

[G.R. No. 3046. September 08, 1906]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. DAVID FRANK,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TRACEY, J.:

The defendant was convicted of maltreatment under section 2 of Act No. 619. He was employed as a detective and worked as a clerk in the Constabulary office at Cavite. Some articles having been stolen from his own house, he procured the arrest of three men whom he charged with the theft. They were locked in separate rooms in the schoolhouse used as a temporary jail, and while so confined were visited by the defendant, who had possession of the keys. There is no doubt as to his maltreatment of Pedro Moya, upon which the charge in this case is based, inasmuch as it was not only proved by three witnesses, but was in substance confessed.

The defense challenges the official character of the accused. The act cited punishes "any member of the Constabulary force" maltreating a native or other person for the purpose of procuring information, and it is contended that a Constabulary detective is not a member of the Constabulary force. It may be noted that the English phrase "Constabulary force" is not rendered by an exact equivalent in the words "*Cuerpo de Policia de Filipinas*" used in the official translation into Spanish.

By Act No. 255 the name "Philippines Constabulary" was substituted for "Insular Constabulary," theretofore used, and the organization of a section of information was authorized, to be under the immediate direction of the Chief. In the more recent acts this section has been termed the information division and is the department in which detectives, of which the defendant was one, were employed. This division, although not a part of the enlisted strength of the Constabulary, which is definitely limited by law, is yet a recognized part of its organization, and as such is regularly provided for in the appropriation acts which

fix the number and grade of detectives, with their respective salaries. (See Acts Nos. 807 and 1225.) The latter act, passed August 31, 1904, under the heading "Philippines Constabulary," makes appropriation "for the hire of additional detectives, as required from time to time, at varying rates of pay, not to exceed in aggregate twelve thousand pesos."

It is plain from these acts and from others passed on the same subject that the law recognizes this division as a part of the Constabulary, and its detectives must be considered as members of that force. Nowhere in the statutes do we find any contrary indication. The propriety of its application in the penal provisions of section 2 of Act No. 619 to detectives or civil-service men is apparent, as their functions are such as peculiarly to expose them to the temptation to extort information through oppression.

The defendant was employed from the 6th of January, 1904, to the 30th of June, 1905, in the information division, doing the work of a clerk, which was the position for which he originally applied. Being told, however, that the only existing vacancies were in the position of detective, he accepted that appointment, filing his oath of office. He seems from time to time to have discharged a variety of duties and on some occasions to have made formal judicial complaint against prisoners, appearing as the representative of his superior officer, the Constabulary subinspector. The evidence leaves no doubt that his abuse of the prisoner in the present case and his companions was in the exercise of official power and not as a private individual.

The sentence of the lower court to imprisonment for one year, together with costs, is affirmed, but without hard labor, and with the costs of this instance. The provision for his disqualification from office for a period of five years is annulled, inasmuch as the law provides for perpetual disqualification upon conviction of this offense.

After the expiration of ten days let judgment be entered in accordance herewith and the record in this case returned to the trial court for execution. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Willard, JJ., concur.

