It all depends upon the need of the fiscal and the discretion of the trial judge. Anyway, any error of the trial judge in this matter cannot have the effect of invalidating the testimony of the discharged co-defendants. PEOPLE *v.* BACSA, G.R. No. L-11485, July 11, 1958.

REMEDIAL LAW — CRIMINAL PROCEDURE — THE FISCAL OR CITY ATTORNEY, AS PROSECUTING OFFICER, IS UNDER NO COMPULSION TO FILE THE CORRESPONDING INFORMATION BASED UPON A COMPLAINT, WHERE HE IS NOT CONVINCED THAT THE EVIDENCE GATHERED OR PRESENTED WOULD WARRANT THE FILING OF AN ACTION IN COURT. — Apolonio Bagatua was the original registered owner of a parcel of land. Upon his death, his widow and their children, all of legal age, executed a document settling his estate and donating the parcel of land to the children. Deciding to subdivide the lot among themselves, the children engaged the services of Pangilinan, a real estate broker. On June 23, 1954, a part of the lot was sold and conveyed to Pangilinan. On June 21, 1956, Rodrigo Bagatua, one of the children of the deceased Apolonio, accused Pangilinan of **estafa** for having induced them to sign papers supposedly necessary for the subdivision of their lot, but one of which turned out to be a deed of sale. After conducting the proper preliminary investigation whereby testimonial and documentary evidence was presented for both parties, the assistant city fiscal recommended the dismissal of the complaint for lack of merit. Thus, the complaint was dismissed. A petition for mandamus was filed with the proper Court of First Instance to compel the filing of the corresponding information. The Court of First Instance dismissed the petition upon motion of the city fiscal. Hence this appeal. **Held,** the fiscal or the city attorney, as prosecuting officer, is under no compulsion to file the corresponding information based upon a complaint, where he is not convinced that the evidence gathered or presented would warrant the filing of an action in court. BAGATUA *v.* REVILLA, G.R. No. L-12247, August 26, 1958.

REMEDIAL LAW — SPECIAL PROCEEDINGS — AN ADJUDICATION OF THE INHERITANCE TO PERSONS WHO ARE NOT ENTITLED THERETO CANNOT HAVE THE EFFECT OF BARRING A SUBSEQUENT ACTION BY THE RIGHTFUL HEIRS FOR THE RECOVERY OF THE PROPERTIES. — Morin died intestate, leaving no ascendants nor descendants. So defendant Kilaycos, relatives of the deceased in the 5th degree and claiming to be his only heirs, filed a petition for judicial administration of the deceased's estate. Thereafter, Concepcion Kilayco, the duly appointed administratrix, submitted an inventory of all the properties of the deceased. In the latter part of Nov. 1951, alleging that they were his only surviving heirs, they submitted a project of partition which was duly approved by the Court in its order of June 7, 1952. The intestate proceedings were finally terminated on Nov. 14, 1953. On Oct. 1, 1954, plaintiff instituted a civil action for recovery of the properties of the deceased, alleging among others, that she was the half-sister of the deceased and, as such, the rightful heir and not the defendants. The defendants moved to dismiss on the ground of **res judicata.** The lower court found for the plaintiff. Hence, the appeal by the defendants. **Held,** as the order of the lower court of June 7, 1952, adjudicated the properties in question to the appellants who are not entitled to the inheritance in view of the existence of plaintiff's superior right, the aforesaid order is reviewable and subject to readjustment within 2 years after the settlement and distribution of the estate (See Sec. 4 ,Rule 74 of the Rules of Court) and thus cannot have the effect of barring a subsequent action by the rightful heir for the recovery of the properties belonging to the estate of the deceased. MARABELLA *v.* KILAYCO, G.R. No. L-11141, June 27, 1958.

