

IN RE INVESTIGATION OF ANGEL J. PARAZO FOR ALLEGED LEAKAGE OF QUESTIONS IN SOME OBJECTS IN THE 1948 BAR EXAMINATIONS.

. December 03, 1948

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The present case had its origin in a story or news item prepared and written by the defendant, Angel J. Parazo, a duly accredited reporter of the Star Reporter, a local daily of general circulation, that appeared on the front page of the issue of September 14, 1948. The story was preceded by the headline in large letters— "CLAIM 'LEAK' IN LAST BAR TESTS", followed by another in slightly smaller letters — "Applicants In Uproar, Want Anomaly Probed; One School Favored", under the name — "By Angel J. Parazo of the Star Reporter Staff". For purposes of reference we quote the news item in full:

"Leakage in some subjects in the recent bar examinations were denounced by some of the law graduates who took part in the tests, to the Star Reporter this morning.

"These examinees claim, to have seen mimeographed copies of the questions in one subject, days before the tests were given, in the Philippine Normal School.

"Only students of one private university in Sampaloc had those mimeographed questions on said subject fully one week before the tests.

"The students who made the denunciation to the Star Reporter claim that the tests actually given were similar in every respect to those they had seen students of this private university holding proudly around the city.

"The students who claim to have seen the tests which leaked are demanding that the supreme court institute an immediate probe into the matter, to find out the source of the leakage, and annul the test papers of the students of the particular university possessed of those tests before the examinations.

The discovery of the alleged leakage in the tests of the bar examinations came close on the heels of the revelations in the Philippine Collegian, official organ. of the student body of the University of the Philippines, on recent government tests wherein the questions had come into the possession of nearly all the graduates of some private technical schools.

To the publication, evidently, the attention of the Supreme Court must have been called, and Mr. Justice Padilla, who had previously been designated Chairman of the Committee of Bar Examiners for this year, by authority of the Court, instructed Mr. Jose de la Cruz as Commissioner with the assistance of Mr. E. Soriano, Clerk of Court to cite Mr. Parazo for questioning and investigation. In this connection, and for purposes of allowing the interest of the Supreme Court in the news item and its implications, it may here be stated that this Court is and for many years has 'been, in charge of the Bar examinations held every year, including that of this year, held in August, 1948. Sec. 13, Art. VIII of the Constitution of the Philippines authorizes this Court to promulgate rules

concerning admission to the practice of law, and pursuant to that authority, Rule 127 of the Rules of Court was promulgated, under which rule, this Court conducts the Bar examinations yearly, appoints a committee of bar examiners to be presided by one of the Justices, to serve for one year, acts on the report of the Committee and finally, admits to the Bar and to the practice of law, the candidates and examinees who have passed the examinations.

The investigation of Mr. Parazo was conducted on September 18, 1948, on which occasion he testified under oath and, answering questions directed to him by Messrs. Cruz and Soriano admitted that he was the author of the news item; that he wrote up the story and had it published, in good faith and in a spirit of public service; and that he knew the persons who gave him the information which formed the basis of his publication but that he declined to reveal their names because the information was given to him in confidence and his informants did not wish to have their identities revealed. The investigators informed Parazo that this was a serious matter involving the confidence of the public in -the regularity and cleanliness of the Bar examinations and also in the Supreme Court which conducted said examinations, and repeatedly appealed to his civic spirit and sense of public service, pleading with and urging him to reveal the the names of his informants so that the Supreme Court may be in a position to start and conduct the necessary investigation in order to verify their charge and complaint and take action against the party or parties responsible for the alleged irregularity and anomaly, if found true, "but Parazo consistently refused to make the revelation.

In the meantime, the writer of this opinion who was appointed to the Supreme Court as associate Justice in the latter part of August, 1948, was designated to succeed Mr. Justice Padilla as Chairman of the Committee of Bar Examiners when the said Justice was appointed Secretary of Justice. The writer of this opinion was furnished a copy of the transcript of the investigation conducted on September 18, 1948, and he made a report thereof to the Court in banc, resulting in the issuance of the resolution of this court dated October 7, 1948, which reads as follows:

"In relation with the news item that appeared in the front page of the Star Reporter, issue of September 14, 1948, regarding alleged leakage in some bar examination questions, which examinations were held In August 1948, Mr. Jose de la Cruz, as Commissioner, and Mr. E. Soriano, as Clerk of Court, were authorized by Mr. Justice Sabino Padilla then chairman of the committee of bar examiners to conduct an investigation thereof, particularly to receive the testimony of Mr. Angel J. Parazo, the reporter responsible for and author of said news item. An investigation was conducted on September 18, 1948; stenographic notes were taken of the testimony of Mr. Parazo, and Mr. Justice Llarceliano R. Montemayor, the new chairman of the committee of bar examiners, has submitted the transcript of said notes for the consideration of this Court.

"From the record of said investigation, it is clear that Mr. Parazo has deliberately and consistently declined and refused to reveal the identity of the persons supposed to have given him the data and information on which his news item was based, despite the repeated appeals made to his civic spirit, and for his cooperation, in order to enable this Court to conduct a thorough investigation of the alleged bar examination anomaly. Resolved, to authorize Mr. Justice Montemayor to cite Mr. Parazo before him, explain to him that the interests of the State demand and so this Court requires that he reveal the source or sources of his information and of his news item, and to warn, him that his refusal to make the revelation demanded will be regarded as contempt of Court and penalized accordingly. Mr. Justice Montemayor will advise the Court"of the result.

Acting upon this resolution, the writer of this opinion cited Mr. Parazo to appear before him on October 13, 1948. He appeared on the date set and it was clearly explained to him that the interest of the state demands and this court requires that he reveal the source or sources of his information and of his news item; that this was a very serious matter involving the confidence of the people in general and the law practitioners and bar examinees in particular, in the regularity and cleanliness of the bar examinations; that it also involves the good name and reputation of the

bar examiners who were appointed by this Court to prepare the bar examinations questions and later pass upon and correct the examination papers; and last but not least, it also involves and is bound to affect the confidence of the whole country in the very Supreme Court which is conducting the bar examinations. It was further explained to him that the Supreme Court is keenly interested in investigating the alleged anomaly and leakage of the examinations questions and is determined to punish the party or parties responsible therefor but that without his help, specially the identities of the persons who furnished him the information and who could give the court the necessary data and evidence, the Court could not even begin the investigation because there would be no basis from which to start, not even a clue from which to formulate a theory. Lastly, Parazo was told that under the law he could be punished if he refused to make the revelation, punishment which may even involve imprisonment.

Because of the seriousness of the matter, Parazo was advised to think it over and consider the consequences, and if he need time within which to do this and so that he might even consult the editor and publisher of his paper, the Star Reporter, he could be given an extension of time, and at his request, the investigation was postponed to October 15, 1948. On that date he appeared, accompanied by his counsel, Atty. Felixberto M. Serrano. The writer of this opinion in the presence of his counsel, several newspapermen, Clerk of Court Soriano, Deputy Clerk of Court Cruz, and Mr. Chanliongco made a formal demand on Mr. Parazo to reveal the identities of his informants, under oath, but he declined and refused to make the revelation. At the request of his counsel, that before this Court take action upon his refusal to reveal, he be accorded a hearing, with the consent of the Court first obtained, a public hearing was held on the same day, October 15, 1948 in the course of which, Atty. Serrano extensively and ably argued the case of his client, invoking the benefits of Republic Act No. 53, the first section of which reads as follows;

"Section 1. The publisher, editor or duly accredited reporter of any newspaper, magazine or periodical of general circulation cannot be compelled to reveal the source of any news-report or information appearing in said publication which was related in confidence to such publisher, editor or reporter, unless the court or a House or committee of Congress finds that such revelation is demanded by the interest of the state."

This Court has given this case prolonged, careful and mature consideration, involving as it does interesting and important points of law as well as questions of national importance. Counsel contends that the phrase "interest of the state" found at the end of section 1 of Republic Act No. 53 means and refers only to the security of the state, that is to say — that only when national security or public safety is involved, may this Court compel the defendant to reveal the source or sources of his news report or information. We confess that it was not easy to decide this legal question on which the conviction or acquittal of Parazo hinges. As a matter of fact, the vote of the justices is not unanimous.

