60TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { DOCUMENT No. 1367.

REFUNDS OF CUSTOMS DUTIES.

LETTER

FROM

THE ACTING SECRETARY OF THE TREASURY,

TRANSMITTING

A DETAILED STATEMENT OF THE REFUNDS OF CUSTOMS DUTIES, ETC., FOR THE FISCAL YEAR ENDING JUNE 30, 1908

JANUARY 26, 1909.—Referred to the Committee on Ways and Means and ordered to be printed.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, January 25, 1909.

SIR: I have the honor to transmit herewith for the information of Congress a detailed statement of the refunds of customs duties, etc., for the fiscal year ended June 30, 1908, as required by section 24 of the act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890.

Respectfully,

J. B. REYNOLDS,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908. (Report required by section 24, act of June 10, 1890.)

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1907.							
July 5	Algoma Iron Works, The	Molders' patterns	$3.50		$3.50	Error in classification	Sec. 24, act June 10, 1890.
5	Algoma Steel Co. (Limited)	do	1,334.90		1,334.90	do	Do.
Aug. 1	Allison, W. H	Imitation parchment paper	421.93		421.93	do	Do.
1	Albrecht, H., & Co	Scotch ale	3.75		3.75	Error in gauge	Do.
9	Algoma Steel Co., The	Molders' patterns	26.25		26.25	Error in classification	Do.
9	Algoma Iron Works, The	do	15.75		15.75	do	Do.
9	American Express Co	Gilt frame for institution	18.00		18.00	Exhibit No. 1, appendix	Do.
20	Allen, Jos. M., & Co	Matting	4.55		4.55	Short shipped	Do.
23	Ackerman, E. P	Linoleum	7.98		7.98	Error in classification	Do.
Sept. 19	Amsinck, G., & Co	Balata	168.00		168.00	Exhibit No. 2, appendix	Do.
20	Austin, Nichols & Co	Mushrooms	72.45		72.45	Court judgment	Do.
Nov. 9	Allen & Lewis	Pineapples	201.10		201.10	Error in classification	Do.
9	American Express Co	Millinery ornaments	3.60		3.60	do	Do.
26	do	Lace clothing	12.00		12.00	do	Do.
27	do	Olive oil	43.22		43.22	Error in gauge	Do.
Dec. 20	Aikman, T. S., Co	Preserved pineapples	532.22		532.22	Court judgment	Do.
20	Armsby, The J. K. Co	do	1,420.66		1,420.66	do	Do.
1908.							
Jan. 8	Asia Co., The	Shellfish	51.30		51.30	Error in classification	Do.
Feb. 4	Anderson Bros	Granite (destroyed by fire)	238.00		238.00	Casualty	Sec. 2984, Revised Statutes.
5	Ashworth Bros	Card cloth, foundation flax, chief	26,453.02		26,453.02	Exhibit No. 3	Sec. 24, act June 10, 1890.
Mar. 6	American Bead Co	Glass beads filled with wax	799.40		799.40	Court judgment	Do.
16	Asia Co., The	Shell-fish	9.00		9.00	Error in classification	Do.
17	Allen, Henry, & Sons	Dress goods	236.28		236.28	Clerical error	Do.
17	Allison, W. H	Wood pulp	95.13		95.13	Error in classification	Do.
28	Ashworth Bros	Card cloth, foundation flax, chief	751.08		751.08	Exhibit No. 3	Do.
Apr. 1	American Express Co	Cheese	1.98		1.98	Clerical error	Do.
25	Alexandria Hotel Co	Bottle fittings	2.40		2.40	Error in classification	Do.
29	American Express Co	Ladies lamb gloves	33.00		33.00	do	Do.
June 29	Allen, K. J., Son & Co	Toy tea sets and toy earthenware	61.00	$36.33	97.33	Tariff act, Mar. 3, 1883	Do.
1907.							
July 5	Belknap Hardware and Manufacturing Co.	Sheep shears	14.50		14.50	Clerical error	Do.
22	Beers, H. S	Lace curtains	9.46		9.46	Court judgment	Do.
23	Bacci, M	Olive oil in tins	9.50		9.50	do	Do.
26	Baeder, Adamson & Co	Buffalo hides	348.45		348.45	do	Do.
Aug. 1	Baird, John, & Sons	Statuary	136.20		136.20	do	Do.

1	....do	....do	36.20		36.20	....do	Do.
1	Briscoe, T. K	Yearling colt	30.00		30.00	Household effect	Do.
1	Brewster, C. G	Antiselenite	29.90		29.90	Error in classification	Do.
1	Borgfeldt, Geo., & Co	Paper articles	16.47		16.47	....do	Do.
1	Bush, Geo. S., & Co	Canned pineapples	7.00		7.00	....do	Do.
3	Bedell, E. W	Belt buckles and other ornaments	7,654.25		7,654.25	Court judgment	Do.
9	Braun, F. W., Co	Coal-tar preparation	755.40		755.40	Error in classification	Do.
16	Borgfeldt, Geo., & Co	Millinery ornaments	5.55		5.55	....do	Do.
20	Bush, Geo. S., & Co. (Incorporated).	Matting	1.20		1.20	Short shipped	Do.
Sept. 26	Bowers Southern Dredging Co.	Steel pipes	515.23		515.23	Error in classification	Do.
26	Bonnet, F. A	Cattle hides	64.85		64.85	Clerical error	Do.
26	Bush, Geo. S., & Co. (Incorporated).	Wool on the skin	250.20		250.20	Error in classification	Do.
Oct. 2	Bassett, McNab & Co	Jacquard figured silk	71.30		71.30	Court judgment	Do.
11	Bush, Geo. S., & Co	Anchovies	48.25		48.25	Error in classification	Do.
14	Briedenbach, K. A	Incrusted stones	21.50		21.50	Court judgment	Do.
14	....do	....do	49.50		49.50	....do	Do.
15	Brown, The Paul Taylor, Co.	Pineapples in own juice	660.64		660.64	Exhibit No. 4, appendix	Do.
24	Bliss, The E. A., Co	Imitation precious stones	343.16		343.16	Error in classification	Do.
25	Berlin Aniline Works	Persian berry extract	7.20		7.20	Court judgment	Do.
26	Bush, Geo. S., & Co. (Incorporated).	Apollinaris water	2.87		2.87	Short shipped	Do.
Nov. 14	Breyer, W. J	Sewing machine	4.50		4.50	Household effect	Do.
16	Bush, Geo. S., & Co. (Incorporated).	Broken rice	2.43		2.43	Clerical error in weight	Do.
26	....do	Raspberry cordial	49.60		49.60	Error in classification	Do.
26	Ban, S	Seaweed	16.00		16.00	....do	Do.
27	Bush, Geo. S., & Co. (Incorporated).	Pineapples in tins	288.88		288.88	Exhibit No. 4, appendix	Do.
27	Blatt, Carl	Precious stones cut, not set	3.40		3.40	Error in classification	Do.
Dec. 20	Brown, The Paul Taylor, Co.	Preserved pineapples	33,030.71		33,030.71	Exhibit No. 4, appendix	Do.
1908.							
Jan. 9	Blumauer & Hoch	Liquor	4.50		4.50	Clerical error	Do.
Mar. 3	Bloch, Wm	Still wine	6.25		6.25	Short shipped	Do.
3	Brown, Thomson & Co	Linen woven fabrics	2.40		2.40	Clerical error	Do.
17	Burnham, Stoepel & Co	Cotton hosiery	1.95		1.95	....do	Do.
20	Bauman, L., Jewelry Co	Metal belts	20.40		20.40	Error in classification	Do.
28	Becker, John	Scissors	5.00		5.00	Clerical error	Do.
Apr. 1	Butler Bros	Hand sewing needles	120.10		120.10	Error in classification	Do.
2	Bush, Geo. S., & Co. (Incorporated).	Fittings of glass bottles	12.25		12.25	....do	Do.
27	Ban, S	Dry beans	6.10		6.10	Clerical error	Do.
28	Bently, Chas. E	Manufactures of cotton	1.35		1.35	Error in classification	Do.
May 5	Baker, Herman & Co	Steel in strips	5,711.23		5,711.23	Exhibit No. 5, appendix	Do.
5	Bamberger Stern Co	Cotton and flax fabrics	10.90		10.90	Court judgment	Do.
5	Bredt, F., & Co	Lappings	151.58		151.58	Exhibit No. 3, appendix	Do.
14	Butler Bros	Manufactures (not specially provided for)	13.60		13.60	Error in classification	Do.
18	Brinker, Wm	Sea moss	8.80		8.80	....do	Do.
23	Balfour, Guthrie & Co	Cement	28.80		28.80	Clerical error	Do.
23	Butler Bros	Hand sewing needles	57.15		57.15	Error in classification	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1908.							
June 5	Barrett, M. L., & Co	Bottle charges	$15.60		$15.60	Exhibit No. 6, appendix	Sec. 24, act June 10, 1890.
23	Borgfeldt, Geo., & Co	Dolls	7.25		7.25	Clerical error	Do.
29	Burditt & Williams Co	Rat traps	351.14		351.14	Exhibit No. 7, appendix	Do.
29	do	do	736.48		736.48	do	Do.
29	do	do	784.55		784.55	do	Do.
1907.							
July 5	Compton, The W. H., Shear Co.	Scissors	1.75		1.75	Clerical error	Do.
6	Crawford, D	Ladies' gloves	32.04		32.04	Error in classification	Do.
6	Chenimais, G	Linens and cottons	137.50		137.50	do	Do.
23	Conti, Cesare	Olive oil in tins	87.50		87.50	Court judgment	Do.
23	Calogera, Geo. P	Olive oil in barrels	2,136.00		2,136.00	do	Do.
23	Casazza, A., & Sons	Oiive oil in tins	15.50		15.50	do	Do.
26	Causse, The A. L., Manufacturing Co.	Edible fruits	177.62		177.62	do	Do.
26	Colby & Co	Niger-seed oil	331.50		331.50	do	Do.
Aug. 1	Chandler & Rudd Co., The	Biscuits	66.60		66.60	Error in classification	Do.
5	Chamberlin - Johnson - Du Bose Co.	Cotton lace	6.00		6.00	do	Do.
12	do	Hemmed cotton handkerchiefs	4.50		4.50	Clerical error	Do.
16	Christian, R. L., & Co	Wafers	13.90		13.90	Error in classification	Do.
23	Colton, E. T	Articles in baggage	30.65		30.65	Personal effects, free	Do.
Sept. 20	Casazza, V., & Bro	Mushrooms	111.00		111.00	Court judgment	Do.
20	Cohen, Rudolph	Cotton yarns	721.12		721.12	do	Do.
21	Choy Chong Woh & Co	Dried mushrooms	15.02		15.02	do	Do.
26	Callender, McAuslan & Trope Co.	Manufacturers' glass or paste	1.05		1.05	Error in classification	Do.
26	Couch, Sarah M	Drum, china ware, and bamboo cloth	4.12		4.12	do	Do.
Oct. 1	Chester Steel Co	Wood patterns	87.50		87.50	do	Do.
11	Central Vermont Ry. Co	Wood pulp	6.67		6.67	do	Do.
24	Calkins Co., The	Manufactures of glass	24.45		24.45	do	Do.
25	Central Warehouse Co	Straw matting	11.20		11.20	Clerical error	Do.
Nov. 16	Consulate of Japan	Souvenir cups	18.00		18.00	Error in classification	Do.
26	Christensen, B	Biscuits	29.10		29.10	do	Do.
27	Connell, M. J	Pineapples in own juice	99.20		99.20	Exhibit No. 4, appendix	Do.
27	Cottell, H. L	Cedar poles	46.33		46.33	Error in classification	Do.
Dec. 18	Corn Products Refining Co	Maple sugar	11.32		11.32	Clerical error	Do.
20	Chamberlin, Johnson Du Bose Co.	Millinery	4.40		4.40	do	Do.
20	Crome, F. T., & Co	Wheat bags	16.23		16.23	Short shipped	Do.

1908.							
Jan. 8	Clark, J. S	Rubber manufactures	36.00		36.00	Error in classification	Do.
28	Ceballas, J. M., & Co	Pineapples in crates	152.00		152.00	Decayed fruit, nonimportation.	Do.
28	Courtin & Golden	do	32.53		32.53	do	Do.
29	Concordia Publishing House	Books in foreign language	54.72		54.72	Error in classification	Do.
Mar. 6	Crawford, A. L	Magnesia rings	45.45		45.45	do	Do.
18	Columbus Merchandise Co., The.	Decorated china	63.60		63.60	Clerical error	Do.
20	Carleton Dry Goods Co	Cases as American manufactures returned	2.40		2.40	Error in classification	Do.
24	Central Warehouse Co	Wool of third class on skin	128.69		128.69	do	Do.
Apr. 28	Carter Dry Goods Co	Hosiery	4.80		4.80	Clerical error	Do.
28	Cook, Mrs. F. W	Articles in passenger's baggage	16.20		16.20	Personal effects, free	Do.
May 5	Campbell, Metzgar & Jacobson.	Cotton-flax fabrics	1,348.92		1,348.92	Error in classification	Do.
5	Calhoun, Robbins & Co	do	9.60		9.60	do	Do.
9	Chesbrough, Aaron	Champagne	18.00		18.00	Short shipped	Do.
June 5	Curran & Joyce Co	Bottle charges	1.70		1.70	Exhibit No. 6, appendix	Do.
5	do	do	2.35		2.35	do	Do.
10	Conway Co	do	14.20		14.20	do	Do.
25	Clark, C. W., & Co	Canned fish	1.50		1.50	Clerical error	Do.
26	Colonial Wine Co	Bottle fittings	9.94		9.94	Exhibit No. 6, appendix	Do.
26	Cornwell, G. G., & Son	do	32.18		32.18	do	Do.
1907.							
July 1	Dillingham, E	Paper suitable for printing	326.57		326.57	Error in classification	Do.
22	De Ronde, A., & Co	Dyers' sticks	74.20		74.20	Court judgment	Do.
23	Descalzi, M., & Beta	Olive oil in tins	8.50		8.50	do	Do.
24	Damascus Bronze Co	Antimonial lead	275.39		275.39	Error in classification	Do.
Aug. 1	Don Frank, P., & Co. (Incorporated).	Decorated porcelain	99.60		99.60	Clerical error	Do.
16	Dulin & Martin Co	Porcelain	4.30		4.30	Error in classification	Do.
Sept. 26	Dunn & Co	Patterns for machinery	8.10		8.10	do	Do.
26	Dane, O. S	Basswood lumber, rough	21.73		21.73	Clerical error	Do.
26	Don Frank, P	Canned pineapples	81.44		81.44	Exhibit No. 4, appendix	Do.
Oct. 11	Decker, Charles M., & Bro	Biscuits	351.60		351.60	Error in classification	Do.
17	Davidson Bros. Co	Toys	4.48		4.48	Clerical error	Do.
25	Duff & Benton	Cotton damask articles	147.10		147.10	Court judgment	Do.
26	Dearborn, W. F	Statues	755.10		755.10	Error in classification	Do.
Nov. 14	Demarest, A. S	Old gunny bagging	1,768.40		1,768.40	Exhibit 8, appendix	Do.
Dec. 18	Davidson Bros. Co	Pyroxyline	2.00		2.00	Clerical error	Do.
18	Dillingham, E	Pulp wood and printing paper	87.89		87.89	Error in classification	Do.
20	Downing, R. F., & Co	Preserved pineapples	3,662.08		3,662.08	Exhibit 4, appendix	Do.
8	Dudley, W. H., & Co	do	6,370.91		6,370.91	do	Do.
1908.							
Jan. 10	Davidson Bros. & Co	Gloves	22.48		22.48	Clerical error	Do.
17	Dickson, E. H	Linen personal effects	6.63		6.63	Personal effects, free	Do.
Mar. 3	Denike, E	Manufactures of wood	1.20		1.20	Clerical error	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1908.							
Mar. 7	Dewar, Clinton & Alexander Co.	Finished morocco	$7.35		$7.35	Error in classification	Sec. 24, act June 10, 1890.
30	Denunzio, Jos., Fruit Co	Lemons	72.00		72.00	Decayed fruit, nonimportation.	Do.
May 9	De Bary, Frederick, Co	Champagne	8.00		8.00	Short shipped	Do.
9	Davies, Theo. H., & Co. (Limited).	Biscuits	8.70		8.70	Error in classification	Do.
9	Denike, E	Sacks filled with bran	12.00		12.00	do	Do.
15	De Monaca & Lauese	Macaroni	13.50		13.50	Error in weight	Do.
June 5	Delaney & Murphy	Bottle charges	4.06		4.06	Exhibit 6, appendix	Do.
5	Dumpsey, P., & Co	do	13.40		13.40	do	Do.
17	Detroit Society of Arts and Crafts.	Jewelry	6.00		6.00	Clerical error	Do.
19	Davies, Frank	Waste	133.84		133.84	Exhibit 8, appendix	Do.
1907.							
July 24	Emery Bird Thayer D. G. Co.	Flax	3.00		3.00	Clerical error	Do.
26	Earle Bros	Crude rubber	738.90		738.90	Court judgment	Do.
Sept. 19	Effinger, John	Curios	47.55		47.55	Error in classification	Do.
Oct. 9	Eliot & Matthews	Printed matter	2.20		2.20	do	Do.
Nov. 9	Ely & Walker Dry Goods Co.	Manufactures of cotton	18.40		18.40	do	Do.
1908.							
Jan. 29	Elliott Nursery Co	Bulbs	315.25		315.25	Clerical error	Do.
29	Eden Publishing House	Books in foreign language	16.00		16.00	Error in classification	Do.
Feb. 24	Errico Bros	Coral cut in various forms	158.80		158.80	Court judgment	Do.
Mar. 6	Eimer & Amend	Volumetric flasks and glass tubing	68.05		68.05	do	Do.
20	Ely & Walker Dry Goods Co.	Cotton hose and cases as American manufactures returned.	39.16		39.16	Clerical error. American goods free.	Do.
Apr. 25	Escallier Leon	Bottle fittings	1.20		1.20	Error in classification	Do.
June 5	Eitel Bros	Bottle charges	18.10		18.10	do	Do.
1907.							
July 23	Friedenberg, Chas	Olive oil in tins	18.00		18.00	Court judgment	Do.
26	Field & Co	Lithographic prints	76.95		76.95	do	Do.
Aug. 20	Fulton Bag and Burlap Co	Burlaps	2.18		2.18	Clerical error	Do.
Oct. 24	Folger, H. S	Repairs to vessels	294.93		294.93	Sec. 3115, Revised Statutes	Do.
Nov. 16	Fink, G. W., agt	Cotton cloth	102.62		102.62	Error in classification	Do.
27	Fisher, Geo. C	Cedar poles	153.07		153.07	do	Do.
1908.							
Feb. 8	Fujiyama	Cuttlefish	21.78		21.78	do	Do.
8	Ferry, C. P	Household effects	180.00		180.00	Household effects, free	Do.

