A MEDLEY OF CONSTITUTIONAL RIGHTS

By Jacinto Jimenez

I. INTRODUCTION

In any discussion of the Bill of Rights, speakers and writers usually wax eloquent and emotional over the right against illegal searches and seizures, the guarantee of due process, and the assurance of equal protection. However, there are other rights enshrined in the twenty-two sections of the Bill of Rights which are often not given the same attention. It is the purpose of this article to discuss some of these rights.

II. FREE ACCESS TO JUSTICE

A. Scope of Right

Section 11 of the Bill of Rights of the 1987 Constitution provides:

> "Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty."

This is intended to see to it that no one will be denied justice on account of his poverty. There are two significant amendments in this provision as compared to Section 23 of the Bill of Rights of the 1973 Constitution. Firstly, free access to justice was expanded to include quasi-judicial bodies. Secondly, adequate legal assistance is also guaranteed by this provision.

To qualify to litigate as a pauper, one need not literally be a pauper. It is not required that the litigant have no income.[1]

Under Section 16, Rule 141 of the Rules of Court, pauper litigants include wage earners whose gross income does not exceed P2,000 a month or P24,000 a year if they are residing in Metropolitan Manila and does not exceed P1,500 a month or P18,000 a year if they are residing outside Metropolitan Manila, or who do not own real property with an assessed value of more than P24,000 in Metropolitan Manila or not more P18,000 outside Metropolitan Manila. To be entitled to litigate as a pauper, a litigant should execute an affidavit stating that he does not earn more than the above-mentioned amounts nor own any real property with a greater assessed value than the values above-mentioned, supported by a certification from the provincial, city or municipal assessor or treasurer.

B. Rights Afforded Pauper Litigants

Existing laws confer various rights upon pauper litigants.

Firstly, if a party is authorized to litigate as a pauper, he will be exempt from the payment of legal fees.[2]

Secondly, Republic Act No. 6034 authorizes courts to order the provincial, city or municipal treasurer to pay an indigent litigant a travel allowance to enable him and his indigent witnesses to attend the hearing of a criminal case commenced by him or filed against him. If the hearing will require the presence of the indigent litigant or his witnesses the whole day or for two or more days, the allowance may also cover reasonable expenses for meals and lodging.

Thirdly, Republic Act No. 6035 requires the stenographers in hearings before courts and administrative tribunals to provide indigent litigants with a free copy of the transcript of stenographic notes.

Fourthly, Letter of Implementation No. 4 created a Citizens' Legal Assistance Office in accordance with the Integrated Reorganization Plan to provide indigent litigants with lawyers. In addition, Section 11, Article IV of the By-Laws of the Integrated Bar of the Philippines requires every chapter of the Integrated Bar of the Philippines to set up a legal aid office to assist deserving poor litigants.

III. RIGHT TO COUNSEL DURING INVESTIGATIONS

A. Arrest

Existing laws grant those who have been arrested the right to confer with a lawyer even if they have not yet been charged in Court.

Article 125 of the Revised Penal Code provides:

> "In every case, the person detained shall be informed of the cause of his detention and shall be allowed, upon his request, to communicate and confer with his attorney or counsel, and to be visited by his immediate relatives."

To give teeth to this right, Executive Order No. 155 amended Section 1 of Republic Act No. 857 to read as follows:

> "Any public officer or employee or anyone acting under his orders or in his place, shall not obstruct, prohibit, or otherwise prevent an attorney entitled to practice in the courts of the Philippine from visiting and conferring privately with a person arrested, at any hour of the day or in urgent cases, of the night, said visit and conference being requested by the person arrested or by another acting in his behalf, or by a national or international non-governmental organization duly accredited by the Office of the President shall be punished by *prision correccional*."

B. Investigations

1. Recognition of the Right to Counsel.

Section 12(1) of the Bill of Rights of the 1987 Constitution states:

> "Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel."

For this provision to apply, the person making an incriminating statement must be under investigation. Thus, where an inmate in the national penitentiary stabbed to death another prisoner, surrendered to a prison guard, and exclaimed that he killed the deceased as an act of revenge, it was held that his confession of guilt was admissible in evidence as part of the *res gestae*, since he uttered the statement spontaneously without being investigated.[3] Similarly, where the accused stabbed to death an old woman, surrendered to a policeman, and explained that he killed her because she had threatened to kill him by means of witchcraft, his acknowledgment of guilt was considered admis-

sible in evidence since he was not under investigation.[4] Likewise, where the accused told the owner of the hut where he and his cousin sought shelter that they had killed an old woman and two boys, his statement was held admissible in evidence. He was not under investigation, and the owner of the hut was not a police officer.[5] In the case of *People vs. Dy*, G. R. No. 74517, February 22, 1988, the accused went to a police officer after shooting his victim. He orally confessed his guilt and surrendered the murder weapon. The confession of the accused was declared to be admissible in evidence as part of the *res gestae*. His statement was given spontaneously without being interrogated.

In the case of *Galman vs. Pamaran*, 138 SCRA 294, 319-320, the Supreme Court extended the protection guaranteed by Section 20 of the Bill of Rights of the 1973 Constitution, the counterpart of Section 12(1) of the Bill of Righs of the 1987 Constitutuion, to the statements before the board created by Presidential Decree No. 1886 to investigate the assassination of former Senator Benigno Aquino, Jr. by those who were eventually charged with his murder and the murder of Rolando Galman. The Supreme Court reasoned out that since the word "custodial" does not appear before the word "investigation" in the constitutional provision in question, the application of the provision was not limited to police investigation.

It has also been ruled that the rights guaranteed by Section 12(1) of the Bill of Rights of the 1987 Constitution apply to preliminary investigations. Thus, if the respondent submits an affidavit which contains incriminatory statements and he is later charged in court, his affidavit cannot be used as evidence against him if the guidelines laid down in Section 12(1) of the Bill of Rights of the 1987 Constitution were not complied with.[6]

In the case of *People vs. Abano*, 145 SCRA 555, 578, the Supreme Court held:

> "We consider the absence of Eugenia's counsel when she appeared as witness during the preliminary investigation as an irreparable damage which rendered inadmissible for alleged confession."

Section 12(1) of the Bill of Rights of the 1987 Constitution incorporates the rulings of the United States Supreme Court in the cases of *Escobedo vs. Illinois*, 378 U.S. 478 and *Miranda vs. Arizona*, 384 U. S. 436.

In the case of *Escobedo vs. Illinois*, 378 U.S. 478, 490-491, the United States Supreme Court held that in the course of a police investigation a suspect becomes entitled to the assistance of counsel from the moment the line of questioning becomes geared to the purpose of obtaining a confession from him. The United States Supreme Court explained:

> "We hold, therefore, that where, as here, the investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect, the suspect has been taken into police custody, the police carry out a process of interrogation that lends itself to eliciting incriminating statements, the suspect has requested and been denied the opportunity to consult with his lawyer, and the police have not effectively warned him of his absolute constitutional right to remain silent, the accused has been denied 'the Assistance of Counsel' in violation of the Sixth Amendment to the Constitution as 'made obligatory upon the States by the Fourteenth Amendment,' *Gideon v. Wairight*, 372 U.S. at 342, 9 L ed 2d at 804, 93 ALR 2d 733, and that no statement elicited by the police during the interrogation may be used against him at a criminal trial."

2. Guidelines for Police Investigations

In the case of *Miranda vs. Arizona*, 384 U.S. 436, 479, the United States Supreme Court summarized the guidelines for police interrogations as follow:

> "He must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used as evidence against him to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he desires."

The Supreme Court has adopted these guidelines.[7] In addition, the Supreme Court has ruled that for a waiver of these rights to be valid, it must be made with the assistance of counsel.[8] The requirement that the waiver must be made with the assistance of counsel was not found in Section 20 of the Bill of Rights of the 1973 Constitution. However, the Supreme Court read such requirement into the provision. The last sentence of Section 12(1) of the Bill of Rights of the 1987 Constitution thus merely incorporated a doctrine that had previously been handed down by the Supreme Court.

Thus, where the accused was not assisted by counsel during his interrogation, his confession was declared inadmissible in evidence, even if he was assisted by counsel when he swore to it before the fiscal. The belated asistance of counsel did not cure the defect, for the accused was not assisted by counsel during the investigation.[9]

Originally, in an *obiter dictum*, the Supreme Court stated that when a suspect is being identified by a witness, he must be assisted by counsel, because his identification is a crucial part of the investigation.[10] However, recently, the Supreme Court squarely ruled that the suspect need not ber assisted by counsel if he is being identified. The Supreme Court quoted with approval the argument of the Solicitor General. "The police line-up is not a part of the custodial inquest, hence, he was not yet entited to counsel."[11]

Since a suspect under investigation has the right to remain silent, his silence when someone implicates him in the commission of crime may not be taken as tacit admission of guilt pursuant to Section 23, Rule 130 of the Rules of Court.[12]

3. The Need For Competent and Independent Counsel.

Section 12(1) of the Bill of Rights of the 1987 Constitution provides that a person under investigation has the right to be assisted by a competent and independent counsel, preferably of his own choice. The amendment was inserted by the Constitutional Commission, because it was pointed out that during the martial law years, some military officers went through the idle ceremony of providing the person under interrogation with counsel by giving him a lawyer who was not of his own choice but their own lawyer and who simply followed the wishes of the military officers.[13]

Thus, where the accused who confessed to a murder was assisted by a counsel who was representing conflicting interests, as he in fact was appearing as private prosecutor in the preliminary investigation, the confession was stricken down as inadmissible in evidence.[14] Likewise, where the lawyer who assisted the accused when he gave a written confession was called by the National Bureau of Investigation from the Citizens' Legal Assistance Office, his confession was held to be inadmissible, as the lawyer was not chosen by the accused.[15]

The lawyer assisting the accused must be competent. Thus, he must effectively represent the accused. However, it is presumed that a member in good standing of the bar is competent.[16]

4. The Question of Admissisibility in Evidence.

A confession wrung from the accused in violation of Section 12(1) of the Bill of Rights of the 1987 Constitution is inadmissible in evidence against him. Section 12(2) of the Bill of Rights of the 1987 Constitution declares:

> "Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him."

In rendering such a confession or admission inadmissible in evidence against the accused whose rights were violated, this provision makes no distinction as to the purpose for which the

confession or admission is being offered. The prohibition against its admissibility in evidence is blanket. Hence, the ruling of the United States Supreme Court in the cases of *Harris vs. New York*, 401 U.S. 222, 225-226 and *Oregon vs. Hass*, 420 U.S. 714, 722 making a confession obtained in violation of the guidelines in *Miranda vs. Arizona*, 384 U.S. 436 admissible for the purpose of impeaching the accused should he choose to testify in his behalf, should not be applicable here.

Not only the illegally obtained confession but also any other evidence gathered on the basis of the confession should be inadmissible in evidence. Such evidence is the fruit of a poisonous tree.[17]

When the prosecution offers in evidence a confession of the accused, the prosecution has the burden of proving that it was obtained in accordance with Section 12(1) of the Bill of Rights of the 1987 Constitution. The presumption that official duty has been regularly performed wil not apply. Such presumption must yield to the presumption against the waiver of a constitutional right.[18]

However, it should be noted that under Section 12(2) of the Bill of Rights of the 1987 Constitution, an illegally obtained confession is inadmissible in evidence only against the accused who made the confession.Thus, it can be presented in evidence against the police officer who violated the rights of the accused to prove that he extracted a confession in violation of such rights.[19]

In the case of *People vs. Jara*, 144 SCRA 516, 636, the Supreme Court ruled that the two confessions obtained from two of the accused in violation of the Bill of Rights were inadmissible in evidence against a third accused. The Supreme Court reasoned out:

> "However, since the confessions of Bernadas and Vergara are inadmissible against them, with more reason can they not be used against Jara."

This line of reasoning is erroneous, because it is based on a ***non-sequitur***. First of all, the third accused could not complain against the use against him of the confession by the two other accused, because it was not his own rights that were violated in obtaining the confessions. Hence, he had no standing to object to the use of the confessions as evidence against him. The rights guaranteed by Section 12(1) of the Bill of Rights of the 1987 Constitution are personal. Only the persons whose rights were violated can object to the presentation in evidence of their confessions.[20]

Secondly, from the text of Section 12(2) of the Bill of Rights of the 1987 Constitution, it appears that the illegally obtained confession is inadmissible in evidence only against the person whose right was violated. Hence, it may be used as evidence against third parties if under the ordinary rules of evidence they are admissible against them.[21]

Under the rule on interlocking confessions, if several persons charged with having conspired to commit a crime sign extrajudicial confessions without any collusion and their confessions are identical in all material respects, their confessions are admissible in evidence against another conspirator.[22]

IV. PROHIBITION AGAINST TORTURE AND SECRET DETENTION PLACES.

A. Prohibition against Torture

Section 12(2) of the Bill of Rights of the 1987 Constitution reads:

> "No torture, force, violence, threat, intimidation or any other means which vitiates free will shall be used against him."

This provision is found in Section 12 rather than Section 17, which deals with the right against self-incrimination, to emphasize that it is intended to protect the sacredness of the person and not just

to prevent violation of the right against self-incrimination.[23] In other words, this provision prohibits the use of torture even if the resort to it may not be intended to extract a confession from a detention prisoner.

The provision prohibits the resort to any other means which vitiates the free will. Thus, if a confession was obtained through deceit, it is inadmissible, as when a law officer has himself locked in jail and befriends the detainee by posing as another prisoner.

B. Prohibition against Secret Detention Places

Section 12(2) of the Bill of Rights of the 1987 Constitution states:

> "Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited."

The prohibition against secret detention places was placed in the Bill of Rights as a reaction to the belief that during the Marcos administration some political prisoners who were arrested were not brought to the military camps or police stations but were held instead incommunicado in safehouses. Cut-off from communication with their families and lawyers, they were subjected to torture.[24]

The provision prohibits other similar forms of detention in anticipation of the fact that some creative mind might be able to invent other forms of secret detention, such as, sensory deprivation. For instance, in Columbia some detainees were blindfolded for days. As a result, they lost all sensory perception of what was going on around them.

This provision does not prohibit the solitary confinement of a convict who is serving sentence and who violated the rules of the penitentiary.[25]

C. Penal and Civil Sanctions

Section 12(4) of the Bill of Rights of the 1987 Constitution provides:

> "The law shall provide for penal and civil sanctions for violations of this section as well as compensation for the rehabilitation of victims of tortures or similar practices, and their families."

This provision envisions that an implementing law has to be passed for the imposition of sanctions for violations of Section 12 of the Bill of Rights.[26]

Not only the victim of the torture but also the members of his family are entitled to compensation for rehabilitation. The members of his family also suffer mental anguish and moral shock.[27] Minor children of victims of tortures suffer psychological damage.[28]

V. RIGHT TO BAIL

A. Purpose

Section 13 of the Bill of Rights of the 1987 Constitution provides.

> "All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient

sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required."

The accused is granted the right to be released on bail or recognizance to relieve him from the imprisonment until his conviction and yet secure his appearance in court, since he is presumed to be innocent.[29]

B. Meaning

1. Bail

Section 1, Rule 114 of the 1985 Rules on Criminal Procedure defines bail as follows:

"Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, conditioned upon his appearance before any court as required under the conditions hereinafter specified. Bail may be given in the form of corporate surety, property bond, cash deposit, or recognizance."

2. Recognizance

Recognizance is an obligation of record entered into before some court or magistrate duly authorized to take it to produce the accused.[30]

3. Instance of Recognizance

Existing laws allow the accused to be released on recognizance in several instances.

Firstly, under Republic Act No. 6036, persons charged with violation of an ordinance, light felony, or criminal offense the penalty for which is not higher than imprisonment for six months or a fine of P2,000 or both such imprisonment and fine and is unable to post a bail bond, may be released on recognizance.

Secondly, Section 191 of the Child and Youth Welfare Code allows an offender who is over nine years of age but under eighteen years of age at the time of the commission of the offense to be released on recognizance if he is unable to post a bail bond.[31]

Thirdly, pursuant to Section 7 of the Probation Law of 1976, pending resolution of his petition for probation, a convict may be allowed to be released on recognizance of a responsible member of the community if he cannot post bail.

Fourthly, in accordance with section 13, Rule 114 of the 1985 Rule on Criminal Procedure, a person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, may be released on his own recognizance.

C. Persons Entitled to Bail

A person who is detained but has not yet been charged can invoke his right to bail. He need not wait until he is charged before invoking his right to bail, because the right to bail is guaranteed to all persons and not only to those charged.[32]

In fact, Section 14(c), Rule 114 of the 1985 Rules on Criminal Procedure provides:

"Any person in custody who is not yet charged in court may apply for bail with any court in the province, city or municipality where he is held."

Even if the accused absconded after being released on bail, he cannot be denied bail if he is entitled to it as a matter of right. The remedy of the court is to increase the amount of the bail.[33]

D. Duration of Right

Under Section 13 of the Bill of Rights of the 1987 Constitution upon initial conviction of the accused, he is no longer entitled to bail as a matter of constitutional right.[34]

However, Section 3, Rule 114 of the 1985 Rules on Criminal Procedure allows the accused to be released on bail pending the appeal of his conviction.[35] This provision states:

> "All persons in custody shall, before final conviction, be entitled to bail as a matter of right, except those charged with a capital offense or an offense which under the law at the time of its commission is punishable by reclusion perpetua, when evidence of guiit is strong."

Previously, it was held that where the accused convicted by the trial court was very wealthy, was a foreign citizen by birth and became a Filipino citizen by naturalization, and his family was abroad, he could be denied bail pending appeal because of the probability that he would abscond.[36] However, Section 3, Rule 114 of the Rules on Criminal Procedure grants the accused the right to be released on bail while his appeal is pending. All that the court can do is to increase the amount of the bail.[37]

E. Denial of the Right to Bail

1. *Requisites*

Under Section 13 of the Bill of Rights of the 1987 Constitution a person is not entitled to bail if he is charged with an offense punishable with *reclusion perpetua* and the evidence of his guilt is strong.

Although Section 19(1) of the Bill of Rights has abolished the death penalty, it authorizes Congress to restore it for heinous crimes. Should Congress re-impose the death penalty for certain heinous crimes, persons charged with such crimes shall not be entitled to bail if the evidence of their guilt is strong.[38]

Even if the offense charged is punishable with *reclusion perpetua*, the accused is entitled to bail unless the evidence of his guilt is strong.[39] It is not necessary that the guilt of the accused be proven beyond reasonable doubt.[40] Thus, it is sufficient if the evidence presented induces the belief that the accused committed the offense charged.[41]

Where the evidence against the accused consisted of hearsay and uncorroborated evidence and the uncorroborated testimony of a self-confessed killer for hire, which was tainted with contradictions and improbabilities, it was held that the evidence of the guilt of the accused was not strong.[42]

In *Montano vs. Ocampo*, 49 O. G. 1855, when the death penalty was still being imposed, the Supreme Court ruled that in order that the accused may be denied bail, it must also appear that in case of conviction the criminal liability of the accused would probably call for the imposition of the

death penalty. The Supreme Court said:

> "Besides, to deny bail it is not enough that the evidence of guilt is strong; it must appear that in case of conviction the defendant's criminal liability would probably call for a capital punishment."[43]

Thus, if the accused was charged with murder, but the evidence shows the crime committed is homicide only, he should be granted bail. Likewise, if the accused is a minor and the penalty to be imposed upon him in case of conviction would have to be reduced by one degree, he is entitled to bail as a matter of right.

However, in *Magno vs. Abba*, 121 Phil. 227, 229, the Supreme Court sustained the denial by the trial court of the petition for bail without mentioning the additional requirement laid down in *Montano vs. Ocampo*, 49 O. G. 1855.

Recently, the Supreme Court held that in order that the accused may be denied bail, it is not necessary to show that in case of conviction the penalty would probably be death. It was sufficient that death is one of the penalties imposed by the law for the crime charged. The Supreme Court reasoned out:

> "As pointed by the petitioner in its memorandum, the rationale of the provision lies in the difficulty and impracticability of determining the nature of the offense on the basis of the penalty actually imposable. Otherwise, the test will require consideration not only of evidence showing commission of the crime but also evidence of the aggravating and mitigating circumstances. Thus, there has to be not only a complete trial, but the trial court must also already render a decision in the case. This defeats the purpose of bail, which is to entitle the accused to provisional liberty pending trial."[46]

The original draft of Section 18 of the Bill of Rights of the 1987 Constitution granted bail for all offenses. Commissioner Florenz Regalado proposed it be amended so as to deny bail in case of offenses punishable with *reclusion perpetua* if the evidence of guilt is strong. He explained that for denial of bail it is sufficient if *reclusion perpetua* is included within the range of penalties imposed by law for an offense.

Thus, in the discussion of Section 18 of the Bill of Rights of the 1987 Constitution, the following transpired:

> MR. REGALADO: Actually, as of now, the penalty for murder is reclusion temporal in its maximum period to death. It could be reclusion temporal in its maximum period, if he has a mitigating circumstance and no aggravating circumstance; or it could be reclusion perpetua, if he has neither mitigating nor aggravating circumstances. But the words used are "which may be punishable by reclusion perpetua."
>
> In other words, that does not ruled out a range of penalty, the maximum of which is reclusion perpetua, as it is now with the amendment. Offenses which may be punishable by reclusion perpetua will cover the situation of a range of penalty. Let us say, Congress later makes a law to comply with the three periods in a degree. The penalty for murder will now be reclusion temporal to reclusion perpetua. Therefore, a penalty of three periods, with prision mayor as the minimum reclusion temporal as the medium and reclusion perpetua as the maximum may be provided.
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> MR. MAAMBONG. Mr. Presiding Officer.
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> MR. PADILLA. Mr. Presiding Officer, under the phrase "which may be punishable by reclusion perpetua, I accept the amendment to my amendment.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Bengzon). Commissioner Maambong is recognized.

MR. MAAMBONG. In line with the suggestion of the Chair to plug the loophole, I was about to suggest to Commissioners Regalado and Padilla, if we could use the term "imposable penalty" of reclusion perpetua.

