

ROBERT S. CLEMONS, PETITIONER, VS. WILLIAM T. NOLTING, AS AUDITOR OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS, RESPONDENT.

G. R. No. 17959. January 24, 1922

Ponente: JOHNSON, J.

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JOHNSON, J.:

This is an original action commenced in the Supreme Court for the writ of mandamus. Its purpose is to compel the respondent "to countersign or cause to be countersigned the original warrant, a copy of which is set forth in paragraph 10 of the complaint, and to deliver the same to the plaintiff so that he may present it to the Treasurer of the Philippine Islands and receive payment thereon in the sum of P73.33, an amount which is alleged to be due him by the Government of the Philippine Islands."

The cause was submitted to the court upon the following stipulated facts:

- That plaintiff is a citizen of the United States, temporarily residing in the city of Manila, Philippine Islands.
- That defendant, William T. Nolting, is the duly appointed, qualified and acting Auditor of the Government of the Philippine Islands.
- That on June 18, 1920, the Honorable Charles E. Yeater, then Acting Governor-General of the Philippine Islands, cabled the Secretary of War of the United States, of Washington, D. C, as follows:

"Appoint as early as possible after June 30th, 1920, John Deering and Robert S. Clemons each to position mechanical and electrical engineer, effective the date of departure from residence, under special contracts to expire December 31st, 1921. Straight salary \$4,000 per annum, with transportation from residence to the Philippine Islands and return, without civil service privileges. Advance transportation and request them to sail first available vessel."

- That in accordance with the authority contained in the said cablegram, above cited, the Secretary of War, through the Bureau of Insular Affairs, employed plaintiff on behalf of the Government of the Philippine Islands, and under date of August 6, 1920, wrote plaintiff, confirming the agreement entered into, as follows:

"WAR DEPARTMENT

"BUREAU OF INSULAR AFFAIRS

" WASHINGTON, August 6, 1920.

"Major R. S. CLEMONS,

"Air Photo Detachment,

" Tucson, Arizona.

"SIR: In accordance with specific authority contained in a cablegram from the Governor-General of the Philippine Islands, dated June 18, 1920, you are hereby provisionally appointed to the position of electrical and

mechanical engineer in the Philippine Bureau of Public Works, under special contract to expire December 31, 1921, at a straight salary of \$4,000 per annum. This appointment is effective as of date of departure from your residence. You will be furnished transportation from your place of residence in the United States to the Philippine Islands and return upon the completion of the contract period, but you will not be entitled to civil service privileges of leaves, etc. Upon your arrival in Manila you should report at the office of the Director of Public Works.

"Kindly acknowledge your acceptance of this appointment by signing the inclosed copy hereof and returning it to this bureau at once.

"We are unable at this time to give you definite information concerning the date of the vessel on which we will be able to secure accommodations for. you, but you will be advised by wire as soon as a reservation is obtainable.

"Very respectfully,

"CHAS. C. WALCUTT, jr.,

"Assistant to Chief of Bureau.

"Inch: Copy of this letter."

- That plaintiff received the letter set forth in the paragraph next preceding, at Tucson, Arizona, and immediately replied in writing, accepting employment by the Philippine Government under the terms of the said letter, and promptly sailed for Manila and entered upon and is still engaged in the discharge of his duties in the Bureau of Public Works of the Insular Government of the Philippine Islands under the terms of the said contract.

- That on the 1st day of February, 1921, at the rates of exchange then prevailing as fixed by the Insular Government of the Philippine Islands, the equivalent of \$333.33, United States currency, in Philippine currency was P739.99, and no sum of money in Philippine currency less than P739.99 would at that time purchase \$333.33 in United States currency.

- That on or about the 1st day of February, 1921, the chief accountant of the Bureau of Public Works of the Government of the Philippine Islands tendered plaintiff a warrant on the Treasurer of the Philippine Islands in the sum of P666.66, Philippine currency, in full payment of his salary for the month of January, 1921.

- That plaintiff declined to accept the said sum in full discharge of his January, 1921, salary, but insisted that under his contract with the Philippine Government he was and is entitled to receive each month as compensation for his services the sum of \$333.33 in United States currency, or a sum in Philippine currency sufficient to enable him to purchase the sum of \$333.33 in United States currency at the rates of exchange prevailing on the date of each payment, and demanded that he be paid an additional sum of P73.33, which, with the sum of P666.66, would be the equivalent at the then prevailing official rates of exchange of the sum of \$333.33, United States currency.

