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THE OLDFIELD BILL

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(H. R. 23417.)

This bill, which proposes radical changes in the fundamental principles of the patent system, which as to basic principles has been practically unchanged during the history of our government, has been reported favorably by the patent committee of the House and now stands upon the House calendar.

Although in purpose and possibly as to one or two of its provisions the bill is not without commendable features, nevertheless, as an entirety and as to practically all of its features, it is highly objectionable.

The objections to this bill may be roughly classed as follows:

First: Because of the manner in which it was prepared and reported to the House.

Second: Because, if it becomes the law, it will radically change the entire American patent system.

Third: Because it involves fundamental changes in the law as to a highly intricate and technical subject in which its framers have had no training and as to which their knowledge is necessarily very superficial.

Furthermore, notwithstanding the evident fact that Mr. Oldfield and his associates have spent much time and thought on this bill, it is clear that they have been able to give the matter only a superficial consideration; that the hearings on the bill have been wholly inadequate properly to inform them on the subject, and that they have no clear understanding or appreciation of what the bill means to one of the most important institutions of our government, nor as to what its inevitable effects will be.

Fourth: It attempts, in a wholly illegitimate manner, to engraft on the patent statutes numerous provisions which, if sound and proper, should be enacted only as amendments to the Sherman Law.

Fifth: It proposes drastic provisions as to sweeping forfeiture of property rights which are wholly repugnant to the spirit of American jurisprudence.

Sixth—and this is perhaps the most conclusive reason of all:—It wholly fails to provide any adequate remedy for the evils at which it is directed, but, in the endeavor to reach those evils,

it makes provisions which for the most part can be avoided without much effort by those at whom it is directed, while working hardship upon innocent owners of patent property.

Considering now the first of these objections:

First: The Oldfield Bill as originally introduced purported to be a bill for the revision of the patent laws. It never did provide a revision of the patent laws, and the present substitute bill, which contains only two sections of the original bill, is in no sense a general revision of the patent laws but is a hybrid combination of legitimate amendments of one or two sections of the patent statutes with the substance of other bills for the amendment of the Sherman Law, these latter provisions having been changed so as to make them applicable only to patent property.

Upon the original bill, which was a bill of fifty-one printed pages, introduced April 26, 1912, there were twenty-seven public hearings during April and May, relating almost wholly to the discussion of Sections 17 and 32 of the bill, relating to compulsory licenses and license restrictions, respectively.

The overwhelming body of the testimony adduced on these hearings was opposed to these sections, both in form and in substance.

So far, therefore, the procedure was in accordance with usual legislative practice, and, as a mere matter of procedure, no exception could be taken had the members of the committee concluded that upon the hearings as a whole the bill should be approved.

When, however, it came to the committee consideration of the bill, the original bill, both in form and substance, was abandoned as to all provisions except those of Sections 17 and 32. These sections were rewritten, not only so as to remove objectionable features which had been discussed at the public hearings, but also so as to add other features *which never had been discussed at any public hearing,* and thereupon so-called "anti-trust" provisions to the extent of twelve printed pages of the bill were added.

Consequently, the bill in its present form consists of two sections which, in part only, were considered on the public hearings, to which is added a large body of "anti-trust" provisions, none of which were contained in the original bill and none of which were presented or discussed at the public hearings, and concerning which no testimony has been taken before the committee.

Not only is this so, but these twelve pages of "anti-trust" provisions were taken bodily from the LaFollette-Lenroot Bill, as to which there had been previously full hearings before the House Judiciary Committee, and which, after these hearings, the Judiciary Committee refused to report favorably.

Nevertheless, as thus illegitimately amended, the Oldfield Bill was favorably reported to the House by a majority of one in the committee, many members of the committee not being present, but accompanied by a report from which it would seem as if there had been public hearings and testimony as to the entire substance of the present bill, whereas such is not the case.

Clearly, any bill having this history in committee stands discredited, because it seeks to work radical changes in the law without affording any opportunity for public discussion or public hearings while in committee.

Second: The results of the American patent system have testified eloquently to the foresight of the framers of our Constitution when they provided in that instrument that, for the promotion of progress in science and the useful arts, Congress might grant to authors and inventors *exclusive* rights in their productions for limited periods.

