

Gazette of the United States.

A NATIONAL PAPER, PUBLISHED WEDNESDAYS AND SATURDAYS BY JOHN FENNO, No. 34, NORTH FIFTH-STREET, PHILADELPHIA.

[No. 93 of Vol. IV.]

SATURDAY, APRIL 20, 1793.

[Whole No. 415.]



LAW OF THE UNION.

SECOND

CONGRESS OF THE UNITED STATES,
AT THE SECOND SESSION,

Began and held at the City of Philadelphia,
in the State of Pennsylvania, on Monday
the fifth of November, one thousand
seven hundred and ninety-two.

AN ACT to promote the progress of useful Arts, and to repeal the act heretofore made for that pur- pose.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That when any person or persons, being a citizen or citizens of the United States, shall allege that he or they have invented 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, not known or used before the application, and shall present a petition to the Secretary of State, signifying a desire of obtaining an exclusive property in the same, and praying that a patent may be granted therefor, it shall and may be lawful for the said Secretary of State, to cause letters patent to be made out in the name of the United States, bearing teste by the President of the United States, reciting the allegations and suggestions of the said petitioner, and giving a short description of the said invention or discovery, and thereupon granting to such petitioner, or petitioners, his, her, or their heirs, administrators or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention or discovery, which letters patent shall be delivered to the Attorney-General of the United States, to be examined; who, within fifteen days after such delivery, if he finds the same conformable to this act, shall certify accordingly, at the foot thereof, and return the same to the Secretary of State, who shall present the letters patent thus certified, to be signed, and shall cause the seal of the United States to be thereunto affixed: and the same shall be good and available to the grantee or grantees, by force of this act, and shall be recorded in a book, to be kept for that purpose, in the office of the Secretary of State, and delivered to the patentee or his order.

Provided always, and be it further enacted, That any person, who shall have discovered an improvement in the principle of any machine, or in the process of any composition of matter, which shall have been patented, and shall have obtained a patent for such improvement, he shall not be at liberty to make, use or vend the original discovery, nor shall the first inventor be at liberty to use the improvement: And it is hereby enacted and declared, that simply changing the form or the proportions of any machine, or composition of matter, in any degree, shall not be deemed a discovery.

And be it further enacted, That every inventor, before he can receive a patent, shall swear or affirm, that he does verily believe, that he is the true inventor or discoverer of the art, machine, or improvement, for which he solicits a patent, which oath or affirmation may be made before any person, authorized to administer oaths, and shall deliver a written description of his invention, and of the manner of using, or process of compounding the same, in such full, clear and exact terms, as to distinguish the same from all other things before known, and to enable any person skilled in the art or science, of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same. And in the case of any machine, he shall fully explain the principle, and the several modes, in which he has contemplated the application of that principle or character, by which it may be distinguished from other inventions; and he shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; which description, signed by himself and attested by two witnesses, shall be filed in the office of the Secretary of State, and certified copies there-

of shall be competent evidence, in all courts, where any matter or thing, touching such patent-right, shall come in question. And such inventor shall, moreover, deliver a model of his machine, provided, the Secretary shall deem such model to be necessary.

And be it further enacted, That it shall be lawful for every inventor, his executor or Administrator to assign the title and interest of the said invention, at any time, and the assignee having recorded the said assignment, in the office of the Secretary of State, shall thereafter stand in the place of the original inventor, both as to right and responsibility and so the assignees of assigns, to any degree.

And be it further enacted, That if any person shall make, devise and use, or sell the thing so invented, the exclusive right of which shall, as aforesaid, have been secured to any person by patent, without the consent of the patentee, his executors, administrators or assigns, first obtained in writing, every person, so offending, shall forfeit and pay to the patentee, a sum, that shall be at least equal to three times the price, for which the patentee has usually sold or licensed to other persons, the use of the said invention; which may be recovered in an action on the case founded on this act, in the circuit court of the United States, or any other court having competent jurisdiction.

Provided always, and be it further enacted, That the defendant in such action shall be permitted to plead the general issue, and give this act and any special matter, of which notice in writing may have been given to the plaintiff or his attorney, thirty days before trial, in evidence, tending to prove, that the specification, filed by the plaintiff, does not contain the whole truth relative to his discovery, or that it contains more than is necessary to produce the described effect, which concealment or addition shall fully appear to have been made, for the purpose of deceiving the public, or that the thing, thus secured by patent, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed discovery of the patentee or that he had surreptitiously obtained a patent for the discovery of another person: in either of which cases, judgment shall be rendered for the defendant, with costs, and the patent shall be declared void.

And be it further enacted, That where any State, before its adoption of the present form of government, shall have granted an exclusive right to any invention, the party claiming that right, shall not be capable of obtaining an exclusive right under this act, but on relinquishing his right under such particular State, and of such relinquishment, his obtaining an exclusive right under this act shall be sufficient evidence.

And be it further enacted, That the persons, whose applications for patents, were, at the time of passing this act, depending before the Secretary of State, Secretary at War, and Attorney-General, according to the act, passed the second session of the first Congress, intitled, "An act to promote the progress of useful arts," on complying with the conditions of this act, and paying the fees herein required, may pursue their respective claims to a patent under the same.

And be it further enacted, That in case of interfering applications, the same shall be submitted to the arbitration of three persons, one of whom shall be chosen by each of the applicants, and the third person shall be appointed by the Secretary of State; and the decision or award of such arbitrators, delivered to the Secretary of State, in writing and subscribed by them, or any two of them, shall be final, as far as respects the granting of the patent: And if either of the applicants shall refuse or fail to chuse an arbitrator, the patent shall issue to the opposite party. And where there shall be more than two interfering applications, and the parties applying shall not all unite in appointing three arbitrators, it shall be in the power of the Secretary of State to appoint three arbitrators for the purpose.

And be it further enacted, That upon oath or affirmation being made, before the judge of the district court, where the patentee, his executors, administrators or assigns reside, that any patent, which shall be issued in pursuance of this act, was obtained surreptitiously, or upon false suggestion, and motion made to the said court, within three years after issuing the said patent, but not afterwards, it shall and may be lawful for the judge of the said district court, if the matter alleged shall appear to him to be sufficient, to grant a rule, that the patentee, or his executor, administrator or assign shew cause, why process should not issue against him to repeal such patent. And if sufficient cause shall not be shewn to the contrary, the rule shall be made absolute, and thereupon the said judge shall order process to be issued against such patentee, or his executors, administrators or assigns, with costs of suit. And in case, no sufficient cause shall be shewn to the contrary, or if it shall appear, that the patentee was not the true inventor or discoverer, judgment shall be rendered by such court for the

repeal of such patent; and if the party, at whose complaint, the process issued, shall have judgment given against him, he shall pay all such costs, as the defendant shall be put to, in defending the suit, to be taxed by the court, and recovered in due course of law.

And be it further enacted, That every inventor, before he presents his petition to the Secretary of State, signifying his desire of obtaining a patent, shall pay into the Treasury thirty dollars, for which he shall take duplicate receipts; one of which receipts he shall deliver to the Secretary of State, when he presents his petition: and the money, thus paid, shall be in full for the sundry services, to be performed in the office of the Secretary of State, consequent on such petition, and shall pass to the account of clerk-hire in that office. Provided nevertheless, That for every copy, which may be required at the said office, of any paper respecting any patent, that has been granted, the person, obtaining such copy, shall pay, at the rate of twenty cents, for every copy-sheet of one hundred words, and for every copy of a drawing, the party obtaining the same, shall pay two dollars: of which payments, an account shall be rendered, annually, to the Treasury of the United States, and they shall also pass to the account of clerk-hire in the office of the Secretary of State.

And be it further enacted, That the act, passed the tenth day of April, in the year one thousand seven hundred and ninety, intitled, "An act to promote the progress of useful arts," be, and the same is hereby repealed. Provided always, That nothing, contained in this act, shall be construed to invalidate any patent, that may have been granted under the authority of the said act; and all patentees under the said act, their executors, administrators and assigns, shall be considered within the purview of this act, in respect to the violation of their rights: provided, such violations shall be committed, after the passing of this act.

JONATHAN TRUMBULL, Speaker
of the House of Representatives.
JOHN ADAMS, Vice-President of the
United States, and President of the Senate.
APPROVED, FEBRUARY 21, 1793.
GEO. WASHINGTON,
President of the United States.

[The following has been postponed some time for want of room.]

For the GAZETTE of the UNITED STATES.

New-Jersey, March, 1793.

Mr. FENNO,
I HAVE just received and read your paper of Wednesday, and am very happy to find that so large a majority of the late Congress, have pronounced the official conduct of the Secretary of the Treasury, to be clear of blame. Feeling it to be not only a privilege, but an important duty, for citizens to communicate to each other their sentiments on public men and measures, I shall take the liberty of stating to you some reflections on what has recently taken place at the seat of government.

It is to be hoped that there is a good intention with many, in the strictures which have been made on the Secretary's conduct, and in the opposition to those measures which are said to be indebted to him chiefly for their existence.—Whatever may be the fumifles of unfound principles and corrupt morals in some who are engaged in this opposition—in others, I am for myself satisfied there is the purest virtue; and tho' I tremble at their political principles as endangering the happiness of my country, yet I revere the motives by which they are prompted to oppose. Indeed I have been grieved that bad design has been indiscriminately attributed to all who have condemned those federal measures, which, to such as think like myself on these subjects, appear essential to the dignity, honor and prosperity of our land. The asperity too, with which those have been treated, who may justly be suspected of political hypocrisy—of usurping, and alas! of having the name of patriots, while they know not the elevated temper and delicious sensations of patriotism, was no small imprudence. These characters have, by this means, been too highly irritated; their evil dispositions, but the more inflamed, and, like air once fixed now rendered vigorous by heat, have burnt with violence, and have found vent in the most unjustifiable condemnation of the proceedings of Congress, and in groundless aspersions of the most valuable servants of the public. While it is right, yea an incumbent duty which we owe to ourselves and our dear posterity, to stem the torrent of antifederal opposition, let us do it with the dignity, coolness and candour, which belong to truth and ensure success. In taking up my pen, I would fain excite no one painful sensation in the breast of any citizen of the United States. Unless it were absolutely necessary, I would not even call up that indignation we all feel against hypocritical professions of the amor patriæ, and the deadly projects of party and personal profit. If it could be done, I would cool the minds of all—I would cleanse the foul hearts of those who care not for the happiness of others, and of thousands yet unborn—I would infuse into all Americans a tender love to one another, as brethren of one family—I would

bring them to embrace with unfeigned sincerity—and I would thus cement our union, and perpetuate our glory and our bliss. Though these things are out of reason to expect, yet it is pleasing to image them to the mind. But who can help lamenting, that man is himself his great enemy, and ever most stands in the way of his own good. Turning, but with reluctance, from what one would wish, to what may be reasonably looked for, I shall make some remarks in order to correct the violence of opposition, and to guard my countrymen against unwarily joining in it.

Who can examine the official character of the Secretary of the Treasury, observe his indefatigable industry in the service of his country, the order, accuracy and perfection in which he performs the weighty business of his department, without cordial approbation? Can any one discern the least backwardness or delay in exposing to the view of the public all his financial proceedings, even the most minute? Has there not been the utmost promptitude of obedience to the requisitions of Congress, directed to this point? Tho' by the Constitution, "a regular statement and account of the receipts and expenditures of all public money, shall be published, from time to time;" yet is it not the duty of Congress first to give direction for the drawing up and publishing of this statement and account? This article is found in the midst of the powers given to, and the restrictions laid on Congress. It is therefore, in fact, a part of the general duty sketched out to Congress in the Constitution, in reducing this and other constitutional principles to practice, the Secretary is only as the instrument in the workman's hand. As the workman must will and move, before the instrument can execute any thing, so, if this article is to be complied with in all its spirit, and in its fullest extent, to Congress it belongs to will the compliance. Then, and not till then, is the Secretary to be blamed, when he is deficient in complying with Congressional injunctions. This, I believe, he never has been. In every influence within my knowledge, he has done all which Congress has enjoined. Here then let me ask, was it kind to impose, not in a private conversation, but on the floor of Congress, that is, in the hearing of all America and of all Europe—was it kind to impute a partial statement of receipts and expenditures, when no more had been required by Congress, to an infamous design of defrauding the public? Was it not imprudent at the least, upon so slight, and as we have now seen, upon no foundation, to proclaim to all the world that corruption was already preying upon the vitals of our country? Are not forwardness and rashness the lowest charges which we must bring against such as have spread an alarm in the land, from misconceptions of the Secretary's reports, from a superficial understanding of the subjects of which they treat, and, tho' laudable, from an actual ignorance of, or as scandalous an inattention to, the nature of the laws? Well might the Secretary say, "I forbear to attempt to trace the source of a mistake so extraordinary." Indeed, in my opinion, he has shown, and that in a conspicuous manner, fallacies enough, in the statement, from which the inference of an unaccounted for balance was drawn, to evince that it is one tissue of error.

I do not say there was malice, and a deliberate wicked design in the mover of the late investigations: this is very far from me, and I heartily disapprove of such insinuations without full proof. Our being thwarted in what we suppose necessary to the public good, should not make us call our opposers scoundrels. This is very wrong. Yet I must confess, some things force us to hard thoughts; and the proposal to defer the consideration of certain resolutions to the next Congress, so shocked me, as almost made my struggling good hopes of some antifederal patriots, give up the ghost.

On the whole, I am free in observing that there was evident ignorance and rashness in the accusations so publicly made against the Secretary of the Treasury; and I was most heartily rejoiced to see the relict—in his coming forth from the furnace, as gold, more valuable and more bright in the public estimation.

I was rejoiced, because Congress have solemnly averred to the whole Union, that the apprehended corruption is not to be found. Would it not be a grievous calamity, an awful preface of the ruin of our country, if so soon, the pure region we live in had produced monsters to devour the land, to erect the destructive banners of aristocracy, and gather around them all that host of citizens who now rely on the justice and honour of government? When no such monsters are found, when existence is given to them only by the excessive jealousy of a too highly terminated patriotism in some, and by baseness in others—every friend to his country, must heartily rejoice.

I rejoice moreover to see so large a portion of the members of Congress espousing federal principles, and discountenancing that extreme jealousy, and those dittoing extravagant democratic principles, which, if not checked, would prove the ruin of this or any other nation.

(To be concluded in our next.)

* And when the Secretary seemed disposed spontaneously to act up to the spirit of the aforementioned article of the Constitution—when he did more towards it, in his reports to the House, than Congress had demanded—how egregiously uncandid and cruel to him, how affronting and injurious to every virtuous member of our Republic, is the insidious use which FRANKLIN [a late writer] has made of the Secretary's upright and voluntary disclosure.