

Statement of the case.

WASHING-MACHINE COMPANY v. TOOL COMPANY.

1. The reissued letters-patent (No. 2829) for a new and improved clothes-wringer, granted to Sylvanus Walker, assignee, on the 31st day of December, 1867, construed to be for a U-shaped yoke or frame for supporting a wringing-machine, and for the combination of such a yoke with a clamping device, when employed to hold a clothes-wringer to the side of a wash-tub, and the U form of the frame is essential to it.
2. The use of a portable support for a wringing mechanism which has some of the features of the patentee's device, but which has not the U-formed yoke, or frame, is, therefore, no infringement of the patent.

APPEAL from the Circuit Court for the District of Rhode Island.

The Washing-Machine Company, assignee of Sylvanus Walker, this last being assignee of one Sergeant, filed a bill in the court below against the Providence Tool Company, for an infringement of Division No. 2829, of a patent for an improvement in clothes-wringers. The original patent was granted to Sergeant, July 27th, 1858, and was reissued in two divisions, the one in suit being dated December 31st, 1867. Although the matter which was in issue in the present suit was confined, so far as the complainant's title was concerned, to the reissue No. 2829, it may be well to describe the wringing-machine which was the subject of Sergeant's original patent, and out of which the invention patented in the reissue No. 2829 was carved.

The original machine belonged to the class of clothes-wringers long known as "twist wringers." In these, clothes are wrung by *twisting* them into a rope in the same manner as without a machine the washerwoman twists them by hand. This sort of machine differs from another and well-known class of wringers, in which "squeezing rollers" squeeze out by *pressure* water from clothes passed between them. Both sorts of machines had been in use for many years prior to the patent to Sergeant.

In the original machine of Sergeant, Figure 1 represents a yoke-frame of U form, the curved portion being an arc of

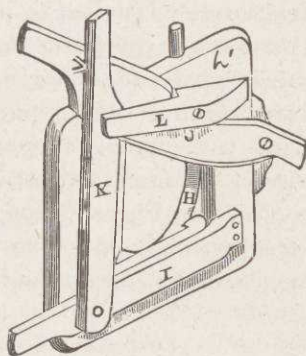
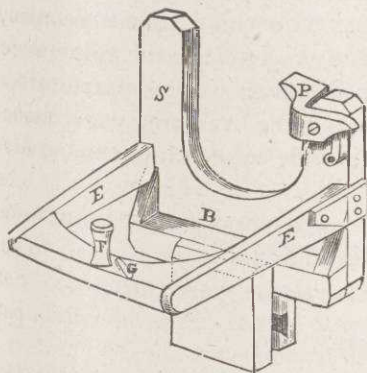
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a circle. This yoke had a pair of jaws and a clamp-wedge for securing the frame to the side of a tub. To the yoke frame a hinged frame E was attached, which, when in position, stood at right angles with the yoke, as shown in the engraving. At the middle point of the cross-bar which united the two sides of the hinged frame there was set a "hitching-pin," F, around which the clothes to be wrung were partially wound and held fast by the left hand of the washerwoman, while with her right hand she turned the rotary clamp in Figure 2, which formed a part of the machine, and which gave to the clothes the twist which expelled the water.

The rotary clamp shown at Figure 2 must be supposed to be set in the yoke B of Figure 1. It had a ring, H, with

FIG. 1.

FIG. 2.



flanged edges to hold the clamp in the yoke. I and J were lever jaws which jammed against the portion of the clothes inside the ring, and K was a gag for locking the levers. The outer edge of the ring, H, was furnished at intervals with notches, with which the pawl, P (Figure 1), could be made to engage, so that the rotary clamp, when the clothes were twisted, could be prevented from turning backwards, and the washerwoman would be able, if she wished to do so, to gripe with both hands around the hitching-pin, F, the portion of the clothes "rendered."

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With the exception of the model in the Patent Office, there was no evidence that a machine of the kind had ever been constructed. It was too complicated to be practicable.

Such being the machine, the Washing Machine Company, complainant in this case (or Sylvanus Walker, rather, from whom the complainants got it), bought the patent of Sergeant, and obtained the reissue on which this bill was founded.

The apparent idea in getting the reissue was that the apparatus shown at Figure 2 was a wringing mechanism, and was the equivalent of a pair of *squeezing rollers*; that the yoke-frame (Figure 1) was an apparatus separable from the clamp (Figure 2), and performed the office of supporting such wringing mechanism; and furthermore, that such supporting mechanism was peculiar in the fact that it had a clamping jaw attached to it which made it capable of being temporarily fastened to a tub. The complainant proposed, therefore, to divide the machine and to claim the yoke-frame and its device for being clamped to a tub, as a separate structure, without regard to whether the wringing mechanism used with such "supporting and connecting apparatus" were rollers or a twister.

The cut, Figure 3, on the page opposite, represents the structure claimed in the reissue under consideration. The specification and claims in this reissue were thus:

"SPECIFICATION.

"The first part of this invention consists of a portable machine, which may be temporarily attached to one side of a common wash-tub, or readily disconnected therefrom, whenever desired, and is especially adapted to wringing clothes.

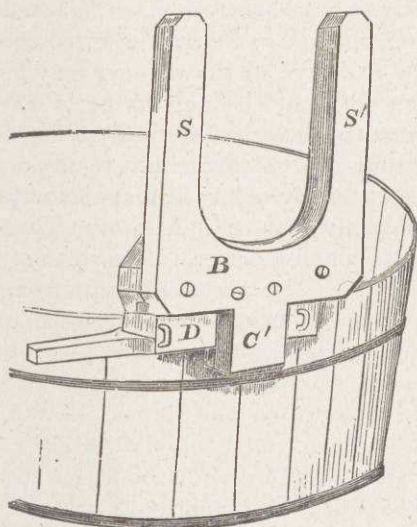
"The second part of this invention consists in a portable frame, and employed for supporting the wringing mechanism of the machine upon one side of a common wash-tub, by means of a clamping device, which is made to gripe one side of a wash-tub, for the purpose of attaching and sustaining temporarily the entire wringing mechanism of the machine upon one side of a common wash-tub, in a firm and expeditious manner, regardless of the diameter of the tub, which greatly accelerates

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the operations of washing, rinsing, and wringing of clothes, as will be hereinafter more fully set forth and described.

"In the drawings annexed, A represents a common wash-tub. B is a yoke whose inner margin is of U form, the sides of which extend upwards, forming uprights S S'. From the lower end of yoke B extend two jaws, C C', the latter of which contains,

FIG. 3.



within a dovetail groove, a wedge or key, D, whose exposed side is made slightly concave, as shown in Figure 2. The office of the above-described jaws and wedge is to hold the frame, composed of the yoke B with uprights S S' for supporting the wringing mechanism of the machine, in position for use, on one side of a common wash-tub, in a permanent manner, temporarily, regardless of the diameter of the tub or the thickness of its rim, in reference to which service they are termed collectively the 'vise.'

"This arrangement affords great facility for successively washing, rinsing, and wringing out the clothes from several waters in as many tubs, the wringer being readily changed from tub to tub.

"Omitting to describe the general features of the wringing

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mechanism of the machine, which will form the subject of another application for letters-patent, of even date with this, and then more particularly the frame for supporting the wringing mechanism in position, and the clamping device by which the frame for holding the wringing mechanism is attached to one side of a common wash-tub, which forms the subject of the present invention.

“When it is desired to have free access to the tub, the wringer may be instantly removed therefrom, so as to allow the operations of washing, rinsing, and wringing to succeed each other, without trouble or delay; or the wringer may be detached instantly, for the purpose of cleaning its parts where dirt is apt to lodge—a common necessity to avoid soiling the next batch after dealing with much soiled or colored garments.

“It will be particularly observed that this wringing-machine differs very materially with those heretofore constructed, in its attachment, by a clamping device, to one side only of a common wash-tub, so it can be constructed separate from and independent of the wash-tub, to which it may be clamped, whenever desired, regardless of its size or diameter; and a further distinctive feature consists in the manner of operation. The wringer being placed in position on one side of the tub, and the jaws made to gripe the same firmly, the clothes are admitted to the wringing mechanism of the machine, and pass through it as fast as the water is expelled therefrom, and they are received at the opposite side of the machine into a basket, piece by piece, as they are wrung out. By this means articles that are of lighter fabric, as lace curtains, can be operated upon lightly, as those that are heavy require more force. By this means lace curtains may be wrung without injury, as the force required to expel the water, when all are wrung together in a bag, will tear the lighter fabrics before the water is sufficiently expelled from those that are stout and heavy.

“I am thus enabled to construct a wringing-machine as a separate and independent device from the wash-tub, box, or other receptacle for receiving the water when expelled from the clothes.

“Wringers heretofore constructed have been attached to the opposite sides of the box or vessel, consequently could not be readily attached to common wash-tubs of various diameters, therefore the box must be of a diameter to correspond to that

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for which the wringer is adapted, and would thus constitute a part of the device or wringing-machine. Thus, by means of the portable frame for holding the wringing mechanism adapted to clamp the edge of one side only of a common wash-tub, I am enabled to overcome the serious objections referred to above.

"In the clamping device of the invention, a wedge or set-screw, cam, or spring, when having a bearing, so that when power is applied to them they, in conjunction with the jaws, gripe the edge of the tub, as a 'vise,' may be used, in the manner and for the purposes set forth.

"CLAIM.

"Having thus described the invention, what is claimed as new, and desired to be secured by letters-patent, is—

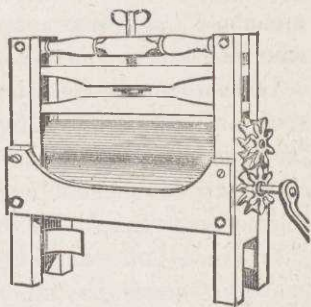
"1. The employment or use of a portable frame or yoke, B, with uprights, S S', or their equivalents, for supporting a clothes-wringing mechanism in position on one side of a common wash-tub, for the purposes set forth.

"2. The application of an adjustable clamping device, when employed to attach a clothes-wringer to one side only of a wash-tub, substantially in the manner described and for the purposes set forth."

The defendant's machine (of which a drawing appears just below, Fig. 4) had two uprights. It had also a cross-piece connecting the lower parts of these uprights. It also had jaws which extended below the yoke, in positions to embrace the side of a wash-tub, to which the machine was to be applied; these jaws being fitted with a screw for the purpose of securing the machine to the object to which the jaws were to be applied. But, as on reviewing it the court considered, *it had not the U-formed yoke.*

The defendant set up want of novelty in the complainant's invention, so that it became necessary to consider the prior state of the art and fix the extent of the claims in the reissue.

FIG. 4.

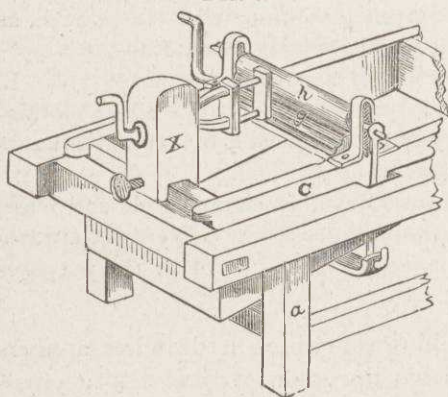


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It was not denied that wringing-machines of different forms and of more or less practical value had long been in use, and that devices for clamping or attaching machines of various descriptions to benches, tables, or other articles with which they were used were old and well known. Reels for thread, vises, eyeletting machines, fluting machines, egg-beaters, and small mills had been attached to benches and tables by clamping devices similar in principle to the one described in Sergeant's patent.

It appeared also that a patent for a washing-machine had

FIG. 5.



been issued to H. W. Sabin, August 16th, 1845. The cut, Fig. 5, represents this wringer; the parts marked *h* and *g* being a pair of rollers (one of them fluted), which served as a substitute for the ordinary hitching-pin; one end of the clothes being held fast between these rollers while the other end

was secured to a contrivance which held them, so that, by means of the crank supported in the screw-clamp, *X*, they were twisted and made free from water.

In this machine, as the reader will perceive, a wringer—the common twist-wringer—was supported by a standard furnished with jaws and a clamp-screw, the two forming a clamping device such as is in common use in all wringers at the present time. *The standard, however, was not a U-formed yoke-frame, but was simply a support for the journal of a shaft, although the standard had jaws and a clamping screw adapted to secure the standard to the sides of a wash-tub. Unless, therefore, the U form of the yoke-frame in Sergeant's mechanism was to be considered as an essential part of Sergeant's invention, as distinguished from the standard*

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in Sabin's machine, which was simply a support for a journal, there was apparently no novelty.

The question, therefore, was whether the U-formed yoke was an essential part of the invention sought to be secured by the reissue. If it was, the defendants did not infringe, since they did not use the U-formed yoke, while the other parts of their machine were old.

The court below held that the reissue was only for a combination, and that "the U-formed yoke-frame in the Sergeant machine was necessary as a device for supporting a clothes-wringing mechanism *in the manner and for the purposes set forth.*"

That court accordingly dismissed the bill, and the complainants appealed.

Messrs. J. H. Parsons and T. A. Jenckes, for the appellants;
Messrs. B. H. Thurston and C. L. Woodbury, contra.

Mr. Justice STRONG delivered the opinion of the court.

The only question presented by this appeal is whether the reissued patent has been infringed by the defendants. To a correct determination of this question it is indispensable to understand precisely what the patent covers.

The mechanism described in the specification is not claimed to be a complete clothes-wringer. It is rather a device for suspending a wringer over a common wash-tub, a portable frame which may be attached to one side of the tub, and detached at pleasure. In the description of the drawings accompanying the specification, and a part thereof, it is called a frame for supporting the wringing mechanism of the machine as attached to one side of a common wash-tub by means of a clamping device, and the first part of the invention is said to consist of a portable machine which may be temporarily attached to one side of a common wash-tub or readily disconnected therefrom whenever desired, and is especially adapted to wringing clothes.

The second part of the invention, as described in the specification, consists in a portable frame employed for supporting

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the wringing mechanism of the machine upon one side of a common wash-tub by means of a clamping device, which is made to gripe one side of a wash-tub for the purpose of attaching and sustaining temporarily the entire wringing mechanism of the machine in a firm and expeditious manner, regardless of the diameter of the tub. Such is the language of the patentee. The specification then refers to the drawings, in which what is called the first part of the invention is represented as "a yoke whose inner margin is of a U form, the sides of which extend upward, forming uprights." From the lower end of the yoke extend two jaws, one of which contains within a dovetail groove a wedge or key whose exposed side is made slightly concave. The office of the jaws and wedge is to hold the above-described frame or yoke for supporting the wringing mechanism of the machine in position for use on one side of a common wash-tub, in a permanent manner, temporarily, regardless of the diameter of the tub, or the thickness of its rim, in reference to which service they are termed collectively, the "vise." Then follow the claims of the patent, the first of which is "the employment of a portable frame or yoke B (which in the drawings is represented as a U-shaped upright frame), with uprights, S, S' (the sides of the yoke), or their equivalents, for supporting a clothes-wringing mechanism in position on one side of a common wash-tub, for the purposes set forth."

The second claim is "the application of an adjustable clamping device, when employed to attach a clothes-wringer to one side only of a wash-tub, substantially in the manner described and for the purposes set forth."

Regarding these two claims as descriptive of two distinct things, the first must refer to the U-shaped yoke or frame for supporting a wringing-machine, as exhibited in the drawings, and explained in the specification, and the second to a combination of the yoke with a clamping device, when employed to hold a clothes-wringer to the side of a tub. It need hardly be said that the claims are to be construed with reference to the state of the art at the time when the alleged invention was made. The case shows that clothes-wringers

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of many kinds were known and in use before the original patent was granted to Sergeant. These all had frames for holding them in position, some attached permanently to the wash-tub and others detachable. Their prior existence is recognized in this patentee's specification. Clamping devices of many varieties were also old and well-known means of fastening machines or supports for machines to chairs, benches, platforms, tables, and other articles. Apple-paring machines, coffee-grinders, thread-reels, and smith and carpenters' vises had been supported and held in position by devices like in principle to the clamping arrangement described in the complainants' patent. And it is in proof that letters-patent for a washing-machine were granted to H. W. Sabin, on the 16th of August, 1845, in which a clamping device for attaching the support of a wringing-machine to the side of a tub, and in combination with the support was employed; a device consisting of jaws at the lower extremity of the support, with a screw for compression, identical in principle with that claimed by the complainants. It is very obvious, therefore, if their patent can be sustained at all, it cannot be construed as claiming *all* forms of a portable frame or support for a washing-machine, nor a combination of a clamping device with *any and every* kind of such support or frame.

