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Natural Right of Man to his Invention.

Our views on this subject seem to be the reverse of those advanced by the Commissioner of Patents in our last number. We have examined the question from a different point of observation, hence this may be the reason of the difference in our opinions.

The question before us is not, strictly, "has man the natural right to the use of his own invention," but "has he a natural right to prevent all others from imitating, re-producing a like machine, or article of invention." Judge Mason takes the affirmative and we the negative view of this question; he assumes the position that a patent is "a natural right;" we contend that it is simply the instrument of a civil contract—the bond of a legal right.

In the communication of the Commissioner, the views of J. W. Scott, presented on page 205, appear to be acquiesced in, viz., that the Indian who builds his wigwam in the forest has no right in nature to prevent others imitating him. This admission is favorable to our view of the question, for, according to the provisions of our patent laws, as a civil contract, he could become possessed of the power to prevent others imitating him for a limited time. The wigwam would be considered a new and useful manufacture, a product, and patents are granted for such, and not only such, but also for articles of design, such as some peculiar ornament on the front of a house. We cannot suppose that a patent could or should be granted to the Indian as a natural right for placing an ornament on the entrance to his wigwam, and yet he denied a patent for the invention of the wigwam itself. We agree with Judge Mason in his views regarding the natural right of a person to an Island which he had caused to arise from the bosom of the ocean; but such a right does not confer upon him, as a natural right, the power to prevent others imitating him in making like islands, which is really the question under consideration. The man who first constructs a machine as wonderful as Alladin's lamp, cited as an illustration by Judge Mason, has a natural right to its use, and he will be protected in that right without the aid of a patent. To forcibly dispossess him of that machine, is theft in the eye of "Common Law,"—a crime for which the thief would be doomed to punishment and a prison.

The inventor and maker of a machine has a natural right to do with it anything he pleases. He can sell it, break it, give it away, or use it in secret or public; no one denies his natural right to such disposal of his property. "But," says James S. Stimpson, of Baltimore, in a letter to us, advocating the natural right of inventors to their inventions (in answer to our article on page 205,) "you are speaking of a machine—an invention consists of an idea, a machine is mere matter giving form to the idea." It is true that a machine is a product resulting from acts of the mind, called "ideas," but patents are not granted for ideas but for veritable machines and articles.

It is impossible to make tangible property of an idea. One man communicates an idea to another, and the recipient receives it into his mind, he cannot keep it out—it forces itself into it, and becomes his possessively, as much as his who communicated it to him; and at the same time, he who has communicated it, also retains possession of it. The same idea can thus come into the possession of a million of persons, and they cannot be dispossessed of it by any process of law. How then can there be property in an idea? It is impossible. Jefferson is very clear on this point: he says, "if nature has made any one thing less susceptible than all others of exclusive property, it is the action of the thinking power called an idea, which an individual may exclusively possess as long as he keeps it to himself, but the moment it is divulged, it forces itself into the possession of every one. Its peculiar character, too, is that no one possesses the less, because every other possesses the whole of it. . . . Inventions, then,

cannot in nature be a subject of property. Society may give an exclusive right to the profits arising from them, as an encouragement to men to pursue ideas which may produce utility."

The act of society referred to by Jefferson, granting exclusive civil rights to encourage inventors, is the Patent Law. The Government, in the name of the public, on the one hand, agrees to prevent any person making, using, or selling a certain machine, or article of manufacture (without the consent of the patentee,) for a period of fourteen years, upon the condition of the inventor revealing his secret, and informing the public how to make and use it. This is the contract entered into between the public and inventors, when they choose to obtain patents, which are legal bonds, bearing the broad protective seal of the Government.

Patents are legal rights arising from an advanced state of society. In olden times, inventors stood upon their natural rights (some do so now,) and many excellent inventions were then made and used in secret, and those secrets died with their authors. As civilization advanced, and governments became more enlightened, they adopted the principle of encouraging inventors to reveal their secrets for the public good, hence the origin of Patent Laws for the promotion of science and art.

The first general patent law for new improvements in the arts, enacted by any nation, only dates back to the reign of James I. of England. This law was not made either to create or protect natural rights, but simply to promote the progress of science and art. Our Patent Law is based upon that Act. The language of the U. S. Constitution, in reference to patent laws, is as follows: "Congress shall have power, &c., to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their writings and discoveries."

