ment is practically to establish a precedent for the total omission from indictments of this class of any reference to the envelope or address of letters and newspapers, and for relaxing the present practice of setting forth in the indictment the address.

As a chief ingredient in crimes of this class is a direction to the postal authorities to mail and deliver the article; as this direction is usually, if not invariably, contained in a written instrument, i. e. the envelope or wrapper; as the established practice of skilled criminal pleaders is to set out this instrument, or, at least, to aver that the article was addressed to persons known or unknown,—it seems unwise and unjust to persons charged with offenses against the operations of the post office to countenance indictments in the present unprecedented form. When the offense is of depositing newspapers, books, prints, etc., the allegation of an address, and, when practicable, a specification of such address, seems even more desirable than when the charge is of depositing a letter. A letter in and of itself is usually a communication between persons, and a description of the letter usually specifies the particular offense. A book or newspaper is usually one of a large number, and a description applicable to all copies does not afford a proper specification of the article charged to have been deposited. In the present case there is no description whatever which distinguishes any one of the 100 newspapers from the others, or from the remainder of the issue of the paper. The description applies to each and all alike, the title ("Le Jean-Baptiste"), the date, and the alleged obscene article being common to all. The defendant, if again indicted, should be able to plead in bar a conviction under the present indictment. So far as this record goes, he may be repeatedly indicted in the same language, and be unable by this record to prove the identity of the offenses.

The rule that parol testimony may be resorted to, to establish the defense of a prior conviction or acquittal, does not remove the requirement of reasonable and customary particularity in describing the offense. In Durland v. U. S., 161 U. S. 314, 16 Sup. Ct. 508, it was contended that the names and addresses of the parties to whom letters were sent should be stated so as to inform the defendant as to what parts of his correspondence the charge is made, and also to enable him to defend himself against a subsequent indictment for the same transaction. It was held that the omission to state the names and addresses on the letters is satisfied by the allegation, if true, that such names and addresses are to the grand jury unknown. This case, though not deciding the question of the necessity of an allegation that the letters were addressed, impliedly recognizes the propriety at least of either setting forth the specific address, or of excusing the omission by an averment that it was to the grand jury unknown. In the present case it seems unnecessary to decide whether the requirements of reasonable particularity call for a description which would identify the specific copies, as well as describe the publication itself, or whether the indictment meets the objection that it could not be pleaded in bar to a subsequent indictment for the same offense,

or whether the specific name and place of an address should be set forth. It is sufficient to decide that an allegation that the newspapers were addressed, or that direction was given for mailing or delivery, is requisite, not as a matter of description or identification of the unmailable article, but as an averment of an essential ingredient in the offense, and that the ingredient is not supplied by the general averment that the newspapers were deposited "for mailing and delivery."

The other objections to the sufficiency of the indictment seem insufficient grounds for granting this motion to quash; but, as the first point urged in support of the motion is decisive, it seems unnecessary to assign reasons for the opinion as to the remaining points. Whatever a man's intent may be, he is not indictable unless there is some adaptation, real or apparent, in the thing done to accomplish the thing intended. As the mere depositing in the post office of an obscene writing, without direction for mailing or delivery, is incapable of effecting the evil against which the statute is provided, and as this indictment, departing from well-established precedents, charges nothing more, the motion to quash is granted.

DEAN LINSEED OIL CO. v. UNITED STATES.

(Circuit Court, E. D. New York. February 16, 1897.)

1. CUSTOMS DUTIES—DRAWBACK—LINSEED OIL CAKE.
   Oil cake, made from linseed by the separation thereof into linseed oil and oil cake, is an article of manufacture, and, when made in the United States from imported linseed, is entitled, upon exportation, to the drawback provided by section 22 of the tariff act of 1894 (28 Stat. 551).
2. SAME—AMOUNT OF DRAWBACK.
   The amount of drawback payable on the exportation of oil cake made from imported linseed is to be calculated in proportion to the amount of linseed entering into such oil cake, by weight, and not in proportion to the respective values of the oil and oil cake made from the linseed.
3. SAME.
   It seems that when, by the treatment of an imported article, a valuable thing is produced, leaving a refuse of no value, no drawback would be allowable, under section 22 of the tariff act of 1894 (28 Stat. 551), upon exportation of such refuse.

Samuel B. Clarke, for plaintiff.

Robert H. Roy, Asst. U. S. Atty., and James Byrne, for the United States.

WHEELER, District Judge. This suit is brought upon section 3 of the act of 1887 (24 Stat. 505). Pursuant to that statute (section 7), the court finds that on December 3, 1894, the plaintiff imported 11,944 bushels of linseed, and between December 13, 1894, and January 12, 1895, 23,704 bushels of linseed, of 56 pounds each; that this was separated into linseed oil, of which each bushel made 19.91 pounds, and oil cake, of which each bushel made 35.87 pounds; that 448,153 pounds of this oil cake was exported to England by the ship Manitoba, January 4, 1895, and 850,262 pounds by the