Planing Machine Patent Cases.

JACOB P. WILSON *vs.* DANIAL BARNUM.—In Circuit Court U.S., Eastern District of Pennsylvania. Issued directed from Chancery.

(Concluded from page 102.)

These claims are too plain to need remark or construction. The specification does not claim circular saws, or any combination with them; but if the defendant, under pretence of using saws for grooves, is in fact using the grooving cutter wheel described, by plaintiff, in conjunction with pressure rollers, then he has infringed his patent. You will say whether he has done so. It is not the intention of the Court either to express any opinion on the facts of this case, or to collate the evidence or arguments of counsel.

You have had the testimony and opinions of experts; but from actual examination of the machines themselves from hearing the testimony of skilful mechanics, the arguments of able and learned counsel, and being instructed in the law by the Court, you have greater opportunities of arriving at correct judgement than any other person could have.

The complainant's solicitors prays the court to charge the jury as respects their finding on the issue in this cause:

1. That what is claimed as new by the patentee is intelligible and accurately set forth in plain and unambiguous words in the specification of the patent of 1845.

2. That if the jury believe from the evidence the substance of Woodworth's invention is incorporated in the structure and operation of the defendant's machine, then their verdict must be for the complainant; and the jury must, on the present occasion, look, not simply, whether in form and circumstances (which may be more or less immaterial,) that which has been done by the defendant varies from the specification of the patent of 1845, but whether in reality, in substance and effect, the defendant has availed himself of the patentee's invention in order to do the planing, tongueing, and grooving of a board, &c.; or either.

3. That the patent of 1845 is for no particular means, or tools separately, to accomplish the desired object, but for a combination of means, and tools to that end; that one of the means, forming a part of the combination, is to hold the board down while being cut, (for which the patentee says that the pressure rollers or any analogous device may be used;) and if the jury believe that the same result, the holding down of the board, is obtained by the bent guages of the defendant, their verdict must be for the complainant, even though the defendant's mode of holding down the boards accomplishes some other advantage beyond the effect or purpose accomplished by the patentee, which might be a patentable subject, as an improvement upon the former invention.

4. That if the jury believe, from the evidence that cutter wheels are used by the defendant for tongueing and grooving, or either, the boards to be planed by the planing machine, in combination with pressure rollers, their verdict must be for the complainant, even though the machine for tongueing and grooving may be in fact disconnected from the machine for planing, and forming no part of the construction thereof.

5. That as regards the tongueing and grooving of a board, or as patented by the patent of 1845, his invention consists of a combination of cutter wheels with pressure rollers, as described in his specification, the effect of the pressure rollers in the operation being to keep the boards steady, and to prevent the cutters from drawing them to the centre of the cutter wheels; and if the jury believe from the evidence, that the defendant in his machine uses pressure rollers for the same purpose, in combination with the tools used by him for forming the tongue and the groove, and that they are essential in his machine to the result when produced, and that the same result substantially is produced in the machines of the defendant that is described in the patent of 1845 by the use of the tools employed by him in combination with the said pressure rollers, then the verdict must be for the plaintiff, even though the jury believe that the tools used by the defendant are what are ordinarily termed saws, separately or in combination; such saw in this view of the case, being mechanical equivalents, or analogous devices to the cutter wheels described in the patent of 1845.

The instruction of the Court is prayed to the following point by the defendant:

3d. McLean, 453. The proof of infringement devolves on the plaintiff. He alleges that the defendant has infringed his rights, and to obtain a verdict he must show it. Doubts under this head will incline the Jury favorably to the defendant, as he is not to be deprived of a right which is common to every citizen, unless it shall clearly appear that this machine is substantially like the one claimed by Woodworth. In answer to the points proposed by plaintiff's counsel,

1 and 2 are answered in the affirmative, as being in conformity with instructions more fully given to the jury.

3d. The third is refused. The conclusions stated in it are entirely at variance with the premises stated.

The plaintiff's patent being for a combination, it is no infringement to use one of the parts, pressure by rollers or any other device, is as open to the defendant to use it, and all the rest of the world, as it is to the plaintiff. Unless the defendant has used pressure rollers or other equivalents, in conjunction with the cutters, cylinders or chisels, substantially as described in plaintiff's specification, he has not infringed it.

Fourth instruction given as prayed for.

Fifth is refused.

