make up to people out of work the full amount of their wages when in work; but they would at least be able to relieve them for a short time. He should be sorry to find the opinion of the House to be that the distress which had been most severe, but which at the same time had been borne with a patience beyond example, almost beyond praise, was of a permanent nature: he thought the time not far distant when a better state of things and a revival of trade would take place.

The Bishop of *London* said, that in the year 1825 great distress existed among the manufacturers, especially among those in the metropolis, and the same measure as that now proposed, in conjunction with a public subscription, was adopted for the relief of it. The result of the step was such as to place at the disposal of the committee a large sum for the relief of the distressed, and sufficient to mitigate the distress not only now but for a considerable time afterwards. One great advantage attendant upon such relief was, that it taught the lower orders that those above them were not insensible to their sufferings. He had taken an active part in visiting the distressed manufacturers in Spitalfields and Bethnal-green, and nothing could be more praiseworthy than the quiet resignation of those sufferers. He doubted not the present appeal would be most liberally responded to.

Production of the letter was ordered.

Copyright.] On the Order of the Day for going into Committee on the Copyright Bill being read,

The *Lord Chancellor* said, that on the second reading of this bill, it was understood, that the discussion would take place on the present step of the measure. He felt, therefore, called on to state shortly the grounds on which he supported this bill. From what had passed in another place, he was led to hope, that there would be no opposition offered by any of their Lordships to the passing of this bill, and he was confirmed in this hope, from the petition that had been presented on the subject. He had that night presented a petition from several persons of great eminence in the literary world, calling most earnestly on their Lordships to pass this measure; another petition from the most eminent publishers in the metropolis; and a third petition, from the printers and stationers throughout England, all in favour of this measure. From this concurrence of opinion, he thought he was justified in expecting that the measure would meet with no opposition in that House. He confessed, however, that he was greatly disappointed on finding, that it was to be opposed from a quarter from which he should have expected support, and from which all opposition was formidable, even on ordinary questions, but more particularly when it was directed against a question of this nature. However, having undertaken the charge of this bill, he felt bound to call their Lordships' attention to it. It would be idle for him to do more than advert to the copyright of this country in ancient times. Everybody knew, that after the art of printing was introduced, copyright was acknowledged and recognized in various ways, not certainly by legislative provisions, but by acts of State, passed at different periods, for the purpose of enforcing the right. The first, or among the first, legislative acts on this subject was the celebrated ordinance of 1643; and every one knew, that it was passed by a House of Commons, smarting under the attacks of a press which had exposed their hypocrisy and their arbitrary principles and conduct. It was for the purpose of putting an end to this, that the licensing bill was introduced by the Government of that day. To soften the opposition to that measure, clauses were introduced for the purpose of confirming and strengthening the right of authors. But the parties who introduced them, had other objects in view, and every one knew, that those clauses did not mitigate the bitter resentment and eloquent indignation which Milton, in his celebrated attack, poured out against the measure. Therefore, the object attempted to be accomplished, in that case, entirely failed. He passed over the subsequent history of the law of copyright, for the purpose of bringing their Lordships' attention to the celebrated act of 1709, commonly called the Copyright Act, because it was upon that act, and upon the circumstances consequent upon it, that this question, as it appeared to him, mainly rested. The bill of 1709 was introduced into the other House of Parliament, by Mr. Wortley, and the object of it was declared to be the encouragement of learning. Everybody who looked at the provisions of that bill, at its recitals, and at its apparent objects, must see, that the principal object of it was the advancement of

literature. It was intended, for a limited period, to impose additional penalties for the infringement of copyright. No one reading the bill, and attending to the language and to the provisions of it, could entertain a different opinion. Unfortunately, however, two or three expressions found their way into the bill, which ultimately led to a different construction. But at the time when the bill was passed, no person put that construction upon it; and it was not till many years afterwards, that it occurred to anybody to think, that it limited the right which authors had by law to a complete property in their publications. Then it was, that an action was brought, and the whole question came under the consideration of the courts of justice. He thought he should not misemploy their Lordships' time, by directing their attention in a few words to the history of the proceedings which then took place. Miller, the bookseller, had purchased the copyright of "*Thomson's Seasons.*" The period named in the act of 1709 expired, and another bookseller, named Taylor, published an edition of the "*Seasons.*" Miller brought an action in the Court of King's Bench, for the piracy, and obtained a verdict. The subject was thought of so much importance, that a special verdict was given. The question was argued most elaborately in the Court of King's Bench, and the judgment of the court pronounced by Lord Mansfield, who was at the head of it, was this—that by the common law of the country, an author had a vested and a perpetual right in his copy. Lord Mansfield said further:—

"That the act to which he had referred, the statute of Anne, did not take away that right, and that the only object of the act was, for the limited period therein mentioned, to impose additional penalties for the infringement of the right."

That was the distinct judgment of the court as pronounced by Lord Mansfield. A writ of error was brought against the judgment, but after the lapse of a short time was abandoned. He knew that persons had said, "How is it possible that copyright can be a common law right, seeing that the art of printing was not practised until the statute law had commenced?" Persons who made use of that argument could not understand the common law, nor the grounds upon which it was founded. The common law applied itself to the varying circumstances of the times, and extended to any new species of property that sprung up, the same protection that it had afforded to property that had previously existed. Resting here, he found by the judgment of the Court of King's Bench that copyright was a common law right, or in other words that by the law of the country, unfettered by statute, an author had a perpetual right to his publication. Had any thing occurred since to call that judgment in question? A second action was brought by a person named Donaldson, against another person named Beckett, for the purpose of bringing the question into their Lordships' House for an ultimate decision. That case also went into the Court of King's Bench, but went there only for form's sake, in order that it might ultimately come before their Lordships. It did come before their Lordships, and the judges were summoned to consider it. It was most material that their Lordships should attend to the course of the proceedings that took place. Eleven judges were summoned. Lord Mansfield, being a peer, could not be summoned, and he took no part in the discussion because the writ of error was against his own judgment. This was an unfortunate circumstance, because it led to the result to which he was about to advert. The questions put by their Lordships to the judges were these: first, whether there was a common law right vested in an author to his publication? That question was decided in the affirmative by a majority of eight voices to three; so that that point, involving the main question which had been previously decided in the same way by the Court of Queen's Bench, was confirmed by the voices of the judges summoned to their Lordships' House, by a majority of eight to three. The other question which their Lordships put to the judges was this: whether the statute of Anne took away the common-law right, or whether it merely prescribed for the period mentioned, additional penalties for the infringement of copyright. The judges decided that it took away the common-law right—that it did not merely impose additional penalties. But that judgment was pronounced by a majority of only six voices to five; and if Lord Mansfield, who still retained his opinion, had expressed that opinion when the question was brought before their Lordships' House, the number of voices would have been balanced. So that the result of the whole of the legal proceedings upon the subject had been to establish this: that by the

