CRIMINAL LAW

MITIGATING CIRCUMSTANCES

Boxing Of Accused At Public Dance Is A Mitigating Circumstance; Par. 10, Art. 13, Revised Penal Code, Applied.

FACTS: Libria, an Ex-Phil. Scout, was boxed by Idloy during a public dance. Two weeks later, Libria, to avenge the wrong done to him, killed Idloy. Libria was sentenced to death.

HELD: The killing is not entirely without mitigation, Idloy's boxing the accused during a dance and in the presence of so many people and considering that the accused was an Ex-Scout and soldier, well-known and respected, produced rancour in the accused, and even though the killing took place 2 weeks after the incident, it is nevertheless sufficient mitigation falling under Par. 10, Art. 13 of the R.P.C. which considers mitigating other circumstances of similar nature and analagous to those enumerated in the article. (PEOPLE *v.* LIBRIA, G. R. No. L-6585, July 16, 1954.)

PENALTIES

Where Two Offenses Are Committed In One Single Act, Only One Information-For A Complex Crime-May Be Filed.

FACTS: Mejia was charged with the crime of damage to property and with less serious physical injuries. On his motion, the court dismissed the case on the ground that one of the offenses was within the exclusive jurisdiction of the JP and hence separate informations should be filed.

HELD: The information cannot be split into two; one for

physical injuries; and another for the damage to property, for both the injuries and the damage were caused by one single act of the accused and constitute what may be called a complex crime of physical injuries and damage to property. (ANGELES, *etc. v.* JOSE, *et al.*, G. R. No. L-6494, November 24, 1954.)

Where The Accused Had Had 4 Convictions Within 10 Years From His Last Release, The Additional Penalty For Habitual Delinquency May Be Imposed In Each Of Several Cases, Simultaneously Filed.

FACTS: Two separate informations for two separate crimes of robbery were filed on the same day against Sy. In both cases it was shown that he already had 4 previous convictions within 10 years from his last release; consequently the additional penalty for habitual delinquency was imposed in each case. Sy started to serve sentence. In this petition for his release, Sy claims that he had long overstayed his sentence since the additional penalty for habitual delinquency should have been imposed only in one of the two cases for robbery filed against him.

HELD: Since prior to his conviction for the two robbery cases, he already had a record of 4 previous convictions within 10 years from his last release as contemplated by the rule on habitual delinquency, there is no plausible reason why the additional penalty provided for by law should not be imposed in each of the two cases. (TAN SY *v.* DIRECTOR OF PRISONS, G. R. No. L-6392, February 12, 1954.)

CIVIL LIABILITY

When Restitution Is Not Possible, Reparation Must Be Made By Payment Of The Thing's Value And Not By The Delivery Of A Similar Thing.

FACTS: The CA found the accused guilty of coercion, having forcibly taken 2 bales of tobacco from the complainant, and sentenced them to return to the complainant the thing taken or to indemnify him. On complainant's motion, the CFI issued

a writ of execution for ₱600, the value of the 2 bales. Thereupon, relying on the CA's judgment, the accused delivered to the sheriff 2 bales of tobacco, admittedly not the same ones taken from the complainant. But, nevertheless, the sheriff levied on properties of the accused. The accused moved that the writ be set aside, and upon the CFI's denial prosecuted this appeal.

HELD: The civil liability of the accused is governed by Arts. 100-111, R.P.C. Thus, the CA's judgment is for the return of the thing taken (restitution) and if this is not possible, for the payment of ₱600 (reparation). Reparation may not be made by the delivery of a similar thing (same amount, kind or species and quality), as the accused have done, but it should consist of the price of the thing, as fixed by the court. (PEOPLE *v.* MOSTASESA, ET AL., G. R. No. L-5684, January 22, 1954.)

CRIMES BY PUBLIC OFFICERS

Congress May, Without Violating The Constitution, Establish A Presumption Of Guilt Based On Experience Of Human Conduct.

