## THE PRESS FREEDOM LAW AS AMENDED

Of the recent decisions that have been handed by our courts, perhaps the decision of Judge Emilio Rilloraza of the Court of First Instance of Pasay, condemning five newspapermen to thirty-day imprisonment, stirred the most unfavorable reaction on the part of the press.

However, the Supreme Court saw no need for determining whether or not the decision of Judge Rilloraza would find support in the phrase "interest of the state" as used in Republic Act No. 53 in view of its amendment. In the minute resolution of August 29, 1956, the Court gave retroactive effect to Republic Act No. 1477 and ruled:

> "(29) In view of the approval on 15 June 1956 of Republic Act No. 1477, amending Section 1, Republic Act No. 53, which provided that the publisher, editor or duly accredited reporter of any newspaper, magazine or periodical of general circulation could not be compelled to reveal the source of any information appearing in the publication confided or related in confidence to such publisher, editor or reporter, unless the Court should find that such revelation be demanded by the interest of the state, in the sense that, unless the Court finds that the revelation be demanded by the security of the state, there can be no such compulsion; and it appearing that the security of the state does not demand the revelation of the source of the information involved in the contempt proceedings brought in the court below; and that the amendatory act being favorable to the persons charged with contempt in the court below should be applied retroactively, the petitioners for a writ of habeas corpus in G.R. No. L-10031, José D. Aspiras, et al. vs. Warden of the Pasay City Jail, etc., et al., are held not guilty of contempt under the provisions of Republic Act No. 53, as amended by Republic Act No. 1477, and the judgment rendered in the contempt proceedings brought against them in the court below is set aside. The cash bond of ₱200 deposited by each of the petitioners for their provisional release, under Official Receipt No. 1164542, dated 8 December 1955, is ordered returned to them."

The case arose from the publication of an alleged extortion try on the former Secretary of Justice and of National Defense, Oscar Castelo. The alleged extortionists, two society matrons, reportedly promised Castelo, who was then accused of the murder of Manuel Monroy, a witness in the proposed disbarment proceedings against the accused, that they will secure his acquittal from Judge Rilloraza at the price of a substantial amount of money. This item had appeared in several Manila dailies a few days before Judge Rilloraza rendered his decision in the Castelo case. According to the judge, the publication was premature; that it tended to embarrass the administration of justice, presumably, because after the publication, it became difficult for the court, without inviting suspicions against itself, to render any decision favorable to Castelo. Contempt pro-

ceedings were instituted against the alleged extortionists and two newspapermen. Upon refusal of the latter and three other reporters who were cited as witnesses to reveal the source or sources of their news, Judge Rilloraza ordered their incarceration.[1]

Teodoro F. Valencia, then the president of the National Press Club, termed the decision "a landmark of injustice and distortion of legal intent in the judicial history of the Philippines."[2] Malacañang Press Secretary J. V. Cruz called the decision "a throwback to the dark ages." To him, it was the severest blow to the freedom of the press in the Philippines since the Japanese occupation.[3] The *Manila Chronicle*, in an editorial entitled "A Miscarriage of Justice," charged: "Judge Emilio Rilloraza had had his heyday with a shield by virtue of his position on the bench during the time that the contempt proceedings in his court lasted."[4]

It is very understandable why the members of the fourth estate took pain in taking the Rilloraza decision to task. After all, those concerned were their brothers in profession. What befell the five reporters could also happen to them.

The decision, however, was not taken to be the sole concern of the newspapermen. For in a way, the decision has effects on the freedom of the press in the Philippines. Thus, barely have the five reporters started serving their sentences when top congressional leaders promised to amend Republic Act No. 53, otherwise known as the Sotto Press Freedom Law,[5] under which law, Judge Rilloraza based his authority in compelling the reporters to divulge the source or sources of their information about the alleged extortion try. The result was Republic Act No. 1477 which provides as follows:

> SECTION 1. Section one of Republic Act Numbered fifty-three is amended to read as follows:
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> 'Section 1. Without prejudice to his liability under the civil and criminal laws, the publisher, editor, columnist or duly accredited reporter of any newspaper, magazine or periodical of general circulation cannot be compelled to reveal the source of any news-report or information appearing in said publication which was related in confidence to such publisher, editor or reporter unless the court or a House or committee of Congress finds that such revelation is demanded by the security of state.' "

