

If it be invention to do this, where is the line to be drawn? Each one who transfers to the machine some convenient contrivance is entitled to a patent for a new combination. Suppose, for instance, it should be found that the plants thrive best with two varieties of fertilizer, and some one should add a second hopper to the Alward machine, he would be entitled to a patent for that, and so on, ad infinitum.

Alward's achievement is correctly characterized by the defendants' expert. He says:

"Thus to transfer the fertilizer hopper from the Pease machine to either one of the transplanting machines to which I have referred it would simply have to be detached, lifted off the one machine and attached to the other without any change of the hopper or its valves. \* \* \* To do this would require simply ordinary mechanical skill and would involve no invention. \* \* \* I see no novelty in putting upon a transplanting machine, having all the other essential features, a fertilizer hopper and connections, which are old in themselves and only require the mere act of transferring from one machine to another. In thus transferring the fertilizer its discharge pipe would be nothing but a duplication of the water tank discharge pipe."

The law is clear that Alward's contribution to the art, as embodied in the claim in controversy, is not patentable.

In *Richards v. Elevator Co.*, 158 U. S. 299, 15 Sup. Ct. 831, the claim was similar in many respects to the claim at bar. It was held bad on demurrer. In affirming the judgment the court says:

"It is not claimed that there is any novelty in any one of the elements of the above combination. They are all perfectly well known, and if not known in the combination described, they are known in combinations so analogous that the court is at liberty to judge of itself whether there be any invention in using them in the exact combination claimed. \* \* \* Unless the combination accomplishes some new result, the mere multiplicity of elements does not make it patentable. So long as each element performs some old and well-known function, the result is not a patentable combination, but an aggregation of elements. Indeed, the multiplicity of elements may go on indefinitely without creating a patentable combination, unless by their collocation a new result is produced. \* \* \* Not a new function or result is suggested by the combination in question."

See, also, *Aron v. Railway Co.*, 132 U. S. 84, 10 Sup. Ct. 24; *Griswold v. Wagner*, 68 Fed. 494, 499; *Fox v. Perkins*, 3 C. C. A. 32, 52 Fed. 205; *Briggs v. Ice Co.*, 8 C. C. A. 480, 60 Fed. 87; *Steiner Fire Extinguisher Co. v. City of Adrian*, 8 C. C. A. 44, 59 Fed. 132; *National Progress Bunching-Machine Co. v. John R. Williams Co.*, 44 Fed. 190; *Lauferty v. Manufacturing Co.*, 67 Fed. 1015.

It follows that the bill must be dismissed.

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FULLER & JOHNSON MANUF'G CO. v. NAGLEY et al.

(Circuit Court, N. D. New York. October 15, 1895.)

C. H. Duell, for complainant.  
C. W. Smith, for defendants.

COXE, District Judge. As precisely the same questions are involved as in the preceding case (*Fuller & Johnson Manuf'g Co. v. Bender*, 69 Fed. 999), the bill must be dismissed.

## DOZE v. SMITH.

(Circuit Court of Appeals, Eighth Circuit. August 19, 1895.)

No. 577.

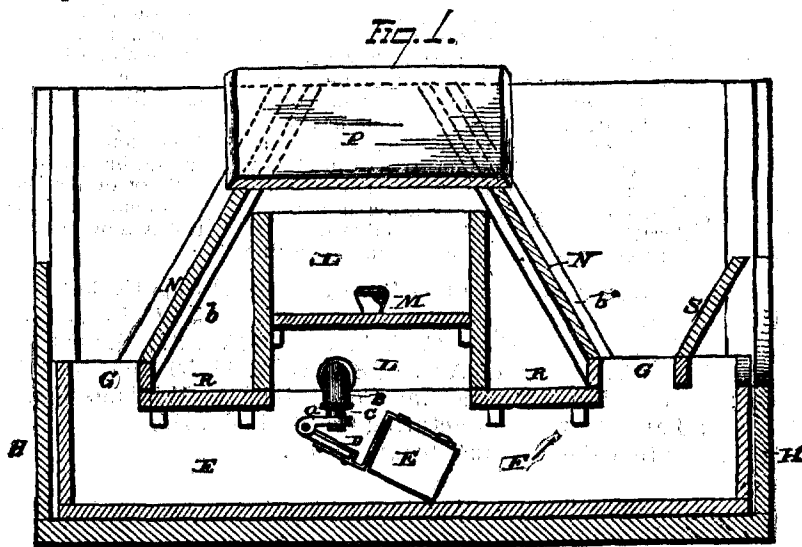
## PATENTS—VALIDITY AND INFRINGEMENT—EQUIVALENTS—WATERING TROUGHS.

The combination described in the fourth claim of the Campbell patent, No. 221,031, for an improvement in troughs for watering stock, if patentable at all, does not disclose invention of such a character as will entitle it to the benefit of the doctrine of equivalents; and it must be confined to the precise form described. 66 Fed. 327, affirmed.

Appeal from the Circuit Court of the United States for the Southern District of Iowa.

This was a bill in equity by John E. Doze against Alpheus Smith for alleged infringement of a patent relating to troughs for watering stock. The circuit court dismissed the bill. 66 Fed. 327. Complainant appealed.

The subjoined drawing, to which reference is made in the opinion, is a longitudinal sectional view of an improved device for watering stock, for which letters patent of the United States, No. 221,031, were issued to John S. Campbell on October 28, 1879, under an application filed September 3, 1879. The case is sufficiently stated in the opinion.



A. B. Cummins (Carroll Wright, on the brief), for appellent.

C. W. Steele (Lewis Miles, on the brief), for appellee.

Before CALDWELL, SANBORN, and THAYER, Circuit Judges.

THAYER, Circuit Judge. This was a suit to restrain the infringement of United States letters patent No. 221,031, that were