NOTES OF CURRENT DECISIONS
OF THE
UNITED STATES SUPREME COURT.

Patent Cases—Jurisdiction—Law and Equity.

ROOT *v.* LAKE SHORE & MICHIGAN SOUTHERN R. Co. This was an appeal from the circuit court of the United States for the northern district of Illinois, which was decided at the October term, 1881. Mr. Justice *Matthews* delivered the opinion of the court.

The distinction of jurisdiction between law and equity in the United States courts is constitutional to the extent to which the seventh amendment of the federal constitution forbids any infringement of the right of trial by jury as fixed by the common law. The doctrine applies to patent cases as well as others, and a court of equity is to proceed under the patent law just as it does in any other case of a violated legal right, and to grant relief only when the remedy at law is inadequate; and a bill for an account of profits will not be sustained if brought after the patent has expired, and there can be no injunction. A bill in equity for a naked account of profits and damages against an infringer of a patent case cannot be sustained; that such relief ordinarily is incident to some other equity, the right to enforce which secures to the patentee his standing in court; that the most general ground for equitable interposition is to insure to the patentee the enjoyment of his specific right by injunction against the continuance of the infringement; but that grounds of equitable relief may arise other than by way of injunction, and each case must rest upon its own peculiar circumstances, as furnishing a clear and satisfactory ground of exception from the general rule.

Albert H. Walker, for appellant.

George Payson, for appellee.

The cases cited in the opinion were: Livingston v. Van Ingen, 1 Paine, 45; Sullivan v. Redfield, Id. 441; Stevens v. Gladding, 17 How. 447; Watts v. Waddle, 6 Pet. 389; Livingston v. Woodworth, 15 How. 547; Dean v. Mason. 20 How. 198; Seymour v. McCormick, 16 How. 480; New York v. Ransom, 23 How, 487; Jones v. Morehead, 1 Wall. 155; Mowry v. Whitney, 14 Wall, 620; Packet Co. v. Sickles, 19 Wall. 611; Suffolk v. Hayden, 3 Wall. 315; Burdell v. Denig, 92 U. S. 716; Littlefield v. Perry, 21 Wall. 205; Birdsall v. Coolidge, 93 U. S. 64; Elizabeth v. Pavement Co. 97 U. S. 126; Marsh v. Seymour, Id. 348;

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Cawood Patent, 94 U. S. 695; Rubber Co. v. Goodyear, 9 Wall. 788; Parks v. Booth, 102 U. S. 96; Silsby v. Foote, 20 How. 386; Hendric v. Sayles, 98 U. S. 546; Eureka Co. v. Barley Co. 11 Wall. 488; Goodyear v. Day, 2 Wall. Jr. 283; Orr v. Merrill, 1 Wood & M. 376; Nevins v. Johnson, 3 Blatchf. 80; Parsons v. Bedford, 3 Pet. 446; Fenn v. Holme, 21 How. 484; Cropley v. Beverly, Webs. Pat. Cas. 119; Hipp v. Babin, 19 How. 271; People v. Houghtaling, 7 Cal. 348; Colburn v. Simms, 2 Hare, 543; Smith v. London & S. R. Co. Kay, 415; Bailey v. Taylor, 1 Russ, & M. 75; Price's Co. v. Banwen's Co. 4 Kay & J. 727; Davenport v. Rylands, L. R. 1 Eq. 302; Betts v. Gallais, L. R. 10 Eq. 392; De Vitre v. Betts, L. R. 6 H. L. 321; Garth v. Cotton, 1 Dick. 183. In illustration, as analogous: Parrott v. Palmer, 3 Mylne & K. 640; Jesus Coll. v. Bloom, 3 Atk. 262; Bish. of Winchester v. Knight, 1 P. Wms. 406; Powell v. Aiken, 4 Kay & J. 343; Higginbotham v. Hawkins, L. R. 7 Ch. Ap. 679; Martin v. Porter, 5 Mees. & W. 351; Morgan v. Powell, 3 Q. B. 278; Wood v. Morewood, Id. 440; Hilton v. Woods, L. R. 4 Eq. 432; Jegon v. Vivian, L. R. 6 Ch. Ap. 742.

