

production may bring about strikes and the paralyzation of the economy, and fourth: the government will have to pay at an increased rate of exchange under the development loan agreement with the United States. These are the disastrous effects that can be foreseen from the passage of this law. (*A Symposium on the 40% Dollar Margin Law*: PRO: Pedro R. Sabido; CON: Arturo M. Tolentino, VII FAR EASTERN LAW REVIEW NO. 2, at 129-159, (1959). P1.50 at the Far Eastern University, Manila. This issue also contains: Sayoc, *Legal Aspects of Foreign Investments in the Philippines*.)

## LEGISLATION

**POLITICAL LAW:** To grant greater independence to local governments, Congress in its last session enacted Republic Act 2264. Significant changes have been effected. Local budgets, even when they appropriate an amount exceeding the estimated receipts for the ensuing year, become effective immediately upon approval by the corresponding local legislative bodies, without requiring the approval of the Secretary of Finance as was the case before.<sup>1</sup> Tax ordinances also become immediately<sup>2</sup> effective upon approval by the local law-making body. The only limitation is the authority of the Secretary of Finance to suspend the effectivity of the tax measure within one hundred and twenty days after passage if he finds it unjust, excessive, oppressive, or confiscatory.

Additional powers are granted provincial and municipal boards and city and municipal and regularly organized municipal district councils. Provincial boards may now appropriate money for purposes not specified by law, make appropriations for loans or aids to municipalities or municipal districts of the province, and exercise the power of eminent domain for certain purposes without need of the approval of the proper Department Head.<sup>3</sup> The first power is shared by municipal boards, city, municipal and regularly organized municipal district councils. Adoption of zoning and planning ordinances are also granted municipal bodies reducing the National Planning Commission<sup>4</sup> to a mere consultative entity. Likewise, local governments thru their respective legislative bodies may now create, define boundaries and change the names of barrios and sitios in their respective jurisdiction on petition of a majority of the voters in the areas affected.<sup>5</sup>

Other innovations include a provision for a vice-governor,<sup>6</sup> the manner of succession to the office of governor,<sup>7</sup> variable composition of provincial

<sup>1</sup> REV. ADM. CODE § 2120, as amended by R. A. No. 1063 (provincial budgets) and § 2296, as amended by R. A. 1062 (municipal budgets).

<sup>2</sup> Under section 2039, Rev. Adm. Code, an entirely new tax created by ordinance enacted during the current year became effective at the beginning of any subsequent quarter.

<sup>3</sup> Section 2106 (a), (c), (f), Rev. Adm. Code, required the approval of the proper Department Head.

<sup>4</sup> Created by Executive Order No. 367 dated Nov. 11, 1950 as the sole authority on zoning and planning measures.

<sup>5</sup> Under section 68, Rev. Adm. Code, it was the President who was invested with the power to fix the territorial boundaries of local governments.

<sup>6</sup> No such position was provided for in section 2069, Rev. Adm. Code.

<sup>7</sup> Modified section 21 (a) R.A. No. 180.

boards made dependent on the classification of provinces,<sup>8</sup> and the reduction of the age qualification of the regular provincial board members to twenty three years.<sup>9</sup>

[R. A. NO. 2264]

AN ACT

AMENDING THE LAWS GOVERNING LOCAL GOVERNMENTS BY INCREASING THEIR AUTONOMY AND REORGANIZING PROVINCIAL GOVERNMENTS.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. *Provincial, city, municipal and regularly organized municipal district budgets.*—Any provision of existing law to the contrary notwithstanding, and provided that a provincial, municipal, regularly organized municipal district or city budget appropriates an aggregate amount not exceeding the estimated tax receipts and/or income for the ensuing year, certified collectible by the Provincial Treasurer in the cases of provinces, municipalities and regularly organized municipal districts, and by the City Treasurer in the case of cities: *And provided,* That provisions have been made for the statutory and/or current contractual obligations of the province, city, municipality or regularly organized municipal district: *And provided,* That no official or employee shall receive a salary higher than the maximum salary provided by subsisting salary laws and executive orders, the provincial budget shall be in full force and effect on the date therein fixed for its effectivity by the Provincial Board, the city budget shall be in full force and effect on the date therein fixed for its effectivity by the Municipal Board or City Council of the city with the approval of the City Mayor, and the municipal and regularly organized municipal district budget shall be in full force and effect on the date therein fixed for its effectivity by the municipal council of the municipality or municipal district with the approval of the municipal mayor.

