

lic as "proprietary articles, or prepared according to some private formula, as remedies or specifics for any disease or diseases or affections whatever." And that, I think, is the idea,—that whatever is medicinal, recommended as such,—it may be good for something, or it may not,—but if it is of that kind of stuff that is got up to make folks think it will cure them,—that comes under paragraph 99; but if it is for a drink, for use as a beverage and not for cure, then it will come under 313; and I so decide this case. The decision of the board of United States general appraisers is affirmed.

In re STERN.

(Circuit Court, S. D. New York. February 17, 1892.)

1. CUSTOMS DUTIES—COLLECTION OF ANTIQUITIES—ACT OCT. 1, 1890, CONSTRUED.

Two articles, produced at a period prior to the year 1700, do not constitute a collection of antiquities, within the meaning of the provision for such collections contained in paragraph 524 of the tariff act of October 1, 1890, (26 U. S. St. p. 567.)

2. SAME.

Whether or not an article produced at such period is within this provision does not depend upon the fact whether it has belonged to a collection of antiquities, or is imported to add to such a collection, but whether it is a part of such a collection when it is brought in.

(*Syllabus by the Court.*)

At Law. Appeal by Louis Stern for a review of the decision of United States general appraisers.

The above-named Louis Stern imported April 27, 1891, by the Spree, from a foreign country into the port of New York, two antique Gobelin tapestries, made of wool and silk, wool being the component material of chief value. These two tapestries were classified for duty as manufactures made in part of wool under the provision for such manufactures contained in paragraph 392 of the tariff act of October 1, 1890, (26 U. S. St. p. 567,) and duty at the compound rates prescribed thereby for manufactures of that kind was exacted thereon by the collector of that port. Against this classification and this exaction the importer protested, claiming that these tapestries were a collection of antiquities and products of a period prior to the year 1700, were suitable for souvenirs, were purchased by him for the purpose of adding to his collection of antiquities in New York, and were, therefore, entitled to entry free of duty, under the provision for such collection contained in paragraph 524 of the same tariff act, which reads:

"Cabinets of old coins and medals, and other collections of antiquities; but the term 'antiquities,' as used in this act, shall include only such articles as are suitable for souvenirs or cabinet collections, and which shall have been produced at any period prior to the year seventeen hundred."

The board of United States general appraisers, after taking evidence, found that these two tapestries were made of wool and silk, wool being

the component material of chief value; that they were produced at a period prior to the year 1700; that they and two other antique Gobelin tapestries, produced at a like period, were all purchased by the said Louis Stern for the purpose of adding them to a collection of curiosities and bric-a-brac, which he owned at the time in New York; that the two tapestries in suit were placed by the said Stern in his apartment in a foreign country, while temporarily residing there, being thus designedly separated from the other two tapestries, so as to destroy the unity of assemblage; that the two in suit were ordered to be shipped to this country, and were shipped on a different vessel from that in which the other two were imported; that these tapestries were not suitable for souvenirs, or for a cabinet of collections of antiquarian curiosities, within the meaning of paragraph 524, and were not free of duty thereunder; and the board affirmed the decision of the collector as to the aforesaid classification and exaction made by him. From this decision of the board the importer appealed to the United States circuit court for a review of the questions of law and fact involved, and thereafter, upon the return made by the board, this case was tried.

W. Wickham Smith, of Curie, Smith & Mackie, for appellant.

Edward Mitchell, U. S. Atty., and Thomas Greenwood, Asst. U. S. Atty., for appellee.

WALLACE, Circuit Judge. Inasmuch as the question in this case can very readily be reviewed by the circuit court of appeals, I am not disposed to feel trammelled by any of the previous decisions in this circuit, or in any other circuit, in respect to it. I think a "collection" means something more than two articles. I also think that whether an article is dutiable or not under this particular clause does not depend upon the fact whether it has belonged to a collection or is imported to add to a collection, but whether it is a part of a collection when it is brought in. Therefore I hold that these tapestries were dutiable, and I affirm the decision of the board of appraisers.

In re Boyd et al.

(Circuit Court, S. D. New York. February 18, 1892.)

CUSTOMS DUTIES—ACT OF OCTOBER 1, 1890—CLASSIFICATION—COTTON LACE APRONS.

Aprons made of cotton lace held not to be dutiable, as articles of wearing apparel, at 50 per cent. *ad valorem*, under paragraph 849 of the act of October 1, 1890, but dutiable, as "articles made wholly or in part of lace," at 60 per cent. *ad valorem*, under paragraph 873 of said act.

(Syllabus by the Court.)

At Law. Appeal by collector of the port of New York from decision of the board of United States general appraisers under the act of June 10, 1890.