

LESHER *ET AL.* V. SEEBERGEB, COLLECTOR.

*Circuit Court, N. D. Illinois.*

July 18, 1889.

CUSTOMS DUTIES—SILK FABRICS.

A light woven fabric, used for the lining of coats, of which one-sixth of the material is silk and the rest cotton, and in which one proportion in bulk of silk is worth as much as seven proportions of cotton, is properly assessed for duty, under clause 383, Heyl's Arrangement of the Act of Cong. March 3, 1883, at the rate of 50 per cent *ad valorem*, as manufacture of silk and cotton, of which silk is the component material of chief value.

At Law. Action to recover duties paid under protest.

*P. L. Shuman*, for plaintiffs.

*W. G. Ewing*, U. S. Dist. Atty., and *G. H. Harris*, Asst. U. S. Atty., for defendant.

BLODGETT, J. Plaintiffs imported a quantity of goods invoiced as "silkstriped cotton satins," being a light woven fabric mainly used by tailors for linings for coat-sleeves and the backs of vests. The collector assessed the same for duty as manufactures of silk and cotton, silk being the component material of chief value, and assessed duty thereon at the rate of 50 per cent. *ad valorem*, under clause 383 of Heyl's Arrangement of the Act of March 3, 1883. The plaintiff, insisting that the component material of chief value in said goods was cotton, paid the duties assessed under protest, took an appeal to the secretary of the treasury, by whom the action of the collector was affirmed, and now brings this suit to recover back the excess of duties demanded, insisting that said goods were dutiable, under clause 324a of Heyl, "as cotton cords, braids, gimps, galloons, webbing, goring, suspenders, braces, and all manufactures of cotton not specially enumerated or provided for in this act, 35 per centum *ad valorem*."

The proof in the case shows that the filling of the goods in question is wholly of cotton, and that the warp is made of alternate stripes of silk and cotton, the cotton stripes being about twice as wide as the silk stripes, so that about one-third of the warp may be said to be silk. Assuming that all the filling and two-thirds of the warp is cotton, this leaves one-sixth of the entire material consisting of silk; and the proof further shows that the relative values of the silk and cotton are in the proportion of one to seven,—that is, one proportion in bulk of silk is worth as much as seven proportions in bulk of cotton; while the proof shows that, where the proportion of silk is 12 per cent. or over in bulk, silk would be the component material of chief value. The proof in this case showing that the silk in these goods is equal to 16½ per cent. of the entire bulk, there there can be no doubt that the collector correctly classed these goods as silk, and that they were properly dutiable at 50 per cent. *ad valorem*