

the clay models were not imported, but the cast statues were, and merchandise paid duty according to its condition when imported.

The importer's counsel contended that as the clay models were wrought by hand, and the cast statues were finished by hand, under the supervision of the artist, they were wrought by hand, within the meaning of paragraph 465.

Wm. B. Coughtry, for importer.

Wallace Macfarlane, U. S. Atty., and Henry C. Platt, Asst. U. S. Atty.

WHEELER, District Judge (after stating the facts). These are small statues cast from bronze, and touched up and made expressive by the hands of sculptors. The tariff act of 1890 put a lower duty than was assessed on these statues on "such statuary as is cut, carved, or otherwise wrought by hand from a solid block or mass of marble, stone, or alabaster, or from metal, and is the professional production of a statuary or sculptor only." These are claimed to be such statuary, because they are wrought somewhat by professional hands. But the requirement that they should be wrought from metal by hand is very strict, and these statues are wrought so slightly by hand that they do not now appear to fairly come within it. The decision of the board of United States general appraisers is affirmed.

UNITED STATES v. CUMMINGS et al.

(Circuit Court, S. D. New York. January 2, 1895.)

1. CUSTOMS DUTIES — TARIFF ACT OCT. 1, 1890—WASTE COMPOSED IN PART OF WOOL—CLASSIFICATION.

Waste pieces of cloth, composed in part of rubber, cotton, and wool, held to be dutiable as "waste, composed in part of wool," at 30 per cent., under paragraph 388 of the tariff act of 1890, and not at 10 per cent., as "waste, not specially provided for in this act."

2. SAME.

The fact that the wool therein was not utilized after importation does not affect the classification of the merchandise for duty.

At Law. Appeal by the United States from a decision of the board of United States general appraisers. Board reversed.

The imported merchandise consisted of waste pieces of cloth, left over in the manufacture of waterproof garments, from which, after importation, the rubber could be extracted and utilized. It could also be used in the manufacture of roofing paper. The collector classified it under paragraph 388 (26 Stat. 595). The importers sought a review by the board of general appraisers. The board sustained their protest, reversed the collector, and decided it was dutiable under paragraph 472. The collector, on behalf of the United States, applied for a review by the United States circuit court, under the provisions of section 15 of the act of June 10, 1890.

Wallace Macfarlane, U. S. Atty., and Henry C. Platt, Asst. U. S. Atty.

Jarvis N. Atkinson, for importers.

Cited *Cruikshank v. U. S.*, 8 C. C. A. 171, 174, 59 Fed. 446; *U. S. v. Schoveling*, 146 U. S. 76, 13 Sup. Ct. 24; *Combs v. Erhardt*, 49 Fed. 635; *Worthington v. Robbins*, 139 U. S. 337, 11 Sup. Ct. 581.

WHEELER, District Judge. This importation was of waste pieces of cloth, composed of wool, cotton, and rubber, left over from the manufacture of waterproof garments. The wool cannot be profitably separated from the rubber. It was classified by the board of United States appraisers as "waste, not specially provided for," under paragraph 472 of the tariff act of 1890. But paragraph 388 provided for a duty on noils, shoddy, top waste, slubbing waste, roving waste, ring waste, yarn waste, garnetted waste, and all other wastes composed wholly or in part of wool. This waste is composed in part of wool, and falls within this description. It was none the less composed in part of wool because that part was not profitably available. *Robertson v. Perkins*, 129 U. S. 233, 9 Sup. Ct. 279. Decision reversed.

BREDT et al. v. UNITED STATES.

(Circuit Court, S. D. New York, January 15, 1895.)

CUSTOMS DUTIES—CLASSIFICATION—MACHINE BLANKETS—TARIFF ACT OF OCTOBER, 1890.

Thick-woven, endless woolen belts or blankets, for paper or printing machines, held dutiable at 44 cents per pound and 50 per cent. ad valorem, under the provision of paragraph 392 of the tariff act of October 1, 1890, as a manufacture wholly or in part of wool, not specially provided for, and not at 38½ cents per pound and 40 per cent. ad valorem, under the provision of paragraph 393 of said act, for "blankets."

At Law. Review of decision of board of United States general appraisers, under the act of June 10, 1890. Affirmed.

The assistant district attorney contended that the articles in paragraph 393, such as "blankets, hats of wool, and flannels for underwear," were articles of wearing apparel, and the blankets therein specified referred to blankets to be worn or used for the covering of the person, and not to machinery; that machine blankets were not ejusdem generis (*Hollender v. Magone*, 149 U. S. 586, 589, 13 Sup. Ct. 932; *Magone v. Trading Co.*, 6 C. C. A. 407, 57 Fed. 394), and constituted a part of the machinery; that belts or felts for paper or printing machines, as well as blankets, had been provided for eo nomine in the act of March 2, 1867, and in every tariff act since that date, up to the act of 1890, showing they had always been recognized by congress as different articles for duty purposes. Where an article has become known to congress by a legal or statutory definition, as shown by its use in former statutes for revenue purposes, such a legal or statutory definition will control. *De Forest v. Lawrence*, 13 How. 274.

The importers' counsel claimed the word "blankets" was used in its ordinary meaning in paragraph 393, which was broad enough to cover the articles in suit.

Stephen G. Clarke, for plaintiffs.

Wallace Macfarlane, U. S. Atty., and Henry C. Platt, Asst. U. S. Atty.

WHEELER, District Judge. These articles are woven from wool into continuous webs for use in printing presses, as parts of the machinery, and in that art, when so used, are called "blankets." They were assessed under paragraph 392 of the tariff act of 1890, which provided for duties on "all manufactures of every description made wholly or in part of wool," and are claimed to have been dutiable