

IN RE VICENTE SOTTO, FOR CONTEMPT OF COURT.*. January 21, 1949*

Ponente: FERIA, J.

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FERIA, J.:

This is a proceeding for contempt of court against the respondent Atty. Vicente Sotto, who was required by this Court on December 7, 1948, to show cause why he should not be punished for contempt of court for having issued a written statement in connection with the decision of this Court in *In re Angel Parazo* for contempt of court, which statement, as published in the Manila Times and other daily newspapers of the locality, reads as follows:

"As author of the Press Freedom Law (Republic Act No. 53), interpreted by the Supreme Court in the case of Angel Parazo, reporter of a local daily, who now has to suffer 30 days imprisonment, for his refusal to divulge the source of a news published in his paper, I regret to say that our High Tribunal has not only erroneously interpreted said law, but that it is once more putting in evidence the incompetency or narrow mindedness of the majority of its members. In the wake of so many blunders and injustices deliberately committed during these last years, I believe that the only remedy to put an end to so much evil, is to change the members of the Supreme Court. To this effect, I announce that one of the first measures, which I will introduce in the coming congressional sessions, will have as its object the complete reorganization of the Supreme Court. As it is now constituted, the Supreme Court of today constituted a constant peril to liberty and democracy. It need be said loudly, very loudly, so that even the deaf may hear: the Supreme Court of today is a far cry from the impregnable bulwark of Justice of those memorable times of Cayetano Arellano, Victorino Mapa, Manuel Araullo and other learned jurists who were the honor and glory of the Philippine Judiciary."

Upon his request, the respondent was granted ten days more besides the five originally given him to file his answer, and although his answer was filed after the expiration of the period of time given him the said answer was admitted. This Court could have rendered a judgment for contempt after considering his answer, because he does not deny the authenticity of the statement as it has been published. But, in order to give the respondent ample opportunity to defend himself or justify the publication of such libelous statement, the case was set for hearing or oral argument on January 4, the hearing being later postponed to January 10, 1949. As the respondent did not appear at the date set for hearing, the case was submitted for decision.

In his answer, the respondent does not deny having published the above quoted threat and intimidation as well as false and calumnious charges against this Supreme Court. But he therein contends that under section 13, Article VIII of the Constitution, which confers upon this Supreme Court the power to promulgate rules concerning pleading, practice, and procedure, "this Court has no power to impose correctional penalties upon the citizens, and that the Supreme Court can only impose fines and imprisonment by virtue of a law, and a law has to be promulgated by Congress with the approval of the Chief Executive." And he also alleges in his answer that in the exercise of the freedom of speech guaranteed by the Constitution, the respondent made his statement in the press with the utmost good faith and with no intention of offending any of the majority of the honorable members of this high Tribunal, who, in his opinion, erroneously decided the Parazo case; but he has not attacked, nor intended to attack the honesty or integrity of any one. The other arguments set forth by the respondent in his defenses

deserve no consideration.

Rule 64 of the rules promulgated by this Court does not punish as for contempt of court an act which was not punishable as such under the law and the inherent powers of the Court to punish for contempt. The provisions of sections 1 and 3 of said Rule 64 are a mere reproduction of sections 231 and 232 of the old Code of Civil Procedure, Act No. 190, as amended, in connection with the doctrine laid down by this Court on the inherent power of the superior courts to punish for contempt in several cases, among them *In re Kelly*, 35 Phil., 944. That the power to punish for contempt is inherent in all courts of superior jurisdiction independently of any special expression of statute, is a doctrine or principle uniformly accepted and applied by the courts of last resort in the United States, which is applicable in this jurisdiction since our Constitution and courts of justice are patterned after those of that country. The doctrine or principle as expounded in American Jurisprudence is as follows:

"The power of inflicting punishment upon persons guilty of contempt of court may be regarded as an essential element of judicial authority. It is possessed as a part of the judicial authority granted to courts created by the Constitution of the United States or by the Constitutions of the several states. It is a power said to be inherent in all courts of general jurisdiction, whether they are State or Federal; such power exists in courts of general jurisdiction independently of any special or express grant of statute. In many instances the right of certain courts or tribunals to punish for contempt is expressly bestowed by statute, but such statutory authorization is unnecessary, so far as the courts of general jurisdiction are concerned, and in general adds nothing to their power, although so far as concerns the inferior courts statutory authority may be necessary to empower them to act." (Contempt, 12 Am. Jur., pp. 418, 419.)

In conformity with the principle enunciated in the above quotation from American Jurisprudence, this Court, in *In re Kelly*, held the following:

"The publication of a criticism of a party or of the court to a pending cause, respecting the same, has always been considered as misbehavior, tending to obstruct the administration of justice, and subjects such persons to contempt proceedings. Parties have a constitutional right to have their causes tried fairly in court, by an impartial tribunal, uninfluenced by publications or public clamor. Every citizen has a profound personal interest in the enforcement of the fundamental right to have justice administered by the courts, under the protection and forms of law, free from outside coercion or interference. Any publication, pending a suit, reflecting upon the court, the parties, the officers of the court, the counsel, etc., with reference to the suit, or tending to influence the decision of the controversy, is contempt of court and is punishable. The power to punish for contempt is inherent in all courts. The summary power to commit and punish for contempt tending to obstruct or degrade the administration of justice, as inherent in courts as essential to the execution of their powers and to the maintenance of their authority is a part of the law of the land." (*In re Kelly*, 35 Phil., 944, 945.)

