

UNITED STATES v. FIVE JUGS OF BRANDY.¹
[11 Int. Rev. Rec. 5.]

District Court, N. D. Florida.

1869.

VIOLATION OF CUSTOMS LAWS—FORFEITURE
AND SEIZURE.

[The fact that foreign distilled spirits and wines are found in considerable quantity in an upper room of a private house, stored for safekeeping, as alleged by the house owner, and not his property, justifies a seizure thereof, and places the burden upon the claimant to show that they were legally imported, and that the original packages had been inspected, marked, and branded, as required by law.]

Before FRASER, District Judge.

This was an information filed by the attorney of the United States, setting forth that the said liquors or spirits were fraudulently imported, and praying that they be condemned as forfeited to the United States. Held, that a considerable quantity of foreign distilled spirits and wines being found in an upper room of a private house, stored for safe-keeping, as alleged by the proprietor, and not his property, would justify a seizure.

That such fact appearing, the burden of proof was upon the claimant to show that they were legally imported, and that the original packages had been inspected, marked, and branded, as required by law. Two witnesses for claimant having testified that the casks out of which the spirits and wines were drawn had an inspector's mark upon them, and one of said witnesses having stated that said inspector's mark was a curious mark, which he should not have noticed had not his attention been particularly called to it, and no other description having been given of said mark by said witnesses, or either of them, and it being in evidence that the said original packages were purchased in New York, and shipped direct to Florida,

after verdict for the United States, and upon motion for a new trial, held, that the jury, being the judges of the facts, and of the credibility of the witnesses, did not exceed their province if they came to the conclusion, from the evidence, that the said original packages had no inspector's marks upon them, and that the said spirits and wines were fraudulently imported. Motion for a new trial was therefore denied.

¹ [Not previously reported.]

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