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Highly Important to Inventors.—Proposed Remodelling of the Patent Laws.

The Bill published in other columns, designed to effect such a sweeping change in our present patent system, is the one to which we alluded last week, and it is nearly the same as that introduced into the Senate in June, 1854.

When introduced into the Senate on the 10th inst., mysterious telegraphic despatches were sent to the daily papers, lauding it to the skies, and stating it had met with the unanimous approval of high judicial personages at Washington. Those dispatches were no doubt, furnished by parties interested in its passage. We cannot believe that any good jurist acquainted with our present harmonious patent code, would endorse such a bill, either as it respects its provisions or composition. Some interested assignees of certain odious monopolies, no doubt, know something about these despatches. Defeated by bold and open opposition, they entertain hopes of accomplishing their objects in some other way.

Why is such a Bill now presented to the Senate? Neither the public nor inventors have demanded it, therefore it has the appearance of being an excrescence on patent legislation. Is it designed to be an improvement on the present patent system? Not in a single particular would it prove so; but would superimpose a bad, objectionable, system upon a good one. The object of all legislation should be improvement; but the object of this Bill appears to be the very reverse.

Our present patent system is so simple, is now so well understood by inventors and the public, and under the present able administration of Commissioner Mason has worked so admirably that, according to the dictates of our conscience, we must repel every attempt to displace it by such a Bill as this. If carried out into law it would entirely defeat the objects for which the Patent Office was mainly instituted, and convert that establishment into an extravagant and extraordinary judicial court, and a huge printing and publishing warehouse.

Patent laws should be simple and explicit; but this Bill is the very essence of complexity and crudity. The object of patent laws should be to encourage inventions, and give stability, to patents, and protection to both patentees and the public. Under the present patent laws these objects are accomplished; but the new Bill instead of being an improvement, appears to us to be framed to discourage inventors, clog their energies, confuse the business of the Patent Office, worry patentees, and render patents almost valueless. It provides that after a patent has existed but five years, it must become null, unless the patentee can and does pay a new fee of $100 into the Treasury. And then there are also so many expensive processes provided for patents to go through, such as the *confirming act*, that it appear to us to be instituted for the very purpose of sweating inventors and benefitting agents and lawyers. No inventor could ever find his way through the meandering courses his case would have to go before he got a valid patent, and attorneys could not afford to conduct cases at the expense now paid for preparing applications and obtaining patents. Is this the way to encourage mechanics and farmers, who compose the majority of our inventors, and who, in general, cannot afford to pay for such money-sweating operations? We trow not. Such provisions in a Bill appear to be an attempt, also, to force poor inventors to place their inventions under the patronage of wealthy capitalists, or lose the benefits of them (after five years) altogether, if they have been so fortunate as to raise money enough to obtain patents at all.

Hitherto our patent system has been considered the most simple and perfect in the world; it has been a model for England and some other nations, who have recently adopted some of its features. But the new Bill would drag it back to the ages of barbarism, by engrafting upon it worse features than those embraced in the Prussian or old English system.

But our object in this place is not so much to criticize the Bill as to direct the attention of our legislators and inventors to a careful examination of its contents, and to pass judgement thereon themselves.

Any great and sudden change in established law, especially that which has operated so well as our present patent code, is a dangerous expedient. All able statesmen are well aware of such dangers in legislation. The present patent laws contain so many beautiful features, and are so very simple and explicit, and so many brilliant inventions have been patented and sustained at law under them; and besides, they have been the means of exciting so much latent inventive genius, that we must warn Senators not to lay ruthless and hasty hands upon them. They are far superior in simplicity, fairness, and justness in all those provisions designed to be superseded and abrogated by the New Bill. Such great changes as those contemplated in this Bill, have not been asked for by inventors or the public: they are not required and should not be made.

A Call from Henry L. Ellsworth.

Ex-Commissioner of Patents—H. L. Ellsworth, Esq.—favored us with a call a few days since; the old gentleman looked as hale and hearty as when he presided over the Patent Office twelve or fifteen years ago. He resides at Lafayette, Ind.. and states that this year he has planted nearly 4,000 acres of corn on his *little* farm.

In conversation with him upon the subject of the New Patent Bill now before Congress, he expressed himself decidedly opposed to it, stating that he was fearful, if adopted, it would be a broad step towards the breaking up of our whole patent system. He coincided in our opinion, that the existing laws are as good as they can be, with perhaps some minor amendments, and he should be very sorry to see such a bill enacted, as was proposed. The honest old gentleman seemed not only to deprecate the idea of tampering with the present beneficial laws, but to feel sad at the idea of our Congress entertaining a bill which was so apparently concocted by designing parties, to procure the extension of a few monopolies, which they could not otherwise induce Congress to extend, unless by deception.

