

for reappraisement, and then from the decision of the general appraiser to a board of general appraisers. Section 13, Act June 10, 1890, provides that the decision of a board of general appraisers on such an appeal 'shall be final and conclusive as to the dutiable value of such merchandise.' We find, as facts, that the board of general appraisers made a decision upon the dutiable value of the merchandise in question, and that the collector assessed duty upon the valuation thus returned. In the absence of any evidence to impeach the reappraisement proceedings or the decision of the board of general appraisers, we hold that the decision of the board as to the dutiable value is final, and that duty was properly assessed. The protest is overruled accordingly."

This shows that the board, in reviewing the proceedings, considered the appraisal conclusive, without reference to what there might have been drawn into it whether properly a part of the actual market value of the goods or not. They did not find that the actual market value was what the commissions would make the entered value amount to, but only that the appraisal was made. The commissions so appear to have gone into the market value as such, and to have had a duty assessed upon them, which was not properly assessable. The commissions should be rejected in reliquidation. Decision reversed.

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WILKENS et al. v. UNITED STATES.

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

CUSTOMS DUTIES—CLASSIFICATION—KITUL.

Kittul, being the fiber of the leaf stocks of the jaggery palm of East India, which has been combed between steel brushes with a little oil to soften it, and also slightly colored, and made straight for bunching by lengths for brushes, was dutiable, under the 20 per cent. clause of section 4 of the act of 1890, as an article "manufactured in whole or in part," and not under the 10 per cent. clause, covering "unmanufactured articles," nor under paragraph 597, as a fibrous vegetable substance not specially provided for, nor under paragraph 653, as "vegetable substances," unmanufactured, not otherwise specially provided for.

This was an appeal by Wilkens & Co. from a decision of the board of general appraisers as to the classification for duty of certain imported merchandise.

W. Wickham Smith, for plaintiffs.

Max J. Kohler, Asst. U. S. Atty.

WHEELER, District Judge. The article in question here is kitul, which is of the fiber of the leaf stalks of the jaggery palm of East India. It is taken to England, and dressed by being combed between steel brushes with a little oil to soften it for taking out kinks and curls, slightly coloring it, and making it straight for bunching by lengths for brushes. The tariff act of 1890, by section 4, provided for a duty on "all raw or unmanufactured articles not enumerated or provided for," of 10 per cent. ad valorem, and on "all articles manufactured in whole or in part," of 20 per cent. ad valorem; and by paragraph 597 made sunn, "and all other textile grasses, or fibrous vegetable substances, unmanufactured, or undressed, not specially provided for," and by paragraph 653, "moss, sea weeds and

vegetable substances, crude or unmanufactured, not otherwise specially provided for," free. A duty of 20 per cent. was exacted under section 4, and protests referring to these paragraphs of the free list and to the 10 per cent. clause of section 4 were overruled. This seems to be a fibrous vegetable substance, and would fall under paragraph 597 but for the process which it has undergone, that does not leave it undressed. The fibrous vegetable substances of this paragraph are more definite than the general vegetable substances of paragraph 653, and take this article, as one otherwise specially provided for, out of that paragraph. Section 4 contrasts the "unmanufactured articles" of the 10 per cent. clause with "articles manufactured in whole or in part," of the 20 per cent. clause, and those of the former must be wholly unmanufactured, in order to give the words of the latter full effect. These bunches of dressed and assorted fibers had been advanced somewhat by manufacture from their raw state, and could not justly be said to be wholly unmanufactured, but were actually in part manufactured. Decision affirmed.

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ROSS et al. v. UNITED STATES.

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

CUSTOMS DUTIES—CLASSIFICATION—GLASS VIALS FILLED.

In paragraph 88 of the act of 1894, providing for duties on glass bottles, the words, contained in the first clause, "whether filled or unfilled, and whether their contents be dutiable or free," apply only to the preceding enumerated articles, and not to vials, which are provided for in the following clause. Therefore vials holding from a quarter of a pint to a pint, and imported filled with soda water, were entitled to free entry, along with their contents, under paragraph 555; being the proper and necessary covering thereof.

This was an appeal by Ross & Bro. from a decision of the board of general appraisers in respect to the classification for duty of certain glass vials, imported, filled with soda water.

Edward Hartley, for plaintiffs.

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

WHEELER, District Judge. The tariff act of 1894 provided for duties on: "(88) Green and colored, molded, or pressed, and flint and lime glass bottles, holding more than one pint, and demijohns and carboys, covered or uncovered, whether filled or unfilled, and whether their contents be dutiable or free, and other molded, or pressed, green and colored, and flint or lime bottle glassware, not specially provided for in this act, three fourths of one cent per pound; and vials, holding not more than one pint and not less than one quarter of a pint, one and one eighth cents per pound,"—and, by paragraph 555, left mineral waters, and "lemonade, soda water, and all similar waters," free. This importation was of soda water, in oval, glass vessels, holding not more than one pint, and not less than one-quarter of a pint, which would properly be called "vials." The contents were admitted free, but duty was exacted on the bottles, as