Mar. 20	Ferguson McKinney D. G. Co.	Cases as American manufactures returned	1.20		1.20	American goods returned, free.	Do.
Apr. 1	Furuya, M., Co	Cuttle fish	111.60		111.60	Error in classification	Do.
20	Fischer, I., & Bros	Music books	.75		.75	do	Do.
20	Friedman, Mrs. S	Spectacles	1.50		1.50	do	Do.
May 23	Fransioli, P. J., & Co	China clay	62.35		62.35	Error in weight	Do.
1907.							
July 22	Gould, H. A., Co	Balata	496.40		496.40	Exhibit 1, appendix	Do.
23	Gross, I	Olive oil in tins	23.00		23.00	Error in classification	Do.
Aug. 3	Goldberg, Morris	Imitation precious stones	75.15		75.15	Court judgment	Do.
5	Greenway, T. B	Repairs to American vessels	13.25		13.25	Sec. 3115, Revised Statutes	Do.
12	Gimbel Bros	Wearing apparel	23.45		23.45	Wearing apparel, duty twice paid.	Do.
Sept. 19	Goat and Sheep Skin Import Co.	Hair as wool on skins	96.66		96.66	Exhibit 9, appendix	Do.
19	do	do	812.37		812.37	do	Do.
19	Graham, John, & Co	Cotton damask articles	1,079.20		1,079.20	Court judgment	Do.
20	Goldberg & Co	Glass beads	47.20		47.20	do	Do.
26	Geary, M. J	Articles in baggage	41.40		41.40	Personal effects, free	Do.
Oct. 25	Gulbenkian, G., & Co	Wool from Bagdad	8,060.07		8,060.07	Court judgment	Do.
Nov. 14	Gordon & Ferguson	Furs on skin	410.10		410.10	Error in classification	Do.
26	Great Northern Ry. Co	Bituminous	18.30		18.30	Casualty	Sec. 2984, Revised Statutes.
Dec. 18	Gibboney, James, & Co	Pineapples	2.75		2.75	Clerical error	Sec. 24, act June 10, 1890.
20	Gordon & Co	Excess quantity of apples	111.69		111.69	do	Do.
1908.							
Jan. 8	Grodel, Charles H	Scrap gunny bagging	3,787.70		3,787.70	Exhibit 8, appendix	Do.
8	Grant & McKee Co	Linoleum	469.86		469.86	Error in measurement	Do.
11	Gimbel Bros	Fur coats	5.95		5.95	Clerical error	Do.
29	Greif Bros. Co., The	Elm staves	142.70		142.70	do	Do.
30	Gulbenkian, G., & Co	Wool	12,459.84		12,459.84	Exhibit 10, appendix	Do.
Feb. 10	Gorden & Ferguson	Furs dressed on the skin	15.30		15.30	Error in classification	Do.
Mar. 3	Gill, The J. K., Co	Lead pencils	2.25		2.25	Clerical error	Do.
6	Gough, W. L	Balata	177.60		177.60	Exhibit 1, appendix	Do.
18	Glover, W. E	Laces	7.20		7.20	Clerical error	Do.
Apr. 2	Gallagher, John, Co., The	Italian bitters	16.41		16.41	do	Do.
16	Gibson, The, Art Co	Post cards	10.95		10.95	Error in classification	Do.
May 15	Girvin & Eyre	Lump alum	64.39		64.39	Clerical error	Do.
29	Goodkind, Leo	Manufactures of cotton	5.71		5.71	Error in classification	Do.
June 26	Garrick, The, Co	Bottle fittings	10.23		10.23	Exhibit 6, appendix	Do.
1907.							
July 5	Hawley & Letzerich	Vetch seed and whisky	32.49		32.49	Error in classification	Do.
5	Hengerer Wou Co	Gloves	75.37		75.37	do	Do.
22	Hensel Bruckmann & Lórbacher.	Ferrochrome and similar substances	821.24		821.24	Court judgment	Do.
26	Hermann, H	Bandes as manufacturing fur	35.11		35.11	do	Do.
26	do	Belt buckles and other ornaments	218.10		218.10	do	Do.
26	Hirschberg, D	do	117.90		117.90	do	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1907.							
Aug. 1	Heckendorn, J. B	Wood pulp	$42.17		$42.17	Error in classification	Sec. 24, act June 10, 1890.
5	Hardee, J. P	Brandy	146.34		146.34	Error in gauge	Do.
9	Howard & Smith	Evergreen seedlings	9.20		9.20	Error in classification	Do.
20	Hawley & Letzerich	Jute bagging	137.97		137.97	....do	Do.
24	Hop Yick Wo	Dried fungus	2.90		2.90	....do	Do.
Sept. 26	Hoffman, The F. W	Silverware	2.70		2.70	Clerical error	Do.
Oct. 1	Healy, D. J	Beads	7.05		7.05	Error in classification	Do.
2	Hatters' Fur Exchange, The (Incorporated).	Fur waste	118.40		118.40	Court judgment	Do.
11	Hahne & Co	Biscuits	10.83		10.83	Error in classification	Do.
11	Haller, H. M	Pineapples	121.50		121.50	Exhibit 4, appendix	Do.
17	Heil, Henry, Chemical Co	Manufactures of glass	4.80		4.80	Error in classification	Do.
17	Hop Hing & Co	Leather shoes	7.70		7.70	....do	Do.
17	Hinckley, A. R	Repairs to American vessels	21.29		21.29	Sec. 3115, Revised Statutes	Do.
17	Heinz, H. J., & Co	Olive oil in tins	102.43		102.43	Exhibit 11, appendix	Do.
24	Henderson, M	German silver scrap	5.00		5.00	Clerical error	Do.
Nov. 26	Hawley & Letzerich	Distilled and malt liquors	98.59		98.59	....do	Do.
Dec. 16	Hong Far Low	Flatfish	6.60		6.60	Error in classification	Do.
20	Hill, H. J	Silk scarf	1.80		1.80	Personal effect, free	Do.
1908.							
Jan. 8	Hoshizaki, S	Shellfish	5.70		5.70	Error in classification	Do.
8	Heinz, H. J., Co	Olive oil in tins	59.95		59.95	Exhibit 11, appendix	Do.
8	Holmes, The Wm. H., Co	Still wine in case	8.75		8.75	Error in classification	Do.
8	Hawley & Letzerich	Distilled spirits	11.90		11.90	Clerical error	Do.
10	Hubbs Hastings Paper Co	Parchment paper	15.86		15.86	Error in classification	Do.
10	Harwood, F. W., & Son	Malacca joints	2.10		2.10	....do	Do.
11	Hills, J. W	Fancy postal cards	4.85		4.85	....do	Do.
29	Hawley & Letzerich	Enameled ironware	47.60		47.60	Clerical error	Do.
29	Hahne & Co	Wool underwear	7.52		7.52	....do	Do.
Feb. 8	Hamano, H	Cuttle fish	38.85		38.85	Error in classification	Do.
13	Harper, John M., & Co	Mocha sheepskins with wool on	296.04		296.04	Exhibit 9, appendix	Do.
17	Hayes, James A., & Co	Olive oil in bottles	300.80		300.80	Exhibit 11, appendix	Do.
24	Hermann, H	Millinery ornaments	82.20		82.20	Court judgment	Do.
Mar. 3	Hawley & Letzerich	Manufactures of leather	2.00		2.00	Clerical error	Do.
3	Hirsch, S., & Co	Scotch whisky	3.08		3.08	Error in gauge	Do.
5	Havana Tobacco Co	Value of Spanish gold or Cuban peso	1,077.55		1,077.55	Exhibit 12, appendix	Do.
18	Hohlfeld, Max	Lithographic postal card	10.00		10.00	Clerical error	Do.
28	Harris Emery Co	Hosiery	4.62		4.62	Error in classification	Do.
Apr. 1	Hirade, K	Cuttle fish	55.20		55.20	....do	Do.
2	Hawley & Letzerich	Metal manufactures and decorated earthenware	14.55		14.55	Clerical error	Do.
27	Hachiya, M., & Co	Manufactured articles	3.60		3.60	....do	Do.
28	Hawley & Letzerich	Paper boxes	4.70		4.70	Error in classification	Do.

May 15	Hecht & Zummach	Powdered ocher	37.50		37.50	Clerical error	Do.
23	Holmes, The Wm. H., Co	Bottle charges	4.41		4.41	Exhibit 6, appendix	Do.
23	Hawley & Letzerich	Manufactures of paper	4.35		4.35	Error in classification	Do.
June 8	Horner, Henry, & Co	Bottle charges	7.20		7.20	Exhibit 6, appendix	Do.
8	Hayes, Jas. A., & Co	do	1,317.82		1,317.82	do	Do.
23	Hawley & Letzerich	Waste (old jute bagging)	137.05		137.05	Error in classification	Do.
25	Herman Bros	Bottle fittings	6.30		6.30	Exhibit 6, appendix	Do.
26	Hayes, Jas. A., & Co	Bottle charges	539.04		539.04	do	Do.
1907.							
Oct. 24	Isaacs Bros	Wool clothing	87.60		87.60	American goods returned, free.	Do.
1908.							
Jan. 8	Ikuta Bros	Shellfish	12.00		12.00	Error in classification	Do.
Feb. 8	Iwakami & Co	Cuttlefish and embroidered-silk wearing apparel	19.60		19.60	do	Do.
Mar. 16	Ikuta Bros	Shellfish	14.10		14.10	do	Do.
16	Ishimitsu	do	21.00		21.00	do	Do.
1907.							
July 22	Johnson, J. S., & Co	Pinapples in own juice	196.35		196.35	Exhibit 4, appendix	Do.
Aug. 9	Jelne, H	Biscuits	164.88		164.88	Error in classification	Do.
23	do	do	149.30		149.30	do	Do.
Oct. 24	Jacobs, Jacob A	Repairs to vessels	357.50		357.50	Sec. 3115, Revised Statutes	Do.
28	Jones, W. N., & Co	Dry sheepskins	40.50		40.50	Exhibit 9, appendix	Do.
1908.							
Feb. 24	Johnson, Chas. A., & Co	Fine plain lappings	2,282.94		2,282.94	Exhibit 3, appendix	Do.
Apr. 25	Jevne, H., Co	Bottle fittings	11.60		11.60	Exhibit 6, appendix	Do.
28	Jordan, A. J., Cutlery Co	Scissors	8.50		8.50	Clerical error	Do.
1907.							
Aug. 15	Kawahara, M	Vegetables in natural state	13.40		13.40	Error in classification	Do.
23	Keith, Robt., Furniture and Carpet Co.	Japanese matting	6.94		6.94	Clerical error	Do.
24	Kim Sun Low	Fungus	3.60		3.60	Error in classification	Do.
24	Kwong Luen Fai	do	1.05		1.05	do	Do.
24	Kwong Sang Wa	do	3.15		3.15	do	Do.
Sept. 19	Kaufman Bros	Mushrooms	241.05		241.05	Court judgment	Do.
Oct. 1	Kelley, Clark Co	Canned pineapples	339.20		339.20	Exhibit 4, appendix	Do.
25	Knoedler, M	Miniature paintings in frames	587.55		587.55	Court judgment	Do.
Dec. 20	Knauth, Nachod & Kuhne	Wall pockets	190.80		190.80	do	Do.
1908.							
Jan. 10	Kempton, Jessie A	Furs, personal effects	.70		.70	Personal effects, free	Do.
Feb. 8	Kobayashi, W	Cuttle fish	8.40		8.40	Error in classification	Do.
8	Kawahara, M	do	34.95		34.95	do	Do.
Mar. 18	Kline, Arthur A	Wool blankets	2.76		2.76	Clerical error	Do.
30	Kawahara, M	Canned cuttle fish	4.80		4.80	Error in classification	Do.
Apr. 25	Kelle, H	Piano, household goods	42.75		42.75	Household effects, free	Do.
May 14	Kawahara, M	Canned cuttle fish	9.60		9.60	Error in classification	Do.
June 17	Kwong Chong Lung Co	Chinese wine	3.44		3.44	Clerical error	Do.
23	Koch, K. A., & Co	Plaster of paris statuettes	65.75		65.75	Error in classification	Do.
29	Keefe, Con	Bottle fittings	2.60		2.60	Exhibit 6, appendix	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1907.							
July 23	Leeming, Thomas & Co	Chocolate and confectionery	$244.85		$244.85	Court judgment	Sec, 24, act June 10, 1890.
Aug. 5	Lothrop, L. D	Fishhooks	449.36		449.36	Error in classification	Do.
9	Letto, Arthur	Biscuits	48.35		48.35	do	Do.
9	Lo Buono, Vincenzo	Cheese	1.20		1.20	Clerical error	Do.
20	Lazarus, The Jos., Co	Steel millinery ornaments	17.55		17.55	Error in classification	Do.
23	Lowenstein, B., & Bros	Bleached linen cloth	7.79		7.79	do	Do.
23	Lothrop, The, Co	Biscuits	88.61		88.61	do	Do.
Oct. 10	Lemen Low Water Alarm Co.	Catgut	9.25		9.25	do	Do.
Nov. 16	Lazarus, Joseph, & Co	Steel hat ornaments	16.35		16.35	do	Do.
1908.							
Jan. 9	Lee, G. W	Silver tray	13.50		13.50	Personal effect, free	Do.
30	Lewis, H. E	Linen drawn work	145.75		145.75	Error in classification	Do.
Mar. 1	Leigh, Evan Arthur	Card clothing machinery	366.75		366.75	Court judgment	Do.
Apr. 16	Lazarus, Joseph, & Co	Millinery ornaments	51.75		51.75	Error in classification	Do.
24	Levi, Ottenheimer	Bottle cork and capsules, etc	146.49		146.49	Exhibit 6, appendix	Do.
25	Lagomacsino Co	Bottle fittings	2.40		2.40	do	Do.
May 9	Lott, Mrs. B. O	Horse, buggy, and harness	43.25		43.25	Household effects, free	Do.
15	Loengart & Co	Manufactures of metal	56.25		56.25	Error in classification	Do.
June 5	Lindquist, B., & Co	Bottle charges	25.60		25.60	Exhibit 6, appendix	Do.
1907.							
July 22	Meadows, Thos., & Co	Arctic wafers, etc	28.20		28.20	Error in classification	Do.
22	Middleton & Co	Balata	2,150.50		2,150.50	Exhibit 1, appendix	Do.
22	Myers & Co., F. W	Pulp wood	1,058.25		1,058.25	Error in classification	Do.
23	Marchesini Bros	Olive oil in tins	14.00		14.00	Exhibit 11, Appendix	Do.
23	Maresco Roberts	do	3.50		3.50	do	Do.
29	McGettrick, P	Pulp wood	1,435.17		1,435.17	Error in classification	Do.
Aug. 1	McNiven, Isaac	Black currants	66.45		66.45	do	Do.
1	McFarlane, W. G	Lithographic postcards	14.25		14.25	do	Do.
1	Marion, E. J	Excess value of additional duty	32.86		32.86	Clerical error	Do.
9	Myers, F. W., & Co	Sawn blocks (pulp wood)	48.80		48.80	Error in classification	Do.
9	McCoy, C. G	Gross posts, manufacturers of metal	2.25		2.25	American goods returned, free.	
12	Martin, Gustav	Scammony resin	20.97		20.97	Exhibit 13, Appendix	Do.
12	Mayer, Chas. & Co	Jewelry and decorated china	6.00		6.00	Clerical error	Do.
15	Murakami, T	Vegetables in natural state	52.55		52.55	Error in classification	Do.
16	McClure Co	China ware	43.20		43.20	do	Do.
20	Mathis, E. M	Oil paintings and frames	228.75		228.75	do	Do.
20	McNiven	Matting	7.47		7.47	do	Do.
23	Myers, F. W., & Co	Mill buttings as pulp wood	63.80		63.80	do	Do.

	24	....do	....do	114.80		114.80	....do	Do.
	24	Mayer, L., & Co	Manufactured article n. o. p. (wafers)	4.20		4.20	....do	Do.
Sept.	21	Meyer & Lange	Mushrooms	483.75		483.75	Court judgment	Do.
	26	McMillan, G. K., Co	Biscuits	20.40		20.40	Error in classification	Do.
Oct.	9	Munoz, J. I., Co	Brandy cherries	459.10		459.10	....do	Do.
	9	Mendelson, L	Preserved pineapples	108.87		108.87	Exhibit 4, appendix	Do.
	11	McGettrick	Wood pulp and ash logs	142.65		142.65	Error in classification	Do.
	17	Mayer, Chas., & Co	Decorated china and manufactures of metal	14.40		14.40	....do	Do.
	24	Myers, F. W., & Co	Lumber	7.95		7.95	....do	Do.
	25	Maas, George J	Two alabaster busts	8.68		8.68	....do	Do.
	25	Murray & Co	Woolen cloth	66.77		66.77	....do	Do.
	25	Meier & Frank Co	Paints	5.30		5.30	Clerical error	Do.
Nov.	9	Meyer Bros. Drug Co	Magnesia carbonate and antimony ore	183.35		183.35	Error in classification	Do.
	14	McNaughton	Household effects	21.60		21.60	Household effects, free	Do.
	15	Meyers, F. W., & Co	Wood pulp	122.72		122.72	Error in classification	Do.
	26	McKibbin, Driscoll & Dorsey	Furs dressed on skin	222.30		222.30	....do	Do.
Dec.	20	Mentzer, F. C	Copper ore	682.08		682.08	Error in assayer's certificate.	Do.
1908.								
Jan.	11	Masson, Wm. H	Scrap gunny bagging	8,888.50		8,888.50	Exhibit 8, appendix	Do.
	17	Maurer, W. A	Decorated earthenware	8.40		8.40	Clerical error	Do.
	24	Myers, F. W., & Co	Ground wood pulp	711.68		711.68	Error in classification	Do.
Feb.	8	Miyake, H	Cuttle fish	10.20		10.20	....do	Do.
	8	Murakami, T	....do	88.24		88.24	....do	Do.
	24	Merck & Co	Powdered opium	7,190.19		7,190.19	Exhibit 14, appendix	Do.
Mar.	3	Monsanto Chemical Works	Chloro sulphoric	14.00		14.00	Error in classification	Do.
	6	Maurer, Ed	Pineapples in own juice	2,276.97		2,276.97	Exhibit 4, appendix	Do.
	7	Mechanical Fabric Co	Woven fabric flax	1,853.28		1,853.28	Error in classification	Do.
	16	Mueller, John G	Drawing instruments	6.75		6.75	Personal effects, free	Do.
	16	Myers, F. W., & Co	Split mica	4.00		4.00	Clerical error	Do.
	17	McNeill, H. J	Patterns for machinery	12.00		12.00	Error in classification	Do.
	18	Marvin Co., The W. H	Currants, short shipped	121.44		121.44	Short shipped	Do.
	18	Monitor Drill Co	Molders' patterns	72.10		72.10	Error in classification	Do.
	24	Muller Maclean & Co	Value of invoice	83.40		83.40	Court judgment	Do.
	30	Miyake, H	Canned cuttle fish	11.10		11.10	Error in classification	Do.
Apr.	2	Myers, F. W. & Co	Ground wood pulp	45.26		45.26	....do	Do.
	25	McGettrick, P	Hay	47.00		47.00	Clerical error	Do.
	25	Meldrum, H. A., & Co	Gloves	4.75		4.75	Short shipped	Do.
	28	Moreno, K. A	Cattle	105.18		105.18	Error in classification	Do.
May	15	Margolius Co. (Inc.)	Old bagging	66.60		66.60	Exhibit 8, appendix	Do.
	29	Mannheimer Bros	Earthenware	10.55		10.55	Error in classification	Do.
June	5	Messimy, V. de Co	Bottle charges	8.70		8.70	Exhibit 6, appendix	Do.
	5	Morand Bros	....do	4.00		4.00	....do	Do.
	17	McMillan, G. K., Co	....do	20.71		20.71	....do	Do.
	23	Myers, F. W., & Co	Spruce clapboards	30.22		30.22	Clerical error	Do.
	23	May, L. L., Co	Nursery stock	35.25		35.25	Abandoned, sec. 23, act June 10, 1890.	Do.
	25	Mucci, R	Olive oil	3.60		3.60	Error in classification	Do.
	25	Marr, D. A., Transfer and and Storage Co.	Matting	14.82		14.82	Clerical error	Do.
	26	Magruder, John H	Bottle fittings	8.48		8.48	Exhibit 6, appendix	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1907.							
July 10	Nicholson, David, Grocer Co.	French bitters	$87.50		$87.50	Error in classification	Sec. 24, act June 10, 1890.
Aug. 9	Newberry, J. R., Co	Biscuits	267.02		267.02	do	Do.
9	Newmark, M. A., & Co	Pineapples	237.62		237.62	do	Do.
12	Newmark Hardware Co	Leather covered buckles	13.50		13.50	do	Do.
12	National Malleable Casting Co., The.	Molders patterns	15.75		15.75	do	Do.
12	Nordlinger & Mamluck	Imitation precious stones, not set	4.75		4.75	do	Do.
20	Niagara Falls Biscuit Co	Biscuits	227.14		227.14	do	Do.
24	Neustadter Bros	Hose (shortage)	5.10		5.10	Short shipped	Do.
Sept. 21	Nichols, Austin & Co	Mushrooms	72.45		72.45	Court judgment	Do.
26	Newman Post Card Co	Lithographic post cards	48.75		48.75	Error in classification	Do.
26	Newberry, J. K., Co	Biscuits	15.00		15.00	do	Do.
Oct. 9	Niagara Falls Biscuit Co	do	353.00		353.00	do	Do.
11	Nam Kin Low	Mushrooms	4.50		4.50	do	Do.
25	Neustadter Bros	Cotton hose	7.50		7.50	Clerical error	Do.
Nov. 9	Norvell Shapleigh Hardware Co.	Fishhooks	33.65		33.65	Error in weight	Do.
16	Nadaud, C. G	Personal effects	5.25		5.25	Personal effects, free	Do.
1908.							
Jan. 11	Newcomb, Endicott & Co	Woolen dress goods	96.80		96.80	Clerical error	Do.
Feb. 10	Nugent, B. & Bro. Dry Goods Co.	Cotton hose	50.75		50.75	Clerical error	Do.
Mar. 28	Northrup, King & Co	Garden seed	11.10		11.10	Error in classification	Do.
Apr. 28	Nash, George & Co	Steel and strips	7,669.92		7,669.92	Exhibit 15, appendix	Do.
25	Newman Post Card Co	Lithographic prints	59.50		59.50	Error in classification	Do.
25	Newmark, M. A. & Co	Bottle fittings	5.53		5.53	Exhibit 6, appendix	Do.
29	North American Trading and Transportation Co.	Manufactures of fur	5.30		5.30	Clerical error	Do.
May 8	Nicholson, David, Grocery Co.	Bottle fittings	29.50		29.50	Exhibit 6, appendix	Do.
19	Nicholson, David	Bottle charges	48.90		48.90	do	Do.
1907.							
Aug. 1	Otis Steel Co., The	Molder's patterns	53.55		53.55	Error in classification	Do.
15	Odo, K	Vegetables in natural state	32.25		32.25	do	Do.
15	Ozaki, S	do	10.80		10.80	do	Do.
24	Oriental American Co	Pineapples	1,145.85		1,145.85	Exhibit 4, appendix	Do.
Sept. 26	O'Brien & Co	Biscuits	11.10		11.10	Error in classification	Do.
Oct. 1	Otis Steel Co	Wood patterns	101.85		101.85	do	Do.
25	do	do	49.70		49.70	do	Do.
Dec. 10	Oriental American Co	Pineapples	8,535.74		8,535.74	Exhibit 4, appendix	Do.

