

[ G.R. No. 2317. April 25, 1906 ]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRANCISCO BALBAS ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**CARSON, J.:**

Francisco Balbas and Ignacio Flores, the appellants in this case, were convicted under the provisions of section 3 of Act No. 292 for the crime of giving aid and comfort to persons engaged in rebellion and action against the authority of the United States and of the Government of the Philippine Islands, and the laws thereof, and sentenced respectively to three years and six months' imprisonment and a fine of \$1,000, United States currency, and two years and six months' imprisonment and a fine of \$500, United States currency. Section 3 of Act No. 292 is as follows:

“Every person who incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or of the Government of the Philippine Islands, or the laws thereof, or who gives aid or comfort to anyone so engaging in such rebellion or insurrection, shall, upon conviction, be imprisoned for not more than ten years and be fined not more than ten thousand dollars.”

From the evidence of record it appears that in the Province of Isabela, during the year 1903, an armed party, under the command of Manuel Tomines and a deserter from the American Army named Sibley, was in open insurrection against the authority of the United States and of the Government of the Philippine Islands; that on various occasions the appellants furnished the members of the said party with considerable supplies of provisions, including rice, salt, and *vino*; that Balbas and Flores were at that time employees of the Compañía Tabacalera upon its estates in the said province, and that the supplies furnished were taken from its warehouses, and appear to have been given to the *insurrectos* with a view to secure their good will and as an inducement not to molest the employees or the property of the

company.

These facts would be sufficient to establish the guilt of the accused as charged if it further appeared that in giving aid and comfort to the *insurrectos* they knew that the party under the command of Tomines and Sibley was engaged in insurrection, but we do not think that there is sufficient evidence of record to sustain such a finding, although the evidence strongly tends to prove such guilty knowledge. There can be no doubt that the accused knew that the members of the band were evil doers, and that they had banded themselves together for some unlawful purpose, but it is not possible to say beyond a reasonable doubt that the accused knew what that purpose was. The facts which were shown to have come to their knowledge when the supplies were furnished the *insurrectos* were not inconsistent with the belief that the movement was merely a seditious rising against the local authorities or the local laws, or that its members were brigands whose sole object in conspiring together was robbery and plunder.

The judgment and sentence of the trial court should be, and is hereby, reversed, with the costs of both instances *de officio*, and the said Francisco Balbas and Ignacio Flores are acquitted of the crime with which they are charged. The bonds for the appearance of the accused will be canceled forthwith, and after the expiration of ten days from the entry of final judgment the cause will be returned to the court from whence it came for proper action. So ordered.

*Arellano, C. J., Mapa, and Willard, JJ., concur.*

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*DISSENTING*

**TORRES, J.:**

I am of the opinion that this is not a case of *bandolerismo*, but that of aiding a rebellion; therefore judgment should be affirmed, and I dissent from the opinion of the majority.

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