

# THE ADMINISTRATION OF JUSTICE IN THE PHILIPPINE ISLANDS

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The administration of justice is a topic of interest and growing concern to the legal profession and to the public generally in the United States. It is the ideal of every unselfish man interested in the public welfare to see the administration of justice simplified and made more exact and certain, and that is what has been undertaken, and in a measure accomplished, by the enactment of new legislation relating to civil and criminal procedure in the Philippine Islands.

The Government of the Philippine Islands has executive, legislative and judicial departments which exercise functions as independent of one another as are those of the federal and state governments in the United States. While the Chief Executive is a member and president of the upper house of the Philippine Legislature, and has one vote in that body in the enactment of laws, yet he has no veto power, and a bill may become a law in spite of any adverse action on his part.

The establishment of a modern system of government in the Philippine Islands, based upon democratic ideals, was undertaken by the United States under the most trying conditions. To say nothing of the form and manner of government, the country had been for two years prior to American occupation in the throes of insurrection and resultant anarchy on account of alleged arbitrary and tyrannical administration of public affairs and of the failure of the Spanish authorities to correct palpable injustices and ameliorate insufferable conditions.

*American Occupation.*—Commencing April 21, 1898, war existed for several months between the United States and Spain, growing out of the insurrection against Spanish dominion in Cuba. On the first day of May, 1898, the American fleet under Admiral Dewey entered Manila Bay and destroyed the Spanish fleet. On the 19th day of May President McKinley issued instructions to the Secretary of War, in which, among other things, he said:

“The destruction of the Spanish fleet at Manila, followed by the taking of the naval station at Cavite, the paroling of the garrisons, and acquisition

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of the control of the bay have rendered it necessary, in the further prosecution of the measures adopted by this Government for the purpose of bringing about an honorable and durable peace with Spain, to send an army of occupation to the Philippines for the twofold purpose of completing the reduction of the Spanish power in that quarter and of giving order and security to the Islands while in the possession of the United States. For the command of this expedition I have designated Major-General Wesley Merritt; and it now becomes my duty to give instructions as to the manner in which the movement shall be conducted."

After giving instructions at some length, the President said:

"While the rule of conduct of the American commander-in-chief will be such as has just been defined, it will be his duty to adopt measures of a different kind if, unfortunately, the course of the people should render such measure indispensable to the maintenance of law and order. He will then possess the power to replace or expel the native officials in part or altogether, to substitute new courts of his own constitution for those that now exist, or to create such new or supplementary tribunals as may be necessary. In the exercise of these high powers the commander must be guided by his judgment and his experience and a high sense of justice."

The surrender of the city of Manila by the Spanish forces occurred on August 13, 1898, and the articles of capitulation concluded with these words:

"This city, its inhabitants, its churches and religious worship, its educational establishments, and its private property of all descriptions are placed under the special safeguard of the faith and honor of the American army."

On the day following the occupation of the city of Manila, General Merritt published a proclamation addressed to the people of the Philippines, in which he said, in part, that—

"The government established among you by the United States army is a government of military occupation; and for the present it is ordered that the municipal laws, such as affect private rights of persons and property, regulate local institutions, and provide for the punishment of crime, shall be considered as continuing in force, so far as compatible with the purposes of military government, and that they be administered through the ordinary tribunals substantially as before occupation; but by officials appointed by the government of occupation."

*The Schurman Commission.*—The treaty of peace between the United States and Spain was signed at Paris on December 10, 1898, by the duly accredited representatives of the respective governments; ratifications were exchanged, and the treaty was proclaimed on April 11, 1899. By the third article of this treaty the Philippine Islands were ceded to the United States. On January 20, 1899, shortly before the ratification of the treaty by the Senate, the President appointed a commission to visit the Philippine

Islands for the purpose of investigating and reporting upon conditions. In his instructions to that commission the President, among other things, said:

"The commissioners will endeavor, without interference with the military authorities of the United States now in control of the Philippines, to ascertain what amelioration in the conditions of the inhabitants and what improvements in public order may be practicable, and for this purpose they will study attentively the existing local and political state of the various populations, particularly as regards the forms of local government, the administration of justice, the collection of customs and other taxes, the means of transportation, and the need of public improvements."

The commission, headed by President Jacob Gould Schurman of Cornell University, arrived at Manila on the 4th of March, 1899, and a month later issued a proclamation to the people of the Philippine Islands, in which this declaration appeared:

"The commission emphatically asserts that the United States is not only willing, but anxious to establish in the Philippine Islands an enlightened system of government under which the Philippine people may enjoy the largest measure of home rule and the amplest liberty consonant with the supreme end of government and compatible with those obligations which the United States has assumed towards the civilized nations of the world."

In calling the attention of the Philippine people to certain regulative principles by which the United States would be guided in its relations with them, the commission set forth among the matters of cardinal importance the promise that

"A pure, speedy, and effective administration of justice will be established, whereby the evils of delay, corruption, and exploitation will be effectually eradicated."

In the night of February 4, 1899, there was an outbreak of hostilities between the Filipinos and the military forces of the United States. This was the beginning of the insurrection against the sovereignty of the United States in these Islands, which seemed to render it necessary to continue the military government under the authority and direction of the President as Commander-in-Chief of the Army and Navy. During the insurrection the United States Congress hesitated to enact and put into operation a law for the establishment of civil government, but passed what is known as the Spooner Amendment to the appropriation act of March 2, 1901, which provided that

"All military, civil and judicial powers necessary to govern the Philippine Islands . . . shall, until otherwise provided by Congress, be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct, for the establishment of civil

government and for maintaining and protecting the inhabitants of said Islands in the free enjoyment of their liberty, property, and religion: • • •". (2)

This provision was no doubt enacted in order that Congress might expressly sanction the government established in the Islands by the President and authorize its continuance until Congress should provide for the administration of the affairs of civil government. Thereafter, in the administration of civil affairs, the President acted in his civil capacity as President of the United States, under express authority of Congress, and not as Commander-in-chief of the Army and Navy.

