

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. GRACIANO L. CABRERA ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. 17748. March 04, 1922

Ponente: MALCOLM, J.

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MALCOLM, J.:

As one outcome of the tumultuous uprising of certain members of the Philippine Constabulary to inflict revenge upon the police of the city of Manila, charges of sedition were filed in the Court of First Instance of the city of Manila against the participants in the public disturbance. Convicted in the trial court of a violation of Act No. 292 of the Philippine Commission, and sentenced either to the maximum penalty or a near approach to the maximum penalty provided by the punitive provisions of that law, all of the defendants have perfected an appeal to this court. A statement of the case and of the facts, an opinion on the pertinent issues, and a judgment, if no reversible error be found, regarding the appropriate penalty, will be taken up in the order named.

STATEMENT OF THE CASE AND OF THE FACTS

On December 13, 1920, policemen of the city of Manila arrested a woman who was a member of the household of a Constabulary soldier stationed at the Santa Lucia Barracks in this city. The arrest of the woman was considered by some of the Constabulary soldiers at Santa Lucia Barracks as an outrage committed by the policemen, and it instantly gave rise to friction between members of the Manila police department and members of the Philippine Constabulary.

The next day, December 14, at about sunset, a policeman named Artemio Mojica, posted on Calle Real, in the District of Intramuros, city of Manila, had an encounter with various Constabulary soldiers which resulted in the scooting of private Macasinag of the Constabulary. Private Macasinag was seriously, and, as afterwards appeared, mortally wounded.

The encounter between policeman Mojica and other companions of the Manila police force and private Macasinag and other companions of the Constabulary, with its grave consequences for a Constabulary soldier, engendered a deep feeling of resentment on the part of the soldiers at Santa Lucia Barracks. This resentment was soon converted into a desire for revenge against the police force of the city of Manila. The officers of the Constabulary appear to have been aware of the state of excitement among the soldiers at Santa Lucia Barracks because almost immediately after the shooting of private Macasinag, Captain Page, the commanding officer of the Barracks, increased the number of guards, and confined all the soldiers in the Barracks.

During the afternoon of the next day, December 15, 1920, a rumor spread among the soldiers in Santa Lucia Barracks to the effect that policeman Mojica was allowed to continue on duty on the streets of Intramuros and that private Macasinag had died as a consequence of the shot he received the night before. This rumor contributed in no small degree in precipitating a movement for reprisal by the Constabulary soldiers against the policemen.

At about 7 o'clock in the evening of the same day, December 15, 1920, corporal Ingles of the Fourth Company approached private Nicolas Torio who was then the man in charge of quarters, and asked him to let the soldiers out through the window of the quarters of the Fourth Company. Private Torio was easily persuaded to permit private Francisco Garcia of the Second Company to saw out the window bars of the quarters in his charge, and to allow soldiers to escape through the window with rifles and ammunition under the command of their sergeants and corporals. When outside of the quarters, these soldiers divided into groups for attack upon the city police force.

One platoon of Constabulary soldiers apparently numbering about ten or twelve, on Calle Real, Intramuros, fired in the direction of the intersection of Calles Real and Cabildo where an American policeman named Driskill was stationed, and was talking with a friend named Jacumin, a field clerk in the United States Army. These two men were shot and died soon afterwards. To the credit of policeman Driskill be it said, that although in a dying condition and in the face of overwhelming odds, he valiantly returned the fire with his revolver. Jacumin was killed notwithstanding that in response to the command of the Constabulary, "Hands up!," he elevated both arms.

A street car happened to stop at this time at the corner of Calles Real and Cabildo. Without considering that the passengers in the car were innocent passersby, the Constabulary squad fired a volley into the car, killing instantly the passenger named Victor de Torres and gravely wounding three other civilian passengers, Gregorio Cailles, Vicente Antonio, and Mariano Cortes. Father Jose Tahon, a priest of the Cathedral of Manila, proved himself a hero on this occasion for, against the command of the Constabulary, he persisted in persuading them to cease firing and advanced in order that he might administer spiritual aid to those who had been wounded.

The firing on Calle Real did not end at that time. Some minutes later, Captain William E. Wichman, assistant chief of police of the city of Manila, riding- in a motorcycle driven by policeman Saplala, arrived at the corner of Calles Real and Magallanes in Intramuros, and a volley of shots by Constabulary soldiers resulted in the instantaneous death of Captain Wichman and the death shortly afterwards of patrolman Saplala.

