

the superordinated idea of *animal*, or the subordinated idea of *terrier*, and perhaps even the coordinated idea of *cat*. There is therefore no end to the possible number of images and ideas which one word can generate in the mind. Each time, a dog is thought of, but always under different aspects.

In the courtroom the suspected man, while asserting that he does not know the accused, nonetheless turns pale when confronted by the latter. He may break down and weep upon hearing the narration of his crime which previously he disavowed.

Because of the importance and helpfulness of Psychology, the judge, lawyer and law-student should learn "to psychologize your witness." Professor Munsterberg's book is one fine source of learning how to do so. Formerly a professor of Psychology at Harvard University, the author shows how effectively the principles of psychology can be applied to problems that crop up on the witness stand.

To the trial lawyer this book should form an important and essential adjunct of the equipment of every investigator and trier of fact.

1954 BAR EXAMINATION QUESTIONS

CIVIL LAW

I. (a) Define a holographic will. (b) Does it require attesting witnesses and acknowledgment before a notary public?

II. After John and Mary were divorced, their minor son, George, remained in Mary's custody as John subsequently married again. Later, Paul married Mary and had a daughter by her. With Mary's consent, Paul seeks to adopt George. Can he legally do it? Reasons.

III. State briefly the reasons why contracts of sale with right of repurchase are not favored.

IV. X, instituted heir in his aunt's will, died intestate 2 months after the death of the testatrix, leaving no relatives except his legitimate brothers A and B. May A and B successfully claim the legacy of X notwithstanding the legal provision that the right of representation only exists in favor of children of brothers or sisters, which A and B are not? Reason out your answer.

V. (a) Define prescription as a mode of acquiring dominion and other real rights. (b) Differentiate between ordinary and extraordinary acquisitive prescriptions over immovable property. (c) State whether the provisions of the Code of Civil Procedure (Act 190) regarding acquisitive prescription as to real property are still in force or not. Reasons.

VI. (a) What is property of the conjugal partnership? (b) Is the money received by the husband as repurchase price of a land sold to him *a retro* before marriage a conjugal partnership property? Why?

VII. (a) What are called natural children by legal fiction? (b) State their status, rights and obligations. (c) What new rights are accorded by the Civil Code to illegitimate children other than natural aside from the right to support?

VIII. (a) Define nuisance. (b) Is a swimming pool main-

tained in one's premises an attractive nuisance, making the owner thereof liable for any injury that may result from it? Reasons.

IX. (a) What is a contract of guaranty? (b) Distinguish it from suretyship.

X. (a) What relations are included in the family as an institution? (b) Cite 3 codal provisions which tend to sustain the solidarity of the family.

Manila, August 7, 1954.

LAND REGISTRATION AND MORTGAGES

I. Give briefly the procedure in an extra-judicial foreclosure of a real estate mortgage.

II. (a) After what period of time a decision of the court of first instance becomes unappealable in land registration proceedings? (b) After the time to appeal against the decision of the court of first instance has expired, what other remedies, if any, can be resorted to, in land registration proceedings?

III. What makes a certificate of title, either original or transfer, valid and enforceable against the whole world?

IV. In a judicial foreclosure of a real estate mortgage, what rights or obligations, if any, does the second mortgagee have?

V. Sec. 112 of the Land Registration Law provides that no alteration, erasure, or amendment should be made upon a certificate of title, except by order of the court. Question: Give two (2) instances where the court can enter such order, by authority of said section.

VI. Which of the following instruments are voluntary, and which are involuntary, under the Land Registration Law: (a) Mortgage; (b) Deed of sale executed by the sheriff; (c) Lease; and (d) Writ of attachment?

VII. What is the difference, if any, between an original certificate of title and a transfer certificate of title, as to its issuance and its legal effect?

VIII. Give the most essential allegations of fact, without which a petition for the review of a decree cannot prosper.

IX. In an action for damages against the Assurance Fund the Treasurer of the Philippines is made party defendant together with several other persons. Question: What legal steps

does the law require, before a final judgment can be entered against the Treasurer of the Philippines?

X. What facts should be proven in support of an application for original registration, under the Land Registration Law?

Manila, August 7, 1954.