Our system built upon this constitutional provision has been highly beneficent and has admirably carried out the expressed purpose of the constitutional provision by offering the inducement of exclusive control of new inventions for the period of the patent grant without terms or conditions of any character as to working, annuities or otherwise. The poorest man has known that if he can pay the very moderate cost of obtaining a patent, he will have exclusive control of the patented invention for a period of years, thereby leaving him free to profit by it in his own good time and according to his own unhampered judgment, coupled with the hope that if he could not immediately promote his invention either by his own resources or by interesting others, nevertheless there would be a fixed period of years during which he would have an opportunity to improve his situation and during which he had the absolute knowledge that the patent could not be taken from him for any reason whatever.

Unquestionably, this simple, liberal and beneficent policy has encouraged hundreds of thousands of men to work constantly in the development of the useful arts, each hoping that he might develop an invention which would pay him large returns, many

of them realizing that hope, and in turn thereby stimulating others to renewed effort. The aggregate effect of the constant experimentation and efforts of this vast army of inventors, each contributing at least his mite to the advance of industrial progress and many of them bringing out of the unknown and contributing to the knowledge of mankind inventions which have made modern civilization possible, has been to give to this country its enviable pre-eminence in industrial progress.

We have alike disregarded the patent policies of those countries in which the patent system is primarily a revenue system, on the theory that the patentee is paying for a privilege which he obtains from the government, and of those countries in which it is in the nature of a protective system offering rewards to those who actually develop manufacturing industries and bring new inventions into the realm, regardless of whether or not the patentee was in fact the inventor.

Under our system we have granted nearly eleven hundred thousand patents for inventions, and today the inventors of this country are more active than ever before in the history of the country, the grant of patents having increased almost in geometrical ratio during successive decades.

So true is this that there is hardly an article of modern necessity or luxury which is not due in one way or another to one or numerous inventions which have been produced by the inventors of this country. Industries great and small throughout the country, whether it be the United States Steel Corporation or the thousands of small manufacturing and selling corporations which are scattered throughout the country, owe much if indeed not most of their prosperity and efficiency to the work of the inventor, especially of the American inventor, who has worked under the constant stimulus of our liberal and beneficent patent system.

Unquestionably, there have been many industries which would not have been brought into existence but for our patent system, because they have necessitated preliminary investigation, experimental work, and the expenditure of vast sums of money which were provided only because of the prospect of great profits which would attend success, owing to the monopoly which our patent system would grant for the inventions.

For the avowed purpose of preventing the concentration of potentially competitive patents, and for the further purpose. of preventing the alleged evils growing out of license restrictions

under patents, the Oldfield Bill proposes to change the fundamental principles of this system, first by providing for the grant of compulsory licenses, which in effect is a provision for the condemnation of patent rights for the benefit of private interests, and also by depriving the patentee of adequate means for protecting license limitations, in all cases, and providing penalties for such license limitations in other cases. To the writer, this seems clearly another instance of proposing to burn the house in order to rid it of vermin.

To avoid the constitutional provision that the power of Congress shall be to grant *exclusive* rights to inventors, the Oldfield Bill substantially limits the compulsory license provisions to patents under which assignments or licenses have been granted by the original patentee.

Aside from the fact that this is highly objectionable class legislation, it wholly fails of its object, can have no effect upon wealthy combinations or wealthy individual inventors and threatens the possibility of great injury to the inventor of limited means who can neither develop a patent nor promote his invention without the assistance of others who will furnish the necessary funds only in return for license or assignment rights under the patent. So, also, it discriminates unfairly against those enterprises, whether corporate or individual, which develop an art or a business by employing skilled men to experiment and bring out new machines and inventions.

It is further objectionable in that in this respect the Oldfield Bill goes farther than the laws of other countries, such as Germany and Great Britain, in providing as a hard and fast rule that whenever it appears that a certain state of facts exists, a compulsory license *shall* be granted, leaving no discretion in the tribunal which passes upon this question.

In substance, the Oldfield Bill provides that whenever the owner of a patent fails to commercially work the patented invention, and the effect of this failure is to prevent competition with some other article made or sold by the patent owner, then, if it appears that the application for the patent was filed at least three years prior to the application for a compulsory license thereunder, the Court to which such license application is made *shall* decree that a compulsory license be granted on terms, etc.

In Great Britain a compulsory license will be granted only when in the judgment of the Court it is right and proper, under

all the circumstances, that such license be granted. The result has been that the grant of a compulsory license is almost entirely unknown in Great Britain.