COURT OF APPEALS

CIVIL LAW — SALES — UNDER PARAGRAPH (3) OF ARTICLE 1505 OF THE CIVIL CODE, A PERSON WHO BUYS A THING AT A MERCHANT'S STORE AFTER THE SAME HAS BEEN PUT ON DISPLAY THEREAT, ACQUIRES A VALID TITLE TO THE THING ALTHOUGH HIS PREDECESSORS IN INTEREST DID NOT HAVE ANY RIGHT OF OWNERSHIP OVER IT. — The Sun Brothers sold and delivered to Francisco Lopez a refrigerator. The latter made a down payment of P500. It was stipulated that the latter should not remove the refrigerator from his address, nor part possession therewith without the express written consent of the former. On July 2, 1954, Lopez, in violation of the stipulation, sold the refrigerator to the J. V. Trading, owned by Jose Velasco. The next day, after displaying the refrigerator in his store, Velasco sold the same to Co Kang Chiu. The refrigerator was delivered to the latter. An action was filed by the Sun Brothers in the Municipal Court for the recovery of the article against Lopez, Velasco and Co Kang Chiu. Judgment was rendered against the plaintiff. The case was appealed to the Court of First Instance which declared that the plaintiff was the absolute owner of the refrigerator and ordered Co Kang Chiu to return the same to the plaintiff. Hence this appeal. **Held,** under paragraph (3) of Article 1505 of the Civil Code, a person who buys a thing at a merchant's store after the same has been put on display thereat, acquires a valid title to the thing although his predecessors in interest did not have any right of ownership over it. SUN BROTHERS & COMPANY *v.* CO KANG CHIU, (CA) G.R. No. 17085-R, January 13, 1958.

CIVIL LAW — PROPERTY — COURTS OF JUSTICE CAN DECLARE LANDS FORMED ALONG SHORES BY ACCRETION AS PRIVATE PROPERTY OF THE ADJOINING OWNERS. — On August 31, 1948, the plaintiffs filed a complaint in the Court of First Instance of Bulacan against the defendant Andaya, the Director of Fisheries, and the Secretary of Agriculture and Natural Resources. They alleged that they were the absolute owners and had been in the peaceful possession of the land in dispute; that despite this fact the Director of Fisheries granted a fishpond permit to the defendant and, the Secretary confirmed the decision of the Director upon appeal; and that a writ of preliminary injunction be issued restraining the defendants to absolutely abstain from the acts complained of. The defendants answered that the land in dispute was part of the shores of Manila Bay. On January 13, 1949, the plaintiffs filed a supplemental complaint alleging that the land in dispute was part of their titled property as found by a duly licensed surveyor who concluded a relocation survey of the lots. The defendants reiterated that the land was public land. The property in dispute was found to have been previously washed by waters of the Manila Bay, but was subsequently abandoned and accreted to the lands belonging to the plaintiffs. The trial court

declared that the land in dispute was private property belonging to the plaintiffs. Hence this appeal. **Held,** nothwithstanding the facts that lands formed along the shore by accretion thrown up by the action of the sea belong to the national domain, and are for public uses, the Government may declare them to be the property of the owners of adjoining properties if they are no longer necessary for administrative purposes and those for public utility. Courts of justice can declare lands formed along shores by accretion as private property of the adjoining owners. MOLINA *v.* ANDAYA, (CA) G.R. No. 11588-R, February 28, 1958.

