

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DOMINADOR GOMEZ, DEFENDANT AND APPELLANT.

G.R. No. 1516. September 28, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 29th day of May, 1903, the prosecuting attorney of the city of Manila filed a complaint in the Court of First Instance of said city, charging the defendant, Dominador Gomez, with the crime of "founding, directing, and presiding over an illegal association, the purposes and circumstances of which are contrary to public morals and whose object is to commit certain crimes punished by the Penal Code," committed as follows:

"That on or about the 1st day of October, 1902, in the city of Manila, Philippine Islands, the said Dominador Gomez founded an illicit association known as 'The Democratic Labor Union of the Philippines;' that at the time of the said organization of said association the said Dominador Gomez prepared, submitted to, and caused to be adopted by said association a certain code of regulations transcribed into both the Spanish and Tagalog languages, which regulations, at the instance and through the advice and influence of the said Dominador Gomez, were then and there and thereafter and up to the date hereof printed, published, and delivered to working men and women in large numbers, to wit, eight thousand or thereabouts, in the various factories and employments in said city of Manila and elsewhere in the Philippine Islands, a true copy of which regulations is annexed hereto, marked 'Exhibit A,' and made a part hereof;

"That the said Dominador Gomez, at the time of the said organization of said association as aforesaid, caused himself to be elected as president and director thereof for a period of two years thereafter, and has served and acted in that capacity continuously since the organization of said association, and is now serving and acting in such capacity; ' "That said regulations have not been altered, amended, or repealed, and in all respects they are still operative as the law adopted by and governing said association;

"That the prominent features of said association, as set forth in said regulations, which are complained of herein and charged as contrary to public morals and illicit, are as follows:

" 'Chapter 2.—SEC. 2. An integral part of its propaganda will also be to teach the workmen not only the necessary fulfillment of their duties but as well the beautiful knowledge of how to discreetly and opportunely exercise their sacred rights in every field.'

"Meaning thereby the development of a hostile feeling and a formal movement of men and women against, the United States Government in the Philippine Islands.

" 'Chapter 3.—SEC. 1. The Democratic Labor Union of the Philippines is an association formed by various confederated guilds, which preserve entire their rights, autonomy, and independence.

" 'SEC. 2. The head of the Democratic Labor Union of the Philippines shall consist of a president, a general secretary, and a general treasurer, elected by ballot in general meeting, and in addition thereto all the vicé presidents of all the guilds and committees as voting members.

" 'SEC. 4. The election of officers in the Democratic Labor Union of the Philippines shall be biennial—that is to say, every two years—and shall take place on the first Sunday in December, so that they may take possession the first Sunday in January.

" 'Chapter 4. The president of the union; his duties.— SEC. 3. He shall, in the best way suggested to him by his intelligence and honesty, seek the most rapid and certain means whereby the union may realize its ideals for the redemption of the workingman.

'SEC. 5. He shall decide and advise in all of the labor union's own matters and conflicts, and in such others as the union and his associates may have with companies and employers.

" 'SEC. 6. He shall direct, or at least shall be the inspiration of, the bilingual newspaper called "Los Obreros," which shall be the official organ of the Democratic Labor Union of the Philippines.

" 'Chapter 5. His rights.—SEC. 1. The president of the Democratic Labor Union of the Philippines shall be the supreme and only chief of the association?

" 'SEC. 2. He may himself decide questions or matters urgently requiring decision, without prejudice of his making report of his decisions at the first meeting of the general assembly.

" 'SEC. 5. He shall receive as salary 50 per cent of the surplus receipts and the profits arising from one thousand shares of the newspaper "Los Obreros." ' '

"The following words in above quotation being omitted from and in the Tagalog translation, 'the surplus receipts and.'

"Chapter 6. The general secretary; his duties.—SEC. 7. He shall keep a list of all workmen who are out of work, and of all shops and employers in need of operatives, for their mutual better understanding and benefit.

" 'SEC. 8. He should thoroughly know the conduct of each workman, in order to be able to advise the president in cases where information is requested by him.

" 'Chapter 7. His rights.—SEC. 2. He shall be present at the right hand of the president at all meetings held by the labor union, and shall even occupy the chair in case the president is not present.

" 'SEC. 4. After all the expenses of the association are paid, should the residue permit, the secretary shall enjoy a monthly income at least equal to 25 per cent of that earned by him in his employment.

" 'SEC. 5. He shall also receive the revenue from one hundred shares in the newspaper "Los Obreros" or in the enterprise known as the "Printing Establishment of the Democratic Labor Union of the Philippines" at the close of each six months and after the half-yearly settlement.

