

# CASES

ARGUED AND DETERMINED

IN THE

## UNITED STATES CIRCUIT COURTS OF APPEALS AND THE CIRCUIT AND DISTRICT COURTS.

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LANGERMAN & PETTY v. UNITED STATES.

(Circuit Court, S. D. New York. April 9, 1896.)

CUSTOMS DUTIES—CLASSIFICATION—ZINC SHEETS.

"Lithographic zinc sheets," commercially so known, being sheets of zinc as they come from the rolling mill, but coated on one side with a preparation suiting them for use by lithographers, were dutiable as "zinc in sheets," under paragraph 213 of the act of 1890, and not as manufactures not specially provided for, under paragraph 215.

This was an application by Langerman & Petty, importers, for a review of a decision of the board of general appraisers, sustaining the collector's classification for duty of certain merchandise imported under the act of October 1, 1890.

Albert Comstock, for importers.

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

TOWNSEND, District Judge (orally). The articles in question are commercially known as "lithographic zinc sheets." The collector classified them for duty, under paragraph 215 of the act of October 1, 1890, as manufactures not specially provided for, composed of zinc, and whether partly or wholly manufactured. The importers protested, claiming that the articles were dutiable under paragraph 213, as "zinc in sheets." The evidence shows that these articles are coated on one side with a preparation. "They are the ordinary zinc sheets, just as they come from the rolling mill, but the coating is for the special purpose of lithographers." They vary in size from 10x14 inches to 34x48 inches. I think the importers are right in their contention. Even if the coating for a special purpose has advanced the articles so that they may be adapted to a different purpose, they still remain zinc in sheets. There is no evidence that they are not sold by weight, or that they are commercially known by any name other than lithographic zinc sheets. I think such large flat strips of zinc in the form in which they come from the rolling mill are zinc in sheets, and specially provided for under paragraph 213 of said act. The decision of the board of general appraisers is therefore reversed.

## In re GRACE et al.

(Circuit Court, N. D. California. June 15, 1896.)

No. 12,123.

## 1. CUSTOMS DUTIES—CLASSIFICATION—BOTTLES AND GLASSWARE.

Paragraph 88 of the act of August 27, 1894, is in substance a condensation and re-enactment of paragraphs 103, 104, and 105 of the act of 1890, with certain exceptions and changes of verbiage; and, being construed in connection therewith, it is apparent that the last clause was intended to take the place of paragraph 105, and therefore covers glassware other than bottles and vials, which are provided for in the preceding clauses.

## 2. SAME—"HOCK BOTTLES."

Hock bottles, holding not more than one pint, and not less than one-quarter of a pint, though commercially known as "bottles," and not as "vials," are dutiable at  $1\frac{1}{8}$  cents per pound, under the second clause of paragraph 88 of the act of August 27, 1894, which reads "and vials holding" the above specified quantities, and not as other "lime bottle glassware, not specially provided for," under the first clause, or as "all other \* \* \* glassware," in the last clause.

An application and petition were filed by W. R. Grace & Co. for a review, under section 15 of the customs administrative act of June 10, 1890, of the decision of the board of United States general appraisers in relation to the classification and duty on certain bottle glassware imported by the petitioner. The collector, and, upon appeal from his decision, the board of general appraisers, held that the bottles imported were subject to a duty of  $1\frac{1}{8}$  cents per pound, as provided by the second clause of paragraph 88 of the tariff act of August 27, 1894, commonly known as the "Wilson Bill." The importer claimed that the duty should be assessed according either to the first clause or the last clause of paragraph 88.

H. S. Foote, U. S. Dist. Atty., and Samuel Knight, Asst. U. S. Atty.

Chas. A. Garter, for importer and petitioner.

MORROW, District Judge (after stating the facts as above). This is an application and petition by W. R. Grace & Co. for a review of the decision of the board of United States general appraisers, dated September 5, 1895, as to the rate and amount of duty on certain imported bottle glassware, under paragraph 88 of the tariff act of August 27, 1894, commonly known as the "Wilson Bill." The importation in question consists of 14,400 bottles, invoiced as pint wine bottles. The collector of the port of San Francisco classified the importation as "colored glass bottles, holding not more than one pint, and not less than one-quarter of a pint," and fixed the rate and amount of duty at  $1\frac{1}{8}$  cents per pound, being the rate provided under the second clause of paragraph 88, Schedule B, of the tariff act of August 27, 1894, "for vials holding not more than one pint, and not less than one-quarter of a pint." The duty amounted to the sum of \$154.69. The importer appealed to the board of United States general appraisers, which affirmed the decision of the collector. He now petitions this court, under section 15 of the cus-