Correspondence

LETTER FROM OUR WASHINGTON HOUSE.

WASHINGTON, July 8, 1861.

MESSRS. EDITORS :—The work of printing the patents is being pressed forward with such rapidity that we may hope to see all arrears brought up within a few more weeks. The greater part of the patents of June 11th has already been forwarded, and those of June 18th will probably all be ready for delivery within ten days.

I subjoin, for the benefit of such of your readers as are interested in proceedings before the United States Patent Office, some extracts from the report of the Hon. Commissioner of Patents, and the decision of the Hon. James Dunlop, Chief Justice of the United States Circuit Court for the District of Columbia, in the matter of interference between Thomas Snowden and Ephraim Pierce. The question which gives this case peculiar interest is one of jurisdiction. Since the passage of the new law it has been generally admitted that it is optional with an applicant to appeal from the decision of the Examiners-in-Chief, direct to one of the Judges of the Circuit Court, or first to the Commissioner of Patents, and then to the Judge. This view was sustained by the Commissioner of Patents, who held that, now as formerly, the applicant is at liberty to appeal immediately to the Judge whenever an adverse decision is given by the Patent Office, at any stage of the proceedings.

The same view was contended for by the Hon. E. M. Stanton, late Attorney General of the United States, who, in an able argument on behalf of Snowden, took the ground that every decision rendered in the Patent Office is in law the decision of the Commissioner, the Examiners being merely his assistants. Judge Dunlop takes, as will be seen, a diametrically opposite view.

The portion of the Commissioner's report to the Judge, which refers to the question stated, is as follows :—

The right of appeal from the decisions of this Office, to the Chief Justices of the Circuit Court of the District of Columbia, was originally conferred upon applicants for patents by the 11th section of the act of March 3, 1839. By the 1st section of the act of August 30, 1852, this appellate jurisdiction was extended to the assistant Judges of the Circuit Court.

By the 7th section of the act of July 4, 1836, applicants for patents were authorized to appeal to a Board of Examiners from the decision of the Commissioner of Patents, "upon request in writing," and have their decision. The acts before recited have transferred this right of appeal to the Judges of the Circuit Court, who have hitherto been governed in the exercise of this jurisdiction by the terms of the several sections referred to.

The act of March 2d, 1861, section 2d, created a Board of Appeal within the Office, "whose duty it shall be, on the written petition of the applicant, to revise and determine upon the validity of the decisions made by Examiners when adverse to the grant of Letters Patent," and in interference cases "when required by the Commissioner," in application for the "extension" of Patents, and perform such other duties as the Commissioner may assign them. From their decisions, appeals may be taken, on certain conditions, to the Commissioner in person, by whose prescribed rules they shall be governed. The 17th section of this act of March 2, 1861, repeals all acts inconsistent with its provisions.

The question has been asked whether, under this legislation, it was not the design of Congress, that the applicants for patents should not now be required to exhaust their remedy in the Patent Office before they should be permitted to appeal directly as heretofore to the Judges of the Circuit Court; and it is from a desire to have the views of your Honor on this question, that I have taken the liberty to make the foregoing statement. To my mind it is perfectly clear that a rejected applicant can take an appeal to one of the Judges of the Circuit Court of the District of Columbia, the moment that the Commissioner of Patents pronounces an adversary decision; there being nothing "inconsistent" with this right of appeal in the act of March 2, 1861, of course no repeal of the right or of the jurisdiction is embraced in its terms or spirit.

The 2d section of act of March 2, 1861, provides a new tribunal in the Office for hearing "to revise and determine upon the validity of decisions made by Examiners," in cases recited, and "to perform such other duties as may be assigned" the members thereof, "by the Commissioner," to whom also an appeal may be taken from "their decisions." This section further provides that this appeal from the decisions of Examiners, that are adverse to the grant of a patent, shall be considered whenever asked for, "on the written petition of the applicant," by this new tribunal.

