

UNITED STATES v. SHOEMAKER.

(Circuit Court, S. D. New York. December 9, 1897.)

No. 1,897.

CUSTOMS DUTIES—PROPRIETARY PREPARATION.

A preparation called "Bovrill Wine," labeled "Nutritious Tonic," composed of port wine, extract of beef, and extract of malt, and containing 17.90 of alcohol, was dutiable under paragraph 74 of the act of 1890, as a proprietary preparation containing alcohol, and not under paragraph 336, providing for still wines, etc.

This was an appeal by the United States from a decision of the board of general appraisers in respect to the classification for duty of certain imported merchandise.

James T. Rensselaer, Asst. U. S. Atty.
Albert Comstock, for defendant.

WHEELER, District Judge. The tariff act of 1890 provides for a duty, by paragraph 74, on all medicinal preparations, including medicinal proprietary preparations of which alcohol is a component part, or in the preparation of which alcohol is used, not specially provided for in this act, 50 cents per pound; and by paragraph 75, on the same "of which alcohol is not a component part, thirty-five per centum ad valorem"; and, by paragraph 336, still wines, including ginger wine or ginger cordial and vermouth, in casks, 50 cents per gallon; in bottles or jugs, per case of one dozen bottles or jugs, containing each not more than one quart, and more than one pint, or twenty-four bottles or jugs, containing each not more than one pint, \$1.60 per case.

The defendant imported a preparation called "Bovrill Wine," labeled "Nutritious Tonic," composed of port wine, extract of beef, and extract of malt, and containing 17.90 of alcohol, which is about the same proportion of alcohol as is contained in port wine. It has been assessed as a still wine, under paragraph 336. That, with this quantity of alcohol, it may be assessed as an alcoholic compound, is shown by *Mackie v. Erhardt*, 23 C. C. A. 351, 77 Fed. 610. Still wines are provided for with sparkling wines, as beverages, and do not seem to include such special preparations as this, except those mentioned. Therefore this should have been assessed as a proprietary preparation containing alcohol, under paragraph 74. Decision reversed.

SANDOW v. UNITED STATES.

(Circuit Court, S. D. New York. December 9, 1897.)

No. 1,881.

1. CUSTOMS DUTIES—CLASSIFICATION—IMPLEMENTS OF OCCUPATION.

Articles properly classifiable as implements of occupation, which arrived sometime after the owner by a different ship, because the ship in which he came refused to carry them, were not entitled to free entry, under paragraph 686 of the act of 1890, which provides for free admission of implements of occupation "in the actual possession at the time of persons arriving in the United States."

2. SAME—CARRIAGE HORSES.

Family carriage horses used as such abroad were entitled to free entry, under paragraph 516 of the act of 1890, as "household effects."

This was an appeal by Eugene Sandow from a decision of the board of general appraisers as to the classification for duty of certain horses brought to this country by him.

Albert Comstock, for plaintiff.

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

WHEELER, District Judge. These are horses conceded, in argument, to have been so trained and used in exhibitions as to be implements of occupation of the plaintiff. The ship in which he came would not bring them, and they arrived otherwise a few days after he did. They were not in his possession as of a person at the time "arriving within the United States," within the requirement of paragraph 686 of the act of 1890, for he was not then arriving, but had arrived some time before. *Rosenfeld v. U. S.*, 13 C. C. A. 450, 66 Fed. 303. The evidence taken in this court shows that they had been used abroad as family carriage horses for three years before being brought to this country. *Arthur v. Morgan*, 112 U. S. 495, 5 Sup. Ct. 241, shows that a family carriage used abroad comes within the words "household effects," of paragraph 516. The reasoning by which this conclusion is arrived at in that case would seem to include the carriage horses necessary for the use of the carriage as well as the carriage itself. This construction has been put by the treasury department on importations of carriage horses since that time. This decision and the course of the department seem to require that these horses should be classified as household effects, under paragraph 516. Decision reversed.

UNITED STATES v. BREWER et al.

(Circuit Court, S. D. New York. December 9, 1897.)

No. 2,313.

CUSTOMS DUTIES—CORRECTING INVOICE—REIMPORTATIONS.

In an invoice of reimported grain bags of American manufacture, a mistake in naming the vessel may be corrected by filing a new invoice, and the duties may then be remitted.

This was an appeal by the United States from a decision of the board of general appraisers allowing the correction of the invoice of certain grain bags made in this country, and reimported, after having been sent abroad.

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

Stephen G. Clarke, for defendant.

WHEELER, District Judge. The protest in this case raised the question as to remission of duties on grain bags exported from this country and returned. The board of general appraisers allowed an error in the name of the vessel in one of the invoices to be corrected,