

as an unregistered laborer, under the acts of May 5, 1892 (27 Stat. c. 60), and of November 3, 1893 (28 Stat. c. 14). The former act, in this respect (section 6), applied exclusively to Chinese laborers, without further designation or description. The latter act defines them thus:

"Section 2. The words 'laborer' or 'laborers,' wherever used in this act, or in the act to which this act is an amendment, shall be construed to mean both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundrymen, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation."

Each speaks from its own date, and the latter applies to persons who were Chinese laborers, as defined by it, on November 3, 1893. The respondent had, according to what is shown, been a peddler for two or three years next before "the first part of July, 1893," when he became a member of the trading firm of Quang Lun Wah & Co., at 32 Mott street, New York, and has so remained, having an interest therein of \$1,000. If the act of 1892 had included peddlers with laborers, or he had continued peddling after the act of 1893, he would have been required to register, and be liable to deportation for want of doing so; but neither happened. The act of 1893 also defines "merchants," and he is said not to be a merchant, within the definition. But the act does not declare all not merchants to be laborers, nor otherwise require registration of them. The question is not whether the respondent is a merchant, and so exempt from registration, but whether he is a laborer, and so liable to deportation for want of registration. He does not appear to be a laborer, within either common understanding or the statutory definition of the term. Motion denied and respondent discharged.

UNITED STATES v. McALPIN.

(Circuit Court, S. D. New York. May 5, 1896.)

No. 1,914.

CUSTOMS DUTIES—CLASSIFICATION—MANUFACTURES OF SILK.

Drapery net, consisting of a silk fabric having a foundation of plain net with embroidered figures, was dutiable as manufactures of silk, or of which silk is the component material of chief value, not specially provided for, under paragraph 414 of the act of 1890.

This was an application by the United States for a review of a decision of the board of general appraisers in respect to the classification of certain merchandise imported by S. McAlpin.

Henry C. Platt, Asst. U. S. Atty.
William B. Coughtry, for importer.

TOWNSEND, District Judge (orally). The article in question is a silk fabric, consisting of a foundation of plain net with embroid-

ered figures. The case of Field's Appeal, 50 Fed. 908, affirmed by the circuit court of appeals (4 C. C. A. 371, 54 Fed. 367), seems to be controlling upon the facts herein shown. It is true, the local appraiser states that the goods are unlike those passed upon by the court in said case; but in the absence of any evidence that such difference would remove them from the classification there adopted, and in view of the finding of the board of general appraisers that the article is drapery net, and of the discussion by the court in said case as to articles apparently of the same general character, and of its decision thereon, and of the acquiescence of the treasury department therein, I think the article should have been assessed at 50 per cent. ad valorem, under paragraph 414 of the act of 1890, as manufactures of silk, or of which silk is the component material of chief value, not specially provided for. The decision of the board of general appraisers is affirmed.

UNITED STATES v. SCHWARTZ.

(Circuit Court, S. D. New York. May 22, 1896.)

No. 2,248.

CUSTOMS DUTIES—CLASSIFICATION—TOYS.

Hollow papier-maché rabbits for holding candy, not shown to be universally known in commerce as "toys," but which are chiefly used for the amusement of children, are dutiable as toys, under paragraph 321 of the act of 1894, and not as manufactures of papier-maché, under paragraph 353.

This was an application by the United States for a review of a decision of the board of general appraisers reversing the action of the collector in classifying for duty certain merchandise.

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

Albert Comstock (of Comstock & Brown), for importer.

TOWNSEND, District Judge. The article in question is a rabbit, made of papier-maché, with a removable head, and capable of holding candy. The collector assessed it for duty as a manufacture of papier-maché, under paragraph 353 of the act of 1894. The importer protested, claiming that the article was dutiable as a toy, under paragraph 321 of said act, and the board of general appraisers sustained the protest.

The evidence for the importer fails to show that these articles are universally commercially designated as "toys"; but the evidence also shows that articles of this character are recognized as belonging to the class known as "toys." The distinction is that, while the importer has failed to prove commercial classification as toys, yet all the witnesses practically agree that these articles are used generally and chiefly for the amusement of children. In that