

Duckworth, S.	O'Connell, J.
Duke, Sir J.	Palmer, C. F.
Ellice, Captain A.	Parrott, J.
Evans, W.	Russell, Lord J.
Grote, G.	Smith, B.
Handley, H.	Strickland, Sir G.
Hawes, B.	Strutt, E.
Hawkins, J. H.	Talfourd, Sergeant
Hector, C. J.	Thornely, T.
Hindley, C.	Vigors, N. A.
Hobhouse, T. B.	Warburton, H.
Howard, P. H.	Williams, W.
Hutton, R.	Williams, W. A.
Jervis, S.	Wilshere, W.
Lefevre, C. S.	Worsley, Lord
Lynch, A. H.	Yates, J. A.
Moreton, hon. A. H.	TELLERS.
Muskett, G. A.	Hume, J.
O'Brien, W. S.	Jervis, J.

House resumed.

COPYRIGHT.] Mr. Sergeant *Talfourd* moved, that the House should resolve itself into Committee.

Mr. *Warburton* believed, that the hon. and learned mover of the bill had some alterations to propose, and he would therefore ask him whether he had any objection to go into Committee *pro forma*, that the alterations might be printed, and that the House might have a better opportunity of considering them?

The *Attorney-General* cordially joined in the recommendation of his hon. Friend the Member for Bridport. As the bill stood, there were many difficulties, especially with regard to encyclopædias. Mr. Black, an eminent bookseller of Edinburgh, well known to the Speaker, informed him that as one of the clauses was worded, he would suffer much pecuniary damage. Many of the articles were entirely new, and if at the expiration of the twenty years, those articles might be claimed by the authors or their heirs, the whole Encyclopædia would fall to pieces. His hon. and learned Friend was willing to alter the bill so as to remove this objection; but there were other clauses which also required correction, and he hoped, that his learned Friend would agree to the proposal which had been made, and which would promote the ultimate success of the bill.

Mr. Sergeant *Talfourd* was not opposed to take the course which seemed to meet the wishes of the House; but he thought, that it would be most convenient for him then to state the chief alterations which he would make, because he believed, that they were simple, and they would serve

to tranquillize the apprehensions of some respectable persons as to the bill. The chief objection of the publishers was, to the clause improperly termed the retrospective clause. He had never consented to that term, nor was it correct, because the bill sought only to secure to authors of the highest merit the advantage of their own labours, and that those copyrights which were now existing, should not be subject to the injustice of the present system. He had, therefore, proposed that the existing term of copyright should be extended, and that the authors should retain that additional copyright in their works, and that when the present copyright had been assigned, the publishers should be content with that interest for which they had bargained and paid, for it was not the publisher, but the author, to whom the extended term ought to be given. To the justice of that principle he still adhered, but he had received from most respectable parties and eminent publishers so many complaints of practical inconveniences resulting from granting an extended term to authors who had assigned their whole interest, that, after considering many expedients, and having tried in vain to find a provision by which justice might be done to these gentlemen, he had determined to propose, that the clause should take effect only where the author had reserved the whole or part of the interest in the copyright, and that where the author had absolutely parted with his interest the term should cease. He had reason to believe, that this alteration would be perfectly satisfactory to the gentlemen to whom he had referred, and that in accepting this concession they had gained nothing for themselves—that they wished for no boon: and he was bound to say, that during the opposition which they had given to the bill he had personally received the greatest courtesy, and that they had exhibited the most enlarged views of the interests of literature and of authors. He was quite willing to defer to the sense of the House.

Mr. *Hume* consented that the alterations should be made, and that the bill with its amendments should be printed; but he would vote against the bill in every stage, for whilst it would only do good to one in 500, it would do great injustice to the other 499.

