

of the patent is a double-leaved plate, folded upon itself, this precise construction cannot be vital, but a double-leaved plate, securely fastened together, must be the same thing as a folded piece of metal. Neither can it be vital that the two leaves of the plate should both extend rearwardly of the pivot. The defendants do not rest upon these minor details of construction, but their point is that the upper plate is a substantial repetition of the spring-plate of No. 191,758, which was confessedly not a tongue-plate. To one end of the tongue-plate of 191,758 was attached a strip of spring-metal, having one end free, and manifestly detached from the tongue-plate. To the free end of this spring plate a tongue was hinged, and was, in this way, indirectly pivoted to the tongue-plate. The tongue bore or acted upon the tongue-plate by means of a lever end forming part of the tongue, and in the rear of its pivot. The spring-plate of buckle D is closely attached to the lower plate, and is a form of the double base plate, which is familiar in arctic buckles; but I do not think it material, if true, that, as a spring-plate, it is like the spring-plate of 191,758. It is, like other double plates of its class, also a tongue-plate. The fact that the upper plate is a spring-plate, and is like an older spring-plate, does not modify my opinion that the double plate of buckle D is the same thing as the double plate of No. 301,884, and that its bifurcated extension is substantially the same thing as that shown in the patent, although the two leaves do not extend rearwardly together or in contact with each other. It is true that the spring action of buckle D is effected in a different way from that of the patent, and it is probable that it is effected in the way which had been previously indicated; but it seems to me that the principle of the first claim of No. 301,884 has been reproduced in buckle D in substantially the same way, and that the way in which spring action is obtained does not materially affect the question of infringement of the first claim. The petition is denied.

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THE WM. GATES.

BAKER *et al.* v. THE WM. GATES.

(District Court, E. D. Virginia. July 13, 1881.)

**MARITIME LIENS—PRIORITIES.**

Among the holders of maritime liens equal in dignity he shall be preferred who first institutes proceedings to enforce his claim.

In Admiralty. Libel by Baker and others against the Wm. Gates to enforce certain maritime liens, which were all of equal dignity.

*Sharp & Hughes*, for libelants.

*Ellis & Thom*, for petitioners.

HUGHES, J. Clarke's Praxis, which is of highest authority on admiralty law, lays down the following principles in title 44 under the head of "The Seizure of Goods by Different Creditors:"

"If any one is indebted to different persons, for the purpose of recovering their debts of that person separate judicial warrants will lie against the goods of the debtor, to procure their arrest. If the goods seized are not sufficient for the payment of all the creditors, he is to be preferred, and will first obtain a judicial decree for the possession of the goods, who first institutes his suit aforesaid, or had the goods aforesaid seized. The same order and form is also to be observed as to the remaining creditors, if, after the full payment of the first creditor, any goods remain, although not enough to pay all the rest."

I think the general teaching of the cases reported is in support of these principles, the exceptional rulings being due to exceptional circumstances presenting themselves in particular cases. I feel bound to decree in accordance with these principles, paying Baker first, Mayer & Co. next, and then the petitioners *pari passu*.

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THE MINNIE L. GEROW.

BAIN *et al.* v. THE MINNIE L. GEROW.

(District Court, E. D. Virginia. June 30, 1880.)

WHARFAGE—RATES.

The principal wharf-owners of Norfolk and Portsmouth agreed among themselves on a schedule of rates, in which the rate on the entire tonnage of large vessels was fixed at \$1 for each 100 tons. Prior thereto the customary rate was \$1 per hundred on the first 300 tons and 50 cents per hundred on the remainder, and it appeared that few of those who signed the schedule afterwards charged more than these rates. *Held* that, in the absence of an agreement with the vessel, the court would enforce only this rate, though the wharf-owner testified that he was not at liberty to charge less than the schedule rate.

In Admiralty. Libel by Bain & Bros. against the ship Minnie L. Gerow for wharfage. Decree for defendant.

*Walke & Old*, for libelants.

*Sharp & Hughes*, for respondent.

HUGHES, J. The claim here is for wharfage due from the libeled vessel. There was no agreement between the agent of the vessel and the wharf-owners as to the amount to be paid. The charge was at the rate of \$1 per 100 tons per day for 30 days upon the entire tonnage of the vessel, which was 1,304 tons; or \$391.20. Deposit in the registry of the court has been made on behalf of the vessel at the rate of \$1 per hundred on the first 300 tons, and half a dollar per hundred the rest of the tonnage, for a period of 30 days, or \$240.60.

The only question is whether a dollar or a half dollar per day per 100 tons on the excess over 300 tons of the vessel's tonnage is the proper