plosives which is not now being manufactured and marketed, until all explosives now on the market that may be offered for test have been tested.

(5) A list of the explosives which pass certain requirements satisfactorily will be furnished to the state mine inspectors, and will be made public in such further manner as may be considered desirable.

If you are manufacturing any explosive which you desire to have tested under the conditions specified above, please notify this office to that effect and, at the same time, send a copy of your communication to Mr. J. C. Roberts, U. S. Geological Survey, Fortieth and Butler Streets, Pittsburg, Pa.

It is expected that subsequent to the completion of these tests of explosives for the manufacturers, the station will also make tests of these explosives as they are supplied for use in coal mines in the various states.

Very respectfully,

GEO. OTIS SMITH,
Director.

DEPARTMENT OF THE INTERIOR, UNITED STATES GEOLOGICAL SURVEY.

Test Requirements for Explosives Used in Coal Mining.

The tests will be made by the engineers of the United States explosives testing station at Pittsburg, Pa., in gas and dust gallery No. 1. The charge of explosive, to be fired in tests 1 and 2, shall be equal in disruptive power to one-half pound of nitroglycerine dynamite in its original wrapper, of the following formula:

	Per cent.
Nitroglycerine	40
Nitrate of sodium	44
Wood pulp	15
Calcium carbonate	1
	100

Each shot shall be fired with an electric fuse of sufficient power to completely detonate or explode the charge, as recommended by the manufacturer. The explosives must be in such condition that the chemical and physical tests do not show any unfavorable results. The explosives in which the charge used is less than 100 grams will be weighed in tin foil without the original wrapper.

The dust used in tests 2, 3, 4, and 5, will be of same degree of fineness and taken from one mine.

Test 1.—Ten shots with a charge as described above, in the original wrapper, shall be fired, each with 1 pound of clay tamping, at a gallery temperature of 77° Fahrenheit, into a mixture of gas and air containing 8 per cent. of methane and ethane. An explosive will pass this test if all ten shots fail to ignite the mixture.

Test 2.—Ten shots with charge as previously noted, in its original wrapper, shall be fired, each with 1 pound of clay tamping at a gallery temperature of 77° Fahrenheit, into a mixture of gas and air containing 4 per cent. of methane and ethane and 20 pounds of coal dust, 18 pounds of which is to be placed on shelves laterally arranged along the first 20 feet of the gallery, and 2 pounds to be placed near the inlet of the mining system in such a manner that all or part of it will become suspended in the first division of the gallery. An explosive will pass this test if all ten shots fail to ignite the mixture.

Test 3.—Ten shots with charge as previously noted, in its original wrapper, shall be fired, each with 1 pound of clay tamping at a gallery temperature of 77° Fahrenheit, into 40 pounds of bituminous coal dust, 20 pounds of which is to be distributed uniformly on a horse placed in front of the cannon and 20 pounds placed on side shelves in sections 4, 5 and 6. An explosive will pass this test if all ten shots fail to ignite the mixture.

Test 4.—A limit charge will be determined within 25 grams by firing charges in their original wrappers unstemmed at a gallery temperature of 77° Fahrenheit, into a mixture of gas and air containing 4 per cent. of methane and ethane and 20 pounds of bituminous coal dust, to be arranged in the same manner as in test 2. This limit charge is to be repeated five times under the same conditions before being established.

Test 5.—A limit charge will be determined under the same conditions as in test 4, except that 2 per cent. of methane and ethane will be used instead of 4 per cent.

Note.—At least 2 pounds of clay stemming will be used with slow-burning explosives.

WASHINGTON, D. C.,
January 8, 1909.

OFFICIAL REGULATIONS AND RULINGS.

FOOD INSPECTION DECISION 98.

The Labeling of Whiskey Compounds.—The labeling of whiskey compounds, under the Food and Drugs Act of June 30, 1906, will be governed by the opinion of the Attorney-General, dated December 1, 1908, published herewith.

(Signed) JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *December 4, 1908.*

DECEMBER 1, 1908.

The Honorable, the Secretary of Agriculture.

