

COMMENTS ON THE JUDICIARY REORGANIZATION ACT

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Cabinet Bill No. 42, "An Act Reorganizing the Judiciary, Appropriating Funds therefor and for Other Purposes," submitted by Assemblyman-Minister of Justice, Ricardo C. Puno to the *interim* Batasang Pambansa was prepared by a Presidential Committee with the Chief Justice, Enrique M. Fernando, as Chairman, pursuant to Executive Order No. 611 "to improve judicial services, and thereby best serve the public interest" in the "efficient dispensation of justice."

Will Cabinet Bill No. 42 help accomplish the purposes of the judicial reorganization?

Its principal provisions are: (1) the creation of "the Intermediate Appellate Court" to replace the Court of Appeals, providing for 45 members, with nine (9) divisions of five (5) members each, four divisions to take cognizance of appeals in *civil* cases; two divisions for *criminal* cases; three divisions for special and all other cases. The affirmative vote of *three* members of a division of *five* shall be necessary for the pronouncement of a decision or final resolution; (2) the creation of thirteen (13) "Regional Trial Courts" in lieu of the Courts of First Instance; (3) the creation of "Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts" to replace City and Municipal Courts, and (4) with "Miscellaneous Provisions."

The principal defects of the judicial system during and even before Martial Law, are (a) undue delay in the decisions of many pending cases, and (b) unjust decisions thru corruption which has also spread to some sectors of the judiciary.

The above defects, which are the legitimate grievances of many parties-litigants, will not be cured by the proposed reorganization of the judiciary by Cabinet Bill No. 42, for the following considerations:

1. The jurisdiction of the Hon. Supreme Court remains the same "in accordance with the Constitution and *other* applicable laws of *decrees*" (Sec. 9, par. 2). Due to the heavy back-log of the Supreme Court, it can not comply with the Constitutional provision that it must decide all cases submitted to it within eighteen (18) months (Art. X, Sec. 11(1) 1973 Constitution). The Supreme Court should be relieved of reviews or appeals of less important cases, like the Workmen's Compen-

sation, administrative reviews, etc., for its time and attention should be dedicated to decide important questions of law;

2. The creation of division in the Intermediate Appellate Court (Court of Appeals) into divisions to decide civil, criminal and other cases, may expedite the decisions on said cases as "specialized" divisions, but the increase of membership from three to five, will not remedy, but may further delay the disposition of appealed cases. Rule 51 on "Judgment, and Quorum of the Court (Sec. 2) would be more expeditious, and avoid or reduce delays;

3. The creation of "Regional Trial Courts" whose jurisdiction in civil, criminal and other cases (Sec. 19-21) shall be within the territory to be defined by the Supreme Court (Sec. 18), with appellate jurisdiction over Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Courts (Sec. 22), will not hasten but delay the disposition of cases. It also will duplicate judicial proceedings, for "final judgment, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions" are appealable to the Intermediate Appellate Court (Sec. 9[2]);

4. The creation of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts (Sec. 25), in lieu of City and Municipal Courts, which are trial courts, is a mere *change* of names and will not improve the efficient administration of justice.

However, their authority to hear and decide petitions for a writ of *habeas corpus* or applications for bail (Sec. 35) and *summary* procedure in special cases (Sec. 36) are good provisions to hasten dispensation of justice, specially the simplified procedure in forcible entry and detainer cases, violations of traffic rules, violations of the rental law by admitting affidavits and counter-affidavits in lieu of oral testimony (Sec. 36);

5. The period for appeal (Sec. 19) within fifteen (15) days from notice of final order, resolution, award, judgment or decision appealed from (Sec. 39) is an improvement, by shortening and making uniform the period of appeals in all courts. That "no record on appeal shall be required to take an appeal" will also diminish expense and shorten appeals, and hopefully the decisions of appellate courts;

6. The transitory provisions (Sec. 42) whereby existing courts "shall be deemed automatically *abolished* and the incumbents thereof shall *cease* to hold

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office", even with gratuity of judges (Sec. 44) will violate the security of tenure of judges guaranteed by the Constitution (Art. X, Sec. 7, 1973 Constitution). The decision in *Ocampo vs. Secretary of Justice* (G.R. No. L-7910, Jan. 18, 1955) will not justify such constitutional violation, for the majority decision did not receive the required votes for the declaration of unconstitutionality of Rep. Act. No. 1186 abolishing "*cadastral* and judges *at large*" for, according to Chief Justice Paras, Justice Alex Reyes and Justice Labrador, said Act was enacted by Congress to precisely implement the constitutional provision on "district judges" (Art. VIII, Sec. 7, 1973 Constitution).

***The case of *Ocampo vs. Secretary of Justice*, G.R. No. L-7910 (decided on January 18, 1955) involved the constitutionality of section 3 of Republic Act No. 1186, *expressly abolishing* 'all existing positions of Judges-at-Large and Cadastral Judges'.**

***In the *Ocampo* cases, seven (7) members of this Court or a *clear majority* thereof voted to declare said section 3 of Republic Act No. 1186 unconstitutional." (*Gacho, et al vs. Osmeña, Jr., etc., et al.*, 103 Phil. 837, at p. 847)

7. The growing corruption in Government, which has also crept to some sectors of the judiciary will continue to be a nagging problem, for said Cabinet Bill No. 42 provides for no remedy therefor. The appointment of judges in the Martial Law regime by the President, without the approval of a separate and independent body, like the former Commission on Appointments (Art. VII, Sec. 10(3), 1935 Constitution) has contributed to corruption, because some appointed judges are not deserving, due to lack of sufficient knowledge and experience in law, substantive and procedural, including evidence, and more, because of their lack of *moral* fiber, to dispense justice in accordance with law and the evidence, without fear or favor, and also free from suspicion of adjudging a case because of bribery, friendship or other extraneous consideration.