

MR. HASSARD said, no such office as that of taster of butter was contemplated by the Bill.

Clause *negatived*.  
 Schedules *agreed to*.  
 House *resumed*.

Bill *reported*; as amended, to be considered on *Thursday* next, and to be *printed*.  
 [Bill 52.]

COPYRIGHT (WORKS OF ART) BILL.  
 COMMITTEE.

Order for Committee read.  
 House in Committee.

Clause 1 (Copyright in Paintings, Drawings, and Photographs).

THE SOLICITOR GENERAL stated that he had prepared some amendments with the view of giving effect to suggestions made by hon. Members on former occasions.

MR. CAVENDISH BENTINCK said, he wished to ask for some explanations with respect to the copyright in the copy of a picture, which it was proposed to give by the Bill. He would admit that the Bill was an improvement on that of last year. He should, however, be glad to know whether the term "painting" in the bill applied to original pictures only, or included a copy, so as to give copyright in a copy whilst there was no copyright in the original. He was also anxious to know whether his hon. and learned Friend (the Solicitor General) was prepared with a clause providing for registration at Stationers' Hall, or some place else, in order that title in respect to copyright might be ascertained.

MR. WHITE said, he wished to direct the attention of the hon. and learned Solicitor General to the necessity of providing, by some clause, that publishers of prints should put their names and the date of publication on those prints. For the last ten years publishers had been much in the habit of publishing engravings without any name or date.

THE SOLICITOR GENERAL said it was intended to include in the Bill copies of original paintings, because any man knew that copies might be made under circumstances that would render the copying of those copies as injurious to the owner as if they were original works. In the case of a fresco, for example, it might become necessary to take a copy for the purpose of preserving the subject, and nothing could be more unjust than that a

person making such a copy should be deprived of his work. The principle on which the law gave a copyright in engravings would seem to apply to all such copies. But by the clause dealing with that matter no injustice would be done to any one, for that clause preserved the right of persons to make their own copies. There might be copies which ought to be protected, and no harm could be done to the public when the right to make copies from the originals would remain. As to the question of registration, it had occurred to him that that subject might be brought forward, and he had prepared two clauses providing for a registration of the written title to copyright. These he would bring up at the proper time. As to the point referred to by the hon. Member for Brighton, they all knew that a practice existed among engravers of selling what were called "proofs before letters," which were without any name. He believed that every person who did that exposed himself to a great danger of losing his copyright. That case was provided for under an existing Act.

MR. HENLEY said, he thought that the observations of his hon. Friend (Mr. Bentinck) had hardly been answered. He would put the case of an artist selling a picture, and retaining no copyright in that picture. If the artist afterwards made a duplicate original, how would matters stand? They all knew that those things were often reproduced in that way, and it was difficult to determine between copies and duplicate originals. How was the second picture to stand? Was there to be a copyright in it, or not? He wished the hon. and learned Gentleman would let all the questions under this Bill be decided by a court of record.

THE SOLICITOR GENERAL said, he would consider before the bringing up of the report whether words should not be inserted to the effect that an original work being sold without copyright, no subsequent copy or repetition of the same work should be entitled to copyright.

SIR MATTHEW RIDLEY said, he was glad that a system of registration was to be established. Such a system was absolutely necessary for the security of property.

MR. HARVEY LEWIS said, he thought that it would be dangerous at present to include photographs in a Bill of the kind. Photography was not a fine art, but a mechanical process. At some future

period it might be expedient to give protection to photographers.

THE SOLICITOR GENERAL observed, that although, strictly and technically speaking, a photograph was not in one sense to be treated as a work of fine art, yet very considerable expense was frequently incurred in obtaining good photographs. Persons had gone to foreign countries—to the Crimea, Syria, and Egypt—for the purpose of obtaining a valuable series of photographs, and had thus entailed upon themselves a large expenditure of time, labour, and money. Was it just that the moment they returned home other persons should be allowed, by obtaining negatives from their positives, to enrich themselves at their expense? He could not consent to exclude photographs from the Bill.

MR. HENNESSY suggested, that at all events photographic portraits should be excluded. A visit to the Holy Land was not necessary for taking the portrait of the hon. and learned Gentleman, and yet it would be hard to prevent the public from obtaining a copy of his likeness.

Clause *agreed to*; as were also Clauses 2 to 4.

Clause 5 (Penalties on fraudulent Productions and Sales).

MR. HENLEY said, he wished to inquire what was meant by the words "every offender shall forfeit to every person aggrieved." Was it the man who painted, or who purchased the picture, or both?

THE SOLICITOR GENERAL said, the words in practice sufficiently explained themselves. The person aggrieved would be the artist whose name was fraudulently used, or the person on whom the fabricated work was fraudulently palmed off, or it might be both.

Clause *agreed to*.

Clause 6 (Recovery of Pecuniary Penalties).

