

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MELECIO ESTAVILLO ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. 6138. April 09, 1911

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PER CURIAM:

Of the sixteen accused charged in the Court of First Instance of Ilocos Norte for a violation of the Election Law, two, Gregorio Julian and Francisco Agliam, were acquitted; Gelacio Felipe not being present when the case was called the first time he was tried separately. After due consideration, the trial court, on the 12th and 14th of January, 1910, found the defendants and appellants guilty as charged in the complaint and sentenced each to pay a fine of P200, to the corresponding subsidiary imprisonment at the rate of two pesos per day in case of insolvency, and to pay one-sixteenth part of the costs. From this judgment the fourteen defendants appealed.

The complaint in this case is as follows:

"The undersigned charges Melecio Estavillo, Urbano Agcaoili, Mariano Erice, Victor Fontanilla, Mateo Guerrero, Elias Guieb, Gregorio Julian, jr., Gregorio Ruiz, Leopoldo Tongson, Andres Diego, Leon Bruno, Inocente Gayetano, Timoteo Mateo, Esteban Lampitoc, Gelacio Felipe, and Francisco Agliam, all residents of Laoag, Ilocos Norte, P. L., with violation of the Election Law (No. 1582), committed within the jurisdiction of this court, as follows:

"That, in order to be voters of said municipality in the past general election, held therein on November 2, 1909, the said accused, and each of them, did willfully, unlawfully, and knowingly, take a false oath on September 24, 1909, before the members of the election board of the first electoral section of said municipality, in that they stated, on taking their respective oaths, that they were not delinquent, yet knowing that they were, in the payment of the land taxes for the year 1909, on their respective property holdings situate: Those of Melecio Estavillo, Urbano Agcaoili, Francisco Agliam, Mariano Erice, Victor Fontanilla, Elias Guieb, Timoteo Mateo, Estelmn Lampitoc, Gelacio Felipe, Gregorio Julian, jr., Gregorio Ruiz, Leopoldo Tongson and Leon Bruno in the said municipality of Laoag; those of Inocente Ca- yetano in the said municipality of Laoag and the municipality of Dingras; and those of Andres Diego in the municipality of Piddig, Ilocos Norte, P. I.; and thereby had their names registered, as they were registered, in the voting list prepared by the said election board, yet knowing that, as delinquents they had no right to be voters in the said election. In violation of section 30 of the Election Law."

After the foregoing complaint was read to the defendants, and before pleading, all of the said defendants except Gregorio Felipe, Urbano Agcaoili, Gregorio Julian, jr., and Francisco "Agliam, interposed a demurrer. The demurrer was overruled and the defendants required to plead. The following answers of the defendants appear of record:

"We, Melecio Estavillo, Urbano Agcaoili, Mariano Erice, Victor Fontanilla, Mateo Guerrero, Elias Guieb, Gregorio Ruiz, Leopoldo Tongson, Andres Diego, Leon Bruno, Inocente Gayetano, Timoteo Mateo, Esteban Lampitoc, and Gelacio Felipe, declare that we are not guilty, though it is true that we took the electors' oath for the purpose of having our names registered in the censo electoral of the municipality of Laoag for the last general election, without having paid some of our land-taxes upon our real property situated in the

municipalities mentioned in the complaint, but we did not knowingly swear falsely as stated in the complaint, neither did we knowingly cause our names to be inscribed in the censo electoral without authority to do so."

In view of the pleas entered by the defendants, the fiscal rested his case after presenting the electors' oath, which had been subscribed and sworn to by each of the defendants on the 24th of September, 1909. The proofs presented on behalf of each of the defendants, aside from the two who were acquitted, will be considered separately.

Melecio Estavillo testified that for several months before he took the electors' oath he had been absent from Laoag and had requested his brother, Benito, to pay his taxes. Benito did not comply with this request so Estavillo paid said taxes on September 30th.

Mariano Erice testified that when he took the electors' oath he did not know that he was delinquent and that on finding out this fact he immediately paid his taxes.

