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.

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-

test was not in fact on the ground that the merchandise was cylinder and crown glass, polished, or was otherwise included under the provisions of paragraph 92, nor on the ground that cast polished plate glass, silvered, as described in the invoices referred to in the protest, was not dutiable under paragraph 97, but on the ground that the merchandise was looking-glass plates, under paragraph 95, and was therefore not "cast polished plate glass, silvered and beveled," under paragraph 97. It appears that there is a class of German looking-glass plates, made of cylinder and crown glass, and commercially known as "looking-glass plates," some of which were included in this importation. It is not clear that the original protest was not on the ground that as these glasses were cylinder and crown glass, commercially known as "looking-glass plates," they were included under paragraph 92, and were therefore not properly classified for duty under paragraph 97, which contains no provision for looking-glass plates. The protest under paragraph 92 was therefore insufficient to inform the collector of the protestants' position as to commercial designation under paragraph 95; and I therefore think the protest is insufficient, as found by the board of general appraisers. In one of the protests, paragraph 92 is not referred to, but the claim is made that the articles are dutiable only at the appropriate rate according to size. Inasmuch, however, as the goods are described as cylinder and crown glass, beveled and polished, I think this protest was not sufficiently definite, within the rule. This decision is not upon the ground that the protest would necessarily have been insufficient as to the 10 per cent. additional duty under paragraph 97 alone, but because the assertion that the glass was cylinder and crown glass, under paragraph 92, and therefore not dutiable under paragraph 97, raised an entirely different question as to such glass commercially known as "German looking-glass plates," under paragraph 92, from the question as to "cast polished plate glass or looking-glass plates," under paragraph 95.

Counsel for the importers has requested the court to find whether the merchandise would have been included under paragraph 97, provided the protest had been sufficient. But it does not seem advisable to pass on this point, because a part of the invoices consisted of German looking-glass plates, and the rest of cast polished plate glass, silvered; and, while the determination of this further question might have been different in the two cases, the counsel for the importers has in open court abandoned the contention as to the German looking-glass plates. The decision of the board of general appraisers is affirmed.

UNITED STATES v. HUILSMAN.

(District Court, E. D. Missouri, E. D. May 8, 1899.)

OFFENSES AGAINST POSTAL LAWS—OPENING OF LETTER—WHAT CONSTITUTES DELIVERY.

After a letter has been delivered by the postal authorities to the person in whose care it is addressed, it is no longer in the custody of the United States, nor subject to its jurisdiction; and the opening and destruction of such letter, or the abstraction of its contents, after it has been so delivered, though readdressed to be forwarded, but before it has been again deposited in the mail, is not an offense, under Rev. St. § 3892.

This was an indictment under section 3892, Rev. St. U. S. Plea, not guilty.

A jury having been impaneled and sworn, counsel for defendant stated that they would agree with the United States attorney that the facts in the case were as follows: A letter directed to Miss H., "care Superintendent City Hospital, St. Louis, Mo.," was in due course of mail received by the superintendent, at his office in the City Hospital. This superintendent was authorized to receive the mail of patients for ultimate delivery to them. Miss H. had been discharged from the hospital when the letter reached there, and had left her new address with the superintendent. The latter erased the address from the envelope, wrote on it the new address of Miss H., and delivered the letter, so readdressed, to the defendant, who was a messenger boy in the hospital service, with directions to him to put it in the street letter box. Defendant took the letter, opened it, took out some money and stamps which were in it, and destroyed the letter and envelope; of course, not depositing either in the letter box.

Counsel for defendant, on this state of facts, agreed to by the district attorney, submitted that there was no offense cognizable under United States law or under the constitution; citing U. S. v. Safford, 66 Fed. 942, and U. S. v. Lee, 90 Fed. 256, and cases therein referred to.

The United States attorney read opinion from the assistant attorney general for the post-office department, relying mainly on case of U. S. v. Hall, 98 U. S. 343, in support of the indictment and the prosecution.

E. A. Rozier, U. S. Atty.

Geo. D. Reynolds and Jos. P. Vastine, for defendant.

ADAMS, District Judge (orally). This is not a new question with me. I had occasion lately, while holding court in the Western district, to examine the law very carefully. I then held that section 3892, Rev. St., did not, when properly construed, contemplate such a case as this, and, if it did, it was doubtful if the power of congress, under the constitution, would permit such legislation. Congress has full power, under the constitution, to regulate the carrying of the mail, and to protect all mail matter as long as it is in the custody of the postal authorities. When the postal authorities have fully discharged their duties, by delivery of the letter to the person to whom or in whose care it was addressed, they have fully discharged their functions, and in my opinion have gone as far as congress has authorized them to go. Whatever offense the defendant has committed, if any, in this case, is one which may be cognizable under state law, but is not under the United States law. The jury will return a verdict of "Not guilty." That being done, the defendant will be discharged.

Verdict accordingly. Defendant discharged.