COMMERCIAL LAW — INSURANCE — WHILE THE INTEREST ONLY OF THE PERSON IN THE POLICY IS COMPRISED IN THE CONTRACT, HOWEVER, A THIRD PARTY TO WHOM THE POLICY HAS BEEN ASSIGNED IS ENTITLED TO THE PROCEEDS OF THE POLICY TO THE EXTENT OF HIS INTEREST, AT THE TIME OF THE LOSS. — On January 31, 1951, Maura David was granted a letter of credit by the Philippine Bank of Commerce for the importation of milk. On February 26, 1951, the Philippine Bank of Commerce cabled the Bank of California National Association to pay the supplier of milk to the account of the former. $3,224.88 was paid by the American bank to the supplier of milk and the same amount was debited in the account of the Philippine bank. The goods were loaded on board a vessel for shipment to the Philippines. A marine insurance was procured from the State Bonding and Insurance Co. payable to the Philippine Bank of Commerce, in case of loss, as their interests may appear. The vessel carrying the goods sunk off Hawaii resulting in the total loss of the goods. On June 21, 1951 Maura David assigned her claim to the proceeds of the marine insurance policy in favor of Atkins, Kroll & Co., to be applied in partial payment of her sister's indebtedness to the corporation. On June 7, 1954, the deed of assignment was revoked. Both Philippine Bank of Commerce and Atkins, Kroll & Co. claimed the proceeds of the marine insurance policy. The State Bonding and Insurance Company filed an action of interpleader. The lower court rendered judgment in favor of the Philippine Bank of Commerce. Hence this appeal. **Held,** while the interest only of the person named in the policy is comprised in the contract, however, a third party to whom the policy has been assigned is entitled to the proceeds thereof to the extent of his interest, at the time of the loss. STATE BONDING & INSURANCE CO., INC. *v.* ATKINS, KROLL & CO., INC., (CA) G.R. No. 17088-R, February 28, 1958.

COMMERCIAL LAW — PRIVATE CORPORATIONS — R.A. NO. 62 DOES NOT PROVIDE THAT A STOCKHOLDER WHO DOES NOT PRESENT HIS PROOF OF LOSS WITHIN THE TIMES FIXED IN THE NOTICE SHALL FORFEIT HIS SHARES. — On June 11, 1940, Masbate Consolidated Mining Co. issued Certificate of Stock No. 21316 in favor of Francisco Lopez. After the war and in compliance with R.A. No. 62, Atlas Consolidated, the successor of the Masbate Consolidated, caused to be published in a newspaper a notice requiring all holders of certificate of stock issued on or before March 1, 1945, to present proof of their shareholdings within a period not beyond June 30, 1947. The period fixed in the notice expired without anybody presenting proof of his share. On April 23, 1955, Alfonso Diva filed an affidavit with the corporation stating that Certificate of Stock No. 21316 was assigned to him by one Wassenius sometime in 1944, and that the certificate was forcibly taken by Japanese soldiers during the occupation. A notice of loss was published in a newspaper. On January 6, 1956, Lopez submitted an affidavit averring that he was the owner and holder of Certificate of Stock No. 21316, which certificate was lost, and was neither sold, transferred, mortgaged nor pledged. Atlas filed an action against Diva and Lopez to interplead and litigate their respective claims of ownership over the certificate. The trial court declared Lopez to be the owner of the certificate of stock in question. Diva appealed, contending among other things, that Lopez has forfeited his shares upon his failure to present his proof of loss within the time fixed under R.A. No. 62. **Held,** R.A. No. 62 does not provide that a stockholder who does not present his proof of loss within the time fixed in the notice shall forfeit his shares. The earlier claim presented by Diva does not entitle him to the ownership of the certificate of stock, because his evidence was not satisfactory. ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION *v.* DIVA AND LOPEZ, (CA) G.R. No. 19409-R, February 27, 1958.

