

tion?" Of what is the public deprived during the short term of the patent by the application of such a rule, if the patented thing be new and useful? The public, in such a case, were not in possession of the thing before the grant of the patent, so they were no worse off than they were before in being temporarily deprived of its use. On the other hand, at the end of the monopoly they are in free possession of that which they did not have before. If the patented thing be of comparatively little use, the profits of the inventor will be proportionately small and the temporary deprivation to the public of the right to use it during the term of the patent will be proportionately slight. If it be of really great value, so much the better for the public at the expiration of the patent. In any event, it is a thing which but for our patent system the public would not have had, since experience has shown that but for the inducements held out by such a system the *useful* arts and manufactures do not thrive.

We have not only the words of our distinguished Chief Justice Marshall to assure us that our patent system thus administered is best administered, but thus, in other words but to the same effect, does that great philosopher of utility, Jeremy Bentham, speak: "A patent of invention is an instance of a reward peculiarly adapted to the nature of the service, and adapts itself with the utmost nicety to these rules of proportion to which it is most difficult for rewards artificially instituted by the legislature to conform. If confined, as it ought to be, to the precise point in which the originality of the invention consists, it is conferred with the least possible waste or expense. It causes a service to be rendered, which, without it, a man would not have a motive for rendering, and that only by forbidding others from doing that which were it not for that service it would not have been possible for them to have done. Even with regard to such inventions, for such there will be when others besides him who possesses the reward have scent of the invention, it is still of use by stimulating all parties and setting them to strive which shall first bring the discovery to bear. With all this it unites every property that can be wished for in a reward. It is variable, equable, commensurable, frugal, promotive of perseverance, subservient to compensation, popular, and reasonable."

Conclusion.

What is patentable is to be determined by the language of the statute (Sec. 4886, R. S. U. S.), fairly and liberally construed.

If the thing patented can fairly be said to come within the comprehensive terms used in the statute, *i. e.*, is any art, machine, manufacture, or composition of matter, or any improvement thereof,

and is *new* and *useful*, then it is patentable under the law, and the patentee has "invented or discovered" something within the meaning of the statute.

To undertake any other test of this is to leave the certain, true, and only safe guide provided by the statute, and to enter the uncertain realm of metaphysics.

St. Louis, February, 1899.

WAS AND IS. The perpetually recurring birth-

days of eminent statesmen who illuminated the early days of the republic, and constantly increasing holidays make the banquet business and the vocal exercise of post-prandial speakers monotonous and wearisome. Many of these body-stuffing and mind-attenuating entertainments are crowded into each month of the year. The stomach of the most robust patriotism is nauseated and the appetite of the vanest athletic oratory is dulled by this supreme satiety of dinners and speeches. Disgust and dyspepsia follow as sequences, and a revolt against the too frequent admixture of hospitality and exhortations is already materializing in all parts of the United States.

The banquets have been generally in honor of some statesman or partisan who *was*, in his day and environment, a wise and earnest man. What he would be in this day and with its conditions, duties and problems nobody knows. What *was* patriotic and expedient *then* may be wrong and inexpedient *now*. The *is* of today, may be by evolution and transmission, very logically, altogether unlike the *was* of yesterday. The need of the American people is not studies of and eulogies upon dead men and their views of conditions and questions which existed a hundred years ago. But strong common sense, old-fashioned frankness, consummate courage and stalwart honesty are needed. They are needed in living, acting and intelligent men of affairs who ought to be charged with the responsibilities and duties of this momentous crisis of self-government upon this continent.

The *was* is not ours. The *is* belongs to us. Good men with moral bravery existed then and there must be some of the same breed now. The republic needs them. Cool judgment, real patriotism is required to study and solve the complex problems which an unnecessary war and undesirable territorial and populational acquisitions have forced upon this government.

If the pioneer legislators of Iowa, Missouri, Kansas and Nebraska had enacted laws unfair and inequitable, relative to insurance companies, railway corporations and banks and banking, in 1854, 1855 and all along up to the present time—as is much of the legislation now advocated—there would have been less de-

velopment by two-thirds, than there has been in each. Formerly there were a universal desire and a unanimous effort to induce railroad building, and the influx of capital, in all forms, to the states of the Northwest. The invitation to bring in dollars by the hundred, by the thousand and by the million was given then with unanimity and heartiness to all the world. Then the pioneers prided themselves upon their appreciation of and kindly feelings towards capital and capitalists. But some of their less sensible successors do everything possible, by legislation, and taxation, to drive money and men with money from the Western states.

RECENT RAINS IN CALIFORNIA. The San Francisco Call of March 16, 1899,

reaches THE CONSERVATIVE on the morning of Monday, the 20th instant. This great newspaper and able advocate of the material and moral interests of the Pacific states is overflowing with praise and rejoicings because of the recent general and continuous downpour of rain all over the golden commonwealth and the state of Oregon.

Never before was rain more needed and never again will it be more gratefully received anywhere on the globe. The agricultural and horticultural industries of California are baptized with renewed vitality and prosperity is assured.

THE GREATEST MENACE. The greatest menace to development and improve-

ment in Nebraska and in Kansas and Missouri is the active and ingenious mania which is constantly inventing laws inimical to railroads and all other forms of incorporated capital.

There are no three states in the American republic so much needing new capital with which to open up new industries like beet sugar, straw paper, cement and pottery factories.

Never before was there so much capital at liberty for investment in the West and never before have a civilized people placed guards, in the shape of hostile law-makers, on the borders of their domain to exclude and repel the incoming of millions of dollars anxious to be "benevolently assimilated" in the material development of this great empire of fertility.

A Lincoln poet sounds his loud timbrel o'er the dark waters of the Blue river:

"Flow down from thy prairies
Oh, waves of the Blue,
Through pathways the fairies
Have trodden for you!"

Says the poet, thus including buffaloes, Pawnees and Mormons all together under an appellation that the pioneers seldom applied to any of them.