

UNITED STATES v. AUJA.

[10 Int. Rev. Rec. 52.]

Circuit Court, S. D. New York.

1869.

INTERNAL REVENUE—PROSECUTION FOR
VIOLATIONS—FAILURE TO MAKE ENTRY IN
BOOKS.

It is no defence for a dealer in leaf tobacco, to a charge of violating the provision of section 76 of the act of July, 1868 [15 Stat. 158], in not making proper entries in the book, form 77, that his bookkeeper had neglected to make the entries. The principal is criminally responsible. *Held* to await action of grand jury.

Before J. A. SHIELDS, United States Commissioner.

The defendant in this case [L. J. Auja) was charged with a violation of the seventy-sixth section of the internal revenue act of 1868, which provides “that all dealers in leaf tobacco shall enter daily, in a book kept for that purpose, the number of hhds., cases, and pounds of leaf tobacco sold by him, &c, with the name and residence in each instance of the person to whom sold, and, if shipped, to whom and to what district.” The evidence in this case showed that the defendant had failed to make the entries in the book for the space of nearly two months, viz., from 22d May until 19th July, the day he was arrested, the book being put in evidence showed such an omission. The defence admitted the omission, but claimed that the defendant was not responsible, for the reason that his bookkeeper had neglected to make the entries, and, consequently, the defendant was not criminally responsible.

The commissioner held that the act made it imperative for every dealer in leaf tobacco to make such entry daily, as provided by the law. And that if such dealer delegated such duty to another person to do, and such person neglected it, it would not excuse

the defendant, and that he must be held responsible for such omission.

Defendant held to await action of grand jury.

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