

UNITED STATES *v.* SIX HUNDRED TONS  
IRON ORE, ETC.<sup>1</sup>

*District Court, D. New Jersey.*

FORFEITURE FOR UNDERVALUATION OF  
IMPORTS—EXCEPTIONS TO COMMISSIONER'S  
REPORT—ACT JUNE 22, 1874, §§ 17 AND 18.

Exceptions to the report of a United States commissioner, to whom a case has been referred for summary investigation under the provisions of sections 17 and 18 of the act of congress of June 22, 1874, to ascertain the amount of freight due the owners of a vessel on importations ton either by reason of undervaluation, should not be parsed upon by the court, but go with the report to the secretary of the treasury, and be considered by him in making up his judgment in the case; and an expression of the commissioner as to the law of the case should be stricken from the report as not coming within the reference.

On Petition for Remission, etc.

*A. O. Keasbey*, U. S. Atty., for the United States.

*Henry T. Wing*, for petitioners Henderson and others.

*B. F. Lee*, for petitioner Wells.

NIXON, J. Six hundred tons of iron ore, imported into this country from Spain by the steam-ship *Italia*, have been forfeited for under-valuation. <sup>138</sup> valuation. Since the forfeiture, Thomas Henderson and others, owners of the steamer, have presented a petition to me, pursuant to the provisions of sections 17 and 18 of the act of June 22, 1874, praying for an allowance of freight from the proceeds of the sale, and one Joseph Wells has also petitioned to be reimbursed for certain advances of money made by him on the purchase of the property without knowledge of the violations of the revenue laws by the importer.

Under the provisions of the eighteenth section I directed the summary investigation, provided for by the act, to be made by William Muirheid, Esq., one

of the United States commissioners for the district, ordering him to state and annex to the petition the facts appearing from the evidence, together with a certified copy of the evidence, in order that the same might be transmitted to the honorable secretary of the treasury for adjudication.

The commissioner has made his report, finding the facts which he was ordered to do, and also finding the law, which was not within the reference. The counsel for the petitioners, Henderson and others, have filed exceptions to the report of the commissioner, and asking that numerous changes should be made by the judge.

I think the fair construction of the act is that these exceptions I should go with the report to the secretary of the treasury, and should be considered by him in making up his judgment in the case. I have accordingly declined to pass upon them. I should direct all expressions of opinion by the commissioner, as to the law of the case, to be stricken from the report, as not coming within the reference, if I supposed they would tend to prejudice the judgment of the secretary of the treasury.

<sup>1</sup> Sec S. C. 9 FED. REP. 595