

THE
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VOLUME 17.

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IN THE
UNITED STATES SUPREME COURT.
OCTOBER TERM, 1896.

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OF THE
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OCTOBER TERM, 1896.

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HON. JUDSON HARMON.

HON. JOSEPH MCKENNA.

SOLICITOR GENERAL:

HON. HOLMES CONRAD.

¹HON. JUDSON HARMON was commissioned June 8, 1895, to succeed HON. RICHARD OLNEY, appointed Secretary of State.

²HON. JOSEPH MCKENNA was commissioned March 5, 1897, to succeed HON. JUDSON HARMON.

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CASES
ARGUED AND DETERMINED
IN THE
UNITED STATES SUPREME COURT.

OCTOBER TERM, 1896.

(164 U. S. 26)

AMERICAN ROAD-MACHINE CO. v. PEN-
NOCK & SHARP CO., Limited, et al.
(October 19, 1896.)

No. 27.

PATENTS—INVENTION—ROAD-GRADING MACHINES
—MOMENTUM WHEELS.

1. The novelty claimed was the combination, with a common form of road-making machine, of a hand-wheel having such weight in relation to the weight of the scraper-blade to be lifted that it would continue to rotate after the hand of the operator was removed, so as to enable him to secure a new grasp of the wheel. The use of hand-wheels in the regulation of scraper-blades for ditching, grading streets, and road clearing was old, as was the equalization of the momentum, when required by the exigencies of the case, as in capstan-wheels, crank-shaft wheels, rudder-regulating wheels, and spinning-wheels. *Held*, that the use of such heavier wheel did not involve invention. 45 Fed. 252, affirmed.

2. Nor did increasing the weight of the hand wheel involve patentable novelty.

3. The action of the patentee in amending and withdrawing certain of the specifications in a claim *held* to show his acquiescence in a ruling of the patent office that the application of hand-wheels to a road-grading machine for imparting motion to the devices for raising and depressing the scraper-blade was old.

4. Claims 4, 10, 11, and 13 of letters patent No. 331,920, issued to G. W. Taft for a machine for making, repairing, and cleaning roads, *held* void for want of invention and patentable novelty.

Appeal from the Circuit Court of the United States for the Eastern District of Pennsylvania.

Suit by the American Road-Machine Company versus the Pennock & Sharp Company, Limited, and others. From a decree for defendants, plaintiff appeals. Affirmed.

F. P. Fish, for appellant. L. L. Bond, for appellees.

Mr. Chief Justice FULLER delivered the opinion of the court.

This was a bill for infringement of claims 4, 10, 11, and 13 of letters patent No. 331,920, issued to G. W. Taft, December 8, 1885, for a "machine for making, repairing, and cleaning roads."

The defenses were want of patentable novelty, anticipation, and noninfringement. On hearing, the circuit court, held by Judge Butler, entered a decree dismissing the bill. 45 Fed. 252.

*The application was filed May 6, 1885, and the specification declared:

"The objects of my present invention are to provide an efficient and convenient 'stiff-angled' or non-reversible road machine in which the ends of the blade are positively sustained against the working strain, while permitted vertical adjustment by means of push-bars extending from the rear of the machine to the back of the blade; also, to provide in a non-reversible road machine a vertically swinging thrust-frame and push-bar arrangement that will permit the required adjustments of the scraper in relation to the plane of the road; also, to provide in a road machine a hand-wheel operating device for imparting motion to the blade-elevating mechanism, whereby the respective ends of the blade can be raised and depressed in a quick, easy, and convenient manner; also, to provide an improved lifting mechanism for elevating and depressing the blade; also, to afford facilities in a road machine, in connection with hand-wheel operating devices, of a brake or stop device for retaining the hand-wheel, lifting mechanism, and blade at position of adjustment."

