

COXE, District Judge (orally). The appellants imported articles which, upon the undisputed testimony, are known as velvet ribbons. I understand it to be conceded on the part of the district attorney that nobody in the ribbon trade ever heard them referred to as pile fabrics. They were assessed for duty by the collector under paragraph 411 (Act 1890) of the silk schedule, unquestionably under that clause of the paragraph which refers to "other pile fabrics." The importers insist that they should be assessed under paragraph 414, which provides for "all manufactures of silk, or of which silk is the component material of chief value." The question, then, is whether or not the velvet ribbons imported are pile fabrics. In construing that paragraph we must have in view what was understood in the trade at the time that the tariff act was passed. There is no dispute, as I understand the evidence, that the terms "velvets" and "plushes" relate exclusively to goods varying from 15 to 52 inches in width, and having upon their edges a wide selvedge, that is, a comparatively wide selvedge. The counsel have not alluded to it, but it seems to me that the doctrine of *ejusdem generis* has some application to this case. It being admitted that the first and second articles enumerated in the paragraph relate to these wide fabrics, it would seem probable that congress intended by "other pile fabrics" to provide for other similar pile fabrics, that is, wide piece goods having selvedge edges. That, in connection with the testimony, which I think tends to establish the proposition that the term "pile fabrics" does mean such piece goods, inclines the court to adopt the construction of the importers. It will be a forced construction to wrench the clause in question from its obvious association with fabrics of a totally different character and make it cover such small articles as were imported in this case. I think it is also true that in no event can this paragraph cover a pile fabric unless it be a pile fabric having a selvedge. The weight of testimony is to the effect that the velvet ribbons in this case have not what was known to the trade and commerce of this country as a selvedge. They have a finished edge, but I understand that the witnesses substantially agree in saying they have not a selvedge edge, certainly not such a selvedge as was understood by the importers and large dealers in these articles at the time the tariff act was passed. Therefore, the court must hold that these velvet ribbons are not pile fabrics having a selvedge edge. This being so, they would be properly classified under paragraph 414.

The decision of the board of appraisers is reversed.

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DUCAS v. UNITED STATES.

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

No. 1,790.

CUSTOMS DUTIES—CLASSIFICATION—VERDIGRIS.

By the words "verdigris or subacetate of copper," in paragraph 749 of the act of 1890, all merchandise which is known as verdigris, even though it be not subacetate of copper, was placed upon the free list.

This was an appeal by B. P. Ducas from a decision of the board of general appraisers sustaining the action of the collector of the port of New York in respect to the classification for duty of certain imported merchandise.

Albert Comstock, for the importer.  
J. T. Van Rensselaer, Asst. U. S. Atty.

COXE, District Judge (orally). The appellant imported certain merchandise, upon which the collector assessed duty under paragraph 76 of the tariff act of 1890. The importer protested insisting that it should be admitted free of duty under paragraph 749 of the free list, which provides for "verdigris or subacetate of copper." The importer admits that the merchandise in question is not subacetate of copper. The district attorney concedes on the other hand that the article is verdigris under a broad definition of that term. Therefore, there is no question of fact for the court to pass upon, and the question is simply one of law as to the proper construction of paragraph 749. Was it the intention of congress to limit verdigris to that particular variety known as subacetate of copper? The principal contention upon the part of the United States which impresses itself upon the court is that in prior tariff acts duty was levied upon the merchandise in question under the name of acetate of copper. This language is entirely omitted from the act in question; and although there is reason for saying that congress intended that the duty formerly levied under that phraseology should still be levied under the language selected by the collector as "chemical compounds and salts," still, there is the equally plausible contention that it was the intention of congress in view of the greater knowledge upon the subject at the time of the passage of the act of 1890, to place all of the merchandise known as verdigris upon the free list. Although the question is narrow, interesting and not free from doubt, still the existence of the doubt inclines the court to resolve it in favor of the importer, for the reason that the property of the importer should not be taken from him upon a doubtful construction of the law. The decision of the board of general appraisers is therefore reversed.

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UNITED STATES v. ZURICALDY et al.

(Circuit Court, S. D. New York. February 10, 1896.)

No. 1,403.

**CUSTOMS DUTIES—VALUATION BY CONSUL—CONCLUSIVENESS.**

The unauthorized act of a United States consul in adding to the invoiced value of goods the amount of ocean freights is not conclusive upon the importer, and he is entitled to have the valuation corrected, even though the appraiser has in a pro forma manner approved the invoice by marking it "correct." *Robertson v. Bradbury*, 10 Sup. Ct. 158, 132 U. S. 491, applied.