1908.								
Feb.	8	Odo, K.	Cuttle fish	44.28		44.28	Error in classification	Do.
	8	Oshima	do	1.25		1.25	do	Do.
	8	Ozaki, S	do	76.79		76.79	do	Do.
	8	do	do	10.50		10.50	do	Do.
Apr.	1	Oriental Trading Co	do	6.30		6.30	do	Do.
	2	Olds, Wortman & King	Earthenware steins, metal tops	7.35		7.35	do	Do.
May	14	Ozaki, S	Canned cuttle fish	8.40		8.40	do	Do.
	22	Ollesheimer, Theo., & Co	Manufacturers of straw and grass	107.10		107.10	Court judgment	Do.
1907.								
July	23	Perry, Ryer & Co	Olive oil in tins	5.00		5.00	Exhibit 11, appendix	Do.
	23	Pierano, L	do	11.50		11.50	do	Do.
	23	Parodi, Erminio & Co	do	28.50		28.50	do	Do.
	26	Petry, P. H., & Co	Vulcan black	19.05		19.05	Court judgment	Do.
Aug.	1	Packard Motor Car Co	Wire and rubber cable	52.15		52.15	Error in classification	Do.
	12	Pfeiffer, The T. H., Crockery Co.	Plain earthenware	21.75		21.75	Clerical error	Do.
	20	Pendas & Alveraz, G	Leaf tobacco, unstemmed	97.20		97.20	Error in clasification	Do.
	20	Peebles, The Jos. R., Sons Co.	Biscuits and crackers	73.52		73.52	do	Do.
Sept.	21	Pollak & Epstein	Mushrooms	44.70		44.70	Court judgment	Do.
	26	Pacific Biscuit Co	Wafers	15.00		15.00	Error in classification	Do.
Oct.	2	Park & Tilford	Toilet soap	6.70		6.70	Court judgment	Do.
	14	Passavant & Co	Leather gloves	427.19		427.19	do	Do.
	25	Pierson, Ralph, & Co	Pamphlets in foreign language	3.25		3.25	Pamphlets in foreign language, free.	Do.
Nov.	9	do	Books	10.50		10.50	do	Do.
	26	Pleifel, Shuckie	Anisette	36.40		36.40	Nonimportation	Do.
Dec.	20	Peabody, H. W., & Co	Preserved pineapples	3,135.65		3,135.65	Exhibit 4, appendix	Do.
1908.								
Jan.	30	Persons, C., Sons	Gin in jugs	51.28		51.28	Error in gauge	Do.
Mar.	3	Patrick, F. A., & Co	Ladies' black lace lisle hose	5.92		5.92	Short shipped	Do.
	20	Pierson, Ralph, & Co	Coal-tar products	73.15		73.15	Error in classification	Do.
	24	Perkins, W. L., & Co	Distilled spirits	10.54		10.54	do	Do.
	24	Pirnie, James	Waste bagging, etc	32,560.54		32,560.54	Exhibit 8, appendix	Do.
	28	Persons, C., Sons	Scotch whisky	11.46		11.46	Error in classification	Do.
Apr.	29	Pierson, Ralph, & Co	Cinematographs	7.10		7.10	do	Do.
May	8	do	Bottle fittings	160.88		160.88	Exhibit 6, appendix	Do.
	14	do	Olive oil and bottle charges	34.11		34.11	Clerical error. Exhibit 6, appendix.	Do.
	15	Persons, C., Sons	Bottle charges	29.52		29.52	Exhibit 6, appendix	Do.
	19	Pierson, Ralph, & Co	do	29.33		29.33	do	Do.
	23	Pendas, Y., & Alvarez	Tobacco	11.20		11.20	Clerical error	Do.
June	5	Pierce Steamship Co	Bottle charges	160.05		160.05	Exhibit 6, appendix	Do.
	5	do	do	293.51		293.51	do	Do.
	23	Persons, C., Sons	do	207.05		207.05	do	Do.
	28	Palermo, Peter	Olive oil in tins	9.75		9.75	Exhibit 11, appendix	Do.
1907.								
Dec	16	Quong Long Yuen & Co	Flatfish	20.70		20.70	Error in classification	Do.
	16	Quong Wah, Lung, Co	do	3.05		3.05	do	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1908.							
Jan. 9	Queen, James W., & Co	Philosophical instruments	$283.20	$145.50	$428.70	Error in classification	Sec. 24, act June 10, 1890.
9	do	do	293.60	153.55	447.15	do	Do.
9	do	do	322.00	174.13	496.13	do	Do.
9	do	do	206.50	110.65	317.15	do	Do.
9	do	do	61.60	32.73	94.33	do	Do.
9	do	do	283.24	155.22	438.46	do	Do.
9	do	do	117.60	61.13	178.73	do	Do.
9	do	do	67.10	35.75	102.85	do	Do.
9	do	do	467.60	247.26	714.86	do	Do.
Apr. 1	Quong Tuck Co	Cuttle fish and flatfish	12.90		12.90	do	Do.
1907.							
July 23	Romeo, F., & Co	Olive oil in tins	270.00		270.00	Exhibit 11, appendix	Do.
23	Ravotto, Jos. A	do	23.00		23.00	do	Do.
23	Rocco, D., & Co	do	3.50		3.50	do	Do.
Aug. 1	Reed Bros. & Co	Fur felt hats and wool hats	24.52		24.52	Error in classification	Do.
3	Rheims, Leon & Co	Manufactures of fur	11.35		11.35	Court judgment	Do.
9	Rosenthal Sloan Millinery Co.	Silk	67.38		67.38	Clerical error	Do.
16	Rich, M., & Bros. Co	Cotton and silk lace goods	6.00		6.00	Error in classification	Do.
Sept. 20	Robison, G., & Son	Cotton yarn	839.49		839.49	Court judgment	Do.
21	Richard, C. B., & Co	Silk fabrics	8.50		8.50	do	Do.
26	Reeve, John	Lithographic post cards	139.25		139.25	Error in classification	Do.
Oct. 24	Reed Bros. & Co	Birds' undressed feathers	77.35		77.35	do	Do.
25	Rice-Stix Dry Goods Co	Manufactures of cotton	72.60		72.60	do	Do.
Nov. 9	Rosenthal-Sloan Millinery Co.	Silk fabrics	40.00		40.00	do	Do.
27	do	Artificial silk ribbon and millinery	105.05		105.05	do	Do.
Dec. 20	Roberts, Thos., & Co	Preserved pineapples	3,433.82		3,433.82	Exhibit 4, appendix	Do.
1908.							
Jan. 9	Reeve, John	Flax waste, paper stock	1,445.19		1,445.19	Error in classification	Do.
17	Reedy, I. D	Copper ore	18.96		18.96	Error in assayer's certificate	Do.
30	Rothschild Bros	Still wine	9.00		9.00	Error in classification	Do.
Mar. 6	Rathbun, W. L., & Co	Decayed fruit	19.14		19.14	Nonimportation	Do.
6	do	do	7,226.14		7,226.14	do	Do.
20	Rice-Stix Dry Goods Co	Cases as American manufactures, returned	14.40		14.40	American goods returned, free.	Do.
Apr. 1	Rosenthal-Sloan Millinery Co.	Unbleached straw braid	7.85		7.85	Clerical error	Do.
28	Rose, B. L., Co	Bottle fittings	43.20		43.20	Exhibit 6, appendix	Do.

May 8	Rosenthal-Sloan Millinery Co.	Millinery ornaments	4.65		4.65	Error in classification	Do.
19	Rice-Stix Dry Goods Co.	Bottle charges	28.70		28.70	Exhibit 6, appendix	Do.
June 25	Robinson, J. M., Norton & Co.	Linen	13.65		13.65	Clerical error	Do.
1907.							
July 9	Sutherland, D. M	Woven fabrics of flax	13.34		13.34	do	Do.
23	Strohmeyer Arpe Co	Olive oil in tins	1.50		1.50	Exhibit 11, appendix	Do.
23	Sasso, G., & Sons	do	19.00		19.00	do	Do.
26	Saks & Co	Fur forms and bodies for hats	101.05		101.05	Court judgment	Do.
Aug. 9	Scruggs-Vandervoort-Barney Dry Goods Co.	Millinery ornaments of metal and glass	16.05		16.05	Error in classification	Do.
12	Spokane Table Supply Co	Sugar wafers	22.20		22.20	do	Do.
12	Sanchez & Haya Co	Stemmed filler tobacco	36.00		36.00	Clerical error	Do.
15	Sayegusa, M	Vegetables in natural state	9.45		9.45	Error in classification	Do.
16	Siebold, L. P	Biscuits	39.90		39.90	do	Do.
20	Scientific Materials Co	Aspirator bottles	5.40		5.40	do	Do.
24	Sealy Mason & Co	Manufactured articles not otherwise provided (wafers).	12.30		12.30	do	Do.
Sept. 19	Stein Co., Abe	Hair as wool on skin	69.87		69.87	Exhibit 9, appendix	Do.
19	Strachan, David	Articles of cotton damask	1,643.10		1,643.10	Error in classification	Do.
21	Spencer & Co	Apricot kernels	870.05		870.05	Court judgment	Do.
26	Shafter, J. N	Horses	60.00		60.00	American goods returned, free.	Do.
26	Shaw, Geo. C., Co	Biscuits	112.05		112.05	Error in classification	Do.
26	Strouse, Adler & Co	Sheet steel in strips	2,861.39		2,861.39	Exhibit 15, appendix	Do.
26	Steeb, J., Tennent	Canned pineapples	95.10		95.10	Exhibit 4, appendix	Do.
Oct. 9	Schade, Wilfred & Co	Plate glass	13.17		13.17	Clerical error	Do.
9	do	Old bagging	166.00		166.00	Exhibit 8, appendix	Do.
11	Stevens, T. M., Co	Pineapples	3,097.30		3,097.30	Exhibit 4, appendix	Do.
15	Schrader & Ehlers	Smokers' articles	1,264.08		1,264.08	Court judgment	Do.
17	Schillinger, Leopold	Portraits, albums, and cotton manufactures	10.00		10.00	Clerical error	Do.
17	Sherwood & Sherwood	Lime juice	15.75		15.75	Error in classification	Do.
24	Sterling & Welch Co., The	Bleached cottons	16.67		16.67	do	Do.
24	Suie, F., One & Co	Chinese lanterns	8.25		8.25	do	Do.
28	Sibley, Lindsay & Curr Co	Necklets string beads	2.90		2.90	do	Do.
Nov. 9	Schade, Wilfred & Co	Blood char and colors	36.20		36.20	do	Do.
9	Stix, Baer & Fuller Dry Goods Co.	Beaded and spangled bags as manufactures of metal.	3.15		3.15	do	Do.
9	Schlotmann, Rev. J. B	Regalia	27.00		27.00	do	Do.
9	Schwerdtmann Toy Co	Christmas tree stands and artificial Christmas trees as toys.	13.20		13.20	do	Do.
16	Steele, E. J	Birch bark boxes and frames	6.15		6.15	do	Do.
26	Shaw, Geo. C., & Co	Biscuits	23.40		23.40	do	Do.
26	Spencer Lens Co	Microscopic cover glasses	10.60		10.60	do	Do.
27	Stix, Baer & Fuller Dry Goods Co.	Glass Christmas tree bells and postal cards as lithographs.	49.50		49.50	do	Do.
27	St. Louis Edible Nut Co	Pecans	207.37		207.37	Error in weight	Do.
Dec. 16	Sing Sam	Flatfish	6.90		6.90	Error in classification	Do.
16	Soy Hing Cheong & Co	do	31.27		31.27	do	Do.
16	Sun Chong Lung	do	9.60		9.60	do	Do.
16	Sun Yeun Hank & Co	do	6.45		6.45	do	Do

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1907.							
Dec. 20	Schoellkopf Hartford & Hanna Co.	Petroleum molle	$109.12		$109.12	Court judgment	Sec. 24, act June 10, 1890.
20	Sibley, Lindsay & Curr Co.	Manufactures of glass and metal	10.00		10.00	Error in classification	Do.
20	Schade, Wilfred & Co	Scrap gunny bagging	243.90		243.90	Exhibit 8, appendix	Do.
1908.							
Jan. 8	Sun Wing Wo & Co	Shellfish	19.95		19.95	Error in classification	Do.
9	Selige, A., Publishing Co	Printed matter	112.40		112.40	Clerical error	Do.
9	Schade, Wilfred, & Co	Toys	15.50		15.50	Error in classification	Do.
9	Schwerdtmann Toy Co	Decorated earthenware	7.50		7.50	do	Do.
10	Sahnalla, M., & Co	Manufactures of feathers	10.00		10.00	do	Do.
10	Swofford Bros.	Hose	2.20		2.20	Clerical error	Do.
29	Scruggs, Vandervoort & Barney Dry Goods Co.	Millinery ornaments, as manufactures of metal and glass.	4.35		4.35	Error in classification	Do.
29	Schuchert, J. H	Moving-picture films, United States product returned.	105.00		105.00	American goods returned, free.	Do.
Feb. 8	Sayegusa, M	Cuttlefish	53.91		53.91	Error in classification	Do.
8	Shokai Fujii	do	28.00		28.00	do	Do.
Mar. 3	Schade, Wilfred, & Co	Unbleached wood pulp	11.01		11.01	Error in weight	Do.
3	Simmons Hardware Co	Lead pencils	35.60		35.60	Clerical error	Do.
5	Swedish American Telephone Co.	Carbon disk	54.00		54.00	Exhibit 16, appendix	Do.
18	Smith, Sylvanus, & Co	Codfish	438.68		438.68	Error in classification	Do.
18	Sibley, Lindsay & Curr Co.	Horseshoe-shaped magnets as toys and linen cloth and napkins.	23.50		23.50	do	Do.
20	Schade, Wilfred, & Co	Spanish still wine	19.80		19.80	do	Do.
20	Scruggs, Vandervoort & Barney Dry Goods Co.	Embroidered wearing apparel and cinematographs.	14.80		14.80	do	Do.
20	Stix, Baer & Fuller Dry Goods Co.	Printed matter and lithographs	9.90		9.90	do	Do.
28	Southern Pacific Co	Gold and silver ore	213.86		213.86	Clerical error	Do.
30	Stevens, T. M., & Co	Pineapples	436.60		436.60	Exhibit 4, appendix	Do.
30	Sibley, Lindsay & Curr Co.	Laces, metal buttons, etc	2.00		2.00	Clerical error	Do.
Apr. 1	Seemann & Co	Manufactures of india rubber	9.75		9.75	Error in classification	Do.
1	Schade, Wilfred, & Co	Hose	12.50		12.50	Clerical error	Do.
25	Shenkberg, C., Co	Herring	12.75		12.75	Error in weight	Do.
27	Seller, M., & Co	Small mirrors, toys	4.05		4.05	Clerical error	Do.
27	Sherwood & Sherwood	Glass bottles (fittings)	3.20		3.20	Exhibit 6, appendix	Do.
29	Scruggs, Vandervoort & Barney Dry Goods Co.	Cotton cloth, cotton stripe	1.40		1.40	Clerical error	Do.
May 8	Schade, Wilfred, & Co	Bottle fittings	23.96		23.96	Exhibit 6, appendix	Do.
8	Scruggs, Vandervoort & Barney Dry Goods Co.	Manufactures, glass chief value	2.85		2.85	Error in classification	Do.

8	Steinwender & Sellner Mercantile Co.	Bottle fittings	28.98		28.98	Exhibit 6, appendix	Do.
8	Steinwender, H. A., & Co	do	10.60		10.60	do	Do.
13	Schade, Wilfred, & Co	do	341.09		341.09	do	Do.
15	Shafter, J. N	Lead ore	201.50		201.50	Clerical error	Do.
15	Sibley Lindsay & Curr Co	Doll heads and dolls	17.60		17.60	do	Do.
19	Schade, Wilfred, & Co	Bottle charges	4.83		4.83	Exhibit 6, appendix	Do.
19	Steinwender & Sellner Mercantile Co.	do	6.80		6.80	do	Do.
22	Schulemann, F., & Co	Cotton fabrics	273.40		273.40	Court judgment	Do.
23	Scruggs, Vandervoort & Barney Dry Goods Co.	Countable cotton cloth, figured	124.41		124.41	Error in classification	Do.
June 5	Schunpferman, W. H., & Co.	Bottle charges	2.20		2.20	Exhibit 6, appendix	Do.
5	Steuben County Wine Co	do	1.82		1.82	do	Do.
5	Stone, Chas. D., & Co	do	187.81		187.81	do	Do.
11	Schenck, Albert	Toy tea sets and toy earthenware	449.75	$388.10	837.85	Tariff act, Mar. 3, 1883	Do.
23	Schade, Wilfred & Co	Cigars	10.00		10.00	Clerical error	Do.
23	Seymour Manufacturing Co	German silver scrap	156.75		156.75	Error in classification	Do.
25	Seggermann, H	Wheat bran	8.48		8.48	Clerical error	Do.
25	Smith - McCord - Townsend Dry Goods Co.	Embroidered cotton hose	9.75		9.75	Error in classsification	Do.
29	Swallow, A. N., Co	Bottle charges	4.90		4.90	Exhibit 6, appendix	Do.
1907.							
Aug. 15	Takakuwa, Y	Vegetables in natural state	5.70		5.70	Error in classification	Do.
16	Train, Smith & Co	Old bagging	238.90		238.90	Exhibit 8, appendix	Do.
20	Tresselt, W. F	Biscuits	58.20		58.20	Error in classification	Do.
23	Taylor, George B	Repairs on vessels	348.00		348.00	Sec. 3115, Revised Statutes	Do.
Sept. 26	Trouche, Paul E	Illustrated post cards	26.25		26.25	Error in classification	Do.
Oct. 14	Trefeusse, Gogenheim & Co	Leather gloves	7,785.00		7,785.00	Exhibit 17, appendix	Do.
17	Taylor, George K	Repairs to American vessels	508.00		508.00	Sec. 3115, Revised Statutes	Do.
27	Takoma Smelting Co	Lead in ore	17.46		17.46	Error in assayer's certificate	Do.
1908.							
Jan. 27	True & McClelland	Old bagging	24.10		24.10	Exhibit 8, appendix	Do.
29	Trorlicht-Dunster & Renard Carpet Co.	Whole room carpets	13.90		13.90	Clerical error	Do.
Feb. 10	Takakuwa, Y	Cuttle fish	86.00		86.00	Error in classification	Do.
Mar. 28	Todd, G. H. P	Salt-water fish, smoked haddie	7.50		7.50	do	Do.
30	Tanaka, H	Canned cuttle fish	14.51		14.51	do	Do.
30	Takakuwa, Y	do	11.05		11.05	do	Do.
Apr. 1	Tsutakawa, S	Cuttle fish and octopus	4.50		4.50	do	Do.
1	Tamura, S	do	9.00		9.00	do	Do.
1	Tuck Lung Co	do	3.15		3.15	do	Do.
May 14	Takakuwa, Y	Canned cuttle fish	9.60		9.60	do	Do.
22	Tiffany & Co	Bronze statues	1,738.40		1,738.40	Exhibit No. 18, appendix	Do.
June 17	Takakuwa	Error in liquidation	49.15		49.15	Clerical error	Do.
1907.							
Nov. 26	United States Sponge Co	Sponges	93.00		93.00	Error in classification	Do.
Dec. 20	United states Fireworks Co	Fire crackers	80.00		80.00	Error in weight	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1908.							
Jan. 28	Ungerer & Co	Enfleurage grease	$136.25		$136.25	Court judgment	Sec. 24, act June 10, 1890.
Mar. 3	Ullman, The, Einstein Co	Gin	80.47		80.47	Error in gauge	Do.
May 5	Ullman, B., & Co	Cotton and flax fabrics	22.40		22.40	Court judgment	Do.
1907.							
Aug. —	Ventrone, F. P	Olive oil in tins	29.00		29.00	Exhibit No. 11, appendix	Do.
1908.							
Jan. 10	Van Treese	Copper ore	60.25		60.25	Error in assayer's certificate.	Do.
17	Vittuci Magnano (Incorporated).	Excess quantity of cheese	70.20		70.20	Error in weight	Do.
Mar. 6	Villari Mitchell & Co	Decayed fruit	8,797.06		8,797.06	Nonimportation	Do.
16	Vittuci Magnano (Incorporated).	Frankfort sausages	59.50		59.50	Error in classification	Do.
Apr. 25	Vache, T., & Co	Bottle fittings	2.00		2.00	Exhibit No. 6, appendix	Do.
June 25	Volker, Wm., & Co	Matting	6.00		6.00	Clerical error	Do.
1907.							
Aug. 9	Woodside, T. J	Carbonate of zinc	197.29		197.29	do	Do.
12	Wood, Charles H	Flax card waste	795.25		795.25	Court judgment	Do.
Sept. 19	Wilson, Thomas, & Co	Cotton damask articles	70.60		70.60	do	Do.
26	Wallace, David & Sons	Biscuits	9.90		9.90	Error in classification	Do.
26	Ward, E. M	Biscuits and wafers	4.80		4.80	do	Do.
Oct. 8	Wilkinson, E. de F., Co	Polishing stones	61.00		61.00	do	Do.
9	Westinghouse Electric Manufacturing Co.	Machinery	504.45		504.45	Clerical error	Do.
9	Wyman, Chas. H., & Co	Silk wearing apparel	4.20		4.20	do	Do.
11	Ward, Aaron, & Sons	Biscuits	78.80		78.80	Error in classification	Do.
17	Westheimer, J., & Co	Brandy	8.21		8.21	do	Do.
25	Wing Sing Lung Kee	Spirits	4.48		4.48	do	Do.
Nov. 26	*Wallerstein Produce Co*	Peas	297.25		297.25	Exhibit No. 19, appendix	Do.
27	Wyckoff, E. G	Silk embroidery and cotton clothing	20.10		20.10	Error in classification	Do.
27	Wyman, Chas. H., & Co	Olive oil, manufactures of wood, of glass, or paste, and millinery ornaments.	555.50		555.50	do	Do.
Dec. 16	Wah Hing Lung	Flatfish	16.80		16.80	do	Do.
16	Wah Kee, Y. L., Co	do	6.90		6.90	do	Do.
16	Wing Sing Lung Co	do	70.85		70.85	do	Do.
20	Woodward & Lothrop	Manufactures of metal	20.40		20.40	Clerical error	Do.
1908.							
Jan. 8	do	Toys	1.50		1.50	do	Do.
8	Witt Bros	Post cards	.82		.82	do	Do.

9	Wyman, Chas. H., & Co	Cigars and cigarettes, champagne, flax fabrics, and cotton hose.	68.97		68.97	Error in classification	Do.
11	Vallerstein Produce Co	Peas	325.03		325.03	Exhibit No. 19, appendix	Do.
29	Walding, Kinnan & Martin Co.	Cuban cigars	23.62		23.62	Clerical error	Do.
30	Walsh, F. T	Lappings	3,146.72		3,146.72	Exhibit No. 3, appendix	Do.
Feb. 10	Wing Sing Wo Co	Cuttle fish	20.71		20.71	Error in classification	Do.
14	Wilkinson, E. de F., Co	Woven fabrics of flax	478.39		478.39	Exhibit No. 3, appendix	Do.
Mar. 6	Wood, Chas. H	Flax card waste	97.50		97.50	Court judgment	Do.
7	Wyman, Partridge & Co	Silk wearing apparel and linens	30.34		30.34	Error in classification	Do.
7	Wilkinson, E. de F., Co	Woven fabric flax	3,456.53		3,456.53	Exhibit No. 3, appendix	Do.
16	Weidman, The, Co	Glass bottles	91.60		91.60	Error in classification	Do.
16	Woodward & Lothrop	Earthenware	3.00		3.00	Short shipped	Do.
18	Wright, J. A	Leather quiver and plain pottery	2.27		2.27	Clerical error	Do.
20	Wyman, Chas. H., & Co	Galvanized iron wire cases as American manufacture returned, etc.	22.28		22.28	American goods returned, free.	Do.
21	Wo Sing & Co	Earthenware (short shipped)	106.08		106.08	Short shipped	Do.
21	Wallerstein Produce Co	Peas	148.25		148.25	Exhibit No. 19, appendix	Do.
28	Western Leather Co	Scrap leather	90.32		90.32	Error in classification	Do.
30	Wing Chong Lung Co	Fish in less than half barrels	21.30		21.30	Clerical error	Do.
Apr. 11	Wilckes, Joseph	Steel in strips	1,085.74		1,085.74	Exhibit No. 15, appendix	Do.
13	Wa Chong Co	Cuttle fish	13.60		13.60	Error in classification	Do.
25	Wolff & Co	Bottle fittings	6.40		6.40	do	Do.
28	Wilkinson, E. de F., Co	Woven fabric flax	1,656.49		1,656.49	Exhibit No. 3, appendix	Do.
29	Wyman, Chas. H., & Co	Bottle fittings	7.49		7.49	Exhibit No. 6, appendix	Do.
May 8	do	Lithographs on celluloid	84.65		84.65	Error in classification	Do.
13	Weideman Co., The	Bottle charges	338.53		338.53	Exhibit No. 6, Appendix	Do.
18	do	do	1,155.49		1,155.49	do	Do.
18	Wiedeman Fries Co	do	33.27		33.27	do	Do.
19	Wyman, Chas. H., & Co	do	125.75		125.75	do	Do.
19	do	do	140.50		140.50	do	Do.
22	Wilckes, The J., Co	Steel in strips	778.19		778.19	Exhibit No. 15, appendix	Do.
23	Wilkinson, E. de F., Co	Woven fabrics, flax	397.87		397.87	Exhibit No. 3, appendix	Do.
23	Wyman, Chas. H., & Co	Plain earthenware, bottle charges, and dressed skins.	58.65		58.65	Error in classification	Do.
June 6	Wood, Charles H	Cotton waste	142.00		142.00	Court judgment	Do.
6	Wiegmann, J. H	Toy tea sets and toy earthenware	5.25	$11.97	17.22	Act of March 3, 1883	Do.
1907.							
Aug. 15	Yamamato, K	Vegetables in natural state	10.65		10.65	Error in classification	Do.
24	Yuen, Wa	Fungas	1.05		1.05	do	Do.
Oct. 17	Yumker Bros	Linen	19.02		19.02	Short shipped	Do.
Dec. 16	Yu Lung & Co	Flat fish	6.60		6.60	Error in classification	Do.
1908.							
Feb. 10	Yamamato, K	Cuttle fish	117.73		117.73	do	Do.
10	Yu Shun Kee	do	4.65		4.65	do	Do.
Mar. 7	Yerxa Bros. Co	Nonenumerated manufactured articles	11.41		11.41	do	Do.
30	Yamamato, K	Cuttle fish	16.24		16.24	do	Do.

Statement of customs refunds made by the Treasury Department during the fiscal year ending June 30, 1908—Continued.

Date.	To whom refunded.	Nature of refund.	Duty.	Interest and costs.	Total.	Reasons for refund.	Law under which refund was made.
1907.							
July 23	Zanmati, A., & Co	Olive oil in tins	$17.50		$17.50	Court judgment	Sec. 24, act June 10, 1890.
26	....do	Mushrooms as vegetables in natural state	6.15		6.15	....do	Do.
Sept. 20	Zucca & Co	....do	47.70		47.70	....do	Do.
1908.							
Jan. 28	Zion's Cooperative Mercantile Institution.	Chinaware	114.60		114.60	Error in classification	Do.
June 11	Zeh Ebling & Reuss	Toy tea sets and toy earthenware	844.00	$1,043.74	1,887.74	Act Mar. 3, 1883	Do.
11	Zeh & Schenck	....do	584.75	832.99	1,417.74	....do	Do.
			307,017.71	3,429.05	310,446.76		

Respectfully submitted.

W. E. ANDREWS, *Auditor.*

OFFICE OF AUDITOR FOR THE TREASURY DEPARTMENT *Washington D. C. November 10 1908.*

APPENDIX.

EXHIBIT 1.—(T. D. 28074.)

No. 14973.—FRAME FOR PAINTING.—Protest 226399 of American Express Company against the assessment of duty by the collector of customs at the port of Buffalo. Before board 2, April 1, 1907.

This case relates to an oil painting in a guilt frame, imported under bond in accordance with the terms of paragraph 702, tariff act of 1897, for permanent exhibition at Cornell University. The painting itself was classified free of duty under said paragraph, and the importers contend that the frame should have been accorded similar treatment.

FISCHER, *general appraiser:* * * * We are of opinion that the contention of the importers that the frame is likewise free of duty is correct. While it is true that the general rule is that paintings and frames are separable for tariff purposes, articles imported under the circumstances present in the case at bar are on a different basis. For the purposes of this paragraph the painting and frame constitute an entirety. As already indicated, a bond was given on entry which covered the frame as well as the painting, and under the terms of such bond no duty accrues unless the articles are used in any manner contrary to the purpose declared on entry. There is no allegation here that the conditions of the bond have not been complied with; and we hold, accordingly, that no duty should have been taken on the frame. The protest is sustained.

This ruling is not to be regarded as a precedent to be applied to importations under any other paragraphs of the free list. As an example, it is not an authority for admitting free of duty the frames on paintings by American artists residing abroad, which paintings are themselves free under paragraph 703, for obviously the frame is not "the production of an American artist."

EXHIBIT 2.—(T. D. 27977)—*Balata.*

EARLE *v.* UNITED STATES.

U. S. Circuit Court, Southern District of New York. February 27, 1907. Suit 4313.

CRUDE BALATA—INDIA RUBBER.—Balata is one of the kinds of gums described commercially and generically as india rubber, and when crude is free of duty as "india rubber, crude," under paragraph 579, tariff act of 1897.

ON application for review of a decision of the Board of United States General Appraisers.

The decision below, which is reported as Abstract 12042 (T. D. 27458), affirmed the assessment of duty by the collector of customs at the port of New York on merchandise imported by Earle Brothers.

Henry W. Rudd, for the importers.

D. Frank Lloyd, assistant United States attorney, for the United States.

HOUGH, *district judge:* The subject of this appeal is the gum or juice of the balata or "bully" tree. Its nature and dictionary definitions have been fully set forth in G. A. 5098 (T. D. 23599) and G. A. 6164 (T. D. 26751). The collector assessed duty upon this substance as a nonenumerated unmanufactured article under section 6 of the tariff act of 1897, and his assessment has been affirmed. The importers claim that it is entitled to free entry as "india rubber, crude," under paragraph 579.

It is abundantly shown by the Treasury decisions cited, and, indeed, is not denied, that botanically the balata or "bully" tree is different in species, if not in genus, from that to the gum of which the word "india rubber" was first applied upward of one hundred and thirty years ago. But under the rule that in laws relating to the revenues words are to be taken in their commonly received and popular sense, or

according to their commercial designation, if that differs from the ordinary understanding of the word, United States *v.* Buffalo Gas Fuel Company (172 U. S., 341), the importers contend that the trade and commerce of the United States did not know, nor was there, indeed, anywhere known at the time of the passage of the present tariff act, any *one* kind or variety of vegetable gum or juice identified or described or actually designated by the words "india rubber crude." It is further asserted that "india rubber" was in 1897, and still is, a word used to designate nearly a hundred varieties of "inspissated vegetable gums" capable of use and actually used in the manufacture of what are commonly known, and in 1897 were commonly known, as "rubber goods." This particular gum is, and long has been, used for making dress shields and machinery belting, both of which articles are commonly described as "rubber shields" and "rubber beltings."

In my opinion, these contentions of the importers have been abundantly sustained by the testimony introduced in this court. I think it must be assumed that the framers of the tariff act knew that there was a great variety of gums generically and commercially described as "india rubber;" and within that category balata is fairly included.

The decision of the Board of Appraisers is reversed.

EXHIBIT 3.—(T. D. 28516)—*Flax-wool fabrics.*

UNITED STATES *v.* JOHNSON.

U. S. Circuit Court of Appeals, Second Circuit. November 8, 1907. No. 60 (suit 4289).

FLAX-WOOL FABRICS—MANUFACTURES OF WOOL.—Flax-wool fabrics in which flax is the more valuable element are dutiable under paragraph 346, tariff act of 1897, as fabrics in chief value of flax, rather than under paragraph 366 as cloths in part of wool, a contrary classification not being required by the proviso in paragraph 391 of the silk schedule that "all manufactures of which wool is a component material shall be classified and assessed for duty as manufactures of wool."

APPEAL from the circuit court of the United States for the southern district of New York.

[Decision adverse to the Government.]

For decision below see 154 Federal Reporter, 752 (T. D. 27897), affirming decisions of the Board of United States General Appraisers, which are reported as Abstract 11697 (T. D. 27409) and Abstract 11794 (T. D. 27426), and sustained protests of Charles A. Johnson & Co. against the assessment of duty by the collector of customs at the port of New York.

The case involves consideration of the following provisions of the tariff act of 1897:

346. Woven fabrics * * * composed of flax, hemp or ramie, or of which these substances or either of them is the component material of chief value.

366. * * * Cloths * * * made wholly or in part of wool.

391. All manufactures of silk, or of which silk is the component material of chief value * * * and all Jacquard figured goods in the piece; * * * *Provided*, That all manufactures of which wool is a component material shall be classified and assessed for duty as manufactures of wool.

The material in controversy consists of woven fabrics of flax and wool, the former being the component of chief value. It was classified as "cloths * * * in part of wool," under said paragraph 366, the theory of this classification being that it was required by the terms of the proviso in said paragraph 391, as the goods were "manufactures, of which wool is a component material." The importers contended that classification should have been given under the provision in said paragraph 346 for "woven fabrics * * * of which [flax] is the component material of chief value."

The Government argued that the proviso was intended to cover all fabrics of which wool is a component and that it had been located at that point in the tariff which would naturally be assigned to a provision intended to have this scope, being placed at the end of the four fabric schedules of the act, namely, I, J, K, and L, which embraced paragraphs 309 to 392, inclusive, and relate, respectively, to cotton goods (Schedule I), to linens and other manufactures of vegetable fiber (Schedule J), to woolens (Schedule K), and to silk goods (Schedule L).

In support of the collector's classification, the Government cited the decision of this court in Rouss *v.* United States (120 Fed. Rep., 1021), affirming a decision of Judge Coxe in United States *v.* Rouss (113 Fed. Rep., 817). In this case it was held that

articles of cotton and wool, cotton predominating largely in value, were properly classified as—

Manufactures made wholly or in part of wool, under said paragraph 366, which is the paragraph under which the merchandise in this case was classified, and were not dutiable under paragraph 322 as "manufactures of cotton."

To the same effect there were cited other decisions by Judge Coxe in the circuit court, southern district of New York, in the cases of Vandegrift *v.* United States (113 Fed. Rep., 816) and Converse *v.* United States (113 Fed. Rep., 817).

Counsel for the importers relied on the decision by Judge Townsend in the circuit court, southern district of New York, in United States *v.* Slazenger (113 Fed. Rep., 524), and the decision of the circuit court of appeals, first circuit, in United States *v.* Walsh (154 Fed. Rep., 770; T. D. 28325). In these decisions it was held that the influence of the proviso does not extend outside of the paragraph in which it is placed.

J. Osgood Nichols, assistant United States attorney, for the United States.

Hatch & Clute (*Walter F. Welch* of counsel) for the importers.

Before LACOMBE, WARD, and NOYES, Circuit Judges.

PER CURIAM: The single point in this case has been decided adversely to the Government in the circuit court of appeals, first circuit (154 Fed. Rep., 770; T. D. 28325), and we see no reason to differ from its conclusion.

EXHIBIT 4.—(T. D. 28052)—*Preserved pineapples.*

DUDLEY *v.* UNITED STATES.

U. S. Circuit Court of Appeals, Second Circuit. March 26, 1907. No. 228 (suit 3705).

PINEAPPLES PRESERVED IN OWN JUICE—FRUIT IN SUGAR.—Pineapples preserved in cans in their own juice, with added sugar ranging in quantity from 2.28 to 8.82 per cent, are dutiable under paragraph 263, tariff act of 1897, as "pineapples preserved in their own juice," and not under the provision in the same paragraph for fruit preserved in sugar.

APPEAL from the circuit court of the United States for the southern district of New York.

[Decision adverse to the Government.]

For decision below see 148 Federal Reporter, 333 (T. D. 27516), affirming a decision of the Board of United States General Appraisers, G. A. 5787 (T. D. 25577), which had affirmed the assessment of duty by the collector of customs at the port of New York on importations by U. H. Dudley & Co.

The articles in controversy consist of Singapore pineapples in tin cans. They were classified as "fruits preserved in sugar" under paragraph 263, tariff act of 1897, and were claimed by the importers to be dutiable under the provision in the same paragraph for "pineapples preserved in their own juice." The Board found that cane sugar had been added in the preserving process, in quantities varying from 2.28 to 8.82 per cent, and affirmed the assessment of duty, on the basis of the conclusions stated as follows:

SOMERVILLE, *general appraiser:* We are disposed, therefore, after due consideration, to adopt the following principles for the classification of goods of this kind:

1. Where the chemical analysis shows not over 14 per cent of total sugar, including both invert and cane sugar, and the chemist expresses no expert opinion on the subject, the goods are *prima facie* subject to classification as pineapples preserved in their own juice and not in sugar, and are therefore dutiable at 25 per cent ad valorem under the last clause of said paragraph 263.

2. Where the percentage of total sugars runs over 14 per cent, and there is no expert opinion expressed by the chemist as to whether or not cane sugar has been extrinsically added, the probability is nevertheless that such cane sugar has been added, and the goods are accordingly pineapples preserved in sugar, and are dutiable at 35 per cent ad valorem and 1 cent per pound under said paragraph 263.

The Board's decision was affirmed by the circuit court as above stated.

Comstock & Washburn (*J. Stuart Tompkins* of counsel), for the importers.

D. Frank Lloyd, assistant United States attorney, for the United States.

Before LACOMBE, TOWNSEND, and COXE, Circuit Judges.

PER CURIAM: Since the decision of this cause at circuit, our opinion has been filed in United States *v.* Johnson (T. D. 27830), January 8, 1907, in which we had before us pineapples similarly preserved, except that the cans contained a trifle less sugar. We are unable to distinguish between the two causes, and therefore the decision of the circuit court is reversed.

EXHIBIT 5.—(T. D. 28548)—*Steel strips.*

UNITED STATES *v.* BOKER.

U. S. Circuit Court of Appeals, Second Circuit. November 15, 1907. No. 85 (suit 3923).

STEEL STRIPS—SHEET STEEL IN STRIPS.—Under the tariff act of 1897, providing in paragraph 135 for "steel in all forms and shapes not specially provided for" and in paragraph 137 for "sheet steel in strips," steel in thin strips over 50 feet long and varying in width from half an inch to 6 inches, does not fall within the latter provision, because not sheet steel nor stripped from sheet steel, but is dutiable under the former provision.

APPEAL from the circuit court of the United States for the southern district of New York.

[Decision adverse to the Government.]

For decision below see 154 Federal Reporter, 174 (T. D. 28005), reversing a decision of the Board of United States General Appraisers, G. A. 5929 (T. D. 26063), which had affirmed the assessment of duty by the collector of customs at the port of New York on importations by Hermann Boker & Co.

J. Osgood Nichols, assistant United States attorney, for the United States.

Comstock & Washburn (*Albert H. Washburn* of counsel), for the importers. *Charles P. Searle* appeared and submitted a brief in behalf of other importers.

Before COXE, WARD, and NOYES, Circuit Judges.

WARD, *circuit judge:* The merchandise involved in this case consists of cold-rolled steel varying from one-half an inch to 6 inches in width, not over .025 of an inch in thickness, from 50 to 250 feet in length, and put up in the form of coils for importation.

The question has been raised successively under the tariff acts of 1890, 1894, and 1897, whether this article falls within the classification of "steel in all forms and shapes not specially provided for" or within the classification "sheet steel in strips." It arose first in the United States circuit court for the first circuit. *In re* Wetherell (60 Fed. Rep., 268). The legislation involved was the second proviso of paragraph 148 of the act of October 1, 1890, "that flat steel wire, or sheet steel in strips, whether drawn through dies or rolls, untempered or tempered, of whatsoever width, twenty-five one-thousandths of an inch thick or thinner (ready for use or otherwise) shall pay a duty of fifty per centum *ad valorem*."

COLT, *J.*, held that the merchandise was variously described in commerce; that there was no article known under the special designation of "sheet steel in strips;" that sheet steel was a well-known article, being hot-rolled steel not less than 8 inches in width nor more than about 12 feet in length; but that strips cut from such sheet steel did not seem to have been imported nor to have had any settled commercial designation, nor to have been much dealt in. In view of the addition of the word "sheet" before steel he thought that the question was one of doubt which should be resolved in favor of the importer and the merchandise classified for the lower duty as "not specially provided for."

On appeal to the circuit court of appeals (65 Fed. Rep., 987), the court, while agreeing generally with the reasoning of Judge Colt, held that, as steel stripped from sheets had not been an article of importation, while the article in question had been largely imported, and that, as the words "sheet steel in strips" immediately followed the provision for flat steel wire, thought to be an analogous article, and were followed by the words "whether drawn through dies or rolls," which could not apply to sheet steel, so far as dies is concerned, Congress must have intended to cover by these words strips of steel of this thickness, however produced, and reversed the judgment.

