BATAS PAMBANSA BLG. 129 AND JUDICIAL INNOVATION: A CLOSER LOOK

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PART I: *INTRODUCTION*

> It is in the courts and not in the legislature that citizens primarily feel the keen, cutting edge of the law. If they have respect for the work of the courts, their respect for law will survive the shortcomings of every other branch of government; but if they lose their respect for the work of the courts, their respect for law and order will vanish with it to the great detriment of society.
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> —ARTHUR T. VANDERBILT[1]

The Changing Times

For the first time since the Judiciary Act[2] became effective on June 11, 1901, or roughly a period covering almost four generations, a general upheaval of the organization of the Philippine Judiciary is sought to be implemented thru the enactment of Batas Pambansa Blg. 129, otherwise known as the Judiciary Reorganization Act of 1980.

This planned reorganization of the third branch of government does not occur in an isolated fashion; it goes hand in hand with other reforms of a major character experienced in the other departments of the government, both on the national and the local levels. It results from an awareness by the administration of "the true and enduring realities in our national life," reflecting "our higher aspirations as a society and as a nation,"[3] which are: "... liberty, which is the continuing growth and enrichment of every person's capability; equality, which is the basis of our mutual respect and social cooperation; justice, which defines and extends to every person

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1 VANDERBILT, THE CHALLENGE OF LAW REFORM 4-5 (1955).

2 Act No. 136 (1901).

3 Keynote address of President Marcos on the Seventh General Conference of the International Association of Universities, Manila, August 25, 1980, p. 15; cited in "Report to His Excellency President and Prime Minister Ferdinand E. Marcos by the Committee on Judicial Reorganization," p. 2.

what is owing and due to him; and nationalism, from which flows our pride, and which urges us to make the best contributions that we can offer to the community of nations."[4]

In concept, Batas Pambansa Blg. 129 seeks to implement major changes in the judiciary according to the felt needs of the times and the immediate future. It is indubitable that the last two decades of this century are likely to be attended with problems of even greater complexity and delicacy. New social interests are pressing for recognition in the courts. Groups long inarticulate, primarily those economically underprivileged, have found legal spokesmen and are asserting grievances previously ignored. The task of the judiciary has thus become even more formidable, for so much grist is added to the mills of justice. The need for an innovative approach is thus clear.[5]

The Pressing Need

Attendant most visibly to the need for reorganization is the glaring problem of clogged dockets. Despite efforts exerted by the Supreme Court to alleviate the situation, notably since the 1973 Constitution vested it with the administrative duty to supervise the courts, the trend towards more and more cases has continued.

In terms of percentages, the increase may be categorized thus: 2.09% in 1973; 11.36% in 1974; 9.24% in 1975; 17.85% in 1976; 14.96% in 1977; 5.3% in 1978; 0.91% in 1979 and 2.59% in 1980. As of July 30, 1981, close to 450,000 cases lie pending in courts inferior to the Supreme Courts, two-thirds thereof pending before municipal and city courts, or nine-tenths thereof if Courts of First Instance and Circuit Criminal Courts are included.[6]

Some legal writers have attributed this world-wide phenomenon of dockets congestion to three particular villains: (1) the automobile, as an end-product of large-scale technological advancement among peoples, though such may not be relevant in developing third world countries like the Philippines;[7] (2) the waning influence of the family, the church, and other non-legal agencies of social control;[8] and (3) the vast migrations of population from the small towns and rural areas to the great cities that have taken place since World War II.[9]

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4 *Ibid.*

5 "Report to His Excellency, President and Prime Minister Ferdinand E. Marcos by the Committee on Judicial Reorganization," p. 3.

6 *Id.* at 5-6.

7 ROSENBERG, COURT CONGESTION: STATUS, CAUSES AND PROPOSED REMEDIES, IN THE COURTS, THE PUBLIC AND THE LAW EXPLOSION 29-60 (1965).

8 BARRETT, CRIMINAL JUSTICE: THE PROBLEM OF MASS PRODUCTION, IN THE COURTS, THE PUBLIC AND THE LAW EXPLOSION 85-123 (1965).

9 *Ibid.*

But whatever the reasons may be, the fact remains that the situation in our dockets is, to say the least, a far from satisfactory state of affairs.

Historical Perspective on Judicial Organization

The first Judiciary Act (Act no. 136) was enacted in June of 1901. Subsequently, amendments thereto were enacted, prior to the Commonwealth period: Act No. 2347 (1914), which reorganized Courts of First Instance and the Court of Land Registration (created under Act No. 496), creating thereby the position of auxiliary judges and Act No. 4007 (The Reorganization Law of 1932), which re-created the position of judges at large.[10]

The Commonwealth period saw the following developments: Commonwealth Act No. 3 (1935) established a Court of Appeals composed of a presiding judge and ten appellate judges; Commonwealth Act No. 145 (1936) reorganized the Courts of First Instance into different districts. The validity of the redistricting done in the latter law was questioned in *Zandueta v. de la Costa,*[11] but the Supreme Court dismissed the quo warranto petition on the ground of estoppel, Judge Zandueta having accepfed the *ad interim* appointment.

Two years after the proclamation of Philippine Independence, the Judiciary Act of 1948[12] was enacted. It maintained the existing system of regular inferior courts, i.e., below the Supreme Court, one Court of Appeals, Courts of First Instance, and Municipal Courts.[13] The membership of the Court of Appeals remained at fifteen until it was increased to eighteen (with six divisions) in 1968.[14] In 1973, Presidential Decree No. 289 increased its membership to thirty-six members (divided into twelve divisions). Presidential Decree No. 1482 (1978) increased its membership further to forty-five members (with fifteen divisions).

Alongside, special courts were likewise created, in the following chronological order: the Court of Tax Appeals in 1954;[15] the Court of Agrarian Relations in 1955;[16] Courts of Juvenile and Domestic Relations for Manila in 1955;[17] for Iloilo and Quezon City in 1966[18] and in thirteen provinces and twenty-seven other cities in 1978;[19] and the Circuit Criminal Courts in 1967.[20]

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[10] The position of judges at large was first introduced in 1902, under Act 396, but Act 2347 abolished the same.

[11] 66 Phil. 615 (1938).

[12] Rep. Act No. 296 (1946).

[13] Municipal Courts were then known as the Justice of the Peace Courts.

[14] See Rep. Act No. 5204 (1968).

[15] Rev. Act No. 1125 (1954).

[16] Rep. Act No. 1267 (1955), further amended by Pres. Decree No. 946 (1976).

[17] Rep. Act No. 1404 (1955).

[18] Rep. Act No. 4834 (1966) and 4836 (1966). See also Rep. Act Nos. 5502 (1969); 6512 (1972); 6586 (1972) and 6591 (1972) and Pres. Decree Nos. 411 (1974) and 411-A (1974).

[19] Pres. Decree No. 1439 (1978).

[20] Rep. Act No. 5179 (1967).

The Judiciary Act of 1948 was likewise subsequently amended. Under Republic Act No. 1186 (1954), Judicial Districts and places of assignment for judges of the Courts of First Instance were altered, as the positions of judges-at-large and Cadastral Judges were abolished. The abolition of the latter positions was assailed in *Ocampo v. Secretary of Justice*,[21] but the Supreme Court upheld its constitutionality. Also, by virtue of Presidential Decree No. 537 (1974), Municipal Courts were constituted into Municipal Circuit Courts under specified conditions.[22]

Scope of Present Reorganization

Once more and in a most drastic fashion, the judiciary is sought to be reorganized with the passage of Batas Pambansa Blg. 129. The courts affected by the reorganization include the Court of Appeals, the Court of First Instance, The Circuit Criminal Courts, the Juvenile and Domestic Relations Courts, the Court of Agrarian Relations, the City Courts, the Municipal Courts and the Municipal Circuit Courts.[23] Spared from the reorganization of the inferior courts are the *Sandiganbayan* and the Court of Tax Appeals. The reason for this exemption of the *Sandiganbayan* lies in the fact that it has been in existence only for two years since the promulgation of Batas Pambansa Blg. 129.[24] The short span of its existence has not yet tested its efficiency as a specialized court. Furthermore, the Constitution specially provides for the creation of this special court.[24a]

Regarding the exemption of the Court of Tax Appeals, there seems to have been an oversight on the part of the proponents of the Proposed Judiciary Code of 1978 in exempting this specialized court from reorganization by reason of its being a quasi-judicial body. The Supreme Court, by interpreting the intention of Congress in enacting Republic Act 1125.[25] declared in *Ursal v. Court of Tax Appeals*[26] that it was the evident intention of Congress to create a centralized body, a regular court forming part of the judicial system and not merely another administrative agency as was the case with the new defunct Board of Tax Appeals. There seems to be no valid reason for its exemption.