In an effort to determine the intent of the Legislature that passed Republic Act No. 53 particularly, the Senate where it originated, we examined the record of the proceedings in said legislative body when this Act, then Senate Bill No. 6 was being discussed. We gathered from the said record that the original bill prepared by Senator Sotto provided that the immunity to be accorded a publisher, editor, or reporter of any newspaper was absolute and that under no circumstance could he be compelled to reveal the source of his information or news report. The committee, however, under the chairmanship of Senator Cuenco inserted an amendment or change, by adding to the end of Sec. 1 the clause "unless the court finds that such revelation is demanded by the public interest."

When the bill as amended was recommended for approval on second reading, Senator Sotto, the author of the original bill proposed an amendment by eliminating the clause added by the committee — "unless the court finds that such revelation is demanded by the public interest", claiming that said clause would kill the purpose of the bill. This amendment of Senator Sotto was discussed. Various Senators objected to the elimination of the clause already referred to on the ground that without such exception and by giving complete immunity to editors,

reporters, etc., many abuses may be committed. Senator Cuenco, Committee chairman, in advocating the disapproval of the Sotto amendment, and in defending the exception embodied in the amendment introduced by the Committee, consisting in the clause: "unless the court finds that such revelation is demanded by the public interest", said that the Committee could not accept the Sotto amendment because there may be cases, perhaps few, in which the interest of the public or the interest of the state require that the names of the informants be published or known. He gave as one example a case of a newspaperman publishing information referring to a theft of the plans of forts or fortifications. He argued that if the immunity accorded a newspaperman should be absolute, as sought by the Sotto amendment, the author of the theft might go scott-free. When the Sotto amendment was put to a vote, it was disapproved. Finally, Senator Sotto proposed another amendment by changing the phrase "public interest" at the end of section 1 as amended by the Committee be changed to and substituted by the phrase "interest of the state", claiming that the phrase public interest was too elastic. Without much discussion this last amendment was approved, and this phrase is now found in the Act as finally approved.

In view of the contention now advanced, that the phrase "interest of the state" is confined to cases involving the "security of the state" or "public safety", one might wonder or speculate on why the last amendment proposed by Senator Sotto, changing the phrase "public interest" to "interest of the state", was approved without much discussion. But we notice from the records of the deliberations on and discussion of the bill in the Senate that the phrase "public interest" was used interchangeably by some Senators with the phrase "interest of the state." was approved without much discussion. But we notice from the records of the deliberations on and discussion of the bill in the Senate that the phrase "public interest" was used interchangeably by some Senators with the phrase "interest of the state." For instance, although the bill, as amended by the Committee preceded by Senator Cuenco, used the words "public interest", when Senator Cuenco sponsored the bill before the Senate he used in his speech or remarks the phrase "interest of the state" (*interes del Estado*). Again, although the bill, as sponsored by the Cuenco Committee and discussed by the Senate, used the words "public interest", Senator Sebastian referred to the exception by using the phrase "interest of the state". This understanding of at least two of the Senators, who took part in the discussion, about the similarity or interchangeability of the two phrases "public interest" and "interest of the state" may account for the readiness or lack of objection on the part of the Senate, after it had rejected the first Sotto amendment, to accept the second Sotto amendment, changing the phrase "public interest" to "interest of the state".

In referring to a case wherein, the security of the state or public safety was involved, such as the theft of the plans of fortifications, Senator Cuenco was obviously giving it only as an example of what he meant by "interest of the state"; it was not meant to be the only case or example. We do not propose to define or fix the limits or scope of the phrase "interest of the state"; but we can say that the phrase "interest of the state" can not be confined and limited to the "security of the state" or to "public safety" alone. These synonymous phrases, — "security of the state" and "public safety", — are not uncommon terms and we can well presume that the legislators were familiar with them. The phrase "public safety", is used in Art. III, Sec. 1(5) of the Constitution of the Philippines, where it says that "the privacy of communications and correspondence shall be inviolable except upon lawful order of the court or when public safety and order require otherwise"; and Art. VII, Sec. 10 (2) of the same Constitution provides that the President may suspend the privileges of the writ of habeas corpus, in case of invasion, insurrection, etc., when the public safety requires it.

The phrase "national security" is used at the beginning of Book II of the Revised Penal Code, thus: Title I, — Crimes against National Security and the Law of Nations, Chapter I, — Crimes against National Security. Then, more recently, the phrase "national security" was used in section 2, and the phrase "public security" was equally used in section 19, of Commonwealth Act No. 682 creating the People's Court, promulgated on September 25, 1945. If as contended, the Philippine Congress, particularly the Philippine Senate, had meant to limit the

exception to the immunity of newspapermen. only to cases where the "security of the state", i.e., "national security" is involved, it could easily and readily have used such phrase or any one of similar phrases like "public safety". "national security", or "public security" of which it must have been familiar. Since it did not do so, there is valid reason to believe that that was not in the mind and intent of the legislators, and that, in using the phrase "interest of the state", it extended the scope and the limits of the exception when a newspaperman or reporter may be compelled to reveal the sources of his information.

The phrase "interest of the state" is quite broad and extensive. It is of course more general and broader than "security of the state". Although not as broad and comprehensive as "public interest" which may include most anything tho of minor importance, but affecting the public, such as for instance, the establishment and maintenance of barrio roads, electric light and ice plants, parks, markets, etc., the phrase "interest of the state" even under a conservative interpretation, may and does include cases and matters of national importance in which the whole state and nation, not only a branch, or instrumentality thereof such, as a province, city or town, or a part of the public, is interested or would be affected, such as the principal functions of Government like administration of justice, public school system, and such matters like social justice, scientific research, practice of law or of medicine, impeachment of high Government officials, treaties with other nations, integrity of the three coordinate branches of the Government, their relations to each other, and the discharge of their functions, etc.

We are satisfied that the present case easily comes under the phrase "interest of the state". Under constitutional provision, Art. VIII, Sec. 13, Constitution of the Philippines, the Supreme Court takes charge of the admission of members to the Philippine Bar. By its Rules of Court, it has prescribed the qualifications of the candidates to the Bar Examinations, and it has equally prescribed the subjects of the said Bar Examinations. Every year, the Supreme Court appoints the Bar examiners who prepare the questions, then correct the examination papers submitted by the examinees, and later make their report to the Supreme Court. Only those Bar Examination candidates who are found to have obtained a passing grade are admitted to the Bar and licensed to practice law. There are now thousands of members of the Philippine Bar, scattered all over the Philippines, practicing law or occupying important Government posts requiring membership in the Bar as a prerequisite, and every year, quite a number, sometimes several hundreds, are welded to the legal fold. The Supreme Court and the Philippine Bar have always tried to maintain a high standard for the legal profession, both in academic preparation and legal training, as well as in honesty and fair dealing. The Court and the licensed lawyers themselves are vitally interested in keeping this high standard; and one of the ways of achieving this end is to admit to the practice of this noble profession only those persons who are known to be honest, possess good moral character, and show proficiency in and knowledge of the law by the standard set by this Court by passing the Bar Examinations honestly and in the regular and usual manner. It is of public knowledge that perhaps by general inclination or the conditions obtaining in this country, or the great demand for the services of licensed lawyers, law as compared to other professions, is the most popular in these islands. The predominantly greater number of members of the Bar, schools and colleges of law as compared to those of other learned professions, attest to this fact. And one important thing to bear in mind is that the Judiciary, from the Supreme Court down to the justice of the Peace Courts, Provincial fiscalships and other prosecuting attorneys, and the legal departments of the Government, draw exclusively from the Bar to fill their positions. Consequently, any charge or insinuation of anomaly in the conduct of Bar Examinations, of necessity is imbued with wide and general interest and national importance.

If it is true that Bar Examination questions, for some reason or another, find their way out and get into the hands of Bar examinees before the examinations are actually given, and as a result thereof some examinees succeed in illegally and improperly obtaining passing grades and are later admitted to the Bar and to the practice of law, when otherwise they should not be, then the present members of the legal profession would have reason to resent and be alarmed; and if this is continued it would not be long before the legal profession will have fallen into

disrepute. The public would naturally lose confidence in the lawyers, specially in the new ones, because a person contemplating to go to court to seek redress or to defend himself before it would not know whether a particular lawyer to whom he is entrusting his case has legally passed the Bar Examinations because of sufficient and adequate preparation and training, and that he is honest, or whether he was one of those who had succeeded in getting hold of Bar Examination questions in advance, passed the Bar Examinations illegally, and then started his legal career with this act of dishonesty. Particularly, the Bar examinees who, by intense study and conscientious preparation, have honestly passed the Bar Examinations and are admitted to practice law, would be affected by this anomaly, because they would ever be under a cloud of suspicion, since from the point of view of the public, they might be among those who had made use of liar Examination questions obtained before hand. And, incidentally, the morale of the hundreds of students and graduates of the different law schools, studying law and later preparing for the bar examinations, would be affected, even disastrously, for in them may be born the idea that there is no need of much law study and preparation inasmuch as it is possible and not difficult to obtain copies of questions before the examinations and pass them and be admitted to the Bar.