CRIMINAL LAW — ARBITRARY DETENTION — IN COMPUTING THE PERIOD FOR THE DELIVERY OF A DETAINED PERSON TO THE PROPER JUDICIAL AUTHORITIES, SUCH CIRCUMSTANCES, AS THE MEANS OF COMMUNICATION, THE HOUR OF ARREST AND THE POSSIBILITY FOR THE FISCAL TO MAKE THE INVESTIGATION AND FILE THE NECESSARY INFORMATION, MUST BE TAKEN INTO CONSIDERATION. — On June 11, 1953, a permit to hold public meetings for a period of one month was granted by Mayor Acosta to Donato Dagdag and Hipolito Mamuric, ministers of the "Iglesia Ni Cristo". Accordingly meetings were held every night. A powerful sound system reaching a perimeter of 5000 meters was used. Highly offensive utterances against other religious denominations, especially the Roman Catholic Church, were hurled by Mamuric. Upon complaints by the Roman Catholic parish priest and other people of the town, the permit was revoked. Despite the order of revocation, Mamuric tried to conduct a meeting. Two policemen who tried to enforce the order of revocation were beaten up. Mamuric and his companions were arrested and confined in the municipal jail on the night of June 17, 1953. The next day, at 8:00 o'clock in the morning, a complaint for assault upon agents of persons in authority was filed against them. No action for preliminary investigation was taken and the accused remained in jail for 6 days without benefit thereof. Mayor Acosta, Chief of Police Gines and the arresting policemen were prosecuted for arbitrary detention. Acosta was found guilty of the crime charged and was sentenced accordingly. Hence this appeal. **Held,** in computing the period for the delivery of a detained person to the proper judicial authorities, such circumstances, as the means of communication, the hour of arrest and the possibility for the fiscal to make the investigation and file the necessary information, must be taken into consideration. In the instant case, the complaint could not normally be filed earlier than 8:00 o'clock in the morning of June 18, 1953. After the filing of the complaint, the duty of the detaining officer is complied with, further action rests upon the judicial authority. PEOPLE *v.* ACOSTA, (CA) G.R. No. 16254-R, February 28, 1958.

CRIMINAL LAW — COMPLEX CRIME — THERE IS NO COMPLEX CRIME OF ROBBERY AND ATTEMPTED RAPE. — On May 21, 1954, Dominga Marcos was met by Demetrio Cariaga along a narrow trail bordered by tall **talahib** on both

sides. Suddenly Cariaga seized Dominga and kissed her, then, fondling her breasts and touching her private part, forced her down. Forthwith, he mounted on her, raised her skirt and tried to ravish her. Dominga struggled, and Cariaga realizing the futility of his attempt fled, carrying away Dominga's wallet with ₱205 in it and her necklace valued at ₱30. Subsequently, Cariaga was prosecuted for the complex crime of robbery and attempted rape. The lower court found the accused guilty of the crime charged and was sentenced accordingly. Hence this appeal. **Held,** there is no complex crime of robbery and attempted rape. A robbery is not a means to an attempted rape, nor attempted rape to robbery. Nor can both crimes be the result of one single act. The accused could be convicted of two different crimes, if satisfactorily proved. The original complaint was filed by a corporal of the Philippine Constabulary and hence the court never acquired jurisdiction with regard to the crime of attempted rape. No violence or intimidation was ever established. The wallet and necklace could have been trown away as a result of the struggle. The accused could only be guilty of theft. PEOPLE *v.* CARIAGA, (CA) G.R. No. 16912-R, February 28, 1958.

LABOR LAW — DISMISSAL — AN EMPLOYER CAN EXCLUDE FROM THE PREMISES OF ITS FACTORY OR OFFICE AN EMPLOYEE WHO HAS VIOLATED ITS RULES AND REGULATIONS. — Emilio Sanchez was employed as supervisor in the shoe factory of Ang Tibay, Inc. On July 23, 1955, Ang Tibay received a notice of garnishment from the CFI of Rizal garnishing the salary of Sanchez Upon proper investigation by the company, it was found out that Virginia Lacsamana, the plaintiff's wife, was granted by the CFI of Rizal legal separation on the ground of concubinage on the part ofSanchez. Upon these facts, the Board of Directors of Ang Tibay dismissed Sanchez from the service on the grounds of immorality and indecency constituting a gross violation of the rules and regulations of the corporation. The plaintiff was granted and received the corresponding termination pay. Subsequently, the plaintiff filed an action for reinstatement. The lower court dismissed the complaint. Hence this appeal. **Held,** an employer can exclude from the premises of its factory or office an employee who has violated its rules and regulations. SANCHEZ *v.* ANG TIBAY INC., (CA) G.R. No. 17534-R, February 17, 1958.

