tion and honor would result from the words used, thus placing the situation within the area of criminal negligence.

In *People v. Doronila,*[114] the Court of Appeals held that words uttered in the heat of anger or when passions are running high, although they are clearly serious oral defamation under ordinary circumstances, constitute only slight oral defamation.

The reason for such a stand was thus clarified:

> . . . considering the fact that the defamation was committed in a political meeting on the eve of the election when everyone, especially those intensely interested in the result of the election, were excited, and when feelings were running high, when some people did not and could not think clearly and normally and did not weigh the effect of their utterances and had neither the time nor the mood for mature deliberation, the crime of the accused, is only slight defamation.

In Spanish jurisprudence, Cuello Calon has this to say:

> El elemento subjetivo esta integrado por el conocimiento de la inocencia del imputado, el culpable debe saber que el delito imputado no ha sido cometido por el defendido. Ademas debe concurrir voluntad conciente de realizar la falsa imputation. Surge aqui la cuestion de si en este delito debe concurrir un dolo especifico de perjudicar al calumniado; la jurisprudencia sentada es contradictoria, mientras un gran numero de fallos considera que en este delito como en el de injurias, debe concurrir el animo de perjudicar al calumniado, sin embargo, en algunos fallos se ha sentado la doctrina opuesta, que no es menester la concurrencia de un delito especial, bastando la mere voluntariedad.
>
> No hay voluntad delictuosa y por tanto no hay delito cuando la falsa imputacion se hace de buena fe o en el cumplimiento de un deber o en el ejercicio legitimo de un oficio o cargo.[115]

Damage to property. The offense is committed when the imprudence or negligence of one results only in damage to the property of another.[116]

[114] 40 O.G. 231 (1939).
[115] 2 CUELLO CALON 585.
[116] Art. 365 REVISED PENAL CODE.

REFERENCE DIGEST

CONSTITUTIONAL LAW: RIGHT TO BAIL. Recent events, among them the Montano and Castelo cases, have brought to the forefront the question respecting the right of the accused to bail in capital offenses.

Dr. Jose M. Aruego, a delegate to the Constitutional Convention reviews the law and jurisprudence on the subject in an article in the F.E.U. Law Quarterly.

The present provision of the Constitution in Article III was taken from two provisions of the Jones Law. The provision as there found reads: That all persons shall before conviction be bailable by sufficient sureties except for capital offenses.

During the Constitutional Convention, delegate Encarnacion attempted to strike out the phrase "except for capital offenses" with a view to granting the right to bail to all individuals before conviction but his amendment was defeated. Delegate Francisco, however, secured the approval of the amendment "when evidence of guilt is strong."

Under the Constitution, all persons shall before conviction be bailable by sufficient sureties. Excepted are those charged with capital offenses when evidence of guilt is strong. The application of the constitutional provision presents several problems, some of which are the following which Dr. Aruego treats of in his article:

(1) At what stage may one in custody for a capital offense be entitled to demand bail?

(2) Upon whom is the burden of proving that the evidence of guilt is strong?

(3) What is the extent and character of the evidence that must be presented before a court to show that the evidence of guilt is strong?

(4) If the evidence of guilt is strong, may the accused before conviction be bailed nevertheless?

(5) May one convicted before the lower court be bailed?

It was held by our Supreme Court in the case of *Teehankee v. Rovira,* 75 Phil. 634, that the provision of the Constitution on bail refers to all persons, not only to persons against whom a complaint or information has already been formally filed, although of course, only those who have been

either arrested, or detained, or otherwise deprived of their liberty will ever have occasion to seek the benefits of said provision.

In the case of *Marcos v. Judge of the CFI*, G.R. No. 46490, Jan. 24, 1939, the Supreme Court held that "when a person accused of a capital offense applied for bail before conviction, the burden of proof that he was not entitled thereto was on the prosecution." This doctrine has been affirmed in the Rules of Court.

What probative force the evidence must have in order to make the evidence of guilt "strong" within the intendment of the constitutional provision depends upon the circumstances of each case. It is a matter of judicial discretion. In order to exercise this discretion, it is necessary that the evidence of guilt be submitted to the court, with the petitioner having the right of cross-examination and of introducing his own evidence in rebuttal.

If the evidence of guilt is strong, the author cites American jurisprudence to sustain the opinion that the accused may still present facts which might move the court to admit to bail as a matter of discretion.

As regards the last problem, the Supreme Court dispelled all doubts by its ruling in the case of *People v. Sison*, promulgated September 19, 1946, to the effect that even after conviction, one accused of a capital offense may still be bailed in the discretion of the court. (Jose M. Aruego, *The Right to Bail in Capital Offenses*, 3 F.E.U.L.Q. No. 3, at 209-28 (1955). ₱1.50 at Inst. of Civ. Law, F.E.U., Quezon Blvd., Manila. This issue also contains: Mariano G. Pineda, *The Securities Act as Interpreted by the Securities and Exchange Commission*.)

SOCIAL SECURITY ACT. R.A. No. 1161 has been enacted into law on June 18, 1954, under the name of "The Social Security Act of 1954." This law declares it "to be the policy of the Republic of the Philippines to develop, establish graduallly and perfect social security system which shall be suitable to the needs of the people throughout the Philippines, and shall provide protection against the hazards of unemployment, disability, sickness, old age and death."