SIR: I am duly in receipt of your letter of this date. In this you call my attention to a passage in my opinion of April 10, 1907, addressed to the President, which passage is in the words following:

I conclude that a combination of whiskey with ethyl alcohol, supposing, of course, that there is enough whiskey in it to make it a *real* compound and not a mere semblance of one, may be fairly called "Whiskey," provided the name is accompanied by the word "Compound" or "Compounded," and provided a statement of the presence of another spirit is included in substance in the title—and you ask me how much whiskey there must be in a mixture of whiskey and neutral spirits to fairly entitle this mixture to be called a "Compound" or "Compounded" whiskey, or, as stated in your letter, "whiskey: a compound of pure grain distillates."

In the passage in question I stated that there must be, in any such a mixture, "enough whiskey * * * to make it a *real* compound and not a mere semblance of one." In the absence of any legislative provision or judicial determination on this subject, the proportion of whiskey necessary for the purpose in question can be stated only tentatively and for the time being; and a selection of any particular fraction of the whole as a necessary proportion must be, at least in appearance, somewhat arbitrary. I have, however, very carefully examined the evidence on this subject,

submitted by your department, and, after full consideration of such evidence, have reached the conclusion that, until better informed in the premises from the action of the Congress or of the courts, this department will not advise a prosecution on the ground of violation of law in using any one of the three labels above suggested or any substantial equivalent therefor when the amount of whiskey in the mixture equals or exceeds one-third in volume of the spirituous content; that is to say, in the case you mention, one-third of the whiskey and neutral spirits combined.

Very respectfully,

CHARLES J. BONAPARTE,
Attorney-General.

FOOD INSPECTION DECISION 99.

Change in Form of Guaranty Legend. (Amending Section *b* of Regulation 9).—Section 9 of the Food and Drugs Act, June 30, 1906, provides that no dealer shall be prosecuted under the provisions of the act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the same are not adulterated or misbranded within the meaning of the act. There is a further provision that the guarantor shall, if the goods be adulterated or misbranded within the meaning of the act, be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer.

Section *b* of Regulation 9 provides that a general guaranty may be filed with the Secretary of Agriculture by the manufacturer or dealer and be given a serial number, which number should appear on each and every package of goods sold under such guaranty, with the words "Guaranteed under the food and drugs act, June 30, 1906."

It is obvious from a reading of Section 9 of the act that the guaranty is in no sense a guaranty by the Government, and that it is merely an assumption of responsibility for the character or labeling of the goods by the manufacturer, jobber, or packer. Yet, notwithstanding this plain fact, attempts have been made by some unscrupulous persons to cause the public to interpret the phrase "Guaranteed under the food and drugs act, June 30, 1906," as a guaranty by the government that the goods upon which the phrase appears are pure and conform, in all respects, with the provisions of the act. This misrepresentation has been scattered broadcast in prominent advertisements in the press, and by means of circulars and billboard posters. Even in the absence of such misrepresentation there can be no doubt that the phrase, unfortunately, is misleading, and is therefore prohibited by the law and should be changed. The Commissioner of Patents has refused to register trade-marks of which the phrase formed a part, on the ground that it is misleading and under the law can not be registered. The Board of Food and Drug Inspection for some time has realized that the wording of the guaranty legend should be changed, but it has also been mindful of the fact that the manufacturers and jobbers of the United States have, in the aggregate, large sums of money invested in labels and plates, upon which appears the legend in its present form, a form indorsed by the regulations and copied therefrom in good faith by the owners of these labels and plates. Entirely apart from the expense and loss of property, it is a fact that a change in the form of the legend, without due notice, would seriously embarrass business interests, because the printing and lithographing of new labels will require considerable time.

As a solution of the question, the Board recommends that the guaranty legend be changed so as to show plainly that the guaranty is that of the manufacturer and not of the government, that the old form of labels now in use representing guaranties already filed with the Department of Agriculture shall be recognized for a term of two years, and that for all guaranties filed with the Department of Agriculture on and after January 1, 1909, the guaranty legend shall read "Guaranteed by [insert name of guarantor] under the food and drugs act, June 30, 1906."

Accordingly, the following amendment is proposed to Regulation 9 of the Rules and Regulations for the Enforcement of the Food and Drugs Act:

Section *b* of Regulation 9 is hereby amended to read as follows:

(*b*) A general guaranty may be filed with the Secretary of Agriculture by the manufacturer or dealer and be given a serial number, which number shall appear on each and every package of goods sold under such guaranty with the words "Guaranteed by [insert name of guarantor] under the food and drugs act, June 30, 1906."

This amendment shall become and be effective on and after January 1, 1909. Labels bearing the form of guaranty legend provided in the original regulations and representing guarantees now on file with the Department of Agriculture may be used for a period of two years, but it is suggested that, as new labels are prepared, the change in the form of guaranty legend should be made.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:

GEO. B. CORTELYOU,
Secretary of the Treasury,
JAMES WILSON,
Secretary of Agriculture,
OSCAR S. STRAUS,
Secretary of Commerce and Labor.

WASHINGTON, D. C., *December 8, 1908.*

FOOD INSPECTION DECISION 100.

Bleached Flour.—Flour bleached with nitrogen peroxide, as affected by the Food and Drugs Act of June 30, 1906, has been made the subject of a careful investigation extending over several months.

A public hearing on this subject was held by the Secretary of Agriculture and the Board of Food and Drug Inspection, beginning November 18, 1908, and continuing five days. At the hearing those who favored the bleaching process and those who opposed it were given equal opportunities to be heard.

It is my opinion, based upon all the testimony given at the hearing, upon the reports of those who have investigated the subject, upon the literature, and upon the unanimous opinion of the Board of Food and Drug Inspection, that flour bleached by nitrogen peroxide is an adulterated product under the Food and Drugs Act of June 30, 1906; that the character of the adulteration is such that no statement upon the label will bring bleached flour within the law; and that such flour can not legally be made or sold in the

District of Columbia or in the Territories; or be transported or sold in interstate commerce; or be transported or sold in foreign commerce except under that portion of Section 2 of the law which reads:

* * * *Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according for the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped: * * *

In view of the extent of the bleaching process and of the immense quantity of bleached flour now on hand or in process of manufacture, no prosecutions will be recommended by this Department for manufacture and sale thereof in the District of Columbia or the Territories or for transportation or sale in interstate or foreign commerce, for a period of six months from the date thereof.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *December 9, 1908.*

FOOD INSPECTION DECISION 101.

Benzoate of Soda.—Frequent inquiries have been received by the Department in regard to the use of benzoate of soda in foods. The following is typical of this class of inquiries:

In F. I. D. 89, the position of the National authorities in regard to the use of benzoate of soda is to allow its use in food, pending the report of the Referee Board of Consulting Scientific Experts. Based upon Bulletin 84, Part IV, of the Bureau of Chemistry, issued subsequent to F. I. D. 89, certain manufacturers of food products are representing to the officials of the States, charged with the enforcement of food laws, and to the consuming public generally, that the U. S. Government has condemned the use of benzoate in foods. We write to ask the position of the Deparment on this subject.

The Department has not changed the position outlined in Food Inspection Decision 89. Pending the determination by the Referee Board of the wholesomeness or unwholesomeness of benzoate of soda, its use will be allowed under the following restrictions:

Benzoate of soda, in quantities not exceeding one-tenth of one per cent., may be added to those foods in which, generally heretofore, it has been used.

The addition of benzoate of soda shall be plainly stated upon the label of each package of such food.

F. L. DUNLAP,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:
JAMES WILSON,
Secretary of Agriculture,

WASHINGTON, D. C., *December 18, 1908.*

FOOD INSPECTION DECISION 102.

Entry of Vegetables Greened with Copper Salts.—Until further notice, vegetables greened with copper salts, but which do not contain an excessive amount of copper and which are otherwise suitable for food, will be allowed entry into the United States, if the label bears the statement that sulphate of copper or other copper salts have been used to color the vegetables.

Food Inspection Decision No. 92 is amended accordingly.

GEO. B. CORTELYOU,
Secretary of the Treasury.
JAMES WILSON,
Secretary of Agriculture.
OSCAR S. STRAUSS,
Secretary of Commerce and Labor.

WASHINGTON, D. C., *December 23, 1908.*

Under date of October 10, 1908, the Board of Food and Drugs Inspection has announced the following judgments under the Food and Drugs Act: No. 12, Misbranding of Flour (hard spring wheat mixed with durum); No. 13, Misbranding of Flour (as to place and manner of manufacture); No. 14, Misbranding of Vanilla Extract (imitation colored with caramel); No. 15, Adulteration and Misbranding of Whiskey (neutral spirits artificially colored); No. 16, Misbranding of a Drug Product (Sartoin skin food); No. 17, Misbranding of Flour (as to place of manufacture and name of manufacturer).