LAND REGISTRATION — CHATTEL MORTGAGE — THE DEPOSIT OF THE CHATTEL MORTGAGE AT THE PROPER OFFICE AND WITH THE PROPER OFFICER, ALTHOUGH THE OFFICER DID NOT MAKE THE PROPER RECORDING THEREOF, OPERATES AS A CONSTRUCTIVE NOTICE TO THE SUBSEQUENT PURCHASERS. — On November 8, 1952, Leopoldo Salcedo sold his Buick car to Jose Lim Ang for ₱9,500, of which only ₱3,500 was paid. To secure the payment of the balance, Ang executed on November 12, 1952, a deed of chattel mortgage on the car in favor of Salcedo, which document was entered in the registry of the Register of Deeds of Manila on the same date. However, the actual registration or inscription of said chattel mortgage was effected only on May 12, 1953. On Nov. 8, 1952, Ang obtained the transfer in his name of the certificate of registration of the car in the Motor Vehicles Office. On November 13, 1952, Ang sold the car to Go Po who was able to transfer in his name the registration

of the car on the same date. Upon Ang's failure to pay the balance despite repeated demands by Salcedo, an action was filed by the latter against Go Po and Ang for the recovery of the balance or delivery of the automobile. Judgment was rendered in favor of the plaintiff. Hence this appeal. **Held,** the deposit of the chattel mortgage at the proper office and with the proper officer, although the officer did not make the proper recording thereof, operates as a constructive notice to subsequent purchasers. SALCEDO *v.* Go Po, (CA) G.R. No. 16996-R, February 20, 1958.

REMEDIAL LAW — CIVIL PROCEDURE — THE FAILURE TO JOIN A HUSBAND AS A PARTY DEFENDANT IS NOT A JURISDICTIONAL DEFECT. — On February 6, 1947, Asuncion Rodis was granted a temporary revocable permit, under Executive Order No. 77, to occupy a portion of the land known as the Meisic Compound, upon payment of a fee of ₱34, in advance, as annual rental thereof. Rodis occupied the lot and constructed a house upon it. On July 21, 1954, the Bureau of Lands rejected her application to buy the lot and ordered her to vacate the premises. Rodis was delinquent in the payment of the annual rentals since 1950. An action for ejectment was filed and the lower court ordered the defendant to vacate the lot. She appealed, contending among other things that the lower court erred in holding that the appellee could proceed against her notwithstanding that she was a married woman. **Held,** the failure to join the husband as a party defendant is not a jurisdictional defect. The remedy is for the husband to ask that he be joined as a party defendant. REPUBLIC *v.* RODIS, (CA) G.R. No. 19514-R, February 28, 1958.

REMEDIAL LAW — CRIMINAL PROCEDURE — R. A. No. 732 GOVERNS PRELIMINARY INVESTIGATIONS CONDUCTED BY PROVINCIAL FISCALS IN CASES ORIGINALLY INSTITUTED BY THEM IN COURTS OF FIRST INSTANCE, AND DOES NOT APPLY TO CASES BEGAN IN THE JUSTICE OF THE PEACE COURTS AND, THEREAFTER, FORWARDED TO THE CORRESPONDING COURT OF FIRST INSTANCE. — Virgilio Masiga and Servillano Magbanua were charged by the Acting Chief of Police of Malalag, Davao in the Justice of the Peace Court of that municipality with the crime of homicide. A preliminary investigation was had in that Justice of the Peace Court and said court dismissed the charge as regards Virgilio Masiga and only found a **prima facie** case against Servillano Magbabanua. After the receipt of the records of the preliminary investigation in the Court of First Instance of Davao, the Acting Provincial Fiscal filed an information charging only Servillano Magbanua of the crime of homicide. Later the fiscal had another preliminary investigation of the case conducted under her supervision in accordance with the provisions of R.A. No. 732, and filed an amended information charging the same crime in which she included Masiga as one of the defendants. At the commencement of the trial of the case on said amended information, Masiga challenged the legality of the preliminary investigation conducted by the fiscal and asked that the case be dismissed as regards him for lack of proper preliminary investigation. The motion was denied by the lower court and a trial of the case was had, culminating in the conviction of Virgilio Masiga of the crime

