DECISIONS OF THE COURTS.

United States Circuit Court. --- Eastern District of Michigan.

RUBBER DENTAL PLATE PATENT .- THE GOODY EAR DENTAL YULCANITE COMPANY et al. vs. GFORGE WILLIS.

COMPANY et al. vs. GFORGE WILLIS.

This was a bill in equity filed against the defendant, a dentist, for infringement of reissued letters patent No. 1,901, granted to The Dental Vulcanite Company, assignee of John A. Cummings, for "Improvement in Artificial Gums and Palates." The claim in the patent is for "the plate of hard rubber or vulcanite, or its equivalent, for holding artificial teeth, or teeth and gums, substantially as described."

Cummings filed his caveat May 14, 1852. Applied for a patent April 12, 1855. This application was rejected May 19, 1855, and again rejected August 14, 1853 and again rejected by the Commissioner of Patents February 6, 156. In 1859 a motion was made before the Commissioner for a rehearing, or for an appear to the Board of Examiners, which motion was denied. On March 20, 1894, a renewed application was filed. On April 7, 1863, the Patent Office wrote to Cummings acknowledging that injustice had been done in the former rejection, and the patent was thereupon allowed, and was issued on June 7, 1894. There was evidence that tended to show poverty on the part of the inventor and efforts by him to raise money to prosecute his application during these periods. The inventor went into public use about 1850.

tion, and the parmit was thereupon allowed, and was issued on Jour, 1983. There was colonic that tended to show poverty on the part of the inventor and efforts by him to raise money to prosecute his supplication during these periods. The invention went into public use about 1982.

EMNOS. J.:

In ordinary circumstances the condition of judicial opinion in reference to all the points involved in the record would render unnecessary their discussion of the points involved in the record would render unnecessary their discussion of the points involved in the record would render unnecessary their discussion of the points involved in the record would render unnecessary their discussion of the points involved in the points and so claborate in argument, it is unusual to do more than refer to them generally, as settling the points in the minds of the numerous defendants in suits brought on this patent in this and adolo ining districts, resulting, we even in the patent of the interest of the manner of the produce that which we are well aware is stready familiar to the bench and bar. We think the learned counself or the defendant much understate the effect which it is our auty to give to high member of opinions which have been already prono unced, that it is deemed a duty by my brethren and myself to reproduce that which we are well aware is stready familiar to the bench and bar. We think the learned counself or the defendant much understated the effect which it is our auty to give to high member of opinions which have been already prono unced, that it is given the produce of the patent of the pate

would not be discussed, upon principle, did we not believe that a brief reference to the reasons upon which these adjudications rest would be locally beneficial. *

Various reasons are then set forth concluding as follows:

To negative the idea that Cunmings, by his delay in the prosecution of his claim, intended to abandon it the complainants have put into the record voluminous proofs showing a continuous and persistent assertion of his right and intended to abandon it the complainants have put into the record voluminous proofs showing a continuous and persistent assertion of his right and intended to maintain it. The testimony shows numerous and fruitless attempts to procure assistance to defray the expenses of his application by offering shares of the patent, if obtained, and otherwise, and in the latter periods of his delay such a degree of ill health, poverty, and general depression on his part, as shows good reason why he did not prosecute more vigorously his application. The facts do not warrant, nor was the argument pressed, that there was fatal delay prior to 1859. At that time, Cummings had become insolvent, and his health seriously impaired by chronic diseases, which ultimately terminated his life. The testimony leaves no room for doubt that after this period he wholly ceased to furnish any considerable part of the support of his family. His wife's small separate property was first mortgaged and then sold, to precure what is proved to be the small and sometimes too scanty expenditure upon which they lived. The praiseworthy efforts of his wife as the keeper of a boarding house, the pawning of her few personal ornaments, and her general care and support of a diseased and dispirited husband, present apicture as affecting as it's demonstrative of Cumming's inability, from sheer poverty, to prosecute his application. The only diligence of which, his physical and pecuniary condition, he was capable, he manifested by such a constant referation of his rights as showed that the leave, in the words of some of

wholly unjustifiable perversion of the most familiar truisms in patent law. It is but the simple—the every day recurring—case where one patentee employs the invention of a prior one. In such instances, it must he true that he who uses the manufacture or article which involves bothmustpay a royalty to each inventor. Cummings invention neither authorized him nor any one else to use the invention of Goodyear, nor could the latter make these dental plates with his material without the consent of Cummings or his grantees. When Goodyear's patent expired he and his associates had just as much right to become the assignees of Cummings as any other citizen. The accidental circumstance that the same man issued licenses first under one patent and then under the other is unimportant and even trivial. Such instances in this department of business are very frequent, and the union of such interests, instead of being injurious, is beneficial to the public, not only from the economy, but the convenience of procuring fleenses. Self-evidentas all this is to the legal profession and to those dealing in this species of property, an impolitic and much to-be-regretted impression has been created, in the minds of the dental profession, that they have been wronged and actually oppressed by what has been termed. The mercenary marriage or lifetic connection of these two rights. It would seem too evident to require additional flustration that the rights under this patent, and the obligations of those who use it, are in no way changed in the slightest degree by the immaterial fact that Goodyear once had a patent for vulcanite that has now expired. He use is free alike to the dentists and these compositionals anatural substance common as ordinary clay. It is the real value of Cummings' invention alone which is sold, and which they purchase or not, as they please, being free to other purpose in the sevention or less than if vulcanite was a natural substance common as ordinary clay. It is the real value of Cummings' invention alone which is s

use bulcante without any royalty wnatever, for any purpose not involving his invention.

Our purpose in thus referring to a few of the reasons which induce us to decide this case in favor of the complainants upon principle, irrespective of the prior adjudications, has been to siggest to the numerous other defendants having like cases pending what we believe to be the uselessness of additional argument before subordinate tribunals. If this patent is to be held principle invalid after so many judgments sustaining its validity, we are clearly of the opinion that it should be done by the court of last resort. The interests of he numerous defendants now litigating in the circuits would be far better promoted by an early appeal to the Supreme Court than in wasting so much time and money by the creation of numerous similar records, and paying for repeated arguments before co-ordinate courts. We do not think they can be

effective there without a violation of the well-established and necessary principle to which we referred in the outset, which renders authoritative upon us the long list of adjudications elsewhere rendered.

Decree for complainants.

An appeal from this decision has been taken to the Supreme Court of the United States.

l'Exted States. [Benjamin F. Lee, for complainants.] John F. Follett and Calvin C. Burt, for defendant.

Becent American and Loreign Latents.

Improved Violin.

Josiah H. Payne, Garner, Miss.-This is a violin provided with string-fastening devices at the base of the neck and openings corresponding therewith through the top and bottom of the rim, for the passage of the strings. By this arrangement, the tail piece or apron, to which the ends of the strings have heretofore been attached, is dispensed with, and the tone of the instrument is greatly improved.

Improved Device for Protecting Horses, Tails.

Franklin E. Howard, Geneseo, N. Y.—This invention consists in a bag formed of leather, cloth, or other material impervious to mud, the same being slitted to form lapping edges, and adapt it to be readily applied or removed from the tail, a useful device at this season of the year. It saves much time to the coachman, and preserves ral flange of the screw to the seed-conveying tube. the hair of the tail.

Improved Boiler Tube Expander.

William S. Sharpneck, Onawa City, Iowa.—This invention consists in an expander adapted to all sized tubes made in longitudinal sections, the outer surface of which is turned to various diameters distinct from each other, each gradation being provided with a collar for forming the bead inside the head of the boiler.

Improved Stove Pipe Elbow.

Samuel Smith, Brooklyn, E. D., N. Y.-This invention consists in holding the connected parts of an elbow pipe together by straps, forming a part of and extending from one and riveted to the other.

Improved Plow.

Thomas Canty, Kaufman, Tex.-Several deep notches are cut in the upper edge of the share, and to tongues thus formed curved parallel and flat strips are attached. Thus said plates form continuations of the share, over which the soil glides with a minimum amount of friction. The means of supporting the rear ends of the strips is a brace having arms. Thus all the mold board strips are supported and held rigidly in position, so as to resist lateral and downward pressure.

Improved Railway Switch.

John D. Murchison and William T. Haney, Taylorsville, Ga.—This invention consists of pivoted switch rails, which are set by a longitudinal crank rod connected therewith, and by pivoted lever rods and elbow levers, operated by curved upright levers at both sides. and at suitable distances from each end of the switch rails, to be struck by a laterally adjustable bar at the head block of the loco-

Improved Locomotives and Cars.

