

The Columbian.

VOL. 31

BLOOMSBURG, PA., THURSDAY, NOVEMBER 26, 1896.

NO. 48

MR. WIRT'S PATENT SUITS.

Fountain Pen Litigation.

Another phase of the fountain pen cases has been developed since the last issue of *The Stationer*. In the case of Paul E. Wirt against the American News Company an order has been made by Judge Lacombe requiring the defendant to file a bond for \$5,000 within five days, agreeing that if the complainant shall prevail in this action the company will pay to him damages and profits for all pens sold from the date of such bond until the decision of the final hearing, such a sum as would have been realized by the complainant by the sale of a like number of complainant's pens at the usual market rate. The order also requires the defendant to file each month a sworn statement of all infringing pens sold. The effect of this order in the opinion of some is that unless the American News Company shall file the bond as directed by the court it will be restrained from selling any fountain pens whatsoever, and that if the defendant does file the bond and the complainant finally prevails the defendant will have to pay damages to Mr. Wirt according to the terms of the order. The order is dated November 7, and the five days began to run from the following Monday.

In the issue of *The American Stationer* dated November 5, 1896, it was stated that "it now remains to be seen what effect or bearing this last decision will have upon the litigation yet pending." The decision referred to was in the case of W. W. Stewart against the American News Company, and which was in favor of the complainant. In order to obtain more light upon the subject Walter S. Logan, senior member of the law firm of Logan, Demond & Harby, New York, who has been connected with nearly all of the fountain pen suits brought and fought in the United States, was asked to explain the meaning of the decision and its effect. He consented, and reviewed the latter in practically the following words:

"Some time ago Mr. William W. Stewart brought suit against the American News Company for an alleged infringement of several of Mr. Stewart's patents, and the infringement claimed consisted in the sale of the Paul E. Wirt fountain pen. Immediately the case was brought to Mr. Wirt's notice he offered to defend the American News Company in that suit and to give any bond they desired to save them harmless from all costs or damages, and he instructed us as his counsel to undertake such defense, if the American News Company would permit us to do so, without cost or charge to the American News Company. Mr. Wirt has invariably pursued the same course ever since he has been in business, whenever any of his customers were troubled because of selling his pen; but for some reason the American News Company, while willing to allow us to defend the suit for them, refused to permit us to be the attorneys of record, so that we could have full charge of its conduct.

"The decree which has recently been rendered in favor of Mr. Stewart against the American News Company commences as follows: 'This case having come on to be heard upon the consent of the parties to the entry of this decree,' &c., and it concludes with the following: 'The entry of the foregoing decree is hereby consented,' which is signed by both complainant's and defendant's solicitors. It also provides: 'It is further ordered, judged and decreed that the question of damages and costs having been satisfactorily adjusted between the parties, no reference is necessary to sustain the same.'

"This decree has no value whatever, because it has decided nothing. It is simply given upon the consent of the parties, and a decision is valuable only when it is an actual decision of the judge. No judgment is enforced in any other case where it is entered only on the consent of the parties. The case was not argued even, for there was no opponent. Evidently the court refused to do anything until the defendant put his consent to the entry of the judgment upon the very judgment itself. The decision is not as strong, either, as though it had been obtained by default. It is worse than that, because then one of the parties must fail of appearance, but in this case the decision was by the consent of the parties."

"Now, the American News Company of course had the right, when sued by Mr. Stewart, to confess judgment rather than allow Mr. Wirt to

defend the suit with his own counsel and at his own expense, securing them against any possible adverse result of the suit. The American News Company themselves have been sued by Mr. Wirt for infringement of his patents, and an injunction has been recently obtained against them by Mr. Wirt in that suit. The fact is, the decree in favor of Mr. Stewart is worth little less than the paper on which it is written, for it was obtained by the consent of the defendant and not upon any proof or evidence deduced in a trial. If at any time a suit should be brought against Mr. Wirt it will prove to be of more harm to him than good. If Mr. Stewart should ever muster up courage enough to sue any of Mr. Wirt's customers Mr. Wirt will defend every such suit with his own counsel and at his own cost, and guarantee every person sued against any loss or damage by reason of having sold the Wirt fountain pen, and we are authorized and directed by Mr. Wirt to appear at his expense for any person so sued. But we suppose it is too much to hope that Mr. Stewart will sue Mr. Wirt himself. He is likely to be deterred by the fate of others who have gone before him."—*American Stationer*, Nov. 12.

TWO BIG GAMES.

The University of Pennsylvania football warriors defeated Harvard on Saturday, at Franklin Field, Philadelphia, by the close score of 8 to 6. In the first half of the game the Harvard boys had thrown a wet blanket over the admirers of Pennsylvania, at the end of which the score was 6 to 0 in favor of the former, but in the last half old Pennsylvania took a brace, and when defeat was finally turned into victory, the scene was one the like of which was never before seen on any field.

While Penna. was taking Harvard into camp at Franklin Field, Princeton was administering a crushing defeat to Yale at New York. Yale scored the first touchdown ten minutes after play had begun, on a blocked kick, but after that all hopes for Yale vanished, and Princeton smothered them by the one-sided score of 24 to 6.

42,000 people were present at the two games, and when this multitude broke loose and shouted and sang, one can imagine the scene.

Native Miners Pleased.

Think Accidents Will Be Lessened by Discharging Foreigners.

