

He does not intend to start a manufacturing establishment here as we understand that term. He intends to work just as he did at home and make articles of clothing by the help of his own family. It may be that the importer by some admissions in his affidavit has made it difficult to determine this question in his favor, but I think it is the duty of the court to brush aside these technicalities, try to look at the question from a common-sense point of view and get at the spirit of the law. I cannot believe that it was the intention of the law to exact duty in a case like this and under the circumstances the doubt, if there be one, should be resolved in favor of the importer. The decision of the board of general appraisers is, therefore, reversed.

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In re MERCK et al.

(Circuit Court, S. D. New York. April 26, 1894.)

CUSTOMS DUTIES—CLASSIFICATION—CHLORAL HYDRATE.

U. S. v. Battle & Co. Chemists' Corp., 4 C. C. A. 249, 54 Fed. 141, followed.

This was an application by Merck & Co., importers of chloral hydrate, for a review of the decision of the board of general appraisers sustaining the decision of the collector of the port of New York as to the rate of duty on said merchandise.

Everit Brown, for importers.

James T. Van Rensselaer, Asst. U. S. Atty., for collector.

COXE, District Judge. The questions involved in this appeal have all been determined in the Case of Battle & Co., 50 Fed. 402, affirmed 4 C. C. A. 249, 54 Fed. 141. There is some testimony here which was not present in the Battle Case, but the new evidence is cumulative in character and does not change in any degree the character of the propositions decided. I am clearly of the opinion that the decision of the court of appeals of the Eighth circuit should be followed by this court. The decision of the board is reversed.

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In re SPIELMAN et al.

(Circuit Court, S. D. New York. April 26, 1894.)

No. 1,039.

CUSTOMS DUTIES—CLASSIFICATION—VEILS.

Veils are within the provision of Act Oct. 1, 1890, par. 349, relating to "articles of wearing apparel of every description."

This was an application by Spielman & Co., importers of certain ladies' veils, for a review of the decision of the board of general appraisers as to the rate of duty on such merchandise.

A. P. Ketcham, for importers.

Thomas Greenwood, Asst. U. S. Atty., for collector.

COXE, District Judge (orally). The only question in this cause is whether or not the importation comes within the tariff provision for "articles of wearing apparel of every description." Although it is true that there is, perhaps, a distinction—no two cases being exactly similar—yet it seems to me that the facts here bring this importation within numerous decisions already made by this court. Of course an article of wearing apparel that is worn in connection with a hat necessarily requires the presence of a hat, just as a necktie requires the presence of a collar. A necktie cannot be worn without a collar. A garter implies the presence of a stocking which is held up by it. A shawl which is thrown around the shoulders implies some other garment over which it is placed. I see no important distinction. Suppose these articles of wearing apparel were fastened to other articles of wearing apparel they would not cease to be articles of wearing apparel for that reason. If we could imagine, for example, an apron permanently fastened to the waist of a gown it would not change its character as an article of wearing apparel because of that fact. I do not think the distinction now made, that these veils are not wearing apparel, because fastened to a hat, is well founded. If it were, it would exclude a great many articles that we all concede to be wearing apparel. The finding of the board of appraisers is not contrary to the law or the facts and this court should not disturb that finding. It is conceded that these veils are complete articles of commerce as they come to this port and are used only by females as headgear; whether they are attached to the hat or not does not seem to me to be a controlling circumstance. If they were worn about the head without a hat, in the manner so graphically illustrated by the learned district attorney, there would be no doubt as to their being articles of wearing apparel. The decision of the board of general appraisers is affirmed.

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JOHNSON v. UNITED STATES.

(Circuit Court, S. D. New York. February 8, 1895.)

No. 918.

CUSTOMS DUTIES—CLASSIFICATION—PINEAPPLES—CANNED.

Pineapples, peeled, sliced, and placed in cans filled with cold water, and hermetically sealed, their juice permeating the water, are "fruits preserved in their own juices," within Act Oct. 1, 1890, par. 304, and cannot be classified, under paragraph 580, as "fruits, green, ripe, or dried."

This was an application by Joseph S. Johnson, the importer of certain canned pineapples, for a review of the decision of the board of general appraisers, sustaining the decision of the collector of the port of New York, as to the rate of duty on such merchandise.

Stephen G. Clarke, for importer.

Jason Hinman, Asst. U. S. Atty., for collector.

COXE, District Judge (orally). This controversy arises regarding pineapples imported in cans hermetically sealed. The collector