

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MARIANO T. JAUCIAN, DEFENDANT AND APPELLANT.

G.R. No. L-364. April 25, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

Appellant was sentenced to death and to pay a fine of P20,000 and the costs on a plea of guilty to the crime of treason premised on various counts.

The original information filed on January 22, 1946, charged appellant of treason on 22 counts. On February 4, 1946, an amended information, covering only 20 counts was filed and duly admitted. The trial was set for February 7, 1946. On said date, count 3 of the amended information was further amended and, upon arraignment, appellant entered his plea of not guilty, and, by agreement of the parties, hearing was set for the following day, February 8, 1946.

As finally amended, the information reads as follows:

"The undersigned Special prosecutor accuses Mariano T. Jaucian of the crime of treason under article 114 of the Revised Penal Code committed as follows:

"That at the times hereinafter mentioned, at the places hereafter stated, and within the jurisdiction of this court, while both the United States and the Commonwealth of the Philippines were in a state of war against their common enemy, the Empire of Japan, said accused, not being a foreigner but a Filipino citizen owing allegiance to the United States and the Commonwealth of the Philippines, in violation of said duty of allegiance, did then and there wilfully, unlawfully, feloniously and traitorously adhere to the aforesaid enemy, giving her and her armed forces aid and comfort in the following manner, to wit:

"(1) In or about the period of from April 1942 to September 1942, in Cebu, Philippines, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably join the Japanese Kempei Tai Intelligence Section acting as an agent and a spy and identifying suspected guerrillas and causing their torture and killing by the Japanese;

"(2) In or about the period from July 1943 to October 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably, as a Constabulary Officer heading the 5th Cebu Co., engage and order the men under him to engage in the apprehension, torture and killing of guerrillas and guerrilla suspects and in securing information about guerrillas and turning the same to the enemy;

"(3) In the same period mentioned in Count 2, in Carcar, Cebu, and its environs, in conspiracy with the enemy, in pursuance of the campaign against guerrillas, the said accused did then and there wilfully, feloniously, unlawfully and treasonably confine various persons, names unknown, and several women, among these being Paulina Canaya and Annie Alcosoba, as hostages for guerrillas, torturing them during their confinement;

"(4) In or about 9 March 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said

accused did then and there wilfully, feloniously, unlawfully and treasonably cause the beating to death of Florencio Lebajo for guerrilla activities;

"(5) In or about 13 March 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the herein accused, together with Manuel Hernandez, Ramon Vilo, and others, did then and there wilfully, feloniously, unlawfully and treasonably apprehend and arrest Paulino Canadalles, brought him to a place 3 km. away, which was being burned and looted by Japanese soldiers and Constabulary members, where he was forced to bring the loot to Carcar, and subsequently did bring Canadalles to Carcar where he was almost drowned in the swimming pool and beaten by the accused and others for guerrilla activities;

"(6) In or about 15 March 1944, in Nepo, municipality of Carcar, Province of Cebu, and its environs, in conspiracy with the enemy, the said accused together with Manuel Hernandez, several PC's and 4 Japanese soldiers, did then and there wilfully, feloniously, unlawfully and treasonably raid the house of Francisco Caballos, confiscating and appropriating to themselves P430 Philippine currency, and afterwards beating and slashing with a bayonet the forehead of Francisco Caballos;

"(7) In or about 14 March 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused and his companions, numbering 30 in all, did then and there wilfully, feloniously, unlawfully and treasonably rob Joaquin Nacua of cash amounting to about P1,955, jewelry and other foodstuffs and did cause his death;

"(8) In or about 18 March 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused, and several others, did then and there wilfully, feloniously, unlawfully and treasonably arrest Vicente Solon and having him tortured by Mori Cui, subsequently transferring Vicente Solon to Dungcan, Cebu, where he was bayoneted to death, all this being done upon the instigation and order of the accused;

"(9) In or about March 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably behead or cause to be beheaded Victorio Florido and his two sons, and did cause the burning of the house of said Victorio Florido for alleged guerrilla activities;

"(10) In or about 18 March 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably torture and/or cause the torture of one Meliton Yburan upon suspicion of the latter's knowledge of the whereabouts of Lt. Varga, a guerrilla suspect;

"(11) In or about 13 April 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably shoot and kill and/or did cause the shooting and killing of Mrs. Pedro Bailoa for guerrilla activities;

"(12) In or about 14 April 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably kill and/or cause the killing of Armando Satori for guerrilla activities;

"(13) In or about 18 April 1944, in Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably arrest and torture Lucio Gacho for guerrilla activities;

"(14) In or about the first week of March 1944, in Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably torture Cecilio Alegarbes and Restituto Caballero for guerrilla activities;

"(15) In or about the last week of January 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably arrest and torture

Uy Puat, Igapito Barroguia and Marcelino Alegrado, robbing the latter besides of his cloth and his money amounting to P90, for guerrilla activities;

"(16) In or about December 1944, in Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably arrest and torture Lt. Vicente Varga for guerrilla activities;

"(17) At various times in the year 1944, in Carcar, Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably cause the arrest and torture of guerrillas—Sergio Alcover, a USFIP soldier named Paterno, Maximo Bondibas, Little Silva, Cristina Solo (these two not being heard from since their arrest), Flavio Varga, Tomas Alcese, Gervacio L. Anchingco, and Ben Abellonasa, and others unknown;

"(18) In or about the period of from August to December 1943, in Carcar and Cebu, and their environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably commandeer tires, typewriters and other war materials from civilians and did sell the same to the enemy with intent to, as he did, appropriate the proceeds for himself;

"(19) In or about the period of from October 1944 to March 1945, in Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably resume his campaign against guerrillas and other resistance units, and did act as spy and informer of the enemy (and did fight side by side with the enemy against the American raiding and landing forces);

"(20) In or about 9 February 1945, in Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably cause the arrest and killing of Lt. Patrocinio Reyes for guerrilla activities.

"In the commission of this crime concurred the aggravating circumstances of treachery, cruelty, abuse of power, and by a band.

"Contrary to law.

(Sgd.) "MAGNO S. GATMAITAN
Special prosecutor"

On February 8, 1946, the day set for the hearing appellant withdrew his plea of not guilty to substitute it with a plea of guilty to all the counts in the amended information, except to four of them, and on the condition that a certain phrase from one of the remaining counts be eliminated. The prosecution amended the information by eliminating the phrase objected to in count 19 and discarded counts 13, 17, 18 and 20, to which appellant would not plead guilty. Upon arraignment, appellant pleaded guilty to the remaining counts in the amended information, except count 9 to which he entered a plea, of not guilty, and trial of the case on said count was set for hearing on February 11, 1946, when the prosecution for want of evidence submitted the case without proving said count 9.

Appellant contends that the trial court erred in proceeding to a consideration of the case when it was clear that, under the circumstances obtaining at the time of his arraignment, appellant could not be granted a fair hearing, and the trial court erred in sentencing appellant to death, on his plea of guilty, without further investigation as to the propriety or impropriety of the imposition of said penalty.

Appellant narrated the circumstances under which he pleaded guilty in his affidavit attached to a motion for new trial, where he states the following:

"I, Mariano T. Jaucian, of legal age, Filipino citizen, presently interned at the provincial jail, Cebu City, Cebu, after being duly sworn, depose and say:

"That on the 28th of January 1946, one of the guards in the provincial jail, City of Cebu, Cebu, called for me inside the jail and told me to sign a summons from the People's Court requiring my appearance before the aforementioned Court, for trial on the 4th of February 1946 for the crime of treason, in Criminal Case No. 204. On the morning of February 4th 1946, fifteen other political detainees and myself were then brought to the Court. On that very morning all of us were arraigned and all of us pleaded 'not guilty' to the charge. On the very same day, after my arraignment and plea of 'not guilty' the Court set the following cases for hearing:

"February 5th—Antonio Racaza Racaza's case

"February 6th—Marcelo Laborte's case

"February 7th—the cases against me and Manuel Hernandez

"February 8th—Cocopate Adlawan's case

"On the morning of February 5, 1946, Antonio Racaza Racaza was brought to the Court for trial and when he was returned to the jail that same day, his face was all swollen and was almost unrecognizable in view of the injuries he had received from the mob at the provincial capitol, City of Cebu, where the People's Court is situated. I asked how it was possible for him to have been mobbed when he was guarded, and he answered that his guards, far from being concerned about his safety, were the ones who instigated the mob.

"Racaza's trial was not finished on February 5th. On February 6th, he was taken back to the Court with Marcelo Laborte, Francisco Concepcion, Dionisio Agoncillo and Mateo Perez, all political detainees. When they were brought back to jail that day, there were all bleeding from injuries they had suffered from the mob. In the afternoon the whole court personnel arrived in the provincial jail and held court session there. Antonio Racaza Racaza's trial was continued in spite of the fact that he was still groggy because of the physical injuries inflicted on him by the mob. When he could no longer endure the pain caused by his injuries from the mob on two consecutive days, he called the attention of the judges to his physical condition and informed them to stop the trial because he would change his plea from 'not guilty' to 'guilty.'

