' notice given by either Government to the other.

"ARTICLE XVI.

"It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will upon the termination of such occupancy, advise any government established in the island to assume the same obligation.

"ARTICLE XVII.

"The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

"In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

"Done in duplicate at Paris, the tenth day of December, in the year of our Lord one thousand eight hundred and ninety-eight.

"WILLIAM R. DAY.	[SEAL.]
"CUSHMAN K. DAVIS.	[SEAL.]
"WILLIAM P. FRYE.	[SEAL.]
"GEO. GRAY.	[SEAL.]
"WHITELAW REID.	[SEAL.]
"EUGENIO MONTERO RIOS.	[SEAL.]
"B. DE ABARZUZA.	[SEAL.]
"J. DE GARNICA.	[SEAL.]
"W. R. DE VILLA URRUTIA.	[SEAL.]
"RAFAEL CERERO.	[SEAL.]

PAR. II. The following protocol was signed at Washington on March 29, 1900, extending the period fixed in Article IX of the preceding treaty, during which Spanish subjects might declare their intention to retain their Spanish nationality:

"PROTOCOL OF AGREEMENT EXTENDING, AS TO THE PHILIPPINE ISLANDS, FOR SIX MONTHS FROM APRIL 11, 1900, THE PERIOD FIXED IN ARTICLE IX OF THE TREATY OF PEACE BETWEEN THE UNITED STATES AND SPAIN, SIGNED AT PARIS DECEMBER 10, 1898, DURING WHICH SPANISH SUBJECTS, NATIVES OF THE PENINSULA, MAY DECLARE THEIR INTENTION TO RETAIN THEIR SPANISH NATIONALITY.

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A  
PROCLAMATION.

"Whereas a protocol of agreement extending, as to the Philip-

pine Islands, for six months from April 11, 1900, the period fixed in Article IX of the Treaty of Peace between the United States and Spain, signed at Paris on the tenth day of December, 1898, during which Spanish subjects, natives of the Peninsula, may declare before a Court of record their intention to retain their Spanish nationality, was signed at Washington on March 29, 1900, by the Honorable John Hay, Secretary of State of the United States, and the Duke de Arcos, envoy extraordinary and minister plenipotentiary of Spain at Washington, the original of which protocol of agreement being in the English and Spanish languages, is word for word as follows:

"Whereas by the ninth Article of the Treaty of Peace between the United States of America and the Kingdom of Spain, signed at Paris on December 10, 1898, it was stipulated and agreed that Spanish subjects, natives of the Peninsula, remaining in the territory over which Spain by Articles I and II of the said treaty relinquished or ceded her sovereignty could preserve their allegiance to the Crown of Spain by making before a court of record within a year from the date of the exchange of ratifications of said treaty, a declaration of their decision to preserve such allegiance;

"And whereas the two High Contracting Parties are desirous of extending the time within which such declaration may be made by Spanish subjects, natives of the Peninsula, remaining in the Philippine Islands;

"The undersigned Plenipotentiaries, in virtue of their full powers, have agreed upon and concluded the following article:

"SOLE ARTICLE.

"The period fixed in Article IX of the Treaty of Peace between the United States and Spain, signed at Paris on the tenth day of December, 1898, during which Spanish subjects, natives of the Peninsula, may declare before a court of record their intention to retain their Spanish nationality, is extended as to the Philippine Islands for six months beginning April 11, 1900.

"In witness whereof, the respective Plenipotentiaries have signed the same and have thereunto affixed their seals.

"Done in duplicate at Washington the 29th day of March, in the year of Our Lord one thousand nine hundred.

"JOHN HAY.  
"ARCOS.

"And whereas, the Senate of the United States, by its resolution of April 27, 1900 (two-thirds of the Senators present concurring therein), did advise and consent to the proclamation of the said protocol of agreement:

"Now, therefore, I, William McKinley, President of the United States of America, have caused the said protocol of agreement to be made public to the end that every article and clause thereof may be observed in good faith by the United States and the citizens thereof.

"In testimony whereof, I have set my hand and caused the seal of the United States to be hereunto affixed.

"Done at the City of Washington this twenty-eighth day of April, in the year of our Lord one thousand nine hundred, and of the independence of the United States the one hundred and twenty-fourth.

"[SEAL.]

"WILLIAM MCKINLEY.

"By the President:

"JOHN HAY, *Secretary of State.*"

PAR. III. Philippine Customs officers shall give due publicity to the terms of this circular.

H. B. McCoy.

*Acting Collector of Customs for the Philippine Islands.*

No. 314.—*Revoking Paragraphs X and XI of Customs Administrative Circular No. 309.*

MANILA, May 5, 1904.

To all Collectors of Customs:

Paragraphs X and XI of Customs Administrative Circular No. 309 are hereby revoked, and the provisions of Customs Administrative Circular No. 302, prescribing lights for vessels at anchor and under way in all harbors of the Philippine Islands, shall govern in all instances.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

MANILA CUSTOM-HOUSE GENERAL ORDER.

No. 75.—*Providing regulations for delivery of sample cases ordered to appraisers' stores for examination.*

MANILA, May 19, 1904.

PARAGRAPH I. On and after June 1, 1904, all packages of dutiable imported merchandise ordered to the appraisers' stores for examination shall be held by the Chief Appraiser, Manila Custom-House, until after the entry covering the same has been liquidated, and he has been notified of such liquidation and authorized by the Insular Deputy Collector of Customs to make delivery of such packages.

PAR. II. For the purpose of carrying this order into effect, the Appraiser's delivery permit shall be attached by the permit clerk to the original entry, and forwarded to the Appraisers' Division, as is now provided by regulation; this permit shall remain attached to the original entry in its coursing through the Appraisers' Division, and shall be forwarded by the Chief Appraiser with the original entry to the Liquidation Division. When the liquidation of an entry shall be completed, the Chief of the Liquidation Division shall stamp the entry and the corresponding Appraisers' permit, showing the date of liquidation, and shall forward the permit at once to the Insular Deputy Collector, who in turn shall examine the same and authorize delivery by initialing the permit, and forward the same to the Chief Appraiser.

PAR. III. For the purpose of assessing storage charges on packages ordered for examination under the provisions of Manila Custom-House General Order No. 60, importers shall be given the benefit of the entire day on which their entry is liquidated,

and storage charges shall not commence to accrue until fully forty-eight hours have elapsed after the date of liquidation.

PAR. IV. Philippine Customs officers shall give due publicity to the terms of this order.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

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Manila Custom-House General Order—

No. 75, providing regulations for delivery of sample cases ordered to appraisers' stores for examination.

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MANILA, P. I., JUNE 15, 1904.

No. 24

## PUBLIC LAWS.

[No. 1166.]

AN ACT PROVIDING FOR A LOAN OF EIGHT THOUSAND EIGHT HUNDRED PESOS, PHILIPPINE CURRENCY, TO THE PROVINCE OF BATANGAS IN ORDER TO ENABLE THE MUNICIPALITIES OF SANTO TOMAS, TANAUAN, AND LIPA OF THAT PROVINCE TO BETTER THEIR POLICE FORCE, WHICH IS TO BE UNDER THE SUPERVISION OF THE SENIOR INSPECTOR OF CONSTABULARY, FOR THE PURPOSE OF SUPPRESSING LADRONISM IN THAT PROVINCE.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of eight thousand eight hundred pesos, Philippine currency, to be loaned to the Province of Batangas to be by it loaned to the municipalities of Santo Tomas, Tanauan, and Lipa in sums of two thousand four hundred, three thousand, and three thousand four hundred pesos, Philippine currency, respectively, for the purpose of enabling them to better their police force, which is to be under the supervision of the Senior Inspector of Constabulary of the province, for the purpose of suppressing ladronism in that province.

SEC. 2. The money appropriated in the first section of this Act shall be paid to the treasurer of the Province of Batangas upon the production by him to the Treasurer of the Philippine Islands of a certified copy of a resolution of the provincial board requesting such loan and agreeing to repay the money, without interest, within two years from the date of the loan. The money loaned by this Act shall be expended by the provincial board in the manner prescribed in the preceding section.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, May 28, 1904.

[No 1167.]

AN ACT MAKING APPROPRIATIONS FOR SUNDRY EXPENSES OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MANILA FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND FOUR, AND OTHER DESIGNATED PERIODS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sums, or such much thereof as may be respectively necessary, are hereby appropriated, out of any funds in the Treasury of the Philippine Islands not otherwise ap-

propriated, in part compensation for the service of the municipal government of the city of Manila for the fiscal year ending June thirtieth, nineteen hundred and four, unless otherwise stated:

*Salaries and wages, Department of Engineering and Public Works, city of Manila, nineteen hundred and four:* For continuation of preliminary survey of new water and sewer systems: For additional amount necessary for salary and expenses of Consulting Engineer, three thousand pesos.

*Salaries and wages, Department of Assessments and Collections, city of Manila, nineteen hundred and four:* For the payment of salaries and wages authorized by Act Numbered One thousand and forty-eight, one thousand four hundred and ninety-four pesos and twenty centavos.

*Salaries and wages, Fire Department, city of Manila, nineteen hundred and four:* For the payment of salaries and wages authorized by Act Numbered One thousand and forty-eight, ten thousand four hundred and sixty-two pesos and ninety-seven centavos.

*Equipment, Fire Department, city of Manila, nineteen hundred and four:* For the purchase of spare parts of apparatus necessary for immediate repairs, and for the purchase of fire helmets and iron stall guards, five thousand nine hundred and ninety-nine pesos and forty-three centavos.

*Salaries and wages, Department of Police, city of Manila, nineteen hundred and four:* For the payment of salaries and wages authorized by Act Numbered One thousand and forty-eight, fifty thousand five hundred and ninety-three pesos and sixty-five centavos.

*Equipment, Department of Police, city of Manila, nineteen hundred and four:* For excess in cost of police alarm apparatus over amount heretofore appropriated, and payment for eight hundred revolvers purchased under authority contained in Act Numbered Eight hundred and four, twenty-four thousand five hundred and thirty-five pesos and fifty-nine centavos.

*Contingent expenses, Department of Police, city of Manila, nineteen hundred and four:* For additional amount necessary to pay for repairs to launch *George Curry*, damaged and sunk by accident, one thousand two hundred and seventy-seven pesos and seventy-two centavos.

*Salary and expense fund, city of Manila:* For disbursement as provided in Act Numbered One thousand and forty-eight, five thousand pesos.

*Transportation, city of Manila, nineteen hundred and four:* To enable the city of Manila to reimburse the Insular Purchasing Agent for transportation furnished from July first to December thirty-first, nineteen hundred and three, under the provisions of Act Numbered One hundred and ninety-eight, twelve thousand two hundred and ninety-five pesos and ninety-two centavos.

In all, for the city of Manila, one hundred and fourteen thousand six hundred and fifty-nine pesos and forty-eight centavos.

SEC. 2. The provisions of the first paragraph of section four of Act Numbered Eight hundred and four, providing the manner in

which withdrawals of moneys appropriated in said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

Sec. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 4. This Act shall take effect on its passage.

Enacted, May 28, 1904.

### GENERAL ORDER, WAR DEPARTMENT.

WASHINGTON, March 25, 1904.

GENERAL ORDERS, }  
No. 56. }

The following is published for the information and guidance of all concerned:

The President of the United States, by order dated March 14, 1904, directed that the reservations made by executive order of April 11, 1902 (General Orders, No. 38, Headquarters of the Army, Adjutant-General's Office, April 17, 1902), at the entrance to Manila Bay, Luzon, Philippine Islands, be reduced so as to include only the lands hereinafter described; and such lands were reserved by said order of March 14, 1904, for military purposes, under section 12 of the act of Congress approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes" (32 Stat. L., 691), viz:

1. On the north side of the entrance to Manila Bay, in the Province of Bataan, Luzon (Mariveles Reservation), all public lands included within metes and bounds described as follows:

Starting from the mouth of the Mariveles River and on the East Bank; thence true north for 5,280 feet; thence true east to intercept a line drawn true south from a stone monument marked U. S. (Station 4); thence true north to said Station 4; thence true east for 6,600 feet to a stone monument marked U. S. (Station 5); thence true south for 6,600 feet to a stone monument marked U. S. (Station 6); thence true east for 8,910 feet to a stone monument marked U. S. (Station 7); thence true south for 7,730 feet to a stone monument marked U. S. (Station 8), located at northwest corner of second cove to the eastward of Lasisi Point, 30 feet north of high-water mark; thence, on same course, to high-water mark; thence westerly, following shore line, to point of beginning.

2. On the south side of the entrance to Manila Bay, in the Province of Cavite, Luzon (Calumpun Point Reservation), all public lands included within metes and bounds described as follows:

Starting from a stone monument marked U. S. (Station 1), located on bluff on east side of Asubig Point, 20 feet above high-water mark and about 50 feet from edge of bluff; thence south 28° 10' west, for 22,069 feet to a stone monument marked U. S. (Station 2); thence north 54° 10' 30" west, for 5,146 feet to a stone monument marked U. S. (Station 3); thence south 85° 35' 30" west, for 2,455 feet to a stone monument marked U. S. (Station 4), located on shore near northeast corner Limbones Bay, 50 feet from high-water mark; thence on same course to high-water mark; thence northerly and easterly, following the shore line, to a point north 28° 10' east of point of beginning; thence to point of beginning; containing 5,260 acres, more or less. The bearings are true.

3. The islands of Corregidor, Caballo, La Monja, El Fraile, and Carabao, and all other islands and detached rocks lying between the Mariveles Reservation on the north side of the entrance to Manila Bay and Calumpun Point Reservation on the south side of said entrance.

4. The jurisdiction of the military authorities in the case of the reservations on the north and south shores of the entrance to Manila Bay and of all the islands enumerated in paragraph 3 shall extend from high-water mark out seaward to a distance of 1,000 yards.

By order of the Secretary of War:

GEORGE L. GILLESPIE,

Major-General, Acting Chief of Staff.

Official:

W. P. HALL, Acting Adjutant-General.

### EXECUTIVE ORDER.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
EXECUTIVE BUREAU.

MANILA, June 2, 1904.

EXECUTIVE ORDER }  
No. 28. }

It having been reported by the Chief of the Philippines Constabulary that in the Province of Batangas the efficiency of the Constabulary is being interfered with by the frivolous arrests and unfounded prosecutions leading to their imprisonment and unnecessary detention from duty, and that there is reason to believe such report well founded, it is therefore ordered that the provisions of section four of Act Numbered Seven hundred and eighty-one<sup>1</sup> be applied to the Constabulary of the Province of Batangas and its provisions shall be followed by all justices of the peace and the Court of First Instance.

LUKE E. WRIGHT,

Civil Governor.

### DECISIONS OF THE SUPREME COURT.

[No. 1542. April 9, 1904.]

THE UNITED STATES, complainant and appellee, vs. CORNELIO DEVELA ET AL., defendants and appellants.

1. CRIMINAL LAW; ROBBERY WITH HOMICIDE.—The killing of a human being for the purpose of robbery constitutes the complex crime of robbery with homicide, defined and punished in article 503, No. 1 of the Penal Code.
2. *Id.*; ALEVOSIA.—Where it appears that the attack upon the deceased was sudden, without premeditation, and was made by the accused without taking into consideration the risk incurred and without any preparation directly tending to insure them against such risk it is error to apply the circumstance of *alevosia* in aggravation of the penalty.
3. *Id.*; UNINHABITED PLACE.—In order to justify the application of the aggravating circumstance of the commission of the crime in an uninhabited place it is necessary that the proof show affirmatively that such was the fact.
4. *Id.*; ABUSE OF SUPERIORITY.—The mere fact that the number of the assailants is superior to that of those attacked by them is not sufficient to constitute the aggravating circumstance of abuse of superiority.

APPEAL from a judgment of the Court of First Instance of Tayabas.

The facts are stated in the opinion of the court.

F. JOYA, for appellants.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

The defendants, Cornelio Devela and Silvestre Absolio, are charged with the crime of robbery with homicide, defined and punished under clause No. 1, article 503 of the Penal Code and

<sup>1</sup> Off. Gaz., 387.

were, on the 23d day of September, 1903, found guilty. The aggravating circumstances of *alevosia* and *despoblado* were applied and the defendants sentenced by the Court of First Instance to the death penalty.

From the evidence it appears that Luis Oleta, the deceased, was sent by his master to the town of Mauban to bring 500 pesos to the store of his principal, and while on the way with the money, on arriving at a place near the shores of the River Sabang, the accused, Cornelio Devela and Silvestre Absolio, armed with a bolo and dagger, seeing that Oleta carried money, approached him and demanded that he deliver it to them. Oleta resisted, throwing a stone at Absolio. Oleta was then attacked by the defendants and wounded, from the effects of which he died a short time afterwards. The body of the deceased showed that he was wounded seven times, six of which were mortal wounds.

The testimony of the prosecution consisted of statements made by the defendants at the time of their capture and also the testimony of the defendant Absolio on the trial of the case.

In his testimony Silvestre Absolio stated that he and his co-defendant, Devela, went out from the barrio of Tubigan for the purpose of getting some clothes which he had ordered from a tailor; that after they had crossed the River Sabang, they met the deceased, Luis Oleta, carrying a sack of money; that they immediately concluded to rob him; that on approaching the deceased the deceased refused to deliver the money to him and offered resistance by throwing a stone which struck him on the thigh; that they gave the deceased blows with a bolo until the money fell from his hand, when they seized it and fled; that at the time they did not know whether the deceased was armed or not; that he was about their size and strength; that the witness is 22 years old and his co-defendant is 18 years of age; that he was accustomed to carry the dagger which he had on that occasion; he testified that his companion, Devela, was the first to wound the deceased. It does not appear whether the bolo used by Devela was the ordinary bolo used in working or was of the prohibited character.

The evidence shows clearly the guilt of the defendants.

The question to be determined is whether the aggravating circumstances found to exist by the trial court, to wit, *alevosia* and *despoblado*, which had the effect of raising the penalty from the medium degree, punishable by life imprisonment, to the maximum degree, punishable by death, are sufficiently shown in the case.

By the provisions of article 10, No. 2, Penal Code, *alevosia* exists: "When the culprit commits any crime against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure it without risk to the person of the criminal arising from the defense the injured party might make."

The defendant Absolio testified that at the time of the attack he did not know whether Luis Oleta, the deceased, was armed or not. Had the deceased been armed with a revolver or bolo, not only might he have caused risk to the defendants, but he might have successfully repelled their attack and killed his assailants. Besides it is shown by the testimony of the defendant Absolio that the deceased made a defense by throwing a stone and striking the defendant on the thigh. But it is not necessary to prove that there was or was not a defense actually made. This would make the existence of the aggravating circumstance depend upon the result of the aggression.

It appears from the evidence that the attack was sudden, without premeditation, and evidently made without taking into consideration the risk which the defendants incurred in committing the robbery. Their purpose was to possess themselves of the money carried by the deceased, without regard to consequences, and without any preparation directly and specially tending to insure them against risk, such as exists where the

culprit lies in ambush, or approaches from behind, unseen; or where an attack is made upon a sleeping person; or where the act of taking life was distinct and separate from that of overpowering the injured party, or after possessing his arms or assuring themselves that he was unarmed. Nor do we think that the evidence was sufficient to show that the crime was committed in an uninhabited place. There is entire absence of proof in the record as to whether there were persons living near the scene of the encounter; but it does appear that the brother of the deceased approached the place directly after the wounding of the deceased, and that it was but a short time after the occurrence before officers of the law were in pursuit of the defendant.

It has been stated that No. 9, article 10 of the Penal Code should be applied as an aggravating circumstance. It reads as follows:

"9. When advantage is taken of superior strength, or means are employed to weaken the defense."

This circumstance was not considered by the Court of First Instance nor do we think it sufficiently well marked in the proof to require its application. An illustration of the cases which fall within this provision is where, for example, a strong man has ill-treated a child; an old or decrepit person; one weakened by disease; or where a person's physical strength has been overcome by the use of drugs or intoxicants. In each of these cases there is a marked difference of physical strength. The case of employment of means to weaken the defense is illustrated by the case of where one struggling with another suddenly throws a cloak over the head of his opponent and while in this situation he wounds or kills him.

As to whether the mere fact of two or more attacking a single person is of itself sufficient to show a superiority of strength within the meaning of this provision, the decisions of the supreme court of Spain, construing this provision of the law, seem to be in conflict.

It is impossible to establish fixed and invariable rules upon such questions. The mere fact of there being a superiority of numbers is not sufficient to bring the case within this provision.

In the absence of aggravating circumstances the defendant should be found guilty and the punishment assessed should be in the medium degree. The Court of First Instance erroneously found and applied the aggravating circumstances before considered, which raised the crime to the maximum penalty and punishable by death. The sentence of the Court of First Instance must be reversed and reformed, and the defendants convicted and sentenced for the offense of robbery and homicide in its medium degree, punishable by life imprisonment.

We therefore reverse the judgment of the Court of First Instance, and now here sentence the defendants, Cornelio Devela and Silvestre Absolio, to the penalty of life imprisonment, with indemnification to the relatives of the deceased who are entitled to receive the same, in the sum of 1,000 Philippine pesos, and to the costs of the proceedings.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, J.J., concur.

WILLARD, J., dissenting:

In my opinion the judgment of the court below should be affirmed, upon the ground that the aggravating circumstance of abuse of superiority existed. This view is sustained by the following decisions of this court: *United States vs. Teodoro*, 1 Official Gazette, 396; *United States vs. Jose*, March 25, 1903. It is also supported by the decisions of the supreme court of Spain of May 9, 1893; March 19, 1888; May 24, 1888; December 23, 1890; and December 21, 1891.

*Judgment reversed.*

[No. 1552. April 22, 1904.]

THE UNITED STATES, complainant and appellant, vs. DAVID TOMULAC, defendant and appellee.

CRIMINAL LAW: MURDER; PREMEDITATION; ALEVOSIA.—The defendant, in the nighttime, crawled under the house of the deceased, who was sleeping on the floor, and inflicted upon him a mortal wound by stabbing him with a sharp instrument thrust up through the openings in the floor. *Held*, that the accused is guilty of murder, with premeditation as a qualifying circumstance, and with the aggravating circumstances of alevosia and nocturnity.

APPEAL from a judgment of the Court of First Instance of Cebu.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

JOSE R. LAHESA, for appellee.

JOHNSON, J.:

The defendant in this cause was charged with the crime of assassination. He was tried by the Court of First Instance of the Province of Cebu on the 19th day of August, 1903, and was dismissed, because the court found that the testimony of Natalia Ngojo, the wife of the deceased, was contradictory with reference to some of the important facts.

The testimony of Natalia Ngojo shows that she knew the accused; that the accused lived in the house a short distance from where she and her husband, Prudencio Godines, lived; that Prudencio Godines was her husband; that she and her husband lived together, and were sleeping together on the floor of their house on the night of the 30th of April, 1903; that the floor was made of bamboo strips, with open spaces between the strips; that the defendant, on said night, went under the house where she and her husband were sleeping, and thrust a "pinuti" up through the interstices in the floor through the body of her husband; that this fact occurred between 7 and 8 o'clock on the said night; that the window of her house was open; that she looked out of the window and saw the defendant coming out from under the house with a "pinuti" in his right hand, running towards his (defendant's) house; that the moon was shining sufficiently bright for her to discern the face of the accused; that her husband died the following day, in the afternoon; that her husband, after being wounded, on the same night was taken to the tribunal of her pueblo; that the defendant was arrested and brought to the same tribunal about 11 o'clock on the same night.

After several other witnesses were sworn, Natalia Ngojo was recalled, and gave further testimony. In her second testimony she swore that she saw the defendant while he was under the house in the act of wounding her husband; that she and her husband were sleeping upon a petate, and that she saw the defendant while he was under the floor of her house, through the floor, at the head of the bed where she and her husband were sleeping. Nothing is said in her second examination with reference to her having seen the defendant also while he was in the act of leaving her house, after her husband had been wounded. She does not say, in her second examination, that the only time she saw the defendant was while he was under her house.

The court below found that this second statement contradicted her first statement with reference to the time and place when and where she saw the accused. This conclusion is not justified from the evidence. The evidence, as it stands, shows that on her first examination, she saw the defendant as he was leaving the house, running, with a "pinuti" in his hand. The second examination shows that she saw the defendant also while he was yet under her house and in the act of wounding her husband. We must conclude, therefore, that she saw the accused on two different occasions, and identified him.

The testimony of Serapia Godines shows that she knew the accused, as well as the deceased, Prudencio Godines; that Prudencio Godines died about the end of the month of April, 1903; that the

accused lived near the house of the deceased; that on the night when the deceased was wounded she met the accused coming out from under the house of Prudencio Godines, carrying a "pinuti" in his right hand; that at the time she saw the defendant he was about four "brazas" from the house of the deceased; that she saw the deceased on the night he was wounded, and that he had a wound in his body in the costal region, which was made by a sharp instrument, and which extended clear through his body; that the defendant was arrested on the same night, in his house, at about 11 o'clock p. m.

The testimony of Leocadio Dignos shows that he knew the defendant, as well as the deceased, Prudencio Godines; that the deceased, Prudencio Godines, died from the effect of wounds which he received on the night of the 30th of April, 1903; that he, together with certain municipal policemen, arrested the defendant, about 11 o'clock at night, on the 30th day of April, 1903, in his house.

The testimony of the witnesses, called on behalf of the prosecution, shows that the accused and the deceased had had a quarrel concerning the possession of a certain tract of land, and that the accused charged that he had been put out of the possession of this land through the influence of the deceased. This evidence was introduced for the purpose of showing the motive on the part of the accused for committing the alleged offense.

The accused was sworn in his own behalf and stated that on the night that Prudencio Godines was killed, he, together with others, went out from their houses at about 4 o'clock in the afternoon for the purpose of fishing and did not return until about 3 o'clock the next morning, and therefore could not have been present at the house of Prudencio Godines at the time the crime was committed. Three witnesses were sworn in support of this fact whose testimony agreed exactly with that of the accused.

We are not inclined to believe the proof of *alibi*. From the foregoing testimony we reach the following conclusions:

First. That the accused, on the night of the 30th day of April, 1903, did, with premeditation, while one Prudencio Godines was lying upon the floor in his house, thrust a "pinuti" up through the interstices in the floor of the house and through the body of the said Godines, from which wound the said Prudencio Godines died the following afternoon.

Second. That the said acts were committed by the defendant at nighttime and with treachery.

The court, having found that the defendant committed the crime charged, with premeditation as a qualifying circumstance, and the existence of two aggravating circumstances, to wit, nocturnity and alevosia, it does hereby revoke the sentence imposed by the Court of First Instance of the Province of Cebu, and does hereby sentence the said defendant to be imprisoned for the period of his natural life, with accessories imposed by the law, and to pay a fine in the sum of \$1,000, Philippine currency, for the use and benefit of the widow of the deceased, and the costs of both instances. It is so ordered.

Arellano, C. J., Torres, McDonough, and Mapa, J.J., concur.

Judgment reversed.

[No. 1559. April 9, 1904.]

THE UNITED STATES, complainant and appellee, vs. LORENZO ALBANO, defendant and appellant.

CRIMINAL LAW: SLEEPING ON POST.—See facts in this case upon which the defendant, a member of the Constabulary, was convicted of the offense of sleeping on post.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

F. MARIANO, for appellant.

Solicitor-General ARANETA, for appellee.



COOPER, J.:

The defendant, Lorenzo Albano, is charged with the offense of sleeping on post while on duty as a sentinel in the Philippines (Constabulary and was convicted by the Court of First Instance and sentenced to imprisonment at hard labor for the period of one year. He appealed from this judgment.

It is contended by counsel for the defendant that he was ill when placed upon duty and that extra duty was imposed upon him; that he was placed on guard from 6 p. m. until 2 o'clock in the morning.

Benito de Leon testified that the defendant was placed on guard at 4 o'clock in the morning and was found asleep at half past 4. This witness also denies the statement made by the defendant that he had been placed upon extra duty on the night in question or that the defendant reported himself as ill at the time he was placed on guard.

The evidence in the case also shows there were several *insurrecto* prisoners sleeping on a large table in front of the defendant, over whom he was standing guard. The charge against him has been fully proven.

It appears in the record that the defendant has been in prison since the 1st day of May, 1903, and as he has served almost one year of the time for which he was sentenced, we are inclined to reduce his punishment to one month's imprisonment, and to this end we modify the judgment of the Court of First Instance and sentence the defendant to thirty days' imprisonment in Bilibid and adjudge the costs of proceedings against him.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1564. April 5, 1904.]

**THE UNITED STATES, complainant and appellee, vs. PEDRO DE LA PATA ET AL., defendants and appellants.**

**CRIMINAL LAW; ROBBERY; EVIDENCE; REASONABLE DOUBT.**—Where the evidence against the accused only goes to show that they had an opportunity to commit the crime of which they are charged and that the circumstances give rise to a suspicion of their guilt, it leaves room for a reasonable doubt, and they must be acquitted.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

F. RODRIGUEZ, for appellants.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

The defendants, Pedro de la Pata, Leocadio Reyes, and Melquiades Santiago, are charged with the crime of robbery, committed as follows:

The defendants, while employed as servants in the dwelling house of one Iluminado Cosio, unlawfully and feloniously opened a wooden chest which was locked and contained valuable papers, jewelry, and other documents, with the intent of gain, without the consent of the owner, and took the following personal property belonging to Iluminado Casio, to wit, \$400, United States currency, in bills of \$20 and \$10; 400 pesos, Mexican currency, in bills of \$50 and \$25; two gold diamond rings, one of the value of 550 pesos, Mexican currency, and the other of the value of 250 pesos, Mexican currency.

The defendant Melquiades Santiago was not arrested.

The defendants Pedro de la Pata and Leocadio Reyes were found guilty by the Court of First Instance and sentenced to imprisonment at hard labor for the period of three years.

The case has been appealed to this court and the question submitted for determination is, Was the proof sufficient to connect the defendants with the commission of the crime?

The proof shows that the defendant Pedro de la Pata was the cochoero, Leocadio Reyes was the cook, and Melquiades Santiago was the servant of Iluminado Cosio; that on the 29th day of

April, 1902, Iluminado Cosio, upon awakening in the morning found that these servants had left his service and he discovered that the lock of the chest containing the articles referred to had been broken open and the articles taken from it.

A few days after the occurrence the defendant Pedro de la Pata returned to his master and was taken back into his service. The only excuse he gave for his sudden departure was that he was invited by the other defendants to leave with them. The defendant Leocadio Reyes was arrested about five months after the occurrence and gave no excuse for his sudden departure. Up to the date of the trial Melquiades Santiago had not been apprehended and arrested.

It was shown that Melquiades Santiago slept in the room of his master and had an opportunity perhaps superior to that of the other servants, who slept below, to commit the robbery and it is most probable that the offense was committed by him. The circumstance of their all leaving was very suspicious, but this circumstance alone we think is hardly sufficient to fix upon the defendants the commission of the crime.

It may be possible that the defendants Pedro de la Pata and Leocadio Reyes had a knowledge of the taking of the property and may have participated in its division, but the doubt arises as to whether they were accessories after the fact or were engaged in the commission of the offense as principals. There is a reasonable doubt in the case as to the guilt of the defendants, which will require their acquittal.

The judgment of the lower court is reversed and the defendants are acquitted of the charge, with the costs *de officio*.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment reversed.*

[No. 1573. April 12, 1904.]

**THE UNITED STATES, complainant and appellee, vs. TOMAS DE GUZMAN, defendant and appellant.**

**CRIMINAL LAW; BRIGANDAGE.**—One who becomes a member of an armed band of robbers, composed of more than three persons, is guilty of the crime of brigandage.

APPEAL from a judgment of the Court of First Instance of Bataan.

The facts are stated in the opinion of the court.

F. MARIANO, for appellant.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendant was charged with the crime of *bandolerismo*. He was tried in the Court of First Instance of the Province of Bataan on October 7, 1903, and was sentenced to be imprisoned for the term of thirty years, and to pay the costs of the suit.

Victor Santos, a witness on behalf of the prosecution, testified that he knew the defendant; that he was commandant of a band of bandits; that Eulalio Bundoc, Miguel Labrador, and Candido Dimla, together with others, were his soldiers; that the defendant and his soldiers, or the other members of his band, always carried arms; that they were opposed to the Government and built trenches for the protection of themselves near the pueblo of Bagbag; that the said band sustained itself by robbing.

Silvestre Sangalang testified that he was a corporal of the Constabulary, and knew the accused; that the accused and his companions constituted a band of *tulisanes*, and that the band lived by robbing; that it compelled the people to give it food and supplies by force and intimidation, and that said band always went armed.

Vicente de la Peña testified that he knew the accused and assisted in arresting him; that he was chief of a band of *tulisanes*; that said band always went armed with deadly weapons, and was dedicated to robbing carabaos and other personal property.

[No. 1585. April 9, 1904.]

*THE UNITED STATES, complainant and appellee, vs. ESTEBAN VIRAY, defendant and appellant.*

CRIMINAL LAW: DESERTION.—See facts in this case upon which the accused, a member of the Constabulary, was convicted of the crime of desertion.

APPEAL from a judgment of the Court of First Instance of Manila.

P. J. MOORE, for appellant.

Solicitor-General ARANETA, for appellee.

COOPER, J.:

The defendant, Viray, was charged with the offense of desertion, committed as follows:

That, being a member of the Philippines Constabulary, duly enlisted and receiving pay therein, on the 8th day of January, 1903, he absented himself from the said Constabulary and from the troop then stationed in Manila, without leave, and with the intent not to return thereto. He was found guilty by the Court of First Instance and sentenced to imprisonment at hard labor in Bilibid for the period of two years and to pay a fine of \$500. He has appealed from this judgment.

It appears from the evidence in the case that the deceased was an enlisted soldier in the Constabulary, receiving pay as a soldier; that having reported to his superior officer his incapacity for service on account of illness, the 8th day of January, was sent by the captain of his company to the hospital for treatment. Instead of going to the hospital he went to the Province of Panganga, where he was arrested some time in March. When brought back he stated to his superior officer as the cause for his leaving that he had a fever and instead of going to the hospital he went over to sleep in another place; that he was out of his head and when he came to himself he was out in Panganga Province.

The defendant testified in his own behalf and stated that at the time he left he was very much frightened and did not have time to go and see his Chief; that he had been sent to the hospital a few days before and they only gave him coffee and rice and no fruit and at midday rice with water, without salt. He denied that he was working in a railroad gang at the time he was captured. He stated that during the time he was in Panganga he reported to an officer of the Constabulary in Panganga; he was told to accompany the officer and was thereupon put under arrest.

It is proven that at the time the defendant was arrested he was without uniform and was in charge of a gang working on the railroad.

The proof is sufficient to sustain the conviction and the judgment of the lower court is affirmed.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1586. April 9, 1904.]

*THE UNITED STATES, complainant and appellee, vs. FELIPE NAVARRA, defendant and appellant.*

1. CRIMINAL LAW: BRIBERY.—A sanitary inspector who accepts a gift from the tenant of an unsanitary building and in consideration thereof refrains from performing his duty to report its condition to his superiors is guilty of the crime of bribery.
2. IN: PENALTY: ARRESTO MAYOR; HARD LABOR.—The penalty of *arresto mayor* does not include hard labor as part of the punishment.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

WM. H. LAWRENCE, for appellant.

Solicitor-General ARANETA, for appellee.

Canuto Mariano testified and stated that he knew the accused, and that he and his companions entered certain barrios and demanded food; that the band was composed of nine or more persons, and always went armed; that the people gave them food because of the threats which were made by the members of the said band, and because of the fear that the people had of the said band.

Florentino Andres testified that the accused, with his companions, stole his banca; that he recovered his banca later through the Constabulary, and that the defendant and his companions always went armed.

Henry Knauber testified that he was a chief of the Constabulary, and knew the accused; that the accused and his band took part in the fight between the Constabulary and the band of ladrones on March 20, 1903, at Coral-na-Bato; that the accused and his band were under the command of General San Miguel; that the accused and his band committed various robberies in the barrio of Cabecan.

The prosecution introduced in evidence a document captured by the Constabulary during the fight between the Filipino scouts and the band of ladrones under the command of General San Miguel on March 27, 1903. This document contained the names of a large number of persons, together with their rank and title. Among the names given appear the names of many persons heretofore sentenced by this court for the crime of *bandolerismo*. The defendant's name appears in the said list as a member of the said band. A certificate is also attached to the said document, signed by Saturnino Pascual, who signs himself "The Colonel Chief Organizer," who certifies that "in acknowledgment of the services rendered to the mother country by Señor Tomas de Guzman I hereby authorize him to organize troops in the jurisdiction of Bataan, one of the provinces of this Tagalog land.

"Wherefore, I request every one of the sons of the people to recognize the said señor and show him due respect, obeying his orders whenever they are lawfully issued.

"Issued at these organizing headquarters this 26th day of November, 1902."

Another certificate, signed by the same Saturnino Pascual, contains the following statement:

*"Republican Army of the Philippines, Bulacan Brigade, Third Battalion of regular forces:*

"In acknowledgment of the good character and services rendered to the mother country by Señor Tomas de Guzman, I hereby appoint him captain paymaster of the regular infantry, to take effect from this date.

"Wherefore, I advise all military and civil officials to recognize him and show the respect due his rank, and obey his orders whenever they are lawfully issued and in accordance to the authority of his office.

"Issued at these Third Battalion Headquarters this 26th day of November of 1902."

The defendant offered no proof in his own behalf.

The facts adduced in open court in this case justify the following conclusions:

First. That Tomas de Guzman was a member of an armed band, composed of more than three persons:

Second. That said band was armed with deadly weapons, and went out upon the highways and roamed over the country for the purpose of robbing carabanas and other personal property;

Third. That the band committed various acts of robbery by means of threats and violence.

Therefore, we do hereby find the defendant guilty of the crime of *bandolerismo* under Act No. 518 of the Civil Commission, and do hereby confirm the judgment of the court below. And it is so ordered.

Arellano, C. J., Torres, Cooper, Mapa, and McDonough, J.J., concur.

*Judgment affirmed.*

COOPER, J.:

The defendant, Felipe Navarro, is charged with the offense of bribery committed in the following manner, to wit:

That, being a duly appointed, qualified, and acting sanitary inspector for the Board of Health of the city of Manila, he did solicit, accept, and receive a present from Tiong Siaco and San Kaco, to wit, the sum of 34 pesos, local currency, with the purpose that the said defendant should abstain from performing an act which he should perform in the exercise of the duties of his office, to wit, the reporting to his superior officers that the said Tiong Siaco and San Kaco had violated the health ordinances and regulations of the city of Manila.

The defendant was found guilty by the Court of First Instance and sentenced to imprisonment at hard labor, in Bilibid, for the period of four months and one day and a fine of 104 pesos and to pay the costs of the case. From this judgment he has appealed to this court.

The prosecution is based upon the provisions contained in article 383 of the Penal Code, which reads as follows:

"When the purpose of the gift received or promised was that the public official should abstain from performing an act which he should perform in the exercise of the duties of his office, the penalties shall be those of *arresto mayor* in its medium to its maximum degree and a fine of from an amount equal to three times the value thereof."

The proof shows that the defendant was a sanitary inspector for the Board of Health of the city of Manila and that in pursuance of his duties as such he called at various times at the house of the Chinamen for the purpose of inspecting the sanitary condition of their premises, and on these occasions collected sums of money amounting to from 20 to 30 cents, Mexican.

San Kaco testified that the defendant went to the house of Tiong Siaco frequently and whenever he came he said that the house was dirty; that sometimes he collected 20 cents and sometimes 50 cents, in all amounting to about 4 pesos; he testified that Tiong Siaco paid the money because he was afraid of being fined for not keeping the house clean; that every time the defendant came to the house of Tiong Siaco he told him to clean the house and if he did not do so that he would be arrested, but the witness stated that Tiong Siaco had never been arrested.

The defendant testified in his own behalf and stated that he had inspected the houses in his district once a day and recollects of having inspected the house of the Chinamen at No. 15 Calle Mestizos. He stated that the house of these Chinamen was always found in a dirty and unsanitary condition and that he reported the case to the Sanitary Department.

If he had made such a report he should have corroborated his testimony by having the report produced and offered in evidence. This he failed to do.

Although he was on the stand testifying in his own behalf, he also failed to deny the testimony given by the Chinamen that he had received money from them on the occasion of his visits to their house.

No explanation was made by him as to why he had made these collections, nor was there any denial on his part that such collections were made.

We think the proof is sufficient to sustain the conviction, and the judgment of the lower court will be affirmed with a modification of the sentence in so far as he is sentenced to imprisonment at hard labor. The law defining and punishing this offense does not provide for hard labor as a part of the punishment.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1587. April 8, 1904.]

THE UNITED STATES, complainant and appellee, vs. MAXIMO DALAWAY, defendant and appellant.

CRIMINAL LAW: BRIGANDAGE.—One who is a member of a band of more than three persons, armed with deadly weapons, organized for the

purpose of engaging in the robbery of carabaos and other personal property, is guilty of the crime of brigandage.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

J. M. PATERNO, for appellant.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendant was charged with the crime of *bandolerismo*. The complaint charged that he was a member of the band of Julian Santos, composed of more than three persons, which band was dedicated to the robbery of carabaos and other personal property by means of force and violence; that said band went out upon the highways and roamed over the country, armed with deadly weapons, within the Province of Bulacan, Philippine Islands, during the last months of the year 1902, and the first months of 1903.

The defendant was tried in the Court of First Instance of the Province of Bulacan in the month of October, 1903, was found guilty of the crime charged, and was sentenced to be imprisoned for the period of twenty-four years and to pay the costs of the suit.

The evidence of Ricardo Aquino shows that he had been sequestered by the band of Julian Santos, which was then composed of about fifty armed men; that he was detained by said band for the period of about one month, and that he escaped from said band during a battle which took place between the members of said band and the Philippines Constabulary in the pueblo of Bagbag; that the said defendant was, during that period, a member of said band, and that he had seen the said defendant frequently consulting with the chief of said band, Julian Santos.

The testimony of Gervasio Gimenez shows that he was a detective, and lived in the city of Manila; that he knew the accused, and had seen him in the mountains near Bagbag with the band of Julian Santos; that said band was then composed of about seventy armed men; that the accused was nearly always seen with Julian Santos; that he, the said witness, had been with the said band for about two months, and that the said band lived by robbing carabaos and other personal property.

The testimony of Venancio Bartolome shows that he had known the accused and had seen him on various occasions armed, with about one hundred others, and that Faustino Guillermo and General San Miguel were the chiefs of said band; that he had seen the said band near the pueblo of Caloccan; that the band was then waiting for an opportunity to attack the Philippines Constabulary; that while the said band was near the pueblo of Caloccan they attacked and robbed an American of his money and a watch.

Enrique Pasion testified that he had been a soldier of Faustino Guillermo; that Guillermo was a colonel of the Katipunan Society; that he had seen the accused with Guillermo's band, which band was armed, as well as the defendant; that said band had attacked several pueblos in the Provinces of Bulacan and Rizal; that in the month of December the said band entered the pueblo of Pasig for the purpose of attacking the Philippines Constabulary and robbing them of their guns; that at the time of this attack upon the pueblo of Pasig there were about one hundred armed men in the band; that Faustino Guillermo and Julian Santos were chiefs in the said band; that on the occasion when said band entered the pueblo of Pasig they stole a vacuno and some cavanes of rice; that the said band entered the pueblo of San Mateo, and on that occasion stole three carabaos; that the band on this latter occasion was composed of about twenty armed men; that on another date the said band entered the pueblo of Navotas; that the said band was armed, and that Guillermo was its chief; on this latter occasion the said band stole one horse and about 100 pesos; that the said accused was with the said band for about one month.

The defense introduced three witnesses in addition to the testimony of the defendant. Two of these witnesses were prisoners in the public carcel, and admitted that they had been soldiers and members of the said band of General San Miguel and Faustino Guillermo, and that they had not seen the defendant in such band.

Jose Tupas was introduced as a witness, presumably for the purpose of showing that the time stated by the witnesses for the prosecution, when the said band entered the different pueblos, were not the correct dates. Upon examination of the witnesses for the prosecution it will be noted that no date was fixed by the several witnesses when these various entrances into the pueblos were made. No effort was made to disprove the statements that the said bands did, on or about the dates mentioned by the witnesses for the prosecution, enter the various pueblos.

The defendant gave testimony in his own behalf, and his testimony was in the nature of a general denial of the facts proven by the witnesses on behalf of the prosecution.

The evidence in this case justifies the following conclusions: First. That in the month of December, 1902, and the months of January, February, and March, 1903, there existed in the Provinces of Bulacan and Pasig, in the Philippine Islands, an armed band composed of more than three persons, captained by General San Miguel, Faustino Guillermo, and Julian Santos;

Second. That said band was organized for the purpose of stealing carabaos and other personal property;

Third. That said band did on several occasions enter various pueblos in the said provinces, and did then and there steal carabaos, money, and other personal property;

Fourth. That said band went out upon the highways and roamed over the country, armed with deadly weapons.

Therefore, we find the defendant guilty of the crime of *bandolerismo*, in manner and form as charged in the said complaint, and do hereby affirm the judgment of the Court of First Instance of the Province of Bulacan and sentence the said defendant to be imprisoned for the period of twenty-four years and to pay the costs of both instances.

Arellano, C. J., Torres, Mapa, Cooper, and McDonough, J.J., concur.

*Judgment affirmed.*

[No. 1592. April 22, 1904.]

**THE UNITED STATES, complainant and appellee, vs. APOLONIO NATIVIDAD, defendant and appellant.**

**CRIMINAL LAW: BRIGANDAGE.**—One who is a member of an armed band of more than three men, organized for the purpose of robbing carabaos and other personal property is guilty of the crime of brigandage.

**APPEAL** from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

R. MORENO, for appellant.

Solicitor-General ARANETA, for appellee.

**JOHNSON, J.:**

The defendant was charged with the crime of *bandolerismo* and was tried by the Court of First Instance of the Province of Bulacan on the 29th day of September, 1903 and was sentenced to be imprisoned for the term of twenty years and to pay the costs of the suit.

Various witnesses were sworn on behalf of the prosecution. Mr. Melville A. Hayes testified that he knew the accused and that he was a member of a band of ladrones. The defendant confessed to him voluntarily and without promise of reward that he, together with Valentin Avena, Emiterio Avendaña, Lorenzo de la Cruz and others robbed eight carabaos, the property of one Fabian Gallego,

which carabaos were in a corral of the sitio of Sapang-Palay of the pueblo of San Jose, in the month of May, 1903.

Segundo Gallego testified that he was the son of Fabian Gallego and lived in the sitio of Sapang-Palay of the pueblo of San Jose; that he was in charge of the eight carabaos of his father, which were stolen; that the carabaos were stolen from his corral by five armed persons about the first of May, 1903.

Fabian Gallego testified that he was the father of Segundo Gallego; that he was the owner of eight carabaos that were in the possession of his son in the sitio of Sapang-Palay; that the carabaos had been stolen in the latter part of the month of April or in the first part of the month of May, 1903; that he recovered the carabaos from the possession of the Philippine Scouts on or about the 5th day of May, 1903.

Leandro Santos testified that he was an Inspector of the Philippines Constabulary and knew the accused; that the accused at the time of his arrest had made a confession, freely and voluntarily and without the promise of a reward of any character whatever; that he and his companions had robbed the eight carabaos in question and that he and his companions were armed with two guns and a war bolo and other short bolos; that this confession was reduced to writing and was signed by the defendant, by himself, and one Luna. The confession was in the following language:

"TWENTY-FOURTH COMPANY NATIVE SCOUTS, ILOCANOS.

"Santa Maria, Bulacan Province, P. I., May 4, 1903.

"Declaration of Apolonio Natividad.

"My name is Apolonio Natividad. I am a Filipino, native of the town of Santa Maria, Bulacan, 19 years of age, married, a farmer, and live in the barrio of Halang of the town of Santa Maria. I swear before First Lieut. Chas. E. Dority, commanding officer of the Twenty-fourth Company of Ilocano Scouts, that I am a member of a band of brigands composed of my companions Valentin Avena, Lorenzo Concepcion, Emiterio Avendaña, Feliciano de la Cruz and Prudencio Cristobal, residents of the same barrio of Halang of the towns of San Jose and Santa Maria, respectively.

"I also declare that I and my companions Valentin Avena, Lorenzo Concepcion, Feliciano de la Cruz, and Prudencio Cristobal robbed eight carabaos at a place called Sapang-Palay of the town of San Jose (Bulacan) and after we took the said carabaos we invited one of our own companions called Emiterio Avendaña, resident of the barrio of Halang, San Jose, to accompany us to take the said carabaos to the town of Novaliches, Rizal, where we delivered them to the parties named Captain Cirilo and Cabeza Angel, both residents of the same town of Novaliches, Province of Rizal.

"I swear, and, being unable to sign, place a cross in the middle of my name.

"APOLONIO (his x mark) NATIVIDAD.

"Witnesses:

"URBANO C. LUNA.

"LEANDRO SANTOS."

After the accused made the foregoing confession that the accused told him (Santos) where the guns had been hidden in the middle of a cogon field, to which place he conducted him.

Urbano Luna testified that he knew the defendant and was a prisoner in the same carcel with him in the month of May, 1903; that he heard the defendant make a confession that he in company with others robbed eight carabaos from the sitio of Sapang-Palay of the pueblo of San Jose; that this confession was made to Leandro Santos, voluntarily and that Santos made no threats or promises of reward whatever; that he acted as interpreter; that after the confession was made and reduced to writing that the accused read it, or rather it was read to him, and he thereupon signed it; that he recognized the above-quoted confession as the document which was signed by the defendant after it had

been read to him; that the defendant said his companions were Valentin Avena, Feliciano de la Cruz, Lorenzo Concepcion and others whose names he did not remember.

The defendant was sworn in his own behalf and stated that he made the confession quoted above but that he was abused and maltreated by Leandro Santos and was threatened with death and that he made the confession on that account and that he told Leandro Santos where the guns were because of the same treatment.

The court below found as a fact, after hearing the evidence, that the confession made by the defendant that he, together with five others, had robbed the eight carabaos, had been made voluntarily and without any promise or hope of reward; this finding of fact was clearly justified on the proof adduced in the case.

The facts adduced in the case justify the following conclusions:

First. That the defendant was a member of a band that went out upon the highways armed with deadly weapons and roamed over the country for the purpose of robbing carabaos and other personal property.

Second. That the said band did go out upon the highways and roam over the country armed with deadly weapons and that in the latter part of the month of April or the first part of the month of May, 1903, robbed eight carabaos of one Segundo Gallego.

