

PATENTS—SOME ELEMENTS OF A COMBINATION BEING OLD DOES NOT NECESSARILY NEGATIVE INVENTION.

The U. S. District Court for Connecticut in the case of *The Carnes Limb Co. v. Delworth Arm Co.* (June 16, 1921) held that a patent for a device which is inoperative or fails to accomplish the desired end, is not an anticipation of one which successfully accomplishes it. The court also held that the fact that some of the elements of a combination are old does not negative invention, where the combination is new and produces a new and practical device. In rendering the decision in this case the court went on to say that in order to establish anticipation it is not sufficient to pick out one part of a patented device from one prior patent, another part from some other, and so on, and then say that it is not invention to bring these several parts together, especially when the patentee is the first to conceive of so doing, and by so doing has produced a practical operating device.

A rather interesting coincidence in this case is the fact that Carnes, prior to his invention had lost a foot, and Delworth an arm, and that both had perfected their respective inventions as a consequence of their inability to find a suitable article on the market to replace their lost limbs.

PLEADING — DEMURRER ORE TENUS—NOT VIEWED IN SAME LIGHT AS A FORMAL DEMURRER.

In the Case of *Adams v. Pickerel Walnut Co.*, 232 S. W. 271, (Mo.) an agreement is set forth between plaintiff (Adams) and Craig for the purchase of certain walnut logs by Craig. Craig, in turn, was to ship the logs to defendant (Pickerel Walnut Co.). For certain of these logs which were of a superior quality, plaintiff refused to accept the price agreed upon and as a result of this Craig refused to accept certain of the logs which were of an inferior quality. Following this there was continued correspondence between plaintiff and defendant concerning the sale of the logs. Omitting certain details, a letter comprising part of the above-mentioned correspondence and marked "Exhibit G" was offered in evidence by plaintiff. In this letter defendants agreed to take the logs provided all of them were loaded under the "supervision" of Craig. As a matter of fact the loading of the logs was supervised by Mr. Moore, attorney for plaintiff. After the logs were loaded a number of them were lost, owing to a sudden rise of the Mississippi river. In the case at bar the plaintiff brought action against the defendant lumber company for the value of the logs lost and for the additional money he (plaintiff) had expended in trying to save them. In the court below plaintiff obtained judgement against defendant for \$1819.26. In the St. Louis Court of Appeals the judgment was reversed, altho upon other grounds than the particular point to be commented upon here.

At the commencement of the trial defendant objected to the introduction of any evidence on the ground that the second amended petition upon which the case was tried did not state facts sufficient to constitute a cause of action. Appellant claimed that tho the petition alleged that defendant agreed to buy