

GOULD *v.* SPICER AND OTHERS.

Circuit Court, D. Rhode Island. August 3, 1882.

PATENTS FOR INVENTIONS—REISSUE—VOID FOR VARIANCE.

In Equity.

Thomas W. Clarke, for complainant.

Benjamin F. Thurston, for defendants.

Before GRAY and COLT, JJ.

GRAY, Justice. In the original patent the only invention claimed or described, or appearing upon its face to have been intended to be claimed or described, is an arrangement of grate-bars, with projections on the under side of each end, in combination with two rotary cams, coming in contact with such projections. The reissue, so far as it relates to the seven new claims introduced therein, is void, because of its variance from the original patent; and it is unnecessary to consider the other grave objections to the validity of the reissue, founded on the lapse of time before it was applied for. But the validity of the claim made in the original patent, and distinctly repeated in the reissue, is not affected.

The result is that the first demurrer, which goes to the whole bill, must be overruled, and the second demurrer, filed in accordance with the thirty-second rule in equity, and limited to that part of the bill which sets forth the invalid claims, must be sustained, and the case stand for replication and proofs upon the first claim.

This volume of American Law was transcribed for use
on the Internet

through a contribution from [Jonathan L. Zittrain](#). 