Under the foregoing facts the court below found the defendant guilty of the crime of bandolerismo, under section 1 of Act No. 518 of the Civil Commission. This sentence was justified by the facts adduced in the case and the judgment of the court below is hereby affirmed and the said defendant is hereby sentenced to be imprisoned for the term of twenty years and to pay the costs of this suit.

Arellano, C. J., Torres, McDonough, and Mapa, JJ., concur.  
*Judgment affirmed.*

[No. 1603. April 15, 1904.]

*THE UNITED STATES, complainant and appellee, vs. FLAVIANO SIMEON, defendant and appellant.*

1. CRIMINAL LAW: FRUSTRATED MURDER.—In order to justify a conviction for the crime of frustrated murder the proof must show that the accused has performed all acts necessary to cause the death of a human being under circumstances which would have raised the homicide, if consummated, to the degree of murder, and that the failure to consummate the crime was due to causes independent of the will of the accused.
2. *Id.*: THREATS.—One who raises a weapon against another as if about to strike with it is guilty of a misdemeanor under section 589, paragraph 2 of the Penal Code.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

F. FERRER, for appellant.

Solicitor-General ARANETA, for appellee.

MCDONOUGH, J.:

The defendant, Flaviano Simeon, was charged with having, on or about April 10, 1903, in the city of Manila, feloniously attempted to assassinate one Bali Kan with a dangerous and deadly weapon, to wit, a bolo; and that he was frustrated in the execution of his purpose by being overpowered by third parties.

He was placed upon trial April 28, 1903; was found guilty, and was sentenced to imprisonment for a term of four years and two months.

The proof in this case, briefly stated, shows that Bali Kan was night watchman at the railroad station in Manila; that his dwelling place was very near that station; that the defendant was seen

on several occasions walking near that place with a working bolo in his hand and had been requested by Bali Kan to go away but refused to do so, whereupon Bali Kan pushed the defendant.

On the morning in question, while Bali Kan was walking from the station toward his house, he encountered the defendant who, while about two yards away, raised his bolo as if about to strike or stab Bali Kan with it. The latter shouted for help and ran away, and immediately thereafter a detective of the police department arrested the defendant. No blow was struck; nor is there proof of threats to kill or to do bodily harm.

A crime is frustrated when the guilty person performs all the acts of execution which should produce the crime as their consequence, but nevertheless do not constitute it by reason of causes independent of the will of the perpetrator. (Art. 3, Criminal Code.)

In order to constitute the crime of assassination, it must be proved that the accused committed the crime with treachery; for a price or reward; by means of flood, fire, or poison; with deliberate premeditation, or with indictiveness, by deliberately and inhumanly increasing the suffering of the person attacked.

The evidence does not show that any of these essential elements of the crime of assassination existed in this case. There is no proof whatever from which it may be even inferred that the defendant intended to kill Bali Kan, much less to show that he intended to do so with deliberate premeditation.

The crime committed by the defendant is that provided for in article 589 of the Penal Code, for threatening another with weapons; and it is punishable by imprisonment from one to five days or by a fine of from 15 to 125 pesetas.

The judgment of the Court of First Instance is reversed, and judgment is ordered that the defendant be imprisoned for a term of five days.

Arellano, C. J., Torres, Cooper, Mapa, and Johnson, JJ., concur.  
*Judgment reversed.*

[No. 1625. April 7, 1904.]

*THE UNITED STATES, complainant and appellee, vs. EULALIO BUNDOC ET AL., defendants and appellants.*

1. CRIMINAL LAW: BRIGANDAGE: COMPLAINT OR INFORMATION.—An information for the crime of brigandage which charges the commission of acts of robbery by a band of more than three armed men in the "mountains, forests, and towns" of a province is not bad for failing to charge that the accused went out on the highway or roamed over the fields.
2. *Id.*: *Id.*: *Id.*—Where the information alleges that a band of brigands devoted itself to robbery it is not necessary to allege that they conspired for that purpose.

Per COOPER, J., dissenting:

3. *Id.*: *Id.*: *Id.*—One of the elements of the crime of brigandage is that the band of robbers "go out upon the highway or roam over the country" for the purpose of robbery, and an information which fails to charge this element of the crime is fatally defective.

APPEAL from a judgment of the Court of First Instance of Bataan.

The facts are stated in the opinion of the court.

THOS. D. AITKEN, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The evidence is sufficient to convict the appellants of the crime of brigandage. It is claimed, however, that the complaint on which they were convicted is insufficient and that the judgment must therefore be reversed.

The complaint states that—

"During the present year, 1903, and until the month of June of the same year, and in the mountains, forests, and towns of this

province, the persons above named, with others unknown, led by the so-called General Tomas de Guzman, formed a band of brigands, with firearms and cutting weapons, engaged in robbery and pillage of various articles, causing alarm and terror to the inhabitants of this province against the United States, and contrary to the law."

It is stated, as is seen, that there was a band of more than three people; that they were armed with deadly weapons; that during a part of the year 1903 they devoted themselves to robbery; and that this same band during the time when they were devoting themselves to robbery were in the mountains, forests, and populated parts of the province. It is said, however, by the dissenting justice, that there is no allegation that they went out on the highway or roamed over the fields. The complaint fairly shows that the robberies to which the band devoted itself were committed in the mountains, also in the forests, and also in the populated parts of the province. In view of the allegations of the complaint, we can not assume that while the band was passing from one of these places to another, as for example from the mountains to the barrios, they did not go by the highways or by the fields and that they stopped committing robberies when they left the mountains and did not commence again until they reached the barrios.

In view of the fact that the complaint alleges that the band devoted itself to robbery, it was not necessary to allege that they conspired for that purpose.

The complaint is sufficient and the judgment is affirmed, with the costs of this instance against the appellants.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

**COOPER, J., dissenting:**

The complaint in this case reads as follows:

"The defendants, with others unknown, led by the so-called General Tomas de Guzman, constituted and were in the mountains, forests, and populated parts of this province, in and during the present year 1903 and until the month of June thereof, a band of brigands, with firearms and weapons of steel; that they devoted themselves to pillage and the robbery of various objects and articles, causing thereby alarm and terror among the inhabitants of this province."

Section 1 of Act No. 518, under which the complaint is drawn, reads as follows:

"Whenever three or more persons, conspiring together, shall form a band of robbers for the purpose of stealing carabao or other personal property, by means of force and violence and shall go out upon the highway or roam over the country armed with deadly weapons for this purpose, they shall be deemed highway robbers or brigands, and every person engaged in the original formation of the band, or joining it thereafter, shall, upon conviction thereof, be punished by death or imprisonment for not less than twenty years, in the discretion of the court."

The question presented is whether the complaint is sufficient to charge the offense of brigandage.

All the essential requisites constituting the offense of brigandage as defined in section 1 must be alleged in the complaint. (United States vs. Francisco Decusin, 1 Official Gazette, 730.)

The analysis of the definition shows the following elements as constituting the offense:

(1) There must be a conspiring together of three or more persons to form a band of robbers for the purpose of stealing carabao or other personal property by means of force and violence.

(2) They must go out upon the highways or roam over the country armed with deadly weapons for this purpose.

The complaint is insufficient in that it does not state that the defendants went out upon the highways or roamed over the coun-

try armed with deadly weapons for the purpose of committing the offense.

The defendants may have constituted a band of brigands in the mountains and populated places, but forming a band does not constitute the offense. They must have gone out upon the highways, or roamed over the country armed with deadly weapons for the purpose of committing the offense.

There is no allegation in the complaint either that they went out upon the highways, roamed over the country, or that they were armed with deadly weapons for the purpose of committing the offense.

The allegation that they devoted themselves to pillage and robbery is not a sufficient allegation of this fact. This court has made a distinction between the offenses of *robbery* and *brigandage* in several decisions recently made: United States vs. Francisco Decusin, 1 Official Gazette, 730; United States vs. Saturnino de la Cruz, 1 Official Gazette, 664; United States vs. Uris' et al., 25th February, 1904. It has been held in these cases that the offense of robbery may be committed by an armed band of three or more persons without the offense falling within the definition of brigandage. The case of United States vs. Decusin is based upon the necessity of proving that the band went out upon the highways or roamed over the country armed with deadly weapons.

It is stated in the opinion that it can not be assumed that while the band was passing from one of these places to another, that is, from the mountains and populated parts of the province in which they constituted themselves a band, that they did not go by highways or by the fields and that they stopped committing robberies when they left the mountains and did not commence again until they reached the barrios. The answer to this is that the duty of alleging these facts and the burden of proving them rests upon the Government.

The wording of the statute in defining the offense is plain. There is no reason why the prosecuting officer should substitute his own language. While it is not absolutely necessary that the exact words of the statute should always be followed, yet this is the safest course in drafting complaints under the law.

[No. 1673. April 8, 1904.]

*PETRONILA ENCARNACION, petitioner, vs. HON. B. S. AMBLER, Judge of the Court of First Instance, of Manila, respondent.*

**PLEADING AND PRACTICE: PROHIBITION; INJUNCTION; VOID JUDICIAL ORDER.**—The writ of prohibition will lie to prevent the enforcement by contempt proceedings of an injunction issued by an inferior court in aid of an order appointing a receiver, when such order is void because made in excess of jurisdiction.

**ORIGINAL PETITION** for a writ of prohibition.

The facts are stated in the opinion of the court.

M. TORRES, for petitioner.

MOORE & HIXSON, for respondent.

**COOPER, J.:**

This is an original suit for prohibition brought under section 516 of the Code of Civil Procedure, by which the Supreme Court is given concurrent jurisdiction with the Court of First Instance over inferior tribunals and is brought against the Hon. B. S. Ambler, judge of the Court of First Instance, to prohibit him from taking any further action in a certain case now pending in the Court of First Instance entitled *Sergia Reyes vs. Tan-Tonco*.

It is alleged in the complaint that the plaintiff, in February, 1903, instituted an action before Don Pedro Rincoron, justice of the peace of the city of Manila, for the recovery of the possession of certain real estate situated in the city of Manila; that the 9th day of February was fixed for the trial of said cause; that on

the said 9th day of February, before the said trial was commenced, the Hon. B. S. Ambler, judge of the Court of First Instance, issued an order in the case of *Sergia Reyes vs. Tan-Tonco*, on the application of the receiver appointed in said case, prohibiting the said justice of the peace from proceeding further in the trial of the suit then pending before him and requiring him to suspend all further proceedings in said action and cited the plaintiff to appear before the Court of First Instance on the 14th day of February to show cause why the plaintiff and the said justice of the peace should not be punished for contempt. It is further alleged in the complaint that the plaintiff was not a party in said suit of *Sergia Reyes vs. Fulgencio Tan-Tonco*; that the court acted in excess of its jurisdiction in appointing the receiver in said case, and in making the said order prohibiting the plaintiff from prosecuting her action in said justice's court.

In the case of *Eugenio Bonaplata vs. Byron S. Ambler* (1 Off. Gaz., 607), which involved the validity of the appointment of Antonio Torres as receiver of the estate of Tan-Tonco in the said cause of *Sergia Reyes vs. Fulgencio Tan-Tonco*, it was held by this court that section 174 of the Code of Civil Procedure, under which the appointment of the receiver was made, did not authorize the appointment; that no property belonging to Fulgencio Tan-Tonco was the subject of litigation in the case of *Sergia Reyes vs. Tan-Tonco*; nor did the case fall within either of the other subdivisions of section 174; that the placing of the property of the defendant in said cause in the hands of the receiver for the purpose, after paying fees and expense of distributing the property among the creditors, was practically a bankruptcy proceeding; that there are no bankruptcy laws in force in these Islands; that bankruptcy proceedings have been expressly forbidden by section 524 of the Code of Procedure in Civil Actions until a law shall be enacted; and that consequently the Court of First Instance acted in excess of its jurisdiction in appointing Antonio Torres receiver in said action.

We adhere to the views expressed in the decision of this court in the said case of *Eugenio Bonaplata vs. Byron S. Ambler*.

We think the plaintiff is entitled to the relief prayed for in this suit, and in accordance with the prayer contained in the petition, the defendant, the Hon. B. S. Ambler, judge of the Court of First Instance, is hereby prohibited from making any further orders in the said case of *Sergia Reyes vs. Fulgencio Tan-Tonco*, the effect of which will in any manner interfere with the plaintiff in the prosecution of her suit before said justice of the peace or with the Hon. Pedro Ricafort as justice of the peace in proceeding to the final determination of said cause and entering a proper judgment therein. And the defendant is also prohibited from interfering with the plaintiff in any manner in the enforcement of her claim by reason of the appointment of said Antonio Torres as receiver of said estate in said case of *Sergia Reyes vs. Fulgencio Tan-Tonco*.

The cost of the proceedings is adjudged against the defendant: Arellano, C. J., Mapa, McDonough, and Johnson, JJ., concur.

[No. 1088. April 15, 1904.]

*FINDLAY & CO., petitioners, vs. BYRON S. AMBLER, judge of the Court of First Instance of Manila, respondent.*

PLEADING AND PRACTICE: RECEIVER: VOID JUDICIAL ORDER: EXCESS OF JURISDICTION: MANDAMUS.—Where the order appointing a receiver is void because made in excess of jurisdiction mandamus will be at the instance of a judgment creditor to compel the issuance of execution against property of the judgment debtor in the hands of the receiver so appointed.

ORIGINAL PETITION FOR A WRIT OF MANDAMUS.

The facts are stated in the opinion of the court.

THOS. D. AITKEN, for petitioners.  
MOORE & HIXSON, for respondent.

COOPER, J.:

This is an original suit for mandamus brought under section 315 of the Code of Civil Procedure by the plaintiffs, Findlay & Co., against the Hon. B. S. Ambler, judge of the Court of First Instance, to compel him to issue an execution on a certain judgment rendered by him as judge of the Court of First Instance in the city of Manila, in favor of the plaintiffs, Findlay & Co., against Fulgencio Tan-Tonco, on the 27th day of January, 1903, for the sum of \$7,070.19, Mexican currency, with legal interest from the date of the filing of the complaint in said case, and also the cost of suit.

This suit is of the same character as that of *Eugenio Bonaplata vs. Byron S. Ambler* (1 Off. Gaz., 607), decided by this court August 1, 1903. In this case the validity of the appointment of Antonio Torres as receiver of the estate of Tan-Tonco in the cause of *Sergia Reyes vs. Tan-Tonco* was involved and it was there held that the court in appointing Antonio Torres as receiver of the estate of Tan-Tonco acted in excess of its jurisdiction.

The same question has also arisen in other cases growing out of the appointment of receiver in the said case of *Sergia Reyes vs. Tan-Tonco*, among them the recent case of *Encarnacion vs. Ambler*, decided on the 8th day of April, 1904.

We adhere to the views expressed in these cases, and, under their authority, a mandamus will be granted.

The defendant, the Hon. B. S. Ambler, judge of the Court of First Instance, is hereby directed to make an order directing the clerk of the Court of First Instance of the city of Manila to issue an execution in favor of the plaintiff and against Fulgencio Tan-Tonco on said judgment rendered on the 27th day of January, 1903, in said Court of First Instance, in said cause of *Findlay & Co. vs. Fulgencio Tan-Tonco*.

The cost of the suit is adjudged against the defendant.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, JJ., concur.

[No. 1637. April 22, 1904.]

*THE UNITED STATES, complainant and appellee, vs. GABINO AMOS ET AL, defendants and appellants.*

CRIMINAL LAW: BRIGANDAGE.—CONVICTION FOR brigandage sustained.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

M. ROSAURO, for appellants.

Solicitor-General ARANETA, for appellee.

McDONOUGH, J.:

The defendants and appellants were convicted in the Court of First Instance of being brigands, under Act No. 518, in that on March 15, 1903, and for many months prior and many days subsequent thereto, in the Provinces of Rizal and Bulacan, they conspired with others to form a band of ladrones for the purpose of stealing carabao and other personal property by means of force and violence, and went out on the highways and roamed over the country armed.

The evidence was sufficient to justify the court below in finding the defendants guilty.

The judgment is therefore affirmed.

Arellano, C. J., Torres, Mapa and Johnson JJ., concur.

Judgment affirmed.

[No. 1660. March 28, 1904.]

*THE UNITED STATES, complainant and appellee, vs. GREGORIA HERRERA ET AL, defendants and appellants.*

CRIMINAL LAW: ILLEGAL DETENTION.—Where it appears that the person supposed to have been deprived of liberty by the accused was per-

mitted to leave the place of confinement alone during the time of the alleged detention, there can be no conviction of the offense of illegal detention.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

THOS. L. HARTIGAN, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The defendants were convicted in the court below of the crime of *detención ilegal*, committed in the person of a girl 17 years old named Marcelina Aralar.

There is no doubt that the girl frequently went out of the house in question, No. 49 Calle Aranque, Manila, both in company of the defendant Gregoria and alone, between July 7 and 18, the period of her alleged detention. She was not therefore during that time deprived of her liberty within the meaning of article 481 of the Penal Code.

This case can not be distinguished from cases heretofore decided by this court. (United States vs. Quevenço, No. 1208, August 6, 1903; United States vs. Chu Cheng, No. 1112, April 2, 1903.)

The judgment is reversed and the defendants acquitted, with costs of both instances *de oficio*, and without prejudice to the presentation of a complaint against the defendant Gregoria for corruption of minors and a complaint against the defendant Arsenio for *estupro*.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

Judgment reversed.

[No. 1705. April 22, 1904.]

TOMAS BLANCO, petitioner, vs. HON. BYRON S. AMBLER, judge of the Court of First Instance of Manila, and JOSE McMICKING, clerk of the Court of First Instance of Manila, respondents.

PLEADING AND PRACTICE; RECEIVER; VOID JUDICIAL ORDER; EXCESS OF JURISDICTION; PROHIBITION.—In cases where a court having jurisdiction of a suit exceeds its legitimate authority by improperly appointing a receiver a writ of prohibition will be granted to arrest further proceedings in pursuance of the void order.

ORIGINAL PETITION for a writ of prohibition.

The facts are stated in the opinion of the court.

FISHER & ROSADO, for petitioner.

MOORE & HIXON, for respondents.

McDONOUGH, J.:

This is a proceeding praying for a writ of prohibition, prohibiting further proceedings in the Court of First Instance under an order appointing a receiver in the case of Sergia Reyes vs. Fulgencio Tan-Tonco, for the alleged reason that said court and judge were exercising judicial functions in excess of the jurisdiction of such tribunal and such judge.

It appears that in December, 1902, Sergia Reyes recovered a judgment in the Court of First Instance of Manila in an action for debt against one Fulgencio Tan-Tonco, and that on the 19th of December of that year Antonio Torres was appointed receiver in that action, of the business of Fulgencio Tan-Tonco, his rights and credits of whatsoever nature or kind, together with all his movable and immovable property of whatsoever description, book accounts, contracts, etc., and said Tan-Tonco was required and commanded to deliver to said receiver all his property. And it was therein further ordered that all other persons be, and the same were, restrained and enjoined during the pendency of that action, from interfering with or disposing of any of the property of the said defendant, or taking possession

of, or in any way interfering with the same, and said receiver was authorized to operate said business and to collect and receive all incomes therefrom and all debts due to said Tan-Tonco.

The petitioner herein, Tomas Blanco recovered judgment against said Tan-Tonco, April 3, 1903, for the sum of 1,000 pesos, which judgment he alleges, he is unable to collect, and on which he is unable to obtain an execution against the property of said Tan-Tonco, because of the transfer of said property to said receiver under said order, and because of the prohibition in said order against interfering with said property.

The petitioner contends that the order appointing the receiver in said action was void; inasmuch as the court acted without jurisdiction in making the said appointment, and he therefore asks this court to declare said appointment and said order void, and to issue a writ prohibiting the Court below from taking further proceedings under said order.

In the case of Bonaplata vs. Byron S. Ambler, decided by this court August 1, 1903, and in which a writ of mandamus was granted, commanding said Byron S. Ambler, as judge of the Court of First Instance, to cause an execution to be issued in an action in favor of the plaintiff and against said Tan-Tonco, this court held that the court acted without authority of law in appointing a receiver in said action of Reyes against Tan-Tonco, for the reason stated in the decision of this court, which is reported in 1 Official Gazette, 657.

In cases where the court, having jurisdiction of the suit, as in the Reyes case, exceeds its legitimate powers, as, for instance, where it exceeds its powers in appointing a receiver improperly, a writ of prohibition will be granted to arrest further proceedings of the tribunal or officer who is exercising jurisdiction without authority.

It is true that the operation of a writ of prohibition is preventive rather than remedial, but property in the hands of a receiver is in the hands of the court. A receiver is the mere instrument of the court, and what he does, the court does. It is the court, therefore, and not the receiver, which holds, administers, and disposes of the property in his hands, and so long as the property remains undischarged, of action by the court is necessary. In such a case, there is judicial action to be arrested, injury to be prevented, and a writ of prohibition is appropriate for that purpose. The writ runs to the court and operates directly upon the court, but indirectly upon the receiver. (See case of Havemeyer vs. Superior Court, 84 Cal., p. 389.)

In the case of York vs. Superior Court (108 Cal., 431-438) the petitioner obtained a judgment, and when he attempted to have it enforced was told by the sheriff, who had been appointed receiver of the defendant's property in another action, that he would not pay over to the plaintiff any of the money in his hands, as he held it as receiver. Thereupon the plaintiff sought a writ of prohibition, requiring the court to desist from taking any further proceedings under said appointment of receiver on the ground that the court had no jurisdiction to appoint a receiver in the action. And it having been determined by the Supreme Court that the receiver was appointed without authority, the writ of prohibition was granted.

This court having held in the case of Reyes vs. Tan-Tonco, that the court below exceeded its jurisdiction in appointing a receiver, it follows that the order making such appointment was void and therefore the restraining clause in said order forbidding judgment creditors from interfering with said property and enforcing their claims, was also void.

Judgment is therefore granted in favor of the plaintiff in this proceeding and it is ordered that a writ of prohibition issue, commanding the defendants absolutely to desist and refrain from further proceedings in said action of Reyes vs. Tan-Tonco, under the order appointing said receiver.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.



[No. 1779. April 22, 1904.]

**FRANCISCO GUTIERREZ REPIDE**, petitioner, vs. **JOHN C. SWEENEY**, judge of the Court of First Instance of the city of Manila, respondent.

1. PLEADING AND PRACTICE; CONTEMPT; BILL OF EXCEPTIONS.—Mandamus will not lie to compel the judge of a trial court to sign a bill of exceptions for the review by the Supreme Court of a judgment in contempt proceedings before final judgment is rendered in the action out of which the contempt proceedings grew.
2. *IN RE; BAIL BOND*.—The amount of the bond required for the suspension of the execution of a judgment in contempt proceedings may be fixed within the discretion of the court issuing the order in contempt, and should be fixed at a sum sufficient to protect the aggrieved party from loss.

ORIGINAL PETITION for a writ of mandamus.

The facts are stated in the opinion of the court.

**HARTIGAN, MARPLE & SOLIGNAC**, for petitioner.  
**O. SUTRO**, for respondent.

**JOHNSON, J.:**

On the 12th day of January, 1904, an action was commenced in Part III of the Court of First Instance of the city of Manila, between Eleanor Erica Strong and Richard P. Strong, as plaintiffs, and the said Francisco Gutierrez Repide, as defendant. The action was brought for the purpose of annulling the sale of certain shares of stock. The complaint in said case alleged that the defendant had fraudulently secured possession of certain property of the plaintiffs, and requested that judgment be entered requiring the defendant to return the said property to the plaintiffs. The complaint contained a prayer asking that a receiver be appointed to take charge of the said shares of stock pending the final decision of the cause. At the time the said complaint was filed the plaintiffs presented a bond with sufficient sureties, in the sum of \$8,000, gold, United States currency, that being the amount alleged in the complaint to have been paid by the defendant for the said shares of stock. On the same day the court, after being informed of the contents of the said complaint, made an order appointing the sheriff of the city of Manila as receiver to take charge of the said shares of stock, and directed the defendant forthwith to turn over and deliver said shares of stock to said receiver.

On the 13th of January, 1904, the court having been informed from the return of the sheriff that the defendant had not complied with the said order, and at the request of the attorneys for the plaintiff issued a further order, requiring the said defendant to appear before the court at 11 o'clock a. m. of the same day, to show cause why he should not be punished for contempt for failing to obey said order.

In answer to the order of the court to show cause why he should not be punished for contempt for a failure to comply with the order of the court the defendant appeared and requested that the hearing be postponed until the following morning at 8 o'clock, which request was granted.

On the 14th of January the defendant again appeared and objected to being required to answer the said order, upon the ground that no charge of contempt had been made in writing, as required by section 233 of the Code of Procedure in Civil Actions. The attorneys for the plaintiffs then requested permission to file charges in writing, which permission was granted, and charges in writing were filed.

The court then entered a further order requiring the defendant to show cause why he should not be punished for contempt of court.

The defendant then announced his readiness to show cause why he should not be punished for contempt, and the court then and there proceeded to investigate the charges of contempt under section 235 of the Code of Civil Procedure, hearing the witnesses presented by the said parties.

On the 15th day of January, after closing the said investigation, the court made and entered an order in the cause, finding that the defendant was in contempt of court for failure to obey its order, directing the defendant to forthwith turn over and deliver said shares of stock to the said receiver, and directed the sheriff to take charge of the defendant until he complied with the order.

The defendant thereupon excepted to the judgment of the court and gave notice of appeal.

The court, after hearing counsel, fixed the bond to be given for the suspension of the execution of the judgment in contempt at the sum of \$60,000, United States currency.

The plaintiff alleged, and the allegation was not denied, that the property withheld by the defendant was worth about \$150,000, Mexican currency.

On the 4th day of February, 1904, the defendant filed an application with the clerk of the Supreme Court for the writ of mandamus, in which he was plaintiff and the Hon. John C. Sweeney, judge of the Court of First Instance, was the defendant, which application prayed that a writ of mandamus issue, commanding John C. Sweeney, judge of the Court of First Instance of the city of Manila, to sign, settle, and allow the bill of exceptions now in his hands, and of which Exhibit A of that complaint was a copy, and that in the meantime the said defendant be restrained and enjoined from committing or permitting the plaintiff to be committed to Bilibid prison until said bill of exceptions be settled and presented to this court, so that the plaintiff may thereupon ask of this court that he be admitted to bail, and to give a bail bond in a reasonable sum, in order to supersede and sustain the operation of the said judgment of the said court, and that the plaintiff have such other remedy as may be proper and agreeable to the due administration of justice, and that he may recover his costs herein against the said defendant.

On the same day application for mandamus was presented to Charles A. Willard, associate justice of the Supreme court, and after reading the same, he, as such associate justice, granted that part of the prayer of the petition which requested that the defendant be restrained and enjoined from committing or permitting the plaintiff to be committed to Bilibid Prison, upon condition that the said plaintiff give a bond in the sum of \$500, gold.

On the same day the plaintiff presented a bond in the sum of \$500, currency of the United States, with Eduardo Gutierrez Repide and Gustave L. Solignac as sureties. Justice Willard approved the said bond, and the injunction issued.

On the 5th day of February, 1904, under the practice followed in the Supreme Court in such cases, an order was issued and served upon the defendant on the same day, requiring him to appear and answer the said application for mandamus.

On the 8th day of February, 1904, the defendant in the mandamus proceedings filed his answer in the said cause.

On the 30th day of January, 1904, the defendant in the original cause presented to the judge of the Court of First Instance of the city of Manila, defendant in this cause, a bill of exceptions covering errors complained of growing out of the proceedings in contempt.

Subsequently, to wit, on the 4th day of February, 1904, the judge, defendant herein, refused to sign said bill of exceptions on the ground that the plaintiff was not entitled to have a bill of exceptions settled until the rendition of a judgment upon the merits of the action in the said suit to set aside the alleged fraudulent sale of stock.

The issues presented by the application for mandamus and the answer of the defendant were argued before this court on the 15th day of February, 1904. At the time of the argument the plaintiff requested, among other things, permission to amend the prayer contained in his original application by substituting the following prayer, which was granted:

"Petitioner therefore prays that a writ issue directing the re-

spondent to approve and sign the bill of exceptions now in his hands, a copy of which is hereto attached, marked 'Exhibit A,' and to let petitioner to bail in the said contempt proceedings, and to accept from a bond, with sureties to the satisfaction of the court, in a sum not to exceed five thousand dollars, United States currency, and that in the meantime respondent be restrained and enjoined from committing the petitioner to Bilibid Prison, or permitting him to be so committed until further orders from this court, and that petitioner be granted such other and further relief as may be proper and agreeable to the due administration of justice, and that he may recover his costs herein against respondent."

The pleadings in this case raise two questions for the consideration of this court:

First. Whether the defendant, plaintiff herein, is entitled to have a bill of exceptions in the contempt proceedings signed by the trial judge and brought to this court before final judgment is rendered in the action out of which the contempt proceedings grew.

Second. Whether or not the amount of the bond provided for the suspension of the execution of a judgment in a contempt proceedings can be fixed within the discretion of the court issuing the order in contempt, and incidentally, whether or not the amount of the bond should be fixed at a sum which would insure the appearance of the defendant, or whether the amount should be fixed at a sum equal to the value of the property which the defendant refused to turn over.

Section 240 of the Code of Procedure in Civil Actions provides that:

"The judgment and orders of a Court of First Instance, made in cases of contempt, except in cases arising under section 231, may be reviewed by the Supreme Court; but execution of the judgment and orders shall not be suspended until there is filed by the person in contempt, in the court rendering the judgment, or making the order, an obligation with sureties to the acceptance of the judge, in an amount to be by him fixed, and conditioned that if judgment be against him, he will abide and perform the order or judgment. But such review shall be had only after final judgment in the action in the Court of First Instance, and when the cause has regularly passed to the Supreme Court by bill of exceptions, as in this act provided."

It will be noted that this section provides that all orders of a Court of First Instance made in cases of contempt, except those arising under section 231, may be reviewed by the Supreme Court. This language would indicate that the party punished for contempt might bring that cause to the Supreme Court at once for review. But the last sentence of said section provides that such review shall be had *only* after final judgment in the action in the Court of First Instance, and when the cause has regularly passed to the Supreme Court by bill of exceptions, as in this act provided.

In accordance with the provisions of this section we are of the opinion that the application for a mandamus to compel the judge to sign the bill of exceptions in the contempt case before final judgment in the principal cause must be denied.

It will be noted that section 240 provides for the suspension of the execution of the judgment in the contempt proceedings by giving a bond. It further provides that the bond must be presented, with sureties, to the acceptance of the judge, and that the judge shall fix the amount of said bond. The said section further provides that the bond shall provide that the person in contempt shall abide by and perform the order or judgment.

Section 238 of the same Code provides:

"If the party released on bail fail to appear upon the day named the court may issue another order of arrest, or may order the obligation for his appearance to be prosecuted, or both; and, if the obligation be prosecuted, the measure of damages shall be the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the contempt was prosecuted and the costs of the proceedings, and such recovery shall be for the benefit of the party injured."

This section clearly provides for a bond to enforce the attend-

ance of a person charged with contempt to appear upon a day named. It also expressly provides that if an action be brought upon the bond "the measure of damages shall be the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the contempt was prosecuted and the costs of the proceeding, and such recovery shall be for the benefit of the party injured."

The condition of the bond fixed by section 240 is that "he will abide and perform the order or judgment." The order or judgment in the present cause was that the defendant (in the cause below) turn over to the plaintiff (in the cause below) certain stock alleged to be worth \$150,000, Mexican currency, more or less. It would appear, then, that the bond to be accepted in this present cause should be that the defendant should turn over to the plaintiff the shares of stock in question, or pay to the plaintiff their value. It is clear, therefore, that this bond is not required, primarily, for the appearance of the defendant.

Section 238 provides for the giving of a bond to enforce the appearance of the defendant, and yet that section provides that the measure of damages in an action upon said bond shall be the extent of the loss or injury sustained by the party by reason of the misconduct for which the contempt was prosecuted, and the cost of the proceedings. Then if the statute provides that the damages in an action upon a bond for appearance simply shall be measured by the loss or injury sustained, certainly a bond conditioned that if a final judgment be rendered against the defendant he will abide and perform the order or judgment, should be sufficiently large to cover the losses which the plaintiff would suffer in case he failed to comply with the conditions of said bond.

We are of the opinion, therefore, and so hold:

First. That the judge below has authority to fix the amount of the bond; and

Second. That the amount of the bond should be sufficient to protect the plaintiff from loss.

In view of the foregoing considerations, we hereby hold that this court has no jurisdiction to consider the bill of exceptions in the contempt case here presented until after final judgment in the action in the court below and until the cause has regularly passed to this court by a bill of exceptions.

The application for mandamus to compel the defendant herein to sign the bill of exceptions accompanying the said application is hereby denied, and inasmuch as the statute provides that the judge below shall fix the amount of the bond in such cases we hereby refuse to direct the court below to accept a bond in an amount not exceeding \$5,000 gold. And it is so ordered.

Arellano, C. J., Torres, Mapa, McDonough, and Cooper, J.J., concur.

[No. 1853. April 16, 1904.]

*THE UNITED STATES, complainant and appellant, vs. JOHN P. MILLER, defendant and appellee.*

COURT OF CUSTOMS APPEALS: APPEAL FROM JUDGMENT OF ACQUITTAL.—No appeal can be taken by the Government from a judgment of acquittal rendered by the Court of Customs Appeals.

APPEAL from a judgment of acquittal of the Court of Customs Appeals.

The facts are stated in the opinion of the court.

Solicitor-General ARANETA, for appellant.

MOORE & HINSON, for appellee.

McDONOUGH, J.:

The defendant, John P. Miller, was accused, in the court of Customs Appeals with having on or about the 8th day of September, 1903, at the city of Manila, P. I., conspired with one W. D. Ballentine and others for the purpose of uttering and publishing a false and fraudulent Chinese certificate of permission and identification, with intent to deceive and defraud the Government of the United States and of the Philippine Islands, and

to secure admission into the Philippine Islands of a Chinese person not entitled by law to enter the same.

The defendant was tried in that court and was acquitted.

The Government appealed to this court from the judgment of acquittal. The defendant made a motion to dismiss this appeal on the ground that an appeal does not lie from a judgment of acquittal by the Court of Customs Appeals.

By section 18 of Act No. 136 it is provided that the Supreme Court shall have appellate jurisdiction of all actions and special proceedings brought to it from Courts of First Instance, and from other tribunals, from whose judgment the law shall specially provide appeals to the Supreme Court.

Section 290 of Act No. 355, before it was amended by Act No. 864, provided that no appeal could be taken from the decision of a Collector of Customs imposing a fine or penalty \* \* \* except in cases where the amount of the fine or penalty exceeded \$500, in which case an appeal could be taken to the Court of Customs Appeals.

Section 291 of Act No. 355 provides that whenever the penalty of imprisonment is imposed for violation of the terms of the act, it shall be the duty of the Attorney-General to institute in proper cases before the Court of Customs Appeals proceedings in the ordinary form of criminal prosecutions for the conviction of the person charged, and that court shall have the power to try and determine the question of the guilt or innocence of the defendant and impose sentence, and its decision shall be final.

So that prior to the passage of Act No. 864, there could be no appeal from decisions of the Court of Customs Appeals to this court.

By section 4 of this latter act, amending section 290 of Act No. 355, it is provided that from a judgment of the Court of Customs Appeals, in criminal cases, there shall be right of appeal to the Supreme Court in every case in which the penalty of imprisonment or a fine exceeding 600 Philippine pesos, exclusive of costs, is adjudged against the defendant.

"In all other criminal cases, including those in which imprisonment is adjudged, in default of payment of a fine, the judgment of the Court of Customs Appeals shall be final."

The case at bar comes within the terms of this last paragraph of the section.

The defendant was acquitted and there appears to be no provision of law authorizing the Government to appeal from a judgment of acquittal.

If the legislators intended to give authority to take an appeal from a judgment of acquittal, it would have been an easy matter to so state. On the contrary they expressly provided that in such case "the judgment of the Court of Customs Appeals is final."

The right to appeal is purely a statutory right; and a party who brings an action does not, by such act, acquire a vested right to a decision from a particular tribunal. (Elliot's Appellate Procedure, sec. 15; Ex Parte McCordle, 7 Wallace (U. S.), 506; Patterson vs. Philbrook, 9 Mass., 151.)

The law-making body may regulate the entire system of appellate procedure. The method required by this body is exclusive, and courts can not disregard it or substitute therefor their own rules of procedure.

From the fact that the Commission provided for the right of appeal from judgments of imprisonment, or where a fine exceeding 600 pesos was imposed, it is to be inferred that the intention was to deny the right of appeal in all other cases, even if that fact were not so expressly stated in the act. as it is here. (Durosseau vs. U. S., 6 Cranch., 312.)

As the judgment of acquittal in this case is not appealable, the motion to dismiss the appeal is granted.

Aréllano, C. J., Torres, Mapa, and Johnson, J.J., concur.

Cooper, J., was absent when the decision was signed.

Appeal dismissed.

## OPINION OF THE ATTORNEY-GENERAL.

*Filling vacancies in the positions of municipal president and vice-president.*

MANILA, P. I., May 18, 1904.

SIR: In answer to the questions raised herein in regard to the filling of the offices of president and vice-president of a municipality, where both officers have been suspended and afterwards both removed, or, the office of president, pending the final action to be taken in the case of the vice-president, where both the municipal president and municipal vice-president have been suspended and said president afterwards removed, I have the honor to state:

Section 39 of the Municipal Code provides as follows:

"The municipal council shall: (b) Fill a permanent vacancy in the office of vice-president or of councilor, from among persons having the necessary qualifications, by a majority vote of all its members. A person thus substituted as vice-president or councilor shall serve only for the unexpired term for which his predecessor was elected and until his successor shall have been chosen and qualified." Said section is amended by Act No. 303, section 1 (g), as follows: "By adding at the close of paragraph (b) of section thirty-nine the following words: 'The provincial governor, with the advice and consent of the provincial board, shall fill temporary vacancies in the offices of vice-president, municipal treasurer, or municipal councilor, and whenever a president, vice-president, or councilor is suspended shall appoint some person to discharge his duties until he is reinstated or until he is removed and the vacancy thus occasioned is filled.'" Section 19 of said Code is as follows: "The vice-president shall: (a) Act as substitute for the president in case of the absence of the latter or of his temporary inability to discharge the duties of his office. (b) In case of a permanent vacancy in the office of president, he shall fill the post for the unexpired portion of the term; and a new vice-president shall be elected by a majority vote of all the members of the council, as provided in section thirty-nine, subsection (b)."

It is thus seen that in the case of a permanent vacancy in the office of president and vice-president the council, under section 39 (b), above quoted, shall appoint a vice-president who is authorized to act as president during the unexpired portion of the term of said president (section 19 (b) supra).

Where the president has been removed and the vice-president is suspended the vice-president, temporarily appointed by the provincial governor with the advice and consent of the provincial board, as provided by amendment to section 39 (b), above quoted, shall act as president until final action is taken in case of the vice-president.

GREGORIO ARANETA,

*Acting Attorney-General.*

THE EXECUTIVE SECRETARY OF THE PHILIPPINE ISLANDS,

Manila, P. I.

## BUREAU OF CUSTOMS AND IMMIGRATION.

### CUSTOMS ADMINISTRATIVE CIRCULARS.

No. 315.—*Protests not filed within time prescribed by law can not be entertained (Resolution of the Philippine Commission.)*

MANILA, May 13, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following resolution of the Philippine Commission of April 30, 1904, is hereby published for the information and guidance of all concerned:

"Commissioner Ide presented a communication from C. Fressel

& Co., importers, Manila, which bore an indorsement from the Secretary of Finance and Justice, as follows:

"C. Fressel & Company claim a refund of \$27.75, United States currency, under Entry A 4960. Customs duties paid on the 14th day of August, 1902. They protested against the payment, and their protest bore date of the 12th day of August, 1902; but the Customs authority certified that, in point of fact, the protest was not filed until the 20th day of August, 1902. The Auditor refused to certify that amount, or any other amount, as due the importer, notwithstanding the protest was sustained, on the ground that section 286 of the Customs Administrative Act provides that the protest must be filed within two days after payment, and that the importer had forfeited his right to a refund which might have been due on account of the improper classification of his merchandise. There is no relief for the importer, unless the Commission shall make provision for the refund by legislation; but in this case the importer had notice of the liquidation of the duty on August 14, but failed to file protest until August 20, but dated back the protest to the 12th day of August, apparently for the purpose of avoiding the effect of the provision of law above referred to.

"In the opinion of this office, legislation ought not to be made to relieve the importer from the effect of his own negligence. It is recommended that no further action be taken in the premises, and that the applicants and the Collector of Customs be informed of these conclusions, if concurred in by the Commission."

"After consideration by the Commission, on motion, it was 'Resolved, That the Commission concur in the opinions of the Secretary of Finance and Justice above set forth, and that the applicants and the Collector of Customs be so informed.'"

PAR. II. Philippine Customs officers will give due publicity to the terms of this Circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 316.—*Closing the ports of Botolan, Zambales Province; Magallanes, Sibuyan Island; Malabang and Polloc, Mindanao Island, to the coastwise trade.*

MANILA, May 14, 1904.

To all Collectors of Customs:

By authority of the Civil Governor of the Philippine Islands, the ports of Botolan, Zambales Province; Magallanes, Island of Sibuyan; and Malabang and Polloc, Island of Mindanao, are hereby declared closed to the coastwise trade.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 317.—*Closing the port of Cabangan, Zambales Province, to the coastwise trade.*

MANILA, May 16, 1904.

By authority of the Civil Governor of the Philippine Islands, the port of Cabangan, Zambales Province, is hereby declared closed to the coastwise trade.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 318.—*Publishing Act No. 1149 of the Philippine Commission, so amending the Customs Administrative Act, No. 355, as to authorize the Civil Governor to set apart certain portions of the wharf, landing place, street, or other public ground adjacent to the seashore and custom-house in any municipality for customs purposes, and to place the same under the jurisdiction of the Collector of Customs.*

MANILA, May 19, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following Act, No. 1149, of the Philippine

Commission, is hereby published for the information and guidance of all concerned:

"[No. 1149.]

"AN ACT AMENDING THE CUSTOMS ADMINISTRATIVE ACT, NUMBERED THREE HUNDRED AND FIFTY-FIVE, SO AS TO AUTHORIZE THE CIVIL GOVERNOR TO SET APART CERTAIN PORTIONS OF THE WHARF, LANDING PLACE, STREET, OR OTHER PUBLIC GROUND ADJACENT TO THE SEASHORE AND CUSTOM-HOUSE IN ANY MUNICIPALITY FOR CUSTOMS PURPOSES, AND TO PLACE THE SAME UNDER THE JURISDICTION OF THE COLLECTOR OF CUSTOMS.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. Section twenty-six of the Customs Administrative Act, Numbered Three hundred and fifty-five, is hereby amended by inserting at the end of said section the following: 'Provided, however, That whenever, in the opinion of the Civil Governor, any public wharf, landing place, street, or land is necessary or desirable in loading and unloading ships, or for any proper customs purpose at any port of entry, he is hereby given power and authority, by executive order, to declare that such wharf, landing place, street, or land shall be under the exclusive control and jurisdiction of the Collector of Customs or other customs official at such port of entry; but the exercise of such jurisdiction shall in no wise affect the general police powers of the municipality in which said wharf, landing place, street, or land is situated. After the issuance by the Civil Governor of an executive order setting apart such wharf, landing place, street, or land as above specified for customs purposes, all the provisions of this section shall apply thereto.'

"SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"SEC. 3. This Act shall take effect on its passage.

"Enacted, May 10, 1904."

PAR. II. Philippine customs officers shall give due publicity to the terms of this Circular.

H. B. McCoy,

*Acting Collector of Customs for the Philippine Islands.*

No. 319.—*Publishing letter from the Auditor for the Philippine Islands in regard to method of taking up receipts.*

MANILA, May 23, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following letter received from the Auditor for the Philippine Islands is hereby published for your information and guidance:

"MAY 13, 1904.

"To the ACTING COLLECTOR OF CUSTOMS, Manila.

"SIR: I have the honor to invite attention to certain erroneous methods of taking up receipts on your accounts-current and to respectfully request that if such items again occur they may be accounted for as now indicated:

"Fines collected from any source, through the courts or otherwise, should be taken up on the abstract of fines and penalties, not among 'Miscellaneous fees.' Amounts of money remaining in the hands of customs officials, and not definitely accounted for, such as over charge in the hands of the cashier, etc., should be taken up on your account-current of 'Miscellaneous collections,' not as 'Miscellaneous fees' on your regular account-

current. Any amounts not explicitly provided for on your account current should be taken up as collections of 'Miscellaneous revenues,' not as 'Miscellaneous fees.' The line on the account-current for 'Miscellaneous fees' is not intended to cover anything except revenues from fees collected under sections 392 and 393 of Act 355.

"Respectfully,

"A. L. LAWRIE, Auditor."

PAR. II. Philippine customs officers will give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

No. 320.—Publishing Act No. 1160 of the Philippine Commission, authorizing the Collector of Customs for the Philippine Islands to clear foreign vessels for the port of Isabela de Basilan.

MANILA, May 25, 1904.

To all Collectors of Customs:

PARAGRAPH I. The following Act, No. 1160 of the Philippine Commission, is hereby published for the information and guidance of all concerned:

"[No. 1160.]

"AN ACT AUTHORIZING THE COLLECTOR OF CUSTOMS FOR THE PHILIPPINE ISLANDS TO CLEAR FOREIGN VESSELS FOR THE PORT OF ISABELA DE BASILAN.

"By authority of the United States, be it enacted by the Philippine Commission, that:

"SECTION 1. The Collector of Customs for the Philippine Islands is hereby authorized to clear foreign vessels for the port of Isabela de Basilan, Island of Basilan, under such conditions and regulations as he may impose: *Provided*, That all expense incident to the entrance of a foreign vessel into the port of Isabela shall be a charge against such vessel, and shall be collected before the vessel is granted a foreign clearance.

"SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of 'An Act prescribing the order of procedure by the Commission in the enactment of laws,' passed September twenty-sixth, nineteen hundred.

"SEC. 3. This Act shall take effect on its passage.

"Enacted, May 19, 1904."

PAR. II. Foreign vessels shall not be cleared to the port of Isabela de Basilan except by the Collector of Customs at the ports of Jolo or Zamboanga, respectively, who, in making such clearance, will be guided by the special instructions received from this office, under date of May 24, 1904.

PAR. III. Philippine customs officers will give due publicity to the terms of this circular.

H. B. McCoy,

Acting Collector of Customs for the Philippine Islands.

**SPECIAL NOTICE.**

Special notice is called to an error which appears in the syllabus to the case of United States vs. Gardner, published in the Gazette for June 1, 1904, at page 425. The second paragraph of this syllabus is not a part of the dissenting opinion of McDonough, J., but belongs to the opinion of the majority of the court as delivered by Torres, J. The words "Per McDonough, J., dissenting;" should have been placed at the close of the second paragraph.

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 Special notice:  
 Defect in the syllabus of the case of the United States vs. Gardner, published in the Gazette June 1, 1904.

**SCHOOL DIVISIONS AND SUPERINTENDENTS.**

No.	Division.	Superintendent.	Headquarters.
1	Manila	G. A. O'Reilly	Manila.
2	Albay and Sorsogon	E. E. Fisher	Albay.
3	Camrines	W. Freer	Baybayan, Caceres.
4	Batangas	H. H. Buck	Batangas.
5	Bohol	E. B. Gibson	Tagbilaran.
6	Bulacan	(Vacant) Opha C. Lewis, acting	Baliuag.
7	Cagayan and Isabela	H. E. Burd	Tuguegarao.
8	Capiz	E. A. Coddington	Capiz.
9	Cavite	S. A. Campbell	Cavite.
10	Cebu	Samuel MacCallister	Cebu.
11	Iloos Norte	J. M. Knisley	Laon.
12	Iloos Sur and Abra	S. T. Letz (W. S. Dakin, acting)	Viñan.
13	Iloilo and Antique	G. N. Brink	Iloilo.
14	Laguna	W. E. Letz	Pagsanjan.
15	Union	C. H. Magee	San Fernando.
16	Leyte	(Vacant) J. L. Pisk, acting	Taclaban.
17	Masbate	H. G. Lamson (C. H. Hanlin, acting)	Masbate.
18	Mindoro	H. S. Townsend	Catbalogan.
19	Misamis	Guy Van Schaick	Cagayan.
20	Nueva Ecija	T. W. Thomson	San Isidro.
21	Nueva Visaya	J. M. Coleman	Baybongon.
22	Occidental Negros	Chas. E. Putnam	Bacolod.
23	Oriental Negros	S. T. Letz (W. S. Dakin, acting)	Dumaguete.
24	Pampanga and Bataan	W. A. Fruit (J. M. Gambill, acting)	San Fernando.
25	Pangasinan	E. G. Turner	Lingayen.
26	Rizal	R. G. Bunsford	Paig.
27	Romblon	G. E. Walk	Romblon.
28	Surigao	G. N. Briggs	Surigao.
29	Tarlac	(Vacant) V. Dalrymple, acting	San Fernando.
30	Tayabas	J. C. Auerman	Lucena.
31	Zambales	Otho Atkin	Iba.
32	Minhoro	Governor R. S. Olley	Calapan.
33	Penang	Governor W. F. Park	Baguio.
34	Lepanto-Bontoc	Governor Wm. A. Reed	Cervantes.
35	Panay	Governor E. Y. Miller	Cuyo.
	Non-Provided	N. M. Sells	Zamboanga.
	Philippine Nautical School.	W. J. Colbert, acting	Manila.
	Philippine Normal School.	W. J. Colbert, acting	Do.
	Philippine School of Arts and Trades.	R. P. Gleason	Do.

# Official Gazette



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VOL. II

MANILA, P. I., JUNE 22, 1904.

No. 25

## PUBLIC LAWS.

[No. 1168.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND AND CEDULA TAXES IN THE PROVINCE OF ORIENTAL NEGROS FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL AUGUST THIRTY-FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax and cedula tax for the year nineteen hundred and four in the Province of Oriental Negros, is hereby extended to August thirty-first, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 31, 1904.

[No. 1169.]

