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“with foreign nations, and among the several States.” We are speaking of that commerce which is completely internal, and which does not extend to or affect other States, or foreign nations.

We have at this term amended the 12th rule of the admiralty, so as to take from the District Courts the right of proceeding *in rem* against a domestic vessel for supplies and repairs which had been assumed upon the authority of a lien given by State laws, it being conceded that no such lien existed according to the admiralty law, thereby correcting an error which had its origin in this court in the case of the *Gen. Smith*, (4 Wheat., 439,) applied and enforced in the case of *Peyroux and others v. Howard & Varion*, (7 Peters, 324,) and afterwards partially corrected in the case of the steamboat *New Orleans v. Phebus*, (11 Peters, 175, 184.) In this last case, the court refused to enforce a lien for the master's wages, though it had been given by the local laws of the State of Louisiana, the same as in the case of supplies and repairs of the vessel. We have determined to leave all these liens depending upon State laws, and not arising out of the maritime contract, to be enforced by the State courts.

So in respect to the completely internal commerce of the States, which is the subject of regulation by their municipal laws; contracts growing out of it should be left to be dealt with by its own tribunals.

For these reasons, we think the decree of the court below should be reversed, and the cause remitted, with directions to dismiss the libel.

Mr. Justice WAYNE dissented.

CHARLES BELCHER AND COMPANY, PLAINTIFFS IN ERROR, *v.*
GEORGE C. LAWRASON, COLLECTOR OF THE PORT OF NEW
ORLEANS.

The eighth section of the act of Congress, passed in 1846, (9 Stat. at L., 42,) exacting a penal duty of twenty per cent. when the appraised value of goods imported exceeds the invoiced value by ten per cent., does not include the case of an entry by a manufacturer who has produced the article imported.

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Nor did previous laws prior to the act of March 3, 1857, (Session Laws, page 199,) justify this penalty. The last-mentioned law puts goods manufactured and goods purchased upon the same footing in this respect.

But by the act of 1842 (Stat. at L.) an addition of fifty per cent. to the duty is laid upon goods imported by a manufacturer, where the appraised value exceeded the invoiced value by ten per cent.

The appraisal of the goods at the customs was properly made under the 17th section of the act of 1842, although imported and entered by the manufacturer.

THIS case was brought up by writ of error from the Circuit Court of the United States for the eastern district of Louisiana.

It was an action brought by Belcher & Co. to recover back from the collector \$6,159.20, which they alleged to have been exacted as illegal duties, and which they had paid under protest.

The following was the statement of facts in the court below:

1. That the plaintiffs imported into New Orleans, from the island of Cuba, the several cargoes of reboiled molasses, concentrated molasses, sugar-house molasses, cistern bottoms, and cistern sugars, fully set forth in the petition.

2. That said importations were made on entries, from which it appears that the importers were the manufacturers of the goods imported, and not purchasers thereof in the market.

3. That upon the appraisement of the merchandise so imported as aforesaid, the value thereof was fixed by the appraisers at a sum exceeding the invoice value by more than ten per cent., and that no appeal from this appraisement was made by the importers to merchant appraisers.

4. That the defendant thereupon exacted from the plaintiff a penal duty of twenty per centum on the appraised value of the merchandise imported, and that said penal duty, so levied as aforesaid, amounted to the sum of \$6,159.20.

5. That said penal duty was paid under protest, as shown by the protests filed, which are made part of this statement of facts.

Upon this statement of facts, the Circuit Court decided that the said merchandise was not legally subject to a penal duty of twenty per cent. on the appraised value aforesaid, but was legally subject to a penal duty of fifty per cent. on the amount of

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duties which would have been properly chargeable if the invoice had expressed the true value of the merchandise imported, and the excess of penal duty so charged as aforesaid being ascertained to amount to \$1,539.80, which ought to be returned to plaintiffs.

The plaintiffs brought the case up to this court.

It was argued by *Mr. Benjamin* and *Mr. Johnson* for the plaintiffs in error, and by *Mr. Hull* and *Mr. Black* (Attorney General) for the defendants.

