

is used for manufacturing purposes, and that for a period of about 15 years products popularly known as carbolic acids have been classified for duty by the treasury officials as such. On the other hand, it is admitted that it is not, in strict chemical parlance, an acid, and that there is, in fact, no such acid as a carbolic acid. The contention of counsel for the government is that the article in question is a crude carbolic oil of the dead oil class, containing only about 35 per cent. of what are commonly known as carbolic and cresylic acids. In support of this contention it is shown that this product is the first running over in the process of distillation of coal tar, and that it contains many combinations of basic oils and bitumens in addition to the carbolic acid, and that certain German writers call this product carbolic oil. It was decided in *Lutz v. Magone*, 153 U. S. 105, 14 Sup. Ct. 777, that in the construction of tariff acts questions of whether an article was or was not an acid were not scientific questions, and that, therefore, scientific tests were not conclusive. It appears that the term "crude carbolic acid" covers a wide range of products of varying degrees of purity; and the evidence introduced on behalf of the government, derived chiefly from German chemical works, is insufficient to overcome the proof that this product, which is commercially known as crude carbolic acid, is also popularly and scientifically known in this country as crude carbolic acid. The conclusions herein are strengthened by an examination of the opinion of Judge Dallas in *Re Schultz*, 94 Fed. 820, in the Eastern district of Pennsylvania, where he holds that an article similar in character, although differing somewhat in the comparative quantities of foreign substances, is substantially an acid. The decision of the board of general appraisers is therefore reversed.

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LESHER, WHITMAN & CO. v. UNITED STATES.

(Circuit Court, S. D. New York. May 17, 1899.)

No. 2,732.

**CUSTOMS DUTIES—CONSTRUCTION OF ACT OF 1894—SCOPE OF PROVISION DEFERRING TAKING EFFECT OF WOOLEN SCHEDULE.**

Paragraph 297 of the tariff act of 1894, providing that the reduction of rates of duty therein made on manufactures of wool should not take effect until January 1, 1895, embraced all the various classes of goods in Schedule K, made wholly or in part of wool,—those specifically enumerated as well as those which were not.

Appeal by the importers from a decision of the board of general appraisers which sustained the action of the collector of customs in assessing duties upon the merchandise in question.

Stephen G. Clarke, for importers.

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

TOWNSEND, District Judge. The article in question is a manufacture of worsted and cotton, worsted chief value, commercially

known as "Italian cloth." It was imported into the port of New York October 30, 1894, and was assessed for duty in accordance with the provisions of paragraph 394 of the act of 1890, under paragraph 297 of the act of 1894, which provides as follows: "The reduction of the rates of duty herein provided for manufactures of wool shall take effect January first, eighteen hundred and ninety-five." The importers protested, claiming that it was dutiable according to the provisions of paragraph 283 of the act of 1894. Counsel for the importers contends that, inasmuch as this article is dutiable by a specific commercial name, it is differentiated from the nonspecifically enumerated manufactures of wool; and he cites in support of this contention the case of *U. S. v. Field*, 18 C. C. A. 225, 71 Fed. 513. In view, however, of the later decision of the supreme court of the United States in *U. S. v. Klumpp*, 18 Sup. Ct. 311, and of the circuit court of appeals in this circuit in *Re Schnabel*, 89 Fed. 1019, I think it is clear that congress intended to provide that paragraph 297 of said act of 1894 should embrace the various classes of goods made wholly or in part of wool in Schedule K. The decision of the board of general appraisers is therefore affirmed.

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UNITED STATES v. UNITED STATES EXP. CO.

(Circuit Court, S. D. New York. May 17, 1899.)

No. 2,809.

**CUSTOMS DUTIES—CLASSIFICATION—PEARL SCALES.**

Strips of pearl, commonly called "pearl scales" or "stock pearl," chiefly used for knife handles, but also used on fans, opera glasses, button hooks, and for inlaid work, are dutiable under paragraph 450 of the tariff act of 1897, as "manufactures of mother-of-pearl, not specially provided for," and not under paragraph 153, as "parts of knives, wholly or partly manufactured."

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 importations in question.

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

Howard T. Walden, for appellees.

**TOWNSEND**, District Judge. The articles in question are strips of pearl, commercially known as "pearl scales" or "stock pearl," classified for duty at 5 cents apiece, as "parts of knives, wholly or partly manufactured," under paragraph 153 of the act of 1897. The importer protests, claiming that the articles are dutiable at 35 per cent. ad valorem, under paragraph 450 of said act, as "manufactures of mother-of-pearl, not specially provided for." It is agreed that they are not raw material, but manufactured articles. The question presented is whether they are parts of knives. On behalf of the United States it is urged that inasmuch as in some cases they are shipped, in accordance with orders, in certain sizes, and inasmuch as their chief use is for knife handles, they are parts