It would seem scarcely to admit of an argument on this state of the patent law, that the same rights of appeal from the decisions of the Commissioner of Patents pertained to applicants of patents now that existed before the act of March, 2, 1861, that that act only gave a new remedy from the decisions of the Examiners when adverse to a grant, or in other cases enumerated; and that the exercise of either right could involve no possible conflict with the other, or with the perfect jurisdiction of the Judges of the Circuit Court of the District of Columbia. These conclusions seem to me to be so entirely consistent with every legal rule for the construction of statutes, that I will not argue them further, but with entire deference submit them to your consideration, with the single additional remark, that the construction here adopted seems best calculated to further the aim of Congress in promoting the useful arts by protecting the inventor—the very object for which the Patent Office was created.

The decision was rendered by Judge Dunlop, June 25, 1861, in the following words :—

Previous to the passage of the act of 2d of March 1861, all judicial acts done in the Patent Office, by the primary Examiner, or the Board of Appeals, organized under the Office regulations, were in the intendment of law, the judicial acts of the Commissioner, and had no legal validity till sanctioned by him. The primary Examiner and Board of Appeals, under the old system, were the organs of the Commissioner, to inquire and to enlighten his judgment, and till the Commissioner gave vitality to their judicial acts by his *fiat*, they had no legal existence as judgments.

Under the act of 2d March, 1861, the primary Examiners, and the Examiners-in-Chief, are, by the terms of the act, recognized as judicial officers, acting independently of the Commissioner, who can only control them when their judgments, in due course, comes before the Commissioner on appeal.

The Commissioner, under this act of March 1861, can give no judgment till the appeal reaches him, and this cannot be done till the judgment of the primary Examiner has first been submitted to the Examiners-in-Chief.

The Judges of the Circuit Court of the District of Columbia, by law, can entertain no appeal except from the decisions of the Commissioner. All decisions of the Office, whether by Examiners or the old Board of Appeals were in law the decisions of the Commissioner, when sanctioned by him. When a primary Examiner, under the old system, refused a patent, or decided an interference case, and the Commissioner approved such decision, an appeal lay directly to one of the judges, from such decision of the Commissioner. Not so under the new law of 1861. The primary Examiner and the Examiners-in-Chief are all, by the act of 1861, treated as judicial officers, having power, without control, within the sphere of their duty, to the exercise of their independent judgment. Their acts, under the new law are not, as under the old system, the acts of the Commissioner, but their own acts. They are no longer the mere organs of the Commissioner, but independent officers. He can only reach and overrule them when their judgments come regularly before him on appeal.

It follows, therefore, that no judgment now, in any patent case, of the character above described, can be given by the Commissioner till it reaches him in due course by appeal; that is to say, the applicant must go from the primary Examiner, by appeal, to the Examiners-in-Chief, and from them by appeal, to the Commissioner, and lastly from the Commissioner to the Judges of the Circuit Court.

The appeal to the Judges lies from the decision of the Commissioner, under the old system, and has not been expressly taken away. We have no right to infer or conclude that it has been taken away by implication, by the creation of the Appeal Board of Examiners-in-Chief, with the right of appeal from them to the Commissioner. All such implication is repelled by the fact, well known, that an express repealing clause in the act of 1861, on its passage through the Legislature, was stricken out.

I think there is no repugnancy between the appeals given by the act of 1861, and the ultimate appeal to the Judges; they may all well stand together.

The ultimate appeal to the Judges is the same appeal which originally, under the old law, laid to the old Board of Examiners, outside the Office, appointed by the Secretary of State.

This appeal, extended to all final decisions of the Commissioner, refusing an applicant a patent, or determining an interference, and was afterward transferred to the Judges of the Circuit Court. I think their appeal to the Judges still exists, but it can only be exercised, after the applicant has gone the rounds of all the tribunals created by the new law, and after the final decision of the Commissioner.

The Coal Oil in Canada.

MESSRS. EDITORS :—I have just returned from our new oil diggings on Black creek, in the township of Enniskillen, county of Lambton, Canada West. I found them very prolific. In one locality on the creek, within the distance of 1½ miles, there has been, and is being sunk, since last March, some 100 *surface* and *rock* wells, not one of which has as yet, when completed, failed to afford a good supply of oil; and hundreds more will be sunk in the immediate vicinity of these between now and fall. Those now there from the Pennsylvania, Virginia and Ohio wells, and they are not a few in number, say that our Enniskillen oil diggings are far more promising than any yet discovered in the United States, and that the oil, both surface and rock, is of a superior quality. And, on experiment, it proves to be a desirable oil for the lubrication of machinery, even in its crude state. One engineer of 14 years' experience running an engine for pumping purposes remarked to me that he was using it wholly, and that it was superior to any oil he had ever yet used. But there is one thing much needed there immediately, viz., good barrel machinery to be run with steam. They cannot get barrels to put their oil in, consequently are obliged to build tanks to hold it for the present. It is a fine opening for the running of good barrel machinery, and there is plenty of good oak timber; also for the sale of small portable engines and good pumps.

