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

same tariff, providing for "cabinets of coins, medals, and all other collections of antiquities;" and the board of United States general appraisers, after taking evidence in the matter in behalf of the importer, reversed the decision of the collector, holding that, with the proof before them, the rug was entitled to free entry as a single article, intended to be added to an already existing collection, and also that it was part of the collection originally purchased, and therefore came strictly within the provision of Tariff Ind. par. 669. Further evidence was also taken before one of the general appraisers as an officer of the court, pursuant to section 15 of the act of June 10, 1890, and upon the return of the board of United States general appraisers, and all the evidence taken, the matter came up for review in the circuit court. The proof showed that the rug was bought in the city of Paris by the purchaser, a gentleman from New York, who owned a house in the latter city, in which he had collected numerous articles of old furniture, tapestries, bric-a-brac, etc.; that the rug was at least as old as the sixteenth century; that one other antique rug was bought by the purchaser at the same place at about the same time; that he also purchased three pieces of antique tapestries from another dealer in Paris, and, at about the same period, four oriental rugs in Constantinople; that he intended that the rug in question should be shipped with the tapestries, but by some mistake this was not done; that all these nine articles were bought by him in Europe, to be added to his collection in his house at New York; that the rug was hung up in his hall, and was not used upon the floor, and its chief value was in its antiquity.

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

J. L. Stackpole, for importer.

LACOMBE, Circuit Judge. I am unable to assent to the proposition that a single antiquity, although intended to be added to an existing collection of antiquities already here, may be admitted free under paragraph 669 of the act of 1883. It appears here, however, that it has only been an accident which has separated the rug now in controversy from the other six or eight antiquities with which it was united when in the hands of the owner on the other side. Therefore, though it is perhaps somewhat straining the language of the statute in the interests of art, I shall affirm the decision of the appraisers, holding that this rug is to be treated the same as if the eight pieces came in together, and that it may, within the language of the act, be considered a collection of antiquities.

The decision of the general appraisers is affirmed.

Ex parte McCABE.

(District Court, W. D. Texas, Austin Division. April 2, 1891.)

1. FOREIGN EXTRADITION—WARRANT.
Where, upon the extradition of a person charged to be a fugitive from justice, under the treaty with Mexico, December 11, 1861, (12 St. 1199,) a warrant for his arrest is issued by the "county judge and extradition agent," the function so performed is judicial, and not administrative, and is for the purpose of preliminary examination; and the warrant is not invalid because it fails to show his authority as an extradition agent, under article 4 of the treaty, providing that within the frontier states and territories of each country the surrender may be made by the chief civil authority thereof, or by such chief civil or judicial authority of the districts or counties bordering on the frontier as may for this purpose be authorized by said chief civil authority of said frontier state or territory.
2. SAME—NECESSITY OF COMPLAINT UNDER OATH.
Under Rev. St. U. S. § 5270, providing that whenever there is a treaty or convention for extradition the officer designated "may, upon complaint made under oath charging any person, * * * issue his warrant for the apprehension of the person so charged," a sufficient complaint on oath is essential to the jurisdiction, and a warrant issued without it is void.
3. SAME—SURRENDER OF A STATE'S OWN CITIZENS—COMITY.
In the absence of a treaty stipulation, there is no obligation, under the laws of nations, upon a sovereign state to surrender persons charged with crimes committed in another country, upon demand of the state whose laws they have violated; and where it is provided in an extradition treaty that "neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this treaty," the United States will not surrender one of its citizens charged with a murder committed in one of the states of Mexico.

Petition for Writ of *Habeas Corpus.*
George R. Scott and *F. R. Graves*, for petitioner.

MAXEY, J. On the 26th of February, 1891, a petition, duly verified by affidavit, was presented to the court on behalf of Mrs. Mary Inez McCabe, stating that she had been arrested by the sheriff of Nueces county, Tex., and was now illegally detained and restrained of her liberty. It is alleged in the petition that the petitioner was born in Bandera county, Tex., of parents of American birth; that her husband, H. T. McCabe, was born in the state of Illinois, of parents of American birth, and that both she and her husband have continued to be and are now citizens of the United States. The further allegations are made:

"That since the 13th day of February, A. D. 1891, she has been unlawfully and illegally restrained of her liberty by one Patrick Whelan, sheriff of Nueces county, and who pretends to be acting under and by authority of a certain treaty and convention between the United States of America and the republic of Mexico, of date the 11th of December, 1861, and by virtue of certain telegraphic and other pretended writs and papers from a pretended officer, who styles himself the county judge of Cameron county, and extradition agent, county of Cameron, and the copies of the which said papers and process are hereto attached."

After reciting other facts, not necessary to consider, the petition prays for the issuance of a writ of *habeas corpus.* Among the papers attached as exhibits to the petition, the only one deserving of notice is the writ issued by Judge FORTO in the following form: