Philippines, a statutory service comparable to New York Consolidated Laws Service, Deering's California Codes, the United States Code Annotated and similar American Annotated Services." The Bench, the Bar and the students of law will not but find themselves permanently indebted to the Lawyer's Co-Operative Publishing Company Incorporated for having brilliantly and successfully undertaken a job long felt and recognized to be needed.

The succeeding volumes bringing this work to completion will no doubt be eagerly expected.

# BAR EXAMINATION QUESTIONS FOR 1956

### CIVIL LAW

- I. Distinguish:
  - (a) Dowry from paraphernal property;
  - (b) Thing from property;
  - (e) Alluvion from avulsion; and
  - (d) Testamentary capacity from testamentary power.
- II. (a) What is your concept about prestation?
  - (b) A orally agreed to pay the balance of his account under date of January 3, 1954, one year thereafter, although in a previous written agreement there was a stipulation that said balance was payable two years from January 3, 1954. Can A be compelled to comply with his verbal agreement? Give your reasons.
- III. (a) What divorce, if any, absolute or relative, is recognized in the Philippines at present?
  - (b) What is the latest provision of law illegalizing marriages among relatives?
- IV. A was lawfully married with B in December of 1950. As he was a government employee, he submitted an information sheet to the Government Service Insurance System on January 2, 1952 for purpose of membership thereof. In the information sheet, aside from his one legitimate child with B, he mentioned the name of his child C begotten with another woman and born out of wedlock on June 30, 1948. A untimely died on January 2, 1953, and as a consequence B, together with her one child with A, filed a claim with the Government Service Insurance System for the proceeds of the life insurance of A whose beneficiary was his estate. Similarly, C with the aid of his mother, filed a claim for said insurance proceeds, claiming that he was an acknowledged natural child of A. If you were the legal counsel of the System will you entertain C's claim which was objected to by B and her child on the grounds that C was born before the effectivity of the new Civil Code and that the recognition was not made in an authentic writing? Reason out your answer.
- V. (a) May one donate a certain property and at the same time retain it?
  - (b) A conveys the ownership of a certain real property in favor of B, reserving unto himself (A) during his lifetime the share to the fruits or produce thereof, with the statement in the deed that the act is irrevocable. Is the donation mortis causa or inter vivos?
- VI. (a) What is the restriction imposed by the new Civil Code upon the industrial partner?

140

1956]

- (b) What are the corresponding remedies accorded by the same Code to the capitalist partner in case the industrial partner violates the restriction?
- (c) What are the reasons of the law in providing for the restrictions?
- VII. (a) On August 15, 1950, A was employed as a security guard in a certain company with a monthly salary of P120.00. A was fired out on Oct. 1, 1950, by his employer without having been given notice one month in advance. For this reason, A asked his employer for a salary equivalent to one month's pay, which request was denied. A with the aid of a lawyer sought redress in the courts of justice by filing a complaint against his employer for recovery of his salary equivalent to one month and for attorney's fees. Among the allegations of the employer of A in its answer to the complaint was that when it hired his services, there was no agreement that it would pay attorney's fees in case of litigation. What is your opinion on the complaint?
  - (b) Give at least 8 instances where attorney's fees are recoverable.
- VIII. (a) What is the basic ground for the right to confer succession?
  - (b) When A died, he left a personal loan in the amount of P500.00 from B. He had no property, but was survived by C, his son, who was making good in buy and sell business. As there was no property on which B could lay his claim for the payment of what he loaned to the deceased, he filed a complaint against C on the ground that not only the property but also rights and obligations of a person are transmitted to another upon his death either by will or operation of law, praying that C be ordered to pay B the amount of P500.00, plus legal interest thereon. Is B entitled to the remedy sought for? Give your reasons.
  - (c) What are the obligations that form part of the inheritance?
- IX. (a) A, a girl, fifteen years old, married B against the will of her parents whose consent was sought but not obtained. After the marriage, her parents filed an action to annul it. Will the action prosper? Give your reasons.
  - (b) May the courts ever deprive the parents of their parental authority? If your answer is in the negative, reason it out. If affirmative, state when and how.
- X. (a) State the rule considering machinery as immovable property; state the exception to this rule, and also state the exception to the exception.
  - (b) In what cases can a co-owner not demand partition?
  - (c) Does co-ownership create judicial personality?

# LAND REGISTRATION AND MORTGAGES

- I. (a) What is the Land Registration Commission?
  - (b) Give a brief summary of the powers and functions of the newly created Land Registration Commission.
- II. (a) Give the difference between an order of general default and special default under Act 496? When and how is it entered?

- (b) Give the difference between the decision promulgated by the court in a registration case and the final decree of title issued by the Land Registration Commission.
- III. P, the registered owner of a parcel of land, entrusted late in 1944 his owner's duplicate certificate of title covering the lot, to O, his compadre. P thereafter left his residence and was able to return only in December 1947. Upon inquiries made by P when he tried to pay the real estate taxes on said lot, P discovered that O had forged P's signature to a document of mortgage in favor of the X Bank, when O, successfully impersonating P, obtained a loan from said Bank. The X Bank had foreclosed this mortgage and acquired a new duplicate certificate of title to the lot in question.
  - (a) May P successfully file an action to annul the mortgage and sale to the X Bank?
  - (b) May the X Bank correctly set up the defense that it acted in good faith and that its title to the lot is indefeasible? Reason out your answers.
- IV. (a) When does the one year period for the reopening or review of the decree of registration provided for in Section 38, Act 496, commence to run?
  - (b) When can an action for reconveyance be filed?
  - (c) Who may file it?
  - (d) Is this action subject to prescription?
- V. (a) An alien corporation organized in accordance with the laws of the Philippines leased a parcel of agricultural land in Lanao from an American corporation licensed to do business in the Philippines for a period of 25 years, renewable for a similar period. Is this lease contract valid and registerable? Decide and give your reasons.
  - (b) A, a Filipino, sells his parcel of land to W, a naturalized Filipina, married to a stateless citizen. Is the sale valid?
- VI. (a) Enumerate the various forms of acquiring land titles during the Spanish regime.
  - (b) At present what are the three systems of registration of real property or rights in the Philippines and the respective laws applicable to each?
- VII. (a) How and under what laws may a real estate mortgage be foreclosed?
  - (b) What is the regarding redemption in the foreclosure of real estate mortgages?
- VIII. X, the registered owner of a parcel of residential land in Manila leases it to Y. The lease contract stipulated that Y shall not sub-lease the lot; but notwithstanding this stipulation Y subleases the lot to Z for the use of the latter as a gasoline station. The sub-lease Z presents his sub-lease contract to the Register of Deeds together with the statement required by Section 110, and asks the Register of Deeds to register it. The Register of Deeds filed a motion with the land registration court to compel X, the registered owner of the lot, to surrender the duplicate certificate of title so that the sub-lease contract could be noted on the certificate of title. X opposes this motion on the ground that the sub-

- lease to Z was invalid as violative of the lease contract between him (X) and Y.
- (a) Is the sub-lessee Z entitled to the relief prayed for in his motion?
- (b) If your answer to question (a) is in the affirmative, what remedy may X avail of, as registered owner of the lot?
- (c) If your answer to question (a) is in the negative, explain briefly why.
- IX. A executes a real estate mortgage in favor of B. The agreement provides as follows:

"That the conditions of this mortgage are that if I (A) or my heirs cannot redeem this mortgage in the same amount plus twelve (12%) percent per annum interest, then the consideration ( $\P 8,000.00$ ) shall be considered as full payment of this parcel of land without further action in court."

A, the mortgagor, fails to redeem the property. B brings an action to compel A to execute the necessary deed of conveyance in accordance with the above-mentioned agreement.

- (a) Is the mortgage valid? Reason out your answer.
- (b) In case your answer is in the negative, what remedy is left to B for the recovery of the mortgage indebtedness?
- X. A is the duly registered owner of a parcel of land which he mortgaged to the Rehabilitation Finance Corporation in 1949. This deed of real estate mortgage contained an express stipulation authorizing the RFC, as mortgagee, to foreclose the mortgage extra-judicially upon the non-fulfillment by the mortgagor of the terms of the mortgage. A failed to pay the monthly amortizations on the mortgage debt, and the RFC caused the mortgage to be foreclosed, the Sheriff of the City of Manila having sold the property to the highest bidder, R, at a public auction in 1952. Long before the expiration of the redemption period granted by law to the mortgage-debtor, A, the purchaser R filed a motion, under oath, for the issuance of a writ of possession of the lot, offering to post a bond for the use of the property during the redemption period. The motion was not served on A, the registered owner.
  - (a) Is R, the purchaser, entitled to the writ of possession prayed for by him? Reason out your answer.
  - (b) If the land registration court grants the motion of R, the purchaser, what legal steps, if any, are available to A?