The cloud of suspicion would, equally, hang over the Bar examiners themselves, eight eminent lawyers who in a spirit of public service and civic spirit, have consented to serve on the committee of examiners at the request and designation of this Court. They would be suspected, — one or two or more of them — that through negligence, or connivance, or downright corruption, they have made possible the release if they have not themselves actually released, before examination day, the questions they had prepared. The employees of the Supreme Court in charge of the Bar Examinations, specially those who copy or mimeograph the original copies furnished by the Bar examiners, would all be under suspicion. And, lastly, and more important still, the Supreme Court itself which has the overall supervision and control over the examinations, would share the suspicion, as a result of which the confidence of the people in this High Tribunal, which public confidence, the members of this Court like to think and believe, it still enjoys, might be affected and shaken. All these considerations of vital importance, in our opinion, can and will sufficiently cause the present case to fall and be included within the meaning of the phrase "interest of the state", involving as it does, not only the interests of students and graduates of the law schools and colleges, and of the entire legal profession of this country as well as the good name and reputation of the members of the Committee of Bar examiners, including the employees of the Supreme Court having charge of and connection with said examinations, but also the highest Tribunal of the land itself which represents one of the three coordinate and independent branches or departments of the Philippine Government.

In support of if not in addition to the power granted by section 1 of Republic Act No. 53 to this Court, we have the inherent power of Courts in general, specially of the Supreme Court as representative of the Judicial Department, to adopt proper and adequate measures to preserve their integrity, and render possible and facilitate the exercise of their functions, including, as in the present case, the investigation of charges of error, abuse or misconduct of their officials and subordinates, including lawyers, who are officers of the Court, (Province of Tarlac vs. Gale, 26 Phil. 350; 21 C.J.S. 41, 138) As we have previously stated, the revelation demanded of the respondent, of the identity of his informants is essential and necessary to the investigation of the charge contained in the publication already mentioned,

It will be noticed from Parazo's news item as quoted in the first part of this decision, that, his informants, law graduates and bar examinees, were denouncing the supposed anomaly, — consisting of the alleged leakage of the Bar Examination questions, — to the Supreme Court for due investigation. If those persons really meant and intended to make a bona fide and effective denunciation, with expectation of results, the right place to air their grievance was the Supreme Court itself, not a newspaper; and if they truly wanted an investigation, they should have come forward and furnished or stood ready to furnish the facts on which to base and from which to start an investigation, instead of concealing themselves behind the curtain of press immunity.

Examining the news item in question, it is therein claimed and assured that Bar Examination questions in at least one subject had been obtained and used by bar examinees coming from a certain university, one week before the examinations were actually held. Parazo in his statements and answers during the investigation said that examination questions in several subjects were involved in the anomaly. But no copy or copies of said examination questions were furnished us. No one is willing; to testify that he actually saw said alleged copies of examination questions; that they were actually and carefully compared with the legitimate examination questions given out on the day of the examination and found to be identical; no one is ready and willing to reveal the identity of the persons or bar examinees said to have been seen with the said Bar Examination questions, although they as well as the University where they came from, was known; and even the law subjects to which, the questions pertained are not disclosed; and, lastly, we are not allowed to know even the identity of respondent Parazo's informants who claim to have seen all these things.

In this connection it may be stated that in the last Bar examinations held in August, 1948, approximately nine hundred candidates took them, each candidate writing his answers in a book for each subject. There were eight subjects, each subject belonging to and corresponding to each one of the eight bar examiners. There were therefore eight sets of bar examination questions, and multiplying these eight sets of questions by nine hundred candidates, gives a total of seven thousand two hundred (7,200) examination papers involved, in the hands of eight different examiners. The examination books or papers bear no names or identifications of their writers or owners and said ownership and identification will not be known until the books or papers are all corrected and graded. Without definite assurance based on reliable witnesses under oath that the alleged anomaly had actually been committed, — evidence on the identity of the persons in possession of the alleged copies of questions prematurely released or illegally obtained and made use of the law subjects or subjects involved, the University from which said persons come, this Court does not feel capable of or warranted in taking any step, such as blindly and desperately revising each and every one of the 7,200 examination books with the fond but forlorn hope of finding any similarity or identity in the answers of any group of examinees and basing thereon any definite finding or conclusion. Apart from the enormity of the task and its hopelessness, this Court may not and cannot base its findings and conclusions, especially in any serious and delicate matter as is the present, on that kind of evidence. Under these circumstances, this Court, for lack of basis, data and information, is unable to conduct, nay, even start, an investigation; and, unless and until the respondent herein reveals the identities of his informants, and those informants and or others with facts and reliable evidence aid and cooperate with the Court in its endeavor to further examine and probe into the charges contained in the news item, said charges are considered and held to be without basis, proof or foundation.

When the Supreme Court decided to demand of the respondent herein that he reveal the names of his informants, it was not impelled or motivated by mere idle curiosity. It truly wanted information on which to start an investigation because it is vitally interested in keeping the Bar Examinations clean and above board and specially, not only to protect the members of the Bar and those aspiring for membership therein and the public dealing with the members thereof and the Bar Examiners who cooperate with and act as agents of this Court in preparing the Examination questions and correcting the examination papers, but also, as already stated, to keep the confidence of the people in this High Tribunal as regards the discharge of its function relative to the admission to the practice of law. These, it can only do by investigating any Bar Examination anomaly, fixing responsibility and punishing those found guilty, even annulling examinations already held, or else declaring the charges as not proven, if, as a result of the investigation, it is found that there is insufficiency or lack of evidence. In demanding from the respondent that he reveal the sources of his information, this Court did not intend to punish those informants or hold them liable. It merely wanted their help and cooperation. In this Court's endeavor to probe thoroughly the anomaly, or irregularity allegedly committed, it was its intention not only to adopt the necessary measures to

punish the guilty parties, if the charges are found to be true, but also even to annul the examinations themselves, in justice to the innocent parties who had taken but did not pass the examinations. We say this because in every examination, whether conducted by the Government or by a private institution, certain standards, are unconsciously adopted on which to base the passing grade. For instance, if, as a result of the correction of many or all of the examination, papers, it is found that only very few have passed it, the examiner might reasonably think that the questions he gave were unduly difficult or hard to understand, or too lone, as a result of which he may be more liberal and be more lenient and make allowances. On the other hand, if too many obtain a passing grade, the examiner may think that the examination questions were too easy and constitute an inadequate measure of the legal knowledge and training required to be a lawyer, and so he may raise his standard and become more strict in his correction of the papers and his appreciation of the answers. So, in a case where examinees, especially if many, succeed in getting hold of questions long before examination day, and study and prepare the answers to those questions, it may result that when the examiner finds that many of the examinees have easily and correctly answered the questions, he may think that said questions were too easy, raise the standard by "being strict in his correction of the papers, thereby giving a grade below passing to a number of examinees who otherwise would have validly passed the examinations.

In conclusion, we find that the interest of the state in the present case demands that the respondent Angel J, Parazo reveal the source or sources of his information which formed the basis of his news item or story in the September 14, 1948 issue of the Star Reporter, quoted at the beginning of this decision, and that, in refusing to make the revelation which this Court required of him, he committed contempt of Court. The respondent repeatedly stated during the investigation that he knew the names and identities of the persons who furnished him the information. In other words, he omitted and still refuses to do an act commanded by this Court which is yet in his power to perform. (Rule 64, Sec. 7, Rules of Court) Ordinarily, in such cases, he can and should be imprisoned indefinitely until he complied with the demand. However, considering that cases like the present are not common or frequent, in this jurisdiction, and that there is no reason and immediate necessity for imposing a heavy penalty, as may be done in other cases where it is advisable or necessary to mete out severe penalties to meet a situation of an alarming number of cases of a certain offense or a crime wave, and, considering further the youthful age of the respondent, the majority of the members of this Court arrest and confinement in jail for a period of one (1) month, unless, before the expiration of that period he makes to this Court the revelation demanded of him. So ordered.