FACTS: Livara was convicted of malversation of public funds under Art. 217, R.P.C., which provides that failure of a public officer to produce on demand public funds with which he is chargeable shall be *prima facie* evidence that he has applied said funds to his personal use. On appeal, Livara contests the constitutionality of Art. 217, claiming that it violates the constitutional provision that an accused is presumed innocent until the contrary is proven.

HELD: There is no constitutional objection to the passage of a law providing that the presumption of innocence may be overcome by a contrary presumption based on the experience of human conduct, and enacting what evidence shall be sufficient to overcome the presumption of innocence. (PEOPLE *v.* LIVARA, G. R. No. L-6201, April 20, 1954.)

CRIMES AGAINST SECURITY

In The Crime Of Trespass To Dwelling, The Objection Against Entry May Be Implied From Owner's Conduct.

FACTS: Gabriel and Natividad, Meralco Inspectors, suspected Jones of stealing electricity by the use of a transformer. Going to the house of Jones, they were met by Mrs. Jones who asked them to sit on the porch while she called her husband. Mrs. Jones entered the house, closing the door behind her. After a while, Gabriel and Natividad rushed into the living room and the bedroom and started searching. In the prosecution for trespass to dwelling, it is maintained that there had been no objection to the entry by the two inspectors.

HELD: The entry was against the will of the lady of the house, who, by her action if not by direct words, made it plain to the accused that they were not to enter her dwelling. (GABRIEL *v.* PEOPLE, G. R. No. L-6730, October 15, 1954.)

QUASI-OFFENSES

The Fine Provided In Art. 365, Revised Penal Code, Is To Be Imposed Even If The Act Of The Accused Results Not Only In Damage But Also In The Commission Of Another Offense.

FACTS: Mejia was accused in the CFI with damage to property in the sum of ₱674.22 and with less serious physical injuries through reckless negligence, committed in one single act. The accused moved to dismiss on the ground that the penalty prescribed by Art. 365, R.P.C., is only arresto mayor in its minimum and medium period which is within the inferior court's exclusive jurisdiction. On the other hand, the prosecution claims that under the same Art. a fine equal to 3 times the value of the damage is to be imposed and in the case the fine would exceed the inferior court's jurisdiction. The Court, nonetheless, dismissed the case, holding that Art. 365 provides that the fine is to be imposed only "when the execution of the act . . . shall have only resulted in damage to property," which

means that when the act also results in another crime, the fine cannot be imposed.

HELD: The provision simply means that if there is only damage to property the amount fixed therein shall be imposed, but if there are also physical injuries there should be an additional penalty for the latter. (ANGELES, etc. *v.* JOSE, ET AL., G. R. No. L-6494, November 24, 1954.)

INTERNATIONAL LAW

Foreign Law May Have Extra-territorial Effect In Another Country With Latter's Consent, Either Express Or Implied; Applicability of Philippine Property Act in P. I. Is Based on Tacit Consent of Philippine Government.

FACTS: The U.S. Attorney-General, invoking the Philippine Property Act of the United States, filed a petition in the CFI to compel respondent to pay him the proceeds of an endowment policy, already matured and payable to a Japanese national. Respondent-appellant claims that said Act is not applicable in the Philippines because of the absence of an express and specific provision in a Philippine law giving it that effect.

HELD: A foreign law may have extra-territorial effect in a country other than the country of origin, provided the latter, in which it is sought to be made operative, gives its consent thereto. The consent of a State to the operation of a foreign law within its territory does not need to be express; it may be implied from its conduct or from that of its authorized officers. In the case at bar, our consent to the applicability in the PI of the Act in question is clearly implied from the acts of the President and of the Sec. of Foreign Affairs and by the enactment of R. A. 7, 8, and 477. (BROWNELL *v.* SUN LIFE ASSURANCE COMPANY OF CANADA, G. R. No. L-5731, June 22, 1954.)

Extension of Foreign Judgment Prohibited If Contrary To The Law Or Policy Of The State Of The Forum.

FACTS: In 1939, defendant and plaintiff, both Phil. citizens, were married in the PI. Defendant left for the States and secured a divorce, on the ground of desertion, in 1941. In resisting this action, defendant seeks to enforce said divorce decree.