

by Filipino authors on the subject. However, American authorities are ready substitutes and their applicability is not questioned—diversity in labor advancement in the States and in the Philippines notwithstanding.

One of these books is: *LABOR TODAY AND TOMORROW*, by a distinguished American labor lawyer, Aaron Levenstein, member of the editorial staff of the Research Institute of America. The language used is adapted to laymen, who, being neither laborers nor businessmen think that labor problems are not their concern. The book makes reading easy so that even a carefree socialite of the finely-filed-finger type will not find it a dry and boring treatise. The author in his ardent desire to interest his readers picked the famous Montgomery Ward case to depict what he thinks would best promote the object of his work.

A thorough discussion of the relations among management, labor and the government during the war and the potential consequences in the post-war period, through the use of the Montgomery Ward case, is assured. In clear terms, the role of the government in coordinating labor and management is defined.

A study of the character of the president of Montgomery Ward, a portrayal of the aggressive policy of business to bar government from intervention, is made. The author moves in a swift and continuous dramatic style in presenting the Montgomery Ward case, unfolding and revealing a story with a cause never realized. If now reconsidered, both the story and the cause would cast profound influence upon the government's policy towards labor and business.

The author points out that while public attention has been focused on government's growing control over business, the concomitant power of the state over labor has hardly been noticed, least of all by the unions themselves. This view of the author should be underscored, for it is a fact that the Philippine government is always inclined to follow the policies of the American government towards labor.

The author did not fail to note that businessmen looking for "progress" and labor leaders looking for "reform" are torn between fear of government and the desire for its protection against the hardships of economic dislocation. He dealt on the controversies of wartime labor conditions, maintenance of membership, wage levels, union participation in management, worker's resistance to technological changes, internal economic and political dimensions, which he aptly calls "the time bombs which will explode tomorrow."

Levenstein emphasizes that these are the burdens not of abstract business, but of businessmen; not of labor, but of workingmen pursuing their own interest and identifying themselves always with the welfare of the whole nation.

To both lawyer and student—this treatise on Labor is highly recommended.

*Benito Sabban*

## 1952 BAR EXAMINATION QUESTIONS

### CIVIL LAW

1. (a) In what cases can the husband alienate or encumber, without the wife's consent, real property of the conjugal partnership? (b) What remedy, if any, has the wife in case of abuse of powers of administration of the conjugal partnership property by the husband?

2. *A* executed an affidavit whereby he acknowledged *B* as his natural son. After the execution of the affidavit *A* took no further action to strengthen the acknowledgement of *B* as such natural son. *A* died intestate and *B* claimed a share in the properties left by *A*. Is the acknowledgement of *B* valid and effective for him to be entitled to participate in the intestate of *A*? Give your reason.

3. Juan built a house worth ₱8,000.00 on a land valued at ₱10,000.00 belonging to Pedro who leased the land to the former at an agreed rent for 5 years. At the expiration of the contract of lease, Juan wanted to renew it, but Pedro refused; instead he filed an action to compel Juan to buy the land. Was Pedro's action proper? Give your reasons.

4. State the distinctions between confirmation, recognition or acknowledgement and ratification of contracts.

5. A cow stolen from Pedro was impounded in a city pound for having been caught loose in a street in violation of a city ordinance and later on sold in public auction in order to collect the impound fees and adjudicated to Juan as the best bidder for the sum of ₱30.00. Pedro learned of the sale tried to get back the cow from Juan but the latter refused to surrender it unless he is paid the sum of ₱30.00. Has Pedro the right to recover the possession of the cow without paying Juan on the ground that the cow was stolen from him?

6. *R* is the legatee in the will of *S*, duly executed. *R* died before *S* but the latter did not alter or modify the will with regard to the legacy notwithstanding the fact that he learned of the death of *R*. Upon the death of *S* the heirs of *R* claimed the legacy. Are they entitled to the legacy? State your reason.

7. (a) What is collation? (b) *A* dies intestate leaving two sons, *B* and *C* and a grandchild *D* as his heirs. *E*, the father of *D*, while living, was given several donations of properties by

*A*, the value of which is about  $\frac{1}{2}$  of what *B* and *C* may each inherit from *A*. The properties donated to *E* were not inherited by *D* because *E* has disposed of them before his death. Is *D* obliged to bring to collation in the intestate of *A* the value of the properties donated to his father by *A*?

8. On August 1948, *A* sold to *B* a parcel of land for the sum of P10,000.00; payable on 4 installments until 1950 at the rate of P250.00 per year. *B* paid the first two installments but failed to pay the last two. In Jan. 1951 *B* offered and tendered to *A* payment of the two unpaid installments, but the latter refused to accept it; instead, on June 1951 he sued *B* for the rescission of the sale. Has *A* right to rescind the contract? Give your reasons.

9. *A* obtains a loan of P500.00 from *B* and delivers to the latter a piece of coconut land as security for the payment of the loan. In the deed executed, *A* agreed that *B* would avail of the fruits of the land during the time the loan remains unpaid, without saying that the value of said fruits should be applied to the interest or the capital of the loan. State the nature of the contract between the parties.

10. (a) Define *solutio indebiti*. (b) State its essential requisites.

#### LAND REGISTRATION AND MORTGAGES

1. (a) Enumerate briefly the requisites of an application for registration. (b) Is the court in registration cases empowered to refer the hearing of a case to a referee? (Mention the law in support of your answer)

2. (a) When and how an order of general default can be entered by the court in a registration proceeding? (b) What are the legal effects of an order of general default?

3. "*A*" filed an application for registration under the Land Registration Act and no opposition was filed. Question: Does the fact that there is no oppositor relieve "*A*" from presenting evidence, satisfactory to the court, in support of his claim of ownership? Reason out.

4. (a) Who is deemed "innocent purchaser for value" under the Land Registration Act? (b) Give an example of an "innocent purchaser for value".

5. If a mortgagor dies leaving the mortgage unpaid, the mortgagee has to select one of several courses of action for the collection of the mortgage. Enumerate those courses of action.

6. How and within what time can an appeal be perfected against an order of the court denying a motion for review?

7. Since when a public land becomes registered land for all purposes under the Land Registration Act?

8. When you believe that the Register of Deeds has taken an improper or illegal action on certain documents filed by you

for registration, name (a) the judicial authority you would resort to for decision and (b) state how would you proceed.

9. For what purposes has the Assurance Fund been created by the Land Registration Act?

10. What are the essential requisites of a chattel mortgage without which it cannot be valid against third parties?

#### COMMERCIAL LAW

1. (a) Who are merchants for purposes of the Code of Commerce? (b) What books must a merchant keep?

2. Give two instances when a contract of transportation by land or waterway of any kind shall be considered commercial.

3. Name four just causes for the revocation of a voyage in maritime commerce.

4. Define a loan on bottomry or respondentia.

5. (a) Define corporation. (b) On January 1, 1952, Cruz signed a written subscription to the corporate stock of Santos, & Co., in the following terms:

"I hereby subscribe for 100 shares of the capital stock of Santos & Co., payable from the first dividends declared on any and all shares of said company owned by me at the time dividends are declared, until the full amount of this subscription has been paid."

The question is whether this stipulation to the effect that the subscription is payable from the first dividends declared on the shares has the effect of relieving the subscriber (Cruz) from personal liability in an action to recover the value of the shares. Explain and give reasons for your answer.

6. (a) Difference between corporators and incorporators. (b) May shares of stock be issued for services rendered to the corporation? Explain and give reasons for your answer.

7. (a) What constitutes a holder in due course? (b) When are the following notes payable? State reasons for your answers.

(1) The note reads as follows:

"\_\_\_\_\_ after date, the undersigned hereby promises to pay, etc.

(2) On January 15, 1952, *A* made promissory note to the order of *B*, payable on January 30, 1952, and delivered it to the payee. On March 30, 1952, *B* endorsed and delivered the note to *C*. Now, as regards *B*, when is the note payable?

8. (a) Define accommodation party. (b) State liability of accommodation party. (c) Give four cases when notice of dishonor need not be given to the drawer.

