

Case No. 4,316. EIGHT BARRELS DISTILLED SPIRITS.

{1 Ben. 472;¹ 10 Int. Rev. Rec 157; 15 Pittsb. Leg. J. 4.}

District Court, S. D. New York.

Oct., 1867.

INTERNAL REVENUE—INFORMER'S SHARE—TREASURY REGULATIONS.

Under the one hundred and seventy-ninth section of the act of June 30, 1864 [13 Stat. 305], as amended by the act of July 13th, 1866 [14 Stat. 98], where the marshal sells forfeited property under a venditioni exponas, the informer becomes entitled to his share when the proceeds are paid to the marshal, and his share is to be determined by the regulations then in force.

{Approved in *United States v. Twenty-Five Thousand Segars*. Case No. 16,565. Cited in *Re Jayne*, 28 Fed. 422.}

In this case the property [eight barrels of distilled spirits found in Seventh avenue, near Fifty-second street] was forfeited for violation of the internal revenue law, and was, sold by the marshal under a decree of the court, on a venditioni exponas. After the proceeds were in the marshal's hands, but before their distribution, the secretary of the treasury made new regulations as to the shares of informers. A motion was now made in behalf of the informer, to have his share paid to him in accordance with the former regulations.

Henry & Clarkson, for the informer.

B. K. Phelps, Asst. U. S. Atty.

BLATCHFORD, District Judge. The proceeds of the forfeiture in this case having been paid into court on the 17th of August last, are not, so far as the share of the informer in them is concerned, subject to the provisions of the supplementary regulations made by the secretary of the treasury on the 2d of September, 1867. Under the one hundred and seventy-ninth section of the act of June 30th, 1864, as amended by the act of July 13th, 1866, the informer, in the case of a sale by the marshal of forfeited property under a venditioni exponas, becomes entitled to his share of the proceeds thereof, when such proceeds are paid to the marshal. The informer's right then becomes vested, and his share is to be determined by the regulations then in force, and cannot be affected by any regulations subsequently made. Motion granted.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]