

PHILIPPINE LAW JOURNAL

Vol. II

NOVEMBER, 1915

No. 4

THE CODE COMMITTEE

BY SEBASTIAN PAMATMAT

It is generally admitted that the advent of the Americans introduced many changes in all the aspects of the Filipino life. There is necessarily taking place a clash between the old ideas and institutions established during the Spanish domination and the new ones brought about by the transfer of sovereignty from Spain to America. This is especially true of the condition of the laws in the Philippines. Here the contending tides of the Anglo-Saxon, on one side, and the Latin legal system, on the other, meet and struggle for supremacy. To complicate matters, the local conditions, customs and usages claim to be reckoned with. The result that naturally obtains is very obvious—variety, complexity and dissemination of laws in different legal bodies.

Some sort of systematization is therefore badly needed. Existing laws must be simplified and harmonized. To this state of affairs, the government in time awoke. Early in the year 1908, the idea of reforming and revising the codes and laws in force in this country was conceived. To give form to such an idea the first Philippine Legislature, in its first session, passed Concurrent Resolution No. 7 on May 21, 1908, authorizing the appointment, partly by the Philippine Commission and partly by the Philippine Assembly, of a committee of fifteen members which should have charge of the drafting of new codes within one year. The same resolution provided that the committee's expenses shall be included in the annual appropriation. In accordance with its provisions the following were appointed members: W. Morgan Shuster, Chairman; and Newton W. Gilbert, Rafael Palma, Felipe Agoncillo, Gregorio Araneta, Mónico R. Mercado, Eusebio Orense, Bartolome Revilla, Aguedo Velarde, Isabelo Artacho, José A. Clarín, Salvador Laguda, Filemon Sotto, Julian Gerona and Francisco Ortigas, members.

This committee then sat to study the matter and soon realized the extent and importance of the task before them. They saw that with the time at their disposal and the other duties which their official positions require, satisfactory and worthy results could not be accomplished, and their continuance would involve financial expenditure without the possibility of conferring benefits. They also expressed their belief that successful codification requires several years of continued and concentrated labor and the services of the best legal minds obtainable. They therefore thought it wise to recommend in a resolution the creation of a new and permanent committee of three or five, composed of the ablest lawyers or jurists who should be

free from other official duties and given a longer time to accomplish the commission. The Upper House of the Philippine Legislature referred the resolution for further consideration to a select committee of two, consisting of Commissioners Gregorio Araneta and Newton W. Gilbert. Upon the report of this committee, the Philippine Legislature, agreeing with the recommendations presented, proceeded to enact proper legislation for the carrying out of the proposed codification.

The present Code Committee thus exists by virtue of its Organic Act No. 1941 passed on May 20, 1909, and by the further provisions of Executive Order No. 113, promulgated in the same year. In pursuance of these acts, the Governor-General, with the consent of the Philippine Commission, appointed Manuel Araullo, President; and Rafael Del Pan, W. L. Goldsborough, Francisco Ortigas, and William Rohde, members. William Rohde, however, assumed the duties of his office for a few months only, and his place was taken by T. A. Street. Later the Code Committee suffered losses by the resignation of President Araullo to assume the office of Associate Justice of the Supreme Court and by the death of Rafael Del Pan. To fill the gaps Francisco Ortigas, being the ranking member, was promoted to the presidency, and Macario Adriatico, formerly the floor leader in the Philippine Assembly, in turn took the place left vacant by him. The vacancy left by the late Rafael Del Pan has not been filled yet, and may not be till the end.

The organization did not however begin until April 1, 1910. The preparatory work was devoted to the installation of offices, the selection of subordinate personnel, the search of libraries, compilation of data concerning works that would be of the greatest assistance to their codification, and the requisition of books which are necessary and were not then found in the public libraries of the Philippines.

From that time on, the committee settled down to its real business continuously and zealously. As has been said in another connection, the task before them is extensive and covers a wide and varied field. The codes which are in project consist of (1) Political-Administrative, (2) Civil, (3) Penal, and (4) Procedural codes. Each of these is especially assigned to T. A. Street, Francisco Ortigas, Macario Adriatico, Rafael Del Pan, and W. L. Goldsborough, respectively. There is being worked out also a fifth volume relative to local and special laws in force in these Islands. The preparation of all these codes involves the study of the provisions of all the codes and laws in force, the search of adjudicated cases which interpret and apply each article or section thereof. The committee must also consult the local legal literature to assist them in properly judging local conditions and needs. But not only Philippine laws and legal works are being studied, but also those of the United States and other foreign nations, so as to obtain lessons from the results of their operation. An insight also into the famous scientific books and documents relating to legislation and jurisprudence is necessary to get an idea of the tendency and progress of modern legal systems and institutions. The committee had to take into consideration the royal cédulas, decrees, orders, and other provisions in force during the Spanish regime.

But their labors do not end there. Their mission is not a matter of compilation and revision only. The harder and the more responsible duty lies in the production, out of the whole scattered mass of laws, of codes that are modern or up-to-date, truly expressive of the needs and conditions of the Filipino people, and adequate to the promotion of their progress and well-being, as well as simple and systematic. Here the opinion and the philosophical trend of mind of each member are to be brought into play. To decide what provisions are to be abrogated, what to be kept intact, and what new ones are to be introduced, aside from the necessity of a logical and systematic division and arrangement; and to present the liberal spirit and tendencies of the times and to meet the needs of local conditions,—these are the matters which will tax their abilities and intellectual acquirements to the utmost. The Filipinos, however, repose their hopes in the members of the Code Committee.

In the meantime, the termination of these new codes is eagerly awaited. The original time allowed to finish the work was within five years after the committee's appointment, so that its commission should have already expired last April. But to the additional duties required by the Executive Order No. 113, and unforeseen contingencies may be attributed its delay. The Legislature indicated its acquiescence to the continuance of the committee by providing for its expenses in the annual appropriations. And just recently the Governor-General by Executive Order No. 48, dated August 6, 1915, extended the time within which the Code Committee is to finish its work to a period of one year, beginning April 1 of this year. The results of its labors will be reported to the Philippine Legislature for consideration and approval, and it would yet take some time, if approved, before the new codes can come into operation.

Will the new codes bring benefits and blessings to the Filipino people? This question can be answered only in the future. The effects can be felt only by several years of use and application. There are, however, certain grounds to justify an anticipation of good from this codification. In the first place, the Code Committee has been given all the facilities that are within the reach of the government. In the second place, the members selected are among the ablest jurists in the country. In some measure, too, the membership of the committee is representative. Some came from the bench carrying with them a store of information from the conduct of trials about the merits and defects of procedural laws, and about the needs of the people by their contact with parties litigant and witnesses. Some are leading members of the bar and of recognized juristic ability, whose studies and practice have kept them abreast with the progress and tendencies of the science of law. Some are Americans who are familiar with the spirit of progressive and democratic principles. One has been a leading member of the Philippine Assembly and has therefore been in close touch with popular needs and aspirations.

When the committee shall have finished its work, they will then have reason to feel that they have done a great service to this country. Whatever future comfort, well-being and prosperity those new codes may give, will in great measure be due to the efforts, devotedness, nay, the genius of those who compose it.