Miscellaneous.

Bills for Reforming the Patent Laws.

The Bills now before the Senate for reforming the Patent Laws, are creating a great sensation. None, we believe, are so well aware of the excitement as we are: we have received letters by the bushel, on the subject, and we have heard all the views of the different parties, and there are not a few of them. We have always taken an independent course, and advocated those measures which, to our minds, were based upon the true principles of justice, and which tended to secure the just rights of our inventors and people, for both have the same interests at stake in the Patent Laws. We have always spoken freely on the subject, and it made no matter who he or they were who proposed a good or a bad measure—be it an intimate acquaintance or a perfect stranger, we have freely spoken out to approve and disapprove. We know a great deal about the feelings and wants of inventors, and the feelings of community on the subject. From our experience, and not being entangled with any party alliances, and having no selfish personal interests in the matter, excepting (call it selfish, if you will, it matters not to us, we do not pretend to be disinterested patriots), justice to all, and a desire tc see the wisest and most politic laws enacted for the promotion of the useful arts; and we believe that we, at least, can throw some light on the subject.

We have four printed Bills now before us for reforming the Patent Laws. They all proceed from different sources, and from personally interested parties, and are not alike either in spirit or in the principles of their provisions. One Bill is that presented by the alleged Convention of Inventors, which met in Baltimore in 1848, and which was before the Senate last Session, and is now, but greatly curtailed and amended. We reviewed this Bill briefly last week. The second is that introduced by Senator Davis, reviewed by us last week, and which bears the impress of having been, in a measure at least, projected in the Patent Office. We have been informed that Examiner Fitzgerald, who, as it is stated, is an old acquaintance of Senator Davis, has had a hand in getting it up. And here let us say, that we have had a great many letters about Mr. Fitzgerald, but we have only published one. They all speak against him, but so far as we know anything of him personally, he may be one of the finest men in the world. The other two Bills are the productions of different and opposing parties in New York, one of which is a mere echo of the Bill now in Congress. Senator Turney, Chairman of the Committee on Patents, has copies of them all, and has received document upon document on the subject from interested parties.

Last week we briefly reviewed the amendment of Senator Davis. We spoke of an espionage clause, which was once introduced in a bill before, but which was stricken out. We gave no opinion on it last week, but now, having considered it, we believe that it never can and never should become a law.

In reforming any law or laws, the first question to be asked is, "what evil or evils have we to remove, and what new measures should we enact, which will be wise in their provisions, beneficial in their action, and conclusive in their results?"

We'l, then, first—what are the evils in the present Patent Laws, which the bills before us intend to remedy? We must say that the main points of reform are overlooked in the bills spoken of. We will present what we think would be a good Bill:—

AMENDMENT TO THE PATENT LAWS—Sec. 1st (substitute for sec. 7 of the Act of 1836): And be it enacted, that, on the filing of any such application, description, and specification, the payment of $30, the depositing of a model, or other article to exhibit the invention or discovery, the Commissioner will examine, or cause to be examined, as soon as possible, the alleged new invention, discovery, or design, and if, on examination, it shall appear that the applicant is the original and first inventor or discoverer of the improvements claimed in his specification, he shall order a patent forthwith, to issue to the said applicant; unless it shall appear that the said invention or discovery had been in use or for sale, with the consent of the applicant, for one year prior to the application for a patent, when, in such a case, no patent will be granted."

Reason for this amendment:—At the present moment the law allows two years of use or sale, if not abandoned to the public. Now, as it often happens that two or more men make inventions or discoveries about the same time, the first inventor may not apply for a patent for nearly two years, while the second or after inventor, may apply, at once and get a patent unknown to the first inventor. When the first inventor applies he is told that his claims are rejected because the other person has got a patent for the same thing. What then is to be done. Why he writes to the Examiner to declare an interference, and this is done. Evidence has to be taken by both parties before a Notary Public, or some proper legal person, and this evidence is sealed and transmitted to the Patent Office, and if it appears to the Commissioner that the second applicant invented his improvement before the other, why, he grants him a patent. And if the first patentee does not file evidence and oppose the grant of the patent to the second applicant, even although he may be a subsequent inventor, why a patent is granted, and thus two or three patents may be held by different persons for the same thing. We know of two or three who hold separate patents, granted within two years, for the self-same invention. We wish at least to lessen this evil, and save some labor in the Patent Office.]

