

Syllabus.

of the original notes in 1867 and the transfer in 1884 had expended \$40,000 on the mill property, had built the brick block in question, which cost probably not less than \$12,000, his dwelling-house, and his share of the Albany water works, would allow a mortgage to secure a debt of \$10,000 to remain on his mill for seventeen years; and that Crawford would permit the unpaid interest on such debt to accumulate to \$6000, and then take a note for the amount without interest or security. And he expressed dissatisfaction with the explanation as to the cancellation of the mortgage, that it was done to avoid the operation of the mortgage tax law of 1882; and held that the decided weight of the evidence supported the conclusion that the mill notes were paid before the conveyance to William Crawford was made, and that therefore that conveyance was without consideration and fraudulent against the creditors of Foster.

We have patiently examined the evidence contained in the record, and it is impossible for us to reverse the decree for error or mistake in the conclusions of the master and the court, depending, as they do, upon the weighing of conflicting testimony, and entitled, as they are, to every reasonable presumption in their favor.

The decree must be

Affirmed.

MEYERHEIM v. ROBERTSON.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF NEW YORK.

No. 279. Argued April 5, 6, 1892. — Decided April 18, 1892.

Laces made by machinery out of linen thread were imported in 1881 and 1882, and charged with duty at 40 per cent *ad valorem*, as "manufactures of flax, or of which flax shall be the component material of chief value, not otherwise provided for," under Schedule C of § 2504 of the Revised Statutes (p. 462). The importers claimed that they were chargeable with a duty of only 30 per cent *ad valorem*, as "thread lace," under the same schedule (p. 463). *Held*, that, as the evidence clearly showed that

Opinion of the Court.

the goods were invariably bought and sold as "torchons," and not as thread laces, and that thread lace was always hand-made, it was proper to direct a verdict for the defendant, in a suit brought by the importer against the collector to recover an alleged excess of duty.

THE case is stated in the opinion.

Mr. Edwin B. Smith (with whom were *Mr. William Stanley* and *Mr. Stephen J. Clarke* on the brief) for plaintiffs in error.

Mr. Assistant Attorney General Parker for defendant in error.

MR. JUSTICE BLATCHFORD delivered the opinion of the court.

This is an action at law, brought in the Superior Court of the city of New York, in November, 1882, by Siegmund Meyerheim, William Kempner and Henry Strahlheim, against William H. Robertson, late collector of the port of New York, and removed by the defendant into the Circuit Court of the United States for the Southern District of New York, to recover \$764.50, as an alleged excess of duties exacted on the importation of certain goods into the port of New York in the years 1881 and 1882. The case was tried before a jury in June, 1888, and a verdict rendered for the defendant, on which there was a judgment in his favor, for costs.

The importation was of certain laces made by machinery out of linen thread, and with them certain laces of the same material made by hand. The defendant assessed duty upon all the laces at 40 per cent *ad valorem*, under the provision of Schedule C of § 2504 of the Revised Statutes, (p. 462,) which imposed that rate of duty on "flax or linen thread, twine and pack-thread, and all other manufactures of flax, or of which flax shall be the component material of chief value, not otherwise provided for." The plaintiffs claimed that the goods were dutiable at only 30 per cent *ad valorem*, as "thread lace and insertings," under the same Schedule, p. 463.

After the suit was brought, the Secretary of the Treasury refunded to the plaintiffs all excessive sums exacted upon such

Syllabus.

of the above importations of laces of linen thread as were made by hand, leaving the controversy only as to those laces of linen thread which were made by machinery. All the laces, whether made by hand or machinery, were known, bought and sold as "torchons," and the issue presented was whether or not machine-made torchons were dutiable as "thread lace," or as "manufactures of flax, or of which flax shall be the component material of chief value, not otherwise provided for."

The articles were made wholly of linen thread, and, therefore, of flax. It clearly appeared by the testimony of one of the plaintiffs that he never heard the machine-made goods bought and sold as thread laces, but invariably as "torchons." The testimony on the part of the defendant was to the same effect, and showed that thread lace was always hand-made.

The defendant requested the court to direct a verdict in his favor, while the plaintiffs claimed to go to the jury. A verdict for the defendant was directed, and the plaintiffs excepted.

We do not think there was any question for the jury, on the evidence.

Judgment affirmed.

ROBERTSON v. SALOMON.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF NEW YORK.

No. 272. Argued April 4, 5, 1892. — Decided April 18, 1892.

Elastic webbings, used as gorings for shoes, some composed of worsted and india-rubber, and the rest of cotton, silk and india-rubber, imported in March and June, 1884, were assessed with duties, the former as "gorings," at 30 cents per pound and 50 per cent *ad valorem*, under Schedule K of § 2502 of Title 33 of the Revised Statutes, as enacted by § 6 of the act of March 3, 1883, c. 121, 22 Stat. 509, and the latter at 35 per cent *ad valorem*, as "webbing, composed of cotton, flax or any other materials, not specially enumerated or provided for in this act," under Schedule N of the same section. *Id.* 514. The importers claimed that they were dutiable at 30 per cent *ad valorem* under said Schedule N, (*Id.* 513,) as