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Aldridge Vs. Williams

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Court : US Supreme Court

Decided On : 1845

Appeal No. : 44 U.S. 9

Appellant : Aldridge

Respondent : Williams

Judgement :

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Aldridge v. Williams

44 U.S. (3 How.) 9

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF MARYLAND

SYLLABUS

The Act of Congress, of March 2, 1833, commonly called the Compromise Act, did not, prospectively, repeal all duties upon imports after 30 June, 1842.

Repealing only such parts of previous acts as were inconsistent with itself, it left in force, after 30 June, 1842, the same duties which were levied on 1 June, 1842.

Duties were directed by the act of 1833 to be levied according to a home valuation, "under such regulations as may be prescribed by law." This phrase embraces all regulations lawfully existing-\ at the time the home valuation went into operation, whether made before or after the passage of the act of 1833.

And the regulations established in the 7th and 8th sections of the act of 1832 are sufficient for the correct performance of the duty.

The regulations prescribed by the Secretary of the Treasury, under a power given to him by the 9th section of the act of 1832, are also "regulations prescribed by law."

The court, in construing an act, will not consider the motives, or reasons, or opinions, expressed by individual members of Congress, in debate, but will look, if necessary, to the public history of the times in which it was passed.

This case was brought up by writ of error, from the Circuit Court of the United States for the District of Maryland, and involved the construction of the Act of Congress of March 2, 1833, commonly called the Compromise Act. Williams was the collector of the port of Baltimore, and the plaintiffs in error were importing merchants, who sued to recover duties paid under protest.

The title of the act was "An act to modify the Act of 14 July, 1832, and all other acts imposing duties on imports."

The 1st section provided that from and after 31 December, 1833, in all cases where duties shall exceed twenty percentum on the value thereof, one-tenth part of such excess shall be deducted; from and after 31 December, 1835, another tenth part; from

and after 31 December, 1837, another tenth part; from and after 31 December, 1839, another tenth part; from and after 31 December, 1841, one-half of the residue of such excess shall be deducted; and from and after 30 June, 1842, the other half thereof shall be deducted.

The 2d section raised the duty upon certain woolens from five to fifty percentum.

The 3d section was as follows:

"That until 30 June, 1842, the duties imposed by existing laws, as modified by this act, shall remain and continue to be collected. And from and after the day last aforesaid, all duties upon imports shall be collected in ready money, and all credits, now allowed by law, in the payment of duties, shall be, and hereby are, abolished, and such duties shall be laid for the purpose of raising such revenue as may be necessary to an economical administration of the government, and from and after the day last aforesaid, the duties required to be paid by law on goods, wares, and merchandise, shall be assessed upon the value thereof at the port where the same shall be entered, under such regulations as may be prescribed by law."

The 4th section exempted certain articles from duty during the interval between 31 December, 1833, and 30 June, 1842.

The 5th section exempted certain articles from duty after 30 June, 1842, and concluded as follows:

"And all imports on which the first section of this act may operate, and all articles now admitted to entry free from duty, or paying a less rate of duty than twenty percentum, *ad valorem,* before the said 30 June, 1842, from and after that day may be admitted to entry, subject to such duty, not exceeding twenty percentum, *ad valorem,* as shall be provided for by law."

The 6th and last section was as follows:

"That so much of the Act of 14 July, 1832, or of any other act as is inconsistent with this act, shall be and the same is hereby repealed, provided that nothing

herein contained shall be so construed as to prevent the passage, prior or subsequent to the said 30 June, 1842, of any act or acts, from time to time, that may be necessary to detect, prevent, or punish evasions of the duties on imports imposed by law, nor to prevent the passage of any act prior to 30 June, 1842, in the contingency either of excess or deficiency of revenue, altering the rates of duties on articles which, by the aforesaid Act of 14 July, 1832, are subject to a less rate of duty than twenty percentum *ad valorem* in such manner as not to exceed that rate, and so as to adjust the revenue to either of the said contingencies."

The statement of facts agreed upon in the court below was as follows:

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"In this case it is admitted that on 20 August, 1842, the plaintiffs in this cause imported into the port of Baltimore, from Liverpool, in England, a large quantity of goods, wares, and merchandise, and on the same day entered the same at the custom house in the port of Baltimore; that the following is a true entry and list of said goods, their equality, character and value. [Here followed a list of the goods, with their value, amounting to 8254 16 *s* .]"

