

Hardy Vs. Hoyt

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Court : US Supreme Court

Decided On : 1839

Appeal No. : 38 U.S. 292

Appellant : Hardy

Respondent : Hoyt

Judgement :

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Hardy v. Hoyt

38 U.S. (13 Pet.) 292

*ON CERTIFICATE OF DIVISION OF OPINION FROM THE CIRCUIT COURT
OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK*

SYLLABUS

Stockings and half-stockings made entirely of silk, imported from Liverpool in October 1838, were exempted from the payment of duty, by the Act of Congress passed March 2, 1833, entitled "An act to modify the Act of 14 July, 1832, and all

other acts imposing duties on imports."

This cause came before the Court on a certiorari to the Superior Court of the City of New York, the action being in assumpsit to recover from the defendant the sum of \$148.29 received by him as collector of the port of New York for duties on an importation of silk hose. The duty was levied at the rate of 25 per centum *ad valorem*, as "hosiery," under the 2d article of the 2d section of the Act of Congress approved July 14, 1832, entitled "An act to alter and amend the several acts imposing duties on imports." The plea of nonassumpsit was pleaded by the defendant in bar of the action.

It being proved that the articles imported were stockings and half-stockings made entirely of silk, and were imported from Liverpool, in England, in the ship *St. Andrew* in the month of October in the year one thousand eight hundred and thirty-eight, which port of Liverpool is a port this side of the Cape of Good Hope, the following point was presented, during the progress of the trial for the opinion of the judges, on which the judges were opposed in opinion, *viz.:*

Whether the said silk hose was subject to the payment of the duty imposed on hosiery by the 2d clause of the 2d section of the Act of July 14, 1832, entitled, "An act to alter and amend the several acts imposing duties on imports."

Or whether, as manufactures of silk, not being sewing silk, they were exempted from the payment of duty by the 4th section of the Act of March 2, 1833, entitled, "An act to modify the Act of the fourteenth of July, one thousand eight hundred and thirty-two, and all other acts imposing duties on imports," which declares that all manufactures of silk or of which silk is the component material of chief value, coming from this side of the Cape of Good Hope, except sewing silk, shall be free.

Which point, upon which the disagreement has happened, under the direction of the judges of the said court, at the request of the counsel for the parties in the cause, was ordered to be certified unto the Supreme Court of the United States, at the next session.

MR. JUSTICE STORY delivered the opinion of the Court.

This case involves the second point only which has been just decided in the case of *Bend v. Hoyt*, and therefore, it is only necessary to say that it will be certified to the Circuit Court for the Southern District of New York, that the silk stockings and half-stockings mentioned in the case were exempted from duty on their importation under the Act of 2 March, 1833, ch. 384.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States, for the Southern District of New York on the points and questions on which the judges of the said circuit court were opposed in opinion, and which were certified to this Court for its opinion agreeably to the act of Congress in such case made and provided and was argued by counsel. On consideration whereof this Court is of opinion that the silk hose, as manufactures of silk, not being sewing silk, were exempted from the payment of duty by the fourth section of the Act of March, 1833, entitled, "An act to modify the Act of 14 July, 1832, and all other acts imposing duties on imports," which declares that all manufactures of silk or of which silk is the component material of chief value coming from this side of the Cape of Good Hope except sewing silk shall be free of duty. Whereupon it is ordered and adjudged by this Court that it be so certified to the said circuit court and that this case be remanded to the said court that further proceedings may be had therein according to law.

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