

MAVTNER v. UNITED STATES.

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

CUSTOMS DUTIES—CLASSIFICATION—FURS.

Thibet furs, dressed on the skin, which had been made up into coats, and afterwards separated into parts for use as furs dressed on the skin, and not as coats, for wearing apparel, were dutiable as furs dressed on the skin, but not made up into articles, under paragraph 444 of the act of 1890, and not as manufactures of fur not specially provided for, under paragraph 461.

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

W. B. Coughtry, for plaintiff.

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

WHEELER, District Judge. The tariff act of 1890 provided a duty on: "(444) Furs, dressed on the skin but not made up into articles, and furs not on the skin, prepared for hatters' use, twenty per centum ad valorem." And on: "(461) Manufactures of leather, fur, * * * not specially provided for in this act, thirty-five per centum ad valorem." The plaintiff imported Thibet furs, dressed on the skin, which had been made up into coats, and afterwards separated into parts for use as furs dressed on the skin, and not as coats, for wearing apparel. They were assessed, under paragraph 461, as manufactures of fur, against which the importer protested that they were now furs dressed on the skin, not made up into articles, under paragraph 444. That they had been made up into articles would not make them dutiable as such articles after they had been separated into the materials from which they had been made, in the foreign country, and before importation. They had become what they were before, to be used, not as articles into which they had once been made, but as furs dressed on the skin; and they would seem to be dutiable only as such under paragraph 444. Decision of general appraisers reversed.

UNITED STATES v. GOODSSELL et al.

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

No. 2,616.

CUSTOMS DUTIES—CLASSIFICATION—ORANGE BOXES REIMPORTED.

Boxes containing oranges, lemons, and limes, and the sides, tops, and bottoms of which are of thin wood of American manufacture, exported as shooks, are subject only to half-rate duties, under the proviso to paragraph 216 of the act of 1894, although the specific proofs required by the treasury regulations were not produced to prove the fact of American manufacture.

This was an appeal by Goodsell & Co. from a decision of the board of general appraisers as to the duties payable on orange and lemon boxes, composed in part of thin wood of American manufacture, exported as shooks.

Max J. Kohler, Asst. U. S. Atty.
Albert Comstock, for appellees.

WHEELER, District Judge. Paragraph 216 of the tariff act of 1894 provides for a duty on "oranges, lemons and limes in packages at the rate of eight cents per cubic foot of capacity; in bulk, one dollar and fifty cents per one thousand; and in addition thereto, a duty of thirty per centum ad valorem upon the boxes, or barrels, containing such oranges, lemons, or limes; provided, that the thin wood, so called, comprising the sides, tops and bottoms of orange and lemon boxes of the growth and manufacture of the United States, exported as orange and lemon box shooks, may be reimported in completed form filled with oranges and lemons by the payment of duty at one-half the rate imposed on similar boxes of entirely foreign growth and manufacture." The board of appraisers found, "as a matter of incontroverted fact, that all the boxes returned on the invoices by the local appraiser as being 'thin wood American manufacture' are orange or lemon boxes, with thin wood composing the sides, tops, and bottoms, of the growth and manufacture of the United States, which were exported as orange or lemon box shooks, and were reimported in completed form, filled with either oranges or lemons"; and sustained the protest against duty at full rate on similar boxes of entirely foreign growth and manufacture, and assessed the duty at one-half rate, according to the proviso of that section.

The government claims the full duty, because regulations of the treasury department were not followed to prove the fact of American growth and manufacture; but this duty is fixed expressly by the statute as to all such shooks, without any reference to regulations. This statute could not be changed so as to apply to these shooks, which are particularly provided for, without infringing upon the very statute itself. *Morrill v. Jones*, 106 U. S. 466, 1 Sup. Ct. 423.

Decision affirmed.

DE LUZE v. UNITED STATES.

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

No. 2,297.

CUSTOMS DUTIES—CLASSIFICATION—CHAMPAGNE BOTTLES.

Champagne bottles, containing champagne, dutiable under paragraph 243 of the act of 1894, were not separately dutiable under paragraph 88, but were free of duty.

This was an appeal by De Luze from a decision of the board of general appraisers in respect to the classification of champagne bottles imported filled.

W. Wickham Smith, for plaintiff.
James T. Van Rensselaer, Asst. U. S. Atty.

WHEELER, District Judge. The tariff act of 1894 provided for a duty on—

"243. Champagne, and all other sparkling wines in bottles, containing each not more than one quart, and more than one pint, eight dollars per dozen," etc.