Adjustment

Value at Baltimore per appraisement $44,346.00

20 percent -- am't duties paid collector under protest 8,869.20

==========

Value per invoice, str. 8254.16.0, or $36,651.00

20 percent. 7,330.20

==========

Duty per home valuation . . . . . $ 8,869.20

Per invoice value 7,330.20

$ 1,539.00

==========

"That, on their entry, the defendant exacted and required of the plaintiffs to pay, as and for duties on said goods, the sum of eight thousand eight hundred and sixty-nine dollars and two cents, which the plaintiffs first refused to pay, but not being able to get their goods without paying the same, they did pay the same under protest; that the value of the goods, by the true invoice cost, adding freight and other charges, was thirty-six thousand six hundred and fifty-one dollars ($36,651); that the home valuation in Baltimore, as fixed by the appraisers, was forty-four thousand three hundred and forty-six dollars, ($44,346); that the duties upon the invoice cost and charges would have been seven thousand three hundred and thirty dollars and twenty cents ($7,330.20)."

"It is further agreed that the duties, so collected as aforesaid by the defendant, were exacted under and in pursuance of orders and regulations from the Treasury Department of the government of the United States and with the approbation, and sanction, and direction of the President of the United States."

"And it is also admitted that the amount exacted as aforesaid by defendant of plaintiffs and by them paid him as aforesaid was deposited by the defendant in the Merchants' Bank of Baltimore to the credit of the Treasurer of the United States on 29 August, 1842."

"It is also agreed that the court may infer from the facts hereinbefore agreed upon whatever a jury might infer."

"If upon the foregoing statement of facts the court shall be of opinion that the plaintiffs are entitled to recover the above sum of eight thousand eight hundred and sixty-nine dollars and twenty

cents ($8,869.20) or any part thereof, then judgment to be entered for the plaintiffs for the amount so determined to be due, with interest; if they should be of opinion that the plaintiffs are not entitled to recover at all, then judgment to be entered for defendant."

"It is further agreed that this Court enter up a judgment upon the aforegoing case stated for the defendant and that the plaintiffs be at liberty to appeal or prosecute a writ of error to the like effect and purport as if the above facts were stated in a bill of exceptions and judgment rendered upon them for the defendant."

"And it is further agreed that either party shall be at liberty, in the Supreme Court, to raise and argue in that Court any points or questions which it may appear to that court could be raised upon the aforegoing facts."

"REVERDY JOHNSON, *for plaintiffs* "

"Z. COLLINS LEE, *U.S. Attorney* "

"29th November, 1842"

The court below gave judgment for the defendant, and a writ of error brought the proceedings up to this Court.

MR. CHIEF JUSTICE TANEY delivered the opinion of the Court.

This suit comes before the Court upon a case stated, and is brought here by writ of error from the Circuit Court for the District of Maryland.

The case in its material circumstances is this:

On 20 August, 1842, the plaintiffs in error imported into the port of Baltimore, from Liverpool, certain merchandise particularly set forth in the record, which, at the

port of Baltimore, was of the value of $14,346, as ascertained by appraisement at the custom house. Upon these goods the defendant in error, who was at that time the collector, acting in pursuance of orders and regulations made by the Treasury Department under the direction of the President, demanded for duties twenty percent upon the value so ascertained, which amount was paid by the plaintiffs in error under protest, and this action instituted against the collector for the purpose of recovering back the money. There are some other circumstances mentioned in the case stated, but in the view which the Court takes of the subject it is unnecessary to recapitulate them. The judgment of the circuit court was in favor of the defendant.

The great question intended to be tried is whether, under the Act of Congress of March 2, 1833, the government was authorized to

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collect any duties upon goods imported after 30 June, 1842, without the aid of further legislation by Congress.

In expounding this law, the judgment of the Court cannot in any degree be influenced by the construction placed upon it by individual members of Congress in the debate which took place on its passage nor by the motives or reasons assigned by them for supporting or opposing amendments that were offered. The law as it passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself, and we must gather their intention from the language there used, comparing it, when any ambiguity exists, with the laws upon the same subject and looking, if necessary, to the public history of the times in which it was passed.