charged. Hence this appeal. **Held,** Masiga was denied a fundamental right — that to a preliminary investigation — which is part of the due process of law. R.A. No. 732 governs preliminary investigations conducted by provincial fiscals in cases originally instituted by them in Courts of First Instance, and does not apply to cases began in the Justice of the Peace Courts and, thereafter, forwarded to the corresponding Court of First Instance. PEOPLE *v.* MASIGA, (CA) G.R. No. 19844-R, February 14, 1958.

BOOK NOTES

EVIDENCE. By Ambrosio Padilla. Manila: Padilla Publications, 1958. Pp. xiv, 986.

This book is the latest one produced by the prolific pen of a distinguished author and law professor. It came to light last year. Having been published as mimeographed notes in 1951 and in 1955, this is the first time it has come out in book form.

After a reading and examination of this book, no one can help becoming impressed that its preparation has been a gigantic and monumental task. There is not a part that does not speak of the untiring and inspired efforts which the author spent in it, and this is particularly seen in his selection, digest and overall presentation of cases decided by the Supreme Court and the Court of Appeals.

The necessity for this book sprang from the "imperative need" felt by the author for a thorough working familiarity with the rules of Evidence. The purpose it means to serve could not have been more adequately served. Every reader will share with the author the high hope that the book will be of great help, to professors, and students of law and, likewise, to the members of the Bar and the Bench.

In the preparation of this book the author has not been alone. Some of his associates and assistants in the law practice, particularly Attorney Ciriaco Lopez, Jr., Attorney Troadio Quiazon, Jr., Attorney Santiago Blanco, and Attorney Antonio Fernando, assisted him.

The book follows the pattern generally distinguishable in the authors earlier annotated books, like Civil Law, Criminal Law and Criminal Procedure. Cases decided by the Supreme Court and the Court of Appeals, where a particular rule under discussion is applied, are cited, and the Appellate Courts' interpretation of a given rule, expounded. The citation of cases contains, in addition to to pertinent facts, verbatim quotations of the principles of Evidence involved in the decisions. Standard works of universally accepted authorities on Evidence, like Wigmore, Jones, Greenleaf, are used unsparingly where necessary for a full explanation of the principles of Evidence at issue. Again, for a complete understanding of any given rule and to cancel any possibility of misinterpretation of the rule involved and the cases cited, footnotes are provided. The book further embodies Sections 243-347 of Act 190, and contains a table of cases cited

and an index of topics alphabetically arranged, facilitating the search for topics desired.

Associate Justice Alejo Labrador of the Philippine Supreme Court, the author's professor in Evidence at the University of the Philippines, is profuse in his congratulations to Senator Padilla "for this practical and useful book, so useful to students, practitioners and judges" and hopes that "it shall receive the same appreciation as every other book that he has written." We join the eminent Justice in his congratulations. May this book continue to receive the "generous patronage it deserves from judges, lawyers and students.

THE REVISED PENAL CODE. By Luis B. Reyes. Manila: Philaw Publishing, 1958. Bk. I — Pp. ix, 647; Bk. II — Pp. iii, 724. ₱45.00 per set.

In the study of law, as in other fields of learning, the student always seeks a friend, one who would help him obtain a complete understanding of the subject matter. True, friends may be easy to find, but the best friends a student can ever find are his books — books that would give him a complete understanding of the different subjects taken in the study of law; books that would help him gain a mastery of the provisions of the law, their construction and application in the light of the most recent decisions of the Supreme Court; books that would lay the firm foundation needed when he plunges into the whirlpool of legal practice.