In Germany a compulsory license will be granted only when in the judgment of the Court the public interest requires it. The result has been that in Germany also a compulsory license is rarely asked for and is practically never granted.

The Oldfield Bill assumes that if this compulsory license clause becomes the law, it will prevent the concentration of patents for purposes of extinction or suppression, as in the cases of certain large corporations cited in Mr. Oldfield's report. It is submitted, however, that those very corporations are the ones best equipped to evade this provision of the law. They can well afford to manufacture and catalogue devices under all patents owned by them, while at the same time commercially controlling the situation so that because of price, poor design, faulty workmanship or for any other reason, there will be no commercial demand or public benefit resulting from thus placing these additional devices on the market. Indeed, it is pertinent to inquire wherein the public would benefit by having the owner of a dozen or a hundred patents manufacture and market devices under all of his patents instead of under one or two, since obviously he controls the price of all of them and there will be no competitive benefit to the public. This is merely an instance of the ill-considered character of some of the legislative cure-alls which are proposed.

Another view of the matter is this: The inventor who contributes most to the public good in advancing progress in the arts is the one who, never content with what he has produced, constantly advances to a more perfected form, and as he brings out something better he naturally discontinues the manufacture and sale of his prior structures. He thus frequently acquires numerous patents which clearly mark the steps by which he has advanced and developed the art in which he is working. Is there any reason of public policy why on the one hand he should be compelled to lessen the commercial value of what he has produced by giving competitors who have merely stood by and watched his efforts the right to use and sell those forms of the device which he has abandoned because he has produced something better, or why, on the other hand, he should be discouraged from producing something better by the knowledge that he must

thereafter manufacture and sell all forms of his device or else take the risk of being compelled to turn over the use of his prior inventions to intending competitors?

Again, take as an instance Thomas A. Edison, who has taken out more patents than any other one man in this country, and who has individually sufficient means to develop and promote such of his inventions as he may see fit. Under the Oldfield Bill he, being the original patentee, may suppress any or all of his potentially competitive inventions. On the other hand, if an inventor of merit, but without Edison's financial resources, develops numerous inventions, and to enable him to perfect them and promote them, is obliged to assign his patents or to grant licenses under them, the Oldfield Bill provides that compulsory licenses may be exacted as to any of his patents which are not commercially worked.

Or again, it is often the case that it is proposed to develop a new art. For example, the automatic manufacture of bottles. Before success was reached, this enterprise required the expenditure of nearly one-half million dollars. In arriving at success numerous patents were taken out from time to time and other necessary patents were acquired. Having thus staked money in such a princely sum upon their confidence in what they could ultimately accomplish, must the men who have produced this result now commercially work all of the inventions thus produced or as an alternative must they grant compulsory licenses, under the less preferred forms of the invention, to competitors who have risked nothing or done nothing, but who, in the light of what has been accomplished, and with such compulsory licenses granted, may very possibly become formidable competitors in the field?

It is not necessary in this article to generally discuss the subject of compulsory licenses, but so far as the provisions of the Oldfield Bill are concerned, the objections may be summarized thus:

1. They are ill-considered.

2. In the effort to avoid the constitutional provision as to exclusive rights, they constitute highly objectionable class legislation.

3. They are futile.

LICENSES AND LICENSE RESTRICTIONS.

The contention of Mr. Oldfield is that the failure to observe the restrictions contained in a license is a mere violation of contract for which the remedy lies in a suit in the State Courts. Nowhere does Mr. Oldfield's utter failure to comprehend the fundamentals of patent law more clearly appear. A license under a patent is not a mere contract between the licensor and the licensee to do or not to do certain things. In the absence of a license a stranger to the patent has no lawful right to use the patented invention either by way of manufacture, use or sale. If he attempts to practice the invention in any manner he is a trespasser who may be enjoined.

In a license agreement, the owner of the patent merely consents that the licensee shall have access to the patented invention or may utilize it *to the extent specified in the license* and *only* to that extent. In so far as the licensee does anything involving the utilization of the patented invention, in a manner not authorized by the license, his actions are wholly unauthorized; he is a stranger in interest to the patent and is a mere trespasser. Consequently, the practice of a patented invention by a licensee in a manner not permitted by the license, leaves the licensee, as to such acts, in exactly the same position as if no license had been granted, and an action for infringement will lie against him, not because he has violated his license or disregarded his contract, but because the acts complained of constitute an unauthorized use of the invention and therefore constitute an infringement of it.

