

VANACKER *v.* SPALDING.*Circuit Court, N. D. Illinois.*

May 26, 1885.

CUSTOMS DUTIES—RUBBER BAGS FOR
MANUFACTURE OF TOY BALLOONS—DUTY ON.

Certain bags or pouches composed wholly of India rubber, *held* to be dutiable as “manufactures of India rubber not specially enumerated,” at the rate of 25 per cent, *ad valorem*.

At Law.

Percy L. Shuman and *Jo. H. Defrees, Jr.*, for plaintiff.

Chester M. Dawes, Asst. U. S. Atty., for defendant.

BLODGETT, J., (*orally*.) The plaintiff imported to the city of Chicago certain bags or pouches made wholly of India rubber, which were classed as “toys,” and a duty of 35 per cent, *ad valorem* assessed thereon. Heyl, pt. 2, p. 29, cl. 425. The importer contended that the goods in question were articles composed of “India rubber, not specially enumerated, or provided for,” and as such subject only to a duty of 25 per cent, *ad valorem*. Heyl, pt. 2, p. 30, cl. 454. The goods in question are small India-rubber bags, which are intended for the purpose of being inflated with gas, thereby making a small balloon, to be used as a child’s plaything. The only question is whether such an article is a “toy” or “a manufacture of India rubber, not otherwise provided for.” I am of opinion that these goods are not “toys” in the form in which they are imported. In order to make them salable as toys, they must be inflated and closed so as to retain the gas, and, although this is but a slight addition to them, still they cannot be called playthings or toys until this process is completed. I am 89 therefore of opinion that these good should have been classed as “manufactures of

India rubber not specially enumerated," and charged with a duty of 25 per cent, *ad valorem*.

The issue is found for the plaintiff.

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