

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ALEJANDRO R. MATEO, DEFENDANT AND APPELLANT.*G.R. No. 8025. September 17, 1913*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance of Nueva Ecija, convicting the accused of a violation of section 55 of Act No. 1189, and sentencing him to one year in prison and to pay a fine of P2,000 with subsidiary imprisonment in case of insolvency, and to pay the costs of the trial.

The defendant, Alejandro R. Mateo, is a priest of the Roman Catholic Church and was stationed in the town of Aliaga in the Province of Nueva Ecija during the month of November, 1911, and had been for some months prior thereto. On the 27th day of October, 1911, he was called on in the performance of his duties to execute an affidavit. Being asked to produce his personal cedula for the current year, a necessary prerequisite under the law for a legal and valid affidavit, he, in ignorance, presented one not only for 1911, but also for 1910. Upon examination of the cedula for the latter year it was observed by the justice that the age therein had been changed, the figures "23" having been changed to "25." A complaint was filed charging the accused with falsification of the cedula for 1910, in violation of section 55 of Act No. 1189.

The testimony of the prosecution tends to show that the accused went to the office of the municipal treasurer to cash a check. The check not having been indorsed by a person known to the municipal treasurer, the latter refused to cash it until the accused made an affidavit that the check belonged to him and that he was entitled to the sum named therein. Thereupon the accused went to the justice of the peace of the village to execute the affidavit thus required. The justice, as a prerequisite to administering the oath, asked the affiant to exhibit his cedula for the current year. The accused, being ignorant of what the law required, produced two cedulas, one for 1910 and one for 1911. On examination of the cedula for the year 1910 the change in the age of the accused was, as we have said, observed by the justice, who thereupon went to the office of the municipal treasurer to examine the stubs from which cedulas had been torn. A comparison of the cedulas with the stubs confirmed his observation that the age in said cedulas had been changed as already detailed.

The defense asserts, and the defendant testified, that, prior to going to the justice of the peace to make the affidavit referred to, he had never examined or even read the cedulas, or any other cedulas for that matter, and was, for that reason, ignorant of their contents; that he had never had occasion to use a cedula before, and, deeming that his duty was fully performed when he purchased those mentioned, he had laid them away without examination and without thought. Being asked to produce the cedula for 1911, he went home and got not only the cedula for 1911 but also that for 1910. The fact that he had been called upon to present a cedula aroused his curiosity as to the contents of those in his possession and he read them. To his surprise he found that the ages stated therein were incorrect. Being young—he having been out of college little more than a year—and ignorant of the law relating to documents of that kind, he was seized with fear as to the consequences which might follow if he exhibited to a public officer cedulas in which his age was stated incorrectly. He, therefore, went to the

municipal treasurer, from whom he had obtained them, for the purpose of having them corrected before presenting them to the justice. He asserts that, on showing them to the municipal treasurer, he frankly stated to him that he himself had changed them in order to make them correspond with his actual age, and asked him for his aid in correcting them, and that that official then and there consented to and confirmed the change. He declares, further, that he had no intention of committing any wrong; that he in no sense intended to defraud or prejudice the municipality or the Government by his act; that he obtained no profit or benefit therefrom of any kind, and that he did not know that what he had done was illegal or unlawful.

It appears from the evidence of the defense, which seems to be uncontradicted, that there was a good deal of friction between the accused and the municipal officers who presented the complaint against him and upon whose testimony he was convicted. Several suits of one kind or another had been instituted against him by these officials or through their efforts or influence. In fact, the complaint against the accused seems to have been the immediate result of an angry reply made by him to a question put by the municipal treasurer. The latter in his testimony says:

"I asked him who had changed the number in the cedula and he answered me in a threatening voice that I had nothing whatever to do with that because he said that he had purchased the cedula and could do what he liked with it. Upon seeing this, I went at once to the court for the purpose of denouncing him for the falsification of a document.

It is the claim put forward by the prosecution that a loss to the Government is not necessary to maintain the action; that no criminal intent is required; that gain or purpose of gain on the part of the accused is not necessary to violate the Act. It is maintained further that the Act is violated whenever a person makes any change whatever in a cedula, utterly regardless of whether the Government loses or the accused gains, or whether the intent or purpose is innocent or otherwise; that the object of the law is to preserve intact the certificates which the Government issues and to prevent them from being changed by any person for any purpose, whether the change be material or immaterial, whether it corrects the document or falsifies it, whether the document, after change, is capable of effecting a fraud or deception or not.

The information in this case reads as follows:

"The undersigned, amending the information, accuses Alejandro R. Mateo of a violation of section 55 of the Internal Revenue Law, committed as follows:

"On or about the month of October of the year 1911, said accused maliciously and criminally altered the age appearing in his personal cedula for the year 1910, putting the age of 25 years in place of 23, and retained in his possession such altered cedula for the purpose of using the same, thereby defrauding the internal revenues."