"On February 7th, Manuel Hernandez and I were brought to the court, escorted by ten Filipino military police under one officer. While we were on our way to court, our hands were not tied. Then we arrived in Court it was overcrowded with people. I saw in the courtroom three American officers. A few minutes after our arrival the judges entered the courtroom, and the clerk of court ordered silence, as it was very noisy. For a while the crowd kept silent. Then the court began the session. The clerk of court approached me and read the information to me and then asked me what my plea was, and I answered him 'not guilty'. After this he went to Manuel Hernandez and read to him the information filed against him, and after he finished, reading, he asked Hernandez for his plea and Hernandez answered 'not guilty.' After this the crowd became very noisy and rushed inside the court-room, throwing on us stones, hitting me and Hernandez several times. The judges felt powerless and they did nothing to suppress the mob. Both of them, Judges Saguin and Borromeo, just went outside their chambers and did not return anymore. Luckily the three American officers intervened for us at the risk of being hit by the stones thrown at us by the mob. I observed also that many people inside the court room were carrying hunting knives, round objects wrapped in handkerchiefs, iron bars wrapped in newspaper with their points protruding, chicken blade placed in between the fingers. I observed also that our Filipino MP guards did nothing to these persons carrying illegal weapons inside the court room.

"Instead two MPs went to us and tied our hands at the back very tightly with the sling of their carbines. With our hands tied, it became more difficult for us to evade the stones hurled at us. The American officers sensing that danger was imminent, took charge of us (Hernandez and myself). They brought us down the capitol building, to the truck that took us back to the provincial jail. I did not call for a doctor to attend to my injuries. While on the truck on our way to the jail, one of the MPC guard who was with us on the truck, hit me at my back with the point of his carbine, and told me in harsh words that if I would not plead guilty the next time they would leave me to the mercy of the mob; and if I would not get hurt from the mob, they themselves would be the ones to do me harm on the pretext that I attempted to escape.

"As a consequence of the disturbances, eight of the ten benches inside the court-room were broken.

"The following morning February 8, 1946, Cocopate Adlawan and myself were brought back to the court. On our way, the guard who was sitting behind me, reminded me of his threats. When we arrived in the Court room, the crowd was the same and was very noisy. However, there were no more American officers inside the court room. Noting the absence of the U.S.A. officers, who were the only ones who could protect us from our MPC guard and the hostile crowd, I called my attorney, Mr. Honorato Hermossissima and informed him of my decision to change my plea from 'not guilty' to 'guilty'. He told me then to wait as he would talk with prosecutor Gatmaitan. After my attorney's conference with the prosecutor, he came back to me, and informed me that five of the charges against me were cancelled. I told him that I was going to plead guilty, not because I was guilty but because of the circumstances, of fear of being mobbed or lynched by the hostile crowd who frequented the court during trials. The Judges seemed to be disinterested in our safety, inasmuch as day after day we were assaulted by the mob in their presence, and sometimes inside the very court-room, and they did nothing to stop it. Antonio Racaza Racaza, Francisco Concepcion, Marcelo Laborte, Dionisio Agoncillo, Mateo Perez, Manuel Hernandez and myself were all injured. As a proof of my innocence, I told my lawyer I would not plead guilty to one of those grave charges against me, in count No. 9.

"The court then begun with the session with my lawyer informing the judge with my change of plea of from 'not guilty' to that of 'guilty', except as to charge No. 9. The prosecutor then asked the Hon. Court to set the trial on charge No. 9 for the 11th of February. After I entered a plea of 'guilty', the mob was pacified, and our guards began to smile on me then. The fury of the mob was centered on my companion Cocopate Adlawan who at first did not plead guilty. When taken back to the court for trial, he also changed his plea of 'not guilty' to 'guilty' for the same reasons.

"On the 11th of February I was then taken to court together with Ignacio Calinawa, another political detainee, scheduled to be tried on that day also. Just before the court session begun, the attorney de oficio, Mrs. Arnoco, assigned by the court to defend Calinawa in his case, approached him and asked him whether he was Ignacio Calinawa. My companion answered her in the affirmative. And the next question was whether he had some money. Calinawa answered her in the negative, with an explanation that they were very poor, and he offered his services to his attorney if she would save him from his predicament. Instead his lawyer began to convince his client to plead guilty, as his was a hopeless case, according to her, inspite of the defendant's insistence that he was innocent of the charge.

"The judges then entered the court, and the session begun. Special prosecutor Attorney Gatmaitan informed the court that he was withdrawing Count No. 9 as a charge against me, as he himself together with Special prosecutor Doiciano Lambo went to Carcar, Cebu where the alleged crime was committed and they could not find witnesses to testify before the court, that the widow was demented and one of the sons was still very young, and that one of the principal witnesses could not be located. For these reasons, he presented a motion for dismissal of the case. Yet, in the decision of the court, it appears that I am the author of the crime specified in Count 9, inspite of the fact that Special prosecutor Gatmaitan himself was the one who filed the motion before the court withdrawing said charge No. 9.

"Further affiant sayeth not.

(Sgd.) "MARIANO T. JAUCIAN

"Subscribed and sworn to before me this 18th day of July, 1946.

(Sgd.) "FRANCISCO E. F. REMOTIGUE

"Notary Public

"Until 31 December 1946"

Appellant's version is corroborated by the affidavit signed by Dionisio Agoncillo, Francisco Concepcion, Antonio

Racaza and Mateo Perez which reads:

"We, Dionisio Agoncillo, Francisco Concepcion, Antonio Racaza Racaza, Mateo Perez, all of legal age, Filipino citizens, political detainees, presently interned at the Cebu provincial jail, Cebu City, Philippines, after having duly sworn to in accordance with the law, do hereby depose and say:

"That in the morning of February 6, 1946, we, Dionisio Agoncillo, Francisco Concepcion, Antonio Racaza Racaza, Mateo Perez and Marcelo Laborte, were summoned to appear before the People's Court at the Cebu provincial capitol building, Cebu City, Philippines. We were escorted by (8) city policemen. Upon our arrival at the People's Court, we, Dionisio Agoncillo, Francisco Concepcion and Mateo Perez, were taken to the office of prosecutor Lambo; while there, we were told by prosecutor Larnbo to testify against Marcelo Laborte. We refused on the ground that we don't know anything about the activities of said Marcelo Laborte; upon our refusal prosecutor Lambo threateningly, told us that if we didn't testify in the prosecution against the said defendant, Marcelo Laborte, we would be mobbed by the civilians outside. These threatening words were uttered in our presence and in the presence of the City Police.

"After the trial of Antonio Racaza was over, we were all handcuffed, and on our way down the provincial capitol building, the city Police told the civilians that they could do anything against us as long as they would not go to the extent of killing us. The city Police were the first ones to manhandle us, and later the civilians followed. The civilians would not have manhandled us had they not been instigated by no other than the agent of our safety, and also by some hunters of the People's Court. As a result, all of us received serious physical injuries, as follows:

"Dionisio Agoncillo was hit several times on his head, face, and on his back with a certain hard object wrapped with a handkerchief, which he presumed to be an iron bar and stones; causing physical injuries such as incised wound of about an inch long on his head, bruises and contusions on his face, and at his back; and caused him to remain on bed for three weeks.

"Francisco Concepcion was hit several times on his head, face, and on his back with stones, fists, and a certain hard object wrapped with a handkerchief, and clubs; causing serious physical injuries, such as incised wounds about an inch long on his head, swollen right eye, bruises and contusions on his face, and bodily pains at his back which caused internal hemorrhage—vomited blood several times; and caused him to remain on bed for two months.

"Antonio Racaza was hit several times on his head, face and on his back with a certain hard object wrapped with a handkerchief, stones, clubs, and barefists; causing serious physical injuries, such as: Incised wound about an inch and a half long on his head, both eyes blackened, incised wound about an inch on his upper lip, dislocated jaw bone, bruises and contusions at his back; and caused him to remain on bed for one month and fifteen days.

"Mateo Perez was hit several times on his head, face, and on his back with stones, clubs and bare fists; causing serious physical injuries, such as: Bruises and contusions on his head and face and bodily pains at his back; and caused him to remain on bed for two weeks.

"Upon our arrival at the provincial jail, the provincial warden, Mr. Paulo Almendras, gave due interest to the injuries inflicted on us, and he himself had made all means to secure a doctor and medicines for our treatment; for our custodians, instead of bringing us to a hospital for treatment, seemed not to give us any interest. After the treatment given us by the doctor, we requested that we be given medical certificate but the doctor refused for obvious reasons.

"In view of the maltreatments and physical injuries inflicted on us right in the presence of the peace officers, and within the premises of the court—within sight of the Judges, which were interested by our government to give us justice, and the attitude of the Judges who seemed to be disinterested; and the fear of being mobbed or

lynched by the hostile crowd which were instigated and tolerated by no other than the peace officers, makes the majority of our comrades believed that this kind of court was only created as a matter of formality, but in reality either you are innocent or guilty, you are sure to get stiff penalty.

"In view of these beliefs of some of our comrades, several of them had to plead guilty; firstly, to save themselves from the mobs and to curtail further sufferings of which they had for so long over enduring since the time of their internment.

"In testimony hereof, we hereunto affix our signatures this 7th day of June, 1946.

(Sgd.) "FRANCISCO CONCEPCION (Sgd.) "DIONICIO AGONCILLO

(Sgd.) "MATEO PEREZ (Sgd.) "ANTONIO RACAZA

"Subscribed and sworn to before me this 7th day of June, 1946. Affiants are all detained in the provincial jail.

