

faith, and, even though he acted mistakenly, it is not a case where he should be punished. *In re Judson*, 3 Blatchf. 148; *Smith v. Stage Co.* 18 Abb. 419; *Hilliker v. Hathorne*, 5 Bosw. 710; *Weeks v. Smith*, 3 Abb. Pr. 211.

The motion is denied.

GOTTFRIED *v.* MOERLEIN and eighteen other cases.

(Circuit Court, S. D. Ohio. November 22, 1882.)

PATENT EXPIRED AFTER SUIT BROUGHT—RELIEF GRANTED.

The mere fact of the patent expiring after suit brought, and before final hearing, will not defeat the jurisdiction. A court of equity will administer any relief it finds necessary.

In Equity.

Banning & Banning, for complainant.

Parkinson & Parkinson, for defendants.

BAXTER, C. J. The foregoing causes came on to be heard upon the motion of defendants to dismiss each of said causes, for the reason that it appearing upon the face of the pleadings and record that the patent sued upon has expired before the submission of the cause for an injunction or any equitable relief, and the pleadings showing no cause for equitable relief other than for the purpose of an injunction, there is no ground for the intervention of a court of equity, and that no such equitable relief can be granted as to enable this court, as a court of equity, to acquire jurisdiction for the purpose of any relief whatever; and, said motion having been argued by counsel for defendants, the court refusing to hear arguments for complainant, and the court, being now fully advised in the premises, doth order that said motion be and the same is hereby overruled.

NOTE. Judge BAXTER, in disposing of the above motion, said, in substance, that at the time the suit was brought the patent was still in force, and it was therefore properly brought on the equity side of the court; that the mere fact of the patent expiring before final hearing would not defeat the jurisdiction; and that a court of equity would administer any relief it found necessary. Judge GRESHAM, District of Indiana, ruled the same way in *Gottfried v. Crescent Brewing Company*, 13 FED. REP. 479, the point being there made, in opposition to the entry of a decree, "that the patent having expired before the submission of the cause, the court had no jurisdiction as a court of equity to award an injunction or account, or other relief."

FINNEY and others v. GRAND TRUNK RY. Co.

(District Court, N. D. Illinois. 1882)

1. SHIPPING—DISCHARGE OF CARGO—DEMURRAGE.

Where a cargo of corn was unloaded as soon as practicable at defendant's elevator, it being the only elevator at the port of arrival, defendant is not liable for demurrage, notwithstanding there was a delay in unloading the cargo arising from the fact that other vessels had arrived before the libellant's vessel, and preference was given to them in unloading.

2. SAME—CHARTER—PRESUMPTIONS.

A party making a charter of his vessel must be presumed to know the course of business at the port of destination, and that his vessel must wait until vessels which arrived before his were unloaded.

3. SAME.

Where there was no stipulation in the charter-party that the vessel should be unloaded within any special time, nor for quick dispatch, her owner cannot recover for delay caused by awaiting her turn for unloading.

W. H. Condon, for libellant.

Jhas. E. Kremer, for respondent.

BLODGETT, D. J. This is a libel for damages by the owners of the schooner *George C. Finney*, by reason of alleged unreasonable delay in the discharge of the cargo of the schooner at *Goderich*. The undisputed facts are these: That the schooner was chartered in the city of *Chicago*, on *October 18, 1880*, to carry a cargo of corn to *Goderich, Canada*. She took on her cargo, and sailed the day after she was chartered, which was *October 19th*. Her bill of lading showed a shipment of *20,055 bushels of corn* at the port of *Chicago*, to be transported to *Goderich*, and there delivered "for account of *G. P. Comstock & Co.*," "in care of the *Grand Trunk Railway Company*." No promise was made for any special time in which the cargo was to be discharged; nor was there any clause in the bill of lading requiring dispatch in discharging. The schooner arrived at *Goderich* on the morning of *October 23d*, and her captain reported that he was ready to begin unloading that morning; but he was told that there were five other vessels ahead of him, and he must wait his turn. The *Grand Trunk Railway* had only one elevator at *Goderich*, and it took until the afternoon of *October 30th* to unload the five vessels which had arrived and reported ahead of the *Finney*. On the afternoon of the *30th* they began unloading the *Finney*, but owing to rough weather they were unable to fully discharge her cargo till about noon of the first of *November*.