

tions of members of Congress? What is its composition?

- (b) What is the limitation, if any, on the power of Congress to punish private individuals for contempt? Explain briefly your answer.
- (c) One A assaulted Representative B on January 30, 1960. The House of Representatives of which Representative B was a member adopted a resolution on February 10, 1960, requiring the Speaker to order the arrest of A to be confined in Muntinglupa Prison for twenty-four hours. The House adjourned that session on the 19th of May, 1960, without the order of arrest having been served on A. A confirmatory resolution was approved by the House on January 31, 1961, during the regular session of the Legislature. Shortly thereafter, a new warrant of arrest was issued by the Speaker of the House of Representatives, and A was taken into custody by a Constabulary officer. A petitioned for a writ of *Habeas Corpus*. Decide giving reasons.
- IX. (a) The Constitution provides that the Congress may authorize upon payment of just compensation, the "expropriation of lands to be sub-divided into small lots and conveyed at cost to individuals". Is this not a violation of one of the constitutional limitations on the exercise of the power of eminent domain, namely, that private property taken shall be for public use? Reasons.
- (b) In the exercise of the power of eminent domain, may the state appropriate contracts in spite of the provision of the Constitution that "no law impairing the obligation of contracts shall be enacted"? Reasons.
- (c) For the extension of the Dewey Boulevard it was necessary to take over 1/5 of the land belonging to B. Before the extension thereof, the market value of the entire land was P1000.00. As a result of the improvement, the remaining 4/5 has now a market value of P10,000.00. In view hereof the government contends that there is no more obligation to pay for the land appropriated. Decide giving reasons.

- X. (a) Differentiate between the power exercised by the President over the executive departments and the bureaus or offices of the National Government from that exercised by him over the local governments. In your opinion, which is more effective — that exercised by him over the departments and bureaus or offices of the National Government or that over the local governments? Why?
- (b) The Municipal Council of Villasis enters into a contract with Juan Sison whereby the latter is granted the lease of a fishpond for a period of two years in consideration of the sum of five thousand pesos. After one year, the Municipal Council rescinds the contract without any sufficient justification and awards the fishpond to Pedro Santos for a similar period and for the same amount. Sison now hires you to handle the case for him. As counsel, do you think he has a cause of action for damages? If so, against whom and why? Reasons.

## CRIMINAL LAW

- I. (a) What are the PENAL CODES enacted for operation in the Philippines? Give the respective YEARS in which they were made effective.
- (b) Before or after the promulgation of Act 3815 (Revised Penal Code), were any project or projects ever prepared and submitted to Congress or governmental authorities amending the SYSTEM of penology of the Philippines? If so, enumerate them chronologically, giving the names of their respective authors.
- II. "A", a Consul of the Philippines stationed in X-place, in the exercise of his official functions as such, while in his place

of assignment and for the consideration of P10,000 prepared various documents in favor of "B" wherein he knowingly made untruthful statements in the narration of facts and in connection therewith he issued "B" the corresponding VISA authorizing "B" to enter Philippine soil to which "B" was not entitled:

