

LAMBERTO MACIAS, ET AL., PETITIONERS, VS. THE COMMISSION ON ELECTIONS, ET AL., RESPONDENTS.

G.R. No. 18684. September 14, 1961

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Statement of the case.—Petitioners request that respondent officials be prevented from implementing Republic Act 3040 that apportions representative districts in this country. It is unconstitutional and void, they allege, because: (a) it was passed by the House of Representatives without printed final copies of the bill having been furnished the Members at least three calendar days prior to its passage; (b) it was approved more than three years after the return of the last census of our population; and (c) it apportioned districts without regard to the number of inhabitants of the several provinces.

Admitting some allegations but denying others, the respondents aver they were merely complying with their duties under the statute, which they presume and allege to be constitutional. The respondent National Treasurer further avers that petitioners have no personality to bring this action; that a duly certified copy of the law creates the presumption of its having been passed in accordance with the requirements of the Constitution (distribution of printed bills included) ; that the Director of the Census submitted an official report on the population of the Philippines in November 1960, which report became the basis of the bill; and that the Act complies with the principle of proportional representation prescribed by the Constitution.

After hearing the parties and considering their memoranda, this Court reached the conclusion that the statute should be declared invalid, and, aware of the need of prompt action, issued its brief resolution of August 23, partly in the following language:

"Whereas such Republic Act 3040 clearly violates the said constitutional provision in several ways namely, (a) it gave Cebu seven , members, while Rizal with a bigger number of inhabitants got four only; (b) it gave Manila four members, while Cotabato with a bigger population got three only;

* * * * *

"Whereas such violation of the Constitutional mandate renders the law void;"

"Therefore, without prejudice to the writing of a more extended opinion passing additionally on other issues raised in the case, the Court resolved, without any dissent, forthwith to issue the injunction prayed for by the petitioners. No bond is needed."

What with the reservation announced in the resolution, and what with the motion for reconsideration, this is now written fully to explain the premises on which our conclusion rested.

Personality of the petitioners.—Petitioners are four members of the House of Representatives from Negros Oriental, Misamis Oriental, and Bulacan, and the provincial governor of Negros Oriental. They bring this action in behalf of themselves and of other residents of their provinces. They allege, and this Court finds, that their

provinces had been discriminated against by Republic Act 3040, because they were given less representative districts than the number of their inhabitants required or justified: Misamis Oriental having 387,839 inhabitants, was given one district only, whereas Cavite with 379,902 inhabitants, was given two districts; Negros Oriental and Bulacan with 598,783 and 557,691 respectively, were allotted 2 representative districts each, whereas Albay with 515,961 was assigned 3 districts.

The authorities hold that "citizens who are deprived of as full and effective an elective franchise as they are entitled to under the Constitution by an apportionment act, have a sufficient interest to proceed in a court to test the statute." (18 Am. Jur. 199.)

Therefore, petitioners as voters and as congressmen and governor of the aggrieved provinces have personality to sue.

In *Stiglitz vs. Schardien* (Ky) 40 S.W. (2d) 315, the right of a citizen to question the validity of a redistricting statute was upheld. The same right was recognized in *Jones vs. Freeman* (Okla.) 146 P. (2d) 564, the court saying that each citizen has the right to have the State apportioned in accordance with the Constitution and to be governed by Legislative fairly representing the whole body of electorate and elected as required by the Constitution.

Colegrove vs. Green, 328 U.S. 549, on which respondents rely, appear to be inconclusive: three against three. The seventh justice concurred in the result even supposing the contrary was "justiciable."

The printed-form, three-day requirement.—The Constitution provides that "no bill shall be passed by either House unless it shall have been printed and copies thereof in its final form furnished its Members at least three calendar days prior to its passage, except when the President shall have certified to the necessity of its immediate enactment."

Petitioners presented certificates of the Secretary of the House of Representatives to show that no printed copy had been distributed three days before passage of the bill (on May 10, 1961) and that no certificate of urgency by the President had been received in the House.

The respondents claim in their defense that a statute may not be nullified upon evidence of failure to print, because "it is conclusively presumed that the details of legislative procedure leading to the enrollment that are prescribed by the Constitution have been complied with by the Legislature." They further claim that the certificates of the Secretary of the House are inadmissible, in view of the conclusive (enrolled-bill) presumption, which in several instances have been applied by the courts. In further support of their contention, sec. 313 (2) of Act 190 might be cited.[1]

On the other hand, it may be said for the petitioners, that such printed-bill requirement had a fundamental purpose to serve[2] and was inserted in the Constitution not as a mere procedural step; and that the enrolled-bill theory, if adopted, would preclude the courts from enforcing such requirement in proper cases.