common law of the country every author had a right—an exclusive right to the publication of his works—that they were his property—that he had a right to hold them against all the world; but that an act of Parliament, intended, according to his view, and he believed, according to the view of every person who had looked carefully into its provisions—for a different object, had, from the mere accidental circumstance of the introduction of one or two ill-considered words, led to an abridgment of the author's right, and reduced it from perpetuity to a term of fourteen years, and for a second period of fourteen years contingent upon the circumstance of the author's living beyond the first period of fourteen years. When somebody at a subsequent period mentioned this act, as an act intended for the encouragement of learning, Sir Samuel Romilly said, it certainly might be intended for that purpose, but that it was an act most injurious to the interests of literature, and he then went on to point out some of the inconsistencies and absurdities of the act, alluding particularly to this fact, that it gave a greater protection to the crude productions of youth, than to the more mature and accomplished works of a riper age. Something had been done to mitigate the harshness of the act of Anne. In consequence of the observations made by the distinguished and learned individual to whom he had referred—in consequence of what had fallen from Sir Samuel Romilly, the 54th George 3rd, was introduced, extending copyright to the life of the author, and with this additional provision, that instead of fixing a first period of fourteen years, and afterwards contingent upon the life of the author, extending it to another fourteen years, it gave to the author, at all events, a clear and unconditional right of twenty-eight years. That was now the actual state of the law; and the question was, whether that state of the law should continue, and what was the object, what the purpose, what the scheme and scope of the present bill. It was not to restore the common-law right. The bill did not ask their Lordships to go that length. It merely asked them to mitigate in some degree the restrictions which had been imposed upon the common-law right, or, in other words, to mitigate in some degree the harshness of the conclusion of law by which the right of an author to the exclusive publication of his works had, to a certain extent, been taken away. To what extent did the bill ask their Lordships to mitigate the existing severity of the law? It asked for an extension of the copyright for an additional period of fourteen years; but more than that (and this was a most important part of the proposition), it asked that the interest of the author in his works should not terminate with the author's life. What could be more monstrous than such a limitation? A man possessing a revenue arising from works of great learning, of which he was the author, and in the production of which he had expended a life of labour—such a man deriving an income from the sale of his works by which he was enabled to support his family in comfort and respectability, found at the very moment of death, as soon as his eyes were closed, that the doors of his house would be forced open, his family driven from its shelter, and his effects seized by strangers and distributed amongst the public. Did he express himself too strongly, then, when he said that he appealed on that occasion with confidence to their Lordships' justice. He did not talk of authors as public benefactors, as public instructors, as a class of men to whom the public owed a debt of gratitude; he did not upon this occasion put their case upon any such foundation, he based it solely upon the broad plain principle of justice. Here was property of which a man had possessed himself by his own individual exertion—property of the most valuable and most important kind; the hour of death approached, and at that moment when the full enjoyment of the property was most important to him, because his family would be dependant upon it; at that moment the law stepped in, robbed him of all he possessed, scattered it amongst the public, and drove his family forth to starve. An extension of seven years beyond the author's death, was all that was demanded, in addition to the period prescribed by the existing law. He was quite sure he should not make the appeal for that extension to their Lordships in vain. Should they in this respect be outdone by the liberality of other nations? Or, should they not take a lesson from the civilised world upon a subject in which all the civilised world sympathised. Let them see what had been done in other countries, and whether, if instead of taking the lead as she ought to do in liberality, England was not lagging far behind those who were running the same race with herself. What was the law of France? France gives a

copyright to the author, to the author's widow, and after the death of the author and the widow, a further period of twenty years' free and exclusive possession. And so far from this being thought an extravagant protection in that country, commissioners had been appointed for the purpose of reviewing the law, and of considering the propriety of extending the period of copyright. Reports favourable to the extension had been made, and no doubt a further extension would at no distant period take place. Another country distinguished in many respects for its literary productions, and for the intellectual attainments of its people, Prussia, was still more liberal. There copyright extended for the life of the author and for thirty years afterwards. The present bill asked only for seven. Russia, not producing many literary works, but having a species of magnificence in its political character, gave twenty-five years after the death of the author, and an additional ten years under particular circumstances. The only country of Europe where the law was upon the same footing as that of England, where the interest terminated with the life of the author, was Austria; and persons well acquainted with this subject—persons, whose interest stimulated their curiosity, had made this observation with respect to Austria. He did not advance the assertion upon his own authority, because he was not sufficiently informed upon the point to judge of its correctness;—but this observation had been made—that Austria, in proportion to its extent and population, had produced fewer works of learning and of original genius than any other country in Europe. He did not say, that he adopted that opinion; but if it were true, it coincided singularly with the account which Tacitus gave of the ancient Pannonians. In Spain, whose literature was formerly so charming, copyright was perpetual. So also in Denmark, so in Norway, so in Sweden. Indeed, throughout the whole of Europe, with the exception of Austria, the law of copyright was more favourable than in this country. Such was the general policy of the civilised world, founded upon observation, experience, and justice. Could they, then, in England do wrong, if, though only at an humble distance (which was all this bill asked), they followed the example set to them by their European competitors in literature? Having made these observations, he did not for a moment deny that whatever might be the right which at common law a party possessed to the productions of his genius, or to any other property that he might possess, it might be shaped, moulded, curtailed by the authority of the law. All property was, in that respect, the creature of the law; but, when a certain right existed—when it was said by the law that a certain description of property should not be placed upon the same footing as any other description of property—the onus was then thrown upon those who wished to abridge the right or alter the tenure of the property—of proving that there was a necessity for the change they proposed. Had any necessity for the restrictions imposed by the present law relating to copyright ever been proved in any of the discussions which had taken place? Far from it. No necessity had been proved, but directly the reverse. The plain principle of common sense applied to the question—the common sense principle, that the more encouragement that was given to literature the more valuable were rendered the productions of genius, and the greater the likelihood of extending their number and increasing their importance. But what was the argument by which the supporters of an extension of the copyright were met? He (the Lord Chancellor) did not like to anticipate arguments that might be urged against the measure now before the House; but he would just touch upon one or two. The first objection commonly urged upon this question, was the monopoly that the bill would give. "This is monopoly," it was said, "will you encourage monopoly?" Why every man that possessed a house was in that sense a monopolist. The house was the property, therefore he had a monopoly of it. So with the man who possessed a farm. It was his—his exclusively—he had a monopoly of it. And so should it be with respect to copyright. Was there any harm in such a monopoly? So far from it, copyright was, of all descriptions of property, the very last from which any public harm could result from the possession of monopoly, for it was a property that was of no value, unless it were communicated to the public, and the extent of its value depended upon the extent to which it was communicated. Copyright, properly and justly protected, had all the advantage of property, and none of the evils of monopoly. But there was a clause in the bill now before the House to which his attention had been directed by one of his noble and

learned Friends, to which he understood great objection was to be raised. He considered it, however, an essential part of the bill. He alluded now to the fourth clause of the bill, by which what was called a retrospective operation was given to the measure. He maintained that it ought to have a retrospective operation to the extent proposed. Look at the bill which was passed two or three years ago with respect to dramatic literature. Look at the bill which his noble and learned Friend himself supported, namely, the 54th George 3rd. Both of those bills had a retrospective operation: and properly so; for this reason—what was it that was said "Here is a property which has been abridged and partially taken away by act of Parliament. What do we ask? that that act of Parliament may to a certain extent be repealed; that the abridgment may be lessened." To whom should a bill passed under such circumstances and for such an object apply? To every man who now enjoyed the property. Why should it not apply to property under these circumstances precisely in the same way as to property which should hereafter be created? "Oh!" it was said, "there is an objection to that, because the public are upon the point of enjoying this property; to-morrow the author will die, and the day after the public will step in and take possession of all that was his — the public have a vested interest in the creations of his brain or the labours of his pen." Such, in fact, was the language of the existing law. It said to the author, "your property shall not be touched during your life; but the moment you die the doors of your house shall be opened; the rabble shall be let in, your household treasures be seized and distributed amongst the multitude." Then, again, it was said, "This bill is objectionable because it will enhance the price of books." Suppose it did. He did not admit that that would be a valid reason against the bill. It enhanced the price of books; and for what purpose? For the sake of the authors. For the sake of repaying the author for his labours—for the sake of repaying the man who had created the work, and laboured to complete it. But he did not think that it would have any such effect. He had listened to all the reasons and arguments that had been urged upon the point, and, so far from coming to the conclusion, that the probable effect of the bill would be to enhance the price of books, he was inclined to think that its operation would be directly the reverse. He believed that the effect of it would be to produce a larger investment of capital in the publication of works; and wherever a larger amount of capital was invested, the cheaper was the price of the works produced. What were the instances? Nothing could be a more complete monopoly than the publication of the Bible. Yet what book, in every variety of form, was sold so cheap? Take other works: take any of the standard works of our literature at present out of print, and selling at a high price in the market. Why selling at a high price? Because nobody would venture to republish them. Every man said, "If I republish these works to-morrow, somebody else will bring out an edition the day after, and so my capital will be lost; give me indemnity, give me security, and I will lay out my capital in the republication of these works, and sell them at a comparatively cheap price to the public." In this way he believed that the effect of a bill like that now proposed, instead of enhancing the price of standard and valuable works, would be to reduce it. But, should it be otherwise, he did not admit that the enhancement of the price would be a valid argument against a measure of this nature. The individual who had created the work was not to be sacrificed for the sake of saving small sums to the public. Another objection to the bill was ingenious enough: it was said that the extension of the right was of no importance —of no value to the author, as he would get nothing for it. Let the author himself be the judge of that. But to say that an author would have no more advantage from a copyright of forty years than from a copyright of twenty-eight years, was as much as to say, that there was no distinction in the value of a property, whether held for a limited or an unlimited term. He had before said, that he did not like to anticipate arguments against the bill. He had touched slightly upon a few; there were others that he might remark upon, but he abstained from doing so. He had unfolded to their Lordships the simple outline of the case. The appeal he made was not to their favour, not to their indulgence, but to their justice. The bill asked for less than the parties were entitled to. It was a compromise, and he was sure that their Lordships would ratify that compromise without departing from any of its provisions. Considering what had occurred in another place, it was important that the

bill should not change its shape or character beneatht heir Lordships' hands. Were that the case it would have the effect of throwing the whole subject again completely open; a consequence much to be deprecated, for the difficulty of advancing the measure to its present stage could only be known to those who had been a little behind the curtain, and who were acquainted with the obstacles which were opposed to its progress. He had made this statement for the purpose of showing their Lordships the history of the law upon this subject, the position in which the parties stood, and what he considered to be the right of the claimants under this bill—namely, a right to have justice.

