

7 Phil. 241

[G.R. No. 2825. December 29, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PAUL A. WEEMS,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

The appellant was charged in the Court of First Instance of Manila with the crime of falsification of a public document, by a public official.

The evidence of record discloses that on or about the 22d day of June, 1904, the accused, Paul A. Weems, a duly appointed, qualified, and acting disbursing officer of the Bureau of Coast Guard and Transportation, falsified the cashbook of the said Bureau by perverting the truth in the narration of the facts contained therein so as to make it appear that he, as said disbursing officer, had on the 22d day of June, 1904, paid out and disbursed, on account of the Capul light-house pay roll, voucher No. 29 for the month of May, 1904, as wages of employees in the light-house service at the said Capul light-house, the sum of P204, Philippine currency; and on account of the Malabrigo light-house pay roll, voucher No. 30 for the month of May, 1904, as wages of the employees in the light-house service at the said Malabrigo light-house, the sum of P408, Philippine currency, when, in truth and in fact, the said Paul A. Weems, had not, as said disbursing officer nor in any other capacity, paid out or disbursed on the said 22d day of June 1904, or on any other date prior thereto, the sum of P204, Philippine currency, on voucher No. 29, nor P408, Philippine currency, on voucher No. 30, nor any part thereof except that he had paid out the sum of P204, Philippine currency, on account of voucher No. 30.

The accused admitted that he had made the said entries in the cashbook showing payment in full of the pay rolls of Capul and Malabrigo for the months of April and May, 1904, and that upon the said date the said employees had not received in cash the entire amounts set out in the said pay rolls but, in explanation of his conduct, he alleged that on or about the

22d day of June, 1904, he visited the light-house stations at Capul and Malabrigo for the purpose of paying the wages of the light-house employees stationed there; that upon his arrival he discovered that through some mistake in his estimate he had failed to bring with him sufficient funds to make payments in full; that he had explained conditions to the employees at those light-houses; that the said light-house employees agreed to take a part of their salaries as set out in the pay rolls of April and May and requested the accused to hold the balance as personal deposit to be paid to them when they should arrive in Manila or upon the following pay trip; that he regarded himself as personally responsible to the various employees for the amounts which had not been paid in cash and that he interpreted his agreement with these employees as in effect a payment of the amounts due upon the pay roll; and that the employees were satisfied with this arrangement and so expressed themselves to him.

The chief light-house keepers at Capul and Malabrigo were put upon the stand and wholly denied any knowledge of such an agreement or that they, or any of their employees, had entered into such an agreement, and we are satisfied from their testimony that when the accused informed them that he had not brought enough money with him with which to pay their wages in full they accepted the amount actually paid because there was nothing else for them to do, but without surrendering their claim upon the Government for the balance due them upon the pay rolls.

In the light of this testimony no credence can be given the highly improbable story of the accused, and it is unnecessary, therefore, to consider either the weight or pertinence of the evidence introduced by the prosecution to prove that the accused, shortly after his return from this pay trip, sent a number of cablegrams to friends in the United States begging the remittance of \$1,000 "to save him from imprisonment and disgrace," nor to take into consideration the evidence which tended to prove that, after criminal proceedings were instituted against him, the accused attempted to make surreptitious payments of the unpaid balance due on the said pay rolls for the month of May, 1904.

Counsel for the appellant relies especially upon the following alleged errors:

First. That the trial court erred in overruling the demurrer to the complaint, said demurrer being based on the ground that the accused is charged therein with having committed the offense as a public official, to wit, as disbursing officer of the Bureau of Coast Guard and Transportation of the United States Government in the Philippine Islands, and on the further ground that he is charged with falsifying a cash book of the Bureau of Coast Guard and

Transportation of the United States Government in the Philippine Islands, when, as it is alleged, an examination of existing laws discloses that no such Bureau has ever been created, the only Bureau of Coast Guard and Transportation in the Philippine Islands being the Bureau of Coast Guard and Transportation of the Philippine Government.

Second. That the trial court erred in finding that the accused was a public official in the sense in which those words are used in article 300 of the Penal Code, which defines and penalizes the crime with which the accused was charged.

Third. That the trial court erred in finding that the cashbook in which the alleged entries were made was a public document, in the sense in which those words are used in the said article.

(1) Section 10 of General Orders, No. 58, is as follows:

“No information or complaint is insufficient nor can the trial, judgment, or other proceedings be affected by reason of a defect in matter of form which does not tend to prejudice a substantial right of the defendant upon the merits.”