Moran, C.J., Ozeate, Feria, Pablo, Bengzon, and Tuason, JJ., concur.

CONCURRING AND DISSENTING

PERFECTO, J.,

The facts in this case, as narrated in the decision penned "by Mr. Justice Montemayor, justify conclusively the finding of the majority that respondent is guilty of contempt for his stubborn refusal to obey an order of this Court.

Section 1 of Republic Act No. 53, invoked by respondent in his defense, does not protect him. It would protect him only if we could agree with his theory that the words "interest of the state" used in the law should be read to mean security of the state or public safety. But there is nothing in the whole text of Republic Act No. 53 and/or in the intention of those who drafted and enacted it, as can be gleaned in the Senate Journal, or in the grammatical, rhetorical, or philosophical meaning of the words in question, that can Justify the limiting or narrowing of the

scope of the ideas that they embrace within the small circle of public security or safety of the state.

The word "interest" in the phrase "interest of the state" represents a world of ideas and concepts within which the ideas of security or safety occupy a place, however privileged, insignificant in magnitude. There is no legal basis for us to reduce the purpose of the law, as conveyed by its very words, to a minimum that, if given effect, would virtually amend the law without the benefit of congressional enactment. Such would be violative of the Constitution.

In the tug of war between the theory of absolute privilege of the author of the original bill and the Senate committee that would limit the privilege up to the point where it runs in conflict with the wide area of public interest, the opposing sides arrived at a meeting ground in which the line of limitation was pushed up to the place where the privilege may be in conflict with the interest of the state. No one is authorized to push that line of limitation still farther to the fence surrounding the safety of the state. We have to stop at the line of limitation set by Congress. To hurdle it is to transgress the law.

No matter how much we may agree with the side maintaining the absolute privilege or reducing any limitation to an imaginable minimum, or how much we may sympathize with its failure in the Senate or in Congress, we are powerless to retrieve that side from its plight. We are not authorized to inject in the statute a law of our own creation, or make of a legislative failure a success, and thus defeat the legislative intent. There is no alternative for the losing legislative side except to bide for time and wait for a more receptive mood of Congress.

Contempt of court is an offense that should not be left unpunished, especially if it consists in the disobedience of a judicial order. The orders of a court demand obedience for their effectiveness. Administration of justice is impossible with unenforceable judicial orders. The effectiveness of judicial orders is the elan vital of the administration of justice. To disobey an order of court is a terrible thing because it means sowing the seeds of anarchy and chaos. The Supreme Court, if it can help it, will never allow such a thing to obtain.

Anyone may imagine a state or a human society smoothly functioning without an executive department or without a legislative department. As a matter of fact, in this Republic, Congress functions only one third of the year. During the remaining two thirds of the year the life of the nation does not suffer any impairment. It can even be said that during those two thirds of the year there is more normalcy than during the Congressional session when legislative reforms and the enactment of new laws cannot but produce some public uneasiness, sometimes, amounting to a real crisis in the way of life of the people. No one can imagine the possibility of an orderly human society without some effective system of administration of justice, functioning without long interruptions.

While we cannot overemphasize the importance of upholding judicial authority to its full measure and this Supreme Court will never take lightly any disobedience to or defiance, of its orders, and it should mete out to all affected parties the tremendous weight of its power and will punish, without fear or favor, the guilty parties, regardless of who they may be, in the present case we are constrained to disagree with the penalty imposed upon respondent.

Respondent is punished under Section 7 of Rule 64, the same section we have already declared invalid in our opinion in the Harden case, L-239. The provision of law applicable to respondent is contained in Section 6 of Rule 64, under which a person guilty of contempt may be fined in a sum not exceeding P1,000.00 or imprisoned for not more than six months, or both. Considering that there are mitigating circumstances that attenuate respondent's responsibility,— youthfulness, honest but wrong belief in the existence of a privilege, absence of substantial harm,— we should not impose upon respondent a stiffer penalty than that which we imposed in the case of Benito M. Sakdalan, L-278[1], the very one which, as can be gleaned from the Senate journal, prompted the enactment of Republic Act No. 53

We cannot agree with the proviso in the majority opinion leaving to respondent the discretion to reduce the imprisonment imposed by the simple process of making the revelation exacted from him. The penalty should be measured by the responsibility, and that measure cannot be left at the discretion of the guilty one. His future revelation will not diminish or in any way affect his responsibility for the offense he has already perpetrated. His past disobedience cannot be attenuated by a future action. The past cannot be remade. What has been done cannot be undone. These are verities no one can eloin.

We vote to impose upon respondent two days of imprisonment.

DISSENTING

PARAS, J.,

If, as insisted by the respondent, he wrote up and published in the newspaper Star Reporter the story (Claim "Leak" in Last Bar Tests) quoted in full in the decision of the majority, in good faith and in a spirit of public service, he voluntarily should have revealed the identities of his informants, thereby enabling this Court, conformably to the alleged demands of denouncing bar examinees, to "institute an immediate probe into the matter, to find out the source of the leakage, and annul the test papers of the students of the particular university possessed of those tests before the examinations." If he was in fact motivated by a spirit of public service, he should at least have tried to secure their consent to the revelation. The point I want to underscore is that newspaper reporters should be fearless as well in publishing stories as in substantiating their truth. And if I am constrained to dissent from the ruling of the majority, it is only because the respondent, in my opinion, cannot legally be compelled to make the revelation, in view of Republic Act No. 53 — which this Court is bound to enforce — providing that "the publisher, editor or duly accredited reporter of any newspaper, magazine or periodical of general circulation cannot be compelled to reveal the source of any news-report or information appearing in said publication which was related in confidence to such publisher, editor or reporter, unless the court or a House or committee of Congress finds that such revelation is demanded by the interest of the state." I have no hesitancy in believing that the phrase "interest of the State", as used in the Act, refers exclusively to matters affecting the security or safety of the state.

In this connection, it is necessary to remember that the original bill sponsored by Senator Sotto provided for absolute immunity. The committee on revision of laws, however, inserted an amendment by adding the clause "unless the court finds that such revelation is demanded by the public interest." Senator Sotto's attempt to suppress this clause failed, after which, in view of the remarks of the Chairman of the committee presently to be mentioned, Senator Sotto proposed to change the words "public interest" into "interest of the state", a proposal that was readily accepted. Hence, the use of the latter phrase in Republic Act No. 53.

Our task now is to discover the meaning and scope of the phrase "interest of the state", as intended by the lawmakers. In this task, it is important to recall that the original intention of the author of the bill was to provide for absolute immunity, and this purpose should not of course be unduly defeated by any subsequent exception, especially when the limited sphere of the change is apparent from the deliberations of the lawmakers. For instance, in explaining the reason of the committee for opposing Senator Sotto's advocacy of absolute immunity and of the suppression of the clause "-unless the court finds that such revelation is demanded by the public interest," added to the original bill, Senator Cuenco gave the example of a newspaperman who publishes an

informacion regarding theft of plans of forts and fortifications, in which case Senator Cuenco believed that "el interns publico y el interns misrao del Estado requieran que se publique el nombre del informante." Again, after proposing the change of "public interest" to "interest of the state," Senator Sotto, when asked by Senator Garcia as to the essential difference between the two phrases, explained that "La diferencia esta? (en que puede haber un caso de espionaje, como el citado por el Senador Cuenco, delito en que esta interesado el Estado y no se puede discutir al autor, y la frase 'public interest' es muy eldstica. En cambio, si se pone 'interest of the state', claranente se entenderfa que mediando el interns del estado, el periodista estard ohligado a revelar la fuente de su informacion." Last but not least, it should be noted that the Act in question was prompted by the desire of its sponsor to prevent the repetition of the case of Benito Sakdalan, a reporter who was imprisoned for refusing to reveal the source of the information contained in a news item admittedly not affecting, like the story published by the respondent, the security or safety of the State. It logically follows that the phrase "interest of the state" was intended to be limited to cases portrayed by the examples (theft of plans of forts and fortifications and espionage), given during the deliberations which solely affect the security or safety of the state.

