

*THE DEVELOPMENT OF THE JUSTICE OF THE PEACE
COURTS IN THE PHILIPPINES¹*

BY HON. IGNACIO VILLAMOR

Associate Justice of the Supreme Court of the Philippine Islands

It ought to be known that the Spaniards upon arriving in the Philippines found the inhabitants thereof divided into groups or villages each of which had their own separate government. These groups or tribes called *barangays* were governed by their own chiefs or *barangay* called dato, rajah or sultan the office of which was hereditary and whose power was discretionary among the members of the *barangay*.

Whenever a crime was committed or a difference existed among the members of the *barangay* regarding property or any other interest the head investigated the trouble, heard their declarations and decided the case according to the old custom or other cases that preceded it. When the litigants belonged to different *barangays* or a dispute occurred among the chiefs, arbitrators were designated who passed judgment in accordance with established customs. There were no written laws and fines and death penalties were the most usual punishments.

¹ This article is an excerpt from a book written by Mr. Justice Villamor entitled "The Guide to the Philippine Law and Legal Literature." Mr. Justice Villamor has examined in this work 124 law books written by Americans and Filipinos on the various legal subjects since the American occupation. The work is divided into eight sections: the first section treats of Civil Law and matters related to it; the second, deals on Law of Civil Procedure, Law of Pleadings, etc.; the third those on Penal Law and matters related to this law such as, the Law on Crimes, Criminality in the Philippines, Criminal Statistics, Criminal Anthropology, etc.; the fourth, those on the Law of Criminal Procedure; the fifth, those on Mercantile Law and matters related to Mercantile Law; the sixth, those on Political Law including the Provincial and Municipal Government Law, the Election Law, etc.; seventh, works on miscellaneous matter which may not properly be included in the foregoing groups; and the eight, Digest of Legislation and Jurisprudence.

The book contains as appendix A, hundreds of articles on legal and quasi-legal subjects selected from journals and pamphlets published in the Philippine Islands; and appendix B, which comprises hundreds of selected titles from periodical literature on legal and quasi-legal subjects related to the Philippine Islands published in the United States and foreign countries.

The editor of this publication had the privilege to examine the book prepared by Mr. Justice Villamor, and thru his courtesy, he was allowed to take an abstract of the introductory remark to section eight, which it is believed will be of interest to the reader of this publication.

When fines could not be paid the insolvency resulted to the enslavement of the delinquent and consequently of his children if he had any.

By virtue of the Royal Order of August 14, 1569, which confirmed Legazpi to his title as Governor and Captain General (Gobernador y Capitan General) of the Philippine Islands, he was given authority to administer justice and also to appoint auxiliaries who heard, investigated and decided any litigation, civil or criminal cases that could happen in the Islands.

In the meanwhile the conquest and the pacification of the Islands were in progress, Legazpi and his successors conceded charges (*enmiendas*) of native Indians to the Spanish soldiers and officials who as agents of the law exercised duties of governors, civil administrators and judges. Afterwards the provinces and towns were formed, to wit the provinces to be governed by Mayors (*Alcaldes mayores*) who were civilians and frequently did not have any knowledge of the laws but were appointed to their post because of favoritism or appointed by governors who were military men. The towns were governed by *gobernadorcillos*.

The functions and duties of the *gobernadorcillos* were fixed by the orders and decrees of the superior government until they were determined by the auto accorded by the Audiencia of Manila on August 31, 1860, and approved by the Royal Decree of January 18, 1865. In civil cases the jurisdiction of the *gobernadorcillo* was limited to disputes that involved property or other interest whose value did not exceed 44 pesos and as to minor offenses it was limited to questions in which the penalty did not exceed more than 10 days of imprisonment or a fine of 5 pesos.

By virtue of the Royal Decrees of October 25, 1870, the provinces of the Spanish colonies were divided for judicial purposes into districts, judicial subdivisions (*partidos*) and towns. To each district was given an audiencia (then existing in the Philippines, in Manila), to each judicial subdivision a court of First Instance, and to each town a justice of the peace. The Philippine Islands constituted a single district. The Audiencia and the courts of First Instance continued in their functions until the number and the limits of the judicial divisions were fixed by subsequent decree.