(Sgd.) "FRANCISCO E. F. REMOTIGUE

"Notary Public

"Until December 31st, 1946"

Counsel alleges in his brief that appellant made his plea of guilty under physical and moral duress and that the People's Court in Cebu was itself evidently cowed by the populace and it could not impose a judicial order against the disturbances then obtaining and it quotes the following news item published in the April 28, 1946 issue of the "Pioneer Press" of Cebu which reads:

"UNDERCOVER MAN BADLY INJURED

"Pablo Labra, considered a notorious Guadalupe undercover man during the Jap regime, is in critical condition as a result of the blows he had received yesterday morning from a furious crowd at the trial at the People's Court Thursday noon.

"The people witnessing the court trial were moved to indignation against Labra when Maj. Benjamin K. Gorospe, as special prosecutor of the PA Judge Advocate Service; vividly and dramatically fired his questions at the accused during the direct examination.

"According to the complaint, Labra, together with some kempis, led a Jap Army patrol which led to the apprehension of former Governor Abellana and family. Abellana died at the hands of the Japanese."

He also quotes the following editorial of the Manila "Evening News" of March 1, 1946.

"A DISTURBING LAPSE

(By Vicente Albano Pacis)

"In a recent decision of the People's Court there is injected an extraneous element that must be disturbing to all thoughtful people. It is embodied in the following portion of the decision of the First Division in the case of the People of the Philippines vs. Antonio Racaza, Criminal Case No. 207:

" 'The Filipino people, indeed, abhor collaboration with the enemy. In the instant case as an example, a big crowd gathered at the plaza of the Cebu capitol, during the three days of trial, and right there the public showed visible indignation with an eager desire that the collaborators be dealt with by the court of justice without mercy.'

"It was Mr. Justice Holmes who said in the classic case of Patterson vs. Colorado:

" 'The theory of our (judicial) system is that the conclusions to be reached in a case will be induced only by the evidence and argument in open court, and not by any outside influence, whether of private talk or public print.'

"Such a concept as this is basic and constitutes an indispensable limitation of the democratic theory that the majority rules. In the consideration of crimes—in the evaluation of evidence and interpretations of the law in general—only the knowledge of the law and its fair application can insure justice. That is why litigations are not left to town meetings but to courts where obtains a certain insulation from extraneous influences and where the points of fact and of law can be decided, in a sort of judicial vacuum. Popular vote may indicate confidence in issues or men but it can never consistently administer justice.

"In regard to cases of enemy collaboration, if the courts were to take cognizance of demonstrations such as those noted in the decision in question, parties concerned would sooner or later resort to all sorts of means of bringing about outside pressure to bear. Such a state of affairs would be only little removed from anarchy if not revolution.

"In fairness to the People's Court it should be added that, in the case cited, the accused not only had confessed his culpability for most of the crimes imputed to him but the prosecution had also presented in open court conclusive evidence against the accused. As the decision itself states, '* * * the prosecution substantiated the overt acts specified in counts Nos. 2, 3, 4, 6, 7, 11, 12 and 13 by two competent witnesses and the rest of the (total of) fourteen and all of them are likewise proven through the confessions of the defendant in open Court.' No outside pressure was, therefore, necessary so that the Court would arrive at the decision it reached; namely, death of the accused by electrocution and a fine of P20,000. But we believe that the Court's having taken cognizance in its written decision of the hostile crowds around the place of trial constituted a disturbing lapse—an excursion into territory beyond the limit of objective justice."

Appellant points to the significant statement of Attorney Hermosisima which appears on page 9 of the transcript, made after the prosecutor suggested that a new arraignment be made.

"Prosecutor Gatmaitan: I ask that he be rearraigned on those counts to which he will plead guilty.

"Atty. Hermosisima: It will only kindle the fire again of the public against the accused, your Honor, and instead of promoting peace and order, we will only be kindling the fire again."

Considering the unusual circumstances of the case, in an effort to reach the bottom of the facts and circumstances surrounding the arraignment of the accused in which the plea of guilty was entered, at the hearing of this case on September 20, 1947, this Court indicated its willingness to receive affidavits that the appellee may file in answer to the affidavits of the appellants, and on October 2, 1947, appellee filed nine affidavits which are marked as Exhibits 1 to 9. They are reproduced below.

"EXHIBIT 1

"I, Martina L. Arnoco, Filipino, of legal age, married, Register of Deeds of the Province of Cebu, and a resident of the City of Cebu, after having been duly sworn in accordance with law, hereby depose and say:

"1. That during the early part of February, 1946, I was appointed attorney de oficio of Ignacio Calinawan, one of the political detainees then confined in the provincial jail of Cebu, whose case was set for trial. At that time, the People's Court stationed in Cebu was holding session in the second story of the capitol building trying treason cases of Cebu political detainees.

"2. That I assisted the defendant Calinawan in the trial before the People's Court presided over by Judges Fortunato V. Borromeo and Florentino Saguin. I remember that I was in Court no less than three days as Calinawan's counsel, and the special prosecutor who handled the case for the government was Magno S. Gatmaitan.

"3. Inside the courtroom, the political detainees had a special bench with a wooden inclosure (barandilla) where they were guarded closely by MP guards. I also saw MP guards posted in different parts of the

courtroom and in the premises adjoining the courtroom, in order to keep the people orderly and to protect the political detainees from any violence from the public. During those days that I was in court assisting the defendant Calinawan in his trial, the proceedings of the People's Court were orderly. Some people were seated on the benches, while those who could not be accommodated were standing behind those who were seated, but all behaved peacefully without creating any commotion of any kind. I did not see among the crowd in the courtroom any person rushing towards the seat of the political detainees; neither have I seen a single person throwing stone, or any object at the political prisoners; neither have I seen any person carrying hunting knives, iron bars, clubs or any other dangerous weapons inside the Court.

"4. That the people once in a while murmured or hissed whenever they heard remarks not to their liking during the course of the trial, but their attention was called by the Judges of the People's Court and the crowd in the courtroom would again keep silent. In other words, during my stay in the session hall of the People's Court in Cebu, the trial and other court proceedings were conducted under the same peaceful atmosphere as that prevailing in the Court of First Instance of Cebu, which held trials in the same story of the capitol building where the People's Court was then holding its sessions.

"5. That with respect to the case of Ignacio Calinawan for whom I was appointed attorney de oficio, I desire to state the following: I accepted the appointment with reluctance, with verbal protest to Judge Fortunato V. Borromeo, fearing that I be criticized for handling cases of collaborators by my colleagues. Lawyers then did not want to handle cases of this nature. But having been ordered by the People's Court, I could not refuse. I did not ask any compensation from defendant Calinawan in order to handle his case. Neither money consideration was broached between him and myself. I have been in the People's Court no less than three times to handle his case. He was convicted by the People's Court and while the case was pending in the Supreme Court, I was notified by the Clerk of the Supreme Court to handle the case on appeal but at that time I was already appointed Register of Deeds of Cebu and I manifested that I could not continue appearing for him in view of my official duties. It is not true that I persuaded defendant Calinawan to plead guilty, telling him that his case was hopeless. In fact, I had a heated discussion with Special prosecutor Magno S. Gatmaitan because he called me at his office and told me to persuade my client, Calinawan, to plead guilty. He showed me the array of evidence against Calinawan. I told him that that should better be done in open court and that should be done by the defendant himself if he so desired. Calinawan was arraigned and pleaded 'not guilty,' and so we proceeded with the trial of his case until it was finished in the People's Court.

"6. That I know the defendant Mariano T. Jaucian when he was yet a member of the Cebu City Secret Service before the war. I saw him in the courtroom of the People's Court during one of the trials of Ignacio Calinawan. I noticed that he had no wounds, bandage, or any sign that he was suffering from any physical injury.

"Further affiant sayeth not.

"Cebu City, September 24, 1947.

(Sgd.) "MARTINA L. ARNOCO

"Subscribed and sworn to before me this 24th day of September, 1947, in the City of Cebu, Philippines.

(Sgd.) IGNACIO DEBUQUE

"Special Prosecutor"

"EXHIBIT 2

"I, Florencia Morcilla, of legal age, single, employee in the office of the provincial fiscal of Cebu, and a resident of the City of Cebu, after having been duly sworn according to law, hereby depose and say:

"1. That during the month of February, 1946, I was already working as Clerk in the Office of the provincial fiscal of Cebu. The main door of our office was facing, and until now faces, the session hall of the People's

Court in the second floor of the capitol building of Cebu. The distance between the door and the sala of the People's Court is less than five meters. During the trials of Antonio Racaza Racaza, Mariano T. Jaucian and other notorious political detainees in the early part of February, 1946, I often stood at the door of our office when I was not busy and from there, I witnessed the proceedings of the People's Court presided over by Judges Fortunato V. Borromeo and Florentino Saguin.

"2. That during those days, I saw many MP guards, no less than eight, all armed, posted in various parts of the courtroom of the People's Court, some right on the sides of the detainees, some at the main door of the Court near the stairs which lead from the ground floor to the second floor where the court sessions were held. The courtroom was jammed with people eager to see the court proceedings. There were people even in the third floor looking down at the second story where the People's Court held its trials. In the crowd I saw several women. Oftentimes, I went nearer and mixed with the crowd in the People's Court room to see better what was going on.