Under date of October 2nd, judgments Nos. 18–21, all concerning the Misbranding and Adulteration of Honey, Glucose and Invert Sugar being present.

Under date of November 25th, judgment No. 25, Misbranding of a Drug (Harper's Cuforhedake Brane Fude or Cuforhedake Brain Food).

Under date of Nov. 16th, Nos. 26–27, Misbranding of Canned Blackberries.

Under date of December 28th, the following: No. 28, Adulteration and Misbranding of Pepper; No. 29, Misbranding of a Drug Product (Liquid Sulphur); No. 30, Misbranding of a Drug Product (Concentrated Oil of Pine Compound); No. 31, Adulteration and Misbranding of Buckwheat Flour; No. 32, Misbranding of a Drug Product (Blackburn's Cascara, Wild Lemon, Castor Oil Pills, Compound); No. 33, Misbranding of Maple Sirup; Nos. 34 and 35, Misbranding of Canned Peaches.

(T. D. 29342). Nov. 11, 1908.—Countervailing duty on wood pulp and other products of wood imported from Sweden.

(T. D. 29343). Nov. 14, 1908.—Drawback on leather manufactured by Thomas A. Kelley & Co., of West Lynn, Mass., with the use of imported bichromate of soda, logwood crystals and refined glycerin.

(T. D. 1433). Nov. 13, 1908.—Bottling of spirits in bond. No foreign materials such as caramel or rock candy sirup to be added.

(T. D. 1434). Nov. 16, 1908.—Compound known as Marrofat exempt from taxation as a substitute, not being made in imitation or semblance of butter or calculated or intended to be sold as butter.

(T. D. 1435). Nov. 16, 1908.—Suspension of the provision of regulations prohibiting use of fortified wines in the manufacture or preparation of patent or proprietary medicines or compounds.

(T. D. 1436). Nov. 17, 1908.—Record of grape brandy.

(T. D. 29354). Nov. 21, 1908.—When apparatus, imported free of duty for a scientific or educational institution under paragraph 638, tariff act of 1897, is rejected for any reason by such institution, rejection should be reported to the collector of customs at port of entry in order that duties may be collected.

(T. D. 29356). Nov. 23, 1908.—Drawback on Giant Dynamite Powder, in cartridge form, manufactured by the Giant Powder Company, Consolidated, of San Francisco, Cal., in part with the use of imported wood flour. T. D. 27138 of February 20, 1906, extended.

(T. D. 1437). Nov. 21, 1908.—Rectifiers prohibited from making a so-called wine mash and using the product thereof in the production of compound liquors.

(T. D. 29365). Nov. 25, 1908.—Drawback on steel rails manufactured by the Bethlehem Steel Company, of South Bethlehem, Pa., with the use of imported iron ore. T. D. 27127 of February 19, 1906, extended.

(T. D. 29370–G. A. 6830). Nov. 25, 1908.—Gauge of oil. Dutiable quantity-method of ascertainment. In ascertaining the value of oil dutiable on an *ad valorem* basis, it is proper to ascertain in American gallons the quantity actually arriving in this country, and afterwards to reduce the unit of the invoice to English or imperial gallons in the relative ratio of 231 cubic inches for the American gallon, liquid measure, and 277.274 cubic inches for the English gallon. The proper value would thus be determined by multiplying the number of gallons by the price per gallon, as shown by the invoice, if found to be correct by the appraiser.

(T. D. 29373). Nov. 17, 1908.—Court decision adverse to the government. Petroleum products countervailing duty-Belgian paraffin. Paraffin which is derived from petroleum originating in Russia, a country that imposes a duty on petroleum products exported from the United States, but which is manufactured in Belgium, a country that imposes no such duty, is not subject to the countervailing duty provided in paragraph 626, tariff act of 1897, on "the products of crude petroleum produced in any country, which imposes a duty on petroleum or its products exported from the United States."

(T. D. 29374). Nov. 16, 1908.—Decision adverse to the government. Casein-lactarene. Casein is free of duty as "lactarene," under paragraph 594, tariff act of 1897.

