

Case No. 15,154.

UNITED STATES V. POUR THOUSAND ONE
HUNDRED AND SEVENTY-FIVE CIGARS.

[25 Int. Rev. Rec. 132.]

Circuit Court, D. Louisiana.

1879.

INTERNAL REVENUE—ILLEGAL USE OF
STAMPS—AUTHORITY OF COMMISSIONER.

[One who has cut the internal revenue stamps on boxes of cigars, and taken out and repacked the cigars in the same boxes, with intent to dispose of them, without adding new stamps, cannot justify himself therein on the ground that he had received permission to do so from the commissioner of internal revenue: for, even if such permission were granted, it would be in violation of law, and of no effect.]

[This was a proceeding for the forfeiture of, 4,175 cigars because of an alleged violation of the internal revenue laws.]

BILLINGS, District Judge (charging jury). The testimony of the claimant in this case must necessarily terminate it in favor of the government. He testifies that, having received a letter from the late commissioner of internal revenue, giving him permission, he caused the stamps upon a great many boxes of cigars to be cut, and the boxes opened, and the cigars taken out, repacked, and put in the same boxes again, with the view of disposing of them without adding new stamps. It is not within the authority of the commissioner of internal revenue to authorize any such use of stamps. The whole effort of congress to prevent the use of stamps or stamped boxes more than once would be thwarted, and the whole matter left to the imperfection and uncertainty of parol evidence if this were permissible. My duty is therefore clear. I must direct you to find a verdict for the government. If the claimant has really relied upon any letter received from the internal revenue I

department, he can state that fact in an application for a remission of the penalty. And for that purpose I shall allow him thirty days, before the lapse of which time judgment will not be signed.

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