

examined the record again, and agree with the conclusions reached by the circuit court in New Jersey. We refer to the report of that case for an examination of the facts and a history of the invention. Judge NIXON does not say in so many words that the invention had not been in public use more than two years before Lockwood applied for his patent; but that is a necessary part of his decision, for if he had found Lockwood's patent to be void he would have so adjudged. *Lockwood v. Cleaveland*, 6 FED. REP. 727. Holton testifies that he made the discovery by accident in March, 1872, which was more than two years before Lockwood's application, and that he gave some samples to his friends; but Judge NIXON says he "gave the products of said experiments to his friends for trial and approval," and this seems to us to be the fact. The use was experimental. Besides, it is far from clear that those samples were given in 1872. In the matter of dates his witnesses are vague. We conclude, therefore, that Lockwood is entitled to a decree.

Decree for complainant.

LAMBERT *v.* HOFHEIMER and others.

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

PATENTS FOR INVENTIONS.

Patent No. 276,430 sustained.

In Equity.

Joseph C. Wolff, for orator.

Thomas F. Byrne, for defendant.

WHEELER, J. This suit is brought upon letters patent No. 276,430, dated April 24, 1883, and granted to the orator for a gauge for forming foundations for artificial flowers. The only question arising upon the pleadings and proofs is made by the testimony of the defendant Hofheimer in stating that he does not think there is any invention in the patent. No reasons are given for this opinion, and none are apparent sufficient to overcome the *prima facie* effect of the patent. On the contrary, the device seems to be quite ingenious, and well worthy to be called the result of the exercise of inventive faculties, especially in the absence of any proof of prior contrivance of this sort.

Let there be a decree for the orator for an injunction and account according to the prayer of the bill, with costs.

THE CARL, etc.

(District Court, S. D. New York. December 7, 1883.

SHIPPING—PERSONAL INJURIES—CONTRIBUTORY NEGLIGENCE—PROXIMATE CAUSE.

The libelant was employed with other men by the owner of cargo to assist in unloading goods between-decks. Three hatches above and three immediately beneath were all open. While the libelant was at work six feet forward of the fore-hatch, the deck hands above, while washing the main deck, put on the cover of the fore-hatch above, darkening the space below, where the libelant was at work. The latter, thinking all the hatches were about to be closed, turned suddenly, and forgetting the open hatch by him, stepped into it, fell, and was injured. There was plenty of room to go on either side of the open hatch, and the libelant was familiar with the circumstances. *Held*, that the proximate cause of the accident was the libelant's inattention and negligence, and the libel was dismissed without considering the question of the liability of the ship or her owners for the acts of the deck hands.

Action for Personal Injuries.

M. J. Costello, for libelant.

Beebe, Wilcox & Hobbs, for claimant.

BROWN, J. The libelant, on Saturday, the twenty-eighth of May, 1881, fell through the fore-hatch of the lower deck of the ship *Carl*, by which he sustained severe injuries. He was one of about a dozen men who had been employed by the consignee of a large quantity of bottles, which had been stowed between-decks, to take them from the straw in which they were packed and put them in crates to be hoisted through the main hatch. The libelant had been engaged in this work during all the week preceding. There were three hatches in the main deck, and three immediately beneath them of the same size in the lower deck. The hatches in the lower deck were left constantly open, as is usual with vessels unloading. The hatches on the upper deck were usually closed at night, but not until after the workmen had left. The bottles were chiefly in the vicinity of the main hatch, and there was no other cargo at this time between-decks. Preparatory to putting the bottles in crates, they were taken out of the straw and placed along the side of the ship towards the fore-hatch, going up to within about five feet of it, and occupying a space of about five feet in depth next to the sides of the ship. On Saturday, and previously, the libelant had frequently gone forward of the fore-hatch to pile crates, and there was plenty of space left for passing along either side of the fore-hatch. While engaged in piling up some crates, and standing about six feet immediately forward of the fore-hatch, some of the seaman, who were then engaged in washing the main deck, at about 5:30 o'clock p. m. put on the cover of the fore hatch of the main deck, suddenly darkening the space immediately below, where the libelant was at work. The latter erroneously supposing that the deck hands were about to cover all the hatches, and fearing that he might be left below, turned suddenly, and forgetting