Sir *Edward Sugden* would not stop the arrangement, but the hon. Member for

Kilkenny was not more opposed to the principle of the bill, than he (Sir Edward Sugden) was, and he intended to resist its progress in every future stage. He was one of those who thought that there was no common-law-copyright in the author beyond the manuscript when it was written, or whilst it remained in his own possession. He had come to this determination after much consideration, and he thought that the case was clearly distinguishable from a patent right. He would oppose the bill as long as he could, because he believed that it ought not to be passed; but, if it were passed, he would, as he had ever done, bow with respect to the opinion of the majority, and endeavour to make the bill as serviceable as possible to the public. If the bill should meet with the support of a majority of the House, he would then propose his amendments, one of which was to cut down the term of sixty years to a term of forty years, not, however, that he at all approved of as long a term as forty years, for he would only give a term of seven years beyond the death of the author; he would allow an original term of twenty-eight years, as the author now had; and if he should survive, then an extended term for his whole life. There was, however, this difficulty: if the author should live long, and his books should be in demand, he might provide for his family; but in case he should die early, this might be frustrated. He would, therefore, give an absolute term of seven years after the author's death, which would be sufficient to enable the family to send forth a perfect edition of his works, and thus to make a provision for them. He did not quite understand whether his learned Friend meant that the extended term should, under all circumstances, revert to the representatives of the author, and that he should not have power to dispose of it. He agreed that the publishers ought not to complain if they obtained all that they purchased; but why should not the same terms be extended to poor authors, to whom it would be of greater benefit, as were given to those who were rich enough to retain their copyright in their own hands. He represented neither authors, nor printers, nor publishers; he stood there to do his duty only as a Member of Parliament, and he trusted that he should on some future occasion be able to state grounds which would satisfy the House

that the bill ought not to be allowed to proceed.

Sir *R. Inglis* complained of his learned Friend for tempting the House into a general discussion upon this bill; and as his learned Friend had stated his unqualified opposition to the bill, so he would say that he had been and still was its unqualified supporter.

Lord *John Russell* had no objection to the course suggested by his learned Friend, but he confessed that he viewed with no small degree of apprehension any legislation upon this subject. It was not, however, on account of the publishers that he entertained any apprehension. He had seen some persons concerned in the most eminent publishing houses, and he thought that what had been stated by them with respect to the bill was only just and reasonable, and the hon. and learned Gentleman would adopt what was just and reasonable. He did feel apprehensive, however, that when the expectations of the authors and of the publishers were satisfied, there would be no small neglect of the interests of the public. With regard to the interests of authors, the learned Gentleman was ready to concede that those who had bought the general interest of the author in the copyright, ought to enjoy the whole right, and he knew one author of no inconsiderable merit, who, having parted with the whole of his copyright, thought that he had no right by act of Parliament to resume what he had sold. Then again with regard to the interests of the publishers, the learned Gentleman would doubtless take care there should be a distinction between future works and those in which the publishers had already acquired an interest. Still he saw great danger in interfering with a law by which, though incomplete, the interests of authors, of publishers, and of the public, had been adjusted. There did seem to him some danger, that the new law might make provisions by which, in the end, the public, who were not sharp-sighted in such matters, might find that great damage was done not only to their own interests, but to the general interests of literature, and the progress of information and knowledge. It was proposed to give an author a property in his work for a longer time, and then to leave it for a certain time to his heirs and executors. The right hon. and learned Gentleman had pointed out several objections to that; but there was one which had not

been as yet mentioned. It was to be considered, that the question of copyright was not a mere question of property, but one in which opinions might be concerned. The heirs of an author might entertain opinions, political or religious, opposed to those maintained in his work, and might, in consequence, think it advisable that the work should be suppressed, and in the result, the public would be deprived of the work altogether. He would suppose the case of the prose works of Milton coming into the hands of a person who differed with the writer's opinions respecting the royal cause during the civil war. Would any man contend, that the public would not have had great and just cause for complaint, had they been suppressed in consequence of such a circumstance? There were other difficulties in the way; and he must confess, that he felt considerable alarm on this subject when the hon. Member for the University of Oxford expressed his hope that the bill would be passed into a law in the course of a fortnight. He, on the contrary, said, that this was one of the most important bills which had of late been introduced into Parliament, and that it was a measure demanding the most ample and mature deliberation. He felt, that while those who took one side of the question, espoused the cause of the authors, and those on the other side, took the part of the publishers, that they might produce a measure tending to injure the progress of knowledge; and, therefore, that although it might be beneficial to some authors, it might be injurious to the public and to literature. He certainly thought, looking at the present state of the law, although it might not be difficult to point out cases in which authors of the greatest ability and genius had not been remunerated, that, upon the whole, the interests of the publishers, and of the public, as well as the interests of authors generally, had been fairly attended to. One of the greatest hardships of the present state of things was, that when the author was poor and obliged to sell the copyright of his works for a small sum, it might happen, that while he disposed of his works for 5*l.* or 10*l.*, his bookseller might be gaining thousands, for years in succession. That was a state of things unfair alike to the author and to the public, and it had always appeared to him that such cases were those of the greatest hardship. He did not know, whether

some provision might not be introduced into the bill applicable to such cases, and he had only alluded to those cases for the purpose of drawing the attention of the hon. and learned Member to the subject, and with a view of impressing on the learned Gentleman the importance of not proceeding to legislate in haste in regard to copyright.

Mr. *Praed* said, it must occur to the House as rather unfortunate, that although there had been two long discussions on this bill, the noble Lord had not before taken an opportunity to express his sentiments on the subject, and that he should now declare himself hostile even to the principle of the measure. The noble Lord argued, that the representatives of an author might entertain different opinions from the author, and refuse, after his death, to reprint his works; and he contended, that the public would suffer in consequence. That was, however, a wide-drawn assumption, and the case which the noble Lord had supposed was not likely ever actually to occur. He would take the case of Milton, which the noble Lord had mentioned, and he would ask whether it would have been possible for the representatives of Milton, his works having once been published, to resist the demands of the public? The thing was impossible. But it was possible that the works of an author might be of a mischievous tendency, and that the copyright might fall into the hands of a man anxious to prevent the corruption of the public morals, and who consequently declined their republication. In this case, a positive benefit would result to the public, so that the evil which the noble Lord feared would be counterbalanced by the advantage which would result from the provisions of the bill. If the noble Lord looked at the bill, however, he would find a provision for the case to which he had alluded, and by which books in the hands of the representatives of authors, would be forced into circulation.

Mr. *Baines* quite agreed with the noble Lord in thinking, that in the drawing up of the bill, sufficient attention had not been paid to the interests of the public. For his part, he was perfectly convinced that there never was a bill introduced into Parliament so fraught with mischief to the public interest, as the bill now before the House. He had property in the nature of copyright, and he had some expe-

rience in that description of property ; and if he were to consult but his own interests, he should be favourable to the bill. He, however, so strongly felt the objections which might be urged against it, in regard to its effect upon the interests of the public, that he felt it to be his duty to give it every opposition in his power.

Lord *Dungannon* thought great praise was due to the learned Sergeant for his efforts to throw some light upon the subject of copyright, and sincerely hoped those efforts might be crowned with success.

Mr. Sergeant *Talfourd* confessed he had not expected that the noble Lord, after allowing the principle of the measure to be discussed two Sessions, should only then, at the eleventh hour, awake from his apathy to object to its propositions. He should not then attempt to answer the noble Lord's observations, but on that day fortnight he should hope to proceed with the Committee, and then he should certainly endeavour to reply to them.

Bill committed *pro forma*. Committee to sit again.

MARRIED WOMEN'S BILL.] Mr. *Lynch* moved the second reading of the Married Women's Bill.

Sir *E. Sugden* moved, that it be read a second time that day three months.

The House divided on the original motion:—Ayes 21; Noes 56: Majority 35.

