

the department, is far from being an inducement of such a character as will justify the court's permitting the withdrawal of a plea of guilty made as this one was made. I find, therefore, no ground upon which to justify granting the prisoners' permission to withdraw their plea of guilty. As to the remainder of the application, namely, a further postponement of sentence, to enable the prisoners to renew their efforts with the department to obtain a compromise, the official announcement of the department that no further application for compromise will be entertained shows that further delay would be of no avail.

The motion is accordingly denied.

---

OSMER v. J. B. SICKLES SADDLERY Co.<sup>1</sup>

(Circuit Court, E. D. Missouri. May 18, 1885.)

PATENTS—HORSE-COLLARS.

Letters patent No. 157,367, issued to John M. Bright, for an "improvement in horse-collars," held not infringed by a sweat-cloth, composed of a series of detachable sections.

In Equity.

*Paul Bakewell*, for complainant.

*W. B. Homer*, for respondent.

TREAT, J. The Bright patent, No. 157,367, December 1, 1874, is for "a horse-collar consisting of a frame, combined with a number of detachable pads," as described therein. Defendant alleges that the same was anticipated by the Meyer patent, No. 61,016, January 8, 1867, and the Lovett & Lefevre patent, No. 133,786, December 10, 1872. In the light of the said anticipatory patents, it is more than doubtful whether the Bright patent contained any novelty of invention patentable under the law, unless rigidity of frame and consequent absence of hames, were essential. However that may be, it is apparent from whatever construction may be put on the Bright patent that the defendant does not infringe the same, as the Bright patent is for a "horse-collar with detachable pads" arranged as in his patent described. It would seem that his patent was for a collar adjusted, as by him specified, without reference to hames. Separable pads were provided for by the Meyer and Lovette patents, and consequently in the state of the art there was no room open for invention unless the Bright patent was designed for a collar to which, in the absence of hames, separable pads might be attached by buckles and straps, thereby obviating the use of hames, and producing a new

<sup>1</sup> Reported by Benj. F. Rex, Esq., of the St. Louis bar.

collar with pads. This proposition is not urged, because the defendant uses no such collar.

The contention on the part of the plaintiff, in order to succeed, must cover all use of detachable pads, or sweat-cloths with detachable pads, made so as to relieve sore or gall spots on the neck. Such was not the scope of the Bright patent, or if it had been, could he, within the rules of the patent law, have blocked the pathway for all contrivances, whereby such beneficial results could be effected? He must be held to his special device in connection with a horse-collar, as by him stated. The defendant does not sell any such horse-collar, but only sweat-cloths independent of the collar, more like the Meyer and Lovett patents, though not exactly the same as either. Hence, without formally deciding that the Bright patent is void for want of novelty and patentability, it must suffice that under no construction of the Bright patent can the defendant be held to have infringed the same.

Bill dismissed with costs.

---

### THE E. LUCKENBACK.<sup>1</sup>

(Circuit Court, E. D. New York. July 2, 1884.)

#### TUG WITH DREDGE IN TOW—NEGLIGENCE IN STARTING SUDDENLY.

See head-note to same case in the district court, 15 FED. REP. 924. The decision of the the district court in the same case affirmed.

#### In Admiralty.

*Goodrich, Deady & Platt*, for libelants and appellees.

*Butler, Stillman & Hubbard*, for claimants and appellants.

In this case the court (BLATCHFORD, Justice) made and filed the following findings of fact:

On or about the twenty-third of March, 1882, the libelants, being desirous of sending the dredge Brooklyn and ninescows from New York to Fall river, employed the steam-tugs Cyclops and Edith Beard (the latter being owned by the libelants) to tow them to that place. On the twenty-fourth of March, 1882, the Cyclops became disabled by an accident, and the tow was taken into New London, and the tug E. Luckenback was employed by the libelants to continue the towage to Fall river with the Edith Beard. The E. Luckenback arrived at New London about half past 3 o'clock in the afternoon of the twenty-eighth of March, 1882. The dredge was about 65 feet in length and 33 feet in width. Her original width had been 27 feet, and she had been widened by pontoons, 3 feet in width being built on each side of her, her whole length. She was of the same width her whole length, and drew, as she was loaded, over 4 feet. At her stern as she was towed the timbers did not extend from side to side, but the pontoons were extensions, fastened to the side of the dredge without through timbers. In the extreme outer corner of each pontoon a post

<sup>1</sup> Reported by R. D. & Wyllys Benedict, Esqs., of the New York bar.