sides of the boxes, the value and security of the Yale box would be seriously impaired. The metallic casing or flange upon the outside of the sides of the Scovill box has an office, viz., that of protection to the wood-work against outside attack, which the metallic ear upon the inside of the Yale box does not have.

The motions are denied.

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## 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.

## COTE and others v. MOFFITT.

(*Circuit Court, D. Massachusetts.* February 2, 1883.)

PATENTS FOR INVENTIONS—VALIDITY OF REISSUE.

A reissue may be good as to some of its claims and bad as to others. A patentee may rely on the infringement of the valid claim.

In Equity.

*W. A. Macleod*, for defendant.

*T. L. Wakefield*, for complainants.

LOWELL, J. A rehearing is asked for by the defendant, for the reason that since the interlocutory decree was entered, (*Cote* v. *Moffitt*, 8 FED. REP. 152,) and since the accounting was begun before the master, the decisions of the supreme court (*Miller* v. *Brass Co.* 104 U. S. 350; *James* v. *Campbell*, Id. 356) have laid down a rule for ascertaining the validity of reissues which was not understood before, and one which would render the reissue in this case void. The plaintiffs deny that the reissue is void, and object that this petition should have been filed before they had incurred so much expense before the master. If I have a discretion in the matter, arising out of the delay, I do not exercise it, because I think the case of *Gould* v. *Spicer* [reported *ante*] decides the point. It was there held that a reissue might be good as to some of its claims, and bad as to others; and that if a valid claim in the original patent reappeared in the reissue and was infringed, the patentee might rely upon that infringement and prevail, though some other claims were too broad. The single claim of Cote's original patent is repeated, in substance, in the reissue, and will support the plaintiff's decree. Petition denied.