wise discredited. Bearing in mind, however, the rule that proof of but one instance of public use more than two years prior to the application for the patent is sufficient to defeat it, the court would hardly be justified in disregarding the testimony of the numerous witnesses who positively affirm that they used the rack, cloths, and frame in 1871–2–3–4. *Egbert* v. *Lippmann*, 104 U. S. 333; *Manning* v. *Cape Ann, etc., Co.* 23 O. G. 2413; [S. C. 2 Sup. Ct. Rep. 860.]

As indicative of the patentee's own views upon the novelty and patentability of the alleged invention, it appears that he visited Syracuse in the summer of 1874 and explained his system to a member of the Boomer & Boschert Press Company—Mr. Boomer.

In September following, in a periodical issued by that company and widely circulated, there appeared a full and complete description of the system described in the patent. Under the heading, "The best system yet devised," is the following statement:

"It is to last year's experience that we are indebted for the most sensible plans for laying up a cheese,—a plan which we predict will be speedily adopted by all wide-awake cider-makers, although, perhaps, it has not yet been sufficiently tried to establish its merits; yet, *as is has been successfullg put into use by several parties*, there seems to be no question as to its feasibility."

Then follows the description. This certainly is a very significant piece of evidence, in view of the fact that Mr. Boomer, who admits that he probably wrote the article, is now vice-president of the Clark Pomace-holder Company, the complainant in this action, his relations with the patentee being of an intimate and confidential character.

Upon the whole evidence it is thought that the patent cannot be sustained. The bill is, therefore, dismissed.

CORNELY *v.* MARCKWALD.

(*Circuit Court, S. D. New York.* June 26, 1883.)

1. PATENTS FOR INVENTIONS—PRIOR FOREIGN PATENT AS EVIDENCE—FOREIGN USE.

An inventor can obtain a patent in this country by proving that he is the original and first inventor in this country, and complying with the laws of this country in making his application for it; and foreign use would have no effect upon it at all, and a prior foreign patent would have no effect but to limit the term from the date.

2. SAME—ACTS OF 1836, 1839, AND 1861.

Under section 8 of the act of 1836, the inventor was not entitled to a patent here if the invention had been patented in a foreign county more than six months next preceding the filing of the application; but this restriction was removed by section 6 of the act of 1839, provided the invention should not have been introduced into public and common use in the United States prior to the application, and that the patent should be limited to 14 years from the date or publication of the foreign patent; and by section 7 the public use to defeat a

patent was required to extend to two years before the application; and finally, by section 16 of the act of 1861, the term was extended to 17 years, and extensions prohibited.

In Equity.

Benjamin F. Lee, for plaintiff.

William A. Coursen, for defendant.

WHEELER, J. This cause has now, after a decree for the orator establishing the validity of letters patent No. 83,910, dated November 10, 1868, issued to Antoine Bonnaz for an improvement in sewing-machines for embroidery, and pending the accounting, been heard on a motion of the defendant to reopen the case for further proofs. The grounds of the motion are that the invention was previously patented in France; that in litigation there between the orator, who now owns this patent, and the inventor, the patent there was adjudged invalid on allegations and evidence of the orator; and that the defendant desires an opportunity to put that judgment and the evidence of the orator there on which it was obtained in evidence here. This patent was granted under the acts of 1836, (5 St. at Large, 117;) 1839, (Id. 353;) and 1861, (12 St. at Large, 216.) The validity of the patent in this country does not at all depend upon the validity of the patent in France, although its duration may, which is not in question yet. Under section 8 of the act of 1836, the inventor was not entitled to a patent here if the invention had been patented in a foreign country more than six months next preceding the filing of the application. This restriction was removed by section 6 of the act of 1839, provided the invention should not have been introduced into public and common use in the United States prior to the application; and that the patent should be limited to 14 years from the date or publication of the foreign patent; and by section 7 of that act the public use to defeat a patent was required to extend two years before the application.

By section 16 of the act of 1861, the term 14 years was extended to 17 years, and extensions were prohibited. Under this provision patents for inventions patented abroad before were limited to 17 years from the date or publication of the foreign patent. *De Florez* v. *Raynolds*, 17 Blatchf. C. C. 436; [S. C. 8 FED. REP. 434.] The public use in France which might defeat the patent there would have no effect upon the validity of the patent here. The law here did not make the invention patentable here because it had been patented there, nor in any way found the patent here upon the patent there. The inventor could obtain a patent here by proving that he was the original and first inventor in this country, and complying with the laws of this country in making his application for it, and foreign use would have no effect upon it at all, and a prior foreign patent would have no effect but to limit the term from its date.

The evidence sought would be irrelevant to any issue in the case, and wholly unavailing. Motion denied.

CROSBY STEAM GAGE & VALVE CO. *v.* ASHCROFT MANUF'G CO.

(*Circuit Court, D. Massachusetts.* June 30, 1883.)

PATENTS FOR INVENTIONS—ANTICIPATION—INFRINGEMENT—PATENT NO. 145,726 VALID.

Patent No. 145,726, for an improvement in pressure-gages, granted to George H. Crosby, December 23, 1873, was not anticipated by patent 23,032, known as the Lane patent, granted in 1859, and is infringed by defendant's gage which unites the ends of a Bourdon tube by a piece of metal, which, as to its operative parts, is the solid V-link of patent No. 145,726.

In Equity.

Before GRAY and LOWELL, JJ.

W. A. Herrick and *J. H. Millett*, for complainants.

T. W. Clarke, for defendants.

LOWELL, J. The plaintiffs are owners of patent No. 145,726, granted to George H. Crosby, December 23, 1873, for an improvement in pressure-gages. In his specification, the patentee declares the invention to consist of a new mechanism for connecting and transmitting the motion of the arm, or arms, of a Bourdon tube to the rack, or equivalent device, that carries the pointer, or index, in order to utilize, as far as possible, the upward, or vertical, as well as the horizontal movement of said tube, or tubes, which enables him to use a stouter tube for the same pressure.

"To accomplish this result," he says, "I employ two links, connected or jointed together at one end and separately pivoted at their opposite ends, which are spread apart in such manner that the two links constitute the sides of a triangle, of which the point where they are joined or connected together is the apex, and the line drawn between their separately pivoted ends is the base. In case two Bourdon tube arms or branches are employed, then one of said links is pivoted to the end of one of the branches, and the other link is pivoted to the other branch. In case but one branch or arm is used, then one of the links is pivoted to the end of this branch, and the end of the other link is pivoted to the case of the gage."

He then describes, with the assistance of drawings, several forms of gage in which his improvement may be used, and concludes:

"In all the modifications represented, it will be seen that there is one feature common to all, of two links jointed together at one end, with their other ends spread apart and pivoted separately, one, at least, of said ends being pivoted to the Bourdon tube, and connected, through their common pivotal point, with mechanism to operate the index-shaft of the gage, said mechanism deriving its movements from the changes of position of said common pivotal point; and, in all the modifications, the vertical movement of tube, or tubes, is fully utilized. In lieu of jointing together the two links at the apex, these ends of the links may be solidly united, the two thus forming, in effect, a solid V-link, the legs of which are separately pivoted, as before described."

The defendants make a gage which unites the ends of a Bourdon tube by a piece of metal which, as to its operative parts, is the solid V-link of the plaintiff's patent; and the points taken in defense are