At a place called Petrolia, on Bear creek, a few miles from the above-mentioned locality, where there are a number of wells in successful operation, a Boston company are erecting a refinery, (now nearly completed,) of sufficient capacity to refine 90 barrels a day. Others should be erected on Black creek, that they might thereby send to market nothing but the pure article for illumination or lubrication. It would make a saving in both barrels and transportation; although from tests made with this oil in Cleveland and Detroit they pronounce the waste to be only 15 per cent in refining—85 per cent burning fluid, and the balance good for other purposes.

Having no speculative interest in this matter whatever, I have made the above statement in sincerity and truth. C. B. THOMPSON.

St. Catharines, C. W., June 27, 1861.

System of Filing Papers.

MESSRS. EDITORS :—I have a system of filing papers, particularly the SCIENTIFIC AMERICAN, which I desire to communicate to my fellow readers. Here is the system : In a drawer in my reading-room I have arranged a low box with partitions, each partition being designed to hold one volume. When I am done reading the paper *pro tem* I fold it once and place it in the box, relatively to the preceding or subsequent number. By observing this rule as often as I take a paper from the box I am enabled to separate any one from the rest in a minute's time.

SUBSCRIBER.

Mechanicsburg, Ohio, July 3, 1861.

Sawyer's Projectile.

MESSRS EDITORS :—I am, as you suppose, familiar with Sawyer's shot, and personally acquainted with the inventor, having experimented side by side with him (and others) many times at Fortress Monroe.

His projectile has six flanges—the gun of course having a corresponding number of grooves—the main body of which is cast-iron. Its entire exterior is finished by turning and planing. It is then tinned and placed in a metal mould about one-tenth of an inch larger, all over, than the projectile. Lead, or an alloy, is then poured into the mould, which coats the projectile to the thickness of the difference between its size and that of the mould. This construction is described in his patent, the object of it being to prevent the abrasion of the bore and grooves. You may rely on this as being a correct description—at any rate it was so last summer, and I presume he has not changed the construction since.

The similarity in our plans is this: both are flanged projectiles—depending upon fixed flanges, or projections fitting the grooves, to give the required rotation to the projectiles. This system differs, of course, from that where the accessory parts of the projectile are made to expand into the grooves, after the manner of Cochran's, James', Hotchkiss', &c. I will mention that the flanges of Mr. Sawyer's projectile run the entire length of the cylindrical part. The rear end of the iron portion of the projectile is chambered off, which makes a larger or thicker mass of the coats ing at that point than any other. Mr. S. intend- that the action of the powder will upset this part, and thus close the windage. His original intention was in all cases to use a patch, but that involving too much time, he has since dispensed with it, with no loss of accuracy or range, or increase of the charge of powder, although there is a good degree of windage. I will say nothing about the expense of his projectile, the danger of stripping, &c., but will remark that if a simple iron projectile will answer all purposes, what is the use of expensive accessories?

JOHN M. SIGOURNEY.

ADMINISTERING MEDICINE TO HORSES.—Geo. Beaver writes thus to the *American Agriculturist*:—

I consider the usual method of giving medicine to horses by drenching, as it is called, highly objectionable. In this process, the horse's head is raised and held up, a bottle introduced into his mouth, his tongue pulled out and the liquid poured down. In his struggle, some of the medicine is quite likely to be drawn into his windpipe and lungs, and inflammation and fatal results sometimes follow. A better way is to mix the medicine with meal, or rye bran; make it into balls, pull out the horse's tongue, and place a ball as far back in his mouth as possible, then release his tongue, and he will almost certainly swallow the ball. Or the dose may be mixed with meal and honey, or other substance that will form a kind of jelly, placed upon a small wooden blade made of a shingle, and thrust into the back part of his mouth, when he will very easily swallow it.

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