

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GREGORIO PERFECTO AND MAXIMO MENDOZA, DEFENDANTS. GREGORIO PERFECTO, APPELLANT.*G. R. No. 17493. March 04, 1922*

Ponente: JOHNSON, J.

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It appears from the record that on the 11th day of October, 1920, one of the assistant prosecuting attorneys of the city of Manila presented a complaint in the Court of First Instance of said city, charging the defendants with the crime of sedition. The complaint alleges that the defendants violated section 8 of Act No. 292 as amended by section 1 of Act No. 1692. To the complaint the defendants demurred, contending (a) that the complaint was illegal and unconstitutional for the reason that it had been presented by a political entity without authority, and that the same had not been formulated in accordance with the essential requisites required by the law; (b) that the facts alleged in the complaint did not constitute a crime and that, even though they came under the provisions of Act No. 292 as reformed by Act No. 1692, said laws were null because they violated certain provisions of the organic law of the Philippine Islands; and (c) that as a result of the first two grounds of the demurrer, the Court of First Instance of the city of Manila was without jurisdiction of the person of the defendants nor over the facts alleged in the complaint.

In support of the demurrer a memorandum was presented, in which each of the grounds alleged in the demurrer was ably supported. In reply to the argument in support of the demurrer, the prosecuting attorney of the city of Manila replied in a very well prepared argument.

After a consideration of the demurrer the same was overruled and the defendants were required to plead to the complaint. Upon arraignment they each pleaded not guilty and were duly brought to trial. At the close of the trial the Honorable C. A. Imperial, judge, in a very carefully prepared opinion, reached the conclusion that the evidence was insufficient to show that the said Maximo Mendoza was guilty of the crime charged in the complaint, and absolved him from all liability thereunder, discharging him from the custody of the law, with one-half of the costs de oficio. Upon a consideration of the evidence the lower court found that Gregorio Perfecto was guilty of the crime charged in the complaint and sentenced him to pay a fine of P500 and, in case of insolvency, to suffer subsidiary imprisonment in accordance with the provisions of the law, and to pay one-half of the costs. From that sentence he appealed to this court and made several assignments of error in which questions, both of fact and law, are presented.

The questions of law presented by the appellant may be summarized as follows:

- (a) That the lower court committed an error in overruling the demurrer;
- (b) That the lower court committed an error in not declaring the complaint illegal and unconstitutional, in that it was entitled "The People of the Philippine Islands" instead of in the name of the " United States of America;"

- (c) In not declaring illegal, unconstitutional, and null, Acts Nos. 2667 and 2886 of the Philippine Legislature;
- (d) In not declaring that Act No. 292, as amended by Act No. 1692, is null, illegal, and unconstitutional; and
- (e) In not declaring that the trial court was without jurisdiction to try and decide the cause presented in the complaint.

The question of fact presented by the appellant may be stated, generally, that the evidence adduced during the trial of the cause does not show that he is guilty of the crime charged in the complaint.

We have made a careful examination of the questions of law and fact presented by the appellant, and have arrived at the conclusion that, even granting, without deciding, that the various laws, the constitutionality and legality of which are questioned by the appellant, are illegal, unconstitutional, and null, the evidence adduced does not show that the defendant wilfully, maliciously, and unlawfully violated neither section 8 of Act No. 292, as amended by section 1 of Act No. 1692, nor any other provisions of said Act No. 292.

After a careful examination of the evidence, we are not of the opinion that the appellant, in the publication in question, intended to disturb or obstruct any lawful officer in executing his office, nor that said publication tended to instigate others to cabal or to meet together for unlawful purposes, or to suggest or incite rebellious conspiracies or riots, or to stir up the people against the lawful authorities, or to disturb the peace of the community, or the safety and good order of the government; nor that said publication tended to excite persons publicly and tumultuously to inflict, with a political or social object, any act of hate or revenge upon individuals or upon any class of individuals in the Philippine Islands. To hold otherwise, upon the evidence adduced during the trial of the cause, in our opinion would be to abridge the freedom of the press in the Philippine Islands, which abridgment would be in direct contravention of the provisions of paragraph 13 of section 3 of the Jones Law.