The act in question is certainly not free from difficulty, and this difficulty arises from its peculiar character. It is commonly called the Compromise Act, and upon the face of it, it is evidence that something was intended beyond the ordinary scope of legislation. Provisions are introduced in relation to the future action of Congress upon the tariff, which can only be accounted for by regarding the act as a

compromise of conflicting opinions on that subject, whereby a certain scale of duties was fixed upon and established until June 30, 1842, and certain leading principles agreed upon by which, after that time, it was proposed to regulate the action of Congress, and the latter as well as the former inserted in the law in the forms of legislation. That this was the case is abundantly manifested by several clauses in the act, and particularly in the 6th and last section, which provides that nothing contained in the act shall be construed to prevent the passage, prior or subsequent to 30 June, 1842, of laws to prevent and punish evasions of the duties imposed by law, nor to prevent the passage of any act prior to the day last mentioned, in the contingency of either excess or deficiency of the revenue, altering the rates of duties on articles which, under the Act of July 14, 1832, were subject to a less rate of duty than twenty percent, in such manner as not to exceed that rate, and so as to adjust the revenue to either of the aforesaid contingencies.

Now it is impossible to suppose that Congress could have doubted its power to repeal or modify afterwards the duties imposed by this act in such manner as the public exigencies might require or its power to pass laws to secure the collection of the revenue and to punish anyone who might attempt to evade the duties imposed by an act of Congress. If there had been nothing in this law out of the ordinary course of legislative action, it would hardly have been deemed necessary to encumber it with these reservations of power, which nobody doubted and which Congress was continually exercising upon every other subject. These provisions strongly mark its peculiar character. And this association of positive and imperative enactments with agreements for future action has perhaps unavoidably occasioned some obscurity, and, as to some of the clauses, made it difficult at

first sight to say whether the language was mandatory or merely declared the principles by which it was proposed that the legislation of Congress should afterwards be governed.

Taking this view of its general character and objects, the very large sum ultimately involved in the controversy makes it the duty of the Court to proceed to a closer

and more careful examination of its different provisions. It is evidently supplementary to the Act of July 14, 1832, and repeals only so much of that act and of other previous acts as are inconsistent with it. All of the duties, therefore, imposed by the act of 1832, or any other law, and all the rules and regulations provided for their collection remain in full force unless they are inconsistent with the act in question.

The point to be determined then is whether, after 30 June, 1842, the collection of duties imposed by the act of 1832 or by any other law as modified by the act of 1833 is inconsistent with the last mentioned act. In other words, whether it repeals all previous laws imposing duties after the time above mentioned, and if it does not, whether it has failed to provide the necessary rules and regulations to enable the proper officers to collect them.

The 1st section declares that all duties above twenty percent *ad valorem* imposed by the act of 1832 or any previous laws shall be reduced annually at the rate therein mentioned until 31 December, 1841, and that after that time, the one-half of the excess above twenty percent shall be deducted, and from and after 39 June, 1842, the other half shall be deducted. Here the section stops, and so far, therefore, from repealing the whole duties, it by necessary implication continues a duty of twenty percent after 30 June, 1842, for the direction to deduct the excess above that sum presupposes that a duty to that amount is imposed and to be collected. The language used is equivalent to a positive enactment that from and after 30 June, 1842, the goods therein mentioned shall be charged with that duty.

The 2d section is to the same effect. For after modifying the duties imposed by the act of 1832 in regard to the articles mentioned in that section, it declares that these duties shall be liable to the same deductions as are prescribed in the 1st section -- that is to say, the excess over twenty percent remaining on 30 June, 1842 -- is to be deducted, and consequently very clearly implying that twenty percent is to be charged and collected after that period.

The 3d section provides that the duties imposed by existing laws, as modified by that act, shall remain and continue to be collected until 30 June, 1842; that after

that time, all duties shall be collected in ready money, and that such duties shall be laid as are necessary to an economical administration of the government and shall be assessed upon the value of the goods at the port where they are entered "under such regulations as may be prescribed by law."

The latter words of this section relate merely to the regulations

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by which the duties were to be collected after the time specified, and that part of the controversy will be hereafter considered. The points to which our attention is now directed is whether, under this and the preceding acts of Congress, any duties continue to be imposed -- in other words, whether they were not all repealed by this act after 30 June, 1842. Certainly the provision that they shall be paid in cash and assessed upon the home valuation is no repeal. Can the provision that such duties should be laid after the time above mentioned as were necessary to an economical administration of the government be construed to repeal all the duties existing at that time? We think not. The Court is not authorized to decide upon the amount of revenue necessary to an economical administration of the government. It is a question for the legislature. And the provision in this clause of the section addresses itself to future legislative bodies, and not to the tribunals and officers whose duty it is to carry into execution the laws of Congress. And we should hardly be justified by any rule for the judicial interpretation of statutes in pronouncing terms like these to be an implied repeal of all duties after the time specified, when that construction would make the law inconsistent with itself, by repealing, in the 3d section, the duties it had continued in force in the 1st and 2d. On the contrary, the true judicial inference would rather seem to be that it was supposed at the time of the passage of the act that the modified duties remaining imposed on 30 June, 1842, might produce the proper amount of revenue to be levied with a view to the economical administration of the government, but leaving it to Congress, when the time arrived, to alter and modify them in the manner and for the purposes specified in this act.