AN ACT SO AMENDING ACT NUMBERED SEVEN HUNDRED AND NINE AS TO PROHIBIT THE TRAFFIC IN INTOXICATING LIQUORS WITHIN A CERTAIN DISTANCE OF LAND USED BY THE UNITED STATES FOR MILITARY PURPOSES AT CALBAYOG, IN THE PROVINCE OF SAMAR, AND ALSO TO PERMIT THE SALE OF INTOXICATING LIQUORS WITHIN A CIRCUMSCRIBED AREA IN THE TOWN OF LUCENA, PROVINCE OF TAYABAS.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered Seven hundred and nine, entitled "An Act prohibiting the traffic in intoxicating liquors within certain distances of land used by the United States for military purposes and at certain camps therein named," is hereby amended by inserting after the words "for military purposes at Santa Mesa in the city of Manila," and before the words "Provided, however," the following words: "or within a distance of three-quarters of a mile of land used by the United States for military purposes near the town of Calbayog, in the Province of Samar."

SEC. 2. Section one of said Act Numbered Seven hundred and nine is hereby further amended by adding at the end thereof the following words: "and land within a circle with a radius of seven hundred yards with the center at the middle of the road

immediately in front of the parish church at Lucena, in the Province of Tayabas."

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, May 31, 1904.

[No. 1170.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF PAMPANGA FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL NOVEMBER FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Pampanga, is hereby extended to November first, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, May 31, 1904.

[No. 1171.]

AN ACT REPEALING ACT NUMBERED SIX HUNDRED AND ELEVEN, ENTITLED "AN ACT AUTHORIZING THE CIVIL GOVERNOR TO ISSUE PASSPORTS TO CITIZENS OF THE PHILIPPINE ISLANDS."

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Act Numbered Six hundred and eleven, entitled "An Act authorizing the Civil Governor to issue passports to citizens of the Philippine Islands," is hereby repealed.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 1, 1904.

[No. 1172.]

AN ACT PROVIDING FOR THE REVISION OF VALUATION FOR THE PURPOSE OF TAXATION OF CERTAIN PARCELS OF LAND IN THE MUNICIPALITY OF ILOILO BELONGING TO MATILDE JALANDONI DE LOPEZ AND ESTEVAN JALANDONI, SO AS TO CORRECT CLERICAL ERRORS.

Whereas it has been made to appear that an error was committed by the municipal board of assessors of the municipality of Iloilo and by the reassessment board of the Province of Iloilo in the classification and valuation of three parcels of land in Iloilo belonging to Matilde Jalandoni de Lopez and Estevan Jalandoni; and

Whereas the valuations placed upon said lands are found to be inequitable by reason of oversight and mistake in classification and valuation: Therefore,

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The provincial board of Iloilo, together with the provincial secretary and provincial fiscal of that province, are hereby constituted a special board with authority to correct all valuations of the property above stated on the assessment list of the municipality of Iloilo and to state just valuations, in money of the United States, of each of the parcels of land above referred to, and to correct any and all erroneous assessments of said parcels of land. The assessment list of the said lands, when so corrected, shall be as lawful and valid for all purposes as though the correction and reassessment herein provided for had been made by the board of tax revision at the proper time.

SEC. 2. The revision of the valuations and assessments of the parcels of land aforesaid shall be made and completed by the assessment board herein provided on or before the first day of July, nineteen hundred and four. The assessment and revaluations shall be made on notice to Matilde Jalandoni de Lopez and Estevan Jalandoni, and to the municipal authorities of the municipality of Iloilo, and each shall be entitled to be heard before the revision board herein provided. No appeal shall be allowed from the action of said board. The action of the majority of said board shall be deemed to be the action of the board, and binding.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage.

Enacted, June 1, 1904.

### DECISIONS OF THE SUPREME COURT.

[No. 1180. January 13, 1904.]

THE UNITED STATES, complainant and appellee, vs. ROSALIA ANACLETO ET AL., defendants and appellants.

1. \*CRIMINAL LAW: ESTAFA.—Where it appears that jewels worth more than 2,000 pesos, received from the owner upon the false representation that a third person desired to purchase them, have been converted by the person to whom they were delivered, and that they have not been returned or any information given as to their whereabouts, and that this fraudulent conduct has caused damage to the owner of such jewels, the facts constitute the crime of *estafa*, defined and punished in article 534, paragraph 3, and article 535, paragraph 5, of the Penal Code.

2. *Id.*: *Id.*: EVIDENCE.—The lack of proof that a third person took part in the receipt of certain jewels fraudulently converted, or participated in the profit derived from the sale thereof by the swindler, or that such person knowingly cooperated in the consummation of the crime requires the acquittal of such third person.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

ELEUTERIO RODRIGUEZ, for appellant.  
Solicitor-General ARANETA, for appellee.

TORRES, J.:

October 16, 1902, an information was filed in the Court of First Instance of this city against Rafaela Santos and Rosalia Anacleto, charging them with the crime of *estafa*. It was alleged that on or about the 10th day of June, 1902, Rafaela Santos and Rosalia Anacleto received certain jewels described in the complaint, the property of Doña Gregoria Cobarrubias, the total value of which was \$2,040, Mexican currency, and that between the said 10th day of June and the 9th day of October following the defendants, in the city of Manila, willfully, feloniously, and without the consent of the owner of said jewels, appropriated the same and converted them to their own use, to the damage of the prosecutrix and contrary to the statute in the case made and provided.

The complaint having been filed, the defendants were tried thereon. From the evidence introduced in the course of the proceedings it appears from a document in the record marked "Exhibit A," which is signed by the defendants and which was identified by them, the woman Anacleto admits that on the 10th day of June, 1902, the date of the document, she received from Bernabela Modesto, an agent of Doña Gregoria Cobarrubias, the jewels which, with their respective values, are described therein. These jewels, the document states, were delivered to Anacleto by the woman, Modesto, on the behalf of said Cobarrubias, the lawful owner thereof, upon the condition that they were to be sold for the respective prices indicated in the document. The document also stipulated that the jewels were to be returned as soon as possible if not sold, and the price of such jewels as were disposed of was to be duly paid over to their former owner.

It seems that early in the month of June, 1902, Rosalia Anacleto went to the house of Bernabela Modesto and asked for some jewelry to sell, upon the pretext that she knew some prospective purchasers. The woman, Modesto, thereupon went to the woman, Cobarrubias, and got from the latter the jewels which the woman, Anacleto, had asked for, and delivered them to the latter on the 10th of June. Since that time she has not recovered the jewels or their value. For more than four months Bernabela Modesto endeavored to recover the jewelry. She finally succeeded in getting Rosalia Anacleto and Rafaela Santos—the latter being a woman who, according to the defendant Anacleto, was her companion in the matter—to visit the owner of the jewels. On that occasion Rosalia stated that she had sold the jewels in company with Rafaela, and asked Señora Cobarrubias for some more jewelry to sell. The latter refused to give her any, and presented to the two women for signature the document noted on page 12 of the record. Rosalia, under numerous pretexts, tried to avoid signing, but finally Señora Cobarrubias made the two women subscribe to it. This document was introduced at the trial in the presence of the defendants and with their knowledge.

The facts related constitute the crime of *estafa*, defined and punished in article 534, paragraph 3, and article 535, paragraph 5, of the Penal Code.

The defendants, to the damage of the complaining witness, Gregoria Cobarrubias, made away with a number of pieces of jewelry itemized in the document introduced in evidence by the prosecution, the total value of the jewelry exceeding 6,250 pesetas.

\*Headnotes by Mr. Justice Torres.

The crime was committed by fraud and deceit, on the pretext that the defendants had some prospective purchasers for the jewelry. Relying upon this statement the owner delivered the jewels. These were not returned to her, nor did she receive the price thereof; consequently the action of the defendants was caused her damage.

The defendants pleaded not guilty, and denied having received any jewels from Bernabela Modesto. The defendant Rosalia testified that the jewels were received from Gregoria Cobarrubias, and that they had not been returned to her. Both defendants testified that they had signed a document in which they were granted an extension of time for the return of the jewels. The defendant Rafaela states that the jewels are now in the provinces. The defendant Rosalia testifies that the jewels have not yet been returned to their owner, and that this is the reason she has been accused.

Notwithstanding the denial and exculpatory allegations of Rosalia Anacleto, the record nevertheless contains sufficient evidence to show that she is guilty as principal of the crime charged. From the facts established by the evidence it appears that she received the jewels for sale on commission, subject to the obligation of returning them if they were not sold, or of delivering the money received if they were disposed of, and that she did not return the jewels or the money, notwithstanding the demands made upon her by Bernabela and her husband. She has acknowledged that she received the jewels, as appears from the document whose authenticity she admitted, and she acknowledges that she subsequently sold them. This statement was made by her in the presence of the owner of the jewels and of two witnesses. Nevertheless the money realized by the sale of the jewelry was not delivered to the owner. Consequently it follows that the defendant either misappropriated the money received, in the event that the jewels were actually sold, or else that she fraudulently converted to her own use and failed to pay for the jewels, to the damage of the owner thereof.

No generic, aggravating, or mitigating circumstances attended the commission of the crime, and therefore the penalty must be imposed in the medium degree.

With respect to the other defendant, Rafaela Santos, the evidence does not show that she received or took part in the receipt of the jewels in question. The jewels she referred to in her testimony must be different, judging from the other data in the case. Even if it be true that she cooperated in the sale of the jewels disposed of by the other defendant, the record still fails to disclose evidence that she had received any part of the product of such sales or that she had knowledge of the fraudulent acts of Rosalia Anacleto. Therefore Rafaela Santos can not be regarded as a participant in the commission of the crime, and she must accordingly be acquitted.

For the reasons stated we are of the opinion that Rosalia Anacleto must be convicted and sentenced to two years eleven months and ten days of *prisión correccional*, instead of *presidio correccional*, in accordance with the provisions of article 95 of the Code, together with the accessory penalties established by article 61 thereof, to the restitution of the jewels misappropriated by her, or to the payment of the value thereof, and in case of insolvency, to suffer the corresponding subsidiary imprisonment, which will in no case exceed one-third part of the principal penalty, and to the payment of one-half of the costs of both instances. Rafaela Santos is acquitted, with the other half of the *costs de oficio*. The judgment of the court below is affirmed in so far as it is in harmony with this decision, and reversed in so far as it is in conflict therewith.

Judgment will be rendered in accordance with this opinion and the case remanded to the court below for its execution.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1401. January 27, 1904.]

*THE UNITED STATES, complainant and appellee, vs. ESTEBAN BARE ET AL., defendants and appellants.*

**CRIMINAL LAW: BRIGANDAGE.**—The defendants were members of an armed band which attacked and looted the barracks of a detachment of the Constabulary and killed the commanding officer. *Held*, that the defendants are guilty of brigandage.

**APPEAL** from a judgment of the Court of First Instance of Surigao.

FELIPE CALDERON, for appellants.  
Solicitor-General ARANETA, for appellee.

In the month of March, 1903, a large party of armed men, of which the defendants were members, attacked the Constabulary barracks at Surigao, Mindanao, which they captured and looted. Captain Clark, the commanding officer, was killed. The other facts are stated in the opinion of the court.

MAPA, J.:

The accused are charged with the crime of brigandage. The Court of First Instance sentenced Esteban Bare and Donato Rodriguez to the death penalty, Vicente Arnisio to that of life imprisonment (*cadena perpetua*) and Fulgencio Enano and Bernardo Olbis to twenty years of imprisonment. The cause has been brought to this court for review of the judgment with respect to the first two defendants, and on appeal as to the latter three. The other defendants, twenty-seven in number, were either acquitted by the court below or failed to appeal from its judgment, which, as to them, has accordingly become final.

The guilt of Bare and Rodriguez and of the other three appellants is fully proved in the record. We agree with the findings of the lower court as to the responsibility of these defendants, and with its classification of the crime prosecuted. The penalties imposed upon Esteban Bare, Vicente Arnisio, Fulgencio Enano, and Bernardo Olbis are, in our opinion, also in accordance with law; but we do not concur in the imposition of the penalty of death on Donato Rodriguez.

The latter defendant was not permanently affiliated with the band of brigands. His connection with it was, it may be said, only momentary and transient. He neither entered the town of Surigao in their company, nor did he leave it with them when they retreated after sacking the Constabulary barracks therein located.

Eduardo de los Santos, the so-called major of the band, testifies that Donato Rodriguez arrived at the barracks during the course of the attack. He further states that he is unable to say whether or not Rodriguez was armed, because he did not observe him particularly in this respect. Vicente Atillo, another of the band's leaders, testifies that Donato Rodriguez was not with them when they entered Surigao, but that he joined them in the barracks, where Adriano Concepcion gave him a revolver, and that he separated from the party at the barracks. This witness also testifies that Rodriguez took no part in the occurrences at the barracks beyond the fact of receiving the revolver from Adriano Concepcion. That Rodriguez left the band while it was still at the barracks and took no part in the assault is conclusively established. During the progress of the assault, Rodriguez was in another place attempting to induce Agaton Dehaso, a Constabulary soldier, to surrender a revolver with which he was armed, telling him that the captain of the Constabulary, the captain of the port, and the provincial inspector had already been killed by the brigands. After this moment no one saw Rodriguez with the band. On the contrary, it appears that on the night following the attack on the barracks he presented himself to the local authorities.

There is a great difference between the degree of guilt of this defendant and that of Esteban Bare, also condemned by the



court below to the death penalty. It is fully proven that the latter took a direct and very important part not only in attacking and sacking the barracks but also in the murder of Captain Clark.

The fact that Donato Rodriguez was a member of the municipal police of Surigao, the consideration of which chiefly induced the court below to impose upon him the death penalty, should indeed be regarded as a circumstance in a high degree tending to aggravate the offense, but not to such an extent as to make it equal to that of Esteban Bare, who was guilty of the two grave crimes above mentioned.

The inculpatory facts with reference to Donato Rodriguez are very similar to those with respect to Vicente Armiso, who was condemned by the trial judge to life imprisonment. Although it is true the former was a municipal policeman, the latter likewise was a member of the Constabulary. Furthermore he participated in the assault upon his own barracks, firing in the course of the attack three shots at the provincial warden. Mr. Tracy, who endeavored to go to the assistance of those in the barracks. Donato Rodriguez was guilty of none of these acts. We see no reason for imposing upon him a heavier penalty than that imposed upon Vicente Armiso, which we consider to be wholly adequate.

Act 518, which defines and punishes the crime of brigandage, in designating the penalty to which the defendants should be condemned, makes no mention of "imprisonment in chains" (*cadena*), but simply of "imprisonment" (*prisión*). Consequently the penalty of *cadena perpetua* imposed upon the defendant Amiso should be understood as life imprisonment.

For the reasons stated we affirm the judgement of the Court of First Instance with respect to Esteban Bare, Vicente Armiso, Fulgencio Enano, and Bernardo Olbiss. The penalty of *cadena perpetua* imposed upon Amiso is changed to life imprisonment. The judgment is reversed with respect to Donato Rodriguez, whom we condemn to life imprisonment, imposing upon all the said defendants the costs of this instance.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1388. March 5, 1904.]

SILVERIO PAGUA FERNANDO, plaintiff and appellee, vs. PACIFICO SANTOS VILLALON ET AL., defendants and appellants.

1. \*HOLOGRAPHIC WILL.—The holographic will, also called the autographic will, has been introduced by the Civil Code as one of the means of expressing the last will, and was established in order to facilitate the secret expression of the desire of the testator.
2. ID.—REQUISITES.—The indispensable requisites to the validity of the holographic will are that the testator be of age, that the entire will be written in his handwriting and signed by him, that it be written upon stamped paper of the year of its execution, and that it contain a statement of the day, month, and year of its execution.
3. ID.—ID.—The conditions prescribed by the Civil Code for the validity of the holographic will are all of an essential character, none of them can be dispensed with, and all constitute the most efficacious guaranty of its authenticity.
4. ID.—PROTOCOLIZATION.—The holographic will does not acquire the character of a public instrument until it is protocolized in the archives of a notary public.

APPEAL from a judgment of the Court of First Instance of Bulacain.

The facts are stated in the opinion of the court.

JUAN MEDINA CUE, for appellant.

EBER C. SMITH, for appellee.

TORRES, J.:

In a petition dated March 11, 1902, the plaintiff, Silverio

Pagua Fernando, prayed that the defendants, be required to make delivery of a will alleged to have been executed by the late Lucia Villalon, in order that the same might be annulled; that judgment be rendered against the defendants declaring the said will null and void; that the estate of the deceased should be administered according to law, and that plaintiff have judgment against the defendants for the costs. To this effect he alleged that on the 7th of August, 1899, the said Lucia Villalon, the widow of the late Perfecto Bunag, of whom she was the lawful heir, died in the town of Bulacain; that the said Lucia Villalon died intestate, leaving no descendants or ascendants, lawful or natural, brothers, nephews, husband, or other collateral relatives, with the exception of the plaintiff, who was a first cousin of the deceased and the only heir to the estate; that Pacifico Santos Villalon was appointed by the court on the 23d of September, 1901, as administrator of the estate of the late Victoriano Villalon, who died on the 2d of September, 1900; that the said Victoriano Villalon, deceased, pretended that the property of said Lucia Villalon had been bequeathed to him by means of a holographic will which he alleged had been written in her own handwriting by the said Lucia Villalon in the barrio of Bagumbayan of the town of Malolos on the 25th of March, 1899; that the said alleged will was false, and was not executed or written by the said Lucia Villalon; that on the 26th of March, 1901, said holographic will was filed in the office of the notary, Don Genaro Heredia, in Manila; that the late Victoriano Villalon left four children, to wit: Augusto, Patrocino, Teofilo, and Rosalio Villalon, from whom the plaintiff claimed the property left by the said Lucia Villalon as heirs of Victoriano Villalon, deceased, by virtue of the holographic will alleged to have been executed by the said Lucia Villalon in favor of their late father.

The holographic will, written in Tagalog, a translation into Spanish whereof appears in the complaint, reads as follows:

"In the barrio of Bagumbayan, Bulacain, the 25th of March, 1899, I, Lucia Villalon, of this vicinity, 60 years of age, more or less, widow of Perfecto Bunag, and legitimate daughter of Paulino and Brigida Mataranos, fearing that the closed will which I executed on the 16th of this month may be destroyed or lost, have endeavored to write this present one in witness of the fact that of all the property I may leave, I institute as my heir my cousin, Victoriano Villalon, of Mariquina, or his six children, amongst whom is Augusto, to whose good conscience I leave the fulfillment of my charges in regard to the images of my saints, masses, and alms to the poor of any place whom he may deem worthy, since I have no forced heirs or even brothers. In witness whereof I sign."

On the 22d of June, 1902, the defendants made reply, first, that as to the facts alleged in paragraph 1 of the complaint, they denied that Lucia Villalon was the legal heir of Perfecto Bunag; that as to the allegations of the second paragraph they denied that Lucia Villalon had died intestate, because she had made a will twice, and denied likewise that the plaintiff was the first cousin and heir of the testatrix; that as to the third paragraph they denied that the defendant Pacifico Santos had been appointed administrator of the property of the late Victoriano Villalon, because the court had made delivery to him of the said property to which he was entitled by virtue of the will above referred to; that they specially denied that said holographic will was false, and alleged that it was written by the testatrix herself as her last will and testament; that they could not make delivery of the said will because the original was filed in the public archives and could not be withdrawn therefrom except by order of a court. The defendants also objected to any change in the administration of the property of the testatrix, alleging that it was being administered in accordance with law, praying that judgment be entered in their favor, declaring said will valid, for judgment against the plaintiff

for the costs, and for any other further relief as to which they might be entitled.

In this case the validity or invalidity of a holographic will is involved, and it is evident that of the four facts discussed in the litigation, the one which is to determine the result of the action is the second of said facts, which is the only real issue, the other facts found in the decision appealed from being merely secondary.

Section 688 of the Civil Code, under which the holographic will appears to have been executed, provides among other things the following: "In order that this will may be valid it must be drafted on stamped paper corresponding to the year of its execution, and be written in its entirety and signed by the testator, giving the year, month, and day of its execution."

One of the guaranties of the authenticity of a holographic will is that the same should be in its entirety written by the testator and signed by him, it not being permissible to intrust to another person the drafting or material operation of writing it out, because in such an event there would be lacking the basis for identifying the writing and signature of the will as those of the testator by comparison with other genuine specimens of his handwriting, which is the reason for this essential formality, since it is easier to forge the signature of the testator than the whole text of the will.

It is therefore an indispensable condition that the holographic will shall be written in its entirety by the person who executes the same, that it be wholly autographic, as this constitutes an efficient guaranty against all falsifications or alterations in the will of the testator.

The so-called heir, Victoriano Villalon, on the 8th of March, 1900, presented the original will of the late Lucia Villalon to the Judge of First Instance of the district of Tondo, who was authorized by the military government, as per communication on the 14th of said month from the Chief Justice of the former *Audiencia*, to take cognizance of the probate of said holographic will, as if he were the judge of the locality. The said judge proceeded to take the evidence required by the law, and examined three witnesses, all of whom affirmed that the handwriting and signature of said will were those of the late Lucia Villalon, and that they were satisfied beyond a reasonable doubt that the will was written and signed by her. Thereupon, by an order of the 24th of said month of March, 1900, it was ordered that the said will be filed in the office of the notary public, Señor Genaro Heredia, in conformity with the provisions of section 688 to 693 of the Civil Code.

During the trial of this action no document has been introduced written in its entirety and signed by the alleged testatrix, Lucia Villalon. All the documents and letters exhibited by the parties appear written by other persons, and only signed by Lucia Villalon. The four-line note, written on the back of the document which appears at page 102 of the record, is the only document which, by reason of its conciseness, may have been written by the said Villalon, who signed the same, but this can not be regarded as a matter of certainty, since the hand in which the note is written bears no similarity in outlines or general appearance to the letters which appear in the signature at the end of the note.

Enoc Guansing, one of the three witnesses who testified before the judge of the District of Tondo as to the authenticity of the holographic will in question, upon being examined during the trial, stated (bill of exceptions, p. 71) that he knew the testatrix and that he had been the lessee of a fish pond which had belonged to her; that he knew that Lucia Villalon had executed a will, because he had been one of the witnesses to the filing of the same in Manila; that he knew the handwriting of the testatrix, because he had in his possession documents signed by her, which he exhibited, and which were admitted without objection by the plaintiff (bill of exceptions, p. 72).

Lorenzo Salvador, Leoncio Barcelon, Isabelo Pineda, and Claudio Galves, witnesses for the plaintiff, testified to the contrary. Salvador said that he knew the signature of Lucia Villalon, because he had frequently seen receipts signed by her, some of which he had in his possession; that he was a relative of the deceased; that neither the writing nor the signature of the will, exhibited by the notary, Heredia, and which was shown to the witness, were those of Lucia Villalon; that the latter was unable to write a long document, as she only knew how to write her name and nothing more; that the signatures on documents marked 2 and 3, were the genuine signatures of the late Lucia Villalon, but that the signature attached to document No. 4 was not genuine. Leoncio Barcelon testified that he knew the late Lucia Villalon, who, during her lifetime, could hardly write her own name; he identified as genuine the signatures which appear on documents marked 3, 4, 6, and 7, and said that he had dealt with the deceased frequently and had seen her write many times. Isabelo Pineda stated that he had known Lucia Villalon for twenty years, and that during her lifetime she could hardly write her name—that he did not know whether she was able to write anything more than her name. Claudio Galves testified that he knew Lucia Villalon during her lifetime, and had had dealings with her. He stated that he understood that she was only able to write her name, and testified that the signature which appeared in document No. 6 was that of the testatrix, adding that on the three occasions on which he had seen her sign he observed that she did so with difficulty.

In view of this testimony this court decided to send for the protocol wherein the original holographic will, alleged to have been executed by the late Lucia Villalon, was filed, as well as the original court records containing documents and letters with the genuine signature of the deceased. Said protocol, having been received in the office of the clerk, with the holographic will and the original record, sent up by the court of Bulacan, a comparison was made of the signature and writing which appear in the will with the signature and writing in the original documents filed in the record, which both parties accept as genuine, special attention being paid to the signatures to the three letters of the late Lucia Villalon which appear on folios 74, 75, and 76, of the original record, transcribed at folios 49 and 51 of the bill of exceptions. From this examination, which was made by each one of the seven members of the court, the conclusion is reached that the writing and signature of the said will bear no resemblance to the genuine writing and signature of the late Lucia Villalon. The outlines of said signatures, which appear in documents of undisputed authenticity, are quite different. Therefore the court is convinced that said will was not written or signed by the late Lucia Villalon, as provided by law, and consequently that it is not proper to treat said document which was filed in the protocol as an autographic will of the alleged testatrix, and that it is not proper to admit the said document as a holographic will capable of producing legal effects with respect to the descent of the estate of the deceased.

This conclusion is a logical consequence reached from an examination of the alleged will of the late Lucia Villalon, and of various indisputable signatures of Lucia Villalon which appear on various authentic documents exhibited by the parties, as well as from the result of the evidence adduced by both parties as to the ability of the deceased during her lifetime to write or sign. Four witnesses presented by the plaintiff affirmed that they knew the late Lucia Villalon and testified that she was only accustomed to write her name when signing documents, some testifying that she could hardly write her name, others adding that they did not know whether she was able to write anything more. One of the four witnesses mentioned likewise stated that neither the writing nor the signature which appear in the document filed in the protocol, alleged to be the will of the late Lucia Villalon, was hers, alleging that the deceased was unable to

write a long document. This appears to be true in view of the fact that the party interested in upholding the will was unable to present any document or letter written by the alleged testatrix, and succeeded only in exhibiting a few documents and letters upon which appear only the signature of the late Lucia Villalon.

Only one witness, Enoe Guansing—one of the three who testified before the judge of Tondo, and who then identified the writing and signature of the alleged will—testifies as to the authenticity of said will, adding that he knew the writing of the deceased because he had in his possession documents signed by her, and produced said documents. But this testimony can not overcome the weight of the opposing evidence or bring about a different conviction from that already mentioned or change our conclusion that the document filed in the protocol, alleged to be a holographic will, was not written and signed in its entirety by the late Lucia Villalon. Moreover, even taking it for granted that the signature of the alleged holographic will is authentic, it is still invalid because it does not appear that it was written in its entirety by the testatrix, Lucia Villalon.

After what has been stated, it is almost useless to take up the three remaining facts which have been contested and appear set forth in the decision appealed from. They are as follows:

First. That the testatrix was not in the town of Bulacan on the 25th of March, 1899, the date of the execution of said will.

Second. That in the same the alleged testatrix declares herself to be the daughter of Brigida Mataranos, when her mother's name was Brigida Santa Maria, and

Third. That the will has not been drafted on stamped paper but on paper bearing the stamp of the Philippine Government, which never had a legal existence.

Apart from the fact that this last circumstance as to the kind of paper used might, perhaps, not authorize the annulment of the will the evidence adduced by the parties does not show conclusively the truth of the two first facts above stated, and for this reason, without giving any weight as did the trial court to the contradictory statements made by the witness Eugenio Paguaia, we find that the said document found in the protocol is not the holographic will of Lucia Villalon, that it was not executed, written, or signed by her, and consequently, it being null and void, her estate descended by operation of law to her legal heirs, who are in consequence entitled to take the property left by her.

For the reasons stated the judgment of the court below is affirmed, with the costs to the appellant.

Judgment will be entered accordingly twenty days from the filing of this decision and the case remanded to the lower court for compliance therewith. It is so ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1543. March 19, 1904.]

*THE UNITED STATES, complainant and appellee, vs. BENITO VERGARA ET AL., defendants and appellants.*

**CRIMINAL LAW; INSURRECTION; CONSPIRACY AGAINST THE GOVERNMENT.**—The defendants were tried and convicted upon an information charging them with the crime of insurrection. The evidence showed that they had organized and were members of a society whose purpose was to overthrow the Government by force, but failed to disclose any overt acts of insurrection. *Held*, that the conviction for insurrection can not be sustained, but that on the same information the defendants may be convicted of the lesser offense of conspiracy to overthrow the Government.

**APPEAL** from a judgment of the Court of First Instance of Pampanga.

The facts are stated in the opinion of the court.

**TIOS, L. HARTIGAN and MAXIMINO REINA**, for appellants.  
**Solicitor-General ARANETA**, for appellee.

**JOHNSON, J.:**

The defendants here were charged with the crime of insurrection. It is charged that the defendants, together with others, between the months of May, 1902, and June, 1903, had been inciting, setting on foot, and engaging in an insurrection against the authority of the United States in the Philippine Islands.

The evidence of various witnesses was taken in the trial of the said cause. Several of these witnesses testified that the defendants, and each of them, in the months of February and March, 1903, were organizing and did organize a society commonly known as the "Katipunan Society." Several witnesses also testified that the object of the Katipunan Society was to organize Filipino soldiers, and that the end and purpose of the said organization was against the United States Government in the Philippine Islands.

The evidence further shows that the defendants, and each of them, solicited various persons to become members of the said organization. The evidence further shows that the said Katipunan Society held various meetings in the house of one Manuel Ruiz, and in the house of Manuel Sandico.

It was shown also during the trial in the court below that these defendants were officers in the said society. The evidence further shows that the defendants, as chief officers of the said Katipunan Society, appointed various persons to the positions of captains, and captains of cavalry, and majors; that these captains and majors were given charge of sections or districts of country over which they were to exercise jurisdiction; that the said society contained a seal with the inscription "Republica Universal Democrata Filipina, Union, Patria, Fuerza." The evidence further shows that the said defendants, and each of them, at various times in the months of February and March, 1903, solicited funds from the people of the pueblo of Mexico, in the Province of Pampanga, P. I.

The defendants attempted to prove that they were organizing a new, independent Filipino church, known as the Aglipayan Church, and that the money which they were collecting was for the purpose of furthering the interests of this new, independent church. This latter fact, in the judgment of the court, was not established.

The fact that the defendants were not attempting to organize a religious society, and that the money which they were collecting was to be used for that purpose is disproved by their own acts and conduct. The defendants admitted that when they received word that the public authorities were investigating their conduct with reference to the society which they had organized and the purposes for which they were collecting the money, they immediately left their homes and went into the mountains and remained in hiding from about the 31st day of March, 1902, until the 24th day of May of the same year. There certainly could be no object in the defendants leaving their homes, going into the mountains, and remaining in hiding for the larger portion of two months to avoid the public authorities if their purposes in organizing the said society and the collection of the said money had been legitimate.

The defendants were charged as having violated section 3 of Act No. 292 of the United States Civil Commission. This section provides:

"Every person who incites, sets on foot, assists, or engages in a rebellion or insurrection against the authority of the United States \* \* \* shall, upon conviction, be imprisoned for not more than ten years and be fined not more than \$10,000."

From the evidence adduced in this case we are of the opinion that the said defendants are guilty, not of inciting, setting on foot, or assisting or engaging in rebellion, but rather of the crime of conspiring to overthrow, put down, and destroy by force the Government of the United States in the Philippine Islands, and therefore we find that the said defendants, and each of them, did, together with others, in the months of February and March,

1903, in the Province of Bulacan, Philippine Islands, conspire to overthrow, put down, and to destroy by force the Government of the United States in the Philippine Islands.

The Court of First Instance, which tried the said defendants, imposed upon Benito Vergara the penalty of six years of imprisonment and \$5,000 fine, and upon Cristino Ongton the penalty of four years' imprisonment and \$2,000 fine, and that each should pay one-half the costs. Inasmuch as those who are guilty of a conspiracy to put down or destroy by force the Government of the United States in the Philippine Islands may be punished in accordance with the penalty imposed in this case by the court below, it is the judgment of this court that the judgment of the court below be affirmed as to the penalty imposed, and therefore it is the judgment of this court that Benito Vergara be imprisoned for the period of six years and to pay a fine of \$5,000, and that Cristino Ongton be imprisoned for the period of four years and to pay a fine of \$2,000, and that each shall be adjudged to pay one-half the costs of both instances.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and McDonough, J.J., concur.

*Judgment affirmed.*

[No. 1245. March 21, 1904.]

**THE UNITED STATES, complainant and appellee, vs. CASIANO SAADLUCAP, defendant and appellant.**

1. \*CRIMINAL LAW: HOMICIDE.—Where it appears that serious wounds inflicted upon a woman caused her death, the commission of the offense not being attended by any qualificative circumstance, the crime must be classed as homicide, under the provisions of article 404 of the Penal Code.
2. *Id.*: *Id.*: AGGRAVATING CIRCUMSTANCES: SEX: AGE.—Where the proof shows that the deceased was of advanced age and of the female sex these circumstances must be considered in aggravation of the penalty.
3. CRIMINAL PROCEDURE: COMPLAINT OR INFORMATION: CONVICTION FOR LESSER OFFENSE.—Notwithstanding the fact that the offense charged in the information is murder the accused can be convicted of homicide, because the latter offense is necessarily included in that of murder, and the violent death of a person constitutes homicide or murder if its perpetration is attended by qualificative circumstances requiring the higher penalty.

APPEAL from a judgment of the Court of First Instance of Misamis.

The facts are stated in the opinion of the court.

ANTONIO V. HERRERO, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On November 17, 1902, the provincial fiscal filed an information in the Court of First Instance of Misamis charging Casiano Saadlucap with the crime of murder, in that the said Saadlucap in 1899, with evident premeditation, in Julao-Julao, of the capital of Misamis, with a cutting weapon, killed an old woman named Ines Acosta, contrary to the statute in the case made and provided.

The accused pleaded not guilty. From the testimony of Andres Baal and that of an infidel Moor named Danga, given at the trial, it appears that one morning in the year 1899 about 8 o'clock, the day and month not appearing, the witnesses, who were going to assist the accused in gathering coconuts, found him with blood stains upon his clothing, near the corpse of a woman, lying face downward, with spots of blood on her shoulder; that the accused told them that he had killed the woman because she had told Fausto Sarenas that he, the accused, had stolen some bananas belonging to the said Sarenas; that he then asked the witnesses to assist him in taking the corpse to the place where he proposed to bury it; that they refused to do this and

ran away; that impelled by curiosity they concealed themselves behind some bushes and then saw him, aided by his wife, Saturnina by name, bury the corpse near a clump of bamboo; that after Danga was imprisoned, for some reason which does not appear, the body was exhumed; that the witness Baal was subsequently informed by Fausto Sarenas that the accused had told the said Sarenas that he had killed the old woman Ines; this was three months after the occurrence.

Fausto Sarenas testified that Ines Acosta lived in a shed belonging to him from 1898 to 1900; that she died in 1900, three months after the Americans arrived at Cagayan; that on account of the woman's disappearance he instituted a search for her; that a year afterwards the accused, who had lived near the witness's land long before the death of Ines and who was known to the witness as he frequently came to his house, told him that he was the one who had killed the woman; that this statement was made by the accused one morning in the presence of the witness's wife; that the accused made this confession upon being questioned by the witness, who knew the facts beforehand, having been informed thereof by the said Danga and Baal; that the corpse was disinterred in December, 1901.

Carpio Nery testified that one day while the accused was in his house he asked him to state why he had killed the woman, Ines; that the accused replied it was because she had charged him with stealing bananas, and stated further that on that occasion he, the accused, had asked the witnesses Danga and Baal to help him gather coconuts, but that upon seeing the corpse of the woman they ran away; that the witness asked the accused this question as he had already heard the facts from others. Albina Talacuan testified that she heard of the occurrence after the accused was in jail.

Upon this testimony, on February 9, 1903, the judge below rendered a decision convicting the accused and condemning him to the penalty of life imprisonment (*cadena perpetua*) with the costs *de oficio*, from which decision the defendant appealed.

From the testimony of credible witnesses it has been shown that Ines Acosta was mortally wounded in the shoulder with a pocketknife and that her body was buried in the field a short distance from the house of the accused. In view of the fact that no qualificative circumstance was present in the commission of the crime which would justify a higher classification the offense must be regarded as homicide, defined and punished in article 404 of the Penal Code.

Although the accused pleaded not guilty to the crime of which he was charged, the proof of his guilt is entirely sufficient. We have not only the testimony of the two witnesses who saw him, his clothes stained with blood, burying the corpse of Ines Acosta, and the fact that she disappeared from that time on and that her body was found when it was exhumed in December, 1901, but we also have the testimony of two others, one of whom was the employer of the deceased, who affirmed that they heard the accused confess that he had killed the woman whose body was buried some 15 brazas from his house, from which place it was subsequently exhumed in the presence of Fausto Sarenas, the employer of the deceased. Consequently the guilt of Casiano Saadlucap as sole principal, by direct participation, of the crime of which he is charged, is unquestionable.

In the commission of the crime aggravating circumstance No. 20 of article 10 of the Penal Code must be considered against the accused by reason of the sex and advanced age of the deceased, there being no mitigating circumstances to offset these.

Although the defendant was charged with murder in the information, he can, nevertheless, under the provisions of the procedural law, be convicted of homicide, for this offense may be considered as included in the crime of murder, as the violent killing of a human being may constitute either of these crimes.

For the reasons stated we are of the opinion that the judgment

\*Headnotes by Mr. Justice Torres.

below should be reversed and Casiano Saadluap convicted of the crime of homicide and sentenced to seventeen years four months and one day of *reclusión temporal*, with the accessory penalties of absolute temporary disqualification to its full extent, and subjection to the vigilance of the authorities during the period of the penalty and for another equal period to run from the date of its expiration, to the payment of 1,000 Insular pesos to the heirs of the deceased, and to the costs of both instances. Judgment will be entered accordingly and the case remanded to the court below for execution thereof, with a certified copy of this decision.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1353. March 22, 1904.]

**ANA MARIA ALCANTARA, plaintiff and appellant, vs. MIGUEL MONTENEGRO, defendant and appellee.**

**APPELLATE PROCEDURE; FINDINGS; JURISDICTION OF APPELLATE COURT; MOTION FOR A NEW TRIAL.**—In the absence of a motion for a new trial upon the ground that the findings of fact are contrary to the evidence, the appellate court can not review the evidence; its jurisdiction in such a case is limited to deciding the questions of law presented by the bill of exceptions.

**APPEAL** from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

ALFREDO CHICOTE, for appellant.

FELIPE G. CALDERON and GREGORIO PINEDA, for appellee.

TORRES, J.:

On June 3, 1902, Señor Alfredo Chicote, as attorney for Doña Ana Maria Alcantara, filed a complaint against Don Miguel Montenegro alleging that the plaintiff was the owner of a house and lot situated in Calle Soledad, of the District of Tondo, which said lot is bounded on the right by the lot belonging to the defendant, on the left by an unnamed street, at the back by lots belonging to Don Hermogenes Fabian, Don Gavino Juanenco, and Don Clemente del Rosario; that the area of the said lot was 979.64 square meters; that it was in the form of a trapezoid and on the back part of the lot there was a projecting piece measuring 6.65 square meters on the right, and 6.45 square meters on the left; that the defendant, on or about the middle of December, 1901, exceeding the limits of his own land, willfully and intentionally took possession of part of the land of the plaintiff to the extent of 2.20 square meters, upon which he constructed part of the building erected on his lot adjacent to that of the plaintiff, and to her damage. Upon these facts the plaintiff prayed for judgment against the defendant, declaring the 2.20 square meters of land referred to to be her property; that the plaintiff be restored to her rights and that she recover of the defendant the sum of \$100 as damages for the wrongful possession by the defendant of the said land from the month of December, 1901, for the costs of suit, and such further relief as might be just and equitable.

In his answer the defendant admitted the first part of the complaint, but alleged that he was unaware of the extent of the plaintiff's lot. He denied the statements in paragraph 2, and set up in defense that although it was true that he had constructed a building upon a lot belonging to him adjacent to that of the plaintiff he had not gone beyond the limits of the said lot, and had not taken possession of any part of the plaintiff's lot; the defendant prayed for judgment that the plaintiff take nothing by her action.

The judge, upon these pleadings and in view of the documentary and oral evidence introduced by both parties, rendered judgment

January 31, 1903, for the defendant, Montenegro, with the costs against the plaintiff.

In its decision the court held that the burden of proof being upon the plaintiff to establish the facts alleged by her, the evidence introduced in support of the complaint was insufficient to show that she was the lawful owner of the 2.20 square meters of land occupied by the house of the defendant claimed by her, and therefore directed that she take nothing by her action.

As no motion for a new trial was made by the appellant upon the grounds mentioned in the second part of paragraph 3 of article 145 and in paragraph 3 of article 497 of the Code of Civil Procedure, this court will not review the evidence taken in the court below, as in such a case the jurisdiction of the court is limited to determining questions of law raised by the appellant in the assignment of errors alleged to have been committed by the court below in the judgment appealed.

In this case the Supreme Court acts as a Court of Cassation and can not rehear the questions of fact. The plaintiff did not make a motion for a new trial, but simply excepted to the decision of the trial court, as appears from page 26 of the bill of exceptions. The court, in deciding questions of law raised by the bill of exceptions in the brief of the appellant, is by the law bound to abide by the findings of the court below upon the evidence introduced by the parties.

The judge below having determined upon the evidence that the ownership of the plaintiff to the 2.20 square meters claimed by her was not proven, for the reasons above stated, the judgment of the court below must be affirmed, with the costs against the appellant.

Judgment will be entered accordingly twenty days from the date of the filing of this decision, and the case will be remanded to the court below.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1315. March 24, 1904.]

**THE UNITED STATES, complainant and appellee, vs. EUSEBIO VERSOSA, defendant and appellant.**

**\*CRIMINAL LAW; RAPE.**—Where it appears that the accused, armed with a bolo, met a woman on a lonely road, compelled her to go with him into a forest, and there by threats of death forced her to submit to sexual intercourse with him, he is guilty of the crime of rape.

**APPEAL** from a judgment of the Court of First Instance of Tarlac.

The facts are stated in the opinion of the court.

JOSE MA. ROSADO, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On the 7th of March, 1903, the provincial fiscal of Tarlac filed an information in the Court of First Instance of that province charging Eusebio Versosa with the crime of rape, in that on the morning of January 21 last, while Maria Junio, a married woman, was walking through the fields from her house in the town of Camiling toward the barrio of Sinilian, she was stopped by Eusebio Versosa, who, bolo in hand, compelled her to go into the neighboring forest where, by means of intimidation, he succeeded in having sexual intercourse with her and then restrained her of her liberty until the following day, this contrary to the statute in the case made and provided.

In her sworn testimony the complaining witness testified that she was 19 years of age; that she was acquainted with the

defendant, Versosa, as the latter frequented the house of her brother which was a short distance from her own house, where she had also seen him several times; that she was stopped by Versosa on the morning in question while walking through an uninhabited field toward the barrio of Sinilian where she was going to buy sugar; that she was compelled to follow him, being intimidated by his threats that he would kill her with his bolo if she would not go with him into the forest at Lasung; that while there he had sexual intercourse with her twice and restrained her of her liberty until the following day, when he permitted her to go; that the clothing she was wearing was torn; that on the occasion in question she was alone and did not see anyone in the said field, which was a long way from the town; that upon returning to her home she informed her husband of what had occurred.

Balbino Libre, or Simbre, also testified under oath that Eusebio Versosa, the brother of a neighbor of his, frequently went to his house to get water; that the said Versosa one morning early in the month of January stopped the witness's wife in the road, and, threatening to kill her, made her go into the forest at a place called Lasung, where he had carnal knowledge of her and kept her in detention until the following day; that he had never heard that his wife sustained illicit relations with the said Versosa.

Upon this testimony the court below rendered judgment March 23, 1903, convicting the defendant of the crime of rape and condemning him to the penalty of fourteen years and ten months of *reclusión temporal*, with the accessories and to the payment of the costs, from which judgment the defendant appealed.

The defendant first pleaded guilty, but his attorney subsequently withdrew the plea and substituted for it that of not guilty.

The act committed by Eusebio Versosa constitutes the crime of rape, defined and punished in article 438 of the Penal Code. The evidence shows that Eusebio Versosa stopped a woman named Maria Junio in an uninhabited place and by force and intimidation conveyed her into the forest where he twice succeeded in having carnal knowledge of her by threatening to kill her.

Although the accused pleaded not guilty his guilt is sufficiently established by the evidence. The defendant alleged that he had sustained illicit relations with the complaining witness and that on this account he frequented her house; that on the 21st of January they both went to the barrio of Barang and stayed together for four days in the house of one Molis in that barrio; that one day they were surprised by Ramon Fernando; that the complaining witness had been his mistress for some two years, notwithstanding the fact that she was a married woman; these statements, however, were not proven and have been absolutely denied by the complaining witness, Maria Junio, in her subsequent testimony. She testified that she was unable to return to her house at once, as the defendant would not allow her to go.

The husband of the complaining witness in turn testified that he had been married three years and had never heard that his wife had made assignations with the defendant, Versosa, or sustained amorous relations with him. He further testified that he reported the facts to the *teniente* of the barrio of Maraui on the same day his wife returned and informed him of the facts.

This case concerns a crime which, owing to the precautions taken by the criminal, is generally committed in an isolated place where there is no danger that the assault upon the victim will be seen. This case adds one more to the many with which the courts have dealt. It was committed in an uninhabited place, in the interior of a forest, on the person of a married woman 19 years of age by a man of 30, armed with a bolo.

Between the assertions of the complaining witness and the denial of the defendant, in view of the nature of the crime, and the circumstances under which it was committed, one can but be convinced that the charge is true. The sworn testimony of the defendant himself shows not only that he is guilty but that in addition to this he has made assertions which tend to dishonor

his victim, the accused affirming that she was his mistress but without proving or even making an attempt to prove this imputation, by the testimony of the two witnesses whom he had subpoenaed for that purpose. Consequently, in view of the absolute denial of the complaining witness and of her husband we can but conclude that the crime was actually committed, that the defendant is guilty, and that his exculpative allegations are false.

No generic, mitigating, or aggravating circumstance occurred in the perpetration of the crime, and consequently the adequate penalty must be imposed in its medium degree.

Therefore we are of the opinion that the judgment appealed must be affirmed, with the costs against the appellant. Judgment will be entered accordingly and the case remanded for execution thereof with a certified copy of this decision.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment affirmed.*

[1575. March 24, 1904.]

THE UNITED STATES, complainant and appellee, vs. LAUREANO MIJARES ET AL., defendants and appellants.

1. \*CRIMINAL LAW: MURDER.—Where it appears that the deceased was struck while he was asleep, the assailant inflicting a severe blow on the back of his neck and also strangling him with a piece of cord brought for that purpose, the facts constitute the crime of murder, by reason of the concurrence of the qualificative circumstance of *alcousia*.
2. *Id.*: PRINCIPALS.—The criminal liability of those who, by virtue of an agreement and by means of a reward or recompense offered or promised, induce another to commit a crime, is that of *co-principals* because their participation in the crime by direct suggestion or inducement is equivalent to moral coercion.

APPEAL from a judgment of the Court of First Instance of Occidental Negros.

The facts are stated in the opinion of the court.

P. Q. ROTHSOCK, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

On December 3, 1902, an information was filed in the Court of First Instance of Occidental Negros by the provincial fiscal charging Pedro Mijares, Laureano Mijares, Pedro Git, and others with the crime of murder, in that one Saturday prior to November 11, 1903, for the purpose of appropriating to themselves certain lands belonging to Miguel Pastor, and of preventing him from making any claim with respect thereto, his brothers-in-law, Pedro Mijares and Laureano Mijares, who were working the said lands, in the house of the latter, proposed to Pedro Git and Laureano Sernal that they kill Pastor, promising a remuneration of 100 pesos and charging them to commit the crime with clubs to avoid the shedding of blood by which the crime might be revealed and in order that it might be attributed to the cholera, which was then epidemic; that this proposition having been accepted, Git and Sernal determined to carry it out about midnight on the said 11th day of November, while Pastor was sound asleep in his house in Bontot, of the township of Escalante, in that province, in which house Git and Sernal were living as laborers employed by the deceased; that Pedro Git struck the deceased a heavy blow on the neck with a piece of wood and immediately thereafter, with the assistance of Julio Occia, Pastor was bound with a rope, which had been furnished for that purpose by Pedro Mijares, and thus prevented from defending himself; that as the result of the injuries inflicted upon him Pastor died, and his body was buried some hours after in the cemetery to which it was taken with the assistance of Basilio Situado, Petronilo Berdaga, and Eugenio Berdaga, of whom the first named was suspected of

\*Headnotes by Mr. Justice Torres.

having sustained illicit relations with the wife of the deceased, for which reason the latter, some days before, had expelled him from his house, that Petronilo Berdaga found spots of blood in the house but did not make any investigation, thereby giving an opportunity for the concealment of the crime. These facts are proven by the confessions and the testimony hereinafter cited.

On motion for the attorney for the defendants Pedro and Laureano Mijares, the judge directed that they be given a separate trial from the other accused. This case was therefore prosecuted separately from the principal case, No. 386, tried in the same court in which Pedro Git and others are defendants charged with the same crime of murder. In this case judgment was rendered April 23, 1903, convicting the defendants Laureano Mijares and Pedro Mijares and sentencing them to the death penalty, to be executed in the manner prescribed by the law of the Civil Commission upon that subject, the payment of an indemnity of 1,000 pesos to the heirs of Miguel Pastor, and to the payment of one-half of the costs by each one.

It appears from the record that the defendants Pedro and Laureano Mijares upon being arraigned pleaded not guilty to the crime of murder with which they are charged in the information.

The crime upon which this prosecution is based was discovered under the following circumstances: Maximo Gamao, about 8 o'clock in the morning of November 12, 1902, went to the cemetery of Escalante to get a carabao of his which was staked out there, and while passing by a grave he observed spots of blood on the grass around the edge. The gravediggers who were there at that time told him that Miguel Pastor had been buried in that grave; Gamao immediately informed Claro Singson, municipal president of Escalante, of these facts and that officer immediately went to the cemetery accompanied by Juan Alarcon, the municipal secretary; the justice of the peace, and Agustin G. Barber, the provincial sanitary inspector. The statements made by their informant were corroborated by their own observations and they then proceeded to exhume the body which had been buried in a grave barely knee-deep. In the grave they found the body of Pastor, which was immediately identified by the persons there present. The body was found to be wrapped in a mat covered with blood. A hemp cord was found wound five times around the neck of the corpse, one end of which was bound to one of the arms. The face of the corpse was bruised and a large wound was found on the back of the neck, as also other slight abrasions on the face and one of the hands.

From the medical certificate subscribed by Mr. A. G. Barber, the provincial sanitary inspector above named, and by whom the body was examined after it was exhumed in the cemetery, it appears that a deep wound was found on the back part of the head, the skull having been pierced behind the right ear some two inches away from the petrous portion, apparently inflicted by a sharp-pointed instrument; that the nose, mouth, and cheeks were observed to be bruised and swollen, and certain wounds on one of the hands, which indicated that there had been a struggle. The inspector was of the opinion that the deceased had been strangled by means of the cord wound around the neck and that the wound in the skull, penetrating to the brain, from which a large quantity of blood exuded, had been inflicted afterwards, the death of the deceased having been caused by strangulation.

