

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BUENAVENTURA BALCORTA, DEFENDANT AND APPELLANT.

G.R. No. 8722. September 10, 1913

Ponente: TRENT, J.

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TRENT, J.:

This is an appeal from a judgment of the Court of First Instance of Nueva Ecija, sentencing the defendant, Buenaventura Balcorta, to three years six months and twenty-one days of prision correccional, and a fine of 625 pesetas, together with the accessory penalties provided by law.

It is alleged that the record does not sustain the guilt of the appellant. The record, however, clearly shows that the accused entered a private house, uninvited, where services of the Methodist Episcopal Church were being conducted by between ten and twenty persons, and threatened the assemblage with a club, thereby interrupting or disturbing the divine service. The punishment meted out to the defendant by the lower court is that provided for in article 223 of the Penal Code which reads as follows:

"The penalty of prision correccional in its medium and maximum degrees and a fine of not less than 625 and not more than 6,250 pesetas shall be imposed upon any person who, by means of threats, violence, or other equivalent compulsion, shall force some other person to perform an act of worship or prevent him from performing such act."

This conclusion of law is assigned as error, it being insisted that the offense falls under paragraph 1 of article 571, which reads:

"The penalties of arresto from one to ten days and a fine of from fifteen to one hundred and twenty-five pesetas shall be imposed upon:

"1. Any person who shall disturb or interrupt any ceremony of a religious character in any manner not falling within the provisions of section 3, chapter 2, title 2 of book 2 of this code."

The twenty-first article of the Spanish constitution of 1869 provided for a state religion, but also guaranteed the privilege of freely practicing, both in public and private, the forms and ceremonies of other sects, subject only to the restrictions imposed by general law and morality. Under this constitution the Penal Code of Spain, now in effect, was promulgated in 1870. As a consequence of the removal of all restrictions upon the exercise of religious beliefs, the Penal Code of Spain, enacted in 1870, in its chapter on crimes against religion, is wholly impersonal. In none of its articles (Nos. 236 to 241) is any particular religion mentioned, but offenses against religion, as such, are defined and penalized. The heading of the chapter is "Crimes relative to the free exercise of religion (los cultos)."

The constitution of 1876, in Spain, which is still in force, after providing for a state religion, guaranteed that no one in Spanish territory would be molested for his religious opinions, nor for observing the forms of his faith, provided due respect were shown for Christian morals. By this same article, however, only the followers of the state religion could engage in public ceremonies or other manifestations. It will be noted that this article

materially modified article 21 of the former constitution. While everyone could still worship God in his own manner, it was no longer permissible for cults other than the state religion to demonstrate their religious beliefs in public.

It was under this constitution that the Penal Code for the Philippine Islands was promulgated in 1884. As a consequence its provisions are considerably different from those of the Spanish Penal Code. Of the eight articles defining and penalizing "Crimes against religion and worship" (which is the title of the chapter), six refer specially and solely to crimes against the state religion. The only crime specifically defined against religions other than that of the state is for disturbing, by means of violence, threats, etc., their ceremonies when conducted in cemeteries or other places where such ceremonies may be lawfully authorized. (Art. 225.)

The change of sovereignty and the enactment of the fourteenth paragraph of section 5 of the Philippine Bill caused the complete separation of church and state, and the abolition of all special privileges and all restrictions theretofore conferred or imposed upon any particular religious sect. All became equal in the eyes of the law, and those articles of the Penal Code defining special crimes against that denomination which, under the former sovereign, was the state religion, as well as article 225, defining a crime against all others than that religion, necessarily became inoperative. Only those articles of the Penal Code which refer to all religions equally and without distinction can now be considered as in effect. They appear to be two in number, viz, articles 223 and 571.

Let us first examine article 223, from which, neither by the specific language used nor by implication, can it be inferred that any particular religious doctrine was in the minds of the code makers. What was the object and purpose of this section? It will be remembered that at the time this article became law, all faiths not opposed to Christian morals were, under the constitution of Spain, tolerated. According to the terms of the constitution, everyone had the right to worship his Maker in his own manner; and as a corollary no one could be compelled to indorse a particular creed. Were it lawful to prevent the one or exact the other, the terms of the constitution would have become a dead letter. As is usual with constitutions, no penalty was attached to this article. It remained for the legislature in the course of its ordinary legislation to provide for its enforcement. In order to instil respect for this constitutional provision, it was necessary to provide a punishment for anyone who sought to interfere with the religious beliefs of his fellow citizens. A glance at the other articles of the Penal Code in the chapter we are discussing shows that none of the crimes defined and punished therein would respond to a state of facts where both the will and conscience of a human being were being tampered with upon the subject of religion. The provisions of article 223 were relied upon to prevent such practices. The article says that "the penalty * * * shall be imposed upon any person who * * * shall force some other person to perform an act of worship * * *." In other words, any attempt, by coercive methods, to induce a person to worship God in a manner different from or to an extent greater than that person desired, constituted an abridgment of his constitutional right to believe or disbelieve, to regard or disregard the outer forms of a sect, even though he were a member of that sect. Whatever may have been the inducement for the passage of this article of the code, certainly it is in the closest harmony with the principles of government of the present sovereign, one of which is the greatest freedom of thought and speech consistent with public order upon religious matters.

