

DEBATE ON SENATE BILL NO. 170 AMENDING OR REPEALING CERTAIN SECTIONS OF THE JUDICIARY ACT OF 1948

May 5, 1954 — 11:00 A.M.

SENATOR PRIMICIAS. Mr. President, I now ask for immediate consideration of Senate Bill No. 170, the amendments to the Judiciary Act.

PRESIDENT. Consideration of Senate Bill No. 170 is in order.

SENATOR PRIMICIAS. The sponsor of the measure, Mr. President, is the distinguished Chairman of the Committee of Justice, the gentleman from Batangas, Senator Laurel. I ask that he be recognized.

PRESIDENT. The gentleman from Batangas has the floor.

SENATOR LAUREL. Mr. President and gentlemen of the Senate: Senate Bill No. 170 which is now the bill submitted for the consideration of this Honorable Body, is the result of what might be considered a compilation of the different measures submitted to the Committee on Justice, and to a very great extent, incorporates features taken from the reorganization bill submitted by Senator Mañahan as well as the recommendations made by the Department of Justice and likewise the recommendations at one time made by Associate Justice Ramon Dionio, now deceased. Senate Bill No. 170 is not a complete reorganization of the judiciary, but in the opinion of the Committee on Justice incorporates what might be called the principal features which need to be incorporated in a legislative measure in order to improve the present organization of the judiciary as well as certain features of fundamental character which must be inserted in the new reorganization measure. I am going to refer to the principal features which we have incorporated in this bill.

The first has reference, Mr. President, to the increase of the salaries of the Chief Justice and Associate Justices of the Supreme Court and the Chief or the Presiding Justice and Associate Justices of the Court of Appeals and also the judges of the courts of first instance. This feature of the bill is not a new one because, as the members of this body will recall, last year we approved the Senate bill concurred in by the House of Representatives providing for the increase of the salaries of the Justices of the Supreme Court and the Justices of the Court of Appeals and the judges of the courts of first instance. That bill, however, was

voted by the chief executive then on the ground that the bill was unconstitutional because the bill treated of various matters and these matters are not mentioned or referred to in the title of the bill. So that the veto by the former chief executive was based more on a technical ground than on anything else and it seems that even the former executive was not opposed to the augmentation or increases of the salaries of the Justices of the Supreme Court and of the Justices of the Court of Appeals and the judges of the courts of first instance. It is hoped that we have eliminated even the technical objection of the former chief executive, and that is the reason why the increase is being reiterated in this measure which is practically a reproduction of the bill which was vetoed by the former chief executive. That is one feature, and it is not necessary for me to argue in favor of the increase because this Honorable Body having already approved the increase in last year's session, I suppose, unless conditions have changed or opinions have changed, this Body will likewise approve what it had approved last year.

The second feature of this reorganization bill is the abolition of judges at large and cadastral judges. The reason for the abolition is, first, to make the organization of courts of general jurisdiction which are the courts of first instance more simple. In other words there will only be one kind of judges of courts of first instance and these judges are the district judges of courts of first instance. While probably in the past there might have been a need for the appointment of cadastral judges and, perhaps, judges at large, or even at one time, auxiliary judges it seems that conditions have changed now, and even the cadastral judges do not devote their time exclusively to the hearing and trial of cadastral cases. With the conditions having changed and in view of the fact that all these different judges, whether district judges, judges at large, or cadastral judges, all belong to the same category, namely, they are judges of courts of first instance, it would be more simple in the plan of judicial reorganization to make all these judges district judges. So that in order to implement this provision which is intended to simplify our judicial organization, we provide for the absorption of the judges at large and the cadastral judges by considering them as judges of the district to be distributed and

THE SUPREME COURT . . .

without patronage, without propaganda, without force; but not without Power — not without the power in it and in ourselves which makes for Righteousness. Our forefathers brought it forth, our fathers have preserved it for us; and we now will maintain it for ourselves, our children and our children's children.

And what is this Constitution of the United States?

It is the charter of the national existence and stability; and it is more. It is the charter of the powers given to the Republic, of the powers reserved to the States, of the inalienable rights in the people. It is their instrument. They made it. They made it not just to constitute a government, but also to preserve their rights — the blessings of liberty to ourselves and our posterity. They know that any sufficient government would become stronger than any one of themselves. They created a government, and gave it power — so much and no more — and they asserted rights in States which they could control, rights in themselves singly and as a whole which none could violate. They set up a Court to declare the metes and bounds of the powers they were vesting, and made it independent, to define, to declare, and to affirm the powers they were holding to themselves, or to their States.

The Constitution is no device to block the people's progress. It is the device of the people to preserve themselves, their States, their local self government, their inalienable rights, their homes, and the future of their children. The people made it and only they can change it — and only in the way they provided. Let

others denounce it; let others criticize it; the people will preserve it as the charter of their liberties, their rights, their votes, their democracy, their place in the life of their Republic. It stands between them and the possibility of a dictator. They require every public officer to take solemn oath to maintain and support it. They give no man power save upon this oath.

Sometimes we forget; sometimes impatience overcomes our better judgment. But at last we remember. Down in our hearts we know that so long as the Constitution stands, the Republic will stand; so long as the Constitution stands, our rights are secure, our homes are our own and none may make us afraid. It restrains the over-reaching hand of power. It stops the army on the threshold of the cabin. It asserts the dignity of man, his place in the earth and the freedom of his soul.

Congress is mighty, but the Constitution is mightier. Presidents are powerful, but the Constitution is more powerful. Courts are great, but the Constitution is greater. Laws are strong, but the Constitution is stronger. And it is so because the Constitution is the expressed will of all of the people, the supreme law of the land, to be altered only by themselves, and therefore the living soul of democracy.

The Court and the Constitution: — They stand to fall together. The Constitution creates the Court, and the Court declares and maintains the Constitution. To weaken one is to weaken the other. To destroy one is to destroy the other. To weaken either is to weaken the foundations of our Republic; to destroy either is to destroy the Republic.

CONSIDERACION DEL SENATE BILL NO. 170
(CONTINUACION)

May 13, 1954 — 11:25 A. M.

SENATOR PRIMICIAS. Mr. President, I move for the resumption of the consideration of Senate Bill No. 170, the Judiciary Bill. The distinguished gentleman from Batangas, Senator Laurel, was the sponsor of the measure.

EL SEN. LAUREL CONTINUA SU PONENCIA

THE PRESIDENT. The gentleman from Batangas has the floor.

SENATOR LAUREL. Mr. President, I have very little to add to the explanation that I offered in sponsoring Senate Bill No. 170 providing for an amendment and revision of certain sections of the Judiciary Act of 1948. As I stated before, several measures were presented in connection with the Judiciary Act of 1948 and I understand that a few days ago the lower House just approved a measure on the same subject, although not exactly identical as to certain points with reference to the reorganization of the Judiciary Act of 1948. It is not necessary for me, Mr. President, to repeat what I have stated before regarding the importance of the judiciary particularly with reference to the maintenance of the faith and confidence of our people in the administration of justice. It is sufficient for me to state that faith in the administration of justice is only possible if the judicial department is manned by men who are competent, willing to work and actually work.

We also have in the Committee on Justice several measures the most important of which probably is the one presented by the distinguished gentleman from La Union from which bill we culled or took certain important features in order not to do away with but merely to postpone the consideration of matters which involve details with reference to the proposed amendment to the Judiciary Act of 1948. The former Justice of the Supreme Court, now deceased, Don Ramon Diokno, has also suggested certain amendments, and as I said, just a day or so ago, the House of Representatives likewise presented amendments to the judiciary act. But, Mr. President, as the members of this body well know, your Committee on Justice had centered the amendments around, I think, four important points, the first referring to the increase of compensation of the members of the judiciary from the Supreme Court to judges of the courts of first instance, increasing the salary of the chief justice from P16,000 to P21,000 per annum and the associate justices from P15,000 to P20,000 per annum, and the Presiding Justice of the Court of Appeals from P13,000 to P16,000 per annum and the associate members from P12,000 to P15,000 per annum, and also the salary of judges of the courts of first instance from P10,000 to P12,000 per annum. That is the first point touched upon in this bill, namely, the increase of the salaries of the chief and associate justices of the Supreme Court and the presiding justice and the associate justices of the Court of Appeals and the judges of the courts of first instance.

The second feature which is important to mention in this connection, has to do with the redistricting of judicial districts by increasing the number of judges in the different judicial districts without, however, increasing the number of the judges of the courts of first instance. And the original bill which your humble servant sponsored the other day in cooperation with the Department of Justice, incorporated in the explanatory note a tabulated statement based on the number of cases pending in the different courts of first instance of the districts not disposed of, believing that for the purpose of determining the number of judges of the courts of first instance for the different judicial districts, it would perhaps be a good idea to send more judges to those districts where there are more pending cases undispensed of. However, as the members of this body will recall, at the suggestion of the distinguished gentleman from Quezon another basis of classification or distribution was made. This time the basis is the number of docketed cases in the different courts of first instance; and, Mr. President, that is now the basis of the apportionment and assignment of the dif-

assigned to the different judicial districts which we have increased, as another feature of the reorganization, from sixteen judicial districts to thirty-three judicial districts. This is a logical proposal, because having provided for the abolition of cadastral judges and judges at large and converting them into district judges, we have to assign them to the different judicial districts and the assignment would be made by the Secretary of Justice with the approval of the Supreme Court. Another feature of this judicial reorganization is the increase of judicial districts from 16 to 33 as I have indicated. It has been suggested that we increase the number of judges of first instance. We are not increasing the number of judges of first instance. We have the same number of judges, around 107 or thereabouts. First, in the interest of economy; because after a careful study and after presenting the tabulated statement which is made a part of the explanatory note to Senate Bill 170, your Committee has reached the conclusion that with the proper apportionment and assignment of all the judges of districts these 107 or thereabouts number of judges if properly assigned and made to work in the different districts, would do away with the necessity of increasing the number of judges of first instance. That is the reason, Mr. President and Gentlemen of the Senate, why in one of the sections here we have increased the number of judges for the different judicial districts, and that is also the reason why we have increased the judicial districts from 16 to 33. . . . Now, Mr. President, there is another feature in this reorganization bill which I have forgotten to state. Under this bill, we are curtailing the powers of the Secretary of Justice in the transfer or assignment of judges not only from one district to another, but also from one province to another province within the district. Formerly there was a complaint — and, I think, well taken — that as the judges-at-large and the cadastral judges have no judicial districts, and as the Judiciary Act of 1948 permitted the transfer or assignment of these judges who have no districts, from one district to another, without the intervention of the Supreme Court, we have had quite a number of cases; but there was what we call handpicking of judges to try special cases or cases political in character perhaps; that from the point of view of the administration, would better be tied by these judges-at-large or cadastral judges specifically transferred from one province to another for the specific purpose.

