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ANOTHER PATENT NULLIFICATION BILL.

We give in this issue the text of a bill (H. R. 4,456) that threatens very gravely the interests of the inventors of this country. It was introduced in the House of Representatives by Mr. R. W. Townshend, of Illinois. During the last two years, it has often been our office to comment on proposed enactments that had the same bad tendency—a tendency to the abridgment of the rights of patentees. We have reiterated the expression of the best jurists that this country has ever seen, that the inventor is a pre-eminently useful member of the community, and deserving of every protection and encouragement that the law can afford him.

But the present bill has gone further than most of its predecessors. It has, after consideration, been reported favorably by the Committee on Patents, and presumably is in a fair way to pass the House. A glance at its provisions is enough to condemn it. It strikes at the root of our patent system, and threatens a gross injustice to the inventors of the country. A patent already granted is a pledge, and any curtailment of its rights is a violation of that pledge. The effect of the present patent system has been to place America in the van of nations, as regards her progress in the technical and industrial arts.

The first provision of the bill deprives the United States courts of jurisdiction in patent cases where the amount in controversy does not exceed two hundred dollars. By this provision, infringement is by law allowed on the majority of inventions. By one clause, the most meritorious inventions, and those that contribute the most to our comfort in every-day life, are declared unworthy of compensation. There is no need to refer to the records of patents to identify them.

Our sewing machines, churns, washing machines, straw cutters, plows, mowing machines, hardware, boots, shoes, clothing, furniture, stoves,—all these and innumerable others would fall within the two hundred dollar limit. Had this law been in force for the last fifty years, no small inventions would have been made. The inventor would have no incitement to use his talent, save in the larger class of subjects. None of the minor improvements in household conveniences, productive of health as well as comfort, would have been carried out.

This first provision declares in effect that an inventor must submit to infringement by any individual to that extent before he can sue for relief.

If his patent is infringed, he cannot strike at the evil in the beginning, but must patiently wait until a wrong of a definite extent has been committed. Again, he may suffer great injustice by a multitude of infringers, none of whom may pass the two hundred dollar limit. In such a case, he can do nothing. Anyone can infringe with impunity if he does not exceed this amount. In this provision, injustice and absurdity are rivals. It licenses and encourages infringement. It would seem that such a clause would stand not the shadow of a chance of passing, were it not that the presumable temper of the House has been shown in the recommendation of the bill embodying it, by the Committee on Patents.

The next provision aims at the rights of the "innocent purchaser," of whom we have heard so much during the last two years. He stands in all justice in the position of the innocent violator of a law, and in fact is such, and should be so treated. He should for the good of the community be subject to the same penalties as the willfully infringing purchaser. To make any law operative, the knowledge of its provisions on the part of the violator must be presumed. This is the experience of all governments. The patent right in an invention becomes valueless if the ignorance of an infringer is to protect him against the consequences of infringement.

The bill provides that purchasers of a patent right for actual use shall not be liable for its value, or for infringing the same in any manner, if, at the time of its purchase, they had no knowledge of the existence of

claims of a third person. In other words, if a fraudulent patent is obtained, and sold to a manufacturer, he can work under it quite regardless of the rights of an original and anticipating inventor.

The proviso of ignorance, at the time of purchase only, of such claims on the part of the purchaser is included. The clause is a blow at the equities of the case. The most admirable provisions of our patent laws are devoted to guarding the rights of original inventors.

Interference proceedings in the Patent Office and test cases in the courts continually arise for the purpose of determining priority of invention. By this act, all these safeguards are nullified, and such priority is made a secondary consideration, and subsidiary to fraud. The purchase of fraudulent patents is legalized, and a reward is offered for perjury. The bill in the same clause excludes from liability the innocent purchaser of a patented article, until a written notice of the existence of the patent has been served upon him personally. This is a minor provision following the same erroneous line of action.

All these provisions are a direct temptation and incitement to fraud. They do no good to any class of the community, except as a law depriving laborers of their wages might be held to benefit capitalists. Inventors are the servants of the community. They have served it faithfully in the past century, as the splendid record of over three hundred thousand patents shows. It now remains to be seen whether their compensation is to be taken away from them.

The ingratitude of such an action counts for little, unfortunately; its injustice should count for more; but its shortsightedness and impolicy should be within the scope of every legislator. It is to be hoped that the House will not follow the action of its committee. If any influence has been brought to bear upon the latter, the whole body, it is probable, will be free therefrom. Though only one step on its road to enactment, we should be sorry to see the House of Representatives committed by the passage of this bill. Even where a bill ostensibly aimed at the further protection of inventors, we have counseled conservatism. The patent law is best let alone. It has done good work; it has been systematized, codified in standard text books, and is understood by all. A radical change in it is always to be feared, but especially when it has a direct tendency toward injustice. We hope the bill will never reach the Senate; we hope that the full body of Representatives will effectually kill it, and relieve the air of so threatening a menace.

We hope that the House of Representatives will not pass this measure. If they do, the Senate will be under a great responsibility to the country for their action in the matter. If it should become law, then the majority of inventors will be deprived of their granted rights. Thousands of small industrial establishments, in all parts of the country, will be obliged to close and discharge their workers.

All who feel interested in preventing the consummation of this great error should lose no time in writing to their members of Congress, and protest against the passage of the bill, giving their reasons as fully and as forcibly as possible.

The members of the present Congress have taken a more favorable view of another class of intellectual works, the productions of authors. International copyright has been favorably considered, and the bill reported by the Senate Patent Committee, and the grant of patents to foreign authors, not members of the community, many of whom never have and never will see this country, is now in a fair way of being realized. In the same breath, the legislature that thinks so well of fostering foreign authors proposes to undo the laws protecting home inventors. If a book, as the product of the brain, is entitled in any sense to protection, a fortiori is a title to such protection due to an actual invention, which has assumed a tangible form under the clause of the patent laws requiring full and clear description and operativeness or utility. Inconsistency could go no further than this—to refuse to home inventors what is granted to foreign authors.

GLoucester Fishers.

Contending with perils at sea and Canadian armed cruisers inshore, the life of the Gloucester fisherman is not a happy one. If, however, he can escape from the first and elude the second, he is pretty certain to find a good profit awaiting him, for rarely is there a glut in the deep sea fish market. Mackerel may be so plenty as to be almost given away, as was the case at Fulton Market, New York city, recently, during the early run of young mackerel or "tinkers;" but a large supply of halibut, cod, hake, and haddock only tends to so far reduce the price as to bring them within the means of the many. The "mackerelers" and the "bankers" may fairly be looked upon as two distinct orders of fishermen, for while the latter sometimes engage in mackereling in summer seas, the mackerel men rarely risk the dangers of the stormy Banks in winter.

The visitor to the Gloucester wharves will be surprised to find that the "bankers" are manned by young men exclusively; perhaps it would be safe to say that