

Case No. 964.

BANNENDAHL v. REDFIELD.

[4 Blatchf. 223;<sup>2</sup> 40 Hunt, Mer. Mag. 75.]

Circuit Court, S. D. New York.

Oct. 2, 1858.

CUSTOMS DUTIES—ACTION TO RECOVER PENALTY—ACT MARCH 8, 1851—ACT AUG. 30, 1842.

1. The 3d section of the act of March 3, 1851, (9 Stat. 630,) in regard to reappraisals of imported goods, applies to all goods, as well those imported by their manufacturer, as those imported by their purchaser.
2. The 17th section of the act of August 30, 1842, (5 Stat 564,) authorizes the imposition of a penalty of 50 per cent, for the undervaluation of any goods imported, other than those purchased, which latter are provided for by the 8th section of the act of July 30, 1846, (9 Stat. 43,) which imposes a penalty of 20 per cent on their appraised value.

At law. This was an action [by Conrad N. Bannendahl] against [Heman J. Redfield] the collector of the port of New York, to recover back a penalty of 50 per cent, imposed under § 17 of the act of August 30, 1842, (5 Stat 564,) for the undervaluation of goods, and paid under protest. The plaintiff claimed to have been the manufacturer of the goods, and insisted that, for that reason, no penalty could be imposed on them under that section. He also claimed, that a reappraisal which was had in the case, under the act of March 3, 1851, (9 Stat. 630, § 3,) should not have been made under that act, but should have been made under the acts of March 1, 1823, (3 Stat. 734, § 13,) and May 28, 1830, (4 Stat. 410, § 4.) [Judgment for defendant]

NELSON, Circuit Justice. The reappraisal was properly made under the act of March 3d, 1851. The 3d section of that act applies to all goods imported into the United States, as well those imported by their manufacturer, as those imported by their purchaser.

The 17th section of the act of August 30th, 1842, authorizes the imposition of a penalty of 50 per cent, for the undervaluation of any goods imported other than those purchased, which latter are provided for by the 8th section of the act of July 30, 1846, (9 Stat 43,) which imposes a penalty of 20 per cent on their appraised value.

There must be a judgment for the defendant, upon the questions reserved in the case made.

BANNER, The, (WARD v.) See Case No. 17,149.

<sup>2</sup> [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]