- That the said chief accountant of the Bureau of Public Works, notwithstanding plaintiff's demand, declined and refused to issue plaintiff a warrant for the payment of his January, 1921, salary in any sum in excess of the sum of P:666.66, whereupon plaintiff accepted the said sum of P666.66, under protest, and as constituting only a partial payment of his salary for the said month of January, 1921. That plaintiff insistently continued his demands upon the chief accountant of the Bureau of Public Works for a warrant on the Treasurer of the Philippine Islands for the payment of the sum of P73.33 to complete the payment of plaintiff's salary for January, 1921, whereupon the said chief accountant, on August 8, 1921, upon such demand, issued in favor of plaintiff a warrant on the Treasurer of the Philippine Islands in words and figures as follows, to wit:

"No. 833906.

"THE GOVERNMENT OF THE PHILIPPINE ISLANDS.
"TO ROBERT S. CLEMONS, C/o DESIGN. DIVISION, B. P. W.

"Date, Aug. 8, 1921. Dr.

"Appropriation, Bureau of Public Works.

P73.33.

"Aug. 8, 1921. For premium on P666.66 Jan. Dr. Cr

salary of Maj. Robert S.

Clemons at the rate of 11%

to cover the difference bet-

ween dollars and Philip

pine currency.

5-E-g (Job

73.33

145941 C-4

73.33

"I certify that the foregoing account is correct, just and payable in accordance with law and regulations.

"R. REINOSO,

"Chief Accountant,

"Bureau of Public Works/dp.

"D.

"Treasury Warrant.

"No. 833906.

"THE GOVERNMENT OF THE PHILIPPINE ISLANDS.

"Issued under sec. 616,

Adm. Code.

"To the TREASURER OF THE PHILIPPINE ISLANDS :

"MANILA, P. I., August 8, 1921.

"Pay to Robert S. Clemons - - - or order the sum of seventy-three and 33/100- - - - - pesos (P73.33).

"Payable from the appropriation for Bureau of Public
Works.

'Countersigned:

"Not valid unless countersigned,

"R. REINOSO,

"Chief Accountant,

"Bureau of Public Works.

.....

"For the Insular Auditor.

"For premium on P666.66

Jan. salary at the rate of 11%

to cover the diff. between dollars

and Phil. currency."

- That plaintiff caused the said warrant, a copy of which is set forth in the paragraph next preceding, to be presented to the defendant herein, William T. Nolting, for audit by him in his official capacity as Auditor of the Philippine Government, in accordance with the laws and regulations governing the auditing department of the Philippine Government; but the said defendant refused and still refuses to audit the said warrant or to countersign the same, upon the ground that notwithstanding the terms of plaintiff's contract with the Philippine Government, his salary is payable in Philippine currency at the rate of two pesos for each dollar in United States currency due plaintiff regardless of the real value of such pesos or the rate at which they may be exchangeable into United States currency.

- That unless the defendant countersigns or causes to be countersigned the said warrant, hereinabove mentioned, the same will not be paid by the Treasurer of the Philippine Islands, and plaintiff will be unable to collect and receive the said sum of P73.33 from the Philippine Government, although the necessary funds for the payment thereof are available in the hands of the Insular Treasurer and may be disbursed upon the presentation of the warrant above set forth, when countersigned by the defendant.

The only question presented under said stipulated facts is, may the Government of the Philippine Islands, when it enters into a contract with an officer or employee under a promise to pay his salary in "dollars," pay such salary in Philippine currency at the rate of two to one if the officer or employee insists that his salary should be paid in the terms (specie) of his contract? From the stipulated facts it is seen that the Government promised to pay to the petitioner his salary in "dollars;" that the contract was made in the United States; that the Government offered to pay the petitioner in "Philippine currency" at the rate of two to one; that at the time the payment in question was offered, Philippine currency was at a discount; that two pesos in Philippine currency was not equivalent to one "dollar" and the petitioner insisted that his salary should be paid in "dollars" or their equivalent value.