Mere criticism or comment on the correctness or wrongness, soundness or unsoundness of the decision of the court in a pending case made in good faith may be tolerated; because if well founded it may enlighten the court and contribute to the correction of an error if committed; but if it is not well taken and obviously erroneous, it should, in no way, influence the court in reversing or modifying its decision. Had the respondent in the present case limited himself to a statement that our decision is wrong or that our construction of the intention of the law is not correct, because it is different from what he, as proponent of the original bill which became a law had intended, his criticism might in that case be tolerated, for it could not in any way influence the final disposition of the Parazo case by the court; inasmuch as it is of judicial notice that the bill presented by the respondent was amended by both houses of Congress, and the clause "unless the court finds that such revelation is demanded by the interest of the State" was added or inserted; and that, as the Act was passed by Congress and not by any particular member thereof, the intention of Congress and not that of the respondent must be the one to be determined by this Court in applying said Act.

But in the above-quoted written statement which he caused to be published in the press, the respondent does not merely criticize to comment on the decision of the Parazo case, which was then and still is pending reconsideration by this Court upon petition of Angel Parazo. He not Qidy intends to intimidate the members of this Court with the presentation of a bill in the next Congress, of which he is one of the members, reorganizing the Supreme Court and reducing the members of Justices from eleven to seven, so as to change the members of this Court which decided the Parazo case, who according to his statement, are incompetent and narrow minded, in order to influence the final decision of said case by this Court, and thus embarrass or obstruct the administration of justice. But the respondent also attacks the honesty and integrity of this Court for the apparent purpose of bringing the Justices of this Court into disrepute and degrading the administration of justice, for in his above-quoted statement he says:

"In the wake of so many blunders and injustices deliberately committed daring these last years, I believe that the only remedy to put an end to so much evil, is to change the members of the Supreme Court. To this effect, I announce that one of the first measures, which I will introduce in the coming congressional sessions, will have as its object the complete reorganization of the Supreme Court. As it is now the Supreme Court of today constitutes a constant peril to liberty and democracy."

To hurl the false charge that this Court has been for the last years committing deliberately "so many blunders and injustices," that is to say, that it has been deciding in favor of one party knowing that the law and justice is on the part of the adverse party and not on the one in whose favor the decision was rendered, in many cases decided during the last years, would tend necessarily to undermine the confidence of the people in the honesty and integrity of the members of this Court, and consequently to lower or degrade the administration of justice by this Court. The Supreme Court of the Philippines is, under the Constitution, the last bulwark to which the Filipino people may repair to obtain relief for their grievances or protection of their rights when these are trampled upon, and if the people lose their confidence in the honesty and integrity of the members of this Court and believe that they cannot expect justice therefrom, they might be driven to take the law into their own hands, and disorder and perhaps chaos might be the result. As a member of the bar and an officer of the courts Atty. Vicente Sotto, like any other, is in duty bound to uphold the dignity and authority of this Court, to which he owes fidelity according to the oath he has taken as such attorney, and not to promote distrust in the administration of justice. Respect to the courts guarantees the stability of other institutions, which without such guaranty would be resting on a very shaky foundation.

Respondent's assertion in his answer that "he made his statement in the press with the utmost good faith and without intention of offending any of the majority of the honorable members of this high Tribunal," if true may mitigate but not exempt him from liability for contempt of court; but it is belied by his acts and statements during the pendency of this proceeding. The respondent in his petition of December 11, alleges that Justice Gregorio Perfecto is the principal promoter of this proceeding for contempt, conveying thereby the idea that this Court acted in the case through the instigation of Mr. Justice Perfecto.

It is true that the constitutional guaranty of freedom of speech and the press must be protected to its fullest extent, but license or abuse of liberty of the press and of the citizen should not be confused with liberty in its true sense. As important as the maintenance of an unmuzzled press and the free exercise of the right of the citizen, is the maintenance of the independence of the judiciary. As Judge Holmes very appropriately said in *U. S. vs. Sullens* (1929), 36 Fed. (2nd), 230, 238, 239: "The administration of justice and the freedom of the press, though separate and distinct, are equally sacred, and neither should be violated by the other. The press and the courts have correlative rights and duties and should cooperate to uphold the principles of the Constitution and laws, from which the former receives its prerogative and the latter its jurisdiction. The right of legitimate publicity must be scrupulously recognized and care taken at all times to avoid impinging upon it. In a clear case where it is

necessary, in order to dispose of judicial business unhampered by publications which reasonably tend to impair the impartiality of verdicts, or otherwise obstruct the administration of justice, this court will not hesitate to exercise its undoubted power to punish for contempt. This Court must be permitted to proceed with the disposition of its business in an orderly manner free from outside interference obstructive of its constitutional functions. This right will be insisted upon as vital to an impartial court, and, as a last resort, as an individual exercises the right of self-defense, it will act to preserve its existence as an unprejudiced tribunal. * * *."

