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INNOCENT PATENTEE VERSUS INNOCENT PURCHASER.

Speaking of those cases of conflicting patent rights arising from the issuance of two patents to different parties for the ably known than that of Dr. J. W. Draper, who died at his same invention (one of which patents is subsequently de-home at Hastings-on-Hudson, January 4. Mr. Draper was clared void by the courts), and the liability of the pur- born near Liverpool, England, May 5, 1811. We present a chasers of articles sold by the owner of the rejected patent to pay royalty to the successful patentee, the Secretary of tion was developed early, chemistry being his favorite study. the Interior said, in his late annual report: "This is wrong, and in many cases tends to grievous hardship. It should be remedied by proper legislation, exempting innocent pur- his academic studies at the University of Pennsylvania, chasers in open market from any liability for the use of such patented articles or devices.'

and the right to use it, purchasing in good faith from one he stayed two years teaching chemistry, physiology, and who could show the certificate of the Patent Office that he natural philosophy. In 1839 he was called to the chair of had at least a presumptively legal right to sell, should object chemistry and physiology in the University of New York, to making a second payment to another is quite natural. with which institution he has since been identified. And since such second liability usually arises through the action of the United States courts, in trials to which the organized Dr. Draper was chosen secretary, and in 1850, on "innocent purchasers" are not party, it is equally natural the death of the first president, Dr. Valentine Mott, he sucthat they should look to the government for relief. For ceeded to the presidency, filling that office until 1873, when them the simplest way out of the trouble is a law exempt- he retired to give his attention to his literary work and his ing them from any responsibility to arise after the purchase academic classes in science. is made "in open market and in good faith;" and several bills to that effect are now before Congress.

considered in this connection as well as the innocent pur-tigations which have gained him a place among the great chaser; and it is simply amazing that an officer in the leaders of intellectual progress in all ages. Indeed, in the responsible position of the Secretary of the Interior, in broad scope of his researches and their direct and immediate whose department the Patent Office is, should so completely bearing on human life and social progress, Dr. Draper exhioverlook the obvious injustice and folly of attempting to right bited rather the traits of the philosopher than the narrow the wrongs of one class of unoffending citizens by increasing characteristics of the specialist in chemical, physical, phythe wrong done to another class equally unoffending.

establish his claim in the courts and demand another payment, and so on endlessly.

Congress interpose a bar to the successful patentee and for- development of photography from life. In 1839 he secured bid his enforcing the claim which the courts have so tardily the first sun-pictures ever taken of a living subject. He was made good, thus arbitrarily limiting a right which the Con- also the first to photograph the moon. stitution of the United States describes as "excrusive." The excuse for this invasion of the patentee's right is the fact that an enforcement of it would tend to hardship on the part of certain unfortunate purchasers. As well might Congress be asked to interpose relief in all cases of hardship arising from the innocent purchase of property whose legal status is subsequently changed by court decision. It is a common occurrence for suits to be brought and successfully maintained for the recovery of property, notably real estate, by the workmen, and on the side exposed the men had under conditions precisely parallel to those arising in disputed patent cases,

Mrs. Gaines's recovery of large areas in New Orleans and other southwestern cities, after the land had changed hands several times and much of it had been improved at great cost by those who had purchased in good faith supposing their title good, is but one of many examples that might be given. The resulting hardships to those who were dispos sessed were certainly as grievous as any ever caused by disputed patent rights; but we have never heard that the inno cent victims have ever enlisted the services of a cabinet officer to recommend a law exempting them and all persons in their situation from liability to the rightful owner for rent, after the courts had decided in his favor.

the innocent and unwary, must be liable to arise so long as goats can drive away a dozen dogs, and two are about all public officers and courts of justice are human and fallible; each farmer puts in with his sheep. As soon as a dog enters properties based on patents than with other species of pro- propensities are too much for the canine, who soon finds perty, nor are the evils involved more general or serious. If himself rolling over and over. A few repetitions of this there are good reasons for making an exception to the treatment causes the dog to quit the field, limping and yellgeneral rule of the law in the case of disputed patents for ing. Formerly, when a dog entered a sheep field at night. invention, it rests upon those who ask to have it done to the sheep would run wildly around and cry piteously. Since whose faulty working has given rise to the evils complained are put in sheep pens to drive away wolves. -N. Y. Sun. of (evils working hardship to the rightful patentee as well) as to the purchaser under voided patents), to side with one party and advise his relief at the cost of the other, exhibits, . 3030 the trouble.

