

7 Phil. 422

[G.R. No. 1210. February 07, 1907]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FILOMENO APURADO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

The appellants in this case were convicted of the crime of sedition as defined in section 5 of Act No. 292 of the Philippine Commission, and each and all of them sentenced to six months of imprisonment, to pay a fine of 200 dollars, to subsidiary imprisonment in case of insolvency, and to pay the costs of the trial.

The record discloses that some little time before the municipal council of San Carlos, Occidental Negros, entered upon one of its regular morning sessions, some 500 residents of the municipality assembled near the municipal building, and upon the opening of the session a large number of those assembled about the building crowded into the council chamber and demanded the dismissal from office of the municipal treasurer, the municipal secretary, and the chief of police, and the substitution in their places of new officials whose names were suggested by the spokesmen of the party; that the council acceded to their wishes and drew up a formal document setting out the reasons for its action, which was signed by the councilors present and by several of the leaders of the crowd; that the persons who took part in the movement were wholly unarmed except that a few carried canes; that the crowd was fairly orderly and well-behaved except in so far as their pressing into the council chamber during a session of that body can be called disorder and misbehavior; and that the movement had its origin in religious differences between the residents of the municipality, the petitioners desiring the dismissal of the above-mentioned officials because they believed that they should not be permitted to hold office in the municipality on account of their outspoken allegiance to one of the factions into which the town was at that time divided.

Section 5 of Act No. 292 is as follows:

“All persons who rise publicly and tumultuously in order to attain by force or outside of legal methods any of the following objects are guilty of sedition:

* * * * *

“2. To prevent the Insular Government, or any provincial or municipal government or any public official, from freely exercising its or his duties or the due execution of any judicial or administrative order.”

But this law must not be interpreted so as to abridge “the freedom of speech” or “the right of the people peaceably to assemble and petition the Government for redress of grievances” guaranteed by the express provisions of section 5 of “the Philippine bill.”

Counsel for the prosecution contends that the assembly was not a peaceable one; that they did not limit themselves to petitioning for redress of grievances; and that by the very threat of their presence in the council chamber they imposed their will upon the municipal authorities and prevented them from freely exercising their duties.

We think, however, that on the whole the testimony of the witnesses called at the trial does not sustain these allegations. Not only were the individual members of the crowd wholly unarmed, but they were manifestly desirous that that fact should be known, for it appears that two American officials having asked what the purpose of the gathering was, were assured that the assembly merely desired to petition for the removal of several municipal officials; and in proof of the fact that they had no intention of committing a breach of the peace, the members of the crowd raised their jackets and camisas to prove that they were carrying no concealed weapons.

The prosecution emphasizes unduly the fact that a few of those who took part in the demonstration carried canes, but there is nothing in the record to indicate that any unusual number of sticks were in the hands of the petitioners, or that they had been brought to the meeting for the purpose of using them as weapons of assault. It appears, on the contrary, that only such number of canes were in evidence as might be seen in the hands of any ordinary crowd of citizens on any ordinary occasion, and that for the most part they were carried by old men who used them as an aid in walking. The prosecution also emphasizes the fact that the spokesmen of the assembly made their demands in an imperative tone (*roz*

imperatira) but there is some conflict in the evidence on this point, and in any event it would be going a long way to say that the use of a more or less "imperative" tone of voice by a petitioner would be sufficient to convert a lawful and peaceful assembly into an unlawful and seditious uprising. One of the witnesses testified that when the petitioners had concluded their business with the council they begged permission. (*pidieron permiso*) to withdraw, which was granted them by the *presidente*, and this, together with other evidence as to conversations had between the leaders and various members of the council and certain American officials, all tend to prove that the assembly may be described as orderly rather than disorderly and that it could in no sense be said to have been a tumultuous and seditious rising of the people.

It is true that the municipal *presidente* testified that the council acceded to the demands of the assembly through fear, and under the influence of the threatening attitude of the crowd, and that there is some evidence in the record which tends to establish that some individual members of the party made use of language which threatened evil consequences should the council deny their petition, but we do not think that under all the circumstances the *presidente* or the council were in any immediate danger of personal violence, and such threats as may have been made by a few individual members of the crowd do not appear to have been made publicly, or to have received the indorsement of the mass of the people there assembled. If such threats were in fact made, they might have rendered the individuals making them liable to prosecution therefor, but there is nothing in the record to sustain a finding that the crowd itself adopted these threats or had any intention of carrying them into effect.

It is rather to be expected that more or less disorder will mark the public assembly of the people to protest against grievances whether real or imaginary, because on such occasions feeling is always wrought to a high pitch of excitement, and the greater the grievance and the more intense the feeling, the less perfect, as a rule, will be the disciplinary control of the leaders over their irresponsible followers. But if the prosecution be permitted to seize upon every instance of such disorderly conduct by individual members of a crowd as an excuse to characterize the assembly as a seditious and tumultuous rising against the authorities, then the right to assemble and to petition for redress of grievances would become a delusion and a snare and the attempt to exercise it on the most righteous occasion and in the most peaceable manner would expose all those who took part therein to the severest and most unmerited punishment, if the purposes which they sought to attain did not happen to be pleasing to the prosecuting authorities. If instances of disorderly conduct occur on such occasions, the guilty individuals should be sought out and punished therefor, but the utmost

discretion must be exercised in drawing the line between *disorderly* and *seeditious* conduct and between an essentially peaceable assembly and a tumultuous uprising.

The evidence of record does not establish the guilt of the accused of the crime of sedition with which they are charged, and they should be and are hereby acquitted, and the judgment and sentence of the trial court are reversed, with the costs of both instances *de oficio*.

After expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the record remanded to the court from whence it came for proper action. So ordered.

Torres, Johnson, Willard, and Tracey, JJ., concur.