It is also well settled that an attorney as an officer of the court is under special obligation to be respectful in his conduct and communication to the courts, he may be removed from office or stricken from the roll of attorneys as being guilty of flagrant misconduct (17 L. R. A. [N S.], 586, 594).

In view of all the foregoing, we find the respondent T Atty. Vicente Sotto guilty of contempt of this Court virtue of the above-quoted publication, and he is hereby sentenced to pay, within the period of fifteen days from the promulgation of this judgment, a fine of P1,000 wit subsidiary imprisonment in case of insolvency.

The respondent is also hereby required to appear, within the same period, and show cause to this Court why if should not be disbarred from practicing as an attorney-at-law in any of the courts of this Republic, for said publication and the following statements made by him during the pendency of the case, against Angel Parazo for contempt of Court.

In his statement to the press as published in the Manila Times in its issue of December 9, 1948, the respondent said "The Supreme Court can send me to jail, but it cannot close my mouth;" and in his other statement published on December 10, 1948, in the same paper, he stated among others: "It is not the imprisonment that is degrading, but the cause of the imprisonment." In his Rizal day speech at the Abellana High School in Cebu, published on January 3, 1949, in the Manila Daily Bulletin, the respondent said that "there was more freedom of speech when American Justices sat in the Tribunal than now when it is composed of our countrymen;" reiterated that "even if it succeeds in placing him behind bars, the court can not close his mouth," and added: "I would consider imprisonment a precious heritage to leave for those who would follow me because the cause is noble and lofty." And the Manila Chronicle of January 5 published the statement of the respondent in Cebu to the effect that this Court "acted with malice" in citing him to appear before this Court on January 4 when "the members of this Court know that I came here on vacation." In all said statements the respondent misrepresents to the public the cause of the charge against him for contempt of court. He says that the cause is for criticizing the decision of this Court in said Parazo case in defense of the freedom of the press, when in truth and in fact he is charged with intending to interfere and influence the final disposition of said case through intimidation and false accusations against this Supreme Court. So ordered.

Moran, C. J., Paras, Pablo, Perfecto, Bengzon, Briones, Tuason, Montemayor, and Reyes, JJ., concur.

CONCURRING

PERFECTO, J.:

Respondent published in the Manila newspapers of Sunday, December 5, 1948, a written statement in relation with the decision rendered by this Court sentencing Angel Parazo to 30 days imprisonment for contempt.

On December 7, 1948, considering the statement as "intended not only to intimidate the members of this Court or influence the final disposition of said (Parazo) case, but also to degrade and vilify the administration of justice," this Court adopted a resolution ordering respondent to show cause within five days why he should not be punished

for contempt, "without prejudice to taking further action against him as attorney."

Alleging to be suffering from myelogenous leukemia, with moderately severe anemia, and that his physician had advised him to have "absolute rest and to avoid any form of mental and physical strain for a few weeks," respondent prayed for a 15-day extension to file his answer. He was granted a 10-day extension.

In the resolution of December 13, 1948, granting said extension, this Court branded as false respondent's allegations to the effect that he had formal charges pending in this Court against Mr. Justice Perfecto and that the latter is the "moving spirit" of these contempt proceedings.

Two days after the expiration of the 10-day extension granted to him, respondent filed his answer. The belated filing of said answer was overlooked by this Court in order not to deprive respondent of the benefits of his answer. Filed out of time, due to his unexplained fault, it could legally have been rejected.

In said answer, dated December 24, 1948, respondent repeated one of his allegations which, in the resolution of December 13, 1948, this Court had already declared to be false.

Respondent has not denied that he is the author of the statement for which he has been summoned to our bar for contempt and he has not denied the correctness of the text published in the Manila Chronicle and other daily newspapers and which is reproduced in the resolution of this Court, of December 7, 1948.

In his statement, respondent does not limit himself to saying that this Tribunal has erroneously interpreted Republic Act No. 53, but alleges that said erroneous interpretation "is once more putting in evidence the incompetency or narrow-mindedness of the majority of its members," coupled with this sweeping and calumnious accusation:

"In the wake of so many blunders and injustices deliberately committed during these last years, I believe that the only remedy to put an end to so much evil, is to change the members of the Supreme Court."

To fittingly crown this dastard imputation of deliberately committing blunders and injustices, respondent would bully the members of this Court, by making the following intimidating announcement:

"To this effect, announce that one of the first measures, which I will introduce in the coming congressional sessions, will have as its object the complete reorganization of the Supreme Court."

There are other rhetorical passages in respondent's statement, aimed to emphasize the nuclear ideas of the statement, to the effect that the majority of the members of the Supreme Court are incompetent and narrow-minded and guilty of "so many blunders and injustices deliberately committed" and that the author will introduce in the coming congressional sessions a measure "to change the members of the Supreme Court" and to effect a "complete reorganization of the Supreme Court."

