

PHILIPPINE LAW JOURNAL

Vol. VI

NOVEMBER, 1919

No. 4

SHOULD THE MUNICIPALITIES IN EACH PROVINCE BE GROUPED INTO DISTRICTS FOR JUSTICES COURTS, TO WHICH ONLY MEMBERS OF THE BAR SHOULD BE APPOINTED?

BY ARTURO ARCE IGNACIO, LL. B.

INTRODUCTION

Justice, the establishment and enforcement of which is the object of all law, is a comprehensive term in which are included the three great objects for which, according to the declaration of independence, governments among men are instituted. Whatever rule of the unwritten law, therefore, is at variance with this great purpose of justice—the security of life, liberty and the pursuit of happiness is one not suited to our condition and circumstance.

In its common acceptation, justice means the rendering of every man his due *Memphis Railroad Co. v. Blakeny* 42 Min. 218, 224. Justice is the basis of society, a sure bond of all commerce; the dictate of right according to the consent of mankind generally or of that portion of mankind who may be associated in one government, or who may be governed by the same principles and morals. *Duncan v. Neagette*, 25 Tex. 245, 252.

CHAPTER I

THE OFFICE OF THE JUSTICE OF THE PEACE IN GENERAL.

A. *Definition.*—In American law a justice of the peace is a judicial officer of inferior rank, holding a court not of record, and having usually civil jurisdiction of a limited nature, for the trial of minor cases, to an extent prescribed by statute and for the conservation of the peace and the preliminary hearing of criminal complaints and the commitment of offenders. (Black Law Dictionary.) In English law, justices of the peace, are judges of record appointed by the crown to be justices within a certain district for the conservation of the peace and for the execution of diverse things, comprehended within their commission and within diverse statutes committed to their charge. (Black Law Dictionary.) In the Philippine Islands, like in America, justices of the peace, are courts not of record, of inferior rank, which take cognizance of civil and criminal cases prescribed by law.

CHAPTER II

HISTORY OF THE JUSTICE OF THE PEACE COURTS

A. *Antiquity and Origin.*—In an article written by Sir Frederick Pollock, one of the most eminent lawyers England has ever produced, published in 13, *Harvard Law Review*, p. 184, he made an allusion to the fact that the office of the justice of the peace is the most ancient of which it can be said that its powers are wholly derived from statutes. This statement was, of course, referred to his native country, England; and, it is to this country that we must look for the origin of the office of the Justice of the Peace as it now exists not only in America and in Continental Europe, but in the Philippines, as well. The importance of the office during the ancient time is very well expressed by Sir Edward Coke who lived three centuries before Pollock in his Fourth Institute p. 170. He said: "It is such a form of government for the tranquility and quiet of the realm as no part of the Christian world hath the like if the same be duly exercised."

B. *In Foreign Countries.*—

1. *England.*—At the beginning of the thirteenth century there existed a class of local offices denominated "conservatories pacis," or keepers of the peace. Their duties at first were ministerial in character but later on were invested with criminal jurisdiction. (Howard on the Development of the King's Peace and the English Local Peace Magistracy, 1 Nebraska University Studies 255. This was in 1344. Sixteen years later, the permanent office of the justice of the peace was created. As years passed by, civil jurisdiction of minor importance was acquired but the bulk of the judicial work have always been confined mainly with the administration of the criminal court. (Howard, 1 Neb. University Studies 180.) In England the justice of the peace is also a country officer and the position implies an unusual dignity and social prestige. (American and English Encyclopedia of Law 2nd ed., 33, 35.)

2. *America.*—The office was transplanted to this country by the early English colonists. In the United States the justice courts were given civil jurisdiction which was gradually extended until that court has the one for the trial of small causes mostly those arising out of contract. (*Schroesler v. Ehlers*, 31 N. J. L. 44; *Taylor v. Woods*, 52 Alabama 474.)

