

Washington Law Review

Volume 23 | Number 3

8-1-1948

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Ewald E. Selph

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Recommended Citation

Ewald E. Selph, Far Eastern Section, *A Brief Outline of the Growth of Philippine Law*, 23 Wash. L. Rev. & St. B.J. 301 (1948).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol23/iss3/10>

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In all these different ways—by constitutional expedients, by sympathetic understanding and treatment of the problems of special areas, by generous dealing with sensitive minorities—Burma has not only averted any partition of her territories, but has fashioned them all into a close-knit unity. The thirty-six Shan States, the two Wa States, the three Karen States, the Karen Region, and the Chin Division, some of which threatened to break away at one stage and were a source of considerable anxiety, have been quietly and without fuss integrated along with the rest of Burma into a close Union. It is true that there is a qualified right of secession and other difficulties, not yet suspected, may arise; but the magnanimity with which the Constituent Assembly elected one of the Shan Chiefs, first as its President and then as the Provisional President of the new Union augurs well for the future. The credit of this achievement belongs in large measure to Burma's great leader, the Bogyoke, whose assassination in July last filled the country with grief and anxiety. But the tragedy has only served to bind the Burmese people closer together and he rules them from the grave even more than he did during life.

And so the new Union has been launched. The captain and the crew are all young men full of high ideals and eager hope, and India, which may claim in a sense to be their spiritual home, will watch their progress with sympathy and goodwill.

A BRIEF OUTLINE OF THE GROWTH OF PHILIPPINE LAW

EWALD E. SELPH*

The Philippine Constitution was adopted pursuant to the mandate of the Tydings-McDuffie Law¹ that it should be republican in form and contain a bill of rights. It contains a declaration of principles² which includes five major items. These are: the Philippines are a republican state and sovereignty resides in, and all government authority emanates from, the people; national defense is the prime duty of government and all citizens may be required by law to render personal military or civil service; war is renounced as an instrument of national policy and the generally accepted principles of international law are adopted as part of the nation's law; aid and support should be given by the government to parents in rearing youth for civic efficiency; and that the promotion of social justice to insure the well-being and eco-

* The author is a member of the Manila Bar.

¹ Act of U.S. Congress of March 24, 1934.

² PHILIPPINE CONST., Art. II, §§ 1-5.

conomic security of all the people should be the concern of the state.

The bill of rights³ follows substantially that of the United States although not in the same order. It includes: no person shall be deprived of life, liberty, or property without due process of law, and no person shall be denied equal protection of the laws; private property shall not be taken for public use without just compensation, security against unreasonable searches and seizures shall not be violated, and no warrants shall issue except on probable cause; liberty of abode and changes within limits prescribed by law shall not be impaired; privacy of communication and correspondence shall be inviolable except on lawful order of court or when public safety and order require otherwise; right to form associations or societies not contrary to law shall not be abridged; nor shall freedom of religion, freedom of speech, freedom of the press, nor the right of peaceable assembly and to petition the government for redress of grievances; no law granting a title of nobility shall be enacted, no law impairing the obligation of contracts shall be passed; no ex post facto law or bill of attainder shall be enacted, no person shall be imprisoned for debt; no involuntary servitude shall exist except as punishment for crime of which duly convicted, the privilege of the writ of habeas corpus shall not be suspended except in case of invasion, insurrection, or rebellion, when public safety requires; no person shall be held to answer for a criminal offense without due process of law; all persons shall have the right to reasonable bail except in capital cases where evidence of guilt is strong; in all criminal prosecutions the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature of the charge, to have a speedy and public trial, to meet witnesses face to face, and have compulsory process to secure attendance of witnesses in his behalf; no person may be compelled to be a witness against himself; excessive fines shall not be imposed nor unusual punishment inflicted, no person shall be twice put in jeopardy for the same offense; free access to courts shall not be denied by reason of poverty There is no provision for jury trial and no general right to bear arms.

The rule of citizenship⁴ is different from that in the United States. Birth in the Philippines does not necessarily make a person a citizen. Citizenship of the parents controls. Naturalization is provided for.⁵

³ *Id.*, Art. III, §§ 1-21.

⁴ *Id.*, Art. IV, § 1.

⁵ *Id.*, Art. V, § 1(5) Com. Act 473, as amended.