Among such maximizing expressions intended to stress the main ideas and purposes of the statement are the following:

1. "As it is now constituted, the Supreme Court of today constitutes a constant peril to liberty and democracy."
2. "It need be said loudly, very loudly so that even the deaf may hear: The Supreme Court of today is a far cry from the impregnable bulwark of Justice of those memorable times of Cayetano Arellano, Victoriano Mapa, Manuel Araullo and other learned jurists who were the glory of the Philippine judiciary."
3. "The reporter, who is erroneously convicted of contempt and unjustly sentenced to 30 days imprisonment by the Supreme Court, should be immediately and spontaneously pardoned by the Executive Power, to serve as lesson in law to the majority of the members of that High Tribunal."

4. "That sentence is intolerable, and should be protested by all newspapers throughout the country, under the cry of 'The press demands better qualified justices for the Supreme Court.'"

There can be no question that respondent knowingly published false imputations against the members of this Court. He accused them of such depravity as to have committed "blunders and injustices deliberately." He has maliciously branded them to be incompetent, narrowminded, perpetrators of evil, "a constant peril to liberty and democracy," to be the opposite of those who were the honor and glory of the Philippine judiciary, to be needing a lesson in law, to be rendering an intolerable sentence, to be needing replacement by better qualified justices.

Respondent has not presented any evidence or offered any to support his slanderous imputations, and no single word can be found in his answer showing that he ever believed that the imputations are based on fact.

Respondent appears to belong to the class of individuals who have no compunction to resort to falsehood or falsehoods. The record of this case indicates that the practice of falsehoods seems to be habitual in respondent, and this is proved when he reiterated in his answer one of his allegations in a previous petition which were pronounced by this Court to be false in its resolution of December 3, 1948.

More than thirty years ago, using the words of respondent himself, in "those memorable times of Cayetano Arellano, Victorino Mapa, and Manuel Araullo and other learned jurists who were the glory of the Philippine judiciary" and when it was the "impregnable bulwark of Justice," the Supreme Court pronounced respondent guilty of falsehoods three times: first, in a case in which he was sentenced to 4 years and 2 months of prison correccional for criminally abducting Aquilina Vasquez, a girl less than 18 years of age, and to pay her a dowry of P500 and to support the offspring of his relations with her (U. S. vs. Sotto, 9 Phil., 231); second, in a sentence of disbarment as a blackmailer (In re Sotto, 38 Phil., 532); and third, in a prison sentence for false libel (U. S. vs. Sotto, 38 Phil., 666). The first and the last sentences bear the signature of Chief Justice Cayetano Arellano himself.

In the first case the Supreme Court found that on July 29, 1906, Vicente Sotto wrote a letter to Aquilina Vasquez, protesting his love for her and urging her to leave her house and go with him; on the afternoon of August 1, 1906, Sotto made an arrangement with Luis Crisologo for the renting of his house since that night when Sotto went with Aquilina into the room of the house, where she passed the night; Sotto had told Crisologo that he wanted the house for a forestry ranger who was just arriving from Bohol; Sotto did not leave the room until the middle of the night; Aquilina transferred to a house in Sambag where Sotto brought various housekeeping utensils; during the following days and nights Aquilina was visited by respondent.

On August 10, 1906, a complaint was filed against Vicente Sotto and Pio Datan, charging them with the crime of rauto. As a defense, respondent offered evidence to show that on August 5, 1906, a legal marriage was celebrated between Aquilina and the accused Pio Datan, Sotto's washerman and accomplice in crime. Upon the evidence, the Supreme Court pronounced the celebration of the alleged marriage to be false. The certificate of marriage offered as evidence in support of the claim that the marriage took place had been declared a forgery.

It is not necessary to give the details of the whole disgusting affair, wherein the revolting and sinister nature of an individual is pictured in bold relief with some of its ugliest features. The more than 4 years of imprisonment imposed upon the accused did not reform him. It only served to emphasize the beginning of a long career of falsehoods and slanders already spanning more than 40 years, soon nearing half of a century.

Respondent also chose not to deny his intimidating announcement to introduce in the coming sessions of Congress, among the first measures, one for the change of the members of the Supreme Court and for the latter's complete reorganization.

He has not explained or justified why he has to intimidate the members of the Supreme Court with change and reorganization, and why, to make the intimidation more dreadful, he had to announce the horrible course of subverting and trampling down the Constitution, as all who can read and understand the fundamental law know that it is beyond the powers of Congress to reorganize and change the membership of the Supreme Court.

Because the announcement is highly subversive, being aimed at shaking the very foundations of this Republic, it could have been no less terrible than for the respondent to have announced an intention to attain his purposes by resorting to open rebellion. The fact that respondent is a lawyer and a senator aggravates his flaunted purpose to assault the very Constitution he has sworn to obey and defend.

We have devoted considerable time to respondent's answer.

As first defense, respondent alleges that he made the written press statement, not as a lawyer or as a private citizen, but as a senator. He avers that a senator should have ample liberty to discuss public affairs and should not be annoyed with contempt proceedings.

No law or valid authority has been invoked in support of the theory, unless we could countenance a fictitious maxim that respondent is the sovereign. The theory lacks even the merit of novelty. Long before the claim of respondent that, because he is a senator, he is above the law, Mussolini, Hitler and all the tyrants and dictators who preceded them since the dawn of history had always claimed that they were above the law and acted as if they were really so. Unfortunately for respondent, senators are creatures of the Constitution and the Constitution makes them amenable to law.