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21 G.R. No. L-7910, 51 O.G. 147 (1955).

22 Pres. Decree No. 537 (1974), pars. 1-6.

23 Batas Pambansa Blg. 129, sec. 2.

24 The Sandiganbayan was created by virtue of Presidential Decree 1486 which took effect on June 11, 1978. Further amendments were made by Presidential Decree No. 1606 (Dec. 10, 1978) and Presidential Decree No. 1629 (July 18, 1979).

24a CONST. art. XIII, sec. 5. "The Batasang Pambansa shall create a special court, to be known as *Sandiganbayan*, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

25 June 16, 1954.

26 101 Phil. 209 (1957).

In principle, the new law seeks to revitalize our judicial system using the social engineering concept of Roscoe Pound,[27] categorized in terms of the judicial machinery and of the judicial personnel.

Under the category of judicial machinery, relevance is made to the structure and reorganization of courts. Recognizing the need for an intermediate appellate court to aid the Supreme Court in disposing its clogged dockets, the question then centered upon how the said appellate tribunal should be structured. Three options were available: (1) one Court of Appeals with regional branches; (2) circuit Courts of Appeals as in the United States; and (3) the system of intermediate appellate courts, complete in themselves, embraced within a single superior court along with the other courts, as idealized in the British Judiciary system.[28] Ultimately, the last option was picked, and this paper shall deal with its features in a subsequent portion.

On the other hand, under the category of *judicial personnel,* emphasis is placed upon the men who will operate the machinery, realizing that "improved court management procedures would be ineffective absent the men who can properly implement.[29] The establishment of a Judicial Academy for the on-going improvement of men seated on the Bench has thus been propounded.[30]

Scope of This Paper

Against the backdrop of the pressing calls for changes and reforms in our present judicial processes, this paper seeks to evaluate the major changes sought to be brought about thru the eventual enforcement of the provisions of Batas Pambansa Blg. 129. Necessarily, correlative issues arising from its enactment shall also be considered.

PART II: *THE NEW INTERMEDIATE APPELLATE COURT AND THE OLD COURT OF APPEALS COMPARED*

Composition

Under the Judiciary Act of 1948, as amended, the Court of Appeals consisted of a presiding justice and forty-four associate justices appointed by the President.[31] The Court could either sit *en banc* or in fifteen divisions of three justices each. When sitting *en banc,* it was presided over by the presiding justice or whoever was the most senior among the justices then

[27] Report to His Excellency, President and Prime Minister Ferdinand E. Marcos by the Committee on Judicial Reorganization, p. 14.

[28] *Id.* at 14-19.

[29] *Id.* at 19.

[30] *Id.* at 29-33. This proposal has been espoused by the late Chief Justice Fred Ruiz Castro.

[31] CONST., art. X, sec. 4.

present. During *en banc* sessions, the Court had no adjudicatory powers; it could not decide cases or resolve motions relative to matters involved in pending cases.[32] When seated in a division, the chairman of the division or the most senior member present presided.[33]

On the other hand, under Batas Pambansa Blg. 129, the Intermediate Appellate Court is manned by a presiding appellate justice and forty-nine associate appellate justices who are appointed by the President. However, as each division has five members, the number of working divisions is considerably reduced to ten.[34]

The purpose behind the increase in the membership of the appellate court appears two-fold: on the one hand, it seeks to meet the increase of work-load in the Court brought about by its expanded powers, functions and jurisdictions; on the other hand, it hopes to finally solve the problem of backlog of cases. As of July 30, 1981, there were close to 450,000 cases pending in courts inferior to the Supreme Court, 12,726 of which were assigned to the Court of Appeals.[35] It is generally believed that by increasing the member of justices, more cases will be disposed of.

This view is, however, not unanimously held. Senator Diokno, in his memorandum[36] as *amicus curiae* in the *De la Llana, et al v. Alba, et al.*[37] case, expressed the view that

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[32] Matters that the Court could take up *en banc* included the following:

(a) All administrative matters, such as organization or reorganization of divisions, appointment and discipline of subordinate personnel, and the transfer, abolition, consolidation or reorganization of its different offices and their personnel (as provided for in Sec. 35 of RA 296, as amended);

(b) Convening for ceremonial purposes, such as receiving visitors and distinguished guests, retirement of any of its members, honoring a colleague, necrological services, and the like;

(c) The issuance of citations for contempt committed against the Court, and hearing and deciding the same;

(d) Adoption of measures intended to expedite the disposal of pending cases, to maintain the efficiency of personnel, and, otherwise, to improve the function and image of the Court;

(e) Discussions to thresh out divergent views of the members of the Court on any particular question, with a view to arriving at a consensus and avoiding conflicting decisions on such an issue by the different divisions of the Court;

(f) Other matters that the Presiding Justice or any member of the Court may suggest for inclusion in its agenda.

The above enumeration was provided for, not by Rep. Act No. 296, but by II, A, 1(a) of the Rules of Internal Operating Procedures adopted by the Court *en banc* on April 30, 1979 under Resolution No. 163. The Rules embodied the procedures presently observed in accordance with existing practices, pertinent resolutions issued by the Court *en banc*, and memoranda-circulars of Presiding Justices. Absorbed within its provisions are the directives to implement Administrative Circulars Nos. 2 and 4, issued by the Chief Justice on July 1, 1978 and August 21, 1978 respectively.

[33] Rep. Act 296, Secs. 24 and 25.

[34] Batas Pambansa Blg. 129, Sec. 4.

[35] Report to His Excellency President and Prime Minister Ferdinand E. Marcos by the Committee on Judicial Reorganization, pp. 5-6.

[36] Dated October 15, 1981.

[37] G.R. No. 57883, March 12, 1982.

> ...though the act does increase the number of trial courts, it creates a bottleneck at the appellate court. At present, the Court of Appeals is composed of forty-five members divided into fifteen divisions of three members each, each division deciding cases on its own, save in those rare cases where one member dissents. The Act increases the Justices to fifty, but since the Court can act only by divisions, it is the number of divisions, not of judges, that counts — and the Act reduces the divisions from fifteen to ten, composed of five members each. To compound matters, it increases the work-load of the Court. How then could the Act expect to speed up cases or unclog dockets?...

Justice Gaviola of the Court of Appeals, in the Public hearing on the then proposed judicial reorganization,[38] concludes that

> ...by increasing the constituency (of each dvisions) to five, there will be more delay in the review of the cases on appeal such that, instead of doing away with the backlogs, it might only increase the backlogs...

Dean Enrique Voltaire Garcia, with whom both Justice Gaviola and Senator Diokno concur, believes that it is not the number of justices in the Court that matters, but rather the vacancies therein that have not been filled up.[39] The Court of Appeals has forty-five positions, to which only twenty-eight justices have so far been appointed. According to Dean Garcia, "the Court of Appeals has not been given a chance to show its work."[40] Justice Gaviola believes that by merely filling up these vacancies, such congestion of cases in the Court of Appeals would be minimized, if not eliminated.

As in the Court of Appeals, the Intermediate Appellate Court may sit in divisions or *en banc,* but the cases when the Court may sit *en banc* are now expressly provided for *viz.*, only for the purpose of exercising administrative, ceremonial, or other non-adjudicatory functions.[41] As to who shall preside each particular division, the same rule as in the old law governs,[42] namely that it shall be the Presiding Appellate Justice, if present, else it shall be the Associate Appellate Justice who has the precedence.

An important innovation introduced in the Court is its grouping into specialized divisions. Of its ten divisions, four divisions shall exclusively take cognizance of civil cases, two divisions of criminal cases, and four divisions of original actions or petitions, petitions for review, and appeals in all other cases, including those made from decisions of administrative tribunals.[43] This particularization into specialized fields is conspicuously absent in the old Court of Appeals.

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38 T.S.N., Public Hearing of December 9, 1980.
39 T.S.N., Public Hearing of December 3, 1980.
40 *Ibid.*
41 Batas Pambansa Blg. 129, Sec. 4.
42 Rep. Act 296, Sec. 25 and Batas Pambansa Blg. 129 Sec. 6.
43 Batas Pambansa Blg. 129, Sec. 8.

