

UNITED STATES v. GIESE.

(Circuit Court, S. D. New York. February 18, 1897.)

CUSTOMS DUTIES—CLASSIFICATION—CARBONATE OF POTASH.

The enumeration, in paragraph 595 of the free list of the tariff act of 1894, of "potash, crude, carbonate of, or black salts," includes the three articles, crude potash, carbonate of potash, and black salts; and carbonate of potash, from which impurities have been removed by leeching, is accordingly entitled to free entry.

Hartley & Coleman, for importer.

J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge (orally). The article in question is carbonate of potash. It was classified for duty under paragraph 60 of the tariff act of August 28, 1894, as a chemical salt not otherwise provided for. The importer protested, claiming it was free under paragraph 595 of the free list of said act, which is as follows: "Potash, crude, carbonate of, or black salts." The board of general appraisers sustained the protest, and the United States appeals. This product has been subjected to a leeching process, whereby certain impurities have been removed. It is neither crude potash, crude carbonate of potash, nor black salts. Counsel for the United States concludes that this provision should be read with the word "crude" qualifying the whole paragraph, and that congress intended thereby to admit free of duty only one product, namely, crude carbonate of potash, also known as "black salts." The importer has proved, and the board of general appraisers, sustaining his protest, has found, that there are distinct articles known respectively in trade and commerce as "crude potash," "carbonate of potash," and "black salts." I think congress intended, by this language, to provide that each of these articles should be free. The decision of the board of general appraisers is affirmed.

H. B. CLAFLIN CO. v. UNITED STATES.

(Circuit Court, S. D. New York. February 18, 1897.)

CUSTOMS DUTIES—CLASSIFICATION—NONMETALLIC PINS.

The word "metallic," in paragraph 170 of the tariff act of 1894, qualifies the whole paragraph; and pins which are not metallic are not within its provisions.

Comstock & Brown, for importer.

J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge (orally). It is admitted or stipulated as to the articles in question, as follows:

"(1) The goods were imported after August 28, 1894, and are finished articles of collodion. (2) They are popularly and commercially known as hairpins. (3) They are not pins metallic, and are not commercially known as jewelry."

They were assessed for duty at 45 per centum ad valorem, under paragraph 15 of the tariff act of 1894, as finished articles of collodion.

The importer has protested, claiming that they were dutiable as pins, under paragraph 170 of said act, which is as follows:

"Pins metallic, including pins with glass heads, hairpins, safety pins, and hat, bonnet, shawl and belt pins, not commercially known as jewelry, 25 per centum ad valorem."

The only material difference between this paragraph and paragraph 209 of the act of 1883 is in the change of location of the word "including." I do not think that congress thereby intended to change the effect of the word "metallic" as qualifying the whole paragraph. The decision of the board of general appraisers affirming the action of the collector is affirmed.

UNITED STATES v. E. L. GOODSSELL CO.

(Circuit Court, S. D. New York. February 16, 1897.)

CUSTOMS DUTIES—IMPORTS UNDER PRIOR LAWS.

Merchandise, imported before the tariff act of 1894 went into effect, but which remained in the custody of the customs officers, and was not delivered to the importer until after that act went into effect, is subject to the rates of duty imposed by that act.

This was an application by the collector of the port of New York for a review of the decision of the board of general appraisers, reversing the decision of the collector as to the rate of duty on certain lemons imported by the E. L. Goodsell Company. The permit to land and deliver the goods was not indorsed by the examiner until August 29, 1894. The enacting clause of the tariff act of 1894 imposes duties on articles "imported from foreign countries or withdrawn for consumption" after its passage. The treasury circular of September 20, 1894, says that, "if it shall appear that the goods are in customs custody on the 28th ult., and that no permit had been presented for the delivery thereof, the same would fall under the new act." The entries of the goods were made on August 23 and 25, 1894, and the collector assessed duty under the tariff act of 1890, which was in force at that date.

Henry C. Platt, Asst. U. S. Atty.

W. W. Smith, for importer.

TOWNSEND, District Judge (orally). On August 23, 1894, the merchandise in question arrived at the port of New York, and was entered for duty, and a written permit to land, designating it for examination on the wharf, was issued. It was examined August 29, 1894, and the entry was liquidated September 8, 1894. The importer protested, claiming that it was dutiable under the provisions of the tariff act of 1894. The board of general appraisers sustained the protest, and the United States appeals.

The tariff act of 1894 went into effect on August 28, 1894. On that day the merchandise was in the custody of the customs officers. The contemporaneous construction of said act by the treasury department followed by said board herein seems to be in harmony with