The Royal Order of May 29, 1885, confirmed by the Royal Order of January 24, 1887, in order to put into effect the general plan of the division of power between the judicial and the executive which included even the lowest division of the

administration, commanded that in each judicial division (*partido*) in the City of Manila and in each of the municipalities, there should be one Justice of the Peace whose jurisdiction and faculties over civil and criminal cases were those conferred by the law. The Justices of the Peace were appointed by the Governor General thru the proposal of the President of the Audiencia of Manila. Such appointments were given to persons who were lawyers, or persons who possessed professional or academic degrees, or to persons whose positions and standing guaranteed their ability to take the post.

About the time of the separation of the judicial and executive powers, the most important legislative reforms in the Philippines were introduced. In a few years the Penal, Civil and Mercantile Codes, the law governing the application of the Penal Code and the laws of civil and criminal court procedure; the registration of property and notaries public were established; and several laws were dictated like the water laws, real estate laws, etc., etc.

Competency to take cognizance of many subjects contained in the said codes and laws was reserved to the justices of the peace. It was, therefore, necessary for these functionaries to study the legal bodies concerning affairs of their competency for the proper fulfillment of their duties. This was especially true when we take into consideration the provision of the law of its organization that in cases where there were no persons holding professional or academic title any person whose standing in the community so warranted could be appointed. That was the understanding of the President of the Audiencia of Manila when he dictated his circular of May 26, 1887, to the judges of First Instance commending to them the necessity to give the justice of the peace concrete instructions concerning their new charges and duties, hoping that by so doing malpractices which always redounded to the prejudice of the good administration of justice could be avoided from the very beginning.

Such was the condition of things when the change of sovereignty in the Islands came unexpectedly. The following day General Merritt arrived in Manila, he published a proclamation in which partly he said: "The government established among you by the United States Army is a military government of occupation. Meantime it is ordered that the municipal laws which affect personal rights and rights of property, private societies, as much as penal laws punishing all classes of offenses should

continue in effect unless they are found inconsistent with the ends of the military government. The said laws will be put in vigor by the ordinary tribunals as previously, but by employees appointed by the government of occupation."

The Royal Order of May 29, 1885, organizing the justices of the peace in the Philippines had been the object of various reforms introduced especially by Acts numbered 136, 190, 194 and by the G. O. No. 58.

It can be said that Act No. 136 with its twelve sections relative to Justices of the Peace was an essay to inaugurate a new method in the administration of justice in the towns. Effectually, Act No. 136 was reformed by Act No. 1450. This law reduced to two years the duration of the term of the Justice of the Peace. This law also required that appointments of Justices of the Peace be made by the Governor General thru the proposals of the Judges of the Courts of First Instance.

Said Act No. 1450 includes the new provisions which empowered the Justices of the Peace to take the place of the Municipal Secretary in the trial of cases which ought to be heard within the Municipality and the provisions which allowed Justices of the Peace to engage in other occupations or professions so long as these did not hinder the proper fulfillment of their duties. According to this Act, the Justices of the Peace were not obliged to attend the sessions of the Court of First Instance to give their declarations in those cases the preliminary investigations of which were conducted by themselves unless the Court of First Instance precisely so declared.

As just limitations the law prohibited the Justices of the Peace to employ clerks of Court and secretaries; it considered illegal and sufficient cause of the deprivation of his office the acquisition by any means any thing which had been the object of a law suit which he himself decided; and the law required them to ask beforehand the certificate of the Judge of First Instance or in the absence of the latter of the Provincial Fiscal whenever a warrant of arrest, a citation or any other legal auto issued by a justice of the peace was to be executed outside of the province.

To guarantee the proper fulfillment of the duties of the Justice of the Peace this law also required the Judges of the Court of First Instance to call a meeting of the Justices of the Peace of his district in the capital of the province at least once a year for the purpose of instructing them in matters concerning the execution of their duties.

For the proper discipline of the Justices of the Peace, the law bestowed upon the Judges of the Court of First Instance the right to supervise them and empowered the latter to suspend them during the course of an investigation the results of which were to be reported to the Governor General for his decision. The Justices of the Peace could be denounced for a disciplinary action before the Court of First Instance for performing a legal act in an illegal way (misfeasance); for doing something completely against justice (malfeasance); or for failing to perform a duty or total abandonment of his duties (nonfeasance).