One of the questions raised in the Circuit Court was abandoned by the counsel here. They conceded that the report of the official appraisers could only be corrected by an appeal to merchant appraisers. The question was settled in *Bartlett v. Kane*, (16 How., 263,) reported subsequently to the bringing of the action.

Upon the first of the remaining two propositions they contended that the exaction of the penal duty of twenty per cent. on the invoice value of the importations, under the eighth section of the tariff act of 1846, was clearly illegal, that point being settled by this court in the case of *Greely v. Thompson*, (10 How., 226,) also ruled by the New York Circuit Court, in *Christ v. Spear*, *Thompson v. Maxwell*, *Durand et al. v. Lawrence*.

Upon the other proposition, the arguments of the counsel on both sides were founded upon critical examinations of the tariff laws, which would not be interesting after the historical inquiry into these acts contained in the opinion of the court.

Mr. Justice NELSON delivered the opinion of the court.

This is a writ of error to the Circuit Court of the United States for the eastern district of Louisiana.

The suit was brought in the court below to recover back from the collector of the port of New Orleans an excess of duties paid by the plaintiffs. The goods upon which the duties were imposed were certain invoices of molasses and sugars, imported from Matanzas, in the island of Cuba, in the year

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1852. They were imported by the manufacturer, and, on an appraisal of the value at the customs in New Orleans, the appraised value exceeded the invoice value upwards of ten per centum; whereupon, the collector imposed an additional duty of twenty per centum upon the appraised value, under the 8th section of the act of 1846, which was paid under protest.

The court below held that this additional duty was improperly imposed, under the act of 30th July, 1846, as the 8th section of that act applied only to merchandise *purchased* in the foreign market, and did not embrace goods imported by the manufacturer. The court further held, that the several shipments were subject to the increased duty imposed under the 17th section of the act of August 30, 1842; and allowed the plaintiff to recover the excess over and beyond the amount chargeable under this last section.

The principal question in the case is, whether or not the 17th section of the act of 1842 applies in the appraisal of merchandise imported by the manufacturer.

The act of Congress of March 1, 1823, recognised a distinction between goods imported which were purchased by the owner in the foreign market, and goods imported by the manufacturer himself, and prescribed separate and distinct oaths to be taken before the collector, (sec. 4.) That act also prescribed, as a rule for the appraisal of the goods, that to the actual cost if the same shall have been actually purchased, or the actual value if the same shall have been procured otherwise than by purchase, *at the time and place when and where purchased, or otherwise procured, &c.*, shall be added all charges, &c., (sec. 5.)

The act of Congress of July 14, 1832, preserved the same distinction as in the act of 1823, in respect to goods imported which had been purchased, and goods procured otherwise than by purchase, (sec. 15, secs. 7 and 8.)

The 16th section of the act of 1842, like the 7th section of the act of 1832, prescribed the rule for the appraisal of goods imported which had been purchased in the foreign market, but omitted any provision in respect to goods imported which had been procured otherwise than by purchase, leaving this class

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of importations to the rule as prescribed in the acts of 1823, section 5, and 1832, section 15, which was not repealed, as no provision in that act was inconsistent with this rule. The repealing clause of that act is as follows: "And that all provisions of any former law inconsistent with this act shall be, and the same are hereby, repealed." The regulations, therefore, of the acts of 1823 and 1832, in respect to the time and place when and where goods, procured otherwise than by purchase, were left untouched by the 16th section of the act of 1842.

Then, as it regards the 17th section. That is general, and applies to every class of importations—goods purchased, or procured otherwise than by purchase. It regulates the mode and manner of the appraisement. The appraisers may call before them, and examine upon oath, the owner, importer, consignee, or any other person, touching any matter deemed material in ascertaining the true market value or wholesale price of any merchandise imported; may call for letters, accounts, or invoices, relating to the valuation. It imposes a forfeiture of one hundred dollars for any neglect or refusal to attend before the appraisers and give evidence; makes false swearing before them perjury; and if the person be the owner, importer, or consignee, forfeits also the merchandise; requires that the evidence thus taken shall be filed in the collector's office, for future use; provides for an appeal, on the part of the owner, importer, or consignee, to merchant appraisers, in case of dissatisfaction at the appraisal by the permanent appraisers; makes the appraisal by the permanent or merchant appraisers, as the case may be, final and conclusive; and then closes with a proviso, that, in all cases where the actual value thus appraised and ascertained shall exceed, by ten per centum, the invoice value, then, in addition to the duty imposed by law, there shall be levied and collected on the goods fifty per centum of the duty upon the appraised value. (See, also, act of Congress, March 3, 1851.)

