

Rush v. Parker.

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 [287 under the denomination of “raised bottoms.” It appears to have 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.

RUSH v. PARKER.

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, contra, 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.