ABBOTT and others v. WORTHINGTON, Collector.

(*Circuit Court, D. Massachusetts.* June 7, 1884.)

CUSTOMS DUTIES.—SWEDISH IRON NAIL-RODS.

Swedish iron nail-rods should be classified as a description of rolled and hammered iron not otherwise provided for, and so subject to a duty of one and one-fourth cents a pound.

At Law.

Chas. Levi Woodbury, for plaintiff. *Geo. P. Sanger*, U. S. Atty., for defendant.

COLT, J. The collector assessed duty at the rate of one and one-half cents per pound, on an importation of Swedish iron nail-rods, under Schedule E, § 2504, Rev. St., as bar iron, rolled or hammered. The plaintiffs claim that the article is only liable to a duty of one and one-fourth cents per pound, either as a description of rolled and hammered iron not otherwise provided for, or as coming under the similitude clause of section 2499, Rev. St., as resembling scroll iron. The case was heard by the court, jury trial being waived. The evidence shows that the importation is known commercially as nail-rods, and that, in a commercial sense, nail-rods are not bar iron. The article is made and used for a special purpose, and known in commerce by a distinct name. It further appears that in the act of 1842, and in some previous acts, nail-rods are specifically designated as such, so that congress in the tariff laws has recognized nail-rods as distinct from bar iron, or iron in bars. Nail-rods, having acquired a specific commercial designation among traders and importers, and having been designated by a specific name in previous tariff legislation, would not properly come under the general term bar iron in the Revised Statutes, but should be classified as a description of rolled and hammered iron not otherwise provided for, and so subject to a duty of one and one-fourth cents a pound.

We think this case clearly within the rules laid down in *Arthur* v. *Morrison*, 96 U. S. 108, and *Arthur* v. *Lahey*, Id. 112, and that judgment should be entered for the plaintiffs.

JEFFRIES *v.* BARTLETT and another.[1]

(*Circuit Court, N. D. Georgia.* March, 1884.)

BANKRUPTCY JURISDICTION—EXEMPTED PROPERTY.

When exempted property is designated and set apart to the bankrupt, under the orders of the bankruptcy court, as such property does not pass to the assignee, and does not further concern the court nor the estate, the court has not jurisdiction to defend such property from adverse liens that may or may not be extinguished by the bankruptcy.

Appeal in Equity.

Boyton, Harrison & Peeples, for plaintiff.

Bartlett & Hoke Smith for defendant.

PARDEE, J. The suit was instituted in the district court for an injunction to restrain the defendants from executing an old judgment lien against the homestead property set off to plaintiff by his assignee in bankruptcy, in the bankruptcy proceedings *Ex parte Jeffries*, pending then and now in the district court. A temporary injunction was issued by the district court on the bill and exhibits in 1879, and was dissolved on the same showing, except in an unimportant particular, March 7, 1883. The case is brought up to review the correctness of this last order.

The case made by the bill and exhibits is this: October 28, 1861, the defendant Bartlett obtained in the Jasper county superior court a judgment against complainant for the sum of $1,000 and costs, which judgment is unsatisfied. May 24, 1873, complainant was adjudged a bankrupt on his own petition by the order and judgment of the United States district court for this district, and an assignee was duly appointed, and in due course said assignee, under section 5045, Rev. St., duly set off to complainant certain lands described as a homestead and exemption under the Georgia law, on which lands complainant, who is the head of a family, now resides; that thereafter, in 1874, complainant applied for a discharge in bankruptcy, but several creditors filed oppositions thereto, and the matter of discharge is still pending; that the defendant Bartlett, though duly notified, never proved his debt nor appeared in the bankruptcy proceedings; and that in December, 1878, he sued out a writ of *fieri facias* on the judgment aforesaid, in the superior court of Jasper county, and levied on, and will proceed to advertise and sell, the homestead exemption so set off, aforesaid, and also 100 acres of the same tract which complainant had transferred to certain lawyers named, to pay costs and attorneys' fees in bankruptcy.

By the law of Georgia existing at and before the homestead exemption law of Georgia, and prior to the bankruptcy law of 1867, it seems that the said judgment was a lien upon the land aforesaid at

[1] Reported by Joseph P. Hornor, Esq., of the New Orleans bar.