" 'Chapter 8. General treasurer; his duties.—SEC. 5. He shall seek out establishments which sell all things necessary for the wants of the workmen, solicit the greatest discounts and advantages for the workmen, but without incurring any obligation without the authority of the president.

" 'Chapter 9. His rights.—SEC. 4. After all expenses of the union are paid off, if the residue shall permit, he shall enjoy a monthly salary of 25 per cent of the salary received from his employment, provided the remaining funds of the association so permit, the percentage received by the president and the general secretary being given preference in the order in which they are named.

" 'SEC. 5. He shall also enjoy the income derived from one hundred shares of the newspaper "Los Obreros" or in the company entitled "Printing Establishment of the Democratic Labor Union of the Philippines" at the end of each six months and after the corresponding monthly liquidation.

" 'Chapter 10. Guilds; their duties.—SEC. 1. Every guild belonging to the labor union shall be obliged to

immediately report any project intended to be carried out and every resolution passed which may only affect the internal government of said section.

" 'SEC. 2. If their actions and resolutions should relate to persons and entities foreign to the labor union, or to members of the different sections of the same union, and any action is taken, it shall be obligatory to communicate the same to the president of the association through the vice-president and secretary of the interested guild.

" 'SEC. 3. It shall be the duty of each guild, through its executive board, to send to the general secretary and to the principal treasury a monthly list of new and expelled members, and they shall, moreover, be responsible for the collection of the receipts delivered to them by the general treasurer.

" 'SEC. 4. The receipts from the corresponding assessments on each guild shall necessarily be made at the close of each month and before the fifth day of the month following.

"SEC. 5. It shall be the first duty of the guilds to encourage the propaganda of the platform and purposes of the Democratic Labor Union of the Philippines, increasing through wonderful activity the number of members and the income of the association.

" 'Chapter 11. Their rights.—SEC. 1. Each guild is completely autonomous and sovereign in its dispositions and resolutions passed in general assembly of the guild, and such dispositions and resolutions shall be of an exclusive character, the president of the labor union being previously informed thereof.

" 'SEC. 3. The particular regulations of each guild shall be drawn up by a committee of the guild, the same to be afterwards presented to the president of the labor union, for his information only.

" 'Chapter 12. Committees; their duties.—SEC. 1. It shall be the duty of each barrio or district committee to organize, taking as a basis the regulations of the Democratic Labor Union of the Philippines, and in urgent or exceptional cases the verbal or written instructions of the president thereof.

" 'SEC. 3. Each committee shall put itself in communication with the general secretary of the labor union at least once a week in normal cases, or immediately in other cases which by reason of their importance so require.

" 'SEC. 4. They shall hold sessions or general meetings at least once every week, giving before the following sessions a report in writing of the matters discussed, to the general secretary of the labor union.

" 'SEC. 7. They shall endeavor to instruct in the best manner possible all workmen belonging to the committee in everything relating to a rapid communication of news and the holding of meetings by means of most active messengers and by signs agreed to beforehand.

" 'SEC. 8. Their principal duty shall be to vote unanimously on election day for the candidate selected by the labor union.

" 'Chapter 13. Their rights.—SEC. 2. Each committee is authorized to fix, for its own ends and private purposes, such subscriptions and contributions as the members thereof shall desire.

" 'Chapter 14. Meetings.—SEC. 1. General assemblies shall be held at least once a month, and the same shall be duly advertised beforehand in the press and in the organ of the Democratic Labor Union, entitled "Los Obreros."

" 'SEC. 3. The executive board of the labor union shall hold meetings whenever the president may think fit or upon recommendation of five of the members thereof.

" 'SEC. 4. The executive board of the guilds and committees shall meet to pass resolutions and present

recommendations every Saturday night.

" 'Chapter 15, Monitors.—SEC. 1. Monitors are workmen whose duty it is to encourage and 'aid the triumph of candidates recommended, by the guilds and committees, and they shall be chosen from among those having the greatest popularity and activity and are the best liked and most active.

" 'SEC. 3. Elections of monitors shall be held every three months on the first Saturdays of March, June, September, and December.

" 'SEC. 4. There shall be one monitor to every ten workmen whose duty shall be to be perfectly familiar and cognizant of all the needs, desires, affections, sympathies, tendencies, abodes, and places frequented by those placed under his supervision, in order that he may report at once whatever might befall them which might affect the labor union.

" 'SEC. 6. He shall meet daily the ten men intrusted to him in order to gather impressions and information.