As a rough analogy, a patent may be likened to an apartment house. A limited license is equivalent to the lease of one apartment. Obviously, if the lessee of one apartment enters into possession of some other apartment, he cannot justify under his lease, and the landlord's right of action is in no sense dependent upon any covenant or provision of the lease, even though there be an express covenant that the tenant will not trespass upon other apartments. Or again, if an apartment be leased for residence purpose with an express provision that it shall not be used for other purposes, and the tenant seeks to convert it into a saloon, the landlord may enjoin such unauthorized use and the lease will furnish no justification for the tenant.

From a practical standpoint, this phase of the Oldfield Bill is most highly objectionable and destructive of the value of a

patentee's rights. If he sells exclusive license rights for a certain territory, he is enabled to do so by the knowledge of the licensee for that territory that it may not lawfully be invaded by a licensee for other territory, because such invasion will be outside of the license, and the invading licensee will be subject to action for infringement. If the patentee of a machine or process of value in the refining of cotton-seed oil finds that his invention is also useful in the manufacture of oleomargarine, he can well afford to grant a license to a manufacturer to practice the invention only in the manufacture of oleomargarine, knowing that such licensee cannot lawfully invade the patentee's own industry of refining cotton-seed oil without subjecting himself to a suit for infringement for such unlicensed use.

If a patentee is engaged in manufacturing and selling the patented invention, he may well be willing to license another to also manufacture and sell this device upon the condition that such use of the invention is only authorized to the extent and so long as the licensee shall not sell the device lower than the patentee's established prices; and so, in countless different ways, the money value of a patent often depends upon the fact that the patentee can sell limited additional and circumscribed licenses and can, by action for infringement, enjoin any use of the invention outside of the terms limited and specified in the license. All this the Oldfield Bill would destroy by absolutely taking away the right of action for infringement by a patent owner against a licensee for acts done by the licensee in excess of his license rights.

In his bill Mr. Oldfield seeks to prohibit the practice of selling or licensing the use of patented articles upon condition that the article shall be used only with unpatented supplies to be furnished by the vendor or the licensor. This phase of the bill is clearly inspired by the dissenting opinion of Chief Justice White in the mimeograph case (224 U. S., 1). He contends that every argument in support of agreements and licenses of this character as to patented devices is equally applicable to unpatented devices, seemingly ignoring the fact that as to unpatented articles the parties to such agreements tie their hands regarding devices which they would have full and free right to manufacture and use in the absence of such agreement; whereas, as to patented articles, the restrictions all relate to the use of that which no one has a right to use without the consent of the patent owner, and, in turn, this exclusive right of the patent owner relates solely

to an invention which was unknown to mankind until produced by the patentee. Since, therefore, the patent grant takes nothing from the public domain, it follows that the exclusive control of that which was previously unknown can work no harm to the public. Since inevitably the greater includes the less, and the patent owner has the right to completely suppress the patented invention for the term of the patent, we fail to see wherein any hardship is worked to the public if it is permitted to use the patented invention only upon such terms and conditions as the patent owner may dictate.

Mr. Oldfield also seemingly fails to comprehend that the patented invention and the machine or article which embodies that invention in useful form are distinctly different subjects of property. Although it is true that the sale of a patented article, without terms or conditions, will carry with it a license to use and resell, nevertheless this is merely an incident to the fact that the article is sold by one who has a right under the patent to grant a license to use and resell. Nevertheless, the two property rights are absolutely distinct, one being the mere ownership of the physical structure which embodies the patented invention, and the other being the ownership of the invention itself. Thus, the machine may have been manufactured without right by a stranger to the patent, who could nevertheless convey to the purchaser the absolute ownership of the machine as a physical entity, but could not give him with such sale any right to use the machine so as to practice the patented invention, or to resell the machine embodying the patented invention. The purchaser having thus acquired physical ownership of the machine might then separately acquire from the third person who owns the patent a license right to practice the invention, by using the machine or by reselling it for such use. Since, therefore, these property rights are separate and distinct, there is no reason, merely because he gets his license right as an incident of the transfer to him by the same person of the physical ownership of the machine, why the purchaser should not take his license to use and sell the machine subject to such conditions as the patent owner may impose.

