

JOSE M. LONTOC, PETITIONER, VS. HON. GREGORIO G. PINEDA, IN HIS CAPACITY AS PRESIDING JUDGE, BRANCH, XXI, COURT OF FIRST INSTANCE OF RIZAL, AND TEODORO RODRIGUEZ, RESPONDENTS.

G.R. No. L-37106. June 30, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review on certiorari of the decision of the Court of First Instance of Rizal, Branch XXI, in Election Case No. 15464 entitled "Jose M. Lontoc, protestant-counter protestee vs. Teodoro D. Rodriguez, protestee-counter protestant", wherein the Hon. Gregorio G. Pineda, District Judge of Rizal of said Branch XXI, ruled that protestee Rodriguez won over protestant Lontoc by a plurality of 110 votes (3,842 votes counted for protestee and 3,732 votes counted for protestant); dismissed the protest with costs and expenses against protestant; confirmed the proclamation of protestee as duly elected mayor of Montalban, Rizal, in the election of November 8, 1971; and ordered the protestant to pay the protestee the sum of P10,000.00 as attorney's fees.

Uncontested facts are: that petitioner Jose M. Lontoc was an independent Nacionalista Party candidate for the office of the Mayor of Montalban, Rizal, against private respondent Teodoro Rodriguez, the official candidate of the Nacionalista Party for the same office in the general elections of November 8, 1971; that the Municipal Board of Canvassers of Montalban, Rizal, proclaimed private respondent Rodriguez as elected mayor of that town, crediting him with a total of 3,831 votes against 3,742 votes credited to petitioner Lontoc; that petitioner Lontoc filed an election protest with the Court of First Instance of Rizal contesting the election of private respondent Rodriguez and impugning the election returns from all precincts of Montalban, Rizal, and claiming from the private respondent P100,000.00 as moral damages and P20,000.00 as attorney's fee; that private respondent Rodriguez in his answer with special defenses and counter protest, contested the election in Precincts Nos. 1-A, 1-M, 2, 3-H, 3-M, 4, 5-M, 12-A, 12--M, 16-A, 16-M, 17-A, 17-M, 18-A and 18-M (15 precincts), prayed also for moral exemplary damages plus an attorney's fee of P20,000.00; that a petition for annulment of canvass and proclamation of mayor-elect in Montalban, Rizal, filed by petitioner Lontoc (Commission on Elections Case No. C-171) was dismissed for lack of jurisdiction by Commissioners Jaime N. Ferrer, Lino M. Patajo and Jose M. Mendoza in Resolution No. RR-1050, dated November 29, 1971; that petitioner and private respondent presented their respective documentary evidence and their objections to the ballots during the trial of the case, wherein private respondent Teodoro Rodriguez also presented as witness Mr. Maximo Bernardo, Acting Chief of the Electro Typing & Foundry Division of the Bureau of Printing, who testified on the genuineness of a number of ballots cast for respondent Rodriguez which were questioned by petitioner Lontoc as allegedly spurious and unofficial; and that after trial the respondent District Judge rendered a decision as stated in the preceding paragraph.

The conclusions embodied in the dispositive part of respondent judge's decision were based on the following:

- (a) The original protest of petitioner Jose M. Lontoc impugned the elections returns from all the 35 precincts of Montalban, Rizal, on the grounds of alleged "rampant fraud and terrorism committed by armed goons and

policemen of protestee Rodriguez who was then the incumbent mayor of Montalban, Rizal, for the purpose of coercing voters to vote for protestee"; that "votes for other candidates were read and counted for protestee while several valid votes for protestant were not credited to the latter", and "that spurious ballots filled with the name of protestee were dropped into the ballot box and thereafter counted in favor of protestee";

(b) Protestee Rodriguez contested the election in fifteen (15) precincts (Precincts Nos. 1-A, 1-M, 2, 3-A, 3--M, 4, 5-M, 12-A, 12-M, 16-A, 16-M, 17-A, 17-M, 18-A and 18-M), impugning the election in said precincts on the allegation that it was the protestant Lontoc "who committed, participated, tolerated and/or consented to the commission of acts violative of the provisions of the Election Code of 1971";

(c) That protestee Rodriguez subsequently withdrew his "counter protest on precincts 12-M, 12-A, 16-M, 16--A, 17-M, 17-A, 18-M and 18-A" as protestant Lontoc earlier withdrew "his protest in the aforementioned precincts";

(d) At the trial, protestant Lontoc offered his objections to several ballots in the contested precincts, after which protestee Rodriguez also made his objections to several ballots in the counter protested precincts. Thereafter both parties submitted their memoranda simultaneously and the case was submitted for decision on August 8, 1972;

(e) In all other precincts where election returns were not disputed, protestant Lontoc garnered 1,081 votes while protestee Rodriguez obtained 621 votes;

(f) On the contested and counter-protested precincts, the election returns of which were disputed by both protestant and protestee, there were uncontested ballots as well as ballots the objections to which were withdrawn in the course of the trial involving the twenty-seven (27) precincts in question;

(g) Considering the reports submitted by the two sets of revisors appointed by the lower court to recount and examine the disputed ballots, the respondent court proceeded to pass upon the validity of the contested ballots of protestee Rodriguez, to wit:

(1) Precinct No. 1 — Exhibit PIA-A — This ballot is not marked because the bracket placed after the name "Salvador Roberto" who was then a candidate for councilor, was an indication that the voter desisted from voting for other candidates for councilor after voting for "Salvador Roberto";

Exhibits PIA-1 and PIA-2 not marked, because the words "Big Boy" written between "M." and "San Juan" on the space for vice mayor is the registered nickname of candidate "Moises San Juan" for vice mayor;

Exhibits PIA-3 to PIA-10 (7 ballots) not written by one and the same person per respondent court's observation because the manner of handwriting on them differ from one another and in the absence of evidence aliunde they should be considered valid;

(2) Precinct No. 1A — Exhibit PIA-A — not marked, because two long dashes with a circle in the middle placed after the name "Felix" on the eight space for councilors meant desistance of voter to vote further and there is no evidence of voter's intention to mark his ballot;

Exhibit PIA-B — not marked, even if the voter wrote "Nic" opposite the name of candidate "Valdez" for councilor, since that is the nickname of the candidate;

Exhibit PIA-C — not marked, because the voter appears to have a poor handwriting and unschooled, notwithstanding that the names of two senatorial candidates "Salonga" and "John Osmena" were written in a different manner from that of the names of other candidates;

Exhibits PIA-D and PIA-D-1 — not written by only one person in the absence of evidence, such as a handwriting expert, to prove that they were so prepared;

Exhibits PIA-E, PIA-E-1, PIA-E-2 — not written by one person in the absence of evidence aliunde;

Exhibit PIA-H — not marked, just because nickname "Ente" enclosed in parenthesis was written by voter after the family name "Rodriguez" on the space for mayor, since "Ente" is the registered nickname of protestee Rodriguez;

Exhibit PIA-I — not a stray vote, because what was written on the space for mayor is "E. Rodriguez", the "E" being the initial of protestee Rodriguez's nickname "Ente";

Exhibit PIA-J — not marked, by the mere fact that voter did not fill the spaces for senator and left the first space for councilor since desistance of a voter to vote for other candidates will not invalidate the ballot;

Exhibit PIA-K — not marked, just because "Concha San Juan" were written on two spaces, one for vice mayor and the other on the space for councilor since the name of the candidate written on the correct space should be counted, the word "Ode" written on the 6th space for senators standing for "Ople", a senatorial candidate, and there is no evidence that the voter intended to mark the ballot;

Exhibit PIA-L — not marked, since there is no evidence that voter intended his vote to be identified;

Exhibit PIA-M — not marked because no evidence of voter's intention to identify his ballot, as what appears therein is an innocent error;

Exhibit PIA-N — not marked, the Court observing that the figure "2" said to be written on the 5th space for senator before "Garcia" is "I", standing for "Inday" and not "2";

Exhibit PIA-O — not marked, just because the voter wrote the names of five candidates for senators in five spaces for senators, crossed them out and rewrote the names of the senatorial candidates voted for;

Exhibit PIA-P — not written by more than one person in the absence of evidence aliunde;

Exhibit PIA-Q — not marked nor a stray ballot, due to voter's supposedly writing "S.D. Rodriguez" for mayor, the court having found the alleged letter "S" to be "T", representing the initial of Teodoro Rodriguez;

Exhibit PIA-R — not marked, even if the initial "R" was written after "Mitra", "Salvador Jr.", "Nicolas", the court observing that initial "R" are the correct initials of each of said candidates;

Exhibit PIA-T — not marked, because erasures and wrong spelling of names of candidates voted for were merely innocent errors of the voter;

Exhibit PIA-U — not marked, by the mere fact that "E. Rodriguez" was written on the space for mayor and only the family name of candidates for councilors were written;

Exhibit PIA-V — not marked, just because spaces for senators, provincial governor, provincial vice governor, members of the municipal board and councilors were left blank;

Exhibit PIA-X — not marked, just because voter chose to vote for only "Teodoro Rodriguez" as mayor and nobody else;

Exhibit PIA-Z — not a marked and stray ballot because the word "Isidoro" is not an identifying mark and is "idem sonans" for "Teodoro", the first name of protestee Rodriguez;

(3) Precinct No. 2 — Exhibit P2-A — not a stray vote, for "Isidoro" is "idem sonans" for "Teodoro", first name of the protestee Rodriguez;

Exhibit P2-B — not valid for protestee, since "Nita" is not "idem sonans" for "Ente" or "Teodoro";

Exhibit P2-C — valid for protestee Rodriguez since "E" is the initial of "Ente", registered nickname of protestee

Rodriguez;

(4) Precinct No. P3A — Exhibit P3A-A — marked ballot because the impertinent expression, "Apollo 13", was written on ballot to distinguish it;

Exhibit P3A-B — not marked, although voter placed "Ben Castro" candidate for vice mayor on 1st space for councilor, as that is not an identifying mark but will result in a stray vote for candidate "Ben Castro";

Exhibit P3A-C — not marked because the voter did not intend to identify his ballot but merely corrected his mistake by writing the whole name of "Isidro I. Rodriguez" for governor;

(5) Precinct No. 3 — Exhibit P 3-A — not marked, by the mere writing of figure "1" by the voter and nothing written on the other spaces, the court ruling that circles, crosses or lines put on the spaces left blank by voter in the absence of evidence aliunde will not invalidate the ballot;

Exhibit P3-B — not marked, just because voter voted twice for "Primicias" a candidate for senator and crossed out "Tambunting" from the space for governor, upon realizing his mistake and wrote "Tambunting" on the space for provincial board member;

Exhibit P3-E — not marked, just because spaces for senators, provincial governor, provincial board members and councilors were left blank, in the absence of evidence aliunde;

Exhibit P3-N — not marked nor stray vote, as "E" is the initial of the nickname "Ente" of protestee;

Exhibit P3-S — not marked, by the mere fact that the last letter "o" of "Teodoro" was written with heavy lines and letters were made in big bold block letters, with the names of two senatorial candidates in printed letters, the court observing that the voter could hardly write;

Exhibit P3-CC — not marked, the supposed initial, "F", preceding "Rodriguez" being "T" which is the correct initial of protestee Rodriguez, the court observing that the voter could hardly write;

Exhibit P3-HH — not marked, just because voter changed his style of writing in placing the names of candidates he voted for;