The 4th section merely provides that certain enumerated articles shall be admitted to entry free from duty from December 31, 1833, until 30 June, 1842, and therefore contains nothing that can influence the decision of the Court.

The 5th section declares certain articles free after 30 June, 1842, and then provides that all imports on which the 1st section operates, and all articles, which were at the time of the passage of the law admitted to entry free from duty, or paying a less rate of duty than twenty percent *ad valorem,* before 30 June, 1842, may be admitted to entry subject to such duty, not exceeding twenty percent as shall be provided for by law, and this section, as well as the third, has been much relied on in opposition to the duty claimed by the government. But is it not like the clause in the 3d, of which we have already spoken, the language of compromise and agreement, and addressed to those who should be afterwards called upon to legislate on the subject, rather than to the administrative tribunals and officers of the country? It reserves to Congress the right to reduce the duties continued by the 1st section below twenty percent; to impose duties on free articles, and to

raise duties which were below twenty percent up to that amount. Yet nobody could have supposed that Congress would not have the power to do all this, if it thought proper to exercise it, without any reservation of this description. The clause obviously was not introduced to reserve power, but with a view to the manner in which it should afterwards be exercised. As a mere question of power, Congress undoubtedly had authority, after 30 June, 1842, as well as before, to impose any duties it saw fit upon the articles referred to, or upon any other imports. And it cannot be supposed that the Congress of 1833 intended to restrict, by force of law, the rights of a future Congress. Yet if we lose sight of the compromise character of the act, and treat it as an ordinary act of legislation, we should be bound to say, from the language used, that the Congress of 1833 supposed that the modifications of the revenue made by them could not be altered by a subsequent legislature, unless the right to do so was expressly reserved. No one would think of placing such a construction upon the section in question; and the difficulty is removed when we look at it in what we doubt not is its true light, and regard it as a

compromise of conflicting opinions, which it was believed would be afterwards respected, when it had thus been solemnly set forth in a law. In this view of the subject it is not repugnant to the 1st and 2d sections, and leaves the duties retained by them in full force after 30 June, 1842, until they should be altered by subsequent legislation.

The 6th and last section, the contents of which have been already stated, still more clearly marks the character of the act, and upon a view of the whole law, the Court is of opinion that the duties which were in force 1 July, 1842, continued in force until they were afterwards changed by act of Congress.

This brings us to the remaining inquiry whether, after 30 June, 1842, there were any regulations in force by which the officers of the revenue were authorized to collect the duties which had not been repealed by the act of 1833, and this question may be disposed of in a few words, as it rests altogether upon the 3d section, the material parts of which have been already stated.

Before the passage of the act of 1833 there was certainly regulations prescribed by law abundantly sufficient for the collection of the revenue. The clause at the close of the 3d section, which directs that after the time so often referred to, the duties shall be assessed upon the value at the port where the goods are entered, "under such regulations as may be prescribed by law," can scarcely be considered as an implied repeal of all previous regulations, for it does not confine the regulations spoken of to such as might afterwards be enacted, but uses the ordinary legislative language appropriate to the subject, which naturally and evidently embraces all regulations lawfully existing at the time the home duties went into operation, whether made before or afterwards. They can by

no just rule of construction be held to repeal preexisting ones nor to require any new legislation upon the subject unless it should turn out that those already in force were insufficient for the purpose.

But it has been urged that this clause, taken in connection with the new rule of home valuation, then for the first time established, and to which they refer, shows that new regulations were contemplated inasmuch as the existing legislation upon that subject had been directed altogether to the value at the place of export. This argument would undoubtedly be entitled to great weight if the subsisting rules and regulations could not be applied to this new mode of assessing the duties. But if the regulations already in force were applicable to this new state of things, there is no reason for concluding that there was any intention to repeal them, even although it should appear that they had been framed with a view to the foreign value, and should be found more difficult of execution and less satisfactory in the result when applied to the value at the port of entry.

