

The right to recommit was fully sustained by the majority of the supreme court. This decision was reversed by the court of errors in *Yates v. People*, 6 Johns. 337; but was affirmed in *Yates v. Lansing*, 9 Johns. 224.

As this imprisonment was designed merely to compel obedience and not as a punishment, and the continued disobedience was a continued contempt, it is considered that the arrest was legal and the recognition valid.

Judgment for plaintiff.

See *In re Cary*, 10 FED. REP. 622, and note, 629.

ZEUN and others v. KALDENBERG.

(Circuit Court, S. D. New York. April 19, 1883.)

PATENTS FOR INVENTIONS—INFRINGEMENT.

Where the patent granted to plaintiff is limited by the description and claim to a hand mirror or toilet glass, in which an elastic cushion or packing is interposed between the glass and the back of the frame, the office of the cushion being to press the glass against the beveled rim of the frame, defendant cannot escape liability for infringement when he appropriates the complainant's invention, although by the location of the packing outside the periphery his packing performs an additional office, and may involve sufficient invention to sustain his patent.

In Equity.

L. C. Raegerer, for complainant.

Sam Tro. Smith, for defendant.

WALLACE, C. J. It is quite obvious that Zeun is entitled to the credit of the conception which imparts the main value to the invention described in the defendant's letters patent. But unfortunately Zeun, in the letters patent granted to him, is limited by the description and claim to a hand mirror or toilet glass in which an elastic cushion or packing is interposed between the glass and the back of the frame. The office of this cushion is to press the glass against the beveled rim of the frame. The employment of any cushion which will perform this office, in combination with the other parts, is an infringement of his patent. Some of the toilet mirrors made by the defendant fall within this category, because a part of the elastic packing is beneath the edge of the glass sufficiently to press the glass against the upper rim or lip of the frame. The patent of the defend-

ant, however, does not necessarily require the elastic packing to be interposed between the glass and the back of the frame. As shown in his patent, the packing may surmount the periphery of the glass without having any part of it located beneath the glass, or so as to press the glass against the rim or lip of the frame. It may be doubtful whether the packing would practically be satisfactory if located entirely outside the periphery of the glass. However this may be, the defendant cannot escape liability for infringement when he appropriates the complainants' invention, although, by the location of the packing outside the periphery, his packing performs an additional office, and may involve sufficient invention to sustain his patent.

A decree is ordered for complainant.

MILLER and others v. PICKERING.*

(Circuit Court, E. D. Pennsylvania. April 25, 1883.)

1. PATENTS—EVIDENCE OF NOVELTY AND UTILITY.

Sufficient evidence of patentable merit is shown where the proofs establish that the patentee was the first to conceive the idea of constructing the device described in his patent, whereby improved results were accomplished, and that the public has attested its superior utility and value by adopting the same instead of the constructions previously used.

2. IMPROVEMENT IN CAR SPRINGS—INFRINGEMENT.

A patent for "a coiled, edge-rolled spring, the inner edge of which is of greater thickness than the outer edge," is infringed by a spring made of a bar slightly thicker in the middle than at the edges, but which, when coiled around a mandrel, becomes of the form described in the patent.

3. SAME—ANTICIPATION.

The United States patent (reissue No. 6,321) for improvement in car springs is not anticipated by the English patents (Nos. 670, 1,711, and 2,404,) for improvements in railway carriage buffer and other springs.

In Equity. Hearing on bill, answer, and proofs.

Bill to restrain an alleged infringement of patent, reissue No. 6,321, dated March 9, 1875, granted to James C. Pickles and James P. Hayes, for improvement in car springs, assigned to complainants, in which the claim was:

(1) A coiled, edge-rolled spring, the inner edge of which is of greater vertical thickness than the outer edge, substantially as set forth.

(2) An edge-rolled spiral spring, composed of a single metallic bar of varying thickness in transverse section, substantially as set forth.

*Reported by Albert E. Gullbert, Esq., of the Philadelphia bar.