3. *France.*—During the Revolution France abolished the ancient courts known as "parlements" and introduced reforms into her judicial system. (9 Encyclopedia Británica, 9th Ed., p. 600.) The jury system similar to that of the English Parliament was introduced by the French reformers and baptized the new institution under the name of "Juge de paix." This officer was placed in charge of the lowest tribunal—the cantonal. (Rougemont La France p. 23.) In France the "juge de paix" differs from that of England in that while in the latter the jurisdiction of the justice of the peace had been almost exclusively criminal, in the former he was given civil jurisdiction also. Judgment rendered by him in cases involving an amount of 100 francs

(₱40) is final; but, in cases ranging from one hundred to two hundred francs, appeal may be taken to the Superior Court. (9 Encyc. Britanica, 9th Ed., 511.) Before resorting to the hearing and trial of any case presented to him, a "juge de paix" must first to his utmost to arbitrate between the litigants. All efforts must first be resorted to, to bring the parties together. (Lobingier Philippine Practice.) In criminal matters the "Juge de Paix" has cognizance of minor offenses—probably county or city ordinance—whose punishment exceed a fine of fifteen francs (₱6) or imprisonment for five days. (Lobingier Philippine Practice p. 5.)

4. *Spain*.—As to the source of the justice of the peace court in this country authorities are evenly divided. Some maintain that the Spanish reformers borrowed the system from French revolutionists; other contend that the system was taken from England itself, because the Spanish reformers were somewhat under the influence of the great English law reformer Jeremy Bentham. Whoever of these authorities was correct, the writer believes that there exists no material difference. As we have seen, the French reformers borrowed the system from England, and consequently with the exception of the power exercised by the justice of the peace in the two countries, the primordial aim of the authorities in both was equal;—that is, justice must be properly administered. The Cadiz constitution of 1812, framed under the influence of the reformers, established the "juicio de conciliation," (Berriz, Guia Práctica de los Juzgados de Paz, Manila, 1893, Vol. II, p. 1) probably taken from the Code Napoleon which had been promulgated only eight years before. (Lobingier, Philippine Practice, p. 5.) This was designated as the "Juicio de paz" in the "Reglamento provisional para la administración de justicia" in 1835. (Berriz, Guia Práctica de los Juzgados de Paz, Vol. II, p. 1, Manila 1893.) In 1855 the office of "Juez de Paz" was established under that name, one being appointed for each pueblo with both civil and criminal jurisdiction.

C. *In the Philippine Islands*.—Thirty years after the establishment of the justice of the peace courts in Spain, the system was introduced into the Philippines in 1885. On May 29th of that year, a Royal Decree, provided for the appointment by the Governor-General, upon the nomination of the Chief Justice of the Supreme Court, then called President of the Audiencia of Manila, of justices of the peace. The President of the Audiencia received nominations from the judges of the courts of first instance thruout the Archipelago, who in turn consulted the parish priest of the town and the civil governor of the province. (Report of the Philippine Commission, 1900, Vol. 1, p. 59). They were regarded as officers of the Municipality; in fact they were mentioned in the Organic Provision as Municipal judges, having jurisdiction to try cases wherever the amount claimed did not exceed two hundred pesos, in administration proceedings, to make preliminary orders in pueblos where no court of first instance held session, in proceedings for conciliation, and to conduct preliminary pro-

ceedings in criminal cases. They received no salaries; their only compensation was the fee which the law allowed them to charge. (Lobingier, Philippine Practice, p. 6.)

This is the Justice of the Peace Court which existed in the Archipelago when the Americans occupied the Philippines. During the Revolution, the courts of the Justice of the Peace, like other courts became dormant in certain parts of the Islands. Orders were issued by the American Military Governor from time to time, sanctioning its existence. Upon the constitution of the Second Philippine Commission laws touching the Justice of the Peace Courts were enacted. Their jurisdiction was limited in certain direction and extended in others but both it and the procedure were so changed as to conform closely to those in justice of the peace courts in the United States. Thus the circuit was complete. The two streams which had started in mediaval England had flowed in opposite direction but met and mingled in the Philippines. The product forms an interesting chapter in the comparative study of a humble but important branch of judicial institution and symbolizes the spread of Anglo Saxon civilization around the Globe. (Lobingier Philippine Practice p. 6.)

CHAPTER III

NATURE OF THE OFFICE

The justice of the peace is not a municipal official in the sense that the president and councilmen are. He is a part of an insular system which is entirely separate and district, not only from all local officers, but from the executive and law-making branches of the government generally: The justice occupies an independent position and should ignore all parties and be what the law expects of a judicial officer-impartial. He ought to be the protector of the weak and helpless as his is the poor man's court for the great mass of the poor are unable to resort to any other. Finally the justice of the peace ought to be the legal adviser of his community. He should encourage people to come to him for legal advice in order to prevent litigation and settle many cases out of court. (Lobingiers's Philippine Practice, p. 7.)

CHAPTER IV

THE PURPOSE OF THE ORGANIZATION OF THE JUSTICE OF THE PEACE COURTS

A. *To Help in the Administration of Justice.*—The Justice of the Peace Courts form an integral part of the Philippine Judicial system. They constitute its base just as the Supreme Court forms its apex. One is just as important as the other. In fact many more people are directly affected by the former rather than by the latter.

There are three great branches of government: The executive, legislative and judicial. One is just as important as the other. The three departments of the government, the executive, legislative and judicial, are not only coordinate but they are coequal and coimportant. While interdependent in the sense that each is unable to perform its functions fully and adequately without the other, they are nevertheless, in the most important sense, independent of each other; that is to say, one department

may not control or even interfere with another in the exercise of its special functions. The quality of government consists in their remaining thus independent. (*Tarlac v. Gale* 26 Ph. 339.)

“When a conflict in judgment arises between the provincial officials and the court, that of the provincial officials must yield, the court being the only official which, in the last analysis, may determine under the law what is necessary for its efficiency.” (26 Phil. 339.)

From this decision, we easily proved the importance of the courts of justice. And inasmuch as the justice of the peace courts form the base of this system, it is but wise that the rights and duties of the same should be safe-guarded and improved.

B. *Protection and Preservation of Life, Liberty, Property and Public Order.*—The Bill of Rights which was won with so much blood on the fields of battle by Englishmen, made the bulwark of American liberties and now constituting the most precious legacy of the Filipino race provide in part: “That no law shall deprive any person of life, liberty or property without due process of law or deny to any person therein the equal protection of the laws.” (Sec. 3, Act of Congress, Aug. 29, 1916.) The judicial branch of the government is the depository of these rights of the people. If the legislature enact laws which in a way deprive the people of their rights, the courts of justice step in and rule the action of the legislature as void for it contravenes the Bill of Rights.

In the performance of this duty the commission is enjoined to see that no injustice is done; to have regard for substantial right and equity, disregarding technicalities so far as substantial right permits and to observe the following rules:

“That the provision of the treaty of Paris pledging the United States to the protection, of all rights and property in the Islands, and as well the principle of our own Government which prohibits the taking of private property without due process of law, shall not be violated; That the welfare of the people of the Islands, which should be a paramount consideration, shall be attained consistent with this rule of property rights; that if it becomes necessary for the public interest of the people of the Islands to dispose of claims to property which the commission finds to be not lawfully acquired and held, disposition shall be made thereof by due legal procedure in which there shall be full opportunity for fair and impartial hearing and judgment; that if the same public interests require extinguishment of property rights lawfully acquired and held, due compensation shall be made out of the public treasury.” (President’s Instruction to the Philippine Commission.)

But, without a judicial system which is efficient and ever zealous to observe these provisions of the law, the guarantee of the rights of men would entirely be unenforceable.

