

The case occupied, inclusive of the argument, the greater part of fourteen days, and was very ably and fully presented by counsel for both parties.

During the course of the trial I had an opportunity of considering the various questions in issue, but I thought it due to counsel, as they had spent so much time in presenting their various contentions, to postpone the delivery of judgment and to peruse the evidence transcribed and consider the various authorities cited. This I have done.

The first patent in suit is one dated 14th April, 1908, No. 111315. The application for this patent was filed on the 9th December, 1907.

The second patent in suit is one dated 18th August, 1908, No. 113624. The application for this patent was filed 6th April, 1908.

The defences raised to the right of the plaintiffs to recover are the usual defences—lack of subject matter—no invention—no infringement—abandonment, etc.

I propose to deal with the two patents separately.

The first patent, No. 111315, dated 14th April, 1908, was granted to Finlay R. McQueen, for improvements in grain storage elevators.

In his specification the patentee states:—

“My present invention relates to grain storage elevators and particularly to concrete or concrete steel, or other fire-proof structures, wherein a multiplicity of cylindrical bins are employed, the said bins being placed in close juxtaposition with the space between the cylindrical bins arranged to serve as supplementary storage bins.”

After referring to the drawings he proceeds:—

“The numeral 1 indicates the cylindrical grain bins, which bins are arranged in rows in two directions, and are formed monolithic, or otherwise rigidly united at their adjoining peripheral portions, so that there is left between each four bins, a supplementary bin or storage space.

“2. It will be noted that by arrangement of the cylindrical bins in rows in two directions, the intersecting rows extending approximately at right angles to each other, a four-sided supplementary bin is formed between each four adjoining cylindrical bins. The numeral 3 indicates a bifurcated elevator leg of the usual construction and in which works a power-driven, endless, cup-equipped belt 4. The branches of this elevator leg 3 are passed vertically through