5 Phil. 312

[G.R. No. 1898. November 15, 1905]

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. WILLIAM & BALLENTINE, DEFENDANT AND APPELLEE.

D E C I S I O N

WILLARD, J.:

The act of Congress of April 29,1902 (32 Stat. L., 176), reenacted and put in force in the Philippine Islands section 11 of the act of Congress of September 13, 1888 (25 Stat. L., 476), prohibiting the entrance of Chinese laborers into the United States. That section is as follows:

> "SEC.11. That any person who shall knowingly and falsely alter or substitute any name for the name written in any certificate herein required, or forge such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in any such certificate, and any person other than the one to whom a certificate was issued who shall falsely present any such certificate, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars and imprisoned in a penitentiary for a term of not more than five years."

The defendant is charged with the violation of this law. The complaint alleges in substance that the defendant, in September, 1903, obtained from the superintendent of the imperial customs at Canton, China, and from the United States vice-consul-general at that place, a certificate, such as is mentioned in the act, for a Chinaman named Tan

See Yiu; that the certificate stated that this Chinaman was a merchant; that he was not a merchant, but a laborer; that the defendant caused Tan See Yiu to present this certificate to the customs authorities at Manila for the purpose of securing the admission of Tan See Yiu to the Philippine Islands; that the defendant knew at the time he obtained it that the statements made in the certificate were not true; that it was made with the intent to deceive the customs authorities, and that the defendant caused it to be presented to such authorities with like intent.

Defendant demurred to the complaint in the court below. This demurrer was sustained, and the Government appealed. In this court the defendant moved to dismiss the appeal, which motion was denied by a decision filed on the 17th day of August, 1903. The case was afterwards argued upon its merits, and is now before us for decision.

The certificate stated that Tan See Yiu was a merchant when he was not so in fact, and when the defendant who obtained the certificate knew that he was not. This made the document a false certificate. This false certificate was obtained by the defendant for the purpose of deceiving the customs authorities of the Philippines, and it was presented to them with that intent. It was issued for the purpose of securing admission into the Philippine Islands of a Chinaman who would not have been entitled to admission had the facts been truly stated. There is no doubt that this made the document a fraudulent certificate.

The defendant caused this fraudulent certificate, knowing it to be such, to be presented to the customs authorities for the purpose above mentioned. Did this amount to an "*uttering*" of the certificate? If the statute had used the words "*present a forged or fraudulent certificate*" the facts charged in the complaint would have brought the case clearly within the law.

The only persons to whom such a certificate, false or true, would be presented, would be the immigration authorities of the United States when the Chinaman was attempting to obtain admission thereto. The certificate was issued for that purpose. It had no value for any other purpose. Congress must have contemplated such a use of it, for it was

not susceptible of any other use, and when it employed the word "*utter*" it must have intended to include the only use to which the certificate could be put, viz, its presentation to the authorities for the purpose of securing admission into the United States.

The court below based its decision upon the ground that the word "*utter*" had a technical meaning in the law, and that it could only be applied to the use of a document or thing the making of which was itself a crime. In construing this statute that meaning must be given to the word which from the context appears to have been the meaning intended to be given to it by Congress. As has been said there can be no doubt that Congress intended by the use of the word "*utter*" to include the presentation of the certificate to the immigration authorities. That the word "*utter*" is capable of this meaning is free from doubt. It means no more than to put forth, to make use of.

It is also claimed by the defendant that the words *"forged or fraudulent certificate"* refer to those already mentioned in the section, and include only a certificate which has been altered or in which a name has been substituted for the name written in the certificate, or to a certificate which has been forged. If it had been the intention of Congress to have so declared, the words which it would naturally have selected to express this intent would have been "*such* forged or fraudulent certificate." *That language, however, was not used, but in place of it there were used the words "any* forged or fraudulent certificate."
This language is not doubtful. To give it the construction claimed for, it would be necessary to limit the plain meaning of the law by using the word "such" in place of the word "any." We would not be justified in making an amendment of this character.

The defendant further claims that the making of false statements to officials in China is not by law a crime against the United States, and can not be made such. This may be true, but we do not see how that can prevent the United States from making it a crime to present a certificate containing such false statements to the immigration authorities for the purpose of securing the entrance "into the United States of a person who, if his certificate stated the truth, would not be entitled to such admission. Although he disclaims such result, the

argument of the defendant really amounts to a claim that the United States has no power to punish a person who attempts to deceive the immigration authorities by the presentation of false documents when such documents are made abroad. Congress has power to provide such penalties as it sees fit for the purpose of enforcing the Chinese exclusion acts, the tariff laws, and legislation of like character. For the purpose of enforcing the tariff laws, by section 2864 of the Revised Statutes of the United States it was made an offense for a person to present a false invoice on entering goods at the customs. Section 317 of Act No. 355 of the Philippine Commission makes the same act an offense in these Islands. The making abroad of such a false invoice is not a crime against the United States, but its use in the United States for the purpose of defrauding the Government is. Congress could not, perhaps, punish the making in China of counterfeit money of the Philippines, but it could certainly punish the introduction of such money into the Islands.

The order of the court below sustaining the demurrer to the complaint is reversed, and the case remanded to that court for trial upon its merits, without costs in this court. So ordered.

Arellano, C.J., Torres, Mapa, Johnson, and *Carson, JJ.*, concur.

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