

"Nor is the course of the law to be turned aside because the practical result may be to give a patentee, for the time being, more than the patent office contemplated; nor is the patentee to be deprived of his just rights because, under some circumstances, he gets incidental advantages beyond what he expressly bargained for."

Counsel for defendants laid much stress upon the sale to said Norwalk Street-Railway Company of an improvement upon the original trolley stands, as lawful, within the reasoning of the court in *Chaffee v. Boston Belting Co.*, 22 How. 217, and other cases. In this regard, however, defendants do not seem to have met the contention of complainant that such a sale, under such circumstances, amounts to reconstruction, and not repair. *Davis Electrical Works v. Edison Electric Light Co.*, supra; *St. Louis Car-Coupler Co. v. Shickle, Harrison & Howard Iron Co.*, 70 Fed. 783. Here there is no such temporary relation between the trolley-stand element and the whole combination as to raise a presumption that it was the intention of the inventor that it should be frequently replaced, as in *Wilson v. Simpson*, 9 How. 109, and *Morgan Envelope Co. v. Albany Perforated Wrapping Paper Co.*, supra. The case is clearly analogous to that of *St. Louis Car-Coupler Co. v. Shickle, Harrison & Howard Iron Co.*, supra. There defendants claimed the right to replace a knuckle,—a single substantial element of a patented combination. The court said:

"This knuckle is not an ordinary tool or piece of mechanism, which can be procured at any general hardware store, but is unique, and can be used only in connection with the balance of complainant's device. There can be no doubt, therefore, that the defendant intended to manufacture and sell the knuckle to be used in, and as forming an important and essential part of, the complainant's patented device. If the defendant can do this with impunity, it, or any other person, can certainly manufacture and sell the other less important parts, and thereby the value of complainant's monopoly will be limited to the first sales made by it. This cannot be the law."

The motion is granted.

THE BELLE OF THE COAST.

AIKEN et al. v. WOODWARD et al

(Circuit Court of Appeals, Fifth Circuit. February 17, 1896.)

No. 413.

MARITIME LIENS—SUPPLIES TO DOMESTIC VESSELS—STATE STATUTES.

Where, pursuant to a written agreement with the agent of a packet company, life preservers were furnished in the home port, where all the parties resided, to vessels operated under a charter by that company, the furnishers having no knowledge as to the solvency or credit of the company, and the only inquiries made being to ascertain for what vessels the supplies were needed, *held*, that there was a lien on one of the vessels for the goods furnished and delivered to it, under the Louisiana statute giving a privilege on all vessels for supplies furnished to them. Rev. Civ. Code, art. 3237.

Appeal from the District Court of the United States for the Eastern District of Louisiana.

Geo. Denegre, for appellants.

O. B. Sansum, for appellees.

Before PARDEE and McCORMICK, Circuit Judges, and BOARMAN, District Judge.

McCORMICK, Circuit Judge. In the early summer of 1893, Capt. John F. Aiken, the owner and master of the steamboat Belle of the Coast, united with Capt. E. J. Comeaux, the master and principal owner of the steamboat Mabel Comeaux, in forming the Comeaux-Aiken Packet Company, with the purpose of running an excursion line between New Orleans and some pleasure grounds a few miles up the river from the city. The two steamboats named were chartered by the new company. One other steamer was purchased, and two others were employed for one or more trips. To equip the boats for this work, it became necessary to furnish them with a large number of life preservers, for obtaining which negotiations were opened by the new company with the appellees, Woodward, Wight & Co., Limited, resulting in the following written agreement:

"Memorandum of agreement made and entered into on this 29th day of May, A. D. 1893, by and between the firm of Woodward, Wight & Co., Limited, of the first part, and Captain E. J. Comeaux, representing the Comeaux-Aiken Packet Company, of the second part: Witnesseth, the said Woodward, Wight & Co., Limited, have agreed to rent to the said Comeaux-Aiken Packet Co. three thousand life preservers, for a period of three months, at twelve and one-half cents (12½c.) each per month. At the expiration of the above three months, should the above named Comeaux-Aiken Packet Company decide to purchase the three thousand life preservers, they are to have the same at seventy-five cents (75c.) each; the 37½c. rental each for the three months they paid to be applied to the purchase price, they only paying the balance of 37½c. each. It is further agreed that these life preservers are to be kept in the same perfect condition as when delivered to the above-named Comeaux-Aiken Packet Co.; they, the said Comeaux-Aiken Packet Co., keeping them insured for the benefit of Woodward, Wight & Co., L't'd, and assuming all responsibility or risk for loss or damage to the aforesaid three thousand life preservers. Should the Comeaux-Aiken Packet Co. decide not to keep the above-named life preservers for the period of three months, as above stipulated, they are to pay the full rental of 37½c. each, or take the life preservers at seventy-five cents (75c.) each, as above specified."

On this agreement the appellees furnished the Belle of the Coast, at different times, life preservers to the number of 1,505. There is a conflict in the testimony as to the number received by the Belle of the Coast, but the clear preponderance of the proof supports the charge in the libel as to the number furnished. The rest of the 3,000 contracted for were delivered to other boats of the Comeaux-Aiken Company line. The boats were domestic vessels, whose home port was New Orleans, where all the parties reside, and the transactions were had, but the local statute gives a privilege on all vessels for such supplies furnished the vessel. Rev. Civ. Code, art. 3237. The appellants claim that these supplies were not furnished the steamboat by the appellees, but were delivered to the Comeaux-Aiken Company, on its credit, in accordance with the contract above set out. It is claimed that the corporation then newly formed, as before stated, was amply solvent at that time; that when the bills for the life preservers were presented, and appeared to be made against the vessels, the proper officer of the corporation demanded that they should be changed, and rendered against the corporation,

which was done. The corporation became insolvent in a few months, and before making any considerable payment on the appellees' bills. As we view the proof, no part of it tends to show that Woodward, Wight & Co., Limited, had any knowledge as to the solvency and credit of the Comeaux-Aiken Packet Company at the time of the opening of the negotiations for the life preservers. The inquiries then made were clearly to ascertain for what vessels the supplies were needed. The supplies, as furnished, were charged to the vessel to which delivery was made. It was immaterial to appellees how they were afterwards distributed to or interchanged among the different packets of the line, and how the managing corporation kept its accounts with the different boats, or the form in which its vouchers from supply men were stated. We are of the opinion that the proof amply sustains the decree of the district court, and it is affirmed.

THE HENRY CLAY.

THE LINDA.

THE UNDERWRITER.

(District Court, E. D. Pennsylvania. March 27, 1896.)

Nos. 125 and 126.

COLLISION—STEAMER WITH TOW—NARROW CHANNEL—PRESUMPTION.

A steamer which, while going down the Delaware river in the narrow and frequented channel near Wilmington, decided to cross from the western to the eastern side for the purpose of anchoring, and in so doing ran down the hindmost of two barges in tow of an ascending tug, *held* to have the burden of showing that she exercised great care in executing the maneuver, which was an extraordinary one; and, it appearing that she was wanting in such care, and that her lookout was negligent, *held*, that she was solely in fault, no specific fault being shown on the part of the tug or tow.

These were cross libels growing out of a collision in the Delaware river.

John G. Lamb, for the Henry Clay.

J. Parker Kirilin, for the Linda.

Henry R. Edmunds, for the Underwriter.

BUTLER, District Judge. As the steam tug Underwriter, with two large unloaded barges in tow, astern, (the hindmost being the Henry Clay) came up the Delaware river, off Wilmington, December 5th, last, near 4 o'clock p. m., she met the steamship Linda going down. The Linda had missed her course higher up, and gone west of the channel. A short distance above the point of meeting she resolved to go eastward across the channel, and anchor,—the western side being unsuited to the purpose. As she passed the Underwriter her course was nearly parallel to that vessel's, and at a safe distance. At or near that point however, she turned eastward, without observing either of the barges and passing very near the foremost of them, ran into the Clay, inflicting serious damage, and