

Opinion of the Court.

JONES, Executrix, v. VAN BENTHUYSEN.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
EASTERN DISTRICT OF LOUISIANA.

Submitted November 18, 1885.—Decided November 23, 1885.

Jones v. Van Benthuyesen, 103 U. S. 87, affirmed.

The facts are stated in the opinion of the court.

Mr. Solicitor-General for plaintiff in error.

Mr. J. D. Rouse and *Mr. William Grant* for defendant in error.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This was a suit brought by Van Benthuyesen, the defendant in error, a commission merchant engaged in the sale of manufactured tobacco, to recover back from Stockdale, a collector of internal revenue, certain taxes paid under protest on the amount of sales of tobacco in a bonded warehouse. The sole controversy is about the liability of the merchant to pay taxes upon the amount of revenue stamps affixed to the tobacco at the time of its removal from the warehouse. The case was here at the October Term, 1880, and is reported in 103 U. S. 87. We then decided that he was "not liable to be taxed for the revenue stamps required to be affixed to the tobacco before the removal thereof from a bonded warehouse, unless they were at the time of such sales so affixed, whereby they entered into the value of the tobacco and formed a part of the price thereof." Under this ruling the judgment of the court below was reversed, and the cause sent back for a new trial. The present writ of error was brought for a review of the judgment upon the second trial. The bill of exceptions shows that the charge to the jury was almost in the exact language of the opinion of this court construing the law on which the rights of the parties depend, and it covered the whole case.

Affirmed.