No. 75.

MARCH 7, 1808.

Read the first and second time, and committed to a committee of the whole house, on Friday next.

A Bill,

For the encouragement of learning, and for the promotion of the useful arts.

Sec. 1. *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, or having resided therein for two continued years, immediately before his or their application for a patent, as herein after mentioned, shall be desirous of obtaining a patent for any invention, discovery or improvement, by him or them alleged to be made, of any new principle, or new application of a known principle, in any new or useful art, machine, manufacture, or composition of matter, he or they shall pay to the treasurer of the United States, the sum of dollars; for the payment of which

12 duplicate receipts shall be given, one of which the applicant or
13 applicants for a patent, shall file in the office of the secretary of
14 state, together with a specification by him or them subscribed,
15 which shall contain an explanation of the manner of making, using,
16 applying, and compounding the said invention, discovery, or im-
17 provement, in such full, clear, and exact terms, as to distinguish
18 the same from all other things before known, and to enable any
19 person skilled in the art, or science, of which it is a branch, or with
20 which it is most nearly connected, to make, use, apply and com-
21 pound the same, and in case of any machine he shall fully explain
22 the principle and the several modes in which he has contemplated
23 the application of that principle or character, by which it may be
24 distinguished from other inventions accompanying the said specifica-
25 tion, with drawings and written references thereto, explanatory of
26 the same, where the nature of the case admits of drawings. The ap-
27 plicant or applicants shall also file in the office of the secretary of
28 state, a concise description or specification, by him or them sub-
29 scribed, of the said invention, discovery, or improvement, in words
30 only, designating and describing the principle or character of the
31 same, which concise description shall be contained in a schedule
32 annexed to the letters patent, and shall make a part thereof. And
33 the said applicant or applicants shall moreover make oath or af-
34 firmation, that he or they are citizens of the United States, or as
35 the case may be, have resided therein for two continued years im-
36 mediately before; that he or they verily believe themselves the
37 first and true inventors or discoverers, of the matters contained in

38 the specification, on which shall be endorsed a certificate of the said
39 oath, subscribed by the applicant or applicants, which shall be ta-
40 ken before any person legally qualified to administer oaths, of which
41 qualification, if the person administering the oath reside without
42 the district of Columbia, due proof shall be made by the certificate
43 under seal of a notary public, or clerk of a county court, within the
44 United States, and in case the secretary of state shall deem it re-
45 quisite, the said applicant or applicants shall moreover lodge in his
46 office an operative or other substantial model, at the discretion of
47 the said secretary, of his or their invention, discovery or improve-
48 ment.

1 Sec. 2. *And be it further enacted*, That upon fulfilling the requi-
2 sites aforesaid, letters patent shall be issued to the said applicant
3 or applicants, his, her, or their heirs and assigns, granting to him or
4 them, their heirs and assigns, for any term not exceeding seven
5 years, at the discretion of the secretary of state, the full and ex-
6 clusive right and liberty of making, using, applying, and compound-
7 ing, and of vending to others to be used, the said invention, disco-
8 very or improvement. And said letters patent shall be made out in
9 the name of the United States, bearing test by the president of the
10 United States, and shall be delivered to the attorney general of the
11 United States, to be examined, who, within fifteen days after such
12 delivery, if he finds the same conformable to this act, shall certify
13 accordingly at the foot thereof, and return the same to the secretary
14 of state, who shall present the letters patent, thus certified, to be
15 signed, and shall cause the seal of the United States to be thereto

16 affixed; and the same shall be good and available to the grantee
17 or grantees, by force of this act, and shall be recorded in a book to
18 be kept for that purpose, in the office of the secretary of state, and
19 delivered to the pantentee, or his order.

1 Sec. 3. *And be it further enacted*, That every assignment of a
2 patent right, or of any part thereof, shall be made in writing under
3 the hand and seal of the assignor, and attested by two witnesses,
4 and before it shall avail the assignee, it shall be recorded in the
5 office of the secretary of state, who shall cause the time of its being
6 admitted to record to be noted: *Provided*, That no such assignment
7 shall be admitted to record as aforesaid, until it shall have been ac-
8 knowledged before a judge of some court of record of the United
9 States, or of an individual state, and in case the said judge shall
10 reside without the territory of Columbia, proof shall be made of his
11 certificate of the acknowledgment under the hand and official seal of
12 a notary public, or clerk of a county court within the United States.

1 Sec. 4. *And be it further enacted*, That when any person hath
2 made or shall have made any such invention, discovery, or im-
3 provement, on account of which a patent might issue by virtue of
4 this act, and has or shall die before the same hath been granted,
5 the right of applying for and obtaining such patent shall devolve
6 upon the executors or administrators of such person, in trust for
7 the heirs at law of the deceased, in case he shall have died intes-
8 tate; but if otherwise, then in trust for his devisees, in as full and
9 ample manner, and under the same conditions, limitations, and re-
10 strictions, as the same was held or might have been claimed, or

11 enjoyed by such person in his or her life time. And when applica-
12 tion for a patent shall be made by such executors or administrators,
13 the oath or affirmation herein before directed, shall be so varied as
14 to be applicable to them, and as the secretary of state shall approve.

1 Sec. 5. *Provided*, That any person who shall have discovered
2 an improvement in the principle, or new application of a principle
3 of any machine, or in the process of any composition of matter
4 which shall have been patented to any other person or persons, and
5 shall have obtained a patent for such improvement, he shall not be
6 at liberty to make, use, or vend the original invention or discovery,
7 nor shall the first inventor or discoverer, be at liberty to use the
8 improvement. And it is hereby enacted and declared, That simply
9 changing the form or the proportions of any machine or composition
10 of matter, in any degree, shall not be deemed a discovery, invention
11 or improvement.

1 Sec. 6. *And be it further enacted*, That upon oath or affirmation
2 being made, before the judge of the district court, where the paten-
3 tee, his executors, administrators, or assigns reside, that any patent,
4 which shall be issued in pursuance of this act, was obtained sur-
5 reptitiously or upon false suggestion, and motion made to the said
6 court within three years after issuing the said patent, but not after-
7 wards, unless where a patent shall have been previously issued for
8 the same thing in this or some other country, it shall and may be
9 lawful for the judge of the said district court, if the matter alleged
10 shall appear to him to be sufficient, to grant a rule, that the
11 patentee or persons claiming under him to be named in the motion.

12 shew cause why process should not issue against him or them
13 to repeal such patent, and if sufficient cause shall not be shewn
14 to the contrary, the rule shall be made absolute, and thereupon
15 the said judge shall order process to be issued against such pa-
16 tentee, or those claiming under him, with costs of suit; and in case
17 no sufficient cause shall be shewn to the contrary, or if it shall
18 appear that the patentee was not the true inventor or discoverer,
19 judgment shall be rendered by such court for the repeal of such
20 patent; and if the party, at whose complaint the process issued,
21 shall have judgment given against him, he shall pay all such costs
22 as the defendant shall be put to in defending the suit, to be taxed
23 by the court, and recovered in due course of law.

1 Sec. 7. *And be it further enacted*, That where any patent shall
2 be, or shall have been granted pursuant to this or any former act of
3 congress, and any person without the consent of the patentee, or
4 of those claiming under him, first obtained in writing, shall make,
5 devise, use, or sell the thing whereof the exclusive right is secur-
6 ed to the said patentee by such patent, such person so offending,
7 shall forfeit and pay to the party injured, a sum equal to three
8 times the actual damage sustained, from or by reason of such of-
9 fence, but which shall in no case be less than three times the price
10 established by the patentee at which he has publicly offered to
11 sell or license, or has usually sold or licensed the use of his inven-
12 tion to others, which sum shall and may be recovered by action on
13 the case founded on this or any prior act, in the circuit court of
14 the United States having jurisdiction thereof: *Provided*, That if

15 judgment be given for the defendant in any suit commenced for
16 such offence, the court may at their discretion award triple costs
17 against the plaintiff: *Provided also*, That the defendant in such
18 action shall be permitted to plead the general issue, and give this
19 act and any special matter, of which notice specifically stating such
20 special matter in writing may have been given to the plaintiff or
21 his attorney, thirty days before trial, in evidence, tending to prove
22 that the specification filed by the plaintiff, does not contain the
23 whole truth relative to his discovery, or that it contains more than
24 is necessary to produce the described effect, which concealment or
25 addition shall fully appear to have been made for the purpose of
26 deceiving the public, or the thing thus secured by patent, was not
27 originally discovered by the patentee, but had been in use, or had
28 been described in some public work, anterior to the supposed dis-
29 covery of the patentee, or that he had surreptitiously obtained a
30 patent for the discovery of another person; in either of which cases
31 judgment shall be rendered for the defendant, with costs, and the
32 patent shall be declared void.

1 Sec. 8. *And be it further enacted*, That the secretary of state
2 may, with the concurrence of the secretaries of the treasury, war
3 or navy departments, or any two of them, refuse to issue a patent
4 to any person claiming the same in virtue of this act.

1 Sec. 9. *And be it further enacted*, That in case of interfering ap-
2 plications, the same shall be submitted to the arbitration of three
3 persons, one of whom shall be chosen by each of the applicants,
4 and the third person shall be appointed by the secretary of state,

5 and the decision or award of such arbitrators, delivered to the se-
6 cretary of state in writing, and subscribed by them, or any two of
7 them, shall be final, as far as respects the granting of the patent;
8 and if either of the applicants shall refuse or fail to choose an ar-
9 bitrator, the patent shall issue to the opposite party. And where
10 there shall be more than two interfering applications, and the par-
11 ties applying shall not all unite in appointing three arbitrators, it
12 shall be in the power of the secretary of state to appoint three ar-
13 bitrators for the purpose.

1 Sec. 10. *And be it further enacted*, That any inventor or dis-
2 coverer, his executors, administrators or assigns, who may obtain
3 letters patent under this act, may renew the same, not only for his
4 original invention as already specified, but for all the improvements
5 that he may have discovered and made thereon, by applying at any
6 time within twelve months before the expiration of his first term
7 of seven years for a second term of seven years, to commence on
8 the expiration of the said first term, on paying into the treasury of
9 the United States dollars, and filing new spe-
10 cifications and explanations of all the improvements which he or
11 they may have made on his or their said original invention, and
12 complying with all the other requisitions of this act necessary for
13 obtaining a patent. And in like manner and on like conditions, he
14 or they may renew the same any time within twelve months before
15 the expiration of the second term of seven years, for a third term
16 of seven years, on paying into the treasury of the United States
17 dollars; and public notice shall be given by the

18 secretary of state, in one or more newspapers of each of the states
19 and territories of the United States, in which a newspaper or news-
20 papers may be printed, at least twice a month for three months,
21 of the intention of the patentee or patentees, his or their heirs, ex-
22 ecutors, administrators or assigns, to renew the said letters patent:
23 *And provided*, That no person, state, body politic or corporate who
24 may have obtained the consent of the patentee, his heirs, executors,
25 administrators or assigns, in writing, for using his invention, shall
26 be compelled to renew the same, nor shall ever be subjected to
27 any damages for using the same in the state of improvement that it
28 was at the time the license was granted, nor for using the improve-
29 ment where such use was stipulated in the license.

1 Sec. 11. *And be it further enacted*, That any inventor, his heirs,
2 executors, administrators, or assigns, who may have obtained, or
3 shall, before the 1st of October next, obtain a patent under the act
4 entitled "An act to promote the progress of the useful arts," may
5 renew the same for one period of seven years, under the conditions
6 and restrictions of the 10th section of this act. *Provided*, That in
7 case of patents already expired, application for such renewal shall
8 be made within twelve months after the passing of this act; and
9 the secretary of state shall give like notice as in the case of the re-
10 newal of patents hereafter to be granted.

1 Sec. 12. *And be it further enacted*, That for every copy which
2 may be applied for at the office of the department of state, of any
3 patent, or any paper respecting any patent, and for every record of
4 any assignment of a patent right, there shall be paid by the applicant,

5 at the rate of twenty cents for every hundred words, and for every
6 copy of a drawing, a sum not less than two, nor more than ten dol-
7 lars, at the discretion of the secretary of state; the said fees to be
8 accounted for, at the treasury, half yearly.

1 Sec. 13. *And be it further enacted*, That it shall be the duty of
2 the secretary of state to publish annually in some one newspaper
3 printed at the seat of government, a list of all the patents granted
4 the preceding year, stating to whom, and for what purpose they
5 have been granted, together with the date of each patent, and place
6 of residence of each patentee.

