

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. APOLONIO CARLOS, DEFENDANT AND APPELLANT.

G.R. No. L-239. June 30, 1947

Ponente: TUASON, J.

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TUASON, J.:

The appellant was found guilty of treason by the People's Court and sentenced to reclusion perpetua, to pay a fine of P7,000, and costs.

The findings of the People's Court are not assigned as errors or disputed.

The lower court found that one day in July or August, 1944, about two or three o'clock in the morning, a truck pulled up to the curb in front of a house on Constancia Street, Sampaloc, Manila, where one Martin Mateo lived. From the truck the accused, a Japanese spy, alighted together with members of the Japanese military police and pointed Martin Mateo's house and Fermin Javier's house to his Japanese companions, whereupon the Japanese soldiers broke into Martin Mateo's dwelling first and Fermin Javier's afterwards. In those houses they seized Martin Mateo, Ladislao Matco and Fermin Javier, bound their hands, and put them in the truck. Along with other persons who had been rounded up in other places and who had been kept in the truck while it was parked, they were taken to Fort Santiago where the two Mateos and Fermin Javier were tortured and from which they were released six days later. The reason for the arrest and maltreatment of Martin and Ladislao Mateo was that they had refused to divulge the whereabouts of their brother, Marcelino Mateo, who was a guerrilla and who had escaped from the Japanese. And Fermin Javier was arrested and tortured because he himself was a guerrilla, a fact which Carlos knew or at least suspected.

The defendant in this instance invokes only questions of law. He assigns four alleged errors, viz.:

"I. The lower court erred in not holding that the accused cannot be convicted of the offense of treason committed against the government of the United States and of the Philippines, because it is a settled principle in international law that in a territory 'actually under the authority of the enemy', all laws of political complexion of the previous government are suspended, and are without force and inasmuch as the laws of the United States and the Commonwealth of the Philippines defining and penalizing the crime of treason are all of political complexion, they were suspended and had no binding effect whatsoever upon the inhabitants in the said occupied territories.

"II. The People's Court erred in not declaring the accused could not have violated the Philippine law on treason, because it is also a settled principle in international law that in such occupied territories all laws inconsistent with the occupation are being likewise suspended and without force and effect over the inhabitants, and since the laws of the United States and the Commonwealth of the Philippines defining and penalizing treason against the said government are by their very nature evidently inconsistent with the said occupation of the Philippines by the Imperial Japanese forces, the said laws must be deemed as having been suspended and without force and effect upon the Filipinos, during the said occupation.

"III. The People's Court erred in not holding that the accused herein cannot be convicted of the crime of

treason committed against the government of the United States and of the Philippines, because it is a settled principle in international law that once the territory is so occupied by the enemy, the allegiance is as a legal obligation distinguishable and distinguished from loyalty of the inhabitants therein to the former government or governments is temporarily suspended, and it being necessary and essential for the commission of the offense of treason against the United States and the Commonwealth of the Philippines that the supposed offender should owe allegiance to said government at the time of the alleged offense, it follows that the accused cannot possibly be chargeable with treason against the United States and the Commonwealth of the Philippines for acts allegedly committed by him in the territory of the Philippines actually occupied by the Japanese during said occupation.

"IV. The decision rendered in this case should be reversed and set aside, because the law creating the People's Court is unconstitutional."

The questions propounded in the first, second and third assignments of error were squarely raised and decided in the case of *Laurel vs. Misa* (77 Phil., 856). That decision controls this appeal so far as the pleas of suspended allegiance and change of sovereignty are concerned. On the strength thereof, the first three assignments of error must be overruled.

The fourth assignment of error attacks the law creating the People's Court as unconstitutional. Numerous provisions of the People's Court Act are singled out as contrary to the Organic Law. But in formulating many of his propositions the appellant has not indicated the reasons or the authorities which sustain them. We shall dispose of them as briefly as they are presented. For better understanding, we shall reproduce the appellant's propositions and will comment on them separately.