9. (a) What is the difference between "double insurance" and "reinsurance"? (b) *A* insures his house for P10,000 commencing January 1, 1952. On February 15, 1952, *A* sells the house to *B* for P15,000 without endorsing or transferring the fire policy.

to B. On April 20, 1952, the house is completely destroyed on account of an accidental fire. Can A or B collect the proceeds of the policy from the Insurance? Explain and give reasons for your answers.

10. Give three cases or instances of "speculative securities"

Manila, August 9, 1952.

#### INTERNATIONAL LAW

1. (a) Define Public International Law. (b) What is the basis or foundation of Public International Law?

2. (a) Distinguish Private International Law from Public International Law. (b) What is meant by Comity of Nations? (c) Under the Rules of International Law, do the acts of a Notary Public of a country receive credence in other countries?

3. (a) What are the sources of Public International Law? (b) How is Public International Law enforced: (1) In times of peace; and (2) In times of war. (c) What is the provision of the Constitution of the Philippines on International Law, and what are the implications of its inclusion therein?

4. (a) What is the distinction between residence and domicile? (b) What is the original domicile of: (1) Legitimate child; (2) bastard; (3) Legitimated child; (4) foundling; and (5) adopted child?

5. (a) How may nationality be determined? (b) Who are citizens of the Philippines? (c) What law governs the testamentary capacity of a person; the capacity of a person to make a contract? (d) A, a Filipino citizen, executed his last will in Madrid, Spain, where he died, in accordance with the law of that country. May such will be probated in the Philippines?

6. (a) Wong Cheng, a Chinese, was caught smoking opium aboard the merchant vessel "Changsa" of English nationality while said vessel was anchored in Manila Bay two and a half miles from the shore of the city. He was prosecuted before the Court of First Instance of Manila for the crime of smoking opium. A demurrer was filed by the attorney for the accused, on the ground that the court had no jurisdiction to try him, for the offense he committed is not triable in the court of the Philippines. Should the demurrer be sustained? Explain your answer. (b) What is meant by "right of extraterritoriality?"

7. (a) What is a Treaty? (b) What is meant by the "most favored nation clause" in a treaty? (c) What are the privileges and prerogatives of a diplomat? (d) What is an "exequatur"?

8. (a) State the meaning as understood in Private International Law of the terms: *Lex loci contractus*, *Lex situs*, *Lex fori*, *Lex loci solutionis*. (b) What are the three principal elements in every contract and by what law is each governed?

9. M, a Filipino citizen and a civilian employee of the United States Army in the Philippines, was charged with disposing in the

Port of Manila Area of things belonging to the United States Army, in violation of the 94th Article of War of the United States. He was duly arrested, and a general court martial appointed by the Commanding General, Philippines-Ryukyus command, United States Army tried and found M guilty and sentenced him to 15 years imprisonment. Is the sentence valid? Reason out your answer.

10. (a) What are the main purposes of the United Nations? (b) May a member of the United Nations be suspended or expelled? (c) What are the principal organs of the United Nations?

Manila, August 9, 1952

#### POLITICAL LAW

1. (a) Define political law. (b) Name its three [3] principal subdivisions.

2. How may the Philippine Constitution be amended?

3. (a) Under the Constitution, who are citizens of the Philippines? (b) What is the principle of *ius sanguinis*? (c) Is the principle followed in the Philippines?

4. (a) Who are subject to impeachment according to our Constitution? (b) Give the causes for impeachment.

5. Distinguish between *de facto* and *de jure* officers.

6. Under the Constitution, what are the terms of office of the following: President of the Philippines; Justice of the Supreme Court; Senator; Representative; Auditor-General; and Commissioner on Election?

7. (a) Who are the persons ineligible to municipal office either by appointment or by election? (b) May a retired public school teacher who receives a pension from the National Government run for an office and qualify if elected? Reason.

8. (a) Are the properties of the Young Men's Christian Association subject to tax or not? Why? (b) Is a garden lying around the convent planted with vegetables for the consumption of the priest subject to tax or not? Why?