MERCANTILE LAW

I. (a) Define Commercial Law. What are the sources of Commercial Law? What are the principal characteristics of said Law? (b) May a married woman engage in commerce? In the affirmative, what qualifications must she possess?

II. What is a loan on bottomry or *respondentia*? Distinguish loan on bottomry or *respondentia* from a simple loan.

III. What are the powers inherent in the position of captain or master of a vessel?

IV. What requirements must be complied with in order that an instrument be considered negotiable?

V. Define Usury. What is the test to determine usury in a contract? What is the effect of a stipulation orally made, as to the payment of a legal interest, on the debtor?

VI. What is a Warehouse Receipt, and who may issue the same? What does the Warehouse Receipt Law authorize a warehouseman to do in a case where three persons claim the right to possession of certain goods stored in a warehouse?

VII. What is Insurance? When does double insurance exist? What is a contract of reinsurance?

VIII. (a) What are the legal requirements of a chattel mortgage in order for it to be effective against third persons? (b) What is the legal effect, if any, of a stipulation in a chattel mortgage that it shall cover like or substituted property thereafter acquired by the mortgagor? What are the exceptions, if any?

IX. Define Corporation. What are the classes of corporations? Differentiate.

X. (a) What is the purpose and general scheme of the Bulk Sales Law? (b) What shall be deemed to be a sale and transfer in bulk? What are the exceptions to this rule?

Manila, August 14, 1954.

INTERNATIONAL LAW

I. What are the essential attributes of a state in international law?

II. Distinguish consuls from diplomatic officers?

III. What effect has state succession on the local laws of the state ceded or acquired?

IV. In the Philippines, in whom is the power to recognize foreign governments or states vested?

V. In the Philippines, who formulates and who executes foreign policy? Discuss fully.

VI. In case of conflict between a treaty to which the Philippines is a signatory and a law passed by the Philippine Congress, which of the two should prevail?

VII. A member of the United States armed forces stationed at Clark Air Force Base in Pampanga commits a crime against the laws of the United States outside of said military base. Which government has jurisdiction over the offender?

VIII. Eight non-communist countries recently decided to meet in Baguio next month to form an organization for collective defense against Communist aggression and subversion in Southeast Asia and the Southwest Pacific.

1. How does their objective conform with the Charter of the United Nations?

2. Once the proposed organization is formed and the countries participating are bound by a multilateral treaty for the purpose, what is the obligation with respect to said treaty of the signatories which are members of the United Nations? Discuss fully.

IX. What is the function of private international law?

X. Can a married woman in the Philippines divorce her husband abroad and marry again in this country?

Manila, August 14, 1954.

POLITICAL LAW

I. State briefly the procedure to amend the Philippine Constitution until the proposed amendment becomes a part of the Constitution.

II. The State may not be sued without its consent. In

what form does this consent take? In other words, how may the plaintiff obtain this consent to file a suit against the State, which must be attached as Annex to his complaint?

III. An ordinance in the Municipality of X authorizes the Sanitary Inspector to seize rotten meat or fish offered for sale to be dumped into the sea or otherwise destroyed. Is the ordinance constitutional? Why?

IV. The mother of X was a Filipino citizen before she married an alien Y. Upon reaching the age of majority X elected Filipino citizenship in accordance with law. Two years later, however, X, upon the suggestion of his father, Y, registered under the Alien Registration Act of 1941 (Com. Act No. 653). Is X entitled to acquire public land or to hold an elective office in spite of his registration under the Alien Registration Act? In other words, is X still a Filipino citizen in spite of his registration under the Alien Registration Act? Give your reasons.

V. Name three examples of public corporation. How are public corporations created in the Philippines and by whom?

VI. Give seven officers or officials of the Republic of the Philippines who must be appointed by the President with the consent of the *Commission On Appointments*.

VII. Give the composition and the powers of the Electoral Tribunal of the Philippine Senate and the House of Representatives.

VIII. X drives his own automobile. The automobile suffers damages amounting to P250.00 because it strikes a hole one meter in diameter and one meter deep in the middle of a city street in the City of Manila. X then files a suit for the recovery of P250.00 against the City of Manila. Will the case prosper? Give your reasons.

IX. A is proclaimed elected by the Provincial Board of Canvassers as Representative for District B in Province C in the elections of 1953. The election of A was protested and the protest was duly filed. Questions: (a) Can A take part and vote in the election of Speaker at the Inaugural Session of the House of Representatives? (b) May the taking of the oath of office of A be suspended immediately after the election of Speaker? Give your reasons.

X. X is assessed P500,000.00 income tax for the year 1953 by the Collector of Internal Revenue. X believes that the assessment is excessive, unjust and incorrect. State all the steps (Administrative steps) that X may take to protect his rights.

Manila, August 21, 1954.

CRIMINAL LAW

I. State briefly what is the fundamental principle on which the right of the State to punish or impose coercitive measures upon criminal offenders is based.

II. Mention 2 circumstances of each of the following classification: (a) justifying; (b) exempting; (c) mitigating; (d) aggravating; and (e) alternative.

III. What are the exceptions to the allowance of one-half of the period of preventive imprisonment undergone by criminal offenders?

IV. In what cases the execution of the death penalty must be suspended?

V. (a) What are the only crimes punished under the Revised Penal Code for which the Court, in addition to the penalty attached by the code, may sentence or require the offender to give bond for good behaviour? (b) If the culprit fails to give such bond, shall he be *detained* for a period not exceeding 6 months in cases of grave or less grave felonies, or not exceeding 30 days if for a light felony, as provided in Art. 35 of the RPC, or shall he be *sentenced to destierro* (banishment), as provided in Art. 284 of the same code? What is the reason of your answer?

VI. Sam was prosecuted and found guilty of the crime of malicious mischief under Art. 329, No. 3, of the RPC as amended by Act No. 3999 of the Legislature and sentenced to pay a fine of P200, the value of the damage caused, and to indemnify William, the offended party, in the sum of P200, or to suffer the corresponding subsidiary imprisonment in case of insolvency, plus the costs. Sam has money to satisfy both amounts, but he is stubbornly unwilling to pay them and prefers to serve the subsidiary imprisonment. (a) Has Sam the right to choose between the payment of said amounts and the services of the subsidiary imprisonment? (b) Does not such subsidiary imprisonment amount to imprisonment of debt and is, therefore, unconstitutional? Reason out both answers.

VII. At the corner of Rizal Avenue and Zurbaran street, Manila, Peter and Paul stopped Alex and at the point of their respective revolvers the former ordered the latter to deliver to them his wallet containing P500 in paper money. Alex handed them the wallet and then the robbers went away in the direction of two detectives who saw the misdeed from a distance and arrested the pair and seized from them the wallet and the money as well as the two revolvers for the possession of which Peter and Paul had no license. The crime committed by these two malefactors is (a) frustrated or consummated

robbery? (b) Could they be accused and convicted of a complex crime of robbery through unlawful possession of unlicensed firearms in accordance with the provisions of Art. 48 of the RPC as amended by Act No. 4000 of the Philippine Legislature? State briefly the reasons of your answers to these two questions.

VIII. (a) State the difference between the crimes of *brigandage* and *robbery in band*. (b) What arms or weapons the malefactors must carry to be considered as armed men?

IX. John asked James to exchange him a check for the sum of P1,000, and upon receiving this amount from the latter, John, with deliberate intent to defraud and for the purpose of causing the Philippine National Bank, against which it was drawn, to dishonor the check, executed the same by writing his signature very differently from that registered in the Bank. John had funds to meet the check when James presented it for collection, but, as it was expected, the Bank refused payment because the signature of the drawer was not his registered signature and John declined to issue another good check or to return the money he received from James. Has John committed the crime of *estafa*? State briefly your opinion and the reasons on which it is based.

X. Blackmailing for the purpose of extorting money from the party threatened constitutes what offense? Under what classification of crimes does it fall in the Revised Penal Code?

Manila, August 21, 1954.

REMEDIAL LAW

I. (1) What are the exceptions to the parol evidence rule? What are the reasons for the parol evidence rule? (2) "A" sold a parcel of land to "B" under a written contract. In a litigation over the same property "C" offers parol evidence to the effect that "B" bought the land as his trustee or agent. Is parol evidence admissible in this case? Give reasons.