(6) Precinct No. 4 — Exhibit P4-A — not marked, because "Isidoro R. Rodriquez" is "idem sonans" for "Teodoro R. Rodriguez";

(7) Precinct No. 5 — Exhibit P5-A — not marked, by the mere fact that voter placed the name of "Diokno" who was not a candidate for senator, that being a mistake and not intended to identify the ballot;

Exhibit P5-G — not marked nor written by two persons per Court observation that the style, inclination of strokes, pressure, spacing and general characteristics of writing are substantially the same although written by one with poor handwriting;

Exhibit P5-H — marked ballot, for having impertinent and irrelevant writing, "Kuha sebu", intended to identify; not counted for protestee;

Exhibit P5-K — not marked nor written by more than one person because leaving of blank spaces in the ballot is not intended to identify it; and the writing appearing on the ballot must have been done by one hand;

Exhibit P5-L — not marked, although "Jose Lontoc" written on 3rd space for members of the provincial board and with wrong spelling of candidate's names, with the Court observing the poor handwriting of voter;

Exhibit P5-M — not marked, as blank spaces left in the ballot cannot be considered as identifying marks;

Exhibit P5-N — not marked even though "Teodoro Rodriguez" appeared written on the space for mayor and on the first space for councilor, erased and the name of "R. Salvador", a candidate for councilor, written above

with blank spaces, since there is no evidence that the voter intended his vote to be identified;

Exhibit P5-O — not marked, even if the name "Roxas", not a candidate, was written on the 5th space for senator;

Exhibit P5-P — not marked, just because "Gregorio Sandoval" was written on the 5th space for councilor and there is no evidence that "Gregorio Sandoval" was not a candidate for councilor;

Exhibit P5-Q — not marked. The mere fact "Isidro Rodriguez" was written on the 1st space for members of the provincial board, "Ente Rodriguez" on the space for mayor, "Teodoro Rodriguez" on the space for vice mayor, does not make the ballot "marked" in the absence of evidence that voter intended to identify his ballot;

Exhibit P5-R — not marked, although with erasures and some of the names of candidates mis-spelled as there is no evidence that voter intended to identify ballot;

Exhibit P5-U — not marked per court observation that there is no indentation or separation of the name "Garcia" from figure "5";

(7) Precinct No. 5A — Exhibit 5A-A — not marked, although the letter "D" and "R" in "Rodriguez" were capitalized since the use of two or more styles of writing will not invalidate the ballot;

Exhibit P5A-B — not a stray vote because "E" Rodriguez stands for "Ente Rodriguez", the nickname of protestee Rodriguez;

Exhibit P5A-C — not a stray vote because "E. Rodriguez" was written on the space for mayor, following the preceding reasoning;

Exhibits P5A-D, P5A-E, P5A-F — each of them not written by more than one person per court observation of the handwritings appearing therein;

Exhibit P5A-G — void, because printed names "T. Felix" and "A. San Diego" were posted on the blank spaces for councilors in violation of Sec. 189, par. 16 of the Revised Election Code;

Exhibit P5A-H — not marked, just because "Big Boy" on the space for vice mayor was written between the name "Moises San Juan", said "Big Boy" being the registered nickname of candidate Moises San Juan;

(8) Precinct No. 6 — Exhibit P6A — not marked, just because "Ente Rodriguez" was written on the space for provincial governor and valid vote for protestee Rodriguez as it was also written on space for mayor, in accordance with Sec. 189, par. 5 of the Revised Election Code;

Exhibit P6-C — marked ballot because of the irrelevant, insulting and indecent expressions "Idok", "nonoy", "Meding Satanas" written by voter to identify his ballot;

Exhibit P6-H — not a stray vote because "E. Rodriguez" refers to protestee Rodriguez;

(9) Precinct No. 6A — Exhibit P6A-A — not marked, just because "Gregorio Salvador" was written five times on the ballot, in the absence of evidence aliunde to prove voter's intention to identify ballot;

Exhibit P6A-B — not marked, by the mere fact that voter changed his mind in the senatorial candidates voted for pursuant to Sec. 189, par. 5 of the Revised Election Code;

Exhibit P6A-C — not marked, just because names of non-candidates "Roxas" and "Aquino" were written in the space for senators (Sec. 189, par. 15 Revised Election Code);

Exhibits P6A-D and P6A-E — not marked, just because names of non-candidates "Roxas" and "Garcia" were included among candidates for senators;

Exhibit P6A-F — not a stray vote because "E" Rodriguez is the initial of "Ente", registered nickname of protestee Rodriguez;

Exhibits P6A-G and P6A-H — not marked, just because names of non-candidates appear on the ballot;

Exhibits P6A-I and P6A-J — not marked, although initials "F" and "I" supposedly written by voters before the surname "Rodriguez" (construed by the Court as "T" attributing the supposed "F" and "I" to the poor handwriting of the voters), and valid for protestee Rodriguez in accordance with Sec. 189, par. 8 of the Revised Election Code;

Exhibit P6A-K — not marked, just because blank spaces were left on the ballot;

Exhibit P6A-V — not marked, just because voter committed a mistake in writing the names of candidates on wrong spaces and subsequently corrected his mistake (Sec. 189, par. 6 Revised Election Code);

Exhibit P6A-Q — not marked, just because "Rodriguez" was written twice on the space for governor and vice governor without any evidence that the voter intended to identify his ballot (Sec. 189, par. 5 of the Revised Election Code);

Exhibit P6A-R — not marked, just because "Almendras" was written twice on the space for senators (Sec. 189, par. 5 of the Revised Election Code);

Exhibit P6A-U — not marked, just because "I. Rodriguez" was written on the 1st space for provincial board members it being a stray vote with respect to "E Rodriguez" alone, but valid with respect to protestee Rodriguez;

Exhibit P6A-W-2 — not marked, just because "S. Rodriguez" was written on the 1st space for members of the provincial board (stray vote for Isidro Rodriguez) and "D. Rodriguez" (Doro Rodriguez) on the space for mayor, the Court considering the vote "D. Rodriguez" valid for protestee Rodriguez, because "D." can stand for "Doro" the last two syllables of "Teodoro", and there is no other candidate for mayor in Montalban with the surname Rodriguez in that election;

Exhibit P6A-W-5 — not marked, although the name "I. Rodriguez" written on the 1st space for members of the provincial board makes it a stray vote;

Exhibit P6A-W-44 — not marked, although blank spaces were left on the ballot in the absence of evidence aliunde;

Exhibit P6A-W-47 — not marked, just because "Roxas" was written on the space for senators, because names of conspicuous politicians or personages do not constitute identifying mark (Juliano vs. Callos, G.R. No. L-11573, Sept. 19, 1958);

Exhibits P6A-W-48 and P6A-W-49 — not marked, just because "Paterno Santos" was written on the 4th space for councilors, the record showing that there is a candidate with that name;

Exhibit P6A-Y — not marked, although "Rodriguez" was written in not a very legible manner and "Zuniga" written in the space for councilor is a name of one of the candidates for councilor (Sec. 189, par. 19, Revised Election Code);

Exhibit P6A-Y-10 — not marked, although "D. Rodriguez" was written on the space for mayor and a printed name was written on the first space for councilors and heavily crossed out, since letter "D" may stand for "Doro" or "Domingo", maternal surname of protestee Rodriguez, in both cases the voter signifying his intent to vote for "Teodoro Rodriguez;"

Exhibit P6A-Y-14 — not marked, just because on the space for governor was written "Esidro Rodriguez" instead of "Isidro Rodriguez", a case of wrong spelling, and not intended to identify his his ballot;

(10) Precinct No. 7A — Exhibit P7A-I — not marked, although "Jeny San Juan" written twice on the ballot because the name of a candidate written twice will not constitute marking the ballot for identification;

Exhibit P7A-K — not marked, although "Lontoc" was written on the line for governor, it being a stray vote for protestant, but valid for protestee in the absence of evidence that the voter intended his vote to be marked (Sec. 189, par. 5 and 15, Revised Election Code);

Exhibit P7A-L — marked, because voter voted "Lontoc" for provincial governor and placed "Noning" (nickname of the wife of protestant Lontoc) on the space for vice governor, clearly showing that voter wanted his vote identified;

Exhibit P7A-M — not stray vote, for "E. Rodriguez" stands for "Ente Rodriguez" who is the protestee Rodriguez;

Exhibit P7A-N — not marked, just because the words "Straight Liberal" was written on the space for senator (Juliano vs. Court of Appeals, G.R. No. L-27477, July 28, 1967, 20 SCRA 808; Gutierrez vs. Aquino, G.R. No. L-14252, February 28, 1959, 24 L.J. 133);

Exhibit P7A-P — not marked, even if voter wrote "Adriano Pablo", candidate for vice mayor, on the space for provincial governor and "Castro", candidate for vice mayor on the space for vice mayor, in the absence of evidence that voter intended his vote to be identified;

Exhibit P7A-R — marked ballot because of irrelevant drawings which constitute identifying marks to distinguish ballot;

Exhibit P7A-S — not a stray vote for protestee Rodriguez just because "I. Rodriguez" was written on space for mayor (Sec. 189, par. 8, Revised Election Code);

Exhibit P7A-T — not marked, just because "Gerry Roxas" written on top portion of ballot on space not intended for candidate's names (Sec. 189, par. 20, Revised Election Code);

(11) Precinct No. 7 — Exhibit P7-A — marked, because of printed sticker "Cano Santos" pasted on the 4th space for councilors in the ballot;

Exhibit P7-C — not marked, just because "M. Elizalde" was written on the space for senators, "M" standing for "Manda" Elizalde, and the name "Jose Lontoc" on the space for provincial governor is a stray vote for protestant, but not an identifying mark (Sec. 189, par. 5, Revised Election Code);

Exhibit P7-D — not marked, although "Lontoc" written on the space for governor (Sec. 189, pars. 5 and 6 of the Revised Election Code);

Exhibit P7-E — not marked, no evident intention of voter to identify this ballot (Sec. 189, par. 20, Revised Election Code);

Exhibit P7-F — not marked because "Ellionalde" is idem sonans with "Elizalde", a candidate for senator;

Exhibit P7-G — not marked, nor a stray vote, just because "E. Rodriguez" was voted for mayor, "E. Rodriguez" standing for "Ente Rodriguez", protestee in this case (Sec. 189, par. 11, Revised Election Code);

Exhibit P7-H — not marked, in accordance with Sec. 189, par. 8 of the Revised Election Code;

Exhibit P7-I — not marked, just because voter left blank spaces and "Isidros Rodriguez" was written in printed capital letters on space for governor;

Exhibit P7-J — not marked, just because "Isidro S. Rodriguez" was written twice on the space for provincial governor (Sec. 189, par. 5, Revised Election Code);

Exhibit P7-J-1 — not marked, although "Isidro S. Rodriguez" written twice on the space for provincial governor and provincial board member, the latter was erased (Sec. 189, par. 6 of Revised Election Code);

Exhibit P7-J-2 — not marked, although "Isidro Rodriguez" written twice on the ballot, the latter was crossed out;

Exhibit P7-J-3 — not marked, although "Isidro Rodriguez" was written twice on the ballot, the latter was crossed out;

Exhibit P7-J-4 — not marked, although "Rodriguez" was written twice on the space for governor and for members of the provincial board (Sec. 189, par. 5, Revised Election Code);

Exhibit P7-K — not marked just because some spaces for candidates were left blank (Sec. 189, par. 6, Revised Election Code);

