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Since state courts have many times ruthlessly suppressed dissemination of information and opinion held by unpopular minorities, it is pleasing to find a judicial bomb dropped also on a respected representative of a powerful majority. In *Hamilton v. City of Montrose*[1] the victim was convicted of violating that part of an ordinance which reads as follows:

> "No person shall in the city of Montrose, use any * * * sounding instrument or employ any offensive device * * * as a means of * * * attracting a crowd."

The "sounding instrument" used by the defendant was a loud-speaker, and presumably it was used "as a means of attracting a crowd" as well as for the lawful means of assisting the hearing of a crowd already attracted. The conviction resulted in no serious injury to the accused, "a minister of the Gospel," or to his cause, "the Gospel," for thereafter he "and one Gooden" were free to preach with voice alone. Even if totally silenced, it would seem that no harm would result, for Montrose is advertised as a city of good churches and doubtless the Gospel is already known and accepted there.

The Supreme Court upheld the conviction because

> "We believe the people of Montrose have the right to protect themselves from concentrated and continuous cacophony."

The judicial euphony implies that the accused was guilty of a bad kind of cacophony. The preaching was done near one of the banking corners, and to be more specific about the *locus criminis*, the court says it was "about four or five car lengths" from said corner. The use of the loud-speaker had "bad effects" on business during the "hour" of the Gospel services, according to the testimony of a banker and others. So the cacophony was punishable even if intended to save souls from an eternity of concentrated and continuous fire.

It is hereby moved that the local bar have an institute on ordinances. The Montrose ordinance would make it an offense for a movie star to use "a sounding instrument" on a vacant lot "as a means of attracting a crowd" for the purpose of selling defense bonds. Mr. Willkie would be unsafe in using a "loud-speaker" to explain the American way. True, the Chief of Police sometimes tolerates momen-

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[1]124 Pac. (2d) 757 (Colo. 1942).

tary or intermittent "cacophony," for the court says that the Rev. Hamilton would not have been municipally molested if he had kept the loud-speaker "on the move and did not stop at any one place." As a matter of police grace, one may if "on the move" disturb one part of the city after another, but if he stops "at any one place," like a banking corner, the sounding instrument, loud-speaker, Salvation Army drum, blind man's violin, etc., must be silenced. The ordinance provides for no exceptions. Moreover, it is judicially lauded for that very reason, for the court says it "is made general in its application" and not to be relaxed according to the "bias or prejudice" of the law enforcement officer. If a loud-speaker is but a *potential* nuisance, and not a nuisance *per se*, doubtless its use may be regulated, but may it be prohibited entirely?

There may be circumstances where the use of a loud-speaker could not be punished without invasion of the constitutional right of free speech. If so, when does euphony become cacophony, and if mild and migratory cacophony is not unlawful, when and how does it become sufficiently "concentrated and continuous" to be legally punishable? The ordinance does not answer such questions. A law student would render the lunch counter opinion that an ordinance, to be valid, must be sufficiently limited and definite to enable anyone to know what, when and where he may or cannot do in the matters prohibited or regulated, without inquiry of a police officer concerning a gentleman's agreement the latter is willing to make.

When, if ever, we have an institute on ordinances, or one on civil rights for the benefit of poor lawyers representing still poorer men, some legal mind can then explain the majority opinion in *Hamilton v. City of Montrose*, with or without cacophony. And let a man in the back row say a kind word for the dissenting opinion.

President Platt Visits Kansas Bar

President W. W. Platt of Alamosa attended the annual convention of the Kansas Bar Association which convened in Wichita on May 18-20. He reported that they had the largest registration ever known, with more than 700. The presidents of the Missouri and Nebraska Bar Associations were present and the former delivered an address on war work. The latter addressed the convention on their proposal to integrate, and those present voted unanimously in favor of the idea.