same parties. That both these tracts of land are claimed by the plaintiff under the same mortgage can make no difference, especially in view of the fact that the validity of the mortgage has not been called in question in either suit.

It is unnecessary to consider the second defense, that the parties are not the same in the two actions. The motion to dismiss is overruled.

UNITED STATES *v.* WOTTEN *et al.*

(Circuit Court, D. Massachusetts. May 27, 1892.)

1. CUSTOMS DUTIES—"PLUCKED" CONEY SKINS.
"Pulled" or "plucked" coney skins—that is, such as have had the hair removed from them—are not dutiable as "dressed furs or skins," within Tariff Act 1890, par. 444, but are entitled to entry free, under paragraph 588, as "fur skins, not dressed in any manner."
2. SAME—CONSTRUCTION OF STATUTE.
Where the language of the tariff acts has been substantially the same in respect to certain goods, a construction uniformly applied by the treasury department since 1846 will not be disregarded except for very cogent reasons.

At Law. Proceedings by the United States to obtain a review of a decision of the board of general appraisers reversing a decision of the collector. Affirmed.

Frank D. Allen, U. S. Atty., *Henry A. Wyman*, Asst. U. S. Atty., and *Elihu Root*, for the United States.

Whitehead & Suydam, for respondents.

COLT, Circuit Judge. This is an appeal from the decision of the board of general appraisers, (Act June 10, 1890, § 15.) The question raised relates to the proper classification under the tariff act of October 1, 1890, of pulled coney skins, which are known in the trade as "hatters' furs." The collector classified this import under paragraph 444 of the tariff act of October 1, 1890, which is as follows:

"Furs dressed on the skin, but not made up into articles, and furs not on the skin, prepared for hatters' use, twenty per centum *ad valorem*."

The importers contended that the import was entitled to entry free, under section 588 of the same act, as "fur skins of all kinds, not dressed in any manner." The board of general appraisers reversed the decision of the collector, and decided in favor of the importers. Coney skin is the skin of a rabbit. In its crude state it is of small value. To put it into a marketable condition, it is cut open, spread out flat, and the ends cut off, and, after being put through this operation, it is called an "unplucked" skin. In addition to this, the skin is dampened and cleaned, and by the aid of a sharp knife the hairs are plucked from the skin, leaving only what is known as the "fur." It then becomes a "plucked" skin. The only question in this case is whether a plucked coney skin is a dressed fur within the meaning of the tariff act of October 1, 1890.

In the opinion of general dealers in furs, a plucked fur is not a dressed fur, the word "dressing," as understood by them, having reference to a treatment of the pelt or skin, as distinct from the fur, while, in the opinion of those familiar with hatters' furs, it would seem that plucking is a part of the operation of dressing, and that, therefore, a plucked fur is at least a partially dressed fur.

The evidence in this case is voluminous, and it is mainly directed towards obtaining the views of dealers in furs as to what constitutes a dressed fur. Upon this point the evidence is conflicting. It does not seem to me, however, that the case turns upon this debatable question. Tariff laws relate to commerce, and the first and guiding rule in their interpretation is to discover what is the commercial designation of the particular article, as understood among importers and traders. Whatever may be the opinion, therefore, of dealers in hatters' furs as to whether a "pulled" fur is, strictly and technically speaking, a "dressed" fur, or a fur "dressed in any manner," I do not think, upon an examination of the whole record in this case, it can be said that in a commercial sense a "pulled" fur is a "dressed" fur. Since the tariff act of 1846, substantially the same language has been used with respect to dressed and undressed skins in all the tariff acts down to and including the act of 1890, and under a uniform current of treasury decisions, beginning with that of October 15, 1868, pulled coney skins have been classified as "undressed skins." These rulings by the executive department of the government should have great weight, because it may be fairly presumed that the importation has been made upon the faith of the decisions and classification hitherto made by the government. The supreme court of the United States lays down the principle that, where there has been a long acquiescence in the construction of a law as adopted by the government, and where by such construction the rights of parties have for many years been determined, it will not be disregarded without the most cogent and persuasive reasons. *Robertson* v. *Downing*, 127 U. S. 607, 8 Sup. Ct. Rep. 1328. It must be assumed, I think, that congress intended this interpretation of the law, because in the report prepared in 1884 by the committee of finance of the United States senate, known as the Senate Report No. 12, pulled skins are classified as "undressed skins." Taking, therefore, the meaning of this import in its general commercial sense, the rulings of the treasury department, and the evident intent of congress, I feel bound to hold that pulled coney skins are not to be classified as a dressed fur or skin, under paragraph 444 of the tariff act, but that they come under paragraph 588, as a fur skin, not dressed in any manner.

The decision of the board of general appraisers is affirmed.

In re CHASE *et al.*

(Circuit Court, D. Massachusetts. May 12, 1892.)

No. 3,566.

CUSTOMS DUTIES—REVIEW OF GENERAL APPRAISERS' DECISION — INTEREST AND COSTS AGAINST UNITED STATES.

On a review in the circuit court of a decision of the board of general appraisers, under Act Cong. June 10, 1890, (26 St. p. 131,) no interest or costs can be recovered against the United States in the absence of special statutory provision.

At Law.

Petition by L. C. Chase & Co. for a review of the decision of the board of general appraisers as to the classification of common goat hair. The board's decision was reversed, and the importers held entitled to a return of the excess of duties paid. 48 Fed. Rep. 630. The question now is as to the liability of the United States for interest and costs.

The two opinions by the attorney general, referred to in the opinion below as being decisive of this question, are as follows:

DEPARTMENT OF JUSTICE.

WASHINGTON, D. C., August 7, 1891.

The Secretary of the Treasury—SIR: By your letter of July 31st you submit for opinion "whether or not any authority now exists in law for the payment of interest upon refunds made in conformity with judgments obtained in cases of appeal under section 15 of the act of June 10, 1890, (26 St. p. 131,) from decisions of the board of United States general appraisers." Section 15 provides that if the owner, importer, assignee, or agent of imported merchandise is dissatisfied with the decision of the board of general appraisers, he may, by complying with certain conditions in the section prescribed, have a review of such decision in the nature of an appeal in the circuit court, "said court to hear and determine the questions of law and fact involved in such decision respecting the classification of such merchandise, and the rate of duty imposed thereon under such classification; and the decision of such court shall be final, and the proper collector or person acting as such shall liquidate the entry accordingly," unless a further appeal and trial shall be had in the supreme court, as therein provided. It further provides that "all final judgments, when in favor of the importer, shall be satisfied and paid by the secretary of the treasury from the permanent, indefinite appropriation provided for in section 23 (24) of this act." It will be seen from the foregoing that the statute is silent in relation to interest. The proceeding is in the nature of a suit against the United States. (See opinion of this date to the secretary of the treasury in reference to fees of district attorneys, under this section.) "The general rule is that interest is not allowable on claims against the government. The exceptions to this rule are found only in cases where the demands are made under special contracts or special laws, expressly or by very clear implication providing for the payment of interest. 7 Op. Attys. Gen. 523; 9 Op. Attys. Gen. 57. 'An obligation to pay it,' observes Attorney General Black in the opinion last cited, 'is not to be implied against the government as it is against a private party from the mere fact that the principal was detained from the creditor after his right to receive it had accrued.'" 17 Op. Attys. Gen. 318. This position finds abundant support in the decisions of the supreme court. In *Tillson* v. *U. S.*, 100 U. S. 43, it is said: "Interest, however, would have been recoverable against a citizen if the payments were unreasonably delayed; but with the government the rule is different, for, in addition to the practice which has long prevailed in the departments of not