About the same time, a police patrol came from the Meisic police station. When it was on Calle Real near Cabildo, in Intramuros, it was fired upon by Constabulary soldiers who had stationed themselves in the courtyard of the San Agustin Church. This attack resulted in the death of patrolmen Trogue and Sison.

Another platoon of the Constabulary, between thirty and forty in number, had, in the meantime, arranged themselves in a firing line on the Sunken Gardens on the east side of Calle General Luna opposite the Aquarium. From this advantageous position the Constabulary fired upon the motorcycle occupied by Sergeant Armada and driven by policeman Policarpio who with companions were passing along Calle General Luna in front of the Aquarium going in the direction of Calle Real, Intramuros. As a result of the shooting, the driver of the motorcycle, policeman Policarpio, was mortally wounded. This same platoon of Constabulary soldiers fired several volleys indiscriminately into the Luneta police station, and the office of the secret service of the city of Manila across Calles General Luna and Padre Burgos, but fortunately no one was injured.

General Rafael Crame, Chief of the Constabulary, and Captain Page, commanding officer of the Santa Lucia Barracks, rounded up some of the soldiers in the streets of Manila, and other soldiers one after another returned to the Barracks where they were disarmed. No list of the names of these soldiers was, however, made.

In the morning of the next day, December 16, 1920, Colonel Lucien R. Sweet of the Constabulary, in compliance with orders from General Crame, and assisted by other Constabulary officers, and later by the fiscals of the city of Manila, commenced an investigation of the events of the night before. He first ordered that all the soldiers in Santa Lucia Barracks at that time, numbering some one hundred and eighty, be assembled on the parade grounds and when this was done, the soldiers were separated into their respective companies. Then Colonel Sweet,

speaking in English with the assistance of Captain Silvino Gallardo, who interpreted his remarks into Tagalog, made to all of the soldiers two statements.

What occurred on the occasion above described can best be told in the exact language of Colonel Sweet: "I assembled all four companies in Santa Lucia Barracks and asked them to tell me which ones had been out the night before and which ones had participated in the shooting, which they did, and to tell me the names of those who were with them and who were not then present, which they did. I think there, were seventy-two (seventy-three) present and they named five (four) others." Again the witness said: "At first I asked all those who went out on the previous night for any purpose whatever to signify the fact by stepping forward and gave them five minutes to think it over before doing so. To those who stepped forward that had gone out for any purpose whatever, I asked those who took part in the shooting the night before that in justice to themselves and to the other men who had not taken part in it, and for the good of all concerned, that they step forward and they did." The names of the four who took part (not five as stated by Colonel Sweet), but who were not present, were noted by Captain Gallardo.

The statements of the seventy-seven soldiers were taken in writing during the afternoon of the same day, December 16. The questionnaire prepared by the fiscal of the city of Manila was the same for each soldier, and was filled out either in English or Spanish. The questions and answers were, however, when requested by the soldiers, translated into their dialects. Each statement was signed by the soldier making it in the presence of either two or three witnesses.

Although the answers to the questions contained in these statements vary in phraseology, in substance they are the same. One of them, the first in numerical order, that of Sergeant Graciano L. Cabrera, taken in Spanish and interpreted into Tagalog, may be selected as typical of the rest, and is here literally transcribed:

"1. Give your name, age, status, occupation, and residence.—Graciano L. Cabrera, 24 years of age, single, sergeant of the first company of the General Service of the Constabulary, residing in Santa Lucia Barracks.

"2. To what company of the Philippine Constabulary do you belong?—First Company, General Service of the Constabulary.

"3. Where were you garrisoned yesterday afternoon December 15, 1920?—In the Santa Lucia Barracks.

"4. Did you leave the barracks at about 7 o'clock yesterday evening?—Yes, sir.

"5. For what reason, and where did you go ?—We went in search of the policemen and secret service men of Manila. It has been sometime now since we have been having a standing grudge against the police of Manila. The wife of one of our comrades was first arrested by the policemen and then abused by the same; and not content with having abused her, they gave this woman to an American; after this incident, they arrested two soldiers of the Constabulary, falsely accusing them of keeping women of bad reputation; after this incident, came the shooting of Macasinag, a shooting not justified, because we have come to know that Macasinag did nothing and the policemen could have arrested him if they desired. Moreover, the rumor spread among us that the police department of Manila had given orders to the policemen to fire upon any Constabulary soldier they found in the streets, and we believe that the rumor was not without foundation since we noticed that after the Macasinag affair, the policemen of Manila, contrary to the usual practice, were armed with carbines or shotguns. For this reason we believe that if we did not put an end to these abuses of the policemen and secret service men, they would continue abusing the constabulary. And as an act of vengeance we did what we had done last night.