The brief says:

"(a) It (People's Court Act) contains provisions which deal on matters entirely foreign to the subject matter expressed in its title, such as:

"(1) The first proviso of section 2 thereof, which retains the jurisdiction of the Court of First Instance to try and decide cases of crimes against national security committed during the second world war not filed within six months, notwithstanding the fact that according to its title, the People's Court is precisely created for that purpose, and impliedly, the People's Court jurisdiction in regard to said crimes is exclusive;

"(2) The second proviso of the same section which grants the People's Court jurisdiction to convict and sentence those accused therein even of crimes other than those against national security, although its title does not in any way indicate that such jurisdiction over other crimes would be granted to the said court;

"(3) Section 14 thereof, which adds to the disqualifications of Justices of the Supreme Court and provides a procedure for their substitution, a matter not indicated in any manner in its title;

"(4) The first proviso of section 19 thereof, which changes the existing Rules of Court on the subject of bail although its title speaks only of the creation of the People's Court and the Office of Special Prosecutors; and

"(5) The second proviso of the same section, which suspends the provisions of article 125 of the Revised Penal Code, a substantive law, which is not referred to in its title either expressly or by implication."

The People's Court was intended to be a full and complete scheme with its own machinery for the indictment, trial and judgment of treason cases. The various provisos mentioned, in our opinion, are allied and germane to the subject matter and purposes of the People's Court Act; they are subordinate to its end. The multitude of matters which the legislation, by its nature, has to embrace would make mention of all of them in the title of the act cumbersome. It is not necessary, and the Congress is not expected, to make the title of an enactment a complete index of its contents. (*Government of the Philippine Islands vs. Municipality of Binalonan*, 32 Phil., 634.) The

constitutional rule is satisfied if all parts of a law relate to the subject expressed in its title.

The brief says:

"(b) It deprives persons similarly situated of the equal protection of the laws inasmuch as:

"(1) Only those political offenders against whom cases are filed within six months from the passage of the law are to be tried in the People's Court, while others are to be tried in the Courts of First Instance;

"(2) Political offenders accused in the People's Court are denied preliminary examination and/or investigation whereas the others who may be accused of the same crimes in the Courts of First Instance shall be entitled thereto;

"(3) Political offenders accused in the People's Court have limited right to appeal, while those who may be accused of the same crimes in the Courts of First Instance have absolute right of appeal inasmuch as under section 13 of the law, Rules 42 and 46 of the Rules of Court are made applicable to the latter;

"(4) Appeals in the cases involving persons who held any office or position under either or both the Philippine Executive Commission and the Philippine Republic or any branch, instrumentality and/or agency thereof are to be heard and decided by a substantially different Supreme Court, thus causing lack of uniformity in rulings over the same subject;

"(5) The first proviso of section 19 thereof prescribes a different rule as to the granting of release on bail only with respect to the political offenders detained by the United States Army and released to the Commonwealth of the Philippines but not as to other political offenders accused or accusable of the same crimes; and

"(6) The second proviso of section 19 thereof suspends article 125 of the Revised Penal Code only as to those political detainees released by the United States Army to the Commonwealth of the Philippines or, at most, only to those accused or accusable of the crimes specified in the law and not as to all persons accused or accusable of crimes against national security committed during the second world war, much less to all offenders, notwithstanding the fact that there is no reasonable and real difference among said groups of offenders."

(1) The People's Court is a court of special and restricted jurisdiction created under the stress of an emergency and national security. It was devised to operate for a limited period only, a limitation imposed by economic necessity and other factors of public policy. Obviously, the main concern in the creation of a special court was the trial and disposition of the cases, numbering over 6,000, of accused who were being held by the United States military authorities and who were to be turned over to the Commonwealth Government. It was presumed that there were other cases of treason not included in this number—cases which might not be discovered until years afterward—and the possibility was not overlooked that even some of the cases which the United States Army was on the eve of placing under the jurisdiction of the Philippine Government could not be filed and submitted for trial within a foreseeable future owing to lack of readily available evidence, absence of witnesses, or other causes. On the other hand, considerations of economy and public interests forbade maintenance of the People's Court for an indefinite period. Under the circumstances, it was necessary that a provision be made requiring that only cases which could be brought to court within six months and which were deemed enough to occupy the attention of the People's Court within the limited time of its life, should be cognizable by it, and the rest should be instituted in the proper Courts of First Instance. Such provision is not an arbitrary and intentional discrimination, and does not work as a deprivation of the right to equal protection of the laws. Both in privileges or advantages conferred, if any, and in liabilities imposed, if any, persons under equal circumstances are treated alike. It does not deprive appellant of the protection enjoyed by others falling within his class. The equal protection of the laws guaranteed by the Constitution "does not prevent a state or municipality from adjusting its legislation to differences in situations and

making a discrimination or distinction in its legislation in respect of things that are different, provided that the discrimination or distinction has a reasonable foundation or rational basis and is not palpably, purely, and entirely arbitrary in the legislative sense, that is, outside of the wide discretion which the legislative body may exercise." (16 C. J. S., 997.) Moreover, with its associate feature the People's Court is designed to extend greater protection to persons charged with collaboration with the enemy. If others are prosecuted before a Court of First Instance, they and not the appellant should have cause to complain of discrimination.

