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PATENT LAW AMENDMENT (No. 3) BILL.

House of Lords - 1er juillet 1851

Order of the Day for the House to be put into Committee, read.

EARL GRANVILLE

said, that before the House resolved itself into a Committee on this Bill, though he was afraid that he should scarcely be able to explain a measure of such importance on so difficult a subject, he felt that it would not be respectful to their Lordships to lay it before them without some explanation, carefully as it had been considered by the Select Committee. He felt that this was the more necessary on account of a request which had been made to him by a noble and learned Friend of his (Lord Brougham), who had told him that some explanation ought to be made of its provisions, in consequence of a misapprehension which ex-at present in the public mind. Instead of the two Bills which had been prepared on this subject, one by the noble and learned Lord, and the other by himself, having been rejected by the Select Committee to which they were referred, and instead of a new Bill having been substituted for them, the Bill upon which he now proposed to go into Committee was an amalgamation of the provisions contained in them both, and the very little new matter introduced into it was entirely of a technical nature. The shortest way of explaining the nature of the Bill itself wonld be to state, in the first instance, the principal objections to the present patent laws which it was proposed to take away. These were the delay and expense incident to the present system, the want of security under which those who now took out patents laboured, and the opportunity of fraud by false inventors; there was also the existence of many useless patents, and of several patents on the same subject; the necessity also of having three different patents for the three different parts of the United Kingdom was considered objectionable. There was also great doubt as to the legality of our patents in the Colonies, while the Colonies complained of the injustice of extending our patents to them; and another grievance was, that foreigners, the importers of articles of foreign invention or manufacture, could obtain protection for those inventions in this country. He had now to explain to their Lordships certain clauses which he had to propose in order to meet all these objections. The second and third clauses of the Bill constituted certain high functionaries of State Commissioners of Patents for Inventions; these officers were the Lord Chancellor, the Master of the Rolls, and the Law Officers of England, Scotland, and Ireland; these Commissioners were authorised to appoint persons of scientific acquirements to act as examiners and officers in execution of the powers created under it: they would also have the power to make rules; but those rules must be laid within fourteen days after the making thereof before both Houses of Parliament, if Parliament were then sitting, or within fourteen days

after the next meeting of Parliament, if Parliament were not sitting. Instead of eight offices, to which the person now seeking a patent must apply, there would only be two offices in future—one of a public, the other partaking rather of a private character. The first would be the Great Seal Patent Office existing at present; the other would be a new office, created under this Bill, of the nature of a Record Office of the Attorney General. He thought that their Lordships would readily agree with him that no inconvenience could arise from having as Commissioners such high functionaries as the Lord Chancellor and the Master of the Rolls, associated as they would be with the Attorney General, and also with the Solicitor General for England. To these law officers of the Crown in England he would also add the Lord Advocate and the Solicitor General for Scotland, and the Attorney General and the Solicitor General for Ireland, for the purpose of protecting the interests of each of those countries respectively, and for the purpose of taking notice of any peculiarities that might be noticeable in the practice of either of them. Power would also be reserved to Her Majesty, by warrant under the sign manual, to appoint such other persons as She might think fit as Commissioners. Now, though this body might be considered by some as too cumbersome for the transaction of practical business, it was not the intention of the Act that these great functionaries should act ministerially: the Commissioners would only be called upon in the first instance to frame the rules under which they must afterwards act, while the real practical business of the Commission would devolve entirely on the law officers of the Crown in the United Kingdoms. The next four clauses of the Bill regulated the mode in which application was hereafter to be made for the granting of a patent. The petition and declaration for the grant of letters patent for an invention must be left at the Great Seal Patent Office. With that petition there must be left a statement in writing signed by the applicant, to be called the "Provisional Specification," describing the nature of his invention; and then the petition would be recorded and referred to the law officers of the Crown. This would obviate an objection, which had been much urged before the Select Committee, that persons with vague notions of improvements in their heads, spending the six months at present allowed before they are required making a specification in picking up hints, and violating patents on every side, and at last patenting something which differed entirely from what they first proposed, spent six months in framing their specifications, and after all discovering that they reaped very little benefit from their labour. The next clause provided a great advantage for the poor machanic, who had difficulty in finding capital to carry out his invention. It provided that any person, who in his provisional specification deposited at the Great Seal Patent Office, had satisfactorily described, the nature of his invention, should upon payment of the sum of 5*£*., receive a certificate of the fact from the Commissioners, and having received that certificate, should be protected for the term of six months from the date of his application for a patent. It also provided that during that period—which on special application might be extended for three months longer—the applicant might avail himself of his protection to display and use his invention, and to amend his specification. He believed that in this manner, if the invention was comparatively worthless, the inventor would be deterred from much useless expense; whereas, if it were a valuable one, he would find it easy to communicate with capitalists who had power to aid him in working out his patent advantageously. The pith of the 8th