" 'SEC. 8. At least once a week, the monitors shall present to the office of the secretary-general of the labor union a detailed statement of everything relating to his charge, especially all information which may be of interest to the association.

"Chapter 16. Agents.—SEC. 1. The agents are the heralds of the labor union, the propagators thereof, its eyes, arms, and will extend everywhere and be its most enthusiastic and resolute defenders.

" 'SEC. 3. The most important mission of the agents shall be to increase the number of associated laborers by means of persuasion and arguments regarding the very great advantages of belonging to the Democratic Labor Union.

" 'SEC. 5. The guild agents shall be perfectly cognizant of all occurrences in their respective guilds in order that the executive board thereof and of the labor union may take action with full knowledge of all questions or incidents.

" 'SEC. 6. The agents shall at all times aid the monitors in their duties whenever it may be so necessary in order to bring about the victory of the candidates nominated by the labor union.

" 'SEC. 7. It shall be the duty of the agents, except in cases of superior force, to report daily at the office of the general secretary of the labor union during office hours for the purpose of rendering a written or verbal report regarding the conditions of their respective guilds.

" 'Chapter 17. Members.—SEC 3. Members shall be divided into four classes—charter members, ordinary members, protectors, and honorary members.

" 'SEC. 4. All these members, with the exception of honorary members, shall pay a monthly due of one dollar, local currency.

" 'SEC. 6. Every member, with the exception of honorary members, who shall fail to pay his monthly dues and his subscription to the newspaper Los Obreros for two consecutive months shall be dropped from the labor union and may not again become a member except by paying by way of entrance fee the sum of three pesos, Mexican.

"SEC. 7. Every member of the labor union shall have the right to buy shares in the printing establishment of the Democratic Labor Union of the Philippines from a minimum of one to a maximum of one thousand, each share costing the sum of one dollar, local currency.

" 'SEC. 10. When we have elections and legislative chambers every member of the labor union is under obligation to vote for the candidates of the association which the general assembly may select.

" 'SEC. 11. All members of the four classes have a right to participate in all advantages and improvements which the union may now or hereafter enjoy, such as the rebate in the subscription price of newspapers, in the purchase of food stuffs and clothing, in medical, pharmaceutical, or legal services, thus enabling them to be served with greater economy and by paying in weekly or monthly installments the chits (rales) signed by the workmen and stamped by the general secretary of the labor union with the approval (dése) of the president thereof.

" 'SEC. 12. The concerns with which the labor union has contracts will be duly announced in the press and in the newspaper Los Obreros.

, " 'SEC. 16. Members of the union have the right to subscribe for 2 pesos, local currency, a month to the medical consultation of the Hotel Quirúrgico (270 San Miguel), and may consult each day from 6 to 8 in the morning, except Sundays and legal holidays, regarding any ailments or sickness of themselves, wives, or children. If the sick members are not able to go there to consult, they may send word in order that they may be visited at their houses for \$1.80, local currency.

" 'SEC. 17. The labor union has made an agreement with Messrs. Ocampo & Arevalo of the Quiapo drug store so that workmen taking prescriptions stamped with the seal of the Hotel Quirúrgico will be given a considerable rebate.

" 'SEC 18. The labor union has also made an agreement with the attorney, Joaquin Rodriguez Serra, and his office (No. 8 Plaza Santa Ana), whereby the workmen who have subscribed for the purpose of having a lawyer may utilize his professional services in all matters and questions which they may have.

" 'SEC. 19.. All workmen desiring to have the right to make use of the office of Mr. Rodriguez Serra shall pay one peseta, local currency, a month in the offices of the labor union.

" 'SEC. 22. In case of sickness, death, or misfortune befalling any workman, the labor union will open a collection for the purpose of relieving his distressed situation, the first to subscribe being the treasury of the union itself.

" 'SEC. 23. Every member of the labor union in Manila, as well as in the provinces, shall possess a copy of these regulations and should endeavor to know them perfectly.

" 'SEC. 25. The monthly dues of the female members shall be 20 cents, local currency, without right to free subscription to the newspaper Los Obreros.

"Chapter 18. Strikes.—SEC. 4. When a strike shall be necessary and shall have been decided upon by the complaining and aggrieved workmen with the authority of the president, all the labor union, en masse, will unanimously uphold it.

" 'SEC. 5. Ordinary and extraordinary resources will be organized by means of receptions, theatrical representations, raffles, kermesses, and other diversions and public spectacles, in order to raise funds with which to sustain the strike.

" 'SEC. 6. When one or various strikes or general stoppages are publicly declared by Los Obreros, the defending organ of the labor union, no member shall aid capitalists or serve in the factories or shops against which the strike is declared, under the severest penalties of expulsion and permanent exclusion from all establishments and enterprises wherein later he may apply for work.

" 'Chapter 19. Enterprises.—SEC. 1. The Democratic Labor Union of the Philippines, as its capital increases, will establish stores, businesses, shops, factories, industries, etc., wherein the associated workmen may deposit their savings, the shares being always of one dollar, local currency.

" 'SEC. 2. At present it will commence with the enterprise known as the printing establishment of the

Democratic Labor Union of the Philippines, wherein will be printed the newspaper Los Obreros, which will be the defending organ of the labor union.

" 'SEC. 3. This will be a joint stock company, and will issue 1,000,000 shares of one dollar, local currency, each.

" 'SEC. 4. All members of the labor union may buy shares in the printing establishment from a minimum of one to a maximum of one thousand.

" 'SEC. 6. Every month there shall be a sale or auction of shares for purchase and sale, but only among members of the union.

" 'SEC 7. Each six months a half yearly balance will be had for the liquidation of profits, interests, and dividends arising from the capital and shares.

" 'SEC. 8. At the close of each liquidation, the official rate or quotation of the shares will be published in Los Obreros, the value of which shares will rise or fall according to the greater or less amount of income derived therefrom.

" 'SEC. 10. The capital invested in shares may not be withdrawn from the enterprises until the first Sunday in January, 1906, or before if the one million shares in local currency issued shall have been paid for.

" 'SEC. 11. If there should be half yearly profits on the shares, such profits may be withdrawn by the shareholders, or they may be used to purchase a larger number of shares, as best suits the shareholders.

" 'SEC. 12. As soon as the newspaper Los Obreros shall possess, after paying expenses, a net capital of 25,000 dollars, local currency, it shall proceed to make personal loans to the members making application therefore, upon the guaranties previously required of them by the executive board.

" 'SEC. 13. The annual percentage collected by the labor union from its members for money loaned shall always be 20 per cent cheaper than the rate in the Monte de Piedad.

" 'SEC. 14. In case of doubt as to the selection of a certain business or enterprise, the matter shall be decided by the shareholders in general assembly.

" ' SEC. 19. Checks for the withdrawal of funds must be signed by the president, secretary, and cashier, as the money will be deposited in the name of these three.

" 'SEC. 20. All unforeseen matters which may occur, or any difficult question which may arise in the conduct of the enterprise, shall be decided in session of the executive board, report being thereafter made to the shareholders.

" 'Chapter 20. The newspaper of the labor union.—SEC. 1. Los Obreros shall be the name of the defending newspaper of the Democratic Labor Union of the Philippines. It shall be published in the afternoon and shall be written in Tagalog and Spanish. It shall be of cosmopolitan character, and its principal mission shall be the defense of the platform of the association.

" 'SEC. 2. All members of the labor union, in Manila, and in the provinces, provided the last mentioned shall fulfil the same conditions as those in Manila, will receive the paper free.

" 'SEC. 3. For the public the subscription price will be one peso a month in local currency.

" 'SEC. 4. Members of the labor union who advertise will receive the benefit of 50 per cent of the usual price.

" 'SEC. 5. Members obtaining subscribers and advertisements for the paper will receive the following month's subscription free, provided the amount in each case is at least 25 pesos a month.

" 'SEC. 9. The sole inspirer of the paper shall be the president of the labor union, whether he directs it or not.

" 'SEC. 10. Positions on the paper shall all be filled by designation of the president of the labor union, who for the present shall be the director of said paper.

" 'Chapter 21. The labor union in the provinces.—SEC. 1. The labor union of the Philippines established in Manila will create like societies in all the provinces of the Archipelago in connection with the central labor union.

" 'SEC. 14. In case of a general strike or unfortunate accident a subscription will be opened in favor of the comrades of the provinces and towns by the labor union of Manila and of its departments.

" 'Chapter 23. Appendix.—SEC. 3. Acts, not words, shall constitute our platform, and instead of announcing it beforehand, public opinion will take note of it, after witnessing its unceasing development tenaciously urged onward by an invincible will and by an enthusiasm that shall never wane, for our motto in overcoming the contrarities and obstacles in the way shall constantly be "always united in order to win." '

"That in pursuance of said regulations and the purpose of said organization, the said Dominador Gomez, director, manager, and president aforesaid, falsely represented, advertised, and published through the Los Obreros, a newspaper printed, circulated, and managed by the said association, that the same, or a certain department thereof, known as the printing department, was a regularly and legally incorporated company authorized and licensed to do business as such in the city of Manila, and elsewhere in the Philippine Islands, and the said Dominador Gomez, during the whole of the time since the organization of said association, and up to the present date hereof, has, upon the strength of said false representations, advertisements, and publications, sold and caused to be sold, in the city of Manila, and elsewhere in the Philippine Islands, a large amount of the capital stock of said feigned corporation of the par value of two thousand eight hundred and ninety-seven dollars, Mexican currency, or thereabouts, and has received therefore, as the proceeds of such sale, a like amount, to wit, two thousand eight hundred and ninety-seven dollars, Mexican currency.

