

carrier; and any person who shall knowingly deposit, or cause to be deposited, for mailing or delivery, anything declared by this section to be non-mailable matter, * * * shall be deemed guilty of a misdemeanor, and shall for each and every offense be fined not less than one hundred nor more than five thousand dollars, or imprisoned at hard labor not less than one year, nor more than ten years, or both, at the discretion of the court." Supp. Rev. St. 229.

The claim made by the relator that the exhibits do not make out a case in which this court has jurisdiction, and that the law has not been violated, in my opinion, is true. To hold otherwise would necessitate a strained construction of this statute. The purpose of the act was to prevent the mails from being used to circulate matter to corrupt the morals of the people. The history of this legislation clearly shows that congress determined to exclude from the mails impure and immodest writings, and that rough and coarse language is not within the terms of the act. It is not the province of courts to extend the statutes so as to embrace cases not plainly and clearly within their terms; and, if there is a fair doubt whether the act charged is within the purview of the law, the person who committed it is entitled to the benefit of the doubt. The supreme court of the United States, in *Ex parte Jackson*, 96 U. S. 736, say: "In excluding various articles from the mail, the object of congress has not been to interfere with * * * the rights of the people, but to refuse its facilities for the distribution of matter deemed injurious to the public morals." And, again: "All that congress meant by this act was that the mail should not be used to transport such corrupting publications and articles."

The writings deposited in the mail and complained of are not excluded mailable matter, and afford no cause for criminal proceedings.

The petitioner is discharged from custody.

WHEELER and others v. HART and others.

(Circuit Court, N. D. New York. August 23, 1887.)

PATENTS FOR INVENTIONS—DETACHABLE RADIATOR—STATE OF ART—RESTRICTION OF CLAIM.

In a suit for infringement of claim 1 of letters patent No. 245,157, granted Messrs. Goodenow & Owens, August 2, 1881, for an improvement in hot-air furnaces, consisting of "a furnace having a detachable radiator," "substantially as and for the purposes set forth," the specifications requiring that the radiator be attached by means of a flange, slots, and lugs, which securely lock it in position, and render it detachable by bringing the lugs opposite the slots, *held*, in view of the state of the art, and the language of the specifications, that this claim was not infringed by a furnace having a detachable radiator not secured by any such means, or equivalents therefor.

In Equity.

Bill for an infringement of claim 1 of letters patent No. 245,157, granted to Messrs. Goodenow & Owens, August 2, 1881, for an improvement in

hot-air furnaces. That claim is as follows: "A furnace having secured thereto a detachable radiator, which is provided with one or more horizontal flues opening from a dome leading from the furnace, * * * substantially as and for the purposes set forth." The specifications provided that the radiator should be seated in a sand-cup joint, and secured to the furnace by means of a flange, slots, and lugs, which securely locked it in position, it being made detachable by bringing the lugs opposite the slots. The alleged infringing furnace consisted, also, of a detachable radiator and dome, but the radiator was not secured to the furnace by lugs and slots, or by any other equivalent means of securing it against displacement by gas explosion. The defendants claimed that, in view of the state of the art, and the language of the specifications, claim 1 of the letters patent should be limited to the elements used for securing the radiator to the furnace, and denied the infringement.

Edwin H. Risley and *Edward Wetmore*, for complainants.

William Townsend, (*Walter D. Edmonds*, of counsel,) for defendants.

BLATCHFORD, Justice. The words of claim 1 of the Goodenow & Owens patent, "a furnace having secured thereto a detachable radiator," "substantially as and for the purpose set forth," require, by reference to the descriptive part of the specification, that the radiator shall not only be detachable, but shall be secured by the flange, N, the slots, N', and the lugs, O, which, as the specification says, securely lock it in position, it being made detachable by bringing the lugs opposite to the slots. The state of the art also requires this interpretation of the claim. As the defendants' furnace contains no such means, and no equivalent means of securing the radiator in position, there is no infringement, and the bill must be dismissed, with costs.

EDWARD BARR Co., Limited, v. NEW YORK & NEW HAVEN AUTOMATIC SPRINKLER Co.

(Circuit Court, S. D. New York. August 18, 1887.)

1. PATENTS FOR INVENTIONS—RIGHT TO PRELIMINARY INJUNCTION—PRESUMPTION OF VALIDITY.

To entitle a complainant to a preliminary injunction, restraining the infringement of letters patent, there must be a special presumption in favor of the validity of the patents, arising from an adjudication in a federal court, acquiescence by the public, or a successful interference in the patent-office.

2. SAME—FIRE-EXTINGUISHER.

A preliminary injunction, restraining the infringement of letters patent No. 307,456, November 4, 1884, and No. 357,987, February 15, 1887, for automatic "fire-extinguisher," denied, as nothing appeared in the motion papers showing such a former adjudication, public acquiescence, or successful interference in the patent-office, between the parties or their privies.