Patents are not granted on the fundamental idea of natural rights. In the case cited by Judge Mason, of two persons coming before the Patent Office at the same time, with like machines—each applying for a patent, we agree with him that it would not be just to grant a patent to the one who was not the inventor; but why? Not on account of natural right, but because he had not complied with the terms of the civil contract embraced in the Patent Law.

Let us quote a bona fide case, not a supposable one, to prove that our Patent Office does not grant patents on the principle of the natural rights of inventors to the exclusive use of their own inventions: Three men apply at the Patent Office at the same time for patents on churns, each having made oath that he believes himself to be the original and first inventor. Three separate models, alike in every respect, are presented with the applications, and no one of the applicants ever saw or heard of the others, or their churns, before—each invented his own churn independently, without any knowledge of the efforts of the others. What is to be done in this case? If a patent involves a natural right in the thing invented; i. e., that every inventor has the natural right to the exclusive use of his own invention, then each of these applicants must be granted a patent for the exclusive use of his churn, which must entirely destroy the principle of exclusiveness, as each patent would contain the feature of excluding the others. But the Patent Office, instead of granting each applicant a patent, upon the principle of natural right and exclusive use to his own churn, grants only one patent, and that to the person who proves, by disinterested witnesses, that he had invented his churn first. In this case, the two rejected applicants, instead of being protected in the natural right to their churns, are deprived of them for fourteen years, and their property in their respective churns held in abeyance for that period to the first inventor as a matter of national policy. The patent, in this case, is granted on a simple question of time. Such cases are continually being brought before the Patent Office. Such cases effectually dispose of the question of natural rights in patents, and places it upon the basis of the civil contract.

If patents were to be granted on the fundamental idea, that every inventor had the

natural right to the exclusive use of his own invention, a vast number of patents would have to be granted every year for the very same invention, and confusion worse confounded, regarding patents, would soon reign throughout the Commonwealth.

That which is called "patent property," is entirely different in its nature from that of real estate, like a house or a farm. The two are often placed on parallel lines and compared together. This, we contend, should never be done. The person who purchases a farm of one hundred acres, cannot prevent another person from purchasing and using a like farm. The farm cannot be re-produced, and ownership in it does not involve the exclusive principle contained in patents, which prevents the reproduction by others than the patentees, of like machines to those described in their patents. Owners of real estate and their legal heirs are never dispossessed of their property, upon the principle of expediency, without a full equivalent paid in return. Patent property is so entirely different from that of real estate, that when a patent expires, no act of dispossession takes place towards the patentee; he simply loses the power of being able to dispossess others of tangible property which he never owned. Upon the basis of the civil contract he ceases to wield the power of exclusion. He and his heirs have still the natural and moral right to make and use his invention, and of this they are never dispossessed.

Our views on this subject are the same as those entertained by the ablest writers on the subject. We have already quoted that of Jefferson, who was a member of our first Patent Board, for several years, and who had examined the subject thoroughly. Thomas Webster, an English Patent Barrister, in his work on Patent Laws, says, respecting patents:—"The conferring of patent rights may be considered as having the following objects in view: to reward the inventor for his ingenuity, and for the benefit which he has conferred on the public; to secure to him a suitable remuneration for his outlay of capital, and to encourage and stimulate invention and improvements. . . . The monopoly should only be temporary; for the inventor has no natural inherent right to his invention." That is, to prevent others imitating him. Willard Phillips, of Boston, in his essay on the Legislation of Patent Rights, says, "In respect to things that can be visibly and exclusively possessed, the producer, or first occupier, is acknowledged by the laws of nature to have established his right of property by his possession, and the laws supervene to guarantee and protect that right. But the exclusive use of a discovery in the arts must originate in a conventional law; the law must be expressly passed or tacitly recognized before the right of property can exist."

Referring to the supposed natural right of patent property, he again says, "No such natural right exists. Indeed, there is no plausible ground whatever on which to rest such a right, since the fact of one person being the first inventor or discoverer affords no pretence for disfranchising others (the churn case for example,) of the right, in their turn, of making and using the same discovery." Renouard, the able French author of a work on patents, clearly establishes the conclusion, that no such natural right exists. Curtis, although not so explicit on "natural right," is perfectly clear on the civil contract view of the question. He says, "his secret, the inventor undertakes to impart to the public when he enters into the compact, which the grant of a patent principle embraces."