It is immaterial whether the law did not employ phrases like "public safety," "national security," or "public security," or whether "public interest" and "interest of the state" were interchangeably used in the discussions, as long as in using the phrase "interest of the state" in Act No. 53, the lawmakers definitely knew and accordingly recorded, by specific examples, what they intended to convey. Conjectures cannot prevail over the clear legislative Intent.

The exception provided in the Act in question should be strictly construed so as not to frustrate the main purpose of the law;. This would further make the law more consonant with the spirit of the constitutional provisions that "the privacy of communication and correspondence shall be inviolable except upon lawful order of the Court or when public safety and order require otherwise" (Art. III, Sec. 1, par.5), and that no law shall be passed abridging the freedom of the press (Art. III, Sec. 1, par. 8).

It may not be amiss to add that the refusal of the respondent to disclose the source of his information does not absolutely prevent this Court from verifying, by any reasonable and feasible means, the truth of the alleged anomaly; and it is certainly not required, by the mere publication of the story in question, to admit the accuracy of said story if its investigation should fail because of lack of evidence or of the refusal of those who know to come out and testify.

In my opinion, the respondent has not committed any contempt of this Court.

DISIDENTE

BRIONES, M.,

Deploro no poder estar conforme con la deoision de la mayorla aobre este inoidente. Me preooupa oomo al qua mas el buen nombre, el prestigio, la respetabilidad de esta Corte Suprema baluarte inexpugnable de las libertades y fueros oiviles pero hay algo que me pre°cupa mas y es la substanoia misma de esas libertades y fueros. En realidad, en tanto la Corte Suprema orece y se agiganta en el ooncepto publico en cuanto ella se mantiene enhiesta en la oima de la cumbre donde le ooloca su categorfa y constituye la ultima esperanza del oiudadano ouando en su derredor todo pareoe crujir y requebrajarse.

El recurrido, Angel Parazo, es reportero del periodioo diario "The Star Reporter" que se edita en Manila. A raiz de los ultimos exfimenes de abogacfa, publico un artculo inforaativo en el que se decla que algunos examinandos hablan visto copias de algunos cuestionarioa antes de la celebracion de los exámenes y que dichas copias fueron

utilizadas por los examinandos procedentes de cierta universidad privada. El Magistrado encargado de los exámenes emplazó al recurrido para que explicase la noticia y diese los nombres de sus informantes a fin de poder investigarles minuciosamente y ver la manera de adoptar las medidas que fueran procedentes. El recurrido compareció, pero se negó en absoluto a revelar el origen de su información. De ahí el presente expediente por desacato.

In re Parazo.

La controversia gira en torno a la interpretación del art. 1 de la ley de la república No. 53, aprobada por el Congreso en su último período de sesiones. Dicho artículo se lee como sigue:

"El publicista, editor o reportero debidamente acreditado de cualquier periódico, revista o publicación periódica de circulación general, no puede ser compelido a revelar el origen de cualquier noticia o información que le haya sido transmitida en confianza y que haya aparecido en dicho periódico, revista o publicación, a menos que el tribunal o una cámara del Congreso o un comité del mismo halle y determine que el interés del Estado requiere que se haga tal revelación".

Podemos tomar conocimiento judicial de las motivaciones de esta ley como tema de historia contemporánea. Hace dos años un juez del Tribunal del Pueblo (People's Court) lanzó públicamente algunos ataques contra esta Corte. Un periodista, Benito Sakdalan, 36 hizo eco de dichos ataques publicando bajo su firma y responsabilidad un artículo informativo acerca del particular. A instancia de parte, un Magistrado de esta Corte mandó emplazar a Sakdalan para una investigación del incidente. Sakdalan compareció, pero cuando se le preguntó de quien había recibido su información, negándose en absoluto a hacer la revelación exigida. El Magistrado de referencia ordenó entonces que se le detuviera a Sakdalan en la escribanía de esta Corte por dos días, en castigo por lo que se oyeo un desacato.

El caso Sakdalan causó un revuelo tremendo en la prensa, despertando entre sus camaradas una general simpatía perfectamente explicable. Sakdalan se convirtió en héroe del día, por lo menos en las columnas de los periódicos. El tono predominante de los comentarios periodísticos era que Sakdalan estaba justificado en su negativa, que el sagrado de la conciencia del periodista debía ser respetado, y que la orden de detención constituía una violación de la libertad de la prensa. El revuelo repercutió en los círculos legislativos, culminando en la aprobación de la ley de la república No. 53 que nos ocupa.

Resulta importante y útil destacar este fondo histórico, pues por ello se explican ciertas características del proyecto de ley original presentado en el Senado. Una de las más salientes, por ejemplo, era lo absoluto del privilegio: no se proveía ninguna excepción, ninguna salvedad, no pudiéndose obligar al periodista a revelar el origen de su información bajo ninguna circunstancia. La medida tiene antecedentes bien conocidos en nuestra misma legislación. Primeramente en el antiguo Código de Procedimiento Civil, y ahora en el Reglamento de los Tribunales, figuran ciertas disposiciones que restringen la libertad para testificar o el derecho de examinar a ciertos testigos sobre determinadas materias. Verbigracia, en nuestra ley sobre pruebas y evidencias, regla 123, sección 26, se provee lo siguiente:

* * * * *

"(e) El abogado no puede, sin el consentimiento de su cliente, ser examinado respecto a una conversación que tuvo con este, o acerca de algún consejo que le diera como tal, ni tampoco el secretario, taquígrafo o empleado de un abogado, sin el consentimiento del cliente y del abogado, pueden ser examinados respecto a un hecho cuyo conocimiento nayan adquirido en el desempeño de sus deberes.

"(f) A ninguna persona debidamente autorizada para ejercer la medicina, la cirugía o la obstetricia, se le

obligara en alguna causa civil, a revelar, sin el consentimiento del paciente, cualquier informe que dioia persona haya adquirido al asistir al paciente con caracter profesional, que necesariamente hubo de adquirir para poder obrar con tal caracter, y que tienda a denigrar la dignidad del paciente.

"(g) El sacerdote no puede ser examinado sin el consentimiento de su penitente, respecto a la confesion que le haya hecho, en su caracter sacerdotal, y en el cumplimiento de los deberes que le impone la religion a que pertenece.

"(h) El funcionario publico no puede ser examinado mientras este en el ejercicio de su cargo, o despues, respecto a lo que se le hubiese comunicado en confianza oficial, cuando el tribunal determine que el mismo se perjudicara con la revelacion".

Es indudable que la medida coloca al periodista en la categoria de estas exenciones especialisimas, situandole al nivel del sacerdote, del abogado y del medico. El Senador Cuenco, ponente del proyecto de ley al ponerse a discusion, dijo en parte lo que sigue a modo de explicacion de sus elevados fines:

"El proyecto de ley que esta ahora bajo la consideracion de esta Camara tiene por objeto eximir al director, redactor o reporter de un periodico, de la obligacion de revelar el nombre de la persona de quien haya obtenido una informacion, a menos que el interes del Estado asi lo requiera. La legislacion que se trata de dictar no es del todo nueva. Nuestra ley procesal considera como privilegiada y digna de ser mantenida en secreto toda comunicacion recibida por el sacerdote, el abogado y el medico en el ejercicio de su ministerio o profesion. El proyecto no solo dignifica y eleva la profesion periodistica sino que da facilidades a los periodicos para obtener noticias. (El subrayado es nuestro.)

"El periodismo, mas que un medio para obtener bienes materiales, es un apostolado, un sacerdocio. El periodista no es un mercader, sino una persona llamada a cumplir una mision elevada, sublime, augusta. La hoja periodica es catedral. De ella irradian la luz que difunde la cultura, la instruccion, los principios eticos y morales, las reglas de una ciudadania honrada y patriotica", (Diario de sesiones del Senado, Julio 9, 1946.)

Elevar y ennoblecer la profesion del periodista y dar facilidades a los periodicos para obtener una informacion honrada, veridica, imparcial y constructiva— cometido esencial de una buena prensa, digna del apelativo de Cuarto poder del Estado— tal es el objeto fundamental de la medida, en frase definidora del Senador Cuenco, ponente de la misma y chairman del comite de revision de leyes del Senado. Es importante destacar esta motivacion legislativa, pues ello nos ayuda, al interpretar la ley, a determinar si el privilegio debe ser entendido rigidamente en contra o liberalmente en pro del periodista. Estimo que la indicada exposicion de motivos justifica, mas aun, requiere una interpretacion liberal.