Lord *Brougham* entertained, in reference to this question, a very unfeigned distrust of the opinion to which he had arrived, after the most anxious deliberation upon the whole of the important measure, partly because he came to a different conclusion from that of his noble and learned Friend upon some important particulars, but chiefly because his noble and learned Friend represented a great and most useful class of persons—he meant the authors and generally those connected with literature. He need hardly say, that he felt a deep interest in the success of this bill, or some measure of the same nature, for he went to the full length of his noble and learned Friend in all his expressions of respect, and he would add of sincere affection and attachment, towards those persons, both as individuals and as Members of that illustrious body which they adorned. He went the full length with his noble and learned Friend in all the sentiments he had expressed in their favour, and he might say, that in some respects he went further, for he regarded not merely their claims to justice, as his noble and learned Friend had put it, but their just claims to the benevolence of the House as the great benefactors of their country. But what increased his anxiety was the latter part of his noble and learned Friend's observations; for their Lordships stood in this predicament by the communication which he had just made, that they were called upon to deliberate upon a most important question, having their assent demanded to a great change in the law, as he should presently demonstrate to their Lordships; they were summoned to give their assent to a measure, which was not only prospectively to alter the present law, but which was retrospectively to alter that law, and to interfere with many, if not with all acknowledged existing copyrights, and with the vested interest of the public in published works. The House was called upon, then, to legislate upon a measure admitted to be one of great importance; but they were told, that while they were seriously to deliberate before giving their consent, yet, because, forsooth, something had passed elsewhere—because a treaty had been entered into elsewhere—because some compromise had been agreed upon—if they presumed to alter the terms of that treaty or compromise they would do so at the peril of having the measure rejected elsewhere. Now, he would tell his noble and learned Friend that he came there upon no such bargain, and was a party to no such terms. He came there to exercise his deliberate judgment, to assent if he approved, and to dissent if he disapproved, to any part of the measure. He was not bound to take it or to reject it entire, as if it were a money-bill, a measure of taxation. He was there to exercise a discriminating judgment, to admit one part of the bill, if so advised, and to reject any other that did not satisfy him. Now, if their Lordships rejected that bill, or rather, he would say, if they altered it, and the result of that alteration should be the rejection of it elsewhere, then they who so rejected it might introduce another measure, or they might take another measure from that House, and so proceed until both Houses could agree upon that which was a fit measure to be adopted. Looking at the present bill as a whole, looking to the principle of it, and to the full effect and application of what, in his judgment, was the most important part of it—those parts of it which he should be able to show were the only parts really beneficial to the country, to literature, or to literary men, those parts of the bill which were most important, and which substantially tended to promote all the great interests and objects of literature, including the interests of literary men themselves—to those parts of the bill not only did he not object but heartily assented, and considered them, so far as they went, salutary improvements in the law. Now, before proceeding to advert to the parts on which he entertained

grave doubts, which doubts he felt it his bounden duty to communicate to the House, but perfectly wishing to have them removed, if they could be removed by fair argument—before stating those doubts, he would hazard a few prefatory remarks on the extraordinary course of argument which his noble and learned Friend had taken in respect to the origin of the existing law. He had said that, in the great copyright case to which he alluded, the opinions of the judges of the King's Bench in the first place, and of a large minority of the whole of the judges afterwards, when the case came to that House on appeal — held, that, independent of the statute law, there existed by the common law of this country a copyright in the author in his works. No doubt it was the fact that the law had been so laid down, first by the judges in the King's Bench, and afterwards by the opinion of a large minority of the judges in that House—five to six. The question was whether the statute of Anne had limited the common law right and their Lordships, agreeing with the majority of the judges, held that it did, and decided that the common law right of property had ceased in 1709, on the passing of the act. They had, then, the decision of that House concurring with the opinion of the majority of the judges, that for the last century and a half the common law in respect to copyright had ceased to exist. But then, said his noble and learned Friend, sixty years after the statute of Anne, this doubt arose—that the statute, having purported to be for the encouragement of literature, turned out by the decision of that House, to have been a restraint and rather a check and a discouragement than an aid. He would not stop to contend with the opinion of his noble and learned Friend upon the decision given in 1772 in the case of "Donaldson *v.* Beckett," or upon his opinion on the case of "Miller *v.* Taylor," three years before. He would not stop to argue whether the ultimate decision tended more to the encouragement of literature than the common law right, which was supposed to have existed, but not to have been established by the statute. Of this, however, he would take notice, that for nearly seventy years, with the authority of the judges of that House, of the judges of Westminster-hall, though not sufficiently established as a point of mere law, copyright was so far admitted as to justify parties in reckoning upon that right and forming their calculations accordingly, in investing their capital, in engaging in their speculations, in performing all the operations of their several employments, and in taking all their measures according to the view laid down by the highest authority in the land of the law with regard to literary property. Now, such being the case, their assumption of what their right was under the law, and the opinion of the Legislature itself upon that right, being unimpeachable and indisputable,—if that opinion were to be controverted, then it would be vain to talk of rights at all, to talk of any privileges which a portion of the public could enjoy, because upon higher ground none could rest, none could be more indefeasible. The history of the matter, then, suggested no doubt whatever as to what the law of copyright was now and had been formerly. His noble and learned Friend had said that a relaxation of what he was pleased to call the old common law was exceedingly fit, and was therefore given in the year 1814; but his noble Friend was mistaken with regard to the origin of the measure then introduced. He seemed to think that the measure was brought forward to favour authors, and that its origin was an opinion of his lamented Friend the late Sir S. Romilly, who entertained a strong opinion against the construction of the common law. But the occasion of introducing that act was this:—a claim had been made by the universities for a certain number of copies of every book published; by the old statute of Anne eleven copies were to be given to the libraries of Oxford and Cambridge Universities, and it was complained that those copies were not regularly delivered, and that there was a defect in the statute in the enforcement of the delivery: it was found that the more valuable description of books were not received, and that those books which comparatively were of little value, were alone sent to the libraries. A bill was accordingly brought in to enforce the delivery of the required number of copies of all books published, and as a sort of compensation to the author and the bookseller a change was made in the term of the copyright and the contingent right in the work, should the author survive the first fourteen years was made certain, — a fur-

ther term of fourteen years was given, together with a term extending to the life of the author if he survived the twenty-eight years. That addition was made to compensate booksellers and authors for the burden cast upon them—a burden which they considered intolerable—that of having to supply eleven copies of each new work. In the evidence given by booksellers before the Parliamentary committee, they one and all held that the increase of the duration of copyright from fourteen to twenty-eight years certain, and beyond that for life, if the author survived, was no compensation at all for the burden imposed upon them, and then for the first time effectually imposed upon them, of sending eleven copies of new works to public libraries. The manner in which they gave their evidence was worthy of observation. They were asked, "Don't you think, that now you are called upon to do that which you never have been compelled to do before, we are giving you a great boon, by this increase in the duration of copyright, and will not authors benefit by it?" They one and all answered, "Oh! no; no such thing—it is of no consequence whatever; because, in ninety-nine cases out of 100," said one, "and in 199 cases out of 200," said another, "it is perfectly immaterial what becomes of copyright, for we do not look forward to fourteen years, but endeavour in the course of five, or six, or seven years at most, to regain what we have spent." "But then," it was asked, "will you not give more to an author who brings you a valuable manuscript to publish, and who has an interest of twenty-eight years certain in it, besides the contingent interest of his whole life, if he assign you his present and future interest — will you not give more than you would if he had no such interest?" They one and all answered, "No, we should give just as much in the one case as in the other; at most there would be a very trifling difference." Well, then, when they came to consider the difference between twenty-eight and forty-two years, which was the term proposed by the present bill, it would be found *à fortiori* that there was a very slight difference, if any at all, between the value of the longer period and that of the shorter. Before touching upon this point, however, he would state his views upon what he considered the most important and most beneficial parts of the measure, and in respect of which he entertained no doubt whatever; and to those parts—the great bulk of the bill—he should give his most cordial support. The great evil under which publishers and authors now laboured was not the limited extent of the copyright—not the inadequacy of the twenty-eight years which the law now secured to the author, with a further term during his life if he lived beyond the twenty-eight years—but the great evil under which both publisher and author now laboured was—first, the defective state of the law in respect to works of great value, great and general usefulness, and of great importance to the public; and next, the piracies committed both by printers at home, and more extensively by printers and publishers in foreign countries. First, then, with regard to that important class of works called Encyclopædias, what was the present state of the law? A work, let it be supposed, is published, and has been in course of publication for twenty or twenty-five years,—he would take as an example, although there were many others, but because he happened to know something about it, from having just read the history of it, that great work published under the superintendence of a learned and able professor in the Edinburgh University, (Professor Napier) which had been in course of compilation and publication for, he believed he might say, thirty-five or forty years, and was now happily brought to a close, forming, without any exception whatever—without even excepting the celebrated French Encyclopædia, edited by D'Alembert—a compilation than which none had ever been prepared by the union of the most celebrated literary names of the age they adorned, more complete, or more excellent than the great compilation he referred to—a compilation in which it would not be easy to find a single illustrious name in science or literature, of this country or of France, which was not enrolled among its active contributors, — a work, too, upon which vast sums of money had been expended in its printing,—engraving,—and publishing departments, and large amounts, never larger, perhaps, in purchasing a copyright of the several articles which it contained, — even that work than which none more deserved the encouragement of Parliament, under the existing law, was not protected; neither the authors themselves had any right of

copy, nor had the owner of the work, nor the publisher, nor the editor, a legal right in that copy—a right which he could maintain by action against any party who might choose to pirate it. It was needless to add, that the particular work he had mentioned, in fact, protected itself, for on account of its great size and price, no person would take upon himself to print and publish the entire compilation, but the papers of every one of the eminent contributors, including the names of Professors Stewart, Playfair, Arago, and all the other literary and scientific names which adorned that publication, might be absolutely pirated, and dishonestly appropriated by other persons with perfect impunity, for there was no assignment of copyright to the publisher by any legal instrument. The author sent in his paper and received payment for it, and so far the right of property must pass from one to another, and it undoubtedly became invested in the publisher, but not in such a manner as to protect him from pirates, or enable him to support his right by an action at law. He felt that he need only state so much to show, that magazines, that reviews, and that dictionaries had been left by the law in a state wholly defenceless; but now the measure before their Lordships would, he sincerely hoped, afford to these classes of publications all the protection which such a measure could be expected to impart. The professed object of the bill was one which he hoped its provisions might be found eventually to realise. His object was to protect publishers and authors against piracy. He hoped he might be allowed to claim some small portion of their Lordships' attention, while he attempted to examine the provisions by which these objects were to be attained. The majority of works of imagination were usually published at a retail price of a guinea, or a guinea and a half; and when he spoke of works of imagination, he wished not to be understood as expressing himself in any terms of disparagement, or as wanting in any feeling of respect for such works or their authors. It was not because a book might be the work of imagination that it was therefore less meritorious or less useful than one which came forth with loftier pretensions or more high sounding designations. Works of imagination, as he need not remind their Lordships, tended as much as any other production of the human mind, to expand the views, improve the sentiments, harmonise the feelings, and even exalt the morals of a nation, softening our stubborn nature, nor suffering it to be fierce and wild. But yet the poets and the novelists of Great Britain enjoyed not that protection, to which they possessed a just claim, and which he hoped, however tardily, and however imperfectly, the bill then before their Lordships might be expected to give them. What was the position of those men with reference to the literary piracy of the continent? It was just this: the moment a popular work appeared in this country, one which was at all likely to yield a harvest to the continental publisher, it was instantly brought out in the cheapest possible form, to the manifest injury of those who could alone be considered as having any property in its contents. A work that in this country sold for a guinea and a-half was immediately reprinted on the continent and sold at prices, varying from 3*s.* or 4*s.* to 1*s.* 6*d.* He need scarcely remind their Lordships, that practices such as these at once ran away with the profits of the bookseller, and precluded the possibility of a fair remuneration to the author. What was the natural consequence of such a state of things? The next time the bookseller had a bargain to drive for any literary production, he recollected the manner in which his rights had been infringed by the continental publisher; he took the circumstances of his former losses into full consideration; calculated with as much exactness as he could the probable effect of a repetition of the encroachment; made due allowance for the absence of protection under which literary property in this country laboured; and paid the author little in proportion. By the existing state of the law, no one in this country gained a farthing. The author and the publisher were victims to a dishonest practice. He did not like to use harsh terms, but he protested his inability to apply to it any other than that of dishonesty, and he was sure their Lordships would agree with him in thinking that it was the appropriate term, when they recollected the undoubted rights of individuals, and the injury which those practices inflicted on them. Now, whatever he might think of other portions of the measure, he wished before he proceeded further to declare, that he heartily approved of that portion

of it which was framed for the purpose of throwing impediments in the way of those continental publishers who paid so little regard to the just rights of the English author or bookseller. He fully assented to the position, that it was necessary to produce a strong measure for the purpose of putting a stop to these infringements upon the undoubted rights of property, and he entertained a confident belief, that the protection to be derived from this bill would be a real benefit both to literary men and to publishers of all classes. To the other parts of the bill he was not prepared to give such unqualified approbation. The great feature of the measure, apart from those to which he had just been adverting, was this—that whereas heretofore the rights of authors were limited to twenty-eight years, the bill proposed to extend copyrights to forty-two years. Now, he begged to claim the attention of the House while he directed his observations to this portion of the bill. Suppose he desired to contrast the existing state of the law with that which it was proposed by the bill to introduce; an author would come to a publisher, offer him a valuable manuscript, and inquire upon what terms he would purchase it, assuming that the author possessed by law the power of assigning a vested interest therein for a period of twenty-eight years. In how many cases would the bookseller say that was not enough? In how many cases would he say that he required fourteen years more, and seven years beyond those fourteen, in case the author should so long survive? From the evidence laid before the Parliamentary committees, he believed there was no publisher would ever think of attaching the smallest appreciable value to any period extending beyond fourteen years, still less beyond twenty-eight, and, least of all, beyond such a period as forty-two years. In order to illustrate this position he would put a case to their Lordships—he would suppose that a book was published which yielded yearly and every year a clear, free, net, certain profit of 100*l.*, after paying all expenses, and that the owner of the copyright of such a book could reckon upon his 100*l.* per year with as much certainty as if it were a Government annuity. Now, he wished to put this case as strongly as possible, and he thought he had succeeded in putting a pretty strong case, one that hardly ever could happen, and therefore the less favourable to his argument. The House, he hoped, would recollect that in putting this case he had said not one word about the numerous risks to which every species of literary publication was necessarily exposed. He said nothing of competition, nothing about changes of fashion, nothing about the new subjects which might press upon the attention of the reading portion of the public, nothing as to the gloss of novelty, which while it lasted had great power, but which departed with rapidity proportioned to its temporary influence. He need hardly, then, remind the House that he had put a case the least favourable to the position for which he was contending—that, in short, nothing was less like the fact than the case which he had put—nothing could be more improbable, than that any modern publication should yield a steady and unvarying profit for such a period as forty-two years; it was a sort of thing which could not happen except in those rare instances for which no law giver could be reasonably expected to provide. But for argument's sake, he was prepared to admit as fully as any one could possibly desire, the position of an assured profit of 100*l.* a-year with all the certainty of a Government annuity; and now the question resolved itself into this,—what was the difference between the present value of the 100*l.* income for twenty-eight years and its present value for forty-two years? It was a question for an actuary; he had taken the trouble of having it solved, and the answer to his question was this,—that the value of the 100*l.* a-year for twenty-eight years was 730*l.*, and the value of the same income for forty-two years was 781*l.*, leaving a difference of 51*l.* How much would a bookseller give for that 51*l.*, which was the value at 10 per cent? But why should he talk of 10 per cent. when no bookseller was content with that; 15 per cent. was not too great a profit to be taken as one of the elements of such a calculation; what then would a bookseller give for a chance of a profit to be enjoyed after a lapse of twenty-eight years? Would he give 51*l.*? No, not 51 farthings; no, nor the smallest fraction of a farthing. He would say, "I will give nothing for such a contingency. I shall be content with moderate profits, provided I can secure good returns; I want to get

back my expense within a short time; I am a bookseller, and not a dealer in reversions; and the fact is, that whatever I might give for the assignment for twenty-eight years' interest, I should not give one-halfpenny more for forty-two years." Such, he maintained, would be the language of a bookseller on a question of relative value between the period of copyright enjoyed under the existing law and that which it was proposed to give under the new measure. But his noble and learned Friend might say that this was a mere matter of calculation; to that his reply would be, that it rested not merely on calculation, but that it was supported by evidence. Such an observation from him would probably be met on the other side by the statement that the forty-two years was part of the compromise, and that it was also a part of the compromise that no witnesses should be examined. It was resolved that they should not get into a committee. It was resolved that there should be no inquiry, for if they were to have an inquiry for everything to come out, it would then appear that publishers had for some time past been making large preparations, and had been incurring great expense, for the purpose of bringing out works the copyrights of which were just on the point of expiring; and as the retrospective measure then before their Lordships would preclude the publication of such works, it was thought the most prudent course to avoid any investigation, as they were resolved to frustrate the hopes of those publishers by the compromise to which he had been referring; the natural cry, therefore, was, "Don't let there be any examination of witnesses." It was not so in 1814. On that occasion publishers, and others concerned in publication, gave evidence before a committee, and a worthy Baronet, a Member of the other House, who was himself an amateur of letters, took an active part in the proceedings and professed himself content with the lesser period of fourteen years. The works of that worthy Baronet himself, which enjoyed a considerable popularity for three or four years, were now believed to be as unknown as if they never existed. That worthy Baronet, he meant Sir Egerton Brydges, who had contributed in his day to the literature of the country, was content with fourteen years, and might have been content with a still shorter period, for the copyright of his works was of no value in a very few years after their publication. When Sir E. Brydges introduced his bill in 1818, it was said, fairly enough, that if they then proceeded with the measure they would be legislating in the dark; a committee was therefore appointed, evidence was taken, and the result of that evidence being unfavourable to the bill, it was dropped. In arguing, however, against the extension of the period of forty-two years, he was not adverse to extending a copyright to a period of seven years after the death of the author. The position which he maintained was this,—that the forty-two years' copyright might prove disadvantageous to the public, while the difference between it and twenty-eight years was of no value to the author, because he held it to be demonstrable that a bookseller would give just as much for one as for the other. His noble and learned Friend might, perhaps, as he had already observed, suppose that these statements were mere assumptions. What if the evidence proceeded from Mr. Longman? What if Mr. Murray was one of the witnesses? And yet at the same time what would the House say if those two gentlemen were presented to them as individuals having petitioned for the present bill? What would be said if their names stood at the very head of the petition for such a measure? They were said to be in favour of this bill, because, as his noble and learned Friend had said, it was an encouragement to authors, because the additional term tended to encourage learned men in the execution of their works; not, said his noble and learned Friend, as a favour to authors, the benefactors of their race, but as an act of pure, strict justice to them; relaxing the bad law of the 8th of Anne, and the worse construction put upon it by the decision of their Lordships' House, and restoring the law to what it ought to be; not for the encouragement of booksellers and publishers, but of literary men. Those were the persons who stated in 1814 and 1818, that the increase from fourteen to twenty-eight years could, by no possibility, add the fraction of a farthing to the sum they would give an author for his copyright, and, consequently, such extension could not operate in the slightest degree, as an encouragement to literary men. From the evidence of these two respected individuals as

contrasted with the petition presented on the subject of this bill, he was drawn to the inevitable conclusion, that the part of the bill which they petitioned for, was not that which increased the term of copyright from twenty-eight to forty-two years, and of the propriety of which he entertained grave doubts; but those other parts of the measure to which he had before alluded, in regard to encyclopædias and the preventing of piracies, and particularly of foreign piracies. Those were great and salutary improvements, affecting not only the owners of copyright but authors themselves. The petition, indeed, was generally in favour of the bill, but the part of the bill which they really approved of, must needs be the part to which he had now adverted, and to which he gave with all his heart a ready and cheerful support. He had already adverted to the compromise which was come to in 1814, touching the claims of the universities and public libraries to eleven copies. By the 54th of George 3rd, passed in that year, the eleven copies were, as the House knew, reduced in number; but it was not merely in 1814, that an important change took place in the law of copyright. The 41st of George 3rd, passed in the year 1801, had for its object to prevent Irish piracy. The moment a popular production made its appearance in England, it was, before the beginning of the present century, immediatley printed in Ireland. They were, certainly, very incorrect editions, full of blunders; and though no other blunderings might be found in that country, it must be acknowledged, that the pirated editions of English works were full of blunders. That, however, was put an end to by the act of 1801; that was a great boon; it was a great act of justice to put an end to Irish piracy. There was a further change in the year 1836; the eleven copies were reduced to five. Sion College, the four Scottish universities, and the society of King's Inns, Dublin, were no longer to receive copies of newly-published works. That was a great relief given to publishers and authors, and it was a relief granted to them without demanding any compensation on their part and without any consideration from them. In 1814, on account of the burden of these eleven copies, they received an extended term of copyright; but afterwards when more than half that burden was removed, no diminution of the term took place. Yet the transaction was not effected without compensation somewhere, for those six libraries received compensation from the public—not at the expense of authors or publishers, but out of the consolidated fund—for the loss of their copies, the burden of which was, by that measure, taken from the shoulders of the publishers and authors. He had already stated he had grave doubts of the propriety of extending the term. He should have less objection to continue a term of seven years after the author's death than he had to its continuation for the extended period of fourteen years. He had stated his reasons for that objection, and he was now about to ask whether or not injury was likely to arise to the public from thus extending the period. He certainly could not affect to say that he considered that question as free from doubt. According to reasonable calculation, it might be said that somewhere about 499 out of every 500 works were wholly unconcerned in and unaffected by the question whether the term should be twenty-eight or forty-two years. Not above one or two in 500 works survived to a period at which they could be affected by it. Then, it might be said, why should you legislate with respect to the whole 500, for the sake of the one excepted instance—why extend the term in all cases, because it did happen, in some rare instances, that the extension of the term would affect a work of celebrity? It might, also, be asked, on the other hand, what harm could be done by so legislating, because if 499 works out of every 500 were positively dead at the end of that period, or long before, it did not signify, with respect to them, whether the monopoly be continued or taken away? But, then, there came this consideration; many works might not be of sufficient value to command a sale at the copyright price though, if printed and sold in a cheap form, they might form useful publications. Now, if the copyright was to continue for forty-two years, and a person desirous of publishing a cheap edition of a work which had no sale at a high price, was to go to the owner of the copyright, and ask permission to do so, the almost inevitable answer would be a refusal, or the demand of such a consideration as would leave no chance of a profit on the undertaking. If a book was extremely popular, there would

be no want of cheap editions even under the monopoly; that he was ready to admit, though he could not go so far as his noble and learned Friend, who said, that there would be cheaper editions under the monopoly, than if the monopoly was done away with. He used the word "monopoly," though he objected to it as inapplicable, but it was the term the law gave to it, and all the leaning s ofthe law, and all the decisions of the courts treated the copyright of a book as a monopoly. But that it was only necessary to secure the monopoly, according to his noble and learned Friend, in order to secure the abundance of cheap editions, was the most extraordinary argument, that he (Lord Brougham) ever heard adduced in support of a desperate case. The Bible had been quoted as an instance in support of the argument; but the instance did not apply, for in the publication of the Bible, profit was not the object kept in view; extreme correctness was the main object. Whole bodies of the community, too, were interested in the dissemination of the sacred Scriptures, and there was a material difference between a book that was or ought to be in every man's hands —a book, of which the readers were not counted by thousands, or by hundreds of thousands, but by millions—there was all the difference in the world between the rules that governed such a book, and those which applied to any other work, that could be mentioned. The price of bibles, too, had fallen exceedingly in England, ever since the Scotch monopoly had ceased. Of ordinary works, the circulation must be diminished, and the price increased, by an extension of copyright from twenty-eight to forty-two years, and the publication of a considerable number of useful works at a cheap rate, would be inevitably prevented. The person possessed of a copyright would seldom be disposed to publish at a cheap rate, and publishers had repeatedly been asked to allow the printing of cheap editions of books of which they held the copyright, and had always refused, or had required such a consideration as was tantamount to a refusal, and that even when they had not themselves any sale for the books in question, and would not themselves publish cheap editions. The last point to which his noble and learned Friend had adverted, was the retrospective clause. There were several copyrights now about to expire, and the public, as the law now stood, was about to become possessed of them. As the law now stood, every man had a right to make preparations for the publication of those works, and to expend large sums in making those preparations upon the faith of the existing law; but now, at the eleventh hour, Parliament stepped in and said fourteen years shall at once be added to the term of the monopoly. Was that fair? Was that the usage which Parliament generally adopted in such cases? Had such a system ever been acted upon before? That the 54th of George 4th was no instance in point, he had already shown. That statute was passed for the benefit of the public, and in consideration of the burden imposed upon publishers, an extension of copyright was given. It could hardly, however, be called an extension, since it only converted a contingency into a certainty. In the present instance, it was proposed to effect a change in the rights of the people, without any corresponding advantage. It was proposed to abstract one man's rights, and to give them to another—to make them over to one who had given no consideration for them, and to take them from one who was in possession of what Parliament had no right to deprive him of. There were several copyrights now about to expire. One copyright was so near its end, that it would probably expire the day after this bill became law. Suppose a man had expended 600*l.* or 800*l.*, and he (Lord Brougham) could show that as much as 5,000*l.* had been expended in the expectation of the expiration of copyrights. A man was perfectly justified in making such preparations, and might already have filled his warehouses with the intended publications. He (Lord Brougham) knew that to a certain degree the fact was as he stated, but the bare possibility ought to deter their Lordships from taking the proposed course. The law had encouraged men to enter upon certain speculations, had encouraged them to invest their capital in those speculations, and was it for their Lordships to step in and ruin those men by a sudden change of the law? Was the House prepared to tell such publishers, that they had reckoned without their host, and that it was all their own fault? He could not allow himself to believe that

Parliament would hold such language to parties so circumstanced. He knew he might be told, that there were four or five illustrious men, great poets, still living, whose works had been for many years before the public, to the copyright of which continued protection ought to be extended, and who would derive great advantage from the present bill. Without admitting the argument, he could not abstain from expressing his admiration of their genius, and his gratitude for the benefits they had conferred upon mankind. For their sakes he (Lord Brougham) wished that instead of this illegitimate advantage, it were in his power to give them a more lawful protection; it gave him pain to say anything that looked like grudging them any portion of the benefit that this bill would give them; he looked on those poets not merely as authors of works which amused, and delighted the imagination, as promoters of the innocent indulgencies of life, but rather as the great encouragers of the virtues, and the guides of the best feelings of the human heart; they were worthy of all acceptation; he only abstained from naming them, lest it should seem, that dazzled by the lustre of the present day, he was blind to the glories that had passed away. These are among the greatest of our race,—the *pii vates et Phœbo digna locuti*,—to them be offered all honour, their just due. But there are other benefactors, and how do we treat them? Men whose services to their country and their kind, cannot well be overrated, and never can be repaid — the masters of science and of science made practically useful—

"Inventas aut qui vitam excoluere per artes;"

those who have both adorned human life, and made it yield that rich harvest of all that exalts our nature, and all that is valuable to our use, which meets the eye whithersoever it points. Turn for a moment from the great master of song, him who passed the bounds of time and space — *flammantia mœnia mundi* — towards him who has enabled us to overleap the obstacles which time and space interpose to our projects, increasing our power far more than if cubits had been added to our stature, stemming the tides, scorning the currents, if not chaining the winds yet defying their changes, transporting as by magic the most fleeting products of distant plains to the heart of crowded cities—approaching the innermost recesses of a vast continent to its coasts, and making it no longer a mere figure of speech, but almost a literal fact, that the stroke of the axe which for the first time breaks the silence of the Indian forest is echoed by the anvils it makes to ring, and the shuttles it sets in motion all over the crowded surface of Warwick, and Lancaster, and York. These every day miracles of human skill and power, how were they first wrought and how rewarded? It was not chance—not a happy thought successfully pursued—but the long-continued effort of original genius, profound science, unwearied industry, perseverance which no difficulties, no disappointments could subdue or relax, crowned with triumphant and deserved success, that enabled him to effect the greatest moral revolution to which our globe has been subject since the invention of printing. But how have such men been rewarded? Honours they achieve for themselves. They gain an imperishable renown, the lustre of which the smiles of a prince can no more brighten than his frowns can dim,—honours which a court could no more confer than it could improve their inventions. But how are they recompensed? What reward had the country given to such men? To Newcomen and Worcester, and greatest of them all, to Watt? What reward did the law as it now stood, hold out for the encouragement of such inventors; and no one thought, no one dreamt, no one dared to alter that law. Even their honours were all of their own achievement. In one instance, that of Watt, by a rare union of the sovereign and of the principal Members of both Houses of Parliament, a statue was erected, and he (Lord Brougham) could never be sufficiently grateful to those who on that occasion had deputed him to give expression to their feelings upon the marble which the genius of Chantry had softened into life. But no honours were decreed to others whose claims ought not to have been disregarded. Their dust had been allowed to mingle with the ashes of famous men; but less illustrious than themselves, the kings who had ruled, the warriors who had defended, and the statesmen who had governed the

realm. But what reward had these men received in their lifetime — and reward was the question now under consideration? The House was engaged upon the matter of profit and loss. They were about to make literary men independent in their worldly circumstances. But being concerned in that task could he shut his eyes to the fact that were it not for that wonderful machine, to the inventors of which he had just been rendering homage, the property of literary men themselves would not be of the value which it was acknowledged to possess— that wonderful engine which had effected an almost physical revolution in the world? And yet fourteen years' patent right was all the benefit which their authors derived from these great discoveries—discoveries which were hardly surpassed by that of printing itself, inventions which rivalled that of Guttemberg, of Faust, or of Schoeffer. Nay, if they, as well as Watt, were now for the first time to unfold their divine art, fourteen years of patent right would be the utmost extent of their protection. Moved by these considerations, he had some years ago, with the utmost diffidence, proposed to Parliament a law extending the period, and vesting in the Judicial Committee of the Privy Council, a discretionary power to enlarge the protection of patent right according to circumstances, provided a case were made out to satisfy them as judges. But the bill now before their Lordships was a very different sort of measure from that which he had proposed for the benefit of inventors. He proposed a discretionary extension of seven years beyond the original fourteen, but the bill now before their Lordships was not an extension from fourteen years to twenty-one, but an extension from twenty-eight to forty-two years, and to seven years after the forty-two, provided the author lived so long. At all events, he would say, let there be some sort of equality between men of science and men of letters. He would say, let the rights of the two classes be equal, although he might not be prepared to maintain that there ought to be a general patent right for a term so long as forty-two years. He must apologize for having stated these opinions, which, he much feared, ran counter to the sentiments of those whom he then addressed. Many had been led away by a generous and natural and praiseworthy feeling; they had leaned to the side towards which they must all wish to lean, and towards which all their prejudices and partialities must naturally bear them. They had, however, listened too much to those feelings, and had attended but too little to the strict duties of their legislative office.