Henry Handyside, London, England.—This invention relates to certain peculiar construction and arrangements of locomotive engines and apparatus to be applied thereto, and to the carriages or wagons of a train, whereby the safe and easy ascent of trains up steep inclines is accomplished, and their passage round sharp curves is facilitated. The locomotive engine is coupled to the train or other load to be hauled up an incline, by a rope or chain, which is wound on a drum mounted in the framing of the engine. The axis or shaft of this works horizontally in bearings in the main framing. and is driven or rotated direct or by gearing, as found most convenient, from a separate pair of cylinders, distinct from the usual cylinders which drive the locomotive in ordinary cases. These separate cylindersmay besecured to any convenient part of the locomotive and they transmit a rotary motion to the shaft of the hauling drum by connecting rods coupled to cranks secured to the ends of the hauling drum shaft, or coupled to the shaft of separate or intermediate gearing. The drum or windlass barrel is loose upon its shaft, and is coupled therewith, when required for hauling purposes, by means of a sliding clutch, provided with projections or teeth, by preference inclined or beveled off at the back, which teeth engage into corresponding holes or recesses in the end of the drum. A clutch lever is provided for throwing the hauling drum into or out of action, as required. On arriving at the foot of a steep incline, the engineer will release the hauling drum on the engine, and will, without stopping the engine, run it up the grade to any desired distance. On stopping the engine, struts immediately come into action and maintain the engine firmly in its place. The hauling drum is now started by throwing the clutch into gear therewith (the rope or chain having been paid out as the engine ascended, and the entire train, or any part of the train, is hauled up by the sole power of the cylinders which work the winding drum. The struts on the train act to prevent any retrograde motion thereof, when required, or in case of an accident to the hauling apparatus; they also allow the engine to start again without the train to take another length of the incline. and so on until the complete ascent of the incline has been effected, the train being hauled up by the engine by the aid of the winding drum. On level sections, or on comparatively light grades, the locomotive acts precisely as an ordinary locomotive engine.

Improved Butter Worker.

Jonas Lindbeck, Andrew J. Lindbeck, and John E. Lindbeck, Bishop Hill, Ill., assignors to themselves and Andrew Jacobson, same place.—To the inner surface of a cylinder are secured rows of teeth, which are made diamond-shaped in their cross section, and are placed in an inclined position. To a shaft, rotated within the cylinder, are attached teeth, which are also made diamond-shaped in their cross section, but are inclined in the opposite direction, and are arranged spirally upon the shaft. In the top of the cylinder is placed a hopper for the convenient insertion of the butter. As the butter is fed into the hopper, it is thoroughly worked and mixed ted side pieces and clamping bolts. by the teeth, and at the same time carried forward to the other end of the box, and is forced out through a hole in said end. As the butter escapes from the hole, it passes over two or more rollers pivoted to a chamber, the lower side of which inclines back, and projects beneath the end of the box to serve as a channel to conduct the brine into a spout.

Improved Clothes Washer.

Ezra Crowell, Belfast, N. Y.—This invention is an improvement in the class of washing machines or devices consisting, chiefly, of a hollow sheet metal cylinder and a plunger reciprocating therein. The improvement relates to constructing the cylinder with vents on the side near the top, and connecting them, by means of an exterior face of the said wheel will strike the wooden strip and force its free tube, hood, or casing, to allow escape of air and water past the side of the piston.

Improved Device for Lifting and Moving Railroad Cars.

Benjamin F. Phelps, Kansas City, Mo.—The object of this invention is to provide means for conveniently lifting and moving railroad cars and other heavy bodies; and it consists of a lever, to which is attached a movable fulcrum, and also a roller and push bar. The push bar is forked to go over the end of the lever, and has an adjustable dog on its end, by means of which it is attached to the angle of a car. By means of a self-adjusting fulcrum pawl, the lever may be applied by either lifting or bearing down, as may be de-

Improved Hanger for Plant Shelves.

William Higgs, Washington Mills, N. Y.-This invention consists in a shelf hanger, made of a single piece of wire, bent into the general form of a right-angled triangle, with a prong formed of its end or ends at the lower end of its perpendicular, and a loop formed at the upper end of its perpendicular.

Improved Scissors for Use with Sewing Machines.

Sarah L. Fawcett, New York city.-This invention comprises a pair of seissors with a sharp cutting hook to free the cotton from the rotating book of a sewing machine, and a pulling book for drawing the cotton from under the needle. The contrivance is particularly adapted for the Willcox & Gibbs sewing machine, and all machines which use the rotating hook.

Improved Combined Cultivator and Seeder.

Matthew Green, Walker Station, Mo.-The pinion of the seeddropping device is thrown in and out of gear with the wheel, and applied to a shaft which passes into the seed receptacle along the bottom thereof, and is provided with a screw thread inside of the box or receptacle. A slide has a perforation with a flexible spring surrounding the same, being of a diameter corresponding to that of the screw end of the shaft, so that the latter feeds, by the rotation imparted by the gear wheel, the seed taken up by the spi-

Improved Steam Rock Drill.

