

itself. The terms "machine", "manufacture", "process" and "improvement" are explained by the author, who also proceeds to explain what are considered utility models and designs. While utility models do not possess the quality of invention, the principal requirement for them to be entitled to a patent is that of novelty. A design, on the other hand, may be that characteristic of physical substances which, by means of lines, images, configuration and the like, taken as a whole makes an impression, through the eye, upon the mind of the observer.

The following are unpatentable: (1) a mere discovery of a law of nature without bringing it into practical action; (2) operation consisting entirely of mechanical transactions and being only peculiar functions of respective machines which are constructed to perform them; (3) the effect or result of a process alone; and (4) the mere intellectual notion that a thing can be done, mere mental theories and plans.

As a general rule, the requirements of patentability are inventiveness, novelty and utility or operability. All these three requirements are necessary in patents for inventions. For utility models, only novelty and utility or operability are required. In the case of design patents, the requirements are inventiveness or originality and novelty. Thus novelty is common to all three patentable subject matters. The author explains each of these requirements. (Sulpicio Olimpio, Jr., *Patent Laws of the Philippines*, X M.L.Q. Law Quarterly No. 2 at 186-199 (1960) P. at the M.L.Q. University, Manila. This issue also contains: Sempio, *The Law of Conditional Sales in the Philippines—A Comparative Study*, last installment.)

LEGISLATION

CRIMINAL LAW. — According to its author, the purposes of this act, amending Article Three Hundred and Thirty Five of the Revised Penal Code are:

1. To make rape an ordinary public crime,
2. To prescribe death penalty for rape when the offended party is below twelve years of age,
3. To provide that pardon by the offended party or the parents, grandparents or guardian shall not extinguish the criminal action or remit the penalty already imposed upon the offender.

In its support, he made the following reasons:

The commission of rape, according to the author, is an indication of the various perversities of the mind of the culprit. He has reduced himself to the lowest type of animal in the satisfaction of his sexual desires. This is highly condemned by society. Moreover, the offended woman loses her honor and reputation and feels that she is ostracized by society. Since rape is inimical to the best interest of society, public policy demands that the crime be classified as an ordinary public crime.

Under the existing law, rape is classified as a private crime. The state cannot properly institute the accusation unless it is filed by the offended party or her parents or guardian. The law also provides that pardon by the offended party or her parents, grandparents, or guardian is a bar to the prosecution of the offense and the marriage between the offender and the offended party extinguishes the criminal action or remits the penalty already imposed.

In view of the gravity of the offense, coupled with the fact that it is an offense against society, private individuals should not be given the power to compromise the same. It is believed that in order to protect the interests of society and the offended woman, the crime of rape should be classified as an ordinary public crime and that the penalty therefor should be death, in case the offended woman is under 12 years of age.

[R.A. No. 2632]

AN ACT

TO AMEND ARTICLE THREE HUNDRED AND THIRTY-FIVE OF THE REVISED PENAL CODE. (Re rape)

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Article Three hundred and thirty-five of the Revised Penal Code is hereby amended to read as follows:

"ART. 335. *When and how rape is committed—Penalties.*—Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present:

The crime of rape shall be punished by *reclusión temporal*.

Whenever the crime of rape is committed with use of a deadly weapon or by two or more persons, the penalty shall be imposed in its maximum period.

When by reason or on the occasion of the rape, a homicide is committed the penalty shall be *reclusión perpetua* to death.

When the rape is frustrated or attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusión perpetua*.

When by reason or on the occasion of the rape, the victim has become insane the penalty shall be likewise *reclusión perpetua*.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 18, 1960.

ADMINISTRATIVE LAW. — The purpose of this act is to reorganize the Public Service Commission in order to make it a more efficient and effective body in the supervision and regulation of public utilities in the Philippines. The tremendous growth of public utilities in the Philippines in recent years together with the construction of new roads, opening and development of communities, the general increase

of population and the advancement of agriculture, commerce and industry has resulted a big increase in the workload of the Commission, so much so that with the present three Commissioners and the very limited personnel of the Commission, there is a heavy backlog of pending cases consisting of applications for the operation of different kinds of public utilities as well as complaints filed against public service operators.

