

## UNITED STATES V. AYMAR ET AL.

[13 Int. Rev. Rec. 151.]

Circuit Court, S. D. New York.

May 3, 1871.

CUSTOMS DUTIES—WAREHOUSE  
BOND—WEIGHTS—AVERAGE.

This was an action brought to recover an alleged balance of duty due on a warehouse bond executed by defendants on an importation of tea in 1864. The defence was payment. The importation was in June, 1864, of 3,834 half chests, and before the weigher's return was made the defendants obtained permission to withdraw from warehouse 2,555 half chests, which were exported, and in November, 1864, paid duty on 1,279 half chests, in both cases at estimated weights. On liquidation of the entry there was found after crediting the estimated weights an apparent balance of 82,116 due the United States. It appeared on the trial that the weight of tea was taken by weighing twenty chests at a draft, without regard to the lines of teas, or marks per invoice; nor could the weight of the particular chests exported, or duty paid, be ascertained from it, but simply the gross weight of the importation. The claim of the United States was made up by averaging the weight of the importation, and distributing it ratably among the chests. For the defence, it was shown that the chests were of different weights and tares, and teas of different values, and that relatively the heavier teas were exported; and they produced 908 the return of a city weigher showing they had paid duty on more tea than was left in the country after the export, and their account of sales to the same effect. The jury found for the defendants.

H. E. Davies, Jr., Asst. Dist. Atty. Gen., for United States.

Chase, Hartley, & Coleman, for defendants.

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