Como queda dicho, en el proyecto de ley original presentado por el Senador Sotto el privilegio se establecia de una manera absoluta, incondicional? Sin embargo, el comite de revision de leyes del Senado al cual se habia enviado el bill, lo informo con una enmienda, anadiendo al final del art. 1 transcrito arriba las siguientes palabras: "unless the court finds that such revelation is demanded by the public interest".[*] Al discutirse, sin embargo, el proyecto en pleno Senado, Sotto formula una enmienda mediante la supresion de la salvedad insertada por el comite, tratando asi de restaurar la fraseologia original del proyecto. Cuenco, en su caracter de ponente y chairman del comite de revision de leyes, de opuso a la enmienda Sotto por supresion y siguió un debate bastante extenso. Sotto dijo enfaticamente que "esas palabras deben suprimirse porque matan el objeto del proyecto de ley. Si, como ha dicho el sesudo presidente del comite de revision de leyes, el pretende colocar al periodista en el mismo nivel del sacerdote, tengamos en cuenta que en el caso de este no hay esa excepcion".

Cuenco, cerrando el debate, hizo las siguientes manifestaciones en contra de la enmienda Sotto:

"EL SEN, CUENCO. Señor Presidentes, como ya he manifestado el Comité siente no poder aceptar la enmienda, porque puede haber casos, quizá muy contados, en que el mismo publico y el mismo del

Estado requieran que se publique el nombre del informante. Supongamos que un periodista publicara una informac[i]n referente al hurto o sustracci[i]n de uno o m[as] planos de fortalezas o de un sitio importante de defensa. Si la inmunidad que se otorga al periodista fuese absoluta, como la que se propone en la enmienda, el autor de la sustracci[i]n podr[ia] quedar impune.

"Señor Presidente: he sido periodista por espacio de veinticinco años y me he convertido en abogado, antes que legislador, pero, por lo mismo que tengo un concepto elevado de la profesión no quisiera que se diese el caso de que una traición al Estado quedase impune: que nosotros llevásemos a extremos exagerados la protección que se da al periodista."

Puesta a votación la enmienda, fue rechazada, votando a favor 3 y en contra 7.

Sotto, sin embargo, no se dio por enteramente derrotado. Esforzándose por sacar adelante su proyecto de ley con la menor modificación posible para la libertad de la prensa, propuso otra enmienda en el sentido de sustituir las palabras "public interest" con "interest of the State", de tal suerte que la salvedad se leyera como sigue: "unless the court finds that such revelation is demanded by the interest of the State".[*] Ya no hubo debate sobre esta enmienda; el mismo día la aceptó, por boca de su chairman el Senador Cuenoo. : Puesta a votación, la misma se aprobó por unanimidad. Sin embargo, antes de la votación, el Senador Garcia preguntó "¿qué diferencia fundamental esencial habla entre las frases "public interest" e "interest of the State"? Sotto contesta que "la diferencia está en que puede haber un caso de espionaje como el citado por el Senador Cuenoo, delito en que está interesado el Estado y no se puede descubrir al autor", mientras que, por otro lado, la frase "public interest" es muy elástica". "En cambio continúa Sotto si se pone "interest of the State", claramente se entenderá que mediando el interés del Estado, el periodista estará obligado a revelar la fuente de su informac[i]n". (Diario de sesiones del Senado, supra.)

De lo expuesto resulta evidente que la sustitución de la frase "public interest" por la de "interest of the State" no fue simplemente casual e inimportante, sino que fue muy deliberada, hecha con el propósito de restringir el alcance de la salvedad. Se dijo que la frase "public interest" es muy elástica y el Senado, en pleno, aceptó este pronunciamiento. Así que se puso "interest of the State" para denotar que solo se podría obligar al periodista a descubrir, como testigo, la fuente de su información cuando el Estado estuviese vitalmente interesado en la materia; es decir, cuando estuviese envuelta la seguridad del Estado, de la Nación, conceptos que en este caso se confundirían. El ejemplo del espionaje citado por el Senador Cuenoo, abona esta interpretación. "Interés del Estado" tiene aquí un significado particularísimo, repelente de otros casos extraños a la seguridad nacional: ese significado no puede ser más que el interés del Estado en su propia vida, en su propia seguridad. No podía extender el alcance de la frase a otros casos en que el Estado pudiera estar más o menos interesado, porque si la intención del Congreso fuera esa, la frase "public interest" sería más que suficiente, pues la misma cubre y comprende todos los matices públicos desde la seguridad del Estado y de la Nación hasta el último asunto en que el público tuviera interés hasta cierto punto. Esta forma de interpretar es tanto más lógica, obligada, cuanto que los legisladores aceptaron y aprobaron unánimemente el pronunciamiento de que la frase "public interest" era muy elástica, eufemismo demasiado. Por tanto, hay que concluir que cuando adoptaron la frase sustitutiva "interest of the State", la adoptaron para limitar, para restringir la salvedad, reduciéndola solamente a algunos casos, muy contados, según expresión del Senador Cuenoo. ¿Qué casos son estos? Entiendo que deben ser congéneres, es decir, del mismo tipo que el caso de espionaje citado; es decir, casos que afecten vitalmente a la seguridad del Estado, de la Nación. Verbigracia: una conspiración para derrocar violentamente nuestra forma de gobierno y establecer en su lugar una dictadura comunista totalitaria al estilo soviético, sería uno de esos muy contados de que habla el Senador ponente. No cabe aplicar, extender la frase a casos de otra especie, de otro género, porque eso equivaldría a establecer un "standard", una norma de interpretación arbitraria, hasta caprichosa, como más

adelante voy a demostrar, apreoando que el interSs del Estado esta entraflado en algunos asuntos y matices de oaracter publico y excluyendolo, sin embargo, de otros, y en esto sin mas guta y nonaa que la opinion harto debatible del juez o tribu+

nal sentenoiador aobre lo que ea digno de ser oatalogado bajo la frase "interns del Estado" y sobre lo que no lo es.

Resulta evidente, de lo dicao, que no es exacto y oareoe de fundamento lo que en la decision de la mayorla ae afirma, a saber: que las frasea "public interest" o "interest of the State" se entendieron y usaron indlstintamente por los Senadores. Por el oontrario, el diario de seaiones del Senado demuestra de un modo inequivoco que los Senadbres sablan muy blen lo que haolan al oambiar una frase por otra y se daban perfeota ouenta de que el oambio no era simplemente gramatioal o lexioografioo, sino que entrafiaba una considerable diferencia en ouanto al significado y aloance de la salvedad o excepoitfn. Sabian muy bien que la frase "public interest" es muy elastica, al decir del Senador Sotto, y que desde luego tiene un maroo muoho mas amplio que la frase "interteat of the State". La presuncion es que los legisladores toman muy en serio la tarea de legislar y que cuando oambian una frase por otra lo hacen no por simple oapriolio, sino con verdadera deliberacion. La tarea legislativa no es un juego de niños. Pero ¿que mejor prueba de la diferenioia entre ambos conceptos que la misma admiafin de la mayorla en su. decision al decir que "interest of the State" is not as broad and comprehensive as "public interest" which may include most anything tho of minor Importance but affecting the public"[1] * * *?