9. (a) Name the three (3) inherent powers of sovereignty in all governments with constitutional limitations. (b) What is the situation? (b) Give the causes for impeachment.

use? (c) What is the legal term applied when a private property is taken to promote public interest? (d) What is the taking of property to defray the expenses of the government called?

10. (a) A, a naturalized Filipino citizen from Spain, 25 years old, a qualified voter, and long a resident of the lone district of the province of Palawan, was elected representative of the province after the present Constitution went into effect. May his election be validly contested? Reason. (b) A statute authorizes the anti-Usury Board to summon witnesses to appear before it under pain of being adjudged by it guilty of and punished for contempt if they refuse to so appear. Is the statute constitutional? Reason.

Manila, August 16, 1952.

## CRIMINAL LAW

1. From the definition given in the Revised Penal Code (1932) that "acts and omissions punishable by law are felonies" (Art. 3) the word VOLUNTARY of the previous code (1887) was eliminated as well as the phrase THAT ACTS OR OMISSIONS PUNISHABLE BY LAW ARE ALWAYS PRESUMED TO BE VOLUNTARY UNLESS THE CONTRARY SHALL APPEAR. (a) Considering such eliminations would you now hold that even acts and omissions punishable by law which are INVOLUNTARY are felonies? State your opinion on this point. (b) Is there any voluntariness on the part of the offender in cases of felonies committed through reckless negligence or imprudence? Why do you say so?

2. (a) When is a felony said to be (1) consummated; (2) frustrated; and (3) attempted? (b) Can the crime of frustrated bribery be committed? Reason your answer.

3. State the differences existing between the circumstance of "having acted under the compulsion of an irresistible force" and that of "having acted upon an impulse so powerful as naturally to have produced passion and obfuscation".

4. Juan de la Cruz, chauffeur of a jeepney, while driving it along Taft Avenue, Manila, through reckless imprudence caused his said vehicle to bump and collide with one 6 x 6 army motor truck going in the opposite direction, with the result that 2 of his passengers died instantaneously and the jeepney of the property of Pedro Garcia, valued at P1,000.00 was completely smashed and rendered useless forever. The accident occurred on December 1, 1950. If you were the Fiscal in charge of the case, would you prosecute Juan de la Cruz for the complex crime of double homicide and damage to property through reckless driving, as coming within the purview of Art. 48 of the Rev. Penal Code, as amended by Act No. 4000 of the Commonwealth? State the reason of your answer.

5. In a criminal case John Smith was sentenced by the Municipal Court of Manila to suffer the penalty of 2 years, four months and 1 day of *destierro* (banishment), and thus forbidden to enter any place within the radius of 100 kilometers from the City of Manila. Subsequently and during his period of service of this sentence, John Smith was caught in the City of Manila and was therefore prosecuted before the Court of First Instance of this capital for evasion of service of sentence. In his defense John Smith claimed that he was not criminally liable because his case did not come within the scope of the penal code, particularly of Art. 157 thereof which punishes the evasion of sentence, for the reason that, according to him, this article refers only to persons who are imprisoned in a penal institution. What is your opinion? Why?

6. Pedro Inglés, a bill collector of the Metropolitan Water District, was prosecuted in the Municipal Court of Manila in 11 separate cases for the light felony of unjust vexation committed against 11 distinct persons in 11 different dates of the month of

July, 1952. The Rev. Penal Code punishes the light felony of unjust vexation with *arresto menor* or a fine ranging from 5 to 200 pesos, or both. The guilt of the defendant in the 11 cases was proved beyond reasonable doubt. (a) If you were the Judge, would you render a verdict of guilt and sentence him to the corresponding penalty in each of the 11 cases? (b) Assuming that the proper penalty that should be imposed in each case upon the defendant were 11 days of *arresto menor*, what would be the length of the period of sentence that Pedro Inglés could be compelled to serve? Why?

7. A, B and C, employees of a rice dealer who had a warehouse situated at Dagupan street, Manila, where hundreds of sacks of rice were usually stored, surprised X, Y and Z when they were one morning inside the warehouse. Upon being caught there the 3 intruders fired upon and killed all said 3 employees and ran away thereafter. The police subsequently arrested Z who was charged in the Court of First Instance of Manila with the crime of robbery with triple homicide. At the hearing the prosecution failed to prove any robbery, either because no explanation was given of the intruders' motives for being in the warehouse, or because on that occasion the warehouse happened to be empty. If you were the Judge, would you convict Z? If so, of what crime or crimes? Why?