Municipal Bonds—Coupons—Limitation of Action.

TOWN OF KOSHKONONG *v.* BURTON. Case decided in the supreme court of the United States, October term, 1881. In error to the circuit court for the western district of Wisconsin, the judgment of which court was reversed. *Harlan,* J. The cause of action upon a coupon of a municipal bond issued under the statutes of Wisconsin, whether detached from the bond or not, accrues, and limitation commences at and from its maturity. The legislature may require, as to existing causes of action, that suits for their enforcement shall be barred unless brought within a less period than that prescribed when the contract was made, or the liability incurred, from which the cause of action arose. The exertion of this power is, however, subject to the fundamental condition that a reasonable time, taking all the circumstances into consideration, be given by the new law before the bar takes effect. If interest upon interest, whether arising upon express or implied agreement, is allowed by the local law, at the time of the contract, that right cannot be impaired by a subsequent legislative declaration as to what was, in the judgment of that department, the true intent and meaning of the statutes prescribing and limiting the rate of interest in force when the contract was made. The utmost effect to be given to such legislative declaration is to regard it as an alteration of the existing law in its application to future transactions.

The cases cited in the opinion were: Amy v. Dubuque, 98 U. S. 470, reaffirmed. As to the constitutional power of the legislature: Terry v. Anderson, 95 U. S. 633; Hawkins v. Barney, 5 Pet. 457; Jackson v. Lamphire, 3 Pet. 280; Sohn v. Waterson, 17 Wall. 596; Christmas v. Russell, 5 Wall. 290; Sturges v. Crownenshield, 4 Wheat. 122; Osborn v. Jaines, 17 Wis. 592; Parker v. Kane, 4 Wis. 1; Falkner v. Dorman, 7 Wis. 338. Allowance of interest: Mills v. Town of Jefferson, 20 Wis. 56; Spencer v. Maxfield, 16 Wis. 185; Pruyn v. City of Milwaukee, 18

Wis. 386; Gelpcke v. Dubuque, 1 Wall. 175; Aurora v. West, 7 Wall. 105; Town of Genoa v. Woodruff, 92 U. S. 502; Walnut v. Wade, 103 U. S. 696. The law as the rule of decision: Salters v. Tobias, 3 Paige, 344; Ogden v. Blackledge, 2 Cranch, 276.

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Bill of Lading—Negotiability.

POLLARD *v.* VINTON. Supreme court of the United States, October term, 1881, in error to the circuit court for the district of Kentucky, and affirming the judgment. *Miller,* J. A bill of lading is at once a receipt and a contract; it is an acknowledgment of the receipt of property on board the vessel, and a contract to carry safely and deliver. The receipt of the goods lies at the foundation of the contract to carry and deliver, and if no goods are actually received there can be no valid contract to carry or to deliver. The person to whom such a bill of lading is first delivered cannot hold the signer responsible for goods not received by the carrier, as neither the master of the vessel nor the shipping agent has authority to give a bill of lading for goods or cargo not received for shipment. Such a bill of lading is void in the hands of a third person who may have afterwards in good faith taken it and advanced money on it.

T. Ellery Anderson, for plaintiffs in error.

B. H. Bristow, for defendants in error.

The cases cited in the opinion were: The Freeman v. Buckingham, 18 How. 182; Grant v. Norway, 10 Com. B. 665; Hubbersty v. Ward, 8 Exch. 330; Coleman v. Riches, 16 Com. B. 104; Walter v. Brewer, 11 Mass. 99. See, also, McLean v. Fleming, Law Rep. 2. H. L. 128. That a bill of lading is to be regarded in a double aspect, as a receipt and as a contract, see Goodrich v. Norris, Abb. Adm. 196; The Delaware, 14 Wall. 601; Blaikie v. Stembridge, 6 Com. B. (N. S.) 894; Bates v. Todd, 1 Moody & R. 106; Berkley v. Wattling, 7 Adol. & E. 29; Wayland v. Mosely, 5 Ala.

