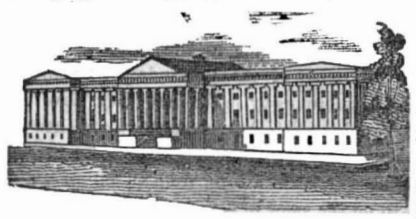

LIST OF PATENTS

ISSUED FROM THE UNITED STATES PATENT OFFICE,

For the week ending October 9, 1849.

To Calvin Doane, of Wareham, Mass., for improvement in portable Ovens. Patented Oct. 9, 1849.

To William G. Masterson, of Amesbury, Mass., for improvement in Water Wheels. Patented Oct. 9, 1849.

To Thomas Maskell, of Franklin, La., for improved Jointed Centre Board. Patented Oct. 9, 1849.

To James Leffel, of Springfield, Ohio, for improvement in Cooking Stoves. Patented Oct. 9, 1849.

To Charles Wilson, of Williamsburgh, N. Y., for improvement in Hydraulic Presses for Cotton, &c. Patented Oct. 9, 1849.

To Alexander Hall, of Loydsville, Ohio, for improvement in Churns. Patented Oct. 9, 1849.

To Charles G. Sargent, of Lowell, Mass., for improvement in Burring Cylinders. Patented Oct. 9, 1849.

To L. R. Livingston, J. J. Roggen & Calvin Adams, of Pittsburgh, Pa., and Amos Kendall and Alfred Vail, of Washington, D. C., for improvement in Supporters for Telegraph Wires. Patented Oct. 9, 1849.

To Edward Bancroft, of Philadelphia, Pa., for improvement in hanging Shafts in Mills. Patented Oct. 9, 1849.

To Jacob Pritchett, of Philadelphia, Pa., for improvement in Ore Washers. Patented Oct. 9, 1849.

To Henry W. Hewet, of New York, N. Y., for improvements in Reciprocating Propellers. Patented Oct. 9, 1849.

To William Tabele, of New York, N. Y., for improvement in the manufacture of Band Boxes. Patented Oct. 9, 1849.

To William Clarke, of Dayton, Ohio, for improvement in Bed-plates for Paper Engines. Patented Oct. 9, 1849.

To Samuel Campbell of New York Mills, N. Y., for improvement in Lapping Machines. Patented Oct. 9, 1849.

DESIGNS.

To A. Cox & Co., (Assignees of Geo. W. Chambers,) of Troy, N. Y., for Design for Stoves. Patented Oct. 9, 1849.

To A. Cox & Co., (Assignees of Geo. W. Chambers,) of Troy, N. Y., for Design for Stoves. Patented Oct. 9, 1849.

To J. H. Burton, of Cincinnati, Ohio, for Design for Stoves. Patented Oct. 9, 1849.

To Sherman S. Jewett & F. H. Root, of Buffalo, N. Y., for Design for Stoves. Patented Oct. 9, 1849.

To William Savery, of New York, N. Y., for Design for Stoves. Patented Oct. 9, 1849.

To J. Cross & Son, of Morrisville, N. Y., (Assignees of Samuel W. Gibbs, of Albany, N. Y.,) for Design for Stoves. Patented Oct. 9, 1849.

RE-ISSUES.

To Erastus B. Bigelow, of Clintonville. Mass., for improvement in Power Looms for Weaving Plaids, &c. Patented April 10, 1845. Re-issued Oct. 9, 1949.

To Erastus B. Bigulow, of Clintonville, Mass., for improvement in Looms for Weaving Brussels Carpets, &c. Patented March 10, 1849. Re-issued Oct. 9, 1849.

To John Thurston, of Bath Township, Ind., for improvement in Winnowing Machines. Patented Jan. 6, 4848. Re-issued Oct. 9, 1849.

American Female Artists.

We have a Mrs. Spencer, who is a first rate painter, she is a native of Cincinnati. There is a Miss Brown, of Akron, Ohio, who is also an artist and a good portrait painter. Painting is a natural gift to many Americans—they take to it like ducks to water.

Trial by Jury in Patent Cases.—No. 5.

We promised in our last number to give our own views respecting the action of some of the United States Circuit Courts in granting injunctions for alledged infringement of Patents, and we will now proceed to fulfil our promise. In our last number we quoted an article from the Charleston Mercury, citing case upon case to prove that the practice of the English Supreme Court was different from the decisions made by Judge Wayne, in South Carolina, and Judge Kane in Pennsylvania, and the reverse of the opinions set forth by Ex-Governor Seward, that is, "in the court granting an injunction, and assessing damages for plaintiffs, without a trial by jury, when the validity of the plaintiff's patent is questioned, and infringement denied."