The petitioner in his first proposition contends that "the use of the dollar sign '\$' in a written contract executed in the United States, signifies dollars in the United States money." That proposition is admitted by the respondent. The respondent admits that the dollar sign, as found in the contract, stands for dollars in money of the United States. Both the petitioner and the respondent admit that the mark used to denote dollar has obtained general currency and conveys the idea of dollars as definitely as the word "dollars" itself; hence it is not a valid objection to a judgment when the amount thereof is expressed only in figures, preceded by the dollar mark before the word "dollars" written in the judgment. (Kelley vs. Sullivan, 201 Mass., 34; Devenney vs. Devenney, 70 Ohio St., 96; United States vs. Van Auken, 96 U. S., 366, 368.)

The petitioner further contends that a contract for the payment of money, expressed in terms of the United States dollars, made in the United States, to be performed in the Philippine Islands, can be discharged only by the

payment of the required amount in United States money or in Philippine pesos of an equivalent commercial value.

The respondent contends that under the laws in force in the Philippine Islands a debt of the Government, payable in "dollars," may be paid in Philippine currency at the rate of two to one even though the debt grew out of a special contract which provided that the same should be paid in "dollars."

It is true that the Legislature of the Philippine Islands has provided, by section 1613 of Act No. 2711, as amended by Act No. 2776, that "the Philippine silver pesos and the gold coins of the United States, at the rate of one dollar for two pesos, shall be a legal tender in the Philippine Islands for all debts, public and private" * * *. To arrive at a better understanding of the purposes of the section just quoted, it might be well to trace the history of the legislation on the question of the legal tender character of Philippine currency. As early as March 2, 1903, the Congress of the United States adopted an act establishing a unit of value for the money currency of the Philippine Islands. Said Act provided, among other things, "that the unit of value in the Philippine Islands shall be the gold peso, consisting of twelve and nine-tenths grains of gold, nine-tenths fine, etc.; and the gold coins of the United States at the rate of one dollar for two pesos * * * shall be legal tender for all debts, public and private, in the Philippine Islands; that the silver Philippine peso, authorized by this Act, shall be legal tender in the Philippine Islands for all debts, public and private, unless otherwise specifically provided by contract." Later, by an Act of the Philippine Legislature (section 1771 of Act No. 2657) it was provided that "the Philippine silver peso shall be a legal tender for all debts, public and private, unless otherwise specially provided by contract" That provision of Act No. 2657 was carried forward and made section 1613, of Act No. 2711 as above quoted, without change. The unit of value fixed by the said Act of Congress for the Philippine Islands was again fixed by section 1770 of Act No. 2657, which was carried forward and made section 1612 of Act No. 2711. The unit of monetary value in the Philippine Islands, as defined by the Act of Congress of March 2, 1903, was carried forward and adopted by the Philippine Legislature in the said Acts Nos. 2657, 2711, and 2776. Act No. 2776, however, omitted the phrase which was found in the former legislation "unless otherwise specially provided by contract." The purpose of the omission of that phrase does not clearly appear.

All of the legislation both by Congress and by the Philippine Legislature, prior to Act No. 2776, limited the legal tender character of the "silver peso" to the payment of debts, public and private, when the contract did not otherwise provide. Did the omission of that provision in Act No. 2776 make the tender of the Philippine silver peso, at the rate provided for in defining the unit of value, a legal tender for the payment of debts, public and private, when the contract expressly provided for payment of other specie? Could the Legislature of the Philippine Islands or even Congress alter or change the obligation of the contract between the parties? The Act of July 1, 1902, as well as the Jones Act of August 29, 1916, prohibit absolutely the Legislature of the Philippine Islands from adopting any legislation which would impair the "obligations of contracts." The right of the legislative department of the state to adopt legislation changing or altering the obligation of contract has been answered in the negative so many times that it scarcely merits the citation of authorities now in its support. (*Casanovas vs. Hord*, 8 Phil., 125; *Trustees of Dartmouth College vs. Woodward*, 4 Wheaton [U. S.], 518; *McGee vs. Mathis*, 4 Wallace, 143.)

