

and working drawings, and the construction of the completed machines. The principle was stated to be "really an application or outgrowth of the law of estoppel in pais, by which a person looking on and assenting to that which he has power to prevent is held to be precluded ever afterwards from maintaining an action for damages"⁵.

If the license which is thus implied from the general terms of the employment and the acquiescence of the employee in the use of his invention by the employer relates to an improvement in a process, the employer is ordinarily deemed to be authorized to continue to the improvement, during the whole period covered

⁵ *Gill v. United States* (1896) 180 U.S. 426 (p. 430). The court said: "This case raises the question, which has been several times presented to this court, whether an employe paid by salary or wages, who devises an improved method of doing his work, using the property or labour of his employer to put his invention into practical form, and assenting to the use of such improvements by his employer, may, by taking out a patent upon such invention, recover a royalty or other compensation for such use." After pointing out that the existence of any such right had been uniformly denied, the court proceeded thus: "It should be borne in mind that the fact upon which so much stress has been laid by both sides, that the patentee made use of the property and labour of the government in putting its conceptions into practical shape, is important only as furnishing an item of evidence tending to show that the patentee consented to and encouraged the government in making use of his devices. The ultimate fact to be proved is the estoppel, arising from the consent given by the patentee to the use of his inventions by the government without demand for compensation."

The servants consent may be shown by parol testimony, or by conduct on the part of the patentee proving acquiescence on his part in the use of his invention. The fact that he made use of the time and tools of his employer, put at his service for the purpose, raises either an inference that the work was done for the benefit of such employer, or an implication of bad faith on the patentee's part in claiming the fruits of labour which technically he had no right to enlist in his service." . . . The acquiescence of the claimant in this case in the use of his invention by the government is fully shown by the fact that he was in its employ; that the adoption of his inventions by the commanding officer was procured at his suggestion; that the patterns and working drawings were prepared at the cost of the government; that the machines embodying his inventions were also built at the expense of the government; that he never brought his inventions before any agent of the government as the subject of purchase and sale; that he raised no objection to the use of his inventions by the government; and that the commanding officer never undertook to incur a legal or pecuniary obligation on the part of the government for the use of the inventions or the right to manufacture thereunder."

This case was followed in one where it was held that a employe who, while earning weekly wages, constructs with his employer's tools and materials, and in his shop, machines which latter uses as part of his tools, without knowledge of any objection thereto, cannot, after obtaining a patent, enjoin his employer from further use of the particular machines. *Blauvelt v. Interior Conduit & I. Co.* (1897) 80 Fed. 906.