Pedro Git, one of the defendants in the principal case, in which the evidence shows that he it was by whom the crime was actually committed, testified in this case that one Tuesday afternoon, which he said was the 12th of November, 1902, Pedro Mijares asked him to go to the house of his brother Laureano; that he went there and upon his arrival Laureano asked him certain questions concerning conversations he had had with Miguel Pastor concerning the latter's intentions; Laureano informed him that he was angry with his brother-in-law, Pastor, and on this account proposed

to him that he kill Pastor; that he did not accept this proposition at first, as he had had no trouble with Pastor, who was, moreover, his employer; that Laureano insisted and in the meantime gave him several drinks of wine telling him not to be afraid as he, Laureano, was a member of the town council and that they could attribute the death to the cholera and bury the body immediately; that both the brothers so pled him with wine that he finally decided to accept the proposition; that they then sent for Laurencio Sernal, who lived in the house of the deceased, and upon his arrival told him that if anything happened that night in Pastor's house, to keep quiet, because they had ordered that Pastor be killed; that Laurencio then said: "I have nothing to do with it;" that after he had supper in Laureano's house, the latter and Pedro told the witness Git not to use a cutting weapon, so as to avoid bloodshed and that he had better use a club; that they then gave him a piece of hemp rope and a box of matches so that he might find the place where Pastor was lying if there was no light in the house; that by this time the witness was greatly excited and almost out of his mind, and, forgetting his affection for Miguel Pastor, went to the latter's house, struck a match, and saw that his victim was not lying on the bed but on the floor; that he thereupon struck Miguel, who was lying on his side, a heavy blow on the back of the neck, whereupon the wounded man commenced to call for help; that the witness then tied the rope to one of the arms of the deceased and took several turns with it around his neck, at the same time calling upon Laurencio Sernal and Julio Oecia to come to his assistance, which they did, holding the deceased down; that he then went to look for Pedro Mijares and reported Pastor's death to him, whereupon Mijares went to the house for the purpose of seeing whether Pastor was really dead, and, finding him a corpse, said: "Pardon me, brother Miguel," that upon this Pedro Mijares and the witness left the house to get some pieces of bamboo, with which they returned to the house of the deceased; that with this bamboo Laurencio Sernal made a crate, in which the body was placed after it was wrapped in a mat as though it were a bale of tobacco; in the meantime they went to the house of Laureano Mijares to tell him that his brother-in-law, Pastor, was dead; Laureano ordered them to bury the body at once but did not go to see the corpse nor accompany them to the chapel; that for the purpose of burying the corpse they called upon Basilio Situado and Eugenio Berdaga, who, with the witnesses Laurencio Sernal and Julio Oecia carried the body to the cemetery and buried it before daybreak, Pedro Mijares having remained in the house to get breakfast. The witness added that when he and Pedro Mijares told Laureano Mijares that Pastor was dead, Pedro demanded of his brother that Tomas Morin, a son-in-law of the latter, should assist in the burial, but Laureano would not consent, saying that Tomas was obliged to look after his wife, who was just recovering from an illness; that the witness had never received the money which the Mijares offered him, because they were immediately arrested; that while he was in the house of Laureano Mijares on the day in question, Tomas Morin and his wife and some children were also there but they did not hear the conversation between the witness and the Mijares because they were in the kitchen.

Petronilo Berdaga testified that about 3 o'clock on the morning of November 12, Pedro Git, Pedro Mijares, and Julio Oecia came to his house and asked him to assist in carrying the body of Miguel Pastor to the cemetery, saying that he had died of cholera; that he declined to go but directed his brother Eugenio Berdaga to do so; that on the following day, in the morning, upon going to the chapel, they found this man there without the body, which had already been buried, and at that time observed some spots of blood on the floor of the house; that Git assured him that the deceased had been passing blood through the rectum; that he subsequently heard that Pastor did not die of cholera but had been murdered and that his assassins had been arrested.

Paulo Sernal testified that on the night of the murder he went to bed with Miguel Pastor and upon awakening the following morning found that Pastor was not in bed; that subsequently, when they were all arrested, he learned that Pastor had been killed and his body buried. Laurencio Sernal, Eugenio Berdaga, and Basilio Situado corroborated the testimony of Pedro Git. Sernal testified that when he was aroused by the cries of Miguel Pastor, in whose house the witness was sleeping, there being no light, he sat up and began to feel around the floor to find the place where Pastor was lying; that when he touched Pastor, Git struck a light and then he saw that Pastor was dead, with one hand tied to a rope, which was wound around his neck several times; that Julio Oecia was sitting by the side of the corpse, near which he saw a piece of wood about as thick as a man's arm; that he subsequently heard Pedro Git state that he it was who had wound the cord around the dead man's neck. Basilio Situado and Eugenio Berdaga testified that he had helped convey Miguel Pastor's body to the cemetery and were told by Pedro Git that Pastor had died of cholera; that Git and Pedro Mijares went to their house and asked them to render this service, but that they did not see the corpse, which was already wrapped up when they arrived; that when they asked Pedro Git about the drops of blood which Berdaga afterwards observed upon his trousers, Git replied that the deceased had been passing blood, although they subsequently learned that he had been killed and that his body was found with a cord wound around the neck.

Apolonio Quintao, a Constabulary corporal, who arrested the accused, said that after they were all arrested, Pedro Git confessed that they had killed Miguel Pastor by order of one Guiao, the nickname of Laureano Mijares, who had offered 100 pesos to have his done, which money was to be paid after the corpse was buried; that this conversation was heard by several members of the Constabulary and by Git's codefendants; that Laureano had also said that Git's debt to Miguel Pastor would be cancelled in addition to the remuneration of 100 pesos if Pastor was killed.

Tomas Morin testified that about 3 o'clock in the morning of the day Miguel Pastor was killed, Pedro Mijares and Pedro Git came to the house of the witness's father-in-law, Laureano Mijares, and informed the latter that Pastor had died of cholera.

Upon this evidence, the court below, on the 23d of April, 1903, rendered judgment convicting Laureano Mijares and Pedro Mijares of the crime of murder and condemning them to the death penalty, to be executed in the form prescribed by the law of the Civil Commission to pay the heirs of Miguel Pastor an indemnification of 100 pesos, and to pay the costs of the prosecution. The court directed that the judgment be sent to the Supreme Court for review. Both the defendants appealed.

The facts related, fully established by the evidence and by the confession of the material author of the violent death of Miguel Pastor, constitute the crime of murder. The evidence shows that late at night on November 11, 1902, while sound asleep, a heavy blow was inflicted upon the deceased with a piece of wood, producing a serious wound on the back of the neck and, while suffering from the stunning effects of this blow, he was strangled with a rope wound around his neck. The assault was made treacherously and with no risk whatever to the assailant which might arise from an attempt at self-defense on the part of the deceased. Consequently there can be no doubt as to the concurrence of the qualificative circumstance of *alevosia* in the commission of the crime.

The result of the ocular inspection conducted by the local authorities and the sanitary officer in the cemetery of the town of Escalante, a few hours after the crime was committed and the body buried; the context of the certificate issued by the physician as the result of his examination of the corpse, upon

the neck of which a serious wound was found, and a number of slight abrasions on the face and one hand; and the evidence of strangulation by means of the rope which was found around the neck—all confirm the testimony of Pedro Git, by whom the crime was materially executed, his statements being corroborated by those of the other accused Laurencio Sernal and Julio Oecia, who participated in and were eyewitnesses to the perpetration of the crime.

The guilt of Git, Sernal, and Oecia, having been determined in the decision rendered a few days before by this court, and as this prosecution concerns solely the question of the participation in the crime of the defendants herein, the Mijares brothers, this decision must necessarily deal with them alone.

The evidence for the prosecution with respect to the defendants, Laureano and Pedro Mijares, given the weight it merits in the exercise of sound discretion, is sufficient to fully convince the mind of the guilt of these two men, who doubtless conceived the idea of the treacherous killing of Miguel Pastor and proposed its execution to Pedro Git, of whom they availed themselves for the commission of the crime, promising a remuneration of 100 pesos.

The explicit and insistent testimony of Pedro Git in which he accuses the two Mijares brothers as the instigators of the murder of Miguel Pastor, which charge was first made against them by him when he was arrested and was repeated frequently with all the details of the conference between Git and the Mijares brothers, held on the afternoon of the day of the crime, of the flattering promises they made him, of the conduct of these brothers who plied Git with wine until he was thoroughly intoxicated and prepared to execute their criminal design, all the details of the commission of the crime, and the burial of the body in the cemetery and the fact that Git immediately notified Pedro Mijares and subsequently Laureano Mijares that Pastor was dead and the fact that the testimony of Git has not been contradicted on any essential point but has rather been confirmed by the statements of his codefendants, Sernal and Oecia, and by the testimony of the other defendants who were acquitted, show clearly and evidently the truth of his assertion—that is, that Laureano and Pedro Mijares were actual participants in the crime of murder, herein prosecuted as instigators, there being nothing in the record to induce the belief that the charge against them is false.

Pedro Mijares, upon being informed by Pedro Git that his brother-in-law, Miguel Pastor, was dead, which information the brothers were expecting that night, after their proposition to commit the crime had been accepted by him, immediately left his house and went to the house where the crime was committed, for the purpose of determining whether his brother-in-law, Miguel Pastor, was really dead. He then left the house accompanied by Git for the purpose of making preparations with all possible haste for the burial of the body, and for this purpose requested Basilio Situado and Eugenio Berdaga to assist in carrying the body to the cemetery; while the bamboo crate in which the body was packed was being prepared, Miguel Mijares and Pedro Git went to the house of Laureano Mijares to tell him that the projected murder had been accomplished and the defendant, Laureano, told them to bury the body at once and refused to send Tomas Morin, his son-in-law, to assist in the burial.

It appears, therefore, that after Pastor was dead, Pedro Mijares took an active part in the concealment of the body, while Laureano Mijares, in whose house the murder was plotted and who proposed to Git the commission of the crime, got him intoxicated and provided him with a rope and matches, locked himself up in his house, and did nothing more than direct that the body should be immediately buried, but without having had the courage to look at the corpse, as did his brother Pedro. Consequently it appears to be absolutely certain that both brothers concurred



with Git concerning the commission of the crime, inducing him to kill their unfortunate brother-in-law and be the instrument by which their wicked plans were to be carried into effect, as the instrument has frequently testified with the greatest spontaneity and frankness.

It does not appear from the record that Pedro Git had any ill will or personal grudge against Miguel Pastor, of whom he was an employee and in whose house he was living. On the other hand it appears that the deepest resentment and hatred existed on the part of the Mijares brothers against their brother-in-law, Miguel Pastor, on account of the ill treatment he had inflicted upon their sister, Donata Mijares, the wife of the deceased. Consequently there can be no doubt in deciding the cause of Pastor's death that they were moved to do so by the spirit of revenge. This view is corroborated by their conduct subsequent to the death of Pastor.

The defendants pleaded not guilty. They did not testify as witnesses, but their counsel called in their behalf three witnesses—by name Dolores Labadia, the wife of Laureano; Tomas Morin, his son-in-law; and Onofre Mondoñedo, an herb doctor—who testified that they did not see Pedro Git in the house of Laureano at the time of the conference concerning the killing of Miguel Pastor took place. This testimony in no degree overcomes the force of the testimony given by Git against Laureano Mijares, for it is not to be expected that Laureano's wife and son-in-law should testify to his prejudice or that Morin would testify to having been present at the time the agreement was entered into between his father-in-law and Git, together with Pedro Mijares, for the purpose of murdering Miguel Pastor. With respect to Mondoñedo, the herb doctor, whose testimony to a certain extent is contradictory to that of Tomas Morin, in view of the fact that he did not live in the house and had only gone there for the purpose of visiting some patients whom he said were there, it is very possible that he did not see Pedro Git, or else was not aware of the latter's presence in the house. Consequently the testimony of these witnesses is not conclusive and is not of sufficient weight to overcome the testimony of Git or even to raise a doubt concerning it, in view of the fact that it is corroborated by other circumstantial evidence which, considered with it, leaves no room for a reasonable doubt as to the truth of the charge.

In the opinion of the court, with the exception of the qualitative circumstance which elevates the crime to murder, no generic, aggravating or mitigating circumstance should be regarded as concurrent in the participation of the Mijares brothers in this crime as instigators. Consequently the penalty prescribed by the law must be imposed upon them in the medium degree.

For the reasons stated, we are of the opinion that the judgment of the court below should be reversed and each of the defendants, Pedro and Laureano Mijares, convicted and condemned to the penalty of life imprisonment (*cadena perpetua*) with the accessories of civil interdiction and subjection to the vigilance of the authorities during their lifetime. Should the principal penalty be remitted by pardon, they shall then suffer the penalty of absolute perpetual disqualification and subjection to the vigilance of the authorities for their lifetime, unless this accessory penalty should be expressly remitted in the pardon of the principal penalty.

They are also condemned to the payment *in solidum* and *pro rata* of an indemnification of 1,000 insular pesos to the heirs of the deceased and to the payment each one of one-half of the costs of the prosecution.

Judgment will be entered accordingly and the case remanded for execution thereof, with a certified copy of this decision.

Arellano, C. J., Cooper, Mapa, and McDonough, JJ., concur.

the death penalty imposed. Article 79 of the Penal Code reads as follows:

"Those [circumstances] which consist in the material execution of the offense or of the means employed for its realization, shall serve to aggravate or mitigate the responsibility solely of those who had knowledge thereof at the time of the act or of their cooperation for the commission of the crime."

The defendants had knowledge of the aggravating circumstance of *alevosia*, of nocturnity, and of the commission of the crime in a dwelling house at the time of their cooperation to that end, because they themselves suggested to Pedro Git that he should commit the crime in the very way in which it was in fact committed by him.

*Judgment modified.*

[No. 1297. March 28, 1904.]

*THE UNITED STATES, complainant and appellee, vs. JULIO MENDOZA ET AL., defendants and appellants.*

**CRIMINAL LAW; ILLEGAL DETENTION; AGGRAVATING CIRCUMSTANCES; UNNECESSARY CRUELTY.**—The accused, not being peace officers, unlawfully arrested the complaining witness and kept him in confinement for several hours. They kept him bound to a post during this period and beat him severely. *Held*, that the accused are guilty of the crime of illegal detention with the aggravating circumstance of unnecessary cruelty.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

VICENTE R. DELGADO, for appellants.

Solicitor-General ARANETA, for the Government.

TORRES, J.:

On March 24, 1903, the prosecuting attorney filed a complaint against the three defendants, charging them with the crime of illegal detention committed as follows: That on or about the 21st of March, 1903, the said Julio Mendoza, Santiago Santos, and Cirilo Cueto did willfully, unlawfully, feloniously, and by impersonating peace officers detain and deprive of his liberty in Manila, Philippine Islands, one Mateo Ventura, a youth of 11 years of age, and inflict upon him serious wounds, thereby endangering his life, and confined him in the office of the pail-system station in Tondo, and did actually bind his hands and feet with a rope and tie him to a post, in which state he remained twelve hours, more or less, contrary to the statute in such cases made and provided.

From the record of the trial had it appears that the lad, Mateo Ventura, testified under oath, that one night, date forgotten, he was detained on Aceyteros Street by the defendants who maltreated him and then took him to the police station, where he was given his liberty; that Cirilo Cueto then took him to the office where they were employed, and on his arrival there Santiago Santos maltreated him and then bound his hands and feet with a rope to a post and that he remained in this state, watched by Julio Mendoza, till the morning of the following day when Mendoza set him at liberty; that his hands and feet showed the marks of the rope, he having been bound very tight and having thereby suffered all the hours of his detention; that this illtreatment was due to the fact that, feeling the necessity of relieving himself, he had entered a public water-closet near the sea and in order to see if the seat was clean, he had lighted a match which he then threw in the bowl, causing some paper in it to burn; that he was then caught by Cirilo Cueto who accused him of being an incendiary and took him to the police station, where Corporal Jadoc set him at liberty; that, notwithstanding this, the said Cueto took him to the office of the pail system, here Santiago struck him and bruised him on the shoulder and continued striking him despite his cries and tears; that the said Santos and Cueto slapped him

WILLARD, J., with whom concurs JOHNSON, J., dissenting:

I am of the opinion that the judgment should be confirmed and

and struck him with their fists; that Santos ordered then his detention in the said office.

Police Corporal Simplicio Jadoc confirmed Ventura's statements and testified that the latter was brought to the police station by Cirilo Cueto between 9 and 10 o'clock of the night of the 20th of March; that upon investigation he found the charge unfounded and set the lad at liberty; that the following day the lad came back, while Pail Inspector Rusca was there, and on examination it was found that his hands showed rope marks. Police Captain Jose Crame testified that the boy, Ventura, was brought to him the morning of March 21st, having been arrested as an incendiary the previous night; that he held an investigation and the boy told him what he had done in the public water-closet, and of his maltreatment and detention; that Corporal Jadoc had confirmed the boy's statements; that finding no reason for holding the boy, he set him at liberty; that he had the defendants called before him; that Santos confessed to the detaining of the boy to avoid his escape and for the purpose of reporting the matter to Inspector Rusca on the following day.

The facts in the case, fully established by the testimony of trustworthy witnesses and by the confession of two of the defendants, constitute the crime of illegal detention defined and punished under article 483 of the Penal Code, inasmuch as the defendants, lacking authority therefor, and not being peace officers, did apprehend the boy, Mateo Ventura, and detain him in the health inspector's office for over eight hours with his hands and feet bound to a post, this without just cause. Even though we accept the theory advanced that he was detained for the purpose of delivering him to the authorities, through Inspector Rusca, for attempted incendiarism, the defendants are still liable, not only because they maltreated the boy when they arrested him, and afterwards when they bound him to the post, but also because, after taking him to the police station where he was discharged after the investigation held, they detained him again and took him to their office and there maltreated him once more, keeping him tied to the post till the following day, there is no doubt that the defendants are guilty of the crime defined in article 483 of the Penal Code.

Defendants pleaded not guilty. Cirilo Cueto stated under oath that no one ordered the detention of the boy, Mateo Ventura; that he simply took him to the office of the pail system, where he left him to wait for the arrival of the inspector; that he had ordered no one to hold the boy in said office; that the following day he learned that Santiago Santos had beaten the boy, but denied having maltreated him when he arrested him at the public water-closet and before taking him to the police station; that although the boy had been set at liberty by the police corporal, defendant had taken the boy to his office to report to the inspector, in whose absence defendant left the body in charge of a woman, who appears to be a servant, and who was to tell the said inspector; that Julio Mendoza was there.

Julio Mendoza testifies that Mateo Ventura was detained one night by Cirilo Cueto; that the boy was kept in the office from 10 of said night till 6 of the following morning; that defendant remained that night in the office where Cueto had charged him to watch the boy; that it was Santiago Santos who bound the boy, but that four minutes after Cueto had left Santos untied the boy by order of the wife of the then absent inspector; that he did not know who had ordered the arrest of the boy nor who had maltreated him.

Burt H. Burrell, a witness called in rebuttal, testified that he was acquainted with Cirilo Cueto, who is in charge of the water-closets of the Acceyteros Street; that neither Cueto nor any other person in charge of said closets had authority to arrest anybody.

Despite the statements of defendants their guilt of detaining the boy without any just cause is clearly demonstrated, especially in view of the fact that he had been discharged by the police

of the district for the uncertainty of the charge. Even though defendants may have intended to send the boy to the authorities through their inspector, Rusca, they should have reported the matter to said inspector without waiting till he came to the office the next day. In the mean time defendants maltreated the boy and tied him to the post without any reason whatever and contrary to law. Such unlawful abuses can by no means be allowed, particularly when the victim is a lad of 11 or 12 years of age.

In the commission of this crime aggravating circumstance No. 6 of article 10 of the Penal Code must be taken into account in view of the maltreatment inflicted, which was certainly unnecessary punishment and, as there is no mitigating circumstance, the penalty must be imposed in its maximum degree.

For the reasons stated it is our opinion that the sentence of the court below must be reversed, and we sentence Julio Mendoza, Santiago Santos, and Cirilo Cueto each to six months of *arresto mayor*, the accessories of article 61, to pay a fine of 1,250 pesetas, and in case of insolvency to subsidiary imprisonment not to exceed two months, and payment of one-third of the costs each. The record will be returned to the court below with a certified copy of this decision and of the judgment to be entered thereon. So ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1648. March 28, 1904.]

*THE UNITED STATES, complainant and appellee, vs. QUIRINO PABLO ET AL., defendants and appellants.*

CRIMINAL LAW; THEFT.—Conviction for theft sustained.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

EULOGIO R. CHAUCO, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

We are convinced that the appellant Quirino Pablo is guilty of the theft of the harness. We doubt his guilt as to the 800 pesos. The harness was especially entrusted to his care, but he had no possession of the 800 pesos. They might have been taken by his codefendant, Dionisio Olivar, who fled from the house the same night that the defendant did, and as to whom the case was dismissed on motion of the fiscal.

The judgment is reversed and the defendant convicted of the crime defined and punished in articles 517, 518 (4) and 520 (2), and sentenced to three years of *presidio correccional* and to pay an indemnity of 28 pesos to the party injured, with the costs of this instance and one-half of the costs of the first instance against the appellant.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, JJ., concur.

*Judgment modified.*

[No. 1670. March 29, 1904.]

*RAMONA TRINIDAD, complainant and appellant, vs. EDUARDO JARABE, defendant and appellee.*

CRIMINAL PROCEDURE; COMPLAINT; EXAMINATION OF INFORMANT.—

When a sworn complainant, charging a designated person with the commission of a crime is presented to a court, it is the duty of the court to hold an investigation and it is error to dismiss the complaint because not presented through the mediation of the Prosecuting Attorney.

APPEAL from an order of the Court of First Instance of Manila. The facts are stated in the opinion of the court.  
 RAMON SALINAS, for appellant.  
 M. CARINIGAL, for appellee.

MAPA, J.:

Section 3 of General Orders, No. 58, provides that all public offenses \* \* \* must be prosecuted by complaint or information. Section 4 defines the complaint to be a sworn written statement made to a court or magistrate, that a person has been guilty of a designated offense. It differs from the information in that the latter must be filed and signed by the prosecuting officer or his deputy as provided in section 5. Section 13 provides that when a complaint or information is laid before a magistrate he must examine on oath the informant or prosecutor, and the witnesses produced, and take their depositions in writing, causing them to be subscribed by the parties making them.

Upon receiving the writing filed by Ramona Trinidad under oath, charging Eduardo Jarabe with the crime of having abducted, with lewd designs, the complainant's daughter, by name Consuelo Navarro, it was the duty of the court to have proceeded to investigate the facts denounced, either citing the Prosecuting Attorney to intervene and direct the prosecution, or else transmitting to him the papers in the case so that he might hold such preliminary investigation as he might see fit. The court was without authority to dismiss the complaint, because not presented through the mediation of the Prosecuting Attorney. Such a proceeding would make it impossible to prosecute crimes upon complaints, which would be contrary to the express provisions of section 3 of General Orders, No. 58, above cited. The order dismissing the complaint is reversed and the judge is directed to proceed to hold an investigation as to the offense charged, upon notice to the Prosecuting Attorney in the manner prescribed by law. So ordered.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, JJ., concur.

Order reversed.

[No. 1072. March 30, 1904.]

MANUEL ABELLO, plaintiff and appellant, vs. PAZ KOCK DE MONASTERIO, defendant and appellee.

1. OPEN WILL; PROTOCOLIZATION; PROBATE.—The fact that an open will, executed before a municipal president with all the formalities prescribed by the Civil Code, was not filed with a notary public within the period prescribed by the law is no ground for refusing to admit it to probate.
2. NOTARIAL LAW; CIVIL CODE; WILLS.—Those provisions of the notarial law which permit local presidents, under certain circumstances, to perform the duties of notaries public in connection with the execution of wills were not repealed by the subsequent enactment of the Civil Code.

APPEAL from a judgment of the Court of First Instance of Occidental Negros.

The facts are stated in the opinion of the court.

R. N. OROZCO and FELIX G. CALDERON, for appellant.  
 P. Q. ROTHROCK, for appellee.

TORRES, J.:

Mmanuel Abello y Bayot, as executor of the testamentary estate of Josefa Montilla y Janson, deceased, in his own name and on behalf of Petronilla Montilla and Juana Montilla, also executors of the said estate, on the 22d of January, 1902, filed in the Court of First Instance of Negros Occidental the will of the said Josefa Montilla, in order that after the designation of the time and place, and notice to the parties in interest, the same might be admitted to probate in accordance with the pre-

vailing laws and declared to be the last will of the testator. The will appears on page 3 of the printed transcript of the proceedings brought before this court by virtue of the appeal.

Notice of the day set for the probate of the will was published for three consecutive weeks in the newspaper *El Tiempo*, published in Iloilo, as being the paper of greatest circulation in the Island of Negros. Attorney P. Q. Rothrock, on behalf of Señora Paz Kock de Monasterio, on the day set for the hearing, the 13th of May, 1902, filed a petition praying that the said will be declared null and void, and that the petitioner be appointed administratrix of the property left by Josefa Montilla y Janson, deceased, and for such other and further relief as the court might find conformable to law and equity.

The court below, in view of the will and of the result of the testimony of the president and municipal secretary of the town of Pulupandan, and of the three witnesses who were present at the execution of the said will, rendered a decision on August 8, 1902, refusing to allow the will presented, and which purports to have been executed by Josefa Montilla March 1, 1899, upon the ground that the said will was not duly executed in accordance with the laws in force in the Philippine Islands, and more especially in accordance with the laws of the Island of Negros.

The will in question was executed under the régime of the Civil Code and the Notarial Law, and with respect to its forms and essential requisites, the present Code of Civil Procedure is not applicable. That Code became operative October 1, 1901, whereas the will was executed March 1, 1899.

This being so, and taking into consideration the fact that the will in question was opposed not upon the ground that it was a forgery, but upon the ground that it was a nullity by reason of the defects attributed to it, it appears that the court below held in the decision appealed that the instrument presented by Señor Manuel Abello as the will of Doña Josefa Montilla contains all the requisites established by the Civil Code for the validity and enforceability of open wills, and that it was executed before an officer who at that time exercised the functions of a notary, and that therefore the document was of the character of a public instrument under the law. However, notwithstanding this conclusion, which was entirely in conformity with the law and the result of the evidence, the judge held that the said document was without legal value as an open will of Josefa Montilla, deceased, because it was not protocolized within the twenty-four hours prescribed by article 7 of the Notarial Law, or within the thirty days' time fixed by General Orders, No. 210, issued by the president of the Island of Negros, November 17, 1898, a special law promulgated by the Government at that time in control in that island in substitution of the Government of Spain. Consequently if the instrument or document in question had been physically attached to the protocol and had been sent by the local president, before whom it was executed, to a notary public or to a delegate of justice of the government of the Province of Negros, it would have the character of an open will of Josefa Montilla, deceased.

The fact is that these proceedings were instituted, not for the protocolization, but for the probate of the will in accordance with the Code of Civil Procedure, for the purpose of enforcing the wishes of the testatrix, which appear clearly and authentically in the will, which has not been impugned as a forgery. According to the laws in force in these Islands before the promulgation of the present Code of Civil Procedure, the *gobernadorcillos* of towns more than two leagues away from the head town of the province were authorized to act as notaries public. The power to exercise this authority had been vested in the *gobernadorcillos* as well as in the *alcaldes mayores* of the provinces from a very remote period, and their power to exercise the same was recognized by a resolution of the Audiencia of Manila dated August 31, 1860, approved by royal order dated January 18, 1865.

When the title of the local headmen of the towns was changed

to municipal captain by royal order of July 17, 1894, these officers were also given notarial authority. Subsequently, the revolutionary government, and more especially the government of the Island of Negros, in General Orders, No. 210, above cited, recognized similar authority on the part of the municipal presidents of pueblos.

Article 7 of the Notarial Law of February 15, 1880, says: "Notwithstanding the provisions of article 1, the *gobernadorcillos* of towns more than 22 kilometers (four leagues) from the provincial capital shall be empowered to legalize public instruments, which they shall forward within the period of twenty-four hours from the time of their execution to the provincial notary for protocolization." This article was amended by a special law of the provincial government of Negros, applicable to this case, by which the period for the transmission and protocolization of public instruments authorized by the local president, an officer who substituted the former *gobernadorcillos*, was extended to thirty days. Neither the Notarial Law nor its regulations of April 11, 1890, nor the general order cited of the government of the Island of Negros have established any penalty for the failure to comply with the requisite of protocolization, nor do they declare that an instrument of a public character executed before an officer invested with notarial power shall be void or unenforceable if not protocolized. Such a declaration would be indispensable with respect to wills, and is of great importance at the present time in which the probate of the will in question is sought in accordance with the Code of Civil Procedure, the provisions of which are to be liberally interpreted.

Article 7 of the Notarial Law in question can not be regarded as repealed by implication by article 694 of the Civil Code—which provides that an open will shall be executed before a notary public and three witnesses—upon the ground that the Civil Code is a law of subsequent date, it having gone into effect December 7, 1889, while the Notarial Law went into effect July 1st of the same year, because the Civil Code, instead of repealing any article or any part whatever of the Notarial Law, recognizes and presupposes its existence as a special law in several of its articles. This may be seen from an examination of articles 1216 and 1217, which declare that public documents are those authorized by a notary public or public employee, such as a *gobernadorcillo* or municipal captain or municipal president. The Civil Code furthermore provides that documents which are prepared by notaries public shall be governed by the notarial legislation.

Furthermore, the regulations for the application of the Notarial Law, promulgated the 19th of June 1890, a date long subsequent to that of the Code, make provision in articles 93 and 94 thereof for duties to be performed by notaries and *gobernadorcillos*.

The Mortgage Law went into effect in these Islands the 1st day of December, 1889, a date prior to that upon which the Civil Code took effect, but nevertheless the Civil Code, although a subsequent law of general character, has not repealed the Mortgage Law, which was a special enactment. This was so expressly declared by the general direction of the colonial office, in approving a circular of the chief justice of the *Audienca* of Cebu, and in dismissing the appeal taken by the registrar of property of that island, that officer having announced in the Bulletin of Cebu that henceforth contracts executed before the *gobernadorcillos* would be inadmissible, which announcement the chief justice of Cebu declared to be erroneous and in violation of article 7 of the Notarial Law, which had not been repealed by the Mortgage Law. The same reason applies for holding that article 7 of the Notarial Law has not been repealed by the Civil Code, which was promulgated a few days after the Notarial Law, and this was so expressly held in the royal order referred to of July 17, 1894, since which time the Notarial Law and its regulations have been in force until their recent repeal.

It is therefore unquestionable that the document exhibited as the will of Doña Josefa Montilla is a public instrument executed

in accordance with the law, and which only needed to be protocolized, and, the protocolization not having been made in time, its probate is now prayed for in accordance with the Code of Civil Procedure. There being no provision of law in opposition to this petition, and the said will having been executed with greater solemnities than those required in article 618 of the said Code, and it appearing from the record that the municipal president, his secretary, and the three witnesses to the will affirmed its contents and other facts connected with its execution, there is no legal reason or motive opposed to the probate of the said will, as it does not fall within any of the provisions of article 634 thereof, but is covered by articles 618, 625, 634, 638, and 639.

For the reasons stated, we are of the opinion that the judgment appealed must be reversed, and that as the instrument presented purports to be the last will of Josefa Montilla y Janson, deceased, the judge should admit the same to probate and take such action thereon as may be necessary in accordance with the provisions of the Code of Civil Procedure. No costs will be allowed. Judgment will be entered in accordance with this opinion twenty days from the date of the filing thereof and the case remanded to the court below for further proceedings in conformity therewith. So ordered.

Arellano, C. J., Willard, Cooper, Mapa, Johnson, and Mc-Donough, J.J., concur.

*Judgment reversed.*

[No. 1438. March 30, 1904.]

*PETRONILA SALONGA, plaintiff and appellee, vs. MANUEL CONCEPCION, defendant and appellant.*

- CIVIL PROCEDURE; ARREST OF DEFENDANT; LIABILITY OF SURETIES; DAMAGES.**—The plaintiff obtained the arrest of the defendant after giving bond for damages with sureties. Defendant's answer contained a counterclaim against the plaintiff and sureties for damages alleged to have been caused by wrongful arrest. The answer did not allege that the order of arrest had been vacated or that it had been decided that the arrest was wrongfully obtained. The sureties demurred generally to the answer and the demurrer was sustained. *Held*, no error.
- WITNESSES; HUSBAND AND WIFE.**—A party litigant can not avail himself of the testimony of the husband or wife of his opponent without the consent of the latter.
- EVIDENCE; PAWN TICKETS.**—The plaintiff averred that on a certain date she delivered to the defendant certain pieces of jewelry as security for a loan. The action was for the recovery of the jewelry. The defendant denied this allegation, and offered to prove by some pawn tickets that the jewels in question were in a pawnshop at the time of the alleged delivery to him. This evidence was excluded. *Held*, error, and that the pawn tickets, identified with the jewelry in question, were competent for the purpose for which offered.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

ALFREDO CHICOTE, for appellant.

JOAQUIN RODRIGUEZ SERRA and MONTAGNE & DOMINGUEZ, for appellee.

MAPA, J.:

The first question raised in the bill of exceptions refers to the sufficiency of the demurrer presented by the sureties of the plaintiff to the action brought against them by the defendant in his answer.

The defendant was arrested at the instance of the plaintiff, who, for the purpose of obtaining his arrest, presented two sureties, who assumed with her an obligation *in solidum* to pay all costs which might be adjudged to the defendant and all damages which he might sustain by reason of the arrest if the same should finally be adjudged to have been wrongful or without sufficient cause. (Bill of exceptions, pp. 13 and 14). In his answer to the complaint the defendant alleged that his arrest was unjust and il-

legal and had caused him damage in the sum of 5,000 Mexican pesos, and upon this based a counterclaim praying for judgment against the plaintiff and her sureties for the said sum as damages, and for the costs of the suit. The sureties demurred to the action brought against them by the defendant upon the ground, as appears from page 2 of the bill of exceptions, that the defendant could not sue them until a judgment for damages should have been rendered against the plaintiff. The judge sustained the demurrer, and to this ruling the defendant excepted.

The sureties having assumed an obligation to pay the damages in case it should be finally adjudged that the arrest of the defendant was wrongful, until this time arrives no action exists in favor of the defendant for the recovery of such damages. Obligations are to be fulfilled in the precise terms in which they have been contracted, as provided by article 1091 of the Civil Code. In order to maintain such an action it would be necessary to show that the order of arrest had been set aside by the court before the beginning of the action, because otherwise it would be impossible to determine, in going into the question as to the damages, whether the arrest was wrongful or not, and the wrongfulness of the arrest is a basis of the action. On page 2 of the bill of exceptions it is stated that the order of arrest was vacated by the court on motion of the defendant, but it does not appear whether the said order was vacated before or after the filing of the defendant's answer. At all events it is certain that the answer does not allege that the order had been vacated, and consequently, as to the sureties, the answer is defective in not stating facts constituting a cause of action against them. It therefore follows that there was no error in the order of the court sustaining the demurrer.

The exception of the appellant to the ruling of the court excluding the testimony of Inocencio Reyes, the husband of the plaintiff, offered on behalf of the appellant, is without merit. The ruling of the court is based upon the provisions of article 383 of the Code of Civil Procedure, paragraph 3 of which reads in part as follows: "A husband can not be examined for or against his wife without her consent." The ruling of the court was therefore without error and should be affirmed.

The defendant in the course of the trial offered as evidence certain pawn tickets issued by the pawn shops of Don Manuel Matute and Don Ricardo Gonzales, for the purpose of proving that some of the 14 pieces of jewelry which the plaintiff alleges she delivered to him as a pledge in security for the sum of 400 pesos borrowed from him in October, 1891 (sic), were at that time pledged in the pawn shops referred to. The defendant alleges that in September, 1901, the plaintiff, together with her husband, borrowed from him 500 Mexican pesos, and pledged to him three pawn tickets issued from the pawn shop of Don Manuel Matute, and also four pieces of jewelry; that five or six days afterwards they borrowed 400 pesos more from him, and pledged to him another pawn ticket from Don Manuel Matute's pawn shop, and also a pawn ticket from the pawn shop of Manuel Gonzales. That on November 25 of the same year, by virtue of an order received from Inocencio Reyes to that effect, the defendant redeemed the jewelry pledged, and paid to Manuel Matute, the owner of the pawn shop in all the sum of \$261.43—and \$68.18 to the pawn shop of Ricardo Gonzales; that these sums, added to the principal debt, make, the defendant avers, a total of \$1,239.61, of which the plaintiff and her husband still owe him \$1,139.61½, for which he sought judgment against them by counterclaim. The pawn tickets were identified by Don Manuel Matute and Ricardo Gonzales. (Bill of exceptions, pp. 60 and 61.) One of them, the ticket for the gold watch (claimed in the complaint), is dated the 31st of July, 1901, as appears on page 67 of the bill of exceptions.

Supposing that part of the jewels referred to in the complaint were really pledged to the pawn shops above mentioned from the month of July until November, 1901, it follows necessarily that the statements of the plaintiff and her witnesses as to the manner, time, and form in which the said jewelry came into possession of the defendant are false, and that on the other hand the statements of the defendant as to the redemption of the jewels is true, the amount paid therefor being part of the sum sued for in the counterclaim. Indirectly the evidence might have a bearing upon the veracity of the other allegations of the parties and the testimony of the respective witnesses. It is of course apparent that for the purpose of showing the evidentiary value of the pawn tickets it will be necessary to identify the jewels to which they referred, with those which are the object of the complaint, but this identification can easily be made inasmuch as the jewels in litigation have been identified one by one by the plaintiff, and are deposited with the clerk of the court. It would be sufficient to compare them with the jewels described in the pawn tickets. With respect to the gold watch especially, the defendant says that the manufacturer's mark and the number expressed in the pawn ticket coincide perfectly with those of the watch mentioned in the complaint. (P. 67, bill of exceptions.) For these reasons it is evident that the pawn tickets may be evidence of direct and decisive influence in the case, and consequently the court below erred in excluding them when offered as evidence.

For this reason the judgment of the court below is set aside, and it is ordered that the case be remanded for a new trial, in which the pawn tickets in question will be admitted in evidence, together with such other proof as the parties may present in connection therewith. No judgment will be entered for costs. So ordered.

Arellano, C. J., Torres, Cooper, Willard, McDonough, and Johnson, JJ., concur.

*Judgment set aside.*

### OPINIONS OF THE ATTORNEY-GENERAL.

*A municipal president acting as member of the Honorary Board of Commissioners entitled to but \$7, United States currency, per day.*

OFFICE OF THE ATTORNEY-GENERAL  
OF THE PHILIPPINE ISLANDS,  
Manila, June 8, 1904.

Respectfully returned to the Acting Executive Secretary.

Section 1 of Act No. 1030 authorizes the Civil Governor to appoint Filipinos now holding office in the Islands as members of the Honorary Board of Commissioners to visit the Louisiana Purchase Exposition "if their absence from official duty in the Islands during the time needed to make the visit to the United States may be consistent with the interests of the public service."

Section 3 of said Act provides that "there shall be allowed as traveling and subsistence expenses, to each nonofficial member of the Honorary Board of Commissioners, the sum of \$10, United States currency, per day from the time of his departure from Manila until the date of his return to Manila, and to each official member, in addition to his salary as provided by law, the sum of \$7, United States currency, per day."

The municipal president of Binalonan was selected as a member of this honorary board, and, inasmuch as he was and is president of said municipality, he must be considered an official member of said board and, therefore, entitled to draw only \$7 per day and in addition his salary as municipal president.

Attention is respectfully invited to my previous opinion.

REGORIO ARANETA,  
*Acting Attorney-General.*

*President of municipal board of health not a municipal officer and not removable under the Provincial Government Act.*

OFFICE OF THE ATTORNEY-GENERAL  
OF THE PHILIPPINE ISLANDS,  
Manila, April 30, 1904.

Respectfully returned to the Commissioner of Public Health.

While the president of the municipal board of health is, in some respects, a municipal officer, yet the provisions of the Provincial Government Act, in regard to his removal, are not applicable. The president of the municipal board of health is appointed by the Commissioner of Public Health, and, as there is no special provision made for the removal of the president, he is removed by the appointing power, namely, the Commissioner of Public Health. Therefore I am of the opinion that the president of the municipal board of health does not come within the provisions of Act No. 314 of the Commission.

GREGORIO ARANETA,  
*Acting Attorney-General.*

*Expenses of execution of death sentence a burden on the Insular Treasury.*

OFFICE OF THE ATTORNEY-GENERAL  
OF THE PHILIPPINE ISLANDS,  
Manila, April 19, 1904.

Respectfully returned to the Auditor.

There is no proviso under which the expense of an execution of the death sentence can be charged to provincial funds. For this reason, just as any receipts not declared by law to belong to the province or municipality must be paid into the Insular Treasury, so these expenses, I believe, should be paid from insular funds. It is difficult to determine, *a priori*, from what funds said expenses should be paid, but this will depend upon the character and nature of the different items of said expenses. The traveling expenses of the clerk should be paid from the transportation funds of the Department of Justice.

GREGORIO ARANETA,  
*Acting Attorney-General.*

*Foreigners resident in the Islands subject to the rules respecting vaccination.*

OFFICE OF THE ATTORNEY-GENERAL  
OF THE PHILIPPINE ISLANDS,  
Manila, June 3, 1904.

Respectfully returned to the Acting Commissioner of Public Health, Manila, P. I., with the information that the subjects and citizens of foreign nations living in Manila or elsewhere in the Philippine Islands, are included in the requirements of section 2 of Act No. 309 of the Philippine Commission, and, should they resist vaccination, may be prosecuted under section 7 of said act. Such foreign subjects or citizens living in Manila are also included in the provisions relating to the necessity of vaccination contained in Ordinance No. 4 of the city of Manila, and, should they violate such provisions, may be prosecuted thereunder and fined or (and) imprisoned as provided in section 11 thereof.

GREGORIO ARANETA,  
*Acting Attorney-General.*

*The appointment of a municipal physician is not authorized by existing law.*

OFFICE OF THE ATTORNEY-GENERAL  
OF THE PHILIPPINE ISLANDS,  
Manila, May 18, 1904.

Respectfully returned to the Acting Commissioner of Public Health.

In answer to the question raised herein as to whether a municipality can employ a municipal physician at a salary exceeding that allowed for the president of the municipal board of health, when the said municipality has no president of its municipal board of health, I have the honor to submit the following opinion:

There is no provision of law under which a regular physician for the municipality may be employed. It seems that in a number of municipalities throughout the Islands it has been impossible to fill the position of president of the municipal board of health, because there is no one qualified for such position who will accept same. In such cases I have previously held where there is extreme urgency the municipality may provide a physician and pay for the services rendered by him, as, for example, in case of the indigent poor, by virtue of the authority granted under section 40 (b) of the Municipal Code providing that "the municipal council is empowered to make such provisions for the care of the poor, the sick, or those of unsound mind as it may deem necessary." This power, however, is limited to individual cases in which necessity for the exercise of same clearly appears. The appointment of a municipal physician at any salary is not authorized and such action on the part of the municipal council or any municipal officer or officers is illegal.

GREGORIO ARANETA,  
*Acting Attorney-General.*

*Municipal appropriations for school purposes to be first approved by division superintendent and afterwards by the provincial treasurer.*

OFFICE OF THE ATTORNEY-GENERAL  
OF THE PHILIPPINE ISLANDS,  
Manila, May 25, 1904.

Respectfully returned to the Treasurer of the Philippine Islands.

In a former opinion of the Attorney-General in regard to approval by division superintendent of school fund, it is stated: "[The Municipal Council shall] maintain and establish primary schools subject to the approval and supervision of the division superintendent.

"The law provides that one-fourth of 1 per cent of the assessed valuation of lands and improvements in the municipality shall be set aside for the maintenance of public primary schools. Within the limits of this sum the division superintendent has a right to call upon the council for necessary appropriations, but beyond this fund the condition of the treasury is always to be considered in making appropriations. Said approval and supervision of the superintendent applies not only to the salaries of teachers but to all appropriations made by the municipal council for school purposes.

"The approval of the provincial treasurer of all estimates for expenditures by the municipal council is essential before they can be paid. The object and purpose of the expenditure when for school purposes must receive the approval of the division superintendent." (Vol. I, p. 225, Opinions of Attorney-General.)

The proper procedure, therefore, is for the appropriation to be first approved by division superintendent under section 39 (ff), Act No. 82, as amended by Act No. 132, and afterwards by the provincial treasurer, in accordance with section 47 of Act No. 82.

W. L. GOLDSBOROUGH,  
*Assistant Attorney-General.*

(In the absence of the Acting Attorney-General.)

**PHILIPPINE CIVIL SERVICE BOARD.**

*Examination for law clerk.*

The Civil Service Board announces a law-clerk examination, in English, to be held on July 18-19, 1904. The examination will

consist of the following subjects: First-grade examination; fundamental principles of Roman law; Code of Civil Procedure; Civil Code; criminal law and practice.

Further information and the necessary application blanks may be obtained at the office of the Civil Service Board, Manila, where the examination will be held on the dates named above.

JUNE 13, 1904.

### APPOINTMENTS.

#### By the Honorable Civil Governor.

##### *Department of Commerce and Police.*

##### BUREAU OF ENGINEERING.

Anson H. Higley, chief surveyor, May 1, \$2,500.

##### *Provinces.*

##### MASBATE.

John W. Hunter, supervisor-treasurer, May 31.

##### NEGROS ORIENTAL.

Vicente Franco, provincial fiscal, June 9.

##### NUÉVA VIZCAYA.

William C. Bryant, provincial secretary-treasurer, January 1.

##### SAMAR.

Maximo J. Cinco, provincial secretary, May 26.

Emilio Araneta, provincial fiscal, June 9.

#### By the Philippine Civil Service Board.

##### *Executive Department.*

##### EXECUTIVE BUREAU.

Fred N. Berry, clerk, May 1, \$1,200; promotion from \$900.

Fritz Seefeld, clerk, May 21, \$900; probational appointment.

Hugo Anuario, special messenger, May 21, \$240; promotion from messenger, \$180.

##### INSULAR PURCHASING AGENT.

Peter Ritter, teamster, May 16, \$720; probational appointment.

August Fischer, teamster, May 24, \$720; transfer from Department of Engineering and Public Works.

Charles Parker, teamster, June 3, \$720; probational appointment.

R. S. Rutherford, blacksmith, June 1, \$1,080; probational appointment.

Sidney O. Dickinson, clerk, May 16, \$900; probational appointment.

##### PHILIPPINE CIVIL SERVICE BOARD.

Enrique V. Filamor, clerk, May 1, \$360; probational appointment.

##### *Department of the Interior.*

##### BOARD OF HEALTH FOR THE PHILIPPINE ISLANDS.

Walter B. Dempster, inoculator, May 13, \$900; probational appointment.

Charles I. McLarry, inoculator, May 13, \$900; probational appointment.

James P. Friend, inoculator, May 13, \$900; probational appointment.

Ismael Zapata, clerk, May 26, \$360; probational appointment.

Henry Dusdieker, inoculator, May 19, \$900; transfer from Police Department.

Bartolome Tayag, inoculator, May 19, \$240; reinstatement.

##### FORESTRY BUREAU.

F. R. Bronson, clerk, May 16, \$1,400; promotion from class 9. Vicente Perez de Tagle, clerk, April 1, \$480; promotion from \$240.

Anselmo Cruz, ranger, May 26, \$300; probational appointment.

##### BUREAU OF AGRICULTURE.

Will Jessup, truck gardener, May 11, \$1,200; transfer from clerk, class 9, Department of Assessments and Collections.

##### BUREAU OF GOVERNMENT LABORATORIES.

John F. L. Woodruffe, clerk, May 21, \$900; probational appointment.

Eugenio Fenix, assistant to botanist, May 1, \$360; transfer from Forestry Bureau, \$300.

##### CIVIL SANITARIUM, BENGUET.

Catherine Cleland, nurse, March 2, \$720; probational appointment.

##### *Department of Commerce and Police.*

##### BUREAU OF POSTS.

L. L. Hyer, postmaster, Taaloban, May 21, \$1,400; transfer from clerk, Manila post-office.

J. W. Dutton, clerk (Manila post-office), May 16, \$1,200; transfer from postmaster, Aparri, Cagayan.

Franklin P. Bushey, clerk, Iloilo post-office, May 4, \$900; transfer from Cebu post-office.

H. C. Watts, clerk (Manila post-office), May 16, \$1,400; transfer from Iloilo post-office.

George E. Shanahan, railway postal clerk, May 20, \$900; transfer from Manila post-office.

B. Frech, postmaster, Jolo, May 15, \$1,000; transfer from Manila post-office.

William C. Carrick, postmaster, Aparri, May 16, \$900; promotion from clerk Class A.

Charles D. Foster, clerk, May 23, \$900; probational appointment.

Proceso Coloma, clerk, May 9, \$240; probational appointment. F. J. Gusetti, postmaster, Los Baños, May 21, \$1,000; transfer from Calamba post-office.

Juan Vergara, postmaster, Calamba, May 21, \$240; transfer from clerk Class K, Batangas post-office.

Caleb P. Bourne, chief clerk, March 1, \$2,500; promotion from class 4.

##### BUREAU OF PHILIPPINES CONSTABULARY.

Wilfred R. Barnes, clerk, May 1, \$1,200; promotion from Class A.

Frank M. Hickok, clerk, April 27, \$1,200; probational appointment.

Engracio Trinidad, clerk, May 14, \$300; probational appointment.

Tomas C. Garian, clerk, June 1, \$180; probational appointment.

Pedro Gachalian Reyes, overseer, April 1, \$360; probational appointment.

Wesley T. Williams, clerk, March 9, \$1,000; reduction from class 9.

Clark J. Milliron, clerk, May 4, \$1,200; probational appointment.

Clement E. Laws, clerk, May 9, \$1,000; probational appointment.

Joseph Randolet, clerk, May 4, \$1,000; probational appointment.

Robert L. Sharap, clerk, May 4, \$900; probational appointment.

Generoso Roño, clerk, May 1, \$900; promotion from \$720.

## BUREAU OF PRISONS.

Juan Anaduca, overseer, May 4, \$480; promotion from keeper, \$300.  
 Timoteo Basconcillo, keeper, June 1, \$300; promotion from guard, \$240.  
 Damian Pangan, guard, June 1, \$240; transfer from keeper, \$240.  
 Miguel Faul, guard, June 1, \$240; probational appointment.  
 Valeriano Castor y Sango, keeper, May 10, \$300; promotion from guard, \$240.  
 Casimiro Vivar, guard, May 14, \$240; probational appointment.