Victor Fontanilla testified that he had been absent from Laoag working in the town of Vintar from May, 1909, until the 1st of October of the same year; that when he left Laoag, he requested his wife to pay his land taxes but that she involuntarily failed to do so; that when he took the electors' oath he did not know that his land taxes had not been paid, and that on discovering this fact he immediately paid them.

Mateo Guerrero testified that before the end of August, 1909, he authorized and directed his nephew, Leoncio Guerrero, to pay his land taxes in the towns of Laoag, Baccra and Dingras, and for this purpose turned over to him the sum of P5; that after so doing he left for the Cagayan valley and did not return until the 28d day of September of that year, and feeling sure that his nephew had paid the taxes on his land he took the electors' oath; that he did not discover that he was delinquent until sometime in October and then he immediately paid his taxes. The testimony of this defendant is corroborated by that of his nephew, Leoncio, with reference to having received the P5 and having promised to pay his uncle's taxes, but he said he did not comply with this request for the reason that his (Leoncio's father) was sick and he had to remain with him.

Elias Guieb testified that he paid his land taxes before the election and therefore considered himself a qualified elector, notwithstanding the fact that he was delinquent at the time he took the electors' oath.

Gregorio Ruiz stated that he did not know he was delinquent until he received, in the month of October, 1909, a notification from the municipal treasurer, and that on the receipt of this notification he paid his taxes.

Leandro Domingo, a municipal policeman, testified that he delivered, on the 4th of October, to Gregorio Ruiz a delinquent tax notice, issued by the municipal treasurer.

Leopoldo Tongson testified that when he took the electors' oath he did not consider himself delinquent for the reason that he had sold, with a right to repurchase, his lands to Alejandra Mena on the 28th of April, 1908; that since that sale he had considered himself not responsible for the taxes, as they had been assumed by Mena and paid by her in the year 1908; and that these lands still appear in the tax books in his name as he had not had an opportunity to have same transferred to Alejandra Mena.

Alejandra Mena testified that it is a fact that she had purchased the lands of Leopoldo Tongson, with a right to redeem, and had assumed the payment of the land taxes and that she did pay the land taxes for the year 1908, but that she had not, up to the 24th of September, paid said taxes for the year 1909.

Andres Diego testified that he went to the provincial treasurer's office in Ilocos Norte in May or June, 1909, for the purpose of paying his land tax; that he paid certain of his taxes and received a receipt therefor and that he at that time asked the clerk in the treasurer's office whether or not he still owed other taxes and received a negative reply. Believing that he was not delinquent he took the electors' oath, but after doing so he discovered that he still

owed a part of his taxes and he then proceeded immediately to pay them.

Leon Bruno testified that when he took the electors' oath he thought that his taxes had been paid as he had turned over the money to his nephew Alejandro Ricardo, with instructions to pay his taxes; that being a laborer in the fields he fully believed same had been paid, but as soon as he discovered this mistake he paid these taxes.

Alejandro Ricardo's testimony was corroborative of the above. He stated that his uncle, Leon Bruno, upon the latter going away to harvest his palay, gave him the money to pay his taxes, but as the time for payment of the taxes had not then expired he involuntarily forgot to so pay them until the 27th of September, at which time they were paid.

Inocente Cayetano stated that he handed the money to pay his taxes to one Francisco Guerrero, with the request that he pay said taxes. Believing that his taxes had been fully paid by Guerrero he took the electors' oath. Upon learning that they had not been paid he made inquiries of Guerrero and was informed that he, Guerrero, had been taken ill and for that reason had been unable to attend to the matter and further testified that he then satisfied these taxes.

Francisco Guerrero, corroborating the last witness, testified that his uncle, Inocente Cayetano, had given him on the 22d of September more than ₱5 for the payment of his taxes; that his uncle was very busy and had not the time to spare to attend to the matter; that the very day on which he received this money from his uncle he, Francisco, was taken ill and was unable to leave the house for the period of eight days; and that his uncle was engaged in working his lands and did not know of his, witness's illness.