clause was to do away with the mischief of the caveat principle, which had been condemned, with one exception, by the whole of the witnesses examined before the Select Committee. It was shown that by the caveat system persons without any inventive ability, seeing that a want was felt and would be soon remedied, entered a caveat, and claimed priority of invention over the real inventor as soon as he applied for a patent. The 8th clause provided that, after the applicant had protected his invention as he had already described, he might give notice at the office of the Commissioners of his intention of proceeding with his application, and that thereupon the Commissioners should cause his application to be advertised in such manner as they might think fit. If any persons had an interest in opposing the grant of letters patent for the applicant's invention, they must leave particulars in writing of their objections to the application at the office of the Commissioners. The provisional specification of the applicant, and the particulars of the objections to it, would then be referred by the Commissioners to one of the Examiners appointed under this Bill, who would inquire into the novelty of the invention, and would report upon it to the law officer to whom the application was originally referred; and after his report no further objections would be admitted. The 9th clause of the Bill, in case any person felt himself injured by the report of the Examiner, gave that person power of appeal to the law officer to whom the application was referred, and he might revise and inquire into the circumstances of the report, and make such order thereon as appeared to him to be just, and might alter, vary, or amend any title, provisional specification, certificate, or report accordingly. He knew that an objection had been made to vesting such power in the law officer of the Crown, because he was a functionary who was frequently changing, and could not give up his whole time to these transactions. The Select Committee had heard evidence on that point, and had decided that the question of law in such matters was so much mixed up with questions of science that it was quite impossible for scientific men, without a knowledge of law, to carry out their scientific knowledge with respect to the system of patents by themselves satisfactorily; and if the necessity of legal assistance was admitted, the fact that the law officers of the Crown were selected from the most eminent men of the day, was sufficient to show the great advantage of associating them with the Examiners to carry out the provisions of the Act. As to emoluments, though it was necessary to consider what was due to such high functionaries, yet he must say that no men could have shown more indifference to that part of the question than the two learned gentlemen who now held those appointments, although this Bill would cause a great loss of income to them. The next clause was the 10th; and it enacted that the warrant of the law officer for sealing the patent should be a sufficient authority for issuing the letters patent, which were to extend to the United Kingdoms of Great Britain and Ireland, the Channel Islands, and the Isle of Man. This clause would sweep away many of the objections which had been urged against the various and manifold offices through which the letters patent were at present obliged to pass before they could issue. With regard to the next clause, it contained a new principle which had been productive of great advantage in foreign countries. Instead of calling upon the applicant to make one large payment at the time when his letters patent first issued, it was now proposed to spread it over a series of seven years, in three periodical payments. The fees to be paid on leaving his petition for the grant of letters patent, on leaving notice

