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## THE BUREAU OF JUSTICE

BY SEBASTIAN PAMATMAT

The Bureau of Justice is not, as may hastily be taken, an official organ which administers justice. Nor is it a court which distributes rewards or punishments, and renders every man his due. Rather, it looks after what is due and what is in the interest of the Philippine Government. In other words, it is a counsel whose client is the government,—it is the legal branch of the governmental machinery “from which emanates all the legal advice the government authorities shall stand in need at any time, and to which is entrusted the supervision of the conduct of all litigation in which” the Philippine Islands “may be concerned.”

With the establishment of the present government, the service of such a branch is considered indispensable in conjunction with others in administrative affairs. Originally called the Office of the Attorney-General, it constitutes a division of the Department of Finance and Justice. It is organized under the same form and run along the same line as its prototypes in the United States. Its duties are identical in nature with those conferred upon the corresponding departments of the various states of the Union. In fact, it is a borrowed institution from America. But its origin may be traced even farther back than that. In England the office of Attorney-General existed from a very early period, *i. e.*, from the time of Edward IV, in 1472. He acted as the chief legal adviser of the crown and represented it for all “forensic” purposes. Most, if not all, of the several American states which preserve and continue the English common law, adopted, on their organization, as a part of the machinery of their respective governments, the office of the Attorney-General as it existed in England. So it is with the federal government. There is an Attorney-General provided for by an Act of Congress, who closely resembles the English official of the same name. He is made a member of the Cabinet, sharing counsels in the affairs of state.

This office has, in turn, been transplanted to the Philippines. One of the early important measures passed by the Philippine Commission, after it assumed control, was Act No. 136, known as the Judiciary Organization Act; and it is by virtue of this law that the Attorney-General's Office exists, (although the first Attorney-General, L. R. Wifley, assumed the duties thereof even prior to the enactment of said law). It thus appears as if the Bureau of Justice is a part of the Judicial System.

It may, however, be seen that but a very slight connection exists between the two. To do away with this misleading connection, Acts Nos. 1313 and 1361 organized it as a governmental branch distinct from the Judiciary. Later acts extended the powers of the Bureau, and Acts Nos. 378 and 1407 reorganized it, the latter giving it, for the first time, the denomination of Bureau of Justice instead of the Office of the Attorney-General.

Act No. 136 gave the appointive power to the Philippine Commission and, in pursuance of that Act, that body appointed Libbeus R. Wifley, the first Attorney-General, Gregorio Araneta the first Solicitor-General, and Antonio Constantino the first Assistant Attorney-General. Mr. Wifley held office from March 15, 1901, to July 15, 1906, and his successors were appointed, in accordance with later amending laws, by the Governor-General with the advice and consent of the Philippine Commission, viz., Gregorio Araneta, July 16, 1906, to July 1, 1908; Ignacio Villamor, July 13, 1908, to 1914, and, lastly, Ramon Avanceña, who is actually holding the office. Assisting and subordinate to the Attorney-General are fourteen assistant attorneys besides a number of clerks. The positions of Solicitor-General, Assistant Attorney-General and Supervisors of Fiscals have recently been abolished and their functions are now performed by the assistant attorneys. The office force is being enlarged as the volume of the work increases.

Such is the general nature and organization of the Bureau. The next thing of importance for a thorough understanding of it has to do with a description of its functions and duties. There were but a few of these in the beginning, but as time went on, they increased in number and variety, taxing the abilities and attention of the men who compose it.

The principal duties of the Attorney-General, as the head of the Bureau of Justice, are giving official opinions and conducting suits and appeals on behalf of the government in the Supreme Court. He may appear in the Supreme Court personally, or may be represented by his assistant attorneys. But he rarely appears in any of the inferior courts. His work involves the prosecution and defense in the courts of justice of all causes to which the Government of the United States or of the Philippine Islands or any officer thereof in his official capacity is a party. These include, besides ordinary actions, land registration cases and condemnation, *quo warranto* and *habeas corpus* proceedings. Claims or judgments in favor of the Philippine Government outside of the Islands are collected by him, and he perfects appeals to the Supreme Court of the United States. But there are also certain minor matters which come within the operation of his office. Estates of American civilian employees in the service of the Philippine Government who die during their employment, leaving property in the Islands, and those of American employees who become insane, are placed under his charge and administration. He has directly under his control and supervision all the fiscals and the prosecuting attorney and city attorney of Manila; he acts as adviser to the Governor-General in pardon

matters; and makes reports and recommendations to the Commission through the Secretary of Finance and Justice. He conducts suspension and disbarment proceedings against lawyers in the Supreme Court and makes inquiry into the official conduct of the judges.