Timoteo Mateo testified that during the past two years his lands had been in the possession of one Antonio Fontanilla, but that his, witness', name remained on the tax books. Believing that the taxes had been paid he took the electors' oath. Upon learning later that they had not, he proceeded immediately to pay them.

Esteban Lampitoc testified that he took the electors' oath before having paid his taxes, but that as he was later unable to satisfy said taxes he did not vote on election day.

Urbano Agcaoili testified that when he left Laoag in the month of August, 1909, he charged one Toribio Alvano with the payment of his taxes; that Alvano died in the month of December of that year; that believing his taxes to have been paid by Alvano he took the electors' oath, and that later upon being informed of his delinquency he proceeded immediately to pay his taxes.

Gelacio Felipe testified that the real property upon which he is charged with not having paid the taxes is owned and possessed in common by himself and his two brothers; that it was the duty of his two brothers to pay the taxes on this land; that on account of his duties as a member of the insular police force it was impossible for him to attend to the payment of these taxes and that after receiving notice of his delinquency he did not vote.

The following questions are raised for determination:

- 1. Should the demurrer have been sustained upon the ground that more than one crime is charged in the complaint?
- 2. Was it incumbent upon the prosecution to show that the notices provided in section 18 of Act Nq. 1791 had been given to each of these defendants before it can be said that they were delinquent?
- 3. If the defendants were delinquent at the time they took the electors' oath, but paid their taxes before they voted, or did not vote at all, are they guilty of having violated the Election Law?
- 4. Must the prosecution show that the defendants at the time they took the electors' oath did so knowing that they

were delinquent, or is it presumed that they knew this fact?

- 5. If the latter is the rule, have the defendants made such a showing of good faith as to entitle them to an acquittal on the ground that they honestly believed they were not delinquent at the time they took the electors' oath?

- 6. Should subsidiary imprisonment have been imposed in accordance with the provisions of Act No. 1732?

These questions will be passed upon in their order. Paragraphs 4 and 6, section 30 of the Election Law provide as follows:

"(Par. 4.) Any person who knowingly takes or subscribes any false oath, affidavit, or affirmation before any election officer, or before any court or other officer in relation to any material fact in any registration or election proceeding, shall be punished by imprisonment for not less than three months nor more than five years, or by a fine of not less than two hundred pesos nor more than two thousand pesos, or both, in the discretion of the court.

"(Par. 6.) Any person who causes or attempts to cause his name to be registered, knowing that he is not a qualified voter in the district in which he registers, or who attempts to register, and any person who falsely represents himself as some other person to any election officer or board of registry, or who willfully gives a false answer relative to any matter relating to the registration of a voter or to the right of any person to vote, or who willfully aids or abets any other persons in doing any of the acts above mentioned, shall be punished by imprisonment for, not less than one month nor more than one year, or by a fine of not less than one hundred pesos, or more than five hundred pesos, or both, in the discretion of the court."

The fourth paragraph defines and fixes the penalty for the crime of perjury committed in an election proceeding, and the sixth paragraph makes it a crime for anyone who causes or attempts to cause his name to be registered, knowing that he is not a qualified voter.

It is alleged in the complaint that the defendants did knowingly take and subscribe to a false oath and by so doing had their names illegally entered upon the registry of qualified voters. The other allegation shows what the defendants did to consummate this crime and that the false oath was material. The defendants are charged with a single offense - the taking of a false oath in violation of section 30 of the Election Law - although in order to better establish the criminality of the defendants it became necessary for the prosecution to make a detailed statement of the various criminal acts committed by them. The allegation that the defendants caused their names to be entered upon the registry knowing that they were not qualified voters, might constitute, if standing alone, a separate offense, under paragraph 6, but in this case this allegation is used in a descriptive sense, describing or detailing the acts committed by the defendants, which, together with the other allegations, constitute the consummated crime of taking a false oath in violation of section 30 of the Election Law. No error, therefore, was committed in overruling the demurrer.