## BUREAU OF COAST GUARD AND TRANSPORTATION.

Peder Pedersen, second officer, February 27, \$720; probational appointment.  
 D. C. Fisher, pay clerk, May 14, \$1,200; reduction from clerk, \$1,400.  
 G. Arseval, lightkeeper, March 1, \$300; promotion from \$240.  
 William H. Robinson, assistant engineer, April 5, \$2,250; promotion from \$2,000.  
 Lloyd Weltner, clerk, March 29, \$1,200; probational appointment.

## BUREAU OF ENGINEERING.

Benjamin G. Fogg, transitman, April 30, \$1,400; probational appointment.  
 R. C. Hardman, transitman, April 30, \$1,200; probational appointment.  
 Lester H. Morris, transitman, May 21, \$1,200; probational appointment.  
 Andrew J. Barklay, recorder, June 1, \$900; probational appointment.  
 Edward Thomson, recorder, June 1, \$1,200; probational appointment.

*Department of Finance and Justice.*

## BUREAU OF THE INSULAR AUDITOR.

Juan Saleado, clerk, May 21, \$720; promotion from class D.

## BUREAU OF CUSTOMS AND IMMIGRATION.

Teodoro Ularte, clerk, May 1, \$180; promotion from \$120.  
 J. Louis Perrin, coast district inspector of customs, May 5, \$1,400; reduction from chief of importation, exportation, and navigation division, \$2,000.  
 James Hamilton, stenographer, April 27, \$1,400; probational appointment.  
 Francisco Villalon, guard, March 8, \$240; probational appointment.

W. H. C. Wilson, third-class examiner, April 1, \$1,200; reduction from examiner, \$1,200.

George Pinkham, fourth-class examiner, April 13, \$900; reduction from clerk, \$1,200.

Norberto Liberato, guard, June 21, 1903, \$240; probational appointment.

Domingo Filoteo, guard, June 21, 1903, \$240; probational appointment.

## BUREAU OF JUSTICE.

Francisco Espina, clerk, Court of First Instance, Seventh Judicial District, May 1, \$800; promotion from \$720.

Esteban Tolentino, clerk, register of deeds, May 1, \$360; promotion from \$300.

*Department of Public Instruction.*

## BUREAU OF EDUCATION.

James L. Hazard, teacher, April 30, \$1,000; probational appointment.

Bonner G. Marsh, teacher, April 30, \$1,000; probational appointment.

Walter F. Nichols, teacher, May 14, \$1,000; probational appointment.

Zerah O. Dean, teacher, April 27, \$900; probational appointment.

Robert C. King, teacher, April 27, \$900; probational appointment.

Merta G. King, teacher, April 27, \$900; probational appointment.

Thomas G. Neal, teacher, May 2, \$900; probational appointment.

J. B. Thompson, clerk, January 1, \$1,000; promotion from class 7.

## BUREAU OF PUBLIC PRINTING.

Emiliano Aguas, apprentice, June 1, \$0.40; promotion from fifth class.

Pedro Constantino, apprentice, June 1, \$0.40; promotion from fifth class.

Aniceto Legaspi, apprentice, June 1, \$0.40; promotion from fifth class.

Feliciano Olivano, apprentice, May 16, \$0.40; promotion from fifth class.

Vicente Valderrama, apprentice, May 16, \$0.40; promotion from fifth class.

Jose Lorenzo, apprentice, May 16, \$0.40; promotion from fifth class.

Ciriaco Limbo, apprentice, May 16, \$0.40; promotion from fifth class.

## THE OFFICIAL GAZETTE.

Jose de Guzman, clerk, May 23, \$240; probational appointment.

*City of Manila.*

## DEPARTMENT OF ASSESSMENTS AND COLLECTIONS.

Exequiel Ignacio, clerk, May 23, \$240; probational appointment.

Eric W. Roberts, clerk, May 1, \$1,200; transfer from Bureau of Education.

George H. Tilbury, license inspector, May 25, \$1,200; reinstatement.

## DEPARTMENT OF ENGINEERING AND PUBLIC WORKS.

John H. Flanagan, teamster, May 27, \$720; probational appointment.

Luis Maldonado, clerk, June 1, \$300; probational appointment.

J. S. Halk, teamster, May 6, \$720; probational appointment.

J. H. Cleveland, teamster, June 1, \$840; promotion from \$720.

James Felton, teamster, May 14, \$720; probational appointment.

## LAW DEPARTMENT.

Cliford O. Michell, clerk (Prosecuting Attorney), April 14, \$1,400; probational appointment.

## POLICE DEPARTMENT.

Agapito R. Novenario, clerk, May 12, \$480; promotion from patrolman second class.

Geronimo Catu, roundsman, second class, May 18, \$480; promotion from patrolman.

Rutledge E. Young, patrolman, first class, May 2, \$900; probational appointment.

Frank H. Stagner, patrolman, first class, May 2, \$900; probational appointment.

John W. Gallagher, patrolman, first class, May 2, \$900; probational appointment.

John Walczykowski, patrolman, first class, May 2, \$900; probational appointment.



Carrol T. Humber, patrolman, first class, May 2, \$900; probational appointment.

**FIRE DEPARTMENT.**

Antonio Mendoza, fireman, second class, May 18, \$240; probational appointment.

Frank W. Schenck, fireman, first class, April 1, \$1,000; promotion from \$900.

James A. Frazer, fireman, first class, May 18, \$900; reinstatement.

Bonifacio Tolentino, fireman, second class, May 23, \$240; reinstatement.

Benjamin R. Freeman, fireman, first class, June 2, \$900 probational appointment.

**Provinces.**

**BOHOL.**

James S. Simmons, foreman, January 1, ₱1,800; promotion from \$720.

**BULACAN.**

Luis Gatmaytan, clerk and deputy, May 17, \$420; probational appointment.

Francisco Navia, clerk, May 17, \$300; transfer from office of governor of Bulacan.

Florencio Pangan, clerk, April 1, ₱240; transfer from treasurer of Meycauayan.

**CAVITE.**

Antonio Garduño, municipal treasurer and deputy treasurer, Cavite, May 16, ₱400; promotion from deputy, \$300.

Julian R. Bautista, deputy treasurer, May 16, ₱480; probational appointment.

**CEBU.**

Ellis B. Porter, clerk and deputy, April 14, ₱2,400; probational appointment.

Ignacio Regner, clerk and deputy, February 15, 1903, \$750; promotion from clerk, \$600.

Sergio Osmeña, provincial fiscal, upon return of governor from United States.

Felix Alburo, clerk, May 21, ₱480; transfer from class J. office of the provincial secretary.

**ILOCOS SUR.**

E. D. Smith, general foreman, May 10, ₱1,440; probational appointment.

**ILOILO.**

Eugene Garnett, chief clerk and deputy treasurer, March 15, ₱2,400; probational appointment.

Saturnino Tobias, clerk, May 1, ₱360; probational appointment.

Pedro Sindico, clerk, May 16, ₱360; probational appointment.

**LAGUNA.**

Teofilo Benitez, clerk, April 12, ₱240; probational appointment.

**LEYTE.**

Florencio G. Enfaetana, deputy treasurer, March 1, ₱840; promotion from \$300.

**MINDORO.**

Joaquin del Rosario, clerk, April 20, \$148; probational appointment.

Luan Gozar, clerk, January 1, \$150; probational appointment.

Edward R. Nicholson, chief clerk and deputy, March 26, \$1,200; probational appointment.

**MOBO.**

Julius Schuck, interpreter, office of the governor. District of Sulu, January 22, \$900; probational appointment.

**NEGROS OCCIDENTAL.**

Miguel Unson, clerk, August 1, 1903, \$600; promotion from \$450.

Juan Baylon, clerk, May 19, ₱600; probational appointment.

**NUUEVA ECIJA.**

Cornelio Balaria, clerk, June 1, \$300; promotion from \$240.

Simcon Sanvicente, clerk, March 30, \$240; promotion from \$150.

**PAMPANGA.**

Thomas M. Houston, general foreman, March 1, \$720; probational appointment.

**PANGASINAN.**

Pastor Aquino, clerk, May 1, ₱480; promotion from \$180.

Epifanio Fernandez, clerk, June 1, \$300; probational appointment.

**RIZAL.**

Francisco Licuanan, deputy treasurer, January 1, ₱900; reduction from \$600.

Francisco Licuanan, deputy treasurer, April 1, ₱800; reduction from \$450.

Felicesimo Fineza, deputy treasurer, January 1, ₱400; reduction from \$360.

Mariano Feliciano, deputy treasurer, May 16, ₱400; reduction from \$240.

David Concepcion, deputy treasurer, January 1, ₱300; reduction from \$180.

Faustino Benito, deputy treasurer, January 1, ₱300; reduction from \$180.

Nictas Espinosa, deputy treasurer, January 1, ₱240; reduction from \$180.

Quiterio Lorenzo, deputy, April 1, ₱600; promotion from clerk, \$180.

Isabelo de Silva, clerk, April 1, \$420; transfer from deputy, \$300.

Francisco Santiago, clerk, April 18, ₱360; probational appointment.

Guillermo Aquino, clerk, May 1, ₱360; probational appointment.

**ROMBLON.**

Ramon Andres, clerk, February 1, ₱360; probational appointment.

Antonio Malbas, clerk, May 1, ₱360; probational appointment.

**SAMAR.**

Charles E. Norton, cashier and bookkeeper, April 27, ₱2,400; probational appointment.

Eulogio Letaba, clerk, April 27, ₱300; probational appointment.

**SORSOGON.**

Louis B. Wilhelm, deputy treasurer, April 30, ₱2,400; transfer from deputy treasurer, Cebu, \$1,200.

Blas Jularba, clerk, May 1, ₱480; promotion from \$180.

**TAYABAS.**

Frank Miller, general foreman, road construction, May 2, ₱2,180; probational appointment.

**UNION.**

Ciriaco Olavydez, deputy treasurer, March 1, \$300; promotion from clerk, \$240.

**RESIGNATIONS.**

*Provinces.*

**BULACAN.**

Mariano Santiago, justice of the peace, Angat, April 25, 1904.

**CAGAYAN.**

Eldadio Lejos, justice of the peace, Piat, March 1.

**CAVITE.**

Delfin Aure, auxiliary justice of the peace, Alfonso, May 21.  
 Damian Ermitaño, justice of the peace, Carmona, March 1.  
 Juan Papa, auxiliary justice of the peace, Carmona, May 14.  
 Isabelo Aguilar, justice of the peace, Corregidor, April 14.

**CEBU.**

Rafael Peliño, justice of the peace, Bogo, December 22, 1903.

**LOILO.**

Ponceiano Solano, justice of the peace, Janiuary, March 26.  
 Maximiliano Dayot, auxiliary justice of the peace, Pototan, March 20.

**LAGUNA.**

Cirilo Ustaris, justice of the peace, Calamba, April 25.  
 Irineo Miranda, justice of the peace, Calauan, February 24.  
 Pedro Ibañes, justice of the peace, Luisiana, March 8.  
 Mariano Tiongco, auxiliary justice of the peace, Santa Rosa, March 24.

**MISAMIS.**

Alvaro Abejuela, justice of the peace, Misamis, April 25.

**NUEVA ECIJA.**

Marcelino Nieves, auxiliary justice of the peace, Aliaga, April 30.

**PARAGUA.**

Feliciano Caton, auxiliary justice of the peace, Araceli, October 1, 1903.

**RIZAL.**

Lucas Santiago, justice of the peace, San Mateo, April 23.  
 Francisco Piguing, justice of the peace, Tanay, April 13.

**ROMBLON.**

Cornelio Madrigal, provincial secretary, March 28.  
 Lorenzo Candelario, justice of the peace, Badajoz, January 10.

**SAMAR.**

Pablo Prudencio, justice of the peace, Almagro, April 17.  
 Martin Costan, auxiliary justice of the peace, Lavezares, April 12.

**SORSOGON.**

Aniceto Judit, auxiliary justice of the peace, Magallanes, April 8.

**REMOVALS.**

E. E. Barton, supervisor-treasurer, Cagayan, Misamis, May 24.  
 Tomas Griego, auxiliary justice of the peace, Barcelona, Sorsogon, May 23.

Leandro Chaves, justice of the peace, Castilla, Sorsogon, May 25.

**BUREAU OF ARCHITECTURE AND CONSTRUCTION OF PUBLIC BUILDINGS.**

*Notice to contractors.*

OFFICE OF THE BUREAU OF ARCHITECTURE  
 AND CONSTRUCTION OF PUBLIC BUILDINGS,  
 158 Calle Anlogue, Manila, P. I., June 8, 1904.

Sealed proposals, addressed to the undersigned and plainly marked "Proposal for Job No. 595," will be received at this office until 10.30 a. m., June 18, 1904, for furnishing all material and doing all labor required to fully complete the post-office screens,

provincial building, Cebu, P. I., in the manner and conditions set forth in the form of proposal and the specifications, copies of which with other information may be obtained upon application to this office. The right is reserved to reject any or all bids and waive any defects.

EDGAR K. BOURNE,

Chief Bureau of Architecture.

**Contents.**

**Public laws.**

No. 1168, extending the time for the payment of the land and cedula taxes in the Province of Oriental Negros for the year 1904.

No. 1169, amending Act No. 709, so as to prohibit the traffic in intoxicating liquors within a certain distance of land used by the United States for military purposes at Calbayog, Samar, and also to permit the sale of intoxicating liquors within a circumscribed area in the town of Lucena, Taybas.

No. 1170, extending the time for the payment of the land tax in the Province of Pangasinan for the year 1904.

No. 1171, repealing Act No. 611, entitled "An Act authorizing the Civil Governor to issue passports to citizens of the Philippine Islands."

No. 1172, providing for the revision of valuation for the purpose of taxation of certain parcels of land in the municipality of Iloilo belonging to Matilde Jalandoni de Lopez and Esteban Jalandoni, so as to correct clerical errors.

**Decisions of the Supreme Court:**  
 The United States vs. Rosalia Anacleto et al.  
 The United States vs. Esteban Bare et al.  
 Silverio Pagua Fernando vs. Pacifico Santos Villalon et al.  
 The United States vs. Benito Vergara et al.  
 The United States vs. Casiano Sandaup.  
 Ana Maria Alcantara vs. Miguel Montenegro.  
 The United States vs. Eusebio Verrosos.  
 The United States vs. Laureano Mijares et al.  
 The United States vs. Julio Mendoza et al.  
 The United States vs. Quirino Fabio et al.  
 Ramona Trinidad vs. Eduardo Jarabe.  
 Manuel Abello vs. Paz Kock de Monasterio.  
 Petronilla Salonga vs. Manuel Concepcion.

**Opinions of the Attorney-General:**  
 A municipal president acting as a member of the Honorary Board of Commissioners is entitled to but \$7, United States currency, per day.

President of municipal board not a municipal officer and not removable under Provincial Government Act.  
 Expenses of execution of death sentence a burden on the Insular Treasury.

Foreigners resident in the Islands subject to the rules respecting vaccination.  
 The appointment of a municipal physician is not authorized by existing law.

Municipal appropriation for school purposes to be first approved by division superintendent and afterwards by the provincial treasurer.

**Philippine Civil Service Board:**  
 Examination for law clerk.

**Appointments:**  
 By the honorable Civil Governor.  
 By the Philippine Civil Service Board.

**Resignations.**  
**Removals.**  
**Bureau of Architecture and Construction of Public Buildings:**  
 Notice to contractors.

**Announcement.**

The Official Gazette is published weekly by the authority of the Government of the Philippine Islands. It will be furnished by mail to subscribers, free of postage, on the following terms:

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**The Government of the Philippine Islands.**

**Legislative.**

**THE PHILIPPINE COMMISSION.**

(Ayuntamiento—The Palace.)

**Commissioners.**—Luke E. Wright, President; Dean C. Worcester, Henry C. Ide, James F. Smith, T. H. Pardo de Tavera, Jose R. Luzurriaga, Benito Legarda.

**Executive.**

**Civil Governor.**—Luke E. Wright; acting private secretary, L. W. Manning; Captain Robert H. Noble, U. S. A., Aid-de-Camp to the Civil Governor.

**Vice-Governor.**—Henry C. Ide.

**Secretary of the Interior.**—Dean C. Worcester; private secretary, E. O. Johnson.

**Secretary of Commerce and Police.**—Vacant.

**Secretary of Finance and Justice.**—Henry C. Ide; private secretary, Jackson A. Due.

**Secretary of Public Instruction.**—James F. Smith; private secretary, W. H. Donovan.

EXECUTIVE DEPARTMENT.

**Executive Bureau.**—A. W. Fergusson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Fergusson, in charge, Transacting Division; Claude G. Dyer, Recorder of the Commission; Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; Sidney Thomas, Chief of Records Division; H. A. Lampton, Librarian.

**Bureau of Insular Purchasing Agent.**—Major E. G. Shields, Insular Purchasing Agent; A. L. B. Davies, Local Purchasing Agent.  
**Procurement of Supplies.**—Dr. H. H. Wood—Maj. C. McD. Townsend, Corps of Engineers, United States Army, officer in charge.  
**Philippine Civil Service Board (Oriente Building).**—Dr. W. S. Wash-bloch, Chairman; Dr. R. L. Jose Alemany.

DEPARTMENT OF THE INTERIOR.

**Board of Health for the Philippine Islands.**—Maj. E. C. Carter, Surgeon, U. S. A., Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. P. C. Freer, ex officio; Dr. Manuel Gomez, Secretary (on leave); Dr. R. E. L. Newberne, Acting Secretary.

**Quarantine Service (United States Public Health and Marine-Hospital Service; 78 Madrid).**—Dr. Victor G. Heiser, Chief Quarantine Officer; Drs. Chas. W. Vogel and John D. Long, Assistants.

**Marivets Detention and Disinfection Station.**—Dr. John M. Holt, in command; Dr. R. H. Creel, Assistant.

**Iloilo Quarantine Station.**—Dr. Geo. W. McCoy, in command.

**Cebu Quarantine Station.**—Dr. Carroll Fox, in command.

**Jolo Quarantine Station.**—Dr. M. K. Gwyb, in command.

**Forestry Bureau (Oriente Building).**—Capt. George P. Abern, Ninth Infantry, U. S. A., Chief; Ralph C. Bryant, Assistant Chief.

**Biological Bureau (Calle Comercio, Ermita).**—Rev. José Algué, S. J., Director (in United States); Rev. Miguel Saderra Mata, Assistant Director.

**Bureau of Public Lands (Intendencia Building).**—Will M. Tipton, Chief.

**Bureau of Agriculture (Oriente Building).**—Prof. F. Lamson-Scribner, Chief (on leave); W. E. Weiborn, Acting Chief.

**Ethnological Survey for the Philippine Islands (Oriente Building).**—A. J. Jenks, Chief; E. L. Weaver, Act. L. Miller.

**Bureau of Government Laboratories (791 Iris).**—Dr. P. C. Freer, Superintendent Government Laboratories; Dr. R. P. Strong, Director Geological Laboratories; Dr. James W. Jobling, Director of Serum Laboratory.

**Philippine Civil Hospital (791 Iris).**—Dr. H. Eugene Stafford, Attending Physician and Surgeon.

**Civil Sanitarium (Baguio, Benguet).**—Dr. J. B. Thomas, Attending Physician and Surgeon.

DEPARTMENT OF COMMERCE AND POLICE.

**Bureau of Posts (149 Escorial).**—Chas. M. Ottermann, Director; H. M. Robinson, Assistant Director (on leave) (Oriente Building);—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Jones, U. S. A., Assistant Chief, Commanding Second District; Col. Wallace C. Taylor, Assistant Chief, Commanding Third District; Maj. Jesse S. Garwood, Assistant Chief, Commanding Fourth District; Capt. James G. Langford, U. S. A., Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary headquarters, Manila; Col. William C. Rivers, U. S. A., Assistant Chief, Chief Supp. Office; Capt. Arthur S. Guthrie, Assistant Adjutant-General; Capt. Alexander L. Dade, U. S. A., Inspector-General.

**Bureau of Prisons (Headquarters, Calle Iris).**—George N. Wolfe, Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, Assistant Deputy Warden; William R. Moulton, Resident Physician; Ebert Adams, Cashier, Property and Disbursing Officer.

**Bureau of Coast Guard and Transportation.**—J. M. Helm, Commander, United States Navy, Chief; Capt. Spencer Cosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

**Bureau of Coast and Geodetic Survey (Intendencia Building).**—George R. Putnam, Assistant in charge of United States Suboffice.

**Bureau of Engineering (Santa Potenciana Building).**—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcomb, Principal Assistant Engineer; James D. Fauntleroy, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

DEPARTMENT OF FINANCE AND JUSTICE.

**Bureau of the Insular Treasury (Intendencia Building).**—Frank A. Branagan, Treasurer of the Philippine Islands; J. L. Barrett, Assistant Treasurer.

**Bureau of the Insular Auditor (Intendencia Building).**—Abraham L. Lawshe, Auditor for the Philippine Islands; W. W. Barre, Deputy Auditor.

**Bureau of Customs and Immigration.**—W. Morgan Shuster, Collector of Customs for the Philippine Islands; H. B. McCoy, Deputy Collector of Customs; Frank S. Cairns, Surveyor.  
**Bureau of Internal Revenue (147 Anioaque).**—Albert W. Hastings, Acting Collector.

**Insular Cold Storage and Ice Plant.**—Charles G. Smith, Superintendent.

**Bureau of Justice.**—Lebbus R. Wilfley, Attorney-General (on leave); Washington L. Goldsborough, Assistant Attorney-General; Gregorio Alcala, Solicitor-General; James G. Sweeney, Supervisor of Provincial Fiscals; Geo. R. Harvey, Assistant Attorney-General for the Constabulary.

DEPARTMENT OF PUBLIC INSTRUCTION.

**Bureau of Education (Santa Potenciana).**—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant; W. J. Fisher, Disbursing Officer.

**Bureau of Public Printing.**—John S. Leech, Public Printer (on leave); Edwin C. Jones, Acting.

**Bureau of Architecture and Construction of Public Buildings (Calle Anioaque).**—Edgar K. Bourne, Chief.

**Bureau of Archives (Palace).**—Manuel de Iriarte, Chief.

**Bureau of Patents, Copyrights, and Trade-Marks (Palace).**—Manuel de Iriarte, in charge.

**American Circulating Library (Oriente Building).**—Mrs. Egbert, Librarian.

**Official Gazette (Oriente Building).**—Max L. McCollough, Editor (on leave); Norton P. Brand, Acting Editor.

**Census Bureau.**—Brig. Gen. James S. Ganger, United States Army, Director of the Census (in United States).

Judiciary.

SUPREME COURT.

(Audencia, 47 Palaco.)

**Chief Justice.**—Don Cayetano Arellano.  
**Associate Justices.**—Florentino Torres, J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.  
**Clerks.**  
**Reporter.**—Fred C. Fisher.

COURT OF CUSTOMS APPEALS.

(Oriente Building.)

**Judge.**—A. S. Crossfield.

**Judge.**—Felix M. Roxas.

COURT OF LAND REGISTRATION.

(Municipal Building.)

**Judge.**—S. del Rosario.

**Associate Judge.**—D. R. Williams.

**Clerk.**—J. R. Wilson.

COURTS OF FIRST INSTANCE.

**Manila, Part 1.**—John C. Sweeney, judge.

**Manila, Part 2.**—

**Manila, Part 3.**—Byron S. Ambler, judge.

**Manila, Part 4.**—Manuel Arualo, judge.

**Clerk.**—McKicking.

**First District.**—Albert E. McCabe.

**Second District.**—Dionicio Chango.

**Fourth District.**—Charles C. Turritt.

**Third District.**—Arthur P. Odlin.

**Fourth District.**—Julio Lorente.

**Fifth District.**—Estanislao Yasay.

**Sixth District.**—Ignacio Villamor.

**Seventh District.**—Paul W. Linebarger.

**Eighth District.**—Grant T. Tre.

**Ninth District.**—Henry C. Bates.

**Tenth District.**—Vicente Jacon.

**Eleventh District.**—Adamo C. Claron.

**Twelfth District.**—James H. Blount.

**Thirteenth District.**—Warren H. Ickis.

**Fourteenth District.**—John Fowls.

**Fifteenth District.**—Wm. F. Norris.

**Additional judges.**—Adolph Wisleszen, Capiz; Beckman Winthrop; James C. Jenkins.

City Government of Manila.

**Municipal Board.**—A. Cruz Herrera, president; Charles H. Sleeper, member; Percy G. McDonnell, member (on leave in United States); Miguel Velasco, member; J. F. Case, member (on leave in United States); John M. Tutber, secretary.  
**Executive Board.**—Miguel Velasco, president; Basilio R. Mapa, Teodoro R. Yango, Rogaciano Rodriguez, Crispulo Feliciano, Jose Paterno, Juan Tusson, Tomas Arguelles, Jose R. Yafante, Antonio Ma. Pabalan, Vicente R. Somoza, Francisco del Rosario, Segundo Roldi, members; Vicente Rodriguez, secretary.

Postal Divisions and Superintendents.

No.	Division.	Superintendent.	Headquarters.
1	Manila	G. A. O'Reilly	Manila.
2	Albay and Sorsogon	E. E. Fisher	Albay.
3	Camarines.	W. B. Freer	Nueva Caceres.
4	Batangas	H. H. Buck	Batangas.
5	Bohol	T. W. Thomson	Tagbilaran.
6	Bulacan	(Vacant) Opha C. Lewis, acting.	Baliuag.
7	Cagayan and Isabela	H. A. Beard	Tuguegarao.
8	Capiz	E. A. Coddington	Capiz.
9	Cavite	S. A. Campbell	Cavite.
10	Cebu	Samuel MacIntyre	Cebu.
11	Iloocos Norte	J. M. Kniesley	Laong.
12	Iloocos Sur and Abra	(Vacant) Rodwell (P. S. W. O'Reilly) acting.	Vigan.
13	Iloilo and Antique	G. N. Brink	Iloilo.
14	Laguna	W. H. Lutz	Pagsanjan.
15	Nueva Ecija	C. H. Magee	San Fernando.
16	Leyte	(Vacant) J. L. Fiske, acting.	Tacloban.
17	Masbate	H. G. Lamson (C. H. Hanlin, acting).	Masbate.
18	Samar	H. S. Townsend	Catbalogan.
19	Misamis	Guy Van Schick	Cagayan.
20	Nueva Vizcaya	T. W. Thomson	San Isidro.
21	Nueva Vizcaya	J. J. Coleman	Bambang.
22	Occidental Negros.	Chas. E. Putnam	Bacolod.
23	Oriental Negros.	S. T. Lee (W. S. Dakin, acting).	Dumaguete.
24	Pampanga and Bataan	W. A. Prouitt (J. M. Gambill, acting).	San Fernando.
25	Pangasinan	E. G. Turner	Lingayen.
26	Rizal	B. G. Blendale	Pasig.
27	Romblon	G. E. Walk	Romblon.
28	Surigao	G. N. Briggs	Surigao.
29	Tarlac	(Vacant) A. V. Dairymple, acting.	Tarlac.
30	Tayabas	J. C. Muernan	Lucena.
31	Zambales	Olho Atkin	Ita.
32	Bataan	Governor R. S. Offey	Calapan.
33	Benguet	Governor W. F. Pack	Baguio.
34	Lepanto-Bontoc	Governor Wm. A. Reed	Cervantes.
35	Mindanao	Governor R. S. Offey	Davao.
	Moro Province	N. M. Saleeby	Zamboanga.
	Philippine Naval School	W. J. Colbert, acting.	Manila.
	Philippine Normal School	G. E. Beattie	Do.
	Philippine School of Arts and Trades.	R. P. Osening	Do.

## Provincial Governments in the Philippines.

**Abrú**—Bangued, capital. Governor, Blas Villamor; secretary-fiscal, Lucas Paredes; supervisor-treasurer, Archibald McFarland.

**Albay (Luzon)**—Albay, capital. Governor, Ramon Santos; secretary, L. Thomas; treasurer, C. A. Reynolds; supervisor, William A. Crossland; fiscal, M. Calleja.

**Ambos Camarines (Luzon)**—Nueva Caceres, capital. Governor, Juan Pimental; secretary, Roman Enrile; treasurer, J. Q. A. Braden; supervisor, E. P. Shuman; fiscal, F. Contreras.

**Antique (Panay)**—San José de Buenavista, capital. Governor, Leandro Fallon; secretary, A. Salazar; supervisor-treasurer, B. T. Reamy; fiscal, V. Gella.

**Bataan**—Balanga, capital. Governor, Tomas G. del Rosario; secretary, L. L. Zialcita; supervisor-treasurer, Emery R. Yundt; fiscal, Ambrosio Delgado.

**Batangas (Luzon)**—Batangas, capital. Governor, Gregorio Aguilera; secretary, F. Caedo; treasurer, R. D. Blanchard; supervisor, Ernest J. Westerhouse; fiscal, D. Gloria.

**Benquet**—Bagulo, capital. Governor, Wm. F. Pack; secretary, Egmido Octaviano; acting supervisor, (provincial governor).

**Bohol (Bohol)**—Tagbilaran, capital. Governor, Salustiano Borja; secretary, M. Sarmiento; supervisor-treasurer, C. D. Uplington; fiscal, Gavino Sepulveda.

**Butuan**—Malolos, capital. Governor, Pablo Tecson y Ocampo; secretary, Francisco Meralos; treasurer, R. W. Goodhart; supervisor, Harry Thubber; fiscal, Hermógenes Reyes.

**Cagayan**—Tuguegarao, capital. Governor, Gracío Gouzaga; secretary, Antonio Carag; treasurer, W. W. Barclay; supervisor, William E. Pearson; fiscal, Cayo Alonso.

**Capiz (Panay)**—Capiz, capital. Governor, S. Jugo Vidal; secretary, Emiliano Acevedo; supervisor-treasurer, F. S. Chapman; fiscal, A. Pardo.

**Cavite**—Cavite, capital. Governor, Capt. David C. Shanks, United States Army; secretary, D. Trona; treasurer, Arthur S. Emery; supervisor, Elmer O. Worric; fiscal, F. Santa Maria.

**Cebu (Cebu)**—Cebu, capital. Governor, J. Cilmaco; secretary, L. Albujo; treasurer, Fred J. Schlottfeldt; supervisor, Harry C. Delano; fiscal, Mariano Cui.

**Icosos Norte**—Laosag, capital. Governor, Julio Agacoll III; secretary, M. Flor; treasurer, J. N. Currie; supervisor, Paul F. Green; fiscal, Policarpo Soriano.

**Icosos Sur**—Vigan, capital. Governor, Mena Crisologo; secretary, Fernando Ferrer; treasurer, Fred L. Wilson; supervisor, J. C. Hawley; fiscal, Vicente Sison.

**Iloilo (Panay)**—Iloilo, capital. Governor, Raymundo Melliza; secretary, J. Yusay; treasurer, Charles C. McLain; supervisor, Maurice W. Tuttle; fiscal, Andrew V. Smith.

**Izabela**—Iligan, capital. Governor, George Curry; secretary, Eliseo Claravall; supervisor-treasurer, N. B. Stewart; fiscal, Vicente Nepomuceno.

**La Laguna**—Santa Cruz, capital. Governor, Juan Calles; secretary, José Rivera y Cosme; treasurer, Carrol H. Lamb; supervisor, David A. Sherry; fiscal, Higinio Benitez.

**La Union**—San Fernando, capital. Governor, Joaquin Luna; secretary, Andres Asprer; treasurer, Frank B. Parsons; supervisor, Bert H. Burrell; fiscal, J. Baltazar.

**Lepanto-Bontoc**—Cervantes, capital. Governor, William A. Reed; secretary-treasurer, Gideon B. Travis; supervisor, M. Goodman; lieuten-

ant-governor (Bontoc), Daniel Folkmar; lieutenant-governor (Amburayan), W. P. Gale.

**Leyte**—Tacloban, capital. Governor, P. Dorseith; secretary, Emigdio Acebedo; treasurer, W. S. Conrow; supervisor, Oliver D. Filley; fiscal, Domingo Franco.

**Masbate**—Masbate, capital. Governor, Joaquín Ma. Bayot y Zurbito; treasurer and acting supervisor, J. A. Comdohr; fiscal, Ambrosio Delgado.

**Mindoro**—Puerto Gallera, capital. Governor, Capt. R. S. Offley, Thirtieth Infantry, U. S. A.; secretary, Fernando San Agustín; supervisor-treasurer, William O. Smith; fiscal, Sofía Alandy.

**Misamis**—Cagayan, capital. Governor, Manuel Corrales; secretary, A. Velez; supervisor-treasurer, E. E. Barton; fiscal, N. Capistrano.

**Moro**—Zamboanga, capital. Governor, Gen. Leonard Wood, United States Army; secretary, Capt. George T. Langborne, United States Army; attorney, John E. Springer; treasurer, Fred A. Thompson; engineer and supervisor, Capt. Charles Keller, United States Army; superintendent of schools, Dr. Najeeb M. Saleeby.

**Nueva Ecija**—San Isidro, capital. Governor, Epifanio de los Santos; secretary, R. Roque; treasurer, J. B. Green; supervisor, C. D. Wood; fiscal, R. Malafac.

**Nueva Vizcaya**—Bayombong, capital. Governor, L. E. Bennett; secretary-treasurer, William C. Bryant; acting supervisor, Wm. H. Nipps.

**Occidental Negros**—Bacolod, capital. Governor, Antonio Jayme; secretary, L. Moreno; treasurer, P. A. Casanave; supervisor, H. M. Wood; fiscal, M. Blanco.

**Oriental Negros**—Dumaguete, capital. Governor, Demetrio Larena; secretary, J. Montenegro; supervisor-treasurer, H. A. Peed; fiscal, E. Araneta.

**Pampanga**—Bacolod, capital. Governor, Macario Arnedo; secretary, M. Cunañan; treasurer, R. M. Shearer; supervisor, S. V. Cortelyou; fiscal, E. Macapinlac.

**Pangasinan**—Lingayen, capital. Governor, Macario Favila; secretary, Benito Sison; treasurer, Thomas H. Hardeman; supervisor, Charles F. Vance; fiscal, R. Espiritu.

**Paragua**—Cuyo, capital. Governor, Lieut. E. Y. Miller; secretary-treasurer, Hall H. Ewing.

**Rizal (Luzon)**—Pasig, capital. Governor, Arturo Dancel; secretary, José Tupas; treasurer, Wm. N. Bish; supervisor, Telfair Hodgson; fiscal, Bartolomé Revilla.

**Romblon**—Romblon, capital. Governor, Francisco Sans; secretary, Cornelio Madrigal; supervisor-treasurer, Julius S. Reis.

**Samar**—Cathalogan, capital. Governor, Eduardo Felto; secretary, Rafael Maga; treasurer and acting supervisor, Arthur G. Whittier; fiscal, Domingo Franco y Mosquera.

**Sorsogon (Luzon)**—Sorsogon, capital. Governor, Bernardino Monreal; secretary, M. V. del Rosario; treasurer, R. J. Fanning; supervisor, Harry L. Stevens; fiscal, P. Ballen.

**Surigao**—Surigao, capital. Governor, Daniel Toribio Sison; secretary, Rafael Eliot; supervisor-treasurer, George A. Benedict; fiscal, P. Soriano.

**Tarlac**—Tarlac, capital. Governor, Alfonso Ramos; secretary, M. Barrera; treasurer, W. E. Jones; supervisor, Sam C. Phipps; fiscal, M. Ilagan.

**Tayabas**—Lucena, capital. Governor, Ricardo Paras; secretary, Geracio Unson; treasurer, William O. Thornton; supervisor, Henry C. Humphrey; fiscal, Manuel Queson.

**Zambales**—Iba, capital. Governor, Potenciano Lesaca; secretary, Gabriel Alba; supervisor-treasurer, John W. Ferrier; fiscal, Juan Manday.

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VOL. II

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No. 26

## PUBLIC LAWS.

[No. 1173.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF ILOILO FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL NOVEMBER FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Iloilo is hereby extended to November first, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 2, 1904.

[No. 1174.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF MISAMIS FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL NOVEMBER FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province of Misamis is hereby extended to November first, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 2, 1904.

[No. 1175.]

AN ACT AUTHORIZING THE ESTABLISHMENT OF A CIRCULATING LIBRARY IN THE PROVINCE OF ALBAY, CREATING A LIBRARY BOARD FOR THE SUPERVISION, MANAGEMENT, AND CONTROL THEREOF, AUTHORIZING THE BOARD TO ADOPT AND PUT IN FORCE RULES AND REGULATIONS FOR THE MANAGEMENT OF SAID LIBRARY, RECEIVE AND ACQUIRE MONEY AND PROPERTY FOR THE BENEFIT THEREOF, AND TO EXPEND

THE FUNDS OF SAID LIBRARY FOR ITS MAINTENANCE AND FOR THE PURCHASE OF BOOKS AND PROPERTY FOR ITS BENEFIT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The establishment of a circulating library for the Province of Albay is hereby authorized.

SEC. 2. Said circulating library shall be supervised, managed, and controlled by a library board composed of the provincial governor, the provincial treasurer, the provincial supervisor, the division superintendent of the school division of Albay and Sorsogon, and the principal of the provincial high school of Albay.

The provincial governor shall be chairman, the provincial treasurer shall be treasurer, and the division superintendent of the school division of Albay and Sorsogon shall be secretary of the library board.

SEC. 3. Vacancies caused by the temporary absence or disability of the provincial governor, the provincial treasurer, the provincial supervisor, the division superintendent of the school division of Albay and Sorsogon, or the principal of the provincial high school of Albay shall be filled by the acting provincial governor, the acting provincial treasurer, the acting provincial supervisor, the acting division superintendent of the school division of Albay and Sorsogon, or the acting principal of the provincial high school of Albay, as the case may be.

SEC. 4. The library board is authorized to adopt and put in force rules and regulations for the management of the library and to receive gifts, donations, devises and bequests of money, books, and property for the benefit of said library. The board is also authorized to expend the funds of said library for the maintenance thereof and for the purchase of books and property for the benefit of said library.

SEC. 5. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 6. This Act shall take effect on its passage.

Enacted, June 2, 1904.

[No. 1176.]

AN ACT APPROPRIATING THE SUM OF FOUR HUNDRED AND SIX THOUSAND FIVE HUNDRED AND NINETY-TWO PESOS, PHILIPPINE CURRENCY, OR SO MUCH THEREOF AS MAY BE NECESSARY, FOR CERTAIN PUBLIC WORKS, PERMANENT IMPROVEMENTS, AND OTHER PURPOSES OF THE INSULAR GOVERNMENT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The following sums, in Philippine currency, or so much thereof as may be necessary, are hereby appropriated, out of any funds in the Treasury of the Philippine Islands not

otherwise appropriated, for certain public works, permanent improvements, and other purposes of the Insular Government:

**BUREAU OF ARCHITECTURE AND CONSTRUCTION OF PUBLIC BUILDINGS.**

*Public works, Bureau of Architecture and Construction of Public Buildings:* For alteration, construction, or improvement of the following-named public buildings and grounds, not to exceed in cost the amounts set opposite the names of the respective buildings and bureaus:

*Bureau of Coast Guard and Transportation:* Completion of warehouse on Engineer Island, five thousand seven hundred pesos.

*Bureau of Government Laboratories:* Completion of new Laboratory building, forty-two thousand eight hundred and ninety-two pesos.

*Bureau of the Insular Purchasing Agent:* Sidewalk in front of new corral, seven hundred pesos; filling in around new corral, one thousand seven hundred pesos; total, two thousand four hundred pesos.

*Bureau of Prisons:* Completion of warehouse, including steel-lined corridor, gates, runway, and so forth, from Bilibid Prison to the warehouse, five thousand six hundred pesos.

Total for public works, fifty-six thousand five hundred and ninety-two pesos.

*Building supplies, Bureau of Architecture and Construction of Public Buildings:* The unexpended balance of funds appropriated for "building supplies, skilled and unskilled labor for small jobs," under the head of "Public works, Bureau of Architecture and Construction of Public Buildings," in Act Numbered Eight hundred and seven,<sup>1</sup> and the funds appropriated for the purchase of "building supplies, tools, and so forth," under said heading, in Act Numbered One thousand and forty-nine<sup>2</sup> and One thousand one hundred and fourteen,<sup>3</sup> are hereby made a reimbursable fund entitled "Building supplies, Bureau of Architecture and Construction of Public Buildings," from which shall be purchased all building materials, tools, and so forth, used by said Bureau: *Provided,* That when materials or tools purchased from the fund hereby created, or which may be in stock on the date of the passage of this Act, are used in repair or construction of public buildings, the cost thereof shall be charged against the appropriation for such work, and the fund hereby created shall be reimbursed in a like amount.

In all, for the Bureau of Architecture and Construction of Public Buildings, fifty-six thousand five hundred and ninety-two pesos.

**BENGUET ROAD.**

Any unexpended balance of appropriations heretofore made for expenses in carrying on the construction of the Benguet Road is hereby made available for the payment of per diems of five dollars for Captain Amos H. Martin, United States Army, assistant to the engineer in charge of Benguet improvements, from September fourth, nineteen hundred and three, and per diems of five dollars for Captain Melvin W. Rowell, United States Army, disbursing officer for Benguet road and Benguet improvements, from November sixteenth, nineteen hundred and three; and for payment to N. M. Holmes, former engineer in charge of construction of Benguet road, of one thousand pesos in full settlement of all claims by him against the Government of the Philippine Islands.

**IMPROVEMENT OF THE PORT OF MANILA.**

For continuing the improvements of the harbor of Manila, and other public works, as provided in Act Numbered Twenty-two as amended, three hundred and fifty thousand pesos: *Provided,* That the funds hereby appropriated shall be expended by the Civil Governor through the Chief Engineer of the Philippine Division of the United States Army, and are available for

expenditure in payment for all work at present under contract for the improvement of the Port of Manila and for continuing the improvements to the Pasig River: *And provided further,* That the funds hereby appropriated are available for the payment of fee of three thousand pesos to Desmond Fitzgerald for services as Consulting Engineer, the provisions of existing laws to the contrary notwithstanding.

SEC. 2. All balances remaining unexpended when any public works or permanent improvements appropriated for by this Act are completed shall be returned at once to the Treasury of the Philippine Islands and shall not be available for withdrawal or disbursement thereafter, but shall be carried to the general revenues of the Islands.

SEC. 3. The provisions of the first paragraph of section three of Act Numbered Eight hundred and seven, providing the manner in which withdrawals of moneys appropriated under said Act shall be made, are hereby made applicable to the withdrawal of moneys appropriated under this Act.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 5. This Act shall take effect on its passage.

Enacted, June 3, 1904.

[No. 1177.]

**AN ACT AMENDING SECTION SIX OF THE MANILA LIQUOR LICENSES ACT.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section six of Act Numbered Fifty-nine,<sup>1</sup> known as "The Manila Liquor Licenses Act," is hereby amended to read as follows:

"SEC. 6. All saloons, bars, and other drinking places shall be closed from twelve o'clock midnight until five o'clock antemeridian the following day, except that when the following day shall be Sunday they shall remain closed until five o'clock antemeridian the following Monday; and it shall be unlawful for any person to sell, give away, or otherwise dispose of any fermented, malt, vinous, or spirituous, or other intoxicating liquors between the above-mentioned hours except as herein provided, but the words 'give away' where they occur in this Act shall not apply to the giving away of intoxicating liquors by a person in his private dwelling, unless such private dwelling shall become a place of public resort."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 4, 1904.

[No. 1178.]

**AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCE OF OCCIDENTAL NEGROS FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL OCTOBER FIRST, NINETEEN HUNDRED AND FOUR.**

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Province

of Occidental Negros, is hereby extended to October first, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 6, 1904.

[No. 1179.]

AN ACT AMENDING THE PROVINCIAL GOVERNMENT ACT AS AMENDED BY ACT NUMBERED FIVE HUNDRED AND EIGHTY-FIVE, BY PROVIDING FOR THE PAYMENT FROM PROVINCIAL FUNDS, OF THE SALARIES OF PERSONS NOT ALREADY IN THE SERVICE OF THE GOVERNMENT WHO MAY BE APPOINTED BY THE CIVIL GOVERNOR TO FILL TEMPORARY VACANCIES IN THE OFFICE OF PROVINCIAL GOVERNOR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Provincial Government Act, Numbered Eighty-three, as amended by Act Numbered Five hundred and eighty-five,<sup>1</sup> is hereby further amended by adding at the end of the first sentence of the provisional clause in section one of Act Numbered Five hundred and eighty-five, the words "and in case such person is not at the time of appointment in the service of the Government his salary shall be the same as the regular provincial governor and shall be paid out of provincial funds."

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall be retroactive, and shall take effect as of January first, nineteen hundred and four.

Enacted, June 7, 1904.

[No. 1180.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX FOR THE YEARS NINETEEN HUNDRED AND THREE AND NINETEEN HUNDRED AND FOUR IN THE MUNICIPALITIES OF ALAMINOS, BANI, BOLINAO, ANDA, AGNO, SAN ISIDRO, AND INFANTA, FORMERLY BELONGING TO THE PROVINCE OF ZAMBALES BUT RECENTLY TRANSFERRED TO THE PROVINCE OF PANGASINAN, UNTIL JULY THIRTY-FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the years nineteen hundred and three and nineteen hundred and four in the municipalities of Alaminos, Bani, Bolinao, Anda, Agno, San Isidro, and Infanta, formerly belonging to the Province of Zambales but recently transferred to the Province of Pangasinan, is hereby extended to July thirty-first, nineteen hundred and four, anything in previous Acts to the contrary notwithstanding.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the

Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 8, 1904.

[No. 1181.]

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE LAND TAX IN THE PROVINCES OF ILOCOS SUR AND ZAMBALES FOR THE YEAR NINETEEN HUNDRED AND FOUR UNTIL OCTOBER FIRST, NINETEEN HUNDRED AND FOUR.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The period for the payment, without penalty, of the land tax for the year nineteen hundred and four in the Provinces of Ilocos Sur and Zambales is hereby extended to October first, nineteen hundred and four.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 3. This Act shall take effect on its passage.

Enacted, June 8, 1904.

[No. 1182.]

AN ACT TO PROVIDE FOR A PRELIMINARY LISTING OF MANUFACTURERS OF ALCOHOLIC AND TOBACCO PRODUCTS AND MATCHES, AND FOR AN INVENTORY OF THE STOCKS OF GOODS IN THEIR POSSESSION WITH A VIEW TO FURNISHING A BASIS FOR TAXATION BY AN INTERNAL-REVENUE LAW.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. The Acting Collector of Internal Revenue shall at once secure in the city of Manila, and in the provinces, through the provincial treasurers, the listing of all distillers, rectifiers, and manufacturers of alcoholic liquors, manufacturers of fermented liquors, of cigars, cigarettes, and other tobacco products, and of matches, and shall transmit such lists as soon as prepared to the Secretary of Finance and Justice.

SEC. 2. Such lists shall contain the name and residence of each manufacturer, the location of each manufactory, the output during the current fiscal year in liters, thousands, kilograms, or other count or measurement of the several articles actually manufactured in each of said manufactories during said year, and as approximately as may be possible an estimate of the prospective output during the fiscal year ending June thirtieth, nineteen hundred and five.

SEC. 3. At the time of making such lists the Acting Collector of Internal Revenue and provincial treasurers or their deputies shall prepare a complete inventory of all stocks of such alcoholic or fermented liquors, cigars, cigarettes, other tobacco products, and matches, as may be then on hand in the manufactory premises where produced, or undisposed of in the possession of the manufacturers thereof, and for such purpose shall have the right to enter upon such premises and make such inventory. Record shall be kept thereafter by each manufacturer of all such goods manufactured in his manufactory or disposed of by him.

SEC. 4. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure

by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 5. This Act shall take effect on its passage.

Enacted, June 8, 1904.

[No. 1183.]

AN ACT APPROPRIATING AN ADDITIONAL SUM OF EIGHTY-SEVEN THOUSAND DOLLARS, IN MONEY OF THE UNITED STATES, FOR THE PURPOSE OF CONTINUING AND COMPLETING THE PREPARATION OF THE EXHIBIT OF THE PHILIPPINE ISLANDS AT THE LOUISIANA PURCHASE EXPOSITION, AND THE CARRYING ON IN GENERAL OF THE WORK OF THE PHILIPPINE EXHIBIT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the additional sum of eighty-seven thousand dollars, in money of the United States, to be expended by order of the Exposition Board in the preparation and maintenance of the Philippine exhibit at the Louisiana Purchase Exposition at Saint Louis, Missouri, for the purposes and under the restrictions set forth in Act Numbered Five hundred and fourteen, as amended by Act Numbered Seven hundred and sixty-five,<sup>1</sup> and for the purpose of continuing and completing the preparation of the exhibit of the Philippine Islands at said Exposition, and for meeting the expenses provided in Act Numbered Seven hundred and sixty-five, for completing the necessary buildings for the exhibits, for laying out the grounds included in the tract of land assigned to the Philippine exhibit, and for the general purpose of carrying on the exhibit, including the care and custody of the exhibits, and the general expenses authorized to be incurred by virtue of Act Numbered Five hundred and fourteen, as amended. The sum hereby appropriated shall be expended by order of the Exposition Board and in accordance with existing law.

Sec. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

Sec. 3. This Act shall take effect on its passage.

Enacted, June 9, 1904.

[No. 1184.]

AN ACT AMENDING ACT NUMBERED EIGHT HUNDRED AND SIXTY-SEVEN SO AS TO PROVIDE THAT THE COURT VACATION FOR THE COURT OF FIRST INSTANCE FOR THE MOUNTAIN JUDICIAL DISTRICT SHALL BE DURING THE MONTHS OF AUGUST AND SEPTEMBER, AND CHANGING THE TIMES AT WHICH COURTS OF FIRST INSTANCE SHALL BE HELD IN THAT DISTRICT.

*By authority of the United States, be it enacted by the Philippine Commission, that:*

SECTION 1. Section one of Act Numbered Eight hundred and sixty-seven,<sup>2</sup> relating to the organization of courts, and the times and places for holding sessions thereof, is hereby amended by adding at the end of that portion of section one, entitled "Sec. 5. Court vacation and judicial leaves of absence," the following words: "Provided, however, That the court vacation for the Mountain Judicial District shall be during the months of August and September of each year."

