

HAYDEE HERRAS TEEHANKEE, PETITIONER, VS. LEOPOLDO ROVIRA, ANTONIO QUIBINO, AND POMPEYO DIAZ, RESPONDENTS.*G.R. No. L-101. December 20, 1945*

Ponente: HILADO, J.

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Petitioner Haydee Herras Teehankee is a political detainee delivered by the Counter Intelligence Corps, United States Army, to the Commonwealth Government, pursuant to the Proclamation of General of the Army Douglas MacArthur, dated December 29, 1944. She was one of the petitioners in case No. L-44, "Raquiza vs. Bradford," of this court (p. 50, ante). She is now confined in the Correctional Institution for Women under the custody of the Commonwealth Government since October, 1945, when she was thus delivered to the said government.

Under date of October 2, 1945, petitioner, through her husband, Alberto Teehankee, filed with the People's Court a petition wherein, invoking the provisions of Executive Order No. 65, promulgated by His Excellency, the President of the Philippines, dated September 3, 1945, she prayed that her immediate release be ordered on the ground that no evidence exists upon which she could be charged with any act punishable by law, or, alternatively, that the People's Court fix the bail for her provisional liberty, in conformity with the aforesaid executive order, and upon approval of such bail, that an order be forthwith issued directing the officer having official custody of her person to immediately release her.

On October 4, 1945, the Hon. Antonio Quirino, one of the Associate Judges of the People's Court, upon considering the said petition, required the Solicitor General "to file his comment and recommendation as soon as possible."

On October 5, 1945, the Solicitor General filed recommendation in compliance with said order, stating: "that on the strength of the evidence at hand, the reasonable bail recommended for the provisional release of the petitioner be fixed at Fifty Thousand Pesos (P50,000)."

On October 9, 1945, the Hon. Leopoldo Rovira, Presiding Judge of the People's Court, entered an order referring the petition for provisional release above mentioned for consideration by the Fifth Division of said Court, but adding the following statement: "in my opinion, it should be denied notwithstanding the recommendation of the Solicitor General for her provisional release under a bond of Fifty Thousand Pesos (P50,000)."

On the same date, October 9, 1945, the Hon. Pompeyo Diaz, Associate Judge of said Court, entered an order disposing of said petition and denying the same "in view of the gravity of the offense as can be deduced from the fact that the office of the Special Prosecutors recommends as high as Fifty Thousand Pesos (50,000) for her provisional release." A motion having been filed by petitioner with the People's Court praying said court to reconsider its order of October 9, 1945, denying her petition for provisional release, the Court, through Associate Judge Pompeyo Diaz, denied said motion.

In her present petition for the writs of certiorari and mandamus originally filed with this Court on October 19,

1945, petitioner avers that the above-mentioned Judges of the People's Court, in denying her petition for provisional liberty under bail, as well as her motion for reconsideration, acted in excess of jurisdiction and with grave abuse of discretion. Paragraph VII of this petition contains her allegations in support of this charge.

Under date of October 21, 1945, respondent Judge Pompeyo Diaz filed his answer stating that the order denying bail "was issued under express mandate of the law", citing section 19 of Commonwealth Act No. 682.

Article III, section 1 (16) of the Commonwealth Constitution provides that:

"All persons shall before conviction be bailable by sufficient sureties, except those charged with capital offenses when evidence of guilt is strong. Excessive bail shall not be required." Rule 110 of the Rules of Court provides in the following sections:

"SEC. 3. Offenses less than capital before conviction by the Court of First Instance.—After judgment by a justice of the peace and before conviction by the Court of First Instance, the defendant shall be admitted to bail as of right.

"SEC. 4. Noncapital offenses after conviction by the Court of First Instance.—After conviction by the Court of First Instance, defendant may, upon application, be bailed at the discretion of the court.

"SEC. 5. Capital offenses defined.—A capital offense, as the term is used in this rule, is an offense which, under the law existing at the time of its commission, and at the time of the application to be admitted to bail, may be punished by death.

"SEC. 6. Capital offense not bailable.—No person in custody for the commission of a capital offense shall be admitted to bail if the evidence of his guilt is strong.

"SEC. 7. Capital offenses-burden of proof.—On the hearing of an application for admission to bail made by any person who is in custody for the commission of a capital offense, the burden of showing that evidence of guilt is strong is on the prosecution.