All cases involving the constitutionality of a treaty or a law must be heard and decided by the Supreme Court in banc and no treaty or law may be declared unconstitutional without the concurrence of two-thirds of all the members of the Court.⁶

The Constitution provides⁷ that taxation shall be uniform but that Congress may by law authorize the President to fix within specified limits tariff rates, import or export quotas, and tonnage and wharfage dues. In time of war or other national emergency the Congress may by law authorize the President, for a limited period, to promulgate rules and regulations to carry out a declared national policy

The President has the power⁸ with the concurrence of two-thirds of the members of the Senate to make treaties. Among the treaties and agreements made by the President under this power are the following:

Treaty of General Relations between the Philippines and the United States, dated July 4, 1946.

Air Transport Agreement between the Philippines and the United States, dated November 16, 1946.

Treaty of Conciliation between the Philippines and the United States, dated November 16, 1946.

Military Bases Agreement between the Philippines and the United States, dated March 14, 1947

Air Transport Agreement between the Philippines and the United Kingdom, dated January 7, 1948.

Radio Broadcasting Agreement between the Philippines and the United States, dated September 4, 1947

One of the principal provisions of the Constitution is that relating to the conservation and utilization of natural resources.⁹ Under this article the disposition, exploitation, development, or utilization of agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, forces of potential energy, and other natural resources are limited to Philippine citizens or corporations, sixty per cent of the capital of which is owned by citizens. A similar limitation is imposed on franchises¹⁰ or other authorization for operation of public utilities. Both these articles are amended by an ordinance¹¹ appended to the Constitution which was adopted pursuant to the Bell bill¹² by which during the period of the Executive agreement (not exceeding July 3, 1974) between the U.S.

⁶ *Id.*, Art. VIII, § 10.

⁷ *Id.*, Art. VI, § 22.

⁸ *Id.*, Art. VII, § 10(7).

⁹ *Id.*, Art. XIII, § 1.

¹⁰ *Id.*, Art. XIV, § 8.

¹¹ Amendment, PHILIPPINE CONST. adopted Sept. 18, 1946.

¹² U.S. Public Act of April 30, 1946, U.S.C.A. § 1331, Title 22.

and the Philippines, dated July 4, 1946, such activities, if open to anyone, are open to U.S. citizens and all forms of business owned or controlled by U.S. citizens in the same manner and under the conditions imposed on citizens or corporations owned or controlled by citizens of the Philippines. All franchises and grants of any right are subject to amendment, alteration, or repeal by Congress. No private corporation or association may hold more than 1,024 hectares (approximately 2,500 acres) of public agricultural land except that grazing land not exceeding 2,000 hectares may be leased.¹⁸ Save in cases of hereditary succession no private agricultural land¹⁴ (which has been held by the Philippine Supreme Court to include urban residential lots¹⁵) may be acquired by any person or corporation not qualified to acquire or hold land of the public domain. The government may in the interest of national welfare and defense establish and operate industries and means of transportation and communication and upon payment of just compensation transfer to public ownership utilities and other private enterprises to be operated by the government.¹⁶

The Constitution provides that the state shall promote scientific research and invention¹⁷ and that exclusive right to writings and inventions shall be secured to writers and inventors for a limited period. Laws protecting copyrights,¹⁸ trade marks,¹⁹ and patents²⁰ are now in force.

The state is required to afford protection to labor, especially to working women and minors, and to regulate the relations between landowner and tenant and between labor and capital in industry and agriculture and may provide for compulsory arbitration.²¹ There is an eight-hour law,²² and a labor-relations law establishing a court of industrial relations²³ which is now functioning. There is a workmen's compensation law,²⁴ and a compulsory insurance law is under consideration. There are laws requiring free medical and dental service.²⁵

¹⁸ PHILIPPINE CONST., Art. XIII, § 2, Corp. Law, Act 1459 as amended § 13.

¹⁴ *Id.*, Art XIII, § 5.

¹⁵ Dec. Philippine Sup. Ct., *Krivenko v. The Register of Deeds, City of Manila*, 44 O.G. pp. 471.

¹⁶ PHILIPPINE CONST., Art. XIII, § 6.

¹⁷ *Id.*, Art. XIV, § 4.

¹⁸ Rep. Act 167.

¹⁹ Rep. Act 166.

²⁰ Rep. Act 165.

²¹ PHILIPPINE CONST., Art. XIV, § 6.

²² C.A. Act 444.

²³ C.A. Act 103 as amended.

²⁴ C.A. Act 3428 as amended.