(T. D. 1438). Nov. 23, 1908.—Certification, by collectors, of specially denatured alcohol used or disposed of by manufacturers or dealers during the month.

(T. D. 1439). Denatured alcohol. Authorizing formula 17 as special denaturant for use in the manufacture of chloral hydrate.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 24, 1908.

SIR: You will please inform the ———, in your district, that the following formula has been authorized as a special denaturant for use in the manufacture of chloral hydrate:

Formula 17.—To 100 gallons of ethyl alcohol add 0.05 gallon (6 ½ fluid ounces) of animal oil.

The animal oil must conform to the following specifications:

Color.—The color shall be a deep brown.

Boiling Point.—When 100 cc. of the animal oil are subjected to distillation in the same manner as prescribed for the determination of wood alcohol in Section 26, Part I of the Regulations, not more than 5 cc. should distil over below 90° C., and not less than 50 cc. at 180° C.

Pyrrol Reaction.—Two and one-half cc. of a 1 per cent. solution of the animal oil in 90 per cent. alcohol are diluted to 100 cc. with alcohol. A splinter of pine wood, previously moistened with concentrated hydrochloric acid, is dipped into 10 cc. of this solution, containing 0.025 per cent. of animal oil. After a few minutes, the splinter should show a distinct red coloration.

Reaction with Mercuric Chloride.—Five cc. of the 1 per cent. solution of the animal oil in 90 per cent. alcohol, when treated with 5 cc. of a 2 per cent. solution of mercuric chloride in alcohol should give immediately a voluminous flocculent precipitate. Five cc. of the 0.025 solution of the animal oil when treated with 5 cc. of the 2 per cent. solution of mercuric chloride, should show at once a distinct turbidity.

Respectfully,
ROBT. WILLIAMS, JR.,
Acting Commissioner.

MR. E. B. ALLEN, *Collector First District, St. Louis, Mo.*

(T. D. 1440). Denatured alcohol. Authorizing formula 1 as special denaturant for use in the manufacture of furniture polish.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 28, 1908.

SIR: You are informed that formula 1 (to 100 gallons of ethyl alcohol add 5 gallons of approved wood alcohol) has been authorized as a special denaturant for use in the manufacture of furniture polish.

Applicants for a permit for the use of this formula in this line of manufacture must forward to this office the formula for the furniture polish they propose to make, together with a sample of the same, the sample to consist of not less than 1 pint.

Respectfully,
ROBT. WILLIAMS, JR.,
Acting Commissioner.

MR. W. V. MCMAKEN, *Collector Tenth District, Toledo, O*

(T. D. 29388—G. A. 6833). Dec. 8, 1908.—Olive oil—"fit only." Olive oil which, although imported in good faith for manufacturing or mechanical purposes and actually used for such purposes, is of a grade that is suitable for human consumption as food, is not within the provision in paragraph 626 of the free list of the tariff act of 1897, for "olive oil for manufacturing or mechanical purposes fit only for such use," but is subject to duty under paragraph 40, relating to "olive oil, not specially provided for."

(T. D. 29425—G. A. 6838). Sugar—polariscopic tests—Regulations of the Secretary of the Treasury.

1. "TESTING BY POLARISCOPE" DEFINED.

The expression "testing * * * degrees by the polariscope," occurring in paragraph 209 of the present tariff act of 1897, is construed to mean the percentage of pure sucrose contained in imported sugar as actually ascertained by polariscopic estimation, and has no reference to the commercial meaning attached to the phrase as recognized in trade between the sellers and buyers of sugar prior to the adoption of said act.

2. TREASURY REGULATIONS VALID AND REASONABLE.

The regulations of the Secretary of the Treasury promulgated under the authority conferred on him by Congress, and designed to carry into effect the provisions of said paragraph, are reasonable and valid, and free from constitutional objections.

3. CONSTITUTIONAL QUESTION—HOW RAISED IN REVENUE CASES.

Direct appeals from the circuit court of the United States to the Supreme Court, under Section 5 of the act of 1891 (26 Stat., 826), can not be entertained unless the construction or application of some provision of the constitution of the United States is *bona fide* involved, so as to raise a real and substantial dispute or controversy concerning the construction of the constitution upon which the matter in question depends.

United States General Appraisers, New York, December 18, 1908.

