

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOVITA V. BUENVIAJE, DEFENDANT AND APPELLANT.*G.R. No. 22945. March 03, 1925*

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-22945/>**OSTRAND, J.:**

The defendant is accused of the violation of the Medical Act, the information alleging "that on or about the first day of June, 1923, and for some time prior to said date, the said accused without having obtained from the Board of Medical Examiners the corresponding certificate of registration for the practice of medicine in the Philippine Islands, voluntarily, illegally and criminally and for compensation, practiced medicine in the City of Manila, Philippine Islands, assisting, treating and manipulating the head and body of Regino Noble for the purpose of curing him of the ailments, diseases, pains and physical defects from which he pretended to suffer, and advertising and offering her services as a physician, by means of cards which she distributed and by letterheads and signs which she exposed on the door of her office, situated at No. 712 Calle Asuncion, and in newspapers which are published and circulated in the City of Manila, in which cards, letterheads, signs and advertising she added and prefixed to her name the letters 'Dra.,' which is the abbreviation of the word 'doctor,' for the purpose of causing the public to believe that she, the said defendant, had received the corresponding title of doctor."

To this information the defendant demurred in the court below on the grounds: (1) That it stated more than one offense, and (2) that it was not drawn in accordance with the form prescribed by law. The demurrer was overruled and the defendant pleaded not guilty.

At the trial of the case the defendant made the following admissions: "That on the first of June, 1923, she had no certificate from the Board of Medical Examiners authorizing her to practice medicine in the Philippine Islands; that on that day she treated and manipulated the head and body of Regino Noble in order to cure him of ailments from which he pretended to suffer, the treatment consisting in a 'thrust' by means of the application of the hand to the spinal column; that she for such treatment received and collected from said Regino Noble the sum of P1; that the said treatment took place in her office situated at No. 712 Calle Asuncion, District of Binondo, City of Manila, Philippine Islands; that she on or about the first day of June, 1923, and for some time prior to that date, advertised herself as a 'doctor of chiropractic,' in said City of Manila, said advertisement appearing upon her business cards and in the newspaper 'El Debate,' in its issue of April 29, 1923, edited and published in Manila and in which cards and newspaper advertisement the defendant prefixed the abbreviation 'Dra.' to her name; that she was graduated a doctor in chiropractic on the 13th day of August, 1919, as evidenced by a certificate marked Exhibit I and issued by the American University School of Chiropractic of Chicago, Illinois."

Upon this admission and some other evidence to the same effect, the trial court found the defendant guilty as charged in the information and, in accordance with section 2678 of the Administrative Code, sentenced her to pay a fine of P300, with subsidiary imprisonment in case of insolvency and to pay the costs. From this judgment the defendant appeals to this court and presents four assignments of error.

- In the first assignment of error counsel contends that the demurrer to the information should have been sustained on the ground that said information charged more than one offense. The Medical Law is contained in sections 758 to 783 of the Administrative Code and it is argued that inasmuch as some of the illegal acts with which the defendant is charged are prohibited by section 770 of the Code and others by section 783, the defendant is in reality accused of two separate and distinct offenses, namely, illegal practice of medicine and illegally representing oneself as a doctor.

We cannot accept this view. It may be noted that the Medical Law itself, as it appears in the Administrative Code, does not declare any of the therein prohibited acts penal offenses. The penal provisions relating thereto are contained in section 2678 of the Code, which reads as follows:

"Sec. 2678. Violation of Medical Law.—A person violating any provision of the Medical Law shall, upon conviction, be punished by a fine of not more than three hundred pesos or by imprisonment for not more than ninety days, or both, in the discretion of the court."

The offense here penalized is "violation of the Medical Law." The statute makes no distinction between illegal practice of medicine and illegally advertising oneself as a doctor. Both are in violation of the Medical Law and carry the same penalty. They are merely different ways or means of committing the same offense and both of these means are closely related to each other and usually employed together.

In these circumstances and where, as alleged in the information in the present case, the various violations have taken place simultaneously, we do not think it was the intention of the legislator that each single act should be regarded as a separate offense and separate informations presented for each. The language of this court in the case of *United States vs. Poh Chi* (20 Phil., 140), in regard to the Opium Law, is opposite to the present case.

"It is true that the Commission has provided a certain punishment for the possession of a pipe used in the smoking of opium, for the smoking of opium, as well as a punishment for the illegal possession of opium, but it is not believed that it was the intention of the legislature to have separate complaints filed against a person who was found in the illegal possession of opium and a pipe at the same time. If that were true then every person who was found to be smoking opium could be charged in three different complaints: First, with the illegal possession of the pipe; second, the illegal possession of the opium; and third, for smoking the opium. Certainly the legislature did not intend any such consequences."

In the case of *United States vs. Douglass* (2 Phil., 461), the court said:

"It is not objectionable, when a single offense may be committed by the use of different means, to charge, in the alternative, the various means by which the crime may have been committed. (*U. S. vs. Potter*, 27 Fed. Cases, 604; *Bishop's New Criminal Procedure*, sec. 434.)"