The most important regulations in relation to this part of the case are contained in the 7th, 8th and 9th sections of the Act of July 14, 1832. It is true that these regulations point to the value of the goods at the place of export, and many of the powers particularly conferred on the appraisers would not assist them in ascertaining the value at the place of import and could not be used for that purpose. But the substantial and manifest object of these regulations is to enable the proper officers to determine the amount, upon which the rate of impost fixed by law is chargeable, and if the place with reference to which the valuation is to be made is changed, it does not by any means follow that the powers before given to the officers and the duties imposed upon them are not still to be exercised and performed so far as they are applicable to the new state of things. The object and intention of the valuation is still the same. It is to execute the law and to assess and collect the duty prescribed. Thus, for example, the 7th section of the act of 1832 declares, among other things, that it shall be the duty of the appraisers, and of every person acting as such, by all reasonable ways or means in his power to ascertain, estimate, and appraise the true and actual value of the goods at the time purchased and the place from which they were imported. This place of valuation is afterwards changed by the act of 1833, and the duty imposed according to the value at the home port. It would be a most unreasonable interpretation of the law to say that the appraisers must still go through the ceremony of estimating the value at the foreign port, or that the mere change of

place repealed the authority to value at all. In both cases the only object of the appraisement is to ascertain the sum upon which the duty is to be calculated, and the value of the goods at the foreign port, or at the home port, is of no importance to the public except in

so far as it fixes the sum upon which the collector is to levy the rate of duty directed by law.

The 9th section makes it the duty of the Secretary of the Treasury, under the direction of the President, from time to time to establish such rules and regulations, not inconsistent with the laws of the United States, as the President shall think proper, to secure a just, faithful, and impartial appraisal of all goods, wares, and merchandises, as aforesaid imported into the United States, and just and proper entries of such actual value thereof, and of the square yards, parcels, or other quantities, as the case may require, and of such actual value of every of them, and it is made the duty of the Secretary of the Treasury to report all such rules and regulations, with the reasons therefor, to the next session of Congress. It is very clear that any regulations within the authority thus given, are regulations prescribed by law. And although this section, as well as the others before mentioned, undoubtedly contemplated the value at the foreign port, yet when the valuation is transferred to a home port, it was still the duty of the Secretary of the Treasury to frame rules and regulations to ascertain the value upon which the law directed that the duty should be assessed. For this is the only object of the appraisement, and the only purpose for which rules and regulations are to be framed.

Indeed, when it is evident that under the act of 1833 certain duties, as therein modified, were continued after 30 June, 1842, it would scarcely consist with judicial duty, to give an over-technical construction to doubtful words, which would make the legislature inconsistent with itself, by imposing a duty on goods imported, and at the same time repealing all laws by which that duty could be collected. For it cannot be supposed that Congress, in one and the same law,

could so have intended; and such an intention ought not to be implied, unless it was apparent from unequivocal language. We think that there are no words in the act of 1833, from which such a design can fairly be inferred.

It appears from the case stated, that the goods in question were subject to a duty of twenty percent under the 1st section of the last mentioned act, and that the duties in this case were assessed accordingly upon the value of the goods at the port at which they entered, as ascertained and appraised under the rules and regulations established by the Secretary of the Treasury under the direction of the President. In the opinion of the Court, they were lawfully assessed and collected, and the judgment of the circuit court is therefore affirmed.

We forbear to express an opinion upon the construction of the act of 1839, which was argued in this case, because it is understood that other cases are standing for argument, in which that question alone is involved, and it is proper to give the parties an opportunity of being heard before the point is decided.

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MR. JUSTICE Mc LEAN.

The decision of this case turns upon the construction of the act of 1833, and as I differ from the opinion of a majority of the judges, I will state, in a few words, my views upon the subject.

The 1st section of the act provides, that ten percent on the existing duties shall be deducted annually, until the duties shall be reduced to twenty percent.

The 3d section declares

"That until 30 June, 1842, the duties imposed by existing laws, as modified by this act, shall remain and continue to be collected. And from and after the day last aforesaid, all duties upon imports shall be collected in ready money, and all credits now allowed by law, in the payment of duties, shall be, and are hereby abolished, and such duties shall be laid, for the purpose of raising such revenue as may be

necessary to an economical administration of the government; and from and after the day last aforesaid, the duties required to be paid by law on goods, wares, and merchandise, shall be assessed upon the value thereof, at the port where the same shall be entered, under such regulations as may be provided by law."

