

sented in the arguments and briefs of counsel, and have been carefully considered and examined. The opinion of the board of general appraisers reversing the action of the collector contains a full statement of the facts and an admirable discussion of the questions of law, and the decision of said board is hereby affirmed.

---

UNITED STATES v. WOLFF et al.

(Circuit Court, S. D. New York. March 1, 1898.)

CUSTOMS DUTIES—CLASSIFICATION—SHEET STEEL.

Sheet steel in strips, cold rolled, valued at less than four cents a pound, was dutiable under paragraph 122 of the act of August 27, 1894, according to par value per pound, and not under paragraph 124.

This was an application to review a decision of the board of general appraisers reversing a decision of the collector of the port of New York in regard to the classification for duties under the act of August 27, 1894, of certain merchandise. The board found that it was "sheet steel in strips, cold rolled, valued at less than 4 cents per pound," and dutiable under paragraph 122, according to value per pound.

J. T. Van Rensselaer, for the United States.

W. Wickham Smith, for importers.

TOWNSEND, District Judge (orally). The decision of the board of general appraisers sustaining the protest of the importers is affirmed. The contention of the counsel for the United States that in paragraph 124 of the act of 1894 the words "and all the foregoing manufactures of iron or steel of whatever shape or form valued above four cents per pound" shall be interpreted as though printed in brackets, and thereby so limited as not to apply to any of the foregoing articles except round iron or steel wire, would violate the settled rules of statutory construction.

---

SCHROEDER et al. v. UNITED STATES.

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

No. 2,586.

CUSTOMS DUTIES—TOBACCO SCRAPS.

Leaf tobacco scraps, broken from the leaves in handling and stripping, are dutiable as "waste," and not as manufactured tobacco.

This was an appeal from the decision of the board of general appraisers of New York fixing the duty to be imposed on certain tobacco.

Stephen G. Clarke, for importers.

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

TOWNSEND, District Judge. The article in question consists of those portions of the leaf tobacco which break off in handling the tobacco before it is stemmed or in the process of stripping. It falls

on the floor, and is swept up, and is used for the same purposes as original leaf tobacco. It is used as filler tobacco, and is known as "scrap filler." It is unnecessary to consider all the questions presented by the elaborate briefs and arguments of counsel. Upon the argument of this case, I was inclined to affirm the decision of the board of general appraisers in conformity with the opinion of the court of appeals in *Sheldon v. U. S.*, 5 C. C. A. 282, 55 Fed. 818. But I have been unable to distinguish the material issues herein from those involved in *Seeberger v. Castro*, 153 U. S. 32, 14 Sup. Ct. 766, where the supreme court of the United States decided that tobacco sweepings such as those in question herein were "waste." I think that opinion is controlling upon the issues herein, and for that reason the decision of the board of general appraisers is reversed.

---

EIMER et al. v. UNITED STATES.

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

CUSTOMS DUTIES—FREE ENTRY OF SCIENTIFIC INSTRUMENTS—COMPLIANCE WITH REGULATIONS.

To entitle an importer to the benefit of paragraph 585 of the tariff act of 1894, authorizing the free entry of "philosophical and scientific instruments imported for the use of a society incorporated for scientific purposes," the affidavit required by the regulations prescribed by the secretary of the treasury in such cases must be filed before the arrival of the articles, showing that they were imported by order of such institution, and not for sale or distribution; otherwise, the collector is justified in requiring payment of the prescribed duty.

This was an appeal by Eimer & Amend, importers, from the decision of the board of general appraisers sustaining the action of the collector of New York in assessing duty upon certain instruments imported.

H. T. Walden, for importers.

H. I. Sedgwick, for the United States.

TOWNSEND, District Judge. The goods in question were assessed as optical instruments at 40 per cent. ad valorem, under the provisions of paragraph 98 of the act of 1894, and are claimed as free under paragraph 585 of said act, as "philosophical and scientific instruments imported for the use of a society incorporated for scientific purposes." The apparatus was imported for the use of the state board of health of Minnesota. It is doubtful whether this board of health is an institution established for scientific purposes, within the benefit of the act. *Robertson v. Oelschlaeger*, 137 U. S. 436, 11 Sup. Ct. 148. But, without determining this question, I think the decision of the board sustaining the action of the collector should be affirmed, upon the admitted fact that the custom-house regulations were not complied with. Under the authority of Rev. St. § 251, giving the secretary of the treasury power to make regulations, he made a regulation not inconsistent with law providing that, for the free entry of such merchandise, an affidavit must be made within seven days before their arrival that such