"SEC. 8. Notice of application to fiscal.—When admission to bail is a matter of discretion, the court must require that reasonable notice of the hearing of the application for bail be given to the fiscal."

Section 66 of General Orders, No. 58 stipulates:

"When admission to bail is a matter of discretion, the court must require that reasonable notice of the hearing of the application for bail be given to the promotor fiscal."

Section 19 of Commonwealth Act No. 682 contains the following proviso:

"SEC. 19. * * * Provided, however, That existing provisions of law to the contrary notwithstanding, the aforesaid political prisoners may, in the discretion of the People's Court, after due notice to the office of Special Prosecutors and hearing, be released on bail, even prior to the presentation of the corresponding information, unless the Court finds that there is strong evidence of the commission of a capital offense. * * *."

Section 22 of Commonwealth Act No. 682 ordains:

"SEC. 22. The prosecution, trial and disposal of cases before the People's Court shall be governed by existing laws and rules of court, unless otherwise expressly provided herein * * *."

Against the petitioner herein no information had yet been presented when she filed her petition dated October 2, 1945, containing the alternative prayer for the fixing of bail for her provisional liberty. She there invokes Executive Order No. 65 of the President of the Philippines, dated September 3, 1945. The proviso above quoted from section 19 of the People's Court Act (Commonwealth Act No. 682) also existed in the statute books at the

time.

The able arguments adduced on both sides have received the most careful consideration of the Court as befits the importance of the questions involved. However, in the view we take of the case, a majority of the Court are of opinion that the only questions calling for decision at this time are: (1) whether Article III, section 1(16) of the Commonwealth Constitution is applicable to the instant case; (2) whether a hearing should be held of the application for bail with the attendance of the petitioner and the Solicitor General or the latter's representative; and (3) if so, what kind of hearing it should be.

- As to the first question, we hold that Article III, section 1(16) of the Commonwealth Constitution is applicable to the instant case. This constitutional mandate refers to all persons, not only to persons against whom a complaint or information has already been formally filed. It lays down the rule that all persons shall before conviction be bailable except those charged with capital offenses when evidence of guilt is strong. According to this provision, the general rule is that any person, before being convicted of any criminal offense, shall be bailable, except when he is charged with a capital offense and the evidence of his guilt is strong. Of course, only those persons who have been either arrested, detained or otherwise deprived of their liberty will ever have occasion to seek the benefits of said provision. But in order that a person can invoke this constitutional precept, it is not necessary that he should wait until a formal complaint or information is filed against him. From the moment he is placed under arrest, detention or restraint by the officers of the law, he can claim this guarantee of the Bill of Rights, and this right he retains unless and until he is charged with a capital offense and evidence of his guilt is strong. Indeed if, as admitted on all sides, the precept protects those already charged under a formal complaint or information, there seems to be no legal or just reason for denying its benefits to one as against whom the proper authorities may even yet conclude that there exists no sufficient evidence of guilt. To place the former in a more favored position than the latter would be, to say the least, anomalous and absurd. If there is a presumption of innocence in favor of one already formally charged with criminal offense (Constitution, Article III, section 1 [17], a fortiori, this presumption should be indulged in favor of one not yet so charged, although already arrested or detained.

In Cooley's Constitutional Limitations, 7th edition, pages 436-438, we read the following:

"Perhaps the most important of the protections to personal liberty consists in the mode of trial which is secured to every person accused of crime. At the common law, accusations of felony were made in the form of an indictment by a grand jury; and this process is still retained in many of the States, while others have substituted in its stead an information filed by the prosecuting officer of the State or county. This mode of investigating the facts, however, is the same in all; and this is through a trial by jury, surrounded by certain safeguards which are a well-understood part of the system, and which the government cannot dispense with.

"First, we may mention that the humanity of our law always presumes an accused party innocent until he is proved to be guilty. This is a presumption which attends all the proceedings against him, from their initiation until they result in a verdict, which either finds the party guilty or converts the presumption of innocence into an adjudged fact.