We have said in passing that the Attorney-General gives legal advice and renders official opinions. But how, when and to what extent are questions which require further explanation. It goes without saying that the Attorney-General does not give his official opinion to everybody and on every matter. He does not determine questions of fact, but questions of law only; if the questions referred to him are hypothetical, or in controversy before the courts, he declines to pass upon them. And, furthermore, no opinion is rendered by him upon any question of law unless it is specifically formulated in a case actually arising in the administration of the department making the inquiry, and accompanied by a statement of the facts involved, the request for the opinion being in writing. He has no authority to give his advice to private persons, connecting the government with individual controversies in which it has no concern, and with which it ought not to interfere.

Relative to the persons and departments to which the Attorney-General is authorized to give his official opinion, a question arises as to whether he is warranted to go beyond the administrative, and answer questions put by the legislative department. The Judiciary Organization Act in Sec. 45 (i), as amended by Act 523, Sec. 2, provides that "he shall give his opinion in writing to the legislative body of the Islands, the Chief Executive, the heads of the four Departments, the Chiefs of the Bureaus, when requested in writing, upon any question of law relating to their respective offices." May he not decline to advise the "legislative body?" The rules which guide the Attorney-General of the United States in rendering his official opinions are considered to be authoritative, generally, for the office of the Attorney-General of the Philippine Islands. In the former country, that officer is not permitted to give advice at the call of either house of Congress or of Congress itself,—much less a congressional committee or any member of the same. And this prohibition may not be indirectly evaded by a call for opinion and advice from the head of an executive department which is made at the request of a committee or a member of Congress, and the Attorney-General can not be forced to respond, for the reason that the question proposed does not arise in the administration of such department. The rule is obviously predicated upon the principle of the separation and independence of the three fundamental powers of government.

The practice in the Philippine Islands, however, departs from that followed in the United States in this particular. While it is true that the authority of the Attorney-General of the latter country to give his official opinion is limited by the laws which create and define his office, thus precluding him from giving advice outside the administrative department, yet the same principle does not hold in the Philippines. This is so because of the difference in the provisions of law governing each

case. Under the Act of Congress creating the office of the Attorney-General, it is made his duty to give his advice and opinion, *when required by the President of the United States, or when requested by the head of any department*, touching any matters which might concern the departments. The provision "when required or requested by the legislative body," was not inserted therein, whereas it is so expressly provided in the Philippine law. The Philippine Legislature, therefore, as a body, or the Philippine Commission or the Philippine Assembly, as such, can lawfully require advice and opinion from the Bureau of Justice. But this right can not be extended to any individual member of the Legislature without stretching too much the signification of the term "legislative body."

Following these rules, the Bureau of Justice has pursued and is pursuing the task of formulating official opinions. The body of opinions rendered constitutes a body of precedents of a quasi-judicial character which come to have an authority similar to the decisions of courts of justice. They involve numerous and varied matters. They relate to the construction of Acts of Congress, proclamations of the President, the Instructions to the Philippine Commission, the military orders, laws of war and military occupation, Acts of the Philippine Legislature, executive orders, Spanish royal decrees, orders, codes and laws of procedure, and covering such subjects as grants, customs, claims for and against the Philippine Government, contracts, commerce, corporations, churches, citizenship, crimes, public officers, governments, coinage, taxes, elections, lands, naturalization, privileges of foreign consuls, railroads, schools, and many others.

It is thus seen that the functions and duties of the Bureau of Justice cover a wide field and entail enormous work. And that work is bound to increase. The growth of business and industries, the consequent multiplication of corporate associations, and in general the rapid development of social and commercial activities would tax the attention and efforts of the Bureau to the limit, more so, if the Philippine Islands should become an independent and sovereign state, in which event external and foreign questions would be added to the consideration of internal problems. The functions of the Attorney-General would then be more delicate and complicated as well as more important.

There is no reason why the Bureau of Justice can not meet that contingency. It has handled from the very beginning thousands of cases and rendered numerous opinions, not to say anything of its other duties. The Bureau might well be proud of its record. Certainly, the results speak well for those who have conducted it. Curiously enough, they have all been Filipinos, except the first Attorney-General, who was an American. Their experience corroborates the opinion often expressed that Filipinos are acquitting themselves well in the legal department of the government. It is in this line of work that they have been most successful.