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THE SUPREME COURT OF THE PHILIPPINE ISLANDS

BY CONRADO BENITEZ.

The immediate prototype of the present Supreme Court of the Philippine Islands was the "Audiencia Territorial de Manila." But, unlike the existing Court, the Audiencia of Manila exercised jurisdiction over the entire Archipelago only in civil matters; in criminal matters its jurisdiction was confined to the central and southern provinces of Luzon, and the islands of Catanduanes, Mindoro, Burias, Masbate, and Ticao. The criminal cases coming from the other parts of the country went to the "Audiencia de lo Criminal of Vigan" or that of Cebu, the former having jurisdiction over the northern part of Luzon and the Batanes Islands, and the latter, over the Visayan Islands and Mindanao.

The Audiencia Territorial de Manila consisted of a president of the court; two presidents of branches, for the civil and criminal, respectively; nine justices (magistrados); four associate justices (magistrados suplentes); one fiscal; one lieutenant fiscal, and three fiscal attorneys. There were also five secretaries, and four law clerks, who were assistant secretaries. The Audiencias of Vigan and Cebu had each a president, two justices, two associate justices, one fiscal, one lieutenant fiscal, a secretary and one law clerk, who was assistant secretary.

Appeals could be taken from the courts of first instance to the Audiencia Territorial of Manila, and, in the majority of cases, the Supreme Court of Spain could allow appeals from the Audiencia of Manila. One distinguishing characteristic of the Spanish system in the Philippines was that all judgments of the courts of first instance in criminal cases, whether of conviction or acquittal, had to be submitted for review to the proper Audiencia. In other words, there was no final decision till after the Audiencia had reviewed the sentence, so that, under the system, the plea of double jeopardy could not be made before the Audiencia had passed on the case. (Gregorio Araneta, "*The Past and Present Organization of the Courts of the Philippine Islands*," reprinted in Worcester's "*The Philippines—Past and Present*," Appendix.)*

*For information regarding the Spanish and American theories of jeopardy, and the rule that prevails here, see *Kepner v. U. S.*, 11 Phil. 689.

The jurisdiction of the Audiencia of Manila, as exercised prior to American occupation, was suspended as to criminal cases from August 13, 1898, and as to civil cases from January 30, 1899; but on May 29, 1899, an order was issued by the Military Governor for the re-establishment of the Audiencia of Manila with the jurisdiction which it had prior to August 13, 1898. It was empowered to administer the laws recognized as continuing in force by the proclamation issued by General Merritt, on August 14, 1898, except in so far as they had been or might thereafter be modified by authority of the United States. (George R. Harvey, *The Administration of Justice in the P. I.*, PHILIPPINE LAW JOURNAL, Vol. 1, p. 336.) With the passage of Act 136, however, (June 11, 1901) the then existing Audiencia was abolished, and the Supreme Court provided by that act, substituted in its place. (Act 136, sec. 39.)

No one, today, whether a layman or a lawyer, would ever ask the question whether the Supreme Court of the Philippine Islands is legally constituted or not. But a few years ago, in a case decided on Feb. 21, 1910 (*U. S. v. Beecham*, 15 Phil. 299), counsel for defendant questioned the legal existence of the Court, and in return, received a decisive answer. "We are of opinion," said the Court, "that the Supreme Court of the United States by taking cognizance of the decisions of the courts of these islands has necessarily declared their legal existence." Moreover, "that the government here in these islands, including, of course, the courts as an essential and integral accompaniment of government, has been legally and properly constituted by Congress, we do not doubt." Among the orders and laws cited to show the legal existence of the Supreme Court are the following: the orders and instructions of the President of the United States acting under his war powers, relating to government in the Islands; the orders of the Commanding Generals and Military Governors, acting under said authority of the President, in which they preserved substantially unchanged the courts as they existed under Spanish sovereignty; the treaty of Paris (Art. 12), whose provisions clearly indicate the contractual duty of the United States government to preserve the existing courts or create new ones, and which was subsequently ratified by the government of the United States; the instructions of the President to the Philippine Commission in relation to the exercise of legislative authority, including "the organization and establishment of courts," and the appointment to office of such "officers under the judicial, educational, and civil-service systems;" the ratification of said instructions by the Congress by its Act of July 1, 1902; the Act of the Philippine Commission (No. 136) organizing the courts of the Islands, under the President's instructions; the acquiescence of Congress in this legislation; Act No. 222 of the Philippine Commission organizing the Departments of the Interior, of Commerce and Police, and of Finance and Justice, specifically approved by the Act of Congress of July 1, 1902. These "all carry the full and clear conviction that the challenge to the legal existence of the Courts of the Philippine Islands is idle." (*U. S. v. Beecham, supra.*)