"Life, liberty or property" are representative and comprehensive terms intended to cover every right to which a member of the body politic is entitled under the law. As has well been said: "The right to life includes the right of the individual to his body in its completeness and without dismemberment; the right to liberty, the right to exercise his faculties and to follow a lawful vocation for the support of life; the right of property, the right to acquire, possess, and enjoy it in any way consistent with rights of others and the just exactions and demands of the state. (*Bertholf v. O'Reilly*, 30 Am. Rep. 323.)

This prohibition should be construed as to mean that the government should keep off its hands from them. It simply means that while it is admitted that the government has a perfect right concerning these things, yet the interference must be reasonable and in accord with the Laws of Nature.

Again, it may be asked: How do you expect the people to enjoy these rights, when their fellowmen whom they look upon as the guardian of their rights are not in a position to know how to administer justice according to law? Hence, it is essential that the base of our judicial system, the justice of the peace court, should undergo some reformation.

CHAPTER V

JUSTICE OF THE PEACE COURTS IN THE PHILIPPINE ISLANDS

A. *Its Organization.*—

1. *Appointment and Distribution of the Justice of the Peace.*—One justice of the peace and one auxiliary justice of the peace shall be appointed by the Governor-General for the City of Manila, City of Baguio, and for each municipality, township and municipal district in the Philippine Islands, and if the public interests shall so require for any other minor political division or unorganized territory in said islands. (Sec. 203, Act 2711.)

2. *Qualifications.*—No person shall be eligible to appointment as justice of the peace or auxiliary justice unless he shall be (1) at least 23 years of age; (2) a citizen of the Philippine Islands or of the U. S.; (3) of good moral character; (4) admitted by the Supreme Court to Practicelaw, or be a person who has at least finished the course of legal study in a recognized school, or shall have passed the civil service examination for clerk of court, or an examination to be held in each province before a board composed of the Judge of Court of First Instance, the Provincial Fiscal, and a practising lawyer appointed by the judge, under rules and regulations to be prescribed by the Attorney-General with the approval of the Secretary of Justice. (Sec. 207, Act. 2711)

3. *Compensation.*—Except as provided in the next succeeding section hereof, justice of the peace shall receive the following salaries per annum:

(1) In municipalities of the first class, nine hundred sixty pesos per annum.

(2) In municipalities of the second class, eight hundred and forty pesos per annum.

(3) In municipalities of the third class, seven hundred and twenty pesos per annum.

(4) In municipalities of the fourth class and other places not especially provided for by law six hundred pesos per annum. (Sec. 220, Act 2711.)

Payment of salaries of justice of the peace. In order to facilitate the payment of the salaries of justice of the peace in the provinces, the treasurer of the respective political division concerned shall advance the same monthly out of any proper available funds in his possession and such advance shall be reimbursed monthly from the Insular appropriation. (Sec. 222, Act 2711.)

4. *Jurisdiction.*—

(a) *Civil—Exclusive.* Civil actions in which the demand exclusive of interest or the value of the property is less than ₱200. (Act 136, Sec. 68 as amended by Act 2731, Section 1.)

This amount does not concern real estate for in the case of *Barrameda vs. Moir*, 25, Phil. 45 the Supreme Court of the Philippine Islands, thru Mr. Justice Trent among other things laid down the following doctrine:

“Acts Nos. 2041 and 2131, in so far as they attempt to confer exclusive jurisdiction or exclusive original jurisdiction upon courts of justice of the peace to try real estate actions where the amount involved does not exceed ₱200, are void because the conflict with section 9 of the Philippine Bill, which confirm the original jurisdiction of Court of First Instance in all civil actions which involve the title to or possession of real property, or of any interest therein,” as provided in Act No. 136, section 56, par. 27 of the Phil. Commission.

Actions for forcible entry into and detainer of real estate, irrespective of the amount in controversy brought within one year after the cause of action accrues. (Act 136, Sec. 68; Act 190, Sec. 80; Act 2131, Sec. 1.)

