

## Opinion of the Court.

of stitches shall be used for this purpose, or whether such stitches shall pass through the binding or inside of it, is obviously a question of mere convenience, involving nothing which, under a most liberal construction, could be held to be an exercise of the inventive faculty. If bosoms had always been worn before as a separate garment, it is possible that cutting away the front of the shirt and inserting the bosom might have involved some slight invention, though it is very doubtful if it would sustain a patent; but as bosoms had long been bound by a folded binding, and, with or without such binding, had been attached to shirts by stitching, it would seem to approximate more closely to invention to make such attachment by a row of stitching which did not than by stitches which did, pass through such binding. In view of the simplicity of this device we find it impossible to escape the conviction that plaintiffs are laboring under a strong bias of self-interest in asserting that this improvement was "the result of careful and prolonged study and experiment." We think this case must be added to the already long list of those reported in the decisions of this court wherein the patentee has sought to obtain the monopoly of a large manufacture by a trifling deviation from ordinary and accepted methods.

In the view we have taken of this patent we do not find it necessary to consider or discuss the voluminous testimony upon the subject of anticipation.

The decree of the court below is

*Affirmed.*

MR. JUSTICE BLATCHFORD did not sit in this case, and took no part in its decision.

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CLUETT v. MCNEANY. Appeal from the Circuit Court of the United States for the Southern District of New York; No. 175. Argued with No. 174. As this case also turns upon the validity of the same patent the decree of the court below is

*Affirmed.*

Mr. S. A. Duncan and Mr. J. A. Skilton for appellants.

## Statement of the Case.

*Mr. David Tim* for appellees.

MR. JUSTICE BLATCHFORD did not sit in this case, and took no part in its decision.

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ST. PAUL PLOW WORKS *v.* STARLING.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

No. 329. Argued April 20, 21, 1891.—Decided May 11, 1891.

By a written agreement signed by both parties, a patentee of a plow granted to another person the right to make and sell the patented plow under the patent, in a specified territory, the latter agreeing to make the plows in a good and workmanlike manner, and advertise and sell them in the usual manner, and at a price not to exceed the usual price, and account twice a year for all plows sold, and pay a specified royalty for each plow sold. After making and selling some plows, the grantee gave notice to the patentee, that he renounced the license. But he afterwards made and sold plows embracing a claim of the patent. The patentee sued him to recover the agreed royalty on those plows. He set up in defence want of novelty and of utility. The case was tried by the court without a jury, which found for the plaintiff on novelty and utility, and gave judgment for him for the amount of the license fees; *Held*,

- (1) The license continued for the life of the patent;
- (2) The defendant could not renounce the license except by mutual consent or by the fault of the plaintiff;
- (3) The plaintiff had a right to regard the license as still in force and to sue for the royalties;
- (4) This court could not review the finding that the invention was new.

The ruling out of certain evidence was a matter of discretion, and some of it was immaterial.

After the defendant put in evidence earlier patents on the issue of want of novelty, it was proper for the plaintiff to show that, before the date of any of them, he had reduced his invention to practice in a working form.

THIS was an action at law, brought in the Circuit Court of the United States for the District of Minnesota, by William Starling, a citizen of Nebraska, against the St. Paul Plow Works, a corporation of Minnesota.