

chanical devices are not patentable." *Appleton Manuf'g Co. v. Star Manuf'g Co.*, 60 Fed. 411. "The invention is in the device, which may have one, two, or more functions, one of great and another of trifling worth; it may be supposed to have a function which it has not; the patent is upon the device, and not upon the functions, real or supposed." *Western Electric Co. v. Sperry Electric Co.*, 7 C. C. A. 164, 58 Fed. 186. "A mistaken description, or even misconception of the operation of a device, which is itself fitly described and claimed, does not vitiate a patent." *Temple Pump Co. v. Goss Pump, etc., Manuf'g Co.*, 7 C. C. A. 174, 58 Fed. 196. By the decision of the supreme court in *Collar Co. v. Van Dusen*, 23 Wall. 530, 563, "new articles of commerce are not patentable as new manufactures, unless it appears in the given case that the production of the new article involved the exercise of invention or discovery beyond what was necessary to construct the apparatus for its manufacture or production." And by the same principle a machine, apparatus, or mechanical combination, the conception and construction of which involved no invention, cannot be patentable by reason of any new effect, result, or product obtained by its employment. In *Fuller v. Yentzer*, 94 U. S. 288, it is said: "Patents for a machine will not be sustained if the claim is for a result, the established rule being that the invention, if any, within the meaning of the patent act, consists in the means or apparatus by which the result is obtained, and not merely in the mode of operation, independent of the mechanical devices employed; nor will a patent be held valid for a principle or for an idea, or any other mere abstraction. *Burr v. Duryee*, 1 Wall. 531." And in *Roberts v. Ryer*, 91 U. S. 150, 157, is this expression: "It is no new invention to use an old machine for a new purpose. The inventor of a machine is entitled to the benefit of all the uses to which it can be put, no matter whether he had conceived the idea of the use or not." To same effect see *Stow v. Chicago*, 104 U. S. 550; *Heald v. Rice*, Id. 755; *Stimpson v. Woodman*, 10 Wall. 117; *Tucker v. Spalding*, 13 Wall. 453. If, therefore, it be conceded that Corbin was first to mount a lever upon the tongue of a wheel harrow, and that thereby a new result or advantage incident to the operation of the harrow was gained, yet the decree below was right, because, the use of the lever in similar machines for corresponding purposes being familiar, its introduction into Corbin's combination involved no possible measure of invention. The decree of the circuit court should be affirmed, and it is so ordered.

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#### THE ADVANCE.

#### BRONSTED v. THE ADVANCE.

(District Court, S. D. New York. March 16, 1894.)

#### COSTS AND FEES—EXTRA ALLOWANCE TO COURT OFFICERS.

A United States district court has power to make an allowance to the clerk of the court for services rendered beyond what are required by law. Such compensation allowed in the case of a transfer by him of a

large fund from the depository of court to a trust company; a change made by order of court on application of the proctors in interest, and for their pecuniary benefit, and imposing on the clerk additional cares, responsibilities, and duties.

In Admiralty. On motion by the clerk for extra allowance.

Carter & Ledyard, for claimants.

Samuel H. Lyman, pro se.

BROWN, District Judge. The removal of the deposits in these cases from the depository prescribed by law and the regulations, imposed upon the clerk additional cares, responsibilities and duties beyond those previously existing. The change was made by the order of the court, upon the application of the parties in interest, and for their pecuniary benefit; it has resulted to their considerable pecuniary advantage. It was made at a time of great uncertainty in financial matters, and to the threatened prejudice of the registry account in the lawful depository. It could not have been supposed that these additional duties and responsibilities would have been imposed upon the clerk without compensation. As said by Mr. Justice Blatchford, in the case of *The Alice Tainter*, 14 Blatchf. 225, Fed. Cas. No. 196:

"It is not reasonable that the service should be without compensation. As it is for the benefit of suitors, it is reasonable that suitors should pay for it."

The right of the court to make such allowances for extra services beyond what are required by law has been long exercised under the deliberate judgment of Mr. Justice Nelson and Judge Betts, as expressed in the rule of May 28, 1859. See former District Court Rules, pp. 46, 47, where it is said, that—

"Upon the usages and doctrines of courts of the United States, officers called upon to render services in those courts, according to their rules and modes of practice, for which no specific fees or costs are appointed by statute law, will be awarded compensation therefor by the courts respectively in which the services are performed, corresponding in amount to that allowed by law in the state, for similar services rendered by state officers, in a like capacity, particularly in chancery procedure. 1 Blatchf. 652; *Hathaway v. Roach*, 2 Woodb. & M. 63 [Fed. Cas. No. 6,213]."

An extra allowance of one-half of 1 per cent. is in accordance with the rule thus indicated. It is as small as would, I think, be anywhere recognized as appropriate in financial transactions; and it is, therefore, allowed in this case as a reasonable compensation.

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THE PHILADELPHIAN.

LEWIS et al. v. TRANT.

(Circuit Court of Appeals, First Circuit. February 23, 1894.)

No. 66.

**1. ADMIRALTY APPEALS — METHOD OF REVIEW IN CIRCUIT COURTS OF APPEAL.**

The provision of the judiciary act of February 16, 1875, which took from the supreme court the power to review the findings of fact on admiralty