

This was an application by John J. Keller & Co. for a review of a decision of the board of general appraisers affirming the action of the collector of the port of New York in the classification for duty of certain imported merchandise.

Albert Comstock, for plaintiff.

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

WHEELER, District Judge. This importation seems to be an extract of logwood, mordanted with a salt of chromium, for printing colors on cotton fabrics. It was assessed for duty as a chemical compound, under paragraph 76 of the tariff act of 1890. The testimony taken since shows it to be a mechanical mixture of the extract and salt, and not a chemical compound. As such, it does not come within the description of anything mentioned in paragraph 76. The protest refers to paragraph 26, which lays a lesser duty on "extracts and decoctions of logwood, and other dye-woods * * * such as are commonly used for dyeing, or tanning." This printing of colors upon cotton fabrics is an extension or branch of the art of dyeing; and this extract of logwood, so prepared with a mordant, which is necessary for fixing the colors, is commonly used in that branch of the art, "for dyeing." So, as this case now appears, the assessment should have been made under paragraph 26. Judgment reversed.

WM. J. MATHESON & CO. v. UNITED STATES.

(Circuit Court, S. D. New York. May 14, 1895.)

No. 929.

CUSTOMS DUTIES—CLASSIFICATION—COAL-TAR PREPARATIONS.

Oil of mirbane, or nitrobenzole, which is in fact a preparation of coal tar, and is not known commercially as an essential oil, was dutiable as a coal-tar preparation, under paragraph 19 of the act of 1890, and not as an essential oil or chemical compound, under paragraph 76.

This was an application by W. J. Matheson & Co. for a review of a decision by 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 imported merchandise.

Albert Comstock, for importers.

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

TOWNSEND, District Judge (orally). The article in question is oil of mirbane, or nitrobenzole. The board of general appraisers classified it for duty, under paragraph 76 of the act of 1890, at 25 per cent., as a product known as an essential oil, or as a chemical compound. The importers claim that the article should be classified at 20 per cent., under paragraph 19 of said act, as a coal-tar preparation, not a color or dye. The evidence shows that this is a coal-tar preparation in fact, and not a color or dye. It further appeared from the evidence that it is not generally known commercially as an essen-

tial oil. In view of these facts, the decision of the board of general appraisers is reversed, and the article should be classified for duty under paragraph 19 of said act.

WM. J. MATHESON & CO., Limited, v. UNITED STATES.

(Circuit Court, S. D. New York. March 23, 1896.)

No. 1,201.

1. CUSTOMS DUTIES—CLASSIFICATION.

An article not commercially known in this country at the time of the passage of a tariff law, but subsequently imported, and which in fact comes within the proper definition of a similar article then known and provided for in the act, and which is so designated commercially, is entitled to be classified as such.

2. SAME—ALIZARINE BLACK.

The article imported since 1891, and commercially known as "alizarine black," but more particularly designated as "alizarine black 4 B," to distinguish it from the article theretofore and still imported and known as "alizarine black," both being products of coal tar and dyes having similar properties, but somewhat different in chemical composition, is properly classified as a dye commercially known as "alizarine black," under paragraph 478 of the free list in the tariff law of 1890, and not under paragraph 18, as a coal-tar color or dye not specially provided for.

Appeal by the importers from a decision of the board of general appraisers which sustained the action of the collector in assessing duty upon the merchandise in question.

Albert Comstock, for importers.

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

TOWNSEND, District Judge. The merchandise in question is a black dyestuff. It was classified for duty, under paragraph 18 of the act of October 1, 1890, as a coal-tar color or dye, by whatever name known, not specially provided for. The importer protested, claiming that it was specifically included under paragraph 478 of the free list, which is as follows: "478. Alizarine, natural or artificial, and dyes commercially known as alizarine yellow, alizarine orange, alizarine green, alizarine blue, alizarine brown, alizarine black." The board of general appraisers affirmed the classification of the collector, and the importer appeals to this court.

The article in question is a color and a dye. True, alizarine was originally a vegetable product derived from madder. Technically, there is no such thing as alizarine black, because the true alizarine does not dye black; but the term "alizarine" is applied generally to certain coal-tar dyes which exhibit certain marked characteristics similar to those belonging to vegetable alizarine. Prior to the date of the passage of said act there was a coal-tar dye commercially known as "alizarine black," which was chemically a naphthazarine black, and which was protected by a patent. The merchandise in the present case was not commercially known in the United States prior to 1891. It is a coal-tar dye, which is chemically naphthyl black, and also is protected by a patent.