The author of the articles in the Charleston Mercury is right, and he is wrong. The opinions and cases which he cites, do not give a clear view of the case, because they go to prove that it is not the custom of the Court of Chancery, in England, to grant any kind of injunction, in any case, upon application made for the same, whereas it is the custom, as we shall prove, in certain cases, viz., where the patentee's title had before been established at law (by jury) or when in long possession of the patent. In the case before Judge Wayne, in Charleston, the patent of the plaintiff had already been established at law, and there was *exclusive possession for some duration.* See Curtis, sections 324-5, and Carpmael on the Law of Patents, page 112. The Court of Chancery, in England, is the place where injunctions are granted, and Lord Eldon said, "The principle upon which the Court acts in cases of application for injunctions, is as follows:—where a patent has been granted and exclusive possession of some duration under it, the Court will interpose its injunction without putting the party previously to establish the validity of his patent by an action at law. But where a patent is but of yesterday, and an application made for an injunction, and there is opposition made to the goodness of the specification, or otherwise, the Court will not grant an injunction, but send the patentee to a court of law to establish the validity of his patent. (Curtis, sec. 324, and Carp. R., vol. 1, page 374; Webster's Digest, case 65.) It is the common custom in the Courts of Equity, in England, to grant no injunction, before the patent has been proven valid at a court of law. No Judge of our Federal Courts would be acting according to the *spirit* of equity, were he to grant an injunction for an alleged infringement of a patent, if the said patent had never been tested, as to its validity at a court of law. But neither the case in Charleston, nor the one in Philadelphia, Wilson vs. Barnum, were at all like any others that ever happened in England, and should not happen here.

We will now undertake to point out the new ground upon which we stand.

The complainants in the cases referred to, were the owners of a twice extended patent on a machine for planing boards. The defendants, in both cases, also owned patents for machines for planing boards. Before the trial in Charleston, in more than one case the owners of the Woodworth patent, (plaintiffs in that case) had obtained judgment that the machine for which Gay secured a patent was an infringement of the Woodworth patent. Now is it right that a man, who is proven to be an infringer by an intelligent jury in one place, to go and set up the same machine in another place, and demand by law a second jury trial on the same issue, because he has merely changed his location? Surely no. In this sense Judge Wayne was right, and in another sense he was wrong, for while Gay owned a patent, it should be respected. Now this is a point upon which we desire to be particular. The whole course of our United States Courts has been wrong in listening to and granting injunctions upon complaint of one patentee against another patentee for infringements. When one man secures a patent, and a patentee believes his patent to be infringed by the subsequent patentee, the course to be pursued, is to test the case according to the 16th section of the Patent Law Act, 1836; and if it is proven that the last patent granted interferes with the first—is an infringement—it should be declared null and void. This is the proper way to settle such things, viz., the conflicting claims of patentees. But is this commonly done? No. Any other course pursued by the Circuit Courts we hold to be illegal. Let us quote the law, to prove our point:

Sec. 16, (Patent Laws.) "*And be it further enacted*, That whenever there shall be two interfering patents, or whenever a patent or application shall have been refused on an adverse decision of a board of examiners, on the ground that that patent applied for would interfere with an unexpired patent previously granted, any person interested in any such patent, either by assignment or otherwise in the one case, and any such applicant in the other case, may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties, and other due proceedings had, may adjudge and declare either the patents void in the whole or part, or inoperative and invalid in any particular part or portion of the United States, according to the interest which the parties to such suit may possess in the patent or the inventions patented, and may also adjudge that such applicant is entitled, according to the principles and provisions of this act, to have and receive a patent for his invention, as specified in his claim, or for any part thereof, as the fact of priority of right or invention shall, in any such case, be made to appear. And such adjudication, if it be in favor of the right of such applicant, shall authorize the Commissioner to issue such patent on his filing a copy of the adjudication, and otherwise complying with the requisitions of this act. Provided, however, That no such judgment or adjudication shall affect the rights of any person except the parties to the action, and those deriving title from or under them subsequent to the rendition of such judgment."

We candidly admit that the one half of this section is very opaque,—it is a badly constructed law, and should be revised; but there is enough in it to bear us out in the position we have assumed. It plainly says, by a bill *at equity, notice to adverse parties*, and *other due proceedings had, the Court* may declare either the patents void in *the whole or in part.* Now is this not plain—is there not enough in this to prove Judge Kane's decision wrong, and other decisions also? It surely does. Our remedy for such evils is to brush up this neglected section of the Patent Laws.

