Brief Notes on Patents.

Some time ago we called the attention of our readers to the fact that the Examiner of Interferences of the United States Patent Office had awarded priority of invention to Linde in the Liquid Air Interference, Tripler vs. Linde. News now comes from Washington that the Board of Examiners-in-Chief has affirmed the decision of the Primary Examiner.

A New Haven photographer, A. Hyatt Verrill, a son of Prof. Addison E. Verrill, of Yale University, announces further discoveries in his experiments with color photography. Verrill says he has found it possible to produce "aurotypes" and "argentypes" simply by depositing gold and silver in metallic form on glass, wood. metals and even on paper. The pictures thus made are claimed to be absolutely permanent.

A company is being formed in St. Louis for the manufacture of the power plow designed by Richard J. Gatling, the designer of the famous rapid-fire gun bearing that name. This machine is said to do the work of from thirty to forty men, using from sixty to eighty horses, and the cost per day for fuel is said to be six dollars when using oil, wood or coal and two dollars per day when using gasoline. A wheat drill may be attached to the machine, and the grain sown as the disks turn up the earth. The first public appearance of the Gatling plow will be at the St. Louis exposition.

Jerome Wheelock, the builder of the Wheelock engine and an inventor of national repute, dropped dead on the street on February 25 in Worcester, Mass., where he resided. Mr. Wheelock began life as a machinist and soon developed into an inventor, his first important work being a piston packing. The engine designed and built by him had many novel features, and it was a feature of the Centennial Exhibition, where it was shown for the first time. Nearly all of his patents related to the steam engine. Mr. Wheelock was a member of the American Society of Mechanical Engineers.

The ninety-fourth anniversary of the first successful burning of anthracite coal in a grate was celebrated at the old Fell Hotel in Wilkesbarre, where that interesting event took place. The old fireplace and grate are still preserved, and the room in which they are located was gayly decorated in honor of the event. A banquet was served, and among the speakers was H. P. Fell, a descendant of Jesse Fell, the old proprietor of the house. The first steps were taken toward the celebration of the centennial anniversary of the discovery six years hence, and it will in all probability be an affair of national and State importance.

An explosion took place in the nitro-glycerine house of the Cerberite Manufacturing Works at Ardwick, Md., on the morning of February 5, and although the concussion was terrific, a large quantity of the cerberite, which was stored in another house only a short distance away, was not affected, thus giving a practical demonstration of the remarkable quality of the explosive, which, it is said, requires the combined action of flame, heat and concussion to detonate. In practice, a percussion cap is used to explode it. Cerberite is the discovery of Count Sergy de Smolianoff, a Russian chemist who died about a year ago in Washington, D. C.

The removal of electric incandescent lamps is such a common form of nuisance that there seems to be some demand for the locking lamp socket which has been recently patented by Charles R. Barrett and Elwood C. Phillips, of Chicago, Ill. There is a closed chamber located laterally at one side of the lamp socket, inside of which is a locking detent supplied with the usual spring. In the walls of the chamber is a keyhole for the insertion of the key with which to throw back the locking mechanism. It is the custom in many places to turn the lamp out of or into service by giving a twist to the bulb, and this locking arrangement does not in the least interfere with this. The locking detent engages with a recess in the threaded foot of the lamp, and this permits of a certain amount of freedom in the turning of the lamp in its place.

Dr. M. G. Burgess, of Herkimer, N. Y., besides being a very busy physician is an inventor and an excellent mechanic. He has recently secured patents on an operating table which is said to have many advantages over the old type. After designing a table to meet the demands of the operating surgeon, the doctor, with no other assistance than that of an unskilled man, set about and built a table which would be considered a very flattering job turned out from a well-equipped industrial plant. The table works on the hydraulic principle, and the motions of raising, lowering and tilting are all controlled by a single lever, which is a great convenience, these motions all requiring a separate lever in all the types now in use. The system of drainage marks an improvement also, as all fluids are caught at once and disposed of, no matter what the position of the table is. Although there is great freedom permitted in the movement of the table, the mechanism is very simple and devoid of cogs, gears and ratchets.