In the matter of protests 147213, etc., of American Sugar Refining Company against the assessment of duty by the collector of customs at the port of New York.

Before Board 3 (WAITE, SOMERVILLE, and HAY, General Appraisers).

SOMERVILLE, *General Appraiser:* The importations covered by the protests contained in the schedule consists of sugar which was assessed for duty by the collector under paragraph 209 of the tariff act of July 24, 1897, according to the polariscopic test prescribed by the regulations of the Secretary of the Treasury in order to ascertain the percentage of pure sucrose. These regulations are assailed by the importers variously on the ground that they are unreasonable and invalid, and alleging in some cases that they are unconstitutional. It is further objected in many cases that the phrase used in said paragraph 209, "testing by the polariscope," must be construed to mean the usual commercial polariscopic test as recognized and accepted in the trade between buyers and sellers of sugar at and prior to the adoption of the tariff act of 1897.

Similar questions were under consideration and were decided by this Board as far back as March, 1899, in the case of Bartram Brothers, G. A. 4386 (T. D. 20850), where the protests were overruled and the legality and reasonableness of the regulations were fully sustained. On appeal being taken from that decision to the circuit court, that court reversed the judgment of the Board, holding that the term "testing by the polariscope" had a well-settled commercial meaning prior to 1897, and must be interpreted in accordance therewith. Bartram Brothers *v.* United States (123 Fed. Rep., 327). On further appeal being taken to the circuit court of appeals, that court reversed the circuit court and fully sustained the decision of the Board (131 Fed. Rep., 833; 65 C. C. A., 557; T. D. 25395). In October, 1904, a petition for a writ of certiorari was presented to the Supreme Court in that and other similar cases and was denied (195 U. S., 635; T. D. 25901).

A renewal of all this litigation has taken place recently, where similar questions were again brought under review directly by the Supreme Court of the United States in the case of the American Sugar Refining Company *v.* United States (29 Sup. Ct. Rep. ; T. D. 29411). These appeals were dismissed by the Supreme Court for want of jurisdiction; and the following observations were made by Chief Justice Fuller in delivering the opinion of the court:

By Section 5 of the act of 1891 (26 Stat., 826), the judgments or decrees of the circuit courts of appeals are made final in all cases arising under the revenue law, and can only be carried to the Supreme Court by certificate, or on a certiorari. In the aforementioned cases there was no certificate for instruction on any question or proposition of law, and the application for certiorari was denied. The present direct appeal to this court is a mere attempt to obtain a reconsideration of questions arising under the revenue laws and already determined by the circuit court of appeals in due course. Such direct appeals, under Section 5 of the act of 1891, can not be entertained unless the construction or application of the Constitution of the United States is involved.

This is conceded, and counsel for appellant attempt to sustain the jurisdiction on the ground that the regulations assumed to add something to the dutiable standard prescribed by the tariff act, and that in doing so the Secretary exercised legislative power confided by the Constitution solely to Congress. But this does not constitute a real and substantial dispute or controversy, concerning the construction or application of the Constitution, upon which the result depends.

The admitted duty of the Secretary of the Treasury was to construe as best he could the paragraph relating to collection of duty upon sugars and to promulgate regulations for carrying it into effect (Rev. Stat., Sec. 251). This and this alone he did. The only real substantial point involved is whether or not he misconstrued the statute, and that gives this court no jurisdiction upon direct appeal. Sloan *v.* United States (193 U. S., 614, 620) and cases cited; United States *ex rel.*, etc., *v.* Taft, Secretary (203 U. S., 461).

Undoubtedly, Congress, without violating any constitutional provision, could have in terms directed exactly what was prescribed by the Treasury regulations; and prior decisions have held that the statute was properly construed by the secretary.

We concur with counsel for the government, that if the construction or application of the Constitution of the United States, within the meaning of Section 5, act of 1891, is involved in every case where one claims that according to his interpretation of a statute excessive duty or tax has been demanded by executive officers, the provisions of that act making decisions of the cicuit court of appeals in revenue cases final are of very limited value, and this court must entertain direct appeals from the circuit courts in most tariff and tax controversies, which we regard as out of the question.

The contentions made in these cases are the same as those made in the decision above cited. Following the views of the Supreme Court, as expressed in said decision, we overrule the protests on all grounds and affirm the decision of the collector in each instance.