ther emphasizes the desirability of re-studying and re-appraising the percentage-cuts imposed on textiles in Executive Order No. 295, and further emphasizes the need to release quotas as quickly as possible while importers still have the opportunity to purchase available supplies of textiles in the United States before further advances in prices are effected.

Legislation, Executive Orders, and Court Decisions

By EWALD E. SELPH
Ross, Selph, Carrascoso & Janda

ON January 31, 1950, in Case No. L-2216, the Supreme Court affirmed a decision of the Court of Industrial Relations requiring that "a majority of the laborers to be employed should be native."

The Supreme Court said:

"We are of the opinion that the order under consideration meets the test of reasonableness and public interest. The passage of Commonwealth Act No. 103 was 'in conformity with the constitutional objective and * * * the historical fact that industrial and agricultural disputes have given rise to disquietude, bloodshed and revolution in our country.' (Antamok Goldfields Mining Co. *vs.* Court, 40 O. G., 8th Supp., 173.) 'Commonwealth Act No. 103 has precisely vested the Court of Industrial Relations with authority to intervene in all disputes between employers and employees or strikes arising from differences as regards wages, compensation, and other labor condition which it may take cognizance of.' (Central Azucarera de Tarlac vs. Court, 40 O. G., 3rd Supp., 319, 324.) Thus it has jurisdiction to determine the number of men to be laid off during off-season. By the same token, the court may specify that a certain proportion of the additional laborers to be employed should be Filipinos, if such condition, in the court's opinion, 'is necessary or expedient for the purpose of settling disputes, preventing further disputes or doing justice to the parties.'

* * *

"We can not agree with the petitioner that the order constitutes an unlawful intrusion into the sphere of legislation, by attempting to lay down a public policy of the state or to settle a political question. In the first place, we believe, as we have already explained, that the court's action falls within the legitimate scope of its jurisdiction. In the second place, the order does not formulate a policy and is not political in character. It is not a permanent, all-embracing regulation. It is a compromise and emergency measure applicable only in this case and calculated to bridge a temporary gap and to adjust conflicting interests in an existing and menacing controversy. The hiring of Chinese laborers by the petitioner was rightly considered by the court likely to lead the parties away from the reconciliation which it was the function of the court to effectuate.

"As far as the petitioner is concerned, the requirement that majority of the laborers to be employed should be Filipinos is certainly not arbitrary, unreasonable or unjust. The petitioner's right to employ labor or to make contract with respect thereto is not unreasonably curtailed and its interest is not jeopardized."

In another case decided on the same date, the Supreme Court affirmed a decision of the Court of Appeals holding that an insured was entitled to recover from the insurance company for a loss occasioned during the Japanese occupation despite a clause in the policy absolving the insurer in event the loss was occasioned by war, etc., or if the loss occurred during the existence of "abnormal" conditions arising out of war, etc. The insurer also set up as a defense that the policy provided that if the circumstances affecting the building were changed without the consent of the insurer so as to increase the risk of fire, the insurance ceased. It also urged another violation of the policy because the insured had failed to disclose a previous fire. The Supreme Court, in passing upon the argument that occupation of the city and sealing of the building by the Japanese, increased the risk, that the fire occurred during "abnormal conditions", and that the claim was false and fraudulent because of denial of previous fire, said:

"The findings of the Court of Appeals (1) that the sealing of, and the placing of posters on, the building by the Japanese Forces did not increase the hazard or risk to which the building was exposed and, therefore, the insurance did not cease to attach under Article 8 of the policies; and (2) that the fire which destroyed the building 'was purely an ordinary and accidental one, unrelated to war, invasion, civil commotion, or to the abnormal conditions arising therefrom,' are binding and conclusive upon this Court. It has not been shown that the findings of fact made by the Court of Appeals are arbitrary, whimsical, manifestly mistaken, illogical, or absurd, so as to warrant this Court to step in in the exercise of its supervisory power. And as to the defense based on article 13, the same is not set up in the special defenses, unlike the one under article 8 which is set up in the 4th and 5th special defenses and the other under article 6 set up in the 2d special defense. This Court cannot determine whether the defense under article 13 is included in that of article 11 pleaded in the 6th special defense because the policies are not before it."

Consequently, the decision of the Court of Appeals on the point of false declaration of no previous fire, was not passed on by the Supreme Court. However, it would be well for all insurance companies to note what the Court said about raising defenses and possible waiver of such by not pointing them out in any denial of liability, and also the advisability of making specific all defenses upon which it proposes to rely.

The Court of Appeals said:

"As to the third assignment of error, the record discloses that the plaintiff-appellee had a previous building on the land on which the insured building was built, which had also been destroyed by fire from neighboring buildings. On the basis of this fact, it is claimed on defendant-appellant's behalf that the plaintiff-appellee should be considered as having forfeited all benefits under the policies, in accordance with Article 13 thereof. Three objections are raised against this claim, namely, that it had not been raised in defendant-appellant's answer; that it has been waived and appellant is estopped from asserting it now, especially for the first time on this appeal; and that the misstatement is immaterial and not fraudulent.

"The first objection is procedural, but it is a valid one because plaintiff-appellee was not aware of this defense and had no opportunity to introduce evidence to counteract it. The second objection is also well founded, as the defendant-appellant by its letter rejecting the claim disclaimed liability only under Article 6, thus making plaintiff-appellee believe that the defense was on Article 6 alone (32 C. J. p. 1354). We also sustain the third objection, as the previous fire that appellee failed to mention in answering the questions appearing in the claims application is certainly immaterial and irrelevant, in so far as the fire in question is concerned (32 C. J. p. 1271)."

Philippine Safety Council

By FRANK S. TENNY
Executive Director

INDICATING the trend of local industrial and insurance companies to affiliate with the national safety movement, five new members have enrolled in the Philippine Safety Council during the past few days. They are: