

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.

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

of knives, partly manufactured, under the decisions in *Magone v. Wiederer*, 159 U. S. 555, 16 Sup. Ct. 122, *In re Blumenthal*, 51 Fed. 76, and *U. S. v. Simon*, 84 Fed. 154. It further appears, however, that the articles in question are the cheapest quality of pearl, are sometimes sold by the pound and in all sizes and shapes, and are used on fans and opera glasses, for inlaying work, and for the handles of button hooks, corkscrews, and other articles. And inasmuch as in their present condition they are not necessarily a part of a knife handle, and would not necessarily be recognized as such, and are not in such a condition as to be part of the knife without being further advanced by filing, drilling, and trimming, in order to adapt them to the shapes of the knife handles and to fasten them thereto, I think the United States has failed to show that the goods are anything more than the material from which parts of pocketknives may be manufactured. This conclusion is strengthened by the decisions in *Re John Russell Cutlery Co.*, 56 Fed. 221, *Worthington v. Robbins*, 139 U. S. 341, 11 Sup. Ct. 581, and *U. S. v. Simon*, 84 Fed. 154. The decision of the board of general appraisers is affirmed.

MORRIS EUROPEAN & AMERICAN EXP. CO. v. UNITED STATES.

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

No. 2,788.

1. CUSTOMS DUTIES—APPRAISEMENT—REVIEW.

Where a finding of the board of appraisers is wholly without evidence to support it, the court will disregard it.

2. SAME—STATUTES—PROFESSIONAL PRODUCTIONS.

Statues carved out of wood by a professional sculptor may be admitted free of duty, as "the professional production of a statuary or sculptor," although the design was produced by an artist in the United States.

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

Howard T. Walden, for the importers.

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

TOWNSEND, J. In 1897 the appellants herein imported two carved or sculptured figures in oak wood, about 3½ feet in height, representing adoring angels, of conventional design, produced in France from drawings executed by a professional architect and sculptor in the United States. They were assessed for duty at 25 per cent. ad valorem, under paragraph 181 of the act of 1894, as "manufactures of wood not specially provided for." The importers protested, claiming that they were free, as "statuary, the professional production of a statuary or sculptor." The board of appraisers found as follows:

"That these articles are not the professional production of a statuary or sculptor, who conceived the design and executed the originals or models thereof, but are mechanical productions executed by artisans, and by mechanical means."