

"My opinion is that the plaintiff is entitled to the relief asked in the bill. My conclusion rests upon the general ground that, while a meander line is ordinarily to be taken as showing only the quantity of land to be paid for by the purchaser, the meander line in this case must be taken as a line of boundary. I do not think that there was any intention, by the survey and patents under which the principal defendant claims, to pass the title to the marsh land between the 'meander' line and the islands. On the contrary, it must be taken that the intention was not to pass the title to that land. I concur entirely with what was said in *James v. Howell*, 41 Ohio St. 696. And that case is supported in principle by *Horne v. Smith*, 159 U. S. 40, 15 Sup. Ct. 988."

The decree is in all things affirmed.

CONSOLIDATED FASTENER CO. v. COLUMBIAN BUTTON & FASTENER CO.

(Circuit Court, N. D. New York. February 23, 1898.)

EQUITY—MASTER'S HEARINGS—JURISDICTION OUTSIDE OF DISTRICT.

A master to whom a cause is referred has jurisdiction, in his discretion and for the convenience of the parties, to take testimony outside of the district of his appointment.

This was a suit in equity by the Consolidated Fastener Company against the Columbian Button & Fastener Company for infringement of a patent. The cause was heard on a motion for instructions to the master, to whom it was referred to take and state an account.

W. B. H. Dowse, for complainant.
Wetmore & Jenner, for defendant.

COXE, District Judge. The complainant's patent was upheld and a master was appointed to take and state the account. It is alleged, and not disputed, that all the defendant's books, papers and documents to be examined on the accounting are in the city of New York and that all of the witnesses as well as the counsel for the defendant reside there. Indeed, it would seem that no one connected with the accounting resides in this district save only the master himself. In these circumstances the master, intending to accommodate all parties and prevent the annoyance which might result from the removal of the defendant's books to this district, designated New York City as the place of hearing. It was stated at the argument that this ruling was acquiesced in and the accounting proceeded amicably for some time. The defendant now takes the objection that the master has no jurisdiction beyond the limits of the district of his appointment. The question thus presented for decision is whether a master appointed in the Northern district of New York has power to take testimony in the Southern district of New York. The precise point was decided in favor of the complainant's contention in *Refrigerating Co. v. Gillette*, 28 Fed. 673. The court went much further than is required in the case at bar and sustained the master's order providing for the taking of testimony at Liverpool and London.

The reasoning of the court in *White v. Railroad Co.*, 24 C. C. A. 467, 79 Fed. 133, must it is thought, lead to a similar result.

The practice of permitting the master to take testimony outside the district of his appointment has grown up with the court until it is of almost universal application and its practical operation has been found simple, convenient and effective. I am not aware that the power has ever been exercised in an oppressive manner. Should a case arise where the master has abused his discretion the court will undoubtedly interfere, but until it does arise the court should hesitate long before destroying a system the wisdom of which, in its application to a vast majority of cases, must be admitted by all.

It does not appear that the master has made any ruling upon the question of costs. If he has, the ruling, as well as all others, can be considered upon the coming in of his report.

In all the acts complained of it is thought that the master has exercised his discretion and nothing more. The motion to instruct him is, therefore, denied.

KELLEY et al. v. BOETTCHER et al.¹

(Circuit Court of Appeals, Eighth Circuit. February 14, 1898.)

No. 870.

1. **EQUITY PLEADING—SCANDALOUS AND IMPERTINENT MATTER.**
Equity Rules 26 and 27, authorizing reference to a master, on exceptions, to expunge impertinent or scandalous matter from the bill, do not abrogate or curtail the inherent power of the federal courts in equity to strike out rambling or tautological pleadings, and purge their records of scandalous or impertinent matter, on their own motion, and in the absence of exceptions.
 2. **SAME.**
Scandal in a pleading consists of any unnecessary allegation bearing cruelly on the moral character of an individual, or stating anything contrary to good manners or anything unbecoming the dignity of the court to hear. Impertinence consists of any allegation that is irrelevant to the material issues made or tendered.
 3. **SAME—DISCOVERY—INTERROGATORIES.**
A complainant is entitled to a discovery of such documents and facts only as will aid in the maintenance of his title or cause of action. Interrogatories which go beyond this, and seek disclosure of a title or claim of the defendant having no relation to complainant's title or cause of action, are inquisitorial and unwarranted.
 4. **SAME—STRIKING FROM FILES.**
The circuit court has power to order the striking from its files of a rambling and verbose bill, of excessive length, containing much impertinent and scandalous matter, and to permit complainants to file within a stated time, as of the date of the original filing, a new bill not exceeding a prescribed length.
 5. **LACHES—STATUTES OF LIMITATION.**
The rule that courts of equity are not bound by, but act in analogy to, the statutes of limitations, means that under ordinary circumstances the suit will not be stayed for laches before, and will be stayed after, the time fixed by the analogous limitation at law; but if unusual conditions or extraordinary circumstances make it inequitable to allow the prosecution of a suit after a briefer period, or to forbid its maintenance after a longer period, than that fixed by the statute, the chancellor will not be bound thereby, but will determine the extraordinary case in accordance with the equities which condition it.
 6. **SAME.**
When a suit is brought within the time fixed by the analogous statute, the burden is on defendant to show, either from the face of the bill or by
- ¹ Rehearing pending.