

UNITED STATES v. J. S. JOHNSON & CO.

(Circuit Court, S. D. New York. December 15, 1898.)

No. 2,227.

CUSTOMS DUTIES—CLASSIFICATION—PINEAPPLE JUICE.

Pineapple juice, containing no alcohol whatever, is dutiable, under paragraph 247 of the tariff law of 1894, as "fruit juice * * * containing eighteen per centum or less of alcohol," and not under section 3, as a nonenumerated manufactured article.

This is an appeal by the United States from a decision of the board of general appraisers sustaining the protest of J. S. Johnson & Co. against the classification for duty of certain imported merchandise.

James T. Van Rensselaer, Asst. U. S. Atty.
Stephen G. Clarke, for importers.

TOWNSEND, District Judge (orally). The article in question is pineapple juice, containing no alcohol whatever, assessed for duty, under paragraph 247 of the act of 1894, as "fruit juice * * * containing eighteen per centum or less of alcohol." The importers protested, claiming the same to be dutiable, under section 3 of said act, at 20 per centum ad valorem as a nonenumerated manufactured article. In view of the decision of Judge Wheeler in this circuit in *Park v. U. S.*, 84 Fed. 159, I feel obliged to reverse the decision of the board of general appraisers. The decision is therefore reversed.

ROBBINS v. UNITED STATES.

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

No. 2,365

CUSTOMS DUTIES—CLASSIFICATION—INITIALED HANDKERCHIEFS.

Handkerchiefs on which an initial is embroidered are dutiable, under paragraph 258 of the tariff law of 1894, as "handkerchiefs," and not under paragraph 276, as "embroidered handkerchiefs."

This is an appeal by B. C. Robbins from a decision of the board of general appraisers affirming the classification for duty of certain imported merchandise.

W. Wickham Smith, for importer.
J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge (orally). The merchandise herein comprises handkerchiefs on which were embroidered an initial. They were assessed at 50 per cent. ad valorem, under the provisions of paragraph 276 of the act of 1894, as "embroidered handkerchiefs." The importers protested, claiming that they were dutiable at 40 per cent. ad valorem, under the provisions of paragraph 258 of said act, as "handkerchiefs." This question has already been before the courts under the provisions of the tariff act of 1890 (paragraph 373), which

provided for a duty on embroidered and hemstitched handkerchiefs. In view of the decisions in *U. S. v. Harden*, 35 U. S. App. 340, 15 C. C. A. 358, and 68 Fed. 182, and *U. S. v. Jonas*, 55 U. S. App. 64, 27 C. C. A. 500, and 83 Fed. 167, I find that the articles in question are not embroidered, and the decision of the board of appraisers is therefore reversed.

FARMERS' LOAN & TRUST CO. v. COUNCIL BLUFFS GAS & ELECTRIC LIGHT CO.

(Circuit Court, S. D. Iowa, W. D. December 22, 1898.)

No. 337.

1. INTERNAL REVENUE STAMPS—DEED BY MASTER.

The fact that a conveyance is made by a master commissioner under a decree of foreclosure in which the priority of liens is considered and settled, and after competitive sale, does not affect the requirement that the instrument, being a "conveyance of realty," under Schedule A of the revenue law (Laws 55th Cong. 2d Sess. c. 448), shall have the required revenue stamps affixed, to be receivable for record.

2. SAME—EXEMPTIONS.

The exemption of checks, drawn by the clerk of the district court on funds held by the court, from the requirement as to revenue stamps, cannot be extended to a deed executed by the master commissioner, although the property conveyed in the deed has been in the hands of a receiver under the order and direction of the court.

3. SAME—EXPENSES.

The revenue stamps required to be affixed to a conveyance of realty may be paid for, as expenses, out of the funds in the hands of the receiver, when the conveyance is by a master under decree and sale.

Harl & McCabe, for rule.

W. M. Shepard, pro se.

WOOLSON, District Judge. The facts leading up to the rule herein issued are as follows: Upon application, duly presented, this court appointed a receiver in foreclosure proceedings herein pending at the instance of the trustee in the matter of a trust deed given by the Council Bluffs Gas & Electric Light Company upon the property and plant of said company, situated in said city of Council Bluffs. Decree was entered ordering sale of said plant and property, and the matter proceeded to sale, the report of sale of the master commissioner was confirmed, and deed ordered thereon. The bid was about \$288,000. Upon presentation to him, to be recorded, of the master's said deed, the county recorder of Pottawattamie county, Iowa, refused to accept same, or to file same for record, for the reason, as assigned by him, that such deed did not have affixed thereto the revenue stamps required by the internal revenue statute relating thereto. On application of said master and the grantee in said master's deed, a rule pro forma was issued on said county recorder to show cause why he should not file and record said master's deed without the same having affixed thereto such revenue stamps. The recorder has made his return, stating that, under the provisions of the statute relating to internal revenue, the master's deed, being an instrument whereby realty, etc., is granted and transferred, cannot by him be filed or recorded un-