THE PRESIDING OFFICER (Mr. Bengzon). The suggestion Commissioner Regalado covers that contingency which has already been accepted by Commissioner Padilla.

MR. PADILLA. The word "punishable", I think, would be more accurate than "imposable" because when one says "punishable", that is the penalty prescribed by law; when one says "imposable", that is the penalty that may be imposed by the court, and we usually follow the penalty that is prescribed by law.[47]

2. *Exceptions*

In certain cases, the Supreme Court allowed the accused to be released on bail even if he was charged with a capital offense and the evidence of guilt was strong. Thus, it ordered the release on bail of an accused, because he had been detained for more than two years, the trial was being protracted, and there was no indication of early termination.[48] Likewise, the Supreme Court granted bail where the accused was ill with tuberculosis and his continued confinement in jail would be injurious to his health or would endanger his life.[49]

F. Procedure

1. *Need for Hearing*

Since the accused is entitled to bail as a general rule, if the prosecution wants him to be denied bail, the court should conduct a hearing.[50]

2. *Nature of the Hearing*

The hearing on a petition for bail may be summary. A summary hearing means a brief and speedy **method of receiving evidence which is practicable and consistent with the purpose of the hearing, the determination of the weight of the evidence for the purpose of bail. The court may limit the evidence to substantial matters and avoid unnecessary thoroughness in the examination and cross-examination of the witnesses and reduce to a reasonable minimum the amount of corroboration, particularly on details that are not essential.**[51]

The prosecution should be given the opportunity to present within a reasonable time all the evidence that it may desire to introduce.[52] However, the prosecution should not be allowed to conduct the hearing as if it were a full-blown trial on the merits, as this would defeat the purpose of the proceeding. Thus, where the prosecution had already presented twenty-seven witnesses and still wanted to present thirteen more witnesses, it was held that the trial court could require the prosecution to present only one more witness, who could testify directly on the commission of the crime charged.[53]

At the hearing on his petition for bail, the accused should be allowed to cross-examine the witnesses against him and present evidence in his behalf.[54] Thus, the Supreme Court nullified the denial of a petition for bail made after the presentation of the evidence for the prosecution in a private inquiry conducted in the absence of the accused.[55]

3. *Burden of Proof*

In a hearing on a petition for bail, it is the prosecution who has the burden of proof of showing that the accused should not be granted bail.[56]

Since the prosecution has the right to oppose the petition for bail, when release on bail is not a matter of right, the prosecution should be given reasonable notice of the hearing on the petition for bail.[57]

G. Prohibition Against Excessive Bail

1. *Factors to be Considered*

Section 13 of the Bill of Rights of the 1987 Constitution prohibits the imposition of excessive bail. Otherwise, the right to be rendered can be nullified if the amount of the bail would be exorbitant.

In fixing the amount of the bail, the court should consider the following factors: (a) financial ability of the accused to give bail (b) nature and circumstances of the offense; (c) penalty of the offense charged; (d) character and reputation of the accused; (e) age and health of the accused; (f) weight of the evidence against the accused; (g) probability of the appearance of the accused during trial; (h) forfeiture of other bonds; (i) the fact that the accused was a fugitive from justice when arrested; and (j) pendency of the other cases in which the accused is under bond.[58]

2. *Amount of the Bond*

A bail of P1,195,200 for multiple murder and multiple frustrated murder was considered excessive.[59] Likewise, a bail of P10,000.00 for frustrated homicide through reckless imprudence, which is punishable with a maximum penalty of ***prison correccional*** in its medium period was condemned for being excessive. The same was true of a bail of P500 for driving without a license, which is punishable with a fine of P300.[60] Similarly, a bail of P10,000 for violation of Presidential Decree No. 583, which is punishable with ***prison mayor*** or a fine ranging from P5,000 to P10,000, or both, such imprisonment and fine, was held to be excessive.[61] A bail of P30,000 for selling marijuana was also declared to be excessive.[62]

3. *Form of the Bail*

The court cannot require that the bail be posted in cash. The bail may become excessive as it will involve an actual financial outlay on the part of the bondsman and will work hardship on the part of the accused.[63]

H. Suspension of the Privilege of the Writ of Habeas Corpus

Section 13 of the Bill of Rights expressly provides that the suspension of the privilege of the writ of habeas corpus does not suspend the right to bail. This overrules the doctrine laid down in *Sison vs. Military Commission No. 1*, 109 SCRA 273, 286 and *Padilla vs. Enrile*, 121 SCRA 472, 494.

VI. RIGHT TO SPEEDY TRIAL

A. Right to Speedy Trial

1. *Meaning*

Section 14(2) of the Bill of Rights of the 1987 Constitution guarantees the accused the right to a speedy trial. Speedy trial means one had as soon after the indictment as the prosecution can with reasonable diligence prepare according to the rules and free from **vexatious,** capricious, and oppressive delays.[64] The right of the accused to a speedy trial is violated when the prosecution repeatedly has the case postponed without just cause.[65] The same holds true when a long period of time is allowed to lapse without the case being tried and the delay is without any just cause.[66] Thus, a case cannot be postponed indefinitely until the witnesses appear in court.[67]

The right to a speedy trial is relative and is consistent with reasonable delays.[68]

2. *Reckoning Point*

Delay in filing a case does not violate the right of the accused to a speedy trial. Whether or not this right has been violated should be reckoned from the time of the filing of the case.[69] Likewise, where a case was dismissed without prejudice, delay in refiling it does not violate the right of the accused to a speedy trial. Before its refiling, there is no trial to speak of.[70]

Delay in the adjudication of the case violates the right to a speedy trial.[71] This overrules the prior ruling in *Talobon vs. Iloilo Provincial Warden*, 78 Phil. 599, 608 and *Acosta vs. People*, 5 SCRA 774, 779.)

3. *Factors to be Considered*

In determining whether or not the right of the accused to a speedy trial has been violated, the court should consider such factors as the length of the delay, the reason for the delay, the assertion or non-assertion by the defendants of his right, and the prejudice to the defendant resulting from the delay.[72]

Where less than a hundred days had lapsed from filing of the case to the date of the trial, there is no undue delay.[73]

Delay due to the destruction of the records of the case is excusable.[74] Delay due to the inability of the witnesses to come to court because of financial difficulties, bad weather, and impassable streams and the transfer of the judge trying the case does not violate the right to a speedy trial.[75] The delay due to the escape of the accused, his repeated requests for postponement, the transfer of the residence of the witnesses, the transfer of the judge, and the transfer of the stenographers is justified.[76] The same is true where the witnesses against the accused were being hidden by his friends, probably with his connivance.[77] Delay due to the repeated replacement of the judge trying the case and the need to correct inaccuracies in the transcript was excusable.[78] Where the delay was due to the fact that the stenographers could not be located and the court issued no less than fourteen resolutions for the transcription of the stenographic notes, including one ordering the arrest of the stenographers, it was justified.[79]

Delay because of postponement requested by the accused does not violate his right to a speedy trial.[80] Neither can the accused agree to requests of the prosecution for postponement and then claim his right to a speedy trial has been violated.[81] However, the right of the accused to a speedy trial is not waived by his failure to urge the trial of the case.[82]

4. *Consequence of Violation of the Right*

If the request of the prosecution for postponement is unjustified and the accused objects, the

case should be dismissed.[83] The dismissal will give rise to double jeopardy, because it amounts to an acquittal even if the dismissal is qualified as provisional.[84]

5. *Right of the Prosecution to Due Process*

The right to a speedy trial should take into consideration the right of the parties to due process so that the ends of justice will be subserved.[85] The prosecution is entitled to due process and should be given its day in court by being given the reasonable opportunity to prove its case.[86]

Thus, where the prosecution asked for postponement for the first time because its witness did not appear because of a storm, the dismissal was reversed.[87] Where the fiscal prosecuting the case was not able to appear because of illness, the dismissal of the case was capricious.[88]

VI. RIGHT TO BE PRESENT

Section 14(2) of the Bill of Rights of the 1987 Constitution provides:

"However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable."

