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No. 158.

For the Week ending January 11, 1879.

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A REMEDY WORSE THAN THE DISEASE.

Senator Windom's direct assault upon the patent system as a whole proving a hopeless failure, he returns to the charge in an amendment for the encouragement of infringers. It provides that no recovery of damages or costs shall be had against the defendant in any suit brought for the alleged infringement of a patent by the use of any patented device, process, invention, or discovery, if it shall appear that the defendant purchased the same for his own private use from the manufacturer thereof or from a dealer engaged in the open sale of the same, unless it shall also appear that the defendant at the time of such purchase had knowledge or actual notice of the existence of such patent, but this provision shall not apply to purchasers from foreign manufacturers or dealers.

Senator Booth very pertinently argued that, by the terms of the constitutional provision with respect to patent rights, Congress was empowered to grant to inventors and authors only "the exclusive right" to their respective writings and discoveries; and asked: "Now, how can that be an exclusive right if Congress says by law that a person other than the inventor may use the invention and not be liable in damages? A patent is as much property in the hands of its owner as a horse or an ox. From its incorporeal nature it is impossible to punish its piracy by criminal law as you do the larceny of personal property. The committee were unanimously of opinion that the inventor would be stripped of all his security if he were not allowed to follow the patented thing wherever he could find it, not that he might bring vexatious and annoying suits against every one who might innocently use a device, but in order that he might cut off the market against a piratical manufacturer."

Further on Mr. Booth said: "The amendment offered by the Senator from Minnesota says that an infringer in certain cases shall not be liable to damages unless he had actual notice of the existence of the patent. Of course that destroys the remedy in all those cases, for it is absolutely impossible that the patentee should know who is going to use his patent or that he should give notice to everybody. In the case of great manufacturing companies and railroad corporations, to whom is notice to be given? Then, as to the word 'knowledge' in the amendment, we know how hard it is to bring knowledge home to an individual, especially where 'ignorance is bliss.' But how can you bring knowledge home to a corporation that has no soul to receive it? Inventions, as has been said before, are nearly all the work of laboring men, men who toil with their hands. In that field they seek the prizes of life and receive their patent of nobility. Under the amendment of the Senator from Minnesota these achievements of these toiling men may be absorbed by manufacturing companies and railroad corporations who simply choose to close their doors to the truth and shut their eyes to the light. Under this theory the best patent adviser of a corporation or a manufacturing company would be the lawyer who knew the least law and would always advise his clients that there was no existing patent. "But the loss does not fall, as I have indicated, chiefly upon inventors, great as that is; but by removing the incentive to invention you dry up the very spring at its source."

The mischievous tendency of Mr. Windom's amendment needs no more forcible illustration. It is but another attempt to prevent a local and limited wrong by wholesale injustice to many. There is not an existing institution which may not be and has not been made the instrument of the excuse for wrong doing. Shall we abolish our courts because judges have been incompetent and juries corrupt? Or the church because it has been used as a cloak for rascality? Equally unwise would it be to abolish the inventor's right to his own, because a morally innocent user of a patented article may possibly suffer through the misconduct of another. That in Minnesota and elsewhere men have misused the provisions of the patent law for blackmailing operations, no one will deny. Possibly such things can be prevented by an amendment of the law, which shall not at the same time open the door for the admission of greater wrongs. If so, the country would be glad to see it done. But neither country nor Congress, we believe, will assent to any remedy so much worse than the disease as that proposed by Mr. Windom.

A PLAN OF CO-OPERATIVE CHARITY.

There are two classes of people who need and should have assistance: first, those who, through physical incapacity, are unable to provide for themselves wholly or in part; second, those who are able and willing to work, yet are without employment. The first class includes orphan children and aged people having no friends or relatives able to care for them, the sick, the crippled, and the like. These need the assistance of the charitable, and it should be given kindly, and as abundantly as the means of the charitable may justify. The second class includes some in temporary want from accidental causes, and vastly more chronically in want through incapacity to compete with average workers in point of skill, intelligence, or endurance.

Is it not possible to employ the latter class to their own advantage, and at the same time as a means for providing more comprehensively for the wants of those that are entirely helpless—this, too, without diminishing in the least the productive value of the labors of others?

