

it. Willing as the court is at all times to punish persons for a contemptible fraud, this must only be done when it is reasonably clear that it is authorized by law.

In regard to the other ground of objection to this discharge, such an objection goes to the effect of the discharge, rather than to the right to such a discharge. It is doubtful, therefore, if I have the right, even by consent, to adjudge this question. It appears that the attachment suit pending at Jasper, Tenn., was brought during February, 1898, while the petition for discharge in this case was filed the 16th day of December, 1898. The statute, by clear language, does not affect any right acquired by a proceeding in rem, or partly in rem, at an earlier date than within four months next before filing the petition. So far as creditors of Blumberg may have acquired a lien upon property by attachment levied more than four months before the petition was filed, it is not affected by the discharge, and the right to proceed to subject any property validly attached by levy cannot be questioned; and, if the creditors can satisfy their debt in that method, their right to do so is clear, and is not in the least affected by this proceeding. It is only the debt, with the right to proceed against Blumberg in personam, that is discharged. Ordered accordingly.

Since writing the above I find U. S. v. Rob Roy, 1 Wood, 42, 27 Fed. Cas. 873 (No. 16,179), and Brown v. Broach, 52 Miss. 536, which seem to settle the question.

---



---

UNITED STATES v. DODGE & OLCOTT.

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

No. 2,526.

CUSTOMS DUTIES—ENFLEURAGE GREASE—ESSENTIAL OIL.

A concentrated essence produced by the enfleurage process, in which a variety of petroleum was used as the original solvent, is free of duty as "enfleurage grease," within the tariff act of 1894, par. 568, and not dutiable, under paragraph 60, as "essential oil."

Appeal by the United States from a decision of the board of general appraisers, which reversed the action of the collector of customs in assessing duty upon the merchandise in question.

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

Albert Comstock, for importers.

TOWNSEND, District Judge. The merchandise in question was assessed for duty at 25 per cent. ad valorem, under paragraph 60 of the tariff act of 1894, as "essential oil," and was claimed by the importers in their protest to be free of duty, under paragraph 568 of said act, as "enfleurage grease." The object of the enfleurage process is to carry the odor of flowers from the place where they grow to the place where the perfume is made. Among the various enfleurage processes is one whereby the flowers are either brought in contact with, or in close proximity to, some fatty or greasy matter,

such as animal fats, vegetable oils, and certain preparations of petroleum, including vaseline. The fatty substance absorbs the odor from the flowers, and the absorbent or solvent may or may not be then removed by heat, leaving the body of perfume. This product is not then a completed product, in the sense that it is ready to be used by the ordinary consumer, but, when subjected by the perfumer to the influence of alcohol, the alcohol leeches out the perfume. The article in question is a highly concentrated essence or extract, produced by the enfleurage process, in which some variety of petroleum was used as the original solvent. After being subjected to heat, a mere undefined vestige of the petroleum remains, and the resultant product is described as the wax of the flower or a concentrated essence.

The counsel for the United States contends that it is not enfleurage grease. In support of his contention he shows that the term "grease" in the dictionaries ordinarily means the fat of land animals, and that there is a well-known substance commercially called "pomade,"—not to be confounded with the substance popularly known as "pomade,"—which consists of grease or fat impregnated with the odor of flowers, and which is enfleurage grease; while he contends that this concentrated concrete essence contains the essential oil of the perfume of the flower, and is therefore either an essential oil, as classified by the collector, or a manufactured article advanced to the condition of a concrete essence, and advertised and sold under that name in trade circulars. This contention is not successfully supported by the evidence. It appears from the various dictionary, encyclopedia, and dispensatory definitions that the term "grease" may include "oily or unctuous matters of any kind." But irrespective of these definitions, inasmuch as the witnesses for the government admit that vaseline is one of the solvents used in producing the pomade, which is admittedly an enfleurage grease, and that vegetable oils are used in making enfleurage grease, and inasmuch as the article in question is a grease in its physical character in the same sense as vaseline, and, furthermore, inasmuch as the preponderance of expert testimony is to the effect that this article is enfleurage grease, I think the decision of the board of appraisers should be affirmed. If the forcible argument of counsel for the United States that the article is not a grease were assumed to be correct in the sense that grease implies an animal origin or nature, then in view of the oily or greasy character of the article, and the fact that it contains the essential oil of the perfume from the flowers, some of the merchandise might perhaps be included under the head of the various oils mentioned in said paragraph 568 of the free list, such as oil of jasmine, etc., and therefore free as oils, if not free as enfleurage grease; or in view of the uncontradicted testimony of one of the importers that there is only a vestige of the petroleum remaining therein, and that the substance really consists of nothing but perfume and the wax of the flower, it might be free as "vegetable wax," under paragraph 668 of said act. The decision of the board of general appraisers is affirmed.

## UNITED STATES v. FRASSE et al.

(Circuit Court, S. D. New York. May 15, 1890.)

No. 2,198.

## CUSTOMS DUTIES—CLASSIFICATION—STEEL DRILL RODS.

Polished steel rods made by Stubbs, in England, commonly and commercially known as "drill rods," or "Stubbs steel," which are in fact used for making drill rods, being the standard for making the best drills, are dutiable under paragraph 124 of the tariff act of 1894, as drill rods, and not under paragraph 122, covering steel in all forms and shapes not specially provided for.

Appeal by the United States from a decision of the board of general appraisers which reversed the classification of the collector of customs of the importations in question.

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

TOWNSEND, District Judge. The merchandise in question comprises certain fine steel rods or bars, highly polished, of the class known as "Stubbs steel," one-half and three-sixteenths of an inch in diameter, and about 36 inches long. They were returned as steel drill rods, valued above 4 cents a pound, and duty was assessed thereon, in accordance with the provisions of paragraph 124 of the act of 1894, at 40 per cent. ad valorem, as "drill rods." The importers protested, claiming that they were dutiable under the provisions of paragraph 122 of said act, for "steel in all forms and shapes, not specially provided for in this act, valued above sixteen cents per pound," etc. The board of appraisers found that they were neither wire nor strip steel, but that they were bright steel rods. The counsel for the United States contends that they are drill rods in fact, and, if material to this question, that they are drill rods of wire, under the subheading of "wire" in said paragraph 124.

These rods were manufactured by Peter Stubbs, of England, from special tool steel. The analyses show that the steel contains a very small quantity, comparatively, of phosphorus; that it was made in a crucible, out of the best iron, into ingots; was then heated and hot rolled to about the size of the finished rods; that these rods were then passed through the rolls cold, then annealed soft, then drawn cold through dies to the exact gauge, then unrolled, straightened, and polished and cut into lengths, and when so made, by reason of the low percentage of phosphorus, were eminently suitable for drill rods. There is further much evidence to show that this Stubbs steel was the standard for the best drill rods, and it is in fact used to make drill rods. It is proven that these rods are commonly or commercially known as "drill rods," although known by other names, such as "Stubbs steel" and "steel rods." It is further proven by uncontradicted testimony that rods of this character, and of the length and diameter shown by these exhibits, were included in the wire class by commercial designation in this country; and it is shown by the testimony of expert witnesses that they come within the definition