La endoblez de la teorla de la mayorfa salta a la viata si se examinan sus Implicaciones y conseouencias. ¿Par que decide la mayoría que en el presents oaso se halla envuelto el interes del Estado y que, por tanto, el reourrido estfi obligado a revelar la fuente de su informacion y si no lo nace inourre en desacato, punibla oon prision? Por varias razones que se exponen en la decision, entre las ouales se destacan las siguientes: (a) Los ezfimenes de abogados estfin colocados bajo la alta supervision de esta Corte Suprema, cuyo prestlgio, buen nombre y respetabilidad es de supremo interns del Estado el oonserver y mantener; (b) Miles de abogados se nallan esparoidos por el pals ejerclendo su noble profesion, y oentenares si no miles se afiaden oada afio a esa vasta legion; asl que la Corte Suprema y esta enorme masa de letrados estAn vltalmente interesados en elevar el "standard" profesional, procurando que entren solo los idiones, moral e intelectualmente, y este interes oae tambien bajo la categoria de "interns del Estado"; (c) Aoaso por natural inclinacion, la abogaola es la profesion ma's popular en Filipinas; de ahl la abundanoia de oolegios y esouelas de ddreoho en donde estudian miles de jtfvenes de ambos sexos aspirando a ponerse la toga lde Marco Tulio; de ahi naturalmente tambien el interns ;4el Estado en que esa profesion tan popular no oaiga en [desore'dito, oosa que oourriria facilmente si los exdmenes de abogados no se efeetuasen propia y honradamente omo una prueba rlgida de la capaoidad y cardcter de los xaminandos, ciroulando previamente ouesti^ojiarios de oontrabando" tal como se ha denunciado en el artloulo informativo quanos ooupa; (d) Entre log abogados se esooge el personal para la judicatura y la administracion de justieia magistrados, jueces de primera instancia, fisoales, jueces de paz y letrados en las diferentes ofioinas y agendas del gobierno; de ahl que sea naturalmente tambien interns del Estado el conservar la integridad y buen nombre de una profesitfn que proporciona al gobierno y a la nacion tan valiosos servidores y elementos; (e) En la pureza de los ezamenes de abogados estd envuelto no sdlo el buen nombre de la Corte Suprema oomo queda dioho, sino tambien el buen nombre de la junta examinadora y de los empleados de la Corte que intervienen y vigilan dichos exámenes; asl que todo oargo de venalidad y corrupcion tiene que afectar a dioho buen nombre y proyeotar una sombra de sospecha sobre el mismo; de ahl que sea intare's del Bstado el que se investiguen implaoablemente los cargos para depurar los lieohos y hallar la verdad castigando a los culpables si los nay, y purificando de tal manera los ezamenes, pero si, por otro lado, los cargos resultaren falsos, reivindicando el buen nombre de los afectados; (f) En resumen, de lo dioho se sigue que los exámenes de abogados tienen importancia nacional y, por tanto, oualesquier oargos de venalidad, oorrupcion e irregularidad tienen tambien importanoia nacional y es interfis del Estado el que se investiguen hasta el limite mfiiimo de las posibilidades legales.

En ultimo analisis, se puede decir que la mayoría estima en el presente caso el "interés del Estado", primero, porque se trata de la profesión de abogado— profesión de noble y vasta significación social, jurídica y política— y, segundo, porque tratándose de actuaciones referentes a los exámenes de abogados cuya supervisión corresponde a esta Corte Suprema, el buen nombre, el prestigio y la respetabilidad de este alto tribunal están necesariamente afectados. Veamos ahora si la tesis puede resistir a un examen riguroso, objetivo.

No soy yo quien discute o ponga en tela de juicio la prestantia, el elevado rango de la profesión de abogado a la cual me honro en pertenecer. Pero ¿qué hay de las otras profesiones? ¿Son ellas menos dignas de merecer el apremio interno del Estado? Durante las deliberaciones sobre el presente asunto tuve ocasión de formular estas preguntas y otras semejantes. Recuerdo que involuntariamente cite casos específicos preguntando, por ejemplo, si en los exámenes de médicos, farmacéuticos, ingenieros, dentistas y nurses, no podrían también considerarse envuelto el interés del Estado si al igual que en este asunto se formularan graves cargos de irregularidad, corrupción y venalidad. Respecto al caso de los médicos no obtuve una contestación categórica, definitiva; pero con relación a las otras profesiones, la respuesta fue decididamente negativa; respecto a ellas, no habría involucrar el interés del Estado su rango, su significación social no justificarían tal invocación. Ahora veo que en la decisión de la mayoría el ejercicio de la medicina se incluye entre los "casos y materias de importancia nacional, en los cuales el Estado o la nación entera, y no solo un ramo o instrumento del mismo como una provincia, una ciudad o un pueblo, o una parte del público, está interesado o podría quedar afectado". A lo que, a juicio de la mayoría, el ejercicio de la medicina es al parecer de índole tan nacional y tan importante como el ejercicio de la abogacía para los efectos del concepto "interés del Estado"; al paso que las otras profesiones y vocaciones quedan definitivamente excluidas del coto privilegiado.

Los farmacéuticos, sin embargo, podrían naturalmente formular las siguientes preguntas: ¿Por qué se va a postergar nuestra honra y benemérita profesión? ¿no nos cuesta tanto tiempo y tanto esfuerzo, si no más, hacer la carrera que al abogado, verbi gratia? ¿no prestamos acaso a la sociedad, a la humanidad, un servicio tan útil, tan indispensable y tan importante como el de cualquier otro profesional? ¿no somos quienes preparamos inintermitentemente las drogas y medicamentos que prescribe y receta el médico? ¿no está en nuestras manos la salud, la vida, e incluso la muerte de los ciudadanos, de los hombres? ¿por qué, pues, se va a aventurar que el interés del Estado no está involucrado en nuestra profesión?

Por su parte, los ingenieros de todas clases—civiles, industriales, químicos, mecánicos, navales, mineros, etc.—podrían hacer estas embarazosas preguntas: "¿Por qué todos los mimos y variaciones van a ser para los abogados? Nada más que porque la mayor parte del tiempo nos ponemos la blusa del obrero y estamos casi siempre sucios—la suciedad inherente al sudor y mugre del trabajo? ¿cómo construimos acaso los caminos, los puentes, los sistemas de aguas, los sistemas de ferrocarriles y enormes edificios particulares y públicos, las grandes fábricas, en una palabra, todo eso que constituye la maravilla de los presentes tiempos, traduciendo en realidad tangible lo que no parecía ser más que pura fantasía de la imaginación de los poetas? ¿no hemos acaso conquistado el secreto divino de los átomos, desencadenando, es verdad, las fuerzas ciegas de la destrucción sobre el mundo, pero también abriendo para el género humano vastos panoramas y perspectivas de progreso y bienestar casi ilimitado? Se dice que la abogacía es la carrera más popular y más codiciada en Filipinas, pero ¿no existe el peligro de que esta popularidad se gaste momentáneamente a expensas de la vitalidad de la nación? ¿no se oree acaso llegado el momento de que los caudillos y directores del pensamiento en este país emprendan una seria cruzada para orientar las aficiones y energías de nuestra juventud hacia carreras más prácticas y más constructivas no solo para ellos particularmente, sino sobre todo para la nación? ¿por qué se va a consagrar precisamente con una sentencia judicial nada menos que del más alto tribunal la supremacía de la profesión de abogado en este país, en desdoro de las otras profesiones, por qué?"

Y así, por el estilo, las otras profesiones podrán lealamar y pretender con Justicia que tienen tanta categoría como los abogados para que se considere aplicable a ellas el concepto jurídico "interés del Estado" de que habla la ley de la República No. 53 que nos ocupa. Y si esto fuese así, esto es, se estimase envuelto el "interés del Estado" en casi todas las materias, verbigracia, hasta en los exámenes de nurses, al punto de que interns del Estado equivaldría prácticamente a interns público ¿que" quedarla entonces del privilegio concedido por dicha ley a la prensa? ¡no sería más bien una letra muerta, como predijo el Senador Sotto al pedir la supresión de la salvedad o excepción?

Se dice, con cierto énfasis, que la profesión de abogado tiene una calidad excepcional, un rango privilegiado, porque de ella se escogen y nombran los magistrados, los jueces de primera instancia, los jueces de paz y los fiscales, en una palabra, el personal básico de la administración de justicia. Se ha insinuado inclusive que de esa profesión surgen regularmente los líderes políticos y sociales de las naciones y pueblos. Comencemos por esto último. ¿Tienen los abogados la exclusividad del liderazgo público y social del mundo? Esto lo diría un panegirista de la profesión un discurso de rín de ourso de un colegio de leyes, pero la historia nos dice que el liderazgo no ha sido nunca cuestión profesional, sino que el líder ha surgido como un precipitado individual o social independentemente de las profesiones y oficios. Ha habido y hay en el mundo muchos caudillos no abogados y, por cierto, los mejores no siempre han sido siempre los de esta clase. Es verdad que hubo un Lincoln— abogado— uno de los caudillos más sobresalientes antes que la democracia produjera en el mundo; pero también hubo un Washington—agrimensor— padre de la nación que produjo a Lincoln. Y el caso de Filipinas es todavía más típico como demostración de la tesis de que el caudillaje no es cuestión profesional. Como todo el mundo sabe, nuestros dos más grandes caudillos en el pasado no eran abogados: Rizal era médico; y Bonifacio, el llamado padre de la democracia filipina, no sólo no era profesional, sino que apenas era nada académicamente hablando era un simple bodeguero, un verdadero plebeyo. Sin embargo, esto no le impidió", mientras Traguaba el acero candente del Katipunan, empaparse en las gestas de la revolución francesa leyendo a Thiers en español. (¿Cuántos de nuestros abogados dirían no sea entre parentesis sobre todo de la época de Bonifacio, habrían leído, o siquiera visto el forro, de la Revolución Francesa de Thiers?)