The insurrection continued in the Philippine Islands, with diminishing importance, until the year 1902. In the meantime, under date of January 31, 1900, the Schurman commission made its report to the President, with a comprehensive statement of the existing conditions, and submitted a proposed form of government under a commission.

*The Taft Commission.*—On April 7, 1900, the President appointed a new commission, headed by Hon. William H. Taft, to visit the Philippines and to aid the military authorities in the establishment of law and order and in the organization of civil government. In his instructions to this Commission, through the Secretary of War, President McKinley said:

"Beginning with the 1st day of September, 1900, the authority to exercise, subject to my approval, through the Secretary of War, that part of the power of government in the Philippine Islands which is of a legislative nature is to be transferred from the Military Governor of the Islands to this commission, to be thereafter exercised by them in the place and stead of the Military Governor, under such rules and regulations as you shall prescribe, until the establishment of the civil central government for the Islands contemplated in the last foregoing paragraph, or until Congress shall otherwise provide. • • •"

"The commission will also have power, during the same period, to appoint to office such officers under the judicial, educational and civil service systems, and in the municipal and departmental governments as shall be provided for."

The President, in his instructions to this commission, also said:

"The main body of the laws which regulate the rights and obligations of the people should be maintained with as little interference as possible. Changes made should be mainly in procedure, and in the criminal laws to secure speedy and impartial trials and, at the same time, effective administration, and respect for individual rights."

Under the instructions of the President, later ratified and confirmed by the Act of Congress of July 1, 1902, known as the Philippine Bill, all the

legislative power in civil affairs was vested in the United States Philippine Commission and was exercised by it until the organization of the Philippine Assembly as the lower house of the Legislature under the provisions of the Philippine Bill. That power is now exercised by the Legislature in all that part of the Philippine Islands not inhabited by Moros or other non-Christian tribes. The Philippine Commission still exercises exclusive legislative authority over the Moro Province and other so-called non-Christian territory.

#### THE SPANISH SYSTEM OF COURTS.

Prior to the American occupation of the Philippine Islands the organization of the courts and the administration of justice were in accordance with the Spanish system of judicature, which was substantially the same in all Spanish colonies. The system of courts included justices of the peace, courts of first instance, the Supreme Court of Manila, the Criminal Court of Cebu, and the Criminal Court of Vigan, with appeals in some cases to the Supreme Court of Spain.

*Justices of the Peace.*—The Archipelago was divided into provinces and districts, and these were divided into pueblos corresponding to the present municipalities and townships. In every pueblo there was a justice of the peace court, with a limited jurisdiction in civil and criminal cases. The Chief Justice of the Supreme Court of Manila made the recommendations for their appointments as justices of the peace, and the appointments were made by the Governor-General. Justices of the peace had jurisdiction in civil actions in their respective pueblos when the amount claimed did not exceed 200 pesos, and they had jurisdiction in criminal cases to try and to sentence for misdemeanors committed within their respective territorial jurisdictions.

*Courts of First Instance.*—In the provinces and districts there were courts of first instance corresponding to district and circuit courts of general jurisdiction in the United States. Each court of first instance had a prosecuting attorney and a clerk of court and necessary assistants. In civil cases the courts of first instance had jurisdiction over matters specified in great detail in sections 35 to 56 of the Spanish Code of Civil Procedure, and they had jurisdiction in criminal matters according to the terms of the Provisional Law for the application of the provisions of the Penal Code.

The courts of the provinces of the Archipelago were formerly denominated *alcaldías mayores*, the judicial officer performing the duties of each court being also provincial governor under the name of *alcalde mayor*. The organization was changed, however, by the separation of the two offices, so that in 1891 the title of *alcalde mayor* was abolished, and each province

or district had a judge of the court of first instance and either a civil or military governor.

*The Supreme Court of Manila.*—The *Audiencia Territorial de Manila* was originally created on May 5, 1582, consisting of one Chief Justice (a position held by the Governor of the Archipelago), three associate justices, and an attorney-general. On August 9, 1589, a royal *cédula* was issued, abolishing the *Audiencia* and creating in lieu thereof a council composed of four hundred men under the chairmanship of the Governor; but a few years later the Government of Spain, seeing its mistake, dissolved the council, and on May 25, 1596, again created the *Audiencia* under the name of the *Audiencia y Chancilleria Real de Manila*, composed of one Chief Justice, four associate justices, and an attorney-general who was also charged with the protection of the natives (*protector de Indios*), and other officers and employes necessary for its operation. In 1776, and again by a royal *cédula* dated June 7, 1815, the *Audiencia de Manila* was reorganized so that its personnel consisted of one Chief Justice, one regent, five associate justices, two attorneys-general, and an assistant to the Grand Chancellor, besides five minor officials, two assistant attorneys-general, two reporters of cases, and other employes. By a royal *cédula* dated January 30, 1855, the *Audiencia* was once more reorganized, and on May 23, 1879, a royal decree was promulgated whereby the *Audiencia de Manila* was placed on a similar footing with like courts of last resort in Spain, Cuba, and Porto Rico. Afterwards, on February 26, 1886, the *Audiencia Territorial de Cebú* was created by a royal decree and was given jurisdiction over civil and criminal matters from the courts of first instance of the provinces of the Visayan Islands, Mindanao, and Sulu Archipelago. The *Audiencia de Manila* was reorganized accordingly and was composed of one Chief Justice, two presidents of chambers, eight associate justices, an attorney-general, an assistant attorney-general, three attorneys, a secretary of the *Audiencia*, and a secretary for each of the two chambers. Its jurisdiction in civil and criminal matters covered the territory of the Island of Luzon and its adjacent islands. However, this was changed when by the royal decree of May 19, 1893, the *Audiencia Territorial de Cebu* was abolished, and two *Audiencias de lo Criminal* were established, one in Cebú and the other in Vigan, Ilocos Sur. Under said decree the *Audiencia de Manila* was given appellate jurisdiction throughout the Archipelago in civil matters, and over the province of Manila and fifteen enumerated provinces adjacent thereto in criminal matters.