As we have said, this section applies to all classes of importations, and regulates the mode and manner by which the appraisals shall be conducted by the appraisers, giving to the owner, importer, &c., the right of reappraisal by merchant ap-

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praisers, in case of dissatisfaction. It embraces not only importations of goods purchased, referred to in the 16th section of the act, but importations procured otherwise than by purchase, as provided for in the acts of 1823 and 1832; and while this act of 1842 remained in full force, it subjected all importations to the penalty of fifty per centum in case of undervaluation.

Then came the act of 30th July, 1846, the 8th section of which changed this penalty or increased duty, in case of undervaluation, to twenty per centum on the appraised value, as it respected goods imported which had been purchased, leaving the regulations in respect to goods imported by the manufacturers as they existed under the former laws.

This act, like the act of 1842, repealed only such enactments of former laws as were repugnant to its provisions, (sec. 11.) The 8th section, not including the manufacturer, left the importation subject to the 17th section of the act of 1842.

The act of 3d March, 1857, obliterates this distinction between goods purchased or procured otherwise than by purchase, and imposes upon the latter the twenty per centum upon the appraised value, for undervaluation, the same as in case of goods purchased. (Sess. Laws 1857, p. 199, Lit. & Bro. ed.)

It has been argued that, admitting the goods were properly subject to the fifty per centum increased duty, under the 17th section of the act of 1842, inasmuch as this was not imposed by the collector, but the higher increased duty, under the 8th section of the act of 1846, the court below erred in charging the shipments in question with the former duty.

But the answer to this objection is, that the law imposes the increased duty in case of undervaluation, and not the collector. It is true he is the agent of the Government to collect it, as he is in collecting the ordinary rate of duties, but in no other sense or character. The law declares, in the case contemplated by the act, and which existed upon the proofs before the court, that, in addition to the ordinary duty, there shall be levied and collected, &c., fifty per centum, &c. No demand of the collector was necessary to create the liability. That

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arose, as matter of law, upon the facts disclosed in the record, and it was the duty of the court to enforce it; and hence the excess over this increased duty, arising under the 17th section, constituted the just amount which the plaintiffs were entitled to recover.

Judgment of the court below affirmed.

JOHN PEMBERTON, LIQUIDATOR OF THE MERCHANTS' INSURANCE COMPANY, APPELLANT, *v.* EDWARD LOCKETT, JAMES G. BERRER, AND HENRY D. JOHNSON.

An agreement between a claimant and certain persons in Washington, whereby the claimant agreed to allow those persons a proportion of what might be recovered, was terminated when the United States and Great Britain made a convention, providing for the appointment of a board of commissioners to decide upon claims, in which the one in question was included.

The agreement looked only to the services in Washington of the persons employed; and the facts of the case indicate that such was the intention of the parties.

THIS was an appeal from the Circuit Court of the United States for the District of Columbia.

The facts are stated in the opinion of the court.

The Circuit Court decreed that \$14,230, (being the one-half of the sum of \$28,460 awarded,) less five per cent., together with interest thereon from the 20th of June, 1855, and costs, be paid by Pemberton to the complainants. From this decree, Pemberton appealed to this court.

It was argued by *Mr. Brent* and *Mr. Johnson*, with whom was *Mr. May*, for the appellant, and by *Mr. Bradley* for the appellees, on which side there was also a brief filed by *Mr. Bradley* and *Mr. Hayes*.

There were many points raised by the counsel for the appellant; but as several of them were not touched upon in the decision of the court, it is proper to mention only such as were. The principal points which were included in the decision related to the facts of the case, and were as follows: