

in the indictment is a United States note. This objection cannot be sustained. The decisions are that, where a bill is set out by its tenor in an indictment, any designation of it in the indictment is immaterial. It was so held by this court in the case of *U. S. v. Bennett*, 17 Blatchf. 357. The prior case of *U. S. v. Mason*, 12 Blatchf. 497, is not contrary to this. All that was said in the *Mason Case* is that a wrong designation of the bill was a defect. It was not said to be a fatal defect, and the count was not held bad for that reason, but for other reasons stated. The law applicable here is stated in *Bennett's Case*, *supra*.

Next it is contended that there is a fatal variance between the indictment and the proof because all the matter printed on the back of the note put in evidence is not set forth in the indictment. The matter set forth in the indictment was proved as laid. The indictment does not charge that the matter set forth constituted all the matter on the back of the bill, nor was it necessary to set forth all the matter on the back of the bill. What is omitted is a mere notice required by law to be placed upon notes of this character, but which is no part of the contract. The allegation of the indictment that the bill was in the words and figures following does not mean that all the words and figures printed on the back of the bill, and forming no part of the contract set forth on the face of the bill, are stated. Where an instrument is set forth in the indictment by its purport, the allegation refers to what appears on the face of the instrument. *U. S. v. Hinman*, 1 *Baldw.* 292.

The remaining question is raised by the objection taken to the proving that the accused was the person who passed the bill to Abel by the confession of the accused that he so passed it. In support of this objection the rule that the *corpus delicti* cannot be proved by the admission of the accused is relied on. That rule was not infringed at the trial of this case. When the charge is uttering counterfeit money with intent to defraud, the *corpus delicti* is sufficiently proved when it is shown that the counterfeit bill described had been uttered as true. That being shown, the agency of the accused in passing the bill may be shown by his confession. *Abb. Tr. Brief*, p. 305. In this case the uttering of the bill as true to Abel was clearly proved before evidence of the confession of the accused was admitted.

I am also asked to set aside the verdict as not supported by the weight of evidence. In my opinion the verdict was in accordance with the weight of evidence.

Both motions must therefore be dismissed.

In re STANDARD VARNISH WORKS.

(Circuit Court, S. D. New York. January 9, 1893.)

CUSTOMS DUTIES—CANDLE TAR—ACT OCT. 1, 1890.

The article known in trade as "candle tar" or "palm pitch" is not dutiable as "waste," under paragraph 472, at 10 per cent. ad valorem, but is properly assessed as a nonenumerated manufactured article at 20 per cent. ad valorem, under section 4 of the act of October 1, 1890.

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

The Standard Varnish Works imported by the steamer California on May 18, 1891, certain merchandise known as "candle tar" or "palm pitch," which was classified and assessed for duty by the collector of customs at New York as a nonenumerated manufactured article, at 20 per cent. ad valorem, under section 4 of the act of October 1, 1890. The importers duly protested, claiming the same to be dutiable at 10 per cent. ad valorem, as "waste," under paragraph 472 of said act. The board of United States general appraisers affirmed the assessment of the collector, and an appeal was taken by the importers to the United States circuit court, under the provisions of the act of June 10, 1890. The subject of the importation was produced by subjecting tallow, animal grease, and palm oil to treatment in closed retorts or boilers to superheated steam, whereby the stearine and the candle tar were separated, the stearine carried out of the retort by distillation, and the candle tar remaining in the retort. This manufacture resulted in the two products,—stearine and candle tar; the latter of which is used for waterproofing barrels, covering roofs, and also for increasing the body of varnish. The importers claimed it to be mere waste, and not a biproduct.

Edward Mitchell, U. S. Atty., and Henry C. Platt, Asst. U. S. Atty., for collector.

W. Wickham Smith, for importers.

COXE, District Judge, (orally.) The merchandise in this case is a manufactured article, and is imported, bought, sold and used, as an article of trade and commerce. It is not a natural product, and there is no evidence in the record to show that it can be made, except by the process described.

The decision of the United States general appraisers is affirmed.

In re WHITE et al.

(Circuit Court, S. D. New York. January 5, 1893.)

1. CUSTOMS DUTIES—APPEAL FROM GENERAL APPRAISERS—EVIDENCE.

The decisions of the board of United States general appraisers on disputed evidence as to the facts will not be disturbed by the court.

2. SAME—CLASSIFICATION—BURLAPS.

Paddings or canvas, from 18 to 24 inches in width, and used chiefly in the clothing trade, and for making small bags, and for similar purposes, are dutiable, under the act of October, 1890, as "burlaps," at 1½ cents per pound, under paragraph 364, and not as "manufactures of jute," at 40 per centum ad valorem, under paragraph 374 of said act.

3. SAME—CONSTRUCTION OF ACTS.

The act of March 3, 1883, provided specially for a duty upon "paddings" and "canvas" (paragraph 334) different from "burlaps," (paragraph 338.) but the act of October 1, 1890, omitted any special mention of paddings or canvas in any paragraph. Held that, as jute paddings or canvas are a species of "burlaps," they are now dutiable, as such, under the latter act.

At Law. Appeal from decision of the United States general appraisers. Affirmed.

The imported merchandise in this suit consisted of jute goods woven, from 18 to 24 inches in width, commonly known in the trade as "paddings" or "canvas," which were classified by the collector as "manufactures of jute," dutiable at 40 per cent. ad valorem, under paragraph 374 of the tariff act of October 1, 1890. The importers duly protested, claiming said merchandise to