

## UNITED STATES v. FRASSE et al.

(Circuit Court, S. D. New York. May 15, 1890.)

No. 2,198.

## CUSTOMS DUTIES—CLASSIFICATION—STEEL DRILL RODS.

Polished steel rods made by Stubbs, in England, commonly and commercially known as "drill rods," or "Stubbs steel," which are in fact used for making drill rods, being the standard for making the best drills, are dutiable under paragraph 124 of the tariff act of 1894, as drill rods, and not under paragraph 122, covering steel in all forms and shapes not specially provided for.

Appeal by the United States from a decision of the board of general appraisers which reversed the classification of the collector of customs of the importations in question.

J. T. Van Rensselaer, Asst. U. S. Atty.  
Stephen G. Clarke, for the importers.

TOWNSEND, District Judge. The merchandise in question comprises certain fine steel rods or bars, highly polished, of the class known as "Stubbs steel," one-half and three-sixteenths of an inch in diameter, and about 36 inches long. They were returned as steel drill rods, valued above 4 cents a pound, and duty was assessed thereon, in accordance with the provisions of paragraph 124 of the act of 1894, at 40 per cent. ad valorem, as "drill rods." The importers protested, claiming that they were dutiable under the provisions of paragraph 122 of said act, for "steel in all forms and shapes, not specially provided for in this act, valued above sixteen cents per pound," etc. The board of appraisers found that they were neither wire nor strip steel, but that they were bright steel rods. The counsel for the United States contends that they are drill rods in fact, and, if material to this question, that they are drill rods of wire, under the subheading of "wire" in said paragraph 124.

These rods were manufactured by Peter Stubbs, of England, from special tool steel. The analyses show that the steel contains a very small quantity, comparatively, of phosphorus; that it was made in a crucible, out of the best iron, into ingots; was then heated and hot rolled to about the size of the finished rods; that these rods were then passed through the rolls cold, then annealed soft, then drawn cold through dies to the exact gauge, then unrolled, straightened, and polished and cut into lengths, and when so made, by reason of the low percentage of phosphorus, were eminently suitable for drill rods. There is further much evidence to show that this Stubbs steel was the standard for the best drill rods, and it is in fact used to make drill rods. It is proven that these rods are commonly or commercially known as "drill rods," although known by other names, such as "Stubbs steel" and "steel rods." It is further proven by uncontradicted testimony that rods of this character, and of the length and diameter shown by these exhibits, were included in the wire class by commercial designation in this country; and it is shown by the testimony of expert witnesses that they come within the definition

of wire, in that they are composed of metal drawn cold through a die, with an even diameter, and a smooth, bright surface. It is established by uncontradicted testimony that these articles have gone through the processes which are essential in the making of wire, and which are essential to fit them for the making of drills, and that they have been cut into appropriate lengths; and it is abundantly established by the evidence of manufacturers, as well as dealers, that they are commercially included within the class of wires or wire, and are commonly known as "drill rods." Inasmuch as they are also steel rods for making drills, and therefore drill rods in fact, the decision of the board of general appraisers is reversed.

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HEMPSTEAD et al. v. UNITED STATES.

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

No. 2,583.

**CUSTOMS DUTIES—REVIEW OF ASSESSMENT—SUFFICIENCY OF PROTEST.**

A protest against the assessment of duty on an importation of glass under paragraph 95 of the tariff act of 1894, with 10 per cent, added, under paragraph 97, on account of the glass being beveled,—the ground of objection stated being that the glass, which was described in the protest as cylinder and crown glass, was only dutiable under paragraph 92,—is insufficient to raise the question, on review, whether the additional duty under paragraph 97 was correctly imposed, conceding the importation to have been dutiable under paragraph 95, on the claim that it should have been classified thereunder as "looking-glass plates."

Appeal by the importers from a decision of the board of general appraisers which sustained the classification of the collector of customs of the importations in question.

Henry W. Rudd (Howard T. Walden, of counsel), for appellants.  
J. T. Van Rensselaer, Asst. U. S. Atty.

TOWNSEND, District Judge. The merchandise in question chiefly consists of cast polished plate glass, silvered, known as "French looking-glass plates, beveled," and was assessed for duty under the appropriate provisions of paragraph 95 of the tariff act of 1894, and an additional duty of 10 per cent., under paragraph 97 of said act, as beveled. The importers protested against said assessment of duty as follows:

"Protest is hereby made against your decision assessing duty at 10%, and specific rate, on cylinder and crown glass, polished or beveled, covered by entries below named. The ground of objection, under the tariff act passed by the 53d congress on or about August 13, 1894, and known as 'H. R. 4864,' is that said merchandise is not dutiable at 10%, under paragraph 97, in addition to the specific rates provided for under said paragraph 92, and is dutiable thereunder only at the appropriate rate according to size.

"O. G. Hempstead & Co."

The petition for review, however, is not based on the protest under paragraph 92, but on the claim that the merchandise should only have been assessed under paragraph 95 of said act, as "looking-glass plates." In other words, it is now claimed that the pro-