The concluding portion of the article is, "or prevent him from performing such act." History has perhaps demonstrated that it is a more common form of interference with freedom of religious thought to prevent a person from worshipping the Supreme Being according to the dictates of his own conscience than it is to force him to go through the forms of a religious ceremony in which he does not believe; but whether the one method or the other is adopted, it remains interference with religious freedom, which is incompatible with tolerance of all creeds as provided for in the Spanish constitution. To prevent a person from performing acts of devotion which he desires

to perform for the sole reason that his creed does not meet with the approval of him who prevents them is as much a blow aimed at that constitutional right to religious belief as is the first method of requiring a person to perform acts of devotion against his will or conscience. Thus far the clause extends. But does it also extend to acts which, while preventing a person from performing an act of devotion, are not prompted by religious intolerance but from some other motive? It must be remembered that the great underlying purpose of this article is to prevent and punish religious intolerance. There is no reason for presuming that the code makers had in view mere disturbances of religious worship, since these offenses are provided for in other articles of the same chapter. Even less is it to be presumed that they had in mind offenses which, while perhaps seriously disturbing or preventing (for the time) religious services, were committed with some other object in view. We are of the opinion that an essential element of the crime defined and penalized under this article is the intent of the guilty person to coercively control the religious beliefs of another person.

The offense defined and punished by article 571, paragraph 1, of the Penal Code falls under the classification of "Misdemeanors against the public order." Due to the fact that all the articles in section 3, chapter 2, of book 2, of the code, with the exception of article 223 have become inoperative, all offenses against religious cults which do not amount to an attempt to control the conscience of persons must now fall within the provisions of this article. While the punishment therein provided may be, in some instances, not sufficient, we are of the opinion that it, together with those provided for "Threats and coercion," will serve as a sufficient deterrent, and instil a wholesome respect for the decorum and dignity of an assemblage gathered for religious devotion. We find it much easier to arrive at this conclusion after comparing this penalty with those provided in the jurisdictions of that country from whence came the clause of the Philippine Bill which insures to all religious orders in this country equal protection. Mere disturbances of religious worship in the United States are generally classified as misdemeanors only. The increased severity of the punishments affixed to such penalties under the Penal Code is doubtless due to the long religious training of the nation which enacted the law and its recognition of a particular faith as a state religion.

Thus, the offense of the defendant falls within the provisions of article 223 or of article 571. The record fails to disclose the purpose of the defendant in committing the acts complained of. It is true that it is shown that the defendant was of the Aglipayan faith, while the members of the congregation were of a different sect, but none of the witnesses for the prosecution state that the defendant made any comment whatever upon religion. He simply threatened to assault them with a stick he was carrying if they did not stop the services. Under the circumstances, and considering that it is not proven that religious hatred prompted the defendant to act as he did, his offense appears to be simply that of disturbing or interrupting the religious services. An essential element of the crime provided for in article 223 was not proved and the court erred in finding him guilty of the crime therein defined.

It is further alleged that the people thus dispersed by the defendant were not holding religious services, as they were simply reading some verses out of the Bible. We have been unable to find any provision of law which requires religious services to be conducted in approved orthodox style in order to merit its protection against interference and disturbance. As stated in *Hull vs. State* (120 Ind., 153):

"It makes no difference that the method of worship of those assembled was singular or uncommon. The protection of the statute is extended to all, irrespective of creed, opinion, or mode of worship.

"Persons who meet for the purpose of religious worship, by any method which is not indecent and unlawful, have a right to do so without being molested or disturbed."

For the foregoing reasons, the judgment of the lower court is reversed, and the defendant is sentenced to ten days imprisonment [arresto menor], and a fine of P20, with subsidiary imprisonment in case of insolvency not to exceed one-third of the principal penalty, and to the payment of the costs of the cause. So ordered.

Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.
Moreland, J., concurs in the result.

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