"If there were any mode short of confinement which would, with reasonable certainty, insure the attendance of the accused to answer the accusation, it would not be justifiable to inflict upon him that indignity, when the effect is to subject him, in a greater or less degree, to the punishment of a guilty person, while as yet it is not determined that he has committed any crime. If the punishment on conviction cannot exceed in severity the forfeiture of a large sum of money, then it is reasonable to suppose that such a sum of money, or an agreement by responsible parties to pay it to the government in case the accused should fail to appear, would be sufficient security for his attendance; and therefore, at the common law, it was customary to take security of this character in all cases of misdemeanor - one or more friends of the accused undertaking for his appearance for trial, and agreeing that a certain sum of money should be levied of their goods and chattels, lands and

tenements, if he made default. But in the case of felonies, the privilege of giving bail before trial was not a matter of right; and in this country, although the criminal code is much more merciful than it formerly was in England, and in some cases the allowance of bail is almost a matter of course, there are others in which it is discretionary with the magistrate to allow it or not, and where it will sometimes be refused if the evidence of guilty is strong or the presumption great. Capital offenses are not generally regarded as bailable; at least, after indictment, or when the party is charged by the finding of a coroner's jury; * * *."

All that Justice Cooley says in the foregoing quotations regarding the humanity of the law in his jurisdiction and its presumption that an accused party is innocent until he is proved to be guilty, is distinctly true also in ours where the constitutional, statutory, and reglementary provisions on the point have been borrowed from America. The same should be said of what he says regarding the granting of bail for provisional liberty before conviction, and even after, in exceptional cases, of course, always subject to the limitations established by our own Constitution, laws, and rules of court. From the last part of said quotation it follows, firstly, that before indictment or charge by the coroner's jury, in the jurisdiction to which the author refers, there may be cases in which even a capital offense is bailable, and, secondly, that even after indictment or the finding of a coroner's jury in these jurisdictions, there may be exceptional cases where a capital offense is still bailable. Under our Constitution, as we have seen, all offenses are bailable before conviction except capital offenses when evidence of guilt is strong. In consonance with this constitutional provision, section 3 of Rule HO of the Rules of Court stipulates that non-capital offenses before conviction by the Court of First Instance shall be bailable as of right; section 4 of the same Rule provides that after conviction by the Court of First Instance such offenses may, upon application, be bailable at the discretion of the court; and section 6 of the said Rule provides that "no person in custody for the commission of a capital offense shall be admitted to bail if the evidence of his guilt is strong."

"By the common law, all offenses including treason, murder, and other felonies, were bailable before indictment found, although the granting or refusing of such bail in case of capital offenses was a matter within the discretion of the court." (6 C. J., 958; italics supplied.)

- As to the second question, we hold that upon application by a political prisoner or detainee to the People's Court for provisional release under bail, a hearing, summary or otherwise, should be held with due notice to the Office of Special Prosecutors, as well as to the prisoner or detainee. It will be remembered that section 22 of the People's Court Act subjects the prosecution, trial, and disposal of cases before the People's Court to "existing laws and rules of court," unless otherwise expressly provided in said act. Consequently, the hearing and disposal of application for bail for provisional release before the People's Court should be governed by existing laws and rules of court, the hearing and disposal of such applications being a mere part of the "prosecution, trial, and disposal" of the corresponding cases before said court. If attention should be directed to the clause "unless otherwise expressly provided herein" in said section 22, in connection with the first proviso of section 19 of the same act, it should be borne in mind that the provisions of said act should be construed in harmony with those of the Constitution, under the well-settled rule of statutory construction that legislative enactments should be construed, wherever possible, in a manner that would avoid their conflicting with the fundamental law.

- As to the third question. While it is true that the Solicitor General on October 3, 1945, recommended Fifty Thousand Pesos (P50,000) as a reasonable bail "on the strength of the evidence at hand," it may happen that thereafter his office may have secured additional evidence which, in addition to or in connection with that he already possessed, in his opinion is sufficiently strong to prove petitioner's guilt for a capital offense, in which case, he may yet decide to oppose the application for bail heretofore filed by the petitioner at the hearing thereof hereinafter ordered. It will be remembered that petitioner, while under the custody of the Counter Intelligence Corps, United States Army, was charged with (a) "Active collaboration with the Japanese" and (b) "Previous association with the enemy" (Raquiza vs. Bradford, p. 50, ante). Under the definition of treason in the Revised

Penal Code, active collaboration with the Japanese and association with them during the war in the Philippines may constitute treason, a capital offense.

"ART. 114. Any person who, owing allegiance to the United States or the Government of the Philippine Islands, not being a foreigner, * * * adheres to their enemies, giving them aid or comfort within the Philippine Islands or elsewhere, shall be punished by reclusion temporal to death and shall pay a fine not to exceed 20,000 pesos." (Revised Penal Code.)