"6. How did you come to join your companions who rioted last night?—I saw that almost all the soldiers were jumping through the window and I was to be left alone in the barracks and so I followed.

"7. Who asked you to join it?—Nobody.

"8. Do you know private Crispin Macasinag, the one who was shot by the Manila police the night before last on Calle Real?—Yes, sir, I know him because he was our comrade.

"9. Were you offended at the aggression made on the person of said soldier?—Indeed, yes, not only was I offended, but my companions also were.

"10. State how many shots you fired, if any, during the riot last night.—I cannot tell precisely the number of shots I fired because I was somewhat obfuscated; all I can assure you is that I fired more than once.

"11. Do you know if you hit any policeman or any other person?—If so state whether the victim was a policeman or a civilian.—I cannot tell whether I hit any policeman or any civilian.

"12. State the streets of the city where you fired shots.—I cannot give an exact account of the streets where I fired my gun. I had full possession of my faculties until I reached Calle Victoria; afterwards, I became aware that I was bathed with perspiration only upon reaching the barracks,

"13. What arms were you carrying and how much ammunition or how many cartridges did you use?—I carried a carbine; I cannot tell precisely the number of cartridges I used; however, I placed in my pocket the twenty cartridges belonging to me and I must have lost some on the way.

"14. How did you manage to leave the barracks?—By the window of the quarters of the Fourth Company, through the grating which I found cut off.

"15. Are the above statements made by you, voluntarily, freely, and spontaneously given?—Yes, sir.

"16. Do you swear to said statements although no promise of immunity is made to you?—Yes, sir; I confirm them, being true.

(Sgd.) "G. L. CABRERA

"Witnesses:

"S. GALLARDO.

"LAURO C. MAIQUEZ."

The defendants were charged in one information filed in the Court of First Instance of the city of Manila with the crime of sedition, and in another information filed in the same court, with the crimes of murder and serious physical injuries. The two cases were tried separately before different judges of first instance.

All of the accused, with the exception of eight, namely, Francisco Ingles, Juan Noromor, P. E. Vallado, Dionisio Verdadero, Francisco Garcia, Benigno Tagavilla, Felix Lamsing, and Paciano Caña, first pleaded guilty to the charge of sedition, but later, after the first witness for the prosecution had testified, the accused who had pleaded guilty were permitted, with the consent of the court, to substitute therefor the plea of not guilty. The prosecution, in making out its case, presented the seventy-seven confessions of the defendants, introduced in evidence as Exhibits C to C-76, inclusive, and with the exception of those made by Daniel Coralde, Nemesio Gamus, and Venancio Mira, all were identified by the respective Constabulary officers, interpreters, and typists who intervened in taking them. The prosecution further relied on oral testimony, including eyewitnesses to the uprising.

The attorneys for the accused presented two defenses. The first defense was in favor of all the defendants and was based on the contention that the written statements Exhibits C to C-76 were not freely and voluntarily made by them. The second defense was in favor of the defendants Vicente Casimiro, Salvador Gregorio, Roberto Palabay,

Cipriano Lizardo, Ildefonso de la Cruz, Roque Ebol, Francisco Garcia, Benigno Tagavilla, Paciano Caña, Juan Abarquez, Genaro Elayda, Hilario Hibalar, P. E. Vallado, Patricio Bello, Felix Liron, Bonifacio Eugenio, Nemesio Decena, Venancio Mira, Baldomero Rodriguez, Juan Noromor, Maximo Perlas, and Victor Atuel, and was to the effect that these men did not take part in the riot.

