

Case No. 544a.

[5 Hunt. Mer. Mag. 76.]

ARMSTRONG v. HOYT.

Circuit Court, S. D. New York.

April, 1841.

CUSTOMS DUTIES—EXPORT VALUE—Wool;

[Taking section 15 of the tariff act of 1832 as explanatory of section 2. which provides that unmanufactured wool, “the value whereof at the place of exportation shall not exceed eight cents per pound shall be imported free of duties,” the charges and expenses at the place of exportation, which, by section 15, in computation of ad valorem rates of duty, form no part of the actual value, are not to be taken in determining the value of the wool, with the view of ascertaining whether it is dutiable.]

[At law. Action by Armstrong against Hoyt, collector, for the return of import duties illegally collected on certain importations of wool. Judgment for plaintiff.]

Before THOMPSON, Circuit Justice, and BETTS, District Judge.

This is an action against the collector, presenting a question as to the construction of the second section of the tariff act of 1832: by this act, “wool, unmanufactured, the value whereof at the place of exportation shall not exceed eight cents per pound, shall be imported free of duties:” if of greater value, it is subject to duty.

The invoice is relied on by both parties. If the charges and expenses at the place of exportation are added to form the value, then the wool would appear to have cost more than eight cents per pound—otherwise to have cost less: and the question is whether these charges are to be taken as forming part of “the value at the place of exportation,” in the meaning of this law. The fifteenth section of the act is referred to as explanatory of the term “actual value.” By that, the ad valorem rates of duty are to be computed on actual cost or actual value, and this phraseology appears—“to the actual cost, if the same shall have been actually purchased, or to the actual value, if the same shall have been procured otherwise than by purchase, at the time and place when and where purchased or otherwise procured. shall be added all charges, except insurance.” Now “the charges” are not expressly mentioned in the second section, as constituting part of the actual value: but in the fifteenth section, the actual value is treated as a thing to which the charges are to be added: as something distinct from the charges, and of which, of course, the charges are no part. The words “actual value” in each section must mean the same value. If it is exclusive of charges in the fifteenth section, so it must also be in the second section; and the charges therefore must be left out of view in determining if the actual value of the wool was eight cents per pound. Judgment, therefore, is rendered for a return of the duties.