We are well aware that there may be much honest difference of opinion regarding the principles of patents, for this branch of law is so intricate that Renouard calls it "The Metaphysics of Jurisprudence." We have devoted much attention to such subjects during the last twelve years, and the foregoing conclusions have not been hastily adopted. We consider every patent to be a sacred civil contract entered into between the public and the inventor. That contract should be faithfully kept by the public, for it loses nothing and gains much by the bargain. We look upon patent laws as a grand invention in themselves for rewarding inventors, inasmuch as

they encourage men to make new inventions, and to introduce new arts. Patent Laws exhibit a wise national policy, and we do not hesitate to assert that France, England, and America, owe much, if not most of their physical prosperity—their rapid advancement in science and the arts—to such laws.

Patent Extensions.

There are now before the Patent Committee in Congress no less than seven applications for the further extension of as many different patents. We herewith subjoin a list of the same, with dates, for the benefit of the public and of all parties concerned:—

William Woodworth, Planing Machine. Patent originally granted Dec. 27, 1828. Extended by the Commissioner of Patents for seven years from Dec. 27, 1842. Extended the second time by Congress for seven years from Dec. 27, 1849. Expires, unless now a third time extended, on Dec. 27, 1856. Two applications to Congress for this third extension have been before refused.

C. H. McCormick, Grain Cutting Machine. Originally patented June 21, 1834. Expired June 21, 1848.

Nathaniel Hayward, Manufacturing Rubber with Sulphur. Assigned to C. Goodyear. Patented Feb. 24, 1830. Expired Feb. 24th, 1853.

James Harley, Casting Chilled Cylinders and Cones. Originally granted March 3, 1835. Expired March 3, 1849.

Joseph Nock, Pad-lock. Originally granted July 16, 1839. Expired July 16, 1853.

Isaac Adams, Printing Press. Originally granted March 2, 1836. Extended by the Commissioner of Patents for seven years from March 2, 1850. Expires March 2, 1857.

J. A. & H. A. Pitts, Thrashing and Winnowing Machine. Original grant dated June 29, 1837. Extended by Commissioner of Patents for seven years from June 29, 1851. Expires June 29, 1858.

It will be observed that several of the above patents have already expired, and are now public property. Their extension at this time would involve the establishment of an unjust and dangerous precedent. When a patent ceases it belongs to the people, and all persons have the right to engage in the manufacture of the article. To take this right away from a private citizen under any pretence whatever, after he has invested in it his capital and labor would be a deliberate robbery. We cannot for a moment suppose that Congress will be induced to assent to such a monstrous proposition; and therefore deem further remark unnecessary.

Mr. C. H. McCormick strikes out on a new path to obtain an extension. His patent, it will be noticed, expired some eighty years since. Application was made to the Commissioner for extension, previous to that time, but refused. The inventor now comes before Congress and alleges that said rejection was made purely on technical grounds, and prays that authority be given to the Commissioner of Patents to review the case, receive new testimony, and decide afresh, the same as if it had never been adjudicated. This is, certainly, a curious mode of whipping the devil around the stump. Mr. McCormick ought to file a caveat upon it. Modest man! Allow his patent to expire and go into extensive public use for eight years, and then ask its extension, or rather for a re-adjudication, which is the same thing!

We are opposed to this whole system of Congressional patent extensions. It is without any foundation either in right or equity. It grants monopolies and privileges to the rich which it denies to the poor. It opens wide the door of temptation to fraud and dishonesty. The poor inventor, who, if any one, deserves an extension, has no money or friends to urge his claims. But the rich inventor, grown strong through the money derived from his monopoly, has hosts of backers, and a wide influence. His patent, though he is undeserving, is extended without difficulty. Misrepresentation, falsehood, and money, appear to be the three great staples required for patent extensions. Whoever furnishes the largest supplies of these stands the best chance of success.