As at present constituted, the Supreme Court is composed of seven judges, appointed by the President of the United States by and with the advice and consent of the Senate. The number of Filipino members has been steadily kept at three, and, though it has been insinuated that, had it been otherwise, the course of judicial decisions would have been different, even a cursory analysis of the Philippine Reports would show that the line of judicial dissensions has not been based on racial considerations. From the very beginning the chief justice has been a Filipino. All the justices, including the chief, who may by law receive one thousand more, (Act of Congress, Feb. 6, 1906), receive twenty thousand pesos per annum, and hold office practically for life, or during good behavior. Their qualifications are the same as those required of the judges of the Courts of First Instance or the Attorney-General, namely, twenty-five years of age, a citizen of the United States; or a native of the Philippine Islands, or have acquired, by virtue of the treaty of Paris, the political rights of a native of the Islands; to have practiced law, or have been a graduate of a law school of recognized standing, or have been a judge of a court of record in the United States or the Philippines, or in Spain, or, previous to the date of the ratification of the treaty of Paris, in any Spanish territory, for a period of three years, or must for a like period have filled any office which requires a legal degree as an indispensable qualification in this country, or, previous to the ratification of the treaty of Paris, in any Spanish territory. (Acts 136, 3; 1024, 1). Moreover, Act 190, section 36, as amended by Act 1702, section 2, prohibited all judges, fiscals, attorneys and clerks of court to engage in private practice as attorneys-at-law or give professional advice to clients.

And, of course, they are also governed by the law which prohibits a judge, magistrate, or justice of the peace and others to sit or take part in any cause or proceeding in which he is pecuniarily interested, or related to either party in the fourth degree of consanguinity or affinity, or in which he has been counsel or in which he has presided in an inferior jurisdiction when his ruling or decision is the subject of review, without the written consent of all the parties in interest, signed by them and entered upon the record. (Act 81: 3, 4.)

When in session, the Court sits in banc as a body composed of all its members, with the Chief Justice presiding. In case of his absence, the judge present next in seniority to him presides, and seniority is determined by the dates of the respective commissions. (Act 136: 10.) Five members make a quorum; and the concurrence of four is necessary in rendering judgment.

The Supreme Court has original jurisdiction to issue writs of mandamus, certiorari, prohibition, habeas corpus, and quo warranto, but not injunction. It is also, given by law original jurisdiction over all actions which involve controversies between the Roman Catholic Church and its representatives on the one hand and the Filipino Church and its representatives or any municipality or other person on the other, as to the title to any and all churches, convents, or cemeteries, in the Phil-

ippines, and real and personal property used in connection therewith, or as to the ownership, right of administration, or possession thereof. (Act 1376: 1.) It is likewise given original jurisdiction over all actions involving the title to any hospital, asylum, charitable institutions, or other property of any description whatsoever, which may be brought by the Government of the Philippine Islands against the Roman Catholic Church or any archbishop, bishop, or other of its lawful representatives, or which may be brought by such archbishop, priest, or other lawful representative against the Government. (*ibid.* sec. 10.) And lastly, it has original and exclusive jurisdiction in suits over the 1905 railway bonds guaranteed by the government. (Act of Congress of February 6, 1905, sec. 4.)