8. (a) What is the main feature that differentiates the crime of *estafa* from that of theft? (b) "A" delivers two P500.00 bills to "B", his employee with instructions to go to the Central Bank to exchange them with bills of smaller denominations, and to bring back the change to him afterwards. "B" receives the two P500.00 bills from his employer, but instead of complying with the latter's instructions, disappears with the money which he appropriates for himself. "B" committed qualified theft or *estafa*? What is your opinion and the reasons therefor?

9. (a) What are the elements of the crime of occupation of real property or usurpation of real rights in property? (b) "A" the owner of a house and lot situated at No. 100 Taft Ave. extension, leased this property to "B" and family, and because the lessor and the lessee quarrelled at the club on certain personal matters, "A" went to said property, forcibly entered therein and by means of violence against and intimidation of the occupants thereof seized it back from "B". Has "A" committed in this case the crime of occupation of real property or usurpation of real rights in property? Give reasons for your answer.

10. "A" and "B" were mortal enemies. They occasionally met at a party that their common friend "C" gave in his house. Knowing that there would be a game of poker and availing himself of the first opportunity, "A" picked up the wallet of "C" containing P1,000.00 and surreptitiously put it in the pocket of "B's" coat. When the guests were called for the game "C" discovered the loss of his wallet and money and "A" told "C" that he had seen "B" in the act of suspiciously placing in his coat a wallet with a bulged sheaf of paper bills. "B" is searched des-

pite his protests of innocence and "C's" wallet and money found in the coat of "B" who is brought to the police station for investigation and proper action. Is the trick or scheme of "A" punishable by law? If you think so, by which law and what is the name of the criminal offense committed? State your reasons.

*Manila, August 16, 1952*

#### REMEDIAL LAW

1. (a) Define jurisdiction of a court.  
(b) Over what civil actions and criminal cases do courts of first instance have original jurisdiction?
2. (a) Define venue.  
(b) "A" brought against "B" in the court of first instance of Manila an action for recovery of ownership and possession of a parcel of land situated in the city of Cebu. After due trial, which was not objected to by "B", the court rendered judgment in favor of "A" and against "B" declaring "A" owner of the land and ordering "B" to deliver the possession thereof to him. "B" appealed from this judgment, and in the appellate court he filed a motion asking that the action be dismissed and that all proceedings had thereon in the lower court be declared null and void on the ground that the action being one of title to real property should have been brought and tried in the court of first instance of Cebu where the property lies. How should the appellate court decide the motion? Reason out your answer.
3. (a) Explain the meaning of "splitting a cause of action."  
(b) "A" brought against "B" an action for the recovery of the ownership and possession of a horse alleged to be illegally detained by the latter. The answer of "B" was ownership and right to possession. After trial the court rendered judgment for the plaintiff ordering the defendant to deliver to "A" the horse. "B" did not appeal from the judgment. One year after the judgment had been executed, "A" brought against "B" another action to recover from the latter damages which, it was alleged, were sustained by him by reason of the detention of the same horse by "B". Could the second action for damages prosper? Reason out your answer.
4. (a) What is a motion?  
(b) "A" brought against "B" in the court of first instance of Rizal an action for the recovery of the ownership and possession of a parcel of land situated in the city of Manila. After having been served with summons "B" filed a motion to dismiss the action on the ground that "A" had no legal capacity to sue. This motion having been denied, "B" filed another motion in which he again asked for the dismissal of the complaint on the ground that venue was improperly laid, the estate sought to be recovered being situated in Manila. "B" claimed that the action should have been brought in the court of first instance

of Manila. Is the second motion to dismiss filed by "B" sustainable? Reason out your answer.