Thus, the court may try the accused *in absentia* provided three (3) conditions are present: (1) the accused has been arraigned; (2) notice of the trial was duly served upon him; and (3) his failure to appear is unjustified.[89] If the accused has not yet been arraigned, the court cannot try him *in absentia*.[90]

However, if the accused jumps bail after having been arraigned, the court may try him *in absentia*. By escaping, he is deemed to have waived his right to be present. The inability of the court to notify him of the hearing will not prevent the court from proceeding with the trial.[91]

VII. RIGHT TO SPEEDY DISPOSITION OF CASES.

Section 16 of the Bill of Rights provides:

"All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.'

The right is broader in scope than the right to a speedy trial. It covers the period before, during, and after the trial. It applies to civil, criminal, and administrative cases. In determining whether or not this right has been violated, the same factors mentioned in *Barker vs Wingo*, 407 U.S. 514 should be considered.[92]

A case in point is the case of *Tatad vs. Sandiganbayan*, G. R. No. 72335-39, March 21, 1988. In that case the Supreme Court ordered the dismissal of the criminal cases in question because of the delay in the disposition of the preliminary investigation. The cases were filed three years after the investigation was submitted for resolution. The Supreme Court pointed out:

"Not only under the broad umbrella of the due process clause, but under the constitutional guarantee of 'speedy disposition' of cases as embodied in Section 16 of the Bill of Rights (both in the 1973 and the 1987 Constitutions), the inordinate delay is violative of the petitioner's constitutional rights. A delay of close to three (3) years can not be deemed reasonable or justiable in the light of the circumstances obtaining in the case at bar."

VIII. RIGHT AGAINST SELF-INCRIMINATION

A. Purpose

Section 17 of the Bill of Rights of the 1987 Constitution reads:

"No person shall be compelled to be a witness against himself."

The right against self-incrimination is based on grounds of public policy and humanity. If a person were to be compelled to testify against himself, he would be placed under the strongest pressure to commit perjury. In addition, the provision prevents the temptation to extract confessions by duress.[93]

B. Persons Covered

The right against self-incrimination is available to natural persons only. It cannot be invoked by juridical persons like corporations and partnerships. Artificial persons are creations of the State. Since the State granted them the privilege of having a juridical personality, the State can inquire how this privilege has been employed and whether it has been abused. For this purpose, the State may demand the production of the records of such artificial persons. An officer of a corporation cannot refuse to produce the records of the corporation in his possession on the ground that they may incriminate him.[94]

C. Proceedings

The right against self-incrimination may be invoked in all types of cases, criminal, civil or administrative.[95]

1. *Criminal Cases*

In criminal cases, the accused may not even be compelled to take the witness stand. The obvious purpose of compelling him to take the witness stand is to make him incriminate himself.[96]

A witness who is not the accused in a criminal case may also invoke his right against self-incrimination. However, since he is not the accused, he can be compelled to take the witness stand. There is no way of foreseeing whether or not an incriminatory question will be propounded to him. When an incriminatory question is actually propounded to him, that is the time when he can invoke his right against self-incrimination.[97]

The respondent in an investigation for forfeiture of unexplained wealth under Republic Act No. 1379 cannot be compelled to take the witness stand. While the proceeding may not be strictly criminal in character, still it is penal in nature, because it may result in forfeiture of property. This is a form of punishment.[98]

Similarly, the respondent in a case for immorality filed with the Board of Medical Examiners cannot be compelled to testify against himself. The proceeding is penal in character, because an adverse decision may result in the loss of his privilege to practice the medical profession.[99] The same holds true of a lawyer against whom a disbarment case has been filed.[100]

2. *Civil Cases*

In civil cases, a party may call his adversary as a witness. While his adversary can invoke his right against self-incrimination, the proper time for him to object is when an actually incriminatory

question is propounded to him. Before that, there is no way of telling in advance whether or not the question to be asked him will call for incriminatory answer.[101]

3. *Administrative cases*

The rule in administrative proceedings which are not penal in character is the same as in civil cases.[102]

D. Scope

1. *Testimony*

The right against self-incrimination applies only to compulsion to give testimonial evidence.[103]

For this right to be violated, it is not necessary that the proof of all the elements of a crime be elicited from the lips of the accused. It is sufficient if even only one element is drawn from him. Frequently, many links that compose a chain of testimonies is necessary to convict a person for the commission of a crime. If a single fact elicited from him is a link in that chain, that is sufficient to render his answer incriminatory.[104]

2. *Documents*

In its latest decision, the United States Supreme Court ruled that the right against self-incrimination is limited to testimonial evidence and does not extend to the production of papers and documents.

In the case of *Fisher vs. United States*, 425 U.S. 391, 408, the United States Supreme Court ruled:

"It is also clear that the Fifth Amendment does not independently prescribe the compelled production of every sort of incriminatory evidence but applies only when the accused is compelled to make a testimonial communication that is incriminating."

This overrules the oft-quoted pronouncement in *Boyd vs. United States*, 116 U.S. 616, that to require a person to produce his private papers in a suit for forfeiture of goods violates his right against self-incrimination.

In fact, the Supreme Court has stated that the presentation in evidence of papers taken from the accused does not violate his right against self-incrimination.[105] The same is true of articles seized from him.[106]

3. *Re-enactment of crimes*

Recently, the Supreme Court ruled that the forced re-enactment of a crime conducted by law enforcers violated the right against self-incrimination. This right extends to any evidence which is communicative in nature acquired by means of duress. The Supreme Court explained:

"Here, the accused is not merely required to exhibit some physical characteristics; by and large, he is made to admit criminal responsibility against his will."[107]

4. *Physical examination*

As pointed out before, the right against self-incrimination is limited to the use of compulsion to extract testimonial evidence. It does not extend to the use of the human body as evidence. Hence, an accused, a detainee, or a suspect may be compelled to submit to physical or medical examination.

The case of the *United States vs. Tan Teng*, 23 Phil. 145, 152 involved an accused who was charged with raping a child. The child contracted **gonorrhea.** The police investigator obtained a sample of the discharge from the sex organ of the accused and had it examined by a physician. The examination showed that the accused was suffering from gonorrhea. This was circumstancial evidence that served to corroborate the commission of the crime by the accused. The result of the examination was held to be admissible in evidence.

