Woodworth's Planing Machine.

(*Continued from our last.*)

It would be too much for me in an interlocutory proceeding like this to deny the validity of these letters-patent. I am inclined rather to adopt for the time the language of Judge Story (in the case of Woodworth v. Stone, 1st Circ. May T. 1845,) on a question not unlike the present, and take the countersignature, as he did the re-issue of the patent, "to be a lawful exercise of the officer's authority, unless it is apparent on the very face of the patent that he has exceeded his authority."

4. It is contended, that the grantee of a right under letters-patent cannot maintain a suit in a circuit which forms part of Pennsylvania, if he derives his title through a foreign administrator.

This idea refers itself to the local laws of Pennsylvania, which as it seems to me, have no application to the case. By the act of 1836, "*all* actions, suits, controversies, and cases" whatever, arising under the patent laws, are without any exception originally cognizable in the courts of the United States; and it has been held in the only case in which the question has arisen, (Parsons v. Barnard, 7 Johns. 144,) that this jurisdiction is exclusive The right, which is vested by letters-patent, has its origin in the patent-laws, and is transferrable and transmissible according to their provision. On the death of the patentee in this case, it passed under them to his administrator; and as it was, a personal right, the administrator constituted by the forum of the domicil became liable to account for it.—If the right has been since violated, he may sue for damages in his own name, as for a wrong to his possession: if he had sold it in whole or in part, he may recover the price in his own name, as for a breach of contract with himself. (Grier v. Huston, 8 S. & R. 402, Wolfersberger v. Bucher, 10 S. & R. 13.) I cannot doubt, therefore, that William W. Woodworth, the administrator, to whom the letters-patent passed upon the death of the patentee, might himself have maintained an action in the Circuit Court for a breach of the patent right, without taking out any new letters of administration in Pennsylvania.

Still less can I doubt the power of this court to interpose by injunction in such a case, to prevent an intended violation of right. It would be almost equivalent to a judicial repeal of the letters-patent upon the death of the patentee, to affirm that the restraining action of courts shall have no operation beyond those of the twenty-eight or thirty states in which the patentee is represented by a local administrator.

But were the law in this particular otherwise than as I believe it to be, it is by no means true, that the incapacity of a foreign administrator to sue implies the same consequence to his alienee. On the contrary, it has been expressly declared by the highest of our courts that where a plaintiff's title is derived through a foreign administration, it may be asserted in a judicial proceeding here, without constituting a domestic administrator. (Trecotheck v. Austin, 4 Ma. 35-6; Harper v. Butler. Pet. 239.)

5. A good deal of evidence was adduced to show that the amended specification describes a different improvement from that which is embraced in the original patent; and it was argued, that the amended patent was invalidated by the variance.

This however, on the authority of Judge Story, in a case affecting this very patent, (Woodworth v. Stone, *ut supra*,) I do not regard as open to question at this time. "It appears to me," he said, "that prima facie, and at all events in this stage of the cause, it must be taken to be true that the patent is for the same invention as the old patent; and that the only difference is, not in the invention itself, but in the specification of it. * * * * For the purpose of the injunction, if for nothing else, I must take the invention to be the same in both patents, after the Commissioner of Patents has so decided by granting a new patent."

Though thus relieved from the necessity of passing upon the question, I feel bound to remark, that the evidence has not satisfied me of the fact it was intended to establish. The very title of the patent, in the words of the inventor, "his Improvement in the method of planing, tongueing, and grooving, *or either*," and the expression in the body of the specification, that after the planing is completed, the tongueing and grooving apparatus is to be used "*if required*," indicate to me that the patentee had in his mind from the first, a machine of several parts or systems, which could be used separately or in combination, as his administrator has developed more fully in the amended specification. So too, his omission to declare in the first specification, that he employs rollers for retaining the board in its place while planing, though fully set out in his amended specification, cannot, in my view, support the idea that the inventions described are not essentially the same. The rollers, which he refers to in the first specification, and which are more unequivocally shown in the drawing annexed to it, as giving motions to the board, would almost necessarily perform the double office: besides which, there are other devices well known to mechanics, which could be conveniently adapted to the object. I see nothing in the two specifications, which could justify me in referring them to different machines.