of his intention to proceed with his application, on the scaling of his letters patent, and on the filing of his specification, would amount to 20£, which, with the stamp, 5£, would make the whole of the first payment amount to 25£. At or before the expiration of the third year from the grant, he would be called upon to pay a fee of 40£, and a 10£ stamp for the certificate of the payment to the Clerk of the Patents; and, lastly, at or before the expiration of the seventh year he would be called upon to pay a fee of 80£, and a 20£ stamp. The great advantage of this alteration would be that it would case the inventor in the first instance: if his invention turned out useful and valuable, he could easily pay these fees at the expiration of the third and the seventh year respectively; and if not, he could dispense with their payment, whereby his letters patent would become void by the failure to pay the second and third instalments, and the injurious accumulation of a multiplication of useless patents would be entirely prevented. The 12th clause varied the form of the transcripts of the letters patent, which were to be issued for the purpose of being enrolled in Edinburgh and Dublin respectively at no expense to the patentee. The 13th clause extended the letters patent at present existing to Scotland and Ireland, and enabled the holder of them in one or both countries to place himself in the same position in the third Kingdom. The 14th clause provided that the use of an invention abroad should have the like effect on letters patent as the use and publication in the United Kingdom. Our present law was unlike that of any other country. The absolute novelty of the invention was required to be proved in other countries; in this country all that was required was that it should be an invention novel in the United Kingdom. This might have been a useful provision in former times, when travelling to foreign countries was difficult, and the means of publishing what was known there were small; but now, when distance was annihilated by steam vessels and railroads, it was a monstrous case that a person like himself, who was almost ignorant of chemistry or mechanics, should be allowed to go to Belgium, make himself acquainted with some valuable chemical or mechanical invention publicly used there, and then come back to this country and take out a patent for it, and claim a monopoly for it in the United Kingdom against the whole world. The only hardship would be on those persons who invented anything without knowing that it was previously in use, or published abroad; but even for that evil they possessed a remedy in the number of scientific journals and official publications to which inventors could refer. The next nine clauses, the principal part of which had been introduced by the noble and learned Lord into the original Bill, and the rest by the Select Committee, related to the keeping, filing, and printing of specifications, the keeping of an alphabetical register of patents, and the keeping of a register of inventions in the chronological order of their patents. These provisions, he believed, would prove of the greatest use. It was often absolutely impossible at present to find out what was really patented in this country or not. Persons might go about from office to office, and find nothing which would lead to the specification he required, so that an inventor might remain in ignorance of what had been done by other persons. He (Earl Granville) was not extremely sanguine himself that all inventors would take great pains to discover whether their inventions, which might have cost great labour and anxiety, were perfectly novel or not; but it was quite clear that an opportunity should be given by the State of obtaining proper information in this respect. The next four clauses, beginning with the 23rd, extended

the provisions of what was commonly called Lord Brougham's Act, and were of a more strictly legal character than the others; but he might mention that they had received the sanction of the Lord Chief Justice, besides the unanimous approbation of the Select Committee, and he did not think it likely that their Lordships would raise any objection to them. With respect to the 27th, 28th, and 29th clauses, it would be his duty to strike them out of the Bill in Committee, because, being financial clauses, it was not in the power of their Lordships to send them to the House of Commons. He was aware that it was very difficult for noble Lords who had not paid attention to the subject to follow him, and he had to apologise for being unable more clearly to explain to them the provisions of the proposed Bill. To recite its scope and object briefly: the Bill was intended to abolish useless offices and stages, and to substitute one public and one private office for a great number, as he had before stated—to prevent many of the frauds now practised by requiring the specifications to be much more accurate, and not merely vague generalities, for the purpose of mystifying the public—to afford useful assistance to the law officers of the Crown—to give protection from the date of application, by a provisional registration—to abolish the system of caveats, and to make all patented inventions easy of access to the public. He had omitted to allude to the fact that it was proposed to omit the colonies from the effect of patent laws. He had intended to state very shortly the justice and policy of so doing; but, as he knew that a noble Lord on the cross-benches had some observations to make on that point, he thought it better to wait until after that noble Lord had spoken. With respect to the inconveniences of the existing system, he believed there was only one witness who stated before the Select Committee that he was not aware of any, and that witness was a person deeply interested in upholding it. The Committee, he might mention, although after much discussion and much doubt upon certain points, were unanimously of opinion that the great weight of evidence was in favour of the remedies proposed in this Bill. There was one class of witnesses who maintained that there was an absolute innate right of property in ideas, and that all inventors should be at liberty as cheaply as possible to register their designs, without previous examination and at small cost, which should constitute a patent, which could only be disputed afterwards in a court of justice. Now, without going into any abstruse question as to the origin of property, or the difference between property in material objects and property in intellectual objects, or whether the real ground of property was not the public good, he would contend that it was impossible to define property in an idea. He believed that the only principle on which patents could be justified was, that the patent was a bargain between the inventor and the public, by which the inventor was stimulated to make inventions, and afterwards encouraged to make them known to the whole world. The inconvenience of making the registration of design a patent without inquiry would be enormous —the multiplicity of patents would obstruct the proceedings of the manufacturers, and they would have a prima facie legal power given to every inventor, on the payment of a small sum of money, to extort from manufacturers using old established patents, a sort of compromise under fear of the expensive consequences of appealing to a court of law. Another class of witnesses came before the Committee, and contended that the system of granting patents at all was wrong, and that it was of no advantage either to the inventors or to the community. With regard to the necessity of a patent law, he

