

FAIRBANKS and others v. SPAULDING, Collector.

(Circuit Court, N. D. Illinois. January 22, 1884.)

CUSTOMS DUTIES—STEARINE.

Stearine is not to be classed as "tallow," but as a "manufacture of tallow," and as such is subject to a duty of 25 per cent.

At Law.

Storck & Schumann, for plaintiff.

Gen. Joseph B. Leake, Dist. Atty., for defendant.

BLONGETT, J. In February, 1882, the plaintiffs imported two invoices of merchandise, entered as "tallow" and dutiable under schedule M of section 2504 of the Revised Statutes. The article so entered as "tallow" was classed by the inspector as "a manufacture of tallow" under section 2516, and charged a duty at the rate of 20 per cent. *ad valorem*. The plaintiffs paid, under protest, the duty so charged and bring this suit to recover the difference between the amount paid at the rate of 20 per cent. *ad valorem* and what would have been the amount of the duty on this commodity had it been classed as tallow and charged with duty at the rate of 1 per cent. per pound, as provided in schedule M, § 2504. The only question in the case is one of fact, whether the article imported was tallow or a manufacture of tallow, and the preponderance of proof, I think, shows quite satisfactorily that this imported article was stearine, and that stearine is one of the products resulting from the manufacture of tallow. It is a hard substance or residuum, left after extracting or pressing the oil from the tallow, and the proof fully satisfies me that this is stearine—that it had passed through the process of pressing, and was, at the time of its importation, a manufacture of tallow, and not tallow in its natural condition. The plaintiffs' counsel also contends that this article is entitled to come in under the free list provided for in section 2505, as "grease for use as soap stock only;" but there are, as it seems to me, two complete answers to this proposition: *First*, that the protest claimed that the article was "tallow" and dutiable at 1 per cent. per pound, and he is confined to the case made by his protest, under section 2931. *Second*, there is no proof that this article is "grease for soap stock only." The court perhaps might, from common knowledge, say any fatty substance can be used in some way for the manufacture of soap, but I cannot say, and certainly the proof does not aid me in saying, that this stearine is only used for the manufacture of soaps.

There will be a finding, therefore, for the defendant.

LEAHY v. SPAULDING, Collector.

(Circuit Court, N. D. Illinois. January 22, 1884.)

CUSTOMS DUTIES—SILK AND COTTON SHAWLS.

Certain shawls worth 15 shillings and 6 pence, containing one shilling and six pence worth of silk, and the rest cotton, *held*, subject to a duty of 35 per cent. only, as "shawls, cotton chief value," instead of 60 per cent., as "wearing apparel, silk chief value."

At Law.

Storck & Schumann, for plaintiff.

Gen. Joseph B. Leake, Dist. Atty., for defendant.

BLODGETT, J. The only question in this case is whether certain shawls imported by the plaintiff and which were classed as "wearing apparel, silk chief value," and charged with duty at the rate of 60 per cent. *ad valorem*, were improperly so classed and should have been classed as "shawls, cotton chief value," and charged with duty at 35 per cent. *ad valorem*. The proof shows, without dispute, that much the larger component in value of these shawls is cotton. According to the proof the value of these shawls was 15 shillings and 6 pence each, while, if all cotton, they would have only cost 14 shillings each, thus showing that they contained only a very small proportion of silk, and that their value was not increased over 1 shilling and 6 pence by the silk they contain.

The issues will be found for the plaintiff.

KIRK and another v. ELKINS MANUF'G & GAS Co.¹

(Circuit Court, E. D. Pennsylvania. February 13, 1884.)

PATENT FOR INVENTION—INFRINGEMENT.

Patent No. 201,536, for improvement in bronze alloys, not infringed by defendant's metal or alloy, known as "Ajax Metal," in which copper, tin, and arsenic occur in proportions different from the proportions specified in complainant's patent.

Hearing on Bill, Answer, and Proofs.

This was a bill to restrain an infringement of patent No. 201,536, dated March 19, 1878, for improvement in bronze alloys, issued to Edward C. Kirk.

H. T. Fenton, for complainants.

John G. Johnson, for respondents.

¹Reported by Albert B. Guilbert, Esq., of the Philadelphia bar.