As a second defense, respondent alleges that, not having appeared either as attorney or a witness in the Parazo case, he cannot be held either for direct or for indirect contempt.

The defense is based on a stark' ignorance of the law on the subject.

Respondent alleges, as third defense, that he made his statement with "utmost good faith" with "no intention of offending any of the majority of the honorable members of the High Tribunal," and that he has not attacked nor intended to attack the honesty or integrity of any one.

This allegation lacks sincerity in view of his imputation, among several others equally false and calumnious, that the majority members of the Supreme Court have committed "many blunders and injustices deliberately." The slanderous imputation can only be attributed to bad faith.

As another defense, respondent questions the validity of the penal provisions of Rule 64, implying that said penalties are not procedural in nature, and invoking the provisions of section 13 of Article VIII of the Constitution, limiting the rule-making power of the Supreme Court to matters of pleading, practice, and procedure in courts, and to the admission to the practice of law.

Respondent's contention can be easily disposed of by quoting the following provisions of Act No. 190:

"SEC. 231. What Contempts of Court may be Punished Summarily.—A Court of First Instance or a judge of such court at chambers, may punish summarily, by fine not exceeding two hundred pesos, or by imprisonment not exceeding ten days, or both, a person guilty of misbehavior in the presence of or so near the court or judge as to obstruct the administration of justice, including the refusal of a person present in court to be sworn as a witness or to answer as a witness when lawfully required.

"SEC. 232. What Other Acts are Contempts of Court.—A person guilty of any of the following acts may be punished as for contempt:

"1. Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or

injunction granted by a court or judge;

"2. Misbehavior of an officer of the court in the performance of of his official duties, or in his official transactions;

"3. A failure to obey a subpoena duly served;

"4. The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of the court held by him.

"5. The persons defeated in a civil action concerning the ownership or possession of real estate who, after being evicted by the sheriff from the realty under litigation in compliance with the judgment rendered, shall enter or attempt to enter upon the same for the purpose of executing acts of ownership or possession or who shall in any manner disturb possession by the person whom the sheriff placed in possession of said realty.

* * * * *

"SEC. 235. Trial of the Charge.—Upon, the day fixed for the trial, the court shall proceed to investigate the charge and shall hear any. answer or testimony which the accused may make or offer.

"SEC. 236. Punishment if Found Guilty.—The court shall then determine whether the accused is guilty of the contempt charged; and, if it be adjudged that he is guilty, he may be fined not exceeding one thousand pesos, or imprisoned not more than six months, or both. If the contempt consist in the violation of an injunction, the person guilty of such contempt may also be ordered to make complete restitution to the party injured by such violation."

Therefore, even on the false hypothesis that penalties for contempt are not procedural in nature, courts of justice may impose said penalties, if not under Rule 64, under the provisions of Act No. 190.

The power to punish for contempt is inherent in courts of justice. It springs from the very nature of their functions. Without such power, courts of justice would be unable to perform effectively their functions. They function by orders. Every decision is a command. The power to punish disobedience to command is essential to make the commands effective.

Respondent is in error in maintaining that the Supreme Court has no power to enact Rule 64. He is correct in calling it judicial legislation although he fails to remember that judicial legislation in matters of judicial practice and procedure is expressly authorized by section 13 of Article VIII of the Constitution.

As a last defense, respondent invokes the constitutional freedom of the press, which includes the right to criticize judges in court proceedings.

Respondent, undoubtedly, misses the point, and his citations about said freedom, with which we fully agree, have absolutely no bearing on the question involved In these proceedings.

No one, and the members of the Supreme Court would be the last to do so, has ever denied respondent the freedom of the press and his freedom to criticize our proceedings, this Court and its members. Respondent's statement goes much further than mere criticism of our decision and the majority members of this Court. The statement is an attempt to interfere with the administration of justice, to miscarry and defeat justice, by trammelling the freedom of action of the members of the Supreme Court, by bullying them with the menace of change, reorganization, and removal, upon the false accusation that they have been committing "blunders and injustices deliberately," and that menacing action constitutes a flagrant violation of the Constitution. Such a thing is not covered by the freedom of the press or by the freedom to criticize judges and court proceedings, as no one in his senses has ever conceived that such freedoms include any form of expressed gangsterism, whether oral or

written.

The freedom of the press is not involved in these proceedings. To assert otherwise is to mislead. What is at stake in these proceedings is the integrity of our system of administration of justice and the independence of the Supreme Court and its freedom from any outside interference intended to obstruct it or to unduly sway it one way or another.

The freedom of the press is one of the causes which we have always endeared. The repeated prosecutions and persecutions we have endured in the past for its sake—we have been hailed to court eight times,—are conclusive evidence of the firm stand we have taken as defender of such freedom. It can be seen from official records that every acquittal handed down to us by the Supreme Court had been a new step forward and a new triumph for the freedom of the press. (U. S. vs. Perfecto, 42 Phil., 113, Sept. 9, 1921; U. S. vs. Perfecto, 43 Phil., 58, March 4, 1922; U. S. vs. Perfecto, 43 Phil., 225, March 23, 1922; People vs. Perfecto, 43 Phil., 887, Oct. 4, 1922.) That stand has remained the same, as can be shown in our written opinion in another contempt proceedings in the Ben Brillantes case, which failed to attract public attention at the time.