believed it would have been easy for him, as Chairman of the Committee, to get a hundred sensible persons to give evidence to that effect; but with respect to the injurious tendency of the whole system there were probably not six persons who could be got to give evidence in support of that view—but yet he would not have their Lordships to put entirely aside the evidence of the witnesses on this side of the question. They were so few in number that he might be allowed to enumerate them. The first was Mr. Cubitt, the civil engineer, whose evidence was certainly worthy of consideration, because, very greatly to his credit, he had raised himself by gradual steps from the status of a working journeyman to his present high position of President of Civil Engineers, and was held in great consideration throughout the country for his personal integrity and professional attainments. Mr. Cubitt's opinion was conclusive against the whole system of patents. The next was Mr. Brunel, of whom it was not necessary to say that his evidence was of great weight and importance. The next witness was Mr. Ricardo, M.P., who also gave valuable evidence on the same side of the question, which evidence he hoped their Lordships would not think the less valuable that it was printed as an appendix, in consequence of the accidental omission of the Committee to examine him on oath. The next witness was Colonel Reid, author of a work on the Law of Storms, and Chairman of the Executive Committee of the Exhibition. He also gave evidence to the same effect, although his opinion was derived from reading, and was not founded upon a practical knowledge of the question. Another witness was Mr. Farrie, a sugar refiner, and, although he held the opinion that it was unjust to exempt the Colonies, if we were to have patent laws, he spoke most strongly of the injury which was done to this country by the existence of patent laws at all. Mr. [Prevost] the Swiss Consul, stated that, although invention is rife in Switzerland, there are no patent laws there. The last witness was the Master of the Rolls, who, notwithstanding the experience he had had as one of the law officers of the Crown in administering the patent laws, and although he took charge of the first Bill which the Government proposed on the subject, was decidedly of opinion that patent laws were bad in principle, and were of no advantage either to the public or inventors. He (Lord Granville) was afraid that it might be thought he was taking a strange course when he supported the present Bill, and, at the same time, avowed himself very much of the same opinion as those Gentlemen whose views he had just alluded to. He was first induced to take this view from finding the infinite variety of suggestions that were made for the amendment of the existing patent laws, and because of his surprise at finding that the two learned gentlemen who were employed by the Government to draw up the heads of the Bill which was proposed by the Master of the Rolls were of opinion that, although the Bill might in some respects be useful, it was impossible to draw up a Bill which would obviate all the difficulties which existed on this subject. He had accordingly gone into the Select Committee with what the learned and noble Lord opposite might be disposed to call an hallucination on the subject; and he was sorry to say, that such was the obstinacy of his nature, that all the evidence that had been brought before the Committee, both of the gentlemen who were opposed to the system of patents, and those who were most strongly in favour of it, had only tended to confirm his previous opinion that the whole system was unadvisable for the public, disadvantageous to inventors, and Wrong, in principle. Having stated this opinion, which of itself must

be worthless in the estimation of their Lordships, he was anxious to state the grounds upon which he believed such an opinion could be justified. He had already stated that he thought it impossible to hold any innate right of property in ideas, and that the only reasonable ground upon which the patent laws could be supported, was, that they stimulated inventors, and encouraged them to discover their inventions. Now, he entirely disbelieved that in the present state of the world—even if it was different at the earlier stages of society—it was at all necessary to stimulate inventors: to scheme and invent was almost a madness with some people, and they were always endeavouring to improve on everything they saw. It had been well observed by Mr. Ricardo in his evidence, that if they looked back to former experience they would find that some of the most valuable discoveries of ancient times, such as writing and arithmetic, were not produced under the stimulus of patents—that although in the time of James I. a patent was obtained for the philosopher's stone, yet the important inventions of printing, gunpowder, painting in oils and glass, had been made, not under the stimulant of patents, but under the fear and peril of the stake and the gibbet. He found also that scientific men were in the habit of making known their discoveries with great alacrity to the public, without seeking any protection from patents. With respect to the supposed advantage to inventors, he would say, what he believed would not be denied, that not one in fifty inventions were of the slightest use to the public. In the case of the forty-nine useless inventions, the patent laws gave a factitious stimulus to false inventors, and prevented them from being occupied with work which would be more useful to themselves and the public. With respect to the few inventors who were successful, he admitted that there were some lottery prizes, though even here it should be remembered that the true inventor was often not the man who arrived at the last step of the invention, and who obtained the prize for it; but the man who, after long, laborious, and learned research, had brought it up to the last step, but who, not having completed the invention, was not entitled to the lottery ticket. With respect to the true inventor, he was often put to additional expense, also, in secretly carrying on his experiments; while, in the case of the poor inventor, he was frequently unable to make use of a patent even when he got it, from the want of capital to work it. He believed that a liberal master would be ready to reward an ingenious workman who was able to make valuable suggestions for improving and cheapening any process of manufacture; and that such workman would find his value raised in the money market, and obtain higher wages than a stupid man who had not that talent. So, without a patent law, he would not go unrewarded. It had been stated by one of the witnesses (Mr. Lloyd), that one of the worst effects of the patent laws was to induce a workman, instead of extending his deas, to stereotype his one idea, with the view of making his fortune thereby. Mr. Ricardo and Mr. Brunel had pointed out, too, the evils which might arise from giving foundation for a master to suspect his workmen of using his tools and his capital, in order secretly to obtain the right to an invention which might be used against him, or placed at the disposal of other competitors. Mr. Mercer, a journeyman calico printer, of great merit, and a self-educated man, who had made some important chemical contributions to the Exhibition, was examined before the Committee. He stated that he had made two useful inventions—one for shrinking coarse fabrics, and the other for imparting to calicoes brighter colours. He communicated with his master, being too poor to obtain patents. His

master adopted the plans. He worked very hard to keep his master a-head of other competitors, and, at the end of five years, he was taken into partnership. From this, he (Earl Granville) deduced that Mr. Mercer was more benefited by not having obtained a patent, and that ingenious workmen would always receive consideration from their employers. Now, although this person's evidence was given with the view of showing the necessity of an improved patent law, he (Earl Granville) thought that it went to uphold his argument that such laws were quite unnecessary. With respect to the public, he believed that patent laws were equally disadvantageous. It was quite clear that the tendency of the system was to raise the price of the commodity during the fourteen years which the patent existed; and it was often worth the while of a rich company to keep the sale of a patented article exclusively in their own hands by the exorbitant price which they put upon the licences, to prevent any other person making use of the patent during the monopoly. He knew he would be met by the case of the copyright of books, but he denied that the cases were analogous. He did not say that a copyright was not just, but that it was a perfectly different matter. If any one of their Lordships wrote a book, it would only add to the intellectual resources of the world, and any one might make use of any idea in that book the next day; but in the case of a patent, the manufacturer was not only prevented from using it, but from using anything like it, though the concurrence of similar inventions was very remarkable. That was sufficient to show that the two cases were not analogous. He might be met, also, by the case of foreign countries. He might be told that every foreign country possessed a patent law; but the same argument might have been used when they abolished commercial monopolies. It might have been said, that in those countries which boasted the highest civilisation, commercial monopolies existed; but that did not prevent the Legislature of this country establishing free trade. He thought that this took away a good deal of force from the argument of foreign countries as applied to patents. A Prussian gentleman had been examined before the Committee, who gave evidence as to how the system worked in his country. He had been an examiner appointed to assist in granting patents, and he said that the patent laws of Prussia worked admirably. But on the very next day a German gentleman of great scientific skill, an inventor himself, was quite indignant at the allegation of the Prussian, and pointed out many inconsistencies and many hardships arising out of the Prussian system. Any person who looked at the evidence would, however, at once see that—however well, in a country subject to such minute regulations as Prussia, the system in question might work—it was one which could not possibly be adopted in this country. The noble Lord then proceeded to refer to the evidence of Mr. Hodges, with reference to the unsatisfactory working of the patent laws in America, and to the evidence of other witnesses with reference to the Continent. Any person who examined the evidence attentively would perceive that the system in question might do in a country subject to minute regulations, but was inapplicable to a country like England. Their Lordships would pardon him for having entered into a somewhat minute detail on this occasion. He felt that in the course which he pursued, he had laid himself open to the imputation of inconsistency, and almost to the charge of a want of duty: considering that he was Chairman of the Committee who had the charge of the Bill, it would appear that he had no right now to oppose it. He wished to set himself right before the House upon this

