

charged. Hence this appeal. **Held**, Masiga was denied a fundamental right — that to a preliminary investigation — which is part of the due process of law. R.A. No. 732 governs preliminary investigations conducted by provincial fiscals in cases originally instituted by them in Courts of First Instance, and does not apply to cases began in the Justice of the Peace Courts and, thereafter, forwarded to the corresponding Court of First Instance. **PEOPLE v. MASIGA, (CA) G.R. No. 19844-R, February 14, 1958.**

## BOOK NOTES

**EVIDENCE.** By Ambrosio Padilla. Manila: Padilla Publications, 1958. Pp. xiv, 986.

This book is the latest one produced by the prolific pen of a distinguished author and law professor. It came to light last year. Having been published as mimeographed notes in 1951 and in 1955, this is the first time it has come out in book form.

After a reading and examination of this book, no one can help becoming impressed that its preparation has been a gigantic and monumental task. There is not a part that does not speak of the untiring and inspired efforts which the author spent in it, and this is particularly seen in his selection, digest and overall presentation of cases decided by the Supreme Court and the Court of Appeals.

The necessity for this book sprang from the "imperative need" felt by the author for a thorough working familiarity with the rules of Evidence. The purpose it means to serve could not have been more adequately served. Every reader will share with the author the high hope that the book will be of great help, to professors, and students of law and, likewise, to the members of the Bar and the Bench.

In the preparation of this book the author has not been alone. Some of his associates and assistants in the law practice, particularly Attorney Ciriacco Lopez, Jr., Attorney Troadio Quiazon, Jr., Attorney Santiago Blanco, and Attorney Antonio Fernando, assisted him.

The book follows the pattern generally distinguishable in the authors' earlier annotated books, like Civil Law, Criminal Law and Criminal Procedure. Cases decided by the Supreme Court and the Court of Appeals, where a particular rule under discussion is applied, are cited, and the Appellate Courts' interpretation of a given rule, expounded. The citation of cases contains, in addition to pertinent facts, verbatim quotations of the principles of Evidence involved in the decisions. Standard works of universally accepted authorities on Evidence, like Wigmore, Jones, Greenleaf, are used unsparingly where necessary for a full explanation of the principles of Evidence at issue. Again, for a complete understanding of any given rule and to cancel any possibility of misinterpretation of the rule involved and the cases cited, footnotes are provided. The book further embodies Sections 243-347 of Act 190, and contains a table of cases cited

and an index of topics alphabetically arranged, facilitating the search for topics desired.

Associate Justice Alejo Labrador of the Philippine Supreme Court, the author's professor in Evidence at the University of the Philippines, is profuse in his congratulations to Senator Padilla "for this practical and useful book, so useful to students, practitioners and judges" and hopes that "it shall receive the same appreciation as every other book that he has written." We join the eminent Justice in his congratulations. May this book continue to receive the "generous patronage it deserves from judges, lawyers and students.

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THE REVISED PENAL CODE. By Luis B. Reyes. Manila: Phillaw Publishing, 1958. Bk. I — Pp. ix, 647; Bk. II — Pp. iii, 724. ₱45.00 per set.

In the study of law, as in other fields of learning, the student always seeks a friend, one who would help him obtain a complete understanding of the subject matter. True, friends may be easy to find, but the best friends a student can ever find are his books — books that would give him a complete understanding of the different subjects taken in the study of law; books that would help him gain a mastery of the provisions of the law, their construction and application in the light of the most recent decisions of the Supreme Court; books that would lay the firm foundation needed when he plunges into the whirlpool of legal practice.

Considering the great quantity of books written on each of the numerous subjects included in the law curriculum, the student may find the search for his friends rather difficult. Thus we take this occasion to recommend the 1958 edition of Judge Luis B. Reyes' book on the Revised Penal Code, a book which has been improved "to make the discussion of the provisions and principles of Criminal Law more comprehensive and exhaustive and to meet the difficult questions asked in the Bar Examination nowadays". This is a book any reader would treasure, one which he may really call a Friend.

Like the 1956 edition, this latest edition is divided by the author into two books. Book One contains an exposition on what Criminal Law is in general, its sources and characteristics; commentaries on Articles 1 to 113; and Bar Examination Questions and Answers in Criminal Law. The commentaries of the author on Articles 1 to 113 covers the Date of Effectivity and Application of the Provisions of this Code, Felonies and Circumstances which Affect Criminal Liability, Persons Criminally Liable for Felonies, Penalties, Extinction of Criminal Liability, Civil Liability. Book Two contains the author's commentaries on Articles 114 to 367; the provisions of Commonwealth Act No. 616 which is An Act to Punish Espionage

and Other Offenses against the National Security; Republic Act No. 10, an Act Penalizing Usurpation of Public Authority; The Revised Election Code; and some Bar Questions and Answers in Criminal Law. Articles 114 to 367 embraces the Crimes against National Security and the Law of Nations, Crimes against the Fundamental Laws of the State, Crimes against Public Order, Crimes against Public Interest, Crimes Relative to Opium and other Prohibited Drugs, Crimes against Public Morals, Crimes Committed by Public Officers, Crimes against Persons, Crimes against Property, Crimes against Chastity, Crimes against the Civil Status, Crimes against Honor, Quasi-Offenses and lastly Final Provisions.

In explaining each article of the Revised Penal Code, the author proceeds by giving the elements of each crime, illustrating how each element is applied and discussing important words and phrases in the provision. Unlike other authors on the same subject, Judge Reyes does not limit the revision of his book merely by adding digests of new cases decided by our Supreme Court. He has taken pains in analyzing and comparing such new cases with old ones, commenting on how they should be understood in order to obtain a vivid picture of how a particular provision of the Penal Code should be applied. When two cases illustrate different applications of the same provision of the law, he does not leave it upon chance that the student or the reader would compare the two cases to find the reason for the difference, but he has dedicatedly taken upon himself the task of showing the reason for the difference. An example of this appears on pages 28 and 29, Book One of this 1958 edition, wherein after a brief narration of the facts and decisions of the Supreme Court in two cases, (the cases of U.S. vs. Ah Chong and People vs. Oanis), the author comments:

"AH CHONG CASE and OANIS CASE, DISTINGUISHED.

"In the Ah Chong case, there is an innocent mistake of fact committed without any fault or carelessness, because the accused, having no time or opportunity to make any further inquiry, and being pressed by circumstances to act immediately, had no alternative but to take the facts as they then appeared to him, and such facts justified his act of killing.

"In the Oanis case, the accused found no circumstances whatever which would press them to immediate action. The person in the room being then asleep, the accused had ample time and opportunity to ascertain his identity without hazard to themselves and could even effect a bloodless arrest if any reasonable effort to that end had been made, as the victim was unarmed. This, indeed, is the only legitimate course of action for the accused to follow even if the victim was really Balagtas, as they were instructed not to kill Balagtas at sight, but to arrest, and to get him dead or alive only if resistance or aggression is offered by him.

"Hence, the accused in the Oanis case were at fault when they shot the victim in violation of the instructions given to them. They were also careless in not verifying first the identity of the victim.

"NOTE: In apprehending even the most notorious criminal, the law does