Now, with the abolition of the judges-at-large and the cadastral judges and with each judge of the Court of First Instance having his own district, then the technical ground that these judges before have no districts, the judges-at-large and the cadastral judges, could no longer be invoked because all the judges are district judges and therefore fall within the prohibition of the Constitution that no judge of a regular district shall be transferred from one district to another without the approval of the Supreme Court.

We have gone further than that, and although this probably is not the time to complain against the policy of the present administration, we have gone further in the prohibition with reference to the transfer of judges from one district to another, Mr. President, but as I have indicated, we prohibit in this bill the transfer of judges from one province to another province within the district without the approval of the Supreme Court. x x x Now, unless the Senate is ready to consider amendments, personally, I would prefer that we postpone the consideration of this measure until tomorrow, to give way to the series of amendments that it seems the members of this Body would like to propose.

MOCION DE APLAZAMIENTO

SENATOR PRIMICIAS. Mr. President, in view of the fact that some members have amendments to make to this bill, I ask that further consideration of the same be postponed until tomorrow to enable said members to submit their amendments in proper form.

THE PRESIDENT. Is there any objection on the part of the Senate to postpone further consideration of this bill until tomorrow, in order that everybody could submit his respective amendments? (Silence) The Chair hears none. The motion is approved.

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THE PRESIDENT. Is there any objection on the part of the Senate to postpone further consideration of this bill until tomorrow, in order that everybody could submit his respective amendments? (Silence) The Chair hears none. The motion is approved.

ferent judicial districts which are now, as I understand and if I remember correctly because I don't have the bill in my hand, 33 districts, so that while the districts under this measure have been increased, as I think, from sixteen or thereabouts to thirty-three, the number of judges in all the different districts by and large remains the same because not all districts have been increased on the basis suggested by the distinguished gentleman from Quezon. That is, we have increased not only the judges, but by and large as I have indicated, the number of judges assigned to the different districts without increasing the actual number of judges of the courts of first instance which, I understand and if I remember correctly, is around 107. That is the actual number of judges of first instance including of course the cadastral judges and judges-at-large and the judges of first instance occupying permanent and regular appointments in the different districts. This is the second feature of this bill.

The third feature is the general and almost complete prohibition regarding the transfer or assignment of judges from one district to another without the approval of the Supreme Court. Mr. President, I desire to invite attention to the fact that under the Constitution judges of first instance of regular district cannot be transferred or assigned from one district to another without the approval of the Supreme Court. But even under the provision of the Constitution prohibiting such assignment and transfer there were cadastral judges and judges-at-large who naturally have no districts and, therefore whose assignment and transfer could be effectuated from one district to another apparently without violating the Constitution, giving rise to what we have complained against in the past, namely, the practice of handpicking judges for the purpose of trying specific cases in which influential officials might be interested for the purpose of insuring certain definite results in connection with the trial of such cases.

SENATOR ZULUETA. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield if he wishes.

SENATOR LAUREL. I will be very happy to yield to the distinguished gentleman from Iloilo.

SENATOR ZULUETA. I want to know from the gentleman from Batangas whether when we approved the Constitution there were already cadastral judges?

SENATOR LAUREL. Mr. President, this idea of the classification of judges of first instance, if the gentleman will allow me to take a little more time, is not new. You will remember we have auxiliary judges before. We do not have them now. We call them judges-at-large, we call them cadastral judges. These cadastral judges existed even before the Constitution because one of the preponderant policies of the American administration then was to give emphasis to the disposition of land cases giving rise to what we call cadastral survey in the different provinces and municipalities and therefore, the necessity of creating this special position which is known as cadastral judges, as part and parcel of what we had established as our judicial system. Is that clear to the Senator?

SENATOR ZULUETA. I still doubt if it was the real intention of our Constitutional Convention to approve a law protecting the immovability of judges by giving the Supreme Court the authority to transfer judges from one district to another. Don't you believe, Mr. Senator, that we are not protecting cadastral judges by transferring them from one place to another? If that is the case, Mr. Senator, why are we not proposing to make cadastral judges also district judges?

SENATOR LAUREL. That is the fourth point I will take up. I am just enumerating for the information of this Honorable Body the capital changes which we are introducing by the passage of this measure. I mentioned the increase in compensation of judges, then I mentioned the redistricting and the increase of judicial districts and the district judges without increasing the number of judges of first instance and then I am referring to this mat-

ter now which has reference to the prohibition of the transfer or assignment of judges from one district to another under the Constitution. And I was going to say, Mr. President, under the Constitution no transfer or assignment can be made of a regular judge of a district from his district to another judicial district without the approval of the Supreme Court. That was the law, that is still the law. But as we had experienced before there were judges in districts, that is to say, cadastral judges and judges-at-large, who have no districts and therefore the Secretary of Justice may take advantage of this point in the Constitution in certain cases by transferring cadastral judges and judges-at-large from the places they were assigned to for the purpose of trying specific cases in other districts where the powers-that-be are interested in securing effective action, whether of conviction or acquittal, in criminal cases. And that is the reason, Mr. Senator, why as one of the features of this bill we are abolishing cadastral judges and judges-at-large. We are establishing just district judges, but that is a point that I propose to take up later, perhaps the last point, in my explanation of the importance and the capital point of the bill that is now submitted to this Honorable Body for consideration.

SENATOR ZULUETA. Then Mr. Senator, for your Honor and for everybody, is it not a good policy to maintain the immovability of judges, whether they are regular or cadastral judges? According to Your Honor, in this bill, you are creating cadastral judges too.

SENATOR LAUREL. Only, so that all of them will come under the prohibition of the Constitution that none of them can be transferred from one district to another judicial district without the approval of the Supreme Court.

SENATOR ZULUETA. I thank you for the assurance.

SENATOR LAUREL. We are following the pattern of the law in the protection of the immovability of the regular judges by creating district cadastral judges. That is one of the results. In addition the Secretary of Justice can no longer mobilize any so-called cadastral judges and judges-at-large for the purpose of trying specific cases in other parts of the archipelago.

SENATOR ZULUETA. But how about the cadastral judges?

SENATOR LAUREL. The district cadastral judges will try those cases and the jurisdiction will, of course, fall under the corresponding judges of the district. In a given district there may be many judges, for instance, in the district of Cebu, Cavite, Rizal and Palawan we may have three or four judges. So, at the basis of these number of cases that arise from year to year, there will be district judges assigned to the different districts. In that district you will find judges ready to take care of those cases without opening the way for the Secretary of Justice to pick judges to try those cases.

SENATOR ZULUETA. That means, Mr. Senator, that we are eliminating the judges-at-large.

SENATOR LAUREL. We want as far as possible to eliminate judges-at-large.

SENATOR ZULUETA. That is only what I want to know.

SENATOR LAUREL. (Continuing.) Mr. President, the handpicking of judges is a bad practice, it is not conducive to the proper administration of justice, and if it is conducive at all to anything, it is conducive to the absolute loss of confidence of the people in the administration of justice, and if we are fair to ourselves and just to ourselves, the remedy is in our hands then — we should close the door to anything that would give to the Secretary of Justice or even to ourselves the power to handpick a judge for the purpose of trying our political enemies, for all we know, because that is not justice. The administration of justice must take its ordinary course because justice has been pictured as a beautiful lady who is supposed to be blind, who is supposed to know the merits and demerits of the case, but is not supposed to see the parties. It is supposed to do justice and decide cases on

the basis of their own merits. If I am correct, Mr. President, in inserting in our law a provision which would make the hand-picking of judges impossible, then the fourth feature which I have mentioned, I think, is essential to the improvement of the administration of justice and therefore should be approved in that respect.

Now, Mr. President, this is quite important, — the fourth feature is quite important and I want to confess, Mr. President, that having been at one time a humble member of the judiciary and now a member of the legal profession, I have had my own difficulties in trying to remedy a situation in order not to be accused of having served as a political instrument for the purpose of asking certain people in the judiciary, particularly because it is of the essence of a good judicial system that the judges should remain in office during good behavior or for life, and then one of the conditions for the stability of judicial institutions is the permanent office or stability of judicial positions, and that is why they call this the security of tenure. Not only the judges must be secure in their position, but they must be secure in their compensation. Not only must they be secure in their position and compensation but they must be secure in their official station, and that is the reason why it is more difficult and more so under this bill to transfer a judge of First Instance from one district to another, making all judges come under the prohibition of the Constitution that these judges can only be transferred from one district to another with the approval of the Supreme Court. And not only is the security of tenure and security of compensation and security of official compensation, as far as it is practicable to do so, important, but there are other guarantees and general principles intended to surround the members of the judiciary who have lost essential security and guarantee that would make the judiciary an independent, courageous and fearless instrumentality of the government in order to promote the welfare and establish permanently the faith of our people in the just and equal administration of law in our beloved country.

