

to the obligation by which the parties have bound themselves, and is, of course, quite unauthorized, as well as liable to great practical injustice in the application."

These observations, here so pertinent, commend themselves to our judgment. Applying, then, to this case, the principles sanctioned by the foregoing authorities, we are constrained to hold that the above-quoted instructions, of which complaint is here made, were unwarranted and erroneous.

To the suggestion that during the first year the contract was in force the defendant's mines were kept running without any serious interruption, it is enough to say that no determining effect is to be given to that fact, the language of the plaintiff's stipulation being clear. The judgment of the circuit court is reversed, and the case is remanded for a new trial.

HERRMAN v. UNITED STATES.

(Circuit Court, S. D. New York. June 29, 1894.)

CUSTOMS DUTIES—PLATE GLASS SILVERED AND BEVELED.

Certain cast polished plate glass, silvered and beveled, from which looking glasses are made, *held* dutiable at 6 cents a square foot, and also to an additional duty of 10 per cent. ad valorem, under paragraphs 116 and 118 of the tariff act of October 1, 1890, and not dutiable under paragraph 116 only, as "looking glass plates."

Appeal by Importer from Decision of Board of United States General Appraisers. Decision affirmed.

The collector of customs assessed duty upon this merchandise, imported by H. Herrman in March, 1891, under the following paragraphs of the act of October 1, 1890:

"Par. 116. Cast polished plate glass, silvered, and looking glass plates not exceeding sixteen by twenty-four inches square, six cents per square foot; above that, and not exceeding twenty-four by thirty inches square, ten cents per square foot; above that, and not exceeding twenty-four by sixty inches square, thirty-five cents per square foot; all above that, sixty cents per square foot."

"Par. 118. Cast polished plate glass, silvered or unsilvered, and cylinder, crown, or common window glass, when ground, obscured, frosted, sanded, enameled, beveled, etched, embossed, engraved, stained, colored or otherwise ornamented or decorated, shall be subject to a duty of ten per cent. ad valorem in addition to the rates otherwise chargeable thereon."

The claim of the importer was that it was dutiable only under paragraph 116; that it was shaped and used for making looking glasses, and was specifically covered by the term "looking glass plates" in paragraph 116. The board of United States general appraisers affirmed the decision of the collector.

Curie, Smith & Mackie, for importer.
Henry C. Platt, U. S. Atty.

TOWNSEND, District Judge. Certain plate glass was classified for duty under paragraph 116 of the tariff act of 1890. To this classification no objection is made. But it was also classified, under paragraph 118 of said act, as "cast polished plate glass silvered and beveled." The importer protests against this classification, on the

ground that, while paragraph 116 in terms covers looking-glass plates, paragraph 118 does not refer to them. The evidence shows that the glasses in question are used for making looking glasses. It is not denied that they are "cast polished plate glass," and there is no evidence that such glasses are commercially known as "looking glass plates." As congress has recognized "looking glass plates" as distinct from "cast polished plate glass silvered," and as the articles in question are clearly embraced within the latter class, the decision of the board of general appraisers is affirmed.

In re IRWIN et al.

(Circuit Court, S. D. New York. June 22, 1894.)

1. CUSTOMS DUTIES—BAUXITE—ALUMINA.

The white powder known to the trade as "refined bauxite," which is manufactured from bauxite by removing from the crude ore the impurities of iron, silica, and titanitic acid, is not bauxite, within the meaning of paragraph 501 of the free list of the tariff of October 1, 1890.

2. SAME.

The white powder known to the trade as "refined bauxite" or "hydrate of alumina" is made by heating in a furnace a mixture of crude bauxite, ground fine, and soda ash, until the carbonic acid of the latter is expelled. The mixture is then cooled and treated with water, which dissolves the resulting aluminate of soda, leaving behind the silica, iron, and titanitic acid of the bauxite; and the solution is treated with gaseous carbonic acid, which converts the soda into a carbonate, and allows the precipitation of the alumina. From this precipitate, when washed and dried, results the powder in question. *Held*, that this is alumina, within the meaning of paragraph 9 of the tariff act of October 1, 1890, and is dutiable as such at six-tenths of a cent a pound.

This was a protest by Thomas Irwin & Sons, before the United States board of general appraisers, against the decision of the collector as to the rate of duty to be paid on certain imported merchandise. The board sustained the contention of the importer, and the collector appeals.

James T. Van Rensselaer, Asst. U. S. Atty., for collector.
Stephen G. Clarke and Henry A. Wyman, for importers.

COXE, District Judge. The collector classified the merchandise in question under paragraph 9 of the act of October 1, 1890, which is as follows:

"Alumina, alum, alum cake, patent alum, sulphate of alumina, and aluminous cake, and alum in crystals or ground, six-tenths of one cent per pound."

The importers protested, insisting that it should have been admitted free under paragraph 501 of the free list as "Bauxite, or beauxite." The board found the following facts:

"First. The merchandise under consideration is a white mineral powder, resembling pulverized alum in appearance. Second. It is, chemically considered, hydrate of alumina, or alumina and water combined. Third. It is known and dealt with in trade under the name of 'refined bauxite,' and differs from crude bauxite only in the fact that it has gone through a process of manufacture by which the impurities of iron and silica have been mechanically removed from the crude article. Fourth. It is used for the same pur-