

Case No. 5,891.

HADDEN v. HOYT.

[2 Hunt, Mer. Mag. 343.]

Circuit Court, S. D. New York.

Jan. 24, 1840.

CUSTOMS DUTIES ACTS—RULE OF CONSTRUCTION.

This was an action [by David Hadden against Jesse Hoyt] to recover the excess of duties on knit shirts and drawers. The evidence was similar to that of the case of Hall v. Hoyt [Case No. 5,934]. But in the present case the defendant introduced the former collector of New York, who gave evidence that from the act of 1828 [4 Stat 270] to that of 1832[4 Stat. 583] the articles in question had, in pursuance of orders from the treasury, been charged with the duty on clothing ready made, and not with the duty on hosiery.

B. F. Butler, for defendant, insisted that the court should charge, upon this new evidence, that the act of congress of 1832 must in judgment of law be deemed to have reference to the then existing practice of the treasury department and its circulars to collectors, and that therefore, in this construction of the law, the articles were to be deemed as falling under the term “ready-made clothing,” and not under the term “hosiery.”

D. Lord, Jr., for plaintiff, insisted that the words in the law must be construed as they would be understood in their common or commercial use; and not in any peculiar sense or use, practised by the treasury, and as such known to congress. That the law was made to govern not the members of congress, but dealers in the articles to whom the law was most addressed, and whose understanding of its terms should control.

THE COURT (BETTS, District Judge) expressed doubt upon the question; and with the assent of the parties pro forma, charged that the jury were to be governed by the usual and well-known name of the article, and meaning of the words of the law, as understood generally in commerce at the date of the act.

A verdict was rendered for \$2,400, and the cause was carried up, by a writ of error, to the supreme court of the United States. [Case unreported.]