"That the purpose of said association was and is to combine a large number of men and women in the city of Manila and elsewhere in the Philippine Islands, to wit, twelve thousand and upwards, to enhance the price of labor, which combination has begun to be carried into effect by said association by and through the direction and management of the said Dominador Gomez;

"That since the organization of said illegal association as aforesaid and up to the date hereof, the said Dominador Gomez has continuously acted as director, manager, and president of such association and has done all in his power to promote and extend the purpose and influence thereof by the organization of numerous guilds and causing to be appointed therefor monitors, agents, committees, and officers throughout the city of Manila and the Philippine Islands, to the extent that such association now has a membership of twelve thousand men and women; and further, by public addresses, public and private correspondence and communications, through the press, and in various methods and ways, carried out the purposes of said illegal association throughout the city and Islands aforesaid;

"That, in the performance of the work and duties of the said Dominador Gomez, as director, manager, and president of said association as aforesaid, and as a part of such work and duties, and incident thereto, he, the said Dominador Gomez, in pursuance of said regulations and purpose of said organization, has, up to the date hereof, regularly and continually communicated, corresponded, advised, confederated, and conspired with Faustino Guillermo and other officers, agents, representatives, and members of certain armed bands and certain combinations of men in the Philippine Islands organized to commit, and committing, the crimes of theft, rape, robbery, and murder in the said Islands, and further, to commit the crimes of sedition and treason therein, and the said Dominador Gomez as organizer, director, and president aforesaid, in pursuance of the regulations of said association and the purposes thereof, then and there gave and lent aid and relief to the enemies of said Government and country; all contrary to the statute in such cases made and provided.

(Signed) "CHAS. H. SMITH.

"Subscribed and sworn to."

On the 13th day of June, 1903, the attorneys for the defendant, Gibbs, Kincaid, and Del-Pan, demurred to the said complaint upon the following grounds:

- (1) That the said complaint does not conform with the essential requisites prescribed by law; and
- (2) That the facts stated therein do not constitute a crime.

On the 15th day of July, 1903, the Hon. John O. Sweeney, presiding in said court,, overruled and disallowed said demurrer. To this ruling of the court the defendant duly excepted.

Later the attorneys for the defense demanded the appointment of assessors, under the provisions of the Code of Procedure in Civil Actions for the appointment of assessors, to assist the judge in the trial of said cause. Upon this request and in accordance with the law Aristón Bautista and Pacifico Reyes were duly appointed as such assessors; and on the 12th day of August, 1903, took their oath of office. On the same day the trial of said cause was duly commenced in said Court of First Instance.

On the 25th day of September, 1903, the said assessors filed their finding of facts in said cause, as follows:

"The undersigned, assessors appointed in the above-entitled cause, state: That the complaint is based upon the following facts:

"(a) That on or about the 1st day of October, 1902, in the city of Manila, the said Dominador Gomez established an illicit association known as the 'Union Obrera Democrática de Filipinas.'

"(b) That on the date of the organization of said association, the said Dr. Gomez, prepared, submitted for approval, and caused to be adopted certain bylaws, translated in the Spanish and Tagalog languages.

"(c) That said bylaws were printed and distributed to the members, whose number was approximately eight thousand.

"(d) That said Dominador Gomez, at the time of the organization of said association, caused himself to be elected president and director of the same for the term of two consecutive years, and performed and exercised the duties of said offices.

"(e) That said bylaws have not been altered and still continue in force.

"(f) That the fundamental principles of said association as stated in the said bylaws, which were made the ground of this complaint, and which are illegal and contrary to public morals, are as follows: 'Chapter II, section 2. It will also constitute an integral part of its propaganda to impress upon the workmen the beautiful science of knowing how to discreetly and conveniently exercise their sacred rights in every way, while fulfilling their duties.'

"That is to say [interprets the prosecution], the development of a hostile sentiment and a formal movement of men and women against the government of the United States in the Philippine Islands.