Sec. 2—Be it further enacted, that if, upon examination, it shall appear that the applicant for a patent is not the original and first inventor of the invention or discovery claimed by him in his specification, that a patent had been granted to another for the same invention or discovery, or had been described in a printed publication, as the invention of another, the Commissioner shall notify the applicant that his petition for a patent is rejected, and he shall give his reasons for the said rejection, referring the petitioner correctly to the works where the invention is described, and briefly explaining the same, if in the English language; but if in a foreign language, he shall particularly describe the same. If, however, it shall appear to the Commissioner that one or more parts of the applicant's claim, or claims, is, or are, for a new and useful improvement, he shall point out the same to the applicant, requesting him to modify or strike out his other claim or claims, and make oath anew to his invention or discovery, and the patent will be granted. But if the applicant be not satisfied with the decision of the Commissioner, and persists in his claims, he may appeal from the decision of the Commissioner, and upon request in writing, have the decision of a board of examiners, to be composed of three disinterested persons, who shall be appointed for that purpose by the Secretary of State, one of them, at least, to be selected, if practicable and convenient, for his knowledge and skill in the particular art, manufacture, or branch of science to which the alleged invention appertains; who shall be under oath or affirmation for the faithful and impartial performance of the duty imposed upon them by said appointment. Said board shall be furnished with a certificate in writing, of the opinion and decision of the Commissioner, stating the particuler grounds of his objection, and the part or parts of the invention which he considers as not entitled to be patented, which must correspond with the reasons and references given to the applicant for his rejection. And the said board shall give reasonable notice to the applicant, as well as to the Commissioner, of the time and place of their meeting, that they may have an opportunity of furnishing them with such facts and evidences as they may deem necessary to a just decision; and it shall be the duty of the Commissioner to furnish to the board of examiners such information as he may possess relative to the matter under their consideration. And on an examination and consideration of the matter by such board, it shall be in their power, or a majority of them, to reverse the decision of the Commissioner, either in whole or in part; and their opinion being certified to the Commissioner, he shall be governed thereby in the further proceedings to be had en such application: *Provided, however*, That, before a board shall be instituted in any such case, the applicant shall pay to the credit of the Treasury the sum of $30; and each of said persons so appointed shall be entitled to receive for his services, in each case, a sum not exceeding ten dollars, to be determined and paid by the Commissioner out of any moneys in his hands, which shall be in full compensation to the persons who may be so appointed, for their examination and certificate, as aforesaid, and if the decision of the Commission be reversed, the applicant shall be paid back the $30 deposited by him in the Patent Office to try the appeal.

Sec. 3—Applicants for patents who are satisfied with the decision of the Commissioner, upon withdrawal of their claims, shall be entitled to receive back their models and $15 of their deposited patent fee; the models shall be sent back to any of the agents appointed by the Patent Office to transmit models to the Patent Office, according to the direction of the applicant. If no appeal is taken from the decision of the Commissioner within one year from the date of decision, all claim to a patent will be forfeited. All moneys returnable by the Patent Office to rejected applicants, may be returned upon certificate of the applicant, his attorney, heirs or assignees.

[Reasons for the enactment of these amendments:—The Patent Office, as now constituted, was really for the purpose, of preventing persons getting patents for things which had been invented by others—thus protecting those who had patents, and preventing any one from getting a patent title for a monopoly of that which was the public property of the people. It was also organized to assist applicants, by pointing out to them, clearly, what was old and what was new, so as to secure to the inventor whatever he had invented, be it small or large, if new and useful. The Patent Office only partially carries out these objects. The examinations are often not half performed, and decisions are recklessly made. Many applications are rejected, and, after some fugling, are granted. This is a common thing. The reasons for rejections, as given in the Commissioner's letters, are, in general, very curt, and too often unsatisfactory. There should be an easy mode of appeal: the above amendment for the mode of appeal is the same as was embraced in the Act of 1836;—it is a good plan, we believe. The return of the $30, if the applicant is successful, is founded upon the principles of justice: the law, as it now stands, makes the succesful person—him who has right upon his side, pay for the error of the Patent Office. The clause for the return of the rejected models will surely recommend itself; to carry out this provision, $5 is allowed to the Patent Office, out of the present return fee of $20; this will surely pay the extra expense and trouble to the Patent Office. We believe that the above amendments will cover the greatest defects now felt in the Patent Laws, in relation to applications for patents, proceedings in cases of rejections, and appeals.]

