

binding? There was no invention in locating the stitches at that point, for it would almost require an exercise of the inventive faculties to find any other place to put them. Two or more pieces of cloth, bound on the edges, are laid upon another piece, and held in proper position by means of a button. A party who is aware that similar fabrics have been held in position, by sewing instead of buttoning, substitutes the former for the latter mode. Clearly this is not invention. Take an illustration. Let us assume that two intelligent workmen were employed in the complainants' manufactory in 1872, the one wearing the woolen shirt with shield-shaped bound bosom, described by the defendants' witnesses, the other the bound dickey made by the complainants. The tab which holds the latter to the collar button breaks or becomes inoperative, and its wearer, after examining the woolen shirt of his companion, sews the dickey to the body of his shirt by a line of stitches through the binding. Does he by this act become an inventor? Is the operation one which taxes the brain, or calls into being "that intuitive faculty of the mind" which the supreme court regards as necessary to patentable novelty? *Hollister v. Benedict Manufg Co.*, 113 U. S. 59, 5 Sup. Ct. Rep. 717. If so, it might almost be said that he who, by means of a row of tacks through its binding, attaches to the wall a map which previously had been suspended in the same position by a cord, is entitled to rank as an inventor. It is entirely clear that, under the decisions of the supreme court, this action cannot be maintained. The record discloses less invention than was shown in any of the following cases: *Pennsylvania R. Co. v. Locomotive Truck Co.*, 110 U. S. 490, 4 Sup. Ct. Rep. 220; *Stimpson v. Woodman*, 10 Wall. 117; *Stephenson v. Brooklyn Ry. Co.*, 114 U. S. 149, 5 Sup. Ct. Rep. 777; *Yale Lock Co. v. Greenleaf*, 117 U. S. 554, 6 Sup. Ct. Rep. 846; *Thatcher Heating Co. v. Burtis*, 39 O. G. 587, 7 Sup. Ct. Rep. 1034; *Estey v. Burdett*, 109 U. S. 633, 3 Sup. Ct. Rep. 531; *Clark Pomace-Holder Co. v. Ferguson*, 119 U. S. 335, 7 Sup. Ct. Rep. 382; *Phillips v. Detroit*, 111 U. S. 604, 4 Sup. Ct. Rep. 580; *Gardner v. Herz*, 118 U. S. 180, 6 Sup. Ct. Rep. 1027.

The bill must be dismissed, with costs.

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CLUETT and others v. MACK and others.

(Circuit Court, S. D. New York. June 7, 1887.)

COXE, J. A decree dismissing the bill, with costs, should be entered in this cause upon the authority of *Cluett v. Olafsen*, ante, 921.

## THE NEPTUNO.

SULLIVAN *v.* THE NEPTUNO, etc.

(District Court, S. D. New York. April 4, 1887.)

## 1. SEAMEN—PERSONAL INJURIES—DEFECTIVE TACKLE.

A vessel and her owners are liable to seamen for injuries caused by the use of weak and dangerous tackle by the order of the ship's officers, after notice of its defects.

## 2. SAME—CASE STATED—RUPTURE.

The libelant, a weakly lad of 18, was tending the sling in the hold while the end was unloading. The iron hook, by which the tackle was attached to the yard above, broke, and the sling fell upon the libelant, injuring him severely; causing, as alleged, a rupture near each groin. The hook broke in consequence of a flaw, which was indicated by its appearance, and was pointed out to the mate. *Held*, that the vessel was liable; but, upon disputed evidence as to the lad's previous condition, \$600 besides expenses was allowed.

## In Admiralty.

*Jas. K. Hill, Wing & Shouddy*, and *H. Putnam*, for libelant.

*Sidney Chubb*, for claimant.

BROWN, J. On the thirtieth of March, 1886, the British steamer *Neptuno*, being at the port of Graytown unloading cargo, the libelant, a youth 18 years old, was directed by the mate to tend the sling at the hatch between-decks. While engaged in this work, a load of about 300 pounds, which had been hoisted by the tackle nearly up to the main-yard, fell upon him, and knocked him insensible. On being picked up, his right forearm was found to be fractured, one of the bones of the right hand was broken, and a serious rupture disclosed in each groin. I think the evidence shows that the captain offered him hospital treatment at Graytown, but the libelant preferred to come to New York with the ship. When the steamer arrived here, on the sixteenth of April, he was still weak and disabled. He could not turn his arm. On the 20th, while the master's arrangements for procuring him admission to the Long Island hospital were still incomplete, the libelant being then ashore with the master, who was then actually engaged in perfecting those arrangements for admission, some friends took the libelant in charge, and obtained his entry into the same hospital on the 22d. Under these circumstances, I cannot regard the libelant's conduct as amounting to desertion exonerating the ship.

The bones of the arm, being in very bad position, had to be refractured and reset. The operation was entirely successful, and the libelant was discharged on the twenty-fourth of July with the free use of his arm. He still suffers from the hernia.

The fall of the load arose from the breaking of the hook at the end of the tackle by which the sling was raised. Some negligence of the winchman and fellow-servant is suggested, in allowing the tackle to be carried too far. The evidence, however, is not sufficient to allow the breaking