point. He had stated that against the hundred witnesses who would come forward in favour of the patent laws, very few would he found to oppose them. But although they were very few, he thought that they were gentlemen of such authority that much weight ought to attach to their opinions. It might also be interesting to their Lordships to know that the result of the experience acquired by the present Vice-Chancellor and Lord Chief Justice of the Queen's Bench, had raised grave doubts in their minds as to whether a law of patents was advantageous. The Chief Justice of the Common Pleas likewise had written him a letter, which he authorised him to make what public use of he pleased, declaring his concurrence in his (Earl Granville's) opinion, that a law of patents was neither advantageous to inventors nor useful to the public. If, then, his opinions on the subject were erroneous, it was some consolation to know that he erred in such distinguished company. His opinion, he was aware, was not the popular one. Poll the country, and the mass would be found favourable to giving patent rights to inventors; but the great mass of the people had never considered the question, and naturally adopted the views of patentees, who were biassed by what they erroneously conceived to be conducive to their own interest. The only persons, he believed, who derived any advantage from the patent laws, were members of the legal profession. Except, perhaps, cases of warranty of horses, there was no subject which offered so many opportunities for sharp practice as the law of patents. As regarded scientific men, too, the practice of summoning them as witnesses on trials respecting patents had an injurious, if not a demoralising effect, for scientific men, when called into court, naturally wished to avoid saying anything that would be injurious to clients who had called and paid them; and, influenced by this feeling, they sometimes allowed themselves to be betrayed into giving a more favourable opinion of the merits of an invention than was strictly accurate. At the same time, whatever might be his opinion respecting patent laws in general, he would be wanting in his duty if he abstained from endeavouring, under existing circumstances, to improve the present law, which everybody admitted to be bad. The clauses in the Bill before the House were, as before stated, unanimously agreed to by the Committee, which directed the greatest attention to the consideration of the subject, the Members attending in considerable numbers from day to day. Before concluding, he must be permitted to do an act of justice by declaring that the Committee were much indebted to Mr. T. Webster, a barrister in great practice, who attended their meetings constantly, and aided them by his valuable suggestions. The noble Earl concluded by moving "That the House do now resolve itself into Committee on the said Bill."

LORD BROUGHAM

complimented the noble Earl on his clear and able statement; though he thought that his noble Friend had, perhaps, given undue prominence to that portion of the evidence before the Committee, which supported his own view of the question; but he could assure their Lordships that those who would take the trouble to read the whole of the evidence taken by the Committee, would be more than compensated for their labour by the mass of instruction and amusement they would find there. It must be admitted that the great mass of independent evidence was in favour of some system—it was not stated what—of patent law. He would not say that he had changed the opinion he originally held on the

general question; but he was not ashamed to acknowledge, that after hearing the evidence of many skilled and knowing witnesses in the Committee, that opinion was shaken. At present it was unnecessary for him to go further than that; but he was clearly and decidedly of opinion that whatever might ultimately be the result of the inquiry, which was only begun—for his noble Friend, in his able and lucid speech, had avowed that what had been done was only intended as a beginning—their Lordships were not at present in a position to justify them in making any general alteration of the law. He would avail himself of that opportunity of correcting an error which seemed to prevail very extensively. Letters reached him by scores from persons complaining that he had abandoned his Bill about patents, which they were wont to characterise in laudatory terms as an important and useful measure. Now, his noble Friend knew that he had not abandoned his Bill, any more than he (Earl Granville) had abandoned his. Both Bills were referred to the Committee, and the principal provisions of each—with some important additions suggested in the Committee—had been mixed up and amalgamated, as it were, in the measure before the House. In conclusion, he would observe that if Parliament should determine on rejecting the Bill—which was a solid and substantial improvement—and leaving the law unamended, he would be inclined to go the whole length of his noble Friend.

EARL GRANVILLE

considered that the fact of being obliged to pay so dearly for a patent right was an objection to the law. He did not see why they should not have patents as cheap as any other article.

LORD BROUGHAM

doubted, if the existing patent law was to continue, whether he would not go the full length shadowed so clearly forth by the noble Lord. It was because he considered the present measure such a great practical improvement upon the law that he so earnestly supported it.

