

R. v. CHIBATI SIMATI.

CRIMINAL REVIEW CASE NO. 6 OF 1941.

Native Tax Ordinance section 14 (1) (a)—wilful default is for any tax not for tax for any particular year.

If a native has wilfully defaulted in paying his tax for more than one year he has only committed one offence under section 14 (1) (a) of the Native Tax Ordinance and consequently only one count can be included in the charge. If, however, after he has been convicted, he wilfully defaults in paying subsequent tax he can, of course, be charged for this subsequent offence.

For further cases on defaulting in payment of tax see *R. v. Adamson Tolokia and Others* p. 56 *ante*; *R. v. Kawana* 4 N.R.L.R. 9; *R. v. Kenan Mutambo* 4 N.R.L.R. 11; *R. v. Solomon Musa Manda* 4 N.R.L.R. 13; *R. v. Muchuma* 4 N.R.L.R. 64; *R. v. Isaiah Jonase and Eleven Others* 4 N.R.L.R. 100 (in which the present case was not followed); *Bwendo Nyambe v. Reg.* 4 N.R.L.R. 228; *Kangachepe Njovu v. The King* 4 N.R.L.R. 262; *R. v. Faroe Zirore* 5 N.R.L.R. 50.

Law, C.J.: In this case the accused has been charged and convicted under two counts (1940 and 1941) in respect of section 14 (1) (a) Ordinance 36/38 and sentenced to two months I.H.L. with regard to each count, or four months in all. The section in question relates to the wilful neglect to pay *any tax* and not to wilful neglect to pay tax for any *particular year*. *Any tax* may include tax for one or two or three years. There can be only one count in such cases. In the circumstances the convictions are quashed and the sentences set aside. A conviction on one count in respect of 1940 and 1941 is hereby substituted with a sentence of three months I.H.L. in respect thereof.