

Case No. 7,890. KNOEDLER V. SCHELL (TWO CASES).
[17 Leg. Int. 373.]

Circuit Court, S. D. New York.

1860.

CUSTOMS DUTIES—COLORED ENGRAVINGS—ACT OF 1857.

These actions were brought to recover the difference between 8 per cent, and 15 per cent., exacted of the plaintiff [Michael Knoedler] as duties on colored engravings. The tariff act of 1816 [9 Stat. 42] levied a duty of 10 per cent, on “engravings or plates bound or unbound.” The act of 1857 [11 Stat. 192] levied a duty of 8 per cent. The collector [Augustus Schell] claimed that colored engravings were not engravings, and therefore should be classed as non-enumerated articles, and pay a duty of 15 per cent. It was proved on the trial that for forty years both plain and colored engravings have been imported, and known in trade under the general name of engravings, and that the fact of the engravings being colored did not change its character. That during the existence of the tariff act of 1846, or from December, 1846, to July, 1857, when the language of the act was precisely the same as in the act of 1857, the government did not pretend that colored engravings should pay a higher rate of duty than plain or uncolored engravings. The United States offered no evidence in defence.

NELSON, Circuit Justice, ruled that there was no authority for the exaction of more than 8 per cent, duty, and the plaintiff was entitled to a verdict for the excess paid in both actions.

[A motion was subsequently made in this case to set aside an execution against the personal effects of the collector. The motion was overruled. Case No. 7,889.]