

UNITED STATES *v.* LONG.

Circuit Court, E. D. Georgia.

December, 1881.

1. EMBEZZLEMENT BY POSTAL EMPLOYEE—VERBAL OMISSIONS IN STATUTE.

Section 279 of the act approved June 8, 1872, itself a revision, has been transcribed *verbatim* into section 5467 of the Revised Statutes, until the latter and concluding part of the section is reached, when the words “every such person shall, on conviction thereof, for every such offence,” have been omitted, and no penalty is prescribed for any offence under that section save for stealing the valuable contents of a letter. The section does not cover the offence of embezzling a letter with valuable contents.

Indictment for Embezzling Letters by a Person in the Postal Service. On motion to quash.

E. Dunnell, Dist. Atty., for the United States.

J. Lyons, for defence.

PARDEE, C. J. In the revision of the laws to make up what are now known as the Revised Statutes, an error has been undoubtedly made in regard to the crime of embezzling letters by persons employed in the postal service. Section 5467, Rev. St.

Section 279 of the act approved June 8, 1872,—which act was a revision,—has been transcribed *verbatim* until the latter and concluding part of the section is reached. The words “every such person shall, on conviction thereof, for every such offence,” have been omitted, and as the section now reads no penalty is prescribed for any offence under that section, save for stealing the valuable contents of a letter by an employe in the postal service.

By no grammatical construction, nor by any reasonable intendment, can the section be made to cover the offence of embezzling a letter with valuable contents, such as is charged in the indictment 880 now under consideration. I have no doubt in the

matter; but if the question were doubtful, I should feel constrained to give the doubt in favor of the prisoner.

An entry will be made sustaining the motion to quash.

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