The specialization of divisions in the Intermediate Appellate Court is propounded in the belief that it would eventually develop expertise within the Court, and thus expedite the disposition of its cases. Nevertheless, such a move does not go unchallenged. It may prove disadvantageous in the long run because then the Appellate Court does not serve as a training ground for future appointments to the Supreme Court, which is not so structural in line with specialization. It was opined that "too much specialization will tend to develop a parochial approach to legal problems among the Justices in a field which has been rightly considered 'a seamless web'."[44] It was proposed, but unfortunately not adopted in the law, that a justice of the Court should be rotated every five years among the different specialized divisions.[45]

Quorum

Under the Judiciary Act of 1948, fifteen justices of the Court of Appeals were required to constitute a quorum for its sessions *en banc,* and three justices were needed to constitute a quorum for the session of a division. In the absence of a quorum, the Court or its division stood *ipso facto* adjourned until such time as the requisite number was met, and a memorandum as to this fact had to always be inserted by the clerk in the minutes of the Court. The affirmative vote of thirteen justices was necessary to pass a resolution of the Court *en banc,* while the unasimous vote of the three justices of a division was needed for the pronouncement of a judgment. In the event that a division did not arrive at a unanimous vote, the presiding justice had to designate two justices from among the remainder of the Court to sit in the said division, thus forming a division of five; and the concurrence thereafter of a majority of such division was necessary for the pronouncement of a judgment.[46]

In contradistinction, under Batas Pambansa Blg. 129, only a majority of the actual members of the court is needed to constitute a quorum for its sessions *en banc,* while three appellate justices suffice as a quorum for the sessions of a division. The concurrence of three members of a division is needed for the pronouncement of a decision or final resolution, which shall be reached in consultation before the writing of the opinion by any member of a division.[47]

Former Integrated Bar of the Philippines (IBP) President Edgardo Angara hails this change brought about by Batas Pambansa Blg. 129 in the position paper of the IBP, as the preliminary step towards other moves to improve judicial services in the country.

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[44] Position Paper of the U.P. Law Center on the Proposed Judiciary Reorganization Act of 1980, p. 7.

[45] *Ibid.*

[46] Rep. Act 296, Sec. 33.

[47] Batas Pambansa Blg. 129, Sec. 11.

> Reconstituting the Court of appeals into a division of five will be conducive to speed and efficiency rather than the present practice of just three, for the simple reason that our experience in the Bar indicates that the requirement of unanimity is sometmes a block or conducive to delay, and, whereas, if there is a division of five, then a quorum of three would be sufficient to reach a decision.[48]

Professor Esteban Baustista, head of the Division of Research and Law Reform of the University of the Philippines Law Center, adds that

> ...whenever a division fails to arrive at a unanimous decision, there is a necessity of appointing two additional Justices in order to constitute a division of five, and this usually takes time, apart from the fact that this may be used probably, as in fact it has been used, to appoint to the divisions concerned members, new members, two additional members who may be in favor of one position or the other. If we fix the membership right here, that contingency may be avoided.[49]

Qualifications of Justices

No substantial change has been instituted in the ne law with respect to qualifications of justices. They are still subject to the qualifications imposed under the constitution for members of the Supreme Court.[50] *viz,* a natural born citizen of the Philippines, at least forty years of age, who has for ten years or more been a judge of a court of record or engaged in the practice of law in the Philippines,[51] and such other qualifications as may be prescribed by the National Assembly for judges of courts inferior to the Supreme Court.[52]

Powers, Functions and Jurisdiction

Under the Judiciary Act of 1948, the Court of Appeals functioned as a mere appellate tribunal its power being limited to that of reviewing decisions of lower courts. However, under Batas Pambansa Blg. 129, the powers of Intermediate Appellate Courts are expanded to include not only appellate functions but those of trial courts as well. Hence,

> "[t]he Intermediate Appellate Court shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings."[53]

Due to this newly vested power, no record on appeal shall be required in taking an appeal thereto and in lieu thereof, the entire original records

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48 Public Hearing of December 9, 1980.
49 *Ibid.*
50 Rep. Act 296, sec. 28 and Batas Pambansa Blg. sec. 7.
51 CONST., art. X, sec. 3(1).
52 CONST., art. X, sec. 3(2).
53 Batas Pambansa Blg. 129, sec. 9, second par.

shall be transmitted with all the pages prominently numbered consecutively, together with an index of the contents thereof. Exceptions to this cover only appeals in special proceedings and in other cases wherein multiple appeals are allowed under pertinent provisions of the Rules of Court.[54] The rationale for this new provision, according to one commentator, is to facilitate appeals, avoid delay, minimize expenses and insure that only purely questions of law reach the Supreme Court.[55]

Under the Judiciary Act of 1948, the Court of Appeals had exclusive Appellate jurisdiction over all cases, actions and proceedings not enumerated in Section 17 of the said Act, when properly brought to it. The only exceptions to these are final judgments or decisions of the Court of First Instance rendered after trial on the merits, in the exercise of appellate jurisdiction, which affirm in full the judgement or decision of a municipal or city court, in which case it was the Court of Appeals which was vested with appellate jurisdiction.[56] The said court also had original jurisdiction in issuing writs of *mandamus*, prohibition, and all other auxiliary writs and processes in aid of its appellate jurisdiction.[57]

In contradistinction, Batas Pambansa Blg. 129 expands the jurisdiction of the Appellate Court by vesting the same with original jurisdiction in issuing writs of *mandamus*, prohibition, *certiorari*, *habeas corpus* and *quo warranto*, and other auxiliary writs, whether or not in aid of its appellate jurisdiction.[58] This has the effect of doing away with frequent and common misinterpretations and misapplications arising from the presence of the phrase, "in aid of its appellate jurisdiction", in the Judiciary Act of 1948.[59]

Aside from this, the Intermediate Appellate Court also has exclusive original jurisdiction over actions for annulment of judgements of Regional Trial Courts. It retains its exclusive appellate jurisdiction over all final judgements, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of Subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of Republic Act No. 296.[60]

It is but natural to conclude that expanding the powers, functions and jurisdiction of the Appellate Court entails an increase in the number of justice composing it, in order to cope with the increase in work-load of the

54 Batas Pambansa Blg. 129, sec. 39.
55 FERIA, THE JUDICIARY REORGANIZATION ACT OF 1980 ANNOTATED 50 (1981).
56 Rep. Act 296, sec. 29.
57 Rep. Act 296, sec. 30.
58 Batas Pambansa Blg. 129, sec. 9(1); notice "injunction" is not included in the enumeration.
59 FERIA, *supra*, at 5.
60 Batas Pambansa Blg. 129, sec. 9.

Court. Minister of Justice Ricardo Puno[61] justifies this grant of additional jurisdiction to the Court thus:

> The first reason is that it is desired that the Court of Appeals be a truly assisting court to the Supreme Court, so that by vesting jurisdiction in the appellate courts, including what was originally vested in the Courts of First Instance, we thereby assist the Supreme Court in disposing of cases instead of this being brought to the Court of Appeals, to the Intermediate Appellate Court. The difference is that if it is brought, instead of to the Supreme Court, to the Intermediate Appellate Court, a review of a case is easier than an original consideration of the case. Seccondly, we would be following the general rule that elevating questions from the Court of Appeals to the Supreme Court is limited to questions of law...[62]

It may be admitted at this point, that expansion of the powers of the Intermediate Appellate Court may be warranted to achieve these goals but if vacancies are not filled up in the Court, even bigger backlogs may result due to the present expansion in powers, functions and jurisdiction of the said court.

Termination of Cases

Under the Judiciary Act of 1948, all cases submitted to a division of the Court of Appeals for decision had to be decided or terminated by the Court within the term in which they were heard and submitted for decision. However, when a case was complicated or otherwise attended with special consideration, the Courts, sitting *en banc, could,* upon the petition of the division concerned, grant an extension period not exceeding two months.[63] "Term", as used herein, should be read in conjunction with the Constitutional provision to mean twelve months, unless reduced by the Supreme Court.[64]

There is no mention of such a term under Batas Pambansa Blg. 129. Instead it provides that the resolution of motions for reconsideration of its decisions or final resolutions should be done within ninety days from the time of its submission. A motion for reconsideration by the other party, if the first motion for reconsideration is granted shall be resolved within forty-five days from its submission for resolution.[65]

It should be borne in mind that the so-called "second motion for reconsideration" is not in reality a second motion. This is a misnomer and tends to mislead since it is actually the first motion for reconsideration filed by the *other* party subsequent to the adverse party's prior motion.

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61 Co-chairman of the Committee on Judicial Reorganization.

62 Minutes of the December 16, 1980 meeting of the Committee on Justice, Human Rights and Good Government, Batasang Pambansa; Minister Puno is chairman thereof.

63 Rep. Act 296, sec. 33, par. 3.

64 CONST., art. X, sec. 11(1).

65 Batas Pambansa Blg. 129, Sec. 11, par. 2.

PART III: *THE NEW REGIONAL TRIAL COURTS AND THE OLD COURTS OF FIRST INSTANCE COMPARED*

Organization

Pursuant to Batas Pambansa Blg. 129, Regional Trial Courts are created to replace the Courts of First Instance. The reorganization of those inferior ciurts will thus result in the integration of the Juvenile and Domestic Relations Courts, the Courts of Agrarian Relations, and the Circuit Criminal Courts into a system of Regional Trial Courts. With this integration, the present number of five hundred and twenty salas composing the Court of First Instance and similar courts[66] shall be expanded into seven hundred and twenty branches of the Regional Trial Courts.[67] Under the old set-up, Courts of First Instance were broken down into sixteen judicial districts;[68] the present law, however, divides Regional Trial Courts into thirteen judicial regions,[69] following the existing thirteen administrative regions in the country.

Judicial Assignments

Under Republic Act No. 296, a judge of the Court of First Instance was appointed to a particular provincial branch of the Court, which then became his official station. Inasmuch as the Supreme Court exercised administrative supervision over all inferior courts and personnel thereof,[70] it could temporarily assign said judges to other stations, as public interest might require, provided that the assignment did not last longer than six months without the consent of the judge concerned.[71]

Under Batas Pambansa Blg. 129, a Regional Trial Court judge is appointed to a regional branch of the Court, which then became his permanent station. He may, however, be assigned to any branch or city or municipality within the same region, as public interest may require.[72] Such an assignment does not need the consent of the judge concerned because the whole region is his station.

This appointment by region then has the effect of increasing the mobility of judges from one station to another within the region, so necessary in providing a remedy against inequality in case load among the

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66 Broken down into the following: 425 branches of the CFI (67 of which remain unorganized); 25 branches of JDRC; 16 branches of CCC; and 54 branches of CAR.
67 Batas Pambansa Blg. 129, Sec. 14.
68 Batas Pambansa Blg. 129, Sec. 19.
69 Batas Pambansa Blg. 129, Sec. 13.
70 CONST., art. X, sec. 6.
71 CONST., art. X, sec. 5, par. 3.
72 Batas Pambansa Blg. 129, sec. 17.

different branches of the Court in that particular region. Assemblyman Arturo Tolentino thus explains:[73]

> The idea of a region is to increase the mobility of the members of the Judiciary so that they can be shifted from one province to another, from one branch to another, whenever the need of the service or of the disposition of justice so requires; whereas, under the present system, with the station limited to a province, the moment you move him to a different province, you can move him only for a period of six months, unless consented to by the judge. Now that obstruction to mobility would be removed by expanding the region and allowing the movement of judges within the region without losing their positions with respect to those appointed after the adoption of the Constitution, so the security of tenure will be respected but the idea of the objective of more mobility in the interest of disposition of cases would be achieved.

Qualifications of Judges

No significant changes are made as to the qualifications of judges of Regional Trial Courts[74] with respect to those imposed upon judges of the Courts of First Instance[75] other than that the judge of the former Court should be a natural-born citizen of the Philippines, following the requirements imposed by Article X, Section 3, (2) of the Constitution, and should at least be thirty-five years of age.

Jurisdiction

A perusal of provisions of both laws with respect to the jurisdiction conferred upon Courts of First Instance[76] and Regional Trial Courts[77] gives one the immediate impression that the new law is merely a reproduction of the old. Indeed, some provisions thereof are duplicate copies of each other.[78]

There are, however, certain changes effected in Batas Pambansa Blg. 129.

Firstly, the jurisdictional amount for civil case falling under the exclusive original jurisdiction of Regional Trial Courts has been increased from ten to twenty-thousand pesos. Hence, —

> Regional Trial Courts shall exercise exclusive original jurisdiction:
> (3) In all actions in admiralty and maritime jurisdiction where the demand or claim exceeds twenty thousand pesos (₱20,000);

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[73] Speech delivered before the Batasan Committee on Justice, Human Rights and Good Government on December 3, 1980.
[74] Batas Pambansa Blg. 129, sec. 15.
[75] Rep. Act No. 296, sec. 42.
[76] Rep. Act No. 296, sec. 44.
[77] Batas Pambansa Blg. 129, sec. 10.
[78] Compare Republic Act No. 296, sec. 44 (a and b), with Batas Pambansa Blg. 129,sec. 19 (1 and 2).

(4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds twenty thousand pesos (₱20,000);

(8) In all other cases in which the demand, exclusive of interest and costs, or the value of the property in controversy, amounts to more than twenty thousand pesos (₱20,000).[79]

Prescinding from the above, it can also be noticed from the above-quoted provision that in cases of admiralty and maritime jurisdiction and in all matters of probate, it is no longer the subject matter of the case alone, but the jurisdictional amount involved, that determines the jurisdiction of Regional Trial Courts over said cases.[80] Under the old law, these matters were under the exclusive jurisdiction of the Court of First Instance regardless of the amount demanded.

Secondly, with the integration of courts of special jurisdiction in line with this reorganization, the function thereof are now absorbed by the Regional Trial Courts. Under this arrangement, the Regional Trial Court tries all cases within its jurisdiction, unless special cases are assigned to any of said courts, in which case it remains merely[81] a branch of the Regional Trial Court. The result would then be that the latter would absorb the functions of the special courts (the Circuit Criminal Courts, the Juvenile and Domestic Relations Courts, and the Courts of Agrarian Relations), and the special procedures and technical rules now governing these special courts would then be applicable to such special branches of the Regional Trial Courts.[82] The Regional Trial Courts will, however, not absorb the other quasi-judicial bodies like the Securities and Exchange Commission, the National Labor Relations Commission, the Social Security System, the Government Service and Insurance System, and others.

Regional Trial Courts shall exercise exclusive original jurisdiction:

x x x

(5) In all actions involving the contract of marriage and marital relations;

x x x

(7) In all civil actions and special proceedings falling within the exclusive original jurisdiction of the Juvenile and Domestic Relatons Court and of the Courts of Agrarian Relations as now provided by law.[83]

Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdicton of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the *Sandiganbayan*...[84]

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[79] Batas Pambansa Blg. 129, sec. 19.

[80] Compare Sec. 44 (d and e) of Rep. Act No. 296 with Sec. 19 (3 and 4), respectively.

[81] Rep. Act 296, sec. 33.

[82] Batas Pambansa Blg. 129, sec. 24.

[83] Batas Pambansa Blg. 129, sec. 19.

[84] Batas Pambansa Blg. 129, sec. 20.

The designation of certain branches of the Regional Trial Courts to exclusively handle special cases by the Supreme Court[85] is in line with the policy of specialization geared towards expediting the disposition of cases. It is believed, as has been discussed earlier, that specialization, will once and for all, solve the problem of clogged court dockets.

Thirdly, and perhaps the most important of all, is the fact that the problem of concurrent jurisdictions among courts is done away with under the new set-up.

In civil cases concurrent jurisdiction is done away with by utilizing the test of jurisdictional amount in every such case brought before the Regional Trial Court. Aside from this, as a catch-all provision, the said court also exercises exclusive original jurisdiction "in all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions."[86]

In criminal cases, the Regional Trial Court exercises exclusive original jurisdiction "in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body."[87] Under the old set-up, all criminal cases in which the penalty provided by law was imprisonment for more than six months or a fise of at least two hundred pesos;[88] or where the penalty was up to three years imprisonment and/or three thousand pesos as fine, in cases falling under Section 87 (c) of RA 296; or where the penalty was up to six years imprisonment and/or six thousand pesos as fine in cases falling under the last two paragraphs of Section 87 of the same, were concurrently under the jurisdictions of the Courts of First Instance and Municipal Courts. Under the present state of the law, all offenses punishable with imprisonment exceeding four years and two months and/or a fine of more than four thousand pesos lie within the exclusive original jurisdiction of Regional Trial Courts.[89]

In special cases, as in cases under the original jurisdiction of the *Sandiganbayan*, concurrent jurisdiction is done away with by reposing jurisdiction thereof to the said special court to the exclusion of Regional Trial Courts.[90]

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[85] Batas Pambansa Blg. 129, sec. 23.

[86] Batas Pambansa Blg. 129, sec. 19(6). This is a new provision not found in sec. 44 of Rep. Act 296, as amended.

[87] Batas Pambansa Blg. 129, sec. 20.

[88] Rep. Act No. 296, sec. 44(f).

[89] As inferred from Batas Pambansa Blg. 129, sec. 32(2).

[90] Batas Pambansa Blg. 129, sec. 20; hence, the Sandiganbayan now has exclusive jurisdiction in cases falling under section 4 of Presidential Decree No. 1606, to wit:

(1) violations of Republic Act No. 3019, as amended, otherwise known as Anti-Graft and Corrupt Practices Act and Republic Act 1379;

(2) crimes committed by public officers and employees, including those employed in government owned or controlled corporatons, embraced in Title VII of the Revised Penal Code, whether simple or complex with other crimes;

Under its appellate jurisdiction, Regional Trial Courts now exercise absolute appellate jurisdiction "over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective territorial jurisdiction.[91] There were instances under the old set-up where, due to concurrent jurisdiction between Courts of First Instance and inferior courts,[92] an appeal from the decision of the latter court had to be elevated to the Court of Appeals;[93] under the present set-up, such an inconvenience arising from possible confusion as to jurisdiction of courts is sought to be done away with.

At this point, it may not be straying from the point of discussion in bringing to mind one of the principal tenets for effective judicial administration espoused by Chief Justice Arthur Vanderbilt:

> ...the simplificatoin of the judicial structure and of procedure, so that technicalities and surprise may be avoided, and so that procedure may become a means of achieving justice rather than an end in itself...[94]

Indeed, what is sought to be established by the elimination of concurrent jurisdictions among different courts is the ultimate hope of courts disposing cases according to their merits, and not because of some minor procedural points. Under the present set-up, the only cases where concurrence of jurisdiction is not done away with are that between Regional Trial Courts and the Supreme Court in cases affecting ambassadors and other public ministers and consuls,[95] and that between the Regional Trial Courts and both the Intermediate Appellate Courts as well as the Supreme Court in their original jurisdiction of issuing writs of *certiorari,* prohibition, *mandamus, quo warranto, habeas corpus* and *injunction.*[96]

Fourthly, a minor point is made with respect to the Regional Trial Court's expanded territorial jurisdiction in the issuance of writs of injunc-

(3) other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office.

[91] Batas Pambansa Blg. 129, sec. 22.

[92] Courts of First Instance had original concurrent jurisdiction with Municipal Courts in the following cases:

(a) cases for the inclusion of exclusion of voters from the electoral list (Republic Act No. 180, sec. 118);

(b) Offenses punishable under the Census Act (Republic Act No. 36, sec. 30);

(c) Appointment of guardians and adoption cases (exception Manila) where the value of the minor's property does not exceed P5,000 (Republic Act 643 and Republic Act 644); and

(d) In all the criminal cases mentioned in Republic Act No. 296, sec. 87(c) when the penalty provided by law is more than six months and/or more than P200 fine (Republic Act 296, sec. 44(f).

[93] Templo v. de la Cruz, G.R. No. 37393-94, October 23, 1974, 60 SCRA 294 (1974).

[94] VANDERBILT, THE CHALLENGE OF LAW REFORM 10 (1955).

[95] Batas Pambansa Blg. 129, sec. 21(2) in conjunction with the CONST., art. X, sec. 5(1).

[96] Batas Pambansa Blg. 129, sec. 21(1) in conjunction with sec. 9(1) and with the CONST., art. X, sec. 5(1).

tion,, *mandamus, certiorari, prohibition, quo warranto* and *habeas corpus*.[97] Formerly, the Court of First Instance judge could only issue the writ in virtue of acts committed within the province or district in which he sits.[98] As he is now appointed to a specific region, the Regional Trial Court judge will then have a broader territorial jurisdiction in the issuance of said writs.

PART IV: *THE NEW MUNICIPAL TRIAL COURTS AND THE OLD MUNICIPAL COURTS COMPARED*

Organization

Under the new law, City Courts, Municipal Courts and Municipal Circuit Courts are sought to be replaced with Metropolitan Trial Courts in each metropolitan area created by law, Municipal Trial Courts in each city or municipality, and Muncipal Circuit Trial Courts in each circuit comprising such cities and/or municipalities as may be grouped together pursuant to law, respectively.[99]

Although Batas Pambansa Blg. 129 states that "there shall be created a Metropolitan Trial Court in each Metropolitan area established by law,"[100] there is actually only one such court to date—that in the Metropolitan Manila region. Nevertheless, the Supreme Court is empowered to constitute such courts in such other metropolitan areas as may henceforth be established by law, the territorial jurisdiction of the same being coextensive with the cities and municipalities that may comprise such metropolitan area.[101]

As regards the circuitization of Municipal Trial Courts, the Supreme Court is granted the power to so circuitize said corrts without need of legislative initiative. Initially, the existing municipal circuits as per Administrative Order No. 33 of the Supreme Court (issued on June 13, 1978) shall compose the first Municipal Circuit Trial Courts; but the Supreme Court may, as the interests of justice may require, further reorganize the said courts taking into account workload, geographical location, and such other factors as will contribute to a rational allocation thereof, likewise taking into account the provisions of Presidential Decree No. 537[102] on the constitution of Municipal Courts into Municipal Circuit Courts.

In line with this, it is worthy to note that while the old law disallowed Municipal Courts from being circuitized with City Courts, under the new

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97 Batas Pambansa Blg. 129, sec. 21(1).
98 Dagupan Electric Corp. v. Paño, G.R. No. 49510, June 28, 1980, 95 SCRA 693 (1980).
99 Batas Pambansa Blg. 129, sec. 25.
100 Batas Pambansa Blg. 129, sec. 27.
101 Batas Pambansa Blg. 129, sec. 28, par. 1.
102 Batas Pambansa Blg. 129, sec. 31, par. 1.

law, courts in municipalities are allowed to be circuitized with those in cities not forming part of metropolitan complexes.[103]

Qualifications of Judges

Qualifications for becoming judges under both laws appear to be the same,[104] save that, under Batas Pambansa 129, the appointee should be a natural-born citizen of the Philippines, in accordance with Article X, Section 3 (2) of the Constitution, and at least thirty years of age.[105]

Mobility of Judges

Under the old law, a judge of a City Court was appointed to a branch thereof, which then became his official station. There was no provision of law authorizing his assignment to places outside of his station.

Under the new law, however, the Metropolitan Trial Judge is afforded more mobility. Hence,

> ...every Metropolitan Trial Judge shall be appointed to a Metropolitan area which shall be his permanent station and his appointment shall state the branch of the court and the seat thereof to which he shall be originally assigned. A Metropolitan Trial Judge may be assigned by the Supreme Court to any branch within said Metropolitan area as the interest of justice may require, and such assignment shall not be deemed an assignment to another station within the meaning of this section.[106]

Similarly, "every Municipal Circuit Trial Judge shall be appointed to a municipal circuit which shall be his official station;"[107] the circuit, and not a branch thereof, being such judge's station, he may be assigned to different branches therein as the need arises.

Jurisdiction

Concommitant to the marked changes laid down for Regional Trial Courts, there certain definite changes introduced by Batas Pambansa Blg. 129, on Municipal Trial Courts, Municipal Circuit Trial Courts, and Metropolitan Trial Courts as well.

Firstly, said inferior courts are now vested with broader jurisdiction as to subject matter. In civil cases, probate proceedings, both testate and intestate,[108] and in all actions in admiralty and maritime jurisdiction,[109]

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103 Batas Pambansa Blg. 129, sec. 31(1).
104 Compare Rep. Act. No. 296, sec. 71 and Batas Pambansa Blg. 129, sec. 26.
105 This was the age requirement imposed on City Court Judges under Rep. Act No. 3749.
106 Batas Pambansa Blg. 129, sec. 28(2).
107 Batas Pambansa Blg. 129, sec. 31, par. 2.
108 Batas Pambansa Blg. 129, sec. 33(1).
109 Batas Pambansa Blg. 129, sec. 19(3).

where the amount involved does not exceed twenty thousand pesos. In criminal cases, they have exclusive original jurisdiction in those cases where the penalty is up to four years and two months of imprisonment, or a fine of four thousand pesos, or both.[110] In special proceedings, said courts are now given delegated jurisdiction (from the Supreme Court) to hear and determine cadastral or land registration cases,[111] as well as to hear and decide petitions for a wrkit of *habeas corpus* or applications for bail in criminal cases in case of the absence of Regional Trial Judges in the area.[112]

Secondly, as has been seen, concurrence in jurisdiction with the next superior court is sought to be abolished through the Act. This is brought about by the fixing of a jurisdictional amount of twenty thousand pesos in civil cases, and a penalty of four years and two months imprisonment and/or a fine of four thousand pesos in criminal cases, to separate the jurisdiction between Regional Trial Courts and Municipal Trial Courts. With respect to criminal cases, the enumeration of eleven special forms of offenses, enumerated in Section 87 (b) of Republic Act No. 296,[113] falling under the original concurrent jurisdiction of Municipal and City Courts, is notably eliminated under the new law, thus doing away with the usual confusion arising from the effect of such concurrence.

Procedure

As the new law seeks to expand the jurisdiction of inferior courts in order to aid in the quick disposition of caseloads, it also hopes to streamline procedure therein to realize this objective. Hence, the law provides that

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110 Batas Pambansa Blg. 129, sec. 32(2). Under the old law, inferior courts had exclusive original jurisdiction of offenses when the penalty provided by law did not exceed six months imprisonment and/or two hundred pesos fine; municipal courts had concurrent jurisdiction with Courts of First Instance over offenses with penalties not exceeding three years' imprsonment and/or three thousand pesos fine, while City Courts had concurrent jurisdiction with Courts of First Instance when the penalty did not exceed six years' imprisonment and/or six thousand pesos fine, the concurrence of jurisdiction in both these cases starting from that beyond the exclusive original jurisdiction for offenses of said courts (see Republic Act No. 296, sec. 87).

