

HIGH COURT. Apia. 1958. 11, September. ROTHWELL J.

Forgery - accused writing her own name on a cheque - cheque not her property - whether this was "false document".

To constitute the crime of forgery, it must be proved that the accused had not only the intent to defraud or deceive, but also that she had made a "false document". Accordingly as in this case, the cheque written by the accused in her own and not purporting to be otherwise, was not a false document within the meaning of section 176 of the Samoa Act 1921 defining the crime of forgery.

The definition in the said section, especially in subsection (4) as what amounts to a "false document", is exhaustive.

R. v. Webb and McLauchlan [1924] N.Z.L.R. 934, referred to.

Information dismissed.

Sergeant Schuster, for Police.  
Accused, in person.

Cur. adv. vult.

ROTHWELL J.: The accused was charged with that she did "commit forgery by signing her name Fuiono Fa'asega on a cheque" and further with false pretence involved in obtaining clothing and money by presentation of the said cheque. On the latter charge she was convicted and dealt with.

The accused said that the cheque came from a book which she had found and it was presented for the inspection of the Court in the following form:-

BANK OF NEW ZEALAND

Apia Samoa

July 14 1958

PAY	Cash	OR BEARER
THE SUM OF	Fifteen pounds only	£15.0.0.
		Fuiono Fa'asega

The accused had no account with the Bank of New Zealand.

Forgery as defined by the Samoa Act 1921 is a much simpler matter than forgery under other legislation, and being a statutory offence is limited by the strict terms of the Act. Section 176(1) defines forgery as follows:-

"176. (1) Forgery is the making of a false document with intent to defraud or deceive any person, whether ascertained or unascertained."

It follows that intent to defraud or deceive is not sufficient to constitute the offence unless the document in question is a "false document". This expression is defined as follows in subsection (4):

"(4) A false document is -

(a) A document the whole or some material part whereof purports to be made by or on behalf of any person who did not make or authorise the making thereof, or which, though made by or by the authority of the person who purports to make it, is falsely dated as to time or

place of making, where either is material; or

- (b) A document the whole or some material part whereof purports to be made by or on behalf of some person who did not in fact exist; or
- (c) A document made in the name of an existing person, either by that person or by his authority, with the intention that the document should pass as being made by some person real or fictitious, other than the person who makes or authorises it."

It has already been held in connection with a similar statutory provision in New Zealand that the definition is exhaustive: R. v. Webb and McLauchlan, 1924 N.Z.L.R. 934.

In the circumstances of the present case therefore, it is clear that the cheque, which was a document written by the accused in her own name and did not purport to be otherwise, is not a false document within the meaning of the section. The only circumstances in which this action could have been forgery would have been the existence of some other person with a name identical with that of the accused and an intent on the part of the accused that the cheque should be accepted as being the cheque of that other person. There was no such suggestion in this case and the information is accordingly dismissed.