II. (1) Under the Rules of Court, who are the indispensable parties to an action? Who are the necessary parties? (2) In a suit for the foreclosure of mortgage, is the second mortgagee a necessary or indispensable party? What is the effect if the first mortgagee does not include the second mortgagee as party defendant in the foreclosure proceedings?

III. Define prejudicial question. What are the necessary elements in order that a prejudicial question may arise?

IV. Distinguish forcible entry from unlawful detainer.

State the two peculiar characteristics of these actions. Who may bring suit in each case?

V. Under what circumstances may the testimony of a witness deceased, or unable to testify, given in a former case between the same parties be given in evidence in another case?

VI. (1) "A" was charged with the crime of physical injuries. Upon arraignment she pleaded not guilty. Subsequently, the Fiscal moved for the dismissal of the case. The motion was granted. Defense counsel said nothing about the dismissal. Ten days later, another information was filed charging her with the same offense. "A" sets up the defense of double jeopardy. Decide the case, giving reasons. (2) What are the rights of a person accused of a crime?

VII. "A" filed an action against "B", a railroad corporation, for the alleged negligence of "B", in that "B" allowed its railroad track to become and remain out of order. The defects consisted allegedly of a broken rail and a defective switch which caused the train on which the plaintiff "A" was riding to be derailed, causing thereby injury to "A", namely, the loss of two hands. A few days after the accident, the railroad corporation made certain repairs and alterations on the switch alleged to be defective. At the trial of the case, plaintiff tried to prove the negligence of the defendant and the defective condition of the railroad track and switch by calling attention to the repair and alteration of the switch done by "B" after the accident. Is this evidence admissible as proof of the negligence of the defendant? Give reasons.

VIII. An information for homicide was filed by the City Fiscal against "B" and "C". The prosecution has proven that "C" has in his possession a letter written to him by "B". To prove the contents of said letter the Fiscal presented secondary evidence, to which the attorney for the accused objected on the ground that the prosecution had not given previous notice of the production of the letter. Is this objection tenable? Upon what ground?

IX. As a result of a fistfight, "X" is prosecuted for serious physical injuries. It so happened that Miss "Z" was present and saw the fight and is one of the witnesses for the prosecution. A week before the trial, "X" married "Z". May "Z" be called to testify as a competent witness against "X"? Has the prosecution a right to call "Z" as a witness against "X" or to show from her statements that the accused had married her for the purpose of suppressing her testimony? Give reasons for your answer.

X. In a certain civil case filed in court, the plaintiff presented a witness to identify a signature appearing in a document. The attorney for the defendant, on cross examination,

propounded questions tending to show that the signature was obtained by fraud. May the defendant on cross-examination be permitted to ask questions of said witness tending to prove fraud? Give reasons.

Manila, August 28, 1954.

LEGAL ETHICS AND PRACTICAL EXERCISES

I. State the substance of the attorney's oath.

II. Write a short paragraph on the statement that the practice of law is a profession and not a business.

III. State the rule or principle governing the question whether or not an attorney may testify as a witness for his client in the very case he is handling.

IV. For the purposes of disbarment or suspension, what is meant by "moral turpitude"?

V. An attorney was required by the Court of First Instance to show cause why he should not be punished for contempt of court. After answer and hearing, finding that there was sufficient cause or ground, the court suspended the attorney from the practice of law for six months. Is the action of the court proper? Reason.

VI. Supplying the necessary details, draw a motion for new trial (complete in form) based on the ground that the decision of the Court of First Instance is contrary to law, such that the motion will not be treated as *pro forma*.

VII. Draw a registerable contract of sale with right of repurchase within five years, covering one parcel of land, and complete in form. Supply the necessary details.

VIII. In a certain case for the collection of attorney's fees, the unanimous opinion of three attorneys presented as expert witnesses regarding the amount of compensation due to the plaintiff attorney, is uncontradicted. May the court disregard said opinion and follow its own professional knowledge? Explain.

IX. May an attorney be suspended or disbarred on grounds other than those enumerated in the Rules of Court? Explain.

X. Is an attorney *de officio* appointed by the Supreme Court to defend an accused-appellant always bound to uphold the appellant's innocence? Explain.

Manila, August 28, 1954.

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