ing can be formed, and that is by mixing certain kinds of finely powdered earthy matter with water, and adding thereto, as a bond, a few drops of silicate of soda or silicate of potash. The pasty mixture is then spread over the surface of a smooth metal base-plate, and heated, and, as the inventor says, the particles of the coating thus formed have a stronger affinity for the base-plate than they have for each other. The stronger affinity for the base-plate, however, is confessedly due to the peculiar chemical qualities of silicate of soda or potash, which is used as a bond. The merit of the invention seems to consist in the discovery of the great advantages to be gained by using silicate of soda in making a coating for engraving plates, and also in discovering and pointing out in what proportions, and in what way, it may be used to produce the best results. It is true that the patentee says in his specification that he "was the first to discover the desirability of bonding the particles of the coating very loosely together, and more strongly to the base-plate than to each other;" but, even if that is so, he is not entitled to a monopoly of every method of attaining a given result, merely because he has discovered that such a result is desirable, and one mode of attaining it. Particularly is that the case when the product of the process is not distinctively new, but is merely superior to a product of the same general kind that was previously known. It may be that some person will hereafter succeed in concocting a coating for an engraving plate that will be much superior to complainant's by the use of an ingredient in place of silicate of soda or potash which will have the property of bonding the particles more strongly to the base-plate than to each other, and in that event no reason is perceived why such an inventor would not be entitled to a patent, or why he should pay tribute to the complainant. Prof. Morse discovered that electro-magnetism could be made to print intelligible characters at any distance, and he devised one practicable method of applying it to that use. He accordingly claimed the use of the galvanic current as a motive power to print intelligible characters at a distance, but the claim was held to be void. *Morse* v. *O'Reilly*, 15 How. 106. That case is very similar in principle to the one at bar. Mr. Hoke, having discovered, as he says, that silicate of soda, when employed to bond the coating of an engraving plate, has the chemical property of attaching the particles of the coating more strongly to the plate than to each other, and that that is a desirable result, accordingly draws his claims so as to cover the use of any other liquid or substance in making a coating that may hereafter be discovered to possess the same chemical quality.

I am satisfied that claims one and two are too broad, and cannot stand. It is not even probable that the patentee was the first to discover the desirability of bonding the particles of the coating more strongly to the base-plate than to each other. Indeed, it seems almost self-evident that every artist who has heretofore handled an engraving tool must have discovered how desirable it was that the engraving tool should cut through the coating easily, without causing the coating to flake from the base-plate. The necessity, not to say desirability, of the coating adhering closely and evenly to the plate, was a fact that must have made

itself apparent to all artists. How to make a coating having the desirable quality in question was the problem to be solved. The patentee in this case says he has solved it in one way by the use of certain ingredients, and he is entitled to his process, and the particular product of his process described in the third claim.

A decree may be entered for an injunction, and an accounting, if complainant desires it.

GUSTIN *v.* NEW ALBANY RAIL-MILL CO. *et al.*

(*Circuit Court, D. Indiana.* August 29, 1891.)

1. PATENTS FOR INVENTIONS—DEVICE FOR CARRYING RAILROAD RAILS—ANTICIPATION.
The first and second claims of reissued letters patent No. 7,898, (original No. 190,211, dated May 1, 1887,) "for improvement in apparatus for carrying railroad rails," whereby the upper surface of the carrier is arranged at or below the level of the bed, and provided with projecting catches in combination with the bed, the driving chains, and the guide-rails, are anticipated by the patent to While and Wostenholm, March 19, 1872, No. 124,687.

2. SAME.
The third claim of said letters patent, in reference to "the combination with an endless chain, B, subject to expansion by hot rails of a pulley, *b*, arranged in a slide bearing, D, held by a movable weight," is void, in view of the prior art, and anticipated by the patent to S. E. Jewett, June 9, 1874, No. 151,705, showing a movable pulley controlled by a weight at the end of a chain.

In Equity.

The plaintiff, as the grantee of reissued letters patent No. 7,898, (original No. 190,211, dated May 1, 1887,) for "improvement in apparatus for carrying railroad rails," sues for an injunction and for damages on account of alleged infringement of the first, second, and third claims of the reissue. The claims read in this wise:

"(1) The sliding shoes, links, or carriers, C, provided with projecting catches, in combination with the guide-rails, B 2, the bed, A, and suitable carrying and actuating devices arranged substantially as described, whereby the upper surfaces of the shoes are located at or below the level of the bed, as and for the purposes set forth. (2) The shoes, links, or carriers, C, having their upper surfaces arranged at or below the level of the bed, and provided with projecting catches, in combination with the bed, the driving chains, and the guide-rails, B 2, substantially as and for the purpose described. (3) The combination with an endless chain, B, subject to expansion by hot rails, of a pulley, *b*, arranged in a slide bearing, D, held by a movable weight, as shown and described."

Besides disputing the validity of the reissue, the defendants deny both infringement and invention, and, in proof of the prior art, refer to the following list of patents: No. 155,384, dated September 29, 1874, to J. L. Pennock; No. 154,152, dated August 18, 1874, to R. R. Reynolds; No. 124,867, dated March 19, 1872, to While and Wostenholm; No. 148,799, dated March 24, 1874, to J. E. Austin; No. 186,423, dated January 23, 1877, to C. R. Jacoby; No. 159,790, dated February 16,