of their duties, and violation of law or duty, and in such cases, charges shall be preferred by the mun. mayor and investigated by the mun. council. (Sec. 1) When charges are filed against a member of the mun. police, the mun. mayor may suspend the accused, but said suspension shall not be longer than 60 days; and if during the period of 60 days, the case shall not have been decided finally, the accused, if he is suspended, shall *ipso facto* be reinstated in office without prejudice to the continuation of the case until its final decision, unless the delay in the disposition of the case is due to the fault, negligence or petition of the accused, in which case the period of the delay shall not be counted in computing the period of suspension (Sec. 3).

RULING: I. (a) Petitioner's contention is untenable since Rep. Act 557 in providing a new procedure by which charges against a member of the mun. police are to be investigated, may validly be given retroactive effect. It is not contended that by the new procedure, the petitioner is deprived of any substantial right or that his opportunity of defending himself is in any manner impaired.

(b) It is true that Sec. I of Rep. Act 557 expressly provides that charges filed against a member of the mun. police shall be investigated by the mun. council but this does not amount to a prohibition against the delegation by the mun. council of said function to a committee composed of several of its members. In practice the mun. council creates various committee for handling or studying matters that call for public hearing or reception of evidence which may not otherwise be conveniently handled by the mun. council as a body.

II. The 3 postponements asked by the petitioner, namely from Sept. 16 to Sept. 23, from Sept. 23 to Sept. 30, and from Sept. 30 to Oct. 10, 24 days were embraced. Deducting these from 98 days, 74 days are left. The delay from Oct. 10 to Nov. 22 is clearly chargeable against the petitioner. As already noted, Sec. 3 of Rep. Act 557, provides that reinstatement shall *ipso facto* follow after a period of 60 days when the case shall not have been finally decided, unless the delay is due to the fault, negligence, or petition of the accused, in which case the period of delay shall not be counted in computing the period of suspension.

Wherefore, the appealed decisions are hereby affirmed, and it is so ordered with costs against the petitioner appellant. (*Victorio D. Santos vs. Macario Mendoza Rosa, et al., G.R. No. L*-4700: *Victorio D. Santos vs. Jose N. Layug, et al., G.R. No L*-4701. *Promulgated Nov.* 13, 1952.)

HOW EXCLUSIVE OWNERSHIP OF LAND ALLEGED TO BE PART OF THE PUBLIC DOMAIN MAY BE ESTABLISHED.

CIRCUMSTANCES THAT MAY REBUT ALLEGATIONS OF FRAUD AND CAJOLERY.

EVIDENTIARY VALUE OF LETTERS WRITTEN LONG BEFORE A SUIT IS FILED OR EVEN CONTEMPLATED.

UNDISPUTED FACTS.—Chester A. Wenzel and Balbina Baguio were married in 1928. Chester died in 1930 while Balbina in 1942. The plaintiffs-appellants herein are their children. In 1925, Chester declared for taxation under Tax Declaration No. 2131 a parcel of mineral land consisting of 2 hectares whereon he located one mining claim known as the Boston Placer Claim. After his death, Balbina sold said claim to the defendant corporation on September 24, 1934. On July 13, 1935, Balbina, acting for herself and on behalf of her children, who were then minors, executed the deed of sale Exhibit "A" conveying to the defendant corporation a parcel of land of 33 hectares.

ISSUES.—

1. Is the land in question, the one referred to in the deed of sale Exhibit "A" which contains 33 hectares, the exclusive property of Chester Wenzel as claimed by plaintiffs, or is it a part of the public domain which Chester merely worked for mining purposes, as claimed by defendant?

2. In the supposition that the said land was acquired by Chester after his marriage to Balbina, has the deed of sale Exhibit "A" been validly executed by Balbina, as claimed by the defendant, or was it executed by her through cajolery and fraud as claimed by the plaintiffs?