This is the first time that the Philippines has undertaken this kind of social security measure. With no experience at all on the matter, not even the necessary data or comprehensive statistics on which to base the rules and regulations which under the law should be issued by the Social Security Commission, in order to implement the law without loss of time, the government will have to undertake this great task in the true spirit of a pioneer blazing the trail towards a fixed goal: social security.

Social security is by itself a controversial and dynamic topic comprising as it does, many aspects: philosophical, theoretical and humanitarian, financial, administrative, social, economic, and political, statistic, actuarial, medical and legal. Every civilized country has its own social security program adjusted to the peculiar needs of its people in relation to the conditions obtaining in its business and industry.

The principal features of the Act are: (a) pension to the unemployed and their dependents; (b) pension to the sick wage-earner and their dependents; (c) pension to the disabled and their dependents; (d) pension to the aged; (e) life annuity and retirement benefits; and (f) death benefits.

To carry out the purposes of R.A. No. 1161, the law creates the Social Security Commission "to be composed of the Secretary of Labor, the Secretary of Health, the Social Welfare Administrator, the General Manager of the Government Service Insurance System, and three others appointed by the President with the consent of the Commission on Appointments." The incumbent "public members" are Teofilo Reyes, Sr., Rafael de la Peña, and Mariano G. Bustos, the author of this study.

The main powers of the Commission are:

(a) To select one or more experimental areas wherein any, some or all of the aspects of social security may be initially tried, taking into account:
(1) nature and number of establishments
(2) type of industries
(3) number of employed to be covered
(4) amount and rate of return to investment, and
(5) such other factors as the Commission may find relevant to the choice of the most suitable area for the initiation of the System.

Should the Commission find it impracticable or unduly discriminatory to apply the system to a particular area, it may determine its application on the basis of the size of establishments and the economic conditions of employers.

(b) To extend subsequently the experimentation to such other areas and industries as experience and the conditions obtaining therein may warrant.

(c) To adopt, amend, and rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this act.

Directed against a dependency problem, social insurance is generally compulsory — not voluntary — giving the individual for whom it is intended no choice as to membership. As a general rule, therefore, the Commission selects one or more experimental areas wherein any, some or all of the aspects of social security may be initially tried, or should the Commission find this impracticable or unduly discriminatory, it may determine its application on the basis of the size of the establishment and the economic conditions of the employees. After this "determination," coverage in the system shall be compulsory upon all employees between the ages of 18 and 60 years, inclusive, if they have been for at least six months in the service of an em-

ployer who is a member of the System. However, the Commission may not compel any employer to become a member of the System unless he shall have been in operation for at least three years and has at the time of admission, two hundred employees. The act also provides for exemptions to be extended by the Commission.

Although the act is primarily intended for the protection of industrial laborers whose respective employers have no less than two hundred workers, other employees, even those working in the government, may also be covered under certain prescribed conditions.

The author makes the following conclusions after a study of the act:

(a) The government will find it difficult, if not impossible, to implement in its first and primary stage of experimenting in what is called a pilot plant or in an experimental area or areas.

(b) The scope of the System is too limited in the sense that it covers only establishments having no less than 200 employees.

(c) The government appears to be satisfied with administration of the funds coming from the employers and employees but does not give any other tangible help in order to increase the assistance extended to the employees, and

(d) There is a need for an immediate coordination of all the activities and services created by law and administered by the government.

He makes the following recommendations:

(a) That section 4 of R.A. No. 1161 be amended in the sense that instead of selecting one or more experimental areas wherein any, some or all of the aspects of social security may be initially tried, the system be made applicable immediately to our country on a national scale, beginning with the biggest establishments downwards, in order to avoid possible acts or discrimination on the part of the government and/or acts of evasion on the part of the employers.

(b) That section 9 of R.A. No. 1161 be also amended in the sense that instead of applying compulsory coverage to employers having 200 employees, the number be reduced to a minimum of 20, in order to give more security to a greater number of people and also to avoid possible acts of discrimination on the part of the government. It should be remembered that in the United States and in many South American and European nations, the system covers every employer having a minimum of 8 employees. In New Zealand, an employer having a single — only one — employee is automatically covered.

(c) The government should coordinate all its activities and services tending to give security to the employees and laborers.

(d) The government should give material aid or a subsidy to the Social Security System to help, firstly the aged and, secondly, the unemployed. In the United States, in Europe, in New Zealand, in Australia and in Japan, this is done. The funds are obtained by taxation, generally 2% on gross yearly income of over ₱3,000.00.

(e) A Social Security Studies Committee should be appointed immediately to undertake the task of studying social security legislation the world over and formulate the best that could be obtained therefrom applicable to local conditions. Special attention should be given to the feasibility of applying the Beveridge Plan, or the Townsend Plan, or a combination of both plans, in the Philippines. (Mariano G. Bustos, *The Law on Social Security in the Philippines*, 5 U.M.L. GAZ. No. 2 at 98-125 (1955). University of Manila, College of Law, Alejandro Sexto, Sampaloc, Manila. This issue also contains *Conflict of Jurisdiction in Joinder of Causes of Action.*)

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