(2) Section 22 in denying preliminary investigation to persons accused before the People's Court is justified by the conditions prevailing when the law was enacted. In view of the great number of prisoners then under detention and the length of time and amount of labor that would be consumed if so many prisoners were allowed the right to have preliminary investigation, considered with the necessity of disposing of these cases at the earliest possible dates in the interest of the public and of the accused themselves, it was not an unwise measure which dispensed with such investigation in such cases. Preliminary investigation, it must be remembered, is not a fundamental right guaranteed by the Constitution. For the rest, the constitutional prohibition against discrimination among defendants placed in the same situation and condition is not infringed.

(3) For the same reasons stated before, this contention cannot be upheld. There is a rational basis for the distinction. The employment of two modes of appellate procedure in the two classes of cases involved are, in our opinion, suitably adapted to the differences, in their composition, between the courts from which the appeals are taken. The People's Court is a collegiate court whereas the Court of First Instance is presided over by a single judge. Appeal is not a constitutional but statutory right. The admitted fact that there is no discrimination among appeals from the same court or class of court saves the provision objected to from being unconstitutional.

(4) This objection does not seem to fall within the subject of constitutional guarantee against deprivation of equal protection of the laws. Be that as it may, we find no merit in the appellant's contention. The disqualification under the People's Court Act of some or a majority of the members of this Court and their substitution by justices of the Court of Appeals or judges of the Courts of First Instance do not make the Supreme Court, as thus constituted, a new court in the eyes of the law. A court is an entity possessing a personality separate and distinct from the men who compose or sit on it. This objection is no more valid than that of a party in an ordinary action who protests that his case is heard by a Supreme Court which, by reason of disability of a majority of its regular members, is made up mostly of judges from outside. As to the "lack of uniformity in rulings over the same subject," it need only be said that the Constitution does not insure uniformity of judicial decisions; neither does it assure immunity from judicial error.

(5) and (6) The two provisos in section 19 do not constitute denial of equal protection of the laws. The distinction made by these provisos between two sets of accused in the "granting or release on bail" and in the application of article 125 of the Revised Penal Code are not arbitrary or fanciful calculated to favor or prejudice one or the other class. This point was discussed at length and made clear in *Laurel vs. Misa* (76 Phil., 372), in which this Court explained the reasons which necessitated the extension to six months of the authorized detention of persons charged with treason before the filing of information. The provisos rest "on some real and substantial difference or distinction bearing a just and fair relation to the legislation." (16 C. J. S., 998.)

The brief says:

"(c) It is a bill of attainder in that it virtually imposes upon specific, known and identified individuals or group of individuals, the penalty of detention and imprisonment for a period not exceeding six months without any form of judicial trial or procedure."

"The bill of attainder is a legislative act which inflicts punishment without judicial trial." (*Cummings vs.*

Missouri, 4 Wall., 232, etc.) Detention of a prisoner for a period not exceeding six months pending investigation or trial is not a punishment but a necessary extension of the well recognized power to hold the criminal suspected for investigation. This proviso was held by this Court to be justified and reasonable under existing circumstances in *Laurel vs. Misa*, supra.

The brief says:

"(d) Section 2 thereof which purports to define the jurisdiction of the People's Court constitutes an invalid and void delegation of legislative power which is vested exclusively in the Congress of the Philippines by the Constitution, in so far as said section virtually leaves unqualifiedly in the discretion of the Solicitor General and/or the Office of Special Prosecutors the power to determine the actual cases over which the People's Court shall have jurisdiction."

Granting the correctness of the premise of this proposition, it does not follow that the authority vested in the Solicitor General amounts to a delegation of legislative power. We do not think that power to institute certain cases in one court or another in the discretion of the prosecuting attorney is an exercise of legislative power. "The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made." (*Cincinnati, V. & Z. R. Co. vs. Clinton County Comr's* [1852], 1 Ohio St., 77, cited in *Tañada on the Constitution of the Philippines*, p. 291.)