Exhibit P7-L — not marked, just because spaces left blank were marked "X" (Gutierrez vs. Reyes, G.R. No. L-13137, Feb. 29, 1959);

Exhibit P7-M — not marked, although "E. Rodriguez" was written and the last letter of the word "Salvador" was elongated (Sec. 189, par. 19, Revised Election Code);

Exhibit P7-N — not marked, although "Roxas" was written on the 2nd space for senators and "Monte" was intended for "Osmena", as the Court observed the voter could hardly write;

Exhibit P7-P — not marked, just because "Ente Rodriguez" was written on space for mayor with shading;

Exhibit P7-R — not a stray vote; although "E. Rodriguez" was written on the space for mayor, as "Ente" is a nickname of protestee Rodriguez;

Exhibit P7-U — not marked nor prepared by more than one person in the absence of evidence to the contrary;

Exhibit P7-V — not marked, just because of the manner the voter filled up the spaces for councilors;

Exhibit P7-BB-5 — not marked, because "E. Rodriguez" stands for "Ente Rodriguez", registered nickname of protestee;

Exhibit P7-BB-7 — not marked, because the manner of voter's writing cannot be considered as distinguishing marks to identify the ballot;

Exhibit P7-BB-10 — not marked, because two or more kinds of writing cannot invalidate the ballot as marked in the absence of evidence aliunde;

(12) Precinct No. 8, Exhibit P8-A — not marked, although "Gracias" was written on the 7th space for councilors, since there is a candidate for councilor by the name of "Garcia" and "Gracias" is "idem sonans" with "Garcia";

Exhibit P8-A-1 — not marked, as nothing irregular in the way the ballot was filled up appears to identify the same (Sec. 189, par. 6 and 15, Revised Election Code);

Exhibit P8-A-2 — not marked, as blank spaces in the ballot cannot be considered as distinguishing marks (Sec. 189, par. 15, Revised Election Code);

Exhibit P8-A-3 — not marked, as the manner the ballot was prepared shows no intention to identify it (Sec. 189, par. 6 and 20, Revised Election Code);

Exhibit P8-A-5 — not marked, just because voter left blank spaces (par. 6 and 15, Sec. 189, Revised Election Code);

Exhibit P8-A-6 — not marked, just because "I. Rodriguez" and A. Roldan" were written on the 1st and 2nd spaces for members of the provincial board (Sec. 189, par. 15, Revised Election Code);

Exhibit P8-A-7 — not marked, just because "I. Rodriguez" was written on the space for members of the provincial board, then crossed out (Sec. 189, par. 6 and 15, Revised Election Code);

Exhibit P8-A-8 — not marked, as there is no indication of voter's intention to identify ballot, "Enarid" being intended for "Enrile" (Sec. 189, par. 15, Revised Election Code);

Exhibit P8-B — not marked, just because "Bianing" and "Santos" were written on the column for councilors (Sec. 189, par. 15, Revised Election Code);

Exhibit P8-C- Marked, because "Dr. Anicia" (sister of protestee) was written on the ballot, intended by the voter to identify it;

Exhibit P8-D — marked, because voter wrote "Lontoc" on the space for provincial governor and "Noning" (nickname of protestant's wife who is not a candidate) to identify the ballot;

Exhibit P8-H — not marked, although "Roxas" written on the 8th space for senators and the names written on the first five spaces for councilors are indented, in the absence of evidence aliunde;

Exhibit P8-I — not marked, although some spaces for candidates were left blank and "T. Rodriguez" was written twice, in the absence of evidence aliunde (Sec. 189, par. 6, Revised Election Code);

Exhibit P8-J — not marked, in the absence of evidence showing voter's intention to identify it;

Exhibit P8-L — Not marked, although some of the candidates voted for were written with incorrect names, in the absence of evidence aliunde (Sec. 189, par. 25; Revised Election Code);

Exhibit P8-M — not marked, because voter merely corrected his mistake and not intended to identify the ballot (Sec. 189, par. 20, Revised Election Code);

Exhibit P8-R — not marked, just because "Fernandez", not a candidate's name, was written on the first space for members of the provincial board, in the absence of evidence aliunde (Sec. 189, par. 15, Revised Election Code);

(Sec. 189, par. 15, Revised Election Code);

Exhibit P8-V — not marked, just because "Apulid" was written between "Teodoro" and "Rodriguez" on the space for mayor, because "Apulid" is a "descriptio personae" that will not invalidate the vote (Sec. 189, par. 11, Revised Election Code);

Exhibit P8-W — not marked, nor stray vote because "E. Rodriquez" written on the space for mayor is a vote for protestee "Ente Rodriguez" (Sec. 189, par. 8, Revised Election Code);

Exhibit P8-X — not marked, just because the name of a candidate was written in big printed letters as this is only an indication of voter's desire for greater clearness in writing;

Exhibit P8-Y — not marked nor a stray vote because "D. Rodriquez" stands for "Domingo Rodriguez" (Domingo is maternal surname of protestee Rodriguez) or "Doro Rodriguez" which refers to "Teodoro Rodriguez" (Sec. 189, pars. 4 and 8, Revised Election Code);

Exhibit P8-BB — not marked, just because "x" following "4" was written on the space for senators (Sec. 189, pars. 19 and 20, Revised Election Code);

(13) Precinct No. 8A, Exhibit P8A-6 — not a stray vote because "E. Rodriguez" stands for "Ente Rodriguez" (Sec. 189, par. 8, Revised Election Code);

Exhibit P8A-B-3 — not marked, just because "Concha", a candidate for councilor, was written on the space for senators, in the absence of evidence aliunde (Sec. 189, par. 15, Revised Election Code);

Exhibit P8A-D — not marked, just because of indentations on spaces for councilors, without evidence that voter intended to identify ballot;

Exhibit P8A-D-9 — not marked, just because voter voted three times for "Roldan" and twice for "Rodriguez" (Sec. 189, pars. 5 and 15, Revised Election Code);

Exhibit P8A-E-1 — not marked, because indention in the name "Kalaw" not sufficient to identify ballot (Mandac vs. Samonte 49 Phil. 284);

Exhibit P8A-F-3 — not a stray vote because "E. Rodriguez" stands for "Ente Rodriguez", the protestee;

Exhibit P8A-F-10 — not marked, just because "Maceda" was voted twice for senator and terminal letter "A" allegedly contained flourishes which the Court failed to see (Sec. 189, par. 20, Revised Election Code);

Exhibit P8A-G-8 — not marked, just because "Roxas" was written on 5th space for senator (Sec. 189, par. 15, Revised Election Code);

Exhibit P8A-J-1 — not a stray vote because "E. Rodriguez" stands for "Ente Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P8A-K — not a stray vote although "Isidro S. Rodriguez" candidate for governor was written, it appearing that voter already voted for "Isidro Rodriguez" as governor (Sec. 189, pars. 4 and 8, Revised Election Code);

Exhibit P8A-N-5 — not marked, although "Atty. V. Masalyo" was written in line for councilor, "Massallo" being a candidate even if he is not a member of the bar as protestant contends (Sec. 189, par. 7, Revised Election Code);

Exhibit P8A-P — not a stray vote, because "E. Rodriguez" stands for "Ente Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P8A-P-1 — not a stray vote because "T. Rodriguez" is "Teodoro Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P8A-P-2 — not a stray vote, because "D. Rodriguez" stands for "Doro Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P8A-P-3 — not a stray vote, because "Rodriguez E." is for protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P8A-P-4 — marked ballot, because impertinent, insulting, cursing "Lintik" written to identify ballot;

(14) Precinct No. 9, Exhibits P9-A, P9-A-1, P9-A-2, P9-A-3, and P9-A-4 — not marked, because "E. Rodriguez" on space for governor, which is a vote for Isidro Rodriguez for governor with a wrong initial, will not invalidate the ballot (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-D-1 — not marked, although names of candidates were erased and rewritten (Sec. 189, par. 6, Revised Election Code);

Exhibit P9-D-3 — not marked, just because "Rodriguez" was written on the 1st space for board member (Sec. 189, par. 5, Revised Election Code);

Exhibit P9-D-4 — not marked, just because "Rodriguez" was written on the 1st space for board member (Sec. 189, par. 5, Revised Election Code);

Exhibits P9-E, P9-E-1, P9-E-2 not marked, although "Roxas" was written on 2nd space for senators in the absence of evidence aliunde (Sec. 189, par. 15, Revised Election Code);

Exhibits P9-G and P9-G-1 — not marked, just because "Mitra" was written in printed capital letters for senator (Sec. 189, par. 20, Revised Election Code);

Exhibits P9-G-2, P9-G-3, P9-G-4 and P9-G-5 — not marked, just because names of senatorial candidates were written in different styles (Sec. 189, par. 20 Revised Election Code);

Exhibit P9-1 — not marked nor stray, because "D. Rodriguez" for mayor stands for "Doro Rodriguez" who is protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-J — not marked nor stray, because "D. Rodriguez" for mayor stands for "Doro Rodriguez" who is protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-K — not marked nor stray, because "D. Rodriguez" for mayor stands for "Doro Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-L — not marked nor stray, because "E. Rodriguez" stands for "Ente Rodriguez" who is protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-O — not a stray vote, although "I. Rodriguez" was written on space for mayor (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-M — not marked nor stray, because "E. Rodriguez" stands for "Ente Rodriguez" who is protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P9-P — not stray vote, just because "Isidro S. Rodriguez" was written on space for mayor, "Isidro" being idem sonans for "Teodoro" (Sec. 189, par. 4, Revised Election Code);

Exhibit P9-Q — not stray vote, just because "Isidro Rodriguez" was written on space for mayor, "Isidro", being idem sonans for "Teodoro" (Sec. 189, par. 4, Revised Election Code);

Exhibit P9-R — not marked, in the absence of evidence aliunde (Sec. 189, par. 6, Revised Election Code; Corpuz vs. Ibay, 84 Phil. 184);

Exhibit P9-T — not marked, just because "Paterno Manuel" was written on 7th space for councilor, it appearing that "P. Santos" and "Ceferino Manuel" were names of councilors, and blank spaces were left for senators (Sec. 189, par. 15, Revised Election Code);

Exhibit P9-V — not marked for same reasons stated in Exh. P9-T;

Exhibit P9-W — not marked, just because "E. Villanueva" was voted twice for councilor (Sec. 189, par. 15, Revised Election Code);

Exhibit P9-X — not marked, just, because of a check mark appearing on the space for governor (Sec. 189, par. 19, Revised Election Code);

Exhibit P9-Y — not marked, in the absence of evidence aliunde that voter intended to identify ballot (Sec. 189, par. 19, Revised Election Code);

Exhibit P9-Z — not marked, in the absence of evidence aliunde that the voter intended to identify ballot (Sec. 189, par. 20, Revised Election Code);

Exhibit P9-BB — not marked, just because "Mitra" was voted twice for senator (Sec. 189, par. 5, Revised Election Code);

Exhibit P9-CC — not marked, just because "Ente Rodriguez" was written twice and a diagonal double line was written under "Ente" (Sec. 189, par. 9, Revised Election Code);

Exhibit P9-EE — not marked, in the absence of evidence aliunde that voter intended to identify his ballot;

Exhibit P9-FF — not marked, just because the voter wrote the names of "Salonga", "Mitra and "Pendatum" twice on each space for senator, in the absence of evidence that voter intended to identify his ballot;