JOHN WILLIAM DRAPER.

Few names in modern science are more widely or honorportrait on another page. His taste for scientific investiga-After studying some time at the University of London, he followed his family to this country in 1833, and completed graduating with honor in 1836. Some of his scientific investigations having attracted attention, he was called to a That men who have once paid for an article or process professorship in Hampden Sydney College, Virginia, where

When the medical department of the University was

Notwithstanding the severe draught upon his time and strength demanded by his presidential and professional But the innocent inventor and patentee is a party to be duties, Dr. Draper found time to pursue the scientific invessiological, or historical science. Yet in all these depart-The case is plain enough if one will only consider it ments his special studies were those of a clear-headed excalmly and impartially. By oversight, erroneous judgment, plorer and pioneer. His earlier studies in vegetable physioor otherwise, the Patent Office issues to B a patent for A's logy were many years in advance of those of the rest of the invention, whether before or after giving a patent to A does scientific world. He led the way by twenty years into that not now matter. The person primarily wronged is there- marvelous field of research opened up by spectrum analysis. fore A, the rightful patentee. To a less degree B is wronged In his conception of the essential unity of radiant energy in that he is officially encouraged to manufacture and make he was a full generation ahead of the physical investigators a market for something which he cannot hold, and to defend of Europe. As a philosophical historian, tracing the influhis presumptive right in a legal contest with A. Having, it ence of material progress, association, and environment may be by long and expensive litigation, defended the right upon the natural development of nations and races toward which the Patent Office has afflowed to be infringed, A finds civilization and rational thought, he was not less a leader his right still further infringed by the public use of his and a worthy representative of the type of man toward invention under privileges sold by B, whose title the courts which scientific civilization is making. Though in one rehave declared to be invalid. The original error of the spect what is known as a popular writer, Dr. Draper proba-Patent Office now bears another crop of evil fruit. If the bly reached a wider range of active minds among all civiltrue inventor and rightful patentee insists upon the use and ized peoples than any other modern writer, his principal enjoyment of his own, the innocent purchaser from the treatises having been translated into most if not all of the defeated patentee must suffer the penalty of a second pay- leading languages of the world, some of them having been ment, with a possibility that a new claimant may some day adopted as text books in the colleges of all nations, nota bly his "Physiology" and "The Intellectual Development of Europe." A minor, yet socially and industrially very At this stage the Secretary of the Interior would have important achievement of Dr. Draper, was in the early

A Fossil Stone Wall.

The Lexington (Ky.) Press says the workmen engaged in quarrying rock for Mr. Shannon, one mile from town on the old Frankfort pike, came upon a massive stone wall. It had every appearance of having been built by human hands, the mortar seams and joints being very plain. Above it about ten feet of drift and twenty feet of rock had been removed advanced fully forty feet from where they first struck rock. Thus it was firmly embedded in a solid limestone quarry, which certainly has formed about it since the wall was built. The face of the wall was well dressed, and its massive appearance gave evidence of the skill of hands perished long centuries ago, and could well be envied by the best of the stone masons of to-day.

[While there is no obvious reason for questioning the sincerity of this specific statement of the Press, we should be glad to see the report of some competent geologist upon the fossil" wall]

Goats to Protect Sheep.

The farmers of Hunterdon and Somerset counties, New Conflicts of right, entailing more or less of hardship to Jersey, use goats to protect their sheep from dogs. Two but such conflicts are not more common in connection with the field at night, the goats attack him, and their butting make them known. To declaim against grasping patent the goats have been used to guard them, they form in line sharks and deplore the wrongs of innocent purchasers sim- behind the goats and seem to enjoy the fun. The idea of ply begs the question. For the official head of the office, utilizing goats in this way came from the West, where they

Electric Lights at Hell Gate,

The dangerous navigation at Hell Gate, the eastern ento say the least, a grave deficiency in official sagacity. A trance to the harbor of New York, causes a nightly blockade wiser and juster course would be to study the practical of vessels. To obviate this delay to commerce the Lightworking of the Patent Office to discover whether it may not house Board has sudorsed a proposition to provide Hell be possible to prevent, or to largely diminish the frequency. Gate with electric lights, and Congress has been asked to of the issuance of conflicting patents, the real source of all authorize the necessary experiments. The plan is unquestionably practical and cannot fail to be beneficial,