If the provincial board, municipal board or city council of the city, or municipal council of the municipality or regularly organized municipal district shall fail to enact a budget before the beginning of the ensuing fiscal year, the budget for the preceding fiscal year shall be deemed re-enacted. Changes in the budget may be effected by supplemental budgets prepared and adopted in the same manner as the annual budget.

Copies of the provincial and city budgets shall be furnished the Secretary of Finance within ten days from their approval, who shall have the

<sup>8</sup> The uniform general composition provided for under section 2095, Rev. Adm. Code, consisted of the governor and two other members elected by the qualified voters of the province.

<sup>9</sup> Section 2071, Rev. Adm. Code, as amended by R. A. No. 1095 provided for twenty five years.

power to review such budgets in order to see to it that the above provisions and conditions are complied with. If within ninety days after submission to the Secretary of Finance, the secretary takes no action, the said budget shall be deemed to have complied with the above provisions. If within ninety days after submission to him of the budget and upon examination thereof the Secretary of Finance shall determine that the provisions of the Salary Laws and Executive Orders have been violated, he shall advise in writing the Provincial Treasurer or City Treasurer, as the case may be. Following receipt of such advice from the Secretary of Finance, it shall be unlawful for the Provincial or City Treasurer, as the case may be, to make further disbursement of funds for any of the items or purposes in question except as may be expressly authorized in said advice by the Secretary of Finance, unless the budget shall have been corrected or revised to meet the objections presented in said advice, and until such correction or revision shall have been submitted to and approved by the Secretary of Finance, which approval may not be unreasonably withheld.

Upon ascertaining that the provincial or city budget has not made provisions for all statutory and/or current contractual obligations of the province or city, or that said budget has appropriated an aggregate amount exceeding the estimated tax receipts or income for the ensuing year, the Secretary of Finance shall, within ninety days after receipt of the provincial or city budget, have the power to declare the same as inoperative and to return the budget forthwith to the corresponding Provincial Governor or City Mayor for proper adjustment, in which event, the province or city concerned shall operate on the previous year's budget until such time as a new budget shall have been made meeting the objections presented by the Secretary of Finance.

Copies of the municipal and regularly organized municipal district budgets shall be furnished the Provincial Treasurer within ten days from their approval, who shall have the power to review such budgets in order to see to it that the above provisions are complied with. If within ninety days after submission the Provincial Treasurer takes no action, the said budget shall be deemed to have complied with the above provisions. If within ninety days after submission to him of the budget and upon examination thereof the Provincial Treasurer shall determine that the provisions of the Salary Laws and Executive Orders have been violated, he shall advise the municipal or regularly organized Municipal District Treasurer, as the case may be, not to make further disbursements of funds for any of the items or purposes in question except as may be expressly authorized in said advice of the Provincial Treasurer, unless the budgets shall have been corrected or revised to meet the objections presented in said advice, and until such correction or revision shall have been admitted and approved by the Provincial Treasurer, which approval may not be unreasonably withheld.

Upon ascertaining that the municipal or municipal district budget has not made provision for all statutory and/or current contractual obligations of the municipality or municipal district, or that said budget has appropriated an aggregate amount exceeding the estimated tax receipts or income for the ensuing year, the Provincial Treasurer, shall, within ninety days after receipt of the municipal or municipal district budget, have the power to declare the same as inoperative and to return the budget forthwith to the corresponding municipal or regularly organized municipal district mayor for the proper adjustment, in which event, the municipality or regularly organized municipal district concerned shall operate on the previous year's budget until such time as a new budget shall have been made meeting the objections presented by the Provincial Treasurer.