We do not deem it necessary to make a definite pronouncement on this question, because the controversy may be decided upon the issue of districts-in-proportion-to-in-habitants.

Population Census.—According to the Constitution, "the Congress shall by law, make an apportionment (of Members of the House) within three years after the return of every enumeration, and not otherwise." It is admitted that the bill, which later became Republic Act 3040, was based upon a report submitted to the President by the Director of the Census on November 23, 1960. It reads:

"I have the honor to submit herewith a preliminary count of the population of the Philippines as a result of the

population enumeration which has just been completed. This is a report on the total number of inhabitants in this country and does not include the population characteristics. It is the result of a hand tally and may be subject to revision when all the population schedules shall have been processed mechanically.

The Census of Population is the first of a series of four censuses which include housing¹, agriculture and economics in addition to population. These four censuses together constitute what is known as the Census of 1960. Like population, the housing and agricultural censuses are undergoing processing, while the economic census is now under preparation.

Until the final report is made, these figures should be considered as official for all purposes."

Petitioners maintain that the apportionment could not legally rest on this report since it is merely "preliminary" and "may be subject to revision." On the other hand, respondents point out that the above letter says the report should be considered "official for all purposes." They also point out that the ascertainment of what constitutes a return of an enumeration is a matter for Congress action. This issue does not clearly favor petitioners, because there are authorities sustaining the view that although not final, and still subject to correction, a census enumeration may be considered official, in the sense that Governmental action may be based thereon even in matters of apportionment of legislative districts (*Cahill vs. Leopold* [Conn.] 103 Atl. 2d 818) (See also *Elliott vs. State*, 1 Pac. 2d 370; *Ervin vs. State*, 44 S.W. 2d 380; *Herndon vs. Excise Board*, 295 Pac. 223; *Holcomb vs. Spikes*, 232 S.W. 891.)

Apportionment of Members.—The Constitution directs that the one hundred twenty Members of the House of Representatives "shall be apportioned among the several provinces as nearly as may be according to the number of their respective inhabitants." In our resolution on August 23, we held that this provision was violated by Republic Act 3040 because (a) it gave Cebu seven members, while Rizal with a bigger number of inhabitants got four only; (b) it gave Manila four members, while Cotabato with a bigger population got three only; (c) Pangasinan with less inhabitants than both Manila and Cotabato got more than both five members having been assigned to it; (d) Samar (with 871,857) was allotted four members while Davao with 903,224 got three only; (e) Bulacan with 557,691 got two only, while Albay with less inhabitants (515,691) got three, and (f) Misamis Oriental with 387,839 was given one member only, while Cavite with less inhabitants (379,904) got two. These were not the only instances of unequal apportionment. We see that Mountain Province has 3 whereas Isabela, Laguna and Cagayan with more inhabitants have 2 each. And then Capiz, La Union and Ilocos Norte got 2 each, whereas, Sulu that has more inhabitants got 1 only. And Leyte with 967,323 inhabitants got 4 only, whereas Iloilo with less inhabitants (966,145) was given 5.

Such disproportion of representation has been held sufficient to avoid apportionment laws enacted in States having Constitutional provisions similar to ours. For instance, in Massachusetts, the Constitution required division "into representative district * * * equally, as nearly as may be, according to the relative number of legal voters in the several districts." The Supreme Judicial Court of that state found this provision violated by an allotment that gave 3 representatives to 7,946 voters and only 2 representatives to 8,618 voters, and further gave two representatives to 4,854 voters and one representative to 5,598 voters. Chief Justice Rugg said:

"It is not an approximation to equality to allot three representatives to 7,946 voters, and only two representatives to 8,618 voters, and to allot two representatives to 4,854 voters, and one representative to 5,596 voters. * * *

"Whenever this kind of inequality of apportionment has been before the courts, it has been held to the contrary to the Constitution. It has been said to be 'arbitrary and capricious and against the vital principle of equality.' *Houghton Country vs. Blacker*, 92 Mich. 638, 647, 653, 16 LRA 432, 52 N. W. 951; *Giddings vs. Blacker*, 93 Mich. 1, 13, 16 LRA 402, 52 N. W. 944; *Barker vs. State*, 133 Ind. 178, 197, 18 LRA 567, 32 NE 836, 33 NE

119; *Denney vs. State*, 144 Ind. 503, 535, 31 L.R.A. 726, 42 N.E. 929."