It is of the utmost importance to note that neither in the cited Act of Congress nor in section 1613 of the Administrative Code, as amended, is any attempt made to determine the ratio at which debts, expressed in terms of United States money and payable in the Philippine Islands, may be discharged by the tender and payment of Philippine silver pesos. Both the Act of Congress and section 1613 of the Administrative Code provide that debts due in Philippine silver pesos may be discharged by the payment of "gold coins of the United States at the rate of one dollar for two pesos," but the converse proposition is nowhere to be found in the law. The reason for this is very plain. Congress by its own act had so limited the maximum value of the gold peso that in no event could it be

worth more than half a United States gold dollar; but Congress had not itself undertaken to maintain the parity of the Philippine peso at the theoretical ratio of two for one. Congress did not provide for the establishment of a gold standard fund, or prescribe any other method by which the artificial parity between the Philippine silver peso and United States money should be maintained. It merely authorized the Government of the Philippine Islands to " * * * adopt such measures as it may deem proper, not inconsistent with said Act of July 1st, 1902, to maintain the value of the silver Philippine peso at the rate of one gold peso * * * ."

The "measures" which were adopted by the Philippine Government for the purpose of maintaining the parity of the silver peso with the theoretical gold peso and United States currency, were embodied in Act No. 938 of the Philippine Commission, adopted October 10th, 1903, the purpose of which was stated by the late Governor Ide, then Secretary of Finance and Justice of the Philippine Government, in his official report for the year 1903, as follows:

"The theory of the Act of Congress referred to and of the gold-standard act passed by the Commission is substantially that a gold-standard circulating medium may be maintained at a parity with gold without any large use of a gold currency by the aid of the means provided for maintaining the parity between the two currencies. The essential elements of the system are based upon the maintenance of a reasonable gold-standard fund, the rigid restriction of the amount of new coinage so as to meet only the demand of commerce, the retirement of a sufficient amount of such coinage whenever it shall become apparent that there is more in circulation than the demands of commerce require, the issuance of more of the new currency whenever it becomes apparent that there is a shortage of such currency in circulation, and the furnishing of reasonable facilities for the conversion of gold coin or other money of the United States into Philippine currency, or the reverse, as the demands of commerce may require * * * ."

The procedure relied upon to accomplish the purpose of maintaining the parity as stated in Act No. 938 was the creation in the Insular Treasury of a "gold standard fund," which, as provided by section, 7 of the Act, was to be used as follows:

"First. To exchange on demand at the Insular Treasury in Manila for Philippine currency offered in sums of not less than ten thousand pesos, or United States currency offered in sums of not less than five thousand dollars, drafts on the gold-standard fund deposited in the United States or elsewhere to the credit of the Insular Treasury, charging for the same a premium of three-quarters of one per centum for demand drafts and of one and one-eighth per centum for telegraphic transfers, and it is further made the duty of the Insular Treasurer to direct the depositories of the funds of the Philippine Government in the United States to sell on demand, in sums of not less than ten thousand pesos, exchange against the gold-standard fund in the Philippine Islands, charging for the same a premium of three-quarters of one per centum for demand drafts and of one and one-eighth per centum for telegraphic transfers, rendering accounts therefor to the Insular Treasurer and Insular Auditor. But the premium charge for drafts and telegraphic transfers in this paragraph mentioned may be temporarily increased or decreased by order issued by the Secretary of Finance and Justice should the conditions at any time existing, in his judgment, require such action * * * ."

It will be noted that the possibility that the peso might not be kept at all times at par was contemplated from the beginning. The last paragraph of the quoted section of Act No. 938 of the Philippine Commission required the Insular Treasurer to sell gold drafts on the United States in exchange for Philippine currency at a nominal charge of three-fourths of one per cent; but provided that this premium charge might be "temporarily increased or decreased by order issued by the Secretary of Finance and Justice should the conditions at any time existing, in his judgment require such action."

This provision has been carried through successive enactments into section 1621 of the Administrative Code, which, as amended first by Act No. 2776 and again by Act No. 2939, now provides as follows:

"For the purpose of maintaining the parity of the Philippine silver peso with the Philippine gold peso, and of keeping the currency equal in volume only to the demands of trade, the Insular Treasurer is hereby authorized and directed—