Mr. President, the reason why I have prepared the draft which is the four important innovations in the law is the following: As I look back to the fact and study the historical development of the administration of justice in our country since the inauguration of the Philippine Commission which enacted the original Act 136, generally known as the First Organic Law in the Philippines affecting the establishment of the judiciary, and as I watched the development of the law in its progress and in its growth up to the time we reached the period when we were permitted to draft our own Constitution, I notice that in establishing courts of general jurisdiction, which are the Courts of First Instance, after the classification and gradation of the different kinds of courts established in our country, while I realize that in those days probably it was conceivable to disintegrate and provide for the different classifications with reference to the Court of First Instance, I must be frank, Mr. President, to confess that now in this state, considering the fact that we are now in the position to establish a judicial system which is responsive to our needs and it is the result of our own experience as a free people in this country that when we establish a court of general jurisdiction, such as the Court of First Instance, we should not establish any classification or any gradation. The Court of First Instance and a judge of the Court of First Instance must be a judge of the Court of First Instance with the same compensation, with the same dignity and honor, with the same category. And there will no longer be established in this country a system where a cadastral judge receives P8,400 a year and a judge-at-large receives P9,000 and a judge of the district receives P10,000. If they are judges of First Instance, then they should be treated the same way because they are judges of the same jurisdiction. You cannot classify the capacity of people in the judiciary by simply calling them judge-at-large or cadastral judges. In point of fact if I may be allowed to say so, I know even of certain judges-at-large and cadastral judges who are better than certain district judges. If I am correct in that statement, then why do we classify the same group of judges? Why? — after making this classification, the Supreme Court, the Court of Appeals, the judges of First Instance — we make another classification of cadastral judges, auxi-

liary judges and judges-at-large. And now we come to the municipal judge or justice of the peace court. Therefore, Mr. President, rationally and scientifically speaking, from the science of law and legislation, I believe that there should be only one classification and one nomenclature for judges of First Instance with the same degree, with the same category, with the same rank, with the same honor and with the same privileges and the same compensation, and that is the Court of First Instance. That is my first plea for abolishing the judges-at-large and the auxiliary judges. In my second reason, Mr. President, I have almost hesitated. When we approved the Constitution in the Constitutional Convention, some of whose members are now members of this honorable body, when we approved that prohibition with reference to assignment and transfer of judges from one district to another, we never thought that some people would make use of the technical method of excluding the judges-at-large and the cadastral judges, so that while the powers were prohibited from transferring a judge of a judicial district from one district to another, they could do what they wanted with reference to the judges-at-large and the cadastral judges. And in order to be consistent and rationalize the philosophy which we have adopted through this measure, we will not give any effect, not even for our partymen in this government, to transfer these cadastral and auxiliary judges for purposes purely political. If I were to be a partymen, if I were to get up on this occasion as purely a partymen, why should I deprive the Secretary of Justice who is a Nacionalista of certain powers? Someday we might have to do what other people did in the past. Someday we might need to make use of oppression in order to win an election. But, Mr. President, I got up to speak to you all, gentlemen of the Senate, not as a Nacionalista, because I want to establish a system here that would work honestly, efficiently and well and a credit to our people, a system of judicial organization that would serve the great and paramount purpose not of my party whose interest undoubtedly is secondary, but to promote and enhance and protect and conserve their faith in the integrity and the impartiality of the administration of justice in the Philippines. That is the second reason. And for this and more, I can keep on explaining the great purpose. That is why I had to apologize, Mr. President, to Senator Mabanag when I just picked up certain features which if we could only approve, these features alone, without attending to details, then we shall be happy and in my opinion we shall have succeeded in having grasped the fundamental principles which are basic, which are essential and which are vital if we were to have a system of administration of justice which is to last, to last not for any given party, but a system that will secure and guarantee the interest of all litigants, of all lawyers and of all the people at large. This is among the reasons, Mr. President, why almost in the last paragraph of the provision I proposed the abolition of the position of judges at large and cadastral judges. I said that I have to emphasize this point because I shall appear perhaps, we shall all appear before the verdict of history, accused of having impaired and affected the tenure of office, the security of tenure of these people. But I have in my humble way studied very carefully the constitutional and legal problems involved, and I have reached the conclusion that the judges at large and the cadastral judges, as well as the judges of districts of first instance, are legislative courts and not constitutional courts. The Constitution provides, Mr. President, that the judicial power, under Article VIII, Section 1, shall be vested in one Supreme Court and such inferior courts as may be established by law. This, verbatim, or literal, is what the Constitution provides in its Section 1 of Article VIII. In other words, there is only, insofar as the Constitution is concerned, one Constitutional court, and that is the Supreme Court. Insofar, therefore, as the Constitution says, there shall be one Supreme Court. That is final. There cannot be two, there cannot be none. There must be one Supreme Court. How many inferior courts? The Constitution does not say, and wisely enough, Mr. President. I am happy to testify to the meaning of this portion of the Constitution. Happily enough, the Constitution leaves the determination of the inferior courts and the apportionment of their jurisdiction and the like to Congress. This is what I mean when I say that these inferior courts are legisla-

tive courts, and if they are legislative courts, while we should safeguard against impairing the security of tenure and compensation as long as the office is there, in our work and in our obligation to give our people a good and efficient government and therefore in the exercise of our powers to reorganize this government to serve our people, we can abolish positions which are not Constitutional. And I emphasize this point, Mr. President, because I know that this is a bold step on my part and I shall probably have to appear and defend my attitude, and I might just as well express my views so that I can refer to them in my public utterances.

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SENATOR SUMULONG. Mr. President, may I interrupt the gentleman for a few question? I should like to clarify this point about the effect of this bill on the incumbent judges of the courts of first instance.

THE PRESIDENT. The gentleman may yield if he so desires.

SENATOR LAUREL. Gladly.

SENATOR SUMULONG. Now, I understand Your Honor to say that this bill, if approved, would abolish the positions of judges at large and cadastral judges and that in the opinion of Your Honor that would be within the constitutional powers of Congress because those positions are legislative and not constitutional in character. I can say that I am entirely in accord with the gentleman from Batangas in abolishing the positions of judges at large to avoid the pernicious practice of allowing the Department of Justice to assign special judges for specific cases. But what is the effect of this bill, if approved, on district judges, will they need new appointments in order to continue as such district judges?

SENATOR LAUREL. If they are in one district and they are assigned to another district, I think they will need new appointments because I think, once a judge in one district, he cannot be a judge in any other district without being appointed anew. That has been decided by our Supreme Court and that is still a good law.

SENATOR SUMULONG. Let us take a concrete example. Suppose somebody is now a district judge, say in Pasig, Court of First Instance of Rizal. If we approve this bill, will that judge there continue to be a district judge in the Court of First Instance of Rizal without need of a new appointment or a new confirmation?

SENATOR LAUREL. Suppose you have the same district, because if there is a reorganization of these districts you have to have new appointments—let us take Rizal. We have not changed the district. This second district has the same district judges. Are you going to reappoint them when you have not touched them? But if your plan is to transfer a judge of the district of Rizal, let us say, to Pampanga, instead of making him a judge of the district where Rizal is, you make him a judge of the district where Pampanga is, it is my humble opinion that you need a new appointment.

SENATOR SUMULONG. In other words, even if we approve this bill, a district judge can continue to be a district judge of the same district, provided his territorial jurisdiction has not been changed by this bill.

SENATOR LAUREL. I think so.

SENATOR SUMULONG. But I notice, Your Honor — I am looking at the corrected copy, I don't know about the original copy — that we are changing also in this bill the qualifications of the judges of the courts of first instance—instead of five years of practice and five years residence in the Philippines, we are making it ten. Now when we change the qualifications of the district judges, does not Your Honor think that that might affect the tenure of the incumbent district judges?

SENATOR LAUREL. I don't think so. I am responsible for that because I thought that in order to elevate to some degree the standard of our judges, it might be a good idea that before one can be appointed judge to the court of first instance, he must have had ten years of law practice or service equivalent to law practice. But, of course, this is a new law. These people are already here on the basis of their previous qualification of five years. I don't think that we can make the law have a retroactive effect by applying it to judges holding their respective positions according to their former qualifications. That is my humble opinion.

SENATOR SUMULONG. But does Your Honor have any objection if, for purposes of clarity, to remove doubts on the matter, we approve a proviso that those who are now district judges shall continue to be such judges without the need of any new confirmation or appointment in their respective districts?

SENATOR LAUREL. Although it is not necessary in this bill, anything that will make our position certain and anything that will make the expression of our view and ideas effectively clear, I would favor, so that I will welcome any clarification on that point.

SENATOR SUMULONG. Now, turning to this matter of judges at large and cadastral judges whose positions we are going to abolish under this bill, if they are not extended appointments as district judges, will they be entitled to any gratuity under any law?

SENATOR LAUREL. That will depend on whether they have satisfied the requirements of the Osmena Act or some other law in order that they may be entitled to the benefits of those laws, in point of age or in point of service, for instance.

SENATOR SUMULONG. Has the Senator inquired as to how many of these cadastral judges and judges at large will be affected adversely and would be left without any resource, retirement pay or gratuity if we approve this bill?

SENATOR LAUREL. I have made quite an inquiry, Mr. Senator, and I secured a complete list of the names and the records of services, and I even went further—I asked the Secretary of Justice who amongst them he would like to recommend and how many would he leave out if he were to decide this case, because I do not want to make people miserable. They will hate me or blame me. They will say: "I am jobless because Senator Laurel abolished my position." So I don't want to have enemies, not even political enemies. I am tired of having enemies. I want to live in peace now with people. And according to him there are very few, probably just around six.

SENATOR SUMULONG. So that only six will be without any...

SENATOR LAUREL. I am not assuring—please do not misunderstand me—I am not making a positive statement about the number of those who will be kicked out. I don't know. But I want to satisfy my own conscience that I did not do anything unjust. But out of thirty-three, more or less around six are on tab.

