NOTES OF CURRENT DECISIONS OF THE UNITED STATES SUPREME COURT.

Limited Liability of Ship-Owners.

NATIONAL STEAM NAV. Co. *v.* DYER and others; DYER and others *v.* NATIONAL STEAM NAV. Co. These were appeals taken from the circuit court of the United States for the eastern district of New York, and were decided at the October term of the supreme court. The steam-ship Scotland, belonging to the National Steam Navigation Company, a corporation of Great Britain, on the high seas ran into the American ship Kate Dyer. The Kate Dyer immediately sank, and ship and cargo were totally lost. The steam-ship suffered so severely from the collision that she sank also, and became a total loss, with the exception of some material got from her by the coast wrecking company before she went down. Libels *in personam* were filed in the district court for the eastern district of New York against the steam navigation company by the owners of the Kate Dyer, the Peruvian government, owner of her cargo of guano, and by a passenger and some of the crew who lost certain effects by the sinking of the ship. Personal service of process not being obtainable, the marshal attached another vessel belonging to the company, which was duly claimed and released on stipulation, and the steam-ship company appeared and responded, admitting the collision, but denying that the steam-ship was in fault, and alleging "that there is no liability *in personam* against these respondents for said loss of the Kate Dyer." Proofs being taken the district court rendered a decree in favor of libellants, which, on appeal to the circuit court, was substantially affirmed.

On the trial in the circuit court the respondents, besides contesting the questions of fault and general liability, again insisted upon the benefit of the limited liability law. The circuit court refused any relief

grounded on the limited liability law, but made a decree against the respondents for the total amount of damages sustained by the various parties in interest, to which respondents excepted, and both parties appealed from the decree; the appeal of the libellants being based on a supposed erroneous conclusion of the court in reference to interest, and the estimation of the value of the cargo.

Mr. Justice *Bradley* delivered the opinion of the court, on the twentieth of March, 1882. The limited liability act of 1851, reproduced in the Revised

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Statutes in section 4283, applies to owners of foreign as well as domestic vessels, and to acts done on the high seas as well as in waters of the United States, except when a collision occurs between two vessels of the same foreign nation, or perhaps of two foreign nations having the same maritime law. The maritime law of the United States, as found in the statute, is the same as the general maritime law of Europe, and is different from that of Great Britain in this: that the former gauges the liability by the value of the ship and freight after the loss or injury, and the latter by their value before the loss or injury, not exceeding £15 per ton. The maritime law is only so far operative as law in any country as it is adopted by the laws and usages of that country. The principles laid down on this subject in Norwich Co. v. Wright, 13 Wall. 116, and in The Lottawanna, 21 Wall. 558, reasserted and affirmed. The courts of every country will administer justice according to its laws, unless a different law be shown to apply; and this rule applies to transactions taking place on the high seas. If a collision occur on the high seas between two vessels, controversies arising there from will be governed in the same foreign country by our laws, unless the two colliding ships belong to the same foreign country, or, perhaps, to different countries using the same law, when they will

be governed by the laws of the country to which they belong. Ship-owners may avail themselves of the defence of limited responsibility by answer or plea, as well as by the form of proceeding prescribed by the rules of this court; at least, so far as to obtain protection against the libellants or plaintiffs in the suit. Those rules were not intended to restrict them, but to aid them in bringing into concourse those having claims against them arising from the acts of the master or crew. If the owners plead the statute, a decree may be made requiring them to pay into court the limited amount for which they are liable, and distributing said amount *pro rata* among the parties claiming damages. Such a proceeding in a court of admiralty would be an "appropriate proceeding" under the statute. It is not necessary that ship-owners should surrender and transfer the ship in order to claim the benefit of the law. That is only one mode of relief. They may plead their immunity, and, if found in or confessing fault, may abide a decree against them for the value of the ship and freight as found by the proofs. The rule of damages. in case of goods lost or destroyed on the high seas by the fault of those in charge, is the price or value of the goods at the place of shipment, with all charges of lading, insurance, and transportation, and interest at 6 per cent per annum, but without any allowance for anticipated profits. When the goods have no market value at the place of shipment, resort may be had to other means of ascertaining their actual value, such as the price which they usually bring at the port of destination, with a fair deduction for profits and charges.

William Allen Butler, John Chetwood, and Thomas E. Stillman, for the owners of the Scotland.

James C. Carter, for the owners of the Kate Dyer and her cargo, master, and crew, and a passenger.