The question then arose in this circuit in the case of Boker *v.* United States (116 Fed. Rep., 1015), in which Lacombe, *J.*, followed the Wetherell case, holding that the articles were "steel, sheet steel and in strips." Upon appeal to the circuit court of

appeals (124 Fed. Rep., 59), that court found that the articles were not sheet steel, because they were not hot rolled nor of the length of 12 feet or less; pointed out that in paragraph 124 of the act of 1894 the words "whether drawn through dies or rolls," found in the act of 1890 and largely relied upon in the Wetherell case, had been omitted; and that the importer had proved that strips from commerical sheet steel were an important article in the trade and commerce of the country and were known among dealers as sheet steel in strips. Accordingly the court declined to follow the Wetherell case, and reversed the judgment of the circuit court.

The present case arises under the act of July 24, 1897, which provides in paragraph 137 for "sheet steel in strips, twenty-five one-thousandths of an inch thick or thinner," which words do not immediately follow, as in the act of 1894, the provision for flat wire, a circumstance to which weight was given in the Wetherell case.

Counsel for the United States insists strenuously upon the application of the rule that, when words in a statute have received a judicial interpretation and the same words are reenacted, the legislature must be presumed to have used them in accordance with that interpretation. Fiske *v.* Henarie (142 U. S., 459); Sessions *v.* Romadka (145 U. S., 29).

Assuming that this principle is applicable, a conclusion exactly opposite to the Government's would follow, because the Wetherell case was not decided by the United States circuit court of appeals until November 13, 1894, over two months after the act of 1894 was passed, so that during the deliberations of Congress the judicial construction of the words was that of Judge Colt in the circuit court to the effect that they did not cover the merchandise in question. The omission of the words "whether drawn through dies or rolls" and of any limitation of the thickness of the strips is quite consistent with the intention of Congress to accept that construction. The reversal of the judgment after the passage of the act of 1894 could not change the construction of the words in that act nor we think of those words when reenacted in the act of 1897.

The record includes the testimony in the Wetherell case, in the Boker case, and much new testimony, both on the part of the United States and of the importer.

The judge of the circuit court found that the nomenclature of the steel trade was very loose, and, following our previous decision in the Boker case (124 Fed. Rep., 59), held that the words "sheet steel in strips" exactly covered strips cut from sheet steel, and that the articles to which the Government proposed to apply the words, not being sheet steel nor stripped from sheet steel, nor denominated in the trade "sheet steel in strips," should be classified as "steel in all forms and shapes not specially provided for." We agree with his conclusion, and the judgment is affirmed.

EXHIBIT 6.—(T. D. 27806)—*Bottle charges.*

HAYES *v.* UNITED STATES.

U. S. Circuit Court of Appeals, First Circuit. December 20, 1906. No. 665 (suit 1827).

1. BOTTLES CONTAINING OLIVE OIL—DUTIABLE CHARGES.—In construing paragraphs 40 and 99, tariff act of 1897, respectively, providing for "olive oil * * * in bottles" and for "glass bottles * * * filled," *Held* that the corks, capsules, labels, envelopes, packing cases, and all other dutiable items are incident to the oil rather than to the bottles, and that their cost should not be included in the dutiable value of the latter, either entirely or by apportionment according to the value of the bottles and their contents.
2. FILLED BOTTLES—COVERINGS—DUTIABLE CHARGES.—The imposition of an ad valorem duty on "filled bottles," by paragraph 99, tariff act of 1897, does not require that such bottles should be subjected to section 19, customs administrative act of 1890, prescribing that the dutiable value of imported merchandise shall include the cost of the coverings and of other expenses incident to preparing it for exportation.
3. COVERINGS—SPECIFIC DUTY CONTENTS—BOTTLES.—Ordinarily containers, coverings, and packing charges of goods subject to a specific duty are not dutiable unless, as with regard to bottles, it is otherwise expressly provided by act of Congress.
4. CONSTRUCTION—DOUBTFUL STATUTES.—The rule that doubts as to the construction of tariff acts should be solved in favor of the importer may be so applied with regard to different conditions that in each instance the result shall be favorable to the importer, notwithstanding that similar provisions may thus be given different meanings.

APPEAL from the circuit court of the United States for the district of Massachusetts.

The decision below (T. D. 27666) affirmed a decision of the Board of General Appraisers, Abstract 11169 (T. D. 27331), which, for the reasons stated in *In re* Leggett, G. A. 6353 (T. D. 27317), affirmed the assessment of duty by the collector of customs at the port of Boston on an importation by James A. Hayes & Co.

The pertinent portion of section 19, referred to in the opinion following, reads:

SEC. 19. That whenever imported merchandise is subject to an ad valorem rate of duty, * * * the duty shall be assessed upon the actual market value or wholesale

price of such merchandise, * * * including the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

Comstock & Washburn and *Searle & Pillsbury* (*Albert H. Washburn* of counsel; *J. Stuart Tompkins* with him on the brief), for the importers.

William H. Garland, assistant United States attorney (*Asa P. French*, United States attorney, on the brief), for the United States.

Before LOWELL, Circuit Judge, and ALDRICH and BROWN, District Judges.

BROWN, *district judge:* This case relates to duties imposed upon corks, capsules, labels, reed envelops, wooden cases, and the cost of filling and packing cases in connection with an importation of olive oil in bottles. No question was raised as to the duty imposed on the oil itself, nor as to the duty upon the glass bottles containing the oil. Corks, capsules, and labels were treated by the collector as dutiable as parts of the bottles, at the rate of 40 per cent ad valorem, under paragraph 99 of the tariff act of July 24, 1897 (30 Stat., 156, 157). Other charges for reed envelops, wooden cases, and filling and packing cases were apportioned pro rata between the value of the oil and the value of the bottles plus the value of corks, capsules, and labels, and a duty was assessed upon the part of such charges which was apportioned to the bottles. We do not find in the brief for the United States any discussion of the propriety of this apportionment.

Before proceeding to a consideration of the questions presented, we feel it our duty to comment upon the state of the record. The decree of the circuit court here brought under review was entered in a proceeding to review the decision of the Board of General Appraisers, which proceeding was begun by virtue of section 15 of the act of Congress of June 10, 1890 (26 Stat., 138). The decision of the board was affirmed. That decision thus reviewed was rendered by virtue of section 14 of the act just cited (26 Stat., 137). It affirmed the decision of the collector, and so, in effect, we have to pass upon the collector's decision. The only note of this decision is contained in a letter of the special deputy collector transmitting to the Board of General Appraisers the importer's protest. That letter nowhere states what was the duty assessed. It sets out generally the importer's contention, which was in the alternative, but does not state how far it was sustained nor what rule was adopted, except as may be gathered from this phrase: "My action was in seeming conformity with T. D. 26270." If, as matter of administration, the reference to the treasury decision thus uncertainly followed was sufficiently explicit for the Board of General Appraisers, yet it does not inform an appellate court, which can with difficulty affirm or reverse a decision so vaguely set out. From printed reports, from the briefs and arguments of counsel, and from the intrinsic probabilities of the case, we believe that we have knowledge of the facts sufficient to decide this case; but in proceeding to do so we are not to be understood as approving the practise of presenting questions in this manner.

We will consider first the duties upon corks, capsules, and labels. Paragraph 40 of the tariff act (30 Stat., 153) is as follows:

40. Olive oil, not specially provided for in this act, forty cents per gallon; in bottles, jars, tins or similar packages, fifty cents per gallon.

Ordinarily the containers, coverings, and packing charges of goods subject to a specific duty are not dutiable unless expressly provided for by act of Congress. United States *v.* Leggett (66 Fed. Rep., 300) and cases cited; Merck *v.* United States (99 Fed. Rep., 432); United States *v.* Ross (91 Fed. Rep., 108). The above cases are cited in United States *v.* Nichols (186 U. S., 302).

It is to be observed that the specific duty upon a gallon of olive oil varies according to the container, being 10 cents more when contained in bottles, jars, tins, and similar packages than when imported in other containers. Glass bottles have been dealt with specifically by Congress, and therefore do not come within the general rule which exempts the containers or coverings of goods subject to specific duty.

The United States contends that authority for assessing additional duties upon corks, labels, and capsules is to be found in paragraph 99 (30 Stat., 156):

Glass and glassware:

99. Plain green or colored, molded or pressed, and flint, lime, or lead glass bottles, vials, jars, and covered or uncovered demijohns and carboys, any of the foregoing, filled or unfilled, not otherwise specially provided for, and whether their contents be dutiable or free (except such as contain merchandise subject to an ad valorem rate of duty, or to a rate of duty based in whole or in part upon the value thereof, which shall be dutiable at the rate applicable to their contents), shall pay duty as follows: If holding more than one pint, one cent per pound; if holding not more than one pint

and not less than one-fourth of a pint, one and one-half cents per pound; if holding less than one-fourth of a pint, fifty cents per gross: *Provided*, That none of the above articles shall pay a less rate of duty than forty per centum ad valorem.

By this paragraph, under the general heading "Glass and glassware," glass bottles, whether filled or unfilled, and whether filled with free contents or with contents subject to a specific duty, are subject, according to holding capacity, to duties of 1 cent per pound, 1½ cents per pound, or 50 cents per gross. This is clearly a specific duty on bottles as glassware. The further provision "that none of the above articles shall pay a less rate of duty than forty per centum ad valorem" affords no indication of an intent to give the words "glass bottles" a broader signification in determining the duty ad valorem than in determining it at the specific rate. The articles which are dutiable ad valorem are the same articles that are subject to duty at so much per pound or per gross.

It is urged that a "filled" bottle necessarily implies the use of a cork, wiring, or other fitting to preserve the contents of the bottle, and that such fittings, therefore, are parts of the filled bottle. A sufficient answer to this is that the language "glass bottles * * * filled or unfilled" does not imply a cork or other fittings to preserve the contents, but, on the contrary, for purposes of taxation makes free and specific duty contents, and corks to preserve the contents, entirely immaterial.

Corks, capsules, labels, and wire wrapping are in no sense glass or glassware or glass bottles, and an attempt to include them in paragraph 99 is in violation of the ordinary rules for the interpretation of language, as well as of the settled rule of law that duties are never imposed upon a citizen upon vague or doubtful interpretations. Were there a fair doubt, that doubt should be solved in favor of the importer. Hartranft *v.* Wiegmann (121 U. S., 609); American Net and Twine Company *v.* Worthington (141 U. S., 468).

So far we have considered this as an original question to be determined by an examination of the statute alone. We will next consider authorities cited for the United States.

Francis H. Leggett & Co. *v.* United States (138 Fed. Rep., 970; T. D. 26270) is in point. The court, however, rested its decision solely upon West *v.* United States (119 Fed. Rep., 495) and cases therein cited. West *v.* United States involved paragraph 248 of the tariff act of 1894:

248. Ginger ale or ginger beer, twenty per centum ad valorem; but no separate or additional duty shall be assessed on the bottles.

The collector assessed duty at 20 per cent not only upon the ginger ale but upon the cost of corking, wiring, labeling, and capping in supposed compliance with section 19 of the customs administrative act of June 10, 1890. The Board of General Appraisers sustained the collector on the authority of United States *v.* Keane (84 Fed. Rep., 330). The decision of the board was reversed solely upon the reasoning and conclusion of the Supreme Court in Schlitz Brewing Company *v.* United States (181 U. S., 584).

With due respect to the learned circuit judge, we must differ from his views as to the effect of this decision of the Supreme Court, since we are of the opinion that the point decided in United States *v.* Keane (84 Fed Rep., 330) was not commented upon or directly or indirectly involved in Schlitz Brewing Company *v.* United States (181 U. S., 584), which decided merely that certain language used in a statute concerning drawbacks, namely, "imported materials * * * used in the manufacture of articles manufactured or produced in the United States," did not cover "bottles and corks," as they were not imported materials which entered into and formed one of the ingredients of a bottle of beer; saying that "to speak of the bottles and corks as ingredients of the beer is simply an abuse of language."

It is manifest, however, that to hold that bottles and corks are not ingredients of beer does not involve the conclusion that corks, labels, and capsules are glass bottles. It is unsound to reason that corks, labels, and capsules must be either beer or bottles, and that because they are not beer they must be bottles. According to ordinary understanding they are neither beer nor bottles, neither oil nor glassware; and because they are not one it does not follow that they must be the other.

United States *v.* Keane (84 Fed. Rep., 330) held that the provision "no separate or additional duty shall be assessed upon the bottles" did not prevent the inclusion of charges for corking and wiring in determining the value of ginger beer according to the provisions of section 19 of the customs administrative act (26 Stat., 131). In other words, that the exemption of bottles was only an exemption of the glassware, and not an exemption of incidents of putting the beer in condition for market. The opinion says:

The wiring with the corking is not an incident to—a part of the cost of the bottle, but an incident—an inseparable incident to the commercial article known as ginger beer.

The decision was as to the extent of an exemption of charges which otherwise would be made under 26 Statutes, 131, section 19.

United States *v.* Dickson (139 Fed. Rep., 251; T. D. 26422; see 131 Fed. Rep., 573; T. D. 25339) contains expressions apparently inconsistent with the decision in United States *v.* Keane, and which indicate that the exemption of bottles included also corking and wiring. This, however, apparently was mere dictum, and it can not be said that the reasoning in United States *v.* Keane was considered or overruled. But, assuming that there is authority for the proposition that a statute which exempts bottles should be construed to exempt corks and wiring, we must still inquire, Does a decision that an express exemption of bottles exempts also corks, labels, and wiring lead to the conclusion that the imposition of a duty on bottles, filled or unfilled, requires the inclusion of corks, labels, and wiring as a part of the bottles? The rule of construction is that doubts should be solved in favor of the importer, and this is applicable to both statutes.

The attempt is idle, however, to find in judicial interpretations of the word "bottles" as used in an exemption clause of paragraph 248 of the tariff act of 1894 authority for construing the words "glass bottles * * * filled or unfilled" contained in paragraph 99 of the tariff act of 1897. The words to be interpreted are different, the context is different, and the subject-matter is different. Paragraph 99 is in the schedule "Glass and glassware," and is clear in terms; and these terms must be taken in their obvious and reasonable meaning, which does not include corks, capsules, labels, or wiring.

We have next to consider the effect of section 19 of the customs administrative act of June 10, 1890 (26 Stat., 139). See, also, act of July, 1897 (30 Stat., 212, sec. 11).

We think it clear that charges for corks, labels, capsules, and wiring are expenses incident to placing the olive oil in condition for market. The olive oil is the principal article of importation, and the bottles of the kind enumerated in paragraph 99, as well as corks, labels, capsules, reed coverings, wooden cases, packing, and filling, may be regarded as incidents to the preparation and importation of the olive oil. The bottles are dealt with specifically, however, and in section 99 of the present tariff act are made dutiable as glassware.

It is contended by the importers that all coverings and incidental charges other than the bottles are incidental to the specific-duty goods, or the olive oil, and so come in free. It is possible, however, to consider a case of olive oil in bottles as containing two different kinds of dutiable merchandise—i. e., olive oil and glass bottles—and it is perhaps not unreasonable to say that the charges for reed coverings, wooden cases, packing, and filling appertain to both, and therefore are apportionable *pro rata* according to the value of the respective kinds of merchandise. It may be said that for many years glass bottles have been dealt with as dutiable glassware, and not merely as incidents to the importation of their contents, and that, having been so dealt with, the same rule of apportionment of charges for cases, packing, and filling should be observed as where a single case contains entirely different and independent articles of importation. To determine if such an apportionment is just requires a construction of paragraph 40 (which but for paragraph 99 would allow free importation of bottles and cases as well) and of paragraph 99, which makes bottles a particular class of ad valorem merchandise, or, at least, merchandise subject to duty not less than 40 per cent ad valorem.

In United States *v.* Nichols (186 U. S., 298) it was said—

The customs administrative act was not a tariff act, but, as its title indicates, was intended to simplify the laws in connection with the collection of revenues, and to provide certain rules and regulations with respect to the assessment and collection of duties, and the remedies of importers, and not to interfere with any duties theretofore specifically imposed or thereafter to be imposed upon merchandise imported.

While section 19 provides a general method for the assessment of ad valorem duties, we are of the opinion that the determination of what is in itself dutiable must first be sought in the provisions of the tariff act. Having in mind the well-established rule that specific-duty goods bring in their coverings free unless otherwise provided, we have to inquire whether the imposition of a tax on glass bottles indicates that Congress intended that cases and other coverings of olive oil in bottles should also be regarded independently as the coverings of the bottles.

We think that in construing paragraph 99 in connection with paragraph 40 we can not be governed by the considerations applicable to a single case of goods in which are found various independent articles, such, for example, as silk goods and woolen goods. In such an importation the case may justly be regarded as apportionable between the independent articles. Silk and woolen goods may be treated practically as if they had independent cases by regarding a single case, for the purpose of assessing duty, as two cases or coverings whose joint value is that of the single case. This joint value being apportioned between the contents gives the same practical result as

if each kind of goods had its separate covering. This result is just and equitable and does not substantially affect the total amount of duties which the merchandise must pay. Olive oil in bottles requires not only the bottles as containers, but reed coverings and cases which are necessary to protect the oil itself, by preventing the breaking of the bottles which contain it. The bottles themselves require for their protection no cases or coverings other than those essential for the protection of the olive oil. As we have said, section 19 of the customs administrative act was not intended to interfere with duties specifically imposed by the tariff act. By the construction for which the United States contends, however, it is made to have a direct effect upon paragraph 40, and to diminish the rights of an importer of specific-duty goods under that paragraph, since a portion of the cases which are the coverings of the olive oil, and as such not dutiable, are made the covering of glass bottles and dutiable. The importer is thus made to pay a total duty which is greater than the sum of the duties expressly imposed by paragraphs 40 and 99.

We are of the opinion that in determining the gross amount of duties to be assessed upon a case of olive oil under paragraphs 40 and 99, by the sounder construction section 99 must be held to require a determination only of the value of the glass bottles containing the olive oil, without the addition of any portion of the value of the cases and coverings, all of which are the necessary and usual coverings of the olive oil, since these are provided for by paragraph 40. As a matter of common sense, the imposition of a tax on glass bottles does not have the effect of requiring any different kinds of cases or coverings for olive oil in bottles, and does not require that additional or other cases or coverings be provided for the glass bottles, since they need only the same cases and coverings that protect the olive oil. It is improper to apportion any part of these cases to the bottles, for the reason that this is in effect to say that this part is not, as a substantial matter, essential for the protection of the oil. The theory of apportionment of cases breaks down when it is so applied as to increase the duties and as to deny what is the fact—that the entire cases and coverings are the essential and usual protection of the oil. The theory that a part of this protection can be separated and apportioned to the bottles loses sight of the fact that the remaining part would be an insufficient protection for the oil.

As it is conceded that the major part of the coverings of the oil is nondutiable for the reason that olive oil pays a specific duty, we think it follows that the minor portion is also nondutiable for the same reason. The error is in the attempt to apportion the rule and to apply it only to a part of the necessary coverings of the oil.

Counsel for the appellant also contend that the uniform practise of the Treasury Department for a long period of years was to regard labels, capsules, corks, and the like as not appertaining to bottles nor enhancing their value, but only the value of the contents, citing T. D. 6914, T. D. 7465, T. D. 3944, and T. D. 2589. It is also contended that this interpretation was not interrupted till 1902, when it was reversed in West *v.* United States (119 Fed Rep., 495). We fully agree with the appellant that West *v.* United States is not a sufficient authority for the reversal of the former practice, and that there is no sufficient authority requiring a reversal of the former practice.

We are of the opinion that there is no warrant in law for assessing ad valorem duties upon corks, capsules, and labels pertaining to olive oil in bottles under either paragraph 99 of the tariff act or under section 19 of the customs administrative act. We are further of the opinion that it is so very doubtful whether there is any warrant in law for apportioning any part of the charges for the reed coverings, cases, or filling and packing charges to the glass bottles that this doubt must be resolved in favor of the importer. Hartranft *v.* Wiegmann (121 U. S., 609); American Net and Twine Company *v.* Worthington (141 U. S., 468).

We think it is doubtful whether Congress ever contemplated the highly artificial mode of assessing duties which is illustrated in the present case. An apportionment of a part of the cost of packing cases and coverings to the glass bottles involves the erroneous assumption that the bottles require other coverings than those which are essential for the specific-duty goods. Upon this erroneous assumption is based a calculation to determine what part of the cases or coverings is apportionable to the bottles. It is, of course, impractical, and would be altogether unreasonable, to make an apportionment between a specific duty of 50 cents a gallon on oil and an ad valorem charge on a glass bottle; therefore, it is essential to compute not only the marketable value of the glass bottle, but the marketable value of the olive oil—a computation which would seem to be altogether superfluous for the carrying out of the statute which imposes a specific duty of so much per gallon on the oil. While it seems to have been the practice to require a statement of values on importations of specific-duty goods as well as of ad valorem goods, yet it would seem hardly to be within the con-

templation of Congress to require an ad valorem valuation of specific-duty goods merely for the purpose of apportioning, in an artificial manner, case and packing charges, necessary for specific-duty goods, between bottles filled with specific-duty goods and the specific-duty goods which are intended to bring in their cases free. We think, therefore, that view of the statutes should be preferred which will restore the former practice, and relieve the customs officials of the burden of artificial computations by which importers have been charged with duties additional to those expressly defined by the present tariff act.

The judgment of the circuit court is reversed and the case is remanded to that court for further proceedings not inconsistent with this opinion.

EXHIBIT 7.—(T. D. 28770)—*Wire rat traps.*

Wire rat traps or other articles manufactured from iron or steel wire which has been coated with zinc, tin, or other metal, subject to the additional duty of two-tenths of 1 cent per pound under the last proviso to paragraph 137, tariff act of 1897.

TREASURY DEPARTMENT, *February 18, 1908.*

SIR: The department is in receipt of a report from the United States attorney for the district of Massachusetts, in which he states that suit 678, Burditt & Williams *v.* United States, was recently decided in the United States circuit court of appeals for the first circuit adversely to the Government.

The merchandise in suit consisted of rat traps made of steel wire coated with copper. The duties were assessed thereon at the rate of 40 per cent ad valorem plus 1¼ cents per pound under paragraph 137 of the act of July 24, 1897. The importers protested, claiming, *inter alia*, that the rat traps were dutiable at the rate of 2 cents per pound, plus 1¼, plus two-tenths of 1 cent per pound, under the closing proviso to said paragraph, which claim was sustained by the board and the circuit court.

The circuit court of appeals, which agrees with the interpretation placed upon paragraph 137 by the board and the circuit court, sustained the claim of the importers that the merchandise was dutiable at the rate of 2 cents plus 1¼ cents per pound, and based its decision upon the fact that this rate, which was approved by the department in its decision of September 7, 1900 (T. D. 22474), and followed thereafter by customs officers in the classification of similar merchandise, established an unbroken, continuous practice which the court ought not to overrule without cogent reasons.

Under the circumstances the department does not deem further litigation advisable in this case, and you are hereby authorized to forward the usual certified statement for the refund of the duties exacted in excess in settlement thereof. The department, however, concurs in the interpretation placed upon paragraph 137 of the tariff act by the circuit court of appeals, as heretofore stated, and its instructions of September 7, 1900, above referred to, are therefore revoked, and 30 days from the date hereof you are hereby instructed to assess additional duty at the rate of two-tenths of 1 cent per pound upon articles manufactured from iron or steel wire, which has been coated with zinc, tin, or other metal.

Respectfully,
JAMES B. REYNOLDS,
Acting Secretary.

(46493.)
COLLECTOR OF CUSTOMS, *Boston, Mass.*

EXHIBIT 8.—(T. D. 28202—G. A. 6603.)—*Waste gunny bagging or cotton tares—Rags.*

1. WASTE BAGGING—"SELECTED SIDES"—"ORIGINAL GUNNY."—Large pieces of secondhand bagging suitable for patching or baling cotton, known as "selected sides," and what is known as "original gunny," consisting of pieces of old cotton bagging unassorted and indiscriminately mixed, some of which is suitable for patching cotton, is not free of duty either under paragraph 632, tariff act of 1897, as waste fit only to be converted into paper, or under paragraph 648 as rags not specially provided for.
2. TARIFF MEANING OF THE WORD "RAGS."—The word "rags" has no established and uniform commercial designation, but would seem to cover any old torn pieces, small or large, of any woven fabric which has subserved one purpose and comes into the market as secondhand material, and which is unfit for patching cotton.
3. OLD SCRAP GUNNY FREE UNDER PARAGRAPH 648, TARIFF ACT OF 1897.—Small fragments of waste bagging which are usually full of holes and irregular in size, and present the appearance of being ragged and torn, sometimes known as scrap gunny, and shown to be unfit practically for patching or baling cotton, are free of duty under paragraph 648 of said act as rags not specially provided for.—Following Train-Smith Company *v.* United States (140 Fed. Rep., 113; T. D. 26484).

United States General Appraisers, New York, May 23, 1907.

In the matter of protests 58072*b*, etc., of Train-Smith Company *et al.* against the assessment of duty by the collector of customs at the port of Philadelphia.

Before Board 3 (WAITE, SOMERVILLE, and HAY, General Appraisers).

SOMERVILLE, *General appraiser:* The various protests contained in Schedules A and B, respectively, raise a question as to the proper classification of certain merchandise known indifferently as bagging, old waste bagging, old gunny bagging, and cotton tares. The articles were in all cases assessed for duty by the collector under paragraph 463 of the tariff act of 1897 as "waste not specially provided for." The protests embraced in Schedule A have all been abandoned either totally or partially, and are overruled to the extent there indicated and the collector's decision affirmed. The evidence shows satisfactorily that the goods covered by this finding are not known as "rags," and are used for other purposes than the manufacture of paper, and hence are not free of duty. As to the remainder of the merchandise, variously invoiced, the only claim insisted on by the importers is that such goods are free of duty under paragraph 648 of said act, which places on the free list "rags not specially provided for."

An analogous question was passed on by the circuit court for the southern district of New York in the case of Train-Smith Company *v.* United States (140 Fed. Rep., 113), and reported by the Treasury Department in T. D. 26484. The principle of this case was applied by the board in the case of Salomon Brothers, G. A., 6562 (T. D. 28031). The decision there rendered must therefore be the authority which should govern the action of the Board of General Appraisers in the present question. It is observed by Judge Townsend in that case that the question raised was one of uncertainty, in the first place by reason of the difficulty in ascertaining the size and character of the pieces of jute bagging under consideration. It was further stated by the same judge, as follows:

"The refuse pieces of gunny bags are generally sorted and divided abroad into two classes, the one comprising pieces selected because they are sufficiently large and whole and clean and smooth-edged to be used for purposes other than as mere rags for stuffing or paper stock, the other the pieces available only for the latter purposes; and that the bales in question contained pieces of the latter class; and that such pieces are regarded and denominated in common speech as rags, and in fact are rags under the dictionary definitions. The testimony that they are not commercially known as rags appears to be based on the fact that they are not generally billed or sold as rags, but it appears from the testimony of all the witnesses except one that this is because there is no general commercial designation of rags as rags, but that each kind of rag is sold under its appropriate specific name, such as cotton tares, gunny bagging, etc. * * * The whole testimony tends to show that the pieces comprised in the merchandise here in question are not of such a character as to be capable of use for patching purposes, and that, even though some of the pieces might be as large as those considered in the former case, yet that by reason of their ragged edges and torn and dirty condition they are fit only to be used as rags. In these circumstances I think it is sufficiently shown that practically all the pieces selected are rags; that where pieces are not rags under the definition as given above, they are not packed in those bales because they bring a higher price when packed to be imported as fit for other purposes; that the principle of selection by which the two classes of rags are thus separated conforms as to the class here in question to the dictionary and ordinary definition of rags, as given by one of the witnesses for the Government, as 'an old, torn piece, small or large, of any woven fabric which has subserved one purpose and comes into the market as secondhand material,' and that these pieces are unfit for patching bagging. The conclusion reached, therefore, is that the merchandise in question did not contain pieces which should be assessed for duty and that the whole bale was free as rags."

Some of the same witnesses who testified in that case have been reexamined and have rendered their testimony at the present hearing, and we are unable to see that the evidence would justify us in coming to a different conclusion from that reached by the circuit court in the case above cited. The witnesses in the present case based their identification of the merchandise, and their description of its character and uses, partly from an examination of large portions of it and from certain marks by letters or otherwise on the invoices and by the prices of the goods. There appear to be three classes of these goods: (1) What is known as selected gunny, or selected sides, which consists of large pieces suitable for patching or baling cotton, and which command a higher price than any other grade of waste bagging; (2) what is known as original gunny, which consists of pieces of old cotton bagging unassorted, some of which are large and others small, some sound and others ragged, and which are indiscriminately mixed. This class embraces old bagging just as it comes from the cotton bales on the

other side after being exported; (3) small fragments of old bagging which are usually full of holes, dirty and irregular in size, and present the appearance of being ragged and torn. This class is sometimes known as scrap gunny and is the result of sorting on the other side after the removal of the large pieces known as "selected sides." This scrap gunny is shown to be unfit practically for patching or baling cotton. While the relative prices of these kinds of goods are somewhat variable in the markets of the country whence exported, class 2 sells approximately for about 25 per cent more than class 1, and class 3 for about 25 per cent more than class 2.

The importers, as we have said, confine their claim to free entry under said paragraph 648 only to the third class above described, which, for the sake of distinction, we shall style *scrap gunny*. It is unnecessary to review in detail the conflicting testimony of the various witnesses.

The onus devolving on the importer, in our judgment, is discharged by establishing the contention that scrap gunny so called is rags within the meaning of that term as decided by the circuit court in the Train-Smith case by a fair preponderance of the evidence. In our judgment, the protests should be sustained on all the merchandise covered by the invoices in Schedule B other than that abandoned specifically in Schedule A.

In passing on these protests we have kept in mind the principle that the character of imported merchandise may be shown by witnesses familiar with the goods, testifying from the invoice descriptions and without the production of actual samples of the importations. United States *v.* Herrmann, C. C. A., second circuit, reported by the Treasury Department in T. D. 27981, followed in the case of Salomon Brothers, G. A. 6562 (T. D. 28031).

The collector is instructed to reliquidate the entries accordingly to the extent indicated in this opinion.

EXHIBIT 9.—(T. D. 28190)—*Mocha hair on the skin.*

GOAT AND SHEEPSKIN IMPORT COMPANY *v.* UNITED STATES.

United States Supreme Court. May 13, 1907. No. 261 (suit 3641).

1. MOCHA HAIR ON THE SKIN—WOOL.—The enumeration of "wool" in paragraph 351 and elsewhere in the tariff act of 1897 was not made in a generic sense which includes all growth upon the skin of a sheep; and hair on Mocha sheepskins, which is commercially known and dealt in as "Mocha hair" and not as wool, and which lacks the characteristics of wool, is not subject to such provisions, but, being still on the skin, should be regarded as a part of the skin and classified free of duty under paragraph 664, relating to "skins of all kinds, raw."
2. COMMERCIAL DESIGNATION.—The commercial designation of an article in a tariff act is the name by which it should be classified for duty, without regard to its scientific designation, material, or use, unless Congress has clearly manifested a contrary intention.

On writ of certiorari to the United States circuit court of appeals for the second circuit.

[Decision adverse to the Government.]

For decision below see 145 Federal Reporter, 1022 (T. D. 27190), affirming a decision of the circuit court (141 Fed. Rep., 493; T. D. 26404), affirming a decision of the Board of United States General Appraisers, Abstract 2401 (T. D. 25499), which had affirmed the assessment of duty by the collector of customs at the port of New York.

Hatch & Clute (*J. Stuart Tompkins* of counsel), for the importers.

Henry M. Hoyt, Solicitor-General, and *Edward T. Sanford*, Assistant Attorney-General, for the United States.

This case comes here by virtue of a writ of certiorari issued from this court to the United States circuit court of appeals for the second circuit, for the purpose of reviewing the action of the courts and of the customs authorities in relation to an assessment of duty on certain importations made by the petitioner, appellant, at the port of New York.

The merchandise on which duty was assessed was a growth on certain skins of the Mocha sheep, imported from Hodeida, Arabia, which growth was classified by the collector as wool on the skin of the third class and assessed for duty at 3 cents per pound, under the provisions of paragraph 360 of the tariff act of July 24, 1897 (30 Stat., pp. 151, 183). The importer duly protested against the classification and insisted that the merchandise was entitled to entry free of duty under paragraph 571 (30 Stat., *supra*, p. 198) or under paragraph 664 of such act (p. 201). Paragraphs 351,

358, and 360, under which the Government claims duty, and paragraphs 571 and 664 under which the importer claims free entry, are set forth in the margin.[a]

The collector having returned the merchandise in question as wool of the third class, under paragraph 360, the importer appealed to the Board of General Appraisers, where the ruling of the collector was sustained, and the importer then appealed to the circuit court and then to the circuit court of appeals, each of which courts sustained the ruling of the Board of General Appraisers and the collector.

Before the Board of General Appraisers the importer produced six witnesses, who testified as to the character, use, and commercial designation of the merchandise. On the appeal to the circuit court a referee was there appointed, and the importer offered further evidence to sustain his claim that the merchandise was entitled to free entry.

No testimony was offered by the Government. It is not claimed by the Government that the merchandise in question comes under paragraph 351 as wool of the third class (except as it may be wool of like character), as it is not Donskoi, native South American, Cordova, Valparaiso, native Smyrna, or Russian camel's hair, but it is asserted that the growth on the skins was wool on the skin under paragraph 360, or was a wool of like character as that above enumerated in paragraph 351.

The evidence shows that the hair or wool (whichever it is called) grows on the Mocha white sheep, imported from Hodeida, Arabia. The growth to be found on this breed of sheep is not bought or sold in this country as wool, but as hair. It would not be accepted as a delivery of wool of any grade by those dealing in that article. Although there might have been a very small proportion of what might possibly be termed very inferior wool on these skins (not more than 10 per cent in any case, and frequently less) yet there was no substantial use of any portion of the growth on the skins for purposes for which wool is generally used. To some extent, but very little, it had been tried in mills to spin, and it might be used sometimes by carpet manufacturers in a small way, and efforts had been made to use it, mixed with wool, in spinning, but it was not practically successful, nor was it practicable to use it for other purposes for which wool is used. The chief, or predominant, and almost sole use of the substance is as hair for stuffing, and for the saddlery trade, and by bed manufacturers for stuffing purposes. It is bought and sold all over the country as Mocha hair. The skin upon which the substance grows is the thing that is valuable. A large part of the skins imported into this country is used in the manufacture of glove leather. One witness testified that his firm so used from 75 to 90 per cent of the skins imported, and the growth thereon was bought and sold as Mocha hair. It costs more to remove the growth from the skin than it sells for after its removal. It can not be used for spinning purposes, because it would not hold together. It might be carded, but there would not be much left after carding. The price of the skins on which this growth is found is not influenced by the quantity of the growth on them. The more of a growth there is, the less the skin will bring, or, as is said, the more hair, the poorer the skin. The skins are sold by the importers to tanners of gloves and shoe leather just as they arrive. After the growth is washed and removed from the skin it may be sold for from 3 to 5 cents per pound, which is less than the cost of removing it. In buying the skins no notice is taken of the growth, the only consideration being the value of the pelt, and the pelts are worth no more with long hair on than short hair. The growth has never been accepted or sold as wool, but on the contrary, prior to July 24, 1897, when the tariff act was passed, it was uniformly regarded and bought and sold in the United States as hair. "Mocha hair" was the trade nomenclature prior to 1899, and as such the trade name was definite and uniform throughout the United States, and dealers in it never knew it to be called anything else than Mocha hair. It has not the appearance of wool, does not feel like wool, and has none of the qualities of wool. It is bought from tanners after it has been taken from the skin by them, and it is thus sold and bought as Mocha hair, and the skins are used for leather by the tanners.

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[a] (Paragraphs from tariff act of 1897, under which the Government claims (30 Stat., 151, 183):

"351. Class three, that is to say, Donskoi, native South American, Cordova, Valparaiso, native Smyrna, Russian camel's hair, and all such wools of like character as have been heretofore usually imported into the United States from Turkey, Greece, Syria, and elsewhere, excepting improved wools hereinafter provided for.

"358. On wools of the third class and on camel's hair of the third class the value whereof shall be twelve cents or less per pound, the duty shall be four cents per pound.

"360. The duty on wools on the skin shall be one cent less per pound than is imposed in this schedule on other wools of the same class and condition, the quantity and value to be ascertained under such rules as the Secretary of the Treasury may prescribe."

Petitioner claims under following paragraphs:

"571. Hair of horse, cattle, and other animals, cleaned or uncleaned, drawn or undrawn, but unmanufactured, not specially provided for in this act; and human hair, raw, uncleaned, and not drawn.

"664. Skins of all kinds, raw (except sheepskins with wool on), and hides not specially provided for in this act."

One of the witnesses called on behalf of the importers was an examiner of wool fibers and skins at the port of New York, which position he had held for about fifteen years. He said that when he first went into the government employ such skins as those in question were returned free, the hair as well as the skin, but that practice has since been changed. The witness further said that if the growth in question were found on a goat he would return it as hair of a goat, and entitled to free entry; that wool could be run down, or deteriorate, to such a condition as the growth in question, but that it was, in fact, mostly "what they call dead hair or kemp;" that, although it could possibly be carded, it was not commercially suitable, and there would not be much left after they got through carding it. On cross-examination, the witness said that he would return the article in question as Mocha sheepskin with the wool on. On such a skin as the one in question the witness said there was a substance which he would call wool, which was about 10 per cent only of the growth; that he examines such skins as the ones in question and throws out those he considers dutiable when there is enough wool to call it dutiable, and lets the skins go not dutiable when you could not make anything out of the growth in any way, although some use might possibly be made out of it.

The cross-examination of other witnesses was to the effect that this growth had been tried in mills for the purpose of spinning, but very little, being used with other stock to make into yarn, but it has not been successfully used for that purpose; it might be used sometimes by carpet manufacturers in a small way, and while it could not be used or spun alone, it might be carded. It was also said on cross-examination of one of the witnesses that if such growth ran pretty white it is sometimes used in those low-grade carpet yarns where they put in such stuff as jute packing is made of and some hair like the growth in question. The evidence is, however, overwhelming and the witnesses substantially unanimous that this substance is not known as wool, and is neither bought nor sold as such, and is commercially known as Mocha hair and is not used as wool.

Mr. Justice PECKHAM, after making the foregoing statement, delivered the opinion of the court:

The evidence in this case, taken before the Board of Appraisers and also before the circuit court, is uncontradicted. It shows that the substance in question is not wool, has none of its characteristics and is not put to any of its uses, and does not appear like wool. On the contrary, it is composed mostly of dead hair or kemp and can not be remuneratively carded, nor is it commercially suited for carding, nor for spinning. Its commercial designation is Mocha hair, and it is not known or regarded or recognized as wool in any of the markets of the country.

It is not denied that the commercial designation of an article, which designation was known at the time of the passage of a tariff act, is the name by which the article should be classified for the payment of duty, and, as is stated, "without regard to their scientific designation and material of which they be made or the use to which they may be applied." Two Hundred Chests of Tea (9 Wheat., 430, 438); Arthur *v.* Morrison (96 U. S., 108); American Net and Twine Company *v.* Worthington (141 *Id.*, 468); Hedden *v.* Richard (149 *Id.*, 346, 348). As was said by Mr. Justice Story in Two Hundred Chests of Tea (*supra*), Congress did not "suppose our merchants to be naturalists or geologists or botanists. It applied its attention to the description of articles as they derived their appellations in our own markets, in our domestic as well as our foreign traffic." And in Hedden *v.* Richard (*supra*), it was said:

"The language of commerce * * * must be construed, * * * particularly when employed in the denomination of articles, according to the commercial understanding of the terms used."

The commercial designation should prevail, unless Congress has clearly manifested a contrary intention. Cadwalader *v.* Zeh (151 U. S., 171, 176.)

We are of opinion that the use of the word "wool" in the tariff act excluded a substance which, while it was a growth upon a sheepskin, was nevertheless commercially known, designated, and dealt in as Mocha hair, having none of the characteristics of wool, and which would not be accepted by dealers therein as a good delivery of wool.

In this case the evidence is uncontradicted that the growth on these skins was commercially known as Mocha hair, and that it was not used in the way wool is used, or as a substitute for wool. It ought not, simply for the reason that the skin upon which it grows is the skin of a sheep, to be classified as wool under paragraph 360 of the tariff act, and thereby be subjected to a duty as high as the value of the substance itself.

Although it has been so classified, and that classification has been affirmed all through, yet the question is not presented to this court as if it were a question of fact decided upon contradictory evidence, and concluding this court for that reason. There is, in truth, no contradictory evidence in the case. It is one, where in our opinion the courts below have given undue weight to the evidence elicited on cross-examination of witnesses called on the part of the importer, which showed that there

possibly was, in some cases, a very little inferior wool found on these skins, while the courts ignored the other facts, as testified to by the same witnesses and already mentioned, which showed beyond the possibility of successful contradiction that the substance was erroneously classified as wool.

Upon the facts, the substance ought not to have been so classified. The growth, being still on the skin, should have been regarded as part of such skin, and classified under paragraph 664, in the free list, and not as a sheepskin with wool on.

We do not agree that the word "wool" in this act is used in a generic sense so far as this particular point is concerned. The word does not necessarily include all growth upon the coat of a sheep, even though the substance is like that in question here.

Counsel for the Government cites from the Encyclopædia Britannica, where, in speaking of the difficulty in determining the dividing line between hair and wool, it is said:

"At what point indeed it can be said that an animal fiber ceases to be hair and becomes wool it is impossible to determine, because in every characteristic the one class by imperceptible gradations merges into the other, so that a continuous chain can be formed from the finest and softest merino to the rigid bristles of the wild boar."