As to this forcible entry into and detainer of real estate, the jurisdiction of the Justice of the Peace may receive evidence of title only for the purpose of possession and damages for detention. He may grant preliminary injunction, in accordance with the provisions of the Code of Civil Procedure, to prevent the defendant from committing further acts of dispossession against the plaintiff. (Act 2131, Sec. 1.)

Concurrent jurisdiction with court of First Instance. When the amount of the demand exclusive of interest or the value of property is ₱200 or more, but less than ₱600. (Act 136, Sec. 68 as amended by Act 2131, Sec. 1.)

To solemnize marriage authenticates merchants' books, administer oaths and take depositions and acknowledgment; and in his capacity as ex-officio notary public may perform any act within the competency of a notary public. (Sec. 214, Act 2711; Sec. 5, G. O. No. 68, as amended by G. O. 70, Sec. 1; Code of Commerce Art. 19, Sec. 1, Act 2131.)

(b) Criminal. All misdemeanors and offenses arising within the municipality of which he is a justice of the peace; in all cases where the sentence might not by law exceed six months imprisonment or a fine of ₱200. (Act 136, Sec. 68.)

Act 2131, Sec. 1, extended this power of the justice of the peace to all misdemeanors, offenses, violation of regulations adopted by the respective provincial boards and infractions of Municipal Ordinance.

The justice of the peace is also entrusted with the making of preliminary investigations in criminal cases. (Act 194, Sec. 1, as amended by Act 1627, Sec. 37.)

Such in brief are among the most important powers which the law has granted to the justice of the peace of municipalities.

The justice of the peace of the City of Manila and the provincial capitals are entrusted with different powers to hear and try cases than the justice of the peace of municipalities. For, unlike the latter the justices of the peace of the City of Manila for example exercises all the powers which the latter has, except in criminal jurisdiction. This is due to the fact that taking into consideration the size of the City, her thick population, the justice of the peace can even hardly try civil cases which are presented to him for decision. In Manila, there is what is known as a Municipal Court, where criminal cases are presented and tried. It exercises all the criminal jurisdiction which the Justice of the Peace Court in municipalities does, plus special power to hear and try cases of theft and embezzlement involving an amount of not more than ₱200. It has also power to try cases which constitute a violation of the gambling law as well as lesiones as defined and punished by the Spanish Penal Code.

The Justice of the Peace of the provincial capitals has jurisdiction to try cases which are cognizant in ordinary justices of the peace courts. Aside from this, the same justice of the peace is entrusted with the power to hear and try cases given to him by assignment, by the regular Judge of the Court of First Instance in civil cases when the amount involves capable of pecuniary estimation, not more than ₱2,000, exclusive of interest and costs. (Act 2131, Sec. 1.)

In the case of *Labiano v. McMahon*, 28 Phil. 168, our Supreme Court, among other things laid down the principle that the power and the duties of a judge are strictly personal in their nature and are to be performed by such office alone. He can not delegate his authority to another except where a delegation is especially authorized

by statute and is not in violation of the constitution. Where the statute authorizes the appointment of a referee by a court upon the "written consent of both parties, filed with the clerk," but requiring also that referee before commencing the performance of their duty, shall be sworn to a faithful and honest performance thereof, and the fact that they have taken such oath shall be certified to on the commission by the authority administering the oath and the court appoints a referee without the consent, oral or written, of the parties and without any of the provisions of the statute being complied with, and the person so appointed and does not take the oath of office and does not receive a commission from the court or clerk, the decision of such person so appointed upon evidence taken before him is without force or effect in law and the judgment of the court based solely thereon is without force and effect as a judgment and on certiorari will be vacated and annulled.

The Justices of the Peace of the Provincial capitals has also power to exercise within the province like interlocutory jurisdiction as the Court of First Instance, which shall be held to include the hearing of all motions for the appointment of a receiver, for temporary injunction, and for all other orders of the court which are not final in their character and do not involve a decision of the case on its merits, the hearing of petitions for a writ of Habeas Corpus, and all questions which may arise concerning the appointment of inspectors of election, or the inclusion in or exclusion from the register of voters of the names of electors.