"3. That during the days when Mariano T. Jaucian was in Court for the trial of his case, I did not see any disorder among the public. I did not see people carrying hunting knives, iron bars, stones or any other kind of deadly weapon. The MP guards were there to watch the people and to protect the detainees from any violence. I did not notice any commotion. I did not see people in the courtroom rush towards Jaucian, and their companion-detainees. I did not see anybody inflict bodily harm upon any one of them. The trials were orderly and peaceful and the people behaved well as in ordinary trials I have seen in the Court of First Instance of Cebu, held also in the second floor of the Cebu Capitol Building.

"4. That what I noticed was on the concrete plaza down below and outside the capitol building, many people who did not find accommodations in the courtroom of the People's Court in the second floor, because it was extremely crowded and warm, gathered and some of them hissed at and uttered unpleasant remarks about the detainees while the latter were walking across the concrete plaza situated between the door of the ground floor and the waiting truck parked on the road in front of the capitol building. Aside from these remarks, nothing else took place. I did not see any people in the crowd throw stones at, strike or manhandle the prisoners because they were escorted by MP guards to the waiting truck. After the political prisoners have boarded the truck, the MP guards boarded said car also and conducted the prisoners towards the provincial jail.

"5. That while the People's Court sessions were going on up in the second story, there were MP guards posted on the concrete plaza to make the people keep quiet whenever they caused any noise sufficient to disturb the Court proceeding above.

Further, affiant sayeth not.

"Cebu City, Philippines, September 24, 1947.

(Sgd.) "FLORENCIA MORCILLA

"Subscribed and sworn to before me this 24th day of September, 1947, in the City of Cebu, Philippines.

(Sgd.) "JOSE C. BORROMEIO

"provincial fiscal, Cebu"

"EXHIBIT 3

"I, Jesus S. Delute, 1st Lieutenant, MPC, Philippine Army, Cebu Command, forty years of age, married, and a resident of Cebu City, after being duly sworn according to law, depose and say:

"1. That around the first week of February, 1946, I was sent by Major Villanueva, the Provincial Provost Marshal, MPC, of Cebu at that time, to reinforce the guard at the People's Court and there were in all sixteen enlisted men and four MP officers. These MP's took the political detainees whose cases were being called for trial in the People's Court, from the provincial jail to the capitol building and escorted them also from the

capitol building back to the provincial jail;

"2. That I know Mariano T. Jaucian, one of the political detainees whose cases were called for trial in the People's Court on February 7, 1946. During the court session that day, there were MP guards stationed right in the courtroom, no less than eight. Some were posted at the sides of the political detainees, others at the main door of the stairs connecting the ground floor and the second floor where the People's Court was holding its session, and some were distributed in different places in the premises of the courtroom. The purpose was to keep order and check arms of the people going inside the court. At first there were only eight guards including officers who performed duty in the People's Court, but due to the petition of the Judges of the People's Court to reinforce the MP guards, the Provincial Provost Marshal increased the number of MP guards in order that there would be MP guards posted in the courtroom of the People's Court and in the premises of the capitol building, to protect the detainees from mob violence;

"3. That on February 7, 1946, I was at the capitol building of Cebu together with, the MP guards. Jaucian was arraigned at that time. He was assisted by his counsel, Attorney Honorato Hermosisima. After the information was read to him by the People's Court Interpreter, Mr. Tomas H. Nery, Jr., Jaucian pleaded 'not guilty.' I did not see the crowd in the courtroom rush towards Jaucian and his fellow inditree, Hernandez. Nor did I see any people inside the courtroom with hunting knives, iron bars or stones. Some people hissed after Jaucian pleaded 'not guilty,' but they remained in their seats and they did not rush towards Jaucian and Hernandez. Many MP guards were there inside the courtroom precisely to keep order and to protect the inditrees from any possible attack on the part of the public;

"4. After the arraignment of Jaucian on February 7, 1946, my MP guards and I boarded the weapon's carrier back to the provincial jail. No untoward incident happened. There was no guard on board the car who told Jaucian that if he would not plead 'guilty', the next time he would be brought to the court, he would bad be left to the mob; and that if the mob would not injure him the MP guards would do it on the pretext that he (jaucian) tried to escape. Had there been such threats uttered by any one of my guards, I would have heard them and I could immediately reprimand him, because precisely we were detailed there to protect the political detainees;

"5. That there were many people outside the capitol building. They were gathered in the plaza in front of the door leading to the ground floor. They had sticks and they caused a lot of noise. In fact, I had to go down to call them to observe order. But one of those in the crowd, Tomas Fernandez by name, got angry and shouted at me, calling me that I was a sympathizer of the undercovers. I called him down and told him to observe order because the People's Court was holding session the second floor. But in view of his aggressive attitude, I had to approach him and grab him by the shirt with the purpose of bringing him to the provincial fiscal, but he resisted and he tried to incite the crowd to violence instead. I grabbed his coat and gave him a blow to give the crowd, a lesson and warning. After that, the people calmed down;

"6. That, in the morning of February 8, 1946, Jaucian was again brought to the People's Court for trial of his case. However, his attorney, Atty. Honorato Hermosisima, manifested to the Court that Jaucian was going to plead 'guilty.' So the Court asked Jaucian if that is true and Jaucian confirmed that he was going to change his first plea of 'not guilty' to that of 'guilty.' The information was read and he entered the plea of 'guilty.' I did not see any hostile crowd inside the courtroom at that time. I did not see any person with hunting knives, iron bars wrapped in newspapers or stones wrapped in handkerchiefs or any other weapons; otherwise, I and my MP guards would have arrested them right then and there;

"7. That when the detainees were placed on a weapon's carrier from the provincial jail to the capitol building, on board the weapon's carrier were twelve MP's with arms to protect the prisoners. As soon as they arrived in front of the capitol building and the detainees and the guards alighted, the latter escorted the detainees to the second story of the capitol building where the People's Court was holding sessions. There was a crowd in front of the capitol building which shouted and said so many unpleasant words against the detainees, but the guards kept them away and nothing happened to the detainees until they reached the session hall of the People's Court.

Then again after the trials, the same political detainees were escorted by the MP's until they boarded the truck parked in front of the capitol building and the detainees were returned to the provincial jail; and

"8. That during the two days, February 7 and 8, 1946, that Jaucian was in the courtroom, I did not notice any incident which disturbed the orderly proceedings of the People's Court, and during those two days that I saw Jaucian in the courtroom I did not notice that he had any wound or any kind of physical injuries until he was returned to the provincial jail after having entered the plea of 'guilty' on February 8, 1946.

"Cebu City, September 23, 1947.

(Sgd.) "JESUS S. DELUTE

"Subscribed and sworn to before me this 23rd day of September, 1947, in the City of Cebu, Province of Cebu, Philippines.

(Sgd.) "JOSE L. ABAD

"1st Assistant City Fiscal."

"EXHIBIT 4

"I, Gaudencio C. Jimenez, of legal age, single, private, MPC, Philippine Army, Cebu Command, and a resident of Cebu City, after being duly sworn according to law, depose and say:

"1. That around the first week, of February, 1946, I was sent by 1st Sgt. Ocaba, MPC, Cebu City, to reinforce the guard at the People's Court, capitol building, Cebu City. There were sixteen in all enlisted men and four MP officers. These MP's took the political, detainees whose cases were being called for trial in the People's Court, from the provincial jail to the capitol building and escorted them also from the capitol building back to the provincial jail;

"2. That I know Mariano T. Jaucian, one of the political detainees whose cases were called for trial in the People's Court on February 7, 1946. During the court's session that day, there were MP guards stationed right in the courtroom, no less than eight. I was one of the guards assigned in the courtroom of the People's Court. Some guards were posted at the sides of the political detainees, others at the main door of the stairs connecting the ground floor and the second floor where the People's Court was holding its session, and some were distributed in different places in the premises of the courtroom. The purpose was to keep order and check the arms and weapons of the people going inside the court. At first, there were only eight guards including officers who performed duty in the People's Court to reinforce the MP guards, the Provincial Provost Marshal increased the number of the MP guards in order that there would be MP guards posted in the courtroom of the People's Court and in the premises of the capitol building, to protect the detainees from violence;

"3. That on February 7, 1946, I was at the capitol building of Cebu together with the MP guards. Jaucian was arraigned at that time. He was assisted by his Counsel, Atty. Honorato Hermosisima. After the information was read to him by the People's Court Interpreter, Mr. Tomas H. Nery, Jr., Jaucian pleaded 'not guilty.' I did not see the crowd in the courtroom rush towards, Jaucian and his fellow indictree, Hernandez. Nor did I see any people inside the courtroom with hunting knives, iron bars or stones. Some people hissed after Jaucian pleaded 'not guilty,' but they remained in their seats and they did not rush towards Jaucian and Hernandez. Many MP guards were there inside the courtroom precisely to keep order and to protect the indictrees from any possible attack on the part of the public;

"4. That in the morning of February 8, 1946, Jaucian was again brought to the People's Court for the trial of his case. However, his attorney, Atty. Honorato Hermosisima, manifested to the Court that Jaucian was going to plead 'guilty.' So the Court asked Jaucian if that is true and Jaucian confirmed that he was going to change his first plea of 'not guilty,' to that of 'guilty.' The information was read and he entered the plea of 'guilty.' I did not see any hostile crowd inside the courtroom at that time. I did not see any person with hunting knives, iron bars

wrapped in newspapers or stones wrapped in handkerchiefs or any other weapons; otherwise, I and my MP companions would have arrested them right then and there;

"5. That during my assignment as one of the MP guards, the detainees were placed on a weapon's carrier from the provincial jail to the capitol building. On board the weapon's carrier were several MP guards and officers all armed to protect the prisoners. As soon as the car arrived in front of the capitol building, the detainees and we guards alighted. We escorted the detainees to the second story of the capitol building where the People's Court was holding sessions. There wss a crowd in front of the capitol building which shouted and said so many unpleasant words against the detainees, but we guards kept them away and nothing happened to the detainees until they reached the session hall of the People's Court. Then again after the trials, the same political detainees were escorted by us until they boarded the truck parked in front of the capitol building and the detainees were returned to the provincial jail; and

"6. That during the two days, February 7 and 8, 1946, that Jaucian was in the courtroom, I did not notice any incident whfch disturbed the orderly proceedings of the People's Court, and during those two days that I saw Jaucian in the courtroom, I did not notice that he had any wound or any kind of physical injuries until he was returned to the provincial jail after having entered the plea of 'guilty' on February 8, 1946.

