

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BALBINO VILLAREAL, DEFENDANT AND APPELLANT.

G.R. No. 9480. November 13, 1914

Ponente: CARSON, J.

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CARSON, J.:

The evidence of record conclusively establishes the guilt of the appellant of the offense of carrying a concealed deadly weapon as defined and penalized in section 26 of Act No. 1780. The weapon was a sort of dagger or sharp-pointed knife with a blade about 8 inches long. It was carried in a leather sheath, attached to a belt which was strapped round the body, and hung down on the left hip of the accused concealed from public view inside his trousers.

The only contention of counsel which would appear to necessitate comment is the claim that the statute penalizing the carrying of concealed weapons and prohibiting the keeping and the use of firearms without a license, is in violation of the provisions of section 5 of the Philippine Bill of Rights.

Counsel does not expressly rely upon the prohibition in the United States Constitution against the infringement of the right of the people of the United States to keep and bear arms"(U.S. Constitution, amendment 2), which is not included in the Philippine Bill. But it may be well, in passing, to point out that in no event could this constitutional guaranty have any bearing on the case at bar, not only Because it has not been expressly extended to the Philippine Islands, but also because it has been uniformly held that both this and similar provisions in State constitutions apply only to arms used in civilized warfare (see cases cited in 40 Cyc, 853, note 18); and further, because even in those jurisdictions wherein the constitutional guaranty of the right to keep and bear arms is in force, while it is beyond the power of a legislature or municipal body to prohibit entirely the keeping and use of military arms, it may, in the exercise of its police powers, for the purpose of suppressing crime and lawlessness, lawfully regulate the use of such weapons by providing that they shall not be carried in a concealed manner, or that they shall not be pointed at another, or fired within the limits of a city. (See many cases cited in 40 Cyc, p. 853.)

Counsel's contention seems to be based on those provisions of the Philippine Bill of Rights which prohibit the enactment of a law depriving any person of life, liberty, or property without due process of law, or denying to any person the equal protection of the laws. He insists that restrictions placed on the carrying of deadly weapons have the effect of depriving the owner of the free use and enjoyment of his property, and that the granting of licenses to some persons to carry firearms and the denial of that right to others is a denial to the latter of the equal protection of the laws.

Both the statute in question and the provision of the Philippine Bill of Rights with which it is claimed it is in conflict were enacted under American sovereignty, and both are to be construed more especially in the light of American authority and precedent. The earliest English statute (St. 2 Edw. III, c. 3) regulating the bearing of arms, enacted in the year 1328 A. D., was but an affirmation of the common law offense of going around with unusual

and dangerous weapons to the terror of the people. Many statutes have been enacted since that time in England and the United States, regulating the carrying and the use of weapons, and these have, as a rule, been held to be constitutional, especially when the prohibitions have been directed to the wearing or carrying of deadly weapons in a concealed manner. (See 48 Cent. Digest, tit. Weapons, and many cases there cited.)

There can be no real question as to the police power of the state to regulate the use of deadly weapons for the purpose of suppressing or restraining crime and lawlessness. Undoubtedly there are many deadly weapons, such as knives, bolos, crises and the like which every citizen has a right to own and to use in the various activities of human life. But the right to own and to use such weapons does not carry with it the right to use them to the injury of his neighbor or so as to endanger the peace and welfare of the community. "It is a settled principle, growing out of the nature of well-ordered civil society, that every holder of property, however absolute and unqualified may be his title, holds it under his implied liability that his use of it may be so regulated that it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the rights of the community." *Com. vs. Alger*, 7 Cush. (Mass.), 53, 84.) Provided the means adopted are reasonably necessary for the accomplishment of the end in view, not unduly oppressive upon individuals, and in the interest of the public generally rather than of a particular class, the legislature may adopt such regulations as it deems proper restricting, limiting, and regulating the use of private property in the exercise of its police power. (*U. S. vs. Toribio*, 15 Phil. Rep., 85.)

We think there can be no question as to the reasonableness of a statutory regulation prohibiting the carrying of concealed weapons as a police measure well calculated to restrict the too frequent resort to such weapons in moments of anger and excitement. We do not doubt that the strict enforcement of such a regulation would tend to increase the security of life and limb, and to suppress crime and lawlessness, in any community wherein the practice of carrying concealed weapons prevails, and this without being unduly oppressive upon the individual owners of these weapons. It follows that its enactment by the legislature is a proper and legitimate exercise of the police power of the state.

The right to regulate the use of firearms, and to prescribe the conditions under which they may be kept and used by their owners rests upon substantially similar grounds. The general provisions touching the licensing of the use of such arms are mere police regulations, intended to limit such use so that firearms will not fall into the hands of persons whose use of them might endanger the peace of the state or the safety and security of individuals. While it may be true that those charged with the issuing of such licenses willfully or mistakenly decline to issue or approve licenses in some cases in which the applicants are equally entitled with others to receive them, nevertheless the regulations themselves are of general application and in no wise deny the equal protection of the law to all applicants. The fault in such cases is not with the law, but with those charged with its administration.

We find no errors in the proceedings prejudicial to the rights of the accused. The judgment entered in the court below should therefore be affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres and Araullo, JJ., concur.

Johnson and Moreland, JJ., concur in the result.

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