

MILLER *v.* SEEBERGER, COLLECTOR.

*Circuit Court, N. D. Illinois.*

July 31, 1890.

CUSTOMS DUTIES—CLASSIFICATION—BROWN GREASE.

The fatty matter known as “de gras,” or brown grease, obtained from wool in the process of cleansing, and principally used by tanners for stuffing leather, which remains of about the solidity of lard at the ordinary temperature, is not dutiable as an “expressed” or “rendered” oil, under the tariff act of March 3, 1883, cl. 92, (Heyl,) but as grease “not specially enumerated,” under clause 437.

At Law.

*Shuman & Defrees*, for complainant.

*W. G. Ewing*, U. S. Dist. Atty., for defendant.

BLODGETT, J. Plaintiff imported an article known as “de gras,” or brown grease, upon which the collector assessed a duty at the rate of 25 per cent. *ad valorem*, as “expressed oil” or “rendered oil,” under clause 92 of Heyl’s Arrangement of the Tariff Act of March 3, 1883. Plaintiff insisted that the article in question was dutiable under clause 437 of Heyl, which reads: “Grease, all not specially enumerated or provided for in this act, ten per centum *ad valorem*,”—paid the duties under protest, appealed to the secretary of the treasury, by whom the action of the collector was affirmed, and now brings this suit in apt time to recover the excess of duties so paid. The proof shows that the commodity in question is the fatty matter which is obtained from wool in the process of cleansing for manufacture, it being perhaps well known that all wools contain more or less of this peculiar fatty substance, and of late years it has become the usage, among manufacturers of woolen goods, especially in France, Germany, and Belgium, to save this fatty or greasy substance, and it has gone into use, mainly by tanners, for stuffing

MILLER v. SEEBERGER, Collector.

leather. It is not a liquid or fluid oil, but at the ordinary temperature maintains about the same degree of solidity as lard. It has some peculiar qualities,—for instance, only a small proportion of it will unite with alkali and form soap, and yet it is very penetrating, and makes leather very soft and pliable. It is not, as the proof shows, an “expressed oil” nor a “rendered oil,” but it is gathered from the water with which the wool is washed by several processes, which have been lately put in use.

The case bears, I think, wholly upon the question of fact as to whether this is an “expressed” or “rendered oil.” The ordinary definition of oil is a fatty or oleaginous substance, which remains fluid in ordinary temperature; and by the term “ordinary temperature” in these definitions I think is meant the temperature at which the animal system comfortably exists. It does not mean a temperature so cool as that artificial heat is requisite for personal comfort, nor so warm that persons are uncomfortable by reason of the heat, but the ordinary temperature in which people work and study with comfort. The substance here in question is solid at this ordinary temperature, and hence it cannot, I think, be classed as an oil, but, by reason of the chief use to which it has so far been applied in this country, it seems to me to come clearly within the definition of “grease not otherwise enumerated,” and should have been assessed for duty at 10 per cent. *ad valorem*.