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DECLARATION OF JENNY S. LILLGE

I, Jenny S. Lillge, declare:

I am an attorney licensed to practice in California, State Bar No. 265046, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain documents relevant to the enactment of uncodified section 3 (of which current sections 172 and 173 of Title 35 of the United States Code are derived), by Senate Bill No. 220 of 1842 [hereinafter referred to as S. 220]. S. 220 was enacted by Congress as Chapter 263, on August 29, 1842, at 5 United States Statutes 543.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on S. 220 of 1842. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc.

S. 220 (PRENTISS-1842), CHAPTER 263:

1. All available versions of S. 220 (Prentiss-1842);
2. Excerpt regarding keywords related to S. 220 from Part II, 35th – 45th Congresses, 1857-1879, *CIS US Serial Set Index* as follows:
   a. Finding Lists,
   b. Subject Lists;
3. Excerpt regarding S. 220 from the *Congressional Globe Index*, 2nd *Session*
4. Excerpt regarding S. 220 and Senator Prentiss from the *Congressional Globe*, 36th Congress as follows:
   a. Senate Debate, April 06, 1842,
   b. Senate Debate, April 11, 1842,
   c. Senate Debate, August 02, 1842,
   d. Senate Debate, August 03, 1842,
   e. Senate Debate, August 04, 1842,

f. Senate Debate, August 18, 1842,
g. Senate Debate, August 18, 1842,
h. Senate Debate, August 27, 1842;

5. Senate Report No. 169 regarding the operation of the Patent Office during the year 1841, prepared by the Commissioner of Patent, February 7, 1842;
6. House Document No. 74 regarding the operations of the Patent Office during the year 1841, prepared by the Commission of Patents, February 8, 1842;
7. Excerpt regarding patent design from *The Law of Patents for Designs*, prepared by William L. Symons, 1914;
8. Article entitled, "The Origins of American Design," written by Jason J. Du Mont and Mark D. Janis, excerpted from the *Indiana Law Journal*, Volume 88, No. 3, Summer 2013;
9. Biography of Senator Samuel Prentiss from the Biographical Directory of the United States Congress, available online at: bioguide.congress.gov;
10. Biography of Senator John Leeds Kerr from the Biographical Directory of the United States Congress, available online at: bioguide.congress.gov.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of June, 2017 at Woodland, California.

JENNY S. LILLGE

27th CONGRESS,
2d SESSION.

S. 220.

[Pub.]

IN SENATE OF THE UNITED STATES.

APRIL 6, 1842.

Mr. PRENTISS, from the Committee on Patents and the Patent Office, reported the following bill; which was read, and passed to a second reading.

A BILL

In addition to an act to promote the progress of the useful arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States be, and he hereby is authorized to pay back, out of the patent fund, any sum or sums of money to any person who shall have paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, and which are not provided to be paid by existing laws, certificate thereof being made to said Treasurer by the Commissioner of Patents.

SEC. 2. *And be it further enacted,* That the third section of the act of March, eighteen hundred and thirty-seven, which authorizes the renewing of patents lost prior to the fifteenth of December, eighteen hundred and thirty-six, is extended to patents granted prior to said fifteenth day of December, though they may have been lost subsequently: *Provided, however,* The same shall not have been recorded anew under the provisions of said act.

SEC. 3. *And be it further enacted,* That any person or per-

LEGISLATIVE INTENT SERVICE (800) 666-1917

sons who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufacture, whether of metal or other material or materials, or any new and original design for the printing of woollen, silk, cotton, or other fabrics, or any new and original design for a bust, statue, or bas relief or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed or painted or cast or otherwise fixed on, any article of manufacture, or any new and original shape or configuration of any article of manufacture not known or used by others before his, her, or their invention or production thereof, and not having been on sale or in public use for more than one year prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell, and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make application in writing to the Commissioner of Patents expressing snch desire, and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent: *Provided,* That the fee in such cases shall be one half the sum paid by the respective applicants and that the duration of said patent shall be

LEGISLATIVE INTENT SERVICE (800) 666-1917

seven years and that all the regulations and provisions which now apply to the obtaining or protection of patents not inconsistent with the provisions of this act shall apply to applications under this section.

SEC. 4. *And be it further enacted*, That the oath required for applicants for patents may be taken, when the applicant is not residing in the United States, before any minister, plenipotentiary, charge d'affaires, consul, or commercial agent holding commission under the Government of the United States.

SEC. 5. *And be it further enacted*, That if any person or persons shall paint or print, or mould, cast, carve, or engrave, or stamp, upon anything made, used, or sold, by him, for the sole making or selling which he hath not or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without consent of such patentee, or his assigns or legal representatives; or if any person, upon any such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having the license or consent of such patentee, or his assigns or legal representatives, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word "patent," or the words "letters patent," or the word "patentee," or any word or words of like

LEGISLATIVE INTENT SERVICE (800) 666-1917

kind, meaning, or import, with the view or intent of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall affix the same or any word, stamp, or device, of like import, on any unpatented article, for the purpose of deceiving the public, he, she, or they, so offending, shall be liable for such offence, to a penalty of not less than one hundred dollars, with costs, to be recovered by action in any of the circuit courts of the United States, or in any of the district courts of the United States having the powers and jurisdiction of a circuit court; one half of which penalty, as recovered, shall be paid to the patent fund, and the other half to any person or persons who shall sue for the same.

SEC. 6. *And be it further enacted,* That all patentees and assignees of patents hereafter granted, are hereby required to stamp, engrave, or cause to be stamped or engraved, on each article vended, or offered for sale, the date of the patent; and if any person or persons, patentees or assignees, shall neglect to do so, he, she, or they, shall be liable to the same penalty, to be recovered and disposed of in the manner specified in the foregoing fifth section of this act.

LEGISLATIVE INTENT SERVICE (800) 666-1917

BY AUTHORITY OF CONGRESS.

THE

Public Statutes at Large

OF THE

UNITED STATES OF AMERICA,

FROM THE

ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS ON THE SAME SUBJECT,

AND

COPIOUS NOTES OF THE DECISIONS

OF THE

Courts of the United States

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN

INDEX TO THE CONTENTS OF EACH VOLUME,

AND A

FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH

The Declaration of Independence, the Articles of Confederation, and the Constitution of the United States;

AND ALSO,

TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY, IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY

RICHARD PETERS, ESQ.,
COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed, are hereby recognised, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

VOL. V.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

LEGISLATIVE INTENT SERVICE (800) 666-1917

in the State of Indiana twenty-four thousand two hundred and nineteen acres, and fourteen-hundredths of an acre of land, to be selected under the authority of the Governor of said State, from any of the unsold public lands therein, not subject to the right of pre-emption, as an equivalent for certain lands covered by Indian reservations in the lands acquired by treaties with the Miami Indians, in the years eighteen hundred and thirty-seven and eighteen hundred and thirty-nine, respectively, and which, had said reservations not been permitted or allowed, would have belonged to said State in virtue of the act of the second of March, eighteen hundred and twenty-seven, entitled "An act to grant a certain quantity of land to the State of Indiana, for the purpose of aiding said State in opening a canal to connect the waters of the Wabash river with those of Lake Erie."

Lands to be selected in lieu of others granted for the Wabash and Erie canal.

1827, ch. 56.

SEC. 2. *And be it further enacted*, That the Governor of the State of Illinois is hereby authorized to cause to be selected, from any of the unsold public lands in that State, not subject to the right of pre-emption, the quantity of five thousand seven hundred and sixty acres, in lieu of sections numbered three and nine, in township thirty-two, north of range three east; sections thirteen and twenty-one, in township thirty-four, north of range six east; sections twenty-five and thirty-three, in township thirty-three, north of range eleven east; and sections thirteen, nineteen, and twenty-one, in township thirty-three, north of range eight, east of the third principal meridian, heretofore selected by the said State under "An act to grant a quantity of land to the State of Illinois, for the purpose of aiding in opening a canal to connect the waters of the Illinois river with those of Lake Michigan," but which had been sold and patented to individuals by the United States, before the location by the said State had been approved.

Lands to be selected in lieu of others granted for the Illinois and Michigan canal.

1827, ch. 51.

SEC. 3. *And be it further enacted*, That the selections of lands made under this act shall be reported by the Governors of the said States respectively, to the Secretary of the Treasury, and approved by the President of the United States.

Selections to be reported to Secretary of the Treasury, and approved by the President.

APPROVED, August 29, 1842.

STATUTE II.
Aug. 29, 1842.

CHAP. CCLXIII. — *An Act in addition to an act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose.* (a)

Act of July 4, 1836, ch. 357.
Act of March 3, 1837, ch. 45.
Act of March 3, 1839, ch. 88.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States be, and he hereby is, authorized to pay back, out of the patent fund, any sum or sums of money, to any person who shall have paid the same into the Treasury, or to any receiver or depositary to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, and which are not provided to be paid by existing laws, certificate thereof being made to said Treasurer by the Commissioner of Patents.

Treasurer authorized to pay back, out of the patent fund, certain money paid as fees.

SEC. 2. *And be it further enacted*, That the third section of the act of March, eighteen hundred and thirty-seven, which authorizes the renewing of patents lost prior to the fifteenth of December, eighteen hundred and thirty-six, is extended to patents granted prior to said fifteenth day of December, though they may have been lost subsequently: *Provided, however*, The same shall not have been recorded anew under the provisions of said act.

Sec. 3, act of 3d March 1837, ch. 45, extended to patents granted prior to 15th Dec. 1836, though lost subsequently.
Proviso.

SEC. 3. *And be it further enacted*, That any citizen or citizens, or alien or aliens, having resided one year in the United States and taken

Citizens, &c. may obtain a patent, how.

(a) Notes of the acts passed relative to patents for useful inventions, vol. 1, 109, 318.
Notes of the decisions of the courts of the United States on the acts which have been passed relative to patents for useful inventions, vol. 1. 319, 320, 321.

LEGISLATIVE INTENT SERVICE (800) 666-1917

the oath of his or their intention to become a citizen or citizens who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufacture, whether of metal or other material or materials, or any new and original design for the printing of woollen, silk, cotton, or other fabrics, or any new and original design for a bust, statue, or bas relief or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed or painted or cast or otherwise fixed on, any article of manufacture, or any new and original shape or configuration of any article of manufacture not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make application in writing to the Commissioner of Patents expressing such desire, and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent: *Provided*, That the fee in such cases which by the now existing laws would be required of the particular applicant shall be one half the sum, and that the duration of said patent shall be seven years, and that all the regulations and provisions which now apply to the obtaining or protection of patents not inconsistent with the provisions of this act shall apply to applications under this section.

Proviso.

Oath may be taken before U. S. ministers, &c.

Sec. 4. *And be it further enacted*, That the oath required for applicants for patents may be taken, when the applicant is not, for the time being, residing in the United States, before any minister, plenipotentiary, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public of the foreign country in which such applicant may be.

Penalty for infringing the rights of a patentee, &c. by marking.

Sec. 5. *And be it further enacted*, That if any person or persons shall paint or print, or mould, cast, carve, or engrave, or stamp, upon any thing made, used, or sold, by him, for the sole making or selling which he hath not or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without consent of such patentee, or his assigns or legal representatives; or if any person, upon any such thing not having been purchased, from the patentee, or some person who purchased it from or under such patentee, or not having the license or consent of such patentee, or his assigns or legal representatives, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word "patent," or the words "letters patent," or the word "patentee," or any word or words of like kind, meaning, or import, with the view or intent of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall affix the same or any word, stamp, or device, of like import, on any unpatented article, for the purpose of deceiving the public, he, she, or they, so offending, shall be liable for such offence, to a penalty of not less than one hundred dollars, with costs, to be recovered by action in any of the circuit courts of the United States, or in any of the district courts of the United States, having the powers and jurisdiction of a circuit court; one half of which penalty, as recovered, shall be paid to the patent fund, and the other half to any person or persons who shall sue for the same.

How recoverable, &c.

Patentees, &c. requir'd to mark articles offered for sale.

Sec. 6. *And be it further enacted*, That all patentees and assignees of patents hereafter granted, are hereby required to stamp, engrave, or cause to be stamped or engraved, on each article vended, or offered for

LEGISLATIVE INTENT SERVICE (800) 666-1917

sale, the date of the patent; and if any person or persons, patentees or assignees, shall neglect to do so, he, she, or they, shall be liable to the same penalty, to be recovered and disposed of in the manner specified in the foregoing fifth section of this act.

Penalty for neglect.

APPROVED, August 29, 1842.

STATUTE II.
Aug. 29, 1842.

CHAP. CCLXIV.—*An Act to provide for the reports of the decisions of the Supreme Court of the United States.* (a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the reporter who shall, from time to time, be appointed by the Supreme Court, shall be entitled to receive from the Treasury of the United States, as an annual compensation for his services, and for the copies of the annual volumes of the reports he is hereinafter required to deliver to the Secretary of State, the sum of thirteen hundred dollars: *Provided*, That the compensation shall not be paid unless the said reporter shall print and publish, or cause to be printed and published, the decisions of the said court, made during the time he shall act as such reporter, within six months after the said decisions shall be made: *And provided also*, That he shall deliver to the Secretary of State, in lieu of the eighty copies of the annual reports which by former acts he was required to deliver, one hundred and fifty copies of the said reports, so printed and published, which said copies shall be distributed as follows, to wit: to the President of the United States, the justices of the Supreme Court of the United States, the judges of the district courts, the Attorney General of the United States, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Postmaster General, the First and Second Comptrollers of the Treasury, the Solicitor of the Treasury, the First, Second, Third, Fourth and Fifth Auditors of the Treasury, the Auditor of the General Post Office, the Treasurer of the United States, the Register of the Treasury, the Commissioner of the General Land Office, the Paymaster General, the Commissioner of Indian Affairs, the Commissioner of Pensions, the judges of the several territorial courts of the United States, the Governors of the Territories of the United States, the Secretary of the Senate for the use of the Senate, the Clerk of the House of Representatives for the use of the House of Representatives, and to the Commissioners of the Navy, each one copy; to the Secretary of the Senate for the use of the standing committees of the Senate, ten copies; and to the Clerk of the House of Representatives, for the use of the standing committees of the House, twelve copies; and the residue of said copies shall be deposited in the library of Congress, to become a part of the said library: *And provided also*, That the volumes of the decisions of the Supreme Court shall not be sold by the reporter to the public at large, for a greater price than five dollars for each volume.

Reporter appointed by Supreme Court to receive $1300 per annum.

Proviso.

Further proviso.

Distribution.

Proviso.

SEC. 2. *And be it further enacted*, That in case of the death, resignation, or dismission from office, of either of the aforesaid officers, the said copies of the decisions of the Supreme Court shall belong to, and be delivered up to their respective successors in said offices.

In case of the death, &c. of those receiving the decisions.

APPROVED, August 29, 1842.

STATUTE II.
Aug. 29, 1842.

CHAP. CCLXV.—*An Act making an appropriation for the erection of a marine hospital at or near Ocracoke, in North Carolina.*

1843, ch. 47.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of ten

Appropriation for the purchase of a site, &c.

(a) Notes of the acts relative to a reporter of the decisions of the Supreme Court of the United States, vol. 3, 376.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CIS US SERIAL SET INDEX

PART I

AMERICAN STATE PAPERS AND THE 15TH-34TH CONGRESSES

1789-1857

Finding Lists

Congressional Information Service, Inc. Washington, D.C.

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1051.	Philadelphia, extend port of entry of	5	411
1052.	Stickney, Henry R., petition of	5	411
1053.	Leonard, Samuel, petition of	5	411
1054.	Storey, Benajah, petition of	5	411
1055.	Mix, Elihu L., petition of	5	411
1056.	Wood, Jesse, heirs of, petition of	5	411
1057.	Glascock, Thomas, heirs of, petition of	5	411
1058.	Taylor, Jeanette, heir of Captain John Paul Jones, and Lucy Alexander, heir of Lawrence Brooke, petition of	5	411
1059.	Jackson, James, and John Jackson, of England, petition of	5	411
1060.	Cavana, Patrick, heirs of, petition of	5	411
1061.	Henry, John, widow and heirs of, petition of	5	411
1062.	Parsons, Portius F., petition of	5	411
1063.	Report on frauds in grants of Revolutionary bounty land in Virginia	5	411
1064.	McKinley, John, heirs of, petition of	5	411
1065.	Custom-house, New York, finishing and furnishing	5	411
1066.	Felker, David, petition of	5	411
1067.	Marshall, Robert, petition of	5	411
1068.	Brooks, Edward, petition of	5	411
1069.	Petition of certain citizens of Prussia to immigrate for agricultural purposes	5	411
1070.	Mandeville, Sarah, petition of	5	411
1071.	Rochambeau, Count de, heirs of, petition of	5	411
1072.	Baker, Harriet de la Palm, heir of Colonel Frederick H. Weissenfels, petition of	5	411
1073.	Trueheart, Daniel, petition of	5	411
1074.	Youngs, Joseph, heirs of, petition of	5	411
1075.	Murcheson, John, petition of	5	411
1076.	Hackett, Ann, heir of Thomas Kelly, petition of	5	411
1077.	Broom, John, petition of	5	411
1078.	Knowlton, Thomas, Colonel, heirs of, petition of	5	411
1079.	Beachy, Elizabeth, heir of Michael McDonald, petition of	5	411
1080.	Price, John, heir of, petition of	5	411
1081.	Presbyterian Church, Yorktown, New York	5	411
1082.	Reports from Committee on Revolutionary Claims on payment of loan certificates	5	411
1083.	Summers, Simon, heirs of, petition of	5	411
1084.	Hamilton, Empson, heir of William E. Godfrey, petition of	5	411
1085.	Gamble, Edmund, heirs of, petition of	5	411
1086.	Raines, Giles, petition of	5	411
1087.	Cooke, Moses, petition of	5	411
1088.	Willett, Augustin, petition of	5	411
1089.	Underwood, Susan, petition of	5	411
1090.	Revolutionary claims of Georgia	5	411
1091.	Owners of schooner Garnet, petition of, fishing bounty	5	411
1092.	Jones, Samuel, Captain, heirs of, petition of	5	411
1093.	Latil, Louis A., petition of	5	411
1094.	Sterret, Adam, petition of	5	411
1095.	Naval depot at Key West	5	411
1096.	Mexico, claims on	5	411
1097.	Lomax, William, heirs of, petition of	5	411
1098.	Wasteful expenditures in removal of Cherokee Indians	5	411
1099.	Lancero and Maria, Spanish vessels, remission of duties	5	411
1100.	Key West, marine hospital at	5	411
1101.	Postage, reduction of	5	411
1102.	Shannon, Samuel, Captain, heirs of, petition of	5	411
1103.	Catlett, Charles J., on settlement of claim of	5	411
1104.	Report on certain amendments to Constitution with minority report	5	411
1105.	Whiteman, Elizabeth, petition of	5	411
1106.	Willis, Jesse, Jr., petition of	5	411
	Resolutions 1, 2 [at end of volume]	5	411

Senate Documents

No.		Vol.	Serial
1.	State of the Union address	1	395
	Documents from State Department, p. 17	1	395
	Annual report of Secretary of War, p. 59	1	395
	Documents from War Department, p. 76	1	395
	Annual report of Office of Indian Affairs, p. 251	1	395
	Annual report of Secretary of Navy, p. 367	1	395
	Documents from Navy Department, p. 390	1	395
	Annual report of Postmaster General, p. 457	1	395
2.	Presidential message on military and naval defences of the country	1	395
3.	Presidential message transmitting comparative statements of condition of public defences, and of strength of army on 1st January, 1829, and 1st January, 1841	1	395
4.	Contingent expenses of State Department, 1841, including publication of laws, expenses of northeast Executive building, foreign intercourse and missions abroad	1	395
5.	Contingent expenses of Navy, 1841	1	395
6.	Contingent expenses, Navy Department, 1841	1	395
7.	Committees of Senate, 27th Congress, 2d session	1	395
8.	Motion to provide for appointment of standing committee on printing	1	395
9.	Accounts of Treasurer, 1839 fourth quarter and 1840 first and second quarters	2	396
10.	Motion to inquire into expediency of providing for permanent peace establishment of navy	2	396
11.	Relief of Samuel Norris and Frederick Saugrain	2	396
12.	Relief of Henry Wilson, of Arkansas	2	396
13.	Petition of trustees of school township No. 27, range 6, south of Wabash river, Wabash county, Indiana	2	396
14.	General Assembly of Louisiana, for changing mode of proceedings in civil cases in courts of United States for Louisiana	2	396
15.	On surveys and sales of public lands in Louisiana	2	396
16.	Charleston Chamber of Commerce, for adopting plan for mail communication with foreign ports, by means of war steamers	2	396
17.	Annual report of Secretary of Treasury on state of finances	2	396
18.	Plan for Fiscal Agent of Government	2	396
19.	Statement of annual product of duties on bank notes, bills of exchange, and bank discounts, from 1814 to 1818, inclusive	2	396
20.	Petition of John S. Harris, assistant marshal for district of Rhode Island	2	396
21.	Statement of value of imports and exports, 1841	2	396
22.	Annual report of Commissioner of General Land Office, 1841, with supplement	2	396
23.	Citizens of Erie, Pennsylvania, praying appropriation for improvement of Presque Isle harbor	2	396
24.	Relief of Adam D. Stuart	2	396
25.	To confirm survey and location of claims for lands in Mississippi, east of Pearl river, and south of 31 degrees north latitude	2	396
26.	Petition of Charles Brennan and others, to be indemnified for loss of steamboat, while in service of United States	2	396
27.	Petition and papers of Clark Woodrooff, of Louisiana	2	396
28.	Petition of executors of David Gelston, deceased, late collector of port of New York	2	396
29.	Claim of Samuel Milroy, late register of land office at Crawfordsville, Indiana	2	396
30.	Petition of Hezekiah L. Thistle, praying compensation for horse shot for having glanders	2	396

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
109.	Pay and emoluments of officers, seamen, and marines, in service of United States and Great Britain, and number of officers, seamen, and marines, in service of United States, 1841	2	396
110.	Relief of Isabella, John, Elizabeth, and Samuel Hill, children and minor heirs at-law of Samuel Hill, deceased	3	397
111.	Strength of navy, and expenses thereof, during years 1822-1824, 1839-1841	3	397
112.	General Assembly of Indiana to procure appropriations for improvement of western rivers, and for purchase of snag-boat invented by Henry M. Shreve	3	397
113.	General Assembly of Indiana for appropriation by Congress for completion of harbor at Michigan City	3	397
114.	General Assembly of Indiana for designating same day throughout United States for election of President and Vice President of United States	3	397
115.	Petition and papers of John Barke	3	397
116.	Petition and papers of Henry Waller	3	397
117.	Claim of Samuel Milroy	3	397
118.	Petition of Major Leonard Bleeker	3	397
119.	Memorial of Prudence Barton, widow of Rufus Barton	3	397
120.	Petition of Nancy Mounts	3	397
121.	Memorial of Esther Lefferts	3	397
122.	Memorial of N. and L. Dana and Co.	3	397
123.	Motion to amend motion on augmenting rates of duties on imports, and of diminishing expenses of Government	3	397
124.	Claim of Rhode Briggs	3	397
125.	Proposing certain amendments to bankrupt law	3	397
126.	Motion to establish additional joint rule concerning appropriation of money	3	397
127.	Memorial and documents of heirs of Robert Fulton	3	397
128.	Memorial of Zachariah Jellison	3	397
129.	Memorial of executor of Thomas Griffin, heir of Corbin Griffin	3	397
130.	Petition of heirs of Dr. Samuel Y. Keene	3	397
131.	Memorial of heirs of William Sanford	3	397
132.	Petition of Joseph Rosati	3	397
133.	Report of Secretary of Treasury, communicating plan of fiscal agent of Government	3	397
134.	General Assembly of New Jersey for establishment of protective tariff	3	397
135.	Memorial of Council and House of Representatives of Territory of Iowa, asking passage of law to allow county of Linn pre-emption right to certain lands	3	397
136.	Memorial of Jeremiah Bayse	3	397
137.	Presidential message communicating proceedings adopted by Executive on case of brig Creole	3	397
138.	Petition of Hannah Heston	3	397
139.	Petition and papers of Littleton Dennis Teackle	3	397
140.	Petition of heir of Captain Robert White	3	397
141.	Petition of executor of Captain John Spotswood	3	397
142.	Petition of Enoch Dearborn	3	397
143.	Commissions for obtaining subscription to loan, petition of representatives of George Simpson	3	397
144.	Petition of Mary Nelson	3	397
145.	Petition of John P. Foulk	3	397
146.	Petition of Anna Watson	3	397
147.	Petition of Olive Rindge Watts, mother of Edward Watts	3	397
148.	Petition of Elizabeth Colburn	3	397
149.	Petition of representatives of Louis La Beaume	3	397
150.	Petition of William Banks, George Banks, Jane Cabiness, and Samuel Slaughter, heirs of John Banks and Henry Banks	3	397
151.	Petition of administrator of Richard C. Allen	3	397
152.	Memorial of heir of Francis Le Baron Goodwin	3	397
153.	Relief of Charles Morgan	3	397
154.	Relief of Joseph Campau	3	397
155.	General Assembly of Rhode Island for establishment of protective tariff	3	397
156.	Petition of Littleton Dennis Teackle, administrator of John Teackle	3	397
157.	Petition of A. H. Evans	3	397
158.	Memorial of heir of Thomas West	3	397
159.	Petition of executor of Isaac Bronson	3	397
160.	Petition of heir of Doctor Gustavus Horner	3	397
161.	Petition of heir of Moses Elmore	3	397
162.	Petition of George Townley	3	397
163.	Petition of heirs of Preserved Clapp	3	397
164.	General Assembly of Rhode Island for designating same day throughout Union for election of President and Vice President of United States	3	397
165.	Petition of Nancy Hickman, daughter and principal legatee of William Hull, deceased	3	397
166.	Claim of Benjamin Murphy	3	397
167.	Petition of Rachel Morey	3	397
168.	Petition of Joseph Bartlett, Alpheus Demung, and Luther Hilliard	3	397
169.	Patent Office, 1841	3	397
170.	Copy of report of survey of boundary between Michigan and Territory of Wisconsin	3	397
171.	Petition of administrator of Thomas Cutts	3	397
172.	Contingent expenses of military establishment, 1841	3	397
173.	Appointments in Navy since 4th March, 1841	3	397
174.	Relief of Conrad House	3	397
175.	Petition of Thomas Brownell	3	397
176.	Petition of trustees of First Presbyterian Church, Elizabethtown, New Jersey	3	397
177.	Petition of trustees of Presbyterian Church, Connecticut Farms, New Jersey	3	397
178.	Claim of representative of Francis Vigo	3	397
179.	Petition of David Brooks and Maria M. Brooks, wife	3	397
180.	Petition of heirs of Everard Meade	3	397
181.	Claim of representatives of John Jorden	3	397
182.	Petition of heirs of Jane Fertinbaugh, deceased, widow of Captain Hawkins Boone	3	397
183.	Petition of heir of William Meredith	3	397
184.	Memorial of heirs of Israel Honeywell	3	397
185.	Petition of representative of Benjamin Harrison	3	397
186.	Document on improvement of commerce and harbor of Milwaukee, and navigation of Lake Michigan	3	397
187.	Resolution to inquire into propriety of making compensation to Stockton, Falls, and Co., for damages sustained as mail contractors	3	397
188.	Adjustment of claims arising under 14th and 19th articles of treaty of Dancing Rabbit creek with Choctaw Indians	3	397
189.	Stockbridge nation of Indians, in Wisconsin, praying payment of interest on certain lands purchased by United States, and guaranteed title to lands now occupied	3	397
190.	Expenditures of Government for last quarter of 1841	3	397
191.	Petition of Mary Aurelia Lewis, widow of Captain Andrew Lewis, deceased	3	397
192.	General Assembly of Ohio for refunding to General Andrew Jackson, with interest and cost, fine imposed for official responsibility incurred in 1815	3	397
193.	To authorize payment of seven years' half-pay on account of revolutionary services of Captain William Kelley	3	397
194.	Memorial of heirs of Richard Livingston	3	397

LEGISLATIVE INTENT SERVICE (800) 666-1917

House Documents

No.		Vol.	Serial
1.	Executive reports to be made at 27th Congress, 2d session	1	401
2.	State of the Union address	1	401
	Documents from State Department, p. 17	1	401
	Annual report of Secretary of War, p. 58	1	401
	Documents from War Department, p. 74	1	401
	Annual report of Office of Indian Affairs, p. 229	1	401
	Annual report of Secretary of Navy, p. 345	1	401
	Documents from Navy Department, p. 368	1	401
	Annual report of Postmaster General, p. 435	1	401
3.	Report of Secretary of War on number and kind of small arms belonging to U.S.	1	401
4.	Contingent expenses of State Department, 1841	1	401
5.	Insolvent debtors of United States under bankrupt law of 1841	1	401
6.	Contingent expenses of Navy Department, 1841	1	401
7.	Contingent expenses of naval establishment, 1841	1	401
8.	Contingent expenses of War Department, 1841	1	401
9.	Accounts of Treasurer, 1839 fourth quarter and 1840 first and second quarters	1	401
10.	Contracts by Commissioner of Public Buildings, 1841	1	401
11.	Transfer of appropriations in Treasury Department, 1841	1	401
12.	Presidential message on relations with Texas	1	401
13.	Contingent expenses of House of Representatives, 1841	1	401
14.	Memorial of John H. Smith, former Commissioner of Revolutionary Claims in Virginia, on charges made against him	1	401
15.	Memorial of Choctaw Indians, citizens of Mississippi	1	401
16.	Memorial of Maria L. Nourse, widow of Joseph Nourse	1	401
17.	Silk in Louisiana, on culture of	1	401
18.	Annual report of Secretary of Treasury on state of finances	1	401
19.	Estimates of appropriations, general, 1842	1	401
20.	Exchequer, board of, and draught of bill	1	401
21.	Abstract of registered American seamen, 1841	1	401
22.	Furniture for New York custom-house, cost of	1	401
23.	Census, sixth, relating to	1	401
24.	Annual report of Commissioner of General Land Office, 1841, with additional report on Arkansas	1	401
25.	Testimony on Caddo Indian treaty	1	401
26.	Applications for pensions	2	402
27.	Appropriations, unexpended and outstanding on 4th March, last	2	402
28.	Survey of coast, progress in, to January, 1842	2	402
29.	Necessity for immediate issue of treasury notes	2	402
30.	State Department, names and salaries of clerks in, 1841	2	402
31.	Contingent expenses of Post Office Department, 1841	2	402
32.	Estimates for Post Office Department, 1842	2	402
33.	Claims to land in Opelousas, Louisiana, under act for adjustment of claims	2	402
34.	Contracts made by War Department, 1841	2	402
35.	Memorial of Indiana, on Cumberland road	2	402
36.	Memorial for armory at Great Falls of Tallapoosa, Alabama	2	402
37.	Memorial of Missouri, on naturalization laws	2	402
38.	District of Columbia, condition of banks in	2	402
39.	Navy Department, names and salaries of clerks in	2	402
40.	Report of Commissioner of Public Buildings	2	402
41.	Names of all persons employed in Indian Department, 1841, with pay and date of appointment	2	402
42.	Citizens of United States captured by Mexicans in 1842, resolutions of Legislature of Kentucky	2	402
43.	Repair of piers at Newcastle, Delaware	2	402
44.	Resolutions of Delaware on French spoliations	2	402
45.	On tariff, currency, exchanges, etc.	2	402
46.	Contracts by Navy Commissioners for naval service, 1841	2	402
47.	Names and compensation of clerks in War Department	2	402
48.	Northern boundary line of Missouri	2	402
49.	Presidential message on American citizens captured by Mexicans at Santa Fe	2	402
50.	District of Columbia Penitentiary, 1842 report of inspectors	2	402
51.	Boundaries between United States and Texas	2	402
52.	Vermont, resolutions on tariff	2	402
53.	Resolutions of Rhode Island for suspension of bankrupt law	2	402
54.	National Institution, petition for act of incorporation	2	402
55.	Origin of Seminole war, and slaves captured by troops	2	402
56.	Chickasaw fund	2	402
57.	Coast survey, expense of, and probable time of completion	2	402
58.	Number of persons employed by and removals in War Department	2	402
59.	Contingent expenses of Treasury Department, 1841	2	402
60.	Post Office Department, names and salaries of clerks in	2	402
61.	Roach, Stephen J., and Joseph Russ, for road from Pensacola to Tallahassee	2	402
62.	Appropriations and expenditures for War Department, 1841, and balances	2	402
63.	Deposits in Louisville Savings Institution at Louisville, Kentucky	2	402
64.	Applications for navy pensions	2	402
65.	Revenue of each post office in 1841	2	402
66.	Report of select committee on northeastern boundary, with report of Legislature of Maine	2	402
67.	Resolution for marine hospital at Cleveland, Ohio	2	402
68.	Memorial of inhabitants of Portland, Maine, on colonial trade	2	402
69.	Apportionment of members of House of Representatives, Massachusetts resolution on	2	402
70.	Presidential message transmitting survey of Maine boundary	2	402
71.	Mint, statement of coinage, 1841, Presidential message	2	402
72.	Returns of militia, 1841	2	402
73.	Appropriations, Navy Department for 1841	2	402
74.	Patent Office, 1841	2	402
75.	[Blank]		
76.	6th Census of U.S., by counties	2	402
77.	Presidential message on investigation at New York custom-house	2	402
78.	Estimates of cost of military road in Maine	2	402
79.	Temporary building for Post Office	2	402
80.	Presidential message transmitting letter of minister at London to commander of squadron in Mediterranean	2	402
81.	Resolutions of Kentucky, on water-rotted hemp	2	402
82.	Resolutions of Iowa as to expenses of convention to form State constitution	2	402
83.	Memorial for completion of penitentiary in Iowa	2	402
84.	Memorial on expenses of boundary between Missouri and Iowa	2	402
85.	Resolutions of Iowa on lands for schools for half-breed Sac and Fox Indians	2	402
86.	Resolutions of Iowa on purchase of Indian lands	2	402

LEGISLATIVE INTENT SERVICE (800) 666-1917

CIS US SERIAL SET INDEX

PART I

AMERICAN STATE PAPERS AND THE 15TH-34TH CONGRESSES

1789-1857

Subject Index, L-Z

CIS Congressional Information Service, Inc. Washington, D.C.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Report on removal of rocks in Hell Gate, East river, New York, and other aids to navigation through that passage
S.exdoc. 79 (34-1) 823

PASSAIC RIVER

Legislature of New Jersey for improving navigation of Passaic river
H.doc. 66 (29-1) 483

Legislature of New Jersey, on improvement of Passaic river, Newark bay, and other bays and tidewaters, and on building of breakwater at Crow's shoal, in Delaware bay
S.misdoc. 53 (31-1) 563

Legislature of New Jersey, on removal of obstructions in river Passaic
S.doc. 21 (29-1) 472

Passaic river, report of survey of
H.doc. 110 (24-2) 303

Surveys of James and Passaic rivers
H.doc. 133 (24-2) 303

PASSED

Resolutions of legislature of Pennsylvania, on expedition of Passed Assistant Surgeon Elisha K. Kane to Arctic seas
H.misdoc. 36 (34-1) 866

Statement showing length of sea and other services of commissioned officers and passed midshipmen in navy
S.doc. 118 (28-2) 456

PASSENGER

see also Emigration

see also Immigration

Abstract of registered American seamen, 1830; passengers arriving in United States, 1830, statistics
H.doc. 127 (21-2) 209-1

Abstract of registered American seamen, 1831; passengers arriving in United States, 1831, statistics
H.doc. 293 (22-1) 221

Abstract of registered American seamen, 1832; passengers arriving in United States, 1832, statistics
H.doc. 119 (22-2) 235

Citizens of Louisville, on passage of act for better security of lives of passengers on vessels propelled by steam
S.doc. 13 (25-3) 338

Citizens of New York, praying modification of act of July, 1838, for better security of lives of passengers on board vessels propelled in whole or in part by steam
S.doc. 113 (26-2) 377

Disposition of sword received as present by Captain Biddle from vice-king of Peru; and transportation of passengers, money, or effects, in public vessels
Nav.aff. 186 (16-1) ASP023

Documents in relation to present from Vice Roy of Lima to Captain Biddle of ship Ontario and instructions concerning transportation of passengers, money or effects in public vessels
H.doc. 101 (16-1) 37

Documents on preservation and protection of passengers from injuries resulting from steamboat accidents
S.doc. 4 (31-sp) 547

Draft of general revenue law designed to supersede all existing laws on revenue; with provisions for regulating foreign and domestic commerce in American and foreign vessels
S.exdoc. 77 (33-1) 702

Legislature of New York, for regulating transportation of passengers from foreign countries by law
S.doc. 204 (29-2) 495

Letters and passengers in foreign steam vessels
H.doc. 161 (27-2) 403

Mail coaches, restrict number of passengers in
H.rp. 898 (25-2) 336

Memorial of passengers on board steamer Yorktown, on Mississippi river, recommending Evans's safety gauge
S.rp. 135 (30-1) 512

On sickness and mortality on board of emigrant ships, and for protection of lives of passengers
S.rp. 386 (33-1) 707

Opinions of judges of Supreme Court in cases of Smith vs. Turner, and Norris vs. City of Boston, on right of recovery, under State laws, from masters of vessels and passengers, certain moneys denominated hospital moneys
S.misdoc. 60 (30-2) 533

Owners and masters of steamboats running on Lakes Erie, Huron, and Michigan, praying amendment of act of July 7, 1838, to provide for better security of lives of passengers on board of vessels propelled, in whole or in part, by steam
S.doc. 270 (26-1) 358

Passengers arriving in United States, 1820, statistics and names list
S.doc. 118 (16-2) 45

Passengers arriving in United States, 1821, statistics
H.doc. 134 (17-1) 69

Passengers arriving in United States, 1822, statistics
H.doc. 107 (17-2) 83

Passengers arriving in United States, 1823, statistics
H.doc. 161 (18-1) 103

Passengers arriving in United States, 1824, statistics
H.doc. 108 (18-2) 118

Passengers arriving in United States, 1825, statistics
H.doc. 175 (19-1) 140

Passengers arriving in United States, 1826, statistics
H.doc. 143 (19-2) 154

Passengers arriving in United States, 1827, statistics
H.doc. 286 (20-1) 175

Passengers arriving in United States, 1828, statistics
S.doc. 98 (20-2) 182; H.doc. 141 (20-2) 187

Passengers arriving in United States, 1829, statistics
H.doc. 114 (21-1) 198

Passengers arriving in United States, 1833, statistics
S.doc. 237 (23-1) 240; H.doc. 319 (23-1) 257

Passengers arriving in United States, 1834, statistics
H.doc. 184 (23-2) 275

Passengers arriving in United States, 1835, statistics
H.doc. 237 (24-1) 291

Passengers arriving in United States, 1836, statistics
S.doc. 178 (24-2) 298; H.doc. 163 (24-2) 304

Passengers arriving in United States, 1837, statistics
S.doc. 478 (25-2) 319; H.doc. 427 (25-2) 331

Passengers arriving in United States, 1838, statistics
S.doc. 252 (25-3) 340; H.doc. 210 (25-3) 347

Passengers arriving in United States, 1839, statistics
S.doc. 594 (26-1) 361; H.doc. 254 (26-1) 369

Passengers arriving in United States, 1840, statistics
S.doc. 206 (26-2) 378; H.doc. 116 (26-2) 386

Passengers arriving in United States, 1841, statistics
H.doc. 219 (27-2) 404

Passengers arriving in United States, 1842, statistics
H.doc. 177 (27-3) 422

Passengers arriving in United States, 1843-1844, statistics
H.doc. 13 (28-2) 463

Passengers arriving in United States, 1844, statistics for first quarter at New Orleans
H.doc. 60 (28-2) 464

Passengers arriving in United States, 1845, statistics
H.doc. 216 (29-1) 486

Passengers arriving in United States, 1846, statistics
H.doc. 98 (29-2) 500

Passengers arriving in United States, 1847, statistics
H.exdoc. 47 (30-1) 518

Passengers arriving in United States, 1848, statistics
H.exdoc. 10 (30-2) 538

Passengers arriving in United States, 1849, statistics
H.exdoc. 7 (31-1) 572

Passengers arriving in United States, 1850, statistics
H.exdoc. 16 (31-2) 598

Passengers arriving in United States, 1851, statistics
H.exdoc. 100 (32-1) 644

Passengers arriving in United States, 1852, statistics
H.exdoc. 45 (32-2) 679

Passengers arriving in United States, 1853, statistics
H.exdoc. 78 (33-1) 723

Passengers arriving in United States, 1854, statistics
H.exdoc. 77 (33-2) 788

Passengers arriving in United States, 1855, statistics
H.exdoc. 29 (34-1) 851

LEGISLATIVE INTENT SERVICE (800) 666-1917

Passengers arriving in United States, 1856, statistics
S.exdoc. 54 (34-3) 881; H.exdoc. 78 (34-3) 906
Passengers in merchant vessels
H.rp. 25 (32-1) 656
Petition of sundry citizens of United States, praying that steamers running between Boston and British Province of Nova Scotia be relieved from limitations of act of 1819, respecting number of passengers permitted on board
S.doc. 390 (26-1) 359
Pittsburg, association of engineers, memorial for steamboat passenger protection
S.misdoc. 84 (32-1) 629
Providing for security of stage passengers
S.doc. 168 (15-1) 3
Resolution of legislature of Maine on abuses of passengers in California steamers
S.misdoc. 63 (32-1) 629
Resolution on protection of stage coach passengers
S.doc. 85 (15-1) 2
Resolutions of legislature of Maine on abuses of passengers in California steamers
H.misdoc. 36 (32-1) 652
Resolutions of legislature of New York on mortality and sufferings of passengers on board emigrant vessels
H.misdoc. 14 (33-1) 741
Resolutions of legislature of New York to secure health of passengers in emigrant vessels
S.misdoc. 16 (33-1) 705
Steam boats, security for passengers, etc.
H.rp. 125 (18-1) 106
Steam vessels, safety of passengers
H.rp. 260 (30-1) 525
To amend act for better security of lives of passengers on board steam vessels, etc.
S.rp. 138 (34-1) 836
Views on providing more efficient means for preservation of lives of seamen and passengers wrecked on coasts of New Jersey and Long Island
S.exdoc. 33 (34-3) 880

PASSPORT

Amount of payments made by owners of vessels for papers called Mediterranean passports
H.doc. 26 (21-2) 206
Breaking Indian Chief among Creeks; making Indian Chief in Michigan; and complaint against Indian Agent on passports
H.doc. 219 (20-1) 173
Passports and clearances. Relative amount, etc.
S.doc. 19 (21-2) 203

PATAPSCO RIVER

Commencing works at Sollers's Flats and Hawkins's Point for defense of Patapsco River and Baltimore city
Mil.aff. 567 (23-1) ASP020
Legislature of Maryland, asking construction of light-boat for mouth of Patapsco river, and buoys at mouth of Wicomico river
S.doc. 269 (29-1) 474
Memorial of mayor, City Council, and Board of Trade of Baltimore, for improvement of Patapsco river and harbor of Baltimore
S.rp. 340 (33-1) 707
Patapsco river, making appropriation for fortification on
H.rp. 310 (23-1) 261

PATENT

see also Invention
see also Patent Office
see also Patents (land)
Alteration in patent laws
Misc. 408 (14-1) ASP038
Amendment proposed to act continuing certain patent rights to Oliver Evans
Misc. 365 (13-2) ASP038
Application for extension of patent granted to Uri Emmons
S.rp. 233 (34-1) 837
Application for revision of patent laws, petition of Massachusetts Association for Encouragement of Useful Inventions
Misc. 291 (11-3) ASP038
Application of alien for patent right, petition of Anthony Boucherie, sugar refiner
Misc. 236 (10-1) ASP037
Application of Eli Whitney for extension of patent right
Misc. 319 (12-1) ASP038
Application of Joshua Shaw for purchase of patent right of percussion primer and lock for discharging cannon
H.rp. 29 (21-2) 210; Mil.aff. 460 (21-2) ASP019
Application of legal representatives of John Shly for extension of patent for improvement in linter machine for cotton and woolens
S.rp. 263 (33-1) 707
Application of Oliver Evans for extension of patent for improvements on flour mill
Misc. 196 (9-1) ASP037
Application of steam to navigation, petition of John Fitch for protection beyond patent laws
Misc. 14 (1-2) ASP037
Application of Thomas Owen, an alien, for citizenship and patent right
Misc. 369 (13-2) ASP038
Application to amend act continuing certain patent rights to Oliver Evans
Misc. 337 (12-2) ASP038; Misc. 354 (13-2) ASP038
Application to amend act of continuing certain patent rights to Oliver Evans
Misc. 287 (11-3) ASP038
Applications for patents for prevention of steam explosions
S.exdoc. 9 (30-2) 529
Barron, James, Commodore, patent on ventilator for ships
H.rp. 151 (25-2) 333
Barron, James, renew patents
H.rp. 666 (24-1) 295
Barron, James, ship ventilator patent
H.rp. 224 (24-1) 293
Bishop, George G. and John Arnold for renewal of patents
H.rp. 151 (31-1) 583
Bishop, George G. and Peter M. Morgan, Administrator of John Arnold
H.rp. 88 (30-2) 545
Case of Anna Mix, widow of Mervine P. Mix, for payment for unlimited use of patent on manger stopper for ships
H.rp. 74 (29-1) 488
Case of Cyrus H. McCormick
H.rp. 119 (33-2) 808
Case of George G. Bishop and legal representatives of John Arnold for renewal of patents
H.rp. 17 (33-1) 742
Case of Hiram Moore and John Hascall, extension of patent for grain harvesting machine
H.rp. 103 (32-1) 656
Case of Hiram Moore and John Hascall, extension of patent on grain harvesting machine
H.rp. 84 (33-1) 742
Case of Isaac Adams, extension of patent for improvements in power printing-press
H.rp. 277 (33-1) 744
Case of representatives of James Rumsey, patent on steam engine
H.rp. 403 (29-1) 489
Claim for use of patent for manufacture of anchors for navy, upon improved plan securing both strength and symmetry
Nav.aff. 544 (23-1) ASP026; H.rp. 98 (24-1) 293
Claim of John H. Hall for compensation for inventions and patent rights for improvements of firearms
Mil.aff. 756 (25-2) ASP022
Claim to compensation for use of certain patented improvements in ship building
Nav.aff. 315 (19-1) ASP024
Claims of Captain James Barron of navy to compensation for use of patented invention for ventilating ships
Nav.aff. 574 (23-2) ASP026
Colt, Samuel
H.rp. 6 (33-1) 742

LEGISLATIVE INTENT SERVICE (800) 666-1917

Colt, Samuel, extension of patent
H.rp. 132 (33-2) 808
Depositing models of patents in each State
H.doc. 120 (24-2) 303
Digest of patents, with names of patentees, which have been extended or granted by acts of Congress
S.rp. 382 (33-1) 707
Emmons, Calvin, petition for patent
H.rp. 313 (30-1) 525
Emmons, Uri, heirs of, patent
H.rp. 176 (34-3) 914
Espy, James P., patent on ventilator for ships and public buildings
H.rp. 54 (31-1) 583
Executrix and executors of Jethro Wood, deceased, praying renewal of patent for improvement in construction of plough
S.doc. 51 (29-1) 473
Extension of Colt's patent
H.rp. 353 (33-1) 744
Extension of patent and copyrights, petition of Oliver Evans for improvements on flour mill
Misc. 186 (8-2) ASP037
Extension of patent of Zebulon Parker and Austin Parker for improvement in water wheels
H.rp. 297 (33-1) 744
Extension of patent right for invention of machine for breaking and cleaning flax and hemp, petition of Anthony Dey and James Macdonald
Misc. 521 (17-1) ASP038
Extension of patent right for invention of machine for breaking and cleaning flax and hemp; petitions of Anthony Dey and James Macdonald, and remonstrance of David Melville
Misc. 527 (17-1) ASP038
Extension of patent right for machine for making combs, petition of Abel Pratt
Misc. 516 (17-1) ASP038
Extension of patent right, petition of Benjamin Tyler, Jr., and John Tyler
Misc. 393 (14-1) ASP038; Misc. 495 (16-2) ASP038
Extension of patent right, petition of Harriet Fulton, widow of Robert Fulton
Misc. 401 (14-1) ASP038
Extension of patent rights, petition of Benjamin Tyler, Jr., and John Tyler
H.rp. 13 (16-2) 57; Misc. 288 (11-3) ASP038
Extension of patent rights, petition of George Dodge and other merchants of Salem, Massachusetts
Misc. 207 (9-1) ASP037
Extension of patent rights, petition of Oliver Evans for improvements on flour mill
Misc. 231 (10-1) ASP037
Extension of patent to Isaac Adams for improvements in power printing press [two reports numbered 146]
S.rp. 146 (32-1) 630
Extension of Woodworth's patent
H.rp. 99 (34-3) 912
Fisher, Marvin W., patent on machine for manufacture of percussion caps
H.rp. 58 (30-2) 545; H.rp. 283 (34-1) 870
Hall, John H., patent rifle, petition of
H.rp. 257 (25-2) 333
Harley, James, petition for patent
H.rp. 6 (30-2) 545
Hascall, John, and H. Moore, extension of patent for grain harvesting machine
H.rp. 9 (31-1) 583
Haywood, Nathaniel, patent
H.rp. 231 (34-3) 914
Kyan, John Howard, patent on process of preservation of vegetable matter from decay
H.rp. 662 (25-2) 335
Legislature of Michigan, on patent on Moore and Hascall's harvesting machine
S.misdoc. 6 (31-1) 563
Legislature of New York, against renewal of patent for Jethro Wood's plough
S.misdoc. 93 (30-1) 511
List of patentees, Dec. 28, 1810 to Jan. 1, 1812
Misc. 308 (12-1) ASP038
List of patentees, Dec. 31, 1812 to Jan. 1, 1814
Misc. 358 (13-2) ASP038
List of patentees, Dec. 31, 1813 to Jan. 1, 1815
Misc. 383 (13-3) ASP038
List of patentees, Jan. 1, 1812 to Jan. 1, 1813
Misc. 333 (12-2) ASP038
List of patentees, May 1, 1805 to Dec. 28, 1810
Misc. 284 (11-3) ASP038
List of patentees, 1790-1804
Misc. 193 (8-2) ASP037
List of patents expired, 1832
H.doc. 70 (22-2) 234
List of patents expired, 1834
H.doc. 58 (23-2) 272
List of patents expired, 1835
H.doc. 63 (24-1) 288
List of patents expired, 1836
H.doc. 175 (24-2) 304
List of persons issued patents, 1817
H.doc. 48 (15-1) 7
List of persons issued patents, 1818
H.doc. 78 (15-2) 20
List of persons issued patents, 1819
H.doc. 35 (16-1) 33
List of persons issued patents, 1820
H.doc. 46 (16-2) 51
List of persons issued patents, 1821
H.doc. 18 (17-1) 64
List of persons issued patents, 1822
H.doc. 36 (17-2) 78
List of persons issued patents, 1823
H.doc. 25 (18-1) 94
List of persons issued patents, 1824
H.doc. 28 (18-2) 114
List of persons issued patents, 1825
H.doc. 22 (19-1) 133
List of persons issued patents, 1826
H.doc. 27 (19-2) 149
List of persons issued patents, 1827
H.doc. 34 (20-1) 170
List of persons issued patents, 1828
H.doc. 59 (20-2) 185
List of persons issued patents, 1829
H.doc. 16 (21-1) 195
List of persons issued patents, 1830
H.doc. 49 (21-2) 207
List of persons issued patents, 1831
H.doc. 39 (22-1) 217
List of persons issued patents, 1832
H.doc. 130 (22-2) 235
List of persons issued patents, 1833
H.doc. 58 (23-1) 255
List of persons issued patents, 1834
H.doc. 55 (23-2) 272
List of persons issued patents, 1835
H.doc. 64 (24-1) 288
List of persons issued patents, 1836
H.doc. 174 (24-2) 304
McCormick, Cyrus H.
CC.rp. 11 (34-1) 871
McCormick, Cyrus H., extension of patent on reaping machine
S.rp. 160 (32-1) 630
Memorial and papers of Thomas J. Godman for patent
S.rp. 201 (31-1) 565
Memorial of Gideon Hotchkiss for patent
S.rp. 168 (32-1) 630; S.rp. 149 (33-1) 706
Memorial of H. L. Thistle, application for patent
S.rp. 79 (30-1) 512

LEGISLATIVE INTENT SERVICE (800) 666-1917

Memorial of Hiram Moore and John Hascall, extension of patent for grain harvesting machine
S.rp. 63 (33-1) 706
Memorial of James P. Espy, patent on ventilator for ships and public buildings
S.doc. 91 (29-2) 494
Memorial of John C. F. Salomon on patent on steam boiler
H.doc. 114 (24-2) 303
Memorial of Marvin W. Fisher for patent on machine for manufacture of percussion caps
S.rp. 266 (30-2) 535
Memorial of Peter M. Morgan, administrator of John Arnold, and George G. Bishop for renewal of patents
S.rp. 55 (33-1) 706
Memorial of Sickles and Cook, on patent cut-off for steamboat engines
H.rp. 834 (29-1) 491
Memorial of Thomas G. Clinton for patent
S.rp. 211 (32-1) 631
Memorial of William R. Nevins for patent
S.rp. 188 (32-1) 630; S.rp. 70 (33-1) 706
Memorial of William W. Woodworth for extension of patent on planing machine
H.rp. 156 (32-1) 656
Mix, Ann, widow of Captain M. P. Mix, inventor of patent manger stopper for chain cables
H.rp. 476 (26-1) 371
Mix, Ann, widow of Mervine P. Mix, memorial for payment for unlimited use of patent on manger stopper for ships
H.doc. 56 (26-1) 364
Modifying laws on patents and Patent Office
S.rp. 9 (30-1) 512
Mrs. Ann Mix, widow of Mervine P. Mix, proposing to sell to government patent for manger stopper for chain cables
S.doc. 19 (29-1) 472
New Hampshire, inhabitants of, writ of error in patent cases
H.doc. 101 (23-2) 273
Newbold N. Puckett and Co., for patent to cultivate tea plant of China
S.doc. 227 (29-1) 474
Nock, Joseph
H.rp. 114 (30-1) 524
Nock, Joseph, patent
H.rp. 255 (34-1) 870
On state and condition of Patent office, and laws relating to issuing of patents for new and useful inventions and discoveries
S.doc. 338 (24-1) 282
Patent for planing machine granted to Uri Emmons
S.rp. 196 (33-1) 707
Patent fund
H.rp. 551 (28-1) 447
Patent laws, alteration of
H.rp. 554 (28-1) 447
Patent laws, amendment of
H.rp. 98 (34-3) 912
Patent laws, memorial for amendment to
H.doc. 48 (27-3) 420
Patent laws, memorial of citizens of Pennsylvania, in favor of amending
H.doc. 521 (23-1) 259
Patent of Joseph Grant may not be renewed. Sundry inhabitants of New Jersey that
S.doc. 250 (24-1) 281
Patent of Samuel Colt for improvement in fire arms
S.rp. 279 (33-1) 707
Patent Office, 1837, with classified lists of patents issued, list of patents expired, and on promoting agriculture by distribution of seeds and plants
H.doc. 112 (25-2) 325
Patent on manufacture of anchors
H.rp. 428 (23-1) 262
Patent to Alexander Mitchell
H.rp. 164 (34-1) 868
Patent to Edwin M. Chaffee
H.rp. 331 (34-1) 870
Patent to Isaac Adams for improvements in power printing-press
H.rp. 91 (34-1) 868
Patent to Marvin W. Fisher, for machine for manufacture of percussion caps
H.rp. 197 (31-1) 583
Patent to Nathaniel Haywood
H.rp. 183 (34-1) 868
Patent to Samuel Nicholson for railroad signal
H.rp. 163 (34-1) 868
Patentees, to protect rights of
H.rp. 273 (31-1) 584
Patents, causes of delay in examining applications
H.rp. 92 (30-2) 545
Patents expired, 1833
H.doc. 59 (23-1) 255
Patents for inventions and useful improvements granted, list of all; acts of Congress relating thereto; decisions of U.S. courts under the same
H.doc. 50 (21-2) 207
Patents to issue to foreigners, non-residents
H.rp. 292 (21-1) 200
Patents to William Gray, William Davis, and George A. Scherpff
H.rp. 458 (22-1) 226
Petition of Aaron Carmon for patent
S.rp. 70 (30-1) 512
Petition of Adolphus Allen for patent
S.rp. 348 (33-1) 707
Petition of Bancroft Woodcock for patent
S.rp. 153 (30-1) 512; S.rp. 102 (32-1) 630
Petition of Benjamin Tatham and brothers for confirmation of patent for manufacture of lead pipes
S.rp. 95 (31-1) 565
Petition of Betsey Anderson and others, widow and children of Timothy P. Anderson, patent
S.rp. 127 (30-1) 512
Petition of Calvin Emmons for patent
S.rp. 101 (30-1) 512
Petition of Cyrus H. McCormick
S.rp. 312 (33-1) 707
Petition of Cyrus H. McCormick for rehearing on extension of patent on reaping machine
S.rp. 167 (34-1) 836
Petition of Faris, William, for renewal of patent for propelling boats
S.doc. 55 (15-1) 2
Petition of heirs of late Uri Emmons for renewal of patent
S.doc. 330 (29-1) 476
Petition of Henry Alexander, on patent right
S.doc. 11 (22-1) 212
Petition of Herrick Aicken for patent
S.rp. 80 (30-1) 512
Petition of Hezekiah L. Thistle, inventor of improvement of saddle
S.doc. 204 (24-2) 298
Petition of Hope S. Newbold, widow of Charles Newbold, for patent
S.rp. 291 (34-3) 891
Petition of James Harley for patent
S.rp. 257 (30-2) 535
Petition of John A. Brevoort and O. S. Fowler, praying extension of benefits of copyright and patent laws to artists engaged in taking busts, castings, and modellings in plaster, porcelain, etc.
S.doc. 475 (25-2) 319
Petition of John B. Emerson for patent on improvement of steam engine
S.rp. 294 (30-2) 535; H.rp. 126 (30-2) 545
Petition of Joseph Grant, for extension of patent
S.doc. 61 (23-2) 268
Petition of Obed Hussey, for extension and renewal of patent
S.rp. 154 (30-1) 512
Petition of Obed Hussey, for renewal and extension of patent
S.rp. 207 (33-1) 707
Petition of Peter M. Morgan, administrator of estate of John Arnold and George G. Bishop for renewal of patents
S.rp. 64 (32-1) 630

LEGISLATIVE INTENT SERVICE (800) 666-1917

Petition of Peter M. Morgan, administrator of John Arnold, deceased, and George G. Bishop for renewal of patents
S.rp. 65 (31-1) 565
Petition of Peter M. Morgan, administrator of John Arnold, deceased, and of George G. Bishop for renewal of patents for forming web of cloth, wool, hair or other substances without spinning or weaving
S.rp. 327 (30-2) 535
Petition of William R. Nevins for patent
S.rp. 94 (31-1) 565
Price, Thomas, renewal of patent on improvement in shovel for removing earth *H.rp. 91 (30-2) 545*
Proposition to purchase patent right of invention for pointing heavy artillery for use of army and militia
Mil.aff. 648 (24-1) ASP021
Proposition to purchase patent right of John H. Hall for making rifles and for his employment to superintend manufacture
Mil.aff. 649 (24-1) ASP021
Publication of patents
H.rp. 139 (28-2) 468
Purchase of patent right of John H. Hall to his rifle, and making provision for his employment for making same
Mil.aff. 712 (24-2) ASP021
Purchasing patent right of pack saddle for conveying sick and wounded *Mil.aff. 730 (24-2) ASP021*
Remonstrance against extending certain patents granted to Robert Fulton, petition of Aaron Ogden
Misc. 302 (12-1) ASP038
Renewal of patent right for welding steel and iron, petition of Daniel Pettebone *Misc. 450 (15-1) ASP038*
Report of board of officers appointed to witness exhibition of Mighill Nutting's patent cylinder fire-arms
S.doc. 558 (26-1) 360
Resolution of legislature of Indiana on costs in patent-right suits
H.misdoc. 24 (31-1) 581
Resolution of legislature of New York against extension of patents of Hascall and Moore, Obed Hussey, and Cyrus H. McCormick for mowing or reaping machines
H.misdoc. 22 (33-2) 807
Resolution regarding specifications of applicants for patents
H.rp. 84 (31-2) 606
Resolutions of legislature of Maine, against extension of patent granted to William Woodworth for improvements in planing machines *S.misdoc. 47 (34-1) 835*
Resolutions of legislature of Maine against extension of Woodworth's patent for planing machine
H.misdoc. 102 (34-1) 867
Resolutions of legislature of Maine against extension of Woodworth's patent on planing machine and Parker's patent on reacting water-wheel
H.misdoc. 40 (32-1) 652
Resolutions of legislature of Massachusetts against extension of Woodworth's patent for planing machines
H.misdoc. 105 (34-1) 867
Resolutions of legislature of Michigan on patent on Moore and Hascall's harvesting machine
H.misdoc. 14 (31-1) 581
Resolutions of legislature of New York against extension of Woodworth's patent on planing machine
H.misdoc. 23 (32-1) 652
Resolutions of legislature of Pennsylvania against extension of Woodworth's patent on planing machine
H.misdoc. 38 (32-1) 652; H.misdoc. 47 (32-1) 652
Revision of patent laws
H.rp. 85 (31-2) 606
Rumsey, James, heirs of, patent on steam engine
H.rp. 650 (26-1) 373
Rumsey, James, heirs of, petition of, patent on steam engine
H.rp. 324 (27-2) 408
Salomon, John C. F., patent on steam boiler
H.doc. 35 (24-1) 287
Shaw, Joshua, praying compensation for violation of patents
H.rp. 53 (28-2) 468; H.rp. 212 (29-1) 489
Shreve, Henry M., Captain, patent for snag boat
H.rp. 556 (27-2) 409
Skiles, James R., and others, heirs of James Rumsey, patent on steam engine *H.rp. 265 (25-3) 351*
Snag boat, Henry M. Shreve, patent
H.rp. 272 (27-3) 428
Tatham, Benjamin, Jr., and others, for confirmation of patent for manufacture of lead pipes, petition of
H.rp. 534 (29-1) 490
Thistle, Hezekiah L., patent saddle-trees
CC.rp. 40 (34-1) 872
William Jenks, praying portion of arms furnished to States and Territories be his improved patent fire-arm
S.misdoc. 9 (30-2) 533
Wood, Jethro, heirs of, for extension of patent
H.rp. 389 (30-1) 525
Woodworth, William, administrator of, for extension of patent
H.rp. 150 (31-1) 583
Zebulon and Austin Parker, patent on improvements in water wheel
H.rp. 308 (31-1) 584

PATENT MEDICINE

Patent medicines
H.rp. 52 (30-2) 545

PATENT OFFICE

Clerks in Patent Office, appointment of additional
H.rp. 99 (19-2) 160
Clerks in State Department and Patent Office in 1826
H.doc. 89 (19-2) 152
Condition of Patent Office and deficiency in its accounts
H.doc. 38 (21-1) 196
Documents relating to conduct of Superintendent of Patent Office
S.doc. 398 (23-1) 242
Examination and measurement of materials and work furnished and done under contract for Patent Office building, and statement of payments made under act of August, 1852
S.exdoc. 48 (33-1) 698
General Post Office, City Post Office, and Patent Office, on causes of destruction by fire of
S.doc. 215 (24-2) 299
Inquiry into state of patent office, fees, and employees; and proposition to establish home department
Misc. 326 (12-1) ASP038
Laborers on Patent Office building, memorial of
H.rp. 117 (32-1) 656
Letter from Commissioner of Patents on agriculture and collection and distribution of seeds and plants
S.doc. 151 (25-3) 340
Modifying laws on patents and Patent Office
S.rp. 9 (30-1) 512
Names and salaries of clerks and messengers employed in State Department and in Patent Office, 1843
S.doc. 39 (28-1) 432
On destruction by fire of Patent office
S.doc. 58 (24-2) 297
On state and condition of Patent office, and laws relating to issuing of patents for new and useful inventions and discoveries
S.doc. 338 (24-1) 282
Patent Office, additional examiners
H.exdoc. 16 (30-1) 516
Patent Office and Treasury building
H.doc. 182 (26-1) 366
Patent Office, appointment of assistant examiners, increase of salaries, and appropriation for library
H.rp. 797 (25-2) 335
Patent Office, buildings for
H.doc. 195 (22-1) 220
Patent Office. Letter offering house on Capitol Hill for
S.doc. 417 (24-1) 284
Patent Office, organization of
H.doc. 47 (19-2) 150
Patent Office, report respecting situation of models in
H.rp. 86 (17-2) 87

LEGISLATIVE INTENT SERVICE (800) 666-1917

Patent Office, room for models
H.exdoc. 48 (30-1) 518
Patent Office, 1837
S.doc. 105 (25-2) 315
Patent Office, 1837, with classified lists of patents issued, list of patents expired, and on promoting agriculture by distribution of seeds and plants
H.doc. 112 (25-2) 325
Patent Office, 1838
H.doc. 80 (25-3) 346
Patent Office, 1839
S.doc. 111 (26-1) 356; H.doc. 106 (26-1) 365
Patent Office, 1840
S.doc. 152 (26-2) 378
Patent Office, 1841
S.doc. 169 (27-2) 397; H.doc. 74 (27-2) 402
Patent Office, 1842
S.doc. 129 (27-3) 415; H.doc. 109 (27-3) 420
Patent Office, 1843
S.doc. 150 (28-1) 433; H.doc. 177 (28-1) 442
Patent Office, 1844
S.doc. 75 (28-2) 451; H.doc. 78 (28-2) 465
Patent Office, 1845
S.doc. 307 (29-1) 475; H.doc. 140 (29-1) 484
Patent Office, 1846
H.doc. 52 (29-2) 499
Patent Office, 1847
H.exdoc. 54 (30-1) 519
Patent Office, 1848
H.exdoc. 59 (30-2) 542
Patent Office, 1849, pt. 1: Arts and Manufactures
S.exdoc. 15 (31-1) 555; H.exdoc. 20 (31-1) 574
Patent Office, 1849, pt. 2: Agriculture
S.exdoc. 15 (31-1) 556; H.exdoc. 20 (31-1) 575
Patent Office, 1850, pt. 1: Arts and Manufactures
H.exdoc. 32 (31-2) 600
Patent Office, 1850, pt. 2: Agriculture
H.exdoc. 32 (31-2) 601
Patent office, 1851, pt. 1: Arts and manufactures
S.exdoc. 118 (32-1) 624; H.exdoc. 102 (32-1) 645
Patent Office, 1851, pt. 2: Agriculture
S.exdoc. 118 (32-1) 625; H.exdoc. 102 (32-1) 646
Patent Office, 1852, pt. 1: Arts and manufactures
S.exdoc. 55 (32-2) 667
Patent Office, 1852, pt. 1: Mechanical
H.exdoc. 65 (32-2) 682
Patent Office, 1852, pt. 2: Agricultural
H.exdoc. 65 (32-2) 683
Patent Office, 1852, pt. 2: Agriculture
S.exdoc. 55 (32-2) 667
Patent Office, 1853, pt. 1: Arts and manufactures
S.exdoc. 27 (33-1) 696; H.exdoc. 39 (33-1) 719
Patent Office, 1853, pt. 2: Agriculture
S.exdoc. 27 (33-1) 697; H.exdoc. 39 (33-1) 720
Patent Office, 1854, pt. 1: Arts and Manufactures
S.exdoc. 42 (33-2) 753; H.exdoc. 59 (33-2) 785
Patent Office, 1854, pt. 2: Arts and Manufactures, illustrations
S.exdoc. 42 (33-2) 754; H.exdoc. 59 (33-2) 786
Patent Office, 1854, pt. 3: Agriculture
S.exdoc. 42 (33-2) 755; H.exdoc. 59 (33-2) 787
Patent Office, 1855, pt. 1: Arts and Manufactures
S.exdoc. 20 (34-1) 816
Patent Office, 1855, pt. 2: Arts and Manufactures, with illustrations [following p. 340]
S.exdoc. 20 (34-1) 817
Patent Office, 1855, pt. 3: Agriculture
S.exdoc. 20 (34-1) 818
Patent office, 1855, vol. 1: Arts and Manufactures
H.exdoc. 12 (34-1) 848
Patent office, 1855, vol. 2: Arts and Manufactures, with illustrations [following p. 340]
H.exdoc. 12 (34-1) 849
Patent office, 1855, vol. 3: Agriculture
H.exdoc. 12 (34-1) 850
Patent Office, 1856, vol. 1: Arts and manufactures
S.exdoc. 53 (34-3) 882; H.exdoc. 65 (34-3) 902
Patent Office, 1856, vol. 2: Arts and manufactures
S.exdoc. 53 (34-3) 883; H.exdoc. 65 (34-3) 903
Patent Office, 1856, vol. 3: Arts and manufactures, illustrations
S.exdoc. 53 (34-3) 884; H.exdoc. 65 (34-3) 904
Patent Office, 1856, vol. 4: Illustrations, agriculture
S.exdoc. 53 (34-3) 885; H.exdoc. 65 (34-3) 905
Preservation of models in patent office and statement of receipts and expenditures, 1793-1821
Misc. 541 (17-2) ASP038
Presidential message on progress made in building Treasury and Patent Offices
S.doc. 10 (24-2) 297
Purchase and fitting up of building for accommodation of Post Office Department and Patent Office
PostOff. 25 (11-3) ASP027
Report of Commissioner of Patents respecting purchase of seeds
S.exdoc. 61 (34-3) 881
Report on Patent Office, p. 49
H.doc. 2 (22-1) 216
Room necessary for proper accommodation of Patent Office
S.exdoc. 33 (31-2) 589

PATENTS (LAND)

Application of Mississippi for land in lieu of sixteenth section intended for schools and patented to individual
Pub.land 809 (21-1) ASP033; Pub.land 817 (21-1) ASP033
Application of Missouri that registers of land offices be directed to endorse field notes on patents for lands
Pub.land 1373 (24-1) ASP035
Application of Missouri that registers of land offices be directed to transcribe field notes on back of patents
Pub.land 1130 (23-1) ASP033
Coercing those entitled to military lands in Arkansas to draw patents
H.rp. 257 (23-1) 261
Construction of Fort Sumter, Charleston Harbor, South Carolina, suspended by land patent covering site granted to individual
MilAff. 591 (23-2) ASP020
Copy of land patent issued to Society of United Brethren in Ohio
S.doc. 51 (17-1) 59
Delay in issuing patents for confirmed land claims in Louisiana
Pub.land 1265 (23-2) ASP034
Expediency of coercing those entitled to military bounty lands in Arkansas to draw patents
Pub.land 1178 (23-1) ASP033
Granting land patents to Polish exiles
H.doc. 188 (24-1) 289
Granting patents to Polish exiles
Pub.land 1490 (24-1) ASP035
Information on issues of second patents for lands
S.doc. 139 (28-2) 457
Issuing patents for certain lands at Green Bay, Wisconsin Territory
S.doc. 68 (25-2) 314
Land claimants in Louisiana, reasons patents have been issued to
H.doc. 28 (23-2) 272
Land claims in Mississippi Territory, under British and Spanish patents, names list
Pub.land 154 (10-2) ASP028
Land patents, correcting, examining, signing, etc. of
H.doc. 243 (25-3) 349
Land patents in St. Helena district, Louisiana
H.doc. 155 (26-1) 366
Land patents suspended and lands sold in Arkansas
H.doc. 150 (23-1) 256
Land patents to soldiers in late war in Illinois
H.doc. 262 (26-1) 369
Letter from Commissioner of General Land Office, on land patents
H.doc. 105 (26-1) 365
Letter from D. A. Spaulding, adverse to granting land patents to Polish exiles
H.doc. 213 (24-1) 290

LEGISLATIVE INTENT SERVICE (800) 666-1917

Louisiana, land patents issued
H.doc. 364 (25-2) 330
Motion that committee on public lands inquire into propriety of dispensing with signature of President to patents for lands
S.doc. 2 (15-2) 14
Number and description of land claims in Missouri and Arkansas upon which patents have been withheld
Pub.land 534 (19-2) ASP031
Number of land claims confirmed, number of patents issued, etc., in Louisiana
H.doc. 168 (24-2) 304
On bill to authorize President of United States to issue patents to certain persons
S.doc. 311 (25-2) 317
Patents and warrants issued to officers and soldiers of Virginia line in revolution
Pub.land 356 (17-1) ASP030
Patents for lands, exemplification of
H.rp. 482 (27-2) 408
Petition of certain Cherokee Indians for lands in fee simple
H.rp. 72 (17-2) 87
Petition of Challenge, or Conaleskee, and others, Cherokee Indians, for land patent on East side of Mississippi River
H.rp. 42 (20-2) 190
Presidential message on execution of act of 1803 respecting township of land lying within patent of John Cleves Symmes
H.doc. 135 (18-1) 102
Provision for more speedy issuing of patents after sales of public lands
Pub.land 993 (22-1) ASP033
Refunding to purchasers of public lands overplus of purchase money if deficiency in number of acres patented
Pub.land 1316 (23-2) ASP034
Refunds to purchasers of land in cases of deficiency in quantity of acres patented
H.rp. 96 (23-2) 276
Secretary to sign land patents, abolish office of
H.rp. 161 (28-1) 445
Statement of claims for bounty lands presented and patents issued, 1834
Pub.land 1259 (23-2) ASP034
Statement of number and cost of patents prepared at General Land Office which have not been signed by President of United States
Pub.land 1070 (22-1) ASP033
Statement of patents for land sold in Arkansas that have been suspended, names list
Pub.land 1197 (23-1) ASP033
To vest fee simple in school lands in Indiana and trustees appointed by legislature
Pub.land 512 (19-1) ASP031

PATERSON
In favor of increase of duties on imports, petition of manufacturers of Paterson, New Jersey
Finance 795 (20-1) ASP013
Inhabitants of Paterson, New Jersey, against restoring public deposits to Bank United States
H.doc. 188 (23-1) 256
Manufacturers and others, Paterson, New Jersey, for restoring deposits to Bank U.S.
S.doc. 160 (23-1) 240
Meeting merchants Paterson, N.J., for removing deposits from Bank U.S.
S.doc. 161 (23-1) 240
Memorial of manufacturers of Paterson, New Jersey, in favor of tariff
H.doc. 27 (20-1) 170
Paterson, New Jersey, manufacturers in favor of restoring deposits to Bank United States
H.doc. 257 (23-1) 257

PATHOLOGY
Memorial of American Medical Association, asking assistance in investigation of etiology and pathology of cholera epidemic
H.misdoc. 142 (34-1) 867

PATRIOTIC BANK OF WASHINGTON
Farmers and Mechanics' Bank of Georgetown, the Bank of the Metropolis, and the Patriotic Bank of Washington, praying extension of their charters until 4th of March next
S.doc. 615 (26-1) 361
President and directors of Patriotic Bank of Washington, praying extension of their charter
S.doc. 595 (26-1) 361

PATRONAGE
Application of Uriah Brown for patronage to his invention of composition for destruction of vessels, similar to Greek fire
Nav.aff. 353 (20-1) ASP025
Committee of American Silk Society, praying aid and patronage of Congress in publication and gratuitous circulation of journal thereof
S.doc. 94 (26-1) 356
Memorial of Boyd Reilly, for patronage to his vapor bath
S.doc. 50 (24-2) 297
Memorial of Boyd Reilly for patronage to vapor bath
S.doc. 92 (24-1) 280
Mrs. Elizabeth Hamilton, praying patronage of Congress to publication of papers of Alexander Hamilton
S.doc. 52 (29-1) 473
On Executive Patronage and expediency and practicability of reducing same
S.doc. 108 (23-2) 268; S.doc. 109 (23-2) 268
On Executive patronage, expenditures of Government, power of removal from office, and public printing, in connection with retrenchment
S.doc. 399 (28-1) 437
Petition of Jonathan Elliot soliciting patronage of Congress for publication of a collection of Domestic Documents, etc.
H.doc. 189 (15-1) 11
Report on Executive patronage and retrenchment in army, navy, and civil departments
H.rp. 741 (27-2) 410
To inquire into reducing patronage of Executive of United States
S.doc. 88 (19-1) 128
William C. Poole, of Baltimore, Maryland, praying patronage of Congress to proposed publication to show more perfectly latitudes and longitudes, and variation of compass
S.doc. 204 (25-3) 340

PATTAWATTAMIE
see Potawatomi

PATTERNS
Manufactures and mechanics of United States, praying adoption of measures to secure to same rights in patterns and designs
S.doc. 154 (26-2) 378

PATTERSON
Report on General Patterson's route from Matamoras to Victoria, Mexico *H.exdoc. 13 (31-2) 598*

PATTERSON, DANIEL T.
Claim of Captain Daniel T. Patterson, of navy, for compensation for expenses incurred, in command of squadron, by receiving and entertaining authorities of foreign governments, in Mediterranean Sea
S.doc. 347 (24-1) 283; Nav.aff. 633 (24-1) ASP026; H.rp. 37 (24-2) 305; S.doc. 164 (24-2) 298; H.rp. 7 (25-2) 333

PATTERSONVILLE
Resolution of legislature of Louisiana, rescinding resolution of 1853, for removing office of custom-house collector of district of Teche from Franklin to Pattersonville
S.misdoc. 50 (34-1) 835

PATTON
Connecticut Legislature, on right of petition, slavery, and against Patton's resolution
H.doc. 415 (25-2) 330

PATTON, JOHN
Contested election of John Patton, representative from Delaware; petition of Henry Latimer
Misc. 43 (3-1) ASP037

LEGISLATIVE INTENT SERVICE (800) 666-1917

104

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INDEX

TO THE ELEVENTH VOLUME OF THE CONGRESSIONAL GLOBE.

SENATE.

A.

Absentee members of Congress, pay of, 939, 962
Abolition petitions, 34, 62, 93, 110, 136, 141, 178 256, 434
Adjournment of Congress, Mr. King's resolution for - 164, 221, 236, 366, 370, 523
resolutions of the House in relation to, 857 890, 913, 918, 963
Agriculture, Committee on - - - - 15
Agricultural Bank of Mississippi, bill for relief of - - - - - - 772
Alabama Legislature, resolutions of, on the subject of post-routes - - 145
memorial of, in relation to the Cherokee purchase - - - - - 15
resolutions of, in favor of establishing a new land district - - - 18
resolutions of, in relation to the establishment of a national armory - - 31
Alabama, State of, bill to authorize the settlement of certain claims in - 18, 883
bill to establish an additional land district - - - - - 15, 31, 69
Allen, William, of Ohio, 1, 46, 74, 141, 142, 145 146, 153, 159, 172, 211, 215, 249, 258 259, 272, 281, 282, 288, 300, 309, 318 343, 347, 361, 366, 376, 381, 383, 385 391, 432, 438, 440, 446, 449, 459, 462 463, 466, 472, 473, 502, 507, 510, 513 514, 533, 537, 549, 551, 560, 563, 587 597, 614, 624, 630, 645, 654, 659, 666 685, 705, 720, 739, 740, 752, 756, 801 854, 859, 890, 893, 932, 937, 938, 943 945, 949, 970
resolutions by, 56, 74, 137, 256, 258, 430 506
remarks on the bill to repeal the distribution act - - - - - 41
on the bill to allow the District banks to circulate suspended bank paper - - - - 288, 289
on distributing books to members of Congress - - - - - 466
on the apportionment bill, 538, 546, 555 601, 610
on the tariff bill - - 836, 840
on the bill to establish a naval school, 864
on the bill providing for taking testimony in cases of contested elections - - - - - 928
on Mr. Woodbury's motion for leave to introduce two revenue bills - 705
on resolutions in relation to Rhode Island - - - - - 506
Amelia county, Virginia, memorial from citizens of, against a protective tariff and distribution of the proceeds of the public lands - - - - - 890
Amendment of the Constitution, Mr. Clay's resolutions for, 69, 164, 200, 221, 237, 259 266
Appropriation bills for the civil and diplomatic service for the year 1842, 21, 22 32, 449, 454, 459, 466, 473, 496, 502
for revolutionary and other pensioners, 227
for protection of American seamen abroad - - - - - 227
for the support of the navy, 526, 543, 624 630, 638, 645, 781, 782, 797, 812
for the suppurt of the army, 595, 650, 665 789, 817, 826, 854
Appropriation bills—
for the support of the Indian Department - - - - - 710, 741
for the contingent expenses of the departments, 876, 886, 893, 903, 921, 931
for fortifications - - - 969
Apportionment bills - - - 366, 374
from the House of Representatives, 472, 487 496, 526, 532, 537, 543, 555, 561, 566 571, 576, 583, 588, 595, 601, 608, 630
Arkansas, bill in relation to donations of land in - - - - - 18, 75
to settle the title to certain lands in, 18, 75 246
for the relief of sundry citizens of - 34
Archer, William S., of Virginia, 1, 9, 13, 22, 44 56, 115, 137, 146, 160, 217, 268, 273 277, 281, 292, 367, 370, 373, 398, 417 440, 443, 446, 463, 465, 468, 469, 472 515, 548, 568, 571, 590, 595, 601, 603 611, 630, 631, 634, 646, 656, 668, 670 678, 684, 685, 691, 703, 708, 724, 727 728, 730, 739, 752, 787, 797, 806, 814 817, 819, 822, 826, 854, 855, 858, 859 860, 863, 864, 865, 870, 871, 876, 877 887, 890, 893, 903, 922, 930, 932, 935 938, 941, 949, 950, 963, 969
remarks on Mr. Clay's resolutions to amend the Constitution - - 321
on the apportionment bill, 544, 596, 597 611
on the navy appropriation bill - 647
Army, bill to equalize the pay of - 18, 149
for the increase of - 385, 416, 757, 767
for the organization of, 659, 683, 691, 698 818, 854, 903

B.