Call the two classes respectively A and B. Charity says that B should be provided with work according to the individual capacity of its members. To furnish that work requires capital and supervision, which under the circum-

stances must be provided without charge. Obviously it will not do for charity to provide work beyond the demands of trade and at the same time pay the market rate of wages to the incompetent. That would hurt the self-supporting classes certainly by diminishing the value of their labor, possibly, also, by seriously diminishing the demand for labor. For the regular manufacturer to compete in the open market with the products of organizations charging nothing for capital or supervision would be impossible except by paying his workmen less or working them harder, neither of which would be a satisfactory result of charity. On the other hand, it would utterly destroy the beneficence of the nominally charitable labor organizations, if the slightest suspicion could arise that the managers of it were speculating on the necessities of the poor.

There are in any community, say, one thousand men and women of class B. They are out of work, and there is no demand for their labor. Yet they would be glad to do anything for the time to gain an honest support. They will work for half the usual rate of wages rather than waste their time in idleness or be an absolute burden upon the charitable; and it is infinitely better for them and for the community that they should be so employed in default of something better.

There are in the same community a larger or smaller number of class A, whose wants are now meagerly supplied by charity. At present the larger part of them affect but imperceptibly the market for food, fuel, clothing, and the like. They simply go without, and to a considerable extent the members of class B fall under the same rule.

Now we believe it quite possible, without adding to the already heavy burden upon the charitable, save in organization and direction, also without materially affecting the status of the self-supporting workers of the community, to make work for the unemployed, for the better supplying of the needs of both A and B. In this way. Provide productive occupation for the unemployed; pay for such work all that it is worth; and use the products of it exclusively for charitable purposes. So far as possible let the inmates of all asylums, hospitals, and the like be clothed by the labor of those employed by charity. In like manner let those furnished with employment have the benefit of the products of charitable workshops. Also, so far as possible, let all outdoor assistance be drawn from the same stores.

For example: A sewing woman is out of work. True charity would set her to work for pay. But it will not do for organized charity to furnish the needed work and pay the same for it as is received by the sewing woman who finds work for herself. Nor would it do to pay less and throw the cheapened product upon the market to compete with the unassisted work of the self-supporting. But by means of the furnished work charity might secure, with a given outlay of money, a double good—employment for the unemployed, and a larger bounty for the helpless. And it would also furnish a suitable means for sifting out from the deserving poor the lazy and undeserving. The wider the association of such charity workshops the wider the range of employment that might be furnished, and the greater the aggregate benefit. And by means of them willing workers out of work through the natural operations or misfortunes of trade would run no risk of pauperism; and at the same time their limited pay might be made to go much further than otherwise in supplying their necessities, without cheapening in the least the value of independent labor.

MISS HOSMER'S MOTOR.

The controversy between Miss Hosmer and Mr. Chapman with regard to the magnetic motor which both claim as their own has developed one fact of considerable interest. It comes out in an interview with her which Mr. Louis J. Jennings reports to the World. To prove the futility of Mr. Chapman's claim, Miss Hosmer said that the model which that gentleman was at work on in London "is and has always been entirely worthless. Nothing whatever can be done with it or made out of it. It is on the wrong principle altogether; and, indeed, it is only within the past fortnight, in this very house, that I hit upon the expedient by which the difficulties that have puzzled me could be overcome. Thus, although Mr. Chapman claims the invention, he is ignorant at this moment of the only mode by which it can be turned to practical account. He has claimed the discovery before it was perfected. The means of surmounting all obstacles occurred to me only the other day, and you would see the truth and importance of what I am saying to you if I could reveal the secret to you."

There is a frankness in all this which is inexpressibly charming. Seeing, however, that the model in question—a "worthless" thing, "on the wrong principle altogether"—was confidently described by both Miss Hosmer and Mr. Chapman, not to speak of the Post's correspondent, as the most wonderful invention of the age (not excepting the Keeley motor), the cautiously minded may well be excused for not throwing up their hats until the new expedient is proved to be really better.

MEAN DISTANCE OF WATER MOLECULES.—Hermann Herwig concludes that no two molecular layers in water can be more than 1-86 of a millionth of a millimeter apart, and that the same is true with regard to the mean distances of adjacent molecular centers. Sir Wm. Thomson had previously estimated the least value of the same distances at 0.05 millionths of a millimeter. These two estimates, one being less than four-fold the other, furnish satisfactory approximations to the true value.—Ann. der Phys. u. Chem.