

In re McCARTY.

(Circuit Court, S. D. New York. May 11, 1891.)

CUSTOMS DUTIES—VALUES ON ENTRY—HOW ESTIMATED—FOREIGN CURRENCIES.

Merchandise purchased in Bohemia, within the empire of Austria-Hungary, of which country the florin was the standard currency, was invoiced to the importer at New York, and the values given in rix marks and florins; the value of the florin of Austria-Hungary being stated in the United States consul's certificate, annexed to the invoice, as 41.57 cents, estimated in United States gold dollars. *Held*, that the value of the merchandise in the entry should have been estimated by the collector of the port of New York in florins of Austria-Hungary reduced to United States currency on the basis of 34.5 cents to the florin, as declared by the director of the United States mint, and proclaimed by the secretary of the treasury on the 1st of January previous, and not in rix marks, at 23.8 cents to the rix mark, although the total value of the goods in United States money was greater by the latter process of calculation.

At Law.

Application by the collector of the port of New York for a review by the United States circuit court of a decision of the board of United States general appraisers reversing the decision of the said collector in this matter, pursuant to section 15 of the act of June 10, 1890, "An act to simplify the laws in relation to the collection of the revenues." The merchandise in question was imported by McCarty & Co., per steamer *Rugia*, from Hamburg, and entered at the port of New York, July 29, 1890. It was invoiced from Dux, in Bohemia, a province of the empire of Austria-Hungary, of which country the silver florin was the standard currency, and the values were given on the invoice in rix marks and florins. On the entry the value of the goods was likewise stated in rix marks and florins,—the rix marks reduced to United States currency, giving \$330, and the florins at 34.5 cents to the florin, giving \$275, to which figure the sum of \$55 was added "to equal marks," thus raising the amount to \$330 likewise. Upon the total, as stated in rix marks, the value of the merchandise for the purpose of estimating the duties was computed, and against this method of computation the importers duly protested and appealed to the board of United States general appraisers under the act of June 10, 1890, who reversed the decision of the collector, holding that the invoiced, entered, and appraised value should have been liquidated upon the basis of the silver florin, the standard coin of Austria-Hungary, from whence the merchandise was imported, the value of which florin in the currency of the United States at the time of the liquidation of the entry as established by the director of the mint, and proclaimed by the secretary of the treasury, was 34.5 cents.

Edward Mitchell, U. S. Atty., and *James T. Van Rensselaer*, Asst. U. S. Atty., for collector.

Wm. Wickham Smith, for importers.

LACOMBE, Circuit Judge, (*after stating the facts as above.*) It appears on the back of the invoice that the appraiser, who is the officer who fixes the value, has approved of the value of 1,496.75 marks, and of the de-

duction therefrom of 110.13 marks, and of the striking out of any item of "addition for value." The result of what he has approved on the back of the invoice, which went to him, is a valuation of 1,386.62 marks. I understand, moreover, from the certificate and from the circular of the treasury department that the currency of the country where these goods were purchased is florins, in which currency the invoice should be made out and the value should be stated. Upon the face of this invoice there appears, in a parallel column with the value in marks, a value in florins; and there is a total in florins as well as in marks, representing the same absolute value, and interconvertible. The 1,386.62 marks is, therefore, as a matter of arithmetic alone, converted into 795.91 florins, which is the currency into which, under the law, it should be converted for the purpose of appraising the value, that value being determined by the reduction of the florins into the currency of the United States on the basis of 34.5. When that is done, the result is \$275. That result is obtained simply by the application of arithmetic to the certificate of the appraiser. Now, there are upon the face of the invoice, in addition to \$275, the words, "Add to equal marks \$55." It does not appear here who put that there, or when, or why, or what it means. Therefore, on the face of the paper as it stands, I shall confirm the decision of the appraisers.

In re GODWIN et al.

(Circuit Court, S. D. New York. May 11, 1891.)

CUSTOMS DUTIES—CLASSIFICATION—"COLLECTION OF ANTIQUITIES."

A single oriental rug of the sixteenth century, bought in Paris, France, at nearly the same time with one other antique rug and 3 articles of antiqué tapestries and 4 other oriental rugs purchased in Constantinople by the same purchaser, for the purpose of being added to a collection of old furniture, bric-a-brac, etc., in the private house of the owner in New York, although not imported in the same vessel as the other articles, is duty free under the tariff act of March 3, 1883, (paragraph 669 of the free list.)

At Law.

Application, under section 15, Act June 10, 1890, by the collector of the port of New York for a review by the United States circuit court of the decision of the board of United States general appraisers, reversing the decision of the said collector as to the rate and amount of duties upon certain merchandise imported by R. J. Godwin & Sons, from Liverpool, August 14, 1890. The merchandise was invoiced from Paris, France, as one Persian rug of the sixteenth century, valued at 22,000 francs, and was classified by the collector for duty as "wool rug," at 40 per cent. *ad valorem*, under the provision of paragraph 378, Tariff Ind. (New Ed.) of the Tariff of March 3, 1883. The importer protested, claiming that it was duty free under paragraph 669 of free list of the