111 Batas Pambansa Blg. 129, sec. 34.

112 Batas Pambansa Blg. 129, sec. 35.

113 All criminal cases arising under the laws relating to:
(1) Gambling and management or operation of lotteries;
(2) Assaults where the intent to kill is not charged or evident upon the trial;
(3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;
(4) Sale of intoxicating liquors;
(5) Falsely impersonating an officer;
(6) Malicious mischief;
(7) Trespass on government or private property;
(8) Threatening to take human life;
(9) Illegal possession of firearms, explosives and ammunition;
(10) Illegal use of aliases; and
(11) Concealment of deadly weapons.

> in Metropolitan Trial Courts and Municipal Trial Courts with at least two branches, the Supreme Court may designate one or more branches thereof to try exclusively forcible entry and unlawful detainer cases, those involving violations of traffic laws, rules and regulations, violations of the rental law, and such other cases requiring summary disposition as the Supreme Court may determine. The Supreme Court shall adopt special rules or procedures applicable to such cases in order to achieve an expeditious and inexpensive determination thereof wthout regard to technical rules. Such simplified procedures may provide that affidavits and counter-affidavits may be admitted in lieu of oral testimony and that the periods of filing pleadings shall be non-extendible.[114]

It is noteworthy to recognize that, in effect, with the adoption of special rules of procedures in the cases specified above, and the designation of certain branches of Metropolitan and Municipal Trial Courts to try exclusively the said cases, the foundation is laid towards possible specialization of the said inferior courts.

Along with this, in preliminary investigation conducted by inferior courts, the new law does away with the tedious and outmoded procedure whereby the accused was given opportunity to delay the said proceedings. Now, the said proceedings shall proceed with dispatch according to the procedure laid down under Section 1, paragraphs (a), (b), (c), and (d) of Presidential Decree No. 911,[115] i.e., thru affidavits and counter-affidavits of the respective parties submitted to the officer conducting the preliminary investigation.

PART V: *SPECIAL CONSIDERATIONS*

Security of Judicial Tenure

As already seen, the Judiciary Reorganization Act of 1980 seeks to achieve its purpose by the abolition of all courts inferior to the Supreme Court, thus creating a somewhat transformed set-up whereby it is hoped that judicial processes shall improve, that the quality of judicial personnel shall be upgraded, and that the plague of docket congestion shall be finally resolved.

A serious constitutional point has however been raised by not a few with respect to the implementation of the law. It is argued that the reorganization impairs the security of tenure of present occupants of the Bench, whose tenure in office is protected by the Constitutional provision that "judges of inferior courts shall hold office during good behavior until they reach the age of seventy years or became incapacitated to discharge the duties of their office."[116] This occurs in the light of a provision of

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114 Batas Pambansa Blg. 129, sec. 36.
115 Batas Pambansa Blg. 129, sec. 37(2).
116 CONST., art. X, sec. 7.

Batas Pambansa Blg. 129 whereby, upon the issuance of an Executive Order by the President in implementation thereof, all inferior courts "shall be deemed automatically abolished and the incumbents thereof shall cease to hold office."[117] The result would then be inescapable that judges would be removed from office even without cause.

On the other side of the spectrum, the proponents of the Act contest that, in the exercise of its legislative power, the Batasang Pambansa may "establish, define, prescribe, and apportion the jurisdiction of inferior courts."[118] On the basis of this power to create as granted by constitutional provision, the power to abolish inferior courts is claimed to be an incident thereof; the rule is further invoked that when an office is abolished, the constitutional guaranty of security of tenure does not apply since there no longer exists an office to which a right of tenure can be obtained.[119]

It is therefore clear from the arguments of the opposing camps that there lies a conflict between an express constitutional provision guaranteeing security of tenure, and an implied constitutional provision in favor of legislature to abolish the courts it had created. In this regard, Senator Diokno, citing two Supreme Court decisions, offers two ways of resolving the situation.[120] In *Ocampo v. Secretary of Justice,*[121] the Supreme Court held that

> ...under the Constitution, Congress may abolish existing courts, provided that it does not thereby remove the incumbent judges, such aboltion to take effect upon termination of their incumbency...

And in *Zandueta v. de la Costa,*[122] Mr. Justice Laurel expressed the new that

> ...cases may arise where the violation of the constitutional provision regarding security of 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.

Using these as guidelines, Senator Diokno then contends that the Act is unconstitutional and void. Firstly, the Act, by its very terms, abolishes existing courts, not upon completion and effectivity of the reorganization. Secondly, as stated by the Supreme Court in the case of *Brillo v. Enage,*[123]

117 Batas Pambansa Blg. 129, sec. 44.
118 CONST., art. X. sec. 1.
119 Memorandum of Dean Irene Cortes as *amicus curiae* in the case of *De la Llana, et al. v. Alba, et al.,* p. 5.
120 Memorandum of Senator Diokno as *amicus curiae* in the case of *De la Llana, et al. v. Alba, et al.,* pp. 5-7.
121 51 O.G. 147 (1955).
122 *Supra;* see note 12.
123 94 Phil. 732 (1954).

> [i]f immediately after the office is abolished another office is created with substantially the same duties, and a different individual is appointed, or if it otherwise appears that the office was abolished for personal or political reasons, the courts will intervene.

The Act in question, according to Senator Diokno, falls squarely within the rule aforequoted. It creates, not only immediately after, but simultaneously with, the abolition of existing courts other than courts with substantially the same duties as those that it abolishes.

In its memorandum,[124] the National Bar Association of the Philippines urges that the majority opinion in the Ocampo case should be given serious scrutiny because the same traversed the conflicting situation brought about by the implied power of Congress to abolish courts and the express constitutional provision on security of judicial tenure.

> ...A careful analysis will perceive that whereas petitioners invoke an express guaranty or positive definition of their term of office, the respondents rely on implied authority to abolish courts and the postions of the respective judges. Accurately stated, respondents' defense rests on a second inference deduced from such implied power, because they reason out... "Congress has express power to establish courts therefore it has implicit power to abolish courts (first inference); and therefore (second inference) Congress likewise has power of repecting judges holding such positions." Resultant judicial situation: the implied authority invoked by respondents collides with the express guaranty of tenure protecting the petitioners. Which shall prevail? Obviously, the express guaranty must override the implied authority...

On the other hand, Dean Cortes offers a solution by submitting[125] that the abolition *en masse* proviso of the Act be read in conjunction with Section 43 of the same, which reads:

> *Staffing Pattern.* — The Supreme Court shall submit to the President, within thirty days from the date of the effectivity of this Act, a staffing pattern for all courts constituted pursuant to this Act which shall be the basis of the implementing order to be issued by the President in accordance with the immediately succeeding section.

Under this provision, the Supreme Court can, in preparing such staffing pattern, consider the changes in structure, in territorial and substantive jurisdiction, merely as modifications of the existing courts, since what is sought to be brought about in the reform is the establishment of essentially the same judicial offices with some structural modifications and change in title. This reading of the Act will in no way shield the misfit, incompetent

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[124] Memorandum as *amicus curiae* in the case of *De la Llana, et al. v. Alba, et al.*, p. 6.

[125] Memorandum as *amicus curiae* in the case of *De la Llana, et al. v. Alba, et al.*, pp. 16-17.

and corrupt, against whom approporiate proceedings, in compliance with due process requirements, can be taken.

Ruling upon this issue, the Supreme Court in the case of *De la Llana, et al. v. Alba, et al.*, declared that

> ...[r]emoval is, of course, to be distinguished from termination by virtue of the abolition of an office. *There can be no tenure to a non-existent office.* After the abolition there is in law no occupant. (underscoring ours)...

Executive Intervention

There are two provisions in Batas Pambansa Blg. 129 allowing for executive intervention in the implementation of the Act. Section 41 thereof provides:

> *Salaries.* — Intermediate Appellate Justices, Regional Trial Judges, Metropolitan Trial Judges, Municipal Trial Judges, and Municipal Circuit Trial Judges shall receive such compensation and allowances as may be authorized by the President along the guidelines set forth in Letter of Implementation No. 985, as amended by Presidential Decree No. 1597.

On the other hand, Section 44 thereof reads:

> *Transitory Provisions.* — The provisions of this Act shall be immediately carried out in accordance with an Executive Order to be issued by the President. The Court of Appeals, the Courts of First Instance, the Circuit Criminal Courts, the Courts of Agrarian Relations, the City Courts, the Municipal Courts, and the Municipal Circuit Courts shall continue to function as presently constituted and organized, until the completion of the reorganization provided in this Act as declared by the President. Upon such declaration, the said courts shall be deemed automatically abolished and the incumbents thereof shall cease to hold office.

Opponents of the Act cite these provisions in contending that the Act constitutes an undue delegation of legislative power to the Chief Executive, thus leading to its nullity. With respect to the Transitory Provisions, Senator Diokno maintains that the Act leaves entirely to the President the discretion *when* to carry out the provisions of the law (for there is no power in the Legislature to compel the President to implement the Act), and gives the Chief Executive unbridled power to amend and modify the law because he and he alone will determine *how* the law shall be carried out.[126]

It is also alleged by the National Bar Association of the Philippines[127] that the law, as it is now, lacks the necessary standards or guidelines as to who among the incumbents may be removed or reappointed; thus, such

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[126] Memorandum as *amicus curiae* in the case of *De la Llana, et al. v. Alba, et al.*, pp. 3-4.

[127] Memorandum as *amicus curiae* in the mentioned case above, p. 4.

provisions authorizing executive intervention in the implementation of the Act amount to an undue delegation of legislative power, fatal to the validity of the Act.

On the other hand, the proponents of the Act contend otherwise. The Integrated Bar of the Philippines[128] alleges that the Act is a law complete in itself. It lays down the policy and it provides the basic means to achieve such policy, leaving only the details for its execution to the President, according to the standards set therein. The rule is that, so long as Legislature lays down the policy and the standard or norm is provided in the law, there is no undue delegation; a law is "complete" if it describes "what job must be done, who is to do it, and what is the scope of his authority."[129]

It is further argued that Batas Pambansa Blg. 129 does not only prescribe what the President has to do; it also defines the standards by which the legislative purpose for the Act may be carried out by the President. These guidelines, as set forth in Letter of Instruction No. 93, pursuant to Presidential Decree No. 1597, are sufficient as "they define the legislative policy, mark its limits, and map out its boundaries."[130]

In the *De la Llana* case, the Supreme Court ruled that there was no undue delegation of legislative powers, there being a clear standard to serve as the President's guideline in implementing Batas Pambansa Blg. 129. It cited Section 41 of the same law and held the guidelines set forth in Letter of Implementation No. 93, pursuant to Presidential Decree No. 985, as amended by Presidential Decree No. 1597, to be sufficient standards.

As to the allegation that the Act leaves entirely to the President the discretion as to when to carry out the provisions of the law due to the alleged absence of definite time frame limitations, the Supreme Court held that

> ...(the) objection based on the absence in the statute of what petitioners referred to as a "definite time frame limitation" *is equally bereft of merit.* They ignore the categorical language of this provision (Section 43, Batas Pambansa Blg. 129): "The Supreme Court shall submit to the President, within thirty (30) days from the date of the effectivity of this Act, a staffing pattern for all courts constituted pursuant to this Act, which shall be the basis of the Implementing Order to be issued by the President in accordance with the immediately succeeding section." The first sentence of the next section is even more categorical: "The provisions of this Act shall be immediately carried out in accordance with an Executive Order to be issued by the President." Certainly petitioners cannot be heard to argue that the President is insensible to his constitutional duty to take care that the laws be faithfully executed. (underscoring ours)...

128 Memorandum as *amicus curiae* in the mentioned case above, p. 16.
129 *Edu v. Ericta,* 91 Phil. 359 (1952).
130 *Ibid.*

Batas Pambansa Blg. 129 came into being through the auspices of a Presidential Committee on Judicial Reorganization, created on August 7, 1980 by virtue of Executive Order No. 611. The committee, composed of three incumbent Justices of the Supreme Court, [131] a retired Justice thereof,[132] and the two ranking members of the Ministry of Justice,[133] was then entasked with formulating the groundwork for the eventual reorganization of the Judiciary.[134]

The issue of impartiality with respect to the three Justices of the Supreme Court is then raised by Dean Enrique Voltaire Garcia in his memorandum as *amicus curiae* in the *De la Llana* case.

> ...As it is, the Constitution provides for a Supreme Court of fifteen members to declare a law unconstiutional (which is two-thirds of its composition). We now have only eleven Justices in the Court, and three of these were members of the Presidential Committee . . . So it is to be expected that if Cabinet Bill No. 42 becomes law and its constitutionality is challenged before the Supreme Court, those three Justices, co-authors of the said Bill, will vote in favor of its constitutionality. In any case, even if the Court were otherwise unanimous in voting against its constitutionality, there will not be enough votes to declare the law unconstitutional...

On the other hand, it can also be gleaned from the wording of Executive Order No. 619-A that the Committee on Judicial Reorganization was created merely as a recommendatory body, the enactment of its recommendations being left to the Batasang Pambansa to act upon. Neither can the constituency of the Committee's membership be questioned, it being conceded that only the Supreme Court and the Ministry of Justice are in the best position to effect the desired results with respect to upgrading the Judiciary.

Moreover, the report of recommendations submitted by the Committee to the President on October 17, 1980 was couched in general terms, providing options and not particularizing upon specific points, precisely to preclude any possibility of the said three Justices from being inhibitted later on from hearing any subsequent case questioning the validity of the Act.[135]

Indeed, the Supreme Court, in denying a motion by the petitioners in the *De la Llana case* to have three of its members disqualified from participating in the hearing of the case, unequivocably declared:

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131 Chief Justice Enrique Fernando and Associate Justice Ramon Aquino and Ameurfina Melencio-Herrera.

132 Associate Justice Felix Antonio.

133 Minister Ricardo Puno and Deputy Mnister Jesus Borromeo.

134 Exec. Order No. 619-A (1980).

135 Justice Aquino, answering a suery posed on him in the Batasang Pambansa on December 3, 1981. See December 3, 1981 Committee Reports.

> ...It was made clear then and there that not one of the three members had any hand in the framing or in the discussion of Batas Pambansa Blg. 129. They were not consulted. They did not testify. The challenged legislation is entirely the product of the efforts of the legislative body. Their work was limited...to submitting alternative plans for reorganization. That is more in the nature of scholarly studies. That they undertook. There could be no possible objection to such activity...

Reorganization by Abolition

The rule is well settled that the power to create an office carries the consequent prerogative to abolish it.[136]

The power to abolish an office involves the exercise of a discretionary function.[137] It was once ruled that the question of whether or not the abolition was done due to the needs of public service cannot be the subject of judicial investigation. In the words of the Court, "Such issue obviously involves the advisability or the necessity of the measures, which is not within the province of the Court to decide."[138] Political motives might induce the abolition of an office but the same motives might have induced their creation.[139] The rule now is that the purpose of abolition is a justiciable issue within the competence of the courts to decide, and if the abolition is found to be a "subterfuge resorted to for disguising an illegal removal of permanent civil service employees in violation of the security of tenure guaranteed by the Constitution," then the courts will intervene.[140]

The power to abolish an office is however not absolute. It is subject to the limitations that it be exercised (a) in good faith,[141] (b) not for personal or political reasons,[142] and (c) not in violation of law.[143]

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[136] Maza v. Ochave, G.R. No. 22336, May 23, 1967, 20 SCRA 142 (1967); Ocampo, et al. v. Duque, et al., G.R. No. 23814, April 30, 1966, 16 SCRA 962 (1966); Llanto v. Dimaporo, et al., G.R. No. 21905, March 31, 1966, 16 SCRA 599 (1966); Facundo v. Pabalan, G.R. No. 17746, January 31, 1962, 4 SCRA 375 (1962); Rodriguez v. Montinola, et al., 94 Phil. 964 (1954); Manalang v. Quitorano, et al., 94 Phil. 903 (1954).

[137] Dominguez, et al. v. Pascual, 101 Phil. 31 (1957); Rodriguez v. Montinola, et al., *supra*.

[138] Castillo v. Pajo, et al., *supra* at 518.

[139] Rodriguez v. Montinola, et al., *supra*.

[140] Cruz, et al. v. Primicias, Jr., et al., G.R. No. 28573, June 13, 1968, 23 SCRA 998 (1968).

[141] Manalang v. Quitoriano, *supra;* Rodriguez v. Montinola, et al., *supra;* Briones v. Osmeña Jr., 105 Phil. 588 (1958); Cuneta v. CA, 111 Phil. 249 (1961); Facundo v. Pabalan, *supra*; Alipio v. Rodriguez, 119 Phil. 59 (1963); Llanto v. Dimaporo, et al., *supra*; Ocampo v. Duque, et al., *supra*; Abanilla v. Ticao, G.R. No. 22271, July 26, 1966, 17 SCRA 652 (1966); Cariño v. ACCFA, G.R. No. 19809, September 30, 1966, 18 SCRA 183(1966); de la Maza v. Ochave, *supra*; Enciso v. Remo, G.R. No. 23670, September 30, 1969, 29 SCRA 580 (1969); Roque v. Ericta, G.R. No. 30244, September 28, 1973, 53 SCRA 156 (1973); Bendanilla v. Provincial Governor, G.R. No. 28614, January 17, 1974, 55 SCRA 34 SCRA 34 (1974); City of Basilan v. Hechanova, G.R. No. 23841, August 30, 1974, 58 SCRA 711 (1974).

[142] Arao v. Luspo, G.R. No. 23982, July 26, 1967, 20 SCRA 722 (1967); Gullergan, et al. v. Ganzon, et al., G.R. No. 20818, May 25, 1966, 17 SCRA 251 (1966); Gacho, et al. v. Osmeña, et al., 103 Phil. 837 (1958).

[143] Ocampo, et al. v. Duque, et al., *supra*; Alipio, et al. v. Rodriguez, *supra*; Urgello, et al. v. Osmeña, et al., G.R. No. 14908, October 31, 1963, 9 SCRA 317

The validity of an abolition of an office will be found to depend on the purpose for which it was done. On the power of the Legislature to abolish, the Court in *Urgella, et al. v. Osmeña, et al.*, said

> ...if it abolished one office and puts in its place another by the same or a different name but with substantially the same duties, it will be considered a device to unseat the incumbents. If on the other hand, it abolishes two or more offices with substantially the same duties or different duties and bonafied combines the duties under an office with the same name as one of the abolished offices or under a different name, or abolished an office and distributes its duties among other offices for reasons of economy or genuine reorganization, the abolition is permissible.

PART VI: *CONCLUSION*

The Judiciary is, perhaps, the least conspicuous, the most undermined, and the least understood branch of our Government. Yet, it plays a most significant role in the housekeeping of our nation today, as it stands as final arbiter not only between conflicting private rights, but of day-to-day translations of the traditional big government-small citizen feud as well.

With these considerations, then, there develops a loud clamor for reforms in respect of our inadequate, tedious, and costly court processes. But how are these reforms to be made? And to what extent must the changes affect the prevailing order?

Batas Pambansa Blg. 129 presents itself as the answer to these queries. It boasts of drastic, total and far-reaching upheavals within the existing judicial order, altering both the structure of our courts as well as government policy with respect to the manning thereof.

But its creation does not come without some amount of cynicism. Indeed, as in any controversial matter, there will always be a polarization into proponent and opponent.

In the aforementioned case of *De la Llana, et al. v. Alba, et al.*, petitioners contested the constitutionality of the said law. In its decision of March 12, 1982, the Supreme Court upheld its validity by a vote of 13 to 1, likening the reorganization to an abolition of a public office (rather than the removal of incumbent officers therefrom), before finally testing the validity of the abolition by means of the "good faith" criterion. Hence,

> [n]othing is better settled in our law than that the aboliton of an office within the competence of a legitimate body if done in good faith suffers from no infirmity. . . . The test remains whether the abolition is in good faith. As that that element is conspicuously present in the enactment or Batas Pambansa Blg. 129, then the lack of merit of this petition becomes even more apparent.[114]

(1963); Gacho, et al. v. Osmeña, *supra*; Briones, et al. v. Osmeña, 104 Phil. 588 (1958).

[144] G.R. No. 57883, March 12, 1982 at 12-14.

In his lone dissenting opinion, however, Mr. Justice Teehankee disagrees with the use of the "good faith" test in judging the constitutionality of the said law.

> Realistically viewed from the basis of the established legal presumptions of validity and constitutionality of statutes (unless set aside by a two-thirds majority or ten members of the Supreme Court) and of good faith in their enactment, one is hard put to conjure a case where the Court could speculate on the good or bad motives behind the enactment of the Act without appearing to be imprudent and improper and declare that "the legislative power of reorganization (is) sought to cloak an unconstitutional and evil purpose." The good faith in the enactment of the challenged Act must needs be granted.[145]

He then falls back upon the holding of the numerical majority of the Court in the case of *Ocampo v. Secretary of Justice,* that any reorganization should at least allow the incumbents of the existing courts to remain in office unless removed for cause.

In rebuttal, Mr. Justice Abad Santos, in his separate opinion in the instant case, notes a difference in the factual formulation between the *Ocampo* and *De la Llana* cases. Thus,

> [t]he law in question is not self-executing in the sense that upon its effectvity, certain judges and justices cease to be so by direct action of the law. This is what distinguishes the Act in question from RA 1186 involved in the *Ocampo* case, which by its direct action, no act of implementation being necessary, all the judges whose positions were abolished, automatically ceased as such. The Act in question, therefore, is not as exposed to the same vulnerability to constitutional attack as RA 1186 was. Yet by the operation of the Constitution with its wise provision on how a law may be declared unconstitutional, RA 1186 stood the test for it to be enforced to the fullness of its intent, which was, as in the law under consideration, identified with public interest and general welfare, through a more efficient and effective judicial system as the Judiciary Reorganization Act of 1980 seeks to establish.
>
> Hence, the constitutionality of the law should not be assailed, and the law itself, stricken down, on the ground that some judges or justices may be removed or separated in violation of their security of tenure. The law does not directly operate with that effect.[146]

At this point, one can no longer assail the validity of Batas Pambansa Blg. 129. Nevertheless, through the brief discourse in this paper, the authors have sought to explore into the major changes brought about by the same. Necessarily, a comparison always had to be made with the old law, Republic Act 296.

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[145] *Id.* at 92-3.
[146] *Id.* at 69.

With due respect to the holding of the Highest Court in the *De la Llana* case, the authors feel that, in order to safeguard the sanctity of an independent Judiciary against the backdrop of a parliamentary system of government, closer adherence to the admonition of Mr. Justice Laurel in the *Zandueta* case, should have been displayed in disposing of the former case. Indeed, Mr. Justice Teehankee reminded the Court of its own admonition in *Fortun v. Labang*[147] to the effect that

> with the provision transferring to the Supreme Court administrative supervision over the Judiciary, there is a greater need "to preserve unimpaired the independence of the Judiciary, especially so at present, where to all intents and purposes, there is a fusion between the executive and the legislative branches" with the further observation that "many are the ways by such independence could be eroded"...[148]

While the authors have noted in this paper the definite changes sought to be implemented under Batas Pambansa Blg. 129, by admission of Madame Justice Herrera herself in her separate opinion in the *De la Llana* case, the only noteworthy innovations introduced in the Act can be summarized as follow:

> (a) The confusing and illogical areas of concurrent jurisdiction between trial courts have been entirely eliminated;
> (b) Under Section 39, there is a uniform period for appeal of fifteen (15) days counted from the notice of the final order, resolution, award, judgement, or decision appealed from; a record on appeal is no longer required to take an appeal; the entire original record is now to be transmitted;
> (c) Under Section 40, in deciding appealed cases, adoption by reference of findings of fact and conclusions of law as set forth in the decision, order, or resolution appealed from, is also provided for; this will expedite the rendition of decisions in appealed cases;
> (d) Section 42 provides for "a monthly longevity pay equivalent to five percent of the monthly basic pay for Justices and Judges of the Courts herein created for each five years of continuous, efficient, and meritorious service rendered in the Judiciary, Provided that, in no case shall the total salary of each Justice or Judge concerned, after this longevity pay is added, exceed the salary of the Justice or Judges who may not reach the top, where unfortunately there is not enough room for all, may have the satisfaction of at least approximating the salary scale of those above him depending on his length of service.[149]

If these were the only significant innovations sought to be effected under the new law, then there may be truth in the assertion by the petitioners in the *De la Llana* cases that "Batas Pambansa Blg. 129 is unconstitutional, in that the changes are superficial and mere 'cosmetics' with no substantial change at all on the judicial system, except to violate the

[147] G.R. No. 38383, May 27, 1981, 104 SCRA 67 (1981).
[148] *Id.* at 97.
[149] *Id.* at 78-9.

due process clause of the Constitution."[150] In such a case, precaution needs be taken that the legislative power of reorganization may not cloak an unconstitutional and evil purpose; and the best testimony to this is the *caveat* noted in the separate opinions of four Justices of the Supreme Court[151] that the validity of the Act does not necessarily taint its implementation with similar validity.

At any rate, even with the eventual implementation of Batas Pambansa Blg. 129, following the favorable decision of the Highest Tribunal in the *De la Llana* case, only time can show the real worth of the said law.

150 Motion for Reconsideration, De la Llana, et al. v. Alba, et al., G.R. No. 57883, March 29, 1982.

151 Justices de Castro, Herrera, Plana and Fernandez.