The above sections can scarcely be misapprehended by anyone. The 1st section reduces existing duties, in a time and manner stated, to twenty percent. And the 3d section provides "That until 30 June, 1842, the duties imposed by existing laws, as modified by that act, shall remain and continue to be collected." Now the inference is irresistible that after the above date, the duties shall not be collected under those laws. And this is shown conclusively by the 5th section, which provides

"That all imports on which the 1st section of the act may operate, and all articles then admitted to entry free from duty, or paying a less rate of duty than twenty percentum *ad valorem,* before the said 30 June, 1842, from and after that day, may be admitted to entry subject to such duty, not exceeding twenty percentum, *ad valorem,* as shall be provided by law."

Now these are not terms of compromise, but of enactment. After the day specified, the law declares that the duties shall not exceed twenty percent. This, like all other laws, was liable to be repealed, expressly or by implication. But it is law until so repealed. The duties are not to exceed twenty percent, but that does not establish them at twenty percent.

The 6th section of the act repeals all laws inconsistent with it. The twenty percent duties, by this act, were to be continued only to 30 July, 1842. After that, by the same act, the duties were not to exceed twenty percent. Here is no repugnancy in the law, because the one provision is to cease at the same time that the other begins to operate. It is impossible that both enactments can be in force at the same time. They are inconsistent with each other. The one provision fixes a definite amount of duties, the other an indefinite amount. "Not to exceed twenty percent" is not twenty

percent. To give effect to this provision, further legislation was necessary. But is it the less binding on that account? Can it be disregarded on the ground that it was a mere matter of compromise? It has the form and solemnity of law, and it shows, that the act imposing duties expired on 30 July, 1842.

That this was the view of Congress, is manifest from the fact, that in due time they passed an act regulating the duties, to take effect from the above date, which did not receive the signature of the executive. But this is no reason why we, by construction, should continue in force a law which Congress had repealed. After the above date, such duties were to be imposed "as shall be provided by law." Now this language cannot be mistaken, and it is inconsistent with the idea that the law imposing duties prior to that date, should, after it, continue in force. Such a construction is unwarranted by the 3d section and the whole tenor of the act.

It is not for this Court to determine, whether Congress, in this respect, acted wisely or unwisely, whether their motive was to compromise great and conflicting interests or not, but what have they declared to be law? It would be a restriction on the legislative power, hitherto unknown, to say that Congress cannot repeal a law, unless they substitute another law in its place.

If the duty law in force prior to 30 July, 1842, be inconsistent with the provisions of the act under consideration, then the prior law is repealed. And it is no answer to this to say, that the prior law, in its modified form, is in force by virtue of the act of 1833. The plain and unequivocal enactments of that act repudiate such an inference. In its modified form, the prior law, by that act, expired in 1842. And after that, a new enactment, in my judgment, was essential, not only to continue duties upon foreign merchandise, but also to give effect to all the important provisions of the act of 1833.

The 3d section, after July, 1842, abolishes all credits for duties, and requires them "to be paid in ready money," and it further provides "that duties shall be laid for the raising of such revenue as may be necessary to an economical administration of

the government," and that the duties

"required to be paid by law, . . . shall be assessed upon the value of the goods at the port where the same shall be entered, under such regulations as may be prescribed by law."

Now everyone of these provisions was adopted with reference to its taking effect from, and after 30 July, 1842. They all belong to the same class. The credit for duties was to be then abolished, and prompt payment required. From and after that day, duties were to be laid to meet the expenditure of an economical administration of the government. And after that day, "that duties required to be paid by law" were to be assessed on the value of the goods at the port of entry, and this assessment is required to be made "under such regulations as may be prescribed by law."

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These provisions cannot, by any known rule of construction, be made to refer to laws or regulations existing at the time of their enactment. They all refer to the future: to future laws, and regulations prescribed by those laws.

The existing laws made no provision to carry into effect the changes in the system, introduced by the act of 1833. Appraisers were appointed under former acts, but there was no law or regulation as to the home valuation. This was a most important matter, under the new system. And it is perceived, from the explicit provision of the act of 1833, that Congress did not intend to leave an arrangement of so much importance to the discretion of the Secretary of the Treasury or of the President. They declare, that the duties shall be assessed, "under such regulations as may be prescribed by law." This is not to be met by argument. It is matter of law.

No one can doubt that laws in relation to duties, not inconsistent with the act of 1833, may be considered in giving a construction to that act. But I am yet to learn, that such laws, by any construction, can suspend or modify the positive enactments of the act of 1833. Such a power belongs not to the executive nor the

judiciary, but to Congress.

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