Other cases along the same line upholding the same view are these:

- *Stiglitz vs. Schardien*, supra, wherein twelve districts entitled to but six were given twelve representatives, and twelve districts given twelve only were actually entitled to twenty-two.
- *Jones vs. Freeman*, supra, wherein districts entitled to only 3 senators were given 7, and districts entitled to 15 were assigned seven only.

It is argued in the motion to reconsider, that since Republic Act 3040 improves existing conditions, this Court could perhaps, in the exercise of judicial statesmanship, consider the question involved as purely political and therefore non-justiciable. The overwhelming weight of authority is that district apportionment laws are subject to review by the courts.

"The Constitutionality of a legislative apportionment act is a judicial question, and not one which the court cannot consider on the ground that it is political question." (*Parker vs. State ex rel. Powell*, 18 L. R. A. 567, 133 Ind. 178, 32 N. E. 836; *State ex rel. Morris vs. Wrightson*, 22 L. R. A. 548, 56 N. J. L., 126, 23 Atl. 56; *Harmison vs. Balot Comrs.* 42 L. R. A. 591, 45 W. Va. 179, 31 S. E. 394.)

"It is well settled that the passage of apportionment acts is not so exclusively within the political power of the legislature as to preclude a court from inquiring into their constitutionality when the question is properly brought before it." (*Indiana-Parker vs. Powell* (1382) 133 Ind. 178, 18 L. R. A. 567, 32 N. E. 836, 33 N. E. 119; *Denney vs. State* (1896) 144 Ind. 503; 31 L. R. A. 726, 42 N. E. 929; *Marion County vs. Jewett* (1915) 184 Ind. 63, 110 N. E. 553.) (*Kentucky-Ragland vs. Andersen* (1907) 125 Ky. 141, 128 Am. St. Rep. 242, 100 S. W. 865.) (*Massachusetts-Atty. Gen. vs. Suffolk County Apportionment Comrs.* etc.)

It may be added in this connection, that the mere impact of the suit upon the political situation does not render it political instead of judicial. (*Lamb vs. Cunningham*, 17 L.R.A. 145, 83 Wis. 90)

The alleged circumstance that this statute improves the present set-up constitutes no excuse for approving a transgression of constitutional limitations, because the end does not justify the means. Furthermore, there is no reason to doubt that, aware of the existing inequality of representation, and impelled by its sense of duty, Congress will opportunely approve remedial legislation in accord with the precepts of the Constitution.

Needless to say, equality of representation^[3] in the legislature being such an essential feature of republican institutions, and affecting so many lives, the judiciary may not with a clear conscience stand by to give free hand to the discretion of the political departments of the Government. Cases are numerous wherein courts intervened upon proof of violation of the constitutional principle of equality of representation.

"An injunction to prevent the secretary of state from issuing notices of election under an unconstitutional apportionment act gerrymandering the state is not a usurpation of authority by the court, on the ground that the question is a political one, but the constitutionality of the act is purely a judicial question." (*State ex rel. Adams County vs. Cunningham*, 15 L. R. A. 561, 81 Wis. 440, 51 N. W. 724.)

"The fact that the action may have a political effect, and in that sense effect a political object, does not make the questions: involved in a suit to declare the unconstitutionality of an apportionment act political instead of judicial." (*State ex re. Lamb vs. Cunningham*, 17 L. R. A. 145, 83 Wis. 90, 53 N. W. 48.)

"An unconstitutional apportionment law may be declared void by the courts, notwithstanding the fact that such statute is an exercise of political power." (*Danny vs. State ex rel. Basler*, 31 L. R. A. 726, 144 Ind. 503, 42 N. E. 929.)

"The constitutionality of a statute forming a delegate district or apportioning delegates for the house of

delegates is a judicial question for the courts, although the statute is an exercise of political power." (Harmison vs. Ballot Comrs. 42 L. R. A. 591, 45 W. Va. 179, 31 S. B. 304.) (3 L. R. A. Digest p. 2737.)

Conclusion.—For all the foregoing, we hereby reiterate our resolution declaring that Republic Act 3040 infringed the provisions of the Constitution and is therefore void.

Padilla, Labrador, Concepcion, Reyes J. B. L., Barrera, Paredes, Dizon, De Leon, and Natividad, JJ., concur.

[1]"*** Provided, That in the case of Acts of the Philippine Commission or the Philippine Legislature when there is in existence a copy signed by the presiding officers and the secretaries of said bodies, it shall be conclusive proof of the provisions of such Act and of the due enactments thereof." (Italics ours.)

[2] To prevent fraud, trickery, deceit and subterfuge in the enactment of bills (59 Corpus Juris 54).

[3] "lies at the foundation of representative government" (18 Am. Jur. 192)

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