

## VANTINE et al. v. UNITED STATES.

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

No. 2,690.

## CUSTOMS DUTIES—VALUATION—INTERNAL TRANSPORTATION CHARGES.

Internal transportation charges for getting the goods from the place of manufacture to the place of shipment, even if not dutiable elements of market value, become a part of the entered value when they are included in the entry as a part of the market value because that was thought to be the best way, without indicating that such inclusion was objected to. In such case the charges form an indisputable part of the entered value, which the collector cannot reduce.

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

Edward Hartley, for appellants.

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

WHEELER, District Judge. These internal transportation charges for getting the goods from the place of manufacture to the place of shipment may not be dutiable elements of market value; but they appear to have been included in the entry as a part of that value because that was thought to be the best way, in view of former proceedings, without indicating in any way that now they were objected to. They appear to so have become an undisputed part of the entered value, which the collector could not reduce. That distinguishes this case from *Robertson v. Frank*, 132 U. S. 17, 10 Sup. Ct. 5, where the transportation charges were inserted in the entry as being required by the appraiser, and the jury found that this was done by compulsion in making that entry, and not because that was thought, in the language of the charge, to be the best way. Decision affirmed.

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UNITED STATES v. E. L. GOODSSELL CO.

(Circuit Court of Appeals, Second Circuit. January 5, 1899.)

No. 34.

## CUSTOMS DUTIES—CLASSIFICATION—ORANGE BOXES—REIMPORTED.

Boxes containing oranges and lemons, the sides, tops, and bottoms of which are in fact of American growth and manufacture, and which were exported as shooks, cannot be deprived of the benefit of the proviso to paragraph 216 of the tariff act of 1894, under which they are entitled to re-entry, when filled, on payment of half-rate duties, merely because proof of such facts is not made in the particular mode prescribed by the treasury regulations.

Appeal from the Circuit Court of the United States for the Southern District of New York.

The cause comes here upon appeal from the decision of the circuit court, Southern district of New York (84 Fed. 155), affirming decision of the board of general appraisers which reversed decision of the collector of the port of New York touching classification for duty of certain boxes containing oranges

and lemons. The question presented arises under paragraph 216 of the tariff act of 1894, which provides a duty on oranges and lemons, and in addition thereto a duty of 30 per cent. upon the boxes or barrels containing them, "provided, that the thin wood so-called comprising the sides, tops and bottoms of orange and lemon boxes, of the growth and manufacture of the United States, exported as orange or lemon box shooks, may be reimported in completed form filled with oranges and lemons, by the payment of duty at one-half the rate imposed on similar boxes of entirely foreign growth and manufacture." The collector assessed the importation in suit for duty at 30 per cent., because proof as to American origin and exportation as shooks had not been made in the manner prescribed in treasury circular No 155, of July 15, 1895. The importer contended that the boxes were in fact of American growth and manufacture, and had been exported as shooks.

D. Frank Lloyd, for the United States.

Albert Comstock, for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. The appellant contends that the record discloses no proof that the articles were of American growth, and none that they had been exported as shooks. The board of appraisers report that such growth and exportation were "uncontroverted facts," and it is quite apparent that the point now contended for was not raised before the board. In view of that circumstance, and of the letter from the treasury department to the collector, directing an appeal of this cause solely to secure a ruling as to the effect of the circular of July 15, 1895, it may be assumed that whatever defect there may have been in the proof presented to the board was waived by the government, and is not now available to the appellant. We concur with the circuit court and the board of appraisers that boxes which are in fact of American growth and manufacture, and which were exported as shooks, cannot be required to pay the higher rate of duty merely because the importers have not made proof of those facts in some particular mode prescribed by the secretary of the treasury. It seems unnecessary to add anything to the careful and exhaustive opinion filed by the board of general appraisers. Decision affirmed.

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#### KLIPSTEIN et al. v. UNITED STATES.

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

No. 2,572.

#### CUSTOMS DUTIES—CLASSIFICATION—COAL-TAR DYES.

Where the weight of the evidence is that the product in question is a coal-tar color or dye, a finding by the board of general appraisers that it is dutiable as such, and not as an alizarin color, will be sustained, though the fact that it is used with a mordant may raise a doubt whether it is not properly an alizarin.

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

Edward Hartley, for appellants.

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