The Supreme Court has also held that a married woman charged with adultery could be compelled to submit to medical examination to determine if she was pregnant. The Supreme Court reasoned out:

"Once again we lay down the rule that the constitutional guaranty, that no person shall be compelled in any criminal case to be a witness against himself, is limited to a prohibition against compulsory testimonial self-incrimination. The corollary to the proposition is that, on a proper showing and under an order of the trial court, an ocular inspection of the body of the accused is permissible."[108]

If footprints were found at the scene of the crime, samples of the footprints of the accused may be taken to determine if his footprints match them.[109]. Similarly, the accused can be fingerprinted.[110]

If clothes were found at the scene of the crime, the accused may be asked to put them on to see if they fit him.[111]

An accused can be compelled to submit to a paraffin test.[112] He can also be photographed.[113]

A suspect who tried to hide some morphine inside his mouth could be forced to dislodge it from his mouth.[114]

The United States Supreme Court ruled that a police investigator can extract samples of blood from a driver who got involved in a traffic accident for examination to determine if he was drunk.[115]

A suspect may be asked to take part in a police line-up. This does not involve compulsion to give testimonial evidence. The suspect is merely being asked to exhibit his person for observation by a witness.[116]

Recent scientific developments indicate that a person can be identified by his voiceprint through the use of a sound spectograph.[117] A suspect can be compelled to utter words spoken by the criminal during the commission of the offense. This does not violate his right against self-incrimination. His voice is being used as an identifying physical characteristic and not to disclose information he might have.[118]

Recently, included in the evidence that was used as basis for convicting the accused was the report of an analyst of the National Bureau of Investigation, who matched samples of the hair of the accused with the strands of hair found in the grip of the victim he murdered.[119]

5. *Handwriting specimens*

The Supreme Court has repeatedly ruled that the accused cannot be compelled to write down words being dictated to him in order that the prosecution can be furnished with specimens of his handwriting, because this would violate his right against self-incrimination. Writing is not just a mechanical act. It does not involve merely movement of the fingers. It requires the use of

intelligence.[120]

However, if the accused testifies in his behalf and denies he wrote the documents attributed to him, on cross-examination he may be compelled to give specimens of his handwriting. By testifying, he waived his right against self-incrimination.[121]

E. Inapplicability

1. *Waiver*

The right against self-incrimination may be waived. Thus, if the accused voluntarily testifies in his behalf, he may be cross-examined just like any other witness.[122]

2. *Prescribed offenses*

If the testimony which a person is being compelled to give relates to a crime which has prescribed, he cannot invoke his right against self-incrimination. Since the crime has prescribed, he is no longer exposed to the danger of prosecution.[123]

3. *Immunity*

If the law grants a person immunity, he can be compelled to testify even if his testimony might incriminate him. The immunity statutes may be classified into two. One type grants use immunity, while the other type grants transactional immunity. Use immunity allows the criminal prosecution of the witness but prohibits the use of the compelled testimony against him or information obtained through his compelled testimony. Transactional immunity totally prohibits the criminal prosecution of the witness for an offense to which his compelled testimony relates.[129]

IX. DETENTION FOR POLITICAL BELIEFS

Section 18(1) of the Bill of Rights of the 1987 Constitution reads:

"No person shall be detained solely by reason of his political beliefs and aspirations."

This was taken from the French Constitution. [125]

This is a reaction to the perception that during the Marcos administration some prisoners were detained simply for espousing political doctrines that were contrary to those of the administration.[126] Thus, a person cannot be detained simply because he believes in Communism. Of course, the individual concerned should not use violence to work for the success of his political beliefs or urge others to resort to violence.[127] If he does so, he may be criminally prosecuted.

X. PROHIBITION AGAINST INVOLUNTARY SERVITUDE

A. Meaning

Section 18(2) of the Bill of Rights of the 1987 Constitution declares:

"No involuntary servitude in any form shall exist except as a punishment for a crime whereof

the party shall have been duly convicted."

Involuntary servitude denotes the condition of one who is compelled by force, coercion, or imprisonment and against his will, to work for another, whether he is paid or not.[128] The prohibition against involuntary servitude includes slavery and peonage.[129] A peon is one who is compelled to work for his creditor until his debt is paid.[130]

B. Exceptions

There are several exceptions to the prohibition against involuntary servitude.

Firstly, Section 18(2) of the Bill of Rights of the 1987 Constitution, itself recognizes that a convict may be compelled to perform work as punishment for a crime.

Secondly, under Section 4, Article II of the 1987 Constitution in the fulfillment of the duty of the government to defend the State, all citizens may be computed to render personal, military or civil service. This provision reads:

"The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal, military or civil service."

Thirdly, since time immemorial it has been recognized that a seaman who has contracted to perform a voyage cannot desert the vessel during the voyage.[131]

Fourthly, because of parental authority, parents can give orders to their children.[132]

Fifthly, by virtue of police power, able-bodied male residents may be required to assist in the arrest of criminals. This is the so-called *posse comitatus* (power of the county).[133] Similarly, all able-bodied male residents may be required to work on public roads and bridges.[134]

Sixthly, a court stenographer may be compelled under pain of being cited for contempt to transcribe his stenographic notes, because courts have the inherent power to issue orders which are necessary for the administration of justice.[135]

Lastly, striking employees may be required to return to work. The Supreme Court justified this on the ground that since the authority given to the government to require striking employees to return to work is found in the law and since the law is considered included as part of every contract, by voluntarily entering into a contract of employment a striking employee must be deemed to have agreed to that provision of law.[136]

The logic of this reasoning is questionable. Since he needs to work in order to secure a means of livelihood, an ordinary employee has no choice but to enter into a contract of employment. It would have been better for the Supreme Court to rule that should the striking employees refuse to return to work, they cannot be compelled to do so but they should be deemed to have lost their status as employees.

XI. CONCLUSION

The Bill of Rights has been enshrined in the 1987 Constitution to limit the scope of

governmental powers. In enforcing the law, the government must at all times scrupulously respect the rights guaranteed by the Bill of Rights.

As Justice Louis Brandeis warned in his dissenting opinion in the case of *Olmstead vs. United States*, 277 U.S. 438, 485:

"In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means - to declare that the government may commit crimes in order to secure the conviction of a private criminal-would bring terrible retribution."

FOOTNOTES

[1]Acar vs. Rosal, 125 Phil. 1009; Enage vs. Ramos, 31 SCRA 141, 144.
[2]Section 22, Rule 3 of the Rules of Court; Section 16, Rule 141 of the Rules of Court.
[3]People vs. Tampus, 96 SCRA 629, 631.
[4]People vs. Taylaran, 195 Phil. 226, 233.
[5]People vs. Tawat, 129 SCRA 431, 435-436.
[6]People vs. Abano, 145 SCRA 555, 578; People vs. Vinluan, 23 CAR (2s) 881, 888-889.
[7]People vs. Duero, 191 Phil. 679, 691.
[8]People vs. Galit, 135 SCRA 465, 465, 472; People vs. Sison, 142 SCRA 219, 222; People vs. Quizon, 142 SCRA 362, 369; People vs. Pecardal, 145 SCRA 647, 651; People vs. Rojas, 147 SCRA 169, 181; People vs. Sarmiento, 147 SCRA 252, 255; People vs. Lasac, 148 SCRA 624, 631; People vs. Decierdo, 149 SCRA 496, 502; People vs. Albofera, 152 SCRA 123, 134; People vs. Marquez, 153 SCRA 700, 710.
[9]People vs. Burgos, 144 SCRA 1, 18.
[10]People vs. Hassan, G. R. No. 68969, January 22, 1988.
[11]Gamboa vs. Cruz, G. R. No. 56291, June 27, 1988.
[12]People vs. Alegre, 94 SCRA 109, 118-119.
[13]Record of the Constitutional Commission, Vol. I, p. 731.
[14]People vs. Cuison, 193 Phil. 296, 308-309.
[15]People vs. Olvis, 154 SCRA 513, 524.
[16]United States vs. Ragen, 176 F2d 579, 586.
[17]People vs. Alcaraz, 136 SCRA 74, 88; People vs. Burgos, 144 SCRA 1, 15.
[18]People vs. Duero, 191 Phil. 679, 688; People vs. Jaro, 1244 SCRA 516, 531; People vs. Abano, 145 SCRA 555, 575; People vs. Tolentino, 145 SCRA 597, 607.
[19]Record of the Constitutional Commission, Vol. I, pp. 734-736.
[20]Stonehill vs. Diokno, 126 Phil. 734, 745-746.
[21]Bernas, The Constitution of the Republic of the Philippines, 1st ed., Vol. I, p. 353.
[22]People vs. Badilla, 48 Phil. 718, 725-726; People vs. Go, 88 Phil. 203, 212; People vs. Narciso, 132 Phil. 314, 324; People vs. Condemena, 132 Phil. 380, 388; People vs. Sumayo, 70 SCRA 488, 499; People vs. Ty Sui Wong, 83 SCRA 125, 163; People vs. Molleda, 86 SCRA 667, 701.
[23]Bernas, The Constitution of the Republic of the Philippines, p. 15.
[24]Record of the Constitutional Commission, Vol. I, p. 738.
[25]Loc. cit.
[26]Ibid, pp. 704-705.
[27]Nolledo, The Constitution of the Republic of the Philippines, p. 24.
[28]Bernas, The Constitution of the Republic of the Philippines, p. 15.
[29]Almeda vs. Villaluz, 66 SCRA 38, 42.
[30]People vs. Abner, 87 Phil. 566, 569.
[31]Virtuoso vs. Municipal Judge of Mariveles, 82 SCRA 191, 194.
[32]Teehankee vs. Rovira, 75 Phil. 634, 640; Teehankee vs. Rovira, 76 Phil. 756, 769.
[33]Sy Guan vs. Amparo, 79 Phil. 670, 671; People vs. Alano, 81 Phil. 19, 22; Almeda vs. Villaluz, 66 SCRA 38,