Giving the information the broadest interpretation possible, it charges, first, that the accused altered the age in the 1910 cedula, and second, that he kept it in his possession with intent to use it, the phrase "thereby defrauding the internal revenues" being permitted to modify both clauses, namely, that which alleges the alteration of the cedula and that which alleges his retaining it in his possession with intent of future use.

While, under certain circumstances, it may not be necessary, in order to establish the charge of falsifying a cedula, to show a pecuniary loss to the Government, nevertheless, under the facts and circumstances of this case, we think we might fairly hold that the fraud charged, being one which relates to the revenues of the Government, and therefore to a pecuniary or financial matter, such loss must be shown. But, not to restrict too narrowly the consideration of this case, we will assume that the prosecution can be maintained without showing a financial loss to the Government.

In the discussion of this case we take it that it is undisputed that the accused stated his correct age in his testimony on the trial, and, accordingly, that the age in the altered cedula was his correct age; that, therefore, all that he did

was to make the cedula speak the truth. It is also uncontradicted that he voluntarily stated to the officials to whom he presented the cedula that he had changed it and that he did so for the purpose of making it state his correct age; that he made no effort to conceal what he had done; that he maintained at the time that he had no intention to injure or defraud, and that he made the change in the interest of truth; that he set forth fully the reasons which moved him to make the change, all of which were, upon their face, innocent.

The foundation of judgment of conviction, given by the court, is as follows:

"From the evidence presented the court finds that on the 11th of January, 1910, the municipal treasurer of the municipality of Baliuag, Province of Bulacan, issued in favor of the defendant, Alejandro R. Mateo, personal cedula No. F-1208348 upon receiving the sum of P2; that in order to obtain said personal cedula the accused presented to the municipal treasurer his personal cedula for the year 1909 in which cedula the age appeared to be 22, and for which reason said municipal treasurer put in the said cedula the age of 23 years; that in the month of October, 1911, in the municipality of Aliaga the accused changed the age in said cedula, scratching out the figure 3 in the age 23 and putting in the place thereof the figure 5, making his age appear 25 instead of 23; that after having altered the cedula in the manner stated the accused presented said cedula to the justice of the peace of Aliaga and to the municipal treasurer of said municipality for the purpose of swearing to an affidavit relating to the cashing of a check; that by reason of said change the accused defrauded the internal revenues of the sum of P4, or more, in the sense that, according to the law, he should have begun payment of his personal cedula tax in the eighteenth year of his age, and, if it is true that he was 25 years of age in the year 1910 as he declared in this case, he ought to have paid the cedula tax for eight years, when, in reality, he had paid it for only six; that if the father of the accused had made a mistake as to the time when he ought to have begun to purchase the personal cedula for the accused, as the accused himself declares, this mistake ought to have been corrected and he should have settled the matter with the municipal treasurer by the payment to him of the tax corresponding to the two years, together with the corresponding fine; that having altered the cedula in the month of October, 1911, the accused presented said cedula to the justice of the peace of Aliaga and to the municipal treasurer of said municipality."

From this quotation it is clear that the court inferred that the Government had been defrauded of F4. The basis of that inference is that, according to the admitted age of the defendant at the time the cedula was changed, he should have paid the tax for eight years, whereas he had actually paid it for only six. It seems to us that there is substantially no evidence in the case from which the inference can properly be drawn that the accused had paid the tax for only six years. There is no direct proof to that effect. He himself declared positively, more than once, that he, or his father, began paying the cedula tax when he was 18 years of age and that it had been paid every year from that time forward. The Government seeks to overcome that evidence by inferences from the fact that the cedula was changed and that the age stated therein before the change was incorrect—in other words, that there had been, somewhere and sometime, a misrepresentation by the accused as to his age. There was no reason why the Government should have left that fact to inference, if it was a material fact. If the defendant had not paid his tax consistently from the time he was 18 years of age, it could easily have been proved by the production of the cedula stubs showing when the defendant began to pay, the age that appeared in the first cedula, and all the cedulas for that matter, and the number of years that he had actually paid. With evidence, clear and indisputable, easily at hand and capable of being presented, the Government, in a criminal case, ought not to leave to inference a fact which it seems to regard as so material. Under all the facts and circumstances of this case, and particularly in view of the failure of the Government to present the evidence in its possession upon that subject, we would, if we regarded it material, accept as true, according to the weight of the evidence, the declaration of the defendant that he had paid all of the cedula taxes to which the Government was entitled.

