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The India Rubber Case Again—Extension of the Patent.

On the 24th day of February, 1839 Nathaniel Hayward, of Woburn, Mass., secured a patent for vulcanizing india rubber by means of sulphur, which patent was assigned to Charles Goodyear—a man of a shrewd and future grasping mind. Some idea of the importance of this improvement may be formed from the fact that it has been a subject of continual litigation for a number of years; yea, almost since the day the patent was issued. It is the real vulcanizing substance now used in the manufacture of india rubber fabrics of every description. The claim is in these words, "the combining of sulphur with gum elastic, whether in solution or in substance either by mixing with the digested india rubber, kneading it, or sprinkling it on the surface of sheets and pressing it in."

The conspicuous litigants have been Goodyear, versus Horace H. Day. Daniel Webster distinguished himself not many months before he departed from this earth, on the side of the complainant, before Judge Grier, at Trenton, N. J. "That was a famous court scene; there were Webster and Choate, of Massachusetts, engaged in legal conflict with eye to eye and foot to foot opposed." The fame of such legal champions brought together a crowd of admiring and wondering listeners, who "ne'er shall look upon the like again." The result of that hearing—it was not a trial at law—resulted in victory to the side on which the great deceased lawyer and statesman had devoted his talents and learning, and the result was an injunction to restrain H. H. Day from infringing Goodyear's patent.

As the patent of Hayward expires on the 24th—Thursday next week—it was not to be expected that the proprietors of this patent would calmly suffer it to become public property without an effort to get an extension for seven years. Indeed, we have heard it stated, that the great amount of law business connected with this patent during the past few years was all a well arranged contemplated matter, in order to present a great bill of losses to prove that the inventor, in his agents, had not received sufficient compensation for benefits conferred upon community by the invention. Be that as it may—we cannot credit such stories—the extension was prayed for, and the case has been heard before the Commissioner of Patents. It was the most extraordinary hearing for an extension of a patent that has ever been brought to our notice. It continued for eight or nine days, we believe, from the 1st inst. before the Commissioner, and eminent counsel, three or four on each side, were employed by those interested in the patent and those opposed to it. This is the first time that such a mighty quantity of speech making has been presented to a Commissioner of Patents; it shows us something of the value of the invention. But it is only a few weeks since that all the circulars issued from the Patent Office contained these words in reference to the extension of patents, "all arguments must be submitted in writing." That rule has been departed from, and we are afraid that it may lead to an increase of expenses to inventors by opening up a new field for lawyer's fees. It appears, however, that the law, Sec. 18, Act 1836, contemplated that argument—real argument—should be allowed, but it makes provision only for those opposed to the extension. It says, "any person may appear and show cause why said extension should not be granted," but makes mention of the applicant furnishing his petition, proofs, and statements in writing only. It appears to us that no provision is made in the Patent Laws for such an exhibition of speaking and oratory, as has lately taken place before the Commissioner of Patents in reference to the extension of this patent. The law is plain that the Commissioner shall hear and decide upon evidence produced, both for and against the extension of the patent, but this, in our opinion, has reference only to statements of facts, not speeches; but at the same time it certainly means oral statements; we

think there can be no doubt of this, and the present Commissioner has the same right to say how they shall be made, as the previous one to say, "they shall only be in writing." The public, however, should have full information about such things; we are only afraid, as we said before, that this new mode of hearing arguments will lead to a great evil in entailing unnecessary expenses upon inventors.

The great question discussed before the Commissioner was whether he had or had not a right to extend the patent to an assignee. Those opposed to the extension contended that he had no such right, and the applicants contended he had. The law by strict construction says, and means no more and no less, than that the patent is to be extended to the patentee only. There is not a word in section 18, Oct. 1836, about an assignee, and that is the only authority the Commissioner has for his rule and guide.

In England it is not uncommon to extend a patent to an assignee in conjunction with a patentee, but not otherwise, so far as we are informed. It appears to us, however, that an assignee may often suffer injustice from infringers, without recompense by our laws, which grant a man a patent, but do not provide for its enforcement. In England, the Attorney General always appears for the patent plaintiff in the Court of Exchequer, but this is not the case in our patent trials. It is a hard thing for a man to purchase a patent and then have to pay high fees to counsel to bring a case of infringement before the courts of the government which has granted it, whose title deeds have been infringed. Our inventors, we believe, would rather pay \$60, or more, for a patent fee, if the United States District Attorneys were by law compelled to pursue infringers. The District Attorneys might get \$1,000 per year additional salary from the patent fund, for the performance of extra labor. As it regards the extension of a patent to assignees, however, it appears to us that Congress alone can do this, as no provision is made for an extension to such persons by our Patent Laws.