"Cebu City, September 23, 1947.

(Sgd.) "GAUDENCIO C. JIMENEZ

"Subscribed and sworn to before me this 23rd day of September, 1947, in the City of Cebu, Province of Cebu, Philippines.

(Sgd.) "IGNACIO DEBUQUE
Special prosecutor"

"EXHIBIT 5

"I, Ananias V. Maribao, assistant provincial fiscal of Cebu, of legal age, married, and a resident of Cebu City, after having been duly sworn according to law, hereby depose and say:

"1. That I was a practicing attorney in the City and Province of Cebu during the month of February, 1946;

"2. That during the first days of the trial of the People's Court (5th Division) in the capitol building in Cebu City during the month of February, 1946, I went to the capitol building to see the trials of political detainees. In view of the fact that there were so many people in the second floor where the People's Court was holding sessions, I was able to see the court proceedings only from the third floor of the capitol building of Cebu. There were also many people in the third story looking down at the People's Court holding sessions on the second floor.

"As far as I could remember, the political detainees were handcuffed when they were brought to the courtroom accompanied by MP guards duly armed with rifles. But when they were already in the courtroom, their handcuffs were removed. Although there were many people in the courtroom and in the adjoining premises, the sessions of the People's Court were orderly. Among the crowd in the courtroom, I have not seen any person carrying or holding hunting knives, iron bars, stones or any other weapon; nor have I see any of the detainees who were brought to the court for trial being stoned or manhandled by any person in the crowd;

"3. That with respect to the particular case of Mariano T. Jaucian, one of the political detainers, I have this to say: When he was arraigned in Court he was accompanied by his counsel, Atty. Honorato Hermosisima. The courtroom was crowded. There were even women among the spectators. Jaucian pleaded not guilty to all the counts. Mr. Tomas H. Nery, Jr., interpreter of the People's Court, was the one who read the information to him. During the course of the reading of the information to Jaucian, there was no extraordinary incident of any kind. The People's Court maintained order throughout the proceedings with respect to Jaucian's case. I saw not less

than two Filipino MP soldiers posted right in the place where the indictees were seated, to keep watch over said indictees. There were also around six uniformed soldiers with arms posted in different parts of the courtroom, two at the main door leading to the second story of the building, and others distributed around the courtroom with the public. After Jaucian entered his plea of not guilty, the crowd remained in the same orderly manner with no untoward incident happening in the courtroom. I have not seen any person in the crowd approach or rush toward Jaucian and Hernandez with stones, clubs, iron bars, or any other weapon. In fact, Jaucian has not suffered my personal violence from the people on that occasion;

"4. That after the trial in the People's Court, the detainees were handcuffed again and escorted to the ground floor by the MP guards and provincial guards until they boarded the truck which was parked on the main road facing the ground floor of the capitol building. The crowd shouted and hissed at the political prisoners while they were passing, but the MP guards kept the crowd away from them.

"Cebu City, September 22, 1947.

(Sgd.) "ANANIAS V. MARIBAO

"Subscribed and sworn to before me this 23rd day of September, 1947, in the City of Cebu, Province of Cebu, Philippines.

(Sgd.) "JOSE C. BORRAMEO

"provincial fiscal, Cebu"

"EXHIBIT 6

"I, Tomas H. Nery, Jr., of legal age, married, Acting Deputy Clerk, People's Court, 5th Division, and a resident of the City of Cebu, after being duly sworn according to law, depose and say:

"1. That during the month of February, 1946, I was court interpreter and special deputy clerk of the People's Court, 5th Division, stationed in the City of Cebu, under Judges Hon. Fortunato V. Borromeo and Hon. Florentino Saguin. As such Interpreter and Special Deputy Clerk, I was present in the courtroom during the trial of Antonio Racaza Racaza, Mariano T. Jaucian and others.

"2. That in the morning of February 7, 1946, the treason case against Mariano T. Jaucian was called by the People's Court. The defendant Jaucian appeared with his Counsel, Honorato Hermosissima. Upon the order of the Court to arraign the accused, I asked Mariano T. Jaucian whether he understood English, and he answered in the affirmative. Forthwith, I read the information and for every count I asked him whether he pleaded guilty or not guilty. To each and every count he pleaded 'not guilty.' The Court then set the trial of his case for the following day, February 8, 1946.

"3. That during his arraignment and after he entered his plea of 'not guilty,' there were many people in the courtroom occupying all available seats and some were standing behind those who were seated. There was quiet and order in the courtroom. I did not see any person rush towards the accused, Mariano T. Jaucian, nor any other indictees inside the courtroom. I have not seen any person carrying hunting knives, iron bars, stones nor any other weapon wrapped in paper or handkerchiefs inside the courtroom. At that time, there were many MP guards in the courtroom, no less than eight MP guards with IP officers. I still remember that two MP guards were expressly posted on both ends of the bench where Jaucian and other indictees were sitting. There were also MP guards posted at the main door of the second floor leading to the courtroom of the People's Court which people used in going from the ground floor to the second story where the People's Court was holding sessions. There were also MP guards posted in the corridor, and in the adjoining premises of the second story. These HP guards were furnished by the Provincial Provost Marshal of Cebu upon the request of the Judges of the People's Court in view of the fact that there were rumors that some people might harm the political prisoners.

"4. That after Mariano T. Jaucian had pleaded 'not guilty,' the other indictree, Manuel Hernandez, was arraigned by order of the court and he also pleaded 'not guilty.' After the session of the Court on February 7, 1946, Jaucian, Hernandez and the other political prisoners were escorted by the MP guards to the ground floor of the capitol building and from there to the weapon's carrier parked on the street in front of the capitol building, and the MP guards also boarded the same car with the detainees up to the provincial jail.

"5. That there were many people in the concrete plaza in front of the ground floor of the capitol building while Jaucian and the other political detainees were being led to the weapon's carrier. The people made a lot of noise and some even made unpleasant remarks towards the political detainees, but they could not approach the prisoners, because the MP guards were there watching them and, in fact, drove the people away.

"6. That Mariano T. Jaucian and the other political detainees were handcuffed up to the time when they entered the courtroom, but when they were already in the courtroom their handcuffs were removed upon the order of the Judges. Then after the session and before going to the ground floor, the political detainees were again handcuffed while they were being, returned to the provincial jail.

"7. That In the morning of February 8, 1946, I was in the courtroom during the whole court proceedings of the People's Court. The case of Mariano T. Jaucian was called by the court for trial and he was accompanied by his lawyer, Atty. Honorato Hermosisima. Atty. Hermosisima manifested to the Court that his client, Mariano T. Jaucian, was going to change his plea of 'not guilty' to that of 'guilty.' Judge Borromeo called the accused, Jaucian, and asked him if the statement of his attorney that he was going to plead 'guilty' was true; and Jaucian manifested that it was true. Upon the order of the Court, I read again the information to the defendant Jaucian. To each and every count in the information, except one (which I do not now remember), he pleaded 'guilty.'

"8. That In that morning of February 8, 1946, before the information was read again to defendant, Jaucian, there was quiet and order in the courtroom. There were many people crowded as usual with MP guards and MP officers near the political prisoners, at the door and in other places in the premises of the courtroom. I have not seen any person throwing stone at defendant Jaucian or at any other detainee inside the courtroom; nor have I see any person carrying iron bars or knives wrapped in paper, nor any prohibited weapon, because the MP guards were very careful while guarding the courtroom and its premises. If there had been people carrying prohibited weapons, they could have been easily noticed and they would have been arrested by the MP guards and officers.

"9. That during those two days, February 7 and 8, 1946, that Mariano T. Jaucian was in the courtroom, I did not notice that he had any wound or scratch of any kind. I can state positively this fact, because Jaucian was in front of me at a distance of about half a meter, and at the end of every count I stopped, looked at him and asked him his plea. I noticed that he had the appearance of a normal person, smiling once in a while without any sign of being forced to do anything against his will. His attorney, Honorato Hermosisima was always by his side during all the course of the court proceedings against Mariano T. Jaucian.

"Cebu City, September 23, 1947.

(Sgd.) "TOMAS H. NERY, JR.

"Subscribed and sworn to before me this 23rd day of September, 1947, in the City of Cebu, Philippines.

(Sgd.) "JOSE C. BORRAMEO

"provincial fiscal, Cebu".