## COMMERCIAL LAW

- I. (a) What are commercial transactions?
  - (b) Explain the meaning of commerce in legal parlance.
- II. (a) Tell us which is the institution in charge of fiscal agent, as official depository and financial adviser, of the Philippine Government.
  - (b) Enumerate its powers.
- III. In a certain commercial transaction a copra dealer, residing at Hondagua, Quezon Province, has authorized a commercial broker in the City of Manila, to sell one thousand sacks of copra at not less than P30.00

per one hundred kilos, and to deduct from the proceeds of the sale a commission of five (5%) percent for his services. It was agreed upon that this power to sell was irrevocable either during the lifetime of the copra dealer or after his death. Before the broker could effect the sale, the dealer notified him that his authority to sell was withdrawn.

143

- (a) What are the rights of the broker under each hypothesis?
- (b) Under what condition or circumstance is the principal not legally permitted to revoke the authority given to his agent?
- IV. (a) Define bond and its essential functions.
  - (b) Is registered bond transferable? Is it negotiable? How?
  - (c) Define coupon bond and convertible bond, and explain briefly their utilities and negotiabilities.
- V. Discuss briefly the distinction between a commercial partnership and a joint account.
- VI. Valderrama & Co., a general merchandise partnership, has become insolvent for maladministration of the business and entered into an agreement with its creditors to the effect that the business should be continued for the time being under the direction and management of an experienced businessman appointed by the creditors, an arrangement to be carried out until the claims of the creditors are fully satisfied. Can you consider the creditors who are parties to the agreement partners? Reasons.
- VII. Explain the meaning of commercial banking corporation and its specific powers which shall be necessary to carry on its operations.
- VIII. Without any provision in its charter, nor in the by-laws, Rigor Inc., a banking corporation, has purchased stocks of Radar Mining Co., Inc. For several years, Rigor Inc. has been receiving dividends without any opposition, nor objection from its stockholder, such purchase of stocks having been authorized by the board of directors of the banking corporation. After five years said mining company became insolvent, and its creditors filed a complaint against Rigor Inc. for the statutory liabilities to the amount of the par value of the Radar Mining Co., Inc.'s stocks it holds. Is Rigor Inc. liable and to what extent? State your reasons.
- IX. Under what conditions and circumstances may a corporation acquire, by purchase or otherwise, its own stocks? Is it allowed by our corporation law? Explain your answer.
- X. (a) Where does the difference lie between an overdraft line and a credit line?
  - (b) As attorney of a newly established corporation, you are entrusted to negotiate an overdraft account with the Philippine National Bank. What papers or documents, if there is any, are you going to prepare and file with said banking institution?

#### INTERNATIONAL LAW

- I. (a) Define International Law in general.
  - (b) State the difference between Conflict of Laws and Law of Nations.

1956]

- II. (a) Is intention without residence or residence without intention necessary for the acquistion of a domicile and for the retention of an existing one?
  - (b) May a Filipino vice-consul in the U.S. Philippine Embassy solemnize a marriage between a Filipino citizen and a Japanese woman national? Give your reason.
  - (c) May aliens adopt in the Philippines? State your reason.
- III. (a) Can you apply the LEX LOCI CONTRACTUS on capacity of a contracting party to enter into contract? Why?
  - (b) De Lizardi, a Mexican national of 22 who was a minor under his national law, but was of full age under the French Law, bought jewels in France, from a French merchant and gave a bill of exchange in payment. After reaching his majority, he sued for a declaration that the bills were void owing to his minority at the time of the contract.

What rule may be invoked to govern the decision of the French Court? Decide the case.