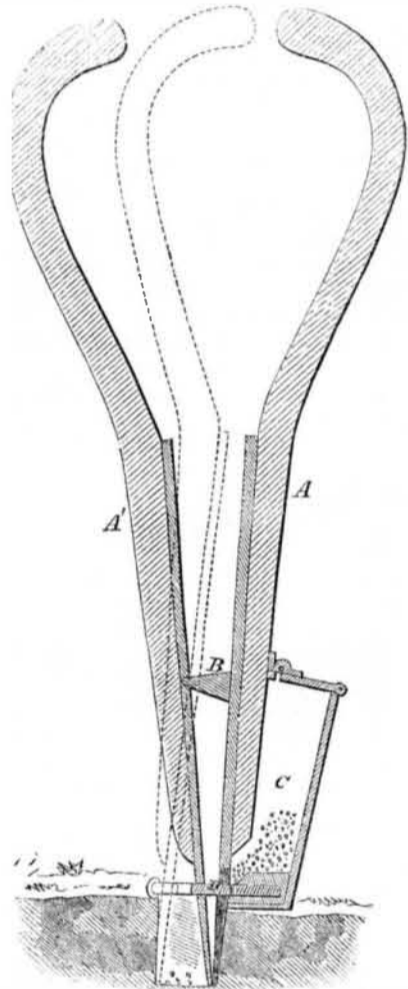
If it is right for Congress to extend one patent it is equally just to extend all. Far better

would it be to pass a general law extending the period of every patent to twenty or thirty years than to make these grants to a favored few.

#### Recent American Patents.

**Improved Corn Planter**—By D. W. Hughes, of New London, Ralls Co., Mo.—This invention belongs to the class known as the hand planting machine—a contrivance that is carried somewhat like a cane in the hand of the operator, who thrusts the lower end into the ground as he walks over the field, and deposits seed at each thrust.

The nature of the invention consists in having two blades connected by a joint or pivot, like a pair of tongs. A seed box is attached to the lower part of one blade, and a perforated slide, which fits the seed box, to the other; the slide works in the lower part of the seed box; the various parts are so arranged that by shutting the lower ends of the blades, placing them in the ground, and then forcing them apart by means of the handles the necessary hole will be made, and the corn or other seeds deposited therein.



Our engraving is a sectional view of this invention. A A' are the blades, B the fulcrum or pivot, C the seed box, and D the seed slide; the latter contains a cavity or perforation, into which the seeds drop; when the blades open their lower ends spread, and widen the hole in the ground, while the slide, D, being attached to the moving blade is drawn out sideways, and the seeds contained in the cavity just mentioned drop into the ground between the blades. This is an extremely simple and cheap corn-planter. It will, no doubt, find a very extensive introduction. Patented Nov 20, 1855. Address the inventor for further information.

**Improvement in Pile Drivers**—By J. W. Hoard, of Providence, R. I.—The large weights used in pile driving are apt to split and crush the head of the pile, owing to the sudden and tremendous force with which they descend. Great difficulty is experienced from this source in driving piles where the soil is hard; the heads of the timbers becoming so much injured that the workmen have to stop and saw them off; thus there is a waste of time and material.

These evils are remedied in the present improvement by dividing the weight into two or more parts, and placing them one above the other, with a layer of india rubber between. The weights are then bound together by a spindle, and in use are raised and discharged together, the same as a solid weight. This method is said to divide the blow of the weight,

and to save the heads of the piles from being crushed or split.

**Butter Worker**—By James H. Bennett, of Bennington, Vt.—Consists of a bowl placed on the top of a vertical spindle. The attendant holds a spatula in one hand, with which the butter is worked while the bowl rotates. A foot pedal may be employed to turn the spindle. This is a cheap and simple device.

**New Rat Trap**—By Samuel Beaumont, of New York City.—This contrivance is so arranged that the rat is obliged to venture on to a platform in order to get a nibble at the cheese. The first bite pulls a bolt and down falls the platform, tumbling the poor rat into a separate compartment, and leaving him a close prisoner. A spring throws up the platform and sets the trap again, ready for a new customer. This is quite an ingenious invention. We hope to illustrate it hereafter by engraving.

**Marble Saw**—By J. A. Bailey, of Detroit, Michigan.—This is for sawing monuments on a taper, or straight, two sides at once. The saws are spread to the required angle by means of right and left screws, on which they are strained; the screws are operated through a connection with the pitman. The taper or angle at which the saws cut may be adjusted at pleasure.

**Fan Rocking Chair**—By Konrad Kiefer, of New York City.—The nature of this invention consists in applying to a rocking chair a number of fans connected with mechanism so that by the rocking of the chair the fans will be put in motion and fan the occupant. What a luxury, for warm weather, is this invention.

**Marble Saw**—By I. A. Heald, of Springfield, Mass.—The invention consists in having two saw frames attached to a reciprocating frame in such a manner that the saw frames may vibrate laterally while working longitudinally. The degree of lateral vibration is easily adjusted, so that the saws will cut at any angle desired. A further improvement consists in having saw frames thrown up at the end of each stroke or at the termination of their forward and backward movement, so that sand, which is always employed in sawing stone, may pass into the saw kerfs underneath the stone. The use of ropes, windlass, and other gearing, to swing the saw, is thus obviated.

