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Some Reasons why Patents should not be Extended.

The present Patent Laws provide for the granting of patents for fourteen years, and, if a patentee has not been sufficiently remunerated during that time, they also provide for the extension of the patent for seven years longer, making the whole term twenty-one years. Our first Patent Laws made no provision for the extension of patents; they—the patents—became public property at the end of the fourteen years. A patent at the present day is a hundred times more valuable than it was in 1790. When our Patent Laws were first enacted there were only about three millions of inhabitants in the United States, now there are twenty-four millions; if the patent term had originally been twenty-eight years it would have been of less benefit to an inventor than a term of seven years now. The means of spreading information about a useful invention now, and the great number of inhabitants in our country likely to use it, compel us to say that the man who fails to get remunerated for a useful improvement in fourteen years, must manage it badly for his own sake, and that of the public also. Within the past two years, in many places of our country, the people have been so treated by agents of some patentees, that a very general discontent is beginning to be expressed against our system of patent laws. The public, from revelations which have come out from the Patent Office itself, has come to the conclusion that it is not, and has not conducted its affairs at all times according to the rules of open and upright dealing, and it is even asserted by many that our country would be better without the Patent Laws and Patent Office than with them.

If the Patent Laws were abolished, no man would be deprived of any *natural* right; every man could invent, construct, and use any machine without let or hindrance from any person, consequently, if there were no Patent Laws, no inventor would have less *natural rights* than he now has. But Patent Laws are laws of good policy; our country, and all countries which have Patent Laws have prospered under them; they certainly have encouraged improvements in science and art. A patent is the cheapest and best mode of rewarding an inventor for a useful discovery. It gives him the exclusive right to make, use, and sell his invention for fourteen years, after which it becomes public property. A patent is a bargain between the people and inventor; the one says, we will allow no person but yourself and those to whom you grant the privilege, to make, use, or sell your invention for fourteen years; we will protect you against competition during that period, and you may make as much money as you can, but after that its exclusive character must cease. It has been said by some—and men of law too, that inventions should be held like any other property—meaning houses, farms, fruits and merchandise—for ever, by inventors and their heirs; but such men have not studied the subject with assiduous attention. Inventors have a perpetual right to their inventions, and so have their heirs for ever, without any Patent Law at all. The property of a patent is not in its nature like the property of land, fruits, or merchandise; it is property in the abstract, and based on *priority* more than on originality. If patent property were based on the title, *original invention*—the product of an inventor's mind—then every inventor would have a right to use his own invention, even if it were like a previous invention. Our laws forbid this, and grant patents to the first improvers only, hence we find that we have five or six hundred rejections every year in the Patent Office, the applicants having made oath that they were the first inventors, and did so in the honest belief that they were. Patent property is therefore not like other property; it is not based on *original* labor, but is based on a question of *time*—priority of discovery. If a man gets a patent for a machine, that patent gives him the right of property in every machine—even if there were ten thousand of them built like it in the country; and this title he has by law, although those who built them knew nothing about his patent, and although they made them with their own hands, or paid for them with their own money. It is not so with any other kind of property. We have stated this question so clearly, we think, that every one must understand it. Some inventors may think we should have advocated the other side of the question, but it is best for both of us to view the question in the light of truth, not as a sophism.

A patent is an instrument of national polity, and a good one, both for inventors and our country; as the Philadelphia Ledger has truly expressed it, "the Turks and other Mahomedans have no Patent Laws, where is there inventive power?" Patent rights have been abused, and they may be so again, still nothing that we know of at present, can be substituted for our patent laws; to abolish them would be a most unfortunate thing for our country.

Patents which have been extended by Congress, have been used by the agents and assignees of said patents more than all others, to irritate and annoy many worthy and honest men in our country. If in many cases patentees have sold cheap, it is no argument in favor of an extension of a patent; it is unfortunate for a patentee when he does so.

It is the business of statesmen, and also the business of editors, to forsee, in some degree, what may be the state of feeling in the country upon any question, and to use practical sagacity in providing for events, so as to bring forward good measures, and avoid evil ones. Judging from expressions which have come to us from many quarters, and looking strictly at the question of our Patent Laws, as they stand in principle and practice, we believe that it would be better for our inventors and people, if no patent were to be extended beyond the period of fourteen years after 1853. If there were no extension of patents there would be less general sympathy for patent pirates; patent rights would then be more valuable, because they would be more strictly enforced, and more respected by the community.

We believe that a repeal of our patent laws would greatly retard the progress of improvements in the arts; inventors, for their own sakes, would, as far as possible, keep and use their improvements in secret, and would guard them with all that jealously which so distinguished the inventors of old, and which kept back the advance of machinery to an extent which we can scarcely credit. But, at the same time, our people have jealous feelings towards those who have exclusive privileges, although those privileges may have been granted for some good done; it is therefore dangerous to pursue any policy which has irritated or which may irritate the minds of our people by exactions beyond the point of endurance; in such a case the repeal of our Patent Laws would certainly be brought about.

Our inventors will see that we are sincere in advocating a policy, which we believe, by timely concession and reform, will make patents to be more respected and consequently less subject to infringement.

Chinese Antiquities in Ireland.

A paper was recently read before the Belfast Literary Society in Ireland, on Chinese porcelain seals, which have been found in that country. About fifty have been found, some in deep bogs, one in a cave, some in one place, some in another, scattered over the country from Belfast to Cork. How they came there is a query; nobody can tell. They are of great antiquity. They have all inscriptions on them in the ancient Chinese seal language, and Mr. Gutzlaff had translated a number of them. Each seal is a perfect cube, with the figure of a Chinese monkey by way of a handle. It is supposed they may have been brought there by ancient Phœnicians, but it is our opinion that they were brought there by some of the ancient Irish tribes, who no doubt journeyed through and came down from China. No such seals have ever been found in Britain. This may account for the differences in the Scots and Irish Celts. Smith asserts in his treatise on the Human Races, that the Irish are a different mixture from the Northern Celts; but some more light on the subject may clear the mystery up.

International Copyright.

Some of our papers are discussing the propriety of an international copyright for authors. The New York Tribune and Philadelphia Ledger take the position that an international copyright law would be just, proper, and beneficial. The New York Daily Times takes the opposite view of the question, but manages the question with little skill and less learning than we should have expected.

Article 1, Sec. 8, of the Constitution of the United States, says:—

"Congress shall have power, &c., to promote the progress of science and useful arts by securing for limited times to *authors* and inventors the exclusive right to their *respective writings* and discoveries." The framers of our constitution looked forward to the benefits that would be conferred upon our country by granting to both natives and foreigners, patents and copyrights for their productions, and left the power with Congress to make laws how the principles they declared in the constitution should be carried out. Congress has carried out those principles in respect to foreign inventors, but not in respect to foreign authors, consequently one principle of the constitution is yet in abeyance to such ideas as the following in the New York Times:—

"Suppose the English publisher refuses to sell the copyright of Macaulay's History, or any other book, to an American house. It cannot be re-printed here; and we have, therefore, only to pay the price demanded for the English edition,—including government taxes upon the necessaries of life needed by the workmen, the income taxes, &c., or go without it. The price of the book must of necessity be greater than it is when re-printed here, because its cost is greater. And no matter how large the number sold, the price can never fall below the cost. If English publishers can copyright their books in this country, we must inevitably, in purchasing them, pay our share of the taxes levied on their production by the English Government. The price fixed upon them will be determined upon that basis."

This is very unenlightened reasoning.—The same arguments might be employed against international patents which are now granted in all civilized countries. The international copyright law might contain a clause providing for the author to bring his work into use in the United States within a certain period, or forfeit the copyright. The English patent law has a provision of this kind, and our patent laws have a like provision also. Act 1836, Sec. 15 provides, that if an alien fails for the space of eighteen months from the date of his patent to put and continue on sale his invention to the *public on reasonable terms* he loses the benefit of his patent. We do not discuss the question of international copyright, whether it is politic to adopt it or not, we only wish to show that an international copyright law is not viewed in a proper light, by some able and intelligent men.

Paying for Parker's Water's Wheel.

We have received a letter from Mr. Goodnow, the same gentleman whose letter we published on page 211, about Parker's Water Wheel, and to which we received an answer from Messrs. Havens and Barron, the agents of Parker, in Vermont, who denied the statements contained in Mr. Goodnow's letter. In the letter now received, there is another enclosed, from S. Frost, of Derby, Vt., a respectable gentleman, who states that *he* had only four days notice given him by the agents of Parker, to settle and pay fifty dollars for the use of the spiral wheel for eight years, or else be sued before the United States Circuit Court; and property was attached to the amount of $5,000 where they could find that amount. The letter also states, "they take out of this county $2000." This gentleman had paid a Mr. Wilson's agent $10 for a patent fee before, and then $50 to Parker's agents, making, as he says, "a pretty costly patent."

From this letter, which is now before us, we judge that Frost bought his wheel, paid for it, and paid a patent fee of $10 to another person (Wilson's agent), and he did not know that he was using a wheel claimed to be an infringement of Parker's Patent. He was honest in all that he did, and has been made to pay dearly for his honest ignorance. By such doings, it is no wonder that we hear such a cry of universal indignation, from almost every quarter, against the claims of some patentees.

The Woodworth Patent in the Senate.

A great number of petitions are presented in the Senate, every week, against the extension of the Woodworth Patent. A Senator said, one day, "I wish the Senate would act on the Woodworth Patent and the French Spoliation Bill, and settle some business." It appears to us that it is a duty incumbent upon the Senate to do this speedily. It has pained us a great deal to hear of so much crimination and recrimination in the present Congress—so much personal matter—so much said and done which should not have been said and done there; and so little said and done which should have been said and done there. Priding ourselves, as we do, in having a respectable Senate and House of Representatives, we, out doors, can see more clearly, perhaps, than those within, what has a respectable and what has a degrading tendency in the actions of the Senate and House of Representatives. In our opinion, it would tell better to the credit of Senators and Representatives, politically, with the people, if they would devote more attention to practical measures than to partizan speech-making. We hope the Senate will soon act upon the Woodworth Patent, and let the people, who are interested in the matter, have their minds set at rest one way or the other.

Law Questions on Patents, Parker's Wheel, &c.

I see it stated that Parker's agents have attached property and person of those whom they claim to have been infringing their patent. I question the legality of that proceeding, and the U. S. Court agent which granted the attachment, I believe, has exceeded his power in this peculiar case. No injunction can (in the true sense of our patent laws), now be granted against any wheel claimed to be an infringement of Parker's patent. The patent has expired—it has no existence as a legal instrument of to-day; how then can an injunction be granted to restrain a person from using a wheel which is claimed to infringe a patent which has no existence. The suits for infringement of Parker's patent that was, can only have a retrospective effect for damages, for the time the wheel was used by a defendant or defendants, during the time the patent was in existence. Suits for infringement of Parker's patent cannot now be entertained in equity. This is my opinion respecting the meaning of the Patent Laws.

JUNIUS REDIVIVUS.

Another Fire Annihilator Experiment.

While they were trying some experiments with the Fire Annihilator at Newark, a few days ago, the flames got the start of the machines, and, no water being handy, the whole building was consumed. Four or five Annihilators were thrown in at the windows, but it was no go—flame was too much for gas. The person who had charge of the experiments was Dr. Colton, who, in a letter, stated he had been successful twice, but the flames got so hot before he applied the last annihilator, he could not get into them. That is it exactly; the annihilator, even in the hands of a doctor, was annihilated. Newark was a first-rate place to try the experiments; nitre paper, and nitre and charcoal, are just about the same thing for putting out fires. Give us the fire-gun in preference to either.

Discussion About our Patent Laws

Some of our daily papers have entered into a controversy about our Patent Laws. The Philadelphia Ledger ably sustains them, the New York Daily Times is opposed to them There is a want, (and there are reasons for it) of correct information displayed on both sides, especially by the "Times," as we will show in the next number of the Scientific American.

Patent Case.

On the 12th April, before Judge Kane, in Philadelphia, Ross Winans obtained a verdict and damages of $5,400 against the New York and Maryland Railroad Company for the infringement of his patent.