SENATOR SUMULONG. That is exactly the same feeling that I am entertaining, Your Honor, that if we are going to abolish the positions of these judges, at least, we should consider also what would be the future of those whose positions will be abolished. That is why I am asking, as from Your Honor's own words I heard Your Honor say that there are cadastral judges and judges-at-large who are more competent than the district judges, and following that same thought, I thought that we should inquire what will happen with these judges, especially those who are competent and who are efficient.

SENATOR LAUREL. Mr. Senator, I would also give you an expression of what had occurred in my mind in connection with

these cadastral judges and judges at large if we make them *ipso facto* district judges under this bill. The first difficulty is this. A name was mentioned who was no good and one who ought not to be in the judiciary because his reputation is so bad, and as a cadastral judge, he gets P8,400. Now you make him judge of the court of first instance. You promote him from P8,400 to P10,000, and then we promote the judges of the district with another promotion of two thousand pesos. Then you give him an increase of salary of four thousand pesos. That is the first observation, and the second observation is I think the observation made by the gentleman from Quezon, Senator Tañada. He asked me how we can automatically convert them into district judges because, he said, that needed legislative action. A judge is a judge made only by an appointment of the President and confirmed by the Commission on Appointments, and he suggested that the first thing for me to do even if I became unpopular is to absorb them, make them all judges. Then I could not answer the observation of the distinguished gentleman from Quezon. Here is a judge known to me as a bad one, almost known by everybody, and still you give him a promotion of four thousand pesos. It is not simply right to promote a bad judge. On the other hand, there is that legal and constitutional aspect raised by Senator Tañada. How can we convert them into district judges by simply enacting a law without executive appointment? And so I swore to the legality and constitutionality of the legislation abolishing this position. Not that we were discriminatng. It is not my purpose, it is not with a lack of intention, it is not hated, political or any character, which caused us to abolish this position. We abolished all these positions because we believe that the interest of our country and the interest of the people demand that we take such action on the part of Congress. I am revealing the mental process even when we were discussing this measure with the members of the Committee on Justice.

SENATOR SUMULONG. I am completely in accord with the opinion of Senator Tañada that if we abolish the positions of judges at large and cadastral judges we cannot provide in this bill that a former judge-at-large and former cadastral judge would not be district judges without new appointment because that will be encroaching upon the powers of the Executive and the Commission on Appointments. But I was thinking that if we are going to abolish the positions of judges at large and cadastral judges and some of them will not be appointed district judges perhaps it would be fair also to provide some sort of retirement pay for those who will not be reappointed.

SENATOR LAUREL. Many of them will be able to take advantage of some benefits. But I did not study that article. They will have to take advantage of any retirement benefits they are entitled to.

SENATOR SUMULONG. Because if they are not entitled to retirement under our general laws, they cannot receive any gratuity and they would think there is injustice or malice being committed against them.

SENATOR LAUREL. We will take care of those cases in the same manner we provided for the retirement of Justice Moran and some of those people who have left their positions to accept other government positions. I think we will take care of them.

SENATOR PERALTA. Mr. President, will the gentleman yield to a few questions?

THE PRESIDENT. The gentleman from Batangas may yield if he wishes.

SENATOR LAUREL. Gladly.

SENATOR PERALTA. It is in the role of a humble student of law that I have stood up to ask some questions to the foremost authority on Constitutional Law.

SENATOR LAUREL. Thank you, Mr. Senator, I do not deserve it.

SENATOR PERALTA. I am somewhat worried until I heard the gentleman from Batangas raise the doctrine of the independence of the judiciary. I was wondering whether the gentleman from Batangas stated a fact when he said that only thirty men will be affected by this bill. While it is only true there were only 33 judges at large and cadastral judges, yet under the same principle that the gentleman enunciated that inferior courts may be abolished by the congressional action we are indirectly threatening the tenure of office of the justices of the court of appeals, judges of the court of first instance and all judges of the peace, and I was wondering whether the gentleman from Batangas does not agree with me that this is an indirect manner of threatening all these members of our judiciary by abolishing now the offices of judges at large and cadastral judges implying that should certain members of the court of appeals be, by popular acclamation, deemed as what the gentleman from Batangas said "crooks" that we would abolish also the court of appeals. Now, would not the gentleman agree with me that this is an indirect way of threatening the independence of the judiciary?

SENATOR LAUREL. Mr. President, this very same argument was raised some years ago, I think it was 1938, because I happened to be in the supreme bench at the time, when the legislature enacted Act 4007 providing for the reorganization of the judiciary, and I think that was the second time the legislature reorganized the judiciary after Act 136 of the Philippine Commission which had been in force up to the time of the enactment of Act 4007. And then thereafter, that was the question involved in that case, the Commonwealth enacted Act 145 reorganizing again the judiciary particularly with reference to the district and one of the cases raised in that connection was the case of Sixto de la Costa who was appointed in lieu of Judge Francisco Zandueta as a result of that reorganization because whereas, Mr. President, the fourth district then occupied by Judge Zandueta was the branch corresponding to the district of Manila, when it was reorganized another province was added which was Palawan which became a separate and distinct district and De la Costa was appointed there. There was a quo warranto proceedings on the ground that it impaired the tenure of office and the same argument was made. If you destroy one branch of one court on the theory that it is a legislative court then you can destroy all legislative courts, then you have nothing left except the Supreme Court. I remember, Mr. President, that that same argument was brought up and yet there were many things that are inconceivable that we can imagine. We can imagine the suppression of the court of appeals, the suppression of the court of first instance, the suppression of the municipal courts and all courts and there will be no courts at all except the Supreme Court. But you must give some leeway, some allowance to the sense of fairness. The question is one of legal powers. Hence, the legislature has the power to reorganize the judiciary, and if it finds it necessary, to suppress the Court of Appeals. It could be suppressed. We did it at one time to improve the administration of justice, and we permitted transfer of the appeals directly from the Court of Appeals to the Supreme Court, and there was a time when there was no Court of Appeals at all. Considering our duty to give our people a system of administration of justice that will give them faith and confidence and hope, if we find it necessary to abolish the judges-at-large and the cadastral judges, could we or could we not? If we could, whether we have the legal power and whether we are justified in taking that action. Why not? As a patriotic Filipino you will share the glory of this body in having done something in exercising the legal power, which you are proud and happy to exercise with the other honorable members of this body.

SENATOR PERALTA. I remember very well the case of Zandueta versus De la Costa wherein the gentleman from Batangas was an Associate Justice of the Supreme Court and he gave

a concurring opinion on the result. I remember also that his decision in that case, evading the issue as to whether the Congress or National Assembly then may abolish what the gentleman from Batangas calls legislative court. And I do remember one of the constitutional authorities on the law and on the subject whom I revere, my esteemed professor, Dean Sinco in the College of Law, stating that in his opinion, in order to protect the tenure of office of judges, it is of doubtful constitutionality if the National Assembly or the Congress may abolish such inferior courts because of that constitutional provision under section 9 of Article VIII of our Constitution guaranteeing the tenure of office of members of the judiciary. I remember also that the gentleman from Batangas, then Justice, in his concurring opinion, made the distinction as to when the abolition of a certain court limiting the tenure of office, and when the abolition of courts was a matter of general policy.

SENATOR LAUREL. Right.

SENATOR PERALTA. Now, in this case do I understand that it is the intention of the gentleman from Batangas that the abolition of courts is a matter of general public policy?

SENATOR LAUREL. Yes, in a way. Exactly, there is nothing, as I said in the beginning. We are not motivated or prompted by any feeling that is personal, or we are not desirous to promote hatred or animosity through the passage of this law. We simply feel that these judges-at-large and cadastral judges should be suppressed, and all the judges should become judges of the Court of First Instance.

SENATOR PERALTA. Here, Mr. President, I have listened very carefully and very attentively to the distinguished gentleman from Batangas, and he gave two reasons, to my recollection, as to why he deemed it necessary to abolish the cadastral judges and the judges-at-large.

SENATOR LAUREL. The only two reasons that I am able to remember.

SENATOR PERALTA. I shall enumerate them in order that the gentleman from Batangas may correct me, if I am mistaken. The gentleman from Batangas believes that there should only be one classification of courts and judges of First Instance. With that I have no quarrel. The gentleman from Batangas is more experienced than I and he is in a position to judge what kind of courts we should have in this country.

SENATOR LAUREL. Thank you. But it does not mean that I am more brilliant than the gentleman.

SENATOR PERALTA. Now, the second reason that he gave is that there should prevail a certain type of judges to try certain cases, and for political reasons. With that again I am in utmost sympathy. But there is a third reason and it is in response to the question of the gentleman from Rizal wherein he stated that one reason for the abolition of the judges-at-large and cadastral judge is because of the presence of certain undesirable elements, and he stated specifically one cadastral judge who, by popular acclamation, may be dubbed as rather an inefficient judge, and it is for that reason that it is better to abolish all judges-at-large and cadastral judges in order that that man may not be reappointed. Now, analyzing the first two, does not the gentleman agree that the first two reasons may be subserved without necessarily abolishing the position of judges-at-large and cadastral judges? In other words, can we not put up an amendment in the judiciary law that hereafter, judges-at-large and cadastral judges may not be assigned to try special cases outside of their official jurisdiction? May we not do that?

SENATOR LAUREL. Yes, but you don't make them district judges. In other words, you will have to classify them as cadastral judges or judges-at-large.

SENATOR PERALTA. Yes. In other words, I plead with the gentleman from Batangas that in addition to those two reasons that he gave, we can amend the law without necessarily abolishing the positions of judges-at-large and cadastral judges. Can we not do so?

SENATOR LAUREL. By keeping the positions you can extend the Constitution to them, of course, but that does not rationalize and harmonize in establishing a uniform system. And then another thing, Mr. Senator, for the purpose of the record. I did not make any reference to any undesirable or any crook or anything. I was simply referring in my answer to the gentleman from Rizal that in a case where a judge of the Court of First Instance is no good, probably it would be unreasonable to reappoint him. That is a matter that lies in the discretion of the President. But I am not launching any attack against any judge or accusation against anybody. So far as I am concerned, and the members of the Committee and the members of the Senate, including the Senator, that if we approve this bill, we are not prompted by any feeling of hatred or animosity against any of these judges who will probably be affected.