- IV. (a) Where does the President of the Philippines get his power to receive Ambassadors and other public ministers?
  - (b) On what occasion shall he receive them?
  - (c) What are the pre-requisites?
  - (d) How are Ambassadors and charge d'affairs accredited?
- V. (a) In time of war what is the act of the enemy termed as FORAGING?
  - (b) What was the right of ANGARY?
  - (c) What is known as PROCE VERBAL?
  - (d) What do you understand by SPONSIONS?
- VI. (a) May requisitions in services be demanded from the inhabitants of an occupied territory?
  - (b) What are CARTELS and what are CARTEL-SHIPS?
- VII. (a) What is the Assembly of Captive European Nations?
  - (b) What is the MANILA PACT?
- VIII. (a) Is a long term lease of real property in the Philippines, in favor of aliens, valid?
  - (b) What law will govern the validity of the lease?
  - (c) What is the source of the power of the Philippine Government to determine the rule governing distribution and grants of domain within its own boundaries, as a policy?
- IX. (a) When the consideration of a contract is also another contract, how is LEX LOCI CONSIDERATIONIS applied?
  - (b) What is the difference between the rule LEX LOCI CONTRACTUS and the rule LEX LOCI CELEBRATIONIS?
- X. (a) Suppose the husband should after the marriage embrace another nationality, is the system of matrimonial regime changed by the change of status? Why?
  - (b) What is the crime committed against the Law of Nations?

## CRIMINAL LAW

- I. (a) What are the effects of civil interdiction as an accessory penalty?
  - (b) What penalties include civil interdiction as an accessory penalty?
- II. (a) What crimes are penalized by death as a maximum penalty?
  - (b) If a man or woman becomes insane after he or she is sentenced to death, what does the law provide regarding the execution of the death penalty?
  - (c) Give your opinion as to whether or not the death penalty should be abolished. Give reasons.
- III. (a) What do you understand by parliamentary immunity?
  - (b) Under what circumstances can a senator or representative of the Philippine Congress be arrested and convicted?
  - (c) Does parliamentary immunity mean exemption from criminal liability?

Explain fully these three points.

IV. (a) A while visiting his friend Juan in the latter's house, surreptitiously placed in the drawer of Juan's table some subversive papers of communist origin. At midnight B, a fake NBI agent, searched the house, by means of falsified search warrant and found the subversive papers in Juan's table. B threatened and intimidated Juan, telling him that unless he gives him \$p\$500.00, he will arrest him and charge him for being a communist. Juan to avoid being arrested and taken to jail, gave \$p\$500.00 to the fake agent. Outside of the house B gave A part of the money he got from Juan.

What crime have A and B committed? Give reasons.

- (b) Distinguish blackmail from threats as penalized by the Revised Penal Code.
- V. (a) What penalties are classified as afflictive?
  - (b) Give the period of prescription of crimes punished with correctional penalties.
- VI. Aurora, single, 29 years old, on her way back to her house in Polo, Bulacan, accompanied by her sister, was forcibly abducted by Ernesto, one of her suitors. Ernesto kissed her several times while he was holding her in his arms to prevent her running away. The abductor took his victim away to another town where they were overtaken by Aurora's brother. Ernesto released his victim and disappeared.

Ernesto was Aurora's suitor for several years. To his proposals of marriage Aurora has always answered in the negative. So, he decided to abduct her with no other intention but to marry her.

Which one of the following crimes, abduction by force, illegal detention, coercion, or unjust vexation, has Ernesto committed? Give your own opinion and reason it out.

- VII. (a) What facts constitute indirect bribery?
  - (b) When murder (not homicide) is committed by reason or on occasion of the robbery, are these offenses considered different and separate?

Explain fully.

VIII. Pablo owns several hectares of paddy land. Being unable to cultivate

146

it for lack of funds he entered into a partnership with Pedro, his brotherin-law, whereby the latter would furnish money for seedlings and for the purchase of two carabaos and Pablo would prepare the land and sow the seedlings; Pedro would transplant the seedlings and take care of and harvest the crop. They further agreed that the profits, after deducting the expenses, would be divided share and share alike.

At the time the crop was ready for harvest, Pablo was in Manila attending other business and Pedro proceeded to harvest the crop, stacked the palay and threshed it. Pablo upon his return found out that Pedro has already disposed of the palay, including the share that belongs to

- (a) What crime has Pedro committed, theft or estafa?
- (b) To what extent is Pedro liable? Give reasons.
- IX. (a) Explain fully why the penalties provided in the Revised Penal Code are divided into arresto menor, arresto mayor, prision correccional, prision mayor, etc.
  - (b) Discuss whether or not this nomenclature or division of penalties should be abrogated.
- X. A man while sleeping dreamed that he was attacked by his enemies with whom he had quarreled the day before. Suddenly he got up, took his bole and killed his wife, wounded his father and several other persons. Finally he stabbed himself but did not die. Motives of the crime are not shown.

