

In applying the *Powder Works Case* to the facts detailed in *Yale Lock Manuf'g Co. v. Scovill Manuf'g Co.* 18 Blatchf. C. C. 248, [S. C. 3 FED. REP. 288,] this court used this language, which is cited by the plaintiffs with commendation, as applicable to the present case:

“If the patentee has made a palpable mistake, and has limited his real invention, by a misstatement of its principles, so that he is about to lose the fruit of his labor, he should be permitted to restate, and, if need be, enlarge, his specification so as to include the same invention which was plainly the subject of, but was not fully secured by, the original patent, although literally the enlarged invention is one which he did not apply for in his original specification, because that specification, by a misstatement of his actual invention, applied for a narrower patent than he was entitled to have.”

The facts in the *Yale Lock Case* were very different from those in this case. It might as well be said that the Copernican system was a mere restatement of the principles which had been misstated in the Ptolemaic system, as that this reissue was a restatement and enlargement of the principles of the invention which was the subject of the original patent.

I am not unmindful of the strong equities in favor of the plaintiffs growing out of the error of the inventor in regard to the nature of his invention, and of the fact that Mr. Lane availed himself of the error in a manner and by an expedition which indicated that he was more intent upon commercial success than upon nice observance of the golden rule; but I am clearly of opinion that the statute in regard to reissues forbids such a radical transformation of a patent as was attempted in this reissue.

The bill is dismissed.

THE BLENHEIM.

BALL v. WINSLOW. (Two Cases.)

(Circuit Court, D. Massachusetts. September 25, 1883.)

ADMIRALTY PRACTICE—AFFIRMANCE OF DECREE OF DISTRICT COURT—ALLOWANCE OF INTEREST.

Ordinarily, when an admiralty decree of the district court, which includes interest, is affirmed by the circuit court, interest will be allowed on the full amount of the decree below.

In Admiralty.

Frank Goodwin, for Ball.

Frederick Dodge, for Winslow.

LOWELL, J. Counsel have argued the question whether interest should be allowed on the full amount of the decree below, which was made upon the report of the commissioner, which included interest.

WAITE, C. J., held, in *Deems v. Albany & Canal Line*, 14 Blatchf. 474, that the decree in the circuit court should be made without compounding the interest on the damages, and without allowing it upon the costs.

The practice has been uniform in this court, from a time whereof, etc., to give interest on the whole decree.

I agree, of course, that the decree here is a new decree, and not, technically speaking, merely an affirmance of that below, (*The Lucille*, 19 Wall. 73;) and that interest, in the admiralty, is not an inevitable consequence of affirmance, as it is by the statute and rules in some other courts. *Hemmenway v. Fisher*, 20 How. 255. There is no reason to depart from the ordinary practice in this case, and the only question is to ascertain that practice.

I am of opinion that the practice here has been and is sound, to award interest on the whole decree below, unless the circumstances of the case give rise to a variation upon grounds of justice and equity.

Lord STOWELL twice decided that it is just and usual to allow interest upon interest in cases substantially like this. *The Driver*, 5 Rob. 145; *The Dundee*, 2 Hagg. 137. The latter decision is cited with approval by CLIFFORD, J., in *The Wanata*, 95 U. S. 600, 613. Interest is given for delay in satisfying the decree, not as part of the original damages. For instance, the considerable bill of costs in this case is made up almost wholly of cash paid out by the libelants before the decree was rendered. Why should they not have interest for the delay in repaying it? Again, if the decree had simply remained unexecuted in the district court, no appeal being taken, the whole decree must be paid, with interest. Such is the command of the writ of execution in that court. Why should the libelants, in addition to the necessary expenses of the appeal, lose a part of the benefit of the decree?

In this case the damages were computed with as much accuracy and regard to positive value as if it had been an action of contract. In cases of that sort I understand the general rule to be that interest should be allowed on the verdict or the judgment, at least when the delay has been caused by the act of the defendant. See Rev. St. § 966; Pub. St. Mass. c. 171, § 8; Gen. Rule 29, Sup. Ct. U. S.; *Perkins v. Fourniquet*, 14 How. 328; *In re European Cent. Ry. Co.* 4 Ch. Div. 33; 2 Sedg. Dam. (7th Ed.) 194; 1 Suth. Dam. 711. There is no question here of a second compounding of interest by the running of interest on this decree. The case cannot go to the supreme court, and the money is ready for the libelants. Interest is allowed on the whole decree below.

MAY v. LE CLAIRE and others.

(Circuit Court, S. D. Illinois. July, 1883.)

REMOVAL OF CAUSE FROM ONE UNITED STATES CIRCUIT COURT TO ANOTHER.

Section 615 of the Revised Statutes, authorizing a cause to be transferred from one circuit "into the circuit court of the next adjoining state, or the next adjoining circuit court," must be construed as giving all the powers necessary to the court in order to carry the litigation between the parties into judgment or decree.

DRUMMOND, J. This case was transferred from the circuit court of the United States in Iowa to the circuit court of the United States for the southern district of Illinois, under section 615 of the Revised Statutes. At the time of the transfer, George L. Davenport, the executor of Antoine Le Claire, had answered the bill. After the transfer, Davenport resigned as executor, and Louis A. Le Claire was, by the proper court in Iowa, appointed administrator with the will annexed in the place of George L. Davenport, and Le Claire accepted the appointment. In this court, on the ninth of December last, the parties appeared by their counsel, and it is stated in the record that Davenport had ceased to be executor, and that Louis A. Le Claire had been appointed executor of the estate of Antoine Le Claire in his stead, and that he had accepted such appointment, and thereupon Louis A. Le Claire was made defendant in the cause and a subpoena ordered to issue against him, which, not having been properly served upon him, on the sixteenth of February last another subpoena was directed to be issued to the marshal of the district of Iowa, and that subpoena has been served upon him. It is objected on the part of the defendant that this action of the court was unauthorized, and that Louis A. Le Claire is not properly in court and subject to its jurisdiction.

Assuming that the case has been brought within the proper rule on the subject, namely, the fifty-sixth rule in equity, and that as to Davenport there was an abatement of the suit, and that it has been revived as to Louis A. Le Claire, the question is whether the court had the right to bring him before it, so that he has become subject to its jurisdiction by the action named; and I am of the opinion that it had. I agree that the circuit court had no right to issue any process to be executed outside of the district, and particularly in the district of another state, unless authorized by law; but it is not necessary that the authority should be *expressly* given by the act of congress. It is sufficient, if it can be clearly deduced from the legislation of congress, that it is indispensably necessary in order to carry into effect the action of the court which the law of congress has authorized. Now, in this case, it is very clear when the 615th section authorized a case to be transferred from one circuit "into