Legal Notes.

Houghton, Mifflin & Co. have brought two cases up before the Court of Appeals which involve alleged copyright infringement of two of their publications. The first of these appeals, in which Dutton & Co. are the respondents, originated in a bill to protect a copyright in a portion of "The Minister's Wooing;" the second is based upon an alleged copyright infringement of a portion of "The Professor at the Breakfast Table." The copyrights were taken out under the Act of February 3, 1831. Both parties claim the benefit of a renewal.

Twenty-nine of the forty-two chapters of "The Minister's Wooing" were serially published in the Atlantic Monthly from December, 1858, to October, 1859. In October, 1859, Mrs. Stowe took out a copyright of "The Minister's Wooing," as a whole, and in the book published by her authority a proper notice of this copyright was entered. After taking out this copyright the remaining thirteen chapters were published in the Atlantic Monthly for the same year, and the numbers in which they appeared bore on the title pages "Entered according to Act of Congress in the year 1859, by Ticknor & Fields, in the Clerk's Office of the District Court of the District of Massachusetts." The Circuit Court found that the publication of the first twenty-nine chapters without any copyright abandoned them to the public, and that as the remaining chapters were published with no notice of the copyright, except that which we have stated, sufficient notice was not given of a copyright by Mrs. Stowe. The Circuit Court of Appeals affirms this decision of the lower court.

So far as "The Professor at the Breakfast Table" is concerned, ten of the twelve parts of which it is composed were published serially in the Atlantic Monthly between January and October, 1859, without any notice of copyright. The remaining two parts were published in the following December, upon which a copyright was obtained, and a notice thereof given in the magazine in the manner adopted in the case of "The Minister's Wooing." When the entire work was published in one volume Dr. Holmes copyrighted it. The Circuit Court of Appeals held in accordance with the lower court that a literary work published serially with the consent of the author, and copyrighted in the name of the publishers, gives rise to such conditions that the author cannot subsequently secure the copyright. If the author subsequently republishes the work in book form, with a copyright notice in his own name, such republication with such notice effects, under the statute, an abandonment of the copyright.

The Stanley Steam Carriage in Court.—The Whitney Motor Wagon Company has brought suit against the Stanley Brothers, Newton, Mass., for infringement of its patents. It is claimed that the Whitney patents antedate the patents of Francis E. and Freeland O. Stanley. The Whitney patent, No. 652,941, contains 46 claims, and is said to cover the foundation principle of the steam vehicle. It is asserted that the Stanley vehicle is a direct infringement of the original Whitney wagon, which was built in September, 1897. In that year Mr. Whitney, it is claimed, not only turned out the first steam carriage made in this country, but also built an improved carriage. The Stanleys are the inventors of the steam carriages sold under the names of "Locomobile" and "Mobile," the rights to manufacture which were acquired by Amzi L. Barber and J. Brisben Walker, the former president of the "Locomobile" Company of America, and the latter president of the "Mobile" Company of America and editor of the Cosmopolitan Magazine. Since selling this invention the Stanley Brothers have produced a new vehicle, which differs somewhat from the original, but which is declared to possess the fundamental principles of the first vehicle. It is claimed that this machine is an infringement of the Whitney carriage; that the Stanley Brothers had had ample opportunity to inspect the wagon, which was at the Mechanics' Building, Boston; that the Stanley vehicle was not produced until after Whitney's had been inspected, and that the Stanley carriage is a close copy of the Whitney vehicle. The outcome of the suit will be awaited with interest.