The brief says:

"(e) Sections 1, 4 and 18 thereof abridge, limit and curtail the power of appointment of the President or the Chief Executive in that—

"(1) Section 1 practically leaves the President with such a very small field of choice in the appointment of the members of the court that he can hardly use his discretion in regard thereto; and

"(4) Sections 4 and 18 actually designate and appoint the persons who will occupy the positions left vacant by those appointed to the People's Court and the Office of Special Prosecutors respectively."

The power to create offices and courts is vested in the legislative department. Subject to constitutional restrictions, the Congress may determine on the eligibility and qualification of officers and provide the method for filling them. We find no valid objection on constitutional ground to a law which directs that a special temporary court should be filled by appointment by the Chief Executive himself from among judges already on the bench and/or other quasi-judicial officers. As to outsiders who might have to be appointed by reason of insufficiency of qualified men already in the service, the Chief Executive is left with a wide field of choice.

The theory that "sections 4 and 18 actually designate and appoint the persons who will occupy the positions left vacant by those appointed to the People's Court and the Office of Special Prosecutors respectively" loses sight of the fact that the positions referred to are, as a matter of fact, vacant only in theory, and for the duration of the People's Court, and that the law does no more than say that after those judges and officers shall have accomplished their work, they shall go back to their permanent posts.

The brief says:

"(f) The said law provides for the designation and/or transfer of judges appointed for particular districts to another place outside of their respective districts without the consent of the Supreme Court."

Section 7 of Article VIII of the Constitution provides that "no judge appointed for a particular district shall be designated or transferred to another district without the approval of the Supreme Court. The Congress shall by law

determine the residence of judges of the inferior courts." This constitutional provision, as its language clearly states, refers to transfers from one judicial district to another. It does not prohibit the appointment or designation of a judge of the Court of First Instance or any other judge from being appointed temporarily or permanently with his consent to a court of different grade and make-up, such as the People's Court.

The brief says:

"(g) Sections 13 and 19 thereof prescribed rules of procedure regarding appeal and bail which violate the rule of uniformity of rules for all courts of the same grade established in the Constitution."

It is the rules promulgated by the Supreme Court which are required by section 13 of Article VIII of the Constitution to be uniform for all courts of the same grade. The People's Court is not a court of the same grade, considering many of its special features, and its purposes, as the Court of First Instance or any other existing court in the Philippines, so that the adoption of special rules of procedure for said court different from those applicable to Courts of First Instance is not violative of this constitutional mandate. More than this, the last sentence of the section expressly authorizes the Congress "to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines."

The brief says:

"(h) It is destructive of the independence of the judiciary and thereby violates the constitutional provision that the Philippines is a republican state because:

"(1) By creating a special court with jurisdiction over cases which were already within the jurisdiction of the existing Courts of First Instance without any real necessity and urgent justification, considering that the persons involved in said cases were more or less known and identified at the time of the creation of said special court, the law establishes a precedent under which the legislature may at any time remove from the jurisdiction of existing courts cases involving definite or specific individuals or groups of individuals to serve any purpose which said legislature or the legislators composing the same may wish to accomplish, either to the benefit or damage of said individuals or groups of individuals;

"(2) By limiting the choice of the judges to compose the People's Court to those who did not hold any position in the Philippine Executive Commission and/or the so-called Republic of the Philippines, the law makes a classification that has absolutely no rational basis inasmuch as the reason for discriminating against those who served in said governments, which is, that they might be prejudiced or influenced in favor of the accused exists in equal measure for those who did not serve, in the sense that they may likewise be prejudiced or influenced against the accused; and

"(3) In leaving practically in the hands of the Solicitor General the absolute right to choose, in which court he shall prosecute the cases contemplated by the law, and in providing that the judges of the People's Court shall be chosen from a limited group of the judges of the Court of First Instance, etc., the law does not leave a wide room for the play of external factors in the administration of justice to those concerned but also destroys the confidence of the people in the judiciary."

(1 and 2) These objections go to the wisdom of the law and to matters of policy. This¹ being so, it is enough that the Congress deemed it necessary to incorporate these provisions in Commonwealth Act No. 682. It is not the province of the courts to supervise legislation and keep it within the bounds of propriety and common sense. That is primarily and exclusively a legislative concern. (*Rubi vs. Provincial Board of Mindoro*, 39 Phil., 661.)