The instruction prayed for by defendant's counsel is given as asked.

There can be no doubt that Mr. Woodworth has conferred a great benefit on the public by his invention, and his heirs and assignees should be protected against all infringement of the rights secured to them by the law of the land.

But the defendant has an equal right to invent machines for the same purpose, even if his competition may injure the plaintiff's patent, if he can do so without invading his rights. Whether he has succeeded or not you will judge.

Gun Stock Machinery.

U. S. Circuit Court, Oct. 5—Before Judges Grier and Kane.—Blanchard's Gun Stock Co. vs. Eldridge.—In this case John P. Frazer, John C. Cresson, and Charles B. Trego, were appointed Commissioners to examine the machine in defendant's shop, Steam-mill Alley, and report whether it is an infringement of the plaintiff's patent.

The Commissioners appointed by the Circuit Court of the United States, for the Eastern District of Pennsylvania, on the 5th day of Oct., 1849, in the case of Thomas Blanchard vs. Isaac B. Eldridge, make the following Report:—

That having been first officially informed of their appointment of the 27th ult., they at once proceeded to inspect the machine used by Issac Eldridge, the defendant, in Steam-mill Alley, and carefully examined the same, both in motion and while at rest; that the said defendant also submitted to their inspection a working model of the same. They also received from the counsel of the plaintiff a printed certified copy of the specification of Mr. Blanchard's Patent, with an accompanying drawing, and a model of a machine, in which the principle and mode of operation set forth in the patent, was embodied; and they visited and saw at work, at the Shoe Last manufactory of Mr. Howard, in Sassafras street, a machine also containing the principle of said patent; and after a careful examination of these machines, and models, and comparison of them, with the Patent of Mr. Blanchard, the Commissioners are of opinion that the principle and mode of operation of Mr. Blanchard's machine, are fully set forth in the second article of his specification, and especially in the following paragraph:

"The rough material must be so placed in the machine with respect to the cutter wheel that the axis of the motion of the rough material, and the axis of the cutter wheel shall always, throughout the operation, be exactly parallel: hence the movement of the cutter wheel must be in an opposite or in the same direction with the rough material, the movement of the cutter wheel being greatly the faster. Either the cutter wheel, or the rough material must have a slow, gradual movement at right angles to the movement of the cutter wheel and rough material. By these co-operating movements it is plain, the cutters are made to pass over the whole surface of the rough material, cutting away from it, even the smallest portion that comes within reach of the cutter, provided the rotary motion of the rough material, and the motion at right angles aforesaid, be so timed, that the rough material makes one complete revolution at least, while the cutter or the rough material, by the motion at right angles aforesaid, is carried in the direction parallel with the axis of the rough material, only the breadth, or a little less than the breadth, of that part of the cutting edge of the cutters, which cuts the last chip from the material in the process of cutting."

And that Mr. Blanchard has confined himself to this method, by the express language of the last sentence of this second article, viz., "but he claimed as his invention the method or mode of operation in the abstract explained in this second article, whereby the infinite variety of forms described in general terms in this article, may be turned or wrought." That is to say the only method proposed by Mr. Blanchard is that in which the friction wheel or tracer describes a spiral line over the whole surface of the model, and causes the cutters to act in a similar direction. On the other hand in the machines of the defendant, which the Commissioners inspected while at work, as well as in the model of the same; the tracer which is altogether different in form from any other used or described by Mr. Blanchard, passes rapidly from one end of the model to the other, and backward in a line which lies in a horizontal plane, giving motion in a similar plane to the cutter wheel, and at each end of the motion the model and rough material receive a small and equal motion of rotation around their larger axis, so that the tracer and cutter never pass over the same horizontal line, a second time; the action being very similar if not identical with that of the machine for making card handles, with the substitution of the rotating cutter instead of the shaving knife. And it is further the opinion of the Commissioners that this difference is not a mere colorable and unimportant change from the method described in Blanchard's Patent but that it is essentially different, and renders the machine capable of producing more accurate work in certain respects; inasmuch as in cases of certain irregularities in form—such as cutting after a model of a shoe last of small width and high instep, the machine of Mr. Eldridge would make a more exact copy of the model than could be done by that of Mr. Blanchard's, and this opinion is confirmed by what the Commissioners saw in the working of the machine admitted to operate on Mr. Blanchard's principle at Howard's shop.