The Ericsson and our Cotemporaries.

It is well known to our readers that we have expressed our opinion that "hot air as a motive agent can never supersede steam." We have given some reasons for entertaining such an opinion, but not all that might be adduced in support of it. In opinion, we have stood nearly alone among the public press of our country; that is, no paper or magazine devoted to news, literature, science, and art, has expressed a decided opinion with arguments attached respecting the success or failure of the Ericsson. What we have said has been expressed calmly and in the most moderate language, but because we have so expressed opinions in opposition to those of some editors who have no scientific knowledge, and who are not capable of passing judgment on such a subject, they have not scrupled at hasty and untrue assertions in speaking of us, although we have given no occasion for personal remarks to any one.

On the 11th of last month (Jan. 1853) the Ericsson made her second trial trip down the New York Bay, with the Corps Editorial of New York City, and on Friday last week the 11th Feb., she was opened for visitors, a month exactly from her trial trip, during which time she has been undergoing repairs at Williamsburgh, or rather getting her finishing touches, Captain Ericsson having stated on her trial trip that "she was not yet fit for going to sea, as her valves and pistons had not been rendered completely air tight." It will no doubt be very difficult to keep them tight, but if any man can do it Capt. Ericsson can. She is now said to be perfected in every part of her machinery, but we cannot forget that on the 12th of last month, the "New York Tribune," warmed with undue excitement, used these words:—"The age of steam is closed, the age of caloric opens, Fulton and Watt belong to the past, Ericsson is the great mechanical genius of the present and future." One month since then has passed away, the Ericsson was lying all that time getting repairs, and we have not heard of a single steambot striking her colors to hot air.—Every paper in our city used nearly as extra-

vagant language as the "Tribune," especially the "Herald" and "New York Times." Perhaps a month has cooled their imagination and led them to sound reason; it at least has done so to the "Tribune." In that paper of the 11th inst., one month exactly from the day of the Ericsson trial, and thirty days exactly from the time it declared "the age of steam closed," we find these words in a leading editorial:—"Had Capt. Ericsson succeeded in transmitting the moderate force excited under his main pistons to the crank shaft, the days of steam as a marine motor might perhaps be about to be numbered." Here, without any apology for its former wild assertion, "the age of steam is closed," it now says, if all the direct power of the hot air was communicated to the main shaft, (two-thirds more than what it had before,) the age of steam might be about numbered. This is certainly coming down a peg or two, and not in a very ingenious manner.

We have not seen a solitary scientific argument presented by the hot air advocates in favor of it as a superior substitute for steam, and we are thereby convinced that they are all deficient in scientific knowledge. Now a good argument might be presented in its favor based upon its inferior capacity for heat, which is as 3.72 to 1 against water.—We confess that a good argument could be adduced in its favor based upon its atomical numbers, and as Jonathan Edwards would say about a theological question, "it would look strong until it came to be handled, when it would fall to pieces." We will endeavor to present some arguments for and against it next week, and in the meantime wish the Ericsson a safe and prosperous first voyage.

The Hardware Trade.

Several of the New England Hardware manufacturing firms finding themselves seriously injured by evils that have crept into the trade, determined to put a stop to them, if possible, and accordingly advertised a meeting of Hardware Manufacturers, to be held in New York on the 10th inst., when, perhaps, some amicable arrangement might be made that would be beneficial to all parties concerned. The meeting was accordingly held, and a committee appointed to draw up resolutions, but so much opposition was evinced, particularly on the part of the small manufacturers, who do not feel the evils complained of so palpably as the larger firms, that nothing determinate was resolved upon. The points at issue are the present system of long credit, the charges of freightage and insurance which are pre-paid by many large manufacturers, even for great distances, and the cost of packing cases, which are allowed by the manufacturer to the dealer. To remedy these grievances a series of resolutions were drawn up by the above mentioned committee and presented to the meeting for adoption, but they did not appear to meet with general approbation. The first, which was intended to fix the time of giving credit viz., 6 months, alone met with any hearing—the two others, for discontinuing the payment of freightage, and allowing packing cases to the purchaser, being entirely disapproved of. Even with regard to the first, there was much opposition evinced, and the Committee were compelled at last, from the difficulty of obtaining a hearing, to withdraw from the field. It may, therefore, be looked upon as a drawn game, neither party—the long credit nor the short credit—having obtained the ascendancy, for, from the noise and confusion, which we understand from a party present, was exhibited at the meeting, it would be impossible to determine whether the resolution was carried or not. It would, however, be advantageous to the trade—both buyer and seller—if some regular credit system were adopted, for the present mode of carrying on business is open to many serious objections—of which many manufacturers complain, as it appears to us, with justice.

