

# RAPE OF THE JUDICIARY

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Among the piling sins of the party in power can be included the enactment into law of H. Bill No. 1961 which, in the guise of judicial reorganization, will remove from office thirty-three judges at large and cadastral judges. The plea of the opposition to avoid this rape of the judiciary fell on majority ears that have become deaf to the call of justice but keen in hearkening to the siren call of political patronage to create positions for office-hungry political proteges.

The removal of these judges tramples upon the constitution. It plunges a dagger into the heart of judicial independence. It directly transgresses the constitutional provision providing that "The members of the Supreme Court and all judges of inferior courts shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office." Dr. Jose M. Aruego, chronicler of the proceedings of the constitutional convention, attests that this provision is the sinew that gives strength to judicial independence:

"The convention sought to secure the independence of the judiciary through the provisions to the effect (1) that the members of the Supreme Court and all judges of inferior courts shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office."

The party in power invokes the power of Congress to create inferior courts under the constitutional provision that: "The judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law." But in the words of Justice Jose P. Laurel in the case of "Zanduetta vs. de la Costa," 66 Phil. 615, "the principles embodied in these two sections of the same article of the constitution must be coordinated and harmonized." Justice Laurel said further:

"Cases may arise where the violation of the constitution regarding security of judicial tenure is palpable and plain, and that legislative power of reorganization may be sought to cloak an unconstitutional and evil purpose. When a case of that kind arises, it will be time to make the hammer fall and heavily."

The case envisaged by Dr. Laurel has arisen in this measure.

The purpose of this enactment is avowedly to prevent the transfer judges of first instance from one province to another known as "rigodon de jueces." This objective can be carried out without removing the present judges by changing their designation and prohibiting their transfer except within the same judicial district. The power to create courts must be exercised without removing the incumbent judges, particularly where their removal is not essential to the purpose of the judicial reorganization.

It follows that the removal of the incumbent judges is a political move made at the sacrifice of judicial independence which is consecrated in the fundamental law. This assault on the constitution by the ruling party is aggravated by the fact that in paragraph V of the 1953 Nacionalista platform, the party committed itself solemnly "to maintain an independent judiciary." By its consistency in reversing its election pledges, the new Nacionalista party may yet go down in our political history as the party of broken promises.

With the precedent established in this bill, every new party in power will follow this infamous example, abolish the positions of incumbent judges, and employ its own men. Security of judicial tenure thereby becomes a fiction. Judges will be induced to take sides in political fights knowing that their stay in office will depend on which party will win. Judicial independence is thereby converted into sycophancy to the political gods.

This political assault on the courts also partakes of cruelty and ingratitude if it is considered that before the election the Nacionalista party hailed the judiciary as truly the last bulwark of democracy against the alleged tyranny of the past administration for deciding case after case involving acts of the Liberal administration against the latter. Now that the Nacionalista party won partly through the moral support of the judiciary, it seeks to transform the latter from a bulwark of democracy into political booty.

The prostitution of the judicial independence by the majority party not only arouses the conscience against this conversion of the constitution into a scrap of paper to satiate a lust for political patronage, but also induces despair at the crystalizing truth that there has been a change of administration but no change in official morality.

## REPUBLIC ACT NO. 1186 . . .

(Continued from page 315)

business appertaining to the Court of First Instance of said district shall be equitably distributed among the judges of the eighteen branches, in such manner as shall be agreed upon by the judges themselves; but in proceeding to such distribution of the ordinary cases, a smaller share shall be assigned to the fourth branch, due account being taken of the amount of land registration work which may be required of this branch: *Provided, however,* That at least four branches each year shall be assigned by rotation to try only criminal cases.

"Nothing contained in this section and in section sixty-three shall be construed to prevent the temporary designation of judges to act in this district in accordance with section fifty-one."

SEC. 2. Whenever the words "Judge-at-Large" or "Cadastral Judge" appear in Republic Act Numbered Two hundred ninety-six, the same shall read "District Judge".

SEC. 3. All the present district judges shall continue as such, but if any district judge is commissioned for the Courts of First Instance of two provinces, and a separate district judge has been provided for herein for one of such courts, the former shall

have the option to select the court over which he shall continue to preside and notify the President of his selection within a reasonable time. If the number of branches in any Court of First Instance has been increased, the district judge presiding over any branch thereof in a particular place shall continue to preside over such branch notwithstanding a change in its number under the provisions of this Act.

All the existing positions of Judges-at-Large and Cadastral Judges are abolished, and section fifty-three of Republic Act Numbered Two hundred ninety-six is hereby repealed.

SEC. 4. Any judge-at-large or cadastral judge who shall not be appointed as district judge by virtue of the provisions of this Act, shall be given a gratuity in an amount of one month's salary for each year of service of such judge, the total amount not to exceed the salary for one year. The sum necessary to carry out the provisions of this Act is hereby appropriated.

SEC. 5. This Act shall take effect upon its approval.

Approved,