RULING.—

1. The evidence of the plaintiffs to support their claim that the land in question is the exclusive property of Chester Wenzel is in utter confusion, a circumstance which casts doubt on the claim that the property in question is the one acquired by Chester from one Ambrosio Paqueros in 1916 and subsequently declared for

taxation by Chester in 1925 as evidenced by Tax Declaration No. 2131 upon which plaintiffs heavily relied to establish the ownership of Chester. The evidence presented by the plaintiffs show glaring discrepancies and inconsistencies not only in the description of the boundaries of the land in question, but also in the areas. The description of the bounderies of the land in Exhibit "A" is different from the one referred to in Tax Declaration No. 2131 and the boundaries given by their witness Carreon are likewise different from those appearing in said tax declaration. Exhibit "A" referred to 33 hectares whereas Tax Declaration No. 2131 referred to 2 hectares only.

The plaintiff also failed to show that Paqueros, the predecessor in interest of Chester Wenzel, acquired the land from the Government either by purchase or by grant, or that it was private property before the Spanish conquest, or had been possessed by Paqueros since July 26, 1894. By such failure, the Court declared the land in question to be public land and part of the public domain. The fact that Wenzel declared for taxation said land in 1925, and that his widow and heirs continued his possession and paid taxes thereon, is not sufficient to give Wenzel a valid title against the government.

2. The claim of the plaintiffs to the effect that Balbina Baguio was the victim of cajolery and fraud on the part of some members of the defendant corporation is without merit for the following reasons: (a) The deed of sale Exhibit "A" was approved by the court in the guardianship proceedings and only after steps were taken to protect the interest of the minors. In this connection, the lower court in giving full faith and credit to correspondence between the attorney of the defendant corporation and those of one of the members of said corporation, was quoted by the Supreme Court: "These letters were written long before this case was filed or even contemplated, and their writers could not have foreseen that the same would one day be used as evidence in this case." (b) Balbina Baguio possessed a sufficient knowledge of English and her signatures showed that she was not unlettered. (c) If it is true that is was her understanding that the mines were being operated for her and her children's benefit, it has not been explained why she did not protest or annul the contract upon receiving mere paltry sums as dividends of their shares of stock.

Decision appealed from is affirmed:—(*Evangeline Wenzel Preston, et al. vs. Surigao Consolidated Mining Co., Inc., G.R. No. L-3832, November* 21, 1952)

BOOK REVIEWS

MEN AND MEASURES IN THE LAW. Arthur T. Vanderbilt, Chief Justice of the Supreme Court of New Jersey, p. 156.

The legal arena is a complicated scene—an entangled institution; a labyrinth of subtleties; hairline distinctions coated with the circumstances of time, person, place and thing; of wisdom; of confusion. Like the heavenly bodies that whirl and jostle in the limitless space the circumstances that grace the legal firmament move about blazing new orbits, releasing sparks of wisdom, and yet seemingly forgetful of the end of the journey—*to combine that degree of liberty without which law is tyranny with that degree of law without which liberty becomes license* (Heraclitus of Ephesus speaking two thousand five hundred years ago).

Justice Arthur T. Vanderbilt, in his MEN AND MEASURES IN THE LAW, reveals with a rare skill the deficiencies of the legal order. Harping on the same chord of Heraclitus' dilemma, Justice Vanderbilt restates that the legal order is under the obligation of helping make this world a better place to live in. But in his own words, "much need be done". There is no pessimism, however, by sketching the course of reform in substantive and procedural law through the centuries, and particularly by relating the great men of the law to its progress, he lights the pathway of the future. By utilizing history he builds hope.

This compendium of five lectures delivered on the William M. Cook Foundation at the University of Michigan summarizes and connects the results of more than two decades of observation of legal institutions and procedures. There is such a thing as law in the law books, law in action, and the law in the law schools. Justice Vanderbilt deals with all of them. He has no orchids for the modern lawyer because he is "too exclusively an expert in substantive law, neglectful of court organization and adminstration, averse to the practice of criminal law, and above all lacking responsibility as a leader of public opinion."

The law schools are also criticized for fundamental failures in endangering constitutional law as becoming the "exclusive property of the political scientists." Which in civil law countries the civil law is treated as a staple, the predominantly common law United Staes treat civil law as "an exotic and not a staple" which is an erroneous treatment according to Justice Vanderbilt.

The noted jurist steps aside for a while to answer the question: