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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 for nearly two years, while the second or after justice, and which tended to secure the just inventor, may apply, at once and get a patent tion to the persons who may be so appointed, rights of our inventors and people, for both have the same interests at stake in the Patent inventor applies he is told that his claims are said, and if the decision of the Commission be Laws. We have always spoken freely on the rejected because the other person has got a subject, and it made no matter who he or they were who proposed a good or a bad measurebe 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 to 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.

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 ourtailed 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 works where the invention is described, and in getting it up. And here let us say, that briefly explaining the same, if in the English 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 provement, he shall point out the same to the 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 invention appertains; who shall be under beneficial in their action, and conclusive in

present Patent Laws, which the bills before the opinion and decision of the Commissioner, 1836, be, and are hereby repealed. us intend to remedy? We must say that the stating the particular grounds of his objection, bills spoken of. We will present what we think would be a good Bill :-

such application, description, and specificaor discovery, the Commissioner will examine. sign, and if, on examination, it shall appear

claimed in his specification, he shall order a the matter by such board, it shall be in their ment, and make oath he verily believes the ed."

Reason for this amendment:—At the preor 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 unknown to the first inventor. When the first 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 paten- Patent Office, according to the direction of the tee 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 We have four printed Bills now before us hold separate patents, granted within two years, for the self-same invention. We wish at least to lessen this evil, and save some la-

bor in the Patent Office. 1 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 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 imapplicant, 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 we enact, which will be wise in their provisions, oath or affirmation for the faithful and impartial performance of the duty imposed upon them by said appointment. Said board shall he considers as not entitled to be patented, AMENDMENT TO THE PATENT LAWS-Sec. references given to the applicant for his rejec-1st (substitute for sec. 7 of the Act of 1836): 1 tion. And the said board shall give reasona-And be it enacted, that, on the filing of any | ble notice to the applicant, as well as to the Commissioner, of the time and place of their tion, the payment of \$30, the depositing of a meeting, that they may have an opportunity model, or other article to exhibit the invention of furnishing them with such facts and evidences as they may deem necessary to a just or cause to be examined, as soon as possible, decision; and it shall be the duty of the Comers such information as he may possess rela-

sale, with the consent of the applicant, for the Commissioner, he shall be governed therea board shall be instituted in any such case, the applicant shall pay to the credit of the persons so appointed shall be entitled to receive for his services, in each case, a sum not exby the Commissioner out of any moneys in his hands, which shall be in full compensafor their examination and certificate, as aforereversed, 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 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 successul 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 sec-

What we have set forth above relatreforms, then, are wanted?]

time to any United States Circuit or Dis- year was 730,948 tons, whilst that of the year the alleged new invention, discovery, or de- missioner to furnish to the board of examin- trict Court for an injunction to rest ain any before was 696,666 tons. It is calculated person or persons from infringing his pa that the whole of the steam machinery now at that the applicant is the original and first in- tive to the matter under their consideration. tent in the District. He must set forth clear- work in France represents 110,178 horse-powventor or discoverer of the improvements And on an examination and consideration of ly in his petition the nature of the infringe- | er.

patent forthwith, to issue to the said appli- power, or a majority of them, to reverse the said person or persons are infringing the same cant; unless it shall appear that the said in- decision of the Commissioner, either in whole -when the Court will summon the person or vention or discovery had been in use or for or in part; and their opinion being certified to persons complained of to appear and show cause why the injunction should not be grantone year prior to the application for a patent, by in the further proceedings to be had en such ed. At the earliest date possible, to render when, in such a case, no patent will be grant- application: Provided, however, That, before justice to both parties, a day shall be set apart for hearing evidence for the complainant and defendant, and the Court then, after hearing, sent moment the law allows two years of use Treasury the sum of \$30; and each of said may grant a provisionary injunction (if infringement is denied), or order the defendant to keep a regular account, and give bonds for ceeding ten dollars, to be determined and paid 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 entions 11, 12, and 13, of the Act approved gines are used. This machinery is worked by We'l, then, first—what are the evils in the be furnished with a certificate in writing, of March 3, 1837, and section 7 of the act of 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 main points of reform are overlooked in the and the part or parts of the invention which gether to the Patent Office and applicants. employed the preceding year was 8,023; the The next subject we must look to is protection number of establishments at which steam which must correspond with the reasons and of patent rights by just laws, and an economic engines were employed being then 4,033. cal way of protecting them. A poor man can- The length of the railways now open in France not defend a patent against the encroachments is 2,171 kilometres (1,357 English miles), and of a rich man. He cannot pay large retaining the number of locomotives on them is 725, or fees for able counsel, and without this he 50 more than the preceding year. The numstands but a sorry chance of success. What ber of steam vessels is 279, set in motion by machinery of 22,893 horse-power. The Sec. 5—Any patentee may apply at any quantity of goods carried in them during the