

and operating certain machines shall be for the exclusive benefit of the employer, may be compelled to convey to the employer his interest in any improvement, which he may actually make in the course of his work. Such a stipulation is not an independent covenant, but merely one of the provisions of an indivisible contract, and it is therefore supported by the same consideration as the stipulation to render the specified services. Nor will such a stipulation be declared invalid on the ground that it is either against public policy, either in a general sense, or as being in restraint of trade⁸.

⁸ *Hulse v. Bonsack Mach. Co.* (1895) 70 Off. Gaz. 1498, 13 C.C.A. 180, 65 Fed. 864, Aff'g (1893) 57 Fed. 51. The court argued as follows: "Here we have the case of an ingenious man, without opportunity of developing his talent, and struggling under difficulties, enabled by this contract to secure employment in a large and prosperous corporation where he could give his inventive faculties full play. He in this way was afforded every opportunity of discovering and removing defects in cigarette machines. He secured this employment by signing this contract. He could not have obtained it if it had been understood that this contract had no validity. Then, in all human probability, the public would have lost the benefit of his discovery. In this point of view, a contract of this character cannot be said to be against public policy. This is not literally an agreement in restraint of trade. It is simply a contract, which, by analogy, can be likened to one, and the analogy should not be pushed beyond the reason for it. There is no presumption that such a contract is void. The presumption is in favour of the competency of the parties to make the contract and the burden is upon the party who alleges that it is unreasonable or against public policy. . . . The contract in this case has reference, not to all inventions which Hulse might discover, but only to improvements in cigarette machines; and the question is not whether a court of equity would compel specific performance if Hulse had conceived the invention after he had severed his relations with the company, and at a time when it did not result directly from opportunities of his employment, but whether the court should do so in this case where the invention was conceived while he was in the company's service, and perfected with its direct assistance, and in a case where Wright, the other party interested with him, was an agent and business manager of a department of the company's business. The case presents circumstances and elements calling for the exercise of this equitable remedy. We concur in the conclusion reached by the circuit judge in his opinion in this record: 'The public, in so far as questions relating to public policy are concerned, has no interest in this matter. Should the claim of the Bonsack Machine Company fail, the public would have no right to use the improvement. The device would then belong to Hulse, would be his secret, protected by patent, and guarded from the public use by provisions of law. The restraint provided for in the contract does not interfere with any interest of the public, and it only gives a fair protection to the party in whose favour it is given, for which proper compensation was stipulated for the party making it.' The company lets them, [its servants] into an intimate knowledge of its cigarette machines, affords them the opportunity of discovering any needed improvements in them gives them at hand the means of testing any improvements which may suggest themselves.