

upon the employer or employee until offered and accepted as part of the original contract of employment between the individual employer and the individual employee.

The court in the case at bar intimated that the plaintiff could have recovered had the relation of principal and agent existed between the union and some of the employees at the time of the making of the contract.²² It is submitted that on sound principles a valid contract would have been formed had the plaintiff accepted the trade agreement or adopted it into his individual working contract, despite the fact that neither he nor any other employee was a member of the union.²³

M. H. A.

CRIMINAL LAW—FORGERY BY COUNTERSIGNING—[Federal].—An employee of plaintiff authorized to countersign checks drawn for specified purposes, having procured the necessary genuine signature of a company officer on a blank check, affixed his own signature, filled in the instrument for an unauthorized purpose and amount, and later appropriated it. Action was brought against a bonding company for indemnification on the basis of the forgery or alteration of the "signature of the insured" or "the signature of any endorser." *Held*: that plaintiff might recover on the bond notwithstanding the fact that the signatures were genuine. Since the filling in was for an unauthorized purpose and amount, there was a forgery.¹

The rule of the English common law is that it is forgery when a party receiving a blank check already signed, with directions to fill in a certain amount, fraudulently fills in a different amount and appropriates the check to his own use.² This has been accepted as the rule in the United States.³

Civ. App. 1932) 48 S. W. (2d) 1033; *Yazoo & M. V. R. Co. v. Webb* (C. C. A. 5, 1933) 64 F. (2d) 902.

"*Collective labor agreement*": *Rentschler v. Missouri P. R. Co.* (1934) 126 Neb. 493, 253 N. W. 694, 95 L. R. A. 1; *Cross Mt. Coal Co. v. Ault* (1928) 157 Tenn. 461, 9 S. W. (2d) 692.

"*Gentlemen's agreement*": Commons and Andrews, *Principles of Labor Legislation* (1920) 118.

"*Trade agreement*": *Rentschler v. Missouri P. R. Co.* (1934) 126 Neb. 493, 253 N. W. 694, 95 L. R. A. 1; Hamilton, *Collective Bargaining*, 3 Ency. Soc. Sciences (1930) 629.

"*Working agreement*": *New England Wool Heel Co. v. Nolan* (1929) 268 Mass. 191, 167 N. W. 323, 66 A. L. R. 1079; *Reihing v. Local Union*, I. B. E. W. (1920) 94 N. J. L. 240, 109 Atl. 367.

20. *Long v. Baltimore & O. R. Co.* (1928) 155 Md. 265, 141 Atl. 504; *Yazoo & M. V. R. Co. v. Webb* (C. C. A. 5, 1933) 64 F. (2d) 902.

21. *Foss v. Portland Terminal Co.* (C. C. A. 1, 1933) 287 Fed. 33; *Shelley v. Portland Tug & Barge Co.* (1938) 76 P. (2d) 479.

22. *Supra*, notes 11 and 12.

23. *Supra*, note 15.

1. *Quick Service Box Co., Inc., v. St. Paul Mercury Indemnity Co. of St. Paul* (C. C. A. 7, 1938) 92 F. (2d) 15.

2. *Regina v. Wilson* (N. P. 1848) 175 Eng. Rep. 219; *Flower v. Shaw* (N. P. 1848) 175 Eng. Rep. 294; *Regina v. Richardson* (N. P. 1860) 175 Eng. Rep. 1088.

3. *Yeager v. United States* (App. D. C. 1929) 32 F. (2d) 402; *Moore v.*

The essence of forgery does not lie in a counterfeiting but in endeavoring to give the appearance of truth to a mere deceit.⁴ It is well established that forgery may be committed by the signing of one's own signature.⁵ The court in the instant case was called upon to extend the doctrine of non-authorization, as embodied in the English rule, to situations involving countersignature by the party committing the forgery.

There is little authority on the precise point. In *State v. Pine*⁶ the defendant, a city clerk, had authority to issue all orders emanating from the city council by affixing his signature below that of the mayor. As to such a purported instrument, the West Virginia court held that even though it bore the genuine signatures of both the mayor and the clerk, there would be a forgery if it could be shown that the defendant acted with the requisite intent without authority from the council.

A situation analogous to the one at hand is that where a partner withdraws funds from a joint banking account, without authority from his co-partner to do so, by signing both names to the check.⁷ There the courts have held that acting beyond the confines of the authority conferred by the partnership agreement may amount to forgery.⁸ But the result is different where a person without authority to do so signs another's name to an instrument and indicates by appropriate notation below that signature that he has written it; such action constitutes a false claim of agency, not forgery.⁹

The basic consideration would seem not to be whether the party charged with the forgery signed his own name or that of another, but whether he intended that others be deceived by his signature into believing that he had authority to make the instrument valid. Any lack of authority to do so must be affirmatively shown.¹⁰ Logically, there is no reason why the rule which makes it forgery to affix one's own signature for an unauthorized fraudulent purpose should not extend to include those cases where the valid signature of another is also necessary to complete the instrument. Thus the instant case may be approved as only a proper application, to a novel situation, of the orthodox principles.

A. E. H.

Commonwealth (1892) 92 Ky. 630, 18 S. W. 833; *State of Missouri v. Kroeger* (1871) 47 Mo. 552; *People v. Dickie* (1891) 17 N. Y. S. 51; *Duncan v. State* (1919) 86 Tex. Cr. Rep. 191, 215 S. W. 853.

4. *People v. Rushing* (1900) 130 Cal. 449, 62 Pac. 742, 80 Am. St. Rep. 141; *Commonwealth v. Wilson* (1889) 89 Ky. 157, 12 S. W. 264, 25 Am. St. Rep. 528.

5. *Ex Parte Hibbs* (D. C. Ore. 1886) 26 Fed. 421; *Luttrell v. State* (1886) 85 Tenn. 232, 1 S. W. 886, 4 Am. St. Rep. 760; *Merchants' Bank & Trust Co. v. People's Bank of Keyser* (1925) 99 W. Va. 544, 130 S. E. 142.

6. (1904) 56 W. Va. 1, 48 S. E. 206.

7. 2 Wharton, *Criminal Law* (12th ed. 1932) 1168, sec. 863.

8. *State v. Sotak* (1926) 100 W. Va. 652, 131 S. W. 706, 46 A. L. R. 1523; *Taylor v. State* (1926) 114 Neb. 257, 207 N. W. 207.

9. *State v. Lebo* (1928) 116 La. 784, 117 So. 829.

10. *State v. Pratt* (1901) 19 Del. 264, 51 Atl. 604; *State v. Pine* (1904) 56 W. Va. 1, 48 S. E. 206.