(3) This proposition is covered by and answered in our comment on paragraph (d) of the brief.

The judgment of the lower court is affirmed with costs against the appellant.

Moran, C.J., Feria, Pablo, Hilado, Bengzon, and Briones, JJ., concur.
Hontiveros, and Padilla, JJ., concur in the result.

PARAS, J.:

I reserve my vote, the decision in the Laurel case is not as yet final.

CONCURRING AND DISSENTING

PERFECTO, J.:

The appeal in this case raises only questions of law. Of the four assignments of error made in appellant's brief, the first three are premised on the theory of suspended allegiance, and the last is premised on the theory that the law creating the People's Court is unconstitutional.

The question of suspended allegiance was already rejected by a majority of this court in the case of Laurel vs. Misa, in a resolution dated January 30, 1947 (77 Phil., 856), and our reasons for voting for the rejection are expressed in our written opinion in said case.

We do not see in appellant's brief any argument which may justify the changing of our opinion in the Laurel case where, by the way, the question of suspended allegiance appears to have been discussed, perhaps, thoroughly and exhaustibly.

Regarding the fourth assignment of error, appellant advances the following proposition: "The People's Court Law (Commonwealth Act No. 682) is unconstitutional and void in many parts and as a whole because:

"(a) It contains provisions which deal on matters entirely foreign to the subject matter expressed in its title;

"(b) It deprives persons similarly situated of the equal protection of the laws;

"(c) It is a bill of attainder in that it virtually imposes upon specific, known, and identified individuals or group of individuals, the penalty of detention and imprisonment for a period not exceeding six months without any form of judicial trial or procedure;

"(d) Section 2 thereof constitutes an invalid and void delegation of legislative power, in so far as it virtually leaves unqualifiedly in the discretion of the Solicitor General and/or the Office of Special Prosecutors the power to determine the actual case over which the People's Court shall have jurisdiction;

"(e) Sections 1, 4, and 18 thereof abridge, limit and curtail the power of appointment of the President;

"(f) It provides for the designation and/or transfer of judges appointed for particular districts to another place outside of their respective districts without the consent of the Supreme Court;

"(g) Sections 13 and 19 thereof prescribed rules of procedure regarding appeal and bail which violate the rule of uniformity of rules for all courts of the same grade established in the Constitution;

"(h) It is destructive of the independence of the judiciary and thereby violates the constitutional provision that the Philippines is a republican state;

"(i) Section 14 providing for disqualification of some Justices of the Supreme Court is unreasonable in its operation."

Although it is regrettable that appellant failed to elaborate on the several grounds upon which he impugns the

validity of the law in question, upon which theory he seeks reversal of the decision of the People's Court and his acquittal from the treason charge, such failure does not relieve us from the duty of passing upon the questions raised, much more because they are not of passing importance. Our opinion on the several grounds relied upon by appellant to attack the validity of Commonwealth Act No. 682 is as follows:

(a) MULTIPLICITY OF SUBJECT MATTER

On the first ground, appellant undoubtedly relies on the following provision of the Constitution:

"No bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill." (Section 21 [1], Article VI.)

Five reasons are advanced by appellant to show that the act violates the constitutional prohibition against multiplicity of subject matter. We are going to deal with them separately.

(1) It is alleged that, although the People's Court has been created precisely to try crimes against national security with jurisdiction impliedly exclusive, section 2 thereof retains the jurisdiction of courts of first instance to try and decide cases not filed within six months. We do not believe that the provision violates the constitutional inhibition. There should not be any question that the creation of the People's Court was an answer to an unusual situation, created by the extraordinary social upheaval provoked by the last war, demanding an uncommon solution, compatible with the tenets of our democracy, with the provision of the Constitution, and with the noble aims of justice. The several thousands of persons detained upon liberation charged with treason and other crimes against national security, needed the creation of a judicial machinery for the prompt disposal of their cases so as not to violate their constitutional right to a speedy trial. It was admitted that the inferior courts then existing were not enough to cope with the situation. Those who are guilty, should be sentenced as soon as possible, so they may expiate for the wrongs that they have committed, and those who are innocent are entitled to be cleared without any delay. The People's Court was, therefore, created to shoulder the burden that the courts of first instance could not bear. Congress estimated that six months was enough time for the cases of the thousands of detainees to be filed with the People's Court, while the cases of those who have not yet been detained, on the assumption that they will be few, there was no reason why these should not be disposed of by the courts of first instance as is declared in the proviso of section 2. The proviso is germane with the subject matter of the law and does not violate the prohibition against multiplicity of subject matter.