SENATOR PERALTA. I would like, of course, to believe that in all sincerity. The point that I am driving at is, that the gentleman from Batangas does not believe in amending the present Judiciary Act, in order to carry out the first two reasons that he gave, that we do not necessarily have to abolish the position of judges-at-large and cadastral judges.

SENATOR LAUREL. That is true, Mr. Senator. In that bill which we passed last year and which was vetoed by President Quirino, we included the transfer of judges-at-large and cadastral judges, but that would not make our judiciary system uniform because we have to make the classifications of judges of Court of First Instance and the judges-at-large and the cadastral judges which, I think, is not scientific nor advisable.

SENATOR PERALTA. Mr. President, I would like to reserve my turn to speak against the bill.

THE PRESIDENT. Let the record show.

SENATOR LAUREL. Mr. President, unless there are questions or remarks I do not want to delay the opportunity of anyone who wants to make use of the floor.

SENATOR PRIMICIAS. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

SENATOR LAUREL. With pleasure.

SENATOR PRIMICIAS. I would like to make particular reference now to that provision of the Constitution in Article VIII, Section 9, referred to just a moment ago by the Gentleman from Tarlac which has reference to the security of tenure of office. Section 9 of Article VIII reads as follows: "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." Now, it seems from the questions of the gentleman from Tarlac that he has serious doubts as to whether or not this provision of the Constitution is violated if the positions of judges-at-large and cadastral judges are abolished because by so doing the present judges-at-large and cadastral judges are ousted from office. What is your opinion on this matter, gentleman from Batangas?

SENATOR LAUREL. My humble opinion, Mr. President, is that the congress or the legislative department may exercise its legislative powers and one of these legislative powers which is necessarily implied, which is inherent, is the control over public offices. We can create and abolish public offices, increase their compensation, make the function of different offices into one or

into various other offices. In other words, do anything and everything that Congress, the legislative department, wants to do with reference to public offices, except one limitation and condition, except as to constitutional offices.

SENATOR PRIMICIAS. Now, does Your Honor agree with the recent opinion of the Supreme Court in the case of Manalang versus Quitoriano, et. al., recently decided about two weeks ago in Baguio, wherein the Supreme Court said, and I am quoting now from a clipping appearing in a Manila press:

"Removal implies the office exists after the ouster. Such is not the case of herein petitioner, for Republic Act No. 761 expressly abolished the Placement Bureau and by implication the office of the director thereof which obviously cannot exist without said bureau. By abolition of the latter and of the said office, the right thereto of this incumbent petitioner herein was necessarily extinguished thereby."

There are other considerations, but the gist is that according to the Supreme Court, in this case there can be no illegal ouster if the office no longer exists and there can only be illegal removal or violation of security of tenure where the office continues to exist after the alleged ouster. And this particular decision of the Supreme Court may be applicable in the case of judges-at-large and the cadastral judges if we abolish their positions expressly and they find themselves out of office.

SENATOR LAUREL. Mr. President, I have no doubt that that decision is correct, and just the other way or what they call: "sensu contrari," the reverse. The Supreme Court I think is also correct in the case of Brillo versus Enaje because almost the same question with a different twist in the law is involved, because Tacloban was converted into a city, they made it into a city, and there was a justice of the peace of the municipality of Tacloban. Now, when they converted it into a city, they appointed a new justice of the peace although there was already a justice of the peace there since 1937, Enaje, but they changed him and appointed another. The Supreme Court said, "No, you cannot do that; there was no more office." Well, no more, the office has been abolished. In other words, if there has been an express legislation saying that there will be no more municipal judge but instead somebody else or the auxiliary judge is hereby created or some other arrangement was made, it would have been a different story, but the position not having been abolished because it was the same position of judge except that you changed the name, perhaps the same territory of Tacloban except that instead of calling it a municipality, you call it a city, it is the same judge, the same judge should continue as a municipal judge, and that was, I understand, the ruling of the Supreme Court. In other words, in that case there was abolition. No question. In this case there was no abolition and therefore no other fellow should leave.

SENATOR PRIMICIAS. May I ask Your Honor now to pro-found Section 7, Article VIII, which has reference to appointment of judges of inferior courts to particular districts, which judges would be transferred to another district without the consent of the Supreme Court? Your Honor was one of the leading members of the Convention and I understand had a leading vital role in drafting the provision of the Constitution relative to Judiciary. At the time that that provision was approved by the Convention, Your Honor was then aware of a vicious practice being observed at the time, of transferring one judge from one district to another, creating what was then vulgarly called "rigodon de jueces" and which provoked the decision of the Supreme Court in the case of Borromeo versus Mariano.

SENATOR LAUREL. There are many instances, but I do not want to make reference to them. Historically the old "El Renacimiento" case which was tried by Judge Bentley, they wanted to suppress the name and kill the paper because the "El Renacimiento" was a nationalistic paper always crying for independence and

attacking Worcester in that famous article written by our "paisano" from Batangas, "Aves de Rapia," and there was a suit and they wanted a judge to insure the destruction of the paper "El Renacimiento," and they got it. They appointed a judge, not from Manila, through some arrangement with the Secretary of Justice, they secured an American judge and they succeeded in destroying it. And that was not the only instance. Recently, you know, even our esteemed colleague here in the Senate, was assigned a judge. Well, I do not want to make reference. I want, if it were possible, for the wound to heal because what this country needs is integration, what this country needs is solidification in common interests and common desires, to serve not so much the interests of our party, but the common interests of our people, but you know, the gentleman knows, and every lawyer knows what happened in the past, which we do not want to repeat, and precisely that is why we are trying to correct that.

SENATOR PRIMICIAS. I agree entirely with the gentleman from Batangas that we should not reopen old wounds, but at the same time, if we consider legislation of this nature, it would be wise to be guided by the lessons of history.

SENATOR LAUREL. I have a list of those cases.

SENATOR PRIMICIAS. I wanted only to get from the gentleman from Batangas what were the reasons why this provision was inserted in the Constitution at the time, and I got my answer. Now, does not Your Honor, considering all these reasons and motives behind the insertion by the constitutional convention of that provision in the Constitution, believe that the creation subsequently of the positions of judges-at-large and cadastral judges, who could be transferred from one district to another at the pleasure of the Chief Executive without the consent of the Supreme Court, was a violation of the spirit at least of the provision of our Constitution and which later on would deprive us of the proper administration of justice which was envisaged at that time?

SENATOR LAUREL. Mr. President, Senator Primicias is correct. And it is, I dare say, one of the causes that gave rise to 'the almost complete destruction of the faith and confidence of the people in the administration of justice in this country.

SENATOR PRIMICIAS. And if we correct now that violation, at least in spirit, of the provision of our Constitution by abolishing the positions of these judges who can be transferred like pawns on a chessboard at the mercy of the Chief Executive in order to take cognizance of cases to prosecute political enemies, now that we are in power, we do not want to exercise that power because we want to restore the permanency of judges so that they may no longer be removed from their districts, does that violate the spirit of the Constitution or does that further the spirit of the Constitution?

SENATOR LAUREL. That does not violate the Constitution. It is in consonance and in harmony with the spirit of the Constitution, that gives it life. Now is the opportunity. Senator Primicias is correct. And in taking advantage of that opportunity, we are inviting all the members of all the political parties to join us in this great endeavor and, perchance, in the near future share in the great glory of this great undertaking which we have begun this noon.

SENATOR PRIMICIAS. And now, Mr. President, the Nationalist Party is in power together with the help of the Democratic Party. These judges-at-large and cadastral judges are now within our power, through the Secretary of Justice, to transfer from one district to another. It is a tremendous weapon for political purpose, and yet the gentleman from Batangas is championing this bill giving up this power in order to make real the independence of the judiciary in the administration of justice. I think the gentleman from Batangas deserves all the honor and the praise that our people could bestow upon him for his statements here.

SENATOR LAUREL. I am profoundly grateful, Mr. Pres-

ident, for those laudatory remarks made by the distinguished gentleman from Pangasinan, Senator Primicias.

DISCURSO EN CONTRA, DEL SEN. PERALTA

SENATOR PERALTA. Mr. President.

THE PRESIDENT. Gentleman from Tarlac.

SENATOR PERALTA. Mr. President, I was going to vote for the original bill because that bill did not in any sense threaten the independence of the members of the judiciary. However, Mr. President, when the Committee on Judiciary of this chamber changed its mind after a period of about ten days, finally decided that they would abolish the positions of judges-at-large and cadastral judges, I felt it my duty to stand up, humble as my voice may be, in order to restate my position on what I believe is the meaning of the Constitution on the independence of the judiciary.

It is denied, and yet hovering in the background is the real reason for this reorganization, namely, the charge that some of these judges-at-large and some of these cadastral judges are incompetent to hold their office, and the only way of getting rid of them is by abolishing all the positions, reappointing the good ones and leaving out the bad ones. But, Mr. President, our Constitution and our laws at present state a procedure of how we can get rid of the bad ones, because it is not fair, Mr. President, by gossip and by rumor to convict a judge of being a bad judge. That judge, if he is accused of being a bad judge, has every right like any other person accused of a crime to meet his accusers face to face, cross-examine them and before a competent court or tribunal, which is the Supreme Court, dare the accusers to prove the charge that he is a bad judge. It is so easy, Mr. President, to smear the character of a man by gossip and by rumor, making cowardly accusations in private that a man is a bad judge, that he does not know the law, or that he accepts bribes. But, Mr. President, accusation by gossip and by rumor, conviction by gossip and by rumor, is not the kind of justice that is guaranteed to us by the Constitution. And if in order to get rid of bad judges, we have to abolish all the positions of judges-at-large and judges of cadastral courts, where shall we end? Sooner or later, somebody will propose: "Let us abolish all the positions of district judges of first instance, because there are two or three bad judges there and we cannot get rid of them except by abolishing all these positions of judges of first instance, reorganizing the judiciary under the guise of public policy; then, let us reappoint the good ones and leave out the bad ones." That is the theory.