Of course, it may also happen that, either because no such further evidence has come into his possession or because, in his judgment, the public interest would be better served by his withholding the evidence that he has until the trial in the merits, he would prefer not to oppose the application for bail. At the hearing of the application the Solicitor General will be free to adopt one course or the other. If he opposes, the burden of proof will be on him to show that petitioner is not entitled to bail. Petitioner will have the right to offer evidence to prove her right thereto. In fine, the hearing is for the purpose of enabling the People's Court to exercise its sound discretion as to whether or not under the Constitution and laws in force petitioner is entitled to provisional release under bail.

Wherefore, it is the judgment of this Court that: (a) the order of the People's Court, dated October 9, 1945, denying petitioner's petition for provisional release under bail, and the order of said Court, dated October 13, 1945, denying petitioner's motion for reconsideration of said order of October 9, 1945, which we declare to have been entered with grave abuse of discretion, be set aside; and (b) that for the proper application of the pertinent constitutional, statutory, and reglementary provisions alluded to in the body of this decision, a hearing of petitioner's application for bail be held before the People's Court with due notice to the Solicitor General, as well as to the petitioner, as hereinabove outlined, said hearing, whether summary or otherwise, to be such as would enable the People's Court to exercise its sound discretion in the disposal of the aforesaid petition. Without costs. So ordered.

Moran, C. J., and Briones, J., concur.

Jaranilla, Fera, Pablo, and Bengzon, JJ., concur only in the result.

CONCURRING AND DISSENTING

OZAETA, PARAS, and PERFECTO, JJ.,

We concur in the opinion prepared by Mr. Justice Hilado in so far as it holds that subsections (16) and (17), section 1, Article III of the Constitution[a] are applicable to the instant case; and that the Rules of Court, particularly sections 3 to 8 of Rule 110, govern the procedure in the People's Court as to applications for bail under the first proviso of section 19 of Commonwealth Act No. 682.

But we are constrained to dissent from said opinion and its dispositive part in so far as the Court fails to enforce and give practical effect to the said constitutional provisions in the present case, with the lamentable result that the herein petitioner, who has been confined in prison for about ten months without any formal charge having been filed against her, but who under said constitutional provisions and the Rules of Court cited is clearly entitled to be forthwith released on bail, will have to undergo further unnecessary delay to secure her provisional liberty.

We shall briefly express our conception of the force and effect of the mandatory provision of the Constitution on the admission to bail of all persons before conviction as applied to the undisputed facts of this case:

The main question involved herein is the interpretation of the second proviso of section 19 of Commonwealth Act No. 682, which reads as follows:

"Provided, however, That existing provisions of law to the contrary notwithstanding, the aforesaid political prisoners may, in the discretion of the People's Court, after due notice to the Office of Special Prosecutors and hearing, be released on bail, even prior to the presentation of the corresponding information, unless the Court finds that there is strong evidence of the commission of a capital offense."

This statutory provision must be construed congruently with the provision of the Constitution and in harmony with the existing laws on the subject, particularly sections 3 to 8 of Rule 110 of the Rules of Courts. [b]

Subsection (16), section 1 of Article III of the Constitution provides as follows:

"(16) All persons shall before conviction be bailable by sufficient sureties, except those charged with capital offenses when evidence of guilt is strong. Excessive bail shall not be required."

Rule 110 of the Rules of Court contains the following provisions:

"SEC. 3. Offenses less than capital before conviction of the Court of First Instance.—After judgment by a justice of the peace and before conviction by the Court of First Instance, the defendant shall be admitted to bail as of right.

"SEC. 4. Noncapital offenses after conviction by the Court of First Instance.—After conviction by the Court of First Instance, defendant may, upon application, be bailed at the discretion of the court.

"SEC. 5. Capital offenses defined.—A capital offense, as the term is used in this rule, is an offense which, under the law existing at the time of its commission, and at the time of the application to be admitted to bail, may be punished by death.

"SEC. 6. Capital offense not bailable.—No person in custody for the commission of a capital offense shall be admitted to bail if the evidence of his guilt is strong.

"SEC. 7. Capital offense—burden of proof.—On the hearing of an application for admission to bail made by any person who is in custody for the commission of a capital offense, the burden of showing that evidence of guilt is strong is on the prosecution.

"SEC. 8. Notice of application to fiscal.—When admission to bail is a matter of discretion, the court must require that reasonable notice of the hearing¹ of the application for bail be given to the fiscal."