(2) The second objection is raised against the proviso authorizing the People's Court to convict and sentence those accused for any crime included in the acts alleged in the information and established by the evidence, although they are not classified as among those committed against national security. The objection cannot be entertained. The proviso is within the logical purview of the creation of the People's Court. The lawmaker must have had in mind the fact that among the thousands of detainees which motivated the creation of the court there were persons who had committed crimes other than those against national security.

Although these are the crimes primarily in the minds of those who arrested said detainees, there is nothing unnatural that those who committed said crimes may have also committed offenses of different nature either in connection with the first ones or independently, and if said other offenses are included among the facts alleged in the information filed with the People's Court and proved by the evidence, there is no reason why said court should not punish them as a court of first instance would, it appearing that the People's Court is but a special court of first instance.

(3) The third objection points to the disqualification of certain Justices of the Supreme Court and the procedure of their substitution as provided in section 14 of Commonwealth Act No. 682. Although said section is, in effect, null and void as unconstitutional, it is not enough ground to hold the whole act as unconstitutional, as said section

can be eliminated without affecting the remaining provisions of the act.

(4) The fourth objection points to the proviso of section 19, which provides for an exception concerning political offenders in the existing rules of court on the subject of bail. Whether the proviso is valid or not, it cannot affect the constitutionality of the whole act. If it is valid, it is within the purview of the creation of the People's Court. If it is invalid, it can be discarded without affecting the other provisions of the law.

(5) The fifth objection points to the second proviso of section 19, suspending the provisions of article 125 of the Revised Penal Code. The proviso is evidently unconstitutional. It is not within the purview of the creation of the People's Court. It creates a discrimination violative of the constitutional guarantee of the equal protection of the laws. In effect, it authorizes deprivation of liberty of the political prisoners for a period of six months, which is violative of the constitutional guarantee that no person shall be deprived of his liberty without due process of law. But the proviso may be eliminated without affecting the remaining portions of the act and, therefore, is not enough ground for declaring the whole act null and void.

Our conclusion is that the first ground attacking the validity of the law is without merit.

(b) EQUAL PROTECTION OF THE LAWS

Appellant advances six reasons to show that the act violates the constitutional guarantee of the equal protection of the laws.

(1) The first reason is that, under section 2, the People's Court is only to try the cases of political offenders against whom the information has been filed within six months, while others shall be tried in a Court of First Instance. We believe that there is no unjust discrimination in it. Those who will be tried by courts of first instance cannot complain of any unjust discrimination. They will be tried by the regular tribunals created to try all other offenses. Those who are to be tried by the People's Court cannot complain either, because said court is but another court of first instance, although especially created for the prompt disposal of the cases of political detainees. Congress made it collegiate as a guarantee against possible miscarriage of justice due to popular excitement during the first months after the liberation. Congress believed that a three-person tribunal can defend itself better against any outside pressure than a one-man tribunal.

(2) The second reason is that political offenders accused in the People's Court are denied the preliminary investigation accorded to those who may be accused in the court of first instance. We are of opinion that the allegation is groundless. There is nothing in the act in question depriving political offenders accused in the People's Court of the preliminary investigation as provided by Rule 108.

(3) The third reason is that political offenders accused in the People's Court have limited right to appeal, while those who may be accused of the same crime in a court of first instance have absolute right to appeal. The allegation is partly true. There appears a discrimination against those who may be convicted by the People's Court in banc, by providing that they can only appeal in accordance with Rule 46, under which only questions of law may be raised. We are of opinion that the discrimination is violative of the guarantee of the equal protection of the laws, and should not be given effect. But the unconstitutional provision may be eliminated, without annulling the whole act. In practice, the invalid discriminating provision seems to have become obsolete as all cases in the People's Court are tried and decided in division and not in banc.

(4) The fourth reason is that appeals in cases involving persons who held any office under the governments established by the Japanese during the occupation are to be heard and decided by a substantially different Supreme Court. The allegation is correct by virtue of the provisions of section 14 which is flagrantly unconstitutional because (a) the disqualification of some members of the Supreme Court provided therein

constitutes in effect partial removal from office in open violation of the guarantees and procedure provided by Article IX of the Constitution, (b) it provides for sitting in the Supreme Court of persons not appointed in accordance with section 5 of Article VIII of the Constitution and without the qualifications provided in section 6 of the same article, and (c) it provides for the existence of a second Supreme Court in violation of section 1 of Article VIII of the Constitution which provides for only "one Supreme Court." But, as we have already stated, section 14 can be eliminated from Commonwealth Act No. 682, without declaring the act wholly unconstitutional.