The order of the mine officials to discharge all foreigners holding responsible positions about the mines at Ashland was hailed with delight by the American miners in that section of the coal fields. Almost nine-tenths of the mine accidents that have occurred the past few years have been caused, it is alleged, by the carelessness of the Polish and Hungarian laborers.

The hospitals are crowded with this class of workmen and it is believed that the number of mine accidents can be reduced considerably by employing none but American laborers.

GIRL BITTEN BY A MAD OAT.

The Animal Died and the Miss is Confined in a Dark Room.

Three weeks ago Stella, the 14-year-old daughter of Mr. and Mrs. John Smith, of Lock Haven, was bitten by the old house cat. The girl was playing with several kittens when the mother jumped at her and buried its teeth in the forefinger of the girl's right hand. Three days later, the old cat showed unmistakable signs of hydrophobia and died.

The bitten girl was, under advice of a doctor, placed in a dark room, where she can neither see water nor hear it running. As yet no symptoms of rabies have appeared, but the girl will be kept quiet for at least a fortnight yet.

The interest of all lovers of athletics will now be turned to basket ball. We have not heard much about the make up of the team that will represent the Normal this year, but knowing that there are several who were in the game last year at the Normal now, we hope that they will all be in line when play is called this winter, and if they do, we will not fear the result of any game they may engage in, for if they play the fast, dashing game, which characterized their work last year, we can find no team, in this state at least, that can defeat them. Get together boys, the time is drawing near.

THE SALE OF THE ENTIRE J. M. GIDDING & CO.

STOCK BY THE TRUSTEE

... IS NOW GOING ON ...

Everything in the Establishment at Absolute Cost without reserve.

Suits, Overcoats, Reefers, Storm Coats, Macintosh Coats, Hats,
Caps, Gloves, Shirts, Umbrellas, Night Robes, Trunks,
Valises, Etc.

SALE NOW GOING ON.

JOSEPH GOLDSMITH, TRUSTEE.

THANKSGIVING.

Again the year has rolled around and another Thanksgiving Day is before us. As we call to mind the blessings showered upon us during the past year, do not let us forget those less fortunate than ourselves. The Ladies' Union Benevolent Society is still in existence, and asks the good people of the town to remember the thank offering as heretofore given, at the union services, for the sole purpose of relieving the destitute sick of our town. Last Thanksgiving Day, this contribution amounted to over fifty dollars, nearly doubling the average of the last twelve years; and even that was exhausted before December. We need one hundred dollars this year, and if each one contributing will call to mind what he gave last year, and just double it this year, the work will be done. Seventeen families received aid from the fund last year, and others equally worthy, and equally needy, did not receive what they should, for the reason, that our funds gave out. Let each one give (conscientiously) as he has received from the giver of all good, and the hundred dollars will not be wanting, and no worthy suffering ones will go unaided.

MRS. M. C. WALKER,
Chairman of Committee.

Fire broke out at the house of George Stineman, on East Street at about 7:30 on Monday night. The alarm was sounded and the lower end of East Street soon became a perfect jam of people. The fire started by an explosion of a coal oil lamp, which was knocked off the table while Mrs. Stineman was ironing, and by the time assistance reached the house, the fire had got a pretty good start. It was soon outened however, before it had done a great deal of damage, nothing being hurt very much excepting the kitchen.

Henry Kleim, an old resident of this town, died last Friday afternoon, aged eighty-two years and eight days. He was the father of C. A. and Henry Kleim of this town. Mr. Kleim was formerly engaged in the shoe business, but for a number of years had lived a retired life.

MEIXELL-KAROHNER.

J. F. Meixell, of Bloomsburg, and Lydia E. Karchner, of Wapwallopen, were united in marriage at 4 o'clock Tuesday evening at the home of the bride's parents. The bride was attired in cream Lansdowne with lace trimmings, and carried a large bouquet of bridal roses. The maid of honor was Grace Karchner, a niece of the bride, who wore a pretty dress of cream merino trimmed with lace. The happy couple have the good wishes of all and will go to house-keeping in the near future at Bloomsburg where Mr. Meixell is employed at the D. L. & W. depot.—*Shick-shinny Democrat*.

A man who called himself Dr. Smith accompanied by his wife and small child stopped at the home of Mr. H. W. Miller on East Sixth Street one day last week and asked for board. They were taken in by the Miller family, who thought they were all right. After being nicely settled he asked the privilege to make his medicine on Mrs. Miller's stove, which was granted, and after he had made enough of the medicine, (which he claimed would cure most anything,) to last him awhile, he left the house on Saturday morning. His wife soon followed him, saying she was going out to purchase some small articles, but when they did not return Mr. Miller began to inquire around when he found that his boarders had "jumped" the town, and he was out their board. The man claimed to be from Shamokin.

President of Council Holmes has recently been in correspondence with the State Board of Health with regard to the appointment of a health officer for the town of Bloomsburg and the several townships adjoining. This is a good move to prevent the spread of disease in town and the surrounding country. It is thought that an appointment will soon be made. We have heard the name of Isaiah Hagenbuch mentioned as the person who will receive the commission.

W. S. Rishton has added a fine line of Whitman's chocolates and candies to his stock.

LESS THAN THE COST TO MAKE

An enormous stock of clothing from a retiring wholesale firm.

OUR BUYER JUST BACK FROM the city and it is the opportunity of a life time to get

SUITS AND OVERCOATS

—FOR—

MEN, BOYS AND CHILDREN,

—AT—

Slaughtering Prices.

Bloomsburg's Best Clothiers

—THE—

D. LOWENBERG CLOTHING STORE.