These preliminary objections being disposed of, three questions present themselves:

1. Was William Woodworth the inventor of the machine, for which he obtained letters Patent in December, 1828?

2. Has he had since the issuing of the letters-patent, such an exclusive and continued possession under them; or have his rights as patentee been so vindicated by the judicial action, as to claim for him the summary intervention of Equity at this time for his protection and repose?

3. Is the machine now made or used by the defendants the same in principle and substance with the machine so patented, or with any material and distinguishable part of it?

1. 2. The two first questions have been so often decided in the Circuit Courts of the United States, as to dispense with the consideration of them at this time. In the case of Van Hook against Scudder, in the Circuit Court for the Southern District of New York. in 1843; and in another case in the Northern District of the same state; in that of Wilson v. Curtis in the Fifth Circuit Louisiana District; in Washbourn v. Gould, in the First Circuit, before Judge Story, at May Term, 1844; and in twenty other cases decided summarily immediately afterwards by the same judge; and again, in Woodworth v. Stone, at May Term, 1845;—in all of these, and in numerous other cases which have been alluded to in the arguments, the Woodworth patent has been recognized as valid, and the claimant under it as entitled to protection by injunction.

Two cases only have been mentioned, as implying a different opinion. The first is that of Woodworth v. Wilson, in the Circuit Court for Kentucky, where an injunction which had been granted was dissolved after more full hearing. But in this case the decree dissolving the injunction was reversed by the Supreme Court at its last session, and a perpetual injunction directed.

The other case is that of Richards v. Swimley, on the Equity side of this Court, No. 1 of April session, 1841, in which Judge Hopkinson is supposed to have refused an injunction to claimants under the Woodworth patent, against a person who used a machine closely resembling that of these defendants.—But an inspection of the record shows the supposition to be mistaken. The bill in that case was filed on the 4th November, 1840; and notice was given of a motion for an injunction, to be made on the 14th. On that day they omplainants filed two affidavits, which defined the infraction to consist in the use of Woodworth's tongueing and grooving apparatus, making no mention of the machinery for planing. It does not appear that the motion was ever heard; and on the 16th, two days after the the time noticed for making it, it was withdrawn by the complainants: since which no proceedings have been had in the cause. The right of the complainants in the machine expired in 1842. No judicial opinion on the part of Judge Hopkinson can be inferrred from these facts; and I am left therefore to the concurrent judgments that have been pronounced in other circuits.

(*To be concluded.*)

The Benefits of Machine Labor.

Mr. Editor.—I have been often pleased to observe the candor manifested by you in treating questions of a controversial or scientific nature, and no subject has received from you greater justice, tempered with judicious language, than the question of machine and hand labor. No one can dispute the fact that in articles of the most absolute necessity, machinery has diminished the cost of production and at the same time added to the number of workmen. Without machinery it would be impossible to raise food, to manufacture implements, to supply fuel and water, to carry on communications, to produce clothes, to build houses and furnish them, and to distribute knowledge at a price which should allow all men, more or less, to partake of the great blessings of civilization. There are some very curious effects of machinery, in the production of articles of inferior value, to those chief necessaries of life which are in such general use among us, and however trifling they may appear in themselves, the want of them would be felt as a severe privation. One article that I have in view could not be made without machinery, or otherwise very coarsely and as mere curiosities, but with machinery they are made in such numbers that they constitute very large branches of trade, and give employment to hundreds of thousands of people.