Sections 15,16,17, and 18 of Act No. 1791 are as follows:

"SEC. 15. The Governor-General shall, by executive order, upon recommendation of the provincial board, fix a term of three months in each year within which land taxes due the municipalities of the province shall be payable. Such executive order shall be issued before the thirty-first day of December of each year and at least three months before the beginning of the term during which such taxes shall be collected: Provided, That in case no action is taken by the provincial board and by the Governor-General the date fixed for the preceding year shall be held to be the date upon which the taxes shall be collected for the ensuing year. After such term is so fixed the provincial treasurer shall select a period of not less than one or more than three weeks during such term, within which said taxes shall be payable at the office of the provincial treasurer in the municipality, and such treasurer, or his deputy, shall attend and be present at said office during the usual office hours of each

week during such period, exclusive of legal holidays, to receive payment of such taxes. The provincial treasurer shall fix the time of collection in the municipality with a view to economy in the administration and discharge of his duties and the convenience of the taxpayers of the municipality: Provided, That in municipalities in which the municipal treasurer is a deputy of the provincial treasurer the collection period for each year shall cover the entire three months ending the day before the tax becomes delinquent. Notice of the dates during which said taxes may be paid in each municipality shall be posted by the provincial treasurer at the main entrance of the provincial building and of all municipal buildings and in a public and conspicuous place in each barrio. Failure to pay the aforesaid taxes within the period specified shall subject the delinquent taxpayer to a penalty of twenty per centum of the amount of the original tax due, if paid within the first six months of delinquency, and a penalty of forty per centum of the original tax due if paid thereafter, to be collected at the same time and in the same manner as the original tax, and the notice shall so state. The penalty shall be accounted for by the collecting officer in the same manner as the tax.

"SEC. 16. Fifteen days after the tax shall become delinquent the provincial treasurer, or his deputy, shall prepare and sign a certified copy of the records of his office, showing the persons delinquent in payment of their taxes and the amounts of tax and penalty respectively due from each of them. He may proceed at once to seize a sufficient amount of the personal property of each delinquent, and, after due advertisement by notice stating the time, place, and cause of the sale, posted for ten days at the main entrance of the municipal building and at a public and conspicuous place in the barrio where the property was seized, unless redeemed as hereinafter provided, to sell at public auction, either at the main entrance of the municipal building or at the place where such property is seized, in his discretion, so much of the same as shall satisfy the tax, penalty, and costs of the seizure and sale, to the highest bidder. The certified copy of the provincial treasurer's record of delinquents shall be the warrant for his proceedings, and the purchaser at such sale shall acquire an indefeasible title to the property sold.

"As soon as possible after the sale the provincial treasurer, or his deputy, shall make return of his proceedings and spread it upon his record. Any surplus resulting from the sale, over and above the tax, penalty, and costs, shall be returned to the delinquent taxpayer.

"SEC. 17. Taxes and penalties assessed against realty shall be a lien thereon, which shall be superior to all other liens, mortgages, or incumbrances of any kind whatsoever; shall be enforceable against the property whether in the possession of the delinquent or any subsequent owner, and which can only be removed by the payment of the taxes, penalties, and costs. Said lien shall attach to the real property from the first day of January of the year in which the taxes were due.

"SEC. 18. Each person delinquent in the payment of real property taxes, and all persons known to have liens thereon or to be tenants thereon, shall immediately be notified of the delinquency by the provincial treasurer by a notice deposited in the post-office, postage prepaid, and addressed to him at his last-known place of residence, or to the municipality and barrio in which his delinquent property is situated. Such notice shall clearly state the amount of taxes due and the penalty which will be added if payment is made within six months from delinquency and the penalty which will be added if payment is made thereafter, together with a statement that the expiration of one year from the date of delinquency, unless the tax and penalties be sooner paid or the tax shall have been judicially set aside, the delinquent's real property will be forfeited and escheat to the Government of the Philippine Islands, and that he will be dispossessed of such property and all occupants and tenants thereon will be ejected, and thereafter the full title thereto will be and remain in said Government."