Es verdad que el personal básico de la administración de justicia está compuesto de abogados, pero en la misma decisión de la mayoría se reconoce que la administración de justicia es sólo una de las principales funciones del gobierno y a renglón seguido se apunta el sistema de enseñanza pública (public school system) como otra rama de importancia nacional. Entonces cabe preguntar; ¿por qué no se va a considerar también envuelto el "interés del Estado" en los exámenes de maestros, sobre todo si son de servicio civil? No sólo los maestros constituyen la base de nuestro sistema de enseñanza pública, sino que incluso tienen más envergadura nacional porque se cuentan por miles, formando la clase más numerosa de nuestros servidores públicos. Sin embargo, en opinión de la mayoría los maestros no tienen suficiente calibre como los abogados para que se entienda aplicable a ellos la frase "interés del Estado" usada en la referida ley de la República No. 53. Este no es más que uno de los absurdos a que conduce la arbitrariedad de la norma adoptada por la mayoría en su decisión.

Analizaremos ahora el argumento de la mayoría. Se dice que el interés del Estado se halla envuelto en el presente caso porque de por medio anda el prestigio, el buen nombre de esta Corte Suprema en virtud de las facultades de alta supervisión que ejerce sobre los exámenes de abogados. El que escribe estas líneas no cede a nadie en su celo por mantener incólume el prestigio de esta Corte; pero, al propio tiempo, no puede cerrar los ojos a la realidad, a saber; que no somos más que uno de los tres poderes del Estado; que estos poderes son iguales y ninguno de ellos tiene más prestigio que otro. Los exámenes de abogados no tienen más importancia y envergadura nacional porque los supervisamos que, por ejemplo, los exámenes de ingenieros y fariseos, cuyas juntas examinadoras son nombradas por el poder ejecutivo y son responsables ante el mismo. El poder ejecutivo tiene tanto derecho como esta Corte para lar por su prestigio y buen nombre. Si, como al pareadmite la mayoría, el

interns del Estado no se extiende a los exámenes de ingenieros y farmaceuticos por er materia de suficiente monta nacional, luego tamdebe extenderse a los exámenes de abogados tan afilo que la Corte Suprema tiene intima relaclfin con 5stos Tirtud de sus facultades de supervision, pues, oomo 4a dicho, ningiln poder es mfs prestigio so que el otro—desde luego esta Corte no, puede pretender ser mas los otros poderes del Estado.

Puede aduoirse, por analogia, otro buen argumento sn favor de la tests de esta diaidencia. Una as las garantlas constituoionales es la invlolablidad del seoreto de la oomunioaoid'n y oorrespondenola, excepto ouando la seguridad publloa y el orden requieran otra oosa y meIdiante una orden legal del tribunal. (Constituoion de Filiplnas, art. III, sec. 5, bill de dereonoa.) Es verdad que la constitucion nabra de seguridad pilblica, mientras que la ley de la Repilblica No. 53 habla de interes del Estado, pero la letra aqui no es lo importante, sino la identidad del fondo, de la substanoia del privilegio.

Se ha inainuado que si se penaitiera al periodista ocultar la fuente de su informacion tratandose de asuntos pilblicos de reoonoolda seriedad, ello fomentarla la iny la cobardla entre los ciudadanos, sanoionando la byeotada anonimidad, aguello de "tirar la piedra esooniendo la mano". Si argumento tiene cierta ruerza, pero a de doble rilo. Si se admlte la falta o rlojedad del alor clvoo entre los ciudadanos ¿que de malo nay en que, ientras se fomite y rortalezca esa virtud oon la eduoion de las masas y los nabitos de una oiudadanla mili, se deje ' a la prensa oierta latltud y oierta liberBid para sacar el mejor partido posible de la anonimidad (formatlva en sus campaftaa contra la oorruptoion, los abusos y las anomaltas? Con esto se lograrla, por lo kos, que la prensa cumpllese y realizase su cometido s'aial oon oierta efioacia desoorriendo parte del velo, lejando que el Estado, oon sus agendas de investigaieon 1 crimen y de los chanonullos, naga el resto. Por ejemplo, en el presente casoj ipor que1 la Corte Suprema ,va a Insistir en aotuar como si fuese una agenoia policiaca? ¿por que va a tratar al periodista como si este fuese un detective, obligfindole a revelar todos sus datos, incluso los nombres de sus informantes? Nos quejamos de nuestra impotencia ante el silencio oontuma'z del racurrido: ipor que1 no entregar el oaso a la National Bureau of Investigation— la famosa NBI cuya eficiencia todos reconocen— y dejar que la misma sea quien se enbienda con el reourrido y maneje la informacifin de este con la tSenica y medios de que dispone para sus investigaciones?

En realidad, el periodista ya rinde un buen servicio cuando denuncia una anomalla si bien reservandose el nombre de su informante. ¿Por qug castigarle si insiste en conservar su secreto, excepto cuando medie la seguridad del Estado y de la Hacion, ilnica salvedad que esta blece la ley? Esta bien que no se le premie o aplauda por el bien que hace, pero icastigarle? Es el colmo!

Es que, se dira, el periodista puede obrar de mala fe denunciando unas anomalfas imaginarias y provooando loon ello un tremendo esoandalo con todos los daños y perjuicios que de ello pueden seguirse para el buen nombre la reputacion de las personas y de las instituioiones. Es verdad. No se puede negar que hay bribones en la prensa— esos que en otras ocasiones he llamado "tulisaneg de la pluma", peores a veces que los salteadores de caminos. Tampoco se puede negar que hay lo que se llama prensa amarilla, dedicada a cultivar el sensacionalismo malsano y morboso, Pero el remedio contra Ssto no eg la tley de la republioia No. 53 que nos ocupa: existen otros remedlos, unos en el cxS&igo penal; otros, en la misma de desacato; y otroa, en el desprecio, repulsa y hostilidad de la misma opinion ptlbllloa, ya ajie, despu\$s de todo, la prensa no puede viyir sino del favor ptTbllloo. Poco deapiaSs de la liberacion un periodista publico" tin artlculo virulento denunciando supueatas anomallas e irregularidades en relacion con loa examenea de abogados celebrados durante la ooupaoitfn japonesa. Se le emplazo para que probase aua oargos. No loa probó; era evldente a mala fe. Le oastigamos por deaacato y si no se le Lmpuso una pena mas severa fus" porque canto la palinodia retractandose. (Vease In re Francisoo Brillantes, por desacato.)

La ley de la republica No. 53 es una medlda liberal, progresiva, ooncebida y promulgada para capaoitar la prensa

a realizar su transcendental cometido del mejor modo posible. La prensa es una de las más preciosas conquistas y posesiones de nuestra civilización. Se puede prescindir de algunas cosas jamás de una prensa libre, veraz, eficiente. Sin este formidable implemento social, la democracia no se puede concebir. Por tanto, la ley debiera interpretarse libremente, hasta el máximo grado de liberalidad, compatible con la vida y seguridad del Estado.

El caso Sakdalan, que se originó en esta Corte, fue la causa ocasional que determine la aprobación de esa. Es, en verdad, una deplorable coincidencia que el caso Sakdalan se repita en esta misma Corte con el presente caso de Parazo, y en peores términos y circunstancias, pues mientras a Sakdalan se le tuvo arrestado por solamente dos días, a Parazo se le va a encarcelar ahora por un mes. Mucho me temo que esta decisión enturbie una ejecutoria tan preclara de liberalismo como la que abriga nuestra jurisprudencia en materias sobre libertad de imprenta.

Voto en favor de la exoneración del reo.

Respondent to be confined in jail for one month.

[*] "a menos que el tribunal encuentre que el interés público requiere que se haga tal revelación."

[*] "A menos que el tribunal encuentre que el interés del Estado requiere que se haga tal revelación."

[1] "el interés del Estado" no es tan amplio y comprensivo como "el interés público", el cual incluye casi todo aunque de menor importancia con tal que afecte al público * * * .

[1] Teehankee vs. Director of Prisons, 76 Phil., 630.

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