

by the postmaster general at rates not exceeding the present maximum rates for pay of carriers."

The joint resolution of October 1, 1890, just quoted, clearly authorizes and empowers the postmaster general to employ letter carriers for this special, experimental free delivery service, and to fix the rates at which they should be paid so as not to exceed the maximum rates then being paid to letter carriers. It places these carriers, in their relation to the post-office department, as to their compensation, on the same footing as other carriers, and has made no change in existing laws or the postal regulations as to the manner in which they shall be paid; and, in the absence of any declaration on the part of congress to the contrary, it is to be presumed that they are subject to the same regulations and paid in the same manner as other carriers. The only difference the court sees between the two sets of letter carriers in this respect is that other letter carriers are paid by the postmaster at the offices at which they serve out of the postal funds, while the experimental free delivery carriers are to be paid by the postmaster at the post offices at which they serve out of the appropriation made by congress for the purpose.

The demurrer admits whatever is well alleged in the indictment. The charge in the indictment is in the language of the statute, and the indictment is therefore not defective in matter of form; and the court is of opinion that the defendant, being a postmaster, was an officer of the United States, within the meaning of the statute, and, as such, was charged with the payment of an appropriation made by an act of congress. The demurrer is overruled.

BACHE v. UNITED STATES.

(Circuit Court of Appeals, Second Circuit. May 27, 1897.)

CUSTOMS DUTIES—CLASSIFICATION—WINDOW GLASS.

Cylinder, crown, or common window glass, which has been either colored throughout when melted, or colored on the outside by flashing, is dutiable under paragraphs 112 and 118 of the tariff act of 1890, and not under paragraph 122, the former sections being probably more specific as applied to it, but, if not, the higher rate of duty being applicable under section 5. 77 Fed. 603, affirmed.

Appeal from the Circuit Court of the United States for the Southern District of New York.

This was an appeal from the decision of the circuit court affirming the decision of the board of general appraisers as to the classification of certain merchandise consisting of cylinder, crown, or common window glass, a part of which was colored throughout when melted, and the rest on the outside by flashing.

Charles Curie, David Ives Mackie, and W. Wickman Smith, for appellants.

Wallace Macfarlane and James T. Van Rensselaer, for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. The importations in controversy were stained window glass, and the question which we have to decide is whether the merchandise was subject to duty pursuant to paragraphs 112 and 118 of the tariff act of October 1, 1890, or was subject to duty pursuant to the provisions of paragraph 122 of the same tariff act. Paragraph 112 imposes duty upon "unpolished cylinder, crown, and common window glass" (of the dimensions of the importations in question) at 3½ cents per pound, and paragraph 118 subjects to a duty of 10 per cent. ad valorem, in addition to the rates otherwise chargeable thereon, "cylinder, crown or common window glass, when ground, * * * stained, colored, or otherwise ornamented or decorated." Paragraph 122 provides that upon all "stained or painted window glass" (not exceeding in size the importation in question) "not specially provided for in this act," the duty shall be 45 per cent. ad valorem. It is not clear that the importations were not dutiable under the provisions of the first two paragraphs mentioned, these being more specific than paragraph 122, because of the omission of the words contained in the latter paragraph, "not otherwise provided for." *Matheson & Co. v. U. S.*, 18 C. C. A. 143, 71 Fed. 394; *U. S. v. Eisner & Mendelsohn Co.*, 8 C. C. A. 148, 59 Fed. 352. If, however, these paragraphs are not more specific than the other, the case is one in which section 5 of the same tariff act comes into operation. That section provides: "If two or more rates of duty shall be applicable to any imported article it shall pay duty at the highest of such rates." The decision of the circuit court is affirmed.

C. F. SIMMONS MEDICINE CO. et al. v. SIMMONS.
(Circuit Court, E. D. Arkansas, E. D. May 24, 1897.)

1. CONTRACTS IN RESTRAINT OF TRADE—SECRET PROCESSES.

An agreement, made by one who enters the employ of the manufacturer of a medicine compounded by a secret process, not to make or sell any of the medicine, or reveal the secret of its composition, is not in restraint of trade, and will be enforced in equity by injunction.

2. SALE OF RIGHT IN SECRET COMPOUND—DISCLOSURE BY SELLER—INJUNCTION.

Equity will not permit one who has sold for a valuable consideration the absolute and exclusive property in a medicine compounded by a secret process to reveal such secret to a third person, either by himself, or through a member of his family, and will restrain by injunction the use of a secret so revealed.

3. UNFAIR COMPETITION IN BUSINESS—IMITATION OF WRAPPERS, ETC.

Defendant manufactured and sold a medicine to which he gave a name similar to the name of complainant's medicine, including the name of the inventor; he placed on the wrappers of his medicine a picture of a bust, and an autograph signature, complainant's medicine having long been known among an ignorant class of purchasers by similar signs; he issued directions which were almost a literal copy of the complainant's; and he published a card in which he described himself as the son and successor of the inventor of complainant's medicine. *Held*, that defendant was guilty of unfair competition.

This is an action to enjoin the defendant from compounding, making, or selling any liver medicine called "Simmons' Liver Medicine,"