[Remainder next week.]

Atlanta, Ga.

We have received from our friends in this thriving place, the report of a committee upon its manufacturing advantages, which seem not to be inferior to those possessed in any other place throughout the South. We would especially call the attention of capitalists, carpenters, machinists, mill-wrights, cabinet makers, and men of all the different mechanical branches, to some of the statements presented by the committee. The first one of these advantages is the central position that Atlanta occupies and the direct communication with the great emporiums of New York, St. Louis, New Orleans, Mobile, Savannah and Charleston, and all the intermediate towns and cities, it not being more than four days run to the farthest of them. A second advantage that Atlanta has as a site for manufactures, is that it is now the intersecting point of three railroads, and a fourth will soon be completed; and if only one-fourth of the capital was employed in manufactures that the place would authorise, a fifth (the Gainesville road) would soon be built, giving the unsurpassed advantage of five railroads, all centering at one point, for bringing in the raw material and sending out the manfactured article to every point of the compass and to all the leading markets of the Southern States.

Atlanta is already the market for the agricultural products of a region of country extending into the borders of some of the adjoining States, and her trade is every year increasing. Here is a wide door already open for the sale of the fabrics of the factories of your city, and the greater the variety of them, in the way of cotton, iron, wood, wool and leather, the greater the inducement to customers; for they will always go, in the greatest numbers, to the point where the greatest variety can be had.

The committee also represent the city of Atlanta as being pre-eminently healthy, with excellent water, and scarcely a swamp marsh or pond for several miles around. They advocate the advantages of erecting steam mills as the fuel for generating steam is abundant and cheap for miles around, and can be easily transported over the different railroads, that concentrate at this place. We rejoice to see our Southern brethren awaking to the importance of stimulating manufacturing and mechanical enterprize to come among them. There is no good reason why the North should be so much in advance of the South, in the great manufacturing interests. The field is open for larger operations in every branch of the arts, and the interests of the South and West demand that their resources should be developed.

That Fossil Ape.

The last Scientic American makes the following strange editorial announcement:

"A fossil ape is said to have been found lately in the upper tertiary stratum at Montpelier, Vt. This is an interesting fact, taken in connection with the fossil elephant discovered by Prof. Agassiz, in New England."

This is the first word that we who have always lived here on the ground ever heard of such an affair. We may have living apes among us, perhaps—such as have been imported from the cities—but no fossil ones. There was never any thing indigenous of the ape kind in Vermont, either man or brute, to become fossil. Where did the editor pick up this queer piece of information?—[Vt. Green Mountain Freeman.

"We expect he meant to 'come' a joke on the Montpelier boys—or, perhaps, get up a take off' on priest Thompson's fish and Agassiz's elephant."—[Vermont Family Gazette.

[The Editor of the Green Mountain Freeman is not so green as he pretends to be on the subject. He knows well enough that Vermont is the most wonderful State in the Union. Was it not there where Capt. Thunderbolt lived and died with his sham leg and all that? And does he not know that the Green Mountains, as geologists say, were away over by Africa, or some such place, with monkeys and apes running helter skelter up and down the great big cocoa nut trees, in

> "Those days of lang syne,
> When geese were swine,
> And pigeons chewed tobacco?"

To be sure he does; so he need not be quizzing us. Did not Josiah Priest prove that Orange County, N. Y., was once the Garden of Eden, from an old stump that was found there? Surely he does. Well, then, he need not be a bit surprised because he did not see the *fossil ape*, for we are not, *and we han't seen it, neither.*

Taxation for Free Schools.

The people of Indiana have declared in favor of taxation for the benefit of Common Schools. The amount of tax is to be ten cents on each hundred dollars' worth of real and personal property. The property of the State being $140,000,000, the tax will be, next year, $140,000. In adition to this are the profits of the bank stock; the surplus revennes, and Saline funds; and three dollars on every policy of insurance on property within the State, by companies not chartered by the State. The sources will yield about $200,000, which added to the sum derived from taxatation, will make $340,000. To this are to be added all fines for violations of the penal laws, forfeited recognizances, and the interest of monies derived from the sale of school lands, which will swell the entire yearly fund for Free School purposes, to $500,000. This is a magnificent sum.

Expensive Shirt Bosoms.

The latest fashion of shirt bosoms introduced into this city are of fine linen cambric, laid in broad plaits, and ornamented with three rows of rich French embroidery. They cost about $12 each, and it has been observed that few who make them wear them.