SEC. 2. *Taxation.*—Any provision of law to the contrary notwithstanding, all chartered cities, municipalities and municipal districts shall have authority to impose municipal license taxes or fees upon persons engaged in any occupation or business, or exercising privileges in chartered cities, municipalities or municipal districts by requiring them to secure licenses at rates fixed by the municipal board or city council of the city, the municipal council of the municipality, or the municipal district council of the municipal district; to collect fees and charges for services rendered by the city, municipality or municipal district; to regulate and impose reasonable fees for services rendered in connection with any business, profession or occupation being conducted within the city, municipality or municipal district and otherwise to levy for public purposes, just and uniform taxes, licenses or fees: *Provided*, That municipalities and municipal districts shall, in no case, impose any percentage tax on sales or other taxes, in any form based thereon nor impose taxes on articles subject to specific tax, except gasoline, under the provisions of the national internal revenue code: *Provided, however*, That no city, municipality or municipal district may levy or impose any of the following:

- (a) Residence tax;
- (b) Documentary stamp tax;
- (c) Taxes on the business of persons engaged in the printing and publication of any newspaper, magazine, review or bulletin appearing at regular intervals and having fixed prices for subscription and sale, and which is not published primarily for the purpose of publishing advertisements;
- (d) Taxes on persons operating waterworks, irrigation and other public utilities except electric light, heat and power;
- (e) Taxes on forest products and forest concessions;
- (f) Taxes on estates, inheritances, gifts, legacies, and other acquisitions *mortis causa*;
- (g) Taxes on income of any kind whatsoever;

- (h) Taxes or fees for the registration of motor vehicles and for the issuance of all kinds of licenses or permits for the driving thereof;
- (i) Customs duties registration, wharfage on wharves owned by the national government, tonnage, and all other kinds of customs fees, charges and dues;
- (j) Taxes of any kind on banks, insurance companies, and persons paying franchise tax; and
- (k) Taxes on premiums paid by owners of property who obtain insurance directly with foreign insurance companies.

A tax ordinance shall go into effect on the fifteenth day after its passage, unless the ordinance shall provide otherwise: *Provided, however*, That the Secretary of Finance shall have authority to suspend the effectivity of any ordinance within one hundred and twenty days after its passage, if, in his opinion, the tax or fee therein levied or imposed is unjust, excessive, oppressive, or confiscatory, and when the said secretary exercises this authority the effectivity of such ordinance shall be suspended.

In such event the municipal board or city council in the case of cities and the municipal council or municipal district council in the case of municipalities and municipal districts may appeal the decision of the Secretary of Finance to the court during the pendency in which case the tax levied shall be considered as paid under protest.

SEC. 3. *Additional powers of provincial boards, municipal boards or city councils and municipal and regularly organized municipal district councils.*—Provincial Boards of the respective provinces shall have authority:

- (a) To appropriate money for purposes not specified by law, having in view the general welfare of the province and the inhabitants;
- (b) To appropriate money for loans or aids to municipalities or municipal districts of the province under such terms and conditions as the provincial boards may fix;
- (c) To exercise upon favorable recommendation by the municipal council of the municipality if the project is within one municipality, and if the project shall be constructed within two or more municipalities, upon favorable recommendation by the district highway engineer who shall give a previous hearing to the municipal councils of the municipalities concerned, the power of eminent domain for the following purposes: the construction or extension of roads, streets, sidewalks, bridges, ferries, levees, wharves, or piers, air fields, the construction of public buildings including school houses and the making of necessary improvements in connection therewith; the establishment of parks; playgrounds, plazas, market places, artesian wells, or systems for the supply of water, irrigation canals and dams, and the establishments of nurseries, breeding centers for animals,

health centers, hospitals, cemeteries, crematories, drainage systems, cess-pools, or sewage systems and abattoirs;

(d) Subject to the public service law to permit upon favorable recommendations by the municipal council of the municipality or municipalities where the project is situated and the District Engineer and subject to such conditions as may properly protect the public interest, the construction and maintenance, and provide use of railways, conduits and telephone lines across public thoroughfares, streets, roads, or other public property in the province provided that such construction and private use shall not prevent or obstruct the public use of such thoroughfares, streets, roads, or other property and the permit granted shall at all times be subject to revocation by the President if the public interest requires it;

(e) Create, and define boundaries of barrios and sitios in the provinces upon petition of a majority of the voters in the areas affected;

(f) Change names of barrios, sitios, and public buildings upon the recommendation of the Municipal Council not oftener than once every ten years: *Provided*, That the change of names of barrios or sitios shall be upon petition of a majority of the voters in those areas.

