

3 Phil. 712

[G.R. No. 1501. April 16, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CANUTO BUTARDO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

August 25, 1903, the provincial fiscal of Ilocos Norte filed a complaint in the Court of First Instance of that province, charging Canuto Butardo with the crime of having administered and consented to the administration of an oath in support of an agreement by which a number of persons obligated themselves to defend their native land against the Government of the United States of America in these Islands, and to refrain from revealing the agreement, in that the accused, about the end of June or the beginning of July, 1903, together with certain others, called a meeting of a number of inhabitants of the town of Paoay, in the forests of Buga, Sulcue, Pias, and Baranio, and administered an oath to them by which they assumed the obligation to defend their native country against the Government of these Islands, and to refrain from revealing to any person whatsoever this agreement, contrary to the provisions of Act No. 292 passed by the Civil Commission.

The information having, been filed, and the case called for trial, the judge upon the evidence introduced sentenced the defendant to six years' imprisonment at hard labor, to pay a fine of \$5,000, gold, and the costs of the prosecution, from which judgment the defendant appealed.

A number of witnesses were examined in the course of the trial, from

the record of which it appears that about the end of June or the beginning of July, 1903, the defendant Butardo, accompanied by Valentin Butardo, and Eulalio Diaz, captured Pablo Pacoy, Juan Navarro, and Mateo Cacpal, who were taken into the interior of a forest, where they were blindfolded and the accused ordered them, under threats of death, to obey him; that after having compelled them to kneel he made them repeat the following oath: "I promise and swear to defend my native country with the last drop of my blood;" that thereupon he made an incision with a knife in the right arm of each one of them, charging them not to reveal to anyone what had occurred, telling them that he would subsequently inform them of the object and purpose of the meeting; that for this purpose he told them to go on a certain day to the barrio of Baranio, and told them that he would read the document to them; that the witnesses had seen a number of other persons take a similar oath and go through the same ceremony of incision; that according to other witnesses, Candido Pobre, Simplicio Clemente, Luis Dadula, Telesforo Sarangal, and Eulalio Diaz, the accused, Canuto Butardo, endeavored to form a society of union and fraternity among the inhabitants of that town, making them take the same oath and go through the ceremony of incision; that the purpose of this was, according to the witness Diaz, to form a party for the election of the president, although other witnesses stated that it was not customary to go through this ceremony of bloodletting with the electors, and the witness Simplicio Clemente said that the society which the accused intended to organize was a. secret society of a political character.

Agustin Agbayani, a sergeant of police, testified that when the existence of this secret society was discovered he made an attempt to find the documents pertaining to it; that he was informed by Valentin Butardo that the documents were in the possession of Rosendo Echinique, in whose possession the witness found a box containing the documents now in the records. This document, according to the statements of Valentin Butardo, was written by the accused, who surrendered to the witness when he was going to the barrio of Pias in June, 190#, to make incisions (sic). The witness affirmed that the accused had administered oaths to a number of persons, and had made incisions upon them as a

guaranty of their undertaking with respect to the election of the president.

The document contains an exhortation to Filipinos to have courage to defend themselves, to determine to triumph, and not to forget God. It terminates with acclamations for the Philippines, for the downtrodden, for the revolution, and for independence, and demands the death of traitors.

The facts proven in this case constitute the offense defined and punished by section 12 of Act No. 292, passed November 4, 1901. The defendant, Canuto Butardo, for the purpose of disturbing the public peace, or committing some criminal offense, compelled a number of inhabitants of the town where he resided, by threats, to take an oath to act in accordance with his purposes, and not to reveal to anyone their undertaking. Incisions were made in the arms of the associates, this, as well as the fact that secret meetings were held in fields, forests, and uninhabited places, being a proceeding adopted by the revolutionists.

The contents of the document found in the possession of one of the members of the party formed by the accused, Canuto Butardo, and others, by means of incisions, and the administration of the oath above referred to, shows that this oath was required for the purpose of disturbing the country, opposing and overthrowing the constituted Government of these Islands. Consequently it is unquestionable that the accused, who is the author of the document in question, is subject to the penalty prescribed by the law.

In view of the evidence in the case, we can not believe the statements of Butardo, that it was his purpose to form a lawful society for the election of the president and the extirpation of evil practices; that the document in question was written by him in 1897; that he fled from the municipal prison for the purpose of looking for his companions, who were in concealment, and that it was the custom to make these incisions on the electors so that they should not commit treason. We can not believe this, because the document in question was

made use of, not only by the accused, but by others, when the oath was administered and the ceremony of incision performed in the barrios of the town of Paoay, Ilocos Norte.

There is no evidence that it was a custom to administer an oath and perform the ceremony of incision under the veil of secrecy as a preliminary to the municipal elections of that town. Such proceedings are of a revolutionary character, and are practiced by members of the Katipunan societies. Consequently, notwithstanding the allegations of the accused, and his plea of not guilty to the charge, the case must be decided in accordance with the facts charged in the complaint, and the accused convicted, but not of the crime of conspiracy, of which he was convicted by the trial court.

For the reasons stated, it is our opinion that the judgment appealed must be reversed and the accused condemned to suffer imprisonment for the period of one year, and to pay a fine of 2,000 insular pesos, with subsidiary imprisonment in case of insolvency, at the rate of 2¢ pesos per day, the period of the subsidiary imprisonment not to exceed the third part of the principal penalty, and to pay the costs of both instances. The case will be remanded to the trial court with a certified copy of this decision, and of the judgment to be entered in accordance therewith. So ordered.

Arellano, C.J., Mapa, McDonough, and Johnson, JJ., concur.