The DUKE of ARGYLL

said, he had received a petition from the sugar refiners of Bristol against the measure. They complained that, under its provisions, the colonial sugar refiners would be able to take advantage of the patent processes, which they paid so dearly for, at no expense whatever. He was strongly in favour of the patent laws, and the principle of encouraging scientific men to turn their minds to invention and improvement. The principle of the steam hammer, which had worked such enormous good by its application, was nothing else than the piston of the steam engine turned upside town; but would any man deny, or was it reasonable to suppose, that Mr. Nasmyth was not entitled to some pecuniary interest in his invention, which had wrought such great and important results in the manufactories of this country? He held there was no distinction between the case of a man who invented a useful machine, and a man who published beautiful ideas; both were equally entitled to reward. The whole of the manufacturing interest had the benefit of a useful and meritorious invention, and it was only right

that they should pay for it.

The EARL of HARROWBY

, in a few observations, was understood to take the same view as the noble Duke who had preceded him, and to argue that, unless prevented by the operation of a patent law, the colonial refiner would be enabled to avail himself of every new invention in the manufacture of sugar, to the prejudice of the home refiner, who would have to pay for the patent right.

LORD CAMPBELL

, having been nine years a law officer of the Crown, had some experience as regarded the question at issue, and he begged to say that he entirely approved of the views of his noble Friend (Earl Granville). His object in rising was to point out some of the absurdities of the present law, and the pecuniary disadvantages it entailed upon the inventor. When a patent was infringed, the first step to be taken must be an application for an injunction in a court of equity. The Lord Chancellor, the Vice-Chancellor, or whoever granted it, sent the applicant into a court of law, in order to establish his legal right. Having succeeded there, he is referred back again to a court of equity. The patentee was thus obliged to have two sets of counsel at an enormous expense. He believed that the Lord Chancellor or the Master of the Rolls would be able to decide the validity of a patent without referring it to a court of common law; and he knew no reason why the Common Law Judges could not grant an injunction while the suit was depending. He thought that by such an arrangement they would confer a great boon upon all parties. The law expenses of Watt, for the first fourteen years after his invention of the steam-engine, exceeded all his profits. He trusted, before the Bill left the House, the suggestions which he threw out would receive consideration. He hoped the day would come when one tribunal would be able to entertain and decide all such questions. It was the greatest nonsense in the world to talk of abolishing the Court of Chancery. There must be ever such a tribunal under some name or another, to hear and determine fiduciary cases, which a Court of Common Law could not deal with.

EARL GREY

admitted, that in proposing that the operation of the patent laws should not extend to the Colonies, some hardships were inflicted on the sugar refiners in this country. But the question was, whether, if the Colonies were not omitted, greater injustices might not be committed towards other parties, and whether the objections which the petitioners took to this part of the Bill did not go further, and tend to support the general views of the noble Earl who had charge of the measure—views in which he confessed himself to concur. He, however, also coincided with him in thinking that, in the present state of public opinion, it was not expedient to act upon those views, but that they should rather content

themselves with improving the condition and state of the present laws. The noble Earl (the Earl of Harrowby) had stated that there would be great hardships and great injustice in forcing the sugar refiners of this country to pay dearer for their implements of manufacture than their fellow subjects in the Colonies. On the other hand, it would be a far greater disadvantage that the planter in our Colonies should be exposed to an unequal competition with the planters of Cuba and Brazil, who would obtain possession of these patent processes at no expense whatever. The grievance complained of had arisen out of the present state of the patent laws. It appeared that in the manufacture of sugar, to which great attention had been directed, it had been found that by the application of centrifugal force the sugar might be very easily and rapidly dried. The principle was as old as from the time a housemaid twirled her mop in order to dry it. Several parties claimed the merit of the invention; after much litigation they combined their interests, and sold it to a single company. The result was, that for the machine which the English planters in Guiana or in Trinidad paid 100*£*, that the planter in Cuba or Brazil, and the refiner in Belgium, only paid 60*£*. Now, this was a very great grievance. The principle, as he said, was old; but while the British planter was excluded from adopting even a modification of it, the Cuba or Brazil planter could make use of it, and find it extremely valuable. However, he did not think that the British refiners would suffer any great disadvantage. Refining, properly so called, from obvious reasons, would always be carried on at home; but it was necessary that the colonial planters should have the facility of sending home their produce in as advanced a state as possible. It was this consideration which induced Her Majesty's Government to propose that in future patents should not extend to the Colonies.

On Question, agreed to: House in Committee accordingly: Bill reported without Amendment.

Amendments made. Bill to be read 3ª on Thursday next.

House adjourned to Thursday next.