Pursuant to the provisions of section 15, supra, the Governor-General issued on November 30, 1907, Executive Order No. 57, fixing the months of March, April, and May, 1908, as the term within which the land taxes in the province of Ilocos Norte should be paid. No subsequent order was issued for the year 1909, so by virtue of the express provisions contained in said section 16, the same months in 1909 were fixed for the payment of these taxes in this province.

It was the duty of the provincial treasurer to select a period of not less than one nor more than three weeks during this term of three months within which the land taxes must be paid at his office in each municipality. This provision was inserted on the theory that the provincial treasurer, or his deputies, would have to visit the different municipalities for the purpose of collecting the taxes. One official or employee of the office of the provincial treasurer was required to be present at his office in each municipality at all times during office hours, Sundays and holidays excepted, during this period. After due notice had been given this period was considered by the legislature sufficient time for the people to pay their taxes, and also to give the provincial treasurer time to cover his province within the three months designated; but in those municipalities where the municipal treasurers were also deputies of the provincial treasurer the people had the whole of the three months in which to pay their taxes. Failure to pay the taxes within the period specified (one to three weeks, or three months, as the case may be), "shall subject the delinquent taxpayer to a penalty of twenty per centum of the amount of the original tax due, if paid within the first six months of delinquency, and a penalty of forty per centum of the original tax due if paid thereafter."

"Fifteen days after the tax shall have become delinquent the provincial treasurer, or his deputy shall prepare and sign a certified copy of the records of his office * * *. He may proceed at once to seize a sufficient amount of the personal property of each delinquent * * * as shall satisfy the tax, penalty and costs."

Definite and specified periods were fixed, one to three weeks, or three months, within which the people must pay their taxes. The provincial treasurer was given fifteen days in which to prepare a list of all delinquent taxpayers, and after so doing he was authorized to seize at once a sufficient amount of the personal property of each delinquent to satisfy his taxes, penalties, and costs. So sections 15 and 16 provide a complete system for the collection of land taxes without attempting to enforce the tax lien against the realty. It would be idle to say that penalties could be imposed and personal property seized and sold before the taxpayer became delinquent. Such a procedure would be taking property without due process of law, and in violation of the Philippine Bill. So by operation of law a taxpayer is delinquent if he fails to pay his taxes within the period fixed by statute or executive order, and these defendants were delinquent on the 1st day of June, 1909.

Experience has demonstrated that all taxes on realty can not be collected by the voluntary payment on the part of the people and the seizure and sale of personal property. So taxes and penalties assessed against realty have been declared to be a first mortgage or lien on such property. (Sec. 17, supra.) For the enforcement of this lien some regular procedure must be provided. At first a sufficient amount of the realty was sold at public auction to the highest and best bidder. This was found to be, in this country, against public policy. Finally, and lastly, it was thought best to have delinquent real property escheat to the Philippine Government; but before this can be done additional notices must be given. These notices must "clearly state the amount of the taxes due and the penalty which will be added if payment is made within six months from the delinquency, and the penalty which will be added if payment is made thereafter, together with a statement that at the expiration of one year from the date of delinquency, unless the tax and penalties be sooner paid, or the tax shall have been judicially set aside, the delinquent real property will be forfeited to the Government of the Philippine Islands." (Sec. 18, supra.)

We, therefore, conclude that the notices provided for in section 16, supra, are not required to be given for the purpose of constituting delinquency but for the purposes of enforcing the tax lien against the real property.

As to the third proposition, it is insisted that if the defendants had the qualifications specified in section 13 of Act No. 1582 at the time they took the electors' oath, they did not violate any of the provisions of the Election Law by reason of being delinquent in their taxes at that time.