In criminal cases, the justice of the peace of the provincial capitals has power to hear and try criminals whenever the punishment meted by law does not exceed an imprisonment of six months or a fine of ₱2,000 or both at the sound discretion of the court.

In the case of *U. S. v. Canent*, 28 Phil, 317, the Supreme Court, speaking thru Mr. Justice Torres, laid the following doctrine:

"Act 2041, as amended in its section 4 by section 2 of Act 2131, in authorizing and empowering the court of First Instance to assign to the Justice of the Peace of the capital of the province the trial of certain cases limitedly specified therein, does not, nor does either of the said act in any of their provisions, diminish or restrict the jurisdiction of the Court of First Instance, for it was the purpose of the legislator that the justice of the peace, by sharing to a certain extent the powers of the Court of First Instance, might act in the latter stead, especially in the cases limitedly specified by law and relieve him from the duty of attending to them so that his attention might not be diverted from the more serious and important cases brought before him. Besides, it was intended that all matter so assigned should be acted upon in accordance with the rules of procedure observed in the courts of First Instance, and not with those that given proceedings in the Justice of the Peace Courts.

The act providing for the organization of courts in the Philippine Islands contains no provision whatever that conflicts with the acts aforementioned, with respect to the assignment of cases by the courts of First Instance shall possess

and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by the Government of these Islands, subject to the power of said Government to change the practice and method of procedure and in passing the said acts whereby the Justice of the Peace of the capitals of the province may thus by assignment take cognizance of crimes for which the penalty does not exceed two years imprisonment or a fine of two thousand pesos, or both such imprisonment and fine, the legislature of this country has merely made use of the power and authority conferred upon it by the said section 9 of Act of Congress called the Philippine Bill."

CHAPTER VI

CRITICISM

The definition and the nature of the office of Justice of the Peace Court coupled with the vast importance of its power to hear and try cases, demand that the position be occupied by a competent person who can better discharge the duties of such an office. The antiquity of this court and the process which has crowned its efforts in the past demand that the institution should be respected and perpetuated. If the policy of all civilized governments is to render its citizens their just due, to treat them equally, and to protect them from an invasion of their real rights, men who would not prostitute their office, men of proven morality should occupy the office of the justice of the peace. It seems to the writer that the reason why the Philippine Government does not prescribe higher qualifications for the office of the justice of the peace is that they do not believe that there is much importance to it, because only litigation involving an amount of ₱200 is cognizable by this courts. The government fails to see that the majority, nay with few exceptions only, of the litigants who present their case to the justice of the peace, are of our laboring class. The government, at least the Philippine Legislature, lost sight of the fact that a peso to our laboring class means several hundreds to our wealthy ones. They (the legislators) forget that while those who belong to our poorer class earned their peso in two days with the sweat of their brow, our rich citizens earned their hundreds of pesos sitting on a rocking chair surrounded by all comforts which dollars as a power could produce. So that, if it is a fact which I think at least in theory it is so, that the mantle of the law covers all citizens alike, regardless of their social position and influence, it is high time for our government to reform the base of our judicial government. For it is only in this way that real upright and intelligent men can be secured and the administration of true justice assured. If this thesis is written solely for the lawyers and students of law, it would be totally unnecessary for the writer to cite the blunders and abuses of a great many of our justices of the peace. But, knowing as the writer does, that who have not had an opportunity to learn the weakness of our justices of the peace may read it, and thereby join with the writer in his clamor for its improvement, it would not be improper at all to cite facts which in a way would prove the inefficiency of our present ordinary justices of the peace.

