

Case No. 15,771.

[14 Blatchf. 93.]¹

UNITED STATES V. MILLER.

Circuit Court, S. D. New York.

Jan. 19, 1877.

INTERNAL REVENUE—REMOVAL FROM STOCK—FAILURE TO ENTER IN BOOK.

Spirits consigned to M. arrived, and he was notified, by the carrier, of their arrival. He surrendered his bill of lading, paid the freight, sold the spirits to a third party, and gave such party an order to receive the spirits, on which such party, the next day, received the spirits, and removed the same to his own premises. M. was indicted, under section 3318 of the Revised Statutes, for omitting to enter the spirits in his book, at the time of sending them out of his stock and possession: *Held*, that such removal of the spirits was a removal from the stock and possession of the defendant within the meaning of section 3318.

This was an indictment [against Charles N. Miller] under section 3318 of the Revised Statutes, against a wholesale liquor dealer, for omitting to enter certain spirits in his book, at the time of sending them out of his stock and possession. Certain spirits consigned to the defendant, from the West, arrived in New York on March 15th, and notice of their arrival was given to the defendant by the carrier. Thereupon the defendant surrendered his bill of lading, paid the freight, and sold the spirits to a third party, sending the purchaser an order for their delivery to him. On the next day the purchaser presented the order, and received the spirits into his possession, and removed the same to his own premises.

Roger M. Sherman, Asst. Dist. Atty.

Treadwell Cleveland, for defendant.

THE COURT held that the removal of the spirits, under the circumstances stated, was a removal from the stock and possession of the defendant, within the meaning of section 3318.

¹ [Reported by Hon. Samuel Blatchford, Circuit Judge, and here reprinted by permission.]