

Case No. 17,713.

{5 Blatchf. 219.}<sup>1</sup>

WILLIAMS v. BARNEY.

Circuit Court, S. D. New York.

May 30, 1864.

CUSTOMS DUTIES—RICE CLEANED IN ENGLAND.

1. Under the 14th section of the tariff act of July 14, 1862 (12 Stat. 557), rice, the growth of a country beyond the Cape of Good Hope, imported into England in an uncleaned state, and there cleaned, and thence imported into the United States, is liable to a duty of 10 per cent. ad valorem,

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in addition to the duty imposed, by the 8th section of the same act, on cleaned rice, when imported into the United States directly from the place of its growth.

2. The cleaning of the rice in England does not change its identity as rice, or cause it to cease to be the growth or production of a country beyond the Cape of Good Hope.

This was an action [by John Williams] against [Hiram Barney] the collector of the port of New York, to recover back an alleged excess of duties paid, under protest, on cleaned rice imported from Liverpool, England. Under the 14th section of the act of July 14th, 1862 (12 Stat. 557), the collector imposed an additional duty of 10 per cent. ad valorem on the rice, as being the growth of a country beyond the Cape of Good Hope, but imported from a place this side of it.

Sidney Webster, for plaintiff.

E. Delafield Smith, Dist. Atty., for defendant.

NELSON, Circuit Justice. The additional duty imposed is objected to on the ground that, though the article is of the growth and produce of a country beyond the Cape of Good Hope, to wit, the British East Indies, yet its nature and condition have been so changed in England, since it left the East Indies, as to take it out of the 14th section of the act. The section provides, that goods, the growth of countries beyond the Cape, when imported from places this side of it, shall pay a duty of 10 per cent. ad valorem, in addition to the duties imposed on any such articles when imported directly from the places of their growth or production. The 8th section of the same act imposes duties as follows: "On rice, cleaned, one cent and a half per pound; paddy, three-quarters of one cent per pound; uncleaned rice, one cent per pound."

I agree that an article, the growth or production of a country beyond the Cape of Good Hope, may be so changed by manufacture or labor upon it, that, when imported into the United States from a place or port this side of the Cape, it would not be subject to the additional duty. But, in order to bring it into that state or condition, it must have lost its substantial identity. Many examples might be given, as, for instance, wool imported from beyond the Cape, and manufactured into yarn or cloth on this side, and then in that state imported; or hemp into cordage, &c.

The rice, in the present case, was imported into England in an uncleaned state, and was cleaned after it arrived there, and was thence imported into the United States. The article is, doubtless, by this process, very much improved in its condition, and is made fit for use by expelling the dust and dirt and the small and inferior particles of the rice, but its identity is not changed—it is still rice, and nothing more or less. It might as well be argued that wool imported from beyond the Cape, and cleaned after it arrived in England, had lost its identity, and was not liable to the additional duty when imported thence here.

It has been said, that the article of rice, under that designation, is unknown to the tariff act. This is hardly correct. The duty is imposed on the article specifically, but according to its quality or condition. If it is cleaned and fit for use, the higher rate is fixed. But the

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article, after it is cleaned, is as much the growth or production of the East Indies as it is when uncleaned, that is, when the hull is removed, or as it is when called paddy, that is, in its condition when removed from the stem. Judgment for defendant.

<sup>1</sup> [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]