**Saw Mill**—By Jesse Gilman, of Nashua, N. H.—In ordinary saw mills after a board has been sawed the carriage on which the log is fed must be giggered or run back for a new cut; to do this the attendant presses a lever, which brings a wheel in contact with a rack on the carriage, and moves the latter to the desired position. In the present improvement the carriage is moved back as soon as the board is cut by an automatic device, so that the presence of an attendant is unnecessary. Mills thus arranged are not new in themselves. The invention of Mr. Gilman consists in a novel and peculiar device for accomplishing the purpose named.

**Self-Loading Hay Cart**—By D. H. Thompson, of Fitchburgh, Mass.—This invention consists in the employment of rakes applied to a cart or wagon, in connection with an inclined frame, operating in such a way that the hay will be raked up and loaded into the cart or wagon by merely drawing the vehicle over the meadow. Truly the march of improvement is onward. The next contrivance, perhaps, will be a self-moving barn, that goes out into the field, fills itself with hay and then returns to its foundation.

**Improved Punching Press**—By Corliss and Harris, of Providence, R. I.—This invention consists in the employment of an oscillating box working in a yoke of peculiar construction attached to the plunger or follower to transmit from an eccentric the force to produce the pressure. The principles of construction are such as to obviate friction to a great extent at the moment of punching, and thus render the press easy of operation.

#### Recent Foreign Inventions.

**Interior Sun Blinds**—J. Jeffreys, of London, patentee.—Two frames are made of wire, with strong side wires and cross wires, and the one is placed horizontally above the other a few inches apart. The two frames are joined together by diagonal cross bars at the sides, and

strips or pieces of cloth are stretched from one cross wire, in the inside, to the other cross wire, a little above it on the outside frame. Each strip of cloth thus placed is inclined like a Venetian slat, and the two frames are parallel to one another. The wires on which the cloth is stretched may be made to turn on their ends, to incline them more or less. The inventor terms these blinds "Solar Screens." They do not answer as substitutes for Venetian blinds, but they will screen off the rays of the sun without interfering much with the view from within an apartment.

**Preserving Meat and Fish**—J. Bethel, of England, patentee.—This invention consists in slowly drying meat, fish, and vegetables within kilns, in a dry atmosphere, ranging from 90° to 130° Fah.—never being heated above the latter. The object of the invention is to evaporate all the moisture in these substances without coagulating the albumen, so that the juices of the meat, fish, or vegetables, as dried, will remain in a soluble state. If the meat were dried at a higher temperature than 130 Fah., the albumen would be coagulated, and the juices rendered insoluble.

**Roasting Coffee**—T. Pougereau, of England, patentee.—This improvement consists in roasting coffee in a globular instead of a cylindrical roaster, and giving it two motions over the fire—one round a horizontal, and the other round a vertical axis. Coffee beans are roasted more uniformly in this than they can be in the common cylinder roaster.

**Milk Soap**—D. Pallier, of England, patentee.—The claim of this inventor is for the use of a mixture of milk and flour, or farina, in soap. Bran, we know, has been used in the manufacture of soap; it is much cheaper than flour, and will answer as good a purpose.

**Bleaching Straw Pulp**—In the specification of the patent, lately granted, of J. Cowley, and D. P. Sullivan, of Quennington Paper Mills, Gloucestershire, Eng., it is stated that in bleaching straw pulp, the liquor (chlorine) used is about one and a half to two degrees in Twaddle's hydrometer, in strength; that a lower strength will not bleach the pulp, and a stronger liquor will injure it, and not produce so good a color. When the straw is undergoing bleaching, it is carefully watched, and as soon as it assumes a reddish color, just merging on the white, a jet of steam is cautiously let on and continued for two hours, until the liquor has attained to a blood heat, or about 90°, at which temperature it is maintained for about two hours longer, when the straw will be completely bleached, and fit for the beating engine. Unless the steam is gradually introduced, the color will not be good.

**Bleaching Rosin for Soap**—J. Bunclie, of Eng., patentee.—This improvement consists in melting the resinous substances by a jet of steam, and boiling the same with caustic alkali, adding a little salt when boiling, and then passing currents of air through the resin or colophane, which is then allowed to stand for a little while until all impurities settle to the bottom of the vessel. The clear is then run off and used in the soap boiler, and as resin is now used, and for the same purpose. Soap made with bleached colophane is much lighter and handsomer in color than if made with the crude resin.

#### Notes on Ancient and Curious Inventions.—No. 1.

We purpose, in a series of articles, to describe a number of American inventions, respecting which there is an absence of general information. The Colonies, prior to the Revolution, appear to have had, and did exercise the power of sometimes granting patents by special acts, for new inventions, and the introduction of new manufactures; the crown also granted patents for the Colonies for new inventions, but it appears that these had to be recorded in the archives of the Colonies by special acts, before they became effective, and legal. After the Revolution, prior to the Federal Union, the original States, inherited the power of granting patents; this power, they surrendered to Congress by the Act of Union.

Massachusetts and Connecticut, of all the Colonies, did most by premiums and bounties to encourage new inventions and new arts, and it is a fact, that now, in proportion to their inhabitants, more patents are granted to

residents of these States every year, than any of the others. This we attribute to the early encouragement given to inventors by these States; the impulse early given is still felt.

**Saw Mills in Virginia**—The abundance of timber in the Colonies; the demand for it in Europe, and by the colonists themselves, for the building of their houses, ships, &c., led them early to erect saw mills driven by water. In 1621, in a tract published by E. Williams, London, the description of an old saw mill used in Virginia is given. The wheel was an undershot, with a large pin wheel (sometimes called a bull-wheel, by millwrights,) on its main shaft, gearing into a wooden cog wheel secured on a second shaft, placed between two upright beams. This shaft had a crank on it, to which was secured a connecting rod attached to the foot of the saw gate, in which were three upright saws—a gang. Excepting in the use of more iron in their construction, there are many saw mills now in various parts of our country which differ but little from this old one.

**Massachusetts**—In 1652, the General Court of Massachusetts allowed John Clark to charge every family ten shillings for the use of his invention for sawing wood and warming houses—this privilege was granted to him for life. In 1641, the same court granted S. Winslow a patent for ten years, to manufacture salt by a new method discovered by him. In 1656, J. Winthrop, son of the Governor, was also granted a patent for twenty years, for manufacturing salt by a new process. In 1671, R. Wharton & Co., of Boston, were granted certain exclusive privileges for making tar, pitch, and turpentine.

In 1701 the Legislature offered a bounty of one farthing on every pound of hemp purchased and raised in the Province, and in 1722 it also offered premiums on linen-duck made in the Province.

**Pasteboard**—In 1732 a pasteboard paper-mill was erected at Ivy Mills, Pa., by a Mr. Wilkinson, from England. The pasteboard made was principally used in the cloth presses of woolen factories.

**Making Straw Hats—Dressing Indian Corn**—On July 18th, 1717, Thomas Masters, of Philadelphia, petitioned Lieut. Governor Keith, of Pennsylvania, to be allowed to record two patents which had been granted by the king on the petition of the inventor's wife, Lybella, (a thrifty wife no doubt); one was for cleansing, curing, and refining indian corn grown on the plantations, to fit it for shipping; the other was for "weaving, by a new method, palmetto, chip, and straw hats." The petitioner stated he had projected these inventions at vast expense. His petition was granted.

**Tidal Mills**—Wheels moved by the rise and fall of the tide are of very ancient date. John Manson, a carpenter, petitioned the Governor of New York, 11th of February, 1700, for a patent to erect a mill to go with the tide. It is not known if this petition were granted. This inventor also stated he had invented a new method of making "a small vessel sail faster than any other," and that he had also invented a new engine.

#### Decay of National Health.

A correspondent of the *Tribune* has been writing a series of articles on the above subject. He states that American women are not so healthy nor robust as those of Europe, and attributes this to the use of stoves, ill ventilated apartments, and the manner of clothing themselves.

If an evil is found to exist in a nation, it never can be eradicated without destroying the cause, and until the cause is really discovered, it is wrong to speculate at random. It is our opinion that the houses of our people are as well ventilated as those in Europe; also that stoves are used in Europe as well as in the United States; and that the dress of the females on both continents do not differ much.

#### Stone Cement.

A cement of three parts fine coal ashes, one of red lead, three of sand, and two of chalk (by weight) made into a putty with oil, is excellent for filling up the exposed joints of stones, bricks, &c. It becomes as hard as marble.