

ciency of bail bonds at common law would scarcely be pertinent to the inquiry.

Had a special exception been interposed by the defendants on the first ground discussed by the court, it would be overruled, for the reason that the commissioner had the power to take bail from Sauer conditioned for his appearance from day to day pending his examination. But the general demurrer not only raises that question, but also goes to the sufficiency of the bond upon the objection embraced in the special demurrer. In a word, all objections urged to the bond might have been properly presented by general demurrer; and, as the bond must be adjudged insufficient and a void obligation, the general demurrer, as well as the special demurrer, should be sustained, and the suit dismissed, and it is so ordered.

UNITED STATES *v.* DE RIVERA et al.

(Circuit Court, S. D. New York.)

CUSTOMS DUTIES—LIQUIDATION BY COLLECTOR—LIMITATION OF ACTIONS.

Iron ore was imported in 1881, a certain sum being then paid as duties, after the appraiser had raised the valuation. In 1890 the collector decided that an additional amount was due, and an action was brought to recover the same. The importers claimed that their original payment was a liquidation, and that the action was barred within one year thereafter. *Held*, that the liquidation was not complete until the collector had acted in the matter, and that there was no provision of law requiring him to liquidate within any particular time, or to give notice to the importer thereof.

Action for balance of duties.

On September 20, 1881, and September 22, 1881, defendants imported certain iron ore in the United States by the vessels Samuel Welsh and Mary C. Hale, respectively, and entered same at the port and collection district of Philadelphia, paying, at the time of such entry, the sums of \$299.80 on each consignment as duties. Subsequently, on the 14th day of March, 1890, the collector decided that the amount of duties to be paid on said goods was, respectively, \$754 and \$750.40, leaving a balance due the United States from the defendants of \$904.80, to recover which this action was brought. The defendants admitted the importation and entry of the said iron ore, but denied their liability for balance of duties, claiming that the payment made by them at the time of entry of such goods was a liquidation, and that, as more than a year since such liquidation had expired, the same was final and conclusive.

Wallace Macfarlane, U. S. Atty., and James R. Ely, Asst. U. S. Atty.

William H. Blain, for defendant.

LACOMBE, Circuit Judge (orally charging jury, after stating the case as above). I have examined this matter with great care since Friday, in the hopes that, in some way or other, I could find some means for relieving the defendant, in whole or in part, from this claim; but, gentlemen of the jury, it is impossible to do so. The laws of the United States in regard to the liquidation and collection of duties upon imports are evidently constructed upon the

theory that the citizen who imports goods has no rights at all, or, at least, that the federal government need not be under the slightest concern about them. Under the statutes and the authorities, it is clear that there was no liquidation until the collector himself acted. The mere act of the appraiser in raising the value was a step towards liquidation, but liquidation was not complete until the collector had performed his act. Under the statute, moreover, the collector may "liquidate" whenever he pleases. It may be a week after the goods arrive, or it may be eight years, as it was in this case; and, under the law, he is under no obligation to notify the merchant of his liquidation. The merchant, apparently, has got to keep watch from the time he gets the goods until the collector acts and liquidates, and he takes the risk of not being advised of that action when it occurs. Under the laws as they stand, there is absolutely nothing to do in this case but to direct a verdict in favor of the plaintiff for the full amount claimed, with an exception to the defendant.

The jury rendered a verdict for the plaintiffs, in accordance with the direction of the court, for \$904.80, with interest from March 14, 1890.

KENT v. UNITED STATES.

(Circuit Court of Appeals, Second Circuit. April 6, 1896.)

1. CUSTOMS DUTIES—CLASSIFICATION—BURLAP BAGS REIMPORTED.

The provision in the act of February 8, 1875 (section 7), amending the tariff laws so as to admit free, on their return to the United States, foreign-made bags in which American grain has been exported (thus placing them on the same footing with similar American bags), was superseded by the provisions of the tariff acts of 1883 and 1890, from which this provision was omitted; and under the latter act (paragraph 365) such foreign bags were dutiable at 2 cents per pound. 68 Fed. 536, affirmed.

2. REPEAL OF STATUTES.

When a later act is a complete revision of the subject to which an earlier statute relates, and is manifestly intended as a substitute for the former legislation, the prior act must be considered as repealed.

Appeal from the Circuit Court of the United States for the Southern District of New York.

This was an application to review a decision of the board of general appraisers affirming the action of the collector of the port of New York in respect of the classification for duty of certain merchandise. The circuit court affirmed the decision of the board (68 Fed. 536), and the importer appealed.

Stephen G. Clarke, for appellant.

Henry D. Sedgwick, Jr., Asst. U. S. Atty.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

SHIPMAN, Circuit Judge. In June, 1893, Percy Kent, the appellant, imported into the port of New York 75 bales of grain bags made of burlaps, which had been used in the exportation of Amer-