It may be difficult in some cases to define the line between "wool" and "hair" as a growth upon skins, but we do not regard that difficulty as an argument for the construction contended for by counsel for the Government. That argument leads to the classification of a substance like that in question, as wool, when in fact it bears no resemblance to it, is not used as wool, and has none of its characteristics, and is known commercially as Mocha hair, and is so bought and sold over the whole country. The case is one of degree, and because in some few cases the points may closely approach each other and there may be in such cases some difficulty in telling wool from hair, yet that fact furnishes no reason for refusing to adopt the general test which in most cases is easily applied, fitness, identity of use, commercial designation. To adopt the claim of counsel eliminates all inquiry as to whether an article is wool or hair, and leaves simply the question whether it is to be found on what may be called the wool-bearing animals or on the alpaca or other like hair-coated animals. Some sheep are wool-bearing animals, therefore the hair on the skin of the Mocha sheep is wool and must be classified as such. We do not agree with this claim. If an article does not, to a dealer, look like wool, can not be used as wool, is not commercially known as wool, but, on the contrary, is bought and sold throughout the country as Mocha hair and is so designated commercially by those dealing in it, it ought not to be classified as wool or made to pay duty as such, simply because it grows on a sheep.

We have looked over the various authorities cited by counsel for the Government, but we see nothing in any of them tending to the conclusion that upon the facts in this case the growth on the skin of the Mocha sheep was properly classified as wool.

Taking all the evidence in this case, uncontradicted as it is, we feel compelled to the conclusion that the classification in this case, adopted by the courts below and by the appraisers and collector was wrong, and that the merchandise in question was entitled to free entry.

The judgments of the courts below are reversed and the case remanded to the circuit court with instructions to take such further proceedings as may be necessary, not inconsistent with this opinion.

Reversed.

Mr. Justice MOODY took no part in the decision of this case.

EXHIBIT 10.—(T. D. 28079)—*Appraisement of wool.*

GULBENKIAN *v.* UNITED STATES.

U. S. Circuit Court of Appeals, Second Circuit. March 26, 1907. No. 234 (suit 4125).

APPRAISEMENT—SEPARATION OF WOOLS—MIXED WOOLS.—In accordance with immemorial custom in the market of Bagdad, white and colored wools were bought together at the same price, without any distinction as to color; but before exportation they were separated, each color being baled by itself. *Held* that, in finding the "actual market value * * * in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the United States," under section 19, customs administrative act of 1890, the appraising officers should consider only the price paid in the Bagdad market, and that no distinction should be made between the value of the white and colored wools, but that all should be appraised at the same price.

APPEAL from the circuit court of the United States for the southern district of New York.

[Decision adverse to the Government.]

For decision below see T. D. 27512, affirming a decision of the Board of United States General Appraisers, G. A. 6151 (T. D. 26719), which had affirmed the assessment of duty by the collector of customs at the port of New York on merchandise imported by G. Gulbenkian & Co.

The importation in controversy consisted of 1,000 bales of wool, of which 800 were invoiced as white and 200 as colored. This wool was the subject of reappraisement proceedings under section 13, customs administrative act of 1890, before a single general appraiser, and then, on appeal, before a Board of General Appraisers, as a result of which an advance in value which was made by the local appraiser stood affirmed. At the hearing before the board, on proceedings brought under section 14 of said act for the purpose of testing the legality of the appraisement and reappraisements, the importers introduced evidence tending to show that the appraisement by the local appraiser was illegal. The board, however, held that, whatever irregularity may have characterized that appraisement, it would be cured by a valid reappraisement by a general appraiser, and that there was no evidence that the reappraisements before the general appraiser and the board had not been properly conducted. The assessment of duty was therefore affirmed. In the circuit court, on appeal, considerable additional evidence was introduced by the importers, but that court affirmed the decision of the board.

The case involves the construction of section 19, customs administrative act of 1890, the pertinent part of which reads as follows:

"SEC. 19. That whenever imported merchandise is subject to an ad valorem rate of duty, or to a duty based upon or regulated in any manner by the value thereof, the duty shall be assessed upon the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities, at the time of exportation to the United States, in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the United States, or consigned to the United States for sale, including the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States."

Hatch & Clute (*J. Stuart Tompkins* of counsel), for the importers.

J. Osgood Nichols, assistant United States attorney, for the United States.

Before LACOMBE, TOWNSEND, and COXE, Circuit Judges.

On appeal from a judgment of the circuit court affirming a decision of the Board of General Appraisers, which sustained the action of the collector in appraising an importation of 1,000 bales of white and colored Karadi wool from Bagdad.

The paragraphs of the tariff act of 1897 in question are as follows (30 Stat., 182-3):

"PAR. 351. Class three, that is to say, Donskoi, native South American, Cordova, Valparaiso, native Smyrna, Russian camel's hair, and all such wools of like character as have been heretofore usually imported into the United States from Turkey, Greece, Syria, and elsewhere, excepting improved wools hereinafter provided for.

"PAR. 358. On wools of the third class and on camel's hair of the third class the value whereof shall be twelve cents or less per pound, the duty shall be four cents per pound.

"PAR. 359. On wools of the third class, and on camel's hair of the third class, the value whereof shall exceed twelve cents per pound, the duty shall be seven cents per pound."

COXE, *circuit judge:* The question in controversy is whether the wool brought here from Bagdad, Turkey, shall pay 4 cents per pound under paragraph 358 or 7 cents per pound under paragraph 359. If the value of the wool was 12 cents or less per pound the appellants should succeed; if more than 12 cents per pound the appellee should succeed.

There is no disputed question of fact. The wool in question, without any distinction as to color, was purchased by the importers at Bagdad for 736 piasters per oke; and, after adding all packing charges required by section 19 of the administrative act, the value of the wool at Bagdad was less than 12 cents per pound. The appellants have been importing wool from Bagdad for twenty-five years. They purchased white and colored wool in the market for the same price and always invoiced their purchases at the cost price precisely as in the present instance. The white and colored wool are invariably sold together and for the same price.

One of the importers testifies:

"The owner of a lot will say 'here is my lot, this is my price.' We take it, we pack it as far as possible, so-called white and so-called colored separately. We sell the wool in this country. It contains maybe 30 per cent of gray, from 10 or 5 per cent. We can never separate them; we take one fleece, for instance; you will see on one side it looks all white, and turn it and find it is black or some other color. It is the character of the wool that they never come absolutely white; there is always mixed colors, part of the sheep fleece may be white, might have a black mark on it, or near the skirt may be yellow or brown. * * * We buy them at one price. If I were to invoice it at any different prices I would not know what price to invoice one from the others. * * * There is no distinction. We have to pay the same price whether it is white or colored."

The testimony establishes overwhelmingly and without contradiction that in the Bagdad market, from time immemorial, the white and colored wools have been sold together and always at the same price, Even when a partial separation was made, the price was the same for the white as for the colored wool. There is no such thing as a strictly white wool coming from the Bagdad markets. Wools called white by manufacturers and dealers are not white. There is no difference in quality between the so-called white and the so-called colored wools.

The local appraiser without altering the total invoice value, reduced the value of the colored wool to about 9 cents per pound and added the amount so deducted to the white wool, making the value above 12 cents per pound and thus subject to the high duty of paragraph 359. The action of the local appraiser was sustained on reappraisement. The Board of General Appraisers overruled the protests and its decision was affirmed by the circuit court.

We are of the opinion that the protests should have been sustained. When the merchandise arrived at the port of New York the duty of the collector was plain. Having ascertained that it was wool imported from Bagdad, he had only to ascertain its market value, not at New York or London or Marseille, but at *Bagdad*, add thereto the packing charges, and his duty was done.

If the value of imported wool is to be ascertained by proof addressed to each separate importation, a cumbersome, unworkable system will result, which will open the door to uncertainty and fraud. In order that the collector may have an infallible standard by which to measure value, Congress enacted (sec. 19, customs administrative act) that duty shall be assessed upon the actual market value of the merchandise as bought and sold in usual wholesale quantities in the principal markets of the country from whence imported. The rule thus fixed by statute is plain and simple, binding alike on importer and collector. Neither may vary or evade it. Neither may appeal to other criteria of value.

If the rule had been followed in the present case, the value of appellants' wool would inevitably have been fixed at less than 12 cents per pound. By discarding the rule and substituting argument and conjecture, a conclusion is reached which fixes the value of four-fifths of the importation at 13 cents per pound and one-fifth at 9 cents per pound. And yet, if the record contains a syllable of proof that any of this wool, or similar wool, was ever bought and sold in Bagdad for 13 cents or 9 cents per pound, or that such difference in value as this can exist in the same lot of wool, we have failed to discover it.

The argument of the appellee rests, we think, upon the initial fallacy that the white wool was worth more in the markets of Bagdad than the colored wool. The proof shows that it was not worth more, and a finding to the contrary must either be wholly arbitrary or based upon facts which the statute excludes from consideration, viz, value in this country. The value of the wool here or in foreign countries other than Turkey, the use to which the wool was to be put, the object of the purchaser in separating it are all, in our judgment, matters extraneous to the issue. By the express command of the statute the collector was prohibited from considering anything but the actual market value of the wool in the principal markets of Turkey. Having ascertained that value he should have levied duty accordingly. The proof establishes beyond contradiction or doubt that the value of the wool at Bagdad was less than 12 cents per pound, and it should have been so fixed.

The decision is reversed.

EXHIBIT 11.—(T. D. 28072—G. A. 6575)—*Gauge of olive oil in tins.*

1. PARAGRAPH 40, TARIFF ACT OF 1897.—Olive oil in tins is dutiable under paragraph 40, tariff act of 1897, at 50 cents per gallon, based on the quantity of oil actually imported, and not on the capacity of the tin containers.—Following Zucca's case, G. A. 6416 (T. D. 27556).

2. QUANTITY—HOW ASCERTAINED.—A gallon of olive oil weighs accurately 7.56 pounds, equal to 3.43 kilos. *Held*, accordingly, that the various entries in question should be reliquidated on the basis of the net weight of the oil as stated in the invoices, which should be converted into gallons on the basis of this weight.

United States General Appraisers, New York, April 8, 1907.

In the matter of protests 177193, etc., of Acker, Merrall & Condit Company *et al.* against the assessment of duty by the collector of customs at the port of New York.

Before Board 3 (WAITE, SOMERVILLE, and HAY, General Appraisers; WAITE, G. A., absent).

SOMERVILLE, *general appraiser:* The importations covered by the protests contained in the schedule consist of olive oil in tin cans, which has been made dutiable under paragraph 40 of the tariff act of 1897, which provides for "olive oil * * * in tins * * * fifty cents per gallon." The collector assessed duty in each instance on a certain quantity of oil as ascertained and reported by the local appraiser. The claim is made in each of the protests that duty was assessed upon an excessive quantity of the oil greater than that warranted by said paragraph 40 or any other provision of the tariff act, and that the dutiable quantity of the merchandise should have been ascertained on the basis of 7.56 pounds of oil to the gallon, or on such other basis as would give the actual quantity imported or which would approximate the same with reasonable certainty.

In Zucca's case, G. A. 6416 (T. D. 27556), it was observed by this board that the various entries of similar merchandise then under consideration should be reliquidated on the basis of the net weight of the oil as stated in the invoices, unless shown to be incorrect, which should be converted into American gallons on the basis of the weight of 7.56 pounds to the gallon, equal to 3.43 kilos. It was further observed by the board in that case that "said paragraph 40 without doubt requires duty to be assessed on the quantity of olive oil actually imported, measured by the gallon, and not merely on the capacity of the containers." And further:

"The gallon measure is not one of the measures adopted in Italy, and should therefore be ignored under the provisions of section 2837, Revised Statutes, which require such invoices to be made out 'without any respect to the weights or measures of the United States.' The description of gallons, therefore, must be regarded as surplusage, and would be no more conclusive as to the actual contents of the tins than the description in the schedule of spirits and wines of bottles designated as quart and pint bottles used as containers for imported liquors.

"The evidence shows without conflict that a gallon of olive oil weighs accurately 7.56 pounds or 3.43 kilos. This fact is recognized in Italy as well as in the United States, and is the weight reported for the last forty years in standard works specifying weights and measures, and has been recognized in our tariff legislation. (Heyl's Edition of the Tariff, 1877, Pt. III, p. 62; same, edition of 1891, Pt. IV, p. 65.)"

An appeal was taken from this decision to the circuit court for the southern district of New York, and the view of the board was there affirmed. (United States *v.* Zucca & Co., reported by the Treasury Department in T. D. 28002.) It was there observed by Judge Hough as follows:

"The duty of the government officers is to ascertain as nearly as possible the actual quantity imported in gallons, and the method adopted by the administrative officials should not be disturbed except upon a clear showing of unfairness or injustice. I am inclined to the opinion that the method adopted by the General Appraisers is the most accurate. Whether that be true or not, the testimony in this case is not sufficient to disturb it, there being no proof at all that the amount on which duty has been exacted was less than the amount actually coming into the country."

This decision has been acquiesced in by the Government, as we are officially informed, the Attorney-General declining to prosecute it further.

Following the above decisions, the protests are sustained, with instructions to the collector to reliquidate the various entries on the basis of the net weight of the oil as stated in the invoices, which should be converted into gallons on the basis of 7.56 pounds or 3.43 kilos to the gallon.

The collector's decision is reversed in each instance.

EXHIBIT 12.—(T. D. 27773.)

Suit 4253.—CUBAN PESO.—Havana Tobacco Company *v.* United States. United States circuit court, southern district of New York, October 31, 1906. On application for review of a decision of the Board of United States General Appraisers.

Decision *reversed* by consent. The importers contended that the Cuban peso should be converted into money of the United States at the rate of 91 cents. For decision under review see Abstract 11124 (T. D. 27318).

EXHIBIT 13.—(T. D. 28145)—*Scammony resin.*

UNITED STATES *v.* MARTIN.

United States Circuit Court, District of Massachusetts. April 23, 1907. No. 18 (suit 1518).

SCAMMONY RESIN—DRUG ADVANCED—MEDICINAL PREPARATION.—Scammony resin is dutiable under paragraph 20, tariff act of 1897, as a drug advanced in value and not under paragraph 67 as a medicinal preparation.

ON application for review of a decision of the Board of United States General Appraisers.

[Decision adverse to the Government.]

The decision below, which was unpublished, was rendered December 6, 1901, and sustained the protest of Gustav Martin against the assessment of duty by the collector of customs at the port of Boston, on the authority of Board decision *In re* Parke, G. A. 5010 (T. D. 23323). Note T. D. 23444, directing the application for review.

The article in controversy consists of scammony resin, prepared from gum scammony or scammony root, which was classified under paragraph 67, tariff act of 1897, as a medicinal preparation in the preparation of which alcohol was used, and was claimed by the importer to be dutiable under paragraph 20 as a drug advanced in value or condition. The Board found that it was used principally in the compounding of medicinal preparations, but not as a medicine in its imported condition, and sustained the importer's contention.

William H. Garland, assistant United States attorney, for the United States.

Charles P. Searle (*Edward S. Hatch* with him on the brief), for the importer.

BROWN, *district judge:* The decision of the Board of General Appraisers is affirmed.

EXHIBIT 14.—(T. D. 27768)—*Powdered opium.*

MERCK *v.* UNITED STATES.

U. S. Circuit Court of Appeals, Second Circuit. December 4, 1906. No. 75 (suit 3556).

1. POWDERED OPIUM—DRUG ADVANCED.—Powdered opium is not dutiable as "opium, crude or unmanufactured," under paragraph 43, tariff act of 1897, but as a drug (gum) advanced in value or condition, under paragraph 20.
2. SAME—"CRUDE"—"UNMANUFACTURED."—In construing the provision for "opium, crude or unmanufactured," in paragraph 43, tariff act of 1897, *Held* that powdered opium produced from gum opium by drying, comminution, sifting, etc., is not "crude," and that, by reason of having undergone a process which has destroyed the identity of the original article and produced another and more valuable one, new in its use and its commercial designation, it is not "unmanufactured."
3. LEGISLATIVE INTENT—FAILURE TO ENUMERATE ARTICLE.—The courts can only ascertain the legislative intention by the language used, and it is not their duty by a distorted construction to attempt to include in a tariff provision an article which may have been omitted by inadvertence.

APPEAL from the circuit court of the United States for the southern district of New York.

For decision below see 143 Federal Reporter, 694 (T. D. 27024), affirming a decision of the Board of United States General Appraisers, Abstract 1299 (T. D. 25273), which had affirmed the assessment of duty by the collector of customs at the port of New York on merchandise imported by Merck & Co.

Comstock & Washburn (*Albert H. Washburn* of counsel; *Charles A. Darius* on the brief), for the importers.

D. Frank Lloyd, assistant United States attorney, for the United States.

Before WALLACE, LACOMBE, and COXE, Circuit Judges.

PER CURIAM: The controversy in this case is whether certain importations of powdered opium should have been classified for duty under paragraph 20 of the tariff act of July 24, 1897, or whether they were subject to duty under paragraph 43 of that act.

Paragraph 20 prescribes a duty of one-fourth of 1 cent per pound and in addition thereto 10 per cent ad valorem, on—

"Drugs, such as * * * bulbs, bulbous roots, * * * gums, * * * any of the foregoing which are drugs and not edible, but which are advanced in value or

condition by refining, grinding, or other process, and not specially provided for in this act."

Paragraph 43 prescribes a duty of $1 per pound on—

"Opium, crude or unmanufactured, and not adulterated, containing nine per centum and over of morphia."

It clearly appears by the testimony in the record that opium in the crudest form in which it is commonly imported into this country is known as "gum opium" and comes in lump form. It contains various impurities, such as stones, seeds, ashes, etc., and is of varying alkaloidal strength. It also clearly appears that powdered opium is prepared from gum opium by subjecting the latter to artificial heat at a temperature regulated so as to avoid any destruction of the alkaloids present and maintained until the water has been dried out, then comminuting and sifting it, and then, after assaying it to ascertain its morphine strength, by adding sufficient morphine so that it will conform to the standard of the United States pharmacopeia. The two articles are dealt in as distinctive articles and are commecially known, one as "gum opium" and the other as "powdered opium," and the latter commands a price from 25 to 50 per cent higher than the former. If there is any other article except the powdered opium which is known among dealers as manufactured opium, the evidence fails to disclose the fact. It is used for purposes to which the gum opium is not adapted, namely, the preparation of all the standard opium galenicals.

We think it is plain that the importations were not crude opium in the sense in which it is to be assumed that Congress used the term. Nor do we think that they can be fairly deemed "unmanufactured opium" within the meaning of Congress. They have undergone a process which has destroyed the identity of the original article and produced another and more valuable article, new in its use and new in its commercial signification. If it had been intended to subject the powdered opium to duty, that purpose could have been readily accomplished by placing the duty upon opium merely. It may be conceded that no reason is apparent why Congress should have intended to exempt powdered opium from duty while laying a duty upon the crude or unmanufactured article; but the courts can only ascertain the legislative intention by the language used, and it is not their duty by a distorted construction to attempt to cover an article which may have been omitted by inadvertence.

Under the tariff acts of 1890 and 1894, "opium, crude or unmanufactured, and not adulterated, and containing nine per centum and over of morphia," was free of duty. While this provision was in force powdered opium was uniformly classified by the customs officers at New York as subject to duty as a gum advanced in value, etc. The article answered that description then and answers it now equally well. We conclude that the importations should have been classified for duty under paragraph 20.

The decision of the court below and of the Board of General Appraisers is therefore reversed.

EXHIBIT 15.—(T. D. 28106)—*Polished steel.*

UNITED STATES *v.* CRUCIBLE STEEL COMPANY.

U. S. Circuit Court of Appeals, Second Circuit. April 12, 1907. No. 184 (suit 4150).

POLISHED STEEL—STEEL, COLD ROLLED, SMOOTHED ONLY.—Cold-rolled steel strips, the only polish or brightening on the surface of which is that incidentally acquired in the process of cold rolling, are not subject to the additional duty provided in paragraph 141, tariff act of 1897, on such strips when "cold rolled, * * * brightened, * * * or polished by any process to such perfected surface finish or polish better than the grade of cold rolled, smoothed only."

APPEAL from the circuit court of the United States for the southern district of New York.

[Decision adverse to the Government.]

For decision below see 147 Federal Reporter, 537 (T. D. 27446), affirming a decision of the Board of United States General Appraisers, G. A. 6213 (T. D. 26870), which had reversed the assessment of duty by the collector of customs at the port of New York.

The material in controversy consisted of cold-rolled steel strips, the only polish or brightening on the surface of which was that incidentally acquired in the process of cold-rolling. The board and the court below denied the Government's contention that such steel was subject to the additional duty provided in paragraph 141, tariff act of 1897, on—

"All strips * * * of iron or steel, * * * which are cold rolled, * * * brightened, * * * or polished by any process to such perfected surface finish or polish better than the grade of cold rolled, smoothed only."

These decisions were made on the authority of the ruling of the circuit court of appeals, second circuit, in United States *v.* Crucible Steel Company (137 Fed. Rep., 384; T. D. 26157), and held that the new evidence introduced by the Government failed to differentiate this case from that which was before the circuit court of appeals in said former case.

J. Osgood Nichols, assistant United States attorney, for the United States.

William J. Gibson, for the importers.