The court overruled the special defenses and found that the guilt of the accused had been proved beyond a reasonable doubt. All of the defendants were sentenced to serve the maximum imprisonment of ten years provided by section 6 of Act No. 292. The court, however, distinguished the cases of sixty-five privates who received no sentence of fines from that of the defendants Francisco Garcia, a private and the eight corporals E. E. Agbulos, Francisco Ingles, Clemente Manigdeg, Juan Abarquez, Pedro V. Mateo, Juan Regalado, Hilario Hibalar and Genaro Elayda, upon each of whom a fine of P5,000 was imposed, and of the three sergeants Graciano L. Cabrera, Pascual Magno, and Bonifacio Eugenio, upon each of whom a fine of P10,000 was imposed. The costs were divided proportionately among the defendants.

For the statement of the cases and the facts which has just been made, we are indebted in large measure to the conspicuously fair and thoughtful decisions of the Honorable George R. Harvey who presided in the sedition case and of the Honorable Carlos Imperial who presided in the murder case. As stipulated by the Attorney-General and counsel for the defendants, the proof is substantially the same in both cases.

In all material respects we agree with the findings of fact as made by the trial court in this case. The rule is again applied that the Supreme Court will not interfere with the judgment of the trial court in passing upon the credibility of the opposing witnesses, unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted. (U. S. vs. Ambrosio and Falsario [1910], 17 Phil, 295; U. S. vs. Remigio [1918], 37 Phil., 599.) In the record of the case at bar, no such fact or circumstance appears.

OPINION

An assignment of five errors is made by counsel for the defendants and appellants. Two of the assignments of error merit little or no consideration. Assignment of error No. 2 (finding its counterpart in assignments of error 5 and 6 in the murder case), in which it is attempted to establish that Vicente Casimiro, Salvador Gregorio, Paciano Caña, Juan Abarquez, Mariano Garcia, Felix Liron, Bonifacio Eugenio, Patricio Bello, Baldomero Rodriguez, Roberto Palabay, Juan Noromor, Roque Ebol, Ildefonso de la Cruz, Cipriano Lizardo, Francisco Garcia, Genaro Elayda, Hilario Hibalar, P. M. Vallado, Maximo Perlas, and Benigno Tagavilla, did not leave the Santa Lucia Barracks on the night of the tragedy, is predicated on the special defense raised in the lower court for these defendants and three others and which was found untenable by the trial court. Any further discussion of this question falls more appropriately under our consideration of assignment of error No. 4, relating to the conspiracy between the accused.

Assignment of error No. 3, relating, to the finding of the trial court that it had not been shown that the policemen were not aware of the armed attack of the Constabulary, even if admitted would not constitute reversible error. However, we find that the evidence supports this conclusion of the trial court.

The three pertinent issues in this case relate to: (1) The admission of Exhibits C to C-76 of the prosecution (assignment of error No. 1, sedition case; assignment of error No. 2, murder case) ; (2) the conspiracy between the accused (assignment of error No. 4, sedition case; assignment of error No. 3, murder case); and (3) the conviction of the accused of a violation of the Treason and Sedition Law (assignment of error No. 5, sedition case).

1. The admission of exhibits C to C-76

Appellants claim that fraud and deceit marked the preparation of the seventy-seven confessions. It is alleged that some of the defendants signed the confessions under the impression that those who had taken part in the affray would be transferred to Mindanao, and that although they did not in fact so participate, affirmed that they did because of a desire to leave Manila; that others stepped forward "for the good of the service" in response to appeals from Colonel Sweet and other officers; while still others simply didn't understand what they were doing, for the remarks of Colonel Sweet were made in English and only translated into Tagalog, and their declarations were sometimes taken in a language which was unintelligible to them. Counsel for the accused entered timely objection to the admission in evidence of Exhibits C to C-76, and the Attorney-General is wrong in stating otherwise.

Section 4 of Act No. 619, entitled "An Act to promote good order and discipline in the Philippines Constabulary," and reading: "No confession of any person charged with crime shall be received as evidence against him by any court of justice unless it be first shown to the satisfaction of the court that it was freely and voluntarily made and not the result of violence, intimidation, threat, menace, or of promises or offers of reward or leniency," was repealed by the first Administrative Code. But the same rule of jurisprudence continues without the law. As has been repeatedly announced by this and other courts, "the true test of admissibility is that the confession is made freely, voluntarily, and without compulsion or inducement of any sort." If the confession is freely and voluntarily made, it constitutes one of the most effectual proofs in the law against the party making it. (Wilson vs. V. S. [1896], 162 U. S., 613.) The burden of proof that the confession was not voluntarily made or was obtained by undue pressure is on the accused. (U. S. vs. Zara [1921], 42 Phil., 308.)

