FIELD v. IRELAND and others.

(Circuit Court, N. D. New York. April 5, 1884.)

PATENT—INFRINGEMENT—GLOVE-FASTENERS.

The case of *Field* v. *Comeau*, 17 O. G. 568, followed; holding that the complainant's patent for a glove-fastener, consisting of an automatic wire spring, is not infringed by a device consisting of stiff arms pivoted at one end.

In Equity.

Eugene N. Elliot, for complainant.

James M. Dudley, for defendants.

COXE, J. The complainant has a patent for an improvement in glove-fastenings. The claim is in the following words: "The combination, substantially as described, of a spring, A, with the split portion, B, of a glove, for the purpose specified." In *Field* v. *Comeau*, 17 O. G. 568, Judge WHEELER restricted this claim to the particular style of spring described in the specification and drawings. That decision is controlling. No broader construction can now be given to the patent. The question of infringement, therefore, alone remains to be considered.

The complainant's spring is made of a single piece of wire and is automatic and continuous in its operation. When the spring is in repose the arms are together and overlap. When drawn apart they will immediately fly back if released. The defendants' device, on the contrary, is composed of two stiff arms pivoted at one end. A spring is riveted to one arm which connects, at its free end, with a link fastened to the end of the other. When the arms are open, and by pressure upon them the link is brought above the pivot, the spring acts, and the arms come together. At right angles the arms remain open and the spring does not begin to operate in closing them until they have been brought to an angle of about 45 degrees. The points of difference between the two devices are many and radical. But the reasoning of the *Comeau Case* seems conclusive upon this question also. The spring which was there held not to infringe is almost the exact counterpart of the defendants' spring. They differ only in minute and unimportant particulars. The one operates on a cam, the other on a link; with this exception they are alike. In speaking of the defendants' spring in that case the learned judge uses language which would be equally applicable here. He says:

"The form of the defendants' spring is different from the orator's, its mode of operation is different, and the result of its operation is somewhat different. It cannot be said to be the same as the orator's, or to be substantially like the orator's. Each got the idea of closing the wrists of gloves by means of springs from others. The orator carries out the idea in his mode, and the defendants in theirs, and, as neither has control of anything but the particular mode, neither can justly say that the other uses his mode."

The two cases cannot be successfully distinguished.

There should be a decree for the defendants, with costs.

The Worthington and Davis.

(*District Court, E. D. Michigan.* April 30, 1883.)

1. Collision—Running into Vessel at Anchor—Presumption of Fault.
   The presumtion of fault arising from running into a vessel at anchor may be rebutted by showing that the moving vessel exercised all reasonable care upon her part, and that the collision was an inevitable accident; or by showing that the fault is with the anchored vessel in failing to use proper precautions.
2. Same—Anchorage in St. Clair River—Duty of Vessel.
   Anchorage in St. Clair river is not necessarily improper because the channel is comparatively narrow, and vessels are frequently passing and repassing, if room be left for vessels and tows to pass in safety. A vessel so anchored, however, is bound to keep a watch, and not to allow her sails to obstruct or obscure the view of her anchor light.
3. Same—Inscrutable Fault—Libel Dismissed.
   In cases of inscrutable fault the libel should be dismissed.

In Admiralty.

This was a libel for a collision between the schooner Gladstone and the schooner Davis, in tow of the propeller Worthington, which occurred on the night of July 26, 1881, on the St. Clair river, near Herson's island. The Gladstone was bound on a voyage from Detroit to the port of Golden Valley, Ontario. She left Detroit in the afternoon, under sail, reached the St. Clair river, and sailed up to a point a little above the place of collision. The wind, which had been light from the west or north-west during the afternoon and evening, about 9 o'clock failed altogether. The schooner, being unable to proceed further, came to anchor in the channel of the St. Clair river, somewhat upon the Canadian side. After coming to anchor, her riding lights were taken in, and a bright anchor light placed in her port fore-rigging, about 20 feet from the deck. For all that appears, this light was burning brightly up to the time of the collision. A lookout was also stationed upon the deck to watch approaching vessels. The night was clear, and lights could easily be seen at the usual distance. Some time after 10 o'clock the schooner Davis, which was the last of three vessels in tow of the propeller Worthington, bound down the river, came into collision with the Gladstone, breaking her jib-boom, bowsprit, and cat-head, and damaging her port bow.

Moore & Canfield, for libelant.

H. D. Goulder, for claimant.

Brown, J. It is charged in the libel that the propeller was in fault in running too close to the Gladstone, and that the schooner Davis was in fault in not keeping a sharp lookout, and in not porting her wheel sufficiently to keep in the wake of the propeller, and thus avoid coming in contact with the Gladstone. Separate answers were filed on the part of the propeller and the Davis, the same counsel representing both vessels. Upon the hearing, however, there was no evidence showing the Davis to be in fault, as she appeared to have done the best she could in following the Worthington. The case against