not otherwise provided for a duty of 50 per cent. should be levied and collected. 'Silk veils, it is said, are specifically enumerated as being liable to a duty of 60 per cent., and the articles in question, being veils of which the material is silk, are within the enumerating clause of the statute. If this were all, the argument would be a strong one. But the fact that the veils in question are universally known and recognized among merchants and importers as 'crepe veils,' and not otherwise, and are never called or known as 'silk veils,' is to be taken into account. Although crepe is shown to be a material of silk to which a certain resinous substance has been applied, neither the merchant nor the ordinary buyer understands them to be identical. Neither the merchant who should order a case of crepes and receive one of silk goods, or who should order silk and receive crepe, nor the individual purchaser who should order a dress of silk and receive one of crepe, or should order crepe for mourning and receive silk, would deem that the order had been properly filled. The general understanding concurs in this respect with that of the trader and importer, and must determine the construction to be given to the language of the statute."

It seems to me that the error of the board of general appraisers lies in their conclusion that, because the goods in question are made after the manner of laces, and have the substantial characteristics of laces, therefore they are commercially laces, while I think the weight of proof clearly shows that they are not commercially known as "laces," but as "nets" and "veilings" and "drapery nets." It is due to the board of general appraisers to say that the additional proof taken under the order of this court since the appeal is much more full and convincing as to the commercial designation of these goods than that made by the proof before the commission. For these reasons the decision of the board of general appraisers is reversed, and the collector of the port of Chicago is ordered to reliquidate the entries according to this decision.

In re HIGGINS *et al.*

(Circuit Court, S. D. New York. January 12, 1892.)

1. CUSTOMS DUTIES—DUTY ON WOOL—SORTING.
   Tariff Act Oct. 1, 1890; construction of paragraphs 383, 385, 386.
2. SAME.
   The "sorting clause" (so called) of paragraph 383, Schedule K, Tariff Act Oct. 1, 1890, (26 U. S. St. p. 567,) applies to wools of all classes.
3. SAME.
   The term "sorting" in paragraph 383 means a changing of the original fleeces, and not a separation of wools as to color.
4. SAME.
   The provision that "the duty on wool which has been sorted shall be twice the duty to which it would be otherwise subject" means "twice the duty to which it would have been subject if it had not been sorted."
5. SAME.
   In applying the "sorting clause" to wools of the third class, which are subject to *ad valorem* duties, the value of the wool in an unsorted condition should be ascertained, and multiplied by twice the rate provided by law for wool of such value. *Arthur v. Pastor*, 109 U. S. 139, 3 Sup. Ct. Rep. 96, followed.

6. SAME.
The proviso in paragraph 383 that "wools on which a duty is assessed amounting to three times or more than that which would be assessed if said wool was imported unwashed, such duty shall not be doubled on account of its being sorted," applies to wools of all classes.

7. SAME.
Where sorted wool of class 3 is worth over 13 cents per pound, and the duty thereon at 50 per cent. *ad valorem*, under paragraph 386, amounts to more than three times the duty which could have been assessed upon it if it had been imported unwashed, double duty cannot be assessed upon it, under the sorting clause of paragraph 383.

(*Syllabus by the Court.*)

At Law. Appeal by collector from decision of board of United States general appraisers. Affirmed.

In April, 1891, Messrs. Higgins & Co., carpet manufacturers, in the city of New York, imported from Liverpool a quantity of carpet (third-class) wool. Some of these wools were gray, some yellow, and some white. The invoice price of the gray and yellow wools amounted to less than 13 cents per pound, and of the white wool to more than 13 cents per pound. On the entry of the merchandise they paid, as estimated duties, 32 per cent. *ad valorem* on the gray and yellow wools, under paragraph 385, Schedule K, Act Oct. 1, 1890, and on the white wool 50 per cent. *ad valorem*, under paragraph 386 of the same act and schedule. The United States local appraiser returned all these wools as "sorted wools," and thereupon the collector, acting under special instructions of the secretary of the treasury, (Synopsis Treas. Dec. § 11,307,) liquidated the duties at 64 per cent. upon the invoice value of the gray and yellow wools, (paragraphs 385, 383) and 100 per cent. upon the invoice value of the white wool, (paragraphs 386, 383.) Demand was made upon Higgins & Co. for upwards of $7,000 additional duties, which they paid under protest. The substantial averments of the protest were as follows:

First. We protest against the exaction upon the gray and yellow wool contained in said importations of more than 32 per cent. *ad valorem*, and upon the white wool contained in said importations of more than 50 per cent. *ad valorem*, on the ground that being wools of the third class, and valued, the gray and yellow at less, and the white at more, than 13 cents per pound, they are subject only to such rates, and no more, by virtue of paragraphs 385, 386, Schedule K, Act Oct. 1, 1890. *Second.* We further claim that none of our wools have been imported in other than ordinary condition, or changed in character or condition, for the purpose of evading the duty, or reduced in value by the admixture of dirt or any other foreign substance. *Third.* We protest against the application to our wool of the clause in paragraph 383, Schedule K, of said act, which provides that "the duty upon wool of the sheep * * * which has been sorted, or increased in value by the rejection of any part of the original fleece, shall be twice the duty to which it would be otherwise subject," etc., on the ground that said provision applies only to wools of classes 1 and 2, which are subject to specific duties. *Fourth.* We claim that the intent of the lawmakers in enacting the "sorting" clause above quoted is fully satisfied in the case of third-class wools, by the grading of the duties under the *ad valorem* system, as the increase of the rate from 32 per cent. to 50 per cent., and the increase of the values upon which the rate is assessed, makes the wools, after the colors have been separated, pay double the duty

which they would have paid if not separated. *Fifth.* We claim that none of the wools covered by said importation are "sorted," within the meaning of that term as used among merchants and dealers. We claim that the term "sorting," as used in commercial parlance and in the tariff, means a separation of parts of the fleece with reference to their quality and value, while in the case of our wools there has been simply a separation as to color, the white wools having been taken from the gray and yellow wools; and, even if the separation of the wools according to color could be held to be sorting, the result of that process in the case of our gray and yellow wools has been to decrease, and not increase, their value. *Sixth.* If the sorting clause of paragraph 383, above quoted, can be applied to third-class wools, then we claim that our wools are expressly excepted from the application of said clause by the terms of said paragraph, because the yellow wool is skirted wool as imported, and commercially known on and prior to October 1, 1890, and the white wool has already had assessed upon it a duty amounting to three times that which would be assessed if said wool was imported unwashed. *Seventh.* If the above-quoted sorting clause of paragraph 383 should be held applicable to our wools, then we claim that the exaction of 64 per cent. or 100 per cent. upon the invoice prices of our wools is illegal, and that it is the duty of the appraiser to ascertain and report what would be the value of our wools if the white wool had not been separated from the gray and yellow wools, which value, we assert, would be very much less than 13 cents per pound; and that, if the sorting clause can be applied to our wools, it is then your duty to assess 64 per cent. duty on the reduced valuation so ascertained by the appraiser, which duties we claim would be less than the duties at 32 per cent. and 50 per cent. already paid by us. *Eighth.* We claim that where goods are subject to a graded *ad valorem* duty, and the process of separating them has so increased the value of any of them as to advance them from one grade to another, no provision of law for doubling the duty to which they would be otherwise subject can justify you in doubling the rate of duty applicable to the higher grade, and assessing it upon the valuation as increased by the process of separation.

The protest was transmitted to the United States board of general appraisers, pursuant to section 14 of the act of June 10, 1890, (Customs Administrative Act; 26 U. S. St. p. 131,) and a hearing was had before them. It was proven that it had been for many years the custom in the wool markets of Liverpool to separate East India wools of this character according to their color, and that such wools were imported into this country so separated; that these wools had not been changed in their character or condition for the purpose of evading the duty, nor had they been reduced in value by the admixture of dirt or any other foreign substance; that, as to the gray and yellow wools, there had been no separation except as to color; that the white wool had been separated both as to color and quality; that the effect of separating gray and yellow wools from white wools was to reduce their value; that the white wool, as imported, was worth ninepence per pound, whereas, if it had not been sorted, its value would have been sixpence per pound, and, if it were unwashed, its value would be twopence per pound; and that all of said wools were intended to be used, and had in fact been used, to make carpets.

The board of appraisers decided: (1) That separating wools as to color was not "sorting," within the meaning of the law. (2) That the sorting clause applied to all classes of wool. (3) That the gray and yellow

wools were not and the white wool was sorted, within the meaning of the law. (4) That the white wool had already paid (at 50 per cent. on its invoice value) double the duty to which it would have been subject if imported unsorted, and three times the duty to which it would have been subject if imported unwashed. (5) That the decision of the collector should be reversed, and the entry reliquidated. From this decision the collector, under section 15 of the customs administrative act, appealed to the circuit court.