Exhibit P9-HH — not marked in the absence of evidence aliunde that voter intended to identify his ballot (Sec. 189, par. 15, Revised Election Code);

Exhibit P9-II — not marked, in the absence of evidence aliunde that voter intended to identify his ballot (Sec. 189, par. 20, Revised Election Code);

Exhibit P9-JJ — not marked in the absence of evidence that voter intended to identify his ballot (Sec. 189, par. 20, Revised Election Code);

Exhibit P9-KK — not marked, in the absence of evidence that voter intended to identify his ballot;

Exhibit P9-LL — not marked, just because "Sumulong" was written on the space for senators (Sec. 189, par. 15, Revised Election Code);

(15) Precinct No. 9A — Exhibit P9A-A — not a stray vote because "E. Rodriguez" stands for "Ente Rodriguez" who is protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P9A-B — not a stray vote, for same reasons as in Exh. P9A-A;

Exhibit P9A-C — not a stray vote, for same reason as in Exh. P9A-B;

Exhibit P9A-D — not a stray vote, for same reason as in Exh. P9A-C;

Exhibits P9A-E and P9A-F — not prepared by one person per Court observation and in the absence of evidence aliunde, such as testimony of a handwriting expert;

Exhibit P9A-G and P9A-H — not prepared by one person as observed in Exhibits P9A-E and P9A-F;

(16) Precinct No. 10 — Exhibit P10-A - not a stray vote because per Court observation voter's very poor handwriting of "Moison F. Rocob" could be deciphered "Mayor T. Rodriguez", "Moison" standing for "Mayor", "Rocob" or "Rodrib" being idem sonans with "Rodriquez";

Exhibit P10-B — not a stray vote, just because what was written for mayor was "Isidro Rodriguez", the gubernatorial candidate (Sec. 189, par. 4, Revised Election Code);

Exhibits P 10-E and P 10-E-1 — not marked nor stray vote by the mere fact that "B. Rodriguez" and "V. Rodriguez" were written on the space for mayor, because erroneous initials of a name which accompany the correct surname of a candidate will not annul the vote in favor of that candidate (Sec. 189, par. 8, Revised Election Code);

Exhibit P10-F - not a stray vote because per Court observation "F. Rodriguez" is really "T. Rodriguez", the "T" meaning Teodoro";

Exhibit P10-G - not a stray vote because per Court observation "P. Rodriguez" is really "T. Rodriguez" and even if the initial of the the given name is in error, the intention clearly appears that voter voted for protestee (Sec. 189, par. 8, Revised Election Code);

Exhibits P10-H, P10-H-1, P10-H-2, P10-H-3 and P10-H-4 —not stray votes; because "E. Rodriguez" stands for

"Ente Rodriguez" who is protestee;

Exhibit P10-I - not a stray vote, just because "D. Rodriguez" was written on the space for mayor (Sec. 189, par. 8, Revised Election Code);

Exhibit P10-J - not marked nor a stray vote, just because "Isidro Rodriguez" written on the space for mayor was crossed out with heavy lines and what appears to be letter "F" superimposed thereon, the Court observing the letter "F" be actually the letter "T" (Sec. 189, pars. 8 and 20 Revised Election Code);

Exhibits P10-M, P10-M-1 and P10-M-2 - not marked, just because "Isidro Rodriguez" was written on the 1st line for board members (Sec. 189, par. 15, Revised Election Code);

Exhibit P10-M-3 - not marked, just because of the writing of "Isidro I. Rodriguez" or "Isidro S. Rodriguez" or "Isidro S. Rodrigo" (Sec. 189, pars. 5 and 6, Revised Election Code);

Exhibit P10-M-4 - not marked, just because "Isidro Rodriguez" was written on the 1st space for provincial board members and on the 1st space for senators, and "I. Rodriguez" was written and crossed out (Sec. 189, par. 6, Revised Election Code);

Exhibit P10-M-6 - not marked, just because "I.S. Rodriguez" was written on the 1st space for board members and 8th space for senators (Sec. 189, pars. 15 and 20, Revised Election Code);

Exhibit P10-M-7 - not marked, just because crossed out, as names of candidates for governor, board members and vice governor appear thereon (Sec. 189, par. 6, Revised Election Code);

Exhibit P10-N - not marked, just because "Kalaw" was written on the space for senators, erased and written again (Sec. 189, par. 6, Revised Election Code);

Exhibit P10-O — not marked, just because "Maceda" was written on 2nd space for senators, and "Antonio Ferrer" was written in printed capital letters (Sec. 189, par. 20, Revised Election Code);

Exhibit P10-Q — not marked, although "Singson" was written twice and "Ben Castro" was also written twice (Sec. 189, par. 6, Revised Election Code);

Exhibit P10-T - not marked, although blank spaces for senators, governor, vice governor and councilors appear on the ballot, in the absence of evidence aliunde that voter intended to identify his ballot;

Exhibit P 10-U - not marked, even if "Rosal" was written on 4th space for senators (Sec. 189, par. 15, Revised Election Code);

Exhibit P10-V and P10-V-1 - not marked although "P. Roxas" was written on the 1st space and 2nd space for senators, respectively (Sec. 189, par. 15, Revised Election Code);

Exhibit P 10-R - not marked, although "E. Nicolas" was written twice on the ballot as this manner of voting cannot be considered distinguishing mark to identify ballot (Sec. 189, par. 6, Revised Election Code);

Exhibit P10-W - not marked, because "Ode" is idem sonans as "Ople"; in the absence of evidence aliunde showing voter's intention to identify ballot, it is valid;

Exhibit P10-X - not marked, just because two names listed for councilors were indented and written far apart (Sec. 189 par. 20, Revised Election Code);

Exhibit P10-BB-1 - not written by two different persons per Court observation that style and characteristics of handwriting are substantially- the same;

Exhibit P10-CC - not marked, even if names of candidates were written in different forms of handwriting (printed capital letters, script, printed letters);

Exhibit P10-DD - not marked, because "C. Manulac" on the space for councilors, per Court observation was for "C. Manuel", a candidate and "San Juan" for another candidate for councilor;

Exhibit P10-FF - not marked, although gubernatorial candidate "Roldan" was voted for vice mayor (Sec. 189, par. 15, Revised Election Code);

Exhibit P10-LL - not marked, because "Mang Gabe" is not intended to identify ballot (Sec. 189, par. 11, Revised Election Code);

Exhibit P 10-QQ - not marked, because "Gamis" Edgardo stands for "Gamir", a candidate for board member;

Exhibit P10-WW - not marked, although letter "O" appears on the space for governor (Sec. 189, par. 19, Revised Election Code);

Exhibit P10-VV — not written by two different persons, per Court observation that the slight difference in penmanship is due to voter's being unschooled (Sec. 189, par. 20, Revised Election Code);

(17) Precinct No. 10A — Exhibit P10A-E — not marked, although "Salonga" was written twice on the space for senator (Sec. 189, par. 5, Revised Election Code);

Exhibit P 10A-F-2 not marked, even if "Ben Castro", candidate for vice mayor was written on space for councilors (Sec. 189, pars. 5 and 15, Revised Election Code);

Exhibit P 10A-1 — not marked, because "Atty. Masallo", a candidate is a member of the Philippine Bar (Sec. 189, par. 7, Revised Election Code);

Exhibit P10A-M -- not a stray vote, because "F. Rodriguez" per Court observation is really "T. Rodriguez", initial of "Teodoro Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code);

Exhibit P10A-N — not marked, because "NP" was a relic of the system of block voting and does not invalidate the ballot (Gutierrez vs. Aquino, supra);

Exhibit P10A-O — not marked, just because "Aytona" was written twice, in script and printed form (Sec. 189, par. 20, Revised Election Code);

Exhibit P10A-P — not marked, just because "Lontoc" was written on space for governor, in the absence of evidence aliunde that voter intended that to identify his ballot (Sec. 189, par. 15, Revised Election Code);

Exhibit P10A-R — not marked because "All liberals" written downward in column for senators referred to abolished block voting and was not to identify ballot (Gutierrez vs. Aquino, supra);

Exhibit P10A-S — not prepared by two or more persons per Court observation that handwriting style and general characteristics are substantially the same (Sec. 189, par. 20, Revised Election Code);

(18) Precinct No. 11A — Exhibit P 11A-A — not a stray vote because "Ente Rod" refers to protestee Rodriguez "Exh. "7"; (Sec. 189, par. 11, Revised Election Code);

Exhibit P11A-B — not prepared by two persons; as per Court observation the style, inclination of strokes, pressure, spacing and general characteristics of the handwriting are substantially the same as those of an old voter whose penmanship is a little bit illegible (Sec. 189, par. 20, Revised Election Code);

Exhibit P 11A-D — not marked, because "Roldan Rabalo", a non-candidate, written on the space for councilor will not invalidate the ballot (Sec. 189, par. 15, Revised Election Code, Trajano vs. Enciso, 19 SCRA, Feb. 16, 1967);

(19) Precinct No. 11 — Exhibits P11-A, P11-A- 1, P11-A-2 and P11-A-3 — not marked per Court observation that "P. Manuel" written in space for councilors referred to "Ceferino Manuel", a candidate with nickname

"Pering";

Exhibits P11-E and P11-E-1 — not marked just because "Roxas" and "Kalaw" were included as candidates, based on ruling that inclusion of a non-candidate's name on ballot will not invalidate ballot in the absence of evidence aliunde that the purpose is to identify the ballot (*Trajano vs. Enciso*, *supra*; *Gutierrez vs. Aquino*, *supra*);

Exhibit P11-F — not marked, just because "Bagatsing" was written on 4th space for senator (Sec. 189, par. 15, Revised Election Code);

Exhibit P11-O — not marked, because "Osarwa", per Court interpretation, was really "Oarcia", *idem sonans* as "Garcia", and not a stray vote because "E. Rodriguez" on space for mayor referred to "Ente Rodriguez", the protestee;

Exhibit P11-H — not marked, because per Court observation, "Emee Ferry" referred to candidate "Eleazar Ferry"; and not a stray vote because "Teddy Rodriguez" written on space for mayor referred to protestee Teodoro Rodriguez (Sec. 189, par. 8, Revised Election Code);

Exhibit P11-I — not a stray vote for mayor, because per Court observation "I. Rodriguez" was really "T. Rodriguez" referring to protestee;

Exhibit P11-J — not a marked nor a stray vote for mayor, because per Court observation "P. Rodriluz" really referred to "Rodriguez";

Exhibit P11-K — not a stray vote for mayor, because "Vicente Rodriguez" is *idem sonans* for "Ente Rodriguez" who is protestee and there is no other candidate by the name of "Vicente Rodriguez";

Exhibit P11-L — not a stray vote for mayor, because per Court observation "T.D. Rudryuges" is *idem sonans* as "Rodriguez" (Sec. 189, par. 4, Revised Election Code);

Exhibit P-11-M — not a stray vote for mayor, because per Court observation "Rondiziras" on space for mayor is *idem sonans* as "Rodriguez" Sec. 189, par. 4, Revised Election Code);

Exhibits P11-N, P 11-N-1, P11-N-2, P11-N-3, P11-N-4 — not marked, just because "E. Rodriguez" was written on space for governor and not a stray vote for mayor because "E. Rodriguez" referred to "Ente Rodriguez" who is protestee;

Exhibit P 11-Q — not marked, because "Eufacio Garcia", per Court observation referred to senatorial candidate "Leonila Garcia";