- (a) Has "A" committed any crime defined and punished in the Revised Penal Code? If so, name it; If not, explain your answer.
- (b) Can "A" be prosecuted in the Philippines for said crime? Why?
- III. (a) Explain the aggravating circumstance that the crime was committed by a band.
- (b) What shall be the nature or extent of the disguise necessary to consider its attendance as an aggravating circumstance?
- (c) Article 14, paragraph 6, of the Revised Penal Code mentions 3 aggravating circumstances, i.e., night time, uninhabited place and that the crime be committed by a band. Are ALL these 3 circumstances when attending the commission of a crime to be considered as only one or as 3 different and separate from one another? Why?
- IV. (a) Can the crime of rebellion be complexed with other common crimes? Why?
- (b) In 1960, Juliet committed 6 crimes of estafa to the damage of the respective offended parties in the sum of P1,000 in each case. She was in the same year prosecuted for all the 6 cases: 2 in the Court of First Instance of Manila, 2 in Quezon City, 1 in Pasay City and the last one in Calocan City. She was convicted after hearing in all the 6 cases. In the imposition of the corresponding penalties: (a) would she be entitled to the benefits of the threefold-length-of-time rule provided in Rule 70, last paragraph, of the Revised Penal Code as amended by Commonwealth Act No. 217, Section 2? In the affirmative case, how could that rule be applied to her?
- V. One morning, Hilario went to the house of Dionisio, and there had an altercation with him over certain deliveries of tobacco leaves which the latter did not want to yield. Enraged, Hilario left saying that he was to come back at noon, which he did, armed with a paltik and a bolo, and at a distance of 30 feet from the house, called Dionisio to 'come down'. As the latter refused, Hilario to compel Dionisio to come down, set fire to Dionisio's house. Naturally, Dionisio fled before the house was destroyed. Is Hilario liable for the crime of arson provided in Art. 321, No. 1, of the Revised Penal Code for having set fire to a dwelling house knowing it to be occupied by one or more persons at the time of the fire? Explain your answer.
- VI. A, B, C, D, E and F conspired to commit the crime of robbery with homicide in the house of the spouses Y and Z, residing in San Juan, Rizal. F, a servant of said spouses became afraid upon learning that the conspirators intended also to kill his master and informed them of the proposed crime. Said spouses sought then the protection of the NBI and the Constabulary, so that when on August 1, 1962, the malefactors went to the house of said spouses to consummate their intended felony and were in the act of carrying the spouses' automobile away from the garage, they were halted by the government forces whereupon a gun battle ensued with the result that F, the spouses' servant, and C, one of the malefactors, were killed. Did the surviving malefactors commit the composite or special crime of robbery with homicide notwithstanding the fact that one of the persons killed had participated in the conspiracy and the other was one of the malefactors killed by the government forces? Explain your answer.

- VII. (a) What do you know about the so-called impossible crimes? Do the perpetrators thereof incur any criminal liability under the provisions of the Revised Penal Code? Why?
- (b) In the affirmative case, give an example of a felonious act punished by the Penal Code that turns out to be an impossible crime. In the negative case, explain briefly why the perpetrator of a so-called impossible crime does not incur any criminal liability.

VIII. In January, 1959, Romeo was prosecuted and convicted in the Court of First Instance of Manila of 3 crimes of theft for which he was sentenced by reason of the value of the properties stolen to the following penalties of *prison correccional*: P6,200 fine to 3 years, 6 months and 20 days; P1,000 and P500 fine to 1 year, 8 months and 21 days in each case. Romeo immediately commenced to serve these penalties in Muntinglupa. In 1960, while serving sentence, he escaped therefrom and went to Lingayen, Pangasinan, where he also committed 10 crimes of *estafa*, each in the sum of P1,000, for all which crimes, he again was prosecuted and convicted after hearing in May, 1961. Under these circumstances, can the penalties imposed to Romeo, for the crimes committed before his escape from Muntinglupa, affect the imposition and service of the penalties for which he was sentenced for the second group of crimes under the threefold-length-of-time rule prescribed in Article 70, last paragraph, of the Revised Penal Code, as amended by Commonwealth Act 217, section 2?

- IX. X-newspaper of general circulation in the Philippines, published in its issue of August 1, 1962, a libelous article accusing A, B and C of having acted in confederation to smuggle as they did smuggle into the Philippines, several items of merchandise worth P1,000,000. A resides in Manila; B in Quezon City; and C in Polo, Bulacan. Under these facts, may the criminal liability of the author of that libel be divided into 3 distinct and separate offenses so that said author might be prosecuted and convicted of 3 crimes of libel? Explain your answer.
- X. (a) A, B, C and D, without any right whatsoever squatted on a piece of land in the City of Manila, the property of Z. Inasmuch as ejectment proceedings would take quite a very long time to produce results, if ever successful, can the Fiscal of Manila, upon complaint of Z, charge A, B, C and D with the crime of coercion or unjust vexation which, though light felonies, covered by Article 287, last paragraph, of the Revised Penal Code, would, upon conviction of the culprits, bring about their immediate ejection from the premises? Express your opinion giving your reasons therefor.
- (b) Rogelio was prosecuted for murder. After hearing, he was found guilty of the crime charged attended by the mitigating circumstance of the offender having voluntarily surrendered himself to a person in authority or his agents. He was, therefore, sentenced, among others, to the principal penalty provided for murder in its minimum degree, that is, to 17 years, 4 months and 1 day of *reclusion temporal*. May the provisions of Acts 4103 and 4225, known as the indeterminate sentence law be applied in this case? Explain your answer.

#### REMEDIAL LAW

TO THE EXAMINEE: Where you are given a problem, first give your answer and then your reasoning.

- I. *Antonio* was run over by a jeepney driven by *Cirilo* but owned by *Baldomero* and he suffered serious physical injuries as a result; in due time, *Antonio* filed a civil action for damages against *Baldomero* in the Justice of the Peace

Court and immediately secured a writ of attachment upon *Baldomero's* properties which was levied upon a parcel of unregistered land owned by *Baldomero*; trial was held and *Antonio* won in the Justice of the Peace but *Baldomero* appealed.

- (a) If pending trial in the Court of First Instance, *Antonio* died whereupon, *Baldomero* moved to dismiss but *Antonio's heirs* oppose the motion, how would you rule on the motion?
- (b) If pending trial in the Court of First Instance, it was *Baldomero* who died and his heirs therefore move to dismiss but *Antonio* opposes the motion, how would you rule on said motion?

II. *Dionisio* filed an action against *Eriberto* but when the Sheriff came to *Eriberto's* house, to serve summons, it happened that *Eriberto* was away having gone to Mindanao on business and the Sheriff only reached *Eriberto's* wife who received the summons for him; now *Eriberto* did not return any more because he died in Mindanao, 1 day before service of summons upon his wife here in Luzon but news of his death came to his wife much later and *Dionisio* was able to secure a default judgment in the action and after that a writ of execution, but when this was about to be levied upon *Eriberto's* properties, his wife having already learned of *Eriberto's* death, consulted an attorney who filed a motion to annul the execution and the default judgment, but because one year had already passed since the entry of the judgment when the wife came to know of *Eriberto's* death so that the motion was filed more than one year after the entry of said judgment, therefore, *Dionisio* opposed the motion alleging it was too late, because according to him, lack of jurisdiction over the person of *Eriberto* should have been availed of under Rule 8 and the period for this had already passed; in any case, the period prescribed in Rule 38 on relief from judgment had also already passed. How do you decide?

III. *Felix* leased his house to *Gregorio*; *Gregorio* failed to pay the rentals due; *Felix* sent him a letter of demand and a threat to sue him on unlawful detainer should he not make payment within 10 days from notice; *Gregorio* received the letter but did not pay nor vacate; instead, *Gregorio* filed an action against *Felix* in the Court of First Instance for specific performance, alleging that the rental agreed upon was much lower than that demanded and that he, *Gregorio*, was willing to pay the correct amount and therefore, he deposited the amount in the Court of First Instance and asked that *Felix* be ordered to receive them and to permit him, *Gregorio*, to continue in possession as lessee. *Felix* having received summons, he filed an answer alleging that the rental he had demanded was the correct one. The case was tried in the Court of First Instance and decision was rendered for *Felix*, dismissing the case. After judgment had become final, *Felix* presented his own action, for unlawful detainer, against *Gregorio*, but *Gregorio*, upon receipt of the summons in this case, now filed a motion to dismiss on the ground that this was a suit on exactly the same cause of action between them and that since *Felix* forgot to secure the correct remedy in the first case by filing his necessary counterclaim for unlawful detainer, the judgment in the first case already barred him from instituting the second action. Decide the motion.

IV. *Juan* sues *Leon* on a sum of money for breach of contract; but before trial, *Juan* goes to *Tokyo* on business; he is there when his attorney receives notice of trial; therefore the attorney at once serves notice upon *Leon's* attorney in Manila for the taking of *Juan's* deposition before the Philippine consul in *Tokyo* upon oral examination, on a definite time and place, before the scheduled trial in Manila; *Leon's*