1 Sec. 14. *And be it further enacted*, That the author and authors
2 of any map, chart, or book, being a citizen or citizens of the United
3 States, or resident therein at the time of his or their composing the
4 same, and any person or persons who shall, within the United States,
5 invent and design, engrave, etch or work, or from his or their own
6 work or inventions, shall cause to be designed, etched, engraved or
7 worked, any historical, or other print or prints, and his and their
8 heirs and assigns, shall have the sole right and liberty of printing,
9 re-printing, publishing and vending such map, chart, book, or print,
10 for the term of fourteen years from the time of depositing the title
11 of the same in the office of the clerk of the district court, as here-
12 in after mentioned; and if, at the expiration of the said term of
13 fourteen years, the author or authors, or any of them, of such map,
14 chart, book or print, be living, and a citizen or citizens of the United
15 States, the same exclusive right shall be continued to him or them,
16 his or their heirs and assigns, for the further term of fourteen

17 years: *Provided*, That he or they shall cause the title thereof
18 to be a second time recorded, and the entry printed, or impressed
19 in the same manner as herein after directed, and that within six
20 months after the expiration of the first term of fourteen years
21 aforesaid: *And provided*, That any contract for the sale of the copy
22 right for the second term of fourteen years, or any part of the same,
23 made or entered into before the expiration of the first, shall be ut-
24 terly void.

1 Sec. 15. *And be it further enacted*, That if any person or per-
2 sons, other than the author, or proprietor, shall, from and after the
3 recording the title of any map, chart, book, or print, and printing
4 the record thereof as aforesaid, or impressing a map, chart, book,
5 or print, as aforesaid, print, re-print, etch, engrave, or work, pub-
6 lish, import, or cause to be printed, re-printed, etched, engraved or
7 worked, published or imported from any foreign state or kingdom.
8 any copy or copies of such map, chart, book, or print, or any sub-
9 stantive or material part of the same, without the consent of the
10 authors or proprietors thereof, first had and obtained in writing,
11 signed in the presence of at least two credible witnesses, or know-
12 ing the same to be so unlawfully printed, re-printed, or imported,
13 shall publish, sell, or expose to sale, or cause to be published, sold.
14 or exposed to sale, any copy of such map, chart, book, or print, or
15 substantive or material part of the same, without such consent in
16 writing, first had and obtained as aforesaid, then such offender or
17 offenders, shall forfeit the plate or plates, if the offence be commit-
18 ted by engraving, etching, or working a map, chart, or print, and all

19 and every copy and copies of such map, chart, book, or print, and
20 all and every sheet and sheets, being part of the same, or any of
21 them, found in his or their possession, to the authors and proprie-
22 tors of such map, chart, book, or print; and every such offender
23 shall also forfeit and pay to the proprietor the value of one hundred
24 copies of such work, to be recovered by action of debt, in any court
25 of the United States, in which the same is cognizable.

1 Sec. 16. *And be it further enacted*, That no person shall be en-
2 titled to the benefit of this act, unless he shall deposit, before pub-
3 lication, a copy of the title of such map, chart, book, or print, in the
4 office of the clerk of the court of the United States for the district
5 in which the authors or proprietors, or some one of them, shall re-
6 side; and the clerk of the said court is hereby directed and requir-
7 ed to record the same forthwith in a book to be kept by him for
8 that purpose, in the form following, (giving a copy thereof to the
9 said authors or proprietors) under the seal of the court when re-
10 quired: "District of to wit: Be it remembered, that
11 on the day of in the year
12 of the independence of the United States, A. B. of the said dis-
13 trict (or otherwise if there be more than one person) hath depo-
14 sited in this office the title of a map, chart, book, or print, (as the
15 case may be) the right whereof he claims as author, or proprietor,
16 (as the case may be) in the words following, (here insert the title)
17 in conformity to an act of congress, entitled "an act
18 C. D. clerk
19 of the district court of

20 for which the said clerk shall be entitled to receive
21 the sum of sixty cents from the person applying for the same, and
22 for every copy of the said record under seal, sixty cents; *Provided*
23 *also*, That any person so claiming the benefit of this act, shall cause
24 the following words, if relating to a book, to be printed on the title
25 page, or on one of the two pages succeeding the title page thereof;
26 or if to a map, chart, or print, he shall cause the following words
27 to be impressed on the face of every copy thereof: "Entered, ac-
28 cording to act of congress, the day of
29 (here insert the date when the same was deposited in the clerk's
30 office) by A. B. of the state of (here insert the name
31 of the author or proprietor, and the state in which he resides,) and
32 such author or proprietor shall, moreover, within six months after
33 date of the said record, deliver, or cause to be delivered, to the
34 secretary of state, two copies of the said map, chart, book, or print,
35 one to be preserved in his office, and one for the library of congress,
36 and a minute of the date of the receipt of the said copies shall be
37 entered and preserved at the said office, and a certified copy of the
38 said minute, under the seal of the department of state, shall be re-
39 ceived as evidence in every court of justice; for which certified
40 copy, when demanded, shall be paid for the use of the United
41 States, the sum of one dollar.

