

## Syllabus.

repealed the provisions of the act of 1864 as to such bottles, and made mineral waters, not artificial, free, there was no law in force imposing a duty on the bottles containing such free waters. The answer to this view is, that the duty imposed by the act of 1864 was a duty on the article composed of bottle and water, the specific duty and the *ad valorem* duty being each of them a duty on the bottle and the water considered as one article. When the water was made free, the whole provision as to a duty on the aggregated bottle and water disappeared, leaving existing applicable general provisions to apply to the bottle.

The provisions so existing after the act of 1872 took effect were those found in the acts of 1861 and 1864, and transferred into Schedule B of section 2504 of the Revised Statutes, and applied in this case. They were in force as express enactments when the importation in this case was made. *Schmidt v. Badger, ubi supra.*

*The judgment of the circuit court is reversed, and the case is remanded to that court, with directions to grant a new trial.*

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MERRITT, Collector, *v.* PARK & Another.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

Decided March 19th, 1883.

## Customs Duties.

The decision of this court, in *Schmidt v. Badger*, 107 U. S. 85, that, under the statutory provisions in question in this case, the proper duty on the importation of glass bottles containing beer, was a duty of 30 *per cent. ad valorem* on the bottles, in addition to a specific duty of 35 cents a gallon on the beer, confirmed and applied to this case.

The facts are all in the opinion.

*Mr. Solicitor-General Phillips* for collector.

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*Mr. Edward Hartley* and *Mr. Walter H. Coleman* for appellants.

MR. JUSTICE BLATCHFORD delivered the opinion of the court. This is a suit to recover back duties exacted by the plaintiff in error, as collector of the port of New York, on glass bottles imported in March, 1879, from London. The bottles contained beer, and the defendant below exacted a specific duty of 35 cents a gallon on the beer, and also a duty of *30 per cent. ad valorem* on the bottles. The bottles were the ordinary ale bottles of commerce. The circuit court directed a verdict for the plaintiffs, and they had a judgment, to review which the collector brought this writ of error.

The question involved is the same, and arose under the same statutory provisions, as in the case of *Schmidt v. Badger*, 107 U. S. 85. It was there held that such duty on the bottles, in addition to such duty on the beer and ale contained in them, was a lawful duty. That decision governs the present case, and the judgment of the circuit court is reversed and the case is remanded to that court, with directions to grant a new trial.

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## OTTAWA v. CAREY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Decided March 19th, 1883.

*Municipal Bonds—Municipal Corporations.*

1. Municipal corporations, being created only to aid the State government in the legislation and administration of local affairs, possess only such powers as are expressly granted, or as may be implied because essential to carry into effect those which are expressly granted.
2. Bonds issued by a municipal corporation, but not under either a general authority to borrow for corporate purposes, or a special legislative authority to borrow for purposes within the power of the legislature to confer, are void in the hands of a person who is not an innocent *bona fide* holder without notice.