The appellate jurisdiction of the Court includes all actions and special proceedings properly brought to it from Courts of First Instance, and from other tribunals from whose judgment the law shall specially provide an appeal (Act 136: 18.) For example, it has jurisdiction, by special law, over questions relating to patent rights. (Act 2235: 5, Feb. 10, 1913.) The act creating the Board of Public Utility Commissioners also provides that any order made by the Board may be reviewed on the application of any person or public utility affected, by certiorari in appropriate cases, or by petition to the Supreme Court; however, the allowance of such a writ by certiorari or the institution of any proceeding to review any order does not supersede or stay the order unless a bond be given as should be required by the Supreme Court. (Act 2307: 37, 38, Dec. 19, 1913.) Besides the power to issue writs of certiorari it also is empowered to issue other auxiliary writs and process necessary to a complete exercise of its original and appellate jurisdiction. (Act 136: 19.) It goes without saying that, unlike the Audiencia of Manila, the present Supreme Court exercises territorial jurisdiction over all of the Philippine Islands.

Besides the purely appellate work which takes up the greater portion of the Court's time, the law gives it or its individual members additional functions. It may sit as a Board of Arbitrators when any franchise or right of way is granted to any other person or corporation in Cebu, in order to determine their terms and compensation. (Act 2034: 11, February 3, 1911.) A Justice of the Supreme Court designated by the Governor-General, is also a member *ex-officio* of the Board of Regents of the University of the Philippines. (Act 2024: 1, amending Act 1870: 4.) Furthermore, though hardly resorted to at present, the Supreme Court may, at any time, and for any reason satisfactory to its members, assign any judge of that Court to hear any particular cause pending in any court of First Instance, or to hold a term of the court in any Court of First Instance. (Act 136: 29.)

The important offices of the Supreme Court are those of Clerk and Reporter. Since the passage of the Supreme Court Administrative Act (No. 2128) the Court has had the administrative control and management of all matters affecting its internal operations. The Court is given power to appoint its Reporter, Clerk, and such officers, subordinate officials and other employees, as, in its opinion, may from time

to time be necessary, and at salaries to be determined by it. Further, it makes and approves all promotions, reductions, deductions from pay, suspensions without pay, transfers and allowances of leave of absence and vacations of such officers, and by resolution, it may remove any employee for cause. However, in performing the above mentioned administrative functions the Court must conform to the provisions of the Civil Service Act and its Rules and the general provisions of law touching appointments, promotions, and so forth, "except as to the appointment and compensation of the Reporter, Clerk, and such Private Secretaries to the individual justices as the court may authorize;" so that, it seems as if the appointment of private secretaries who have not passed any Civil Service examination, is justified by exception of the law, the recent criticism of such practice, to the contrary notwithstanding.

As an independent department of government, the Supreme Court cannot be deprived of its essential judicial powers by the Legislature. Cases are on record wherein the Court has had the opportunities of expounding the principle of the separation of departments—legislative, executive and judicial. Where a provincial fiscal, who had not passed the bar examination, tried to take advantage of a statute providing "that any person who shall have held, under the authority of the United States, the position of fiscal, etc., may be licensed to practice law in the courts" of this country, without an examination, the Supreme Court stated that the Legislature could not take away jurisdiction or power heretofore granted to the Court by Act 190, section 13, which, together with Act 136 organizing it, were ratified by Congressional Act of July 1, 1902. (*In re Guariña*, 24 Phil. 37, (1913).)

Again, the law provides that all decisions of the Supreme Court "shall be given in writing, signed by the judges concurring in the decisions, and the grounds of the decisions shall be stated as briefly as may be consistent with clearness." (Act 136: 15.) Is failure of the Court to state the grounds of the decision fatal to its validity? Says the Court: "A strict and literal compliance with this statute would often render it impossible for courts to decide a case. The act declares the manner in which the Supreme Court shall perform the strictly judicial act of giving final expression to its decision, but it does not say that the failure to comply therewith shall render the decision ineffective." The special reason advanced is that it is not unusual for the majority of the members to agree to a common conclusion, while being unable to agree upon the grounds or reasons leading to that conclusion. But the broader ground relied upon is the well established doctrine that "the legislatures have no power to establish rules which operate to deprive the courts of their constitutional authority to exercise the judicial functions." "A constitutional court when exercising its proper judicial functions can no more be unreasonably controlled by the legislature than can the legislature when properly exercising legislative power be subjected to the control of the courts. Each acts independently within its exclusive field." (*Ocampo vs. Cabañgis*, 15 Phil. 626, (1910).)