*Criminal Court of Cebu.*—The *Audiencia Territorial de Cebú*, as originally created in 1886, was composed of a Chief Justice, a president of chamber, four associate justices, an attorney-general, an assistant attorney-general, one attorney, a secretary of the *Audiencia*, and a secretary of

chamber. This *Audiencia* had appellate jurisdiction over civil and criminal matters from courts of first instance of the provinces of the Visayan Islands, Mindanao and Sulu. Subsequently, by virtue of the above-mentioned royal decree of May 19, 1893, the *Audiencia Territorial* was abolished and the *Audiencia de lo Criminal de Cebú* was created and began operation on August 1, 1893. Its personnel consisted of a Chief Justice, two associate justices, an attorney-general, an assistant attorney-general, and a secretary, with the necessary number of subordinate employces. The appellate jurisdiction of this court included all criminal cases from the Visayan Islands, the Islands of Mindanao, the Sulu group, and the Island of Paragua (now Palawan).

*Criminal Court of Vigan.*—The *Audiencia de lo Criminal de Vigan* had an organization similar to the *Audiencia de lo Criminal de Cebu*, and its appellate jurisdiction included all criminal cases from eight enumerated provinces and adjacent islands off the coast of the northern part of Luzon.

The *Audiencias* established in the Philippine Islands were provided with additional justices (*magistrados suplentes*), equivalent in number to one-third of the number of justices of the respective *Audiencias*; these were appointed by the Governor-General upon the recommendation of the respective chambers; their term of office was one year, and they were eligible for re-appointment. It was the duty of such justices to act for and in the place of the regular justices of the *Audiencias* in cases of absence or disqualification of the latter.

*Supreme Court of Spain.*—The Supreme Court of Spain was organized into four chambers, each chamber composed of one Presiding Justice and seven associate justices. All civil cases appealable from the *Audiencias* established in the Philippine Islands were submitted to Chamber No. 1 of the Supreme Court, and Chamber No. 2 had jurisdiction to review criminal cases appealable from the *Audiencias*.

#### CHANGES DURING MILITARY OCCUPATION.

The jurisdiction of the Supreme Court 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 this Supreme Court of Manila with the jurisdiction which it possessed 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.

On June 5, 1899, an order was issued by the Military Governor establishing courts of first instance and justice of the peace courts for

the province of Manila, as it then existed. These courts were empowered to exercise the jurisdiction vested in them under the law prior to August 13, 1898, in so far as it was compatible with the supremacy of the United States and the exercise of military government in the Philippines, and said courts were empowered to administer the laws recognized as continuing in force by the proclamation of August 14, 1898, except in so far as such laws had been, or might thereafter be, modified by authority of the United States.

The jurisdiction of these courts during the time of the military government did not extend to offenses which were prejudicial to military administration and discipline. Such cases appertained to provost courts, courts-martial, or military commissions, except when otherwise ordered by the proper military authority.

The courts as thus re-established during the military government followed in general the system of judicature which had existed under Spanish rule. They administered the Spanish codes and laws which were applicable and enforceable and followed the Spanish procedure, except as modified by military orders. It was highly expedient that the Spanish laws as modified be administered by these courts because it was impracticable, in view of the existing conditions, to attempt to set up a new system of laws, and the military authorities did the wisest thing, under the circumstances. The Filipino lawyers and judges were not familiar with the English and American common law or with any statutes, codes, or procedure other than the Spanish system; obviously they would have encountered many serious difficulties in administering the laws of the United States or the laws of any particular state, and in applying the common law, even though it had been otherwise practicable to extend such a system of jurisprudence to the Philippine Islands. It was made to appear to the United States authorities that the Spanish codes were suited to the conditions of the people; but that certain changes in procedure were advisable or necessary in order to expedite court proceedings.

*Criminal and Civil Procedure.*—The Spanish codes are models of excellence in many respects, and in general they are adapted to the customs and conditions of the people; but in the matter of procedure there was a general desire for reform. The Spanish criminal procedure was arbitrary and not in accord with the just and humane rules generally prescribed and enforced in the United States. As early as April 23, 1900, the Military Governor issued General Orders No. 58, beginning with these words:

"In the interests of justice, and to safeguard the civil liberties of these Islands, the criminal code of procedure now in force therein is hereby

amended in certain of its important provisions, as indicated in the following enumerated sections:"

In 110 brief sections, this military order contains a code of criminal procedure which is still in force, and which has practically superseded all the provisions contained in the very extended Spanish code on the subject. It secures to the accused, upon his trial, all the rights to which he is usually entitled in the United States, except trial by jury, and provides for the reopening of the trial at any time before final judgment, either in the trial court or in the appellate court, upon a showing of newly discovered evidence material to his defense. The new Code of Civil Procedure provides for the selection of two assessors to sit with the trial judge in any civil action, to advise him in the determination of all questions of fact, and by amendment of the charter of Manila this provision was extended to criminal as well as civil cases in the justice's court, the municipal court, and the Court of First Instance of Manila.

The Spanish Code of Civil Procedure provided for appeals from the rulings of the court on many incidental questions and issues. As a result, the procedure in civil cases was necessarily slow, tedious and expensive. This amounted to a practical denial of justice in most cases, whatever the final result might be, especially to the poor man who was deprived of his property or just rights by his adversary. Soon after the Philippine Commission commenced its legislative work it began to give attention to the subject of civil procedure, and on August 7, 1901, enacted a "Code of Procedure in Civil Actions and Special Proceedings," which, though inconsistent and unsatisfactory in some of its provisions, proved to be a great advance in the practical and effective administration of justice. The new code contains a simple system of pleading, and provides that the allegations of the pleadings shall be liberally construed, assuring substantial justice to all the parties. Express provision is made that no interlocutory or incidental ruling, order or judgment of the court shall stay the progress of an action or proceeding therein pending, but only such ruling, order or judgment as will finally determine the action or proceeding; also that no ruling, order, or judgment shall be the subject of appeal to the Supreme Court until final judgment is rendered for one party or the other.

#### THE PRESENT JUDICIAL SYSTEM.

The United States Philippine Commission recognized the increasing demands of the times for a more enlightened and efficient system of judiciary than that which existed under the Spanish regime, and sought a higher standard and a more perfect model as a basis for the organization

of the courts of the new government of the Philippine Islands. But it was the policy of the United States not to make changes in the municipal laws and organic statutes, except where deemed necessary, and the new system was necessarily based in part upon the old Spanish system.

On June 11, 1901, the United States Philippine Commission (later designated by Congress as the "Philippine Commission"), passed an act providing for the organization of courts in the Philippine Islands. This act vested the judicial power of the Government of the Philippine Islands in a Supreme Court, courts of first instance, and courts of justices of the peace, together with such special jurisdictions of municipal courts and other special tribunals as were then or might thereafter be authorized by law.

*The Supreme Court.*—The Supreme Court of the Philippine Islands consists of a Chief Justice and six associates, any five of whom, when convened, constitute a quorum. The concurrence of at least four members of the court is necessary in order to pronounce a judgment. This court from the beginning has been composed of four Americans and three Filipinos, the Chief Justice being a Filipino.

The Supreme Court is vested with original and appellate jurisdiction. It has original jurisdiction to issue writs of mandamus, certiorari, prohibition, habeas corpus, and quo warranto, and to hear and determine the controversies thus brought before it; and it also has original jurisdiction in other cases provided by law, such as controversies relating to the right of administration or possession of churches, convents, cemeteries, and other church properties and the ownership thereof. Its appellate jurisdiction extends to all actions and special proceedings properly brought to it from courts of first instance, and from other tribunals from whose judgments the law specially provides for an appeal to the Supreme Court. It has power to issue all auxiliary writs and process necessary to the complete exercise of its original or appellate jurisdiction.

The act organizing the courts provides for an Attorney General and a Solicitor-General, whose duties and powers are substantially those of the same officers in the United States. The Attorney-General's office is known as the Bureau of Justice. The act also provides for a clerk of the Supreme Court, deputies, and assistants, and for a reporter of decisions. The sheriff of Manila serves the process issued by the Supreme Court and preserves order in and about the court room.

The Philippine Bill provides that the Supreme Court of the United States shall have jurisdiction, on appeal or writ of error, to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings in which the constitution, or any statute, treaty, title, right, or privilege of

the United States is involved, or in causes in which the value of the property in controversy exceeds \$25,000.00.

*Courts of First Instance.*—The law provides for a court of first instance in each province; it is a trial court of general jurisdiction and is a court of record. The entire Archipelago is divided into twenty-six judicial districts for the courts of first instance, with one regular judge for each district outside of the city of Manila. It is provided that each judge shall preside in all the courts of first instance in the district, except in the city of Manila.

The city of Manila is constituted a judicial district with four judges of the first instance, at present three Americans and one Filipino, and these judges exercise jurisdiction throughout the city. The ordinary civil and criminal cases are divided among three of the judges, and the fourth judge has exclusive charge of the land registration cases. In practice one judge at a time has charge of the criminal docket, one has control of land registration cases and probate matters and he may try ordinary civil cases, and the remaining two judges usually devote all their time to civil cases.

In addition to the regular judges of the courts of first instance, the law provides for seven judges, known as auxiliary judges; these judges are appointed to their respective groups of judicial districts to perform the duties of judge of any court of first instance of any province or district or to assist any regular judge in the respective groups. A judge is authorized to make interlocutory orders at any place within his district, and under some circumstances he may sign final judgments after leaving a province.

The courts of first instance are vested with original and appellate jurisdiction in both civil and criminal cases. Their original jurisdiction extends to all civil actions: (1) in which the subject of litigation is not capable of pecuniary estimate; (2) involving the legality of any tax, impost, or assessment, or title to, possession of, or any interest in, real property, except cases of forcible entry and detainer; (3) in which the demand, exclusive of interest or the value of the property in controversy amounts to 200 pesos or more; and (4) all actions in admiralty and maritime jurisdiction, and all matters of probate, administration of estate, appointment of guardians, trustees, and receivers, actions for annulment of marriages, and all special cases.

The courts of first instance have original jurisdiction in all criminal cases arising within their respective territorial limits when the court may under the law impose a penalty of more than six months' imprisonment, or a fine exceeding 200 pesos, and in all cases involving offenses committed on the high seas or beyond the jurisdiction of any country or within any

of the navigable waters of the Philippine Islands, or on board a ship or water craft of any kind registered or licensed in the Philippine Islands.

The courts of first instance are empowered to issue writs of injunction, mandamus, certiorari, quo warranto, and habeas corpus, in their respective provinces and districts, and may punish by fine and imprisonment for contempt of court.

The appellate jurisdiction of the court of first instance extends to all civil and criminal causes arising in the justices' and municipal courts, and such cases are tried *de novo* in courts of first instance.

The court of first instance of each province has a clerk, necessary deputies and assistants, and a provincial fiscal (prosecuting attorney), and the process of the courts is served by the sheriff of the province.

The Philippine Bill provides that the Supreme Court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as then provided by law and such additional jurisdiction as shall be prescribed by the Government of the Philippine Islands, subject to the power of that government to change the practice and method of procedure, and it also provides that the admiralty jurisdiction of the Supreme Court and courts of first instance shall not be changed except by act of Congress. In the case of *Weigall v. Shuster*, (3) the Supreme Court held that the jurisdiction of that court and of the courts of first instance, as fixed by act of Congress, may be added to but not diminished by the Philippine Commission or the Legislature.

*Municipal Court of Manila.*—The charter of the city of Manila originally provided for two municipal courts, each with a separate and prescribed territorial jurisdiction, but the charter has been amended by abolishing the two courts and creating one municipal court for the entire police jurisdiction of the city. This court is provided with a clerk, deputies and assistants. The prosecuting attorney of Manila or one of his assistants is the law officer of the court. The chief of police or one of his subordinates serves its process and maintains order.

This court has exclusive original jurisdiction in all criminal cases arising under the ordinances of the city and under the penal laws of the Philippine Islands within the police jurisdiction of the city, when the maximum punishment is imprisonment for not more than six months, or a fine of not more than 200 pesos, or both such imprisonment and fine. It has concurrent jurisdiction with the court of first instance of Manila in all criminal cases arising under the laws relating to gambling, to assaults where the intent to kill is not charged or evident upon the trial, to larceny and embezzlement

(3) 10 Phil. 340.

when the value of the property stolen or embezzled does not exceed 200 pesos, to the sale of intoxicating liquors, to falsely impersonating an officer, to malicious mischief, to trespass, and to threats to take human life. The municipal court is also authorized to conduct preliminary examinations in any criminal case arising within the city of Manila, and may release, or commit and bind over, any accused person to secure his appearance before the proper court for trial. The municipal court of Manila has no civil jurisdiction except for the forfeiture and collection of bonds given in cases or proceedings pending therein. There is no other court in the Philippine Islands with special jurisdiction similar to that of the municipal court of Manila.

In all cases tried in the municipal court an appeal may be taken to the court of first instance of Manila, which has final jurisdiction except when some constitutional question or the validity of a law or ordinance is involved, in which cases appeal may be taken to the Supreme Court.

*Justices of the Peace.*—The justice of the peace courts were made a part of the new judicial system but were practically a continuation of the old system. The law relating to these courts has been amended from time to time in an effort to improve this branch of the public service.

The law now provides for one justice of the peace and one auxiliary justice for each municipality, and for such other towns or places as may be determined by resolution of the Philippine Commission; but upon recommendation of the Secretary of Finance and Justice with the consent of the Philippine Commission, the Governor-General may appoint one justice of the peace and one auxiliary justice for two or more municipalities, towns or places. The appointments of these officers are made by the Governor-General, with the consent of the Philippine Commission, from lists of eligibles furnished by the judge of the court of first instance, except in Manila, but the Governor-General may appoint any qualified person not included in such lists when it appears to be in the interest of the service. All justices and all auxiliary justices of the peace hold office during good behavior.

The judge of the court of first instance has supervision over the justices of the peace within his district. Certain reports of their work are required to be made to the district judge, and he must embody a summary of such reports for each province of his district in an annual report to the Secretary of Finance and Justice.

Justices of the peace are invested with exclusive original jurisdiction in all civil actions including actions for replevin and attachment, arising in the municipality and not exclusively cognizable by the court of first instance, where the value of the subject-matter or amount of the demand does not exceed 200 pesos, exclusive of interest and costs; where the value exceeds

200 pesos, but is less than 600 pesos, the justice of the peace and the court of first instance have concurrent jurisdiction. Justices of the peace have jurisdiction in all cases of forcible entry and detainer in their respective territorial jurisdictions.

The legislature recently passed an act attempting to give justices of the peace "exclusive original jurisdiction" to adjudicate questions of title to or interest in real estate not exceeding 200 pesos in value, and to give them "concurrent jurisdiction" with the court of first instance in cases exceeding 200 pesos but less than 600 pesos in value. The Supreme Court, in construing that act in the case of *Barrameda v. Moir* (4) held that it was void, since section 9 of the Philippine Bill (an act of Congress) confirms the original jurisdiction of courts of first instance in "all civil actions which involve the title to or possession of real property, or of any interest therein" except in forcible entry and detainer cases, as provided in section 56 of Act No. 136 of the Philippine Commission, and the Philippine Legislature cannot deprive the courts of first instance of any of that jurisdiction.

Justices of the peace in capitals of provinces organized under the Provincial Government Act may by assignment of the judge of the court of first instance in each case have like jurisdiction within the province as the court of first instance to hear and determine cases originally cognizable by the court of first instance in which the subject of litigation is capable of pecuniary estimation and the value of the subject-matter or amount of the demand does not exceed 2000 pesos exclusive of interest and costs, except cases involving the legality of any tax, imposts, or assessment, or actions involving admiralty or maritime jurisdiction; and any such justice of a provincial capital, and the governor of any specially organized province acting as ex-officio justice of the peace, may, in the absence of the district judge from the province, exercise like interlocutory jurisdiction as the court of first instance, including the hearing of motions for the appointment of receivers, for temporary injunctions, and for all other orders of the courts which are not final in character and do not involve a decision on the merits, the hearing of petitions for the writ of habeas corpus, and all questions which may arise concerning the appointment of inspectors of elections or the registration of voters.

