

Case No. 841.

BANGS ET AL. V. MAXWELL.

{3 Blatchf. 135.}¹

Circuit Court, S. D. New York.

Dec., 1853.

CUSTOMS DUTIES—APRAISERS—PROTEST.

1. The law does not require merchant appraisers, in reappraising goods, to act in the presence of the importer.
2. General allegations in a protest that the appraisers were prejudiced or incompetent, need not be regarded by the collector, when the particulars constituting the disqualifications charged are not set forth specifically.

{See *Steegman v. Maxwell*, Case No. 13,344.}

3. Requisites of a protest against the imposition of duties, stated.

The plaintiffs imported into New York an invoice of books, which was raised in value, on appraisal and reappraisal, more than 10 per cent, and an additional duty or penalty of 20 per cent, was imposed. This was an action against the collector of that port, to recover back the excess of duties, the penalty, and the fees. It was commenced in the supreme court of New York, and was removed, by certiorari, into this court.

A protest in the printed form used in *Goddard v. Maxwell*, [Case No. 5,492,] was made by the plaintiffs, to which they added, in writing, that “the reappraisement was made in a private room, from which they were excluded.”

Before NELSON, Circuit Justice, and BETTS, District Judge.

BETTS, District Judge. The law does not require the merchant appraisers to act in the presence of importers of goods, their agents, or consignees.

General allegations in a protest, that the appraisers were prejudiced, or incompetent or not duly qualified, need not be regarded by the collector, when the particulars constituting the disqualifications charged are not set forth specifically. It is not alleged, in the protest, that the plaintiffs are not owners of the goods; nor that the owners are the producers, and not the purchasers of them; nor that the merchant appraiser was sworn by a public appraiser. Accordingly, none of those points can be now considered by the court, on the question of the misconduct of the collector in levying the duties or fees complained of.

Judgment for defendant.

BANK.

{[Note. Additional cases cited under this title will be found arranged in alphabetical order under the names of the banks; e. g. “*Bank v. Neyhardt* See *Fourth Nat Bank v. Nevhardt*, Case No. 4,991.”]}

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