

RICHARDS et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 18, 1899.)

No. 2,647.

1. CUSTOMS DUTIES—CLASSIFICATION—LITHOGRAPHIC FASHION PRINTS.

Lithographic fashion prints, forming part of a monthly fashion periodical published abroad, and having a literary part, consisting of notes upon, and a letter concerning, ladies' current fashions, were excepted from duty under the excepting clause of paragraph 562 of the act of 1894.

2. SAME—SUFFICIENCY OF PROTEST.

Paragraph 308 of the act of 1894 makes lithographic prints dutiable except, inter alia, "when forming a part of a periodical or newspaper and accompanying the same." *Held*, that a protest against the imposition of a duty on prints, claimed to come within the exception, was not objectionable because it stated that the prints in question were "free," since, though the word "free" was not used in the paragraph, the effect of the exception was to leave them free.

This was an appeal by Richards & Co. from a decision of the board of general appraisers in respect to the classification for duty of certain lithographic fashion prints imported by them.

Walter H. Bunn, for appellants.

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

WHEELER, District Judge. By paragraph 562 of the act of 1894, periodicals, issued regularly at stated periods, unbound and containing current literature of the day, were free; and, by paragraph 308, lithographic prints, except, among other circumstances, "when forming a part of a periodical or newspaper and accompanying the same," were dutiable. These articles are lithographic fashion plates, and were returned for duty as lithographic prints. The importers protested that they were "free of duty" under paragraph 308, which states: "Lithographic prints, when forming part of a periodical and accompanying same, shall be excepted from duty." On hearing before the board without notice, which failed to be given by mistake, the protest was overruled. Testimony taken now shows that these plates were a part of *Le Succès*, a leading monthly fashion periodical of Paris, furnished five times a year, on the subscription price of \$24 a year, and accompanying it. The literary part of the periodical consists of notes upon, and a letter concerning, ladies' current fashions. This seems to be, clearly enough, current literature of the day, to make the periodical free, and the prints seem to so form a part of and to accompany the periodical as to be themselves free. The protest is criticised for stating that the plates were free under paragraph 308, when nothing is specified there as free. But the exception there leaves them free, and the referring to and quoting that seems to point out the ground of the protest sufficiently. Decision reversed.

SLAZENGER et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 18, 1899.)

Nos. 2,642 and 2,730.

CUSTOMS DUTIES—CLASSIFICATION—INDIA RUBBER TENNIS BALLS.

Tennis balls of India rubber, covered with light felt of wool, the rubber being the component material of chief value, were dutiable under paragraph 352 of the act of 1894.

This was an application by Slazenger & Sons for a review of a decision of the board of general appraisers in respect to the classification for duty of certain tennis balls imported by them.

W. Wickham Smith, for appellants.

D. Frank Lloyd, Asst. U. S. Atty.

WHEELER, District Judge. These are tennis balls of India rubber covered with light felt of wool. The India rubber is shown to have been the component material of chief value, and they appear to have been dutiable under paragraph 352, Act 1894, as claimed by the importer. A description of goods of which India rubber is the component material of chief value seems to be more specific than one of goods of which India rubber is a component material generally, without regard to proportional value. *Hartranft v. Meyer*, 135 U. S. 237, 10 Sup. Ct. 751. Decision reversed.

RICHARD et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 19, 1899.)

No. 2,135.

CUSTOMS DUTIES—CLASSIFICATION—PAINTINGS ON TILES.

Articles composed of several tiles put together in rows, their faces forming a surface on which a picture is sketched by free-hand with brown mineral paint prepared with oil or water, which is then fired, and by vitrification made blue, the whole being then framed, were not dutiable as "tiles," under paragraph 94 of the act of 1890 (26 Stat. 570), but were included in the description "paintings, in oils or water colors," contained in paragraph 465 (Id. 602).

This was an application by Richard & Co. for a review of a decision of the board of general appraisers in respect to the classification for duty of certain goods imported by them.

Albert Comstock, for appellants.

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

WHEELER, District Judge. The act of 1890 provides for duties on:

"94. Tiles, and brick, other than fire-brick, not glazed, ornamented, painted, enameled, vitrified, or decorated, twenty-five per centum ad valorem; ornamented, glazed, painted, enameled, vitrified, or decorated, and all encaustic, forty-five per centum ad valorem." 26 Stat. 570.

"100. China, porcelain, parian, bisque, earthen, stone and crockery ware, including plaques, ornaments, toys, charms, vases, and statuettes, painted, tinted, stained, enameled, printed, gilded, or otherwise decorated or ornamented