Exhibit P11-R — not marked, because per Court observation "B. San Juan" referred to candidate for vice mayor "Big Boy San Juan" and "Rodolfo Villanueva" referred to candidate for councilor "Villanueva";

Exhibit P 11-T — not marked just because "Bienvedo Castro" candidate for vice mayor was written on space for vice governor (Sec. 189, par. 15, Revised Election Code);

Exhibit P11-U — not marked, because "Osmena Melanio T" written on 8th space for senators was a mistake of voter and not intended to identify ballot (Sec. 189, par. 15, Revised Election Code);

Exhibit P11-V — not marked, just because "A. Martinez", referring to candidate "Agapito Martinez", was the only candidate voted for councilor, in the absence of evidence aliunde;

Exhibit P11-Y — not marked, because the words, "Blank" and "Ferry", written on spaces for councilors and provincial board members, simply meant voter's desistance in voting and not intended to identify the ballot;

Exhibit P 11-CC — not marked, because writing the name of a candidate in different styles (script and printed

capital letters) will not invalidate the vote in the absence of evidence aliunde to prove it was intended to identify the ballot; and placing the name, "Imelda Marcosa", and of conspicuous politicians and personages does not invalidate the ballot (Sec. 189, pars. 15 and 20, Revised Election Code);

(20) Precinct No. 13 — Exhibits P 13-A and P13-A-1 — not marked, because correcting an error in filling the ballot cannot be interpreted as voter's attempt to identify the ballot;

Exhibit P13-A-2 — not marked, just because "Sidro S. Rodriguez" was written on spaces for governor and vice-governor, the latter having been crossed out (Sec. 189, par. 6, Revised Election Code);

Exhibits P13-A-3 and P 13-A-4 — not marked, in the absence of evidence aliunde that voter intended to identify his ballot;

Exhibits P13-C and P13-D — not marked, although "Alfonso Sandoval" and "Anicia Rodriguez" were written on the ballot, contrary to lower Court's ruling in Exhibit P8-C, page 52 of Decision and Exhibit P7A-16, page 127 of Decision;

Exhibit P13-J — not marked, just because voter desisted from voting for other candidates;

Exhibits P13-K and P13-L — not marked nor stray, because voter voted for "Teodoro Rodriguez";

Exhibit P13-N — not a stray vote for mayor because "T.D. Rodrguz" refers to protestee;

Exhibit P13-W and P13-X — not marked, just because "Roxas" appeared on 13-W, and "T. Ferray" on the ballot P13-X (Sec. 189, par. 15, Revised Election Code);

Exhibit P13-JJ — not marked, just because "Rodriguez" was written with a peculiar tail ending (Sec. 189, par. 20, Revised Election Code);

Exhibit P13-OO — not marked, just because "Castro" was written on space for vice governor and on space for mayor (Sec. 189, par. 5, Revised Election Code);

Exhibit P13-PP — not marked, just because of erasures and blank spaces on ballot;

Exhibit P13-UU — not marked, just because "Rodriguez" was written on 1st space for board members and figure "1" written on space for governor (Sec. 189, pars. 15 and 20, Revised Election Code);

(21) Precinct No. 14A — Exhibits P1 4A-C, P1 4A-C-2, P14A-3, and P14A-5 — not marked, although "Isidro S. Rodriguez" written on 1st space for provincial board member and "Senon San Pascual" was also written. The voters are unschooled and with poor handwriting;

Exhibits P14A-B and P14A-B-1 — not marked, just because "Roxas" written on ballot and with blank spaces (Sec. 189, par. 15, Revised Election Code);

Exhibit P14A-F — not marked, just because "A. Martinez" was voted for senator (Sec. 189, par. 15, Revised Election Code);

Exhibit P14A-G — not marked, because double arrowhead drawn on bottom of ballot was meant as an ending of the vote of voter (Sec. 189, par. 19, Revised Election Code);

Exhibit P14A-H — not marked, because "Rodel" was meant for candidate for councilor "Rodolfo Navarro" and the "a" at the end of "Teodoro" was really an "o";

Exhibit P 14A-I — not marked because "Ode" meant "Ople", applying the idem sonans rule;

Exhibit P14A-J — not marked just because "Straight Nationalista" was written on the space for senators (Juliano vs. Court of Appeals, 20 SCRA, July 28, 1967);

Exhibit P14A-K — not a stray vote for mayor because "Burguez" or "Rurgruiz" is idem sonans to "Rodriguez", the protestee;

Exhibit P 14A-L — not marked, just because candidate for vice mayor, "Ben Castro", was written on 8th space for councilor and voter voted for "Moises San Juan" as vice mayor (Sec. 189, par. 15, Revised Election Code);

Exhibit 14A-M — not a stray vote for mayor, because "E. Rodriguez", written on space for mayor stands for "Ente Rodriguez", the protestee (Sec. 189, par. 8, Revised Election Code; Exh. "7");

Exhibit P14A-P — not marked but it is a stray vote for mayor because "Ente Rodriguez" was written on space for vice-mayor;

Exhibit P14A-S — not marked, just because "F. Manuel" was written on 2nd space for councilor, there being a candidate for councilor, "Ceferino Manuel", and just because of indented form of writing (Sec. 189, par. 8, Revised Election Code);

Exhibit P14A-T — not marked, because "Emilio", written on 4th space for senators was really "Enrile", (Sec. 189, par. 15, Revised Election Code);

Exhibit P 14A-V — not marked, just because names in the ballot were partly written in pencil (Sec. 189, par. 12, Revised Election Code);

Exhibit P14A-Z — not marked, because "God Roduguia" is "Gob Roduguia (Governor Rodriguez)" and "T. Roduyes" is "T. Rodrues", idem sonans with "T. Rodriguez", the protestee (Sec. 189, par. 7, Revised Election Code);

Exhibit P14A-CC — not a stray vote for mayor, because "I. Rodriguez" is really "T. Rodriguez" referring to protestee;

Exhibit P14A-DD — not marked, because "P. Manuel" on 1st space for councilors, is for candidate "Ceferino Manuel", with nickname "Pering";

(22) Precinct No. 14 Exhibit P14-MM — not marked and prepared by two persons, just because of the use of two forms of writing (Sec. 189, par. 20, Revised Election Code), or some names of candidates were written in capital letters and other names were written in printed form and in ordinary script;

Exhibit P14-NN not marked nor a stray vote for mayor because "F. Rodriguez" per Court observation is really "T. Rodriguez", a valid vote for protestee Teodoro Rodriguez (Sec. 189, par. 8, Revised Election Code);

Exhibits P14-OO and P14-PP — not marked nor stray vote for mayor because of the same ruling as in preceding Exhibit P14-NN;

(23) Precinct No. 15 — Exhibits P15-A, P15-A-1, P15-A-2, P15-A-3, P15-A-4, P15-A-5 — not marked, just because "I. Rodriguez" written on 1st space for board members;

Exhibit P15-B not marked, just because blank spaces were left by voter and "X" placed on 1st space for board members (Sec. 189, pars. 7 and 19, Revised Election Code);

Exhibits P15-G and P15-G-1 — not marked, just because "Roxas" was written on the space for senator (Sec. 189, par. 15, Revised Election Code);

Exhibit P15-H-1 not marked nor a stray vote for mayor, because "'Teodoro Rodriuez", refers to "Teodoro Rodriguez", the protestee (Sec. 189, par. 15, Revised Election Code);

Exhibit P15-K — not marked, just because "Ilarde" was written in big printed letters and "Isidro S. Rodriguez" was written in peculiar manner;

Exhibit P15-L — not marked, because per Court observation, "Sambo" written on 2nd space for board members, is really "Tambo" for candidate "Tambunting" (Sec. 189, par. 20, Revised Election Code);

Exhibits P15-M and P15-M-1 — not marked, because "P. Manuel" written on space for councilors is for candidate "Ceferino Manuel" whose nickname is "Pering";

Exhibit P15-N — not a stray vote for mayor because "F. Rodriguez" is really "T. Rodriguez", for protestee;

Exhibit P15-O — not marked, just because "Teodoro Rodriguez" was written on the space for mayor and another on the 1st space for councilor (Sec. 189, par. 6, Revised Election Code);

Exhibit P15-P not marked, just because blank spaces were left by voter (Cailles vs. Gomez (supra); Silverio vs. Castro, SCRA, Feb. 28, 1967, Vol. 19; Sec. 189, par. 8. Revised Election Code);

Exhibit P15-S — not marked, just because "X" was written on blank spaces of ballot (Sec. 189, par. 19, Revised Election Code);

Exhibit P15-O — not a stray vote for mayor, because "Ente Lodrigis" is idem sonans to "Ente Rodriguez", protestee;

Exhibit P 15-T — not a stray vote for mayor, because the unschooled voter with a poor handwriting wrote "Toreturo Rubig" on the space for mayor, referring to "Teodoro Rodriguez", protestee;

Exhibit P15-U — not marked, just because names of certain candidates were repeatedly written and blank spaces were left by voter;

Exhibit P15-V — not marked, just because voter left blank spaces on ballot;

Exhibit P15-W — not marked, for the same reason as in Exhibit P15-V;

Exhibit P15-X — not marked, just because "Osmena" was written twice on the space for senators, and not a stray vote for mayor because "E. Rodriguez" meant "Ente Rodriguez", the protestee;

Exhibit P15-AA — not marked, just because names of candidates were written in a peculiar manner, the Court observing that voter was unschooled and with poor handwriting;

Exhibit P15-BB — not marked, just because voter left blank spaces on ballot;

Exhibit P15-CC — not marked, just because "P. Cano" written on 1st space for councilors, said "Cano" being a candidate;

Exhibit P15-DD — not marked, just because "Patorno Santos" and "Roteno Santos" were written on the spaces for councilors (Sec. 189, par. 15, Revised Election Code);

Exhibit P15-EE — not marked, just because "Salonga" was written on space for governor and "Garcia" on 1st space for board members (Sec. 189, par. 15, Revised Election Code);

Exhibit P15-FF — not a stray vote for mayor, because "E. Rodriguez" meant "Ente Rodriguez", the protestee;

Exhibit P15-GG — not a stray vote for mayor, because "Enteng Rodriguez " refers to protestee;

Exhibit P15-HH — not marked, just because names of candidates for councilors were written in spaces for board members (Sec. 189, par. 15; Revised Election Code);

Exhibit P15-11 — not marked, just because of a long line drawn vertically on right side of ballot (Sec. 189, pars. 19 and 20, Revised Election Code);

Exhibit P15-JJ-3 — not marked, just because "Mitra" was voted for twice and names of candidates for

councilors "Martinez" and "Villanueva" were indented;

Exhibit P15-JJ-5 — not marked, just because "Garcia" was written twice on the spaces for senators and "P. Manuel" (candidate "Ceferino Manuel", with nickname "Pering" for councilor) was written on the 8th space for councilors;

Exhibit P15-JJ-6 — not marked, because "Teodoro R" refers to protestee (Sec. 189, par. 11, Revised Election Code);

(24) Precinct No. 15A — Exhibit P15A-A — not marked, nor a stray vote for mayor, because "E. Rodriguez E." refers to "Ente Rodriguez", the protestee;

Exhibit P15A-C — not marked nor a stray vote for mayor for the same reason as in Exhibit P15A-A;

Exhibit P15A-F — not prepared by two persons as the Court observed the same style, inclination of strokes, pressure, spacing and general characteristics in the handwriting of the voter (Sec. 189, par. 20, Revised Election Code);