Said section 13 provides as follows;

"SEC 13. Qualification of voters. - Every male person twenty-three years of age or over who has had a legal residence for a period of six months immediately preceding the election in the municipality in which he exercises the suffrage, and who is not a citizen or subject of any foreign power, and who is comprised within one of the following three classes -

(a) Those who, prior to the thirteenth of August, eighteen hundred and ninety-eight, held the office of municipal captain, gobernadorcillo, alcalde, lieutenant, cabeza de barangay, or member of any ayuntamiento;

"(b) Those who own real property to the value of five hundred pesos, or who annually pay thirty pesos or more of the established taxes;

"(c) Those who speak, read, and write Spanish or English - shall be entitled to vote at all elections: Provided, That officers, soldiers, sailors, or marines of the Army or Navy of the United States shall not be considered as having acquired legal residence within the meaning of this section by reason of their having been stationed in the municipalities for the required six months."

The pertinent part of section 14 of the same Act is as follows:

"Sec. 14. Disqualifications. - The following persons shall be disqualified from voting:

"(a) Any person who is delinquent in the payment of public taxes assessed since August, eighteen hundred and ninety-eight * * *."

Sections 15 and 16 provide a complete system by which all qualified voters may have their names inscribed in the register, and no person is entitled to vote at any general or special election held under the provisions of the Election Law, unless his name has been duly inscribed in said registry. Before the board of election inspectors is authorized to enter the name of any applicant upon the registry, such applicant must solemnly swear or affirm, among other things, that:

"I have read (or heard read) sections 13 and 14 of the Election Law, and that I have the qualifications of a voter, and none of the disqualifications, prescribed in said sections; that I am not delinquent in the payment of any public taxes assessed against or due from me since August thirteenth, eighteen hundred and ninety-eight, in any part of the Philippine Islands * * *."

Before any person is entitled to vote at any general or special election he must have, first, those qualifications set forth in the first paragraph of section 13, and those set out in at least one of the three subsequent paragraphs; second, he must not have any of those disqualifications stated in section 17; and, third, his name must appear upon the list of voters. He must swear, or affirm, that he has those qualifications, and none of the disqualifications. His oath on these points is not only material to the matters involved but is absolutely essential and without which he can not vote, although he possesses those qualifications, and none of the disqualifications. If a person knowingly takes or subscribes any false oath, affidavit, or affirmation in these proceedings in relation to any material matter, he then and there commits the crime defined and punished in paragraph 4 of section 30 of the Election Law. And it makes no difference whether he actually voted or not. By desisting from voting will not blot out the crime already committed. If he commits the crime by having his name entered upon the registry he is still disqualified as a voter, and if he votes knowing this fact he commits another distinct and separate offense, which is that defined and penalized in the first paragraph of said section 30, and may be punished accordingly.

It is true that section 13, supra, provides that those who have the qualifications set forth therein "shall be entitled to vote at all elections." This is a benefit or privilege extended to the people by the Government, but before they can exercise this privilege, or secure for themselves this benefit, they have certain duties to perform, one of which is to pay their taxes. One who fails or refuses to perform these duties can not and should not expect to reap those benefits.

With reference to the fourth question, it is incumbent upon the prosecution to show that the defendants were, in fact, delinquent in the payment of their taxes at the time they took the electors' oath; and when this has been done it must then be presumed that the defendants knowingly and intentionally took and subscribed the false oath. This rule was laid down by this court in the case of *U. S. vs. Tria* (17 Phil. Rep., 303). In this case the defendants were charged with a criminal violation of the Election Law, in that they voted in the general election held on the 2d of November, 1909, without having the qualifications required by law so to do. In passing upon the questions therein involved this court, among other things, said:

"Under the Election Law of these Islands, there is no presumption that anybody is entitled to vote. In fact, the contrary presumption prevails. This presumption, taken in connection with the evidence of the prosecution, clearly and effectively established a prima facie case against the appellants. Their conviction naturally and necessarily follows, unless they overcome the effect of the case made against them. In order to meet a prima facie case, that is, in order to destroy its effect and shift the burden of producing further evidence, the party denying it must produce evidence tending to negative the claim asserted to a point where, if no more evidence be given, his adversary can not win by a preponderance of evidence in a civil case, and beyond a reasonable doubt in a criminal case.

