

cially known to be such when introduced into this country, though not known in the commerce of this country until after the passage of the act of 1890, are free of duty, as members of the class of dyes called "alizerine blue," and made duty free. The decision of the circuit court is directed to be modified, and the case is remanded to that court, with directions to enter a modified decree in accordance with the foregoing opinion, so as to affirm the decision of the board of general appraisers as to alizerine blue 5 R., and to reverse it as to the other blues in the protest.

UNITED STATES v. ROSENSTEIN et al.

(Circuit Court, S. D. New York. December 16, 1898.)

No. 2,538.

CUSTOMS DUTIES—CLASSIFICATION—FRUIT PRESERVED IN ITS OWN JUICES.

Prunes boiled in water, and pressed through a colander, without the addition of sugar or any other material, which article is not a "jelly," in the common meaning of that term, nor commercially known as jelly, are dutiable under paragraph 219 of the tariff law of 1894, as fruits preserved in their own juices, and not under paragraph 218, as jelly.

This is an appeal by the United States from a decision of the board of general appraisers sustaining the protest of the importers as to the classification for duty of certain imported merchandise.

H. P. Disbecker, Asst. U. S. Atty.
Albert Comstock, for importer.

TOWNSEND, District Judge (orally). The articles in question are prunes boiled in water, and passed through a colander, and without the addition of sugar, gelatine, or any other material. The collector classified them as jelly, under paragraph 218 of the act of 1894, at 30 per cent. The importers protested, claiming that they were fruits preserved in their own juices, and dutiable, as such, at 20 per cent., under paragraph 219 of said act. The board of general appraisers sustained the protest of the importers, and the government appeals.

The evidence introduced before the board of general appraisers shows that the article in question is not a "jelly," in the common meaning of that term. While it is sometimes called a jelly in trade, the evidence before the board is insufficient to support the claim of the government that the article is commercially known as jelly. The evidence shows that it is in fact a fruit preserved in its own juices. The decision of the board of general appraisers is therefore affirmed.

UNITED STATES v. E. FOUGERA & CO.

(Circuit Court, S. D. New York. December 9, 1898.)

No. 1,844.

CUSTOMS DUTIES—CLASSIFICATION—MEDICINAL PREPARATIONS.

The medicinal use for which a proprietary preparation is designed dominates its chemical composition for the purpose of classification.

This is an appeal by the United States from the decision of the board of general appraisers as to the classification for duty of certain imported merchandise.

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

TOWNSEND, District Judge (orally). The merchandise in question consists of certain proprietary medicines known as "Brown's Chlorodyne" and "Liqueur de Dr. Laville." It is conceded that these articles are medicinal preparations. It also appears that they contain alcohol, and it is true that they are also combinations of products known as alkaloids and essential oils. But, while either designation is appropriate, I think the court is bound by the decision of the supreme court of the United States in *Fink v. U. S.*, 170 U. S. 584, 18 Sup. Ct. 770, in which the court holds, in effect, that the medicinal use for which the preparation is designed dominates its chemical composition, and is more specific. For this reason the decision of the board of general appraisers is affirmed.

E. & H. T. ANTHONY & CO. v. UNITED STATES.

(Circuit Court, S. D. New York. December 17, 1898.)

No. 2,596.

CUSTOMS DUTIES—CLASSIFICATION—PORTRAIT LENSES.

A patent portrait lens, used as a part of a photographic camera, consisting of eight single lenses arranged in pairs and mounted in metal, which constitutes but a small part of the value of the whole, the complete articles being commercially known as lenses, is dutiable, under paragraph 100 of the tariff law of 1894, as "lenses of glass," and not under paragraph 98, as "optical instruments."

This is an appeal by E. & H. T. Anthony & Co. from the decision of the board of general appraisers affirming the classification for duty of certain imported articles of merchandise.

Albert Comstock, for importers.
J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge (orally). The merchandise in question comprises an article known as "Dallmeyer's patent portrait lens." Each portrait lens contains eight lenses, consisting of four pairs of crown and flint glasses fastened together, and the article as a whole is used as part of a photographic camera, and is mounted in metal, and the different lenses are generally adjusted by means of a rack and pinion. The value of the whole lens is \$200. The value of the metal does not exceed \$10. The article was classified for duty, under the provisions of paragraph 98 of the act of 1894, at 40 per centum ad valorem, as "optical instruments." The importers protested, claiming that it was dutiable under the provisions of paragraph 100, as "lenses of glass, wholly or partly manufactured." It cannot be disputed, in view of the evidence, that these articles are commercially known as "lenses," and that they are not commercially known as