Exhibit P15A-G — not marked, just because "Teodoro D. Rodriguez" was written on 1st line for senators and on space for mayor (Sec. 189, par. 5, Revised Election Code);

Exhibit P15A-H — not marked, just because "Governor" was written on space for vice governor (Sec. 189, par. 7, Revised Election Code);

Exhibit P15A-J — not marked, just because "Almendras" was written on 7th and 8th spaces for senators;

(25) Precinct No. 19 — Exhibit P19-A — not marked, just because blank spaces appear on the ballot with some names of candidates written and crossed out (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-A-1 — not marked, just because "Isidro S. Rodriguez" was written on space for provincial board members and "Arsenio Roldan" on second space for board member (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-A-C — not marked just because "Teodoro Rodriguez" and "Ben Castro" were written on spaces for mayor and vice mayor, respectively, then repeated on the 1st and second spaces for councilors, the latter crossed out. The voter merely corrected his error;

Exhibit P19-E not marked, because "Samprano" written on 2nd space for senators is for candidate "Singson", while "Billiangeza" written on 5th space for councilors is for candidate "Villanueva" (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-G — not marked, just because "Pablo Adriano" candidate for vice mayor, was written on the space for vice governor (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-J — not marked, just because "Tisyo" written on the space for governor and "Adriando" (idem sonans to "Adriano") written on space for vice mayor (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-N — not marked just because blank spaces appear on the ballot, and not a stray vote for mayor because the unschooled voter who had a poor handwriting referred to protestee "Ente Rodriguez" when he wrote on the space for mayor "Ernesto R.";

Exhibit P19-P — not marked, just because "Gamir" enclosed in parenthesis was written on the space for vice governor, followed by "Roldan" (Sec. 189, par. 13, Revised Election Code);

Exhibit P19-Q — not marked, just because "F. Manuel" and "Perry" were written on the spaces for councilors, "Ceferino Manuel, with nickname "Pering" being a candidate for councilor (Sec. 189, pars. 8 and 15, Revised Election Code);

Exhibit P19-U — not marked, because "Encalog" written on 3rd space for councilors refers to candidate "E. Nicolas";

Exhibits P19-W and P19-X not marked per Court observation;

Exhibit P19-Y — not marked, just because "Aquino" was written on the 8th space for senator, with initial capital letters "R", "S", "Jr." on the 7th space for councilors (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-FF — not marked, because per Court observation "Violmodor" written on the space for vice-mayor refers to "vice mayor" and "Moises San Juan" was written on the first space for councilors (Sec. 189, par. 15, Revised Election Code);

Exhibit P19-KK — not marked, just because "C. Manuel" was written on 2nd space for councilors and "A. Manuel" on the 8th space for councilor, "Ceferino Manuel" being a candidate for councilor, in the absence of evidence aliunde that voter meant to identify his ballot;

Exhibit P19-MM — not marked nor stray vote for mayor, because "E. Rodriguez" stands for "Ente Rodriguez" who is protestee;

Exhibit P19-RR — not stray vote for mayor just because "Lontoc" was written on the 1st space for councilors and "Adriano" on the second space for councilors, this being a valid vote for protestee and a stray vote for protestant Lontoc (Lucero vs. de Guzman 45 Phil. 852);

(26) Precinct No. 19A — Exhibit P19A-E — not a marked nor stray vote for mayor because "D. Rodriguez" refers to "Doro Rodriguez", protestee;

Exhibit P19A-F — not a marked nor stray vote for mayor because "Vicente Rodriguez" is idem sonans to "Ente Rodriguez", protestee (Sec. 189, par. 4, Revised Election Code);

Exhibit P19A-H — not marked, just because "Roxas" and "Diokno" were written on 2nd and 3rd spaces for senators (Sec. 189, par. 15, Revised Election Code);

Exhibit P19A-G — not marked, because "E. Sayong Nicolas" written repeatedly refers to candidate "Eliseo Nicolas" (Exhibit 10--B);

Exhibit P19A-I — not marked, just because "Ferry" E. was written in bold letters;

Exhibit P19A-J — not marked, just because "Liberal" was written transversally from line 3 to 8 on spaces for senators, obviously the voter referring to abolished block voting;

Exhibit P19A-K — not marked, just because "Mike" appears on the second space for councilors (Sec. 189, par. 15, Revised Election Code);

Exhibit P19A-M — not marked just because "Roxas" was written on the 5th space for senators, nor a stray vote for mayor because "E. Rodriguez" refers to "Ente Rodriguez", protestee (Sec. 189, par. 15, Revised Election Code);

Exhibit P19A-N — marked ballot, because posted on blank space is a printed vote for "Ferry" (Sec. 189, par. 16, Revised Election Code);

Exhibit P19A-O — not marked, just because of peculiar manner the letter "M" is written in "Magsaysay" in "Gamir", "Osmena" and "Mitra" (Sec. 189, par. 20, Revised Election Code);

Exhibit P19A-P — not marked, just because "J. Lontoc" written on 5th space for councilors and "Adriano" on 6th space for councilors (Sec. 189, par. 15, Revised Election Code);

Exhibit P19A-R — not marked, just because "Diokno" written on 6th space for senators (Sec. 189, par. 15,

Revised Election Code);

(h) On the allegation of protestant that 141 ballots for protestee were without the necessary security water marks and, therefore, fake and spurious (Ballots for protestee in Exhibits: P3-F, P3-G, P3-V, P3-W, P3-X, P3-Z, P3-AA, P3-GG, P5-B, P5-D, P5-J, P6-A, P6-D, P6-F, P6A-6, P6A-K, P6A-S, P6A-W-3, P6A-W-8, P6A-W-16, P6A-W-21, P6A-W-23, P6A-W-29, P6A-W-41, P6A-Y-1, P6A-Y-12, P7-B, P8-O, P8-S, PS-II, P8-II-5, P8-II-6, P9-C, P9-D-1, P9-F-2, P9-DD, P9-NN-4, P9-NN-8, P10A-H-2, P11A-G, P11A-1, P11A-H, P11A-J, P11A-K, P11A-L, P11A-M, P11A-N, P11A-O, P11A-P, P11A-Q, P11A-R, P13-R, P13-R-1, P13-R-2, P13-WW, P14A-A, P 14A-A-1, P14A-A-2, P14A-A-3, P14A-A-4, P14A-A-5, P14A-A-7, P14A-8, P14A-9, P14A-10, P14A--11, P14A-12, P14A-13, P14A-14, P14A-15, P15-B, P15-A-1, P14-A, P14-C, P14-D, P14-E, P14-F, P14-G, P14-H, P14-I, P14-J, P14-K, P14-L, P14-M, P14-N, P14-O, P14-P, P14-Q, P14-S, P14-T, P14-U, P14-V, P14-W, P14-X, P14-Y, P14-Z, P14-AA, P14-BB, P14-CC, P14-DD, P14-EE, P14-FF, P14-GG, P14-HH, P14-II, P14-JJ, P14-LL, P15A-J, P15A-K, P15A-L, P15A-M, P15A-N, P15A-O, P15A-P, P15A-Q, P15A-R, P15A-S, P15A-T, P15A-U, P15A-V, P15A-W, P15A-X, P15A-Y, P15A-Z, P15A-Z-1, P15A-Z-2, P15A-Z-3, P15A-Z-4, P15A-Z-5, P15A-Z-6, P15A-Z-7, P15A-Z-8, P15A-Z-9, P15A-Z-10, P15A-Z-11, P15A-Z-12, P15A-Z-13, P15A-Z-14, P15A-Z-15, P15A-Z-16 and P19-A-A), the lower Court heard the testimony of Mr. Remigio Octavio (Chairman of the Comelec Committee on printing for ballots and protestant's witness) that there was "likelihood that there were some ballots that were not hit by these watermarks" (t.s.n. 58-60 April 3, 1972), and that of Mr. Maximo Bernardo, Chief of the Electro Typing and Foundry Division of the Bureau of Printing, who testified that due to the size of the book paper used in the printing of ballots and the frequency and location of the water marks in the dandy roll, two (2) out of twelve (12) ballots which were cut from a single sheet of the book paper do not contain the required security water marks; that they had printed several hundreds and millions of ballots when they discovered that some ballots did not contain water marks; that several millions of ballots already printed were good ballots and were sent out for distribution in the different provinces and cities; that they begun printing ballots on August 21, 1971, and that the ballots for Montalban, San Mateo, Morong, and Las Pinas, Rizal were printed on September 30, 1971. The trial court ruled that the 141 contested ballots were all valid, genuine, and official ballots in the 1971 election in Montalban, Rizal. We sustain that ruling as correct and well-founded.

(i) That based on the preceding ruling, protestant's ballots (201 ballots) objected to on the same ground that they do not contain the necessary security water marks, are likewise valid and genuine to wit: P2-2, P3-78, P3-74-B, P3-62, P3-59, P3-57, P3-54, P3-52, P3-44, P3-66, P3-34, P3A-17, P5-5-56, P5-52, P5-44, P6-39, P6-34, P6-28, P6-25, P6-22, P6-17, P6-9, P6-8, P6-6, P6A-86-F, P6A-86-E, P6A-86, P6A-85-A, P6A-83-D, P6A-83-C, P6A--82-C, P6A-82-A, P6A-73, P6A-72, P6A-65, P6A-63, P6A-55, P6A-30, P6A-20, P6A-3, P7-35, P7-27, P7-26, P7-8, P7-7, P7-3, P7-2, P7-75, P7-73,, P7-72, P7-70, P7--68, P7-45, P7-42, P7-43, P7-41, P7-62, P7-52, P7-51, P8--67, P8-66, P8-62, P8-59, P8-58, P8-55, P8-53, P8-46, P8-42, P8-40, P8-31, P8-29, P8-26, P8-25, P8-24, P8-23, P8-8, P9-40-A, P9-43, P9-39, P9-1-J, P9-1, P9-2-V, P9-22, P9-2-P, P9-2-L, P9-2-G, P9-2-B, P9-11, P9-3-Q, P9-3-O, P9-3-G, P9-3-D, P9-3-C, P9-1-E, P9-1-F, P9-1-M, P9-A-41, P9-A-4, P9A-40, P9A-20, P9A-26, P9A-28, P9A-43, P10-5-D, P10-5, P10-4-B, P10-23, P10-10-A, P10-7-B, P10-7-C, P10-A-15, P10A-8, P10A-6, P 10A-33, P10A-30, P 10A-29, P10A-24, P10A-23, P10A-11, P 10A-12, P 10A-5, P11-47, P11-18, P11-13, P13-9-B, P13-6-A, P13--19, P13-21-N, P14-17, P14-25, P14-16, P14-4, P14-2, P14-40, P14-39, P14-38, P14-37, P14-36, P14-35, P14-34, P14-33, P14-32, P14-31, P14-30, P14-29, P14-28, P14-27, P14-26, P14-24, P 14-22, P14-21, P14-20, P14-19, P14A-45, P14A-44, P14A-43, P14A-42, P14A-41, P14A-38, P14A-36, P 14A-33-B, P14A-33, P14A-31, P14A-30, P14A-28, P14A-27, P14A-25, P 14A-22, P14A-19, P14A-16, P14A-15, P14A-14, P14A-12, P14A-10, P14A-8, P14A-6, P14A-4, P14A-3, P15-34-X, P15-34-O, P15-34-J, P15-34-B, P15-34-A, P15-36-B, P15-21, P15-5, P15-4, P15-1, P15-34-11, P15A-23, P15A-24, P15A-22, P15A-21, P15A-20, P15A-19, P15A-18, P15A-17, P15A-16, P15A-8, P15A-48, and P15A-15.