It is a thing admitted by all practicing attorneys and observed by those who are interested in the noble profession, that our ordinary justices of the peace in municipalities look upon the provincial fiscals as their immediate superiors, as the latter looks upon the attorney-general. But this fact can be allowed to stand if such a conduct does not prejudice a citizen. But, when the rights and interests of a litigant are at stake, when the provincial fiscal, as representative of the government is deeply interested in the settlement of the case, and when the person to whom the case is presented for decision is the very one who is likely to entertain every opinion which the fiscal may have in the case and overrule that of his opponent for fear that he may lose his position, thus justice is prostituted, the Bill of Rights which grant equal blessing to all Filipino citizens, contravened, and the principle of democracy for which humanity had shed rivers of blood is likely to be substituted by anarchy. Be it understood that it is far from the intention of the writer to charge some of the provincial fiscals with bad faith in the discharge of their office. But, as the first law of nature is self-preservation, and that ordinarily all mortals are by nature selfish, it is not too much to say that they are likely liable to be tempted to take advantage of the ignorance of the justices of the peace. The writer deems it an opportunity to narrate here his experience before a justice of the peace of the provincial capital, where fortunately he was not an ignorant man. He was a lawyer as the law provides. And oh! what a difference. It was a privilege to conduct a case before him. Knowing as he did that he was a lawyer just like the provincial fiscal himself and as such, he is presumed to know just as much law as the latter does, the opinion of the fiscal did not always have weight and the humble opinion of the writer once in a while prevailed.

CHAPTER VII

IMPROVEMENT

It is, therefore, necessary that the base of our judicial system should undergo some reformation. The qualifications of the men who should fill the office must be raised. Why not a lawyer, a duly licensed member of the Philippine Bar who is supposed to be an intelligent man, who knows the *law* appointed to occupy the position? Others will say that no lawyers of sufficient dignity will accept the position of justice of the peace because of the meagre salary which it gives. Of course, a lawyer who knows how to maintain his position in the community cannot live with the salary which is attached to the position at present. That idea must be admitted as impracticable. But, there is a way by means of which the lawyers can be easily induced to occupy the position. A fourth class municipality, for example, gives a salary of 50 pesos per month to its justice of the peace. Why not combine two or three municipalities for the purpose of justice of the peace district and give a salary of ₱100 to ₱1.50 to the position, and then insist that only lawyers, duly licensed members of the bar should fill the position? To make the office a lucrative one, and to induce

ethical lawyers to aspire for it, would it not be a good plan to allow them a limited private practice so long as the same would not in any way interfere with the proper discharge of their office?

With a salary of at least one hundred pesos a month coupled with a limited private practice, it cannot be doubted that the service of lawyers can surely be had. If this arrangement can be done, it would not only mean the administration of better justice, but also, an economy to the government. It would enable the government to save several hundreds of pesos if two or three municipalities are combined and a lawyer justice of the peace appointed. But this is not the only result. It would also increase the dignity of the noble profession. For then the lawyers, instead of entering the employ of the government or private persons as law clerks, they would be occupying a position which carries with it an unusual dignity and prestige.

Others may brand this idea as impracticable, because it is physically impossible for a man to be discharging the duties which originally pertain to three of his fellow-men. But, if the Judge of the Court of First Instance can exercise his jurisdiction in two or even three provinces, is there any reason why a justice of the peace cannot exercise his jurisdiction over three municipalities only? Besides, good roads and other transportation facilities are now available unlike before. Therefore, this argument must fall.

Another argument which will be advanced by others in opposition to the appointment of lawyers as justices of the peace, is that if it so happens that the lawyer appointed to the position is a young man, twenty-one years of age, he may not be able to live up to the expectation of the justice loving public. To this argument the author heartily concurs. He, therefore, suggests that aside from the qualification which a man must have in order to be appointed justice of the peace, according to the present law, his age must be increased to twenty-five.

If it is true that the aim of the government is economy, if it is a fact that it is the policy of all democratic government to administer proper justice, to promote domestic tranquility, it is, therefore, incumbent upon our legislators to enact a law which would improve the base of the Judicial branch of our government.