Being prosecuted for parricide, his counsel alleges as defense the fact that the man committed the crime under the influence of an hallucination as an after-effect of his dream.

If you were the judge would you acquit or convict the defendant? Give reasons.

## POLITICAL LAW

- (a) Name the officials of the Republic of the Philippines who may be removed by impeachment.
  - (b) What are the grounds for impeachment?
- II. Is semi-parliamentary form of government posible under our Constitution? If so, describe the framework or manner by which this can be done.
- III. (a) Who are citizens of the Republic of the Philippines?
  - (b) A is a legitimate son of X, a Filipino woman, and of Y, a Chinese. Both parents are still living and A is now 22 years of age. May A elect Filipino citizenship in acordance with Sec. 4, Article IV of the Constitution of the Philippines?
- IV. (a) Who are in the classified and who are in the unclasified service of
  - (b) What is the important distinction between these two sets of officials and employees, the classified and the unclassified, in the Government Service?
- V. A practicing lawyer accepts an appointment for a classified position in the Bureau of Lands. He is, however, given permission to continue teach-

ing law in one of the Law Colleges in Manila. May he be exempt from paying the professional tax of P50.00 a year, and why?

- VI. Your client A is a Sales Applicant for 100 hectares of public agricultural land. A homestead applicant named B comes in conflict with A whereby 15 hectares of the area applied for by A in his Sales Application and already cultivated by A were included in the homestead application of B. The Director of Lands decided the conflict in favor of B. (a) What are the administrative remedies of A if any? (b) May A resort to court action to protect his rights and against whom?
- VII. Are the Government owned and/or controlled corporations, such as the Manila Railroad Co. and the National Development Co., public corporations as the term public corporation is used in the term, Political Law? Give reasons for your answer.
- VIII. A discovers oil in the mountains of a certain town in the Philippines. A comes to you as a lawyer to help him perfect his oil mining claims. Describe the steps you have to take in perfecting his mining claims.
- IX. May the Congress abolish a Municipality or a Province, against the will of the inhabitants, by annexing it to another town or another province as the case may be? Give reasons for your answer.
- X. Discuss the advantages of electing Senators by District as previously done under the Jones Law, and how can this be done?

## REMEDIAL LAW

- (a) State the difference between an ordinary action and a special proceeding, and between a special action and a provisional remedy.
  - (b) What protection does a provisional remedy afford to a litigant?
- II. Preparatory to plowing, X burned dry grass and weeds in his ricefield. Without his knowing it the fire crept to the adjoining parcel of land and burned the cogon and talahib thereon and reached a nearby cluster of four small nipa houses, causing them also to burn. The different owners suffered losses: A, in the amount of \$850.00; B, \$900.00; C, \$1,000.00 and D, \$1,200.00. They were joined as plaintiffs in a complaint filed in the J.P. Court of the municipality, each claiming his actual loss. X filed a motion to dismiss, alleging that there was misjoinder of parties and that the whole of the claims amounting to \$2,950.00, was beyond the jurisdiction of the J.P. Court. The Justice of the Peace granted the motion and dismissed the complaint.
  - (a) Was there misjoinder?
  - (b) Was the subject-matter beyond the jurisdiction of the J.P. Court?
  - (c) Is misjoinder a good ground for a dismissal?
- III. (a) State the different grounds for a motion to dismiss.
  - (b) Can a defendant in a civil case properly file a motion to dismiss, for lack of cause of action, after he had filed his answer?
- IV. In an action for the recovery of possession of and title to a parcel of land, plaintiff obtained a favorable decision. Defendant perfected an appeal. After the approval of his Record on Appeal and before the case was remanded to the Court of Appeals, plaintiff filed a reasoned mo-

tion asking for the appointment of a receiver to take care in the meantime of the property in question.

Is the Court empowered to grant the motion? Reason out your answer.