"Where the subject-matter of a negative averment in an indictment, or a fact relied upon by defendant as a justification or excuse, relates to him personally or otherwise lies peculiarly within his knowledge, the general rule is that the burden of proof as to such averment or fact is on him. (*The People vs. Bob Doo Hong*, 122 Cal., 606; *Com. vs. Thurlow*, 24 Pick., 374; *State vs. Wilson*, 62 Kim., 621; *U. S. vs. Chan Toco*, 12 Phil. Rep., 262.)

* * * * *

"Counsel for the appellants asserts that even though it has been shown by the prosecution that the appellants voted illegally, nevertheless, the record fails to demonstrate that they did so knowing that they were not qualified voters. He asserts, in other words, that, to sustain a conviction, it is necessary to prove not only that the appellants voted illegally but, in addition, that they voted knowing their lack of qualification. It is well known that a presumption of criminal intention may arise from proof of the commission of an unlawful act, it being the general rule that, if it is proved that the accused committed the unlawful act charged, it will be presumed that the act was done with a criminal intention, and that it is for the accused to rebut this presumption. While there are certain crimes of which a specific intent to accomplish a particular purpose is an essential element and for which there can be no conviction upon proof of mere general malice or criminal intent, the case at bar does not fall within that class. It is a well-settled principle that everyone is presumed to know the law of the land, and that one's ignorance of it furnishes no exemption from criminal responsibility for his acts. The appellants, therefore, necessarily knew the law which prohibited them from voting unless they had the qualifications expressed in the law. They knew also, and that far better than anyone else, whether or not they actually had those qualifications. The necessary consequence is that when they voted, they voted knowingly. They, being fully aware of their lack of qualifications when they voted, may not now be heard to plead their ignorance. No one may be heard to plead ignorance of a fact which from the nature of things he must necessarily know better than anyone else."

The only difference between this case and the one at bar is in the fact that in the one the defendants were tried and convicted for having voted without possessing the necessary qualifications, while in the other they were tried and convicted for having knowingly taken and subscribed a false oath in election proceedings.

In each case the defendants were charged with having violated the provisions of the same law. The same subject matter (that of elections) was involved in each case. He who votes, knowing that he does not possess the necessary qualifications, shall be punished, etc. He who knowingly takes or subscribes any false oath shall also be punished, etc. The act of the one is of the same nature as that of the other. They (the acts) relate to the same

subject matter (elections) so the doctrine laid down in that case is equally applicable to the case now under consideration.

When the defendants in the case at bar took the electors' oath they swore that they were not delinquent in the payment of their taxes. They read, or had read to them, sections 13 and 14 of the Election Law. The provisions of these sections are clear, plain and easily understood. They admit of no explanation, they explain themselves. The defendants surely understood these plain and simple provisions of law. Each swore that: "I have the qualifications of a voter, and none of the disqualifications prescribed in said sections." Not that I have been informed, but that I have or have not - a positive fact. To make doubly sure as to the payment of his taxes each also swore: "I am not delinquent in the payment of any public taxes assessed against or due from me." This was the second time in the same oath that he swore he was not delinquent in the payment of his taxes. As to whether or not he had actually paid his taxes at that time was a question of fact which lay peculiarly within his own knowledge. No one knew better than himself; he was the party most interested in the matter. There was no presumption that he was not delinquent; in fact, the contrary presumption prevailed. This presumption, taken in connection with the fact that he was delinquent, establishes his guilt of the crime charged, unless he has overcome, by competent proof, the effect of the case thus made out against him. In order to do this he must show that he had used every reasonable means within his power to ascertain whether or not his taxes had been paid. The best evidence of this fact is the tax receipt itself. But if the receipt is not presented he must produce other proof substantially as strong. He can not substitute his oath for the mere statement or promise of another. He must ascertain for himself. When he made application to have his name placed on the register as a qualified voter, he was seeking to exercise a privilege "extended to him by the Government, a benefit, not an inherent right. This privilege or benefit was conditioned upon his performance of certain duties. He could not and should not expect to exercise such a privilege without performing his duty - in this case paying his taxes. Then, again, taking the electors' oath was purely a voluntary act on his part. He could take it, or not, just as he choose. When it is admitted or shown, as in the case at bar, that the defendants committed the unlawful act (swearing that they were not delinquent, when in fact they were), it is presumed that they did so knowingly and intentionally. And when they seek to justify themselves by an excuse such an excuse must be reasonable and adequate. If it appears that they voluntarily closed their eyes to the truth, or negligently failed to make inquiry, then their ignorance or mistake of fact is not defense.

