This was an appeal by Wertheimer & Co. from a decision of the board of general appraisers with respect to the classification for duty of certain imported gloves.

David L. Mackie, for plaintiffs.
James T. Van Rensselaer, Asst. U. S. Atty.

WHEELER, District Judge. The question here is whether these are "men's," or "ladies and children's," gloves, under paragraph 458 of the tariff act of 1890. There is no distinction between boys' and girls' gloves, but all not men's are classed with ladies' and children's. Much testimony has been taken in this court that was not before the appraisers. Upon all the evidence, these seem not to be men's gloves, but ladies' or children's. They should therefore be classified as such. Judgment reversed.

GODWIN et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 6, 1896.)

No. 1,892.

CUSTOMS DUTIES—CLASSIFICATION.

Paintings in oil upon panels of papier maché, to go into the frames of a false door, were not dutiable as manufactures of wood, under paragraph 230 of the act of 1890, but as "paintings in oil," under paragraph 465.

This was an appeal by Godwin & Sons from a decision of the board of general appraisers in respect to the classification for duty of certain merchandise imported by the appellants.

Stephen G. Clarke, for plaintiffs.
H. C. Platt, Asst. U. S. Atty.

WHEELER, District Judge. These were paintings in oil upon panels of papier maché to go into the frame of a false door, a part of the same invoice, but assessed separately, for a part of the interior decorations of a house. They were considered to be wood panels, and assessed as manufactures of wood, under paragraph 230 of the tariff act of 1890, against a protest that they should be assessed at a lower rate as "paintings in oil," under paragraph 465. The testimony taken since shows clearly that they are not manufactures of wood, and that the false door frame was to be, in that form, their frame. Together they would not be a door, but only paintings in a frame imitating a door. Oil paintings must be done upon something becoming a part of them, and that may as well be papier maché as anything. These, as they were assessed, were simply paintings in oil, exactly provided for in paragraph 465. That they were intended for, and were to become, parts of an imitation of a door, would not make them any the less so, as was said of ivory keys which were to become parts of pianos, in Robertson v. Gerdan, 132 U. S. 454, 10 Sup. Ct. 119. Judgment reversed.

UNITED STATES v. AMERICAN SUGAR-REFINING CO.

(Circuit Court, S. D. New York. January 4, 1896.)

No. 2,269.

CUSTOMS DUTIES—UNDERVALUATION—IMPORTATIONS OF SUGAR.

An importation of sugar was invoiced as "basis 81°," with a memorandum attached stating: "Purchased at 1 and ¼ ct. per Sp. lb. net, basis 81° average, 1-32 cents per lb. to be added for each degree above 81° test, or 1-16c. per lb. to be deducted for each degree below 81° test; fractional of a degree pro rata." This meant that the price was to vary according to the quality, as shown by the polariscope test. Upon appraisal, the value of the sugar was found to be more than 10 per cent. above the price of 1¾ cents per pound, but much less than that above the price as fixed by the test according to the memorandum. *Held*, that this was not an undervaluation of more than 10 per cent., which would justify the imposition of an additional duty under section 7 of the customs administrative act of 1890.

This was an appeal by the United States from a decision of the board of general appraisers holding that certain importations of sugar made by the American Sugar-Refining Company were not undervalued to the extent of 10 per cent., and consequently that the additional duty provided for by section 7 of the customs administrative act of 1890 in such cases could not be imposed.

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

Stephen G. Clarke and John E. Parsons, for defendant.

WHEELER, District Judge. This importation is of sugar, entered on the invoice as "basis 81°," with a memorandum attached, becoming a part of the invoice, stating it as "purchased at 1 and 1/4 ct. per Sp. lb. net, basis 81° average, 1-32c. per lb. to be added for each degree above 81° test, or 1-16c. per lb. to be deducted for each degree below 81° test; fractional of a degree pro rata." This meant, and was understood at the customhouse to mean, a polariscope test, such as is in use there; and that the price was to vary according to the quality as should be shown by the test agreeably to the memorandum. It tested considerable above 81°, and the appraised value was more than 10 per cent. above the price of 1¾ cents per pound, and much less than that above the price according to the test and the memorandum. The government claims that this is an undervaluation of more than 10 per cent., and that an additional duty should be imposed for it as such under section 7 of the administrative customs act of 1890. Invoices must show the actual cost of goods purchased for importation, which becomes the value declared in the entry, if not raised by the importer; and the additional duty is imposed only in cases of 10 per cent. above this value. The act does not require that the actual cost be stated in any sums total, nor prohibit stating it by reference to prices of measurable quantities or qualities, but only that it shall somehow be stated. Now, this actual cost, as stated in the body of this invoice, was not 1¾ cents per pound in quantity only, but at 81° in quality,