- V. (a) State the difference, if any, between a bill of discovery and a bill of particulars.
  - (b) When and how may a party avail of either?
- VI. In an ordinary civil case, the defendant lost. Five days after receiving a copy of the decision, he filed a motion for reconsideration. For some reason or another, it took the Court forty-five days to deny the motion. Three days after receipt of a copy of the adverse resolution defendant filed a notice of appeal, appeal bond and a record on appeal. They were not given due course and the appeal was dismissed on the ground that the decision had already become final and executory. Defendant moved for the reconsideration of the order dismissing his appeal but was unsuccessful.

Will certiorari or mandamus proceedings lie to compel the Court to certify defendant's appeal to the Court of Appeals or the Supreme Court, as the case may be? Give your reasons.

VII. Z was prosecuted for serious physical injuries which had required 35 days medical assistance and prevented aggrieved party from performing his ordinary work during that period. In the trial, the Court noticed that aggrieved party bore a big scar on the cheek which resulted from one of the wounds inflicted on him by Z and which, according to competent testimony, would be permanent. The Court found Z guilty and imposed on him the penalty for physical injuries with deformity.

Was the imposition of the penalty lawful? Reason out your answer.

- VIII. (a) Define action.
  - (b) Is cause of action different from action? Give reasons.
- IX. (a) Consider the implication of an order of attachment and that of a notice of lis pendens, and state in what kind of action would either be proper to guard against a possible defeat through fraud of any judgment that may be recovered.
  - (b) Can an order of attachment be properly issued in a case of foreclosure of mortgage? State your reasons.
- X. W was feeding a beautiful dog when a friend came and asked: "Whose dog is that, so beautiful!" "Mine, of course," W answered. Three months later, a case for recovery of damages was filed against W because the dog he was feeding and claimed then as his, had bitten a boy who sustained serious wounds as a result. W now disowned the dog saying it was his neighbor's dog.
  - (a) Can you validly present against W, as evidence, his statement "Mine, of course," to show the ownership of the dog?
  - (b) In case the ownership of the dog is litigated between W and another person who also claims to be the owner of the dog, is W's statement "Mine, of course," admissible in evidence, in his favor, under the rule of res gestae?

## LEGAL ETHICS AND PRACTICAL EXERCISES

1 (a) Enumerate the sources of legal ethics.

(b) Give the quadruple relations of attorney-at-law.

- II. (a) Enumerate the grounds for the removal or suspension of an attorney by the Supreme Court.
  - (b) Define malpractice.

1956]

- III. (a) Who may conduct the litigation in our courts of justice?
  - (b) State the grounds for the disqualification of a judge.
- IV. C was indicted for the murder of his master. C retained Atty. P. The evidence was of a character to show that the crime had been committed by some one in the house, but C's behavior throughout was such that prisoner's counsel went to trial convinced that he was innocent. At the close of the first day's proceedings, C confessed to his counsel that he was the murderer. His counsel was dumbfounded by the revelation. When Atty. P. could speak, he said: "Then you should plead guilty?". "No, sir," was the reply, "I expect you to defend me to the utmost."

If you were Atty. P., would you continue with the case?

- V. (a) When and how can a party change his attorney?
  - (b) In case of dismissal of an attorney, has the latter right to collect from his client the full compensation stipulated in the contract? State your reasons.
- VI. In the year 1922 the Supreme Court decided that A was not entitled to admission to practice law in the Philippines and an order was entered accordingly. In the year 1923 he made an arrangement with B, a practicing attorney, to carry on business together, sending out circulars signed "B and A" stating that they had established an office for the general practice of law in all the courts and that A would devote himself especially to consultation and office work. Their paper was headed "Law Office B and A. A, Counselor B, Attorney-at-law." Papers from their office were signed not with the firm name alone nor with any designation of the firm as attorneys but with the words "B and A B, Attorney-at-law."

Are A and B liable for contempt of court?

- VII. State the difference between retaining lien and charging lien of an attorney. Give specific example of each.
- VIII. P, a lawyer, was appointed guardian of the minor C, and came into possession of certain property, including 20 shares of stocks. He borrowed P3,000 from the PNB and executed a written agreement in favor of the bank pledging, without the authority of the CFI, the shares of stocks to guarantee the payment of the loan.

May P be suspended by the court for the foregoing cause, which is not one of the causes enumerated in the statute?

- IX. Prepare a petition for guardianship.
- X. Prepare a criminal complaint for simple seduction.