

attestation of no value in protecting against fraud or really defective execution. The rule must be limited to disregarding those defects that could be supplied by the examination of the will itself; whether all the pages are consecutively numbered; whether the signatures appear in each and every page; whether the subscribing witnesses are three or the will was notarized. All these are facts that the will itself can reveal, and defects or even omissions concerning them in the attestation clause can be safely disregarded. But the total number of pages, and whether all the persons required to sign did so in the presence of each other must substantially appear in the attestation clause, being the only check against perjury in the probate proceedings." (*Observations on the New Civil Code, Lawyer's Journal, Nov. 30, 1950*).

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## BOOK REVIEWS

COMMENTS ON THE RULES OF COURT. Vols. I, II, III. Third Edition. By Manuel V. Moran. The Modern Book Company, 1950. Leather-bound, P135.00.

"For want of a nail . . . . . a kingdom was lost."

How many cases have been lost for want or inadequacy of evidence? Is it not true that a case is only as strong as the facts proved to support it? And that matters of fact are proved only by means of evidence? Therefore, evidence may be regarded as the prop upon which the "enforcement or protection of a right, the prevention or redress of a wrong, or the establishment of the status or right of a party or of a particular fact" rest; hence, the need for an authoritative and adequate guide on the rules of evidence both for the students of law and the law practitioners. One such guide is Moran's Comments on the Rules of Court in three volumes, which is not only authoritative and adequate but also painstakingly exhaustive.

The author starts his first volume with a foreword to the third edition, which is the subject-matter of this review. By way of supplementing previous objects and purposes which prompted Mr. Chief Justice Moran in contributing three editions to the library of Philippine law and jurisprudence, two factors brought forth the resultant publication of the 1950 edition, *viz.*, a) the necessity of a new edition after all copies of the preceding edition have been exhausted, and b) the numerous decided cases involving vital questions of procedure and evidence which came since the publication of the second edition. It is not without reason, however,

that we mention the elements that characterized the first and second editions of this outstanding legal project: of the first, comments were directed mostly to pivotal points; of the second, the general plan of organization and division of materials logically organized therein is given emphasis.

The presentation of the subject-matter covered by the provisions of the Rules of Court is as clear as it is simple. It is to the interest of the student, more than to the members of the bar, that such a method is used. The codal form—where the provisions are stated *verbatim*—is made the basis of a working knowledge on how the comments are thereafter presented.

Mr. Chief Justice Moran leaves no stone unturned in giving us the pertinent cases decided by our courts relative to the point in question. Not content with merely these, he adds excerpts of American jurisprudence which carry persuasive influence. And on points where there is no accepted jurisprudence, the author gives his personal opinion, which in legal circles have in more than one instance offered food for legal thought.

In the second volume, it will be noted that the author gives the rules *verbatim* and in their numerical order. He makes use of the annotations to simplify such terminologies as appear vague and ambiguous. A commentary follows revealing the source of the law, its nature and scope, its applicability, and winds up pinpointing its correlation with other provisions, substantive or procedural in nature. Dealing with the wilderness of cases and statutes relating to procedure, he makes a selective effort to take into consideration as much as possible all the important legal problems that arise from everyday procedure and to point out the basic principles that govern judicial action in solving them.

In the third volume, the author proceeds from a statement of the "rules of evidence which in this jurisdiction are grouped under Rule 123 of the Rules of Court." Since by virtue of Section 13, Art. VIII of the Philippine Constitution the "existing laws on pleading, practice and procedure" were repealed, the statement of each rule under Rule 123 is followed by a reference to the statute from which the rule was taken. Sources other than repealed statutes are also mentioned. Definition of terms necessary to a complete understanding of each rule is freely used throughout the whole book. Each main term is further classified and each classification further defined. Where examples are needed to clarify a point, such examples are cited from accepted authorities on the subject. Legal terms are distinguished to avoid confusion.

As an aid to a better appreciation of some rules, the underlying reason or reasons for their promulgation are given. Fundamental principles and requisites involving certain rules laid down by decided cases, both here and abroad, and by leading authorities are cited profusely in order to insure a correct understanding of the rules. The scope beyond which some rules may not be applied is clearly set out.