What actually occurred when the confessions were prepared is clearly explained in the record. The source of the rumor that the defendants would be transferred to Mindanao if they signed the confessions is not established. On the contrary it is established that before the declarations were taken, Lieutenant Gatuslao in response to a query had shown the improbability of such a transfer. With military orders given in English and living in the city of Manila where the dialect is Tagalog, all of the defendants must have understood the substantial part of Colonel Sweet's remarks. What is more important, there could be no misunderstanding as to the contents of the confessions as written down. In open court, sixty-nine of the defendants reiterated their guilt. The officers who assisted in the investigation were of the same service as the defendants and would naturally not be inclined to prejudice the rights of their own men.

It must also be remembered that each and everyone of the defendants was a member of the Insular Police force. Because of the very nature of their duties and because of their practical experience, these Constabulary soldiers must have been aware of the penalties meted out for criminal offenses. Every man on such a momentous occasion would be more careful of his actions than ordinarily and whatever of credulity there is in him, would for the moment be laid aside. Over and above all desire for a more exciting life, over and above the so-called esprit de corps, is the instinct of self-preservation which could not but be fully aroused by such stirring incidents too recent to be forgotten as had occurred in this case, and which, would counsel prudence rather than rashness; secretiveness rather than garrulity.

These confessions contain the statements that they were made freely and voluntarily without any promise of immunity. That such was the case was corroborated by the attesting witnesses whose credibility has not been successfully impeached.

We rule that the trial court did not err in admitting Exhibits C to C-76 of the prosecution.

2. The conspiracy between the accused

The contention of the appellants is that evidence is lacking of any supposed connivance between the accused.

Counsel emphasizes that in answer to the question in the confession, "Who asked you to join in the riot?," each of the accused answered, "Nobody." The argument is then advanced that the appellants cannot be held criminally responsible because of the so-called psychology of crowds theory. In other words, it is claimed that at the time of the commission of the crime the accused were mere automatons obeying the insistent call of their companions and of their uniform. From both the negative failure of evidence and the positive evidence, counsel would deduce the absence of conspiracy between the accused.

The Attorney-General answers the argument of counsel by saying that conspiracy under section 5 of Act No., 292 is not an essential element of the crime of sedition. In this the law officer for the people may be on solid ground. However this may be, there is a broader conception of the case which reaches the same result.

It is a primary rule that if two or more persons combine to perform a criminal act, each is responsible for all the acts of the others done in furtherance of the common design; and "the result is the same if the act is divided into parts and each person proceeds with his part unaided." (U. S. vs. Maza [1905], 5 Phil., 346; U. S. vs. Remigio [1918], 37 Phil., 599; decision of supreme court of Spain of September 29, 1883; People vs. Mather [1830], 4 Wendell, 229.)

Conspiracies are generally proved by a number of indefinite acts, conditions, and circumstances which vary according to the purposes to be accomplished. If it be proved that the defendants pursued by their acts the same object, one performing one part and another another part of the same, so as to complete it, with a view to the attainment of that same object, one will be justified in the conclusion that they were engaged in a conspiracy to effect that object. (5 R. C. L., 1088.) Applied to the facts before us, it is incontestable that all of the defendants were imbued with the same purpose, which was to avenge themselves on the police force of the city of Manila. A common feeling of resentment animated all. A common plan evolved from their military training was followed.

The effort to lead the court into the realm of psychology and metaphysics is unavailing in the face of actualities. The existence of a joint assent may be reasonably inferred from the facts proved. Not alone are the men who fired the fatal shots responsible, not alone are the men who admit firing their carbines responsible, but all, having united to further a common design of hate and vengeance, are responsible for the legal consequences therefor.

We rule that the trial court did not err in declaring that there was a conspiracy between the accused.

3. The conviction of the accused of a violation of the Treason and Sedition Law

Sedition, in its more general sense, is the raising of commotions or disturbances in the State. The Philippine law on the subject (Act No. 292) makes all persons guilty of sedition who rise publicly and tumultuously in order to obtain by force or outside of legal methods any 'one of five objects, including that of inflicting any act of hate or revenge upon the person or property of any official or agent of the Insular Government or of a Provincial or Municipal Government. The trial court found that the crime of sedition, as defined and punished by the law, had been committed, and we believe that such finding is correct.