The cases cited in the opinion were: The Norwich Co. v. Wright, 13 Wall. 116; The Rebecca, Ware,

187; The Lottawanna, 21 Wall. 558; The Vaughan and Telegraph, 14 Wall. 258; Murray v. The Charming Betsey, 2 Cranch, 64;

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The Anna Maria, 2 Wheat. 327; The Amiable Nancy, 3 Wheat. 546; Smith v. Coudry, 1 How. 28; Williamson v. Barrett, 13 How. 101; The Nuestra Signora de los Dolores, 1 Dods. 297; The Carl Johan, 1 Hagg. 113; The Girolamo, 3 Hagg. 186; The Zollverein, Swabey, 96; Cope v. Doherty, 4 Kay & J. 367; S. C. 4 Jur. (N. S.) 451; S. C. on App. Id. 391, 699; The Gen. I. S. C. Co. v. Schurmanns, 1 Johns. & H. 193; The Wild Ranger, 1 Lush. 553; 9 Jur. (N. S.) 134.

See *The Maria and Elizabeth, ante, 520.*

Insurance on Life of Another.

WARNOCK *v.* DAVIS and others, 4 Morr. Trans. 93. Error to the circuit court of the United States for the southern district of Ohio. This was an action brought by an administrator of a deceased person who had taken out a policy of insurance on his life, against the Scioto Trust Association of Portsmouth, Ohio. At the time of taking out the policy he entered into an agreement with the trust association whereby it was agreed that he should assign the policy to the association, reserving for his disposition one-tenth of the amount; the association to keep up and maintain the insurance at their expense. The case was tried by the court without a jury.

On the trial the plaintiff gave in evidence the deposition of the receiver of the insurance company, who produced from papers in his custody the policy of insurance, the agreement and assignment mentioned, the proofs presented of the death of the insured, and the receipt by the trust association for the insurance money. No other testimony was offered. The court thereupon found for the defendants, to which finding plaintiff excepted. Judgment being rendered in favour

of defendants the case was brought to the supreme court for review, and the decision rendered on the sixth of March, 1882, Mr. Justice *Field* delivering the opinion of the court: An insurable interest in the life of another is such an interest, arising from the relations of the party obtaining the insurance, either as creditor of or surety for the assured, or from ties of blood or marriage, as will justify a reasonable expectation of advantage or benefit from the continuance of his life. An insurance policy on the life of another, by one not having such an interest, is a wager policy, and void. An assignment of a policy to a party not having an insurable interest, whether of the whole, or a portion merely, of the insurance money, is valid only to the extent of loans or advances made on account of it, or the premiums paid on its security; but so far as it attempts to assign any surplus, is void as a direct insurance would be, and is equally objectionable as a wager policy. If, under color of such assignment, the assignee collects the money due on such a policy, the assignor or his representatives may recover the amount so collected, less any loans or advances, and the rule of *par delictum* does not apply to such a case.

F. B. Foraker, for plaintiff in error.

A. C. Thompson, for defendants in error.

The cases cited in the opinion were: St. John v. Amer. Mut. L. Ins. Co. 13 N. Y. 31; Valton v. National Loan Fund Life Assu. Co. 20 N. Y. 32; Ashley v. Ashley, 3 Simons, 149; Cammack v. Lewis, 15 Wall. 643.

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Patents—Reissue—Expanded Claim.

MATTHEWS *v.* THE BOSTON MACHINE CO. 21 O. G. 349. This case was brought up on appeal to the United States supreme court from the circuit court of the United States, for the district of Massachusetts, and was decided March 27, 1882. Mr.

Justice *Bradley* delivered the opinion of the court affirming the decree of the circuit court.

Where the original patent shows upon its face that certain broad claims were not made, the patentees, if they are the inventors of such subject-matter, when apprised that it is not claimed in the patent, should use due diligence in surrendering the patent, should use due diligence in surrendering the patent and having the mistake corrected. Fourteen years is too long a period of delay. In this instance the reissue is held to be not merely for a broader claim made many years after the original was granted, but for a different invention. By suppressing the description of certain parts of the device, the reissued patent is made to cover, by implication, an invention described and claimed in a subsequent patent. When, in view of the state of the art, the patentee's claim must be construed to be for the specific arrangement of devices invented by him, the defendants do not infringe unless their devices are in the same specified form.

Geo. L. Roberts and Geo. Harding, for appellants.

Causten Brown, for appellees.

Directing Verdict—Civil Action.

STEWARD *v.* TOWN OF LANSING. This was a suit brought to recover for interest coupons on town bonds issued in aid of railroads. At the trial, after the testimony on both sides was in, the court instructed the jury to find a verdict for the defendant, which was done, and judgment entered accordingly. This ruling furnished the principal ground of error assigned. The case was brought up on error to the circuit court of the United States for the northern district of New York, and a decision rendered on March 6, 1882, affirming the judgment of the circuit court. The opinion was delivered by Mr. Chief Justice *Waite.* It is not error in a court to instruct a jury to find a certain verdict, if it is satisfied that, conceding all the inferences which a jury

might draw from the testimony, the evidence would not be sufficient to support a contrary verdict.

James R. Cox, for plaintiff in error.

Francis Kernan, for defendant in error.

Cases cited in the opinion were: Pleasants v. Faut. 22 Wall. 122; Railroad Co. v. Traloff, 100 U. S. 26; Oscanyon v. Arms Co. 103 U. S. 26.