New Civil Code provisions affecting certain rules are presented after the rule affected so that an immediate comparison and cor-

relation between them may readily be seen. The effect of each new Civil Code provision is pointed out in clear and unmistakable terms. The whole book is further enriched by the author's opinion sparingly advanced, either to supplement rulings and opinions on a particular rule or to reconcile apparent contradictions. The use of footnotes is a convincing proof that the author intends to facilitate research work. With these means on hand, resort can be easily made to cases supporting, illustrating, or supplementing the law or to any of the author's personal opinions.

Mr. Moran's Comments on the Rules of Court is a monumental accomplishment. . . . a masterpiece of research work. To the practising lawyers, Moran's book has no substitute as a ready and valuable reference. As the author puts it in one of his forewords, it is believed "that there is enough in this edition to orientate the legal profession and the law students to the fundamental principles and intricacies of Remedial Law."

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CIVIL LAW, CIVIL CODE ANNOTATED. By Ambrosio Padilla. P. C. F. Publications, 1951, 3 Volumes, Leather Bound, P100.00

To the legal mind, no question lies unanswered; to the young legal mind, each question is a challenge. It therefore comes as no surprise for a young law student to cast his eyes on Civil Law, which from time immemorial had always presented ever recurring problems. In the Philippines, these problems have increased with the passage of the New Civil Code, Republic Act No. 386. To guide him in his quest for knowledge, the law student has depended much upon textbooks. Among the textbooks now available, Dr. Padilla's Civil Code Annotated, can readily be accepted as a helpful guide. With a thorough and brisk hand, the author has placed upon himself the arduous task of making an exposition on the Civil Code of the Philippines.

The author treats the subject matter in codal form. He begins with the first article of the Code and ends with the last. After each article an explanation is given and in most of the articles he cites interpretative decisions of both the Supreme Court and the Court of Appeals.

The explanation of each article in a more common and understandable language helps a great deal the law student whose mind has not yet been imbued with the capacity to grasp immediately the meaning and reason behind a provision of law. Moreover, the meaning and breadth of each article is more easily seen by its correlation with other articles. For every section which appears complicated a brief summary is given at the end, to give a bird's-eye-view of the matter covered. Where a provision calls for a more

graphic presentation, concrete examples are given. The meaning of the more important terms are defined and distinguished, citing authoritative sources like the Spanish commentators, Manresa and Sanchez Roman. Special laws supplementing the codal provisions are cited.

After each explanation, leading decisions interpreting an old article or from which a new provision had been derived are cited and whenever any ambiguity or contradiction presents itself, footnotes either clarify or show the contradiction. Recent decisions of the Supreme Court of the Philippines as of May, 1951, some of which are not reported but are very helpful to questions arising, are cited.

However, as to provisions altogether new, the author has merely explained or correlated them with other provisions, without making any definite statement or commentaries on the same. This "deficiency", however, was expected, for the author has deemed it advisable to limit himself, as the eminent authority on Civil Law, Justice Jose B. L. Reyes, had once said, "to what is known, accepted, and certain." But where the law or decisions are clearly erroneous or vague, the author has unhesitatingly ventured to advance an opinion. Furthermore, the book has been criticized for unnecessary citation of decisions. A careful reading however, will show that the purpose is to bring great prominence to the meaning of a provision.

The student, however, must be on his guard against the detailed manner which characterizes this textbook and should not permit himself to be lulled into a sense of false security or contentment. Confronted with the painful knowledge that the Civil Code of the Philippines harbors a great many ambiguities and contradictions, he must maintain that inquiring attitude so characteristic of a legal mind. But with due allowance for criticism, the author has, by painstaking effort, accomplished something which undoubtedly both the members of the bar and the student of law will deeply appreciate.

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LEGAL STATUS OF THE CHURCH IN THE PHILIPPINES. By Dr. Jorge R. Coquia. The Catholic University of America Press. Washington, D.C., U.S.A. Leatherbound, P8.00.

No other institution has influenced the political, social and even the economic life of the Filipino people more than the Church.— For most Filipinos, everyday life bears out the interlocking of civil law and church law. Most of the recent issues affecting the seeming conflict of the Church and the State arise from a hazy notion of the true relationship of the Church and the State.

LEGAL STATUS OF THE CHURCH IN THE PHILIPPINES, a comprehensive and exhaustive treatise by Jorge R. Coquia, A.B., LL.B., LL.M., S. J. D., is the first successful effort to correlate