Sec. 4—And be it hereby enacted, that sections 11, 12, and 13, of the Act approved March 3, 1837, and section 7 of the act of 1836, be, and are hereby repealed.

[What we have set forth above relates altogether to the Patent Office and applicants. The next subject we must look to is protection of patent rights by just laws, and an economical way of protecting them. A poor man cannot defend a patent against the encroachments of a rich man. He cannot pay large retaining fees for able counsel, and without this he stands but a sorry chance of success. What reforms, then, are wanted?]

Sec. 5—Any patentee may apply at any time to any United States Circuit or District Court for an injunction to rest ain any person or persons from infringing his patent in the District. He must set forth clearly in his petition the nature of the infringement, and make oath he verily believes the said person or persons are infringing the same—when the Court will summon the person or persons complained of to appear and show cause why the injunction should not be granted. At the earliest date possible, to render justice to both parties, a day shall be set apart for hearing evidence for the complainant and defendant, and the Court then, after hearing, may grant a provisionary injunction (if infringement is denied), or order the defendant to keep a regular account, and give bonds for the same, of the work done by the machine, or articles sold, or whatever the article or process may be that is complained of, and the Court shall then order a jury trial to determine the matter, finally, between the parties, at the earliest date, excepting both parties agree to refer the whole matter at issue to the arbitration of five persons—two chosen by each party, and the fifth by the four arbitrators, two of whom shall be experts—or the fifth by the Court, with the consent of both the interested parties. In such a case, the jury of arbitration, after being chosen, shall meet at the earliest convenience, and a verdict of a majority, shall be treated like the verdict of a common jury; and the Court shall award to said arbitrators such sum as may appear reasonable for their services in said cause, which amount shall be taxed as part of the costs.

[The provisionary clause is taken from Senator Davis's Bill. We shall take from all the bills, for they all have some good things in them, and shall continue the subject next week. We do not believe that much good would result from changing the appeals from the Commissioner to a new Court—from that of the Court of the Chief Justice of the District of Columbia, as is now the law. The section, as above constructed, is preferred by many inventors, but, personally, we like the law as it now stands. The amendment about improving the duties of the Patent Office, as we have constructed it, is a reform the most needful of any.

Teeth set on Edge.

All acid foods, drinks, medicines, and tooth washes and powders, are very injurious to the teeth. If a tooth is put in cider, vinegar, lemon juice, or tartaric acid, in a few hours the enamel will be completely destroyed, so that it can be removed by the finger nail as if it were chalk. Most have experienced what is commonly called teeth set on edge. The explanation of it is, the acid of the fruit that has been eaten has so far softened the enamel of the tooth that the least pressure is felt by the exceedingly small nerves which prevade the thin membrane which connects the enamel and the bony part of the tooth. Such an effect cannot be produced without injuring the enamel. True, it will become hard again, when the acid has been removed by the fluids of the mouth, just as an egg shell that has been softened in this way becomes hard again by being put in the water. When the effect of sour fruit on the teeth subsides, they feel as well as ever, but they are not as well. And the oftener it is repeated, the sooner the disastrous consequences will be manifested.

Steam Power in France.

The latest returns of the number of steam engines employed in France, in factories, steamers, and on railways, give the following results:—There are in France 5,607 establishments, of various kinds, at which steam engines are used. This machinery is worked by means of 9,288 boilers, of which 8,776 have been made in France. The whole represent 65,120 horse power. The number of boilers employed the preceding year was 8,023; the number of establishments at which steam engines were employed being then 4,033. The length of the railways now open in France is 2,171 kilometres (1,357 English miles), and the number of locomotives on them is 725, or 50 more than the preceding year. The number of steam vessels is 279, set in motion by machinery of 22,893 horse-power. The quantity of goods carried in them during the year was 730,948 tons, whilst that of the year before was 696,666 tons. It is calculated that the whole of the steam machinery now at work in France represents 110,178 horse-power.