This being so, there is no hardship for anyone in the right of the patent owner to demand such consideration as is acceptable to him in payment for the license rights. He may demand one dollar or one hundred thousand dollars for the machine and for

the unlimited right to use and sell the machine; or he may require a per diem or per annum compensation for the use of the machine; or he may demand a certain percentage of the total income of the purchaser's business; or he may measure the value of the patented device to the purchaser by the extent to which the purchaser uses it, and base his price or royalty either upon the output of the machine on the one hand, or by the amount which the machine consumes, on the other.

What just or reasonable distinction can be made as to whether the vendor of a patented mimeograph shall require the payment to him of one dollar per day or of one dollar per copy run off on the machine, or of one dollar per hundred pounds of ink consumed, or shall less explicitly name his price as the commercial profit on the supplies consumed, by specifying that the machine is licensed to be used only with such supplies as he may furnish? The market for such supplies, so far as his license limitations affect it, exists only as the result of the invention which produced the machine which in its operation consumes these supplies.

If our patent system is to continue its beneficent work, it is imperative that the patent owner shall absolutely control the terms, price and conditions upon which the patented invention may be practiced, and in so doing, since he takes no rights from the public which it possessed before the patent was granted, and obtains no returns from the public except such as directly result from conditions produced by the development of the patented invention, it is not seen wherein the public has any right or interest which requires a curtailment of the patentee's rights, as they have always heretofore existed.

Clearly, the foregoing is true in any transactions whereby prices are fixed or other limitations established as to dealings involving the *bona fide* use of patented inventions. The only possible danger to the public lies in using these rights under patents as a mere cloak or subterfuge for combinations which would otherwise violate the Sherman Law.

It is, of course, theoretically a dangerous experiment to leave for judicial determination the question as to whether a contract involving the use of a patented invention is valid because it is within the sound business discretion of the licensee as to the desirability of using the patented invention upon all or a specified part of his output as to which, in consequence, he is bound to maintain prices or other specified trade conditions; or whether

such agreement is a mere subterfuge by which various otherwise competing merchants agree to use upon their output a patented feature which is of no real commercial value and which is adopted merely to clothe an otherwise illegal contract in restraint of trade in the guise of a legitimate patent license agreement.

In experience, however, the Courts rarely have any trouble in determining in actual cases from the records, conduct and correspondence of the parties, whether such a transaction is *bona fide* or a fraud. If the latter, they have no difficulty in seeing through the form of the transaction to its substance, and in treating it accordingly, as clearly appears from the recent decisions of the Federal Courts in the bathtub case.[1]

Because of this inherent difficulty in framing a rule or definition of a course of action which will be legitimate or which *in all cases* will be in violation of the law, this phase of the matter clearly comes within that domain which is best met by statutes in general terms but of broad scope, such as the Sherman Act, as applied and interpreted by the Courts, rather than to any specific statute, such as the Oldfield Bill, which, in a laudable effort to reach unfair practices, does vastly more damage to legitimate transactions. The numerous and detailed "anti-trust" features of the Oldfield Bill are, as previously noted, taken almost bodily from the LaFollette-Lenroot Bill for the amendment of the Sherman Law, and if the word "patent" and similar terms were omitted, they would constitute nothing but a general "anti-trust" law.

The inherent viciousness of these provisions is that they single out patent rights and patent property as the especial objects of "anti-trust" legislation, so that transactions which might be entirely lawful if no patent rights were involved, not only become unlawful because they relate to this specific form of property, but also involve confiscation of patents, deprivation of standing in the Courts and other penalties of a highly drastic nature, as if the patent system were treated as a menace to the country instead of one of its most important institutions.

Not only so, but many of the numerous "anti-trust" provisions are of such a character that it frequently must happen that no one can know with certainty, until the matter is adjudicated in a proper proceeding, whether or not a given transaction is or is

[1] *United States v. Standard Sanitary Mfg. Co.*, 191 Fed., 172. Affirmed Nov. 18, 1912 (U. S.,).

not in violation of the law. Yet, notwithstanding this necessarily indeterminate line between what is lawful and what is unlawful, if it is ultimately determined that a given transaction involving patent rights is unlawful, the parties to this transaction are subject to forfeiture not only of the patent rights involved in the transaction, *but of all other patent rights which they may own* at the time, and are also subject to outlawry in the Courts so far as prosecuting infringers or maintaining any other actions under their patents or relating to patent contracts or patent licenses is concerned.

This review has necessarily been general in discussing this bill of sixteen pages and over thirty different substantive provisions.