The Commissioners are further unanimously of the opinion that the machine of Mr. Eldridge, the defendant, is different in its principle and mode of operation, from that described in the Blanchard patent. All which is respectfully submitted to the Honorable Court by the undersigned Commissioners, as aforesaid.

JOHN F. FRAZER.
JOHN C. CRESSON.
CHARLES B. TREGO.

Dated the first day of Dec., 1849.

An Orkney Post Runner.

The John O'Groat Journal mentions the sudden death of one of the post runners when entering Kirkwall with the South mails. The mails to and from Orkney are conveyed between Kirkwall and the ferry at Berwick, in South Ronaldshay, on the backs of post runners, who travel on foot. The distance, going and returning, is 32 miles, with about eight miles additional of ferries. The weight which the post runner has thus to carry is sometimes 60 to 70lbs, and as each runner has to perform this duty twice a week, on an average, travelling nearly half the distance through a district where he has literally to wade through mud and water. During a periot of 29 years deceased has travelled 117,000 miles by land, on foot, and 13,000 miles by sea, across ferries, making a total of 130,000 miles.

Crime and Education.

"The British Government, after several years' experience, has been forced to the conclusion that imprisonment, either solitary or accompanied with labor, has no effect whatever either in deterring from crime or in reforming criminals. Statistics, compiled with scrupulous care, have also demonstrated that education has no perceptible effect in checking the increase of crime. It has been ascertained that the number of educated criminals in England is above twice, and in Scotland above three times and a half, that of the uneducated. In 1848 the number of educated criminals in England and Wales was 20,176, while the uneducated was 9,691. In Scotland 3,985 educated to 911 uneducated. It has also been ascertained that the average cost of maintaining a prisoner in jail, throughout England, is about eighty dollars a year, and that at this rate the prison expenses of that country amount to over one million pounds sterling per annum. Under this state of facts the British Government has issued an order in council authorizing a return to the system of transportation."

[The above has found its way into almost every paper in the Union, crediting the same to Blackwood's Magazine. We wish to say a few words in regard to it, to clear up the matter and present it in its proper light.

The argument deduced from the above, to prevent crime, is to make the people ignorant—to lock up the school-house. Surely no man of common sense can doubt the false conclusions arrived at by the article in question. The above figures are proof fact, that there are less educated than uneducated criminals. In England and Wales the proportion of uneducated criminals is nearly 50 per cent. of the educated while in proportion to the whole population, the number of uneducated people is about 30 per cent.—showing a per centage in favor of education of 20 per cent. In Scotland, by the above statistics, the uneducated criminals, in proportion to the educated, is about 27 per cent., while the uneducated, in proportion to the whole population, is only about 10 per cent.; showing 17 per cent. in favor of education as a moral elevator. Let none of our people draw favorable arguments for morality from the records of ignorance—for every true analysis of these records, proves the very reverse of that which the "advocates of the blessings of ignorance" attempt to prove. Education is the handmaid of elevated morality, but the blessings of education may be abused, and intelligence may be made the instrument of greatness in crime. How can this be? Subject an educated people to misfortune by desperate acts, or crush them by unwise national policy, so that they will be reduced from comfort to starvation, and then will they not steal rather than starve, and commit robbery rather than beg. It has been demonstrated by incontrovertible statistics, that when work is plenty in Britain, and wages good, crime ceases as if swept away by the wand of a magician. Give our industrious race work and fair wages, and the hands that would otherwise be committing mischief, will be doing good. Education makes some men splendid criminals, but it is for want of moral rectitude. Does any person suppose that an educated man is not so susceptible of moral impressions, as an ignorant man. Surely not.

We have been induced to make these comments upon the above paragraph to strip error of its garb and plausability; and as advocates of the blessings of education, to give our reasons for finding fault with the press for spreading such statements before our people—statements and assertions which affect them so materially, without giving the subject some examination, or making some comments upon it. The great increase of crime in Britain within the past few years, is caused by poverty—the result of frequent stagnation in their manufacturing operations. This should be a useful lesson to us. A rural people, firm in their own free domains, are always the most virtuous, and consequently the more happy, and all the happier for being educated.

To Mariners.

Four new shoals have been discovered in the main ship channel of the Nantucket Shoals, by Chas. H. McBlair, U. S. N.