In accordance with section 2 of said Commonwealth Act No. 682, the political prisoners subject to the jurisdiction of the People's Court may be accused of any of the crime against national security, to wit, (1) treason, (2) conspiracy, and proposal to commit treason, (3) misprision of treason, (4) espionage, (5) inciting to war or giving motives for reprisals, (6) violation of neutrality, (7) correspondence with hostile country, and (8) flight to enemy's country. (See Title One, Book Two, Revised Penal Code, entitled "Crimes Against National Security," under which are found articles 114-121, penalizing the specific crimes just mentioned.) Of these eight crimes only the first— treason—is a capital offense; none of the seven others is punishable with death.

Under the constitutional provision and the Rules of Court above quoted, admission to "bail before conviction of all persons not charged with capital offenses is mandatory and not discretionary with the court; they "shall be admitted to bail as of right." No statute can in any manner impair that constitutional right. Therefore, the proviso in question to the effect that the political prisoners may, in the discretion of the People's Court, after due notice to the Office of Special Prosecutors and hearing, be released on bail, even prior to the presentation of the corresponding information, unless the court finds that there is strong evidence of the commission of a capital

offense, can only be construed to refer to such political prisoners as may be actually or prospectively charged with a capital offense; because if that statutory provision be construed to include political prisoners not charged or chargeable with a capital offense, it would be unconstitutional, since under the Constitution such political prisoners before conviction are entitled to bail as of right and not in the discretion of the court. [c]

Let us cite a concrete example. A political prisoner is charged or chargeable only with the simple crime of espionage, which is punishable with prision correccional. He or she applies to the People's Court for release on bail. The Solicitor General, upon being notified of the application, does not oppose it but recommends a specific amount for the bail. Can it be successfully contended that such a case is governed by the proviso in question and that the application for bail has to be set for hearing, after which the People's Court has the discretion to deny it? No, because such a person under the Constitution "shall before conviction be bailable by sufficient sureties." In such a case there is no need for any hearing because there is no discretion to be exercised by the court on the matter. The hearing mentioned in the proviso in question can only have for its purpose the determination of whether or not "there is strong evidence of the commission of a capital offense." Therefore, when there is no claim on the part of the Solicitor General that the applicant for bail is charged or chargeable with a capital offense, there is no necessity for any hearing.

Under the provision of law then—it may be asked— may the People's Court admit such an applicant to bail? Under section 3 of Rule 110 of the Rules of Court, which provides that before conviction by the Court of First Instance (the People's Court in such a case takes the place of the Court of First Instance), "the defendant shall be admitted to bail as of right." Section 22 of the People's Court Law provides that "the prosecution, trial and disposal of cases before the People's Court shall be governed by existing laws and rules of court, unless otherwise expressly provided herein." The "otherwise" does not apply to the hypothetical case at hand because, as we have shown, the proviso in question cannot be applied to noncapital offenses without violating the Constitution.

What then is the proper procedure to be followed by the People's Court in disposing of applications for bail? In accordance with the constitutional and statutory provisions above quoted, all of which must be harmonized and applied, the procedure should be as follows:

As soon as the application is led the People's Court shall notify the Solicitor General thereof. If according to the proofs in the possession of the Solicitor General the applicant has been or may be charged with a capital offense, he shall immediately either oppose the application or agree to it and recommend the amount of the bail bond, depending upon whether or not his proofs against the applicant are strong. If he opposes the application, the People's Court shall immediately set it for a summary hearing with the presence of both parties for the sole purpose of determining whether or not there is strong evidence of the commission of a capital offense. If "there is, the court must deny the application; if there is not, it must grant it. Therein lies the court's discretion to grant or deny the bail—in the appreciation of the evidence. If the Solicitor General does not oppose the application, either because the applicant is not chargeable with a capital offense or because he is not yet in a position to determine whether or not the applicant is chargeable with a capital offense or because even if the applicant has been or may be charged with a capital offense the evidence he has at hand is not strong, there is no necessity for a hearing because there is no issue to be litigated and determined. In that case the only discretion to be exercised by the court lies in the fixing of the amount of the bail bond, taking into consideration the recommendation of the Solicitor General and the constitutional mandate that "excessive bail shall not be required."