MR. HENLEY said, he would then ask the hon. and learned Gentleman whether he would consent to strike out those clauses giving summary jurisdiction to magistrates? It was hardly fair to throw upon them the decision of questions which were to be determined not by reference to any Act of Parliament, but simply upon opinions given that a particular thing was painted by a particular person. Matters of that nature ought to go before a court of record, which would be protected in case it came to a wrong decision. In-

*Mr. Harvey Lewis*

quiring into such questions as whether a man was still living, or had lived within the last twenty years, must necessarily occupy a great deal of time, and be very embarrassing to a tribunal pressed with other business. The jurisdiction, moreover, was to be determined by the residence of the offender; and if the magistrate made a mistake as to his residence, he was a wrongdoer from the beginning. Nothing was more difficult than to fix a man's residence, especially men of the class who would be likely to commit these offences. The hon. Member for Cirencester was once questioned with regard to his residence, and replied that he resided sometimes at one place and sometimes at another, being a Lord of the Treasury. He was then asked where he slept, and he replied that he usually slept most in the House of Commons. The proper jurisdiction of justices was to keep the peace, and had nothing to do with the settlement of disputes between artists and photographers, which were often carried on with the greatest bitterness. If a short and sharp way of settling differences were requisite, why not send the cases to the County Courts?

THE SOLICITOR GENERAL said, the clause to which the right hon. Gentleman objected was taken, he believed, in substance, if not in form, from two Acts *in pari materia*, which had not been found productive in practice of any of the inconveniences anticipated from this measure. Strong representations had been made to him, that if cases such as the Bill was intended to meet were driven into the Court of Chancery or the courts of common law, the value of the remedy would be destroyed. He believed it would be quite without precedent to give such power as was suggested to the County Courts, which had no criminal jurisdiction.

MR. HENLEY said, he did not think the other Acts to which the hon. and learned Gentleman referred could be said to be *in pari materia*. There was comparatively little difficulty in turning over page after page of books and seeing whether they contained the same words, while nobody but an artist could undertake to say that one picture was an imitation of another. The penalty inflicted, moreover, was not strictly a penalty, inasmuch as it did not go to the Queen or to the country, but to the person aggrieved. It was, therefore, more in the nature of damages.

MR. CONINGHAM suggested, that the

clause should be made to extend to the case of engravings.

MR. BENTINCK hoped the hon. Gentleman would give way on the question of referring decisions in matters of art to the justices. At all events, it ought to be made optional.

THE SOLICITOR GENERAL said, he could not see why the same remedies which were applicable to copyright in books and designs should not be applied to copyright in pictures. He saw no objection to extending the penalties to breach of copyright in engravings.

MR. HENLEY said, he thought the proceeding prescribed in the clause a most anomalous one. He moved the omission of the word "either."

Amendment proposed, in page 5, line 38, to leave out the word "either."

Question put, "That the word 'either' stand part of the Clause."

The Committee *divided*:—Ayes 29 ; Noes 21 : Majority 8.

Clause *ordered* to stand part of the Bill.

Remaining Clauses *agreed to*.

House *resumed*.

Bill *reported* ; as amended, to be considered on *Thursday* next, and to be *printed*. [Bill 53.]

House adjourned at Twelve o'clock.

## HOUSE OF LORDS,

*Friday, March 21, 1862.*

MINUTES.]—PUBLIC BILLS.—3<sup>a</sup> Writs of Habeas Corpus into Her Majesty's Possessions Abroad; Officers' Commissions; Consolidated Fund (£18,000,000).

Their Lordships met ; and having gone through the business on the paper without debate,

House adjourned at a quarter past Five o'clock, to Monday next, a quarter before Four o'clock.

## HOUSE OF COMMONS,

*Friday, March 21, 1862.*

MINUTES.]—PUBLIC BILLS.—1<sup>o</sup> Education (Scotland); Police and Improvement (Scotland). 2<sup>o</sup> Inclosure.

## THE PHŒNIX PARK, DUBLIN.

### QUESTION.

SIR EDWARD GROGAN said, he rose to ask the Chief Secretary for Ireland, If any and what steps have been taken, or are intended to be taken, by the Government, for carrying into effect the prayer of the Memorial presented to the Lord Lieutenant on the 10th May, 1861, relative to the planting of ornamental and other trees and shrubs, and the making of walks and pleasure-grounds, in the Phœnix Park, Dublin, as has been done in Kensington Gardens and in the Victoria and Battersea Parks?

SIR ROBERT PEEL in reply said, that that subject had been under the consideration of the Irish Government, and they had given their sanction to a plan for the improvement of Phœnix Park, by planting it with ornamental and other trees; but the question was still under the consideration of the Treasury.

## COMMISSION OF INQUIRY INTO MINES.

### QUESTION.

MR. INGHAM said, he would beg to ask the Secretary of State for the Home Department, If he will lay upon the table of the House a copy of the Commission recently issued to inquire as to certain classes of Mines?

SIR GEORGE GREY said, that Commission did not at all refer to collieries, iron-stone mines, or mines which were now the subject of inspection. He had no objection to lay a copy on the table if the hon. Gentleman would move for it.

### SUPPLY.

Order for Committee (Supply) read.

Motion made and Question proposed, "That Mr. Speaker do now leave the Chair."

## COLONIAL FORTIFICATIONS.

### RESOLUTION.

MR. BAXTER said, that it would be in the recollection of the House, that rather more than a fortnight previously his hon. Friend, the Member for Taunton (Mr. A. Mills) called their attention to the Report of the Select Committee which sat last year on the subject of Colonial Military Expenditure, and on that occasion his hon. Friend moved a Resolution that the colonies should provide for their own inter-