

goods, and consequently any false paper presented, and designed by the defendant to be presented, to the secretary of the treasury for the purpose of obtaining the order for the free entry, cannot be considered as a remote or indirect cause only, but as the direct procuring cause of the free entry. The subsequent acts of the collector in conformity with the direction of his superior in entering the goods as free, were merely a formal compliance with what had already been determined upon the defendant's application in Washington. In effect, the attempt to enter these goods as free was made at Washington, on application to the head of the department, and not, as in ordinary cases, upon application at the custom-house here.

There is nothing in section 12 of the act of 1874 that limits its application, as regards attempts to enter goods, to proceedings at the custom-house only. The real purpose of the act, to prevent and punish frauds, as well as its general language, require it to be applied to attempts to enter goods wherever made. Had the defendant in this case deposited the letter in question at the custom-house for the same purpose with which it was sent to Washington, and the letter had then been forwarded by the custom-house officials to the department at Washington for action, and the same order from the secretary subsequently received, and the same free permit thereupon issued, it would not have been doubted that the deposit of the letter at the custom-house was a part of the attempt to make a free entry of the goods. It is clearly immaterial that the defendant sent his letter directly to Washington for the purpose of influencing the action of the secretary of the treasury as to ordering a free permit. The attempt to make the entry began when this letter was forwarded for the purpose of influencing the secretary's action. The letter was so used, and its statements being false, the offense described by section 12 was committed.

See *U. S. v. Boyd*, ante, 690.

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### BATE REFRIGERATING Co. v. GILLET and others.

(Circuit Court, D. New Jersey. August 19, 1885.)

#### PATENTS FOR INVENTIONS—VIOLATION OF INJUNCTION—CONTEMPT—ATTACHMENT.

Motion for attachment of defendants, for contempt of court in violating an injunction, refused; the affidavits not showing personal service of the motion on defendants, except upon one of them, and the evidence showing conclusively that the one so served had no control as agent over the parties alleged to have continued to infringe complainant's patent after issuance of the injunction.

Attachment for Contempt.

*Dickerson & Dickerson*, for the motion.

*John R. Bennett and Geo. De Forest Lord, contra.*

NIXON, J. On November 14, 1881, an injunction was issued by this court against the defendants in the above-stated suit, commanding them, and each of them, to desist from making, using, selling, or in anywise counterfeiting or imitating the invention or improvement described in and secured by the letters patent No. 197,314, for "improvement in processes for preserving meats during transportation and storage," issued to John J. Bates, November 20, 1877, and by the patentee assigned to the complainant corporation. Application is now made to the court for an attachment against Vernon H. Brown, individually, and Vernon H. Brown, Albert H. Brown, Vernon C. Brown, and George F. Wilde, members of the firm of Vernon H. Brown & Co., the general agents in the United States for the Cunard Steam-ship Company, and each of them, for contempt of court in violating the said injunction. It does not appear by the affidavits filed that either of said persons named, except Vernon H. Brown, has had a personal notice served upon him of the motion in this case. Instances have doubtless arisen, and will again arise, where a substituted service has been and will be accepted by the court in the place of a personal service; but the proper practice in all such cases is to apply to the court, assign satisfactory reasons, and thus obtain its order in advance for the substituted service. No step of the kind was taken in the present case.

Evidence has been offered to show that the Cunard Steam-ship Company has violated the injunction by shipping on board two of its steamers, to-wit, the *Cephalonia* and *Catalonia*, plying between the port of Boston, in the United States, and the port of Liverpool, in England, meats placed in refrigerators embodying the process of the complainant's patent. But the proof is clear and undisputed that Vernon H. Brown, who was personally served with notice to appear and show cause, has no control over the cargoes of the said steamer, and was not responsible for the acts complained of.

The motion for an attachment must be refused.

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JENNINGS and others v. KIBBE and others.

SAME v. DOLAN and others.

(*Circuit Court, S. D. New York.* January 10, 1885.)

**1. PATENTS FOR INVENTIONS—DESIGN FOR FRINGED LACE FABRIC—INFRINGEMENT.**

As the novelty of design patent No. 10,448, for a fringed lace fabric having a fringe made of a series of stems connected to the fabric and not to each other, "with loops at both sides of a central stem or rib along its entire extent," appertains to the fringe alone, it is not infringed by nubias having such fringes