

Case No. 15,247. UNITED STATES V. GRANT ET AL.  
[7 Chi. Leg. News, 116.]

Circuit Court, N. D. Ohio.

Dec. Term, 1874.

INTERNAL REVENUE—DISTILLER'S BOND—DEFENSE—DIVISION OF OPINION.

Suit on distiller's bond, with defense of a similar character as in the last case [Case No. 15,394], with the further defense that the collector in this case had actually seized or distrained property of the distiller, or principal In the bond, to pay these taxes, and that instead of holding and selling it to the best advantage, he had surrendered it to a receiver of a state court, who had sold at a sacrifice, and with large expenses, to the prejudice of these sureties.

Mr. Willey, U. S. Dist Atty., and Mr. Sherman, Asst U. S. Dist. Atty.

Prentiss & Vorce, for defendants.

Held by EMMONS, Circuit Judge, that there was the same answer to this defense, as had been made to the defenses in the other case of U. S. v. Hosmer [Case No. 15,394], but that, inasmuch as the facts in this case, to wit, of an actual seizure or distraint, went beyond the reported cases, opportunity should be afforded the defendants to take the opinion of the United States supreme court. Judgment for plaintiff, with division of opinion to be certified up.