We do not, however, in this case, give much importance to this contention, even if true. We must observe that the information charges that the defendant, by the act of changing the cedula, defrauded the Government; and that he

retained said altered cedula in his possession with intent to use it for the perpetration of other frauds. The issue in the case, then, is, did the act of altering the cedula and retaining it in his possession after the alteration actually defraud the Government, or could it, in any possible way, defraud the Government? The question is not, did the defendant misrepresent his age at some time prior to the alteration of the cedula and thereby, at that time, defraud the Government, but is, rather, did this particular act of alteration deprive the Government, at that time, of any part of its revenues, or could it do so in future? Or did that act prejudice the Government in any possible way or benefit the accused in any possible way? In considering this question we must note:

In the first place, the cedula, with the alteration of which the defendant stands charged, was the cedula for 1910, and said cedula was altered, in the month of October, 1911. According to the evidence, this cedula was issued to the defendant on the 11th day of January, 1910. It therefore expired on the 31st day of December of the same year. That being so, the only cedula that had any force or effect in October, 1911, when this 1910 cedula was altered, was the cedula for the year 1911. The 1910 cedula was, therefore, without force or effect on the date on which this crime is alleged to have been committed. The cedula being thus dead in law for all effects and purposes, was it possible to defraud the revenue by any alteration as to age made in October, 1911? Or was it possible for the accused, by such alteration, to obtain any of the privileges or immunities defined in section 125 of the law which he could not have obtained if there had been no alteration? While it is clear that it might have been altered as to the year, for example, thereby defrauding the Government of the tax for one year, still it seems to us impossible to have defrauded the revenues by merely altering the age. The tax had already been paid for the year to which that cedula referred. That cedula, altered or unaltered as to age, could not have been used for any other year. Would that cedula, altered or unaltered as to age, have served the accused if he had presented it to the justice of the peace in October, 1911? Clearly, no. Only a 1911 cedula would have availed him. Could he have used the 1910 cedula, altered or unaltered as to age, for any purpose after the expiration of 1910? Clearly, no. No official would have accepted it for a moment for any purpose whatever, altered or unaltered. How, then, did the act of the defendant defraud the revenues? Did the Government have less money in its coffers after the act was performed than it did before? Would it have had more money in its Treasury if the act had not been performed? Did the act prevent it from receiving a single centavo which it would have received otherwise? Would the act diminish its revenues the day or the month or the year after? Would not the Government have been in exactly the same position if the act had never been performed? The fundamental fact is that the cedula, after it was changed, was incapable of being used to commit a fraud. It is true that, if he had placed a false age in the cedula, he might thereby, by using that as the basis for the issuance of succeeding cedulas, as a matter of record, reach the age of exemption (60 years) quicker than he really ought. But it is undisputed that he did not put a false age in the cedula, and, even if he did, the assumption that he did so to save P4 thirty-five years later is so remote that we think it negligible in this case. Precisely these same reasons show that the Government was not injured or the accused benefited in any other way by the act complained of.

The only possible theory upon which it could be urged that the defendant committed any crime at all, and that is neither charged nor proved, would be that, at the outset, he or his father had misrepresented his age and, instead of beginning to pay the tax when he was eighteen, he had, by misrepresentation, deferred payment until he had reached the age of twenty; that, having misrepresented his age at the outset, it was necessary to continue the misrepresentation because any change in the age would be immediately discovered by the official who issued the cedula, who is required to refer to the cedula, or the record, of the previous year in issuing one for the current year; that, after the lapse of six or eight years, when the defendant was called upon for the first time to produce his cedula for the inspection of a public official, fearing that his former misrepresentation would be discovered, he thereupon, in order to cover up his fraud, changed the cedula to make it correspond to his real age. But even if this theory be held to be tenable, would the act of altering the cedula be more than an attempt to hide the evidence of a

crime committed long since?

In the second place, we do not think that the defendant committed any crime on changing his age. He simply made the cedula speak the truth. What harm could ensue to the Government by making the data in the cedula conform to the facts? It is the undisputed evidence in the case that the cedula, before it was changed, did not contain the correct age of the accused, and that the age, as changed, was the correct age. How can the Government be injured by changing a cedula so that the correct age may appear therein? When done honestly and with no evil intent and when no gain or advantage results or could possibly result therefrom, it is not forgery (and falsification is but an extension of the crime of forgery as known in America) under Spanish or American authority to make a document of this kind speak the truth. While such a change by one party without the consent of the other is always something to be strongly discouraged, nevertheless, it is not criminal and cannot, therefore, be made the basis of a criminal prosecution.

The crime with which the defendant in this case stands charged is generally spoken of as the falsification of a cedula. The very word, falsification, gives a clear insight into the nature of the crime and the act which constitutes it. The change made by the accused in this case was not a falsification; it was a correction. It did not make the document speak a lie; it made it speak the truth. It did not deceive; it prevented deception. Nor was it an alteration of the document in the sense in which the word is ordinarily used. Generally, the word alteration has inherent in it the idea of deception-of making the instrument speak something which the parties did not intend it to speak. To be an alteration in violation of law it must be one "which causes it (the instrument) to speak a language different in legal effect from that which it originally spoke."

