

[G. R. No. 18947. April 29, 1922]

BONIFACIO YSIP, PETITIONER, VS. MUNICIPAL COUNCIL OF CABIAO, NUEVA ECIJA, ET AL., RESPONDENTS.

D E C I S I O N

MALCOLM, J.:

The issue squarely raised in this case concerns the rights of the *Partido Nacionalista Colectivista* to election inspectors at the approaching election.

The facts are undisputed. At the last general election in 1919, two parties, the *Partido Democrata* and the *Partido Nacionalista*, contested for supremacy in the municipality of Cabiao, Nueva Ecija. The highest number of votes was cast for the *Partido Nacionalista*, and the second highest number for the *Partido Democrata*. Recently, however, as appears from the record, and as a matter of current political history of which the courts can take judicial notice, the *Partido Nacionalista* divided into two parties, the *Partido Nacionalista*, commonly known as *Unipersonalista*, and the *Partido Nacionalista Colectivista*; or, if this statement be objected to by partisans of the *Partido Nacionalista*, a new party known as *Partido Nacionalista Colectivista* was organized. The *Partido Nacionalista Colectivista* was inaugurated in the municipality of Cabiao, Nueva Ecija, on February 28, 1922. By exhibits presented, the court is given to understand that in Cabiao, and, in fact, in other towns in Nueva Ecija, the adherents of the old *Nacionalista Party* have gone over to the *Partido Nacionalista Colectivista*.

The law applicable to the facts is equally certain. A portion of section 11 of Act No. 3030 of the Philippine Legislature, reads:

“Should there be in such municipality one or more political parties or branches or fractions thereof, or political groups, then two of said inspectors and two substitutes for the same shall belong to the party which polled the largest

number of votes in said municipality at such preceding election and the other inspector and his substitute shall belong to the party, branch or fraction thereof, or political group which polled the next largest number of votes at said election; and the inspectors so appointed shall be persons proposed by the legitimate representative or representatives of such political parties, branches or fractions thereof, or political group.”

When the court comes to apply the law, with reference to not only the case before it but to a general condition of political affairs, it must be frankly admitted that difficulties are encountered.

A strict construction of the law would necessarily result in the Nacionalista Party being granted two inspectors in many municipalities, since no one can deny that this is “the party which polled the largest number of votes,” in such municipalities at the preceding election. Nor can it be denied that the law contemplates bi-partisan elections and only takes into account the successful party, and the party which polled the next largest number of votes. In certain instances, as where the Democrata Party obtains two inspectors in an election precinct and where only one inspector remains for another party, the courts are forced to rely on the letter of the law, and to assign the minority inspector to the Nacionalista Party. Other states of facts could be imagined, such as where the Nacionalista Party might have divided into three, four, or more branches, and which necessarily would make impossible a division of two election inspectors among the various new parties and which again would force the courts to return to the exact terminology of the law.

A liberal construction of the law will, on the other hand, permit the Nacionalista Colectivista Party to have representation on election boards in all municipalities in which the old Nacionalista Party polled the largest number of votes at the last election. Such interpretation and application of the law will not do violence to it, in view of the notorious fact that the party which won the election in many municipalities, such as Cabiao, Nueva Ecija, the Nacionalista Party has now split its forces between the old party and a new party. Such interpretation and application of the law would, moreover, be in accord with the underlying purpose of the Election Law, which is to provide as complete a method as possible to obtain a clean election.

If we must choose between a strict and literal interpretation of the law and a liberal and reasonable interpretation of the law, if we must choose between the letter of the law which

“killeth” and the spirit of the law which “giveth life,” can any one doubt what our decision will be? We adopt that construction which will produce the most beneficial results.