Before WALLACE and COXE, Circuit Judges.

PER CURIAM: Judgment affirmed.

EXHIBIT 16.—(T. D. 28485)—*Carbon disks.*

Entry of judgment in favor of Swedish-American Telephone Company, suit 27533, involving the classification of carbon disks.

TREASURY DEPARTMENT, *November 6, 1907.*

SIR: The department is in receipt of a letter from the Attorney-General dated the 1st instant, in which he states that the United States attorney for the northern district of Illinois has been authorized to consent to an entry of judgment in favor of the Swedish-American Telephone Company upon certain carbon disks, the subject of suit 27533, Swedish-American Telephone Company *v.* United States, pending in the United States circuit court for the northern district of Illinois, at the rate of 20 per cent ad valorem, under section 6 of the tariff act of July 24, 1897, which were held by the Board of United States General Appraisers in G. A. 5846 (T. D. 25765) of November 14, 1904, to be dutiable at the rate of 35 per cent ad valorem under paragraph 97 of the said act.

Upon receipt of information that this judgment has been entered, you are hereby authorized to forward a certified statement for the refund of the excess duties due in settlement thereof.

Respectfully,
J. H. EDWARDS,
Acting Secretary.

(2064)
COLLECTOR OF CUSTOMS, *Chicago, Ill.*

EXHIBIT 17.—(T. D. 28000)—*Gloves.*

UNITED STATES *v.* TREFOUSSE. UNITED STATES *v.* PASSAVANT.

U. S. Circuit Court of Appeals, Second Circuit. January 18, 1907. Nos. 137 and 136 (suits 4129 and 4128).

LEATHER GLOVES—EMBROIDERY WITH MORE THAN THREE SINGLE CORDS OR STRANDS.—Leather gloves having upon them embroidery in three rows, but showing on the back of the gloves that each row presented the appearance of three-plait crochet work, the effect being produced by the needle with only one cord or strand of thread, *Held* not to be subject to the additional duty provided in paragraph 445, tariff act of 1897, for "all gloves stitched or embroidered with more than three single strands or cords."

APPEALS from the circuit court of the United States for the southern district of New York.

[The decision herein is adverse to the Government.]

For decision below see 144 Federal Reporter, 708 (T. D. 27023), reversing a decision of the Board of United States General Appraisers, Abstract 8396 (T. D. 26753). The board's opinion reads as follows:

MCCLELLAND, *general appraiser:* These protests relate to leather gloves, which were assessed with cumulative duties under the provisions of paragraph 445, tariff act of 1897. The claim therein that not more than one of the said cumulative duties may legally be assessed upon leather gloves falling within two or more provisions of that paragraph was overruled in Douillet *v.* United States (133 Fed. Rep., 1007; T. D. 25811). See G. A. 6002 (T. D. 26241).

On the hearings three sample pairs of gloves were offered and received in evidence, being marked 101095, Exhibits 1, 2, and 3. The importer's witness then examined the invoices and pointed out certain items which he declared were represented by the

samples in respect of the ornamentation on the back of the gloves. There was no effort to claim that any of the merchandise had been classified incorrectly except in this one respect, viz, that none of the items indicated by the witness as being represented by the exhibits was subject to the cumulative duty for stitching or embroidery prescribed in said paragraph 445. Some of the protests were abandoned in toto and others were partially abandoned, but our conclusion renders it unnecessary to distinguish between them.

Following the rule laid down in G. A. 5595 (T. D. 25038) for the ascertainment of the number of strands or cords upon a glove, we find that all of the gloves represented by the exhibits before us are embroidered with more than three single strands and are therefore subject to cumulative duties as assessed by the collector.

The protests are in all respects overruled and the collector's decision in each case is affirmed.

In reversing this decision it was observed by Judge Platt in the circuit court:

The Board of Appraisers overruled the protest in this way: They followed a rule which they had adopted in G. A. 5595 (T. D. 25038) for the ascertainment of the number of strands or cords upon a glove, and found that, by some peculiar method of reasoning, there were more than three single strands upon the gloves in question. It appears, however, that the same board, in G. A. 4241 (T. D. 19945), held that certain leather gloves having upon them embroidery in three rows, but showing on the back of the gloves that each row presented the appearance of three-plait crochet work, the effect being produced by the needle with only one cord or strand of thread, as is shown by the stitching through and on the inside of the glove, were in fact not stitched or embroidered with more than three single strands or cords. This decision, upon appeal, was affirmed by Judge Wheeler in United States *v.* Robinson (124 Fed. Rep., 1013), and has been acquiesced in by the Government.

It would seem that the Board of General Appraisers in such a matter as this, when the gloves in respect to the manner of stitching are manifestly the same as those considered in G. A. 4241, ought to have followed the very clearly expressed and well-defined rule governing the provision found in paragraph 445.

The decision of the board, so far as it finds that the goods in question are subject to a duty of 40 cents per dozen pairs for "all gloves stitched or embroidered with more than three single strands or cords," is reversed.

J. Osgood Nichols, assistant United States attorney, for the United States

Brooks & Brooks (*Frederick W. Brooks* of counsel), for the importers.

Before WALLACE, LACOMBE, and TOWNSEND, Circuit Judges.

PER CURIAM: Decrees affirmed in open court.

EXHIBIT 18.—(T. D. 28717)—*Bronze statuary.*

UNITED STATES *v.* TIFFANY.

U. S. Circuit Court of Appeals, Second Circuit. January 7, 1908. No. 106 (suit 4036).

1. METAL STATUARY.—Paragraph 454, tariff act of 1897, providing for "statuary * * * wrought by hand from a solid block or mass of marble * * * or from metal," does not require that metal statuary should be produced from "a solid block or mass."
2. SAME—COMPONENT EXCEEDING IN QUANTITY.—The provision in paragraph 454, tariff act of 1897, for statuary made "from metal," does not exclude statues not made wholly of metal or even in chief value of metal if metal predominates in quantity; and statuary composed in chief value of ivory and slightly of glass, but in which metal is quantitatively the principal component, being so greatly predominant as to characterize the entire work, is within said provision.
3. SAME—"BY HAND."—The provision in paragraph 454, tariff act of 1897, for statuary "wrought by hand" from metal, and "the professional production of a statuary or sculptor only," does not require that the entire work on such statuary should be "by hand," nor that it should be wrought exclusively by the hand of the sculptor.
4. BRONZE STATUARY.—A statue of great value and high artistic merit, in which bronze was overwhelmingly the chief component in point of quantity, was produced by the *cire perdue* process; after being cast, it was gone over carefully by hand by a renowned sculptor, who thereby made the alterations necessary to the execution of his artistic conceptions, this being the important part which gave the piece its distinctive personal character; and the entire work, from the original conception to the last touch, was under the sculptor's constant supervision. *Held* that this statue was within the definition of "statuary" in paragraph 454, tariff act of 1897, as being such as is "wrought by hand * * * from metal."
5. STATUARY—LEGISLATIVE INTENTION.—In providing in paragraph 454, tariff act of 1897, for a low duty on paintings and on statuary which is "the professional production of a statuary or sculptor only," it was the evident intention of Congress to welcome the works of meritorious artists and sculptors and to exclude from the low rate the productions of mere artisans and empirics, such as are made by machinery or unskilled labor or cast in large numbers from molds by ordinary workmen.

APPEAL from the circuit court of the United States for the southern district of New York.

[Decision adverse to the Government.]

For decision below see 154 Federal Reporter, 168 (T. D. 27982), in which the circuit court reversed a decision of the Board of United States General Appraisers, which is reported as Abstract 6643 (T. D. 26390) and affirmed the assessment of duty by the collector of customs at the port of New York on an importation by Tiffany & Co.

J. Osgood Nichols, assistant United States attorney for the United States.
D. Macon Webster, for the importers.

Before LACOMBE, COXE, and NOYES, Circuit Judges.

On appeal by the United States from a decision of the circuit court for the southern district of New York, reversing a decision of the Board of General Appraisers which affirmed the decision of the collector assessing an ad valorem duty of 35 per cent upon Gerome's statue "La Bellona," as a manufacture of metal and ivory, ivory chief value, under paragraph 450 of the act of 1897. The circuit court held the statue dutiable at 15 per cent ad valorem as statuary, under paragraph 454 of the same act and section 3 thereof permitting the reciprocity treaty with France thereafter concluded. (30 Stat., 151, 193, 194, 203.) The paragraphs in controversy:

PAR. 450. Manufactures of leather, finished or unfinished, manufactures of fur, gelatin, gutta-percha, human hair, ivory, vegetable ivory, mother-of-pearl and shell, plaster of paris, papier mâché, and vulcanized india-rubber known as "hard rubber," or of which these substances or either of them is the component material of chief value, not specially provided for in this act, and shells engraved, cut, ornamented, or otherwise manufactured, thirty-five per centum ad valorem.

PAR. 454. Paintings in oil or water colors, pastels, pen and ink drawings, and statuary, not specially provided for in this act, twenty per centum ad valorem; but the term "statuary" as used in this act shall be understood to include only such statuary as is cut, carved, or otherwise wrought by hand from a solid block or mass of marble, stone, or alabaster, or from metal, and is the professional production of a statuary or sculptor only.

COXE, *Circuit Judge:* The subject of this controversy is a life-size statue, La Bellona, the Roman Goddess of War, one of the last works of the famous French sculptor Gerome. It is a production of wide celebrity. It was exhibited at the French Academy and at the Paris Exposition, and the French Government was considering its purchase for one of their museums when the appellee bought it of the sculptor's widow. La Bellona is an allegorical embodiment of the hate, cruelty, vengeance, and excitement of war. The face, arms, and feet of the statue are of ivory, and the remainder is of metal, which, so far as quantity and bulk are concerned, is overwhelmingly the principal component. The entire body, the mantle, drapery, helmet, breastplate, cobra, and pedestal are of bronze. The shield is either bronze or aluminum and is highly chased. The eyes are glass, with gold underneath to bring out more clearly the ferocity of the expression. As to the manner in which the statue was constructed, the record is not as explicit as it should be. It seems to be conceded, however, that it was made by the *cire perdue* process under the supervision of the sculptor, who gave to its construction the best effort of his genius.

The various parts of bronze were cast from models made by Gerome, by an accomplished bronzer who consulted with the sculptor as to all details of the work. After the various parts had been cast, the important work, that which gives it its distinctive personal character, was done by hand, the sculptor carefully going over the figure and making the alterations and changes necessary to embody his ideas. It is this artistic feature, this expression to the sculptor's intentions, which gives value to the statue, not the price paid for the bronze and ivory. No one but a sculptor of the highest merit could have cut the ivory face, so symbolic of the horrors of war, or fashioned the cloak which is considered one of the most wonderful pieces of bronze in existence. In short, the statue was the work of Gerome, and to its minutest details he gave the best work of his brain and hand.

La Bellona represents a new departure in art; nothing like it was ever produced before; its individuality is unique. It is this statue, conceded by all to be a master work of art, which is classified as a *manufacture* of metal and ivory and placed in the same category with articles made of india-rubber, gelatin, leather, and hair. Such a classification seems almost grotesque in its ineptness. The learned general appraiser who wrote the decision of the board evidently appreciated the injustice of the situation, for he says:

"It may be thought to be illogical to hold that it [Bellona] is not entitled to the consideration assumed to be given to works of art of this character by the statute; but if fault there be, it is in the law and can only be remedied by legislation."

Of course, if this be a true exposition of the statute, it ends the discussion; but is not paragraph 454 capable of a liberal construction, broad enough to include a statute which, it would seem, is clearly within the spirit of the law? That Congress, realizing the importance of works of art to a comparatively new country, has in all the later tariff acts discriminated in favor of paintings and statuary can not be denied. It was the evident intention of the lawmakers to welcome the works of meritorious artists and sculptors on the one side, and on the other to prevent the productions of mere artisans and empirics from taking advantage of the lower duty.

We agree with counsel for the Government that—

The purpose of paragraph 454 to provide a low rate of duty for such works of art only as may represent the direct work of the artist would not be pursued by including the great variety of commercial metal castings which would be claimed to be statuary in the ordinary use of that term.

The definition of "statuary" in the paragraph was evidently intended to exclude such articles as were made by machinery or unskilled labor, or were cast in large numbers from molds by ordinary workmen. Such a statue as La Bellona is excluded from the paragraph only by the most strict and illiberal construction—a construction which, by adhering closely to the letter of the law, defeats the very purpose for which the law was enacted.

The Supreme Court has repeatedly said that this should not be done. In Holy Trinity Church *v.* United States (143 U. S., 457) the court held that the contract made by the plaintiff in error, though clearly within the letter, was not within the spirit of the act of February 26, 1885, designed to prevent the importation of aliens under contract of employment. The court says (p. 459):

It is a familiar rule that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit, not within the intention of its makers.

Again, in the recent case of American Tobacco Company *v.* Werckmeister (207 U. S., 284), decided December 2, 1907, the court, construing the copyright law, says:

But in construing a statute we are not always confined to a literal reading, and may consider its object and purpose, the things with which it is dealing and the conditions of affairs which led to its enactment, so as to effectuate rather than destroy the spirit and force of the law which the legislature intended to enact. * * * As we have said in the beginning, the statute is not clear; but read in the light of the purpose intended to be effected by the legislation, we think its ambiguities are best solved by the construction here given.

See also Taylor *v.* United States (207 U. S., 120), decided by the Supreme Court November 18, 1907; Knowlton *v.* Moore (178 U. S., 41), and United States *v.* Perry (133 Fed. Rep., 841; T. D. 25810).

It can not be pretended that the words "a solid block or mass" refer to "metal," first, because that is not the grammatical reading of the sentence, and, second, because such an interpretation would exclude all metal statuary, as it is not contended that statuary is at present cut or wrought from a solid block or mass of metal.

The paragraph, then, so far as it is necessary to consider it in the present case, reads as follows:

Paintings * * * and statuary * * * twenty per centum ad valorem; but the term "statuary" as used in this act shall be understood to include only such statuary as is cut, carved, or otherwise wrought by hand * * * from metal, and as is the professional production of a statuary or sculptor only.

La Bellona answers every requirement of the statute. It is carved and wrought by hand from bronze and is the professional production of Gerome, a sculptor of world-wide fame. The paragraph does not say that the statue must be wrought exclusively by the hand of the sculptor; it recognizes the well-known fact that the great bulk of the carving is done by skilled workmen. Here the entire work was done under the supervision of the sculptor and the finishing touches were added by his own hand; at least the evidence warrants such a presumption. Neither does the paragraph require that the entire work on the statue must be by hand.

Bronze statues, as is well known, are cast from models precisely as marble statues are cut from models, the finishing being done by the sculptor or under his supervision. It can not be assumed that Congress intended to exclude bronze statuary from the benefits of this paragraph. Indeed, the exact contrary is to be presumed; otherwise nothing would have been said regarding metal statuary. Congress must have had bronze statuary in mind and the manner in which it was made, when it used the language in question. If bronze statuary, which is the metal chiefly used in the art, be not included it is difficult to understand to what the language applies.

The case of Tiffany *v.* United States (71 Fed. Rep., 691) is principally relied on by the appellant. But it appeared in that case that the Government's contention was that the importations were known as "commercial bronzes," some of them being reproduced many times and none of them receiving more than perfunctory attention from the original sculptor. There was also evidence that there were bronze statues made not by casting, but by hand "beating." In the present case there is no such testimony, and, as we have before seen, the entire work, from the original conception until the last touch was placed upon the statue, was under the direct and constant supervision of Gerome. He did everything that a sculptor could do to make his work complete.

In a recent case relating to the importations of the Italian sculptor, Angelo del Nero, the Board of General Appraisers used langauge which, we think, is peculiarly applicable to the case in hand and which distinguishes it from the Tiffany case (*supra*). The decision is written by the same General Appraiser who wrote in the present case, but nearly a year afterward. He says, G. A. 6346 (T. D. 27302):

When the metal comes from the mold it is in an extremely rough state, having upon its surface protuberances left by the hardening of the metal in the conduits through which it is poured into the mold, and incrustations resulting from the peculiar admixture of the alloy, which is made by a secret formula designed to give the statue an antique tone or patina. In consequence of this the entire statue must be gone over carefully with the tool of the sculptor, the incrustations and protuberances removed, and practically all the details chiseled out by hand. This mass of metal which comes from the mold may be compared with the block of marble after it has been chiseled by artisans to a shape roughly approximating that of the marble statue when it is taken in hand by the sculptor who does the work which characterizes it and impresses the marble with his idea. The board is of the opinion that the quantity of hand work actually done by the sculptor on this metal statuary is as great if not greater than that done by the artist himself on the average marble statue. If such statuary is not "wrought by hand from metal," there would seem to be no modern metal statuary to which paragraph 454 could apply. While in ancient and medieval times a method existed of making metal statuary by hammering sheets of copper or bronze into the desired shape, that method is practically unknown at the present day. We accordingly hold that the statuary in question is entitled to assessment as such under the reciprocity agreement with Italy, at 15 per cent ad valorem.

It is asserted in the appellee's brief that no appeal has been taken by the Government from the board's decision.

Convinced, as we are, that La Bellona is a bronze statue, we are of the opinion that the importer does not lose the benefit of the lower duty because the face, arms, and feet are of ivory. Paragraph 454 does not say that a marble statue must be exclusively of marble or a metal statue exclusively of metal. The limited use of ivory does not make La Bellona an ivory statue any more than the limited use of glass makes it a glass statue. It is enough that the metal so greatly predominates as to characterize the entire work. Any other interpretation would exclude a bronze statue supported on a stone pedestal, or a marble statue carrying a metal shield or spear. The distinction is important when considering "manufactures," but it becomes insignificant when considering works of art. The fact that we are dealing with a metal statue overrides minor considerations.

Were it necessary to do so, the well-known doctrine that duties should not be imposed upon the citizen upon a vague or doubtful interpretation of the law might be invoked in favor of the appellee. (Hartranft *v.* Wiegmann, 121 U. S., 609.) Especially is this doctrine applicable to a case which is *sui generis* and which relates to a work of art which is in a class by itself.

The judgment is affirmed.

EXHIBIT 19—(T. D. 28426—G. A. 6666)—*Black-eyed peas.*

Merchandise invoiced as "black-eyed beans," but shown by testimony to be commercially known as black-eyed peas, *Held* dutiable as "pease, dried, not specially provided for," at 30 cents per bushel under paragraph 250, tariff act of 1897, and not as beans at 45 cents per bushel under paragraph 240.

United States General Appraisers, New York, September 20, 1907.

In the matter of protest 243685 of Wallerstein Produce Company against the assessment of duty by the collector of customs at the port of Richmond.

Before Board 3 (WAITE, SOMERVILLE, and HAY, general appraisers; SOMERVILLE, G. A., absent).

WAITE, *general appraiser:* The importation in question in this case consists of 1,000 bags of "black-eyed beans," as described in the invoice. The testimony shows that

the commodity is known as cowpeas or black-eyed peas. The importation was assessed for duty at 45 cents per bushel as beans under paragraph 240, tariff act of 1897. It is claimed by the importers to be dutiable at 30 cents per bushel as "pease, dried, not specially provided for," under paragraph 250. The paragraphs involved read as follows:

240. Beans, forty-five cents per bushel of sixty pounds.

250. Pease, green, in bulk or in barrels, sacks, or similar packages, and seed pease, forty cents per bushel of sixty pounds; pease, dried, not specially provided for, thirty cents per bushel; split pease, forty cents per bushel of sixty pounds; pease in cartons, papers, or other small packages, one cent per pound.

A portion of the importation was submitted to the Secretary of Agriculture for identification, and in his report he describes the article in the following language:

"These seeds are cowpeas, *Vigna unguiculata*, and consist of two varieties, the so-called black eye and the so-called brown eye. Botanically speaking, cowpeas are neither true beans nor true peas, though most closely relating to the former."

He further says:

"The use of cowpeas as a crop is, however, totally different from that of either the true beans or the true peas. A very large proportion of the cowpea crop growing in this country is for use as hay, though a considerable part is plowed in under as green manure. * * * These two varieties, namely, the black eye and the brown eye, are used more or less as human food, though none of the other varieties of cowpeas are so employed."

If the testimony with regard to this commodity ended here, we should be inclined upon inspection of the sample, to classify it as beans. It appears, however, from the record that it occupies a sort of intermediate position between the bean and the pea; and as we can not conclude that this particular commodity is well known by the common and universally accepted name of bean or pea, we think it is a case where, for duty purposes, we should rely upon commercial designation, if there is one. The testimony of three witnesses on the behalf of the importers is found in the record. They are men of integrity and good standing, apparently, and have had long experience in handling peas and beans—one of them at least both here and in the South, where, we learn, the commodity in question is extensively grown. We think the testimony clearly shows that they are known—and were at the time of the passage of the act—in the trade and commerce of this country as peas, either cowpeas or black-eyed peas. We do not think the evidence would warrant us in finding that they are seed peas, as there appears to be just as much proof that they are for table consumption as that they are imported for seed purposes.

The protest is therefore sustained and the collector's decision reversed.

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