

Woodworth's Planing Machine.

The following are the opinions of Judge Kane, delivered in the U. S. Circuit Court on the 17th of August 1846, relating to the conflicting claims of Woodworth and others.

The merits of the case and the comparison of various planing machines are here entered into and are worthy of attention.

This case came before the Court on a motion to restrain Mercer and Pechin, by special injunction, from constructing, selling, and using Woodworth's planing, tongueing, and grooving machine, or any of the parts or combination thereof.

It was very fully examined and ably argued by the gentlemen who are of counsel in the several cases growing out of Mr. Woodworth's patent-right; and it was agreed, that the evidence adduced in the case of Sloat and Plympton, which was considered immediately after this should be applied in both cases.

The facts, so far as they are undisputed, are these:

On the 27th December, 1828, letters-patent were issued to William Woodworth, of Troy, in the state of New-York, conferring on him exclusive property of his "Improvements in the method of planing, tongueing, grooving, and cutting into mouldings, or either, plank, boards, or other material."

The patentee having died on the 9th of February, 1839, letters of administration on his estate were duly granted to his son, William W. Woodworth, by the Surrogate of New-York, at which place the father was residing at the time of his death.

On the 29th July 1832, the administrator applied for extension of the patent for 7 years: and the Board of Commissioners, to whom the application was referred, under the act of 1836, having certified in his favor, the patent was extended in the name of the administrator as such.

On the 8th July following, the administrator surrendered his letters-patent, in accordance with the provisions of the 13th sec. of the act of 1836, for the purpose of obtaining a renewal upon an "amended specification, describing the invention in more full, clear exact terms," and the amended patent issued to him on the same day, under the hand of the Secretary of State, countersigned and sealed with the seal of the Patent-office, by Henry H. Sylvester, Acting Commissioner of Patents.

The complainants claim under a grant of the exclusive right within and throughout the county of Philadelphia, made by the administrator, on the 29th November 1842, and duly recorded.

It is admitted, that the defendants, Plympton and Hogeland have been using, and they claim the right to use again, a machine, known as Ira Gay's which effects the same purpose as Woodworth's and which is alleged by the complainants to be in principle and substantially the same.

Upon these facts, several preliminary questions have been discussed by the counsel for the parties, which I shall briefly consider.

1. It is said that the administrator had no power to surrender the patent of 1828, after assigning exclusive rights under it, and that the new letters-patent, being founded on such surrender, are void.

It is not easy to see how this objection, if valid, could affect the case before the court.—The complainants do not claim under the new letters-patent, but under the old; and these cannot have been invalidated by an unlawful surrender of them.

But it seems to me a mistake, to regard the complainants, or any other persons whose rights have been brought to the notice of the Court, as assignees within the meaning of the patent laws. There are four classes of persons recognized by the 13th and 14th sections of the act of 1836, as parties "interested." These are the original patentees, their executors or administrators, their assignees, and the grantees under them of the exclusive right for a specified part of the United States. These last, by the express words of the 24th section have the same rights of suit as the patentee or his assignees; and it is by force of this, that the complainants, who are merely grantees of a limited right, are admitted as parties here. But they have no power over the letters-patent: these remain with the party to whom

they were issued, or the general representative of his interest; and the power of surrendering them for amendment and renewal is vested exclusively by the 13th section in the "patentee, his executors and administrators, or the assignee of the original patent." The administrator, therefore, upon the facts disclosed, was the only person who could make the surrender and receive the amended patent; and there is nothing in the act of congress which restricts his right to do so, because of his having previously made special or limited grants of licenses.

2. It is said, that the amendments of the specification, as made upon the re-issue of the patent in 1845, do not enure to the benefit of the assignees or grantees under the patent, as it stood before; in other words, that they must stand or fall with the original specification.

I cannot assent to this. The complainants are not grantees of the patent, or any part of it: they are grantees of certain rights, of which the letters-patent are the evidence and definition. If those rights are made more clear and definite (not more extensive) by any new or additional act whatever, from whomsoever proceeding, why shall the complainants be denied the advantage of using that clearer and less equivocal evidence?

