

Propose Patents on Plants

Horticulture

New Bill Would Protect Burbanks of Future

FUTURE Burbanks will enjoy the same patent protection on their living products that the Wrights, Edisons and other inventors have long had for the results of their mechanical genius, if a bill now on the calendars of both House and Senate is enacted. The proposed measure has the endorsement of many prominent persons and organizations and is expected to pass.

By its terms the originator of a new plant variety may apply for and receive a patent on his product just as if it were a machine or a chemical formula. The protection thus to be extended, however, will apply only to plants that can be propagated by asexual or vegetative means; seed-propagated plant varieties, even if new, are not included. A further exception is made in the case of plants propagated by tubers, because of the strong opposition of growers of certain classes of field crops.

A bill to give plant breeders patent protection has long been desired by horticulturists, among them the late Luther Burbank. As things stand at present, the originator of a new and valuable plant variety can reap a reward for his labor only by selling his first small stock of plants at a high price. Occasionally a good-sized fortune will be paid for a half-dozen strawberry plants, but this is a rare exception; usually the plant originator gets little or nothing. And even when he has been shrewd enough to build up a high bid for his little monopoly, the first price is all he ever receives. In a few years the plant is anybody's plant, like a patent-expired invention. It is to remedy this situation that the present legislation has been proposed.

The field covered by the proposed law is very wide. Among patentable plants will be new varieties of practically all fruit and nut trees, such as apples, oranges, cherries, pecans and walnuts; most small-fruits, including grapes, raspberries, strawberries and

blueberries; and many ornamental shrubs, vines and perennial herbs, like roses, lilacs, wistarias, phloxes and peonies. Most field crops are unaffected, because they are seed-propagated or tuber-propagated.

Both Thomas A. Edison and Mrs. Luther Burbank have wired to Congress their endorsement of the bill. Edison states: "Nothing that Congress could do to help farming would be of greater value and permanence than to give to the plant breeder the same status as the mechanical and chemical inventors now have through the patent law. There are but few plant breeders. The bill will, I feel sure, give us many Burbanks."

Says Mrs. Burbank: "Have just received welcome news of congressional activity looking to protection of plant breeders and producers of new fruits by patent. As you probably know, this was one of Luther Burbank's most cherished hopes. He said

repeatedly that until the government made some such provision for insuring experimenter or breeder reasonable protection, the incentive to creative work with plants was slight and independent plant breeding would be held back to the great detriment of horticulture. In one manuscript, he writes: 'I have been for years in correspondence with leading breeders, nurserymen and federal officials and I despair of anything being done at present to secure to the plant breeder any adequate return for his enormous outlays of time, energy and money. A man can patent a mousetrap or copyright a nasty song but if he gives to the world a new fruit that will add millions to the value of the earth's annual harvests, he will be fortunate if he is rewarded by so much as having his name connected with the result. Though the surface of plant experimentation has thus far been only scratched and there is so much immeasurably important work waiting to be done in this line I would hesitate to advise a young man, no matter how gifted or devoted, to adopt plant breeding as a life work until America takes some action to protect his unquestioned rights to some benefit from his achievements.'"

Commissioner of Patents Thomas E. Robertson stated that the amount of extra work which may be involved in administering the new class of patent claims has not yet been estimated by his office. For this reason, the bill as it stands carries no special funds for administration, but these will be asked for as needed. The bill provides that the Patent Office may receive the assistance of qualified plant scientists in the Department of Agriculture in passing judgment on the claims of applicants.

The bill will not be retroactive if it becomes law. Plants that have been in public use for more than two years will not be subject to patent.

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The Answer Is In This Issue

Will the proposed bill allow *breeders* to secure patents on existing varieties? p. 258—What compound has been used to *hasten* the growth of new tissue over wounds? p. 259—Of what scientific value would a *school* for twins be? p. 259—With what kind of toys did the *children* of ancient Egypt play? p. 260—What kept the furniture and *baskets* of old Egypt from decay? p. 261—How would molten *iron* look against the sun? p. 262—Have hagfish a long *family tree*? p. 262—Where will the next *eclipse* be visible? p. 263—What plant *destroys* mosquitoes? p. 264—Why does a chicken *jerk* its head? p. 265—When was *ether* brought into use? p. 266-67—Are *plants* older than animals? p. 269.



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