Justices of the peace, except in the city of Manila, have jurisdiction to try persons charged with misdemeanors, violations of certain regulations adopted by the provincial board, and infractions of municipal ordinances within their territorial jurisdiction, when the penalty does not exceed imprisonment for six months or a fine of 200 pesos, or both. The justice of

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(4) 25 Phil. 44.

the peace in the capital of a regularly organized province, and the governor of any specially organized province, acting as ex-officio justice of the peace, may by assignment of the judge of the district in each case have like jurisdiction as the court of first instance to try parties charged with offenses committed within the province in which the penalty may not exceed imprisonment for two years or a fine of 2000 pesos, or both, and in the absence of the judge of the district they have like jurisdiction within the province as the court of first instance to hear applications for bail.

It is made the duty of every justice of the peace except in the city of Manila, when written complaint under oath is made tending to show the commission of a crime within his jurisdiction, to issue an order for the arrest of the accused and to have the prisoner brought before him for a preliminary examination. If the accused plead not guilty at the preliminary examination, it is the duty of the justice of the peace to make investigation of the charge as speedily as may be consistent with right and justice, and discharge the accused or remand him for trial before the court of first instance. In the latter event the accused may give bail for his appearance, if the case be bailable. The discharge of the accused on preliminary examination does not operate as a final acquittal, and he may again be arrested and prosecuted for the same offense.

Two justice of the peace courts, with prescribed territorial jurisdictions, were originally organized under the charter of the city of Manila, with jurisdiction in civil cases only. The charter has since been amended by consolidating the two justices' courts into one, with jurisdiction in civil cases throughout the city, when the amount of the demand, exclusive of interest, or the value of the property in controversy, is less than 600 pesos, and in all actions of forcible entry and detainer.

For ten years after the new judicial system was established, the justices of the peace were paid by fees only, and, as the fees were small, the income in most cases was insufficient to induce good men possessing proper qualifications, to accept the office. There was much criticism of the justices of the peace. Complaints were frequent that they abused their authority and practiced extortion upon the people, and it was claimed that instead of being protectors of the people they were oppressors. In order to make the office more attractive to men of better qualifications and character, the law was amended so as to enlarge the work of justices of the peace and provide for paying them salaries. All fees and costs collected are paid into the Insular Treasury, except those collected in the city of Manila which are paid to the city assessor and collector, the salaries being paid by the Government of the Philippine Islands.

To be eligible for appointment as a justice of the peace the applicant must be at least twenty-three years of age, of good moral character, and be admitted by the Supreme Court to practice law or shall have passed the examination and be eligible under civil-service rules for appointment as clerk of court, or qualified in an examination before a board composed of the judge of the court of first instance, the provincial prosecuting attorney, and a practicing lawyer appointed by the judge. These requirements do not apply to officers of the United States Army or of the Philippine Government, nor where there is no person having the necessary qualifications who is willing to accept the office. It is especially provided that no person shall be appointed justice of the peace for the city of Manila or for any capital of a province who has not been admitted to the practice of law by the Supreme Court.

*Land Registration.*—The Land Registration Act was passed November 6, 1902, to take effect January 1, 1903. It is patterned from the so-called Torrens system. Under this act, as amended, the courts of first instance of the province in which the land is situate is given jurisdiction of all applications for registration of title to land or buildings or an interest therein. The court may hear the parties and their evidence or may refer a case or any part thereof to a referee, who is authorized to hear the parties and their evidence and make report thereon to the court. Appeals from judgments and decrees of the court in land registration cases may be taken to the Supreme Court as in ordinary civil cases.

Persons desiring to take advantage of the provisions of the Land Registration Act must file with the clerk of the court of first instance of the province or district in which the land or any portion thereof is situate, or in Manila with the chief of the General Land Registration Office a sworn application in writing for registration of title and describe therein the land sought to be registered and attach thereto a plan and technical description of it, and all the muniments of title within his control. Notice is given of the filing of the application by publication in two successive issues of the Official Gazette in both English and Spanish, and by mailing a copy of the notice in Spanish to every person named therein whose address is known. If the court finds at the hearing that the applicant has a proper title for registration, a decree of confirmation and registration is entered, and such decree binds the land and quiets the title thereto against all the world, including the government and all its branches. However, any person deprived of any land or interest therein by decree of registration obtained by fraud may file in the proper court of first instance a petition for review within one year

after judgment, provided no innocent purchaser for value has acquired an interest. Any person injured by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree; and he may likewise have recourse against the assurance fund provided for in the act. Immediately after a final decision by the court directing the registration of any property, the clerk must send a certified copy of such decision to the Chief of the General Land Registration Office who prepares a decree in accordance with the Land Registration Act and forwards a certified copy of such decree to the register of deeds of the province or city in which the property is situate, and the register of deeds then transcribes the same in a book called the "Registration Book," and this record, signed by the register of deeds and sealed with the seal of the proper court, constitutes the original certificate of title. All certificates are numbered consecutively, and an exact duplicate of each certificate is issued to the owner and constitutes his unassailable title. Land once registered under the act remains forever registered land, and no title to such land in derogation of that of the registered owner can be acquired by prescription or adverse possession. The original or the owner's duplicate certificate is made conclusive evidence of its contents in all courts. Registered land may be dealt with by conveyance, mortgage, lease, or other voluntary instrument, but such document operates only as a contract between the parties and evidence of authority to the registrar or clerk to make registration. The act of registration is the operative act to convey or affect the land. Upon conveyance in fee a new certificate may be issued to the purchaser, the old one being cancelled. A memorandum of all incumbrances upon the land by way of mortgage, lease, or otherwise must be indorsed upon the back of the original certificate and the owner's duplicate, so that the original certificate and duplicate shall at all times show the exact state of the title and obviate all necessity for further investigation.

