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so that every Operator can afford to try a Torpedo before abandoning a Well.

The following is the decision rendered by Judge Grier on the twenty-second (22d) day of September, 1868, in the United States Circuit Court at Philadelphia. The case was argued three days by Charles M. Keller of New York, B. F. Lucas and S. A. Pennington of Pittsburgh, for defendants, and George Harding of Philadelphia, and George H. Christy, of Pittsburgh, for plaintiff.

## OPINION OF JUDGE GRIER

As I write with difficulty I can only state the conclusions to which my mind has come after a careful examination of this case.

The complainant has exhibited a patent dated 22d of April, 1866. This is prima facie evidence of a good title, and puts on the respondents the burden of proof that the patent is not a well-earned one. I need not repeat my remarks in the case of year vs. Day (2 Wall, C. C. Rep. 224), but now adopt them as affording a rule of decision which applies clearly to the present case.

As the infringement of the patent is admitted, the only question will be as to the validity of complainant's patent of April 22, 1866.

"I was after speculation had been reduced to practice," and after repeated experiments, that the complainant succeeded in overcoming the prejudice and ignorance of the people on the subject, and persuading the public that his invention was valuable after he had established its great utility and value and "witness his genius and patient perseverance, in spite of sneers and scoffs," were completely successful, that he, who had before made experiments on the same subject, and was unsuccessful, and after purchasing one or more complainant's torpedoes, he applied on the 1st of November, 1867, for a patent for substantially the same combinations of device and machine contained in complainant's patent. On the 13th of the same month the respondents formed these lives into a company or corporation called "The Reed Torpedo Company" for the purpose of pirating the complainant's invention, and supporting the expense of litigation, and thus defrauding him of the fruits. They have persevered, even after the preliminary injunction very properly granted by the district Judge.

Let a decree be entered for complainant for a perpetual injunction; and a Master, appointed to take an account accordingly to the payer of the bill. R. C. GRIER, Judge.

NOTE.—The passage referred to by Judge Grier in his former decision, 3 Wallace, p. 206, adopted as applicable to this case was as follows:

"It is usually the case, when any valuable discovery is made, or any new machine of great utility is invented, that the inventor, in the absence of the law, turned to that subject previously, and that many persons have been making researches and experiments. Philosophers and mechanics may have in some measure anticipated in their speculations the possibility or probability of such discovery or invention; many experiments have been successfully tried, coming very near, yet falling short of the desired result. They have produced nothing beneficial. The invention when perfected may truly be said to be the culminating point of many experiments, not only by the inventor, but by many others. He may have profited indirectly by the successful experiments and failures of others, but it gives them no right to claim a share of the honor of the profit of the successful inventor. It is when speculation has been reduced to practice, when experiment has resulted in discovery, and when that discovery has been perfected by patent and continued experiments, when some new compound, or manufacture, or machine has been thus produced which is useful to the public, that the party making it becomes a public benefactor and entitled to a patent in due reward. They have produced nothing beneficial. The invention when perfected may truly be said to be the culminating point of many experiments, not only by the inventor, but by many others. He may have profited indirectly by the successful experiments and failures of others, but it gives them no right to claim a share of the honor of the profit of the successful inventor. 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