"(g) That said Dominador Gomez announced in Los Obreros, a newspaper printed and administered by said association, that a department of said paper known as the printing department was a regularly and legally organized company authorized and licensed to do business.

"(h) That Dominador Gomez has sold a great many shares in the alleged stock company amounting to the value of two thousand eight hundred and ninety-seven pesos, Mexican currency, and has received the proceeds

of such sales, or the amount of two thousand eight hundred and ninety-seven pesos.

"(i) That the purpose of said association was to bring together a large number of men and women in order to raise the price of labor.

"(j) That Dominador Gomez extended said association throughout the city of Manila and the Philippine Islands, until it had secured twelve thousand men and women as members.

"(k) That Dominador Gomez in accordance with said bylaws and the purpose of the association has up to the present time regularly and continually corresponded, communicated, and conspired with Faustino Guillermo and other officials, agents, representatives, and members of an armed party of men organized to commit theft, rape, robbery, and assassination in said Islands, and moreover to commit the crimes of sedition and treason.

"(l) That Dominador Gomez, in accordance with the bylaws of said association, has given aid and succor to the enemies of the Government and of the country.

"Having stated the facts alleged in the complaint which were carefully examined by the undersigned, and in connection with the proofs taken during the trial of the case, there appears:

"That the facts mentioned in this opinion marked with the letters (a), (b), (c), (d), and (e), viz: That the Union Obrera Democrática de Filipinas is in its object an illicit association; that Dr. Gomez prepared, submitted, and himself approved the bylaws in Tagalog; that he altered section 5 of Chapter V to suit his own desires and to deceive the workmen who did not understand Spanish; that he caused to be printed and distributed some eight thousand copies of said bylaws; that he caused himself to be elected president and director; and that said bylaws have not been altered but still continue in force; none of which acts, however, in the opinion of the undersigned, constitutes crime, especially inasmuch as the prosecution has not succeeded in proving these acts in any way, and inasmuch as the evidence given by Don Isabelo de los Reyes and the other witnesses in the same case shows that the defendant did not organize the Union Obrera, which was established before his arrival in the Philippines; that he did not intervene in the making of the translation and in the printing of the Tagalog version of said bylaws, the Spanish edition thereof being the official one by which the association was governed; that he did not cause himself to be elected president and director, and notwithstanding the allegation set out in the complaint, some of the sections of said bylaws were modified by the board of directors in order that greater benefits might be enjoyed by the members of the said association.

"The facts stated in the paragraph marked (f) : The interpretation given by the prosecution to Chapter II, section 2, of the bylaws of the Union Obrera, discloses an absolute ignorance of the meaning and value of Spanish words. The letter and spirit of said section shows in a clear and evident manner that one of the objects of the Union Obrera is to inculcate in the workman (to instruct him) the proper performance of his duties and the exercise of his rights in a discreet and opportune manner.

"What phrase in said section has enabled the prosecution to give it the meaning of 'development of a hostile sentiment and organized movement of men and women against the Government of the United States in the Philippines?'

"Is it that of instructing the workman. in the proper performance of his duties? Is it, perchance, that of teaching the workman how to exercise his rights discreetly and opportunely at all times? Both of these phrases, in the opinion of the undersigned, are entirely contrary to the interpretation given by the prosecution. The first includes the teaching of something beneficial, useful, and necessary to every citizen, since the first duty of a citizen is to strictly obey and respect the laws of the country. The second is the logical consequence of the first and can be interpreted in no other way than literally.

"In regard to the facts stated in those paragraphs marked '(g)' and '(h),' we believe that the accused can not be held responsible for them, since it is well known that the issuance of shares was agreed and decided upon in a

general meeting of the members; and moreover, the association, as well as Dr. Gomez, was governed by the opinion of Attorney Serra, who, being a lawyer, and the question being purely a legal one, was relied upon, while the defendant has no knowledge of law whatever.

"The fact stated in paragraph marked with the letter ' (i)' is not authorized by any of the sections of the bylaws. The strikes which occurred in Cavite, for the benefit of those participating in which the Union Obrera had given theatrical performances, had not for their object the improper increasing of wages, while the object of the theatrical performances, given by rich and poor together, was only to procure necessities of life for the families of the strikers. Everybody knows the scarcity of articles most necessary for subsistence and the high prices of same. It is but just that the workman should demand from his employer an increase of wages in proportion to the cost of the necessities of life. Strikes are not condemned by any law unless the strikers, to make them effective, employ violent methods such as coercion, intimidation, and public disorder, in which case the strikers are punished, not for being strikers, but for the crimes they commit while striking. Considering that the strikes which occurred in Cavite were extraordinarily peaceful in every way, and that no punishable offense was committed in connection therewith, the undersigned believe that the Union Obrera did not become liable for an illegal act by contributing its resources, not to the furtherance of the strike, but to the maintenance of the strikers; and especially it is true that this act can not be considered illegal when it is remembered that by the mediation of the Union Obrera the struggle was settled to the satisfaction of both parties.

