

UNITED STATES *v.* POTTS and others.*Duties on imports.*

Round copper bottoms turned up at the edge, are not liable to duties, although imported under the denomination of "raised bottoms."

THIS was a case certified from the Circuit Court for the district of Maryland. The question upon which the judges of that court differed in opinion was, whether "round copper bottoms turned up at the edge" are liable to the payment of duty within the meaning of the several acts of congress?

*285] *The following facts were admitted, viz., that the defendants imported a certain quantity of round copper plates, under the denomination "flat bottoms;" round copper plates turned up at the edges, under the denomination of "raised bottoms;" and square and oblong copper plates, under the denomination of "sheets." That the round copper plates, and the round copper plates turned up at the edge, are never used, nor imported for use in the form in which they are imported, although they are capable of being used, but not with convenience or advantage, in that form; but are worked up by the manufacturers in this country into vessels of use, after importation. That the round copper plates, as well as the square copper plates, are cut from large sheets which are made by pressure under a roller, but are never imported in the size or shape in which they come from the roller. That it is a great convenience and saving to the manufacturer here, that the sheets of copper should come in a round rather than in a square shape, avoiding great waste by clipping and repeated heats. That all the said articles are sold and bought by weight, and the same price paid for the round plates, and the round plates turned up at the edges, as for the square or oblong plates. That the round copper plates turned up at the edge, are raised at the edge from four to five inches. That copper plates of this description are sold for eighteen pence sterling per pound, and that copper wrought up into vessels or implements of any kind, are sold at two shillings and four pence to two shilling and six pence per pound. That there is no copper imported into this country, under the denomination of plates; but that the square and oblong plates, which are commonly called copper plates, and are admitted to be free of duty, are imported under the denomination of sheets.

Harper, for the defendants.—This case differs from that of the *United States v. Kid & Watson*, 4 Cranch 1, in one circumstance only. In that *286] case, it does not appear, but that the *copper plates turned up at the edge were imported under the denomination of copper plates, and the jury expressly found that they came under that description. But in the present case, they were imported under the denomination of "raised bottoms." The real question is, whether these raised bottoms are to be considered as manufactured copper, or as much a raw material as plain copper plates?

The acts of congress on this subject are all to be construed together. They are the act of July 4th, 1789, c. 2 (1 U. S. Stat. 24); the act of 10th of August 1790, § 1 (Ibid. 180); the act of May 2d, 1792 § 2 (Ibid. 260); and the act of June 7th, 1794 (Ibid. 390).

Rodney, Attorney-General.—In the case of the *United States v. Kid &*

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Watson, the jury having found that the articles imported came under the description of copper in plates, there was nothing left for judicial decision. But a question of revenue ought not to be left to the caprice or misunderstanding of juries. It ought not to be left to the different customs or names used in different ports of the United States. The decisions on this subject ought to be uniform, and they can only be made so by the opinion of this court.

The case was submitted without argument.

March 7th, 1809. MARSHALL, Ch. J., delivered the opinion of the court to the following effect:—The opinion of this court is, that copper plates turned up at the edge are exempt from duty, *although imported under the denomination of “ raised bottoms.” It appears to have [*287 been the policy of the United States, to distinguish between raw and manufactured copper. From the facts stated, the copper in question cannot be deemed manufactured copper, within the intention of the legislature.

The opinion certified to the court below was, that “ round copper bottoms turned up at the edge ” are not liable to the payment of duty, within the meaning of the several acts of congress.

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Practice in error.

This court will give time to procure affidavits as to the value of the matter in dispute.

ERROR to the Circuit Court of the district of Maryland, in an action of replevin.

I. P. Boyd, for the defendant in error, contended, that the replevin-bond, being in the penal sum of \$1200 only, was conclusive evidence that the matter in dispute, exclusive of costs, did not amount to \$2000, and consequently, this court has no jurisdiction in the case.

Martin, contrà, stated, that he did not know until yesterday, that this point would be made in the cause, and prayed time to show by affidavits the real value of the matter in dispute. Which the court granted.

LIVINGSTON, J., thought that leave ought not to be given, on account of the delay it would produce. He had found a practice established here of receiving such affidavits; but he did not know of any case in which time had been given to produce them; and he would not consent to give it now. The case was *brought up to last term. The party ought to have [*288 come prepared to support the jurisdiction.

March 15th, 1809. This being the last day of the term, and no affidavits having been produced, the writ of error was dismissed, this court having no jurisdiction in the case.