any form to the people. Therefore, I am led to the irresistible conclusion that the mailing of this letter is a violation of the law. To what extent or in what degree it is a violation is not for me to determine. Every violation of this law should be heeded, and thus there will be secured to the people a pure, decent, and undefiled mail.

The motion is overruled.

UNITED STATES *v.* COTA.

(*District Court, W. D. Michigan, N. D.* July 24, 1883.)

Note of Decision.

Information for carrying on the business of a retail liquor dealer without the payment of the special tax.

J. W. Stone, U. S. Atty., for the United States.

E. C. Clark, for defendant.

Before Hon. S. L. WITHEY, District Judge.

The evidence in this case showed that the defendant kept a boarding-house and had a bar where he sold cider and an article known as "Reed's gilt-edge tonic," by the glass or drink, to all persons who called for the same; that the tonic was sold in considerable quantities, by the glass or drink, to persons who drank it as a beverage as other liquors are drank, and that persons became intoxicated thereby; that said tonic was generally sold at saloons and drinking-places in that vicinity, and contained a large percentage of distilled spirits.

It was claimed on the part of the government that the evidence showed that this tonic was "compound liquors," within the meaning of the *third* subdivision of section 3244, Revised Statutes, and that the manufacturer of such compounds was liable to pay a rectifier's special tax, and that the defendant was guilty under the information for selling the same in the manner shown by the evidence.

The court charged the jury that if the article sold was a medicine and contained spirits simply to preserve its medicinal qualities, and was sold and taken as a medicine in good faith, that the defendant should be acquitted. But if the jury found from the evidence that the article was a compound containing such a quantity of spirits as to be intoxicating, and was sold by the defendant as a beverage, he knowing its intoxicating quality, and was drank by persons *not* as a medicine, but as a *beverage, because* of its intoxicating and stimulating qualities, then, no matter by what name it was known or called, the defendant was guilty as charged.

The jury returned a verdict of guilty, and the defendant was fined $300, and sentenced to imprisonment in the custody of the marshal for 30 days.

CALIFORNIA ARTIFICIAL STONE PAVING CO. *v.* FREEBORN.[1]

(*Circuit Court, D. California.* January 26, 1883.)

1. ARTIFICIAL STONE PAVEMENT.
   Cross-cutting the larger blocks of artificial stone pavements into smaller ones with a trowel during the process of formation, in the manner described in *Molitor* and *Perine Cases*, 7 Sawy. 190, [S. C. 8 FED. REP. 821,] is an infringement of the Schillinger patent.
2. MARKING JOINTS NOT INFRINGEMENT.
   Running the marker, described in *Molitor* and *Perine Cases*, along the line of the surface between the old block and the new one formed against it, without anything being interposed, or any cutting being done between the blocks during the process of formation, is not an infringement of Schillinger's patent.

In this case, after a line of blocks had been formed and become solidified, a new block, from 12 to 20 feet by 2 or $2\frac{1}{2}$ feet wide, was formed between scantlings and the block or blocks before formed, without interposing anything whatever between the new and the old blocks. The material in its plastic state having been tamped down and then a layer of finer material put on top, the whole was finished and the blocks divided up into smaller ones during the process of formation, by use of a trowel, etc., in all respects, except as to the line between the old and new blocks, as is described in the *Cases of Molitor* and *Perine*, 7 Sawy. 190.[2] Nothing was interposed and no cutting was made in the joint between the old and the new blocks. But after the material had partially set, and the block had been finished and divided into smaller blocks, the marker described in *Molitor* and *Perine Cases* was run along the line between the old and new blocks on the surface. This is the only difference in making the pavement in this case and in those of *Molitor* and *Perine*.

Wheaton & Harpham, for plaintiff.

C. H. Parker, for defendant.

SAWYER, J. I have gone over this subject again as to the cross-cutting into blocks with a trowel during the process of formation. I adhere to the position that I took in the *Cases of Perine* and *Molitor*, 7 Sawy. 190.[3] There is in this case a mark on the surface along the line of division between the newly-formed block and the one before formed. The forming of the block against the pavement is according to the specifications in the reissue subsequently disclaimed; but it is claimed that running the marker along the line between the old and new blocks on the surface, after forming the latter, is an infringement. I am not able to take that view. I have gone as far in that direction as I think the patent will justify. I think in that particular it is not an infringement. Counsel for complainant have made a point as to simply marking lines upon the surface of the block with the marker employed. There is one case wherein it was

[1] From 8th Sawyer. [2] S. C. 8 FED. REP. 821. [3] Id.