Bagby, Arthur P. of Alabama, 56, 62, 81, 213 224, 227, 315, 407, 437, 446, 472, 501 538, 549, 550, 560, 565, 568, 577, 583 587, 601, 659, 665, 675, 690, 691, 710 718, 721, 728, 729, 734, 766, 775, 781 785, 806, 807, 808, 823, 848, 913, 939 947, 970
resolutions by - 351, 425, 683, 710
remarks on the apportionment bill, 571, 572 612
on the tariff bills - - 829, 957
Babbitt's anti-attrition metal, bill to authorize the purchase of the right to use - 767
Bates, Isaac C., of Massachusetts, 1, 34, 56, 83, 87 93, 141, 142, 168, 210, 256, 258, 268, 292 315, 322, 365, 371, 415, 440, 443, 451, 455 484, 503, 580, 623, 659, 666, 675, 683, 684 690, 702, 711, 720, 747, 752, 766, 767, 772 789, 836, 840, 848, 853, 855, 863, 885, 893 903, 913, 921, 926, 927, 969
remarks on the exchequer bill - - 88
on the apportionment bill - - 583
on the bill to reorganize the army, 683, 691 692
remarks on the bill to provide for the Massachusetts militia claims - 697
Barrow, Alexander, of Louisiana, 9, 15, 22, 31 34, 43, 47, 95, 109, 120, 148, 203, 210 211, 224, 256, 272, 277, 292, 315, 334 340, 343, 351, 382, 416, 420, 515, 546 548, 549, 596, 607, 614, 720, 721, 739 795, 803, 853, 922, 939, 947
resolutions by - 16, 74, 81, 210
remarks on the exchequer bill - - 87
on naval appropriation bill 639, 640, 641
Bangor, Maine, bill to establish a port of entry at - - - - - - 272, 756
Bank notes, report from the Treasury Department in relation to - - - 48
Bankrupt act - - - - - 48, 654
petitions for repeal of 30, 31, 69, 81, 109 120, 124, 136, 141, 142, 145, 148, 152 159, 164, 168, 172, 178, 184, 203, 212 215, 293, 304
petitions against the repeal of 81, 109, 115 120, 124, 136, 141, 145, 148, 152, 159 164, 168, 172, 177, 185, 199, 203, 215 220, 224, 227, 230
bill to postpone the operation of, 56, 137, 172 236
bill from the House to repeal the, 141, 169, 178
Mr. Benton's motion for leave to introduce a bill to repeal - - - 763
Bayard, Richard H., of Delaware, 1, 3, 10, 15 17, 18, 31, 110, 145, 148, 173, 200, 210 211, 216, 265, 266, 277, 282, 288, 293 294, 295, 300, 309, 403, 404, 405, 443 454, 462, 474, 510, 515, 526, 527, 532 533, 534, 537, 538, 555, 560, 561, 566 573, 576, 588, 595, 601, 602, 631, 634 645, 654, 691, 711, 718, 721, 728, 729 733, 736, 744, 745, 763, 764, 769, 770 776, 790, 797, 806, 807, 818, 853, 854 855, 858, 864, 870, 890, 893, 922, 935 949, 962, 963, 969, 975
resolutions by - - - 18, 977
remarks on the treasury note bill - 155
on the bill to repeal the bankrupt law 178
on the apportionment bill 590, 596, 597 613
on the navy appropriation bill 625, 626 641, 646
Benton, Thomas H., of Missouri, 1, 22, 34, 47, 48 56, 63, 64, 78, 81, 109, 120, 121, 137 145, 148, 152, 160, 168, 173, 203, 210 211, 215, 216, 217, 221, 224, 225, 230 235, 236, 237, 256, 258, 259, 281, 282 293, 294, 295, 347, 372, 394, 407, 408 432, 433, 443, 460, 462, 465, 480, 481 488, 492, 503, 506, 510, 514, 548, 568 583, 587, 609, 614, 623, 624, 630, 633 654, 665, 668, 684, 685, 691, 724, 752 760, 764, 775, 782, 786, 795, 806, 811 818, 826, 830, 836, 848, 855, 870, 887 927, 931, 936, 942, 943, 944, 946, 963 977
resolutions by, 51, 160, 210, 240, 362, 480 977
remarks on the President's annual message - - - - - 7
the plan for a board of exchequer - 125
the treasury note bill - - 153, 154
the bill to repeal the bankrupt law, 178 186
the loan bill - - - 407
distributing books to members of Congress - - - - 466
the removal of the postmaster at St. Louis - - - - 472
the apportionment bill 544, 568, 608
the bill for the armed occupation of Florida - - - 618, 818
the naval appropriation bill, 638, 639, 641 646
asking leave to introduce a bill to repeal the bankrupt law - - - 763

LEGISLATIVE INTENT SERVICE (800) 666-1917

Tallmadge, N. P., of New York— 523, 537, 538, 543, 550, 562, 576, 578 598, 601, 602, 604, 608, 609, 630, 634 659, 664, 675, 697, 720, 721, 727, 733 801, 811, 821, 919, 930, 933, 934, 944 960
remarks on the apportionment bill, 588, 609 612, 613
Tappan, Benjamin, of Ohio, 1, 16, 33, 51, 69 75, 81, 141, 172, 177, 178, 225, 227 258, 265, 272, 277, 281, 282, 340, 343 351, 361, 366, 371, 376, 416, 425, 432 433, 459, 460, 465, 469, 472, 501, 502 503, 515, 523, 527, 532, 548, 609, 614 619, 626, 654, 655, 665, 668, 671, 675 679, 684, 690, 691, 697, 703, 711, 718 719, 729, 741, 743, 744, 756, 757, 769 776, 786, 806, 807, 811, 829, 834, 854 858, 870, 876, 904, 927, 941, 944, 945 962, 969
resolutions by - - - 51, 718
Tariff bill, provisional, 638, 650, 668, 675
reported from the Committee on Manufactures - - - - 707
received from the House of Representatives, 763, 772, 786, 796, 797, 802 807, 812, 819, 827, 833, 840, 848, 922 935
Tariff bill, third, from the House of Representatives - 922, 935, 941, 950
Tiverton, town of, bill to annex it to the collection district of Fall River, in Massachusetts - - - - 724, 728
Treasury Department, communications from, 13 15, 32, 42, 57, 108, 120, 168, 172, 210 245, 258, 322, 343, 365, 371, 420, 465 600, 771, 785, 826, 832
report on the fiscal agent - - 34
annual report on the state of the finances, 32
Treasury notes, bill authorizing the issue of, 136 146, 149, 153, 160
Tuston, Rev. Septimus, elected chaplain - 13
resolution to allow him extra compensation - - - - - 962
Tyler, John. (See President of the United States.)

U.

Useful arts, bill to promote the progress of, 833, 840

V.

Van Dieman's Land, American prisoners at, memorials in their behalf, 87, 159, 203, 213 227, 272
Vermont, resolutions of the Legislature of, in relation to a protective tariff - - 96
Vice Presidency, Mr. Preston's resolutions in relation to - - - - - 81
Virginia, western district of, bill to change the time for holding the district court for, 870 935

W.

Walker, Robert J., of Mississippi, 62, 75, 87, 93 95, 96, 108, 112, 120, 125, 136, 142 159, 160, 177, 211, 216, 224, 240, 241 255, 256, 265, 273, 300, 304, 340, 344 365, 366, 371, 376, 382, 385, 390, 407 425, 441, 454, 472, 473, 492, 497, 537 538, 546, 548, 563, 566, 576, 602, 603 624, 626, 631, 647, 650, 657, 660, 675 679, 683, 719, 720, 724, 729, 730, 740 748, 781, 786, 787, 790, 795, 796, 797 802, 803, 811, 817, 819, 822, 833, 855 866, 870, 887, 890, 903, 901, 913, 932 934, 936, 939, 941, 942, 943, 944, 945 946, 962, 969, 970
resolutions by - 115, 217, 240, 977
remarks on the plan for a board of exchequer - - - - 116
on the treasury note bill - - 154
on the bill for the extension of the loan of 1841 - - 390, 418
on the apportionment bill, 526, 533, 573 578, 589, 590, 596, 597, 598, 610, 613
on the remedial justice bill - - 660
on the provisional tariff bill - 669, 671
on Mr. Woodbury's motion for leave to introduce two revenue bills - 706
remarks on the tariff bills, 802, 809, 814 822, 829, 833, 842, 843, 844, 850, 943
on the bill providing for taking testimony in cases of contested elections, 927 933
War Department, communications from, 13, 15 56, 57, 108, 136, 142, 177, 213, 224, 235 255, 291, 322, 334, 370, 421, 432, 690 697, 756
Washington, George, statue of, resolution for the appointment of a committee to superintend the location of - - 48
Washington city, bill to establish a police in, 576 691, 853, 863, 870, 876, 885
bill to provide for lighting lamps in, 576, 769
bill for the erection of a hospital in, 51, 160 728
bill to amend the act to incorporate the inhabitants of - - - - 31
bill for repaving Pennsylvania avenue, 727
Washington manual labor school, bill to incorporate - - 160, 433, 435
West Feliciana Railroad Company, and Grand Gulf Railroad and Banking Company, bill for the relief of - - 876
White, Albert S., of Indiana, 1, 13, 15, 18, 22 115, 136, 199, 200, 213, 215, 227, 263 277, 292, 315, 317, 370, 455, 460, 474 492, 501, 515, 534, 538, 578, 594, 601 612, 654, 660, 718, 719, 731, 760, 772 801, 805, 811, 818, 857, 863, 903, 939 941, 950, 957, 969, 975
resolutions by - - - - - 962
remarks on the apportionment bill - 583
on the provisional tariff bill - - 670
Williams, Ruel, of Maine, 1, 13, 15, 51, 142, 186 318, 389, 416, 438, 443, 455, 462, 538 576, 582, 590, 597, 602, 650, 724, 790 797, 807, 826, 854, 857, 858, 859, 863 865, 870, 883, 887, 893, 903, 922, 927 936, 944, 950
resolutions by - - 142, 149, 334
remarks on the navy appropriation bill, 624 625, 626, 645, 647
the third tariff bill - - - - 957
Williams, Hon. Lewis, of the House of Representatives, his death announced - 263
remarks of Mr. Graham on - - 263
resolutions in relation to - - 263
Wisconsin, Territory, bill for the settlement of the balance due the - 711, 719
bill to amend the act establishing the Territory of - - - - 185
legislature of, resolutions urging the removal of the Indians from the Territory - - - - - - 304
resolutions on the subject of the boundary line - - - - - 334
bill making appropriations for the support of - - - - - 962
Wisconsin Territory, bill for the relief of certain settlers in - - - 785, 890
Wilcox, Leonard, of New Hampshire, 287, 538 562, 618, 772
Wiscassett, Maine, bill to extend the collection district of - - - - 776
Widows, certain, joint resolutions extending the benefit of the act of 7th July, 1838, 766 848
bill to amend the acts granting pensions to - - - - - 766, 890
Woodbury, Levi, of New Hampshire, 3, 13, 15 16, 32, 48, 58, 69, 75, 81, 94, 96 115, 125, 141, 142, 204, 211, 224, 230 232, 235, 249, 259, 258, 265, 266, 277 288, 294, 300, 309, 340, 353, 362, 365 370, 381, 382, 383, 403, 404, 405, 408 416, 425, 443, 450, 451, 454, 455, 456 459, 460, 473, 474, 492, 497, 502, 515 527, 534, 538, 540, 545, 548, 549, 566 583, 595, 597, 601, 602, 603, 608, 614 618, 624, 637, 644, 654, 655, 656, 660 665, 668, 672, 691, 698, 703, 710, 717 718, 719, 720, 721, 733, 734, 743, 763 770, 782, 785, 786, 790, 796, 797, 798 807, 826, 835, 840, 844, 854, 858, 864 865, 871, 876, 883, 886, 887, 890, 893 932, 933, 936, 937, 938, 944, 945, 949 968, 969, 970, 976, 977
resolutions by, 18, 48, 370, 432, 440, 571 736, 743
remarks on the bill to repeal the distribution act - - - - 43
the plan for a board of exchequer, 96, 111
the treasury-note bill, 149, 150, 155, 156
Mr. Clay's resolution to amend the Constitution - - - 259
Mr. Walker's amendment to the loan bill - - 403, 404, 405
Mr. Clay's resolutions on revenue, distribution, retrenchment &c., 304, 317 372
his resolutions in relation to tonnage, freights, and commerce - - 420
Woodbury, Levi, of New Hampshire— remarks on gen'l appropriation bill, 467, 469
the apportionment bill, 562, 611, 613
the navy appropriation bill, 632, 641, 645 646
the provisional tariff bill, 669, 670, 679
asking leave to introduce bills to extend the present tariff laws, and providing for the home valuation, 703, 704
the bill to provide revenue from imports, 790, 792, 797, 798, 809, 828 835, 837, 841, 842, 851
the bill providing for taking testimony in cases of contested elections, 928
third tariff bill - - 955, 957
Woodbridge, William, of Michigan, 10, 17, 22 46, 51, 81, 116, 125, 136, 153, 172 185, 200, 221, 230, 245, 277, 287, 318 365, 394, 434, 443, 462, 538, 567, 587 637, 665, 711, 719, 743, 756, 776, 785 818, 848, 870, 871, 922, 949, 960
resolutions by - - - 327, 710
remarks on the death of the Hon. N. F. Dixon - - - - 197
Wright, Silas, of New York, 1, 10, 17, 22, 30, 31 56, 57, 81, 95, 115, 120, 124, 148 159, 160, 164, 172, 177, 184, 203, 204 213, 224, 227, 230, 240, 256, 258, 263 265, 270, 272, 273, 287, 292, 304, 309 310, 315, 341, 343, 350, 351, 353, 366 370, 373, 376, 389, 394, 413, 420, 431 432, 433, 435, 438, 440, 443, 449, 450 451, 459, 460, 462, 473, 474, 496, 497 503, 510, 523, 534, 537, 538, 548, 566 571, 576, 585, 587, 601, 602, 603, 608 644, 660, 668, 671, 678, 692, 698, 702 718, 723, 727, 728, 751, 752, 760, 762 768, 769, 772, 780, 785, 786, 797, 815 833, 840, 852, 883, 885, 886, 890, 893 903, 922, 932, 933, 934, 935, 937, 938 941, 944, 945, 946, 960, 962, 963
resolutions by - - - 10, 644
remarks on the amendment to the treasury-note bill - - - 155
on Mr. Clay's resolutions in relation to the tariff, revenue, expenditures, &c. - - - - 273, 372
the bill to allow the District banks to circulate suspended bank paper - 292
the bill for the extension of the loan of 1841 - - - 390, 408
distributing books to members of Congress - - - - 468
the apportionment bill, 544, 545, 550 556, 563, 583, 588, 589, 612
the tariff bill - 829, 834, 837, 844
the third tariff bill - - - 953
the bill providing for taking testimony in cases of contested elections - - - 928, 949
Wyandot Indians, bill to carry into effect the treaty with - 931, 968, 969, 977

Y.

Yeas and nays, on reference of the bill to repeal the distribution act - 44, 64
on the motion to lay Mr. Allen's resolution, in relation to the finances, on the table - - - - 146
on amendments to the same - - 153
on amendments to treasury note bill, 150 155, 157, 160
on rejection of the bill to repeal the bankrupt law - - - - 186
on allowing the Committee on Manufactures to employ a clerk - - 205
on amendments to the bill in relation to land claims in Missouri and Arkansas - - - 224, 225
on engrossing the same - - 225
on laying on the table Mr. Pierce's resolution in relation to the New York custom-house - - - - 232
on laying on the table the resolution for the adjournment of Congress - 236
on rejecting the bill to postpone the operations of the bankrupt law - - 236
on motion to recommit the District banks bill - - - - - 295
on Mr. Benton's resolution in relation to the District banks - - - 295
on motion to postpone the District banks bill - - - - - 295
on passage of the District banks bill - 300
on the bill to extend pre-emption rights 344
passage of the bill - 352

LEGISLATIVE INTENT SERVICE (800) 666-1917

Treasury notes, bill to authorize the issue of, 94, 102, 112, 117, 122, 126, 131
amendments of the Senate to, and proceedings on, 167, 169, 173, 195
bill as finally passed 196
bill to authorize the issue of, to a certain amount, in lieu of the public stocks, and to limit the sale of said stocks to par 948, 994
Triplett, Philip, of Kentucky, 1, 20, 106, 108, 142, 169, 211, 222, 234, 263, 296, 316, 318, 459, 497, 498, 509, 516, 519, 726, 727
resolutions by . . 216, 234, 236, 449, 497, 502
remarks on the naval appropriation bill . . 519
Turney, Hopkins L., of Tennessee, 1, 132, 139, 159, 163, 163, 184, 233, 234, 248, 257, 290, 296, 651, 667, 672, 687, 688, 709, 761, 762, 766, 795, 804
Underwood, Joseph L., of Kentucky, 1, 14, 20, 86, 115, 117, 126, 135, 136, 142, 159, 167, 168, 176, 177, 205, 234, 237, 238, 278, 280, 296, 297, 298, 302, 312, 316, 325, 326, 401, 426, 436, 437, 439, 458, 473, 476, 482, 495, 496, 499, 516, 538, 547, 564, 565, 569, 570, 571, 600, 604, 614, 616, 622, 680, 758, 774, 782, 800, 810, 861, 875
resolution by 14
resolutions to amend the Constitution of the United States 350
remarks on the resolutions censuring Mr. Adams, 180, 181, 1-2
on the treasury note bill 117
on the New York custom-house investigation reports 475, 476
Useful arts, bill in addition to the act to promote the progress of 960
Van Buren, John, of New York, 104, 119, 151, 279, 443, 541, 551, 659, 693
resolutions by 151, 262
remarks on the tariff bill 668
Van Rensselaer, Henry, of New York . . 151, 233, 501
Virginia, western district of, bill to change the time of holding the courts for 810
Virginia military revolutionary land warrants, Mr. Stanly's resolution in relation to . . 661, 667, 679, 687, 721
Van Dieman's Land, American prisoners at . . 132
Veto of the provisional tariff bill 694
of the general tariff bill with the distribution clause, 667
Select Committee on 877
report of Mr. Adams 894
report of Mr. Gilmer 896
report of Messrs. Ingersoll and Roosevelt . . 899
Wallace, David, of Indiana, 1, 20, 104, 234, 598, 653, 738, 799
War Department, communications from, 15, 62, 130, 235, 340, 381, 933, 875, 947
War steamer for harbor defence, bill to authorize the construction of 395, 399, 409
Warren, Lott, of Georgia, 107, 117, 118, 142, 162, 163, 167, 168, 201, 229, 242, 271, 290, 429, 458, 493, 518, 559, 743, 757, 825
resolutions by 229, 343, 391, 440
Ward, Aaron, of New York, 1, 14, 58, 72, 168, 242, 264, 266, 489, 528, 560, 766, 788, 822
resolution by 264
remarks on Mr. Summers's retrenchment report . 286
remarks on the army bill 528, 560, 832
Washington, Wm. H., of North Carolina, 1, 99, 143, 234, 262, 296, 316, 317, 507, 727, 879
resolutions by 257, 344
Washington county, District of Columbia, bill regulating arrests on mesne process in 651, 815
Watterson, Harvey M., of Tennessee, 1, 56, 143, 267, 714, 715, 716
remarks on the veto of the provisional tariff bill, 714, 715
Ways and Means, Committee on 13
reports, 169, 198, 295, 414, 419, 434, 463, 699, 774, 912, 973
Westbrook, John, of Pennsylvania . . 1, 19, 316, 458, 460
Weller, John B., of Ohio, 1, 14, 19, 33, 55, 58, 89, 102, 101, 105, 106, 107, 108, 112, 124, 130, 131, 133, 138, 139, 140, 158, 161, 349, 353, 445, 446, 458, 475, 502, 503, 532, 564, 565, 626, 628, 688, 699, 701, 702, 710, 824, 947, 979
remarks on the reference of the President's message, 58
on the veto of the provisional tariff bill . . . 701
White, John, of Kentucky, [Speaker] 1, 2, 14, 16, 17, 33, 52, 58, 86, 89, 90, 91, 92, 94, 95, 104, 107, 108, 112, 117, 121, 124, 131, 132, 133, 134, 135, 136, 138, 139, 140, 141, 142, 143, 150, 158, 159, 160, 161, 162, 163, 164, 167, 168, 169, 170, 171, 173, 176, 177, 179, 180, 186, 196, 200, 202, 212, 218, 233, 275, 333, 345, 439, 479, 485, 501, 547, 591, 600, 626, 657, 679, 681, 686, 718, 732, 755, 800, 875, 882, 903, 904, 906, 975
resolutions by 235, 264
White, Edward D., of Louisiana, 216, 234, 263, 297, 437, 650, 661, 805
resolution by 219
White, Albert S., of Indiana, . 336, 444, 635, 661, 710
resolution by 444
remarks on the veto of the provisional tariff bill . 710
Williams, Thomas W., of Connecticut, 1, 46, 223, 250, 410, 411, 440, 492, 493, 518, 521, 535, 614, 634, 789, 866
remarks on the general appropriation bill . . 410, 411
Williams, James W., of Maryland, 1, 20, 143, 234, 507, 759, 774, 795
resolution by 354
Williams, Lewis, of North Carolina, 1, 9, 11, 85, 86, 104, 105, 119, 124, 133, 134, 135, 138, 140, 151, 168, 186, 226, 234
resolutions by 262, 89, 262
death of, and funeral 264
Williams, Joseph L., of Tennessee . . 1, 20, 107, 759
Williams, Christopher H., of Tennessee, 1, 20, 59, 72, 135, 143, 234, 270, 271, 481, 529, 693, 930
resolution by 218
remarks on the reference of the President's message 59
Winthrop, Robert C., of Massachusetts, 1, 79, 85, 133, 134, 135, 136, 163, 180, 187, 223, 268, 283, 296, 337, 405, 411, 415
remarks on the reference of the President's message 79
on the general appropriation bill 405
Wise, Henry A., of Virginia, 1, 3, 8, 11, 12, 14, 17, 23, 24, 44, 58, 89, 90, 91, 92, 100, 103, 104, 105, 112, 113, 126, 123, 132, 134, 135, 136, 138, 140, 151, 158, 159, 161, 162, 163, 164, 167, 168, 177, 182, 227, 237, 253, 256, 267, 281, 292, 303, 312, 324, 326, 350, 355, 356, 359, 360
Wise, Henry A., of Virginia—
399, 401, 411, 422, 437, 457, 491, 499, 507, 509, 517, 520, 525, 565, 616, 617, 636, 652, 687, 688, 715, 727, 746, 758, 773, 774, 775, 778, 779, 780, 789, 873, 874, 882, 884, 892, 908, 909, 916, 921, 930, 939, 948, 960, 967, 970, 974, 975, 978, 979
resolutions by 143, 234, 262
remarks on Mr. Saltonstall's resolution to send for witnesses to collect testimony in relation to the operation of the tariff laws 100
on the treasury note bill 103
on the resolutions censuring Mr. Adams for presenting a petition to dissolve the Union, 171, 172, 173, 181
in vindication of himself against Mr. Adams's charge of having instigated the duel between Messrs. Graves and Cilley 194
on Mr. Summers's retrenchment report . 253, 303
on the bill authorizing the construction of an iron steamship, to be used for coast and harbor defence 399
on the general appropriation bill 411
on the New York custom-house investigation . 457
on the naval appropriation bill . 499, 652, 772, 778
on the provisional tariff bill 616
in reply to Mr. Adams, on the veto of the tariff bill, 873, 874
in reply to Mr. Fillmore, on the fortification bill . 884
on the report of the Select Committee on the veto of the tariff bill 909
on the bill to repeal the 6th section of the distribution act 943
Wiscasset, Maine, bill to extend the collection district of . 296
Wisconsin Territory, bill for the improvement of certain roads in 419
bill to grant a certain quantity of land to, for the benefit of the town of Fairplay, in said Territory, 615, 763, 771
bill to provide for the settlement of certain accounts, and for the government of the said Territory, 960, 961
Wisconsin and Iowa, bill granting the right of pre-emption to settlers in 679, 777
bill for the relief of certain settlers in . 768, 771
Wyandot Indians, bill making appropriations for carrying into effect the treaty with 978
Wood, Fernando, of New York, 1, 14, 58, 86, 126, 128, 132, 219, 233, 446, 494, 519, 748
resolutions by 104, 233, 444
remarks on Mr. Saltonstall's resolution to send for witnesses to take testimony in relation to the operation of the tariff laws 219, 223
Yeas and nays, on the resolutions for the adoption of rules, 3
on Mr. Stanly's amendment to the resolutions for the adoption of rules 3
on Mr. Adams's amendment to the resolutions for the adoption of rules 3
on Mr. Johnson's resolutions for the adoption of rules 9
on laying reports of the Committee on the Rules on the table 11
on adjournment 11, 130
on postponing election of chaplain 11
on Mr. Fillmore's resolutions 12
on abolishing the office of assistant doorkeeper . 14
on laying Mr. Adams's abolition motion on the table, 16
on calls of the House 16
on reference of the President's message . . 86
on the motion to repeal the 21st rule . . . 90
on the motion to lay sundry abolition petitions on the table 91, 143, 157
on motion to lay treasury note bill on the table, 95, 169
on motion to lay treasury note bill, with amendments, on the table 196
on laying on the table the question of reception of abolition petitions 105, 158
on motion to lay on the table petitions to repeal the bankrupt act 107
on referring, with instructions, petition to repeal the bankrupt act . . . 107, 108, 132, 133, 134
on motion to lay the same on the table, 132, 133, 134
on motion to postpone reception of petitions . . 117
on motion to go into Committee of the Whole, 117, 122
on resolutions to suspend debate on the treasury note bill 121, 124
on amendments to treasury note bill . . . 131
on motions to suspend the rules, 126, 234, 248, 271, 354, 418, 687, 708, 768, 884, 903, 904, 913
on appeals from the decision of the Chair, 3, 12, 117, 138, 140, 196
on the bill to repeal the bankrupt law . . 140
on allowing Mr. Adams to continue his remarks, 162, 167
on laying on the table the question of privilege growing out of Mr. Adams's petition to dissolve the Union 169, 214
on Mr. Fillmore's motion to lay Mr. Adams's petition on the table 177
on the consideration of Mr. Marshall's resolutions censuring Mr. Adams 180, 191
on concurring in the Senate's amendment to the treasury note bill 196
on laying on the table Mr. Adams's resolutions, 200, 201
on the question of reception of Mr. Adams's petition to dissolve the Union 215
on reconsidering the question of reception of Mr. Adams's petition to dissolve the Union . . 215
on Mr. Williams's resolution to lay on the table the resolution on the tariff laws reported by the Committee on Manufactures 225
on the bill to modify the charter of the District banks, 238, 242
on the general appropriation bill 239
on Mr. McClellan's resolutions concerning allowances made to Gen. Winfield Scott . . 266
on the question of reception of Mr. Giddings's petition to dissolve the Union 268
on rejecting the amendment to the resolution to abolish the office of draughtsman of the House . 278
on the adoption of the resolutions on the retrenchment report as amended by Mr. Arnold . . 291
Yeas and nays—
on the adoption of the gag rule 34
on laying on the table Mr. Giddings's resolutions on the Creole case 34
on laying on the table Mr. Weller's resolution censuring Mr. Giddings 34
on adopting Mr. Weller's resolutions censuring Mr. Giddings 34
on taking the loan bill out of committee . . 35
on passage of the bill to build an iron war steamer, 40
on taking bill No. 74 out of committee . . 42
on Mr. Clifford's amendments to bill No. 74 . . 42
on amendments to the general appropriation bill, 43, 43
on laying on the table resolutions of the citizens of Ashtabula, Ohio 43
on amending the journal 43
on Mr. Everett's resolutions on the apportionment bill 45
on amendment to the apportionment bill . 471, 649
on motion of Mr. Everett to refer the report of the Secretary of the Treasury to the Committee of the Whole on the state of the Union . . . 493
on the bill claiming satisfaction for French spoliations 536
on laying on the table bill to revive and continue the charters of certain banks in the District of Columbia 564
on the bill to amend the charter of the town of Alexandria 565
on the amendment to the bill to incorporate the Washington City Gas Light Company . . 565
on laying on the table Mr. Adams's amendment to allow free suffrage to the colored people of Alexandria 570
on the bill to increase the ratio of representation, 623, 641
on reconsidering the bill to increase the ratio of representation 627, 644
on printing a tabular statement of the rates of duties under the different tariff laws . . . 643
on the reception of Mr. Botts's resolutions asking information from the President whether the office of Commissary General is filled 648
on the bill to abolish imprisonment for debt in the District of Columbia 651
on the provisional tariff 688
on concurring in the amendment of the Senate to the provisional tariff 688
on the amendment requesting a copy of the President's reasons for signing the apportionment bill instead of the original paper 712
on amendments to the tariff bill 761
on engrossment of the tariff bill for a third reading, 762
on Mr. Roosevelt's amendment to the bankrupt bill . 773
on Mr. Marchand's resolutions to pay to the widow and children of the late David Dimock, $304 . 775
on the question of disbanding the second regiment of dragoons 844
on resolutions to refer the President's veto of the revenue bill to a select committee . . . 875
on the act to amend the judicial system . . 878
on the bill making appropriations for marine hospital sites 883, 884
on laying on the table the fortification bill . . 885
on resolutions reported by the Committee on Indian Affairs 889
on the revenue bill 901
on concurring with the report of the Committee of Conference on the army bill 902
on the passage of the vetoed revenue bill . . 906
on laying on the table Mr. Adams's report of the Select Committee on the vetoed bill . . . 907
on the adoption of Mr. Adams's report of the Select Committee on the vetoed bill . . . 907
on laying on the table resolutions to pass another revenue bill 912
on adoption of the resolution to pass another revenue bill 912
on bill to provide revenue from imports . 925, 926
on the bill for the relief of General Jackson . . 947
on the bill to appropriate the proceeds of the public lands 948, 949
on laying the tariff bill, with amendments, on the table 963
on Mr. Botts's amendment to the treasury note bill, 966
on laying on the table the bill regulating the taking of testimony in cases of contested elections . . 967
on Mr. Botts's resolutions in relation to the veto message 974
on amendments to, and the resolutions of, the Retrenchment Committee 284
on amendments of Mr. Cooper, of Georgia, relative to purchase of stationery of American manufacture 299
on amendments to the loan bill . . . 378, 380
on reconsidering the vote ordering the loan bill to a third reading 379
on the passage of the loan bill 380
on amendments to, and passage of, the naval appropriation bill 525
on amendments to the bill to amend the charter of the town of Alexandria 569
on Mr. Adams's motion to amend the same so as to extend the right of suffrage to free negroes . 570
on the army appropriation bill . . . 593, 594
on the apportionment bill 628
on the resolution to terminate debate on the tariff bill 628
on the tariff bill 639
on the question of including corporations in the bankrupt law 782
on adopting resolution censuring Mr. Giddings . 346
Young, Augustus, of Vermont, . 1, 296, 297, 419, 855
Young, John, of New York, 1, 79, 222, 229, 233, 260, 414, 626, 799
Yorke, Thos. Jones, of New Jersey, 1, 10, 119, 144, 233, 255, 262, 317, 440, 688, 780
resolutions by 262, 391

LEGISLATIVE INTENT SERVICE (800) 666-1917

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LIS - 4a

Mr. TALIAFERRO suggested that the committee would find itself without a quorum.

The SPEAKER said a quorum had voted on the motion to adjourn.

Mr. TALIAFERRO said yes, a quorm had *voted*, but he doubted whether a quorum was *present*. He objected to going into committee without a quorum.

Mr. ARNOLD, remarking that there was force in the suggestion of the gentleman from Virginia [Mr. TALIAFERRO] asked the Speaker to *tell* the House.

Mr. ANDREWS of Kentucky said that more than twenty gentlemen had voted against adjournment, and had then put on their hats and walked off.

The SPEAKER, after counting the House, announced that 112 members only were present.

So there was no quorum.

Mr. ARNOLD moved a call of the House.

Mr. TURNEY moved that the House do now adjourn.

Mr. STEENROD asked the yeas and nays on that motion; which were ordered, and being taker, were—yeas 48, nays 71.

So the House refused to adjourn.

It was now 4 o'clock, wanting five minutes.

Mr. ARNOLD moved a call of the House; on which motion the vote stood—ayes 53, noes 57.

So the call was not ordered, still no quorum voting.

And then the House adjourned.

IN SENATE,

WEDNESDAY, April 6, 1842.

The PRESIDENT *pro tem.* laid before the Senate a communication from the War Department, covering the proceedings of the court of inquiry on the charges against Lieutenant Colonel De Russy, contractor for furnishing stone at the Rip Raps, reported to the Senate in compliance with the resolution adopted on the 1st instant.

Mr. BUCHANAN presented four memorials from the county of Northampton, one from Philadelphia county, one from Schuylkill county, Pennsylvania, and one from citizens of Pennsylvania generally, in favor of protection to the iron manufactures by restoring the tariff of duties of 1839 on imported iron, and also in favor of protection to the coal interest; which were referred to the Committee on Manufactures.

Also, presented memorials from the counties of Erie, Lebanon, Berks, Susquehannah, and Lancaster, Pennsylvania, attributing all the difficulties and embarrassments under which the country is now laboring, to the compromise act. The memorialists ask that that law might be repealed, and that a proper adjustment of the tariff might now take place, and that such a tariff of duties be laid as will afford protection to American labor: referred to the Committee on Manufactures.

Mr. CRITTENDEN presented a memorial from Huntingdon county, in the State of Pennsylvania, in favor of a protective tariff: referred to the Committee on Manufactures.

Mr. TALLMADGE presented a memorial from citizens of Albion, Orleans county, N. Y. asking that the franking privilege may be restricted greatly or entirely abolished; that the Government pay postage on all official matter sent through the mail; that newspaper publishers be restricted in free postage on papers; and that postage on newspapers be graduated according to the size of the paper: referred to the Committee on Retrenchment.

Also, presented a memorial from certain owners and masters of vessels and steamboats, and from pilots and others interested in the navigation of the Hudson river, praying the erection of a light-house at the point called Tappan Zee, as of vast importance to the commerce on that river: referred to the Committee on Commerce.

Mr. TALLMADGE presented a memorial from the city of New York, signed by importers and dealers in foreign goods, representing that nothing will have the effect to regulate the business concerns of the country and restore the country to prosperity except a discriminating tariff on imports sufficient to support the Government and to protect the labor of the country.

Mr. TALLMADGE said he was happy, on this occasion, in being made the organ for the presentation of a memorial of this character, which formed a new era in the history of commerce. It tended to show that a revolution was going on in the public mind upon the subject of the tariff and protection. The memorial proceeded from a class of persons who had been heretofore in favor of what is commonly called free trade, (but which was, in fact, a trade without reciprocity on the part of other nations,) who now asked protection to the domestic industry of this country. This memorial was signed by importers and merchants, without respect to party politics. Mr. T. coincided with the memorialists, that no system could be adopted, whether a Bank of the United States or Board of Exchequer, that could furnish a uniform currency and regulate the exchanges, except such a tariff on imports was established as would, whilst it furnished adequate revenue for an economical administration of the Government, afford protection to the industry of the country. That was, he believed the first towards regulating the currency and exchanges of the country. In saying protection to the industry of the country, he did not mean the manufacturers of the country, but the labor of the country generally. He sincerely believed that the adoption by Congress of the Exchequer plan, with a proper tariff, would afford all the relief the country desired. The memorial was referred to the Committee on Manufactures.

Mr. CRITTENDEN presented resolutions adopted by the Legislature of Kentucky, proposing certain amendments to the Constitution of the United States. He believed the amendments proposed by these resolutions were embraced in the resolutions of his honorable predecessor [Mr. Clay.] The resolution proposes that the President shall not be eligible for two consecutive terms; and if there be a vacancy in that office, whoever succeeds to the vacancy shall be ineligible for a succeeding term; to restrain the appointment of members of Congress to office; to confine the power of the President over removals from office, to the heads of the Executive Departments; to modify the veto power.

Also from the same source, resolutions calling the attention of Congress to the subject of improving the navigation of the great rivers of the West, which have been suspended for several years. Ordered to lie on the table and be printed.

Mr. BUCHANAN remarked that he was absent last week when the honorable Senator from Kentucky [Mr. CLAY] left the Senate. He regretted that the final question had not been taken on his resolution in regard to the veto, before he took his departure. He hoped his successor [Mr. CRITTENDEN] would, at an early day, feel himself bound to call that resolution up and have it disposed of.

Mr. WILLIAMS presented joint resolutions adopted by the Legislature of Maine relative to the defences of the sea coast, and urging upon Congress the importance of immediate appropriations to that object.

Also, presented joint resolutions from the same source in favor of a strict construction of the Constitution of the United States, and condemning the distribution policy as a dangerous assumption of power on the part of Congress, and requesting the representatives and instructing the Senators from that State to vote for the repeal of the distribution act of the extra session.

Mr. WILLIAMS said it would be recollected that on a former occasion it had become his duty to present to the Senate certain resolutions passed by the Legislature of the State of Maine in February, 1841, expressing the opinion of that Legislature upon several topics of interest to the country, and, among others, the subject of the distribution of the proceeds of the sales of the public lands. He desired to call the attention of the Senate to the facts which had occurred since the passage of the resolutions. In September, 1841, eight months after the promulgation of the resolution, the people of the State, in general assembly, expressed their opinions upon the subjects involved in the resolutions, and had sustained the decision of the Legislature; and he would add, with reference to the unanimity which prevailed at that general assembly, that at the election which took place of Governor for that State, the majority in favor of the Democratic candidate was about ten thousand. The resolution, then, in reference to the subject of distribution, having received the concurrence of his constituents, he desired now to bring it under the notice of the Senate.

The resolutions were ordered to lie on the table, and be printed.

Mr. MANGUM presented a memorial from the county of Buncombe, North Carolina, against the transportation of the mail on the Sabbath. The memorialists believe that the interests of the country, and the necessities of commerce, do not require it, and that, therefore, the practice ought not to be sanctioned: referred to the Committee on the Post Office and Post Roads.

THE PUBLIC PRINTING.

On motion of Mr. MANGUM, it was

Resolved, That the Committee on Printing be instructed to inquire into the practicability and expediency of procuring the printing and engraving for the two Houses of Congress and the several Executive Departments, to be done with greater economy and equal neatness, accuracy, and despatch.

Mr. M. remarked that the committee was prepared to report a plan, and simply wished the adoption of this resolution, to authorize a report of it to the Senate.

Mr. BUCHANAN presented a memorial of the Pennsylvania Society for promoting the abolition of slavery, the relief of free negroes unwillingly held in bondage, and for improving the African race, against the annexation of Texas, or any other foreign country to the United States. Mr. B. said this society was established by Franklin, and was not one of the modern Abolition societies. He moved that the memorial be laid on the table, and be printed.

Mr. KING raised the question of reception.

Mr. BUCHANAN said if the memorial came in conflict with any rule of the Senate, he would be the last man to wish to infringe such rule by any course of action.

The memorial was read, and, having no relation to the question of Abolition, was ordered to lie on the table and be printed.

Mr. B. presented a memorial from the county of Northampton, Pennsylvania, in favor of protection to the coal and iron interests: referred to the Committee on Manufactures.

Mr. KING presented the petition of Henry Goldsmith, asking to be reimbursed certain moneys advanced by him to the Alabama volunteers, for the use of the United States: referred to the Committee on Military Affairs.

Mr. WRIGHT presented a memorial of certain importers of bristles and manufacturers of brushes, asking protection by the tariff: referred to the Committee on Manufactures.

Mr. PRENTISS, from the Committee on Patents, reported a bill in addition to an act to promote the progress of the useful arts: which was read and ordered to a second reading.

Mr. GRAHAM, from the Committee on Pensions, reported back, without amendment, and with a recommendation that it do pass, the bill for the relief of Sarah Moore.

On motion of Mr. SEVIER, it was

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of amending the act entitled "An act to change the organization of the Post Office Department, and to provide more effectually for the settlement of the accounts thereof."

Mr. MERRICK presented a memorial from sundry dealers in, and importers of, jewellery, in the city of Baltimore, praying that the rate of duty on such articles may be reduced to two per cent. The memorialists represent that the duty on jewellery is so high now, that it throws all the business into the hands of smugglers, and takes it out of the hands of the regular importers, and thereby cuts off the revenues of the Government. They believe that if the duty be reduced, it will prevent smuggling, and will increase the revenue from this source: referred to the Committee on Manufactures.

Numerous private bills from the House were taken from the table, and referred to appropriate committees.

On motion of Mr. LINN, the Senate took up the joint resolution to authorize the equitable settlement of the accounts of George Whitman; and the amendment of the House thereto was concurred in, and the resolution was passed.

On motion of Mr. CRITTENDEN, the Senate took up, as in committee of the whole, the bill to confirm certain entries of land in the State of Louisiana, and to authorize the issuing of patents for the same; which was, after a few remarks from Mr. SMITH of Indiana, explanatory of its provisions, called for by Mr. KING, reported to the Senate, and ordered to be engrossed for a third reading.

LOAN BILL.

On motion of Mr. EVANS, the Senate took up, as in committee of the whole, the bill from the House for the extension of the loan of 1841, and for an addition of five millions of dollars thereto, and for allowing interest on Treasury notes.

Mr. WRIGHT hoped, before proceeding with the observations which he was about to offer upon the bill now before the Senate, he would be permitted to remark that the circumstances under which the Senate adjourned yesterday were somewhat peculiar, and he had noticed that some degree of feeling had been excited, in consequence of an inference having been wrongly drawn, that it was from personal considerations that an adjournment had been proposed. He begged to say, as he said before, that it would have been more agreeable to himself to have proceeded with what he intended to say, but that he had yielded to the motion for adjournment, in order to accommodate those who, taking a peculiar interest in the question, were desirous of approaching its discussion with feelings relieved from the fatigue which the lateness of the hour and the previous business of the day had imposed upon them. He was aware how disagreeable a thing it was to listen to a dull and tiresome speech, when oppressed with a feeling of exhaustion and fatigue. For this reason, he could not certainly feel that any discourtesy towards himself had been manifested by those who voted for the adjournment.

At the time when the interruption occurred, he was remarking upon the fourth section of the amended bill; and it would not be necessary for him to recapitulate now what he had already said, as he would probably have occasion hereafter to refer to this part of the subject. The question he was then considering was as to the influence which this section of the act would have upon the mode of obtaining proposals for loans. This section, he contended, must measure and govern the terms for proposals, in all cases and under all circumstances; and, the honorable chairman of the finance committee seeming to entertain views somewhat similar to his own, he would say no more upon this point, but merely read the section he had referred to.

This proviso simply declares, in the fewest possible words, that no stock shall be sold below par, while this section of the amended act declares that the Secretary shall sell the stock hereafter to be issued at the highest possible price that can be obtained for it, after having advertised for a reasonable time. Now he had supposed that no such negotiations as the honorable chairman of the Committee seemed to anticipate, either personal, or by agents, could be entered into for the sale of the stock below par. The terms of the advertisement he had supposed must measure, in every respect, the terms of the propositions made by lenders; and that the proposals must be made in pursuance of such advertisement, and in strict conformity to it. How could the stock be sent abroad for sale unless the agent for its sale be guided by some specific valuation of that stock? But he would dismiss this subject, and refer for a moment to the third section of the original act, which authorizes the Secretary of the Treasury to receive written proposals for the purchase of stock, or to employ an agent to dispose of the same, and to receive a compensation for effecting such sales, not to exceed one per cent. upon the amount of the stock disposed of. This provision was not in any way altered, unless it were by construction of the clause which he had just read. The fifth and last section of the original act, pledges the faith of the United States for the payment of the interest and the redemption of the principal of the loan authorized to be made under it. The fifth section of the amended bill pledges the entire revenue arising from the customs, both for the payment of the interest and the redemption of the principal, or at least so much of it as may be necessary to reach both these objects. He would here refer to a remark of the honorable chairman upon this point, and it was not the first time he had heard the objection, that the offering a specific fund in pledge for the fulfilment of our obligations, or for strengthening the faith of Government, was altogether improper, and that such an expectation on the part of the capitalist would be dishonorable, and derogatory to the character of the Government. That the men who propose to lend us money should ask us what will you mortgage for its repayment—what will you present as an assurance that you will pay your obligations, implies a want of confidence which is highly discreditable. This might be so; he (Mr. WRIGHT) was not a very nice judge of these considerations of honor, more especially where they were commingled with money; but he would venture to tell the honorable Senator that if he would converse with a Rothschild or a Baring, financiers not of a nation, but of the world, they might be called, he would find that they would quite as soon receive a visible and tangible evidence for a money obligation as honor or faith, coming from whatever source, or however solemnly pledged. If the history of the transactions of those distinguished houses had come down to us truly, they had learned long since that money would procure honor, and they had been more fortunate than many men, if they had not also learned that honor and faith do not always pay debts. He could not himself feel that the Government would be dishonored, if in connection with its plighted faith, it presented to the world when asking pecuniary credit—a specific fund to meet the payment of the obligation. He was unable, he confessed, to feel that sensitiveness which had been manifested by the honorable chairman and others, in regard to the impugning of our own credit by offering such pledge. It would be enough for his argument to say it is offered in the amended bill in cases of future loans.

But the honorable Senator says, with all that astuteness for which he is distinguished, Shall foreigners ask you what will you mortgage? Well, after all, is there any security, in point of fact, given? Not at all. They put nothing in the reach of the creditor but their faith and honor, after all.

Suppose they were to violate the provisions of the act, and expend the revenue arising from customs for some other purpose, and not redeem this stock; would the lender have it in his power to seize upon those revenues, and make them applicable to the payment of his claim? Not at all. And suppose they had pledged their public lands for the redemption of their bonds, would the holder of the bonds be able to foreclose any mortgage upon those lands, and obtain repayment? No, sir; these pledges added nothing to the security of the lender, but they served as confirmations of the intentions of the Government, which few Governments ever had, and few, he believed, ever would, violate. It was putting it in the power of the Executive officer to fulfil their obligations, and pointing out the mode by which it should be done, unless the legislative power interpose and expressly violate their engagements.

The sixth section of the amended act provides that the Secretary of the Treasury shall report upon the amount loaned, and the proposals, distinguishing those accepted and those rejected. He had but a single remark to make upon this provision—it was good as far as it went; but in the course of the emission of Treasury notes, it had heretofore been considered safer and better that that officer should be called upon to show, as often as once a month at least, to the country and to the world, how rapidly he was issuing those notes, and he believed the honorable

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X re Sen. Prentiss' retirement

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or bank check, payable to bearer. In the absence of reasons from them we must search for them elsewhere; for there must be reasons when so dangerous an innovation is attempted. What can they be? Clearly to make a currency—to make an issue of paper money to be forced upon the weak creditors at par, and sold to the strong at eighty or ninety in the hundred. This stock will be substituted for the exchequer bills, and will rest purely on faith—on public faith—will be bills of credit issued by the Secretary of the Treasury under a discretionary authority from Congress. The Secretary is to prescribe the form of these new certificates, and will doubtless give them the form which will answer the purpose—as low as five dollars—and payable to bearer, like a bank note. What is the law in relation to all paper securities transferable by delivery? The holder is the owner, and has a right to demand payment. The finder, the robber, the forger, are all on a footing in point of ownership, with the actual purchaser. They may demand pay, and payment to them is good. Not so with paper transferable by endorsement or by assignment on books. There the true owner is protected, and payment to a finder, a robber or a forgeries invalid. It must be paid over again to the true owner. Assignment on books is a security against counterfeiting; make these stocks transferable by delivery, and a new field is opened for counterfeiting—a field which must embrace both Europe and America. Books will have to be kept for part, for it is only a part of these certificates which are to pass by delivery; then why not put all on the books? Why not let the same books show all the debt, and where it is? What reason can there be to make this stock transferable by delivery—and in what form the Secretary pleases—unless it is to make a currency of it—a substitute for for the fifteen millions of exchequer issues? In fact, Mr. S. considered it as an attempt to smuggle a paper money issue through Congress, and hoped that the clause would be struck out.

Mr. EVANS observed that this section was in the bill as it came from the House. He had no idea that it gave any such authority as the Senator from Missouri imagines. It was utterly impossible that such Government stock should become a paper currency; the Treasury notes never had become a paper currency further than the quality of being redeemable in Government dues. As to the assertion that no Government stocks had ever been issued hitherto in such form, he did not know whether that was the fact with regard to this Government; but he was quite certain such was the form in which all the State stocks were issued. It is not imperative that the stock shall be made in this form, but that it may, when it is desired by the money lender upon negotiation with the Secretary of the Treasury. He pointed out the convenience of this form of stock to the holders and sellers; the only thing of consequence to the Government being that it shall be ready to pay the interest on the certificate of interest when presented by the holder. The stock may be considered of more value on account of this facility; and the only view of introducing this clause was to accommodate the bidders for the loan. He insisted that the stock was to rest, dollar for dollar, on the loan itself, and could not be converted into a paper currency.

Mr WRIGHT remarked that he had very little more to say than he had said already. He desired merely to reply to some observations of the honorable chairman of the Finance Committee, and first as regards the transfer of these Government certificates. He believed the custom had been introduced into some of the States, and had been adopted by some banking institutions, of transferring their stocks in a mode which was described by some French word which he did not remember; but he really hoped that in this country the time had gone by when a necessity for following such a practice existed. A few years ago things were going on too rapidly to permit of regular transfers even of the titles of real estate; assignments were used which could be transferred from hand to hand. But here they were about to negotiate a large Government loan, and to counterbalance the convenience of having the scrip transferable from hand to hand, with forty, or perhaps eighty, of interest receipts hanging upon them, they must set off this other convenience, which had been felt by the State of New York, to a considerable extent, that the holders of these certificates cannot divide them.

Suppose the honorable chairman holds $10,000 of the Government paper, and desires to sell one half to his friend; he must must have a duplicate set of the certificates issued from the Treasury Department. He believed that any other plan would have been preferable to this pick-tail plan of attaching the certificates. And again, in the operation of this system, if there were hazard, as he always supposed there was, of the paper being counterfeited, you incur all the danger of having your certificates counterfeited. You send out $11,000,000 at six per cent. the interest on which, in twenty years, will amount to twenty per cent. more than the original loan; and you offer by far a surer field to counterfeiters than is offered by the banking institutions. He hoped the Senate would at least strike out that provision which authorizes the transfer of these certificates.

Mr. WOODBURY pointed out inconveniences and losses which might arise by the Treasury having no means of ascertaining the rightful owners of stock when the certificates of interest were presented, or of detecting forged signatures.

Mr. EVANS did not see any difficulties that could not be guarded against so prevent the Treasury sustaining any loss by forgeries or not knowing those presenting certificates of interest. He asked had any thing of the kind ever occurred with regard to Treasury notes.

Mr. WOODBURY explained the difference between Treasury notes and this stock and form of certificates of interest.

Mr. EVANS briefly replied, contending that no loss could arise to the Treasury from forgeries.

The question was then taken on Mr. BENTON's amendment to strike out the 3d section, and resulted, yeas 28, nays 19, as follows:

YEAS—Allen, Bagby, Benton, Buchanan, Calhoun, Clayton, Fulton, King, Linn, McRoberts, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, and Young—20.

NAYS—Archer, Bates, Berrien, Choate, Crittenden, Evans, Graham, Mangum, Merrick, Miller, Morehead, Preston, Rives, Simmons, Smith of Indiana, Southard, Sprague, Tallmadge, and White—19.

The question was then put on ordering the bill to be engrossed for the third reading; when

Mr. SMITH of Connecticut obtained the floor, and addressed the Senate for nearly two hours, in a speech of much point. He considered this strictly a party question. It was one on which the two great parties of the country stood divided. He should take that view of it which he fully believed the great mass of the people entertained with regard to Whig measures. He was glad to see this country had a Government in the atmosphere of which two great parties could breathe and live. It was enough for him to know that the party to which he belonged claimed all those privileges which formed the elements of the freedom and equality guaranteed by the Constitution. He was ready to admit that the opposite party were as sincere in their views and meant as well; but there was a great difference between meaning well and doing well; and it was because he felt satisfied they were doing wrong in this measure that he opposed it. They had denied that they were the old Federal party; but he and his friends contended they were; and the proof of it was in the pursuit of the same policy and the same measures as the old Federal party—a policy calculated to run down and ruin the country. Did not the same Federal party duplicate a large national debt and high tariff? And is not the same policy the policy of the present Whig party? For what purpose? To sustain themselves and their system. The Government is to be encumbered with a debt, created on such terms as to enable the authors of it to grow rich at the expense of the country; and with the riches thus acquired, their party is to be kept in power. What have they done to redeem the promises made by them to obtain power? Are they not bound to redeem those promises? But what disposition do they show that they will fulfil any one of them? When they were out of power they accused the late Administration of gross and flagitious extravagance—even descending to the charge of the Executive indulging in luxurious furniture at the White House; but within the very first month after coming into power, as if to falsify their own assertions, they spend upwards of $6,000 on new furniture for the White House, on the pretext that it was not furnished decently enough for the habitation of the Chief Magistrate. They came in by means of such monstrous falsehoods and lies; and were the first themselves to prove that their assertions were all of that character. He read extracts from various documents in proof of his charges of falsehood and deception. He also referred to their haste to make extravagant appropriations, such as the grant of $25,000 to a widow, (Mrs. Harrison,) worth at the time $100,000, under the pretext that more than the grant was due to the family for expenditures in the Presidential canvass, and taking charge of the Government. He also enumerated various other appropriations which he considered could have no other real object in view but that mainly of building up a national debt, to enable the party to operate for its own purposes through loan bills, banks, high tariff, and other measures, converting the country into a tributary possession to be used solely for party purposes. What further evidence was wanted of the ulterior object of this system, than the investigation held out in this bill to the money power at home and abroad, to coalesce with the party administering the Government, and as an inducement, they are offered the stock at their own price. It is contended that there was a debt entailed on them by the late Administration; but if that was so, they had promised to correct the abuses of their predecessors; and why did they not immediately retrench and pay off that debt? Instead of doing this, they set about increasing the debt, till, in thirteen months, they had added sixteen millions to it, and now they want to add five more. It will not do for them to shift the responsibility from themselves, and throw it on their own President. The plea of their having been betrayed will not be admitted by the country. They had Mr. Tyler's repeated declarations throughout his public life, on those subjects which they now accuse him of having betrayed them upon. To show how unavailing this plea was, he read from several speeches and documents the opinions of the present President, previous to his election as Vice President. He next adverted to the charge made by the Whig party against the party to which he belonged, that it was the war of the Democracy against chartered rights, which had brought the country into discredit, and he asked what constitutional vested rights could corporations possess, but those granted by the people; and as the people never had delegated their sovereign power to charter corporations, what other course could the Democratic party honorably take, but that of warring against an unjust assumption of the right by Congress? But if the power did not exist in Congress to annul vested rights, how could the Whig party justify itself on its own grounds for having passed a bankrupt law to annul all vested rights of creditors against their will? On this point Mr. S. dwelt for some time, showing the inconsistency of the conduct of those who forced through the bankrupt law, contrasting that conduct with their doctrine of the inviolability of vested rights. But the Democratic party is arraigned before the world for denying the country the creation of a corporation, such as the late Bank of the United States, which squandered away a capital of thirty-five millions of dollars, and deprived so many widows and orphans of their only means of subsistence, not to mention the ruin which it brought down on other individuals as well as banking institutions and State credits. Thus the effects of Federal institutions and policy—existing in the discredit of the Government and general derangement of the whole country—are raked up and paraded as the effects of Democratic opposition to incorporated rights! These worthy and innocent bank corporations, which have spread such universal ruin; which have swept away four hundred million dollars worth of property belonging to the people; which have, by their delusions and iniquities, driven upwards of fifty of the Whigs themselves to commit suicide, are now held up as the innocent and martyred sufferers under the persecution of the Democratic party against chartered rights! And this is now urged as the reason why the country is embarrassed, and why the party in power stands accused for the state of things which exists. These are the pretexts for creating a debt, the end of which no man can see. He did not accuse the gentlemen of dishonesty in this; on the contrary, he believed they were sincerely honest in the pursuit of the policy of protecting the manufacturers by a high tariff, enforced by a national debt, which they exhibit such unwearied zeal in creating.

But this is not the only way in which the Whig system is carried out. They have placed high in office a man who committed treason on the country, by carrying, at the point of the bayonet, false returns of election in Pennsylvania. Another valuable man pressed into the Whig service was John W. Bear, the celebrated blacksmith. He would read from the Ohio Statesman some account of this valuable officer, for whose accommodation a very honest Democrat was turned out to make room. Mr. S. read the paragraph to which he had alluded. He also read from the Cincinnati Enquirer a sketch of J. W. Bear. He had read these matters to show the instruments and means resorted to to hurl from power the Democratic party, which, after years of depression, occasioned by Federal bank institutions, left but a debt of $5,000,000, but which was increased by their reform successors seventeen millions in one year. It was easy to see that the great and the only crime of the Democratic party was opposition to the darling and all ruling principle of Whig policy, to create a national debt as the foundation of a high tariff and protective system. It is part of this policy to offer this loan at less than par; that the debt may be the larger; and hence all opposition to it is characterised as factious opposition. What is it but a proposition to throw the Government into the hands of stockjobbers, money dealers and shavers, with an invitation to augment the debt as much as they please, to gratify their own cupidity, and bring about a high tariff? Although profligate as they have been in their expenditures, yet as the Government wants this loan, if they would but send their bonds into market in proper form, he would vote for their loan bill.

The question was then taken, and the bill was ordered to be engrossed for a third reading.

The PRESIDENT *pro tem.* laid before the Senate the following communication:

WASHINGTON, April 11, 1842.

SIR: Having accepted the judicial appointment recently conferred on me, it becomes my duty to resign, as I hereby do, my seat in the Senate of the United States.

In surrendering the trust I have held for no less a period than eleven years, I hope I may be allowed to say, though I do it under a deep consciousness of having discharged the high and responsible duties belonging to it in a very humble and imperfect manner, that it has been both my study and my aim to act, at all times, with a scrupulous regard to the principles of the Constitution and Government under which we live, and with a strict fidelity to the interests of the country at large, as well as to the interests of the intelligent and patriotic people to whose generous partiality, more than to any merits of my own, I have been indebted for the elevated and dignified station for two constitutional terms in succession. It is almost needless to say that it is with no small degree of pain and regret that I break off and separate myself from the relations and associations formed under circumstances of such peculiar interest, and conferring upon me, as they have done, in the highest sense, both honor and gratification. But though these relations and associations may no longer exist in fact, they will exist in lively and gratifying remembrance, and have a place near to my heart, to the most distant day of my life.

In retiring from the Senate, I shall carry with me an abiding sentiment of exalted respect for the body collectively, and the kindest feelings and sincerest personal regard for every member individually. To each and all I beg to present my unfeigned acknowledgement for the kindness and courtesy they have invariably manifested towards me at all times and on all occasions, and to assure them, though it may be a poor return for so much undeserved partiality and favor, that they will always have my best wishes and most fervent prayers for their health, prosperity, and happiness.

I am, with high respect, your ob'dt servant,
SAMUEL PRENTISS.

Hon. SAMUEL L. SOUTHARD,
President of the Senate.

On motion of Mr. TAPPAN, the President *pro tem.* was directed to communicate to the Governor of Vermont the fact of resignation.

The PRESIDENT *pro tem.* laid before the Senate the following message from the President of the United States relative to claims to land under the treaty at Dancing Rabbit Creek, viz:

To the Senate of the United States:

I herewith transmit a memorial which I have received from the Choctaw tribe of Indians, and citizens of the State of Mississippi, with a request that I should communicate the same to Congress. Thus I did not feel myself at liberty to decline, inasmuch as I think that some action by Congress is called for, by justice to the memorialists, and in compliance with the plighted national faith. JOHN TYLER.

On motion of Mr. MOREHEAD,

Ordered to be printed and referred to the Committee on Indian Affairs.

On motion of Mr. MANGUM,

The Senate then adjourned.

HOUSE OF REPRESENTATIVES,

MONDAY, April 11, 1842.

Mr. HOWARD, of Michigan, asked leave to offer the following resolution, which was read for information:

Resolved, That a select committee be appointed, with instructions to inquire into the expediency of constructing a ship canal around the Sault St. Marie, in the State of Michigan, and that they report to this House what acts had been passed, and what steps taken by the State of Michigan, with a view to the construction of such canal, and also what would be the probable expense of construction upon a channel as will effectually extend the steamboat navigation of Lake Erie, Huron, and Michigan, into Lake Superior.

Mr. CAVE JOHNSON objected.

Mr. READ, of Pennsylvania, desired to present certain petitions, of the appropriate disposition of which, under the 21st rule of the House, Mr. R. expressed himself doubtful.

Mr. TRIPLETT objected.

The SPEAKER explained to Mr. READ that, under the order of the House of a former day, special provision was made for such cases of doubtful character as the gentleman alluded to.

Mr. READ of Pennsylvania presented the petition of Ebenezer Sprout, of Bridgewater, Susquehanna county, Pennsylvania, praying that a pension be granted to him; which was referred to the Committee on Pensions.

Also, presented the petition of Isaac Porter, of

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THE

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1842.

LIS - 5c

LEGISLATIVE INTENT SERVICE (800) 666-1917

sign the judges' districts, it was passed through all its stages.

The House then adjourned.

IN SENATE.

TUESDAY, August 2, 1842.

Mr. KERR presented a petition from certain persons of Albany, New York, manufacturers of medicines, praying that Congress will pass a law protecting inventions of new designs: referred to the Committee on Patents and the Patent Office.

Mr. BATES, from the Committee on Pensions, made adverse reports on certain House bills for the relief of individuals, (names not heard;) which were ordered to be printed.

Also, reported back, with an amendment, House bill for the relief of Jeremiah Kimball.

Mr. KERR, from the Committee on Patents and the Patent Office, reported back, with amendments, the joint resolution authorizing the printing and distribution of the Digest of Patents; and, on motion of Mr. KERR, the previous orders of the day were postponed, and the amendments of the committee were considered, and agreed to; and the resolution was informally passed over till to-morrow.

On motion of Mr. STURGEON, leave was granted to take from the files the petition and papers of D. S. Clark.

Mr. SIMMONS presented a memorial from Thomas Denny and others, of New York city, importers of foreign straw goods, representing it as their opinion that it would be impolitic to impose a greater duty in cash than 30 per cent. on straw hats, and 20 per cent. on straw braids: ordered to be laid on the table.

Mr. CHOATE presented a memorial from the inhabitants of Linn, Massachusetts, praying that Congress will repeal the law allowing a bounty or drawback on the exportation of spirits distilled from molasses: ordered to lie on the table.

THE CONTINGENT APPROPRIATION BILL.

House bill legalizing and making appropriations for such necessary objects as have been usually included in the general appropriation bills, and providing for contingencies in the several departments, was read twice, and ordered to be printed and referred to the Committee on Finance.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Treasury Department, reporting, in compliance with a resolution which passed the Senate on the 13th instant, at the instance of Mr. WOODBURY, that since the repeal of the independent treasury bill, the public money, except such as was on deposite in the mints, and sundry balances in the hands of public officers appointed by law, had, under the direction of the Secretary of the Treasury, been deposited in sundry banks and saving institutions for safe-keeping.

On motion of Mr. WOODBURY, ordered to lie on the table, and be printed.

THE ARMY APPROPRIATION BILL.

On motion of Mr. PRESTON, the proposition of the Chairman of the Committee on Finance to appoint a committee of three Senators to meet a committee on the part of House to confer on the disagreeing votes between the two Houses on the army appropriation bill, was taken up; and the motion was agreed to, and Messrs. EVANS, BENTON, and PRESTON were appointed to constitute the committee on the part of the Senate.

NAVY PENSIONS.

House bill entitled An act making an appropriation for the supply of the deficiency in the navy pension fund, came up in order, as in committee of the whole.

Mr. ARCHER explained that the bill was intended to supply the deficiency in the fund out of which, by law, the navy pensions were authorized to be paid. That fund had, a year or two ago, become insolvent, in consequence of the exhausting effects of the law of 1837; which had improperly foisted upon it others than those who were originally intended by the acts of Congress. That law authorized pensions to the widows or children of all navy officers and seamen who died in the service, whether from wounds received in the service, disease contracted in consequence of performing the duties of the service, or in the course of nature. The previous laws did not; but confined them to cases where death ensued from casualty or disease contracted in the performance of duty. The fund became inadequate to sustain this new class of cases, not only was the interest, but the principal exhausted; and last year a large amount had to be appropriated out of the common treasury, to meet the pensions. Due appropriation was made, with a proviso that all pensions allowed under that act should cease at the end of the then next session of Congress. The appropriation now called for was to supply the fund so far as to meet the pensions due under the former act. The second section of this bill was intended to carry out the repealing act of the last session of Congress.

Mr. CHOATE moved to amend the bill with a proviso, to the effect that the widows and children of all naval officers, seamen, and marines, now deceased, who were entitled to receive pensions under the acts of the 16th of August, 1841, and of the 3d of March, 1837, and as well after as before the present session of Congress, shall continue to receive the same.

Mr. C. examined the provisions of the different navy pension laws of Congress prior to 1837, as well as the law of 1837, with a view to show that they all stood upon the same principle; that they all guarantied pensions to the widows; and, in case of the death of the widows, the children of all officers, marines, and seamen, who died in the naval service, and who shall die in the naval service, without regard to the fund out of which they were to be paid; that the only difference between the law of 1837, and the previous laws, was, that the latter extended pensions to all cases of death in the service. The law of 1841 so far repealed the law of 1837 as to declare that pensions under it should cease after the end of the present session of Congress. His amendment was intended to continue pensions to those who had been placed on the roll under the law of 1837; it was to add none to the pension roll since the 16th August, 1841. He maintained, that to suddenly strike from the roll the widows or children of the officers, &c., placed there by the act of 1837, would be a proceeding of great severity and hardship; for that law, like all preceding laws, declared that all the widows, (and, in case of the death of the widows,) the children of officers, marines, and seamen, who died, or should thereafter die in the service, (without reference to cause,) shall be entitled to a pension. This, he argued, was a compact—a sacred compact between the Government and those officers and seamen who entered the service—that, in case of their death, their widows or children would be pensioned. They entered the service with that impression; and some have died in the service, and their widows have been pensioned; they have built up their hopes and expectations on this obligation of the Government—have arranged their affairs with reference to it; and, under such a state of things, he contended that it would be a most unjust and unmerciful proceeding to strike them suddenly from the roll. If the law of 1837 was improvident, as was believed by many, it ought not to have been passed; but, if it was repealed, the repeal should at least be prospective. It was better becoming the Government, that we, who were able, should bear the loss, than those who, by the indiscreet promises held out to them, had built up their hopes and expectations upon those promises—promises, too, specific and unequivocal. The word of the Government, he said, should be as good as the bond of the Government; and he maintained that it was the duty of the Government, in altering its laws granting pensions, to respect any right acquired under existing laws.

Mr. C., after dwelling at much length on the hardships of the case, argued that it would be a violation of the plighted faith of the Government to repeal the law of 1837, so far as it would affect those who had been placed on the pension roll under it.

Mr. WILLIAMS was opposed to this amendment. He said that the law it proposed to revive was impolitic and unjust, to say the least of it. He did not know why it was that Congress was called upon to revive the law of 1837. It was not, he was sure, public opinion that called for it; for it was universally condemned as impolitic and unjust. The navy pension fund had been overreached by it. The laws prior to 1837 authorized pensions to the widows or children of officers, marines, and seamen in the naval service, who died, or should thereafter die, in consequence of wounds received, or diseases contracted, or were lost in the performance of their duty. These pensions were to be paid out of the interest derived from the navy pension fund of $1,300,000. In consequence of the passage of the law of 1837, which extended pensions to the widows or children of all officers, marines, and seamen who died, or might die, in the naval service, in the course of nature, the whole fund was exhausted; and, at the last session of Congress, a large amount was appropriated to supply the deficiency, to meet pensions then becoming due. In consequence of that exhaustion, an appropriation was now necessary to provide for the pensions which were legitimately chargeable on that fund.

He conceived that the amendment proposed went farther than the law of 1837; it would continue on the roll those who were entitled to five years' pension only. Mr. W. argued that there was no vested right in those pensions—that the faith of the Government was not pledged to continue their payment out of the common treasury—that the whole system was founded on the navy pension fund—and that, beyond that fund, legitimately applied, it was never intended to grant one dollar. He hoped the amendment would be rejected.

Mr. SEVIER inquired whether the bill provides for the repeal of the law of 1837.

Mr. ARCHER replied that the law of 16th August, 1841, made a change in the law of 1837, to the effect that all pensions under it should cease at the end of this session. This was to enforce that repeal. He then spoke at great length against the amendment. He denounced the law of 1837, which it proposed to revive, as a most iniquitous fraud upon the fund, and a most unjust measure.

Mr. WOODBURY argued that, if the fund had been exhausted by invalids, it would have been the duty of Congress to reimburse the fund; but that it was not its duty to reimburse it so far as it had been improperly exhausted. It was never intended that these pensions should be paid out of the common treasury. He said the pensioners under the law of 1837 had received already from the pension fund more than they were entitled to, and that they had not a shadow of claim upon the general treasury.

The question was then taken on the amendment of Mr. CHOATE, and decided in the negative—yeas 12, nays 27, as follows:

YEAS—Messrs. Bates, Choate, Clayton, Evans, Huntington, Kerr, Miller, Smith of Indiana, Sprague, Tallmadge, White, and Woodbridge—12.

NAYS—Messrs. Allen, Archer, Bagby, Benton, Buchanan, Calhoun, Conrad, Crafts, Crittenden, Cuthbert, Dayton, Graham, King, Linn, McRoberts, Preston, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Wilcox, Williams, Woodbury, Wright, and Young—27.

Mr. WILLIAMS remarked that, previous to the passage of the law of 1st January, 1835, the pay of the officers was regulated at so much per month, according to the grade; but by that law the pay was fixed at $2,000 or $3,000 per year, depending upon the grade. The consequence is, that the widows of officers who died previous to that law were paid at the rate of the half-pay per month, and those who died subsequent to the passage of the law at the rate of the half-pay per year. Mr. W. wished to preserve in the system some uniformity, and therefore moved to amend the second section of the bill by adding the following:

That all pensions to officers, &c., in the naval service, shall be regulated by the pay as it existed on the 1st of January, 1835.

The question was put on the amendment, and it was agreed to.

Mr. BENTON moved to amend the bill, by adding the following as an additional section:

And be it further enacted, That, in all cases of application hereafter made for admission on the navy pension list of the United States, the said application shall be governed and de-

LEGISLATIVE INTENT SERVICE (800) 666-1917

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1842.

LEGISLATIVE INTENT SERVICE (800) 666-1917

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over a year, he had been on to Washington five or six times. Having thus obtained leave of absence from the master-armorer, the committee came on to Washington, waited on the President, and represented their grievances to him. They also waited on the Military Committees of the Senate and the House, and on several of the members of both Houses. But whilst they were here, in this lawful and orderly way, this very military superintendent, living at Fuller's Hotel, wrote home to the master-armorer to discharge every one of them; and they were discharged. This, Mr. C. said, was a specimen of oppression which he hoped had never yet found a parallel in this country. [Turning to Mr. STANLY,] Mr. C. asked if there was ever anything like it at the branch mint in North Carolina. Mr. C. said he could, if his time permitted, give many other specimens of oppression and injustice that had been practised towards these armorers.

Here, Mr. CALHOUN's hour expiring, he expressed a wish to be allowed a few minutes longer; in which several of the members joined.

The SPEAKER said that the rule was imperative, and could only be suspended by a vote of two-thirds.

Mr. BOWNE rose, and moved to strike out the second section, which substitutes a military superintendence of the armories for a civil one.

The CHAIR said that the motion was not then in order, the question being on the motion of the gentleman from Ohio [Mr. MASON] to amend the amendment of the gentleman from Tennessee, [Mr. C. JOHNSON.]

Mr. WARD observed that he would have been very happy if the honorable gentleman who had just addressed the House [Mr. CALHOUN] could have been permitted to go on. As it was, however, he would ask permission of the committee to make a few observations himself. It would be recollected that a message had this morning been received from the Senate, insisting on their amendments to the army appropriation bill, and asking for a conference. Now, by appointing a Committee of Conference to meet that of the Senate, the difficulty could be adjusted without much farther debate; and he hoped this course would be taken at once. For one, he admitted that there was a majority of the House in favor of reducing the army; and he would do nothing to impede the course of the majority, or to throw any obstacles in their way, reluctant as he was to see this important branch of the public defence cut down. If the reduction must be made, it appeared to him that the best way would be for the committees of the two Houses to agree on the extent to which it was to go, and to report it to their respective Houses. In this way the reduction could be effected with less time than by proceeding on this bill. Viewing the state of our foreign affairs, he had opposed the reduction for the present; and he had also opposed it, because of the exposed situation of the Southwestern frontier, as represented by the members from that section of the country. He objected, also, because it seemed to him that an appropriation bill should not be shackled by provisions of such a nature. We now find (said Mr. W.) on our tables a bill passed by the Senate, making a considerable reduction in the expense of our military establishment, yet still leaving its organization complete; and we, therefore, have it in our power to settle the question of reduction, without going to the extreme lengths provided for in the appropriation bill. There were many members on this floor desirous of placing the army on the same footing that it was placed by the act of 1821; and in order, therefore, to act understandingly on the subject, it was important to know what alterations had taken place since that time. The first addition that was made to the army was three surgeons and five assistant surgeons. In consequence of the number of little posts at which the army was distributed—at some a company, and at others a half company—it had been found a measure of economy to make this addition to the medical staff, instead of employing citizen surgeons as occasion required. The next additions were the dragoons, and the 8th regiment of infantry, with an additional number of engineers and ordnance officers. And he would remark that this 8th regiment, which the gentleman from Tennessee proposed to strike out of existence, was commanded by the gallant Colonel Worth, one of the ablest and most meritorious officers in the service. It would be recollected, also, that that regiment had served with distinction in Florida, and that its services there were not yet ended. The next proposition was to strike out of existence the 2d regiment of dragoons, which had also zealously and efficiently encountered the dangers and privations of the Florida war. He would venture to say that no regiment in the service had performed more faithful service; and yet it was proposed to disband it, even before it was known that it could be spared from the service it was engaged in. Still, if it had not been for the declaration of the members from the Southwest, that they could not dispense with this regiment, he would have been content to see it reduced; but, after hearing such arguments as they had offered against its reduction, he could not give his vote for it. Though he bowed with submission to the will of the majority, and would not lay one straw in their way, yet he hoped that, in consideration of the powerful reasons that had been urged by the Southwestern members, the House would, in preference, take the bill sent from the Senate, and be content with the reduction therein made.

Now, when it could be shown that, by amendments already made, a saving had been effected of upwards of a million of dollars, he would ask of gentlemen if they had not accomplished enough for the present? If it should be found necessary to make a further reduction, it could be done at the next session of Congress, when, he trusted, it would be found that all our difficulties with England had been satisfactorily adjusted. Surely a saving of one million of dollars ought to be sufficient for the present; and, by being content with that, the present organization of the army would not be impaired, nor its efficiency diminished. In the event of the proposition of the gentleman from Tennessee passing, everything would be broken up, and the army left in an imperfect and disorganized state. The 2d dragoons and the 8th regiment would be disbanded, and the engineer and ordnance corps would be completely cut up. He had heard a good deal said with regard to the great expense of the army; and he had heard a great deal in favor of retrenchment; but, in speaking of extravagant expenditures for this branch of the public service, he apprehended that gentlemen had gone too far. The people throughout the country had been led to believe that the army cost upwards of eleven millions of dollars a year. This was idle; for, with the bill proposed by the Senate, the expenses of the army would not amount to more than three millions. Then, how was it that all this expense had been incurred? Why, there was a pension list, costing $700,000; and the annual expense for fortifications, amounting to two or three millions more. He apprehended that there were few gentlemen there disposed to withhold the pittance granted to the old soldiers who had achieved our independence, so that no saving would probably be effected in this item; but, with regard to the fortifications, the system was nearly completed, and in a short time the expenditure for them would cease. The same mistake had been made with regard to the navy. Take away the expenditure for the gradual increase of the navy, and the sum for the navy proper would not amount to more than two or three millions. With regard to the civil list, the expenditures did not amount to more than two millions. The whole expenditures of the Government could therefore be reduced to a very small sum; and if his friends in the majority would turn the administration of public affairs over to the Democratic party, he would answer for it that they would reduce them within the income derived from the customs and the public lands. Mr. W. concluded by expressing the hope that these few remarks would be received in the spirit in which they were made, and that they would go to work and pass the bill, and, in two weeks from that time, return to their homes.

Mr. EDWARDS of Missouri obtained the floor; but yielded it to

Mr. CAVE JOHNSON, who suggested that the committee had better rise, and appoint a Committee of Conference to meet that of the Senate on the disagreeing votes of the two Houses in relation to the amendments to the army appropriation bill. In this way (Mr. J. said) the difficulty might be settled without a lengthy debate.

Mr. McKAY, after a few remarks to the same effect, moved that the committee rise; which motion prevailing, the committee rose, and reported progress.

On motion by Mr. FILLMORE, the House insisted on its disagreement to the amendments of the Senate, and ordered that a Committee of Conference be appointed to meet that of the Senate.

Mr. CAVE JOHNSON submitted a resolution calling on the Secretary of War for a statement of the allowances made to General Hernandez and Colonel Duncan L. Clinch, under the act of 2d March, 1839; which was adopted.

Mr. STANLY submitted a resolution that all debate on the bill for the reorganization of the army should cease on to-morrow at 12 o'clock; and that the committee should then proceed to vote on the amendments.

Mr. WELLER objected to the reception of this resolution.

The SPEAKER said that a resolution of this kind was always in order.

Mr. CAVE JOHNSON requested the mover to modify the resolution by substituting 3 o'clock for 12; which was assented to.

Mr. C. JOHNSON further requested a modification, so as to allow an explanation of ten minutes on each amendment that might be offered; but this Mr. STANLY would not agree to.

The resolution was then adopted.

Mr. FILLMORE submitted a resolution directing the Committee on the Library to inquire into the expediency of employing a competent person to prepare a digest, or analytical index of all the public documents; which was agreed to.

The House then adjourned.

IN SENATE.

WEDNESDAY, August 3d, 1842.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Secretary of the Treasury, covering a statement from the Register of the Treasury, made in compliance with a resolution of the 30th of July, showing the amount of money appropriated by Congress, since the year 1835, to satisfy private claims, as follows: In 1836, $155,885 99; in 1837, $101 235 40; in 1838, $268,105 91; in 1839, $173.459 08; in 1840, $74,722 71; in 1841, $218,156 09: total, $991,565 08, in six years; which,

On motion of Mr. EVANS, was ordered to be printed.

Mr. BAGBY presented a petition from the heirs and legal representatives of Robert C. Lane, relative to certain slaves detained at Mobile; which was referred to the Committee on the Judiciary.

Mr. EVANS, from the Committee on Finance, reported a bill for the relief of the sureties of the New Orleans and Nashville Railroad Company; which was read, and ordered to a second reading.

Mr. EVANS, from the same committee to which had been referred the joint resolution to authorize the Secretary of the Treasury to settle, upon certain terms, the liabilities of the sureties of Gordon S. Boyd, late receiver of the public moneys at Columbus, Mississippi, reported the same back, with an entire substitute; which was ordered to be printed.

Mr. PHELPS, from the Committee on Revolutionary Claims, reported back, without amendment, the act for the relief of the legal representatives of William T. Smith, who lost certain loan certificates, and recommended its passage.

Mr. MERRICK, from the Committee on the Post Office and Post Roads, to which had been referred the bill for the relief of Joseph F. Caldwell, which had been returned from the House with a disagreeing vote to an amendment by the Senate, reported the same back; with a recommendation that the Senate insist on its amendment.

The question was put, and the Senate insisted.

On motion of Mr. KERR, the Senate took up for consideration the bill entitled An act in addition

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CONGRESSIONAL GLOBE.

BY BLAIR AND RIVES. —WEEKLY— PRICE $1 PER SESSION.

27TH CONG.....2D SESS. SATURDAY, AUGUST 6, 1842. VOLUME 11....No. 53.

Continued from No. 52.

to an act to promote the progress of the useful arts.

[The 2d section of the bill proposed to so extend the provisions of the 3d section of the act of March, 1837, which authorizes the renewal of patents lost prior to the 15th December, 1836, as to allow a renewal of those granted prior to that date, though they may have been subsequently lost.

The 3d section provides that any person or persons who, by his, or her, or their own industry, genius, effort, and expense, may have invented or produced any new and original design, for a manufacture, for the printing of woollen, silk, cotton, or other fabrics; for a bust, statute, or bas relief, or any new and useful pattern, or print, or picture, may make application in writing to the Commissioner of Patents, expressing such desire; and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now, of application for a patent; and providing that the fee shall be half the sum paid by the respective applicants, and the duration of said patent shall be 7 years.

The 5th section defends the patentees in their rights, by attaching a penalty of $100 and costs for a violation of such rights, to be recovered on action in the United States district and circuit courts; one-half to go to the patent fund, and the other half to the person suing.]

Mr. KERR explained, at great length, that the bill was intended to apply the rights of patents to new objects, and thereby bring additional revenue into the patent department, and to protect the rights of patentees.

Mr. WRIGHT said, if he understood the bill, it opened the doors as broadly to foreigners as it did to our own citizens; that any foreigner who makes an invention can procure a patent for it; the only difference being the price to be paid for the same.

Mr. KERR said the patent law would remain the same under this bill as under existing laws, except as to the objects patentable. Foreigners under it (being Englishmen) will have to pay $500 for a patent; French, and other nations, $300; but Americans only $40.

Messrs. WRIGHT and CLAYTON maintained that such would be the construction of the bill, as the third section now read; and that foreigners, instead of paying $500 and $300, would only have to pay half that sum.

Mr. MERRICK, to avoid such construction, moved an amendment; which, after a few remarks by Messrs. PRESTON and SURGEON, as to their understanding of the section, was adopted.

Mr. WRIGHT took exception to the second section, which, he believed, would have the effect to enable patentees, whose patents had expired, to come forward and obtain a patent for inventions which were in general use—such as ploughs and other agricultural inventions; and thus enable them to lay a heavy tax on those who happened to have those inventions in use. He was opposed to giving a renewal of a patent to any one under such circumstances.

Messrs. KERR and HUNTINGTON saw no reason that the privileges should not be extended to those whose patents had expired after as well as before the burning of the Patent Office building.

The question now being on ordering the bill to be engrossed for a third reading,

Mr. HUNTINGTON said he wished to examine its provisions more fully, and moved to postpone the further consideration of the bill till to-morrow. The question was put, and the motion was agreed to.

Mr. SEVIER, from the Committee on Indian Affairs, reported a bill for the relief of Joseph Bryan, Harrison and Benjamin Young; which was read, and ordered to a second reading.

Mr. MERRICK, from the Committee on the Post Office and Post Roads, reported back, without amendment, the joint resolution for the extension of certain contracts for carrying the mail.

Mr. WALKER said he asked the indulgence of the Senate to correct a very great misapprehension of his remarks in the Intelligencer of this morning. Under the head of their Congressional Analysis was the following statement:

"But this was not all: the law lately passed to meet the McLeod case confers on the Supreme Court of the United States a jurisdiction the larger, just in proportion as you augment the number of aliens; and that jurisdiction is not only of civil, but of criminal cases.

["Rather inexact, Mr. WALKER, for one who, making laws, should understand them. "Criminal jurisdiction," used in this way, without the intimation even of any restriction, conveys the positive idea of the possession of all criminal cases whatever, from the filliping of one's nose up to murder in the first degree. Now, everybody knows that the law in question confers a criminal jurisdiction limited to such cases as McLeod's, when not an expatriated man, who has renounced the protection of his sovereign, but one acting directly under his orders, commits, in their execution, an act, not of personal, but of national violence, against a citizen of the United States. The legislator who teaches such an extreme misapprehension of the laws, runs some risk of being instrumental to their being broken and set aside."]

Now, if the Intelligencer had chosen to refer to his speech on this bill, published at length in the Globe of the 29th of July, they would have perceived how erroneous was this statement. In that speech he (Mr. W.) had proved, not that the bill in question embraced every criminal case, but that it was based on principles by which Congress, in its discretion, might give to the Federal courts exclusive jurisdiction in *all* cases, civil and criminal, in which an alien was a party; and the same remarks were repeated on the last occasion. This fact, too, must have been known to the Intelligencer, for they had before them his (Mr. W.'s) printed speech, and, also, that of the Senator from Massachusetts, to which his (Mr. W.'s) was a reply. In that speech, in defence of the McLeod bill, that Senator said, in his argument written out by himself, and printed long since by the Intelligencer, as follows:

But, Mr. President, on this question listen to a witness of the age of the Constitution; listen to the "genuine information delivered to the Legislature of the State of Maryland relative to the proceedings of the general convention held at Philadelphia in 1787, by Luther Martin, esq., attorney general of Maryland, and one of the delegates in the said convention." Mr. Martin, just returned from the convention, of which he had been an energetic member, in the presence of one or more of his colleagues in that body; in the presence of the House of Delegates of Maryland, to which he was making an elaborate report of the deliberations and proceedings which had resulted in the Constitution, and an elaborate analysis of the Constitution itself, then and there employs this language:

"The inquiry concerning, and trial of, every offence against, and breach of, the laws of Congress are also *confided* to its courts. *The same courts, also, have the sole right to inquire concerning, and try, every offence, from the lowest to the highest, committed by the citizens of any other State, or of a foreign nation, against the laws of this State, within its territory.* And in *all these cases*, the decision may be ultimately brought before the supreme tribunal, since the *appellate jurisdiction* extends to *criminal*, as well as to civil cases."—*Yates's Minutes of the Federal Convention of 1787. 4 Elliot's Debates, page 46.*

He, then, certainly believed that "*controversies*" embraced *criminal* controversies. I know he opposed and dreaded the Constitution. I even admire, although I wonder at and disapprove, the solemn earnestness and energy of thought and expression with which he cautions the delegates of Maryland to dash to the earth the cup of poison which the convention had commended to their lips. But he was then a man, as I have always heard, of a most powerful and penetrating understanding; trained by all the learning, and by the long exercise of his profession, and of perfect integrity and honor. That he rightly comprehended the objects and the provisions of the judicial power, would seem, in the highest degree, probable; that he would venture—the highest law officer in Maryland—at the head of his profession—fresh from the sittings of the convention—in presence of his colleagues—in presence of the Legislature—to misstate these objects and provisions, *I do not believe.* Certainly you cannot produce a particle of contemporaneous testimony in opposition to this, to be compared a moment with it for pertinence and for strength."

Here the Intelligencer had before them, in their own columns, in this very able argument in favor of the McLeod bill, the unequivocal statement that the bill could be extended, at the discretion of Congress, to embrace all the cases stated by him, of "*every offence*" committed by an alien, "from the lowest to the highest;" or, as the Intelligencer states, "from the filliping of one's nose up to murder." And yet, for this statement made by him, and which was exactly true, and will not be questioned by any Senator, the Intelligencer deemed his (Mr. W.'s) misapprehension so great as to render him more fit for a law-breaker than a law-maker. Mr. W. said, after such extraordinary and most unwarrantable remarks of the Intelligencer, he could not forbear to state, that never, as he believed, had any speech, written out at large by him, been republished by them. In this respect he desired no change, and made no complaint; on the contrary, he regarded this omission rather as a compliment. But, inasmuch as the Intelligencer thought proper to withhold from their readers all his speeches written out at large by himself, he thought he had a right to ask that they would withhold all comment on those speeches; and especially that they would not substitute their misapprehension for the printed speech. It was due to candor that he (Mr. W.) should state that the Senator from Massachusetts had not placed his main reliance on the doctrine quoted from Luther Martin; still he had stated his clear conviction that Congress might exercise such a power, and had made a most able and very elaborate argument to prove it.

THE TARIFF BILL.

On motion of Mr. EVANS, the Senate proceeded with the unfinished business of yesterday, (being the further consideration of the revenue bill,) as in committee of the whole; the question pending being on Mr. BENTON's amendment to strike out the word *seven*, and insert *five*, in the 9th line of the first section; which will be understood from the following extract of that part of the first section in which the word *seven* occurs:

"On coarse wool manufactured, the value whereof, at the last port or place whence exported to the United States, shall be *seven* cents, or under, per pound, there shall be levied a duty of five per centum ad valorem.

Mr. BENTON said that on this motion, as on all others to be made either by himself or others, he intended to be brief, limiting himself to the explanatory statements which were necessary to make his object known. He wished to have his share in the legislation of the session, and for that purpose to offer the amendments which he deemed necessary to improve the character of the bill; but he did not wish to delay the action of the body, and prolong a session already too long. The bill before the Senate was an important one—a tax bill of 54 pages—and it was his right and his duty to attempt to improve it. He could not reconcile it to any sense of duty to permit 54 pages of taxes to go through the Senate without examination, and without attending to details, and the duties on items, in which all practical legislation depended. The present motion was to reduce the minimum on wool from 7 cents to 5 cents. By the bill, wool was divided into two classes: above 7 cents cost, it is to pay a heavy duty, to wit: 3 cents per pound, and 30 per centum on the value; costing less than 7 cents, it is to pay but 5 per centum, which is the same as free.

Now the object of the bill is revenue, and these rates defeat revenue: one is too high, the other too low. All the wool that is imported, will be so managed as to bring it under the 7 cents cost. This is proved by experience. The same classification of imported wool has been heretofore made—8 cents being given in place of 7—and what was the consequence? Why, that nine millions of pounds weight of foreign wool was imported at a value under 8 cents, to wit, at 7¼ cents; and only half a million pounds weight above the value of 8 cents. Thus, there was no revenue from wool! and thus it will be again; for although 7 cents is substituted for 8, yet the universal reduction of prices is greater than in that proportion; and the result will be the same under the minimum of 7 as of 8. No revenue will be had from wool, and an injury will be done to agriculture. Wool is an agricultural product. All parts of our country produce it, and produce all qualities of it, and in any quantity that the manufacturers can consume. The argument on the other side is, that no

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four surgeons and four assistant surgeons: agreed to—ayes 88 noes not counted.

Mr. CALHOUN moved to strike out the 5th section, which authorizes the Ordnance department to appoint a competent person to superintend the manufacture of cannon, with the pay and emoluments of a major of ordnance.

This motion was agreed to—ayes 89, noes not counted.

Mr. McKAY moved to strike out the 6th section, and insert the following:

"That all the laws heretofore passed, authorizing the Presidents or the Secretary of War to make an allowance of double rations to any officers, be, and the same are hereby, repealed.

Rejected—ayes 54, noes 71.

The question recurring on Mr. CAVE JOHNSON'S amendment,

Mr. MOORE moved to amend it, by striking out the first section, and inserting a provision, authorizing the President to convert the second regiment of dragoons into a regiment of mounted riflemen: rejected without a division.

Mr. ADAMS moved to amend Mr. JOHNSON'S amendment, by striking out the second section, which authorizes the President to organize a regiment of mounted riflemen out of the officers and privates of the second regiment of dragoons and eighth regiment of infantry: carried—ayes 92, noes not counted.

The question was then taken on Mr. JOHNSON'S amendment as amended, and it was rejected without a division.

Mr. McKAY offered an amendment, as an additional section, as follows:

And be it further enacted, That the pay and emoluments of the officers of the corps of engineers, topographical engineers, ordnance, pay, and medical departments, also the general staff proper, shall be the same as are, or may be, paid to officers of like grade in the regiments of artillery and infantry, except captains in the general staff, who shall be allowed forage when it may be necessary that they shall be mounted.

The amendment was negatived.

The committee then rose and reported the bill.

The SPEAKER having taken the chair, he stated the question to be on the first amendment which was offered by the gentleman from Ohio, [Mr. S. MASON,] to abolish the second regiment of dragoons on the 1st October next.

Mr. CAVE JOHNSON opposed the bill in the shape in which it now stood, and moved to lay the whole bill on the table; on which he demanded the yeas and nays, and they were ordered. The yeas and nays were taken, and resulted as follows—yeas 65, nays 116.

Mr. STANLY moved the previous question; which was sustained by the House.

The amendments made by the Committee of the Whole were then ordered to be printed.

The House then adjourned.

IN SENATE.

THURSDAY, August 4, 1842.

Mr. BATES, from the Committee on Pensions, made adverse reports on bills from the House for the relief of John Keith, Samuel Hutchinson, and John E. Wright; which were ordered to be printed.

Mr. B. also made an adverse report from the Committee on Pensions, on the petition of Mary Bright, of Washington city; which was ordered to be printed.

The adverse reports of standing committees in the cases of Charles Markle, Robert Dickerson, Richard K. Meade, John Phillips, administrator of Walker & Phillips, and Rebecca Bright, were taken up and concurred in.

Mr. GRAHAM, from the Committee on Claims, made an adverse report on the claim of R. C. Raglaud, for supplies furnished to certain militia in the service of the United States; which was ordered to be printed.

On motion of Mr. GRAHAM, the Committee on Claims was discharged from the further consideration of the petition of the watchmen employed on the executive buildings in Washington, praying to have the benefits of the act of March, 1837, allowing a per centum upon salaries of the clerks and messengers of the executive offices, extended to them.

Mr. EVANS, from the Committee on Finance reported a bill to extend the time on which the duties on certain railroad iron imported by the State of Michigan, being laid for permanent use, may be remitted; which was read, and ordered to a second reading.

The bill in addition to An act to promote the progress of the useful arts, (an analysis of which was published in the Globe of yesterday,) was resumed as in committee of the whole.

Mr. HUNTINGTON said, since yesterday he had examined the 24 section, and was satisfied that its only effect was to allow persons who had lost patents since the act of 1837 to record them again, in the same manner as those who had lost their patents prior to that act.

Mr. WRIGHT suggested to the Senator from Maryland [Mr. KERR] to confine the operation of the 24 section to citizens of the United States, or those who intend to become citizens.

Mr. KERR, in accordance with the above suggestion, moved to amend the section, by striking out the words "person or persons," and inserting the words "citizen or citizens, alien or aliens, having resided one year in the United States, and taken the oath of their intention of becoming a citizen or citizens of the United States."

After a few remarks by Mr. HUNTINGTON, the question was put on the amendment, and it was agreed to.

The bill having undergone several amendments suggested by Mr. WRIGHT, to prevent foreigners coming here and taking out a patent for inventions brought here from abroad by American manufacturers, and in their use, was reported to the Senate; and, after a few explanatory remarks by Messrs. KERR and CALHOUN, was ordered to be engrossed for a third reading.

The Senate then resumed the consideration, as in committee of the whole, of the bill for the relief of Esther Johnson, the widow of Col. Jonas Johnson—the question pending being the motion of Mr. WOODBURY to recommit the bill to the Committee on Pensions.

Mr. GRAHAM explained that, with reference to this bill, it was simply a question whether the pension to which the widow was entitled under the law of 1836, (she having died while the application was pending,) shall be paid to her heirs, in accordance with the construction given that law at the Pension Office. If the bill were passed, it would establish no new principle.

Mr. PHELPS spoke at great length, contending that Congress had uniformly rejected claims of this character—granting to the heirs a pension which the parent had been entitled to, yet had never received. Mr. P. pointed out the distinction between the navy pension system and the pensions for revolutionary services, with a view to show that the opinion of the Attorney General on the navy pension laws, declaring the heirs to be entitled in case of the death of the parent; and, upon which opinion, the Pension department had founded its practice in construing the revolutionary pension laws, could not apply to revolutionary pensions. He believed the department had placed an erroneous construction on the laws, so far as pensions were allowed to the heirs.

Messrs. KERR and GRAHAM made some remarks against applying a different construction of the pension laws to this case than had been given in similar cases.

Mr. WRIGHT said, when this bill was last up, it was not his intention in his remarks to censure the Commissioner of Pensions for the construction which had been given the pension laws. He estimated too highly the services of that officer to do so. What he complained of was the erroneous construction which has been given the law, and not the conduct of that officer, who had founded his action on an opinion of the Attorney General. He maintained that, although the law had been interpreted to entitle the heirs to a pension in case of the death of the parent, it was the duty of Congress to arrest that interpretation now, being the first time its attention had been called to it. The question, as it was now presented in this bill, was, whether they should confirm the interpretation of the department, which makes a state of inheritance out of our pension system. He had no prejudice against this case; but he was of the opinion that it went so far even as to authorize a pension to the grandchildren, for services performed by a grandfather, and thereby establishing a vested right in a pension; which was subversive of the principle upon which the pension system was established.

Mr. GRAHAM said that the Senator from New York and himself perfectly agreed that the pension acts of 1832 and 1836 were ill-advised acts, and that the construction was the same, in this bill, which the laws had received up to this moment. The only point of difference between them was, whether the construction should be arrested on this bill, to satisfy a most meritorious case, after having passed so many bills carrying out the same principles. He was opposed to arresting the construction on the remnant of the cases.

Mr. SEVIER said the Committee on Pensions had always acted on such construction of the laws, as allowed the children to receive the pension in case of the death of the parents; but if the heirs in this case were grandchildren, as asserted, a new question of law was presented. He did not believe the pension laws would allow of the pension being paid to grandchildren.

Mr. SMITH of Connecticut opposed the bill.

Mr. WOODBURY inquired whether there was any legislative precedent that went so far as this case?

Mr. GRAHAM said he did not know whether there was.

Mr. WOODBURY said, if there was a single precedent, he would withdraw the motion to recommit. If there was no legislative precedent, it was a proposition to make new rules of construction, instead of parting with old ones. Another reason for the recommitment was, that the committee had not passed upon the bill in its present form—granting a pension to the heirs, instead of the widow.

After a few remarks from Mr. GRAHAM in support of the bill, and stating that one child of the person who performed the service was living; and by Mr. PHELPS in opposition to the bill—

The question on the recommitment was taken, and decided in the affirmative—yeas 30, nays 10.

THE TARIFF BILL.

On motion of Mr. EVANS, the Senate took up the revenue bill for further consideration, as in committee of the whole; the bill being still open to amendment.

Mr. ALLEN moved to insert among the free articles the word "salt," in page 30, line 55, after the word "crude."

The bill, as it now stood, (Mr. ALLEN said,) proposed to levy taxes to the extent of twenty-seven millions of dollars upon the people of this country. This he (Mr. ALLEN) considered an exceedingly high tax. It was high, because, as the authors of the bill declared, the necessities of the treasury required that it should be so. There were a few articles which were exempt from taxation by this bill; but all the necessaries of life, without exception, were to be taxed; and that severely. Such articles, for instance, as tea, coffee, and salt—articles which were as much necessaries of life in this country as bread itself, because the habits and tastes of the people had been formed to enjoy them.

While the Government, therefore, found it necessary to impose a tax upon those things which were absolute and indispensable necessaries of life with the whole body of the people, it seemed to him unjust that articles of luxury—articles which ministered to the pampered and voluptuous taste of the wealthy—should be admitted free of duty. If any one would take the trouble to examine the bill, he would find that green and ripe fruits, the produce of the West Indies—sweet-meats, which are to be found alone on the tables of the rich—were to be admitted free of duty; whilst the tea and the coffee-cup of the poorest farmer and mechanic in the country were to be taxed to the extent of twenty cents on the dollar. The people would hardly credit it, unless the bill were read in their presence.

Again: it would be seen that gems and precious stones, which were designed and intended to spar-

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IN SENATE.

THURSDAY, August 18, 1842.

Mr. WRIGHT presented a memorial from the New York and Albany Railroad Company, praying that Congress, in any legislation on the subject, will continue to the company the right to import railroad iron on the same terms as heretofore: referred to the Committee on Finance, and ordered to be printed.

Mr. ARCHER, from the Committee on Naval Affairs, to which had been referred the joint resolution from the House making provision for the safekeeping of the charts, maps, and journals of the exploring expedition, reported the same back, with a recommendation that it be indefinitely postponed.

On motion of Mr. WRIGHT, the Committee on Claims was discharged from the further consideration of the claim of Joseph Edson.

Mr. WOODBRIDGE, from the Committee on Commerce, to which had been referred a bill from the House making appropriation for the construction of a sea-wall at St. Augustine, made a report upon the subject; which was ordered to be printed.

Mr. CONRAD introduced a resolution calling upon the Solicitor of the Treasury to report to the next session of Congress all the facts touching the claim of the 1st municipality of New Orleans to the tract of land in that city on which the United States custom-house stands, and his opinion of the legality of the title of said municipality to the tract of land in question.

The resolution, after a few remarks by Messrs. LINN, HUNTINGTON, WOODBRIDGE, and CONRAD, was laid over, under the rule, and ordered to be printed.

Mr. CRITTENDEN, from the Committee on the Judiciary, reported back, without amendment, and with a recommendation that it do pass, House bill entitled An act to regulate the taking of testimony in contested elections, and for other purposes.

The joint resolution introduced by Mr. CRITTENDEN, authorizing the Secretary of the Treasury to carry into effect the provisional contract for the purchase of a light-house site at the West Pass of the Mississippi river, was taken up, read the second time, and, on motion of Mr. BAYARD, referred to the Committee on Finance.

On motion of Mr. WALKER, the Senate agreed to consider the bill from the House confirming certain pre-emption claims; but, having ascertained from the clerk that the bill had not been returned from the printer,

On motion of Mr. RIVES, the Senate proceeded to the consideration of executive business, and occupied the remainder of the day thereon.

Then it adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, August 18, 1842.

Mr. THOS. W. WILLIAMS reported from the Committee on Commerce the following bills, which were read twice, and committed to the Committee of the Whole:

A bill to make the town and harbor of Cold Spring, on Long Island, in the State of New York, a port of delivery, and to appoint an assistant collector.

A bill for the relief of John Patten, jun., owner of the fishing schooner Credit, and the master and crew of said vessel.

A bill for the relief of Abner Lowell and others, owners of fishing schooner William.

Mr. J. R INGERSOLL moved that the Committee of the Whole be discharged from the bill to define and establish the fiscal year of the Treasury of the United States, which was agreed to.

The bill was then read a third time and passed.

THE VETO—THE TARIFF.

Mr. FILLMORE asked permission to report a resolution from the Committee of Ways and Means.

Mr. WISE objected, if it were to interfere with the regular business.

Mr. BOTTS said he, too, objected, if it were withdrawn by the gentleman from Virginia. [Mr. WISE.]

There were loud cries from all parts of the House of "What is it?"

Mr. FILLMORE said he would send it to the Chair, to be read for the information of the House.

The Clerk read the resolution as follows:

Resolved, That it is expedient to pass another revenue bill, the same as that which recently passed both Houses of Congress, and has been returned by the President with his objections to this House, and, on reconsideration, lost for want of a constitutional majority, entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes;" with the exception of the 27th section of said bill, which repeals the proviso to the land distribution act, and so modified as to make tea imported in American vessels from beyond the Cape of Good Hope, and coffee, free from duty; and that the Committee of Ways and Means be, and they are hereby, instructed to report such a bill to this House, with all convenient despatch.

Mr. WISE said he should only occupy thirty-eight minutes—that being the residue of his hour, which he partially occupied yesterday; and therefore it would be but a postponement of a short time, if the resolution were delayed until he had finished.

Mr. FILLMORE said the resolution, he apprehended, would occupy but a few minutes, and he hoped it would be disposed of. The committee had reported it, in discharge of what they believed to be their duty.

Mr. WISE said he would not object, if it should be understood that he had the floor. [Laughter.]

Mr. BOTTS reiterated his objection to the introduction of the resolution.

Mr. FILLMORE inquired whether, after the privileged question was disposed of, there would not be an hour for the reception of reports?

The SPEAKER said there would be the usual morning hour.

Mr. FILLMORE intimated that he would defer the resolution until the commencement of the morning hour.

Mr. WISE then resumed his speech, which was partially delivered yesterday. He more particularly read and commented on the following passage in the majority's report:

"They perceive that the whole legislative power of the Union has been for the last fifteen months, with regard to the action of Congress upon measures of vital importance, in a state of suspended animation, strangled by the five times repeated stricture of the Executive cord. They observe that, under these unexampled obstructions to the exercise of their high and legitimate duties, they have hitherto preserved the most respectful forbearance towards the Executive Chief; that while he has, time after time, annulled, by the mere act of his will, their commission from the people to enact laws for the common welfare, they have forborne even the expression of their resentment for these multiplied insults and injuries; they believed they had a high destiny to fulfil, by administering to the people, in the form of law, remedies for the sufferings which they had too long endured. The will of one man has frustrated all their labors and prostrated all their powers. The majority of the committee believe that the case has occurred in the annals of our Union, contemplated by the founders of the Constitution by the grant to the House of Representatives of the power to impeach the President of the United States; but they are aware that the resort to that expedient might, in the present condition of public affairs, prove abortive. They see that the irreconcilable difference of opinion and of action between the Legislative and Executive Departments of the Government is but sympathetic with the same discordant views and feeling among the people. To them alone the final issue of the struggle must be left. In the sorrow and mortification under the failure of all their labors to redeem the honor and prosperity of their country, it is a cheering consolation to them that the termination of their own official existence is at hand; that they are even now about to return to receive the sentence of their constituents upon themselves; that the legislative power of the Union, crippled and disabled as it may now be, is about to pass, renovated and revivified by the will of the people, into other hands, upon whom will devolve the task of providing that remedy for the public distempers which their own honest and agonizing energies have in vain endeavored to supply."

The report went on to say: "The power of the present Congress to enact laws essential to the welfare of the people has been struck with apoplexy by the executive hand." Whence, he inquired, came that cry? From the same source [Mr. ADAMS] whence came the doctrine that the representative ought not to be palsied by the will of the people! The report, in the extract which he had read, said: "The majority of the committee believe that the case has occurred, in the annals of our Union, contemplated by the founders of the Constitution, by the grant to the House of Representatives of the power to impeach the President of the United States." They had a majority of partisans in the Senate: and why not, then, prefer their articles of impeachment? He challenged his colleague [Mr. BOTTS] to do so.

Mr. BOTTS said he should do so in his own good time; but he gave notice to the gentleman that he had not abandoned his intention to impeach the President; and he should prosecute it at the next session of Congress. [Oh! Oh! and laughter.]

Mr. WISE asked his colleague if a better time could be found than the present; and he called upon him to redeem his pledge to impeach. The gentleman [Mr. BOTTS] had with him a committee of ten to three to cry out that the President was guilty of impeachable offences, and 100 to 80 in this House; but, instead of putting the President on his trial, by preferring articles of impeachment, they skulked—ignominiously skulked—from their duty, and turned their wrath and fury on the sacred instrument—the Constitution. What was their excuse? Why, "in the present condition of affairs, it might prove abortive!" "They see that the irreconcilable difference of opinion and of action between the Legislative and Executive Departments of the Government is but sympathetic with the same discordant views and feelings among the people." They were palsied by the will of their constituents! Brave and noble action! After all the impudence and vulgarity with which the charges were made—after the double declaration of a committee of ten to three, and a House of 100 to 80—they retired from the issue when brought to the test. As a friend to the President, knowing there was a majority in the Senate against him, he (Mr. W.) dared them to the trial—he challenged them to the issue whether the President had usurped the power—designedly and wilfully usurped the power to collect duties. He challenged them to go to the Senate for trial; for they had no right to submit the President to any other tribunal. They could not try him here. Let it go to the Senate, the disposition of which was known; its feelings, whether friendly or unfriendly, were well known; and there were men there who believed the President to be no better than he ought to be. He asserted that there was law for the collection of imports; and for this he had the authority of the great, and distinguished, and illustrious Chancellor Kent. He called upon them, then, to go before the Supreme Court on that question; and not, by the introduction of retroactive bills, and by declarations on this floor, hold out invocations to merchants, in a time of distress, to protest and refuse to pay even the small duties which could now be collected for the support of the Government.

He would submit it to the people of the United States—to the constituents of those who would return to receive their sentence—whether the course of the majority here was patriotic. Even if there was doubt in relation to the course to be pursued, was it not the duty of the officers of the Government to take such a course as would prevent the Government from starving? Such, however, was the destructive spirit of the majority, that, for the purpose of heading Capt. Tyler, they were not only willing to condemn the President, but also to prevent the collection of revenue. The whole question resolved itself into this: should the Constitution be torn in tatters, merely because these gentlemen are disappointed in their schemes? [Here Mr. WISE's hour expired.]

Mr. RAYNER next obtained the floor. Several gentlemen [Messrs. GRANGER, GIDDINGS, and BOTTS] wished to make explanations, but he declined yielding. He had patiently listened to the speech of the gentleman from Virginia, [Mr. WISE;] and, though that gentleman had commenced with a grand flourish of trumpets, he had heard nothing in the way of argument which was entitled to a reply. Instead of attacking the impregnable positions of the report of the gentleman from Massachusetts, the gentleman had "skulked—ignominiously skulked"—the issues embraced in that report, and had, with a degree of "vulgarity" for which he was remarkable, assailed the individual members of the committee. He (Mr. R) replied in the language applied by the gentleman to the members of the committee. He would now give the gentleman an opportunity to say how he intended it.

Mr. WISE said that, inasmuch as the gentleman from North Carolina had given him an opportunity to say in what sense he had used his language, he would declare that he referred to the action of

Mr. WELLER moved that the House resolve itself into a Committee of the Whole on the state of the Union; which motion was rejected.

Reports then were made from the following committees:

By Mr. ANDREWS, of Kentucky: From the Committee on Revolutionary Pensions.

By Mr. TALIAFERRO: From the Committee on Revolutionary Claims.

By Mr. STRATTON: From the Committee on Invalid Pensions.

By Mr. McCLELLAN of New York: From the Committee on Patents, viz:

The bill from the Senate, in addition to the act entitled An act to promote the progress of the useful arts, and to repeal all other acts on the subject, without amendment.

From the Committee of Ways and Means: Mr. FILLMORE reported the following resolution:

Resolved, That it is expedient to pass another revenue bill, the same as that which recently passed both Houses of Congress and has been returned by the President, with his objections, to this House, and, on reconsideration, lost for want of the constitutional majority, entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," with the exception of the 27th section of said bill, which repeals the proviso to the land distribution act; and so modified as to make tea imported from beyond the Cape of Good Hope, and coffee, imported in American vessels, free from duty; and that the Committee of Ways and Means be, and they are hereby, instructed to report such a bill to this House with all convenient despatch.

Mr. F., after stating the objects of the resolution, observed that he had reported it as the organ of the Committee of Ways and Means, only for the purpose of testing the sense of the House on the subject, and of ascertaining whether it was practicable to pass another revenue measure at this session; but that, situated as he was, he should decline voting on it himself. Mr. F. then called for the previous question.

Mr. BOTTS moved to lay the resolution on the table, and called for the yeas and nays.

Mr. WARREN moved a call of the House, which was not carried.

Mr. SMITH of Virginia said he would be gratified if the gentleman from New York would let the resolution lie till to-morrow.

Mr. FILLMORE declining—

The question was then taken on Mr. BOTTS's motion to lay the resolution on the table, and rejected—yeas 75, nays 103.

YEAS—Messrs. Adams, Landaff W. Andrews, Arnold, Arrington, Atherton, Botts, Aaron V. Brown, Burke, Patrick C. Caldwell, John Campbell, Thos. J. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Coles, Mark A. Cooper, Cravens, Cross, Daniel, Dawson, Doan, Egbert, Gamble, Gilmer, Goggin, Wm. O. Goode, Graham, Green, Habersham, Holmes, Hopkins, Houston, Hubard, Hunter, Wm. Cost Johnson, Cave Johnson, John W. Jones, King, Lane, Lewis, Linn, Littlefield, Abraham McClellan, McKay, McKeon, Mallory, John T. Mason, Mathiot, Mathews, Owsley, Payne, Rayner, Reding, Reynolds, Rhett, Rogers, Roosevelt, Saunders, Shaw, Shields, William Smith, Steenrod, Sumter, John B. Thompson, R. W. Thompson, Jacob Thompson, Turney, Underwood, Warren, Washington, Jos. L. White, James W. Williams, and Wood—75.

NAYS—Messrs. Allen, Sherlock J. Andrews, Appleton, Aycrigg, Baker, Barnard, Barton, Beeson, Bidlack, Birdseye, Blair, Boardman, Borden, Brockway, Milton Brown, Jeremiah Brown, Burnell, Chittenden, John C. Clark, James Cooper, Cowen, Cranston, Cushing, Garrett Davis, R. D. Davis, Dean, John Edwards, Everett, Ferris, Fessenden, Fillmore, John G. Floyd, Gentry, Patrick G. Goode, Gordon, Granger, Hall, Halsted, Hays, Howard, Hudson, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, Wm. W. Irwin, Keim, John P. Kennedy, Robert McClellan, McKennan, Thomas F. Marshall, Samson Mason, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Newhard, Osborne, Parmenter, Pearce, Pendleton, Plumer, Pope, Powell, Proffit, Ramsey, Benjamin Randall, Alexander Randall, Randolph, Read, Ridgway, Riggs, Rodney, William Russell, James M. Russell, Saltonstall, Sanford, Shepperd, Slade, Truman Smith, Stanly, Stratton, John T. Stuart, Taliaferro, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Van Buren, Van Rennselaer, Wallace Ward, Weller, Edward D. White, Thos. W. Williams, Christopher H. Williams, Joseph L. Williams, Wise, Yorke, and A. Young—103.

Mr. FILLMORE moved a call of the House; which being ordered, (ayes 82, noes 60) the roll was called, and 189 members answered to their names.

The absentees being called, it was found that 211 members were present.

On motion of Mr. FILLMORE, further proceedings under the call were dispensed with.

Mr. McCLELLAN of New York desired to know whether his colleague [Mr. FILLMORE] had not announced his determination not to vote on either side on the resolution? [Loud cries of "order, order."]

Mr. FILLMORE answered that he had.

The CHAIR said that the question was out of order.

Mr. HAYS of Virginia inquired whether he could not have a division of the question on the resolution, and quoted the 41st rule, which is in the following words:

Any member may call for the division of a question, which shall be divided if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House.

The SPEAKER said that this was not the time to ask for a division. The proper time would be when they were about voting on the resolution.

Mr. HOLMES raised the question of order, whether the Committee of Ways and Means had a right to offer this resolution without further instruction from the House: said committee having exhausted its functions in reporting the tariff bill vetoed by the President, and lost upon a reconsideration by the House, and the House having also distinctly refused to refer the subject to them again.

The SPEAKER overruled the point of order.

Mr. PROFFIT wanted to ask a question of the Chair. [Loud cries of "order."] He wanted to know if the chairman of the Committee of Ways and Means, who was not going to vote himself, ought to gag others by calling the previous question.

The previous question was then seconded, and the main question ordered.

The yeas and nays on the main question, (being the adoption of the resolution,) having been called for, were ordered.

Mr. HAYS here called for a division of the resolution, so as to take the question on that part of it which declares that it is expedient to pass another revenue bill; and referred to the rule of the House he had just cited.

The SPEAKER decided the motion to be out of order, on the ground that, if the first division should be rejected, there would be no sense in the remainder.

Mr. HAYS appealed from the decision of the Chair; but, on taking the vote, it was sustained by the House.

The question on the adoption of the resolution was then put; and the roll having been called through,

Mr. WISE inquired of the Chair if he was not bound to vote?

The SPEAKER replied in the affirmative.

Mr. WISE again inquired if the A's, B's, C's, &c. did not come on the roll before the W's?

The SPEAKER replied that they did.

Mr. WISE said he would inform the Speaker that there were several gentlemen near him who had not voted. He would name two as a specimen, and gave their names because he could vouch for them. They were Mr. MATHIOT of Ohio, and Mr. CALHOUN of Massachusetts.

Mr. McKENNAN called the gentleman to order.

Mr. WISE rose to announce that if Messrs. MATHIOT and CALHOUN voted, he would vote.

Mr. McCLELLAN of New York asked whether his colleague from the Buffalo district, [Mr FILLMORE,] and his colleague from the Albany district, [Mr. BARNARD,] had voted.

The SPEAKER answered that they had not; and that it was out of the power of the Chair to compel members to vote, without some action by the House.

Mr. WISE asked if it was in order to make members vote.

The SPEAKER said something, not heard by the reporter.

Mr. WISE. Then I move that the Clerk call the names of those members who have not voted. He pointed to the chairman of the Committee of Ways and Means as one.

The SPEAKER said that he had no power over the subject. If the gentleman from Virginia would name any one who had not voted, and send his name to the Chair, he would put the question to the House.

Mr. WISE said that he would do so.

Messrs. CALHOUN and MATHIOT here voted no.

Mr. McCLELLAN of New York desired the Clerk to call the name of his colleague, the chairman of the Committee of Ways and Means, [Mr. FILLMORE,] and his colleague from the Albany district, [Mr. BARNARD.]

Mr. FILLMORE said he would save the gentleman further trouble on his account; and as he had been earnestly solicited by several of his friends around him to vote, he would vote no.

Mr. WISE. Then I vote no, and withdraw my point of order.

Several more votes were then taken, and the Chair announced the vote to be yeas 86, nays 114, as follows:

YEAS—Messrs. Allen, Sherlock J. Andrews, Appleton, Aycrigg, Baker, Beeson, Bidlack, Birdseye, Blair, Boardman, Borden, Brockway, Jeremiah Brown, Burnell, Calhoun, Chittenden, John C. Clark, Cowen, Cranston, Cushing, Garrett Davis, Richard D. Davis, John Edwards, Everett, Ferris, Fessenden, Gerry, Giddings, P. G. Goode, Granger, Hall, Halsted, Howard, Hudson, Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, James Irvin, William W. Irwin, Keim, McKennan, T. F. Marshall, Samson Mason, Mattocks, Maxwell, Maynard, Moore, Morgan, Morris, Morrow, Newhard, Osborne, Parmenter, Pendleton, Plumer, Pope, Powell, Proffit, Ramsey, Benjamin Randall, Randolph, Read, Ridgway, Riggs, Rodney, Wm. Russell, James M. Russell, Saltonstall, Sanford, Slade, Truman Smith, Stratton, John T. Stuart, Toland, Tomlinson, Trumbull, Van Rensselaer, Wallace, Ward, Westbrook, Edward D. White, Thomas W. Williams, Jos. L. Williams, Yorke, and Augustus Young—86.

NAYS—Messrs. Adams, Landaff W. Andrews, Arnold, Arrington, Atherton, Barton, Black, Botts, Boyd, Milton Brown, Burke, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, Thos. J. Campbell, Caruthers, Cary, Casey, Chapman, Clifford, Clinton, Coles, Colquitt, Mark A. Cooper, Cravens, Cross, Daniel, Dawson, Dean, Doan, John C. Edwards, Egbert, Fillmore, John G. Floyd, Gamble, Gentry, Gilmer, Goggin, William O. Goode, Gordon, Graham, Green, Gwin, Habersham, Harris, Hastings, Hays, Holmes, Hopkins, Houck, Houston, Hubard, Hunter, William Cost Johnson, Cave Johnson, John W. Jones, John P. Kennedy, Andrew Kennedy, King, Lane, Lewis, Linn, Littlefield, Abraham McClellan, Robert McClellan, McKay, McKeon, Mallory, John Thomson Mason, Mathiot, Matthews, Medill, Miller, Mitchell, Owsley, Payne, Alexander Randall, Rayner, Reding, Reynolds, Rhett, Rogers, Roosevelt, Saunders, Shaw, Shepperd, Shields, William Smith, Sollers, Spriggs, Stanly, Steenrod, Alexander H. H. Stuart, Summers, Sumter, Taliaferro, John B. Thompson, Richard W. Thompson, Jacob Thompson, Triplett, Turney, Underwood, Warren, Washington, Watterson, Weller, Joseph L. White, J. W. Williams, C. H. Williams, Wise, and Wood—114.

Mr. W. W. IRWIN moved a suspension of the rules to enable him to introduce a bill entitled An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes; and on this question he called for the yeas and nays.

Messrs. GRANGER and BOTTS at the same time rose and moved an adjournment.

Mr. W. W. IRWIN called for the yeas and nays on the question; which were ordered, and resulted in yeas 110, nays 80.

So the House adjourned.

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on the importance of expunging it from the statute, book; but, as bad as the measure is, he was not prepared to say that it was worse than this, or to get rid of it by substituting it in its place. But suppose them to be equally objectionable, there was this difference between them: it would be far easier to extricate ourselves from that, than from this. There was no comparison in the extent and the strength of the interests that would be enlisted in favor of this measure, compared with those in favor of distribution: while the whole of our party are united and zealous against that, the feebler measure, but unfortunately divided to a considerable extent, it would seem, in reference to this, the stronger. According to his opinion, the repeal of the distribution act by the next Congress, with the whole weight of our party and the Executive Department against it, was as certain as almost any future event; yet he was ready to make considerable sacrifice for immediate riddance from that odious measure, but nothing like as great as voting for this bill.

No one could more sincerely deplore that any portion of our political friends should bring themselves to support a measure to which he was so strongly opposed, and which he sincerely believed to be directly hostile to the principles of the party, and our free and popular institutions. He doubted not but that they had come to a wrong conclusion; but he did hope that they would retain the strong repugnance they express to a measure, which they think themselves under circumstances compelled to support, and will rally at an early period, not only in co-operation with the rest of the party, to free the country from its blighting effects, but will take the lead in its overthrow.

Mr. WOODBRIDGE observed that the bill before the Senate appeared to him to be fully as protective a measure as it did to the mind of the Senator from South Carolina. But that was no objection to him; on the contrary, it was its greatest recommendation. It went far to reconcile him to the sacrifice which his party had been constrained to make. He had risen merely to say, with regard to the vote he should give, that, as his friends went, so would he go.

The question was then taken on ordering the amendments to be engrossed, and the bill read a third time, on which the yeas and nays had been called and ordered; and it was decided in the affirmative—yeas 24, nays 23, as follows:

YEAS—Messrs. Barrow, Bates, Bayard, Buchanan, Choate, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Sturgeon, Tallmadge, White, Williams, Woodbridge, and Wright—24.

NAYS—Messrs. Allen, Archer, Bagby, Benton, Berrien, Calhoun, Clayton, Cuthbert, Fulton, Graham, Henderson, King, Linn, Mangum, Merrick, Preston, Rives, Sevier, Smith of Connecticut, Tappan, Walker, Woodbury, and Young—23.

The bill was then read a third time, and passed.

Mr. WRIGHT desired to call the attention of the Senate to the necessity of taking up the joint resolution for the adjournment of Congress. He moved to take it up. He verily believed, if the Senate adjourned to-night without adopting the resolution, that it would be exceedingly doubtful whether the House would have a quorum on Monday.

Messrs. TALLMADGE and BERRIEN thought it too late to go into the consideration of the subject. [It was 8 o'clock, p. m.] And, therefore, Mr. B. moved an adjournment.

Mr. WRIGHT called for the yeas and nays on the adjournment; which were ordered.

The question was then taken, and resulted in the affirmative—yeas 24, nays 20.

So the Senate, at 8 o'clock, adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, August 27, 1842.

Mr. W. W. IRWIN of Pennsylvania offered the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of extending the Cumberland road to Lake Erie, via Pittsburgh; and that said committee report thereon at the next session of Congress.

At the suggestion of Mr. PLUMER,

Mr. IRWIN modified his resolution, by inserting after the word "Pittsburgh," the words "and arsenal at Meadville;" which was agreed to.

Mr. JOHN C. CLARK offered a resolution that all debate on the bill for the reorganization of the navy cease in one hour's time after taking it up in Committee of the Whole, and that the committee shall then proceed to vote on the amendments: agreed to.

On motion by Mr. LEVY, the bill providing payment for certain Florida militia was taken up, and passed.

Mr. THOMPSON of Indiana moved to take up the bill for the relief of William Jones: objected to.

Mr. T. then moved a suspension of the rules; which motion was rejected.

The amendments of the Senate to the following bills were severally read and concurred in:

An act for the relief of Effie Van Ness.

An act granting a pension to Amaziah Goodwin.

An act for the relief of Dennis Dygert.

An act for the relief of Hannah Carver.

An act giving Catharine Lehman the benefit of the act of 7th July, 1838

An act for the relief of J. F. De Bellevue.

An act to provide for the completion of the penitentiary in the Territory of Iowa.

The House proceeded to the consideration of the bill from the Senate, to authorize the Secretary of the Treasury to make an arrangement or compromise with any of the sureties on the bonds given to the United States by Samuel Swartwout, late collector of the port of New York.

Mr. A. V. BROWN moved to lay the bill on the table, but withdrew the motion at the request of

Mr. WARD, who addressed the House in support of the bill.

After some remarks from Messrs. STANLY and CAVE JOHNSON in opposition to the bill, and from Mr. FERRIS in its support,

Mr. A. V. BROWN said that, when he withdrew his motion to lay on the table, he very little expected a debate on the merits of this bill. He feared that it had very little merit to recommend it; but whatever it had, could not be looked into during the very few hours remaining for business at the present session. Others had spoken to the merits of the bill; but the gentleman from North Carolina [Mr. STANLY] had rambled off into a party speech on the occasion. He adverted to the fact that Swartwout had been appointed by General Jackson. Well, what of that? Was not every President liable, occasionally, to make bad appointments? Had not other Presidents (the gentleman's friends) also made bad appointments? and would the gentleman hold them responsible for every defalcation that had taken place under their administration? He must do *that* before he reflected on the Jackson administration for Swartwout's defalcation. What was the *amount* of that defalcation? The gentleman [Mr. STANLY] had spoken of it as a million and a quarter. That was the old story of 1840—founded, he supposed, on the report of the gentleman from Virginia [Mr. WISE.]

But had the gentleman forgotten the Poindexter report of this session?—brought in here by the gentleman from North Carolina himself—adopted by him, and made public property; which, on that account, we had to pay for, and we had paid for it *roundly* Sir, everybody remembers the extraordinary circumstances of that report. Well, sir, according to that report, (Poindexter's,) the whole country was under a mistake as to the extent of this defalcation. Instead of a million and a quarter, it turns out to be only about $600,000—fallen off, sir, to something less than one half! So much, sir, for the former *reports* on this subject, that answered such fine electioneering purposes in former times. Owing to this uncertainty, and the impossibility of properly investigating the case at this late period of the session, he would renew the motion to lay the bill on the table.

The question was then taken on laying the bill on the table, and carried—yeas 119, nays 37.

The bill for the relief of sundry citizens of Arkansas who lost their improvements, in consequence of a treaty between the United States and the Choctaw Indians, was debated by Messrs. J. THOMPSON, CROSS, UNDERWOOD, and MAXWELL.

Mr. HOPKINS moved the previous question.

Mr. EVERETT moved to lay the bill upon the table.

Mr. CROSS entreated the gentlemen to withdraw their motions, to give him an opportunity to reply to the gentlemen who had addressed the committee.

Mr. HOPKINS yielded.

Mr. CROSS then addressed the House in favor of the bill.

Mr. EVERETT addressed the committee in opposition to the bill.

Messrs. STANLY and POPE having made some observations, the former gentleman renewed the motion to lay the bill on the table.

Mr. CROSS called for the yeas and nays; and being ordered, they resulted as follows: yeas 103, nays 47.

Mr. FILLMORE submitted a resolution that the House would act first on the Senate's bills in the following order: first, bills on their third reading; second, bills in Committee of the Whole on the state of the Union; and, third, bills in Committee of the Whole House.

This resolution was adopted—ayes 87, noes 38.

Mr. ATHERTON inquired of Mr. FILLMORE if it was his intention to call up the bill submitted by him yesterday, to limit the sale of United States stock to par, and to authorize the issue of treasury notes to a certain amount in lieu thereof.

Mr. FILLMORE replied that it was not his intention to call it up till after the tariff bill was disposed of in the Senate.

The following bills were then taken up and passed:

The bill for the relief of Wm. H. Robertson, Samuel H. Garrow, and John W. Symington.

The bill in addition to the act to promote the progress of the useful arts, and to repeal all other acts, or parts of acts, heretofore made for that purpose.

The bill for the relief of Wm. Polk.

Mr. CUSHING, from the Committee on Foreign Affairs, laid on the table a report, accompanied by certain papers, in relation to claims of American citizens on Mexico: ordered to be printed.

On motion of Mr. FILLMORE, the House resolved itself into Committee of the Whole, and acted on the following bills:

The bill to allow a drawback on foreign goods exported in the original packages to Chihuahua and Santa Fe, in Mexico. Laid aside to be reported.

The bill for the relief of Isaac Hull. Laid aside to be reported.

The bill to revive and continue in force the act in addition to the act supplementary to the act for the punishment of certain crimes against the United States. Laid aside to be reported.

The bill to provide for the reports of the decisions of the Supreme Court. Laid aside to be reported.

The next bill was "An act directing an edition of the laws of the United States to be compiled and printed;" it was objected to.

A joint resolution for the relief of Ferdinand Pettrich was also objected to.

The bill entitled "An act to carry into effect two resolutions of the Continental Congress, directing monuments to be erected in memory of Generals Francis Nash and William Davidson," next came up.

Mr. RANDALL offered an amendment to authorize the Governor of Connecticut to erect a monument to the memory of Capt. Nathan Hale, and making an appropriation for that purpose.

Mr. J. G. FLOYD submitted an amendment providing for the erection of a monument to the memory of Baron De Kalb.

Mr. WISE suggested the propriety of erecting a monument to commemorate the union of the allied armies of France and America, and the victory which they achieved at Yorktown.

Mr. CAVE JOHNSON objected to the whole bill, and it was passed over.

An act to provide for the publication of a new edition of the laws and regulations of the Post Office Department, and a perfect list of post offices in the United States, was laid aside to be reported.

An act in relation to land sold in the Greensburg (late St. Helena) land district, in the State of Louisiana, and authorizing the resurvey of certain lands in said district, was objected to by Mr. CAVE JOHNSON.

An act to authorize the construction of a depot for charts and instruments of the navy of the United States, was objected to by Messrs. CAVE JOHNSON, SPRIGG, and others.

An act to provide for the settlement of certain

LEGISLATIVE INTENT SERVICE (800) 666-1917

REPORT

FROM

THE COMMISSIONER OF PATENTS,

Showing the operation of the Patent Office during the year 1841.

FEBRUARY 7, 1842.
Referred to the Committee on Printing.
FEBRUARY 23, 1842.
Ordered to be printed, with a portion of the documents; and order reconsidered.
MARCH 8, 1842.
Referred to the Committee on Patents and the Patent Office; ordered to be printed, with a portion of the documents, and that 3,000 additional copies be furnished for the use of the Senate.

PATENT OFFICE, *January*, 1842.

SIR: In compliance with the law, the Commissioner of Patents has the honor to submit his annual report.

Four hundred and ninety-five patents have been issued during the year 1841, including *fifteen* additional improvements to former patents; of which classified and alphabetical lists are annexed, marked A and B.

During the same period, *three hundred and twenty-seven* patents have expired, as per list marked C.

The applications for patents, during the year past, amount to *eight hundred and forty-seven;* and the number of caveats filed was *three hundred and twelve.*

The receipts of the office for 1841 amount to $40,413 01; from which may be deducted $9,093 30, repaid on applications withdrawn, as per statement D.

The ordinary expenses of the Patent Office for the past year, including payments for the library and for agricultural statistics, have been $23,065 87; leaving a surplus of $8,253 84 to be credited to the patent fund, as per statement marked E.

For the restoration of models, records, and drawings, under the act of March 3, 1837, $20,507 70 have been expended, as per statement marked F.

The whole number of patents issued by the United States previous to January, 1842, is *twelve thousand four hundred and seventy-seven.*

The extreme pressure in the money market and the great difficulty in remittance have, it is believed, materially lessened the number of applications for patents. These have, however, exceeded those of the last year by *eighty-two.*

The resolution of the last Congress directing the Commissioner to distribute seven hundred copies of the Digest of Patents among the respective States, has been carried into effect, as ordered.

Thomas Allen, print.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Experience, under the new law reorganizing the Patent Office, shows the importance of some alterations in the present law. One difficulty has been hitherto suggested, viz: the want of authority to refund money that has been paid into the Treasury for the Patent Office, by mistake. Such repayment cannot now be made without application to Congress. The sums, usually, are quite small, not exceeding $30. A bill has been heretofore presented embracing these cases, and passed one House of the National Legislature; but a general law would save much legislation, and be attended with no more danger than now attends the repayment of money, on withdrawing applications for patents. Indeed, several private petitions are now pending before Congress, and are postponed, to wait final action on the bill which has been so long delayed.

Frauds are practised on the community by articles stamped "patent," when no patent has been obtained; and many inventors continue to sell, under sanction of the patent law, after their patents have expired. To remedy these evils, the expediency of requiring all patentees to stamp the articles vended with the date of the patent, and punishing by a sufficient penalty the stamping of unpatented articles as patented, or vending them as such, either before a patent has been obtained or after the expiration of the same, is respectfully suggested. Almost daily inquiries at the Patent Office exhibit the magnitude of such frauds, and the necessity of guarding effectually against them.

The justice and expediency of securing the exclusive benefit of new and original designs for articles of manufacture, both in the fine and useful arts, to the authors and proprietors thereof, for a limited time, are also respectfully presented for consideration.

Other nations have granted this privilege, and it has afforded mutual satisfaction alike to the public and to individual applicants. Many who visit the Patent Office learn with astonishment that no protection is given in this country to this class of persons. Competition among manufacturers for the latest patterns prompts to the highest effort to secure improvements, and calls out the inventive genius of our citizens. Such patterns are immediately pirated, at home and abroad. A patent introduced at Lowell, for instance, with however great labor or cost, may be taken to England in twelve or fourteen days, and copied and returned in twenty days more. If protection is given to designers, better patterns will, it is believed, be obtained, since the impossibility of concealment at present forbids all expense that can be avoided. It may well be asked, if authors can so readily find protection in their labors, and inventors of the mechanical arts so easily secure a patent to reward their efforts, why should not discoverers of designs, the labor and expenditure of which may be far greater, have equal privileges afforded them?

The law, if extended, should embrace alike the protection of new and original designs for a manufacture of metal or other material, or any new and useful design for the printing of woollen, silk, cotton, or other fabric, or for a bust, statue, or bas-relief, or composition in alto or basso relievo. All this could be effected by simply authorizing the Commissioner to issue patents for these objects, under the same limitations and on the same conditions as govern present action in other cases. The duration of the patent might be *seven* years, and the fee might be *one half* of the present fee charged to citizens and foreigners respectively.

On the first alteration of the patent law, I would further respectfully recommend that authority be given to consuls to administer the oath for applicants for patents. Inventors in foreign countries usually apply to the dip-

LEGISLATIVE INTENT SERVICE (800) 666-1917

lomatic corps, who are willing to aid any, and have uniformly administered the usual oath prescribed by the Commissioner of Patents; but as the Attorney General has decided that consuls cannot, within the meaning of the patent law, administer oaths to inventors, a great convenience would attend an alteration of the law in this respect.

It is due to the clerical force of the office to say, that their labors are arduous and responsible—more so than in many bureaux—while the compensation for similar services in other bureaux is considerably higher. A comparison will at once show a claim for increased compensation, if uniformity is regarded. The chief and sole copyist of the correspondence of this office receives only eight hundred dollars per annum.

The Commissioner of Patents also begs leave to suggest the expediency of including the annual appropriations for the Patent Office in the general bill which provides for other bureaux. Objections hitherto urged against this course, inasmuch as the Patent Office is embraced by a special fund, have induced the committee to report a special bill, which, though reported without objection, has failed for two sessions, because the bill could not be reached, it having been classed with other contemplated acts on the calendar, instead of receiving a preference with other annual appropriations so necessary for current expenses. Were the appropriation for the Patent Office included in a general bill, also designating the fund from which it was to be paid, all objection, it is believed, might be obviated.

During the past year a part of the building erected for the Patent Office has, with the approbation of the Secretary of State, been appropriated to the use of the National Institute, an association which has in charge the personal effects of the late Mr. Smithson, collections made by the exploring expedition, together with many valuable donations from societies and individuals. While it affords pleasure to promote the welfare of that institution by furnishing room for the protection and exhibition of the articles it has in charge, I feel compelled to say that the accommodation now enjoyed can be only temporary. The large hall appropriated by law for special purposes will soon be needed for the models of patented articles, which are fast increasing in number by restoration and new applications, and also for specimens of manufacture and unpatented models. An inspection of the rooms occupied by the present arangement will show the necessity of some further provision for the National Institute.

The Patent Office building is sufficient for the wants of the Patent Office for many years, but will not allow accommodation for other objects than those contemplated in its erection. The design of the present edifice, however, admits of such an enlargement as may contribute to its ornament, and furnish all necessary accommodation for the National Institute; and also convenient halls for lectures, should they be needed in the future disposition of the Smithsonian legacy. Whatever may be done as regards the extension of the present edifice, it is important to erect suitable outbuildings, and to enclose the public square on which the Patent Office is located.

Some appropriation, too, will be needed for a watch. So great is the value of the property within the building, that a night and day watch is indispensable. The costly articles formerly kept in the State Department for exhibition are now transferred to the national gallery, where their protection will be less expensive than it was at the State Department, since these articles are guarded in common with others. The late robbery of the jewels, so termed, shows the impropriety of depending on bolts and bars, as ingenuity and de-

LEGISLATIVE INTENT SERVICE (800) 666-1917

pravity seem to defy the strength of metals. A careful supervision at all times, added to the other safeguards, is imperiously demanded. I am happy to say that no injury or loss will be sustained from the robbery just alluded to, with the exception of the reward so successfully offered for the recovery of the articles.

By law, the Commissioner is also bound to report such agricultural statistics as he may collect. A statement annexed (marked G) will show the amount of wheat, barley, oats, rye, buckwheat, Indian corn, potatoes, cotton, tobacco, sugar, rice, &c., raised in the United States in the year 1841. The amount is given for each State, together with the aggregate. In some States the crop has been large, in others there has been a partial failure. Upon the whole, the year has been favorable, affording abundance for home supply, with a surplus for foreign markets, should inducements justify exportation.

These annual statistics will, it is hoped, guard against monopoly or an exorbitant price. Facilities of transportation are multiplying daily; and the fertility and diversity of the soil ensure abundance, extraordinaries excepted. Improvements of only ten per cent. on the seeds planted will add annually fifteen to twenty millions of dollars in value. The plan of making a complete collection of agricultural implements used, both in this and foreign countries, and the introduction of foreign seeds, are steadily pursued.

It will also be the object of the Commissioner to collect, as opportunity offers, the minerals of this country which are applied to the manufactures and arts. Many of the best materials of this description now imported have been discovered in this country; and their use is only neglected from ignorance of their existence among us. The development of mind and matter only leads to true independence. By knowing our resources, we shall learn to trust them.

The value of the agricultural products almost exceeds belief. If the application of the sciences be yet further made to husbandry, what vast improvements may be anticipated! To allude to but a single branch of this subject. Agricultural chymistry is at length a popular and useful study. Instead of groping along with experiments, to prove what crops lands will bear to best advantage, an immediate and direct analysis of the soil shows at once its adaptation for a particular manure or crop. Some late attempts to improve soils have entirely failed, because the very article, transported at considerable expense to enrich them, was already there in too great abundance. By the aid of chymistry, the West will soon find one of their greatest articles of export to be oil, both for burning and for the manufactures. So successful have been late experiments, that pork (if the lean part is excepted) is converted into stearing for candles, a substitute for spermaceti, as well as into the oil before mentioned. The process is simple and cheap, and the oil is equal to any in use.

Late improvements, also, have enabled experimenters to obtain sufficient oil from corn meal to make this profitable, especially when the residuum is distilled, or, what is far more desirable, fed out to stock. The mode is by fermentation, and the oil which rises to the top is skimmed off, and ready for burning without further process of manufacture. The quantity obtained is 10 gallons in 100 bushels of meal. Corn may be estimated as worth 15 cents per bushel for the oil alone, where oil is worth $1 50 per gallon. The extent of the present manufacture of this corn oil may be conjectured from the desire of a single company to obtain the privilege of supplying the light-houses on the upper lakes with this article. If from meal and pork the

LEGISLATIVE INTENT SERVICE (800) 666-1917

country can thus be supplied with oil for burning and for machinery and manufactures, chymistry is indeed already applied most beneficially to aid husbandry.

A new mode of raising corn trebles the saccharine quality of the stalk, and, with attention, it is confidently expected that 1,000 pounds of sugar per acre may be obtained. Complete success has attended the experiments on this subject in Delaware, and leave no room to doubt the fact, if the stalk is permitted to mature, without suffering the ear to form, the saccharine matter (three times as great as in beets, and equal to cane) will amply repay the cost of manufacture into sugar. This plan has heretofore been suggested by German chymists, but the process has not been successfully introduced into the United States, until Mr. Webb's experiments at Wilmington, the last season. With him the whole was doubtless original, and certainly highly meritorious; and, though he may not be able to obtain a patent, as the first original inventor, it is hoped his services may be secured to perfect his discoveries. It may be foreign to descend to further particulars in an annual report. A minute account of these experiments can be furnished, if desired. Specimens of the oil, candles, and sugar, are deposited in the national gallery.

May I be permitted to remark that the formation of a National Agricultural Society has enkindled bright anticipations of improvement. The propitious time seems to have come for agriculture, that long neglected branch of industry, to present her claims. A munificent bequest is placed at the disposal of Congress, and a share of this with private patronage, would enable this association to undertake, and, it is confidently believed, accomplish much good.

A recurrence to past events will show the great importance of having annually published the amount of agricultural products, and the places where either a surplus or a deficiency exists. While Indian corn, for instance, can be purchased on the western waters for $1 (now much less) per barrel of 196 pounds, and the transportation, via New Orleans to New York, does not exceed $1 50 more, the price of meal need never exceed from 80 cents to $1 per bushel in the Atlantic cities. The aid of the National Agricultural Society, in obtaining and diffusing such information, will very essentially increase the utility of the plan before referred to, of acquiring the agricultural statistics of the country, as well as other subsidiary means for the improvement of national industry.

I will only add that, if the statistics now given are deemed important, as they doubtless may prove, to aid the Government in making their contracts for supplies, in estimating the state of the domestic exchanges, which depend so essentially on local crops, and in guarding the public generally against the grasping power of speculation and monopoly, a single clerk, whose services might be remunerated from the patent fund, to which it will be recollected more than $8,000 has been added by the receipts of the past year, would accomplish this desirable object. The census of population and statistics, now taken once in ten years, might, in the interval, thus be annually obtained sufficiently accurate for practical purposes.

All which is respectfully submitted.

HENRY L. ELLSWORTH.

Hon. SAML. L. SOUTHARD,
President pro tempore of the Senate.

LEGISLATIVE INTENT SERVICE (800) 666-1917

D.

Statement of receipts, caveats, disclaimers, improvements, and certified copies of papers, in the year 1841.

Amount received for patents, caveats, &c.	$39,640 50	
Amount received for office fees	772 51	
		$40,413 01
Deduct repaid on withdrawals	–	9,093 30
		31,319 71

E.

Statement of expenditures and payments made from the patent fund by H. L. Ellsworth, Commissioner, from the 1st of January to the 31st of December, 1841, *inclusive, under the act of March* 3, 1839.

For salaries	$15,982 41	
For contingent expenses	4,346 04	
For library	44 00	
For temporary clerks	2,443 42	
For agricultural statistics and seeds	125 00	
For compensation to chief justice of the District of Columbia	125 00	
		23,065 87
Leaving a net balance to the credit of the patent fund	–	8,253 84

F.

Expenditures under the act of 3d of March, 1837, *for restoring the loss by fire in* 1836.

For draughtsmen	$8,325 10
For examiner and register	1,500 00
For restoring the records of patents	156 00
For restored drawings	112 00
For restored models, and cases for ditto	9,665 60
For freight of models	458 00
For stationery	290 00
	20,507 70

PATENT OFFICE, *January*, 1842.

H. L. ELLSWORTH.

LEGISLATIVE INTENT SERVICE (800) 666-1917

G.

TABLE I.—*Agricultural statistics, as estimated for* 1841.

States, &c.	Population according to the census of 1840.	Present population, estimated on the annual average incr'se for 10 years.	Number of bushels of wheat	Number of bushels of barley.	Number of bushels of oats.	Number of bushels of rye.	Number of bushels of buckwheat.	Number of bushels of Indian corn.
Maine - - -	501,973	522,059	987,412	360,267	1,119,425	143,458	53,020	988,549
New Hampshire - -	284,574	256,622	426,816	125,964	1,312,127	317,418	106,301	191,275
Massachusetts - -	737,699	762,257	189,571	157,903	1,276,491	509,205	91,273	1,905,273
Rhode Island - -	108,830	111,156	3,407	69,139	188,668	37,973	3,276	471,022
Connecticut - - -	309,978	312,440	95,090	31,594	1,431,454	805,222	334,008	1,521,191
Vermont - - -	291,948	293,906	512,461	55,243	2,601,425	241,061	231,122	1,167,219
New York - - -	2,428,921	2,531,003	12,309,041	2,301,041	21,896,205	2,723,241	2,325,911	11,441,256
New Jersey - - -	373,306	383,802	919,043	13,009	3,745,061	1,908,984	1,007,340	5,134,366
Pennsylvania - -	1,724,033	1,799,193	12,872,219	203,858	20,872,591	6,942,643	2,485,132	14,969,472
Delaware - - -	78,085	78,351	317,105	5,119	937,105	35,162	13,127	2,164,507
Maryland - - -	470,019	474,613	3,747,652	3,773	2,827,365	671,420	80,966	6,998,124
Virginia - - -	1,239,797	1,245,475	10,010,105	83,025	12,962,108	1,317,574	297,109	33,987,255
North Carolina - -	753,419	756,505	2,183,026	4,208	3,832,729	256,765	18,469	24,116,253
South Carolina - -	594,398	597,040	963,162	3,794	1,374,562	49,064	85	14,987,474
Georgia - - -	691,392	716,506	1,991,162	12,897	1,525,623	64,723	542	21,749,227
Alabama - - -	590,756	646,996	869,554	7,941	1,476,670	55,558	60	21,594,354
Mississippi - - -	375,651	443,457	305,091	1,784	697,235	11,978	69	5,985,724
Louisiana - - -	352,411	379,967	67	–	109,425	1,897	–	6,224,147
Tennessee - - -	829,210	858,670	4,873,584	5,197	7,457,818	322,579	19,145	46,285,359
Kentucky - - -	779,828	798,210	4,096,113	16,860	6,825,974	1,652,108	9,669	40,787,120
Ohio - - - -	1,519,467	1,647,779	17,979,647	245,905	15,995,112	854,191	666,541	35,452,161
Indiana - - -	685,866	754,232	5,282,864	33,618	6,606,086	162,026	56,371	33,195,108
Illinois - - -	476,183	584,917	4,026,187	102,926	6,964,410	114,656	69,549	23,424,474
Missouri - - -	383,102	432,350	1,110,542	11,515	2,580,641	72,144	17,135	19,725,146
Arkansas - - -	97,574	111,010	2,132,030	950	236,941	7,772	110	6,039,450
Michigan - - -	212,267	248,331	2,896,721	151,263	2,915,102	42,306	127,504	3,058,290
Florida Territory - -	54,477	58,425	624	50	13,561	320	-	694,205
Wisconsin Territory -	30,945	37,133	297,541	14,529	511,527	2,342	13,525	521,244
Iowa Territory - -	43,112	51,834	234,115	1,342	301,498	4,675	7,873	1,547,215
District of Columbia -	43,712	46,978	10,105	317	12,694	5,009	312	43,725
	17,069,453	17,835,217	91,642,957	5,024,731	130,607,623	19,333,474	7,953,544	387,380,185

LEGISLATIVE INTENT SERVICE (800) 666-1917

G—TABLE I—Continued.

States, &c.	Number of bushels of potatoes.	Number of tons of hay.	Number of tons of flax and hemp.	Number of pounds of tobacco gathered.	Number of pounds of cotton.	Number of pounds of rice.	No. of lbs. of silk cocoons.	Number of pounds of sugar.	Number of gallons of wine.
Maine - -	10,912,821	713,285	40	75	–	–	527	263,592	2,349
New Hampshire -	6,573,405	505,217	28	264	–	–	692	169,519	104
Massachusetts -	4,947,805	617,663	9	87,955	–	–	198,432	496,341	207
Rhode Island - -	1,003,170	69,881	½	454	–	–	745	55	801
Connecticut - -	3,002,142	497,204	45	547,694	–	–	93,611	56,372	1,924
Vermont - -	9,112,008	924,379	31	710	–	–	5,684	5,119,264	109
New York - -	30,617,009	3,472,118	1,508	984	–	–	3,425	11,102,070	5,162
New Jersey - -	2,486,482	401,833	2,197	2,566	–	–	3,116	67	9,311
Pennsylvania - -	9,747,343	2,004,162	2,987	415,908	–	–	17,324	2,894,016	16,115
Delaware - -	213,090	25,007	54	365	352	–	2,963	–	296
Maryland - -	827,363	87,351	507	26,152,810	5,484	–	5,677	39,892	7,763
Virginia - -	2,889,265	367,602	26,141	79,450,192	2,402,117	3,084	5,341	1,557,206	13,504
North Carolina -	3,131,086	111,571	10,705	20,026,830	34,437,581	3,324,132	4,929	8,924	31,572
South Carolina -	2,713,425	25,729	–	69,524	43,927,171	66,897,244	4,792	31,461	671
Georgia - -	1,644,235	17,507	13	175,411	116,514,211	13,417,209	5,185	357,611	8,117
Alabama - -	1,793,773	15,353	7	286,976	84,854,118	156,469	4,902	10,650	354
Mississippi - -	1,705,461	604	21	155,307	148,504,395	861,711	158	127	17
Louisiana - -	872,563	26,711	–	129,517	112,511,263	3,765,541	881	88,189,315	2,911
Tennessee - -	2,018,632	33,106	3,724	35,168,040	20,872,433	8,455	5,724	275,557	692
Kentucky - -	1,279,519	90,360	8,827	56,678,674	607,456	16,848	3,405	1,409,172	2,261
Ohio - -	6,004,183	1,112,651	9,584	6,486,164	–	–	6,278	7,109,423	11,122
Indiana - -	1,830.952	1,213,634	9,110	2,375,365	165	–	495	3,914,184	10,778
Illinois - -	2,633,156	214,411	2,143	863,623	196,231	598	2,345	415,756	616
Missouri - -	815,259	57,204	20,547	10,749,454	132,109	65	169	327,165	27
Arkansas - -	367,010	695	1,545	185,548	7,038,186	5,987	171	2,147	
Michigan - -	2,911,507	141,525	944	2,249	–	–	984	1,894,372	
Florida Territory -	271,105	1,045	2¼	74,963	6,009,201	495,625	376	269,146	
Wisconsin Territory -	454,819	35,603	3	311	–	–	25	147,816	
Iowa Territory -	261,306	19,745	459	9,616	–	–	–	51,425	
District Columbia -	43,725	1,449	–	59,578	–	–	916	–	32
	113,183,619	12,804,705	101,181¾	240,187,118	578,008,473	88,952,968	379,272	126,164,644	125,715

8 LEGISLATIVE INTENT SERVICE (800) 666-1917

G—Continued.

TABLE II.—*Census statistics of various articles for* 1839, *not embraced in Table I.*

States, &c.	Pounds of wool.	Pounds of hops.	Pounds of wax.	LIVE STOCK.			
				Horses and mules.	Neat cattle.	Sheep.	Swine.
Maine	1,465,551	36,940	3,723½	59,208	327,255	649,264	117,386
New Hampshire	1,260,517	243,425	1,345	43,892	275,562	617,390	121,671
Massachusetts	941,906	254,795	1,196	61,484	282,574	378,226	143,221
Rhode Island	183,830	113	165	8,024	36,891	90,146	30,659
Connecticut	889,870	4,573	3,897	34,650	238,650	403,462	131,961
Vermont	3,699,235	48,137	4,660	62,402	384,341	1,681,819	203,800
New York	9,845,295	447,250	52,795	474,543	1,911,244	5,118,777	1,900,065
New Jersey	397,207	4,531	10,061	70,502	220,202	219,285	261,443
Pennsylvania	3,048,564	49,481	33,107	365,129	1,172,665	1,767,620	1,503,964
Delaware	64,404	746	1,088	14,421	53,883	39,247	74,228
Maryland	488,201	2,357	3,674	92,220	225,714	257,922	416,943
Virginia	2,538,374	10,597	65,020	326,438	1,024,148	1,293,772	1,992,155
North Carolina	625,044	1,063	118,923	166,608	617,371	538,279	1,649,716
South Carolina	299,170	93	15,857	129,921	572,608	232,981	878,532
Georgia	371,303	773	19,799	157,540	884,414	267,107	1,457,755
Alabama	220,353	825	25,226	143,147	668,018	163,243	1,423,873
Mississippi	175,196	154	6,835	109,227	623,197	128,367	1,001,209
Louisiana	49,283	115	1,012	99,888	381,248	98,072	323,220
Tennessee	1,060,332	850	50,907	341,409	822,851	741,593	2,926,607
Kentucky	1,786,847	742	38,445	395,853	787,098	1,008,240	2,310,533
Ohio	3,685,315	62,195	38,950	430,527	1,217,874	2,028,401	2,099,746
Indiana	1,237,919	38,591	30,647	241,036	619,980	675,982	1,623,608
Illinois	650,007	17,742	29,173	199,235	626,274	395,672	1,495,254
Missouri	562,265	789	56,461	196,032	433,875	348,018	1,271,161
Arkansas	64,943	-	7,079	51,472	188,786	42,151	393,058
Michigan	153,375	11,381	4,533	30,144	185,190	99,618	295,890
Florida Territory	7,285	-	75	12,043	118,081	7,198	92,680
Wisconsin Territory	6,777	133	1,474	5,735	30,269	3,462	51,383
Iowa Territory	23,039	83	2,132	10,794	38,049	15,354	104,899
District of Columbia	707	28	44	2,145	3,274	706	4,673
	35,802,114	1,238,502	628,303½	4,335,669	14,971,586	19,311,374	26,301,293

LEGISLATIVE INTENT SERVICE (800) 666-1917

6—Table II—Continued.

States, &c.	LIVE STOCK. Poultry of all kinds, estimated value.	Value of the products of the dairy.	Value of the products of the orchard.	Value of home-made or family goods.	GARDENS AND NURSERIES. Value of produce of market gardeners.	Value of produce of nurseries & florists.	Number of men employed.	Capital invested.
Maine	$123,171	$1,496,902	$149,384	$804,397	$51,579	$460	689	$84,774
New Hampshire	107,092	1,638,543	239,979	538,303	18,085	35	21	1,460
Massachusetts	178,157	2,373,299	389,177	231,942	283,904	111,814	292	43,170
Rhode Island	61,702	223,229	32,098	51,180	67,741	12,604	207	240,274
Connecticut	176,629	1,376,534	296,232	226,162	61,936	18,114	202	126,346
Vermont	131,578	2,008,737	213,944	674,548	16,276	5,600	48	6,677
New York	1,153,413	10,496,021	1,701,935	4,636,547	499,126	75,980	525	258,558
New Jersey	336,953	1,328,032	464,006	201,625	249,613	26,167	1,233	125,116
Pennsylvania	685,801	3,187,292	618,179	1,303,093	232,912	50,127	1,156	857,475
Delaware	47,265	113,828	28,211	62,116	4,035	1,120	9	1,100
Maryland	218,765	457,466	105,740	176,050	133,197	10,591	619	48,841
Virginia	754,698	1,480,488	705,765	2,441,672	92,359	38,799	173	19,900
North Carolina	544,125	674,349	386,006	1,413,242	28,475	48,581	20	4,663
South Carolina	396,364	577,810	52,275	930,703	38,187	2,139	1,058	210,980
Georgia	449,623	605,172	156,122	1,467,630	19,346	1,853	418	9,213
Alabama	404,994	265,200	55,240	1,656,119	31,978	370	85	58,425
Mississippi	369,482	359,585	14,458	682,945	42,896	499	66	43,060
Louisiana	283,559	153,069	11,769	65,190	240,042	32,415	349	359,711
Tennessee	606,969	472,141	367,105	2,886,661	19,812	71,100	34	10,760
Kentucky	536,439	931,363	434,935	2,622,462	25,071	6,226	350	108,597
Ohio	551,193	1,848,869	475,271	1,853,937	97,606	19,707	149	31,400
Indiana	357,594	742,269	110,055	1,289,802	61,212	17,231	309	73,628
Illinois	309,204	428,175	126,756	993,567	71,911	22,990	77	17,515
Missouri	270,647	100,432	90,878	1,149,544	37,181	6,205	97	37,075
Arkansas	109,468	59,205	10,680	489,750	2,736	415	8	6,036
Michigan	82,730	301,052	16,075	113,955	4,051	6,307	37	24,273
Florida Territory	61,007	23,094	1,035	20,205	11,758	10	60	6,500
Wisconsin Territory	16,167	35,677	37	12,567	3,106	1,025	89	85,616
Iowa Territory	16,529	23,609	50	25,966	2,170	4,200	10	1,698
District of Columbia	3,092	5,566	3,507	1,500	52,895	850	163	42,933
	9,344,410	33,787,008	7,256,904	29,023,380	2,601,196	593,534	8,553	2,945,774

10
LEGISLATIVE INTENT SERVICE (800) 666-1917.

REMARKS ON THE AGRICULTURAL STATISTICS.

In connexion with the foregoing tabular view, it is deemed important to add some general remarks in reference to the crops of 1841, and also particulars relating to the various articles enumerated, and the prospects of the country with regard to them for years to come.

This tabular view has been prepared from the census statistics taken in 1840, upon the agricultural products of the year 1839 as the basis. These have been carefully compared and estimated by a laborious examination and condensing of a great number of agricultural papers, reports, &c., throughout the Union, together with such other information as could be obtained by recourse to individuals from every section of the country. It is believed to be as correct as with the present data can be reached, although, could the entire attention of a competent person be devoted to the preparation of an annual register, to be formed by collecting, comparing, and classifying the various items of intelligence, and conducting an extensive correspondence with reference to this subject, an amount of statistical and other information relating to the agricultural products of our country might be furnished, which would be exceedingly valuable to the whole nation, and a hundred-fold more than repay all the expenditure for accomplishing the object. The statistics professedly derived from the census, which have been published during the past year in various papers and journals, are very incorrect, as any one can assure himself by comparing them with the recapitulation just issued from the census bureau, by direction of the Secretary of State. They were probably copied from the returns of the marshals of the districts, before they had been suitably compared and corrected.

The estimates of the foregoing tabular view are doubtless more closely accurate with regard to some portions of the country than others. The numerous agricultural societies in some of the States, with the reports and journals devoted to this branch of industry, afford a means of forming such an estimate as is not to be found in others. Papers of this description, giving a continued record of the crops, improvements in seeds, and means of culture, and direction of labor, are more to be relied on in this matter than the mere political or commercial journals, as they cannot be suspected, like these latter, of any design of forestalling or otherwise influencing the market, by their weekly and monthly report of the crops. Portions, too, of the census statistics, have probably been more accurately taken than others. In assuming them as the basis, reference must also be had to the annual increase of our population, equal to from 300,000 to 400,000, and in some of the States reaching as high as 10 per cent., as estimated by the ten years preceding the year 1840, and also to the diversion of labor from the works of internal improvement carried on by the States, in consequence of which the consumer has become the producer of agricultural products, the prices of articles raised, &c., with the various other causes which might occasion an increase or a decrease in the products of each State, and the sum total of agricultural supply. For convenient reference, the census return, total, of the population of each State, and also the estimated population according to annual increase, are added to the table, in separate columns, beside each other.

The crops of 1839, on which the census statistics are founded, were, as appears from the notices of that year, very abundant in relation to nearly every product throughout the whole country; indeed, unusually so, compared with the years preceding. Tobacco may be considered an exception; it is described to have been generally a short crop.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The crops of the succeeding year are likewise characterized as abundant. The success which had attended industry in 1839 stimulated many to enter upon a larger cultivation of the various articles produced, while the stagnation of other branches of business drew to the same pursuit a new addition to the laboring force of the population.

Similar causes operated also to a considerable extent the past year. In 1841, the season may be said to have been less favorable in many respects than in the two preceding ones; but the increase of the laboring force, and the amount of soil cultivated, render the aggregate somewhat larger. Had the season been equally favorable, we might probably have rated the increase considerably higher, as the annual average increase of the grains, with potatoes, according to the annual increase of our population, is about thirty millions of bushels. Portions of the country suffered much from a long drought during the last summer, which affected unfavorably the crops more particularly liable to feel its influence, especially grain, corn, and potatoes. In other parts, also, various changes of the weather in the summer and autumn lessened the amount of their staple products below what might have been gathered, had the season proved favorable. Still, there has been no decisive failure, on the whole, in any State, so as to render importation necessary, without the means of payment in some equivalent domestic products, as has been the case in some former years, when large importations were made to supply the deficiency, at cash prices. In the year 1837 not less than 3,921,259 bushels of wheat were imported into the United States. We have now a large surplus of this and other agricultural products for exportation, were a market open to receive them.

A glance at the specific crops is all that can be given. Some notice of this kind seems necessary, and may be highly useful to those who wish to embrace, in a narrow compass, the results of the agricultural industry of our country.

Wheat.—This is one of the great staple products of several States, the soil of which seems, by a happy combination, to be peculiarly fitted for its culture. Silicious earth, as well as lime, appears to form a requisite of the soil to adapt it for raising wheat to the greatest advantage, and the want of this has been suggested as a reason for its not proving so successful of cultivation in some portions of our couutry. Of the great wheat-growing States, during the past year, it may be remarked that, in New York, Pennsylvania, Virginia, and the Southern States, this crop seems not to have repaid so increased a harvest as was promised early in the season. Large quantities of seed were sown, and the expectation was deemed warranted of an unusually abundant increase. But the appearance of the chinch-bug and other causes destroyed these hopes. In the northern part of Kentucky the crop "did not exceed one third of an ordinary one." In some of the States, as in New Jersey, Ohio, Indiana, Michigan, and Illinois, the quantity raised was large, and the grain of a fine quality. The prospect of another year at the west, if we may judge at so early a period, is for an increased crop, as in some fertile sections more than double the usual amount is said to have been sown. The present open winter, however, may prove injurious, and these sanguine expectations not be realized. Indeed, the wheat and rye, as well as other grain crops, are in parts of the country becoming more uncertain, and without more attention to the variety and culture, many kinds of grain must probably be still more confined to particular sections. Of all the States, Ohio stands foremost in the production of wheat, as she is also peculiarly fitted for

LEGISLATIVE INTENT SERVICE (800) 666-1917

all the grains, and the sustaining of a dense population. About one sixth of the whole amount of the wheat crop of the country is raised by this State. To this succeed, in their order, Pennsylvania, New York, Virginia, Indiana, Tennessee, Kentucky, Illinois, Maryland, Michigan, and North Carolina. In some of the States a bounty is paid on the raising of wheat, which has operated as an inducement to the cultivation of this crop. The amount thus paid out of the State treasury, in Massachusetts, for two years, was more than 18,000; the bounty was two dollars for every fifteen bushels, and five cents for every bushel above this quantity. Similar inducements might, no doubt, stimulate to still greater improvements and success in this and other products of the soil.

The value of this crop in our country is so universally felt, that its importance will be at once acknowledged. The whole aggregate amount of wheat raised is 91,642,957 bushels, which is nearly equal to that of Great Britain, the wheat crop of which does not annually exceed 100,000,000 of bushels. The supply demanded at home, as an article of food, cannot be less than eight or ten millions, and has been estimated as high as twelve millions of barrels of flour, equal to about forty to sixty millions bushels of wheat. The number of flourishing mills reported by the last census is 4,364, and the number of barrels of flour 7,404,562. Large quantities of wheat also are used for seed, and for food of the domestic animals, as well as for the purposes of manufacture. The allowance in Great Britain for seed, in the grains in general, as appears from McCulloch, is about one seventh of the whole amount raised. Probably a much less proportion may be admitted in this country. Wheat is also used in the production of, and as substitute for, starch. The cotton manufactories of this country are said to consume annually 100,000 barrels of flour for this and similar purposes; and in Lowell alone, 800,000 pounds of starch, and 3,000 barrels of flour, are said to be used in conducting the mills, bleachery and prints, &c., in the manufactories.

Could the immense surplus amount of this crop, in the west, find access to the ports of Great Britain, as the means of communication are daily becoming more easy and shorter in point of time, it would contribute much to enrich that grain-producing section of our country.

Barley.—Comparatively little of this grain is raised in this country, with the exception of New York. Maine, Ohio, Pennsylvania, Michigan, Massachusetts, New Hampshire, and Illinois, rank next as producers of this crop. As it is raised principally to supply malt for the brewery, and small quantities of it only are used for the food of animals, or for bread, no great increase in this product is to be anticipated. The crop of 1841 appears to have been somewhat less than the usual one in proportion to the population.

Oats.—This grain in several of the States is evidently deemed an important object of cultivation, and large quantities of it are annually produced. As compared with wheat, it has the precedence of all of them, with the exception of Maine, Maryland, Ohio, and Georgia. New York takes the lead in the amount raised. Then follows, very closely, Pennsylvania; then Ohio, Virginia, Indiana, Tennessee, and Kentucky. It is a favorite crop, too, in the New England States. The crop of oats, in 1841, is believed to have been somewhat below a full one, and may therefore be considered as not having been so successful as some others, although large quantities of the seed were sown in the States where they are most abundantly cultivated. The consumption of oats in this country is confined particularly to the feeding of horses; but in some parts of Europe this article is used, to a consider-

LEGISLATIVE INTENT SERVICE (800) 666-1917

able extent, as one of the bread stuffs. It enters to a limited degree into our articles of exportation, but it is not easy to form any exact estimate of the different appropriations of this crop, at home or abroad.

Rye.—This species of grain is mostly confined to a few States. The proportion which it bears to the other grains is probably greater in the New England States than in any other section of our country. There it likewise, to some extent, forms an article of food for the people. Pennsylvania, New York, New Jersey, Virginia, Kentucky, Ohio, and Connecticut, may be ranked as the chief producers of this crop; at least, these are among the States where it bears the greatest relative proportion to the other important crops. In 1841 it experienced, in some degree, similar vicissitudes with the other grains, and must likewise be estimated as below the increased crop which a more favorable season would probably have produced. The product of this crop is extensively used in many parts of our country for distillation, although the quantity thus applied has probably materially lessened within the few years past, and will doubtless hereafter undergo a still greater reduction.

Buckwheat.—This must be reckoned among the crops of minor interest in our country. With the exception of New York, Pennsylvania, New Jersey, Ohio, Connecticut, Virginia, Vermont, Michigan, and New Hampshire, very little attention seems to be given to the culture of this grain. In England it is principally cultivated, that it may be cut in a green state as fodder for cattle, and the seed is used to feed poultry. In this country it is also applied in a similar manner; and is sometimes ploughed in, as a means of enriching the soil. To a limited extent, the grain is further used as an article of food. The crop of 1841 may be considered as, on the whole, above an average one. This may in part be attributed to the fact that, when some of the other and earlier crops failed, resort was had to buckwheat, as a later crop, more extensively than is usual. It is a happy feature in the adaptation of our climate, that the varieties of products are so great as to enable the agriculturist often thus to supply the deficiency in an earlier crop, by greater attention to a later one. There was more buckwheat sown than is commonly the case, and the yield was such as to compensate for the labor and cost of culture.

Maize or Indian Corn.—Tennessee, Kentucky, Ohio, Virginia, and Indiana, are, in their order, the greatest producers of this kind of crop. In Illinois, North Carolina, Georgia, Alabama, Missouri, Pennsylvania, South Carolina, New York, Maryland, Arkansas, and the New England States, it appears to be a very favorite crop. In New England, especially, the aggregate is greater than in any of the grains, except oats. More diversity seems to have existed in this crop, in different parts of the country, the past year, than with most of the other products of the soil; and hence it is much more difficult to form a satisfactory general estimate. In some sections the notices are very favorable, and speak of "good crops," as in portions of New England; of "a more than average yield," as in New Jersey; of being "abundant" as in parts of Georgia; or, "on the whole, a good crop," as in Missouri; "on the whole, a tolerable one," as in Kentucky. In others, the language is of "a short crop," as in Maryland; or, "cut off," as in North Carolina; or "below an average," as in Virginia. On the whole, however, from the best estimate which can be made, it is believed to have equalled, if it did not exceed, an average crop. The improvement continually making in the quality of the seed (and this remark is likewise

LEGISLATIVE INTENT SERVICE (800) 666-1917

applicable, in various degrees, to other products) augurs well for the productiveness of this indigenous crop, as it has been found that new varieties are susceptible of being used to great advantage. Considered as an article of food for man, and also for the domestic animals, it takes a high rank. No inconsiderable quantities have likewise been consumed in distillation; and the article of kiln-dried meal, for exportation, is yet destined, it is believed, to be of no small account to the corn-growing sections of our country. It will command a good price, and find a ready market in the ports which are open to its reception. But the importance of this crop will doubtless soon be felt in the new application of it to the manufacture of sugar from the stalk, and of oil from the meal. Below will be found some comparisons and deductions on this subject, and a view of the true policy of our country in relation to it and to agricultural industry generally.

Potatoes.—The tabular view shows that in quite a number of States the amount of potatoes raised is very great. New York, Maine, Pennsylvania, Vermont, New Hampshire, Ohio, Massachusetts, and Connecticut, are the great potato-growing States; more than two-thirds of the whole crop are raised by these States. Two kinds, the common Irish and the sweet potato, as they are called, with the numerous varieties, are embraced in our agricultural statistics. When it is recollected that this product of our soil forms a principal article of vegetable food among so large a class of our population, its value will at once be seen. The best common or Irish potatoes, as an article of food for the table, are produced in the higher northern latitudes of our country, as they seem to require a colder and moister soil than corn and the grains generally. It is on their peculiar adaptation in this respect, that Ireland, Nova Scotia, and parts of Canada, are so peculiarly successful in the raising and perfecting of the common or Irish potatoes. It is estimated that, in Great Britain, an acre of potatoes will feed more than double the number of individuals that can be fed from an acre of wheat. It is also asserted that, whenever the laboring class is mainly dependant on potatoes, wages will be reduced to a minimum. If this be true, the advantage of our laboring classes over those of Great Britain, in this respect, is very great. The failure of a crop of potatoes, too, where it is so much the main dependance, must produce great distress and starvation. Such is now the case in Ireland and parts of England and Scotland. Another disadvantage of relying on this crop as a chief article of food for the people is, that it does not admit of being stored up as it is, or converted into some other form for future years, as do wheat and corn. Potatoes also enter largely into the supply of food for the domestic animals; beside which, considerable quantities are used for the purpose of the manufacture of starch, of molasses, and distillation. New varieties, which have been introduced within a few years past, have excited much attention, and many of them have been found to answer a good purpose. Increased improvement, and with yet more successful results in this respect, may be anticipated.

The crop of potatoes in 1841 suffered considerably in many parts of the country, and, perhaps, came nearer to a failure than has been known for some years. In portions of New England and New York this was particularly the case. In other sections, however, if a correct judgment may be formed from the notices of the crop, there appears to have been a more than average increase. In proportion to her population, Vermont may be considered foremost in the cultivation of potatoes. The sweet potato is raised

LEGISLATIVE INTENT SERVICE (800) 666-1917

with some success for market as far north as New Jersey, though the quality of the article is not equal to that which is produced in the more southern latitudes. As the climate of the West, compared with that of the Atlantic border, varies perhaps nearly several degrees within the same parallels of latitude, it may be supposed that this variety of the potato can be cultivated even as high up as Winconsin or Iowa, in favorable seasons, with tolerable success.

HAY.—This product was remarkably successful during the past year in particular sections of our country, in others less so. In Maine, and in the New England States generally, there was more than an average yield. In New York, which ranks highest in the tabular view, it was lighter than usual. In New Jersey, and the middle States generally, it was considered "good;" in the more southern and southwestern ones, little, comparatively, is cultivated. In the northwestern States it appears to have been about an average crop. The extensive prairies of the west admit of being covered with luxuriant crops of grass, of better varieties; and when this is done they will prove far more valuable, both for the purposes of stock, and also in raising hay for the southern market at New Orleans, which is already supplied, to some extent, with this product, brought down the Mississippi, from Indiana, Ohio, and Illinois, as well as by the Atlantic coast, from the New England States and New York. Hay is also an article of export, in some quantities, to the West Indies.

FLAX AND HEMP.—More difficulty has been found in forming an estimate of these two articles than any other embraced in the tabular view. They are combined in the census statistics, and the amount is sometimes given in tons, sometimes in pounds, so that it is not easy always to discriminate between them. More than half of the whole combined amount must probably be allotted to flax, as but little hemp, comparatively, is known to be raised. Flaxseed is used for the manufacture of linseed oil, considerable quantities of which are annually imported into this country for various purposes. The oil cake, remaining after the oil is expressed, is a well-known article in use, mingled with the food of horses and other animals.

In these articles of flax and hemp combined, if the recapitulation of the census statistics is correct, Virginia is in advance of all the other States; then follow Missouri, North Carolina, Ohio, Kentucky, Indiana, Tennessee, Pennsylvania, New Jersey, Illinois, New York, and other States. It is believed, however, that some of the amounts, as returned by the marshals, should rather have been credited to pounds for flax than to tons, as more nearly corresponding to the actual condition of the crops in our country. Kentucky probably ranks the highest with respect to the production of hemp. The crop of 1840 was a great failure, and that of the past year also suffered much from the dry weather. There is not so much attention paid to the culture of this article as its importance demands; yet there is every ground of encouragement for increased enterprise in the production of hemp, from the supply required in our own country. The difficulty most in the way of its success, hitherto, has been the neglect, either from ignorance, inexperience, or some other cause, properly to prepare it for use by the best process of water-rotting. The agriculturists of our country seem, in this respect, to have too soon yielded to discouragement. The desirableness of some new and satisfactory results on this subject will be seen from the fact that it is stated the annual consumption of hemp in our navy amounts to nearly two thousand tons; beside which, the demand for the rest of our shipping is not less

LEGISLATIVE INTENT SERVICE (800) 666-1917

than about eleven thousand tons more; making an aggregate of nearly thirteen thousand tons—the price of which is put at from $220 to $250, and by some even as high as $280 per ton, together with other and inferior qualities, which are used to supply the deficiency of the better article. Our hemp, it is further stated, on high authority, when properly water-rotted, proves, by actual experiment, to be one fourth stronger than Russia hemp, to take five feet more run, and to spin twelve pounds more to the four hundred pounds. When so much is felt and said on the increase of our navy prospectively, it is an object worthy of attention to secure, if possible, the production of hemp in our own country, adequate to all our demands. The introduction, too, of gunny bags, and of Scotch and Russia bagging, and iron hoops for cotton, renders this direction of the hemp product more necessary and important. It is hoped that some process of water-rotting, which will prove at once both cheap and satisfactory, may yet be discovered by the inventive genius of our countrymen, who are not wont to be discouraged at any slight obstacles.

Tobacco.—The crop of 1839, in this article, on which the census statistics are founded, is deemed, as appears from the notices on this subject, to have been a short one, and below the average. The crop of the past year was much more favorable—beyond an average; indeed, it is described in some of the journals as "large."

Virginia, Kentucky, Tennessee, North Carolina, and Maryland, are the great tobacco-growing States. An advance in this product is likewise in steady progress in Missouri, where the crop of 1841 is estimated at nearly 12,000 hogsheads, and for 1842 it is expected that as many as 20,000 may be raised. Some singular changes are going forward with regard to this great staple of several of the States. Reference is here intended to the increasing disposition evinced, as well as the success thus far attending the effort, to cultivate tobacco in some of the northern and northwestern States. The tobacco produced in Illinois has been pronounced by competent judges from the tobacco-growing States, and who have there been engaged in the culture of this article, to be superior, both in quality and the amount produced per acre, to what is the average yield of the soils heretofore deemed best adapted to this purpose. In Connecticut, also, the attention devoted to it has been rewarded with much success; 100,000 pounds are noticed as the product of a single farm of not more than fifty acres. It is, indeed, affirmed that tobacco can be raised in Indiana, Ohio, Kentucky, and Tennessee, at a larger profit than even wheat or Indian corn. Considerable quantities, also, were raised in 1841 in Pennsylvania and Massachusetts, where it may probably become an object of increased attention. The agriculturists of these States, if they engage in the production of this crop, will do so with some peculiar advantages. They are accustomed to vary their crops, and to provide means for enriching their soils. Tobacco, it is well known, is an exhausting crop, especially so when it is raised successive years on the same portions of soil. The extraordinary crops of tobacco which have heretofore been obtained have, indeed, enriched the former proprietors, but the present generation now find themselves, in too many instances, in the possession of vast fields, once fertile, that are now almost or wholly barren, from an inattention to the rotation of crops. The difficulty of cultivating a worn-out soil has induced, and will continue to induce, the emigration of the most enterprising to new lands, where they will bear in mind the lesson that dear-bought experience has taught them. It is a provision of nature herself, that there

LEGISLATIVE INTENT SERVICE (800) 666-1917

must be a suitable rotation of crops; and all history sanctions the conclusion, that the continued cultivation of any specific crop, without an adequate supply of the means of restoration from year to year, must eventually and inevitably terminate in empoverishing its possessors, and entailing on them the necessity of removal from their native homes, if they would not sink in degradation. Had a variety and rotation of crops been resorted to on the lands now so left, the countries suffering by such a course had been far more rich and prosperous.

The value of tobacco exported in different forms in 1839 was $10,449,155, and the amount of tobacco exported in 1840 was about 144,000,000 of pounds. The greater part of this goes to England, France, Holland, and Germany.

Cotton.—This, it is well known, is the great staple product of several States, as well as the great article of our exports, the price of which, in the foreign market, has been more relied on than anything else to influence favorably the exchanges of this country with Great Britain and Europe generally. The cotton crop of the United States is more than one half of the crop of the whole world. In 1834, the amount was but about 450,000,000 of pounds; the annual average may now be estimated at 100,000,000 of pounds more; the value of it for export at about $62,000,000. The rise and progress of this crop, since the invention of Whitney's cotton gin, has been unexampled in the history of agricultural products. In the year 1783, eight bales of cotton were seized on board of an American brig, at the Liverpool custom-house, because it was not believed that so much cotton could have been sent at one time from the United States! The cotton crop of 1841, compared with that of 1839 and 1840, was probably less, by from 500,000 to 600,000 bales. In the early part of the last cotton-growing season, an average crop was confidently anticipated; but this hopeful prospect was not realized. In portions of the cotton-producing States, as in parts of Georgia, however, the crop was greater than usual; and in Arkansas it has been estimated at a gain over that of 1839, of 33⅓ per cent.; but probably, owing to its having suffered from the boll worm, it should be set down at 20 or 25 per cent. A similar advance is expected in future years, among other causes, from the great increase of population by immigration. Mississippi, Georgia, Louisiana, and Alabama, South Carolina, and North Carolina, are, in their order, the great cotton-growing States. An important fact deserves notice here, on account of the relation which the cotton crop bears to other crops. Whenever (to whatever cause it may be owing) the price of cotton is low, the attention of cultivators, the next year, is more particularly diverted from cotton to the culture of corn, and other branches of agriculture, in the cotton-producing States. As cotton is now so low, and so little in demand in the foreign market, unless a market be created at home it must necessarily become an object of less attention to the planters; and it cannot be expected that the agricultural products of the West will find so ready a sale in the southern market as in some former years. Other countries, too, as India, Egypt, and other parts of Africa, Brazil, and Texas, are now coming more decidedly into competition with the cotton-growing interest of our country; so that an increase of this product from those countries, and a corresponding depression in ours, are to be expected. The amount of India cotton imported into England in 1840 was 76,703,295 pounds—almost equal to the whole cotton crop of North Carolina and South Carolina, or to that of Alabama, for the past year, and nearly double the amount produced by Tennessee, Ar-

LEGISLATIVE INTENT SERVICE (800) 666-1917

kansas, and Florida, combined; being, also, an increase on the importation of cotton from India, the preceding year, of 30,000,000 of pounds, and, in amount, nearly one sixth of the whole quantity imported during the same year from the United States. From the report of the Chamber of Commerce of Bombay, it appears that, from the 1st of June, 1840, to the 1st of June, 1841, the imports of cotton into Bombay amounted to 174,212,755 pounds; and the whole India cotton crop is estimated, on good authority, at 190,000,000 of pounds. This is a larger quantity than America produced up to 1826, and more than was consumed by England in the same year, and nearly one third of the whole estimated crop of the United States in 1841. From these facts, it is evident that it is becoming more and more the settled policy of England to encourage the production of cotton in India, while it is equally certain that a foreign market can not be relied on for our cotton, to the same extent as it has hitherto been. An English authority, speaking of the decline of England and of her manufactures, as having commenced a downward progress, in accounting for this decline, attributes the distress in Leeds, and other places, to the landholders, who, by excluding the foreign bread-stuffs, have driven foreigners to manufacture in self-defence. This decline, not being confined merely to her old staple of woollens, must, too, operate in the reduction and diminution of cotton exported from this country. The following statement confirms the position now taken:

"In 1824, Great Britain exported to all foreign countries, including the British possessions, of cloths, &c., 567,317 pieces; in 1828, 566,596 pieces; in 1830, 440,360 pieces; and in 1840, only 250,962 pieces. During the same year last named (1840), the total manufactured in only one district in Belgium and Prussia, all within a day's journey of each other, was 333,245 pieces; so that, in one district only, there was made more than was exported by Britain to all the world, by 76,233 pieces."

Rice.—This product is cultivated to comparatively a very little extent in the United States, except in South Carolina and Georgia. In the former of these, it is an object of no small attention, and ranks second only to cotton. It forms a considerable article of export from this country to Europe. England, however, imports annually large quantities of rice from India. The crop of rice in 1841 is said to have been, on the whole, a very good one—equal, if not superior, to the usual average.

Silk Cocoons.—Notwithstanding the disappointment of many who, since the year 1839, engaged in the culture of the *morus multicaulis* and other varieties of the mulberry, and the raising of silkworms, there has been, on the whole, a steady increase in the attention devoted to this branch of industry. This may be, in part, attributed to the ease of cultivation, both as to time and labor required, and in no small degree, also, to the fact that, in twelve of the States, a special bounty is paid for the production of cocoons, or of the raw silk. Several of these promise much hereafter in this product, if a reliance can be placed on the estimates given in the various journals more particularly devoted to the record of the production of silk. There seems, at least, no ground for abandoning the enterprise, so successfully begun, of aiming to supply our home consumption of this important article of our imports. In Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Tennessee, and Ohio, there has been quite an increase above the amount of 1839. The quantity of raw silk manufactured in this country the past year is estimated at more than 30,000 pounds. The machinery possessed for reeling, spinning, and weaving silk, in the production of ribands, vestings, damask, &c., admit

LEGISLATIVE INTENT SERVICE (800) 666-1917

of its being carried to great perfection, as may be seen by the beautiful specimens of various kinds deposited in the National Gallery at the Patent Office. The amount of silk-stuffs brought into this country in some single years, from foreign countries, is estimated at more in value than $20,000,000. The silk manufactured in France in 1840 amounted to $25,000,000; that of Prussia to more than $4,500,000. Should one person in a hundred of the population of the United States produce annually 100 pounds of silk, the quantity would be nearly 18,000,000 pounds, which, at $5 per pound (and much of it might command a higher price), would amount to nearly $90,000,000—nearly $30,000,000 above our whole cotton export, nine times the value of our tobacco exports, and nearly five or six times the average value of our imports of silk. That such a productiveness is not incredible, as at first sight it may seem, may be evident from the fact, that the Lombard Venetian kingdom, of a little more than 4,000,000 of population, exported in one year 6,132,950 pounds of raw silk; which is a larger estimate, by at least one half, for each producer, than the supposition just made as to our own country. Another fact, too, shows both the feasibility and the importance of the cultivation of this product. The climate of our country, from its southern border even up to 44 degrees of north latitude, is suited to the culture of silk. It needs only a rational and unflinching devotion to this object, to place our country soon among the greatest silk-producing countries of the world.

Sugar.—Louisiana is the greatest sugar district of our country. The crop of 1841 appears to have been injured by the early frosts; the amount, therefore, was not so great as that of 1839 by nearly one third.

The progress of the sugar manufacture and the gain upon our imports has been rapid. In 1839 the import of sugars was 195,231,273 pounds, at an expense of at least $10,000,000; in 1840, about 120,000,000 pounds, at an expense of more than $6,000,000. A portion of this was undoubtedly exported, but most of it remained for home consumption. More than 30,000,000 pounds of sugar, also, from the maple and the beet root were produced in 1841, in the Northern, Middle, and Western States; and, should the production of cornstalk sugar succeed, as it now promises to do, this article must contribute greatly to lessen the amount of imported sugars. Indeed, such has been the manufacture of the sugar from the cane for the last five years, that were it to advance in the same ratio for the five to come, it would be unnecessary to import any more sugar for our home consumption. Some further remarks on this particular topic will be found below, in connexion with the subject of cornstalk sugar.

Wine.—North Carolina, Pennsylvania, Virginia, Ohio, and Indiana, rank highest, in their order, in the production of wine. In Maryland, Georgia, Louisiana, Maine, and Kentucky, some thousands of gallons are likewise produced. Two acres in Pennsylvania, cultivated by some Germans, have the past autumn yielded 1,500 gallons of the pure juice of the grape, and paid a net profit of more than $1,000. Still, the quantity produced is small. The cultivation of both the native and foreign grape, as a fruit for the table, seems to be an object of increasing interest in particular sections of our country; but any very decided advances in this product are scarcely to be expected.

It has thus been attempted to give at least a bird's-eye view of the articles enumerated in the tabular statistics. There are also a variety of other products which might, perhaps, have been included in the agricultural statistics. These are hops, peas, beans, beets, turnips, and other roots and vegetables;

LEGISLATIVE INTENT SERVICE (800) 666-1917

the products of the dairy, of the orchard, and of the bee-hive; wool, live stock, and poultry. Many interesting comparisons in relation to some of the above might be formed from the census statistics, such as would exhibit in a striking manner the resources our country possesses in the products of her soil and the labor of her hardy yeomanry; but it has been deemed best to omit them in the present report, merely subjoining the census statistics on these particular articles to the tabular view. Yet, in estimating the home supply for the sustenance and comfort both of man and beast, these, too, should always be taken into the account as a very important item deserving notice.

The whole of the summary now given, with the rapid glance taken at the various products, presents our country as one richly favored of Heaven in climate and soil, and abounding in agricultural wealth. Probably no country can be found on the face of the globe exhibiting a more desirable variety of the products of the soil, contributing to the sustenance and comfort of its inhabitants. From the gulf of Mexico to our northern boundary, from the Atlantic to the far west, the peculiarities of climate, soil, and products, are great and valuable; yet these advantages admit of being increased more than a hundred fold. The whole aggregate of the bread-stuffs, corn, and potatoes, is 624,518,510 bushels, which, estimating our present population at 17,835,217, is about 35$\frac{2}{3}$ bushels for each inhabitant; and, allowing 10 bushels to each person—man, woman, and child—(which is double the usual annual allowance as estimated in Europe), and we have a surplus product, for seed, food of stock, the purposes of manufacture, and exportation, of not less than 446,166,340 bushels; from which, if we deduct one tenth of the whole amount of the crops for seed, it leaves for food of stock, for manufactures, and exportation, a surplus of at least 370,653,627 bushels. Including oats, the aggregate amount of the crops of grain, corn, and potatoes, is equal to nearly 755,200,000 bushels, or 42$\frac{1}{3}$ bushels to each inhabitant. The number of persons employed in agriculture, according to the census of 1840, was 3,717,756. This, it is presumed, refers to the male free white adult population.

The articles of CORN OIL, and corn for SUGAR, together with OIL from LARD and the castor bean, &c., deserve more than a passing notice. They are destined, it is believed, to call forth increased enterprise among the agriculturists of our country.

CORN OIL is produced from corn meal, by fermentation, with the aid of barley malt. It has been produced and used for some time past in certain distilleries, by skimming off the oil as it rises on the meal in fermentation in the mash tub. It has, however, lately become the subject of particular attention, as an article of manufacture, and with success. The meal, after it has been used for the production of this oil, it is said, will make better and harder pork, when fed out to swine, than before. The oil is of a good quality, of a yellowish color, and burns well. Further clarification, it is probable, may render it as colorless as the best sperm oil. Whether or not this may be the case, the ease with which it is made offers strong inducements to engage in the production of this article.

But a more important object in the production of Indian corn is doubtless the manufacture of SUGAR from the stalk. In this point of view, it possesses some very decided advantages over the cane. The juice of the cornstalk by Beaumé's saccharometer reaches to 10° of saccharine matter, which, in quality, is more than three times that of beet, five times that of maple, and fully equals, if it does not even exceed, that of the ordinary sugar cane in the United States. By plucking off the ears of corn from the stalk as they begin

LEGISLATIVE INTENT SERVICE (800) 666-1917

to form, the saccharine matter, which usually goes to the production of the ear, is retained in the stalk, so that the quantity it yields is thus greatly increased. One thousand pounds of sugar, it is believed, can easily be produced from an acre of corn. Should this fact seem incredible, reference need only be made to the weight of fifty bushels of corn in the ear, which the juice so retained in the stalk would have ripened, had not the ear, when just forming, been plucked away. Sixty pounds may be considered a fair estimate, in weight, of a bushel of ripened corn; and, at this rate, 3,000 pounds of ripened corn will be the weight of the produce of one acre. Nearly the whole of the saccharine part of this remains in the stalk, beside what would have existed there without such a removal of the ear. It is plain, therefore, that the sanguine conclusions of experiments the past year have not been drawn from insufficient data. Besides, it has been ascertained, by trial, that corn, on being sown broadcast (and so requiring but little labor, comparatively, in its cultivation), will produce five pounds per square foot, equal to 108 tons to the acre for fodder in a green state; and it is highly probable that, when subjected to the treatment necessary to prepare the stalk, as above described, in the best manner for the manufacture of sugar, a not less amount of crop may be produced. Should this prove to be the case, one thousand weight of sugar per acre might be far too low an estimate. Experiments on a small scale have proved that *six* quarts of the juice, obtained from the cornstalk sown broadcast, yielded one quart of crystallized sirup, which is equal to 16 per cent; while for one quart of sirup it takes thirty-two quarts of the sap of maple.

Again, the cornstalk requires only one fifth the pressure of the sugar cane, and the mill or press for the purpose is very simple and cheap in its construction, so that quite an article of expense will thereby be saved, as the cost of machinery in the manufacture of sugar from the cane is great. Only a small portion of the cane, also, in this country, where it is an exotic, ordinary yields saccharine matter, while the whole of the cornstalk, the very top only excepted, can be used.

Further, while cane requires at least eighteen months, and sedulous cultivation, and much hard labor, to bring it to maturity, the sowing and ripening of the cornstalk may be performed, for the purpose of producing sugar, with ease, within 70 to 90 days; thus allowing not less than two crops in a season in many parts of our country. The stalk remaining, after being pressed, also furnishes a valuable feed for cattle, enough, it is said, with the leaves, to pay for the whole expense of its culture. Should it be proved, by further experiments, that the stalk, after being dried and laid up, can, by steaming, be subjected to the press without any essential loss of the saccharine principle, as is the case with the beet in France, so that the manufacture of the sugar can be preserved till late in the autumn, this will still more enhance the value of this product for the purpose. It may, also, be true that, as in the case of the beet, no animal carbon may be needed, but a little limewater will answer for the purpose of clarification; after which, the juice may be boiled in a common kettle, though the improved method of using vacuum pans will prove more profitable when the sugar is made on a large scale.

Corn, too, is indigenous, and can be raised in all the States of the Union, while the cane is almost confined to one, and even in that the average amount of sugar produced, in ordinary crops, is but 900 or 1,000 pounds to the acre; not much beyond one third of the product in Cuba and other tropical situations, where it is indigenous to the soil. The investment in the sugar manufactories from the cane in this country has, it is believed, paid a poorer return than almost any other agricultural product. The laudable enterprise

LEGISLATIVE INTENT SERVICE (800) 666-1917

of introducing into the United States the culture of the cane and the manufacture of sugar from the same, has, it is probable, been hardly remunerated, though individual planters, on some locations, have occasionally enriched themselves. The amount of power required, with the cost of the machinery and the means of cultivation, will ever place this branch of industry beyond the reach of persons of moderate resources, while the apparatus and means necessary for the production of corn and other crops lie within the ability of many.

Should the manufacture of sugar from the cornstalk prove as successful as it now promises, enough might soon be produced to supply our entire home consumption, toward which, as has been mentioned, at least 120,000,000 pounds of foreign sugars are annually imported, and a surplus might be had for exportation. In Europe, already, more than 150,000,000 pounds of sugar are annually manufactured from the beet, which possesses but one third of the saccharine matter that the cornstalk does; and there are not less than 500 beet-sugar manufactories in France alone. By this manufacture of sugar at the West, the whole amount of freight and cost of transportation on imported sugar might also be saved—a sum nearly equal, it is probable, to the first cost of the article at the seaport; so that the price of sugar is at least doubled, if not almost trebled, to the consumer at a distance, when so imported. Not less than 6,000,000 pounds of sugar, it is said, are aunually imported, for home consumption, in the single city of Cincinnati.

Oil and Stearine from Lard and the Castor Bean, &c.—These two are articles which will hereafter attract much attention in many parts of our country. The use of lard instead of oil, for lamps of a peculiar construction, has been heretofore attempted with good success, as an article of economy. It has even been adopted in the light-houses in Canada, on the lakes, and is said to burn longer, and free from smoke, while the cost of the article is stated to be but about one third the cost of sperm oil. But it has now been discovered that oil equal to sperm can be easily extracted from lard, at great advantage, and that it is superior to lard for burning, without the necessity of a copper-tubed lamp. Eight pounds of lard equal in weight one gallon of sperm oil. The whole of this is converted into oil and stearine, an article of which candles that are a good substitute for spermaceti can be made. Allowing, then, for the value of the stearine above the oil, and it may be safely calculated, that when lard is six cents per pound, as it is now but four or five cents at the West, a gallon of oil can be afforded there for fifty cents; since the candles from the stearine will sell for from twenty-five to thirty cents per pound.

Stearine for this purpose has also recently been obtained from castor oil, the product of the *palma christi*, or castor bean, a plant successfully cultivated in portions of our country.

Oil, it is well known, is an article of large consumption in our country. The amount of sperm oil from our whale fisheries, for the year 1841, was 4,965,754 gallons; of whale and fish oil, 6,362,661 gallons—making a sum total of 11,328,415 gallons. The amount for 1840 did not vary much from the same. The amount of sperm and whale oil exported in 1840 was 4,955,486 gallons, leaving for home consumption 6,372,929 gallons. In the year 1840 there was also exported from this country 853,938 pounds of spermaceti candles. From these statements, which do not include linseed, olive, and other oils, it will be seen that the encouragement for the manufacture of oil and stearine, from cornmeal, and lard, and the castor-bean, is very

LEGISLATIVE INTENT SERVICE (800) 666-1917

great. Large quantities of oil for dressing cloths, oiling machinery, &c., are required in the manufactories. In the factories of Lowell, simply, not less than 78,689 gallons are thus needed.

Oil, too, enters largely into the composition of soap; and should it be found, as perhaps by experiment it may be, that the corn meal and lard oils are not liable to the objection which, it is said, attends the use of whale oil in this respect, the demand for this purpose may be of importance to the producers of this article.

It is not improbable that, by further experiments, an oil may be obtained from the cotton seed, of such an excellent quality as to make what is now almost a total loss an article of great value. The Germans at the west are said to obtain oil in some quantities from the seed of the pumpkin; and the seeds of the sunflower, and rapeseed, it is well known, have been used to advantage for the same purpose.

While Great Britain and other foreign countries have steadily pursued a policy designed and obviously tending to exclude our agricultural products from their trade, it becomes an object of no small consequence to us to evince, as the foregoing statistics have done, how much wealth we possess in our surplus products of wheat, and various other articles of food, together with the prospective increase of these and other products suited to call out the enterprise and industry of our people, and which, on a fair reciprocity with foreign nations, might greatly contribute to develop and enlarge the resources of our country. Should protective duties abroad continue to exclude our surplus products, the channels of present industry must be diverted to meet the emergency. It may be well for us to learn what makes us truly independent, and also happy. Extravagance in communities, as well as in individuals, leads to inevitable embarrassment. Credit may, indeed, be used for a while as a palliative, but the only effectual remedy is retrenchment and economy. When a constant drain of the precious metals is pressing us to meet the expenditures of our people for foreign imports, and when foreign nations encourage a home-policy, by prohibitory duties on our products, it becomes a serious question with us how far and in what directions the industry now expended in raising a surplus beyond our own wants can be diverted to other objects of enterprise. To decide a question of such magnitude and interest, reference must obviously be had to the articles imported, to determine what can be raised or produced in our own country; and possibly it may be found that most of the leading articles, either of necessity or luxury, thus supplied, can be raised and perfected to advantage by the labor and skill of our own inhabitants. The remedy thus lies within our own power. Our true policy is to give variety and stability to our productive industry. Extraordinary prices in particular crops inevitably lead to dangerous extremes in the culture of the same, to the neglect of the usual and necessary articles of produce. Cupidity soon urges even the agriculturist into a spirit of speculation, which too often terminates in great embarrassment, and sometimes in utter ruin. The credulity of Americans is proverbial; and this has, to some extent, been illustrated in the almost universal mania that attended the *morus multicaulis* speculation: a single sprout sold for one dollar, when millions might be produced in one season. Incredulity, likewise, is sometimes yet more injurious to a community, as this shuts out all the light which science pours in, and rests contented with following the beaten path of traditionary leaders. Happy would it be for our country if the spirit of investigation and severe experiment should induce effort to test principles, without

LEGISLATIVE INTENT SERVICE (800) 666-1917

diverting it from those channels of industry that will assuredly bring the comforts of life. The balance of trade against us, resulting from our improvidence, can no longer be settled, or, rather, as it might be said, postponed by the remittance of State securities, which seem to have run a brief career, leaving still a vast debt, that can only be honestly cancelled by much *hard work*.

Notwithstanding all this, the daily importation of goods (including many articles of luxury) goes forward to a truly alarming extent; TWO THIRDS OF WHICH ARE ON FOREIGN ACCOUNT, TO BE PAID FOR IN SPECIE OR ITS EQUIVALENT! Without the admitted means of liquidating the balances against us in foreign countries, we seem still madly bent on increasing them. Eleven and a half millions of dollars in specie were shipped from the single port of New York within the fifteen months preceding January, 1842; and with such a drain going on continually, every dollar of specie in the United States will soon be insufficient to meet our liabilities abroad. Stern necessity, however, will, ere long, extend her laws over us, compelling us to limit our expenditures to the actual income, and to effect exchanges of our agricultural products, either at home or abroad, for the products of mechanical skill and industry. This would be the case, even were the amount of our surplus product likely to be lessened.

Yet there is no reason to apprehend that our surplus products will be diminished. On the contrary, the stoppage of numerous canals, railroads, and other works of internal improvement by the States, will dismiss many laborers, who will resort to agriculture and kindred pursuits; so that the amount of products raised will probably exceed those of former years. The extensive tracts, too, of our unoccupied soil, invite emigration to our shores; and when we consider the present extreme distress in portions of the manufacturing districts of Great Britain, we are doubtless to expect a large increase of our population in future years from this cause. It is stated, on high authority, that as many as 20,000 persons die annually in Great Britain, from the want of sufficient and wholesome food. Let the fact of our vast surplus product of the bread-stuffs and other articles of food become known abroad, and is it not reasonable to look for increasing additions to the emigration from Europe to this country? especially since the distance is now, as it were, so much shortened, that a voyage may be compassed in twelve or fifteen days. A line of steampackets, too, is in contemplation, to run from Bremen to one of our ports, with the design principally of conveying emigrants, which, no doubt, will prove the means of bringing to us a hardy, industrious German population, most of whom will probably engage in agriculture. With these additions to her laboring force, our growing country, if she be true to herself, offers an unwonted scope for exertion. The diversities of her climate, the varieties of her soil, her peculiar combination of population, her mineral, animal, agricultural, mechanical, and commercial wealth, developed as they may be by a rightful regard to her necessities, might thus place her at last in a situation as eviable for her political and moral influence, as for the physical energies she had called into life and action. Our republic needs, indeed, only to prove her own strength, and wisely direct her energies, to become, more than she has ever been, the point on which the eye of all Europe is fixed, as a home of plenty for the destitute, and a field where enterprise reaps its sure and appropriate reward.

LEGISLATIVE INTENT SERVICE (800) 666-1917

27th Congress, 2d Session. Doc. No. 74. Ho. of Reps.

PATENT OFFICE.

REPORT

FROM

THE COMMISSIONER OF PATENTS,

SHOWING

The operations of the Patent Office during the year 1841.

FEBRUARY 8, 1841.

PATENT OFFICE, *January*, 1842.

SIR: In compliance with the law, the Commissioner of Patents has the honor to submit his annual report.

Four hundred and ninety-five patents have been issued during the year 1841, including *fifteen* additional improvements to former patents; of which classified and alphabetical lists are annexed, marked A and B.

During the same period, *three hundred and twenty-seven* patents have expired, as per list marked C.

The applications for patents, during the year past, amount to *eight hundred and forty-seven;* and the number of caveats filed was *three hundred and twelve.*

The receipts of the office for 1841 amount to $40,413 01; from which may be deducted $9,093 30, repaid on applications withdrawn, as per statement D.

The ordinary expenses of the Patent Office for the past year, including payments for the library and for agricultural statistics, have been $23,065 87; leaving a surplus of $8,253 84 to be credited to the patent fund, as per statement marked E.

For the restoration of models, records, and drawings, under the act of March 3, 1837, $20,507 70 have been expended, as per statement marked F.

The whole number of patents issued by the United States, previous to January, 1842, is *twelve thousand four hundred and seventy-seven.*

The extreme pressure in the money market, and the great difficulty in remittance, have, it is believed, materially lessened the number of applications for patents. These have, however, exceeded those of the last year by *eighty-two.*

The resolution of the last Congress, directing the Commissioner to distribute seven hundred copies of the Digest of Patents among the respective States, has been carried into effect, as ordered.

Experience, under the new law reorganizing the Patent Office, shows the importance of some alterations in the present law. One difficulty has

LEGISLATIVE INTENT SERVICE (800) 666-1917

been hitherto suggested, viz: the want of authority to refund money that has been paid into the Treasury for the Patent Office, by mistake. Such repayment cannot now be made without application to Congress. The sums, usually, are quite small, not exceeding $30. A bill has been heretofore presented, embracing these cases, and passed one House of the National Legislature; but a general law would save much legislation, and be attended with no more danger than now attends the repayment of money, on withdrawing applications for patents. Indeed, several private petitions are now pending before Congress, and are postponed, to wait final action on the bill which has been so long delayed.

Frauds are practised on the community by articles stamped "patent," when no patent has been obtained; and many inventors continue to sell, under sanction of the patent law, after their patents have expired. To remedy these evils, the expediency of requiring all patentees to stamp the articles vended with the date of the patent, and punishing by a sufficient penalty the stamping of unpatented articles as patented, or vending them as such, either before a patent has been obtained or after the expiration of the same, is respectfully suggested. Almost daily inquiries at the Patent Office exhibit the magnitude of such frauds, and the necessity of guarding effectually against them.

The justice and expediency of securing the exclusive benefit of new and original designs for articles of manufacture, both in the fine and useful arts, to the authors and proprietors thereof, for a limited time, are also respectfully presented for consideration.

Other nations have granted this privilege, and it has afforded mutual satisfaction alike to the public and to individual applicants. Many who visit the Patent Office learn with astonishment that no protection is given in this country to this class of persons. Competition among manufacturers for the latest patterns prompts to the highest effort to secure improvements, and calls out the inventive genius of our citizens. Such patterns are immediately pirated, at home and abroad. A patent introduced at Lowell, for instance, with however great labor or cost, may be taken to England in 12 or 14 days, and copied and returned in 20 days more. If protection is given to designers, better patterns will, it is believed, be obtained, since the impossibility of concealment at present forbids all expense that can be avoided. It may well be asked, if authors can so readily find protection in their labors, and inventors of the mechanical arts so easily secure a patent to reward their efforts, why should not discoverers of designs, the labor and expenditure of which may be far greater, have equal privileges afforded them?

The law, if extended, should embrace alike the protection of new and original designs for a manufacture of metal or other material, or any new and useful design for the printing of woollen, silk, cotton, or other fabric, or for a bust, statue, or bas-relief, or composition in alto or basso-relievo. All this could be effected by simply authorizing the Commissioner to issue patents for these objects, under the same limitations and on the same conditions as govern present action in other cases. The duration of the patent might be *seven* years, and the fee might be *one-half* of the present fee charged to citizens and foreigners, respectively.

On the first alteration of the patent law, I would further respectfully recommend, that authority be given to consuls to administer the oath for applicants for patents. Inventors in foreign countries usually apply to the

LEGISLATIVE INTENT SERVICE (800) 666-1917

diplomatic corps, who are willing to aid any, and have uniformly administered the usual oath prescribed by the Commissioner of Patents; but as the Attorney General has decided, that consuls cannot, within the meaning of the patent law, administer oaths to inventors, a great convenience would attend an alteration of the law in this respect.

It is due to the clerical force of the office to say, that their labors are arduous and responsible—more so than in many bureaux—while the compensation for similar services in other bureaux is considerably higher. A comparison will at once show a claim for increased compensation, if uniformity is regarded. The chief and sole copyist of the correspondence of this office receives only eight hundred dollars per annum.

The Commissioner of Patents also begs leave to suggest the expediency of including the annual appropriations for the Patent Office in the general bill which provides for other bureaux. Objections hitherto urged against this course, inasmuch as the Patent Office is embraced by a special fund, have induced the committee to report a special bill. which, though reported without objection, has failed for two sessions, because the bill could not be reached, it having been classed with other contemplated acts on the calendar, instead of receiving a preference with other annual appropriations so necessary for current expenses. Were the appropriation for the Patent Office included in a general bill, also designating the fund from which it was to be paid, all objection, it is believed, might be obviated.

During the past year a part of the building erected for the Patent Office has, with the approbation of the Secretary of State, been appropriated to the use of the National Institute, an association which has in charge the personal effects of the late Mr. Smithson, collections made by the exploring expedition, together with many valuable donations from societies and individuals. While it affords pleasure to promote the welfare of that institution by furnishing room for the protection and exhibition of the articles it has in charge, I feel compelled to say that the accommodation now enjoyed can be only temporary. The large hall appropriated by law for special purposes will soon be needed for the models of patented articles, which are fast increasing in number by restoration and new applications, and also for specimens of manufacture and unpatented models. An inspection of the rooms occupied by the present arrangement will show the necessity of some further provision for the National Institute.

The Patent Office building is sufficient for the wants of the Patent Office for many years, but will not allow accommodation for other objects than those contemplated in its erection. The design of the present edifice, however, admits of such an enlargement as may contribute to its ornament, and furnish all necessary accommodation for the National Institute; and also convenient halls for lectures, should they be needed in the future disposition of the Smithsonian legacy. Whatever may be done as regards the extension of the present edifice, it is important to erect suitable outbuildings, and to enclose the public square on which the Patent Office is located.

Some appropriation, too, will be needed for a watch. So great is the value of the property within the building, that a night and day watch is indispensable. The costly articles formerly kept in the State Department for exhibition are now transferred to the National Gallery, where their protection will be less expensive than it was at the State Department, since these articles are guarded in common with others. The late robbery

LEGISLATIVE INTENT SERVICE (800) 666-1917

of the jewels, so termed, shows the impropriety of depending on bolts and bars, as ingenuity and depravity seem to defy the strength of metals. A careful supervision at all times, added to the other safeguards, is imperiously demanded. I am happy to say that no injury or loss will be sustained from the robbery just alluded to, with the exception of the reward so successfully offered for the recovery of the articles.

By law, the Commissioner is also bound to report such agricultural statistics as he may collect. A statement annexed (marked G) will show the amount of wheat, barley, oats, rye, buckwheat, Indian corn, potatoes, cotton, tobacco, sugar, rice, &c., raised in the United States in the year 1841. The amount is given for each State, together with the aggregate. In some States the crop has been large, in others there has been a partial failure. Upon the whole, the year has been favorable, affording abundance for home supply, with a surplus for foreign markets, should inducements justify exportation.

These annual statistics will, it is hoped, guard against monopoly or an exorbitant price. Facilities of transportation are multiplying daily; and the fertility and diversity of the soil ensure abundance, extraordinaries excepted. Improvements of only ten per cent. on the seeds planted will add annually fifteen to twenty millions of dollars in value. The plan of making a complete collection of agricultural implements used, both in this and foreign countries, and the introduction of foreign seeds, are steadily pursued.

It will also be the object of the Commissioner to collect, as opportunity offers, the minerals of this country which are applied to the manufactures and arts. Many of the best materials of this description now imported have been discovered in this country; and their use is only neglected from ignorance of their existence among us. The development of mind and matter only leads to true independence. By knowing our resources, we shall learn to trust them.

The value of the agricultural products almost exceeds belief. If the application of the sciences be yet further made to husbandry, what vast improvements may be anticipated! To allude to but a single branch of this subject. Agricultural chemistry is at length a popular and useful study. Instead of groping along with experiments, to prove what crops lands will bear to best advantage, an immediate and direct analysis of the soil shows at once its adaptation for a particular manure or crop. Some late attempts to improve soils have entirely failed, because the very article, transported at considerable expense to enrich them, was already there in too great abundance. By the aid of chemistry, the West will soon find one of their greatest articles of export to be oil, both for burning and for the manufactures. So successful have been late experiments, that pork (if the lean part is excepted) is converted into stearine for candles, a substitute for spermaceti, as well as into the oil before mentioned. The process is simple and cheap, and the oil is equal to any in use.

Late improvements, also, have enabled experimenters to obtain sufficient oil from corn meal to make this profitable, especially when the residuum is distilled, or, what is far more desirable, fed out to stock. The mode is by fermentation, and the oil which rises to the top is skimmed off, and ready for burning without further process of manufacture. The quantity obtained is 10 gallons in 100 bushels of meal. Corn may be estimated as worth 15 cents per bushel for the oil alone, where oil is worth $1 50 per gallon. The extent of the present manufacture of this corn oil may be

LEGISLATIVE INTENT SERVICE (800) 666-1917

conjectured from the desire of a single company to obtain the privilege of supplying the light-houses on the upper lakes with this article. If from meal and pork the country can thus be supplied with oil for burning and for machinery and manufactures, chemistry is indeed already applied most beneficially to aid husbandry.

A new mode of raising corn trebles the saccharine quality of the stalk, and, with attention, it is confidently expected that 1,000 pounds of sugar per acre may be obtained. Complete success has attended the experiments on this subject in Delaware, and leave no room to doubt the fact that, if the stalk is permitted to mature, without suffering the ear to form, the saccharine matter (three times as great as in beets, and equal to cane) will amply repay the cost of manufacture into sugar. This plan has heretofore been suggested by German chemists. but the process has not been successfully introduced into the United States, until Mr. Webb's experiments at Wilmington, the last season. With him the whole was doubtless original, and certainly highly meritorious; and, though he may not be able to obtain a patent, as the first original inventor, it is hoped his services may be secured to perfect his discoveries. It may be foreign to descend to further particulars in an annual report. A minute account of these experiments can be furnished, if desired. Specimens of the oil, candles, and sugar, are deposited in the National Gallery.

May I be permitted to remark that the formation of a National Agricultural Society has enkindled bright anticipations of improvement. The propitious time seems to have come for agriculture, that long neglected branch of industry, to present her claims. A munificent bequest is placed at the disposal of Congress, and a share of this, with private patronage, would enable this association to undertake, and, it is confidently believed, accomplish much good.

A recurrence to past events will show the great importance of having annually published the amount of agricultural products, and the places where either a surplus or a deficiency exists. While Indian corn, for instance, can be purchased on the Western waters for $1 (now much less) per barrel of 196 pounds, and the transportation, via New Orleans, to New York, does not exceed $1 50 more, the price of meal need never exceed from 80 cents to $1 per bushel in the Atlantic cities. The aid of the National Agricultural Society, in obtaining and diffusing such information, will very essentially increase the utility of the plan before referred to, of acquiring the agricultural statistics of the country, as well as other subsidiary means for the improvement of national industry.

I will only add that, if the statistics now given are deemed important, as they doubtless may prove, to aid the Government in making their contracts for supplies, in estimating the state of the domestic exchanges, which depend so essentially on local crops, and in guarding the public generally against the grasping power of speculation and monopoly, a single clerk, whose services might be remunerated from the patent fund, to which it will be recollected more than $8,000 has been added by the receipts of the past year, would accomplish this desirable object. The census of population and statistics, now taken once in ten years, might, in the interval, thus be annually obtained sufficiently accurate for practical purposes.

All which is respectfully submitted.

HENRY L. ELLSWORTH.

Hon. JOHN WHITE,
Speaker of the House of Representatives.

LEGISLATIVE INTENT SERVICE (800) 666-1917

A.

Classified list of letters patent granted during the year 1841, *with the names of patentees, place of residence, and date of patent.*

CLASS 1.—AGRICULTURE,

Including instruments and operations.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Bee-hives	Constant Webb	Wallingford, Ct.	May 4, 1841; antedated March 12, 1841.
Bee-hives	James Le Patourel	Chandlersville, O.	June 11, 1841.
Bee-hives	John M. Weeks	Salisbury, Vt.	July 1, "
Bee-hives	Hiram A. Pitts	Winthrop, Me.	Sept. 25, "
Churn	Thomas Pierce	Hartwick, N. Y.	Nov. 10, "
Churn, double dasher	Enos Mitchell	Pittston, Me.	May 22, "
Corn-sheller	John A. Whitford	Saratoga Springs, N. Y.	Jan. 23, "
Corn-sheller	Charles Willis	Chelsea, Mass.	Jan. 27, "
Corn-sheller	Nicholas Goldsborough	Eaton, Md.	Feb. 12, "
Corn-sheller	Peirson Reading	Batavia, O.	Sept. 25, "
Corn-sheller	Joseph H. Derby	Leominster, Mass.	Nov. 10, "
Cultivator, called the revolving Cultivator—see Plough.	George Whitlock	Crown Point, N. Y.	July 10, "
Hulling and cleaning clover seed	William C. Grimes	York, Pa.	March 3, "
Hulling rice and other grains	Webster Herrick	Northampton, Mass.	June 26, "
Mowing, cutting, and gathering flax, hemp, &c.	Richard M. Cooch	Lambertsville, N. J.	July 16, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Mowing, harvesting grain	Alfred Churchill	Geneva, Ill.	March 16,	"
Mowing, harvesting machines, cutting, thrashing, and winnowing grain	Damon A. Church	Friendship, N. Y.	May 4,	"
Mowing, scythes, fastening the thole upon the snath	Selah W. Fox and Aretas Ferry	Bernardstown, Mass.	August 4,	"
Mowing, scythe, securing upon the snath, and fastening the nib to the same	Silas Lamson	Shelburne Falls, Mass.	July 1,	"
Plough, altering the set of the same	Marshall Mims and Seaborn J. Mims	Starkville, Miss.	Dec. 23,	"
Plough, attaching mould board and sheath, &c., by means of rivets	Benjamin F. Jewett	Springfield, Ill.	Feb. 12,	"
Plough, cast iron	Reuben McMillen	Middlebury, O.	Dec. 14,	"
Plough, combined with a cultivator and planter for ploughing at one operation	William H. Rider, assignee of Justus Rider	Belleville, Ill. / Woodburn, Ill.	March 12,	"
Plough, construction of	David Prouty and John Mears	Dorchester, Mass.	June 16,	"
Plough, manufacturing of—see Class 14.				
Plough, wrought iron	Joseph and Henry F. Cromwell	Cynthiana, Ky.	Sept 30,	"
Seeding, planting corn and other seeds	Ezra L. Miller	Brooklyn, N. Y.	April 10,	"
Seeding, planting cotton seed	R. S. Thomas	Bennetsville, S. C.	July 30,	"
Seeding, planting machines, &c.	Joseph Jones	Newton, N. J.	October 11,	"
Seeding, seed drill or corn-planter	Calvin Olds	Marlborough, Vt.	Jan. 20,	"
Seeding, seed planters	Moses Pennock and Samuel Pennock	East Marlborough, Pa.	March 12,	"
Seeding, tilling and planting at the same operation, called the cylindrical tiller and planter	John Schermahorn / Rufus Porter	Carroll Co., Ia. / New York, N. Y.	April 10,	"
Smut machine	William B. Palmer	Rochester, N. Y.	April 19,	"
Smut machine	James Coppuck	Mount Holly, N. J.	April 24,	"
Smut machine	Jacob Demuth & Ben. Bourman / Levi Beck	Lancaster, Pa. / Lampeter, Pa.	May 11,	"
Smut machine	Charles D. Childes	York, N. Y.	July 8,	"

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 1—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Smut machine	Henry A. Buck	Fredonia, N. Y.	July 10, 1841.
Smut machine	Thomas R. Bailey and Ezra Rich	Weybridge, Vt. Shoreham, Vt.	July 16, "
Smut machine	Lewis Greene	Tiffin, Seneca, O.	October 9, "
Smut machine	David Baldwin	Whitehall, N. Y.	Dec. 14, "
Smut machine, cleaning grain, &c.	Samuel Bentz	Boonsboro', Md.	July 23, "
Smut machine, cleaning grain	Jonas Nolt	West Hempfield, Pa.	August 11, "
Smut machine, cleaning grain, &c.	John D. Beers	Philadelphia, Pa.	Dec. 10, "
Smut machine, cleaning and separating garlic, &c. from grain	Joseph Heygel	Salisbury, Pa.	Sept. 25, "
Smut machine, cleaning and winnowing grain	Zalmon Rice	Lyons, N. Y.	April 24, "
Straw-cutters	John B. King	Athens, Tenn.	May 15, "
Thrashing grain machines	Ashley Townsend	Le Roy, N. Y.	Dec. 30, "
Thrashing machine—see Mowing.			
Winnowing grain, fanning mills	David Philips Asa Jackson	Georgetown, Pa. Franklin Mills, Va.	May 4, "

CLASS 2.—METALLURGY,

And manufacture of metals and instruments therefor.

Door, fastening on the inside, instrument for	Benjamin H. Green	Princeton, N. J.	June 11, 1841.
Door fasteners, mortise latch	Leonard Foster	Boston, Mass.	August 28, "
Door spring	Samuel Sawyer	Boston, Mass.	Jan. 21, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Ferules of canes, &c., bottom end of, constructing	Jonathan Ball	Buffalo, N. Y.	October 11, "
Files, cutting	Levi Anderson	Kensington, Philad., Pa.	Nov. 16, "
Forges, blacksmith, bellows attached to hearth	Charles Foster	Rochester, N. Y.	May 11, "
Forges and furnaces, water backs for	William McEwen	Norristown, Pa.	Nov. 10, "
Furnaces, blast	Stephen Chubbuck and Jedediah Briggs	Wareham, Mass.	Jan. 9, "
Furnaces, combination of, for manufacturing wrought iron directly from the ore	Claude S. Quilliard	Roundout, N. Y.	Dec. 23, "
Furnaces, hot-air—see Class 5.			
Furnaces, puddling, (reissue)	Thomas Cooper	New York	March 18, "
Gold, separating from its ores, apparatus employed for	Thomas Seay	Columbia, Ga.	May 4, 1841; antedated May 9, 1841.
Hearth, blacksmith or forge	Joseph Lanback	Middletown, Pa.	Nov. 10, 1841.
Hinges, butt, &c., casting of iron, brass, &c.	William H. Carr, assignee of Thomas Shepherd	Philadelphia, Pa.	October 9, "
Hinges, casting on to their axis	Samuel Wilkes	Darleston, Great Britain	April 10, 1841; antedated Jan. 21, 1840.
Iron ores, art of smelting, and in certain furnaces applicable thereto	Charles Sanderson	Sheffield, England	Feb. 9, 1841.
Keyhole of door and other locks, closing and opening	David Evans	Philadelphia, Pa.	July 10, "
Knobs, door, of clay, &c.—see Class 15.			
Knobs, door, of glass, attaching necks, &c., to	John G. Hotchkiss John A. Davenport and John A. Quincy	New Haven, Ct. New York	Nov. 16, "
Latch, door	James M. Hoggan	New Haven, Ct.	Nov. 25, "
Latch, door, and other locks	Enoch Robinson and Wm. Hall	Boston, Mass.	March 3, "
Latch of door locks	John P. Sherwood	Sandy Hill, N. Y.	May 6, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 2—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Lock, door, combination, patented January 11, 1836	Solomon Andrews	Perth Amboy, N. J.	Sept. 30, 1841.
Lock, door, combined snail-wheel lock	Solomon Andrews	Perth Amboy, N. J.	Feb. 12, "
Lock, door, and latches	George W. Wilson	Nashua, N. H.	June 11, "
Lock, door, permutation	J. B. Gray	Fredericksburg, Va.	Sept. 18, "
Metal, sheet, cutting	Andrew Tracy	Poughkeepsie, N. Y.	July 17, "
Moulds for casting butt hinges	Thomas Shepherd and Thomas Loring	Philadelphia, Pa.	March 16, "
Pin-making machine	John J. Howe	Derby, N. Haven co., Ct.	March 24, "
Pins, sticking into paper, machine for	Samuel Slocum	Poughkeepsie, N. Y.	Sept. 30, "
Pipes and tubes from lead, &c.	Benjamin Tatham, jr., Henry B. Tatham, assignees of John and Chas. Hanson, Huddersfield, England	Hitchen, England / Philadelphia, Pa.	March 29, 1841; antedated Aug. 31, 1837.
Pipes or tubes of lead, tin, &c., machinery for making	George N. Tatham and Benjamin Tatham, jr.	Philadelphia, Pa.	October 11, 1841.
Saws, apparatus for filing	Nilson, John Wemmer	Philadelphia, Pa.	March 18, "
Screws, metallic	John Luther	Warren, R. I.	June 26, "
Screws, wood-cutting	Farwell H. Hamilton	Schenectady, N. Y.	July 8, "
Screw-wrench	Loring Coes	Springfield, Mass.	April 16, "
Screw-wrench	James Brett	Newburg, N. Y.	July 10, "
Scythes, turning and bending heel of	Abel Simonds and Albert G. Page	Fitchburg, Mass.	Dec. 10, "
Spikes, heading	Robert S. Harris	Wilmington, Del.	Jan. 25, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Spikes and nails, forming - - -	William Ballard - -	New York - -	July 17, "
Steel, mode of hardening - - -	Perry Davis - - -	Fall River, Mass. -	August 4, "
Tin and other metals, cutting -	William Bulkley and Otis M. Inman - - -	Berlin, Ct. - -	Nov. 3, "
Tuyere, blacksmith's, &c. - - -	Elias Kaighn - - -	Kaighn's Point, N. J. -	April 2, "
Tuyere, blacksmith's - - -	Riverius C. Stiles and Joseph S. Graves - - -	East Bloomfield, N. Y.	Dec. 14, "
Vices, making the jaws of - - -	William Sim - - -	Schenectady, N. Y. -	Oct. 11, "
Window-blind fasteners - - -	Sylvanus Fausher - -	Southburg, Ct. -	April 10, 1841; antedated Dec. 10, 1840.
Window fastenings - - -	Enoch Robinson and Wm. Hall	Boston, Mass. -	Sept. 11, 1841.
Window-shutter fastenings - - -	Thomas C. Cary - -	Poughkeepsie, N. Y. -	Dec. 30, "
Window-shutter and blind fasteners -	James P. McKean - -	Washington, D. C. -	April 24, "

CLASS 3.—MANUFACTURES OF FIBROUS AND TEXTILE SUBSTANCES,

Including machines for preparing fibres of wool, cotton, silk, fur, paper, &c.

Braid-pressing, after it has been trimmed -	Henry H. Robbins - -	Middleborough, Mass.	April 10, 1841.
Braid, straw-trimming - - -	Henry H. Robbins - -	Middleborough, Mass.	Feb. 18, "
Carding machine, cotton or wool - -	Ebenezer Crane and Alanson Crane - - -	Lowell, Mass. -	Jan. 30, "
Carding machine, cotton or wool, &c. -	Joseph Munroe - -	Palmer, Mass. -	October 11, "
Carding machine, woollen, condenser for -	Levi L. Gowdy - -	Montgomery, N. Y. -	October 11, "
Cloth, folding and measuring - -	Joel Spalding - -	Morristown, Vt. -	August 28, "
Fabrics, water-proofing - - -	George John Newbery -	Citizen U. States, now in London, England -	March 30, 1841; antedated May 12, 1840.

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 3—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Fabrics, water-proofing	Thomas B. Rogers	New York	Nov. 3, 1841.
Felt cloths, hardening	Henry A. Wells	New York	Sept. 18, "
Felt cloths and hat bodies, shrinking	Henry A. Wells	New York	Sept. 11, "
Felt cloths, &c., planking, &c.	Henry A. Wells	New York	Sept. 18, "
Flannels, &c., wetting	Joseph W. Hale	Haverhill, Mass.	April 2, "
Fulling mill	Sidney E. Coleman	West Haven, Vt.	June 11, "
Gin, cotton	Lewis J. Sturdevant	Delaware, Ohio	July 23, "
Gin, cotton, grates of saw	Albert Washburn	Bridgewater, Mass.	June 16, "
Gin, cotton, railroad	David Philips	Georgetown, Pa.	May 22, "
Gin, cotton, saw	C. A. McPhetridge	Natchez, Miss.	April 24, "
Hats of leather—see Class 16.			
Loom, weaving figured cloths, Jacquard, machinery for	Alexander Calderhead	Philadelphia, Pa.	Feb. 3, "
Loom, weaving figured damask hair-seating	Samuel Ross	Camden, N. J.	Sept. 18, "
Loom, power, stopping when weft and filling fails	O. M. Stillman	Stonington, Con.	Nov. 10, "
Loom, temples, opening and closing the jaw	Erastus Williams and Daniel L. Huntingdon	Norwich, Ct.	Nov. 16, "
Loom, temples, self-acting rotary	Wm. Craig and John Cochrane	England	Nov. 25, "
Loom, weaver's harness, wire heddles for	Abraham Howe and Sidney S. Grannis	Morrisville, N. Y.	Sept. 30, "
Loom, weaver's harness, wire heddles for	Abraham Howe and Sidney S. Grannis	Morrisville, N. Y.	Oct. 11, "
Paper cutting and trimming books	Fredrick J. Austin	New York	June 16, 1841; antedated Dec. 16, 1840.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Ropes—see Hides, Class 16.			
Silk, finishing machinery for - -	Thomas White - -	Mount Pleasant, O. -	Dec. 30, 1841.
Silk reel, driving with the foot - -	Aaron Clarke - - -	Greenwich, Ct. -	Jan. 20, "
Silk worms, cocoonery for - - -	J. B. Tillinghast - - -	Huron, Ohio -	Nov. 10, "
Silk worms, feeding of, apparatus for -	Edmund Morris - -	Burlington N. J. -	June 16, "
Spinning, domestic wool spinner - -	John Nelson - - -	Jefferson, Ohio -	Jan. 27, "
Spinning mules, self-acting, billeys, &c. -	Richard Roberts - -	Manchester, England -	Oct. 11, 1841; antedated July 1, 1830.
Spinning, speeder for cotton-roping counter-twist - - - - -	Jesse Whitehead - -	Manchester, Va. -	May 29, 1841.
Spinning, ring spinner - - -	David Hunter - - -	Laurel Factory, Md. -	July 23, "
Spinning, roping cotton - - -	Charles Danforth - -	Paterson, N. J. -	Feb. 18, "
Spinning and twisting machinery - -	Charles Danforth - -	Paterson, N. J. -	May 4, "
Wool, &c., combing and preparing - -	Francis A. Calvert - -	Lowell, Mass. -	Oct. 9, "
Wool and cotton, cleaning from burs, &c. -	William W. Calvert and Alanson Crane - - -	Chelmsford, Mass. -	July 16, "
Wool and cotton, ginning, burring, &c. -	Francis A. Calvert - -	Lowell, Mass. -	Nov. 25, "

CLASS 4.—CHEMICAL PROCESSES, MANUFACTURES AND COMPOUNDS,

Including medicine, dying, color-making, distilling, soap and candle making, mortars, cements, &c.

Candles, moulding - - - - -	James Gamble and Joseph S. Hill	Cincinnati, Ohio -	Dec. 30, 1841.
Cement, hardening manufactures of, &c. -	Samuel Goodwin - -	New York -	April 16, "
Composition, coating metallic substances, &c.	Arthur Wall - - -	Shadwell, England -	June 22, "
Composition of matter for manufacture of friction matches - - - - -	Norman T. Winans, Theodore and Thaddeus Hyatt - -	New York -	Dec. 23, "
Composition of matter, manufacture of friction matches - - - - -	Norman T. Winans, Theodore and Thaddeus Hyatt - -	New York -	Dec. 23, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 4—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Caoutchouc, manufacturing balls of	Charles B. Rogers and Edward Arnold, assignees of Edwin M. Chaffee	Charlestown, Mass. Cambridgeport, Mass.	Jan. 21, 1841.
Distilling, art of	Samuel Oliver	Northampton, Pa.	Aug. 4, "
Distilling alcohol from whiskey	Augustus V. H. Webb	New York	Aug. 28, "
Distilling salt water—see Cabooses, Class 5.			
Dying black, mordant for	John D. Prince	Lowell, Mass.	April 24, "
Fermentation, vinous process of conducting	Charles O. Wolpers	Cincinnati, Ohio	July 16, "
Ink, indelible writing	Thomas J. Spear	New Orleans, La.	July 16, "
Medicine for the treatment of syphilis, &c.	Silas T. Thurman	Lincoln, Ky.	July 23, "
Paint, &c., vessels for preserving	John Raud	Citizen U. S. now in Eng.	Sept 11, "
Potash, bleaching ashes with the process of	Joseph H. Ward	Randolph, Ohio	July 16, "
Salting animal matters	Charles Payne	South Lambeth, Eng'd	Sept. 11, "
Starch, manufacture of	Orlando Jones	City Road, England	March, 12, 1841; antedated April 13, 1840.
Sulphate of alumine, process of manufacturing	Rudolph Boniger and Gustava Boniger, assignees of Max. Joseph Funcke	Baltimore, Maryland Eichels-Kamp, Prussia	Jan. 23, 1841; antedated Nov. 16, 1839.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CLASS 5.—CALORIFIC,

Comprising lamps, fireplaces, stoves, grates, furnaces for heating buildings, cooking apparatus, preparation of fuel, &c.

Boiler or steamer, construction of	Salmon C. Riley	New York	Oct. 11, 1841.
Chimney, apparatus to prevent smoking	Joseph Hurd, jr.	Stoneham, Mass.	April 24, "
Cabooses, adapted to distil salt water	Michel Rocher	Nantes, France	Aug. 28, "
Cooking ranges	Nathan P. Kingsley	Boston, Mass.	Oct. 11, "
Cooking ranges	Abiram Spaulding	New York	Nov. 12, "
Fireplaces and chimney stacks in buildings	Henry R. Sawyer	New York city	March 26, "
Flues, chimney, dampers or valves for	Normand Smith	Hartford, Ct.	Jan. 25, "
Flues of elevated ovens, combined with cooking stoves	Rensselaer D. Granger	Albany, N. Y.	October 11, "
Furnaces for heating air and warming apartments	John A. Page	Boston Mass.	Sept. 25, "
Furnaces, hot air, and fire-grates for heating apartments	William H. Whiteley	Charlestown, Mass.	May 11, "
Grates of lime kilns	William B. Hill	Bellevue, Mich.	July 30, "
Grates of stoves, constructing	Gardner Chilson	Boston, Mass.	Sept. 11, "
Gridiron, constructing	Isaac Damon	Northampton, Mass.	Jan. 30, "
Heating water, steaming vegetables, &c.	J. S. Marsh and Asa Munger	Auburn, N. Y.	April 2, "
Kettles, potash, mode of setting	Daniel B. Turner	Florence, Ohio	Sept. 18, "
Lamp, Argaud, constructing	Benjamin Hemmenway	Roxbury, Mass.	Jan. 20, "
Lamp, Argaud, constructing	John S. Tough	Baltimore, Md.	May 11, "
Lamps, burning camphine, &c.	Stephen J. Gold	Cornwall, Con.	July 16, "
Lamps, burning lard, &c.	Edward T. Williams and Latham T. Tew	Newport, R. I.	June 26, "
Lamps, burning lard, tallow, &c.	George Carr	Buffalo, N. Y.	Sept. 4, "
Lamps, burning lard, tallow, &c.	Norman S. Cate James H. Putnam	Charlestown, Mass. Malden, Mass.	Nov. 16, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 5—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Lamps, burning tallow	Moses S. Woodward	Marshalton, Pa.	Sept. 18, 1841.
Lamps, burning volatile ingredients	Isaiah Jennings	New York	Sept. 11, "
Lamps, construction of	Christian & Charles Richman	Philadelphia, Pa.	June 11, "
Lamps	Benjamin F. Greenough	Boston, Mass.	April 10, "
Lamps, gas, &c.	Robert Cornelius	Philadelphia, Pa.	March 18, "
Ovens, elevated, combined with cooking and other stoves	Samuel B. Spaulding	Brandon, Vt.	August 28, "
Ovens, elevated, combined with cooking stoves, &c.	Eli C. Robinson	Troy, N. Y.	Dec. 30, "
Screens, for lifting coal, grain, &c.	Elisha D. Payne and Enos Woodruff	Newark, N. J.	April 19, "
Stoves, air-tight	Thomas M. Jones	Boston, Mass. (now in England)	August 11, "
Stoves, air-tight, or Arnott stove	Joseph E. Fisk	Salem, Mass.	Nov. 3, "
Stoves or bakers for cooking purposes	Mathew Stewart	Philadelphia, Pa.	July 23, "
Stoves, constructing	Clark H. Robinson	Uniontown, Pa.	Feb. 13, "
Stoves, cooking	M. C. Sadler	Brockport, N. Y.	April 10, "
Stoves, cooking	John B. Bissell	Oakville, N. Y.	April 16, "
Stoves, cooking	Hiram Blanchard	Acqackanonk, N. J.	April 27, "
Stoves, cooking	Samuel L. Chase	Woodstock, Vt.	August 11, "
Stoves, cooking	William A. Shepard	Waterville, Me.	August 11, "
Stoves, cooking, (reissue)	Samuel L. Chase	Woodstock, Vt.	August 11, "
Stoves, cooking	James Root	Cincinnati, Ohio	Sept. 11, "
Stoves, cooking	Nelson W. Fisk, assignee of Almond D. Fisk	New York	Nov. 10, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Stoves, cooking, or cabooses	Loftis Wood	New York	August 11, "
Stoves, cooking and heating	Alexander F. Bean	Woodstock, Vt.	July 8, "
Stoves, cooking, railway	R. P. Butrick	Lockport, N. Y.	Sept. 18, "
Stoves or furnaces, &c., fire-chambers of	Mathew Stewart, jr.	Philadelphia, Pa.	Nov. 16, "
Stoves, parlor	John Backus and Evens Backus	New York	Feb. 18, "
Stoves, parlor	Joseph Feinour, jr.	Philadelphia, Pa.	October 11, "
Stoves, parlor and dumb, combined	Alonzo L. Blanchard	Albany, N. Y.	Nov. 12, "
Stoves, parlor, or open grates for burning anthracite, &c.	Otis Jenks	Albany, N .Y.	Nov. 16, 1841; antedated Nov. 2, 1841.
Stove pipes, ornamental slides or plates for covering the flues of	Perry Davis	Fall River, Mass.	August 4, 1841.

CLASS 6.—STEAM AND GAS ENGINES,

Including boilers and furnaces therefor, and parts thereof.

Boilers, steam, ascertaining the pressure of steam	George Bradley	Paterson, N. J.	April 16, 1841.
Boilers, steam and evaporator, on Marvin & Seely's improvement, patented August 28, 1840	Oran W. Seely	New York	July 1, "
Boilers, steam, caldron, and furnace, combined	Lansing E. Hopkins	New York	October 11, "
Boilers, steam, supplying with water, apparatus for	Ethan Campbell	New York	August 28, "
Boilers, steam, supplying with water, self-acting apparatus	John Hampson	New Orleans, La.	Sept. 4, "
Condensers of steam engines, and apparatus for supplying the boilers with water	Joseyh Echols	Columbus, Ga.	August 11, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 6—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Piston rods of steam engines, &c. - -	John R. St. John - -	Cleveland, Ohio -	April 27, 1841.
Spark arresters - - - -	Richard French - -	Philadelphia, Pa. -	June 16, "
Spark arresters - - -	Leonard Phleger - - assignee of Wm. W. Hubbell	Philadelphia, Pa. Moyamensing, Pa.	June 26, "
Spark arresters - - -	Leonard Phleger - - assignee of Wm. W. Hubbell	Philadelphia, Pa. Moyamensing, Pa.	June 26, "
Spark arresters - - -	Leonard Phleger - - assignee of Wm. W. Hubbell	Philadelphia, Pa. Moyamensing, Pa.	June 26, "
Spark arresters - - -	Leonard Phleger - - assignee of Wm. W. Hubbell	Philadelphia, Pa. Moyamensing, Pa.	June 26, "
Steam engine - - - -	William Whitham - -	Huddersfield, Eng. -	Sept. 4, "
Steam engine, &c., governor or regulator of	Louis Lizé - - -	Kingdom of France, (residing in Pittsb'g, Pa.)	Nov. 25, "
Steam engine, locomotive, distributing sand, &c., to produce adhesion of driving-wheels	Elisha Tolles - -	New York - -	October 9, "
Steam engine, locomotive, increasing adhesion of driving-wheel of - - -	Jordan L. Mott - -	New York -	August 28, "
Steam engine, locomotive, propelling by stationary power - - - -	John A. Etzler - -	Philadelphia, Pa. -	Dec. 23, "
Steam engine, locomotive, for railroads -	Henry Waterman - -	Hudson, N. Y. -	Feb. 10, "
Steam engine, low-pressure, &c. - -	Charles W. Copeland - -	New York - -	June 11, "
Steam engine, regulating the pressure of steam - - - - -	Francis R. Torbet - -	Paterson, N. J. -	March 29, "
Steam engine, repeating expansive engine -	James Frost - - -	New York - -	Nov. 3, "
Steam engine, rotary - - -	Jesse Tuttle - - -	Boston, Mass. - -	March 26, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Steam engine, rotary	James Jamieson Cords Edward Locke	Citizen of the U. States Newport, England	March 29, 1841; antedated July 18, 1840.
Steam engine, rotary	Isaac N. Whittlesey	Vincennes, Ia.	April 2, 1841.
Steam engine, rotary	Heman Smith	Sunbury, O.	June 11, "
Steam engine, rotary	J. A. Stewart	Cross Plains, Tenn.	October 11, "
Steam generating, combined coking oven and boiler	Reuben McMillen	Middlebury, O.	Dec. 14, "
Valve of steam engines, cut off	Horatio Allen	New York	August 21, "
Valve of steam engines, operating	John Wilder	New York	Jan. 9, "
Valve of steam engines, throttle	William Garlin	Providence, R. I.	October 11, "
Valve of steam engines, working when the steam is cut off, &c.	Robert L. Stevens and Francis B. Stevens	New York	Jan. 25, "

CLASS 7.—NAVIGATION AND MARITIME IMPLEMENTS,

Comprising all vessels for conveyance on water, their construction, rigging, and propulsion; diving-dresses, life-preservers, &c.

Bales of cotton, floating them in the form of rafts	George R. Griffith	Mobile, Ala.	Sept. 25, 1841.
Barge and army boats, portable safety	Solomon C. Batchelor	Cincinnati, O.	Jan. 20, "
Boats, life and other	Joseph Francis	New York, N. Y.	March 26, "
Boats, sub-marine gun	Daniel Fitzgerald	New York	October 11, "
Constructing berth of vessels	Harmon King	New York	Sept. 4, "
Constructing, boats, vessels, &c.	Joseph Francis	New York	October 11, "
Constructing steamboats, and propelling spirally	Thomas J. Wells	New York	Dec. 23, "
Constructing steam vessels, and propelling	William W. Hunter Benjamin Harris	United States Navy Norfolk, Va.	March 12, 1841; antedated Nov. 2, 1840.

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIS OF PATENTS—CLASS 7—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Constructing steam vessels to prevent sinking	Richard McDonald	Harrisburg, Pa.	Nov. 10, 1841.
Floating batteries	Prosper Martin	Philadelphia, Pa.	August 11, "
Harpoon	William Carsley	New Bedford, Mass.	July 29, "
Life-preserver or buoyant dress	Napoleon Edouard Guérin	New York	Nov. 16, "
Propeller	Elisha F. Aldrich	New York	July 30, 1841; antedated Jan. 30, 1840.
Propeller	Meredith Mallory	Urbana, N. Y.	August 4, 1841.
Propeller	Daniel Fitzgerald	New York	October 9, "
Propeller	Francis Pettit Smith	London, England	Nov. 12, 1841; antedated May 31, 1836.
Propeller, paddle	Samuel Swett, jr.	Chelsea, Mass.	May 11, 1841.
Propeller, paddle, vibrating	Peter Lear	Boston, Mass.	Dec. 30, "
Propeller, paddle and water-wheel	William F. Julian	Hartsville, Ia.	June 7, "
Propeller, paddle-wheel, &c.	William W. Van Loan	Catskill, N. Y.	March 29, "
Propeller, paddle-wheel	P. G. Gardiner	New York, N. Y.	May 4, "
Steering boats, brace for	Howard Nichols	New Bedford, Mass.	Sept. 18, "
Steering steamboats, apparatus for	Russell Evarts	Madison, Con.	Jan. 5, "

CLASS 8.—MATHEMATICAL, PHILOSOPHICAL, AND OPTICAL INSTRUMENTS,
Including clocks, chronometers, &c.

Alarm, fire	Josiah Brown assignee of Theop. Goodwin	Brentwood, N. H. Exeter, N. H.	Jan. 30, 184.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Barometer	William R. Hopkins	Geneva, N. Y.	Jan. 25, "
Clocks	Aaron D. Crane	Newark, N. J.	Feb. 10, 1841; antedated Dec. 22, 1840.
Coin, apparatus for counting	Philos B. Tyler, executor of Rufus Tyler, deceased	New Orleans, La.	October 11, 1841.
Extension tables, slides of	Charles F. Hobe	New York	June 22, "
Lightning conductors, &c.	William A. Orcutt	Boston, Mass.	October 9, "
Lightning conductors, &c.	Justin E. Strong	Boston, Mass.	April 19, "
Signals, railroad alarm	Samuel Nicolson	Suffolk, Mass.	June 26, "
Spectacles, construction of	Christopher H. Smith	Niagara, N. Y.	Nov. 12, "
Spectacles, forming the joint, &c.	Thomas Eltonhead	Baltimore, Md.	April 2, "

CLASS 9.—CIVIL ENGINEERING AND ARCHITECTURE,

Comprising works on rail and common roads, bridges, canals, wharves, docks, rivers, wiers, dams, and other internal improvements; buildings, roofs, &c.

Blinds, Venetian	John Hampson	New Orleans, La.	August 21, 1841.
Bridge	Earl Trumbull	Little Falls, N. Y.	July 10, "
Bridge, building	Albert Cottrell	Newport, R. I.	Nov 10, "
Bridge, sprail-braced cylinder, &c.	Isaiah Rogers	New York	Nov. 10, "
Bridge, truss frames of	John Price & James T. Phelps	Golden, Md.	Feb. 23, "
Bridge, truss iron	Squire Whipple	Utica, N. Y.	April 24, "
Bridge, wood brace (reissue)	Stephen H. Long	U. S. army	July 20, "
Canal lock gate	Robert English	Lagro, Ind.	July 1, "
Canal lock gate, sluice	George Heath	Little Falls, N. Y.	Dec. 14, 1841; antedated July, 1841.
Canals and mill dams, waste gate opening and closing	Robert Robinson	Greece, N. Y.	Dec. 14, 1841.

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 9—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Dock, floating dry	John Thomas	New York	June 26, 1841.
Dock, floating dry	Dan. Dodge and Phineas Burgess	New York	Oct. 9, "
Excavating ditches	George W. Cherry	Washington, D. C.	March 26, "
Excavating earth	David C. Lockwood	New Windsor, N. Y.	March 31, "
Paving, blocks of wood, &c.	James H. Patterson	New York	Jan. 27, "
Paving, blocks of wood, &c.	Stephen Carey	New Orleans, La.	Feb. 3, 1841; antedated Jan. 29, 1839.
Paving, blocks of wood, prismatic	John Abbott	Wilton, N. H.	Sept. 25, 1841.
Pile driving machine	Robert N. Benson	New Orleans, La.	Sept. 18, "
Railroad scrapers, &c.	Hen. M. Naglee and Tho. Raney	Philadelphia, Pa.	Dec. 30, "
Raising sunken vessels, machinery for	John Curtis	Yarmouth, Mass.	Dec. 10, "
Removing, bars &c., from harbors, rivers, &c.	James R. Putnam	New Orleans, La.	May 6, "
Stump extracting	Belden B. Mason	Randolph, N. Y.	Feb. 10, "
	Mathews Joslyn	Napoli, N. Y.	
Stump extracting	Luke F. Cavenaugh	New Field, N. Y.	May 15, "
Wells, artesian, boring, &c.	William Morris	Kanawha county, Va.	Sept. 4, "

CLASS 10.—LAND CONVEYANCE,

Comprising carriages, cars, and other vehicles used on roads, and parts thereof.

Axle and hub for carriage wheels	Henry F. Phillips	Skaneateles, N. Y.	Sept. 18, 1841.
Axle of railroad cars, strengthening, &c.	Peter and William C. Allison	Philadelphia, Pa.	Nov. 3, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Bumper and draught springs on railroad cars	Fowler M. Ray - -	Catskill, N. Y. - -	July 29, "
Car bodies, railroad - - -	George S. Hacker - -	Charleston, S. C. -	Jan. 21, "
Car, railroad, &c. - - - -	John A. Whitford - -	Saratoga Springs, N. Y.	Jan. 20, "
Car, railroad, discharging blocks of ice therefrom to platforms - - -	Nathaniel J. Wyeth - -	Cambridge, Mass. -	Dec. 10, "
Car, railroad, machinery for elevating and depositing ice in - - - -	Nathaniel J. Wyeth - -	Cambridge, Mass. -	Dec. 10, "
Car, railroad, turning curves - -	Perry G. Gardiner, assignee of Isaac Bullock - -	New York - -	Oct. 11, "
Carriages, railroad - - -	Albert Bridges and Charles Davenport - - -	Cambridgeport, Mass. -	May 4, "
Springs, carriage - - - -	R. B. Brown - - -	Essex, Vt. - -	Dec. 14, "
Springs, elliptical - - - -	David A. Edwards - -	Boston, Mass. - -	Nov. 16, "
Springs, elliptical, forming the sockets of -	William T. Richards - -	Poultney, Vt. - -	Nov. 16, "
Springs and levers to sustain the body of wagons, &c. - - - -	Elihu Ring - - -	Trumansburg, N. Y. -	July 29, "
Springs, pneumatic, piston of, &c. - -	Alexander Connison - -	Belleville, N. J. -	Dec. 23, 1841; antedated Dec. 20, 1841.
Springs, railroad cars, &c. - - -	William Duff - - -	Baltimore, Md. -	Jan. 9, 1841.
Springs for railroad cars, &c. (reissue) -	Fowler M. Ray - -	Catskill, N. Y. -	June 8, "
Springs, railroad cars, &c., in which compressed atmospheric air, &c., is employed	Levi Bissell - - -	Newark, N. J. -	Oct. 11, "
Wheels for railroad, constructing - -	Henry Dircks - -	Liverpool, England -	June 26, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

CLASS 11.—HYDRAULICS AND PNEUMATICS,

Including water-wheels, wind mills, and other implements operated on by air or water, or employed in raising and delivery of fluids.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Cocks or faucets, &c.	Henry Rodgers	Auburn, N. Y.	Oct. 9, 1841.
Cocks for hydraulic and pneumatic purposes	John Lee Chapman	Baltimore, Md.	Oct. 11, "
Cocks for hydrants	Ebenezer Hubball, assignee of Joseph Martin	Baltimore, Md.	Feb. 10, "
Cocks for hydrants	Ebenezer Hubball	Baltimore, Md.	May 11, "
Cocks and molasses gates, &c.	Levi Lincoln	Hartford, Ct.	Nov. 10, "
Cocks, stop	Horatio Allen	New York	Nov. 12, "
Engine, fire	Asa Barrett	Baltimore, Md.	Feb. 18, "
Engine, fire	Joseph B. Babcock	Marietta, Ohio	July 1, "
Hydrostatic or hydraulic press for pressing cotton	John Houpt	Forkland, Ala.	Aug. 21, "
Measuring liquids, measures for	John S. Tough	Baltimore, Md.	July 23, "
Pump	Jesse Reed	Marshfield, Mass.	April 16, "
Pump	William M. Wheeler	Liberty, Mo.	May 15, "
Pump	Sidney S. Hogle	Lansingburg, N. Y.	May 29, "
Pump	Chapman Warner	Lexington, Ky.	Nov. 10, "
Pump	Joel Farnam	Stillwater, N. Y.	Nov. 16, "
Pump, air	Joseph Milner Wightman	Boston, Mass.	Nov. 10, "
Pump, cattle	Shively Stadon	Greenwood, Pa.	April 2, "
Pump, force, double acting	Joel Farnam	Stillwater, Mass.	Nov. 10 "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Pump, rotary	Samuel A. Lee	Boston, Mass.	Sept. 4, "
Pump, suction and force, double acting	Joel Farnam	Stillwater, N. Y.	Dec. 14, "
Pump, valve of, &c.	C. D. Van Allen	Petersburg, Va.	July 8, "
Pump, valves and pistons of	John Clark	Portsmouth, Va.	October 11, "
Raising water, endless chain bucket	John Dutton	Ashton township, Delaware county, Pa.	October 9, "
Raising water, hydraulic wheels for	Pierre Désiré	New Orleans, La.	Jan. 9, "
Syphons, &c.	George Johnson	New York	Dec. 23, "
Water, applying to fire engines, &c.	Franklin Ransom and Uzziah Wenman	New York	Feb. 13, "
Water wheels	Nelson Johnson	Triangle, N. Y.	June 22, "
Water wheels	Clark Lewis	Syracuse, N. Y.	July 16, "
Water wheels	Jesse Taylor	Aurelius, N. Y.	Sept. 11, "
Water wheels	John G. Garretson	Muhlenburg, Ohio	October 11, "
Water wheels	John L. Smith	Salina, N. Y.	Dec. 10, "
Water wheels, bucket, openings for admitting water on	Ira Stanbrough	Arcadia, N. Y.	Nov. 25, "
Water wheels, current	Noadiah W. Hubbard	Randolph, Ohio	April 2, "
Water wheels, reacting	Nathaniel F. Hodges	Corning, N. Y.	July 16, "
Windmill	William Zimmerman	Stephenson, Ill.	May 29, "
Windmill	Perry Davis	Fall River, Mass.	August 11, "
Windmill, horizontal	John M. Van Osdel	Chicago, Ill.	March 12, "

CLASS 12.—LEVER, SCREW, AND OTHER MECHANICAL POWER,

As applied to pressing, weighing, raising, and moving weights.

Balance, platform	Thomas Y. Jennings	Geneva, Ohio	Nov. 10, 1841.
Balance, portable	Albert Dole	Bangor, Me.	Dec. 23, "
Balance, steelyards	Eli Willemin	Leesburg, Ohio	August 21, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 12—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Balance, weighing apparatus	Martin Robbins	Hollidaysburg, Pa.	Jan. 23, 1841.
Balance, weighing apparatus	Christopher Edward Dampier	Ware, England	Feb. 12, 1841; antedated Jan. 14, 1840.
Buildings, &c., removing	Lewis Pullman	Portland, N. Y.	August 21, 1841.
Hoisting, machinery for	John B. Holmes	Boston, Mass.	June 7, "
Packing tobacco, staves, &c., of cast iron for	Thomas Samson	Richmond, Va.	May 11, "
Press, cheese	Damon A. Church	Friendship, N. Y.	May 4, "
Press, cheese	Job Arnold	Harmony, N. Y.	April 2, "
Press, cotton	William C. Van Hoesen	Catskill, N. Y.	April 2, "
Press, cotton, hay, &c.	Lemuel Bolles, Jedediah Prescott, and Wm. A. Bickford	Memphis, Tenn.	Feb. 13, "
Press, cotton, hay, &c.	Chales W. Hawkes	Brunswick, Me.	May 29, "
Press, hydrostatics—see Class 11.			
Press, screw, and application to the pressure of elaine from tallow	Richard Jones	Circleville, Ohio	October 9, "
Press, seal	A. Ralston Chase	Cincinnati, Ohio	April 19, "
Press, tobacco	Thomas G. Hardesly	Tracy's Landing, Md.	May 29, "
Press, tobacco	Elliott Richardson	West River, Md.	July 16, "
Press, tobacco	Albert Snead	Richmond, Va.	Sept. 11, "
Press, tobacco	Joseph Bucey	West River, Md.	Dec. 23, "
Raising blocks of ice, machinery for	Nathaniel J. Wyeth	Cambridge, Mass.	Dec. 10, "
Raising sunken vessels—see Class 9.			

LEGISLATIVE INTENT SERVICE (800) 666-1917

CLASS 13.—GRINDING MILLS AND MILL GEARING,

Containing grain mills, mechanical movements, horse powers, &c.

Flour, manufacturing, &c.	Andrew D. Worman	Fredericktown, Md.	July 23, 1841.
Gristmill	Ezekiel G. Ward	New York	Feb. 20, "
Gristmill	Josiah Platt	Weston, Ct.	October 9, "
Gristmill, bush for	George M. Copeland	Geneva, Ohio	October 11, "
Gristmill, conical	Samuel Sheldon	Cincinnati, Ohio	Sept. 11, "
Gudgeon, friction rollers for	Martin C. Forrist	Foxborough, Mass.	Nov. 16, "
Gudgeon, or step of mill spindles, &c.	Jacob Staub	Georgetown, D. C.	May 4, "
Horse power	Edmund Warren	New York	Jan. 5, "
Horse power	J. Francis Moore	Falmouth, Va.	May 4, "
Horse power	Samuel H. Little	Gettysburg, Pa.	June 11, "
Horse power, (reissue)	Samuel H. Little	Gettysburg, Pa.	July 1, "
Horse power	Thomas J. Wells	New York	July 1, "
Horse power	Moses Davenport	Pittsburg, Pa.	Sept. 4, "
Horse power, endless chain	Alonzo and Wm. C. Wheeler	Chatham, N. Y.	July 8, "
Horse power, endless floor	Jeremiah M. Reed	Middlefield, N. Y.	Jan. 30, 1841; antedated Dec. 9, 1840.
Horse power, portable, master wheel of	John A. Taplin	Hammond, N. Y.	Dec. 30, 1841.
Mill, cylinder for granulating corn, power bark, &c.	Increase Wilson	New London, Ct.	July 23, "
Millstones, dressing with ventilators for cooling the flour, &c.	Pendleton Cheek	Flat Rock, Ga.	August 21, "
Mill, universal, for grinding, hulling, &c.	James Bogardus	New York,	July 29, "
Mill, wind—see Class 11.			
Motion, fly wheel, or slide, to multiply	Charles Johnson	Amity, Ill.	Oct. 11, "
Power, graduating the velocities of moving bodies	Edwin W. Jackson	Albany, N. Y.	Jan. 5, "
Power, maintaining, to drive machinery	Stephen P. W. Douglass	Williamson, N. Y.	May 22, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Continued.

CLASS 14.—LUMBER,

Including machines and tools for preparing and manufacturing: such as sawing, planing, mortising, shingle and stave, carpenters' and coopers' implements.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Auger, uniting to sinker, for boring—see Wells, Class 9.			
Blocks of wood for paving—see Class 9.			
Dovetails, cutting square joint	William Perrin	Lowell, Mass.	March 24, 1841.
Dovetails and tenons, cutting	Thomas J. Wells	New York,	July 8, "
Lathe, turning handles, poles, &c.	Collins & Wistar, assignees of Stacy Costill	Philadelphia, Pa.	June 7, "
Lathe, universal chuck	Sidney S. Hogle	Rockville, N. Y.	Nov. 16, "
Mortising machine	James King	Morristown, N. J.	March 18, "
Planing boards and timber	Hervey Law	Wilmington, N. C.	Sept. 30, "
Ploughs, manufacture of	Draper Ruggles, Joel Nourse, and John C. Mason, assignees of Elbridge G. Matthews	Worcester, Mass.	Feb. 23, "
Sawing machine, cross cutting	Henry Burger	Danville, Indiana	March 18, "
Sawmill	David Philips	Georgetown, Pa.	March 12, "
Sawmill	James B. Lowry Philander Eggleston	North East, Pa. Mayville, N. Y.	June 11, "
Sawmill	William Bryant	Nashville, Tenn.	June 11, "
Sawmill dogs	Damon A. Church	Friendship, N. Y.	April 16, "
Sawmill dogs	Linus Yale	Newport, N. Y.	July 29, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Sawmill, head block of, &c.	James King	Sapling Grove, Va.	Feb. 20, "
Sawmill, portable	James C. Mayo	Columbia, Va.	July 29, "
Sawmill, portable circular	George Page	Baltimore, Md.	July 16, "
Sawmill, resawing boards, &c.	Pearson, Crosby	Fredonia, N. Y.	Nov. 3, "
Sawmill, self-setting	Frederick Goodell and Thomas W. Harvey	New York,	Nov. 3, "
Sawmill, sustaining logs in	Jeremiah Rohrer	Rohrersville, Md.	May 29, "
Shingles, cutting	Truman Walcott	Stow, Mass.	Jan. 20, 1841; antedated Sept. 5, 1840.
Shingles, cutting	Lloyd White	Jefferson, Ind.	Nov. 10, 1841.
Shingles, riving and dressing	William S. George	Baltimore, Md.	May 29, "
Splints, cutting for manufacturing brooms, &c.	Lyman Gleason	Le Roy, N. Y.	October 9, "
Splitting timber and making splints, laths, &c.	Benjamin Beach	Clarkesville, Ohio	Nov. 10, "
Staves, cutting	Cephas Manning	Acton, Mass.	April 10, "
Staves, sawing bilged, for barrels, &c.	Robert Steuart	Michigan City, Ind.	Nov. 25, "

CLASS 15.—STONE AND CLAY MANUFACTURES,

Including machines for pottery, glass-making, brick-making, dressing and preparing stone, cements, and other building materials.

Brick press	Thomas Conklin	Woodville, Miss.	Jan. 23, 1841.
Brick press	Thomas W. Smith	Alexandria, D. C.	Jan. 30, "
Brick press	Waldren Beach and Ephraim Lukens	Baltimore, Md.	May 22, "
Brick press	Charles G. Brown	Caldwell's, N. Y.	October 11, "
Brick press and tile	Joseph B. Wilson	Malden, Mass.	Sept. 30, "
	Alfred R. Crossman	Huntingdon, Mass.	
Clay, moulding and pressing, applied to the construction of fences, &c.	Mercy Wright	Tallytown, Pa.	May 15, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 15—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Glass, moulds for pressing	Hiram Dillaway	Boston, Mass.	August 21, 1841.
Knobs of all kinds of clay, &c., making	John G. Hotchkiss	New Haven, Ct.	July 29, "
	John A. Davenport and John W. Quincy	New York,	
Mill stones, dressing—see Class 13.			
Stone, cutting and dressing	Thomas J. Cornell	Worcester, Mass.	Nov. 3, "

CLASS 16.—LEATHER,

Including tanning and dressing, manufacture of boots, shoes, saddlery, harness, &c.

Boots and shoes, manufacturing	Ansel Thayer	Braintree, Mass.	April 24, 1841.
Boots, treeing	Elias Hall, jr.	Spencer, Mass.	May 29, "
Crimping leather, clamps for	Josiah M. Read	Boston, Mass.	March 16, "
Currier's beam, constructing the face of	Ichabod Lindsey	Charlestown, Mass.	Jan. 27, "
Harness, blinds of horse bridles	John G. Tibbets	New York	Oct. 9, "
Harness, horse collars, cutting the leather of	Thomas Parkinson	Sparta, N. Y.	July 17, "
Harness, horse collars, stretching, &c.	James P. Osborn	Reddington, N. J.	Jan. 30, "
Hats of leather, manufacturing	James S. and William Wibert	Eden, N. Y.	Sept. 4, "
Hides, raw, and leather, cutting into strips for the manufacture of ropes	Philip B. Holmes and William Pedrick	Charlestown, Mass.	Jan. 9, "
Saddles, spring	Thomas Mordock	Liberty, Ind.	August 28, "
Shoemakers' paring knives	Isaac S. Pendergast	Barnstead, N. H.	July 16, "
Splitting leather	Alpha Richardson	Boston, Mass.	Feb. 9, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Tanning hides, &c., process of - -	Simeon Guilford - -	Lebanon, Pa. - -	Nov. 10, "
Tanning, removing wool, &c., from skins of animals - - - - -	Francis and Hason Robinson -	Wilmington, Del. -	May 15, "
Trunks, travelling - - - -	John Fitzgibbon - -	Philadelphia, Pa. -	Oct. 11, "

CLASS 17.—HOUSEHOLD FURNITURE, MACHINES, AND IMPLEMENTS FOR DOMESTIC PURPOSES,

Including washing machines, bread and cracker machines, feather dressing, &c.

Bedstead, cutting screws of the rails of -	Joel Thompson - -	Cynthiana, Ky. -	July 29, 1841.
Bedstead, cutting tenons and boring holes in the rails of - - - -	Thomas Cole - - -	Greensburg, Ind. -	Nov. 12, "
Bedstead, fastening of - - -	Hermann C. Ernst - -	Vandalia, Ill. - -	Feb. 23, "
Bedstead, securing and fastening the rails of	John P. Allen - - -	Manchester, Mass. -	Nov. 3, "
Bedstead, sofa - - - -	James M. Meschutt - -	New York - -	July 23, "
Brushes, attaching the bristles to - -	Robert B. Lewis - -	Hallowell, Me. -	Feb. 23, "
Chair, recumbent - - - -	Henry P. Kennedy - -	Philadelphia, Pa. -	May 22, 1841; antedated Apr. 12, 1841.
Clothes-horse, connecting the frames of -	Harvey Luther - -	Providence, R. I. -	May 19, 1841.
Crackers, cutting - - - -	William Perkins - -	Boston, Mass. - -	April 2, "
Crackers, cutting - - -	Charles P. Fobes - -	Baltimore, Md. -	July 17, "
Crackers, cutting - -	William R. Nevins - -	New York - -	Nov. 10, "
Crackers, making - - - -	Riley Darling - -	East Greenwich, R. I. -	Sept. 30, "
Cutting blubber - - - -	George and John J. Kilburn -	Fall River, N. Y. -	Nov. 16, "
Feathers, drying, whipping, and cleaning -	Nathaniel L. Manning -	Boston, Mass. - -	April 16, "
Palm leaf or brub grass for stuffing beds, (reissue) - - - - -	Elias Howe, assignee of Joseph C. Smith - - -	Cambridgeport, Mass. -	March 18, "
Palm leaf, splitting—see Class 22.			

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 17—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Refrigerator	Job S. Gold	Philadelphia, Pa.	March 12, 1841.
Washing machine	George Waterman	Johnston, R. I.	May 11, "
Washing machine	Horatio N. Walter	Norwich, N. Y.	June 22, "
Washing machine	Leonard Procter	New York	Nov. 16, "

CLASS 18.—ARTS, POLITE, FINE, AND ORNAMENTAL,

Including music, painting, sculpture, engraving, books, paper, printing, binding, jewelry, &c.

Block printing on woven fabrics of cotton, &c.	Robert Hampson	Manchester, Gt. Britain	June, 7, 1841; antedated June 9, 1840.
Copy books, and method of binding the same	William Davison	Baltimore, Md.	October 9, 1841.
Files or ready binders for filing pamphlets, &c.	Isaac Detterer	Philadelphia, Pa.	May 22, "
Inking type, machine for	Frederick J. Austin	New York	Feb. 20, "
Inkstand	George Burnham	Philadelphia, Pa.	Dec. 30, "
Inkstand, capillary wick, &c.	Isaac M. Moss, assignee of John Farley	Philadelphia, Pa. / Washington, D. C.	Jan. 30, "
Pen, fountain, &c.	William Davison	Baltimore, Md.	Oct. 9, "
Piano forte	Lemuel Gilbert	Boston, Mass.	July 10, "
Piano forte	Daniel B. Newhall	Boston, Mass.	Nov. 3, "
Piano forte, action part of	Timothy Gilbert	Boston, Mass.	Feb. 10, "
Piano forte, hammer heads used in	Timothy Gilbert	Boston, Mass.	Feb. 10, "
Piano forte, horizontal	Frederick C. Reichenbach	Philadelphia, Pa.	May 19, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Piano forte, keys in - - -	Dan. B. Newhall and Levi Wilkins, assignees of John Dwight	Boston, Mass. - -	May 6, "
Polishing plates, used in taking likenesses, apparatus for - - - -	John Johnson - - -	New York - -	Dec. 14, "
Type, setting, machines for -	James Hadden Young and Adrien Delcambre -	England - France -	June 22, "

CLASS 19.—FIRE-ARMS AND IMPLEMENTS OF WAR, AND PARTS THEREOF,

Including the manufacture of shot and gunpowder.

Batteries, floating—see Class 7.			
Cannon balls, manufacturing, &c., from malleable iron - - - -	Lew. Grandy and Thos. Osgood	Troy, N. Y. - -	Feb. 3, 1841
Fire arms, manner of discharging them, &c.	Joshua Shaw - - -	Philadelphia, Pa. -	Jan. 30, "
Fire arms, portable - - - -	Charles Louis Stanislaus, Baron Heurteloup - - -	Subject of France -	July 29, 1841; antedated Feb. 23, 1839.
Gunpowder, corning or graining - -	Leonard T. Swett - -	Canton, Ct. - -	Nov 16, 1841.
War rockets, boring - - -	Alvin C. Goell - -	Washington, D. C. -	March 18, "
War rockets, press for filling - -	Alvin C. Goell - -	Washington, D. C. -	Feb. 18, "

CLASS 20.—SURGICAL AND MEDICAL INSTRUMENTS,

Including trusses, dental instruments, bathing apparatus, &c.

Lacteal or artificial breast - - -	Charles M. Windship, M. D. -	Roxbury, Mass. -	Feb. 18, 1841.
Lancet, spring - - - -	John M. Van Osdel - -	Chicago, Ill. - -	April 24, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—CLASS 20—Continued.

Inventions or discoveries.	Patentees.	Residence.	When issued.
Legs, apparatus for the relief of debility in the	Stephen P. W. Douglass -	Palmyra, N. Y. -	May 15, 1841.
Speculum ani - - - - -	Joseph T. Pitney - -	Auburn, N. Y. -	July 23, "
Tooth extractor - - - -	Moses I. Hill - - -	Bloomfield, Ind. -	June 7, "
Truss for prolapsus uteri - - -	John A Campbell, M. D. -	Lima, N. Y. - -	April 10, "
Truss for reducible hernia, method of treating, &c. - - - - - -	Zophar Jayne - - -	Carrollton, Ill. - -	April 2, "

CLASS 21.—WEARING APPAREL, ARTICLES FOR THE TOILET, &c.,
Including instruments for manufacturing.

Buttons, attaching to cloth - - -	Henry S. Poole - -	Boston, Mass. - -	Aug. 11, 1841.
Buttons, manufacturing of - - -	Thomas Prosser - -	Paterson, N. J. -	July 29, 1841; antedated Jan. 29, 1841.
Corsets - - - - -	Elizabeth Adams - -	Boston, Mass. - -	Jan. 21, 1841.
Corsets - - - - -	Alanson Abbe - -	Worcester, Mass. -	April 2, "
Garments, pockets of - - -	Daniel Harrington - -	Philadelphia, Pa. -	Oct. 11, "
Garments, tailors' instruments and mode of measuring - - - -	Lewis Flenner - -	Philadelphia, Pa. -	Nov. 10, "
Garments, tailors' measures - -	Lyman B. and Ellery Miller -	Wall Hill, N. Y. -	May 29, "
Garments, taking measure and draughting -	Aaron A. Tentler - -	Philadelphia, Pa. -	Jan. 23, "
Suspender straps, attaching to pantaloons -	David B. Cook - -	New York - -	Sept. 4, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

CLASS 22.—MISCELLANEOUS.

Fire escape - - - - -	Samuel Welsh and Thomas Linacree - - -	Albany, N. Y. -	Jan. 23, 1841.
Ice, forming - - - -	Thomas Briggs Smith -	St. Louis, Mo. -	Jan. 23, "
Knives, &c., handles for - - -	Zina K. Murdock - -	Meriden, Ct. - -	April 16, "
Palm leaf, machine for splitting - -	Corey McFarland - -	Barre, Mass. - -	March 31, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

Improvements added to original patents granted during the year 1841.

atentees.	Residence.	Inventions or discoveries.	When issued.	
			Patent.	Improvement.
Allen, Samuel S. - -	Miamisburg, Ohio -	Husking and shelling corn -	June 15, 1840	Mar. 29, 1841.
Cross, Jefferson - -	Morrisville, N. Y. -	Cooking stove - - -	June 27, 1838	Feb. 18, "
Cushwa, Benjamin -	Clear Spring, Md. -	Self-adjusting log brace - -	July 15, 1840	June 19, "
Dyott, Michael B. -	Philadelphia, Pa. -	Burners for camphine lamps -	Aug. 25, 1840	Mar. 18, "
Gail, Titus D. - -	Eden, N. Y. -	Butter working and pressing machine - - - -	Oct. 10, 1840	July 20, "
Garber, Samuel and Henry Swartzengrover -	Norristown, Pa. -	Process of burning lime - -	Mar. 25, 1837	June 19, "
Gibbons, Joseph - -	Adrian, Mich. -	Planting and sowing of seeds, &c. -	Aug. 25, 1840	May 4, "
Hall, William M. - -	Wallingford, Ct. -	Bee-hives - - - -	Dec. 27, 1839	Mar. 29, "
Morison, Benjamin -	Harrisburg, Pa. -	Counter scale, called "Druggist scale" - - - -	Feb. 16, 1837	Mar. 29, "
Newhall, Daniel - -	Lynn, Mass. -	Trough of the apparatus for destroying the canker worm -	Oct. 31, 1840	April 24, "
Shailer, Reuben - -	Haddam, Ct. -	Tanning, process of scraping hides, &c. - - - - -	June 19, 1837	Feb. 9, "
Snyder, Isaac - -	Carrollton, Pa. -	Self-sharpening plough - -	July 29, 1837	May 11, "
Southworth, Daniel H. -	Little Falls, N. Y. -	Cleaning rice, wheat, &c. - -	Aug. 23, 1838	Aug. 12, "
Spencer, William - -	Lowell, Mass. -	Dying yarn from the beam, called Spencer's improved dying machine - - - - -	Sept. 25, 1838; reissued May 28, 1840	April 17, "
Whitehead, Jesse - -	Manchester, Va. -	Counter twist speeder for cotton roping - - - -	May 29, 1841	Oct. 11, "

LEGISLATIVE INTENT SERVICE (800) 666-1917

B.

Alphabetical list of patentees for the year 1841, *with their places of residence.*

Patentees.	Residence.
Abbe, Alanson - - -	Worcester, Massachusetts.
Abbott, John - - -	Wilton, New Hampshire.
Adams, Elizabeth - - -	Boston, Massachusetts.
Aldrich, Elisha F. - - -	New York city.
Allen, Horatio - - -	New York city.
Allen, Horatio - - -	New York city.
Allen, John P. - - -	Manchester, Massachusetts.
Allison, Peter and William C. -	Philadelphia, Pennsylvania.
Anderson, Levi - - -	Kensington, Philadelphia, Pa.
Andrews, Solomon - -	Perth Amboy, New Jersey.
Arnold, Job - - -	Harmony, New York.
Austin, Frederick J. - -	New York city.
Austin, Frederick J. - -	New York city.
Babcock, Joseph B. - -	Marietta, Ohio.
Backus, John and Evans - -	New York city.
Bailey, Thomas R. - -	Weybridge, Vermont.
and Ezra Rich - - -	Shoreham, Vermont.
Baldwin, David - - -	Whitehall, New York.
Ball, Jonathan - - -	Buffalo, New York.
Ballard, William - - -	New York city.
Barrett, Asa - - -	Baltimore, Maryland.
Batchelor, Solomon C. - -	Cincinnati, Ohio.
Beach, Benjamin - - -	Clarkesville, Ohio.
Beach, Waldren, and E. Lukens -	Baltimore, Maryland.
Bean, Alexander F. - -	Woodstock, Vermont.
Beard, Ebenezer - - -	New Sharon, Maine.
Beers, John D. - - -	Philadelphia, Pennsylvania.
Benson, Robert N. - - -	New Orleans, Louisiana.
Bentz, Samuel - - -	Boonsboro', Maryland.
Bissell, John B. - - -	Oakville, New York.
Bissell, Levi - - -	Newark, New Jersey.
Blanchard, Alonzo L. - -	Albany, New York.
Blanchard, Hiram - - -	Aquackanonk, New Jersey.
Bogardus, James - - -	New York city.
Bolles, Lemuel, Jedediah Prescott, and William A. Bickford	Memphis, Tennessee.
Boninger, Rudolph, and Gustava Boninger, (assignees of Max. Joseph Funcke) - - -	Baltimore, Maryland.
Bradley, George - - -	Paterson, New Jersey.
Brett, James - - -	Newburg, New York.
Bridges, Albert, and Chs. Davenport	Cambridgeport, Massachusetts.
Brown, Charles G. - -	Caldwell, New York.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Brown, Josiah, (assignee of Theophilus Goodwin)	Brentwood, Massachusetts.
Brown, R. B.	Essex, Vermont.
Bryant, William	Nashville, Tennessee.
Bucey, Joseph	West River, Maryland.
Buck, Henry A.	Fredonia, New York.
Bulkley, Wm., and Otis M. Inman	Berlin, Connecticut.
Bullock, Isaac—see Gardiner, P. G.	
Burger, Henry	Danville, Indiana.
Burnham, George	Philadelphia, Pennsylvania.
Butrick, R. P.	Lockport, New York.
Calderhead, Alexander	Philadelphia, Pennsylvania.
Calvert, Francis A.	Lowell, Massachusetts.
Calvert, Francis A.	Lowell, Massachusetts.
Calvert, William W., and Alanson Crane	Chelmsford, Massachusetts.
Campbell, Ethan	New York city.
Campbell, John A.	Lima, New York.
Carey, Stephen	New Orleans, Louisiana.
Carey, Thomas C.	Poughkeepsie, New York.
Carr, George	Buffalo, New York.
Carr, William, (assignee of Thomas Shepherd)	Philadelphia, Pennsylvania.
Carsley, William	New Bedford, Massachusetts.
Cate, Norman S.	Charlestown, Massachusetts.
and James H. Putnam	Malden, Massachusetts.
Cavenaugh, Luke F.	Newfield, New York.
Chaffe—see Rogers.	
Chapman, John Lee	Baltimore, Maryland.
Chase, A. Ralston	Cincinnati, Ohio.
Chase, Samuel L.	Woodstock, Vermont.
Chase, Samuel L., (reissue)	Woodstock, Vermont.
Cheek Pendleton	Flat Rock, Georgia.
Cherry, George W.	Washington, District of Columbia.
Childs, Charles D.	York, New York.
Chilson, Gardner	Boston, Massachusetts.
Chubbuck, Stephen, and Jedediah Briggs	Wareham, Massachusetts.
Church, Damon A.	Friendship, New York.
Church, Damon A.	Friendship, New York.
Church, Damon A.	Friendship, New York.
Churchill, Alfred	Geneva, Illinois.
Clark, John	Portsmouth, Virginia.
Clarke, Aaron	Greenwich, Connecticut.
Coes, Loring	Springfield Massachusetts.
Cole, Thomas	Greensbury, Indiana.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Coleman, Sidney E. - -	West Haven, Vermont.
Collins and Wistar, (assignees of Stacy Costill) - - -	Philadelphia, Pennsylvania.
Conklin, Thomas - - -	Woodville, Mississippi.
Connison, Alexander - -	Belleville, New Jersey.
Cooch, Richard M. - -	Lambertsville, New Jersey.
Cook, David B. - - -	New York city.
Cooper, Thomas, (reissue) - -	New York city.
Copeland, Charles W. - -	New York city.
Copeland, George M. - -	Geneva, Ohio.
Coppuck, James - - -	Mount Holly, New Jersey.
Cornelius, Robert - - -	Philadelphia, Pennsylvania.
Cornell, Thomas J. - -	Worcester Massachusetts.
Cordes, James Jamieson - -	Citizen of the United States.
Edward Locke - - -	Newport, England.
Costill, S.—see Collins and Wistar.	
Cottrell, Albert - - -	Newport, Rhode Island.
Craig, William, and John Cochrane	England.
Crane, Aaron D. - - -	Newark, New Jersey.
Crane, Ebenezer and Alanson -	Lowell, Massachusetts.
Cromwell, Joseph and Henry F. -	Cynthiana, Kentucky.
Crosby, Pearson - - -	Fredonia, New York.
Custis, John - - -	Yarmouth, Massachusetts.
Damon, Isaac - - -	Northampton, Massachusetts.
Dampier, Christopher Edward -	Ware, England.
Danforth, Charles - - -	Paterson, New Jersey.
Danforth, Charles - - -	Paterson, New Jersey.
Darling, Riley - - -	East Greenwich, Rhode Island.
Davenport, Moses - - -	Pittsburg, Pennsylvania.
Davis, Perry - - -	Fall River, Massachusetts.
Davis, Perry - - -	Fall River, Massachusetts.
Davis, Perry - - -	Fall River, Massachusetts.
Davison, William - - -	Baltimore, Maryland.
Davison, William - - -	Baltimore, Maryland.
Demuth, Jacob, and Benj. Bowman	Lancaster, Pennsyluania.
Levi Beck - - -	Lampeter, Pennsylvania.
Derby, Joseph H. - - -	Leominster, Massachusetts.
Deterrer, Isaac - - -	Philadelphia, Pennsylvania.
Dillaway, Hiram - - -	Boston, Massachusetts.
Dircks, Henry - - -	Liverpool, England.
Dodge, Dan'l, and Phineas Burgess	New York city.
Dole, Albert - - -	Bangor, Maine.
Douglass, Stephen P. W. - -	Palmyra, New York.
Douglass, Stephen P. W. - -	Williamson, New York.
Duff, William - - -	Baltimore, Maryland.
Dutton, John - - -	Aston township, Delaware co., Pa.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Dwight—see Newhall and Wilkins.	
Echols, Josephus - - -	Columbus, Georgia.
Edwards, David A. - -	Boston, Massachusetts.
Eltonhead, Thomas - -	Baltimore, Maryland.
English, Robert - - -	Lagro, Indiana.
Ernst, Hermann C. - -	Vandalia, Illinois.
Etzler, John A. - - -	Philadelphia, Pennsylvania.
Evans, David - - -	Philadelphia, Pennsylvania.
Evarts, Russell - - -	Madison, Connecticut.
Fancher, Sylvanus - - -	Southbury, Connecticut.
Farley, John—see Moss, Isaac M.	
Farnam, Joel - - -	Stillwater, New York.
Farnam, Joel - - -	Stillwater, New York.
Farnam, Joel - - -	Stillwater, New York.
Feinour, Joseph, jr. - -	Philadelphia, Pennsylvania.
Fisk, Joseph E. - - -	Salem, Massachusetts.
Fisk, N. W. (assignee of A. D. Fisk)	New York city.
Fitzgerald, Daniel - - -	New York city.
Fitzgerald, Daniel - - -	New York city.
Fitzgibbon, John - - -	Philadelphia, Pennsylvania.
Flenner, Lewis - - -	Philadelphia, Pennsylvania.
Fobes, Edwin—see Gilbert, T.	
Forbes, Charles P. - - -	Baltimore, Maryland.
Forrist, Martin C. - - -	Foxborough, Massachusetts.
Foster, Charles - - -	Rochester, New York.
Foster, Leonard - - -	Boston, Massachusetts.
Fox, Selah W., and Aretas Ferry -	Bernardstown, Massachusetts.
Francis, Joseph - - -	New York city.
Francis, Joseph - - -	New York city.
French, Richard - - -	Philadelphia, Pennsylvania.
Frost, James - - -	Brooklyn, New York.
Gambie, James, and Joseph S. Hill -	Cincinnati, Ohio.
Gardiner, Perry G. - - -	New York city.
Gardiner, Perry G., (assignee of Isaac Bullock) - - - -	New York city.
Garlin, William - - -	Providence, Rhode Island.
Garretson, John G. - -	Muhlenburg, Ohio.
George, William S. - -	Baltimore, Maryland.
Gilbert, Lemuel - - -	Boston, Massachusetts.
Gilbert, Timothy (assignee of Edwin Fobes) - - - -	Boston, Massachusetts.
Gilbert, Timothy - - -	Boston, Massachusetts.
Gleason, Lyman - - -	Le Roy, New York.
Goell, Alvin C. - - -	Washington, District of Columbia.
Goell, Alvin C. - - -	Washington, District of Columbia.
Gold, Job S. - - -	Philadelphia, Pennsylvania.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Gold, Stephen J. - - -	Cornwall, Connecticut.
Goldsborough, Nicholas - -	Easton, Maryland.
Goodell Frederick, and Thomas W. Harvey - - - -	New York city.
Goodwin, Samuel - - -	New York city.
Goodwin, Theophilus - -	Exeter, New Hampshire.
Gowdy, Levi L. - - -	Montgomery, New York.
Grandy, Lewis, and Thomas Osgood	Troy, New York.
Granger, Rensselaer D. - -	Albany, New York.
Gray, I. B. - - - -	Fredericksburg, Virginia.
Green, Benjamin H. - -	Princeton, New Jersey.
Greene, Lewis - - -	Tiffin, Seneca county, Ohio.
Greenough, Benjamin F. -	Boston, Massachusetts.
Griffith, George R. - -	Mobile, Alabama.
Grimes, William C. - -	York, Pennsylvania.
Guérin, Napoleon Edouard -	New York city.
Guilford, Simeon - - -	Lebanon, Pennsylvania.
Hacker, George S. - - -	Charleston, South Carolina.
Hale, Joseph W. - - -	Haverhill, Massachusetts.
Hall, Elias, jr. - - -	Spencer, Massachusetts.
Hamilton, Farwell H. - -	Schenectady, New York.
Hampson, John - - -	New Orleans, Louisiana.
Hampson, John - - -	New Orleans, Louisiana.
Hampson, Robert - - -	Manchester, England.
Hanson—see Tatham	
Hardesty, Thomas G. - -	Tracy's Landing, Maryland.
Harrington, Daniel - -	Philadelphia, Pennsylvania.
Harris, Robert S. - - -	Wilmington, Delaware.
Hawkes, Charles W. - -	Brunswick, Maine.
Heath, George - - -	Little Falls, New York.
Hemmenway, Benjamin - -	Roxbury, Massachusetts.
Henry, Pierre Désiré - -	New Orleans, Louisiana.
Herrick, Webster - - -	Northampton, Massachusetts.
Heurteloup, Chs. Lewis Stanislaus, Baron - - - -	France.
Heygel, Joseph - - -	Salisbury, Pennsylvania.
Hill, Moses I. - - -	Bloomfield, Indiana.
Hill, William B. - - -	Bellevue, Michigan.
Hobday, John, and Wm. I. Cocke -	Portsmouth, Virginia.
Hobe, Charles F. - - -	New York city.
Hodges, Nathaniel F. - -	Corning, New York.
Hoggan, James M. - -	New Haven, Connecticut.
Hogle, Sidney S. - - -	Lansingburg, New York.
Hogle, Sidney S. - - -	Rockville, New York.
Holmes, John B. - - -	Boston, Massachusetts.
Holmes, Philip B., and Wm. Pedrick	Charlestown, Massachusetts.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Hopkins, Lansing E. - -	New York city.
Hopkins, William R. - -	Geneva, New York.
Hotchkiss, John G. - -	New Haven, Connecticut.
John A. Davenport and John W. Quincy - - -	New York city.
Hotchkiss, John G. - -	New Haven, Connecticut.
John A. Davenport and John W. Quincy - - -	New York city
Houpt, John - - -	Forkland, Alabama.
Howe, Abraham, and Sidney S. Grannis - - - -	Morrisville, New York.
Howe, Abraham, and Sidney S. Grannis - - - -	Morrisville, New York.
Howe, Elias, (assignee of Joseph C. Smith) - - - -	Cambridgeport, Massachusetts.
Howe, John I. - - -	Derby, Connecticut.
Hubball, Ebenezer - -	Baltimore, Maryland.
Hubball, Ebenezer, assignee of Joseph Martin - - -	Baltimore, Maryland.
Hubbard, Noadiah W. - -	Randolph, Ohio.
Hubbell—see Phleger.	
Hunter, David - - -	Laurel Factory, Maryland.
Hunter, William W. - -	United States navy.
Benjamin Harris - -	Norfolk, Virginia.
Hurd, Joseph, jr. - - -	Stoneham, Massachusetts.
Jackson, Edwin W. - -	Albany, New York.
Jayne, Zophar - - -	Carrollton, Illinois.
Jenks, Otis - - - -	Albany, New York.
Jennings, Isaiah - - -	New York city.
Jennings, Thomas Y. - -	Geneva, Ohio.
Jewett, Benjamin F. - -	Springfield, Illinois.
Johnson, Charles - - -	Amity, Illinois.
Johnson, George - - -	New York city.
Johnson, John - - -	New York city.
Johnson, Nelson - - -	Triangle, New York.
Jones, Joseph - - -	Newton, New Jersey.
Jones, Orlando - - -	City Road, England.
Jones, Richard - - -	Circleville, Ohio.
Jones, Thomas M. - - -	Boston, Massachusetts, residing in England.
Julian, William F. - - -	Hartsville, Indiana.
Kaighn, Elias - - -	Kaighn's Point, New Jersey.
Kennedy, Henry P. - -	Philadelphia, Pennsylvania.
Kilburn, George and John J. -	Fall River, Massachusetts.
King, Harmon - - -	New York city.
King, James - - -	Morristown, New Jersey.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
King, James	Sapling Grove, Virginia.
King, John B.	Athens, Tennessee.
Kingsley, Nathan P.	Boston, Massachusetts.
Lamson, Silas	Shelburne Falls, Massachusetts.
Laubach, Joseph	Middletown, Pennsylvania.
Law, Henry	Wilmington, North Carolina.
Lear, Peter	Boston, Massachusetts.
Lee, Samuel A.	Boston, Massachusetts.
Lewis, Clark	Syracuse, New York.
Lewis, Robert B.	Hallowell, Maine.
Lincoln, Levi	Hartford, Connecticut.
Lindsey, Ichabod	Charlestown, Massachusetts.
Little, Samuel H.	Gettysburg, Pennsylvania.
Little, Samuel H. (reissue)	Gettysburg, Pennsylvania.
Lizé, Louis	France, now in Pittsburg, Penn.
Lockwood, David C.	New Windsor, New York.
Long, Stephen H. (reissue)	United States army.
Lowry, James B., and Philander Eggleston	North East, Pennsylvania. Mayville, New York.
Luther, Harvey	Providence, Rhode Island.
Luther, John	Warren, Rhode Island.
Mallory, Meredith	Urbana, New York.
Manning, Cephas	Acton, Massachusetts.
Manning, Nathaniel L.	Boston, Massachusets.
Mardock, Thomas	Liberty, Indiana.
Marsh, James L. and Asa Munger	Auburn, New York.
Martin, Joseph—see Hubball, E.	
Martin, Prosper	Philadelphia, Pennsylvania.
Mason, Belden B. and Mathews, Joslyn	Randolph, New York. Napoli, New York.
Mathews, E. G.—see Ruggles and others.	
Mayo, James C.	Columbia, Virginia.
McDonald, Richard	Harrisburg, Pennsylvania.
McEwen, William	Norristown, Pennsylvania.
McFarland, Carey	Barre, Massachusetts.
McKean, James P.	Washington, D. C.
McMillen, Reuben	Middleburg, Ohio.
McMillen, Reuben	Middleburg, Ohio.
McPhetridge, C. A.	Natchez, Mississippi.
Meschutt, James M.	New York city.
Miller, Ezra L.	Brooklyn, New York.
Miller, Lyman B. and Ellery	Wallhill, New York.
Mims, Marshal and Seaborn J. Mims	Starkville, Mississippi.
Mitchel, Enos	Pittston, Maine.
Moore, I. Francis	Falmouth, Virginia.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Morris, Edmund - - -	Burlington, New Jersey.
Morris, William - - -	Kanawha county, Virginia.
Moss, Isaac M. (assignee of John Farley) - - - -	Philadelphia, Pennsylvania.
Mott, Jordon L. - - -	New York city.
Munroe, Joseph - - -	Palmer, Massachusetts.
Murdock, Zina K. - - -	Meriden, Connecticut.
Naglee, Henry M., and Thomas Raney - - - -	Philadelphia, Pennsylvania.
Nelson, John - - -	Jefferson, Ohio.
Nevins, William R. - -	New York city.
Newberg, George John - -	Citizen U. States, now in London.
Newhall, Daniel B., and Levi Wilkins, (assignees of John Dwight)	Boston, Massachusetts.
Newhall, Daniel B. - -	Boston, Massachusetts.
Nichols, Howard - - -	New Bedford, Massachusetts.
Nicolson, Samuel - - -	Suffolk, Massachusetts.
Nolt, Jonas - - -	West Hempfield, Pennsylvania.
Olds, Calvin - - -	Marlborough, Vermont.
Oliver, Samuel - - -	Northampton, Pennsylvania.
Orcutt, William A. - - -	Boston, Massachusetts.
Osborn, James P. - - -	Reddington, New Jersey.
Page, George - - -	Baltimore, Maryland.
Page, John A. - - -	Boston, Massachusetts.
Palmer, William B. - -	Rochester, New York.
Parkinson, Thomas - -	Sparta, New York.
Patourel, James Le - -	Chandlersville, Ohio.
Patterson, James H. - -	New York city.
Payne, Charles - - -	South Lambeth, England.
Payne, Elisha D. and Enos Woodruff	Newark, New Jersey.
Pendergast, Isaac S. - -	Barnstead, New Hampshire.
Pennock, Moses and Samuel -	East Marlborough, Pennsylvania.
Perkins, William - - -	Boston, Massachusetts.
Perrin, William - - -	Lowell, Massachusetts.
Philips, David - - -	Georgetown, Pennsylvania.
Philips, David - - -	Georgetown, Pennsylvania.
Asa Jackson - - -	Franklin Mills, Virginia.
Philips, David - - -	Georgetown, Pennsylvania.
Phillips, Henry F. - -	Skaneateles, New York.
Phleger, Leonard, (assignee of Wm. H. Hubbell) - - -	Philadelphia, Pennsylvania.
Phleger, Leonard, (assignee of Wm. H. Hubbell) - - -	Philadelphia, Pennsylvania.
Phleger, Leonard, (assignee of Wm. H. Hubbell) - - -	Philadelphia, Pennsylvania.
Phleger, Leonard, (assignee of Wm. H. Hubbell) - - -	Philadelphia, Pennsylvania.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Pierce, Thomas	Hartwick, New York.
Pitney, Joseph T.	Auburn, New York.
Pitts, Hiram A.	Winthrop, Maine.
Platt, Josiah	Western, Connecticut.
Poole, Henry S.	Boston, Massachusetts.
Price, John, and James T. Phillips	Golden, Maryland.
Prince, John D.	Lowell, Massachusetts.
Procter, Leonard	New York city.
Prosser, Thomas	Paterson, New Jersey.
Prouty, David	Boston, Massachusetts.
and John Mears	Dorcester, Massachusetts.
Pullman, Lewis	Portland, New York.
Putnam, James R.	New Orleans, Louisiana.
Quillard, Claude I.	Roundout, New York.
Rand, John	Citizen U. States, now in England.
Ransom, Franklin, and Uzziah Wenman	New York city.
Ray, Fowler M., (reissue)	Catskill, New York.
Ray, Fowler M.	Catskill, New York.
Read, Josiah M.	Boston, Massachusetts.
Reading, Peirson	Batavia, Ohio.
Reed, Jeremiah M.	Middlefield, New York.
Reed, Jesse	Marshfield, Massachusetts.
Richenbach, Frederick C.	Philadelphia, Pennsylvania.
Rice, Zalmun	Lyons, New York.
Richards, William T.	Poultney, Vermont.
Richardson, Alpha	Boston, Massachusetts.
Richardson, Elliot	West River, Maryland.
Richman, Christian and Charles	Philadelphia, Pennsylvania.
Rider, Wm. H., (assignee of Justus Rider)	Belleville, Illinois.
Riley, Salmon C.	New York city.
Ring, Elihu	Trumansburg, New York.
Robbins, Henry C.	Middleborough, Massachusetts.
Robbins, Henry H.	Middleborough, Massachusetts.
Robbins, Martin	Hollidaysburg, Pennsylvania.
Roberts, Richard	Manchester, England.
Robinson, Clark H.	Uniontown, Pennsylvania.
Robinson, Eli C.	Troy, New York.
Robinson, Enoch, and Wm. Hall	Boston, Massachusetts.
Robinson, Enoch, and Wm. Hall	Boston, Massachusetts.
Robinson, Francis and Hanson	Wilmington, Delaware.
Robinson, Robert	Greene, New York.
Rocher, Michel	Nantes, France.
Rogers, Charles B, and Edward Arnold, (assignees of Edwin M. Chaffee)	Charlestown, Massachusetts.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Rogers, Henry	Auburn, New York.
Rogers, Isaiah	New York city.
Rogers, Thomas B.	New York city.
Rohrer, Jeremiah	Rohrersville, Maryland.
Root, James	Cincinnati, Ohio.
Ross, Samuel	Camden, New Jersey.
Ruggles, Draper, Joel Nourse, and John C. Mason, (assignees of Elbridge G. Matthews	Worcester, Massachusetts.
Sadler, M. C.	Brockport, New York.
Samson, Thomas	Richmond, Virginia.
Sanderson, Charles	Sheffield, England.
Sawyer, Henry R.	New York city.
Sawyer, Samuel	Boston, Massachusetts.
Schermerhorn, John F., and Rufus Porter	Carroll county, Indiana. New York city.
Seay, Thomas	Columbia county, Georgia.
Seely, Oran W.	New York city.
Shaw, Joshua	Philadelphia, Pennsylvania.
Sheldon, Samuel	Cincinnati, Ohio.
Shepard, William A.	Waterville, Maine.
Shepherd, T.—see Carr, W. H.	
Shepherd, Thomas, and Thomas Loring	Philadelphia, Pennsylvania.
Sherwood, John P.	Sandy Hill, New York.
Sim, William	Schenectady, New York.
Simonds, Abel, and Albert G. Page	Fitchburg, Massachusetts.
Slocum, Samuel	Poughkeepsie, New York.
Smith, Christopher H.	Niagara, New York.
Smith, Francis Pettit	London, England.
Smith, Hernon	Sunbury, Ohio.
Smith, John L.	Salina, New York.
Smith, Joseph C.—see Howe, Elias	
Smith, Normand	Hartford, Connecticut.
Smith, Thomas Briggs	St. Louis, Missouri.
Smith, Thomas W.	Alexandria, District of Columbia.
Snead, Albert	Richmond, Virginia.
Spalding, Joel	Morristown, Vermont.
Spaulding, Abiram	New York city.
Spaulding Samuel B.	Brandon, Vermont.
Spear, Thomas J.	New Orleans, Louisiana.
Stadon, Shively	Greenwood, Pennsylvania.
Stanbrough, Ira	Arcadia, New York.
Staub, Jacob	Georgetown, District of Columbia.
Stevens, Robert L. and Francis B.	New York city.
Stewart, Matthew	Philadelphia, Pennsylvania.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Stewart, Matthew, jr. - -	Philadelphia, Pennsylvania.
Stewart, J. A. - - -	Cross Plains, Tennessee.
Stewart, Robert - - -	Michigan City, Indiana.
Stiles, Riverius C., & Joseph S. Graves	East Bloomfield, New York.
Stillman, O. M. - - -	Stonington, Connecticut.
St. John, John R. - - -	Cleveland, Ohio.
Strong, Justin E. - - -	Boston, Massachusetts.
Sturdevant, Lewis G. - -	Delaware, Ohio.
Swett, Leonard T. - - -	Canton, Connecticut.
Swett, Samuel, jr. - - -	Chelsea, Massachusetts.
Taplin, John A. - - -	Hammond, New York.
Tatham, Benjamin, jr. - -	Hitchen, England.
and Henry B. Tatham, (assignees of John and Charles Hanson) -	Philadelphia, Pennsylvania.
Tatham, George N., and Benjamin Tatham, jr. - - -	Philadelphia, Pennsylvania.
Taylor, Jesse - - -	Aurelius, New York.
Teutler, Aaron A. - - -	Philadelphia, Pennsylvania.
Thayer, Ansel - - -	Braintree, Massachusetts.
Thomas, John - - -	New York city.
Thomas, R. S. - - -	Bennettsville, South Carolina.
Thompson, Joel - - -	Cynthiana, Kentucky.
Thurman, Silas T. - -	Lincoln, Kentucky.
Tibbetts, John G. - - -	New York city.
Tillinghast, J. B. - - -	Huron, Ohio.
Tolles, Elisha - - -	New York city.
Torbet, Francis R. - -	Paterson, New Jersey.
Tough, John S. - - -	Baltimore, Maryland.
Tough, John S. - - -	Baltimore, Maryland.
Townsend, Ashley - - -	Leroy, New York.
Tracy, Andrew - - -	Poughkeepsie, New York.
Trumbull, Earl - - -	Little Falls, New York.
Turner, Daniel B. - - -	Florence, Ohio.
Tuttle, Jesse - - -	Boston, Massachusetts.
Tyler, Philos B., (executor of Rufus Tyler, deceased.)	New Orleans, Louisiana.
Van Allen, C. D. - - -	Petersburg, Virginia.
Van Hoesen, William C. - -	Catskill, New York.
Van Loan, William W. - -	Catskill, New York.
Van Osdel, John M. - -	Chicago, Illinois.
Van Osdel, John M. - -	Chicago, Illinois.
Walcott, Truman - - -	Stow, Massachusetts.
Wall, Arthur - - -	Shadwell, England.
Walter, Horatio N. - -	Norwich, New York.
Ward, Ezekiel G. - -	New York city.
Ward, Joseph H. - - -	Randolph, Ohio.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Warner, Chapman	Lexington, Kentucky.
Warren, Edmund	New York city.
Washburn, Albert	Bridgewater, Massachusetts.
Waterman, George	Johnson, Rhode Island.
Waterman, Henry	Hudson, New York
Webb, A. V. H.	New York city.
Webb, Constant	Wallingford, Connecticut.
Weeks, John M.	Salisbury, Vermont.
Wells, Henry A.	New York city
Wells, Henry A.	New York city.
Wells, Henry A.	New York city.
Wells, Thomas J.	New York city.
Wells, Thomas J.	New York city.
Wells, Thomas J.	New York city.
Welsh, Samuel, and Thomas Linacree	Albany, New York.
Wemmer, Nilson John	Philadelphia, Pennsylvania.
Wheeler, Alonzo and Wm. C.	Chatham, New York.
Wheeler, William M.	Liberty, Missouri.
Whipple, Squire	Utica, New York.
White, Lord	Jeffersonville, Indiana.
White, Thomas	Mount Pleasant, Ohio.
Whitehead, Jesse	Manchester, Virginia.
Whiteley, William H.	Charlestown, Massachusetts.
Whitford, John A.	Saratoga Springs, New York.
Whitford, John A.	Saratoga Springs, New York.
Whitham, William	Huddersfield, England.
Whitlock, George	Crown Point, New York.
Whittlesey, Isaac N.	Vincennes, Indiana.
Wibirt, James S. and William	Eden, New York.
Wightman, Joseph M.	Boston, Massachusetts.
Wilder, John	New York city.
Wilkes, Samuel	Darleston, Great Britain
Willemin, Eli	Leesburg, Ohio.
Williams, Edward T., and Latham T. Tew	Newport, Rhode Island.
Williams, Erastus, and Daniel L. Huntington	Norwich, Connecticut.
Willis Charles	Chelsea, Massachusetts.
Wilson, George W.	Nashua, New Hampshire.
Wilson, Increase	New London, Connecticut.
Wilson, Joseph B.	Malden, Massachusetts.
Alfred R. Crossman	Huntingdon, Massachusetts.
Winans, Norman T., Theodore and Thaddeus Hyatt	New York city.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B—Continued.

Patentees.	Residence.
Winans, Norman T., Theodore and Thaddeus Hyatt - - -	New York city.
Windship, Charles M., M. D. -	Roxbury, Massachusetts.
Wolpers, Charles O. - -	Cincinnati, Ohio.
Wood, Loftis - - -	New York city.
Woodward, Moses S. - -	Marshalton, Pennsylvania.
Worman, Andrew D. - -	Fredericktown, Maryland.
Wright, Mercy - - -	Tullytown, Pennsylvania.
Wyeth, Nathaniel J. - -	Cambridge, Massachusetts.
Wyeth, Nathaniel J. - -	Cambridge, Massachusetts.
Wyeth, Nathaniel J. - -	Cambridge, Massachusetts.
Yale, Linus - - -	Newport, Rhode Island.
Young, Edward L. - -	Norfolk, Virginia.
Young, James Hadden - -	England.
and Adrian Delcambre - -	France.
Zimmerman, William - -	Stephenson, Illinois.

LEGISLATIVE INTENT SERVICE (800) 666-1917

C.

List of patents expired in the year 1841.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
Adams, Washington	Guilford, N. C.	Grist mill	July 18
Allen, Adolphus	Troy, N. Y.	Horse yoke	June 29
Allen, John, jr., and Geo. O. Gevghegan	Richmond, Va.	Tobacco, manufacturing	April 3
Ambler, John, jr.	S. New Berlin, N. Y.	Lock, percussion lever	October 16
Ames, Oliver	Easton, Mass.	Shovels, making	March 5
Amsden, Amory	Bloomfield, N. Y.	Staves, making ready for truss hoop	July 27
Andrews, Samuel	Bridgetown Me.	Steelyards, lever power	March 24
Aiken, John M.	Philadelphia, Pa.	Distilling	August 30
Ammon, Jacob	Rockingham, Va.	Letting water on wheels	June 8
Armour, Joseph M.	Fredericktown, Md.	Scurvy, composition to prevent	Septemb'r 28
Bagley, Samuel L.	Hillsdale, N. Y.	Churn	March 24
Bailey, Jeremiah	Philadelphia, Pa.	Tubs, machine, for making wood sides of	April 7
Bailey, Jeremiah	Philadelphia, Pa.	Horse and hay rake	March 30
Bailey, Jeremiah	Philadelphia, Pa.	Carpeting	April 7
Bailey, Uriah	West Newbury, Me.	Inlaying gold in tortoise shell	February 22
Bailey, Uriah	West Newbury, Me.	Ornamenting combs	Novemb'r 15
Baker, Horace	North Salem, N. Y.	Loom for figured goods	August 30
Bakewell, Thomas P.	Pittsburg, Pa.	Bridges	May 15
Bakewell, Thomas W.	Cincinnati, Ohio	Building vessels, &c.	February 21
Barker, John	Baltimore, Md.	Boiler for anthracite coal	February 7
Barker, Peter	Worthington, Ohio	Thrashing and breaking flax	August 20
Blaisdell, Samuel	Lancaster, Ohio	Balance on dearborns	October 10

LEGISLATIVE INTENT SERVICE (800) 666-1917

Beach, Cyrus W.	Schoharie, N. Y.	Wheelwrights' assistant	March	16
Beach, Cyrus	Newark, N. J.	Axletrees and boxes	June	26
Beach, C. C. K.	Portland, Me.	Cutter, cant twist blade for	Novemb'r	10
Beach, William	Philadelphia, Pa.	Plough	June	27
Beard, David	Buffalo, N. Y.	Washing machine	June	27
Belknap, Ira	Millersburg, Pa.	Fermenting and distilling spirits	July	20
Bell, Robert P.	New York, N. Y.	Transporting, boats for, on canals, &c.	July	13
Benbow, Thomas	Guilford, N. C.	Straw cutter	February	16
Bencine, Anthony	Caswell, N. C.	Grist mill	January	16
Bencine, Anthony	Milton, N. C.	Saw mill	June	4
Benham, John M.	Bridgewater, N. Y.	Aqueduct	August	29
Benbow, William	Guilford county, N. C.	Grist mill	January	19
Brewster, Gilbert	Poughkeepsie, N. Y.	Roving cotton	March	28
Bigelow, Elijah A.	Brandon, Vt.	Engrafting teeth	March	8
Bishop, Nathaniel	Danbury, Ct.	Combs, rolling the backs of, &c.	Novemb'r	17
Briggs, Elisha	Perry, N. Y.	Hollow wooden ware	July	30
Baggs, John	Philadelphia, Pa.	Saw, sett spring	October	4
Bourne, Herman	Salem, Mass.	Stone, dressing, drilling, and cutting	August	3
Brooks, Theodore, and D. W. Eames	Rutland, N. Y.	Carriages	December	26
Brown, Alexander	New York, N. Y.	Escape, heat of steam, application of	October	30
Brown, John, and G. W. Robinson	Providence, R. I.	Locks	February	20
Brown, Simeon	New York, N. Y.	Removing buildings	July	31
Brownell, Thomas	New York, N. Y.	Pumping vessels by wind power	March	23
Broyles, Cain	Tellico, Tenn.	Propelling machinery by weights	October	19
Bulkley, Chauncey	Colchester, Ct.	Hoes of cast iron	January	10
Bulkley, Chauncey	Colchester, Ct.	Hoes by rolling cast steel	January	10
Burdett, Benj. C.	New York, N. Y.	Victualler	August	4
Brundred, Benj.	Oldham, N. Y.	Spindle cotton	July	14
Brunel, Mark J.	London, England	Power by certain fluids	March	30
Byington, Benijah	Salina, N. Y.	Salt manufacture	February	21
Bryan, Elijah	New York, N. Y.	Propelling boats, &c.	December	22

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Continued.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
Campbell, John	Winsborough, S. C.	Rice, cleaning and hulling	May 3
Campbell, Robert	Martinsburg, Va.	Homony mill	April 9
Carmichael, William	Sand Lake, N. Y.	Hoes, &c., ploughing and weeding	July 28
Carver, Isaac, jr.	Prospect, Me.	Yards of vessels, slinging	December 11
Cass, Moses	Caroline, N. Y.	Washer	July 29
Cass, Moses, and Aaron Bull	Caroline, N. Y.	Saw, two edged	August 31
Castill, Stacy	Philadelphia, Pa.	Wheel float	October 17
Chamberlain, Calvin	Amenia, N. Y.	Straw cutter and corn sheller	March 15
Clarke, Elijah H.	Damascus, Penn.	Jointing boards	January 31
Cheatham, Jonathan	Providence Inn, Va.	Hoes, harrows, and ploughs	July 31
Chesterman, Edwin	New York, N. Y.	Suspenders	June 19
Clinton, Charles	New York, N. Y.	Cement, for roofs of houses, &c.	July 13
Coke, William	Cabinpoint, Va.	Distilling	October 30
Coe, Avery and John	Guilford county, N. C.	Gristmill	July 21
Cogswell, Ormond	Cincinnati, Ohio	Tanning	Sept. 18
Collins, James	Anson, Maine	Shearing cloth	March 6
Collins, Squire	Hillsdale, N. Y.	Bogging machine	February 22
Cooper, John M.	Guildhall, Vt.	Piston, rotative	July 16
Corey, David,	New York, N. Y.	Hydraulic elevator	August 31
Cornell, William	Brooklyn, N. Y.	Liquors, determining their strength	August 20
Couillard, Samuel	Boston, Mass.	Dyeing and polishing leather	June 27
Couillard, Samuel J.	Boston, Mass.	Printing press	July 14
Couillard, Samuel J.	Boston, Mass.	Printing press	July 14
Cromwell, Simon	Edgecomb, Me.	Gun lock	February 3
Crossman, Alfred B.	Huntington, N. Y.	Brick press	February 9

LEGISLATIVE INTENT SERVICE (800) 666-1917

Crowninshield, John	Salem, Mass.	Heaving down vessels	October 19
Church, William	Birmingham, Eng.	Spinning wool and cotton	July 11
Cryer, Noble G.	Wentworth, N. C.	Plough, twin	March 24
Daley, Edmund	Baltimore, Md.	Chair	February 9
Daley, Jacob	Baltimore, Md.	Chair, repairing and finishing	February 22
Daley, Jacob	Baltimore, Md.	Shingle machine	Sept. 27
Dana, George W.	Rutland, Vt.	Shingle machine	Sept. 20
Davis, Gideon, and J. Price	Lockport, N. Y.	Team scraper, or shovel	May 12
Davis, Jos. S.	Providence, R. I.	Watch keys	April 3
Davis, Marvel	Mayville, N. Y.	Lock, percussion	July 10
Davis, S., and P. Babbett and H. P. Grunnel	Providence, R. I.	Watch seals	March 3
Delap, Abram and Avery Eve	Guilford county, N. C.	Grist mill	May 31
Dennison, James	Lancer Township, Ohio	Water wheel for saw grist mill	August 22
Dewees, John C.	Mason county, Ky.	Cotton bagging, spinning	December 28
Dezeau, William	Philadelphia, Penn.	Beer, spruce, brewing	May 31
Dixon, Jesse	Pittsborough, N. C.	Bellows	June 11
Dodge, David	Hamilton, Mass.	Oil, extracting, from flaxseed	May 14
Dolfer, George	Fredericktown, Md.	Plough, right and left	August 20
Doolittle, Isaac	Bennington, Vt.	Boiler, supplying a uniform quantity of steam for	June 1
Dummer, G., and P. C. and J. Maxwell	Jersey City, N. J.	Moulds, combination of, in forming glass	October 16
Dummer, Phineas C.	Jersey City, N. J.	Moulds for preparing glass	October 16
Durham, Laban, and J. S. Pleasants	Halifax county, Va.	Straw cutter	July 27
Dyar, Harrison G.	New York, N. Y.	Clock, wood wheel, 30 hour	Nov. 6
Edmonston Thomas	Pike Creek, Md.	Preserving butter, eggs, &c.	April 26
Embree, Davis	New Richmond, Ohio	Distilling, by using the escape steam of a steam engine	December 3
Failing, John R.	Canajoharie, N. Y.	Boring earth	June 13
Fessenden, Thomas G.	Boston, Mass.	Lamp for boiling water	January 31

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Contiuued.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
Fleming, George - -	Goochland, Va. -	Raising water by steam power - -	April 24
Fisk, E., and B. Hinkley -	Fayette, Me. - -	Brick and tile machine - - -	Sept. 8
Fitch, Edward G. - -	Blakely, Ala. - -	Lever gained power - - -	October 5
Forward, William W. - -	Hartford, Ct. - -	Grist mill - - - - -	June 18
Foster, Ambrose - -	Auburn, N. Y. - -	Rake, hay, hand - - - -	December 9
Fuller, Elisha - - -	Providence, R. I. -	Propelling boats - - - -	March 2
Fuller, R., and T. Thomas -	New York, N. Y. -	Blower, coal grates - - -	May 22
Gannett, S. H. - - -	Greenville, Tenn. -	Corn crusher - - - -	May 25
Graham, Anson B. - -	Lee, Mass. - -	Saw mill, of Johnson's - - -	Sept. 28
Grant, Joseph - - -	Providence, R. I. -	Hat bodies, setting up, on Grant's ma. -	April 10
Graves, Robert - -	Brooklyn, N. Y. -	Cordage, by machinery - - -	July 25
Graves, Robert - - -	Brooklyn, N. Y. -	Boat, passing up and down elevations on canals - - - - -	July 26
Green, Benjamin - -	Hartford, Vt. - -	Polishing hard and soft substances -	March 27
Greenleaf, Abel, and H. Amidon -	Mexico, N. Y. - -	Mortising machine - - -	December 28
Giraud, John J. - - -	Baltimore, Md. - -	Navigation, improvement in - -	January 31
Giraud, John J. - - -	Baltimore, Md. -	Paddles, water - - - -	Septemb'r 18
Griffiths, John - - -	New York, N. Y. -	Andirons, constructing feet of brass -	March 15
Goulding, John - - -	Dedham. Mass. -	Wool, manufacturing - - -	April 27
Goulding, John - - -	Dedham, Mass. -	Wool, manufacturing, &c. - -	July 10
Goulding, John - - -	Dedham, Mass. -	Clothes, washing and scouring - -	July 12
Goulding, John - - -	Dedham, Mass. -	Improvement in the composition to start the oil contained in wool - -	August 24
Goulding, John - - -	Dedham, Mass. -	Wool, manufacturing - - -	August 24
Goulding, John - - -	Dedham, Mass. -	Shuttle, mode of throwing - -	August 24

LEGISLATIVE INTENT SERVICE (800) 666-1917

Goulding, John	Dedham, Mass.	Wool, &c., manufacturing	December 15
Guilford, Ezra	Washington, D. C.	Water cement	January 16
Hall, John H.	Harper's Ferry	Substance, metallic, machine for cutting	March 7
Harris, Francis	Albany, N. Y.	Steam and rotary wheel	July 10
Hart, William A.	Fredonia, N. Y.	Percussion lock	February 20
Hawes, Paul	Lockport, N. Y.	Shingles, manufacturing	March 30
Hedge, Samuel	Windsor. Vt.	Scales, engine for dividing	June 20
Hemstead, Stephen, jr.	St. Charles county, Mo.	Hats, water-proof, stiffening of	May 26
Hemstead, Stephen, jr.	St. Charles county, Mo.	Hats, water-proof, stiffening of	October 26
Hilderbrand, Michael	McMinn county, Tenn.	Water wheels, letting water on	Novemb'r 10
Hill, Benjamin, K.	Richmond county, Geo.	Bricks, machine for mixing earth for	February 17
Hill, Solomon	New Milford, Ct.	Burning lime and brick, and boiling kettles	February 12
Hills, Luther	Boston, Mass.	Cork cutter	June 18
Hoard, George A.	Antwerp, N. Y.	Shingle machine, improvement on Hawes's	Septemb'r 20
Holcomb, Allen	Butternuts, N. Y.	Paint mill	May 14
Howe, John	Alna, Me.	Brick press	May 18
Hoyt, L., and E. Pierce	Poultney, N. Y.	Blowing and striking for blacksmiths	March 3
Hunt, Walter	New York, N. Y.	Alarm for coaches	July 30
Hutchinson, Benjamin	Philadelphia, Pa.	Bobbin, tube for spinning cotton	October 18
James Walter	Ashford, Ct.	Tire, bending	July 14
Jeans, Abel	Mill Creek hundred, Del.	Lime kiln	February 15
Jenks, A., and J. Clewell	Holmesburg, Pa.	Temples, spring	March 19
Jenks, Eb.	Colebrook, Ct.	Paddles, folding boat	June 13
Jernigan, Richard	Waynesburg, N. C.	Cotton press	May 15
Jessup, William and Josiah	Guilford county, N. C.	Carriages	June 1
Jones, Samuel J.	Philadelphia, Pa.	Charring wood for procuring gases	January 17
Jones, Thomas P.	Newcastle, Del.	Wind mill, horizontal	February 16
Jones, William	Thornville, Ohio	Spinner, family	July 27
Judson, Alfred	Sweden, N. Y.	Steam boiler pump	February 24
Kendall, William, jr.	Waterville, Me.	Saw mill, reciprocating, for sawing timber	Novemb'r 23
Kendall, William	Waterville, Me.	Saw mill, reciprocating	December 31

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Continued.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
Kelsey, Franklin	Middletown, Ct.	Washing machine	Septemb'r 28
Kiser, David	New York, N. Y.	Leather, water-proof, making	Novemb'r 19
Knowles, Hazard	Colchester, Ct.	Stocks, cast iron plane	August 24
Lamb, Joshua	Leicester, Mass.	Teeth, cutting card	August 1
Lapham, Benjamin	Queensbury, N. Y.	Spinner for wool	June 29
Lawing, S., and J. Monteith	Statesville, N. C.	Grist mill, improvement on Mendenhall's	June 11
Leonard, William B.	Fishkill, N. Y.	Loom, power	May 23
Leonard, William B.	Fishkill, N. Y.	Loom, power, by taking up cloth uniformly	May 23
Le Roy, Simon	Mexico, N. Y.	Mortising machine	July 10
Lesley, David	New York, N. Y.	Frame chain	Novemb'r 19
Lester, Ebenezer A.	Boston, Mass.	Boiler, steam, constructing of	May 14
Lester, Ebenezer A.	Boston, Mass.	Engines, constructing of	May 14
Lond, Thomas, jr.	Philadelphia, Pa.	Pianos, horizontal	May 15
Lowry, James B.	Mayville, N. Y.	Lock, percussion magazine	Septemb'r 11
Lupton, John	Virginia	Plough, angular	July 31
Lusk, James	Butler county, Ohio	Distilling	Decemb'r 22
Lyman, Benjamin	Manchester, Ct.	Hubs, cast iron	Novemb'r 6
Macdonald, James	New York, N. Y.	Brick press and moulding	April 24
Mann, E., and G. Hill	Rochester, N. Y.	Brick frame, portable, for raising	July 21
Mason, David H.	Philadelpnia, Pa.	Biting figures on steel cylinders for printing calicoes	October 30
Mathey, Lewis	Brooklyn, N. Y.	Composition, marble, granite, &c.	March 7
Mayhew, Truman F.	Boston, Mass.	Hats, bowing, gearing of cones for	August 22
Maynard, John	Ovid, N. Y.	Steam engine	June 15
McAllister, A. S., and John Iggett	Salem, N. Y.	Rooms, warming	December 15

LEGISLATIVE INTENT SERVICE (800) 666-1917

McClintie, John	Chambersburg, Pa.	Paper machine trimming	March 31
McClintie, John	Chambersburg, Pa.	Mortising and tenoning timber	October 8
McConaughey, William	New Garden, Pa.	Harrow teeth	February 16
McCulloch, Robert and Thomas	Albemarle county, Va.	Water power, apparatus to wheels	May 26
McDonald, John	New York, N. Y.	Fur, separating hair from	Septemb'r 11
McGregor, Malcomb	New York, N. Y.	Still	June 15
McIntosh, William J.	Georgia	Cane juice, clarifying	March 7
Metcalf, Silas	Wilmington, Vt.	Chisel, bearded mortising machine	January 17
Miller, Henry	Allenstown, Pa.	Water, raising by a revolving wheel	July 28
Miner, Charles	Lynn, Ct.	Raising ships, &c., by cradle screw	October 12
Miner, Charles	Lynn, Ct.	Raising ships, &c., by cradle screw	Novemb'r 16
Moore, Sidney and Porteus	Mount Tirzah, N. C.	Mill, sugar-loaf and grist	June 15
Moorehouse, Samuel	Eastport, Me.	Boot crimper	June 19
Morgan, Richard P.	Stockbridge, Mass.	Railway carriage	July 27
Morse, John G.	Randolph county, N. C.	Grist mill, crusher and sheller	March 20
Murphy, Bird	Union district, S. C.	Plough for planting corn	December 31
Mussey, Thomas	New London, Ct.	Boxes, self-fastening	June 11
Myerle, David	Philadelphia, Pa.	Rope layer, called the jack and breast work	March 3
Neer, Charles	Waterford, N. Y.	Spur for bevil gearing	March 9
Newman, Thomas	Guilford county, N. C.	Grist mill	February 6
Newman, Thomas	Guilford county, N. C.	Corn sheller	February 7
Newton, S.	Washington, D. C.	Spectacles and single eye glasses	December 22
Norton, Lewis M.	Litchfield, Ct.	Cheese nets	June 4
Nott, Eliphalet	Schenectady, N. Y.	Heat, evolution and management of	May 30
Nourse, Samuel	Danvers, Mass.	Boots or shoes, mode of holding	December 8
Olmstead, Dennison	New Haven, Ct.	Gas light from cotton seed	July 21
Overman, Benjamin	Greenbury, N. C.	Grist mill	Septemb'r 28
Overman, Benjamin	Greenbury, N. C.	Saw mill	December 11
Packard, Origen	Wilmington, Vt.	Paint mill, horizontal cast iron	February 12
Packard, Origen	Wilmington, Vt.	Water gates, opening and shutting	February 12
Paine, H. E., and S. H Russell	Le Roy, Ohio	Apple mill	March 5

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Continued.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
Patrick, William	Leverett, Mass.	Turning lathe	April 24
Pratt, Abijah	Jackson, N. Y.	Stumps, machine for raising	August 17
Penniman, John R.	Boston, Mass.	Sofa and bedstead united	August 22
Pennock, M. and S.	East Marlborough, Pa.	Rake, hay and grain	February 17
Pennock, Moses	Kennett's Square, Pa.	Thrashing machine, vibrating	May 26
Petre, Michael	Womelsdoff, Pa.	Fur, machine for cutting	December 20
Phelps, Oliver	Lansing, N. Y.	Earth from canals, hauling	July 16
Pierce, E., and J. Hathaway	Pultney, Vt.	Hammer, foot trip	October 19
Pierson, Jeremiah H.	Ramapo Works, N. Y.	Hoop and sheet iron manufactory	December 24
Pike, Ebenezer B.	Litchfield, Me.	Thrashing machine	October 5
Pinistre, Salvadore	New York, N. Y.	Schagliola shining	June 18
Phillip, John G.	Kinderhook, N. Y.	Churn, rocking	February 15
Price, Jeremiah	Lockport, N. Y.	Carts for removing earth	May 18
Poiteaux, Michael B.	Richmond, Va.	Ovens, heating rooms, &c.	January 17
Pool, John	Sheffield, England	Boilers for steam engines	May 14
Potes, Henly	Christianburg, Va.	Water gate for penstocks or flumes	January 9
Powles, Daniel	Baltimore, Md.	Bedsteads, sacking bottoms, &c.	January 26
Pugh, Eli	Chatham county, Ct.	Plough, bar share	December 24
Putnam, Joseph	Salem, Mass.	Pipes, tubes, &c.	January 17
Rawlings, George	Philadelphia, Pa.	Cork cutting machine	October 30
Reed, Charles B.	W. Bridgewater, Mass.	Stone, hewing and hammering	June 27
Reed, Jesse	Marshfield, Mass.	Cotton cleaner, sea island	August 10
Reihm, Josiah	Savage Factory, Md.	Planning machine	Novemb'r 1
Reilly, James, and John Flanagan	Waynesborough, Pa.	Chimneys, crank and wheel dampers for	March 10
Remington, Nathaniel	Geneva, N. Y.	Spinning machine	April 21

LEGISLATIVE INTENT SERVICE (800) 666-1917

Reynolds, Jonathan	Amenia, N. Y.	Mill, horizontal	March	15
Rice, Benjamin	Denmark, N. Y.	Washing clothes and shelling corn	Novemb'r	23
Rice, Lewis	Clarksborough, N. J.	Sack shoulderer	August	3
Rising, David	Atchester, Vt.	Brick machine	March	21
Robinson, George W.	New York, N. Y.	Stove, cast iron foot	June	2
Robinson, James	Buckskin township, O.	Grist mill	December	14
Robinson, John	Pittsburg, Pa.	Glass knobs, dressed at one operation	October	6
Rosencrans, Levi	Urbanna, N. Y.	Churn	May	19
Roup, Jacob	Kenhawa, Va.	Hydraulic machine	October	6
Rowen, John H., and H. Wise	Fredericktown, Pa.	Tubs of clay, machine for making	May	10
Rhodes, Ryland	Charlottesville, Va.	Plough	February	20
Russell, Herman	Litchfield, Me.	Plough for planting corn	January	16
Shattuck, Joseph	Jefferson county, Ohio	Lock, percussion	Novemb'r	10
Spafford, Jacob	Ipswich, Mass.	Saw mill	June	23
Spain, Edward	Mount Holly, N. J.	Churn	April	23
Sparrow, Jonathan	Portland, Me.	Plane, turner, sliding	December	26
Stancliffe, Benjamin	Philadelphia, Pa.	Cock for hydrants, valve	May	15
Stanton, William	Centre township, Pa.	Propelling machinery of all kinds	April	23
Seely, Jos. C.	Dutchess county, N. Y.	Hatters' cards, or jacks, making	March	15
Seymour, Francis	Plymouth, Mass.	Sheaves, cast-iron, for shipping	December	29
Schreiner, J. H.	Philadelphia, Pa.	Safety-valve, chimney smoke, &c.	July	31
Sheldon, Daniel	Pultney, Vt.	Churn	Septemb'r	13
Shepherdson, William	Hamilton, N. Y.	Turning rake and hoe handles	December	3
Sperry, Josiah C.	Camden, N. Y.			
Spedden, Robert	Talbot, Md.	Tide mill	August	1
Sperry, Anson	Rotterdam, N. Y.	Turning rake and hoe handles	December	26
Sperry, David	Colchester, Ct.	Boring and tenoning machine	February	18
Stephens, Robert L.	Hoboken, N. J.	Water-wheel for steamboats	April	10
Sheeler, J. H., and J. S. Wilbert	Chili, N. Y.	Mortar machine and grinding apples	June	12
Sweenny, Robert	Warren county, Ohio	Plough, cast-iron	May	18
Sweet, J. W., and W. Stedman	Berkshire, Mass.	Turning tenons for rake-teeth	March	5

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Continued.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
Silliman, Levi	Albany, N. Y.	Steam, generating	January 19
Simpson, John R.	Boston, Mass.	Sacking, mode of tightening bed	July 10
Sitton, John	Pendleton, S. C.	Wheelwrights' assistant	February 15
Skinner, Elijah	Sandwich, N. H.	Water wheel, screw	Septemb'r 11
Smith, Judson	Derby, Ct.	Auger, screw	July 13
Swift, Nathan	Lebanon, Ct.	Shingle-sawing machine	April 27
Schoonhoven, Henry	Pultney, N. Y.	Flax dressing	December 11
Sholtz, J. G.	Rockaway township, O.	Spindles, preventing friction on	July 6
Stone, Chester	Middleburg, Ct.	Washing machine	February 17
Storm, Samuel	New York, N. Y.	Hides, protecting against moths	February 17
Shute, James D.	Boston, Mass.	Spring stiffener for vests	December 5
Shute, Thomas	Tennessee	Water-wheels for saw mill	March 6
Sturdevant, John, and E. Starr	Boston, Mass.	Type caster, mechanical	October 23
Syms, John	New York, N. Y.	Moccasins, water-proof	November 14
Smylie, Edmund	New York, N. Y.	Andirons, pedestal	February 1
Smylie, Edmund	New York, N. Y.	Andirons, repairing and finishing	February 22
Taylor, Nathan	Urbana, N. Y.	Bush for mill-stone	July 23
Trask, Edward	Saugerties, N. Y.	Sleigh shoes, cast iron	October 6
Trembly, Benjamin	New York, N. Y.	Cement, imitation of marble	November 13
Tilton, John	Newtown, Ct.	Carding machine	September 8
Torrey, William	Westbrook, Me.	Mill, bark, cast iron	September 13
Thomas, Robert S.	Rockingham, N. C.	Grist mill	June 4
Thomas, William	Richmond county, N. C.	Cotton, packing	February 15
Thorp, Thomas	–	Boot, constructing	August 31
Turner, William A.	Plymouth, N. C.	Grist mill	June 27

LEGISLATIVE INTENT SERVICE (800) 666-1917

Tyler, John	Claremont, N. H.	Grain, cleaning	May 11
Tyson, Isaac	Baltimore, Md.	Copperas, making	February 15
Valentine, Ab. S.	Bellefonte, Pa.	Rolling iron	June 3
Van Dorn and Jacob Glenn	New York, N. Y.	Gate, safety, for canals	May 14
Van Horn, Ab. L.	Philadelphia, Pa.	Suspenders, manufacturing	February 22
Wales, Hiram	Randolph, Mass.	Stove, air funnel	May 18
Walker, Enoch	Springfield, Pa.	Fanning mill	September 20
Walters, Jac. F.	Philadelphia, Pa.	Culinary fixtures for anthracite coal	June 8
Ward, Minus	Baltimore, Md.	Gas and heated air in aid of the power	May 15
Waring, George E.	Poundridge, N. Y.	Corn sheller, longitudinal	March 16
Warren, Edmund	New York, N. Y.	Thrashing and winnowing and flax-breaking machine	August 11
Watson, Cornelius	Addison township, O.	Tread-wheel	December 22
Webb, Joseph	New York, N. Y.	Railway, marine	May 14
Weeks, Constant	Paris, N. Y.	Apples, machine for grinding	April 9
West, Charles E.	Colchester, Ct.	Irons for planes or jointers	January 10
Westerfield, David	New York, N. Y.	Cooking apparatus	March 24
Wheeler, Oliver	Rochester, N. Y.	Shingles, manufacture of	November 10
Wiberts, J. S.	Chili, N. Y.	Bellows	June 12
Wiggins, Cuthbert	Fayette, Pa.	Beehive	February 27
Wilcox, John D.	Corydon, Ind.	Water-wheel	June 7
Wilder, Elijah	Jersey City, N. J.	Rice, machine for cleaning, and cleaning coffee	November 6
Wilkinson, Garner	White creek, N. Y.	Bridges with draws	May 5
Willis, Richard	West Point, N. Y.	Bugle, Kent	November 10
Wilson, Henry	Pomfield, N. Y.	Spinner, Brown's vertical	July 13
Wilson, James G.	New York, N. Y.	Square for cutting garments	February 28
Wilson, Joseph	Marlborough, N. H.	Hoes, pronged	September 20
Wilson, Thomas D.	Corydon, Ind.	Cotton and hay press	June 6
Wing, Warren P.	Greenwich village, Mass.	Steam engine	August 17
White, Ira	Newburg, Vt.	Paper finishing	February 28

LEGISLATIVE INTENT SERVICE (800) 666-1917

LIST OF PATENTS—Continued.

Names of patentees.	Residence.	Inventions or discoveries.	When issued.
			1827.
White, Philemon - - -	Chatham county, N. C. -	Cotton press - - - - -	February 19
Whitney, Nathan - -	Augusta, Me. - -	Churn - - - - -	May 7
Wood, Jesse, and P. A. Sabalau -	New York, N. Y. -	Railway, marine - - - -	October 6
Woodmansee, William - -	Kingston, N. Y. -	Bridges - - - - -	March 6

LEGISLATIVE INTENT SERVICE (800) 666-1917

D.

Statement of receipts, caveats, disclaimers, improvements, and certified copies of papers, in the year 1841.

Amount received for patents, caveats, &c. -	$39,640 50	
Amount received for office fees - -	772 51	
		$40,413 01
Deduct repaid on withdrawals - -	–	9,093 30
		31,319 71

E.

Statement of expenditures and payments made from the patent fund by H. L. Ellsworth, Commissioner, from the 1st of January to the 31st of December, 1841, *inclusive, under the act of March* 3, 1839.

For salaries - - - - - -	$15,982 41	
For contingent expenses - - - -	4,346 04	
For library - - - - - -	44 00	
For temporary clerks - - - -	2,443 42	
For agricultural statistics and seeds - -	125 00	
For compensation to chief justice of the District of Columbia - - - - -	125 00	
		23,065 87
Leaving a nett balance to the credit of the patent fund - - - - -	–	8,253 84

F.

Expenditures under the act of 3d of March, 1837, *for restoring the loss by fire in* 1836.

For draughtsmen - - - - - - -	$8,326 10
For examiner and register - - - - -	1,500 00
For restoring the records of patents - - -	156 00
For restored drawings - - - - - -	112 00
For restored models and cases for ditto - - -	9,665 60
For freight of models - - - - - -	458 00
For stationery - - - - - - -	290 00
	20,507 70

PATENT OFFICE, *January,* 1842.

H. L. ELLSWORTH.

LEGISLATIVE INTENT SERVICE (800) 666-1917

G.

TABLE I.—*Agricultural statistics, as estimated for* 1841.

	States, &c.	Population according to the census of 1840.	Present population, estimated on the annual average incr'se for 10 years.	Number of bushels of wheat.	Number of bushels of barley.	Number of bushels of oats.	Number of bushels of rye.	Number of bushels of buckwheat.	Number of bushels of Indian corn.
1	Maine - -	501,973	522,059	987,412	360,267	1,119,425	143,458	53,020	988,549
2	New Hampshire -	284,574	286,622	426,816	125,964	1,312,127	317,418	106,301	191,275
3	Massachusetts -	737,699	762,257	189,571	157,903	1,276,491	509,205	91,273	1,905,273
4	Rhode Island -	108,830	111,156	3,407	69,139	188,668	37,973	3,276	471,022
5	Connecticut -	309,978	312,440	95,090	31,594	1,431,454	805,222	334,008	1,521,191
6	Vermont - -	291,948	293,906	512,461	55,243	2,601,425	241,061	231,122	1,167,219
7	New York -	2,428,921	2,531,003	12,909,041	2,301,041	21,896,205	2,723,241	2,325,911	11,441,256
8	New Jersey -	373,306	383,802	919,043	13,009	3,745,061	1,908,984	1,007,340	5,134,366
9	Pennsylvania -	1,724,033	1,799,193	12,872,219	203,858	20,872,591	6,942,643	2,485,132	14,969,472
10	Delaware - -	78,085	78,351	317,105	5,119	937,105	35,162	13,127	2,164,507
11	Maryland - -	470,019	474,613	3,747,652	3,773	2,827,365	671,420	80,966	6,998,124
12	Virginia - -	1,239,797	1,245,475	10,010,105	83,025	12,962,108	1,317,574	297,109	33,987,255
13	North Carolina -	753,419	756,505	2,183,026	4,208	3,832,729	256,765	18,469	24,116,253
14	South Carolina -	594,398	597,040	963,162	3,794	1,374,562	49,064	85	14,987,474
15	Georgia - -	691,392	716,506	1,991,162	12,897	1,525,623	64,723	542	21,749,227
16	Alabama - -	590,756	646,996	869,554	7,941	1,476,670	55,558	60	21,594,354
17	Mississippi -	375,651	443,457	305,091	1,784	697,235	11,978	69	5,985,724
18	Louisiana - -	352,411	379,967	67	–	109,425	1,897	–	6,224,147
19	Tennessee -	829,210	858,670	4,873,584	5,197	7,457,818	322,579	19,145	46,285,359
20	Kentucky - -	779,828	798,210	4,096,113	16,860	6,825,974	1,652,108	9,669	40,787,120
21	Ohio - -	1,519,467	1,647,779	17,979,647	245,905	15,995,112	854,191	666,541	35,452,161
22	Indiana - -	685,866	754,232	5,282,864	33,618	6,606,086	162,026	56,371	33,195,108
23	Illinois - -	476,183	584,917	4,026,187	102,926	6,964,410	114,656	69,549	23,424,474
24	Missouri - -	383,102	432,350	1,110,542	11,515	2,580,641	72,144	17,135	19,725,146
25	Arkansas - -	97,574	111,010	2,132,030	950	236,941	7,772	110	6,039,450
26	Michigan - -	212,267	248,331	2,896,721	151,263	2,915,102	42,306	127,504	3,058,290
27	Florida Ter. -	54,477	58,425	624	50	13,561	320	–	694,205
28	Wiskonsan Ter. -	30,945	37,133	297,541	14,529	511,527	2,342	13,525	521,244
29	Iowa Ter. -	43,112	51,834	234,115	1,342	301,498	4,675	7,873	1,547,215
30	Dist. of Columbia -	43,712	46,978	10,105	317	12,694	5,009	312	43,725
		17,069,453	17,835,217	91,642,957	5,024,731	130,607,623	19,333,474	7,953,544	387,380,185

LEGISLATIVE INTENT SERVICE (800) 666-1917

G—Table I—Continued.

	States, &c.	Number of bushels of potatoes.	Number of tons of hay.	Number of tons of flax and hemp.	Number of pounds of tobacco gathered.	Number of pounds of cotton.	Number of pounds of rice.	No. of lbs. of silk cocoons.	Number of pounds of sugar.	Number of gallons of wine.
1	Maine	10,912,821	713,285	40	75	–	–	527	263,592	2,349
2	New Hampshire	6,573,405	505,217	28	264	–	–	692	169,519	104
3	Massachusetts	4,947,805	617,663	9	87,955	–	–	198,432	496,341	207
4	Rhode Island	1,003,170	69,881	½	454	–	–	745	55	801
5	Connecticut	3,002,142	497,204	45	547,694	–	–	93,611	56,372	1,924
6	Vermont	9,112,008	924,379	31	710	–	–	5,684	5,119,264	109
7	New York	30,617,009	3,472,118	1,508	984	–	–	3,425	11,102,070	5,162
8	New Jersey	2,486,482	401,833	2,197	2,566	–	–	3,116	67	9,311
9	Pennsylvania	9,747,343	2,004,162	2,987	415,908	–	–	17,324	2,894,016	16,115
10	Delaware	213,090	25,007	54	365	352	–	2,963	–	296
11	Maryland	827,363	87,351	507	26,152,810	5,484	–	5,677	39,892	7,763
12	Virginia	2,889,265	367,602	26,141	79,450,192	2,402,117	3,084	5,341	1,557,206	13,504
13	North Carolina	3,131,086	111,571	10,705	20,026,830	34,437,581	3,324,132	4,929	8,924	31,572
14	South Carolina	2,713,425	25,729	–	69,524	43,927,171	66,897,244	4,792	31,461	671
15	Georgia	1,644,235	17,507	13	175,411	116,544,211	13,417,209	5,185	357,611	8,117
16	Alabama	1,793,773	15,353	7	286,976	84,854,118	156,469	4,902	10,650	354
17	Mississippi	1,705,461	604	21	155,307	148,504,395	861,711	158	127	17
18	Louisiana	872,563	26,711	–	129,517	112,511,263	3,765,541	881	88,189,315	2,911
19	Tennessee	2,018,632	33,106	3,724	35,168,040	20,872,433	8,455	5,724	275,557	692
20	Kentucky	1,279,519	90,360	8,827	56,678,674	607,456	16,848	3,405	1,409,172	2,261
21	Ohio	6,004,183	1,112,651	9,584	6,486,164	–	–	6,278	7,109,423	11,122
22	Indiana	1,830,952	1,213,634	9,110	2,375,365	165	–	495	3,914,184	10,778
23	Illinois	2,633,156	214,411	2,143	863,623	196,231	598	2,345	415,756	616
24	Missouri	815,259	57,204	20,547	10,749,454	132,109	65	169	327,165	27
25	Arkansas	367,010	695	1,545	185,548	7,038,186	5,987	171	2,147	
26	Michigan	2,911,507	141,525	944	2,249	–	–	984	1,894,372	
27	Florida Ter.	271,105	1,045	2¼	74,963	6,009,201	495,625	376	269,146	
28	Wiskonsan Ter.	454,819	35,603	3	311	–	–	25	147,816	
29	Iowa Ter.	261,306	19,745	459	9,616	–	–	–	51,425	
30	Dist. Columbia	43,725	1,449	–	59,578	–	–	916	–	32
		113,183,619	12,804,705	101,181¾	240,187,118	578,008,473	88,952,968	379,272	126,164,644	125,715

LEGISLATIVE INTENT SERVICE (800) 666-1917

G—Continued.

TABLE II.—*Census statistics of various articles for* 1839, *not embraced in Table I.*

	States, &c.	Pounds of wool.	Pounds of hops.	Pounds of wax.	LIVE STOCK.			
					Horses and mules.	Neat cattle.	Sheep.	Swine.
1	Maine - - -	1,465,551	36,940	3,723½	59,208	327,255	649,264	117,386
2	New Hampshire - -	1,260,517	243,425	1,345	43,892	275,562	617,390	121,671
3	Massachusetts - - -	941,906	254,795	1,196	61,484	282,574	378,226	143,221
4	Rhode Island - - -	193,830	113	165	8,024	36,891	90,146	30,659
5	Connecticut - - -	889,870	4,573	3,897	34,650	238,650	403,462	131,961
6	Vermont - - -	3,699,235	48,137	4,660	62,402	384,341	1,681,819	203,800
7	New York - - -	9,845,295	447,250	52,795	474,543	1,911,244	5,118,777	1,900,065
8	New Jersey - - -	397,207	4,531	10,061	70,502	220,202	219,285	261,443
9	Pennsylvania - - -	3,048,564	49,481	33,107	365,129	1,172,665	1,767,620	1,503,964
10	Delaware - - -	64,404	746	1,088	14,421	53,883	39,247	74,228
11	Maryland - - -	488,201	2,357	3,674	92,220	225,714	257,922	416,943
12	Virginia - - -	2,538,374	10,597	65,020	326,438	1,024,148	1,293,772	1,992,155
13	North Carolina - -	625,044	1,063	118,923	166,608	617,371	538,279	1,649,716
14	South Carolina - -	299,170	93	15,857	129,921	572,608	232,981	878,532
15	Georgia - - -	371,303	773	19,799	157,540	884,414	267,107	1,457,755
16	Alabama - - -	220,353	825	25,226	143,147	668,018	163,243	1,423,873
17	Mississippi - - -	175,196	154	6,835	109,227	623,197	128,367	1,001,209
18	Louisiana - - -	49,283	115	1,012	99,888	381,248	98,072	323,220
19	Tennessee - - -	1,060,332	850	50,907	341,409	822,851	741,593	2,926,607
20	Kentucky - - -	1,786,847	742	38,445	395,853	787,098	1,008,240	2,310,533
21	Ohio - - -	3,685,315	62,195	38,950	430,527	1,217,874	2,028,401	2,099,746
22	Indiana - - -	1,237,919	38,591	30,647	241,036	619,980	675,982	1,623,608
23	Illinois - - -	650,007	17,742	29,173	199,235	626,274	395,672	1,495,254
24	Missouri - - -	562,265	789	56,461	196,032	433,875	348,018	1,271,161
25	Arkansas - - -	64,943	–	7,079	51,472	188,786	42,151	393,058
26	Michigan - - -	153,375	11,381	4,533	30,144	185,190	99,618	295,890
27	Florida Territory - -	7,285	–	75	12,043	118,081	7,198	92,680
28	Wiskonsan Territory - -	6,777	133	1,474	5,735	30,269	3,462	51,383
29	Iowa Territory - - -	23,039	83	2,132	10,794	38,049	15,354	104,899
30	District of Columbia - -	707	28	44	2,145	3,274	706	4,673
		35,802,114	1,238,502	628,303½	4,335,669	14,971,586	19,311,374	26,301,293

LEGISLATIVE INTENT SERVICE (800) 666-1917

G—TABLE II—Continued.

	States, &c.	LIVE STOCK. Poultry of all kinds, estimated value.	Value of the products of the dairy.	Value of the products of the orchard.	Value of home made or family goods.	GARDENS. Value of produce of market gardeners.	Value of produce of nurseries & florists.	NURSERIES. Number of men employed.	Capital invested.
1	Maine - -	$123,171	$1,496,902	$149,384	$804,397	$51,579	$460	689	$84,774
2	New Hampshire -	107,092	1,638,543	239,979	538,303	18,085	35	21	1,460
3	Massachusetts -	178,157	2,373,299	389,177	231,942	283,904	111,814	292	43,170
4	Rhode Island -	61,702	223,229	32,098	51,180	67,741	12,604	207	240,274
5	Connecticut -	176,629	1,376,534	296,232	226,162	61,936	18,114	202	126,346
6	Vermont - -	131,578	2,008,737	213,944	674,548	16,276	5,600	48	6,677
7	New York -	1,153,413	10,496,021	1,701,935	4,636,547	499,126	75,980	525	258,558
8	New Jersey -	336,953	1,328,032	464,006	201,625	249,613	26,167	1,233	125,116
9	Pennsylvania -	685,801	3,187,292	618,179	1,303,093	232,912	50,127	1,156	857,475
10	Delaware - -	47,265	113,828	28,211	62,116	4,035	1,120	9	1,100
11	Maryland - -	218,765	457,466	105,740	176,050	133,197	10,591	619	48,841
12	Virginia - -	754,698	1,480,488	705,765	2,441,672	92,359	38,799	173	19,900
13	North Carolina -	544,125	674,349	386,006	1,413,242	28,475	48,581	20	4,663
14	South Carolina -	396,364	577,810	52,275	930,703	38,187	2,139	1,058	210,980
15	Georgia - -	449,623	605,172	156,122	1,467,630	19,346	1,853	418	9,213
16	Alabama - -	404,994	265,200	55,240	1,656,119	31,978	370	85	58,425
17	Mississippi -	369,482	359,585	14,458	682,945	42,896	499	66	43,060
18	Louisiana - -	283,559	153,069	11,769	65,190	240,042	32,415	349	359,711
19	Tennessee - -	606,969	472,141	367,105	2,886,661	19,812	71,100	34	10,760
20	Kentucky - -	536,439	931,363	434,935	2,622,462	125,071	6,226	350	108,597
21	Ohio - -	551,193	1,848,869	475,271	1,853,937	97,606	19,707	149	31,400
22	Indiana - -	357,594	742,269	110,055	1,289,802	61,212	17,231	309	73,628
23	Illinois - -	309,204	428,175	126,756	993,567	71,911	22,990	77	17,515
24	Missouri - -	270,647	100,432	90,878	1,149,544	37,181	6,205	97	37,075
25	Arkansas - -	109,468	59,205	10,680	489,750	2,736	415	8	6,036
26	Michigan - -	82,730	301,052	16,075	113,955	4,051	6,307	37	24,273
27	Florida Ter. -	61,007	23,094	1,035	20,205	11,758	10	60	6,500
28	Wiskonsan Ter. -	16,167	35,677	37	12,567	3,106	1,025	89	85,616
29	Iowa Ter. -	16,529	23,609	50	25,966	2,170	4,200	10	1,698
30	Dist. of Columbia -	3,092	5,566	3,507	1,500	52,895	850	163	42,938
		9,344,410	33,787,008	7,256,904	29,023,380	2,601,196	593,534	8,553	2,945,774

LEGISLATIVE INTENT SERVICE (800) 666-1917

REMARKS ON THE AGRICULTURAL STATISTICS.

In connexion with the foregoing Tabular View, it is deemed important to add some general remarks in reference to the crops of 1841, and also particulars relating to the various articles enumerated, and the prospects of the country with regard to them for years come.

This tabular view has been prepared from the Census statistics taken in 1840, upon the agricultural products of the year 1839 as the basis. These have been carefully compared and estimated by a laborious examination and condensing of a great number of agricultural papers, reports, &c., throughout the Union, together with such other information as could be obtained by recourse to individuals from every section of the country. It is believed to be as correct as with the present data can be reached, although, could the entire attention of a competent person be devoted to the preparation of an annual Register, to be formed by collecting, comparing, and classifying the various items of intelligence, and conducting an extensive correspondence with reference to this subject, an amount of statistical and other information relating to the agricultural products of our country might be furnished, which would be exceedingly valuable to the whole nation, and a hundred fold more than repay all the expenditure for accomplishing the object. The statistics professedly derived from the census, which have been published during the past year in various papers and journals, are very incorrect, as any one can assure himself by comparing them with the Recapitulation just issued from the census bureau, by direction of the Secretary of State. They were probably copied from the returns of the marshals of the districts, before they had been suitably compared and corrected.

The estimates of the foregoing Tabular View are doubtless more closely accurate with regard to some portions of the country than others. The numerous agricultural societies in some of the States, with the reports and journals devoted to this branch of industry, afford a means of forming such an estimate as is not to be found in others. Papers of this description, giving a continued record of the crops, improvements in seeds, and means of culture, and direction of labor, are more to be relied on in this matter than the mere political or commercial journals, as they cannot be suspected, like these latter, of any design of forestalling or otherwise influencing the market, by their weekly and monthly report of the crops. Portions, too, of the Census statistics have probably been more accurately taken than others. In assuming them as the basis, reference must also be had to the annual increase of our population, equal to from 300,000 to 400,000, and in some of the States reaching as high as 10 per cent., as estimated by the ten years preceding the year 1840, and also to the diversion of labor from the works of internal improvement carried on by the States, in consequence of which the consumer has become the producer of agricultural products, the prices of articles raised, &c., with the various other causes which might occasion an increase or a decrease in the products of each State, and the sum total of agricultural supply. For convenient reference, the census return, total, of the population of each State, and also the estimated population according to annual increase, are added to the table, in separate columns, beside each other.

The crops of 1839, on which the Census statistics are founded, were, as appears from the notices of that year, very abundant in relation to nearly every product throughout the whole country; indeed, unusually so, com-

LEGISLATIVE INTENT SERVICE (800) 666-1917

pared with the years preceding. Tobacco may be considered an exception; it is described to have been generally a short crop.

The crops of the succeeding year are likewise characterized as abundant. The success which had attended industry in 1839 stimulated many to enter upon a larger cultivation of the various articles produced, while the stagnation of other branches of business drew to the same pursuit a new addition to the laboring force of the population.

Similar causes operated also to a considerable extent the past year. In 1841, the season may be said to have been less favorable in many respects than in the two preceding ones; but the increase of the laboring force, and the amount of soil cultivated, render the aggregate somewhat larger. Had the season been equally favorable, we might probably have rated the increase considerably higher, as the annual average increase of the grains, with potatoes, according to the annual increase of our population, is about 30 millions of bushels. Portions of the country suffered much from a long drought during the last summer, which affected unfavorably the crops more particularly liable to feel its influence, especially grain, corn, and potatoes. In other parts, also, various changes of the weather in the summer and autumn lessened the amount of their staple products below what might have been gathered, had the season proved favorable. Still, there has been no decisive failure, on the whole, in any State, so as to render importation necessary, without the means of payment in some equivalent domestic product, as has been the case in some former years, when large importations were made to supply the deficiency, at cash prices. In the year 1837 not less than 3,921,259 bushels of wheat were imported into the United States. We have now a large surplus of this and other agricultural products for exportation, were a market opened to receive them.

A glance at the specific crops is all that can be given. Some notice of this kind seems necessary, and may be highly useful to those who wish to embrace, in a narrow compass, the results of the agricultural industry of our country:

Wheat.—This is one of the great staple products of several States, the soil of which seems, by a happy combination, to be peculiarly fitted for its culture. Silicious earth, as well as lime, appears to form a requisite of the soil to adapt it for raising wheat to the greatest advantage, and the want of this has been suggested as a reason for its not proving so successful of cultivation in some portions of our country. Of the great wheat-growing States, during the past year, it may be remarked that, in New York, Pennsylvania, Virginia, and the Southern States, this crop seems not to have repaid so increased an harvest as was promised early in the season. Large quantities of seed were sown, and the expectation was deemed warranted of an unusually abundant increase. But the appearance of the chinch bug and other causes destroyed these hopes. In the northern part of Kentucky the crop "did not exceed one-third of an ordinary one." In some of the States, as in New Jersey, Ohio, Indiana, Michigan, and Illinois, the quantity raised was large, and the grain of a fine quality. The prospect of another year at the West, if we may judge at so early a period, is for an increased crop, as in some fertile sections more than double the usual amount is said to have been sown. The present open winter, however, may prove injurious, and these sanguine expectations not be realized. Indeed, the wheat and rye, as well as other grain crops, are in parts of the country becoming more uncertain, and, without more attention to the va-

LEGISLATIVE INTENT SERVICE (800) 666-1917

riety and culture, many kinds of grain must probably be still more confined to particular sections. Of all the States, Ohio stands foremost in the production of wheat, as she is also peculiarly fitted for all the grains, and the sustaining of a dense population. About one-sixth of the whole amount of the wheat crop of the country is raised by this State. To this succeed, in their order, Pennsylvania, New York, Virginia, Indiana, Tennessee, Kentucky, Illinois, Maryland, Michigan, and North Carolina. In some of the States a bounty is paid on the raising of wheat, which has operated as an inducement to the cultivation of this crop. The amount thus paid out of the State Treasury, in Massachusetts, for two years, was more than $18,000; the bounty was two dollars for every fifteen bushels, and five cents for every bushel above this quantity. Similar inducements might, no doubt, stimulate to still greater improvements and success in this and other products of the soil.

The value of this crop in our country is so universally felt, that its importance will be at once acknowledged. The whole aggregate amount of wheat raised is 91,642,957 bushels, which is nearly equal to that of Great Britain, the wheat crop of which does not annually exceed 100,000,000 of bushels. The supply demanded at home, as an article of food, cannot be less than eight or ten millions, and has been estimated as high as twelve million of barrels of flour, equal to about forty to sixty millions bushels of wheat. The number of flouring mills reported by the last census is 4,364, and the number of barrels of flour 7,404,562. Large quantities of wheat also are used for seed, and for food of the domestic animals, as well as for the purposes of manufacture. The allowance in Great Britain for seed, in the grains in general, as appears from McCulloch, is about one-seventh of the whole amount raised. Probably a much less proportion may be admitted in this country. Wheat is also used in the production of, and as a substitute for, starch. The cotton manufactories of this country are said to consume annually 100,000 barrels of flour for this and similar purposes; and in Lowell alone, 800,000 pounds of starch, and 3,000 barrels of flour, are said to be used in conducting the mills, bleachery and prints, &c., in the manufactories.

Could the immense surplus amount of this crop, in the West, find access to the ports of Great Britain, as the means of communication are daily becoming more easy and shorter in point of time, it would contribute much to enrich that grain producing section of our country.

Barley.—Comparatively little of this grain is raised in this country, with the exception of New York. Maine, Ohio, Pennsylvania, Michigan, Massachusetts, New Hampshire, and Illinois, rank next as producers of this crop. As it is raised principally to supply malt for the brewery, and small quantities of it only are used for the food of animals, or for bread, no great increase in this product is to be anticipated. The crop of 1841 appears to have been somewhat less than the usual one in proportion to the population.

Oats.—This grain in several of the States is evidently deemed an important object of cultivation, and large quantities of it are annually produced. As compared with wheat, it has the precedence in all of them, with the exception of Maine, Maryland, Ohio, and Georgia. New York takes the lead in the amount raised. Then follows, very closely, Pennsylvania; then Ohio, Virginia, Indiana, Tennessee, and Kentucky. It is a favorite crop, too, in the New England States. The crop of oats, in 1841, is believed to have been somewhat below a full one, and may therefore be considered

LEGISLATIVE INTENT SERVICE (800) 666-1917

as not having been so successful as some others, although large quantities of the seed were sown in the States where they are most abundantly cultivated. The consumption of oats in this country is confined particularly to the feeding of horses; but in some parts of Europe this article is used, to a considerable extent, as one of the bread stuffs. It enters, to a limited degree, into our articles of exportation, but it is not easy to form any exact estimate of the different appropriations of this crop, at home or abroad.

Rye.—This species of grain is mostly confined to a few States. The proportion which it bears to the other grains is probably greater in the New England States than in any other section of our country. There it likewise, to some extent, forms an article of food for the people. Pennsylvania, New York, New Jersey, Virginia, Kentucky, Ohio, and Connecticut, may be ranked as the chief producers of this crop; at least, these are among the States where it bears the greatest relative proportion to the other important crops. In 1841 it experienced, in some degree, similar vicissitudes with the other grains, and must likewise be estimated as below the increased crop which a more favorable season would probably have produced. The product of this crop is extensively used in many parts of our country for distillation, although the quantity thus applied has probably materially lessened within the few years past, and will doubtless hereafter undergo a still greater reduction.

Buckwheat.—This must be reckoned among the crops of minor interest in our country. With the exception of New York, Pennsylvania, New Jersey, Ohio, Connecticut, Virginia, Vermont, Michigan, and New Hampshire, very little attention seems to be given to the culture of this grain. In England it is principally cultivated, that it may be cut in a green state as fodder for cattle, and the seed is used to feed poultry. In this country it is also applied in a similar manner; and is sometimes ploughed in, as a means of enriching the soil. To a limited extent, the grain is further used as an article of food. The crop of 1841 may be considered as, on the whole, above an average one. This may in part be attributed to the fact that when some of the other and earlier crops failed, resort was had to buckwheat, as a later crop, more extensively than is usual. It is a happy feature in the adaptation of our climate, that the varieties of products are so great as to enable the agriculturist often thus to supply the deficiency in an earlier crop, by greater attention to a later one. There was more buckwheat sown than is commonly the case, and the yield was such as to compensate for the labor and cost of culture.

Maize or Indian Corn.—Tennessee, Kentucky, Ohio, Virginia, and Indiana, are, in their order, the greatest producers of this kind of crop. In Illinois, North Carolina, Georgia, Alabama, Missouri, Pennsylvania, South Carolina, New York, Maryland, Arkansas, and the New England States, it appears to be a very favorite crop. In New England, especially, the aggregate is greater than in any of the grains except oats. More diversity seems to have existed in this crop, in different parts of the country, the past year, than with most of the other products of the soil; and hence it is much more difficult to form a satisfactory general estimate. In some sections the notices are very favorable, and speak of "good crops," as in portions of New England; of "a more than average yield," as in New Jersey; of being "abundant," as in parts of Georgia; or, "on the whole, a good crop," as in Missouri; "on the whole, a tolerable one," as in Kentucky. In others, the language is of "a short crop," as in Maryland; or

LEGISLATIVE INTENT SERVICE (800) 666-1917

"cut off," as in North Carolina; or "below an average," as in Virginia. On the whole, however, from the best estimate which can be made, it is believed to have equalled, if it did not exceed, an average crop. The improvement continually making in the quality of the seed (and this remark is likewise applicable, in various degrees, to other products) augurs well for the productiveness of this indigenous crop, as it has been found that new varieties are susceptible of being used to great advantage. Considered as an article of food for man, and also for the domestic animals, it takes a high rank. No inconsiderable quantities have likewise been consumed in distillation; and the article of kiln-dried meal, for exportation, is yet destined, it is believed, to be of no small account to the corn-growing sections of our country. It will command a good price, and find a ready market in the ports which are open to its reception. But the importance of this crop will doubtless soon be felt in the new application of it to the manufacture of sugar from the stalk, and of oil from the meal. Below will be found some comparisons and deductions on this subject, and a view of the true policy of our country in relation to it and to agricultural industry generally.

Potatoes.—The Tabular View shows, that in quite a number of States the amount of potatoes raised is very great. New York, Maine, Pennsylvania, Vermont, New Hampshire, Ohio, Massachusetts, and Connecticut, are the great potato-growing States; more than two-thirds of the whole crop are raised by these States. Two kinds, the common Irish and the sweet potato, as they are called, with the numerous varieties, are embraced in our Agricultural Statistics. When it is recollected that this product of our soil forms a principal article of vegetable food among so large a class of our population, its value will at once be seen. The best common or Irish potatoes, as an article of food for the table, are produced in the higher northern latitudes of our country, as they seem to require a colder and moister soil than corn and the grains generally. It is on their peculiar adaptation in this respect, that Ireland, Nova Scotia, and parts of Canada, are so peculiarly successful in the raising and perfecting of the common or Irish potatoes. It is estimated that, in Great Britain, an acre of potatoes will feed more than double the number of individuals than can be fed from an acre of wheat. It is also asserted that, whenever the laboring class is mainly dependent on potatoes, wages will be reduced to a minimum. If this be true, the advantage of our laboring classes over those of Great Britain, in this respect, is very great. The failure of a crop of potatoes, too, where it is so much the main dependence, must produce great distress and starvation. Such is now the case in Ireland and parts of England and Scotland. Another disadvantage of relying on this crop as a chief article of food for the people is, that it does not admit of being stored up as it is, or converted into some other form for future years, as do wheat and corn. Potatoes also enter largely into the supply of food for the domestic animals; besides which, considerable quantities are used for the purpose of the manufacture of starch, of molasses, and distillation. New varieties, which have been introduced within a few years past, have excited much attention, and many of them have been found to answer a good purpose. Increased improvement, and with yet more successful results in this respect, may be anticipated.

The crop of potatoes in 1841 suffered considerably in many parts of the country, and, perhaps, came nearer to a failure than has been known

LEGISLATIVE INTENT SERVICE (800) 666-1917

for some years. In portions of New England and New York this was particularly the case. In other sections, however, if a correct judgment may be formed from the notices of the crop, there appears to have been a more than average increase. In proportion to her population, Vermont may be considered foremost in the cultivation of potatoes. The sweet potato is raised with some success for market as far north as New Jersey, though the quality of the article is not equal to that which is produced in the more southern latitudes. As the climate of the West, compared with that of the Atlantic border, varies perhaps nearly several degrees within the same parallels of latitude, it may be supposed that this variety of the potato can be cultivated even as high up as Wiskonsan or Iowa, in favorable seasons, with tolerable success.

Hay.—This product was remarkably successful during the past year in particular sections of our country, in others less so. In Maine, and in the New England States generally, there was more than an average yield. In New York, which ranks highest in the Tabular View, it was lighter than usual. In New Jersey, and the middle States generally, it was considered "good;" in the more Southern and Southwestern ones, little, comparatively, is cultivated. In the Northwestern States it appears to have been about an average crop. The extensive prairies of the West admit of being covered with luxuriant crops of grass, of better varieties; and when this is done they will prove far more valuable, both for the purposes of stock, and also in raising hay for the Southern market at New Orleans, which is already supplied, to some extent, with this product, brought down the Mississippi, from Indiana, Ohio, and Illinois, as well as by the Atlantic coast, from the New England States and New York. Hay is also an article of export, in some quantities, to the West Indies.

Flax and Hemp.—More difficulty has been found in forming an estimate of these two articles than any other embraced in the Tabular View. They are combined in the Census statistics, and the amount is sometimes given in tons, sometimes in pounds, so that it is not easy always to discriminate between them. More than half of the whole combined amount must probably be allotted to flax, as but little hemp, comparatively, is known to be raised. Flaxseed is used for the manufacture of linseed oil, considerable quantities of which are annually imported into this country for various purposes. The oil cake, remaining after the oil is expressed, is a well-known article in use, mingled with the food of horses and other animals.

In these articles of flax and hemp combined, if the Recapitulation of the Census statistics is correct, Virginia is in advance of all the other States; then follow Missouri, North Carolina, Ohio, Kentucky, Indiana, Tennessee, Pennsylvania, New Jersey, Illinois, New York, and other States. It is believed, however, that some of the amounts, as returned by the marshals, should rather have been credited to pounds for flax than to tons, as more nearly corresponding to the actual condition of the crops in our country. Kentucky probably ranks the highest with respect to the production of hemp. The crop of 1840 was a great failure, and that of the past year also suffered much from the dry weather. There is not so much attention paid to the culture of this article as its importance demands; yet there is every ground of encouragement for increased enterprise in the production of hemp, from the supply required in our own country. The difficulty most in the way of its success, hitherto, has been the neglect, either from ignorance, inexperience, or some other cause, properly to prepare it for use by

LEGISLATIVE INTENT SERVICE (800) 666-1917

the best process of water-rotting. The agriculturists of our country seem, in this respect, to have too soon yielded to discouragement. The desirableness of some new and satisfactory results on this subject will be seen from the fact that it is stated the annual consumption of hemp in our navy amounts to nearly two thousand tons; besides which, the demand for the rest of our shipping is not less than about eleven thousand tons more; making an aggregate of nearly thirteen thousand tons—the price of which is put at from $220 to $250, and by some even as high as $280 per ton, together with other and inferior qualities, which are used to supply the deficiency of the better article. Our hemp, it is further stated, on high authority, when properly water-rotted, proves, by actual experiment, to be one-fourth stronger than Russia hemp, to take five feet more run, and to spin twelve pounds more to the four hundred pounds. When so much is felt and said on the increase of our navy prospectively, it is an object worthy of attention to secure, if possible, the production of hemp in our own country, adequate to all our demands. The introduction, too, of gunny bags, and of Scotch and Russia bagging, and iron hoops for cotton, renders this direction of the hemp product more necessary and important. It is hoped that some process of water-rotting, which will prove at once both cheap and satisfactory, may yet be discovered by the inventive genius of our countrymen, who are not wont to be discouraged at any slight obstacles.

Tobacco.—The crop of 1839, in this article, on which the Census statistics are founded, is deemed, as appears from the notices on this subject, to have been a short one, and below the average. The crop of the past year was much more favorable—beyond an average; indeed, it is described in some of the journals as "large."

Virginia, Kentucky, Tennessee, North Carolina, and Maryland, are the great tobacco-growing States. An advance in this product is likewise in steady progress in Missouri, where the crop of 1841 is estimated at nearly 12,000 hogsheads, and for 1842 it is expected that as many as 20,000 may be raised. Some singular changes are going forward with regard to this great staple of several of the States. Reference is here intended to the increasing disposition evinced, as well as the success thus far attending the effort, to cultivate tobacco in some of the Northern and Northwestern States. The tobacco produced in Illinois has been pronounced by competent judges from the tobacco-growing States, and who have there been engaged in the culture of this article, to be superior, both in quality and the amount produced per acre, to what is the average yield of the soils heretofore deemed best adapted to this purpose. In Connecticut, also, the attention devoted to it has been rewarded with much success; 100,000 pounds are noticed as the product of a single farm of not more than fifty acres. It is, indeed, affirmed that tobacco can be raised in Indiana, Ohio, Kentucky, and Tennessee, at a larger profit than even wheat or Indian corn. Considerable quantities, also, were raised in 1841 in Pennsylvania and Massachusetts, where it may probably become an object of increased attention. The agriculturists of these States, if they engage in the production of this crop, will do so with some peculiar advantages. They are accustomed to vary their crops, and to provide means for enriching their soils. Tobacco, as it is well known, is an exhausting crop, especially so when it is raised successive years on the same portions of soil. The extraordinary crops of tobacco which have heretofore been obtained have,

LEGISLATIVE INTENT SERVICE (800) 666-1917

indeed, enriched the former proprietors, but the present generation now find themselves, in too many instances, in the possession of vast fields, once fertile, that are now almost or wholly barren, from an inattention to the rotation of crops. The difficulty of cultivating a worn-out soil has induced, and will continue to induce, the emigration of the most enterprising to new lands, where they will bear in mind the lessons that dear-bought experience has taught them. It is a provision of Nature herself, that there must be a suitable rotation of crops; and all history sanctions the conclusion, that the continued cultivation of any specific crop, without an adequate supply of the means of restoration from year to year, must eventually and inevitably terminate in impoverishing its possessors, and entailing on them the necessity of removal from their native homes, if they would not sink in degradation. Had a variety and rotation of crops been resorted to on the lands now so left, the countries suffering by such a course had been far more rich and prosperous.

The value of tobacco exported in different forms in 1839 was $10,449,155, and the amount of tobacco exported in 1840 was about 144,000,000 of pounds. The greater part of this goes to England, France, Holland, and Germany.

Cotton.—This, it is well known, is the great staple product of several States, as well as the great article of our exports, the price of which, in the foreign market, has been more relied on than any thing else to influence favorably the exchanges of this country with Great Britain and Europe generally. The cotton crop of the United States is more than one-half of the crop of the whole world. In 1834, the amount was but about 450,000,000 of pounds; the annual average now may be estimated at 100,000,000 of pounds more; the value of it for export at about $62,000,000. The rise and progress of this crop, since the invention of Whitney's cotton gin, has been unexampled in the history of agricultural products. In the year 1783, eight bales of cotton were seized on board of an American brig, at the Liverpool custom-house, because it was not believed that so much cotton could have been sent at one time from the United States! The cotton crop of 1841, compared with that of 1839 and 1840, was probably less, by from 500,000 to 600,000 bales. In the early part of the last cotton-growing season, an average crop was confidently anticipated; but this hopeful prospect was not realized. In portions of the cotton-producing States, as in parts of Georgia, however, the crop was greater than usual; and in Arkansas it has been estimated at a gain. over that of 1839, of 33⅓ per cent.; but probably, owing to its having suffered from the boll worm, it should be set down at 20 or 25 per cent. A similar advance is expected in future years, among other causes, from the great increase of population by immigration. Mississippi, Georgia, Louisiana, and Alabama, South Carolina, and North Carolina, are, in their order, the great cotton-growing States. An important fact deserves notice here, on account of the relation which the cotton crop bears to other crops. Whenever (to whatever cause it may be owing) the price of cotton is low, the attention of cultivators, the next year, is more particularly diverted from cotton to the culture of corn, and other branches of agriculture, in the cotton-producing States. As cotton is now so low, and so little in demand in the foreign market, unless a market be created at home it must necessarily become an object of less attention to the planters; and it cannot be expected that the agricultural products of the West will find so ready a sale in the Southern

LEGISLATIVE INTENT SERVICE (800) 666-1917

market as in some former years. Other countries, too, as India, Egypt, and other parts of Africa, Brazil, and Texas, are now coming more decidedly into competition with the cotton-growing interest of our country; so that an increase of this product from those countries, and a corresponding depression in ours, are to be expected. The amount of India cotton imported into England in 1840 was 76,703,295 pounds; almost equal to the whole cotton crop of North Carolina and South Carolina, or to that of Alabama, for the past year, and nearly double the amount produced by Tennessee, Arkansas, and Florida, combined; being, also, an increase on the importation of cotton from India, the preceding year, of 30,000,000 of pounds, and, in amount, nearly one-sixth of the whole quantity imported during the same year from the United States. From the report of the Chamber of Commerce of Bombay, it appears that, from the 1st of June, 1840, to the 1st of June, 1841, the imports of cotton into Bombay amounted to 174,212,755 pounds; and the whole India cotton crop is estimated, on good authority, at 196,000,000 of pounds. This is a larger quantity than America produced up to 1826, and more than was consumed by England in the same year, and nearly one-third of the whole estimated crop of the United States in 1841. From these facts, it is evident that it is becoming more and more the settled policy of England to encourage the production of cotton in India, while it is equally certain that a foreign market cannot be relied on for our cotton, to the same extent as it has hitherto been. An English authority, speaking of the decline of England and of her manufactures, as having commenced a downward progress, in accounting for this decline, attributes the distress in Leeds, and other places, to the landholders, who, by excluding the foreign bread stuffs, have driven foreigners to manufacture in self-defence. This decline, not being confined merely to her old staple of woollens, must, too, operate in the reduction and diminution of cotton exported from this country. The following statement confirms the position now taken:

"In 1824, Great Britain exported to all foreign countries, including the British possessions, of cloths, &c., 567,317 pieces; in 1828, 566,596 pieces; in 1830, 440,360 pieces; and in 1840, only 250,962 pieces. During the same year last named, (1840,) the total manufactured in only one district in Belgium and Prussia, all within a day's journey of each other, was 333,245 pieces; so that, in one district only, there was made more than was exported by Britain to all the world, by 76,233 pieces."

Rice.—This product is cultivated to comparatively a very little extent in the United States, except in South Carolina and Georgia. In the former of these, it is an object of no small attention, and ranks second only to cotton. It forms a considerable article of export from this country to Europe. England, however, imports annually large quantities of rice from India. The crop of rice in 1841 is said to have been, on the whole, a very good one, equal, if not superior, to the usual average.

Silk Cocoons.—Notwithstanding the disappointment of many who, since the year 1839, engaged in the culture of the *morus multicaulis* and other varieties of the mulberry, and the raising of silkworms, there has been, on the whole, a steady increase in the attention devoted to this branch of industry. This may be, in part, attributed to the ease of cultivation, both as to time and labor required, and in no small degree, also, to the fact that, in twelve of the States, a special bounty is paid for the production of cocoons, or of the raw silk. Several of these promise much hereafter in this

LEGISLATIVE INTENT SERVICE (800) 666-1917

product, if a reliance can be placed on the estimates given in the various journals more particularly devoted to the record of the production of silk. There seems, at least, no ground for abandoning the enterprise, so successfully begun, of aiming to supply our home consumption of this important article of our imports. In Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Tennessee, and Ohio, there has been quite an increase above the amount of 1839. The quantity of raw silk manufactured in this country the past year is estimated at more than 30,000 pounds. The machinery possessed for reeling, spinning, and weaving silk, in the production of ribbons, vestings, damask, &c., admit of its being carried to great perfection, as may be seen by the beautiful specimens of various kinds deposited in the National Gallery at the Patent Office. The amount of silk stuffs brought into this country in some single years, from foreign countries, is estimated at more in value than $20,000,000. The silk manufactured in France in 1840 amounted to $25,000,000; that of Prussia to more than $4,500,000. Should one person in a hundred of the population of the United States produce annually 100 pounds of silk, the quantity would be nearly 18,000,000 pounds, which, at $5 per pound, (and much of it might command a higher price,) would amount to nearly $90,000,000—nearly $30,000,000 above our whole cotton export, nine times the value of our tobacco exports, and nearly five or six times the average value of our imports of silk. That such a productiveness is not incredible, as at first sight it may seem, may be evident from the fact, that the Lombard Venetian kingdom, of a little more than 4,000,000 of population, exported in one year 6,132,950 pounds of raw silk; which is a larger estimate, by at least one-half, for each producer, than the supposition just made as to our own country. Another fact, too, shows both the feasibility and the importance of the cultivation of this product. The climate of our country, from its Southern border even up to 44 degrees of north latitude, is suited to the culture of silk. It needs only a rational and unflinching devotion to this object, to place our country soon among the greatest silk-producing countries of the world.

Sugar.—Louisiana is the greatest sugar district of our country. The crop of 1841 appears to have been injured by the early frosts; the amount, therefore, was not so great as that of 1839, by nearly one-third.

The progress of the sugar manufacture and the gain upon our imports has been rapid. In 1839 the import of sugars was 195,231,273 pounds, at an expense of at least $10,000,000; in 1840, about 120,000,000 pounds, at an expense of more than $6,000,000. A portion of this was undoubtedly exported, but most of it remained for home consumption. More than 30,000,000 pounds of sugar, also, from the maple and the beet root were produced in 1841, in the Northern, Middle, and Western States; and, should the production of cornstalk sugar succeed, as it now promises to do, this article must contribute greatly to lessen the amount of imported sugars. Indeed, such has been the manufacture of the sugar from the cane for the last five years, that were it to advance in the same ratio for the five to come, it would be unnecessary to import any more sugar for our home consumption. Some further remarks on this particular topic will be found below, in connexion with the subject of cornstalk sugar.

Wine.—North Carolina, Pennsylvania, Virginia, Ohio, and Indiana, rank highest, in their order, in the production of wine. In Maryland, Georgia, Louisiana, Maine, and Kentucky, some thousands of gallons are likewise produced. Two acres in Pennsylvania, cultivated by some Germans,

LEGISLATIVE INTENT SERVICE (800) 666-1917

have the past autumn yielded 1,500 gallons of the pure juice of the grape, and paid a nett profit of more than $1,000. Still, the quantity produced is small. The cultivation of both the native and foreign grape, as a fruit for the table, seems to be an object of increasing interest in particular sections of our country; but any very decided advances in this product are scarcely to be expected.

It has thus been attempted to give at least a bird's eye view of the articles enumerated in the Tabular Statistics. There are also a variety of other products which might, perhaps, have been included in the agricultural statistics. These are hops, peas, beans, beets, turnips, and other roots and vegetables; the products of the dairy, of the orchard, and of the bee-hive; wool, live stock, and poultry. Many interesting comparisons in relation to some of the above might be formed from the Census statistics, such as would exhibit in a striking manner the resources our country possesses in the products of her soil and the labor of her hardy yeomanry; but it has been deemed best to omit them in the present report, merely subjoining the Census statistics on these particular articles to the Tabular View. Yet, in estimating the home supply for the sustenance and comfort both of man and beast, these too should always be taken into the account, as a very important item deserving notice.

The whole of the summary now given, with the rapid glance taken at the various products, presents our country as one richly favored of Heaven in climate and soil, and abounding in agricultural wealth. Probably no country can be found on the face of the globe, exhibiting a more desirable variety of the products of the soil, contributing to the sustenance and comfort of its inhabitants. From the Gulf of Mexico to our Northern boundary, from the Atlantic to the far West, the peculiarities of climate, soil, and products, are great and valuable. Yet these advantages admit of being increased more than an hundred fold. The whole aggregate of the bread stuffs, corn, and potatoes, is 624,518,510 bushels, which, estimating our present population at 17,835,217, is about 35$\frac{2}{5}$ bushels for each inhabitant; and, allowing 10 bushels to each person—man, woman, and child—(which is double the usual annual allowance as estimated in Europe,) and we have a surplus product, for seed, food of stock, the purposes of manufacture, and exportation, of not less than 446,166,340 bushels; from which, if we deduct one-tenth of the whole amount of the crops for seed, it leaves for food of stock, for manufactures, and exportation, a surplus of at least 370,653,627 bushels. Including oats, the aggregate amount of the crops of grain, corn, and potatoes, is equal to nearly 755,200,000 bushels, or 42$\frac{1}{3}$ bushels to each inhabitant. The number of persons employed in agriculture, according to the census of 1840, was 3,717,756. This, it is presumed, refers to the male free white adult population.

The articles of CORN OIL and corn for SUGAR, together with OIL from LARD and the castor bean, &c., deserve more than a passing notice. They are destined, it is believed, to call forth increased enterprise among the agriculturists of our country:

CORN OIL is produced from corn meal by fermentation, with the aid of barley malt. It has been produced and used for some time past in certain distilleries, by skimming off the oil as it rises on the meal in fermentation in the mash tub. It has, however, lately become the subject of particular attention, as an article of manufacture, and with success. The meal, after it has been used for the production of this oil, it is said, will make better

LEGISLATIVE INTENT SERVICE (800) 666-1917

and harder pork, when fed out to swine, than before. The oil is of a good quality, of a yellowish color, and burns well. Further clarification, it is probable, may render it as colorless as the best sperm oil. Whether or not this may be the case, the ease with which it is made offers strong inducements to engage in the production of this article.

But a more important object in the production of Indian corn is doubtless the manufacture of SUGAR from the stalk. In this point of view, it possesses some very decided advantages over the cane. The juice of the cornstalk by Beaumé's saccharometer, reaches to 10° of saccharine matter, which, in quality, is more than three times that of beet, five times that of maple, and fully equals, if it does not even exceed, that of the ordinary sugar cane in the United States. By plucking off the ears of corn from the stalk as they begin to form, the saccharine matter, which usually goes to the production of the ear, is retained in the stalk; so that the quantity it yields is thus greatly increased. One thousand pounds of sugar, it is believed, can easily be produced from an acre of corn. Should this fact seem incredible, reference need only be made to the weight of fifty bushels of corn in the ear, which the juice so retained in the stalk would have ripened, had not the ear, when just forming, been plucked away. Sixty pounds may be considered a fair estimate, in weight, of a bushel of ripened corn; and, at this rate 3,000 pounds of ripened corn will be the weight of the produce of one acre. Nearly the whole of the saccharine part of this remains in the stalk, besides what would have existed there without such a removal of the ear. It is plain, therefore, that the sanguine conclusions of experimenters the past year have not been drawn from insufficient data. Besides, it has been ascertained, by trial, that corn, on being sown broadcast, (and so requiring but little labor, comparatively, in its cultivation,) will produce five pounds per square foot, equal to 108 tons to the acre for fodder in a green state; and it is highly probable that, when subjected to the treatment necessary to prepare the stalk, as above described, in the best manner for the manufacture of sugar, a not less amount of crop may be produced. Should this prove to be the case, one thousand weight of sugar per acre might be far too low an estimate. Experiments on a small scale have proved that *six* quarts of the juice, obtained from the cornstalk sown broadcast, yielded one quart of crystallized sirup, which is equal to 16 per cent; while for one quart of sirup it takes thirty-two quarts of the sap of maple.

Again, the cornstalk requires only one-fifth the pressure of the sugar cane, and the mill or press for the purpose is very simple and cheap in its construction, so that quite an article of expense will thereby be saved, as the cost of machinery in the manufacture of sugar from the cane is great. Only a small portion of the cane, also, in this country, where it is an exotic, ordinarily yields saccharine matter, while the whole of the cornstalk, the very top only excepted, can be used.

Further, while cane requires at least eighteen months, and sedulous cultivation and much hard labor, to bring it to maturity, the sowing and ripening of the cornstalk may be performed, for the purpose of producing sugar, with ease, within 70 to 90 days; thus allowing not less than two crops in a season in many parts of our country. The stalk remaining, after being pressed, also furnishes a valuable feed for cattle, enough, it is said, with the leaves, to pay for the whole expense of its culture. Should it be proved, by further experiments, that the stalk, after being dried and laid up, can, by steaming, be subjected to the press without any essential loss of the sac-

LEGISLATIVE INTENT SERVICE (800) 666-1917

charine principle, as is the case with the beet in France, so that the manufacture of the sugar can be reserved till late in the autumn, this will still more enhance the value of this product for the purpose. It may also be true that, as in the case of the beet, no animal carbon may be needed, but a little lime water will answer for the purpose of clarification; after which, the juice may be boiled in a common kettle, though the improved method of using vacuum pans will prove more profitable when the sugar is made on a large scale.

Corn, too, is indigenous, and can be raised in all the States of the Union, while the cane is almost confined to one, and even in that the average amount of sugar produced, in ordinary crops, is but 900 or 1,000 pounds to the acre; not much beyond one-third of the product in Cuba and other tropical situations, where it is indigenous to the soil. The investment in the sugar manufactories from the cane in this country has, it is believed, paid a poorer return than almost any other agricultural product. The laudable enterprise of introducing into the United States the culture of the cane and the manufacture of sugar from the same, has, it is probable, been hardly remunerated, though individual planters, on some locations, have occasionally enriched themselves. The amount of power required, with the cost of the machinery and the means of cultivation, will ever place this branch of industry beyond the reach of persons of moderate resources, while the apparatus and means necessary for the production of corn and other crops lie within the ability of many.

Should the manufacture of sugar from the cornstalk prove as successful as it now promises, enough might soon be produced to supply our entire home consumption, towards which, as has been mentioned, at least 120,000,000 pounds of foreign sugars are annually imported, and a surplus might be had for exportation. In Europe, already, more than 150,000,000 pounds of sugar are annually manufactured from the beet, which possesses but one-third of the saccharine matter that the cornstalk does; and there are not less than 500 beet sugar manufactories in France alone. By this manufacture of sugar at the West, the whole amount of freight and cost of transportation on imported sugar might also be saved—a sum nearly equal, it is probable, to the first cost of the article at the seaport; so that the price of sugar is at least doubled, if not almost trebled, to the consumer at a distance, when so imported. Not less than 6,000,000 pounds of sugar, it is said, are annually imported, for home consumption, in the single city of Cincinnati.

Oil and Stearine from Lard and the Castor Bean, &c.—These two are articles which will hereafter attract much attention in many parts of our country. The use of lard instead of oil, for lamps of a peculiar construction, has been heretofore attempted with good success, as an article of economy. It has even been adopted in the light-houses in Canada, on the lakes, and is said to burn longer, and free from smoke, while the cost of the article is stated to be but about one-third the cost of sperm oil. But it has now been discovered that oil equal to sperm can be easily extracted from lard, at great advantage, and that it is superior to lard for burning, without the necessity of a copper-tubed lamp. Eight pounds of lard equal in weight one gallon of sperm oil. The whole of this is converted into oil and stearine, an article of which candles that are a good substitute for spermaceti can be made. Allowing, then, for the value of the stearine above the oil, and it may be safely calculated, that when lard is six cents

LEGISLATIVE INTENT SERVICE (800) 666-1917

per pound, as it is now but four or five cents at the West, a gallon of oil can be afforded there for fifty cents; since the candles from the stearine will sell for from twenty-five to thirty cents per pound.

Stearine for this purpose has also recently been obtained from castor oil, the product of the *palma christi*, or castor bean, a plant successfully cultivated in portions of our country.

Oil, it is well known, is an article of large consumption in our country. The amount of sperm oil from our whale fisheries, for the year 1841, was 4,965,754 gallons; of whale and fish oil, 6,362,661 gallons—making a sum total of 11,328,415 gallons. The amount for 1840 did not vary much from the same. The amount of sperm and whale oil exported in 1840 was 4,955,486 gallons, leaving for home consumption 6,372,929 gallons. In the year 1840 there was also exported from this country 853,938 pounds of spermaceti candles. From these statements, which do not include linseed, olive, and other oils, it will be seen that the encouragement for the manufacture of oil and stearine, from corn meal, and lard, and the castor bean, is very great. Large quantities of oil for dressing cloths, oiling machinery, &c., are required in the manufactories. In the factories of Lowell, simply, not less than 78,689 gallons are thus needed.

Oil, too, enters largely into the composition of soap; and should it be found, as perhaps by experiment it may be, that the corn meal and lard oils are not liable to the objection which, it is said, attends the use of whale oil in this respect, the demand for this purpose may be of importance to the producers of this article.

It is not improbable that, by further experiments, an oil may be obtained from the cotton seed, of such an excellent quality as to make what is now almost a total loss an article of great value. The Germans at the West are said to obtain oil in some quantities from the seed of the pumpkin; and the seeds of the sunflower, and rape seed, it is well known, have been used to advantage for the same purpose.

While Great Britain and other foreign countries have steadily pursued a policy designed and obviously tending to exclude our agricultural products from their trade, it becomes an object of no small consequence to us to evince, as the foregoing statistics have done, how much wealth we possess in our surplus products of wheat, and various other articles of food, together with the prospective increase of these and other products suited to call out the enterprise and industry of our people, and which, on a fair reciprocity with foreign nations, might greatly contribute to develope and enlarge the resources of our country. Should protective duties abroad continue to exclude our surplus products, the channels of present industry must be diverted to meet the emergency. It may be well for us to learn what makes us truly independent, and also happy. Extravagance in communities, as well as in individuals, leads to inevitable embarrassment. Credit may, indeed, be used for a while as a palliative, but the only effectual remedy is retrenchment and economy. When a constant drain of the precious metals is pressing us to meet the expenditures of our people for foreign imports, and when foreign nations encourage a home policy, by prohibitory duties on our products, it becomes a serious question with us how far and in what directions the industry now expended in raising a surplus beyond our own wants can be diverted to other objects of enterprise. To decide a question of such magnitude and interest, reference must obviously be had to the articles imported, to determine what can be

LEGISLATIVE INTENT SERVICE (800) 666-1917

raised or produced in our own country; and possibly it may be found that most of the leading articles, either of necessity or luxury, thus supplied, can be raised and perfected to advantage by the labor and skill of our own inhabitants. The remedy thus lies within our own power. Our true policy is to give variety and stability to our productive industry. Extraordinary prices in particular crops inevitably lead to dangerous extremes in the culture of the same, to the neglect of the usual and necessary articles of produce. Cupidity soon urges even the agriculturist into a spirit of speculation, which too often terminates in great embarrassment, and sometimes in utter ruin. The credulity of Americans is proverbial; and this has, to some extent, been illustrated in the almost universal mania that attended the *morus multicaulis* speculation: a single sprout sold for one dollar, when millions might be produced in one season. Incredulity, likewise, is sometimes yet more injurious to a community, as this shuts out all the light which science pours in, and rests contented with following the beaten path of traditionary leaders. Happy would it be for our country if the spirit of investigation and severe experiment should induce effort to test principles, without diverting it from those channels of industry that will assuredly bring the comforts of life. The balance of trade against us, resulting from our improvidence, can no longer be settled, or, rather, as it might be said, postponed by the remittance of State securities, which seem to have run a brief career, leaving still a vast debt, that can only be honestly cancelled by much *hard work*.

Notwithstanding all this, the daily importation of goods (including many articles of luxury) goes forward to a truly alarming extent; TWO-THIRDS OF WHICH ARE ON FOREIGN ACCOUNT, TO BE PAID FOR IN SPECIE OR ITS EQUIVALENT! Without the admitted means of liquidating the balances against us in foreign countries, we seem still madly bent on increasing them. Eleven and a half millions of dollars in specie were shipped from the single port of New York within the fifteen months preceding January, 1842; and with such a drain going on continually, every dollar of specie in the United States will soon be insufficient to meet our liabilities abroad. Stern necessity, however, will, ere long, extend her laws over us, compelling us to limit our expenditures to the actual income, and to effect exchanges of our agricultural products, either at home or abroad, for the products of mechanical skill and industry. This would be the case, even were the amount of our surplus product likely to be lessened.

Yet there is no reason to apprehend that our surplus products will be diminished. On the contrary, the stoppage of numerous canals, railroads, and other works of internal improvement by the States, will dismiss many laborers, who will resort to agriculture and kindred pursuits; so that the amount of products raised will probably exceed those of former years. The extensive tracts, too, of our unoccupied soil invite emigration to our shores; and when we consider the present extreme distress in portions of the manufacturing districts of Great Britain, we are doubtless to expect a large increase of our population in future years from this cause. It is stated, on high authority, that as many as 20,000 persons die annually in Great Britain, from the want of sufficient and wholesome food. Let the fact of our vast surplus product of the bread stuffs and other articles of food become known abroad, and is it not reasonable to look for increasing additions to the emigration from Europe to this country?—especially since the distance is now, as it were, so much shortened, that a voyage may be com-

LEGISLATIVE INTENT SERVICE (800) 666-1917

passed in 12 or 15 days. A line of steam packets, too, is in contemplation, to run from Bremen to one of our ports, with the design principally of conveying emigrants, which, no doubt, will prove the means of bringing to us a hardy, industrious German population, most of whom will probably engage in agriculture. With these additions to her laboring force, our growing country, if she be true to herself, offers an unwonted scope for exertion. The diversities of her climate the varieties of her soil, her peculiar combination of population, her mineral, animal, agricultural, mechanical, and commercial wealth, developed as they may be by a rightful regard to her necessities, might thus place her at last in a situation as enviable for her political and moral influence, as for the physical energies she had called into life and action. Our republic needs, indeed, only to prove her own strength, and wisely direct her energies, to become, more than she has ever been, the point on which the eye of all Europe is fixed, as a home of plenty for the destitute, and a field where enterprise reaps its sure and appropriate reward.

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THE LAW
of
PATENTS for DESIGNS

With particular reference to the practice which obtains in the prosecution of applications for design patents in the United States Patent Office as shown by the rules and decisions.

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ABBREVIATIONS USED.

"App. D. C."	Decisions of the Court of Appeals of the District of Columbia.
"Bann. & Ard."	The five volumes of patent cases, 1874 to 1880, collected by Banning and Arden.
"Blatch."	Reports of Samuel Blatchford.
"C. D."	Decisions of Commissioners of Patents.
"F."	Federal Reporter.
"F. C."	Federal Cases.
"Gour."	Gourick's digest of Patent Office manuscript decisions.
"O. G."	Official Gazette of the United States Patent Office.
"U. S."	Decisions of the Supreme Court of the United States.
"Wall."	Wallace's Supreme Court Reports.

LEGISLATIVE INTENT SERVICE (800) 666-1917

DESIGN PATENTS.

CONTENTS.

Pages

Abbreviations used iii
Preface 1

CHAPTER I.

Design Patent Statutes.

Sections
1 First Patent Act 5
2 Subsequent Laws 5
3 Design Patent Laws Now in Force 7

CHAPTER II.

Subject Matter for Design Patent.

4 Some Definitions of a Design Patent 11
5 Must Be Original 13
6 Design Must be Ornamental 13
7 "Ornamental" Defined 14
8 Designs Held Not Ornamental 15
9 Articles for Obscure Use 18
10 "Useful" 18
11 Mechanical Function 22
12 "Article of Manufacture" 23
13 Machine Not Patentable as a Design 28
14 Superficial Ornamentation 30
15 Unitary Structure 32
16 Design and Copyright Protection 33
17 A Trade Mark Not a Design 35
18 Internal Structure 37
19 "Improvement" 39

LEGISLATIVE INTENT SERVICE (800) 666-1917

CHAPTER III.

Invention.

Sections		Pages
20	Invention Necessary	41
21	What Constitutes Invention	41
22	Novelty Not Sufficient	47
23	Non-Analogous Arts	48
24	Aggregation of Old Ornaments Not Invention	53
25	Change in Color, Material, or Size Not Invention	56

CHAPTER IV.

Novelty and Infringement.

26	How Determined	59
27	Substantial Identity Negatives Novelty or Establishes Infringement	62
28	Character of Evidence Which Negatives Novelty or Establishes Infringement	66
29	Illustrative Cases	67
30	Effect of Same Design in Another Art	70
31	"State of the Art"	72
32	Common Knowledge	74
33	Generic Idea of Ornamentation	75
34	Penalty for Infringement—Act of February 4, 1887	77

LEGISLATIVE INTENT SERVICE (800) 666-1917

CHAPTER V.

Applications and Letters Patent.

Sections		Pages
35	Petition	79
36	Specification	79
37	Should Specification Contain a Description of the Design	79
38	Character of Description Permissible	83
39	Modifications and Variations	84
40	Essential and Immaterial Features	86
41	New Matter	87
42	The Claim	88
43	Drawing	94
44	The Original Drawing—Changes or Additions	97
45	Oath	97
46	Changing Mechanical to Design Application or Vice Versa	98
47	Mechanical and Design Applications Showing Same Structure	99
48	Division of Application	101
49	Re-issue	102
50	Terms of Design Patents	102
51	Fees	102
52	Rules and Regulations for Mechanical Applicable to Design Patent Applications	102
53	Form of Application	103
54	Marking a Design "Patented"	107

CHAPTER VI.

Procedure in the Patent Office.

55	Examination	109
56	Interference	111
57	Petitions and Appeals	112
	Table of Cases	115
	Index	123

LEGISLATIVE INTENT SERVICE (800) 666-1917

PREFACE.

Two treatises only on the subject of design patents have been published in the United States during the seventy-two years the laws granting patents for this character of inventions have been in force. The first was presented in 1874 by former Commissioner of Patents, Wm. E. Simonds; the second, in 1889 by Hector T. Fenton, Esquire, of the Philadelphia bar.

That the texts and the decisions have not satisfactorily established a well understood, uniform practice in design patent cases is shown by the comments of courts and writers. Mr. Simonds in his work said:—

"The decisons of the Patent Office have been conflicting and the court cases are not altogether harmonious."[1]

In 1871, Commissioner Leggett in discussing the intent of the design law stated that:—

"The practice of the Office in granting design patents has been not only liberal but lax."[2]

A few years later in discussing a question which was often raised in design cases, the Commissioner of Patents said:—"It is not to be denied that the record of the Office on this question is somewhat ragged."[3]

In the leading case of Rowe v. Blodgett & Clapp Co.[4] the practice of the Office in issuing design patents was condemned on the ground that it was not uniform. In this case the court approved the view of the design law set forth in ex parte Parkinson, supra, and cited several

1—Simonds on Design Patents—Preface.
2—Parkinson, 1871, C. D. 251.
3—Shoeninger, 15 O. G. 384; 1878 C. D. 128.
4—112 F., 61; 98 O. G., 1286; 1902 C. D. 583.

LEGISLATIVE INTENT SERVICE (800) 666-1917

cases in which the interpretation of the law given in that decision had been upheld. The court in Marvel Co. v. Pearl[1] condemned the grant of a design patent for a syringe as "a perversion of the statute".

At the present time much doubt and confusion exists as to what is proper subject matter for a design patent; nor is the practice in this class of patents well settled. Whether the specification should contain a description of the design, and whether a patent may be issued for a surface ornamentation are among the questions which have received considerable attention and not altogether satisfactory answers.

Relative to many questions of design practice what Commissioner Fisher said in 1869 is true today. "The practice of this Office has not been uniform, and the true practice is still to be adopted and followed."[2]

It is hoped that this small contribution on the subject of design patents will assist in determining the questions of law and procedure which are still unsettled by bringing together for consideration the conflicting views and decisions, for nothing makes for the better elucidation of a subject than to have the different views on it considered together.

That the interest in the subject of design patents has increased during the last few years is indicated by the larger number of applications for patents filed and the amount of litigation on this subject. In 1905, 781 applications for design patents were filed in the Patent Office; in 1910 the number had increased to 1155; in 1911 to 1534, and in 1912 to 1844. During the year 1913, about 2100 applications were filed, which is approximately 175 per centum more than in 1905.

The questions of novelty and infringement of designs are so closely related and have been so often considered

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1—114 F., 946.
2—Bartholomew, 1869 C. D. 103.

LEGISLATIVE INTENT SERVICE (800) 666-1917

together[1] that is has been concluded advisable to treat them in the same chapter.

The collection of the data which has been utilized in writing this volume was begun in connection with the preparation of lectures delivered before the students taking the course in Patent and Trademark Law in the Washington College of Law.

WILLIAM L. SYMONS.

Washington, D. C., 1914.

1—Kraus v, Fitzpatrick 34 F., 39; 42 O. G. 1912; 1888 C. D. 291; Redway v. Ohio Stove Co. 38 F., 582; Ripley v. Elson Glass Co. 49 F., 927; Bevin Bros. v. Starr Bros. 114 F., 362; Gorham v. White 14 Wall, 511.

LEGISLATIVE INTENT SERVICE (800) 666-1917

THE LAW OF DESIGNS.

CHAPTER I.

DESIGN PATENT STATUTES.[1]

1. First Design Patent Act.—Patents for designs were first authorized by section 3 of the Act of 1842. In this Act the words "invented or produced" were used instead of the words "invented or discovered" used in the original patent Act of 1790, and in subsequent laws. The fee in design cases was by this Act fixed at one half the sum then required by the patent laws in force, and the duration of the patent was limited to seven years. Only 1387 patents were issued under this law.

2. Subsequent Laws.—The Act of 1842 was repealed in 1861. This Act of 1861 made slight changes in the subject matter for which a design patent might be issued. It changed the terms of design patents to three and one-half, seven or fourteen years at the election of the applicant, and the fees to ten, fifteen or thirty dollars respectively.

The patent Act of 1870 repealed the Act of 1861, but made very little change in the former design law. The sections of this Act of 1870 relating to design patents became sections 4929 to 4934 of the revised statutes in 1874. Design patents were granted under these sections of the revised statutes until the Act of May 9, 1902, amended materially section 4929 which is the section under which design patents are now granted.

The laws of 1842, 1861 and 1870 were almost identical in their definition of the subject matter granted protec-

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1—The early Design Patent Acts are printed in full as foot notes to Chapter 1 of Fenton on Designs. They are reviewed in that chapter with some detail.

LEGISLATIVE INTENT SERVICE (800) 666-1917

tion. Generally speaking the articles which could be patented under these laws were (1) a new and original design for a manufacture, bust, statue, alto relievo or bas-relief; (2) a new and original design for the printing of woolen, silk, cotton or other fabrics; (3) a new and original impression, ornament, pattern, print or picture to be printed, painted, cast or otherwise placed on or worked into any article of manufacture; and (4) any new and original shape or configuration of any article of manufacture. The most important difference between this Act of 1870 and the Acts of 1842 and 1861, and the difference which for a time caused the most discussion, was the use in the Act of 1870 of the word "useful" in the clause relating to the shape or configuration of an article of manufacture. This word appeared in the Acts of 1842 and 1861 modifying the word "pattern;" in the Act of 1870 it was omitted before the word "pattern," but appeared, as above stated, in the clause relating to the grant of a patent for the shape or configuration of an article of manufacture.

A consideration of the design law as it now exists will, it is believed, show that the scope of these former laws was broader than is the present law. There is much that might have been said in favor of granting a design patent for a surface ornamentation under the old laws that is not now pertinent. An article which might possess a new and original shape might not be an ornamental object. Could it not be more forcibly urged that such an article came within the purview of the old law than within the present Act?

In the Gorham case[1] the court said the design law was intended to encourage " the decorative arts." The Patent Office had in the Parkinson case[2] expressed the same

1—Gorham Mfg. Co. v. White, 14 Wall, 511.
2—1871 C. D. 251.

LEGISLATIVE INTENT SERVICE (800) 666-1917

view. This interpretation of the law was strictly adhered to by the Office subsequent to the decision in the Gorham case in the decision in the case of ex parte Chas. A. Seaman[1].

3. Design Patent Laws Now in Force.—The laws now in force which relate particularly to designs are as follows:

"Revised Statutes, Section 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and four months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

"An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same invention, discovery, or design was first filed in such foreign country, provided the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Stat-

1—4 O. G., 691.

LEGISLATIVE INTENT SERVICE (800) 666-1917

utes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than two years prior to such filing."

* * * * * * * *

"Section 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foriegn country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had, the same as in cases of invention or discoveries covered by section forty-eight hundred and eighty-six, obtain a patent therefor.

"Section 4930. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

"Section 4931. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

"Section 4933. All the regulations and provisions which apply to obtaining or protecting patents for inven-

LEGISLATIVE INTENT SERVICE (800) 666-1917

tions or discoveries not inconsistent with the provisions of this Title, shall apply to patents for designs.

* * * * * * * *

"Section 4934. The following shall be the rates for patent fees:

* * * * * * * *

"In design cases: For three years and six months, ten dollars; for seven years, fifteen dollars; for fourteen years, thirty dollars."

Act of February 4th, 1887:

"Be in enacted, etc. That hereafter, during the term of letters patent for a design, it shall be unlawful for any person other than the owner of said letters patent, without the license of such owner, to apply the design secured by such letters patent, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or to sell or expose for sale any article of manufacture to which such design or colorable imitation shall, without the license of the owner, have been applied, knowing that the same has been so applied. Any person violating the provisions, or either of them, of this section, shall be liable in the amount of two hundred and fifty dollars; and in case the total profit made by him from the manufacture or sale, as aforesaid, of the article or articles to which the design, or colorable imitation thereof, has been applied, exceeds the sum of two hundred and fifty dollars, he shall be further liable for the excess of such profit over and above the sum of two hundred and fifty dollars; and the full amount of such liability may be recovered by the owner of the letters patent, to his own use, in any circuit court of the United States having jurisdiction of the parties, either by action at law or upon a bill in equity for an injunction to restrain such infringement.

"Section 2. That nothing in this act contained shall prevent, lessen, impeach, or avoid any remedy at law or

LEGISLATIVE INTENT SERVICE (800) 666-1917

in equity which any owner of letters patent for a design, aggrieved by the infringement of the same, might have had if this act had not been passed; but such owner shall not twice recover the profit made from the infringement."

The question is sometimes raised whether the general provisions of the patent laws not inconsistent with the laws relating to designs are applicable to design patents. This appears to be answered clearly in the affirmative. Even prior to the date of the passage of the section of the revised statutes which makes the general provisions of the patent laws applicable to design patents, (Section 4933 Revised Statutes) it was suggested by a good authority that they were applicable[1].

1—Simonds p. 206.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Chapter II.

SUBJECT MATTER FOR DESIGN PATENT.

4. Some Definitions of a Design Patent.—What is a "design" within the meaning of this term as used in the patent laws? Robinson's definition is:—

"A design is an instrument created by the imposition upon a physicial substance of some peculiar shape or ornamentation which produces a particular impression upon the human eye, and through the eye upon the mind[1]."

Renwick in his work on Patentable Invention defines a design as follows:—

"The design of an article whatever it be, is the appearance of the thing, as distinguished from its structure[2]."

The Circuit Court of Appeals for the Second Circuit in the case of Rowe v. Blodgett & Clapp Co.[3] said:—

"Patents for designs are intended to apply to matters of ornament, in which the utility depends upon the pleasing effect imparted to the eye, and not upon any new function * * * Design patents refer to appearances, not utility. Their object is to encourage works of art and decoration which appeal to the eye, to the esthetic emotions, to the beautiful."

Mr. Pettit has made this interesting statement in regard to designs:—

"A design is a delineation of form or figure, either plain or solid, a shape or configuration. The construc-

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1—Sec. 200.
2—Sec. 71.
3—112 F., 61; 98 O. G. 1286; 1902 C. D. 583.

LEGISLATIVE INTENT SERVICE (800) 666-1917

tion of an article in accordance with that delineation is the materialization of the conception of the design. Under the decisions in design cases it has been held that the Act requires that the shape produced shall be the result of industry, effort, genius and expense; and also requires that the shape, form or configuration, sought to be secured, shall also be new and original, as applied to an article of manufacture."[1]

The Commissioner of Patents in 1902 in an argument presented to the Senate Committee in support of the bill which became the Act of May 9, 1902, (Section 4929 of the Revised Statutes as amended) had this to say relative to the nature of a design patent:—.

"It is thought that if the present bill shall become a law the subject of design patents will occupy its proper philosophical position in the field of intellectual production, having upon the one side of it the statute providing protection to mechanical constructions, possessing utility of mechanical function, and upon the other side the copyright law, where objects of art are protected, reserving to itself the position of protecting objects of new and artistic quality pertaining, however, to commerce, but not justifying their existence upon functional utility. If the design patent does not occupy this position there is no other well-defined position for it to take. It has been treated of late years as an annex to the statute covering mechanical cases, since the introduction of the word "useful" into it. It is thought that this practice should no longer continue[2]."

The Circuit Court of Appeals for the Seventh Circuit in the case of Pelouze Scale & Mfg. Co. v. American Cutlery Co. et al[3] defined a design as follows:—

1—The Law of Invention—Horace Pettit, Philadelphia, January 1, 1895.
2—Scientific American, May 24, 1902, Val 86, No. 21, p. 361.
3—102 F. 916.

LEGISLATIVE INTENT SERVICE (800) 666-1917

"Design, in the view of the patent law, is that characteristic of a physical substance which, by means of lines, images, configuration and the like, taken as a whole, makes an impression, through the eye upon the mind of the observer. The essence of a design resides, not in the elements individually, nor in their method of arrangement, but in their *tout ensemble,* in that indefinable whole that awakens some sensation in the observer's mind. Impressions thus imparted may be complex or simple; in one a mingled impression of gracefulness and strength, in another the impression of strength alone. But whatever the impression, there is attached in the mind of the observer, to the object observed, a sense of uniqueness and character."

The design under consideration was a scale frame.

5. Must be Original.—In order that a design may be patentable, it must be "original" with the inventor; that is, it must not be obtained from another. This word as used in the statute is not synonymous with "new[1]." The presumption of originality arises from the grant of a design patent in the same manner as it does from the issue of the other class of patents, usually referred to as "mechanical patents" in constradistinction to " design patents."

6. Design Must Be Ornamental.—Although it was generally held by the Patent Office and the Courts before the design law was amended by the Act of May 9, 1902, that designs to be patented must be "ornamental," this word was new to the design laws when used in the amendatory Act of May 9, 1902. It was clearly the desire of those who secured the passage of this amendatory Act to lessen the doubt upon the question of what was proper subject mat-

1—Parkinson 1871 C. D., 251.

LEGISLATIVE INTENT SERVICE (800) 666-1917

ter for a design patent. With this in view the word "useful" was omitted and the word "ornamental" was placed in the statute.

7. "Ornamental" Defined.—The term "ornamental" as used in reference to designs indicates an object which is produced for the purpose of giving a pleasing appearance. This may result from surface ornamentation, from symmetrical outline, from harmonious arrangement of parts, from balanced effect of the various features of the design, or in other ways. If the object produced is beautiful, it is "ornamental" within the meaning of the statute. A thing may also be beautiful and therefore ornamental in the sense here used if it is grotesque, bizarre, or ludicrous. The design is "ornamental" if it appeals to the esthetic emotions.[1] But although it must be "a thing of beauty" it is not necessary that it show any high degree of esthetic excellence. A low order of ornamentation is under the law entitled to encouragement the same as a low order of invention,[2] or an unpretentious degree of intellectual or artistic merit[3].

The word "ornamental" was substituted for the word "artistic" in the House of Representatives on the recommendation of the committee on Patents, the word "artistic" having been used in the original draft of the bill which became the Act of May 9, 1902[4].

There are many articles which all agree are ornamental objects clearly entitled to protection under the design

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1—Rowe v. Blodgett & Clapp Co., 112 F. 61; 98 O. G. 1286; 1902 C. D. 583; Wright v. Lorenz 101 O. G. 664; 1902 C. D. 340; Knothe, 102 O. G., 1294; 1903 C. D. 42; Hartshorn, 104 O. G., 1395; 1903 C. D., 170.

2—Diamond Rubber Co. v. Consolidated Rubber Tire Co. 220 U. S. 429-435; 166 O. G. 251; 1911 C. D. 538.

3—Bleistein et al v. Donaldson Lithographing Co. 188 U. S., 239; 102 O. G., 1553; 1903 C. D. 650.

4—H. R. No. 1661, 57th Cong. 1st Session.

LEGISLATIVE INTENT SERVICE (800) 666-1917

law, such as watch cases, spoons, medals, vases, various kinds of glassware, and many other articles. There are other articles in regard to which there may be strong doubt whether they are proper subject for protection. The adjudicated cases in which was considered the question whether the particular design was proper subject matter for protection as an ornamental object are helpful in reaching a determination of the meaning of the word "ornamental."

A box for fur sets was held patentable as a design in one of the earliest reported Patent Office decisions[1]; so also was a rubber eraser[2], and a damper for stove pipes[3].

A casing for a disinfecting apparatus is an ornamental object[4], as is a grass hook[5]. A metal sink[6], a machine frame[7], a casing for multicylinder gas engines[8] and a face plate for vending machines[9], have all been held by the board of examiners-in-chief, as disclosed by the patented files ornamental objects entitled to be protected by the issue of a design patent.

8. Design Held Not Ornamental.—In the early case of ex parte Peter C. Parkinson[10] the Commissioner of Patents changed the practice which had prevailed for some time which he designated as "not only liberal but lax" and held that the design patent laws were intended to protect "ornamental articles used simply for decoration." A design for a claw hammer was not such an article. This decision was followed by the decision in

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1—Crane, 1869 C. D., 7.
2—Bartholomew, 1869 C. D., 103.
3—Fenno, 1871 C. D., 52.
4—West Disinfecting Co. v. Frank et al, 149 F., 423.
5—Earle Mfg. Co. v. Clarke & Parsons, 154 F., 851.
6—Design patent 40, 064, Frank H. Caldwell.
7—Design patent 42, 294, E. H. Oderman.
8—Design patent 41, 543, W. Kelly
9—Design Patent 38, 762, C. C. Travis.
10—1871 C. D. 251.

LEGISLATIVE INTENT SERVICE (800) 666-1917

the case of ex parte Seaman[1] in which it was held that a lamp chimney cleaner was not proper subject matter for protection under the design patent statutes, as it was not an ornamental object. In the case of Williams Calk Co. v. Kemmerer[2], in considering the question of what constitutes an ornamental design the court said:—

"We think the design patent is invalid. Section 4929 of the Revised Statutes (U. S. Comp. 1901, p. 3396) was not intended to embrace a patent for such a design as is set forth in the design letters patent under consideration. It was intended, in order that a design might be patentable, that it should of itself, as an artistic configuration, present something new and useful from an esthetic point of view. Within the meaning of the Act, there is nothing artistic, ornamental, or decorative in the design of a horseshoe calk; it is essentially a mechanical, and not an esthetic, device. It is impossible to suppose that it should be bought or used because of its esthetic features. Its success as a calk would depend upon its useful, and not artistic character."

Again in the case of Rose Mfg. Co. v. E. A. Whitehouse Mfg. Co.[3] it was held that patents for vehicle number plate supports were invalid. The court stated:—

"A valid design patent does not necessarily result from photographing a manufactured article and filing a reproduction of such photograph properly certified in the Patent Office. The designs of the design patents in suit are for the most part alike. No. 41,389 differs, however, from No. 41,388 in having braces which unquestionably strengthen the arm, to which the number plate is attached. It is not only apparent that this is their function, but it is also established to be such by the evidence. Indeed,

1—4 O. G., 691.
2—145 F. 928.
3—201 F. 926.

LEGISLATIVE INTENT SERVICE (800) 666-1917

every feature of these patents is mechanical and functional, and not ornamental. Even ordinary rivet heads are made to appear as beautiful circles in this scheme of ornamentation. If, moreover, the braces or supports of patent No. 41,389 were intended for ornamentation, they apparently failed in their mission, but, if otherwise, then every piece of mechanism can, with the aid of photography and the machinery of the Patent Office, be readily crystallized into a design patent."

In the case of Star Bucket Pump Co. v. Butler Mfg. Co.[1] doubt was expressed as to whether a pump curb (patent No. 28,190) was subject matter for protection. The court thought it probably was not properly associated with decorative objects.

The bath tub seat shown in design patent No. 29,993, was held to have nothing to commend it to the eye as an ornamental object.[2]

The Patent Office has held that a shade roller[3], a jar of the character shown[4], and a side frame for car trucks[5], are not ornamental objects, and patents for these designs were refused.

The Federal courts, have held invalid, patents issued for a syringe[6], a belt fastener plate[7], an insulating plug for electric line supports[8], a washer for thill couplers[9], a bottle of the design shown[10], and a lamp bracket[11].

The last two were held invalid because not pleasing, artistic objects; but it is gathered from the decisions either that they were not novel in view of the existing

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1—198 F. 857.
2—Buffalo Specialty Co. v. Art Brass Co., 202 F. 760.
3—Hartshorn, 104 O. G., 1395; 1903 C. D. 170.
4—Wright v. Lorenz, 101 O. G. 664; 1903 C. D. 340.
5—Bettendorf, 127 O. G. 848; 1907 C. D. 79.
6—Marvel v. Pearl, 114 F. 946.
7—Eaton v. Lewis, 115 F. 635.
8—Williams v. Syracuse and S. R. Co., 161 F. 571.
9—Bradley v. Eccles, 126 F. 945.
10—Chas. Boldt Co. v. Turner Bros. Co., 199 F. 139-144.
11—Note to Bolte & Weyer Co. v. Knight Light Co., 180 F. 412.

LEGISLATIVE INTENT SERVICE (800) 666-1917

forms or that it did not involve invention to produce these objects in view of the art disclosed. It can not be safely held on these decisions that bottles and lamps are not proper subject matter for protection as ornamental objects.

9. **Article For Obscure Use.**—It apparently is assumed in the decisions holding a design invalid because for obscure use that such an article is not ornamental. Does this necessarily follow? Why may not a design which is covered up and which is never seen while in use possess a high degree of artistic excellence? This question is probably entirely a moot question for the articles which are used in an obscure manner are usually without any claim to ornamental value.

An insulating plug for electric lines was said to be for an obscure use as well as not ornamental and therefore the patent issued for it was held invalid.[1] A metal spool for use in a typewriter is an article for obscure use and a patent for this was decided to have been improperly issued.[2] The question whether a vehicle number plate support is not obscured in use, and is therefore not subject matter for a design patent was raised in the case of Rose Mfg. Co. v. E. A. Whitehouse Mfg. Co.[3] but was not decided. A horseshoe calk[4] and a washer for thill couplers[5] are not articles for which a valid patent can be issued in accordance with the views expressed in the cases referred to.

10. **"Useful."**—It has been pointed out that the word "useful" was first used in the design patent Act of 1870 as modifying the term "shape or configuration"[6]. This

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1—Williams v. Syracuse and S. R. Co., 161 F. 571.
2—Wagner Typewriter Co. v. Webster Co., 144 F. 405.
3—201 F. 926.
4—Rowe v. Blodgett & Clapp Co., 112 F. 61; 1902 C. D. 583; and Williams Calk Co. v. Kemmerer et al., 145 F. 928.
5—Bradley v. Eccles, 126 F. 945.
6—Section 2.

LEGISLATIVE INTENT SERVICE (800) 666-1917

word caused a great deal of discussion and was considered in many decisions[1]. To get rid of this difficulty in construing this word as applied to design patents the Committee on Patents of the House of Representatives in reporting the bill which became the Act of May 9, 1902 said:—

"Under the existing statute the United States Supreme Court has said that consideration may be given to the word 'useful' in the granting of a patent. Other courts in attempting to define what consideration shall be given to the word 'useful', define it as 'adaptation to producing pleasant emotions'. This has nothing whatever to do with mechanical utility.

This state of affairs has brought into the Patent Office much contention and some confusion. To avoid these difficulties and to make plain the distinction between mechanical patents, where 'utility' is an essential element, and design patents, where 'utility' has nothing to do with it, but where ornamentation is the proper element of consideration, the amendment offered by this bill is proposed."[2]

A majority of the courts which have decided what meaning should be given to this word "useful" as used in the Act of 1870 and section 4929 of the Revised Statutes before that section was amended, have held that it referred to the usefulness resulting from creating an ornament or a beautiful thing. In the case of the Westinghouse Co. v. Triumph Co.[3] the Court of Appeals of the Sixth Circuit said:—

1—The views expressed in the decisions in the case of Crane, 1869 C. D., 7; Bartholomew, 1869 C. D., 103 and Fenno, 1871 C. D. 52, on the side of liberal construction are opposed by the rulings in the cases of Parkinson 1871 C. D., 251 and Seaman, 4 O. G., 691. In 1879, in the case of ex parte Shoeninger, 15 O. G., 384; 1878 C. D. 128, it was ruled that if a design was new, original and also useful it was patentable even if not ornamental, or beautiful.

2—H. R., #1661, 57th Cong. 1st Session.

3—97 F. 99; 90 O. G., 603; 1900 C. D. 219.

LEGISLATIVE INTENT SERVICE (800) 666-1917

"We think it very doubtful whether the word 'useful', introduced by revision of the patent laws into the statute, is to have the same meaning as it has in the section providing for patents for useful inventions. The whole purpose of Congress, as pointed out by Mr. Justice Strong, speaking for the Supreme Court, in the case of Gorham Co. v. White (14 Wall, 511) was to give encouragement to the decorative arts. It contemplated not so much utility as appearance. We must infer that the term 'useful' was inserted merely out of abundant caution to indicate that things which were vicious and had a tendency to corrupt and in this sense were not useful, were not to be covered by the statute".

The Court of Appeals of the District of Columbia showed that it held a somewhat different view in the case of in re Tournier[1]. It said:—

"But since the introduction of the word 'useful' into the statute, the Supreme Court of the United States has held, in more than one case, that in certain classes of designs embraced by the statute in addition to the mere esthetical or artistic effect of the design upon the senses of the spectator, the element of functional utility may be considered in considering the question of the patentability of the design claimed. (Lehnbeuter v. Holthans, 1882 C. D., 263; 105 U. S., 94; Smith v. Whitman Saddle Co., 1893 C. D., 324; 148 U. S., 674).

We do not, however, understand the court as intending to go further than this, and to hold that functional utility is to be regarded as a controlling or even an essential element in a design patent. For if so, the design patents would virtually be placed upon the same footing and with the same requirements of patents for mechanical inventions."

1—17 App. D. C. 481; 94 O. G. 2166; 1901 C. D. 306.

LEGISLATIVE INTENT SERVICE (800) 666-1917

These decisions were all rendered before the design Act was amended by the elimination of the word "useful" and the substitution of the word "ornamental".

What part does functional utility now play in the consideration of design patents?

In the decision in the case of ex parte Knothe[1] rendered soon after the amendment of the design Act the Commissioner of Patents said:—

"It has finally been settled, however, that designs refer to appearance and not to mechanical utility" * * * *

The Revised Statutes provide protection to the inventor of a new manufacture which is useful under Sec. 4886 and to the inventor of an ornamental design for an article of manufacture under Sec. 4929 within like limitations relating to prior knowledge or use, patenting or publication, public use or sale, and abandonment. These two sections, 4886 and 4929, cover distinct subject matters of invention. These distinct subject-matters may both be present in a single article of manufacture or either may be present in the absence of the other".

To the same effect is the ruling by the Commissioner of Patents in the case of ex parte Hartshorn[2]; ex parte Kern[3]; ex parte Nickel and Crane[4], and ex parte Bettendorf[5]. In the decision in the Hartshorn case supra, it is brought out that the fact that the shade roller under consideration was not only created for a functional purpose, but that this particular article did not contain any embellishment. It was the fact that there was no ornamentation present which rendered the design unpatentable.

There are several cases which hold that the question of use does not enter into consideration in designs[6].

1—102 O. G., 1294; 1903 C. D. 42.
2—104 O. G., 1395; 1903 C. D. 170.
3—105 O. G., 2061; 1903 C. D. 292.
4—109 O. G., 2441; 1904 C. D. 135.
5—127 O. G., 848; 1907 C. D. 79.
6—Segelhorst, 109 O. G., 1887; 1904 C. D. 125; Hess, 19 Gour., 74-27. Sherman, 147 O. G., 237; 1909 C. D. 170. Mygatt, 186 O. G., 987. Mygatt, 188 O. G., 1055.

LEGISLATIVE INTENT SERVICE (800) 666-1917

A rather close distinction is shown in the cases of in re Tournier[1], and in re Sherman[2]. In the former, decided while the word "useful" was still in the statute, the court said that functional utility was not to be regarded "as a controlling or even as an essential element in a patent for a design". In the latter the same court said in a case which arose after the design law had been amended by the elimination of the word "useful", and the substitution of the word "ornamental", that "in a close case utility may be given some consideration". It would appear that if the utilitarian aspect of a design was in a close case held sufficient to justify upholding the patent, that the functional utility in that case controlled, for it is hard to see why an element, the consideration of which, results in sustaining the validity of a design must not be considered as essential.

A design patent used as a gambling device is not valid. The principles applicable to mechanical patents to the effect that the patent laws do not uphold an invention which is injurious to the health, morals or good order of the community apply to designs[3]. A design patent for a casing for a coin controlled machine which had been used as a gambling device was held invalid[4].

11. Mechanical Function.—The mechanical means used to accomplish a certain purpose can only be covered by a mechanical patent[5]. Patents have repeatedly been refused, or held void when issued, if the only distinguishing feature is the mechanical form or function[6].

The fact, however, that a design is useful, if it is an ornamental object, does not affect its patentability as such[7].

1—17 App. D. C., 481; 94 O. G., 2166; 1901 C. D. 306.
2—35 App. D. C., 100; 154 O. G., 839; 1910 C. D. 125.
3—Bedford v. Hunt F. C. 1217; Device Co. v. Lloyd, 40 F. 89.
4—Reliance Novelty Co. v. Dworzek, 80 F., 902.
5—Royal Metal Mfg. Co. v. Art Metal Works, 121 F. 128.
6—Roberts v. Bennett, 136 F. 193. Lane Bros. Co. v. Wilcox Mfg. Co., 141 F. 1000. Hess Jr., 19 Gour., 74-27. Johnson, 159 O. G., 992; 1910 C. D. 192. Mygatt, 186 O. G. 987.
7—Mygatt v. Zalinski et al., 138 F. 88.

LEGISLATIVE INTENT SERVICE (800) 666-1917

A claim in a design application which relates to the mechanical function is not allowable[1].

12. Article of Manufacture.—A "mechanical" patent as distinguished from a design patent, is granted for an art, machine, manufacture or composition of matter; a design patent, by the terms of section 4929 Revised Statutes, is limited to an article of manufacture.

In the case of Parkinson[2] the Commissioner of Patents said: "By 'article of manufacture' as used in this section, the legislature meant only ornamental articles; articles used simply for decoration". The important part of this statement is that a manufacture is referred to as an "article." In the case of ex parte Wm. Whyte[3] an alleged design for a shield or escutcheon was under consideration. In discussing the provision of the Act of 1870 then in effect, granting design patents for "any new and useful impression, ornament, pattern, print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article manufacture, the Commissioner said:

"There can be but little doubt that, in the enumeration of subjects for design patents as contained in the clause of the statute above quoted, regard was had to the external ornamentation of articles of manufacture; and that to this end it was the intent of the law that the various designs should be so affixed to the manufactured article, or so wrought into their texture as to become in effect a part of them. They were not intended to subserve merely a temporary purpose—such, for instance, as to distinguish the article by their presence upon it until it should have passed into the hands of the consumer, and until obliterated by the natural and gradual deterioration resulting from use."

1—Mygatt, 188 O. G. 1055.
2—1871, C. D., 251.
3—1871, C. D., 304.

LEGISLATIVE INTENT SERVICE (800) 666-1917

This decision is important in that it shows that at a time when the design statute permitted the granting of a patent for an ornament, a picture, or similar article placed on or worked into an article of manufacture, the statute was held to mean that the ornamentation of whatever character must be a part of the article. Throughout the early decisions occur the words "definite article of manufacture." In the Whyte case, supra, the Commissioner concluded that:—

"In the absence from the specification of all mention of the articles, if any, upon which it is proposed to place the design as an ornamentation, and to which it would be adapted for such a purpose, and upon the intrinsic evidence of the design itself, it must be held that it is really intended as a trademark".

In the case of ex parte Wm. King[1], decided soon after the trademark Act of 1870 was passed, and in which it was held that a trademark could not be patented as a design, in discussing the only provision of the Statute under which it might be possible to patent an ornamental design which was not applied to any particular goods, that is, the provision "any new and original impression, ornament, etc.", the Commissioner said: "This manifestly refers to the external ornamentation of manufactured articles, and it requires, first, a specific article of manufacture to be ornamented; and second, an impression, ornament, pattern, print, or picture to be placed upon it."

In the Whyte case this ruling is referred to with approval, with this comment:—

"It is not recalled that there is any adjudication of the Courts upon the validity of a design patent, which contains no specification of the class of goods to which the design is applicable".

1—1870 C. D., 109.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The views expressed in these early cases were subsequently followed. In the case of ex parte Gerard[1] it was announced that:—

"The invention which is the subject of the design patent cannot exist separate and apart from the article of manufacture."

In 1898 in the case of ex parte Hill and Renner[2] in which an attempt was made to patent a design for a show card holder, two forms being presented, the Commissioner criticised the disclosure on the ground that the application was not limited to a "single article of manufacture" as required by the statute. In the case of ex parte Amberg[3] the applicant desired a patent for a "design for banners, badges, buttons, and other decorative devices and displays." In other words, he desired a patent for the artistic surface ornamentation which he had invented. The issue was here met directly by Commissioner Duell, who said:—

"Granting the applicant's contention is correct that the design is a surface ornamentation that may be placed on other articles than that shown, yet from his description this surface ornamentation has been applied or produced only on a flag or banner. Applicant has not invented or produced this design on any other article of manufacture than a flag or banner. He should confine the title of the invention and the claim to what he has produced and shown and described in his application, leaving to the courts the question as to whether he may use it on any other article than a banner or flag or whether any other party using it on other devices would infringe his design . This is the gist of the present practice."

1—43 O. G., 1235; 1888 C. D., 37.
2—82 O. G., 1988; 1898 C. D., 38.
3—84 O. G., 507; 1898 C. D., 117.

LEGISLATIVE INTENT SERVICE (800) 666-1917

To the same effect is the ruling in the cases of ex parte Hartman[1]; ex parte Hewitson[2], and ex parte Remington[3].

This interpretation of the statute was in various decisions regarded as in accord with the ruling of the Supreme Court in the Gorham case in which this statement occurs:—

"The apperance may be the result of peculiarity of configuration, or of ornament alone, or of both conjointly, but, whatever way produced, it is the new thing or product which the patent law regards."

In a number of cases the question has been raised whether a certain definite article is an "article of manufacture." In the case of Crier v. Innes[4] such an article was defined in this manner:—

"It is next contended that the patent is invalid because it relates to a monument which is not a "manufacture" within the meaning of the design patent statute. We think this contention not well founded. A monument is manufactured, and in our opinion, is a 'manufacture' and not, as urged by the defendants, a species of architecture. It comes within the dictionary definition of the former term, and if we go beyond that and look at trade usage, we find in the present record the defendants' own witnesses describing themselves as monument 'manufacturers,' and speaking of manufacturing monuments."

The term "manufacture" may not be extended to include a class of goods. The term "table-ware" is too indefinite[5].

1—84 O. G., 648; 1898 C. D., 120.
2—87 O. G., 515; 1899 C. D., 77.
3—114 O. G., 761; 1905 C. D., 28.
4—170 F., 324.
5—Proeger 57 O. G., 546; 1891 C. D., 182.

LEGISLATIVE INTENT SERVICE (800) 666-1917

In holding that a dwelling house is not a "manufacture," and therefore not entitled to protection under the design patent act, the Commissioner of Patents in the case of ex parte Lewis[1] said:—

"The word 'manufacture' must be limited to manufactured articles, that is to say, articles made by hand, machinery, or art from raw or prepared materials, and any construction that will make it include a dwelling house or any other article of realty would involve such a departure from the received signification of the word as employed in statutes relating to patents as to be wholly inadmissible".

In the case of Graff, Washbourne & Dunn v. Webster[2] in holding a design patent for a border section of a dish valid some apparent force is given to the view that a fragment is patentable. In that case the court said it would seem that an inventor could patent some component detail of his design. The court may, however, have regarded the border section as an independent article of manufacture.

The Circuit Court of Appeals of the Second Circuit held the Tomkins patent for a design for a bed spring invalid for lack of patentability or not infringed[3]. Although the Court did not directly so rule, the question is worthy of serious consideration whether the invalidity did not result in reality from the failure of the inventor to disclose in the drawing or describe in the specification a complete article.

It is difficult however to reconcile the practice of issuing some design patents with the rulings of the Office requiring a definite article of manufacture to be specified. Patents, for instance, have been issued for a design for the "backs of playing cards".

1—54 O. G., 1890; 1891 C. D. 61.
2—189 F. 902.
3—James E. Tomkins Co. v. New York Woven Wire Mattress Co., 159 F. 133.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The very recent decision in the case of ex parte Fulda[1] changes the practice relative to that class of designs which reside in superficial ornamentation. In this case the Commissioner said:—

"Where the design is for the form or configuration or involves the relative proportions of parts of an article of manufacture, said article of manufacture must necessarily be disclosed in the application. Where, however, as in the present case, the design is for an ornament adapted to be applied to any article of manufacture, I fail to find in the statute any requirement that the applicant shall disclose his design as applied to some particular definite article of manufacture, as required by the Examiner."

Even before the decision in the case of ex parte Fulda, supra, was rendered, patents were issued in which the specification recites that no novelty is claimed in the shape of the article[2]. Surface decoration is the ornamental feature of these designs.

13. Machine Not Patentable As a Design.—The terms "art", "machine", "manufacture", and "composition of matter" have a well recognized meaning in the patent laws. While section 4886, Revised Statutes permits the grant of a patent for any new invention in any of them, section 4929 names only a "manufacture" as proper subject matter for a design patent. A machine therefore is not proper subject matter for a design patent. This has been repeatedly so held in Patent Office decisions.[3]

There are some cases in which the question whether a device is a manufacture or a machine is a close one. Some aid in determining it may be obtained by considering some of the decisions on this question.

1—194 O. G. 549 (August, 1913).
2—Patents 44421, Smith, and 44381, Owen.
3—Adams, 84 O. G., 311; 1898 C. D. 115; Steck 98 O. G., 1228; 1902 C. D. 9.

LEGISLATIVE INTENT SERVICE (800) 666-1917

In ex parte Smith[1] it was decided that an atomizer was not proper subject matter for protection under the design statute because of the presence of movable parts which when moved changed the appearance of the device. It apparently was the view of the Commissioner that if the movable handle was removed it would not be objectionable as presented and a patent was subsequently issued on this application for an atomizer body[2]. In the case of ex parte Tallman[3] a design patent for a can opener was refused on the ground that the knife forming a part of it was a movable part and when shifted the shape or contour of the article was changed. A patent for a can opener body was subsequently issued on this application[4]. A pair of tongs consisting of two members of the same shape pivoted together is an operative device and not within the purview of the design laws[5]. In this case the Commissioner stated:

"If applicants have invented and produced anything that is novel, it is not a pair of tongs, but the shape or configuration of a member or jaw of a pair of tongs. The description and claim should be limited to this".

In the case of ex parte Adams, and ex parte Steck, supra, a design for truck side frames and for a frame for water towers, respectively, were held not patentable in that they were apparatuses having movable parts.

The design patent to Hill No. 27,272, for a furniture support consisting of two parts which were joined together in a way that permitted them to be moved, was held valid in the case of Chandler Adjustible Chair and Desk Co. v. Heywood Bros. and Wakefield Co.[6] The Court in this case thought that the broad proposition

1—81 O. G., 969; 1897 C. D. 170.
2—Design Patent No. 30,293, DeWane B. Smith.
3—82 O. G., 337; 1898 C. D. 10.
4—Design Patent 28,232, Tallman.
5—Kapp, 83, O. G., 1993; 1898 C. D. 108.
6—91, F. 163.

LEGISLATIVE INTENT SERVICE (800) 666-1917

that the design law was not intended to apply to structures having movable parts was not supported by any judicial decisions, and that to hold this desk support, made up of two parts which might be raised or lowered to vary the height of the desk, was not a "manufacture" was an unwarrantable and unreasonable limitation of the term as used in the statute.

14. Superficial Ornamentation.—Some forms of surface ornamentation are applicable to many different objects. The question then arises why a patent for a particular ornamentation should not be granted so that the inventor will not be directly or indirectly limited to the use of his surface decoration on any particular object. An ornamentation which might embellish a door knob may be equally applicable to a curtain pole, a lighting fixture, a handle, a piece of glassware and many other articles. Why should he be compelled to specify any article when by doing this he might limit the right to the use of his invention, for it is possible that another might use his decoration on an article so different from the one specified by the inventor that a court would not hold the second user an infringer. This is improbable but it is a reasonable contingency against which an inventor may well desire to protect himself. The answer of the Patent Office to these questions has been that it is necessary under the statute to point out definitely an article of manufacture (See Section 12).

There is some interesting discussion of this question in the cases of ex parte King[1] and ex parte Wm. Whyte[2]. In both of these cases there were under consideration ornamental designs which the Commissioners who considered the cases thought were trademarks. They were however decorations of the character which if placed upon a badge, emblem or similar article, would probably be regarded as proper subject matter for a design pat-

1—1870 C. D., 109.
2—1871 C. D., 304-306.

LEGISLATIVE INTENT SERVICE (800) 666-1917

ent. In both of these cases the subject matter of the applications was regarded as a trademark, but the direct statement is made that for a design patent to be valid it must specify the particular article to be decorated. These decisions rendered at a time when the law enumerated as one of the subjects of protection "any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast or otherwise placed on or worked into any article of manufacture", are of some value in reaching a correct conclusion on the question whether a patent for surface ornamentation, per se, is valid.

Mr. Fenton in his work refers to the decision in the case of Booth v. Garrelly, 1 Blatch, (C. C.) 247[1] as instructive for the reason that the patent under consideration comprised two claims, one for the configuration of the article, a button, and "the other for the surface ornamentation of the completed button."

The discussion of the subject of surface ornamentation which appears in the case of ex parte Gerard[2] is instructive. It was pointed out that a patent might be obtained for a stove including the shape of the stove with the surface ornamentation of its sides and top, but that, "In such case he can not secure a claim for the design as to ornamentation as applied to the sides and top of *any* stove, regardless of its form and configuration".

The decisions in the cases of ex parte Proeger[3], and ex parte Hartman[4] are usually referred to as prohibiting the grant of a patent for a surface ornamentation. The rulings in these cases however, are directly to the effect that in order to obtain a patent a particular article of manufacture must be specified. A patent was granted to Proeger in which the claim is for "the design for a vessel"[5].

1—Fenton on Designs—pp 9-10.
2—43 O. G., 1235; 1888 C. D. 37.
3—57 O. G., 546; 1891 C. D. 182.
4—84 O. G., 648; 1898 C. D. 120.
5—Design Patent No. 21,181, Proeger.

LEGISLATIVE INTENT SERVICE (800) 666-1917

A patent now is granted in accordance with the ruling in the case of ex parte Fulda[1] for a design consisting of surface ornamentation.

15. Unitary Structure.—The attempt has often been made to secure a patent on a device which is not a single, unitary structure, the Patent Office holding that the term "article of manufacture" means such a structure and not two or more parts, although they are joined together. Some idea of what is meant by the term "unitary structure" may be obtained by a consideration of those structures which have been held not unitary.

In the earliest reported case found bearing on this subject the question whether a patent should be issued on a design for a glass inkstand and a glass stopper was discussed[2]. The Commissioner ruled that the inkstand and stopper did not constitute a single unitary design for an article of manufacture" and that both were not patentable in a single application. As another objection to granting a single patent on both the inkstand and the stopper this was presented:—

"Another consideration of importance is, that the relative position of the two parts, when connected, ought to be uniform and fixed, in order to constitute a design, which is, as a general rule, a thing essentially unitary and unvarying in character. A design can not embrace in its scope alternates or equivalents of form. It is arbitrary and unchangeable, either by the separation or the rearrangement of its features. In this case it is obvious that there is nothing in the construction presented to preserve the alleged design shown, even when the stopper is in place, for it may be turned out of parallelism with the square of the stand, whereby the esthetic effect described will be violated and the original design de-

1—194 O. G. 549.
2—Bloomfield Brower, 1873, C. D., 151.

LEGISLATIVE INTENT SERVICE (800) 666-1917

stroyed. It would then be like a Capital misplaced on the shaft of a column."

During the time when a plurality of claims was allowed the Office held that a claim for a "definite, segregable, distinct part" of a device was allowable, but that a claim for a part of an entire whole was not allowable[1]. Mr. Fenton has well stated the law on this subject:

"Unity of design constitutes another very important question in design cases, and it may be laid down as a general rule that where there is no necessary connection between two designs or parts of a design, there is an absence of unity to render them a single patentable design,"[2]

citing ex parte Patitz[3], and ex parte Gerard[4].

A cradle supporting frame and a cradle body were held not to be a unitary structure although used together[5]. They were two separate designs. So also were two castings which were adapted to interlock to form a joint[6]. As these castings bore no resemblance to each other in shape or configuration, they did not constitute a unitary design but were merely an aggregation of two designs.

16. Design and Copyright Protection.—There are some articles which may be subject to protection under either the copyright laws or the design laws. Whether they should be entered under the former, or patents should be obtained under the latter depends upon circumstances. While dolls, toys, tools, glassware and many other similar articles are not subject to copyright[7],

1—Pope, 25, O. G., 290; 1883 C. D. 74.
2—Fenton on Designs, p 16.
3—25 O. G., 980; 1882 C. D. 101.
4—43 O. G., 1235; 1888 C. D. 37.
5—Haggard, 80, O. G., 1126; 1897 C. D. 47.
6—Brand, 83 O. G., 747; 1898 C. D. 62.
7—Rule 12, Bulletin 15, Copyright Office.

LEGISLATIVE INTENT SERVICE (800) 666-1917

paintings and sculpture are, and under the title, sculpture, a statue or statuette would be classified which is also subject matter for a design patent[1]. Design patents have also been issued for pictures[2].

The very important question arises whether protection may be obtained under *both* laws for those objects which are capable of protection under either. The subject is discussed at some length in the case of Louis De Jonge & Co. v. Brenker & Kessler Co.[3], in which it is stated that the precise question had apparently never been considered before. In this case the subject matter under consideration was a small water color entitled "Holly, Mistletoe and Spruce". It was intended to be used for a fancy paper design to cover boxes and other articles for the holiday season. It was, however, the Court stated, a work of art when it was completed by the artist. Relative to protection under the two laws the Court said:—

"Since it was qualified for admission into the two statutory classes, I see no reason why it might not be placed in either. But it could not enter both. The method of procedure, the term of protection, and the penalties for infringement, are so different that the author or owner of a painting that is eligible for both classes must decide to which region of intellectual effort the work is to be assigned, and he must abide by the decision. Ordinarily of course, there is no difficulty. Not many paintings are suitable for use as designs, and only a few designs possess the qualities demanded by the fine arts. But it is easily conceivable that here and there a painting may be eligible for either class and the water color in question is, I think, an excellent example. Such a work may be used in both the fine and the useful arts; but it can have protection in only one of these classes. The author or

1—Design Patent to Pretz, No. 39,603.
2—Design Patent to Chapman, No. 43,667.
3—182 F. 150.

LEGISLATIVE INTENT SERVICE (800) 666-1917

owner is driven to his election and must stand by his choice."

The copyright obtained in this case was held invalid because of the failure of the proprietor to give the proper copyright notice on the copies exposed for sale. The ruling of the lower court upon the invalidity from improper notice was affirmed on appeal[1].

17. A Trademark Not a Design.—The distinctions between a trademark and a design have not always been kept clear. A trademark has been defined as "the commercial substitute for one's autograph"[2]. It is usually referred to as a distinctive and arbitrary mark used to indicate origin or ownership of the goods upon which it is placed[3].

Soon after the passage of the Act of 1842 attempts were made to protect trademarks under that Act, and some two hundred design patents were issued for "designs for trademarks". It was never the intent of the design law that trademarks should be patented under it. This was pointed out by Mr. Upton who wrote a treatise on the subject of trademarks in 1860[4]. This practice of granting patents for trademarks was continued until the decision in the case of ex parte Wm. King was rendered in 1870[5]. The trademarks which were patented as designs were such marks and labels as are commonly used on tobacco, medicines, soap and other goods. The ruling in the King decision, supra, was adhered to in the case of ex parte Wm. Whyte[6].

1—Louis De Jonge & Co. v. Brenker & Kessler Co., 191 F. 35.

2—Leidersdorf v. Flint, No. 8219 F. C.

3—See definitions of a trademark in Elgin National Watch Co. v. Illinois Watch Case Co., 179 U. S., 665; Davis v. Davis, 27 F. 490; Newman v. Alvord, 51 N. Y. 189; Standard Paint Co. v. Trinidad Aspha't Mfg. Co., 220 U. S. 446; 165 O. G. 971; 1911 C. D. 530.

4—Upton on Trademarks, pp 18-19.

5—1870 C. D., 109.

6—1871 C. D., 304. For a discussion of this subject see Vol. CVII No. 16 p 33 of the Scientific American, Oct. 19, 1212, "Early Attempts to Protect Trademarks" by Wm. L. Symons.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The case of Hoeb et al. v. Bishop et al.[1], is a peculiar one. In that case an ornamental badge which was attached to a cigar by means of a pin was claimed to be a trademark by the dealer who first put out cigars with this badge on them. The Court thought the badge was an object of value and capable in itself of ownership and that it could not therefore be a trademark. If, the Court said, this was a trademark such a holding would lead to the result that any two salable articles of merchandise might be attached together and that one might be claimed as a trademark of the other. Proper protection in this case apparently could have been secured under the design patent laws.

The Patent Office having decided that a certain device is a design for which a patent has been issued will not grant to another registration of this same design as a trademark. To do so would cast a shadow on the right of the patentee[2].

Registration of a design the patent for which has expired will be granted if use of the design as a trademark is shown in accordance with the statute[3].

In holding a design patent for a horseshoe calk invalid the Circuit Court of Appeals of the Second Circuit stated:—

"The designer of articles of manufacture not otherwise entitled to receive design patents can not justify the issuance of such patents on the theory that the design is a trademark"[4].

In this case the court thought that the shape of the particular article under consideration could only have the effect of advising the purchaser that the calk was

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1—49 O. G., 1845; 1889 C. D. 695.
2—Lee & Shepard, 24 O. G., 1271; 1883 C. D. 66.
3—King, 46 O. G., 119; 1889 C. D. 3.
4—Rowe v. Blodgett & Clapp Co., 112 F. 61; 98 O. G., 1286; 1902 C. D. 583; see also Coats et al. v. Merrick Thread Co., 149 U. S., 562; O. G. 1531; 1893 C. D. 373.

LEGISLATIVE INTENT SERVICE (800) 666-1917

made by the patentee; the calk was not ornamental or attractive.

It is, of course, well established that the name of a patented article is not a valid trademark, and this rule was applied in a case involving a design patent.[1] After the design patent had been secured on the image known as "Billiken" an attempt was made to register the word as a trademark for images. This was refused. At the expiration of the term for which the patent was issued, the public is entitled to manufacture the design covered by the patent. The grant of a trademark would prevent the use of the descriptive term "Billiken" for that design which is the only term by which it could be properly designated.

An ornamental feature of a fire alarm box (the well known Gamewell fire alarm box) was refused registration as a trademark[2]. The ornamental casing if new would probably have been subject matter for protection under the design patent laws. An effort to register the ornamental feature of a spoon as a trademark was unsuccessful[3].

18. Internal Structure.—The definitions of a design patent (section 4) show that it relates to appearance; to the effect on the mind through the eye. It therefore follows that the internal structure of an object can not be made the subject matter of a design patent, or be considered as an element in determining the question of patentability. This is pointed out in the case of Feder v. Poyet[4].

An attempt to show a wire or bar which in the complete article for which the design patent was desired was

1—The Craftsman's Guild, 143 O. G., 257; 1909 C. D. 91.
2—The Gamewell Fire Alarm Telegraph Co., 185 O. G. 827; 1912 C. D. 394.
3—Oneida Community, Ltd., 190 O. G., 1027.
4—89 O. G. 1343; 1899 C. D. 218.

LEGISLATIVE INTENT SERVICE (800) 666-1917

hidden was not successful. The Commissioner of Patents said that this bar was a feature of internal construction and should therefore not be disclosed in the drawing[1]. This ruling was subsequently approved[2].

In the case of ex parte Kohler[3] relative to the requirement of the Examiner that the applicant cancel a figure which showed internal structure, the Commissioner of Patents ruled:—

"Fig. 3 shows the design in cross section, and it is very clear that the article will never have this appearance to any one seeing it. The petitioner says that this figure does not show the interior construction of the article, since there is no interior construction shown, and in this way he seeks to distinguish this case from ex parte Colton, (104 O. G., 1119). It is, nevertheless true, that this figure shows the construction rather than the appearance, for, as above stated, the figure has an appearance which the article itself can never have. The drawing should illustrate the design as it will appear to purchasers and users, since the appearance is the only thing that lends patentability to it under the design law."

It does not follow that sectional views are entirely prohibited. If a cross section clearly illustrates a feature of the design and is not used for the express purpose of showing internal construction, such a view is permissible[4]. In the Lohmann case the Commissioner of Patents expressed the opinion that the sectional view showed clearly that the surface ornamentation was in relief and not intaglio[5].

1—Tucker 97 O. G., 187; 1901 C. D., 140.
2—Colton, 104 O. G., 1119; C. D., 156.
3—116 O. G., 1185; C. D., 192.
4—Lohmann 184 O. G., 287; 1912 C. D., 336.
5—Lohmann Design Patent No. 43, 331.

LEGISLATIVE INTENT SERVICE (800) 666-1917

19. Improvement.—Section 4886 of the Revised Statutes provides for the granting of a patent for any new and useful art, machine, manufacture or composition of matter which has been invented or for any new and useful improvement thereof; the design patent statute does not refer to "improvements". It is therefore only for an original design for which a patent under this statute may be issued; not for an improvement thereof. This view was advanced in the first text book on the subject. Simonds expressed himself thus:—

"It is tolerably clear that unless the improvement were carried so far as to make the improved design substantially unlike the original, it would not be patentable * * * * * both the text of the law and the construction of the court point to the conclusion that a design patent can not be allowed for a design which is tributary to another, or a mere improvement thereon, and not in substance unlike it"[1].

These views apparently do not refer to designs produced by the same inventor; if so the Patent Office has not agreed with the interpretation Mr. Simonds placed upon the law for the patents issued show designs granted to the same inventor which are not substantially unlike.

In the case of Wood v. Dolby[2] it was contended that the patent in suit was invalid because it was for an improved design. The court said this word "improved" did not mean that the design in question was an improvement upon another, but that the design was new and distinctive and "improved" as compared with others. This ruling was subsequently followed.[3]

1—Simonds on Design Patents p. 203.

2—7 F. 475; see also sections 22 and 23, Fenton on Designs.

3—Anderson v. Saint 46 F. 760; 57 O. G., 546; 1891 C. D. 506.

LEGISLATIVE INTENT SERVICE (800) 666-1917

It is the established practice of the Patent Office to object to the use in the specification of the word "improved" in referring to a design.

LEGISLATIVE INTENT SERVICE (800) 666-1917

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CONTENTS

ARTICLES

THE ORIGINS OF AMERICAN DESIGN PATENT PROTECTION ..... *Jason J. Du Mont & Mark D. Janis* 837

THE POLYSEMY OF PRIVACY ..... *Ronald J. Krotoszynski, Jr.* 881

AN EMPIRICAL STUDY OF CERTAIN SETTLEMENT-RELATED MOTIONS FOR VACATUR IN PATENT CASES ..... *Jeremy W. Bock* 919

THE SINS OF *HOSANNA-TABOR* ..... *Leslie C. Griffin* 981

CLARK KERR AND ME: THE FUTURE OF THE PUBLIC LAW SCHOOL ..... *Rachel F. Moran* 1021

COMMENT

"JUSTIFYING" THE PUBLIC INTEREST IN PATENT LITIGATION ..... *Scott A. Allen* 1047

NOTES

RELIGIOUSLY DEVOUT JUDGES: A DECISION-MAKING FRAMEWORK FOR JUDICIAL DISQUALIFICATION ..... *Michelle L. Jones* 1089

DEFINING FETAL LIFE: AN ESTABLISHMENT CLAUSE ANALYSIS OF RELIGIOUSLY MOTIVATED INFORMED CONSENT PROVISIONS ..... *Justin R. Olson* 1113

LEGISLATIVE INTENT SERVICE (800) 666-1917

The Origins of American Design Patent Protection

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Many firms invest heavily in the way their products look, and they rely on a handful of intellectual property regimes to stop rivals from producing look-alikes. Two of these regimes—copyright and trademark—have been closely scrutinized in intellectual property scholarship. A third, the design patent, remains little understood except among specialists. In particular, there has been virtually no analysis of the design patent system's core assumption: that the rules governing patents for inventions should be incorporated en masse for designs.

One reason why the design patent system has remained largely unexplored in the literature is that scholars have never explained how and why the system came to exist. This Article seeks to provide that account. We show how technological innovation in early American manufacturing (especially in the cast-iron goods industry) created unprecedented opportunities for creativity in industrial design and a concomitant expansion in design piracy. We analyze manufacturers' lobbying efforts that led to the first American legislative proposals for design protection, and we connect those proposals to antecedents in British copyright and design registration legislation. We also explain how these early proposals were transmuted into design patent proposals, and we explore the idiosyncratic political circumstances that surrounded the eventual passage of the design patent bill. We conclude by reassessing the modern design patent regime in view of insights drawn from our historical account.

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LEGISLATIVE INTENT SERVICE (800) 666-1917

INTRODUCTION 838
I. MODERN PERCEPTIONS OF THE AMERICAN DESIGN PATENT SYSTEM 841
A. DESIGN PATENT'S IDENTITY CRISIS 841
B. THE "HISTORICAL ACCIDENT" THESIS 847
II. TECHNOLOGICAL INNOVATION, DESIGN PIRACY, AND THE ROOTS OF AMERICAN DESIGN PROTECTION 848
A. INNOVATION AND DESIGN PIRACY IN AMERICAN ANTEBELLUM MANUFACTURING 848
B. DESIGN PIRACY IN GREAT BRITAIN AND THE INTELLECTUAL PROPERTY LAW RESPONSE 854
III. DESIGN PATENT LAW'S AMBIVALENT LEGISLATIVE ANCESTRY 855
A. THE MOTT AND RUGGLES PROPOSALS: DESIGN PATENT'S GENESIS IN BRITISH DESIGN COPYRIGHT 856
B. 1842 ELLSWORTH REPORT AND PROPOSED LEGISLATION: THE EMERGENCE OF QUASI-PATENT CONCEPTS 864
C. PASSAGE OF THE 1842 ACT: DESIGN PATENT PROTECTION AND THE PROTECTIONIST SURGE 869
IV. RETHINKING THE USE OF MODERN UTILITY PATENT RULES FOR DESIGN PATENTS 874
A. DESIGN PATENT CLAIMING PRACTICES 875
B. DESIGN PATENTABILITY STANDARDS 878
CONCLUSION 879

INTRODUCTION

In the space of a few weeks in late 2011, automaker Daimler AG sued an Asian manufacturer for infringing patents on the diminutive "Smart Car";[1] Crocs, maker of the eponymous (and wildly popular) rubber-molded footwear, filed a patent infringement suit against Walgreens;[2] Kohler sued a rival for infringing patents on stainless steel sinks;[3] and Apple and Samsung continued their worldwide battle over smart phones and tablet computers.[4] High-stakes, high-tech patent lawsuits such as these have become the norm on civil dockets of many federal courts across the country. What differentiates these suits is that they involve patents on designs—that is, patents on a product's visual appearance, not merely on the inventive components that make it work.[5] There are many other recent examples, and

1. Complaint for Trademark and Trade Dress Infringement, Trademark Counterfeiting, Patent Infringement, Unfair Competition and Trademark Dilution, Daimler AG v. Shuanghuan Auto. Co., No. 2:11-cv-13588-MOB-MAR (E.D. Mich. Aug. 17, 2011).

2. Complaint for Patent Infringement, Crocs, Inc. v. Walgreen, Co., No. 1:11-cv-02954-MSK (D. Colo. Nov. 14, 2011).

3. Complaint, Kohler Co. v. Amerisink, Inc., No. 2:11-cv-00921-WEC (E.D. Wis. Oct. 3, 2011).

4. *See, e.g.*, Apple, Inc. v. Samsung Elec. Co., 678 F.3d 1314 (Fed. Cir. 2012).

5. *See, e.g.*, 1 MANUAL OF PATENT EXAMINING PROCEDURE 1502 (8th ed. rev. 2010) (specifying that, in the context of design patents, design refers to "the visual characteristics

LEGISLATIVE INTENT SERVICE (800) 666-1917

application-filing trends suggest that intellectual property litigation over designs will become increasingly common worldwide.[6]

Design patent cases routinely deal with the products of technological innovation, but they also bring into confluence matters of consumer preference, aesthetics, and even art. For example, litigation between Apple and Samsung over the design of the iPad is as much about Steve Jobs's and Jonathan Ive's obsession with minute aspects of visual aesthetics as it is about touch-screen technology;[7] and it involves a claim that devices depicted in Stanley Kubrick's 1968 science fiction movie *2001: A Space Odyssey* so resemble the iPad that Apple's design protection should be declared invalid.[8]

Herein lies the problem. Intellectual property law has a fetish with categorization; design, by contrast, is holistic, amorphous, and multivariate.[9] It is little wonder that fitting intellectual property law to design has proven so difficult. After nearly two centuries of effort, there remain fundamental questions about how best to craft legislative schemes that will facilitate innovation in industrial design. The topic perennially appears on the U.S. legislative agenda, most recently in the form of proposals to create special protection for fashion designs.[10] A wider-ranging reexamination of design protection is underway in the United Kingdom.[11] The design protection debate is one of intellectual property law's most intractable,[12]

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embodied in or applied to an article").

6. *See* WORLD INTELLECTUAL PROP. ORG., WORLD INTELLECTUAL PROPERTY INDICATORS 153–80 (2011) (reporting statistics on industrial design protection).

7. *See, e.g.*, Nick Bilton, *Steve Jobs: Designer First, C.E.O. Second*, N.Y. TIMES (Oct. 6, 2011, 1:37 PM), http://bits.blogs.nytimes.com/2011/10/06/steve-jobs-designer-first-c-e-o-second/.

8. Eriq Gardner, *Is Apple's iPad Copied From '2001: A Space Odyssey'?*, HOLLYWOOD REP. (Aug. 25, 2011), http://www.hollywoodreporter.com/thr-esq/is-apples-ipad-copied-2001-227700 (providing a video clip from the movie scene at issue).

9. DISCOVERING DESIGN: EXPLORATIONS IN DESIGN STUDIES xiii, xvi (Richard Buchanan & Victor Margolin eds., 1995) (characterizing design as "the science of the artificial" and as "a new liberal art of industrial and technological culture"); ARTHUR J. PULOS, AMERICAN DESIGN ETHIC: A HISTORY OF INDUSTRIAL DESIGN TO 1940, at vii (1983) (referring to design as "the indispensable leavening of the American way of life"); *see also* Alice Rawsthorn, *What Defies Defining, but Exists Everywhere?; A Hint: It's Two Parts Creation and One Part 'Dastardly Plan,'* INT'L HERALD TRIB., Aug. 18, 2008, at 8 (quoting a design historian for the proposition that "[d]esign is to produce a design to design a design.").

10. Innovative Design Protection and Piracy Prevention Act, H.R. 2511, 112th Cong. (2011); BRIAN T. YEH, COPYRIGHT PROTECTION FOR FASHION DESIGN: A LEGAL ANALYSIS OF LEGISLATIVE PROPOSALS IN THE 111TH CONGRESS (2010) (discussing, inter alia, S. 3728, a fashion design protection bill that passed the Senate Judiciary Committee in 2010). On earlier efforts, see David Goldenberg, *The Long and Winding Road: A History of the Fight Over Industrial Design Protection in the United States*, 45 J. COPYRIGHT SOC'Y U.S.A. 21 (1997) (addressing proposals to enact new forms of design protection legislation in the twentieth century).

11. INTELLECTUAL PROP. OFFICE, IPO ASSESSMENT OF THE NEED FOR REFORM OF THE DESIGN INTELLECTUAL PROPERTY FRAMEWORK (2011).

12. *See, e.g.*, J.H. Reichman, *Past and Current Trends in the Evolution of Design Protection Law—A Comment*, 4 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 387, 387 (1993) ("[I]ndustrial design has posed the intellectual property world's single most complicated

LEGISLATIVE INTENT SERVICE (800) 666-1917

engrossing decades of legislative effort in the United States alone.[13] This debate has become particularly heated and uncharacteristically mainstream following the massive verdict against Samsung,[14] the size of which may have been largely driven by the presence of the design patents.

In the United States, we have never settled on a satisfactory answer to a basic normative question: why should we use a *patent* system to protect industrial designs? One reason that this question has proven so confounding and persistent is that the antecedent historical question has not been adequately addressed: how (and why) did the United States decide to create a patent system for designs? In this Article, we answer this historical question. In doing so, we seek to provide a foundation for resolving the normative question.

Our historical analysis of the intersection between intellectual property law and design complements recent scholarly debates about design protection, but we have different objectives and a different orientation. First, we do not confine our discussion to the fashion industry, the focal point of recent scholarship.[15] We are more interested in examining how intellectual property regimes affect the industrial design enterprise in the vast majority of industries—literally everything, including the kitchen sink. Second, we orient our discussion around the design patent regime; our chief objective is to understand how that regime should operate as one paradigm among many others in contemporary design intellectual property. Scholars have written very little about the design patent system.[16]

In Part I, we describe the existing U.S. design patent system and situate it within the legal landscape of intellectual property protection for designs. We focus on two chief points: (1) the design patent system's traditionally plebeian status among U.S. intellectual property regimes, contributing to a persistent problem that we describe as design patent's identity crisis; and (2) the thesis that the design patent system originated as a historical accident.

In the remaining Parts, we offer a historical analysis of the design patent system's origins, aimed at discerning the role and identity of the design patent system and at critically evaluating the claim that design patent is an accidental intellectual property regime. Part II shows how technological advances in

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puzzle.").

13. *E.g.*, *In re* Nalbandian, 661 F.2d 1214, 1218 n.1 (C.C.P.A. 1981) (Rich, J., concurring) ("Fabulous amounts of time and effort have been poured into solving the design protection problem with, to date, no legislative solution.").

14. *See, e.g.*, Leo Kelion, *Apple Versus Samsung: Jury Foreman Justifies $1bn Verdict*, BBC NEWS (Aug. 30, 2012), http://www.bbc.co.uk/news/technology-19425052.

15. *See, e.g.*, C. Scott Hemphill & Jeannie Suk, *The Law, Culture, and Economics of Fashion*, 61 STAN. L. REV. 1147 (2009) (advocating a limited anti-copying right for fashion design); *cf.* Kal Raustiala & Christopher Sprigman, *The Piracy Paradox: Innovation and Intellectual Property in Fashion Design*, 92 VA. L. REV. 1687, 1776 (2006) (arguing that "fashion's cyclical nature is furthered and accelerated by a regime of open appropriation" rather than a regime featuring stronger intellectual property protection).

16. Notable exceptions include Dennis D. Crouch, *A Trademark Justification for Design Patent Rights* (Univ. of Mo. Sch. of Law Legal Studies Research Paper No. 2010-17, 2010), *available at* http://ssrn.com/abstract=1656590; Jason J. Du Mont, *A Non-Obvious Design: Reexamining the Origins of the Design Patent Standard*, 45 GONZ. L. REV. 531 (2010); Janice M. Mueller & Daniel Harris Brean, *Overcoming the "Impossible Issue" of Nonobviousness in Design Patents*, 99 KY. L.J. 419 (2010–2011).

LEGISLATIVE INTENT SERVICE (800) 666-1917

antebellum American manufacturing created opportunities for manufacturers to incorporate design elements into mass-produced consumer goods and simultaneously triggered a design piracy problem. Part III chronicles the origin and evolution of legislative proposals that eventually matured into the design patent provisions, the first form of American intellectual property protection covering designs. We rely here on newly uncovered archival sources that reveal insights about the lobbying influence of prominent manufacturers, the political agendas of key intellectual property insiders, and connections with a legislative fight that degenerated into one of the most serious political crises in antebellum America, the fight over protectionist tariffs. We conclude in Part IV with some prescriptions for doctrinal change in modern design patent law, informed by our historical analysis.

I. MODERN PERCEPTIONS OF THE AMERICAN DESIGN PATENT SYSTEM

The design patent system has led a long but quiet life. Many observers have regarded it with ambivalence or written it off as an intellectual property lightweight. From the limited commentary about the design patent system, two themes emerge. First, some view the design patent system as having never developed a distinctive identity, a *raison d'être*. Second, some dismiss the design patent system as the product of historical accident. We discuss both views below, arguing that these are two primary obstacles to the development of a more fully theorized design patent system.

A. Design Patent's Identity Crisis

The design patent system is, first, a *patent* system. The U.S. design patent system is based primarily on three brief provisions that comprise Chapter 16 of the general (utility) patent statute.[17] These provisions impose the condition that designs be "ornamental" in order to warrant protection,[18] and they establish a fourteen-year term of protection (measured from the date of grant),[19] rules that are unique to design patents. In most other respects, however, the modern design patent system relies on substantive rules that were developed for patents on inventions—utility patent rules. Indeed, perhaps the most important design patent provision is Section 171's seemingly mundane incorporation clause, incorporating by reference "[t]he provisions of this title relating to patents for inventions . . . ."[20] That language, applied over the course of more than a century and a half of utility patent law evolution, has the effect of subjecting design patents to modern patent validity conditions such as the requirement for nonobviousness[21] and to the modern judicial

17. 35 U.S.C. §§ 171–73 (2006). A special remedies provision for design patent infringement is codified separately. *See* 35 U.S.C. § 289 (2006).

18. 35 U.S.C. § 171.

19. 35 U.S.C. § 173; *see also* Patent Law Treaties Implementation Act of 2012, Pub. L. No. 112-211, § 102, 126 Stat. 1527, 1532 (providing for a fifteen-year term).

20. 35 U.S.C. § 171; *see* Du Mont, *supra* note 16, at 578–82 (tracing the development and expansion of the incorporation clause from its inception in the 1842 Act to its modern incarnation).

21. 35 U.S.C. § 103 (2006).

LEGISLATIVE INTENT SERVICE (800) 666-1917

framework for deciding questions of utility patent infringement.[22] It also guarantees that the complex provisions of the America Invents Act of 2011 apply to design patents, even though the policy basis for that legislation emanated entirely from debates over utility patent protection.[23]

Beyond its incorporation of substantive patent law rules, the design patent system is also very much a patent system from an institutional perspective. Like their utility patent counterparts, design patent applications are subject to substantive, pre-grant examination administered by the U.S. Patent and Trademark Office.[24] Design patent infringement matters are subject to the appellate jurisdiction of the Court of Appeals for the Federal Circuit—again, like utility patents.[25]

Yet, it would be a mistake to assume that the design patent right resembles the utility patent right in terms of sheer economic power. Even accounting for the recent design patent renaissance,[26] design patents as a group have never achieved

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22. That framework requires a construction of the patent's claims, deemed to be a pure question of law, followed by a rigorous comparison of each element of the construed claim to the product accused of infringement. *See, e.g.*, Absolute Software, Inc. v. Stealth Signal, Inc., 659 F.3d 1121, 1129 (Fed. Cir. 2011).

23. *See* Robert A. Armitage, *Understanding the America Invents Act and Its Implications for Patenting*, 40 AIPLA Q.J. 1 (2012) (cataloguing the provisions of the America Invents Act without mentioning their impact on design patents).

24. *See* MANUAL OF PATENT EXAMINING PROCEDURE, *supra* note 5, at ch. 1500.

25. 28 U.S.C. § 1295(a)(1) (2006) (appeals from district courts in cases arising under the patent laws); *id.* § 1295(a)(4)(A) (appeals from the U.S. Patent and Trademark Office with respect to rejected patent applications).

26. When the Federal Circuit reformulated the law of design patent infringement in *Egyptian Goddess, Inc. v. Swisa*, *Inc.*, 543 F.3d 665, 678 (Fed. Cir. 2008) (en banc), predictions of a renaissance in design patent enforcement quickly followed. *See, e.g.*, James Juo, Egyptian Goddess*: Rebooting Design Patents and Resurrecting* Whitman Saddle, 18 FED. CIR. B.J. 429, 450 (2009) (predicting that the *Egyptian Goddess* decision "should strengthen design patents, especially those that have been drafted with careful attention to the novel features to be protected"); Myshala E. Middleton, Egyptian Goddess, Inc. v. Swisa, Inc.*: Design Patent Infringement Revolutionized by an Egyptian Goddess*, 17 U. BALT. INTELL. PROP. L.J. 179, 185 (2009) (*Egyptian Goddess* will serve to "streamline future design patent infringement cases."). In the time since *Egyptian Goddess*, the Federal Circuit has handed down important new design patent decisions at an unusual pace. *See, e.g.*, Richardson v. Stanley Works, Inc., 597 F.3d 1288 (Fed. Cir. 2010) (analyzing design patent functionality by assessing the functionality of individual design features rather than the design as a whole); Crocs, Inc. v. Int'l Trade Comm'n, 598 F.3d 1294 (Fed. Cir. 2010) (applying the *Egyptian Goddess* infringement standard and remarking on claim construction); Int'l Seaway Trading Corp. v. Walgreens Corp., 589 F.3d 1233 (Fed. Cir. 2009) (abandoning the point of novelty test as an element of the patentability analysis); Titan Tire Corp. v. Case New Holland, Inc., 566 F.3d 1372, 1384–85 (Fed. Cir. 2009) (debating, but not resolving, whether the standard for design patent obviousness should be modified in view of Supreme Court developments in the law of obviousness for utility patents). Filings for U.S. design patents have increased substantially, and this phenomenon is not confined to the United States. *See, e.g.*, WORLD INTELLECTUAL PROP. ORG., 2012 WORLD INTELLECTUAL PROPERTY INDICATORS 9 (2012), *available at* http://www.wipo.int/freepublications/en/intproperty/941/wipo_pub_941_2012.pdf (noting that design applications grew strongly in 2010–2011).

LEGISLATIVE INTENT SERVICE (800) 666-1917

anything like the exclusionary power commonly attributed today to utility patents. In the late 1980s, courts had arguably narrowed design patents so substantially that Judge Rich remarked acerbically that "[d]esign patents have almost no scope."[27] Indeed, Jerry Reichman has argued that during the course of the twentieth century, design patents had become trivial, functioning as little more than evidence of title and of priority for filing foreign design applications.[28] Courts are likely to treat design patents more generously today—but, in a sense, this only adds to the ambivalence over the design patent's stature. Is it, and should it be, a *real* patent? Notwithstanding the incorporation of the utility patent rules and institutional framework, is the design patent a mysterious intellectual property right that simply wears the patent moniker? A fuller historical analysis of the origin of the design patent system could provide a foundation for answering these questions.

The emergence of copyright and trademark protection for designs has only further complicated the problem of carving out a role for the design patent. As we will discuss, when design patent protection was introduced in 1842, it was the sole form of American intellectual property protection for designs.[29] That is no longer true. Under current U.S. law, designers may seek protection for many types of designs under the copyright[30] and trademark[31] regimes and may hold those forms of protection concurrently with design patent protection.[32] In addition, vessel hull designers may secure a special form of design protection administered within the copyright system.[33]

As these forms of intellectual property protection developed, the domain of design patents became increasingly more difficult to discern. Commentators argued that the design patent system should give way in favor of one or more of these other regimes: that it should be abolished in favor of *sui generis* legislation,[34] that it

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27. *In re* Mann, 861 F.2d 1581, 1582 (Fed. Cir. 1988).

28. J.H. Reichman, *Design Protection After the Copyright Act of 1976: A Comparative View of the Emerging Interim Models*, 31 J. COPYRIGHT SOC'Y U.S.A. 267, 298 (1983).

29. *See infra* Part III.B–C.

30. Designers may be able to secure copyright protection for designs as pictorial, graphic, or sculptural works. 17 U.S.C. § 102(a)(5) (2006) (identifying pictorial, graphic, and sculptural works as a category of protectable work); 17 U.S.C. § 101 (2006) (supplying relevant definitions).

31. Designers may seek to register distinctive and nonfunctional designs as trade dress under the Lanham Act, 15 U.S.C. §§ 1051–1096 (2006), or may claim unregistered trade dress rights using Lanham Act § 43(a), 15 U.S.C. § 1125(a) (2006).

32. *See In re* Yardley, 493 F.2d 1389, 1394 (C.C.P.A. 1974) (no requirement to elect between design patent protection and copyright protection); *In re* Mogen David Wine Corp., 372 F.2d 539, 545 (C.C.P.A. 1967) (no requirement to elect between design patent protection and registered trade dress protection); *In re* Mogen David Wine Corp., 328 F.2d 925, 930 (C.C.P.A. 1964) (same). *But cf.* Vessel Hull Design Protection Act, 17 U.S.C. § 1329 (2006) (providing that the issuance of a design patent terminates vessel hull design protection).

33. Vessel hull designs may be protected under the provisions of Chapter 13 in 17 U.S.C. GRAEME B. DINWOODIE & MARK D. JANIS, TRADE DRESS AND DESIGN LAW 566–72 (2010) (explaining the relevant provisions).

34. Daniel H. Brean, *Enough is Enough: Time to Eliminate Design Patents and Rely on More Appropriate Copyright and Trademark Protection for Product Designs*, 16 TEX.

LEGISLATIVE INTENT SERVICE (800) 666-1917

should be converted to a copyright model,[35] and that it should be governed by unfair competition principles.[36]

This has not occurred; instead, the design patent system has lingered. In the copyright and trademark jurisprudence, the design patent system has become a handy foil. For example, in *Wal-Mart v. Samara Bros.*,[37] the Supreme Court cited the theoretical availability of design patent protection as one rationale for adopting an elevated standard of distinctiveness for product design trade dress protection.[38] Similarly, some judges hold up design patent protection as a preferred alternative to trade dress protection when invalidating trade dress protection on functionality grounds.[39] Earlier, in *Mazer v. Stein*,[40] the Court declared that the existence of design patent protection posed no obstacle to recognizing copyright protection for designs of useful articles because design patent protection was so uncertain.[41]

INTELL. PROP. L.J. 325, 379–81 (2008) (arguing that the design patent system should either be abolished or should be phased out and replaced with a system more akin to community design protection); Note, *Design Protection—Time to Replace the Design Patent*, 51 MINN. L. REV. 942, 959–61 (1967).

35. *See, e.g.*, Roy V. Jackson, *A New Approach to Protection for the Designs of New Products*, 38 J. PAT. OFF. SOC'Y 448, 449 (1956) (arguing that design patent protection should be converted to a system of "engineering copyright" or "copyright-design"); Henry D. Williams, *Copyright Registration of Industrial Designs*, 7 J. PAT. OFF. SOC'Y 540, 540 (1924) (arguing that the design patent laws are a "misfit" and have been "altogether insufficient"). *But cf.* Frank W. Dahn, *Designs—Patents or Copyrights*, 10 J. PAT. OFF. SOC'Y 297, 297 (1927) (discussing industrial design protection under the copyright and design patent systems, noting that "it is immaterial in a broad sense whether this be done by a copyright system or a patent system, so long as it is well done").

36. Rudolf Callmann, *Style and Design Piracy*, 22 J. PAT. OFF. SOC'Y 557 (1940) (arguing that courts need to apply common law unfair competition law in design cases); *see also* Cameron K. Wehringer, *Two for One: Trademarks and Design Patents*, 50 TRADEMARK REP. 1158 (1960) (discussing the overlap between trademarks and design protection).

37. 529 U.S. 205 (2000).

38. *Id.* at 215–16 (holding that product design trade dress cannot qualify as inherently distinctive as a matter of law). Similarly, Judge Easterbrook upheld the denial of a trade dress claim on the grounds that the table leg design at issue was not distinctive, commenting that the table manufacturer could have resorted to design patent or copyright protection to attempt to thwart copying. Bretford Mfg., Inc. v. Smith Sys. Mfg. Corp., 419 F.3d 576, 580 (7th Cir. 2005); *see also* Amy B. Cohen, *Following the Direction of TrafFix: Trade Dress Law and Functionality Revisited*, 50 IDEA: INTELL. PROP. L. REV. 593, 696 (2010) (arguing that design patent and copyright alone suffice to provide adequate protection for designs, and that design protection as trade dress under the Lanham Act should be eliminated). Additionally, aesthetic and utilitarian functionality doctrines can create insurmountable hurdles for those claiming trade dress protection. *See* Industria Arredamenti Fratelli Saporiti v. Charles Craig, Ltd., 725 F.2d 18, 19–20 (2d Cir. 1984).

39. *See, e.g.*, Jay Franco & Sons, Inc. v. Franek, 615 F.3d 855, 861 (7th Cir. 2010) ("Franek chose to pursue a trademark, not a design patent, to protect the stylish circularity of his beach towel. He must live with that choice." (citation omitted)); *see also* Jason J. Du Mont & Mark D. Janis, *Functionality in Design Protection Systems*, 19 J. INTELL. PROP. L. 261, 281–82 (2012) (comparing the use of the functionality doctrine in design patent law to its use in trade dress law).

40. 347 U.S. 201 (1954).

41. *Id.*; *see also* BARBARA RINGER, DRAFT: SECOND SUPPLEMENTARY REPORT OF THE

LEGISLATIVE INTENT SERVICE (800) 666-1917

Decisions and commentary that attempt to capture the design patent system's purpose by articulating its incentives rationale likewise leave us with many questions about the nexus between the design and utility patent systems. The most venerable comments—those of the Supreme Court in 1870 in *Gorham Co. v. White*[42]—assert merely that the design patent provisions "were plainly intended to give encouragement to the decorative arts,"[43] a reference to the Constitution's intellectual property clause,[44] with a slight adaptation for designs.[45] This strikes us as a placeholder recitation that reveals very little about whether the design patent system was intended to be robustly patent-like, since analogous constitutional language would be used to justify a design copyright scheme. Yet more recent rulings merely absorb the *Gorham* incantation without question. Indeed, in its recent landmark ruling on design patent infringement, the en banc Court of Appeals for the Federal Circuit declared that the *Gorham* decision was "[t]he starting point for any discussion of the law of design patents."[46]

More recently, some scholars have shifted the focus to trademarks, exploring the connections between design patent protection and trademark incentive rationales. For example, Dennis Crouch has argued that design patents should be understood as an "alternative rule of evidence" for establishing trade dress rights.[47] Similarly, Barton Beebe has suggested that the primary purpose of design patents is to incentivize product differentiation—to encourage producers to create and maintain distinctiveness, which is reminiscent of the trademark system's function.[48] In the case of high-technology consumer goods, as Beebe points out, consumers cannot readily evaluate whether the components of the goods provide superior technological utility, so consumers rely instead on the visual characteristics of the products as symbols of the product's relative utility.[49] The *Gorham* Court hints at a

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REGISTER OF COPYRIGHTS ON THE GENERAL REVISION OF THE U.S. COPYRIGHT LAW 186 (1975) (indicating that design patents were believed to be "inadequate as a practical form of protection" at the time of *Mazer* due to perceived judicial hostility, high cost, and delay encountered in the examination process).

42. 81 U.S. (14 Wall.) 511, 524 (1871).

43. *Id.*

44. U.S. CONST. art. I, § 8, cl. 8 (authorizing Congress to create systems that would "promote the Progress of Science and useful Arts").

45. *Gorham*, 81 U.S. at 525 (further suggesting that "[t]he law manifestly contemplates that giving certain new and original appearances to a manufactured article may enhance its salable value, may enlarge the demand for it, and may be a meritorious service to the public"). The Court did cite a prior British design copyright case in support of its design patent infringement standard. *Id.* at 526 (citing McCrea v. Holdsworth, [1866] 1 Q.B. 263 (Eng.)). We discuss the significance of British antecedents to American design patent law *infra* Part III.

46. Egyptian Goddess, Inc. v. Swisa, Inc., 543 F.3d 665, 670 (Fed. Cir. 2008) (en banc).

47. Crouch, *supra* note 16, at 48.

48. Barton Beebe, *Intellectual Property Law and the Sumptuary Code*, 123 HARV. L. REV. 809, 862–64 (2010). Beebe sees much in common doctrinally between design patent and trademark. *Id.* at 863.

49. *Id.* at 864 (asserting that "[d]esign patents enable the designers of [high-technology consumer] products to convert the absolute utility that they have created into clearly demonstrable (and protectable) forms of relative utility, which may be the primary form of utility that high-technology consumers ultimately desire").

LEGISLATIVE INTENT SERVICE (800) 666-1917

product differentiation rationale, asserting that the law presumes that the designer's act of "giving certain new and original appearances to a manufactured article may enhance its salable value, may enlarge the demand for it, and may be a meritorious service to the public."[50] Beebe goes further, asserting that design protection laws, including design patent laws, "are probably the clearest examples we have of the 'functional transformation' of intellectual property law into a body of law being used not simply to 'promote the Progress,' but also, and in tension with that goal, to preserve our system of consumption-based differentiation in the face of copying technology that threatens to undermine it."[51] For Beebe, this illustrates a broader distinction between "progressive" intellectual property (denoting intellectual property systems that seek to promote "progress" in the sense of advances in absolute utility) and sumptuary intellectual property (which merely strive to preserve differentiation among products).[52]

We have some sympathy for Beebe's argument, but for us it warrants closer historical scrutiny. Did the proponents of the original design patent system presume that industrial designers would supply "not so much beauty as distinction?"[53] Or is it more likely that designers historically have sought to supply both beauty and distinction, a combination that is very difficult to disaggregate? [54] And, if so, what does this tell us about shaping incentives through a design patent system?[55] Historical analysis has something to contribute here, even if it does not yield tidy answers.

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50. *Gorham*, 81 U.S. at 525. Further strands of this rationale can be seen in the Court's description of the substantial similarity test for infringement—finding infringement where, "in the eye of an ordinary observer, giving such attention as a purchaser usually gives, . . . the resemblance is such as to deceive such an observer, inducing him to purchase one [(i.e., the allegedly infringing design)] supposing it to be the other [(i.e., the patented design)]." *Id.* at 528.

51. Beebe, *supra* note 48, at 862.

52. *Id.* at 840.

53. *Id.* at 865.

54. In addition, as Beebe sees it, progressive intellectual property is oriented towards preventing substitutive copying, while sumptuary intellectual property seeks to prevent dilutive copying. *Id.* at 866–67. That may be true for high-end fashion designs, where, as Beebe points out, it seems unlikely that purveyors of luxury fashion items actually lose sales because ordinary consumers choose cheap counterfeits instead. *Id.* at 867. But we are not confident that this same generalization would have extended across many types of consumer goods manufacturers historically, where mimicry could plausibly have been both substitutive and dilutive.

55. For an argument that design patent rights and trademark rights supply comparable incentives, see Crouch, *supra* note 16, at 44 (asserting that design patent scope is so narrow that it could only provide low-level investment in design innovation and that consumer demand alone might extract this level of innovation). But these observations could point towards copyright incentives just as readily as they could point towards trademark incentives.

LEGISLATIVE INTENT SERVICE (800) 666-1917

B. The "Historical Accident" Thesis

Lastly, on the rare occasions when courts and commentators have focused directly on the design patent system's genesis, they have tended to accept the proposition that the design patent system came about without deliberation. The eminent commentator Stephen Ladas dismissively characterized the passage of American design patent legislation as a "historical accident,"[56] and others seem to have accepted this view.[57] One historical commentary—and, until recently, the only account directed to the history of the design patent system—goes only a bit deeper. Thomas B. Hudson's *A Brief History of the Development of Design Patent Protection in the United States*[58] posits that the original design patent legislation passed because the Commissioner of Patents, Henry Ellsworth, recommended it in an annual Commissioner's Report to Congress presented in early 1842,[59] and, a few months later, Congress dutifully adopted Ellsworth's recommendation.[60] Hudson no doubt drew upon design patent treatises tracing back to the nineteenth century, which, likewise, presented the creation of the design patent system as an Ellsworth-inspired *fait accompli*, or simply cited the 1842 Act without any background.[61]

These summary explanations intrigued us. We sensed that there was more to be told[62] and that telling it would be important in light of the ultimate normative

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56. STEPHEN P. LADAS, II PATENTS, TRADEMARKS, AND RELATED RIGHTS: NATIONAL AND INTERNATIONAL PROTECTION 830 (1975).

57. *See, e.g.*, Orit Fischman Afori, *Reconceptualizing Property in Designs*, 25 CARDOZO ARTS & ENT. L.J. 1105, 1142 (2008); Richard W. Pogue, *Borderland—Where Copyright and Design Patent Meet*, 52 MICH. L. REV. 33, 62 (1953); Kenneth B. Umbreit, *A Consideration of Copyright*, 87 U. PA. L. REV. 932, 934 (1939) (asserting that "[t]he fact that the law of design patents is following the precedents of mechanical patents rather than of copyrights is an accident of administration" and urging that "[i]t is due to their name and to their subjection to the jurisdiction of the Patent Office").

58. 30 J. PAT. OFF. SOC'Y 380 (1948). In fairness to Hudson, his account aimed primarily at describing the evolution of the design patent system in the late nineteenth and early twentieth centuries, not at the factors that originally motivated Congress to enact design patent legislation.

59. *See infra* notes 182–93 and accompanying text. As we discuss, Ellsworth's report referred to the existence of design protection in "other nations," undoubtedly meaning the 1839 British copyright and design legislation. *See infra* note 185 and accompanying text.

60. Act of Aug. 29, 1842, ch. 263, § 3, 5 Stat. 543, 543–44 (1842) [hereinafter Act of Aug. 29, 1842]; Hudson, *supra* note 58, at 381. Hudson does augment this account by briefly speculating why design patent protection took the form of patent protection, but he cites no support. *Id.* at 381–83. We analyze Hudson's conjectures *infra* Part III.B, questioning some but agreeing with others.

61. *See, e.g.*, HECTOR T. FENTON, THE LAW OF PATENTS FOR DESIGNS 1–2 (1889) (referencing the 1842 Act as the first design patent act without additional background); WILLIAM EDGAR SIMONDS, THE LAW OF DESIGN PATENTS 173 (1874) (same); WILLIAM LEONARD SYMONS, THE LAW OF PATENTS FOR DESIGNS 5 (1914) (same).

62. Here we found particularly important the work by Brad Sherman and Lionel Bently, showing that, in British law, early design legislation served as a prominent but little-appreciated prototype for the eventual crystallization of modern notions of property rights in intangibles and modern structures of intellectual property laws. BRAD SHERMAN & LIONEL BENTLY, THE MAKING OF MODERN INTELLECTUAL PROPERTY LAW: THE BRITISH EXPERIENCE,

LEGISLATIVE INTENT SERVICE (800) 666-1917

problem of defining a role for the design patent system in future debates about intellectual property protection for designs. We attempt to provide more lucid and more fully contextualized explanations in the analysis presented in the following Parts.

II. TECHNOLOGICAL INNOVATION, DESIGN PIRACY, AND THE ROOTS OF AMERICAN DESIGN PROTECTION

As we will show in this Part, the design patent regime emerged in response to the imperatives of technological innovation. We focus on the technological change in a leading antebellum American industry, the manufacture of cast-iron goods. We explain how technological innovation made it feasible for manufacturers to incorporate design features into mass-produced consumer goods, ushering in both the enterprise of American industrial design and the concomitant enterprise of American domestic design piracy.

A. Innovation and Design Piracy in American Antebellum Manufacturing

In the 1830s, American manufacturers produced cast-iron goods[63] directly from iron ore using large blast furnaces located near iron ore sources and navigable waterways.[64] Blast iron furnaces produced goods that were usually very coarse, heavy, and unrefined.[65] Furnace operators did not specialize in particular products, so they had little interest in developing ornamentation or aesthetically pleasing configurations for particular products.[66] Indeed, blast furnace operators were more concerned with the composition of the iron than the casting's aesthetics.

Jordan L. Mott, a leading New York manufacturer,[67] revolutionized the processes for producing cast-iron goods, and, in short measure, became a principal lobbyist for expanding American intellectual property protection, particularly with regard to designs.[68] Mott deserves mention as one of antebellum America's foremost entrepreneurs, and as one of its consummate patent system insiders—credentials that he sought to preserve for posterity by commissioning a painting that depicts him in the Great Hall of the Patent Office in imaginary conversation

1760–1911, at 63–76 (1999).

63. An iron "cast" or "casting" is the actual shape or product that is created by pouring refined molten iron into a mold and allowing it to cool and solidify. *See* HUGH PHILIP TIEMANN, IRON AND STEEL 44–45 (1910).

64. *See generally* FREDERICK OVERMAN, THE MANUFACTURE OF IRON, IN ALL ITS VARIOUS BRANCHES 145–51 (1850) (depicting a typical blast furnace, fig. 49).

65. *See* IV JOHNSON'S NEW UNIVERSAL CYCLOPEDIA: A SCIENTIFIC AND POPULAR TREASURY OF USEFUL KNOWLEDGE 585 (Frederick A. P. Barnard & Arnold Guyot eds., 1878) [hereinafter JOHNSON'S NEW UNIVERSAL CYCLOPEDIA].

66. *See* DAVID R. MEYER, NETWORKED MACHINISTS: HIGH-TECHNOLOGY INDUSTRIES IN ANTEBELLUM AMERICA 110 (2006).

67. At one time, Mott's sprawling real estate holdings encompassed most of Brooklyn. *See* PROMINENT FAMILIES OF NEW YORK 420 (BiblioLife ed., 2009) (Lyman H. Weeks ed., 1897).

68. *See infra* Part II.

LEGISLATIVE INTENT SERVICE (800) 666-1917

with Morse, Colt, Goodyear, and other legendary American inventors.[69] His vanity was not in question.

In the 1830s, Mott had begun producing the first practical coal-fired, cast-iron stoves and had sold them to customers in New York City.[70] At first, he did not make his own castings; instead, he bought them from blast furnace operators who produced them and shipped them to him for assembly.[71] Seeking to end his dependence on the blast furnace operators,[72] Mott built a small-scale cupola furnace in the city[73] and, after some experimentation, determined how to produce his own castings using pig iron.[74] Compared to cast-iron plates made directly from ore by blast furnaces, cupola furnaces produced thinner, lighter castings, but they were more susceptible to cracking when heated.[75] To overcome this problem, he incorporated curves, fluting, and other features aimed at enhancing heat dissipation.[76]

According to one account, Mott's innovative process "gained the attention of iron men, and before the close of the year cupola furnaces began to be erected, and

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69. The painting is *Men of Progress* by Christian Schussele, circa 1857. For background, see Henry Petroski, *Men and Women of Progress*, 82 AM. SCIENTIST 216, 216–17 (1994). At about that same time, President Buchanan asked Mott to become the Commissioner of Patents, but Mott ultimately declined. PROMINENT FAMILIES OF NEW YORK, *supra* note 67, at 420.

70. Mott had secured utility patent protection for an anthracite-burning coal, and he had determined how to use "pea-sized" coal (previously considered to be scrap) as stove fuel. 4 AMERICAN SUPPLEMENT TO ENCYCLOPEDIA BRITANNICA: A DICTIONARY OF ARTS, SCIENCES, AND GENERAL LITERATURE 606 (J.M. Stoddart ed., 1889); Stoves, U.S. Patent No. 7,096X (issued May 30, 1832). This innovation revolutionized the stove industry. JOHNSON'S NEW UNIVERSAL CYCLOPEDIA, *supra* note 65, at 585.

71. *See* 2 J. LEANDER BISHOP, A HISTORY OF AMERICAN MANUFACTURES FROM 1608 TO 1860, at 576–77 (3d ed. 1868) [hereinafter AMERICAN MANUFACTURES].

72. Mott became dissatisfied with the prices that blast furnace operators were charging him, according to at least one account. *Id.* at 577.

73. *See* William Dundas Scott-Moncrieff, *The Cupola Furnace and "Castings," in* GREAT INDUSTRIES OF GREAT BRITAIN 111 (Cassell & Co. ed., 1884) (describing the cupola furnace); AMERICAN MANUFACTURES, *supra* note 71, at 577 (describing the location of Mott's cupola furnace).

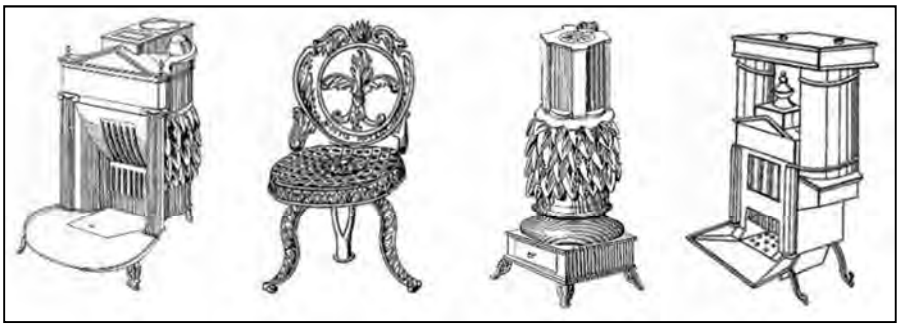
74. *See* AMERICAN MANUFACTURES, *supra* note 71, at 577.

75. *Id.* at 576–77.

76. *Id.* at 577 ("Mr. Mott made his plate patterns 'from edge to edge longer than a straight line,' by pannelling, curving, fluting, or other device."); Conversational Meeting of the Mechanics Institute, Reported for the American Repertory, Subject Stoves (Feb. 1840) (unpublished manuscript) (on file with the Columbia University Rare Book & Manuscript Library, Mott Family Papers, Box 2). Signed "Ed's Notes," this manuscript appears to have been produced during an interview with Jordan Mott while a member of the Mechanic's Institute. It notes that Mott's insight concerning the stove's surface area improved the iron's heat radiation properties to the point where they no longer had to line the stoves with brick. For an example of one of Mott's designs utilizing these techniques, see Stove & Fireplace, U.S. Patent No. 50 (issued Oct. 11, 1836) (Figs. 1–3) (utilizing separate concentric rings in scalloped, notched, and leaf patterns in order to dissipate heat but noting that their "ornament" was "merely a thing of fancy, or taste").

LEGISLATIVE INTENT SERVICE (800) 666-1917

soon spread over the cities and villages of the Union."[77] Mott and others could now cast their own stoves on a commercial scale.[78] Subsequent advances in thin-casting techniques, among other factors,[79] facilitated explosive growth in the production of a wide array of additional cast-iron goods, including "kitchen utensils, sugar-kettles, bath-tubs, . . . cast-iron railings, fountains, and lawn ornaments."[80] Some of Mott's innovative stove and chair designs are depicted below.[81]



Once they adopted thin-casting techniques, Mott and other manufacturers suddenly found that a new and unexpected opportunity for innovation had opened to them. They could now add value to cast-iron consumer goods on a commercial scale by crafting innovative, distinctive designs. That is, by incorporating ornamentation, or by adopting daring new geometries for their products, they might lend their products aesthetic appeal and simultaneously provide consumers a basis for differentiating between competing products.

Iron goods manufacturers employed pattern makers who carved new patterns using soft woods, plaster, or soft metals;[82] casting molds were then made from the

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77. AMERICAN MANUFACTURES, *supra* note 71, at 577. Some evidence suggests that others in addition to Mott were experimenting with the use of cupola furnaces at the same time. *See* Jeremiah Dwyer, *Stoves and Heating Apparatus*, *in* 2 ONE HUNDRED YEARS OF AMERICAN COMMERCE 357, 361 (Chauncy M. Depew ed., 1895) (stating that Mott was "one of the first to use a cupola for remelting iron for stove manufacture").

78. *See, e.g.*, RUTH SCHWARTZ COWAN, MORE WORK FOR MOTHER: THE IRONIES OF HOUSEHOLD TECHNOLOGY FROM THE OPEN HEARTH TO THE MICROWAVE 60 (1983) (crediting Mott as the first to actually "make" stoves, instead of just assembling them).

79. *See* Charles Huston, *The Iron and Steel Industry*, *in* 1 ONE HUNDRED YEARS OF AMERICAN COMMERCE 320, 323 (Chauncey M. Depew ed., 1895) (noting that the growth of the railroad network profoundly affected the growth of the iron industry); F.W. TAUSSIG, THE TARIFF HISTORY OF THE UNITED STATES 57 (6th ed. 1914) (attributing U.S. iron industry growth in the 1830s principally to the introduction of anthracite coal-based smelting, replacing charcoal smelting).

80. VICTOR S. CLARK, HISTORY OF MANUFACTURES IN THE UNITED STATES: 1607–1860, at 504 (1916).

81. The featured design diagrams and their corresponding citations are listed from left to right: Stove & Fireplace, U.S. Patent No. 50 fig. 3 (issued Oct. 11, 1836); Cast-Iron Chair, U.S. Patent No. 5,317 fig. 1 (issued Oct. 2, 1847); Stove & Fireplace, U.S. Patent No. 50 fig. 2 (issued Oct. 11, 1836); and Parlor-Stove, U.S. Patent No. 508 fig. 1 (issued Dec. 7, 1837).

82. *See* ALONZO POTTER, THE PRINCIPLES OF SCIENCE APPLIED TO THE DOMESTIC AND

LEGISLATIVE INTENT SERVICE (800) 666-1917

patterns.[83] According to contemporary observers, the pattern maker's design work was "almost entirely executed by hand, entailing a heavy expense and the consumption of considerable time."[84] Once made, the patterns could be used repeatedly, so they were of great value, so much so that some firms created fire-resistant "pattern houses" for their storage.[85] Advertisements began to emphasize the ornamental attributes of cast-iron goods,[86] and, for the first time, some cast-iron goods came to be perceived as works of art.[87]

The phenomenon was not confined to the cast-iron goods market. A more general enterprise of American industrial design was beginning to emerge. As Arthur Pulos points out, a consumer "could always depend on what his senses told him" about a product even if he found the mechanics of the product to be baffling.[88] Many manufacturers "began to pay particular attention to the notion that artistic values applied to utilitarian manufactures might also increase their saleability."[89]

Still, American cast-iron goods designers had no apparent, formal intellectual property mechanism available for capturing the value attributable to design. Copyright protection was an obvious candidate (at least as viewed in retrospect), but copyright protection did not embrace industrial creations, entirely omitting protection for three-dimensional useful articles until many decades later[90] and only affording protection in limited instances for surface ornamentation applied to two-

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MECHANIC ARTS, AND TO MANUFACTURES AND AGRICULTURE 214 (1860).

83. *See generally Babbage on the Economy of Manufactures*, 2 AM. RAILROAD J. & ADVOC. INTERNAL IMPROVEMENTS 353, 359 (1833) ("Patterns of wood or metal made from drawings are the originals from which the moulds for casting are made: so that, in fact, the casting itself is a copy of the mould, and the mould is a copy of the pattern."); 2 SUPPLEMENT TO SPONS' DICTIONARY OF ENGINEERING 618–72 (Ernest Spon ed., 1880) (detailing the casting process).

84. 4 AMERICAN SUPPLEMENT TO ENCYCLOPEDIA BRITANNICA, *supra* note 70, at 606.

85. Ellen Marie Snyder, *Victory over Nature: Victorian Cast-Iron Seating Furniture*, 20 WINTERTHUR PORTFOLIO 221, 224 (1985).

86. *See, e.g.*, Priscilla J. Brewer, *"We Have Got a Very Good Cooking Stove": Advertising, Design, and Consumer Response to the Cookstove, 1815–1880*, 25 WINTERTHUR PORTFOLIO 35, 43 (1990) (identifying an 1844 stove advertisement illustrating that the stove's appearance had become an important consideration in stove marketing); Snyder, *supra* note 85, at 227 (noting that trade catalogues for cast-iron products extolled their visual appearance and finding that even Mott's catalogue grandly boasted that it contained nothing that did "not possess some artistic merit").

87. Snyder, *supra* note 85, at 226 (referring to a perception of cast-iron's "aesthetic elevation" to art).

88. PULOS, *supra* note 9, at 133.

89. *Id.*

90. The Act of July 8, 1870, defined copyrightable subject matter to include "statuary, and . . . models or designs intended to be perfected as works of the fine arts." Act of July 8, 1870, ch. 230, § 86, 16 Stat. 198, 212. In 1909, Congress amended the provision substantially, deleting the "fine arts" language and providing that copyright protection could extend to all works of authorship. *See* Act of March 4, 1909, ch. 320, § 4, 35 Stat. 1075, 1076. Eventually, in *Mazer v. Stein*, 347 U.S. 201 (1954), the Supreme Court concluded that these changes extended copyright beyond the traditional fine arts to industrial designs such as the statuettes at issue in *Mazer*, which were intended to be used as bases for lamps. *Id.* at 213–14.

LEGISLATIVE INTENT SERVICE (800) 666-1917

dimensional objects.[91] No federal trademark regime existed, and common law unfair competition precedents, which were sparse at the time, offered no clear basis for the protection of designs as trade dress.[92] Lastly, utility patent law protected industrial creations but not their visual aspects.[93] Indeed, writing with the benefit of hindsight, William Edgar Simonds averred that the classes of "intellectual productions" divided neatly into three: "books, maps, charts, cuts, engravings, prints, and musical compositions" (all protected by copyright at the time); "new and useful arts, machines, manufactures, and compositions of matter, and improvements thereon" (protectable under the utility patent regime); and "a third class to which no protection had been given, comprising . . . patterns, figures, or pictures to be woven into, or printed or impressed upon textile fabrics, as carpets, shawls[,] and dress goods."[94]

Our research suggests that, prior to 1836, some entrepreneurs were attempting to use the utility patent regime to obtain design protection *sub rosa*. From 1793 to 1836, the utility patent system did not subject patent applications to substantive examination prior to grant,[95] so patents could issue without ever having been scrutinized for compliance with substantive patentability requirements—including requirements for eligible subject matter. While stove makers were certainly using the utility patent system to protect technological innovations embodied in their

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91. In particular, Congress extended copyright protection to engravings and etchings in 1802. *See* Act of Apr. 29, 1802, ch. 36, § 2, 2 Stat. 171, 171 (extending copyright protection to "who[ever] shall invent and design, engrave, etch or work, or from his own works and inventions, shall cause to be designed and engraved, etched or worked, any historical or other print or prints").

92. *See, e.g.*, 1 J. THOMAS MCCARTHY, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 7:62 (4th ed. 2009) (identifying the 1917 crescent wrench decision, *Crescent Tool Co. v. Kilborn & Bishop Co.*, 247 F. 299 (2d Cir. 1917), as the first true American product design trade dress case).

93. Act of Feb. 21, 1793, ch. 11, § 1, 1 Stat. 318, 319 [hereinafter Patent Act of 1793] (providing that utility patent protection extended to "any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture or composition of matter"). We have found no evidence of any argument to extend this language to ornamental design, except for a somewhat cryptic remark from the treatise writer Willard Phillips. Phillips claimed that the French Patent Law of 1791 rejected protection for "mere ornaments" as not the proper subject for utility patents and then asserted:

> [T]his appears to be a very questionable position, for it would never be contended in case of an invention of which a part was ornamental merely, that this part might be infringed with impunity; and there appears to be no more ground for yielding any more protection to ornamental parts in an original invention, than in an improvement, or in a case where a part of the invention was ornamental, than one which should be wholly confined to ornament.

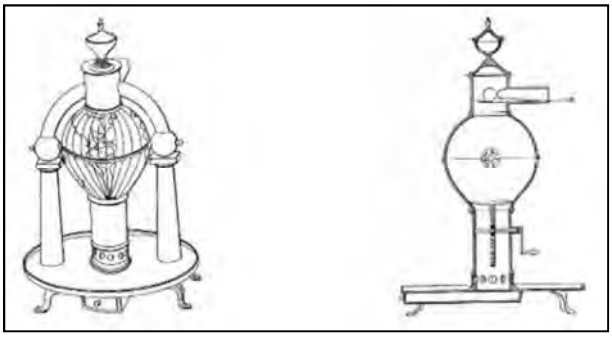
WILLARD PHILLIPS, THE LAW OF PATENTS FOR INVENTIONS 135 (1836).

94. WILLIAM EDGAR SIMONDS, THE LAW OF DESIGN PATENTS 183 (1874). According to Simonds, design patent protection was intended for the benefit of this third, unprotected class. *Id.* at 184. As we have suggested throughout this paper, the creation of the design patent system was not quite so conceptually pure.

95. *See* EDWARD C. WALTERSCHEID, TO PROMOTE THE PROGRESS OF USEFUL ARTS: AMERICAN PATENT LAW AND ADMINISTRATION, 1798–1836, at 427 (1998).

LEGISLATIVE INTENT SERVICE (800) 666-1917

cast-iron stoves, at least one stove maker attempted to use the utility patent regime to obtain the equivalent of design protection. Walter Hunt, one of the nineteenth century's most prolific inventors,[96] developed a globe-shaped heating stove that was said to permit radiated heat to be distributed equally in all directions.[97] Hunt filed a utility patent application that not only detailed the construction and functional advantages of the globe-shaped stove body but also included a drawing in which the stove's body was adorned with depictions of the continents (below, left).[98]



Hunt included three claims in the application, the first of which suggests that he may have been asserting exclusive rights over both the functional and the visual aspects of the stove:

> I claim the *style*, *general arrangement* and *fashion* of the above described Radiator or Globe Stove believing the peculiar advantages of said arrangement in the generating and equal diffusion of heat exclusively confined to the globe or spheroid form as a reservoir of fuel . . . which cannot be effected by the regular or cylindrical stove.[99]

An early advertisement for the stove not only highlights its useful features but also indicates that "[p]atterns may be seen at the [Globe Stove] office."[100] The patent drawings depict additional ornamentation, likewise suggesting that the Globe Stove was about more than merely functional advantages.[101] Hunt's example

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96. *See generally* JOSEPH NATHAN KANE, NECESSITY'S CHILD: THE STORY OF WALTER HUNT, AMERICA'S FORGOTTEN INVENTOR (1997). Hunt's pioneering work on sewing machines later figured prominently in massive patent litigation in that industry. *See* Adam Mossoff, *The Rise and Fall of the First American Patent Thicket: The Sewing Machine War of the 1850s*, 53 ARIZ. L. REV. 165, 187–90 (2011).

97. KANE, *supra* note 96, at 63.

98. Heating Stove, U.S. Patent No. 8,006X fig. 1 (issued Feb. 8, 1834) (Fig. 1, depicted on the left). The drawing on the right is Figure 2 from the patent, a partial cutaway view depicting the stove's interior construction.

99. *Id.* at 84–85 (claim 1) (emphasis added); *see also* KANE, *supra* note 96, at 63.

100. KANE, *supra* note 96, at 61 (reprinting an advertising sheet dated Nov. 1833 for "Hunt's Patent Radiator, or Globe Stove").

101. *See* '006X Patent fig.1; *see also The Globe Stove*, N.Y. COM. ADVERTISER, Nov. 7,

LEGISLATIVE INTENT SERVICE (800) 666-1917

is particularly noteworthy because he eventually joined Mott in lobbying for design protection legislation, as we discuss in more detail below.[102]

The appropriability problem that was developing in the cast-iron goods industry was also plaguing the New England textile industry in America.[103] Design piracy became particularly widespread in the American textile industry in the 1830s.[104] Ornate calico prints produced at the New England factories of Francis Lowell (and fellow Boston Associates) had become so popular that they had "displace[d] the linseys, checks, and homespun plaids" that local artisans had traditionally sold.[105] As firms came to produce calico design patterns on an ever-expanding scale, competitors inevitably sought to mimic those patterns.[106] However, American intellectual property law provided no apparent recourse.

Intellectual property scholars will find this narrative familiar. It is a classic exemplar of the public goods problem of intellectual property lore.[107] Predictions of an intellectual property law response would fit amicably within Harold Demsetz's thesis for the emergence of private property rights.[108] An intellectual property response was predictable for another reason: an analogous situation had developed in Great Britain.

B. Design Piracy in Great Britain and the Intellectual Property Law Response

As American manufacturers came to realize, a similar saga of technological advance had spurred a legislative response in Great Britain. Cotton textile manufacturers in northern England and Scotland had adopted technological

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1833, at 2 ("[F]rom the beauty and perfection of some of the castings we have seen, it can be made as ornamental as need be desired.").

102. *See infra* Part III. Like Mott, Hunt manufactured stoves in New York City. *See* KANE, *supra* note 96, at 66 (noting that Hunt identified himself in city directories as a stove maker in New York City). Mott, in turn, was apparently familiar with Hunt's work on the globe-stove. *See, e.g.*, Coal-Stove, U.S. Patent No. 4,247 (issued Nov. 1, 1845) (noting his awareness of Hunt's globe-stove).

103. Indeed, the problem fits a classic pattern; it has been duplicated in many settings and has driven much intellectual property policy over the decades. *See, e.g.*, ADRIAN JOHNS, PIRACY (2009).

104. *See* PAUL E. RIVARD, A NEW ORDER OF THINGS: HOW THE TEXTILE INDUSTRY TRANSFORMED NEW ENGLAND 68–69 (2002) (characterizing design copying as standard practice).

105. CLARK, *supra* note 80, at 547.

106. Copying textile print patterns did require some skill. A would-be copyist had to be capable of decoding the pattern's elements, engraving them for rollers, and then determining the proper blend of dyes. RIVARD, *supra* note 104, at 68–69.

107. Indeed, analogous problems in the British textile industry had generated design legislation that took its cue from copyright law, and American lobbyists drew on the British experience to formulate their proposals, as we discuss further *infra* Part III.

108. *See* Harold Demsetz, *Toward a Theory of Property Rights*, 57 AM. ECON. REV. 347, 350 (1967) (positing that changes in technology or markets stimulate the creation and capture of emerging economic value through private property rights). We do not mean to suggest that the Demsetzian account provides a comprehensive explanation for the creation of the design patent system. As we show *infra* Part III, a number of domestic political factors also contributed to the enactment of the design patent provisions.

LEGISLATIVE INTENT SERVICE (800) 666-1917

innovations in printer cylinders that enabled them to print patterns over continuous lengths of cloth, on a large scale, and at previously unheard-of rates.[109] However, these manufacturers quickly found that consumers preferred the patterns they associated with London-based manufacturers,[110] so they copied those patterns and used them to produce calico prints in quantities far exceeding their originators.[111] Not surprisingly, by the late 1700s, the London calico manufacturers were complaining to Parliament.[112] Because contemporary English copyright law protected engravers and authors but not textile pattern makers,[113] Parliament enacted new legislation, the Calico Printers' Act of 1787,[114] which conferred protection on persons "who shall invent, design, and print . . . any new and original pattern . . . for printing linens, cottons, callicos, or muslins."[115] By the early 1800s, an active debate in England about expanding the Act culminated in a radical new design protection system beginning in 1839.[116] We discuss its details below and explain how it came to be used as a model for American law.

III. DESIGN PATENT LAW'S AMBIVALENT LEGISLATIVE ANCESTRY

In view of the technological context that we have explored in Part II, we now turn to an analysis of the design patent system's legislative ancestry. Relying on newly uncovered source material, we describe the first proposal for American design protection legislation, which was styled as copyright legislation and borrowed heavily from British design copyright law. We then recount the disappearance of the first proposal and the emergence of a second—newly

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109. *See, e.g.*, Lara Kriegel, *Culture and the Copy: Calico, Capitalism, and Design Copyright in Early Victorian Britain*, 43 J. BRIT. STUD. 233, 238–39 (2004).

