

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.

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.¹

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

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

pyroxylin is the component material of chief value, sixty-five cents per pound, and twenty-five per centum ad valorem." 30 Stat. 152.

The importation was of sheets of collodion about 55x24 inches, for use by being cut up and made into combs and other things, and not otherwise as they were. They have been assessed at 65 cents per pound, and 25 per cent. ad valorem. This paragraph seems to so distinguish between collodion in such sheets and collodion made up into articles from such sheets as to divide the sheets from the articles, and to exclude the sheets from being considered articles made up, finished, partly finished, or of which collodion or any compound of pyroxylin is the component material of chief value. Collodion is not rolled into sheets; and rolled collodion is different from that in sheets, and that unpolished from that made into articles. The second clause of the paragraph seems to cover two classes of the substance when it is rolled or when in sheets, viz. that which is unpolished, and that which is not made up into articles, whether polished or not. So, these sheets, although polished, are not made up into articles, and seem to be dutiable at 60 cents per pound, and not as articles under the third clause of either kind, at 65 cents per pound and 25 per cent. ad valorem. Decision reversed.

UNITED STATES v. HAHN.

(Circuit Court, S. D. New York. January 24, 1899.)

No. 2,716.

1. CUSTOMS DUTIES—CLASSIFICATION—AGATES.

Mineralogical specimens of agates in rectangular pieces, faced and polished, were free, under Rev. St. § 2503, as "agates, unmanufactured," and were not dutiable under section 2513, or, either directly or by assimilation, under the provision in section 2502 for "precious stones of all kinds."

2. SAME.

Small articles, such as cups, button hooks, penholder handles, paper weights, etc., manufactured from agate or onyx, were dutiable as non-enumerated manufactured articles, under Rev. St. § 2513, and not, either directly or by assimilation, as "precious stones of all kinds," under section 2502.¹

3. SAME—SIMILITUDES.

Similitude is a fact, and when found by the board of general appraisers upon competent evidence, on a proper issue, the finding should not be disturbed. But whether there was any occasion in the particular instance for resorting to the similitude section is a question of law, which the court may determine.

This was an application by the United States for a review of a decision of the board of general appraisers in respect to the classification for duty of certain articles imported by Rudolph C. Hahn.

James T. Van Rensselaer, Asst. U. S. Atty.
Everit Brown, for importer.

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