(j) On the counter-protest of protestee Rodriguez, the Court ruled on the contested ballots of protestant, to wit:

- (1) Exhibit P15-A-5 - stray vote for protestant because space for mayor was left blank and protestant's name written on first space for councilor (Sec. 189, par. 15, Revised Election Code);
- (2) Exhibits P19-25 and P15-A-13, not stray vote for mayor because "Tanloc" is idem sonans with protestant "Lontoc";
- (3) Exhibit P15A-72, not a stray vote for mayor, because "Lonta" is idem sonans with protestant "Lontok";
- (4) Exhibit P9-9, not a stray vote for mayor, because "Lankac" is idem sonans to "Lontok";
- (5) Exhibits P4-12, P6A-39, P6A-59, P6A-62, P6A-67, P6A-68, P6A-70, P6A-71, P6A-77, P6A-78, P6A-2, P7-37, P7-34, P7-33, P7--32, P7-23, P7-22, P7-16, P7-15, P7-14, P7-13, P7-12, P7-11, P7-4, P7-64, P7-63, P7-58, P7-37, P7-56, P7-55, P7-53, P7-50, P7-49, P7-44, P7A-27, P7A-28, P7A-29, P7A-31, P7A-34, P7A-37, P7A-41, P8A--31, P8A-14, P8A-17, P8A-18, P8A-33, P8A-24, P8A-11, P8A-10, P8A-A, P9-2-M, P9-45, P9-25, P9-26, P9-29, P10-16, P13-34, P13-18, P13-10, P13-4, P14-15, P14-14, P14-12, P14-11, P14-10, P14-9, P15-7, P15A-49, P19-A-E, P19-8-D, P19-8-C, P19-A-B, P19-8-A, and P19-8, are not marked because alleged thumbprints on face and/or back of ballots were only accidental flourishes not intended by the voter to identify the ballot (Sec. 189, par. 20, Revised Election Code);
- (6) Exhibit P1-1-5, not marked, because "Torpes" really was "Torres", one of the candidates for councilor;
- (7) Exhibit P8-3, marked, because "Undung Inutil" on space for provincial board member was impertinent, insulting and the voter meant his ballot to be identified;
- (8) Exhibit P9-44, not marked because figure "272" appearing at back of ballot in the absence of evidence aliunde cannot be considered voter's intent to identify ballot;
- (9) Exhibit P11-8, marked, because initials "DKT" written on right side of ballot was intended to identify it;
- (10) Exhibit P4-7, marked, because voter signed his initials on the 6th and 7th lines for councilors showing a clear intention to identify ballot;
- (11) Exhibit P7A-16, marked, because "Salvador" written at the bottom of ballot was meant to identify it;
- (12) Exhibits P6-2 and P6A-37, marked, because names of senatorial candidates were written properly on space for senators and then rewritten upside down on the space for councilors, clearly to identify the ballot;
- (13) Exhibit P19-38, marked, because name "Zuñiga" was written upside down to identify ballot;
- (14) Exhibit P14A-15, marked, because "Ayos Lang" (Just right) written after name of protestant was impertinent and irrelevant expression meant to identify ballot;
- (15) Exhibit P19A-18, marked, because "Change the administration" written on the space for provincial board member are irrelevant expressions intended to identify ballot;
- (k) On ballots claimed by the protestee, to wit: Exhibits P3A-30, P4-1-A, P5A-22, P6A-90, P8A-70, P8A-71, P8A-36, P9A-45, P16A-36, P11A-38, P11A-39, P19A-39 and P1A-6 on the ground that said ballots were not counted in favor of protestee, although "Isidro Rodriguez" appear on the space for mayor, the Court rules that "Isidro Rodriguez" is idem sonans as "Teodoro Rodriguez", protestee, and that the claimed ballots must be counted in his favor (Sec. 189, par. 4, Revised Election Code);
- (1) Exhibit P3A-29, should be counted for protestee because "Rodriguez" appears on the space for mayor although it was poorly written, there being no other person by that name who was candidate for mayor of Montalban, Rizal in the elections of 1971;
- (2) Exhibit P6A-89, should be counted for protestee because "E. Rodriguez" stands for "Ente Rodriquez"

protestee's registered nick name;

(3) Exhibit P8-69, should be counted for protestee because "Ente R" undoubtedly refers to protestee (Sec. 189, par. 11, Revised Election Code);

(4) Exhibit P8-72, should be counted for protestee because "Rodris" on space for mayor is idem sonans to "Rodriguez" or its abbreviation;

(5) Exhibit P8A-37, should be counted for protestee even if detachable coupon was not removed from ballot (Sec. 189, par. 22, Revised Election Code);

(6) Exhibit P10-A-37, should be counted for protestee because "Peodoro Rodaris" is idem sonans to "Teodoro Rodriguez", protestee;

(7) Exhibit P10-38, should be counted for protestee because "J.M. Rodriguez" is clearly a vote for protestee even if there is an error in the initials of the given name (Sec. 189, par. 8, Revised Election Code);

(8) Exhibit P10-A-30, should be counted for protestee because "Rodres" is idem sonans to "Rodriguez" and the voter's intention to vote for protestee cannot be doubted;

(9) Exhibit P15-41, should be counted for protestee although "Teodoro R" was written slightly below the line for mayor, it was outside of the space for other officers and the initials "B." "C." following "Teodoro R.", can be for candidate "Ben Castro", as vice mayor. There is no doubt that "Teodoro R" refers to protestee (Sec. 189, par. 8, Revised Election Code);

(10) Exhibit P19-43, should be counted for protestee because although "E. Rodriguez" (Enteng Rodriguez) was written on the space for vice-mayor, the voter clearly indicated by arrows starting from "E. Rodriguez" pointing to the space for mayor that he intended to vote for protestee for the position of mayor;

(1) In summation, the Court declared twelve (12) votes counted in favor of protestee but contested by protestant to be invalid, thus deducting said 12 votes from the total number of votes counted in favor of protestee which is 3,831, or a balance of 3,819 votes for protestee. This Court noticed that the lower Court held invalid the following votes for protestee, to wit: (1) Exhibit P2-B (stray vote); (2) Exhibit P3A-A (marked ballot); (3) Exhibit P5-H (marked ballot); (4) Exhibit P5A-G (marked ballot); (5) Exhibit P6-C (marked ballot); (6) Exhibit P7A-L (marked ballot); (7) Exhibit 7A-R (marked ballot); (8) Exhibit P7-A (marked ballot); (9) Exhibit P8-C (marked ballot); (10) Exhibit P8-D (marked ballot); (11) Exhibit P8A-P-4 (marked ballot); (12) Exhibit P 14A-P (stray vote); (13) Exhibit P19A-N (marked ballot), numbering 13 votes, not 12 as per lower court's decision. To this 13 invalid votes for protestee, We rule that two more votes, Exhibits P13-C and P13-D must be added, because these two ballots should be considered marked ballots, following the lower court's ruling in Exhibits P8-C and P7A-16, thus resulting in a total of fifteen (15) votes invalidated for protestee, thereby leaving a balance of 3,816 votes for protestee Rodriguez after deducting fifteen votes from protestee's total of 3,831 votes.

On ballots claimed by protestee Rodriguez, the lower court ruled that 22 ballots should be counted in his favor contained in Exhibits P3A-30, P4-1-A, P5A-22, P6A-90, P8A-70, P8A-71, P8A-36, P9A-45, P16A-36, P11A-38, P11A-39, P19A-39, P1A-6, P6A-89, P8-69, P8-72, P8A--37, P10-A-37, P10-38, P10-A-30, P15-41, P19-43. These 22 ballots (not 23 as appearing in lower court's decision) should be added to protestee's 3,816 votes or a total of 3,838 votes for protestee (not 3,842 votes as appearing in lower court's decision);

On protestant's contested ballots, the lower court invalidated nine (9) votes, namely, Exhibits P8-3 (marked); P11-8 (marked), P4-7 (marked); P7A-16 (marked); P6-2 (marked); P6A-37 (marked); P19-38 (marked; P14A-15 (marked); and P19A-18 (marked); (not 10 votes as appearing in lower court's decision, because Exhibit P15-A-5 is not included among those invalidated); hence giving protestant a total of 3,733 votes, after deducting 9

invalidated votes from protestant's total of 3,742 votes (not a total of 3,732 votes as appearing in lower court's decision). The inevitable mathematical conclusion is that protestee's total of 3,838 votes to protestant's total of 3,733 votes, gives the former a plurality of 105 votes (not 110 votes as appearing in lower court's decision).

I

All the principal issues raised by petitioner are in connection with respondent court's alleged errors in the appreciation of ballots cast in the 1971 elections for the position of mayor of Montalban, Rizal, more specifically: (1) for crediting private respondent Rodriguez with votes wherein on the space for mayor in the ballots were written "Isidro Rodriguez", "Vicente Rodriguez" or "Ernesto R."; (2) for crediting private respondent Rodriguez with votes wherein on the space for mayor were written "E. Rodriguez", "I. Rodriguez", "D. Rodriguez", on the ground that "E" is the initial of "Ente", allegedly nickname of private respondent, "D" is the initial of "Doro" which is idem sonans to "Teodoro", that "Isidro" may be spelled "Esidro"; (3) refusing to declare as marked ballots where the name of a candidate was written two or more times; (4) refusing to declare as marked ballots those that contain big printed letters in writing names of candidates or written in big Gothic letters; (5) refusing to declare as marked ballots where words or names were written on a space of the ballot not intended for voting, where irrelevant letters or words are written, or where the name of a candidate is written twice or in different spaces of the ballot; (6) crediting in favor of private respondent votes in ballots where the name written on the space for mayor does not correspond to his christian name or surname; (7) refusing to declare as marked ballots where "Isidro Rodriguez", "I. Rodriguez", "S. Rodriguez" or "Rodriguez" is written on the first space for member of the provincial board.

To Our mind, the issues raised by petitioner boil down to: (1) should the contested ballots be considered marked just because of unusual writings on its face without evidence aliunde that the voters who cast them intended that they be identified?; (2) in those votes cast for the petitioner or private respondent where initials, nicknames, or abbreviations of candidate's names are used, could the intention of the voter in voting for the candidate of his choice be reasonably inferred?; (3) in those ballots where different styles of handwriting appear, can they be presumed prepared by more than one person?; (4) in case of doubt on the validity of the ballot, must the doubt be resolved in favor of its validity or otherwise?

In order that the issues raised may be correctly answered based on the individual appreciation of each contested ballot, We firmly believe that the trial court must be given sufficient leeway in the exercise of discretion based on its observation provided its findings and conclusions can be amply supported by applicable rules on appreciation of the ballot found in the Revised Election Code of 1971 and pertinent jurisprudence.

II

A close scrutiny of the respondent court's findings and conclusions on each of the contested ballot casts for petitioner and private respondent reveals no error committed in its appreciation of each one of them, except in Exhibits P13-C and P13-D, which We declare as marked ballots so that the lower court could be consistent in its rulings when it declared Exhibits P8-C and P7A-16 marked ballots.