"EXHIBIT 7

"I, Domiciano C. Lambo, of legal age, married, practicing attorney in the City of Cebu, formerly Special Prosecutor assigned to handle treason cases in the City of Cebu, together with Special Prosecutor Magno S. Gatmaitan, and a resident of Cebu City, after having been duly sworn in accordance with law, hereby testify:

"(QUESTIONS ASKED BY SPECIAL PROSECUTOR IGNACIO DEBUQUE.)

"Q. Were you present during the sessions of the 5th Division of the People's Court held in Cebu provincial capitol, City of Cebu, on February 6, 7 and 8, 1946?—A. Yes, sir. I was Special Prosecutor then, assigned to the City of Cebu.

"Q. Mariano T. Jaucian in his affidavit. Annex B attached to the Motion for New Trial to the Supreme Court, among other things, stated that on February 6, 1946, Dionisio Agoncillo, Antonio Racaza, Francisco Concepcion and Mateo Perez were called to your office and you told them to testify against an indictee named Marcelo Laborte; that they refused, alleging that they did not know anything about the activities of Laborte; that upon their refusal to testify, you told them in a threatening manner that if they would not testify for the prosecution against defendant Laborte, they will be mobbed by the civilians outside, and that those threatening words were uttered in the presence of the city police. What do you say about this statement?—A. That is a big lie, because on February 6, 1946, I did not call those people—Dionisio Agoncillo, Antonio Racaza, Francisco Concepcion and Mateo Perez—to my office. It is true that when the case of Laborte was scheduled for trial, I think, more than two weeks after the date when Jaucian pleaded 'guilty' before the People's Court (I don't remember very well the exact date), upon examining the records of the case of Laborte, we found out that there were some political detainees who were mentioned in the affidavits attached to the CIC case report against Laborte. When one Francisco Concepcion and two other prisoners were brought to court, I took occasion to question them whether they knew something about the pro-Japanese activities of Laborte. After each one of them answered that they had nothing to say against Laborte, I let them alone, and from that time on I never had any dealing with those people. As I said, this conference took place long after Jaucian had pleaded guilty.

"Q. Were there policemen present in your office at that time when you interviewed Dionisio Agoncillo, Antonio Racaza, Francisco Concepcion and Mateo Perez?—A. I interviewed only Francisco Concepcion, Dionisio Agoncillo and Mateo Perez. Antonio Racaza was not with them at that time. They were escorted by provincial guards. There were MPs also.

"Q. During your interview with Concepcion, Agoncillo and Perez in February, 1946, that is more than two weeks after Jaucian had pleaded guilty, did you tell them that if they would not testify for the prosecution against Marcelo Laborte, they would be mobbed by the people?—A. No sir, that is a big lie; I did not tell them so.

"Q. During the months of February and March, 1946, in the course of the trial of political detainee in the People's Court stationed in Cebu City, have you at any time threatened any political detainee who refused to testify for the prosecution? Have you told them that they would be left to the fury of the mob, because of their refusal to testify for the State?—A. No, sir. I am a lawyer and I have been in the fiscal's office for many years, and I know that is against the law.

"Q. Mariano T. Jaucian, in his affidavit marked Annex 'B' attached to the Motion for New Trial filed with the Supreme Court, among other things, said: That on February 7, 1946, he was brought to the People's Court and he was arraigned. After the arraignment he pleaded 'not guilty.' Thereafter, Manuel Hernandez, another political indictee, was arraigned and he also entered the plea of 'not guilty.' According to Jaucian, immediately thereafter the crowd in the courtroom rushed towards them, threw on them stones, hitting Jaucian and Hernandez several times; that the Judges felt powerless and they did nothing to stop the alleged mob. Luckily, three American officers intervened. The Filipino MPs did nothing to stop these people. There were people in the courtroom, according to Jaucian, who carried hunting knives, round objects wrapped in handkerchiefs supposed to be stones, iron bars wrapped in newspapers, chicken blades and other deadly weapons. Do you have anything to say with respect to these statements of Jaucian?—A. They are all not true. The fact is, that although the people at that time were very much interested in the trial of the cases of the political detainees, inside the courtroom and in the premises of said courtroom, everything was peace and order. In the courtroom and outside the courtroom, there were plenty of MP guards in addition to the provincial guards and they were

posted there precisely to keep order, and to exclude unruly people from the courtroom.

"Q. About how many MP guards and provincial guards were inside the courtroom and in the courtroom premises?—A. Around twenty of them, I believe.

"Q. Where were the MP guards and provincial guards posted?—A. There were MP guards posted at every strategic corner and point of the capitol building and in the courtroom while the People's Court was in session; and even after the Court terminated its sessions, before the prisoners were sent back to the provincial jail, MP guards kept watch over them.

"Q. During the arraignment of Jaucian on February 7, 1946, when he pleaded 'not guilty,' was he accompanied by Counsel?—A. He was defended by Atty. Honorato Hermosisima, considered one of the best criminal lawyers in the City and Province of Cebu.

"Q. Were you present in the courtroom on February 8, 1946, when, according to Jaucian, he changed his plea of 'not guilty' to that of guilty?—A. Yes, sir.

"Q. Please state briefly what proceedings were held in the courtroom and what atmosphere was there in the courtroom during the re-arraignment of Jaucian?—A. That morning, as usual, there was peace and order in the courtroom as the People's Court was very strict with respect to noise. Everything seemed quiet and orderly. Atty. Honorato Hermosisima approached and conferred with Special prosecutor Magno S. Gatmaitan who was near me. After the conference, Atty. Hermosisima informed the Court that the accused desired to change his plea of 'not guilty' given the day before to that of 'guilty,' except to one or more counts (I don't remember exactly how many). The Presiding Judge, Judge Fortunato V. Borromeo (I believe, he was), of the People's Court thereupon asked the accused whether the manifestation of his attorney was true. Jaucian answered that it was true. The information was again read to the accused in open court by Mr. Tomas H. Nery, Jr., court interpreter and special deputy clerk of court, and Jaucian after the reading of each count to him by Mr. Nery was asked whether he understood each and every allegation in the information, to which Jaucian answered in the affirmative.

"Q. Was he arraigned in English?—A. Yes, sir, In English; Jaucian spoke good English. Then he was asked by Mr. Nery whether he would plead 'guilty' or 'not guilty,' after reading each count and Jaucian pleaded 'guilty,' with the exception of one or more counts (I do not remember exactly now).

"Q. Were you able to observe the attitude of the people below and around the capitol building while the Court session was going on?—A. Yes, sir.

"Q. What was the general attitude of the people?—A. During the first days of the trial of the political detainees, the people in Cebu were really angry at those whom they believed were responsible for their miseries during the Japanese occupation. There were plenty of people outside and below the capitol building. There were also many people inside the capitol building who were eager spectators of the Court proceedings. But the government authorities including the Judges of the People's Court had taken every precaution to protect those political! detainees from the indignant crowd who were gathered in the plaza in front of the ground floor. When the detainees came to Court or went back to the provincial jail after the Court sessions, they were accompanied by MPs and provincial guards, and in spite of the fact that the crowd outside the capitol building was mad, they could not do anything because the MP guards kept close watch over the detainees.

"Q. Do you remember of any efforts or steps taken by the Judges of the People's Court to appease the public in their outspoken indignation against the political detainees?—A. Yes, sir. The Presiding Judge of the Division, Judge Borromeo (now Presiding Judge of the People's Court), several times told the public that the Court would not open its session unless everybody would keep quiet, and so after the quiet was restored and everything was in order, the Court would begin session. One time, I remember. Judge Borromeo went downstairs to the plaza facing the ground floor of the capitol building and told the people not to make so much

noise; that they should leave the cases of the political detainees to the Court. The people calmed down. After that, Judge Borromeo went upstairs to the second story where the People's Court held its sessions.

"Q. Has there been any occasion during the arraignment or trial of any detainee by the 5th Division of the People's Court in Cebu during the month of February, 1946, in which an unruly crowd entered the courtroom and some people carried weapons like stones, iron bars, hunting knives, thereby disturbing the proceedings of the court?—A. No, sir; there was none of the kind.

"Q. During the times that you saw Jaucian in the courtroom, did you notice whether he had wounds or any kind of physical injury?—A. He did not have any physical injury. In fact, in the courtroom Jaucian was calm, smiling once in a while, and appeared as usual, not worried.

"Q. On page 2 of the affidavit of Jaucian, Annex B, he states that on account of the rush of the people to the courtroom on February 7, 1946, eight of the ten benches inside the courtroom were broken. What do you say about this?—A. That is not true. Not one bench or chair was broken, because there was no rush of the crowd while Jaucian was being arraigned for the first time. Neither was there disorder when he was arraigned for the second time, when he pleaded 'guilty.'

"Pros. Debuque: That is all; thank you.

"I, Domiciano C. Lambo, being duly sworn according to law, hereby states that I have read and understood the foregoing questions directed upon me by Special Prosecutor Ignacio Debuque and likewise the answers I made as set forth therein in answer to said questions; and I hereby state that all the answers set forth therein are true and correct.

(Sgd.) "DOMICIANO C. LAMBO

"Subscribed and sworn to before me this 23rd day of September, 1947, in the City of Cebu, Province of Cebu, Philippines.

(Sgd.) "IGNACIO DEBUQUE

"Special Prosecutor

"Office of Special Prosecutors.