It has already been stated that under the Spanish system a person was not regarded as being in jeopardy in the legal sense until there had been a final judgment in the court of last resort. The lower courts were deemed examining courts, having preliminary jurisdiction, and the accused was not finally convicted or acquitted until the case had been passed upon in the Audiencia, whose judgment was subject to review in the Supreme Court at Madrid for errors of law, with power to grant a new trial. Military Order Number 58, (April 23, 1900), as amended by Act 194 of the Philippine Commission (Aug. 10, 1901) made the judgment of the Court of First Instance final, in cases other than capital, whether the accused be convicted or acquitted, "unless an appeal was prosecuted by the government or the accused in the manner pointed out." Then, the government could still appeal. Was the right of appeal by the government abolished with the passage of Act of Congress of July 1, 1902, section 5, providing "that no person shall be put twice in jeopardy for the same offense or be compelled in any criminal case to be a witness against himself?" The answer of the United States Supreme Court was in the affirmative, (*Kepner vs. U. S.*, reported in 11 Phil. 669), and since then the judgment in a criminal case of the Court of First Instance became final, save where the sentence is capital punishment, when the case goes to the Supreme Court for review. However, should the appeal be taken by the defendant, it has been held that he waives the plea of second jeopardy. (*Trono vs. U. S.*, reported in 11 Phil. 726, (1905) and 199 U. S. 521.) And, in this connection, it is of interest to note that the Supreme Court of the Philippine Islands has more power than that of any State of the Union, for, whereas the former can increase a penalty to death, the latter cannot do so.

Judging from a commencement address delivered by Mr. Luis P. Torres at the "Escuela de Derecho" (July 15, 1915), there seems to be a general desire on the part of leading fiscals of the country to allow the government a limited right of appeal, on the ground, among others, that the punishment of a criminal should not be allowed to rest solely on the judgment of one man, apt to err like all other human beings, and anxious to keep a good record in the Supreme Court. Whether such proposed reform is constitutional or not is outside the scope of this paper. But it is to be doubted whether it could be obtained as long as the United States is in control here.

Appeal lies to the Supreme Court of the United States in cases (1) where the amount involved is at least twenty-five thousand dollars, and (2) where the constitutionality of a treaty, act of Congress or of the Philippine Legislature is involved. The procedure on appeal is like that of the Circuit Court of the United States. A recent law provides that the translation into English of the records of criminal cases appealed should be done by the office of the Attorney-General without any expense to the appellant. (Act 2340: 1.)

It would be pretentious to make an estimate of the quality and quantity of the work done by our highest court; but the official records themselves relieve us of this delicate task. "The Supreme Court of the Philippine Islands annually disposes of

some eight hundred cases, about equally divided between the civil and the criminal dockets, in some five hundred of which written opinions are filed. In addition, an exceptionally large number of motions and incidental matters are disposed of in minute orders; the exceptionally large number of matters of this nature being due, in part at least, to the adoption in this jurisdiction of an American procedural system, without any substantial modification of the substantive law of the Islands as found in the codes of Spain. It is believed that a comparison of these figures with those of the hundred courts of last resort in the United States will disclose that the volume of the output of this Court, as a whole and per capita of its membership, places it well within the rank of the first half dozen of those courts in this regard. (See the reporters generally and data assembled by the West Publishing Company and published in the Docket.)" (21 Phil. 395.) So much for the output of this important body. But the nature of the work itself is difficult, because "an unusual number of difficult and doubtful questions present themselves in this jurisdiction, arising out of the conflict of laws resulting from the introduction of new laws and new institutions under American sovereignty, which must be interpreted and construed with due regard to the jurisprudence of both the old and the new sovereign." And finally, "the mere mechanical difficulties, and in some cases the delays, involved in the preparation, submission, discussion, and publication of the decisions of the court are notably increased by the fact that the official language of the courts in the Philippines is Spanish, while four of the members of this court are Americans, whose knowledge of that language has for the most part been acquired since coming to the Islands." In the face of such a record, accomplished in spite of difficulties, it is no wonder that observers generally, at home and abroad, should have nothing but words of praise and admiration for our Supreme Court.