Despite the new provisions of this law, criticism has not failed to point out the defects which were still noticeable in the function of the Justices of the Peace and so it has been necessary to amend the said Act by Act No. 1627. The changes which were introduced by this law had for its end a better stability of the posts of the Justices of the Peace and a better choice of the persons to be appointed to said office; extension of his competence to supplementary actions and over disputes involving moveable property; to conduct investigations regarding suspicious cases of death. The change also had for its end to establish a uniform system in all the Justices of the Peace including Manila and to suppress the authority of the Municipal President to investigate infractions of the municipal ordinance, which authority was given to the Justice of the Peace.

The most important provisions of this Act are those referring to the faculty of the Justices of the Peace, to solemnize marriage, to receive oath, take declarations, authorize acknowledgments, and to legalize commercial books according to articles 19 and 36 of the Code of Commerce; those which refer to the grounds of action against the Justices of the Peace, like the non-fulfillment of his duties or his inefficiency to perform them; those referring to the power of the judges of the capital to conduct preliminary investigations with the authority of the Judge of the Court of First Instance over offenses supposed to have been committed within the province, etc., etc. Afterward, Act No. 1627 was amended by Act No. 1862 which determined more distinctly the faculties of the Justices of the Peace and the court wherein actions against usurpation and deforcement of movable property could be taken. However, the task of reorganization was not then completed. So the Legislature approved Act. No. 2041 which introduced reforms relative to the jurisdiction, qualifications of eligibility and the salary of the Justice of the Peace.

The jurisdiction of the Justices of the Peace was extended by the law to the extent, that besides the powers conferred by the

laws before mentioned, the following were added: 1st. to issue preliminary prohibitory interdiction in law suits concerning usurpation of property to prevent the defendant from continuing in dispossessing the claimant; 2nd. the Justices of the Peace of the Provincial capitals with the exception of the City of Manila can be delegated by the Judge of the Court of First Instance to hear and determine cases originally corresponding to the Court of First Instance in which the subject of litigation is capable of pecuniary estimation and the value thereof did not exceed two thousand pesos not including charges and interest; and in the absence of the Judge of the Court of First Instance, to exercise within the provision interlocutory jurisdiction, which will include the hearing of motions for the appointment of depositaries, preliminary prohibitory interdictions, and other orders of the Court which do not have a definite character and do not involve the decision of a case according to its merits; and to examine applications for the writ of Habeas Corpus, and all questions arising from the appointment of electoral inspectors, or from the inclusion or exclusion of electors in the electoral census.

The qualifications of the justices of the peace are specified in section 9 of the Act, to wit: be a practising attorney, or must have passed the Clerk of Court Civil Service examination, or the examination held in each province before a board composed of the Judge of the Court of First Instance, the Provincial Fiscal and a practicing attorney appointed by the Judge, in accordance with the regulations prescribed by the Attorney-General approved by the Secretary of Finance and Justice; but the requisite for the examinations shall not be necessary when the appointee is an official of the United States Army or of the Government of the Philippines, or when there is no person who, having the necessary qualifications, would accept the position, in which last case the appointment would only be valid until a qualified person desiring to accept the position would have been found. The Justices of the Peace of the capitals of the provinces must be an attorney admitted to practice the law profession.

The salaries of the Justices of the Peace shall be: ₱960.00 per annum in first class municipalities, ₱840.00 in the second class municipalities, ₱720.00 in the third class, and ₱600.00 in the fourth class, with the exception of the Judges of the Municipal Court of Manila, Iloilo and Cebu, who will continue receiving the salaries allowed by the existing laws, and those of the capitals of the provinces shall receive a salary not less than ₱1,200.00 nor more than ₱1,800.00 per annum, according to the

class of the province; and when a Justice of the Peace is appointed by the Governor-General of two or more municipalities, in accordance with section 1, the appointee will receive a salary not exceeding seventy-five percentum of the total amount of the salaries of the combined positions.

Without going into the details of the various reforms introduced in the Laws of Civil and Criminal Procedures referring to the Justice of the Peace, it may be said that Act No. 2041 has remedied the deficiencies which were before noted in the administration of justice in the municipalities.