"EXHIBIT 8

"I, MAGNO S. GATMAITAN, being duly sworn, depose and say:

"That I have been asked by Solicitor Mr. Martiniano Vivo to give my version of the happenings in the case of the trial of Mariano Jaucian and that said happenings are the following to the best of my memory:

"1. On 4 February 1946, said accused was arraigned on an amended information but the arraignment was postponed to 7 February 1946;

"2. On 7 February 1946 Count 3 thereof was further amended to charge the accused with the rape of two women, Paulina Canaya and Annia Alcoseba. This amendment was necessitated because the undersigned had, the day before, gone to Carcar, Cebu and secured evidence to sustain this amendment. The accused pleaded not guilty and the case was set for hearing for the following day;

"3. On the following day, 8 February 1946, the prosecution was ready to prove counts 1, 3, 4, 6, 7, 8 and 15, with, its witnesses present in Court, the majority of whom were from Carcar, Cebu;

"4. However, Atty. Honorato Hermosisima for the accused, who was attorney de-parte, asked for permission of the Court to speak with the undersigned and he told the undersigned that the accused was willing to plead guilty provided that Counts 3 as amended, 13, 17, 18, and 20 are eliminated and also a certain phrase in Count 19. In that conference the undersigned was also requested by Atty. Hermosisima to recommend life

imprisonment as penalty. The undersigned replied that as to the imposition of the penalty, he would not make any recommendation of any kind as to the withdrawal of the Counts mentioned, the undersigned after some study said that he would be willing to drop the counts mentioned except Count 3 because as to Count 3, the witnesses were already in the Court and were ready to testify. As there was no agreement, the undersigned had to call his first witness and this was one of the offended parties in Count 3, a young woman named Annie Alcosoba who walked to the witness stand. At this juncture, the accused and Atty. Hermosisima again had a conference and Atty. Hermosisima, after that conference told the undersigned that the accused was willing to plead guilty to Count 3 as amended and he said to the undersigned that even if the supreme penalty might be imposed he believes that with a plea of guilty the Supreme Court would in all probability change the penalty to life imprisonment. The undersigned reiterated to him that he would not make any recommendation as to the penalty. Accordingly, Atty. Hermosisima announced to the Court that the accused would be willing to plead guilty to the full information with the exception of counts 15, 17, 18 and 20 and the objectionable phrase in Count 19. Then the information was read one by one but to the surprise of the Court, the defense Attorney himself and the prosecution, when the reading came to Count 9 the accused insisted that he was not guilty on said count. Thereupon, the remainder of the information, after taking out the Counts 13, 17, 18 and 20 and the objectionable phrase in Count 19, was read and the accused pleaded guilty to the same;

"5. Referring to the Count 9, the prosecution was not ready on the same and therefore upon its petition the trial was postponed to 11 February. On 9 February 1946, Saturday, the prosecutor went to Carcar again to secure evidence on this Count 9, but, notwithstanding his efforts and that of prosecutor Domiciano Lambo in the examination of people in the municipal building of Carcar and even going to the barrio concerned he was not able to secure sufficient evidence;

"6. Therefore, on 11 February 1946 he had to admit to the Court that he could not sustain that Count and therefore, he had to submit the case without proving that Count. He however stated to the Court, in view of the gravity of the offense charged, that he wished to satisfy the Court of the truth by presenting his witnesses available on the most serious charges to which the accused had pleaded guilty although he was fully aware that the accused was and is highly intelligent and the attorney was and is a leading member of the bar of Cebu. One reason why he said this was because he knew of the reluctance of the Supreme Court in affirming judgments imposing the capital punishment where no evidence had been taken upon a plea of guilty altho of course, he also knew that this was in cases where accused is ignorant and did not fully understand the consequence of his plea. The Court, considering the attitude of the accused who appeared to be very intelligent and who understood the charges very well, ruled that there was no more need. The undersigned remembers even, that the attorney for the accused said that there was no need to present evidence and therefore no more evidence was presented;

"7. The case was therefore submitted upon a plea of guilty to the information as finally amended, discarding Counts 9, 13, 17, 18, 20 and the phrase objected to in Count 19;

"8. As far as the violence of the people is concerned, the undersigned remembers that there were many spectators in the trial which was held in the second floor in the center of the provincial capitol of Cebu but the audience was separated from the personnel of the Court and the witnesses by a rope. On the counsel table, besides the prosecutors and the attorney for the defense, who was then a City Councillor of Cebu interested in the proper administration of justice, there were regularly more or less 10 lawyers of the bar of Cebu and among these the undersigned remembers Messrs. Filemon Sotto, Roque Desquitado and Manuel Zosa. There were times really when the audience was very noisy but other than this the proceedings inside the court room were in order and the accused being seated towards the right of the court room, rather far from the audience. The undersigned can certify that there was no violence at all inside the court room, and certainly there was no throwing of stones therein;

"9. However, the undersigned remembers that there was a commotion on the road immediately in front of the capitol building sometime in the morning after the hearing on February 6, but, the undersigned remembers that

the accused Mariano Jaucian was not then present as his case was not scheduled at that time but the case of Antonio Racaza ;

"10. At no time so far has the undersigned remembers was the accused, Mariano Jaucian the subject of any violence either on Febraary 4 when he came to the court for arraignment or on the 7th of February when he pleaded not guilty or on the 8th of February when the case was postponed or on the 11th of February when the case was finally submitted. The undersigned remembers that accused; Mariano Jaucian was a handsome man of mestizo type always dressed in clean and smart polo shirt and it could easily be seen if he had been hurt;

"11. As to alleged intimidation, the undersigned remembers perfectly well the several times when said accused insisted on the 8th of February to the falsity of Count 9, so that the prosecution had to ask to postpone the hearing on that Count 9 to 11 February;

"12. As to the knowledge of the accused that he might be given the death penalty notwithstanding his plea of guilty, all that the undersigned can say is that the attorney for the accused mentioned to the undersigned that he feared that the People's Court might really impose upon his client the death penalty but that he had hopes that by his plea of guilty, the Supreme Court in all probability would commute the sentence to life imprisonment;

"13. The undersigned has been informed that the defense in the Supreme Court has made capital of some statements made by the undersigned during the course of the trial in which he referred to his consultation with the reputable members of the province of Cebu bar, and that his decision to eliminate Count 9 was upheld by the townspeople of Carcar (p. 15; Brief of the Appellant, p. 24). The reason why the prosecutor made those statements can be understood if the following facts are considered;

"He arrived by plane in Cebu on 1 February 1946 in the afternoon; with instructions from Solicitor-General Tañada to secure the moral support of the people as much as possible in the prosecution of cases and to use his discretion in maintaining that moral support because the prosecution's efficiency depends on public support; he was scheduled to prosecute some 25 cases congested in a calendar of three weeks; he had not interviewed a single witness before he arrived in Cebu; the overt acts in the Information covered various towns and remote barrios of Cebu; when he arrived in Cebu, there was not even sufficient sccomodation; he had to study by candle light; cases were to be heard on February 4 so that he had only two clays to prepare. Under the circumstances he had to depend upon his ingenuity to interview as many persons as possible and he took pains even to appeal to the general public. He went to Carcar on February 2 and to remote barrios therein; to Mandate on February 4, again to Carcar on February 6 and again on February 9. These towns were sufficiently far from the City of Cebu. While he was able to make hurried preparations under the circumstances and to bring witnesses on particular counts in the first trials, he however, felt that it was possible that several people in the court room and also reputable members of the bar who were present might be able to help him. He therefore, used his discretion to make time and again statements in open court and in public audiences which he calculated would secure from these who might know the facts necessary support and cooperation, These statements were made by him not because he was influenced by the public opinion but because by pleasant diplomatic strokes, he wanted to create an atmosphere favorable to his efforts of securing evidence. So in the investigation he had in the municipal building of Carcar, Cebu on 9 February, a Saturday afternoon, he appealed to the public of Carcar present in the municipal building to give him all the evidence and information that might help him in establishing Count 9. Thus he said in public in the municipal building of Carcar that he wished everyone present to know that he would listen to evidence from anybody concerned but that if no one could give evidence he would be compelled to drop the count. The people tried to help him but they could not give him sufficient evidence. They however, indicated to him how to go to the barrio of the crime and accompanied by a municipal policeman he went to that barrio and tried his best even though it was already evening to secure evidence but, he failed;

"14. The undersigned came to feel that there was a strong but responsible public opinion against collaborators in Cebu, but the personal violence inflicted on some prisoners (and accused Mariano Jaucian was not one of

them), was done only by some irresponsible mischief makers far from the court room and on the road immediately in front of the provincial capitol. If the undersigned had only believed during the entire proceeding against Mariano Jaucian that intimidation or force had been employed upon him to plead guilty he would have insisted in the presentation of the evidence just the same because the witnesses were present on Counts 3, 4, 6, 7, 8 and 15, and he was aware as a prosecutor that if the death penalty was imposed, the case would have to be taken to the Supreme Court for review and if the Supreme Court would have been convinced that there was no voluntary and intelligent plea of guilty, the case would have to be remanded for new trial with the consequence that in the interval something may have happened to his witnesses.

(Sgd.) "MAGNO S. GATMAITAN
"Special prosecutor"

"Subscribed and sworn to before me this 20th day of September 1947 at Manila, Philippines.