This article is employed in dress, which is at once so necessary and so perfect that the highest lady in the land uses it, and yet the poor as well as the rich are enabled to procure it. If the article was made by hand alone it would become so dear that the richest could only afford to use it. The article that I have reference to is a Pin, simple in form but valuable in its use. A pin hammered by hand would present a number or rough edges, which greatly injures clothes, and is removed by the machine made pin, and thus its beneficial effects are visible to all.

If pin making by machinery was to stop altogether, there would be no remedy for our fair ones, but to rely upon the old skiver which the Indian maidens use to secure their blankets. Success I say, to every improvement in machinery, and success to the Scientific American, the advocate of invention, industry and improvement in the Arts.

John Kempton.

Fairhaven, Mass. Dec. 7, 1848.

Romatic but True.

About twenty or thirty years ago, one of the fair dames of Paisley, Scotland, was offered the hand of an anxious and importunate suitor. The lady was, however, deaf to all the entreaties of her admirer and he shortly left for America. In America, it appears, that he soon found one willing to share his fortunes, for "better or for worse," and to her he speedily got united A numerous progeny blessed their wedded life; but the wife, after seeing some of her children get rather beyond their teens, bade adieu to this world and all its concerns. The husband had by this time amassed a considerable fortune, and speedily bethought himself of securing another helpmate. He cast his eyes across the Atlantic, and found that the lady who had formerly rejected his addresses was a widow with six or seven of a family. To her he resolved to make a second offer, and with this object went lately across to Paisley from the United States. His success was all that he could desire, and accordingly the widow and the widower were joined in the bonds of holy wedlock. The wife, who was at the time of her present husband's first offer, a blooming airy girl of four-and-twenty, is now a sober sedate lady of full fifty. Her new husband has settled on her a handsome annuity, besides assisting a number of his and her relatives and acquaintances in Paisley.

Coal Pit Explosion.

At Whitehaven in England, a serious accident occurred lately by an explosion in a coal pit, by which 17 persons were killed. The explosion took place from some workmen taking off the top of their Davy lamps to light their pipes, which fired the inflammable air of the pit; and out of 30 persons employed in he works, only one man, engaged in the farthest working from the shaft, succeeded in escaping with life.

(*To be continued.*)

The Bank of England.

The bank has a capital of eighteen millions sterling, and is managed by governors, &c. Its notes are never re-issued by the Bank, after being presented for payment. They may continue in circulation for any time, and pass from one hand to another; but when presented to the bank for specie the name of the person presenting must be endorsed, with his residence; then after a careful examination the note is paid and cancelled.

The printing, binding, &c. required by the bank and its branches are done within the building by the most approved methods. The steam presses and all the machinery the best that can be obtained in England or Scotland.

Each note is printed on what is called one sheet of paper; the lowest denomination is five pounds, the highest one thousand.

Anecdote of Franklin.

Doctor Franklin and I (said Jefferson) were some time together in Paris and we dined one day in a mixed company of distinguished French and American characters. The Abbe Raynal and Franklin had much conversation, amongst other things, the French philosopher observed that in America all things degenerated and he mademany learned and profound observations to show this effect of the climate on people although recently from a European stock. Franklin listened with his usual patience and attention, and, after the Abbe had finished, pleasantly remarked, that where a difference of opinion existed, it was the custom of deliberative assemblies to divide the house, he therefore proposed that the Europeans should go to one side of the room, and the Americans to the other, that the question might be fairly taken. It so happened that the Americans present were stout men, full of life, health and vigor, while the Europeans were small, meagre and dwarfish. The Docter, with a smile, cast his eye along the lines and Raynal candidly acknowledge the refutation of his theory.

Expenses of Government.

The following curious statement is put forth The expenditures, per minute, of Washington's administration were $3 82; Adams, the elder, $2 58; Jefferson, $9 95; Madison, $34 88; Monroe, $25 18; Adams the younger, $24 35; Jackson, $35 15; Van Buren, $65 78; Tyler, $45 90: Polk, $145 68.