SEC. 2. That portion of section seven of said Act Numbered Eight hundred and sixty-seven which provides for the times and places for holding Courts of First Instance in the Mountain Judicial District is hereby amended so as to read as follows:

"MOUNTAIN DISTRICT.

"At Baguio, in and for the Province of Benguet, commencing on the first Tuesdays of December and April of each year.

"At Bayombong, in and for the Province of Nueva Vizcaya, commencing on the first Tuesdays of January and May of each year.

"At Cervantes, in and for the Province of Lepanto-Bontoc, commencing on the first Tuesdays of February and June of each year."

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on the first day of August, nineteen hundred and four.

Enacted, June 9, 1904.

### PROCLAMATION.

BY THE CIVIL GOVERNOR OF THE PHILIPPINE ISLANDS—  
A PROCLAMATION.

The following act of the Congress of the United States, having been approved by the President of the United States on the fifteenth day of April, anno Domini nineteen hundred and four, is hereby published for the information and guidance of all concerned:

"AN ACT TO REGULATE SHIPPING IN TRADE BETWEEN PORTS OF THE UNITED STATES AND PORTS OR PLACES IN THE PHILIPPINE ARCHIPELAGO, BETWEEN PORTS OR PLACES IN THE PHILIPPINE ARCHIPELAGO, AND FOR OTHER PURPOSES.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after July first, nineteen hundred and six, no merchandise, except supplies for the Army or Navy, shall be transported by sea, under penalty of forfeiture thereof, between ports of the United States and ports or places in the Philippine Archipelago, directly or via a foreign port, or for any part of the voyage, in any other vessel than a vessel of the United States. But this section shall not be construed to prohibit the sailing of any foreign vessel between any port of the United States and any port or place in the Philippine Archipelago: *Provided*, That no merchandise other than that imported in such vessel from some foreign port which has been specified on the manifest as for another port, and which shall not have been unloaded, shall be carried between a port of the United States and a port or place in the Philippine Archipelago.

"Sec. 2. That on and after July first, nineteen hundred and six, no foreign vessel shall transport passengers between ports of the United States and ports or places in the Philippine Archipelago, either directly or by way of a foreign port, under a penalty of two hundred dollars for each passenger so transported and landed.

"Sec. 3. That sections one and two of this Act shall not apply to the transportation of merchandise or passengers between ports or places in the Philippine Archipelago. Until Congress shall have authorized the registry as vessels of the United States of vessels owned in the Philippine Archipelago the Government of the Philippine Islands is hereby authorized to adopt, from time, and enforce regulations governing the transportation of merchandise and passengers between ports or places in the Philippine Archipelago.

"Sec. 4. That sections one and two of this Act shall not apply



to the voyage of a vessel between a port of the United States and a port or place in the Philippine Archipelago begun before July first, nineteen hundred and six.

"Sec. 5. That sections one and two of this Act shall not apply to vessels owned by the United States.

"Sec. 6. That on and after the passage of this Act the same tonnage taxes shall be levied, collected, and paid upon all foreign vessels coming into the United States from the Philippine Archipelago which are required by law to be levied, collected, and paid upon vessels coming into the United States from foreign countries: *Provided, however*, That until July first, nineteen hundred and six, the provisions of law restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from one port of the United States to another port of the United States shall not be applicable to foreign vessels engaging in trade between the Philippine Archipelago and the United States: *And provided further*, That the Philippine Commission shall be authorized and empowered to issue licenses to engage in lighterage or other exclusively harbor business to vessels or other craft actually engaged in such business at the date of the passage of this Act, and to vessels or other craft built in the Philippine Islands or in the United States and owned by citizens of the United States or by inhabitants of the Philippine Islands.

"Sec. 7. That this Act shall not be construed to impair or affect any privilege guaranteed to Spanish ships and merchandise by the treaty of peace between the United States and Spain signed at the city of Paris on December tenth, eighteen hundred and ninety-eight, and ratified April eleventh, eighteen hundred and ninety-nine.

"Sec. 8. That the Secretary of Commerce and Labor shall, from time to time, issue regulations for the enforcement of this Act, except as otherwise provided in section three: *Provided*, That such of the navigation laws of the United States as are in force in the Philippine Archipelago in regard to vessels arriving in the Philippine Islands from the mainland territory and other insular possessions of the United States shall continue to be administered by the proper officials of the government of the Philippine Islands.

"Approved, April 15, 1904."

Done at the city of Manila this twentieth day of June, anno Domini nineteen hundred and four.

LUKE E. WRIGHT,  
*Civil Governor.*

By the Civil Governor:

F. W. CARPENTER,  
*Acting Executive Secretary.*

### EXECUTIVE ORDER.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,  
OFFICE OF THE CIVIL GOVERNOR.

MANILA, June 21, 1904.

EXECUTIVE ORDER }  
No. 29.

The official rate for the acceptance of Spanish-Filipino currency, in payment of public dues, from and after June thirtieth, nineteen hundred and four, and until further notice, is hereby fixed at the ratio of one peso and thirteen centavos, Spanish-Filipino currency, for one peso Philippine currency, or its equivalent in United States currency.

No Mexican pesos will be received in payment of public dues, and neither Mexican pesos or Spanish-Filipino coins will be purchased by the Government between June thirtieth and September thirtieth, nineteen hundred and four, and after the last-named date they will be purchased only at their bullion value.

LUKE E. WRIGHT,  
*Civil Governor.*

### DECISIONS OF THE SUPREME COURT.

[No. 1132. April 2, 1904.]

MARTINIANO M. VELOSO, plaintiff and appellant, vs. PE-TRONA NAAGUIT ET AL., defendants and appellees.

1. REAL ESTATE; ADVERSE POSSESSION; STATUTE OF LIMITATIONS; EXTRAORDINARY PRESCRIPTION.—Both the Civil Code and the law in force prior to its enactment require an adverse possession of thirty years to bar the title of the real owner, when such possession is not accompanied by a colorable title believed by the possessor to be sufficient to vest him with ownership.
2. ID.; POSSESSORY INFORMATION; CANCELLATION.—The inscription in the land register of a possessory information is no defense to an ejectment suit by the real owner, when brought before such possession ripens into ownership by prescription, and will be cancelled at the instance of the owner.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

MARTINIANO M. VELOSO, on his own behalf.

MARIANO MONROY, for appellees.

ARELLANO, C. J.:

This case concerns a piece of land containing 1,897 square meters and 24 square centimeters, situated on the Island of Tanduay, of this city. The subject-matter of the suit, as to its identity, is well defined and leaves no room for doubt between the parties litigant.

This land is at the present time in the possession of the three defendants, as children and lawful heirs of their father, Don Santiago Naguit; in his lifetime it was regarded as one tract, but is now considered as divided into three parcels, one for each heir.

The plaintiff, Don Martiniano Veloso, brings suit for the recovery of all three of these parcels as part of the Island of Tanduay, of which, with the exception of certain portions, he claims to be the owner.

In 1901 the defendants recorded a possessory information covering the three parcels. This inscription, which appears in the books of the North Register of Manila, is one of the facts alleged in the complaint by Veloso as the ground of his action for the recovery of the land. The attorney for the defendants says: "The recorded possessory informations which Mr. Veloso mentions, the existence of which he therefore knows, nevertheless reserving them for exhibition in case of necessity." (P. 117, sic.)

The fact that the possessory informations are recorded is one of the grounds of the action brought by Veloso. The relief sought is a declaration of his sole and exclusive ownership of the lot in question, and the annulment of the possessory informations obtained upon them by the defendants and consequently the cancellation of the recordation thereof in the register of property of the North District of this city, within the district of which the land in question is located.

The complaint was filed September 28, 1901, and consequently before the enactment of the present Code of Civil Procedure. The entire case was conducted up to this stage in accordance with the former law of Civil Procedure, with one exception, that of the taking of evidence.

The title deeds upon which the plaintiff relies run back to the year 1621. (1) The most recent document is a deed of gift from Don Melchor Veloso to Don Martiniano. (2) Don Melchor obtained title by a similar gift from his brothers and sisters, Don Buenaventura, Doña Damiana, and Don Mariano, legitimate children of Don Gabino Veloso, deceased, who in his will bequeathed the Island of Tanduay to these children. (3) Don Gavino Veloso in his lifetime had become the owner of the island by purchase from Don Jose Perez Garcia and Don Jose Luciano Roca, the 17th of June, 1868, the consideration being 12,000 pesos. (4) Roca had purchased half of it from Don Leopoldo

Segundo Pacheco, March 11th, 1868, and was tenant in common with Perez Garcia, who, on the 6th of September, 1865, had purchased the property from the testamentary estate of Don Cristobal Arlegui, purchasing first the *dominium utile* and subsequently the entire fee, the legal title having been conveyed to him by the Convent of San Sebastian, the 18th of November, 1865, in consideration of 3,000 pesos. Subsequently to this date he conveyed a half interest to Pacheco in the month of December for 6,000 pesos, and this half interest as has been stated was conveyed in turn to Roca. (5) The Convent of San Sebastian, and formerly the corporation of Recoletos, had acquired the island by donation, made the 2nd of September, 1621, by Doña Ines Daitin, with the consent of her husband, Don Miguel Baul.

The attorney for the defendants spoke at some length concerning these documents, but did not except to their admission, and did not refer to them again in his reply or elsewhere in the course of the suit. And it is certain that an exception based upon the objections made by the defendants' attorney could have been successfully opposed by no others than the heirs of the donor, Ines Daitin.

The plaintiff in his complaint anticipated the defense of prescription by the defendants, but the latter expressly stated in their answer that they had not thought of making use of the defense of prescription, and that it was not necessary for them to do so. Consequently this phase of the case was not discussed in the pleadings. The question was, however, raised in the evidence by means of two witnesses. One of them said that Santiago Naguit, under whom the defendants claim "had been in possession for forty years, more or less." The other witness said that he knew that Naguit had been in possession of the lot in question for thirty years more or less. These witnesses were testifying in 1902. (Record, p. 223 and 227.) With respect to this plea of the statute of limitations, the documentary evidence of the defense is conclusive, to wit, a restitutory interdict, and an interdict of peaceful possession. In the restitutory interdict obtained by Don Santiago Naguit against Don Gavino Veloso, a judgment was rendered in favor of Naguit January 28, 1880, ordering the restoration of possession to him, which judgment was affirmed subsequently by the *Audiencia* of Manila by judgment dated February 21 of the same year. As the order of the Court of First Instance was made in January, 1880, it follows that the statement therein contained that the complaint had been filed the 22d of October of the preceding year, means that it was filed in October, 1879, and that when the witnesses for the interdict testified that it was a fact that the plaintiff had been in quiet and peaceable possession of the lot in question for more than three years, it appeared that he had been in possession since September or October, 1876.

In the proceedings concerning the interdict of peaceful possession (*interdicto de retener*) of another portion of the land in question, brought by Naguit against one Gregorio Cleofas, the plaintiff and his witnesses stated, in March, 1887, that Naguit had been in possession for two years, so that the possession dated from March, 1885.

From September, 1876, to September, 1901, the date of the filing of the present complaint, only twenty-five years have elapsed, and from 1885 to 1901 sixteen years. It follows, therefore, that the period of thirty or forty years' possession affirmed by these witnesses, is conclusively contradicted by the documentary evidence of the defendants themselves, from which the period of only twenty-five years appears with respect to one portion, and of sixteen years with respect to the other, this being insufficient for the period of extraordinary prescription without title, under the provisions of law 21, title 29 of the third partida, entirely similar to the provisions of article 1959 of the Civil Code now in force. We can not therefore sustain the exception of extraordinary prescription of thirty years, first because the

plea of prescription was not set up in the pleadings, and second, because even had the issue been raised, the evidence does not show the lapse of a period of thirty years, as required by the law.

Nor can we sustain the exception of ordinary prescription of ten or twenty years for the same reason, to wit, that the plea of prescription was not presented by the pleadings. But even had prescription been pleaded, it would have been necessary, in order to make out a defense on the ground of ordinary prescription, both by the old law and by the present law, to show in addition to the passage of time, a just title by virtue of which possession commenced. (Art. 1957 of the Civil Code.) With respect to the two portions of land which were the objects of the two interdicts already referred to, the documentary evidence presented by the defendants themselves says nothing except that they were swampy lands, which Don Santiago Naguit had filled in, and that the filling of one of them had cost him \$300 and of the other, \$100. Throughout the entire course of the case the defendants have not shown that the fact of mere occupation or filling of a piece of land is a legal title of possession and ownership which is sufficient to overcome the titles presented by the plaintiff in support of his complaint, recorded in authentic public instruments, and against the contents of which no allegation of falsity or any other allegation sufficient to overcome them has been made in the manner required either by the old law or by the law now in force.

These deeds are the original deed of donation of 1621; the deed of possession of 1641; the deed of *enfiteusis* or conveyance of the *dominium utile* made in 1849; the deed of conveyance of the same *dominium utile* of 1865; the deed of consolidation of the *dominium utile* with the *dominium directum* in the same year; the deed of conveyance of an undivided half interest, the first in the same year 1865, and the second in 1868; the sale of both half interests in the same year 1868, and finally the deeds of donation dated 1891 and 1900, bringing the title down to the plaintiff under the deed of gift made in the year 1900.

The mere allegation that these are titles *sine re*, not accompanied by possession, is not sufficient; in the first place because although physical possession may not have accompanied them, nevertheless juridical possession was always inherent in them by operation of law; in the second place, because a mere physical possession is unavailing against title deeds until this adverse possession is raised to the category of ownership; in the third place, because among the benefits derived from possession, such as the right to utilize the actions of interdict, to finally obtain a title by prescription, and the right to the presumption of ownership as against any other person seeking possession, is not included the right to oppose a reivindicatory action; and in the fourth place, because the record does not show an absolute lack of possession on the part of the persons holding those titles, or even that their possession had been denied or unrecognized, but rather the contrary.

In 1621, according to the public instrument marked "Exhibit A" which records the original donation, the donor said: "There are (referring to the lands at Tandyau) some nipa groves and fields upon them. They are under cultivation, and there are some Chinamen there, who pay the rent and acknowledge the ownership of the donor \* \* \* " and the procurator of the donees, in accepting the donation, in an instrument of the same date, said that the native inhabitants of the district wherein the said Don Miguel and his wife resided, were to be preferred to any others with respect to the cultivation of the lands, on the same conditions as before, without increasing the charge or rent. For the formal act of possession solicited by the procurator, notice was served upon the governor of Quiapo and three of the principal inhabitants, and there was no opposition, possession having been given on the 19th of October, 1641, although among some of the people who were present, some stated that

they had law suits pending with the donor, but demand having been made upon them to state what the grounds of the suits were, or to show the deeds to the lands which they said were theirs, they failed to do so.

On the 30th of January, 1868, the *Audiencia* of Manila decided on appeal the opposition made by Victoriano et al. against an interdict of possession brought by Jose Perez Garcia. one of the predecessors of the present plaintiff, and the judgment rendered, which was introduced in evidence by the defendants, reads as follows:

"Considering that in order that the interdict for the acquisition of possession may be granted, it is one of the indispensable requisites that no one be in possession of the lands of which possession is sought under claim of ownership or usufruct; considering that the possessor can not be deprived of his possession without having his day in court; considering that those who have opposed the possession claimed by Don Jose Perez Garcia allege that they are in possession of part of the lands on the Island of Tanduay, and that Perez Garcia has not proved the contrary, the order appealed is affirmed with respect to the portions of land not possessed by others, but is reversed with respect to the lands which are possessed by others, and the parties are remitted to their ordinary action for the determination of the question of ownership."

As documentary evidence introduced by the defendants it may properly be considered against them in so far as it is unfavorable to them in this suit. From the decision in question it appears very evidently that Jose Perez Garcia was given judicial possession by the inferior court of the lands of the Island of Tanduay solicited by him, which possession was affirmed on appeal by the final judgment of January 30, 1868, except as to certain lands which had been the object of opposition by Victoriano et al.; that as to the defendants it must be considered as conclusively established that from the month of January, 1868, Don Jose Perez Garcia, in addition to the right of possession accompanying his ownership of the lands in question, had the actual possession judicially conferred by means of the interdict; that on that date Don Santiago Naguit had not yet thought of going upon the two pieces of land which, according to the two interdicts which he brought against Gabino Veloso and Gregorio Cleofas, he had filled in in 1876 and 1885 respectively; that these lands which he entered upon and filled in in 1876 and 1885 were possessed judicially, notoriously, and publicly by Don Jose Perez Garcia, at least since 1868, unless the defendants can show that Naguit succeeded to the interest of Victoriano et al. as to whom the judgment of 1868 had reserved their possession against the claims of Perez Garcia; that in consequence, the entrance by Naguit upon lands lawfully possessed by another, without any contract to authorize such entrance was an act necessary illegal, which could not be considered as lawful possession, and much less lawful possession under title of ownership, for such a possession can not exist in favor of two possessors at the same time, and it is unquestionable that the possession obtained by Perez Garcia in 1868 was possession as owner (arts. 445 and 4447, Civil Code); that the possession testified to in the possessory informations recorded in the register of property of the North District of Manila, is wholly insufficient as a ground for opposition to the lawful possession of Perez Garcia as owner, and consequently as that of his uninterrupted successors down to the present plaintiff, and which has been shown conclusively by the documentary evidence presented by the defendants themselves. Consequently the record should be cancelled and the plaintiff's right recognized, not only to the ownership of the land, but to the possession thereof against a mere trespasser, especially as his ownership is evidenced by title deeds which have not been attacked as false or in any wise overcome in this suit. We therefore decide (1) that the building lot in the barrio of Tanduay, District of Quiapo, city of Manila, described

and specified in the complaint according to its metes and bounds as three parcels now divided between the three defendants as heirs of Santiago Naguit, is the property of the plaintiff, Martiniano M. Veloso; that the possessory informations obtained by the defendants and recorded in the registry of the north district of this city, are null and void, and the cancellation thereof is hereby directed; and (2) that we give judgment against the defendants for the costs of the trial court, but do not award costs on the appeal.

Torres, Cooper, Willard, and Mapa, J.J., concur.

*Judgment reversed.*

[No. 1658. April 2, 1904.]

THE UNITED STATES, complainant and appellee, vs. ESTANISLAO LABAYA ET AL., defendants and appellants.

CRIMINAL LAW; BRIGANDAGE.—Conviction for brigandage sustained.

APPEAL from a judgment of the Court of First Instance of Cebu.

The evidence as to the defendant, Estanislao Labaya, showed that he was one of the leaders of a band of brigands operating in the Province of Cebu.

LUCAS GONZALEZ, for appellants.

Solicitor-General ARANETA, for appellee.

WILLARD, J.:

The only evidence in the case against the defendants Leonardo Panibon and Silvestre Sadorra is the testimony of the witness Simcon Romero. If this could be believed it would be sufficient to convict them, but we doubt its correctness.

The witness had no acquaintance with these defendants. He testified that he saw them in the camp of the bandits when he was a prisoner therein for two days. He did not know their names, and had no conversation with them. They were two among four hundred others in the same camp. We are not convinced that he really saw these two defendants at this time.

His statement that he was present when they were arrested soon after a fight in the same locality, we are satisfied is not true. Luga, a witness for the Government, testified that he arrested these defendants in their own houses in El Pardo, and one of the defendants' witnesses testified to the same thing. The evidence is not sufficient to convict them.

But as to the other defendant the evidence is sufficient. In view of the sentences imposed in other cases of this character coming from this province, the penalty of death, inflicted by the court below, is changed to life imprisonment.

The judgment is reversed and the defendant Estanislao Labaya is convicted of the crime of brigandage, and sentenced to life imprisonment, with one-third of the costs of both instances.

The defendants Leonardo Panibon and Silvestre Sadorra are acquitted, with two-thirds of the costs of both instances *de oficio*.

Arellano, C. J., Torres, Cooper, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment modified.*

[No. 1905. April 9, 1904.]

FLAVIANO FELIZARDO ET AL., petitioners, vs. the JUSTICE OF THE PEACE OF IMUS, respondent.

1. \*PLEADING AND PRACTICE; ATTACHMENT; CLAIM.—One whose property has been attached upon process in a case to which he is not a party may file a claim with the officer executing the attachment in accordance with the provisions of article 451 of the Code of Civil Procedure, and obtain discharge of the attachment.
2. ID.; PROHIBITION; ATTACHMENT.—The writ of prohibition will not lie to discharge an attachment levied upon property which can be recovered by filing a claim with the officer. The judge trying the case in which the attachment of the property was ordered is a competent officer, and even though the attachment be erroneous, it does not follow that the judge has exceeded his jurisdiction.

\*Headnotes by Mr. Justice Torres.

3. **ID.; ATTACHMENT; CLAIM.**—The erroneous levy of an attachment authorizes the person prejudiced thereby to make the claim provided for by law, without prejudice to exercising his right to the property attached in a corresponding action.

**ORIGINAL PETITION** for a writ of prohibition.

The facts are stated in the opinion of the court.

PINEDA and ESCUETA, for petitioners.

TORRES, J.:

Attorneys Pineda and Escueta, on behalf of Flaviano Felizardo and Francisco Felizardo, upon the facts stated in their complaint, dated April 4, 1904, and upon the ground that there was no other speedy and adequate remedy in the ordinary course of law, pray for an order dissolving the attachment levied upon the property of the petitioners, and that a writ issue to the justice of the peace of Imus, requiring him to absolutely refrain from all further proceedings until a final decision is rendered upon the complaint.

By becoming parties as intervenors to the suit in which the attachment was levied, the parties may avail themselves of all the legal remedies provided for the defense of their lawful rights, but can not avail themselves of the writ of prohibition for the purpose of obtaining a discharge of attachment complained of. The case is one which pertains exclusively to the jurisdiction of the judge who is trying it, and there is no authority of law for interference with the proceedings. The writ is denied, with the costs against the petitioners.

Arellano, C. J., Cooper, Mapa, McDonough, and Johnson, JJ., concur.

Writ denied.

[No. 1535. April 11, 1904.]

**THE UNITED STATES, complainant and appellee, vs. JUAN GINETE, defendant and appellant.**

1. **\*CRIMINAL LAW; BRIGANDAGE.**—When the evidence introduced in support of a charge of brigandage fails to disclose that the defendant was a member of a band composed of three or more armed thieves, engaged in robbery and other crimes, or that he was a chief or a leader of brigands, or rendered them assistance, there can be no conviction.
2. **ID.; ROBBERY.**—Where it appears from the evidence that the accused was engaged in selling pieces of paper, marked with a cross, for which he exacted the sum of 50 cents, Mexican currency, by means of the threat that persons not provided with such papers would be killed on the next raid to be made on the town by the band of brigands by which it was attacked the day before, these facts may constitute the crime of robbery.
3. **CRIMINAL PROCEDURE; COMPLAINT OR INFORMATION; VARIANCE.**—Where the evidence shows the commission of a crime not expressly charged in the complaint or information, and not necessarily included in the crime charged, there can be no conviction of the distinct offense shown by the proof.

**APPEAL** from a judgment of the Court of First Instance of Cebu.

The facts are stated in the opinion of the court.

GREGORIO PINEDA, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

May 21, 1903, an information was filed in the court of the justice of the peace of Cebu by the provincial fiscal, charging Juan Ginete, Honorio Cordero, Pedro Dabon, Ramon Rondina, Isidro Ceno, Miguel Rosalina, Francisco Baja and Nicolas Baja of the crime of brigandage, in that they on and after the 12th of November, 1902, and more specially in April, 1903, and until the 4th of May following, in the town of Tuburan, of the Island of Cebu, organized a numerous band of thieves, styled *pulahanes*, for the purpose of stealing carabaos and other personal property,

and that these persons, armed with deadly weapons, under the leadership of the first three defendants, wandered about the roads and fields, and on the 4th day of May above referred to attacked the town of Tuburan, in which assault the accused took part, and that they furthermore feloniously and willfully protected and aided the said band of thieves, giving them information concerning the movements of the police, and furnishing them with provisions, arms, ammunition, and clothing, contrary to the statute in the case made and provided.

After the preliminary investigation the defendants were held for trial in the Court of First Instance, in which court the judge, on motion of the prosecuting attorney, dismissed the case as to Pedro Dabon, Roman Rondina, Isidro Ceno, Miguel Rosalina, Francisco and Nicolas Baja, and Honorio Cordero, who were discharged, the case being continued solely with respect to Juan Ginete. From the transcript of the evidence taken at the trial it appears that the witnesses Roberto Caro, Potenciana Guillen, Clemente Maxion, Carmelino Mapilit, and Pedro Bajesa testified under oath that on the day following the 4th of May, on which the town of Tuburan was attacked by the *pulahanes*, the accused, Juan Ginete, was going about selling to the people pieces of paper with crosses painted on them, at the price of 50 cents each; that when distributing these papers he stated that when the *pulahanes* came back to the town from the mountains they would kill all the people who were not provided with these papers. The witnesses stated that they did not know where Ginete was while the *pulahanes* were in the town, or whether he went out into the mountains to communicate with them, and that they did not know what was done with the money received from the sale of the papers, as the day on which these papers were sold there were no brigands in the town.

Natalio Pisalver, a member of the Constabulary, testified under oath to the same effect, and further that he was in the barracks on the 4th of May, when the *pulahanes* entered the town, but was unable to state where the accused was at that time, or from whom he obtained the pieces of paper which he sold; that after the fight took place between the bandits and the Constabulary on that occasion they found a dead man, and on his breast were some pieces of paper similar to those sold by the accused, and which were exhibited to the witness by the prosecuting attorney while testifying. The witness stated further that he did not know who was the leader of the band, or whether the defendant was a member of it or not, as he had never seen him with the brigands; that he knew that the brigands were engaged in robbery, because on the day of the attack upon the town they stole a carabao from one of the inhabitants of Tuburan, and that in the shed where the bandits lived rice, hogs, and carabao hides had been found; that one Roberto Caballero was a member of the band of malefactors, and that in the course of the attack on the town by the *pulahanes* the police captured the wife of one Mintong, a leader of the band, and that this woman was at the time a prisoner in the municipal building.

A piece of paper marked "Exhibit A" (record, p. 36) was introduced as evidence for the prosecution at the trial, over the objection and exception of the defense. Immediately thereafter Lieut. Mateo Luga, of the Constabulary, testified that upon his arrival in Tuburan with his troops he found that the band of *pulahanes* had fled, but that on the road he found pieces of paper, with crosses upon them, some made with pencil, others with blue ink, and others with red ink; that these papers were similar to the one introduced in evidence by the prosecuting attorney, and that they had been taken from some people who had provided themselves with them, fearing that they might be killed unless they had these papers.

Upon this evidence the court below convicted the defendant, Juan Ginete, and condemned him to twenty years' imprisonment at hard labor and to the payment of the costs.

It does not appear from the evidence in this case that the

defendant, Juan Ginete, was a member of any band of armed malefactors, engaged in robbery or other crimes against person and property. The complaint charges Juan Ginete with being one of the leaders of a numerous band of thieves, styled *putahanes*, who on the 4th of May assaulted the town of Tuburan. This charge is not supported by the evidence, nor is there any proof that the defendant, Ginete, took part in the commission of that crime, that he was a member of the band, or that he had any connection whatever with it. Neither does the evidence show that Ginete, within the meaning of the law, is guilty of giving aid and comfort to the members of that band. Consequently he can not be convicted of the crime of brigandage. The evidence apparently shows that the accused was engaged in selling papers bearing a mark of a cross in colors, and that he collected for each one of these papers the sum of 50 cents, Mexican currency, by means of the threat that upon the return of the brigands to the town all persons not provided with such papers would be killed. These facts might constitute the crime of robbery, but this offense is not charged in the complaint. The acts of the accused appear to be entirely independent of those of the brigands who formed the band in question. Consequently, this being a different case from that of the robbery for which Anastacio Mangubat was convicted—the case upon which the Attorney-General relies—we do not consider that the accused can be convicted of robbery in this case, because the offense charged in the information is not robbery, but brigandage.

Therefore, for the reasons stated, it is our opinion that the judgment of the court below must be reversed, and the defendant, Juan Ginete, acquitted of the crime of which he is accused, with the costs of both instances *de oficio*. The judge, as soon as an information for the crime of robbery consisting in the fraudulent sale of papers and the exaction of 50 cents, Mexican currency, for each one of them by threats and intimidation, is filed against Juan Ginete, will act thereon in accordance with the law. The case will be returned to the trial court with a certified copy of this decision, and of the judgment to be entered in accordance therewith for execution thereof.

Arellano, C. J., Cooper, McDonough, Johnson, and Mapa, JJ., concur.

*Judgment reversed.*

[No. 1620. April 12, 1904.]

THE UNITED STATES, complainant and appellee, vs. FAUSTINO GUILLERMO ET AL., defendants and appellants.

CRIMINAL LAW: BRIGANDAGE.—One who organizes a band of more than three armed men for the purpose of engaging in the robbery, by force and violence, of carabaos and other personal property is guilty of the crime of brigandage.

REVIEW of a judgment of the Court of First Instance of Rizal. The facts are stated in the opinion of the court.

J. B. EARLY, for appellants.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

These defendants were charged with the crime of *bandolerismo*. They were tried by the judge of the Court of First Instance of the Province of Rizal on the 24th day of October, 1903. During the trial Juan del Rosario and Cirilo Janto escaped from the custody of the law. After hearing the proof the court found the said defendants and each of them guilty of the crime charged, and sentenced Faustino Guillermo to the penalty of death, Anatalio Austria and Alejandro Santiago to life imprisonment, and Alejandro Hernandez, Antonio Galang, Pablo Tangeo, Santiago Galagna, and Marcelino Flores each to be imprisoned for the term of twenty-five years, and to pay the costs. No appeal was taken from this judgment by any of the defendants.

The cause of Faustino Guillermo comes to this court in consultation under the provisions of section 4 of Act No. 194 of the United States Civil Commission. During the trial many witnesses were presented on behalf of the prosecution. The prosecution also offered in evidence the following confession, made by Faustino Guillermo, which was duly accepted without objection:

"DECLARATION OF FAUSTINO GUILLERMO.

"MANILA, June 11, 1903.

"My name is Faustino Guillermo, 43 years of age, a native of Sampaloc, in the city of Manila, and a widower. My present rank in the fields is that of colonel. I was appointed by General San Miguel, now deceased, in the beginning of 1892 (1902?); my appointment was confirmed in the month of January, 1903, by the said General San Miguel. I took the field to fight against the Spaniards in 1896, in company with the supreme president, Andres Bonifacio, and remained in the field until the year 1900, when I surrendered at Malabon to the American colonel commanding the garrison at that town, and took the oath of allegiance to the American Government. I subsequently established myself at San Francisco del Monte, and there was captured by the Filipino police of Sampaloc in 1901. They took possession of all my documents, including the oath of allegiance which I took in Malabon. I was a prisoner for about three months, and at the end of this time was liberated by Lieutenant Sweet, chief of the municipal secret police, who appointed me a spy. I was not willing to accept this employment, because it was repugnant to me, and I returned to the barrio of San Francisco del Monte, where I was again captured by the Constabulary, taken to San Mateo, and turned over to Inspector Licerio Geronimo, who compelled me to act as a spy for him, and set me at liberty by order of Captain Keythley. Finding myself free, I went to the mountains and commenced to recruit men, inviting my friends and acquaintances to join me. The first troops I got together were nine men, called Anatalio Austria, Ismael Austria, Andres Roque, Geronimo de Leon, Eleuterio Seyco, Capitan Silverio, Vicente del Mundo, Liberato Sarmiento, and Sixto Macapagal, or whom the first three were my nephews. General San Miguel appointed me a lieutenant-colonel; Anatalio Austria, commandant; Andres Roque, captain; Eleuterio Seyco, lieutenant; Silverio, captain; Vicente del Mundo, captain; Liberato Sarmiento, captain (this man is dead); and Sixto Macapagal, lieutenant. We then commenced to get arms together, looking for those which had been hidden by the revolutionists before surrendering; and succeeded in getting three guns and six or seven revolvers, which we captured from several detectives and municipal policemen. We were wandering about the woods, going from Rizal to Bulacan and *vice versa*, living upon food given us by the people of the barrios. The first fight I had was in Masambon, in the beginning of 1902, with the Constabulary secret police. In this fight one of the Constabulary men was killed and we took his revolver. The second fight was with Inspector Licerio Geronimo in Bagobantay, in which one of the Constabulary men was killed, and we took his gun. The others ran away and we managed to pick up another gun. In this fight we also captured Hermogenes Bautista, known as General Menez, from whom we took his revolver. We also captured Aniceto, alias Goto, from whom we took a revolver. We also captured a policeman at San Juan del Monte, called Antonio Gatsalian and Pedro. We released all these men, but Antonio did not want to go away and remained with me until the fight at Pinguinco on August 15, 1902, on which occasion he ran away with his gun. I recaptured him in April of this year, took his gun from him, and then released him. In this fight we also captured three horses from the Constabulary men, with their trappings and saddles, and also the uniform, hat, and shoes of Inspector Geronimo, who made his escape in his undershirt

and drawers. The third fight we had was in the town of San Jose, Bulacan, which I entered at the head of sixteen men with fourteen guns. There we surprised the Constabulary garrison, composed of sixteen men, commanded by Sergeant Omania. We captured fourteen guns and two revolvers with their ammunition, which we carried away with us. The Constabulary men had no time to make resistance and there was no loss of life on either side. This fight took place on the night of the day in which I attacked Licrrio Geronimo in Bagobantay, which was the 15th of June, 1902. August 15, 1902, I had the fourth fight with the Constabulary, commanded by Inspectors Reyes and Vicente, who were moving in two columns. In this fight the Constabulary lost one man whom I saw, and we captured Inspector Vicente and three soldiers, whom we disarmed, taking their three rifles and a revolver with ammunition. We then took them to our headquarters, whence they made their escape a few days afterwards. This fight was at a place called Bahay Toro, within the township of Novaliches, Province of Rizal. On the same night we went to a place called Pinquian, within the township of Novaliches, and there we had an encounter with the Constabulary commanded by Inspector Warren. On our side we had three men killed and captured a revolver and a gun. The Constabulary also lost several men killed, and captured three rifles from us. After this fight I went into the woods for the purpose of allowing my wounds to heal, and left my troops in San Francisco del Monte, in charge of Apolonio Samson and Anatolio Austria. I was there for two months, during which I was sent for by San Miguel and joined my troops at a place called Tanque, where I found San Miguel, who put me in command of all the troops commanded by Julian Santos, who had usurped the commands of Samson and Austria. From Tanque we went to Piedad, in the township of Calocan, and there we had an encounter with the Constabulary. In this fight we lost two men killed and one of our men was taken prisoner. We lost two rifles and a revolver, and one of the Constabulary officers was killed. We then went to Bignay (Polo), and there had a fight with the Constabulary under Inspector Lorenzo and an American. The Constabulary ran away, followed by us, and we captured four of their men and four guns. The men were released after being disarmed. From this place we went directly to Cainta, after resting a couple of days in Payon near Mariquina. Upon arriving at Cainta we attacked the scouts and volunteers under Captain Teong. The scouts and the volunteers took to flight and we captured some of their men. Just at this time reinforcements arrived for the scouts, and a new fight broke out. The Constabulary ran away and we followed them as far as Tay-tay. In these fights we captured eight guns and a revolver. Thence we went to Antipolo, which town we entered and had a fight with the Constabulary, in the course of which we lost two men killed, our bugler was taken prisoner, and three guns were lost. Then we went to Boso-boso in the night and had a fight with the Constabulary, who took from us one carbine and one revolver. The Constabulary lost some men, but I did not see them. We were there some two weeks and had another encounter with the Constabulary, who, by reason of their superior numbers, compelled us to withdraw. From there we went to Piedad (Corral-na-bato) and the same night had an encounter with the scouts, the fight being suspended on account of the darkness of the night. On the day following we again attacked them, but were defeated with a loss of two men killed and three wounded and a loss of five guns. The scouts also lost some men killed. In our retreat we encountered the reinforcements sent us by San Miguel, with supplies and ammunition, and then returned to seek the scouts and Constabulary, attacking them again. In the course of the fight they killed one of our men and we lost a gun. The enemy had several men killed, and we captured three guns from them. The enemy fled in disorder. Subsequently further reinforcements of scouts arrived and they again attacked us, compelling us to

take to flight. We went toward Pugat-baby and there encountered the Constabulary, whom we engaged, putting them to flight. We followed them as far as Polo and took four of their men prisoners and captured their guns. From there we went to Bignay, and other forces joined us under the command of Contreras and others. General San Miguel distributed troops, turning over to Vicente del Mundo 17 men, to Juan Alcantara, alias Castilla, 19, to Captain Andres Roque 27, to Captain Geronimo de Leon 11, and to Captain Silverio 9. All these men were subject to my orders, under the direction of General San Miguel. Contreras commanded more than thirty men armed with guns, and was the chief of the Province of Bulacan. From Bignay we went to Piedad again, and there we were attacked by the Constabulary and scouts, who surrounded and defeated us, killing General San Miguel and many men, and capturing a large quantity of our documents and arms. After this combat we dispersed, and I went to Mount Laniting, near Boso-boso, with seven men and Alejandro Santiago Halimene. While there I sent four soldiers to look for provisions and to ask the president of Cainta for money, he having offered it to me before. These men did not return. One of them was my nephew, Geronimo de Leon. In Lanati I was captured by the Constabulary commanded by Captain Teong. I commanded the troops in the three towns of Calocan, Novaliches, and San Francisco del Monte, the people of which voluntarily contributed men and supplies. I am personally acquainted with Maria Gonzalez Leano, and have sent several letters to her asking for money and provisions. On one of these occasions I received 50 pesos, which she sent me by Juan Castilla, whom it was who went to see her. This was in the month of December, 1902. In February, 1903, I went to Calocan with thirteen men and established myself on the railroad line. From that place I sent Lieut. Juan Castilla with two soldiers and a letter to Maria asking for money and provisions, and she promised to send them to me on the following day, but I did not receive them because I found it necessary to leave that place. I am also acquainted with Marcelino Estrella, who was inspector of Constabulary, and a member of the secret police, when I was under the orders of Lieutenant Sweet. I have heard of Dominador Gomez and know that he is the president of the Democratic Labor Union. I have been a member of the Nationalist Party since its first organization, but have not had direct relations with it. It was Apolonio Samson who directly communicated with the Nationalists. In Boso-boso we took money from the municipality amounting to \$69.90 in the month of August, 1902. I think that there are quite a number of guns still in the hands of my companions who remain in the field, but I can not state the exact number. The officers still in the field are Contreras, Apolonio Samson, Geronimo de Leon, Juan Castilla, Basilio Mateo, and Mauricio. General San Miguel received a great deal of money from Manila for the support of the troops, but I can not say who sent it. He had an agent who came to Manila to get the money, and whose name I do not remember. Everything I have said is the truth, which I affirm and ratify, and I sign this declaration voluntarily, without having been compelled thereto by threats or promises on the part of the employees of the division of information or any other officer.

"FAUSTINO GUILLERMO.

"Witnesses:

"R. CRAME, Lieutenant Philippines Constabulary.  
"E. CALDERON."

Rafael Crame testified as a witness on behalf of the Government, and stated that he was a first Lieutenant of the Constabulary, and had been connected with said organization for three years; that he had known Faustino Guillermo since June, 1903; that Faustino Guillermo made the confession which was reduced to writing and admitted in evidence; that this confession was

made voluntarily and without the promise of reward; that after the confession was reduced to writing it was read to the accused, and he then signed it.

Benancio Bartolome testified that he had been in the mountains with the band of San Miguel; that San Miguel was known by his followers as a captain-general; that there were many men in his band, armed; that Faustino Guillermo was a member of said band; that Faustino Guillermo was known as a chief; that there were about 300 men who belonged to said band; that he took part with the other members of the said band in the fights between the Constabulary and the said band in the following pueblos or barrios: Baebangin, Pinquin, Pieda, Coral-na-Bato, and Navotas; that the said band took from the treasury of the pueblo of Navotas 195 pesos and seven revolvers; that said band robbed an American at Malabon of \$200, one revolver, one diamond, a gold ring, and a gold watch; that he was also with the band when it entered the barrio of Bahaypari; that the band was then under the command of Faustino Guillermo; that Faustino Guillermo was in command of the band at the fight which took place between the Constabulary and the said band at Piedad; that at this fight the band captured some guns and revolvers; that Faustino Guillermo frequently ordered the band to go out into the barrios and obtain food from the people, and that if the people refused to give it to them, they should take it by force; that the band was armed with guns.

Marcelo Magasalin testified that he had been a member of the band of ladrones in the mountains, which band was under the general command of San Miguel; that he was a member of the said band from the time it entered the pueblo of Pasig, on the night of the 24th of December, 1902, until about a month and a half after San Miguel was killed; that the band went from place to place, armed with revolvers, and at times was under the command of Faustino Guillermo; that he was present at the fight of Coral-na-Bato, and was then and there under the command of Faustino Guillermo; that he was also present at the fight of Piedad, under the command of Faustino Guillermo, and that at said last fight the band obtained some guns and revolvers; that he was present at the fight of Bago Bagtay, which took place between the said band and the Constabulary, and that Faustino Guillermo was in command; that during the fight they took two revolvers, two rifles, some ammunition, and one horse; that these guns and revolvers and ammunition and the horse belonged to the Constabulary; that he was with the band at the time it entered the town of San Jose, in the Province of Bulacan; that on said occasion the band captured sixteen guns, one revolver, and many uniforms and blankets belonging to the Constabulary; that they compelled the members of the Constabulary to take off their uniforms and give them to the said band; that on one occasion Bolamas, a member of said band, stole four carabaos of one Ramon Gonzales and Ciriaeo Sanson.

Enrique Pacion testified that he had been a member of ladrones in the mountains under the command of Faustino Guillermo; that while he was with said band he took part in the following fights between the said band and the Constabulary: Pasig, Meycauayan, Piedad, San Mateo, Santa Maria, and Coral-na-Bato; that the members of the band always went armed; that at Pasig the band stole some guns, a cavan of rice, some cigarettes, and a cow; that at San Mateo the band stole three carabaos; that at Santa Maria the band stole a horse and 100 pesos; but the money was taken from a dwelling house.

Juan Zorilla testified that he had been a policeman in the pueblo of Macauayan; that he was captured by a band of Kati-punans at about 2 o'clock one night, because, as the band told him, he was a detective for the Americans; that they tied him and then robbed stores in said pueblo; that the band stole shoes, clothing, rice, tobacco, cigarettes, dry goods, shirts, and many other things, that the band at that time was armed; that there were twenty-seven members of the same; that after they

had robbed the said articles they compelled him to carry the same to the mountains; that they told him that they would kill him in fifteen days thereafter because he was a secret detective; that while he was a member of the band it entered the town of Marilao, in the Province of Bulacan, and robbed the house of the president of a watch, a revolver, clothes, some money, and tobacco; that they divided these things among the members of the said band; that on the same occasion the said band broke into several stores and carried away shoes, clothing, slippers, and seven watches; that in order to enter the said stores they broke down the doors. That while he was with the said band he took part in the fights between the Constabulary and the said band at the pueblos of Santa Rosilio and Coral-na-Bato; that at the fight of Santa Rosa Faustino Guillermo was in command, and that there were about 100 armed men; that at the fight of Santa Rosa one Constabulary was killed and five were captured, and that the said band obtained six guns, two revolvers, and six belts filled with ammunition; the band also took bread, canned meats, and canned salmon from the Constabulary quarters; that at the fight of Rosilio Faustino Guillermo was in command, and that at that time there were about 200 men in the band; that the band captured five Constabulary, five guns, five cartridge belts with cartridges; that the band entered the stores in the said pueblo and took shoes and clothing; that the band stripped the members of the Constabulary of their uniforms and gave them Chinese shirts; that the band was composed of some members of the Constabulary that had deserted; that in said fight one American was killed, and the band took the horse of the said American; that Faustino Guillermo was in command, and was called colonel by the members of the band.

Isabelo de los Reyes said that a band of ladrones came to her house on one occasion, composed of eight men; that they abused her; that they threw her upon the floor and tried to rape her; that they cut off both her ears and her hair with a bolo and took from her \$1.50 and some of her clothing; the band also took her earrings and two rings.

Domingo de los Reyes testified that he was the husband of Isabella de los Reyes; that he was present and manacled at the time the band entered his house and cut off the ears and hair of his wife, and at the time they carried away his wife's jewelry and clothing.

Alfonso Calang testified that he had been captured by a band of ladrones and had been taken to the mountains; that he was present with said band at the fight of Bagbag; that he saw Faustino Guillermo with the band in the mountains.

Leon de Gula testified that he had been in the mountains with the band of San Miguel; that he knew Faustino Guillermo; that he was present at the battle of Santa Rosa, and was wounded by a bullet in said fight; that the band robbed horses and carabaos.

Francisco Callao testified that he had been a soldier of San Miguel, and that Faustino Guillermo was his commander; that he always carried arms, as well as did each member of the band; that he saw San Miguel and Faustino Guillermo in the mountains with the band.

Miguel Pascual testified that he was with the band of ladrones in the mountains; that this band was constantly quarreling with the Government; that San Miguel was its chief; that the band always went armed; that he was with the band at the time it entered the pueblo of Navotas; that Faustino Guillermo was also present; that in the pueblo of Navotas the band took seven revolvers and the sum of 195 pesos from the municipal treasury; that the band compelled the treasurer to give it the money; that the band always went armed.

Gervasio Gimenez testified that he had been a member of a band of ladrones in the mountains commanded by Julian Santos; that he joined the band on December 9, 1902, at the

pueblo of Bagbag; that he was with the band about sixty days; that the band stole a horse from the Constabulary at the fight of Bagbag.

Gervasio Domingo testified that he had been in the mountains with the band of ladrones; that the band was in command of Faustino Guillermo; that he had been with the band about six months; that the band was armed with guns.

The defendant, Faustino Guillermo, offered no proof in his defense.

The evidence in this case justifies the following conclusions:

First. That Faustino Guillermo was a member of a band of ladrones composed of more than three men.

Second. That said band was armed with deadly weapons and went out upon the highways and roamed over the country for the purpose of stealing carabaos and other personal property.

Third. That said band entered many pueblos in the Provinces of Rizal and Bulacan during the months of the early part of the year 1903, and by force and violence did rob from the people carabaos and other personal property.

Fourth. That the said defendant organized the said band for the purpose of robbing carabaos and other personal property, and was one of the chiefs of the said band.

We therefore find the defendant guilty of the crime charged in the complaint in said cause, and do hereby affirm the judgment of the court below. It is so ordered.

Arellano, C. J., Torres, Cooper, and Mapa, JJ., concur.

McDoxotgen, J., dissenting:

I am of the opinion that the ends of justice will be satisfied in this case by imposing the penalty of life imprisonment on the defendant, Faustino Guillermo, and therefore favor a modification of the judgment of the court below accordingly.

*Judgment affirmed.*

[No. 1329. April 15, 1904.]

**THE UNITED STATES, complainant and appellant, vs. RAFAEL SAMIO, defendant and appellee.**

1. \*CRIMINAL PROCEDURE: FINALITY OF JUDGMENT.—According to the provisions of law based upon the inquisitorial system of criminal procedure, no judgment of acquittal or conviction rendered by a trial court became final until passed upon by the supreme court.
2. *Id.*: APPEALS: WITHDRAWAL.—Under the inquisitorial system of criminal procedure the prosecuting officers were without authority to withdraw appeals, except such as were taken against interlocutory orders, not finally disposing of a case.
3. *Id.*: *Id.*: FINALITY OF JUDGMENTS.—Under the provisions of General Orders, No. 58, as modified by Act No. 194, judgments rendered in criminal cases in trial courts become final by operation of law if no appeal is taken within the time prescribed, with the exception of cases in which the death penalty is imposed, which go to the Supreme Court for review whether the accused appeals or not.
4. *Id.*: *Id.*: WITHDRAWAL OF APPEAL.—If under the accusatorial system the parties, including the prosecuting attorney, can consent to judgments of all kinds rendered in criminal cases, and refrain from appealing therefrom, they are also entitled to withdraw such appeals without being under any obligation to state the grounds upon which the withdrawal is based.
5. *Id.*: SUPREME COURT: JURISDICTION.—The Supreme Court is without jurisdiction to review a decision of the Court of First Instance which has become final. When the appellant or the prosecuting attorney withdraws an appeal from a judgment, the Supreme Court is without authority to discuss the propriety or impropriety of such withdrawal.

APPEAL from a judgment of the Court of First Instance of the city of Manila.

A complaint was filed in the Court of First Instance of Manila against Rafael Samio, for *estafa*. It was acquitted by the trial court September 8, 1902. Against the judgment of acquittal the prosecuting attorney appealed. May 26, 1903, the Solicitor-

General filed notice of withdrawal of appeal, and asked that the case be returned to the trial court.

No appearance for appellee.

Solicitor-General ARANETA, for appellant.

TORRES, J.:

Under the inquisitorial system of criminal procedure, a judgment rendered by a Court of First Instance in a criminal case did not become final until the supreme court of the district to which the trial court belonged had approved the judgment, as the law required every decision, either of acquittal or conviction, to be reviewed by the supreme court, whether the parties appealed or not. Consequently, in case of the reversal of the judgment of the trial court whether on review or appeal it was the decision of the supreme court which was executed.

This being so, it is evident that even although the accused or the private prosecutor should withdraw an appeal from the judgment of the court, the case would take the same court in the second instance, and in case of an appeal by the prosecution, the appeal could not be withdrawn because it was the duty of the prosecuting officer, under the law, to appear for the Government in all criminal cases. Consequently, under the inquisitorial system, the prosecuting officer could not withdraw an appeal taken from a decision of the trial court.

It was the practice under that system if the attorney-general after an examination of the record, became convinced that an appeal taken by the district prosecuting attorney from an order directing the release or imprisonment of an accused person was without merit, for him to withdraw the appeal, and ask that the record be returned to the trial court for the execution of the order appealed, which, by reason of such withdrawal, became at once a finality, and could be executed.

These were the only cases in which the attorney-general could withdraw an appeal from a final or interlocutory order. With respect to such orders, it was also permissible for the accused or the prosecuting witness to withdraw an appeal, the approval of the supreme court not being indispensable to the validity of such orders.

After a criminal case had been prosecuted through both instances the judgment of the local supreme court was a final judgment, and the supreme court of Spain could only take jurisdiction over it by writ of error, with the exception of cases in which the death penalty was imposed, as to which a writ of error was allowed by operation of law for the benefit of the accused.