Municipal Boards or City Councils of the respective cities shall have authority:

(a) To appropriate money for purposes not specified by law, having in view the general welfare of the city and its inhabitants;

(b) Authorize payment of uniforms of the members of its police forces;

(c) Create, define boundaries and change the names of barrios and sitios in the cities upon petition of a majority of the voters in the areas affected; change the names of public buildings and public streets located within the boundaries of the city, not oftener than once every ten years.

Municipal councils of municipalities and regularly organized municipal districts shall have authority:

(a) To create a legal division or office in their respective municipalities to be headed by an attorney-at-law appointed by the mayor with the approval of the council and whose compensation shall be fixed by such council. Such head of office shall be known as the municipal attorney and shall act as legal counsel of the municipality and perform such duties and exercise such powers as may be assigned to him by the council. A member of the council who is an attorney-at-law may be appointed as such municipal attorney without any further compensation;

(b) To appropriate money for purposes not specified by law, having in view the general welfare of the municipality or organized municipal district concerned and its inhabitants;

(c) To change the names of public buildings and public streets located within the boundaries of the municipality or organized municipal district, not oftener than once every ten years.

*Authority to hold benefits.*—Authority is hereby granted to City Mayors and Municipal Mayors to grant permits to hold benefits, excepting cock-fighting and prohibited games of chance, for public and charitable purposes without requiring approval of the Office of the Social Welfare Administrator.

*Power to adopt zoning and planning ordinances.*—Any provision of law to the contrary notwithstanding, Municipal Boards or City Councils in cities, and Municipal Councils in municipalities are hereby authorized to adopt zoning and subdivision ordinances or regulations for their respective cities and municipalities subject to the approval of the City Mayor or Municipal Mayor, as the case may be. Cities and municipalities may, however, consult the National Planning Commission on matters pertaining to planning and zoning.

*Purchasing.*—Subject to auditing rules and regulations, provinces, cities and municipalities are hereby empowered to make purchases of materials, equipment and supplies that they respectively need either locally or elsewhere without the necessity of buying the same thru the Bureau of Supply: *Provided, however,*

(a) That the price that shall be paid shall not exceed the maximum prices set by the Bureau of Supply;

(b) That before purchases are effected of supplies, material and equipment requiring scientific tests, samples should first be forwarded to the Institute of Science and Technology and/or the Materials Testing Laboratories of the Bureau of Public Highways for analysis, and equipment should be referred to the Bureau of Public Highways or Public Works for complete specifications after which the reports of the Institute of Science and Technology and/or Materials Testing Laboratories of the Bureau of Public Highways and the specifications of the Bureau of Public Highways or Bureau of Public Works should be made the basis for the purchase;

(c) That purchases shall be made by public bidding, and awards shall be made by the Provincial, City or Municipal Committee on Award, composed of the Provincial Governor, Provincial Auditor and Provincial Treasurer in the case of provinces; the City Mayor, City Auditor, and City Treasurer in the case of cities; or by the Municipal Committee on Award composed of the Municipal Mayor, the Municipal Treasurer and a councilor chosen by the Municipal Council in the case of municipalities and regularly organized municipal districts.

All purchases before being paid by the provincial, city or municipal treasurer shall be certified by the chief of the office concerned that they conform to the specifications as to quality, quantity and prices actually being paid for.

The Bureau of Supply shall furnish all provinces, cities and municipalities a list of current government prices and specifications of materials, equipments and supplies at least once every three months.

Notwithstanding the foregoing provisions on purchases by public bidding, a purchase not exceeding five thousand pesos in case of provinces and chartered cities and one thousand pesos in case of municipalities and municipal districts, may be effected without public bidding, but after a canvass of prices in the province or municipality by the representatives of the provincial governor and provincial treasurer or by the representative of the city, municipal or municipal district mayor, treasurer and councilor chosen by the council, as refers to the province, city, municipality or municipality or municipal district, respectively.