"(a) To exchange on demand at the Insular Treasury in Manila for Philippine currency offered in sums of not less than ten thousand pesos or United States currency offered in sums of not less than five thousand dollars, drafts on the currency reserve fund deposited in the United States or elsewhere to the credit of the Insular Treasury, charging for the same a premium of three-quarters of one per centum for demand drafts and of one and one-eighth per centum for telegraphic transfers, and it is further made the duty of the Insular Treasurer to direct the depositaries of the funds of the Philippine Government in the United States to sell on demand, in sums of not less than ten thousand pesos, exchange against the currency reserve fund in the Philippine Islands, charging or paying for the same a premium of three-quarters of one per centum for demand drafts and of one and one-eighth per centum for telegraphic transfers, rendering accounts therefor to the Insular Treasurer and Insular Auditor. But the premium rate for drafts and telegraphic transfers in this paragraph mentioned may be temporarily increased or decreased by order issued by the Secretary of Finance should the conditions at any time existing, in his judgment, require such action, and the Governor-General, upon recommendation of the Secretary of Finance, may suspend for such time as he sees fit, the sale of exchange to any individual, firm, company or corporation, or he may require before selling any exchange, such proofs and affidavits as he deems sufficient that such exchange is needed in legitimate Philippine business and could not have been legitimately supplied by proceeds of Philippine exports * * *"

As the maintenance of the parity of the Philippine silver peso depends wholly upon the ability and willingness of the Philippine Government to accept its own money in payment for drafts payable in gold dollars in the United States, and as the normal nominal rate of exchange intended to maintain and establish that parity has not been fixed by Congress or the Philippine Legislature, but may be increased at any time by order of the Secretary of Finance of the Philippine Government, whenever existing conditions, in his judgment, require such action, it is obvious that it must have been evident from the very inception of our present system of currency that while the Philippine peso could never be worth more than the United States gold dollar, it might be worth very much less. That no doubt is the reason why Congress, while providing that debts due here in pesos might be discharged by the payment of gold coin of the United States, at the rate of one dollar for two pesos, did not provide that a debt, due here in United States gold dollars, might be paid in Philippine pesos at the rate of two pesos for one dollar. The breakdown of the gold reserve fund, and the consequent depreciation of the Philippine, peso, are now matters of history. Under existing conditions, to compel a creditor to whom a debt in United States currency is owing, to accept two Philippine paper pesos in satisfaction of every gold dollar of that debt is nothing short of a discount, and pro tanto a partial repudiation of a legal obligation.

In the opinion of the Acting Attorney-General, of which mention has been made, it is said, in referring to the cited section of the Administrative Code, as amended:

"This Act established two kinds of lawful money with which debts may be paid: pesos and dollars. An ordinary debtor is at liberty to; pay his debt with either."

This statement is undoubtedly correct; but the fact that a debtor may at his option discharge his debt either in dollars or in pesos is by no means equivalent to the statement that he may at his option pay one dollar or two pesos. The contention is that he may at his option pay one dollar in United States gold coin or as many Philippine pesos as at the prevailing rate of exchange are the equivalent in value of one dollar.

While the respondent contends, under the laws in force in the Philippine Islands, that a debt of the Government payable in dollars may be paid in Philippine currency at the rate of two to one, he overlooks the fact that section 1613 makes the Philippine silver peso and the gold coins of the United States at the rate of one dollar for two

pesos, a legal tender in the Philippine Islands for all debts, public and private, and not the Philippine paper peso. If the Government can discharge a contract, payable in dollars, by tendering Philippine paper pesos, then merchants and others who contract debts payable expressly in dollars may also discharge their debts in a like manner. If such doctrine should be announced, then no manufacturer or person would take the risk of contracting obligations here for future payments. They would insist in every instance upon cash transactions. They would not run the risk of future fluctuations in the value of the paper peso. That would immediately produce an impossible condition in commercial and business circles, in the Philippine Islands.

It is a well-known fact that the Government has not been willing to accept the Philippine paper peso at the rate of two to one for gold or dollars. Does it not seem at least strange that it should insist that its creditors must be satisfied with such a settlement of its debt?

The issue is precisely the same as it would be had the Philippine Government executed a bond in the United States, in terms of the United States "dollars," payable in Manila, but without an express stipulation that it should be paid in gold dollars or in any particular kind of the United States money. If the Government may pay plaintiff in depreciated pesos at the nominal instead of the real par of exchange, then it might pay its dollar bond in the same way. If the Government can do this, then Manila merchants can pay their dollar drafts in depreciated pesos at the nominal par, regardless of their real value; American seamen may have their dollar pay in this port in forty-cent pesos; the United States may pay its soldiers stationed here in the cheap money, and effect a considerable saving at their expense. This, of course, would be repudiation, in part, of a just debt; but if repudiation is permissible as to the debt of the Insular Government to this plaintiff, then it is permissible, legally at least, to all other debtors, and must be endured, at least as to existing debts by all other creditors.