The change in the law lies in the fact that under Republic Act No. 58, revelation could be demanded when the interest of the state

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[1] People v. Oscar Castelo, Criminal Case No. 3023-p (In re Manuel Salak, Jr., for contempt).
[2] The Manila Times, December 8, 1955, p. 1, col. 6.
[3] The Manila Times, December 8, 1955, p. 1, col. 4.
[4] The Manila Chronicle, December 8, 1955, p. 4, col. 1.
[5] The Manila Times, December 8, 1955, p. 1, col. 4.

so requires. Whether the security of the state demands the revelation or not was immaterial.

It is interesting to note that the original bill presented by Congressman Floro Crisologo would grant absolute exemption to reporters.[6] The bill contained no proviso whatsoever by which a newspaperman may be compelled to reveal the source of information relayed to him in confidence.[7]

The idea of absolute exemption is based on the theory that an editor or a reporter should never be harrassed by a constant threat of vexing judicial or legislative inquiry as to sources of confidential reports. Supporters of absolute exemption contended that confidential information received by reporters should be placed in the same category as confidences given a client to his lawyer, by a patient to his doctor, and by a penitent to his confessor. It was pointed out that under the law a priest can never be compelled to divulge the secrets of his confessional — not even under the claim that the very security and safety of the state demand such disclosure.[8]

However, there are those who maintain that courts, in the fulfillment of their judicial functions, should have the power to require and compel a newspaperman to disclose the source or sources of newsstories reported by them when the interest of justice so demands. The claim was made that the cannon of journalistic ethics forbidding the disclosure of a reporter's source of information must yield when it conflicts with the interest of justice.[9] The theory is also advanced that the liberty of speech and of the press is inferior or subordinate to the administration of justice. In the words of Judge Rilloraza,

> "In the social order, there is no such thing as unconditional right or freedom. While an unmuzzled press must to the highest level, be maintained, it must be recognized and accepted that the liberty of the press is inferior and subordinate to the independence of the judiciary and the proper administration of justice."[10]

It was also contended that by their very nature, information given to a reporter can never be given the same privileged character as that given to information given by clients to their attorneys. The former are intended primarily for public consumption; the latter

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[6] H.R. Rep. No. 37, Third Congress, Third Regular Session, Wednesday, March 14, 1956.

[7] This was also the original plan of the late Sen. Vicente Sotto with respect to Rep. Act No. 53. Se decision in *In re* Parazo, 45 O.G. No. 10, 4382 (1948).

[8] See the defense of Sen. Vicente Sotto of his proposed amendment which would deny the power of the courts and of Congress to compel a reporter to reveal his source of information. SEN. REP. Vol. I, No. 3, First Congress, First Regular Session, March 14, 1956.

[9] State v. Donnavan, 30 Atl. 2nd. 421 (1943).

[10] *Supra* note 1.

only to be used as guides by the recipients as to what course of conduct they are going to take.

Those who would not grant immunity to reporters also explained that while a reporter, in case of the publication of a libelous article based on information given to him in confidence, may be personally held liable if he refuses to name his informant, such privilege will, in effect, be a shield to the real infractor of the law, thereby allowing him to go unchastised by the arms of justice.[11]

Needless to say, however, neither absolute exemption on the part of editors and reporters nor unfettered power on the part of the courts to demand disclosure of sources of information is in consonance with the demands of a well ordered but democratic society. The administration of justice is a prime concern of the state. As much as possible nothing that may cause its failure should be allowed to exist. But newspaper reporters must, to a certain extent, have immunity against being compelled to reveal the source of their news-stories. Sources of information in many cases simply had to be protected, otherwise, these sources would be destroyed. As stated by the *Manila Times*:

> "The nature of our works makes it imperative that we respect the inviolability of news sources. Our worth and effectivity as newspapermen would be reduced to nothing if we do not make the guaranty that the news sources would be protected."[12]

