

circuit courts, under section 4986, over the proceedings of the district courts in bankruptcy. The only language in that act which can possibly be read as intending to do so is found in section 4, which abrogates the appellate jurisdiction of the circuit courts, and transfers to the supreme court and circuit courts of appeals the jurisdiction theretofore exercised by appeal or writ of error by the circuit courts. That language does not necessarily or appropriately divest the circuit courts of a jurisdiction which is supervisory, instead of appellate, and which had not been exercised by an appeal or writ of error, and could have been upon a bill or a petition. The jurisdiction with which that section is concerned is distributed by sections 5 and 6; and in neither of those sections is there any warrant for the inference that congress intended that the appellate power should extend to a review of the interlocutory proceedings in a cause, or be burdened by the duties of such a general superintendence over matters of administrative detail as were reposed in the circuit courts, in bankruptcy cases, by section 4986. By section 6, the appellate jurisdiction deposited with the circuit courts of appeals is to review "final decisions" in the district courts and circuit courts by appeal or writ of error.

For these reasons, we conclude that the action of the district court in refusing to remove the assignee, which is complained of by the petitioner, can be reviewed by the circuit court; that there can be no review of the decision of the district court in refusing to dismiss the bills in equity for want of prosecution, except upon an appeal to this court from the final decrees in each of those suits; and that the motion by the assignee to dismiss the petition of appeal should be granted.

ALART et al. v. UNITED STATES.

(Circuit Court, S. D. New York. April 19, 1894.)

CUSTOMS DUTIES—CLASSIFICATION—VEGETABLES PACKED IN SALT—ACT OCT. 1, 1890.

Cucumbers and cauliflower, packed in salt, *held* dutiable at 45 per cent. ad valorem, under paragraph 287 of the act of October 1, 1890, as "vegetables * * * prepared or preserved, including pickles and sauces of all kinds," and not at 25 per cent. ad valorem, under paragraph 288 of said act, as "vegetables in their natural state not specially provided for."

Appeal by Importers from Decision of Board of United States General Appraisers. G. A. 302, 1080. Decision affirmed.

Certain vegetables, consisting of cucumbers and cauliflower packed in salt, in hogsheads, and imported into the port of New York in December, 1891, by Alart & McGuire, were assessed for duty by the collector of the port under paragraph 287, as above stated. The importers protested, claiming the merchandise was not "pickles," nor "vegetables, prepared or preserved," as known in trade and commerce, but that they were commercially known as "vegetables in their natural state," and properly dutiable under paragraph 288; that they were packed in dry salt only for convenience and preservation during transportation. The United States attorney contended that the terms "prepared or preserved" were not commercial terms, and had been judicially construed by the United States supreme court in *Presson v. Russell* (decided April 9, 1894) 14 Sup. Ct. 728, which construction would cover and include the imported merchandise in suit.

Stephen Greeley Clarke, for importers.
Henry C. Platt, U. S. Atty., for the United States.

TOWNSEND, District Judge (orally). The decision of the board of general appraisers is affirmed, under the decision of the United States supreme court in the case of *Presson v. Russell*, 14 Sup. Ct. 728, which seems to be decisive of the question.

RICH v. UNITED STATES.

(Circuit Court of Appeals, Second Circuit. May 10, 1894.)

No. 99.

CUSTOMS DUTIES—CLASSIFICATION—ARTISTS' COLORS.

Paragraphs 50 to 60, inclusive, of the paint and color schedule of the tariff act of October 1, 1890, impose different duties on various colors, while paragraph 61 imposes a duty on artists' colors of all kinds. Artists' colors are those named in the preceding paragraphs, when of a fine grade, and specially prepared, and put up for the use of artists. *Held*, that paragraph 61 applies to all artists' colors, and not only to those not enumerated in the preceding paragraphs.

Appraisement for duty of certain artists' colors, imported by one Rich. The circuit court affirmed the decision of the board of general appraisers. The importer appeals.

Comstock & Brown (Albert Comstock, of counsel), for appellant.
Henry C. Platt, U. S. Atty.

Before WALLACE and SHIPMAN, Circuit Judges.

WALLACE, Circuit Judge. By paragraphs 50 to 60, inclusive, of the paint and color schedule of the tariff act of October 1, 1890, duties are respectively imposed upon various colors, such as "blues," "chrome green," "ochre," "umber," "sienna," etc.; some colors being subjected to a specific, and others to an ad valorem, duty. By paragraph 61 of the same schedule, duty is imposed upon artists' colors of all kinds, in tubes or otherwise. Artists' colors are the colors named in the paragraphs preceding 61, when of a fine grade, specially prepared and put up for the use of artists in tubes, bottles, cakes, or pans, and include, also, some other specially prepared colors. The appellant imported certain colors, including blues, chrome green, ochre, umber, and sienna, of the fine grades, and specially prepared and put up in tubes for artists' use. The importations were commercially known as "artists' colors in tubes." The collector classified the merchandise for duty under paragraph 61. The importer protested, insisting that it should have been classified under paragraphs 50 to 55, 57 to 60, and 62 to 67. The board of general appraisers sustained the action of the collector. Upon appeal to the circuit court the decision of the board of general appraisers was affirmed.

It is contended for the appellant that the enumeration of the earlier paragraphs is the more specific, and that of paragraph 61 the

more general; consequently, that the latter can only apply to such colors as are not mentioned in the earlier paragraphs. The rule undoubtedly is that, where a tariff act imposes a duty on an article by a specific name or description, general terms in the act, though embracing it broadly, are not applicable to it, and the general must give way to the particular. We think the rule has no application to the present case. The case is not one where an article is differently described by different provisions of the act, one general and the other more specific, but is one where the different provisions describe different articles for duty. While the term "artists' colors in tubes or otherwise" describes a class comprehending many colors, it does not describe a class in which the colors of the earlier paragraphs are included. They do not belong to the class, because they are not of the special variety which it embraces until they are prepared for a particular use and put up in a particular form. Each paragraph has its appropriate operation without impinging upon the other. The colors which have undergone the special preparation necessary to bring them within the category commercially known as "artists' colors" are made dutiable by paragraph 61. The colors mentioned in the earlier paragraphs, which have not been advanced so as to bring them within that category, are dutiable under their respective paragraphs. As we are satisfied that the merchandise was properly classified by the collector, and that the decisions of the board of general appraisers and of the circuit court were correct, we do not deem it necessary to consider the question whether the protests of the importer were sufficiently specific. The judgment of the circuit court is affirmed.

THE STARBUCK.

EVANS et al. v. THE STARBUCK.

(District Court, E. D. Pennsylvania. May 4, 1894.)

No. 26.

ADMIRALTY JURISDICTION—DREDGE AND SCOWS.

A dredge and her scows are to be treated as one concern, and are subject to libel in admiralty for wages.

This was a libel by Evans and others against the dredge Starbuck to recover wages.

John Q. Lane and Jos. Hill Brinton, for libelants.

Henry R. Edmunds, for respondent.

BUTLER, District Judge. The claims are for wages. The respondent is a dredge, working in the water with the usual accompaniment of scows. That a dredge and her scows are to be treated as one concern, and are subject to the admiralty jurisdiction has been several times decided, and I think rightly. To discuss the subject would be waste of time. The question of admiralty jurisdiction has been so fully considered that nothing new can be added. The fol-