Among the facts which we cannot ignore in deciding this case, are the following:

- That this is not the first time respondent has been brought to a court of justice, for a grave misbehavior and for perpetrating stark falsehoods. In a decision by the Supreme Court on September 6, 1918, respondent was removed from the office of attorney-at-law and incapacitated from exercising the legal profession. He was found guilty of:

(a) Lack of fidelity to clients;

(b) Blackmailing, by abusing his position as director of a newspaper whose columns he used to blacken the reputation of those who refused to yield to demands made by him in his business as lawyer;

(c) Publication of malicious and unjustifiable insinuations against the integrity of a judge who had fined him for the crime of libel;

(d) Giving false testimony or perjury. (38 Phil., 532.)

- On September 24, 1918, the Supreme Court sentenced respondent to imprisonment for libel, for besmirching the honesty of three private individuals, Lope K. Santos, Jose Turiano Santiago and Hermenegildo Cruz with false charges. (38 Phil., 666.)

- After having been cited for contempt in these proceedings, respondent, in order to pose as a martyr for the freedom of the press, waged a campaign of vituperation against the Supreme Court. He made repeated press statements and delivered speeches in his home province to show that he cannot expect justice from the Supreme Court, that the Supreme Court will imprison him, that he will be imprisoned for the sake of the freedom of the press, thereby posing as a false martyr for it.

- In his persecutory obsession, respondent would make all believe that, contrary to fact, the writer of this opinion is the moving spirit behind these contempt proceedings and that the Supreme Court is acting merely as a tool. Apparently, respondent was irked by his failure to sit even for a single moment in the Senate Electoral Tribunal, because of our objection. The publicity given to our objection has exposed the illegality of respondent's designation made by the Senate President as, under section 11 of Article VI of the Constitution, the power to choose Senators for the Electoral Tribunal belongs to the Senate, and not to its presiding officer. At the bar of public opinion, the Senate President and respondent appeared either to be ignorant of the Constitution or to be bent on flagrantly violating it.

- Respondent is the author of the bill which was enacted into Republic Act No. 53, but the purposes of his bill

were thwarted by an amendment introduced by the Senate, denying the privilege granted therein when in conflict with the interest of the State. Respondent's bill was for an absolute privilege. Because the majority decision of the Supreme Court has made his failure patent, respondent took occasion to give vent to his grudge against the Supreme Court, wherein, of the 15 cases he had since liberation, he lost all except three, as can be seen in the records of the following cases:

L-23, Filomena Domiit Cabiling vs. The Prison Officer of the Military Prison of Quezon City

LOST

L-212, Narcisa de la Fuente, et al. vs. Fernando Jugo, etc. et al.

WON

L-247, Monsig. Canilo Diel vs. Felix Martinez, etc. et al.

WON

L-301, In the matter of the petition of Carlos Palanca to be admitted a Citizen of the Philippines

LOST

(As amicus curiae)

L-307, Eufemia Evangelista et al. vs. Rafael Maninang

LOST

L-599, AmaHa Rodriguez vs. Pio E. Valencia et al.

LOST

L-1201, Vicente Sotto vs. Tribunal del Pueblo et al.

LOST

L-1287, Ong Sit vs. Edmttndo Piccio et al.

LOST

L-1365, Vitaliano Jurado vs. Marcelo Flores

LOST

L-1509, Tagakotta Sotto vs. Francisco Enage

LOST

L-1510, Bernarda Ybanez de Sabido et al. vs. Juan V. Borromeo et al.

LOST

L-1938, Vicente Sotto vs. Crisanto Aragon et al.

WON

L-1961, The People of the Philippines vs. Antonio de los Reyes

LOST

L-2041, Quirico Abeto vs. Sotero Rodas

LOST

L-2370, Voltaire Sotto vs. Rafael Dinglasan et al.

LOST

Upon the records of his previous cases in 1918, and of these proceedings, it is inevitable to conclude that we have before us the case of an individual who has lowered himself to unfathomable depths of moral depravity,—a despicable habitual liar, unscrupulous vilifier and slanderer, unrepented blackguard and blackmailer, shameful and shameless libeler, unmindful of the principles of decency as all hardened criminals. He is a disgrace to the human species. He is a shame to the Senate.

Aghast at the baseness of his character, we felt, at first blush, the impulse of acquitting him, as his contemptible conduct, culminating in the press statement in question, seemed compatible only with the complete irresponsibility of schizophrenics, idiots, or those suffering from dodder.

His repeated press releases in which he tried to focus public attention to the most harmless part of his statement, wherein he accuses the majority of the Supreme Court of incompetency or narrow-mindedness, have shown, however, that respondent is not completely devoid of personal responsibility, as he is aware that he has no possible defense for alleging that the members of the Supreme Court have committed "blunders and injustices deliberately," for which reason he has widely publicized his expectation that he will be sentenced in this case to imprisonment, a penalty that, by his repeated public utterances, he himself gives the impression that he is convinced he deserves.