The same rule was followed in the case of *United States vs. Dorr* (2 Phil., 332); *United States vs. Tolentino* (5 Phil., 682); and *United States vs. Gustilo* (19 Phil., 208) and is in harmony with the views of the courts in other jurisdictions. That the various means of committing the offense is described in more than one section of the statute does not necessarily effect the general principle involved; the subdivision of a statute into section is merely a matter of convenience and while it sometimes may be of some aid in ascertaining the legislative intent, it is, of course, not conclusive thereof.

- Under the second assignment of error the appellant argues in substance that chiropractic has nothing to do with medicine and that the practice of that profession can therefore not be regarded as practice of medicine. There is no merit whatever in this contention. Assuming without conceding that chiropractic does not fall within the term "practice of medicine" in its ordinary acceptance, we have the statutory definition contained in section 770 of the

Administrative Code and which clearly includes the manipulations employed in chiropractic. The statutory definition necessarily prevails over the ordinary one.

Under the same assignment of error the defendant also argues that the examination prescribed by section 776 of the Administrative Code for admission to the practice of medicine, embraces subjects which have no connection with chiropractic and that to require chiropractors to take that examination is unreasonable and, in effect amounts to prohibition of the practice of their profession and therefore violates the constitutional principle that all men have the right to life, liberty and the pursuit of happiness and are entitled to the equal protection of the law.

There is very little force in this argument. The subjects in which an examination is required by section 778 of the Administrative Code, as amended by Act No. 3111, relate to matters of which a thorough knowledge seems necessary for the proper diagnosis of diseases of the human body and it is within the police power of the State to require that persons who devote themselves to the curing of human ills should possess such knowledge. (State vs. Edmunds, 127 Iowa, 333; 69 L. R. A., 504; Underwood vs. Scott, 43 Kan., 714; People vs. Blue Mountain Joe, 129 111., 370; State vs. Mylod, 20 R. I., 632; 41 L. R. A., 428; Stewart vs. Raab, 55 Minn., 20; Matthei vs. Wooley, 69 111. App., 654; State vs. Buswell, 40 Neb., 158; 24 L. R. A., 68; O'Connor vs. State, 46 Neb., 157; U. S. vs. Gomez Jesus, 31 Phil., 218.)

- The third assignment of error is closely related to the foregoing. The appellant contends that the prohibition in section 783 against the unauthorized use of the title "doctor" must be understood to refer to "Doctor of Medicine" and has no application to doctors of chiropractic. Under different circumstances that might possibly be so, but where, as here, chiropractic is by statute made a form of the practice of medicine, it necessarily follows that a person holding himself out as a doctor of chiropractic in legal effect represents himself as a doctor of medicine.

- In her fourth assignment of error the appellant attacks the constitutionality of Act No. 3111, amending section 770 of the Administrative Code, on the ground that the subject of the Act is not sufficiently expressed in its title and that it embraces more than one subject. There is no merit in this contention. The title of Act No. 3111 reads as follows:

"An Act to amend sections seven hundred and fifty-nine, seven hundred and sixty, seven hundred and sixty-one, seven hundred and sixty-two, seven hundred and sixty-five, seven hundred and sixty-seven, seven hundred and seventy, seven hundred and seventy-four, seven hundred and seventy-five, seven hundred and seventy-six, seven hundred and seventy-eight, seven hundred and eighty, seven hundred and eighty-two, seven hundred and eighty-three, and twenty-six hundred and seventy-eight of Act Numbered Twenty-seven hundred and eleven, known as the Administrative Code, increasing the number of the members of the Board of Medical Examiners, conferring upon the same certain additional powers and responsibilities and for other purposes."

All of the sections enumerated in the title quoted relate to the same general subject, namely, defining and regulating the practice of medicine, and section 770 is expressly mentioned as one of the sections amended.

This is sufficient. Under constitutional provisions similar to ours the general rule is that a title which declares the amendatory statute to be an act to amend a designated section or the like of a specified Code is sufficient and the precise nature of the amendatory Act need not be further stated. (Ross vs. Aguirre, 191 U. S., 60; Udell vs. Citizens Street R. Co., 152 Ind., 507; McGuire vs. Chicago, etc., R. Co., 131 Iowa, 340; Lankford vs. County Commissioners of Somerset County, 73 Md., 105; Tabor vs. State, 34 Tex. Crim., 631; Com. vs. Brown, 91 Va., 762.) For a full and authoritative discussion of this subject, see Note to Lewis vs. Dunne, 55 L. R. A., 833. See also Government of the Philippine Islands vs. Municipality of Binalonan and Roman Catholic Bishop of Nueva Segovia (32 Phil., 634) and Yu Cong Eng vs. Trinidad (p. 385, ante).

We find no error in the judgment appealed from and the same is therefore affirmed, with the costs against the appellant. So ordered.

Malcolm, Villamor, and Johns, JJ., concur.

Romualdez, J., dissenting: I believe that the complaint charges more than one offense, and that the demurrer interposed on that ground should have been sustained. For that reason I dissent from the opinion of the majority.

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