CHAPTER VIII

PRECEDENTS

Examples after examples can easily be cited to prove the practicability of the plan suggested. An Act which provides for the organization of Philippine Courts, grouped two or three provinces into a judicial district. Of the several provinces which compose the Archipelago, there are twenty-six judicial districts. It may be argued by those who are oppose to the plan suggested that the jurisdiction of the courts of First Instance is confined only to cases which seldom happen, while justice of the peace court takes cognizance of matters which are almost considered as daily occurrence

and, if a justice of the peace should be appointed for two or three municipalities, how can a speedy justice be administered by one man only? They, therefore, conclude that if the plan suggested be carried out, it would surely be a total failure. Those who reason out this way, if not ignorant of the law at all, forget that the procedure in both courts greatly differ. They ignore the fact that while it is undeniable that the trial of a case in a court of First Instance almost always takes several hours and often times several days, the justice of the peace court, due to the simplicity of its procedure and to the amount involve in the case, can dispose of several cases in a single day. Hence, the argument cannot stand. Furthermore, why not among the municipalities grouped together, indicate one where the lawyer-justice of the peace should reside, where he should hear and try cases arising from the municipalities of the district, just as the Judge of the Court of First Instance try and hear cases arising from all parts of the province, in the provincial capital? It is admitted that greater expense would be incurred. But, that is why the law in civil cases allow the winning side to recover from the other his expenses which would be taxed by the trial court as costs. In criminal cases, expenses are not to be considered. For then the government hears it.

Another example analogous to the plan of the writer and worthy of citation, is the grouping of municipalities for the purpose of Sanitary district, and the appointment of a Doctor as District Health Officer. If the reason which prompted the legislature to enact that law is to preserve the life of their fellow citizens, should they not also enact a law which would tend toward the preservation of the rights of their countrymen? If a district health officer can protect the health and preserve the life of the people in three municipalities, can anybody doubt that a lawyer-justice of the peace would also be able to look after the preservation of the rights of his fellowmen living in two or three municipalities taking into consideration that judicial cases do not occur as often as sickness?

The writer cannot easily comprehend why justice of the peace in provincial capital and in the City of Manila are lawyers while in the Municipalities they are not. The fact that Manila and the provincial capitals are thickly populated is not a lawful reason for this difference. It being a fact or at least prima facie presumed that lawyers can better administer justice than those who are not, why should the law withheld this privilege of having a lawyer appointed justice of the peace in municipalities? Do the legislators mean by this that the people in the city and in provincial capitals are better stuff of citizens than those who lived in the municipalities? If this is not the case, as the writer believes, then the privilege should also be extended to the people living in different municipalities. And this can easily be accomplished without sacrifice if the suggestion herein is carried out.

CHAPTER IX

CONCLUSION

The writer is aware of the fact that his fellowmen are firm believers and enthusiastic followers of that imperishable truth, which for the first time appeared in the Declaration of Independence, "that all men are created equal." It is for the purpose of carrying out the spirit of this principle to the letter that the writer has selected the subject developed herein. He believes that in so choosing it he can contribute something toward the promotion of the rights, interests and general welfare of our laboring class. Knowing as he does, that the justice of the peace court can do a whole lot of good to our poorer class in the matter of good advices and constructive suggestions, and aware that a lawyer-justice of the peace can better accomplish this mission, the author clamors for the enactment of a law amending the one which provides for the organization of the Justices Courts. It is a bitter truth, and which the author hesitates to cite, that a great many of our wealthy class do not give the right treatment to our laborers. Instead of being their protectors, they are their worst oppressors.

So that, if our legislators are really true to the promise for which they had secured their seats in the law-making body, if they really mean to represent their constituents, interpret their wishes and provide for their necessities, they should lose no time in drafting a bill and without hesitation enact it into law, for this will constitute one of the greatest blessings which has ever been received by their fellowmen. Accordingly the author predicts that in a not far distant future, the plan which he here suggests will be written in the Statute Book of the Philippines.