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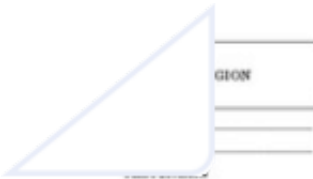
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[J.R. NO. 4644 MARCH 11, 1917]

GEORGIO AGUIPAY, PETITIONER, V. JUAN BETA, RESPONDENT.

VICENTE NOTO FOR PETITIONER.

SOLICITOR GENERAL TEASON FOR RESPONDENT.

SYLLABUS

1. PROHIBITION JURISDICTION OF WRIT FOR ACTS PERFORMED WITHOUT JURISDICTION — While generally prohibition as an extraordinary legal writ will not issue to restrain or control the performance of other than judicial or quasi-judicial functions (S. 2, J. 450), its issuance and enforcement are regulated by statute and in the jurisdiction may issue to inferior tribunals, corporations, boards, or persons, whether exercising judicial functions or not, which are without or in excess of the jurisdiction of each tribunal, corporation, board, or person. (See S. 161 AND 228, Code of Civil Procedure.)

2. ID. ID. DIRECTOR OF PORTS — The term "judicial" and "quasi-judicial" used with reference to "functions" in the statute are undoubtedly comprehensive and include the discharge of the respondent Director of Ports in the present case, which act because alleged to be violative of the Constitution as a function "without or in excess of jurisdiction" under Philippine law.

3. ID. ID. WRIT NOT CONFINED EXCLUSIVELY TO COURTS OR TRIBUNALS — The statutory rule that in the jurisdiction is that the writ of prohibition is not confined exclusively to courts or tribunals to keep them within the limits of their own jurisdiction and to prevent them from encroaching upon the jurisdiction of other tribunals but will issue in appropriate cases to an officer or person whose acts are without or in excess of his authority but subsequently "he will be granted, where it is necessary for the orderly administration of justice, or the prompt use of the strong arm of the law in an oppressive or violative manner, or a multiplicity of actions." (Chauvaque and Fajardo v. Fernandez [1922] 43 Phil. 304, 307.)

4. CONSTITUTION OF THE PHILIPPINE BELIEVES FREEDOM — When a government by its Constitution a religious liberty and more religious freedom, religious freedom, however, as a constitutional guarantee is not absolute or professed reverence for religion and is not a denial of its influence in human affairs. Religion as a profession of faith to an active power that binds and elevates man to his Creator is imposed. And in so far as it tends into the secular power processes of society its influence is deeply felt and highly appreciated.

5. ID. ID. PORTAGE STAMPS ISSUED UNDER ACT NO. 4062 — The respondent Director of Ports issued the postage stamps in question under the provision of Act No. 4062 of the Philippine

Laboratory which approximates the sum of sixty thousand pesos for the cost of plates and printing of postage stamps with new designs and other expenses incident thereto and authorized the Director of Ports, with the approval of the Secretary of Public Works and Communications, to dispose of the amount appropriated in the manner indicated and "in other as may be deemed advantageous to the Government" under Philippine law.

6. ID. ID. ID. — ACT NO. 4062 contemplates no religious purpose in view. What it gives the Director of Ports is the discretionary power to determine when the issuance of special postage stamps would be "advantageous to the Government." Of course, the phrase "advantageous to the Government" does not exclude the violation of the Constitution. It does not authorize the appropriation, use or application of public money or property for the use, benefit or support of a particular sect or church. In the present case, however, the issuance of the postage stamps in question by the Director of Ports and the Secretary of Public Works and Communications was not impugned by any act or omission of the respondent Director of religious denominations. (See also the case of *Chauvaque and Fajardo v. Fernandez*.)

7. ID. ID. ID. — THE stamps were "issued" to the country. The effect of the stamps was not considered as an act of the Philippine and its people and printed (Exhibit 1) instead of showing a Catholic Church, a picture of a religiously placed, a map of the Philippines and the location of the City of Manila, and an inscription as follows: "See XXXXX International Exchange Congress, Feb. 3-7, 1917." What is emphasized is not the Executive Congress itself but Manila, the capital of the Philippines, as the seat of that congress.

8. ID. ID. ID. — While the issuance and sale of the stamps in question may be said to be inseparably linked with an event of a religious character, the printing propaganda, if any, received by the Roman Catholic Church, was not the aim and purpose of the Government. The Government should not be embarrassed in its activities simply because of incidental results, since it is less religious in character. If the program had in view an aim which could legitimately be undertaken by appropriate legislation, the same program should not be frustrated by its subordination to mere incidental results not contemplated. (State v. *Sheldahl v. Roberts* 175 U.S. 295, 20 Sup. Ct. Rep. 521, 44 Law. ed. 109.)

LAWYER, J.

The petitioner, Mateo Gregorio AguiPAY, Superior Head of the Philippine Independent Church, seeks the issuance from this court of a writ of prohibition to prevent the respondent Director of Ports from issuing and selling postage stamps commemorative of the Thirty-third International Eucharistic Congress.

In May 1916, the Director of Ports announced in the *diario* of Manila that he would order the issue of postage stamps commemorating the celebration in the City of Manila of the Thirty-third International Eucharistic Congress, organized by the Roman Catholic Church. The petitioner, in the fulfathom of what he considered to be a civic duty, requested Vicente BETA, Esq., member of the Philippine Bar, to denounce the matter to the President of the Philippine Bar. In spite of the power of the petitioner's attorney, the respondent publicly announced having sent to the United States the design of the postage stamps to printing as follows:





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