Counsel's contention that in order for there to be a violation of subdivision 3 of section 5 of Act No. 292 it is necessary that the offender should be a private citizen and the offended party a public functionary, and that what really happened in this instance was a fight between two armed bodies of the Philippine Government, is absolutely without foundation. Subdivision 3 of section 5 of the Treason and Sedition Law makes no distinction between the persons to which it applies. In one sense there was a fight between two armed bodies of the Philippine Government, but it was an unequal fight brought on by the actions of the accused.

We rule that the trial court did not err in convicting the accused of a violation of section 5, paragraph 3, of Act No. 292 of the Philippine Commission.

JUDGMENT

The Treason and Sedition Law provides as a penalty for any person guilty of sedition as defined in section 5 of the law, punishment by fine of not exceeding P10,000 or by imprisonment not exceeding ten years, or both. In this connection, it will be recalled that the court sentenced each of the private soldiers Salvador Gregorio, Juan Noromor, Patricio Bello, Nemesio Decena, Baldomero Rodriguez, P. E. Vallado, Pedro Layola, Felix Liron (Cenon), Dionisio Verdadero, Lorenzo Tumboc, Casiano Guinto, Victor Atuel, Venancio Mira, Benigno Tagavilla, Masaway, Quintin Desierto, Teofilo Llana, Timoteo Opermaria, Maximo Perlas, Cornelio Elizaga, Roberto Palabay, Roque Ebol, Benito Garcia, Honorio Bautista, Crisanto Salgo, Francisco Lusano, Marcelino Silos, Nicanor Perlas, Patricio Rubio, Mariano Aragon, Silvino Ayangco, Guillermo Inis, Julian Andaya, Crispin Mesalucha, Prudencio Tasis, Silvino Bacani, Petronilo Antonio, Domingo Peroche, Florentino Jacob, Paciano Caña, Domingo Canapi, Arcadio San Pedro, Daniel Coralde, Nemesio Gamas, Luis Borja, Severino Elefane, Vicente Tabien, Marcos Marquez, Victorino Merto, Bernabe Sison, Eusebio Cerrudo, Julian Acantilado, Ignacio Lechoncito, Pascual Dionio, Marcial Pelicia, Rafael Nafrada, Zacarias Bayle, Cipriano Lizardo, Ildefonso de la Cruz, Juan Miranda, Graciano Zapata, Felisardo Favinal, Gaspar Andrade, Felix Lamsing, and Vicente Casimiro, to suffer imprisonment for ten years, and to pay one seventy-seventh part of the costs; the private Francisco Garcia, who sawed the bars of the window through which the defendants passed from Santa Lucia Barracks and each of the corporals E. E. Agbulos, Francisco Ingles, Clemente Manigdeg, Juan Abarquez, Pedro V. Mateo, Juan Regalado, Hilario Hibalar and Genaro Elayda, to suffer imprisonment for ten years and to pay a fine of P5,000 and one seventy-seventh of the costs; and each of the sergeants Graciano L. Cabrera, Pascual Magno, and Bonifacio Eugenio, to suffer imprisonment for ten years and to pay a fine of P10,000 and one seventy-seventh of the costs. The trial judge appears to have made a reasonable exercise of the discretion which the law reposes in him.

We cannot bring to a close this disagreeable duty without making our own the pertinent observations found in the decision of the trial court in this case. Therein, along toward the close of, his learned opinion, Judge Harvey said:

"Rarely in the history of criminality in this country has there been registered a crime so villainous as that committed by these defendants. The court is only concerned in this case with the crime of sedition. The maximum penalty prescribed by Act No. 292, imprisonment for ten years and a fine of P10,000, is not really commensurate with the enormity of the offense. Impelled by hatred, employing their knowledge of military science which is worthy of a better cause, and in disregard of the consequences to themselves and their innocent loved ones, and using the means furnished to them by the Government for the protection of life and property, they sought by force and violence and outside of legal methods to avenge a fancied wrong by an armed and tumultuous attack upon officials and agents of the government of the city of Manila."

Although in view of the sentence which is being handed down in the murder case, affecting these same defendants and appellants, it would seem to be a useless formality to impose penalties in this case, yet it is obviously our duty to render judgment, which we do by affirming in all of its parts the judgment appealed from, with one seventy-seventh of the costs of this instance against each appellant. So ordered,

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

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