Considering the great quantity of books written on each of the numerous subjects included in the law curriculum, the student may find the search for his friends rather difficult. Thus we take this occasion to recommend the 1958 edition of Judge Luis B. Reyes' book on the Revised Penal Code, a book which has been improved "to make the discussion of the provisions and principles of Criminal Law more comprehensive and exhaustive and to meet the difficult questions asked in the Bar Examination nowadays". This is a book any reader would treasure, one which he may really call a Friend.

Like the 1956 edition, this latest edition is divided by the author into two books. Book One contains an exposition on what Criminal Law is in general, its sources and characteristics; commentaries on Articles 1 to 113; and Bar Examination Questions and Answers in Criminal Law. The commentaries of the author on Articles 1 to 113 covers the Date of Effectivity and Application of the Provisions of this Code, Felonies and Circumstances which Affect Criminal Liability, Persons Criminally Liable for Felonies, Penalties, Extinction of Criminal Lability, Civil Liability. Book Two contains the author's commentaries on Artcles 114 to 367; the provisions of Commonwealth Act No. 616 which is An Act to Punish Espionage

and Other Offenses against the National Security; Republic Act No. 10, an Act Penalizing Usurpation of Public Authority; The Revised Election Code; and some Bar Questions and Answers in Criminal Law. Articles 114 to 367 embraces the Crimes against National Security and the Law of Nations, Crimes against the Fundamental Laws of the State, Crimes against Public Order, Crimes against Public Interest, Crimes Relative to Opium and other Prohibited Drugs, Crimes against Public Morals, Crimes Committed by Public Officers, Crimes against Persons, Crimes against Property, Crimes against Chastity, Crimes against the Civil Status, Crimes against Honor, Quasi-Offenses and lastly Final Provisions.

In explaining each article of the Revised Penal Code, the author proceeds by giving the elements of each crime, illustrating how each element is applied and discussing important words and phrases in the provision. Unlike other authors on the same subject, Judge Reyes does not limit the revision of his book merely by adding digests of new cases decided by our Supreme Court. He has taken pains in analyzing and comparing such new cases with old ones, commenting on how they should be understood in order to obtain a vivid picture of how a particular provision of the Penal Code should be applied. When two cases illustrate different applications of the same provision of the law, he does not leave it upon chance that the student or the reader would compare the two cases to find the reason for the difference, but he has dedicatedly taken upon himself the task of showing the reason for the difference. An example of this appears on pages 28 and 29, Book One of this 1958 edition, wherein after a brief narration of the facts and decisions of the Supreme Court in two cases, (the cases of U.S. vs. Ah Chong and People vs. Oanis), the author comments:

"AH CHONG CASE and OANIS CASE, DISTINGUISHED.

"In the Ah Chong case, there is an innocent mistake of fact committed without any fault or carelessness, because the accused, having no time or opportunity to make any further inquiry, and being pressed by circumstances to act immediately, had no alternative but to take the facts as they then appeared to him, and such facts justified his act of killing.

"In the Oanis case, the accused found no circumstances whatever which would press them to immediate action. The person in the room being then asleep, the accused had ample time and opportunity to ascertain his identity without hazard to themselves and could even effect a bloodless arrest if any reasonable effort to that end had been made, as the victim was unarmed. This, indeed, is the only legitimate course of action for the accused to follow even if the victim was really Balagtas, as they were instructed not to kill Balagtas at sight, but to arrest, and to get him dead or alive only if resistance or aggression is offered by him.

"Hence, the accused in the Oanis case were at fault when they shot the victim in violation of the instructions given to them. They were also careless in not verifying first the identity of the victim.

"NOTE: In apprehending even the most notorious criminal, the law does