

inquiry. The Courts do not question the necessity and expediency of that piece of legislation; they merely hold that it applies only to land which, under the Constitution, Congress could appropriate for resale to individuals. Furthermore, a law that attempts to deprive a landowner of his private property without his consent, does not merely raise a political question beyond the jurisdiction of the Courts. The individual has a right to seek protection of the Judiciary whenever his rights of ownership are invaded without constitutional authority, even when such invasion is committed by the agents of government.

*Paulino Carreon*

**WILLS AND SUCCESSION—REVOCATION OF WILL—SECOND WILL MUST BE VALID TO REVOKE A PRIOR WILL**—Appeal from an order of the CFI of Rizal admitting to probate the last will and testament of the deceased Mariano Molo y Legaspi executed on August 17, 1918.

Mariano Molo y Legaspi died on January 24, 1941, without leaving any forced heir either in the descending or ascending line. He was survived, however, by his wife, the herein petitioner Juana Juan Vda. de Molo, and by his nieces and nephew, oppositors-appellants, children of Candido Molo y Legaspi, deceased brother of the testator. Mariano Molo y Legaspi left two wills, one executed on August 17, 1918, and another executed on June 20, 1939. The latter will contains a clause which expressly revokes the will executed in 1918.

On February 7, 1941, Juana Juan Vda. de Molo filed in the CFI of Rizal a petition, seeking the probate of the will executed by the deceased on June 20, 1939. After hearing, the court rendered decision denying the probate of said will on the ground that the petitioner failed to prove that the same was executed in accordance with law.

In view of the disallowance of the will executed on June 20, 1939, the widow on February 24, 1944, filed another petition for the probate of the will executed by the deceased on August 17, 1918. The same oppositors filed an opposition to the petition based on the ground that the will has been subsequently revoked. After trial, the court on May 28, 1948, issued an order admitting the will to probate. From this order the oppositors appealed assigning six errors, most important of which is that the lower court erred in not holding that Molo's will of 1918 was subsequently revoked by the decedent will of 1939.

*Held:* A subsequent will in order to revoke a prior valid will must in itself be a valid will. If the subsequent revoking will is defective, even if the earlier will was destroyed by the testator in the honest belief that it was no longer necessary, it is our opinion that the earlier will can still be admitted to probate under the principle of "dependent relative revocation".

The doctrine of dependent relative revocation simply means that "where the act of destruction is connected with the making of another will so as fairly to raise the inference that the testator meant the revocation of the old to depend upon the efficacy of the new disposition intended to be substituted, the revocation will be conditional and dependent upon the efficacy of the new disposition; and if, for any reason, the new will intended to be made as a substitute is inoperative, the revocation fails and the original will remains in full force." (*Gardner*, pp. 232-233; *Juana Juan Vda. de Molo vs. Molo*, G.R. No. L-2538, Sept. 21, 1951.)

This case reiterates the doctrine laid down in an earlier case which held that "a subsequent will, containing a clause revoking a previous will, having been disallowed, for the reason that it was not executed in conformity with the provisions of section 618 of the Code of Civil Procedure (now Art. 805, Civil Code) as to the making of wills cannot produce the effect of annulling the previous will, inasmuch as said revocatory clause is void." (*Samson vs. Naval*, 41 Phil. 838.)

*Filemon Flores*

## BOOK REVIEWS

**THE KING'S GOOD SERVANT.** Papers Read to the Thomas More Society of London. Richard O'Sullivan, K.C. Basil Blackwell, Oxford, 1948. Pp. 112.

"Thomas More, saint and lawyer." It is to be expected that the ordinary man would read such phrase with wonderment, in the light of the present day opinion of lawyers as men whose profession prevents, if not forbids, them to lead the saintly life. But the Thomas More was no ordinary man; and so were countless lawyers after him. That "saint and lawyer" could be read together, Sir Thomas More proved to the world, and for this he suffered the supreme sacrifice. And with the passing of the years, great men have come to recognize and embrace all that Thomas More, saint and genius, stood for. Some have written on his life; others have written on the basis of his philosophy. Of the latter type, comes the "King's Good Servant". The title