Then followed the drawings and the description, omitting a part of which the specification thus continued:

"The front end of the blade, D, is suspended by a bar or link, G, from the arm of a lever, H, that is arranged along the side of the ma-

chine and fulcrumed at h on a support, A³, that projects from the carriage frame. The rear arm of said lever is provided with a gear segment, H¹, that meshes with an actuating pinion, I, by which the arm of the lever may be moved up and down for raising and depressing the front end of the lever and blade. The rear end of the blade is connected by a link, G¹, to a vertically sliding rack, J, that meshes with an actuating pinion, I¹, and is guided by a flanged friction roll, K, pivoted on a suitable bracket or support connected to the carriage frame, A. The pinion, I, that operates the lever, H, may be provided with flanges, I, I¹, for embracing the sides of the internally toothed segment, H¹, and thus serving to guide and retain said segment and its lever, H, in proper relation therewith as it is moved up and down by the rotation of the hand-wheel, M.* The rack, J, and its guide-roll, K, are preferably fitted to each other by inter-matching grooved and flanged surfaces, as indicated in Figs. 3 and 3a, and the operating pinion, I¹, is provided with flanges, J, to embrace the sides of the rack, so that said rack is confined and guided in proper relations as it slides up and down, and works with but little friction or resistance when adjusting the blade.

"Hand-wheels M and M¹ are provided for imparting motion to the respective pinions, I, I¹, or operating gear of the blade-lifting mechanism, when elevating and depressing the blade or adjusting the blade to differently inclined positions in relation to the plane of the road. These wheels may be made some three feet in diameter, more or less, with round or other formed rims that can be conveniently grasped by the hand at any part of their periphery. In the present instance the hand-wheels and their pinions are respectively attached to each other, or formed on the same hub. They are mounted on a shaft, L, that extends across the carriage, A, and is supported in bearings on suitable standards, I, I¹. One of the wheels (M, or M¹) is arranged to turn loose on shaft, L, so that the two wheels can be revolved independently of each other for separately adjusting either end of the blade required. The rims of the hand-wheels are made sufficiently heavy to act as a balance against the weight of the blade-lifting devices, so that the momentum of the wheel will greatly assist the operator in the manipulation of the machine. Short shafts or studs may be used in lieu of shaft, L, as journals for the hand-wheels and gears if desired. I prefer, however, to have the shaft extend across the machine, as it makes a stronger and more rigid construction.

"Brake mechanism is arranged in connection with the carriage for stopping and retaining the hand-wheels to hold the blade at any position of adjustment. Said brake mechanism may be made, as indicated, with levers, N, having one end fulcrumed beneath the platform at N', and the other provided with a pad or shoe, N, to press against the rim of the

hand-wheel, a suitable spring, S, being connected therewith to give the required holding pressure. A foot piece or pedal, P,* arranged at a convenient position, enables the attendant to depress the lever and brake-shoe by placing his foot thereon when he desires to throw off the brake for releasing the hand-wheel.

"In lieu of connecting the hand-wheel and blade-lifting bar or lever by means of a toothed pinion and rack, said parts may be connected by a strap or chain (one or more), one end whereof connects with the lift bar or lever, while the other end is arranged to wind onto the pinion or hub on the hand-wheel, or onto a sheave geared to the hand-wheel hub.

"The operation of this road machine is obvious from the drawings and foregoing description. The operator, standing upon the platform, A, when he desires to raise or depress either end of the blade, places his foot upon the brake-pedal, P, corresponding to the end to be adjusted, and, grasping the rim of the wheel where it is most convenient to his hand, swings it backward or forward (accordingly as required) with a free and easy action, and to a greater or less extent, as desired, then releases the pedal, and the brake or stop is automatically applied by its spring, S.

"A hand-wheel, in combination with and for imparting motion to mechanism for elevating and depressing the scraper or blade in a road machine, is of great practical utility and advantage, as it enables the operator to handle and control the machine with greater ease and facility than with a lever handle or crank, and does not necessitate his taking an awkward or constrained position at any part of the action. The rim of the wheel, acting by its momentum as a balance-wheel, also enables the operator by a quick movement to suddenly throw the blade completely up from the ground to avoid contact of large stones or other obstructions while the machine is in motion. Said rim also serves as a continuous seat for the stop or brake, so that the adjustment can be held with the blade at any degree of elevation desired.

"A hand-wheel adapted to act by its peripheral momentum, or as a balance-wheel, for assisting or augmenting the throw or movement when adjusting the scraper, in combination with the scraper-blade and blade-adjusting mechanism, for the purpose specified, is an important feature of my invention.

"Hand-wheels may be employed for elevating and depressing the scraping-blade in a road machine, in combination with connections or lifting devices of other construction and arrangement from those herein shown, with beneficial results, and I so intend to employ said hand-wheels; and I have in other applications (see serial Nos. 167,212 and 173,968) for letters patent described and claimed certain combinations in which other forms of lifting mechanism are employed for