

no evidence whatever before the United States commissioner showing or tending to show the commission of any crime by the said Olive A. Sternaman at any place within the dominion of Canada, but, on the contrary, the evidence shows that, if a murder was committed at all, it was committed at Buffalo, New York. Your petitioner alleges that in the presentation of the appellant's case before this court he failed adequately to call the court's attention to the situation in which the case would be left with the said depositions omitted therefrom, and he believes that, by reason of such failure upon his part, the court overlooked the fact that the crime, if any there was, was committed in the United States, and not in Canada; and that, should the order of this court stand, a grave injustice against the appellant would be committed. And your petitioner, representing the said Olive A. Sternaman as her counsel, respectfully petitions the judges of this court, or one of them, for leave to move for a rehearing of this case upon this ground. Your petitioner further certifies that this application is made in good faith, and not for delay. And your petitioner will ever pray," etc.

Frank C. Ferguson and Wallace Thayer, for appellant.

W. A. Poucher, U. S. Atty., and W. H. Mackey, Asst. U. S. Atty., for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. In deciding this case the court did not overlook the point which is now raised for the first time, and made the basis of an application for a reargument; but, as the point had not been presented, the court did not deem it necessary to discuss it. We think it is not well taken. *Ex parte Rousse*, Stew. R. (Lower Canada) 321; 2 Geo. II. c. 21; 14 Geo. III. c. 83; *Tyler v. People*, 8 Mich. 320; *Com. v. Macloon*, 101 Mass. 1. The application for a reargument is denied.

UNITED STATES v. LAHEY et al.

(Circuit Court of Appeals, Second Circuit. December 1, 1897.)

CUSTOMS DUTIES—CLASSIFICATION—CHIFFON VEILING.

The thin silk fabric known as "chiffon," which is suitable for veils, and is also much used for rucking, neckwear, and dress trimmings, when imported in widths of 14 inches, with a border on each side, generally known in the trade as "chiffon veiling," was dutiable under the tariff act of 1894 as "veilings," under paragraph 301, and not as manufactures of silk, under paragraph 302.

Appeal from the Circuit Court of the United States for the Southern District of New York.

This was an appeal by Isaiah A. Lahey and Colon C. Duncan, composing the firm of Lahey & Duncan, from a decision of the board of general appraisers reversing a decision of the collector of the port of New York in regard to the classification for duties of certain merchandise. The circuit court affirmed the decision of the board, and the United States appealed to this court.

Wallace Macfarlane, U. S. Atty., and Henry D. Sedgwick, Asst. U. S. Atty.

Comstock & Brown (Albert Comstock, of counsel), for appellees.

Before LACOMBE and SHIPMAN, Circuit Judges.

PER CURIAM. The importations in controversy are a thin fabric of silk, of a kind known, on account of its texture, as "chiffon"; and the decision of the case involves merely the question of fact whether such importations were "veilings," according to the commercial understanding prevailing when the tariff act of August 28, 1894, was passed. In the proofs before the board of general appraisers it appeared that while chiffons of various widths were suitable for veils, and were largely used for that purpose, they were also much used for other purposes, such as ruching, neckwear, and dress trimmings; and they were to some extent, but not generally or uniformly, known and dealt in as veilings. In the proofs before the circuit court there is a decided preponderance of testimony to the effect that chiffons like the present importations,—viz. of the width of 14 inches, and having a border on each side,—being specially adapted for use as veils in 1893 and subsequently, were generally imported and sold by the trade designation of "chiffon veiling." Upon the testimony in the record, we are of the opinion that the circuit court should have decided the question of fact in favor of the government, and its adjudication is therefore reversed.

UNITED STATES v. GIESE.

(Circuit Court of Appeals, Second Circuit. December 14, 1897.)

No. 44.

CUSTOMS DUTIES—CLASSIFICATION—CARBONATE OF POTASH.

Refined carbonate of potash was entitled to free entry as "potash, * * * carbonate of," under paragraph 595 of the tariff of 1894, and was not subject to duty under paragraph 60, as within the description "all chemical compounds and salts not specially provided for in this act." 78 Fed. 805, affirmed.

This is an appeal from a decision of the circuit court, Southern district of New York, affirming a decision of the board of general appraisers, which reversed a decision of the collector of the port of New York. 78 Fed. 805. That officer classified an importation of refined carbonate of potash under paragraph 60 of the tariff act of 1894, as being within the description "all chemical compounds and salts not specially provided for in this act." The importers protested, contending that it should be assessed for duty under paragraph 595 of the same act.

Jas. T. Van Renssalaer, for the United States.

Edw. Hartley, for appellee.

Before LACOMBE and SHIPMAN, Circuit Judges.

PER CURIAM. The paragraph on which the importers rely reads as follows:

"595. Potash, crude, carbonate of, or black salts. Caustic potash, or hydrate of, including refined in sticks or rolls. Nitrate of potash, or saltpeter, crude. Sulphate of potash, crude or refined. Chlorate of potash. Muriate of potash."

It will be noticed that the first sentence of this paragraph employs three descriptive phrases, viz.: Potash, crude; potash, carbonate of;