This is not the case of a surrender and re-issue with amended specification, where the grantee for a district prefers resting his claims on the specification as it stood when he purchased his right. As where the patent makes a disclaimer of part of the invention the prior grantee might in such case refuse to be affected by it. But here the objection comes from third persons: the complainants adopt the amended specification, by making it part of their bill; and the only inquiry is as to their authority for doing so. The question is settled as to third parties by the provision of the act, that the amended specification shall have the same effect and operation in law, on the trial of actions, as though it had been originally filed in its corrected form.

3. The 5th section of the act of 1836, directs that all patents shall be issued under the seal of the patent office, and be signed by the Secretary of State, and countersigned by the Commissioner: it is argued that this patent is invalid, because signed by an *acting* Commissioner.

Mr. Sylvester, the countersigning officer, was the chief clerk of the patent office at the time; and as such, by the words of the 2d section of the act, in all cases, during the necessary absence of the Commissioner, or when the principal office became vacant, had the charge and custody of the seal, records, and other things belonging to the office, and was required to "perform the duties of Commissioner *during such vacancy*." It is contended by the complainants, that the words "during such vacancy," apply as well to the case of necessary absence of the Commissioner, as to that of the Commissionership being vacant by death, resignation, or removal.

This may be a grave question. I am not prepared to say, that the absence of the Commissioner, while he retains his official character, constitutes a vacancy in the office; or that the inferior officer can succeed to or exercise the powers of the principal station, while that station has a lawful incumbent. But I do not regard the question as properly before me, at least at the present stage of the cause. I recognize the signature of the secretary of state, the public seal of the patent office, and the countersignature of a person who has the custody of it during the absence of the principal Commissioner, and the right to use and attest it in a certain contingency. I find him designating his official character for the time, by words that imply his legal substitution to the duty in question. There is no allegation of fraud or usurpation on his part: on the contrary, his act is sanctioned by the Commissioner now acting in person.

(To be continued.)

English Artists.

Mr. Geo. Earl the celebrated draughtsman and inventor of the Geometrician is now in this country, and is going to teach his method of perspective and the mode of reducing large drawings by his instrument.

Meteorites—Their Origin.

In a long and able essay on Meteorites Prof. C. U. Shepard holds the theory that they are in reality of terrestrial origin. He draws numerous deductions from facts within his own sphere of observation, and observes that their extra-terrestrial origin seems likely to be more and more called in question, with the advance of knowledge respecting such substances and additions continue to be made to the connected Sciences.

Prof. Shepard then proceeds in the following language. His views are presented with great vigor and clearness, and will be found very interesting:

"The recent study (he says) of those frequently occurring and wide-spread atmospheric accumulations of meteoric dust, (a single case being recorded where the area must have been thousands of square miles in extent and where the quantity of earthy matter precipitated must have been from 50 to 100,000 tons in weight,) makes known to us the vast scale on which terrestrial matter is often pervading the region of the upper atmosphere; and prepares us to appreciate the mode in which the peculiar constituents of meteorites may be translated to those remote distances, where, according to the theory of Biot, the clouds of metallic dust are retained.

"Great electrical excitation is known to accompany volcanic eruptions, which may reasonably be supposed to occasion some chemical changes in the volcanic ashes ejected;

these being wasted by the ascensional force of the eruption into the regions of the magnetopolar influences, may there undergo a species of magnetic analysis. The most highly magnetic elements, (iron, nickel, cobalt, chromium, &c.) or compounds in which these predominate, would thereby be separated, and become suspended in the form of metallic dust, forming those columnar clouds so often illuminated in auroral displays, and whose position conforms to the direction of the dipping needle. While certain of the diamagnetic elements, (or combination of them,) on the other hand, may, under the control of the same force, be collected into different masses taking up a position at right angles to the former, (which Faraday has shown to be the fact in respect to such bodies,) and thus produce those more or less regular arches, transverse to the magnetic meridian that are often recognized in the phenomena of the aurora borealis.

"Any great disturbance of the forces maintaining these clouds of meteor-dust, like that produced by a magnetic storm, might lead to the precipitation of portions of the matter thus suspended. If the disturbance was confined to the magnetic dust, iron masses would fall; if to the dia magnetic dust, a non-feruginous stone; if it should extend to both classes simultaneously, a blending of the two characters would ensue in the precipitate, and a rain of ordinary meteoric stones would take place.

"As favoring this view, we are struck with the rounded, hailstone form of many of the particles of composition (even though consisting of widely different substances) in nearly all stones, and even in many of the iron-masses. Nor are these shapes to be referred to fusion! they evidently depend upon a cause, analogous to that which determines the same configuration in hailstone themselves.