In cases in which a writ of error was sued out by the local attorney-general against the decision of the local supreme court, the attorney-general of the supreme court of Spain, in case he was of the opinion that the writ was not advisedly sued out, if it concerned a question of law, communicated his decision to the attorney-general of the court to which the writ was directed, so that he might so inform the local court; but if the writ was based upon some breach of form, and had been allowed, and the attorney-general of the supreme court of Spain believed it to be unsustainable, he could dismiss the writ and the corresponding chamber of the supreme court would communicate to the local court the order permitting such dismissal. There are the provisions of articles 876 and 877 of the Law of Criminal Procedure of 1872, to which reference is made by the provision of the law for the application of the penal code under the inquisitorial system which prevailed before the enactment in these Islands of General Orders, No. 58.

This order, which was dated April 25, 1900, established for the first time in this Archipelago the accusatorial system, although with some modifications tending to prevent the transition from being too violent, and to facilitate the change from one system to another. The provisions of section 50 of General Orders, No. 58, are the result of this modification. Under this section the only

\*Headnotes by Mr. Justice Torres.



cases which were brought before the Supreme Court in accordance with the old system were those in which the death penalty is imposed, or the judgment is for imprisonment for a greater period than six years, or a fine of more than 1,250 pesos. If the penalty imposed was imprisonment exceeding one year or a fine of over 250 pesos, section 50 provided for the procedure to be followed. This has been done away with by Act No. 194, passed by the Civil Commission.

Article 4 of Act No. 194 provides that it shall no longer be necessary to forward to the Supreme Court or to the Attorney-General's department the records of criminal cases for revision or consideration, except where the death penalty is imposed, unless such case shall have been duly appealed as provided in General Orders, No. 58. But the records of all cases in which the death penalty shall have been imposed by any court of first instance, whether the defendant appeals or not, are to be forwarded to the Supreme Court for investigation and judgment, as the law and justice shall dictate.

This act of the Civil Commission, which modified General Orders, No. 58, has established the radical effects of final judgments under the accusatorial system, in criminal cases, as every decision, whether of conviction or acquittal, with the exception of those imposing the death penalty, becomes final by operation of law if an appeal is not taken against it within fifteen days from the date of its rendition.

In case the district attorney has appealed from a judgment of acquittal by the trial court, and the Attorney-General or the Solicitor-General see fit to withdraw the appeal, it is within their authority to do so, under the present system or procedure. Is it the duty of the Attorney-General or the Solicitor-General to state in a notice of the withdrawal of an appeal the reasons upon which the action is based, and can the court require him to give those reasons? We believe not, for the Attorney-General or the Solicitor-General are at liberty to act in such matters upon their discretion, and such a withdrawal is equivalent to the consent of those officers to the judgment appealed—it is equivalent to a statement on the part of the Attorney-General that in his judgment the decision of the court below is correct, and the opinion of the district attorney erroneous.

It must be remembered that under the inquisitorial system it was the duty of the district attorneys to interpose appeals in due time and form, subject to the decision of their immediate superiors, as to the subsequent progress of the appeal. (Art. 166 of the royal cedula of January 30, 1885, and art. 458, par. 5, of the decretal law of January 5, 1891.)

If the power of the attorney-general of the old supreme court was ample with respect to the control of appeals taken by his subordinates under the inquisitorial régime, it is evident that those powers are much greater under the accusatorial system, in which the mere silence of the parties, including the fiscal, is sufficient to give finality to an unappealed decision.

We consider that the statement made by the Attorney-General or the Solicitor-General in the notice of withdrawal of appeal, that it is not considered that the appeal is sustainable, is quite sufficient. We do not think it necessary to require an expression of the reasons upon which the conclusion is based, as the statement implies a concurrence in the view taken by the trial court. Under the accusatorial system the sphere of action of the prosecuting officers has been greatly widened. They not only represent the law, with the right to inspect the action of the court on behalf of the Government, but have a more direct and active participation in the proceedings at the trial; upon them devolves the defense of the public interests, threatened by crime, as though the prosecuting officer were the person directly injured by the offense. But it is also of interest to society that an innocent person be free from molestation, and therefore the prosecuting attorneys should only

institute proceedings and make use of the machinery of the law when in their opinion justice requires such action.

In criminal cases there are always two opposing interests, that of society, which demands that the crime be punished, and that of the accused, who has an absolute right to his defense. Upon the supposition that in accordance with the fundamental principles underlying the accusatorial system, courts and judges should be passive and neutral in the contest between the prosecution and the defense, it must be admitted that the fate of the accused and the success of the prosecution depend upon the good faith, the zeal, skill, and intelligence of the prosecuting attorney. The present system has placed in the hands of the prosecuting attorneys the power to prosecute and punish every crime and offense, with the exception of those of a private character, and consequently upon them depends the realization of the purposes of the law.

If the provincial fiscal might have consented to the judgment appealed, without having taken any appeal whatever from it, the prosecuting officers are also entitled to withdraw the appeal upon reaching the conclusion that the provincial fiscal was not justified in appealing.

If the Supreme Court of these Islands is without jurisdiction to examine or revise a criminal case in which a final judgment has been rendered and the parties have not appealed, we do not think that it has jurisdiction to discuss the propriety or impropriety of the withdrawal by the Attorney-General or the Solicitor-General of an appeal deemed to have been improperly taken by a provincial fiscal. The officer who may before trial withdraw the information may also, in our opinion, withdraw an appeal, and the court, in conformity with the principals of the accusatorial system and the express provisions of article 4 of Act 194, feels constrained to permit the withdrawal of this appeal.

For the reasons stated we are of the opinion that the Solicitor-General should be permitted to withdraw the appeal in question, and that the case should be remanded to the trial court.

Arellano, C. J., Willard, Mapa, and McDonough, JJ., concur. Cooper, J., dissents.

Johnson, J., did not sit in this case.

*Judgment affirmed.*

[No. 1362. April 15, 1904.]

*ROSA LLORENTE, plaintiff and appellant, vs. CEFERINO RODRIGUEZ, administrator of the estate of Juana Lorente, defendant and appellee.*

1. NATURAL CHILDREN; RECOGNITION; CIVIL CODE; TRANSITORY PROVISIONS.—In accordance with the provisions of the transitory dispositions of the Civil Code the sufficiency of the acts of the natural parents alleged to constitute a recognition of a natural child as such is to be determined by the law in force at the time such acts were performed and not by the rules subsequently established by the Civil Code.
2. *Id.*; LAWS OF TORO; EVIDENCE.—Under the laws of Toro a natural child might be recognized tacitly and the recognition was open to such proof as would support the facts in an ordinary suit.
3. *Id.*; *Id.*; RECOGNITION BY MOTHER.—Although the laws of Toro do not expressly authorize the mother to recognize a natural child, there is no reason why such recognition, if made, should not be equally valid and efficacious as where made by the father.
4. *Id.*; *Id.*; STATUS; PROOF OF BIRTH.—The mere proof of the birth of a natural child is sufficient to give it the status of a recognized natural child such as is mentioned in article 840 of the Civil Code.

APPEAL from a judgment of the Court of First Instance of Cebu.

The facts are stated in the opinion of the court.

MARTIN M. LEVERING, for appellant.

HARTIGAN, MARPLE, SOLIGNAC & GUTIERREZ, for appellee.

COOPER, J.:

This was an action brought by the plaintiff, Doña Rosa

Llorente, against the defendant, Ceferino Rodriguez, as administrator of the estate of Jacinta Llorente, who died intestate on August 11, 1901.

It is alleged in the complaint that the deceased, Jacinta Llorente, left the following heirs, to wit: Rosa Llorente, the plaintiff, her legally recognized natural daughter; Mariano Rodriguez, Remedio Orleta, Flora Orleta, Juan Orleta, and Ceferino Rodriguez, legitimate children; that the defendant, Ceferino Rodriguez, was the duly qualified administrator of the estate; that all the debts against the estate have been paid and that the property is now in a condition for distribution, and prayed that a division and distribution might be made and that the shares of the estate be assigned to each one entitled to the same, in accordance with their respective interests.

A judgment was entered dismissing the petition of the plaintiff, and the case has been appealed to this court in accordance with the provisions of chapter 42 of the Code of Civil Procedure relating to appeals in special proceedings.

Many exceptions were taken on the trial of the case to the ruling of the court in excluding evidence offered by the plaintiff.

The ruling of the court in rejecting the evidence, as well as in the final decision of the court, was based upon the view that the recognition of a natural child must be made in accordance with the provisions of article 131 of the Civil Code and that such recognition can not be shown in any other manner than that prescribed in said article. This article reads as follows:

"131. The recognition of a natural child shall be made in the record of birth, by will, or by any other public instrument."

The evidence which was excluded tended to show a tacit recognition by the acts of the mother, such as that Jacinta Llorente, the deceased, had reared Rosa Llorente, and had educated her; and that Rosa Llorente had, by the express authority of Jacinta Llorente, received baptism as the natural child of the latter, in proof of which fact the baptismal certificate, as well as the testimony of witnesses, was offered and was excluded by the court; and proof was also made, by persons who were present at the birth of Rosa Llorente, that she was the child of Jacinta Llorente.

The evidence shows that Rosa Llorente was born on the 4th day of September, 1872, and that the intestate, Jacinta Llorente, died August 11, 1901. The Code of Civil Procedure was adopted on the 11th day of December, 1889.

The questions presented for determination are:

(1) Do the provisions of the Civil Code, to wit, article 131, enacted subsequent to the birth of Rosa Llorente and subsequent to the acts of recognition by Jacinta Llorente of Rosa Llorente as her natural child, govern; if not, and

(2) If the law in force in 1872 at the date of the birth of the plaintiff is to be applied, had the mother the power under the law to make legal recognition of a natural child; or was such right to make legal recognition confined to the father?

(3) If the mother had a right to make such legal recognition, was the proof excluded by the court sufficient, if admitted, to establish legal recognition of a natural child?

In the transitory provisions of the Civil Code contained in article 1976, it is provided that—

"Changes introduced in the Code to the injury of rights acquired under preceding legislation, shall have no retroactive effect. To apply the corresponding legislation in cases not expressly specified in this Code, the following rules shall be observed:

"1. Rights arising under the legislation preceding this Code, from acts realized under its rules, shall be governed by such preceding legislation, even when this Code regulates them in another manner, or does not recognize the same. But when such rights appear declared for the first time in this Code, they shall at once be effective, even when the facts which originated them have been accomplished under the preceding legislation, provided

that they do not injure other acquired rights having the same origin \* \* \*."

"4. Actions and rights arising before this Code was in force and not exercised shall subsist with the extension and according to the terms acknowledged by the preceding legislation, but shall be subject, in regard to the exercise, duration, and proceedings for enforcing them, to the provisions of this Code \* \* \*."

If by the recognition as a natural child a right was vested in plaintiff from acts realized under the legislation preceding the Civil Code; that is, if such acts as were performed or such acts as occurred gave her the status of legal recognition, then it is clear from the provisions of the Code that the legislation preceding the Code must govern.

The recognition of a natural child relates to the civil status of such person. The legal recognition of a natural child confers certain rights and advantages, and when once made the child has a certain civil status, to wit, that of affiliation.

Under the Civil Code the right to this status may be enforced by suit; and under the civil law the child could not be deprived of this status when once created.

Escrive says:

"The father being free to recognize or not to recognize his natural child, can not, although he may be a minor, revoke the recognition which he has legally made. This recognition in effect is not properly an act of liberality, but a declaration of a fact to which the law confers certain advantages; but this declaration of paternity once made, the child acquires the status of affiliation, of which he can no longer be deprived." (3 Escriche, p. 59.)

To the same effect is a decision of the supreme court of Spain of the 8th day of November, 1893 (74 Jurisprudencia Civil, p. 301). It is held in this decision that where a party acquired the condition of legitimation, the defects of birth are thereby effaced; that the party acquired the juridical capacity in succession of hereditary rights and that the provisions of the Civil Code as contained in the transient provisions expressly reserved the rights thus acquired under the previous law.

We reach the conclusion that the law in force in the year 1872, the date of the birth of the plaintiff, with reference to the recognition of natural children, is to govern in this case and not the provisions contained in sections 129 and 131 of the Civil Code now in force.

The law in force at the date of the birth of the plaintiff was law 11 of Toro, by the provisions of which a child is said to be natural when, at the time at which it was born or was conceived, the father and the mother could be justly married without dispensation, provided that the father recognized it as his child, notwithstanding the mother may not have lived in the house.

The question remains to be determined whether the mother had the power, according to the law of Toro, to make recognition of a natural child; or, was the right to make legal recognition confined to the father? This law gives the right expressly to the father but is silent as to the mother.

The reason why this difference exists, as stated by the commentators is that the fact of the birth of the child was as to the mother a sufficient certainty of the matter, certainty being the main point to be considered.

Under the Roman law this certainty was insured by reason of the relationship that existed between the parents, to wit, concubinage. This relation existed where the parents resided permanently together. Concubinage constituted a legal status, and, as the paternity of the children in such state was certain, the child was regarded as having known parents as well as a known family and the legal status of a natural child was given the children without any formal, express, or tacit recognition. All other children, born out of matrimony, were regarded as illegitimate and not possessing the status of a natural child.

Afterwards, under the laws of the *partidas* a similar relation

was recognized in Spain to that of concubinage under the Roman law. This relation was called that of *baragania*. To constitute relation it was not necessary, as under the Roman law, that the parents should reside continuously with each other. The only requirement was that the parties should publicly appear before witnesses and the woman should receive the man in this relation. The children born to the parties under this relation were regarded as natural children because the publicity of the agreement and its authenticity were regarded as sufficient guaranty of the certainty of the issue. There was no necessity under the laws of the *partidas* in cases where this relation existed that there should be a recognition of the children. They acquired the status of natural children without express or tacit recognition. Afterwards when public sentiment no longer countenanced the relation known as *baragania*, and this relation which was regarded as sufficient to give certainty to the issue no longer existed, it became necessary that there should be some provision made by law for the recognition of natural children, and as a consequence Law 11 of Toro was enacted.

Under the laws of Toro numerous decisions have been made by the supreme court of Spain, in which it is invariably held that the recognition of a natural child need not be expressly made, but may be tacit; that recognition is open to such proof as would be sufficient to support the facts in ordinary suits.

Under these decisions the testimony offered by the plaintiff and rejected by the Court of First Instance was admissible to show a tacit recognition, if such recognition had been made by the father.

It can not very well be understood why in a case where recognition is made by the mother, it should not be equally valid and efficacious as where it is made by the father. The fact that additional certainty is furnished by proof of birth of the child should give additional support to the status of a natural child when a recognition is made by the mother, rather than destroy the right upon the part of the mother to make recognition of a natural child.

The majority of the court have reached the conclusion that the mere proof of the birth of a natural child is sufficient to give it the status of a recognized natural child such as is mentioned in article 840 of the Civil Code. Others are of the opinion that there should be proof of recognition by the mother, either expressly or tacitly made, in order to bring the case within the provisions of article 840 of the Civil Code. To comply with these views the judgment of the lower court should be reversed and the proof offered by the plaintiff and excluded by the Court of First Instance, tending to prove tacit or express recognition by Jacinta Lorente of the plaintiff, Rosa Lorente, should be received in evidence. In addition to this, proof should be made as to the birth of the plaintiff by those who were present and who testified to this fact on the previous trial.

In the event that judgment shall be given for the plaintiff, on another trial, and it should be held that the plaintiff is entitled to participate in the distribution of the estate of Jacinta Lorente, we are of the opinion that the provisions contained in article 840 of the Civil Code—the law in force at the date of the death of Jacinta Lorente—should govern in such distribution.

While the status of the plaintiff as a natural child must be determined by the law in force at the date of the birth of Rosa Lorente, the laws relating to the distribution of an estate in force at the date of the death of intestate, should govern in the distribution. See *Mijares vs. Nery* recently decided by this court, and the decision of the supreme court of Spain of date June 24, 1897.

The judgment of the lower court is reversed and the cause is remanded for a new trial. Cost of the appeal is adjudged against the defendant as administrator of the estate of Jacinta Lorente.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment reversed.*

[No. 1479. April 16, 1904.]

*THE UNITED STATES, complainant and appellee, vs. VICTORINA DE LOS SANTOS, defendant and appellant.*

CRIMINAL LAW; ASSAULT.—See facts in this case held sufficient to justify a conviction of the crime of assault (*tesionica*).

APPEAL from a judgment of the Court of First Instance of Bulacan.

The appellant was tried in the Court of First Instance of Bulacan upon a charge of assault. The facts, as disclosed by the evidence are, in effect, that the accused and her brothers were tenants in common of a lot in the township of Malolos. The accused attempted to erect a house on this lot. Her brother, Valentin de los Santos, tried to persuade her to suspend the work until the arrival of their elder brother. This led to a quarrel. The accused testified that Valentin tried to strike her with a stick, but her witness on this point only testified to threatening words. The accused struck her brother with a bolo, inflicting a serious wound on the right wrist. Upon these facts the accused was convicted of assault (*tesionica*) and sentenced to imprisonment for the term of one year eight months and one day. From this judgment she appealed.

EUGENIO DE LARA, for appellant.

Solicitor-General ARANETA, for appellee.

ARELLANO, C. J.:

The court below having declared that the accused was guilty of the crime, the defense in this appeal has endeavored to show that she acted in self-defense. But the only witness that the accused presented for the purpose of proving the assault, which she imputes to her brother, Valentin de los Santos, did not testify to the fact that he had struck his sister with a cane, which is what she alleges to be the aggression. The witness has only testified to threatening words.

Therefore the judgment of the court below, being in accordance with law, is affirmed with the costs of this instance to the appellant.

Torres, Mapa, McDonough, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1501. April 16, 1904.]

*THE UNITED STATES, complainant and appellee, vs. CANUTO BUTARDO, defendant and appellant.*

CRIMINAL LAW; CONSPIRACY; ILLEGAL OATH.—The defendant, by means of threats, compelled others to take an oath to defend their native country, and disturb the public peace or commit some other criminal offense, and when administering the oath undertook not to reveal the fact to any person whatever. *Heid*, that these facts constitute the crime defined and punished in article 12 of Act No. 232.

APPEAL from a judgment of the Court of First Instance of Ilocos Norte.

The facts are stated in the opinion of the court.

DEGRACIAS REYES, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

August 25, 1903, the provincial fiscal of Ilocos Norte filed a complaint in the Court of First Instance of that province, charging Canuto Butardo with the crime of having administered and consented to the administration of an oath in support of an agreement by which a number of persons obligated themselves to defend their native land against the Government of the United States of America in these Islands, and to refrain from revealing the agreement in that the accused, about the end of June or the beginning of July, 1903, together with certain others, called a meeting

\*Headnotes by Mr. Justice Torres.

of a number of inhabitants of the town of Paoy, in the forests of Biga, Sileuc, Pias, and Baranio, and administered an oath to them by which they assumed the obligation to defend their native country against the Government of these Islands, and to refrain from revealing to any person whatsoever this agreement, contrary to the provisions of Act No. 292 passed by the Civil Commission.

The information having been filed, and the case called for trial, the judge upon the evidence introduced sentenced the defendant to six years' imprisonment at hard labor, to pay a fine of \$5,000, gold, and the costs of the prosecution, from which judgment the defendant appealed.

A number of witnesses were examined in the course of the trial, from the record of which it appears that about the end of June or the beginning of July, 1903, the defendant Butardo, accompanied by Valentin Butardo, and Eulalio Diaz, captured Pablo Paeoy, Juan Navarro, and Mateo Caepal, who were taken into the interior of a forest, where they were blindfolded and the accused ordered them, under threats of death, to obey him; that after having compelled them to kneel he made them repeat the following oath: "I promise and swear to defend my native country with the last drop of my blood"; that thereupon he made an incision with a knife in the right arm of each one of them, charging them not to reveal to anyone what had occurred, telling them that he would subsequently inform them of the object and purpose of the meeting; that for this purpose he told them to go on a certain day to the barrio of Baranio, and told them that he would read the document to them; that the witnesses had seen a number of other persons take a similar oath and go through the same ceremony of incision; that according to other witnesses, Candido Pobre, Simplicio Clemente, Luis Dadula, Telesforo Sarangal, and Eulalio Diaz, the accused, Canuto Butardo, endeavored to form a society of union and fraternity among the inhabitants of that town, making them take the same oath and go through the ceremony of incision; that the purpose of this was, according to the witness Diaz, to form a party for the election of the president, although other witnesses stated that it was not customary to go through this ceremony of bloodletting with the electors, and the witness Simplicio Clemente said that the society which the accused intended to organize was a secret society of a political character.

Augustin Agtayani, a sergeant of police, testified that when the existence of this secret society was discovered he made an attempt to find the documents pertaining to it; that he was informed by Valentin Butardo that the documents were in the possession of Rosendo Quinque, in whose possession the witness found a box containing the documents now in the records. This document, according to the statements of Valentin Butardo, was written by the accused, who surrendered to the witness when he was going to the barrio of Pias in June, 1903, to make incisions (sic). The witness affirmed that the accused had administered oaths to a number of persons, and had made incisions upon them as a guarantee of their undertaking with respect to the election of the president.

The document contains an exhortation to Filipinos to have courage in their defense, to determine to triumph, and not to forget God. It terminates with acclamations for the Philippines, for the downtrodden, for the revolution, and for independence, and demands the death of traitors.

The facts proven in this case constitute the offense defined and punished by article 12 of Act No. 292, passed November 4, 1901. The defendant, Canuto Butardo, for the purpose of disturbing the public peace, or committing some criminal offense, compelled a number of inhabitants of the town where he resided, by threats, to take an oath to act in accordance with his purposes, and not to reveal to anyone their undertaking. Incisions were made in the arms of the associates, this, as well as the fact that secret meetings were held in fields, forests, and uninhabited places, being a proceeding adopted by the revolutionists.

The contents of the document found in the possession of one of the members of the party formed by the accused, Canuto Butardo,

and others, by means of incisions, and the administration of the oath above referred to, shows that this oath was required for the purpose of disturbing the country, opposing and overthrowing the constituted Government of these Islands. Consequently it is unquestionable that the accused, who is the author of the document in question, is subject to the penalty prescribed by the law.

In view of the evidence in the case, we can not believe the statements of Butardo, that it was his purpose to form a lawful society for the election of the president, and the extirpation of evil practices; that the document in question was written by him in 1897; that he fled from the municipal prison for the purpose of looking for his companions, who were in concealment, and that it was the custom to make these incisions on the electors so that they should not commit treason. We can not believe this, because the document in question was made use of, not only by the accused, but by others, when the oath was administered and the ceremony of incision performed in the barrios of the town of Paoy, Iloos Norte. There is no evidence that it was a custom to administer an oath and perform the ceremony of incision under the veil of secrecy as a preliminary to the municipal elections of that town. Such proceedings are of a revolutionary character, and are practiced by members of the Katipunan societies. Consequently, notwithstanding the allegations of the accused, and his plea of not guilty to the charge, the case must be decided in accordance with the facts charged in the complaint, and the accused convicted, but not of the crime of conspiracy, of which he was convicted by the trial court.

For the reasons stated, it is our opinion that the judgment appealed must be reversed and the accused condemned to suffer imprisonment for the period of one year, and to pay a fine of 2,000 insular pesos, with subsidiary imprisonment in case of insolvency, at the rate of 2½ pesos per day, the period of the subsidiary imprisonment not to exceed the third part of the principal penalty, and to pay the costs of both instances. The case will be remanded to the trial court with a certified copy of this decision, and of the judgment to be entered in accordance therewith.

Arellano, C. J., Mapa, McDonough, and Johnson, J.J., concur.

Cooper, J., was absent when the decision was signed.

*Judgment modified.*

[No. 1546. April 16, 1904.]

*THE UNITED STATES, complainant and appellee, vs. FELIPE RAMA, defendant and appellant.*

\*CRIMINAL LAW: BRIGANDAGE; ACCESSORIES.—Where it appears that the accused furnished food and shelter in his own house, and gave rice to a band of brigands, and that he aided and protected them, they being at the time armed with different weapons and engaged in robbery, pillage, and other crimes in the mountains where they lived, in the fields and populated places, the offense is that of brigandage, as defined and punished by section 4 of Act No. 518.

APPEAL from a judgment of the Court of First Instance of Cebu.

The facts are stated in the opinion of the court.

JOSE VILLEGAS, for appellant.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

July 27, 1903, the deputy provincial fiscal filed an information in the Court of First Instance, Cebu, charging Felipe Rama with the crime of brigandage, in that the said accused, after the 12th day of November, 1902, organized a band of brigands for the purpose of stealing carabao and other personal property by force and violence, and that he and other persons forming the said band, armed with deadly weapons, wandered about the country at Capampangan, and in the vicinity of the cemetery of San Nicolas of the municipality of Cebu of that Island, contrary to the statute in the case made and provided.

From the evidence taken at the trial of the case it appears that during the months of June and July, 1903, a band composed of some fifteen or twenty men, armed with two guns and long bolos, was wandering about the barrio of Guadalupe in the vicinity of the cemetery of San Nicolas of the municipality of Cebu in the Island of that name; that Gavino Rama was the leader of this gang, the members of which were engaged in robbery and the exaction of money from the inhabitants of that place, some of whom were captured and taken to the mountains, where they were held as prisoners for several days, not having been able to pay the ransom demanded; that the members of this band killed some Chinamen for the purpose of robbing them of the sum of 2 pesos; that on various occasions during those months the accused Felipe Rama, who lived in Guadalupe, entertained Gavino Rama, the leader of the band, who was his son, and the companions of the latter, giving them food and rice which they took into the interior of the mountains. These facts appear from the testimony of the witnesses Manuel Ragsajo, Adriano Caban, Pedro Caban, Victoriano Padin, and Meliton Colarrubias, of whom Caban, Caban, and Padin were held as prisoners by the malefactors for several days. Two policemen testified that one night they, together with some other people, went to the house of the accused, Felipe Rama, having received information that his son, Gavino Rama, and several other armed men, were there, but upon their arrival at the house they did not find anyone.

From the facts stated it clearly appears that Felipe Rama, with knowledge of the illegality of his acts, gave aid and protection to a band of brigands, led by his son, Gavino Rama, giving shelter to the latter and to his companions, who, provided with arms, wandered about the country in the barrio of Guadalupe near the cemetery of the town of San Nicolas, and engaged in robbery, pillage and other offenses, and that the accused supplied them with food in his own house, situated in the said barrio, and furnished them with rice, all of which constitutes the crime defined and punished in article 4 of Act No. 518, enacted November 12, 1902.

The accused pleaded not guilty, and testified under oath that one day, the date of which he can not remember, Meliton Colarrubias, accompanied by one Simon, came to the house to buy some chickens and a hog from him; that he refused to make the sale, as these things did not belong to him; that Meliton also tried to buy a horse which was there, but that the witness refused to sell it, and that thereupon the two men went away; that on the night of the same day these men returned, and called to the witness to open the door and strike a light; that they then entered his house, and beat him with the butts of their guns, after which they took him to the house of Lieutenant Luga, from whence he was taken to the municipal house of San Nicolas; that he was there examined, and stated that his son Gavino had left his house a long time ago, and that he, the witness, did not know where he was, as his said son had not returned to the house since his departure; that his son was unmarried, and that although he bought some rice it was not more than a pint or so, as he was a poor man.

Ana Rama, the daughter of the accused, testified under oath that when her father was arrested he was beaten by his captors; that her brother Gavino had not been in the house of her father since his departure from it a long time ago, and that he had not been there in company with other armed men. The other witnesses, Tranquilino Labeste and Antonio Labra, neighbors of the accused in the barrio of Guadalupe, testified that they had never seen any armed men eating in the house of the accused, and that they had never seen his son, Gavino Rama, there since he went away from it some time ago. These witnesses stated that on working days they were accustomed to leave their houses.

Notwithstanding the denial of the accused, and the testimony of his witness, there is sufficient evidence in the case to show

beyond a reasonable doubt that the accused on various occasions provided food and shelter for a band of armed men, which was wandering about the fields of the barrio of Guadalupe, engaged in robbery and other crimes. The evidence against the defendant is not overcome by his exculpatory allegations or the testimony of his witnesses. One of these was the daughter of the accused, and the other two stated that they did not stay in their houses on working days, and this explains why they did not see the armed men in the house of the accused. On the other hand, several other witnesses, three of whom had been captured by the brigands, testified to having seen the son of the accused, together with the malefactors under his command, in the house of the accused, and saw him supply them with food.

The fact that the accused was charged in the information with the offense defined and punished by article 1 of Act No. 518, is not a reason for setting aside the decision of the court below, by which the defendant was found guilty of the offense described in article 4 of that act. The offense defined in article 4 is included within the crime of brigandage, as an act of indirect participation, just as the guilt of an accessory is included within the guilt of the author of a consummated crime. It is nothing more than a degree of the crime punished by that act, and therefore under the provisions of section 29 of General Orders, No. 58, the court is authorized to find the defendant guilty of any offense, whether it be the consummated crime, a frustration of it, or an attempt to commit it, necessarily included in the offense charged in the complaint or information.

For the reasons stated it is our opinion that the judgment appealed must be affirmed, with the costs against the appellant. The record will be returned to the trial court, with a certified copy of this decision, and of the judgment to be entered in accordance therewith, for execution of the same.

Arellano, C. J., Cooper, McDonough, Mapa, and Johnson, J.J., concur.

*Judgment affirmed.*

[No. 1590. April 16, 1904.]

*THE UNITED STATES, complainant and appellant, vs. TELESFORO RORALDO ET AL., defendants and appellants.*

\*CRIMINAL LAW: REBELLION.—The defendant, a municipal policeman, deserted his post, in violation of his oath of office, and voluntarily joined a band of insurgents, taking an active part in the acts of rebellion against the constituted Government of these Islands committed by the band contrary to the provisions of law which guarantee peace and order. These facts constitute the crime of rebellion, defined and punished by Act No. 292.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

JOSE L. QUINTOS, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

October 3, 1903, the provincial fiscal of Bulacan filed a complaint in the Court of First Instance of that province charging Telesforo Roraldo and Felix Adajar with the crime of insurrection, in that they, on or about the end of the year 1902, and until they were captured about the month of September of the year following, promoted and voluntarily and criminally abetted, within that province, an insurrection against the United States and the Government of these Islands, contrary to the statute in the case made and provided.

An amended complaint having been filed the case went to trial. The court, in view of the evidence introduced, rendered a judgment finding the defendant Roraldo guilty of the crime

of insurrection and condemned him to the penalty of eight years' imprisonment and to the payment of a fine of \$4,000 and the costs. He acquitted Felix Adajar, the evidence against him not being sufficient, without prejudice to a prosecution against him for the prohibited use of firearms. Against this decision the defendant Roraldo appealed to this court.

From the proceedings at the trial it appears that a number of witnesses were examined. Lieut. Lorenzo Ramos, of the Constabulary, testified that some months ago the two accused were sent to him at Meycauyan by Captain Warren, the charge being that Adajar was a lieutenant and Roraldo a sergeant of the band led by one Contreras, an insurgent chief; that this statement was confirmed by Domingo Arellano and Rafael Rivero, his spies; that when Adajar was arrested a .45 caliber Colt's revolver was found in his possession, the weapon having been discovered in a clump of bamboo near his house; that the seizure of this weapon took place in the presence of the spy, Arellano, and the policeman, Fortunato Sulit; that as a result of the investigation made, Felix Adajar confessed to him spontaneously that he was appointed a lieutenant of Contreras and had been with the latter in the mountains for one week; that he subsequently returned to the town for the purpose of collecting contributions, and that on account of Governor Teson's operations against the insurgents Adajar went to the Province of Bataan, where he was arrested; that the other accused, Telesforo Roraldo, also stated to him that he was a member of the police of the municipality of Meycauyan; that he deserted with his companions, taking with him his arms; that he joined the Contreras party. That when Contreras's band was dispersed, Roraldo went to the Province of Bataan, where he was employed by the parish priest of one of the towns of that province; that he had delivered his gun to one Capt. Jorge San Pedro, who subsequently surrendered in this city; these statements were made by Roraldo voluntarily, the witness adding that the accused joined the insurgents voluntarily and were not captured by them.

The two witnesses, Domingo and Rafael Rivero, affirm that on different occasions they were captured by Telesforo Roraldo; that he took them into the mountains, where they saw a number of persons, many of whom had firearms of different kinds. That these persons constituted the Katipunan under the command of Contreras; that their purpose was to invade the towns and attack the Constabulary for the purpose of seizing their guns; that a number of other individuals had been captured besides themselves. The witness Arellano stated that he had succeeded in returning to the town of Meycauyan some weeks afterwards with the permission of the chief, Contreras; that while with the band of insurgents he saw the accused Roraldo. Rafael Rivero testified that when he was captured by Roraldo the latter was accompanied by another man armed with a gun, but that he did not see Felix Adajar among the members of the band while he was in the mountains with them before his escape.

From the facts stated it appears that the case offers sufficient evidence of the existence of the crime, and of the guilt of Telesforo Roraldo. It is unquestionable that this man, in violation of his duty and of the oath taken by him as a municipal policeman of the town of Meycauyan, abandoned his post with a number of other persons, and joined the band commanded by Ciriaque Contreras, taking part in acts of insurrection or rebellion, and efficiently coöperating with that rebellious band against the Government established in these Islands, and against the laws which guarantee the peace and tranquillity of the inhabitants. Consequently he is the author of the crime by direct participation as a subaltern of the band and as such is subject to the penalty prescribed in article 3 of Act No. 292, passed November 4, 1901.

Notwithstanding the denial of the accused and his excuse that while he was a municipal policeman he was captured by Contreras and his band, who took him into the mountains, where

he acted for them as cook for one week, until he succeeded in making his escape, the fact is that the evidence for the prosecution in the case, far from being overcome by the allegations of the accused, show beyond a doubt that he has committed the crime punished by the article cited of Act 292, he having abandoned his post with his arms and having taken part in the insurrection or rebellion against the established Government and its agents, voluntarily becoming a member of an organized band which frequently attacked and resisted the forces of the constituted authorities against the law, and by giving positive and efficient aid to the rebels in arms. The allegations of the defendant can not be admitted, there being no evidence to show that he was in fact captured, and that he only acted as cook, without having been an active member of the band. Furthermore, if it were true that he was the victim of a sequestration, and that he was held against his will by the members of the band, as soon as he recovered his liberty, he would have immediately presented himself to the authorities. This he did not do. Therefore his statements cannot be regarded as worthy of belief, more especially in view of the fact that they are in contradiction of the testimony of the Constabulary Lieutenant, Lorenzo Ramos.

For the reasons stated we are of the opinion that the judgment appealed must be confirmed in so far as it imposes upon the accused Telesforo Roraldo the penalty of eight years' imprisonment and a fine of \$4,000, the accused to pay one-half of the costs of both instances. This case will be returned to the trial court with a certified copy of this decision, and judgment to be entered in accordance herewith for the execution thereof. So ordered.

Arellano, C. J., Mapa, McDonough, and Johnson, JJ., concur.  
Cooper, J., was absent when this decision was signed.

*Judgment modified.*

[No. 1646. April 16, 1904.]

*THE UNITED STATES, complainant and appellee, vs. VENTURA MARIANO, defendant and appellant.*

**CRIMINAL LAW: BRIGANDAGE.**—The defendant, a policeman, deserted with his arms, and joined a band of armed men, organized for the purpose of robbery. Several robberies were committed by the band while the defendant was a member of it. *Held*, that the defendant is guilty of the crime of brigandage.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

M. CARINGAL, for appellant.

Solicitor-General ARANETA, for appellee.

JOHNSON, J.:

The defendant in this case was charged with the crime of *bandidismo*. He was tried in the Court of First Instance of the Province of Rizal, and on the 6th day of April, 1903, was found guilty and was sentenced to imprisonment on the 7th day of April, 1903, for the period of his natural life.

Juan Januario Coronado testified that he was the president of the pueblo of San Felipe Neri; that he knew the accused; knew that he had been a municipal policeman of the pueblo of Pasig; that he deserted, and took with him several guns and revolvers, which he later turned over to General San Miguel; that he became a member of San Miguel's band, which band was composed of about 200 armed men; that this band went out upon the highways and roamed over the country, armed with deadly weapons; that the said band attacked the pueblo of Pasig on the night of the 24th of December, 1902.

Clemente Fernandez testified that he lived in the pueblo of San Felipe Neri; that he knew the accused, and had heard that he belonged to the band of San Miguel, which band was

composed of from 300 to 400 armed men; that the accused was a member of said band.

Paterno Sanchez testified that he was a councilman in the pueblo of Pasig, in the Province of Rizal, and knew the accused; that the accused had been a policeman in said pueblo; that the accused, with a band of bandits, entered the pueblo of Pasig on the night of the 24th of December, 1902; that the said band sequestered him and illtreated him; that the said band was armed with deadly weapons, and that he saw the said defendant with the others; that there were many members of said band, probably 40 armed men, at the time he was captured and illtreated; that the defendant on said occasion carried a gun and a revolver; that the members of the band wore uniforms; that the band was under the command of one Faustino Guillermo; that the object of the band was to rob property and guns; that the accused had been a member of the police of the pueblo of Pasig; that he had deserted from said police, taking with him ten revolvers and four guns.

Fernando Carruncho testified that he was municipal secretary of the pueblo of Pasig, and had been, at times, a lieutenant of police; that he knew the defendant, and that the defendant had been a member of the municipal police of the pueblo of Pasig for two months and three days, dating from the 1st day of September, 1902, until the 3d day of November, of the same year; that at the time the defendant became a member of the said police he took the oath of allegiance to the United States Government; that the accused deserted from the said police on the 3d day of November, 1902, between 12 and 2 o'clock at night, taking eight revolvers and four shotguns; that the accused joined the band of General San Miguel, under the command of Julian Santos; that he had been made a captain or major in said band; that the said band entered the pueblo of Pasig on the night of the 24th of December, 1902, attacking the Constabulary, killed two members of the Constabulary, and carried away from the inhabitants of the said pueblo certain personal property; that at the time said band entered the pueblo of Pasig it was armed with deadly weapons, and that the said defendant was a member of said band; that there were probably 200 armed men in said band.

Felipe Gomez stated that he was the president of the pueblo of Pasig; that he knew the defendant; that the defendant had been a member of the police of the said municipality from the 1st of September until time that he deserted, on the 3d or 4th day of November, 1902; that at the time the defendant deserted he took with him fourteen revolvers and four shotguns; that the defendant, at the time he became a policeman, took the oath of allegiance to the United States Government; that the defendant became a member of San Miguel's band; that the defendant was a member of said band on the night of the 24th of December, when it attacked the pueblo of Pasig; that the said defendant and the band were armed.

Rafael Crame testified and stated that he was a member of the Constabulary, and lived in the city of Manila; that he knew the defendant; that the defendant made a confession to him, and that said confession was made voluntarily, and in the presence of witnesses; that after said confession was made it was signed by the said defendant; that the confession was in the following language:

"DECLARATION OF VENTURA MARIANO.

"MARCH 21, 1903.

"I am a native of Pineda, of the township of Pasig, 25 years of age, and by occupation a stonebreaker. I was a member of the police of the town of Pasig until the month of November, 1902, when I joined Teniente Papa and his soldiers. I joined the Nationalist Party six months ago. The man who induced me to join the Nationalist Party was Mariano San Juan, one of the members of the committee in the barrio of Rosario in the township of Piedad.

I was invited by the men to join them because they accused me of being a member of the secret police, and I being afraid, went with them. The man who spoke to me was Fernando Montalan, who was the agent of the men in the field. One Monday night in November of last year they came into Pasig and while I was on guard at the barracks, they took me away. I went with them and took also all the arms which there were in the barracks—nine revolvers and four carbines. The ones who carried me away were Lieutenant Papa, one Memo, and his brother Felix de la Cruz, Cornelio de la Cruz, and Juan Santa Ana. After I had been in the mountains two weeks I was appointed a captain by General San Miguel, and he put me in command of forty men armed with guns. We came together at a place called Pugat Baboy, there being 300 men altogether under the command of San Miguel, Faustino Guillermo, Apolonio Samson, Ciriaeo Contreras, Vicente del Mundo, Teniente Papa, and myself, for the purpose of holding a meeting for the appointment of officers of the troops. The Constabulary came there and we fought with them. In this fight we killed a Constabulary man and captured five, from whom we took their arms and then released them. They killed three of our soldiers.

"VENTURA (his x mark) MARIANO.

"Witnesses:

"RAFAEL CRAME,

"Second Lieutenant.

"AURELIO RAMOS,

"Second Lieutenant, Division of Information."

Victoriano Angeles was sworn as a witness, and testified that he had known the defendant for a long time; that he had been a companion of the defendant as a member of the police of the pueblo of Pasig; that defendant deserted from said police about the month of November or December; that a band of bandits entered the pueblo of Pasig on the night of the 24th of December, 1902; that the said defendant was with the said band on that occasion, and sequestered him and his companion, Gervasio Luna; that the defendant had many companions who were armed; that the defendant was a captain in said band of bandits; that he was armed with a revolver; that Faustino Guillermo was the head of said band; that he recognized the accused and spoke to him on the night of said attack, after the accused had sequestered him; that the object of said band was to rob the Constabulary of their guns and supplies; that he and his companion, after having been sequestered by the accused, were illtreated; that at the time the accused deserted from the said police he took away with him eleven revolvers and four guns; that he was in the quarters of the said police on the night that the accused deserted; that there were many members of the said band, all being armed with guns and revolvers.

Gervasio Luna testified that he was then a member of the Constabulary and had been a member of the municipal police of the pueblo of Pasig; that he knew the defendant; that the defendant had also been a member of the said police; that the defendant deserted from said police, carrying away with him, at the same time, revolvers and guns belonging to the said police; that a band of bandits entered the pueblo of Pasig, armed with deadly weapons; that the accused was a member of said band, and on the said night sequestered him and Victoriano Angeles; that there were many members of said band; that the said band carried arms; that the accused was a captain in said band of bandits; that the said band attempted to rob the Constabulary of their guns and supplies; that during the fight between the said band and the Constabulary of the pueblo of Mariquina, he escaped; that the said defendant and his companions illtreated him, striking him with a gun.

The defendant offered no proof in his own behalf.

The accused appealed from the decision of the court.

The evidence adduced in this case justifies the following conclusions:

First. That the defendant had been a member of the municipal

police of the pueblo of Pasig from on or about the 1st day of September, 1902, until the 3d or 4th day of November, 1902.

Second. That at the time the defendant became a member of the police he took an oath of allegiance to the United States Government.

Third. That the defendant deserted from said police on or about the 4th day of November, 1902, taking with him eleven revolvers and four shotguns.

Fourth. That he delivered said revolvers and shotguns to a band of handits under the command of San Miguel.

Fifth. That he became a member of the band of San Miguel.

Sixth. That said band was organized for the purpose of robbing carabaos and other personal property.

Seventh. That said band entered the pueblo of Pasig on the night of the 24th day of December, 1902, armed with deadly weapons, and did then and there commit various robberies in said pueblo.

Eighth. That said band went out upon the highways and roamed over the country, armed with deadly weapons.

Ninth. That said band did, by force and violence, commit various robberies.

Therefore, by virtue of these facts, and the provisions of section 1 of Act No. 518 of the United States Philippine Commission, the judgment of the Court of First Instance of the Province of Rizal is hereby affirmed. And it is so ordered.

Arellano, C. J., Torres, Cooper, McDonough, and Mapa, J.J., concur.

*Judgment affirmed.*

[No. 1477. April 22, 1904.]

MARIA GONZALEZ, plaintiff and respondent, vs. SIMEON BLAS, defendant and petitioner.

PROMISSORY NOTE.—A note by which the maker undertakes to pay a specified sum of money without designating the person to whom such payment is to be made is payable to the bearer.

APPEAL from a judgment of the Court of First Instance of Rizal.

The facts are stated in the opinion of the court.

FERMIN MARIANO, for appellant.

GIBBS & KINCAID and JOSE F. OLIVEROS, for appellee.

JOHNSON, J.:

On the 10th day of June, 1903, the plaintiff brought an action against the defendant in the Court of First Instance of the province of Rizal, upon the following contract:

"Vale por \$500 á cuenta del que suscribe. Caloccan, 20 de Octubre de 1902.

"SIMEON BLAS. (Rubricado.)"

In the margin of the *vale*, appears the following: "Simeon Blas y Jason," "Malabon—Vto. Ino. \$500."

On the 9th day of July, 1903, the judge of the Court of First Instance filed the following sentence:

"In this case, No. 177, the plaintiff sues the defendant for 500 pesos, the amount of a note signed by the latter, without mention of the person to whose order this sum was to be paid. The defendant has acknowledged the authenticity of this document, but alleges that the plaintiff has no right to demand from him the performance of the obligation, because the plaintiff is not the person to whom the document was delivered; that this person, deceived by another, delivered to the latter the note which is now in the possession of the plaintiff. The note in question is a document of credit to bearer and is demandable by the bearer from the person making it. (Art. 1112 of the Civil Code.) It is a legal presumption that the plaintiff is in lawful possession of said note inasmuch as nothing to the contrary has been proved with regard to her possession. Consequently the question is limited to determining the nature of the obligation evidenced by

the said note, and to deciding how the holder thereof can demand of the maker the performance of the obligation. A note not drawn to order is equivalent to a promise to pay the sum of \$500 made by the defendant to the holder of the document. (Art. 532, last paragraph, Code of Commerce.) The obligation in question should be governed by the common law, because it does not appear that it is connected with acts of commerce, and according to article 1096 of the Civil Code the plaintiff as holder is entitled to demand of the defendant the performance of this obligation, which, as it consists in the payment of a sum of money, gives to the plaintiff the right to demand of the defendant the payment, in addition to the \$500, of legal interest from the date on which the said defendant became in default by failure to pay the said sum upon demand. (Art. 1108 Civil Code.) For the reason stated, I find in favor of the plaintiff, and it is hereby adjudged and decreed:

"(1) That the defendant pay to the plaintiff the sum of \$500, the amount of the note sued upon.

"(2) That the defendant pay 6 per cent interest on said sum from the date on which demand for payment thereof was made, up to the date of payment thereof.

"(3) That the defendant pay the costs of this suit.

"FELIX M. ROXAS,

"Judge of the Fifth District."

On the 23d day of July the defendant presented a motion for a new trial, which was denied on the same day by the trial judge. The case comes here on a bill of exceptions. The bill of exceptions contains all the proof adduced in the court below. Upon an examination of this proof, we are of the opinion that the judgment of the court below should be affirmed, and it is so ordered, with costs to the appellant in both instances.

Arellano, C. J., Torres, McDonough, and Mapa, J.J., concur.

*Judgment affirmed.*

[No. 1385. April 22, 1904.]

RAFAEL ENRIQUEZ ET AL., plaintiffs and appellées, vs. FRANCISCO ENRIQUEZ ET AL., defendants and appellees.

PLEADING AND PRACTICE: FINDINGS.—It is reversible error for the trial court to make findings upon all the issues of fact presented by the pleadings.

APPEAL from a judgment of the Court of First Instance of Manila.

This was an action brought to set aside a contract of sale of real property. It was alleged in the complaint that the defendant Francisco Enriquez acting under a power of attorney alleged to be a forgery, sold the property in question to one Victoriano Reyes, who in turn sold it to the defendant's wife, and that no consideration was paid for these sales, to the damage of the plaintiffs as heirs of the owner of the property. The alleged forgery of the power of attorney and the alleged fraudulent sale took place some eighteen years before the action was commenced. The defendants denied the allegations of forgery and fraud and alleged that the fact of the sale of the property in question had been known to the plaintiffs for more than four years prior to the institution of the action had been confirmed by them. The other facts are stated in the decision of the court.

A. D. GIBBS and ALFREDO CUCOTE, for appellants.  
MONTAGNE & DOMINGUEZ, for appellees.

MAPA, J.:

There has been no motion for a new trial in this case. Consequently we can not review the evidence or retry any issue of fact, but can simply decide the questions of law raised by the bill of exceptions. (Code of Civil Procedure, art. 497.) For this purpose we must rely solely upon facts found by the trial court in connection with those alleged in the pleadings.



One of the questions presented by the complaint is the nullity of the power of attorney executed by Don Antonio Enriquez in favor of Francisco Enriquez, March 5, 1883. The plaintiffs allege that this power of attorney is false and expressly demand that it be annulled upon the ground that it was not really executed by Don Antonio Enriquez, who at the date in question, and before and after it, was mentally and physically incapable of executing the said power of attorney.

The judgment appealed does not decide this question, nor does it contain any finding of fact with reference thereto which might serve us as a basis for the decision of this question. It is true that the court apparently did not deem it necessary to decide this question in view of the fact that he had declared the nullity of the deeds of sale of the property which was the object of the litigation. But it is also true that this declaration of nullity is based upon other causes, different from the nullity of the power which authorized Don Francisco Enriquez to sell the property on behalf of Don Antonio Enriquez. Upon the hypothesis that this court might not agree with the trial court as to the sufficiency of the causes upon which he declared that sale to be void, the plaintiffs would be prejudiced without fault attributable to them, because we could not decide the question raised as to the nullity of the power of attorney, the court having failed to make a finding as to the facts proven upon this point. Supposing that the plaintiffs had proved the falsity of the power of attorney, and even though the other causes of nullity alleged in the complaint might not be regarded as sufficient, this alone would be enough to carry with it the nullity of a sale made by virtue of the power of attorney in question. This being so, it would be evidently unjust to deprive the plaintiffs of this ground of their action, the success of which might perhaps depend upon the decision of this point, which in turn rests upon facts as to which there is no finding in the decision of the court by which we can determine whether they were or were not proven at the trial.

The defendants in turn alleged in their answer that the sale of which the nullity was in question, and which took place eighteen years ago was a legal conveyance known to the parties in interest, who expressly confirmed it more than four years ago. This allegation contains a defense which if proved might perhaps be sufficient to offset the action brought by the complaint. Nevertheless the judgment appealed contains no finding of fact concerning the alleged knowledge of the plaintiffs as to the sale in question for more than four years, or as to the confirmation of the said sale alleged to have been expressly made by the plaintiffs. This prevents us from deciding this point of the question on account of the insufficiency of the data before us.

It is the duty of the court to file in writing his findings upon issues of fact raised by the pleadings. (Art. 113 Code of Civil Procedure.) The findings of the court constitute the sole basis upon which we can decide the case when, as in this instance, we are unable to review the evidence taken at the trial. Without such a finding by the court it is impossible for us to arrive at any conclusion of law or to render a decision of affirmance or reversal.

For the reasons stated the judgment below is deficient and is not in harmony with the issues at the trial, and must therefore be set aside. Having reached this conclusion, it is not necessary for us to decide whether Judge Odlin could or could not legally render the judgment appealed under the special circumstances of its rendition. Whatever might be the conclusion reached upon this point, the judgment could not be sustained for the reasons above indicated.

