

lock-case with notched sides near its ends, to receive and hold the handle rings. This piece, which the defendants use, was the same before as after these amendments. The patent-office would not grant a patent for it generally in combination with the handle rings, but only specifically when used for the sides of the lock-case and for the handle rings. The orator accepted the patent narrowed in that manner, and cannot now be heard to claim that it is any more broad than that in its scope.

He invented this particular form of lock-case, and his patent is for that only, and it cannot be construed to cover anything else. *Railway Co. v. Sayles*, 97 U. S. 554. The defendants do not use his lock-case, but use an extended bottom plate like his lock-case. It has been argued ingeniously and with plausibility that the same thing is used under a merely different name; but this argument is not in reality well founded. The patent was for a lock-case, not only in name, but in substance. The defendants do not use this lock-case. They evade the patent, not by a mere colorable, but by a substantial evasion.

Let decrees be entered that the defendants do not infringe, and that the bill be dismissed, with costs.

STEAM-GAUGE & LANTERN Co. and another v. FOLLETT LANTERN & MANUF'G. Co.¹

(Circuit Court, N. D. New York. June 11, 1886.)

PATENTS FOR INVENTIONS—INFRINGEMENT—TUBULAR LANTERNS.

Letters patent No. 104,318, of June 14, 1870, and No. 151,703, of June 9, 1874, to John H. Irwin, sustained, and defendants held to have infringed the first claim of the former, and the second claim of the latter.

Edwin S. Jenny, for complainant.

Albert H. Harris, for defendant.

COXE, J. It is unnecessary to add anything to the views expressed upon the argument, further than to say that I have examined with care the two patents to which my attention was particularly called, granted, respectively, to Holden and Giajola. I see no reason to alter the opinion then intimated. It is suggested that these patents were not fully considered by the court in *Steam-gauge & Lantern Co. v. Miller*, 21 Fed. Rep. 514. Even though this were so, it is not easy to see, as an original proposition, how a construction can be given them favorable to the defendant's theory. But it is entirely clear that the court in that case did give due consideration to all limiting

¹ Edited by Charles C. Linthicum, Esq., of the Chicago bar.

and anticipating references. The following quotation will serve as an illustration :

"Previous structures had supply tubes, which returned vitiated air to the burner, or which furnished fresh air from protected chambers, or which furnished whatever fresh air would enter through an open funnel or bell mouth; but no previous structure furnished fresh air by the aid of injectors, which compelled air, which would otherwise strike the lantern in such a direction as to exhaust the tubes, to enter the tubes in a continuous and irreversible current."

The open funnel or bell-mouthed structure here mentioned unquestionably refers to the Holden device. It is safe to assume, from the character of the counsel who argued that cause, and the judge who decided it, that nothing was overlooked or slighted.

The defendant infringes the first claim of No. 104,318, and the second claim of No. 151,703.

The complainant, as to these claims, is entitled to the usual decree for an injunction and an accounting.

THE COLUMBIA.¹

THE ALASKA.

VAN PELT and others v. THE ALASKA.

(District Court, S. D. New York. May 17, 1886.)

1. COLLISION—STEAM-SHIP AND PILOT-BOAT—PILOT BOARDING STEAM-SHIP—DUTY OF STEAM-SHIP AS TO SPEED AND HELM.

It is the duty of a steam-ship, when about to take on board a pilot at sea, to come to a substantial stop; *i. e.*, to reduce her headway to the minimum speed required to keep her in position. She should not adopt a veering course, calculated to thwart the maneuvers of the pilot-boat as the latter approaches, but come as near to a stop as possible, and leave the rest to the pilot-boat.

2. SAME—DUTY OF PILOT-BOAT—NIGHT—GALE—HAZARDOUS METHOD—CUSTOM.

The pilot-boat in this case attempted to launch her yawl when ahead of the steam-ship, so that it should go down the latter's lee side, while the pilot-boat crossed the steamer's bow, to go down her windward side, and round under her stern, to pick up the yawl. *Held*, that no such invariable custom was proved of boarding vessels in that manner as to excuse the pilot-boat for attempting it at night, and in a gale which rendered that method hazardous and unjustifiable.

3. SAME—EVIDENCE—ONE-SIDED STORY—IMPROBABILITIES—SPEED.

In a case of collision where all upon one vessel are lost, the narrative of the other, considering the natural bias of the witnesses, should be received with caution, and not adopted beyond what is consistent, rational, and probable. In this case the steamer's claim of low speed critically examined and disallowed, upon the other circumstances proved, and upon the insuperable difficulties and improbabilities in navigation that such low speed would involve.

¹ Reported by Edward G. Benedict, Esq., of the New York bar.