"The act alleged in paragraph (j) is an entirely lawful one, the illegality of the association not having been established.

"In regard to the allegations of paragraph (k), the prosecution has presented only one class of proof, which, being examined with entire impartiality, is not sufficient to sustain the assumption that the defendant had any relations with Faustino Guillermo or other officials and members of criminal organizations. This evidence consisted of the telegram sent by the defendant to Governor Taft, and two letters, one addressed to the provincial fiscal of Rizal and the other to General Allen of the Constabulary. It was not proved that the defendant had maintained a correspondence with the ladrones. No letter or document has been presented to justify such a conclusion. Neither has there been any proof presented to show that the defendant conspired with such ladrones. Likewise, during the taking of the evidence, there were not even mentioned the crimes of theft, rape, robbery, assassination, etc., which, in the opinion of the prosecution, were the objects of the Union Obrera.

"With reference to the allegations of paragraph (j), there has been no evidence presented tending to show that the defendant has given aid and assistance to the enemies of the Government and of the country.

"Many other proofs have been offered by the prosecution in this case, but their connection with the facts alleged in the complaint not having been established, since they are not pertinent, the undersigned believe it to be unnecessary to consider them.

"It not being the duty of the undersigned to strengthen their arguments by discussing questions of law, but only to pass upon questions of fact, they believe it expedient in closing this opinion to set out a few considerations in justification of their verdict.

"The crime of which Dominador Gomez is accused in this case is that of establishing, managing, and presiding over an illicit association.

"The word 'association,' in its strict sense, is the union or congregation of various individuals for a certain purpose. If it is intended to hold that the Union Obrera is an illegal association, the responsibility for the crimes committed by such association will not only reach one of its members but each and every one of the individuals composing it, in the different grades of culpability prescribed by the Penal Code, either as principals, accomplices, or accessories.

"If it is held that Dominador Gomez is the only culprit, we are placed in the anomalous position of holding that an individual can constitute by himself an association and may be found guilty of being an illegal one.

"Finally, the criminal actions imputed to the defendant were his personal acts, and we do not believe it just that he should be convicted of founding, presiding over, and directing an illegal association, for a legal association can not become illegal through the acts of one of its members, because he who commits such unlawful acts is alone responsible, and in no way can his acts affect the association as a whole.

"In view of the fact that the allegations set out in the complaint were not sufficiently proved, either in a direct and indisputable manner or by circumstantial evidence, the undersigned are of the opinion that the defendant, Dominador Gomez, should be entirely acquitted of the crime charged, namely, that of having established, directed, and presided over an illicit association.

"This is the opinion of the undersigned, save a better judgment.

(Signed) "AUISTON BAUTISTA.

(Signed) "PACIFICO REYES.

"MANILA, September 25, 1903."

On the 29th day of September, 1903, the judge of the said court rendered his decision and sentenced the defendant, Dominador Gomez, to be imprisoned for a period of four years and two months in the public cárcel of Bilibid, at hard labor, and to pay a fine of 3,250 pesetas and the costs. Judge Sweeney made the following finding of facts in his sentence:

"The facts and circumstances of this case establish beyond a reasonable doubt that the defendant entered into a conspiracy with others which resulted in the formation of this association Union Obrera. The defendant caused himself to be elected president thereof and prepared the regulations ostensibly as a labor union, but the secret and real purpose of the defendant and his co-conspirators and the purpose of the organization being to resist the Administration and overthrow the American government in the Philippine Islands, to this end he conspired and confederated with Faustino Guillermo, Luciano San Miguel, and others in the Philippine Islands who were and are engaged in the crimes of theft, rape, robbery, and murder.

"The court finds that the defendant is the founder, director, and president of the Democratic Labor Union, an illicit and illegal association, the purposes and circumstances of which are contrary to public morals and the object of which is to commit certain crimes punished by the Penal Code. The court does not find any mitigating circumstances in this case whatever, and therefore finds the defendant guilty, beyond a reasonable doubt, of the charges contained in the complaint in this case, as charged therein."

From this decision of the lower court the defendant duly appealed to this court.

On the 7th day of November, 1903, the record in said cause was received by the clerk of this court.