In the third place, and this is but an addition to the observations just made, the instrument was not changed in any material sense. Before the crime of falsification of a cedula is complete, it is necessary that the instrument be altered in some material respect. If the cedula could produce no other or different effect after the change than before, no crime has been committed. It is the capacity which the instrument has for mischief after the change which is the essence of the crime. In a decision of the supreme court of Spain of the 23d of December, 1885, published in the Gazette on the 21st of June, 1886, it appeared that one of the clerks in the office of the district court, in spreading upon the record the proceedings taken for the appointment of a guardian ad litem for certain minor children and the declaration of heirship in their favor, entered such proceedings as of a date anterior to the date on which they were actually entered. The clerk, for this act, was charged with the falsification of a public document, was convicted of *imprudencia temeraria* in the Court of First Instance, and appealed to the supreme court of Spain, which tribunal in reversing the judgment said in part:

"Considering that even though in the falsification of public or official documents, whether by public officials or by private persons, it is unnecessary that there be present the idea of gain or the intent to injure a third person, for the reason that, in contradistinction to private documents, the principal thing punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed, it must, nevertheless, be borne in mind that the change in the public document must be such as to affect the integrity of the same or to change the effects which it would otherwise produce; for, unless that happens, there could not exist the essential element of the intention to commit the crime which is required by article 1 of the Penal Code; considering that the fact that Don Augustin Montes Moreno set out the proceedings as of a date prior to that on which they actually occurred, and therefore incorrectly, the remaining part of the document being true, * * * neither affected the integrity or truth of said proceedings nor affected in any essential way their results or effects, it is necessary to conclude that the criminal intent mentioned in the previous observation was absent; considering that, even though the accused consciously attached incorrect dates to the proceedings, nevertheless that act does not take on the character of a crime, and for that reason the Audiencia de Huelva erred in convicting the accused * * *."

Viada (vol. 2, p. 435) says in reply to the question, what is to be understood by the words "essential element" of a cedula as used in article 321:

"We are of the opinion that, there existing no other purpose in this class of documents than that of assuring the identity of the individual and the surveillance of the administrative authorities, only those elements should be considered essential in a cedula the alteration of which has for its object the prevention of identification of the citizen or the escape of that surveillance which the administrative authorities are to exercise in the interest of the public security. Moreover, it was very proper that the authors of the Code should have limited the falsification of this class of documents to the alteration of the essential elements of the document. Thanks to this prudent and well understood limitation, which is not found in the Penal Code of our neighboring republic, there could not arise in this country the situation recorded in French jurisprudence, wherein it appears that a cura economo, who was journeying in company with a woman with whom he was living in concubinage, sought to hide his identity as a cleric and falsified the passport or cedula he was carrying, by substituting the word habitant for the word desservant. The trial court acquitted him of the charge of having falsified a cedula, basing its decision upon the ground that, in altering the passport or cedula, he did nothing more than yield to a legitimate sense of shame without injuring either public or private interest. The supreme court, however, set aside the judgment of acquittal, in spite of the reasonableness and justice of the grounds upon which it was based, holding that he was guilty of the falsification charged because article 153 of the French Code punishes every alteration of a passport without distinction as to circumstances or motives. Under the better wording of our article 321, our supreme court would undoubtedly have affirmed the judgment of acquittal on the ground that the alteration in question could not be regarded as essential, either for what it represented in itself or for the very evident motive that prompted it, which was to avoid a public scandal."

We do not hold that the age contained in a cedula issued to a particular person is not an essential element of the cedula. If the alteration in the age is of such a character as to hide the identity of the person, or to assist in doing so, such alteration would be essential and the crime of falsification would be complete. In the case before us, Jiowever, the alteration in the age was not sufficient to warrant us in holding that such an alteration was material with respect to the identity of the person to whom it was issued or with regard to his ability thereby to obtain a privilege or immunity which he could not have obtained if the change had not been made. (Sec. 125, Act No. 1189.)

The age would also be essential, and its alteration would be an essential alteration, if the change were of such character and extent as to enable the one altering it to secure a privilege or an immunity which he would not have enjoyed if the change had not been made. Such, for example, would be a change in the age so as to make one a voter when he in fact was not. In the case in hand, however, the alteration was not of that character. The change did not affect in the remotest degree the privileges or immunities which the accused could enjoy under the cedula. (Sec. 125.)

The judgment is reversed and the accused acquitted. Costs de oficio. So ordered.

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

Carson and Trent, JJ., dissent.

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