We submit that the mere statement of the results which must flow from the recognition of the principle contended for by the respondent, and involved in a denial of the plaintiff's claim, is sufficient to refute every argument which may be advanced to support it. Plaintiff, and the hundreds of teachers and other employees of the Insular Government affected by the depreciation of the Philippine paper peso, are merely asking for fair treatment, for an honest compliance on the part of the Government with its part of the agreement. We do not doubt that, as a matter of fact, the defendant herein and every responsible official of the Philippine Government recognizes the justice of the plaintiff's contention, and that the necessity for this rule has arisen from an apprehension lest their natural tendency to do what they know to be right and fair may constitute a technical violation of the law.

The contention on the part of the respondent that the Philippine paper peso is a legal tender for the payment of a contractual debt, when some other specie has not been provided, is not tenable for the reason that it violates the terms of the express contract.

A contract to pay a certain sum in money, without any stipulation as to the kind of money in which it shall be paid, may always be satisfied by payment of that sum in any currency which is lawful money at the place and time at which payment is to be made. That is the general rule, under both the common and the civil law. But when the contract stipulates the specie or kind or character of money for the performance of the contract, it must be satisfied in the medium of payment mentioned in the contract.

That doctrine is established and affirmed by the law in force in the Philippine Islands. The, Civil Code, still in force in the Philippine Islands, by article 1170, provides expressly that "payments of debts of money shall be made in the specie stipulated and, should it not be possible to deliver such specie, in silver or gold coin legally current in Spain." Article 1754 of the Civil Code provides that the obligations of persons who borrow money shall be governed by the provisions of said article 1170 of the same Code. (*Serralles vs. Esbri*, 200 U. S., 103; *City of San Juan vs. St. John's Gas Co.*, 195 U. S., 516.)

Contracts are made for things, not names or sounds, and the obligation of the contract arises from its terms and the means which the law affords for its enforcement. Under the Civil Code the contract constitutes the law of the parties unless it violates some provision of law or public policy. The parties themselves make the law by which they shall be governed, and it is the business of the courts to see that the parties to a legal contract comply with its terms. (A law which changes the terms of a legal contract between parties, either in the time or mode of performance, or imposes new conditions, or dispenses with those expressed, or authorizes for its satisfaction something different from that provided in its terms, is law which impairs the obligation of a contract and is therefore null and void. An interference with the terms of a legal contract by legislation is unwarranted and illegal. A contract is not fulfilled by the delivery of one thing which is different from the thing the contract provides for. Words in contracts are to be given the meaning which they were understood to have by the parties at the time of the making of the contract. There cannot exist in this jurisdiction one law for debtors and another law for creditors. The genius, the nature, and the spirit of our Government amount to a prohibition of such acts of legislation, and the general principles of law and reason forbid them.

The Legislature may enjoin, permit, forbid, and punish; it may declare new crimes and establish rules of conduct for all its citizens in future cases; it may command what is right and forbid what is wrong, but it cannot change innocence into guilt and punish innocence as a crime, or violate the rights of an antecedent lawful private contract or the right of private property. (Calder vs. Bul, 3 Dallas, 388.)

The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred, and that includes contractual rights. (Wilkinson vs. Leland, 2 Peters, 657.)

It would be ruinous to the commercial interests of the Philippine Islands to declare that the payment of debts of money could be made in other specie than that stipulated in the contract.

For all of the foregoing facts and the law, we are fully persuaded that the remedy prayed for should be, and is hereby, granted. And it is hereby ordered and decreed that the writ of mandamus be issued to the defendant herein, commanding him to countersign, or cause to be counter-signed the original of the warrant set forth in paragraph 9 of the complaint, and to deliver the same to the plaintiff so that he may present it to the Treasurer of the Philippine Islands and receive payment of said sum of P73.33 due him as averred in the complaint; and without any finding as to costs. So ordered.

Araullo, C. J., Street, Malcolm, Avanceña, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

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