#### List of the AYES.

Aglionby, H. A.	Round, C. G.
Campbell, Sir J.	Smith, B.
Davies, Colonel	Tancred, H. W.
Gibson, T.	Thornley, T.
Hawes, B.	Vigors, N. A.
Howard, P. H.	Villiers, C. P.
Hume, J.	Wallace, R.
Hutt, W.	Williams, W.
Hutton, R.	Williams, W. A.
Morris, D.	TELLERS.
Palmer, C. F.	Beamish, F. B.
Power, J.	Lynch A. H.

#### List of the NOES.

A'Court, Captain	Broadley, H.
Archdall, M.	Brotherton, J.
Baines, E.	Burroughes, H. N.
Barneby, J.	Canning, rt. hn. Sir S.
Bentinck, Lord G.	Courtenay, P.
Bethell, R.	Cripps, J.
Blackburne, I.	Dowdeswell, W.
Blackstone, W. S.	Dungannon, Viscount
Blair, J.	Eaton, R. J.
Bramston, T. W.	Egerton, W. T.

Filmer, Sir E.	Pakington, J. S.
Fremantle, Sir T.	Pease, J.
Graham, rt. hn. Sir J.	Perceval, Colonel
Grimsditch, T.	Pigot, R.
Hawkes, T.	Pinney, W.
Heathcote, Sir W.	Plumptre, J. P.
Hepburn, Sir T. B.	Rose, right hn. Sir G.
Hobhouse, T. B.	Rushbrooke, Colonel
Holmes, W.	Rushout, G.
Hope, H. T.	Sibthorp, Colonel
Hughes, W. B.	Sinclair, Sir G.
Jackson, Mr. Serg.	Smith, hon. R.
Jervis, J.	Strickland, Sir G.
Lockhart, A. M.	Waddington, H. S.
Lowther, J. H.	Wood, Colonel T.
Mackenzie, T.	Wood, T.
Mahon, Viscount	
Miles, W.	TELLERS
Miles, P. W. S.	Inglis, Sir R. H.
Morgan, C. M. R.	Sugden, Sir E.

Bill put off for three months.

HIGH SHERIFFS.] Colonel *Davies* moved the second reading of the High Sheriffs' Bill.

The *Attorney-General* rose to move an Amendment. One of the clauses forbade the sheriff to go out to meet the judges, and prescribed that he should meet them at their lodgings. Now, he was attached to the present escort, inasmuch as it was an old custom, and one which was at least harmless; and was, in the opinion of Mr. Justice Blackstone, calculated to inspire a due respect towards the representative of her Majesty. He felt bound, therefore, not seeing the utility of the measure, to move that the bill should be read a second time that day three months.

Colonel *Davies*, feeling the sense of the House to be against him, would not press the measure.

Amendment agreed to.

#### HOUSE OF LORDS,

Thursday, June 7, 1838.

MINUTES.] Petitions presented. By Lord ASHBURTON, from Glasgow, Carlisle, Cupar, Leith, and other places, in favour of a reduction of Postage.—By the Earl of WICKLOW, from the parish of Raphoe, against the present system of National Education.—By the Archbishop of CASHEL, several, from Cavan, and other places in Ireland, against the Irish Poor-law Bill.—By the Archbishop of CANTERBURY, from the Clergy of the Diocese of Bath and Wells, against the Education Bill.—By the Earl of GLENGALL, from Clonmel, for the improvement of Waste Lands in Ireland.—By Lord HATHERTON, from the Utoxeter Union, against any alteration of the New Poor-law.—By the Bishop of LONDON, from the Presbytery of Newcastle-upon-Tyne, for the better Observance of the Sabbath; from Worcester, for some Inquiry into the Studies and Discipline of the College of Maynooth; nineteen, from different places, for the Immediate Abolition of Negro Apprenticeship.—By the Marquess of DOWNSHIRE, from