Verily he deserves to be sentenced to six months imprisonment, the maximum allowed by Rule 64, and such penalty would not be heavy enough because of the attendance of several aggravating circumstances, namely, the falsehoods he resorted to in this case, his insolence after he was cited for contempt, the fact that he is a lawyer and a Senator, the fact that he has already been sentenced to imprisonment for falsely libeling three private individuals, the fact that more than 30 years ago he had been disbarred as a blackmailer, the fact that more than 40 years ago he was sentenced to be jailed for more than 4 years as an abductor. The majority of this Court has sentenced a young and humble newspaperman to 30 days imprisonment only for refusing to answer a question. The offense committed by respondent is much graver than a mere refusal to answer a question.

We concur, however, in the decision imposing upon respondent a fine of P1,000 with subsidiary imprisonment and ordering him to show cause why he should not be completely deprived of the privilege of practicing the profession of a lawyer. High reasons of humanity restrained us from sending respondent to prison, unless he should voluntarily choose to enter therein, instead of paying the fine. He is old and, according to his physician, suffering from myelogenous leukemia with moderately severe anemia, requiring absolute rest and avoidance of any form of mental and physical strain, and we do not wish to endanger respondent's life by sending him to prison, and thus causing him the mental and physical strains which his physician advised him to avoid. Although the continued existence of respondents is more harmful than beneficial to our Republic and to human society, we have to be consistent with our abidance by the injunction of the Sermon on the Mount: "Thou shalt not kill." (Matth., Chapter 5, paragraph 21.) Although their segregation from the society of decent men is advisable because of the dangers of corruptive contamination, even the lives of moral lepers have to be spared. After all, the heaviest punishment for an evil-doer is the inherent stigma of shame of his evil-doings.

Let it be clear that we are not punishing respondent because we want to curtail his freedom of the press, but because of his wanton interference in the independence of the Supreme Court his overt attempt to deprive us of our freedom of judgment in a pending case, his swashbuckling bravado to intimidate the members of this Court to sway their decision in favor of a litigant.

The freedom of the press is not in the least involved in these proceedings. The offensive statement has not been published by respondent as a newspaperman, editor or journalist. He does not appear to be a member of the staff of any one of the newspapers which published his statement. We did not even molest said newspapers. Their editors have not been cited for contempt. We did not interfere with their freedom to publish the scurrilous statement.

If respondent has not attempted by his browbeating to undermine and overthrow the very foundations of our judicial system and actually sought to defeat, and miscarry the administration of justice in a pending litigation, we would certainly have abstained from summoning him merely for criticizing, insulting and slandering the members of the Court. After all his reputation for lack of veracity, malice, and unscrupulosity is well-known in official records branding him with the indelible stigma of infamy.

His blatant posing, therefore, in this case as a martyr for the freedom of the press, as part of his systematic campaign of falsehoods and slanders directed against the Supreme Court, is an imposture that only ignorants, blockheads and other mental pachyderms can swallow.

It takes too much effrontery for such a character as respondent to pose as a martyr and no less than for the sake of a sacred cause, the freedom of the press, which no one has so much. dishonored with his blackmailing practices and by his long list of cases in the courts of justice, starting as far back as 1901. (Julia vs. Sotto, 2 Phil., 247; U. S. vs. Sotto, 9 Phil., 231; In re Sotto, 38 Phil., 532; U. S. vs. Sotto, 38 Phil., 666; U. S. vs. Sotto, R. G. No. 201; U. S. vs. Sotto, R. G. No. 11067; U. S. vs. Sotto, R. G. No. 14284; U. S. vs. Vicente Sotto, R. G. No. 16004; People vs. Sotto, R. G. No. 23643.)

Respondent belongs to that gang of unprincipled politicians headed by a Senate President who trampled down the popular will by the arbitrary and unconstitutional suspension of Senators Vera, Diokno and Romero (Vera vs. Avelino, 77 Phil., 192), who issued the false certification as to the voting of the congressional resolution regarding the infamous Parity Amendment, thus perpetrating falsification of public document (Mabanag vs. Lopez Vito, 78 Phil., 1), who muzzled the people by ordering, in usurpation of executive powers, mayors all over the country not to allow the holding of public meetings which the opposition had organized to denounce the frauds in the elections of November 11, 1947 (Cipriano C. Primicias, as General Campaign Manager of the Coalesced Minority Parties vs. Valeriano E. Fugoso, as Mayor of the City of Manila, 80 Phil., 71), who wantonly violated the Constitution by interfering with the management of the funds of the Senate Electoral Tribunal (Suanes vs. The Chief Accountant of the Senate, 81 Phil., 819), who, again in violation of the fundamental law, usurped the exclusive powers of the Senate when he designated respondent to sit in the Senate Electoral Tribunal, and who crowned his misdeeds by enunciating on Saturday, January 15, 1949, the most immoral political philosophy—that of open toleration of rackets, graft and corruption in public office.

According to Rizal, the victims immolated in the altar of great ideals, to be acceptable, have to be noble, spotless and pure. They should, therefore, be as noble and pure as Socrates, Christ, Joan of Arc, Lincoln, Bonifacio, Mabini, Gandhi and Rizal himself. Then and only then will martyrdom be hallowed and glorified because it is worthy of the effulgent grandeur of sacred ideals. "Hate never produces anything but monsters and crime criminals! Love alone realizes wonderful works, virtue alone can save! Redemption presupposes virtue, virtue sacrifice, and sacrifice love! Pure and spotless must the victim be that the sacrifice may be acceptable!" (El Filibusterismo.)

Respondent complains in his answer that he is not accorded fair dealing because the writer of this opinion has not abstained from taking part in this case. The complaint is absolutely groundless. It is based on two false premises, concocted by respondent to make it appear that he is a victim of persecution, and on a conclusion, also false,

because based on the two false premises.

Respondent alleges that there are pending in the Supreme Court certain charges he filed against the writer and that the undersigned is the "moving spirit" behind these proceedings. Both trump-up allegations are false, and the Supreme Court has declared it to be so in its resolution of December 13, 1948.

The records of the Supreme Court show that no such charges have been filed. Respondent ought to know, if he can read and understand the Constitution, that if he has any charge to file against a Justice of the Supreme Court to seek his ouster, he has to file it with the House of Representatives, the only agency authorized by the fundamental law to institute impeachment proceedings.

If the House of Representatives should institute it, the respondent will have the opportunity to sit in judgment as a senator as, under the Constitution, the Senate is the sole tribunal on cases of impeachment.

No Justice with full sense of responsibility should commit a dereliction of official duty by inhibiting himself in a case upon imaginary or fabricated grounds. The members of the Supreme Court are not such moral weaklings as to easily yield to dishonest appeals to a false sense of delicacy. A cowardly surrender to groundless challenges of unscrupulous parties is unbecoming to a judge, and much more to a Justice of the Highest Tribunal of the Republic.

It is true that, after respondent had failed to sit in the Senate Electoral Tribunal, because we objected to the designation issued to him by Senate President Avelino on constitutional grounds, he requested the Chief Justice to relieve us as one of the members of the Senate Electoral Tribunal, and respondent would make it appear that for his move we are prejudiced against him.

He is absolutely wrong. His request to the Chief Justice did not disturb us the least. The Constitution does not grant anyone the power to oust, replace, or dismiss any member of the Senate Electoral Tribunal, judicial or senatorial, during his term of office in the Tribunal. Although an illegal substitution has been made once in the case of Senators Sebastian and Cuenco, such precedent did not make constitutional what is unconstitutional, and the Chief Justice of the Supreme Court has made clear his stand to uphold the Constitution by stating it in black and white in the decision he penned in the Suanes case, L-2460. Respondent's failure was so obvious for us to mind his move.

After all, why should we waste time and energy by entertaining any kind of prejudice against respondent, when there are so many great minds, beautiful characters, and wonderful personalities that are demanding our attention and whose spiritual companionship makes life enjoyable?

If we had entertained any prejudice against respondent, we would have meted out to him the penalty of imprisonment which he well deserves, without minding the ill consequences, it may entail to his health and life and without heeding the promptings of our pity and sense of humanity. Fortunately, very many years have already elapsed since we acquired the state of mind with which we can judge things and persons with an open and free conscience, truly emancipated from the shackles of any prejudice. The hateful events during the Japanese occupation were the best mycelium for spawning and the choicest fertilizers for growing prejudices against Generals Yamashita and Homma, to the extent of justifying any measure or action that would spell their doom. Immediate members of our family and ourselves endured agonizing sufferings and some of our near relatives were liquidated under their regime. But when Yamashita and Homma came to this Supreme Court, seeking remedy against the absurdly iniquitous procedure followed by the military commissions which tried them, so iniquitous that it closed to the Japanese generals all chances of fair trial, no scintilla of prejudice precluded us from casting the lone vote intended to give them the remedy and justice they sought for, notwithstanding the fact

that Yamashita and Homma, appeared, in the general concept of our people, to be veritable monsters of cruelty and murder. Certainly, respondent would not pretend having given us, if ever, stronger grounds for prejudice than Yamashita and Homma, or that he is worse than both of them.

We are not to end this opinion without expressing our steadfast addiction to the following propositions:

- The independence of the judiciary from outside interference or obstruction is essential to the effectivity of its functions so that it can afford protection to fundamental rights, including the freedom of the press, against encroachments and illegal assaults.
- The freedom of the press includes the right to comment on pending judicial cases and the right to criticize the public and private life of all public officers, without any exception.
- The freedom of the press does not, however, safeguard any publication intended to bully courts and judges in order to sway their judgments on pending cases, and such interference and obstruction should be promptly and drastically checked for the sake of an effective administration of justice.
- Tribunal should be prompt in stopping the threatening and browbeating tactics of swaggering political ruffians and cutthroats bent on thwarting the scale of justice, as the opposing alternative to such a stern judicial attitude is surrendered to judicial anarchy.
- Courts of justice annealed to face and ever ready to deal vigorously with attempts to turn them into puppets of domineering would be dictators are essential in maintaining the reign of law and guaranteeing the existence of an orderly society.

This opinion has been written to modify and clarify our stand in concurring in the decision.

Respondent found guilty of contempt and fined.

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