

## ROLLER v. MAXWELL.

{3 Blatchf. 142.}<sup>1</sup>

Circuit Court, S. D. New York.

Dec., 1853.

## CUSTOMS DUTIES—APPRAISAL—PROTEST.

An official appraisal, not appealed from, is conclusive as to the dutiable value of goods, when the protest does not point out any violation of law in making the appraisal.

[Cited in *McCall v. Lawrence*, Case No. 8,672.]

This was an action [by George P. Roller] against [Hugh Maxwell], the collector of the port of New York, to recover back an excess of duties and a penalty. Two invoices of long shawls were imported by the plaintiff from Bremen, and entered by his consignees and agents, August 1, 1851. The appraisers raised the invoice prices more than ten per cent., to make them equal to the foreign market value. No appeal or re-appraisement was asked, but the duty levied was paid under the following protest in writing by the plaintiff's agents: "We hereby protest against the payment of 20 per cent, penalty on shawls contained in cases marked G. P. R. We claim that said shawls are invoiced at their fair market value in Vienna florins, at 48 ½ cents the florin. We pay the excess of duty and penalty under protest, claiming to have the amount refunded."

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

## THE COURT held:

1. That the official appraisal, not appealed from, was conclusive as to the dutiable value of the goods, when the protest did not point out any violation of law in making the appraisement;
2. That the protest, in this instance, did not embrace the question as to the value of the currency in which the invoice was made out; that it related exclusively to the foreign market value; and that that was determined

by the report of the appraisers. Tariff Act Aug. 30, 1842, § 17 (5 Stat 564); Act March 3, 1851, § 2 (9 Stat. 630).

Judgment for defendant

<sup>1</sup> [Reported by Samuel Blatchford, Esq., and here reprinted by permission.]

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