Lord *Lyttelton* said, he should have preferred a bill on the basis of the present bill as it was first introduced into the House of Commons, though he thought the term now proposed was too short, as he also thought the term proposed by the eloquent and learned Gentleman who first brought forward the measure too long. He certainly thought that the argument of copyright being an absolute right was not a question to be easily considered in the abstract. Mr. M'Culloch, in his article on this subject, spoke of the inconvenience of that absolute right, and he did not know that amongst those who were for a limited term of copyright, that that question had been met except by Mr. Justice Blackstone, who said only a few words on the subject. That learned commentator seemed to consider the right of property in books as something so subtile and unsubstantial, that it could not be dealt with as other kinds of property. Mr. Serjeant Talfourd seemed to say, that a book was as much property as land, or any other kind of property. But the only way in which the argument was met, was by the opinion come to upon that other class of property which seemed to him more nearly in analogy to this subject, and one which he would wish to see supported if this perpetual copyright comes to be dealt with, and that was the analogy to common patent rights. He entirely agreed with the noble and learned Lord in his position on that point. He could not see any difference of principle between the two in kind. He could not see in what way the inventor of a discovery had not the same interest in it as the composer of a book; and authors who had supported that principle had somewhat omitted to deal with that analogy of patent rights. Mr. Christie, in his pamphlet, omitted it altogether. In one of the speeches of Mr. Serjeant Talfourd on this subject, that learned Gentleman, in the first place, merely argued that it would be impossible to deal in the same way with patents as

with copyrights—his words were, that it would be highly inconvenient—but the learned Gentlemen further said, the fallacy consisted in this, that while there was a patent of fourteen years for the benefit of a discovery, the copyright was not the same, for when it was published, it was free for ever. Now, he could not understand why a patent for a discovery could be said to secure the entire benefit to the inventor, while the copyright did not. The former did not secure the entire benefit, for improvements might be learnt from it, which would depreciate its value. He could not, therefore, see the difference in kind. In the debates in Parliament on this subject, he did not know that any person had touched upon this argument. His noble Friend, the late Chancellor of the Exchequer, said he should like to know where the analogy was between the two; but in his opinion, the argument ought to have been to show where the analogy was not. The difference of degree seemed to be perfectly obvious, and one single argument was sufficient for the purpose,—namely, that in most cases, the benefit of mechanical discoveries would almost certainly be immediately found, whilst in—he would not say many—but very important cases, the value of a book was not discovered for many years afterwards. He would only add, that there were cases in which great hardship and injustice lay on authors at the present time, and he was satisfied, that a considerable prolongation was desirable; but he was not altogether contented with the present bill. Upon these grounds, however, he should vote for the main provisions of it.

The Bishop of *London* said, that one or two of the arguments of the noble and learned Lord opposite appeared to him to be fallacious. With respect to one he most candidly acknowledged that it had produced some effect on his own mind, and that he was somewhat perplexed to know how it could be answered. The first point was with respect to the analogy that was conceived to exist between the patent right of inventions and the copyright of literary works. At first, he must admit, that he was somewhat staggered, but on a little consideration, he saw the difference between them in its true light. The period for which a person who took out a patent, secured to himself the undivided sale of the invention for fourteen years, he conceived to be fixed on this ground—that that invention related to the ordinary use of human life, and that whatever related to the ordinary use of human life, if it would answer the purpose for which it was intended, was sure to find such success that in less than fourteen years the inventor would be amply remunerated. In some cases, however, an extension had been applied for. Sir R. Arkwright went to Parliament for an extension of the term of fourteen years, and in consideration of the circumstances it was granted, but long before the expiration of that time, he was amply remunerated. The noble and learned Lord, when he adverted to the case of the steam-engine, the effects of which he had enlarged upon with such glowing eulogism, said, that the term of fourteen years after such invention was completed, would be sufficient. But it was not so with respect to the productions of the intellectual world, for such was the constitution of the human mind, that it was eager to grasp at those things which related to the ordinary comforts of life, but was slow to comprehend those which related to intellectual improvement. It frequently happened, that the deepest philosophy was clothed in the beauties of poetry, and the very circumstance of the attention of mind that was requisite to pierce through the apparent gloom which overhung those beauties, was one of the reasons which prevented the due appreciation of the author. The effort must be, that of an educated mind, and years might elapse before the public mind became alive to the intrinsic merits of such works. There was one such poet to whom he would not allude further; but the noble and learned Lord would recollect other instances. A quarter of a century might pass away before the productions of such persons might be duly appreciated. Now, then, he came to another argument of the noble and learned Lord, an argument which he founded on the facts, that certain parties having already invested capital for the printing of new editions of works, the copyright of which was about to expire. But it was that very time that persons had expended 2,000*l.* or 3,000*l.* for such purpose that afforded a proof of the necessity of interposing some protection to authors. It might often happen, that the real value of a work was denied

at first, and that it was not until the copyright was about to expire that its value was appreciated; and how hard it was, that then the publisher should step in, when the work was becoming valuable to the author, or his heirs and executors, and take away the profits it produced. This led him to touch upon what he considered the fallacy of another of the noble and learned Lord's arguments, with respect to the great difference between the present copyright of twenty-eight years, and one extending to forty-two years. The noble and learned Lord argued, as though the work that was now worth 100*l.*, would be worth no more twenty years hence—as though the value was always the same. But the essence of the argument was, that the value of standard works was slow to be appreciated, and that the time when it was appreciated, was the time when protection was required by the author. Would not the publisher, who was now disposed to purchase the copyright of twenty-eight years, be more pleased after the lapse of some years, when the work began to return a profit, to possess it for a longer than a shorter period? With respect to cheap works that were published, and which contained a great deal of what was useless, or worse than useless, he would leave them to their fate; if they contained anything useful, their value would be properly appreciated, but it was with respect to works of a deeper character, that he was anxious to protect authors. It was with respect to these works, the merits of which gradually stole upon the public mind, and arose, as it were from the clouds of ignorance that enveloped them to shine in their meridian splendour, so that at last, perhaps, an author might see his merits recognised by a reluctant public, and find himself in the enjoyment of that compensation of which he had been at first deprived. Unless their Lordships passed some such measure as this, an author would have no security to enjoy in his own person, or that his family would enjoy after him, that compensation, and he would be driven to the hasty compilation of inferior works or reviews, which would produce a speedy return of money, whilst the return in reputation would be little or nothing. It mattered little whether the term was for fourteen or twenty-eight years, but it was for those authors whose works were, as the noble and learned Lord said, the benefactors of mankind, that this measure was sought, and which he hoped their Lordships would agree to.

Lord *Cottenham* thought this question ought to be discussed, like all other questions, simply with respect to the public interest. The rights of authors had, for more than a century, been protected; but the interests of the public, which comprised the interests of literature, and in that the interests of authors, was undoubtedly a subject that ought to occupy their Lordships' attention before they came to a decision on the present bill. He very much doubted whether the addition of fourteen years to twenty-eight would materially increase the pecuniary emoluments of the author. As the author, however, imagined that his interest was deeply concerned in this measure he was willing to concede to his wishes, feeling convinced that the interest of the author and the interest of the public were closely connected. In considering this bill they were bound not only to look at the principle upon which it was based, but also to examine the different clauses of which it was composed. He would direct their Lordships' attention for a few moments to the 4th clause, which proposed to extend the term of copyright to works published prior to the passing of the act. He thought this clause would operate most injuriously to the public. Previous acts of Parliament had prescribed what the authors, as well as the public, were entitled to. Works were written and published with a full knowledge of the law relating to copyright. The author certainly could not complain of being treated unfairly; but by the 4th clause it was proposed to take away from the public an interest in which they had a legal right, and it gave the author an extended term of copyright in books published before this act was proposed for the adoption of Parliament He hoped their Lordships would see the necessity of altering this clause. He did not see the justice of deviating from an act of Parliament a century old, the principle of which had for so many years been recognised and acted upon. He would refer their Lordships to another clause in the bill which had a relation to pirated copies of English works. If any work in which there existed a copyright in this country should be printed abroad, and afterwards exposed for sale here — it was immaterial when it was printed in this country—if any such work was found in a bookseller's shop, what was

the penalty? He was sure their Lordships who had not read the clause would be astonished to hear the stringent nature of the penalty. Supposing an edition of Shakspeare published in New York, and afterwards found in any bookseller's shop in this country, what course was to be pursued? An exciseman was allowed to enter the shop and destroy the work, for doing of which he was to be rewarded with 5*l.* First, he was at liberty to destroy the work, and then was to receive 5*l.* for his trouble. This clause was in a bill which was introduced for the purpose of protecting the copyright of works? He would direct the attention of their Lordships to the 25th clause. He thought their Lordships were personally interested in the clause to which he was about to refer. It related to the penalty to be enforced in case any English work printed abroad should be found in the possession of any person in this country. Should any of their Lordships have any such work in his library, application might be made to a justice of the peace, and any Member of their Lordship's House was liable to be summoned before them. On its being proved that the book was entered upon the registry, the justice of the peace was empowered to issue a warrant for the seizure of such copies, and they then ceased to be the property of the owner, and became the property of the registered copyright owner, who after all, might not have a claim to it. He trusted that this clause would not be allowed to remain. He was prepared to give his sanction to the general principle of the bill, but he hoped that before it was allowed to pass, it would undergo material alterations.

Lord *Campbell* said, that their Lordships should recollect, that they were now only discussing the principle, and not the details of the bill; and to that principle, he was prepared to give his cordial concurrence. Notwithstanding the eloquent speech of his noble and learned Friend (Lord Brougham) he had not heard any answer given to what had been urged in support of this measure by his noble and learned Friend on the Woolsack. What he regarded as the principle of this bill was, the extension to authors of the term of their copyright, and, above all, giving to their families a period after their death, during which they might reap the reward of the genius and the labours of those whom they had lost. It was his belief, that the author had a clear right to the copyright of the works he wrote. That was undeniable; it was a principle which ought to be kept in view in legislating on the subject. It appeared to him, after having given the subject a good deal of consideration, that, independently of any act of Parliament, the author had a natural and equitable right in the productions of his intellect. He admitted, that a perpetuity of copyright would be a monopoly, but, when legislating on the subject, what they had to consider, was to what extent could they allow the property of an author in his works to be continued, without prejudice to the public? All other nations had given a longer term of copyright to authors than that proposed by this bill. We were pre-eminent in literature and science, but we were not pre-eminent above France and Germany, in our knowledge of what was the proper encouragement which it was wise to allow to authors and those whose labours were beneficial to mankind. Looking to the legislation that had taken place on this subject, they had gone on extending the term of copyright from time to time, and this measure proposed a still further extension. It was absolutely necessary, as a protection to the families of authors, that the existing term of copyright should be somewhat further extended. An additional term of seven years was all that was asked, and he certainly thought that a most moderate demand. He did not think this could be considered a measure of favour or indulgence, but a measure of justice to authors. Many of those distinguished men who had been alluded to—Wordsworth, and Campbell, and other illustrious men—who were the ornament of their times, were relieved by the present law to a certain extent, but why not give them the full benefit of the measure now proposed? It was pretty well known, that booksellers would speculate on the termination of the copyrights of these men, and he was sure, that his noble and learned Friend would execrate any such speculation as that, and would do nothing to encourage it. He believed, that the copyright of some of the works of the great author of the Waverley novels was about to terminate, and, without the assistance of this bill, it was doubtful whether the descendants of that illustrious man could continue to inhabit Abbotsford —that abode which had been created and consecrated by his genius. However, if this bill passed, as he trusted it would, there was every reason to expect, that they

would continue to reside on that spot which the great author had adorned, and he trusted, they and their descendants would continue to do so for many generations. The great principle of this bill would, he trusted, meet with the sanction of their Lordships, and he was glad that this controversy had been at length brought to an end. The public were greatly indebted to the noble Lord who had introduced this bill into the other House of Parliament, and still more to his learned Friend, Mr. Sergeant Talfourd, who had first introduced the subject in the other House of Parliament, and who, Session after Session, against so many difficulties and so much discouragement, had persevered in pressing forward this question. To him, the authors of this country, as well as the public, would be indebted for the improvement in the law of copyright, which was, he trusted, now about to take place, and the consciousness of the result of his labours would be to his learned Friend, a more glorious reward than the attainment of professional honours, or of any other of the objects of a less elevated ambition.

Bill then went through committee.

House resumed.—Report to be received.

Adjourned at ten o'clock.

HOUSE OF COMMONS,

Thursday, May 26, 1842.

MINUTES.] BILLS. *Public.*—1°. Newfoundland; New South Wales.

2°. Witnesses Indemnity.

Private.—1°. Gair's Naturalization.

2°. Tay Ferries.

Reported.—Market Harborough and Brampton Road; Birmingham and Liverpool Junction Canal (No. 2); Boston Harbour (No. 3); Toxteth Park Paving, and Sewerage; Dundalk and Bannbridge Road; Cambuslang and Muirkirk Roads; Glegg's Divorce.

3°. and passed:—Tyne Fisheries; Holywell Roads.

PETITIONS PRESENTED. By Mr. O'Connell, from Roman Catholics of Stafford, and Coventry, for Equality of Civil Rights.—By Mr. Gill, and Lord Howick, from Devonport, Plymouth, and Sunderland, against Reduction of the Duty on Foreign Rope and Cordage.—By Mr. O'Connell, from Dublin, for Repeal of the Corn-laws.—By Mr. Walker, from Attornies at Bury, for the Repeal of the Duty on their Certificates.—By Mr. Makinnon, from British Residents at Bruges, and other parts of Belgium, for placing the Postage and Communication on the same footing as that of France.—By Mr. T. Duncombe, from Sudbury, and Ballingdon, for a measure to prevent Bribery, Coercion, and Intimidation at the Elections for that Borough.—By Mr. Plumptre, from Malpas, Islington, Renfield, Calton, Leamington, Watton, Gorbals, Exton, St. Enock's, St. George's, Banton, Tewkesbury, and other places, for the Prevention of Railway Travelling on the Sabbath; and from Peckham, for the Exclusion of Roman Catholics from Parliament.—From Clonakilty, against the Fisheries (Ireland) Bill; and from Kilmurry, and Carnavee, in favour of the same.—By Mr. Ferrand, from the Keighley, Chorley, Dewsbury, and Hereford Unions, for the Alteration of the Poor-law Amendment Act.—From Clonbroney, Killeevan, and Clones, for Alteration of the present System of Education (Ireland).—From Irvine, against Alteration of the Timber Duties.—From South Petherton, Nantwich, Fowey, Marston Trussell, Great Chesterfield, Wigan, Leicester, and other places, against any further Grant to Maynooth College.—From the Bakers of Newry, for the Regulation of their Working Hours.—By Viscount Duncan, from Bath, and Kildare, for measures to prevent Bribery at Elections.—From Plymouth, against the Poor-law Amendment Bill.—By Mr. O'Connell, from St. Helen's (Lancashire), for the Repeal of the Union (Ireland).—From Ayr, against the Reduction of the Duty on Boots, Shoes, and Leather.—From Captain Manby, for consideration of his Plan for saving the Loss of Lives and Property by Shipwreck.—From the Chairman of the Glasgow Church Defence and Anti-Patronage Electoral Association, for the Abolition of Church Patronage (Scotland).—From Chas. Bradley, praying that the present Parliament may be Dissolved, and a new one elected according to the Constitution.—From Richard M'Cormick, for Inquiry into alleged Abuses in the Army.

NEWFOUNDLAND AND NEW SOUTH WALES.] Lord *Stanley*, as it was understood that the Government would not interpose any business to prevent the discussion on the matters of the Ipswich and Southampton election petitions, although they were not matters of privilege, wished to state that he had two notices on the paper for leave to bring in two bills, to make further provision for the government of New South Wales and Newfoundland; and he trusted that, as these were matters of importance, he would be allowed to bring them on at a later period of the evening.

Mr. *O'Connell* hoped, that full opportunity would be given to the people of Newfoundland to know the nature of the noble Lord's measure, and to state their views.

Lord *Stanley* said, that in point of fact, the constitution of Newfoundland was now suspended, and it was necessary to carry a bill to provide for the Government there

CONTROVERTED ELECTIONS.] Mr. *O'Connell* asked the right hon. Baronet a question relative to the act for the trial of controverted elections. That act would expire at the end of the present Session of Parliament, and he would ask whether it was in the contemplation of her Majesty's Government to bring in a bill during the present Session to continue it?

Sir *R. Peel* replied, that it was assuredly his intention to bring in a bill to continue the present act for a certain time longer, and when he saw the number of compromises, alleged to have taken place, it certainly gave him the impression that