PATTERSON and another *v.* DUFF.

(Circuit Court, W. D. Pennsylvania. May 24, 1884.)

1. PATENTS FOR INVENTIONS—PRESUMPTION OF PATENTABILITY—RATCHETS FOR COUPLING BARGES.
   The presumption of patentability, authorized by the grant of a patent, is not repelled where it is proved that no such device as a ratchet for coupling barges was in existence or use before the issue of the patent.
2. CONFLICTING EVIDENCE — BURDEN OF PROOF ON DEFENDANT — DOUBT RESOLVED IN FAVOR OF COMPLAINANT.
   Where evidence of a fact is conflicting, but the burden of proof is on a defendant, a doubt will be resolved in favor of a complainant.

In Equity.

J. J. Johnston, W. P. Potter, and *D. F. Patterson,* for complainants.

R. A. Balf, for respondent.

Before BRADLEY and MCKENNAN, JJ.

PER CURIAM. This is a suit upon a patent granted to the complainants February 7, 1871, No. 111,564, for an improvement in ratchet couplings for barges. Two grounds of defense are set up: (1) That the device or combination claimed in the patent does not involve invention, and is therefore not patentable. In view of the fact that no such device was in existence or use before, although there was a wide necessity for its employment and of its obvious utility, we are of opinion that the presumption of patentability authorized by the grant of the patent is not repelled, and that the objection is not well founded. (2) It is alleged that Thomas Duffy first conceived the idea of the invention, and that he described it to one of the complainants, and that thus they derived the idea from him. The burden of proving this allegation is upon the defendant, and hence it must be borne by the exhibition of preponderating and satisfactory evidence. The proofs are conflicting; and while we are of opinion that the scales incline in favor of the complainants, it can, at least, be said with confidence that the defense is not clearly sustained. That is enough to resolve the case in favor of the complainants.

If the validity of the patent is sustained, it is admitted that the defendant is an infringer. Hence the complainants are entitled to the relief prayed for.

THE C. ACCAME.[1]

(Circuit Court, N. D. Florida. April, 1884.)

ADMIRALTY JURISDICTION.

Where a damage done is done wholly on land, the fact that the cause of the damage originated on water, subject to the admiralty jurisdiction, does not make the case one for the admiralty. *The Plymouth*, 3 Wall. 20.

Admiralty Appeal.

S. R. Mallory, E. A. Perry, I. E. Yonge, and *John C. Avery,* for libelant.

I. P. Jones, Wm. Fisher, and *R. L. Campbell,* for claimants.

PARDEE, J. The original libel, among other things, charges:

"That on the ninth day of September, inst., while the said barkentine was lying at libelant's said wharf *without libelant's permission, and against his express direction,* there came a violent storm of rain and wind, and said barkentine, by the negligence, want of proper care and diligence, on the part of the said barkentine and those in charge of her, ran into said wharf of libelant, completely breaking down a large portion of it, and greatly injuring and damaging the same, rendering necessary, by such negligence and want of care on the part of the said barkentine and those having her in charge, great repairs to be made on said wharf, at great cost and expense, by libelant, besides being deprived of the use and profit of said wharf for the period of three months, all of which is greatly to the injury and damage of libelant."

Thereafter an amended libel was filed, charging as follows:

"That on the ninth day of September the said barkentine C. Accame was lying at said wharf, under a *contract with libelant for the discharge of ballast at said wharf;* that when said barkentine, by the master thereof, applied for a berth at said wharf, he was informed that the wharf at that time was undergoing repairs, and that portions of said structure were not in a safe and proper condition, but that said barkentine could be accommodated with a suitable and safe berth at a certain point, which was pointed out and assigned to said barkentine, and accepted by the master thereof, where she was accordingly placed and moored for the purposes of said contract, under which, and the rules and customs of wharves at this port, she was entitled to remain until she had taken in sufficient cargo for stiffening, without extra wharfage, but if she remained, occupying the wharf after such stiffening had been taken in, she was required to pay one cent per ton for each and every day so consumed; that afterwards, notwithstanding the information first given touching the unsafe condition of said portion of the wharf, and *in disregard of frequent subsequent warnings* given by libelant, the master, after said barkentine had taken in sufficient stiffening cargo, moved her from the berth so assigned to the point where she lay moored on the ninth day of September, 1882, which was a portion of the wharf which had, as above stated, been pointed out to the master as unsafe; that on the said ninth day of September, 1882, while said barkentine was lying at that portion of the said wharf to which she had been removed by the master, as set forth in the second article, there came on a violent storm of rain and wind, and, said barkentine being moored to said wharf, by the *negligence, want of proper care and diligence,* on the part of said barkentine, and the master thereof, and in violation of his duty under the said contract last above set forth, pulled and completely broke down a large portion of libelant's said wharf, and thereby greatly in-

[1] Reported by Joseph P. Hornor, Esq., of the New Orleans bar.