In the instant case the Solicitor General, upon being notified of the petitioner's application for bail, did not oppose said application but recommended that the bail bond be fixed at P50,000. The Solicitor General is a responsible high officer of the Government having the same rank as the Under Secretary of Justice. Under the People's Court Law he is the head of the Office of Special Prosecutors, charged with the heavy and delicate responsibility of

prosecuting the political prisoners mentioned in sections 2 and 19 of the People's Court Law. We see no reason or justification whatsoever to distrust and disregard his recommendation. We have every reason to believe that he knows his duty in the premises under the Constitution and the existing laws, and that he has acted in accordance therewith. It is therefore to be presumed that when he did not oppose the petitioner's application for bail but on the contrary agreed thereto by recommending the amount of the bail bond, it was either because the petitioner was not chargeable with a capital offense or because the Solicitor General was not yet in a position to determine whether or not she was chargeable with a capital offense or because even if she were so chargeable the evidence he had at hand was not strong. Moreover, in failing to oppose the application and in recommending that it be granted, the Solicitor General was undoubtedly, and properly, guided by the consideration that after all, even if the applicant should be provisionally released on bail, he would have a perfect right to move for its cancellation and for her rearrest if he should find later that there is strong evidence against her of the commission of a capital offense and he should decide to charge her therewith. We find therefore that the Solicitor General has acted strictly in accordance with law, equity, and justice. It is unfair to him to compel him to disclose whatever evidence he may have in his possession at this stage of the case by ordering a hearing on the application for bail in spite of his nonopposition thereto and his recommendation that it be granted; and it is unjust to the petitioner, who has been confined in prison for about ten months without any formal charge having been filed against her, to further withhold from her the provisional liberty on bail to which she is of right entitled under the Constitution and the existing laws.

Instead of firmly, fearlessly, and instantly applying the constitutional and statutory provisions, which it admits are applicable, to the facts of the case as presented to us, the Court seems to waver, speculating on possibilities, and would have the People's Court toy and dally with the detainer's liberty. The Court says:

"* * * While it is true that the Solicitor General on October 5, 1945, recommended Fifty Thousand Pesos (P50,000) as a reasonable bail 'on the strength of the evidence at hand,' it may happen that thereafter his office may have secured additional evidence which, in addition to or in connection with that he already possessed, in his opinion is sufficiently strong to prove petitioner's guilt for a capital offense, in which case, he may yet decide to oppose the application for bail heretofore filed by the petitioner at the hearing thereof hereinafter ordered. * * * Of course, it may also happen that, either because no such further evidence has come into his possession or because, in his judgment, the public interest would be better served by his withholding the evidence that he has until the trial on the merits, he would prefer not to oppose the application for bail. At the hearing; of the application the Solicitor General] will be free to adopt one course or the other. * * *."

Thus the only reason why the Court does not grant the petition outright is that it may happen that after the Solicitor General had recommended the bail to the People's Court he might have secured additional evidence which in his opinion is sufficiently strong to prove petitioner's guilt of a capital offense, and he may yet decide to oppose the application for bail; that is to say, in such event he should be given a chance to oppose the application for bail if he cared to reveal his evidence before the trial on the merits. But why waver in deciding the case as presented and speculate on unforeseen and unproven happenings when, after all, the release on bail before conviction is necessarily provisional and not final? At any time that the Solicitor General can convince the court that he has strong evidence of the commission of a capital offense by the petitioner, he may have her rearrested and her bond cancelled.

The Court says that at the hearing of the application which it orders the People's Court to hold, the Solicitor General will be free to adopt one course or the other— meaning to oppose or not to oppose the bail. It directs what the Solicitor General should do if he should oppose, but does not indicate what the People's Court should do if the Solicitor General should not oppose. In the dispositive part the Court directs "that for the proper application of the pertinent constitutional, statutory and reglementary provisions alluded to in the body of this decision, a hearing of

petitioner's application for bail be held before the People's Court with due notice to the Solicitor General, as well as to the petitioner, as hereinabove outlined, said hearing, whether summary or otherwise, to be such as would enable the People's Court to exercise its sound discretion in the disposal of the aforesaid petition." This seems to indicate that whether or not the Solicitor General opposes the application a hearing should be held—for what purpose if there is no opposition, we do not know. In the body of the decision, from which we have quoted above, it is stated that the Solicitor General may prefer not to oppose the application for bail either because no further evidence has come into his possession or because in his judgment the public interest would be better served by withholding the evidence he has until the trial on the merits. Why order a hearing when the Solicitor General desires to withhold his evidence and prefers not to oppose the bail?

We fear that such apparent inconsistency and ambiguity will be productive of unnecessary disputes and delays in the final disposition of the application for bail, which will probably necessitate another recourse to this Court. In the meantime the detainee, whose constitutional right has been disregarded, must continue to languish in jail.

On the threshold of our existence as an independent nation this Court ought to define its attitude unequivocally and set a definite line of conduct to be followed in deciding such question of vital importance as this, involving personal liberties. Our decision in this and similar cases will form a weather-vane by which the people can see whether we are traveling on the path of freedom and democracy or are wobbling in the direction of the opposite way of life. If we condone, tolerate, or gloss over unlawful restraints or violations of personal liberties and other rights guaranteed and protected by the Constitution, our profession of adherence to freedom and democracy would be taunted as sheer mockery and undiluted hypocrisy, and we would not only disappoint the great nation that initiated us in the democratic way of life but would also lose the respect of all liberty-loving peoples.

We think that the decision of the Court in this case is another step in the wrong direction[d]. Like a woman's first lapse of virtue, the first wrong step of the Court will easily be followed by another, and the rights of the citizens enumerated in the Bill of Rights will gradually be whittled away until they exist only in theory.

This dissent is intended as a warning against such a calamity. We deem it pertinent to quote in this connection the noble words of Justice Jackson as United States Prosecutor of war crimes in Germany :

"We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow.

"To pass these defendants a poisoned chalice is to put it to our own lips as well. We must summon such detachment and intellectual integrity to our task that this trial will commend itself to posterity as fulfilling humanity's aspiration to do justice."

Our conclusion is that upon the record of the case before us the petitioner is entitled to be released on bail as of right under subsection (16), section 1, Article III of the Constitution and section 3 of Rule 110 of the Rules of Court, and that, therefore, there is no necessity to remand the case for further proceedings.

CONCURRING

DE JOYA, J.,

I fully concur in the opinion prepared by Mr. Justice Hiiado. The observance of the procedure outlined in the decision which is nothing new (Payao vs. Lesaca, 68 Phil., 210, 214; Marcos vs. Judge of the Court of First Instance of Ilocos Norte, G. R. No. 46490), will prevent any possible criticism of the fairness and impartiality of the court, which are absolutely essential to secure public confidence, which may be undermined by a misapprehension of the true spirit of the law, due perhaps to impetuosity or inexperience on the part of a particular judge. The political prisoners now under custody are entitled to the same rights under the Constitution as those, actually accused of crimes.

[a]"Subsection (16).—"All persons shall before conviction be bailable by sufficient sureties * * *."

Subsection (17).—"In all criminal prosecutions the accused shall be presumed innocent until the contrary is proved * * *."

[b] "In construing statutes with relation to constitutional provisions, the courts take into consideration the principle that every statute is to be read in the light of the Constitution and that the Constitution and a statute involving constitutional rights will be construed tog-ether as one law, ? * *." (11 Am. Jur. Const. Law, sec. 96.)

"All statutes are presumed to be enacted by the Legislature with full knowledge of the existing condition of the law and with reference to it. They are therefore to be construed in connection and in harmony with the existing law, and as a part of a general and uniform system of jurisprudence, and their meaning and effect is to be determined in connection, not only with the common law and the constitution, but also with reference to their statutes and the decisions of the courts." (59 C. J., 1038.)

"No single statute should be interpreted solely by its own words. Upon enactment it becomes a part of, and is to be read in connection with, the whole body of the law. Its interpretation is to be in the tight of the general policy of previous legislation and of the long established principles of law and equity. Every statute which is properly the subject of judicial construction should receive such a construction as will not conflict with general principles and will make it harmonize with the pre-existing body of law. * * * Statutes are to be construed with reference to the common law in existence at the time of enactment, and in connection with other statutes which relate to the same subject matter." (24 K. C. L., 1052.)

[c] It is an elementary principle that where the validity of a statute is assailed and there are two possible interpretations, by one of which the statute would be unconstitutional and by the other it would be valid, the court should adopt the construction which would uphold it. It is the duty of courts to adopt a construction of a statute that will bring it into harmony with the Constitution, if its language will permit." (11 Am. Jur., Const. Law, sec. 97.)

[d] The first wrong step, in our humble conception, was the decision in the case of *Eaquiza vs. Bradford* (September 13, 1945, p. 50, ante), wherein this Court failed to enforce the due process clause of the Constitution.

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