It is sufficient answer, therefore, to the first assignment of error to point out that the Bureau of Coast Guard and Transportation of the Philippine Government is sufficiently described as the Bureau of Coast Guard and Transportation of the Government of the United States in the Philippine Islands, because the Philippine Government is, in fact, the Government of the United States in the Philippine Islands. The alleged defect in the complaint could not “prejudice any substantial right of the defendant upon the merits” as the language used left no room for doubt as to the Bureau which it was intended to designate.

(2) That the accused was a public official at the time when the offense was committed does not seem to admit of doubt. Article 401 of the Penal Code is as follows:

“For the purposes of this and of the preceding titles of this book, every person shall be considered a public official who, by the immediate provisions of law or by popular election or appointment by competent authority, takes part in the exercise of public functions.”

And while no evidence was offered by the prosecution to prove that the accused had been appointed by competent authority to the office of disbursing officer of the Bureau of Coast Guard and Transportation, nevertheless under the provisions of subsection 13 of section 334 of the Code of Civil Procedure such appointment may be presumed because¹ the accused admits that at the time when the offense was committed he was in the exercise of the duties of that office.

That the book in which the falsifications were proven to have been made was not a mere personal notebook or memorandum wherein the accused, for his personal convenience, kept a record of certain transactions, as is alleged by counsel for appellant, and that it was in fact the official cashbook of the disbursing officer of the Bureau of Coast Guard and Transportation was conclusively established by the testimony of W. B. Hatfield, disbursing officer of the Bureau of Coast Guard and Transportation, and A. M. Easthagen, official examiner in the Bureau of Audits; these witnesses testified that "in the performance of his duty as disbursing officer of the Bureau of Coast Guard and Transportation the principal book kept by the accused was the official cashbook of the Bureau which had been opened when that book was known as the cashbook of the captain, of the port and continued in use when the office of captain of the port was consolidated with and brought under the Bureau of Coast Guard and Transportation."

Section 1 of Act No. 36 of the Philippine Commission provides that—

"The accounts of all collecting, disbursing, and accounting officers or agents authorized to receive or disburse money or to audit accounts in these Islands shall be kept, and their reports shall be rendered, in accordance with the requirements of the act passed October 3, 1900 (No. 12), prescribing the method to be adopted by the Insular Treasurer in keeping and rendering accounts of his receipts and disbursements, and the liability of such officers or agents shall be determined in the same manner as the liability of the Insular Treasurer under said act."

And section 2 of said Act No. 12, passed October 3, 1900, is as follows:

"For the purpose of all reports required by law, the Insular Treasurer shall prepare, on the books of the Treasury, tabulated statements, showing the several

sources from which revenue has been received and the several purposes for which the same has been disbursed, with three columns of figures, the first column showing the amounts of Insular money actually received or disbursed, the second column showing the amounts of United States money so received or disbursed, and the third column showing the aggregate amounts so received or disbursed stated in the money of the United States, which last-named amount shall be ascertained as provided in the next section.”

We are of the opinion from the evidence of record that the cashbook described in the complaint was the record which the disbursing officer of the Bureau of Coast Guard and Transportation was required to keep under the express provisions of the above-cited laws.

Counsel for the appellant urges that Act No. 90 abrogated these laws in that it provided that—

“The Auditor shall, with the approval of the military governor, prescribe the forms for keeping and rendering all accounts subject to his examination and settlement, which forms shall conform substantially with those used by officers rendering accounts to the Treasury Department of the United States, and issue all necessary instructions to the officers and agents rendering such accounts.”
(Rule 12.)

It will be observed, however, that this rule simply authorizes the Auditor to prescribe the form for keeping and rendering the accounts, and until such forms have been prescribed it in nowise affects the provisions of any law in force prior thereto, and there is nothing in the record to show that the Auditor has undertaken to do away with the keeping of records by disbursing officers as prescribed in Act No. 36, and it would seem that his authority was, limited to prescribing the form and manner in which such records should be kept and that he had no authority to authorize a failure to keep such records.

Section 299 of the Code of Civil Procedure defines a public writing as—

“The written acts or record of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, of the Philippine Islands, or of the United States, or of any States of the United

States or of a foreign country, and public records kept in the Philippine Islands of private writings.”

Under this definition there can be no question that the cash book falsified by the defendant was a public document as provided by the provisions of article 300 of the Penal Code.

The guilt of the accused was established beyond a reasonable doubt, and we find no error in the proceedings prejudicial to the rights of the accused. The judgment and sentence appealed from should be, and is hereby, affirmed, with the costs of this instance against the appellant. After expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the record remanded to the court below for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Willard, and Tracey, JJ., concur.
