

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARTIN TORRES, DEFENDANT AND APPELLANT.

G.R. No. 6549. November 27, 1911

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with a violation of section 97 of Act No. 1189 of the Philippine Commission. The complaint was as follows:

"On or about August 6, 1908, in the pueblo of Betis, municipality of Guagua, Province of Pampanga, the accused, being a merchant or trader in leaf tobacco and other raw materials used in the manufacture of tobacco, and having been required by the internal revenue agent, John Moran, to render an exact statement of the quantity of leaf tobacco and other materials sold or delivered to any person, did wilfully and maliciously refuse to render such exact statement, and instead made a false and incomplete one."

After hearing the evidence adduced during the trial of the cause, the Hon. Julio Llorente, judge, found the defendant guilty of the offense charged and sentenced him to pay a fine of P300, with subsidiary imprisonment in case of insolvency. From that sentence the defendant appealed to this court and made several assignments of error.

Said section 97 provides that:

"It shall be the duty of every farmer or planter producing leaf tobacco and of every dealer in leaf tobacco or any material used in the manufacture of tobacco or snuff, on demand of any internal-revenue officer, to render a true and complete statement of the quantity and amount of such leaf tobacco or other material sold or delivered to any person named in such demand; and in case of refusal or neglect to render such statement or if there is cause to believe said statement to be incorrect or fraudulent, the provincial treasurer or other revenue officer shall make an examination of such person's books, and papers as may be necessary to determine the facts in the case; and any such dealer in leaf tobacco or other material who refuses to render a statement or who renders a false or incomplete statement, shall for each offense be fined in a sum not exceeding four hundred pesos."

It will be noted that the liability under said section 97 results from a refusal to render a statement on demand of any internal-revenue officer, or for the rendition of a false or incomplete statement by a farmer or planter or by a dealer in leaf tobacco or any material used in the manufacture of tobacco or snuff. An examination of the record brought to this court fails to show that any internal-revenue officer ever made a demand upon the defendant to render a statement such as is required by said section 97; neither does the record disclose that the defendant ever rendered a false or incomplete statement. In the absence, therefore, of proof (a) that a demand was made to render a statement; and (b) a refusal to comply with such demand, or (c) that he had rendered a false or incomplete statement, no liability is incurred by virtue of said section 97.

Therefore the sentence of the lower court is hereby reversed, the complaint is ordered to be dismissed, and the

defendant is hereby ordered to be discharged from the custody of the law.

Arellano, C. J., Torres, Mapa, Moreland, and Trent, JJ.,concur.

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