We hold that, in municipalities where it is shown that the *Partido Nacionalista* polled the largest number of votes at the last election and the *Partido Democrata* the next largest number of votes at said election, and where in such municipalities, in addition to the *Partido Nacionalista* there has been duly organized a new party known as the *Partido Nacionalista Colectivista*, one election inspector and one substitute shall belong each to the *Partido Nacionalista*, the *Partido Nacionalista Colectivista*, and the *Partido Democrata*.

As the municipal council of Cabiao, Nueva Ecija, following the circular of the Chief of the Executive Bureau, named one election inspector for each election precinct for the *Partido Nacionalista*, the *Partido Nacionalista Colectivista*, and the *Partido Democrata*, the writ prayed for must be denied, with costs against the petitioner. So ordered.

Ostrand, Johns, and Romualdez, JJ., concur.

DISSENTING

VILLAMOR, J., with whom concur ARAULLO, C. J., and AVACEÑA, J.,

It is scarcely necessary for us to give our reasons for disagreeing with the conclusion reached by our worthy brethren, as some of the remarks that we offered during the deliberation of this case have been embodied in the majority opinion of this special division; It will be noted that the majority opinion, after citing the law applicable to the case, suggests two interpretations which it calls strict and liberal. We adhere to the first not because it is strict but because, in our judgment, it is the only one that, according to the letter and the spirit of the law, should be given. Taking the contingency contemplated by the said provision of law, that is, the existence in a municipality of one or more political parties, or fractions, or branches, or groups thereof, the said law provides that two parties, or two branches, or fractions thereof, or two political groups that shall have come out victorious, or shall have polled the largest number of votes in the last preceding election shall be

represented in the board of election inspectors, by giving two inspectors to the party or fraction that obtained the largest number of votes in the last election and one to the party or fraction that obtained the next largest number of votes-this, in just acknowledgment of the will of the majorities as expressed in the polls, and that is the reason why it requires that the inspectors of election shall belong to the parties or fractions thereof that may have won in the preceding elections, because the election is the only means by which to determine the strength or popularity of the political parties in the field.

In the case at bar two political parties, the Nacionalista and the Democrata, went to the polls in the last election in the municipality of Cabiao, Nueva Ecija, and the Nacionalista party polled more votes than the Democrata. In conformity with the express terms of the law there cannot be any doubt that two of the inspectors must belong to the Nacionalista Party and one to the Democrata. The fact that there appeared in the field a new political party, called the Liberal Nacionalista or Colectivista, though formed with Nacionalista elements but different from the Nacionalista and Democrata parties, does not affect the matter. The rights of the victorious political parties should never be affected because of the future reduction of its strength, by the affiliation of its members to other parties, by the withdrawal from the party or by the formation of a new party. The law does not bother about the actual number of members of a political party but only with the result of the preceding election as determined by the amount of votes polled. Until a political party has gone to the polls, there is no means by which to give it the right to the appointment of an election inspector. To concede to a new political party the right to be represented in the board of election inspectors would be tantamount to presuming its victory in an election in which it has never taken any part (as such political party) and this is not what the law contemplates. The fact that the component elements of the new party have come from the party that polled the largest number of votes in the last election is not a sound argument to uphold the opinion of the majority, because the law does not consider the source of the political element with which the new party is organized, but only the result of the last election which is a self-evident fact that needs no discussion.

It is undeniable that the purpose of the Election Law is to provide a method, as complete as possible, for obtaining a clean election; and when the law expressly provides the means for executing a particular election act, as for instance the appointment of inspectors of election, it should not be construed in a manner so as to supply an alleged omission which is believed to be oppressive.

What is the spirit of the election law in the matter of appointment of election inspectors? It

is not necessary to stretch our imagination to discover it. It is well stereotyped in the words used by the law itself, and, that is, that two victorious political parties in the last preceding elections, those that occupied the first and second places according to the number of votes polled, shall be represented in the board of election inspectors in the proportion of two to one. But now, according to the majority opinion we have three different political parties in the said board with the special circumstance that one of the said parties did not take part in the last preceding election.

Petitioner's prayer must be granted.

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