

erty in a forum that could lawfully reach it. The decree of the district judge is affirmed, with costs."

To the same effect, see *Rix v. Bank*, 2 Dill. 367, Fed. Cas. No. 11,869; *In re Poleman*, 5 Biss. 526, Fed. Cas. No. 11,247; *Byrd v. Harrold*, 18 N. B. R. 437, Fed. Cas. No. 2,269; *In re Stevens*, 5 N. B. R. 298, Fed. Cas. No. 13,392; *In re Preston*, 6 N. B. R. 545, Fed. Cas. No. 11,394. In the last-named case the language of Green, J., in disposing of this matter, is as follows:

"The bankrupt is remitted to such rights and remedies in the exempted property as any other man not a bankrupt has in his own property, with this exception: that this bankruptcy court will protect him in the enjoyment of his exempt property against all acts and claims contrary to the bankrupt law. Taking the designation of the assignee to be good, it follows that, in contemplation of law, the articles exempted never pass to the assignee, and are not now, and never have been, in the possession of the court. The exemption as well as the assignment relates back to the filing of the petition. The excepted articles, in contemplation of law, remain the property of the bankrupt, subject to all legal incumbrances. A lien on articles so exempted cannot be enforced in the bankrupt court, because the court has no possession of the articles the lien affects. It has sent them beyond, or rather declined to receive them within, its jurisdiction, and would need to obtain jurisdiction by setting aside the action of the assignee before it could enforce the lien."

While the provision of the present act is not as full as the act of 1867, it is clearly declared (section 70) that title to exempt property does not pass to the trustee. It seems that the duty of the trustee is to set apart the bankrupt's exemption, and to report the items and value thereof to the court for its approval, and when the exemption has been approved, and the bankrupt's right to it finally determined, the property embraced in the exemption ceases to be a part of the assets administered by the court in connection with the bankrupt estate.

# UNITED STATES v. GODWIN et al.

(Circuit Court, S. D. New York. January 27, 1899.)

No. 2,601.

## 1. CUSTOMS DUTIES—CONSTRUCTION OF TARIFF LAWS.

Neither drying in the sun nor the sifting out of mechanical impurities from a drug is a "refining" or a "process of manufacture" within the meaning of the tariff laws.

## 2. SAME—CLASSIFICATION—DRUGS.

A powder made from the juice of the papaw melon, caught in pans, dried in the sun, sifted to remove foreign substances, and packed in tins, was free, under paragraph 470 of the act of 1894, as "drugs \* \* \* not edible, and which have not been advanced in condition by refining and grinding, or by other process of manufacture," and was not dutiable, under paragraph 59, as a medicinal preparation.<sup>1</sup>

This was an application by the United States for the review of a decision of the board of general appraisers reversing the action of the collector in respect to the classification for duty of certain merchandise imported by Godwin's Sons.

<sup>1</sup> For interpretation of commercial and trade terms, see note to *Dennison Mfg. Co. v. U. S.*, 18 C. C. A. 545.

D. Frank Lloyd, Asst. U. S. Atty.  
Albert Comstock, for importers.

WHEELER, District Judge. The act of 1894 provided for a duty on: "59. All medicinal preparations, not specially provided for in this act, twenty-five per centum ad valorem;" and put on the free list: "470. Drugs, such as barks, beans, berries, balsams, \* \* \* gums, \* \* \* which are not edible, and which have not been advanced in condition by refining and grinding, or by other process of manufacture." This article is a powder from the juice of the papaw melon, caught in pans, dried in the sun, sifted to take out foreign substances, packed in tins, and exported. It is not used, nor fit, for medicine, but is made into various forms of medicinal vegetable pepsin. It was assessed for duty as a medicinal preparation. The board sustained the protest that it was free.

A preparation is something prepared; and a medicinal preparation, medicine prepared. This article was not that; for it was not prepared. It was such a drug as those named, if not one of them, and was not edible. Drying in the sun was not refining, nor a process of manufacture. *Frazee v. Moffitt*, 20 Blatchf. 267, 18 Fed. 584. Neither was the sifting out of mechanical impurities. It had no effect upon the article itself, other than to get it by itself. This case is like *U. S. v. Merck*, 26 U. S. App. 541, 13 C. C. A. 432, and 66 Fed. 251, as to elaterium. Decision affirmed.

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ESCHWEGE et al. v. UNITED STATES.

(Circuit Court, S. D. New York. January 28, 1899.)

No. 2,795.

CUSTOMS DUTIES—CLASSIFICATION.

Collodion in sheets 55x24 inches, and polished, for use by being cut up and made into combs and other things, is dutiable at 60 cents per pound, under the second clause of paragraph 17 of the act of 1897 (30 Stat. 152), and not under the third clause, which provides for collodion in finished or partly finished articles, etc.<sup>1</sup>

This was an application by Eschwege & Cohn for a review of a decision of the board of general appraisers in respect to the classification for duty of certain collodion imported in sheets.

Edward Hartley, for appellants.  
James T. Van Rensselaer, Asst. U. S. Atty.

WHEELER, District Judge. The tariff act of 1897 provides for duties on:

"(17) Collodion and all compounds of pyroxylin whether known as celluloid or by any other name, fifty cents per pound; rolled or in sheets, unpolished, and not made up into articles, sixty cents per pound; if in finished or partly finished articles, and articles of which collodion or any compound of

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<sup>1</sup> As to interpretation of commercial and trade terms, see note to *Dennison Mfg. Co. v. U. S.*, 18 C. C. A. 545.