42-44.

[34]People vs. Follantes, 63 Phil. 474, 475; Reyes vs. Court of Appeals, 83 Phil. 658, 661.

[35]Cubello vs. City Warden, 97 SCRA 771, 776.

[36]People vs. Berg, G.R. No. L-1571, September 17, 1947.

[37]Section 17, Rule 114 of the Rules on Criminal Procedure.

[38]Record of the Constitutional Commission, Vol. I, p. 768.

[39]Montalbo vs. Santamaria, 54 Phil. 955, 962; Payao vs. Lesaca, 63 Phil. 210, 214; Peralta vs. Ramos, 71 Phil. 271, 273-274; Rodil vs. Garcia, 191 Phil. 671, 675.

[40]Pareja vs. Gomez, 115 Phil. 820, 823.

[41]Magno vs. Abbas, 121 Phil. 227, 228.

[42]Enage vs. Provincial Warden of Davao City, 82 Phil. 23, 28-29.

[43]Montano vs. Ocampo, 49 O. G. 1855, 1855.

[44]Bernardez vs. Valera, 114 Phil. 851.

[45]Bravo vs. Borja, 134 SCRA 466, 472.

[46]People vs. Intermediate Apellate Court, 147 SCRA 219, 229.

[47]Record of the Constitutional Commission, Vol. I, p. 767.

[48]People vs. Alano, 81 Phil. 19, 21.

[49]Rama vs. People's Court, 77 Phil. 461, 465-466.

[50]Montalbo vs. Samtamaria, 54 Phil. 455, 962; Payao vs. Lesaca, 63 Phil. 210, 214; Peralta vs. Ramos, 71 Phil. 271, 273-274.

[51]Ocampo vs. Bernabe, 77 Phil. 55, 62; Siazon vs. Presiding Judge of the Circuit Criminal Court, 42 SCRA 184, 188-189.

[52]People vs. San Diego, 135 Phil. 514, 516; People vs. Bocar, 137 Phil. 336, 340-341; Mendoza vs. Court of First Instance of Quezon, 51 SCRA 369, 373-374.

[53]Siazon vs. Presiding Judge of the Circuit Criminal Court, 42 SCRA 184, 190.

[54]Marcos vs. Cruz, 67 Phil. 90, 91; Ocampo vs. Bernabe, 77 Phil. 55, 58.

[55]Teehankee vs. Director of Prisons, 76 Phil. 756, 780.

[56]Section 5, Rule 114 of the 1985 Rules on Criminal Procedure; Marcos vs. Cruz, 67 Phil. 82, 90; Ocampo vs. Bernabe, 77 Phil. 56, 58; Beltran vs. Diaz, 77 Phil. 484, 490; People vs. Bocar, 137 Phil. 336, 340; Siazon vs. Presiding Judge of the Circuit Criminal Court, 42 SCRA 184, 188.

[57]Inocencio vs. Alconcel, 190 Phil. 552, 553; People vs. Sola, 191 Phil. 21, 28; De la Cruz vs. Alon, 1 CARA 18, 22

[58]Section 6, Rule 114 of the 1985 Rules on Criminal Procedure; Villasenor vs. Abano, 128 Phil. 385, 392; De la Camara vs. Enage, 41 SCRA 1, 8-9; Mendoza vs. Villaluz, 193 Phil. 803, 807-808; Sunga vs. Salud, 196 Phil. 23, 26

[59]De La Camara vs. Enage, 41 SCRA 1, 8.

[60]Ibabao vs. Villa, 191 Phil. 636, 639.

[61]Sunga vs. Salud, 196 Phil. 23, 26.

[62]People vs. Luces, 125 SCRA 813, 819.

[63]Almeda vs. Villaluz, 66 SCRA 38, 42-43; Espiritu vs. Villaluz, CA-G.R. No. 44656-R, March 2, 1970.

[64]Kalaw vs. Apostol, 64 Phil. 852; 857; Esguerra vs. De la Costa, 66 Phil. 134, 139; Mercado vs. Santos, 66 Phil. 219, 234; People vs. Zabala, 86 Phil. 251, 257, Esguerra vs. Court of First Instance of Manila, 95 Phil. 609, 611; Acosta vs. People, 115 Phil. 760, 766; Acebedo vs. Sarmiento, 36 SCRA 247, 249; Flores vs. People 61 SCRA 334, 336; Ventura vs. People, 86 SCRA 188, 195, Bermisa vs. Court of Appeals, 92 SCRA 136, 141; Nepomuceno vs. Secretary of National Defense, 195 Phil. 467, 472; People vs. Jardin, 124 SCRA 167, 173;

[65]Conde vs. Rivera, 45 Phil. 650, 652.

[66]Kalaw vs. Apostol, 64 Phil. 852, 859.

[67]Rustia vs. Joaquin, 71 Phil. 22, 24.

[68]Gunabe vs. Director of Prisons, 77 Phil. 993, 995; People vs. Rabalo, 86 Phil. 291, 297; Esguerra vs. Court of First Instance of Manila, 95 Phil. 609, 611; Nepomuceno vs. Secretary of National Defense, 195 Phil. 467, 473; Martin vs. Ver, 123 SCRA 745, 751.

[69]People vs. Orsal, 198 Phil. 610, 621; Martin vs. Ver, 123 SCRA 745, 750.

[70]Bermisa vs. Court of Appeals, 92 SCRA 136, 142; Andres vs. Cacdac, 198 Phil. 600, 608.

[71]Flores vs. People, 61 SCRA 331, 336.

[72]Martin vs. Ver, 123 SCRA 749, 751, citing Barker vs. Wingo, 407 U.S. 514.

[73]People vs. Araulo, 197 Phil. 567, 574.

[74]Velasquez vs. Director of Prisons, 77 Phil. 983, 985; Gunabe vs. Director of Prisons, 77 Phil. 983, 999.

[75]People vs. Zabala, 86 Phil. 251, 257.