It is no uncommon thing for a manufacturer to date an invoice of goods sold, three or six months forward, in addition to the customary six months' credit of the trade, so that he actually gives nine or twelve months' credit, and sometimes longer, when, by right, the purchaser could only expect six months' time from date of purchase before payment would be due. This is a ruinous method of pro-

cedure, which cannot fail to be detrimental, not only to the party doing so, but likewise to other dealers. As a matter of course these latter, in self-defence, are obliged to do similarly, or, if they refuse such accommodation, they are liable to suffer from loss of business, the buyers complaining of their unaccommodating spirit, as compared with Mr. So-and-so or Mr. So-and-so.

Again, the charges for freightage and insurance are a heavy drawback on a business where manufacturing prices are so slightly remunerative as the hardware trade, and amount to a large item on the debit side of a manufacturer's books, when he is expected to pay the expenses of carriage as far as Albany or Buffalo, and even in some particular cases which we could point out, as far as New Orleans. Even the price of the packing cases, which are now allowed to the buyer, is a heavy item out of the manufacturers' profits, where the business is large, amounting, with some firms, to several thousand dollars yearly,—and although a small manufacturer, whose orders are few, may think to draw custom by making no charge for packing cases, yet it comes onerous where the orders are extensive. If we are not mistaken, in other lines of business it is customary for the purchaser to be at this expense; at all events, it would be of great advantage to those that are concerned in this trade, to come to some unanimous agreement upon these points—their differences can only injure themselves, and while they are pulling different ways, no good can arise. We are opposed to monopolies and cliques, but we are, nevertheless, of opinion that organization is necessary in all stages of society, and that both the manufacturer and the dealer, the seller and the purchaser, are benefitted by a regular system, where chicanery and unfair conduct cannot get the upper hand over the honest and straightforward tradesman. Let the hardware manufacturers, therefore, see to it—it is their affair to do so; and if the present meeting has been abortive, let them canvass the trade and call a general meeting again of hardware manufacturers from all parts of the Union.

White's Truck—Errata.

Mr. Hudson, of Patterson, the author of the late article on White's Truck, on page 163, writes unto us stating that there were several errors printed by us not in his letter, which he wishes us to correct. We will correct them, but beg to state that his letter was carefully read with the proof, and the blame is not ours. The article says "his truck ought to be compared with such as are calculated for even (read uneven) roads." Again, where it says "the centre bearing trucks put upon the Auburn and Rochester Railroad, by Eastwick and Harrison had eccentric centre pins," is not correct; it should merely have stated "that trucks having such centre pins were in use several years ago on the said road."

Inventors of Washing Machines to the Rescue.

Mr. James S. Gilliam, of Petersburg, Va., writes to us that he is desirous of purchasing some of the best washing machines that were ever invented. Mr. G. writes that he is the keeper of a large hotel, and desires machines that will do work on a large scale. We can do no better than to advise each of the three hundred washing machine patentees to address Mr. G. a letter setting forth the merits of their respective inventions.

For British Yachts.

An opportunity will be afforded next October for any of the crack British yachts to redeem the national laurels of Old England, which were lost in the race in which the "America" was the declared victor. The New York Yacht Club has offered a purse of \$500, to be sailed for on the 18th of October next, over the usual route in our harbor. The prize is open for the yachts of all nations, and our friends across the Atlantic are affectionately invited to participate with us on that expected trying and joyful occasion.

We have received a letter from Mr. Wilson inventor of the tunnelling machine, which he says is successful, in contradiction to the extract in the "Scientific American" of the 5th inst. We will present the substance of his letter next week.