*Authority to execute provincial, city and municipal public works projects.*

—The provinces, cities and municipalities are hereby authorized to undertake and carry out any public works projects, financed by the provincial, city and municipal funds or any other fund borrowed from or advanced by private third parties under the supervision of the District Engineer in the case of provinces and municipalities, and of the City Engineer in the case of cities, without the intervention of the Department of Public Works and Communications. The approval of plans and specifications thereof by the Provincial Governor and the District Engineer in the case of provinces and municipalities, and by the City Mayor and the City Engineer in the case of cities, respectively, with the favorable recommendation of the provincial board, city or municipal council shall constitute sufficient warrant for the undertaking and execution of said projects. Provinces, cities and municipalities, however, may consult if they so desire the Department of Public Works and Communications in connection with the preparation of plans and specifications for provincial, city or municipal public works projects. Provinces, cities and municipalities are likewise authorized to execute provincial, city, or municipal public works projects either by administration or by contracts under the usual bidding procedure of the government: *Provided*, That in the case where expenditure of public funds is not involved, public bidding may be dispensed with.

*SEC. 4. The Vice-Governor and succession to the Office of Governor.*

—There shall be in every province a provincial vice-governor who shall be elected in the same manner as the provincial governor and who, at

the time of his election, shall have the same qualifications as the provincial governor. The vice-governor shall assume the office of provincial governor for the unexpired term of the latter in the event of permanent vacancy in the office of provincial governor.

Should the provincial governor-elect die before assumption of office or fail to qualify for any reason, the provincial vice-governor-elect shall assume the office of provincial governor, but in the latter case, he shall hold office only until the provincial governor-elect qualifies.

In the event of temporary incapacity of the governor to perform the duties of his office on account of absence on leave, sickness, or any temporary incapacity, the vice-governor shall perform the duties and exercise the powers of the provincial governor that may be delegated to him in writing by the provincial governor during the period of the governor's temporary incapacity, and he shall receive the same salary as that of the governor.

Any provision of law to the contrary notwithstanding, the vice-governor shall be entitled to per diems, allowances and other privileges as are granted to members of the provincial board.

*SEC. 5. Composition of the Provincial Board.*—The provincial board in first, second and third class provinces shall be composed of the provincial governor, who shall be the presiding officer of the board, the vice-governor, and three other members who shall be elected at large by the qualified electors of the province. The provincial board in fourth, fifth, sixth, and seventh class provinces shall be composed of the provincial governor, who shall be the presiding officer of the board, the vice-governor, and two other members who shall be elected at large by the qualified electors of the province. The presence of three members shall constitute a quorum for the transaction of business by the board. In case of a tie on any matter deliberated upon by the board, the side in favor of which the governor has voted, shall prevail. In the absence of the governor, the vote of the majority of the members present shall constitute a binding act of the board.

*SEC. 5-A. Qualifications of the members of the provincial board other than the governor and vice-governor.*—No person shall be elected member of the provincial board other than the governor and the vice-governor unless, at the time of his election, he is a qualified voter of the province and has been a bona-fide resident therein for at least one year prior to his election and not less than twenty-three years of age.

*SEC. 6.* The first provincial vice-governor shall be elected in the general elections for provincial and municipal officers to be held next following the approval of this act.

SEC. 7. *The city, municipal and municipal district vice-mayor and succession to the office of mayor.*—The vice-mayor of every city, municipality or municipal district shall assume the office of mayor for the unexpired term of the latter in the event of permanent vacancy in the office of mayor. If for some reason the vice-mayor, is incapacitated from assuming the office of mayor or refuses to assume such office, the councilor who obtained the largest number of votes in the local elections immediately preceding shall assume the office of mayor. If for some reason the councilor who obtained the largest number of votes in the local elections immediately preceding is incapacitated from assuming the office of mayor or refuses to assume such office, the councilor who obtained the next largest number of votes in the local elections immediately preceding shall assume the office of mayor, and so on until the permanent vacancy in the office of mayor is filled.

Should the mayor-elect die before assumption of office or fail to qualify for any reason, the vice-mayor-elect shall assume the office of mayor, but in the latter case, he shall hold such office only until the mayor-elect qualifies. If for some reason the vice-mayor-elect is incapacitated from assuming the office of mayor or refuses to assume such office, the councilor-elect who obtained the largest number of votes in the local elections immediately preceding shall assume the office of mayor. If for some reason the councilor-elect who obtained the largest number of votes in the local elections immediately preceding is incapacitated from assuming the office of mayor or refuses to assume such office, the councilor-elect who obtained the next largest number of votes in the local elections immediately preceding shall assume the office of mayor, and so on until the office of mayor is filled.

In the event of temporary incapacity of the mayor to perform the duties of his office on account of absence on leave, sickness, or any temporary incapacity, the vice-mayor shall perform the duties and exercise the powers of the mayor except the power to appoint, suspend or dismiss employees. In the event the vice-mayor is temporarily incapacitated to perform the duties of the office of mayor, the councilor who obtained the largest number of votes among the incumbent councilors in the local elections immediately preceding shall perform the duties and exercise the powers of the mayor except the power to appoint, suspend or dismiss employees.

The provisions of this section shall not apply to cities which have no elective mayors and/or vice-mayors.

SEC. 8. *Effectivity of appointments by provincial governors, city mayors and municipal mayors.* — Appointments by provincial governors, city mayors and municipal mayors shall become effective upon the issuance of

such appointments and upon attestation by the provincial treasurer of provinces, in case of appointments made by provincial governors and municipal mayors, and by the city treasurer, in case of appointments made by city mayors. Provincial treasurers of provinces, and city treasurers of chartered cities are hereby deputized as deputies of the commissioner of civil service for the purpose of attesting to appointments made by provincial governors, city mayors and municipal mayors. Appointees of provincial governors and municipal mayors shall be entitled to collect the rate of compensation fixed for their appointments once said appointments have been attested to by the city treasurer in his capacity as representative of the commissioner of civil service in the city: *Provided*, That temporary appointments to unclassified or emergency positions shall take effect immediately upon their issuance without the necessity of such attestation.

All appointments made by provincial governors, city mayors and municipal mayors shall, after being attested to by the respective provincial or city treasurer, be forwarded within ten days to the commissioner of civil service for review pursuant to civil service law and rules. If within one hundred eighty days after receipt of said appointments, the commissioner of civil service shall not have made any corrections or revisions, then such appointments are deemed to have been properly made: *Provided, however*, That in case of appointments, attested contrary to civil service law, rules and regulations, the appointing official shall be responsible for the compensation received by the appointee from the time of the attestation of his appointment.

For purposes of this Section, provincial and city treasurers shall be under the supervision and control of the commissioner of civil service who shall issue rules and regulations relative to the attestation of appointments made by local government officials.

SEC. 9. All Acts, executive orders, administrative orders and proclamations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed or modified accordingly: *Provided*, That rights already acquired and existing at the time of its passage shall not in anyway be abridged, modified and affected.

SEC. 10. Nothing herein contained shall be construed as depriving any province, city, municipality or municipal district of any power at present enjoyed or already exercised or done by it or as diminishing its autonomy.

SEC. 11. If any part or section of this Act shall be declared unconstitutional, such declaration shall not invalidate the other provisions thereof.

SEC. 12. *Rules for the interpretation of the Local Autonomy Act.* —

1. Implied power of a province, a city or municipality shall be liberally construed in its favor. Any fair and reasonable doubt as to the existence

of the power should be interpreted in favor of the local government and it shall be presumed to exist.

2. The general welfare clause shall be liberally interpreted in case of doubt so as to give more power to local governments in promoting the economic condition, social welfare and material progress of the people in the community.

3. Vested rights existing at the time of the promulgation of this law arising out of a contract between a province, city or municipality on one hand and a third party on the other, should be governed by the original terms and provisions of the same, and in no case would this act infringe existing rights.

SEC. 13. This Act shall take effect upon its approval.

Approved, June 19, 1959.

**REMEDIAL LAW:** Another piece of amendatory legislation broadening in purpose is Republic Act 2613. Primarily intended to ease the traffic of cases coming to the courts of first instance, this law establishes more courts and increases the jurisdiction of the inferior courts.

It increases the number of CFI judges in each judicial district by as much as five. Two judges, for the City of Manila, and one, for Quezon City, are likewise added to the present number of municipal judges obtaining therein. The Act grants jurisdiction to the inferior courts, in civil cases, over actions where the value of the subject matter or amount of demand does not exceed five thousand pesos, exclusive of interests and costs, in cadastral or land registration cases, over lots of a value not exceeding the same amount, and, in criminal cases, over prosecutions for illegal possession of firearms, hitherto confined to the jurisdiction of the courts of first instance. Also, Justices of the Peace in the capitals of provinces and Judges of Municipal Courts enjoy like jurisdiction as the Court of First Instance over offenses carrying a penalty not exceeding *prision correccional* or imprisonment for not more than six years or fine not exceeding three thousand pesos, or both, committed within the province, with the decisions therein directly appealable to the Court of Appeals or the Supreme Court, as the case may be. Correspondingly the jurisdiction of the appellate courts is likewise considerably widened.

The other changes omitted in this report involve: (a) disposition of moneys paid into court; (b) composition of judicial districts; (c) permanent stations of district judges; (d) places and time of holding court; (e) qualifications for the office of Justice of the Peace; and (f) appointment and distribution of justices of the peace.

[R. A. NO. 2613]

AN ACT

TO AMEND CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED TWO HUNDRED AND NINETY-SIX, OTHERWISE KNOWN AS "THE JUDICIARY ACT OF 1948", AS AMENDED.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

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SEC. 2. Subparagraph five of paragraph three of section seventeen of the same Act is hereby amended to read as follows:

"(5) All civil cases in which the value in controversy exceeds two hundred thousand pesos, exclusive of interest and costs, or in which the title or possession of real estate exceeding in value the sum of two hundred thousand pesos to be ascertained by the oath of a party to the cause or by other competent evidence, is involved or brought in question. The Supreme Court shall likewise have exclusive jurisdiction over all appeals in cases, even though the value in controversy, exclusive of interest and costs, is two hundred thousand pesos or less, when the evidence involved in said cases is the same as the evidence submitted in an appealed civil case within the exclusive jurisdiction of the Supreme Court as provided herein."

SEC. 3. Section forty-four, paragraph (c), of the same Act is hereby amended to read as follows:

"SEC. 44. Original jurisdiction.—Courts of First Instance shall have original jurisdiction:

"(c) In all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to more than five thousand pesos;"

SEC. 4. Section forty-five of the same Act is hereby amended to read as follows:

"SEC. 45. *Appellate jurisdiction.*—Courts of First Instance shall have appellate jurisdiction over all cases arising in municipal and justice of the peace courts, in their respective provinces, except over appeals from cases tried by justices of the peace of provincial capitals or municipal judges pursuant to the authority granted under the last paragraph of Section eighty-seven of this Act."

X X X X X X X X

SEC. 9. Section seventy-one of the same Act is hereby amended to read as follows:

"SEC. 71. *Qualifications for the office of Justice of the Peace.*—No person shall be eligible for appointment as justice of the peace or auxiliary justice of the peace unless he is (1) at least twenty-five years of age; (2) a citizen of the Philippines; (3) of good moral character and has not been convicted of any felony; (4) has been admitted by the Supreme Court to the practice of law; and (5) has practiced law in the Philippines for a period of no less than three years or has held during a like period, within the Philippines, an office requiring admission to the practice of law in the Philippines as an indispensable requisite."

SEC. 10. Sections eighty-seven and eighty-eight of the same Act are hereby amended to read as follows:

"SEC. 87. *Original jurisdiction to try criminal cases.*—Justices of the peace and judges of municipal courts of chartered cities shall have original jurisdiction over:

"(a) All violations of municipal or city ordinances committed within their respective territorial jurisdiction;

"(b) All criminal cases arising under the laws relating to:

"(1) Gambling and management or operation of lotteries;

"(2) Assaults where the intent to kill is not charged or evident upon the trial;

"(3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

"(4) Sale of intoxicating liquors;

"(5) Falsely impersonating an officer;

"(6) Malicious mischief;

"(7) Trespass on government or private property;

"(8) Threatening to take human life; and

"(9) Illegal possession of firearms.

"(c) All other offenses except violation of election laws in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and imprisonment;

"Said justices of the peace and judges of municipal courts may also conduct preliminary investigations for any offense alleged to have been committed within their respective municipalities and cities, without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

"Justices of the peace in the capitals of provinces and Judges of Municipal Courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province in which

the penalty provided by law does not exceed *prision correccional* or imprisonment for not more than six years or fine not exceeding three thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear application for bail.

"All cases filed under the next preceding paragraph with Justices of the Peace of capitals and municipal court judges shall be tried and decided on the merits by the respective justices of the peace or municipal judges. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be."