Like the makers of sugar-coated pills—they seek to hide the taste of the drug, while passing through the Congressional mouth, well knowing that when swallowed, the effect will be the same as if no covering existed.

New Patent Bill

TO AMEND THE SEVERAL ACTS NOW IN FORCE IN RELATION TO THE PATENT OFFICE.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents may establish rules for the taking of any affidavits or depositions which may be required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any commissioner to take acknowledgments of special bail and affidavits, appointed by a court of the United States, or any person specially appointed by the Commissioner of Patents, who shall have power to issue subpœnas to compel the attendance of witnesses, which may be sent to any distance not exceeding fifty miles from the place where the witness is required to attend, who shall also be vested with power to administer oaths, to issue attachments, and to punish for contempts, so far as the same shall be necessary to compel the attendance of witnesses, or to preserve order while taking their depositions. And whenever a witness, from whom an ex-parte affidavit is desired, shall refuse or fail to give full testimony on all points suggested to him, interrogatories may be propounded to him, which, together with the answers thereto, may be reduced to writing, and used in place of an affidavit; and if any person in making an affidavit or deposition, as above contemplated, shall wilfully swear falsely, he shall be deemed guilty of perjury, and be punishable accordingly.

[At present there is no law compelling the attendance of witnesses or requiring them to testify. It is undoubtedly proper that some method of employing legal coercion, when required, should be introduced. But we object to giving the Commissioner of Patents, or any of his appointees, such extensive judicial authority as the above section provides. It states that any person appointed by the Commissioner, shall have power to issue subpœnas and compel the attendance of witnesses; said person shall also have power to administer oaths, *issue attachments and punish for contempts*. The witness is thus liable to indefinite imprisonment, perhaps without real cause, at the nod of the Commissioner's agent! Such authority is at present only allowed to the learned Judges of our Courts, by whom, even, it is sometimes abused. This power should never be indiscriminately conferred.]

SEC. 2. *And be it further enacted*, That no money deposited after the passage of this act shall be withdrawn or refunded on the failure of an application; but when money has been paid into the office by mistake, or when, for any other reason, money shall have found its way into the office, which in justice and equity ought not to be retained, it shall be the duty of the Commissioner to order the same to be refunded, for which order he shall place his reasons on record.

[The law now provides for the return of $20 to the inventor, in case his application is rejected, and money paid in by mistake is always refunded. This section repeals the right of withdrawal, but effects no other object.]

SEC. 3. *And be it further enacted*, That the right to file a caveat, or to apply for any patent, design, or re-issue, shall be enjoyed equally by citizens and aliens; and the fee required of aliens shall be the same as required of citizens of the United States: *Provided*, That no patent shall be issued to the citizens or subjects of any country in any territory of which citizens of the United States are not permitted by law to receive patents for their inventions: *And provided, further*, That the three months notice given to any caveator, in pursuance of the requirements of the 12th section of the act of July 4th, 1836, shall be reckoned from the day on which such notice is deposited in the post-office at Washington: *And provided, further*, That the law requiring applications for additional improvements is hereby repealed.

[The above is about the only improvement contained in the whole Bill, but we take exception to the second clause, as being an inexpedient measure.]

SEC. 4. *And be it further enacted*, That instead of the oath heretofore required of the applicant for a patent or design, he shall only be required to swear or affirm that what he has described and claimed in his specification has not been invented or discovered by any other person in this country, or been patented or described in any printed publication in this or any foreign country prior to the invention or discovery by himself, (or "prior to the date of his application," if he chooses to state it in that manner.) As against an applicant who fails to make oath that he verily believes himself the original or first inventor of that for which he seeks a patent, the foreign inventor shall be allowed to show priority of invention, and to obtain a patent accordingly: *Provided*, he shall make application within two years from this date, or within two years from the date of his invention. *And be it further provided*, That no patent for an invention, to any other than to the person who makes oath that he verily believes himself to be the first and true inventor of the thing specified in the application, shall be granted for a longer term than seven years.

[Instead of stimulating our citizens to originate and study out new inventions, the above section encourages Americans to steal improvements from foreign inventors. This is fostering home genius with a vengeance!]

SEC. 5. *And be it further enacted*, That when an interference has been decided in favor of one of the parties thereto, a patent shall be granted accordingly, (unless the successful party shall have a patent previous to the interference,) and the filing of a new application, subsequently to the day of hearing, on the interference shall not prevent the patent from being granted.