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

Curie, Smith & Mackie, (*W. Wickham Smith*, of counsel,) for respondents.

WHEELER, District Judge. The question here arises upon that part of clause 383 of Schedule K of the tariff act of 1890 which provides that the duty upon the wool "which has been sorted, or increased in value by the rejection of any part of the original fleece, shall be twice the duty to which it would be otherwise subject: *provided*, that skirted wools, as now imported, are hereby excepted. Wools on which a duty is assessed amounting to three times or more than that which would be assessed if said wool was imported unwashed, such duty shall not be doubled on account of its being sorted." The importation was of white, yellow, and gray wools, which had been separated by colors, and the value of the white increased and of the yellow and gray lessened. The collector, under some direction, considered the whole to have been sorted, and doubled the duty on its value as sorted. The general appraisers reversed this, and decided that the duty on the white wool should not be doubled, because the single duty amounted to more than three times as much as if it had been imported unwashed; and that the yellow and gray had not been sorted, within the meaning of the law. The duty to which the sorted wool would be otherwise subject would seem clearly to be that to which it would have been subject if unsorted, and not that which would be the duty when sorted. The other construction would make this clause mean that, under these circumstances, the duty should be double what it would be undoubled. If this separation into colors was sorting, it would be a sorting of the whole, as it all was brought; and the duty on the whole, unsorted, would have to be doubled, unless it amounted to more than three times what the duty on the whole, unwashed, would have been. But sorting seems to refer to changing the original fleece. This brings in the proviso that it shall not apply to skirted wools. The fleeces of the yellow and gray wools do not appear to have been sorted in the fleece, and are found not to have been sorted at all. As the duty on the white wool was more than three times what it would have been if the wool had been imported unwashed, that was not to be doubled, and as the yellow and gray had not been sorted, that was not to be, and none was to be, doubled. The decision of the board of general appraisers is therefore affirmed.

In re BOSTON BOOK CO.

(*Circuit Court, D. Massachusetts.* June 2, 1892.)

No. 3,556.

CUSTOMS DUTIES—BOOKS.

Under the tariff act of 1890, par. 512, books printed and bound more than 20 years ago are entitled to entry free, notwithstanding that they have been recently rebound.

At Law. Petition for review of a decision by the board of general appraisers.

The Boston Book Company ordered from London a secondhand set of Howell's State Trials, 34 volumes, which were published in successive volumes between the years 1809 and 1828. On arrival of the set (per steamship Scythia, April 13, 1891) the appraiser at the port of Boston found that, while printed more than 20 years ago, it had evidently been recently rebound, and the collector therefore assessed upon it (April 23d) a duty of 25 per cent. upon the value, (£16.10,) under the provision of the present tariff, which requires a book to have been "printed and bound" more than 20 years to be admitted free. This duty, amounting to $20.50, the Boston Book Company paid under protest on April 29, 1891, and the same day entered an appeal to the board of United States general appraisers against the imposition of this duty. On May 29, 1891, the board of United States general appraisers sustained the decision of the collector of the port of Boston, and so notified the appellant.

Augustus Russ, for petitioner.

Frank D. Allen, U. S. Atty., for collector.

PUTNAM, Circuit Judge. The treasury department twice ruled—the last time January 29, 1886—that under the tariff act of 1883 books printed more than 20 years, but imported in sheets, were not entitled to free entry. The attorney general, however, advised otherwise September 16, 1886, (18 Op. Attys. Gen. 461.) He reached this conclusion by making "bound or unbound" relate to the preceding word "books." It is my belief that the change in phraseology which appears in the act of October 1, 1890, par. 512, so far as it reaches the present case, should be construed as intended to remove this doubt, and to make certain that the general policy concerning this subject-matter was not extended as the opinion of the attorney general permitted. This was, perhaps, sought to be accomplished by striking out the comma after "unbound," for whatever such striking out might be worth, so as, perhaps, to make that word limit what followed it, and not what preceded. It was reached effectually and certainly by inserting "bound or" after the words "printed and." The present paragraph 512 is therefore to be construed distributively; the words "printed and bound" referring to whatever should be bound to complete it as an article of merchandize, and "printed" and "manufactured" to everything else. I discover no