

court of appeals, together with a full statement of the facts of the case, being reported in 51 Fed. Rep. 216. The complainant appeals. Affirmed.

Charles C. Morgan and John S. Richardson, for appellant.
James E. Maynadier, for appellees.

Before COLT, Circuit Judge, and NELSON and WEBB, District Judges.

NELSON, District Judge. We agree with the learned circuit judge who decided this case in the court below, for the reasons given in his opinion, which we adopt as the opinion of this court, that the appellant has shown no infringement of his patent by the appellees. A common safety fuse inserted through a plug, such as is used by the appellees in the manufacture of cannon crackers,—a device as old as the art of blasting,—cannot possibly be an equivalent for the combined fuse and match described in the first claim of the patent.

Decree affirmed.

MORSS v. DOMESTIC SEWING-MACH. CO.

(Circuit Court of Appeals, First Circuit. April 13, 1893.)

No. 12.

PATENTS FOR INVENTIONS—INFRINGEMENTS—EQUIVALENTS—DRESS FORMS.

Claim 1 of letters patent No. 233,239, issued October 12, 1880, to John Hall, for an improvement in dress forms, whereby they may be made more readily adjustable to the varying styles and sizes of dresses, was for "the combination with ribs, c, of the springs, h, each pair of springs having their upper ends secured to a single rib, substantially as and for the purpose specified." The specifications show the ribs to be divided into sections, with the two springs attached to the upper section, and spreading downward to the adjoining ribs, and expressly disclaim as new the stretchers, blocks, rests, and band, and their operation to expand and contract the dress form at pleasure. *Held*, that the patent was limited to the specific device, and that the equivalent thereof was not contained in the patent of November 29, 1887, to William H. Knapp, having double ribs composed of a single U-shaped wire, extending in an unbroken piece their entire length, and rigidly attached to a segmented waistband. 48 Fed. Rep. 113, affirmed.

Appeal from the Circuit Court of the United States for the District of Massachusetts.

In Equity. This was a suit by Charles A. Morss against the Domestic Sewing-Machine Company for the infringement of letters patent No. 233,239, granted to John Hall, October 12, 1880, for a new and useful improvement in dress forms. The circuit court dismissed the bill, its opinion, which is adopted by the circuit court of appeals, being reported in 48 Fed. Rep. 113. Complainant appealed. Affirmed.

Payson E. Tucker and Charles F. Perkins, for appellant.
John Dane, Jr., for appellee.

Before PUTNAM, Circuit Judge, and NELSON and WEBB, District Judges.

NELSON, District Judge. We are satisfied that the learned circuit judge who decided this case in the court below was right, for the reasons stated in his opinion, in holding that the ribs in the defendant's dress form, which are constructed according to the Knapp patent, and are composed of a single wire in such manner as to form a double rib, U-shaped at the lower ends, and extending in an unbroken piece the entire length, and supported in position by being rigidly attached to a waist band divided into segments, can in no sense be held to be an equivalent for the combination of ribs and springs described in the first claim of the plaintiff's patent. Decree affirmed.

THE WELHAVEN.¹

WILLIAMS v. THE WELHAVEN et al.

(District Court, S. D. Alabama. October 8, 1892.)

1. CONSTITUTIONAL LAW—CONFLICT OF TREATY AND STATUTE.
When an act of congress conflicts with a prior treaty, the act controls. *Steamship Co. v. Hedden*, 43 Fed. Rep. 17, followed.
2. TREATY WITH NORWAY—JURISDICTION OF CONSUL.
The Norwegian consul has by treaty exclusive jurisdiction to hear and determine complaints of ill treatment of seamen shipping from an American port for a voyage on a Norwegian vessel.
3. SAME—ADMIRALTY COURTS.
United States statutes conferring admiralty jurisdiction do not apply to claims of bad treatment suffered by an American serving as a seaman on a Norwegian vessel.

In Admiralty. Libel in rem and in personam.

Henry Williams, a citizen of the United States, filed a libel for damages and for wages against the Norwegian steamship Welhaven and her master, claiming that he shipped at Mobile for a round voyage to Tampico, and that on his arrival in Mobile bay, on the return trip, he was put ashore, manacled, and finally discharged at Mobile, without full pay. The Norwegian consul at Mobile, William H. Leinkauf, interposed by petition, setting out that this was a matter within his consular jurisdiction, and that he was engaged at the time the libel was filed in investigating the case.

Smith & Gaynor, for libellant.

Pillans, Torrey & Hanaw, for claimant and for Norwegian consul.

TOULMIN, District Judge. It has been held that, where an act of congress is in conflict with a prior treaty, the act must control, since it is of equal force with the treaty and of later date, (*Steamship Co. v. Hedden*, 43 Fed. Rep. 17;) hence the contention of libellant's counsel could be sustained if the statute which he invokes in this case (Rev. St. §§ 4079-4081) was in conflict with the treaty between the United States and Norway and Sweden, which must govern the action of the court in the matter under considera-

¹Reported by Peter J. Hamilton, Esq., of the Mobile, Ala., bar.