(5) The fifth reason is that there is discrimination in the first proviso of section 19 as to the granting of release on bail. We are of opinion that there is no substantial discrimination.

(6) The sixth reason is the discrimination provided in the second proviso of section 19. The proviso is null and void, but it can be eliminated without annulling the whole act. It is a denial of the equal protection of the laws and is violative of the constitutional guarantee against deprivation of liberty without due process of law. The proviso should not be given effect, without annulling the whole act.

(c) BILL OF ATTAINDER

Appellant alleges that Commonwealth Act No. 682 is a bill of attainder in that it virtually imposes upon specific, known and identified individuals or group of individuals, the penalty of detention and imprisonment for a period not exceeding six months without any form of judicial trial or procedure.

The allegation is justified by the second proviso of section 19 of the act. But it cannot affect it in whole as said proviso can be eliminated without impairing the remaining proviso of the law.

(d) DELEGATION OF LEGISLATIVE POWER

Appellant alleges that section 2 constitutes an invalid and void delegation of legislative power in so far as it virtually leaves unqualifiedly in the discretion of the Solicitor General and/or the Office of Special Prosecutors the power to determine the actual cases over which the People's Court shall have jurisdiction. There is no such delegation. The People's Court is substantially but one court of first instance, only with limited jurisdiction. Whether a case is to be tried by the People's Court or by an ordinary court of first instance, there is no substantial difference for purposes of the administration of justice and the jurisdictions of both courts are specifically provided in the law.

(e) CURTAILMENT OF THE POWER OF APPOINTMENT OF THE PRESIDENT

Appellant's objection is directed against sections 1, 4, and 18. The objection is untenable. Congress may validly provide for the qualifications of the members of the People's Court. Section 8 of Article VIII of the Constitution expressly grants that authority.

(f) TRANSFER OF JUDGES WITHOUT APPROVAL OF THE SUPREME COURT

Appellant alleges that Commonwealth Act No. 682 provides for the designation and/or transfer of judges to another place outside of their respective districts without the consent of the Supreme Court, implying that section 7 of Article VIII of the Constitution is violated. The allegation is untenable. The fact that the act authorizes the appointment of persons already holding positions in the judiciary to be members of the People's Court is no violation of the constitutional mandate. What the authors of the Constitution contemplated were transfers from one district to another, but not appointment of those already holding positions to other positions.

(g) UNIFORMITY OF LAWS

The objections of appellant in paragraph (g) is but a repetition of his objections in paragraph (b) already dealt with

above.

(h) INDEPENDENCE OF THE JUDICIARY

Appellant sets the following propositions:

- By creating a special court with jurisdiction over cases which were already within the jurisdiction of the existing courts of first instance, considering that the persons involved in said cases were more or less known and identified at the time of the creation of said court, the law establishes a precedent under which Congress may at any time remove from the jurisdiction of existing court cases involving definite or specific individuals or groups of individuals to serve any purpose which the members of Congress may wish to accomplish, either to the benefit or damage of said individuals.

- By limiting the choice of the judges to compose the People's Court, the law makes a classification that has absolutely no rational basis.

- In leaving to the hands of the Solicitor General the absolute right to choose in which court he shall prosecute the cases contemplated by the law and in providing that the judges of the People's Court shall be chosen from a limited groups of individuals, etc., the law does not leave a wide room for the play of external factors in the administration of justice to those concerned but also destroys the confidence of the people in the judiciary.

The questions raised in the above three propositions are serious but none of them amounts to a violation of the fundamental law that may nullify the law in question, as they involve a matter of public policy, although the first one points to a situation bordering into a transgression of the guarantee of the equal protection of the laws. If the provisions of the law creating the special court should show a clear purpose of making a discrimination, pro or against those who may be tried under it, then the law must be declared null and void in toto. Such is not the case of the law under discussion. Matters of public policy not involving a violation of the fundamental law are within the province of Congress to legislate, subject only to the control of the people through the electorate.

For all the foregoing, we vote to affirm the decision rendered by the lower court in this case.

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