Various of these provisions have not even been touched upon, such, for example, as those in relation to how long a patent shall run with reference to the date of the application; a provision that an adjudication, in a proceeding by the Government, that the Sherman Law has been violated, shall be available in subsequent litigation by parties affected by such unlawful combination without retrying the facts; the provision whereby, in such a proceeding by the Government, individuals damaged by the unlawful combination may intervene and have their rights adjudicated; the provision that the Government shall not purchase any patented articles during the pendency of any proceeding under the Sherman Act alleging violation of said act in the manufacture or sale of said articles, etc., etc. While some of these provisions are not without merit, nevertheless, in so far as they are meritorious, they should be embodied in the general law and have no place whatever in patent legislation.

In conclusion. If it be urged that, notwithstanding the foregoing, evils exist in our patent system, and that this article merely criticises the Oldfield Bill without suggesting anything better, the reply is that in so far as there are faults in our patent system, they relate to matters of procedure rather than to matters of substance. The theory and principles of our patent system are absolutely sound. The machinery for carrying them out is undoubtedly faulty, both in the Patent Office and in the Courts, but as to these faults, the Oldfield Bill provides practically nothing in the way of a remedy beyond attempting to provide that the patentee shall have two years within which to obtain a seventeen-year patent, and if through his delay he occupies more than two years in obtaining the patent, then the patent shall expire nine-

teen years from the date of his application. Even the details of this provision are awkward, and it is believed unworkable, although perhaps plausible to one who has not an intimate knowledge of the problems involved.

So far as remedial legislation is concerned, the writer would make the following suggestions. First: In the absence of a better suggestion, a provision that in the prosecution of patent applications, the Patent Office be given authority every time it acts upon an application to fix a definite time in which response must be made. In practice this plan works out very well in the prosecution of applications before the patent offices of the principal foreign countries.

Second: A revision and simplification of the practice in the Patent Office whereby one of the three appeals allowed shall be dispensed with; the interference procedure made more rational to the end that interferences may be more expeditiously disposed of; the provision of a new Patent Office with adequate facilities and an adequate force so that all work can be kept current.

All this is entirely within the province of Congress.

Third: As to procedure in the Courts, it is believed that new legislation is not necessary. The new equity rules promulgated by the Supreme Court clearly recognize existing evils and are planned to simplify and facilitate Court procedure. Whether or not they will prove adequate is a matter which cannot now be determined, but it is believed that, except for the provision of additional judges where needed, the expediting and simplifying of Court procedure rests in the hands of the Courts themselves.

Fourth: As to the alleged evils of concentrating and suppressing patents to prevent competition, and as to using patent license conditions as a subterfuge for evading the Sherman Law, if any legislation at all is necessary it is submitted:

(*a*) That if the Courts are to be given jurisdiction to decree the grant of compulsory licenses, they should have such authority only when a given state of facts is established which may raise a presumption of illegitimate suppression of competition, but inasmuch as no general rule can be laid down which may safely be relied on to prove such deliberate restraint or suppression, the grant of a license should be left to the discretion of the Court if the Court shall find that, in view of all of the evidence, such a compulsory license is reasonably necessary in the public interest. For the public interest is the only possible excuse for any compulsory-license legislation.

(*b*) As to illegitimate combinations under the guise of patent protection, it is believed that the Sherman Law as interpreted by the Supreme Court is amply adequate, but if there be any doubt on this point, then it should be sufficient to add to the Sherman Law a short section to the effect that no understanding, arrangement or agreement otherwise in violation of the terms of the Sherman Law, but under which the restraint of trade arises as an incident to the exercise of patent rights, shall be lawful if, in view of all the evidence, the Court shall find that the purpose of the parties was to use the patent rights as an incident to restraint of trade, instead of accepting the restraining features of the license as a necessary incident to the acquisition of patent rights desired and used by the parties *bona fide* for the purpose of gaining the benefits and advantages which would accrue from the license to exercise such patent rights.

Whether the writer of this article be right or wrong in his views as above expressed, it is perfectly clear that no such momentous changes in our patent system as those proposed in the Oldfield Bill and other bills to follow, as promised in the report accompanying the Oldfield Bill, should be made without first referring the whole subject to a carefully selected commission including men of wide experience in the practice of the patent law, nor until after very full hearings given nation-wide publicity as to every feature of any such bill which may be submitted to Congress for enactment.

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