

WHEELER, District Judge. Paragraph 88 of the tariff act of 1894 provided for duties on "green and colored, molded, or pressed, and flint and lime glass bottles," and on "all other plain green and colored, molded, or pressed, and flint lime and glassware." In this last clause the last "and" and "flint" are transposed, and concededly it should read, "and flint and lime glassware." And paragraph 102 provides for duties on glass windows, and parts thereof, and mirrors with or without frames or cases, "and all manufactures of glass, or of which glass is the component of chief value, not specially provided for in this act." These articles are oval glass blanks, blown in molds, for finishing by cutting into dishes for table use. They were classified as glassware under paragraph 88, against a protest that they were manufactures of glass under paragraph 102; and the protest has been sustained. The question now is whether they are to be classified with glassware, or with manufactures of glass, under these respective paragraphs. They were of glass, and had been manufactured to some extent, and were, therefore, manufactures of glass. They were not completed for their intended use, and would be sought for by manufacturers of, and not dealers in, glassware; and they seem to be materials for glassware, rather than glassware itself. Decision affirmed.

BREWSTER et al. v. UNITED STATES.

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

CUSTOMS DUTIES—FLOUR BAGS REIMPORTED.

Flour bags, shown by proof according to the treasury regulations to have been made in this country, were entitled to free entry, under paragraph 387 of the act of 1894, though the marks on some of the bags did not correspond to those in the invoices.

This was an appeal by Brewer & Bros. from a decision of the board of general appraisers in respect to the classification for duty of certain flour bags.

Stephen G. Clarke, for plaintiffs.

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

WHEELER, District Judge. This importation was of flour bags exported from this country, and assessed properly, unless they were duty free, as returned to this country under paragraph 387 of the tariff act of 1894. That they were the product of this country, and exported and reimported, in fact, is not questioned. All the affidavits and proceedings were taken by the importer that were required by that paragraph, and the treasury regulations under it. Free entry was refused, and the duty assessed, because the marks on many of the bags did not correspond to those in the invoices. That does not show that the bags were not of American manufacture. It only shows that some mistake, probably, was made about them. They were none the less free, as the product of this country, exported and returned, because they had been wrongly marked. The regulations

having been fully complied with, and they having been returned by the appraiser as the product of this country, they should have been allowed to come in free. Decision reversed.

BECK v. UNITED STATES.

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

CUSTOMS DUTIES—CLASSIFICATION—THOROUGHBRED HORSES.

In order that a horse of pure breed, imported specially for breeding purposes, should be entitled to free entry, under paragraph 482 of the act of 1890, it was requisite that proofs of pedigree and identity, as prescribed by the second proviso to that paragraph, should be furnished to the customs officers; and, if this were not done, it was proper to assess the appropriate duty, and such assessment could not thereafter be disturbed by the court on proofs of pedigree, etc., produced before it.

This was an appeal by Leopold Beck from a decision of the board of general appraisers as to the classification for duty of a horse imported by him.

Walter Large, for plaintiff.

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

WHEELER, District Judge. Paragraph 482 of the tariff act of 1890 provides:

"Any animal imported specially for breeding purposes shall be admitted free: provided, that no such animal shall be admitted free unless pure bred of a recognized breed, and duly registered in the book of record established for that breed: and provided further, that certificate of such record and of the pedigree of such animal shall be produced and submitted to the customs officer, duly authenticated by the proper custodian of such book of record, together with the affidavit of the owner, agent or importer, that such animal is the identical animal described in said certificate of record and pedigree."

One horse is claimed to be free under that paragraph. The owner did not, however, at any time when the matter was before the customs officers, produce the proof required by the second provision of that statute. The horse could not be free without that proof. The assessment of duty was, therefore, correct when made. Some proof has since been taken in this court, but that does not show that the assessment was not correct when made. This court, sitting on appeal, is not a customs officer, to whom the evidence must, by the expressed provision of the statute, be submitted; and can only decide whether the proper proof was produced before the customs officers, as the law required. It was not, and the decision of the board was correct. Decision affirmed.