

A PLAN TO ABOLISH THE JUSTICE OF THE PEACE COURTS *

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The security of tenure of judges in relation to the independence of the judiciary would perhaps be the most appropriate subject for this occasion. There is, however, a question involving the constitutionality of paragraph 2 of section 3 of Republic Act No. 1186, which abolished the positions of judges at large and cadastral judges, now pending decision before the Supreme Court.¹ Inasmuch as the question is *sub-judice* and I was one of the lawyers who appeared for the ousted judges during the oral argument, I deem it improper to consider that question with you. At any rate, I have already expounded at length my views on the subject when I appeared before the Supreme Court. I need not repeat them here.

* Speech delivered at a symposium held at Rizal Hall, U.P., on September 24, 1954, under the auspices of the *Order of the Purple Feather* of the College of Law, University of the Philippines.

** Vice-Dean and Professor of Law, Francisco Law College. For more data, see Sinco, V. G., *The Symposium and the Guest of Honor*, *supra*. In his prefatory remarks, former Ambassador Sebastian said: "Whatever little success I may have achieved both in my public and private life, as a practitioner, as a member of the bench, as a politician, and as a diplomat, I owe it to the institution which gave me the training and preparation for the life I have led after leaving her portals 39 years ago. I refer to this time-honored institution, the College of Law of the University of the Philippines."

Recalling his pre-law student days, he continued: "The subject of the symposium—The Philippine Judiciary—has attracted my attention since early youth, even before I decided to take up law. As a self-supporting student I did all sorts of jobs, as you might say. I was working for a newspaper when one day I dropped in by chance at the Court of First Instance of Manila situated in the old Intramuros. A venerable man in his late fifties, bald-headed, dignified, and imposing presided over the court. He was Judge Charles Lobingier. With soberness and paternal solicitude, in contrast to the arrogance and self-importance paraded by some judges today, he administered justice with the light that God had given him. I was so impressed that despite the advice of the Principal of the Manila High School that I take up engineering, as he said I was very good in mathematics, I decided upon graduation from high school to take up law. Later, I met that same judge in the College of Law, University of the Philippines, as my teacher in Roman Law. He was one of those who, together with Dean George Malcolm, later a Justice of the Supreme Court, Dr. Jorge Bocobo, later Dean of the College of Law and afterwards President of the University of the Philippines and then a Justice of the Supreme Court and now chairman of the Code Commission, Professor Jose A. Espiritu, Dean Emeritus of the College of Law, U.P., Judge Crossfield, Justice Moreland, Judge Dewitt, Judge Harvey, Professor Weisenhagen, and an array of legal talents, composed then the faculty of the College of Law. I then dreamed that some day I too might become a judge. And as Fate should will it, seventeen years later, I was presiding over one of the auxiliary branches of the Court of First Instance of Manila."

¹ For the text of Republic Act No. 186, see 29 Phil. L. J., 422-428 (July, 1954).—Editor's note.

Another question which I am sure would interest you is whether the independence of our judiciary would be better secured by placing the administration of the courts inferior to the Supreme Court under the Supreme Court rather than under the Secretary of the Department of Justice, who, by operation of law, is directly under and responsible to the President of the Philippines. But this question has already been fully discussed by our legal talents and statesmen, among them Dean Vicente J. Francisco, Senators Lorenzo M. Tañada and Claro M. Recto, and also by that distinguished jurist, Justice Pedro Tuason, now the Secretary of Justice. I shall refrain, therefore, from discussing that subject. I would like to state though that I favor the transfer of the power to administer and supervise the courts to the Supreme Court as a means of insuring their independence of action and of more full effectuating the separation of powers contemplated by the Constitution.

I shall therefore take advantage of this opportunity to discuss with you a novel idea, to launch a new plan concerning our judicial system. I have chosen this occasion to discuss the subject for no better forum could be found than this select group of law students. In expounding my personal views on this plan, which to some may seem revolutionary, I am not impelled by the prevalent mood of revamping the various offices of the government. I am prompted rather by the desire to simplify our judicial system and make it more responsive and more adaptable to our present situation.

I feel that my plan for the simplification of our judicial set-up should be taken up and carefully studied, its advantages and disadvantages thoroughly threshed out. It is also my hope that not only the members of the Order of the Purple Feather and other student groups interested in the pressing problems of our judicial system would take up and study my proposition in all its aspects but also the members of the Bench and Bar, and possibly the general public.²

The present judicial system in our country is composed of the Supreme Court, the Court of Appeals, the Courts of First Instance, and the Justice of the Peace Courts. We also have, of course, the Electoral Commission, the Court of Industrial Relations, the Public Service Commission and the Court of Tax Appeals, vested with quasi-judicial powers. Thus, strictly speaking, we have four classes of courts clothed with judicial powers.

My plan consists in the abolition of the Justice of the Peace Courts, so that there will be only 3 instances, namely, Court of First Instance, Court of Appeals and Supreme Court.

² Since the presentation of the Sebastian Plan, several diverse responses have been published in the "Letters to the Editor" columns of several Manila newspapers.—Editor's note.

The Justice of the Peace Courts were established and organized in the Philippines by the Second Philippine Commission in 1901.³ In organizing the Justice of the Peace Courts, the Philippine Commission has implanted in the Philippines a system which the United States has borrowed from England, where Justices of the Peace were "known to the common law of England for a century and a half before the discovery of America." Formerly, the justices of the peace, were "mere conservators of the peace" as the name implies, exercising no judicial functions, and performing a great variety of duties connected with local affairs. Here in the Philippines, however, the Justice of the Peace Courts were vested with judicial power and jurisdiction to try petty cases,⁴ which was enlarged by subsequent legislation.

It may be admitted that in 1901, after the termination of the Spanish-American war and upon the establishment of a military government, and even during the years immediately following the establishment of civil government here in the Philippines, the organization and establishment of the Justice of the Peace Courts was in response to a necessity. There was at that time lack of good roads and means of communication was difficult. The Justice of the Peace Courts, at that time, filled a vacuum in our judicial system, for they were the only courts within the easy reach of the people of the municipalities for the solution of their minor grievances or differences.

Today, however, conditions are very different. Almost all the municipalities and towns are connected by good roads. Means of transportation and communication have greatly improved. It cannot be said, therefore, that Justice of the Peace Courts are the only courts within the reach of our populace. Neither can it be said that Justice of the Peace Courts as the only courts that afford an "inexpensive and speedy remedy" of the grievances and differences of our people.

Having been assigned, during my judicial career, to various provinces, I came to know that very few cases are filed in the Justice of the Peace Courts. Many Justices of the Peace do nothing for days and sometimes for months on end. The bulk of their meager work is in the preliminary investigation of criminal cases which are cognizable by the Court of First Instance. And the few cases that are filed before them for trial and decision are, in most instances, appealed to the Court of First Instance.

Such being the case, why not abolish the Justice of the Peace Courts and in their place create new positions of judges of Courts of First Instance? Cases falling within the original jurisdiction of the Justice of the Peace Courts can be taken direct cognizance by the Court of First

³ Act No. 136 of the Philippine Commission, enacted June 11, 1901.

⁴ *Idem*.

Instance, and the decision of a judge of First Instance, in so far as questions of fact are concerned, will be final. Only cases involving legal questions or the constitutionality of an ordinance or the legality of any tax, impost or assessment will be appealable to the Court of Appeals. In this manner, it will be less expensive for litigants, for instead of having their cases filed and tried before the Justice of the Peace Court and then tried *de novo* on appeal to the Court of First Instance, such cases will be filed and tried only once in the Court of First Instance.

It may be stated that such a system would work hardship on litigants who would be compelled to make the trip to the place where the Court of First Instance is situated. Such an argument might have been valid before the opening and improvement of our roads. Today with many improved roads and with so many means of transportation, it costs very little to go from one town to another in the provinces, compared to the rates twenty or thirty years ago. As I have already pointed out, litigants would have to make the trip just the same to the town or municipality where the Judge of First Instance holds court when their cases are elevated on appeal. My plan entails less expense for poor litigants who would have to engage the services of a lawyer only once and not twice as it happens now-a-days, and attend trial only once instead of attending trial before the Justice of the Peace Court and then another one in the Court of First Instance on appeal.

Furthermore, according to the proposed plan the judges of First Instance in one province would be distributed so that each of them will hold court in the town that is most central and accessible. Take my own home province as an example. At present, we have two judges of First Instance. But in my plan the province of Cagayan would have 4 judges, distributed as follows: Branch "A" composed of Tuguegarao, Amulong, Iguig, Peñablanca, Baggao, and Alcala, with permanent station in Tuguegarao, the provincial capital; Branch "B" composed of Aparri, Camalaniugan, Lallo, Gattaran, Lasam, Buguey, Gonzaga, and Sta. Ana, with permanent station in Aparri; Branch "C" composed of Ballesteros, Abulug, Allacapan, Pamplona, Sanchez Mira, Claveria, Langangan, and Calayan, with permanent station in Ballesteros or Abulug, and Branch "D" composed of Tuao, Enrile, Solana, Rizal, Piat, and Faire, with permanent station in Tuao or Piat.

Note that the town of Claveria, which in my plan would be under Branch "C," is about 180 kilometers from Tuguegarao, the provincial capital and about 85 kilometers from the town of Aparri. At present a litigant from Claveria would have to travel 185 kilometers if his case were tried in Tuguegarao, or 85 kilometers if the case were tried by the Aparri branch. In my plan, the litigants would only travel about 30 or 40 kilometers to the seat of the Court in their district.

Note also that the salaries of two additional judges in Cagayan will only be ₱24,000.00, according to the provisions of Republic Act No. 1186. At present the total amount of salaries of 21 Justices of the Peace in Cagayan is ₱59,280.00. So that, in my plan, the Government will save money by the abolition of the 21 Justice of the Peace Courts and in their places two additional branches of the Court of First Instance created with a total outlay in salary of ₱24,000.00 only.

Allow me to call your attention that we have in the Philippines 858 justices of the peace with a total salary of about ₱2,560,480.00. We also have 114 judges of Courts of First Instance who, together with the employees of their courts, receive a total salary of ₱2,462,880.00. By abolishing the Justice of the Peace Courts, two hundred additional judges of Courts of First Instance can be appointed. With 300 judges of Courts of First Instance distributed in central and accessible places, we would indeed be bringing the Courts of First Instance nearer, and they would be more accessible, to the people and at less expense both for the Government and the litigants.

One of the questions which will likely be raised with the abolition of the Justice of the Peace Courts is this: Does not the abolition of the Justice of the Peace Courts violate Section 9 of Art. VIII of the Constitution which provides

"SEC. 9—The Members of the Supreme Court and all judges of inferior courts shall hold office during good behaviour, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office. * * *"

In the case of the judge at large and cadastral judges whose positions were abolished by Republic Act No. 1186, we have raised a similar question before the Supreme Court. The case is still *sub-judice*.

If the suggested plan of abolishing the Justice of the Peace Courts is adopted, such an abolition, in my considered opinion, is not a violation of the Constitution. In the first place section 1 of Article VIII of the Constitution provides that the judicial system shall be vested in the Supreme Court and in such other inferior courts as the legislature may create. The Justice of the Peace are statutory courts. The power to create carries with it the power to destroy. Courts created by the legislature may also be abolished by the legislature. Secondly, we are not abolishing particular positions as in the case of the judges at large and cadastral judges of Courts of First Instance. We are abolishing the courts. We are reorganizing the judicial system by abolishing the Justice of the Peace Courts. This is not prohibited by the Constitution.

Furthermore, if you will examine the laws referring to Justice of the Peace Courts you will find that since their organization in 1901 until the Judiciary Act in 1948, justices of the peace, unlike the judges of

Courts of First Instance, hold office during good behavior, unless sooner removed in accordance with law or unless their office is abolished or merged with another. In 1901, Justices of the Peace held office at the pleasure of the Philippine Commission. In 1906, with the approval of Act 1450, the tenure of justices of the peace was fixed at two years. By virtue of Acts 1627 and 2041, justices of the peace were to hold office during good behavior but this was later changed by the Administrative Code of 1916⁵ and the Revised Administrative Code of 1917⁶ which provided that justices of the peace would hold office during good behavior or *until their office is abolished or merged* with another office. Such provision was preserved in Act 2768 (1918), in Act 3107 (1923) and in Act 3988 (1931). After the approval of our Constitution in 1935, the Judiciary Act of 1948 was enacted wherein there appears in section 70 the following provision:

"SEC. 70.—*Tenure of Office.*—Transfer from one municipality to another.—Justices of peace having the requisite legal qualifications shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office, *unless sooner removed in accordance with law or unless his office be lawfully abolished or merged in the jurisdiction of another justice of the peace:* PROVIDED, that in case the public interest requires it, a justice of the peace of one municipality may be transferred to another."

It would seem plain, therefore, that, prior to the adoption of our Constitution, the tenure of the justices of the peace was fixed by statute, and even after the approval of the Constitution, justices of the peace held office during good behavior until they reach seventy years, or become incapacitated, *unless* their office be lawfully abolished. Therefore, the abolition of the Justice of the Peace Courts does not violate section 9 of Act VIII of the Constitution.

A few more words about the practicability of the proposed plan. The Election Law provides among other things that in cases of inclusion and exclusion of voters, justices of the peace may be assigned as circuit judges to try and decide such cases. In such cases, a justice of the peace acting as a circuit judge can be assigned to try cases pertaining to two or three or even more than three municipalities. The idea of grouping several municipalities under one justice of the peace for purposes of inclusion and exclusion of voters is the very underlying principle of my proposed plan. There should be a grouping of municipalities, according to accessibility and transportation facilities, and choose the most central and most strategic of said municipalities and make it the seat of the judge of the Court of First Instance for that given circuit.

Before concluding, permit me to express the conviction that what is

⁵ Act No. 2657.

⁶ Act No. 2711.

most needed to insure the success of any judicial system is the judicious selection of good, honest and upright judges. Aside from the mastery of the principles of law, a judge must have honesty and integrity. In the appointment of judges, political affiliation should not be given paramount consideration. Care should be taken to select from the best qualified, taking into account only their training, their knowledge of the law, their experience, their proven honesty and their known integrity. To insure the success of a judicial system, we must fill our courts with judges who will not cringe under threats, be those threats emanate from the powers that be. We must have judges who will be undeterred by outside influence, judges who will not be corrupted by the glitter of gold, judges who are conscious of their responsibility, and judges who can decide cases without fear or favor. In fine, judges who will sit in judgment over their fellow men with no other guide but the light that God has given them and the dictates of their own conscience.