Registered land remains subject to attachment under process and subject to execution, and to liens of any kind attaching to real estate by operation of law, and to the ordinary laws of descent, right of partition, and right of eminent domain; but all attachments, levies, liens, acquisition and interest by descent, partition, or eminent domain, are required to be registered and indorsed upon the original and the owner's duplicate certificate. Similar provisions are made for cases of bankruptcy, insolvency, and analogous proceedings.

Upon the registration of land the owner is required to pay to the register of deeds as an assurance fund one-tenth of one per cent of the

assessed value of the real estate, on the basis of the last assessment for municipal taxation, or, if it has not been assessed, its market value. This fund is paid into the Insular Treasury and is invested, with the approval of the Governor-General. Any person who without negligence on his part sustains loss or damage through any omission, mistake, or malfeasance of the clerk of the court, the register of deeds, or of any deputy or clerk of the register of deeds in the performance of their respective duties under the provisions of the act, and any person who is wrongfully deprived of land or any interest therein, without negligence on his part, through registration under the provisions of the act, or by any mistake, omission, or misdescription in any certificate or owner's duplicate, or by any erroneous entry or cancellation, and who by the provisions of the act is barred from bringing an action for recovery of the land or interest therein, may bring an action in any court of competent jurisdiction against the Insular Treasurer for damages to be paid out of the assurance fund. If the assurance fund should at any time prove insufficient to meet the amount called for by judgments, the deficiency is made up from any funds in the Treasury not otherwise appropriated. In cases of such payment the Insular Treasurer is subrogated to all the rights of the plaintiff against any other parties or securities. Adequate provision is made for the issuance of a new duplicate certificate in case the owner's duplicate is lost or destroyed. The act provides a scale of fees for the registration of lands, and prescribes penalties for perjury and fraud committed in relation to any of its provisions. The act is made applicable to all public lands that are alienated, granted, or conveyed after its enactment. The pre-existing land registration system was continued in force, the new act not being made compulsory except as to public lands.

The Philippine Legislature recently passed what is termed the "Cadastral Act," providing for special proceedings for the settlement and adjudication in one trial of the title to all lands owned by various persons within a given district. After the survey is made, a petition for registration is filed in court by the Attorney-General. After due notice, the trial is held, and all conflicting interests are adjudicated; decrees are entered in favor of the persons adjudged to be the owners of the lands; and such decrees entitle the several owners to separate certificates of title as in the case of registration under the Land Registration Act. Seventy per cent of the cost of the survey, monumenting, and registration proceedings is paid by the owner in five equal annual installments, and the remainder of such expense is born equally by the Philippine Government, the province, and the municipality. It is the purpose of the Ca-

dastral Act to effect the survey, monumenting, and registration of all large areas of private agricultural lands in the shortest possible time, and at the minimum of expense to owners.

*Appointment of Judges.*—The justices of the Supreme Court, and judges of the courts of first instance were, under the Organic Act, appointed by the United States Philippine Commission to hold office during its pleasure: but the Philippine Bill provides that the Chief Justice and associate justices of the Supreme Court shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and that the judges of the courts of first instance shall be appointed by the Governor-General, by and with the advice and consent of the Philippine Commission. The judge of the municipal court of Manila is appointed in the same manner as judges of the courts of first instance. Liberal provision is made for the payment of the travelling expenses of a judge and his family from his place of residence in the United States to Manila, when he is appointed while residing in the United States. In such cases, also, after three years service, a judge is entitled upon retirement from the service to transportation for himself and family from Manila to his place of residence in the United States.

*Annual Court Vacations and Leaves of Absence.*—The law provides that the regular sessions of the Supreme Court may be suspended from the 1st of April to the 1st of July of each year; and the courts of first instance may suspend their regular sessions from the 1st of May to the 1st of July of each year. During these vacation periods one justice of the Supreme Court and one judge of the Court of First Instance of Manila are required to be present in Manila for the purpose of attending to matters of interlocutory jurisdiction, hearing of motions for the appointment of receivers, petitions for temporary injunctions, applications for the writ of habeas corpus, making orders which are not final in character and do not involve a decision upon the merits, hearing applications for bail, holding preliminary examinations, making such orders in criminal cases as do not involve final judgment, and making appointments of notaries public.

On the recommendation of the Chief Justice of the Supreme Court, the Secretary of Finance and Justice issues an order on or before the 1st of January of each year naming one judge of the court of first instance of Manila to be present in Manila during the court vacation, and a number of the regular district judges and auxiliary judges of the courts of first instance to remain on duty in their respective districts and to be available for interlocutory jurisdiction in specified neighboring districts. The law provides that the assignment of judges for vacation duty shall be so ar-

ranged that no judge of the court of first instance will be assigned to this duty more than once in three years.

Every justice of the Supreme Court may once every three years take what is termed the "long vacation" of six months, including the period of court vacation, and he is permitted by law to remain on duty when the court is in session during court vacations and accumulate to his credit three annual court vacations, so that in connection with his long vacation he may become entitled to leave of absence for one year. The judge of the courts of first instance may every three years take a leave of absence of five months, and this leave may be taken at any time during the year with the consent of the Secretary of Finance and Justice; but to enjoy this privilege, the judge must have been on duty during the next preceding court vacation. The justices of the Supreme Court and the judges of the courts of first instance who are not assigned to vacation duty may spend the regular court vacation either in the Islands or abroad. The purpose of the long vacation is to enable the judges to go to the United States or elsewhere for rest and recreation. They receive full pay during vacation periods and when on leave of absence.