"SEC. 88. *Original jurisdiction in civil cases.*—In all civil actions, including those mentioned in Rules fifty nine and sixty-two of the Rules of Court, arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the justice of the peace and the judge of a municipal court shall have exclusive original jurisdiction where the value of the subject-matter or amount of the demand does not exceed five thousand pesos, exclusive of interests and costs. Where there are several claims or causes of action between the same parties embodied in the same complaint, the amount of the demand shall be the totality of the demand in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; but where the claims or causes of action joined in a single complaint are separately owned by or due to different parties, each separate claim shall furnish the jurisdictional test. In forcible entry and detainer proceedings, the justice of the peace or judge of the municipal court shall have original jurisdiction, but the said justice or judge may receive evidence upon the question of title therein, whatever may be the value of the property, solely for the purpose of determining the character and extent of possession and damages for detention. In forcible entry proceedings, he may grant preliminary injunctions, in accordance with the provisions of the Rules of Court, to prevent the defendant from committing further acts of dispossession against the plaintiff.

"The jurisdiction of a justice of the peace and judge of a municipal court shall not extend to civil actions in which the subject of litigation is not capable of pecuniary estimation, except in forcible entry and detainer cases; nor to those which involve the legality of any tax, impost, or assessment; nor to actions involving admiralty or maritime jurisdiction; nor to matters of probate, the appointment of guardians, trustees or receivers; nor to action for annulment of marriages: *Provided, however,* That justices of the peace may, with the approval of the Secretary of Justice, be assigned by the respective district judge in each case to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots the value of which does not exceed five



thousand pesos, such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants, if there are more than one, or from the corresponding tax declaration of real property.

"Justices of the peace in the capitals of provinces and subprovinces and also municipal judges of chartered cities, in the absence of the District Judge from the province may exercise within the province like interlocutory jurisdiction as the Court of First Instance, which shall be held to include the hearing of all motions for the appointment of a receiver, for temporary injunctions, and for all other orders of the court which are not final in their character and do not involve a decision of the case on its merits, and the hearing of petitions for a writ of habeas corpus."

x        x        x        x        x        x        x        x

SEC. 13. This Act shall take effect upon its approval.

Approved, August 1, 1959.

## OPINIONS OF THE SECRETARY OF JUSTICE

*On Employment Under Ex. Or. No. 111, Exemption and Approval of Appointments in Violation of the Nepotism Rules*

OPINION NO. 206, s. 1959

Opinion is requested on the following queries:

"1. Whether the employment of more than one member of a family in the same bureau, which is prohibited under Executive Order No. 111, as amended, may now be allowed in view of the silence of Republic Act No. 2260 thereon;

"2. Whether the exemption granted by the aforesaid order to members of the police forces in chartered cities and commissioned officers and enlisted men of the Bureau of Coast and Geodetic Survey may still be enjoyed considering their non-inclusion in the list of persons exempted under Republic Act No. 2260 from the operation of the nepotism rules; and

"3. Whether the Commissioner of Civil Service may still exercise the power vested in him by the penultimate paragraph of Executive Order No. 111 to approve appointments made in violation of the nepotism rules in exceptionally meritorious cases where the application of said rules would produce a patent injustice or impair the efficiency of the public service."

The first question has arisen in connection with the proposed appointment of August Mijares as janitor in the Bureau of Quarantine where his brother, Diogenes Mijares, is employed. The Commissioner of Civil Service has expressed the view that the employment of August Mijares in said bureau may be allowed on the ground that the prohibition found in Section 2 of Executive Order No. 111, as amended, against the appointment of more than one member of a family in an office or bureau does not appear in Section 30 of Republic Act No. 2260 (otherwise known as "The Civil Service Act of 1959") containing the new rules on nepotism. He states that as this Act is a recent enactment of the legislature, it should be deemed as having superseded the said executive order and its amendments. On the other hand, that office is of the opinion that Executive Order No. 111 has not been expressly repealed by Republic Act No. 2260, and since they are not irreconcilably inconsistent but can stand together and be harmonized, the former may be considered as supplementary to the latter.

We are inclined to sustain the view of the Commissioner of Civil Service. A comparison between section 30 of Republic Act No. 2260, otherwise known as "The Civil Service Act of 1959", and Executive Order