[76]Manabat vs. Provincial Warden of Nueva Ecija, 94 Phil. 44, 48.

[77]Esguerra vs. Court of First Instance of Manila, 95 Phil. 609, 611.

[78]Acosta vs. People, 115 Phil. 760, 766.

[79]Ventura vs. People, 86 SCRA 188, 196.

[80]Medina vs. Orozco, 125 Phil. 313, 317-318; People vs. Fuentebella, 100 SCRA 672, 686; Luneta vs. Special Military Commission No. 1, 190 Phil. 44, 43; Andres vs. Cacdac, 198 Phil. 600, 608; People vs. Jardin, 124 SCRA 167, 172.

[81]Gunabe vs. Director of Prisons, 77 Phil. 993, 995; People vs. Jabajab, 100 Phil. 307, 310; Acosta vs People, 115 Phil. 760, 765; Baesa vs. Provincial Fiscal of Camarines Sur, 37 SCRA 437, 444.

[82]Kalaw vs. Apostol, 64 Phil. 652, 859.

[83]Conde vs. River, 45 Phil. 650, 652; Kalaw vs. Apostol, 64 Phil. 852, 858; Esguerra vs. De la Costa, 66 Phil. 134, 139; Acebedo vs. Sarmiento, 36 SCRA 247, 250; Flores vs. People, 61 SCRA 331, 334; People vs. Baladjay, 113 SCRA 284, 288.

[84]People vs. Cloribel, 120 Phil. 775, 785-786; Acebedo vs. Sarmiento, 36 SCRA 247, 252; Salcedo vs. Mendoza, 88 SCRA 81, 818; Esmena vs. Pojoy, 190 Phil. 722, 728; People vs. Baladjay, 198 Phil 667, 672; Domingo vs. Minister of National Defense, 145 SCRA 329, 336.

[85]Amberti vs. Court of Appeals, 89 SCRA 240, 250.

[86]People vs. Alipao, 96 Phil. 20, 22; Bermisa vs. Court of Appeals, 92 SCRA 136, 143; People vs. Fuentebella, 100 SCRA 672, 686; People vs. Araulo, 197 Phil. 567, 576; People vs. Araulo, 118 SCRA 340, 343.

[87]People vs. Alipao, 96 Phil. 20, 22.

[88]People vs. Araulo, 197 Phil. 567, 576; People vs. Araulo, 118 SCRA 340, 342.

[89]Bernas, The Constitution of the Republic of the Philippines, 1st ed., Vol. I, p. 396.

[90]Borja vs. Mendoza, 77 SCRA 422, 428.

[91]People vs. Salas, 143 SCRA 163, 167.

[92]Bernas, The Constitution of the Republic of the Philippines, 1st ed., Vol. I, p. 421.

[93]United States vs. Navarro, 3 Phil. 143, 152; Chavez vs. Court of Appeals, 133 Phil. 661, 678.

[94]Bataan Shipyard and Engineering Company, Inc. vs. Presidential Commission on Good Government, 150 SCRA 181, 230.

[95]Bagadiong vs. Gonzales, 94 SCRA 906, 910.

[96]Suarez vs. Tengco, 111 Phil. 1100, 1101; Cabal vs. Kapunan, 116 Phil. 1361, 1365; Chavez vs. Court of Appeals, 133 Phil. 661, 679; Bagadiong vs. Gonzales, 94 SCRA 906, 910.

[97]Chavez vs. Court of Appeals, 133 Phil. 661, 679.

[98]Cabal vs. Kapunan, 116 Phil. 1361, 1366; Republic vs. Agoncillo, 40 SCRA 579, 584.

[99]Pascual vs. Board of Medical Examiners, 28 SCRA 344, 349.

[100]Spevack vs. Klein, 385 U.S. 511, 515.

[101]Gonzales vs. Secretary of Labor, 94 Phil. 325, 326; Suarez vs. Tengco, 111 Phil. 1100, 1102; Bagadiong vs. Gonzales, 94 SCRA 906, 910-911.

[102]Gonzales vs. Secretary of Labor, 94 Phil. 325, 326; Suarez vs. Tengco, 111 Phil. 1100, 1102; Bagadiong vs. Gonzales, 94 SCRA 906, 910-911.

[103]United States vs. Tan Teng, 23 Phil. 145, 152; United States vs. Ong Siu Hong, 36 Phil. 735, 736.

[104]Isabela Sugar Company, Inc. vs. Macadaeg, 93 Phil. 995, 1000; Fernando vs. Maglanoc, 95 Phil. 431, 434.

[105]United States vs. Ong Siu Hong, 36 Phil. 735, 736.

[106]Alvero vs. Dizon, 76 Phil. 637, 645.

[107]People vs. Olvis, 154 SCRA 513, 526.

[108]Villaflor vs. Summers, 41 Phil. 62, 70.

[109]United States vs. Salas, 25 Phil. 337, 340-341; United States vs. Zara, 42 Phil. 308, 314.

[110]Alih vs. Castro, 151 SCRA 279, 288.

[111]People vs. Otadora, 86 Phil. 244, 250.

[112]Alih vs. Castro, 151 SCRA 279, 288.

[113]People vs. Otadora, 86 Phil. 244, 250; Alih vs. Castro, 151 SCRA 279, 288.

[114]United States vs. Ong Siu Hong, 36 Phil. 735, 736.

[115]Breithaupt vs. Abrams, 352 U.S. 432, 436; Schmerber vs. California, 384 U.S. 757, 760-761.

[116]People vs. Olvis, 154 SCRA 513, 526; United State vs. Wade, 388 U.S. 218, 222; Kirby vs. Illinois, 406 U.S. 682, 687.

[117]Richardson, Modern Scientific Evidence, 2nd ed., pp. 655-657; Imwinkelreid, Scientific and Expert Evidence, 2nd ed., pp. 971-1014.

[118]United States vs. Wade, 388 U.S. 218, 222-223.

[119]People vs. Brioso, 155 SCRA 463, 479.

[120]Beltran vs. Samson, 53 Phil. 570, 576; Bermudez vs. Castillo, 64 Phil. 483, 487.
[121]Beltran vs. Samson, 53 Phil. 570, 574.
[122]United States vs. Binayah, 35 Phil. 23, 28.
[123]Hale vs. Henkel, 201 U. S. 43, 67.
[124]Galman vs. Pamaran, 138 SCRA 294. 325.
[125]Bernas, The Constitution of the Republic of the Philippines, 1st ed., Vol. I, p. 429.
[126]De Leon, Textbook on the New Philippine Constitution, p. 166; Sibal, Constitutional Law, p. 328.
[127]Nolledo, op. cit., p. 26.
[128]Aclaracion vs. Gatmaitan, 64 SCRA 131, 135.
[129]Rubi vs. Provincial Board of Mindoro, 39 Phil. 660, 708.
[130]Bailey vs. Alabama, 219 U.S. 219, 242.
[131]Robertson vs. Baldwin, 165 U.S. 275, 283.
[132]United States vs. Cabansag, 8 Phil. 64, 68-69.
[133]United States vs. Pompeya, 31 Phil. 245, 252.
[134]Butler vs. Perry, 140 U.S. 328, 333.
[135]Aclaracion vs. Gatmaitan, 64 SCRA 131, 134.
[136]Kaisahan ng Mga Manggagawa sa Kahoy ng Pilipinas vs. Gotamco Saw Mills, 80 Phil. 521, 529; Philippine Refining Company Workers' Union vs. Philippine Refining Company, 80 Phil. 533, 538-939.