5. (a) In what pleading or pleadings must the defense that the cause of action is barred by the statute of limitations be raised?  
(b) What judgment or orders of the courts of first instance are subject to appeal to the Supreme Court and to the Court of Appeals?  
(c) To what court or courts are orders or decisions of the courts of industrial relations appealable, how are such appeals perfected, and what questions may be raised in the appellate court?
6. (a) How and within what time must claims against the estate of a deceased person be filed, (b) by what paper or papers must the claim be supported, and (c) what effect does the failure to file the claim within the period fixed for the purpose produce on the right of the claimant?
7. (a) "A" killed "B" on a railroad train in the course of its trip from Dagupan to Manila while the train was travelling within the province of Tarlac. Besides the cities of Dagupan and Manila the train passed in the course of its trip through the provinces of Pangasinan, Tarlac, Pampanga, Bulacan and Rizal. An information charging "A" with homicide was filed in the court of first instance of Bulacan. "A" moved to quash the information on the ground that the Bulacan court had no jurisdiction of the offense charged. If you were the judge, how would you decide the motion of "A"? Reason out your answer.  
(b) "A", accused of the crime of falsification of a commercial document, while testifying in his behalf, was requested by the fiscal to furnish a specimen of his handwriting by writing on a sheet of paper a sentence that he would dictate to him. "A" refused invoking his right not to incriminate himself. The fiscal asked the court to order "A" to comply with his request. If you were the judge, how would you decide the incident? Reason out your answer.
8. (a) The information filed against your client "A" charges him with two offenses for which the law does not prescribe a single punishment. As attorney for "A", what would you do to protect his interests?  
(b) In the course of the trial of a criminal case for robbery against your clients "A", "B" and "C", it appeared, after the prosecution had rested its case, that there was no sufficient evidence against "B". You wanted to use "B" as a witness for the defense. As counsel for the accused, what step or steps would you take to protect the interests of your clients?
9. When may the testimony of a witness at a former trial be given in evidence at a subsequent trial for the purpose of establishing the facts in issue?
10. (a) What private writings may be admitted in evidence without previous proof of its authenticity and due execution?  
(b) By what kind of evidence may the authenticity and due execution of private writings be proved?

(c) When is evidence of good moral character of a witness admissible?

Manila, 23 August, 1952

#### LEGAL ETHICS AND PRACTICAL EXERCISES

IMPORTANT.—For obvious reasons, you are hereby cautioned NOT to use in your answers proper names of persons and places; if you must, use the letters of the alphabet.

1. (a) Who are entitled to practice law on and after the Rules of Court have become effective on July 1, 1940. (b) What requirements had to be complied with by citizens of the United States of America who, on our becoming independent on July 4, 1946, were duly licensed members of the Philippine Bar and were desirous to continue their practice of the legal profession.

2. What inhibitions have been presently imposed on members of the Philippine Bar who are likewise members of the Congress of the Philippines in the practice of the law profession. (Answer fully.)

3. (a) What administrative sanctions may be imposed on lawyers who violate their duties as such. (b) Is it a valid defense for a lawyer charged with violating any of the rules of legal ethics to show that his conduct worked to the advantage of his client. (Reason out your answer.)

4. Attorneys' lien.—(a) How are they classified; and (b) how are they enforced.

5. (a) Notice of "Lis Pendens"—Of what does it consist and to whom such notice is given. (b) On what matters may a lawyer enter into compromise with the adverse party and be binding on his client and what compromise may he not enter into without the express consent of his client.

6. Define the following terms as they are used in pleadings and deeds and conveyances: (a) Verification; (b) acknowledgement; (c) attestation clause; and (d) authentication.

7. Prepare a contract of easement of *right of way* between "A", owner of the dominant estate and "B", owner of the servient estate. (Supply such details as are necessary to complete the contract; you may omit the acknowledgement.)

8. Prepare an acknowledgement of an instrument whereby "AB," a domestic corporation represented by its president XY has sold to "CD" heavy equipments, on installment.

9. "A" executes his last will and testament. "B," "C," and "D" are the witnesses to its execution. Prepare the corresponding attestation clause.

10. Prepare a complaint the subject matter of which is of your own choice. See that your complaint is complete as to its form and substance, and is not amenable to a motion to dismiss.

Manila, 23 August, 1952.