110. *See id.* at 239–40.

111. *Id.* at 240.

112. SHERMAN & BENTLY, *supra* note 62, at 63 n.3.

113. *See* Engraving Copyright Act, 1734, 8 Geo. 2, c. 13 (Eng.), *amended by* Engraving Copyright Act, 1766, 7 Geo. 3, c. 38 (Eng.), *amended by* Prints Copyright Act, 1777, 17 Geo. 3, c. 57 (Eng.).

114. An Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Callicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors, for a limited Time, 27 Geo. 3, c. 38 (1787) (Eng.) [hereinafter Calico Printers' Act].

115. *Id.* § 1. Protection endured only for two months, a reflection of the staunch opposition that the northern cotton factories mounted. SHERMAN & BENTLY, *supra* note 62, at 63 n.3. Parliament initially enacted the Calico Printers' Act for only one year, *see* Calico Printers' Act § 3, but extended it successively. *See* An Act for continuing an Act made in the twenty-seventh Year of the Reign of his present Majesty, intituled [sic], *An Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Callicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time*, 29 Geo. 3, c. 19 (1789) (Eng.), *made perpetual by An Act for amending and making perpetual an* Act made in the twenty-seventh Year of the Reign of his present Majesty, intituled [sic], *An Act for the Encouragement of the Arts of Designing and Printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors, for a limited Time*, 34 Geo. 3, c. 23 (1794) (Eng.).

116. *See infra* Part III.

LEGISLATIVE INTENT SERVICE (800) 666-1917

characterized as patent legislation. We show why this new proposal likely sprang from considerations of bureaucratic self-interest, not from any perceived distinction between the relative merits of copyright and patent protection for designs. We conclude by showing that the ultimate passage of the design patent legislation likely resulted from external political forces—specifically, a protectionist surge advocated by the Whig Party and bitterly opposed by the Jacksonian Democrats.

A. The Mott and Ruggles Proposals: Design Patent's Genesis in British Design Copyright[117]

Stove manufacturer Jordan L. Mott set in motion the proposals that eventually grew into the design patent legislation. In February 1841, Mott, on behalf of himself and numerous signatories, petitioned Congress for design protection.[118] Noting that designs were not eligible for utility patent protection, Mott's petition argued that "improvements . . . in articles of manufacture ha[d] rendered necessary a *registration* of new designs and patterns."[119] These designs "require[d] a considerable expenditure of time and money, and c[ould] be . . . use[d] . . . by any person so disposed, in such a manner as to undersell the inventor or proprietor."[120] Above all, the petitioners did not call for copyright or patent protection but for a registration.[121]

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117. To our knowledge, scholars have never previously analyzed the Ruggles bill discussed in this section. Ruggles's introduction of both the petition on February 3, 1841, and the bill on February 27, 1841, were misclassified in the Congressional Globe's index under the heading "Patent Office, report of the Commissioner, showing operations of, for the past year," *see* CONG. GLOBE, 26th Cong., 2d Sess. index at 6 (1841), which may explain why previous researchers have not uncovered it.

118. *See* JORDAN L. MOTT ET AL., PETITION OF A NUMBER OF MANUFACTURERS AND MECHANICS OF THE UNITED STATES, PRAYING THE ADOPTION OF MEASURES TO SECURE TO THEM THEIR RIGHTS IN PATTERNS AND DESIGNS, S. DOC. NO. 26-154 (2d Sess. 1841) [hereinafter MANUFACTURERS' PETITION]. It is not clear whether Jordan Mott was a Whig, or whether he was otherwise in a position to harness Whig political forces to press his proposal forward. We do know that Mott was not shy about lobbying prominent Whigs about intellectual property matters. In an 1851 debate over utility patent legislation, Mott corresponded with the nation's most prominent Whig, Henry Clay, receiving a polite but peremptory response. *See* Letter from Jordan L. Mott to Henry Clay (Jan. 24, 1851), *in* 10 THE PAPERS OF HENRY CLAY 848 (Melba Porter Hay ed., 1991). One year later, Mott was chosen to serve as an aid in the grand procession in New York City in observance of Henry Clay's death, *see Programme of Arrangements for the Funeral Ceremonies of the Late Hon. Henry Clay*, N.Y. DAILY TIMES, July 19, 1852, at 1, though we cannot say whether this indicates Mott's Whiggish tendencies or merely his substantial prominence in New York.

119. MANUFACTURERS' PETITION, *supra* note 118, at 1 (emphasis added).

120. *Id.* (estimating that it only cost the copier "one-hundredth of the expense which it has cost the original manufacturer"). Intellectual property scholars will recognize this as a classic invocation of the public goods problem. *See, e.g.*, WILLIAM M. LANDES & RICHARD A. POSNER, THE ECONOMIC STRUCTURE OF INTELLECTUAL PROPERTY LAW 19–20 (2003) (providing a general discussion).

121. MANUFACTURERS' PETITION, *supra* note 118, at 1.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Moreover, after noting that fabric designers faced similar obstacles, the petitioners were quick to point out that Great Britain had recently passed such rights for their citizens.[122] They argued:

> Your petitioners believe that the manufacturers and mechanics of the United States are not surpassed by those of any other country, in the durability and utility of the articles manufactured by them; and they confidently affirm that the articles manufactured by them would equal any others in beauty, if new designs and patterns were secured by registration.[123]

Thus, design protection was cast not only as a problem of domestic free riding, but also as an international trade problem.[124]

Although the copy of Mott's petition reprinted in the U.S. Congressional Serial Set[125] includes only the text of the petition itself, additional archival research turned up a reproduction of the original that included the petitioners' signatures, including that of Walter Hunt, the inventor of the Globe Stove.[126] Some signatories also listed their occupations. A study of these signatories provides a rare glimpse into the grassroots politics of early American lobbying efforts in intellectual property. They were all male (not surprisingly) and all from the Northeast: predominantly New York and New Jersey, along with Connecticut, and the cities of Philadelphia and Boston. A few appear to have been Whigs,[127] but we are unable to determine whether the petitioners originated predominantly from Whig party rolls. Most who identified their occupation appear to have been tradesmen: a manufacturer, an engineer, a "designer in mechanics," three "mechanists," and various others.[128]

It is perhaps significant that some of the listed professions involved subject matter that lay at the margins of traditional copyright and patent regimes—and still

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122. *Id.* (citing An Act to secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time, 2 Vict., c. 17 (1839) (Eng.) [hereinafter Designs Registration Act, 1839]).

123. *Id.*

124. *See supra* Part II (discussing this aspect of design patent's origins).

125. *See* MANUFACTURERS' PETITION, *supra* note 118, at 2 (identifying signatories only as "JORDAN L. MOTT and others").

126. Our appreciation to Kenneth Kato, Center for Legislative Archives, National Archives and Records Administration, for assistance in procuring the signature pages. Scans of the signature pages are on file with authors.

127. For example, J.W. Warren of Boston appears to have been a newspaper editor and Whig party member. *See* CHRISTIAN WATCHMAN, Mar. 3, 1837, § 18, at 9 (reporting on Warren's editorship of the *Christian Witness*); *Public Meeting*, N.Y. DAILY TIMES, Mar. 5, 1852, at 2 (listing Warren as a supporter of the Whig nomination of Daniel Webster for President). Andrew Anderson of Jersey City likewise may have been involved in Whig politics, at least as of the 1850s. *See Jersey City: Whig Primary Meeting*, N.Y. DAILY TIMES, Apr. 6, 1854, at 3.

128. One signatory was Joseph Priestley—not the famous scientist credited with the discovery of oxygen, who passed away in 1804, but perhaps an heir. For biographical background on the famous Priestley, see STEVEN JOHNSON, THE INVENTION OF AIR (2008).

LEGISLATIVE INTENT SERVICE (800) 666-1917

does. For example, Isaac Edge, Jr., of Jersey City, was a renowned designer of fireworks displays.[129] Joseph E. Ebling of New York was a confectioner.[130]

Another signatory, Samuel Loomis of Connecticut, was probably from the famed Loomis family of furniture designers.[131] If so, this shows good foresight. Design protection (including by design patent) has proven especially important for furniture designers over the years.[132] Yet another signatory appears to have been an inventor of prosthetic limbs, which eventually obtained utility patent protection.[133]

Senator John Ruggles from Maine,[134] former chair of the Senate's Committee on Patents and the Patent Office,[135] presented Mott's petition to Congress[136] and, within weeks, followed up with a legislative proposal.[137] Ruggles was a logical sponsor for the legislation given his reputation as a leader in Congress on intellectual property matters, but he also may have had a family interest in the bill. John Ruggles's brother, Draper Ruggles,[138] was a partner in the largest cast-iron plow and agricultural implement company in the United States—Ruggles, Nourse & Mason.[139] In addition, the firm apparently had business connections with Mott, acting as a distributor for Mott's famous agricultural furnace.[140]

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129. *See* Classified Advertisement, *Edge's First Premium Fireworks*, N.Y. DAILY TIMES, June 29, 1854, at 5 (representative advertisement of the Edge family's displays); *Independence Day: Celebration of the "Glorious Fourth,"* N.Y. TIMES, July 5, 1854, at 1 (reporting that the Edge family had been hired by New York City for the July 4th fireworks celebration).

130. MANUFACTURERS' PETITION, *supra* note 118 (signature page).

131. Loomis furniture is on display in the Wadsworth Atheneum Museum of Art as examples of the Colchester/Norwich furniture style. *See American Decorative*, WADSWORTH ATHENEUM MUSEUM ART, http://www.thewadsworth.org/american-decorative/.

132. For a recent example from the design patent area, see *Amini Innovation Corp. v. Anthony California, Inc.*, 439 F.3d 1365 (Fed. Cir. 2006).

133. William Selpho of New York. *See* Construction of Artificial Hands, U.S. Patent No. 18,021 (issued Aug. 18, 1857); Construction of Artificial Legs, U.S. Patent No. 14,836 (issued May 6, 1856).

134. For general biographical information on Ruggles, see 12 THE NATIONAL CYCLOPÆDIA OF AMERICAN BIOGRAPHY 230 (1904). Regarding the family's political prominence, see FRANCES COWLES, THE FAMILY OF RUGGLES 8–9 (1912).

135. CONG. GLOBE, 25th Cong., 1st Sess. 16 (1837) (noting Ruggles's position as Committee chair).

136. *See* CONG. GLOBE, 26th Cong., 2d Sess. 139 (1841). The petition was ordered for printing and referred to the Committee on Patents and the Patent Office. *Id.*

137. For promoting the progress of the useful arts, by securing the right of invention and copy-right to proprietors of new designs for manufactures, for limited times, S. 269, 26th Cong. (1841) [hereinafter Ruggles Design Bill]; CONG. GLOBE, 26th Cong., 2d Sess. 212 (1841) (reporting that Senator Ruggles "asked and obtained leave to introduce a bill granting copy-rights to inventors of designs, &c., which was read twice and referred to the Committee on Patents and the Patent Office").

138. HENRY RUGGLES, ANCESTRY OF JUDGE THOMAS RUGGLES, OF COLUMBIA FALLS, MAINE, AND JUDGE JOHN RUGGLES OF THOMASTON, MAINE 36–37 (1924) (Maine Historical Society). We are especially indebted to Jamie Kingman Rice, public services librarian at the Maine Historical Society, and Maribel Nash, reference librarian at the Pritzker Legal Research Center at Northwestern School of Law, for this point.

139. *See* CHARLES G. WASHBURN, INDUSTRIAL WORCESTER 132–33 (1917). *See generally* 2 J. LEANDER BISHOP, A HISTORY OF AMERICAN MANUFACTURES FROM 1608 TO 1860, at 701–

LEGISLATIVE INTENT SERVICE (800) 666-1917

The bill was styled as a design *copyright* proposal. It proposed a "sole and exclusive copy-right" for the proprietor of any "new and original design"[141] for specified articles of manufacture.[142] The list of specified articles explicitly responded to the wishes of the iron and textile industries. It included "linen, cotton, calico, muslin, or other textile fabric,"[143] ornamentation on any article other than a textile fabric,[144] and the shape or configuration of any article not falling into the

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02 (1864) (providing some background on the partnership and their successor Oliver Ames & Sons' Agricultural Implement Manufactory). Draper Ruggles also figured in an important early utility patent infringement case. *See* Prouty v. Ruggles, 41 U.S. (16 Pet.) 336, 341 (1842) (espousing an all-elements rule for utility patent infringement). Draper Ruggles was likely the unnamed "brother" continually referred to in the Select Committee's investigation into Senator John Ruggles's activities with Henry C. Jones. *See* Hugh L. White, Senate Select Committee Report, S. DOC. NO. 25-377, at 9, 12, 16, 17, 19, 56, 68 (1838). According to the report, Ruggles allegedly sought to secure patent rights for a brother who lived in Worcester, Massachusetts, and who already had a half interest in a patented plough. *See id.* at 9. Although the exact plough is unknown, Draper Ruggles's iron manufactory in Worcester owned the patents to numerous ploughs and agricultural implements during this time, and the report is probably referring to Ruggles's ownership of Jethro Wood's patented plough. *See* WASHBURN, *supra*, at 132.

140. *See Mott's Agricultural Furnace*, ME. FARMER, Jan. 8, 1846, at 1 (explaining that Mott's furnace could be purchased at the Ruggles, Nourse & Mason warehouse in Boston and including a drawing of a 22 gallon model); Advertisement, *Mott's Agricultural Furnace*, ME. FARMER, Oct. 15, 1846, at 1.

141. Although these terms were eventually adopted by the legislature, and even developed into the same novelty and originality standards that we think of today as distinguishing patent and copyright law, it is not clear what Senator Ruggles meant by "new and original." *See infra* note 164 and accompanying text (discussing their contemporary meanings under British law). Indeed, it took over a quarter of a century for this distinction to develop in U.S. law, and their meanings under both regimes were in flux during this time. *See* Kenneth J. Burchfiel, *Revising the "Original" Patent Clause: Pseudohistory in Constitutional Construction*, 2 HARV. J.L. & TECH. 155, 181–209 (1989) (tracing the novelty standard); Joseph Scott Miller, *Hoisting Originality*, 31 CARDOZO L. REV. 451, 469–82 (2009) (tracing the originality standard); s*ee also* Baker v. Selden, 101 U.S. 99, 102 (1879) (distinguishing patent and copyright, in part, by novelty and one component of the modern originality standard, independent creation). Although the requirements have different meanings today, contemporary courts often used them interchangeably and across both regimes—broadly requiring the combined elements of a copyrightable work or a patentable invention to be produced by the author or inventor's intensive labor or creativity. *See* Miller, *supra*, at 469–75. Joseph Miller points out that "[t]he contemporary taboo against comparing originality [in copyright] to nonobviousness[, invention, or novelty (in patent)] is just that—contemporary." *Id.* at 471. The modern design patent act's retention of these terms (new and original) stands as one of the few fossilized reminders of patent and copyright's common history.

142. Ruggles Design Bill, S. 269, 26th Cong. § 1 (1841).

143. *Id.* (offering protection "[f]or the pattern or print to be either worked, stamped, printed, or painted, into or on any article of manufactured linen, cotton, calico, muslin, or other textile fabric").

144. *Id.* (offering protection "[f]or the modelling [sic], or the casting, or the embossment, or the chasing, or engraving, or for any other kind of impression or ornament, on any article of manufacture not being a textile fabric").

LEGISLATIVE INTENT SERVICE (800) 666-1917

previously mentioned categories.[145] The copyright term was one year,[146] except where the design was for ornamentation on an article "made of metal," the term was three years.[147]

Ruggles's bill provided that the proposed design copyright would only come into force upon registration.[148] However, registration would be issued only if, "on examination" by the Patent Office,[149] the design appeared to be "new and original,"[150] assuming that the applicant also paid the requisite filing fee[151] and complied with other formalities.[152] The registered rights-holder received a right to institute an infringement action against anyone who "shall adopt and use" the registered design during the term of the registration.[153]

Most of the concepts in Ruggles's bill, and even many of the key passages, were not original. They had been borrowed from Britain's dual copyright system for designs, enacted scarcely two years earlier.[154] One component of the dual system, the British Copyright of Designs Act (1839), extended copyright protection to new and original[155] patterns for printing "Linens, Cottons, Calicoes, or Muslins,"[156]—the same list that later appeared in Ruggles's proposal.[157] The other component, the Design Registrations Act (1839), protected three categories of subject matter: (1) any "Pattern or Print, to be either worked into or worked on, or printed on or painted on, any Article of Manufacture"; (2) designs "[f]or the Modeling, or the Casting, or the Embossment, or the Chasing, or the Engraving, or for any other Kind of Impression or Ornament, on any Article of Manufacture, not being a Tissue or textile Fabric"; and lastly (3) "the Shape or Configuration of any Article of Manufacture."[158] Ruggles borrowed this three-part structure and substituted the list of fabrics into the first category, converting the British dual system into a unified

145. *Id.*

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.* § 4.

150. *Id.*; *see also supra* note 141 and accompanying text (discussing the "new and original" requirement).

151. Ruggles Design Bill, S. 269, 26th Cong. § 6 (1841).

152. *Id.* § 4.

153. *Id.* § 3. Recovery for infringement ranged from $20 to $200 and was contingent on marking. *Id.* Unfortunately, this innovation did not make its way into the 1842 Act. *See* Act of Aug. 29, 1842, *supra* note 60. Because of the palpable difficulty of proving that a defendant's profits from an infringing product were attributable to the protected design—and not other things like marketing or functionality—Congress eventually provided a minimum recovery for willful infringement in 1887. *See* Act of Feb. 4, 1887, ch. 105, § 1, 24 Stat. 387; *see also* Frederic H. Betts, *Some Questions Under the Design Patent Act of 1887*, 1 YALE L.J. 181, 182–83 (1892).

154. Designs Registration Act, 1839, 2 Vict., c. 17, § 1 (Eng.); An Act for Extending the Copyright of Designs for Calico Printing to Designs for Printing other Woven Fabrics, 2 Vict., c. 13 (1839) (Eng.) [hereinafter Calico Act, 1839].

155. *See infra* note 164.

156. Calico Act, 1839, 2 Vict., c. 13, §§ 1, 3 (Eng.) (additionally extending protection to "other Fabrics of a similar Nature," which included fabrics composed of wool, silk, or hair, and any mixture thereof).

157. Ruggles Design Bill, S. 269, 26th Cong. § 1 (1841).

158. Designs Registration Act, 1839, 2 Vict., c. 17, § 1 (Eng.).

LEGISLATIVE INTENT SERVICE (800) 666-1917

system of protection.[159] The British Design Registrations Act (1839) also served as Ruggles's source for the requirement of registration,[160] the duration (one to three years, depending on the subject matter),[161] the mandated range of damages,[162] and the exclusive right to use the design during its respective term of protection.[163] However, both acts notably required the design to be "new and original"[164]—a requirement that can be traced to embryonic British design protection from 1787.[165]

Thus, the earliest American design protection proposal was a direct descendant of British copyright and design registration law.[166] The one variation—and it is a

159. *See* Ruggles Design Bill, S. 269, 26th Cong. § 1 (1841) (providing the relevant language of the Ruggles bill).

160. Designs Registration Act, 1839, 2 Vict., c. 17, §§ 1, 8 (Eng.). The British had settled on a dual-component system because the British textile industry vehemently objected to a requirement for registration, claiming (among other things) that manufacturers were already printing identifying information on their textile products, rendering registration (and its associated costs) unnecessary. SHERMAN & BENTLY, *supra* note 62, at 67–69. Accordingly, the Copyright of Designs Act, applicable to textiles, called for no registration, in contrast to the Designs Registration Act. Apparently, American textile manufacturers made no similar plea to Ruggles.

161. Both the British legislation and Ruggles's proposal protected castings, models, chasings, and engravings made of metal or mixed metals for three years and all other designs for only one year. *Compare* Designs Registration Act, 1839, 2 Vict., c. 17, § 1 (Eng.), *with* Ruggles Design Bill, S. 269, 26th Cong. § 1 (1841).

162. *Compare* Designs Registration Act, 1839, 2 Vict., c. 17, § 3 (Eng.) (guaranteeing £5.00 to £30.00 per offense), *with* Ruggles Design Bill, S. 269, 26th Cong. § 3 (1841) (guaranteeing $20 to $200 per offense and potentially including costs of suit).

163. *Compare* Ruggles Design Bill, S. 269, 26th Cong. § 1 (1841) (granting "the sole and exclusive *copy-right* to use" (emphasis added)), *with* Designs Registration Act, 1839, 2 Vict., c. 17, § 1 (Eng.) (granting the "sole Right to use"). However, both Ruggles's bill and the British Designs Registration Act arguably granted broader protection than the corresponding British Calico Act for fabrics. *See* Calico Act, 1839, 2 Vict., c. 13, § 1 (Eng.) (limiting protection to the "sole Right and Liberty of printing and re-printing").

164. Unfortunately, their common origins shed little light on Ruggles's bill. Although the terms "new and original" can be found in numerous British copyright acts, similar to their U.S. development, they were often loosely interpreted synonymously. *See* LEWIS EDMUNDS, THE LAW OF COPYRIGHT IN DESIGNS 24 (1895) (noting that "[w]hether any distinction was intended to be made between these terms does not seem clear"); MICHAEL FYSH, RUSSELL-CLARKE ON COPYRIGHT IN INDUSTRIAL DESIGNS 36 (5th ed. 1974) (noting that even as of the 1970s, "[a]s to what distinction, if any, is to be drawn between the words new and original is doubtful"). Yet contrary to the United States, as these terms began to take on distinct meanings, contemporary British design acts were amended in a manner that reflected their pseudo-*copyright* origins—requiring the design to be new *or* original. Patents and Designs Act, 1907, 7 Edw. 7, c. 29, § 49 (Eng.) [hereinafter Patent and Designs Act]; *see also* EDMUNDS, *supra,* at 24 (pointing out that these terms should be construed without analogy to patents).

165. Calico Printers' Act, 1787, 27 Geo. 3, c. 38, § 1 (Eng.) (granting protection to "every person who shall invent, design, and print, or cause to be invented, designed, and printed, and become the proprietor of any *new and original* pattern or patterns for printing linens, cottons, callicoes [sic], or muslins" (emphasis added)). *See generally* HENRY L. ELLSWORTH, REPORT FROM THE COMMISSIONER OF PATENTS, H.R. DOC. NO. 27-74 (1842) [hereinafter Ellsworth Report for 1841].

166. Ruggles may have been familiar with British copyright law as a result of his

LEGISLATIVE INTENT SERVICE (800) 666-1917

crucial one—is that Ruggles's bill not only contemplated registration but also required that applications for protection be subjected to pre-grant examination, reminiscent of the procedures in place for American utility patents.[167]

The inclusion of an examination requirement was pure Ruggles. In his capacity as chair of the Senate's Select Committee on the affairs of the Patent Office,[168] Ruggles had championed the idea of establishing a system of pre-grant, substantive patent examination in the utility patent system. Under his guidance, the committee had produced the 1836 Patent Act,[169] still the most significant legislative reform in the history of the American patent system largely due to its implementation of pre-grant examination. It is no surprise that Ruggles, perhaps reflexively, would have included an examination requirement in his design protection proposal.

Moreover, in the 1836 Patent Act, Ruggles also laid the administrative foundation for a modern patent office that would carry out that pre-grant examination.[170] He was venerated, with considerable justification, as the "Father of the Patent Office."[171] He had worked closely on the 1836 Patent Act with Henry Ellsworth, the superintendent of the Patent Office who became the first Commissioner of Patents under the new administrative structure that the 1836 act provided,[172] and Charles Keller, the model room keeper who became the first examiner under the new act.[173] Indeed, Ruggles had been, and remained, intimately

involvement in a debate over whether to extend U.S. copyright protection to British authors. *See* S. 32, 25th Cong. (1838) (extending U.S. copyright protection to residents of the United Kingdom, Ireland, and France upon print and publication in the U.S. simultaneously with its foreign issue, or within one month of its requisite deposit in any U.S. district court); S. REP. NO. 25-494, at 3–4 (1838) (report to accompany S. 32, recording Ruggles's views). In any event, few in Washington at the time could have claimed greater expertise with American intellectual property laws than Ruggles.

167. Ruggles Design Bill, S. 269, 26th Cong. §§ 1, 4 (1841).

168. CONG. GLOBE, 24th Cong., 1st Sess. 64 (1835). He was joined on the committee by Samuel Prentiss (Vermont) and Isaac Hill (New Hampshire). *Id.* The select committee was an ad hoc patent law reform committee formed at Ruggles's request. Ruggles had applied for a patent under the then-existing 1793 act and had become sufficiently frustrated over the act's delays and other deficiencies that he made a speech on the Senate floor calling for reform. *The Father of the Patent Office*, SCI. AM., May 9, 1891, at 295–96 (describing the speech based on Ruggles's notes).

169. Act of July 4, 1836, ch. 357, 5 Stat. 117 (1836).

170. *See generally* JOHN RUGGLES, REPORT WITH SENATE BILL NO. 239, S. REP. NO. 24-338 (1836) [hereinafter 1836 Patent Act Report]. Indeed, Ruggles similarly played a unique role laying the Patent Office's *physical* foundation after its destruction. *See* JOHN RUGGLES, REPORT WITH SENATE BILL NO. 107, S. REP. NO. 24-58 (1837).

171. *The Father of the Patent Office*, *supra* note 168, at 295.

172. We imagine that it is no coincidence that the first utility patent under the 1836 act regime was issued to Ruggles. Locomotive Steam-Engine for Rail and Other Roads, U.S. Patent No. 1 (issued July 13, 1836).

173. Charles Keller was appointed to the first examiner's role under the new act at the request of both Ellsworth and Ruggles and also served as the Patent Office's model room keeper. *See* Thaddeus Hyatt, *Charles M. Keller and the American Patent Office*, SCI. AM., May 21, 1859, at 310. While many commentators credit Ruggles and Ellsworth as the originators of the 1836 Patent Act, the two likely received a considerable amount of input from Keller. *Id.* Keller inherited the position from his father and had been advising patent applicants informally since Superintendent Pickett's administration. *Id.* Not only was

LEGISLATIVE INTENT SERVICE (800) 666-1917

involved with the Patent Office.[174] When he left the Senate shortly after presenting Mott's petition and the proposed legislation, Ruggles was angling for an appointment as the next Commissioner of Patents.[175] The requirement for examination, which surely could best be carried out at the Patent Office, reflected Ruggles's past alliances and served his future aspirations.

Ruggles's proposed bill passed the Committee on Patents without amendment.[176] The committee's chairman and Ruggles's longtime colleague,[177] Senator Samuel Prentiss, reported it on March 3, 1841. Unfortunately for Ruggles, this was the last day of the congressional session. Likely a victim of its timing, the bill was tabled and ordered to be printed.[178] More importantly, because Ruggles had failed to win his reelection campaign two years earlier, this was also his last session in the Senate.[179]

Ellsworth's letter to the Secretary of State (John Forsyth) full of recommendations from Keller, but Ruggles also worked directly with Keller while drafting the bill. *See id.*; KENNETH W. DOBYNS, THE PATENT OFFICE PONY 99 (1997); Robert C. Post, *"Liberalizers" Versus "Scientific Men" in the Antebellum Patent Office*, 17 TECH. & CULTURE 24, 27 (1976); *see also* Letter from Henry Ellsworth, Superintendent of the Patent Office, to John Forsyth, Sec'y of State (Jan. 29, 1836) *reprinted in* 8 MECHANIC'S MAG. no. 4, Oct. 1836 at 175–82 (response to Senator Ruggles's questions from the select committee). Regardless of Keller or Ellsworth's impact on the act, Senator Ruggles is universally recognized as its tireless political sponsor.

174. Ruggles was even credited with being the first person on the scene attempting to save the Patent Office building when it caught fire in 1836. JOHN RUGGLES, REPORT WITH SENATE BILL NO. 107, S. REP. NO. 24-58 (1837) (providing a very detailed account of the destruction at the Patent Office); DOBYNS, *supra* note 173, at 107. If anything, Ruggles's involvement with the Patent Office may have been a bit too intimate. *See* HUGH L. WHITE, SENATE SELECT COMMITTEE REPORT, S. REP. NO. 25-377 (1838) (investigating whether Ruggles used undue influence to procure a reissued patent, explaining that Ruggles frequented the Patent Office and had close connections with Charles Keller, and hinting that he may have occasionally accessed the office's secret archives where caveats were held).

175. Letter from John Ruggles, U.S. Senator, to Daniel Webster, U.S. Sec'y of State (Apr. 24, 1841) (on file with Robert D. Farber University Archives & Special Collections Department, Brandeis University) (containing Ruggles's rather lavish recitation of his qualifications for the position, including, among other things, that "[i]n reconstructing a code of [American] patent law, I introduced new principles of acknowledged usefulness & importance; which have since been adopted in England"). We are indebted to Sarah Shoemaker, special collections librarian at Brandeis University, and Maribel Nash, reference librarian at the Pritzker Legal Research Center at Northwestern School of Law, for helping us unearth the letter. Ruggles procured several letters of recommendation and no doubt was surprised when the position went to Henry Ellsworth instead. *Id.* (containing the letters of recommendation).

176. CONG. GLOBE, 26th Cong., 2d Sess. 226 (1841).

177. Senator John Ruggles and Senator Samuel Prentiss served together intermittently since the first select committee was formed in 1835 to reform the existing patent registration system. *See, e.g.*, CONG. GLOBE, 25th Cong., 1st Sess. 16 (1837); CONG. GLOBE, 24th Cong., 1st Sess. 64 (1835).

178. CONG. GLOBE, 26th Cong., 2d Sess. 226 (1841) (noting that Ruggles's bill "was laid on the table and ordered to be printed").

179. Ruggles's departure from the Jacksonian Democrats likely played a key role in his failed reelection bid. *See Maine Senator*, THE PITTSFIELD SUN, Feb. 4, 1841, at 3 (citing

LEGISLATIVE INTENT SERVICE (800) 666-1917

B. 1842 Ellsworth Report and Proposed Legislation: The Emergence of Quasi-Patent Concepts

Mott's lobbying efforts, however, continued into 1842. His petition was presented again in the Senate in March 1842,[180] and Ruggles's former colleague Senator Prentiss introduced legislation in April 1842.[181] The 1842 legislation, however, still bore indications of Ruggles's original conception of a design copyright regime with substantive pre-grant examination. Yet, it also had become infused with more patent law rhetoric, undoubtedly as a result of suggestions made by the man who had been granted the appointment that Ruggles so assiduously sought—Patent Commissioner Henry Ellsworth.

In his annual Commissioner's Report to Congress for the year 1841,[182] published and referred to the Senate Committee on Patent and the Patent Office on March 8, 1842,[183] Ellsworth included three paragraphs recommending the protection "of new and original designs for articles of manufacture, both in the fine and useful arts."[184] After pointing out that other nations had granted such protection,[185] Ellsworth reiterated the rationale for protection that had been offered in Mott's petition:

BOSTON POST). While Ruggles was elected to the senate as a Jacksonian Democrat, he split ways with his party on several key issues. *See* LOUIS CLINTON HATCH, MAINE: A HISTORY (1919) 218 (noting that "[h]e served but one term as Senator, broke from his party on the sub-treasury question, and was retired from political life"); David J. Russo, *The Major Political Issues of the Jacksonian Period and the Development of Party Loyalty in Congress, 1830-1840*, 62 TRANSACTIONS AM. PHIL. SOC'Y, no. 5, at 3, 18, 41, 46 (1972) (describing Ruggles as a renegade Democrat and noting his departure from the party on the issues of slavery and the sub-treasury). By 1840, both Whigs and Conservatives were claiming Ruggles as a loyalist. *See* A POLITICAL REGISTER FOR 1840 4 (1840) (Whig); *United States Senator*, CHRISTIAN SECRETARY, Aug. 21, 1840, at 2 (Conservative); *Harrison or Whigs*, NEW WORLD, Jan. 23, 1841, at 61 (Harrison or Whigs); *Senator Ruggles*, JEFFERSONIAN REPUBLICAN, May 16, 1840, at 2 (noting that Ruggles "now goes for [Whig President] Harrison and reform"). In the end, however, it appears that he ultimately sided with the Conservatives and might have earned the moniker "Benedict Arnold" in return. *Maine Senator*, *supra*, at 3 (stating, "Ruggles must know that the English never respected or trusted Arnold much, after his treason, and now, in their retirement, they may have leisure to make some reflections upon that fact").

180. CONG. GLOBE, 27th Cong., 2d Sess. 272 (1842) (petition presented in March 1842 by Senator Daniel Sturgeon (Pennsylvania) from the Committee on Patents).

181. S. 220, 27th Cong. (1842).

182. Ellsworth Report for 1841, H.R. DOC. NO. 27-74 (1842). Hudson claims that the report is dated February 8, 1841, Hudson, *supra* note 58, at 380, but this appears to be an error—Ellsworth's annual report covered Patent Office operations in 1841 and therefore would not have been circulated until sometime in 1842. *See* Ellsworth Report for 1841, S. REP. NO. 27-169, at 1 (dated January 1842 by Ellsworth, referred for printing on February 7, 1842, and later referred to the Patent Committee on March 8, 1842).

183. *See* Ellsworth Report for 1841, S. REP. NO. 27-169, at 1.

184. *Id.* at 2.

185. *Id.* (asserting that "[o]ther nations have granted this privilege, and it has afforded mutual satisfaction alike to the public and to individual applicants").

LEGISLATIVE INTENT SERVICE (800) 666-1917

> Competition among manufacturers for the latest patterns prompts to the highest effort to secure improvements, and calls out the inventive genius of our citizens. Such patterns are immediately pirated, at home and abroad. A patent [sic, pattern] introduced at Lowell,[186] for instance, with however great labor or cost, may be taken to England in 12 or 14 days, and copied and returned in 20 days more.[187]

To address this situation, Ellsworth asserted, legal protection should be extended to "new and original designs for a manufacture of metal or other material, or any new and useful design for the printing of woollen, silk, cotton, or other fabric,"[188] an adaptation of Ruggles's and Mott's language and a nod to the lobbying influence of the iron and textile industries. Ellsworth also suggested that protection be available for "a bust, statue, or bas-relief, or composition in alto or basso-relievo."[189] But this was not language from Ruggles's proposal, it was copyright language—specifically, language from British copyright law.[190]

However, the copyright language notwithstanding, Patent Commissioner Ellsworth made clear that he was not styling his proposal as a copyright proposal. Instead, he posited that the proposed protection "could be effected by simply authorizing the Commissioner to issue patents for these objects, under the same limitations and on the same conditions as govern present action in other cases."[191] The patent term could be seven years (half of the fourteen-year duration for utility patents),[192] and the application fee correspondingly could be half that charged for utility patent applications.[193]

From a modern vantage point, Ellsworth's allusion to patents may seem to be a dramatic shift away from Ruggles's copyright proposal. However, differences between the substantive rules in the respective regimes were slight at the time of Ellsworth's report. Even the respective terms of patent and copyright had been comparable until only a few years prior.[194]

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186. *See generally* RIVARD, *supra* note 104, at 59–65 (discussing the importance of Lowell, MA, to the textile industry).

187. Ellsworth Report for 1841, H.R. DOC. NO. 27-74, at 2.

188. *Id.*

189. *Id.*

190. An Act for Encouraging the Art of Making New Models and Casts of Busts, 1798, 38 Geo. 3, c. 71, § 1 (Eng.) (protecting any "new Model, Copy, or Cast, or any such new Model, Copy or Cast in Alto or Basso Relievo" of human or animal figures). Analogous protection for three-dimensional objects in U.S. copyright law did not come into effect until 1870. Act of July 8, 1870, ch. 230, § 86, 16 Stat. 198, 212 (specifically including "any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, *statue, statuary, and of models or designs intended to be perfected as works of the fine arts*" (emphasis added)).

191. Ellsworth Report for 1841, H.R. DOC. NO. 27-74, at 2.

192. *Contra* Act of July 4, 1836, ch. 357, § 18, 5 Stat. 117, 124–25 (1836) (extending protection for another seven years, beyond the initial fourteen years, where the patentee failed to obtain reasonable remuneration through no fault of their own).

193. Ellsworth Report for 1841, H.R. DOC. NO. 27-74, at 2.

194. Until 1831, both initial terms were fourteen years; however, by renewal authors could double their copyright term. *Compare* Act of May 31, 1790, ch. 15, § 1, 1 Stat. 124,

LEGISLATIVE INTENT SERVICE (800) 666-1917

Moreover, other evidence suggests that Ellsworth's nonchalant reference to patents was motivated more by pragmatic political considerations than any perception that patent rules were preferable to copyright rules for protecting designs.[195] Under Ellsworth's proposal, fees of fifteen dollars for design protection would be paid into the Patent Office.[196] By contrast, antebellum copyright protection involved a mere fifty-cent fee, payable to the federal court in the district where the applicant resided and collected when the author deposited a copy of the work with the court before publication, prepublication deposit being a prerequisite of copyright protection at the time.[197]

Against the backdrop of a recessionary economy,[198] not to mention construction costs for a newly completed Patent Office building that ran four times higher than its appropriation,[199] a new revenue stream for the Patent Office would have been especially attractive. The *Congressional Globe*'s notation regarding floor commentary on the proposed legislation highlights the bill's revenue effects, reporting that the bill's sponsor (Kerr) "explained, at great length, that the bill was intended to apply the rights of patents to new objects, and thereby bring additional revenue into the patent department, and to protect rights of patentees."[200] Indeed, Senator Kerr would have been especially attuned to these revenue issues—he had previously chaired the Committee on Public Buildings,[201] which had oversight responsibility for the Patent Office rebuilding project and, as current chairman of

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124 (1790), *with* Patent Act of 1793, ch. 11, § 1, 1 Stat. 318, 318–21 (1793).

195. Likewise, pragmatic considerations apparently motivated design protection proponents in Britain to *avoid* placing British design protection under the auspices of the patent system. The bureaucracy of the British patent system was notoriously byzantine, and it was considered undesirable to subject design protection to those idiosyncrasies. SHERMAN & BENTLY, *supra* note 62, at 81–83.

196. Ellsworth's proposal suggested charging "*one half* of the present fee charged to citizens and foreigners, respectively." Ellsworth Report for 1841, H.R. DOC. NO. 27-74, at 2 (emphasis in original). Per contemporary utility patent fees (minimum $30), a granted design patent cost American citizens $15. *See* U.S. PATENT OFFICE, INFORMATION TO PERSONS HAVING BUSINESS TO TRANSACT AT THE PATENT OFFICE 7 (1836), *reprinted in* RULES OF PRACTICE: U.S. PATENT OFFICE (1899) (compilation held by Cornell University Library). Because of the 1836 Patent Act's discriminatory pricing, it would have been much more expensive for foreigners—$500 for the British and $300 for everybody else. *Id.*

197. *See* Act of Feb. 3, 1831, ch. 16, § 4, 4 Stat. 436, 437.

198. *See supra* Part II.

199. SCIENTIFIC AMERICAN REFERENCE BOOK 247 (Albert A. Hopkins & A. Russell Bond eds., 1905) (noting that Congress had appropriated about $100,000 for the construction in 1836 and that the building, completed in 1840, had cost over $400,000); *see also* S. 296, 24th Cong. (1836) (pertinent legislation proposed by John Ruggles).

200. CONG. GLOBE, 27th Cong., 2d Sess., at 833 (1842) (remarks of Senator Kerr). *See infra* note 226 (explaining Kerr's involvement). Of course, Ellsworth might have been able to achieve these revenue goals irrespective of the form of protection he proposed by providing that fees would be paid to the Patent Office even if the protection were more akin to copyright. For example, Ruggles's proposal would have given the Patent Office authority over the proposed design copyright system, and applicants would have paid $10 in application fees. Ruggles Design Bill, S. 269, 26th Cong. § 6 (1841).

201. CONG. GLOBE, 27th Cong., 2d Sess. 15 (1842).

LEGISLATIVE INTENT SERVICE (800) 666-1917

the Patent Committee,[202] he had just two days prior to this commentary reported a bill proposing to expand the new Patent Office building.[203]

In addition, it is no surprise that Ellsworth, as Commissioner of Patents, would make a proposal to expand his own department's jurisdiction nor that he would do so in the context of his annual report.[204] And Ellsworth would have reasonably expected enormous deference from Congress.[205] The Senate committee on patents frequently solicited Ellsworth's recommendations[206] and frequently acted on them. The two pieces of patent legislation that passed between 1836 (when Ellsworth became Commissioner) and 1845 (when Ellsworth left the post) can be traced to recommendations he made in his annual reports.[207] These reports had a wide audience around the country, albeit probably for the agricultural statistics included in the report rather than the patent policy matters.[208]

One commentator, Thomas B. Hudson, has offered additional reasons purporting to explain why design protection was effectuated by patent rather than

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202. S. Journal, 27th Cong., 2d Sess. 399 (1842).

203. S. 290, 27th Cong. § 1 (1842); S. Journal, 27th Cong., 2d Sess. 524 (1842).

204. By 1839, Ellsworth had already successfully lobbied for the expansion of the Commissioner's evidentiary powers and pushed the Patent Office into the business of collecting agricultural statistics. Act of Mar. 3, 1839, ch. 88, §§ 9, 12, 5 Stat. 353, 354–55. Before leaving the Commissioner's role in 1845, Ellsworth even managed to help Samuel Morse obtain a large appropriation for further experimentation on the telegraph. HARRY KURSH, INSIDE THE U.S. PATENT OFFICE 26 (1959).

205. Ellsworth came from a family of great prominence in early American society. His father had been a Chief Justice of the U.S. Supreme Court, and his twin brother was a formidable judge and politician. *See* William I. Wyman, *Henry L. Ellsworth, The First Commissioner of Patents*, 1 J. PAT. OFF. SOC'Y 524, 524 (1919). But Ellsworth did not simply rest on his family's reputation. By the time that President Jackson made him Commissioner at the age of forty-five, he had already been a mayor in Connecticut (Hartford), run a large insurance company (Aetna), and even helped Jackson as one of his chief commissioners of Indian Affairs (overseeing the vast displacement of Native Americans in what many historians refer to as the "Trail of Tears"). *See* KURSH, *supra* note 204, at 26.

206. *See, e.g.*, Letter from Henry Ellsworth, U.S. Comm'r of Patents, to John Ruggles, U.S. Senator (Feb. 23, 1838), *reprinted in* H.R. REP. NO. 25-797, at 3–5 (1838) (responding to Ruggles's inquiry into whether further legislation was necessary for business at the Patent Office).

207. The design patent legislation was part of a larger 1842 Patent Act, and in that bill, five of the six sections were proposed in Ellsworth's report. *Compare* HENRY L. ELLSWORTH, REPORT FROM THE COMMISSIONER OF PATENTS, H.R. DOC. NO. 27-74, at 2 (1842), *with* Act of Aug. 29, 1842, ch. 263, §§ 1, 3–6, 5 Stat. 543, 543–45. Likewise, eleven of the thirteen sections of the 1839 act derive from one of Ellsworth's annual reports. *Compare* Act of Mar. 3, 1839, ch. 88, 5 Stat. 353, *with* HENRY L. ELLSWORTH, REPORT FROM THE COMMISSIONER OF PATENTS, H.R. DOC. NO. 25-80, at 2–4 (1839), *and* HENRY L. ELLSWORTH, REPORT FROM THE COMMISSIONER OF PATENTS, S. DOC. NO. 25-105, at 2–6 (1838).

208. RICHARD R. JOHN, NETWORK NATION: INVENTING AMERICAN TELECOMMUNICATIONS 47 (2010) (arguing that the agricultural statistics ultimately drove the popularity of Ellsworth's annual reports); *The Commissioner of Patents,* OHIO CULTIVATOR, May 1, 1845, at 9 (lauding the importance of Ellsworth's annual reports and noting that it "makes a volume of greater interest than any other volume published periodically, in this country").

LEGISLATIVE INTENT SERVICE (800) 666-1917

copyright, but these, too, strike us as unpersuasive. Hudson postulated that manufactured articles were closer to the subject matter of patents than the "intellectual products" of copyright law (e.g., books, maps, etc.).[209] But this explanation is incomplete; Ellsworth's proposal (and the design patent legislation as ultimately enacted) covered works of fine art (statues, for example), in addition to traditionally manufactured goods.[210] Hudson also speculates that the copyright system lacked a central depository at the time, unlike the patent system.[211] However, design legislation could have provided for a centralized depository at the Patent Office even if design protection took on the form of copyright protection. Indeed, the Patent Office had long been used as a repository of various copyrighted works during its tenure,[212] and this is essentially what Ruggles's proposal had done.[213]

In sum, the proposals that ultimately resulted in the first American design patent statute veered from a quasi-copyright proposal to a patent proposal for extrinsic reasons. Our research uncovered no evidence of any debate over the wisdom of the core idea that substantive utility patent law rules should govern a new design protection regime and no indication that drafters of the design patent statute were sufficiently prescient to foresee that copyright and utility patent jurisprudence would evolve along divergent paths in the decades to come.

Our historical analysis also demonstrates that claims that the design patent system originated as an historical accident are misleading. Design protection legislation came about in large part because Jordan Mott persisted in his lobbying efforts. And Ellsworth's adept maneuvering of the design protection scheme onto the Patent Office's turf was no accident.

On the other hand, the final chapter in the legislative odyssey of the 1842 design patent provisions does provide some support for the historical accident thesis. The design patent provisions passed during a political firestorm. The political forces that appear to have converged to make the design patent provisions a reality were transient and anomalous. We analyze these peculiar political circumstances below.

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209. Hudson, *supra* note 58, at 383.

210. Ellsworth Report for 1841, H.R. DOC. NO. 27-74 (1842), at 2.

211. Hudson, *supra* note 58, at 383.

212. Pamphlet from William Thornton, U.S. Superintendent of the Patent Office (Mar. 5, 1811), *reprinted in* AM. FARMER, Jan. 27, 1826, at 357–58 (explaining the process of acquiring a patent or copyright and noting that specimens of copyrighted works, like paper hangings and ornaments for rooms, could be deposited directly with the Patent Office or the Secretary of State in order to fulfill the deposit requirement). *See generally* R. Anthony Reese, *Innocent Infringement in U.S. Copyright Law: A History*, 30 COLUM. J.L. & ARTS 133, 137 (2007) (describing copyright protection formalities from 1790 to 1909); John Y. Cole, *Ainsworth Spofford and the Copyright Law of 1870*, *in* A CENTURY OF COPYRIGHT IN THE LIBRARY OF CONGRESS 3 (1970) (noting that storing the copies of these works was a point of frustration for numerous patent commissioners, since space was such a premium at the Patent Office).

213. *See supra* Part III.A.

LEGISLATIVE INTENT SERVICE (800) 666-1917

C. Passage of the 1842 Act: Design Patent Protection and the Protectionist Surge

The Twenty-Seventh Congress received Commissioner Henry Ellsworth's report recommending design patent protection in March, and in April 1842 Senator Samuel Prentiss, a Whig from Vermont, introduced legislation.[214] It had no chance of progressing through the legislative process for a simple reason: the Twenty-Seventh Congress was utterly in deadlock.

The crisis in Congress in the spring of 1842 had its roots in a long-running feud between the Jacksonian Democrats and their emergent rivals, the American Whigs. Just over a year earlier, the Whig Party had gained a majority of seats in Congress and had finally captured the White House. The Whigs had won on a platform favoring aggressive protectionist tariffs,[215] arguing successfully that the free trade policies of the Jacksonian Democrats had triggered the Panic of 1837, a severe economic recession whose effects extended into the 1840s.[216] In early 1841, it appeared certain that the Whig legislative agenda, including the tariff legislation, would swiftly be enacted.[217]

Then, after only a month in office, President William Henry Harrison died. His successor, John Tyler of Virginia, was nominally a Whig but refused to cooperate

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214. S. 220, 27th Cong. (1842). We do not mean to suggest that the design patent system was purely the product of Whig partisanship. For example, both Ruggles and Ellsworth were (at one point) Jacksonian Democrats. FRANKLIN BOWDITCH DEXTER, 6 BIOGRAPHICAL SKETCHES OF THE GRADUATES OF YALE COLLEGE WITH ANNALS OF THE COLLEGE HISTORY 309–12 (1912) (offering brief biographical information); *supra* note 179.

215. The Whigs had been arguing for many years that "free trade was always linked with depression, while protection brought prosperity." Samuel Rezneck, *The Social History of an American Depression 1837–1843*, 40 AM. HIST. REV. 662, 670 (1935). Nevertheless, the Jacksonians maintained a policy of trade liberalization during their time in power, including much of the 1830s. Scott C. James & David A. Lake, *The Second Face of Hegemony: Britain's Repeal of the Corn Laws and the American Walker Tariff of 1846*, 43 INT'L ORG. 1, 9 (1989) (identifying four periods of antebellum tariff policy: increased protectionism from 1824–33; trade liberalization from 1833–42; a "brief but decided return to protection" from 1842–46; and the "political triumph of free trade principles" from 1846–61).

216. For background on the recession, see, e.g., Edward J. Balleisen, *Vulture Capitalism in Antebellum America: The 1841 Federal Bankruptcy Act and the Exploitation of Financial Distress*, 70 BUS. HIST. REV. 473, 479 (1996) (referring to two discrete economic downturns during this period, the Panic of 1837 and the Panic of 1839); PETER TEMIN, THE JACKSONIAN ECONOMY 148–55 (1969) (analyzing the causes of both crises). The Whigs succeeded—albeit temporarily—in blaming the recession in part on Jacksonian banking policies, which were unpopular in the West, and on British trade practices, which had caused cotton prices to plummet and had generated resentment in the South. *See* Rezneck, *supra* note 215, at 669; *The Protective Policy*, S. LITERARY MESSENGER, Apr. 1842, at 4 (offering an Anglophobic polemic for high tariffs). Whatever the cause, the consequences were severe: banks failed and early stock markets crashed, Peter L. Rousseau, *Jacksonian Monetary Policy, Specie Flows, and the Panic of 1837*, 62 J. ECON. HIST. 457, 457 (2002), and the U.S. Treasury was nearly bankrupted. 1 JERRY W. MARKHAM, A FINANCIAL HISTORY OF THE UNITED STATES 150 (2002).

217. MICHAEL F. HOLT, THE RISE AND FALL OF THE AMERICAN WHIG PARTY 69, 121 (1999).

LEGISLATIVE INTENT SERVICE (800) 666-1917

with Whig legislative initiatives,[218] particularly the tariffs, which had long been unpopular in the South.[219] Incensed, the Whig congressional leadership dismissed Tyler from the party and settled in for a monumental power struggle with the administration, "contemptuously" dismissing Tyler's legislative proposals and bringing Washington to the verge of paralysis.[220]

For a time, Tyler refused to capitulate. The Whigs passed a legislative package that included tariff legislation; Tyler immediately vetoed it.[221] However, Tyler's position was unsustainable. The tariffs were a major source of federal government revenue, and the tariff deadlock had the potential to shut down the government.[222] Meanwhile, sectional differences were threatening to unravel the Whigs' fragile political coalition, and there were already signs that the electorate was growing impatient with Whig promises to pull the nation out of the recession.[223]

By August 1842, the sheer enormity of the threat to the government's fiscal stability convinced Tyler that he had no choice but to support a tariff program. For their part, the Whigs began to split up their legislative package, uncoupling the tariff proposal from another controversial proposal relating to the distribution of land revenues. While the disappearance of the land bill caused southern Whigs to withdraw support, the Whig tariff was sufficiently popular in depressed northern manufacturing areas that the Whigs were able to cobble together a flimsy coalition with some northern Democrats (for example, Pennsylvania Democrats whose constituents operated iron foundries, among others). On August 30, 1842, Congress passed the Whig tariff legislation, characterized by one historian as the Whigs' sole legislative triumph of the session.[224]

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218. For a concise recitation of events leading to Tyler's rupture with Clay and the Whig program, see SEAN WILENTZ, THE RISE OF AMERICAN DEMOCRACY 523–29 (2005).

219. Jacksonian Democrats had traditionally resisted high tariff rates on the ground that the tariffs harmed southern agrarian interests. Southern resistance to proposed tariffs in the early 1830s had precipitated the Nullification Crisis, in which South Carolina threatened to secede if the tariffs were not adjusted. *See* Adrienne Caughfield, *Tariff of 1828 (Tariff of Abominations)*, *in* 1 ENCYCLOPEDIA OF TARIFFS AND TRADE IN U.S. HISTORY 363, 363–64 (Cynthia Clark Northrup & Elaine C. Prange Turney eds., 2003); Robert Tinkler, *Tariff of 1832*, *in* 1 ENCYCLOPEDIA OF TARIFFS AND TRADE IN U.S. HISTORY, *supra*, at 365; *see also* Douglas A. Irwin, *Antebellum Tariff Politics: Regional Coalitions and Shifting Regional Interests*, 51 J.L. & ECON. 715, 730 (2008) (discussing the impact of the Tariff of 1832 on the South). The 1833 Compromise Tariff Act provided a tariff regime that was only slightly more favorable to the South. *See* TAUSSIG, *supra* note 79, at 110. For a concise discussion of the Nullification Crisis, see DANIEL WALKER HOWE, WHAT HATH GOD WROUGHT 395–410 (2007).

220. HOLT, *supra* note 217, at 137, 140.

221. *Id.* at 147.

222. *See id.* at 146–47. Adding further to the urgency of the situation, tariff reductions promulgated several years earlier during the Jackson administration were scheduled to come into effect in 1842. *Id.*

223. *Id.* at 140. Indeed, the Whigs fared so badly in state elections in the fall of 1841 that by December 1841, prominent Senator John Calhoun (South Carolina) chortled that "I now regard the Whigs as destroyed." *Id.*

224. *See id.* at 148.

LEGISLATIVE INTENT SERVICE (800) 666-1917

In fact, there had been one other. The design patent legislation had lain dormant through the summer,[225] but Mott's petition returned to the Senate again in early August,[226] courtesy of Prentiss's replacement as chair of the Patent Committee, Whig Senator John L. Kerr from Maryland.[227] Senator Kerr also moved for the Senate to take up the Prentiss bill for consideration.[228] After two days of debate,[229] the Senate passed the bill and reported it to the House,[230] where it passed without discussion[231] the day before the passage of the tariff bill.

Although the historical evidence is largely circumstantial, we think it likely that, but for the momentum of the great tariff debate, the design patent legislation would have been shunted aside, another casualty of the partisan stalemate. It was the tariff debate that brought together northern industrial interests, and these happened to be the very same constituencies that stood to benefit most immediately from design patent legislation.[232] Senator Kerr, who had moved the Senate to consider Prentiss's design bill on August 3, 1842,[233] had also presented a petition a few months earlier from numerous manufacturers seeking increased iron tariffs.[234]

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225. In addition to the obstacles that resulted from the Whigs' fight with the Tyler administration, Senator Prentiss had resigned from the Senate a few days after introducing the design patent legislation in the spring. *See* CHARLES J.F. BINNEY, MEMOIRS OF JUDGE SAMUEL PRENTISS OF MONTPELIER, VT., AND HIS WIFE LUCRETIA (HOUGHTON) PRENTISS 12 (1883), *available at* http://archive.org/details/memoirsofjudgesa00binn.

226. CONG. GLOBE, 27th Cong., 2d Sess. 826 (1842) (petition presented in August 1842). Kerr's reintroduction of the petition was likely done for symbolic reasons (since it had been five months since Sturgeon's presentation to the same congressional session and he would ask Congress to take up consideration of Prentiss's bill the following day) or because of changes in the Senate's petition rules that also took place during this session. *See* Daniel Wirls, *"The Only Mode of Avoiding Everlasting Debate": The Overlooked Senate Gag Rule for Antislavery Petitions*, 27 J. EARLY REPUBLIC 115, 128–29 (2007) (discussing the Senate's evolving gag rules during this era that were intended to deal with the onslaught of antislavery petitions during this time). *See generally* Stephen A. Higginson, *A Short History of the Right to Petition Government for the Redress of Grievances*, 96 YALE L.J. 142, 156–58 (1986) (discussing the typical Congressional reception and consideration of petitions via committees during this gag rule era).

227. After Samuel Prentiss's abrupt retirement from the Senate, Kerr was appointed chair of the Senate's Patent Committee in June 1842. S. JOURNAL, 27th Cong., 2d Sess. 399 (1842).

228. CONG. GLOBE, 27th Cong., 2d Sess. 832–33 (1842).

229. Our research suggests that a provision imposing a citizenship requirement, and another relating to renewals for utility patents, were the only provisions debated. *See infra* note 243–44.

230. *See* CONG. GLOBE, 27th Cong., 2d Sess. 911–12 (1842).

231. *Id.* at 960.

232. The sentiment for protectionism dissipated almost as quickly as it arose. By 1844, the Democrats regained the White House, and President Polk immediately attacked the Whig tariff regime. *See* Robert P. Sutton, *Tariff of 1846 (Walker's Tariff)*, *in* 1 ENCYCLOPEDIA OF TARIFFS AND TRADE IN U.S. HISTORY, *supra* note 219, at 368–69; *see also* ROBERT W. MERRY, A COUNTRY OF VAST DESIGNS 205–07 (2009) (recounting Polk's first annual message to Congress).

233. CONG. GLOBE, 27th Cong., 2d Sess. 832–33 (1842). Prentiss had resigned from the Senate a few days after introducing the design legislation. Senator Kerr had been appointed

LEGISLATIVE INTENT SERVICE (800) 666-1917

The political circumstances also suggest that it would have been expedient to characterize the design patent legislation itself as a protectionist measure.[235] There was some precedent for this characterization in existing elements of antebellum American intellectual property law.[236] For example, U.S. copyright protection at the time extended only to authors who were U.S. citizens,[237] and the 1790 Copyright Act expressly stated that the copying of foreign works was not forbidden.[238] The patent system likewise had included some discriminatory provisions—citizenship restrictions between 1793 and 1836[239] and discriminatory fees,[240] working requirements,[241] and prior art provisions afterwards.[242]

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chair of the Senate's patent committee on June 15, 1842. S. JOURNAL, 27th Cong., 2d Sess. 399 (1842).

234. CONG. GLOBE, 27th Cong., 2d Sess. 381 (1842) (presenting a "memorial from citizens of Maryland, asking that the tariff of duties on imported iron might be restored to what it was in 1839, with a view to protection: [which was] referred to the Committee on Manufactures" on April 1, 1842).

235. We use the term "protectionism" here in its nineteenth century sense: advocates of "protectionism" sought to use domestic legal regimes, including domestic intellectual property laws, to insulate domestic producers from foreign competition, while "free trade" adherents tended to lash out at the propagation and expansion of intellectual property regimes. Mark D. Janis, *Patent Abolitionism*, 17 BERKELEY TECH. L.J. 899, 941–48 (2002) (citing free trade principles as the main ideological influence underlying a movement in England in the 1860s to abolish patent protection). The modern dialectic of intellectual property and protectionism is just the opposite: countries that recognize and enforce intellectual property rights regimes at or above TRIPS-mandated minimums are frequently said to be acting in accord with free trade principles, while countries that derogate from those minimums engage in "protectionism." *See, e.g.*, Yiqiang Li, *Evaluation of the Sino-American Intellectual Property Agreements: A Judicial Approach to Solving the Local Protectionism Problem*, 10 COLUM. J. ASIAN L. 391 (1996) (using "protectionism" to describe the refusal of local Chinese government authorities to enforce intellectual property rights); *see also* Rochelle Cooper Dreyfuss & Andreas F. Lowenfeld, *Two Achievements of the Uruguay Round: Putting TRIPS and Dispute Settlement Together*, 37 VA. J. INT'L L. 275, 280 (1997) (noting that the GATT agreement generally disfavors "protectionism" but that GATT-TRIPS promotes intellectual property protection that itself may be deemed "protectionist," and concluding that even the modern vocabularies of intellectual property and international trade "sit in uneasy contrast").

236. There were also arguably some British precursors. For a suggestion that protectionist trade policy and intellectual property rights were intertwined in an earlier era in English law, see Thomas B. Nachbar, *Monopoly, Mercantilism, and the Politics of Regulation*, 91 VA. L. REV. 1313 (2005).

237. Act of May 31, 1790, ch. 15, § 1, 1 Stat. 124, 124 (limiting copyright protection to U.S. citizens and residents); *id.* § 6 (limiting copyright infringement actions to those brought by U.S. citizens or residents). Congress eliminated the citizenship restriction in 1891, but imposed requirements for publication and manufacture in the United States. *See* Act of Mar. 3, 1891, ch. 565, 26 Stat. 1106.

238. Act of May 31, 1790, ch. 15, § 5, 1 Stat. at 125 (specifying that "nothing in this act shall be construed to extend to prohibit the importation or vending, reprinting or publishing within the United States, of any map, chart, book or books, written, printed, or published by any person not a citizen of the United States"). *See generally* B. ZORINA KHAN, THE DEMOCRATIZATION OF INVENTION 261 (2005) (discussing the provision).

239. Patent Act of 1793, ch. 11, § 1, 1 Stat. 318, 318–21; *cf.* Act of July 4, 1836, ch. 357, § 6, 5 Stat. 117, 119 [hereinafter Patent Act of 1836] ("any person or persons").

LEGISLATIVE INTENT SERVICE (800) 666-1917

If design protection legislation was to be sold as a protectionist measure, what mattered was whether the legislation privileged American firms over foreign firms—and it did. Consistent with protectionist ambitions, the Senate amended the pending 1842 design patent legislation in order to limit design patent protection to citizens or aliens who resided in the United States and intended to become citizens.[243] In fact, the only amendment recorded in the *Congressional Globe* that we can tie directly to the design patent provisions involved the suggestion to restrict design patent protection to citizens.[244]

Viewed in its proper political context, Congress's decision to enact design patent legislation can be understood as an exercise implementing the Whig protectionist agenda, not a mere accident or a mere passive congressional response to Commissioner Ellsworth's proposal to incorporate utility patent rules. The citizenship provision was likely far more important to the ultimate passage of the legislation than the suggestion to incorporate patent law rules.[245]

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240. *See* Patent Act of 1836, § 9, 5 Stat. at 121 (imposing a $30 application fee for U.S. citizens, a $300 fee for most foreigners, and a $500 fee for British applicants).

241. *Id.* § 15 (allowing a defense against infringement in cases where the patentee was a foreigner and had "failed and neglected for the space of eighteen months from the date of the patent, to put and continue on sale to the public, on reasonable terms, the invention or discovery for which the patent issued").

242. *Compare id.* § 7, *with* Patent Act of 1793, § 1, 1 Stat. at 318–21, *and* Act of Apr. 10, 1790, ch. 7, § 1, 1 Stat. 109, 109–10. *See generally* Margo A. Bagley, *Patently Unconstitutional: The Geographic Limitation on Prior Art in a Small World*, 87 MINN. L. REV. 679, 684, 696–700, (tracing the limitation's legislative history).

243. Predecessor proposals lacked a citizenship restriction. *Compare* S. 220, 27th Cong. § 3 (1842) ("person or persons"), *with* Act of Aug. 29, 1842, ch. 263, § 3, 5 Stat. 543, 543–44 ("citizen or citizens, or alien or aliens, having resided one year in the United States and taken the oath of his or their intention to become a citizen or citizens").

244. CONG. GLOBE, 27th Cong., 2d Sess. 840 (1842) (recording that Senator Wright—presumably Silas J. Wright, a Van Buren Democrat from New York—suggested the citizenship restriction, and that Senator Huntington—apparently Jabez W. Huntington, a Whig from Connecticut—commented on the suggested amendment). The legislative package also included some utility patent provisions, and the relatively brief debate as recorded in the *Congressional Globe* appears to contain some erroneous references to bill section numbers, so it requires some careful reconstruction to determine whether certain aspects of the debate related to the design patent proposal. *See id.* (referring to citizenship amendments in "2d section," which should read "3d section").

245. Indeed, in 1870, when Congress lifted the citizenship restriction, *Scientific American* characterized the amendment as a great victory for the "advocates of the free trade system." *The New Patent Laws—Important Changes Affecting American and Foreign Manufacturers—Free Trade in Patents Now Fully Established*, 23 SCI. AM. 87, 87 (1870) (referring to Act of July 8, 1870, ch. 230, § 71, 16. Stat. 198, 209–10). During the subsequent (Forty-Second) Congress, the Senate even passed a bill that would have again restricted design patents to citizens. S. 583, 42d Cong. (1872) (reincorporating the citizenship restriction for design patents only). Describing the amendment, Senator Morrill (Vermont) bluntly stated, "The effect of this change is to allow Americans to copy any designs that are brought here from abroad, if they choose." CONG. GLOBE, 42d Cong., 2d Sess. 1036 (1872). The Senator also repeatedly referred to the design patent regime as copyright and even a design registration system while championing the bill. *See, e.g.*, *id.* at 817, 1036; *see also id.* at 1427 (recording Mr. Cox's attempt to refer the bill to the House's

LEGISLATIVE INTENT SERVICE (800) 666-1917

A. Design Patent Claiming Practices

The patent claim shapes much of modern utility patent analysis.[251] Claim interpretation is the threshold step in all patentability and infringement analyses and has generated perhaps the most vibrant debates in contemporary patent law.[252] A synthesis of the canons of patent claim construction literally fills multiple volumes.[253] By virtue of the Section 171 incorporation clause, and cultural cross-fertilization between utility patent and design patent practices, each design patent includes a claim.[254] Accordingly, a mechanism exists for the deep inculcation of the utility patent claiming jurisprudence into design patent law.

Nonetheless, while design patent law is superficially indebted to utility patent law's claiming conventions, its commitment has been ad hoc. The concept of peripheral claiming has never quite penetrated design patent law. Design patent claims conventionally refer to the disclosure[255] (using language such as "as shown and described"[256]); that is, they resemble central claims as opposed to the peripheral claims of the present-day utility patent.[257] Since utility patent law has moved to peripheral claiming and design patent law seemingly has not, this raises a fundamental question about whether claim interpretation and infringement rules typically associated with peripheral claiming systems should carry over to the design patent regime.

Unfortunately, no coherent approach to this question has emerged from the case law. In *Gorham*, the Supreme Court adopted an infringement rule that is consistent with the notion of central claiming, in that it permitted infringement to be found when the claimed and accused designs were "substantially the same" as viewed from the perspective of the ordinary observer.[258] Over a period of decades, courts,

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251. *See* William Redin Woodworth, *Definiteness and Particularity in Patent Claims*, 46 MICH. L. REV. 755, 764 (1948).

252. *See, e.g.*, Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996); Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc).

253. *See, e.g.*, ANTHONY W. DELLER, PATENT CLAIMS (2d. ed. 1971); *see also* RIDSDALE ELLIS, PATENT CLAIMS (1949); ROBERT C. FABER, FABER ON MECHANICS OF PATENT CLAIM DRAFTING (6th ed. 2010).

254. 37 C.F.R. § 1.153(a) (2010).

255. Although design patents formerly included more detailed claims that resembled utility patents, advances in photography and the Supreme Court's decision in *Dobson v. Dornan*, 118 U.S. 10, 14 (1886) (emphasizing that a design patent's scope is best represented by its drawings), cemented a shift in design patent claiming towards the simple reference to the drawings that we see today.

256. 37 C.F.R. § 1.153(a) (requiring the claim to be "in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described"). For a modern example, the design patent covering Apple's iPad includes the following claim: "The ornamental design for a portable display device, as shown and described." Portable Display Device, U.S. Patent No. D-627,777, at [57] (filed Jan. 6, 2010).

257. Dan L. Burk & Mark A. Lemley, *Fence Posts or Sign Posts? Rethinking Patent Claim Construction*, 157 U. PA. L. REV. 1743, 1776 (2009); Jeanne C. Fromer, *Claiming Intellectual Property*, 76 U. CHI. L. REV. 719, 796 (2009).

258. Gorham Co. v. White, 81 U.S. (14 Wall) 511, 528 (1871). There was no controversy over the substantial similarity formulation; the main issue was whether the ordinary observer

LEGISLATIVE INTENT SERVICE (800) 666-1917

including the Federal Circuit, added a separate inquiry to the *Gorham* analysis,[259] requiring a showing that the accused design appropriated the "points of novelty" of the claimed design[260]—arguably bringing the design patent infringement analysis closer to the strict element-by-element analysis associated with literal infringement in peripheral claiming systems.[261] The Federal Circuit also held that the doctrine of equivalents—whose value is most evident in a peripheral claiming system—does apply to design patents,[262] although harmonizing it with the point of novelty test

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ordinary designer should be the putative viewer of the respective designs. *Id.* at 527.

259. *See* Egyptian Goddess, Inc. v. SWISA, Inc., 543 F.3d 665, 671 (Fed. Cir. 2008) (noting that the court had switched from treating the point of novelty inquiry conjunctively with *Gorham*, to treating it as a separate test). In support of the Federal Circuit's "conjunctive" approach, the *Egyptian Goddess* court cited *L.A. Gear, Inc. v. Thom McAn Shoe Co.*, 988 F.2d 1117, 1125 (Fed. Cir. 1993), and *Shelcore, Inc. v. Durham Indus., Inc.*, 745 F.2d 621, 628 n.16 (Fed. Cir. 1984). *Id.* For examples of its application as a separate test, the court cited *Lawman Armor Corp. v. Winner Int'l, LLC*, 437 F.3d 1383, 1384 (Fed. Cir. 2006), *Contessa Food Prods., Inc. v. Conagra, Inc.*, 282 F.3d 1370, 1377 (Fed. Cir. 2002), *Sun Hill Indus., Inc. v. Easter Unlimited, Inc.*, 48 F.3d 1193, 1197 (Fed. Cir. 1995), and *Unidynamics Corp. v. Automatic Prods. Int'l*, 157 F.3d 1311, 1323–24 (Fed. Cir. 1988). *Id.*

260. The point of novelty test required courts to identify the elements of the patented design that distinguished it from the prior art. *See* Lawman Armor Corp. v. Winner Int'l, LLC, No. CIV.A.02-4595, 2005 WL 354103, at *4–5 (E.D. Pa. Feb. 15, 2005) (identifying eight points of novelty from the prior art), *aff'd*, 437 F.3d 1383 (Fed. Cir. 2006). Infringement could only be found where the accused article included the protected design's point of novelty (or many points of novelty, as in *Lawman*). *See* Litton Sys., Inc. v. Whirlpool Corp., 728 F.2d 1423, 1444 (Fed. Cir. 1984). It operated as a separate inquiry from *Gorham*'s substantial similarity test for infringement. *See Gorham*, 81 U.S. at 528. In tandem, these tests created an odd scenario where courts, on the one hand, viewed infringement as a generalist or ordinary observer when judging overall or substantial similarity, and on the other hand, then focused like an expert on its elements during a point of novelty analysis. *See* Winner Int'l Corp. v. Wolo Mfg. Corp., 905 F.2d 375, 376 (Fed. Cir. 1990) (asserting that "[t]o consider the overall appearance of a design without regard to prior art would eviscerate the purpose of the 'point of novelty' approach, which is to focus on those aspects of a design which render the design different from prior art designs"). For background on the Federal Circuit's pre-*Egyptian Goddess* approach to the point of novelty test, see Christopher V. Carani, *The New "*Extra-*Ordinary" Observer Test for Design Patent Infringement—On a Crash Course with the Supreme Court's Precedent in* Gorham v. White, 8 J. MARSHALL REV. INTELL. PROP. L. 354 (2009); Perry J. Saidman, *What Is the Point of the Point of Novelty Test for Design Patent Infringement?*, 90 J. PAT. & TRADEMARK OFF. SOC'Y 401 (2008).

261. *See* Warner-Jenkinson Co. v. Hilton Davis Chem. Co., 520 U.S. 17, 29–30 (1997). *But see* Amini Innovation Corp. v. Anthony California, Inc., 439 F.3d 1365, 1372 (Fed. Cir. 2006) (holding that the district court did not err by factoring out the protected design's elements that it deemed functional, but that it committed a procedural error by discounting the design's functional elements in a manner that "convert[ed] the overall infringement test [(i.e., *Gorham*)] to an element-by-element comparison").

262. Minka Lighting, Inc. v. Craftmade Int'l, Inc., 93 Fed. App'x 214, 217 (Fed. Cir. 2004) (noting that *Gorham*'s "substantial similarity test by its nature subsumes a doctrine of equivalents analysis" (citing Lee v. Dayton-Hudson Corp., 838 F.2d 1186, 1190 (Fed. Cir. 1988) (recognizing that "it has long been recognized that the principles of equivalency are applicable under *Gorham*," but noting the inapplicability of *Graver Tank*'s function-way-

LEGISLATIVE INTENT SERVICE (800) 666-1917

presented certain additional challenges.[263] However, more recently, the Federal Circuit ruled en banc in *Egyptian Goddess* that the *Gorham* analysis should govern design patent infringement, shorn of any point of novelty prong or as a separate test.[264] The court has not returned to the question of whether design patentees are entitled to invoke the doctrine of equivalents.

This vacillation between peripheral and central claiming orientations has not been confined to the law of infringement. In the wake of its *Egyptian Goddess* decision, the Federal Circuit revised its test for design patent anticipation, eliminating the point of novelty prong that it had added only a few years previously.[265] On the other hand, notwithstanding its newfound distaste for points of novelty, the Federal Circuit also quixotically reaffirmed[266] that it is proper to dissect a claimed design into its individual features—by vainly parsing the design's functional and ornamental elements—and to analyze them serially before applying *Gorham*'s test for infringement to the remaining ornamental elements,[267] a decision that perhaps is influenced by an orientation towards patent claiming and the tendency to conceive of claims as combinations of elements.[268]

The design patent system's awkward embrace of utility patent claiming concepts has also been evident in the Federal Circuit's approach to design patent claim construction. After a period during which the Federal Circuit routinely invoked

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result test to design patents))).

263. *See, e.g.*, *Sun Hill Indus.*, 48 F.3d at 1199 (refusing to apply the doctrine of equivalence where the point of novelty test had not been met).

264. *Egyptian Goddess*, 543 F.3d at 678 (abandoning the point of novelty test as an element of the infringement analysis).

265. Int'l Seaway Trading Corp. v. Walgreens Corp., 589 F.3d 1233, 1240 (Fed. Cir 2009) (concluding, in light of *Egyptian Goddess*, that the ordinary observer test was the sole test for anticipation); *id.* at 1239 (citing Peters v. Active Mfg. Co., 129 U.S. 530, 537 (1889) (invoking the axiom, "'[t]hat which infringes, if later, would anticipate, if earlier'")).

266. For pre-*Egyptian Goddess* Federal Circuit cases affirming *Richardson*'s approach, see, for example, OddzOn Prods., Inc. v. Just Toys, Inc., 122 F.3d 1396, 1405 (Fed. Cir. 1997); Read Corp. v. Portec, Inc., 970 F.2d 816, 825–26 (Fed. Cir. 1992); *Lee*, 838 F.2d at 1188.

267. Richardson v. Stanley Works, Inc., 597 F.3d 1288, 1294, 1295 (Fed. Cir. 2010) (noting that if the district court had not parsed out the design's ornamental aspects during claim construction that it would have erroneously given the patentee's "Stepclaw" design a claim scope that included "the utilitarian elements of his multi-function tool," but then attempting to reconcile this approach with *Amini*'s caution that "the deception that arises is a result of the similarities in the overall design [(*i.e.,* infringement)], not of similarities in ornamental features in isolation" (citing Amini Innovation Corp. v. Anthony California, Inc., 439 F.3d 1365, 1371 (Fed. Cir. 2006)). While the elimination of the point of novelty test removed a substantial hurdle for design patentees, functionality's role in claim construction—as distinguished from a de jure functionality or validity inquiry—will likely emerge as the design patentee's new roadblock. *See* Brief of Amicus Curiae for Apple Inc. in Support of Plaintiff-Appellant's Petition for Rehearing En Banc, *Richardson*, 597 F.3d 1288 (No. 08-CV-1040); Brief of Amicus Curiae American Intellectual Property Law Association in Support of the Petition for Rehearing En Banc, *Richardson*, 597 F.3d 1288 (No. 08-CV-1040).

268. *Cf. Int'l Seaway Trading Corp.*, 589 F.3d at 1244–45 (Clevenger, J., dissenting in part) (noting how the majority's piecemeal application of the anticipation doctrine improperly focuses the fact finder on the design's individual elements, as opposed to its mandated comparison as a whole).

LEGISLATIVE INTENT SERVICE (800) 666-1917

claim interpretation as a threshold analysis in design patent cases,[269] the court came to recognize the difficulties associated with calling for judges to translate design patent drawings into words as part of a claim construction exercise.[270] In *Egyptian Goddess*, the Federal Circuit discouraged courts from rendering verbal claim constructions in design patent cases,[271] a theme that it has reiterated more recently.[272] Yet the Federal Circuit did not wish to discard the entire panoply of claim construction tools, so it advised courts that they might still provide "guidance" to the fact finder by explaining the significance of statements made during the prosecution of the design patent, for example,[273] leaving open the question of which claim construction canons might likewise be retained under the rubric of "guidance."

Herculean efforts such as these to stuff design patents into a utility patent box look mildly ridiculous against the backdrop of the historical analysis that we have offered in prior sections of this paper. As we have shown, at the outset of the debates over U.S. design protection, there was no commitment whatsoever to a model of substantive patent rules, and at the close of the 1842 session, when the design patent legislation passed, there was virtually no indication that its passage represented a congressional judgment of the inherent superiority of substantive patent rules for designs. In any event, many of the claiming practices discussed above did not exist in 1842. A suggestion that the design patent system avoid the use of claims and associated claiming rules altogether would not have raised eyebrows in 1842 and perhaps should not today either.

B. Design Patentability Standards

Another distinguishing feature of modern utility patent jurisprudence is its heavy reliance on comparisons between the claimed invention and the prior art as the focus of the patentability analysis. This comparison is implemented through an elaborate rule set that defines conditions of both novelty and nonobviousness. These rules, as they operate today, would be virtually unrecognizable to those who originally pressed for design protection.

Nothing in the historical record commands that demonstrating differences from the prior art be the focal point of a protectability analysis for designs. If anything, the stove industry narrative suggests that Mott and fellow lobbyists would have objected to a design patent regime had they understood that it would come to entail patentability requirements in the nature of nonobviousness. One of us has detailed in other work the circuitous path by which obviousness analysis infiltrated the design patent regime; we need not reiterate those arguments here.[274] For the

269. *See, e.g.*, Contessa Food Prods., Inc. v. Conagra, Inc., 282 F.3d 1370, 1376 (Fed. Cir. 2002); Elmer v. ICC Fabricating, Inc., 67 F.3d 1571, 1577 (Fed. Cir. 1995).

270. *See* Crocs, Inc. v. Int'l Trade Comm'n, 598 F.3d 1294, 1302–03 (Fed. Cir. 2010) (noting the commission's overemphasis on its written claim construction caused it to improperly focus on the designs' elements, instead of their appearance as a whole).

271. Egyptian Goddess, Inc. v. SWISA, Inc., 543 F.3d 665, 679–80 (Fed. Cir. 2008).

272. *Crocs, Inc.*, 598 F.3d at 1302–03.

273. *Egyptian Goddess*, 543 F.3d at 680.

274. Du Mont, *supra* note 16.

LEGISLATIVE INTENT SERVICE (800) 666-1917

purposes of this paper, we need merely observe that the Federal Circuit has not yet come to grips with the incorporation of the obviousness concept into the assessment of designs.[275] An argument that the entire exercise is conceptually flawed is consistent with the historical record of design patent's nonpatent origins.

The Federal Circuit's commentary in *International Seaway Trading Corp.*[276] may provide another illustration of the need to rethink design patentability standards in view of the historical record. Section 171 requires not only that designs be new, but also that they be "original," a requirement that has been included in design patent legislation since the outset[277] but was rapidly swamped by the novelty and nonobviousness requirements. In a rare commentary on the originality requirement, the court speculated that the requirement "likely was designed to incorporate the copyright concept of originality—requiring that the work be original with the author."[278] Yet, as the court acknowledged, the originality requirement was not codified in U.S. copyright law until 1909, whereas the design patent legislation was enacted in 1842.[279] In seeming resignation, the court concluded that the overriding analogy was to utility patents after all: "the courts have not construed the word 'original' as requiring that design patents be treated differently than utility patents."[280] Providing further credence to the Federal Circuit's frustration, our historical analysis provides reason to question the wisdom of keeping design patent protection in the thrall of modern patentability standards developed under utility patent law.

CONCLUSION

What should come next for the design patent system? We do not argue here that the design patent regime should be dismantled in favor of a *sui generis* design protection regime. We do conclude that the way forward for the modern design patent system is to ease the design patent system back towards its mixed heritage. Our historical analysis persuades us that modern policy debates about the design patent system have exaggerated utility patent law's grip on design patent jurisprudence. We conclude that Congress's decision to enact design patent legislation in 1842 (1) was not an implicit rejection of other (non-patent) forms of design protection, such as design registration, and (2) was not an endorsement of using modern utility patent rules to protect designs. Arguments for shifting design

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275. Int'l Seaway Trading Corp. v. Walgreens Corp., 589 F.3d 1233, 1243–44 (Fed. Cir. 2009); Durling v. Spectrum Furniture Co., 101 F.3d 100, 103 (Fed. Cir. 1996) (setting forth an obviousness standard requiring a primary reference that has "basically the same" appearance as the claimed design, combinable with secondary references only if they are closely related to the primary reference).

276. 589 F.3d at 1239.

277. 35 U.S.C. § 171 (2006); Ruggles Design Bill, S. 269, 26th Cong. § 1 (1841) (granting protection to "new and original designs"). As discussed above, contemporary British design protection similarly required the design be new and original. *See supra* Part III.A.

278. *Int'l Seaway*, 589 F.3d at 1238.

279. *Id.*

280. *Id.*

LEGISLATIVE INTENT SERVICE (800) 666-1917

patent rights away from the frame of modern substantive patent law, and towards other frameworks such as copyright or trademark, are in no way as radical as they might seem on first blush. Indeed, they are arguments that would, ironically enough, return the design patent debate to its original roots.

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PRENTISS, Samuel, (1782 - 1857)

Senate Years of Service: 1831-1842
Party: Anti-Jacksonian; Whig



Courtesy U.S. Senate Historical Office

PRENTISS, Samuel, (brother of John Holmes Prentiss), a Senator from Vermont; born in Stonington, Conn., March 31, 1782; moved to Northfield, Mass., in 1786; completed preparatory studies and was instructed in the classics by a private tutor; studied law in Northfield and in Brattleboro, Vt.; admitted to the bar in 1802 and practiced in Montpelier, Vt. 1803-1822; member, State house of representatives 1824-1825; associate justice of the supreme court of Vermont; elected chief justice of the State supreme court in 1829; elected in 1831 as an Anti-Jacksonian to the United States Senate; reelected as a Whig in 1837 and served from March 4, 1831, to April 11, 1842, when he resigned to accept a judicial assignment; chairman, Committee on Patents and the Patent Office (Twenty-seventh Congress); originator and successful advocate of the law to suppress dueling in the District of Columbia; judge of the United States District Court of Vermont from 1842 until his death in Montpelier, Vt., January 15, 1857; interment in Green Mount Cemetery.

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KERR, John Leeds, (1780 - 1844)

Senate Years of Service: 1841-1843
Party: Whig



Courtesy U.S. Senate Historical Office

KERR, John Leeds, (father of John Bozman Kerr), a Representative and a Senator from Maryland; born at Greenbury Point, near Annapolis, Md., January 15, 1780; graduated from St. John's College, Annapolis, Md., in 1799; studied law; admitted to the bar in 1801 and commenced practice in Easton, Md.; deputy State's attorney for Talbot County 1806-1810; commanded a company of militia in the War of 1812; appointed agent of the State of Maryland in 1817 to prosecute claims against the federal government growing out of the War of 1812; elected to the Nineteenth and Twentieth Congresses (March 4, 1825-March 3, 1829); unsuccessful candidate for reelection in 1828; elected to the Twenty-second Congress (March 4, 1831-March 3, 1833); chairman, Committee on Territories (Twenty-second Congress); presidential elector on the Whig ticket in 1840; elected to the United States Senate as a Whig to fill the vacancy caused by the death of John S. Spence and served from January 5, 1841, to March 3, 1843; chairman, Committee on Public Buildings (Twenty-seventh Congress), Committee on Patents and the Patent Office (Twenty-seventh Congress); died in Easton, Talbot County, Md., February 21, 1844; interment in the Bozman family cemetery at 'Bellville,' near Oxford Neck, Md.

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