

Case No. 1,711.

{1 Blatchf. 607.}¹

BOVING ET AL. V. LAWRENCE.

Circuit Court, S. D. New York.

Oct. Term, 1850.

CUSTOMS DUTIES—VERMILION—MERCURIAL PREPARATIONS.

Vermilion, invoiced as such, and known in commerce by that name, although, chemically speaking, it is a mercurial preparation, is, under the tariff act of July 30th, 1846 (9 Stat. 42), subject to a duty of 20 per cent, ad valorem under Schedule E, being specifically named therein. It is not included under “mercurial preparations” in Schedule D.

At law. This was an action {by Herman Boving and Melchior Wiltie} against {Cornelius W. Lawrence} the collector of the port

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of New-York, to recover back an excess of duties paid on vermilion. It was charged with a duty of 25 per cent, ad valorem under Schedule D of the tariff act of July 30th, 1846 (9 Stat. 46), as a mercurial preparation. The plaintiffs claimed that it was only liable to a duty of 20 per cent, ad valorem under Schedule E, as vermilion. A verdict was taken for the plaintiffs, subject to the opinion of the court on a case to be made.

NELSON, Circuit Justice. The article in question was invoiced as vermilion, and is bought and sold, and known in trade and commerce, under that denomination, and falls, therefore, under the enumeration of "vermilion" in Schedule E. Chemically speaking, it is according to the evidence, a mercurial preparation, but if it had been intended by the framers of the act to include it under the description of "mercurial preparations" in Schedule D, it would not have been carried in to the list by name under Schedule E. Judgment for plaintiffs.

¹ [Reported by Samuel Blatchford, Esq., and here reprinted by permission.]