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Legislation, Executive Orders, and Court Decisions

By ROBERT JANDA

Ross, Selph, Carrascoso & Janda

THERE was no new legislation enacted during June. Congress not being in session. The measures referred to in the article prepared for the June *Juornal* were approved by the President. Omitted from the June article, however, because of the difficulty of securing in time a full report as to what action had been taken by Congress were the following:

Republic Act No. 658, amending the provisions of the National Internal Revenue Code relating to the requirement of keeping books of account. Of importance to the business community is the new provision requiring businesses whose gross receipts exceed ₱25,000 per quarter to have their books of account examined and audited yearly by independent certified public accountants and to accompany their income tax returns with certified balance sheets, profit and loss statements, and schedules listing income-producing properties and the corresponding incomes therefrom.

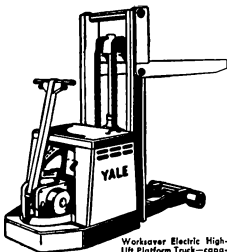
Republic Act No. 637, amending the Patent Law to provide that no patent should be granted for an invention which had been patented or described in a printed publication in this or any foreign country more than a year before the date of the actual filing of the application, or which had been in public use or sale in the Philippines for more than a year before such filing.

A new section, 27(a), is added to the Act authorizing the cancellation of a patent and the re-issuance of a new one to correct defects in the specifications of the patent originally issued. Another new section, 41(a), authorizes foreign corporations to which patents have been issued to sue in the Philippine courts for infringement of patent even though they may not have been duly licensed to do business in accordance with the provisions of the Corporation Law. Section 78 is amended to authorize the Director to prescribe rules and regulations for practice before the Patent Office. There are various other amendments mostly of a technical nature which were proposed by the Director in order to bring the law in accordance with the experience which the Patent Office had had during the past two years.

Republic Act No. 638 amends the law relating to trade-marks and trade names. Among the changes made is the establishment of a supplemental register permitting registration of trade-marks and names including slogans, geographical names, packaging, etc., which were not eligible for registration in the principal register under the prior law. No publication is required before registration of the

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mark but publication is made in the *Official Gazette* on registration. Anyone who believes he will be damaged by the registration may apply for its cancellation. Section 37(e) now provides for Philippine registration in either the principal or supplementary register of any mark registered abroad when such registration may be authorized by treaty, and Section 21(a) permits a foreign corporation which is the owner or assignee of a trade-mark or name to sue for infringement and unfair competition in the Philippine courts without first registering as a foreign corporation under the Corporation Law.

OF interest to the business community is the decision of the Supreme Court in the case of *Nichols vs. Matias*, G. R. No. L-1743, wherein the Court held valid as made for the benefit of both parties a stipulation in a loan contract that the loan would not be paid for a designated number of years and held that a consignment in court of the full amount of the loan with interest for the full period did not operate to discharge the obligation. The original loan was made in Japanese military currency and the consignment in court was made during the occupation. The Court, however, refused to enter judgment on the note on the ground that collection was suspended by the moratorium and that the same was not yet due.

In the case of *People of the Philippine Islands vs. Murillo*, G. R. No. L-3489, the Supreme Court sustained the conviction under Art. 315, paragraph 4, subsection 2(a) of the Penal Code in relation to Sections 1 and 4 of Commonwealth Act No. 303 of an employer who failed without legal cause to pay the salary due his employee. The Court held that the provision of Commonwealth Act No. 303 declaring that a failure of an employer to pay the salaries and wages of its employees is *prima facie* considered a fraud committed by the employer against his employees was constitutional, though the Court indicated the *prima facie* presumption could be overcome by evidence to the contrary.

In the case of *Estate of McDonough vs. Philippine National Bank*, G. R. No. L-3405, the Supreme Court held that an American citizen interned by the Japanese and whose property had been sequestered was not prevented from paying his obligations to the Philippine National Bank and was consequently liable for interest on such obligations during the period of the occupation.

In the case of *Lapuos & Sons vs. Manila Terminal*, CA-G. R. No. 5153-R, the Court of Appeals held that the owner of cargo delivered in good condition to the Manila Terminal Company and which cargo was lost due to the presumed negligence of the Terminal Company could recover not only the value of the cargo lost but, in addition, the amount of profits which the owner of the cargo could reasonably have anticipated making on its sale.

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