

PATENTEES.

[To accompany bill H. R. No. 254.]

APRIL 24, 1850.

Mr. ASHMUN, from the Committee on the Judiciary, made the following

REPORT:

*The Committee on the Judiciary, to whom was referred the memorial of Thomas Blanchard, of Boston, of Ward B. Haseltine and others, of Philadelphia, of H. N. Curtis and others, of Monroe county, New York, of C. Wadleigh and others, and of Collins Stevens and others, asking further remedies to protect the rights of American patentees, have had the same under consideration, and report:*

That the memorials ask for protection of the property and rights of citizens of the United States against encroachments set on foot in the territories of Great Britain. They allege violations of a very serious character, and ask for a remedy to be provided by resort to our legal tribunals. They show that there is at present a deficiency of remedy, and that the violations of important rights are practised with entire impunity.

The property which a patentee holds under our laws is as sacred, and as much deserves the protection of law, as property of any other kind. It is recognised by the constitution. It greatly contributes to, and forms a valuable part of, the great mass of the wealth of the country, and the uniform policy of our legislation has been to give encouragement to its increase; and, accordingly, there has been thrown around it such protection as at different periods seemed to be needed, or as was anticipated as being probably necessary.

The present case was not foreseen; it remained for the ingenuity of modern violators to create it. And it is not reached by any of the acts of Congress giving remedies in law and equity to patentees. These acts have provided adequate remedies for all cases where the act of piracy or infringement is committed within our own borders. The violators being within our jurisdiction, can be reached by the process of our courts; and one who thus injures another by pirating his invention is made liable for all the damages which he causes.

But the case shown by the memorialists is one where equal wrong and injury are done, and with a fatal facility, and where the injured party is left entirely without the means of legal redress.

This results from the geographical proximity of the territories of a foreign government, into which our citizens cannot carry the force of our laws to protect the patents which those laws have granted to them. Canada and the other British provinces become at once the place of injurious and illegal operations, and of refuge from grasp of law.

The facts which are the ground of complaint are these: Machines which are patented by our laws are put in operation by persons having no right to use them, within the boundaries of those provinces, and the articles manufactured by them are immediately brought across the line into the United States, and freely sold and used, to the great injury of the rightful owner of the patent, and there is no remedy for this wrong; and yet most obviously the wrong is as great as if the machine were operated within the lines of the United States. The constant communication and facilities of transportation across the boundary line make it of very small consequence to the violator of a patent that he must carry on his practices just on the British side of it, in order to escape the responsibility of his acts. Accordingly, it is not very remarkable that to a great extent such practices have grown up; and facts have been laid before the committee, showing such to be the case.

There is no hesitation in coming to the conclusion that our citizens ought to have every remedy against such wrongs which reasonable provisions of law can give. For this purpose the accompanying bill has been framed. Its provisions give no new rights or privileges, but are only intended to secure those which the laws have already granted. Its principles are substantially the same as those of the copyright law, although that law goes much farther in its penalties than the one now proposed. The act of Congress of May 31, 1790, section 2, provides that "If any other person or persons shall print, reprint, publish, or import, &c., any copy or copies of such map, chart, or book or books, without consent of the author or proprietor thereof first had and obtained, or, knowing the same to be so printed, reprinted, or imported, shall publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale without such consent, then such offender or offenders shall forfeit all and every copy and copies of such map, chart, book or books, and all and every sheet thereof, to the author or proprietor, and every such offender shall also forfeit and pay the sum of fifty cents for every sheet found in his possession," &c.

The bill now proposed only gives a right of action against persons who may have the pirated articles in possession with a view to traffic or sale, and does not interfere with the use of them by any innocent purchaser.

The committee are not aware of any objection to the passage of this bill, except such as may come from persons who are interested in violating the rights of our citizens who have obtained patents under our laws. Certain remonstrances have been presented—not against the particular provisions of the remedy which is now proposed, but against the extension of the rights of Thomas Blanchard to his patented machine for turning or cutting irregular forms. This has led naturally to an inquiry into the merits of that machine to some extent, and to the ground of the objections which are thus made. And the committee are entirely satisfied of the great utility of Mr. Blanchard's invention, and of his rightful claim to protection. It has been repeatedly the subject of litigation, and his title has been incontestably settled in the courts. It has been repeatedly under examination at the Patent Office and before committees of Congress, and has uniformly commanded commendation. In 1834, Mr. Vinton, from the Committee on Patents, made a report, from which the following is an extract: "The inquiries of the committee have satisfied them that

the machine in question belongs to the first class, and that for plainness of design, its labor-saving power, and the variety of useful purposes it may be made to accomplish, it is entitled to a high place on the list of original American inventions. Much time appears to have been devoted by its inventor to its improvement, and in other valuable efforts of the mechanic genius, the fruits of some of which have been gratuitously bestowed upon the public."

The patent was renewed in 1848, and at that time underwent a thorough and satisfactory examination by committees of both houses of Congress, and the following extract from a letter of Mr. Burke, then Commissioner of Patents, to the chairman of the Senate committee, will show his high estimation of it:

"PATENT OFFICE, *January 8, 1847.*

"SIR: In reply to your letter of the 6th instant, I have the honor to state that I have long been acquainted with the general character of the machine invented by Thomas Blanchard for turning irregular forms, a further extension of the patent of which he now asks of Congress, and I am happy to state that the invention of Mr. Blanchard is one of great and singular merit, displaying remarkable versatility of application, and therefore of great utility. It has long been in use in the armories of the United States, where its merits have been fully and profitably tested. As to the originality, ingenuity, and value of Mr. Blanchard's invention, there can be no doubt. Mr. Blanchard is one of those very meritorious inventors whose lot is to reap but little benefit from inventions, the ingenuity and utility of which mark eras in the arts."

Among the valuable purposes to which this machine has been successfully applied are the turning of gun-stocks, of axe-helves, and of shoe-lasts, and the result has been that all these articles are now made with much greater facility, of a higher order of workmanship, and at a greatly reduced price to the community. It appears from the testimony of persons engaged in the shoe business, that before this invention the price of a pair of lasts was one dollar; that now it is reduced to fifty cents. And it is from those who are endeavoring to evade Mr. Blanchard's patent, in the manufacture of shoe lasts in the British provinces, that the opposition to his memorial has now come. It was represented to the committee, that at twenty different places along the frontier, just on the British side of the line, persons have set his machine, and are largely engaged in operations which are greatly destructive to those who have fairly purchased of him the right of manufacturing shoe-lasts. It is against these depredators that the remedy now proposed will of course be effective; and it is because their unjustifiable practices will thus be checked, that they have stirred up some show of hostility to it.

In conclusion, the committee can see no reason why our citizens should not have every reasonable means of protecting their property and their rights by a resort to our judicial tribunals, and therefore recommend the passage of the accompanying bill.

