

Case No. 15,013.

UNITED STATES V. DUTCHER.

{7 Int. Rev. Rec. 122; 1 Am. Law T. Rep. U. S. Cts. 60.}

District Court, N. D. Illinois.

April, 1868.

INTERNAL REVENUE—RECTIFIER'S
BOOKS—NEGLECT TO KEEP.

It is not the intent of the internal revenue law [of 1866; 14 Stat. 98] that rectifiers or distillers shall be furnished with copies of the regulations and requirements thereof.

This was a libel for forfeiture of a rectifying establishment at Amboy, Ill., for neglecting to keep a book as required by the 26th section of the act of July 13, 1866. The claimant's counsel admitted that it was clearly proven to the jury that the book kept did not show all the spirits received and purchased, and sold or delivered; and Hon. Geo. C. Bates, on behalf of the defense, asked the court to charge the jury as follows: That if the jury believed from the evidence adduced that no rules and regulations for the keeping of a rectifier's book were ever prescribed, and furnished to the claimant by the commissioner of internal revenue as are provided for in section 26 of the act of July 13, 1866, they must find for the claimant, even though the books were not kept in accordance with the statute. That if the jury believed from the evidence adduced that the claimant has actually paid the excise tax of \$2 per gallon "on every proof gallon so purchased or received by him, or sold or delivered" into the office of collector of that district, so that the United States has not been injured or defrauded in its revenue by the irregular entries in his book, that then they must find for the claimant, as they must be satisfied that his intent and purpose was, by irregular books, to defraud the revenue.

Before DRUMMOND, District Judge. The charge of the judge was against the positions above taken. His honor said to the jury: "The simple question is, has there been a failure on the part of the claimant to comply with the law in section 26 of said act, in regard to keeping his books as rectifier? It is clear that it is not the intent of the law that each rectifier or distiller shall be furnished with copies of the regulations and requirements. He must take proper pains to ascertain what the rules and regulations are. He must keep the book showing the facts required in the section referred to, even though the commissioner has prescribed nothing on the subject; and that a failure to keep a correct book under circumstances which indicate that it was through intent or gross negligence, would subject the party to the penalties of both fine and forfeiture prescribed in said section."

Verdict for the government.

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