It may well be doubted whether a frame with no distinctive peculiarities, intended for the support of a wringing-machine and sufficient for such a use, though so constructed as to be capable of being attached by projecting jaws to the top of a wash-tub, could be regarded as patentable. Such a mode of attachment has been known and employed time out of mind, and if, before the Sergeant patent was granted, it had not been used in connection with, or as part of a frame or standard for the support of a wringing-machine, the new application, without any novel and useful result, could hardly be considered invention. It would be but a case of double use. Besides, to this extent the Sabin machine had reached years before the Sergeant patent was granted, and, therefore, unless the complainants' patent is limited to some

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distinctive features other than the jaws at the bottom of the yoke or frame, it must fail for want of novelty if not for want of invention. And this we do not understand to be seriously questioned. We do not understand the complainants as contending that either of the claims of their patent should not be construed as embracing only the peculiarly constructed frame or yoke described in the specification.

What, then, are the distinctive features of the frame, and what are the proposed offices of these features? Manifestly the thing sought to be secured by the peculiarity of form described was not merely a support for a wringing-machine, not merely a standard to hold the machine in position, but a manner of support. And beyond all doubt the U form of the frame is essential. Indeed, it is the only form exhibited in the drawings and described in the specification. The purpose of the frame is also avowed to be to support the clothes-wringer, and the frame exhibits no means of support except the semicircular bottom of the U, which forms a journal bearer, on which the journal of the wringer may rest, while the uprights serve to keep it in position. By themselves the uprights serve no other purpose, and they are no more essential than is the curvilinear space between them, the bottom of the U in the interior of the yoke. It is true a clothes-wringer might be attached to them by the aid of additional devices, but no such devices are disclosed in the drawings or in the specification, and had they been added the frame would have been substantially different from the one patented. It would have been capable of a new use. Equally well could additional devices have fitted the Sabin standard for use in a manner different from that in which it was employed.

Discarding, then, the jaws and the wedge, or other clamping device, as neither patentable by themselves nor patentable in combination with a wringing-machine supporter, or frame, in view of the state of the art when this patent was issued, unless the structure of the frame was such as to obtain a novel and useful result, it becomes evident that the shape of the frame must be regarded as one of its most im-

Syllabus.

portant elements. And if this be so, the novelty of the frame does not consist in its having two uprights standing apart from each other without regard to the figure of the intervening space. As we have seen, if the semicircular shape of what in the specification is called the inner margin of the yoke, that is, of the space between the uprights, is not a necessary constituent, the yoke cannot accomplish the results claimed for it, and no manner of support for a wringer is exhibited. Surely a frame shaped like an inverted M (W), though it would have two uprights separated by a space and connected at the bottom, would be essentially different from that claimed in this patent, because incapable of the same use. It could not support a clothes-wringer in the manner described in the drawings annexed to the patent. A space bounded by right lines is not substantially the same as one bounded by a curve, and unless we throw out of the specification and the claims all that is said respecting the configuration of the interval between the uprights, we must hold that the defendants, in the use of their device, have not been guilty of any infringement of the complainants' rights. They have used a portable support for a wringing mechanism which has some of the features of that of the complainants, but it has not the U-formed yoke, which is essential to the patented combination.

DECREE AFFIRMED.

This case was argued before the CHIEF JUSTICE took his seat, and he did not participate in the judgment.

HAILES v. VAN WORMER.

1. A new combination, if it produces new and useful results, is patentable, though all the constituents of the combination were well known and in common use before the combination was made. But the results must be a product of the *combination*, and not a mere *aggregate* of several results, each the complete product of one of the combined elements.