

tion with any provision of this act are hereby repealed," clearly reveals the intent of Congress to establish a uniform system of rules on import and to nullify the heretofore existing laws, executive orders and rules and regulations which may be inconsistent with the Act. To interpret Republic Act No. 426 as excluding wheat flour from its operation, as contended by appellants, would be tantamount to an undue delegation of powers to the PRATRA and would render the Act unconstitutional and void.

The policy of nationalizing our local trade, business and commerce though plausible and patriotic it may be should, however, be adopted gradually so as not to cause injustice and discrimination to alien firms and business men of long standing in the Philippines and who have been long engaged in this particular trade, thereby contributing with their money and efforts to the economic development of our country. *Chinese Flour Importers Ass. vs. Price Stabilization Board (PRISCO), et al., G.R. No. L-4456, July 12, 1951.*

Five days after the promulgation of the above-noted case, under similar facts (Wise & Co. being an old importer duly licensed to do business in the Philippines) and the same question of law involved in the case of the *CHINESE FLOUR IMPORTERS ASS. V. PRISCO (supra)*, the Supreme Court reiterated its holding in the latter case. In the course of its decision, Mr. Justice Bautista, who penned the decision in these two cases, speaking for the Supreme Court said, "In that case (*CHINESE FLOUR IMPORTERS ASS. V. PRISCO*) we discussed at length the import of the provisions of Sec. 15 of Republic Act No. 426, particularly the effect of the proviso included therein which, as contended by appellants, operates as an exception to exclude wheat flour from the provisions of the Act. We held there that said proviso has no other meaning than that the function of allocating wheat flour, instead of being assigned to the Import Control Commissioner, was assigned to the PRATRA which heretofore has been charged with said duty by Executive Order No. 305, and that if the intention of Congress is to exempt wheat flour from the provisions of Republic Act No. 426 that does not necessarily indicate an intention to remove it from the scope and operation of said Act, but was done merely to convey the idea that the amount of wheat flour which may be imported into the Philippines and its price are already fixed and determined in the International Wheat Agreement. We finally said that to interpret Republic Act No. 426 as excluding wheat flour from its opera-

tion would be tantamount to an undue delegation of powers to the PRATRA which would render the act unconstitutional and void as it would vest in an administrative officer an arbitrary discretion to be exercised without any policy, rule or standard by which it can be measured or controlled. We concluded that while the allocation of the import quota of wheat flour is given by Sec. 15 of Republic Act No. 426 to the PRATRA (now PRISCO), such allocation has to be made in accordance with the pattern laid down in Secs. 12 & 14 of said Act. We hold that those findings and conclusions fully apply and are decisive of the present case." *Wise & Co., Inc. vs. Price Stabilization Corp. (PRISCO), G.R. No. L-4403, July 17, 1951.*

Filemon Flores

BOOK REVIEWS

CRIMINAL PROCEDURE AND FORMS. By Vicente Francisco.¹ East Publishing Company, 1951. Pp. 693, Leather-bound, P30.00.

In the Preface of his book, Mr. Vicente Francisco clearly outlines the purpose for which it was written—to help two conflicting rights avail themselves of the compendium on the law of Criminal Procedure in this jurisdiction. These rights, namely, the right of society to protect itself and the right of the accused person to defend himself, go hand in hand with corresponding duties on the part of the prosecuting officer and the defense counsel who, therefore, bear the greatest responsibilities. This book, therefore, not only guides the legal practitioner but also contributes to the maintenance of our system of democratic justice.

In his introduction, Mr. Vicente Francisco gives the definitions of and distinctions between the different terms in Criminal Procedure, the different systems of criminal procedure and their main characteristics; he also describes the system followed in the Philippines, gives our present law on the subject and its historical background, and the construction given to it by our Supreme Court. Appropriately, he ends his introduction with the presentation of, and his comments on, the Constitutional rights of the accused to due process of law.

It will be noted that, with a view to clarity and expediency, he presents the subject in a rather novel but practical manner. Whereas, in other texts on the same subject-matter the treatment is in the "codal" form (in the sense that the order of the Rules of Court is followed) Mr. Francisco starts his book with the Arrest of the accused followed by Bail and so forth, in ac-

(1) Dean, Francisco Law School; Member Philippine Bar; Member of the Philippine Congress.

cordance with everyday procedure. In this manner the author avoids the confusion of the rules which would ordinarily arise if we treat the law as it is ordinarily treated in our law books.

In the treatment of every topic, to each of which he dedicates a specific chapter, Dean Francisco begins with the definition of the topic to be discussed followed by its illustration. Then he presents the proper procedure to be followed, supporting the same with the controlling jurisprudence on the point. Occasionally, for emphasis, he gives examples of what is "illegal" procedure. Although the main law on the subject is contained in the Rules of Court, he cites the other laws on the subject and the Constitutional provisions applicable thereto with emphasis on the constitutional rights of the accused. This is most appropriate, because as we have already learned the primary function of prosecutors is not to convict the accused but to see that justice is done.

After every topic, he presents the appropriate forms to be used; forms which, from his long experience as one of the foremost trial lawyers in this jurisdiction, he deems adequate and unobjectionable. Forms of orders issued by the court, of petitions of general acceptance, and other forms used extensively in Criminal Procedure, are illustrated.

However, after reading the book, one can not help but conclude that it was written mainly, if not solely, to serve the purposes of the accused, as it lays more emphasis on his rights under the laws and the Constitution than on the other aspects of the law. This is not surprising, considering that Mr. Francisco has gained fame as a defense counsel. His purpose has been accomplished brilliantly.

Legal scientists who discuss the law must be judged by the results of their work and not by their intentions. So judged, this book would prove enlightening not only to members of the Bar but also to students of law and the public in general. Its practical presentation and intelligent correlation of legal principles as embodied in our legislations are certain to produce results.

Fernando Grey, Jr.

THE CODE OF COMMERCE with Annotations on the Effect of the New Civil Code. By Vicente Francisco.² East Publishing Company, 1950. Pp. 325, Leather-bound, P22.50.

As its title suggests, this book consists of a presentation of the Code of Commerce as amended by our Civil Code. As we all know, upon the effectivity of the Civil Code of the Philippines, many important innovations have been introduced into our le-

(2) Dean, Francisco Law School; Member Philippine Bar; Member of Congress.

gislations, and the Code of Commerce is one of those greatly affected. Specifically, the Civil Code has repealed the Code of Commerce provisions on sales, partnerships, agency, loan, deposit, and commodatum. A single uniform law is now imposed, abolishing the distinction between the commercial and civil versions of these transactions.

In general, Dean Francisco, in this book, presents the Code of Commerce in its revised edition, incorporating the changes introduced by the Civil Code, recent legislations, and the latest jurisprudence on the matter.

However, Dean Francisco, in his manner of presentation, intimates that he intended the book not only for his professional brethren, but also for the business-minded public who may seek advice from its pages. With this consideration in mind, he proceeds with its presentation in a logical manner. He begins with the Code of Commerce provisions from Article 1 to 869, then he treats of the Salvage Act, then the Carriage of Goods by Sea Act, all these three laws being presented article by article in their chronological order.

After citing each article of the Code of Commerce *verbatim*, he presents cross-references in the same code which are very helpful for research work. Then, he cites the pertinent leading decisions of the Supreme Court with properly quoted paragraphs. And lastly, he gives his commentaries on the point, stating the effect of the Civil Code on the cited article and giving his own recommendations.

It is to be observed that Dean Francisco has still incorporated in his book certain provisions of the Code of Commerce, in spite of their express repeal by the Civil Code. This is not without a purpose, as the Civil Code has expressly provided that the Code of Commerce shall continue to govern acts done or events which took place under it. Furthermore, he provides an explanatory note before presenting such repealed provisions, stating his purpose or purposes in presenting them.

Reading the book in detail, the reader will get the impression that the author had treated it in the expository rather than in the analytical method. Thus, this text will not serve the members of the bar as fully as must have been expected by the author. However, the text may be of great help to law students. These observations can be particularly noted in his treatment of the Salvage Act, and the Carriage of Goods by Sea Act. In the latter Act, it will be observed that the author merely presents the law as it stands, without any commentaries or illustrations. In the former Act, besides the provisions of the law itself, he has cited the leading cases and jurisprudence on the point, though they are hardly exhaustive. Despite these minor deficiencies, as a whole the text will merit the favor of the public and is especially commendable because of the elimination from the text of misleading and inapplicable provisions and the addition of the latest interpretations by the Supreme Court.

Fernando Grey, Jr.