When the citizens of a state become convinced that the administration of the affairs of their government is not carried on in accordance with the law, or is not conducted for the best interest of all concerned, they have not only a right but it is their duty to present the cause of their grievances to the public, and the free press of the state usually affords the best avenue for that purpose. To that end, the organic laws of all modern free states have wisely provided that "no law shall be passed, abridging the freedom of the press" and that no person shall be punished except for an abuse of that freedom. The interest of civilized society and the maintenance of good government demand a full and free discussion of all affairs of public interest. Complete liberty to comment upon the administration of Government, as well as the conduct of public men, is necessary for free speech. The people are not obliged, under modern civilized governments, to speak of the conduct of their officials, of their servants, in whispers or with bated breath. (U. S. vs. Bustos, 37 Phil., 731.)

The right to assemble and petition the Government, and to make requests and demands upon public officials, is a necessary consequence of republican and democratic institutions, and the complement of the right of free speech. (U. S. vs. Bustos, supra.)

The freedom of the press consists in the right to publish the truth, with good motives and for justifiable ends, although said publication may be offensive to the Government, to the courts, or to individuals.

Chief Justice Marshall of the Supreme Court of the United States, in discussing the freedom of the press, said: "The spirit of the constitution and the opinion of the people cannot be curbed by those who administer the Government. Among those principles which are held most sacred by the people of America, there is none more deeply rooted in the public mind than that of the liberty of the press."

Mr. Daniel Webster had occasion to discuss the same question. He said: "It is important to safeguard to the utmost

the right to free speech and the free press. It is the ancient and constitutional right of our people to judge public matters and public men. It is such a self-evident right as the right to breathe the air and to walk on the surface of the earth. I will defend this high constitutional prerogative in time of war, in time of peace, and all the time. Dead or alive I shall maintain it."

It is the particular duty of the people of the state to zealously maintain the right to express freely, either verbally or by publication, their honest convictions regarding the acts of public officials and the governing class. If the people of a free state should give up the right of free speech; if they are daunted by fear and threats, and abdicate their convictions; if the governing body of the state could silence all the voices except those that extol their acts; if nothing relating to the conduct of the governing class can reach the people except that which will uphold the men in power, then we may well say "Good-bye" to our liberties forever. While under such circumstances free governments may still be maintained, their life, their soul, and their essentials will be gone. If the publication of the conduct of public officials annoys them, let them examine their own act and determine the fundamental cause of the complaint. Even during the time of the illustrious Voltaire he expressed the opinion that "tolerance was never the cause of internal strife in the state, but, on the contrary, the pursuit of intolerance has covered the world with blood. The tyrants of our thoughts have caused the greater part of the misfortunes of the world."

Mr. Ralph Waldo Emerson, in discussing the question before us, said: "If there were a country where knowledge could not be spread without incurring the penalty of the law; where there is no free speech, where correspondence and publicity are violated, that country would not be civilized, but it would be barbarous."

Mr. Henry Ward Beecher on one occasion said: "The term 'free' is akin to the wind that blows over the regions infected with malaria and exposes to the light the germs of the disease. When the freedom of speech is curtailed, infection sets in and death quickly follows."

After a careful consideration of the evidence adduced during the trial of the cause, and without discussing the questions of law presented by the appellant, we are of the opinion, and so decide, that the same does not show that the defendant wilfully, maliciously, and unlawfully violated the provisions of the law; and, therefore, it is hereby ordered and decreed that the complaint be dismissed and that the defendant be discharged from the custody of the law, with costs de oficio. So ordered.

Araullo, C. J., Street, Malcolm, Avanceña, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

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