for construction. It is practically prohibitory in its terms. The importers contend that the court is permitted to consider the question whether or not the percentage is appreciable or otherwise. I do not think that question can be considered under the language quoted. Therefore, as to three of the bales the decision of the board is affirmed. As to bale 5,677 several of the witnesses testify that it contained no wrapper tobacco. As the board did not pass upon the question of fact involved with reference to this bale, but based its decision upon the ground that the merchandise had gone out of the possession of the government, I think the question is still open in this court. The weight of evidence is that the importer's contention as to this bale is correct. As to bale 5,677 the decision of the board is reversed.

UNITED STATES v. BENJAMIN et al.

(Circuit Court, S. D. New York. February 11, 1896.)

No. 1,726.

CUSTOMS DUTIES—VALUATION—CLERICAL MISTAKE IN INVOICE.

The board of general appraisers has jurisdiction to correct a mistake in the appraisement, arising from a clerical error in invoicing the goods as worth so many marks instead of so many pfennigs.

Appeal on behalf of the United States from a decision of the board of general appraisers which reversed the action of the collector in relation to certain merchandise imported by Benjamin & Caspery.

Henry D. Sedgwick, Jr., Asst. U. S. Atty.

Robert Weil, for importers.

COXE, District Judge (orally). We start in this cause with the undisputed fact that there was a clear clerical mistake in the invoice of the goods, which, though in fact worth so many pfennigs, were invoiced as worth so many marks. This being true, the court is naturally inclined to give the importers relief, if possible. As soon as the mistake was discovered the importers protested against the illegal exaction of duty. The protest, with all the proceedings, was returned by the collector to the board of general appraisers. They find as facts that there was a clear clerical mistake in the valuation of the goods, and that the appraising officer, had he made a careful and intelligent examination would have discovered the mistake on the face of the invoice. The board then correct the mistake, find the true market value of the goods, and sustain the protest. I am inclined to think that the board had jurisdiction and that their finding is correct. I cannot believe that it was the intention of congress to require an importer whose property is thus taken to go through the complicated and inconsequential proceedings which have been suggested here, especially when some of them concededly would not furnish the relief sought for or lead to any practical result. A mistake so plain demands a simple remedy.

The decision of the board of general appraisers is affirmed

STERN et al. v. UNITED STATES.

(Circuit Court, S. D. New York. February 11, 1896.)

No. 1,861.

CUSTOMS DUTIES—CLASSIFICATION—NAIL CLEANERS.

Silver-handle nail cleaners were dutiable as "manufactures of metal," under paragraph 215 of the act of 1890, and not as "files," under paragraph 168, though they may have had a file attached to them.

Appeal by Stern Bros., importers, from a decision of the board of general appraisers which affirmed the action of the collector in assessing duty upon the importations in question.

D. I. Mackie, for appellants.
Henry C. Platt, Asst. U. S. Atty.

COXE, District Judge (orally). The articles imported are known as files or nail cleaners. The collector assessed them for duty under paragraph 215 of the act of 1890 as "manufactures of metal." The importers insist that they should have been assessed under paragraph 168 of the same act, which provides for files. The general appraiser found that they were silver-handle nail cleaners, and were not files either in fact or commercially. No evidence was taken before the board of general appraisers and none has been taken in this court. In fact, the court is without the sample which was before the board and has nothing of which to predicate a finding that the decision of the board is incorrect. It is said that the burden is upon the importer to satisfy the court that the findings of the board are unsupported by evidence; but irrespective of that question it would seem, from the description given by the general appraiser and by the board, there is very great doubt whether these articles can be regarded as files. There is perhaps a file upon them, but they are more correctly designated in the terms of the appraiser as "silver-handle nail cleaners." I think the record is insufficient to justify the court in interfering with the decision of the board of general appraisers, and it is, therefore, affirmed.

HENSEL et al. v. UNITED STATES.

(Circuit Court, S. D. New York. February 11, 1896.)

No. 1,903.

1. CUSTOMS DUTIES—REIMPORTATION OF AMERICAN GOODS—CERTIFICATE.

Upon the reimportation of exported American manufactures, the mere failure to state, in the certificate presented on the entry, that the goods had not been advanced in value or improved in condition since they left this country, as required by the former treasury regulations, did not justify the collector in requiring payment of duties, if the fact that they had not been advanced in value or improved in condition otherwise appeared. The regulation requiring the statement in the certificate was unreasonable, as appears from the fact that it was omitted from the amended regulations, on the ground that it was impossible for foreign customs officials to state such facts from their own knowledge.