

THE SYMPOSIUM AND THE GUEST SPEAKER—AN INTRODUCTION *

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In this second annual symposium presented by the members of the ORDER OF THE PURPLE FEATHER, the Honor Society of the College of Law of this University, we may well expect an intelligent discussion of the subject and an objective presentation of arguments. From the inception of this activity, the principal aim has been that of creating or awakening a concentrated interest in important subjects related to some of our basic legal and governmental problems. Agreement to the views or conclusions expressed is not necessarily expected. But hope has ever been entertained that the careful analysis and exposition of the different phases of every subject-matter discussed may prove an active stimulant for a more enthusiastic participation on the part of students of law in discussions of vital and fundamental questions.

The general subject of the present symposium is of very great significance to the individual and to the Nation. The Constitution must be a living document. It can be made so only by a constant study and strict observance of its rules and principles. No act of departure from its mandates, however small and inconspicuous, should be treated with indifference. It should be questioned, exposed, and challenged. This is particularly imperative in a country such as ours where the tradition of constitutionalism is still fresh and frail. A spirit of courageous vigilance is essential in the maintenance and protection of the rights and obligations, the liberties and responsibilities, the powers and limitations, which our Constitution provides. Without honest, able, and disinterested advocates who are objective and impersonal in their approach, our attachment to the Constitution will deteriorate into a sort of blind fanaticism. This condition could be taken advantage of by its very enemies who would use any distortion of the Constitution as a subtle means to suppress the very safeguards it provides. This is not a mere empty apprehension. Something similar happened in Germany in the early Nazi struggle for power when Hitler resorted to the processes of the then democratic constitution of that country to destroy democracy itself and to erect a totalitarian state in its place.

* Speech delivered by the Dean at the second annual symposium of the Order of the Purple Feather, in introducing the guest of honor, Mr. Justice Cesar Bengzon of the Philippine Supreme Court.

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Careful and intelligent discussions of constitutional problems tend to create and do ultimately create an informed public opinion. This is essential; for without public opinion, intelligent, vigorous, and responsible, the Constitution cannot live. Its provisions might remain mere "platitudes of speech" when they should be "common-places in action." Lawyers and law students are particularly called upon to assist in the development of a public opinion that is aware of the value of an honest, courageous, objective, and intelligent understanding of the Constitution. Justice Frankfurter's words are of particular and significant pertinence when he said: "Public opinion is the ultimate reliance of our society only if it be disciplined and responsible. It can be disciplined and responsible only if habits of openmindedness and of critical inquiry are acquired in the formative years of our citizens."

The enemies of the Constitution are not confined only to individuals of criminal inclinations. They are not only the vested interests using dishonest advocates to circumvent its provisions for their selfish ends. Let us remember that the Constitution is primarily intended as a brake on power. Those who can more effectively undermine the Constitution are the officials of the government, for as the agents designated to carry out its provisions they are in the best position to apply them in the proper manner or to pervert them in part or in their entirety. Misapplication may be intentionally committed in the guise of novel applications and specious rationalizations. Under the pretext of liberal interpretation, a judge or an executive is capable of destroying the merits of constitutional limitations. True, the Constitution lends itself to elasticity; but elasticity has its limits. A limitless elasticity is spinelessness. Those who thoughtlessly regard the Constitution in that light harbor fraudulent motives.

We have to be ever on our guard against a dishonest executive who would disregard the Constitution to reach the goal of his personal ambition, against administrative officials who ignore constitutional limitations to flatter or crawl before their superiors.

We should despise particularly judges who interpret and apply the Constitution arbitrarily to please themselves, their personal obsession, or their fear of displeasing people. The courts are said to be the bulwark of our liberties. But courts can be merely weak and useless shields if judges are whimsical, ignorant, dishonest, selfish. Courts with such judges can be the most dangerous thing under our constitutional system. For judges have a life tenure. They are held to no direct responsibility to the people. We cannot sue them for bad decisions. Neither can we remove them easily from their

posts for arbitrary judgments. So great is their power to declare what the Constitution says that to make the courts the real bulwark of our liberties we have to insist that in the selection to judicial posts only those who are not only honest and able but also courageous and well acquainted with the different questions that confront the individual as well as the nation should be chosen. Persons who cannot understand the problems that this age presents, problems that were not known 30 or 50 years ago, cannot render correct decisions of cases that involve the new problems of the day. They cannot be expected to consider the Constitution, in the language of Justice Story, as an instrument intended not merely for "the exigencies of a few years but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purpose of Providence."

We have selected as our guest speaker for the evening one of the older members of our Supreme Court, the Honorable Cesar Bengzon. An alumnus of our College of Law, he has been continuously in the government service since he passed the Bar examinations more than 30 years ago. He had had a good record as a government official, serving in various capacities and holding different positions calling for knowledge of and training in law. We are fortunate in having him with us tonight. He has kindly consented to give us a part of his valuable time in spite of his heavy work as one of the senior members of our Supreme Court. I might say in passing that during his student days he was known as a very hard worker and capable student. He has brought to the Supreme Court those admirable qualities of industry and competence which every judge should possess.