

WEDEMEYER AND OTHERS v.LANCASTER, SURVEYOR, ETC.

*Circuit Court, E. D. Missouri, E. D.*

June 8, 1887.

CUSTOMS DUTIES—SMOKERS' ARTICLES—LAMPS.

Small lamps, such as are mainly used for lighting pipes and cigars, and are usually carried in stock by those who deal in pipes and other articles of that sort, are "smokers' articles," within the meaning of that term as used in Schedule N of the tariff act of 1880, and are chargeable with a duty of 70 per cent, *ad valorem*.

At Law. Suit to recover excessive duties.

*John M. Hohnes*, for plaintiffs.

*Thomas P. Bashaw*, for defendant.

THAYER, J., (*orally*.) The question in this case is whether the duty on a small pocket lamp, like this which I exhibit, should be 70 per cent. *ad valorem*, or 35 per cent, *ad valorem*. That depends upon whether it is a "smoker's article." My judgment, under the testimony, is that it is a "smoker's article." They are certainly used by smokers. They may be used at times for other purposes. I do not think, however, that to constitute an article within the meaning of the law "a smoker's article," it should be made to appear that it is *exclusively* used by smokers. It is sufficient if the article is mainly so used. If it is an article that is usually carried in stock by those who deal in pipes, and other articles of that sort, it should be classed as a smoker's article. That it is mainly used for lighting pipes and cigars is evident. I think that it is properly chargeable with a duty of 70 per cent, *ad valorem*, which was the duty imposed.

In this case, therefore, judgment will be entered in favor of the defendant.