

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

such. They are the usual and necessary coverings for the soda, and are therefore not dutiable as unnecessary coverings. The question is whether such vials, filled, are dutiable as such, under paragraph 88. The words "whether filled or unfilled, and whether their contents be dutiable or free," in the first clause of that paragraph, seem to apply only to the preceding articles of that paragraph. That classification is not extended to, and does not relate to, the clause concerning vials. Therefore no duty seems to be exacted, by that paragraph, on filled vials, when they are the necessary and proper coverings or containers of their contents. Decision reversed.

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UNITED STATES v. SIMON et al.

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

CUSTOMS DUTIES—CLASSIFICATION—INDIA RUBBER TUBING.

India rubber tubing, in meter lengths, colored, chiefly used in making stems of artificial flowers, were dutiable as manufactures of India rubber, under paragraph 460 of the act of 1890, and not as parts of artificial flowers, under paragraph 443, not being any finished part of an artificial flower.

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

Stephen G. Clarke, for plaintiffs.

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

WHEELER, District Judge. This importation is of small India rubber tubing, in meter lengths, colored, the chief use of which is for the making of the stems of artificial flowers. They have been classified as parts of artificial flowers, under paragraph 443 of the tariff act of 1890, against a protest that they are manufactures of India rubber, under paragraph 460. *Cadwalader v. Wanamaker*, 149 U. S. 532, 13 Sup. Ct. 979, 983, and *Magone v. Wiederer*, 159 U. S. 555, 16 Sup. Ct. 122, are relied upon to support this decision. The former was one of the hat-trimmings cases, and covered materials for hats. The latter was for glasses which had been made for parts of clocks, as to which the case showed "that the pieces had been cut and manufactured to sizes suitable for clocks, and that the edges had been ground and beveled so as to cause the glass to be ready for fitting into the dials and frames of the clocks, for which the glasses had been in advance prepared; in other words, that the glass was a finished product, ready for use in clocks, without any further labor or preparation whatever." The paragraph under which this manufacture was assessed does not provide a duty on materials for artificial flowers, but for parts of artificial flowers, which distinguishes this importation from that in the former case; and this tubing is not any finished part of an artificial flower, but is merely a material from which the stems, as such a part of an artificial flower, can be made. As this tubing is not a part of an artificial flower, the protest should be sustained. Decision reversed.