

Cases Omitted in the Reports.

their mortgage on that property failed, without considering whether they had done anything in fraud of the Bankrupt Law or not. And so that question was left intentionally by the court, as fairly deducible also from the words of the decree, to be an open one if raised by anybody when the claim should be presented for allowance.

We see no occasion to change a word in our decree or mandate, to give effect to the intent of the court, and the motion is, therefore,

Denied.

Mr. J. H. Ashton for the motion. *Mr. F. N. Bangs* opposing.

MEVS v. CONOVER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

No. 169. October Term, 1876. — Decided March 13, 1877.

Upon a bill in equity by the owner against an infringer of a patent, the plaintiff is entitled to recover the amount of gains and profits that the defendant made by the use of the invention.

The surrender of his patent by a patentee, in order to obtain a reissue, made after obtaining final judgment against an infringer, does not affect his rights which have passed into the judgment.

THE opinion of the court in this case is reported in full in 125 U. S. 144, 145, in the marginal note. *Mr. A. J. Todd* and *Mr. Edward Patterson* for appellant. *Mr. Rodney Mason* for appellee.

FOREE v. McVEIGH.

ERROR TO THE SUPREME COURT OF THE STATE OF VIRGINIA.

No. 478. October Term, 1876. — Decided April 16, 1877.

It appearing that the only Federal question involved in this case has been decided in another case at the present term, the court postpones the hearing of a motion to dismiss, in order to allow it to be amended, under the rules, by adding a motion to affirm.

THE case is stated in the opinion.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This case comes before us upon a motion to dismiss for want of jurisdiction. A similar motion was made and overruled at the last term, and we are satisfied with that decision.

Rule 6 provides "that there may be united with a motion to dis-