On the 3d day of October, 1904, the appellant filed his brief and assignment of errors in said cause.

On the 23d day of March, 1907, the Attorney-General for the Philippine Islands filed his reply brief in said cause, and the cause was submitted to the court upon its merits on the 16th day of July, 1907.

The first question presented to this court by virtue of the overruling of the demurrer presented in the lower court is whether or not the complaint filed in said cause is sufficient. No error is assigned in this court by the appellant, alleging that any evidence presented was admitted or rejected by the lower court because of any defect in said complaint. It would, therefore, seem that the case made in the lower court by the evidence was the same as if the complaint had been sufficient and no demurrer had been presented; in other words, that the respective parties have

presented exactly the same proof which would have been presented upon the theory that the complaint was sufficient in form and substance. Therefore, without passing upon the technical sufficiency of the complaint filed, we have examined the evidence adduced during the trial, for the purpose of ascertaining if such evidence was sufficient to convict the appellant of the crime charged in said complaint. It was the theory of the Government in prosecuting the defendant that the latter had founded, directed, and presided over an illicit association, the purposes and circumstances of which were contrary to public morals and whose object was to commit certain crimes punished by the Penal Code, in violation of article 188, in its relation with article 189 of the same. Article 189 provides the punishment for the founders, directors, and presidents of associations of the class mentioned in article 188, while article 190 provides, among other things, the punishment for the individual members of associations such as mentioned in article 188. Thus, under articles 189 and 190, the said code has provided punishment not only for the founders, directors, etc., of illicit associations, but for the membership of such associations as well. Therefore, if the evidence should disclose that the association mentioned in the complaint in this case is an illicit association, then it would be the duty of the proper department of the Government to prosecute the individual members of such association also.

There was much proof adduced during the trial of the cause to show that the defendant, while acting as president of said association, had committed various acts, which the prosecution attempted to show were illegal and contrary to law. It is true that while he was performing these alleged illegal acts he was president of the said association, but there is nothing in the record which shows that he was acting under instructions from the association or that the association was formed for the purpose of committing these acts. Upon the contrary, all the evidence adduced during the trial of the cause tends to show that the association was formed with the high and noble purpose of "teaching the workmen not only the necessary fulfillment of their duties, but as well the beautiful knowledge of how to discreetly and opportunely exercise their sacred rights in every field."

We are not of the opinion that the alleged illegal acts of an officer of an association can be imputed to the association, for the purpose of showing that the purposes and objects for which the association was organized were illicit and contrary to public morals.

A great portion of the evidence adduced during the trial of the cause was evidently adduced for the purpose of showing the irregular administration of the funds of said association and the alleged fraudulent investment of the same for purposes other than those contemplated by the laws of said association. This irregular administration of the funds of the association might constitute the crime of estafa. Upon that question, however, we make no finding, for the reason that estafa is not the crime charged in the present complaint.

Upon the question of the sufficiency of the evidence adduced during the trial of the cause in the lower court, we have made a careful examination of the same, and while there is much proof, judging from the acts of the defendant, to lend suspicion to the character and purpose of the association organized, directed, and presided over by the defendant, and much suspicious proof relating to the conduct of the defendant in connection therewith, and considerable proof indicating that the defendant used said association to advance his own political interests, as well as to better his financial condition, and also a good deal of proof tending to show that the defendant was personally in intimate relations with some of the enemies of the Government, yet, notwithstanding this, we are of the opinion and so hold, that the evidence adduced during the trial of the cause is insufficient to support the charges set forth in the complaint filed in said cause—

- (1) Because none of the proofs sufficiently demonstrate that the object and purpose of the association referred to were contrary to public morals, or that it was the intention of said association to commit any of the crimes punished by the Penal Code.

(2) Because, even if it were possible, under article 189, paragraph 1, for one person to be responsible as the founder, director, or president of an illegal association, he would be responsible only as such founder, etc., when such association was contrary to public morals or had for its object the commission of any of the crimes punished by the Penal Code.

(3) Because, even though the founder, director, or president of such association may have had an illegal purpose in view in the founding of the same, yet such illegal purpose on his part alone could not affect the object and nature of the association itself or the lawful end and real purpose of the same. Article 188 of the Penal Code penalizes the illicit purpose of the association, and not the end or object which its founder, director, or president may hope to realize under the shadow of the association. If in the management of the association he commits a crime, he may be punished in accordance with his acts, but not under the provisions of said article 188.

For these reasons the sentence of the lower court is hereby reversed and the defendant is hereby absolved, with costs de oficio. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

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