The case of Metz vs. Johnson, decided in the Circuit Court for the District of Massachusetts, shows that an inventor cannot be too careful in patenting improvements upon his device. The Metz patent, for a bicycle pedal, claimed pintles having screw-threaded ends, the inventor intending to attach the pintles to the crankshafts by means of the screw-threaded ends without employing any of the old independent device for holding them firmly in place. Before the granting of the Metz patent both the right-hand and the left-hand pintles were threaded with a right-hand screw-thread. Difficulty arose from the fact that the right-hand pintle was likely to become loose in the crank. Metz's idea was to master that difficulty by putting a left-hand screw-thread on the right-hand pintle and a right-hand screw-thread on the left-hand pintle, but, in practical operation, the tendency was to unscrew both pintles in the crankshaft arms. As a result of observation and experiment the inventor, after his patent was taken out, conceived the idea of reversing the screw-thread, and doing what had never been done before in connection with bicycle pedals, or, as far as shown, in any other art, by making a right-hand pintle with a right-hand thread, and a left-hand pintle with a left-hand thread. Automatic tightening of both pintles resulted by reason of the lost motion of the pintle in actual use, which tended to screw home both pintles. If the patentee had conceived that idea at the time of his patent, and had described it in connection with the other elements, or if the combination which he described had possessed the inherent capacity or function of accomplishing the new result, there would have been no doubt as to the validity of the invention. But the patentee did not describe such means, nor had he discovered these means at the time of the issue of the patent. The discovery was valuable. In view of the fact that the function of automatic tightening resulted from invention subsequent to the granting of the patent, through a rearrangement of the means described, the Court felt constrained to hold the Metz patent void.

Upon the application of Dr. Dadirrian, Judge Blanchard, of the New York Supreme Court, issued an injunction restraining William Hames from using the word "Matzoon," holding that the term was an arbitrary designation and a proper subject of a trade-mark, which is the exclusive property of the company. The defendant urged that the word was not fanciful, but descriptive of a food that has existed for years in Armenia and other Eastern countries known by the name of Madzoon or Maadzoon, being a species of fermented milk having the consistency of jelly or of cup custard, and that when in liquid form it was known as Taa; that it was first introduced into this country in 1885 by Dr. Dadirrian, and that through his efforts the article has a commercial value to-day. The judge adds that the question as to whether the word "Matzoon" is a proper subject of trade-mark has already been before the courts of this country, the federal courts holding that the word could not be appropriated as a trade-mark, and the courts of this State holding to the contrary.

In closing, Justice Blanchard says: "The equities of the case are with the plaintiff, and until the higher courts of the State hold otherwise I prefer to follow the decisions of the courts of this State."

Invention Changed by Assignee.—An agreement between the inventor of improvements in automatic air brakes and a railroad company, granting to the latter the license and right to use the invention, and equip their rolling stock in whole or in part with the same during the term of the patent, does not entitle the company to make important changes in the mode of constructing the brake and in using the brake so altered, especially if they use, and claim to use, it as the invention of such inventor.—MacLaughlin vs. Lake Erie & D. R. Ry. Co., 2 Ont. Law Rep. (Can.) 190.

Broadening Claims on Reissue.—The claims of a patent which has been in existence for ten years, during which time it has been before the courts in a number of cases, and construed and held valid, cannot be broadened by a reissue to cover structures which the courts had previously decided did not infringe; and particularly where such broadening of the claims eliminates the distinctive feature of the invention, upon which alone the validity of the original patent was sustained, and of which decrees for infringement were predicted. Troy Laundry Machinery Co., Limited, et al. vs. Adams Laundry Machinery Co. et al., 112 Fed. Rep. (U. S.) 437.

Combining Scientific Names.—After certain medicines have been discovered and named, and their effects on the health have been investigated, and the results of such investigation published to the world for several years, a manufacturer of a preparation for the same purpose could not adopt a combination of the names of such first-discovered medicines, and thereby prevent the use of such names, or a combination thereof, by other manufacturers of similar preparations. Searle & Hereth Co. et al. vs. Warner, 112 Fed. Rep. (U. S.) 674.

Usefulness of Invention.—The degree of utility of a patented article does not affect the question of patentability, nor does the length of time it will last and continue useful, but, if it is useful at all, that is sufficient to sustain the patent.

111 Fed. Rep. (U. S.) 916.