1 Sec. 17. *And be it further enacted*, That every assignment of a
2 copy right, shall be recorded in the office of the clerk of the court
3 wherein the title page shall have been recorded, as herein before
4 directed, for which assignment, the said clerk shall be entitled to

5 receive from the party applying, at the rate of twenty cents for every
6 hundred words of the same.

1 Sec. 18. *And be it further enacted*, That if any person or persons,
2 from and after the passing of this act, shall print or publish any map,
3 chart, book, or books, print, or prints, who have not legally acquired
4 the copy right of such map, chart, book or books, print or prints,
5 and shall, contrary to the true intent and meaning of this act, insert
6 therein, or impress thereon, that the same has been entered according
7 to act of congress, or words purporting the same, or purporting
8 that the copy right thereof has been acquired; every person so of-
9 fending shall forfeit and pay the sum of one hundred dollars, one
10 moiety thereof to the person who shall sue for the same, and the
11 other moiety thereof to and for the use of the United States, to be
12 recovered by action of debt, in any court of record of the United
13 States, having cognizance thereof: *Provided always*, That in every
14 case for forfeitures herein before given, the action be commenced
15 within three years from the time the cause of action may have arisen.

1 Sec. 19. *And be it further enacted*, That any person or persons
2 who shall print, engrave, etch, work, or publish any manuscript,
3 map, chart, design, or drawing, not before published, by printing,
4 engraving, etching, or working, and of which the copy right might
5 be secured under this act, without the consent or approbation of the
6 author or proprietor thereof, first had and obtained in writing, in the
7 presence of at least two credible witnesses, shall be liable to suf-
8 fer and pay to the said author or proprietor, all damages occasioned

9 by such injury, to be recovered by a special action on the case,
10 founded on this act, in any court having cognizance thereof.

1 Sec. 20. *And be it further enacted*, That the requisites hereby
2 prescribed for securing the copy right of maps, charts, books, and
3 prints, shall be performed and completed with respect to every part
4 of any map, chart, book, or print, which may be separately and ori-
5 ginally published: *Provided*, That the copy right of any number of
6 volumes of a literary work, and any series or collection of maps,
7 charts, or prints, to which the same title page applies, shall be con-
8 sidered as secured under this act, though no more than one title
9 page be recorded, and printed, or impressed as herein before pro-
10 vided.

1 Sec. 21. *And be it further enacted*, That all actions accruing under
2 this act, shall be commenced within five years after the cause of ac-
3 tion arises, and not afterwards, except where a different limitation is
4 herein before provided.

1 Sec. 22. *And be it further enacted*, That this act shall take effect
2 from and after the thirtieth day of September next, and that there-
3 after, the acts severally entitled, "An act to promote the progress
4 of the useful arts, and to repeal the act heretofore made for that pur-
5 pose:"

6 "An act to extend the privilege of obtaining patents for useful
7 discoveries and inventions, to certain persons therein mentioned, and
8 to enlarge and define the penalties for violating the rights of pa-
9 tentees:"

10 "An act for the encouragement of learning by securing the copies
11 of maps, charts, and books, to the authors and proprietors of such
12 copies, during the times therein mentioned:"

13 "An act supplementary to an act entitled 'An act for the encour-
14 agement of learning, by securing the copies of maps, charts, and
15 books, to the authors and proprietors of such copies during the time
16 therein mentioned,' and extending the benefits thereof to the arts
17 of designing, engraving, and etching historical and other prints;"
18 shall be repealed, and cease to operate: *Provided*, That their repeal
19 shall not be construed to revive any act or acts by them repealed:
20 *And provided*, That no action or right accruing under the before
21 recited acts, shall be invalidated hereby: But all patentees, and the
22 authors and proprietors of maps, charts, books, and prints, who shall
23 have secured the exclusive copy right to the same, under the said
24 acts, or any of them, before the first day of October next, their
25 heirs and assigns, shall be considered within the purview of this
26 act, in respect to any violation of their rights committed thereafter,