Joseph C. Githens, New York city.—The essential features of this invention consist in mechanism which causes the piston to turn as it moves upward, and allow it to move downward without turning. Other devices force said piston and disk together and apart by steam, for holding and releasing the guide rod as the piston moves up and down.

Improved Fruit Dryer.

William S. Plummer, San Francisco, Cal.—This invention relates to a fruit dryer in which the racks for holding the fruit pans or plates are made to revolve and carry the fruit around a horizontal course through a heated chamber and back to the place of starting, when the dried fruit is replaced by green, making a continuous pro-The invention consists of a peculiar construction of the circular chamber, partly of stationary walls and partly of revolving walls, also of contrivances for heating the chamber economically by hot air and steam.

Improved Horse Power Well Boring Machine,

Matthew Steward, Napoleon, Ohio.-This is a horizontal master wheel, which gears internally with a vertical countershaft that drives the horizontal windlass to hoist the auger. The shaft also gears with a hollow horizontal wheel for turning the auger, and is connected with it by two friction rollers on the wall of the eye of the wheel, against which vertical bars parallel to the shaft and attached to it by arms bear, so as to allow the auger to descend freely, and with but little friction, at the same time that it is revolving. The platform for the attendant of the auger is built over the master wheel, and the whole machine is contained within the compass of the sweep to which the horse is attached.

Improved Machine for Barking Wood.

Orson W. Clark, Appleton, Wis.—The cutter has a roller guide on each side of it, one being to gage the wood for the depth it is required to be cut, while the latter is merely to assist the former by acting on the dressed portion of the wood after it passes from the former, and to hold it altogether after the end escapes. These gage rollers are each mounted in the end of a rocking support, and can be shifted toward and from the axis of the cutter. The nut for feeding the frame along is made in two parts, which are pivoted together and connected by a rocking link, so that when one of the parts of the nut is pressed on the screw, the other part will also be closed on the screw by the same means, through the medium of the said rocking link. When the handle is let go, the spring throws open both jaws and disconnects the frame from the screw, so that it can be instantly shoved back to the place of beginning, after each piece is barked.

Improved Soda Water Cock.

Henry Fraser, Pictou, Canada.—Upon the top of the cock is a deep ring flange, having a screw thread cut in its inner surface to receive a screw formed upon the upper part of the cock. In the lower end of the screw are circular recesses to receive the ends of the plug, the handle of which passes out through the flange. By this construction, the upper part will always be held squarely in place, and thus will not be exposed to any unequal pressure.

Improved Biscuit Board.

Aaron P. Forman, Canton, Miss., assignor to William B. Stinson, same place.—In using the machine, the dough is placed in the central compartment of a hopper, and is drawn through between rollers by their revolution. The dough falls from the rollers. It falls upon a bottom board, from which it is removed and again placed in the hopper, and the operation is continued until the dough has been sufficiently worked.

Improved Folding Table.

Nicholas S. Tiemann, New York city, assignor to John A. Tiemann, of same place.—The invention consists of a combination of jointed braces and connecting bars, jointed legs, and a jointed table top, in such a manner that the legs are caused to fold and unfold, and assume their proper position in each condition by the top when it is folded and unfolded, thus affording a simple folding table.

Improved Machine for Making Fence Pickets.

Isaac Levy, Ellaville, Fla.-The invention is an improvement in the class of machines wherein revolving and vertically adjustable cutter heads are employed for dressing the heads of the pickets. The improvement relates particularly to the construction of the sliding or reciprocating table and an attachment thereof, for supporting and clamping pickets of differentlengths. A bar is adjustable up and down the carriage, toward and from the cutters, by slot-

Improved Weather Strip.

William O. Chamberlain, Battle Ground, Ind.—The invention consists in a weather strip for doors, formed of two zinc strips, having their adjacent edges rolled to interlock with and turn upon each other. The free edge of the zinc is secured to a strip of wood. A spiral spring is attached to a stationary wooden strip, and its other end is secured to the wooden strip above mentioned. The elasticity of the spring, when the strip is free, raises the same and supports it, so that it will pass over the threshold without touching, when the door is swinging open and shut. A small wheel is pivoted to the side post in such a position that, when the door is swinging shut, the edge downward, so as, when the door is closed, to be in close contact with the sill.

Improved Lubricator.

Morris Evans, Erie, Pa.—The lubricator is connected by a separate pipe with the steam space of boiler, and is so arranged that the lubricator therein is thereby thrown in a continuous stream into the steam chest and cylinder, and the quantity of the stream easily controlled by the regulating steam cock.

Improved Plow.

Hugh D. Smith, Richmond, Va.—By suitable construction, the beam may be moved up or down upon its standard, a cleat keeping it always parallel with its former position.