

UNITED STATES *V.* WINDMULLER *ET AL.*

*Circuit Court, S. D. New York.*

April 29, 1890.

CUSTOMS DUTIES—“WOOD AND WOODEN WARES”—GUN BLOCKS.

Under Act Cong. March 3, 1883, prescribing rates of duty on wood and wooden wares, gun blocks, which are not “rough-hewn or sawed only,” but are planed on two sides, are subject to an *ad valorem* duty of 35 per cent.

At Law. On writ of error from district court.

*Edward Mitchell*, for the United States.

*Hartley & Coleman*, for defendants in error.

WALLACE, J. The provisions of Schedule D of the tariff act of March 3, 1883, in prescribing rates of duty to be collected upon wood and wooden wares, make a plain discrimination between articles that are hewn and sawed, or sawed only, and those that are planed on one or both sides. Unless gun blocks are “rough-hewn or sawed only,” they fall within the classification of “manufactures of wood not specifically enumerated or provided for,” and are subject to an *ad valorem* duty of 35 per centum. The gun blocks imported by the defendants in error were made from planks first sawed to get the proper thickness of lumber, and then passed under a planing-machine, after which they were cut from the planks in the form of the design marked out in pencil on the planed surfaces of the planks. Thus, when imported, they were planed on both sides, and were a manufactured article in a crude form. The court below erred in instructing the jury to find a verdict for the defendants. Such an instruction could only have been warranted by evidence showing that the gun blocks were rough-hewn or sawed only, and the testimony was all the other way. The judgment is reversed, and the case remanded to the district court for a new trial; costs of this court to be paid by the defendants in error.