"The occasional raining of Meteorites might therefore be as much expected, as the ordinary deposition of moisture from the atmosphere. The former would originate in a mechanical elevation of volcanic ashes and in matter swept into the air by tornadoes, the latter from simple evaporation. In the one case, the matter is upheld by magneto-electric force; in the other, by the law of diffusion which regulates the blending of vapors and gases, and by temperature. Precipitation of metallic and earthy matter would happen on any reduction of the magnetic tension; one of rain, hail or snow, on a fall of temperature. The materials of both originate in our earth. In the one instance they are elevated but to a short distance from its surface, while in the other they appear to penetrate beyond its farthest limits, and possibly to enter the inter-planetary space; in both cases, however, they are destined, through the operation of invariable laws to return to their original repository."

Effect of Colored Glass upon Vegetation.

Violet-colored glass is stated to have been first used in France, for aiding the ripening of grapes; the rationale of the experiment being the partial exclusion of the caloric rays, and the greater encouragement of the chemical rays. In England the experiment has failed; and French beans and strawberry-plants grow rapidly under violet-colored glass, but were long, spindly, and tremulous; in short, very unhealthy. A very light green has been found to answer better than a colorless glass for conservatories; and by recommendation of Mr. Hunt, author of "Researches on Light," &c., the new vast conservatory at Kew has been glazed with this kind of flat glass, in order to afford the plants protection from the scorching heat of the meridian sun. A great improvement would be effected by the panes being of an arched form, and placed in such an aspect that the morning and evening rays of the sun would not have a tendency to reflect the rays back again, as is the case with thick glass, the irregular thickness of which, when the rays pass through them at right angles, act as burning glasses; whereas, by the arrangement above suggested, the rays would pass in direct course through the glass and the condensed "drip" on the inside would be effectually carried off by the channels on each side of the interior of the frames.

Peculiarities of Distinguished Public Men.

A Washington letter-writer, in describing the peculiarities of some distinguished public men, says:

"It is interesting sometimes to see the different individuals get out of the same dilemma. Mr. Calhoun is not often at a loss for a word, but occasionally one sticks in his throat, in the pronunciation, like Macbeth's 'Amen.' In such a case he gives a petulant twitch or two at his shirt-collar, and runs his bony fingers through his long gray hair till it fairly bristles again. Webster, when bothered for a word, or snarled up in a sentence, almost invariably scratches the inner corner of his left eye, carefully, with the third finger of his right hand. Failing in this, he rubs his nose quite fiercely with the bent knuckle of his thumb. As a *dernier resort*, he springs his knees apart until his legs resemble an elipsis, then plunging his hands deep in his pockets, he throws the upper section of his body smartly forward, and the word is '*bound* to come.' Gen. Cass, in a similar predicament passes his hand rapidly along the lower edge of his vest. Mr. Benton sinks his voice so that the remainder of his sentence is unintelligible. Mr. Mangum is violent, and the obdurate word is supplied by 'Occ-hoc-shoo!' Mr. Johnson, of Maryland, Crittenden, and Mr. Hannegan, are never bothered: they 'speak right on,' and their drafts upon the President's English are never dishonored."

A Petrified Forest.

M. Blast, Bombay, has discovered, in the neighborhood of Cairo, an entire forest converted into silex; the vessels, medullary rays and even the most slender fibres, are distinctly visible. The petrified trees are from sixteen to eighteen metres in length. This phenomenon extends over a surface of many hundred miles. The whole desert which is crossed by the road from Cairo to Suez, is strewed with these trees, which seem to have been petrified on the spot, and in the existing era. At least, the forest is covered by nothing more than sand and gravel. The latter, and the trees imbedded in them, rest on calcareous limestone, which contain oysters, with their texture and color so little altered, that one would believe them to have been left but recently by the water of the sea. It is therefore probable that these substances belong to our own era; and we may adduce this interesting fact as tending to prove the transformation of living shell into new calcareous carbonate.

Cholera.

The British Royal College of Physicians have issued a cholera circular, in which they distinctly say that they do not interdict any well prepared food, or prescribe any particular treatment. Want of nourishment, want of fuel and want of clothing are considered the greatest causes of cholera.