But, Mr. President, in the light of practical politics — and the trouble with this country is that there is too much politics —, unless you are a good Nacionalista, Mr. President, you probably will not be reappointed as judge of first instance or unless you know how to kiss the hand of the powers that be. I am told that this judiciary bill abolishing the positions of judges at large and cadastral judges is for public policy. Public policy? I was told two good reasons why there should not be any more judges-at-large and cadastral judges. But those good reasons, Mr. President, can be enforced by a little amendment to the judiciary act like what we did last year, and it would not result in the abolition of positions of judges-at-large and cadastral judges. Why am I so worried about thirty-three men? It is not thirty-three men that I am worried about. It is the principle, Mr. President, that if a certain judge antagonizes a powerful man in this government, he runs the risk of having his position abolished under the guise of the so-called, alleged, public policy; when in truth and in fact the real reason is that this judge has been convicted of nothing more than by mere gossip or rumor of incompetence, or for the more content reason that he antagonized a powerful official. Whether founded or unfounded, nobody will ever know, unless that judge meets his accusers face to face before his peers in the land. Now, Mr. President, what is the reason why Section 9 of Article VIII of our Constitution was placed? Is it a dead letter? That article states:

"The members of the Supreme Court and all judges of inferior courts shall hold office during good behavior, etc. etc."

Notice, Mr. President, that in this section judges of inferior courts are placed in the same footing and side by side with members of the Supreme Court and mentioned in the same breath; and both members of the Supreme Court and judges of inferior courts have the same rights under this same article and the same section is the source of their constitutional rights.

Mr. President, if we try to pass a law now stating that the term of the justices of the peace shall be limited to ten years, Mr. President, that law is clearly void and unconstitutional. Why? Because, Mr. President, this article states that all judges of inferior courts shall hold office during good behavior until they reach the age of 70 years or become incapacitated to discharge the duties of their office. In other words, Mr. President, we cannot limit the tenure of their office because what is prohibited by express direction cannot be done by indirect means.

It is argued, Mr. President, that we can abolish the office; that it is inherent in Congress to create and abolish all kinds of offices except constitutional offices. But, Mr. President, that is subject to one express limitation, that such abolition of offices shall not contravene any provision of the Constitution of the Philippines. And I maintain, Mr. President, when we abolish the position of judge of any inferior court for the express purpose of limiting the tenure of judges, then, Mr. President, we run counter to Section 9 of the Constitution which guarantees the tenure of office of the judiciary whether they belong to the Supreme Court or whether they belong to inferior courts.

Now, Mr. President, certain cases have been alluded to here: The cases of Zanduetta vs. De la Costa, the cases of Brillo vs. Enage, and this last case which involves former Director Manalang. I submit, Mr. President, that in the case of Zanduetta vs. De la Costa only Justice Laurel in his concurring opinion upheld the theory that we may abolish inferior courts. The rest of the Supreme Court evaded that issue and merely refused to issue quo warranto simply because Judge Zanduetta was held in estoppel. In other words, inasmuch as Judge Zanduetta had assumed another office incompatible with his office as Judge of Court of First Instance, Judge Zanduetta could no longer question the constitutionality of the law under which he held his office. In the case of Brillo vs. Enage cited here, Mr. President, said decision was penned by Justice Ramon Diokno of revered memory but who, probably by coincidence, always agreed with the top-brains of the Nacionalista Party in political cases. And in his *ratio decidendi* Justice Diokno cited the case of Zanduetta vs. De la Costa using that case as authority and doctrine that Congress may abolish inferior courts. The case of Zanduetta vs. De la Costa never sustained such doctrine. Only one Justice of the Supreme Court upheld that doctrine that Congress may abolish inferior courts. The case of Zanduetta vs. De la Costa in fact made no such ruling. And I submit that in spite of all the learned experience of Justice Diokno he was wrong in citing such a precedent because in the case of Zanduetta vs. De la Costa the Supreme Court did not uphold that doctrine that the Congress may abolish the inferior courts. It should not be stated here, Mr. President, that Congress has the authority to abolish inferior courts because that is not the doctrine in this country. It is only a statement of one learned justice and such statements have been challenged by equally distinguished constitutional lawyers and there is no decision of the Supreme Court that I have been able to discover expressly stating that the Congress may abolish inferior courts.

Now, I am afraid, Mr. President, that if we pass this bill, its constitutionality will be challenged in the Supreme Court. It will have to be because this is a doctrine, Mr. President, which underlies the whole theory of democracy that the Judiciary shall be free and independent. One may not limit their tenure of office except for those reasons enumerated in the Constitution which are good be-

havior, incapacity to continue in office or until they reach the age of 70. Those are the only three reasons why a judge, whether a member of the Supreme Court or of an inferior court, may be removed from office, and if those are the only three reasons, Mr. President, stated by our Constitution, I plead that *inclusio unius est exclusio alterius*. What makes this bill very mischievous is not because there will be 33 men out of jobs. We have thrown out men from work but such did not involve doctrines and theories which underlie the very substance of democracy. When we challenge the independence of the judiciary, we challenge democracy's very foundation. It is hinted here, Mr. President, that there are six doubtful men who are at present judges-at-large and who may not be reappointed. Mr. President, it is better to bear with such six doubtful men than to destroy the very essence of the independence of the judiciary because, Mr. President, as every man knows in this country we take politics too much at heart. What is to prevent the insinuation — many of us here are lawyers — that if some powerful members of Congress are disappointed in some very big cases, especially when they refer to very big cases, what is to prevent the insinuation from circulating among the people that the real reason why a judicial office has been abolished is because that powerful member had been disappointed in losing the case. And human as we are, Mr. President, sometimes when a lawyer loses an important case, he begins circulating around, "Maybe, because that judge was fixed." That is human. I have heard those kinds of stories circulated by a disappointed lawyer who loses an important case, and who starts circulating the rumor that "that judge must have been fixed — must have been bribed." Or, also, he is grossly ignorant of the law. Repeat that often enough and people will start to believe. But if those are true, Mr. President, why do not these people who accuse these judges, go to the Supreme Court and make their accusations in public so that these judges may defend themselves, instead of having their character assassinated in public markets and other places? That is why, Mr. President, it is not for these thirty-three men that I plead today — I do not know most of these men — probably I know only one or two judges-at-large — at most three. I do not know the rest of these men. I do not probably know their names and their records, but I do know, Mr. President, that once we start threatening members of inferior courts, Mr. President, there is hardly any limit to what we may threaten later on.

Suppose, for example, Mr. President, that some powerful members were losing a case before the Court of Appeals? Very soon, Mr. President, there will be rumors circulating that those members of the Court of Appeals are grossly ignorant, or, they must have been fixed. This kind of character assassination will sooner or later circulate and pretty soon somebody in the halls of Congress will say, "Let us abolish the Court of Appeals on the ground of public policy." Let us create another court, which we shall call a court of appellate jurisdiction. Instead of putting there eleven men, let us put twenty-one in order that there will be more Nationalists employed for judicial jobs.

Now, Mr. President, I do not mind even a Nationalista, provided that he is really competent, and I say there are many competent Nationalistas who can be justices of the Supreme Court and justices of the Court of Appeals, judges in the Court of First Instance, and justices of the peace courts. There are many, competent Nationalista Party members who would honor me even if I only shake their hands.

But, Mr. President, that is not the proper way of giving them jobs — To abolish positions of men who have done nothing wrong in order that new positions will be created and given to these worthy members of the majority party. That is not the correct procedure and if we follow such a procedure, Mr. President, sooner or later we will no longer be a democracy. We will follow the doctrines of Communists' Russia, Mr. President, where only party members may hold important offices.

Mr. President, there is one more argument which I would like

to leave in the minds of my colleagues in this chamber. I merely would like to quote Justice Laurel himself when he made a concurrent opinion in the case of *Zanduetta vs. De la Costa*, which appears on p. 626, Vol. 66, Phil. Reports, 1938. I quote:

"I am not insensible to the argument that the National Assembly may abuse its power and move deliberately to defeat the constitutional provision guaranteeing security of tenure to all judges. But, is this the case? One need not share the view of Story, Miller and Tucker on the one hand, or the opinion of Cooley, Watson and Baldwin on the other, to realize that the application of a legal or constitutional principle is necessarily factual and circumstantial and that fixity of principle is the rigidity of the dead and the unprogressive. I do say, and emphatically, however, that cases may arise where the violation of the constitutional provision 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 the time to make the hammer fall and heavily."

Now, Mr. President, I use those very same words of Justice Laurel, "Let the hammer fall and heavily" because, Mr. President, under the guise of reorganization, security of judicial tenure is violated and such security violated in plain and palpable terms.

I thank you, Mr. President.

SENATOR PRIMICIAS. Mr. President, I ask for a suspension of the consideration of this bill until this afternoon.

EL PRESIDENTE. Hay alguna objeción a la moción? (*Silencio*.) La Mesa no oye ninguna. Queda aprobada.

CONSIDERACION DEL S. NO. 170 (Continuación)

SENATOR PRIMICIAS. Mr. President, I now ask that we resume consideration of Senate Bill No. 170, the Judiciary Act.

THE ACTING PRESIDENT. Continuation of the consideration of Senate Bill No. 170 is in order.

SENATOR PRIMICIAS. Mr. President, the distinguished Minority Floor Leader would like to be heard on this measure, and I ask that he be recognized.

EL PRESIDENTE INTERINO. Caballero por Abra.

MANIFESTACIONES DEL SEN. PAREDES

SENATOR PAREDES. Mr. President, gentlemen of the Senate: Far be it from my intention to engage in a debate on this very important bill. I have such a high respect for the opinion of our distinguished colleague, Senator Laurel, that I will say without hesitation that whatever opinion I have on legal matters and whatever I say here this afternoon should not be construed as opposing his views but only as a compliance with the duty that I believe I owe to the Senate — to state some reasons which in my opinion might endanger the bill if ever its constitutionality is brought before the court.

There cannot be any quarrel, Mr. President, on the proposition that Congress has the absolute right to reorganize not only the executive departments, but all other departments of the government. Neither can there be any question that the Congress may change the jurisdiction of the courts, enlarge or reduce its territorial jurisdiction or its jurisdiction as to the cases that may be tried by them. It can also be granted that a reorganization that affects the tenure of office of the present incumbents of the judiciary may be constitutional or unconstitutional according to the motive behind the reorganization.

Senator Laurel, as a member of the Supreme Court, has laid the rule that should be followed, and I believe it is only proper to bring his ruling before the attention of this Senate. In the celebrated case of *Zanduetta* cited here this morning, it was held by Justice Laurel that a reorganization that deprive a judge of his

office is not necessarily unconstitutional. But any reorganization may become unconstitutional if the circumstances are such as to show that the intention of the reorganization is to put out a member of the judiciary by legislation. I will not charge anybody with any hidden intention or improper motives in this bill, but if the question is ever presented to the Supreme Court by any judge who may be affected by the provisions of this bill which I suppose will be approved this afternoon, I feel, Mr. President, that if the circumstances — preceding, coetaneous and subsequent to the approval of the bill — are presented to the Supreme Court, the constitutionality of the bill will be seriously endangered. If the motives of the Congress in reorganizing are simply public policy, public welfare, public service, and the prestige or the protection of the judiciary and the members thereof, there can be little question about the constitutionality of the bill, but otherwise, the bill is unconstitutional.

Let us now, Mr. President, examine the circumstances attending this reorganization, and then ask ourselves whether or not our protestations of good motives are likely to be given credence by the courts. For the last seven years, the administration was controlled by the Liberal Party. The Nacionalista Party being then in the minority, had always been complaining against the acts of the Liberal Party administration. Right or wrong, there were alleged irregularities committed and which were the subject of attacks and complaints on the part of the members of the minority party, then the Nacionalista Party. The Judiciary was not free from these attacks and from these charges of irregularities. The Judiciary was also accused of having become a tool of the Chief Executive in the dispensation of justice. Comments were made, attacks were freely hurled during the campaigns against members of the Judiciary or the way in which the members of the Judiciary performed their duties. Main subject of attacks was the frequency with which the Secretary of Justice assigned judges to try specific cases and attributing to this action the ulterior motive of securing the conviction or the acquittal of the accused in criminal cases. Since the elections and after the new administration was installed into office, what did we notice in the matter of changing employees and reorganizing? In the Executive Department, not only have the high officials had to present their resignation out of propriety, but even those who were holding technical positions and who ordinarily would not be affected by changes in the leadership of the government, had to resign, and I say "had to" because they were asked to resign, or else So they did resign one by one. They quit their positions, because they were asked to.

And that was not enough. In the provinces changes were made. I will not now say that legislative violations were made, changes were made in the Executive Department, governors, mayors, councilors, board members were changed from Liberals to Nacionalista. There seems to be a craze of changing personnel, ousting all the Liberals, all those who belong to the Liberal party, and putting in their places members of the Nacionalista Party. Very natural, that was to be expected. For so many years has the Nacionalista Party been deprived of the opportunity to control the government, and this being the first opportunity of the Nacionalistas, it is only natural that they should wish to place their own men in order to be able to carry out their promises. They did not have confidence in the members of the Liberal Party. It was their right and privilege and duty to themselves, I should say, to bring new men to carry out their policies.

Mr. President, this was done, not only in the executive and also the elective positions. In the Department of Foreign Affairs, soon after the assumption to office, the Secretary announced publicly and openly that all the members of the Department of Foreign Affairs should resign notwithstanding the fact that there is a law protecting them, the tenure of their office being assured on good behavior. Then investigations against members of the Foreign Service started, all with the end in view of removing incumbent Liberals.

The same was done in the bureaus. Chiefs of Bureaus were asked to resign. Some of them did others did not, but finally had to give up their place in favor of new ones, all belonging to the Nacionalista Party. This series of similar acts following the

same standard will help discover the intention of this judiciary reorganization bill.

As to the Judiciary, there is no way of laying off the judges. The judges cannot be asked simply to resign because the Constitution protects them. There is a need to follow a different course if we want to change those who, during the former regime or administration, were suspected to be a tool of the Executive. A reorganization to get rid of them would be a most convenient course.

SENATOR PRIMICIAS. Mr. President, will the Gentleman yield?

THE PRESIDENT. The Gentleman may yield, if he so desires.

SENATOR PAREDES. With pleasure.

SENATOR PRIMICIAS. I regret to have to interrupt the distinguished Minority Floor Leader, but I wanted to ask him a few questions on the Department of Foreign Affairs.

SENATOR PAREDES. Yes, sir.

SENATOR PRIMICIAS. . . . upon his statement that many were asked to resign and those who did not resign were investigated.

SENATOR PAREDES. I apply that to the other branches of the Executive. In the Department of Foreign Affairs, I say that there was a public statement that the members of the foreign service should resign.

SENATOR PRIMICIAS. No, sir; I am not referring now to public statements, but to actual acts allegedly committed by the Department of Foreign Affairs. Is it not a fact, Gentleman from Abra, that only those occupying ministerial positions voluntarily resigned, and no one was asked to resign in the Department of Foreign Affairs.

SENATORS PAREDES. I understand that has been the case, but I also know, because I have read in the newspapers, that there have been public statements made by the Secretary of Foreign Affairs saying that in his opinion any member of the Foreign Service should resign because, according to him, they must have the absolute confidence of the Chief of the Department.

SENATOR PRIMICIAS. I do not know if he actually made that statement or not. I have no means to verify if he actually made that statement, but we must be concerned not with alleged statements which might more or less be true, but with actual acts committed. Now, is it not true, actually until now, that there are ministers who have actually resigned, tendered their resignations, but their resignations are not yet accepted and they are continuing in the foreign service?

SENATOR PAREDES. I think you are right, Your Honor.

SENATOR PRIMICIAS. Now, as regards some foreign affairs officers in the consular service, I understand that there are two consular officers who are being investigated in the whole consular corps. Is it not true that these consular officers are being investigated for electioneering activities, because they actually abandoned their posts and came to the Philippines and electioneered?

SENATOR PAREDES. I do not know the reason for their being investigated.

SENATOR PRIMICIAS. But there is no member of the consular corps who did not come to the Philippines to campaign who is being investigated.

SENATOR PAREDES. I do not know about that.

SENATOR PRIMICIAS. Well, I was interested in asking these questions because Your Honor has made a sweeping statement that officers in the foreign service were either asked to resign and that if they did not resign they were actually investigated. I want to set the record straight that the sweeping statement is not in accordance with facts.

SENATOR PAREDES. If I am not mistaken, what I said and what I am going to say is in the executive depart-

ment, and then I singled out the foreign service — that even in the foreign service, the secretary announced that everyone should resign.

SENATOR PRIMICIAS. Now, actually, the members of the consular corps did not resign. They were not asked to resign.

SENATOR PAREDES. Maybe not.

SENATOR PRIMICIAS. Now, regarding the judiciary, Your Honor has just made a statement that after reorganizing the executive department, and as Your Honor has said, the Nationalista Party which had made a commitment to the people had the right to do so. So, they have attempted to reorganize the foreign affairs department in spite of the law that assures the security of tenure and which, as I have just stated, is not correct as a sweeping statement. Your Honor now refers to the judiciary, and that the Nationalista Party decided on reorganizing the judiciary in order to control again the judiciary.

SENATOR PAREDES. Pardon me, I am not charging anybody with bad intentions. I am simply presenting the circumstances in order later to conclude with a question. Now, under the circumstances, would the Supreme Court, in case these facts are presented to it, believe what we said here about a clear conscience and pure motives, or will the Supreme Court take a different view? If they take a different view, the bill will be considered unconstitutional.

SENATOR PRIMICIAS. Now, I would like to ask a question to the distinguished minority floor leader. I am sure his statements on the floor, in case this question is elevated to the Supreme Court, would be cited in the Supreme Court, and I would like to have him on the record. As a matter of constitutional power, legal power, granted by the Constitution, is Your Honor of the belief that Congress has the power to reorganize inferior courts, not the Supreme Court, but inferior courts, abolish positions in the inferior courts, or create new courts?

SENATOR PAREDES. I have started my brief statement recognizing these principles and these rights, and I even went to the extent of saying that we can legislate out in some respect. But if our legislation goes to such an extent that it may be construed as being motivated by a desire to get rid of judges rather than the good of the service, then our action goes beyond the limit. That is what I was saying. I am trying now to show the circumstances preceding and attending the presentation of this bill so as to conclude with the question that I would like to propound.

SENATOR PRIMICIAS. Your Honor is then of the opinion that the answer to the question depends upon the motive. If the motive is praiseworthy, the action would be perfectly legal.

SENATOR PAREDES. Yes.

SENATOR PRIMICIAS. But if the motive is purely political, there is serious doubt as to its validity.

SENATOR PAREDES. Exactly. That is why I agree with you.

SENATOR PRIMICIAS. But as a matter of academic question, irrespective of the motives, and I suppose this matter must be decided on legal or constitutional grounds . . .

SENATOR PAREDES. And the surrounding circumstances.

SENATOR PRIMICIAS. Suppose we consider the matter purely from the academic point of view.

SENATOR PAREDES. Then there is no question, from the academic point of view, that this bill is constitutional. But as Justice Laurel said in his decisions in interpreting the Constitution, we should apply the Constitution with the particular circumstances of a given case.

SENATOR PRIMICIAS. Your Honor then is of the belief that in view of the series of circumstances that Your Honor has just mentioned, the Supreme Court might doubt the motives behind the approval of this bill if converted into law?

SENATOR PAREDES. Not those circumstances only, but other circumstances that I was about to mention, and I will say, with all these circumstances, even in a criminal case, there is sufficient ground to conclude guilt.

SENATOR PRIMICIAS. Does Your Honor also believe that in judging these motives one should take into account the fact that because of the creation of the positions of Judges at large and cadastral judges, who might be transferred and who were actually transferred from one district to another irrespective of the needs of the service, a serious situation has arisen destroying the faith and confidence of the people in the administration of justice, which situation must be remedied by the new party which has assumed power in order to restore the faith and confidence of the people?

SENATOR PAREDES. Yes, I agree with you that that might be necessary.

SENATOR PRIMICIAS. Thank you very much.

SENATOR PAREDES. Now, Mr. President, again I wish to clarify my position. I am not charging anybody with bad or ulterior motives. On the contrary, I believe that every member of Congress is moved by the best of intentions in voting for this bill. But I am simply presenting coetaneous circumstances that will naturally be brought before the Supreme Court if the case is ever presented there, and which coetaneous circumstances may outbalance the presumption that we are complying with our duties faithfully. It may outbalance the presumption that our motives, as we say, are good.

If I may resume now, in the judiciary, there is an absolute impossibility of asking any body to resign if he does not want to, because he is protected by the Constitution. That will be presented to the Supreme Court. Now, as for other coetaneous circumstances. What was done in the matter of the appropriation law in order to facilitate legislating out some of the employees, civil service men? Lump sum appropriations were requested for certain offices, but which were not granted by the Senate because the Senate, I am proud to say, represented by the distinguished gentlemen of the majority and also joined by a few members of the minority, saw fit to oppose that objectionable move, or at least saw fit to act in such a way as to avoid any possibility of suspicion. But other facts will also be brought up, Mr. President, which will add to the series of circumstances that will be used by those who may question the law, to change the Senate with ulterior motives. What are those facts, Mr. President? I was told right this afternoon, when I was on the floor of the Lower House, that no less than the floor leader of the majority stated that one of the purposes of the bill is to get rid of the judges that are no good. This is on record. With such a confession, how can we say to the Supreme Court, in all sincerity, that our intentions are purely to serve the judiciary. The Secretary of Justice is even quoted as having said that five or six judges will be affected. Take those circumstances into consideration, Mr. President, and again the other side will say, "What was the purpose of the reorganization, the evident purpose of the reorganization?" It has been said, *first*, to equalize, give the same rank, jurisdiction and salary to all judges. That same rank can be accomplished now if we only raise the salary of the lower judges. The cadastral judge will have the same jurisdiction as the district judge if he is assigned to try all kinds of cases. By administrative order, he can have the same rank, although not the same salary and the same name. The auxiliary judges now have the same privileges as a district judge except the salary. If that is the reason for the bill, why not simply raise the salary of these judges so that they may have the same rank as the others. *Second alleged motive:* To avoid the possibility of these judges being used and assigned from one district to another as they had allegedly been used and assigned in the past, to try special cases and to follow the wishes of the administration. I wish to pay a tribute of admiration to the gentlemen of the majority for having said that that is their purpose. I believed that is the purpose of the gentlemen who authored the bill and sponsored the bill, Senator Laurel. But, Mr. President, that same purpose can be accomplished by simply amending the law, by simply providing that the Secretary of Justice shall not do this hereafter without the consent of the

affected judge and the Supreme Court. That would have been a remedy. So, we cannot allege that as the reason for the amendment. Now, what is the other possible and alleged reason? To give all judges the same name. Mr. President, I believe this is too childish a reason for a wholesale reorganization of the judiciary.

These being the circumstances, I would ask the gentlemen of the Senate to kindly consider whether our protestation of clean conscience and clear motives are not outbalanced by the preceding and coetaneous circumstances, and whether or not if we approve this bill we will have any chance of having it sustained by the Supreme Court.

There is one part of the bill that may be the source of injustice in its application. I refer to the proviso that all auxiliary judges and all cadastral judges will vacate their offices upon approval of this bill. Now, that is an actual deprivation of these people's position. But this may create a situation that may be cited as departing from the avowed good intention of the law. There is a district judge, for instance, in Rizal, and there is the district of Manila where there are several cadastral judges. Suppose that this bill is approved, all judges, the second and third class, should vacate their positions and wait for a new appointment. In the case of the district judge of Rizal, he will not have to be reappointed. So, he remains as a judge of Rizal. But the cadastral judge who has to get new appointment in order to continue in the judiciary, is appointed to Manila. Result: the one in Rizal who has been serving for years as district judge will not be brought to Manila because he remains in his district, while the cadastral judge in the district has the opportunity to come and in fact comes to Manila.

SENATOR TAÑADA. Mr. President, will the gentleman yield on this point?

THE ACTING PRESIDENT. The gentleman may yield if he so desires.

SENATOR PAREDES. Gladly.

SENATOR TAÑADA. I regret that I cannot see the point of the distinguished gentleman from Abra because there is nothing in the bill, Mr. Senator, which would prevent the President from promoting the judge who is occupying a court in the district of the province of Rizal, to a court here in Manila. Therefore, the basis of the argument of the distinguished Senator will not be there.

SENATOR PAREDES. Except for this consideration, that the question of appointment is so ticklish a matter that the appointing power tries to avoid difficulties. By not removing anybody from his place, he has less headaches. Just let him stay where he is and get a new one. He will only have one problem. If he removes him, there will be another headache to find his successor. So, the best thing is to retain him where he is.

SENATOR TAÑADA. But there is no provision which prevents the President from exercising his appointing power. As the bill is drafted, there is nothing to prevent the President from promoting district judges who may be in the district of Pangasinan or Rizal. The chances are that he may lose his place if the appointment is not confirmed here, but the result is that on account of the reorganization law he would have to be placed in jeopardy of losing his place.

SENATOR PAREDES. But in the case of the judge-at-large who, according to you, may be promoted to the court here in Manila, he may also lose his job. It is not a question of losing his job that I am presenting now here, but whether these judges in the province, because of the operation of this bill, are deprived of the opportunity to be promoted to better courts.

SENATOR TAÑADA. Thank you.

SENATOR PAREDES. As I said to the gentleman from Quezon, the district judges take the risk or are placed in danger of losing their positions, while the judges-at-large and the cadastral judges lose definitely their positions unless they are reappointed and their reappointment confirmed. And that is the possible result.

With this statement, Mr. President, without any intention to oppose the bill as you gentlemen believe, but simply to point out that the circumstance I have mentioned may be more than sufficient to counterbalance or outbalance the protestations of our

clean conscience and clear motives, I wish to conclude. The statements made by the Floor Leader of the majority in the lower house are too definite for any doubt. You know your motives. You will answer for the bill. You are the overwhelming majority. You will vote for this bill, of course, notwithstanding our fears that the same will not serve a good purpose.

SENATOR DELGADO. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield if he wishes.

SENATOR PAREDES. Gladly.

SENATOR DELGADO. I understood from the gentleman that he is assuming that the motives both of the members of the majority of the Senate and the lower house as well as that of the Executive are of the very best. Is that correct?

SENATOR PAREDES. Yes, Mr. Senator.

SENATOR DELGADO. If Your Honor assumes that nothing but the very best of motive has induced the majority of the Senate and of the Lower House and also the Executive in the passage of the bill, may we not assume also that the Chief Executive will only eliminate the judges who should be eliminated and keep and promote those who are deserving of promotion?

SENATOR PAREDES. Which comes to prove my theory that this bill will be used to get rid of some who are supposed not to be good.

SENATOR DELGADO. Will Your Honor be agreeable to remove those who should be removed?

SENATOR PAREDES. Yes.

SENATOR DELGADO. And those that should be promoted should be promoted?

SENATOR PAREDES. Absolutely, but follow the constitutional and legal procedure. If they should be removed, why not bring charges against them. And if you cannot bring charges because you have no sufficient cause for removal, why do you remove them by this law?

SENATOR DELGADO. If you assume that the bad judges will be removed, as long as the undesirable ones are removed and the desirable ones are retained or promoted, what is the difference?

SENATOR PAREDES. May I ask you a question in answer to yours. If we know that somebody kills someone, but you cannot prove it, will you vote to send him to the gallows?

SENATOR DELGADO. You assume the good faith of the Chief Executive?

SENATOR PAREDES. I do assume.

SENATOR DELGADO. That he will not do anything that is not justified by the circumstances and that, therefore, only undesirable ones will be removed and the desirable ones will be not only preserved but even promoted to higher positions? I thank you.

SENATOR PAREDES. I assume and I accept and I will fight to defend the proposition that the Chief Executive and everyone here are acting with good intentions. But, Mr. President, we will not be the justices of the Supreme Court and our protestations may be outbalanced by the circumstances that I have mentioned. Mr. President, not all that should be in jail are in jail, and not all that are in jail should be there, simply because human justice has its limitations, and courts have to decide according to the proofs and according to the opinion of the justices. So, I comply with my duty by presenting these modest observations of mine to the consideration of the majority. If you decide to approve the bill, I will try to do my best to help you perfect it, if it has any defects that may be corrected. But I hope you will think twice before you approve the bill in the way it is.

EDITOR'S NOTE: — The *Lawyers Journal* has received numerous requests from the members of the bar to have the pleadings and memoranda in the "Judges' case" (*Felicisimo Ocampo, et al. vs. Secretary of Justice, et al., G. R. No. L-7910*) published. Due to space limitations and in view of the unusual length of the pleadings filed, the *Journal* regrets that it can not publish them. However, the *Journal* will publish in the next issue, the respective memoranda submitted by the attorneys for the petitioners-judges, and the Solicitor General.