The judgment below is therefore set aside, and the case will be returned to the trial court for the rendition of a proper judgment, by including therein the findings of fact and conclusions of law omitted in the judgment before us upon the points above indicated, without prejudice to the evidence already taken, which we declare to be valid, and without prejudice to the admission

of such additional evidence as the parties may desire to present. No costs will be allowed in this instance.

Arellano, C. J., Torres, McDonough, and Johnson, JJ., concur. Cooper, J., was absent when this decision was signed.  
*Judgment set aside.*

[No. 1505. April 22, 1904.]

*THE UNITED STATES, complainant and appellee, vs. VALENTIN BUTARDO ET AL., defendants and appellants.*

\*CRIMINAL LAW: SOCIETY POLITICAL SOCIETY: UNLAWFUL OATH.—The defendants administered and were present at the administration of an oath by which a number of persons bound themselves to defend their native country, to disturb the public peace, and to commit a criminal offense, and not to reveal to anyone this fact, which unquestionably is of a political character, and for a seditious purpose. Held, that the defendants were guilty of the offense defined and punished in section 12 of Act No. 292.

APPEAL from a judgment of the Court of First Instance of Ilocos Norte.

The facts are stated in the opinion of the court.

ANTONIO ADIARTE and MARIANO MONROY, for appellants.  
Solicitor-General ARANETA, for appellee.

TORRES, J.:

The provincial fiscal of Ilocos Norte filed an information in the court of that province charging Eulalio Diaz, Valentin Butardo, Sergio Sandang, Sergio Saneali, Sotero Abutan, Panfilo Paclibari, and Eugenio Raganit of the crime of forming a secret political society entitled "Kanyonan," in that about the end of June or the beginning of July, 1903, the defendants held meetings at the places called Buga, Suluc, and Baranio, of the town of Paoay, of that province, with certain other persons, for the purpose of administering an oath purporting to bind the persons taking the same to defend their native country against the Government of the United States of America in these Islands, and to refuse to reveal or discover the said unlawful combination and oath, contrary to the provisions of Act 292.

The information having been filed, and the case tried, the court, upon the evidence submitted, acquitted Eugenio Raganit, but sentenced Eulalio Diaz and Valentin Butardo each to the penalty of six years' imprisonment at hard labor, and payment of a fine of \$5,000, gold; Sergio Sandang to three years' imprisonment at hard labor; Sergio Saneali, to one year's imprisonment and the payment of a fine of \$500, gold; Sotero Abutan to one year's imprisonment; and Danfilo Paclibari to six months' imprisonment, less twenty-one days during which he was held as a detention prisoner; and to the payment each one of one-seventh of the costs. From this decision Eulalio Diaz, Valentin Butardo, Sergio Sandang, Sergio Saneali, and Sotero Abutan appealed, the judgment being, therefore, a finally with respect to Eugenio Raganit and Panfilo Paclibari, with whom we are not concerned, therefore, in this decision.

From the evidence, documentary and oral, introduced in the trial of this case, it appears that during the months of June and July, 1903, the defendants, Valentin Butardo, Sergio Sandang, Canuto Butardo, Eulalio Diaz, and others, held some meetings in the fields and forests of certain barrios of Paoay, for the purpose of forming a secret political society, called the "Kanyonan," among the inhabitants of the said barrios, compelling by force and threats such persons as refused or declined to join the society, to do so against their will; that these persons were made to kneel, and then blindfolded, after which they were required to take an oath to defend the country to the last drop of blood, after which incisions were made in their arms; that after this ceremony the accused promised the associates that they would subsequently inform them of the purposes and objects of the association, and to

that end named a day for the reading of certain documents, in the meantime commanding them not to reveal to anyone what had taken place. Although some of the witnesses testify that the organizers of the projected society stated that its purpose was to reform evil practices and stamp out vice, other witnesses testify that its purpose was defense against the Americans. A small box was taken from one Rosendo Echinique containing documents now in the record, and which were written by Valentin Butardo. The fact that these documents existed became known to Augustin Agbayani, a sergeant of police, by the confession of the said Valentin, from whom was taken the key of the box, and by which it was opened by the commanding officer of the Constabulary at Laoag, to whom it was delivered after it was taken from Echinique, upon the information given by Butardo.

The document contains an exhortation to Filipinos to have courage in their defense, to determine to triumph, and not to forget God. It ends with acclamations for the Philippines, for the downtrodden, for the revolution, and for independence, and demands the death of traitors.

The translation of the documents shows that the purpose of the society is "something which is very difficult to attain without unanimous effort to clear away the dense cloud which obscures the vision." One who enters the society merely for the purpose of informing himself of its object or discovering the identity of its members is to be cured with a strong medicine, appropriate for traitors. The society recognizes no distinctions, and the only great man is he who truly loves his native country and defends it, shielding the downtrodden and opposing the oppressor.

The facts stated constitute the crime charged in the complaint, defined and punished by article 12 of Act No. 292. The five defendants, Valentin Butardo, Eulalio Diaz, Sergio Sandang, Sotero Abutan, and Sergio Sancali were present at and consented to the administering of an oath or engagement by which a number of persons understood to disturb the public peace or commit some criminal offense, and compelled the associates, by means of threats, to take the oath in question, commanding them to act under the directions of the accused, and not to reveal to anyone their oath and undertaking, this oath being followed by the ceremony of incision, and these acts having been committed in secret meetings held in fields and uninhabited places.

The context of the document written by Valentin Butardo, and taken from one this associate, shows that the sworn undertaking entered upon in the meeting in question tended to stir up the country to oppose and overthrow the constituted Government of these Islands, and consequently it is unquestionable that the oath and agreement was of a political character and for a seditious purpose.

The witness Juan Xavarro testifies that he reported the fact of those meetings and of the oaths which were taken therein to a number of inhabitants of the township of Paoyay, and that he gave information concerning the ceremony of incision to Eulalio Diaz, a member of the municipal council, representing the district of Pias, but that the latter, instead of in turn reporting the facts to the authorities, met with the Butardo brothers and other persons in the barrio of Baranio, and was present when such oaths were administered, and induced others to join the society.

Valentin Butardo was one of the principal organizers of these meetings and administered the oath to a number of people, upon whom, also, incisions in the arm were made, and exhorted them not to reveal the secret.

Sergio Sandang, Sotero Abutan, and Sergio Sancali were emissaries of Valentin, who endeavored to induce others to join the society, and were present, together with Valentin Butardo, in the barrios of Pias and Suluac when the oath was administered to and the ceremony of incision performed upon several inhabitants of those barrios.

The guilt of the five appellants has been clearly established by the testimony of the witnesses. We can not believe the statements

that the society was intended as a preparation for the election of a local president, and that its object was to stamp out evil practices. There is no evidence to show it was the custom in the town to attain such an object by means of the administration of such an oath or to perform the ceremony of incision under a promise of secrecy. Such proceedings are those of revolutionists, and are practiced by members of the Katipunan Societies.

The fact that the information charges the accused with the offense of organizing a secret political society is not an obstacle to their conviction of the offense defined and punished in article 12 of Act 292. The facts constituting this crime are stated in the information, and the erroneous classification of the offense was not excepted to at the trial or upon this appeal. Consequently, even if this might be a defect available if duly excepted to, as it has not prejudiced any of the essential rights of the accused, we must assume that they have waived their right to object to it, with the view to prompt determination of the case for their own benefit.

Therefore, for the reasons stated, we are of the opinion that the judgment appealed must be reversed with respect to the appellants, and that Eulalio Diaz, Valentin Butardo, Sergio Sandang, Sergio Sancali, and Sotero Abutan be condemned to imprisonment for the term of one year and to the payment of a fine of 2,000 insular pesos, each one, and in case of insolvency to suffer subsidiary imprisonment at the rate of one day for each sum of two pesos and one-half unpaid, provided, however, that the subsidiary imprisonment shall in no case exceed a third part of the duration of the principal penalty. The defendants are also condemned to pay each one a seventh part of the costs of both instances. The case will be returned to the trial court with a certified copy of this opinion and of the judgment, to be entered in accordance therewith for execution.

Arellano, C. J., Mapa, McDonough, and Johnson, J.J., concur.

Cooper, J., was absent when this decision was signed.

*Judgment modified.*

[No. 1596. April 22, 1904.]

*THE UNITED STATES, complainant and appellee, vs. HILARIO ZAFRA ET AL., defendants and appellants.*

\*CRIMINAL LAW; BRIGANDAGE.—The fact that the band of which the accused were members was organized for political purposes is not a defense to a charge of brigandage, where the evidence shows that this band, provided with firearms and other weapons, wandered about the country in the Provinces of Rizal and Bulacan and engaged in robbery and other offenses against persons and property and in armed resistance to the authorities, and that the accused took part in the commission of some of these crimes.

APPEAL from a judgment of the Court of First Instance of Bulacan.

The facts are stated in the opinion of the court.

JOSE DEL CASTILLO, for appellants.

Solicitor-General ARANETA, for appellee.

TORRES, J.:

October 6, 1903, the provincial fiscal of the Province of Rizal filed an information with the Court of First Instance of that province, accusing Hilario Zafra, Basilio Capistrano, and Carlos San Diego of the crime of insurrection (the original information, filed in the justice's court, charges them with brigandage) in that the accused, on or about the year 1902, until they were captured early in 1903, within the jurisdiction of the township of Meyeacayan, willfully and illegally promoted and abetted an insurrection against the Government of the United States in the Philippine Islands, contrary to the statute in the case made and provided.

This information was amended October 23, 1903, before trial, by the provincial fiscal, who filed another information against

the three defendants charging them with the crime of brigandage in that they on or about after (sic) the 12th of November, 1902, and until they were captured in Bulacan in the months of May or June, 1903, they, the defendants, had willfully and voluntarily been members of a band of thieves under the command of the so-called General San Miguel, and subject to the immediate orders of Ciriaño Contreras, Julian Santos, and others, who were engaged in the robbery of personal property by force and violence, and wandered about the roams armed with deadly weapons, contrary to the statute in the case made and provided.

The amended information having been filed and the accused arraigned thereon, they pleaded not guilty. Upon the evidence introduced at the trial the court convicted them and sentenced them each to twenty-four years' imprisonment, and to the payment of the costs, from which judgment the defendants appealed.

From the proceedings had in the course of the trial it appears that the witnesses Ricardo Aquino, Gervasio Gimenez, Enrique Pasion, and Jorge San Pedro were acquainted with Hilario Zafrá, and knew him to be one of the members of the band lead by Faustino Guillermo, which band was operating in the Provinces of Bulacan and Rizal, in combination with the bands lead by Ciriaño Contreras and Julian Santos. These different bands, composed in all of about one hundred men, were armed with firearms and other weapons, and recognized the so-called general, San Miguel, as the principal leader.

The other witnesses, Miguel Pascual, Marcelo Magsalin, and the witnesses above named, Enrique Pasion and Jorge San Pedro, also testified that the accused Basilio Capistrano and Carlos San Diego were members of the Contreras gang, a band composed of armed men which, together with other smaller bands, under the command of Faustino Guillermo, Julian Santos, and Apolonio Samson, wandered about the country in the Provinces of Rizal and Bulacan, and that these smaller bands recognized Luciano San Miguel as the chief.

From the facts stated it appears that the evidence is sufficient to disclose the existence of the crime of brigandage, and to show that the defendants were members of bands composed of more than three armed men which early in the year 1903 wandered about the Provinces of Bulacan and Rizal, engaged in robbery and other crimes against person and property, and in making resistance to the authorities.

Even if it were true that the said bands were organized with a political character, and that their purpose, as testified to by several witnesses, was to defend their country, and that the accused Capistrano and San Diego were captured by these bands—although this alleged capture has not been proven—the fact nevertheless remains that the accused, under arms, took part in the acts of vandalism committed by the various parties of the numerous bands under the general command of Luciano San Miguel and his subordinates, Guillermo, Contreras, Samson, and Santos. The evidence shows that these accused committed a robbery one night in stores of four Chinamen in Meycauyan; that they assaulted and robbed the office of the president of Navotas, from which they took \$195 in cash and some arms; that they attacked the Constabulary barracks in the town of Santa Maria, and took therefrom guns, clothing, and rice; that they killed two Constabulary soldiers in the town of Pasig, and robbed several of the inhabitants; that they stole three carabaos belonging to an inhabitant of San Miguel, and furthermore that they are guilty of armed resistance to and attacks upon the agents of the authorities. These facts appear from the testimony of the witnesses named. Consequently there can be no doubt that the three defendants are guilty of the offense defined and punished by section 1 of Act No. 318, enacted November 12, 1902.

For the reasons stated it is our opinion that the judgment appealed must be affirmed, with one-third of the costs of both instances to the defendants. The case will be remanded to the trial court with a certified copy of this opinion and of the judgment to be entered in accordance therewith for its execution.

Arellano, C. J., Mapa, McDonough, and Johnson, JJ., concur. Cooper, J., was absent when this decision was signed.

*Judgment affirmed.*

[No. 1806. April 22, 1904.]

**SERVILIANO LOZUELA SANTOS, petitioner, vs. JUDGE JOHN C. SWEENEY, respondent.**

1. MARRIAGE AND DIVORCE.—A complaint for divorce presupposes the existence of a marriage between the parties litigant.
2. HUSBAND AND WIFE; SUPPORT.—The marriage relation imposes upon the spouses the mutual obligation of support.
3. MARRIAGE AND DIVORCE; ALIMONY.—During the pendency of the suit for divorce, upon a complaint filed and admitted, it is the duty of the court to grant alimony to the wife and make provisions for the support of the children not in the possession of the father.

ORIGINAL APPLICATION for a writ of prohibition.

The facts are stated in the opinion of the court.

JOSE SANTIAGO, for petitioner.

G. E. CAMPBELL, for respondent.

TORRES, J.:

Attorney Serviliano Lanzuela Santos has presented a petition in which he prays that a writ of prohibition issue, and that this court declare that the Hon. John C. Sweeney, judge of the Court of First Instance, exceeded his jurisdiction by attempting to compel him to pay Graciána Nemeses alimony in the sum of 100 pesos, and to pay the sum of 50 pesos for the support of each one of her two children, which sums are to be paid monthly in advance within the first five days of each month, and further to pay the sum of \$200 to the attorney for the plaintiff as part payment of his fees.

Attorney G. E. Campbell appeared for the respondent, and on the 15th instant filed an answer in which he states that the petition of the woman in question is based upon one of the grounds which authorize the allowance of alimony *pendente lite*; that all the money paid to the woman has been earned by her; that the money to be paid for the support of her daughters is to keep alive the flesh and blood of the petitioner himself, and that with respect to the payment of attorney's fees, the purpose is to enable the wife and children to obtain their rights, and that he confides in the great wisdom and mature judgment of this court in the determination of the case.

The court below ordered the petitioner to pay alimony during the pendency of a divorce suit on trial in the court. This fact presupposes that the parties are married.

Article 68 of the Civil Code provides that after a complaint for divorce has been filed and admitted, certain action is to be taken by the court, including the allowance of alimony, for the woman and such of the children as are not in the possession of the father. Upon this provision of the law the judge directed the payment of alimony for the support of the children and their mother, and also the payment of suit money, chargeable to the conjugal partnership. Consequently the relief prayed for can not be granted. The petition is dismissed and the writ of prohibition denied, with the costs against the petitioner.

Arellano, C. J., Mapa, McDonough, and Johnson, JJ., concur.

*Petition denied.*

[No. 1810. April 22, 1904.]

**EULOGIO GARCIA, petitioner, vs. HON. B. N. AJBLER AND JOHN C. SWEENEY, respondents.**

1. PLEADING AND PRACTICE; BILL OF EXCEPTIONS; TIME FOR FILING.—An exception having been taken in due time to a judgment rendered in a civil case, and the bill of exceptions having been filed within the period of ten days fixed by the law, there is no legal reason upon which it can be held that the bill was not perfected in time, or that the right to have the case reviewed by the appellate court has lapsed.

2. **Id.; Id.; EFFECT OF FILING.**—The filing of a bill of exceptions in court, duly certified by the clerk, produces legal effects with respect to the exercise of the right corresponding to the appellant to avail himself of his right of appeal, independent of any personal effort on the part of the appellant to require the judge to examine and certify the bill of exceptions so filed.
3. **Id.; Id.; TIME FOR PRESENTING; PENDENCY OF MOTION FOR NEW TRIAL.**—When an exception is taken to a judgment, and at the same time a motion is made for a new trial, upon the grounds prescribed by the procedural law, if the bill of exceptions is not presented by the exceptant within the ten days following by reason of the failure of the judge to dispose of the motion for a new trial writ long after its submission, this delay does not cause the right to an appeal to lapse, provided that the bill is filed within the ten days following the date of the adverse ruling of the court upon the motion for a new trial.
4. **COURTS; ORGANIZATION; DISTRIBUTION OF CASES.**—All cases, civil and criminal, triable before the judges of the city of Manila, are considered, under the organic act, as pending in a single court, the only one created by the law, and are in charge of a single clerk, appointed to perform his duties with several assistants, and therefore the distribution of cases among the four judges sitting in the said court does not involve matters of jurisdiction, but is a mere distribution by rule for the purpose of equalizing the work so far as possible.
5. **PLEADING AND PRACTICE; BILL OF EXCEPTIONS; BY WHOM ALLOWED.** It is an express provision of the procedural law that the judge who heard and decided a case is the one upon whom devolves the duty of examining and certifying the bill of exceptions presented in due time. In no case can it occur that to the prejudice of the parties and to the grave detriment of the administration of justice there be no judge to examine and certify a bill of exceptions, because the judge who takes the place of the dead, absent, or disqualified judge is the one whose duty it is to examine, certify, and allow the bill of exceptions.
6. **Id.; RIGHT OF APPEAL.**—It is the general and constant practice of courts to give every opportunity to the parties to have exceptions and appeals from reviewable rulings and decisions taken before the superior court, unless such action is manifestly contrary to the law, bearing in mind the provisions of article 2 of the Code of Civil Procedure.
7. **CLERK OF COURT OF MANILA; DUTIES.**—The clerk, his assistants, and deputies, in discharge of their duties, are under the orders, directions, and supervision of each one of the judges of the court, and especially with respect to each case, civil or criminal, in charge of the clerk or his assistants, and which has been distributed to some particular judge.

ORIGINAL PETITION for a writ of mandamus.

The facts are stated in the opinion of the court.

CHICOTE, MIRANDA & SIERRA, by petitioner.

LOISEL D. HARGIS, for respondent.

TORRES, J.:

In the civil action brought by J. W. Marker against Eulogio Garcia, for the recovery of damages, judgment was rendered on the 1st of May, 1903, by Judge B. S. Ambler, then presiding over Part III, condemning the defendant Garcia to pay to the plaintiff the sum of \$3,625.

On the 7th of the same month of May, the plaintiff presented an exception against the said judgment, asking that it be set aside and that a new trial be granted. This petition was denied by an order dated the 27th of June following. On the 3d of July of the same year, 1903, the defendant presented to the clerk of the court his bill of exceptions, and asked that there be made and attached to the bill of exceptions a copy of the documentary evidence presented at the trial by both parties.

Judge Ambler was absent from these Islands at the time and the defendant-petitioner was unable to obtain the approval of his bill of exceptions by the judge who temporarily took Judge Ambler's place. Upon the return of the latter to this city and his resumption of the duties of his office, the petitioner, also, was unable to obtain his approval of the bill of exceptions for the alleged reason that the matter was then pending in Part III and that Judge Ambler could not intervene in it without an order from Judge Sweeney directing that the case be transferred to Part I, over which Judge Ambler was then presiding. Judge

Sweeney, however, considered the order of transfer required by Judge Ambler unnecessary and improper. He maintained that Judge Ambler was the only one competent to approve the bill of exceptions, the case having been tried before him, and that an order of transfer to Part I was, therefore, not required. Judge Ambler, however, continued to refuse to approve and certify the bill, as did Judge Sweeney, presiding as above stated over Part III, refuse to give an order for the transfer of the matter to Part I.

With these antecedents the counsel for the defendant-petitioner, by a petition presented on the 19th of February last, asked this court for a writ of peremptory mandamus directing Judge Sweeney to issue an order for the transfer of the records of the said case to Part I, in case this court should consider such an order to be necessary, for the approval by Judge Ambler of the bill of exceptions. It was also asked that a writ of peremptory mandamus issue against Judge B. S. Ambler requiring him, in accordance with the procedure laid down in article 499 of the Code of Civil Procedure, to sign and certify the bill of exceptions accompanying the petition in the form set forth therein, or with such modifications as this court might deem requisite; that the defendants be condemned to the payment of the costs and that such further relief be granted as might be proper and just.

A copy of this petition having been filed on the respondents, the latter by separate answers filed on the 21st of March last, asked that the petitioner's prayer be dismissed, for the reasons expressed. Among other things it was alleged that neither the petitioner nor any other person on his behalf had exhibited to the judge of First Instance presiding over Part III or to any judge of any part prior to January 27, 1904, the bill of exceptions presented to the clerk of the Court of First Instance on the 3d of July, 1903, while the record was in the latter's custody. Judge Sweeney's order of the 25th of January was set forth in his answer. This order stated that the bill of exceptions should be presented to the judge, its delivery to the clerk of the court not being a sufficient compliance with the provisions of section 143. It was also stated that as two entire terms had passed without any appeal having been perfected, the defendant had lost his right thereto and that the plaintiff was entitled to ask for the execution of the judgment. It was furthermore stated that Judge Ambler's refusal to take cognizance of the petitioner's motion had been based upon the fact that the matter was then pending in Part III and not in Part I of the court.

The exception against the judgment rendered in the action was duly entered within the term in which the judgment was rendered. The bill of exceptions, also, was presented before the termination of the period fixed for its presentation by article 143 of the Code of Civil Procedure.

This bill of exceptions was delivered to the clerk by the petitioner and received by the former within the time prescribed by law. Furthermore, the efforts of the petitioner to have the bill of exceptions examined and certified by the judge were frequent and persistent. Consequently there is no legal ground for the contention that the appeal was not presented within the legal period and that the petitioner has lost his right to have the judgment reviewed. It is the duty of the clerk of the court to receive bills of exceptions and to note thereon the date of their presentation, the person presenting the same, and all papers and documents connected with the pending suit; then, that it may fully appear when such papers and documents were filed and who presented them, for all legal purposes such bills of exceptions, papers, and other documents received by the clerk may be considered presented to the court. It is the duty of the clerk to report to the judge having cognizance of a suit, or to the judge who may replace him and under whose orders the clerk discharges his functions, the receipt of all papers so filed, immediately upon their presentation or within a reasonable period. (Art. 384, Code of Civil Procedure.)

The filing mark upon a pleading, document, or bill of exceptions produces by operation of law positive legal effect with respect to the rights of the parties, and the availability of the remedial process allowed by the law. A negligent clerk who, after receiving a bill of exceptions or pleadings which should be presented within a fixed period, fails to perform his duty, is unquestionably liable for the damage which his conduct may cause a litigation.

Just as there is only one court in this city presided over by several judges, so there is only one clerk with one assistant and several deputies. (Arts. 49 and 60 of Act No. 136, and subsequent acts increasing the number of judges.)

Consequently, cases pending before the judges of the city of Manila are cases pending in the same court and in charge of the same clerk. The distribution of cases in the court among the various judges is a matter controlled solely by rule, and does not involve any question of jurisdiction. Any one of the judges of the city is competent to try a case assigned to another, whenever it may be convenient for him to do so. And the clerk, with his assistant and deputies, is subject to the orders and directions of each one of the judges in the discharge of his duties, and especially subject to their direction with respect to each case which may be allotted to any particular judge.

The primordial rule established by the procedural law is that the judge who has heard and decided a case is the one upon whom devolves the duty of allowing and signing the bill of exceptions. In case of the death or absence of this judge this court has already rendered a decision establishing rules under which a case can never arise in which there shall be no judge competent to sign the bill of exceptions, or bill of exceptions remain unsigned to the prejudice of the parties and to the detriment of the administration of justice. If a court is always provided with a judge and a dead or absent judge is immediately substituted by another, appointed in his place so that the administration of justice be not delayed or suspended, it follows that there will always be a judge available to allow and sign a bill of exceptions by which the parties may avail themselves of the right to appeal against the judgment.

This being so, Judge Ambler should have directed the clerk to call his attention to the bill of exceptions filed with the latter, together with the record and other antecedents of the litigation, and no previous order from Judge Sweeney was necessary. The fact that the case of Marker vs. Garcia was tried in Part III, in which the judge now sitting in Part I formerly presided, is no obstacle to the allowance of the bill of exceptions by Judge Ambler, inasmuch as Judge Sweeney makes no opposition to his doing so, and furthermore because, as the case is pending in the single court of Manila, the distribution of cases is not jurisdictional, and Judge Ambler, having tried and decided the case, it devolved upon him in the first place to certify the bill of exceptions.

The bill having been filed within the period prescribed by law, the provisions of article 143 of the Code of Civil Procedure must be complied with. It is not permissible to refuse to permit a party to avail himself of his remedy by bill of exceptions upon grounds not recognized in the procedural law. The general tendency of courts in matters of procedure is ordinarily to allow all appeals from their judgments, for if the conviction exists that a decision is in harmony with the pleadings, the provisions of law, and the principles of justice, it is a matter of indifference that such decisions be reviewed upon the questions at issue.

With respect to the application of the provisions of the Code of Civil Procedure to cases submitted to the courts for their decision, the provisions of article 2 should always be borne in mind, which in effect provides that in the interpretation of the Code the controlling principle is to be the spirit and purpose of

the law, as determined by reason and good sense, rather than the strict letter.

For the reasons stated, it is our opinion that a writ of mandamus must issue, in accordance with the provisions of article 499 and others of the Code of Civil Procedure, addressed to Judge Ambler, and directing him to allow and certify in due form the bill of exceptions presented by the petitioner. The parties will be notified of this decision. No costs will be allowed.

Arellano, C. J., Mapa, and McDonough, J.J., concur.

JOHNSON, J., dissenting:

Upon the facts alleged in the complaint and answer filed in this case, I dissent from the conclusions of the court expressed in this decision.

Writ granted.

Contents.

Public laws:

- No. 1173, extending the time for the payment of the land tax in the Province of Iloilo.
- No. 1174, extending the time for the payment of the land tax in the Province of Misamis.
- No. 1175, authorizing the establishment of a circulating library in the Province of Albay and creating a board for the control thereof.
- No. 1176, appropriating P6,592 for certain public works, permanent improvements, and other purposes.
- No. 1177, amending section 6 of the Manila Liquor Licenses Act.
- No. 1178, extending the time for the payment of the land tax in the Province of Occidental Negros.
- No. 1179, amending the Provincial Government Act as amended by Act No. 585, by providing for the payment from provincial funds of the salaries of persons not already in the service of the Government appointed by the Civil Governor to fill vacancies in the office of provincial governor.
- No. 1180, extending the time for the payment of the land tax in the municipalities of Aizoon, Bolinao, Anda, Agno, San Isidro, and Infanta, Province of Pangasinan.
- No. 1181, extending the time for the payment of the land tax in the Provinces of Ilocos Sur and Zambales.
- No. 1182, providing for a preliminary listing of manufacturers of alcoholic and tobacco products and matches, and for an inventory of the stocks of goods in their possession, to furnish a basis for taxation by an internal-revenue law.
- No. 1183, appropriating \$87,000 for the purpose of continuing and completing the exhibit of the Philippine Islands at the Louisiana Purchase Exposition.
- No. 1184, amending Act No. 867, so as to provide that the court vacation for the Mountain Judicial District shall be during the months of August and September, and changing the times at which Courts of First Instance shall be held in that district.

Proclamation:

- Publishing an act of Congress of April 15, 1904, regulating shipping in trade between ports of the United States and ports or places in the Philippine Archipelago.

Executive order:

- No. 29, fixing the ratio for the redemption of Spanish-Pilipino currency at 1 peso and 13 centavos to 1 peso, Philippine currency.

Decisions of the Supreme Court:

- Martinez vs. Veloso vs. Petrona Nagut et al.
- The United States vs. Estanislao Labaya et al.
- Plaviano Felizardo et al. vs. the Justice of the Peace of Imus.
- The United States vs. Juan Gineco.
- The United States vs. Faustino Guillermo et al.
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- Rosa Lorente vs. Ceterino Rodriguez.
- The United States vs. Victoria de los Santos.
- The United States vs. Canuto Butarado.
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- The United States vs. Ventura Mariano.
- Maria Gonzales vs. Simeon Blas.
- Rafael Enriquez et al. vs. Francisco Enriquez et al.
- The United States vs. Valentin Butarado et al.
- The United States vs. Hilario Rodriguez et al.
- Servillano Lanzuela Santos vs. Judge John C. Sweeney.
- Eulogio Garcia vs. Hons. B. S. Ambler and John C. Sweeney.

Announcement.

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## The Government of the Philippine Islands.

## Legislative.

THE PHILIPPINE COMMISSION.  
(Ayuntamiento—The Palace.)

*Commissioners.*—Luke E. Wright, President; Dean C. Worcester, Henry C. Ide, James F. Smith, T. H. Pardo de Tavera, Jose R. Luzurriaga, Benito Legarda.

## Executive.

*Civil Governor.*—Luke E. Wright; acting private secretary, L. W. Manning; Captain Robert H. Noble, U. S. A., Aid-de-Camp to the Civil Governor.

*Vice-Governor.*—Henry C. Ide.

*Secretary of the Interior.*—Dean C. Worcester; private secretary, E. O. Johnson.  
*Secretary of Commerce and Police.*—Vacant.  
*Secretary of Finance and Justice.*—Henry C. Ide; private secretary, Jackson A. Due.  
*Secretary of Public Instruction.*—James F. Smith; private secretary, W. H. Donovan.

## EXECUTIVE DEPARTMENT.

*Executive Bureau.*—A. W. Ferguson, Executive Secretary; Frank W. Carpenter, Assistant Executive Secretary; R. D. Ferguson, in charge, Translating Division; Claude W. Calvin, Recorder of the Commission, Chief of Legislative Division; G. M. Swindell, Acting Chief of Administration and Finance Division; J. B. Thomas, Chief of Records Division; H. A. Lampman, Disbursing Officer.

*Bureau of Insular Purchasing Agent.*—Major E. G. Shields, Insular Purchasing Agent; A. B. E. Jones, Purchasing Agent.

*Improvement of the Port of Manila.*—Maj. C. McD. Townsend, Corps of Engineers, United States Army, officer in charge.

*Philippine Civil Service Commission (Oriente Building).*—Dr. W. S. Washburn, Chairman; Dr. B. L. Falconer, Dr. Jose Alemany.

## DEPARTMENT OF THE INTERIOR.

*Board of Health for the Philippine Islands.*—Maj. E. C. Carter, Surgeon, U. S. A., Commissioner of Public Health; Dr. Thomas R. Marshall, Chief Health Inspector; Henry D. Osgood, Sanitary Engineer; Dr. F. C. Freer, ex officio; Dr. Manuel Gomez, Secretary (on leave); Dr. R. E. L. Newberne, Acting Secretary.

*Quarantine Service (United States Public Health and Marine-Hospital Service; 18 Madrid).*—Dr. M. R. Geyer, in command.  
*Dr. Chas. W. Vogel and John D. Long, Assistants.*

*Marceles Detention and Disinfection Station.*—Dr. John M. Holt, in command; Dr. R. H. Creel, Assistant.

*Hollo Quarantine Station.*—Dr. Geo. W. McCoy, in command.  
*Cebu Quarantine Station.*—Dr. Carroll Cox, in command.

*Forestary Bureau (Oriente Building).*—Capt. George P. Ahern, Ninth Infantry, U. S. A., Chief; Ralph C. Bryant, Assistant Chief.

*Mining Bureau (188 Commodore).*—Major C. M. McCaskey, Chief.  
*Philippine Weather Bureau (Calle Observatorio, Ermita).*—Rev. José Alegre, J., Director (in United States); Rev. Miguel Saderra Mata, Acting Director.

*Bureau of Public Lands (Intendencia Building).*—Will M. Tipton, Chief.

*Bureau of Agriculture (Oriente Building).*—Prof. F. Lamson-Scribner, Chief (on leave); W. E. Welborn, Acting Chief.

*Ethnological Survey for the Philippine Islands (Oriente Building).*—A. E. Jenks, Chief (on leave); Vernon L. Miller, Acting.

*Bureau of Government Laboratories (791 Iris).*—Dr. P. C. Freer, Superintendent Government Laboratories; D. D. P. Strong, Director Biological Laboratories; Dr. James W. Jobling, Director of Serum Laboratory.

*Philippine Civil Hospital (791 Iris).*—Dr. H. Eugene Stafford, Attending Physician and Surgeon.

*Civil Sanitarium (Baguio, Benguet).*—Dr. J. B. Thomas, Attending Physician and Surgeon.

## DEPARTMENT OF COMMERCE AND POLICE.

*Bureau of Posts (149 Escolta).*—Chas. M. Cotterman, Director; H. M. Robinson, Assistant Director.

*Bureau of Philippines Constabulary (Oriente Building).*—Brig. Gen. Henry T. Allen, U. S. A., Chief of Constabulary; Col. William S. Scott, U. S. A., Assistant Chief, Commanding First District; Col. Harry H. Bandholtz, U. S. A., Assistant Chief, Commanding Second District; Col. Wallace C. Taylor, Assistant Chief, Commanding Third District; Maj. Jesse S. Smith, Assistant Chief, Commanding Fourth District; Col. James G. Harbord, U. S. A., Assistant Chief, Commanding Fifth District; Maj. Samuel D. Crawford, Assistant Chief, on temporary duty at Constabulary Headquarters, Manila; Col. D. J. Baker, Jr., U. S. A., Assistant Chief, Chief Supply Officer; Capt. William C. Rivers, U. S. A., Adjutant-General; Capt. Arthur S. Guthrie, Assistant Adjutant-General; Col. Alexander D. T. Innes, Inspector-General.

*Bureau of Prisons (Headquarters, Billibid Prison, Calle Iris).*—George N. Wolfe, Warden; M. L. Stewart, Deputy Warden; W. N. Chandler, United States Navy, Chief; Phillip B. Moulton, Resident Physician; Egbert Adams, Cashier, Property and Disbursing Officer.

*Bureau of Coast Guard and Transportation.*—J. M. Helm, Commander, United States Navy, Chief; Capt. Spencer Cosby, Corps of Engineers, United States Army, Superintendent of Light-House Construction.

*Bureau of Coast and Geodetic Survey (Intendencia Building).*—George R. Brannan, Assistant in charge of United States Suboffices.

*Bureau of Engineering (Santa Potenciana Building).*—James W. Beardsley, Consulting Engineer to the Commission; Joseph G. Holcomb, Principal Assistant Engineer; James U. Fauntleroy, Chief of Supervisors; Charles H. Kendall, Assistant Engineer.

## DEPARTMENT OF FINANCE AND JUSTICE.

*Bureau of the Insular Treasury (Intendencia Building).*—Frank A. Branganan, Treasurer of the Philippine Islands; J. L. Barrett, Assistant Treasurer.

*Bureau of the Insular Auditor (Intendencia Building).*—Abraham L. Lawshe, Auditor for the Philippine Islands; W. W. Barre, Deputy Auditor.

*Bureau of Customs and Immigration.*—W. Morgan Shuster, Collector of Customs for the Philippine Islands; H. B. McCoy, Deputy Collector of Customs; Fred S. Cairns, D., Collector.

*Bureau of Internal Revenue (147 Anague).*—Albert W. Hastings, Acting Collector.

*Insular Cold Storage and Ice Plant.*—Charles G. Smith, Superintendent.

*Bureau of Justice.*—Lebbus R. Wilfay, Attorney-General (on leave); Washington L. Goldsborough, Assistant Attorney-General; Gregorio Araneta, Solicitor-General; James Ross, Supervisor of Provincial Fiscals; Geo. R. Harvey, Assistant Attorney-General for the Constabulary.

## DEPARTMENT OF PUBLIC INSTRUCTION.

*Bureau of Education (Santa Potenciana).*—David P. Barrows, General Superintendent of Education; Frank R. White, Assistant; W. J. Fisher, Disbursing Officer.

*Bureau of Public Printing.*—John S. Leech, Public Printer (on leave); Edwin G. Jones, Acting.

*Bureau of Architecture and Construction of Public Buildings (Calle Anloague).*—Edgar K. Bourne, Chief.

*Bureau of Archives (Palace).*—Manuel de Iriarte, Chief.

*Bureau of Patents, Copyrights, and Trade-Marks (Palace).*—Manuel de Iriarte, in charge.

*American Circulating Library (Oriente Building).*—Mrs. Egbert, Librarian.

*Official Gazette (Oriente Building).*—Max L. McCollough, Editor (on leave); Norton P. Brand, Editor.

*Census Bureau.*—Brig. Gen. J. P. Sanger, United States Army, Director of the Census (in United States).

## Judiciary.

## SUPREME COURT.

(Audiencia, 47 Palacio.)

*Chief Justice.*—Don Cayetano Arellano.  
*Associate Justices.*—Florentino Torralba, J. F. Cooper, Victorino Mapa, Chas. A. Willard, E. Finley Johnson, and John T. McDonough.

*Clerk.*—J. E. Blanco.  
*Reporter.*—Fred C. Fisher.

## COURT OF CUSTOMS APPEALS.

(Oriente Building.)

*Judge.*—A. S. Crossfield.

*Judge.*—Felix M. Roxas.

## COURT OF LAND REGISTRATION.

(Municipal Building.)

*Judge.*—S. del Rosario.

*Associate Judge.*—D. R. Williams.

*Clerk.*—J. R. Wilson.

## COURTS OF FIRST INSTANCE.

*Manila, Part 1.*—John C. Sweeney, judge.

*Manila, Part 2.*—John C. Sweeney, judge.

*Manila, Part 3.*—Byron S. Ambler, judge.

*Manila, Part 4.*—Manuel Araullo, judge.

*Manila, Part 5.*—Manuel Araullo, judge.

*First District.*—Albert E. McCabe.

*Second District.*—Dionicio Changano.

*Mountain District.*—Charles H. Burritt.

*Third District.*—Arthur F. Odlin.

*Fourth District.*—Julio Llorente.

*Fifth District.*—Estanislao Yasa.

*Sixth District.*—Ignacio Villamor.

*Seventh District.*—Paul W. Lindeberger.

*Eighth District.*—Grant T. Bates.

*Ninth District.*—Henry C. Bates.

*Tenth District.*—Vicente Joscson.

*Eleventh District.*—Adam C. Carson.

*Twelfth District.*—James H. Blount.

*Thirteenth District.*—Warren H. Ickis.

*Fourteenth District.*—John S. Powell.

*Fifteenth District.*—Wm. F. Norris.

*Additional judges.*—Adolph Wislizenus, Capiz; Beekman Whitthrop; James C. Jenkins.

## City Government of Manila.

*Municipal Board.*—A. Cruz Herrera, president; Charles H. Sleeper, member; Percy G. McDonnell, member (on leave in United States); Miguel Velasco, member; J. F. Case, member (on leave in United States).

*Advisory Board.*—Miguel Velasco, president; Basilio R. Mapa, Teodoro R. Yanco, Rogelano Rodriguez, Crispulo Feliciano, Jose Paterno, Juan Tauson, Tomas Arguelles, Jose R. Yrbanes, Antonio de la Fabiana, Vicente N. Somoza, Francisco del Rosario, Segundo Rodil, members; Vicente Rodriguez, secretary.

## School Divisions and Superintendents.

No.	Division.	Superintendent.	Headquarters.
1	Manila	G. A. O'Reilly	Manila.
2	Albay and Sorsogon	E. E. Fisher	Albay.
3	Capiz	W. B. Freer	Nueva Caceres.
4	Batangas	H. H. Buck	Batangas.
5	Bohol	L. T. Gibbens	Tagbilaran.
6	Bulacan	(Vacant) Oplia C. Lewis, acting.	Baliuag.
7	Cagayan and Isabela	H. E. Bard	Tuguegarao.
8	Cebu	G. A. O'Reilly	Cebu.
9	Cavite	S. A. Campbell	Cavite.
10	Cebu	Samuel McClintock	Cebu.
11	Laong	W. M. Rodwell	Laong.
12	Iloros Sur and Abra	W. M. Rodwell (P. S. Vigan, O'Reilly, acting).	Iloilo.
13	Hollo and Antique	G. A. O'Reilly	Hollo.
14	Laguna	W. E. Lutz	Pagsanjan.
15	Union	C. H. Magee	San Fernando.
16	Masbate	W. M. Rodwell (P. S. Vigan, O'Reilly, acting).	Masbate.
17	Masbate	H. G. Lamson (C. H. Hanlin, acting).	Masbate.

School Divisions and Superintendents—Continued.

No.	Division.	Superintendent.	Headquarters.
18	Samar	H. S. Townsend	Catbalogan.
19	Misamis	Guy Van Schaick	Cagayan.
20	Nueva Ecija	T. W. Thomson	San Isidro.
21	Nueva Vizcaya	J. J. Coleman	Bayombong.
22	Occidental Negros	Chas. E. Putnam	Bacolod.
23	Oriental Negros	S. T. Lee (W. S. Dakin, acting).	Dumaguete.
24	Panganga and Batanan	W. A. Preult (J. M. Gambill, acting).	San Fernando.
25	Pangasinan	E. G. Turner	Lingayen.
26	Rizal	B. G. Blesiale	Passig.
27	Romblon	G. E. Falk	Romblon.
28	Surigao	G. N. Briggs	Surigao.
29	Tarlac	(Vacant) A. V. Dalrymple, acting.	Tarlac.
30	Tayabas	J. C. Muerman	Lucena.
31	Zambales	Otho Atkin	Iba.
32	Mindoro	Governor R. S. Offey	Catapan.
33	Benguet	Governor W. F. Pack	Baguio.
34	Lepanto-Bontoc	Governor Wm. A. Reed	Cervantes.
35	Pangua	Governor E. Y. Miller	Cuyo.
	Moro Province.	N. M. Saleeby	Zamboanga.
	Philippine Nautical School.	W. J. Colbert, acting.	Manila.
	Philippine Normal School.	G. W. Beattie.	Do.
	Philippine School of Arts and Trades.	R. Gleason.	Do.

Provincial Governments in the Philippines.

**Abra.**—Bangued, capital. Governor, Blas Villamor; secretary-fiscal, Lucas Paredes; supervisor-treasurer, Archibald McFarland.

**Albay (Luzon).**—Albay, capital. Governor, Ramon Santos; secretary, L. Thomas; treasurer, C. A. Reynolds; supervisor, William A. Crossland; fiscal, M. Calleja.

**Ambos Camarines (Luzon).**—Nueva Caceres, capital. Governor, Juan Pimental; secretary, Roman Enrile; treasurer, J. Q. A. Braden; supervisor, E. P. Shuman; fiscal, F. Contreras.

**Antique (Panay).**—San José de Buenavista, capital. Governor, Leonard Fullon; secretary, A. Salazar; supervisor-treasurer, B. T. Reamy; fiscal, V. Gella.

**Batanes.**—Baiang, capital. Governor, Tomas G. del Rosario; secretary, L. L. Zalicia; supervisor-treasurer, Emery R. Yundt; fiscal, Ambrosio Delgado.

**Batangas (Luzon).**—Batangas, capital. Governor, Gregorio Agullera; secretary, F. Caedo; treasurer, R. D. Blanchard; supervisor, Ernest J. Westerhouse; fiscal, D. Gloria.

**Batungas (Luzon).**—Baguio, capital. Governor, Wm. F. Pack; secretary, Egmidio Octaviano; acting supervisor, (provincial governor).

**Bohol (Bohol).**—Tagbilaran, capital. Governor, Salustiano Borja; secretary, M. Sarmiento; supervisor-treasurer, C. D. Upington; fiscal, Gavino Sepulveda.

**Bulacan.**—Malolos, capital. Governor, Pablo Tecson y Ocampo; secretary, Francisco Meralos; treasurer, R. W. Goodhart; supervisor, Harry Thurber; fiscal, Hermógenes Reyes.

**Cagayan.**—Tuguegarao, capital. Governor, Gracío Gonzaga; secretary, Antonio Carag; treasurer, W. W. Barclay; supervisor, William E. Pearson; fiscal, Cayo Alonso.

**Capiz (Panay).**—Capiz, capital. Governor, S. Jugo Vidal; secretary, Emiliano Acevedo; supervisor-treasurer, F. S. Chapman; fiscal, A. Pardo.

**Cavite.**—Cavite, capital. Governor, Capt. David C. Shanks, United States Army; secretary, D. Tirón; treasurer, Arthur S. Emery; supervisor, Elmer O. Worle; fiscal, F. Santa Maria.

**Cebu (Cebu).**—Cebu, capital. Governor, J. Climaco; secretary, L. Alburo; treasurer, Fred J. Schlotfeldt; supervisor, Harry C. Delano; fiscal, Mariano Cui.

**Hocos Norte.**—Laoag, capital. Governor, Julio Agacillón; secretary, M. Flor; treasurer, J. N. Currie; supervisor, Paul F. Green; fiscal, Polcarpo Soriano.

**Hocos Sur.**—Vigan, capital. Governor, Mena Crisologo; secretary, Fernando Ferrer; treasurer, Fred L. Wilson; supervisor, J. C. Hawley; fiscal, Vicente Singson.

**Iloilo (Panay).**—Iloilo, capital. Governor, Raymundo Melliza; secretary, J. Yusa; treasurer, Charles C. McLain; supervisor, Maurice W. Tuttle; fiscal, Andrew V. Smith.

**Isabela.**—Ilagan, capital. Governor, George Curry; secretary, Eliseo Claravall; supervisor-treasurer, N. B. Stewart; fiscal, Vicente Nepumuceno.

**La Laguna.**—Santa Cruz, capital. Governor, Juan Cailles; secretary, Andres Asprer; treasurer, Carrol H. Lamb; supervisor, David A. Sherley; fiscal, Higinio Benitez.

**La Union.**—San Fernando, capital. Governor, Joaquin Luna; secretary, Andres Asprer; treasurer, Frank B. Parsons; supervisor, Bert H. Burrel; fiscal, J. Baltazar.

**Lepanto-Bontoc.**—Cervantes, capital. Governor, William A. Reed; secretary-treasurer, Gideon B. Travis; supervisor, M. Goodman; lieutenant-governor (Bontoc), Daniel Folkmar; lieutenant-governor (Amburayan), W. F. Gale.

**Leyte.**—Tacloban, capital. Governor, P. Borseth; secretary, Emigdio Acebedo; treasurer, W. S. Conrow; supervisor, Oliver D. Filley; fiscal, Domingo Franco.

**Masbate.**—Masbate, capital. Governor, Joaquin Ma. Bayot y Zurbito; treasurer and acting supervisor, J. A. Comdohr; fiscal, Ambrosio Delgado.

**Mindoro.**—Puerto Gallera, capital. Governor, Capt. R. S. Offey, Thirtieth Infantry U. S. A.; secretary, Fernando San Agustín; supervisor-treasurer, William O. Smith; fiscal, Sofio Alandy.

**Pampanga.**—Tarlac, capital. Governor, Manuel Corrales; secretary, A. Velez; supervisor-treasurer, E. E. Barton; fiscal, N. Capistrano.

**Moro.**—Zamboanga, capital. Governor, Gen. Leonard Wood, United States Army; secretary, Capt. George T. Langhorne, United States Army; attorney, John E. Springer; treasurer, Fred A. Thompson; engineer and supervisor, Capt. Charles Keller, United States Army; superintendent of schools, Dr. Najeeb M. Saleeby.

**Nueva Ecija.**—San Isidro, capital. Governor, Epifanio de los Santos; secretary, R. Roque; treasurer, J. B. Green; supervisor, C. D. Wood; fiscal, R. Mahalic.

**Nueva Vizcaya.**—Bayombong, capital. Governor, L. E. Bennett; secretary-treasurer, William C. Bryant; acting supervisor, Wm. H. Nippa.

**Occidental Negros.**—Bacolod, capital. Governor, Antonio Jayme; secretary, L. Moreno; treasurer, P. A. Casanave; supervisor, H. M. Wood; fiscal, M. Blanco.

**Oriental Negros.**—Dumaguete, capital. Governor, Demetrio Larena; secretary, J. Montenegro; supervisor-treasurer, H. A. Peed; fiscal, E. Arana.

**Panay (Panay).**—Bacolod, capital. Governor, Macario Arnedo; secretary, M. Cunaeta; treasurer, R. M. Shearer; supervisor, S. V. Cortelyou; fiscal, E. Macapinlac.

**Pangasinan.**—Lingayen, capital. Governor, Macario Favila; secretary, Benito Sison; treasurer, Thomas H. Hardeman; supervisor, Charles F. Vance; fiscal, R. Espiritu.

**Paragua.**—Cuyo, capital. Governor, Lieut. E. Y. Miller; secretary-treasurer, Hall H. Ewing.

**Rizal (Luzon).**—Passig, capital. Governor, Arturo Dancel; secretary, José Tupas; treasurer, Wm. N. Bish; supervisor, Telfair Hodgson; fiscal, Bartolomé Revilla.

**Romblon.**—Romblon, capital. Governor, Francisco Sazo; secretary, Cornelio Madrigal; supervisor-treasurer, Julius S. Reis.

**Samar.**—Catbalogan, capital. Governor, Eduardo Feito; secretary, Alejo Maga; treasurer and acting supervisor, Arthur G. Whitteer; fiscal, Domingo Franco y Mokuera.

**Sorsogon (Luzon).**—Sorsogon, capital. Governor, Bernardino Monreal; secretary, M. V. del Rosario; treasurer, R. J. Fanning; supervisor, Harry Stevens; fiscal, P. Balles.

**Surigao.**—Surigao, capital. Governor, Daniel Toribio Sison; secretary, Rafael Elliot; supervisor-treasurer, George A. Benedict; fiscal, F. Soriano.

**Tarlac.**—Tarlac, capital. Governor, Alfonso Ramos; secretary, M. Barrera; treasurer, W. E. Jones; supervisor, Sam C. Phipps; fiscal, M. Ilagan.

**Tayabas.**—Lucena, capital. Governor, Ricardo Paras; secretary, Geraculo Usón; treasurer, William O. Thornton; supervisor, Henry C. Humphrey; fiscal, Manuel Quezon.

**Zambales.**—Iba, capital. Governor, Potenciano Lesaca; secretary, Gabriel Alia; supervisor-treasurer, John W. Ferrier; fiscal, Juan Manday.

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