"It may fairly be assumed that one who has reason to believe a fact exists, knows it exists. Certainly if he be a reasonable being." (Shaw vs. Railroad Co., 101 U. S., 557.)

Each one of the defendants presented what he now claims to be a justifiable excuse for the commission of this crime; They pretend that they did not know that their taxes had not been paid. They are reasonable beings and not only had reason to believe that their taxes had not been paid, but they were in a position to know this fact. Not a single one made any inquiries to ascertain whether or not his taxes had been paid, but he took the electors' oath in which he swore positively that they had been. If they had exercised due diligence, or had used all reasonable means within their power, they could have easily ascertained that they were delinquent. It would have been so simple and easy for them to have inquired of the municipal or provincial treasurer with reference to this fact and to have obtained the correct information. Each would have been informed by the treasurer that he Was delinquent. There will rarely, if ever, be a case where this information can not be obtained in this manner. The excuses presented by these defendants fall far short of being sufficient to relieve them of criminal responsibility. If such flimsy excuses are accepted by the courts, then that part of the statute (par. 4, sec. 30 of the Election Law) becomes practically a dead letter The expressed will of the Legislature should not be frittered away in such a manner. Solemn oaths should be taken seriously. These defendants called upon God to witness the truthfulness of their statements when they took the electors' oath and at the same time voluntarily closed their eyes to the truth.

They can not now be heard to say that they did not know they were committing this crime. In accordance with the very plainest principles of justice they must suffer the consequences of these acts. The Legislature has so declared and we must obey this mandate by imposing upon the defendants the corresponding penalty; first, because they deserve to be punished, and second, in order to deter others from committing the same crime.

The last paragraph of section 30 of the Election Law provides that -

"Whenever any person shall be convicted of an offense under this Act, the fine and costs imposed, if any, shall be extinguished by imprisonment at the rate of one day's imprisonment for each two pesos of fine or costs remaining unpaid."

This Act went into effect on January 9, 1907, and on the 1st day of October, 1907, Act No. 1732 was passed. The first section of this Act provides as follows:

"When a fine is imposed as a whole or any part of the punishment for any criminal offense made punishable by any Act or Acts of the Philippine Commission, the court shall also sentence the guilty person to suffer subsidiary imprisonment until the fine is satisfied: * * *.

"(a) The term of such subsidiary imprisonment shall be calculated at the rate of two pesos and fifty centavos per day * * *.

* * * * *

"(c) In case the sentence of the court merely imposes a fine, the subsidiary imprisonment shall not exceed six months."

No provision is made in this Act for subsidiary imprisonment in case of failure to pay the costs. The term "by any Act or Acts of the Philippine Commission" is clear and positive. It was intended to repeal any other provisions to the contrary in any and all acts of the Commission. That provision of the Act imposing subsidiary imprisonment in case of failure to pay a fine is penal in its nature. It is more favorable to the defendants than the last paragraph of section 30 of the Election Law above quoted.

For these reasons the judgment appealed from is affirmed:

Provided, however, That in case of insolvency in the payment of the fine the subsidiary imprisonment shall be at the rate of two pesos and fifty centavos per day, not including costs. Costs in this instance will be taxed against the appellants. So ordered.

Torres, Johnson, Carson, and Moreland, JJ., concur.

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