

appraisement of the merchant appraisers thus determined—"shall be final, and deemed to be the true value, and the duties shall be levied thereon accordingly." I cannot put any other construction upon this language than that merchant appraisers are given plenary discretion to value all the goods in the invoice, and that their valuation is to be binding, and the guide by which the duties are to be assessed. It seems to me that when the importer is dissatisfied with the appraisal put upon the goods by the collector, and calls for merchant appraisers, this tribunal acts, without regard to the entry value, for the purpose of assessing the duties, and that the importer is not bound to pay duties on any article in the invoice at the entered value where the appraisers report a less value.

In this case, I think the collector erred in assuming that the importer was estopped from going below his own entry value on any single item of his invoice; but, on the contrary, should have assessed the duties on the invoice, as a whole, as appraised and valued by the merchant appraisers, and therefore that the additional 20 per cent. duty was improperly assessed.

The issue is found for the plaintiff.

YOUNG and others v. SPALDING.

(Circuit Court, N. D. Illinois. May 26, 1885.)

CUSTOMS DUTIES—SPECTACLE LENSES OF BRAZIL OR SCOTCH PEBBLE, WITH ROUGH EDGES, DUTY ON.

Spectacle lenses manufactured from Brazil or Scotch pebbles, imported with rough or unfinished edges, and commercially known as "pebbles for spectacles, rough," are free goods.

At Law.

Percy L. Shuman and *Jo. H. Defrees, Jr.*, for plaintiffs.

Chester M. Dawes, Asst. U. S. Atty., for defendant.

BLODGETT, J., (orally.) The plaintiffs imported a quantity of spectacle lenses with raw, or unfinished, edges. They were classed "as a manufacture of glass, or of which glass is the component material of chief value, not otherwise specially enumerated or provided for," and a duty of 45 per cent. *ad valorem* was assessed against them. *Heyl*, pt. 2, p. 7, cl. 143. The plaintiff contended that these goods should be admitted under the free-list as "Brazil pebbles for spectacles, and pebbles for spectacles rough." *Heyl*, pt. 2, p. 38, cl. 665. The proof shows that the goods in question are made by sawing the Brazil or Scotch crystals into slabs or plates, from which they are finished in flat, concave, or convex surfaces, for the purpose of being used as spectacle lenses; but the edges are left unfinished, so that they may be fitted to the size or shape of the bows or rims in which they are

to be worn. They are known to the trade as "pebbles for spectacles rough;" although the proof also shows that upon an order for pebbles for spectacles, whether the word "rough" is used or not, goods like these would be sent. Upon the question of fact, the proof is so clear that these goods are what are commercially known as "Brazil pebbles," or pebbles for spectacles, that I can have no doubt they come strictly and readily within the designation of this class of goods in the free-list. They were, therefore, improperly classed as "manufactures of glass," and made dutiable at 45 per cent. *ad valorem*. The plaintiff is entitled to recover the duties paid under protest in this case.

WASHBURN & MOEN MANUF'G Co. and another v. GRINNELL WIRE Co.
and others.

(Circuit Court, S. D. Iowa, C. D. May 26, 1885.)

1. PATENTS FOR INVENTIONS—GLIDDEN BARBED-WIRE FENCE—INVENTION.

The patent granted in November, 1874, to J. W. Glidden, for barbed wire, examined, and *held* valid.

2. SAME—ANTICIPATION.

On examination of the evidence in this case, and a comparison of the Freeman, Merrill, Stone, Schone, and Delhi Fair fences with the Glidden patent, *held*, that the Glidden patent was not anticipated thereby, and is valid.

3. SAME—MACHINES FOR MAKING BARBED WIRE—INFRINGEMENT.

On comparison of the Putnam and Penny machines for making barbed wire, *held*, that the Putnam machine is not infringed by Penny's invention.

In Equity. Opinion on final hearing.

Offield & Towles, Coburn & Thacher, and B. K. Thurston, for complainants.

Wright, Cummins & Wright and Munday & Evarts, for defendants.

BREWER, J. I may say that this is one of the hardest cases I have ever had to try. It has been difficult for me to arrive at a conclusion on the primary question, and though I have given it a great deal of examination and study, my mind does not rest with any satisfaction on the result. That primary question is this: Is this Glidden barbed wire really entitled to a patent? Is there in it enough of invention to make it patentable, or is it simply a mere matter of mechanical skill? Perhaps a brief historical statement may be in order. The first barbed-wire patent was issued in July, 1867, to Hunt, and was for this form, [referring to model,] which, as you see, consists of a mere serrated wheel. The next was to Lucian B. Smith, also in 1867, and for this, [referring to model,] in which the barb is like the hub of a wheel with spokes. That was followed by one to Kelly, in 1868, and covers this, [referring to model,] in which, as you see, the barb is a diamond plate, the lateral wire passing through a hole punched in the middle. Mr. Kelly, in his specifications, also suggested that this