

WORTHINGTON et al. v. UNITED STATES.

(Circuit Court, S. D. New York. March 3, 1898.)

CUSTOMS DUTIES—PLATEAUX OR FLATS.

"Plateaux" or "flats," manufactured from plaits of straw, were free of duty, under paragraph 518 of the tariff act of 1890, as "plaits, and similar manufactures, composed of straw, suitable for making or ornamenting hats," and were not dutiable at 30 per cent., as "manufactures of straw not specifically provided for," under paragraph 460 of the same act.

This was an appeal from a decision of the board of general appraisers sustaining the action of the collector of the port of New York in the classification for duty of certain goods imported by the appellants, Worthington, Smith & Co.

Albert Comstock, for appellants.

Max J. Kohler, for the United States.

TOWNSEND, District Judge (orally). Several exhibits were introduced in this case, but counsel for the importer at the hearing confined his contention to the articles composed wholly of straw, or of which straw is the component material of chief value. It appears from the report of the assistant appraiser, and the evidence before the board of general appraisers, that the articles in question were in fact "plateaux" or "flats" and braids of straw, or of which straw was the component material of chief value. The importer claims that the braids are free, under the decision in *U. S. v. Rheims*, 45 U. S. App. 755, 89 Fed. 1020;¹ and as this claim appears to be well founded, and was not contested by the attorney for the United States, it is sustained. The plateaux or flats are manufactured from plaits of straw. They were classified for duty at 30 per cent. ad valorem, under paragraph 460 of the act of October, 1890, as "manufactures of straw not specifically provided for." The importer protested, claiming that they were entitled to free entry, under the provisions of paragraph 518 of said act, as "plaits, and similar manufactures, composed of straw, suitable for making or ornamenting hats." In their present condition they are ready for the milliner, who uses them for making hats, by shaping, wiring, trimming, sewing, and perhaps cutting, fitting, and resewing them. In their present shape they are merely oval shapes of braided straw, useless except for making hats. The testimony shows that they are commercially known as "plaits." They are therefore free, either as plaits, or as similar manufactures suitable for making or ornamenting hats. The decision of the board of general appraisers sustaining the action of the collector is reversed.

¹ 33 C. C. A. 687.

BOKER et al. v. UNITED STATES.

(Circuit Court, S. D. New York. March 8, 1898.)

1. CUSTOMS DUTIES—CLASSIFICATION—NICKEL ALLOY.

Rods and plates of nickel alloy, incapable of practical use without further manipulation or manufacture, were dutiable as alloy in which nickel is the component material of chief value, under paragraph 167½ of the act of 1894, and not as manufactured articles composed in whole or in part of any metal, not specifically provided for.

2. SAME—NICKEL-ALLOY WIRE.

Wire composed of nickel alloy, imported in spools, and ready for use in the construction of rheostats, was dutiable as a manufactured ware not specifically provided for, composed wholly or in part of metal, under paragraph 177 of the act of 1894, and not as nickel alloy, under paragraph 167½.

This was an appeal by Hermann Boker & Co. from a decision of the board of general appraisers affirming the action of the collector of the port of New York in respect to the classification for duty of certain nickel alloy in the form of rods, sheets, and wire.

Albert Comstock, for importers.

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

TOWNSEND, District Judge (orally). The merchandise in question comprises certain nickel alloy, in the form of rods, sheets, and wire. The board of general appraisers, affirming the action of the collector, assessed all the articles for duty as manufactures of metal, at 35 per cent. ad valorem, under the provisions of paragraph 177 of the act of August, 1894, for "manufactured articles or wares, not specifically provided for, composed wholly or in part of any metal, and whether partly or wholly manufactured." The importer protested, claiming that they were dutiable at 6 cents per pound, under the provisions of paragraph 167½ of said act, as "nickel," or "alloy of any kind in which nickel is the component material of chief value." The first question involved is whether the alloy in these forms is raw material or a manufactured article. It seems clear that the rods and plates are not advanced from the condition of nickel alloy, and are therefore provided for under paragraph 167½. They are incapable of practical use without being subjected to further manipulation and manufacture. I think congress, by the provision for nickel alloy, itself a manufacture, must be presumed to have intended to provide for such alloy in its ordinary commercial forms as known at the passage of said act. The wire is a manufacture of metal, a complete merchantable article, imported in spools, and sold by the spool, to be used in the construction of rheostats, and dealt in commercially, in various sizes, adapted to the purposes for which it is wanted. The decision of the board of general appraisers is reversed as to the rods and plates, and affirmed as to the wire.