The lower court credited private respondent Rodriguez with votes wherein on the space for mayor were written "Isidro Rodriguez", "Vicente Rodriguez" or "Ernesto R.", basing its conclusion on Sec. 184, par. 4, of the Election Code of 1971 which provides that:

"4. A name or surname incorrectly written which when read, has a sound similar to that name or surname of a candidate when correctly written shall be counted in his favor."

and disregarded Sec. 189, par. 25, of the same Election Code, which provides:

"25. If on the ballot is correctly written the name of a candidate but with a different surname, or is correctly written the surname of the candidate but with a different name, the vote shall not be counted in favor of any candidate having such name and/or surname but the ballot shall be considered valid for other candidates.",

on the ground that the latter rule is qualified by the former rule on "idem sonans", a view We consider correct and justifiably applied by the lower court. Besides, We already ruled in this case of Corpuz vs. Ibay, 84 Phil. 184, 186, that "Isidoro" or "Isidro" are "idem sonans" to "Teodoro". As to "Vicente Rodriguez" there is very little doubt that "Vicente" is idem sonans to "Ente", registered nickname of private respondent in the certificate of candidacy (Exhibit "7"). We are also convinced that those voters clearly intended to vote for private respondent Rodriguez as could be seen on the face of those contested ballots.

Regarding ballots with wrong initials of respondent Rodriguez (J.M. Rodriguez), the law (Sec. 189, par. 8, of the Election Code of 1971) succinctly provides that erroneous initial of the name and middle name of a candidate will not annul the vote in his favor.

"E. Rodriguez" appearing on the ballots' space for mayor were correctly credited for private respondent by the lower court because little doubt could exist that the voter intended to vote for respondent, "E." being the initial of "Ente", registered nickname of respondent which is now allowed to be used by candidates under Section 189, par. 11, of the Election Code of 1971.

The lower court, likewise, correctly credited votes for "D. Rodriguez" in favor of private respondent, for "Domingo" is his middle name and under Section 189, par. 8, of the Election Code of 1971, not even an erroneous intermediate initial between the correct name and surname of a candidate will annul the vote in his favor.

"I. Rodriguez" considered by the lower court "T. Rodriguez" appearing on the space for mayor, were correctly counted for private respondent, the "T." being the initial of "Teodoro" and even if the "T" is really an "I." the erroneous initial of the name which accompanies the correct surname will not annul the vote in favor of the candidate (Sec. 189, par. 8, Election Code of 1971).

We have no doubt on the well established rule that the mere repetition of names of candidates will not nullify the ballot on the ground that it is marked (voter intended it as a means to identify himself) in the absence of evidence aliunde. Section 189, par. 5, of the Election Code of 1971, provides:

"When the name of a candidate appears in a space of the ballot for an office for which he is a candidate and in another space for which he is not a candidate, it shall be counted in his favor for the office of which he is a candidate and the vote for the office of which he is not a candidate shall be considered as stray, except when it is used as a means to identify the voter, in which case the whole ballot is invalid."

In the case of Juliano vs. Court of Appeals, G.R. No. L-27477, July 28, 1967 (20 SCRA 808, 824), We stated that:

"The writing of the name 'Juliano' twice in the space for mayor in this ballot would indicate only the enthusiasm of the voter in voting for Juliano. There is no evidence that the writing of the name Juliano twice in the space for Mayor in this ballot was deliberately done in order to identify his ballot."

The rule established in the foregoing case was first announced in the cases of Amurao vs. Calangi, L-12631, August 22, 1958, and Gutierrez vs. Aquino, G.R. No. L-14253, February 28, 1959, that:

"So, too, when the name of a candidate is written twice in different spaces in each of 27 ballots, the vote for the office for which he is not a candidate should be considered only as a stray vote and does not invalidate the

whole ballot, according to the express provision of Rules 3 and 13d Section 149. To hold the repetition of the name of the candidate in the 27 ballots as intended for identification, evidence aliunde should be presented." (Italics supplied)

Ever mindful of the sanctity of the ballot and the presumption that the voter is innocent of wrongdoing, We prefer not to disturb in the slightest manner the foregoing rule.

Another well established rule that We find difficult to challenge for the same reason stated above, is that enunciated in Section 189, par. 20, of the Election Code of 1971, to wit:

"Unless it should appear that they have been deliberately put by the voter to serve as identification marks, ... the use of two or more kinds of writing and unintentional or accidental flourishes, or stains, shall not invalidate the ballot." (Italics supplied.)

We already held a long time ago (Ferrer vs. Alban, 101 Philippine Reports 1018, G.R. No. L-12083, July 31, 1957) that the use of two or more kinds of writing cannot have the effect of invalidating the ballot unless it clearly appears that they had been deliberately put by the voter to serve as identification mark. In the very much more recent case of Julianos vs. Court of Appeals, quoting Taijanlangit vs. Cazenias, G.R. No. L-18894, June 30, 1972, and Silverio vs. Castro, G.R. No. L-23827, Feb. 28, 1967, We stated:

"In the absence of evidence, and the record does not show, that the writing of the name of Julianos and Uy in capital letters slightly bigger than the capital letters with which the names of the councilors were written was deliberately done to identify this ballot, this ballot cannot be considered marked."

"... The use of two or more kinds of writing on the ballot, in the absence of evidence that the voter had deliberately done this to identify his ballot, and the record does not show such evidence, does not invalidate the ballot".

Section 189, pars. 19 and 20 of the Election Code of 1971, explicitly provides the following in an unequivocal manner:

"Circles, crosses, or lines put on the spaces on which the voter has not voted shall be considered as signs to indicate his desistance from voting and shall not invalidate the ballot".

"Unless it should clearly appear that they have been deliberately put by the voter to serve as identification marks, commas, dots, lines, or hyphens between the name and surname of a candidate, or in other parts of the ballots, traces of the letters "t", "J", and other similar ones, . . . shall not invalidate the ballot".

We still firmly maintain that crosses, lines and other marks on a ballot will not automatically necessarily invalidate said ballot unless evidence aliunde is presented to prove that the voter deliberately marked the ballot to identify it and the voter.

We also sustain the lower court in its affirming and applying the general rule that a vote for a non-candidate, or candidates voted for wrong position will not mean that the ballot is marked unless evidence aliunde shows the voter's intention to identify the ballot and himself. Sec. 189, par. 15, of the Election Code of 1971, clearly provides:

"15. Any vote in favor of a person who has not filed a certificate of candidacy or in favor of a candidate for any office for which he did not present himself shall be void and counted as a stray vote, but shall not invalidate the whole ballot." (Italics supplied)

The clarity of the foregoing provision needs no further jurisprudence to elucidate on or explain its correct meaning. The mere fact that some of the non-candidates whose names were written on the ballots are conspicuous

politicians or personages will not invalidate them in the absence of evidence that said names were used to identify the ballot and the voter.

The lower court did not commit any mistake in declaring a vote (Exhibit P8-V) valid for protestee Rodriguez although his name was written on the space for mayor as "Teodoro Apulid Rodriguez", because "Apulid" is nothing more than a descriptio personae, and there is no evidence aliunde showing the voter's intention to use the word "Apulid" to identify himself or the ballot.

We also sustain the lower court's rulings that letters "E" and "L" written on a ballot (Exhibit P9-Z), do not necessarily constitute identifying marks (Sec. 189, par. 20, Revised Election Code); that arrowheads written at the bottom of the ballot merely meant that voter was ending his ballot; that "Rodris" is idem sonans with "Rodriguez"; that what appears on Exhibit P10-A, is really "Mayor T. Rodriguez" and not "Moises T. Racob"; that "Rodress" written on Exhibit P10A-30 is idem sonans with "Rodriguez"; that what appears on Exhibit P11-J is really "T. Rodriguez" and not "P. Rodriluz"; that what appears on Exhibit P11-M as "Rodrizeras" or "Rodriges" is idem sonans with "Rodriguez"; that a ballot with detachable coupon not detached is valid (Sec. 189, par. 22, Revised Election Code); that ballot with "Teodoro R." written slightly below the line for mayor but not on a space for another office is valid for private respondent Rodriguez because the voter intended to vote for him and Section 189, par. 1 of the Election Code of 1971, provides: "Where only the christian names of a candidate . . . is written, the vote for such candidate is valid, if there is no other candidate with the same name or surname for the same office"; that ballot (Exhibit P7A-16) for petitioner where name of voter appears is invalid because of his clear intention to identify it; that ballot (Exhibit P4-7) signed with his initials by voter is marked and void; that ballots (Exhibits P6-2 and P6A-37) are invalid as marked ballots because the names of senatorial candidates were written upside down to identify ballots; that ballot Exhibit P19-38) was marked because "Zuniga" was written upside down to identify it; that completely torn ballots (Exhibits P3A-F and P3A-G) where "spoiled" is written at the back of each cannot be counted in favor of petitioner Lontoc; that repetition of names of senatorial candidates on ballot (Exh. P9-FF) does not make it a marked ballot in the absence of evidence aliunde that voter intended to identify his vote; that the mere fact that a voter voted for a candidate to the wrong office will not invalidate the ballot in the absence of evidence that said voter intended to identify his ballot and himself.

We sustain the ruling of the lower court in all the preceding issues without being un-mindful of the truism that to accede to protestant's contention of the invalidity of protestee's contested ballots would eventually result in nullifying contested votes for protestant placed in similar situations as those of protestee's contested ballots (about 270 votes), thus increasing the number of plurality votes for protestee.

It is Our considered observation that the respondent court invariably ruled correctly on the issues raised by both protestant and protestee, in its duty to arrive at a correct appreciation of the contested ballots, applying rules (Sec. 189, Rules for appreciation of ballots, of R.A. 6388, the Election Code of 1971) and pertinent jurisprudence, all designed to help courts of justice approximate and determine the voter's authentic intention as to the question of who were really the candidates voted for and whether or not said voter intended to violate the secrecy of the ballot by resorting to means to identify himself or the ballot.

III

There is no error committed by the respondent court in declaring that ballots for protestant (201 ballots) and those for protestee (141 ballots) without watermarks, are valid, genuine and official ballots in the 1971 elections, in the light of the testimony of two well qualified witnesses (Chairman of the Committee on printing for ballots Remigio Octavio and chief of the Electro Typing and Foundry Division of the Bureau of Printing Maximo Bernardo) that millions of ballots, some of them without the necessary security watermarks, were sent out for distribution to

different provinces and cities. Neither did the lower court commit an error when it declared 74 ballots (those in exhibits enumerated from the bottom of page 124 to the top of page 125 of the respondent court's decision), for the protestant Lontoc, objected to by protestee Rodriguez as marked, valid and good votes for the protestant, because alleged thumbprints affixed on the face and/or back of said ballots "were only accidental flourishes and were not intended to be placed by the respective voters to identify the ballot" (Sec. 189, par. 20, Revised Election Code of 1971).

WHEREFORE, except as herein modified, respondent court's decision is affirmed, to wit:

- The election protest is dismissed, with costs and expenses of the protest against protestant Lontoc;
- The proclamation of protestee Rodriguez as the duly elected mayor of Montalban, Rizal in the election of November 8, 1971, is affirmed, with a plurality of 105 instead of 110 votes;
- The protestant is ordered to pay the protestee the sum of P10,000.00 as attorney's fees.

So ordered."

With costs against petitioner.

SO ORDERED.

Makalintal, C.J., Castro, Makasiar, and Martin, JJ., concur.

Teehankee and Muñoz Palma, JJ., on leave.

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