

ment, has an increased thickness in the sheet of metal, on the inner side of the rim.

In the English patent No. 4,092, of 1879, we have everything that is shown in Latta's patent except that the two edges of the single strip of metal do not overlap, and are not brazed together. They are left free, apparently, only to obtain increased elasticity. In a manufacture such as the production of bicycles, in which there is such an enterprising determination to bring them to the highest attainable point of excellence, so that each year sees an advance in the art and in the perfection of the machines, every improvement which watchful attention can suggest is adopted, and each improvement gives value and importance to every other; but their combined success must not blind us to the fact that many of them are the result of fine mechanical adjustment, and not of patentable invention.

I hold that the first and second claims of the Overman patent No. 329,851, for rocking pedals, is valid, and has been infringed; and I hold that the eighth and ninth claims of the Latta rim patent No. 301,245 is invalid for want of patentable novelty.

It is but right to say that I have been relieved of much labor, and greatly assisted, by the thorough and able manner in which counsel have prepared this case for hearing and have presented it in argument.

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THE PIETER DE CONICK.<sup>1</sup>

HUGHES v. THE PIETER DE CONICK.

(District Court, E. D. New York. June 2, 1891.)

PERSONAL INJURY—FALL INTO HOLD OF VESSEL—USE OF TEMPORARY LADDER.

Where libellant, a stevedore, did not make use of the fixed iron ladder belonging to a vessel in descending into her hold, but instead used a temporary wooden ladder, which broke under him, allowing him to fall into the hold, and it did not appear who placed a wooden ladder in the hatch, the ship was held not liable for libellant's injury.

In Admiralty. Suit to recover damages for personal injury.

*H. A. McTernan*, for libellant.

*Wing, Shoudy & Putnam*, for claimant.

BENEDICT, J. This is an action by a longshore-man to recover for personal injuries caused by falling from a ladder while going down into the hold of the steamer Pieter de Conick. The testimony shows that the libellant was employed by a regular stevedore, who had contracted to load the steamer independent of the owners or master. Access to the hold of the steamer from the deck was provided for in the construction of

<sup>1</sup> Reported by Edward G. Benedict, Esq., of the New York bar.

the ship by a fixed iron ladder, built into the fore side of the hatch. At the time of the accident a wooden ladder some 20 feet long had been put down from the deck to the hold, and the libelant, when going down the ladder to his work in the hold, stepped upon a rung of the ladder which broke under him, whereby he was precipitated into the hold, and suffered injuries, to recover for which this action is brought. There is no positive evidence in the case as to who put the wooden ladder down into the hold. In the absence of any evidence as to who placed the wooden ladder in the hatch, and as it appears that a permanent iron ladder was in position, fit for use, at the same time, the presumption would seem to be that the wooden ladder was placed in the hatch by the stevedores, who used it to pass into the hold more easily than by the iron ladder which had been furnished by the ship. The ship had furnished proper access to the hold by the permanent iron ladder, and she cannot be held liable for a defective ladder, which, although owned by the ship, does not appear to have been furnished for that purpose by any person connected with the ship, and presumably was placed there by a co-laborer of the libelant. The fatal defect in the libelant's case is that it is not made to appear that the defective ladder which caused the libelant's fall was furnished by the ship, while it does appear that a safe ladder was furnished, which the libelant declined to use.

The libel must be dismissed. I give no costs.

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### THE CARRIE.<sup>1</sup>

#### JONES v. THE CARRIE.

(District Court, E. D. New York. July 1, 1891.)

#### MARITIME LIEN—ENFORCEMENT OF—LACHES—TRANSFER OF OWNERSHIP.

A material man *held* to be entitled to enforce his lien against a vessel, notwithstanding a subsequent transfer of the ownership of the boat, which the evidence did not show to be *bona fide*, and notwithstanding a delay of between two and three years in enforcing the lien.

In Admiralty. Suit to enforce a maritime lien.

*Alexander & Ash*, for libelant.

*D. D. McKoon*, for mortgagee.

BENEDICT, J. This is an action to enforce a lien for a material-man. It is defended by one Buckley, who claims an interest in the lighter by reason of an unpaid mortgage held by him. Buckley has set up the defense of laches, and transfer of the vessel to one Costigan since the incurring of Jones' lien. No other defense is set up. The owner of the lighter interposes no defense. So far as concerns the transfer to Costigan,

<sup>1</sup> Reported by Edward G. Benedict, Esq., of the New York bar.