Thus our law now provides for a qualified exemption. A revelation cannot be compelled of a reporter unless the security of the nation so requires. As pointed out earlier, Republic Act No. 53 gave the courts and the Congress the power to require the disclosure of information not only where the safety of the Republic was concerned but also in those cases where the interests of the state not concerning its security so demanded. As explained by the Supreme Court, the phrase "interest of the state" is broader than "security of state," the former includes:

> "...all cases and matters of national importance in which the whole state and nation is interested or could be affected, such as the principal functions of the government like administration of justice, public school system and such matters like social justice, scientific research, practice of law or of medicine, impeachment of high government officials, treaties with other nations, integrity of the three coordinate branches of the government, their relations to each other and the discharge of their functions, etc."[13]

The decision from which the above quotations was taken, wherein a certain reporter was imprisoned for his contumacy in not re-

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[11] *Ex rel* Mooney, 193 N.E. 415 (1936).
[12] The Manila Times, December 8, 1955, p. 4, col. 1.
[13] In re Parazo, *supra* note 8.

vealing the name of the person who informed him of the alleged bar examination leakage, was severely criticized by no less than the author of Republic Act No. 53. Senator Sotto issued statements to the effect that Angel Parazo (the reporter) should be immediately and spontaneously pardoned by the Executive Power in order to serve as a lesson in law to the majority of the members of the Supreme Court. Then he added: "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.' "[14]

The decision did not also escape the notice of some of our text writers. In their *Constitution of the Philippines*, Profs. Tañada and Fernando commented:

> "The Supreme Court could have given the statute (Republic Act No. 53) a more liberal interpretation. Full protection to the reporter would thus exist. That would have assured him more access to information and the freedom of the press would have been rendered more meaningful."[15]

With Judge Rilloraza drawing heavily for support in incarcerating the five reporters mentioned above, from the Supreme Court's interpretation of "interest of state" in the *Parazo* case, it became more apparent that Republic Act No. 53 was no longer a law for the protection of newspapermen, which it was supposed to be. As intimated by Congressman Floro Crisologo in sponsoring H. B. 4601, 'interest of state' has been interpreted to include almost everything, even the sensibility of judge.[16]

If the law then were to attain its purpose, if it were to protect newspaper reporters, the power of the court to demand revelation of sources of news items must be delimited. The result was the amendment — nothing less than the safety of the nation will warrant the compulsory revelation of sources of news.

The change, it is submitted, is one for the better. Freedom of the press deserves protection, not so much for those who have something to say as for those who are entitled to be informed and enlightened.[17] In the long run, it will be the public and not the newspapers that will suffer if useful information cannot be published simply because the informants do not wish to be identified. It must be remembered, too, that freedom of expression is not merely the liberty to utter and to argue freely according to our conscience but also the liberty to know,[18] and that one of the most important pur-

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[14] *In re* Sotto, 46 O.G. No. 6, 2570 (1949).
[15] I TAÑADA AND FERNANDO, CONSTITUTION OF THE PHILIPPINES 345 (1952).
[16] See sponsorship speech of Congressman Floro Crisologo on H. B. No. 4601, H. R. REP. No. 37, Third Congress, Third Regular Session, March 14, 1956.
[17] TAÑADA AND FERNANDO, *op cit. supra* note 16 at 315.
[18] United States v. Bustos, 37 Phil. 731 (1918).

poses of society and government is the discovery and spread of truth on subjects of general concern.[19]

It is true that there may be cases not falling within the phrase "security of state" in which it would be better if newspaper reporters could be compelled to reveal the sources of their reports. And it is also true that it will be better if the real culprits on the basis of whose information libelous articles are published will be the ones actually punished. But the tradition of honor that has been maintained by the Philippine press, it is submitted, is sufficient answer to those few cases. A reporter is not prohibited from divulging the name of his informant. What is prohibited is disclosure against his will. The public then, when necessity comes, may issue a direct appeal to the conscience and sense of responsibility of the reporter concerned.[20]

AUGUSTO S. SAN PEDRO

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[19] TAÑADA AND FERNANDO, *op. cit. supra* note 16 at 316.
[20] The Manila Times, November 17, 1955, p. 1, col. 4.