²⁵ C.A. Act 324 as amended, Rep. Act 239.

The fundamental law governing acquisition, conveyance, and transmission of property and the creation and extinction of contractual and extra contractual obligations is the Spanish civil code extended to the Philippines in 1889.

Mercantile transactions were formerly governed by the Spanish Code of Commerce of 1885 which, with few changes, was extended to the Philippines in 1888. However, many changes have occurred through the adoption of various forms of legislation affecting commercial transactions. One of the first of these was the Law of Trademarks, Trade-names, and Unfair Competition enacted in 1903.²⁶ This has been superseded by Republic Act 166. The next was the Corporation Law²⁷ which was extensively revised in 1928 and in general is similar to corporation laws in the United States.²⁸ The Blue Sky Law²⁹ has been superseded by the Securities Act³⁰ and all matters relating to registration of corporations and issuance of corporate securities are administered by the Securities Exchange Commission, familiarly known as the SEC. There is a chattel mortgage law,³¹ an insolvency law,³² a Bulk Sales Law,³³ a Warehouse Receipts Law,³⁴ and a Bonded Warehouse Law.³⁵ The Uniform Negotiable Instrument Act³⁶ was adopted in 1911. There is a comprehensive insurance law,³⁷ a Salvage Law,³⁸ and a usury law.³⁹

The U.S. Carriage of Goods by Sea Act was adopted⁴⁰ in 1936.

A Central Bank Law⁴¹ was recently adopted which provides for a Monetary Board with power to regulate foreign exchange and stabilize the value and convertibility of the Philippine peso, and following the objectives of the International Monetary Fund, "to promote a rising level of production, employment and real income in the Philippines."

A revision of the laws regulating the banking business is expected to be accomplished soon.

²⁶ Philippine Com. Act 666.

²⁷ Philippine Com. Act 1459.

²⁸ Act 3518, 3610, C.A. Act 437

²⁹ Act 2581.

³⁰ C.A. Act 83, 290.

³¹ Act 1508 amended by Act 3815, § 367.

³² Act 1956 amended by Act 3962.

³³ Act 3952.

³⁴ Act 2137

³⁵ Act 3983.

³⁶ Act 2031.

³⁷ Act 2427, Act 4101.

³⁸ Act 2616.

³⁹ Act 2655, C.A. Act 399.

⁴⁰ C.A. Act 65.

⁴¹ Rep. Act 265.

Public services are regulated by a Public Service Commission under provisions⁴² similar to those in the United States.

The Mining Law⁴³ is based on the Regalian Theory that the government is the owner of all minerals wherever found, including those under private lands. It is administered by the Bureau of Mines under a leasing system with a royalty for the government depending upon the nature of the mineral, its location, and ownership of the land where found. This law and system is also applied to petroleum and natural gas.

There are a variety of taxes including income, estate, inheritance, gift, sales, compensating, contractors, excise, and documentary stamp taxes, somewhat similar to those in the United States and the different states. These are compiled in a National Internal Revenue Code.⁴⁴

There is a Flag Law⁴⁵ which gives preference in government purchases to Philippine products and another preference to Philippine citizens and corporations. The so-called parity amendment to the Constitution, giving certain rights to American citizens and corporations, is not applicable to this subject.

Under the power granted the President, he has issued several executive orders the last of which imposes fixed retail ceiling prices on articles deemed essential,⁴⁶ and the Philippine Relief and Trade Rehabilitation Administration known as PRATRA is given the power to revise such ceilings and also to fix the markups of importers and wholesalers.

There are laws on monopolies and combinations in restraint of trade⁴⁷ similar to the U.S. Sherman and Clayton Acts.

Land titles are protected under a Torrens system⁴⁸ similar to that of Australia, and a cadastral survey law⁴⁹ provides the machinery for bringing land under such system.

There are restrictions and penalties on foreign corporations attempting to carry on business in the Philippines without being duly registered and licensed under Philippine law with a resident agent upon whom service of summons and other notices may be made.⁵⁰

⁴² C.A. Act 146, 454.

⁴³ C.A. Act 137 as amended.

⁴⁴ C.A. Act 466 as amended.

⁴⁵ C.A. Act 138.

⁴⁶ Exec. Order 91.

⁴⁷ Act 3247 as amended.

⁴⁸ Act 496 as amended.

⁴⁹ Act 2259 as amended.

⁵⁰ Act 1459, §§ 68, 69.