

SHEDD *v.* WASHBURN AND OTHERS.

Circuit Court, D. Massachusetts. January 28, 1882.

1. LETTERS PATENT—FASTENERS FOR
SHUTTERS—VALIDITY.

Letters patent No. 166, 819, for an improvement in fasteners for shutters, are not invalid for want of novelty.

2. NOVELTY—UTILITY—EXTENSIVE USE.

Extensive use is, of itself, some evidence of novelty and utility.

In Equity.

Thos. H. Dodge, for complainant.

John L. S. Roberts, for defendants.

LOWELL, D. J. The plaintiff describes and claims in his patent, No. 166, 819, an improvement in fasteners for shutters, or blinds, made of wire, and fully shown in the drawings, and by a description which would hardly be intelligible without the drawings. The defendants make and sell this precise article; and the only question in the case is whether the plaintiff has a valid patent, no matter of how limited a scope. In my opinion, he may hold a narrow claim for the very article which he describes. Other fasteners for shutters and blinds had been made of a single piece of wire, but none which had the several elements of his claim similarly combined. The claim is for “a wire blind fastener, having a horizontal spring arm, A’, projecting end, G, inclined or brace arm, E’, intermediate coil spring, E, and horizontal eye, F; the same being constructed and adapted to be applied to the blind or shutter, substantially as and for the purposes 905 set forth.” The Haynes fastener, if earlier than the plaintiff’s, which is somewhat doubtful, does not have a coil which operates like that shown in the patent; the Waterhouse exhibit does not have the inclined or brace arm, to any useful extent; the Orr fastener has no coil. All these earlier devices

appear to have worked well, but the plaintiff's changes were improvements, and brought his fastener into use extensively, which is, of itself, some evidence of novelty and utility. Decree for the complainant.

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