(Sgd.) "PEDRO C. QUINTO
"Special prosecutor"

"EXHIBIT 9

"I, Fortunato Borromeo Veloso, being duly sworn depose and say:

"1. That I have been asked by Solicitor Mr. Martiniano Vivo to give what I remember of the proceedings in the case against Mariano Jaucian because, according to him said accused challenges the validity of the trial on the ground that there was violence and that he had only been compelled to plead guilty.

"2. That so far as the undersigned remembers, there was really a strong public opinion against collaborators in Cebu; the undersigned being himself from that province; but, to say that the mob violence dominated the trial in that case is not really the truth.

"3. The truth is that as far as the undersigned remembers, the proceedings inside the court room were regular; the undersigned noticed that the accused who was apparently a very intelligent man, was acting with full voluntariness and consciousness of his acts and his lawyer appeared to be a very intelligent attorney. In the court room on the counsel table, there were about a dozen lawyers from Cebu who saw the entire proceedings. There was one instance when the accused insisted in denying one of the counts and this convinced the judges all the more that he was not under any compulsion whatever.

"4. In the beginning of the trial the undersigned remembers that the attorney for the accused, Mr. Honorato Hermosisima, wanted to have a private talk with the judges. (Afterwards we came to learn that he had wanted to see our view to imposing life imprisonment instead of death upon a plea of guilty), but surmising that he wanted us to give him in private a moral assurance to that effect, we did not permit that and just told him that he could confer with the prosecutor and this was what he did and at the beginning apparently they could not agree because the prosecutor called is witness and one of them was a young woman, but, when the prosecutor apparently intended to go ahead with the case, the accused called his lawyer and they conferred and later on the lawyer said that he would plead guilty to the same information discarding only several counts which he mentioned.

"5. When the prosecutor agreed to that statement, the information was read again and to our surprise, upon reaching one of the counts, not excepted by him in the plea of guilty, the accused insisted on a plea of not guilty to that count so that the trial could not take place on that count and had to be postponed on that day because the prosecutor said that he was not ready on evidence on that particular count that same day. When the day of trial came the prosecutor withdrew that count because he said that after an investigation in Carcar, he could not sustain that count.

"6. So far as the charge that there was mob violence is concerned, the undersigned can certify that there was

really a disturbance in front of the provincial capitol, around 40 meters distant from the main entrance thereof, after one of the trial in the case of another prisoner, Antonio Racaza, but, the accused, Mariano Jaucian was not connected at all with that case, and his trial was not on that day but on another day. What the undersigned actually saw on one or two occasions was that when the prisoners, the trial, in order to be taken back to the provincial jail, a large number of people lined up along the patio of the provincial capitol. As the prisoners, guarded by the MP's passed along on their way to the truck that was to take them, the crowd attempted to mob the prisoners and some of them stoned them. The MP's guarding the prisoners defended them and were able to disperse the crowd only after they threatened to shoot them. The distance along which the people were lined up from the mainentrance of the capitol to the place where the prisoners could be loaded on the truck is approximately 40 to 50 meters.

"7. If the undersigned had seen any appearance on the accused, Mariano Jaucian, that he was under compulsion or that he had suffered any injury, he would not have permitted the prosecution to submit its case without presenting any evidence. But from his appearances, Mariano Jaucian was acting voluntarily and very intelligently and he had not been the receiver of any injury throughout the course of his trial. And therefore, considering the fact that his plea of guilty was made freely and intellicently and he was assisted by a very reputed member of the Cebu bar and as the People's Court had on its hands many other cases, the Court believed that there was no more use of the presentation of the evidence for the prosecution on the counts to which he had pleaded guilty.

"8. In the imposition of the penalty, the Court believed that they could not do anything but impose the death penalty because at least four of the charges so far as the undersigned remembers, were capital crimes without any extenuating circumstances except his plea of guilty, and there concurred several aggravating circumstances.

"Manila, 19 September 1947.

(Sgd.) "FORTUNATO V. BORROMEIO

"Subscribed and sworn to before me, September 19, 1947.

(Sgd.) "JOSE Y. LIM

"Clerk of Court

"People's Court"

The Supreme Court devoted considerable time in analyzing and weighing the circumstance under which appellant entered his plea of guilty, and the members have been evenly divided on the question as to whether or not the case should be remanded, to the lower court for a new trial because, as contended by appellant's counsel, the plea of guilty was entered into under physical and moral duress, against which the lower court was not able to protect him.

Some Justices are of opinion that there is convincing evidence on record to show that appellant was the victim of mistrial and, therefore, the case should be heard again in the trial court, by setting aside the appealed judgment. Other Justices believe that the disturbances complained of have not affected the freedom of appellant to properly defend himself and to plead guilty or not guilty, and his plea upon which the trial court rendered judgment was entered by him voluntarily.

Because no one side could muster a decisive majority, the undersigned, who was one among those who upheld appellant's contention as to mistrial due to mob violence, decided to break the deadlock by joining the side which will uphold the plea of guilty of the appellant, so as to constitute a majority that would convict appellant by modifying the penalty from death to that of reclusion perpetua.

In making this shift, we have carefully considered the contentions in appellant's brief and came to the conclusion that appellant does not pretend that he is innocent of the crime of treason for which he is accused. He complains of mistrial because had it not been for it he would not have been sentenced to death, his argument being premised on an unmistakable admission of his guilt, and, therefore, his main purpose in securing a new trial is to escape the penalty of death. In view of the division of opinion among the members of this Court death cannot be imposed on appellant. Appellant's purpose in seeking a new trial is attained in a more speedy and direct way by rendering this decision which substitutes the penalty of reclusion perpetua to that of death.

A new trial may satisfy technical requirements of procedure, but with it appellant will not attain better objective than the modification of penalty decreed in this decision. The machinery of justice should not be clogged by empty and useless technicalities. These should not be allowed to hamper speedy justice, when the substantial rights of the parties are duly guaranteed and protected.

Wherefore, finding appellant criminally responsible of treason, upon the facts stated in the counts of the amended information to which he pleaded guilty, he is sentenced to reclusion perpetua instead of death and, with this modification, the appealed judgment is affirmed.

Feria, Pablo, Bengzon, Briones, Montemayor, and Reyes, JJ., concur.

DISSENTING

TUASON, J.:

I vote to remand this case for a new trial.

It is clear beyond dispute that the defendant's plea of guilty was forced by fear of a mob. Spirit of mob violence asserted itself during several-day trial from beginning to end. It obtained outside and inside the court, at times in the presence of the judges. A large and an unruly crowd it was, armed with clubs, knives, stones, etc., which congregated in and about the courthouse and which not only threatened the accused but actually inflicted physical injuries on him and other treason indictees. One of these was laid in bed as a result of the assault.

It was a sad commentary on the good sense of the judges and the law officers in charge of the prisoner that they seem to have looked upon the demonstrations with complacency, lifting not a finger to stop them. It fell upon the lot of two American army officers, who happened to be present in the courtroom at one stage of the trial, to quell the mob and protect the accused, from its fury. But what is more serious is that the court seems to have been swayed by the demonstrations, if its decision in a sister case, *People vs. Antonio Racaza*, [1] one of the victims of the same mob, is any indication. The court in that case noted with apparent approval and sympathy the crowd's "visible indignation with an eager desire that the collaborators be dealt with by the court of justice without mercy." And without mercy, they were dealt with.

Thus the appellant was denied freedom to plead. His conviction under the circumstances is illegal and void. It was nullified by mental fear and terror of uncontrolled attacks. The vilest of criminals under the Constitution are entitled to defend themselves against accusation for crime under an atmosphere free from menaces of harm, undue passion and emotionalism, and before judges unafraid and uninfluenced by outside clamor or pressure. The decision in this case would deprive the appellant of his life or liberty without due process of law. There is no due process when there is actual interference with the court of justice and the defendant is deprived of a fair and impartial trial according to law. The accused is entitled to something more than the mere pretense of a trial.

I take particular exception, to the proposition that simply because the court believes the appellant is guilty anyway

and a new trial would produce the same result, irregularities of the kind above noted should be overlooked for the sake of speedy justice. The constitutional guarantee against punishment for crime without due process of law admits of no exception. It can not be sacrificed upon the altar of expediency or speedy justice or upon any other consideration. This right lies at the foundation of human rights and democratic institutions to which the Constitution is dedicated.

Moreover, the right to speedy trial is essentially alright of accused. If an accused, on trial for his life, fully aware of the delay which a new hearing would entail, asks for such hearing, that is his concern, not the court's. This right is not an "empty and useless technicality" to be cast aside when it gets in the way "to clog the machinery of justice," as if there could be justice without the observance of this "empty and useless technicality;" as though, in other words, the machinery of justice was devised for the benefit of the prosecution, of the court, or of the government, and not of the accused.

This case is of far-reaching importance. It not only affects the appellant's life and liberty but it sets a rule for future guidance of courts and would be mobsters who would take the law into their hands out of the hands of the court that tries them. This is one case in which this Court must make known its condemnation in energetic terms of any interference with the administration of justice, and must tell judges that it is their bounden duty to initiate the suppression of disturbances directly intended to accomplish this end. If courts are to maintain their dignity and self-respect, the constitutional rights of accused preserved, and mob rule in this country nipped in the bud.

Moran, C.J., and Paras, J., concur in the foregoing dissenting opinion.

[1] 82 Phil., 623.

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