

We have no doubt that nitro-benzole is a manufacture from benzole and nitric acid, falling within the twentieth section of the act of 1842, and that the duty was rightly fixed by the court below.

*Judgment affirmed.*

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ARTHUR v. DAVIES.

1. The duty on braces and suspenders is, *eo nomine*, fixed by the twenty-second section of the act of March 2, 1861 (12 Stat. 191), and the thirteenth section of the act of July 14, 1862 (id. 556).
2. Merchandise technically and commercially known as braces and suspenders is subject to the duty imposed upon them, although it would otherwise fall under the general designation applicable to other articles.

ERROR to the Circuit Court of the United States for the Southern District of New York.

In 1873, Davies & Co. imported into the port of New York certain merchandise, on which the collector imposed and collected a duty of fifty per cent, under the eighth section of the act of July 14, 1862. 12 Stat. 552. The importers insisted that they were liable only to a duty of thirty-five per cent, under the twenty-second section of the act of March 2, 1861 (id. 191), and the thirteenth section of the act of July 14, 1862 (id. 556).

A reduction, under the act of June 6, 1872 (17 id. 231), was allowed.

It was admitted at the trial of the suit brought by Davies & Co. against the collector that the goods were, —

1. Suspenders or braces manufactured of rubber, cotton, and silk; cotton being the component material of chief value.

2. Suspenders or braces manufactured of rubber, cotton, and silk; cotton being the component material of chief value, and the silk, being a few threads, only used for purposes of ornamentation.

It also appeared that they were commercially known as suspenders or braces, and that these terms are synonymous.

Judgment having been rendered for the plaintiffs, the collector sued out this writ of error.

*The Solicitor-General* for the plaintiff in error.

*Mr. Edward Hartley, contra.*

MR. JUSTICE HUNT delivered the opinion of the court.

The twenty-second section of the act of March 2, 1861 (12 Stat. 191), imposed a duty of thirty per cent on "braces, suspenders, webbing, or other fabrics, composed wholly or in part of india-rubber, not otherwise provided for."

The eighth section of the act of July 14, 1862 (id. 552), imposes the following duty: "On manufactures of india-rubber and silk, or of india-rubber and silk and other materials, fifty per cent *ad valorem*."

The thirteenth section imposes: "In addition to the duties heretofore imposed by law on braces, suspenders, webbing, or other fabrics, composed wholly or in part of india-rubber, not otherwise provided for, five per cent *ad valorem*." Id. 555, 556.

In Schedule C of the act of July 30, 1846 (9 id. 44), the same provision is made, in these words: "Thirty per cent *ad valorem* on braces, suspenders, webbing, or other fabrics, composed wholly or in part of india-rubber, not otherwise provided for."

The same designation and the same duty are found in the seventh subdivision of sect. 5 of the act of Aug. 30, 1842, where they do not exceed two dollars per dozen in value. 5 id. 555.

It thus appears that for thirty years prior to this importation, and in four different statutes, braces and suspenders, composed wholly or in part of india-rubber, had been a subject of duty, *eo nomine*; and in the same statute where a duty of fifty per cent is imposed on other manufactures of which rubber is a component material, which it is now sought to apply to braces and suspenders, braces and suspenders containing that material are, by name, charged with an additional duty of five per cent.

It is not material that in one kind of suspenders cotton was the component of chief value, and that each contained some proportion of silk. If they are technically and commercially braces and suspenders composed in part of india-rubber, they take their dutiable character from that source, and not from



the fact that they would otherwise fall under the general designation applicable to other subjects.

Under the principles of the cases already decided, it is clear that excessive duties were exacted, and that the rulings of the judge on the trial were correct.

*Judgment affirmed.*

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ARTHUR v. HOMER.

1. The duty imposed on embroidered linen goods by the twenty-second section of the act of March 2, 1861 (12 Stat. 192), is not reconsidered in the seventh section of the act of June 30, 1864 (13 id. 209), but remains as fixed by the former act.
2. A statute does not, by implication, repeal a prior one, unless there is such a positive repugnancy between them that they cannot stand together.

ERROR to the Circuit Court of the United States for the Southern District of New York.

In 1873, Homer & Co. imported into the port of New York certain goods, of which linen was the basis, upon which the collector imposed and collected duties at the rate of forty per cent, under the seventh section of the act of June 30, 1864 (13 Stat. 209). The importers insisted that they were dutiable at thirty-five per cent only, under the twenty-second section of the act of March 2, 1861 (12 id. 192), and brought this action to recover the alleged excess of duties.

The plaintiffs introduced testimony tending to show that the goods were dress patterns, or patterns for dresses, designed for ladies' wear, each piece, or the contents of each carton, comprising the material for a garment, either as an overskirt (*polonaise*) or dress (*robe a jour*), although not made up. The size of these patterns or articles varied from about eight to twelve yards. About the edge, or above it, and arranged so as to form an appropriate ornamentation to the article when made up for wear, there was worked, sometimes in cotton thread and sometimes in linen thread, more or less embroidery. The amount of this embroidery and its elaboration was a substantial and influential element in the cost or value of the article.

The component material of chief value in the articles in