SEC. 6. *And be it further enacted*, That from and after the passage of this act, every patent, except such as by this act are limited to seven years, shall be granted for five years. Upon the application of any patentee or assignee of a patent for the extension of a patent so granted, previous to its expiration, and on payment of one hundred dollars to the credit of the Patent Fund, the Commissioner of Patents shall extend such patent for a term of fifteen years, which extended term shall be subject, however, to the conditions and restrictions for the confirmation of such patent, and the proceedings for annulling such patent hereinafter provided in this act. And all patentees and assignees of patents which are now in force, may, after the lapse of five years from the date of the letters patent, avail themselves of the provisions of this act: *Provided*, That the term for which such patents may be extended shall not exceed the term of twenty years from the date of issue of the original letters patent; and in no case shall any such patent be renewed or extended after the expiration of said twenty years. *And provided, further*, That no patent granted under the third section of this act for an invention not original with the patentee, or for a design, nor any registry patent, shall be extended for a second term.

[Under the present law the inventor pays $30 and receives a patent for 14 years, at the end of which time, by paying $40 more, he may have it extended for 7 years longer, making 21 years; the applicant for such extension is obliged to show, however, that he has made proper efforts to sell and introduce his invention, and that he has failed to receive a sufficient remuneration for the invention during the first period of the patent.

The law also provides that the said seven years extension shall be for the sole benefit of the inventor, and thus cuts off the assignees of the first patent. If the inventor was deceived or so short sighted as to sell his first patent for too small a sum, the law gives him a fair chance to redeem himself—to obtain some remuneration, at least for his invention. The proposed alteration cuts off the *inventor* from the benefits of such extension, and transfers them to the rich *assignee*. It provides that the *assignee* of any *existing patent*, and of any patent hereafter granted, may have the same extended to 20 years from its date, on application, and the payment of $100! What an outrageous provision this is! It deprives every inventor who has assigned a patent during the last 14 years, from the right of obtaining an extension, but gives that right to the *assignee*. Nearly eleven thousand five hundred patents have been granted during the period just mentioned, embracing many inventions of untold value and extraordinary ingenuity. It is fair to estimate that one-half of these patents have been assigned, and thus, at one fell swoop, nearly *six thousand inventors* are to be robbed of their right of extension, and it is to be given to patent pedlars and *assignees!* The passage of such an enactment would be a public villainy. We are informed, and have good reasons to believe, that it is a scheme concocted by the *assignees* of certain valuable patent rights to obtain the direct extension of monopolies that can be perpetuated in no other way.]

SEC. 7. *And be it further enacted*, That a patent shall not be subject to a writ of attachment or any process of law or equity issued on any judgment or decree for debt, but shall inure to the benefit solely of the patentee, his heirs, devisees, or distributees. Nothing contained in this section shall be so construed as to affect any process of law or equity as against the products of an invention, a machine constructed under a patent, or the avails of a patented invention.

[This is a foolish and unjust provision. It is an encouragement to dishonesty. One [illegible] permits a man to hold patents worth, say, a hundred thousand dollars, and leave his cr[illegible], with their families, to starve.]

SEC. 8. *And be it further enacted*, That the Commissioner of Patents is authorized to restore to their respective applicants, or otherwise dispose of, such of the models belonging to rejected applications as he shall think necessary to be preserved. The same authority is also given in relation to all models accompanying applications for designs. He is further authorized to dispense in future with models of designs, where the design can be sufficiently represented by a drawing. He may also substitute, or require the substitution of, smaller models for any that may now be or may hereafter be deposited in the office, which are larger than can be received or retained with due regard to the convenience of the office.

SEC. 9. *And be it further enacted*, That the limit now fixed to the number of agents who may be authorized to forward models to the Patent Office is hereby removed, and the Commissioner may appoint as many as he may find expedient; and so much of the tenth section of the act approved the 3d of March, 1837, as authorizes the transportation of models to the Patent Office to be chargeable to the Patent Fund, is hereby repealed. The Commissioner of Patents is hereby authorized to employ a clerk to frank such letters and documents as are permitted by law.

[Is each one of the unlimited number of agents to be appointed by the Commissioner entitled to receive a salary? If so, how much? Or are these agents to render their services *gratis* to the government?]

SEC. 10. *And be it further enacted*, That the Commissioner may require all papers filed in the Patent Office to be correctly, legibly, and briefly written; and for gross misconduct or wilful violation of the rules of the office he may refuse to recognize any person as a patent agent, either generally or in any particular case, but the reasons of the Commissioner for such refusal shall be duly recorded.

[Under the workings of this section, sup-