430; Brown v. Byrne, 3 Ellis & B. 702; but compare Knox v. The Ninetta, Crabbe, 534. As a receipt, its statements are *prima facie* evidence only, and may be explained by parol evidence. Desty, Ship. & Adm. § 220, citing many cases.

Patents—Ownership—Extended Term—License.

THE UNION PAPER BAG MACH. Co. *v.* NIXON, (two cases.) NIXON *v.* THE U. P. B. M. Co., (two cases.) These cases were appeals from the circuit court for the southern district of Ohio, and were decided March 6, 1882, in the supreme court of the United States. Mr. Chief Justice *Waite* delivered the opinion of the court. The right of an owner of a patented machine, without any conditions attached to his ownership, to continue the use of his machine during an extended term of the patent, is well settled; and his power to sell the machine and transfer the accompanying right of use is an incident of unrestricted ownership. Licensees of a patent cannot sue for an infringement. All their rights must be enforced through or in the name of the patentee, and where the license ceases when the term expired, it follows that during the extended term, no questions can arise under the license. The licensees take their title subject to the rights of the unrestricted owner. A decree will not be reviewed on appeal for the mere purpose of settling the costs.

Geo. Harding, for Union Paper Bag Mach. Co.

E. W. Kittredge and Jas. Moore, for Nixon *et al.*

The cases cited in the opinion were: Bloomer v. McQuewan, 14 How. 539; Chaffee v. Boston Belting Co. 22 How. 223; Mitchell v. Hawley, 16 Wall 547;

Adams v. Burke, 17 Wall. 445; Littlefield v. Perry, 21 Wall. 223. As to appeals: Canter v. Amer. & O. Ins. Co. 3 Pet. 307; Elastic Fabric Co. v. Smith, 100 U. S. 110.

Judgment on Special Findings—Coverture—Disability from.

COLLINS *v.* RILEY. This was an action brought up to the supreme court in error to the district court for the district of West Virginia. The defendant in error, claiming to be the owner of large tracts of land, brought an action to recover the possession from the plaintiffs in error. A trial was had before a jury, which resulted in a verdict for the defendants, which verdict was, on motion, set aside and a new trial had, upon which the jury brought in a special verdict for the plaintiff. The case was heard on a writ of error, and the supreme court, at the October term of 1881, rendered its decision affirming the judgment of the lower court. *Harlan,* J. Where the jury find a special verdict, in an action for the possession of lands, the court may enter judgment on such finding for the plaintiff as to certain portions, and for the defendant, on a general finding, as to other portions of the land. The adverse holding or possession of land for the statutory period will not bar the right to bring an action for its recovery while a party is under the disability of coverture, even though the remedy may be barred as to her husband.

Patent Rights—Subject to Debt of Patentee.

AGER *v.* MURRAY. In this case it was decided, at the October term, 1881, by Mr. Justice *Gray,* that a patent right may be subjected by bill in equity to the payment of a judgment debt of the patentee.

The cases cited in the opinion were: Hesse v. Stevenson, 3 Bos. & P. 565; Longman v. Tripp, 2 New Rep. 67; Bloxam v. Elsee, 1 Car. &P. 558; Mawman v. Tegg, 2 Russell, 385; Edelsten v. Vick, 11 Hare, 78; Hudson v. Osborne, 39 L. J. (N. S.) Ch. 79; McDermutt v. Strong, 4 Johns. Ch. 687; Spader v. Davis, 5 Johns. Ch. 280; Edmeston v. Lyde, 1 Paige, 637; Wiggin v. Heywood, 118 Mass. 514; Sparhawk v. Cloon, 125 Mass. 263; Daniels v. Eldredge, 125 Mass. 356; Drake v. Rice, 130 Mass. 410; Stephens

v. Cady, 14 How. 529; Stevens v. Gladding, 17 How. 447; Massie v. Watts, 6 Cranch, 148; Ashcroft v. Walworth, 1 Holmes, 152; Gordon v. Anthony, 16 Blatchf. 234; Gillette v. Bate, 86 N. Y.— Pacific Bank v. Robinson, 57 Cal.— Cooper v. Gunn, 4 Dill. 594.