The present bill broadens the jurisdiction of the Commission by vesting it with the power to supervise and control maritime transportation, wire or wireless communication systems, wire or wireless broadcasting systems including radio and televisions, and other similar services, except air transportation and warehouses which are now subject to the regulation and supervision of the Civil Aeronautics Board and the Bureau of Commerce respectively. The Bureau of Customs shall continue to issue license to vessels as regards their seaworthiness but before the vessels can operate as public services, they must secure a certificate of public convenience where their lines, time schedules, and rates shall be approved by the Commission. Similarly, the Radio Control Division of the Department of Public Works and Communications, will continue to issue radio station construction permits and licenses for the use of radio frequencies, but before these radio stations can operate as public service, they must first secure a certificate of public convenience from the Commission. It is also intended to place under the jurisdiction of the Commission public services owned or operated by government entities or government owned and controlled corporations, but certificates of public convenience and necessity shall not be required if such entities do not compete with others, so that the Commission's power will be limited to the fixing of rates of such services only in order to avoid cutthroats competitions.

This bill is also intended to raise, or increase the salaries of the Commissioners and their staff in order to put them in the same level as other government officials of equal rank.

[R.A. No. 2677]

AN ACT

TO AMEND SECTIONS TWO, THREE, FOUR, TEN, THIRTEEN, AND FOURTEEN OF COMMONWEALTH ACT NUMBERED ONE

HUNDRED FORTY-SIX, AS AMENDED, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections two, three, four, ten, thirteen, and fourteen of Commonwealth Act Numbered one hundred forty-six, as amended, otherwise known as the Public Service Act, are hereby amended to read as follows:

"SEC. 2. There is created under the Department of Justice a commission which shall be designated and known as the Public Service Commission, composed of one Public Service Commissioner and five Associate Commissioners, and which shall be vested with the powers and duties hereafter specified. Whenever the word 'Commission' is used in this Act, it shall be held to mean the Public Service Commission, and whenever the word 'Commissioner' is used in this Act it shall be held to mean the Public Service Commissioner or anyone of the Associate Commissioners.

"The Public Service Commissioner and the Associate Public Service Commissioners shall be natural born citizens and residents of the Philippines, not under thirty years of age; a member of the Bar of the Philippines, with at least five years of law practice or five years of employment in the government service requiring a lawyer's diploma; and shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments of the Congress of the Philippines: *Provided, however,* That the present Commissioner and the personnel of the Commission shall continue in office without the necessity of reappointment.

"The Commissioners shall have the rank and privilege of retirement of Judges of the Courts of First Instance."

"SEC. 3. The Commissioner and Associate Commissioners shall hold office until they reach the age of seventy years, or until removed in accordance with the procedure prescribed in section one hundred and seventy-three of Act Numbered Twenty-seven hundred and eleven, known as the Revised Administrative Code: *Provided, however,* That upon retirement, any Commissioner or Associate Commissioner shall be entitled to all retirement benefits and privileges for Judges of the Courts of First Instance or under the retirement law to which he may be entitled on the date of his retirement. In case of the absence, for any reason, of the Public Service Commissioner, the Associate Commissioner with seniority of appointment shall act as Commissioner. If on account of absence, illness, or incapacity of any of the Commissioners, or whenever by reason of

temporary disability of any Commissioner or of a vacancy occurring therein, the requisite number of Commissioners necessary to render a decision or issue an order in any case is not present or in the event of a tie vote among the Commissioners, the Secretary of Justice may designate such number of Judges of the Courts of First Instance, or such number of attorneys of the legal division of the Commission, as may be necessary, to sit temporarily as Commissioners in the Public Service Commission.

"The Public Service Commission shall sit individually or as a body *en banc* or in two divisions of three Commissioners each. The Public Service Commissioner shall preside when the Commission sits *en banc* and in one division. In the other division, the Associate Commissioner with seniority of appointment in that division shall preside. Five Commissioners shall constitute a *quorum* for sessions *en banc* and two Commissioners shall constitute a *quorum* for the sessions of a division. In the absence of a *quorum*, the session shall be adjourned until the requisite number is present.

"All the powers herein vested upon the Commission shall be considered vested upon any of the Commissioners, acting either individually or jointly as hereinafter provided. The Commissioners shall equitably divide among themselves all pending cases and those that may hereafter be submitted to the Commission, in such manner and form as they may determine, and shall proceed to hear and determine the case assigned to each or to their respective divisions, or to the Commission *en banc* as follows: uncontested cases, except those pertaining to the fixing of rates, shall be decided by one Commissioner; contested cases and all cases involving the fixing of rates shall be decided by the Commission in division and the concurrence of at least two Commissioners in the division shall be necessary for the promulgation of a decision or non-interlocutory order in these cases: *Provided, however,* That any motion for reconsideration of a decision or non-interlocutory order of any Commissioner or division shall be heard directly by the Commission *en banc* and the concurrence of at least four Commissioners shall be necessary for the promulgation of a final decision or order resolving such motion for reconsideration."

"SEC. 4. The Public Service Commissioner shall receive an annual compensation of thirteen thousand pesos; each of the Associate Commissioners an annual compensation of twelve thousand pesos. The Commissioners shall be assisted by one chief attorney, one finance and rate regulation officer, one chief utilities regulation engineer, one transportation regulation chief, one secretary, and two public utilities advisers, who shall receive an annual compensation of seven

thousand two hundred pesos each; five assistant chiefs of division who shall receive an annual compensation of six thousand pesos each, and eleven attorneys who shall receive an annual compensation of five thousand four hundred pesos each."

"SEC. 10. The Commission shall have its office in the City of Manila at such place as may be designated, and may hold hearings on any proceedings at such times and places, within the Philippines, as it may provide by order in writing: *Provided*, That during the months of April and May of each year, at least three Commissioners shall be on duty and the other Commissioners shall be on vacation in such manner that once every two years at least three of them shall be on duty during April and May: *Provided, however*, That in the interest of public service, the Secretary of Justice may require any or all the Commissioners on duty to render services and perform their duties during the vacation months."

"SEC. 13. (a) The Commission shall have jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and aid of the public force: *Provided*, That public services owned or operated by government entities or government-owned or controlled corporations shall be regulated by the Commission in the same way as privately-owned public services, but certificates of public convenience or certificates of public convenience and necessity shall not be required of such entities or corporations: *And provided, further*, That it shall have no authority to require steamboats, motorships and steamship lines, whether privately-owned, or owned or operated by any Government controlled corporation or instrumentality to obtain certificate of public convenience or to prescribe their definite routes or lines of service.

"(b) The term 'public service' includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier, railroad, street railway, traction railway, sub-way motor vehicle, either for freight or passenger, or both with or without fixed route and whatever may be its classification, freight or carrier service of any class, express service, steamboat, or steamship line, pontines, ferries, and water craft, engaged in the transportation of passengers or freight or both, shipyard, marine railway, marine repair shop, wharf or dock, ice plant, ice-refrigeration plant, canal, irrigation system, gas, electric light, heat and power, water supply and power, petroleum, sewerage system, wire or wireless communications systems, wire or wireless broadcasting sta-

tions and other similar public services: *Provided, however*, That a person engaged in agriculture, not otherwise a public service, who owns a motor vehicle and uses it personally and/or enters into a special contract whereby said motor vehicle is offered for hire or compensation to a third party or third parties engaged in agriculture, not itself or themselves a public service, for operation by the latter for a limited time and for a specific purpose directly connected with the cultivation of his or their farm, the transportation, processing, and marketing of agricultural products of such third party or third parties shall not be considered as operating a public service for the purposes of this Act.

"(c) The word 'person' includes every individual, co-partnership, joint-stock company or corporation, whether domestic or foreign, their lessees, trustees or receivers, as well as any municipality, province, city, government-owned or controlled corporation, or agency of the Government of the Philippines, and whatever other persons or entities that may own or possess or operate public services."

"SEC. 14. The following are exempted from the provisions of the preceding section:

"(a) Warehouses;

"(b) Vehicles drawn by animals and bancas moved by oar or sail, and tugboats and lighters;

"(c) Airships within the Philippines except as regards the fixing of their maximum rates on freight and passengers;

"(d) Radio companies except with respect to the fixing of rates;

"(e) Public services owned or operated by any instrumentality of the National Government or by any government-owned or controlled corporation, except with respect to the fixing of rates."

SEC. 2. To carry out effectively the provisions of this Act, the amount of one hundred and fifty thousand pesos is hereby appropriated out of the fees collected under section forty of this Act or out of any funds in the National Treasury not otherwise appropriated in addition to the appropriations provided in the General Appropriations Act for the expenses of the Commission for the fiscal year July first, nineteen hundred fifty-nine to June thirty, nineteen hundred sixty: *Provided, however*, That any savings in the appropriations of the Commission for the fiscal year July first, nineteen hundred fifty-eight to June thirty, nineteen hundred fifty-nine shall likewise be available for this purpose.

SEC. 3. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 18, 1960.

[R.A. No. 2711]

AN ACT

TO AMEND SECTION ONE HUNDRED AND NINETY-EIGHT OF THE REVISED ADMINISTRATIVE CODE, AS AMENDED BY REPUBLIC ACT NUMBERED ONE HUNDRED AND SIXTEEN, RELATIVE TO REGISTRATION OF CHATTEL MORTGAGES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section one hundred and ninety-eight of the Revised Administrative Code, as amended by Republic Act Numbered One hundred and sixteen, is hereby further amended to read as follows:

"SEC. 198. *Registration of chattel mortgages and fees collectible in connection therewith.*—Every register of deeds shall keep a primary entry book and a registration book for chattel mortgages; shall certify on each mortgage filed for record, as well as on its duplicate, the date, hour, and minute when the same was by him received; and shall record in such books any chattel mortgage, assignment or discharge thereof, and any other instruments relating to a recorded mortgage, and all such instruments shall be presented to him in duplicate, the original to be filed and the duplicate to be returned to the person concerned.

"The recording of a mortgage shall be effected by making an entry, which shall be given a correlative number, setting forth the names of the mortgagee and the mortgagor, the sum or obligation guaranteed, date of the instrument, name of the notary before whom it was sworn to or acknowledged, and a note that the property mortgaged, as well as the terms and conditions of the mortgage, is mentioned in detail in the instrument filed, giving the proper file number thereof. The recording of other instruments relating to a recorded mortgage shall be effected by way of annotations on the space provided therefor in the registration book, after the same shall have been entered in the primary entry book.

"The recording of a mortgage shall be effected by making an entry, which shall be given a correlative number, setting forth the names of the mortgagee and the mortgagor, the sum or obligation guaranteed, date of the instrument, name of the notary before whom it was sworn to or acknowledged, and a note that the property mortgaged, as well as the terms and conditions of the mortgage, is mentioned in detail in the instrument filed, giving the proper file number thereof. The recording of other instruments relating to a recorded mortgage shall

be effected by way of annotations on the space provided therefor in the registration book, after the same shall have been entered in the primary entry book.

"The register of deeds shall also certify the officer's return of sale upon any mortgage, making reference upon the record of such officer's return to the volume and page of the record of the mortgage, and a reference of such return on the record of the mortgage itself, the lawful fees for such copy; and certify upon each mortgage officer's return of sale or discharge of mortgage, and upon any other instrument relating to such a recorded mortgage, both on the original and on the duplicate, the date, hour, and minute when the same is received for record and record such certificate with the return itself, and keep an alphabetical index of mortgagors and mortgagees, which record and index shall be open to public inspection.

"Duly certified copies of such records and of filed instruments shall be receivable as evidence in any court.

"The register of deeds shall collect the following fees for services rendered by him under this section:

"(a) For entry or presentation of any document in the primary entry book, one peso. Supporting papers presented together with the principal document need not be charged any entry or presentation fee unless the party in interest desires that they be likewise entered.

"(b) For filing and recording each chattel mortgage, including the necessary certificates and affidavits, the fees established in the following schedule shall be collected:

"1. When the amount of the mortgage does not exceed six thousand pesos, three pesos and fifty centavos for the first five hundred pesos or fraction part thereof, and one peso and fifty centavos for each additional five hundred pesos or fractional part thereof.

"2. When the amount of the mortgage is more than six thousand pesos but does not exceed thirty thousand pesos, twenty-four pesos for the initial amount not exceeding eight thousand pesos, and four pesos for each additional two thousand pesos or fractional part thereof.

"3. When the amount of the mortgage is more than thirty thousand pesos but does not exceed one hundred thousand pesos, seventy-five pesos for the initial amount not exceeding thirty-five thousand pesos, and seven pesos for each additional five thousand pesos or fractional part thereof.

"4. When the amount of the mortgage is more than one hundred thousand pesos but does not exceed five hundred thousand pesos, one hundred and seventy-six pesos for the initial amount not exceeding one hundred ten thousand pesos, and ten pesos for each additional ten thousand pesos or fractional part thereof.

"5. When the amount of the mortgage is more than five hundred thousand pesos, five hundred eighty-one pesos for the initial amount not exceeding five hundred twenty thousand pesos, and fifteen pesos for each additional twenty thousand pesos or fractional part thereof: *Provided, however,* That registration of the mortgage in the province where the property is situated shall be sufficient registration: *And provided, further,* That if the mortgage is to be registered in more than one city or province, the register of deeds of the city or province where the instrument is first presented for registration shall collect the full amount of the fees due in accordance with the schedule prescribed above, and the register of deeds of the other city or province where the same instrument is also to be registered shall collect only a sum equivalent to twenty *per centum* of the amount of fees due and paid in the first city or province, but in no case shall the fees payable in any registry be less than the minimum fixed in said schedule.

"(c) For recording each instrument of sale, conveyance, or transfer of the property which is subject of a recorded mortgage, or of the assignment of mortgage credit, the fees established in the preceding schedule shall be collected on the basis of ten *per centum* of the amount of the mortgage or unpaid balance thereof: *Provided,* That the latter is stated in the instrument.

"(d) For recording each notice of attachment, including the necessary index and annotations, four pesos.

"(e) For recording each release of mortgage, including the necessary index and references, the fees established in the schedule under paragraph (b) above shall be collected on the basis of five *per centum* of the amount of the mortgage.

"(f) For recording each release of attachment, including the proper annotations, two pesos.

"(g) For recording each sheriff's return of sale, including the index and references, three pesos.

"(h) For recording a power of attorney, appointment of judicial guardian, administrator, or trustee, or any other instrument in which a person is given power to act in behalf of another in connection with a mortgage, three pesos.

"(i) For recording each instrument or order relating to a recorded mortgage, including the necessary index and references, for which no specific fee is provided above, two pesos.

"(j) For certified copies of records, such fees as are allowed by law for copies kept by the register of deeds.

"(k) For issuing a certificate relative to, or showing the existence or non-existence of, an entry in the registration book, or a document on file, for each such certificate containing not more than two hundred words, three pesos; if it exceeds that number, an additional fee of fifty centavos shall be collected for every one hundred words or fractional part thereof, in excess of the first two hundred words."

SEC. 2. This Act shall take effect sixty days after its approval.
Approved, June 18, 1960.