*Admission to the Practice of Law.*—Any resident of the Philippine Islands, not a subject or citizen of any foreign government, being of good moral character, having attained the age of 21 years, and possessing a high school education or its equivalent may apply to the Supreme Court for admission to the practice of law. Applicants who have not been admitted to the practice of law in any of the United States courts or in the highest court of any State or Territory of the United States, or in the courts of the Philippine Islands or of Spain, or any of its dependencies during the period of Spanish sovereignty, must show that they have studied law for three years in a law school, or in the office of a practicing attorney, or in a court of record. An attorney who has been admitted to practice in a federal court or in the highest court in any State or Territory in the United States is required to pass an examination on the Civil Code, the Penal Code, and the Code of Commerce in force in these Islands. Applicants who have been admitted in the courts of the Philippines or in the courts of Spain, or any of its dependencies during the period of the Spanish sovereignty, and who possess the qualifications required by the Code of Civil Procedure, are required to pass an examination on the codes of civil and criminal procedure now in force, and on such other codes as may hereafter be enacted. Applicants who have not been admitted to the practice of law in any of the jurisdictions above mentioned are required to pass an examination on civil law, civil procedure, mercantile law, and drafting

legal papers. Examinations have heretofore been given twice a year, but beginning this year (1914) the examination will be held annually in the month of August. The examinations are conducted by a committee consisting of three practicing lawyers appointed by the court. A grade of at least 75 per cent in each of the subjects is required. The examination may be taken either in English or in Spanish, at the option of the candidate. The applicants who are successful in the examination are admitted to the practice of law on motion of the examining committee.

*Native Judges and Lawyers.*—When the United States acquired possession of the Philippine Islands, a highly developed but unsatisfactory system of judicature was in force in the Islands. The Filipinos who were engaged in professional life were further advanced in the study and practice of law than in any other branch of learning. During the military regime from 1898 to 1901 many prominent native lawyers performed important functions in the judicial and legal branches of the military government. From the organization of civil government in 1901 the participation of natives in the legislative and judicial affairs of the government has been greater than in any other branches of public service. Four of the five Filipinos at present on the Philippine Commission are able lawyers. The present Secretary of Finance and Justice is a Filipino lawyer who was formerly one of the most notable members of the Supreme Court. The present Attorney-General, a majority of the lawyers in his office and all the prosecuting attorneys are Filipinos. The members of the Philippine Assembly are all natives, and a large majority are lawyers. Many of them formerly resided and practiced law in Manila, but returned to their respective provinces, established a legal residence, and were elected to the Assembly. The Supreme Court consisting of seven members has for its Chief Justice one of the most distinguished and highly respected Filipinos in the Islands and two of the associate justices are learned Filipinos of recognized professional ability. The present Executive Secretary, who was formerly a judge and later Attorney-General, is an able and distinguished Filipino. More than half of the judges of the courts of first instance, all the clerks of courts, and practically all justices of the peace are Filipinos.

*Official Language of the Courts.*—The Code of Civil Procedure provided that the official language of all courts and their records should be Spanish until January 1, 1906, and that thereafter English should be the official language. This provision was later extended to January 1, 1911, and still later to January 1, 1913. English became the official language on the last mentioned date, but on February 11, 1913, the legislature passed an act

which was made retroactive to take effect as of January 1, 1913, amending the section relating to the official language so as to read as follows:

"Until otherwise provided by the Philippine Legislature, the official language of all courts and their records shall be the English language; *Provided*, That until January first, nineteen hundred and twenty, Spanish shall be also an official language of the courts and their records; that the Supreme Court, any Court of First Instance, the Court of Land Registration, any justice of the peace court, the municipal court, or any other court of similar jurisdiction which may hereafter be established, may order its record to be made in either English or Spanish as it may deem best for the public convenience and the interests of the parties; and that any party or his counsel may examine witnesses and make oral argument in English or Spanish, which shall then and there be interpreted into the other language by a court interpreter whenever the other party or his counsel does not understand the language in which the examination or argument is made, and so requests, and may submit any petition, motion, pleading, brief, document or other evidence either in English or Spanish without an accompanying translation into the other language: *Provided however*, that in cases in which all the parties or counsel stipulate in writing, or the accused in a criminal action requests, the language used in the records shall be in accordance with such stipulation or request; and that proceedings in justice of the peace courts shall be in the Spanish language unless the justice speaks English and there is an official interpreter or all the parties or their counsel speak English."

#### SOME SATISFACTORY RESULTS.

The administration of justice in the Philippine Islands under modern rules of procedure has resulted in brushing aside some of the technical rules of the common law that have brought the courts of other countries into disrepute, and the Filipinos have been taught the possibility of an independent judiciary. They have learned that the judge can be not only independent of the governor, but may be absolutely independent of the executive and legislative departments. It is true that intimations have been made that certain judges have not been free from executive control, and that particular judges have been prejudiced or incompetent; but no charges have been made against the higher courts, and on the whole the records will show that, with rare exceptions, justice has been honestly and impartially administered throughout the Islands. While complaints against justices of the peace on grounds of incompetency, prejudice, dishonesty, or oppression were for a number of years more or less well founded, yet these causes of dissatisfaction are becoming less frequent. In the words of the Secretary of Finance and Justice, in his annual report in 1903, "it is not too much to say that the new judicial system has been one of the greatest benefits that has been conferred upon the Islands by the American Government, and that

it has brought home to the Filipino people an abiding conviction that in the courts is to be found safe and reliable protection against all unjust invasions of person or property."

Manila, P. I., December 15, 1914.